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10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SAN MATEO**

13
14 CHRISTOPHER GONZALES, on behalf of
himself and all those similarly situated,

15 Plaintiff,

16 v.

17 PRIME COMMUNICATIONS, L.P. and
18 PRIME COMMS RETAIL, LLC, a Delaware
19 Corporation,

20 Defendants.

Case No. 23-CIV-03441

Assigned for All Purposes to:
Hon. Nicole S. Healy
Department 28

**AMENDED MOTION FOR APPROVAL OF
PAGA SETTLEMENT AND AWARD OF
ATTORNEYS' FEES AND COSTS AND
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

Date: May 5, 2027
Time: 2:00 p.m.
Dept.: 28
Complaint Filed: July 26, 2023
Trial Date: Not Set

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE THAT** on May 5, 2027 at 2:00 p.m. in Department 28 of the
3 above-captioned Court located at San Mateo County Superior Court, 800 North Humboldt St., San
4 Mateo, California 94401, Plaintiff Christopher Gonzales (“Plaintiff”) will and hereby does move
5 the Court for an Order granting approval of the California Labor Code Private Attorneys General
6 Act of 2004, California Labor Code sections 2698, *et seq.* (“PAGA”) settlement. Specifically,
7 Plaintiff requests that the Court enter an Order:

- 8 1. Granting approval pursuant to California Labor Code section 2699(1)(2) of the Private
9 Attorneys General Act Settlement Agreement and Release (“PAGA Settlement” or
10 “PAGA Settlement Agreement”) attached as **Exhibit 1** to the Declaration of Michael Palitz
11 in Support of Plaintiff’s Motion for Approval of PAGA Settlement and Award of
12 Attorneys’ Fees and Costs (“Palitz Decl.”);
- 13 2. Directing the distribution of the PAGA Settlement Amount of Four Hundred Thirty-Nine
14 Thousand Five Hundred Dollars and Zero Cents (\$439,500.00) pursuant to the terms of the
15 PAGA Settlement;
- 16 3. Approving the Net Settlement Amount, estimated to be Two Hundred Seventy-Four
17 Thousand Two Hundred Fourteen Dollars and Twenty-Five Cents (\$274,214.25), of
18 which seventy-five percent (75%) will be distributed to the California Labor and
19 Workforce Development Agency (“LWDA”) and twenty-five percent (25%) of which
20 will be distributed to the Aggrieved Employees;
- 21 4. Approving an award of reasonable attorneys’ fees of One Hundred Forty-Six Thousand
22 Five Hundred Dollars (\$146,500.00) to Plaintiff’s Counsel, SHAVITZ LAW GROUP, P.A.
23 and NICHOLS KASTER PLLP;
- 24 5. Approving the amount of Three Thousand Seven Hundred Eighty-Five Dollars and
25 Seventy-Five Cents (\$3,785.75) to Plaintiff’s Counsel, SHAVITZ LAW GROUP, P.A. and
26 NICHOLS KASTER PLLP, for reimbursement of actual litigation costs and expenses
27 pursuant to California Labor Code section 2699(g)(1);
- 28 6. Appointing Simpluris, Inc. as the Settlement Administrator;

1 7. Approving an award of up to Ten Thousand Dollars and Zero Cents (\$10,000.00) in
2 anticipated costs to Simpluris, Inc. for its settlement administration services; and

3 8. Approving a service award of Five Thousand Dollars and Zero Cents (\$5,000.00) to
4 Plaintiff Christopher Gonzales.

5 Pursuant to California Labor Code section 2699(1)(2), a copy of the proposed PAGA
6 Settlement Agreement, as well as information regarding the approval hearing in this matter, were
7 submitted to the LWDA via online submission through its public portal concurrently with the filing
8 of this Motion. (Palitz Decl., ¶ 39.)

9 This Motion is made pursuant to California Labor Code section 2699(1)(2), which provides
10 review and approval by the Court of the settlement of a civil action filed pursuant to PAGA, and
11 Rule 3.1113(e) of the California Rules of Court, which permits the Court to extend the page limit
12 for memoranda. This Motion is based upon this Notice, the attached Memorandum of Points and
13 Authorities, the Declarations of Plaintiff's Counsel (Michael Palitz and Michele Fisher), Plaintiff
14 (Christopher Gonzales), and the Settlement Administrator (Simpluris, Inc.), the pleadings and other
15 records on file with the Court in this matter, and any other further evidence or argument that the
16 Court may properly receive at or before the hearing.

17 PLEASE TAKE NOTICE that tentative rulings on Law & Motion matters will continue to
18 be posted by 3:00 p.m. the prior court day, and notice of appearance to contest a tentative ruling will
19 continue to be required by 4:00 p.m. the prior court day. (See Local Rule 3.403.) Tentative rulings
20 are posted on the Court's website.

21 A party seeking to contest a tentative ruling now has the option of doing so - and is
22 encouraged to do so - by email, rather than by telephone. A party intending to appear in order to
23 contest the tentative ruling on a matter calendared for hearing must notify the assigned Judge's
24 Department by 4:00 p.m. on the prior court day by emailing or by telephoning the Civil Department
25 of the Civil Judge assigned to that civil case. (Local Rule 3.403(b).)

26 Any email to the Court must be contemporaneously copied to all parties or their counsel of
27 record. (Local Rule 3.403(b).) Emails contesting the tentative ruling must state the case name and
28 number in the subject line. In the email the contesting party must include the name of the motion,

1 the party contesting, and the time estimate for oral arguments. Emails must be in at least 12 point
2 type. (Local Rule 3.403(b)(ii).)

3 The motion hearing date is Wednesday May 5, 2027 at 2:00 p.m. and tentative rulings will
4 be displayed via the link below:

5 [https://web.sanmateocourt.org/online_services/law_and_motion_tentative_rulings/lawmotion/wed](https://web.sanmateocourt.org/online_services/law_and_motion_tentative_rulings/lawmotion/wednesday_healy/wedlm.pdf?t=1768915238394&_gl=1*35myzw*_ga*NTQxNTc2OTYzLjE3NjU5O)
6 [nesday_healy/wedlm.pdf?t=1768915238394&_gl=1*35myzw*_ga*NTQxNTc2OTYzLjE3NjU5O](https://web.sanmateocourt.org/online_services/law_and_motion_tentative_rulings/lawmotion/wednesday_healy/wedlm.pdf?t=1768915238394&_gl=1*35myzw*_ga*NTQxNTc2OTYzLjE3NjU5O)
7 [TUzODI.*_ga_Q54155JCX0*czE3Njg5MTUyMTYkbzMkZzEkdDE3Njg5MTU0MTgkajYwJG](https://web.sanmateocourt.org/online_services/law_and_motion_tentative_rulings/lawmotion/wednesday_healy/wedlm.pdf?t=1768915238394&_gl=1*35myzw*_ga*NTQxNTc2OTYzLjE3NjU5O)
8 [wwJGgw](https://web.sanmateocourt.org/online_services/law_and_motion_tentative_rulings/lawmotion/wednesday_healy/wedlm.pdf?t=1768915238394&_gl=1*35myzw*_ga*NTQxNTc2OTYzLjE3NjU5O)

9 Dated: September 10, 2026

Respectfully submitted,

11 **SHAVITZ LAW GROUP, P.A.**

12 By: s/Michael Palitz

13 Michael Palitz

14 Attorney for Plaintiff Christopher
15 Gonzales
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 On August 12, 2026, the Court issued a Tentative Ruling denying Plaintiff's Motion for
4 Approval of PAGA Settlement and Award of Attorneys' Fees and Costs and Settlement
5 Administration Costs ("Plaintiff's Motion"). The Court requested supplemental information
6 regarding certain aspects of the settlement:

- 7 • The total number of PAGA Aggrieved Employees included in this settlement. The parties
8 have confirmed that there are 2,435 PAGA Aggrieved Employees.
- 9 • Information relating to the potential damages for the various causes of action and reasons
10 for discounting the damages. This is discussed below. *Infra* at pp. 15-20.
- 11 • The deterrent effect of the settlement. This is discussed below. *Infra* at p. 22.
- 12 • Information to perform a lodestar crosscheck and information to support the requested
13 attorneys' fee rates for such crosscheck. This is discussed below. *Infra* at pp. 24-28.
- 14 • Information about Plaintiff's pro hac vice costs to ensure there were no duplication across
15 the firms. This is discussed below. *Infra* at pp. 27-28.
- 16 • Information about Attorney Palitz's fees during the period in which the pro hac vice
17 application had lapsed. This is discussed below. *Infra* at pp. 26-27.

18 Plaintiff files the Amended Motion for Approval and respectfully requests that the Court approve
19 this settlement.

20 Pursuant to the California Labor Code Private Attorneys General Act, California Labor Code
21 sections 2698, *et seq.* ("PAGA"), Plaintiff Christopher Gonzales ("Plaintiff" or "Plaintiff
22 Gonzales") seeks approval of the Private Attorneys General Act Settlement Agreement and Release
23 ("PAGA Settlement" or "PAGA Settlement Agreement") entered into with Defendants Prime
24 Comms Retail, LLC and Prime Communications L.P. ("Defendants") (together with Plaintiff, the
25 "Parties"), which is attached as **Exhibit 1** to the Palitz Decl. The PAGA Settlement terms are
26 outlined as follows:

- 27 • Number of Aggrieved Employees: 2,435 individuals.

- 1 • PAGA Settlement Amount: Four Hundred Thirty-Nine Thousand Five Hundred Dollars
- 2 and Zero Cents (\$439,500.00).
- 3 • Attorneys' Fees: One Hundred Forty-Six Thousand Five Hundred Dollars (\$146,500.00)
- 4 (1/3 of the PAGA Settlement Amount), to be paid from the PAGA Settlement Amount.
- 5 • Attorneys' Costs: Three Thousand Seven Hundred Eighty-Five Dollars and Seventy-
- 6 Five Cents (\$3,785.75), to be paid from the PAGA Settlement Amount.
- 7 • Settlement Administration Costs: Not to exceed Ten Thousand Dollars and Zero Cents
- 8 (\$10,000.00), to be paid from the PAGA Settlement Amount.
- 9 • Estimated Net Settlement Amount: Two Hundred Seventy-Four Thousand, Two
- 10 Hundred and Fourteen dollars and twenty-five cents (\$274,214.25), of which 75%
- 11 (\$205,660.69) will be paid to the California Labor and Workforce Development Agency
- 12 ("LWDA") and the remaining 25% (\$68,553.56) will be paid to the Aggrieved
- 13 Employees.
- 14 • A service award payment to Plaintiff Gonzales which is Five Thousand Dollars
- 15 (\$5,000.00).

16 As set forth herein, the PAGA Settlement is the product of informed discovery, arms-length
17 negotiations, and provides a fair, adequate, and reasonable recovery for the State of California and
18 Aggrieved Employees. Plaintiff respectfully requests that the Court grant approval of the
19 proposed PAGA Settlement, among other requested relief.

20 To efficiently present the Court with adequate information to determine whether to grant
21 approval of the PAGA Settlement, Plaintiff also moves for an order permitting the filing of this
22 memorandum, although it exceeds the page limit established by California Rules of Court, Rule
23 3.1113(d).

24 **II. FACTUAL AND PROCEDURAL BACKGROUND**

25 Defendants own and operate authorized AT&T retail stores nationwide. Retail employees
26 are employed by Prime Comms Retail, LLC and work in the AT&T stores. Retail employees sell
27 wireless phones, mobile phone service, home phone service, high-speed internet, wireless data plans
28 and more. Defendants employed Plaintiff Trevor Zlatunich ("Zlatunich") from August 1, 2015 to

1 June 22, 2022 at a retail location in Burlingame, California. (Palitz Decl., ¶ 13.)

2 On May 6, 2021, Zlatunich provided written notice by electronic submission to the
3 California Labor and Workforce Development Agency (“LWDA”) and by Certified U.S. Mail to
4 Defendants, pursuant to California Labor Code § 2699.3, providing notice of the specific provisions
5 of the California Labor Code which he alleged Defendants violated, including the facts and theories
6 to support the allegations. (Palitz Decl., ¶ 11.)

7 On July 26, 2023, Zlatunich filed a Complaint for Civil Penalties Pursuant to the Private
8 Attorneys General Act, California Labor Code §§ 2698 *et seq.* in the action entitled *Trevor Zlatunich*
9 *v. Prime Communications, L.P. and Prime Comms Retail, LLC*, San Mateo County Superior Court
10 Case No. 23-CIV-03441. The Complaint alleged one cause of action pursuant to PAGA, alleging
11 civil penalties for Defendants’ alleged failure to (1) pay all wages and overtime wages due to hourly
12 employees, (2) failure to pay wages and penalties at the appropriate rate of pay, (3) failure to provide
13 meal and rest breaks, (4) failure to keep accurate records and provide proper and accurate wage
14 statements which include all time worked, accurate and lawful wage, sick, and overtime rates, and
15 all other information as required by law, (5) failure to pay wages timely, (6) failure to pay all wages
16 due to employees after termination of their employment, (7) failure to pay meal and rest break
17 penalties and miscellaneous other payments at the proper rate of pay, and (8) failure to reimburse
18 for necessary business expenses in violation of California Labor Code sections §§ 200, 1194(a),
19 1182.11, 1182.12, and 1197, 1194.2, 510(a), 226.7 and 512, 226.7(b), 226(a), 226(e), 226, 1174(d),
20 1174.5, 1174, 204, 201, 202, 2802, 1182.11, 1182.12, 1197, 510, 588, 1994, 1998, 512, 226(a),
21 1174, 1174.5 and the applicable Industrial Welfare Commission Wage Orders. (Palitz Decl., ¶ 11-
22 12)

23 On November 16, 2023, the Parties filed a Stipulation and Proposed Order Regarding Filing
24 First Amended Complaint. The Stipulation provided for the addition of Plaintiff Gonzales as a
25 Named Plaintiff and that the individual claims of Zlatunich would proceed in an arbitration hearing
26 in November 2023. *See* Stipulation and Order.

27 Defendants employed Plaintiff Gonzales from November 2018 to May 2023 at a retail
28 location in Yucca, California. (Palitz Decl., ¶ 14.) On July 27, 2023, Plaintiff Gonzales provided

1 written notice by electronic submission to the LWDA and by Certified U.S. Mail to Defendants,
2 pursuant to California Labor Code § 2699.3, providing notice of the specific provisions of the
3 California Labor Code which he alleged Defendants violated, including the facts and theories to
4 support the allegations. (*Id.*)

5 Per the Parties' November 16, 2023 Stipulation and Order, Plaintiff Gonzales filed a First
6 Amended Complaint on December 18, 2023 entitled *Trevor Zlatunich and Christopher Gonzales v.*
7 *Prime Communications, L.P., and Prime Comms Retail, LLC*. Case No. 23-CIV-03441 in San
8 Mateo County Superior Court ("the Action"). It alleged the same claims as the prior Complaint on
9 July 26, 2023 but included the amended and supplemental PAGA notice. (Palitz Decl., ¶ 16.)

10 Defendants answered the Amended Complaint on January 22, 2024. Plaintiff served special
11 Interrogatories and Document Requests on Defendants in February of 2024. Defendants responded
12 on March 19, 2024. During the course of discovery in the Action and continued efforts to meet and
13 confer regarding discovery, Plaintiff's Counsel conducted an intense investigation into the facts of
14 the Action. This included obtaining data, information, and documents relating to the underlying
15 alleged violations, including, but not limited to Plaintiff's employee files, Defendants' Employee
16 Handbook, and Aggrieved Employees' data points so that Plaintiff could assess the number of
17 alleged potential violations and value of the recoverable penalties, as well as evaluate the strengths
18 and weaknesses of the claims. (Palitz Decl., ¶ 19-20.)

19 Based on the data, information, and documents received, as well as thorough discussions
20 with Defendants' counsel, Plaintiff's Counsel was able to (i) determine the total number of distinct
21 individuals falling within the definition of "Aggrieved Employees" for the relevant statutory period,
22 (ii) identify the number of affected pay periods at issue among them, and (iii) construct a damages
23 model that calculated the maximum realistic amount of PAGA penalties that could be levied against
24 Defendants within the relevant statutory period. Defendants, however, disputed Plaintiff's claims
25 and disputed both the existence of and extent of liability as alleged by Plaintiff, which allowed
26 Plaintiff's Counsel to further assess the strength of Plaintiff's claims. Plaintiff's Counsel's
27 experience in litigating similar representative wage and hour claims, the degree of investigation that
28 was conducted here, and the amount of data, information, and documents that was obtained, was

1 sufficient to determine the potential value of the PAGA claims, and to evaluate the strength of these
2 claims for purposes of settlement. (Palitz Decl., ¶ 20.)

3 The Parties reached an agreement to settle this Action. The Parties believe the PAGA
4 Settlement is fair, reasonable, and adequate. The Parties understand, acknowledge, and agree that
5 the PAGA Settlement constitutes a compromise of Plaintiff's PAGA claims, and that it is the desire
6 and intention of the Parties to effect a final and complete resolution of the Released Claims. (Palitz
7 Decl., ¶ 23.)

8 On December 26, 2024, Plaintiff submitted an amended and supplemental PAGA Notice to
9 the LWDA on behalf of Plaintiffs Gonzales and Zlatunich. (Palitz Decl., ¶ 18.) Copies of the PAGA
10 Notices submitted to the LWDA are attached as Exhibit 2 to the Palitz Decl.

11 The Parties filed a Stipulation and Order to Amend Complaint pursuant to the agreement to
12 settle on April 25, 2025 wherein the parties jointly sought an order from the court for leave to file a
13 Second Amended Complaint ("Operative Complaint"). (Palitz Decl., ¶ 22.)

14 The Operative Complaint was deemed filed on April 25, 2025, Case No. 23-CIV-03441
15 entitled *Christopher Gonzales¹ v. Prime Communications L.P., and Prime Comms Retail, LLC*. It
16 seeks PAGA penalties on behalf of Plaintiff and similarly situated hourly nonexempt store
17 employees for Defendants' alleged: (1) failure to pay all wages and overtime wages due to hourly
18 nonexempt employees, (2) failure to pay wages and penalties at the appropriate rate of pay, (3)
19 failure to provide meal and rest breaks, (4) failure to keep accurate records and provide proper and
20 accurate wage statements which include all time worked, accurate and lawful wage, sick, and
21 overtime rates, and all other information as required by law, (5) failure to pay wages timely, (6)
22 failure to pay all wages due to employees after termination of their employment, (7) failure to pay
23 meal and rest break penalties and miscellaneous other payments at the proper rate of pay, (8) failure
24 to reimburse for necessary business expenses, and (9) failure to provide suitable seating. It alleged
25 violations of Labor Code §§ 1194(a), 200, 1182.11, 1182.12, 1197, 1194(a), 1194.2, 1194, 510(a),
26

27 ¹ Zlatunich whose claims were submitted to arbitration resolved all claims in arbitration and he
28 was removed as a Named Plaintiff from this action. (Palitz Decl., ¶ 21.)

1 226.7, 512, 226.7(b), 226(a), 226(e), 226, 1174(d), 1174.5, 1174, 204, 201, 202, 2802, 227.3,
2 1182.11, 1182.12, 1197, 510, 588, 1994, 1998, 512, 226(a), 1174, 1174.5, and the applicable
3 Industrial Welfare Commission Wage Orders. (Palitz Decl., ¶ 22.)

4 Defendants deny all the claims in the Action, and do not waive, but rather expressly reserve,
5 all rights to challenge all such claims and allegations upon all legal, procedural, and factual grounds
6 should the PAGA Settlement not become final. The PAGA Settlement reflects a compromise
7 reached to end litigation in the Action. Following investigation and settlement negotiations, Plaintiff
8 now seeks approval of the proposed PAGA Settlement Agreement, which will resolve all
9 representative claims. (Palitz Decl., ¶ 23.)

10 In accordance with California Labor Code Sections 2699, *et. seq.*, a copy of the proposed
11 PAGA Settlement Agreement, as well as information regarding the approval hearing in this matter,
12 were submitted to the LWDA via online submission concurrently with the filing of the Motion.
13 (Palitz Decl., ¶ 39.)

14 **III. THE PAGA SETTLEMENT TERMS**

15 **A. Definition of “Aggrieved Employees”**

16 For purposes of settlement only, the Parties have agreed that the “Aggrieved Employees”
17 shall be defined as “all current and former hourly-paid and/or non-exempt employees who worked
18 for Defendants within the State of California at any time during the PAGA Period.” The “PAGA
19 Period” is the period from May 22, 2022 to November 30, 2025. Defendants represented that there
20 are 2,435 Aggrieved Employees who worked a total of 74,500 pay periods during the PAGA Period
21 (“Pay Periods”). (Palitz Decl., ¶ 24; PAGA Settlement Agreement, ¶ 3.)

22 **B. Amount of PAGA Settlement**

23 The Parties have agreed to settle the PAGA claims at issue in the Operative Complaint for a
24 non-reversionary PAGA Settlement Amount of Four Hundred Thirty-Nine Thousand Five Hundred
25 Dollars and Zero Cents (\$439,500.00). (Palitz Decl., ¶ 24; PAGA Settlement Agreement, ¶ 3.)

26 **C. Allocation and Funding of the PAGA Settlement Amount**

27 The PAGA Settlement Amount is a common fund and therefore, includes all requested costs,
28 fees, and other allocations. The PAGA Settlement Amount includes: (1) Plaintiff’s Counsel’s fees

1 in the amount of one-third (1/3) of the PAGA Settlement Amount, equaling One Hundred Forty-Six
2 Thousand Five Hundred Dollars (\$146,500.00); (2) Plaintiff's Counsel's actual litigation costs and
3 expenses of Three Thousand Seven Hundred Eighty-Five Dollars and Seventy-Five Cents
4 (\$3,785.75), which is a reduction from the up-to \$3,824.67 stated in the Settlement Agreement, ¶
5 3(a)(1), and correspondingly increases the Net Settlement Amount from \$274,175.33 to
6 \$274,214.25; (3) Settlement Administration Costs not to exceed Ten Thousand Dollars and Zero
7 Cents (\$10,000.00); and (4) a service award of Five Thousand Dollars and Zero Cents (\$5,000.00)
8 to Plaintiff Gonzales. (Palitz Decl., ¶¶ 24-27; PAGA Settlement Agreement, ¶ 3.)

9 After the above-estimated amounts are deducted from the PAGA Settlement Amount, the
10 Net Settlement Amount will amount to approximately Two Hundred Seventy-Four Thousand Two
11 Hundred Fourteen Dollars and Twenty-Five Cents (\$274,214.25), of which 75% (\$205,660.69) will
12 be paid to the California Labor and Workforce Development Agency ("LWDA") and the remaining
13 25% (\$68,553.56) will be paid to the Aggrieved Employees on a pro-rata basis based on their
14 number of Pay Periods. (Palitz Decl., ¶ 24; PAGA Settlement Agreement, ¶ 3.)

15 No later than ten (10) calendar days after the Court's order granting approval of the PAGA
16 Settlement, Defendants will provide the Settlement Administrator with a list of all Aggrieved
17 Employees ("Aggrieved Employees List"), containing the following information for each
18 Aggrieved Employee: (i) first and last name; (ii) last known address; (iii) last known telephone
19 number; (iv) Social Security number; and (v) dates worked during the PAGA Period. (PAGA
20 Settlement Agreement, ¶ 5(c)(1).) A proposed PAGA Notice of Settlement is attached as Exhibit 3
21 to the Palitz Decl.

22 No later than thirty (30) calendar days after the Court's Order granting approval of the PAGA
23 Settlement, Defendants will fund the PAGA Settlement Amount by transmitting the funds to a
24 qualified settlement account established by the Settlement Administrator for administration of the
25 PAGA Settlement. (PAGA Settlement Agreement, ¶ 5(a).)

26 No later than ten (10) calendar days after the Settlement Administrator receives the
27 Aggrieved Employees List and PAGA Settlement Amount, the Settlement Administrator will
28 distribute the Individual PAGA Payments to Aggrieved Employees, LWDA Payment to the LWDA,

1 Attorneys' Fees and Costs to Plaintiff's Counsel, and Settlement Administration Costs to itself.
2 (PAGA Settlement Agreement, ¶ 5(c)(3).)

3 The Individual PAGA Payment checks issued to Aggrieved Employees will remain valid for
4 up to one hundred eighty (180) calendar days, and thereafter, will be canceled. Funds associated
5 with such canceled checks will be transmitted to the State Controller's Office Unclaimed Property
6 Division in the name of the Aggrieved Employee(s) at issue and in the amount of their respective
7 Individual PAGA Payment(s). (PAGA Settlement Agreement, ¶ 5(c)(4).)

8 If the actual number of Pay Periods is more than ten percent (10%) above 74,500 pay periods,
9 Plaintiff has the option to cancel the PAGA Settlement Agreement. (PAGA Settlement Agreement,
10 ¶ 3(a)(6).)

11 **IV. STANDARD FOR APPROVAL OF PAGA SETTLEMENT**

12 The settlement of a PAGA claim requires court approval. (California Labor Code ("Lab.
13 Code") § 2699(l).) The Court must be mindful that a "[s]ettlement is a compromise, which balances
14 the possible recovery against the risks inherent in litigating further." (*In re TD Ameritrade Account*
15 *Holder Litig.*, 2011 U.S. Dist. LEXIS 103222, at *24 (N.D. Cal. Sept. 12, 2011).) "[T]he very
16 essence of a settlement is . . . 'a yielding of absolutes and an abandoning of highest hopes,'" as "it
17 is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation
18 that induce consensual settlements." (*Officers for Justice v. Civil Service Com.*, 688 F.2d 615, 624-
19 26 (9th Cir. 1982).) As such, "the settlement or fairness hearing is not to be turned into a trial or
20 rehearsal for trial on the merits," or "judged against a hypothetical or speculative measure of what
21 might have been achieved." (*Id.*)

22 Although the California Labor Code does not set forth the criteria by which a PAGA
23 settlement is to be evaluated, it is presumed that a reviewing court may take into consideration some
24 of the factors that courts use when reviewing a class action settlement. However, "a PAGA claim
25 asserted on a nonclass representative basis. . . is not considered a class action but a law enforcement
26 action, and therefore does not have to meet the requirements of [a class action]." (*Casida v. Sears*
27 *Holdings Corp.*, 2012 U.S. Dist. LEXIS 9302, at *8 (E.D. Cal. Jan. 25, 2012).)

1 A court's review of a PAGA settlement necessarily implicates the following unique features
2 that render the approval process distinct from approval of a class action settlement under Code of
3 Civil Procedure Section 382 and California Rules of Court Rule 3.769. First, in evaluating the
4 adequacy of the settlement amount, the Court's focus is not concerned with the amount aggrieved
5 employees are to receive, but rather, must focus on the total settlement amount in achieving PAGA's
6 objective. Indeed, "[t]he remedy sought in a PAGA suit consists of civil penalties, not individual or
7 class damages," and while a "[PAGA] action is. . .designed to protect the public and penalize the
8 employer for past illegal conduct," a reviewing court must be mindful of the fact that settlement of
9 a PAGA claim involves a compromise. (*Mendez v. Tween Brands, Inc.*, 2010 U.S. Dist. LEXIS
10 66454, at *11 (E.D. Cal. June 30, 2010).) "Unlike class actions, these civil penalties are not meant
11 to compensate unnamed employees because the action is fundamentally a law enforcement action."
12 (*Ochoa-Hernandez v. Cjaders Foods, Inc.*, 2010 U.S. Dist. LEXIS 32774, at *12 (Apr. 2, 2010).)
13 "[U]nlike a class action seeking damages or injunctive relief for injured employees, the purpose of
14 PAGA is to incentivize private parties to recover civil penalties for the government that otherwise
15 may not have been assessed and collected by overburdened state enforcement agencies." (*Id.*)
16 Second, consistent with the fact that unnamed employees have no property interest in a PAGA claim,
17 "[u]nnamed employees need not be given notice of the PAGA claim, nor do they have the ability to
18 opt-out of the representative PAGA claim." (*Id.* at *13.) Indeed, "[PAGA] does not create property
19 rights or any other substantive rights" as "[i]t is simply a procedural statute allowing an aggrieved
20 employees to recover civil penalties – for Labor Code violations – that otherwise would be sought
21 by state labor law enforcement agencies." (*Amalgamated Transit Union, Local 1756, AFL-CIO v.*
22 *Sup. Ct.*, 46 Cal.4th 993, 1003 (2009).) This renders the approval process of a PAGA settlement
23 distinct from a class action settlement, as there is no need for the Court to use the "two-step approval
24 process" required under California Rules of Court Rule 3.769.

25 Lastly, unlike class action settlements, the scope of release permitted in a PAGA settlement
26 is limited. While "judgment in [a PAGA] action is binding not only on the named employee plaintiff
27 but also on government agencies and any aggrieved employee not a party to the proceeding. . .the
28 non-party employees, because they were not given notice of the action or afforded any opportunity

1 to be heard, would not be bound by the judgment as to remedies other than civil penalties.” (*Arias*
2 *v. Sup. Ct.*, 46 Cal.4th 969, 985-87 (2009).) Thus, the scope of a release in a PAGA settlement is
3 confined to the PAGA penalties alleged in the plaintiff’s notice to the LWDA and only to the extent
4 that they are alleged in the complaint. In the case at hand, as the only claims at issue are PAGA
5 claims, those will be the only claims extinguished through the PAGA Settlement.

6 **V. THE PAGA SETTLEMENT IS FAIR AND SHOULD BE APPROVED**

7 **A. The PAGA Settlement is Presumed to Be Fair**

8 California courts recognize that “a presumption of fairness exists where . . . [a] settlement is
9 reached through arm’s-length bargaining.” (*Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224,
10 245 (2001); *see Clark v. Am. Residential Servs. LLC*, 175 Cal. App. 4th 785, 799 (2009).) Here, the
11 PAGA Settlement is presumptively fair because: (1) it occurred after counsel for the Parties engaged
12 in investigation to evaluate the strength and potential value of the PAGA claims, and the risks of
13 litigating the PAGA claims through trial; and (2) it was negotiated at great length and effort by
14 counsel with significant experience in similar complex labor and employment matters. (Palitz Decl.,
15 ¶¶ 11-22.)

16 **B. The PAGA Settlement is Fair, Adequate, and Reasonable in Light of the Parties’**
17 **Respective Legal Positions and Recovery Risks**

18 In deciding whether to approve a proposed settlement, a trial court has broad powers to
19 determine if it is fair given the circumstances of the case. (*Mallick v. Sup. Ct.*, 89 Cal.App.3d 434,
20 438 (1979).) In exercising these powers, the overriding concern is to ensure that a proposed
21 settlement is “fair, adequate, and reasonable.” (*Dunk*, 48 Cal.App.4th at 1801 (internal quotations
22 omitted).) A settlement is not judged against what might have been recovered had a plaintiff
23 prevailed at trial, nor does the settlement have to obtain one hundred percent of the damages sought
24 to be fair and reasonable. (*Wershba*, 91 Cal.App.4th at 246, 250.) In evaluating the reasonableness
25 of a settlement, a trial court must consider “the strength of plaintiffs’ case, the risk, expense,
26 complexity and likely duration of further litigation, the risk of maintaining class action status
27 through trial, the amount offered in settlement, the extent of discovery completed and the stage of
28 the proceedings, the experience and views of counsel, the presence of a governmental participant,

1 and the reaction of the class members to the proposed settlement.” (*Kullar v. Foot Locker Retail,*
2 *Inc.*, 168 Cal.App.4th 116, 128 (2008).) Even though a *Kullar* analysis is not required for approval
3 of a PAGA settlement, a brief analysis is included to support approval of the PAGA Settlement.

4 These factors require balancing but are not exhaustive. Trial courts should therefore tailor
5 the factors to each case and give due regard to “what is otherwise a private consensual agreement
6 between the parties.” (*Dunk, supra*, 48 Cal. App. 4th at 1801.)

7 1. Strength of Plaintiff’s Case

8 To prevail at trial, Plaintiff would have to prove violations of the California Labor Code
9 underlying his PAGA claims, demonstrate that Aggrieved Employees suffered, and demonstrate
10 that Defendants’ conduct gives rise to penalties. (*See Elliot v. Spherion Pac. Work, LLC*, 572
11 F.Supp.2d 1169, 1181-82 (C.D. Cal. 2008) [“Plaintiff’s claim under [PAGA] is wholly dependent
12 upon her other claims. Because all of Plaintiff’s other claims fail as a matter of law, so does her
13 PAGA claim.”].)

14 Plaintiff’s core allegations triggering potential PAGA penalties: (1) failure to pay wages due;
15 (2) failure to provide meal and rest breaks; (3) failure to provide accurate wage statements; (4)
16 failure to pay timely wages and at the end of employment; (5) failure to reimburse for business
17 expenses; and (6) failure to provide suitable seating. (Palitz Decl., ¶ 22.)

18 Defendants maintained several defenses to Plaintiff’s theories of liability, which, if
19 successfully argued and proven, had the potential to eliminate or substantially reduce recovery.
20 Throughout this litigation, Defendants maintained, and continue to maintain, that they had, and
21 continue to have, compliant employment policies and practices throughout the time period at issue.
22 Defendants deny that they ever violated any provision of the California Labor Code, including, but
23 not limited to, those sections for which Plaintiff seeks penalties under PAGA. Defendants further
24 denied, and continue to deny, that the lawsuit is appropriate for representative treatment for any
25 purpose other than settlement. Defendants also challenged Plaintiff’s standing as an Aggrieved
26 Employee and denied that any of Defendants’ other employees whom Plaintiff seeks to represent
27 are aggrieved. Defendants also argued that an important feature of PAGA is that the Court retains
28 discretion to lower the penalties if, based on the facts and circumstances of the particular case, and

1 to do otherwise would result in an award that is “unjust, arbitrary and oppressive, or confiscatory.”
2 (Cal. Lab. Code § 2699(e)(2); *see also Thurman v. Bayshore Transit Management, Inc.*, 203
3 Cal.App.4th 1112, 1136 (2012) [holding that a court may reduce the amount of PAGA penalties
4 awarded to an employee based upon discretionary factors].)

5 Defendants argued that there are no PAGA violations as all time worked was recorded and
6 paid, and the company maintains policies regarding meal and rest breaks, business expense
7 reimbursement, and seating. Plaintiff’s counsel received these policies and copies of wage
8 statements. (Palitz Decl., ¶ 19.) Plaintiff’s counsel also litigated numerous arbitrations against
9 Defendants involving the unpaid wage claims at issue in this settlement. (*Id.*) Based on the
10 arbitrations and the documents produced, Plaintiff’s counsel maintains that this settlement is a fair
11 and reasonable compromise. To prevail on these claims, Plaintiff would need to prove liability on
12 the underlying claims that he worked off-the-clock and did not receive meal and rest breaks and
13 Defendants had knowledge of these activities. If that was proven, then Plaintiff would prevail on
14 the derivative wage statement and failure to pay timely wages claims because those wage statements
15 would be inaccurate due to not including all time worked and missed breaks.

16 Defendants’ pay records produced demonstrated that Defendants paid overtime wages and
17 paid penalties for missed meal and rest breaks. (Palitz Decl., ¶ 19.) Defendants argued that this
18 evidence undermined claims that its employees were not paid for all time worked and that they did
19 not receive penalty payments for missed meal and rest breaks. (*Id.*) Defendants’ pay records also
20 showed that it paid its employees phone allowances which was a defense to the expense
21 reimbursement claim.

22 The parties dispute whether this job can be performed while seated. This claim presented a
23 challenge because part of Plaintiff and the Aggrieved Employees’ job is performed while seated and
24 another part is not while they are standing and assisting customers as they walk through the stores.
25 This presented a challenge to the claims as (1) the extent of the time seated versus the time standing
26 and how that varied across the Aggrieved Employees and (2) whether there was a viable seating
27 claim because the Aggrieved Employees did sit during a portion of their shifts. Plaintiff’s counsel
28 did not value this claim highly in light of these issues.

1 Defendants also argued that they follow their policies which Defendants assert comply with
2 California law and therefore there are no damages here. Given the disputes over liability and
3 damages, this is a reasonable and fair settlement which provides more value per pay period than
4 many other approved PAGA settlements for similar claims.

5 Even if violations of the California Labor Code occurred, which Defendants deny,
6 Defendants contended that said violations would only be considered “initial violations” and thus
7 heightened “subsequent violation” penalties were not warranted. (Cal. Lab. Code § 2699(f)(2); *see*
8 *also Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1208-09 (2008) [“Until the employer has
9 been notified that it is violating a Labor Code provision [. . .], the employer cannot be presumed to
10 be aware that its continuing underpayment of employees is a ‘violation’ subject to penalties.”].)

11 It was also Defendants’ position that the Court was unlikely to assess cumulative penalties
12 for the maximum number of possible, separate California Labor Code violations, because it would
13 be unjust, arbitrary, oppressive, and/or confiscatory, especially where certain conduct may be
14 regulated by multiple provisions of the California Labor Code. Defendants also argued that while
15 PAGA does provide the potential for a heightened penalty for subsequent violations, courts are often
16 hesitant to award a heightened penalty where the employer presents a defense, based on law or fact,
17 which if successful would preclude recovery, and where there is no prior citation by the Labor
18 Commissioner, as is the case here. (*See Bernstein v. Virgin Am., Inc.*, 3 F.4th 1127, 1144 (9th Cir.
19 2021)).

20 While Plaintiff maintains that his PAGA claims have merit, in reaching the PAGA
21 Settlement, Plaintiff and his counsel considered the strengths and weaknesses of each side’s position
22 and the uncertainty of how the case might have concluded as litigation continued, at trial, and/or on
23 appeal. (Palitz Decl., ¶ 28.) As noted, Plaintiff’s claims of potential PAGA penalties are (1) failure
24 to pay wages due; (2) failure to provide meal and rest breaks; (3) failure to provide accurate wage
25 statements; (4) failure to pay timely wages and at the end of employment; (5) failure to reimburse
26 for business expenses; and (6) failure to provide suitable seating. Defendants have raised defenses
27 to all these claims as noted above. Liability is not a given and there are *bona fide* disputes that
28 would need to be resolved by a court or jury to determine whether any penalties would be owed.

1 Plaintiff calculates PAGA penalties for unpaid wages, failure to provide rest breaks,²
2 unreimbursed business expenses, and seating violations as a *maximum* of \$400 per paycheck (\$100
3 penalty for each claim) for pay periods where these violations potentially occurred. (See Cal. Lab.
4 Code § 2699(f)(2) (2016) (noting civil penalty of \$100 per pay period for initial violations); see
5 generally *Bernstein*, 3 F.4th at 1144). With a maximum of 74,500 pay periods at issue, Plaintiff
6 calculates that PAGA penalties for those four claims are at *most* \$29,800,000 (74,500 pay periods
7 X \$100 X 4 claims).³ (Palitz Decl., ¶ 29.) Plaintiff calculates that PAGA wage statement penalties
8 could add a maximum of another \$7,450,000 (\$100 x 74,500 pay periods) in potential penalties, but
9 again, only in pay periods where Plaintiff could prove that alleged violations occurred. (See Cal.
10 Lab. Code § 2699(f)(2) (2016); Palitz Decl., ¶ 29.) Plaintiff calculates PAGA waiting time penalties
11 as a one-time \$100 penalty at termination, which is approximately \$243,500 if all 2,435 Aggrieved
12 Employees separated from employment during the PAGA Period but the number is less as not all
13 Aggrieved Employees separated employment. (See Cal. Lab. Code § 2699(f)(2) (2024); Palitz
14 Decl., ¶ 29.) While the maximum value of all these potential penalties totals \$37,493,500, as
15 discussed above, given the factual and legal disputes and information Defendants provided, Plaintiff
16 is not certain to prevail on all claims. (See *supra* at 15-17.) And importantly, courts typically reduce
17 PAGA penalties significantly from full potential value. (See section V.B.3 *infra*.)

18 The Court asked how the \$439,500 PAGA Settlement Amount was determined. The PAGA
19 Settlement Amount represents approximately 1.17% of the \$37,493,500 theoretical maximum.
20 Plaintiff's Counsel arrived at that figure by discounting each theory based on its strength and
21 weakness. The strongest claims were the unpaid wages and overtime claims which still required
22 proof that Defendants had knowledge of the unpaid time worked. That was a hurdle because
23 Plaintiff needed to explain why such work was not recorded in the time records notwithstanding
24 policy documents which indicate that all time recorded will be paid. But, Plaintiff maintained that

25 _____
26 ² Defendants' wage statements showed meal break penalties paid so those were not calculated in
this analysis.

27 ³ As discussed *supra*, Defendants presented evidence that there arguably were not violations in
28 each pay period, or at all.

1 some time worked outside of the store occurred as Plaintiff communicated with his supervisor when
2 not clocked in.

3 The other claims were far more challenging to prove and/or the alleged violations were not
4 consistently happening each workweek. For example, while Plaintiff did not receive rest breaks
5 during certain pay periods, that did not happen every day or pay period. There was also a method
6 to report missed rest breaks and Defendants' policy stated that it would pay for such rest breaks if
7 missed. Regarding meal break penalties, the parties' exchanged documents which showed that
8 Defendants did pay meal break penalties. While Plaintiff maintained that not all meal break
9 penalties were paid, the evidence presented complications for Plaintiff to demonstrate that
10 Defendants knew that missed meal breaks occurred and Plaintiff faced challenges to prove how
11 often they occurred in light of the wage statements showing meal break penalties paid. The business
12 expense reimbursement claim also faced significant issues as Defendants provided phone
13 allowances for its employees so that claim was unlikely to prevail. The suitable seating claim also
14 was difficult because employees sat during part of each shift and the extent of seated versus standing
15 work varied among the employees. Plaintiff did not anticipate prevailing on the seating claim. The
16 wage statement penalties were derivative and dependent on proof of the underlying violations. The
17 waiting time penalties of approximately \$243,500 assumed penalties for all Aggrieved Employees
18 but not all left employment with Defendants. The damages calculations also assume all class
19 members experienced these violations which would have been challenging for Plaintiff to prove as
20 noted.

21 Plaintiff's Counsel also factored in that these violations may be treated as initial rather than
22 subsequent violations under the Labor Code; that the Court would decline to stack cumulative
23 penalties across the overlapping claims as unjust, arbitrary, oppressive, or confiscatory under Labor
24 Code § 2699(e)(2); and that the Court could exercise its discretion to reduce any penalty award even
25 on proven violations.

26 2. Risk, Expense, Complexity, and Likely Duration of Further Litigation

27 Approval of the PAGA Settlement Agreement is also appropriate in light of the risk,
28 expense, and complexity of further litigation. As discussed above, the PAGA Settlement Agreement

1 takes into consideration the specific factual and legal hurdles faced by Plaintiff in establishing
2 Defendants' penalty-liability in this case, which may have resulted in a net-zero recovery. Any
3 recovery on these claims is not certain. And even when liability is found, PAGA claims are
4 discretionary, such that the Court could decline to award their full value. Some of Plaintiff's claims
5 are also derivative, and as such, Plaintiff must prevail on his underlying California Labor Code
6 claims in order to prevail on the derivative claims. These risks – when balanced with the fact that
7 the PAGA Settlement achieved a significant recovery (as demonstrated below), and that further
8 litigation posed a risk of diminishing such recovery by increasing litigation expenses – weigh
9 strongly in favor of settlement approval.

10 3. The Benefits Conferred by the PAGA Settlement Balance in Favor of
11 Approval

12 The PAGA Settlement Agreement provides a *significant* monetary benefit that falls well
13 within “the range of an acceptable settlement” under the circumstances, which is the standard on
14 which the instant PAGA Settlement must be judged. As held by the Ninth Circuit: “The proposed
15 settlement is not to be judged against a hypothetical or speculative measure of what might have been
16 achieved by the negotiators.” (*Officers for Justice*, 688 F.2d at 625 (emphasis in original).) As the
17 Second Circuit has pointed out: “The fact that a proposed settlement may only amount to a fraction
18 of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly
19 inadequate and should be disapproved.” (*City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 455 & n.2
20 (2d Cir. 1974).)

21 The Net Settlement Amount is currently estimated to be \$274,214.25. (Palitz Decl., ¶ 24.)
22 After the deductions from the PAGA Settlement Amount are made for the Attorneys' Fees and Costs
23 and Settlement Administration Costs, (\$205,660.69) (i.e. 75% of the Net Settlement Amount) will
24 go to the LWDA, and (\$68,553.56) (i.e. 25% of the Net Settlement Amount) will go to the Aggrieved
25 Employees. (*Id.*) There is no reason to doubt the fairness of the proposed plan of allocation of the
26 Net Settlement Amount as it fully complies with California Labor Code section 2699(i). (*Id.*)

27 The PAGA Settlement is a compromise of highly disputed claims. (*Id.*, ¶ 28.) Plaintiff and
28 his counsel recognize the expense and length of continued proceedings necessary to litigate the

1 matter through trial and any possible appeals. (*Id.*) Plaintiff and his counsel have also considered
2 the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent
3 in such litigation. (*Id.*) Plaintiff and his counsel are also aware of the burdens of proof necessary to
4 establish liability, both generally and in response to Defendants’ defenses thereto, and the
5 difficulties in establishing Defendants’ liability for, and the right to recover, penalties on behalf of
6 Plaintiff, the State of California, and other Aggrieved Employees. (Palitz Decl., ¶ 28.) Plaintiff and
7 his counsel have also considered Defendants’ agreement to enter into a settlement that confers
8 significant relief upon the Aggrieved Employees and the State of California. (*Id.*) Considering all
9 of the facts in this case, Plaintiff and his counsel have determined that the PAGA Settlement
10 represents a fair, adequate, and reasonable resolution of the PAGA claims, and that it is in the best
11 interests of the Aggrieved Employees and the State of California. (*Id.*)

12 This is a PAGA only settlement which is well within the range of approved PAGA
13 settlements in other cases. *See, e.g., Perez v. Found. Prop. Mgmt., Inc.*, 2025 Cal. Super. LEXIS
14 9364, at *6-9 (Sup. Ct. Los Angeles County, Apr. 22, 2025) (approving \$700,000 PAGA settlement
15 of where damages were estimated to be \$14,724,500); *McDonald v. Wingmen V, LLC*, 2025 Cal.
16 Super. LEXIS 7731, at *8 (L.A. County Super. Ct. Mar. 28, 2025) (approving PAGA only settlement
17 of \$300,000 which represented a gross recovery of \$3 per pay period); *Whitworth v. Solarcity Corp.*,
18 2023 U.S. Dist. LEXIS 75564, at *12-13 (N.D. Cal. May 1, 2023) (approving PAGA only settlement
19 of \$1,500,000 where each PAGA member would “receive on average an estimated \$35.00” and
20 maximum estimated exposure was \$90,462,200). Here, the value obtained for settlement of the
21 PAGA claims is significant, and it will be distributed in accordance with and in fulfillment of the
22 objectives of the PAGA statute.

23 Plaintiff also believes that there is a significant deterrent effect to Defendants through this
24 settlement. Defendants have agreed to pay \$439,500 to resolve this matter which is a substantial
25 sum for a PAGA only settlement (as the cases in the above paragraph demonstrate with the small
26 amounts allocated to the PAGA portion of the settlements). The Court observed that individual
27 payments will average less than \$30. That is correct: the Employees’ Portion of \$68,553.56 divided
28 among 2,435 Aggrieved Employees yields an average of approximately \$28.15. But PAGA is a law

enforcement statute, and the measure of a PAGA settlement's deterrent effect is the total penalty the employer pays, not the per-employee share. Seventy-five percent of the Net Settlement Amount — \$205,660.69 — goes to the LWDA, which is the enforcement recovery PAGA exists to produce, and which the State would not have obtained absent this action. The remaining twenty-five percent is a statutorily mandated share, not a damages award, and its size is a function of the number of Aggrieved Employees rather than a measure of the settlement's adequacy. Moreover, while the individual amount per Aggrieved Employee may appear to be minimal, it is not inconsistent with other similar settlements involving similar claims. *See Perez, McDonald, and Whitworth, supra.*

4. The Scope of the Release is Narrowly Tailored

As discussed above, the California Supreme Court has concluded that in the context of PAGA “the nonparty employees, because they were not given notice of the action or afforded any opportunity to be heard, would not be bound by the judgment as to remedies other than civil penalties.” (*See Arias*, 46 Cal. 4th at 987.) Thus, the scope of the limited release provided in exchange for the foregoing consideration is limited to the civil penalties asserted in the PAGA Notice and only to the extent that they are alleged in the Operative Complaint under California Labor Code §§ 2698 *et seq.* (*See PAGA Settlement Agreement*, ¶ 6.)

As such, this factor balances strongly in favor of approval of the PAGA Settlement.

5. Experience and Views of Counsel Favor Approval

Plaintiff’s Counsel is experienced in complex representative and class action wage-and-hour litigation. (Palitz Decl., ¶ 4-10; Declaration of Michele Fisher (“Fisher Decl.”), ¶ 2-6.) The benefits conferred by the PAGA Settlement are fair and reasonable, and in the best interests of the State of California and the Aggrieved Employees in light of the risk, delay, and uncertainty of continued litigation and the substantial monetary benefits provided for by the PAGA Settlement. (Palitz Decl., ¶ 38.) Furthermore, courts have acknowledged that “the interests of a plaintiff, counsel, and other potentially aggrieved employees are largely aligned. All stand to gain from proving as convincingly as possible as many Labor Code violations as the evidence will sustain[.]” (*Williams v. Superior Court*, 3 Cal. 5th 531, 548 (2017) (citing Labor Code § 2699(g)(1)(i)).)

1 6. The Extent of Discovery and Stage of Proceedings Favor Approval

2 In evaluating this element, the Court should be mindful that ““formal discovery is not a
3 necessary ticket to the bargaining table”” (*Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1239
4 (9th Cir. 1998)), as the relevant consideration is “whether ‘the parties have sufficient information to
5 make an informed decision about settlement.’” (*See Sandoval v. Roadlink United States Pac., Inc.*,
6 2011 U.S. Dist. LEXIS 130378, at *26 (C.D. Cal. Nov. 9, 2011.)) Here, the extent of formal and
7 informal discovery conducted was sufficient to enable Plaintiff’s Counsel to evaluate the strength
8 and value of the PAGA claims for purposes of settlement. (Palitz Decl., ¶ 28.) Plaintiff’s Counsel’s
9 investigation into the facts of the Action included obtaining data, information, and documents
10 relating to the underlying alleged violations, including, but not limited to Plaintiff’s employee files,
11 Aggrieved Employees’ pay records, Defendants’ Employee Handbook, and Aggrieved Employees’
12 data points so that Plaintiff could assess the number of alleged potential violations and value of the
13 recoverable penalties, as well as evaluate the strengths and weaknesses of the claims. (*Id.*, ¶¶ 19-20,
14 28.) Plaintiff’s Counsel also litigated many arbitration matters addressing similar claims over the
15 course of multiple years against Defendants to obtain significant knowledge about Defendants’
16 operations and pay practices. (*Id.*, ¶¶ 19-20.) As discussed above, Plaintiff’s Counsel’s
17 investigation was sufficient to, among other things, tabulate the total number of alleged California
18 Labor Code violations at issue during the relevant statutory period and identify the total number of
19 individuals falling within the definition of “Aggrieved Employees.”

20 Based on Plaintiff’s Counsel’s experience litigating wage and hour claims, such
21 investigation was sufficient to determine the potential value of the PAGA claims, and to evaluate
22 the strength of this claim for purposes of settlement.

23 **VI. THE REQUESTED ATTORNEYS’ FEES ARE FAIR AND REASONABLE**

24 As the prevailing party in settlement, Plaintiff is entitled to recover attorneys’ fees and costs
25 for bringing his PAGA claims. (Lab. Code § 2699(g) [“Any employee who prevails in any action
26 shall be entitled to an award of reasonable attorney’s fees and costs.”].) Plaintiff’s Counsel is also
27 entitled to attorneys’ fees pursuant to Code of Civil Procedure section 1021.5(a), as the instant action
28 has resulted in the enforcement of important rights benefitting the public and secures monetary

1 recovery for the State of California as well as the Aggrieved Employees. A fee award is justified
2 where the legal action has produced its benefits by way of a voluntary settlement. (*See, e.g., Maria*
3 *P. v. Riles*, 43 Cal.3d 1281, 1290-91 (1987); *Westside Community for Independent Living, Inc. v.*
4 *Obledo*, 33 Cal.3d 348, 352-53 (1983); *Serrano v. Priest*, 20 Cal.3d 25, 34 (1977) [“when a number
5 of persons are entitled in common to a specific fund, and an action brought by a plaintiff. . .for the
6 benefit of all results in the creation or preservation of that fund, such plaintiff may be awarded
7 attorney’s fees out of the fund.”].)

8 In *Laffitte v. Robert Half Int’l, Inc.*, the California Supreme Court confirmed that “[t]he
9 percentage of fund method survives in California class action cases.” 1 Cal.5th 480, 506 (2016).
10 Specifically, the *Laffitte* Court held:

11 The recognized advantages of the percentage method-including relative ease of
12 calculation, alignment of incentives between counsel and the class, a better
13 approximation of market conditions in a contingency case, and the encouragement
14 it provides counsel to seek an early settlement and avoid unnecessarily prolonging
the litigation-convince us the percentage method is a valuable tool that should not
be denied our trial courts.

15 (*Id.* at 503 (internal citation omitted).) Fee awards of roughly one-third of the settlement fund are
16 routinely awarded in California state and federal courts in class actions. (*See Chavez v. Netflix, Inc.*,
17 162 Cal.App.4th 43, 66, n.11 (2008); *see also, e.g., In re Pacific Enterprises Securities Litig.*, 47
18 F.3d 373, 379 (9th Cir. 1995) [affirming 33% fee award].)

19 While trial courts have discretion to apply either a lodestar method or percentage-of-the-
20 fund method, the California Supreme Court has taken the position that trial courts also “retain the
21 discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a
22 requested percentage fee.” (*Laffitte*, 1 Cal.5th at 506.) Courts award fees to serve as an economic
23 incentive for lawyers to undertake litigation and thereby enhance and facilitate access to the judicial
24 system for adjudication of meritorious claims, and to deter wrongdoing.

25 This is especially true in situations where multiple similar alleged wrongs would not be
26 economically feasible to pursue individually, such as here. Trial courts have “wide latitude” in
27 assessing the value of attorneys’ fees and their decisions will “not be disturbed on appeal absent a
28

1 manifest abuse of discretion.” (*Lealao v. Beneficial Cal., Inc.*, 82 Cal.App.4th 19, 41 (2000); *see*
2 *also Laffitte*, 1 Cal.5th at 506 [holding that “trial court did not abuse its discretion in using [the
3 percentage of fund method], in part to approve the fee request”].) Indeed, it is long settled that the
4 “experienced trial judge is the best judge of the value of professional services rendered in his court.”
5 (*Ketchum v. Moses*, 24 Cal.4th 1122, 1132 (2001).)

6 The percentage method is particularly appropriate where a monetary settlement has been
7 recovered and “the benefit [recovered can be] easily quantified.” (*In re Bluetooth Headset Prods.*
8 *Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011).) Where the amount of a settlement is a “certain or
9 easily calculable sum of money,” California courts may calculate attorneys’ fees as a reasonable
10 percentage of the settlement created. (Weil and Brown, California Practice Guide, *Civil Procedure*
11 *Before Trial*, Chapter 14, section 14:145; *Dunk, supra*, 48 Cal. App. 4th at 1808.) The percentage
12 fee method is preferred in representative actions because “it better approximates the workings of the
13 marketplace than the lodestar approach.” (*Lealao, supra*, 82 Cal.App.4th at 49.) California law
14 provides that the award for attorneys’ fees should be equivalent to fees freely negotiated in the legal
15 marketplace and paid in comparable litigation based on the result achieved and risk incurred. (*See*
16 *Lealao*, 82 Cal.App.4th at 47-50; *Laffitte*, 1 Cal.5th 480 at 503.) In cases where the settlement
17 agreement provides that the defendants will pay the plaintiffs’ attorneys a percentage of the fund
18 created by the settlement, use of that percentage method is appropriate. (*Lealao*, 82 Cal.App.4th at
19 32.) Fee awards that are too small will “chill the private enforcement essential to the vindication of
20 many legal rights and obstruct the representative actions that often relieve the courts of the need to
21 separately adjudicate numerous claims.” (*Id.* at 53.) Therefore, fees in representative actions should
22 approximate the probable terms of a contingent fee contract negotiated by a sophisticated attorney
23 and client in comparable litigation. (*Id.* at 48.) “The ultimate goal . . . is the award of a ‘reasonable’
24 fee to compensate counsel for their efforts, irrespective of the method of calculation.” (*Consumer*
25 *Privacy Cases*, 175 Cal.App.4th 545, 557-58 (2009) [quoting *Apple Computer, Inc. v. Superior*
26 *Court, supra*, 126 Cal.App.4th at 1270].)

27 Plaintiff’s Counsel’s application for attorneys’ fees in light of the facts and circumstances
28 surrounding the case is within the range of reasonableness. Historically, courts have awarded fees

1 as high as fifty percent (50%) of the settlement in complex actions, depending on the circumstances
2 of the case. (*See In re Ampicillin Antitrust Litig.*, 526 F. Supp. 494, 500 (D.D.C. 1981) [awarding
3 attorneys’ fees in the amount of 45% of the \$7.3 million total settlement amount].) California courts
4 routinely approve attorneys’ fees awards “average[ing] around one-third of the recovery.” (*Chavez*,
5 162 Cal.App.4th at 65 [trial court found the range of contingency fees in marketplace to be 20 to 40
6 percent and determined such a percentage fee was appropriate]; *see also, e.g., Resendez v.*
7 *Bridgestone Retail Operations, LLC*, Los Angeles County Superior Court, Case No. BC596892
8 (June 2016) [approving a fee award of one-third of the settlement amount of \$950,000 in a PAGA
9 action, because it was “reasonable and consistent with fee awards in class action cases”].)

10 Here, Plaintiff’s Counsel’s fee request of one-third (1/3) of the PAGA Settlement Amount
11 (i.e., \$146,500) is fair and reasonable based on the percentage of the recovery method. Plaintiff’s
12 Counsel has vigorously litigated this case since it was commenced, with the very real possibility of
13 an unsuccessful outcome and no fee recovery of any kind. (Palitz Decl., ¶ 38; Fisher Decl., ¶¶ 7,
14 11.) Counsel for Plaintiff undertook significant investigation and invested a significant amount of
15 time analyzing relevant documents and data to evaluate the nature and extent of the alleged
16 underlying California Labor Code violations and calculation of the potential monetary recovery as
17 they relate to Plaintiff’s PAGA claims under PAGA. As of August 27, 2026, Plaintiff’s counsel
18 collectively worked 244.3 hours on this matter and incurred \$152,805 in total fees on this matter.
19 (Palitz Decl., ¶ 30; Fisher Decl., ¶¶ 7, 11.)

20 The attorneys at Shavitz Law Group, P.A. and Nichols Kaster PLLP possess combined
21 experience litigating wage and hour and other complex litigation matters, and the attorneys who
22 worked on this matter have been approved as class counsel and/or have had their billable rates
23 approved in the settlement of other class and PAGA actions, numerous times. (Palitz Decl., ¶ 4-10,
24 37; Fisher Decl., ¶¶ 13 and Ex. A.)

25 Mr. Palitz was admitted *pro hac vice* on February 28, 2024. His *pro hac* admission lapsed
26 on February 28, 2025 and he was re-admitted on March 12, 2026. Mr. Palitz worked 170.1 hours
27 in total on this matter with a total lodestar of \$110,565. During the lapsed *pro hac* period, Mr. Palitz
28 performed 55.7 hours on the matter totaling \$36,205 in lodestar. If the Court excludes the \$36,205

1 in fees during the lapsed period, then Plaintiff's Counsel's total lodestar for both firms is \$116,600.
2 (Palitz Decl., ¶ 31.)

3 If in its lodestar crosscheck analysis the Court considers all fees incurred in this matter, there
4 is no requested lodestar multiplier. Rather, there is a negative lodestar multiplier. The total fees
5 sought are \$146,500 and Plaintiff's Counsel's current fees as of August 27, 2026 are \$152,805.
6 Plaintiff's Counsel's fees will also increase as Plaintiff's Counsel perform work to prepare for the
7 approval hearing. Plaintiff's counsel anticipates expending another 20 to 30 hours on this matter
8 and will not seek additional compensation for such work. (Palitz Decl., ¶ 32.)

9 If the Court removes Mr. Palitz's \$36,205 in fees during the period the *pro hac* lapsed when
10 performing its lodestar crosscheck, then the lodestar multiplier is 1.26. This modest multiplier
11 would be reasonable. (*Edwards v. Goodyear Tire & Rubber Co.*, 2026 Cal. Super. LEXIS 51243,
12 at *8-9 (2026) (approving attorneys' fees of one-third of settlement fund with a 2.03 lodestar
13 multiplier as reasonable.))

14 In the present case, Plaintiff's Counsel has borne all of the risks and costs of litigation and
15 will not receive any compensation until recovery is obtained. (Palitz Decl., ¶ 38; Fisher Decl., ¶ 7-
16 8.) Plaintiff's Counsel is experienced in complex wage-and-hour litigation and used that experience
17 to obtain a favorable result for Plaintiff, the Aggrieved Employees, and the State of California.
18 Considering the amount of fees requested, work performed, risks incurred, and experience of
19 Plaintiff's Counsel in handling similar matters, Plaintiff maintains that the requested attorneys' fees
20 of one-third (1/3) of the PAGA Settlement Amount (i.e., \$146,500.00) are reasonable and should be
21 awarded.

22 **VII. THE REQUESTED ATTORNEYS' COSTS ARE FAIR AND REASONABLE**

23 Plaintiff's Counsel seek reimbursement of costs totaling \$3,785.75. This amount was
24 reasonable and necessary in the prosecution of this matter. (Palitz Decl., ¶ 38; Fisher Decl., ¶ 8.)
25 Shavitz Law Group has incurred \$621.47 in costs to date for filing fees and *pro hac vice* costs for
26 the 2026 *pro hac vice* costs and will incur another \$570.22 for 2027 *pro hac vice* annual costs for a
27 total of \$1,191.69. (Palitz Decl., ¶ 38). Nichols Kaster has incurred \$2,594.06 in costs to date.
28 (Fisher Decl., ¶ 8.) Nichols Kaster paid the *pro hac vice* costs for Attorney Palitz's original 2024

1 *pro hac vice* motion and such costs are included in the Nichols Kaster firm's costs. (Fisher Decl., ¶
2 8.) There are no duplicative costs being sought by each firm for this *pro hac vice* expense. (Palitz
3 Decl., ¶ 38.)

4 **VIII. SETTLEMENT ADMINISTRATION COSTS ARE FAIR AND REASONABLE**

5 The Parties agreed to retain Simpluris, Inc. to handle the administration of the PAGA
6 Settlement. (Palitz Decl., ¶ 26.) These costs include, but are not limited to, expenses for preparing,
7 printing, and mailing the Cover Letter and Individual PAGA Payment checks to the Aggrieved
8 Employees, re-mailing the returned Individual PAGA Payment checks to any new addresses
9 obtained, and handling inquiries from Aggrieved Employees regarding the PAGA Settlement,
10 among other things. (*Id.*) Accordingly, the Court should grant approval of the Settlement
11 Administration Costs in the amount of up to \$10,000 to Simpluris, Inc., a necessary third-party for
12 handling the settlement process. To the extent costs of settlement administration exceed \$10,000.00,
13 Defendants shall be separately responsible for them. If the settlement administration costs are less
14 than \$10,000, then these amounts will be included in the Net Settlement Amount.

15 **IX. THE REQUESTED SERVICE AWARD IS REASONABLE.**

16 Plaintiff Gonzales' efforts helped lead to this settlement and a service award of \$5,000 is
17 appropriate. He dedicated substantial time to assist in the prosecution of this action. Plaintiff
18 Gonzales regularly communicated with Plaintiff's Counsel regarding the case. (Declaration of
19 Christopher Gonzales ("Gonzales Decl.") at ¶ 5.) Plaintiff Gonzales searched for and provided
20 documents concerning his employment with Prime, reviewed documents with counsel and answered
21 their questions, provided information and guidance regarding the duties of other hourly-paid and/or
22 non-exempt employees, and helped determine what other documents and information they could
23 obtain from Prime. (*Id.*) He actively participated in settlement discussions and assisted counsel
24 throughout the negotiation process. (*Id.* at ¶ 6.) He also brought this case knowing there were risks
25 including that he could be responsible for Defendants' costs if he lost and that it could have an
26 adverse impact on him in the industry. (*Id.* at ¶ 7.) Courts routinely grant requests for service
27 awards for PAGA representatives in amounts similar to or greater than the amount requested here.
28 *See, e.g., Hicks-Benson v. Hallmark Mktg. Co., LLC*, 2025 Cal. Super. LEXIS 67646, at *9 (Sup.

1 Ct. Los Angeles County, Nov. 14, 2025) (approving service award of \$7,500); *Perez*, 2025 Cal.
2 Super. LEXIS 9364, at *11 (approving service award of \$5,000).

3 **X. CONCLUSION**

4 For all of the foregoing reasons, Plaintiff respectfully requests that this Court approve the
5 PAGA Settlement, including the plan of allocation and distribution of the PAGA Settlement Amount
6 for the LWDA Payment to the LWDA, Individual PAGA Payments to the Aggrieved Employees,
7 Attorneys' Fees and Costs to Plaintiff's Counsel, Settlement Administration Costs to the Settlement
8 Administrator, a service payment to Plaintiff Gonzales, and permit the filing of a memorandum that
9 exceeds the page limit.

10
11 DATED: September 10, 2026

Respectfully submitted,

12
13 SHAVITZ LAW GROUP, P.A.

14 By: s/Michael Palitz
15 Michael Palitz

16 Attorneys for Plaintiff
17 Christopher Gonzales
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PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the law firm of Shavitz Law Group, P.A.

On September 10, 2026, I served true copies of this motion and all accompanying declarations, attachments, and exhibits on Janine Braxton, Esq. who is counsel for Defendants:

X BY E-MAIL: By causing the such document(s) to be emailed or electronically transmitted to jbraxton@martensonlaw.com, pursuant to a court order, an agreement of the parties, or other permissible reason.

On this same date, I also served true copies of this motion and all accompanying declarations, attachments, and exhibits upon the Labor and Workforce Development Agency (LWDA) by uploading such documents via the LWDA's online portal.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 10, 2026, at New York, New York.

s/Michael Palitz
Michael Palitz, Esq.