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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF CONTRA COSTA

LILIAM URRUTIA and VANESSA  
DORANTEZ GALICIA, as aggrieved employees  
pursuant to the Private Attorneys General Act  
("PAGA"), on behalf of the State of California  
and other aggrieved employees,

Plaintiffs,

vs.

SHAHS OF SHIRAZ, INC., a California  
corporation; BUNCH OF BULL, INC., a  
California corporation; CENTRAL VALLEY  
FAST FOODS, INC., a California corporation;  
EUREKA FAST FOODS CORP., a California  
corporation; EUREKA FORTUNE, INC., a  
California corporation; QSR WEST, INC., a  
California corporation; QSR WEST BUILDING,  
INC., a California corporation; QSR WEST  
BUILDING, LLC, a California limited liability  
company; QSR WEST DEVELOPMENT ONE,  
INC., a California corporation; QSR WEST  
DEVELOPMENT, LLC, a California limited  
liability company; and DOES 1 through 10,  
inclusive,

Defendants.

Case No. MSC21-01804

Assigned to the Hon. Charles S. Treat

**NOTICE OF MOTION AND MOTION FOR  
COURT APPROVAL OF THE PARTIES'  
PAGA SETTLEMENT; MEMORANDUM OF  
POINTS AND AUTHORITIES IN SUPPORT**

Date: ~~TBD~~ 05/04/2023  
Time: ~~TBD~~ 9:00a  
Place: Department 12

Complaint Filed: August 30, 2021

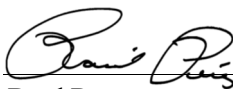
1 **TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on \_ at \_, or as soon thereafter as counsel may be heard, in  
3 Department 12 of the above-captioned court, located at 725 Court Street, Martinez, California 94533, the  
4 Honorable Charles S. Treat presiding, Plaintiffs Liliam Urrutia and Vanessa Dorantez Galicia will, and  
5 hereby do, move this Court for entry of an order and judgment approving the Parties' PAGA settlement  
6 pursuant to Labor Code section 2699(l)(2).

7 This Motion is based upon: (1) this Notice of Motion and Motion; (2) the Memorandum of  
8 Points and Authorities in Support of Motion for Court approval of the PAGA Settlement; (3) the  
9 Declaration of Raul Perez, which attaches the PAGA Settlement Agreement; (4) the Declaration of  
10 Edwin Aiwezian; (5) the Declaration of Liliam Urrutia; (6) the Declaration of Vanessa Dorantez Galicia;  
11 (7) the Declaration of Amalia Reyes; (8) the records, pleadings, and papers filed in this action; and (9)  
12 upon such other documentary and oral evidence or argument as may be presented to the Court at or prior  
13 to the hearing of this Motion.

14  
15 Dated: March 21, 2023

Respectfully submitted,

16  
17 By: 

18 Raul Perez  
19 Bevin Allen Pike  
Daniel Jonathan  
Trisha K. Monesi  
**CAPSTONE LAW APC**

20 Attorney for Liliam Urrutia and Vanessa Dorantez  
21 Galicia

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## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

Pursuant to the Labor Code Private Attorneys General Act of 2004 (Lab. Code. §§ 2698, *et seq.*, “PAGA”), Plaintiffs Liliam Urrutia and Vanessa Dorantez Galicia (together with Amalia Reyes, the plaintiff in the related action *Amalia Reyes v. Bunch of Bull, Inc.*, No. 21CV002239 (Alameda County Superior Court), the “Plaintiffs”) seek Court approval of the settlement of their claim for PAGA civil penalties with Defendants Shahs Of Shiraz, Inc., Bunch Of Bull, Inc., Central Valley Fast Foods, Inc., QSR West, Inc., QSR West Building, Inc., QSR West Building, LLC, QSR West Development One, Inc., QSR West Development, LLC, Amir Sahebalzamany, and Nasser Aliabadi (“Defendants”) (collectively with Plaintiffs, the “Parties”).

The PAGA 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). In *Moniz v. Adecco USA, Inc.*, 72 Cal. App. 5th 56 (2021), the California Superior Court explained that, similar to class action settlements, the trial court should satisfy itself that the settlement is “fair, adequate, and reasonable” in view of PAGA’s “purposes and policies.” The statute does not, however, require the two-step process utilized in class actions. *See Salazar v. Sysco Central Cal.*, No. 15-01758-DAD, 2017 WL 1135801, \*2 (E.D. Cal. Feb. 2, 2017) (rejecting the application of class action settlement rules and procedures for PAGA settlement approval). Nothing in the PAGA changes the strong judicial preference in support approving settlements.

The principal terms of the PAGA Settlement Agreement<sup>1</sup> are as follows:

- (1) A non-reversionary Gross Settlement Amount of \$439,460, which includes payments to the LWDA and Aggrieved Employees for their respective shares of the PAGA Penalties Fund, Plaintiffs’ attorneys’ fees and litigation costs, Plaintiffs’ Service Awards, and settlement administration costs.
- (2) The creation of a PAGA Penalties Fund of \$240,285.10, which will be paid to aggrieved employees and the LWDA in full satisfaction of all claims Settled Claims (“PAGA

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<sup>1</sup> Unless indicated otherwise, all capitalized terms used herein have the same meaning as those defined by the PAGA Settlement Agreement, which is attached as Exhibit 1 to the Declaration of Raul Perez filed in conjunction with this motion.

Penalties Fund”).

(a) Seventy-five percent of the PAGA Penalties Fund, or \$180,213.83, will be paid to the LWDA pursuant to Labor Code section 2699(i).

(b) Twenty-five percent of the PAGA Penalties Fund, or \$60,071.27, will be paid to all persons who were employed by Defendants in the State of California in non-exempt positions at any time during the Settlement Period (“Aggrieved Employees”). There are approximately 1,600 Aggrieved Employees.

(3) Service Awards of \$10,000, each, to Plaintiffs as consideration for their services on behalf of the State of California and Aggrieved Employees, and for a general release of all claims they may have against Defendants arising out of their employment.

(4) Reasonable attorneys’ fees and costs under Labor Code section 2699(g) for Plaintiffs’ Counsel’s successful prosecution and resolution of the actions. Plaintiffs request \$146,533.33 in attorneys’ fees and \$14,641.57 in costs for their counsel, Capstone Law APC and Lawyers *for* Justice, PC (“Plaintiffs’ Counsel”).

(5) Settlement Administration Costs of approximately \$8,000 to CPT Group, Inc.

The civil penalties secured by the settlement represent a fair compromise of Plaintiffs’ PAGA claim in view of the risks of continued litigation and the hotly contested issues of law and fact relating to PAGA claims. The Settlement accomplishes PAGA’s objectives by imposing sufficient civil penalties “to punish and deter” Defendants from committing any of the Labor Code violations alleged, while also ensuring that the penalties are not “unjust, arbitrary and oppressive, or confiscatory.” Cal. Lab. Code § 2699(e)(2); *Iskanian v. CLS Transp. Los Angeles, LLC*, 59 Cal. 4th 348, 384 (2014).

For these reasons, Plaintiffs respectfully request that the Court approve the Settlement and enter the proposed Order Approving the PAGA Settlement Agreement and the proposed Judgment.

## **II. FACTS AND PROCEDURE**

Defendants own and operate approximately 44 Burger King restaurants located throughout California. Plaintiff Urrutia worked as a non-exempt, hourly paid Cook from approximately March 2020 to March 2021 at Defendants’ Burger King restaurant in Pleasant Hill, California. Plaintiff Dorantez Galicia worked as a non-exempt, hourly-paid Cook from approximately October 2020 to June 2021 at

Defendants' Burger King restaurant in Livermore, California. Plaintiff Amalia Reyes worked as a non-exempt, hourly paid employee from approximately August 2020 to approximately March 2021 at Defendants' Burger King restaurant in California.

**A. *Urrutia v. Shahs of Shiraz, Inc.***

Plaintiffs Urrutia and Dorantez Galicia filed this action against Defendants on August 30, 2021. (Declaration of Raul Perez ["Perez Decl."] ¶ 2.) Their operative First Amended Complaint seeks civil penalties for Defendants' alleged violations of the California Labor Code<sup>2</sup> and the applicable IWC Wage Order ("WO"): (i) Sections 510 and 1198, and the WO for Defendants' alleged failure to compensate Aggrieved Employees with all required overtime pay and failure to properly calculate the overtime rates paid to other non-party Aggrieved Employees; (ii) Sections 1182.12, 1194, 1197, and 1198, and the WO for Defendants' alleged failure to compensate Aggrieved Employees with at least minimum wages for all hours worked; (iii) Sections 226.7, 512(a), 516, and 1198, and the WO for Defendants' alleged failure to provide Aggrieved Employees with meal periods; (iv) Sections 226.7, 516, and 1198, and the WO for Defendants' alleged failure to authorize and permit Aggrieved Employees to take rest periods; (v) Sections 226(a) and 1198, and the WO for Defendants' alleged failure to provide accurate and complete wage statements; (vi) Sections 1174(d) and 1198, and the WO for Defendants' alleged failure to maintain payroll records; (vii) Section 204 for Defendants' alleged failure to pay all earned wages during employment; (viii) Sections 201 and 202 for Defendants' alleged failure to pay all earned wages upon termination; (ix) Sections 551 and 552 for Defendants' alleged failure to provide one day's rest in seven to Aggrieved Employees; (x) Section 1198 and the WO for Defendants' alleged failure to pay reporting time pay to Aggrieved Employees; (xi) Section 2802 for Defendants' alleged failure to reimburse Aggrieved Employees for all business expenses necessarily incurred; and (xii) Section 2810.5(a)(1)(A)-(C) for Defendants' alleged failure to provide written notice of information material to Aggrieved Employees' employment with Defendants. (*Id.* at ¶ 3.)

**B. *Reyes v. Bunch of Bull, Inc.***

Plaintiff Amalia Reyes filed an overlapping PAGA action against Defendants Bunch Of Bull,

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<sup>2</sup> Unless indicated otherwise, further statutory references are to the California Labor Code.

1 Inc., Amir Sahebalzamany, and Nasser Aliabadi in the Alameda County Superior Court on November 9,  
2 2021 (“*Reyes Action*”). (Declaration of Edwin Aiwasian [“Aiwasian Decl.”] ¶ 1.)

3 Plaintiff Reyes’ Complaint for Enforcement Under the Private Attorneys General Act, California  
4 Labor Code § 2698, *et seq.*, seeks civil penalties for Defendants’ alleged violations of the California  
5 Labor Code and the IWC Wage Orders for engaging in a uniform practice and procedure, with respect to  
6 Plaintiff Reyes and other Aggrieved Employees, of, *inter alia*, failing to pay overtime and minimum  
7 wages, failing to provide compliant meal and rest periods and associated premiums, failing to pay timely  
8 wages during employment and upon termination of employment, failing to provide complete and  
9 accurate itemized wage statements, failing to keep complete and accurate payroll records, and failing to  
10 reimburse necessary business-related expenses and costs. (*Id.* at ¶ 4.)

### 11 C. The Parties Settled After Mediation

12 On August 24, 2022, the Parties participated in full-day global mediation with Eleanor Barr,  
13 Esq., an experienced mediator of wage and hour actions. (Perez Decl. ¶ 4.) Ms. Barr helped to manage  
14 the Parties’ expectations and provided a useful, neutral analysis of the issues and risks to both sides. (*Id.*)  
15 With Ms. Barr’s guidance, the Parties were eventually able to negotiate a complete settlement of all  
16 claims alleged in this action and the related *Reyes Action*. (*Id.*) The terms of the settlement are now set  
17 forth in complete and final form in the PAGA Settlement Agreement. (*Id.* at ¶ 5, Ex. 1.) At all times, the  
18 Parties’ negotiations were adversarial and non-collusive. (*Id.* at ¶ 6.) The Settlement therefore constitutes  
19 a fair, adequate, and reasonable compromise of the claims at issue. (*Id.*)

### 20 D. Plaintiffs’ Counsel Conducted a Thorough Investigation of the Factual and Legal 21 Issues and Were Thus Able to Objectively Assess the Settlement’s Reasonableness

22 Plaintiffs’ Counsel conducted a thorough investigation into the factual and legal issues  
23 implicated by Plaintiffs’ claims, and were able to objectively assess the settlement’s reasonableness.  
24 (Perez Decl. ¶ 7; Aiwasian Decl. ¶ 4.) For example, prior to filing their respective actions, Plaintiffs  
25 contacted Plaintiffs’ Counsel to discuss the factual bases for pursuing an action against Defendants for  
26 Labor Code violations. (Perez Decl. ¶ 8.) Plaintiffs were intimately familiar with Defendants’ labor  
27 policies and practices, and over the course of multiple interviews, knowledgeably summarized those  
28 policies and practices to Plaintiffs’ Counsel. (*Id.*) During those interviews, they explained how the

1 policies and practices were instituted and provided valuable insight into how they gave rise to the alleged  
2 Labor Code violations. (*Id.*) Based on these interviews with Plaintiffs, Plaintiffs' Counsel determined  
3 that there were legally sufficient grounds for pursuing an action against Defendants. (*Id.*)

4 Plaintiffs' Counsel prepared detailed letters to notify the LWDA of Plaintiffs' intent to seek civil  
5 penalties and other available relief recoverable under PAGA for Labor Code violations. (Perez Decl. ¶ 9;  
6 Aiwazian Decl. ¶ 2, Exh. 1.) Significant research and effort were expended to prepare a PAGA notice  
7 that was consistent with the developing legal requirements to withstand any challenge from Defendants  
8 regarding the notice's sufficiency. (Perez Decl. ¶ 9.) And in preparation for drafting the complaints,  
9 Plaintiffs' Counsel conducted their own preliminary investigation into the factual bases for Plaintiffs'  
10 claims, which entailed, *inter alia*, a careful examination of Plaintiffs' employment records. (*Id.*)

11 In response to Plaintiffs' informal discovery requests, Plaintiffs' Counsel received a considerable  
12 amount of documents and data, including employee demographic data, a sample of employees' time and  
13 pay records, and Defendants' labor policies and procedures handbooks which covered a broad range of  
14 topics including, *inter alia*, employee clock-in policies and procedures, attendance policies, meal  
15 periods/rest periods, overtime & premium pay, etc. (Perez Decl. ¶ 10.) The document and data  
16 exchanges allowed Plaintiffs' Counsel to fully assess the nature and magnitude of the claims being  
17 settled, as well as the impediments to recovery, and ultimately enabled Plaintiffs' Counsel to make an  
18 independent assessment of the reasonableness of the settlement's terms. (*Id.*; Aiwazian Decl. ¶ 5.)

19 In summary, Plaintiffs' Counsel performed a thorough investigation into the claims at issue,  
20 which included: (1) determining Plaintiffs' suitability as private attorneys general through interviews,  
21 background investigations, and analyses of their employment files and related records; (2) evaluating all  
22 of Plaintiffs' potential representative claims; (3) researching similar PAGA actions as to the claims  
23 brought, the nature of the positions, and the type of employer; (4) analyzing employees' time and wage  
24 records; (5) reviewing Defendants' employment policies and practices; (6) researching settlements in  
25 similar cases; (7) evaluating Plaintiffs' claims and estimating Defendants' liability for purposes of  
26 settlement; (8) drafting the mediation brief; and (9) participating in the mediation. (Perez Decl. ¶ 11;  
27 Aiwazian Decl. ¶¶ 5-6)

28 By engaging in such a thorough investigation and evaluation of Plaintiffs' claims, Plaintiffs'

Counsel can opine that the Settlement, for the consideration and on the terms set forth in the Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of the LWDA in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, and various defenses asserted by Defendants. (Perez Decl. ¶ 12; Aiwasian Decl. ¶ 19.)

**E. The Parties Negotiated a Fair and Reasonable Settlement of Plaintiffs' Claims**

**1. Terms of the Settlement and Distribution of PAGA Penalties**

The Settlement Agreement provides that Defendants will pay a total of \$439,460 to settle this Action. (Settlement Agreement ¶ 15.) From this amount, payments will be made to the LWDA and Aggrieved Employees, to Plaintiffs Liliam Urrutia, Vanessa Dorantez Galicia, and Amalia Reyes as compensation for their services on behalf of the State and for a general release of claims arising out of their employment with Defendants, to Plaintiffs' Counsel for their attorneys' fees and litigation costs, and to the Settlement Administrator (CPT) for settlement administration costs. (*Id.* at ¶¶ 18-22.)

The resulting balance will be distributed to the LWDA and Aggrieved Employees. The LWDA will receive approximately \$180,213.83. Aggrieved Employees will receive approximately \$60,071.27. The Aggrieved Employees encompassed by the proposed Settlement are all persons who were employed by Defendants in the State of California in non-exempt positions at any time during the Settlement Period. (*Id.* at ¶ 2.) There are approximately 1,600 Aggrieved Employees. (*Id.* at ¶ 22.)

**2. Allocations to the LWDA and Aggrieved Employees**

Payments to Aggrieved Employees will be made from the PAGA Penalties Fund. The individual allocations will be calculated on a pro-rata basis using the number of pay periods worked by each employee. Defendants will provide the total number of pay periods worked by each Aggrieved Employee and the total number of pay periods worked by all Aggrieved Employees during the Settlement Period. (Settlement Agreement ¶ 17.) The Settlement Administrator will calculate each Aggrieved Employee's payment using the proportional number of pay periods during which the employee worked. (*Id.*) Thus, the Settlement Administrator will perform the following calculation to calculate individual payments: Settlement Payment = (25% of PAGA Penalties Fund) × (pay periods worked by individual Aggrieved Employee during the Settlement Period ÷ total pay periods worked by all Aggrieved Employees during the Settlement Period). (*Id.*) This is a fair and equitable means of

1 allocating the penalties. Aggrieved Employees who worked for a longer duration during the Settlement  
2 Period will receive proportionally larger payments than those employees who worked for shorter  
3 durations.

### 4 **3. The Settled PAGA Claims**

5 Upon entry of the Effective Date, the LWDA and Plaintiffs, on behalf of themselves and the  
6 Aggrieved Employees to the fullest extent allowed by law, will be deemed to have fully, finally, and  
7 forever released, relinquished, and discharged each and all of the Released Parties from any and all  
8 claims for PAGA civil penalties under California Labor Code sections 201, 202, 204, 226(a), 226.7, 510,  
9 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, 2802, and 2810, the corresponding  
10 provisions of the IWC Wage Orders, regulations, and/or other provisions of law alleged, or which could  
11 have been alleged, to have been violated in the Actions with respect to Aggrieved Employees based on  
12 the facts alleged in the Actions, and in Plaintiffs' written notices provided to the LWDA, during the  
13 Settlement Period. (Settlement Agreement ¶¶ 13, 19, 27.)

14 Additionally, Plaintiffs Liliam Urrutia, Vanessa Dorantez Galicia, and Amalia Reyes have  
15 agreed to a broader general release of all claims of any kind against Defendants. (*Id.* at ¶ 20.)

## 16 **III. ARGUMENT**

### 17 **A. The PAGA Penalties Secured by the Settlement Are Genuine and Meaningful, and** 18 **Fulfill PAGA's Underlying Purpose To Benefit the Public**

19 The California legislature enacted PAGA to "augment the limited enforcement capability of the  
20 [LWDA] by empowering employees to enforce the Labor Code as representatives of the Agency."  
21 *Iskanian*, 59 Cal. 4th at 383. This statute authorizes an employee to bring an action for "civil penalties on  
22 behalf of the state against his or her employer for Labor Code violations committed against the employee  
23 and fellow employees . . . ." *Id.* at 360. The goal of a PAGA enforcement action is to impose civil  
24 penalties for Labor Code violations "significant enough to deter violations." *Id.* at 379.

25 Fundamentally, "a PAGA action is a statutory action in which the penalties available are  
26 measured by the number of Labor Code violations committed by the employer." *Sakkab v. Luxottica*  
27 *Retail N. Am., Inc.*, 803 F.3d 425, 435 (9th Cir. 2015). Under the general provisions of the PAGA  
28 scheme, 75% of the civil penalties recovered goes to the state while the remaining amount is given to the

1 aggrieved employees. Lab. Code § 2699(i). Although PAGA penalties are mandatory and must be  
2 awarded by a court if a violation is found, the court “may award a lesser amount than the maximum civil  
3 penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do  
4 otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” Cal. Lab.  
5 Code § 2699(e)(2); *see also Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157, 1213 (2008).

6 Moreover, the PAGA statute distinguishes and preserves the right of employees to separately (or  
7 concurrently) pursue their own causes of action against their employers and to recover other available  
8 federal and state remedies. Cal. Lab. Code § 2699(g)(1); *see Baumann v. Chase Inv. Servs. Corp.*, 747  
9 F.3d 1117, 1123 (9th Cir. 2014) (explaining the differences between the finality in class action  
10 judgments and the limited res judicata effect of PAGA judgments). “Unlike a class action seeking  
11 damages or injunctive relief for injured employees, the purpose of PAGA is to incentivize private parties  
12 to recover civil penalties for the government that otherwise may not have been assessed and collected by  
13 overburdened state enforcement agencies.” *McKenzie v. Federal Express Corp.*, 765 F. Supp. 2d 1222,  
14 1233 (C.D. Cal. 2011).

15 The LWDA has advised that courts should evaluate settlements of PAGA claims based on  
16 whether “the relief provided for under the PAGA [is] genuine and meaningful, consistent with the  
17 underlying purpose of the statute to benefit the public.” *O’Connor*, 201 F. Supp. 3d at 1133; *see also*,  
18 *Salazar*, 2017 WL 1135801, \*2 (quoting the above passage). As courts defer to the agency’s  
19 interpretation of a statute where authority has been delegated to that agency (*see New Cingular Wireless*  
20 *PCS, LLC v. Pub. Utilities Comm’n*, 246 Cal. App. 4th 784, 807 (2016)), the Court should analyze the  
21 PAGA settlement by focusing on whether the amount of civil penalties obtained is “genuine and  
22 meaningful” in light of PAGA’s statutory purpose.

23 The Court’s evaluation of the settlement should therefore not focus on “restitution”—the average  
24 recovery per aggrieved employee, as in a class action settlement, but rather take into account PAGA’s  
25 statutory purpose in deterring Labor Code violations through the imposition of civil penalties, with  
26 special attention on whether the relief is “genuine and meaningful.” *Salazar*, 2017 WL 1135801 at \*2.

27 **B. The Settlement Is Reasonable Given the Risks of Further Litigation**

28 In assessing whether the amount of civil penalties is genuine and meaningful, the Court may

balance the amount in penalties against the risks of further litigation. Here, Plaintiffs obtained a meaningful amount of civil penalties despite facing hurdles had the litigation continued. Based on information and evidence produced by Defendants during discovery, Plaintiffs' Counsel determined that Aggrieved Employees worked during a total of approximately 25,665 pay periods during the PAGA statute of limitations period. Statutory penalties would be calculated according to Labor Code 2699(f)(2): If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

However, a number of courts have found that the "subsequent" penalty under PAGA applies only after a court or the Labor Commissioner determines that the employer has violated the Labor Code. *See Bernstein v. Virgin Am., Inc.*, 990 F.3d 1157, 1173 (9th Cir. 2021) (reversing judgment as to "heightened civil penalties" because the defendant was not given notice by the Labor Commissioner when the "subsequent" violations occurred); *Vieyara-Flores v. Sika Corp.*, No. EDCV19606JVSKKX, 2019 WL 2436998, at \*5 (C.D. Cal. June 10, 2019) ("employers are not subject to heightened penalties . . . until a court or commissioner notifies the employer that it is in violation of the Labor Code . . . [Plaintiff] has not offered evidence that the Labor Commission or a court has notified them of PAGA violations [thus] PAGA's heightened penalty of \$200 for subsequent violations will not be calculated to determine the amount in controversy"); *Chen v. Morgan Stanley Smith Barney, LLC*, No. 8:14-CV-01077 ODW (FFMx), 2014 WL 4961182 (C.D. Cal., October 2, 2014) ("Under the Labor Code, if an employer does not have notice that they are committing a violation, they are not subject to the heightened penalties."); *Trang v. Turbine Engine Components Technologies Corp.*, No. CV 12-07658 DDP (RZx), 2012 WL 6618854 (C.D. Cal. Dec. 19, 2012) ("courts have held that employers are not subject to heightened penalties for subsequent violations unless and until a court or commissioner notifies the employer that it is in violation of the Labor Code"), citing *Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157 (2008). Under this line of cases, Defendants' exposure would be calculated as follows:

| Claim              | Pay Periods at Issue | Penalties (\$100 per pay period) |
|--------------------|----------------------|----------------------------------|
| Minimum Wage Claim | 25,665               | \$2,566,500.00                   |
| Meal Period Claim  | 25,665               | \$2,566,500.00                   |
| Rest Period Claim  | 25,665               | \$2,566,500.00                   |

| Claim                         | Pay Periods at Issue | Penalties (\$100 per pay period) |
|-------------------------------|----------------------|----------------------------------|
| Wage Statement Claim          | 25,665               | \$2,566,500.00                   |
| One Day's Rest in Seven Claim | 6,415                | \$641,500.00                     |
| Reporting Time Claim          | 6,415                | \$641,500.00                     |
| Business Expense Claim        | 25,665               | \$2,566,500.00                   |
| Final Pay Claim               | 1,200                | \$120,000.00                     |
| <b>Total</b>                  |                      | <b>\$14,235,500.00</b>           |

After calculating Defendants' maximum exposure under PAGA, Plaintiffs then discounted that exposure for settlement purposes to account for the risks of continued litigation, including: (i) the strength of Defendants' defenses on the merits; (ii) the risk of losing at trial; (iii) the risk that the Court would exercise its discretion under PAGA to significantly reduce the maximum civil penalties available by statute;<sup>3</sup> (iv) the chances of a favorable verdict being reversed on appeal; and (v) the difficulties attendant to collecting on a judgment. Taking into account the above contingencies, Plaintiffs determined that a \$439,460 a settlement was warranted by the circumstances of the cases.

It should be noted that PAGA gives the Court wide latitude to reduce the amount of civil penalties "based on the facts and circumstances of a particular case" when "to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." Cal. Lab. Code § 2699(h). In reducing PAGA penalties, courts have considered issues including whether the employees suffered actual injury from the violations, whether the defendant was aware of the violations, and the employer's willingness to fix the violation. *Carrington v. Starbucks Corp.*, 30 Cal. App. 5<sup>th</sup> 504, 528 (2018) (awarding PAGA penalties of only 0.2% of the maximum); *see also Cotter v. Lyft, Inc.*, 193 F. Supp. 3d 1030, 1037 (N.D. Cal. 2016); *Fleming v. Covidien Inc.*, No. ED CV 10-01487 RGK (OPX), 2011 WL 7563047, at \*4 (C.D. Cal. Aug. 12, 2011).

For example, during the penalty phase of trial in *Carrington*, the plaintiff requested PAGA penalties in the amount of approximately \$70 million. The trial court instead awarded only \$150,000—**or 0.21% of the maximum**—and stated that this reduction was warranted because imposing the maximum penalty would be "unjust, arbitrary, and oppressive" based on Starbucks's "good faith

<sup>3</sup> See Lab. Code § 2699(e) ("In any action by an aggrieved employee seeking recovery of a civil penalty available under subdivision (a) or (f), a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.").

1 attempts” to comply with meal period obligations and because the court found the violations were  
2 minimal. *Carrington*, 30 Cal. App. 5<sup>th</sup> at 517. The Court of Appeal affirmed the lower court’s reduced  
3 award of a \$150,000 penalty under PAGA. *Id.* at 529. If a similar reduction had been applied here,  
4 Plaintiffs would have recovered only approximately \$29,895 ( $\$14,235,500 \times 0.0021$  reduction).

5 Likewise, in *Covidien*, the court reduced the potential penalties by over 82%, awarding \$500,000  
6 instead of maximum penalties of \$2.8 million. *Covidien*, 2011 WL 7563047 at \*4; *see also Thurman v.*  
7 *Bayshore Transit Mgmt.*, 203 Cal. App. 4<sup>th</sup> 1112, 1135-36 (2012) (affirming 30% reduction under  
8 specified PAGA claim where the employer produced evidence that it took its obligations seriously);  
9 *Elder v. Schwan Food Co.*, No. B223911, 2011 WL 1797254, at \*5-\*7 (Cal. Ct. App. May 12, 2011)  
10 (reversing trial court decision denying any civil penalties where violations had been proven, remanding  
11 for the trial court to exercise discretion to reduce, but not wholly deny, civil penalties); *Li v. A Perfect*  
12 *Day Franchise, Inc.*, No. 5:10-CV-01189-LHK, 2012 WL 2236752, at \*17 (N.D. Cal. June 15, 2012)  
13 (denying PAGA penalties for violation of California Labor Code section 226 as redundant with recovery  
14 on a class basis pursuant to California Labor Code section 226, directly); *Aguirre v. Genesis Logistics*,  
15 No. SACV 12-00687 JVS (Anx), 2013 WL 10936035 at \*2-\*3 (C.D. Cal. Dec. 30, 2013) (reducing  
16 penalty for past PAGA violations from \$1.8 million to \$500,000, after rejecting numerous other PAGA  
17 claims).

18 Considering the issues, defenses, and the risks, a \$439,460 settlement for a limited release of  
19 PAGA penalties—no individual wage and hour claims will be extinguished by the Settlement—is a fair  
20 and just result and furthers PAGA’s objectives, and is not “unjust, arbitrary, and oppressive.”

### 21 **C. The Requested Recovery In Litigation Expenses Is Reasonable**

22 Plaintiffs’ Counsel are entitled to reimbursement of their discretionary litigation costs. Cal. Lab.  
23 Code § 2699(g)(1). Out-of-pocket discretionary expenses are compensable if they would normally be  
24 billed to a fee-paying client. *See Beasley v. Wells Fargo Bank*, 235 Cal. App. 3d 1407, 1419 (1991),  
25 *overruled in part on other grounds in Olson v. Automobile Club of Southern Calif.*, 42 Cal. 4<sup>th</sup> 1142  
26 (2008). Such discretionary costs may be claimed as part of an attorneys’ fees motion when seeking  
27 statutory fees under the Labor Code. *See Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4<sup>th</sup> 1157, 1218  
28 n.27 (2008) (awarding costs that are necessarily incurred). The following chart reflects the costs incurred

by Plaintiffs' Counsel:

| Plaintiffs' Counsel            | Amount             |
|--------------------------------|--------------------|
| Capstone Law APC               | \$13,348.40        |
| Lawyers <i>for</i> Justice, PC | \$1,293.17         |
| <b>Total</b>                   | <b>\$14,641.57</b> |

As indicated above, Plaintiffs' Counsel has incurred a total of \$14,641.57 in litigation costs and expenses. (Perez Decl. ¶ 17; Aiwazian Decl. ¶ 17, Exh. 3.) Because these reasonable costs were necessarily incurred during the pendency of the Actions, these costs are reasonable and should be awarded. *See also* Cal. Civ. Pro. Code § 1033.5(c)(4) (“[i]tems not mentioned in this section and items assessed upon application may be allowed or denied in the court’s discretion.”); *Hsu v. Semiconductor Sys., Inc.*, 126 Cal. App. 4th 1330, 1341 (2005) (“[W]hile it is reasonable to interpret a general contractual cost provision by reference to an established statutory definition of costs, we do not discern any legislative intent to prevent sophisticated parties from freely choosing a broader standard authorizing recovery of reasonable litigation charges and expenses.”).

**D. The Court Should Award the Requested Attorneys’ Fees in the Amount of Approximately One-Third of the Gross Settlement Fund**

For the reasons discussed in detail below, an award of attorneys’ fees in the amount of approximately one-third of the gross settlement fund is fair and reasonable, and in line with what other California courts, both state and federal, have awarded in settlements of similar litigation.

The PAGA provides that a plaintiff is entitled to recover reasonable attorneys’ fees, expenses, and costs. Section 2699(g)(1) of the California Labor Code provides that “[a]ny employee who prevails in any action shall be entitled to an award of reasonable attorney’s fees and costs.” In a *qui tam* action, reasonable attorneys’ fees and costs are typically awarded under the common fund doctrine where, as here, the litigation creates a common fund of money in a specific amount for the benefit of others. PAGA “is a type of *qui tam* action.” *See Iskanian*, 59 Cal. 4th at 382. “A *qui tam* action ‘is a type of private attorney general lawsuit’ [citation], in which ‘the *qui tam* plaintiff stands in the shoes of the state or political subdivision [citation].’” *People ex rel. Strathmann v. Acacia Research Corp.*, 210 Cal. App. 4th 487, 501 (2012).

A PAGA action is a *qui tam* action because the statute allows the employee plaintiff, acting as

1 the proxy of the State's labor law enforcement agency, to sue his or her employer for Labor Code  
2 violations and recover civil penalties that otherwise would have been assessed and collected by the  
3 LWDA. *See Iskanian*, 59 Cal. 4th at 382. Indeed, majority of the civil penalties recovered in a PAGA  
4 action are paid to the State, with a smaller portion paid to the aggrieved employees (e.g., 75% paid to the  
5 state; 25% paid to the aggrieved employees). *See* Cal. Lab. Code § 2699(i). Where, as here, a common  
6 fund is created in a *qui tam* action by the successful litigation of a plaintiff and her attorneys, the  
7 plaintiff's attorneys are entitled to recover their fees from the common fund:

8 Those benefiting from the recovery of the fund, in this case some depositors and eventually  
9 the People of the State of California, must bear their share of the cost of litigation. Fees for  
10 taxpayers' attorneys will be deducted from the judgment, and each claimant's share  
11 reduced proportionately. To the extent the judgment relies upon section 1021.5 for recovery  
12 of attorney fees, it must be modified to confine the award of fees to the common fund  
13 theory.

12 *Bank of America v. Cory*, 164 Cal. App. 3d 66, 91 (1985) (authorizing common fund fees in a *qui tam*  
13 taxpayer suit against certain banks).

14 Likewise, through the successful efforts of Plaintiffs and their attorneys, a common fund was  
15 created in the amount of \$439,460 for the benefit of the employees and the State of California. Thus,  
16 these beneficiaries must bear their share of the costs and attorneys' fees, to be deducted from the gross  
17 settlement fund under the common fund theory. *Id.* Such fees are deducted as a percentage of the  
18 settlement amount. *See, e.g., Boeing Co. v. Van Gernert*, 444 U.S. 472, 478-482 (1980); *Six (6) Mexican*  
19 *Workers v. Arizona Citrus Growers*, 904 F.2d 1301, 1311 (9th Cir. 1990); *Williams v. MGM-Pathe*  
20 *Communications Co.*, 129 F.3d 1026, 1027 (9th Cir. 1997); *Staton v. Boeing Co.*, 327 F.3d 938, 967 (9th  
21 Cir. 2003).

22 The California Supreme Court recently upheld the use of the common fund theory of recovery  
23 for attorneys' fees in *Laffitte v. Robert Half Int'l Inc.*, 1 Cal. 5th 480, 506 (2016). In *Laffitte*, the  
24 settlement created a common fund of \$19 million. The Court approved the award of attorneys' fees in  
25 the amount of one third of the gross \$19 million settlement (e.g., an award of \$6.33 million) under the  
26 common fund theory. *Id.* By awarding counsel a percentage of the total recovery, rather than fees based  
27 on hours worked, the common fund method encourages attorneys to efficiently litigate to achieve the  
28 best results possible. *See Laffitte*, 1 Cal. 5th at 492-494. Indeed, "the percentage method is generally

1 favored in common fund cases because it allows courts to award fees from the fund in a manner that  
2 rewards counsel for success and penalizes it for failure. *Id.* at 493 (quoting *In re Rite Aid Corp. Securities*  
3 *Litig.*, 396 F.3d 294, 300 (3d Cir. 2005) (internal quotations omitted).

4 As a California appellate court very recently confirmed, “fee awards in class actions average  
5 around one-third of the recovery’ regardless of ‘whether the percentage method or the lodestar method is  
6 used.” *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal. App. 5th 521, 545 (2021) (quoting *Chavez v.*  
7 *Netflix, Inc.*, 162 Cal. App. 4th 43, 66, fn. 11 (2008)).

8 Consistent with that observation, California state and federal courts routinely award attorneys’  
9 fees equaling one-third of the common fund. *See, e.g. Laffitte v. Robert Half Internat. Inc.*, 231 Cal. App.  
10 4th 860, 871 (2016) (“33 1/3 percent of the common fund is consistent with, and in the range of, awards  
11 in other class action lawsuits”); *Chavez*, 162 Cal. App. 4th at 66 n.11 (“Empirical studies show that,  
12 regardless whether the percentage method or the lodestar method is used, fee awards in class actions  
13 average around one-third of the recovery.”); Eisenberg & Miller, *Attorney Fees in Class Action*  
14 *Settlements: An Empirical Study*, J. of Empirical Legal Studies, Vol. 1, Issue 1, 27-78, March 2004, at 35  
15 (independent studies of class action litigation nationwide conclude that fees representing one-third of the  
16 total recovery is consistent with market rates). Notably, the California Supreme Court in *Laffitte v.*  
17 *Robert Half Internat. Inc.* affirmed a fee award representing one-third of the fund. *Laffitte*, 231 Cal. App.  
18 4th at 506.

19 A fee award in the amount of one-third of the common fund is also reasonable because it best  
20 reflects the market rate for contingency fees. *See Lealao v. Beneficial Cal. Inc.*, 82 Cal. App. 4th 19, 47  
21 (2000) (“attorneys providing the essential enforcement services must be provided incentives roughly  
22 comparable to those negotiated in the private bargaining that takes place in the legal marketplace. . . .”).  
23 Fees representing one-third of the recovery reflect the rate negotiated in “typical contingency fee  
24 agreements [which] provide that class counsel will recover 33% if the case is resolved before trial and  
25 40% if the case is tried.” *Fernandez v. Victoria Secret Stores, LLC*, No. CV 06-04149 MMM SHX,  
26 2008 WL 8150856, at \*16 (C.D. Cal. July 21, 2008) (citing an academic study collecting contingency  
27 fee agreements and finding that a fee award constituting 34% of the fund is reasonable on that basis).  
28 Because the negotiated fee structure mimics the marketplace, it is reasonable and should be approved.

1 A one-third common fund<sup>4</sup> attorneys' fee award is also consistent with what courts have  
2 awarded in other representative action cases. The following list shows PAGA actions where attorneys'  
3 fees were awarded on a common fund basis:

- 4 • *Cruz v. Wal-Mart Associates, Inc.*, Los Angeles Superior Court, No. 18STCV03128 (May 28,  
5 2021) (approving fee award from PAGA-only settlement of \$5 million against a common fund  
6 of \$15 million);
- 7 • *Jones v. J.C. Penney Corporation*, Los Angeles Superior Court, Case No. BC451823 (April 20,  
8 2017) (approving fee award from PAGA-only settlement of \$1.375M against a common fund of  
9 \$3.2M (42%));
- 10 • *Garcia v. Macy's*, San Bernardino County Superior Court, Case No. CIVDS1516007 (Sept. 13,  
11 2017) (33.33% fee awarded on \$12,500,000 settlement of a PAGA only case);
- 12 • *Garcia v. Pep Boys*, Orange County Superior Court, Case No. 30-2014-00720574-CU-OE-CJC  
(July 14, 2016) (33.33% fee awarded on a \$1,030,000 settlement of a PAGA only case);
- 13 • *Brewer v. Connell Chevrolet*, Orange County Superior Court, Case No. 30-2016-00852123-CU-  
14 OC-CXC (June 15, 2017) (33.33% fee awarded on a PAGA only case);
- 15 • *Perez v. Staffmark Investment, LLC*, Riverside County Superior Court, Case No. MCC1401137  
(May 23, 2016) (33.33% fee awarded on a \$650,000 settlement of a PAGA only case).

16 An award of fees from the gross settlement amount under the common fund doctrine prevents  
17 unjust enrichment of those who benefit from the common fund created through the successful efforts of  
18 plaintiff's counsel and furthers the important goal of attracting competent counsel to handle  
19 representative actions enforcing minimum labor standards. *Laffitte*, 1 Cal. 5th at 503. In affirming the use  
20 of the common fund doctrine in California, the California Supreme Court summarized the benefits of the  
21 percentage method of recovery stating: "The recognized advantages of the percentage method—  
22 including relative ease of calculation, alignment of incentives between counsel and the class, a better  
23 approximation of market conditions in a contingency case, and the encouragement it provides counsel to  
24 seek an early settlement and avoid unnecessarily prolonging the litigation [citations]—convince us the

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25 <sup>4</sup> Court have also approved fees in amounts greater than one-third of the common fund. *See*  
26 *Charles v. JPMorgan Chase Bank*, No. CGC-14-538933 (San Francisco County Superior Court June 18,  
27 2019) (awarding plaintiffs \$2.88 million in attorneys' fees on PAGA penalties totaling \$2.7 million);  
28 *Boseman v. VXi Global Solutions, LLC*, No. BC602442 (Los Angeles County Superior Court Jan. 3,  
2019) (awarding plaintiff \$750,000 in attorneys' fees and costs on general PAGA penalties totaling  
\$585,000); *Salas v. Hallmark Aviation Services LP*, No. BC586585 (Los Angeles County Superior  
Court February 17, 2017) (awarding plaintiff \$600,000 in attorneys' fees on PAGA penalties totaling  
\$605,000); *Monroe v. Continental Design Co., Inc.*, No. RG16817667 (Alameda County Superior Court  
June 21, 2017) (awarding plaintiff \$110,000 in fees on PAGA penalties totaling \$90,000); *Ramirez v.*  
*Benito Valley Farms, LLC*, No. 16-CV-04708-LHK, 2017 WL 3670794, at \*6 (N.D. Cal. Aug. 25,  
2017) (awarding attorneys' fees under the lodestar method with no regard to the proportion of the fees to  
civil penalties).

percentage method is a valuable tool that should not be denied our trial courts.” *Id.*

For all of these reasons, a common fund fee award in the amount of \$146,533.33 is fair and reasonable.

**E. A Lodestar Cross-Check Confirms that the Requested Attorneys’ Fees Are Fair and Reasonable**

The trial court may use an abbreviated lodestar “cross-check” for common fund awards if the court considers it useful. *Laffitte II*, 1 Cal. 5th at 504-05. However, under *Laffitte II*, this is not meant to displace the percentage analysis, but rather to act as a backstop. Indeed, the Supreme Court expressly instructed that “the lodestar calculation, when used in this manner, does not override the trial court’s primary determination of the fee as a percentage of the common fund and thus does not impose an absolute maximum or minimum on the fee award.” *Laffitte II*, 1 Cal. 5th at 505. Critically, the Court in *Laffitte II* emphasized that only where the “multiplier calculated by means of a lodestar cross-check is **extraordinarily high or low**” should the court “consider whether the percentage should be adjusted so as to bring the imputed multiplier within a justifiable range.” *Id.* (emphasis added). Accordingly, when the cross-check multiplier is within a normal range, the lodestar-cross check does not provide a basis for a court to reduce the fee award. Furthermore, in conducting a lodestar cross-check, the court is not “required to closely scrutinize each claimed attorney-hour.” *Laffitte II*, 1 Cal. 5th at 505. An evaluation may be done by reviewing “counsel declarations summarizing overall time spent.” *Id.*

As set forth in their declarations, Plaintiffs’ Counsel’s combined bills for fees are greater than the requested award of attorneys’ fees. (Perez Decl. ¶ 13; Aiwazian Decl. ¶¶ 9-10.) When plaintiffs seek an amount in fees that is less than what they actually billed, the requested fee amount is generally considered reasonable. *See, e.g., Chun-Hoon v. McKee Foods Corp.*, 716 F. Supp. 2d 848, 854 (N.D. Cal. 2010) (finding that, if the court is asked to apply a negative multiplier, it “suggests the negotiated fee award is a reasonable and fair valuation of the services rendered to the class by Plaintiff’s Counsel.”).

Plaintiffs’ Counsel would otherwise be entitled to a **positive** multiplier based on factors most commonly cited by courts, including: (1) the results obtained; (2) the contingent nature of the fee award; and (3) the skill displayed by counsel. *See Serrano III*, 20 Cal. 3d at 49; *Thayer v. Wells Fargo Bank*, 92 Cal. App. 4th 819, 835 (2001) (recognizing “results obtained” as a factor). Additionally, under

California law, a 1.5 multiplier would be awarded *for the contingent risk factor alone*, and without the presence of other factors. *See Ctr. for Biological Diversity v. Cty. of San Bernardino*, 185 Cal. App. 4th 866, 900 (2010) (affirming a 1.5 risk multiplier in a non-complex statutory case and expressly rejecting the application of other multiplier factors). *See also Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157, 1174 (2008) (affirming a 1.65 contingent risk multiplier in a wage and hour class action, explaining that “counsel risked never receiving any compensation *at all*” (emphasis in original)); *Pellegrino v. Robert Half Int’l*, 182 Cal. App. 4th 278, 292 (2010) (affirming a 1.75 multiplier due, in part, to “Plaintiff’s Counsel not being paid for their work in the event that [defendant] prevailed on [an] affirmative defense.”).

The lodestar cross-check thus confirms that Plaintiffs’ fee request is fair and reasonable and should be approved.

#### **F. The Court Should Approve the Negotiated Service Award Payments**

Paragraph 20 of the PAGA Settlement Agreement provides that Defendants will pay Plaintiffs the sum of \$10,000, each, for their service on behalf of the LWDA and Aggrieved Employees, and for a general release of all claims arising out of their employment. This release covers not only the settled PAGA claims, but any and all claims arising out of Plaintiffs’ employment.

The additional settlement payments are justified in light of the reputational risk that Plaintiffs assumed by litigating claims against a former employer. *See Billingshausen v. Tractor Supply Co.*, 306 F.R.D. 245, 267-68 (N.D. Cal. 2015) (finding “personal detriment” upon testimony that future employers can easily learn that a prospective employee served as a plaintiff through the internet); *see also Guippone v. BH S&B Holdings LLC*, No. 09 Civ. 1029, 2011 U.S. Dist. LEXIS 126026, at \*\*4, 20 (S.D.N.Y. Oct. 28, 2011) (“[T]he fact that a plaintiff has filed a federal lawsuit is searchable on the internet and may become known to prospective employers when evaluating the person . . . Even where there is not a record of actual retaliation, notoriety, or personal difficulties, [representative Plaintiffs] merit recognition for assuming the risk of such for the sake of absent [parties].”).

Employers commonly screen employee candidates to determine whether they have ever filed suit, and employee candidates who might be branded “litigious” are likely to be screened out of the process. In fact, an entire industry has developed for providing employers with background information

1 on employee candidates. By bringing this action against an employer, Plaintiffs have assumed  
2 considerable reputational risk that may impact their ability to find employment in the future. *La Fleur v.*  
3 *Medical Management Intern, Inc.*, No. 13-00398-VAP, 2014 WL 2967475, \*8 (C.D. Cal. June 25,  
4 2014) (awarding \$15,000 to each named plaintiff in part for attesting to their fear that the lawsuit will  
5 harm their future job prospects in the industry).

6 Second, the separate settlement payments are reasonable because Plaintiffs “remained fully  
7 involved and expended considerable time and energy during the course of the litigation.” *See In re Toys*  
8 *‘R’ Us-Del FACTA Litig.*, 295 F.R.D. at 471 (citation omitted). Plaintiffs devoted their time and effort  
9 toward assisting their attorneys with the prosecution of the claims, and assisted counsel with finalizing  
10 the settlement.

11 The separate payments are also appropriate because Plaintiffs otherwise “will not gain any  
12 benefit beyond that [they] would receive as an ordinary [Aggrieved Employee].” *In re Toys “R” Us*  
13 *FACTA Litig.*, 295 F.R.D. at 472; *Van Vranken*, 901 F. Supp. at 299 (holding that a substantial award is  
14 appropriate where a [representative’s] claim made up “only a fraction of the common fund.”). Here,  
15 absent the separate payments, Plaintiffs will recover no more than other Aggrieved Employees, despite  
16 undergoing personal sacrifice in bringing this suit on behalf of the State of California and Aggrieved  
17 Employees.

18 Lastly, because PAGA is a “type of qui tam action,” it is appropriate for the Plaintiffs to each  
19 receive a modest additional payment from the settlement as a “bounty” for their special effort in  
20 vindicating the State’s interests by enforcing its labor laws. *See Iskanian*, 59 Cal. 4th at 382 (“A PAGA  
21 representative action is therefore a type of qui tam action.”); *see also People ex rel. Strathmann v. Acacia*  
22 *Research Corp.*, 210 Cal. App. 4th 487, 500 (2012) (“The person who brings the qui tam action, called  
23 the ‘relator,’ stands in the shoes of the People of the State of California, who are deemed to be the real  
24 party in interest . . . The relator in a qui tam action under section 1871.7 does not personally recover  
25 damages but, if successful, receives [a portion] of the recovery as a bounty.”) (internal citations omitted).

26 Such a payment incentivizes employees to step forward to enforce the Labor Code. *See MMM*  
27 *Holdings, Inc. v. Reich*, 21 Cal. App. 5th 167, 180 (2018) (“The bounty advances the public purpose and  
28 benefit by encouraging private qui tam actions; indeed, this prospect of reward may be the only means of

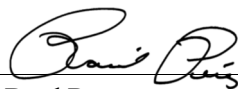
1 inducing such private parties to come forward with their information.”) (internal quotations omitted).  
2 This is especially important in this context, as “the lack of government resources to enforce the Labor  
3 Code led to a legislative choice to deputize and incentivize employees uniquely positioned to detect and  
4 prosecute such violations through the PAGA.” *Iskanian*, 59 Cal. 4th at 390. Absent the incentive  
5 payment, fewer employees would be willing to step forward, and PAGA’s primary purpose—  
6 enforcement of the Labor Code—would be substantially undermined.

7 **IV. CONCLUSION**

8 The Parties have negotiated a fair and reasonable settlement of Plaintiffs’ PAGA claims. Having  
9 appropriately presented the materials and information necessary for approval, the Parties request that the  
10 Court approve the PAGA Settlement Agreement.

11  
12 Dated: March 21, 2023

Respectfully submitted,

13  
14 By: 

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