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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

IFTIKHAR KHAN, individually, and on behalf
of other aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

PAC AUTO GROUP, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: CIVSB2132675

Honorable Stephanie Tanada
Department S33

**DECLARATION OF VARTAN
MADOYAN IN SUPPORT OF
PLAINTIFF'S FIRST AMENDED
MOTION FOR APPROVAL OF
PRIVATE ATTORNEYS GENERAL
ACT SETTLEMENT AGREEMENT AND
RELEASE, AWARD OF ATTORNEYS'
FEES AND COSTS, GENERAL
RELEASE FEE, AND SETTLEMENT
ADMINISTRATION COSTS**

Date: August 5, 2025
Time: 8:30 a.m.
Department: S33

Complaint Filed: November 17, 2021
Trial Date: None Set

**DECLARATION OF VARTAN MADOYAN IN SUPPORT OF PLAINTIFF'S FIRST AMENDED
MOTION FOR APPROVAL OF PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT
AND RELEASE, AWARD OF ATTORNEYS' FEES AND COSTS, GENERAL RELEASE FEE, AND
SETTLEMENT ADMINISTRATION COSTS**

DECLARATION OF VARTAN MADOYAN

I, Vartan Madoyan, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a member of Lawyers *for* Justice, PC, attorneys of record for Plaintiff Iftikhar Khan (“Plaintiff”). The facts set forth in this declaration are within my personal knowledge or based on information and belief and, if called as a witness, I could and would competently testify thereto.

LITIGATION AND REPRESENTATIVE AND CLASS ACTION EXPERIENCE

2. For over a decade, Lawyers *for* Justice, PC has almost exclusively focused on the prosecution of consumer and employment class actions, involving wage-and-hour claims, race discrimination, unfair business practices, or consumer fraud. Currently, Lawyers *for* Justice, PC is the attorney of record in well over a dozen employment-related putative class actions in both state and federal courts in the State of California. Lawyers *for* Justice, PC is comprised of attorneys who focus on litigating complex wage-and-hour class and Private Attorneys General Act (“PAGA”) representative actions. Lawyers *for* Justice, PC has successfully litigated cases involving the executive, administrative, and other overtime exemptions to the State of California and federal overtime compensation requirements. During a relatively short time, in association with other law firms, Lawyers *for* Justice, PC has recovered millions of dollars on behalf of thousands of individuals in California.

3. Edwin Aiwazian is the Managing Member and Shareholder of Lawyers *for* Justice, PC. He received his Bachelor of Arts degree from Pepperdine University in April of 1999 and earned a Juris Doctor degree from Pepperdine University School of Law in May of 2004. He has extensive formal training in dispute resolution and negotiation from the Straus Institute for Dispute Resolution as part of its Masters in Dispute Resolution degree program. In addition, he has previously served as a pro bono mediator for the Los Angeles County Superior Court. In October of 2000, he obtained a Litigation Paralegal Certificate from the UCLA Extension Program. During the summer of 2000, he studied Legal Writing at Harvard University. From approximately September 2002 to approximately December 2002, he served as

1 a Judicial Extern to the Honorable Kim McLane Wardlaw of the United States Court of Appeals
2 for the Ninth Circuit. From approximately June 2002 to approximately August 2002, he served
3 as a Judicial Extern to the Honorable Earl Johnson, Jr. of the California Court of Appeal for the
4 Second Appellate District. In December of 2004, he obtained a license to practice law from the
5 California State Bar. Since in or around October of 2008, through his work at Lawyers for
6 Justice, PC, he has almost exclusively focused on the prosecution of consumer and employment
7 class actions, involving wage-and-hour claims, race discrimination, unfair business practices, or
8 consumer fraud. While employed by Lawyers *for* Justice PC, he has argued over 100 motions,
9 taken or defended over 150 depositions, prepared dozens of expert witnesses for deposition or
10 trial, and attended over 175 mediations. Together with other attorneys at the firm, and in many
11 cases in conjunction with co-counsel, he has successfully litigated cases involving the executive,
12 administrative, and other overtime exemptions to the State of California and federal overtime
13 compensation requirements. Under his supervision, Lawyers *for* Justice, PC has successfully
14 obtained class certification by contested motion practice in approximately 16 cases in the last
15 decade, and litigated over 1,000 class action or representative action cases.

16 4. Arby Aiwazian is a Member and Shareholder of Lawyers *for* Justice, PC. He
17 received his Bachelor of Arts degree from University of California, Los Angeles and graduated
18 magna cum laude. He earned a Juris Doctor degree, cum laude, from Southwestern Law School.
19 From approximately May 2007 to approximately July 2007, he served as a Judicial Extern to the
20 Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second Appellate District.
21 From approximately August 2008 to approximately December 2008, he served as a Judicial
22 Extern to the Honorable Kim McLane Wardlaw of the United State Court of Appeals for the
23 Ninth Circuit. He was admitted to practice law in California in 2010. He is admitted to practice
24 before all courts of the State of California and all United States District Courts in the State of
25 California. He has worked on many wage-and-hour class action and representative action cases,
26 taking the lead in taking and defending depositions, arguing motions, and attending mediations.
27 He has played an integral role in preparing matters for class certification, including and not
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1 limited to, successful certification of a class in *Upson v. Sur La Table* (Los Angeles County
2 Superior Court Case No. BC424012), *Montazemi v. Regus Management* (Los Angeles County
3 Superior Court Case No. BC478769), and *Abdulhaqq v. Urban Outfitters* (Alameda County
4 Superior Court Case No. RG13680477). Under his supervision, dozens of class action or
5 representative action cases have resulted in settlements that have been granted court approval.
6 He has handled over 150 mediations and has worked on over 250 class action or representative
7 action cases which have resulted in settlement.

8 5. Joanna Ghosh is a Managing Member of Lawyers for Justice, PC. She received a
9 Bachelor of Arts degree from California State University, Los Angeles in 2006, a Master of
10 Science degree from the London School of Economics in 2007, and a Juris Doctor degree from
11 Georgetown University Law Center in 2010. She is admitted to practice in California (since
12 2010) and in New York (since 2013) and she is also admitted to practice in all U.S. District
13 Courts in California, the U.S. Bankruptcy Court for the Central District of California, and the
14 U.S. Supreme Court. She has taken and defended dozens of depositions and successfully
15 handled motion practice in class action cases regarding discovery (including and not limited to,
16 regarding class contact information), class certification (both contested class certification and
17 stipulated class certification), arbitration agreements, coordination, and intervention. She has
18 successfully handled briefing and oral argument on appeal and obtained notable decisions
19 regarding the Private Attorneys General Act and employer efforts to compel arbitration of PAGA
20 claims, e.g., *Roberto Betancourt v. Prudential Overall Supply* (Cal. Ct. App., Mar. 7, 2017) 9
21 Cal.App.5th 439, cert. denied (Cal., May 24, 2017), cert. denied (U.S., Dec. 11, 2017) and *ZB,*
22 *N.A. v. Superior Court* (2019) 8 Cal.5th175. She has significant experience with class actions,
23 including and not limited to working on cases to obtain class certification through contested
24 motion practice and working on cases in the post-certification stage (e.g., post-certification
25 discovery, appeal, statistical sampling and pilot study, and trial preparation in conjunction with
26 co-counsel in a case involving a certified class consisting of approximately 2,600 individuals).
27 She has extensive experience with class action and/or representative action settlements, and has
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1 handled this process in over five hundred (500) cases. Under her, Edwin Aiwazian, and Arby
2 Aiwazian's supervision, Lawyers for Justice, PC has handled the class certification and court
3 approval process for hundreds of class action and/or representative action matters that have
4 successfully resolved. She is a member of the California Employment Lawyers Association and,
5 on several occasions, have been a speaker regarding topics in wage and hour law at the
6 organization's continuing legal education events.

7 6. I am a Member of Lawyers for Justice, PC. I received my Bachelor of Arts degree
8 in Economics from the University of California, San Diego in 2007, and a Juris Doctor degree
9 from Loyola Law School in 2011, graduating with Cum Laude and Order of the Coif honors. I
10 am admitted to practice before all courts in the State of California and all U.S. District Courts in
11 California. I externed for the Honorable Victoria S. Kaufman of the United States Bankruptcy
12 Court, Central District of California, from June 2009 to August 2009. I externed for the
13 Honorable Gary A. Feess of the United States District Court, Central District of California, from
14 January 2010 to May 2010. From 2011 through and including the present, I have practiced
15 almost exclusively on complex wage and hour class action and PAGA action matters in
16 California. From October 2011 to June 2013, I was an Associate at Littler Mendelson's Century
17 City, California office, working for one of the largest employer-side labor and employment law
18 firms in the United States. From July 2013 to March 2014, I was an Associate at Sheppard,
19 Mullin, Richter & Hampton's Century City, California office. From March 2014 to July 2023, I
20 worked as an Associate and then as Counsel at Baker Hostetler LLP's Los Angeles office. From
21 August 2023 to the present, I have been a Member of Lawyers for Justice, PC. I have taken and
22 defended dozens of depositions and have successfully handled motion practice in class action
23 and PAGA cases regarding discovery (including and not limited to motions regarding class
24 contact information), class certification (both contested class certification and stipulated class
25 certification), dispositive motions, arbitration agreements, coordination, and intervention. I have
26 successfully handled a complex wage and hour class action and PAGA case through a trial
27 verdict in the matter of *Estrada v. Royalty Carpet Mills*, Orange County Superior Court, Case
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No. 30-2013 00692890. I have also successfully handled briefing on appeal regarding employer efforts to compel arbitration. *TitleMax of Cal. v. Pena*, California Court of Appeals for the Fifth District, Case No. F084706 (Cal. Ct. App. March 28, 2023) (unpublished decision). Further, I have extensive experience with settlements of class actions and PAGA actions and have handled and supervised this process in over one hundred (100) cases.

THE LAWSUIT

7. Defendant is located in Fontana, California and operates a car dealership. During the relevant time period, Defendant operated approximately three locations in California. Plaintiff Iftikhar is a former employee of Defendant in California.

8. Plaintiff has satisfied the prerequisites under California Labor Code section 2699.3(a), including, and not limited to, providing the California Labor and Workforce Development Agency (“LWDA”) and the employer with written notice of the specific provisions of the California Labor Code that are alleged to have been violated, including the facts and theories to support the alleged violations, by way of written correspondence on behalf of Plaintiff Iftikhar Khan that was dated September 13, 2021 (the “PAGA Notice”). The PAGA Notice was sent by U.S. Certified Mail to Defendant and submitted to the LWDA by way of online submission on the LWDA’s website. Aside from confirmation of receipt of the PAGA Notices, the LWDA did not respond to the PAGA Notices. A true and correct copy of the PAGA Notice is attached hereto as “**EXHIBIT 1.**”

9. On November 17, 2021 Plaintiff filed the above-captioned Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et Seq.* (“Operative Complaint”) against Defendant in the Superior Court of California, County of San Bernardino (“Court”), Case No. CIVSB2132675 (the “Action”). Plaintiff’s Complaint alleges only a PAGA claim and no class action claims. Plaintiff’s core allegation is that Defendant has violated the California Labor Code by engaging in a uniform practice and procedure, with respect to Plaintiff and other Aggrieved Employees, of, *inter alia*, failing to pay overtime and minimum wages, failing to provide compliant meal and rest periods and associated premiums,

1 failing to pay timely wages during employment and upon termination of employment, failing to
2 provide complete and accurate itemized wage statements, failing to keep complete and accurate
3 payroll records, and failing to reimburse necessary business-related expenses and costs, and is
4 thus liable for civil penalties pursuant to PAGA for such violations.

5 10. On February 17, 2022, Defendant filed an Answer to the Operative Complaint.
6 Defendant maintained, and continues to maintain, that it had, and continues to have, legally-
7 compliant employment policies and practices throughout the time period at issue. Defendant has
8 denied, and continues to deny, that it ever violated any provision of the California Labor Code,
9 including, but not limited to, those sections for which Plaintiff seeks penalties under the PAGA.

10 11. On March 21, 2022, Plaintiff propounded four sets of written discovery requests
11 on Defendant, including Requests for Production of Documents, (Set One); Special
12 Interrogatories (Sets One & Two), and Form Interrogatories—General (Set One). Plaintiff
13 noticed the deposition of Defendant’s persons most knowledgeable regarding dozens of topics,
14 including but not limited to Defendant’s organizational structure, job duties and wage and hour
15 practices (along with requests for production of documents). On May 9, 2022, Defendant
16 provided its responses and objections to Plaintiff’s written discovery requests and on June 16,
17 2022, provided its objections and responses to Plaintiff’s notice of deposition.

18 12. On June 21, 2022, Lawyers for Justice, PC took the deposition of Steven
19 Cunningham, Defendant’s person most knowledgeable

20 13. On July 10, 2023, the Parties participated in a full-day mediation conducted by
21 Steven Rottman, Esq., a well-respected mediator experienced in mediating complex labor and
22 employment matters. Although the matter did not settle at mediation, with the continued
23 assistance of the mediator, the Parties ultimately reached a resolution of the above-captioned
24 action.

25 14. On December 17, 2024, Plaintiff filed his original Motion for Approval of Private
26 Attorneys General Act Settlement Agreement and Release, Award of Attorneys’ Fees and Costs,
27 General Release Fee, and Settlement Administration Costs (“Original Motion for Approval”).
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1 15. On February 7, 2025, the Court issued an Order Continuing Plaintiff's Motion for
2 Preliminary Approval of PAGA Settlement and Order for Revisions, which raised points of
3 inquiry, directing Plaintiff to file a First Amended Motion for Approval by March 21, 2025, at
4 3:00 p.m., and continuing the hearing on Plaintiff's Motion for Approval to April 7, 2025, at
5 8:30 a.m. ("February 7, 2025 Order"). A true and correct copy of the February 7, 2025 Order is
6 marked and attached hereto as "**EXHIBIT 2.**"

7 16. Due to a family emergency and medical issues related to the attorney primarily
8 handling matter for Plaintiff's Counsel, on March 20, 2025, the Parties filed a Joint Stipulation
9 and Proposed Order requesting a continuance on the deadline to file the First Amended Motion
10 for Approval, the related hearing date on the motion.

11 17. On April 1, 2025, the Parties filed a Joint Case Management Statement and
12 Request to Continue Case Management Conference which reiterated the language in the Parties'
13 March 20, 2025 Joint Stipulation and Proposed Order.

14 18. On April 2, 2025, the Court issued a Minute Order ("April 2, 2025 Minute
15 Order") indicating that the March 21st filing deadline had passed without filing of the amended
16 motion and the Court issued an OSC and continued the deadline to file the First Amended
17 Motion to July 22, 2025. It appears to Plaintiff's Counsel that the Court had not ever seen the
18 Parties' March 20, 2025 Joint Stipulation, as the Joint Stipulation was rejected due to what
19 appeared to be an erroneous reason. I discussed this issue in detail in the Declaration of Vartan
20 Madoyan in Response to OSC re Sanction which I filed earlier on July 10, 2025,

21 **ADDRESSING THE ISSUES RAISED IN THE FEBRUARY 7, 2025 ORDER**

22 19. By way of the February 7, 2025 Order, the Court informed Plaintiff that it will not
23 grant preliminary or final approval of the Settlement without information regarding any related
24 matters in all jurisdictions throughout California or any matters potentially influenced by this
25 settlement. (February 7, 2025 Order, Issue #1). Although the language regarding "preliminary or
26 final approval" appears to be erroneous in that such language is applicable to class actions
27 (which has a two-stage approval process) but not to PAGA actions (which has only a single stage
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approval process), I presume the Court also will not grant approval of the PAGA Settlement without addressing the issues stated in the February 7, 2025 Order, and therefore we address them here in this Declaration and/or in the accompanying First Amended Motion.

20. After a diligent search and reasonable inquiry, there are no other related matters to the above-captioned action that was filed in any jurisdiction in California, nor any other case(s) asserting overlapping claims, which may be impacted by the settlement that Plaintiff is aware of, nor has Defendant nor its counsel informed Plaintiff of any such matter.

21. By way of the February 7, 2025 Order, the Court required Plaintiff to provide information regarding calculations for Defendant's maximum and reasonable exposure as a demonstration of the reasonableness of the Settlement. (February 7, 2025 Order, Issue #2). This information, along with details regarding how Plaintiff calculated such exposure and the efforts put into valuing the reasonableness of the settlement are discussed further below in this declaration under the section headings titled **"The Litigation and Work Performed By Plaintiff's Counsel"** and **"The Value of the PAGA Claim."**

22. By way of the February 7, 2025 Order, the Court informed Plaintiff that it requires information regarding the average, high, and low recovery figures that the Aggrieved Employees could expect to receive for their Individual Settlement Shares before determining the reasonableness of the settlement. (February 7, 2025 Order, Issue #3).

23. Based on all information and data provided by Defendant, it is estimated that during the PAGA Period there are approximately 459 Aggrieved Employees who are credited with a total of 7,411 Compensable Pay Periods. On the high-end, for Aggrieved Employees who worked during each Compensable Pay Period during the PAGA Period, the highest Individual Settlement Share is currently estimated to be \$622.40 $([114 \text{ maximum possible individual Compensable Pay Periods} / 7,411 \text{ total Compensable Pay Periods}] \times \$40,461.69)$. On average, Aggrieved Employees worked 16.15 Compensable Pay Periods $(7,411 \text{ Compensable Pay Periods} / 459 \text{ Aggrieved Employees})$, so the average Individual Settlement Share is currently estimated to be \$88.17 $([16.15 \text{ Compensable Pay Periods} / 7,411 \text{ total Compensable Pay Periods}] \times$

1 \$40,461.69). And the lowest Individual Settlement Share, for Aggrieved Employees who
2 worked only a single Compensable Pay Period during the PAGA Period, is estimated to be \$5.46
3 ([1 Compensable Pay Periods / 7,411 total Compensable Pay Periods] X \$40,461.69).

4 24. By way of the February 7, 2025 Order, the Court informed Plaintiff that it
5 required information demonstrating that the work performed by Plaintiff's Counsel warrants the
6 35% attorney fee award sought, otherwise it would not award beyond one-third (1/3rd) in
7 attorneys' fees. (February 7, 2025 Order, Issue #4).

8 25. Plaintiff's Counsel performed significant work on this matter which justifies the
9 35% fee award, which is well below the base lodestar value of the attorneys' fees, and in order to
10 demonstrate that Plaintiff's Counsel provides further information in the First Amended Motion
11 as well as a detailed discussion in this Declaration in the section heading titled "**Attorneys' Fees**
12 **Requested by Plaintiff's Counsel**" as well as in the accompanying Attorney Task and Time
13 Chart attached hereto as "**EXHIBIT 3.**"

14 26. By way of the February 7, 2025 Order, the Court informed Plaintiff that it will not
15 award reimbursement of Plaintiff Counsel's full costs because it "declines to award \$12,500 in
16 mediation fees as a 'cost.'" (February 7, 2025 Order, Issue #4). A discussion of Plaintiff
17 Counsel's right to recover all actual and reasonable costs under the settlement is discussed in the
18 First Amended Motion. Further, attached hereto as "**EXHIBIT 4**" is a true and correct copy of
19 the invoice sent to Plaintiff's Counsel on January 26, 2023, by Steve J. Rottman, LLC for the
20 July 10, 2023 mediation, and the payment check for this invoice as Plaintiff's Counsel made this
21 payment to the mediator in order to pay Plaintiff's 50% portion of the mediation fees (Defendant
22 paid the other 50% portion of the mediation fees).

23 27. This mediation expense was reasonable and necessary in the prosecution of this matter
24 and to obtain the Settlement. Were it not for the mediation and the continued efforts of the mediator after
25 the mediation, the Parties might never have settled this matter or, in all likelihood, settled it for a lower
26 amount without the benefit of the mediator's expertise. Or, potentially, the Parties might have settled the
27 case at a much later date thereby delaying payment to the Aggrieved Employees or the State of
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California. In contrast, the Settlement reached here through mediation provides real and significant benefits for the State of California and the Aggrieved Employees here and now, while avoiding the further expenses, risks, and delay of prolonged litigation with only the possibility of recovery.

28. By way of the February 7, 2025 Order, the Court indicated it would not award Plaintiff greater than \$2,500 as an enhancement award based on the hours of work put into the action. (February 7, 2025 Order, Issue #5). However, filed concurrently with the First Amended Motion, is the Declaration of Iftikhar Khan in Support of the First Amended Motion, where Plaintiff provides a detailed account of events and significant individual claims that Plaintiff is releasing in this Settlement which warrants the \$10,000 General Release Fee. Further, a discussion of Plaintiff's request for a \$10,000 General Release Fee can be found below in the section heading titled **"General Release Fee to Plaintiff."**

29. By way of the February 7, 2025 Order, the Court stated it was unclear if the proposed informational cover letter ("Cover Letter") for mailing to Aggrieved Employees will be distributed in more than one language. (February 7, 2025 Order, Issue #6). Based on information provided by Defendant with respect to the native speaking language of its workforce, Plaintiff's Counsel has requested the proposed settlement administrator Phoenix Class Action Administration, Inc. ("Phoenix" or "PAGA Settlement Administrator"), and it has so agreed, to translate the Cover Letter to Spanish before distributing the Cover Letter to the Aggrieved Employees.

30. By way of the February 7, 2025 Order, the Court required proof that the moving papers establish served on the LWDA. (February 7, 2025 Order, Issue #7). Plaintiff's Original Motion for Approval states (in the third footnote) that the Proof of Service confirms submission of the motion papers to the LWDA. Attached hereto as **"EXHIBIT 5"** is a true and correct copy of the LWDA online portal which confirms that the documents were submitted to the LWDA. Plaintiff is also serving the First Amended Motion (and supporting documents) to the LWDA, which is also confirmed by the Proof of Service filed in support of the First Amended Motion.

1 31. By way of the February 7, 2025 Order, the Court required that the Settlement
2 Agreement be attached to the Proposed Order Granting Preliminary Approval. (February 7, 2025
3 Order, Issue #8). By way of clarification (as mentioned above), Plaintiff is not seeking
4 preliminary approval of the Settlement, but rather, is seeking approval of the Settlement in its
5 entirety as PAGA (unlike class actions) has a single stage of court approval, which is discussed
6 further in the First Amended Motion. However, to comply with the Court’s requirement, the
7 Settlement Agreement is now attached as “EXHIBIT 1” to the concurrently filed [Proposed]
8 Order and Judgment Granting Approval of Private Attorneys General Act Settlement Agreement
9 and Release, Award of Attorneys’ Fees and Costs, General Release Fee, and Settlement
10 Administration Costs (“[Proposed] Order and Judgment”). The Settlement Agreement and
11 accompanying Cover Letter are also attached hereto as “EXHIBIT 6.”

12 32. By way of the February 7, 2025 Order, the Court required the motion papers to
13 contain proposed dates for all future events contemplated, as well as a proposed date for the final
14 approval hearing. (February 7, 2025 Order, Issue #9). As mentioned above, Plaintiff is seeking
15 approval of a PAGA settlement and as such there is no motion for final approval or final
16 approval hearing. However, in the concurrently filed [Proposed] Order and Judgment, Plaintiff
17 includes proposed dates for all future events contemplated.

18 **THE SETTLEMENT REACHED IN THE ACTION**

19 33. The Settlement Agreement was entered into between Plaintiff Iftikhar Khan, for
20 himself and on behalf of the State of California with respect to Aggrieved Employees pursuant to
21 the Private Attorneys General Act, and Defendant. The parties have also drafted and agreed to
22 the form and content of the Cover Letter for mailing to Aggrieved Employees in English and
23 Spanish when Individual Settlement Shares are distributed to them, in substantially the form
24 attached as “EXHIBIT 2” to the Proposed Order and Judgment. The Court is respectfully
25 requested to approve the proposed Cover Letter.

26 34. The Settlement pertains to the following allegedly aggrieved employees: all
27 current and former hourly-paid or non-exempt employees who worked for Defendant in the State
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1 of California during the PAGA Period (the “Aggrieved Employees”). The “PAGA Period”
2 means the period from September 13, 2020 to January 15, 2025 (i.e. 90 days after execution of
3 the Settlement Agreement).

4 35. Defendant has agreed to pay the gross amount of \$300,000.00 (“Total Settlement
5 Amount”), subject to possible increase under Section 3(b) of the Settlement Agreement, to settle
6 this matter. The Settlement Agreement provides that the “Net Settlement Amount” will be the
7 Total Settlement Amount less the following amounts: (1) Attorneys’ Fees and Costs in the
8 amount of up to 35% of the Total Settlement Amount (i.e., up to \$105,000 if the Total Settlement
9 Amount remains \$300,000.00) for attorneys’ fees and reimbursement of actual litigation costs
10 and expenses in the amount of up to \$18,500.00 to Lawyers for Justice, PC (“Plaintiff’s
11 Counsel”); (2) General Release Fee in the amount of up to \$10,000.00 to Plaintiff; and (3)
12 Settlement Administration Costs in the amount of up to \$7,000.00 to the PAGA Settlement
13 Administrator. Plaintiff’s Counsel only seeks an award of reimbursement of litigation costs and
14 expenses in the amount of \$16,153.22, and assuming that the requested Attorneys’ Fees and
15 Costs, General Release Fee, and Settlement Administration Costs, are approved by the Court, the
16 Net Settlement Amount is estimated to be approximately \$161,846.78. The Net Settlement
17 Amount will be distributed to the LWDA and the Aggrieved Employees pursuant to California
18 Labor Code section 2699(i). Seventy-five percent (75%) of the Net Settlement Amount will be
19 distributed to the LWDA, which is estimated to be \$121,385.09 (“LWDA Payment”), and 25%
20 of the Net Settlement Amount, which is estimated to be \$40,461.69 (“Employees’ Portion”), will
21 be distributed to the Aggrieved Employees on a *pro rata* basis, based on the number of pay
22 periods they each worked during the PAGA Period (“Compensable Pay Periods”). The parties
23 have agreed to retain Phoenix to handle the administration of the Settlement, and the Court is
24 respectfully requested to appoint Phoenix to serve as the PAGA Settlement Administrator. The
25 Settlement Administration Costs are estimated not to exceed \$7,000.00 and will be paid out of
26 the Total Settlement Amount, subject to approval by the Court.

THE LITIGATION AND WORK PERFORMED BY PLAINTIFF'S COUNSEL

36. The effectiveness of Plaintiff's Counsel, Lawyers *for* Justice, PC in prosecuting this case has translated into tangible monetary benefits for Plaintiff, Aggrieved Employees, and the State of California in the following respects: (1) their recoveries over a reasonably short period of time as opposed to waiting additional years for the same, or possibly, a worse, result; (2) a guaranteed result that compares favorably with other similar representative action settlements; and (3) significant savings in fees and costs which would have only increased significantly had the case progressed through trial and/or appeals.

37. After engaging in extensive investigations, formal and informal discovery, and exchange of information, data, and documents, the parties participated in extensive settlement discussions and negotiations to try to resolve the above-captioned lawsuit. These efforts included participating in a formal full-day mediation on July 10, 2023, conducted by Steven Rottman, Esq., a well-respected mediator experienced in mediating complex labor and employment matters. With the aid of the mediator, the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety. In the course of mediation and settlement discussions, the parties discussed all aspects of the case, including the risks and delays of further litigation and proceeding with trial, as well as the law relating to representative PAGA actions, off-the-clock theory, meal and rest periods, Industrial Welfare Commission Wage Orders, arbitration agreements, wage-and-hour enforcement, among other things. During all settlement discussions, the parties conducted their negotiations at arm's length in an adversarial position.

38. Prior to reaching the Settlement, the parties investigated the veracity, strength, and scope of the PAGA claim and allegations, and were preparing for trial. Plaintiff conducted significant investigation and formal and informal discovery and exchange of information, documents, and data regarding the facts of the case, including and not limited to, the review, consideration, and analysis of a large volume of information, documents, and data obtained from Plaintiff, Defendant, and other sources. Plaintiff's Counsel propounded multiple sets of formal written discovery requests onto Defendant (specifically, Requests for Production of Documents

(Set One), Special Interrogatories (Sets One and Two), and Form Interrogatories – General (Set One)), reviewed Defendant’s objections and responses and supplemental objections and responses thereto, and served notices of depositions of Defendant’s Person Most Knowledgeable designees regarding organizational structure and wage and hour practices, along with requests for production of documents. On June 21, 2022, Plaintiff’s Counsel took the deposition of Steven Cunningham, Defendant’s Person Most Knowledgeable designee. The information, documents, and data that were reviewed and analyzed by Plaintiff’s Counsel included, and were not limited to, Plaintiff’s employment records; a detailed sampling of Aggrieved Employees’ time and pay data; Defendant’s Employee Handbook; job descriptions; various forms, agreements, and acknowledgments (such as, Defendant’s Acknowledgement of Receipt of Employee Handbook, and Defendant’s Mediation and Arbitration Agreement); and Defendant’s operations and employment practices, policies, and procedures documents, among other documents. Counsel for the parties undertook significant investigation and evaluation of the PAGA claim and related allegations, including, and not limited to, calculating the potential monetary recovery under PAGA. Other work performed by Plaintiff’s Counsel included, but was not limited to: meeting and conferring with Defendant’s counsel regarding the pleadings, case management, discovery, arbitration agreements, mediation, and settlement negotiations, among other issues; case strategy and analysis; researching, drafting, reviewing, and revising pleadings, court filings, motion-related papers, briefs for settlement negotiations and mediation, and the settlement agreement; claims evaluation and analysis; and preparing for and participating in settlement negotiations and the mediation. Counsel for the parties have further invested time to research the applicable law, which is evolving as it relates to representative PAGA actions, off-the-clock theory, meal and rest periods, Industrial Welfare Commission Wage Orders, arbitration agreements, wage-and-hour enforcement, Plaintiff’s claims, and Defendant’s defenses, as well as facts discovered.

39. Based on investigation and information discovered, Plaintiff’s Counsel believes that there is sufficient evidence to support the allegations that Defendant violated the California

1 Labor Code. While Plaintiff's Counsel believes that the PAGA claim has merit and that Plaintiff
2 will ultimately succeed in this litigation and prevail at trial, Plaintiff and Plaintiff's Counsel also
3 recognize Defendant's defenses, the costs of further litigation, and multiple risks to recovery.
4 For example, although wage-and-hour actions are amenable to resolution as to a group of
5 employees, some courts have also found that, for various reasons, the issues raised by Plaintiff,
6 including, and not limited to, the issues of minimum and overtime wages, compliant meal and
7 rest periods and associated premiums, and unreimbursed business expenses, raise individualized
8 issues and/or are not suitable for adjudication as to a group of employees.

9 40. Plaintiff and his counsel have also considered the uncertainty and risk of the
10 outcome of further litigation, including the difficulties and delays inherent in such litigation. In
11 order to prevail on the PAGA claim, Plaintiff would have to prove that Defendant engaged in the
12 alleged California Labor Code violations and demonstrate that Defendant's conduct warrants the
13 imposition of penalties.

14 41. In order for Plaintiff to prevail on the PAGA claim, he would have to prove that
15 Defendant engaged in the alleged California Labor Code violations and demonstrate that
16 Defendant's conduct warrants the imposition of penalties. Furthermore, although wage-and-hour
17 actions are amenable to resolution as to a group of employees, some courts have also found that,
18 for various reasons, the issues raised by Plaintiff raise individualized issues and/or are not
19 suitable for adjudication as to a group of employees.

20 42. From the inception of this litigation, Defendant indicated that it would
21 aggressively litigate this case and contended that it would ultimately succeed in the action.
22 Defendant maintained several defenses to Plaintiff's allegations, which, if successfully argued
23 and proven, had the potential to eliminate or substantially reduce recovery. Throughout this
24 litigation, Defendant maintained, and continues to maintain, that it did not engage in a uniform
25 policy and systematic scheme of wage abuse against any of its employees, and that it had, and
26 continues to have, legally-compliant employment policies and practices throughout the time
27 period at issue. Defendant denies that it ever violated any provision of the California Labor
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Code. Defendant further denied, and continues to deny, that the lawsuit is appropriate for representative adjudication for any purpose other than the Settlement.

43. Defendant also challenged Plaintiff's standing as aggrieved employees and denied that any of its other employees whom Plaintiff seeks to represent are aggrieved. Also, multiple courts have taken an approach requiring a plaintiff to establish standing and face the possibility of bifurcation of discovery and/or trial of the PAGA claim. *See Amalgamated Transit Union, Local 1756, AFL-CIO v. Superior Court*. (2009) 46th Cal.4th 993, 1001 (noting that PAGA "require[s] a plaintiff to have suffered an injury resulting from an unlawful action"); *Stafford v. Dollar Tree Stores, Inc.* (E.D. Cal. Nov. 21, 2014) 2014 WL 6633396, at *4 (finding that judicial economy supported bifurcation because of the difficulties and inherent uncertainties of being able to establish liability with respect to a large number of potentially aggrieved employees and noted that "PAGA's public purpose would be ill-served if the court finds [the plaintiff] has not been aggrieved by a Labor Code violation"); *Grappo v. Coventry Fin. Corp.* (1991) 235 Cal.App.3d 496, 504 (Trial courts have "broad discretion to determine the order of proof in the interest of judicial economy"); *see also* Cal. Code Civ. Proc. § 598 (The court may "when the convenience of witnesses, the ends of justice, or the economy and efficiency of handling the litigation would be promoted thereby, on motion of a party, after notice and hearing, make an order. . . that the trial of any issue or any part thereof shall precede the trial of any other issue or any part thereof in the case[.]"); Cal. Code Civ. Proc. § 1048(b) (Court can separate trial of any cause of action or of any separate issue in the interest of convenience or to avoid prejudice); Cal. Code Civ. Proc. § 2019.020(b) (Courts have the power to "establish the sequence and timing of discovery for the convenience of parties and witnesses and in the interests of justice"); *Horton v. Jones* (1972) 26 Cal.App.3d 952, 955 (stating that bifurcation and sequencing of litigation is allowed to avoid wasting time and money on trial when litigation of issues could be rendered moot).

44. Defendant pointed to case law that held that, given the derivative nature of the PAGA claim, it would stand or fall based on whether Plaintiff could successfully demonstrate

1 the requisite elements to establish the various alleged violations of the California Labor Code
2 that the PAGA claim is predicated on and derives from, and the success of showing, *inter alia*,
3 failure to properly pay wages, failure to provide compliant meal and rest periods, failure to
4 reimburse for expenses, etc.

5 45. Further, Defendant also maintained that, in addition to its strong arguments
6 against the underlying claims, taking the current unsettled state of law, it would be unjust to
7 award the maximum potential PAGA penalties. There was also a dearth of law and guidance
8 regarding trials and/or assessment of penalties under the PAGA statute, there is no clearly
9 established methodology for the valuation and/or assessment of PAGA penalties, and case
10 outcomes (such as those discussed below) have shown that the actual amount of civil penalties
11 actually assessed by trial courts is far less than the amount sought.

12 46. Defendant also argued that an important feature of PAGA is that the Court retains
13 discretion to lower the penalties if, based on the facts and circumstances of the particular case, to
14 do otherwise would result in an award that is “unjust, arbitrary and oppressive, or confiscatory.”
15 Cal. Lab. Code § 2699(e)(2); *see also Thurman v. Bayshore Transit Management, Inc.* (2012)
16 203 Cal.App.4th 1112, 1136 (holding that a court may reduce the amount of PAGA penalties
17 awarded to an employee based upon discretionary factors). Defendant maintained, and continues
18 to maintain, that it had and continues to have, legally-compliant employment policies and
19 practices throughout the time period at issue. Even if, *arguendo*, such violations occurred, which
20 Defendant denies, Defendant contended that said violations would only be considered “initial
21 violations” and thus heightened “subsequent violation” penalties were not warranted. *See* Cal.
22 Lab. Code § 2699(f)(2); *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1208-09
23 (“Until the employer has been notified that it is violating a Labor Code provision [...], the
24 employer cannot be presumed to be aware that its continuing underpayment of employees is a
25 ‘violation’ subject to penalties.”). Defendant argued that it would be able to show a lack of
26 willfulness in the violations, such that the alleged California Labor Code violations would not be
27 considered “willful.” Defendant contended that, at best, even if a violation giving rise to a
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1 penalty was shown for each pay period, only the lower civil penalty associated with initial
2 violations would apply. As discussed above, Defendant denied and continues to deny that it ever
3 violated any provision of the California Labor Code. However, assuming, *arguendo*, that any
4 violations occurred, Defendant argued the violations would not be viewed as subsequent
5 violations giving rise to heightened penalties. Defendant also argued that the Court was unlikely
6 to assess cumulative penalties for the maximum number of possible, separate California Labor
7 Code violations, because it would be unjust, arbitrary, oppressive, and/or confiscatory—
8 especially where certain conduct may be regulated by multiple provisions of the California Labor
9 Code that are interrelated and work in tandem. As such, Defendant contended that cumulative
10 penalties and heightened penalties would be unjust, arbitrary, oppressive, and confiscatory.

11 47. Plaintiff's Counsel was also aware of case law indicating that courts have
12 attributed little value to PAGA claims, for example, assessing much lower amounts of civil
13 penalties against employers than are sought. *See e.g., Magadia v. Wal-Mart Assocs.* (N.D. Cal.
14 2019) 384 F. Supp. 3d 1058, 1100-1101, 1103-1104, 1111 (finding that, under Labor Code §
15 2699(e)(2), "the Court has broad discretion to award PAGA penalties the Court sees fit" and
16 reducing the PAGA penalty award significantly from the maximum penalties possible); *Morales*
17 *v Bridgestone Retail Operations LLC*, Orange County Superior Court No. 30-2017-00900244
18 (Aug. 2, 2018) (of \$7 million PAGA penalties requested, the court awarded \$425,000);
19 *Carrington v Starbucks Corp.* (2018) 30 Cal.App.5th 504, 517, 529 (of \$75 million in penalties
20 sought, the court affirmed the trial court's \$150,000 PAGA penalty award based on 30,000
21 violations, which reduced the penalty rate to \$5 per violation); *Arnold v San Diego Second*
22 *Chance Program*, San Diego County Superior Court No. 37-2016-00018375 (Dec. 18, 2017) (no
23 PAGA penalties awarded); *Felczer v Apple Inc.*, San Diego County Superior Court No. 37-2011-
24 00102593 (Sept. 13, 2017) (no PAGA penalties awarded); *In re Taco Bell Wage and Hour*
25 *Actions* (E.D. Cal. Apr. 8, 2016) No. 1:07-cv-01314-SAB, 2016 U.S. Dist. LEXIS 48557 at *41
26 (the court declined to award PAGA penalties after trial); *Allen v American Multi-Cinema*,
27 Alameda County Superior Court No. RG11585502 (July 24, 2016) (no PAGA penalties
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1 awarded); *Driscoll v Granite Rock*, Santa Clara County Superior Court No. 1-08-cv-103426
2 (Sept. 20, 2011) (no PAGA penalties awarded); *Fleming v Covidien, Inc.*, No. ED CV10-01487
3 RGK (OPx) (C.D. Cal. Aug. 12, 2011) 2011 U.S. Dist. LEXIS 154590 at **8-9 (of \$2,800,000
4 PAGA penalties requested, the court awarded \$500,000); *Aguirre v Genesis Logistics*, No.
5 SACV 12-00687-JVS (ANx) (C.D. Cal. Dec. 30, 2013) 2013 U.S. Dist. LEXIS 189820 at **6-7
6 (of \$1,800,000 PAGA penalties requested, the court awarded \$500,000); *Halevi v Aroma Bakery*
7 *Café, Inc.*, Los Angeles County Superior Court No. 468146 (Aug. 30, 2013) (no PAGA penalties
8 after despite success of underlying claims).

9 48. Importantly, Defendant also contended that the claims of Plaintiff and other
10 Aggrieved Employees are subject to enforceable arbitration agreements. Defendant contended
11 that, taken together, these agreements could effectively be used to require Aggrieved Employees
12 to engage in individual arbitration of their individual claims on which the PAGA claim is
13 predicated. There is also uncertainty regarding PAGA claims due to decisions of the high courts
14 and recent amendment of the PAGA statute. For example, as a result of a recent United States
15 Supreme Court decision, it is more likely that employer agreements containing arbitration terms
16 will impact the viability of adjudication of PAGA claims in the judicial forum. *Viking River*
17 *Cruises, Inc. v. Moriana*, (2022) 142 S. Ct. 1906, 2022 U.S. LEXIS 2940. Although the
18 substantive statutory right to pursue a PAGA claim has not been eviscerated and has been
19 preserved, arbitration agreements may be used to select the forum and procedure to be used to
20 resolve PAGA claims to some extent. Recently, the California Supreme Court confirmed that an
21 aggrieved employee who has been compelled to arbitrate claims under PAGA that are premised
22 on California Labor Code violations that were sustained by the aggrieved employee still
23 maintains statutory standing to pursue a PAGA claim arising out of events involving other
24 employees through a PAGA representative claim. *Adolph v. Uber Technologies* (2023) 14
25 Cal.5th 1104. Nevertheless, while the arbitrable and non-arbitrable components of an action are
26 not severed from one another, it is still possible that trial courts will stay the representative/non-
27 individual PAGA claims pending arbitration of a plaintiff's individual PAGA claims and if a
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1 plaintiff is determined to not be an “aggrieved employee” for PAGA purposes, issue preclusion
2 may apply and, once reduced to a final judgment, trial courts are bound by the arbitrator’s
3 determination and the plaintiff may lose standing to pursue non-individual PAGA claims. *Id.* at
4 693.

5 49. Furthermore, the recent amendment of the PAGA statute enacted on July 1, 2024,
6 adopts, *inter alia*, modified standing requirements, codifies a manageability requirement, caps
7 civil penalties that can be assessed against an employer if an employer meets certain conditions,
8 and allows an employer to cure violations to avoid the assessment of civil penalties if an
9 employer meets certain conditions, and this has created uncertainty regarding the future of claims
10 for civil penalties under PAGA. As such, at the time that the Parties reached the settlement, and
11 also now, there is uncertainty regarding the PAGA claim.

12 50. While Plaintiff disagrees with Defendant’s contentions and maintains that his
13 PAGA claim has merit, in reaching the settlement, Plaintiff and his counsel took into account the
14 strengths and weaknesses of each side’s position and the uncertainty of how the case might have
15 concluded as litigation continues, at trial, and/or upon appeal.

16 51. The parties had the opportunity to review extensive information, documents, and
17 data regarding Plaintiff’s and Aggrieved Employees’ employment with Defendant in an effort to
18 determine the potential value and strength of the PAGA claim. Counsel for the parties invested
19 time reviewing and analyzing the relevant information, documents, and data, and this
20 information made it possible to calculate the potential value of the PAGA claim (as discussed
21 below). Accordingly, the parties have conducted sufficient investigation and review of data,
22 documents, and information to be sufficiently apprised of the nature and extent of the PAGA
23 claim asserted in this lawsuit, and to enable both sides to fully evaluate the Settlement for its
24 fairness, adequacy, and reasonableness. The parties have also considered the settlement
25 negotiations and the recommendations of the mediator Steven Rottman, Esq. who is highly
26 experienced in mediation complex labor and employment matters. The parties have agreed that
27 this case is well-suited for settlement given the legal issues relating to the PAGA claim, as well
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as the costs, risks, and delays to both sides that would attend further litigation. The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded as litigation continued, at trial, and/or upon appeal.

THE VALUE OF THE PAGA CLAIM

52. To assist the Court in its review and consideration of the settlement reached in the above-captioned matter, a discussion of the potential and realistic value of the PAGA claim, is provided below.

53. Plaintiff alleges that Defendant has violated the California Labor Code and Industrial Welfare Commission Wage Orders, and thereby has engaged in conduct giving rise to civil penalties recoverable under PAGA, by, *inter alia*, failing to properly pay all wages due, failing to provide compliant meal and rest periods and associated premiums, failing to timely pay wages during employment, failing to timely pay wages upon termination of employment, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business expenses. Specifically, Plaintiff contends that Defendant required Plaintiff and aggrieved employees to perform work duties off-the-clock before clocking-in and after clocking-out of their scheduled shifts and during meal periods, and to remain on premises during rest periods and perform work. Based on Plaintiff's Counsel's investigation, the key issues for the off-the-clock claims is that aggrieved employees spent several minutes servicing customers daily before being able to clock in and after clocking out to comply with Defendant's service policy that no customer be without service. Based on Plaintiff's Counsel's investigation, the key issues for the meal and rest break claims is that aggrieved employees were effectively required to stay on premises for meal and rest breaks to comply with the heavy workload expected of each of them, and experienced missed, late, short, and interrupted meal and rest break multiple times a week due to having to perform job responsibilities and tasks. As a result, Plaintiff contends that Defendant did not pay Plaintiff and aggrieved employees all compensation due to them, that meal and rest periods were non-compliant, and that Defendant failed to properly pay premiums for all non-compliant meal and rest periods. Additionally, Plaintiff

1 alleges that Defendant intentionally and willfully failed to pay Plaintiff and aggrieved employees
2 all wages due to them while they were employed by Defendant, within the time period
3 permissible under California law, thereby triggering waiting-time penalties under California
4 Labor Code section 203. Plaintiff contends that, based on the violations described herein, the
5 wage statements provided by Defendant and the payroll records kept by Defendant were
6 inaccurate. Plaintiff contends that Defendant failed to reimburse Plaintiff and the other
7 aggrieved employees for necessary business expenses for use of personal cell phones, vehicles
8 purchase and maintenance of PPE for work purposes.

9 54. Plaintiff's Counsel considered Defendant's arguments, e.g., that the employer's
10 practices, policies, and procedures complied with the law, that much of the workforce was
11 exempt and/or was subject to arbitration agreements, that Defendant correctly paid regular and
12 overtime wages for all hours worked, that no waiting-time penalties were due because waiting-
13 time penalties only arise from "willful" failure to pay wages due, that Plaintiff and aggrieved
14 employees suffered no actual injury from the alleged wage statement violations and that this
15 alleged violation and the alleged recordkeeping violation are entirely derivative of the other
16 alleged California Labor Code violations, and that Defendant has a practice and procedure for
17 reimbursing employees for necessary business-related expenses and did not require employees to
18 undertake expenses that were not reimbursed. Plaintiff's Counsel conducted a preliminary meal
19 analysis, and it was observed that 96.34% of shifts analyzed were eligible for a meal period, of
20 which approximately 54.55% had a potential violation recorded. Plaintiff's Counsel considered
21 that it could be determined that individual liability issues predominate (e.g., due to purported
22 variation in shifts, departments, locations, job duties, and other circumstances which could raise
23 individualized questions of fact) and could pose challenges to manageability and the merits of
24 the PAGA claim.

25 55. Plaintiff's Counsel considered information obtained through investigations and
26 from Plaintiff, Defendant, and other sources, and created violation and penalties valuations and
27 models prior to reaching the Settlement. Based thereon, Plaintiff's Counsel calculated the
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1 potential value of the PAGA claim. However, the potential value of the PAGA claim assumed
2 an exposure based on Plaintiff having proven all elements of the claim and entitlement to civil
3 penalties, despite risks associated with demonstrating manageability, and establishing liability
4 and any underlying California Labor Code violations, and significant additional costs that would
5 have to be incurred in order to establish liability and obtain civil penalties.

6 56. While Plaintiff's Counsel disagreed with Defendant's arguments and factual
7 contentions, Plaintiff recognized the circumstances and realities of the case, applicable case law
8 and regulations, the costs and expenses of further litigation, and risks to recovery, and applied
9 appropriate discounts for them. Plaintiff's Counsel calculated the potential and realistic value of
10 the PAGA claim as follows:

11 a. Failure to Pay Overtime Wages: The potential value of civil penalties was
12 estimated to be \$718,150.00 (459 initial violations x \$50 + 6,952 subsequent
13 violations x \$100). A discount of 80% was applied to account for the risks
14 associated with Defendant's arbitration agreements and demonstrating
15 manageability (bringing the value of civil penalties closer to \$143,630.00), a
16 discount of 65% was applied to account for the risks associated with succeeding
17 on the merits and establishing liability (bringing the value of civil penalties closer
18 to \$50,270.50), and a discount of 55% was applied to account for the risks
19 associated with the Court exercising its discretion to reduce and/or assess lower
20 penalties and obtaining a recovery (bringing the value of civil penalties closer to
21 \$22,621.73).

22 b. Failure to Pay Minimum Wages: The potential value of civil penalties was
23 estimated to be \$1,783,900.00 (459 initial violations x \$100 + 6,952 subsequent
24 violations x \$250). A discount of 80% was applied to account for the risks
25 associated with Defendant's arbitration agreements and demonstrating
26 manageability (bringing the value of civil penalties closer to \$356,780.00), a
27 discount of 70% was applied to account for the risks associated with succeeding
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on the merits and establishing liability (bringing the value of civil penalties closer to \$107,034.00), and a discount of 60% was applied to account for the risks associated with the Court exercising its discretion to reduce and/or assess lower penalties and obtaining a recovery (bringing the value of civil penalties closer to \$42,813.60).

c. Failure to Provide Compliant Meal Periods and Associated Premiums: The potential value of civil penalties was estimated to be \$718,150.00 (459 initial violations x \$50 + 6,952 subsequent violations x \$100). A discount of 80% was applied to account for the risks associated with Defendant's arbitration agreements and demonstrating manageability (bringing the value of civil penalties closer to \$143,630.00), a discount of 70% was applied to account for the risks associated with succeeding on the merits and establishing liability (bringing the value of civil penalties closer to \$43,089.00), and a discount of 60% was applied to account for the risks associated with the Court exercising its discretion to reduce and/or assess lower penalties and obtaining a recovery (bringing the value of civil penalties closer to \$17,235.60).

d. Failure to Provide Compliant Rest Periods and Associated Premiums: The potential value of civil penalties was estimated to be \$718,150.00 (459 initial violations x \$50 + 6,952 subsequent violations x \$100). A discount of 80% was applied to account for the risks associated with Defendant's arbitration agreements and demonstrating manageability (bringing the value of civil penalties closer to \$143,630.00), a discount of 65% was applied to account for the risks associated with succeeding on the merits and establishing liability (bringing the value of civil penalties closer to \$50,270.50), and a discount of 55% was applied to account for the risks associated with the Court exercising its discretion to reduce and/or assess lower penalties and obtaining a recovery (bringing the value of civil penalties closer to \$22,621.73).

e. Failure to Timely Pay Wages During Employment and Upon Termination:

Plaintiff alleged that, as a result of the above-discussed alleged conduct, Defendant failed to pay Plaintiff and the Aggrieved Employees all wages due to them while they were employed by Defendant, within the time period permissible under California law. However, arguably, violations of this provision of the California Labor Code overlap with and are already pursued as part of the allegations for the failure to pay wages and provide meal and rest periods and associated premiums (which are already discussed herein)—this aspect may cause a court to exercise discretion to not assess separate penalties or to assess significantly reduced penalties. (Cal. Lab. Code § 2699(e)(1)-(2).) Plaintiff also alleged that Defendant failed to pay Plaintiff and the other Aggrieved Employees all wages due to them upon termination, within the time period permissible under California Labor Code sections 201 and 202. For example, Plaintiff alleged that he and other Aggrieved Employees are entitled to unpaid wages arising from, inter alia, unpaid wages and the failure to properly compensate them for all hours worked, as well as, meal and rest period premiums. The potential value of civil penalties for failure to timely pay wages upon termination of employment was estimated to be \$34,800.00 (348 violations x \$100 civil penalties). A discount of 80% was applied to account for the risks associated with Defendant's arbitration agreements and demonstrating manageability (bringing the value of civil penalties closer to \$6,960.00), a discount of 75% was applied to account for the risks associated with succeeding on the merits and establishing liability (bringing the value of civil penalties closer to \$1,740.00), and a discount of 70% was applied to account for the risks associated with the Court exercising its discretion to reduce and/or assess lower penalties and obtaining a recovery (bringing the value of civil penalties closer to \$522.00).

- 1 f. Failure to Provide Compliant Wage Statements: The potential value of civil
2 penalties was estimated to be \$1,783,900.00 (459 initial violations x \$100 + 6,952
3 subsequent violations x \$250). A discount of 80% was applied to account for the
4 risks associated with Defendant's arbitration agreements and demonstrating
5 manageability (bringing the value of civil penalties closer to \$356,780.00), a
6 discount of 75% was applied to account for the risks associated with succeeding
7 on the merits and establishing liability (bringing the value of civil penalties closer
8 to \$89,195.00), and a discount of 75% was applied to account for the risks
9 associated with the Court exercising its discretion to reduce and/or assess lower
10 penalties and obtaining a recovery (bringing the value of civil penalties closer to
11 \$22,298.75).
- 12 g. Failure to Maintain Payroll Records: The potential value of civil penalties was
13 estimated to be \$229,500.00 (459 aggrieved employees x \$500). A discount of
14 80% was applied to account for the risks associated with Defendant's arbitration
15 agreements and demonstrating manageability (bringing the value of civil penalties
16 closer to \$45,900.00), a discount of 75% was applied to account for the risks
17 associated with succeeding on the merits and establishing liability (bringing the
18 value of civil penalties closer to \$11,475.00), and a discount of 70% was applied
19 to account for the risks associated with the Court exercising its discretion to
20 reduce and/or assess lower penalties and obtaining a recovery (bringing the value
21 of civil penalties closer to \$3,442.50).
- 22 h. Failure to Reimburse Necessary Business Expenses: The potential value of civil
23 penalties was estimated to be \$1,436,300.00 (459 initial violations x \$100 + 6,952
24 subsequent violations x \$200). A discount of 80% was applied to account for the
25 risks associated with Defendant's arbitration agreements and demonstrating
26 manageability (bringing the value of civil penalties closer to \$287,260.00), a
27 discount of 65% was applied to account for the risks associated with succeeding
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on the merits and establishing liability (bringing the value of civil penalties closer to \$100,541.00), and a discount of 55% was applied to account for the risks associated with the Court exercising its discretion to reduce and/or assess lower penalties and obtaining a recovery (bringing the value of civil penalties closer to \$45,243.45).

57. Alternate Valuations (Per Capita Basis): The manner in which civil penalties could be assessed involved some uncertainty, for example, the Court could exercise its discretion to assess penalties on a per-pay-period basis or, assess penalties on a per-person (i.e. per capita) basis, or some other methodology that still factors in the statutorily-denominated dollar amounts of civil penalties at the outset. While the per-pay-period valuation set forth above would seem to indicate a range of penalties between about \$175,000 to \$7 million (with the lower-end figure taking into account the various risks for purposes of Settlement), if civil penalties were assessed on a per capita basis instead, for example, in the amount of \$1,950 for each of 459 individuals, this would yield potential civil penalties in the amount of \$895,050.00, and discounting that amount of civil penalties by 80% for risks associated with Defendant's arbitration agreements and demonstrating manageability, succeeding on the merits and establishing liability, the possibility of the Court exercising its discretion to reduce and/or assess lower penalties, and obtaining a recovery, brings the risk-adjusted value of civil penalties closer to \$179,000.00.

58. Alternate Valuations (Unstacked Basis): Another more conservative method of evaluating PAGA claims is to calculate PAGA exposure on an unstacked basis – meaning a maximum of one PAGA penalty per pay period. *Merante v. American Institute for Foreign Study, Inc.* (N.D. Cal. 2022) 2022 WL 2918896, *6. Under this method, the default PAGA civil penalty of \$100 per pay period is applied to each pay period (i.e., 7,411 pay periods x \$100 civil penalties), resulting in unstacked civil penalties exposure of \$741,100.00, and discounting that amount of civil penalties by 80% for risks associated with Defendant's arbitration agreements and demonstrating manageability, succeeding on the merits and establishing liability, the possibility of the Court exercising its discretion to reduce and/or assess lower penalties, and

obtaining a recovery, brings the risk-adjusted value of civil penalties closer to \$148,220.00. In all three scenarios, the risk-adjusted value is no more than about \$179,000.00.

59. The Settlement of \$300,000.00 represents an excellent resolution of the claims without the need to take on the risks and delays associated with taking the claim to trial, where nothing may be awarded, and/or further delays through years of appeals. The foregoing discussion confirms that the amount of the Settlement is adequate in light of the legal basis, facts, evidence, and circumstances in connection with Plaintiff's allegations and the PAGA claim. The conclusion to be drawn from the foregoing analysis is that neither liability nor the ability to adjudicate and/or recover civil penalties on a representative basis is clear-cut, which is why the Parties elected to settle this matter. Plaintiff's Counsel considered the defenses asserted, information and evidence obtained, and circumstances in this case, which posed risks to representative adjudication and monetary recovery. Plaintiff's Counsel also considered the fact that, by law, the Court has the discretion to reduce and/or assess lower penalties, that it was not clear that heightened penalties would apply, and that stacking and/or cumulative penalties may not be allowed.

ATTORNEYS' FEES REQUESTED BY PLAINTIFF'S COUNSEL

60. As set forth more fully in the accompanying Motion, Plaintiff's Counsel seeks attorneys' fees in the amount of thirty-five percent (35%) of the Total Settlement Amount (i.e. \$105,000 if the Total Settlement Amount remains \$300,000). Pursuant to the contingency-fee agreement entered into by and between Plaintiff and Plaintiff's Counsel, Plaintiff has agreed to a contingency-fee of at least thirty-five percent (35%) of the recovery. The attorneys' fees sought are commensurate with: (1) the risk that Plaintiff's Counsel took in commencing the case; (2) the time, effort, and expense that Plaintiff's Counsel dedicated to the case; (3) the skill and determination that Plaintiff's Counsel has shown; (4) the results that Plaintiff's Counsel has achieved throughout the litigation; (5) value of the settlement that Plaintiff's Counsel has achieved in the case; and (6) the other cases that Plaintiff's Counsel has turned down in order to devote its time and efforts to this case.

61. Plaintiff's Counsel has performed many hours of work in connection with prosecuting this matter such that the requested attorneys' fees award is also justified under a lodestar analysis. Attorneys at Lawyers for Justice, PC have spent a total of **240.70 hours** performing tasks to obtain a recovery on behalf of Plaintiff, the State of California, and the Aggrieved Employees. Attached hereto as "**EXHIBIT 3**" is an Attorney Task and Time Chart that sets forth in detail the nature of the legal services provided by attorneys at Lawyers for Justice, PC and the time incurred in performing those services. These hours include work done by several attorneys at the firm. Also, separate from the hours referenced herein and in the chart, Lawyers for Justice, PC had litigation support personnel actively engaged in assisting with the prosecution of the case.

62. The work performed in this particular case, the background of Lawyers for Justice PC, as well as the individual backgrounds, training, and experience of the attorneys who worked on this matter, in litigating complex wage-and-hour class and PAGA representative actions, support a reasonable blended hourly rate of compensation of at least \$850 for work performed by Plaintiff's Counsel. The base lodestar value of Plaintiff's Counsel attorneys' fees is thus \$204,595.00 (\$850 x 240.70 hours). Lawyers for Justice, PC has been awarded attorneys' fees, compensating the firm at the rate of at least \$850 per hour for legal services performed, by courts granting approval of wage and hour class action and/or representative action settlements in other cases: final approval of the class and representative action settlement in *David Dugan v. TEC Equipment, Inc., et al.* (Los Angeles Superior Court Case No. 19STCV01591) was granted on July 8, 2021, and the award of attorneys' fees involved an hourly rate of \$936.47; final approval of the class and representative action settlement in *Larry Greenwood, et al. v. Scan Health Plan* (Los Angeles Superior Court Case No. BC715157) was granted on April 20, 2021, and the award of attorneys' fees involved an hourly rate of \$919.57; final approval of the class and representative action settlement in *Seth Swan v. Pace Supply Corp.* (Sonoma County Superior Court Case No. SCV258764) was granted on February 6, 2019, and the award of attorneys' fees involved an hourly rate of \$855.96.

LITIGATION COSTS AND EXPENSES INCURRED BY PLAINTIFF'S COUNSEL

63. The Settlement provides for reimbursement of litigation fees and costs and of up to \$18,500.00. Plaintiff's Counsel seeks reimbursement of only \$16,153.22 for actual litigation costs and expenses incurred in this case, as reflected in the Case Cost Detail attached hereto as "EXHIBIT 7." It should be noted that Plaintiff's Counsel has borne all of the risks and costs of litigation to date and will not receive any compensation until a recovery is obtained in this matter. These costs and expenses were reasonable and necessary in the prosecution of this matter and to obtain the Settlement. The amount sought for reimbursement is less than the maximum amount (\$18,500.00) allocated under the Settlement Agreement for reimbursement of litigation costs and expenses. The cost savings of \$2,346.78 will be part of the Net Settlement Amount.

GENERAL RELEASE FEE TO PLAINTIFF

64. For his broader individual waiver and release of claims with a California Civil Code Section 1542 waiver (set forth in Section 8(b) of the Settlement Agreement), the Settlement provides General Release Fee to Plaintiff in the total amount of \$10,000.00 to be paid out of the Total Settlement Amount, subject to approval by the Court. The requested General Release Fee is fair and appropriate.

65. Significantly, Plaintiff has agreed to provide a broad general release of all claims as set forth in Section 8(b) of the Settlement Agreement, which neither the LWDA nor any aggrieved employee is providing as part of this Settlement, in exchange for the \$10,000 General Release Fee. Plaintiff's Counsel believes that Plaintiff's broad general release of all claims is, in and of itself, worth the \$10,000 General Release Fee. Unlike other cases with multiple plaintiffs each obtaining general release fees (which can total upwards of \$40,000 or \$50,000), there is only one named Plaintiff who was willing to prosecute this action and a \$10,000 General Release Fee is warranted.

66. As further support for the General Release Fee, it is also worth noting that Plaintiff has undertaken significant efforts and work to spearhead the pursuit of this matter. By

1 initiating and pursuing this matter, Plaintiff stepped into the shoes of the State of California and
2 undertook the responsibilities of serving in a representative capacity. Plaintiff has spent a
3 substantial amount of time and effort discussing his employment with his counsel, gathering and
4 producing relevant documents and information, and providing the facts and evidence necessary
5 to attempt to prove the allegations. Plaintiff was available whenever his counsel needed him and
6 actively tried to obtain and provide information that would facilitate the pursuit of the PAGA
7 claim.

8 67. It should also be noted that section 2699(g)(1) of the pre-amendment version of
9 the PAGA statute enshrines that it shall not “operate to limit an employee’s right to pursue or
10 recover other remedies available under state or federal law, either separately or concurrently with
11 an action taken” under the statute. (All citations and references to the PAGA statute in this
12 matter, including and not limited to, in the Settlement Agreement, this declaration, and related
13 documents, are to the version of the statute prior to the amendment effective July 1, 2024; the
14 amended statute does not apply to this matter and the Settlement pursuant to California Labor
15 Code section 2699(v), as amended, because the original PAGA notice was submitted to the
16 LWDA on September 13, 2021, respectively, which were before June 19, 2024.) As such, it is
17 appropriate for Plaintiff to receive the General Release Fee for his broader general release of
18 individual claims, which includes releasing claims against Defendant, relating to his traumatic
19 experiences, that he considers to be very valuable.

20 68. Plaintiff also provides a Declaration in support of the First Amended Motion
21 (concurrently filed herewith) which details the nature and significant of the individual claims that
22 he is releasing in exchange for the General Release Fee.

23 69. Finally, The LWDA has also been a proponent of plaintiffs in PAGA
24 representative actions receiving incentive awards for their work in prosecuting PAGA lawsuits
25 because PAGA representatives bear risks in bringing such actions. Attached as “**EXHIBIT 8**” is
26 a true and correct copy of a brief submitted by the LWDA in advocating for the court awarding
27 PAGA representatives with significant incentive payments.

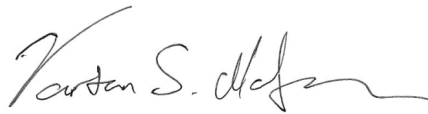
1 70. Accordingly, it is appropriate and just for Plaintiff to receive a General Release
2 Fee, in addition any individual penalties payment he will receive as an aggrieved employee.

3 71. Plaintiff's Counsel submits that the Settlement fulfills the purpose of the PAGA
4 statute, is within the accepted range of recoveries for this type of litigation, and is fair,
5 reasonable, and adequate given the substantial monetary benefits provided for by the Settlement,
6 the strengths and weaknesses of this case, and the inherent delay, costs, risks, and uncertainty
7 associated with continued litigation.

8 72. Finally, as requested by the Court's February 7, 2025 Order, attached hereto as
9 "EXHIBIT 9" is a redlined (i.e. track changes) version of the First Amended Motion which
10 shows all revisions made from the Original Motion to the First Amended Motion.

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

13 Executed this 21st day of July 2025, at Glendale, California.

14
15 

16 _____
Vartan Madoyan
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EXHIBIT 1

LAWYERS FOR JUSTICE[®]

September 13, 2021

BY ONLINE SUBMISSION

California Labor & Workforce Development Agency
PAGAfilings@dir.ca.gov

Re: PAC AUTO GROUP INC.

Dear Representative:

We have been retained to represent Iftikhar Khan against Pac Auto Group Inc. (including any and all affiliates, subsidiaries, parents, directors, officers, agents, and executive employees) (collectively referred to as "PAC Auto Group") for violations of California wage-and-hour laws. Mr. Khan seeks penalties for violations of the California Labor Code, which are recoverable under California Labor Code section 2698, et seq., the Labor Code Private Attorneys General Act of 2004 ("PAGA") and all other remedies available under PAGA.

Mr. Khan seeks these remedies on behalf of the State of California and "aggrieved employees," as defined herein. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

PAC Auto Group employed Mr. Khan as an hourly-paid, non-exempt employee from approximately July 2020 to approximately January 2021, in the State of California.

The "aggrieved employees" that Mr. Khan may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California, including, but not limited to all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California who earned shift differentials/non-discretionary bonuses/non-discretionary performance pay which was not used to calculate the correct regular rate of pay used to calculate the overtime rate.

Based on the following facts and theories, PAC Auto Group has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and IWC Wage Orders including *inter alia*, Wage Orders 4-2001 and 7-2001.

PAC Auto Group required aggrieved employees to perform work before their scheduled shifts, after their scheduled shifts, during off-the-clock meal breaks, and/or during rest breaks and failed to compensate aggrieved employees for this time. Such work included, but was not limited to, waiting in line to clock into work and assisting customers.

California Labor Code sections 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Mr. Khan and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week. Therefore, Mr. Khan and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each meal or rest period that is not provided. During the relevant time period, PAC Auto Group required Mr. Khan and other aggrieved employees to work during meal and rest periods and failed to compensate them properly for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods. PAC Auto Group also required aggrieved employees to stay on work premises during rest periods.

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant time period, PAC Auto Group failed to pay Mr. Khan and other aggrieved employees all wages due to them within any time period specified by California Labor Code sections 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, PAC Auto Group failed to pay Mr. Khan and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, PAC Auto Group did not provide Mr. Khan and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from PAC Auto Group were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include the total hours worked by Mr. Khan and other aggrieved employees, including time spent working off-the-clock and during meal and rest periods as discussed above.

California Labor Code sections 551 and 552 require that every person employed in any occupation of labor is entitled to one day's rest in a seven-day workweek, that no employer of labor shall cause his employees to work more than six days in a workweek, and that an employer shall pay a civil penalty in the amounts of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation. During the relevant time period, Mr. Khan and the aggrieved employees were required to regularly and/or consistently work in excess of six (6) days in a workweek. During the relevant time period, Mr. Khan and the aggrieved employees were required to work in excess of thirty (30) hours in a week and/or six (6) hours in any one (1) day thereof, during workweeks in which they were required to work in excess of six (6) days. During the relevant time period, Mr. Khan and the aggrieved employees were required to work in excess of six (6) days in a workweek without accumulating or being provided the opportunity to take at least one (1) day of rest, and when Mr. Khan and the aggrieved employees accumulated days of rest, they were not actually provided the opportunity to take the equivalent of one (1) day's rest in seven (7) during each calendar month.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, PAC Auto Group failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by Mr. Khan and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code sections 1194, 1197, and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, PAC Auto Group did not provide Mr. Khan and other aggrieved employees with the minimum wages to which they were entitled for work performed "off-the-clock."

California Labor Code section 1198 provides that "The employment of any employee ... under conditions of labor prohibited by the [Industrial Wage Orders] is unlawful." The applicable Industrial Wage Orders, including *inter alia*, Wage Orders 4-2001 and 7-2001, require that for each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay. Further, if an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay. During the relevant time period, PAC Auto Group failed to pay Mr. Khan and other aggrieved employees half the usual or scheduled day's work in an amount no less than two (2) hours nor more than four (4) hours at the employee's regular rate of pay for workdays in which Mr. Khan and the other aggrieved employees reported to work and were furnished less than half the usual or scheduled day's work. During the relevant time period, PAC Auto Group failed to pay Mr. Khan and other aggrieved employees for two (2) hours at the employee's regular rate of pay on days in which Mr. Khan and the other aggrieved employees were required to report for

work a second time in one workday and were furnished less than two (2) hours of work upon the second reporting.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant time period, Mr. Khan and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by PAC Auto Group. These costs include, but are not limited to, the use of personal phones for work-related purposes, the use of personal vehicles for work-related purposes, the purchase and maintenance of shoes in compliance with the dress code, the purchase of tools and supplies, including personal protective equipment, folders, and pens.

Therefore, on behalf of all aggrieved employees, Mr. Khan seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the Labor and Workforce Development Agency, for violation of the California Labor Code pursuant to PAGA, including civil penalties pursuant to Labor Code section 558.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

With kind regards,

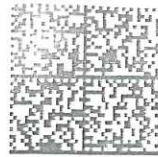


Edwin Aiwazian, Esq.

Cc: (By U.S. Certified Mail / Return Receipt Requested)

PAC Auto Group Inc.
c/o Hossein Yazdani
Agent for Service of Process
16416 Valley Blvd
Fontana, CA 92335

PITNEY BOWES
\$7.750
US POSTAGE
CORRECTION
025W000487810
ZIP 91203
SEP 13 2021



7018 1830 0001 8867 2035
7018 1830 0001 8867 2035

LAWYERS FOR
JUSTICE
A PROFESSIONAL CORPORATION

410 WEST ARDEN AVENUE, SUITE 203
GLENDALE, CALIFORNIA 91203

U.S. Postal Service™ **PAC/A NTC IFTIKHAR KHA**
CERTIFIED MAIL® RECEIPT v. PAC AUTO
Domestic Mail Only GROUP, INC.

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy)	\$
☐ Return Receipt (electronic)	\$
☐ Certified Mail Restricted Delivery	\$
☐ Adult Signature Required	\$
☐ Adult Signature Restricted Delivery	\$

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PAC Auto Group Inc.
c/o Hossein Yazdani
Agent for Service of Process
16416 Valley Blvd
Fontana, CA 92335

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

PAC/A NTC

CERTIFIED MAIL

SENDER: COMPLETE THIS SECTION

- ☒ Complete items 1, 2, and 3.
- ☒ Print your name and address on the reverse so that we can return the card to you.
- ☒ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

PAC Auto Group Inc.
c/o Hossein Yazdani
Agent for Service of Process
16416 Valley Blvd
Fontana, CA 92335



9590 9402 5372 9189 8436 96

2. Article Number (Transfer from service label)

7018 1830 0001 8867 2035

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Yes
☐ No

3. Service Type

- | | |
|--|---|
| ☐ Adult Signature | ☐ Priority Mail Express® |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☐ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☐ Return Receipt for Merchandise |
| ☐ Collect on Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery Restricted Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Mail Restricted Delivery (00) | |

Domestic Return Receipt

Certified Mail
■ A receipt (this card)
■ A unique identifier
■ Electronic verification of delivery
■ A record of delivery (signature) that can be used for a specified period of time
Important Reminders
■ You may purchase First-Class Mail® or Priority Mail®
■ Certified Mail service is available for international mail
■ Insurance coverage is provided for Certified Mail and Registered Mail. For Certified Mail, insurance coverage is up to \$500. For Registered Mail, insurance coverage is up to \$5,000. For an additional endorsement on the following services, a separate Return Receipt of Delivery (PS Form 3800, available at www.usps.com) must be attached. You can request electronic verification of delivery on a complete PS Form 3800, available at www.usps.com.
Receipt; attach to back of mailpiece.

PS Form 3800, July 2015 PSN 7530-02-000-9053

EXHIBIT 2

FEB 07 2025

Amie Arroyo

Amie Arroyo

Superior Court of California
County of San Bernardino
247 West Third Street, S-
San Bernardino, CA 92415-0210

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN BERNARDINO, SAN BERNARDINO DISTRICT

IFTIKHAR KHAN., an individual on behalf
of himself and all similarly situated
employees,

Plaintiffs,

vs.

PAC AUTO GROUP, INC., a California
Corporation, and DOES 1 through 100,
inclusive,

Defendants

Case No.: CIVSB2132675

**ORDER CONTINUING PLAINTIFFS'
MOTION FOR PRELIMINARY
APPROVAL OF PAGA SETTLEMENT
AND ORDER FOR REVISIONS**

The Court has reviewed Plaintiffs' Motion for Preliminary Approval of PAGA Settlement. The Motion and its supporting papers are deficient for the reasons stated below.

1. The Motion does not discuss any related matters in all jurisdictions throughout California, nor does it discuss other matters potentially influenced by this settlement. The Court will not grant preliminary or final approval without this information.

ORDER CONTINUING PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF PAGA

SETTLEMENT AND ORDER FOR REVISIONS - 1

1 2. Neither the motion nor the declarations provide any calculations for
2 maximum exposure, reasonable exposure, or give any indication as to how the
3 figure of \$300,000 was achieved as a "reasonable" settlement. The Court will not
4 grant preliminary or final approval without a demonstration of the reasonability of
5 the settlement figure.

6 3. Average, high, and low recovery figures were not provided. By the
7 Court's calculation, the average recovery is approximately \$88.00. Based on the
8 scant information provided, this does not appear reasonable on its face,
9 particularly due to the lack of calculations to achieve the settlement figure.

10 4. The Court will not award attorney's fees higher than 1/3 of the
11 settlement amount. Plaintiff has not demonstrated that the work performed
12 deserves an award beyond 1/3 of the settlement amount. The court declines to
13 award \$12,500 in mediation fees as a "cost," particularly with regards to the
14 amount of fees versus the average recovery.

15 5. The Court will not award an enhancement award higher than
16 \$2,500 to Plaintiff Iftikhar Khan for 22 hours of work over several years, based on
17 his own declaration.

18 6. It is unclear if the Notice/Cover Letter (Soto Decl., Exh. 1) will be
19 distributed in more than one language. If the letter will only be provided in
20 English, counsel must discuss why.

21 7. The moving papers do not establish service on the LWDA.

22 8. The Proposed Order Granting Preliminary Approval does not attach
23 a copy of the Settlement Agreement.

24 9. The Motion does not contain proposed dates for all future events
25 contemplated, including a proposed date for the final approval hearing.

26 Any additions or revisions to the motion for preliminary approval and/or
27 supporting papers shall be re-filed by March 21, 2025 and lodged directly in S33 by 3:00
28 p.m. on the same date. The revised papers must include both a clean copy and a copy

1 with "track changes" turned on so the Court can visually inspect the changes. If the
2 information requested above was already discussed or presented in the original moving
3 papers and/or supporting declarations, the revised motion must be resubmitted with this
4 information highlighted or bolded. Finally, the revisions must be labeled as "First
5 Amended" in the respective captions so the Court can easily differentiate between the
6 original filing and the first amended filing.

7 The hearing is continued to April 7, 2025, at 8:30 a.m. in Department S33 of the
8 San Bernardino County Superior Court.

9
10 Dated this 7th of February, 2025

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13 _____
14 Stephanie J. Tañada, San Bernardino
15 Superior Court Judge
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EXHIBIT 3

IFTIKHAR KHAN V. PAC AUTO GROUP, INC.
San Bernardino County Superior Court, Case No. CIVSB2132675

ATTORNEY TASK AND TIME CHART

TASK	LAWYERS <i>for</i> JUSTICE, PC
Investigation and Research / Due Diligence	
Meet and Communicate with Plaintiff Iftikhar Khan (“Plaintiff”) During the Case	21.50
Investigate, Communicate with, and/or Interview Aggrieved Employees and/or Percipient Witnesses	7.50
Pleadings and Court Filings	
Investigate the Merits of Plaintiff’s PAGA Claim, Conduct Legal Research and Analysis of PAGA Claim, and Draft Plaintiff’s Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. (filed on November 17, 2021)	7.80
Review and Analyze Defendant PAC Auto Group, Inc.’s (“Defendant”) Answer to Plaintiff’s Complaint (filed on February 17, 2022), and Research Affirmative Defenses in Defendant’s Answer	1.50
Review Court’s Notice of Re-Assignment of Case for All Purposes (issued on October 18, 2024)	0.10
Discovery and Deposition	
Draft Letter to Defendant Re: Request for Personnel File, Pay Stubs, and Time Records for Plaintiff (served on June 9, 2021)	1.90
Draft Additional Letter to Defendant Re: Request for Personnel File, Pay Stubs, and Time Records for Plaintiff (served on July 1, 2021)	0.50
Draft Additional Letter to Defendant Re: Request for Personnel File, Pay Stubs, and Time Records for Plaintiff (served on July 13, 2021)	0.50

Review and Analyze Documents Produced by Defendant in Response to the Request for Personnel File, Pay Stubs, and Time Records for Plaintiff (received on August 25, 2021)	3.60
Draft Plaintiff's Notice of Deposition of Person Most Knowledgeable at Defendant PAC Auto Group, Inc., and Requests for Production of Documents (Organizational Structure; noticed for May 12, 2022) (served on March 24, 2022)	1.40
Draft Plaintiff's Notice of Deposition of Person Most Knowledgeable at Defendant PAC Auto Group, Inc., and Requests for Production of Documents (Wage and Hour Practices; noticed for May 13, 2022) (served on March 24, 2022)	1.60
Draft Plaintiff's Form Interrogatories – General (Set One), Special Interrogatories (Set One), Special Interrogatories (Set Two), and Requests for Production of Documents (Set One) to Defendant PAC Auto Group, Inc. (served on March 24, 2022)	4.40
Review Defendant's Objection to Plaintiff's Notices for Depositions of Persons Most Knowledgeable at Defendant PAC Auto Group, Inc., and Requests for Production of Documents (served on May 6, 2022)	0.40
Review Defendant's Responses and Objections to Plaintiff's Form Interrogatories – General (Set One), Special Interrogatories (Set One), Special Interrogatories (Set Two), and Requests for Production of Documents (Set One) (served on May 9, 2022)	6.50
Draft Plaintiff's Amended Notice of Deposition of Person Most Knowledgeable at Defendant PAC Auto Group, Inc., and Requests for Production of Documents (Organizational Structure and Wage and Hour Practices; noticed for June 21, 2022) (served on May 24, 2022)	1.80
Review Defendant's Objection to Plaintiff's Notice for Depositions of Person Most Knowledgeable at Defendant PAC Auto Group, Inc., and Requests for Production of Documents (served on June 16, 2022)	1.10
Prepare for and Take the Deposition of Defendant's Person Most Knowledgeable (June 21, 2022; Videoconference) and Review Deposition Transcript	11.50
Letters and Correspondence	
Draft Notice to California Labor and Workforce Development Agency Re: Claim of Plaintiff Under the Private Attorneys General Act (served on April 5, 2021)	4.50

Draft Correspondence to, Meet and Confer with, and/or Respond to Correspondence from, Defendant's Counsel	20.50
Mediation/Settlement	
Review and Analyze Information, Data, and Documents Obtained from Plaintiff, Defendant, and Other Sources Prior to Mediation	57.50
Prepare for Mediation, Including Researching Settlement-Related and Merits-Related Issues, Drafting the Mediation Brief, Compiling the Mediation Exhibits in Support of Plaintiff's Mediation Brief, and Performing Penalties Analysis and Calculations (submitted on July 20, 2023)	33.10
Attend Mediation Session (July 27, 2023, via Videoconference)	8.50
Draft, Review, Revise, Negotiate, and Finalize Private Attorneys General Act Settlement Agreement and Release and Cover Letter (signed on November 1, 2024)	12.50
Law and Motion	
Research and Draft Plaintiff's Notice of Motion and Motion for Approval of Private Attorneys General Act (Cal. Labor Code § 2698, Et Seq.) Settlement Agreement, and Award of Attorneys' Fees and Costs, General Release Fee, and Settlement Administration Costs, Declaration of Matthew Richard Soto in Support Thereof, Declaration of Plaintiff in Support Thereof, and [Proposed] Order and Judgment (filed on December 12, 2024)	17.50
Review Court Order Continuing Plaintiff's Motion for Preliminary Approval of PAGA Settlement and Order for Revisions and Minute Order (entered on February 7, 2025)	0.50
Research and Draft Plaintiff's First Amended Notice of Motion and Motion for Approval of Private Attorneys General Act (Cal. Labor Code § 2698, Et Seq.) Settlement Agreement, and Award of Attorneys' Fees and Costs, General Release Fee, and Settlement Administration Costs, Declaration of Vartan Madoyan in Support Thereof, and [Proposed] Order and Judgment	12.50
Total Hours:	240.70

EXHIBIT 4

Steven J. Rottman, LLC
495 Slate River Dr
Crested Butte, CO 81224
+1 3107510114
steve@steverottman.com
www.steverottman.com

steve mediator rottman

BILL TO

Mr. Edwin Aiwarzian
Lawyers for Justice, PC
410 West Arden Avenue, Suite
203
Glendale, CA 91203

INVOICE # 4760

DATE 01/26/2023

TERMS Due on receipt

AMOUNT

12,500.00

15478

23-0727 - Khan v. PAC Auto Group, Inc.

BALANCE DUE

\$12,500.00



Payment receipt

You paid \$12,500.00

to Steven J. Rottman, LLC on 2/24/2023

Invoice no.	4760
Invoice amount	\$12,500.00
Total	\$12,500.00
No additional transfer fees or taxes apply.	

Status	Paid
Payment method	Bank
Authorization ID	ARH93YHN

Thank you

steve rottman

Steven J. Rottman, LLC

+1 3107510114

www.steverottman.com | steve@steverottman.com

495 Slate River Dr, Crested Butte, CO 81224

Payment services brought by:

Intuit Payments Inc.

2700 Coast Avenue, Mountain

View, CA 94043

Phone number 1-888-536-4801

NMLS #1098819

For more information about Intuit

Payments' money transmission

licenses, please visit

<https://www.intuit.com/legal/licenses/payment-licenses/>.

Khan v. PAC Auto Group (PAGA)
15478

EXHIBIT 5

PAGA NOTICE PUBLIC SEARCH - CASE DETAIL

Case Information

Case Number: LWDA-CM-844386-21
Plaintiff for PAGA Case: Iftikhar Khan
Filer/Attorney for PAGA Case: Edwin Aiwazian
Law Firm for PAGA Plaintiff: Lawyers for Justice, PC
Employer: PAC Auto Group Inc.
Date Case Received:
Employer Filer Firm:
Court Type: California Superior Courts
Court Name: San Bernardino County Superior Court
PAGA Court Case Number: CIV SB 2132675
Violation Type:
Related BOFE Case:

Attachments

Attachment Name	Description	Date Submitted	Type
Additional Document Submitted with Proposed Settlement on 12/17/2024 03:06:04 PM by Matthew Soto	2024.12.17_PAC Auto Group_Decl of IK ISO M4PAGA.pdf	12/17/2024 11:06 PM	Proposed Settlement
Additional Document Submitted with Proposed Settlement on 12/17/2024 03:06:04 PM by Matthew Soto	2024.12.17_PAC Auto Group_Decl of MS ISO M4PAGA.pdf	12/17/2024 11:06 PM	Proposed Settlement
Additional Document Submitted with Proposed Settlement on 12/17/2024 03:06:04 PM by Matthew Soto	2024.12.17_PAC Auto Group_POS re M4PAGA.pdf	12/17/2024 11:06 PM	Proposed Settlement
Additional Document Submitted with Proposed Settlement on 12/17/2024 03:06:04 PM by Matthew Soto	2024.12.17_PAC Auto Group_PO M4PAGA.pdf	12/17/2024 11:06 PM	Proposed Settlement
Court Complaint Submitted on 01/13/2022 03:33:59 PM by Edwin Aiwazian	2021.11.17_Complaint.pdf	1/13/2022 11:34 PM	Court Complaint
PAGA Notice Submitted on 09/13/2021 01:49:04 PM by Edwin Aiwazian	2021.09.13_PAGA Notice_Khan v. PAC Auto Group Inc. (Certified).pdf	9/13/2021 8:49 PM	PAGA Notice
Proposed Settlement Submitted on 12/17/2024 03:06:04 PM by Matthew Soto	2024.12.17_PAC Auto Group_M4PAGA.pdf	12/17/2024 11:06 PM	Proposed Settlement

EXHIBIT 6

**PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND
RELEASE**

This Private Attorneys General Act Settlement Agreement and Release (“Settlement Agreement” or “Settlement”) is entered into by and between Iftikhar Khan (“Plaintiff”), for himself and as a representative of the State of California with respect to the Aggrieved Employees (as defined in Section 3(a)(5) below) and Pac Auto Group, Inc. (“Defendant”), subject to approval by the Court. The term “Party” or “Parties” as used herein shall refer to Plaintiff, Defendant, or both, as may be appropriate.

1. **Recitals.** This Settlement Agreement is made with reference to the following facts:

(a) On September 13, 2021 Lawyers *for* Justice, PC (“Plaintiff’s Counsel”), submitted a letter on behalf of Plaintiff to the California Labor and Workforce Development Agency (“LWDA”) and Defendant, to notify the LWDA and Defendant, pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”) of Plaintiff’s intent to seek civil penalties under PAGA for Defendant’s alleged violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001 and 7-2001, thereby initiating LWDA Case Number LWDA-CM-844386-21 (the “PAGA Notice”);

(b) On November 17, 2021, Plaintiff filed his Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et Seq.* (“Operative Complaint”), commencing a representative action under PAGA against Defendant, entitled *Iftikhar Khan v. PAC Auto Group Inc.*, San Bernardino County Superior Court Case No. CIVSB32675 (the “Action”). The Operative Complaint asserts a single cause of action for civil penalties under PAGA, for violations of multiple provisions of the California Labor Code and applicable Industrial Welfare Commission Wage Orders;

(d) On July 10, 2023, the Parties mediated the Action with Steve Rottman, Esq. and, with the aid of the mediator’s evaluation, the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety;

(e) There has been no determination on the merits of the Action or the PAGA Notice but, in order to avoid additional cost and the uncertainty of litigation, the Parties desire to resolve the Action and Released Claims (as defined in Section 8(a) below).

2. **No Admission of Wrongdoing.** The Parties agree that neither this Settlement Agreement nor the furnishing of the consideration for this Settlement Agreement shall be deemed or construed at any time for any purpose as an admission by the Released Parties of wrongdoing or evidence of any liability or unlawful conduct of any kind.

3. **Consideration.**

(a) In consideration for Plaintiff signing this Settlement Agreement and complying with its terms, Defendant shall pay the maximum gross sum of Three Hundred Thousand Dollars and Zero Cents (\$300,000.00) (the “Total Settlement Amount”) to resolve the Action and Released Claims (as defined herein), which will be paid as follows:

(1) Attorneys' fees in the amount of thirty-five percent (35%) of the Total Settlement Amount, which is One Hundred and Five Thousand Dollars and Zero Cents (\$105,000.00) if the Total Settlement Amount remains \$300,000.00, and reimbursement of actual litigation costs and expenses up to the amount of Eighteen Thousand Five Hundred Dollars and Zero Cents (\$18,500.00) (collectively, "Attorneys' Fees and Costs") to Plaintiff's Counsel, which Defendant will not contest.

(2) A general release fee of up to the amount of Ten Thousand Dollars and Zero Cents (\$10,000.00) ("General Release Fee") to Plaintiff, which Defendant will not contest.

(3) Costs and expenses of administration of the Settlement up to the amount of Seven Thousand Dollars and Zero Cents (\$7,000.00) ("Settlement Administration Costs") to Phoenix Class Action Administration Solutions (the "PAGA Settlement Administrator").

(4) The amounts stated in Sections 3(a)(1) – 3(a)(3) above, once approved by the Court, shall be paid from the Total Settlement Amount. The balance remaining after these deductions is referred to as the "Net Settlement Amount."

(5) Seventy-five percent (75%) of the Net Settlement Amount will be distributed to the LWDA ("LWDA Payment"); and the remaining twenty-five percent (25%) will be distributed to all current and former hourly-paid or non-exempt employees who worked for Defendant in the State of California during the PAGA Period (the "Aggrieved Employees"). The period through and including September 13, 2020 to ninety (90) days after execution of this Settlement Agreement is the "PAGA Period." The 25% portion of the Net Settlement Amount payable to Aggrieved Employees is referred to as the "Employees' Portion."

(b) The Aggrieved Employees are estimated to consist of approximately 459 individuals who worked approximately 7,411 Compensable Pay Periods. If the actual number of Compensable Pay Periods during the PAGA Period is more than ten percent (10%) above 7,411, the Total Settlement Amount will be increased by the percentage that the actual number exceeds 7,411 Compensable Pay Periods.

(c) Because this is a settlement of PAGA claims for civil penalties only, no portion of the Settlement is allocated to unpaid wages. One Hundred Percent (100%) of the payments for Attorneys' Fees and Costs, General Release Fee, and the Net Settlement Amount to be paid to the LWDA and Aggrieved Employees as described in Section 3(a) above will be treated and reported for tax purposes as non-wage payments and the PAGA Settlement Administrator will be responsible for issuing IRS Forms 1099 as required.

4. **Court Approval is Required.** Plaintiff understands and agrees that the State of California and Aggrieved Employees, including Plaintiff, would not receive the consideration specified in Section 3(a) above, except for Plaintiff's execution of this Settlement Agreement, and the fulfillment of the promises contained herein, as well as Court approval of the Settlement. If this Settlement Agreement is not approved by the Court, it shall be null and void.

5. **Disbursal of Settlement Funds.**

(a) Subject to Section 4 above, Defendant shall remit to the PAGA Settlement Administrator the sums described more fully in Section 3(a) above, after all of the following has occurred: (i) the Settlement Agreement is fully executed by all Parties and their counsel; and (ii) the Court has entered an order approving the Settlement Agreement.

(b) Upon complete distribution of the Total Settlement Amount by the PAGA Settlement Administrator in accordance with this Settlement Agreement, the PAGA Settlement Administrator will notify the Parties of distribution of the entire Total Settlement Amount.

6. **Approval and Implementation of the PAGA Settlement.**

(a) The Parties are aware that some courts have approved a PAGA settlement and entered an order approving the settlement and judgment and thereafter closed the case, while others have approved a PAGA settlement and entered only an order approving the settlement with later instructions to file a request for dismissal of the action. The Parties agree to cooperate and take any and all steps required by the Court in the Action to implement the settlement and terminate the Action pursuant to settlement (i.e., to terminate the Action by way of judgment or dismissal).

(b) The Parties further agree to cooperate in the drafting and/or filing of any further documents and/or filings reasonably necessary to be prepared and/or filed, and to take all steps that may be requested by the Court in order to obtain approval and implementation of this Settlement Agreement, and the payments described in Section 3(a) above.

(c) The Parties shall seek to obtain Court approval of this Settlement Agreement by way of an unopposed motion to be filed by Plaintiff's Counsel. Plaintiff's Counsel shall provide a draft of all documents to be submitted in connection with the motion to approve this Settlement Agreement to Brett Wiseman of Madison Law, APC ("Defendant's Counsel") for review; Defendant's Counsel will be given an opportunity to comment on the papers prior to their being filed with the Court, and such comments will be implemented to the extent reasonable.

(d) The Parties expressly acknowledge that the Court's approval of the Settlement Agreement is a condition precedent to any payments described in this Settlement Agreement. Therefore, the Parties further acknowledge that, should the Court not grant approval of this Settlement Agreement and/or should the Court refuse to grant judgment or dismissal of the Action and close the Action based on the Settlement, the entirety of this Settlement Agreement shall be null and void.

7. **Payment of Total Settlement Amount / Notice to Recipients.**

(a) Subject to Court approval of this Settlement Agreement, payment of the sums described in Section 3(a) above shall be made by Defendant by transmitting the required sums to a qualified settlement account established by the PAGA Settlement Administrator for administration of this Settlement, within fourteen (14) calendar days of the Court's order granting approval of this Settlement Agreement. If the date by which payment by Defendant is due falls on a Saturday, Sunday or legal holiday in the State of California, then the due date shall be extended the next following day which is not a Saturday, Sunday or legal holiday in the State of California.

(b) Each Aggrieved Employee will be entitled to a *pro rata* share of 25% of the Net Settlement Amount (i.e., the Employees' Portion) based upon the number of pay periods they each worked during the PAGA Period ("Compensable Pay Periods"), which will be calculated by the PAGA Settlement Administrator. Specifically, to calculate each Aggrieved Employee's share of the Employees' Portion ("Individual Settlement Share"), the PAGA Settlement Administrator shall: (i) for each Aggrieved Employee, divide the number of Compensable Pay Periods he or she individually worked by the total aggregate number of Compensable Pay Periods worked by all Aggrieved Employees, and then (ii) multiply this amount by the Employees' Portion to arrive at each Aggrieved Employee's Individual Settlement Share.

(1) One Hundred Percent (100%) of all Individual Settlement Shares are to be considered penalties and the PAGA Settlement Administrator will not undertake any deductions, withholding, or remittances for local, state, or federal taxes. Aggrieved Employees' Individual Settlement Shares will be reported on an IRS Form 1099, as required by the IRS.

(c) The PAGA Settlement Administrator shall distribute each Individual Settlement Share by way of check, along with a cover letter ("Cover Letter") agreed to by the Parties and approved by the Court, in substantially the form attached hereto as "Exhibit A", in the following manner:

(1) No later than seven (7) calendar days after the Court's order granting approval of the Settlement, Defendant shall provide the PAGA Settlement Administrator with a list of all Aggrieved Employees (the "Aggrieved Employees List"), containing the following information for each Aggrieved Employee: (i) first and last name; (ii) last known address; (iii) last known telephone number; (iv) Social Security number; (v) dates of employment as an hourly-paid or non-exempt employee in California during the PAGA Period; and, (vi) such other information as is necessary for the PAGA Settlement Administrator to calculate Compensable Pay Periods.

(2) The PAGA Settlement Administrator shall conduct one (1) National Change of Address ("NCOA") search for all individuals identified on the Aggrieved Employees List, and update addresses for Aggrieved Employees to the extent updated addresses are located through the NCOA search.

(3) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall mail the agreed-upon Cover Letter and Individual Settlement Share checks (together, the "PAGA Settlement Package") to all Aggrieved Employees by first-class United States mail. For each PAGA Settlement Package that is returned undeliverable within thirty (30) calendar days of the initial mailing, the PAGA Settlement Administrator shall promptly attempt to locate an alternate, updated address for the Aggrieved Employee at issue, by using a skip-trace search and shall attempt one (1) re-mailing of the PAGA Settlement Package.

(4) The Individual Settlement Share checks issued to Aggrieved Employees shall remain valid for ninety (90) calendar days, and thereafter, shall be canceled. Funds associated with canceled checks shall be transmitted to the State Controller's Office Unclaimed Property Division in the name of the Aggrieved Employee(s) at issue and in the amount of his or her respective Individual Settlement Share(s).

(d) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the LWDA Payment to the LWDA.

(e) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the Attorneys' Fees and Costs to Plaintiff's Counsel, unless instructed otherwise by Plaintiff's Counsel. At the request of Plaintiff's Counsel, the PAGA Settlement Administrator may purchase annuities, utilize United States Treasuries and bonds, or utilize any other attorney fee deferral vehicles and any additional expenses associated with doing so will be paid separately by Plaintiff's Counsel.

(f) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the General Release Fee to Plaintiff.

(g) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the Settlement Administration Costs to itself, only after the PAGA Settlement Packages have been mailed to all Aggrieved Employees.

8. **Release of Claims by Plaintiff, Aggrieved Employees, and the State of California.**

(a) Upon the date the Court has entered an order approving the Settlement Agreement and full funding of the Total Settlement Amount, and except as to the rights and obligations created by this Settlement Agreement, Plaintiff and the State of California with respect to Aggrieved Employees, will be deemed to have knowingly and voluntarily released and forever discharged Defendant, including Defendant's parent corporation, affiliates, subsidiaries, divisions, predecessors, insurers, successors and assigns, and their current and former employees, attorneys, officers, directors and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries and insurers of such plans and programs (collectively, the "Released Parties"), to the full extent permitted by law, of and from the Action and from any and all claims, arising during the PAGA Period, for civil penalties under California Labor Code section 2698, *et seq.* ("PAGA") as well as any interest, fees, and costs available under PAGA, based on the factual allegations in the Operative Complaint, including but not limited to, for failure to pay minimum, regular, and overtime wages, failure to provide compliant meal periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure to timely pay wages during employment, failure to timely pay wages upon termination, failure to provide compliant and accurate wage statements, failure to maintain complete and accurate payroll records, and failure to reimburse necessary business-related expenses and costs, in violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia* Wage Orders 4-2001 and 7-2001 (collectively, the "Released Claims").

(b) Upon the date the Court has entered an order approving the Settlement Agreement and full funding of the Total Settlement Amount, and except as to the rights and obligations created by this Settlement Agreement, Plaintiff, individually and on behalf of his

heirs, executors, administrators, representatives, attorneys, successors and assigns, will be deemed to have knowingly and voluntarily released and forever discharged Released Parties, to the full extent permitted by law, from any and all claims of every nature whatsoever, known or unknown, suspected or unsuspected, which Plaintiff has or may have as of the date the Court has entered an order approving the Settlement Agreement. This broader release includes, but is not limited to, all claims arising directly or indirectly from Plaintiff's employment with Defendant and the termination of that employment, including without limitation claims arising under federal, state, or local laws and claims for unpaid wages, penalties, liquidated damages, breach of contract, breach of the implied covenant of good faith and fair dealing, infliction of emotional distress, wrongful or retaliatory discharge, harassment, discrimination, defamation, impairment of economic opportunity, and violations of public policy, the Fair Labor Standards Act, the California Labor Code, the California Fair Employment and Housing Act, the California Business and Professions Code, the California Constitution, the Civil Rights Act of 1866, Title VII of the Civil Rights Act of 1964, and the Americans with Disabilities Act of 1990. With respect to those claims released by Plaintiff in an individual capacity, Plaintiff acknowledges and waives any and all rights and benefits available under California Civil Code Section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Plaintiff understands and agrees that claims or facts in addition to or different from those which are now known or believed by his to exist may hereafter be discovered. It is Plaintiff's intention to, upon the date the Court has entered an order approving the Settlement Agreement and full funding of the Total Settlement Amount, settle fully and release all claims his now has against the Released Parties, whether known or unknown, suspected or unsuspected. Notwithstanding the above, the general release by Plaintiff shall not extend to claims for workers' compensation benefits, claims for unemployment benefits, or other claims that may not be released by law.

9. Governing Law and Interpretation.

(a) This Settlement Agreement shall be governed and conformed in accordance with the laws of the State of California. Should any non-material provision of this Settlement Agreement be declared illegal or unenforceable by any court of competent jurisdiction and cannot be modified to be enforceable such provision immediately shall become null and void, leaving the remainder of this Settlement Agreement in full force and effect.

(b) In the event of a breach of any provision of this Settlement Agreement, any Party reserves the right to institute an action specifically to enforce any term or terms of this Settlement Agreement or seek damages for breach. In an action to enforce any term or terms of this Settlement Agreement or to seek damages for breach of this Settlement Agreement, the prevailing Party in that action shall be entitled to recover reasonable attorney's fees and costs from the non-prevailing Party.

10. **Amendment.** This Settlement Agreement may not be modified, altered or changed except in writing and signed by both Parties' counsel, wherein specific reference is made to this Settlement Agreement, subject to approval by the Court.

11. **Miscellaneous.**

(a) The Parties agree to stay all proceedings in the Action, including with respect to California Code of Civil Procedure section 583.310, except such proceedings necessary to implement and complete the Settlement, pending approval of the Settlement.

(b) This Settlement Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which, taken together shall constitute the same instrument. A signature made on a faxed or electronically transmitted copy of the Settlement Agreement or a signature transmitted by facsimile or electronic mail shall have the same effect as the original signature.

(c) The section headings used in this Settlement Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify or otherwise be used in the interpretation of any of the provisions hereof.

(d) This Settlement Agreement was the result of negotiations between the Parties and their respective counsel under the auspices of mediator Steven Rottman, Esq. In the event of vagueness, ambiguity or uncertainty, this Settlement Agreement shall not be construed against the Party preparing it but shall be construed as if both Parties prepared it jointly, and the Parties may present their disputes to the mediator to resolve any vagueness, ambiguity, or uncertainty.

(e) If Plaintiff or Defendant fail to enforce this Settlement Agreement or to insist on performance of any term, that failure does not mean a waiver of that term or of the Settlement Agreement. The Settlement Agreement remains in full force and effect anyway.

HAVING ELECTED TO EXECUTE THIS SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES, AND TO RECEIVE THE CONSIDERATION SET FORTH ABOVE, PLAINTIFF AND DEFENDANT, FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTER INTO THIS SETTLEMENT AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

Date: 10/17/2024, 2024

Electronically Signed
2024-10-18 06:09:05 UTC - 76.86.141.208
Hinter AssumeSign®
fb0858b2-ec93-4088-aaa5-620a0144358f

Iftikhar Khan
Individually and On Behalf of
the State of California with Respect to Aggrieved
Employees

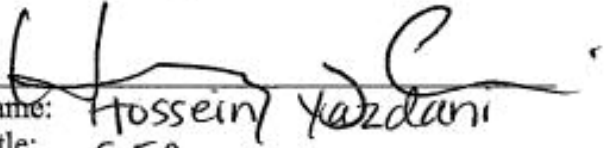
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///
///
///

PAC Auto Group, Inc.

Date: 10-16-2024, 2024

Name:

Title:


Hossein Yazdani

CEO

Approved as to form and content.

Exhibit A

<<Mailing Date>>

To: <<First Name>><<Last Name>>
<<Street Address>>
<<City>> <<State>> <<Zip>>

Re: Settlement Payment from *Iftikhar Khan v. PAC Auto Group Inc.*, San Bernardino County Superior Court Case No. CIVSB32675

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of <<amount of payment>> (“Individual Settlement Share”). This check is your payment from the settlement in the lawsuit entitled *Iftikhar Khan v. PAC Auto Group Inc.*, San Bernardino County Superior Court Case No. CIVSB32675 (“Action”).

The lawsuit was filed on November 17, 2021 by Iftikhar Khan (“Plaintiff”) against his former employer, on behalf of the State of California, with respect to himself and other alleged aggrieved employees, to seek recovery of civil penalties pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”), for multiple alleged violations of the California Labor Code and Industrial Welfare Commission Wage Orders, including, *inter alia*, for failure to properly pay minimum and overtime wages, failure to provide compliant meal and rest periods and associated premiums, failure to pay wages during employment and upon termination, failure to provide compliant wage statements, failure to maintain requisite payroll records, and failure to reimburse business expenses. Prior to filing the lawsuit, on September 13, 2021, Plaintiff submitted a letter to the California Labor and Workforce Development Agency (“LWDA”), pursuant to PAGA, to provide notice of his intent to seek civil penalties under PAGA for Defendant’s alleged violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001 and 7-2001, thereby initiating LWDA Case Number LWDA-CM-844386-21 (the “PAGA Notice”).

Defendant denies Plaintiff’s allegations and denies any wrongdoing of any kind associated with Plaintiff’s allegations. A settlement was reached between Plaintiff and Defendant PAC Auto Group, Inc. (“Defendant”). On << Date>>, the settlement was approved by the Court, with a portion to be paid to the LWDA and a portion to be paid to all current and former hourly-paid or non-exempt employees who worked for Defendant in the State of California during the period September 13, 2020 to [90 days after execution of Settlement Agreement] (“Aggrieved Employees”). The period September 13, 2020 to [90 days after execution of Settlement Agreement] is the “PAGA Period”.

You are receiving a portion of the settlement (the enclosed Individual Settlement Share) because you have been identified as an Aggrieved Employee. Your Individual Settlement Share is based on the total number of pay periods you worked for Defendant in California during the PAGA Period. The Individual Settlement Share is designated 100% penalties and will be reported on IRS Form 1099. You are responsible for paying any taxes that may be due as a result of any payment issued to you under the settlement and should consult a tax advisor regarding the tax consequences of such payment.

Under the settlement, as of <<date of entry of order by the Court approving the Settlement>>, the Released Parties were fully released and forever discharged from any and all Released Claims.

“Released Parties” means Defendant, including Defendant’s parent corporation, affiliates, subsidiaries, divisions, predecessors, insurers, successors and assigns, and their current and former employees, attorneys, officers, directors and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries and insurers of such plans and programs.

“Released Claims” means any and all claims, arising during the PAGA Period, for civil penalties under California Labor Code section 2698, *et seq.* (“PAGA”) as well as any interest, fees, and costs available under PAGA, based on the factual allegations in the Operative Complaint, including but not limited to, for failure to pay minimum, regular, and overtime wages, failure to provide compliant meal periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure to timely pay wages during employment, failure to timely pay wages upon termination, failure to provide compliant and accurate wage statements, failure to maintain complete and accurate payroll records, and failure to reimburse necessary business-related expenses and costs, in violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Order 4-2001 and 7-2001.

The enclosed check is valid for 90 days from the original date of issuance and mailing, and if it is not cashed, deposited, or otherwise negotiated within the 90-day timeframe, it will be canceled, and the funds associated with the canceled check will be transmitted to the State Controller’s Office Unclaimed Property Division in your name and in the amount of your respective Individual Settlement Share.

Do not call or write the Court, Office of the Clerk of the Court, Defendant, or Defendant’s counsel to ask questions about the settlement or to ask tax-related questions. If you have any such questions, you may contact [PAGA Settlement Administrator] at [toll-free phone number].

EXHIBIT 7

LAWYERS for JUSTICE PC CASE COST DETAIL
Khan v. PAC Auto Group, Inc. (PAGA)

<u>Date</u>	<u>Payee</u>	<u>Expense Description</u>	<u>Amount</u>
6/9/2021	U.S. Postmaster	Postage	\$7.00
7/1/2021	U.S. Postmaster	Postage	\$7.00
7/14/2021	U.S. Postmaster	Postage	\$7.00
9/13/2021	Labor & Workforce Development Agency	PAGA Filing Fee	\$75.00
11/17/2021	Legal Document Server, Inc.	Attorney Service	\$210.99
11/17/2021	San Bernardino Superior Court	Complex Filing Fee	\$1,000.00
11/17/2021	San Bernardino Superior Court	Complaint Filing Fee	\$435.00
1/31/2022	ProLegal	Attorney Service	\$114.78
2/24/2022	Legal Document Server, Inc.	Attorney Service	\$130.00
3/31/2022	General Logistics Systems US, Inc.	Courier Service	\$20.23
5/29/2022	General Logistics Systems US, Inc.	Courier Service	\$28.62
7/11/2022	Esquire Deposition Solutions, LLC	Court Reporter	\$1,617.60
1/26/2023	Steven J. Rottman, LLC	Mediation Fee	\$12,500.00
Total:			\$16,153.22

EXHIBIT 8

1 **STATE OF CALIFORNIA**
2 Labor and Workforce Development Agency
3 Department of Industrial Relations
4 Division of Labor Standards Enforcement
5 MICHAEL L. SMITH (SBN 252726)
6 1515 Clay Street, Room 2206
7 Oakland, CA 94612
8 Telephone No. (510) 286-1340
9 Facsimile No. (510) 622-3258
10 mlsmith@dir.ca.gov
11 Attorney for the Labor Commissioner

**ELECTRONICALLY
FILED**
*Superior Court of California,
County of San Francisco*
11/30/2023
Clerk of the Court
BY: WILLIAM TRUPEK
Deputy Clerk

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SAN FRANCISCO**

11 JOHN DOE, PAOLA CORREA, and
12 DEWAYNE CASSEL, on behalf of the
13 State of California and aggrieved
14 employees,

15 Plaintiffs,

16 vs.

17 GOOGLE, INC., ALPHABET, INC.,
18 ADECCO USA INC., ADECCO GROUP
19 NORTH AMERICA and ROES 1 through
20 10,

21 Defendants.

Case No. CGC-16-556034

**COMMENTS OF LWDA REGARDING
PROPOSED PAGA SETTLEMENT**

Date: December 4, 2023

Time: 9:00 a.m.

Dept: 304 (COMPLEX)

Judge: Hon. Ethan P. Schulman

Date Action Filed: December 20, 2016

Trial Date: Not Set

*No filing fees, court costs, etc.,
per Labor Code §§101 and 101.5*

22 The California Labor and Workforce Development Agency ("LWDA") respectfully
23 submits these comments regarding the proposed settlement agreement in this action in response
24 to the Court's invitation in its order of October 31, 2023.
25
26
27
28

1 **I. IMPACT OF THE SETTLEMENT AND AMOUNT OF THE CIVIL PENALTY**

2 It is well established that PAGA serves to augment the limited enforcement capability of
3 the Labor and Workforce Development Agency by empowering employees to bring actions to
4 enforce California’s labor standards. (*Iskanian v. CLS Transportation Los Angeles, LLC* (2014)
5 59 Cal.4th 348, 383, *abrogated on other grounds by Viking River Cruises, Inc. v. Moriana*
6 (2022) 142 S.Ct. 1906.)

7
8 LWDA can confirm Plaintiffs’ statement that the \$27 million settlement in this action is
9 the largest PAGA-only settlement, and second largest civil penalty recovery, in a PAGA action
10 to date.¹ Thus, LWDA concurs with Plaintiffs that the settlement in this action constitutes one of
11 the most significant recoveries under PAGA. But the impact of this settlement goes beyond these
12 numbers.

13
14 The touchstone for the adequacy of a settlement must always be the purposes and policies
15 underlying California’s labor laws and PAGA, as a proxy for a state action. To that end, a PAGA
16 settlement must provide for relief that is genuine, meaningful, and consistent with the State’s
17 goal of benefitting the public through enforcement of its labor laws. A PAGA settlement that
18 deters noncompliance “augment[s] the state’s enforcement capabilities, encourage[es]
19 compliance with Labor Code provisions, and deter[s] noncompliance.” (*O’Connor v. Uber*
20 *Technologies* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1134-35 [internal citations omitted];
21 *Iskanian, supra*, 59 Cal.4th at 383 [“The PAGA was clearly established . . . to deter
22 violations.”].)

23
24
25
26

27 ¹ This search was based on information submitted by private attorneys into LWDA’s PAGA
28 filing portal, pursuant to PAGA’s statutory requirements to submit proposed settlements and
 court order and judgements to LWDA. (Lab. Code § 2699(1)(2) & (3).) Errors may account for
 some deviation in this data.

1 Overall, this settlement has achieved significant labor law enforcement in inducing
2 Google to change its policies which allegedly violated fundamental rights of employees to
3 converse about their compensation (Lab. Code § 232) and conditions of employment (§ 232.5)
4 and including a notice to employees of their rights under the allegedly violated statutes. These
5 provisions of law protect fundamental rights rooted in public policy that the State has a strong
6 interest in enforcing.
7

8 To our knowledge this is the first PAGA case which has obtained remedies of this nature,
9 which clearly further labor law enforcement. And undoubtedly, as Plaintiffs state, “knowledge of
10 this \$27,000,000 PAGA settlement against Google should serve to deter Alleged Speech
11 Restrictions by other employers.” (MPA at p.18.) The Court should give due consideration to the
12 fact that the settlement provides for the recovery of monetary penalties, as well as effectuates the
13 State’s interests through other affirmative relief.
14

15 **II. THE SETTLEMENT AGREEMENT HERE DOES NOT INCLUDE ANY**
16 **COMMON DEFICIENCIES THAT CONFLICT WITH THE PUBLIC**
17 **INTEREST.**

18 In evaluating the adequacy of settlements, court should evaluate whether the
19 the settlement is fair, adequate, and reasonable under all of the circumstances in light of the
20 public policies underlying California’s labor standards. The proposed settlement agreement does
21 not include any common terms that conflict with the public interest. First, it does not purport to
22 settle claims beyond those pleaded in the plaintiffs’ PAGA notices. (Cf. January 27, 2021 and
23 January 27, 2022 PAGA Notices & Settlement Agreement § 5.1 release limited to claims “based
24 on or reasonably related to the facts and claims alleged by Plaintiffs in the Action and Plaintiffs’
25 notice letters to the LWDA including, but not limited to claims under California Labor Code
26
27
28

1 sections 96(k), 98.6, 232, 232.5, 432.5, 1101, 1102, 1102.5, and 1197.5(j)-(k)"). The PAGA
2 representatives release broader claims on behalf of themselves. (§ 5.2)

3 In addition, the proposed settlement agreement does not require ongoing confidentiality
4 by the plaintiffs now that the motion for approval has been filed. (See § 7.2.)

5 With regard to distribution to employees, the agreement does not require aggrieved
6 employees to make a claim to be entitled to payment, and there is no reversion to the employer
7 under any circumstances. (§ 4.9.)

8 In addition, according to the settling parties, there are no existing PAGA actions pursuing
9 the same claims that are being settled here. (§ 7.1.) Thus, there is no danger of a reverse auction
10 scenario which might incentivize plaintiffs to accept a lower settlement value in conflict with
11 LWDA's interest in enforcement.
12

13 Finally, as noted above, the settlement includes a notice to employees regarding their
14 rights which were at issue in this action, including the rights to discuss wages and working
15 conditions and to engage in political conduct. (§ 1.22, Ex. A)
16

17 **III. INCENTIVE PAYMENTS TO PAGA PLAINTIFFS**

18 "The rationale for making enhancement or incentive awards to named plaintiffs is that
19 they should be compensated for the expense or risk they have incurred in conferring a benefit on
20 other members of the class." (*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380,
21 1394, quoting *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 791.) In
22 the class action context, courts have held that an incentive award is appropriate "if it is necessary
23 to induce an individual to participate in the suit." (*Clark*, 175 Cal.App.4th at p. 804.)
24

25 Although the express statutory terms of PAGA do not address incentive awards, the
26 reasons for awarding incentive awards in class actions may similarly be present in PAGA
27
28

1 litigation. “Incentive awards are commonly awarded in the context of class action settlements,
2 which bear many similarities to settlements in PAGA cases.” (*Smith v. Homeguard, Inc.* (Cal.
3 Super. Oct. 28, 2020), No. 18CV333804, 2020 WL 6749810, at *2.) Indeed, “[m]any if not most
4 PAGA settlements include an ‘incentive award’ paid to the named representative.” (See *Carillo*
5 *v. Blusky Restoration Contractors LLC* (Cal.Super. June 29, 2022), No. CIVSB2105793, 2022
6 WL 18406637, at *1 (recognizing incentive awards in PAGA settlements).)²

8 “The Legislature’s sole purpose in enacting PAGA was ‘to augment the limited
9 enforcement capability of the [LWDA] by empowering employees to enforce the Labor Code as
10 representatives of the Agency.’ [citation].” (*Adolph v. Uber Technologies, Inc.* (2023) 14 Cal.5th
11 1104, 1122.) At least one court has recognized that providing financial incentives to employees
12 to serve as a PAGA plaintiff in actions that will recover civil penalties for Labor Code violations
13 is consistent with PAGA’s purpose. (See *Galindo*, 2021 WL 9880030, at *1 (incentive awards to
14 PAGA plaintiffs further the enforcement goal of the statute).)

16 Criteria courts may consider in determining whether to make an incentive award include:
17 1) the risk to the representative in commencing suit, both financial and otherwise; 2) the
18 notoriety and personal difficulties encountered by the representative; 3) the amount of time and
19 effort spent by the representative; 4) the duration of the litigation and; 5) the personal benefit (or
20 lack thereof) enjoyed by the representative as a result of the litigation. (*Ibid.*) (*Cellphone*
21 *Termination Fee Cases*, *supra*, 186 Cal.App.4th 1380, 1394-1395.) Given the similar roles of
22 plaintiffs in class and PAGA actions, these criteria are a logical starting point for evaluating
23 incentive awards in PAGA actions.

26 ² See also *Galindo v. 20/20 Plumbing and Heating, Inc.*, (Cal.Super. Oct. 24, 2021) No. CIVSB-
27 2118276, 2021 WL 9880030, at *1 (\$5000 incentive award to PAGA representative); *Tallon v.*
28 *Aluma Systems Concrete Const., LLC* (Cal.Super. Oct. 28, 2022) No. CIVDS2012039, 2022 WL
17224382, at *1 (court approval of \$2500 incentive award to PAGA plaintiff).)

1 Because the aggrieved employee bears some risk in commencing the suit, both financial
2 and otherwise, and must expend time and resources in pursuit of the litigation, incentive awards
3 may be appropriate in PAGA actions. In addition, the share of money that goes to employees
4 from a PAGA settlement is only a one-fourth share of the total civil penalty amount, divided
5 among all aggrieved employees.³ Thus, in this respect, the need for a representative plaintiff in a
6 PAGA action is at least as great as in the class context.
7

8 **IV. CONCLUSION**

9 Given the size and terms of the settlement and the strong advocacy of counsel over
10 several years, LWDA submits that the settlement meets the criteria for approval. LWDA thanks
11 the Court for the opportunity to submit the foregoing comments.
12

13 Dated: November 27, 2023 STATE OF CALIFORNIA
14 LABOR & WORKFORCE DEVELOPMENT AGENCY
15 DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT

16 By: 
17 Michael L. Smith, Attorney
18
19
20
21
22
23
24

25 _____
26 ³ In addition, PAGA-only settlements can no longer include a component of restitution for
27 employees. See *ZB, N.A., and Zions Bancorporation v. Superior Court of San Diego County*
28 (2019) 8 Cal.5th 175 (“*Lawson*”) (civil penalties in PAGA action can no longer include “an
amount sufficient to recover underpaid wages” under Lab. C. § 558).

EXHIBIT 9

Edwin Aiwazian (SBN 232943)
Joanna Ghosh (SBN 272479)
~~Matthew Richard Soto~~ Vartan Madoyan (SBN ~~353499~~279015)
LAWYERS for JUSTICE, PC
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Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

IFTIKHAR KHAN, individually, and on behalf of
other aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

PAC AUTO GROUP, INC., a California
corporation; and DOES 1 through 100, inclusive,

Defendants.

Case No.: CIVSB2132675

Honorable Stephanie Tanada
Department S33

**PLAINTIFF'S NOTICE OF MOTION AND
FIRST AMENDED MOTION FOR
APPROVAL OF PRIVATE ATTORNEYS
GENERAL ACT (CAL. LABOR CODE §
2698, ET SEQ.) SETTLEMENT
AGREEMENT AND AWARD OF
ATTORNEYS' FEES AND COSTS,
GENERAL RELEASE FEE, AND
SETTLEMENT ADMINISTRATION
COSTS; MEMORANDUM OF POINTS
AND AUTHORITIES**

Date: ~~February 11~~ August 5,
2025
Time: 8:30 a.m.
Department: ~~S26~~S33

Complaint Filed: November 17, 2021
Trial Date: None Set

**PLAINTIFF'S NOTICE OF MOTION AND FIRST AMENDED MOTION FOR APPROVAL OF PRIVATE
ATTORNEYS GENERAL ACT (CAL. LABOR CODE § 2698, ET SEQ.) SETTLEMENT AGREEMENT AND
AWARD OF ATTORNEY'S FEES AND COSTS, GENERAL RELEASE FEE, AND SETTLEMENT
ADMINISTRATION COSTS; MEMORANDUM OF POINTS AND AUTHORITIES**

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1 PLEASE TAKE NOTICE that on ~~February 11~~August 5, 2025, at 8:30 a.m., or as soon
2 thereafter as the matter may be heard before the Honorable Stephanie Tanada in Department S33 of the
3 Superior Court of the State of California, for the County of San Bernardino, located at 247 West Third
4 Street San Bernardino, California 92415, Plaintiff Iftikhar Khan ("Plaintiff") will and hereby do move for
5 entry of the following orders:

- 6 1. Granting approval, pursuant to California Labor Code section 2699(1)(2), of the settlement
7 between Plaintiff and Defendant PAC Auto Group, Inc. ("Defendant") of the claims brought
8 pursuant to the Private Attorneys General Act of 2004 ("PAGA"), as set forth in the Private
9 Attorneys General Act Settlement Agreement and Release ("Settlement," "Agreement," or
10 "Settlement Agreement"), attached as "EXHIBIT 1" to the [Proposed] Order and Judgment
11 Granting Approval of Private Attorneys General Act (Cal. Labor Code § 2698, Et Seq.) 2" to
12 the Declaration of Matthew Richard Soto, Settlement Agreement and Award of Attorneys'
13 Fees and Costs, General Release Fee, and Settlement Administration Costs ("[Proposed]
14 Order and Judgment"), including and not limited to, the plan of allocation and distribution of
15 the Total Settlement Amount for payment of the LWDA Payment to the California Labor
16 and Workforce Development Agency ("LWDA"), Individual Settlement Shares to the
17 Aggrieved Employees, Attorneys' Fees and Costs to Plaintiff's Counsel, Settlement
18 Administration Costs to the PAGA Settlement Administrator, and General Release Fee to
19 Plaintiff;
20 2. Approving the Net Settlement Amount, estimated to be no less than \$161,846.78 which will
21 be distributed to the LWDA and the Aggrieved Employees, pursuant to California Labor
22 Code section 2699(i), of which 75% will be paid to the LWDA ("LWDA Payment") and
23 25% will be paid to the Aggrieved Employees ("Employees' Portion");
24 3. Appointing Phoenix Class Action Administration Solutions ("Phoenix" or "PAGA
25 Settlement Administrator") as the third-party settlement administrator, to handle the
26 administration of the Settlement;
27 4. Directing Defendant to fund the Total Settlement Amount, and directing the PAGA
28 Settlement Administrator to distribute payments in accordance with the Settlement

Agreement;

5. Directing the mailing of Individual Settlement Share checks to the Aggrieved Employees along with the Cover Letter, ~~(in both English and Spanish)~~, which is substantially similar in content and form to that attached as “**EXHIBIT 12**” to the [Proposed] Order and Judgment ~~Granting Approval of Private Attorneys General Act (Cal. Labor Code § 2698, Et Seq.) Settlement Agreement and Award of Attorneys’ Fees and Costs, General Release Fee, and Settlement Administration Costs (“[Proposed] Order and Judgment”)~~ filed concurrently herewith;
6. Awarding a General Release Fee of up to \$10,000 (“General Release Fee”), to Plaintiff Iftikhar Khan.
7. Awarding up to \$7,000 to the PAGA Settlement Administrator as Settlement Administration Costs; and
8. Awarding to Lawyers for Justice, PC (“Plaintiff’s Counsel”) the amount of \$105,000.00 as compensation for reasonable attorneys’ fees and the amount of \$16,153.22 for reimbursement of actual litigation costs and expenses (together, “Attorneys’ Fees and Costs”), pursuant to California Labor Code section 2699(g)(1).

Unless otherwise specified, all citations and references to the Private Attorneys General Act of 2004, California Labor Code sections 2698, et seq. ~~(“PAGA”)~~ are to the version of ~~that~~ statute prior to the recent amendment effective July 1, 2024; the amended statute does not apply to the ~~above-captioned action and~~ ~~Actions, or~~ the Settlement pursuant to California Labor Code section 2699(v)(1), as amended, because the ~~above-captioned action~~ ~~notice to the Labor and Workforce Development Agency (“LWDA”)~~ was filed prior to June 19, 2024.

The Settlement Agreement and moving and supporting papers for this motion are being concurrently submitted to the California Labor and Workforce Development Agency in conformity with California Labor Code section 2699(l)(2).

This motion is made pursuant to California Labor Code section 2699(l)(2), which provides for review and approval by the Court of the settlement of a civil action filed pursuant to PAGA, ~~and Rule 3.1113(e) of the California Rules of Court, which permits the Court to extend the page limit for~~

1 memoranda.

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9 This motion will be based upon the following Memorandum of Points and Authorities, the
10 Settlement Agreement, the Declarations of Plaintiff's Counsel (~~Matthew Richard Soto~~ Vartan Madoyan)
11 and Plaintiff Iftikhar Khan in support thereof, as well as the pleadings and other records on file with the
12 Court in this matter, and such evidence and oral argument as may be presented at the hearing on this
13 motion.

14 Dated: December 17, 2024 July 22, 2025

LAWYERS *for* JUSTICE,

15 PC

16
17
18 By: _____

19 Joanna Ghosh
20 ~~Matthew Richard Soto~~
21 Vartan Madoyan
22 *Attorney for Plaintiff*

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v

PLAINTIFF'S NOTICE OF MOTION AND **FIRST AMENDED** MOTION FOR APPROVAL OF PRIVATE ATTORNEYS GENERAL ACT (CAL. LABOR CODE § 2698, ET SEQ.) SETTLEMENT AGREEMENT AND AWARD OF ATTORNEYS' FEES AND COSTS, GENERAL RELEASE FEE, AND SETTLEMENT ADMINISTRATION COSTS; MEMORANDUM OF POINTS AND AUTHORITIES

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Iftikhar Khan ("Plaintiff") seeks approval of the Private Attorneys General Act Settlement Agreement and Release ("Settlement," "Agreement," or "Settlement Agreement") entered into between Plaintiff, individually and on behalf of the State of California with respect to Aggrieved Employees, and Defendant PAC Auto Group, Inc. ("Defendant"), pursuant to California Labor Code section 2699(1)(2).¹ Plaintiff and Defendant (together, the "Parties") have agreed to resolve the above-captioned action, brought pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* ("PAGA"), for a Total Settlement Amount of \$300,000.² Importantly, this is not a class action lawsuit which requires a two-step process for preliminary and final approval, but rather a PAGA-only settlement which has only a single round of Court approval for the Settlement.

The Settlement is fair, adequate, and reasonable, as it represents a reasoned compromise of a disputed claim that has been reached through arm's-length negotiations, in light of the risks, complexity, and expense of further litigation, and the strengths of the PAGA claim. The Settlement meets the requirements for Court approval based upon the relevant fairness factors. The Court is respectfully requested to approve the Settlement, award the Attorneys' Fees and Costs, Settlement Administration Costs, and General Release Fee and approve the LWDA Payment.

The Settlement Agreement and moving and supporting papers for this motion are being concurrently submitted to the LWDA and Plaintiff now moves for an order granting approval of the Settlement, in conformity with California Labor Code section 2699(1)(2).³ The Proof of Service, filed concurrently with this Motion, confirms submission of the papers to the LWDA.⁴

¹ The Private Attorneys General Act Settlement Agreement and Release ("Settlement Agreement") is attached as **EXHIBIT 2** to the Declaration of Matthew Richard Soto ("Soto Decl."); ¹ to the [Proposed] Order and Judgment Granting Approval of Private Attorneys General Act (Cal. Labor Code § 2698, *Et Seq.*) Settlement Agreement and Award of Attorneys' Fees and Costs, General Release Fee, and Settlement Administration Costs. It is also attached as "EXHIBIT 6" to the Declaration of Vartan Madoyan ("Madoyan Decl.") which is being filed concurrently herewith.

² Settlement Agreement, § 3(a). The Total Settlement Amount is subject to possible increase pursuant to Section 3(b) of the Settlement Agreement.

³ ~~The Court is referred to the concurrently filed Proof of Service, which confirms submission of the papers to the LWDA.~~

⁴ The documents submitted regarding the initial motion for approval of the Parties' PAGA settlement, which was filed on December 17, 2024, were also served on the LWDA on that date as reflected in the Proof of Service filed

(Footnote continued)

In order to efficiently present the Court with adequate information, Plaintiff also moves for an order permitting the filing of this memorandum, although it exceeds the page limit set forth in California Rules of Court, Rule 3.1113(d).

II. FACTUAL BACKGROUND AND RELEVANT PROCEDURAL HISTORY

For a discussion of relevant procedural history and facts regarding this case, please see the Declaration of ~~Matthew Richard Soto~~ Vartan Madoyan at ~~paragraphs~~ Paragraphs 7 to 1018.

##

##

III. SUMMARY OF THE SETTLEMENT TERMS

A. Scope of the Settlement

If the Court grants approval of the Settlement, Plaintiff and the State of California with respect to Aggrieved Employees⁵ will release the Released Parties⁶ from the Released Claims.⁷

B. Funding and Distribution of the Total Settlement Amount

Under the terms of the Settlement Agreement, Defendant will pay a Total Settlement Amount of \$300,000⁸, which is inclusive of the following: (1) Attorneys' Fees and Costs to be paid to Lawyers for Justice, PC ("Plaintiff's Counsel"), (2) General Release Fee to Plaintiff (3) Settlement Administration Costs to be paid to the PAGA Settlement Administrator, and (4) Net Settlement Amount to be paid to the California Labor and Workforce Development Agency ("LWDA") and Aggrieved Employees. The Net Settlement Amount will be the Total Settlement Amount less the Court-approved Attorneys' Fees and Costs, General Release Fee, and Settlement Administration Costs; the Net Settlement Amount is currently estimated to be no less than \$161,846.78.⁹ The Net Settlement Amount will be distributed as follows: 75% of the Net Settlement Amount (or approximately \$121,385.09) will be distributed to the LWDA ("LWDA Payment") and 25% of the Net Settlement Amount (or approximately \$40,461.69)

with the initial motion on December 17, 2024.

⁵ Settlement Agreement, § 3(a)(1)-(5), and Soto Decl., ¶ 12.; "PAGA Period" is defined as the period of September 19, 2020 to January 15, 2025. *Id.*, § 3(a)(5); and Madoyan Decl. ¶ 34.

⁶ The definition of the "Released Parties" and "Released Claims" is set forth in the Settlement Agreement, § 8(a).

⁷ The definition of the "Released Claims" is set forth in the Settlement Agreement, § 8(a).

⁸ Settlement Agreement, § 3(a), Soto Decl., ¶ 13, and see footnote 2.

⁹ *Id.*, § 3(a)(4).

1 (“Employees’ Portion”) will be distributed to the Aggrieved Employees on a *pro rata* basis, based on
2 their Compensable Pay Periods.¹⁰

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3
4 No later than 7 calendar days after the Court’s order granting approval of the Settlement,
5 Defendant will provide the PAGA Settlement Administrator with the Aggrieved Employees List (the
6 “Aggrieved Employees List”), containing the contact information and other information required to
7 calculate payment for each Aggrieved Employee.¹¹ Within 14 calendar days of the Court’s order
8 granting approval of the Settlement, Defendant will transmit the Total Settlement Amount to a qualified
9 settlement account established by the PAGA Settlement Administrator for administration of the
10 Settlement.¹²

11 No later than 14 calendar days after the PAGA Settlement Administrator receives the Aggrieved
12 Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall mail the
13 agreed-upon Cover Letter (in English and Spanish)¹³ and Individual Settlement Share¹⁴ checks (together,
14 the “PAGA Settlement Package”) to all Aggrieved Employees by first-class United States mail.¹⁵ For
15 each PAGA Settlement Package that is returned as undeliverable within 30 calendar days of the initial
16 mailing, the PAGA Settlement Administrator will promptly attempt to locate an alternate, updated
17 address for the Aggrieved Employee at issue, by using a skip-trace search and shall attempt one (1) re-
18 mailing of the PAGA Settlement Package.¹⁶

19 The Individual Settlement Share checks issued to Aggrieved Employees will remain valid for 90
20

21 ¹⁰ Settlement Agreement, § 7(b)(1).

22 ¹¹ *Id.*, § 7(b)(1).

23 ¹² Settlement Agreement, § 7(a).

24 ¹³ The Parties have prepared a simple Cover Letter for transmission to the Aggrieved Employees along with their
Individual Settlement Share checks, substantially in the form attached as “EXHIBIT 12” to the [Proposed] Order
and Judgment and as “EXHIBIT A” to the Settlement Agreement. The Cover Letter informs the Aggrieved
Employees about the Action and the Settlement. A Spanish-language translation will also be provided. Madovan
Decl. Id., ¶ 41.

25 ¹⁴ Each Aggrieved Employee’s share of the Employees’ Portion (“Individual Settlement Share”), will be calculated
by the PAGA Settlement Administrator based on their Compensable Pay Periods. *Id.*, § 7(b). The payments to
Aggrieved Employees for their Individual Settlement Share are considered 100% penalties to be reported on IRS Form
26 1099, if required. *Id.*, § 7(b)(1).

27 ¹⁵ *Id.*, § 7(c)(3).

28 ¹⁶ *Ibid.*

1 calendar days, and thereafter, will be canceled.¹⁷ Funds associated with canceled checks will be
2 transmitted to the State Controller's Office Unclaimed Property Division in the name of the Aggrieved
3 Employee(s) at issue and in the amount of their respective Individual Settlement Share(s).¹⁸

4 **C. No Right to Object to, or Opt Out of, the Settlement**

5 "[A] PAGA action is a statutory action for penalties brought as a proxy for the State," as
6 such, "there is no need to protect absent employees' due process rights[.]" Williams v. Superior
7 Court (2017) 3 Cal.5th 531, 546. "Unnamed employees need not be given notice of the PAGA
8 claim, nor do they have the ability to opt-out of the representative PAGA claim." Ochoa-
9 Hernandez v. CJADERS Foods, Inc. (N.D. Cal. Apr. 2, 2010), 2010 WL 1340777, at *5. A
10 representative PAGA action need not satisfy class action requirements, and no due process
11 concern arises from the fact that there are "nonparty aggrieved employees who are not given
12 notice of, and an opportunity to be heard in, a representative action that is not brought as a class
13 action." Arias v. Superior Court (2009) 46 Cal.4th 969, 984. "PAGA does not make other
14 potentially aggrieved employees parties" to the action and no "due process concerns arise under
15 PAGA because absent employees do not own a personal claim for PAGA civil penalties and
16 whatever personal claims the absent employees might have for relief are not at stake." Williams,
17 supra, 546-547 (internal references omitted, citing Amalgamated Transit Union, Local 1756,
18 AFL-CIO v. Superior Court (2009) 46 Cal.4th 993, 1003 and Iskanian v. CLS Transportation
19 Los Angeles, LLC, (2014) 58 Cal.4th 348, 381.)

20 "[A]bsent fellow employees will be bound by the outcome of any PAGA action[.]"
21 Williams at 548 (internal references omitted, citing Arias, supra, 980-981; Fireside Bank v.
22 Superior Court (2007) 40 Cal.4th 1069, 1074 and Richmond v. Dart Industries, Inc. (1981) 29
23 Cal. 3d 462, 474.) A "judgment in such an action is binding not only on the named employee
24 plaintiff but also on government agencies and any aggrieved employee not a party to the
25 proceeding" because "the employee plaintiff represents the same legal right and interest as state

26
27 ¹⁷ Id., § 7(c)(4).

28 ¹⁸ Ibid.

labor law enforcement agencies[.]” “collateral estoppel applies [...] against those for whom the party acted as an agent or proxy[.]” and “[w]hen a government agency is authorized to bring an action on behalf of an individual or in the public interest, and a private person lacks an independent right to bring the action, a person who is not a party but who is represented by the agency is bound by the judgment as though the person were a party.” *Arias, supra*, at 985-86 (citations omitted); see also *Robinson v. Southern Counties Oil Co.* (2020) 53 Cal.App.5th 476 (aggrieved employee cannot opt out of a PAGA settlement).

As such, the Settlement is consistent with the law, and there is no requirement that the Aggrieved Employees be provided with a mechanism to opt out of or object to the Settlement.

G-IV. STANDARDS FOR APPROVAL OF PAGA SETTLEMENT

The PAGA allows an “aggrieved employee” to bring a civil action on behalf of himself or herself and on behalf of other aggrieved employees and the State of California to recover civil penalties that normally which, outside of PAGA, only the LWDA can pursue on behalf of employees against assess upon and collect from an employer without employees’ involvement or approval. Unnamed employees need not be given notice of the PAGA claim, nor do they have the ability to opt out of the representative PAGA claim.¹⁹ (Cal. Lab. Code § 2699(a)). Before bringing a civil action under PAGA, an employee must comply with California Labor Code section 2699.3. See Cal. Lab. Code § 2699(a). Plaintiff has complied.

The settlement of a PAGA action requires court approval. See Cal. Lab. Code § 2699(1)(2). (“The superior court shall review and approve any settlement of any civil action filed pursuant to this part.”). However, “[a] PAGA claim asserted on a non-class representative basis

¹⁹ *Robinson v. Southern Counties Oil Co.* (2020) 53 Cal.App.5th 476 (aggrieved employee cannot opt out of a PAGA settlement); *Williams v. Superior Court* (2017) 3 Cal.5th 531, 546-548 (“[A] PAGA action is a statutory action for penalties brought as a proxy for the State,” “whatever personal claims the absent employees might have for relief are not at stake[.]” as such, “there is no need to protect absent employees’ due process rights” and they “will be bound by the outcome of any PAGA action[.]”); *Ochoa Hernandez v. CIADERS Foods, Inc.* (N.D. Cal. Apr. 2, 2010), 2010 WL 1340777, at *5 (Unnamed employees need not be given notice); *Arias v. Superior Court* (2009) 46 Cal.4th 969, 984-86 (Same).

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and is not a class action but a law enforcement action.²⁰ A . . . is not considered a class action but a law enforcement action” and therefore does not have to meet the requirements of a class action. *Casida v. Sears Holdings Corp.* (E.D. Cal. Jan. 26, 2012) 2012 WL 253217, at *3; *Thomas v. Aetna Health of Cal., Inc.* (E.D. Cal. June 2, 2011) 2011 WL 2173715, at *11; *Arias, supra*, 46 Cal.4th at 980-88 (affirming lower court’s holding that “plaintiff need not satisfy class action requirements” to assert a PAGA claim); *Pedroza v. PetSmart, Inc.* (C.D. Cal. Jan. 28, 2013) 2013 WL 1490667, at *15. As such, a court’s review of a PAGA settlement involves consideration~~analysis~~ of ~~several~~ unique factors~~features~~ that render the approval process distinct from, and simpler than, the ~~two-step court~~ process for approval ~~process for~~ a class action settlement. A court reviewing a PAGA settlement need only “ensur[e] that a negotiated resolution is fair to those affected.” *Williams v. Superior Court* (2017) 3 Cal.5th 531 *Williams, supra*, 549 (citing Cal. Lab. Code § 2699(l)(2))~~Lab. Code § 2699(l)(2))~~. Although California Labor Code section 2699(l) does not set forth the criteria on which a PAGA settlement is to be judged, courts have approved settlements of PAGA claims.²¹ See, e.g., *Resendez v. Bridgestone Retail Operations, LLC*, Los Angeles Superior Court, Case No. BC596892 (June 2016), *DCH Auto Wage and Hour Cases*, Los Angeles Superior Court, Case No. JCCP4833 (May 2017); *Garcia v. Gordon Trucking* (E.D. Cal. Oct. 31, 2012) 2012 WL 5364575, at *3; *Schiller v. David’s Bridal, Inc.* (E.D. Cal. June 11, 2012) 2012 WL 2117001, at *14; *Chu v. Wells Fargo Invs., LLC* (N.D. Cal. Feb. 16, 2011) 2011 WL 672645, at *1; *Franco v. Ruiz Food Prods.* (E.D. Cal. Nov. 27, 2012) 2012 WL 5941801, at *14; *Nordstrom Commissions Case* (2010) 186 Cal.App.4th 576,

²⁰ *Casida v. Sears Holdings Corp.* (E.D. Cal. Jan. 26, 2012) 2012 WL 253217, at *3; *Thomas v. Aetna Health of Cal., Inc.* (E.D. Cal. June 2, 2011) 2011 WL 2173715, at *11; *Arias, supra*, 46 Cal.4th at 980-88 (affirming lower court’s holding that “plaintiff need not satisfy class action requirements” to assert a PAGA claim); *Pedroza v. PetSmart, Inc.* (C.D. Cal. Jan. 28, 2013) 2013 WL 1490667, at *15; *Amalgamated Transit Union, Local 1756, AFL-CIO v. Superior Court* (2009), 46 Cal.4th 993, 1003; see also *Iskanian v. CLS Transportation Los Angeles, LLC* (2014) 58 Cal.4th 348, 381.

²¹ Soto Decl., ¶ 6. See, e.g., *Resendez v. Bridgestone Retail Operations, LLC*, Los Angeles Superior Court, Case No. BC596892 (June 2016), *DCH Auto Wage and Hour Cases*, Los Angeles Superior Court, Case No. JCCP4833 (May 2017); *Garcia v. Gordon Trucking* (E.D. Cal. Oct. 31, 2012) 2012 WL 5364575, at *3; *Schiller v. David’s Bridal, Inc.* (E.D. Cal. June 11, 2012) 2012 WL 2117001, at *14; *Chu v. Wells Fargo Invs., LLC* (N.D. Cal. Feb. 16, 2011) 2011 WL 672645, at *1; *Franco v. Ruiz Food Prods.* (E.D. Cal. Nov. 27, 2012) 2012 WL 5941801, at *14; *Nordstrom Commissions Case* (2010) 186 Cal.App.4th 576, 589.

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589.

In a PAGA case, the court’s focus is not the monetary amount which aggrieved employees or the State stand to receive, but instead, whether the total settlement amount achieves the PAGA’s objectives. The purpose of the PAGA is “to incentivize private parties to recover civil penalties for the government that otherwise may not have been assessed and collected by overburdened state enforcement agencies.” *See Ochoa-Hernandez, supra*, 2010 WL 1340777, at *4 (citing *Arias, supra*, 46 Cal.4th at 986). Penalties recovered under the PAGA are, in part, to “be distributed to the [LWDA] for enforcement of labor laws . . . and for education of employers and employees about their rights and responsibilities under this code, to be continuously appropriated to supplement and not supplant the funding to the agency for those purposes.” *See* Cal. Lab. Code § 2699(j). The recovery of penalties on behalf of the State, by way of a PAGA claim, is essentially a law enforcement action. *Amalgamated, supra*, 46 Cal.4th at 1003 (stating that the PAGA is a mechanism for “an aggrieved employee to recover civil penalties—for Labor Code violations—that otherwise would be sought by state labor law enforcement agencies”); *see also Iskanian, supra*, at 381.

##

A PAGA settlement is a settlement of claims for penalties and other remedies which the LWDA could assess and collect on behalf of employees without their involvement or approval. “[U]nnamed employees need not be given notice of the PAGA claim, nor do they have the ability to opt-out of the representative PAGA claim.” *Ochoa-Hernandez, supra*, 2010 WL 1340777, at *5. This renders the approval process of a PAGA settlement distinct from a class action settlement, and the Court need not employ the two-step approval process that applies to a class action settlement, under both state and federal law.

IV.V. THE SETTLEMENT IS FAIR AND SHOULD BE APPROVED

The Settlement resulted from hard-fought negotiations, fulfills the objectives of the PAGA statute, is fair, adequate, and reasonable, and meets all of the criteria for approval for the reasons discussed below.

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A. The Factors Giving Rise to a Presumption of Fairness Exist

The Parties reached the Settlement after conducting extensive, arm's-length settlement negotiations ~~and with~~ the ~~involvement~~ assistance of a neutral mediator Steven Rottman, Esq.²² A settlement that is "the product of extensive and hard-fought adversarial negotiations between the parties" is entitled to a presumption of fairness. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245.

As discussed in the Declaration of ~~Matthew Richard Soto~~ Vartan Madoyan, the Settlement is presumptively fair because: (1) it is the product of adversarial non-collusive, and arm's-length negotiations with the assistance of an independent mediator knowledgeable in complex labor and employment matters; (2) it was negotiated by counsel with significant experience in similar complex labor and employment matters; and (3) it occurred after counsel for the Parties engaged in significant investigation to evaluate the strength and potential value of the PAGA claim, and risks and expenses of litigating this claim through trial.²³

Based on all of the information available to the Parties, the Parties agree that this matter is well-suited for settlement given the strengths and weaknesses of the PAGA claim and the facts and circumstances of the case.²⁴ Plaintiff's Counsel has extensive experience handling representative and class action wage-and-hour litigation and used that experience to achieve a settlement recovery for Plaintiff, the State of California, and the Aggrieved Employees.²⁵ Therefore, the Court should give considerable weight to the competency, experience, and opinion of counsel and the involvement of a neutral mediator in assuring that the settlement is a product of arm's length bargaining.²⁶

B. The Relative Strengths and Weaknesses of the PAGA Claim and the Range of Possible Outcomes Strongly Favor Approval of the Settlement

For a detailed discussion of the relative strengths and weaknesses of the PAGA claim ~~and the~~

²² ~~Soto~~Madoyan Decl., ¶ 15 ¶¶ 13, 37.

²³ *Id.*, ¶¶ 2-6, 14-29 ¶¶ 13, 33-59.

²⁴ *Id.*, ¶ 30 ¶¶ 33-59.

²⁵ *Id.*, ¶¶ 2-6.

²⁶ ~~See~~ *Kirkorian v. Borelli* (N.D. Cal. 1988) 695 F.Supp. 446, 451 (opinion of experienced counsel is entitled to considerable weight); *Boyd v. Bechtel Corp.* (N.D. Cal. 1979) 485 F.Supp. 610, 616-17, 622 (recommendations of plaintiff's counsel should be given a presumption of reasonableness); ~~see also~~ *Satchell v. Fed. Express Corp.* (N.D. Cal. Apr. 13, 2007) 2007 WL 1114010, at *4 (stating that the "assistance of an experienced mediator in the settlement process confirms that the settlement is non-collusive").

range of possible outcomes ~~in, and value of~~ the ~~litigation~~ settlement, see the Declaration of Joanna Ghosh Vartan Madoyan at paragraphs-Paragraphs 36-59. As also discussed in the Declaration of Vartan Madoyan, with respect to the payment to Aggrieved Employees (which pursuant to the PAGA statute must be only one-third of the payment to the LWDA), the payments range from a high of approximately \$622.40, an average of approximately \$88.17-29, and a low of approximately \$5.46 (for employees who only worked a single pay period).²⁷

C. The Settlement Avoids Risky, Complex, and Lengthy Further Litigation

Courts favor voluntary conciliation and settlement of complex litigation. *Class Plaintiffs v. City of Seattle* (9th Cir. 1992) 955 F.2d 1268, 1276. Generally, unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with uncertain results. *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.* (C.D. Cal. Jan. 5, 2004) 221 F.R.D. 523, 526.

Prior to reaching the Settlement, the Parties investigated the veracity, strength, and scope of the PAGA claim and allegations and considered a large volume of information, documents, and data relevant to Plaintiff's claim and Defendant's defenses thereto.²⁸ The Parties thoroughly and sufficiently evaluated the PAGA claim and related allegations, including, and not limited to, calculating the potential monetary recovery under PAGA.²⁹ Plaintiff's Counsel performed other work as well, which is discussed in the Declaration of ~~Matthew Richard Soto~~ Vartan Madoyan.³⁰

Had the case not settled, the Parties would have conducted additional extensive formal discovery, including propounding additional written discovery requests as well as taking multiple additional depositions of party and percipient witnesses all over the State of California, to prepare the case for trial. From the inception of this litigation, Defendant indicated that it would aggressively litigate this case.³¹ Even if Defendant failed on its defenses, litigating a complex PAGA action is inherently expensive, and the litigation could continue beyond entry of judgment if either party were to appeal adverse rulings.³² Additionally, there is a real possibility that Plaintiff could recover nothing, either for himself or on behalf

²⁷ Madoyan Decl., ¶ 23.

²⁸ Soto Decl., ¶ 16; *Id.*, ¶¶ 37-38.

²⁹ *Ibid.*

³⁰ ~~*Ibid.*~~ *Id.*, ¶¶ 37-38, 61, and Exhibit 3.

³¹ *Id.*, ¶¶ 20-29 ¶ 42.

³² *Ibid.*

of the State of California or other Aggrieved Employees after years of costly and labor-intensive litigation. Avoiding these risks and the likelihood of future contentious litigation, which would involve significant costs, favors settlement.

D. The Settlement Is Fair, Adequate, and Reasonable

The Settlement provides significant benefits to the State of California and the Aggrieved Employees and falls well-within the range of acceptable settlements under the circumstances. “[T]he very essence of a settlement is compromise, ‘a yielding of absolutes and an abandoning of highest hopes.’” *Officers for Justice v. Civil Service Comm’n* (9th Cir. 1981) 688 F.2d 615, 624. “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.

The Settlement is a compromise of highly disputed claims. Plaintiff and his counsel recognize the expense and ~~length~~delay of continued proceedings necessary to pursue the matter through trial and any possible appeals.³³ ~~Plaintiff and his counsel have also taken into account,~~ the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation.³⁴ Plaintiff and his counsel are also aware of the burdens of proof necessary to establish liability, both generally and in response to Defendant’s defenses thereto, and the difficulties in establishing Defendant’s liability for, and the right to recover, penalties on behalf of Plaintiff, the State of California, and other Aggrieved Employees.³⁵ Plaintiff and his counsel have also taken into account Defendant’s agreement to enter into a settlement that confers significant relief upon the Aggrieved Employees and the State of California.³⁶

Considering all of the facts in this case, Plaintiff and his counsel have determined that the Settlement represents a fair, adequate, and reasonable resolution of the PAGA claim, and that it is in the best interests of the Aggrieved Employees and the State of California.³⁷

The result achieved in this case, and the monetary recovery provided by this settlement, are well-within the range of an acceptable settlement under the circumstances, especially when compared to trial

³³ Soto Decl., ¶¶ 16, 20-29.

³⁴ *Ibid.* ¶¶ 37-59.

³⁵ *Id.*, ¶¶ 20-29 *Ibid.*

³⁶ *Id.*, ¶ 13 *Ibid.*

³⁷ *Id.*, ¶¶ 29 & 33 *Ibid.*

1 court penalties assessments in contested cases and the settlement of PAGA claims in other cases. Here,
2 the value obtained for settlement of the PAGA claim is significant, and it will be distributed in accordance
3 with and in fulfillment of the objectives of the PAGA statute.

4 In addition, settlement approval is warranted because this Settlement does not impact any other
5 lawsuit alleging the same or similar claims and there are no other related matters in any jurisdiction in
6 California.³⁸

7 **E. The Experience and Views of Plaintiff's Counsel Favor Approval of the Settlement**

8 Plaintiff's Counsel is highly experienced in complex representative and class action wage-and-
9 hour litigation.³⁹ In the view of Plaintiff's Counsel, the benefits conferred by the settlement are eminently
10 fair and reasonable, and in the best interests of the State of California and the Aggrieved Employees in
11 light of the risk, delay, and uncertainty of continued litigation and the substantial monetary benefits
12 provided for by the Settlement.⁴⁰ Furthermore, courts have acknowledged that "the interests of plaintiff,
13 counsel and other potentially aggrieved employees are largely aligned. All stand to gain from proving as
14 convincingly as possible as many Labor Code violations as the evidence will sustain[.]" *Williams, supra*,
15 548 (citing Cal. Lab. Code § 2699(g)(1)(i)).

16 **V.VI. THE REQUESTED ATTORNEYS' FEES AWARD SHOULD BE APPROVED**

17 **A. A Fee Award of a Percentage of the Entire Fund Is Appropriate**

18 The Settlement provides for attorneys' fees in an amount of up to 35% of the Total Settlement
19 Amount, which is \$105,000 if the Total Settlement Amount remains \$300,000,⁴¹ ~~00~~, subject to approval
20 and award by the Court.⁴² The requested attorneys' fees award is commensurate with: (1) the risk that
21 Plaintiff's Counsel took in bringing and litigating the case, (2) the time, effort, and expense dedicated to
22 the case, (3) the skill and determination that Plaintiff's Counsel has shown, (4) the results that Plaintiff's
23 Counsel has achieved in the case, (5) the value that Plaintiff's Counsel has achieved in the case, and (6)
24 the other cases that Plaintiff's Counsel has turned down in order to work on this matter.

25 Plaintiff's Counsel is entitled to recover reasonable attorneys' fees and costs as a matter of right

26 ³⁸ *Id.*, ¶ 20.

27 ³⁹ *Soto-Dech*, ¶¶ 2-6.

28 ⁴⁰ *Id.*, ¶¶ 13, 29, 33-59, 71.

⁴¹ See note 2.

⁴² *Id.*; Settlement Agreement, § 3(a)(1).

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under PAGA. See Cal. Lab. Code § 2699(g)(1) (“Any employee who prevails in any [PAGA] action shall be entitled to an award of reasonable attorney’s fees and costs”). Plaintiff’s Counsel is also entitled to fees and costs under California Code of Civil Procedure section 1021.5, as the instant PAGA action is by definition “for the benefit” of others and secures monetary recovery for a large number of allegedly aggrieved employees, as well as the State of California.⁴³ The settlement will also provide funds to the state labor agency, to enhance enforcement of labor laws and education of “employers and employees about their rights and responsibilities under [the California Labor Code].” Cal. Lab. Code § 2699(i).

Courts may calculate and award attorneys’ fees as a percentage of a monetary fund that has, by litigation, been preserved or recovered for the benefit of others. *Laffitte v. Robert Half Int’l, Inc.* (2016) 1 Cal.5th 480 at 486 & 506. Trial courts “retain the discretion to forgo a lodestar cross-check and [may] use other means to evaluate the reasonableness of a requested percentage fee.” *Id.* (internal quotes omitted); see also *Wershba, supra*, 91 Cal.App.4th at 253.

Courts award fees as an economic incentive for lawyers to pursue litigation that will enhance and facilitate access to the judicial system for meritorious claims, deter wrongdoing, and address multiple similar alleged wrongs that would not be economically feasible to pursue individually, such as here. See A. Conte, *Attorney Fee Awards* (2d ed. 1993) 104, at 6.

The percentage method is particularly appropriate where a monetary settlement has been recovered and “the benefit [recovered can be] easily quantified.” *In re Bluetooth Headset Prods. Liab. Litig.* (9th Cir. 2011) 654 F.3d 935, 942. Where the amount of a settlement is a “certain easily calculable sum of money,” California courts may calculate attorneys’ fees as a reasonable percentage of the settlement created. Weil and Brown, California Practice Guide, *Civil Procedure Before Trial*, Chapter 14, section 14:145; *Dunk v. Ford Motor Co.*(1996) 48 Cal. App. 4th 1794, 1808.

The percentage fee method is preferred in representative actions because “it better approximates the workings of the marketplace than the lodestar approach.” *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 49. California law provides that the award for attorneys’ fees should be equivalent to

⁴³ See *Estrada v. FedEx Ground Package Sys. Inc.* (2007) 154 Cal.App4th 1, 16-17 (recognizing that recovery obtained on behalf of 209 individuals satisfies the “significant benefit,” “public interest,” and “large class of persons” requirements of Code of Civil Procedure section 1021.5, regardless of plaintiff’s personal motivation).

1 fees freely negotiated in the legal marketplace and paid in comparable litigation based on the result
2 achieved and risk incurred. *See Lealao, supra*, 82 Cal.App.4th at 47-50; *Laffitte, supra*, 1 Cal.5th 480 at
3 503. In cases where the settlement agreement provides that the defendant will pay the plaintiff's attorneys
4 a percentage of the fund created by the settlement, use of that percentage method is appropriate. *Lealao,*
5 *supra*, 82 Cal.App.4th at 32. Fee awards that are too small will "chill the private enforcement essential to
6 the vindication of many legal rights and obstruct the representative actions that often relieve the courts of
7 the need to separately adjudicate numerous claims." *Id.* at 53. Therefore, fees in representative actions
8 should approximate the probable terms of a contingent fee contract negotiated by a sophisticated attorney
9 and client in comparable litigation. *Id.* at 48. "The ultimate goal . . . is the award of a 'reasonable' fee to
10 compensate counsel for their efforts, irrespective of the method of calculation." *Consumer Privacy Cases*
11 (2009) 175 Cal.App.4th 545, 557-58 (quoting *Apple Computer, Inc. v. Superior Court* (2005) 126
12 Cal.App.4th, 1253, 1270).

13 Plaintiff's Counsel's application for attorneys' fees in light of the facts and circumstances
14 surrounding the case is well-within the range of reasonableness. Courts have awarded fees as high as
15 50% of the settlement in complex actions, depending on the circumstances of the case.⁴⁴

16 Plaintiff's Counsel has performed significant work in this matter, as discussed in the Declaration
17 of ~~Matthew Richard Soto~~Vartan Madoyan, with the very real possibility of an unsuccessful outcome and
18 no fee recovery of any kind.⁴⁵ In the present case, Plaintiff's Counsel has borne all of the risks and costs
19 of litigation and will not receive any compensation until recovery is obtained.⁴⁶ Plaintiff's Counsel is
20 experienced in complex wage-and-hour litigation and used that experience to obtain a significant
21 settlement recovery for Plaintiff, the Aggrieved Employees, and the State of California.⁴⁷ Considering
22 the amount of fees requested, work performed, risks incurred, results obtained, and experience of

23 ⁴⁴ *See In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys' fees in the amount of
24 45% of the \$7.3 million total settlement amount); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.*
25 (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys' fees). California
26 courts routinely approve attorneys' fees awards "average[ing] around one-third of the recovery." *Chavez v. Netflix,*
27 *Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found the range of contingency fees in marketplace to be 20%-
28 40% and determined such a percentage fee was appropriate).

⁴⁵ ~~Soto~~Madoyan Decl., ¶¶ 46, 49-2933-63.

⁴⁶ *Id.*, ¶ 3463.

⁴⁷ *Id.*, ¶¶ 2-6.

Plaintiff's Counsel in handling similar matters, Plaintiff maintains that the requested attorneys' fees are reasonable and should be awarded.

B. The Requested Fee Award is Reasonable Based on the Factors Considered in Determination of Fee Awards

The factors which courts consider in determining whether fee awards are reasonable, all of which support the fee award requested by Plaintiff's Counsel, are: the time and labor required; the novelty and difficulty of the questions involved; the skill requisite to perform the legal services properly; the preclusion of other employment by the attorney due to the acceptance of the case; the customary fee; whether the fee is fixed or contingent; the time limitation imposed by the client or the circumstances; the amount involved and results obtained; the experience, reputation, and ability of the attorney; the undesirability of the case; the nature and length of the professional relationship with the client; and awards in similar cases. *Camden I Condominium Association, Inc. v. Dunkel* (11th Cir. 1991) 946 F.2d 768, 772. Some of the most relevant factors to this Court's fee determination will be addressed below.

It should be highlighted that the percentage award sought is commensurate with the time, effort, and expense dedicated to the case, the contingent nature of Plaintiff's Counsel's representation and the risks taken in commencing the case, the skill and determination required, the results that Plaintiff's Counsel has achieved, and the value of the settlement that Plaintiff's Counsel has obtained on behalf of Plaintiff, the Aggrieved Employees, and the State of California. For the reasons discussed herein, an award of attorneys' fees in the amount of 35% of the Total Settlement Amount is reasonable.

1. Time & Labor

Plaintiff's Counsel has used its experience and skills in litigating complex wage-and-hour actions to bring this matter to a successful conclusion. Prior to commencing this lawsuit, Plaintiff's Counsel conducted a significant amount of investigation into the factual and legal issues, Defendant's business, and its operations and employment policies, practices, and procedures.⁴⁸ During the litigation of the case, Plaintiff's Counsel interviewed and obtained information from Plaintiff, Defendant, and other sources, conducted legal research, engaged in formal written discovery and conducted depositions, reviewed and analyzed a large volume of pages of documents and data, prepared for and participated in mediation and

⁴⁸ Soto Decl., ¶¶ 7 & 15-16; Id., ¶¶ 36-39.

robust settlement discussions, evaluated the PAGA claim, and calculated the potential monetary recovery under PAGA.⁴⁹ Plaintiff's Counsel also met and conferred with Defendant's counsel regarding the pleadings, case management, discovery, depositions, arbitration agreements, mediation, and settlement negotiations, among other issues.⁵⁰ Plaintiff's Counsel performed other work including, *inter alia*, case strategy and analysis; and engaging in extensive settlement negotiations.⁵¹

Plaintiff's Counsel dedicated the full extent of staffing and monetary resources necessary to prosecute the case with maximum efficiency and has fully and actively participated in the litigation process. The Attorney Task and Time Chart, which is attached as "EXHIBIT 3" to the accompanying Declaration of Vartan Madoyan, sets forth in detail the hours that Plaintiff's Counsel has spent performing tasks in this matter. Attorneys at Lawyers for Justice, PC have spent 240.70 hours to obtain a recovery on behalf of Plaintiff, the Aggrieved Employees, and the State of California. These hours were required to bring the case to its successful conclusion.

In light of the value of time expended and the carrying of costs involved in this litigation, the requested attorneys' fees award is fair, adequate, and reasonable

2. The Skill Required to Perform Legal Services Properly

The skill required to properly litigate this case is evident not only in the results achieved, but in the steps necessary to reach the same. Defendant retained highly-respected counsel to represent its defenses. Plaintiff's Counsel's effort and skill were used to, among other things, investigate the allegations and gather facts, research the legal issues, analyze data, documents, and information obtained from Defendant, Plaintiff, and through other sources, to evaluate the PAGA claim and negotiate the settlement. Despite all of the obstacles that had to be overcome, Plaintiff's Counsel used its extensive experience and skill in the handling of complex wage-and-hour matters to advocate for and obtain a recovery now, with maximum efficiency, as opposed to the possibility of recovery in the future, after significant expense and time.⁵²

3. Whether the Fee Is Fixed or Contingent

⁴⁹ *Id.*, ¶¶ 15-16 *Ibid.*

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² *Soto Decl.*, ¶¶ 15-29; *Id.*, ¶¶ 36-59.

Plaintiff's Counsel has provided representation on a contingency basis, has borne all of the risks and costs of litigation, and will not receive any compensation until recovery is obtained.⁵³ Plaintiff's Counsel have invested 240.70 hours performing work in this matter.⁵⁴ Plaintiff's Counsel is also requesting reimbursement of its reasonable and actual litigation costs and expenses of \$16,153.22.⁵⁵ If Plaintiff's Counsel had not been successful, the time that they have devoted to litigating the case would have been for naught and would not have produced any fee or any reimbursement of costs or expenses. Plaintiff's Counsel is well-experienced in complex wage-and-hour litigation and used that experience to obtain a great result in this matter.⁵⁶ The skill and determination that Plaintiff's Counsel has shown throughout the prosecution of the case justifies the requested attorneys' fees and costs. Considering the amounts requested, work performed, and risks incurred, the requested fees and costs are reasonable and should be awarded.

4. *The Amount Involved and the Results Achieved*

The Settlement represents an excellent resolution of this lawsuit, given the uncertainty and risks of further litigation.⁵⁷ Had the case not settled, Defendant would have vigorously defended the case, and would have challenged manageability and liability, and also sought a reduction in the amount assessed as civil penalties. Defendant, however, faced risks too, including and not limited to, the risk of trial and the risk of having the Court assess civil penalties. Additionally, preparing for trial would have been extraordinarily expensive for the Parties. At this stage, the settlement is preferred over continued litigation because such resolution saves time and money that would otherwise go to litigation. The risks and expenses of further litigation outweighed any benefit that might have been gained otherwise. The Settlement provides an immediate recovery and avoids an uncertain result in the future and additional risk, expense, and delay (e.g., prolonged expert discovery, trial preparation, and appellate review of those proceedings).

The results achieved, in light of the difficulties inherent in similar cases and the specific difficulties faced in this case, are considerable. Plaintiff's Counsel obtained a settlement that provides for

⁵³ *Id.*, ¶¶ 30-31, 60-63.

⁵⁴ *Id.*, ¶ 61, and Exhibit 3.

⁵⁵ *Id.*, ¶ 63, and Exhibit 7.

⁵⁶ *Id.*, ¶¶ 2-6.

⁵⁷ *Id.*, ¶¶ 12, 15-16, 20-29, & 33, 36-59.

1 a Total Settlement Amount of \$300,000, and it is currently estimated that the Net Settlement Amount
2 available for distribution to the Aggrieved Employees and the State of California, is approximately
3 \$161,846.78.⁵⁸

4 **5. The Reputation and Ability of the Attorneys**

5 Plaintiff's Counsel is a recognized class action and complex litigation law firm, and its attorneys
6 employed their knowledge, skill, and experience to bring the case to a successful conclusion. Plaintiff's
7 Counsel has years of wage-and-hour class action and complex litigation experience, has recovered
8 millions of dollars on behalf of thousands of individuals in California, and has successfully handled
9 numerous significant wage-and-hour class action and representative action cases.⁵⁹

10 **C. The Lodestar Methodology Also Justifies Approval of the Requested Fees.**

11 While the percentage-of-the-benefit approach is endorsed as the better approximation of the
12 workings of the marketplace than the lodestar approach, courts may also use the lodestar method to
13 "cross-check" the results of the other.⁶⁰ The lodestar is calculated based on reasonable hours at
14 reasonable prevailing hourly rates for the attorneys, and counsel is entitled to compensation for every hour
15 reasonably spent on the matter. *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1131-33.

16 The reasonableness of hours is assessed by "the entire course of the litigation, including pretrial
17 matters, settlement negotiations, discovery, litigation tactics, and the trial itself.]" *Vo v. Las Virgenes*
18 *Municipal Water Dist.* (2000) 79 Cal.App.4th 440, 447. As set forth above and also discussed in the
19 Declaration of Vartan Madoyan, Plaintiff's Counsel performed significant work in this matter. The
20 Attorney Task and Time Chart sets forth in detail the numerous tasks that Plaintiff's Counsel performed
21 in this case, and the time required for completing those tasks.⁶¹ The chart demonstrates that Lawyers for
22 Justice, PC has spent a total of **240.70 hours** on this matter, which is reasonable.

23 ⁵⁸ Settlement Agreement, § 3(a) ~~and see footnote 2~~; Madoyan Decl. *Id.*, ¶ 35.

24 ⁵⁹ ~~Soto~~Madoyan Decl., ¶¶ 2-6.

25 ⁶⁰ *Laffitte, supra*, 1 Cal.5th at 505 (explaining that "[a] lodestar cross-check is simply a quantitative method for
26 bringing a measure of the time spent by counsel into the trial court's reasonableness determination" and "the
27 lodestar calculation . . . does not override the trial court's primary determination of the fee as a percentage" and
28 "does not impose an absolute maximum or minimum on the potential fee award."); see also, e.g., *Vizcaino v.*
Microsoft Corp., (9th Cir. 2002) 290 F.3d 1043, 1050 ("[W]hile the primary basis of the fee award remains the
percentage method, the lodestar may provide a useful perspective on the reasonableness of a given percentage
award.");

⁶¹ Madoyan Decl. ¶ 61, and Exhibit 3.

Both California and federal courts recognize that attorneys should be compensated for providing representation on a contingency basis and for taking on the risks associated with said representation, and be provided with financial incentives to enforce important rights and protections like those at issue here. *See Ketchum, supra*, 24 Cal.4th at 1132-33. In awarding attorneys' fees, the aim is to mirror "the established practice in the private legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their normal hourly rates for winning contingency cases." *See id.*

Plaintiff's Counsel has been actively involved in the prosecution of this case and their work on this matter has precluded other employment. Here, Plaintiff's Counsel bore the risk that, despite all of their efforts and skills employed, there may be no recovery. Ultimately, Plaintiff's Counsel was successful in reaching a settlement of no less than \$300,000.00.

As set forth in the Declaration of Vartan Madoyan, the professional backgrounds and experience of Plaintiff's Counsel support a reasonable blended hourly rate of compensation of at least \$850 per hour for services provided by Plaintiff's Counsel.⁶² Lawyers for Justice, PC has been awarded attorneys' fees, compensating the firm at the rate of at least \$850 for legal services performed, by courts of this state.⁶³ While the circumstance of every case is unique, the fact remains that the work performed and efforts undertaken by Plaintiff's Counsel in this matter justify the requested attorneys' fees award.

Applying the rate of \$850 per hour to 240.70 hours worked by Plaintiffs' Counsel, would place a base lodestar value of \$204,595.00 on the services provided by Plaintiffs' Counsel. However, Plaintiff's Counsel only seeks an attorneys' fee award of \$105,000.00 (equal to 35% of the Total Settlement Amount based on the Settlement Agreement). In other words, Plaintiff's Counsel only seeks a fee award of about half of its base lodestar value.

The lodestar method as a cross-check to the percentage figure sought strongly supports the reasonableness of the requested attorneys' fees. Accordingly, Plaintiffs respectfully request that the Court approve and grant an attorneys' fees award in the amount of \$105,000.00 to Plaintiff's Counsel, which is reasonable and justified on a percentage-basis, and also based on a lodestar cross-check.

~~In light of the value of time expended and the carrying of costs involved in this litigation, the~~

⁶² Madoyan Decl., ¶ 62.

⁶³ *Ibid.*

requested attorneys' fees award is fair, adequate, and reasonable.

VI.VII. REIMBURSEMENT OF PLAINTIFF'S COUNSEL LITIGATION COSTS AND EXPENSES SHOULD BE APPROVED

The Settlement provides for reimbursement of litigation costs and expenses of \$18,500.00. As set forth in the Declaration of ~~Matthew Richard Soto~~ Vartan Madoyan, Plaintiff's Counsel seeks reimbursement of \$16,153.22 in litigation costs and expenses.⁶⁴ ~~These On February 7, 2025, the issued an Order which among other things, raised points of inquiry regarding Plaintiff's original Motion for Approval of Settlement ("February 7, 2025 Order"). One of these points of inquiry was in regard to Plaintiff Counsel's request for reimbursement of its litigation costs and expenses were, stating that the Court would not approve \$12,500 in mediation fees as a "cost." Since mediation is an routine and basic event in complex wage and hour cases (if not routine for most contested litigations), which results in a cost that is recoverable through settlement and/or a judgment, Plaintiff is unclear as to the reason why this might be an issue in the first place. Plaintiff, however, provides further information regarding the mediation cost in this First Amended Motion and in the accompanying Declaration of Vartan Madoyan.~~

~~The Parties engaged well-respected mediator Steve Rottman, Esq. of Steve J. Rottman, LLC, to conduct the mediation on July 10, 2023 in this action, as outlined in the January 26, 2023 Invoice attached to the Declaration of Vartan Madoyan (Paragraph 26) as "EXHIBIT 4." Plaintiff's counsel paid its portion of the mediation costs (i.e. 50% of the total mediation costs). A copy of the payment check for this cost item is attached to the Declaration of Vartan Madoyan as the last page of "EXHIBIT 4."~~

~~As discussed above, this mediation expense was reasonable and necessary in the prosecution of this matter and to obtain the Settlement, and (which is also true of the other reasonable and actual costs and expenses incurred by Plaintiff's Counsel). Were it not for the mediation and the continued efforts of the mediator after the mediation, the Parties might never have settled this matter or, in all likelihood, settled it for a lower amount without the benefit of the mediator's expertise. Or, potentially, the Parties might have settled the case at a much later date thereby delaying payment to the Aggrieved Employees or the State of California. In contrast, the Settlement reached here through mediation provides real and significant benefits for the State of California and the Aggrieved Employees here and now, while~~

⁶⁴ ~~Soto~~Madoyan Decl., ¶ 31 and Exhibit 7.

1 avoiding the further expenses, risks, and delay of prolonged litigation with only the possibility of
2 recovery.

3 Further, the litigation costs and expenses for which reimbursement are being sought in this First
4 Amended Motion are less than the maximum amount allocated under the Settlement Agreement.⁶⁵ The
5 cost savings of \$2,346.78 will be part of the Net Settlement Amount for payment to Aggrieved
6 Employees and the State of California.⁶⁷ Accordingly, the Court is requested to award reimbursement of
7 litigation costs and expenses to Plaintiff's Counsel in the amount of \$16,153.22.

8 **VII.VIII. THE SETTLEMENT ADMINISTRATION COSTS SHOULD BE APPROVED**

9 As set forth in the Settlement Agreement, the Parties have agreed to retain, subject to approval by
10 the Court, Phoenix to handle the administration of the Settlement. The fees and expenses of the PAGA
11 Settlement Administrator are estimated not to exceed \$7,000. These costs include, but are not limited to,
12 expenses for preparing, translating into Spanish, printing, and mailing the Cover Letter and Individual
13 Settlement Shares checks to the Aggrieved Employees (i.e., PAGA Settlement Packages); performing
14 skip-trace searches; re-mailing the returned PAGA Settlement Packages; and handling inquiries from
15 Aggrieved Employees regarding the Settlement, among other things. Accordingly, the Court should
16 grant approval of the Settlement Administration Costs in the amount of up to \$7,000 to Phoenix, a
17 necessary third-party for handling the settlement process.

18 **VII.IX. THE GENERAL RELEASE FEE SHOULD BE APPROVED**

19 The Settlement provides for a General Release Fee to be paid to Plaintiff in the amount of
20 \$10,000 for his broader individual waiver and release of claims with a California Civil Code Section 1542
21 waiver (set forth in Section 8(b) of the Settlement Agreement).⁶⁸ The purpose of the PAGA
22 Representative Release fee is to incentivize aggrieved employees to step into the shoes of the state labor
23 agency and undertake the responsibilities associated with initiating a lawsuit and serving in a
24 representative capacity. See Bell v. Farmers Ins. Exch. (2004) 115 Cal.App.4th 715, 726 ("service

25 ⁶⁵ Ibid.

26 ⁶⁶ Ibid.

27 ⁶⁷ Ibid.

28 ⁶⁸ Settlement Agreement, §§ 3(a)(2) & 8(b). The PAGA statute recognizes that a plaintiff employee may pursue or
recover other remedies and relief available to the plaintiff employee under state or federal law through an action
under PAGA. See, Cal. Lab. Code § 2699(k)(1) (formerly Cal. Lab. Code § 2699(g)(1)). As such, it is appropriate
for Plaintiff to receive a payment for his broader individual release of claims.

1 payments” compensate named plaintiff “for [her] efforts in bringing the action”; *Clark v. Am. Residential*
2 *Servs., LLC* (2009) 175 Cal.App.4th 785, 804 (“an incentive award is appropriate ‘if it is necessary to
3 induce an individual to participate in the suit”); accord *Ingram v. The Coca-Cola Co.* (N.D. Ga. 2001)
4 200 F.R.D. 685, 694 (internal quotation marks omitted) (“Courts routinely approve incentive awards to
5 compensate named plaintiffs for the services they provided and the risks they incurred during the course
6 of the [...] litigation.”); see also, e.g., *Resendez, supra*, Los Angeles County Superior Court, Case No.
7 BC59689 (approving \$10,000 enhancement award in a PAGA action). It is reasonable and just for
8 Plaintiff to receive this payment. Plaintiff contributed considerable time and effort to the litigation of this
9 case in order to enforce the California Labor Code on behalf of the State of California and for the benefit
10 of other Aggrieved Employees. Plaintiff discussed his employment with his counsel, gathered and
11 produced relevant documents and information, and provided the facts and evidence necessary to attempt
12 to prove the allegations.⁶⁹ Plaintiff was available whenever his counsel needed him and tried to obtain and
13 provide documents and information that would aid in the litigation of the PAGA claim and pursuit of
14 recovery on behalf of the State of California and Aggrieved Employees.⁷⁰ The LWDA has been a
15 proponent of plaintiffs in PAGA representative actions receiving incentive awards for their work in
16 prosecuting PAGA lawsuit because PAGA representatives bear risks in bringing such actions, which also
17 take up considerable time and resources, and because the aggrieved employees will only a small portion
18 of whatever the net settlement amount may be in a given PAGA settlement since PAGA gives the State
19 of California the lion’s share.”⁷¹

20 Further, the general release of claims is very significant in the circumstances of this case.
21 Defendant would not settle if not for the peace of mind that no other lawsuits would be filed by Plaintiff;
22 and Plaintiff experienced harassment, fear, retaliation, and wrongful termination which he details for the
23 Court in the Declaration that he submits concurrently with this First Amended Motion.⁷² The general
24 release would release those claims for nothing if not for the fact that Plaintiff seeks the General Release
25 Fee in order to at least have some minimal form of compensation for his claims.

69 SotoMadayan Decl., ¶ 3266; Declaration of Iftikhar Khan (“Khan Decl.”), ¶¶ 3 & 410-15.

70 Ibid.

71 Madayan Decl., ¶ 69 and Exhibit 8.

72 Khan Decl., ¶¶ 5-9, 13.

1 Accordingly, it is appropriate and just for Plaintiff to receive a General Release Fee for his
2 broader release of claims and for his work in the action, as is also recognized by the LWDA.

3 ~~IX.X.~~ **CONCLUSION**

4 For the reasons discussed above and in the accompanying declarations, the Court is respectfully
5 requested to approve the Settlement, including the plan of allocation and distribution of the Total
6 Settlement Amount, and permit the filing of this memorandum that exceeds the page limit.

7
8 Dated: ~~December 17, 2024~~ July 22, 2025

LAWYERS for JUSTICE, PC

9
10 By: _____
11 Joanna Ghosh
12 ~~Matthew Richard Soto~~
13 Vartan Madoyan
14 *Attorneys for Plaintiff*