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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

ALMA RODRIGUEZ, individually, and on behalf of others similarly situated,

Plaintiff,

vs.

MERCHANTS BUILDING MAINTENANCE, LLC, a California limited liability company; and DOES 1 through 50, inclusive,

Defendants.

Case No. 21STCV46004

[Assigned for all purposes to the Hon. Elihu M. Berle, Dept. 6]

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

[Filed concurrently with Declarations of Matthew J. Matern and Alma Rodriguez; and [Proposed] Final Order and Judgment]

Date: October 17, 2025
Time: 9:00 a.m.
Dept.: 6

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

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

PLEASE TAKE NOTICE that on October 17, 2025 at 9:00 a.m., in Department 6 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012, plaintiff Alma Rodriguez will, and hereby does, move this Court for entry of an order and judgment approving the parties' PAGA settlement pursuant to Labor Code section 2699(a)(2).

The motion will be based upon this notice, the attached Memorandum of Points and Authorities, the Declarations of Matthew J. Matern and Alma Rodriguez, all exhibits thereto, the complete files and records of this case, and any other evidence or oral argument which may be considered by the Court at the time of the hearing.

DATED: September 24, 2025

Respectfully submitted,

MATERN LAW GROUP, PC

By: ______________________________

MATTHEW J. MATERN
DEANNA S. LEIFER
KRISTEN B. DOYAN
Attorneys for Plaintiff ALMA RODRIGUEZ, individually and on behalf of all other aggrieved employees

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Pursuant to the California Private Attorneys General Act of 2004 ("PAGA"), Labor Code section 2699, *et seq.*, plaintiff Alma Rodriguez ("Plaintiff") seeks court approval of the settlement of her claim under PAGA. In the Action, Plaintiff alleges that defendant Merchants Building Maintenance, LLC ("Defendant" or "MBM") failed to provide Plaintiff and other aggrieved employees lawful meal and rest periods and failed to pay minimum and overtime wages. As a result of these violations, Defendant also failed to provide timely wages during employment, failed to provide accurate itemized wage statements, failed to maintain required records, and failed to pay all wages due upon separation. Plaintiff brought this Action as a representative of the state to recover penalties for these alleged Labor Code violations on behalf of all persons employed by Defendant as non-exempt employees in California at any time since September 3, 2020.

Under the terms of the Settlement, Defendant will pay $1,900,000.00 to settle the PAGA claim. The PAGA penalties secured by the Settlement are genuine and meaningful, and fulfill PAGA's underlying purpose to benefit the public. As detailed below, the Settlement was reached after discovery and investigation by the Parties, including a thorough review and analysis of Defendant's wage and hour policies and sampling of the Aggrieved Employees' time and payroll records, and a full-day mediation before an experienced mediator well-versed in wage and hour litigation. The Settlement is also strongly supported by experienced counsel, who carefully considered the strength of the claims and Defendant's defenses, as well as the expense, complexity, risks, and likely duration of continued litigation. In light of the Parties' support for the Settlement, and because it satisfies all the criteria for settlement approval under California law and will provide significant monetary recovery to the State of California and the Aggrieved Employees, the Court should approve the Settlement.

Plaintiff's requests for attorneys' fees in the amount of $633,333.33, reimbursement of costs and expenses in the amount of $65,240.25, and an incentive award to Plaintiff in the amount of $10,000.00 also are reasonable and should be approved by the Court.

Accordingly, Plaintiff respectfully requests that the Court enter an order granting approval of the Settlement.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. The Parties

MBM is a full-service commercial cleaning company. Declaration of Matthew J. Matern ("Matern Decl.") ¶ 3. Plaintiff worked for MBM as a janitor at the Brea Center in Brea, California from approximately July 9, 2018 to October 15, 2018, and again from December 14, 2018 to May 20, 2021. *Id* at ¶ 4; Declaration of Alma Rodriguez ("Rodriguez Decl.") ¶ 3.

B. Procedural History

On September 3, 2021, Plaintiff submitted a notice to Defendant and the Labor and Workforce Development Agency ("LWDA") pursuant to Labor Code section 2699.3. Matern Decl. ¶ 6, Exh. A.

On December 17, 2021, Plaintiff filed a putative wage and hour class and representative action against MBM in Los Angeles County Superior Court, alleging causes of action for: (1) failure to provide required meal periods; (2) failure to provide required rest periods; (3) failure to pay overtime wages; (4) failure to pay minimum wages; (5) failure to pay all wages due to discharged and quitting employees; (6) failure to maintain required records; (7) failure to furnish accurate itemized wage statements; (8) failure to indemnify employees for necessary expenditures incurred in discharge of duties; (9) unfair and unlawful business practices; and (10) penalties under PAGA. *Id.*

On March 15, 2022, Defendant filed a Petition to Compel Arbitration. *Id.* at ¶ 8. On May 17, 2022, the Court granted Defendant's Petition to Compel Arbitration and stayed Plaintiff's entire PAGA cause of action pending the outcome of arbitration. *Id.* The Court ordered the enforceability of the class action waiver to be decided by the Arbitrator pursuant to language in the Collective Bargaining Agreement ("CBA") and the arbitration agreement. *Id*.

On October 31, 2022, Plaintiff initiated individual and class arbitration proceedings with the American Arbitration Association. *Id*. at ¶ 9. Pamela L. Hemminger ("Arbitrator Hemminger") was appointed as the arbitrator. *Id.*

On May 20, 2023, Arbitrator Hemminger enforced the class action waiver present in the Parties' arbitration agreement and CBA. *Id*. at ¶ 10. Plaintiff proceeded with arbitration as to her individual Labor Code claims only. *Id.*

C. Discovery and Investigation

Prior to reaching the Settlement, Plaintiff and her counsel conducted an investigation into the claims alleged, performed legal research, and engaged in significant discovery. Matern Decl. ¶ 11.

On August 8, 2023, Defendant served written discovery requests on Plaintiff, including form interrogatories—general, form interrogatories—employment, special interrogatories, and requests for production of documents. *Id*. at ¶ 12. Plaintiff served responses to Defendant's discovery requests on October 24, 2023 and supplemental responses on January 4, 2024. *Id.*

On August 14, 2023, Plaintiff served written discovery requests on Defendant, including form interrogatories—general, form interrogatories—employment, special interrogatories, and requests for production of documents. *Id*. at ¶ 13. Defendant served responses to Plaintiff's discovery requests on November 13, 2023 and supplemental responses on January 18, 2024. *Id.*

Defendant took the depositions of Investigator Kimberly Rumsey on January 16, 2025, and Union Representative Tania Moran on February 20, 2025. *Id.* at ¶ 14. Defendant took Plaintiff's deposition on February 24, 2025 and April 30, 2025. *Id.*

Plaintiff took the depositions of Defendant's Persons Most Qualified on May 14, 2025, May 16, 2025, and May 23, 2025. *Id*. at ¶ 15. Plaintiff also took the depositions of Defendant's employees Teodora Luciano and Marlen Valencia on June 13, 2025 and June 16, 2025, respectively. *Id.*

Defendant produced various policy documents and a representative sampling of the time and payroll data for the Aggrieved Employees. *Id*. at ¶ 16. Plaintiff's expert analyzed the time and payroll data, which assisted Plaintiff's counsel in preparing a damages model prior to the mediation. *Id*.

Based on this discovery and investigation, Plaintiff was able to act intelligently and effectively in negotiating the proposed Settlement. *Id*. at ¶ 17.

D. Settlement Negotiations

On August 15, 2024, the Parties attended a private mediation session with mediator Jeffrey Fuchsman, Esq. ("Mr. Fuchsman"). Matern Decl. ¶ 18. The Parties did not reach a resolution of the action at the time of the mediation; however, the Parties continued to engage in settlement negotiations with the assistance of Mr. Fuchsman following the mediation. *Id.* On June 13, 2025, Mr. Fuchsman made a mediator's proposal outlining the material terms of a proposed representative action settlement. *Id.* On June 17, 2025, the Parties accepted the mediator's proposal. *Id.*

The Stipulation of Representative Action Settlement ("Stipulation") was fully executed on August 26, 2025. *Id.* at ¶ 19; Exh. B.

On September 24, 2025, Plaintiff submitted a copy of the Stipulation to the LWDA. *Id.* at ¶ 20; Exh C.

III. SUMMARY OF SETTLEMENT

A. The Aggrieved Employees

The Aggrieved Employees consist of Plaintiff and all current and former hourly paid and/or non-exempt employees of Defendant in California at any time during the time period from September 3, 2020 through August 12, 2025 ("PAGA Period"). Stipulation ¶¶ 2, 17. According to information provided by Defendant, there are approximately 5,800 Aggrieved Employees. Matern Decl. ¶ 5.

B. Settlement Terms

Under the Settlement, the claims of all Aggrieved Employees shall be settled for the Settlement Fund of $1,900,000.00, which is inclusive of all Individual Settlement Payments to Aggrieved Employees, the Plaintiff's Counsel Award, the Incentive Award, Settlement Administration Costs, and the PAGA payment to the LWDA. Stipulation ¶ 26.

All payments under the Settlement shall be distributed by the Settlement Administrator within 15 days of receiving the Settlement Fund from Defendant. Stipulation ¶ 41.a.i.

The Settlement Fund shall be allocated as follows:

1. PAGA Fund. After deducting the Plaintiff's Counsel Award, Incentive Award, and Settlement Administration Costs, the remainder of the Settlement Fund shall be allocated toward payment to the LWDA and the Aggrieved Employees ("PAGA Fund"). Seventy-five percent (75%) of the PAGA Fund will be sent to the LWDA and twenty-five percent (25%) of the PAGA Fund will be allocated among the Aggrieved Employees for their Individual Settlement Payments. Stipulation ¶ 16.

Each Aggrieved Employee's Individual Settlement Payment shall be calculated solely by the Settlement Administrator according to the following formula: Defendant shall provide the Settlement Administrator with the Compensable Pay Periods for each Aggrieved Employee. The Settlement Administrator shall then divide the Aggrieved Employees' portion of the PAGA Fund by the total number of Compensable Pay Periods for all Aggrieved Employees resulting in a value for each week worked by the Aggrieved Employees during the PAGA Period ("Pay Period Value"). The Settlement Administrator shall then multiply the number of Compensable Pay Periods for each Aggrieved Employee by the Pay Period Value. Stipulation ¶¶ 4, 42.a.i.

Individual Settlement Payment checks shall remain negotiable for 180 days from the date of mailing. If an Individual Settlement Payment check remains uncashed after 180 days from issuance, the Settlement Administrator shall distribute the value of the uncashed check to the State Controller's Office Unclaimed Property Fund in the name of the Aggrieved Employee. In such event, the Aggrieved Employees shall nevertheless remain bound by the Settlement. Stipulation ¶ 42.a.iv.

2. Incentive Award. Subject to Court approval, in exchange for executing a general release of her claims against Defendant and in recognition of her efforts and risks in prosecuting the Action, Plaintiff shall be paid up to $10,000.00 as an enhancement for her services as a PAGA representative. Stipulation ¶ 42.c.

3. Plaintiff's Counsel Award. Subject to Court approval, Plaintiff's Counsel shall receive an award of attorneys' fees in an amount not to exceed one-third of the Settlement Fund, which equals $633,333,33, plus reimbursement of costs and expenses not to exceed $70,000.00. Stipulation ¶ 42.d.

4. Settlement Administration Costs. The Settlement Administration Costs, which are estimated not to exceed $16,190.00, shall be paid from the Settlement Fund. Stipulation ¶ 42.e.

C. The Release

Upon Defendant providing the Settlement Fund to the Settlement Administrator, all Aggrieved Employees shall be deemed to have released, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties of any and all claims and/or causes of action under PAGA that were alleged, or reasonably could have been alleged, based upon the factual allegations set forth in the operative complaint and/or Plaintiff's PAGA notice to the LWDA and arising at any time during the PAGA Period, including any and all claims based on Defendant's alleged failure to pay minimum, earned, and overtime wages, provide compliant meal and rest periods and associated premium payments, timely pay wages during employment and upon termination, provide complaint wage statements, keep requisite payroll records, and reimburse necessary business-related expenses, and alleged unlawful deductions from wages, in violation of California Labor Code §§ 201, 202, 203, 204, 221, 223, 224, 226, 226.7, 510, 512, 1174, 1174.5, 1194, 1197, 1197.1, and 2802, and the applicable Industrial Welfare Commission Wage Order. Stipulation ¶ 40.a.

The "Released Parties" are Defendant and its present or former parents, owners, subsidiaries, associates, divisions, related companies, business concerns, and any affiliated or related persons or entities, including but not limited to Merchants Building Maintenance Co., and each of its present and former owners, officers, directors, members, administrators, employees, partners, shareholders, fiduciaries, accountants, auditors, consultants, trustees, beneficiaries, attorneys, insurers, reinsurers, principals, heirs and agents, and any other predecessors, successors, assigns, or legal representatives. Stipulation ¶ 22.

In addition, upon Defendant providing the Settlement Fund to the Settlement Administrator, Plaintiff will generally release any and all claims against Defendant. This general release by Plaintiff includes a waiver of rights under California Civil Code § 1542. Stipulation ¶ 40.b.

D. Settlement Administration

Within 15 days of the Effective Date, Defendant shall provide the Settlement Administrator with the Employee Information for purposes of mailing the Settlement Packets to Aggrieved Employees. Stipulation ¶¶ 8, 41.a. Within 15 days of receiving the Settlement Fund from Defendant as provided herein, the Settlement Administrator shall mail copies of the Settlement Packet, which shall include the Notice, in English and Spanish, and each Aggrieved Employee's respective Individual Settlement Payment, to all Aggrieved Employees via regular First Class U.S. Mail. Stipulation ¶ 41.a.i. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Aggrieved Employee. *Id.* The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the most current mailing address for each Aggrieved Employee. *Id.* The Parties agree that this procedure for notice provides the best notice practicable to Aggrieved Employees and fully complies with due process. Stipulation ¶ 41.a.i.[1]

Any Settlement Packet returned to the Settlement Administrator as non-deliverable shall be re-mailed to the forwarding address affixed thereto. Stipulation ¶ 41.a.ii. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine a correct address by the use of skip-tracing, or other type of automated search, using the name, address, and/or Social Security number of the Aggrieved Employee involved, and shall then perform a re-mailing to the Aggrieved Employee whose Settlement Packet was returned as non-deliverable, assuming another mailing address is identified by the Settlement Administrator. *Id.* If these procedures are followed, notice to Aggrieved Employees shall be deemed to have been fully satisfied, and if the intended recipient of the Settlement Packet does not receive the Settlement Packet, the intended recipient shall nevertheless remain bound by all terms of the Settlement and the Judgment. *Id.*

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[1] The Notice shall be in substantially the same form as Exhibit 1 to the Stipulation.

IV. THE COURT SHOULD GRANT APPROVAL OF THE PAGA SETTLEMENT

A. **The PAGA Penalties Secured by the Settlement Are Genuine and Meaningful and Fulfill PAGA's Underlying Purpose to Benefit the Public**

The PAGA statute specifically provides that "[t]he superior court shall review and approve any settlement of any civil action filed pursuant to this part." Lab. Code § 2699(l)(2). The statute, however, does not require a two-step process or otherwise mimic the class action approval requirements when the parties reach a settlement only as to PAGA civil penalties. *See Salazar v. Sysco Central Cal., Inc.* (E.D. Cal. Feb. 2, 2017) 2017 WL 1135801, *2 (rejecting the application of class action settlement rules and procedures for PAGA settlement approval). In the absence of an explicit statutory requirement, the LWDA has provided guidance, explaining that courts should evaluate settlements of PAGA claims based on whether "the relief provided for under the PAGA [is] genuine and meaningful, consistent with the underlying purpose of the statute to benefit the public." *O'Connor v. Uber Techs., Inc.* (N.D. Cal. 2016) 201 F. Supp. 3d 1110, 1133; *see also Salazar,* 2017 WL 1135801 at *2. Courts defer to the agency's interpretation of a statute where authority has been delegated to that agency. *See New Cingular Wireless PCS, LLC v. Pub. Utilities Comm'n* (2016) 246 Cal. App. 4th 784, 807. When evaluating a PAGA settlement, the court should analyze whether the amount of civil penalties obtained is "genuine and meaningful" in light of PAGA's statutory purpose.

The California legislature enacted PAGA to "augment the limited enforcement capability of the [LWDA] by empowering employees to enforce the Labor Code as representatives of the Agency." *Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 383. This statute authorizes an employee to bring an action for "civil penalties on behalf of the state against his or her employer for Labor Code violations committed against the employee and fellow employees." *Id.* at 360. An action under PAGA to recover civil penalties "is essentially a law enforcement action designed to protect the public and not benefit private parties." *Id.* at 381. Fundamentally, "a PAGA action is a statutory action in which the penalties available are measured by the number of Labor Code violations committed by the employer." *Sakkab v. Luxottica Retail North America, Inc.* (9th Cir. 2015) 803 F.3d 425, 435. "As the state's proxy, an employee-plaintiff may obtain civil penalties for violations committed against absent employees [citation], just as the state could if it brought an enforcement action directly." *Id.*

Under the general provisions of the PAGA scheme, 75% of the civil penalties recovered goes to the state, while the remaining amount is given to the aggrieved employees. Lab. Code § 2699(i). The PAGA action is one of the "primary mechanisms for enforcing the Labor Code." *Iskanian,* 59 Cal.4th at 383. As the state's proxy or agent, "the employee plaintiff represents the same legal right and interest as state labor law enforcement agencies- namely, recovery of civil penalties that otherwise would have been assessed by and collected by the [LWDA]." *Id.* "[A]n aggrieved employee's action under [PAGA] functions as a substitute for an action brought by the government itself." *Id.* The goal of PAGA is to impose civil penalties for Labor Code violations "significant enough to deter violations." *Id.* at 379.

Thus, a PAGA action is "fundamentally different from a class action." *Baumann v. Chase Inv. Servs. Corp.* (9th Cir. 2014) 747 F.3d 1117, 1123 ("These differences stem from the central nature of PAGA. PAGA plaintiffs are private attorneys general who, stepping into the shoes of the LWDA, bring claims on behalf of the state agency."). The PAGA statute expressly distinguishes and preserves the right of employees to separately (or concurrently) pursue their own causes of action against their employers and to recover other available federal and state remedies. Lab. Code § 2699(g)(l); *see Baumann,* 747 F.3d at 1123 (explaining the differences between the finality in class action judgments and the limited res judicata effect of PAGA judgments). "Unlike a class action seeking damages or injunctive relief for injured employees, the purpose of 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." *McKenzie v. Federal Exp. Corp.* (C.D. Cal. 2011) 765 F. Supp. 2d 1222, 1233.

Here, the Settlement provides relief to the Aggrieved Employees that is genuine and meaningful, consistent with the underlying purpose of the statute to benefit the public. Plaintiff alleges that Defendant failed to provide lawful meal and rest breaks and failed to pay minimum and overtime wages. As a result of these violations, Defendant also failed to provide timely wages during employment, failed to provide accurate itemized wage statements, failed to maintain required records, and failed to pay all wages due upon separation. The Settlement both compensates the Aggrieved Employees and penalizes Defendant for these alleged violations.

The Settlement provides a substantial benefit to the Aggrieved Employees, who will share 25% of the $1,175,236.42 PAGA Fund, which is $293,809.11. Matern Decl. ¶ 28. Each Aggrieved Employee will receive approximately $50.66, on average, as part of the Settlement. *Id.* The Settlement also provides a substantial benefit to the State of California, as the LWDA will receive approximately $881,427.31 as a PAGA payment. *Id.* Finally, the Settlement Fund of $1,900,000.00 is significant enough to deter Defendant from future violations. *Id.* Accordingly, the Settlement fulfills the underlying purpose of the statute and confers a substantial benefit on the public.

B. <u>The Settlement Is Reasonable Given the Risks of Further Litigation</u>

In assessing whether the amount in civil penalties is genuine and meaningful, the Court may balance the amount in penalties with the risks of further litigation. Here, Plaintiff obtained a meaningful amount in civil penalties despite facing significant challenges had the litigation continued. Plaintiff has calculated the maximum potential penalties to be approximately $50,165,540.00. Matern Decl. ¶¶ 21-22.

While Plaintiff is confident in the merits of the case, a legitimate controversy exists as to each cause of action. *Id.* at ¶ 25. Specifically, Plaintiff contends that, due to the nature of the Aggrieved Employees' work and Defendant's practices, employees were consistently denied the right to take timely and uninterrupted meal and rest periods. *Id.* On the other hand, Defendant contends that it maintained lawful meal and rest break policies and that Aggrieved Employees were provided meal and rest periods. *Id.* As a result, Defendant contends that, throughout the PAGA Period, it complied with applicable California law. *Id.* Plaintiff also took into account the fact that continued litigation would be expensive, involving a trial and possible appeals, and would substantially delay and reduce any recovery to the state and the Aggrieved Employees. *Id.* at ¶ 26. In addition, Plaintiff faced the real risk of losing at the arbitration hearing, which would mean that she no longer would have standing to represent the other aggrieved employees on a representative basis. *Id.*

Thus, when the risks of litigation, the burdens of proof necessary to establish liability, and the probability of appeal of a favorable judgment are considered, it is clear that the settlement amount of $1,900,000.00 is reasonable and in the best interest of the state and the public. *Id.* at ¶ 28. Plaintiff objectively and knowledgeably balanced the strengths and weaknesses of her claims against the risk of continued litigation, and was able to determine a realistic range of settlement recovery for PAGA penalties. *Id.* The Settlement therefore accomplishes PAGA's objectives by imposing sufficient civil penalties "to punish and deter" Defendant from future alleged Labor Code violations, while also ensuring that the penalties are not "unjust, arbitrary and oppressive, or confiscatory." Lab. Code § 2699(e)(2); *Iskanian,* 59 Cal. 4th at 384.

V. PLAINTIFF'S COUNSEL'S REQUESTED FEES AND COSTS ARE REASONABLE

The Settlement provides for attorney's fees to Plaintiff's Counsel in an amount up to one-third of the Settlement Fund, for a maximum fee award of $633,333.33, plus reasonable and actual litigation expenses not to exceed $70,000.00. Stipulation ¶ 42.d. Plaintiff's Counsel are entitled to reasonable attorneys' fees pursuant to Labor Code § 2699(g)(1). The requested fees are reasonable based on Plaintiff's Counsel's lodestar and as a percentage of the settlement fund.

A. Plaintiff's Counsel Are Entitled to Attorneys' Fees and Costs under PAGA

Plaintiff is entitled to attorneys' fees under Labor Code section 2699(g)(l), which provides that "[a]ny employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs." Lab. Code § 2699(g)(1); *see also Gouskos v. Aptos Village Garage, Inc.* (2001) 94 Cal.App.4th 754, 765 (holding that attorneys' fees to prevailing party are mandatory when the statute uses the word "shall"). It is undisputed that Plaintiff is the prevailing party. *See Graciano v. Robinson Ford Sales, Inc.* (2006) 144 Cal. App. 4th 140, 153 ("[P]laintiffs may be considered 'prevailing parties' for attorney's fee purposes if they succeed on any significant issue in the litigation that achieves some of the benefit the parties sought in bringing suit." (internal citation omitted)). Accordingly, Plaintiff is entitled to recover attorneys' fees and costs.

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B. Plaintiff's Counsel's Requested Attorneys' Fees Are Reasonable Under the Lodestar Method

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

Here, Plaintiff's Counsel's lodestar is $357,645.00, which is based on 500.8 hours of attorney time at the attorneys' customary hourly rates. Matern Decl. ¶ 31. In addition, Plaintiff's Counsel estimates that it will spend another 30 hours on this case at an average hourly rate of approximately $800.00, which totals $24,000.00. *Id.* at ¶ 33. As Plaintiff is requesting attorneys' fees in the amount of $633,333.33, Plaintiff is requesting application of a 1.66 multiplier. [2]

1. Plaintiff's Counsel's Hours Are Reasonable

In determining whether the number of hours expended on the litigation was reasonable, the court must determine that "the time spent was reasonably necessary and that… counsel made 'a good faith effort to exclude from the fee request hours that are excessive, redundant, or otherwise unnecessary." *Jordan v. Multnomah County* (9th Cir. 1987) 815 F.2d 1258, 1263 n.8. The court "should defer to the winning lawyer's professional judgment as to how much time he was required to spend on the case." *Moreno v. City of Sacramento* (9th Cir. 2008) 534 F.3d 1106,

[2] Plaintiff includes the estimated future hours spent attending the approval hearing and overseeing settlement administration in her calculation of the requested multiplier. *See id.* at ¶ 33.

1112 (noting that "[l]awyers are not likely to spend unnecessary time on contingency fee cases in the hope of inflating their fees. The payoff is too uncertain, as to both the result and the amount of the fee.").

Here, Plaintiff's Counsel expended a significant amount of time litigating the case to achieve the excellent result on behalf of the State of California and the Aggrieved Employees. Matern Decl. ¶ 32. The efforts expended by MLG thus far include, but are not limited to, the following: interviewing Plaintiff and reviewing documents provided by Plaintiff; drafting the complaint; preparing for and attending court hearings; opposing Defendant's Petition to Compel Arbitration; briefing the issue of whether arbitration may proceed on a classwide basis; serving written discovery requests on Defendant; meeting and conferring with Defendant's counsel to obtain relevant documents and information; defending the depositions of Plaintiff; taking three depositions of Defendant's Persons Most Qualified; subpoenaing and taking two percipient witness depositions; attending two percipient witness depositions; preparing pre-hearing documents in advance of the arbitration hearing; reviewing time and payroll records and other employment records produced by Defendant; retaining consultants to analyze time and payroll data and produce expert reports in preparation for the arbitration hearing; performing legal research regarding Plaintiff's claims and Defendant's defenses thereto; drafting a mediation brief and preparing a damages analysis prior to the mediation; attending a private mediation session; engaging in settlement negotiations following the mediation; negotiating, drafting, and revising the Stipulation and Notice; and drafting the Motion for Approval of the PAGA Settlement and accompanying documents. *Id.*

To date, Plaintiff's Counsel has spent approximately 500.8 hours litigating this case and expects to spend approximately 30 additional hours preparing for and attending the Approval Hearing and monitoring the administration of the Settlement. *Id.* at ¶¶ 31, 33. These hours were necessary and reasonable to achieve the excellent result on behalf of the State and the Aggrieved Employees.

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

The reasonable hourly rate is that prevailing in the community for similar work. *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095. "[I]n assessing a reasonable hourly rate, the trial court is allowed to consider the attorneys' skill as reflected in the quality of work, as well as the attorneys' reputation and status." *MBNA American Bank, N.A. v. Gorman* (2006) 147 Cal.App.4th 1, 3. The trial court may also "find hourly rates reasonable based on evidence of other courts approving similar rates." *Parkinson v. Hyundai Motor America* (C.D. Cal. 2010) 796 F.Supp.2d 1160, 1172.

Plaintiff's Counsel are experienced litigators who specialize in employment law, with a substantial wage and hour practice. Matern Decl. ¶¶ 34-47. A number of courts have approved Plaintiff's Counsel's hourly rates. *Id.* at ¶ 49. Given the skill and experience of Plaintiff's Counsel in this case, and the excellent result achieved, Plaintiff's Counsel's hourly rates are reasonable.

3. Application of a Positive Multiplier Is Appropriate

The lodestar amount may be increased by applying a multiplier. *See Serrano*, 20 Cal.3d at 49; *Beasley v. Wells Fargo Bank* (1991) 235 Cal.App.3d 1407. In California, "[m]ultipliers can range from two to four or even higher" and are routinely applied in the range requested by Class Counsel. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 254; *see also Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 (upholding 2.5 multiplier); *Glendora Cmty. Redevelopment Agency v. Demeter* (1984) 155 Cal.App.3d 465 (affirming a fee award that included a 12.0 multiplier); *Craft v. County of San Bernardino* (C.D. Cal. 2008) 624 F.Supp.2d 1113, 1125 (awarding a common fund fee which amounted to a 5.2 multiplier); *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051 (approving a 3.65 multiplier); *Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 298-299 (approving multiplier of 3.6). Some of the factors a trial court considers when determining whether to apply a multiplier are: "(1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, (4) the contingent nature of the fee award." *See Ketchum v. Moses* (2001) 24 Cal.4th

1122, 1132 (citations omitted). The ultimate goal is "to entice competent counsel to undertake difficult public interest cases." *San Bernardino Valley Audubon Soc. v. Cnty. of San Bernardino* (1985) 155 Cal.App.3d 738, 755. Fee awards that are too small "chill the private enforcement essential to the vindication of many rights[.]" *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 53.

In *Ketchum*, the California Supreme Court held that fee enhancement in contingency cases is necessary to (1) fully compensate counsel for the "loan" of legal services in light of the inherent high risk of "default" posed by losing the case and (2) encourage competent counsel to take on fee award cases. *Ketchum*, 24 Cal.4th at 1132-1133. As the court noted, "[a] lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases." *Id.* at 1133 (citations omitted). Similarly, in *Greene v. Dillingham Construction N.A., Inc.* (2002) 101 Cal.App.4th 418, the Court of Appeal held that the trial court erred by refusing to consider contingent risk as a factor in the decision to apply a multiplier. *Id.* at 426. The court recognized that "[t]he adjustment to the lodestar figure, *e.g*., to provide a fee enhancement reflecting the risk that the attorney will not receive payment if the suit does not succeed, constitutes earned compensation; unlike a windfall, it is neither unexpected nor fortuitous. Rather, it is intended to approximate market-level compensation for such services, which typically includes a premium for the risk of nonpayment or delay in payment of attorney fees." *Id*. (citations omitted).

Application of a 1.66 multiplier is appropriate. Plaintiff's Counsel agreed to litigate this case on a contingent fee basis, and in the process assumed considerable risk given the uncertain proposition these types of cases entail. Matern Decl. ¶¶ 50-53. A multiplier is also appropriate given the excellent result achieved on behalf of the State and the Aggrieved Employees. *Id.* at ¶ 29.

Given the contingent risk incurred by Plaintiff's Counsel, the delay in payment, the difficulty of the questions involved, the substantial benefit conferred on the Aggrieved

Employees, the public, and the State as a result of the Settlement, and the skill displayed by Plaintiff's Counsel, application of a multiplier is appropriate.

Plaintiff therefore respectfully requests that the Court award Plaintiff's Counsel the requested fees of $633,333.33 based on Plaintiff's Counsel's lodestar with application of a 1.66 multiplier.

C. Plaintiff's Counsel's Requested Attorneys' Fees Are Reasonable under the Common Fund Method

The request for attorneys' fees as a percentage of the Settlement Fund is supported by the "common fund theory," where "one who expends attorneys' fees in winning a suit which creates a fund from which others derive benefits, may require those passive beneficiaries to bear a fair share of the litigation costs." *Serrano*, 20 Cal.3d at 35. The lodestar may be cross-checked against the percentage-of-recovery. *See In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 556-58.

The purpose of the common fund approach is to "spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769. Thus, the common fund doctrine has been applied "consistently in California when an action brought by one party creates a fund in which other persons are entitled to share." *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110; *see also Quinn v. State of California* (1975) 15 Cal.3d 162, 167 ("[O]ne who expends attorneys' fees in winning a suit which creates a fund from which others derive benefits may require those passive beneficiaries to bear a fair share of the litigation costs.").

A number of other courts have recognized the advantages of awarding fees as a percentage of the common fund over the alternative lodestar approach, which usually involves wading through voluminous and often indecipherable time records. *See, e.g., In re Activision Securities Litigation* (N.D. Cal. 1989) 723 F.Supp. 1373, 1375. The percentage approach is preferable to the lodestar method because: (1) it provides predictability to counsel; (2) encourages efficient resolution of the litigation by providing an incentive for early, yet reasonable, settlement;

and (3) reduces the demands on judicial records. *Id.* at 1378-79; *see also Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 28 (discussing findings of task force commissioned by the Third Circuit, which "concluded that the lodestar approach (1) increases the workload of an already overtaxed judicial system, (2) is insufficiently objective and produces results that are far from homogenous, (3) creates a sense of mathematical precision that is unwarranted in terms of the realities of the practice of law, (4) is subject to manipulation by judges who prefer to calibrate fees in terms of percentages of the settlement fund or the amounts recovered by the Claimants or of an overall dollar amount, (5) encourages lawyers to expend excessive hours, and engage in duplicative and unjustified work, (6) creates a disincentive for the early settlement of cases, (7) deprives trial courts of flexibility to reward or deter lawyers so that desirable objectives, such as early settlement, will be fostered, (8) works to the particular disadvantage of the public interest bar, and (9) results in confusion and lack of predictability.").

The percentage of attorneys' fees set forth in the Stipulation—33.33% of the Settlement Fund—is reasonable. Historically, courts have awarded percentage fees in the range of 20% to 50%. Newberg on Class Actions, 4th Ed. 2002, § 14:6. Newberg notes that achievement of a substantial recovery with modest hours expended should not be penalized, but should be rewarded for considerations of time saved by superior services performed. *Id.* Furthermore, California and federal courts have long recognized that a percentage of recovery for attorneys' fees is properly awarded on the basis of the total value. *Boeing v. Van Gemert* (1980) 444 U.S. 472, 480-481; *see also In re Consumer Privacy Cases*, 175 Cal.App.4th at 558 n.13 ("Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around ***one-third*** of the recovery.") (emphasis added).

The Court should also consider that Plaintiff's Counsel's efforts have resulted in substantial benefits to the State of California and the Aggrieved Employees, in the form of a significant, non-reversionary settlement fund established to compensate the State and the Aggrieved Employees and to punish Defendant for the alleged PAGA violations. Without the efforts of Plaintiff's Counsel, the claims alleged in the complaint would likely have gone without remedy.

D. Plaintiff's Counsel's Costs Are Reasonable

Plaintiff's Counsel is entitled to reimbursement of its litigation costs under PAGA. *See* Lab. Code § 2699(g)(l) ("Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs."). The Stipulation provides for reimbursement of costs not to exceed $70,000.00. Stipulation ¶ 42.d. To date, Plaintiff's Counsel has incurred actual costs in the amount of $65,240.25. Matern Decl. ¶ 54, Exh. D. These costs were reasonably incurred in prosecuting this Action on behalf of the Aggrieved Employees and should be approved by the Court. *Id*. Accordingly, Plaintiff's Counsel respectfully requests the Court approve costs in the amount of $65,240.25.

VI. THE REQUESTED INCENTIVE PAYMENT TO PLAINTIFF IS REASONABLE

Both the State of California and the Aggrieved Employees are beneficiaries of a settlement that would not have been made possible but for the effort and commitment of Plaintiff. The Settlement provides that Plaintiff shall be paid an Incentive Award in an amount not to exceed $10,000.00 each in recognition of his efforts and risks in prosecuting this matter. Stipulation ¶ 42.c. The requested payment is intended to recognize Plaintiff's efforts in bringing the Action, serving as a private attorney general under PAGA, assisting counsel with the investigation, litigation, and settlement, regularly conferring with counsel on the status of the case, undergoing an all-day in-person deposition by Defendant's counsel, and reviewing the proposed settlement to ensure that its terms are fair and achieve PAGA's objectives.

The amount of the requested service award is reasonable. *See Blanchard v. BJ's Restaurants, Inc.,* Orange County Superior Court Case No. 30-2014-00761961-CU-OE-CX (Sept. 26, 2016) (approving $10,000.00 service award); *Bui v. Vitamin Shoppe Industries Inc.,* Los Angeles County Superior Court Case No. BC518486 (Aug. 31, 2016) (approving $10,000.00 service award); *Jesus Miranda v. HomeDeliveryLink, Inc.,* San Bernardino County Superior Court Case No. CIV DS1505393 (Aug. 9, 2016) (approving $10,000.00 service award); *Mohamad Najjar v. Calop Business Systems, Inc. dlb/a Ca/op Aeroground Service,* Los Angeles County Superior Court Case No. BC582290 (April 5, 2016) (approving $10,000.00

service award); *Sheldon v. AHMC Monterey Park Hospital LP,* Los Angeles County Superior Court Case No. BC440282 (March 2, 2016) (approving $10,000.00 service award).

During the pendency of the Action, Plaintiff has actively participated in making decisions in this case, including the decision to settle this case. Rodriguez Decl. ¶ 8; Matern Decl. ¶ 55. Plaintiff devoted approximately 60 hours of time to the case. Rodriguez Decl. ¶ 5. Plaintiff also faced the real risk that future employers may not hire her because she lent her name as a PAGA representative in this case, and she could have been liable for Defendant's litigation costs if the case went to trial and she lost. Rodriguez Decl. ¶ 6. In addition, Plaintiff put the interests of the Aggrieved Employees ahead of her own interests by postponing the prosecution of her individual claims and any recovery for years, and relinquished more of her rights (through a Civil Code § 1542 waiver) than the other Aggrieved Employees. Rodriguez Decl. ¶ 9; Matern Decl. ¶¶ 56-57.

Accordingly, Plaintiff respectfully requests that the Court approve the Incentive Award in the amount of $10,000.00.

VII. CONCLUSION

Based on the foregoing argument and authority, Plaintiff respectfully requests that the Court grant approval of the Settlement.

DATED: September 24, 2025

Respectfully submitted,

MATERN LAW GROUP, PC

By: ______________________________

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