Armond M. Jackson, SBN 281547
ajackson@jacksonapc.com
Andrea Fernandez-Jackson SBN 295924
afernandez@jacksonapc.com
Jackson APC
2 Venture Plaza, Ste. 400
Irvine, CA 92618
Phone (949) 281-6857
Fax (949) 777-6218

Attorneys for Plaintiff Lourdes Vasquez

SUPERIOR COURT OF STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE-CIVIL COMPLEX CENTER

LOURDES VASQUEZ, as an individual and on behalf of other similarly situated employees,

Plaintiff,

vs.

KRC SANTA MARGARITA, LLC., a California corporation, KISCO SENIOR LIVING, LLC, a California corporation, and DOES 1-50, inclusive,

Defendants.

CASE NO: 30-2021-01238849-CU-OE-CXC

Assigned For All Purposes To:
Hon. Melissa McCormick
Dept. CX104

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR ORDER APPROVING SETTLEMENT UNDER CALIFORNIA LABOR CODE SECTION 2699 ET SEQ.

Hearing Date: March 27, 2025
Hearing Time: 2:00 p.m.
Department: CX104

Case filed: December 30, 2021
Trial date: TBD

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

I. INTRODUCTION

Plaintiff Lourdes Vasquez ("Plaintiff") seeks an order from the Court approving the PAGA Settlement between Plaintiff and KRC Santa Margarita and Kisco Senior Living, LLC , (referred to herein as "Defendants"). Plaintiff brought this action for violations of the California Labor Code, both as an individual and in a representative capacity under the Private Attorney General Act ("PAGA"), as well as for unlawful business practices (Bus. Prof. Code §17200, et seq.

At the mediation, the parties were able to resolve all claims. Plaintiff and Defendants entered into an agreement that settles all of Plaintiff's outstanding claims, including a written PAGA Settlement Agreement related to Plaintiff's PAGA claim. Plaintiff and Defendant now seek an Order from this Court approving the PAGA Settlement, as is required by California Labor Code §2699(1)(2). (Declaration of Armond M. Jackson ("Jackson Decl." ⁋ 1, Ex. A, Settlement Agreement.)

II. BRIEF STATEMENT OF FACTS AND PROCEDURAL HISTORY

A. BACKGROUND

Plaintiff worked for Defendant as a non-exempt employee. Defendant operates as a senior living facility. Plaintiff filed this Complaint on December 30, 2021. Plaintiff amended its complaint on May 4, 2022. Plaintiff alleged her and other similarly situated non-exempt employees in the state of California were required to work through their meal and rest breaks (Cal. Lab Code § 512, 226.7 & Wage Order 5-2001), were not provided with accurate wage statements (Cal. Lab Code § 226(a), nor paid premium wages upon termination (Cal. Lab. Code § 203) and not paid all minimum and overtime wages (Cal. Lab. Code §§ 510 and 1194). Plaintiff's wage and hour claims were brought on an individual and representative basis under PAGA pursuant to Cal. Lab. Code § 2699 et seq. (*Id*.)

B. PAGA NOTICE

On August 20, 2021, Plaintiff served via certified mail, return receipt requested, the LWDA and the Defendants with notice of alleged wage and hour violations. (See Jackson Decl. ⁋ 18, Ex. D.) On August 24, 2021, Plaintiff served via certified mail, return receipt requested, the LWDA and the Defendants with an amended notice of alleged wage and hour violations. (*Id*. at ⁋ 19, Ex. E.)

C. COMPLAINT

On December 30, 2021, Plaintiff filed a complaint for damages, titled *Vasquez v. KRC Santa Magarita, LLC et al.,* filed in Orange County Superior Court Case 30-2021-01238849-CU-OE-CXC ("Lawsuit"), alleging the following claims for claim for failure to provide accurate wage statements, failure to maintain records, claim for failure to pay for meal periods and rest periods, claim for failure to pay for minimum wages and overtime wages, a claim for failure to reimburse for business expenses, a claim for failure to pay upon termination and unlawful business practices. Plaintiff amended its complaint on May 4, 2022 dismissing the class claims for damages and adding claims pursuant to the California Private Attorney General Act.

D. SUBSTANTIAL DISCOVERY AND CASE ANALYSIS BY PLAINTIFF

PAGA attaches penalties of at least $100 for each aggrieved employee per pay period in which a Labor Code violation exists. To be able to collect PAGA penalties, Plaintiff would have to prevail on the merits of the underlying claims. Thus, these weaknesses would limit recovery under PAGA. Moreover, the trial court has discretion in reducing civil penalty "amount based on facts and circumstances of a particular case, to do otherwise, would result in an award that is unjust, arbitrary or oppressive, or confiscatory." Cal. Lab. Code Sec. 2699(e)(2). (*Id*.) In light of the foregoing, and even factoring in the potential advantage for Plaintiff of not having to seek certification of PAGA claims, the value of these claims are predicated on the discretion of the Court and the likelihood of prevailing at trial.

Plaintiff investigated the pending claims and accessed the aggrieved employees at issue that would be subjected to the various potential Labor Code violations. Additionally, during each phase of litigation, Plaintiff's counsel engaged in a detailed case analysis based on the information revealed. (Jackson Decl. ⁋⁋ 3-13.) An analysis of the risks and rewards of continued litigation was conducted. (*Id.*) Under these assumptions, for purposes of negotiation, it was determined that there were approximately a total of 10,951 pay periods and approximately 293 aggrieved employees during the PAGA period. Plaintiff that PAGA penalties would realistically amount to approximately $1,097,212.50 for all violations. (*Id.*) However, risk factors and the decision of *Viking River Cruises, Inc. v. Moriana* (2022) 142 S. Ct. 1906 there was a 75% discount applied. (Jackson Decl. ⁋⁋ 3-13.) After several rounds of negotiations, a settlement of $205,000 was reached. (*Id.*) This settlement results in 18.7% ($1,097,212.50 /$205,000) of the maximum expected realistic exposure against Defendant for civil penalties for PAGA claims for the aggrieved employees.

E. SUBMISSION OF PAGA SETTLEMENT AGREEMENT AND MOTION TO LWDA

On October 25, 2024, Plaintiff submitted the PAGA Settlement Agreement, together with a copy of this motion and all concurrently filed associated documents to the Labor and Workforce Development Agency ("LWDA"). (Jackson Decl. ⁋ 2.)

III. LEGAL STANDARD

The California Legislature enacted the Private Attorney General Act ("PAGA") as a "[r]espon[se] to a shortage of State funds and staffing to enforce State labor laws." *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365, 374 (2005). PAGA "allow[s] aggrieved employees, defined as any person who was employed by the alleged violator and against whom one or more of the alleged violations was committed, to bring a civil action to collect civil penalties for [California] Labor Code violations." *Id*. at 374 (internal quotation marks omitted). An individual suing under PAGA "does so as [a] proxy or agent of the state's labor law enforcement agencies." *Arias v. Superior Court* (2009), 46 Cal. 4th 969, 986. In other words, "an aggrieved employees action under the PAGA functions as a substitute for an action brought by the government itself." *Iskanian v. CLS Transp. Los Angeles, LLC* (2014), 59 Cal. 4th 348, 381. Consequently, PAGA allows an employee to recover "civil penalties on behalf of the state against his or her employer for [California] Labor Code violations." *Id*. at 360 (emphasis added); see also *Villacres v. ABM Indus. Inc.* (2010), 189 Cal. App. 4th 562, 579 ("PAGA is limited to the recovery of civil penalties").

When a plaintiff settles a PAGA claim, the court must review the settlement related to claim and the payment of penalties. Cal. Labor Code § 2699.3(b)(4). "PAGA settlements are subject to trial court review and approval, ensuring that any negotiated resolution is fair to those affected." (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 549 [citing Lab. Code, § 2699(l)(2)].) "A court has discretion to approve the settlement of PAGA claims if the settlement would be 'fair.'" (See *Nordstrom Commission Cases* (2010), 186 Cal. App. 4th 576, 581)

IV. <u>ARGUMENT</u>

A. PAGA SETTLEMENT IS A FAIR OUTCOME IN THIS CASE

In seeking approval, a settling party must provide sufficient information to "enable the court to make an independent assessment of the adequacy of the settlement terms." *Kullar v. Foot Locker Retail, Inc*., 168 Cal. App. 4th 116, 131-32 (2008). However, "[i]t is well-settled law that a cash settlement amounting to only a fraction of the potential recovery will not per se render the settlement inadequate or unfair." *See Officers for Justice v. Civil Serv. Comm'n of City & Cty. of San Francisco*, 688 F.2d 615, 628 (9th Cir. 1982). "The proposed settlement is not to be judged against a hypothetical or speculative measure of what might have been achieved by the negotiators." *Id.* at 625. "Estimates of a fair settlement figure are tempered by factors such as the risk of losing at trial, the expense of litigating the case, and the expected delay in recovery (often measured in years)." *In re Toys R Us-Delaware, Inc.-- Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 453 (C.D. Cal. 2014). In other words, in valuing the claims within a realistic *range* of outcomes, the settling plaintiff should discount the value of the settled claims for risks such as changes in the law, the probability of success, and other factors.

Settling parties are not, however, required to partake in a hypothetical accounting exercise:

"**Kullar does not … require any such explicit statement of [maximum] value;** it requires a record which allows 'an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation.'"" *Munoz v. BCI Coca-Cola Bottling Co.*, 186 Cal. App. 4th 399, 409-10 (2010) (quoting *Kullar* 168 Cal. App. 4th at 120 (emphasis added)). Overall, "the most important factor" in determining "whether a settlement is fair and reasonable" is the "strength of the case for plaintiffs on the merits, balanced against the amount offered in the settlement." *Id*. at 409 n.6 (quoting *Kullar*, 168 Cal. App. 4th at 130). As explained in detail below, the Gross Settlement Amount is within the range of reasonableness in light of the nature and magnitude of the claims being settled and the various potential impediments to recovery.

Defendant's Reasonable Exposure for the PAGA Claims	
Minimum Wage Penalties	$136,887.50
Overtime Wage Penalties	$136,887.50
Meal Period Claim	$136,887.50
Rest Period Claim	$136,887.50
Business Expense Reimbursement Claim	$136,887.50
Wage Statement Claim[1]	$136,887.50
Final Pay Claim[2]	$2,112,50
Failure to Timely Pay Wages During Employment	$136,887.50
Unlawfully Receive Wages During Employment	$136,887.50
Reasonable Penalty Exposure	**$1,097,212.50**

This estimate assumes that each and every one of Plaintiff's claims would have been certified for class-wide resolution, that Plaintiff's would have prevailed at trial, and that the jury's verdict would have been affirmed on appeal. Understandably, for purposes of evaluating the settlement's reasonableness, this estimate must be "tempered by factors such as the risk of losing at trial, the expense of litigating the case, and the expected delay in recovery (often measured in years)." *In re Toys R Us-Delaware, Inc.-- Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 453 (C.D. Cal. 2014).

Ultimately, Plaintiff's Counsel determined an appropriate range of recovery for settlement purposes by offsetting Defendant's maximum theoretical liability by: (i) the strength of the defenses to the

[1] 10,951 wage statements with purported violations issued during the PAGA Period

[2] This estimate assumes = approximately 169 employee terminations during the PAGA Period.

merits of Plaintiff's claims; (ii) the risk of class certification being denied; (iii) the risk of losing on any of a number of dispositive motions that could have been brought between certification and trial (e.g., motions to decertify the class, motions for summary judgment, and/or motions in limine) that might have eliminated all or some of Plaintiff's claims, or barred evidence/testimony in support of the claims; (iv) the risk of losing at trial; (v) the chances of a favorable verdict being reversed on appeal; and (vi) the difficulties attendant to collecting on a judgment (collectively, the "Discount Factors").

After taking into account the Discount Factors, Plaintiff's Counsel determined that it would be reasonable to settle for a fraction of Defendant's maximum potential exposure for the class claims (PAGA discussed in the following section), or approximately 18.6%. Such a discount is inherently reasonable given that Plaintiff would have had to overcome **multiple, dependent** contingencies to prevail on his claims. If anything, the projected odds for each of the above contingencies is generous to the class' position, since plaintiffs in employment cases rarely prevail on **all of the claims** at any of these dispositive stages. Courts routinely approve settlements that provide a similar discounted range of the maximum potential recovery. *See, e.g., In re Warfarin Sodium Antitrust Litig.,* 212 F.R.D. 231, 256-58 (D. Del. 2002) (recognizing that a reasonable settlement amount can be 1.6% to 14% of the total estimated damages); *In re Armored Car Antitrust Litig.,* 472 F. Supp. 1357, 1373 (N.D. Ga. 1979) (settlements with a value of 1% to 8% of the estimated total damages were approved); *In re Four Seasons Secs. Laws Litig.,* 58 F.R.D. 19, 37 (W.D. Okla.1972) (approving 8% of damages); *Balderas v. Massage Envy Franchising, LLP,* 2014 WL 3610945, at *5 (N.D. Cal. July 21, 2014) (finding that settlement which amounted to 8% of maximum recovery "[fell] within the range of possible initial approval based on the strength of plaintiff's case and the risk and expense of continued litigation."); *In re Omnivision Techs., Inc.,* 559 F. Supp. 2d 1036, 1042 (N.D. Cal. 2008) (approving settlement of 6% to 8% of estimated damages).[3]

[3] *See also In re Uber FCRA Litig.*, No. 14-CV-05200-EMC, 2017 WL 2806698, at *7 (N.D. Cal. June 29, 2017) (granting preliminary approval to class action settlement where gross settlement fund, prior to deducting attorneys' fees and services awards, was valued at 7.5% or less of total possible verdict); *Viceral v. Mistras Grp., Inc.*, No. 15-CV-02198-EMC, 2016 WL 5907869, at *7 (N.D. Cal. Oct. 11, 2016) (granting preliminary approval to class action settlement

i. Settlement Achieves the Purpose of PAGA

The purpose of PAGA is "to incentivize private parties to recover civil penalties for the government that otherwise may not have been accessed and collected by overburdened state enforcement agencies." (See *Ochoa-Hernandez v. CJADERS Foods*, *Inc*. (N.D. Cal. Apr. 2, 2010) 2010 WL 1340777 at *4 (citing *Arias, supra,* 46 Cal.4th at 986.) Moreover, PAGA was enacted "to achieve maximum compliance with state labor laws' and "to ensure an effective disincentive for employers to engage in unlawful and anticompetitive business practices." 2003 Cal. Legis. Serv. H. 906 section 1(a).

Consistent with the purpose of PAGA, the following factors in determining whether to approve the settlement should be applied;

(1) The extent to which the settlement achieves compliance with state labor laws;

(2) The extent to which the settlement deters violations of the state labor laws;

(3) Whether the settlement serves to enlist private citizens in public enforcement of PAGA;

(4) Whether the settlement is otherwise "just" and "in the public interest."

Because this proposed settlement reasonably and fairly advances each of the above factors, the parties request approval.

1. Factors (1) and (2) Settlement Achieves Compliance with State Labor Laws and Deters Further Violations

As discussed above, several Labor Code violations were alleged. Defendant is paying attorneys, the State and aggrieved employees for these Labor Code violations. This litigation

---

representing "8.1% of the full verdict value" with net settlement amount representing approximately 5.3% of full verdict value); *Stovall-Gusman v. W.W. Granger, Inc.*, No. 13-cv-02540-HSG, 2015 WL 3776765, at *4 (N.D. Cal. June 17, 2015) (granting final approval to settlement with net recovery to Plaintiffs valued at 7.3% of potential maximum recovery); *Cruz v. Sky Chefs, Inc*., No. 12-cv-02705-DMR, 2014 WL 7247065, at *5 (N.D. Cal. Dec. 19, 2014) (granting final approval where gross settlement amount represented 8.6% of the maximum potential recovery from the class claims and estimated amount distributable to class after accounting for attorneys' fees and other deductions represented approximately 6.1% of maximum potential recovery); *In re LDK Solar Sec. Litig.*, No. 07-cv-05182-WHA, 2010 WL 3001384, at *2 (N.D. Cal. July 29, 2010) (granting final approving where "[t]he proposed settlement amount is [. . .] only about five percent of the estimated damages before fee and costs—even before any reduction thereof for attorney's fees and costs.").

incentivized Defendant to ensure full compliance with the state Labor Code deterring further similar violations thereby achieving this purpose of PAGA.

2. Factor (3) This Settlement Serves to Enlist Private Citizens in Public Enforcement of PAGA

Plaintiff also believes the proposed settlement acts to encourage private enforcement of PAGA. Through the settlement, Plaintiff's counsel will receive attorneys' fees and costs as determined by the Court, and all aggrieved employees will receive 25% share of the net settlement amount, as well as notice of the claim.

3. Factor (4) This Settlement is Just and in the Public Interest

Lastly, the proposed settlement is both just and in the public's interest.

First, *Viking River Cruises, Inc. v. Moriana* (2022) 142 S. Ct. 1906 has diminished the value of these claims if these claims were to proceed to trial given there is a class action and representative action waiver issue that could impact standing to bring any representative claims. Second, this Court has discretion to lower any penalties as a result of Labor Code violations creating further risks of discount.

Given the risks of the applicability of *Viking River* and the discretion to reduce penalties, here, the $205,000 settlement amount is 18.6% of the realistic exposure while incorporating risks. If the Court grants Plaintiff's motion, the State and the aggrieved employees will share approximately $116,904.49 which is a substantial sum given the narrow release and extent of Labor Code violations.

Second, the settlement seeks penalties only and release is narrowly tethered to the alleged Labor Code violations.

Third, the settlement shall, even with deductions, provides a substantial sum to the State: $87,678.37. It also provides a reasonable approximate sum to each employee (around $99.75) on a pro-rata basis. Given the purpose of PAGA is not to compensate employees, whom still retain any private rights of action they may have had under the applicable Labor Code provisions, this sum provided to the aggrieved employees is reasonable. Moreover, the settlement will also provide notice that describes the litigation and settlement sum. Plaintiff contends this notice will educate the aggrieved employees as to the requirement of the Labor Code, which is in the public interest intended to achieve the purpose of PAGA. (See Labor Cod e section 2699(j) (stating that civil penalties recovered under PAGA shall be distributed to the LWDA for [among other things' "education of employers and employees about their legal rights and responsibilities under this code.")

Lastly, public policy strongly favors the settlement of litigation. (*Consumer Advocacy Group, Inc. v. Kinetsu Enterprises of America*, (2006) 141 Cal.App.4th, 46, 63.) This settlement is not unjust or ignores the public interest, thus it should be approved.

B. SETTLEMENT DISTRIBUTION UNDER PAGA

The PAGA Settlement Agreement provides for a gross settlement of all PAGA penalties in the amount of $205,000. (Jackson Decl. ⁋ 1, Ex. A, p. 1, Section 1.10.) This settlement amount covers civil penalties (to be shared between the LWDA and aggrieved employees), as well as attorneys' fees, litigation costs, and settlement administration costs. (*Id.*)

Pursuant to the agreement, the settlement amount will be distributed as follows: 1) Thirty-Three and one-third percent, equaling $68,326.50 will be apportioned to attorney's fees to Plaintiff's counsel to procure the PAGA penalties; 2) Litigation costs in the amount of $9,769.01; 3) Settlement Administration costs in the amount of $10,000; 4) of the remaining $116,904.49, Seventy-Five percent, equaling $87,678.37 will be apportioned to the California Workforce Development Agency; and 5) the remaining Twenty-Five percent, equaling $29,226.12, will be distributed to the PAGA group. (Jackson Decl. ⁋ 1, Ex. A, pp. 4-5, Section 3) The amount to be distributed to the PAGA group will be paid on a pro-rata basis by dividing the Net Settlement Amount by the total number of pay periods worked by all members of the PAGA Group during the settlement period and then multiplying the pay period amount by the number of pay periods worked by the individual PAGA member. (Jackson Decl. ⁋ 1, Ex. A, pp. 4-5, Section 3.)

C. ATTORNEY'S FEES AND COSTS UNDER PAGA SETTLEMENT AGREEMENT

The Labor Code permits a Plaintiff to seek attorney's fees and costs for actions arising under PAGA. (Cal. Lab. Code §2699, subd. (g)(1))

1. <u>Attorneys' Fees Are Justified</u>

a. Lodestar Analysis

"Courts recognize two methods of calculating attorney fees in civil class action; the lodestar/multiplier method and the percentage of recovery method." (*Wershba v. Apple Computer, Inc*. 91 Cal. App. 4th 224, 254 (2001).) "[T]he lodestar is calculated by multiplying the reasonable hours expended by a reasonable hourly rate. The court may then enhance the lodestar with a multiplier, if appropriate." (*Id.*) "The lodestar multiplier can range from 2 to 4 or even higher." (*Id*. at 255.)

In calculating attorney's fees under the Labor Code, the court should follow the lodestar approach adopted by the California Supreme Court in *Ketchum v. Moses* (2001) 24 Cal. 4th 1122, 1134. See also *Chavez v. City of Los Angeles* (2010) 47 Cal. 4th 970, 985. The "lodestar" method is clearly defined in recent case law. It involves a five-step process. *In Re: Vitamin Cases* (2003) 110 Cal. App. 4th 1041, 1052. To determine the "lodestar number" – steps one through three of the process – the court multiplies the number of hours reasonably worked by a reasonable hourly rate. (*Id.)* Step four requires the Court to determine what, if any, multiplier should be applied to the lodestar number. Step five determines the amount of the attorney fee award by applying the multiplier to the lodestar number. (*Id.*)

For the Court's ease of reference, the following chart summarizes the attorney's fees PAGA Counsel seeks:

Item Description	Amount
Reasonable attorney's fees incurred in procuring the underlying award applying the Lodestar method for calculating attorney's fees in Labor Code cases (Armond M. Jackson: $725 hourly rate; Anthony Filer Jr. $250 hourly rate; Yesenia Villalba: $145 hourly rate)	$63,147*1.08
TOTAL:	$68,326.50

	requested

b. The Number of Hours Expended by Plaintiff's Counsel Was Reasonable.

"The starting point of every fee award…must be a calculation of the attorney's services in terms of the time he has expended on the case." *Press v. Lucky Stores, Inc,* (1983) 34 Cal. 3d 311, 322. Reasonable hours include, in addition to time spent during litigation, time spent before the action is filed, including time reasonably spent interviewing the client, investigating the facts and the law, and preparing the initial pleadings, as well as time spent in exhausting administrative remedies. *New York Gaslight Club, Inc. v. Carey* (1980) 447 U.S. 54, 62.

The evidence submitted by PAGA Counsel in support of this motion reflect that PAGA Counsel reasonably expended the following number of hours in the prosecution of this case. (Jackson Decl. ¶¶ 3-13, 17, Ex. C) Jackson Law began filed this class action claim in February 2022, more than 30 months prior to this hearing. A reasonable amount of work was performed pre-litigation, including conducting an extensive intake process. (Jackson Decl. ¶¶ 3-13, 17, Ex. C) Discovery was conducted by counsel regarding both the circumstances of the Plaintiff's employment, hours worked during his employment, meal breaks, wage statements, and rest periods taken during his employment and Defendant's policies in general regarding the employment of individuals with respect to payment of wages, working conditions, meal breaks and rest periods, minimum wage, overtime violations and unreimbursed business expenses. (Jackson Decl. ¶¶ 3-13, 17, Ex. C)

The time expended during the discovery phase was also reasonably incurred. (*Id.*) Thereafter, numerous hours were spent by counsel in performing damages analysis of over aggrieved employees regarding their entitlement to wages for missed meal breaks, rest periods, overtime, accurate wage statements, minimum wage claims, pay upon termination and unreimbursed business expenses. (*Id.*)

The time expended to achieve approval also reasonably incurred. (*Id.*) Counsel conducted extensive legal research on the procedures and issues involved in achieving approval.

(*Id.*) Armond M. Jackson appeared for court hearings on several occasions preparing and arguing the motion and addressing any concerns of the Court. (*Id.*) These hours were reasonably spent to achieve approval of this PAGA Settlement. (*Id.*)

As set forth in the declarations submitted herewith, the total number of hours spent on this matter by PAGA Counsel is reasonable in light of the work required to achieve the result. (*Id.*) Thus, the Court shall conclude that all of the time spent on this case was reasonable and necessary to achieve this result and counsel is entitled to compensation for all the attorney hours worked in this case. (*Id.*)

c. The Hourly Rate Charged for the Services of Plaintiff's Counsel is Reasonable.

When determining a reasonable hourly rate for the attorney's services, courts consider the following factors: (i) the prevailing rate charged by attorneys of similar skill and experience for comparable legal services in the community, (ii) the nature of the work performed, and (iii) the attorney's customary billing rates. *Serrano v. Unruh* (1982) 32 Cal.3d 631, 643; *See also Bihun v. AT&T Information Systems, Inc*. (1993) 13 Cal.App.4th 976, 997 *disapproved on other grounds Lakin v. Watkins Associated Industries* (1993) 6 Cal.4th 644, 664. The hourly rate is determined at the time of the prevailing party's fee application rather than rates charged at the time the litigation began. (*Gates v. Deukmejian* (9th Cir. 1992) 987 F.2d 1392, 1406.)

The Jackson Declaration lays the proper foundation for why the hourly rates charged for each attorney working on this case is reasonable and customary for those rates charged in Southern California by attorney's with similar experience. (Jackson Decl. ¶¶ 3-10, 14 Ex. D)

Mr. Jackson's hourly rate on this matter was $725 is consistent with the Laffey Matrix. (Jackson Decl. 3-13, 17, Ex. C) Mr. Jackson is a senior attorney who has been litigating for over 10 years. (*Id.*) He has handled over a hundred of employment matters on behalf of the plaintiff in his career. (*Id.*) Mr. Jackson is a former member of the California Employment Litigation Association ("CELA"). (Jackson Decl. ¶¶ 14-15, 21.) Mr. Jackson has argued before the Ninth Circuit and responsible for a published opinion. (*Id.*) Based on his experience, and based on his own research for purposes of keeping his law firm competitive and profitable, he has knowledge of the hourly rates other plaintiff's attorneys with similar experience charge in employment cases. (*Id.*) Based on this foundation, Mr. Jackson believes that his regular hourly rate of $725 per hour is reasonable and similar to what attorneys with his tenure, experience and expertise are charging in the Orange County area. (*Id.*) All other staff's hourly rates that worked on this matter are also reasonable, Anthony Filer Jr. as 2.5-year California licensed attorney at $250 per hour and Yesenia Villalba as paralegal with 5 years of litigation experience at $145 per hour. (Jackson Decl. ¶ 21.)

This evidence therefore supports the reasonableness of the fees charged in this case.

d. Laffey Matrix Rates

The Laffey Matrix is one well-established objective source setting rates for attorneys based upon years of experience for attorneys practicing in the District of Columbia. See https://www.justice.gov/usao-dc/file/796471/download (citing *Laffey v. Northwest Airlines, Inc*., 572 F.Supp. 354 (D.D.C. 1983), aff'd in part, rev'd in part on other grounds. 746 F.2d 4 (D.C.Cir. 1984). The Laffey Matrix figures are adjusted to comport with the cost of living in which where the firm operates. (*In re HLP Technologies, Inc. Securities Litigation*, 366 F.Supp. 2d 912, 921 (2005).) Under the Laffey Matrix, Orange County attorney rates fall under the Locality of Pay Rates of Los Angeles-Long Beach, California. When performing the appropriate calculation (126.65-124.78/124.78=2.3%), the adjustment to the District of Columbia Laffey Matrix is 2.3% for Orange County attorneys. (See *In re HLP Technologies, Inc. Securities Litigation*, 366 F.Supp. 2d 912, 922 fn. 1.) Thus, according to the Laffey Matrix, Mr. Jackson's hourly rate as a 12 year plus attorney should be $895.56 but discounted to $725.00 ($878 (D.C. Laffey Matrix 12-year attorney without adjustment) + $878*2% = $895.56 with locality adjustment). Mr. Filer Jr's rate as a 2.5-year attorney according to the Laffey Matrix should be 445.74 but discounted to $250 $445.74 ($437 (D.C. Laffey Matrix 2 year attorney without adjustment) + $437*2% =$445.74). Lastly, Yesenia Villalba as a paralegal, according to the Laffey Matrix, her rate should be $243.78 but discounted to $145 ($239 (D.C. Laffey Matrix for paralegal without adjustment) + $239*2% =$243.78), Thus, the applicable rates should be deemed reasonable. (Jackson Decl. ¶ 14-15, 17, 22, Ex. C) According to the Laffey Matrix, these rates are discounted.

e. Attorney's Fees

Plaintiff requests that 33.33% of the amount awarded under the PAGA will be apportioned to attorney's fees. (Jackson Decl. ⁋ 1, Ex. A, p. 12, Section X) This amount is to be distributed from the lump sum of $205,000 that was distributed to the claim brought under PAGA and amounts to a total of $68,326.50. (*Id.*) A fee application of 33.33% was used in this case to be consistent with standard practices for representative actions. (*Id.*)

The attorney time spent, as well as the costs incurred, as to one necessarily affected the other. The Plaintiff had to establish that he was an aggrieved employee to be able to maintain standing under PAGA. (Cal. Lab. Code § 2699, subd. (a)). As of the date of this filing, in excess of 94.4 hours of attorney time has been spent pursuing this case. A 33.33% allocation of the $205,000 award to PAGA is $68,326.50. (*Id.*) Based upon the standard practices for representative actions and the amount of time that has been spent pursuing the representative action in this case, the attorney's fees allocated are reasonable. (Jackson Decl, ⁋ 14, Ex. D.)

f. Costs

Plaintiff seeks $9,769.01 in litigation costs. (Jackson Decl, ⁋ 16, Ex. B) This amount represents costs incurred including court-filing and process-serving fees; mediation costs, postage costs and expected filing fees for the instant motion. This amount of costs requested is modest and reflects efficient litigation of the case. (Jackson Decl, ⁋ 16, Ex. B)

V. CONCLUSION

For the reasons set forth herein, Plaintiff requests that the Court approve the proposed settlement; approve the proposed notice; and adopt the Order filed concurrently herein.

Dated: November 6, 2024 **JACKSON APC**

By: /s/ Armond M. Jackson
Armond M. Jackson
Attorney for Plaintiff Lourdes Vasquez