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16 on behalf of all others similarly situated

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES — SPRING STREET COURTHOUSE

GONZALO G. ORDONES SOCOP, an
individual, on behalf of himself and all
others similarly situated,

Plaintiff,

vs.

MIRACLE MILE PROPERTIES, LP, a
limited partnership; MIRACLE MILE
PROPERTIES, INC., a corporation;
PARKWOOD KNOLL APARTMENTS, a
business entity, form unknown;
DECISIONHR, INC., a corporation;
DECISIONHR I, INC., a corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 21STCV32715

[Assigned for all purposes to the
Honorable Laura A. Seigle, Dept. SS17]

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR APPROVAL OF PAGA
SETTLEMENT**

Date: January 24, 2025
Time: 9:00 a.m.
Dept.: SS17

Action Filed: September 3, 2021
FAC Filed: January 24, 2022
Trial Date: Not Set

1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on January 24, 2025, at 9:00 a.m., or as soon thereafter as this
3 matter may be heard, in Department 17 of the Los Angeles County Superior Court, Spring Street
4 Courthouse, located at 312 N. Spring Street, Los Angeles, California 90012, Plaintiff Gonzalo G.
5 Ordonez Socop ("Plaintiff") will, and hereby does, move this Court, pursuant to Labor Code §
6 2699(s)(2), for entry of an order and judgment approving the parties' settlement agreement under the
7 Labor Code Private Attorneys General Act of 2004 ("PAGA").

8 The motion is based on the fact that the proposed settlement of \$480,000.00 is fair, reasonable
9 and adequate, will provide genuine and meaningful relief and will fulfill PAGA's purpose to benefit
10 the public.

11 The motion is based upon this notice, the attached Memorandum of Points and Authorities,
12 the Declaration of Dalia Khalili and all exhibits thereto, the Declaration of Plaintiff, the complete
13 files and records of this case, and any other evidence or oral argument which may be considered by
14 the Court at the time of the hearing.

15
16 DATED: November 26, 2024

Respectfully submitted,

17 MATERN LAW GROUP, PC

18
19 By: 

20 MATTHEW J. MATERN
21 MATTHEW W. GORDON
22 ERIN R. HUTCHINS
23 Attorneys for Plaintiff GONZALO G. ORDONES
24 SOCOP, individually and on behalf of all others
25 similarly situated
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Pursuant to the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code § 2698 *et seq.*, Plaintiff Gonzalo G. Ordones Socop (“Plaintiff”) seeks court approval of the PAGA Settlement Agreement (“Settlement Agreement”) and the Amendment to PAGA Settlement Agreement (“Amendment”) (collectively, the Settlement Agreement and the Amendment are referred to as the “Settlement”), which, if approved, will resolve this action entirely. Plaintiff alleges that Defendant Miracle Mile Properties, LP (“Defendant”) failed to provide Plaintiff and other aggrieved employees with, among other things, lawful meal and rest periods, failed to pay all overtime wages, and failed to furnish accurate itemized wage statements. The Settlement resolves all claims for PAGA penalties based on the alleged Labor Code violations, on behalf of approximately 231 individuals who worked for Defendant as non-exempt employees in California at any time between June 30, 2020 to August 20, 2024 (“Aggrieved Employees”).¹

Under the terms of the Settlement, Defendant will pay a Gross Settlement Amount of \$480,000.00 to settle Plaintiff’s PAGA claims against the Released Parties. The civil penalties secured by the Settlement are significant and fulfill PAGA’s underlying purpose to benefit the public and to deter future labor law violations. As such, the Court should approve the Settlement. Plaintiff’s request for attorneys’ fees in the amount of \$160,000.00 (i.e., one-third of the Gross Settlement Amount), reimbursement of costs in the amount of \$17,931.40, a service payment to Plaintiff in the amount of \$10,000.00, and settlement administration costs to Phoenix Settlement Administrators (“Phoenix”) in the amount of \$5,000.00 are also reasonable and should be approved by the Court. Accordingly, Plaintiff respectfully requests that the Court enter an order and judgment granting approval of the Settlement, pursuant to Labor Code § 2699(s)(2).

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¹ A copy of the Settlement Agreement and the Amendment are attached as Exhibits E and F, respectively, to the Declaration of Dalia Khalili.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. The Parties

Plaintiff was employed by Defendant as a Maintenance Worker from on or about June 2018 through on or about March 2021 at Defendant's Highland, California location. Declaration of Plaintiff Gonzalo G. Ordonez Socop in Support of Plaintiff's Motion for Approval of PAGA Settlement ("Pl Dec."), ¶ 3. Plaintiff's duties included addressing the property's plumbing issues, maintaining the property, clearing out gutters, and painting the parking lot lines and outdoor buildings. *Id.*

Defendant operates as a property management company in Los Angeles, California that leases office, retail, residential, and senior living properties.

B. Procedural History

1. Plaintiff's PAGA Notice and Complaints

Pursuant to Labor Code § 2699.3, on April 27, 2021, Plaintiff gave written notice to the California Labor and Workforce Development Agency ("LWDA"), Defendant, Miracle Mile Properties, Inc., and Parkwood Knoll Apartments of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. Khalili Decl. ¶ 3, Ex. A. The LWDA did not provide notice that it intended to investigate the alleged violations. *Id.* Accordingly, on September 3, 2021, Plaintiff filed a class and representative action against Defendant, Miracle Mile Properties, Inc., and Parkwood Knoll Apartments. *Id.* ¶ 4, Ex. B. On September 8, 2021, Plaintiff gave an amended written notice to the LWDA, Defendant, Miracle Mile Properties, Inc., Parkwood Knoll Apartments, and DecisionHR. *Id.* ¶ 5, Exh. C. The LWDA did not provide notice that it intended to investigate the alleged violations. *Id.* On January 24, 2022, Plaintiff filed a First Amended Complaint ("FAC") with a single cause of action for penalties under PAGA against Defendant, Miracle Mile Properties, Inc., Parkwood Knoll Apartments, DecisionHR, Inc., and DecisionHR I, Inc. *Id.* ¶ 6, Exh. D.

On March 25, 2022, the Court granted Plaintiff's request for dismissal of class allegations. *Id.* ¶ 6. On November 9, 2023, the Court dismissed DecisionHR, Inc. and DecisionHR I, Inc. with prejudice. *Id.* ¶ 6. Plaintiff requested to dismiss DecisionHR, Inc. and DecisionHR I, Inc. because the claims against them were outside of the statute of limitations since Plaintiff's relationship with

1 DecisionHR, Inc. ended in December 2019, and Plaintiff did not file the notice of the PAGA violations
2 to the LWDA with respect to DecisionHR, Inc. until September 8, 2021. *Id.* Plaintiff intends to file
3 requests for dismissal of Parkwood Knoll Apartments and Miracle Mile Properties, Inc. concurrently
4 with this motion because they are not registered business entities. *Id.*

5 **2. Defendant's Motion to Compel Arbitration**

6 On August 29, 2022, this Court granted Defendant's motion to compel arbitration as to
7 Plaintiff's individual PAGA claim. Khalili Decl. ¶ 7. The Court ordered this action stayed as to
8 Plaintiff's representative PAGA claim until conclusion of the parties' arbitration proceedings. *Id.* On
9 September 19, 2023, Plaintiff initiated arbitration for Plaintiff's individual PAGA claim, and arbitrator
10 Hon. Victor H. Persón (Ret.) with ADR Services, Inc. was selected as the Arbitrator on September 26,
11 2023. *Id.* On December 7, 2023, Plaintiff and Defendant attended the first Arbitration Management
12 Conference. *Id.*

13 **C. Discovery and Investigation**

14 Prior to mediation, Plaintiff received timekeeping and payroll data for approximately 219 non-
15 exempt employees for the time period of September 13, 2020 to March 9, 2024. *Id.* at ¶ 8. Plaintiff's
16 counsel hired a data expert to analyze the data, which consisted of timekeeping records for 101,166
17 shifts. *Id.* The analysis of Plaintiff's data expert assisted Plaintiff's counsel in preparing a model of the
18 maximum potential civil penalties prior to the mediation. *Id.* Plaintiff's expert extrapolated the data
19 to the time period of June 30, 2020 to April 25, 2024. *Id.* In addition, Defendant produced relevant
20 written wage-and-hour policies and procedures. *Id.* Based on this discovery and investigation,
21 Plaintiff's counsel was able to act intelligently and effectively in negotiating the Settlement. *Id.*

22 **D. Settlement Negotiations**

23 On April 25, 2024, the Parties participated in a private mediation with Jeffrey Fuchsman. *Id.*
24 at ¶ 9. The mediation was unsuccessful, but the Parties continued to engage in further settlement
25 discussions with the mediator. *Id.* After continued arms-length conversations with the mediator, on
26 June 28, 2024, the parties accepted a mediator's proposal to resolve the Action, subject to the parties
27 entering into a comprehensive written settlement agreement. *Id.*

28 On October 7, 2024, the Parties fully executed the Settlement Agreement. *Id.* at ¶ 10, Ex. E.

On November 19, 2024, the Parties fully executed the Amendment. *Id.* at ¶ 11, Exh. F. On November 26, 2024, Plaintiff submitted a copy of the Settlement to the LWDA. *Id.* at ¶ 50, Ex. G.

III. SUMMARY OF SETTLEMENT

A. Aggrieved Employees

The Aggrieved Employees consist of any and all persons who worked for Defendant in California as non-exempt employees at any time from June 30, 2020 to August 20, 2024. (the “PAGA Period”). Settlement Agreement ¶¶ 1.4, 1.24. Plaintiff estimates that there are approximately 231 Aggrieved Employees who worked a total of 12,853 PAGA Pay Periods. *Id.* ¶ 4.1.²

B. Settlement Terms

Under the terms of the Settlement, the claims of all Aggrieved Employees shall be settled for the Gross Settlement Amount of \$480,000.00, which is inclusive of Individual PAGA Payments, the LWDA PAGA Payment, the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, the PAGA Plaintiff Service Payment, and the Administration Expenses Payment. Amendment at ¶ 1.11. The Gross Settlement Amount shall be allocated as follows:

1. PAGA Penalties. The “Net Settlement Amount” means the Gross Settlement Amount less the PAGA Plaintiff Service Payment, the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. *Id.* at ¶ 1.16. Seventy-five percent (75%) of the Net Settlement Amount shall be distributed to the LWDA (“LWDA PAGA Payment”), and twenty-five percent (25%) of the Net Settlement Amount shall be distributed to Aggrieved Employees as Individual PAGA Payments. *Id.* at ¶ 1.11, Settlement Agreement at ¶¶ 1.15, 1.23. There will be no reversion to Defendant. Settlement Agreement at ¶ 3.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees’ 25% share of PAGA Penalties by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period (“PAGA Pay Periods”) and (b) multiplying the result

² The Settlement Agreement inadvertently states there are 150 Aggrieved Employees. Settlement ¶ 4.1. Plaintiff’s declaration states there are 239 Aggrieved Employees because that was the approximate number MLG had at the time of preparing Plaintiff’s declaration. Since that time, MLG has received additional information that the aggrieved employee count is approximately 231.

1 by each respective Aggrieved Employee's PAGA Pay Periods. *Id.* ¶ 3.2.4.1.

2 2. Plaintiff's Service Payment. Subject to Court approval, in exchange for executing a
3 general release of his claims against Defendant and in recognition of his efforts and risks in
4 prosecuting the Action, Plaintiff shall be paid up to \$10,000.00 as an enhancement for his service as a
5 PAGA representative. *Id.* at ¶¶ 1.25, 3.2.2.

6 3. PAGA Counsel's Attorney Fees and Costs. Subject to Court approval, PAGA Counsel
7 shall receive a PAGA Counsel Fees Payment in an amount not to exceed one-third of the Gross
8 Settlement Amount, which equals \$160,000.00, plus reimbursement of reasonable costs and expenses
9 ("PAGA Counsel Litigation Expenses Payment") not to exceed \$20,000.00. *Id.* at ¶ 3.2.1. PAGA
10 Counsel's actual costs are \$17,931.40. Khalili Decl. ¶ 47.

11 4. Administration Expenses Payment. Subject to Court approval, the Administrator,
12 Phoenix, shall be paid for the reasonable costs and expenses incurred for administration of the
13 Settlement, not to exceed \$5,000.00. Settlement Agreement at ¶ 1.3, 3.2.3.

14 **C. The Release**

15 Upon Defendant's funding of the entire Gross Settlement Amount, all Aggrieved Employees
16 are deemed to release, on behalf of themselves and their respective former and present representatives,
17 agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims
18 for PAGA penalties during the PAGA Period that were alleged, or reasonably could have been alleged,
19 based on the facts stated in the First Amended Complaint and the PAGA Notice ("Released PAGA
20 Claims"). *Id.* at ¶ 5.1, Exh. A at ¶ B.

21 "Released Parties" means Defendant and all affiliated predecessor and successor entities, and
22 each such entity's respective present and former subsidiaries, affiliates, parents, agents, employees,
23 former employees, partners, owners, directors, officers, attorneys, trustees, insurers, representatives,
24 predecessors, successors and assigns. *Id.* at ¶ 1.28.

25 Plaintiff's Release includes a general release of all claims, known or unknown, and a waiver of
26 his rights under California Civil Code § 1542. *Id.* at ¶ 5.2.

27 **D. Settlement Administration**

28 Within 21 calendar days after Defendant's receipt of notice of the Court granting approval of

1 the Settlement Agreement, Defendant shall provide the Settlement Administrator with a Microsoft
2 Excel spreadsheet containing the Aggrieved Employee Data. *Id.* at ¶ 4.2. The Aggrieved Employee
3 Data consists of identifying information in Defendant's possession and/or the possession of
4 Defendant's payroll vendors during the PAGA Period, including each Aggrieved Employees' name,
5 last-known mailing address, Social Security number, and number of PAGA Pay Periods. *Id.* at ¶ 1.5.

6 Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the
7 Administrator no later than 30 calendar days after the date on which the Court enters a Judgment on its
8 Order Approving the PAGA Settlement. *Id.* at ¶¶ 4.3, 1.10.

9 Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will
10 mail checks and/or wire payment for all Individual PAGA Payments, the LWDA PAGA Payment, the
11 PAGA Plaintiff Service Payment, the Administration Expenses Payment, the PAGA Counsel Fees
12 Payment, and the PAGA Counsel Litigation Expenses Payment. Amendment at ¶ 4.4. Disbursement
13 of the PAGA Counsel Litigation Expenses Payment and PAGA Counsel Fees Payment shall not
14 precede disbursement of Individual PAGA Payments. *Id.*

15 The Administrator will issue checks for the Individual PAGA Payments and send them to the
16 Aggrieved Employees via First Class U.S. Mail. Settlement Agreement at ¶ 4.4.1. The face of each
17 check shall prominently state the date (not less than 180 days after the date of mailing) when the check
18 will be voided. *Id.* The Administrator will cancel all checks not cashed by the void date. *Id.*

19 Before mailing any checks, the Administrator will update the recipients' mailing addresses
20 using the National Change of Address Database. *Id.* For all Aggrieved Employees whose checks are
21 returned undelivered without a USPS forwarding address, the Administrator will conduct an Aggrieved
22 Employee Address Search. *Id.* at ¶¶ 4.4.1, 1.6. Within 7 days of receiving a returned check, the
23 Administrator must re-mail checks to the USPS forwarding address provided or to an address
24 ascertained through the Aggrieved Employee Address Search. *Id.* at ¶¶ 4.4.2. The Administrator shall
25 promptly send a replacement check to any Aggrieved Employee whose original check was lost or
26 misplaced, requested by the Aggrieved Employee prior to the void date. *Id.*

27 For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and
28 cancelled after the void date, the Administrator shall transmit the funds represented by such checks to

1 the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.
2 Settlement ¶ 4.4.3.

3 **IV. THE COURT SHOULD GRANT APPROVAL OF THE PAGA SETTLEMENT**

4 **A. The Standard for Review and Approval of PAGA Settlements**

5 The PAGA statute specifically provides that "[t]he superior court shall review and approve any
6 settlement of any civil action filed pursuant to this part." Lab. Code § 2699(s)(2). The statute,
7 however, does not require a two-step (preliminary and final approval) process or otherwise mimic the
8 class action approval requirements when the parties reach a settlement only as to PAGA civil
9 penalties. *See Arias v. Superior Court* (2009) 46 Cal.4th 969, 975 (class action requirements "need
10 not be met when an employee's representative action against an employer is seeking civil penalties"
11 under PAGA). "[A] trial court should evaluate a PAGA settlement to determine whether it is fair,
12 reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter
13 future ones, and to maximize enforcement of state labor laws." *Moniz v. Adecco USA, Inc.* (2021) 72
14 Cal.App.5th 56, 77.

15 A PAGA representative action to recover civil penalties "is fundamentally a law enforcement
16 action designed to protect the public and not to benefit private parties." *Iskanian v. CLS*
17 *Transportation, Los Angeles* (2014) 59 Cal.4th 348, 381. When evaluating a PAGA settlement, a trial
18 court "must scrutinize whether, in resolving the action, a PAGA plaintiff has adequately represented
19 the state's interests, and hence the public interest." *Moniz*, 72 Cal.App.5th at 89. In addition, a court
20 must independently determine whether a PAGA settlement is fair, adequate, and reasonable using
21 similar factors that apply to the evaluation of the fairness of a class action settlement, "including the
22 strength of the plaintiff's case, the risk, the stage of the proceeding, the complexity and likely duration
23 of further litigation, and the settlement amount." *Id.* at 77.

24 **B. The Settlement Is Fair, Reasonable, and Adequate**

25 Here, the Settlement is consistent with PAGA's goal of penalizing Defendant for the alleged
26 violations, deterring future violations, and providing a benefit to the public through enforcement of
27 state labor laws.

28 The Gross Settlement Amount of \$480,000.00 is significant enough to deter Defendant from

1 future violations, creating an effective disincentive for Defendant to engage in unlawful business
2 practices. Khalili Decl. ¶ 17. The Settlement provides a substantial benefit to the State of California,
3 with the LWDA receiving approximately \$215,301.45, as 75 percent of the Net Settlement Amount, to
4 assist with the future enforcement of state labor laws. *Id.* The Settlement also provides a substantial
5 benefit to the Aggrieved Employees, who will share approximately \$71,767.15 as 25 percent of the
6 Net Settlement Amount. *Id.* It is currently estimated that each Aggrieved Employee, on average, will
7 receive an Individual PAGA Payment of approximately \$310.68 as part of the Settlement. *Id.*
8 Accordingly, the Settlement fulfills the underlying purposes of the statute and confers a substantial
9 benefit on the public.

10 In assessing whether the Settlement is fair, reasonable, and adequate, the Court may balance
11 the amount in penalties with the risks of further litigation. Here, Plaintiff obtained a meaningful
12 amount in civil penalties despite facing significant challenges and risks had the litigation continued.
13 *Id.* at ¶ 18. Plaintiff considered several factors in reaching the decision to settle at this point in the
14 litigation. *Id.* at ¶ 13. Plaintiff risked the Court finding merit in Defendant's affirmative defenses. *Id.*
15 Plaintiff recognizes that proving liability and PAGA penalties at trial would be an expensive, time-
16 consuming, and extremely uncertain proposition. *Id.* Moreover, continued litigation would very likely
17 reduce and substantially delay any recovery to the state and the Aggrieved Employees. *Id.* Even if
18 Plaintiff were to obtain a favorable judgment at trial, Defendant would likely appeal the judgment,
19 which would further delay any recovery. *Id.* Additionally, this area of the law is constantly evolving,
20 creating uncertainty for employees. *Id.*

21 Plaintiff also considered the reality that courts have discretion to substantially reduce any
22 award of civil penalties on the grounds that "to do otherwise would result in an award that is unjust,
23 arbitrary and oppressive, or confiscatory," pursuant to Labor Code § 2699(e)(2). *Id.* at ¶ 14.

24 Further, while Plaintiff and MLG remain confident in the merits of the case, a legitimate
25 controversy exists as to each predicate Labor Code claim. *Id.* at ¶ 15. Defendant contends that
26 Aggrieved Employees received meal and rest periods and were paid for all hours worked. *Id.*
27 Defendant further contends that it maintained lawful meal and rest break policies. *Id.* Defendant also
28 contends there were no daily overtime violations because of a valid alternative workweek schedule. *Id.*

1 As a result, Defendant contends that, throughout the PAGA Period, it complied with applicable
2 California law. *Id.* The Settlement removes all of these risks. *Id.*

3 Here, Plaintiff has calculated the maximum potential penalties in an “everything goes right”
4 scenario to be approximately \$5,359,319. *Id.* at ¶ 12. Considering the risks of continued litigation,
5 the burdens of proof necessary to establish liability, the unsettled state of the law, the possibility that
6 the Court would reduce an award of civil penalties, and the probability of appeal of a favorable
7 judgment, it is clear that the non-reversionary settlement amount of \$480,000.00 is fair, adequate, and
8 reasonable in light of PAGA’s purpose to remediate present labor law violations, to deter future
9 violations, and to maximize enforcement of the Labor Code. *Id.* at ¶ 18.

10 For these reasons, the Court should find that the Settlement is fair, reasonable, and adequate.

11 **V. THE REQUESTED SERVICE AWARD IS REASONABLE**

12 The State of California and the Aggrieved Employees are beneficiaries of a settlement that
13 would not have been made possible but for the effort and commitment of Plaintiff. Khalili Decl. ¶¶
14 19-24; Pl Dec. ¶¶ 4-11. The Settlement provides that Plaintiff shall be paid an enhancement award in
15 an amount not to exceed \$10,000.00, in recognition of his efforts and risks in prosecuting the Action
16 and for his general release of all claims. Settlement Agreement ¶ 3.2.2. The amount of the requested
17 service award is reasonable in light of incentive payments approved in other PAGA settlements.
18 *See, e.g., Blanchard v. BJ's Restaurants, Inc.*, Orange County Superior Court Case No. 30-2014-
19 00761961-CU-OE-CXC (Sept. 26, 2016) (approving \$10,000.00 service award); *Bui v. Vitamin*
20 *Shoppe Industries Inc.*, Los Angeles County Superior Court Case No. BC518486 (Aug. 31, 2016)
21 (approving \$10,000.00 service award); *Miranda v. HomeDeliveryLink, Inc.*, San Bernardino County
22 Superior Court Case No. CIV DS1505393 (Aug. 9, 2016) (approving \$10,000.00 service award);
23 *Sheldon v. AHMC Monterey Park Hospital LP*, Los Angeles County Superior Court Case No.
24 BC440282 (March 2, 2016) (approving \$10,000.00 service award).

25 Plaintiff has actively participated in this action, including reviewing and signing a declaration
26 opposing Defendant’s Motion to Compel Arbitration, attending telephonic meetings with his attorneys,
27 searching for and producing relevant documents to his attorneys, preparing for and responding to
28 questions from his attorneys in preparation for mediation, and reviewing and signing the settlement

1 agreement with his attorneys to ensure that its terms are fair and achieve PAGA’s objectives. Khalili
2 Decl. ¶¶ 19-24; Pl Dec. ¶¶ 4-11. Plaintiff also faced the real risk that future employers may not hire
3 him because he brought a representative action against his employer, as well as the real risk that he
4 could have been liable for Defendant’s litigation costs if the action went to trial and he lost. *Id.* In
5 addition, Plaintiff has entered into a much broader release (with a Civil Code § 1542 waiver) than the
6 other Aggrieved Employees. *Id.*; Settlement Agreement ¶ 5.2.

7 As part of the Settlement, the LWDA will receive approximately \$215,301.45 as 75 percent of
8 the Net Settlement Amount, which is a substantial amount to assist with the enforcement of state labor
9 laws. Khalili Decl. ¶ 17. In addition, without Plaintiff’s efforts in bringing a PAGA action, those
10 Aggrieved Employees who worked for Defendant at any time from June 30, 2020 to August 20, 2024
11 likely would not have received any payment for civil penalties. *Id.* at ¶ 20. Accordingly, Plaintiff
12 respectfully request that the Court approve an enhancement award in the amount of \$10,000.00.

13 **VI. THE REQUESTED ATTORNEYS’ FEES AND COSTS ARE REASONABLE**

14 The Settlement provides for attorneys’ fees to PAGA Counsel in an amount up to one-third of
15 the Gross Settlement Amount, for a maximum fee award of \$160,000.00, plus reasonable litigation
16 costs not to exceed \$20,000.00. Settlement Agreement ¶ 3.2.1. Plaintiff request attorneys’ fees
17 pursuant to the “common fund theory” with a lodestar cross-check. *See Laffitte v. Robert Half Int’l, Inc.*
18 (2016) 1 Cal. 5th 480, 504 (“[t]he lodestar method better accounts for the amount of work done, while
19 the percentage of the fund method more accurately reflects the results achieved”).

20 **A. Plaintiff’s Counsel Are Entitled to Attorneys’ Fees and Costs under PAGA**

21 Labor Code § 2699(k)(l) provides that “[a]ny employee who prevails in any [PAGA] action
22 shall be entitled to an award of reasonable attorney’s fees and costs.” Lab. Code § 2699(k)(1). It is
23 undisputed that Plaintiff is the prevailing party with a net monetary recovery. *See DeSaulles v. Cmty*
24 *Hosp. of Monterey Peninsula* (2016) 62 Cal.4th 1140, 1157 (“the rule is that a partial recovery, as long
25 as it is a net monetary recovery, entitles a plaintiff to costs.”). Accordingly, Plaintiff is entitled to
26 recover reasonable attorneys’ fees and costs.

27 **B. The Requested Fees Are Reasonable Under the Common Fund Method**

28 A request for attorneys’ fees as a percentage of the gross settlement amount is supported by the

1 “common fund theory,” where “one who expends attorney fees in winning a suit which creates a fund
2 from which others derive benefits, may require those passive beneficiaries to bear a fair share of the
3 litigation costs.” *Serrano v. Priest* (1977) 20 Cal.3d 25, 35 (citing *Quinn v. State of California* (1975)
4 15 Cal.3d 162); *Laffitte*, 1 Cal.5th at 503 (trial court “may determine the amount of a reasonable fee by
5 choosing an appropriate percentage of the fund created”). The percentage is properly based upon the
6 maximum settlement amount, rather than upon the amount of funds distributed to class members.
7 *Williams v. MGM-Pathe Communications Co.* (9th Cir. 1997) 129 F.3d 1026. In *City and County of*
8 *San Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court recognized that the
9 common fund doctrine has been applied “consistently in California when an action brought by one
10 party creates a fund in which other persons are entitled to share.” *Id.* at 110, fn. omitted.

11 The lodestar analysis may be used to cross-check a percentage-of-recovery award. *In re*
12 *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 556-558. However, the Supreme Court of
13 California clarified that:

14 [W]hen an attorney fee is awarded out of the common fund preserved or recovered by
15 means of litigation [citation], the award is not per se unreasonable merely because it
is calculated as a percentage of the common fund.

16 *Laffitte*, 1 Cal.5th at 486. The *Laffitte* court further held that “trial courts have discretion to conduct a
17 lodestar cross-check on a percentage fee . . . [and] also retain the discretion to forego a lodestar cross-
18 check and use other means to evaluate the reasonableness of a requested percentage fee.” *Id.* at 506.

19 California courts routinely award attorneys’ fees equaling one-third or more of the common
20 fund. *See, e.g., Laffitte*, 1 Cal.5th at 506 (affirming fee award representing one-third of a non-
21 reversionary fund); *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11 (“fee awards in class
22 actions average around one-third of the recovery”); Eisenberg & Miller, *Attorney Fees in Class Action*
23 *Settlements: An Empirical Study*, J. of Empirical Legal Studies, Vol. 1, Issue 1, 27-78, March 2004, at
24 35 (independent studies of class action litigation nationwide conclude that fees representing one-third
25 of the total recovery is consistent with market rates). In addition, a fee award in the amount of one-
26 third of the common fund is reasonable because it best reflects the market rate for contingency fees.
27 *See Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 47 (“[A]ttorneys providing the
28 essential enforcement services must be provided incentives roughly comparable to those negotiated in

1 the private bargaining that takes place in the legal marketplace.”).

2 Here, Plaintiff’s request for attorneys’ fees in the amount of one-third of the Gross Settlement
3 Amount is reasonable given the significant result achieved on behalf of the State of California and
4 Aggrieved Employees. Plaintiff’s counsel has litigated the Action for over three years on a purely
5 contingent basis, incurring almost \$18,000 in costs with no guarantee of recovery. Khalili Decl. at ¶¶
6 26, 44. Plaintiff’s counsel invested 284.9 hours of attorney and support staff time into the Action, with
7 payment deferred to the end and entirely contingent on the outcome. *Id.* at ¶¶ 26, 29. In addition, the
8 requested fee percentage is less than that charged by Plaintiff’s counsel for other employment cases.
9 *Id.* at ¶ 26.

10 Accordingly, Plaintiff’s request for attorneys’ fees in the amount of \$160,000.00, or one-third
11 of the Gross Settlement Amount, is reasonable under California law.

12 **C. The Requested Fees Are Reasonable Under the Lodestar Cross-Check**

13 Plaintiff’s request for attorneys’ fees is reasonable based upon a crosscheck of PAGA
14 Counsel’s lodestar with the application of a multiplier. Under the lodestar method, the court considers
15 a compilation of the time spent and a reasonable hourly compensation of each attorney to evaluate the
16 reasonableness of the fee requested. *Ramos v. Countrywide Home Loans, Inc.* (2000) 82 Cal.App.4th
17 615, 622. The moving party meets its burden in this regard by submitting “declarations evidencing the
18 reasonable hourly rate for their services and establishing the number of hours spent working on the
19 case” as “California case law permits fee awards in the absence of detailed time sheets.” *Wershba v.*
20 *Apple Computer* (2001) 91 Cal.App.4th 224, 254-55; *Dunk v. Ford Motor Company* (1996) 48
21 Cal.App.4th 1794, 1810; *Nightengale v. Hyundai Motors America* (1994) 31 Cal.App.4th 99, 103.
22 The hours spent and the reasonable hourly compensation are computed to arrive at a “lodestar” figure
23 which may then be augmented or diminished by the court taking into account various “multiplier”
24 factors. *See Ramos*, 82 Cal.App.4th at 622 (citing *Serrano*, 20 Cal.3d at 48-49).

25 Here, the lodestar of Plaintiff’s counsel is \$175,705.00 which is based on 223.9 hours of
26 attorney time and 61.0 hours of support staff time at customary hourly rates. Khalili Decl. ¶¶ 25-46.
27 Plaintiff is requesting attorneys’ fees in the amount of \$160,000.00. *Id.*

28 ///

1. Plaintiff's Counsel's Hours Are Reasonable

In determining whether the number of hours expended on the litigation was reasonable, the court must determine that "the time spent was reasonably necessary and that [] counsel made 'a good faith effort to exclude from the fee request hours that are excessive, redundant, or otherwise unnecessary.'" *Jordan v. Multnomah County* (9th Cir. 1987) 815 F.2d 1258, 1263 n.8. The court "should defer to the winning lawyer's professional judgment as to how much time he was required to spend on the case." *Moreno v. City of Sacramento* (9th Cir. 2008) 534 F.3d 1106, 1112 (noting that "[l]awyers are not likely to spend unnecessary time on contingency fee cases in the hope of inflating their fees. The payoff is too uncertain, as to both the result and the amount of the fee."). It is well established that reasonable fees for support staff services may be included as part of a fee award. *See Salton Bay Marina, Inc. v. Imperial Irrigation Dist.* (1985) 172 Cal.App.3d 914, 951 ("necessary support services for attorneys, e.g. secretarial and paralegal services, are includable within an award of attorney fees"); *Guinn v. Dotson* (1994) 23 Cal.App.4th 262, 268-270 ("[a]n award of attorney's fees which does not compensate for paralegal service time would not fully compensate the attorney"); *Missouri v. Jenkins* (1989) 491 U.S. 274, 285 (fee award must account for work of non-attorneys "whose labor contributes to the work product for which an attorney bills her client").

Here, Plaintiff's counsel expended a significant amount of time litigating the Action to achieve the excellent result on behalf of the State of California and Aggrieved Employees. Khalili Decl. ¶¶ 26-27. The efforts expended by Plaintiff's counsel thus far include, but are not limited to, the following: interviewing Plaintiff and reviewing documents provided by Plaintiff; drafting two PAGA notice letters on behalf of Plaintiff; drafting the complaint and First Amended Complaint; preparing for and attending numerous court hearings and status conferences; opposing Defendant's Motion to Compel Arbitration; initiating arbitration and attending an Arbitration Management Conference; propounding discovery on behalf of Plaintiff; meeting and conferring with Defendant's counsel to obtain relevant documents and information; reviewing time and payroll records and other employment records produced by Defendant; retaining a data expert to analyze voluminous time records and corresponding payroll data; performing legal research regarding Plaintiff's claims; drafting a mediation brief and preparing a damages analysis; attending a private mediation session;

1 communicating with the mediator regarding further settlement discussions; negotiating, drafting, and
2 revising the Settlement; and drafting the Motion for Approval of PAGA Settlement and accompanying
3 documents. *Id.* at ¶ 27.

4 To date, PAGA Counsel have spent over 223.9 hours of attorney time and over 61.0 hours of
5 support staff time litigating the Action. *Id.* at ¶ 28. These hours were necessary and reasonable to
6 achieve the excellent result on behalf of the State and the Aggrieved Employees.

7 **2. Plaintiff's Counsel's Hourly Rates Are Reasonable**

8 The reasonable hourly rate is that prevailing in the community for similar work. *PLCM Group,*
9 *Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095. “[I]n assessing a reasonable hourly rate, the trial court is
10 allowed to consider the attorneys’ skill as reflected in the quality of work, as well as the attorneys’
11 reputation and status.” *MBNA Am. Bank, N.A. v. Gorman* (2006) 147 Cal.App.4th 1, 3. The trial court
12 may also “find hourly rates reasonable based on evidence of other courts approving similar rates.”
13 *Parkinson v. Hyundai Motor Am.* (C.D. Cal. 2010) 796 F.Supp.2d 1160, 1172. “Affidavits of the
14 plaintiff’s attorney and other attorneys regarding prevailing fees in the community, and rate
15 determinations in other cases, particularly those setting a rate for the plaintiff’s attorney, are
16 satisfactory evidence of the prevailing market rate.” *United Steelworkers of Am. v. Phelps Dodge*
17 *Corp.* (9th Cir. 1990) 896 F.2d 403, 407; *Bouman v. Block* (9th Cir. 1991) 940 F.2d 1211, 1235 (9th
18 Cir. 1991) (the submission of “declarations stating that the rate was the prevailing market rate in the
19 relevant community [was]... sufficient to establish the appropriate rate for lodestar purposes”).

20 PAGA Counsel’s rates are in line with the prevailing market rates of other Southern California
21 employment law attorneys with comparable experience and qualifications. Khalili Decl. ¶¶ 42-44; *see*
22 *also Roberti v. OSI Sys., Inc.* (C.D. Cal. Dec. 8, 2015) No. CV1309174MWFMRW, 2015 WL
23 8329916, at *7 (finding rates between \$525 and \$975 per hour reasonable); *Rodriguez v. County of*
24 *Los Angeles* (C.D. Cal. 2014) 96 F.Supp.3d 1012, 1023 (approving attorney rates in 2014 from \$500 to
25 \$975); *Perfect 10, Inc. v. Giganews, Inc.* (C.D. Cal. Mar. 24, 2015) No. CV 11-07098-AB SHX, 2015
26 WL 1746484, at *15-18, *aff’d*, 847 F.3d 657 (9th Cir. 2017) (finding hourly rates of \$825-\$930 for a
27 senior partner, \$350-\$690 for associates, and \$290 and \$240 for support staff—for work performed in
28 2011 and 2014—to be reasonable and prevailing market rates at that time); *In re LinkedIn User Priv.*

1 *Litig.* (N.D. Cal. 2015) 309 F.R.D. 573, 591 (reasonable rate for litigation support staff from \$150 to
2 \$240). PAGA Counsel are experienced litigators who specialize in employment law, with a
3 substantial wage and hour class action practice. Khalili Decl. ¶¶ 29-45. Numerous courts have
4 approved Plaintiff's Counsel's hourly rates. *Id.* at ¶ 40. Given PAGA Counsel's skill and experience,
5 PAGA Counsel's hourly rates are reasonable.

6 **D. Plaintiff's Counsel's Costs Are Reasonable**

7 PAGA Counsel is entitled to reimbursement of reasonable litigation costs under PAGA. *See*
8 Lab. Code § 2699(g)(l). The Settlement provides for reimbursement of costs not to exceed
9 \$20,000.00. Settlement Agreement ¶ 3.2.1. To date, Plaintiff's counsel has incurred actual costs in
10 the amount of \$17,854.44. Khalili Decl. ¶ 47. PAGA Counsel will incur approximately \$76.96 in
11 future costs for the motion filing fee and filing fees for the request for dismissal of Miracle Mile
12 Properties, Inc. and Parkwood Knoll Apartments for a total of **\$17,931.40** in costs. *Id.* Because these
13 costs were reasonably incurred in prosecuting the Action on behalf of the State of California and
14 Aggrieved Employees, the costs should be approved by the Court. *Id.* Accordingly, Plaintiff's
15 counsel respectfully requests the Court approve the reimbursement of costs in the amount of
16 **\$17,931.40**.

17 **VII. THE REQUESTED ADMINISTRATION COSTS ARE REASONABLE**

18 The Settlement provides for settlement administration costs up to \$5,000.00 to be paid from the
19 Gross Settlement Amount to Phoenix Settlement Administrators. Settlement Agreement ¶ 3.2.3.
20 Given the number of Aggrieved Employees and the scope of the duties to be performed by Phoenix
21 Settlement Administrators, the Court should approve the settlement administration costs as reasonable.
22 *Id.* at ¶ 4.

23 **VIII. CONCLUSION**

24 Based on the foregoing, Plaintiff respectfully requests that the Court grant approval of the
25 Settlement and enter the proposed judgment.

26 ///

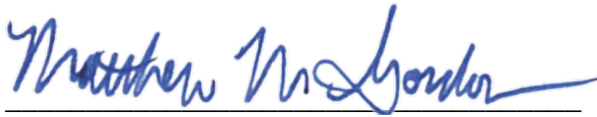
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1 DATED: November 26, 2024

Respectfully submitted,

2 MATERN LAW GROUP, PC

3
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