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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF SANTA BARBARA**

13 MATT DEL CAMPO, on behalf of
14 himself, the State of California, and others
15 similarly situated and aggrieved,

16 Plaintiff,

17 v.

18 VENTURA INVESTMENT CO., a
19 California corporation; and DOES 1-100,
20 inclusive,

21 Defendants.

Case No.: 22CV-02147

Assigned for All Purposes to:

Hon. Colleen K. Sterne

Dept. 5

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF RENEWED
MOTION FOR APPROVAL OF
SETTLEMENT UNDER THE PRIVATE
ATTORNEY'S GENERAL ACT

[Filed concurrently with Notice of Motion and
Motion; Declaration of Zachary M. Crosner;
[Proposed] Order]

Date: July 24, 2023

Time: 10:00 a.m.

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1 **I. INTRODUCTION**

2 Plaintiff Matt Del Campo hereby seeks Court approval of a proposed settlement of claims
3 brought under the Private Attorneys General Act (“PAGA”) against defendant Ventura Investment
4 Co. (“VIC” or “Defendant”). Consistent with PAGA, the proposed settlement releases claims under
5 PAGA only and has no impact on the individual claims of any aggrieved employee other than
6 Plaintiff Del Campo. Since the settlement resolves nothing more than claims under PAGA, it
7 requires only a one-step review and approval process by the Court, and for the reasons discussed
8 below, Plaintiff respectfully requests the Court approve the Settlement in its entirety.

9 **II. BACKGROUND**

10 VIC is a real property asset management company that acquires, develops, and manages
11 commercial and residential properties in the Southwestern United States. VIC is located in
12 Camarillo, California. VIC provides a wide range of management and investment services for
13 commercial and residential properties in California and is also a licensed general building
14 contractor. Plaintiff worked for VIC as a property manager May 2019 and worked as an Assistant
15 Manager until June 2020 when he was promoted to a Manager and remained employed with VIC
16 until around April 2021. Plaintiff was paid by salary in both positions but, as discussed below,
17 alleges he was misclassified as an exempt employee. [Declaration of Zachary M. Crosner (“Crosner
18 Decl.”), ¶ 4.]

19 After appropriate notice¹ to the Labor & Workforce Development Agency (“LWDA”),
20 Plaintiff filed his PAGA-only complaint on June 7, 2022, seeking civil penalties for the following
21 alleged wage and hour violations: (a) failure to pay wages, including overtime wages; (b) failure to
22 provide meal and rest periods; (c) failure to provide complete and accurate wage statements; and (d)
23 waiting time penalties. Plaintiff filed the matter on behalf of PAGA Group Members defined to
24 include all non-exempt employees of VIC during the relevant PAGA time frame of April 3, 2021 to
25 December 1, 2022. [Crosner Decl., ¶ 5.]

26 VIC has at all times denied Plaintiff’s allegations and maintained it properly calculated and
27 paid all wages due, that its meal and rest break and payroll policies and procedures comply with

28 ¹ Plaintiff’s March 24, 2022 PAGA notice letter is attached to the Crosner Declaration as Exhibit 3.

1 California law, and that it provided the class members with required meal and rest breaks.
2 Additionally, VIC strongly contends the case cannot be maintained as a representative action as, to
3 the extent PAGA Group Members missed meal and/or rest breaks, it was intermittent and infrequent
4 and evidence of such missed breaks would be purely anecdotal, and therefore individualized issues
5 predominate, which would render a trial under PAGA unmanageable. Lastly, VIC contends the
6 case should be sent to arbitration following the U.S. Supreme Court's decision in Viking River
7 Cruises v. Mariana (2022) 142 S.Ct. 1906. [Crosner Decl., ¶ 6.]

8 After Plaintiff filed his complaint, upon discussing the merits of the case and engaging in
9 several meet and confer sessions regarding prospective law and motion and discovery issues, the
10 Parties agreed to an early mediation. The Parties further agreed to a protocol for exchanging
11 additional documents and information before the mediation. Through this informal discovery,
12 Defendant provided Plaintiff with information including, inter alia, the number of potential PAGA
13 Group Members, the number of aggregate pay periods, pay stubs and time records for a sampling
14 of the allegedly PAGA Group Members, employee handbooks and manuals, and other relevant
15 policy documents regarding Defendant's time keeping and reporting policies. [Crosner Decl., ¶ 7.]

16 The Parties then mediated the case with Craig J. Ackerman, Esq., a respected mediator with
17 extensive class action/wage and hour experience, on November 15, 2022. Before and during the
18 mediation, Plaintiff and his counsel analyzed, researched, and investigated the potential issues,
19 including matters related to the calculation of damages, trial, and appellate issues and risks. During
20 mediation, the Parties vigorously debated the likelihood of Plaintiff's ability to proceed on a
21 representative basis as to the PAGA claims, the legal grounds for Plaintiff's claims and Defendant's
22 defenses, and the parties' data analyses and conclusions based on data provided by Defendant. After
23 a contentious full day of negotiations, the Parties reached agreement and subsequently formalized
24 their tentative settlement in the Settlement Agreement now before the Court for approval. [Crosner
25 Decl., ¶ 8.] A fully executed, true and correct copy of the Parties' PAGA Settlement Agreement
26 ("Settlement Agreement") is attached to the Crosner Declaration as Exhibit 1.

27 ///

28 ///

1 **III. SUMMARY OF SETTLEMENT TERMS**

2 **A. SETTLEMENT TERMS AND DISTRIBUTION OF PAGA PENALTIES**

3 Under the settlement, Defendant will make the following payments: (a) \$38,503.45 in PAGA
4 Penalties, of which 75% (about \$28,877.59) will go to the LWDA, and the remaining 25% (about
5 \$9,625.86) will be distributed to the PAGA Group Members; (b) \$2,800.00 to Phoenix Settlement
6 Administrators for administration of the Settlement; (c) \$26,666.67 to Plaintiff's Counsel for
7 attorney's fees, subject to Court approval; and (d) to Plaintiff's Counsel for actual litigation costs
8 and expenses.² [Crosner Decl., ¶ 9.]

9 **B. PAYMENT AND THE NOTICE**

10 The Parties propose using Phoenix Settlement Administrators as the Settlement
11 Administrator. Phoenix has extensive experience administering PAGA settlements, and has agreed
12 to cap its fees at \$2,800.00. [Declaration of Jodey Lawrence (filed February 10, 2023), ¶¶ 2-16;
13 Exhs.1-2.] VIC will fund all components of the settlement within 21 days of approval, and within
14 14 calendar days of receipt Phoenix will mail a Notice and settlement check to all PAGA Group
15 Members via regular First-Class U.S. Mail, using the most current, known mailing addresses
16 identified in VIC's records. [Crosner Decl., ¶ 10.]

17 PAGA Group Members need not submit claim forms and will automatically receive a Notice
18 and settlement check. Individual payments will be made in proportion to the total number of Pay
19 Periods each individual worked during the PAGA Period, with an average award currently estimated
20 at about \$100 net per Aggrieved Employee and about \$4.65 net per Pay Period. Settlement checks
21 will be negotiable for 180 days, after which time any unclaimed residual funds will be forwarded to
22 the California State Controller's Unclaimed Property Fund. [Crosner Decl., ¶ 11; Exh. 2.]

23 **C. THE RELEASE**

24 The California Supreme Court has explained that a judgment in "a representative action
25 brought by an aggrieved employee under the Labor Code Private Attorneys General Act of 2004 ...
26 is binding not only on the named employee plaintiff but also on government agencies and any
27 aggrieved employee not a party to the proceeding." Arias v. Superior Court (2009) 46 Cal.4th 969,

28 ² Plaintiff entered into a separate settlement agreement with VIC to resolve his individual claims. [Crosner Decl., ¶ 9.]

1 985-86. Accordingly, the release in the Settlement Agreement narrowly releases only civil penalty
2 claims brought under PAGA. Under Arias, the order the Parties request the Court enter is intended
3 to be “binding not only on the named employee plaintiff but also on government agencies and any
4 aggrieved employee not a party to the proceeding.” The Settlement Agreement protects the rights
5 of the PAGA Group Members to bring their own individual claims should they wish. For these
6 reasons, the Parties contend the release narrowly applies only to the PAGA claims alleged, and the
7 Settlement Agreement specifically provides the Release is inapplicable to any claims other than
8 those brought under PAGA. [Crosner Decl., ¶ 12.]

9 **IV. THE SETTLEMENT IS FAIR, ADEQUATE AND REASONABLE, FURTHERS**
10 **THE PURPOSES UNDERLYING PAGA, AND WARRANTS APPROVAL**

11 PAGA requires the Court to “review and approve any settlement of any civil action filed
12 pursuant to this part.” Labor Code § 2699(l)(2). In Moniz v. Adecco USA, Inc. (2021) 72
13 Cal.App.5th 56, the court defined the standard for courts to apply when reviewing settlements under
14 PAGA. The court held a trial court must ensure that the settlement is “fair, reasonable, and adequate
15 in view of PAGA’s purposes to remediate present labor law violations, deter future ones, and to
16 maximize enforcement of state labor laws.” Id. at 77.

17 In so holding, Moniz noted many federal district courts imported class action settlement
18 approval principles when evaluating PAGA settlements, demanding that PAGA settlements be “fair,
19 reasonable, and adequate,” and weighing factors such as “the strength of the plaintiff’s case, the
20 risk, the stage of the proceeding, the complexity and likely duration of further litigation, and the
21 settlement amount[.]” Id. at 75-76 (collecting cases). Observing that “PAGA’s purpose” is to
22 “protect the public interest”—especially the alleged PAGA Group Members—the Court agreed with
23 this district court authority, concluding that much the same principles that ensure fairness in class
24 action settlements serve the public interest in the PAGA context. Essentially, these factors are more
25 or less identical to those California courts use to evaluate class action settlements per Kullar v. Foot
26 Locker Retail, Inc. (2008) 168 Cal.App.4th 116 and, accordingly, Plaintiff submits they should
27 inform the Court’s analysis as well. For the reasons below, the proposed settlement is fair,
28 reasonable and adequate, advances the purposes underlying PAGA, and should be approved.

1 **A. NATURE OF THE ALLEGED VIOLATIONS**

2 First, Plaintiff alleged Defendant failed to pay all minimum and overtime wages by
3 misclassifying certain employees as exempt employees and paying them a set salary regardless of
4 hours worked, and further rounding time clock entries to the benefit of Defendant by inserting the
5 employees' schedules in the time cards instead of actual hours worked. Plaintiff also contends that he
6 and the PAGA Group Members frequently had to work during the meal periods but were not paid for
7 such time. Finally, he alleges VIC failed to calculate overtime/sick/vacation wages using the correct
8 "regular rate of pay" during pay periods when employees received non-discretionary
9 bonuses/commissions in addition to their overtime/sick/vacation wages. [Crosner Decl., ¶ 13.]

10 Next, Plaintiff contends Defendant failed to provide PAGA Group Members with compliant
11 meal periods and utilized a policy that failed to comply with California law. Plaintiff alleges he and
12 other employees did not receive compliant meal periods as meal periods frequently were late,
13 interrupted, and/or or lasted less than 30 minutes. He contends further that company policy
14 prohibited them from leaving the premises on meal periods without authorization, prohibited certain
15 activities during meal periods, and required employees to monitor their phones at all times and, as
16 a result, Plaintiff and other employees were not entirely free from employer control while on their
17 meal periods. Plaintiff similarly contends Defendant failed to provide Plaintiff and the PAGA Group
18 Members with compliant rest periods for essentially the same reasons. [Crosner Decl., ¶ 14.]

19 Plaintiff next alleges VIC failed to reimburse necessary business expenses such as work tools,
20 work uniforms and clothing, personal cell phones, and use of personal vehicles while on the job and in
21 performance of necessary job duties. [Crosner Decl., ¶ 15.]

22 Lastly, Plaintiff also brings claims derivative of the foregoing claims, including a derivative
23 wage statement claim based on the failure to pay all wages due, and failure to pay all wages due and
24 owing upon separation of employment under Labor Code §§ 201-203. [Crosner Decl., ¶ 16.]

25 **B. NUMBER OF ALLEGED VIOLATIONS AND POTENTIAL PENALTIES**

26 For mediation, VIC indicated it employed approximately 96 non-exempt employees in
27 California during the relevant time frame, and these individuals worked approximately 2,062 pay
28 periods during that time. Based on the data and information provided by Defendant, Plaintiff

1 estimated Defendant's maximum PAGA exposure at approximately \$1,040,000 assuming a 100%
2 violation rate on all claims. This estimate includes approximately \$206,200 in civil penalties for the
3 unpaid wage claims, \$412,400 for the meal and rest period claims, approximately \$206,200 in civil
4 penalties on the inaccurate wage statement claim, about \$206,200 and approximately \$4,700 in civil
5 penalties for failing to timely pay wages on separation of employment. [Crosner Decl., ¶¶ 17-18.]

6 C. **THE SETTLEMENT MEETS THE KULLAR FACTORS, INCLUDING THE**
7 **STRENGTH OF PLAINTIFF'S CASE, THE DISCOVERY PERFORMED,**
8 **AND AMOUNT OFFERED IN SETTLEMENT**

9 In response to Plaintiff's unpaid wage claims for alleged rounding and "off the clock work,"
10 VIC took the position that its time keeping policies are legally compliant, that it accurately tracked
11 all hours worked, and paid the PAGA Group Members for all hours worked consistent with those
12 policies. VIC also contends it paid overtime, sick time, and vacation time at the correct hourly rates.
13 It further argued all employees were properly classified and noted non-exempt employees may be
14 paid by salary under California law for forty hours of straight time work. Lastly, Defendant argued
15 any trial of this issue on a representative basis would be unmanageable since it would depend
16 entirely on a myriad of individualized inquiries as to each employee regarding any discrepancies in
17 actual time worked versus what was reported and paid for. [Crosner Decl., ¶ 19.]

18 For the meal and rest break claims, VIC offered multiple defenses to these claims. First, it
19 emphasized its written meal and rest break policy generally was compliant, that it authorized and
20 permitted all necessary breaks, and that employees received full uninterrupted lunch periods. While
21 Plaintiff's review of the time records suggested a substantial violation rate for late and short meal
22 breaks, Defendant countered that even to the extent this occurred, it was in violation of company
23 policy and aberrational, and would require significant individual inquiries to determine the reasons
24 underlying any such alleged violations and whether it was by employee choice or some other reason.
25 Thus, per Defendant, any trial on this issue would be unmanageable because of these individualized
26 issues. [Crosner Decl., ¶ 20.]

27 As with meal breaks, Defendant argued the applicable rest break policies complied with
28 California law, and that it authorized and permitted employees to take all required breaks.
Defendant further contended that, in light of the fact that it is not required to maintain a record of

1 rest periods, any evidence of failure to authorize rest periods and/or discouragement from taking
2 rest periods would be purely anecdotal and individual issues would predominate on liability. This
3 arguably would once again make a trial unmanageable since the number of instances an employee
4 missed a rest break would have to be tested on a case by case basis to determine compliance.

5 [Crosner Decl., ¶ 21.]

6 For the expense reimbursement claim, VIC countered that it provided employees with
7 everything they needed to perform their job duties, and to the extent Plaintiff or other PAGA
8 Group Members used their individual phones, vehicles, or tools for work purposes, it was done
9 purely for personal convenience and was neither required nor necessary in order to perform their
10 job duties. Thus, per Defendant, no reimbursement was required. [Crosner Decl., ¶ 22.]

11 Plaintiff also alleged derivative violations of Labor Code § 226 (wage statement
12 violations) and §§ 201-203 (waiting time penalties). The derivative wage statement claims (based
13 on the unpaid wage and meal/rest claims). The waiting time penalties claim, also is entirely
14 derivative and will rise or fall along with the primary claims, in addition to being subject to “good
15 faith” and other defenses available to Defendant. Amaral v. Cintas Corp. No. 2 (2008) 163
16 Cal.App.4th 1157, 1203-04 (holding employer did not willfully fail to pay wages under Labor
17 Code § 203 even though the class prevailed on the merits on the underlying claim for failing to
18 pay living wages). Accordingly, Plaintiff had to discount the value of this claim significantly in
19 light of these multiple potential defenses. Defendant also contended a substantial discount should
20 be applied to the civil penalties for these derivative (i.e., “stacked”) violations, as it would be
21 unfair to penalize Defendant multiple times for the same violation. [Crosner Decl., ¶ 23.]

22 Defendant also emphasized PAGA gives the Court wide latitude to reduce the amount of
23 civil penalties “based on the facts and circumstances of a particular case” if “to do otherwise
24 would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” Labor Code §
25 2699(h). Several state and federal courts in California have applied significant reductions to
26 PAGA civil penalties even after plaintiff prevailed on the merits. In Fleming v. Covidien (C.D.
27 Cal. 2011) 2011 U.S. Dist. LEXIS 154590, *8-9, for instance, the district court reduced the
28 potential penalties by over 82% after a bench trial. More recently, in Carrington v. Starbucks

1 Corp. (2018) 30 Cal.App.5th 504, after a bench trial, the trial court awarded penalties of just \$5
2 per pay period, a 90% reduction, which decision was upheld on appeal. In re Taco Bell Wage and
3 Hour Actions (E.D. Cal. Apr. 8, 2016) 2016 U.S. Dist. Lexis 48557 (PAGA penalties denied after
4 trial). [Crosner Decl., ¶ 24.]

5 Finally, Defendant emphasized the potential applicability of the U.S. Supreme Court’s
6 recent decision in Viking River Cruises v Mariana (2022) 142 S.Ct. 1906. In particular, VIC
7 argued the arbitration agreement signed by Plaintiff contains the necessary elements outlined by
8 Viking River Cruises to compel arbitration, namely: (1) it provides for the arbitration of wage and hour
9 claims, like Plaintiff’s pending claims in the PAGA lawsuit, (2) it does not allow for an employee to
10 bring a class or representative claim in arbitration, and (3) it contains a “severability” clause stating
11 that if any terms of the Agreement are unenforceable, the remainder of the Agreement is still valid.
12 Thus, per VIC, Plaintiff’s “individual” PAGA claim must be compelled to arbitration and the
13 “representative” PAGA claims dismissed for want of standing. [Crosner Decl., ¶ 25.]

14 Defendant raised various and multi-layered defenses to each of Plaintiff’s claims, anyone
15 of which, if successful, could have decimated Plaintiff’s case. And Defendant vowed to raise all
16 these defenses at trial, even assuming Plaintiff overcame Viking River Cruises. Accordingly,
17 Plaintiff faced risky issues going forward with this litigation, and it could have taken years to
18 realize any recovery in this action along with the possibility of post-trial appeals. In addition to
19 its merits defenses and arguing trial would be unmanageable, Defendant also intended to raise
20 additional defenses on damages, including the proper measure of civil penalties and the
21 appropriate discount to place on any assessment of such penalties. [Crosner Decl., ¶ 26.]

22 Although Plaintiff’s counsel believes they could have prevailed, there was no such
23 guarantee. When the risks of overcoming a motion to compel arbitration, a manageability defense,
24 prevailing at trial on the merits on all claims, and securing 100% of the theoretical civil penalties
25 all are factored into the equation, the settlement value \$38,503.45 is reasonable and supported. Of
26 course, to recover anywhere near the maximum penalties Plaintiff would have to shoot the moon
27 and win both liability and maximum penalties on all claims, which outcome, for the reasons
28 discussed, is unlikely. Given Defendant’s various procedural and merits defenses, as well as the

1 substantial penalty reductions ordered in the cases above – which occurred after trial – the
2 proposed settlement is eminently reasonable. [Crosner Decl., ¶ 27.]

3 Importantly, the mere fact that a settlement does not provide the same recovery as might be
4 achieved at trial is not a proper indicator of whether the settlement is fair, reasonable, and
5 adequate. Wershba, 91 Cal.App.4th at 246, 250 (“even if the relief afforded by the proposed
6 settlement is substantially narrower than it would be if the suits were to be successfully litigated,
7 this is no bar to a class settlement because the public interest may indeed be served by a voluntary
8 settlement in which each side gives ground in the interest of avoiding litigation”); 7-Eleven
9 Owners for Fair Franchising v. Southland Corp. (2000) 85 Cal.App.4th 1135, 1150 (“The fact that
10 a proposed settlement may amount to only a fraction of the potential recovery does not, in and of
11 itself, mean that the proposed settlement is grossly inadequate and should be disapproved”); Lane
12 v. Facebook, Inc. (9th Cir. 2012) 696 F.3d 811, 819 (“[T]he question whether a settlement is
13 fundamentally fair . . . is different from the question whether the settlement is perfect in the
14 estimation of the reviewing court”); White v. Experian Information Solutions, Inc. (C.D. Cal.
15 2011) 803 F.Supp.2d 1086, 1098 (rejecting contention settlement was not fair and reasonable even
16 though it represented 99% discount off the maximum value of the claims).

17 In sum, when the risks of litigation, the burdens of proof necessary to establish liability,
18 the probability of appeal of a favorable judgment, the Court’s substantial discretion to reduce any
19 penalty award all are accounted for, it is clear a settlement amount of \$38,503.45 for the PAGA
20 claims is within the ballpark of reasonableness, and approval is appropriate. Jennings v. Open
21 Door Mktg. Inc. (N.D. Cal. Oct. 3, 2018) 2018 U.S. Dist. LEXIS 171356, at *7 (approving
22 settlement with PAGA penalties of 0.6% where “[p]laintiffs [have] submitted the settlement
23 agreement to the LWDA, and the LWDA has not objected to the settlement”).

24 **V. SUBMISSION TO THE LWDA**

25 Plaintiff timely served the LWDA with the Settlement Agreement and this Renewed
26 Motion, and notified the LWDA of this approval hearing. [Crosner Decl., ¶ 28; Exh. 5.]

27 Accordingly, the LWDA will be able to weigh in as necessary and, importantly, many courts find
28 it persuasive of approval if the LWDA ultimately declines to offer any comment or objection to a

1 proposed PAGA settlement. Echavez v. Abercrombie & Fitch Co., Inc. (C.D. Cal. Mar. 23, 2017)
2 2017 WL 3669607, at *3 (court inferred the LWDA’s non-response as “tantamount to its consent
3 to the proposed settlement terms, namely the proposed PAGA penalty amount.”); Jennings, 2018
4 WL 4773057, at *9 (“Plaintiffs submitted the settlement agreement to the LWDA, and the LWDA
5 has not objected to the settlement.”); Jordan, 2018 U.S. Dist. LEXIS at *7 (“Additionally, the
6 Court finds it persuasive that the LWDA was permitted to file a response to the proposed
7 settlement and no comment or objection has been received.”).

8 **VI. THE REQUESTED ATTORNEY’S FEES AND COSTS ARE FAIR AND**
9 **REASONABLE**

10 For their efforts and the contingent risk undertaken in obtaining a settlement that benefits
11 the LWDA and PAGA Group Members, Plaintiff and his counsel request the Court approve a
12 payment of \$26,666.67 to counsel for reasonable attorney’s fees, plus actual litigation costs in the
13 amount of \$4,529.88. These fees are warranted under the law and within the range of fees commonly
14 awarded in similar cases.

15 **A. PLAINTIFF’S COUNSEL ARE ENTITLED TO RECOVER ATTORNEY’S**
16 **FEES UNDER PAGA**

17 PAGA provides a Plaintiff is entitled to recover reasonable attorney’s fees, expenses, and
18 costs under Labor Code § 2699(g)(l): “Any employee who prevails in any action shall be entitled to
19 an award of reasonable attorney’s fees and costs,” Through the successful efforts of Plaintiff
20 and his attorneys here, \$38,503.45 was recovered for the benefit of the PAGA Group Members and
21 the State, thus entitling Plaintiff’s counsel to reasonable fees and out-of-pocket costs. As noted,
22 Defendant agreed to pay Plaintiff’s counsel’s fees in the amount of \$26,666.67, and actual costs of
23 \$4,529.88, subject to Court approval. When subject to a “lodestar crosscheck,” Plaintiff submits
24 this amount is eminently reasonable as it represents only a fraction of the base lodestar.

25 Under the “lodestar multiplier” method of cross-checking proposed fee awards, the court
26 first ascertains counsel’s total “lodestar” amount by multiplying the number of hours reasonably
27 expended by each attorney’s reasonable hourly rate, and then enhances or reduces this lodestar
28 figure by a “multiplier” to account for a range of factors, such as the novelty or difficulty of the

1 case, its contingent nature, and the degree of success achieved. PLCM Group, Inc. v. Drexler (2000)
2 22 Cal.4th 1084, 1095-96; Lealao, 82 Cal.App.4th at 43 (court has discretion to use a multiplier to
3 ensure that the “fee awarded is within the range of fees freely negotiated in the legal marketplace in
4 comparable litigation”).

5 Here, Crosner Legal’s lodestar is approximately \$91,975.00, based on 138.1 attorney hours
6 spent litigating the case. [Crosner Decl., ¶¶ 29-45; Exh. 6.] This results in a lodestar that is higher
7 than the fees requested on a percentage of the recovery basis and, accordingly, there is no request
8 for a multiplier. It also is important to note this fact also highlights the reasonableness of the fees
9 sought on a percentage-of-the-recovery basis, as it shows the requested fees are actually lower than
10 the market rate for the services rendered if those services are valued via traditional hourly billing.

11 **B. THE REQUESTED COSTS ARE FAIR AND REASONABLE**

12 Plaintiff’s Counsel also requests reimbursement of actual out-of-pocket expenses incurred
13 to prosecute this action, which Defendant agreed to pay in the amount of \$4,529.88. This includes
14 filing fees, service of process, mediation costs, and postage, while waiving photocopying costs and
15 legal research charges. These expenses were incidental and necessary to the effective representation
16 of the employees, are reasonable in amount and uncontested, and should be approved. [Crosner
17 Decl., ¶ 46.]

18 **VII. CONCLUSION**

19 For the foregoing reasons, Plaintiff requests the Court approve the proposed settlement under
20 PAGA and payment of PAGA Penalties, approve the requested award of reasonable attorney’s fees
21 and costs, approve Phoenix as the settlement administrator and approve is fees in the amount of
22 \$2,800, approve the proposed distributions to the LWDA and PAGA Group Members, and enter
23 judgment.

24 Dated: June 22, 2023

CROSNER LEGAL, PC

25
26 By: 
27 Zachary M. Crosner
28 Jamie K. Serb
Attorneys for Plaintiff MATT DEL CAMPO