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

CARLOS CRUZ and NATALIO
CERVANTES, individually and on
behalf of other aggrieved employees,
Plaintiff,
v.

ZOV'S BISTRO, INC., ZOV'S BISTRO
II, INC., ZOV'S ENTERPRISES, INC.,
ARMEN KARAMARDIAN, and
DOES 1 to 50,
Defendants.

Case No.: 30-2021-01233089

Action Filed: 11/22/2021
Hon. William Claster, Judge
Civil Complex CX101

**NOTICE OF UNOPPOSED
MOTION AND MOTION FOR AN
ORDER APPROVING
SETTLEMENT OF CLAIMS
BROUGHT PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL
ACT OF 2004; MEMORANDUM OF
POINTS AND UTHORITIES;
DECLARATION OF ZORIK
MOORADIAN IN SUPPORT;
PROPOSED ORDER; & EXHIBITS**

**Motion Hearing: 04/11/2025 @ 9 A.M.
Reservation No: 74505412**

TO THER COURT, PARTIES AND ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE pursuant to Cal. Lab. Code §2699 on April 11, 2025, at
9:00 a.m. or as soon thereafter as the matter may be heard in Department CX 101 of the
above-entitled Court, the Honorable William Claster, presiding, Plaintiffs Carlos Cruz and
Natalio Cervantes ("Plaintiffs"), on behalf themselves and other aggrieved employees, will
and hereby move this Court for entry of an Order:

**NOTICE OF UNOPPOSED MOTION AND MOTION FOR AN ORDER APPROVING
SETTLEMENT OF CLAIMS BROUGHT PURSUANT TO PAGA- 1**

1 1. Approving the settlement between Plaintiffs Carlos Cruz and Natalio Cervantes
2 and Defendants Zov's Bistro, Inc., Zov's Bistro II, Inc., Zov's Enterprises, Inc., Armen
3 Karamardian ("Defendants") for representative claims under the Labor Code Private
4 Attorneys General Act of 2004 ("PAGA"), as reflected by the duly executed PAGA
5 Settlement Agreement ("Settlement Agreement" or "SA"), Exhibit A to the Decl. of Zorik
6 Mooradian ("ZM Decl."). ZM Decl. ¶2, Ex. A.

7 2. Approving distribution of a Gross Settlement Sum of \$100,000, as follows: 33.33%
8 or \$33,333.33 in attorneys' fees; \$16,737.49 in litigation costs; \$7,250.00 to Phoenix Class
9 Action Administration Solutions ("Settlement Administrator"); \$0 enhancement payment to
10 Plaintiffs; and from remaining \$42,679.18, \$32,009.38 or 75% to the State of California
11 (LWDA) and \$10,669.80 balance or 25% to the PAGA class (average payout of \$16.47). ZM
12 Decl. ¶¶ 19 and 20.

13 The Court will keep jurisdiction of the case, and the case will be dismissed with
14 prejudice once the terms and conditions of the Court Order are fully complied with. In support
15 are Memorandum of Points and Authorities, Declaration of Zorik Mooradian with Exhibits,
16 and the [Proposed] Order.

17
18 Respectfully submitted,

19
20 DATED: March 6, 2025

MOORADIAN LAW, APC

The logo for Zorik Mooradian, featuring a stylized blue 'Z' followed by the name 'Zorik Mooradian' in a blue serif font.

21 By: _____
22 Zorik Mooradian
23 Attorneys for Plaintiff
24 Carlos Cruz and Natalio Cervantes
25

1 **MEMORANDUM OF POINTS AND AUTHORITIE**

2 **I. INTRODUCTION**

3 Plaintiffs are seeking court approval of a settlement of a pending PAGA claim, which
4 was initiated by Plaintiffs' Notice to LWDA, dated September 13, 2021, and as further set
5 forth in the operative Complaint. The scope of the PAGA settlement is limited to civil
6 penalties, and it neither includes any individual relief under Labor Code Section 558(a) (2-
7 3), nor does it act as a waiver of any employee's individual claims.

8 The \$100,000 PAGA Settlement is for a PAGA class of 648 aggrieved employees,
9 with 14,671 pay periods during the PAGA Period of 09/13/2020 through 08/15/2024. The
10 allocation of civil penalties is fair, adequate, and reasonable and constitutes a noteworthy
11 recovery for what is a largely defensible PAGA claim. The settlement is sufficient to deter
12 any further violations and encourage compliance.

13 **II. PROCEDURAL HISTORY AND BACKGROUND FACTS**

14 1. On September 13, 2021, Plaintiffs submitted a letter/notice to LWDA in
15 compliance with California Labor Code section 2699.3. By virtue of said Notice, Plaintiffs
16 sought to represent themselves and all aggrieved non-exempt employees who worked for
17 Defendants during the PAGA Period – 9/13/2020 to 8/15/2024 (the cutoff date was agreed
18 later by the Parties). ZM Decl. ¶6

19 2. On November 18, 2021, Mr. Cruz submitted a verified harassment, discrimination
20 and retaliation complaint to Department of Fair Employment and Housing and obtained a
21 "Right to Sue" notice. In brief, Plaintiff Cruz claimed that he was subjected to harassment
22 and discrimination for his protected status – his sexual orientation as a gay person. ZM Decl.
23 ¶7

24 3. After administrative remedies were exhausted under the procedures of the Fair
25 Employment and Housing Act ("FEHA") and the Private Attorneys General Act of 2004
26 ("PAGA"), Labor Code §§ 2698, et seq, on November 21, 2021, Plaintiffs filed this wage
27 and hour PAGA action against Defendants in the Orange County Superior Court, asserting
28 the following underlying claims on behalf of themselves and all aggrieved employees: (1)

1 Failure to Pay Overtime Wages; (2) Failure to Pay Minimum Wages; (3) Failure to Pay Tips;
2 (4) Meal Period Violations; (5) Rest Break Violations; (6) Sick Leave Violations; (7) Failure
3 to Pay/Timely Pay Wages; (8) Failure to Indemnify for Expenditures; (9) Failure to Provide
4 Accurate Wage Statements; (10) Failure to Timely Pay Wages Owed at Time of
5 Termination/Separation; (11) Misclassification of Employees; (12) Failure to Provide
6 Employment Records; (13) Unfair Business Practices; (14) Violation of Labor Laws Giving
7 Rise to an Action Under the PAGA; (15) Harassment; (16) Discrimination; and (17)
8 Retaliation. ZM Decl. ¶8

9 4. This case was initially mediated by Mr. Todd Smith with no results, after the *Viking*
10 *River* but before the *Adolph* decisions, on May 26, 2022. Therefore, the viability of PAGA
11 case was unclear and the negotiations were affected as a result. Mediation supportive records
12 were produced by Defendants in advance. ZM Decl. ¶9

13 5. After the first mediation session, the Parties engaged in law and motion
14 practice regarding two purported arbitration agreements for each Plaintiff, and an appeal
15 followed from this Court's rulings. The appeal was abandoned by Defendants later. This
16 Court referred FEHA claims of Mr. Cruz to arbitration, stayed PAGA case of Mr. Cruz and
17 kept jurisdiction of Mr. Cervantes' individual and PAGA claims. The PAGA trial was
18 scheduled for Feb. 24, 2025, advanced and vacated thereafter considering the Notice of
19 Settlement. The FEHA Case of Mr. Cruz was submitted to arbitration before Hon. Glenda
20 Sanders (Ret.), a Case Management Conference was held, and later JAMS was placed on
21 notice of the settlement. ZM Decl. ¶10

22 6. On August 15, 2024, the Parties participated at a second mediation session, this time
23 with mediator Hon. Zaven Sinanian (Ret.) – Signature Resolutions. Through arms-length
24 negotiations, the Parties reached an agreement to settle all the causes of action of both
25 Plaintiffs. which agreement led to the signing of a Memorandum of Understanding and three
26 long form settlement agreements, as addressed below. ZM Decl. ¶11

27 7. Initially, Mr. Cruz worked for Defendants' restaurants in Orange County as a server
28 on a minimum hourly wage from 7/6/16 – 4/3/17. Thereafter, for the period of 3/17/17

1 through 5/21/2017, the wage statements provided by Defendants showed Mr. Cruz was paid
2 on a salary basis as restaurant manager. In or about January 2018 (although the wage
3 statement showed 5/21/17), Mr. Cruz went back to working as a server on an hourly basis.
4 His employment was terminated on or about 4/5/21 when he showed up for work. Mr.
5 Cervantes was employed by Defendants as a “bakery cook” on an hourly basis – as a
6 nonexempt employee. He was employed from 12/20/16 – 5/25/17 and rehired from 7/14/18.
7 Mr. Cervantes quit on or about 6/18/2021. ZM Decl. ¶12

8 8. Defendants Zov’s Bistro, Inc., Zov’s Bistro II, Inc., Zov’s Enterprises, Inc., at all
9 times relevant here, have been engaged in the restaurant business from the County of Orange.
10 The locations identified on the Defendants’ website were Tustin Bistro, Tustin Bakery &
11 Café, Newport Coast, Anaheim Roxy’s and Irvine. Defendants’ restaurants were also known
12 as Zov’s Tustin, Zov’s Orchard Hills, Zov’s Newport Coast, and Zov’s Anaheim. Plaintiffs
13 only worked for Zov’s Tustin and Zov’s Irvine. ZM Decl. ¶13

14 **III. SETTLEMENT AND DISTRIBUTION**

15 9. The settlement reached at the August 15, 2024, Mediation was for all the causes of
16 action - individual wage and hour claims of both Mr. Cruz and Mr. Cervantez, the FEHA
17 claims of Mr. Cruz and the PAGA cause of action. ZM Decl. ¶14

18 10. After signing the MOU, Parties executed a PAGA settlement agreement and two
19 Confidential Settlement Agreement and Release of All Claims (“Individual Settlements”).
20 As to the claims of Mr. Cruz, in addition to his individual wage and hour claims, dating back
21 to four years from the filing date of the Complaint or 11/22/2017, Mr. Cruz had a cause of
22 action under FEHA for harassment, discrimination and retaliation for his protected
23 status/sexual orientation as a gay person. Those allegations were verified by Mr. Cruz in his
24 complaint to the DFEH and are alleged in 15th, 16th, and 17th cause of action of the Complaint.
25 Mr. Cruz’ FEHA and individual wage and hour claims were settled for a gross amount of
26 \$48,000, inclusive of attorneys’ fees. ZM Decl. ¶15

27 11. On the other hand, the wage and hour claims of Mr. Cervantes, as set forth in the 1st
28 through 13th cause of action of the Complaint, were resolved for a gross amount of \$27,000.

1 His wage and hour claims date back to 07/14/2018 (and not four years prior to the filing of
2 the Complaint or 11/22/2017 since there was a brief gap in his employment). Mr. Cervantes
3 did not have a FEHA claim. ZM Decl. ¶16

4 12. Both Plaintiffs have signed a General Release and waiver of California *Civil Code*
5 §1542 as part of the exchanged considerations. The balance of the terms, conditions and
6 provisions of the individual settlement agreements are confidential. ZM Decl. ¶17

7 13. As to the PAGA, for a PAGA class of 648 aggrieved employees, with 14,671 pay
8 periods during the PAGA Period of 09/13/2020 through 08/15/2024, the Parties also executed
9 a PAGA Settlement Agreement (The “Settlement Agreement” or “SA”), Exhibit A. The
10 Settlement Agreement has 5 separate Provisions addressing: DEFINITIONS (Provs. 1-19);
11 RECITALS (Provs. 2-6); OPERATIVE TERMS OF SETTLEMENT AGREEMENT (Provs.
12 1-9); ADMINISTRATION OF SETTLEMENT (Prov. 1-10); and MISCELLANEOUS
13 PROVISIONS (Provs. 1 -23). ZM Decl. ¶18

14 14. The monetary terms of the PAGA Settlement Agreement may be summarized as
15 follows: The Gross Settlement Amount is **\$100,000**, for the Released PAGA Claims (SA,
16 Sec. I, Prov. 8 & Sec. III, Prov. 4.a.); the requested attorneys’ fees are one third of the gross
17 recovery or \$33,333.33 (SA, Sec. I, Prov. 5 & Sec. III, Prov. 4.b.); the actual costs, exclusive
18 of the Motion for PAGA Settlement Approval filing fee, are \$16,737.49, and recoverable if
19 approved by the Court (SA, Sec. I, Prov. 4 & Sec. III, Prov. 4.b.); \$7,250 is the Administrative
20 Invoice (Exhibit B) from Phoenix Class Action Administration Solutions (“Settlement
21 Administrator”) (SA, Sec. I, Prov. 19 & Sec. III, Prov. 4.c.); and Plaintiffs are not seeking an
22 incentive award. ZM Decl. ¶19

23 15. The above computation will leave a net balance of \$42,679.18, from which sum 75%
24 or 32,009.38 will be paid to the State of California (LWDA) (SA, Sec. I, Prov. 12 & Sec. III,
25 Prov. 4.a.), and the remaining 25% or \$10,669.80 will be distributed to the PAGA class – the
26 Aggrieved Employees – which will be \$16.47 in average payout to each member (SA, Sec.
27 I, Prov. 15 & Sec. III, Prov. 4.a.). Of course, the Administrator will adjust these figures before
28 making the distributions in accordance with the Court’s Order. ZM Decl. ¶20

1 16. The Administrator will calculate each Individual PAGA Payment on pro rata basis
2 based on the respective number of Pay Periods, by (a) dividing the amount of the Aggrieved
3 Employees' 25% share of the Net Settlement Amount by the total number of PAGA Pay
4 Periods worked by all Allegedly Aggrieved Employees during the PAGA Period and (b)
5 multiplying the result by each Allegedly Aggrieved Employee's respective number of Pay
6 Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on
7 their Individual PAGA Payment. (SA, Sec. III, Prov. 4.a.(1) and (2)). ZM Decl. ¶21

8 17. Defendants shall fully fund the Gross Settlement Amount by transmitting the funds
9 to the Administrator no later than ninety (90) days after the Effective Date, which means the
10 date the settlement is approved and the Court's order approving the settlement ("Judgment")
11 becomes final. (SA, Sec. III, Prov. 2 & Sec. I, Prov. 7.). Within fourteen (14) days after the
12 Effective Date of this settlement, Defendants shall provide the Aggrieved Employee List to
13 the Settlement Administrator. (SA, Sec. III, Prov. 2). ZM Decl. ¶22

14 18. Within fourteen (14) days after receiving the Gross PAGA Settlement Amount from
15 Defendants, the Settlement Administrator will issue to each Aggrieved Employee a check for
16 their Individual PAGA Payment at their last known home address along with an explanatory
17 letter which will be mutually approved by the parties. Checks will remain negotiable for one
18 hundred eighty (180) days. (SA, Sec. IV, Prov. 3). ZM Decl. ¶23

19 19. Any checks returned as non-deliverable on or before the check cashing deadline will
20 be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto.
21 If no forwarding address is provided, the Settlement Administrator will promptly attempt to
22 determine the correct address based on the National Change of Address Database for
23 information to update and correct for any known or identifiable address changes, including,
24 but are not limited to, using a skip-trace or other search using the name, address or Social
25 Security number of the Aggrieved Employee involved and will then perform a single re-
26 mailing. (SA, Sec. IV, Prov. 3). ZM Decl. ¶24

27 20. Funds represented by settlement checks returned as undeliverable and those
28 settlement checks remaining un-cashed for more than 180 days after issuance shall be

distributed to the California State Controller Unclaimed Property Fund within thirty (30) calendar days of their expiration, to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 et seq., for the benefit of those members of the Aggrieved Employees who did not cash their checks, until such time that they claim their property. If requested by the Court, PAGA Counsel and Defendants' Counsel shall report to the Court the total value of checks cashed by the Aggrieved Employees (and the total amount that was uncashed by the Aggrieved Employees) at a date set by the Court after the close of the 180-day period. (SA, Sec. IV, Prov. 3). ZM Decl. ¶25

21. Notice of Settlement and Release of Claims or Exhibit C, also known as Exhibit A to the SA, will accompany each individual PAGA payment. (SA, Sec. IV, Prov. 4). ZM Decl. ¶26

22. Within fourteen (14) days after receipt of the Gross PAGA Settlement Amount from Defendants, the Settlement Administrator will pay the Attorneys' Fees, the Attorneys' Expenses, and the portion of the PAGA Payment allocated to the LWDA from the Gross PAGA Settlement Amount. Within fourteen (14) days after receipt of the Gross PAGA Settlement Amount the Settlement Administrator will pay itself the Settlement Administration Expenses. (SA, Sec. IV, Prov. 5). ZM Decl. ¶27

23. Upon the date of entry of an order by the Court in this PAGA Action approving this PAGA Settlement Agreement, the LWDA and the Aggrieved Employees, including Plaintiffs, fully release and forever discharge Released Parties from any and all PAGA Released Claims. As a result of this release, the Aggrieved Employees will be unable to bring a claim under, or recover in any other claim brought under, the California Private Attorneys General Act, California Labor Code §§ 2698 et seq., for any violations of the PAGA Released Claims that took place during the PAGA Period. **In no event shall the PAGA Released Claims in this PAGA Settlement Agreement release any claim that is not a PAGA**

Claim. (SA, Sec. III, Prov. 4.d.). The carved out non PAGA claims include any "claims for unpaid or underpaid wages," as specifically set forth in the last paragraph of the Notice of PAGA Settlement in Section III. RELEASE. ZM Decl. ¶28

24. In addition to the Gross PAGA Settlement Amount, as addressed above, in exchange for a general release of all claims related to their employment other than those that cannot be released as a matter of law, Defendants have agreed to separately settle Plaintiffs' individual claims for \$27,000.00 for Natalio Cervantes and \$48,000.00 for Carlos Cruz. Said amounts are in addition to the Plaintiffs' share of the Gross PAGA Settlement Amount. However, Plaintiffs are not seeking any service award or representative enhancement as part of the PAGA payment. (SA, Sec. III, Prov. 4.e.). ZM Decl. ¶29

IV. THE SETTLEMENT IS ADEQUATE, REASONABLE AND FAIR

25. The Fourteenth Cause of Action of the Operative Complaint for PAGA violations is comprised of thirteen counts, addressing violations of important employee protections embodied in the California Labor Code as follows: Defendants failed to pay Plaintiffs and California non-exempt Aggrieved Employees all wages due including all overtime and minimum wages in violation of Labor Code §§ 510, 1194, and 1197; failed to pay tips as required by Labor Code § 351; failed to provide legally compliant meal periods and pay the corresponding premium penalties to Plaintiffs and Aggrieved Employees in violation of Labor Code §§ 226.7 and 512; failed to provide legally compliant rest breaks and pay the corresponding premium penalties to Plaintiffs and Aggrieved Employees in violation of Labor Code § 226.7; failed to provide/pay Plaintiffs and California non-exempt Aggrieved Employees their lawful sick leave benefits in violation of Labor Code §§ 233, 246 and 246.5; failed to timely pay Plaintiffs and California non-exempt Aggrieved Employees their lawful wages in violation of Labor Code §§ 200 and 204; failed to indemnify the employees for business expenses in accordance with Labor Code §§ 2800, 2802, and 2699; failed to provide Plaintiffs and California non-exempt Aggrieved Employees accurate wage statements in violation of Labor Code §§ 226 (a) and 226.3; failed to pay the wages owed at separation as required pursuant to Labor Code §§ 201, 202 and 203; failed to lawfully classify the employees and misclassified of employees in accordance with Labor Code § 515 and 8 CCR 11040 and applicable IWOs; failed to produce records or allow inspection in accordance with Labor Code § 226(b); and failed to provide California non-exempt Aggrieved Employees

1 suitable seating. ZM Decl. ¶30

2 26. Defendants' maximum theoretical exposure could be \$1,453,700 (\$100 × 14,537),
3 without stacking or double that amount if \$200 penalties are factored in. Plaintiffs received
4 time records with 78 samples from 374 PAGA class employees prior to the first mediation.
5 Defendants also produced policies and procedures. By and large, most of the policies and the
6 actual time keeping practices were lawful. The primary bone of contention was the unpaid
7 tips or service charges from the banquet operation of Defendants. ZM Decl. ¶31

8 27. For the second mediation, Defendants produced banquet data, with an estimated
9 banquet frequency of two events per week, and one server per 20 to 30 guests. Defendants
10 followed up that data with the relevant production and additional 845 and 420 lines of
11 comprehensive electronic payroll summaries of the PAGA class. The payroll data received
12 covered samples from their restaurant locations. At the second mediation, Defendants raised
13 issues with their financial wherewithal and expressed insolvency concerns. Since this is a
14 PAGA and not a Class case, the analysis was limited to pay periods with a penalty multiplier.
15 ZM Decl. ¶32

16 28. In reviewing the payroll data, produced in various itemized formats, Plaintiffs were
17 only able to spot minor violations on the face of a largely compliant practices. Defendants
18 are a small family-owned restaurant business. At the time of commencement of this lawsuit,
19 Defendants had 4 locations, but one was closed during the pendency of this case for financial
20 reasons primarily due to COVID, as informed. Plaintiffs' employments were also limited to
21 finite locations – two out of four restaurants. ZM Decl. ¶33

22 29. As well, a review of the produced payroll records, demonstrated that non-exempt
23 employees signed meal period waivers, and when such waivers did not apply "California
24 Lunch" penalties were paid to Defendants' non-exempt employees. "California Split Shift"
25 pay was also paid to employees working split shifts. As to the misclassification issue, it
26 proved to be non-applicable since Plaintiff Cruz was deemed to have been properly classified
27 as an exempt employee in his capacity as a manager of one of the restaurants for a period.
28 For the balance of his employment, Mr. Cruz was properly designated as a nonexempt

1 employee in his non-managerial position. ZM Decl. ¶34

2 30. After reviewing the PAGA payroll records produced by Defendants, it became
3 evident that Defendants did not include any part of the mandatory service fees collected at
4 banquet events in calculating the banquet employees' regular rate of pay with respect to
5 overtime, meal period pay and rest break pay. Defendants, however, contended that not every
6 pay period at issue involved an alleged Labor Code violation subject to civil penalties. ZM
7 Decl. ¶35

8 31. Moreover, Defendants maintained that even if the Court did award penalties, the
9 Court could and would *substantially* reduce the penalties awarded based on the discretionary
10 factors contained in Labor Code § 2699(e)(2) ("In action by an aggrieved employee . . . , a
11 court may award a lesser amount than the maximum civil penalty amount specified by this
12 part if, based on the facts and circumstances of the particular case, to do otherwise would
13 result in an award that is unjust, arbitrary and oppressive, or confiscatory."). ZM Decl. ¶36

14 32. Under PAGA the court has discretion to reduce penalties if they are found to be unjust,
15 arbitrary, oppressive, or confiscatory. There is an absence of legal authority guiding courts
16 in this determination. Courts rarely award 100% of the PAGA penalties proven at trial, a rare
17 occurrence in any event, and frequently reduce the collective penalties considerably.
18 Defendants have made clear if any penalties were awarded in this case, they would argue the
19 penalties would be unjust, arbitrary, and oppressive or confiscatory, requesting the court
20 award zero. ZM Decl. ¶37

21 33. There is also lack of clear legal authority on how the penalties are calculated,
22 including whether multiple penalties can be awarded in the same pay period and when a
23 "subsequent" penalty can be assessed. In possession of this information, Plaintiff had to
24 consider the extended delay caused by resolving these novel legal issues and risking zero
25 recovery even after a successful trial. While Plaintiffs maintain that their PAGA claims have
26 merit, in reaching the settlement, Plaintiffs through counsel considered the strengths and
27 weaknesses of each side's position and the uncertainty of how the case might have concluded
28 as litigation continued, at trial, and/or appeals. ZM Decl. ¶38

34. In addition to the factors presented above, the proposed Settlement does not possess any obvious deficiencies. The Settlement contemplates entry of an order (submitted concurrently) which approves the Settlement and dismisses the Action with prejudice. ZM Decl. ¶39

35. In this case and given its unique circumstances, a gross PAGA settlement of \$100,000 for 14,537 pay periods is fair, reasonable, and adequate settlement. Even if Plaintiffs were to prevail on the underlying claims, they would face the potential of discretionary reduction of maximum penalties by the Court and reported cases. Given the evidence canvassed from the record keeping practices, and aside from any considerations given to declarations or witness testimony, Defendants would, likely, meet their burden of proving their defense case in chief. Which burden would also prove that their failure to comply with certain Labor Code provisions, including the wage statement requirements under Labor Code Sect. 226, were neither intentional nor willful. There were significant evidentiary hurdles in this case for Plaintiffs. ZM Decl. ¶40

36. As to the attorneys' fees, the initial intake form is dated 2/11/2021, which is the first attention by Plaintiffs' attorneys to the matter pursuant to contact from the client. Three attorneys from Mooradian Law, APC, representing Plaintiffs, have worked on this file/case for the past 36 months, with a lodestar of 90.70 hours for attorney Zorik Mooradian (35 + years as a practicing attorney in the state of California with an hourly rate of \$650) – Exhibit E, 116.90 hours for attorney Andrina G. Hanson (36 years of practicing attorney in the State of California with an hourly rate of \$550) – Exhibit F, and 12.3 hours for attorney Nanor C. Kamberian (8 years of practicing attorney in the State of California with an hourly rate of \$350). From various motions to two mediations and an appeal that was abandoned by Defendants, this case has crossed a decent course of litigation. The billable hours, when multiplied by the respective hourly rates, amount to \$127,555 in fees. That amount is almost 4 times the fee requested from this Court. Moreover, said billable rates are reduced rates to those of the *Laffey Matrix* (for attorneys of like experience and years of practice in the Los Angeles County), and there is no need for an application of a multiplier to match the one third

1 requested fee. Basically, the requested fees are about 26% of the billable hours, or an amount
2 multiplied by a reverse multiplier of 0.26 - which is an anomaly. ZM Decl. ¶41

3 37. Plaintiffs' attorneys do not have any fee-splitting agreement with any other lawyers
4 for this matter. There are signed retainer agreements with Plaintiffs, which are for a
5 contingency recovery of more than 35% of the gross recovery. Mooradian Law, APC, as the
6 PAGA counsel, seeks a fee award calculated as a percentage of the total value of the
7 settlement for successful prosecution and resolution of all existing claims. Both California
8 State and Federal Courts have recognized that an appropriate method in determining an
9 attorney fee award may be based on the percentage on the total value of the benefits conferred
10 by the settlement. *Serrano v. Priest* (1997) 20 Cal. 3d 25-34 [Serrano III]; *Boeing Company*
11 *v. Van Gemert* (1980) 344 U.S. 472, 478; *Vincent v. Hughes Airwest, Inc.* (9th Cir. 1977)
12 557 F.2d 759, 769. ZM Decl. ¶42

13 38. The California Supreme Court endorsed a fee award as a percentage of the common
14 Fund. The Court clarified "that when an attorney fee is awarded out of a common fund
15 preserved or recovered by means of litigation (internal citation omitted), the award is not per
16 se unreasonable merely because it is calculated as a percentage of the common fund." *Laffitte*
17 *v. Robert Half Int'l. Inc.* (2016) 1 Cal. 5th 480, 486. Also "[t]hat the recognized advantages
18 of the percentage method...convince us that the percentage method is a valuable tool that
19 should not be denied in our trial courts." *Id.* at 503. ZM Decl. ¶43

20 39. The Common Fund Doctrine is predicated on the principle of preventing unjust
21 enrichment. When a litigant's efforts create or preserve, or generate a fund from which others
22 derive benefits, he may require the passive beneficiaries to compensate those who created the
23 fund. Both California State and Federal Courts have embraced this Doctrine. *Serrano III*,
24 *supra*, at 35; *Vincent, supra*, at 769. Since *Serrano III, supra*, there has been a ground swell
25 of support for mandating the percentage of the fund approach in common fund cases. Both
26 State and Federal Court have found the percentage approach preferable to the Lodestar
27 because; (1) it aligns the interest of counsel and absent parties (PAGA Counsel and the
28 LWDA here); (2) it encourages efficient resolution of the litigation by providing an incentive

1 for early, yet reasonable, settlement; and (3) it reduces the demand on judicial resources. In
2 re Activision Sec. Litig. (N.D. Cal. 1989) 723 F Supp. at 1378-79. ZM Decl. ¶44

3 **V. CONCLUSION**

4 For the facts of this case - considering the foregoing and other evidence which may
5 be presented during the hearing as called upon by the Court, Plaintiffs submit that the PAGA
6 settlement is fair, adequate and reasonable and so too the requested distributions.

7
8 DATED: March 6, 2025

Respectfully submitted,
MOORADIAN LAW, APC

9  **Zorik Mooradian**

10 By: _____
11 Zorik Mooradian
12 Attorneys for Plaintiff
13 Carlos Cruz and Natalio Cervantes
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