JAMES HAWKINS APLC
James R. Hawkins (#192925)
Gregory Mauro (#222239)
Michael Calvo (#314986)
Lauren Falk (#316893)
Ava Issary (#342252)
9880 Research Drive, Suite 200
Irvine, CA 92618
Tel.: (949) 387-7200
Fax: (949) 387-6676
Email: James@jameshawkinsaplc.com
Email: Greg@jameshawkinsaplc.com
Email: Michael@jameshawkinsaplc.com
Email: Lauren@jameshawkinsaplc.com
Email: Ava@jameshawkinsaplc.com

Attorneys for CHRISTINE MARIE BURDEN on behalf of the general public as private attorney general

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MENDOCINO

CHRISTINE MARIE BURDEN, on behalf of the general public as private attorney general, Plaintiff, v. WILLITS HOSPITAL, INC., a California Non-Profit Corporation dba ADVENTIST HEALTH HOWARD MEMORIAL; and DOES 1-50, inclusive Defendants.	CASE NO.: 22CV00400 The Hon. Jeanine Nadel, Dept.: E **NOTICE OF MOTION AND MOTION TO APPROVE OF SETTLEMENT OF PRIVATE ATTORNEYS GENERAL ACT CLAIMS, AND ENTERING JUDGMENT THEREON AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION** Date: December 5, 2025 Time: 9:30 a.m. Dept.: E *Action Filed: May 13, 2022*

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

YOU ARE HEREBY NOTIFIED THAT on December 5, 2025 at 9:30 am or as soon thereafter as the matter can be heard, in Department E of the above entitled Court before the Honorable Jeanine Nadel presiding, Plaintiff Christine Marie Burden (“Plaintiff”) will and hereby does move for an order approving the settlement of the PAGA claim alleged against Defendant Willits Hospital, Inc., dba Adventist Health Howard Memorial (“Defendant’) in accordance with Labor Code §2699(l). The proposed settlement is set forth in the accompanying PAGA Representative Settlement Agreement ("Settlement", "Agreement" or "Settlement Agreement"). This PAGA Settlement resolves this action in its entirety.

This Motion will be based on this notice, the accompanying points and authorities, the Declaration of James Hawkins, the Declaration of Christine Marie Burden, and the complete files and records in this action. The Labor Workforce Development Agency has been served with this motion and the Settlement Agreement as set forth in the accompanying proof of service.

Dated: October 27, 2025

Respectfully submitted,

JAMES HAWKINS APLC

By: ______________________

JAMES R. HAWKINS
GREGORY MAURO
MICHAEL CALVO
LAUREN FALK
AVA ISSARY

Attorneys for Plaintiff individually and on behalf of the general public as Private Attorney General

I. INTRODUCTION

Plaintiff CHRISTINE MARIE BURDEN ("Plaintiff") reached a settlement of the California Private Attorneys General Act, Cal. Labor Code §2699, et seq. ("PAGA") claim asserted in this action against Defendant Willits Hospital dba Adventist Health Howard Memorial, Inc. ("Defendant"). The only claim in this action is the representative PAGA claim. In accordance with California Labor Code §2699(l), Plaintiff now asks this Court to review and approve the settlement of Plaintiff's PAGA claims. This is only a settlement of the PAGA claims for civil penalties, and is not a class settlement and does not release the individual claims, if any, of the affected employees other than the Plaintiff. Cal. Labor Code § 2699(g)(1); *Iskanian v. CLS Transportation*, 59 Cal. 4th 348, 381 (2014).

The PAGA settlement is set forth in the accompanying PAGA Representative Settlement Agreement ("Settlement", "Agreement" or "Settlement Agreement"). A true and correct copy of the Settlement Agreement, which sets forth the terms for the settlement of the PAGA claims, is attached as Exhibit 1 to the Declaration of James Hawkins, filed herewith. Capitalized terms shall have the same meaning as defined in the Settlement Agreement. The LWDA was served notice of this Settlement and this motion as set forth in the accompanying proof of service. The Notice of Settlement to PAGA Settlement Members is attached to the James Hawkins declaration as Exhibit 2.

A proposed order confirming review and approval of the PAGA settlement is submitted herewith.

II. RELEVANT FACTS

On December 14, 2021 Plaintiff transmitted a letter to the California Labor & Workforce Development Agency ("LWDA") and Defendant in compliance with the exhaustion requirements of the California Labor Code Private Attorneys General Act ("PAGA"), articulating claims related to the: (a) failure to provide meal periods for every work period exceeding more than five (5) and ten (10) hours per day and failure to pay an additional hour's of pay or accurately pay an additional hour's of pay in lieu of providing a meal period; (b) failure to provide rest breaks for every four hours or major fraction thereof worked and failure to pay an additional hour's of pay or accurately pay an additional hour's of pay in lieu of providing a rest period; (c) failing to pay all wages earned and owed upon separation from Defendant's employ; (d) failing to provide accurate itemized wage statements. (Hawkins Decl., at ¶ 3, Exhs. 2-3).

On March 30, 2022, Plaintiff filed a Representative Action Complaint in the Superior Court of the State of California for the Mendocino, entitled *Christine Marie Burden v. Willits Hospital Inc., dba Adventist Health Howard* Memorial, case number 22CV00400. Plaintiff filed the Complaint on behalf of the State of California and other purportedly aggrieved employees as a PAGA action based on violations of Labor Code 201-203, 512, 226, 226.3, 226.7, 1174, 1174.5, 1175, and related IWC Wage Orders. (Hawkins Decl., at ¶ 4).

On March 6, 2024, Plaintiff submitted an arbitration demand to JAMS asserting individual statutory claims and an individual PAGA claim. (Hawkins Decl., at ¶ 5).

During the course of the litigation, the Parties engaged in an informal discovery and fully shared the information necessary for all sides to conduct a legitimate investigation into the allegations of the action and potential defenses thereto including payroll and time keeping sampling for approximately 20% of the purported Aggrieved Employees along with policies and relevant data points. The Parties have reached this settlement only after discovery and investigation was performed. (Hawkins Decl. at ¶ 6).

On June 20, 2025, the Parties participated in a day-long mediation with the mediator Lisa Klerman, a well-respected wage and hour class action and PAGA action mediator. In preparation for the mediation, Plaintiff's counsel requested and Defendant's counsel provided sample time and payroll data for the purported Aggrieved Employees, personnel and employment documents. With Ms. Klerman's assistance, the Parties agreed to fully and finally resolve the Action and the PAGA Released Claims as to Plaintiff, the State of California, the LWDA and the purported Aggrieved Employees. (Hawkins Decl. at ¶ 7).

Being fully apprised of the value and strength of the PAGA theories alleged in the action, counsel for Plaintiff and Defendant successfully negotiated a settlement through arm's-length negotiations. The terms and conditions of the settlement are set forth in the Settlement Agreement ("Settlement" or "Settlement Agreement"). The Settlement Agreement resolves all claims asserted in the Complaint and contemplates that the settlement will be approved and the Court will enter judgment. (Hawkins Decl. at ¶ 8).

Defendant disputes and denies the allegations and claims asserted in this action. It was also Defendant's position that Plaintiff could not maintain this PAGA Action because there is no evidence of a common policy or practice that makes a trial manageable. (Hawkins Decl. at ¶ 9).

III. TERMS OF THE AGREEMENT

The Agreement negotiated by the parties provides for Defendants to pay $450,000.00 as the Total Settlement Payment ("TSP"). (Agreement at § IV, A). The Net Settlement Amount ("NSA") is the amount remaining of the TSP minus the Court-approved amounts awarded for the Attorneys Fees and Costs, Settlement Administration Fees, Enhancement Award to Plaintiff (if any), and the LWDA Payment. (Agreement at § IV, A - D). The Net Settlement Amount is estimated to be $258,000.00. (Hawkins Decl. ¶ 11).

The NSA is calculated as follows: (1) $150,000.00 (i.e. 33.3% of the TSP) shall be paid to Plaintiff's Counsel for payment of attorneys' fees; (2) Plaintiff's Counsel's litigation expenses not to exceed $30,000.00; (3) $5,000.00 Enhancement Award to the Plaintiff for Plaintiff's time and risks in prosecuting this case and Plaintiff's service to the PAGA Settlement Members as well as for Plaintiff's general release of Plaintiff's Released Claims; (4) Settlement Administration Expenses not to exceed $7,000.00 to ILYM Group Inc. The remaining Net Settlement Amount is estimated to be $258,000.00 and will be distributed to the PAGA Fund to be paid to the purported PAGA Settlement Members. An estimated $64,500.00 (25% of the NSA) will be distributed to the purported PAGA Settlement Members on a pro rata basis, amounting to an average of $116.63 per PAGA Settlement Member. The remaining $193,500.00 (75% of the NSA) is to be distributed to the LWDA. Any difference from these maximum amounts will be added to the Net Settlement Amount. (Hawkins Decl., ¶ 12). The 75/25 allocation is required by Labor Code § 2699 as explained by *ZB, N.A. v. Superior Court*, 8 Cal.5th 175 (2019). (Hawkins Decl. ¶ 12).

The "PAGA Settlement Members" are defined as "all individuals employed by Defendant as non-exempt employees in California during the PAGA Period (Agreement § I, ¶ 9); (Hawkins Decl. ¶ 13).

The "PAGA Period" shall mean "May 13, 2021 to the date the PAGA Settlement is approved by the Superior Court for the State of California for the County of Mendocino or other court assuming jurisdiction of this matter." (Agreement § I, ¶ 8); (Hawkins Decl. ¶ 14).

Defendant provided Plaintiff's Counsel with information concerning the PAGA Settlement Members, including statistical data concerning the weeks and pay periods worked. Defendants represented that PAGA Group Members consisted of approximately 553 employees who worked approximately 26,414 pay periods during the PAGA Period. (Agreement at § V, B ¶ 1).

Defendant shall provide the Settlement Administrator with a list of the names, last known addresses, the number of pay periods worked at Defendant's location in California during the PAGA Period, and Social Security Numbers for the PAGA Settlement Members, to be furnished within thirty (30) days after the Court issues an Order approving the Settlement. (Agreement at § V, D ¶1).

Within fourteen (14) days after the Effective Date, the Settlement Administrator shall pay to the LWDA an amount equivalent to seventy-five percent (75%) of the PAGA Fund, or as otherwise directed by the Court. (Agreement at § V, D ¶ 2).

Within fourteen (14) days after the Effective Date, the Settlement Administrator shall distribute to PAGA Settlement Members their individual portion of the PAGA Fund (the **"Individual Payment"**), or as otherwise directed by the Court. (Agreement at § V, D ¶ 3).

All settlement checks will remain valid and negotiable for 180 days from the date of their mailing by the Settlement Administrator. After 180 days from the date of their mailing by the Settlement Administrator, the dollar value of all checks that remain uncashed for more than 180 days will be void and sent to the State of California State Controller's Office in the PAGA Settlement Member's name. However, the PAGA Settlement Members who have not cashed their checks within 180 days from the date of their mailing will still have released the Released Claims. The failure by a PAGA Settlement Member to cash their settlement checks will have no effect on their release of the Released Claims. (Agreement at § V, D ¶ 6).

Each PAGA Settlement Member will grant in favor of each Released Party, and be subject to, the settlement Release. The Released Claims means:

> "[A]ny and all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the notice provided by Plaintiff to the LWDA, whether known or unknown, to recover civil penalties pursuant to PAGA for any alleged violations of California Labor Code sections, including 201-204, 226, 226.3, 226.7, 512, 1174, 1174.5, 1175, 2698 *et seq.*, and the applicable IWC Wage Order for the PAGA Period. (Agreement § I, ¶ 13).

The California Labor Workforce Development Agency ("LWDA") is being served with a copy of this motion with the Settlement Agreement through the online process as required by Labor Code § 2699(l). This service on the LWDA is verified in the separately filed proof of service. (Hawkins Decl., ¶ 47).

IV. THE PARTIES HAVE SETTLED THE PAGA CLAIMS

The claim before this court is the representative claim under PAGA on behalf of the State of California for civil penalties pursuant to the PAGA. The parties have agreed to settle this PAGA claim in its entirety after discovery and arm's length mediation. (Hawkins Decl., at ¶¶ 7-8.) The settlement is intended to fully and finally resolve the PAGA claims asserted by Plaintiff on behalf of the State of California. This is only a settlement of the PAGA claims for civil penalties, and is not a class settlement and does not release the individual claims, if any, of the PAGA Settlement Members. Attorneys' fees equal to $150,000.00 and actual litigation costs in the amount of $24,250.40 will also be paid to Plaintiff's Counsel, subject to Court approval as part of the settlement in accordance with California Labor Code § 2699(g)(1) as set forth in the Agreement. There is also payment of up to $7,000.00 to the Settlement Administrator to perform the administrative duties to distribute the settlement money and a $5,000.00 Enhancement Award to Plaintiff. (Hawkins Decl., ¶¶ 11-12.)

V. THE PARTIES REQUEST REVIEW AND APPROVAL OF THE SETTLEMENT OF THE PAGA CLAIM

Labor Code § 2699(l) requires that the Court "shall review and approve any settlement of any civil [PAGA] action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court." Consequently, the parties respectfully ask the Court to review and approve the settlement of the PAGA claims and the Maximum and Net Settlement Amounts to be paid as part of the proposed settlement.

A. The PAGA Group Recovery to Be Paid Is Fair and Reasonable

The Parties believe that the PAGA Group Recovery is fair and reasonable and therefore “shall” be reviewed and approved. The Labor and Workforce Development Agency has released data on PAGA settlement amounts. The Total Settlement Payment of $450,000.00 constitutes approximately $116.63 to each PAGA Settlement Member after deductions for fees, costs, enhancement award, and administration costs. The Total Settlement Payment accounts for approximately 12-20% of the maximum potential recovery (i.e. $13,232,300.00). (Hawkins Decl., ¶15).

Since the filing of the complaint, the Parties have exchanged extensive discovery and engaged in numerous discussions regarding the factual and legal issues surrounding this case. Throughout the litigation, Defendant produced voluminous pages of information and data, including policies, handbooks, time and payroll records for the PAGA Settlement Members reflecting time punches at the start of employees’ shifts, and at the end of the shift, and meal period punches as well as the applicable pay rates. Defendant also provided Plaintiff’s personnel file, records regarding documents identifying the non-exempt positions and information regarding the number of employees holding these positions during the relevant time period. Defendant also provided substantial information concerning the total number of potential size of the PAGA group, the total number of workweeks and pay periods at issue, and the applicable hourly rates and other summary data related to the alleged PAGA Settlement Members. The Parties have conducted themselves in informed, good faith arms-length negotiations after conducting discovery and exchanging extensive evidence and information about the claims and defenses of this lawsuit and engaging in pre-mediation discussions, telephone conferences, and correspondence all aimed at settling their dispute. (Hawkins Decl., ¶ 17.).

In preparation for the mediation, Plaintiff reviewed the entire discovery produced. The information had to be extrapolated and processed to figure out the amount of compensation Plaintiff contends are due to the PAGA Settlement Members. Defendants also provided substantial information concerning the total number of potential PAGA Settlement Members, the total number of workweeks and pay periods at issue, and the applicable hourly rates and other summary data related to the alleged class. The evidence and information gathered and reviewed by Plaintiff's counsel provided a factual framework for a comprehensible and reliable damage model pertaining to all Settlement PAGA Settlement Members. The mediation and subsequent negotiations included discussion and examination of the PAGA Settlement Members and the Parties' respective positions on the legal and factual issues raised in the Complaint. This was both a thorough and exhaustive process. (Hawkins Decl., ¶ 18).

The PAGA Settlement Members recovery compares favorably to the estimated amount of PAGA penalties. With the assistance of an expert, Plaintiff calculated that the maximum amount of statutory PAGA civil penalties was potentially $13,232,300.00 based on approximately 26,414 pay periods multiplied by a maximum per pay period violation rate of $100. These were for penalties for violations of Labor Code § 226.7/ 512/ (meal periods) at a 25% pay period violation rate, penalties for violation of Labor Code § 226.7/ 512 (rest periods) also valued at a 25% violation rate, penalties for violation of Labor Code § 226, penalties under Labor Code §510/558 at a 60% violation rate assessment. Importantly, however, it is likely that any penalties awarded would be at a much lower rate given the facts of this case. California Labor Code Section 2699(e)(1) permits a Court to award a lesser amount than the maximum civil penalty if based on the facts and circumstances to do otherwise would result in an award that is "unjust, arbitrary and oppressive or confiscatory." (Hawkins Decl., ¶ 19).

The maximum exposure here would be approximately $13,232,300.00 if the Court awarded 100% penalties for each and every pay period at $100 per pay period. Of course, these amounts would probably have been reduced given the polices in place, and manageability issues, the issues of why someone missed a meal break on any occasion or worked off the clock, and the issues of payment of meal period premiums. Given the risks involved, such as manageability issues, not prevailing on the merits, prevailing on certain claims for certain periods, reduced penalty amounts awarded by the trial Court, and reversal on appeal, the resulting settlement is fair, adequate, and reasonable. (Hawkins Decl. ¶¶ 15-34).

Defendant disputes that the penalties assessed by Plaintiff and his expert would have been awarded. Further, it is Defendant's contention that PAGA penalties cannot be stacked, and that at most just one PAGA penalty can be awarded to an aggrieved employee in any one pay period. *See* Labor Code section 2699 (f)(2) (authorizing awardable PAGA penalties to be measure by "each "each aggrieved employee per pay period"); *Smith v. Lux Retail North America, Inc.*, 2013 WL 2932243, at *1, *4 (N.D. Cal. 2013) (rejecting a pleading that sought the "stacking of penalties"; "[f]or the single mistake of failing to include commissions in the overtime base, plaintiff has asserted *five* (count them, five) separate labor code violations that could lead to statutory penalties;" "is it plausible that we would really pile one penalty on another for a single substantive wrong?"; noting that "no actual holding in any judicial decision has ever blessed such stacking"). As such, and for this initial reason, Defendant contends that the maximum potential recovery in this action is significantly lower than as stated by Plaintiff. (Hawkins Decl. ¶ 28).

Further, Defendant argues that Plaintiff's calculation of penalties as applicable to any employee and for any pay period, is inflated for an additional reason. Defendant argues that even were liability established, one does not reach the second-tier penalty for that violation unless and until the employer is first cited for the violation, and that Defendant has never been cited. *See Amalgamated Transit Union Local 1309, AFL-CIO v. Laidlaw Transit Servs., Inc.,* 2009 WL 2448430 *1, *9 (S.D. Cal. 2009) ("For the purposes of subsequent violation penalties, the issue is not whether [defendant] willfully violated the Labor Code, but rather whether a court or commissioner had notified it of any violation."); *Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157, 1209 (2008) ("[u]ntil the employer has been notified that it is violating a Labor Code provision (whether or not the Commissioner or court chooses to impose penalties), the employer cannot be presumed to be aware that its continuing underpayment of employees is a 'violation' subject to penalties" at a second tier); *Robinson v. Open Top Sightseeing San Francisco, LLC*, No. 14-CV-00852-PJH, 2018 WL 895572, at *20 (N.D. Cal. Feb. 14, 2018) (applying "initial" penalty to each violation of § 226 and § 2699(f)(2) because there was no evidence showing defendant was previously notified its practice violated § 226); *Willis v. Xerox Bus. Servs., LLC*, 2013 WL 605383, at *1, *6 (E.D. Cal. 2013) ("for a plaintiff to recover for a 'subsequent violation,' an employer must have notice that it has violated the Labor Code"). As such, Defendants contends that Plaintiff's calculation are inflated not only because the "stack" penalties for a single person during a single pay period, but because the penalties Plaintiff would award in each instances are at an inapplicable (doubled) rate. (Hawkins Decl. ¶ 29).

Defendant further argues that Plaintiff would still face significant practical problems in any material exposure, as each violation would need to be proven as to each person and for each period for which recovery is sought.[1] As an example, for purposes of section 226, "a good faith

---

[1] Defendant argues that claims of this sort tend to require individualized proof sets, and are not the subject of "common proof." *See e.g., Mateo v. V.F. Corp.* 2009 WL 3561539, at *6 (N.D. Cal. Oct. 27, 2009) (denying collective treatment of off-the-clock (OTC) and overtime claims as involving individualized proof); *Lawrence v. City of Philadelphia* (E.D. Pa. 2004) WL 945139 at *1-3 (rejecting OTC claims for collective treatment; "each of the plaintiffs potentially may claim that on any given day he or she arrived early or departed outside their regularly scheduled hours and were not compensated for such. The circumstances of those individual claims potentially vary too widely to conclude that in regard to their OTC claim, the plaintiffs are similarly situated. The questions of fact will likely differ for each Plaintiff and will be unduly burdensome to both Defendants and to the Court in managing as a collective action."); *Basco v. Wal-Mart Stores, Inc.* (E.D. La. 2002) 216 F.Supp.2d 592, 603 (individual issues arise from "myriad of possibilities that could be offered to explain why any one of the plaintiffs worked OTC" and predominate; rejecting collective treatment of such claims); *Chavez v. Zaldivar*, 2012 U.S. Dist. LEXIS 40984 *1, at *23-24 (N.D. Cal. 2012) ("To determine whether staffing levels resulted in missed meal periods, the Court would need to engage in individualized questions concerning the staffing requirements at each of [defendants'] locations. Additionally, these staffing requirements would vary from day to day."); *Washington v. Joe's Crab Shack*, 271 F.R.D. 629, 641 (N.D. Cal. 2010) ("an individualized inquiry will be required to determine whether any single employee failed to take a meal break because he/she was too busy and also to determine whether a particular employee signed a waiver based on a decision not to take meal breaks. For this reason alone, common issues do not predominate with regard to the meal break claim"); *Ruiz v. Affinity Logistics Corp*., 2009 WL 648973, *7-8 (S.D. Cal. 2009) (holding that inquiry into the reasonableness and necessity of the expenses required a "case-by-case analysis in which common questions did not predominate over individual questions."). *See also Nikmanesh v. Wal-Mart Stores, Inc.*, No. 8:15-cv-00202-AG-JCG, ECF Dkt. 200, slip op. at 4-5 (C.D. Cal. Mar. 22, 2017) (dismissing uncertified PAGA claim "as unmanageable," where court previously "pointed to other examples of individualized variables when it denied class certification for failure of common questions to 'predominate over questions affecting only

dispute presents when there is (1) uncertainty in the law; (2) representations by an authority that compliance was not required; or (3) an employer's good faith mistaken belief grounded in a good faith dispute." *Magadia v. Wal-Mart Assocs., Inc.*, 384 F. Supp. 3d 1058 (N.D. Cal. 2019). "Mere recklessness" is not a basis for liability. *Pedroza,* 2012 WL 9506073, *5. (Hawkins Decl. ¶ 30).

Defendant also notes that PAGA grants the Court discretion to lower any PAGA penalty otherwise due. *See* Labor Code section 2699 (e)(2). Defendants also argue that the Court could reduce any penalty potentially due where, as Defendant contends, any technical violation of law would have been inadvertent and in good faith, particularly where the law is undefined and capable of differing interpretations. Section 226, for example, is not violated where the employer acted in "good faith." *See Pedroza v.PetSmart, Inc.,* 2012 WL 9506073 (C.D. Cal. June 14, 2012) ("The good faith defense to the willfulness element of these sections [226, 203] is clearly established under California law); *Woods v. Vector Mktg. Corp.*, 2015 WL 2453202, at *3 (N.D. Cal. May 22, 2015) ("The 'good faith dispute' rule has been extended by courts to apply to California Labor Code Section 226. (Hawkins Decl. ¶ 29).

In *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the Court of Appeal affirmed a judgment after trial which only provided for a PAGA penalty of $5 per pay period. Therefore, at trial, any PAGA penalties awarded could be significantly less than Plaintiffs' calculation even where Plaintiffs prevailed on the PAGA claim. If the amount of $5 per pay period from *Carrington v. Starbucks* is used, the potential recovery of civil penalties would be only $65,000, which is less than this settlement provides.

Under PAGA, Courts have considerable discretion to reduce the penalty award. In *Fleming v. Covidien*, 2011 U.S. Dist. LEXIS 154590 (C.D. Cal. 2011), a federal court reduced PAGA penalties from $2,800,000 to $500,000, a reduction of 82.2%, because the court found

---

individual class members'"); *Salazar v. McDonald's Corp.*, No. 14-CV-02096-RS, 2017 WL 88999, at *7-9 (N.D. Cal. Jan. 5, 2017) (striking representative PAGA claims as unmanageable where underlying claims would require individualized determinations).

maximum penalties "unjust" because the employees had suffered no injuries. Some trial courts have actually awarded no civil penalties, even when Labor Code violations are established. See *Makabi v. Gedalia*, 2016 Cal. App. Unpub. 1489, *5-7 (2nd Dist. Ct. of App. Mar. 6, 2016) (no PAGA penalties were awarded by the Los Angeles County Superior Court) (unpublished decision); *In re Taco Bell Wage & Hour Actions*, 2016 U.S. Dist. LEXIS 48557, *40-43 (E.D. Cal. Apr. 6, 2016) (PAGA penalties denied after trial).

In order to recover any PAGA penalties, Plaintiff would be required at trial to prove each of the underlying Labor Code violations. See *Cardenas v. McLane Foodservice, Inc.*, 2011 U.S. Dist. LEXIS 13126, *10 (C.D. Cal. 2011) ("Given the statutory language [of PAGA], a plaintiff cannot recover on behalf of individuals whom the plaintiff has not proven suffered a violation of the Labor Code by the defendant."). Here, Plaintiff would need to prove that each PAGA Group Member suffered all violations for each pay period the employee worked.

The claims in this PAGA action are based upon the wage and hour practices of Defendant. Upon approval, approximately $193,500.00 will be sent to the State of California and approximately $63,5000.00 will be shared with aggrieved employees. This equates to approximately $116.63 to each PAGA Settlement Member. (Hawkins Decl. ¶ 12).

The claims in this action are regarding meal periods, rest periods and off the clock work during meal periods due to work interruptions. Plaintiff alleges that Defendant's practices do not provide proper payment for missed meal periods, rest periods and pay for all overtime for off the clock work and due to off-the-clock work performed. Defendant contends that it had compliant meal and rest period policies in place and such policies also prohibited employees from working off the clock. (Hawkins Decl. ¶¶ 15-33).

Defendant contends that Plaintiff and the PAGA Settlement Members were properly compensated, and that they did not violate the Labor Code as to any of them. Defendant asserted additional defenses to the PAGA claim as discussed above. These defenses present a risk to the PAGA claim and the potential that some or all of the PAGA penalties sought may not be awarded. (*Id.*)

Given Defendant's potential defenses to the violations at issue, the risks and costs of continued litigation, Plaintiff and her attorneys believe that the PAGA Settlement is fair and reasonable. (Hawkins Decl., ¶ 37.) Plaintiff's Counsel have significant experience litigating wage and hour claims including claims for PAGA penalties, and the PAGA Group Recovery here is similar to or greater than similar settlements that courts have approved. (Hawkins Decl., ¶ 37-42.) The PAGA Settlement Members' recovery, along with the other terms of the proposed settlement, were negotiated by experienced counsel at arm's length with the assistance of a private mediator, Lisa Klerman. (Hawkins Decl., at ¶ 7)

As set forth in the accompanying proof of service, the LWDA has been provided notice of this motion and the PAGA settlement. (Hawkins Decl., at ¶ 48). The decision of LWDA to accept the PAGA settlement and not oppose the motion should be given considerable weight. This is not a situation where the Court needs to be concerned about the rights of absent employees as in a class settlement, as this PAGA-only settlement does not release the individual claims of absent employees, and the LWDA is a sophisticated government entity that is more than able to look out for its own rights.

B. The Remaining Settlement Terms Are Fair and Reasonable

Although PAGA requires that a court approve the proposed PAGA settlement, Labor Code § 2699(1) does not require that a court approve any other elements of the proposed settlement. Because there are no class allegations, the approval provisions applicable to class settlements under Cal. Code Civil Proc. §382 do not apply. Accordingly, the Court only needs to approve the settlement of the civil penalties sought in the PAGA claim. Nevertheless, as explained herein, the settlement terms for attorneys' fees and costs are reasonable.

VI. THE ATTORNEYS' FEES AND COSTS ARE FAIR AND REASONABLE

PAGA does not have any requirements for reviewing attorneys' fees, and Plaintiffs' position is that the payment of attorneys' fees and costs in this settlement is a matter of contract for a contingent representation. Nevertheless, should this Court review the requested attorneys' fees, it is clear that the requested fees and costs are reasonable.

First, the requested fees are justified by the result achieved. Plaintiff's Counsel negotiated a recovery of $150,000.00 and this result justifies the requested fees equal to 33.3% of this recovery. This percentage is within the standard contingent recovery. Second, the fee award is justified by the work performed. As detailed in the accompanying Declaration of Plaintiff's Counsel, the fee award is reasonable as Plaintiff's Counsel lodestar is $185,111.00. (Hawkins Decl. ¶¶ 43-44).

Generally, the Ninth Circuit and California Courts award multipliers between 2 to 4 times the lodestar to reward counsel for accepting the contingent risks of the litigation or obtaining good results. *See, e.g.*, *Laffitte*, 1 Cal. 5th at 506 (approving one-third fee award with multiplier between 2.03 and 2.13); *Pellegrino v. Robert Half Intern., Inc.*, 182 Cal.App.4th 278 (2010) (noting reasonable multipliers of 2.0 to 4.0 are often applied and affirming 1.75 multiplier); *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 254 (2001) (noting that multipliers can range from 2 to 4 or higher); *Vandervort v. Balboa Capital Corp.*, 8 F.Supp. 3d 1200, 1210 (C.D. Cal. 2014) (awarding one-third of fund, which was a 2.52 multiplier of lodestar); *Boyd v. Bank of America*, 2014 WL 6473804, at *11 (C.D. Cal. 2014) (awarding one-third of fund, which was a 2.58 multiplier of lodestar); *Hopkins v. Stryker Sales Corp.*, No. 11-CV-02786-LHK, 2013 WL 496358, at *6 (N.D. Cal. Feb. 6, 2013) (approving fee award that represented a multiplier of 2.76 as falling within the "majority" range for risk multipliers). Here, no multiplier is requested as Plaintiff's Counsel's lodestar exceeds the amount of requested fees.

Finally, the award of litigation expenses is based upon the actual expenses incurred by the Plaintiff's Counsel. (Hawkins Decl., at ¶ 44). Plaintiff's Counsel will be recovering litigation expenses in the total amount of $24,250.40. These expenses are documented in the billing statement attached to the Declaration of Hawkins as <u>Exhibit 4.</u>

VII. THE ENHANCEMENT TO THE PLAINTIFF IS REASONABLE

"[T]he rationale for making enhancement or incentive awards to named plaintiffs is that they should be compensated for the expense or risk they have incurred in conferring a benefit on other members of the class." *Clark v. American Residential Services LLC*, 175 Cal. App. 4th 785 (2009).

Approximately 553 PAGA Settlement Members will share a $64,500.00 settlement fund due entirely to the effort and commitment of Plaintiff. Subject to Court approval, therefore, the Settlement provides for an Enhancement Award of $5,000.00 The Enhancement Award is fair and reasonable compensation for Plaintiff's efforts in pursuing the action, serving as private attorneys general under PAGA, assisting counsel with the litigation and settlement, regularly conferring with counsel on the status of their case and the strategies for prosecuting the claims, and reviewing the proposed settlement to ensure that its terms are fair and provide adequate relief for the Settlement Class. (Hawkins Decl. ¶¶ 34-35; *see* generally Declaration of Plaintiff Burden filed concurrently herewith.)

Based on the foregoing, Plaintiff respectfully request this Court approve the PAGA enhancement to Plaintiff in the amount of $5,000.00.

VIII. CONCLUSION

Based on the foregoing, Plaintiff respectfully request this Court approve the PAGA settlement and the PAGA Member recovery as set forth in the Agreement and enter the proposed order submitted herewith.

Dated: October 27, 2025

JAMES HAWKINS APLC

By: ______________________________

JAMES R. HAWKINS
JAMES HAWKINS
MICHAEL CALVO
LAUREN FALK
AVA ISSARY

Attorneys for Plaintiff CHRISTINE MARIE BURDEN, individually and on behalf of the general public as Private Attorney General

PROOF OF SERVICE, COUNTY OF ORANGE

I am a resident of the State of California, County of Orange. I am over the age of eighteen years and not a party to the within action. My business address is 9880 Research Drive., Suite 200, Irvine, California 92618.

On October 27, 2025, I served on the interested parties in this action the following document(s) entitled:

NOTICE OF MOTION AND MOTION TO APPROVE OF SETTLEMENT OF PRIVATE ATTORNEYS GENERAL ACT CLAIMS, AND ENTERING JUDGMENT THEREON AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION

DECLARATION OF JAMES HAWKINS IN SUPPORT OF MOTION TO APPROVE SETTLEMENT OF PRIVATE ATTORNEYS GENERAL ACT CLAIMS, AND ENTERING JUDGMENT THEREON

DECLARATION OF CHRISTINE MARIE BURDEN IN SUPPORT OF PLAINTIFF'S MOTION FOR APPROVAL OF PAGA SETTLEMENT

[PROPOSED] ORDER APPROVING SETTLEMENT OF PRIVATE ATTORNEYS GENERAL ACT CLAIMS, ENTERING JUDGMENT

[XX] BY ELECTRONIC SERVICE: Based on a court Order or an agreement by the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent from the email address Alma@jameshawkinsaplc.com to the persons at the e-mail addresses listed in the Service List below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

SERVICE LIST

(See Attached Service List)

[XX] **STATE:** I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct.

Executed on October 27, 2025, at Irvine, California

Alma Chavarin

Alma Chavarin

SEYFARTH SHAW LLP
Kerry Friedrichs
560 Mission Street, 31st Floor
San Francisco, CA 94105
Email: kfriedrichs@seyfarth.com

SEYFARTH SHAW LLP
Daniel Whang
2029 Century Park East, Suite 3500
Los Angeles, CA 90067
Email: dwhang@seyfarth.com

SEYFARTH SHAW LLP
Gina Gi
601 South Figueroa Street, Suite 3300
Los Angeles, CA 90017
Email: ggi@seyfarth.com

Attorneys for Defendant
WILLITS HOSPITAL, INC.,
Dba ADVENTIST HEALTH HOWARD MEMORIAL

Via LWDA Website Only
Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Ste 801
Oakland, CA 94612
http://www.dir.ca.gov/Private-Attorneys-General-Act