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Attorneys for Plaintiff, *Dameta O'Brien*, on the following page.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

KERI GALLOWAY and LISA GEORGES, individually and on behalf of all other aggrieved employees of DEFENDANTS in the State of California,

Plaintiffs,

vs.

MEDIX STAFFING SOLUTIONS, INC., an Illinois Corporation; THE ILLUMINATION FOUNDATION, a California Nonprofit Public Benefit Corporation; LOGISTICS HEALTH INC., a Wisconsin Corporation; DOES 1 through 20, inclusive,

Defendants.

Case No.: 20STCV44053
Related Case No.: CGC-22-599848

[Honorable Christopher Lui,
Department 76]

DECLARATION OF KANE MOON IN SUPPORT OF PLAINTIFFS' MOTION FOR APPROVAL OF PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT

[Filed with Plaintiffs' Notice of Motion and Motion for Approval of Private Attorneys General Act Settlement Agreement, Declaration of Arin Norijanian, Declaration of Ashkan Y. Shakouri, Declaration of Jodey Lawrence, [Proposed Order] and [Proposed] Judgment]

Complaint Filed: November 17, 2020

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Attorneys for Plaintiff, *Dameta O'Brien*

DECLARATION OF KANE MOON

I, KANE MOON, declare as follows:

1. I am an attorney at law duly licensed to practice as such before all of the Courts of the State of California and am one of the attorneys of record for Plaintiff Dameta O'Brien. I have personal knowledge of the facts in this Declaration and if called as a witness, I could and would competently testify to them under oath.

2. Plaintiffs Keri Galloway, Lisa Georges, and Dameta O'Brien (collectively, "Plaintiffs") move the Court for approval of the Private Attorneys General Act Settlement Agreement ("Settlement") entered into by Plaintiffs and Defendant Medix Staffing Solutions, Inc. ("Defendant" or "Medix") (Plaintiffs and Defendant, the "Parties") in full resolution of the Private Attorneys General Act ("PAGA") claims alleged in the above-captioned representative action (the "Action") on behalf of Plaintiffs, the Aggrieved Employees, and the State of California.

SUMMARY OF THE LITIGATION AND SETTLEMENT

Relevant Facts And Procedural History

3. Defendant is a staffing agency that staffs healthcare companies throughout California. Plaintiffs contend they and their former coworkers were subjected to the same unlawful labor practices.

4. On July 31, 2020, Plaintiff Keri Galloway submitted to the LWDA, and sent via certified mail to Defendants Medix Staffing Solutions, Inc. and The Illumination Foundation, a written notice pursuant to Labor Code section 2699.3. *Settlement*, ¶ 2.1.

5. On August 26, 2020, Plaintiff Lisa Georges submitted to the LWDA, and sent via certified mail to Defendants Medix Staffing Solutions, Inc. and Logistics Health, Inc., a written notice pursuant to Labor Code section 2699.3. *Id.* at ¶ 2.2.

6. On November 17, 2020, Plaintiffs Keri Galloway and Lisa Georges filed a Complaint against Defendants Medix Staffing Solutions, Inc., The Illumination Foundation, and Logistics Health, Inc., which alleged eleven causes of action for civil penalties under the Private Attorneys General Act of 2004 ("PAGA"); and on November 9, 2021, Plaintiffs Keri Galloway and Lisa Georges filed a First Amended Complaint against Defendants Medix Staffing Solutions, Inc.,

The Illumination Foundation, and Logistics Health, Inc., which alleged additional facts in support of their eleven causes of action for civil penalties under PAGA ("Galloway Complaint"). *Id.* at ¶ 2.3.

7. On May 21, 2022, Plaintiff Dameta O'Brien submitted to the LWDA, and sent via certified mail to Defendants Medix Staffing Solutions, Inc. and OptumServe Health Services, Inc., a written notice pursuant to Labor Code section 2699.3. *Id.* at ¶ 2.4. A true and correct copy of the Plaintiff Dameta O'Brien's notice is attached to the instant Declaration as **Exhibit 1**.

8. On May 27, 2022, Plaintiff Dameta O'Brien filed a Class Action Complaint against Defendants Medix Staffing Solutions, Inc. and OptumServe Health Services, Inc., which alleged eight individual and eight class causes of action under the California Labor Code ("Labor Code") and California Business and Professions Code; and on July 29, 2022, Plaintiff Dameta O'Brien filed a First Amended Class and Representative Action Complaint against Defendants Medix Staffing Solutions, Inc. and OptumServe Health Services, Inc., which alleged an additional cause of action for civil penalties under PAGA ("O'Brien Complaint"). *Id*. at ¶ 2.5.

9. On October 4, 2022, Defendants Medix Staffing Solutions, Inc. and The Illumination Foundation filed a Motion to Compel Plaintiffs Keri Galloway and Lisa Georges' individual PAGA causes of action to arbitration and a Motion to Dismiss Keri Galloway and Lisa Georges' representative PAGA causes of action; and on December 6, 2022, the Court stayed the Action in its entirety pending the California Supreme Court decision in *Adolph v. Uber Technologies, Inc.*, (2023) 14 Cal.5th 1104. *Id*. at ¶ 2.6.

10. On September 16, 2022, Defendant Medix Staffing Solutions, Inc. filed a Motion to Compel Plaintiff Dameta O'Brien's individual causes of action to arbitration and a Motion to Strike Plaintiff Dameta O'Brien's representative PAGA cause of action; and on November 29, 2022, the Court granted the former and denied the latter, resulting in a stay of Plaintiff Dameta O'Brien's representative PAGA cause of action. *Id*. at ¶ 2.7.

11. On October 13, 2022, Plaintiff Dameta O'Brien filed a Motion to Dismiss All Class Allegations Without Prejudice, and on November 1, 2022, the Court granted an Order thereon. *Id*. at ¶ 2.8.

12. On or around February 29, 2024, Counsel for Defendant Medix Staffing Solutions, Inc. and Counsel for Plaintiffs Keri Galloway and Lisa Georges met and conferred, and agreed to attempt to resolve their Action through private mediation. *Id*. at ¶ 2.9.

13. On or around December 1, 2023, Counsel for Defendant Medix Staffing Solutions, Inc. and Counsel for Plaintiff Dameta O'Brien met and conferred, and agreed to attempt to resolve their Action through private mediation. *Id*. at ¶ 2.10.

14. On September 24, 2024, the Parties participated in a global, private mediation with an experienced wage-and-hour mediator, the Honorable Carl West (Ret.), at which they agreed to the terms now encompassed in the Settlement. *Id.* at ¶ 2.11. True and correct copies of the Settlement and LWDA case record confirming submission of the Settlement to the LWDA are attached to the instant Declaration as **Exhibit 2** and **Exhibit 3**, respectively.

15. On May 6, 2025, the Parties stipulated to permit Plaintiffs to file a Second Amended Complaint for Damages, which (1) names Plaintiff Dameta O'Brien as a plaintiff and PAGA representative, (2) names OptumServe Health Services, Inc. as a defendant, and (3) alleges all non-overlapping factual and legal allegations as alleged in the O'Brien Complaint, effectively consolidating Plaintiffs' various actions into one, and on May 22, 2025, the Court granted an Order thereon.

Statement Of The Claims

16. The operative Complaint alleges twelve claims for Civil Penalties Under PAGA [Labor Code sections 2698, *et seq*.]. The claims are based on Defendant's alleged failure to pay minimum and overtime wages, including as a result of not paying Aggrieved Employees for all off-the-clock hours worked; failure to provide meal and rest periods, including as a result of not adopting policies and practices which would allow Aggrieved Employees to be timely and fully relieved from their work duties during such time; failure to issue itemized wage statements; failure to pay wages due and payable twice each calendar month; failure to pay wages due upon termination; failure to maintain adequate and accurate payroll records; failure to pay for accrued time off upon separation; failure to provide required written notice under Labor Code section

2810.5; failure to pay for all hours worked; and failure to indemnify necessary business expenses including expenses for the required use of their personal cellphones.

Discovery And Investigation

17. Ahead of mediation, the Parties agreed to engage in an informal exchange of data and documents, including, but not limited to (1) the total number of Aggrieved Employees; (2) the total number of pay periods worked by the Aggrieved Employees; (3) employee handbooks in effective during the relevant time period; and (4) a sample of the time and corresponding payroll records of the Aggrieved Employees from August 18, 2020, to February 19, 2022. Following Defendant's production, PAGA Counsel retained an expert data analyst to analyze and prepare a damage analysis based on the sample records. Further, PAGA Counsel personally examined the sample records and contrasted the same with applicable law. These actions enabled PAGA Counsel to participate in mediation with an informed understanding of Defendant's maximum and realistic potential liability.

Settlement Negotiations

18. On September 24, 2024, the Parties participated in private mediation with experienced wage-and-hour class and representative action mediator, the Honorable Carl West (Ret.). The settlement negotiations were at arm's length and, though conducted in a professional manner, adversarial. The Parties went into the mediation willing to settle the dispute but also prepared to litigate their respective positions through trial and appeal if a settlement was not reached.

19. At mediation, on the one hand, Defendant asserted that it is not liable for civil penalties based on (1) unpaid minimum and overtime wages as a result of Aggrieved Employees performing required off-the-clock work, as it did not permit Aggrieved Employees to work off the clock and clearly expressed this within its written policies; (2) meal period and/or rest break violations, as a vast majority of meal periods and rest breaks were taken, and where a violation appears in the sample time records, such violation was either the result of an employee voluntarily choosing to forego a meal period or rest break or waived by an applicable meal period or rest break waiver; and (3) unreimbursed business expenses, and certainly not for all pay periods within the

PAGA Period, as not all Aggrieved Employees utilized their personal cellphones for work-related purposes on a weekly basis.

20. On the other hand, Plaintiffs pushed back on Defendant's defenses utilizing the sample of the time and corresponding payroll records of the Aggrieved Employees, including by highlighting the meal period violations and unreimbursed business expenses evident on their face. However, Plaintiffs also recognized that, if not through settlement, the issues presented in the Action were likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation would likely lead to inconvenience, distraction, disruption, delay, and expense disproportionate to the potential benefits of litigation.

Key Terms Of The Settlement

21. "Aggrieved Employee" means all persons who worked for Defendant Medix Staffing Solutions, Inc. in California as hourly paid or non-exempt employees placed at a customer, partnership, firm, corporation, limited liability company, association, or other entity that was or is a client of Defendant Medix Staffing Solutions, Inc., including, but not limited to, The Illumination Foundation, Logistics Health, Inc., OptumServe Health Services, Inc., OptumCare Management, LLC, OptumCare Services, Inc., OptumServe, Inc., Optum Services, Inc., OptumInsight, Inc., Optum360 Services, Inc., OptumRx, Inc., and PATH, during the PAGA Period of July 31, 2019, to the date the Court issues the Approval Order.[1] *Id.* at ¶ 1.4.

22. Defendant agrees to pay an all-inclusive, non-reversionary Gross Settlement Amount of $1,670,000.00. *Id.* at ¶¶ 1.12, 3.1. Aggrieved Employees are not required to submit a claim as a condition of payment. *Id.* at ¶ 3.1.

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[1] The Settlement defines "PAGA Period" as "the period that starts on July 31, 2019, and ends on the date the Court issues the Approval Order" *Settlement*, ¶ 1.22. Paragraph 8.2, in turn, includes an Escalator Clause that stipulates "[i]f the number of PAGA pay periods during the PAGA Period is more than 10% greater than 232,905 (*i.e.,* if there are approximately 256,196 or more pay periods worked by Aggrieved Employees), Medix agrees to increase the Gross Settlement Amount proportionately by 1% (*i.e.*, if there is an 11% increase in the number of pay periods during the PAGA Period, Medix has the option to increase the Gross Settlement Amount proportionately by 1%). Alternatively, Medix has the option to modify the release date in the PAGA Period to a date in which the actual number of pay periods does not exceed 10%." *Id.* at ¶ 8.2. The end date of the PAGA Period is yet to be determined.

23. The Settlement provides for a PAGA Counsel Fees Payment of not more 33.9% of the Gross Settlement Amount, or $566,666.67, and a PAGA Counsel Expenses Payment of not more than $38,000.00. *Id.* at ¶ 3.1.1. If the fees payment approved by the Court is less than the maximum allocation, the difference will be added to the Net Settlement Amount. *Id*. The actual costs are less than the maximum allocation. *See* Ex. 4; *Declaration of Arin Norijanian*, Ex. XX; *Declaration of Ashkan Y. Shakouri*, Ex. XX. In accordance with the Settlement, the difference will be added to the Net Settlement Amount. *Settlement*, ¶ 3.1.1. At this time, Moon Law Group, P.C.'s costs are $14,794.54. A true and correct copy of Moon Law Group, P.C.'s itemized, current list of actual costs is attached to the instant Declaration as **Exhibit 4**.

24. The Settlement provides for an Administration Expenses Payment of not more than $35,000.00 for reimbursement of the Administrator's reasonable fees and expenses. *Id.* at ¶¶ 1.2, 3.1.2. In the event the actual administration expenses approved by the Court are less than the maximum allocation, the difference will be added to the Net Settlement Amount. *Id.* at ¶ 3.1.2. The Parties jointly appoint Phoenix Class Action Administration ("Phoenix") as the neutral entity to administer the Settlement based on its bid of $26,750.00. *Id.* A true and correct copy of Phoenix's administration costs estimate is attached to the instant Declaration as **Exhibit 5**.

25. PAGA Penalties are to be paid from the Gross Settlement Amount equal to the Gross Settlement Amount less the PAGA Counsel Expenses Payment, PAGA Counsel Fees Payment, and Administration Expenses Payment. *Id.* at ¶ 3.1.3. PAGA Penalties will be allocated 75% to the LWDA ("LWDA PAGA Payment") and 25% to the Aggrieved Employees ("Individual PAGA Payments"), pursuant to Labor Code section 2699, subd. (m). *Id.*

26. Aggrieved Employees will receive a letter explaining the Settlement. *Id.* at ¶ 4.3.1. A true and correct copy of the letter is incorporated as part of the Settlement as **Exhibit A**.

27. The Effective Date means the date the Approval Order and judgment thereon ("Judgment") become final. *Id.* at ¶ 1.11. For purposes of this Agreement, the Judgment "becomes final" upon the later of the following: (i) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from, or other challenge to, the Judgment (i.e., 61 calendar days

after notice of entry of the Judgment); (ii) if an appeal is filed, the date the Judgment is affirmed after all appeals are exhausted. *Id*.

28. No later than thirty (30) calendar days after the Effective Date, Medix shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator. *Id.* at ¶ 4.2. No later than seven (7) calendar days after Medix fully funds the Gross Settlement Amount, the Administrator shall mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the PAGA Counsel Expenses Payment, the PAGA Counsel Fees Payment, and the Administration Expenses Payment. *Id.* at ¶ 4.3.

29. *Plaintiffs' Release.* Effective on the date Medix fully funds the Gross Settlement Amount, Plaintiffs and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns, will be deemed to release the Released Parties from all claims, transactions, or occurrences that occurred during their employment or alleged employment with Released Parties, including, but not limited to, all claims that were, or reasonably could have been, alleged based on the facts contained in the operative Complaint and PAGA Notices, which shall include, but not be limited to, claims for civil penalties under PAGA for violations of the Labor Code based on Released Parties' alleged failure to pay all wages due (including minimum wages, straight time wages, regular rate wages, and overtime wages), failure to provide compliant meal periods or pay meal period premiums in lieu thereof, failure to authorize and permit compliant rest periods or pay rest period premiums in lieu thereof, failure to provide accurate and itemized wage statements, failure to timely pay all wages due during employment and at the time of termination, failure to reimburse employees for all business-related expenses, failure to maintain adequate and accurate payroll records, failure to pay for accrued time off upon separation, failure to provide written notice under Labor Code section 2810.5, failure to pay for all hours worked, and all damages, interest, penalties, attorneys' fees, costs, and other amounts recoverable under said representative causes of action, any and all tort claims, contract claims, wage claims, wrongful termination claims, disability claims, benefit claims, public policy claims, retaliation claims, harassment claims, statutory claims, personal injury claims, emotional distress claims, invasion of privacy claims, defamation claims, fraud claims, quantum meruit claims, and

any and all claims arising under any federal, state or other governmental statute, law, regulation or ordinance, including, but not limited to, claims for violation of the Fair Labor Standards Act (including the Equal Pay Act), the California Labor Code, specifically including but not limited to the Private Attorney General Act pursuant to Labor Code 2699, the Wage Orders of California's Industrial Welfare Commission, other state wage and hour laws, the Americans with Disabilities Act, the Age Discrimination in Employment Act (ADEA), the Employee Retirement Income Security Act, Title VII of the Civil Rights Act of 1964, 1866, and 1991, the California Fair Employment and Housing Act, the California Family Rights Act, the Family Medical Leave Act, California's Whistleblower Protection Act, California Business & Professions Code §§17200 et seq., Section 503 of the Rehabilitation Act of 1973, the California Constitution, the California Government Code, the Employee Retirement Income Security Act, the California Pregnancy Discrimination Act, the Immigration Reform and Control Act, the National Labor Relations Act, California's Occupational Safety and Health Act, or the Federal equivalent, the Families First Coronavirus Response Act, the California Supplemental paid sick leave law or any other federal, state, or local paid sick leave law, and any and all claims arising under any federal, state or other governmental statute, law, regulation or ordinance. *Id.* at ¶ 5.1. Plaintiffs may hereafter discover claims or facts in addition to, or different from, those which they now know or believes to exist, but Plaintiffs expressly agree to fully, finally, and forever settle and release any and all claims against the Released Parties, known or unknown, suspected or unsuspected, which exist or may exist on behalf of or against the other at the time of execution of this Agreement, including, but not limited to, any and all claims relating to or arising from Plaintiffs' alleged employment with Defendants. This Release is intended to resolve any claims that can be validly released ("Plaintiffs' Release"). *Id.* Plaintiffs' Release does not release any claims or actions to enforce this Agreement; any claims based on occurrences outside the PAGA Period; or any claims that cannot be released by Plaintiffs as a matter of law, including, but not limited to, Plaintiffs' right to file a charge with or participate in a charge by the California Civil Rights Department or any other federal, state, or local administrative body or government agency authorized to enforce laws related to employment, claims for Workers' Compensation, unemployment compensation, or state disability insurance benefits pursuant to the terms of applicable state law. Plaintiffs acknowledge that they may discover facts or law different from, or in addition to, the facts or law Plaintiffs now know or believe to be true but agree, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them. *Id.* at ¶ 5.1.1. Plaintiffs specifically stipulate and agree that, upon the date on which the Approval Order becomes "Final," they shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law. *Id.* at ¶ 5.1.2.

30. *Release by the LWDA and Aggrieved Employees.* Effective on the date Medix fully funds the Gross Settlement Amount, Plaintiffs, the Aggrieved Employees and the State of California (through Plaintiffs as Private Attorneys General) and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, will be deemed to release the Released Parties from (i) all PAGA claims asserted in the operative Complaint and PAGA Notices, (ii) all PAGA claims that could reasonably have been asserted in the operative Complaint and PAGA Notices, and (iii) all PAGA claims arising out of the same operative facts, irrespective of theory of recovery, including claims for civil penalties under PAGA for violations of the California Labor Code based on Released Parties' alleged failure to pay all wages due (including minimum wages, straight time wages, regular rate wages, and overtime wages), alleged failure to provide compliant meal periods or pay meal period premiums in lieu thereof, alleged failure to authorize and permit compliant rest periods or pay rest period premiums in lieu thereof, alleged failure to provide accurate and itemized wage statements, alleged failure to properly or timely pay all wages due during employment and at the time of termination, alleged failure to reimburse employees for all business-related expenses, alleged failure to maintain adequate and accurate time and payroll records, alleged failure to pay for accrued time off upon separation, alleged failure to provide written notice under Labor Code section 2810.5, alleged failure to pay for all hours worked, and all penalties, attorneys' fees, costs, and other amounts recoverable under said representative causes of action, to the extent permissible ("Released Claims"), during the PAGA Period. *Id.* at ¶ 5.2.

31. *Release by PAGA Counsel.* Effective on the date Medix fully funds the Gross Settlement Amount, PAGA Counsel and their present and former attorneys, employees, agents, successors, and assigns, will be deemed to release the Released Parties from all claims for fees or expenses incurred in connection with the claims alleged in the operative Complaint and the facts stated in the operative Complaint and PAGA Notices. *Id.* at ¶ 5.3.

THE SETTLEMENT MERITS APPROVAL

32. The Settlement merits approval because the PAGA Penalties are reasonable, providing genuine and meaningful relief to the LWDA and Aggrieved Employees consistent with the dual purpose of PAGA and pursuant to Labor Code section 2699(e); and the Settlement allocations, including the PAGA Counsel Fees Payment, and PAGA Counsel Expenses Payment are reasonable and permissible. *See Williams v. Superior Court* (2017) 3 Cal.5th 531, 546.

33. The PAGA Penalties are based on PAGA Counsel's analysis of the time, payroll, and additional information produced by Defendant; PAGA Counsel's expert's analysis of the twenty percent sample of the time and corresponding payroll records of the Aggrieved Employees produced by Defendant; and on information from Plaintiffs, as all of this information enabled PAGA Counsel to calculate Defendant's maximum and risk-adjusted potential exposure.

34. The PAGA claims are based, in part, on Plaintiffs' underlying factual allegation that Defendant failed to pay Aggrieved Employees meal period premium wages for unwaived, short, late, and/or missed first and second meal periods. The sample of time and corresponding payroll records demonstrated that Aggrieved Employees recorded approximately 754,744 meal periods for shifts greater than five hours and that 10.8% were recorded after the end of the fifth hour but were not waived or compensated through attendant meal period premium wages. In evaluating this claim, PAGA Counsel considered that the alleged meal period violations were demonstrable on the face of the sample records and were identified in roughly 30.5% of all pay periods. In addition, PAGA Counsel considered that the sample records could not support a record-based analysis of interrupted meal periods, which Plaintiffs claims resulted in a majority of meal period violations, and thus, an award of civil penalties for any pay period in which a violation occurred was apt and likely to earn Court approval.

35. The PAGA claims are further based, in part, on Plaintiffs' underlying factual allegation that Defendant failed to reimburse Aggrieved Employees for all necessary business expenses incurred. The sample of time and corresponding payroll records demonstrated that Aggrieved Employees were never reimbursed for any expenses, yet Plaintiffs personally experienced and observed other Aggrieved Employees experience Defendant's policy and practice of requiring Aggrieved Employees to utilize their personal cellphones to communicate about scheduling and other work-related topics on a weekly basis. In evaluating this claim, PAGA Counsel considered that, on the one hand, Plaintiffs' claims support the allegation that Aggrieved Employees suffered from an unreimbursed business expense violation *each pay period* as a result of having to use their personal cellphones daily but not being reimbursed for such use. On the other hand, PAGA counsel considered that, while the sample records demonstrated that Defendant did not reimburse any expenses, they did not also establish that Aggrieved Employees actually incurred reimbursable business expenses, and thus, the Court was likely to discretionarily decrease a maximum penalty award.

36. PAGA Counsel and their expert determined Defendant's maximum potential exposure was $23,290,500.00, based on the foregoing, Defendant's pre-mediation production, and PAGA Counsel's extrapolation that there were 232,905 total pay periods.

37. PAGA Counsel and their expert then discounted Defendant's maximum potential exposure, first by eighty five (80%), to account for Defendant's defenses, and then by fifty percent (50%), to account for several relevant extenuating considerations, including, but not limited to, the formal discovery expenses saved by participating in early mediation; the risk that the Supreme Court decision *Viking River Cruises, Inc. v. Moriana* (2022) 596 U.S. 287 could eliminate Plaintiffs' standing to represent other Aggrieved Employees in this Action, given their individual claims are subject to individual arbitration; Due Process concerns related to penalizing Defendant disproportionately to the amount of damages at issue; and the fact that all PAGA awards are discretionary and can be reduced by the Court pursuant to Labor Code section 2699(e). PAGA Counsel and their expert therefore determined Defendant's realistic risk-adjusted exposure was $2,329,050.00. The Gross Settlement Amount of $1,670,000.00 therefore represents roughly 72%

of Plaintiffs' assumed realistic recovery. *Villalobos v. Calandri Sonrise Farm LP* (C.D. Cal., July 22, 2015, No. CV 12-2615 PSG (JEMx)) 2015 WL 12732709, at *5; *see also O'Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1135.) This is an excellent result, particularly because, under the Settlement, Aggrieved Employees will receive timely, guaranteed relief and will avoid the risk of not being able to recover anything.

38. The amount estimated as PAGA Penalties for the Aggrieved Employees and State of California will be at least $1,030,333.33.[2] The LWDA PAGA Payment makes up seventy-five percent (75%) of the PAGA Penalties, or $772,749.99, and will be allocated to the LWDA for the education of employees and employers about their rights and responsibilities under the Labor Code. *See* Labor Code section 2699(i). The Individual PAGA Payments make up twenty-five percent (25%) of the PAGA Penalties, or $257,583.34, and will be allocated to all Aggrieved Employees on a pro-rata basis for the alleged Labor Code violations they suffered from during the PAGA Period. *Settlement*, ¶ 1.13. Thus, the estimated 12,000[3] Aggrieved Employees will get an average payment of **$21.47**.

39. The Settlement contains an Escalator Clause under which Defendant may owe more than $1,670,000.00 as the Gross Settlement Amount. *Id.* at ¶ 8.2. Under the Escalator Clause, the Parties agree that, "[i]f the number of PAGA pay periods during the PAGA Period is more than 10% greater than 232,905 (*i.e.,* if there are approximately 256,196 or more pay periods worked by Aggrieved Employees), Medix agrees to increase the Gross Settlement Amount proportionately by 1% (*i.e.*, if there is an 11% increase in the number of pay periods during the PAGA Period, Medix has the option to increase the Gross Settlement Amount proportionately by 1%). Alternatively, Medix has the option to modify the release date in the PAGA Period to a date in which the actual

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[2] The PAGA Penalties equal the Gross Settlement Amount ($1,670,000.00) less the PAGA Counsel Fees Payment ($566,666.67), maximum allocation for PAGA Counsel Litigation Expenses Payment ($38,000.00), and maximum allocation for Administration Expenses Payment ($35,000.00). Settlement, ¶ 3.2.

[3] Prior to mediation, Plaintiffs' counsel estimated that there were an estimated 12,815 employees who cumulatively worked 232,905 pay periods during the PAGA Period. Plaintiffs' expert used these estimates to analyze Defendant's sample time and payroll records. After mediation, Plaintiffs' counsel learned that there were an estimated 12,000 employees.

number of pay periods does not exceed 10%." *Id*. Therefore, the Individual PAGA Payments may increase if the total number of pay periods increases by more than ten percent (10%).

THE PAGA COUNSEL FEES PAYMENT MERITS APPROVAL

40. The PAGA Counsel Fees Payment merits approval because it is reasonable and permissible because it (1) was calculated using the common fund doctrine and aligns with leading treatises on awards calculated using the common fund doctrine, (2) comports with Labor Code section 2699(g); (3) is commensurate with PAGA Counsel's significant experience, reputation, and ability in representative action settlements; and (4) is reasonable under the lodestar method.

My Experience And Qualifications

41. I received a Bachelor of Arts in History in 1998 from the University of California, Los Angeles, and a Juris Doctorate from Loyola Marymount Law School in 2006. I became an Active Member of the State Bar of California in June 2007 and have been an Active Member in good standing continuously since. I have been selected to Super Lawyers each year from 2020 to 2024.

42. I co-founded Moon Law Group, P.C., formerly Moon & Yang, APC, in March 2010. For the past decade, I have built my practice to have an emphasis on employment and related civil litigation cases. In fact, my practice is focused almost exclusively on advocating for the rights of employees in wage-and-hour litigation through class and representative actions. The firm and its lawyers, including myself, have successfully settled hundreds of wage-and-hour cases; tried both bench and jury trials, representing both plaintiffs and defendants, in employment-related matters; and have been appointed lead or co-lead class counsel in numerous federal and state courts in California.

43. In addition to the present case, Moon Law Group, P.C. is presently class counsel for dozens of other putative wage-and-hour class- and representative-action lawsuits pending in various state and federal jurisdictions throughout California. The following is a list of some of our recent class action settlements that have received preliminary and final approval: *Mark Brulee, et al. v. DAL Global Services, LLC* (C.D. Cal. Dec. 20,2018) No. CV 17-6433 JVS(JCGx), 2018 WL 6616659 (class size approx. 2,650; lead counsel) (In approving my $650 hourly rate, the Court

found: “Class Counsel's declarations show that the attorneys are experienced and successful litigators.” Other courts have approved the attorneys' current rates for the Moon Law Group, APC attorneys. *Id*. at *10; *Sison v. Cha Hollywood Medical Center, L.P.*, LASC BC6441 29 (class size approx. 2,100; co-counsel); *Jones v. Fitness Alliance, LLC*, Riverside Superior Court PSC1404079 (class size approx. 1,000; lead counsel); *Gomez v. H Mart Companies, Inc.*, LASC BC671525 (class size approx. 2,500; co-counsel); *Montoya v. Golden 1 Credit Union*, Sacramento Superior Court 34-2018-00228252 (class size approx. 1,900; lead counsel); *Campa v. Bloomingdeals, Inc*., LASC BC700366 (class size approx. 1,500; lead counsel); *Black v. Mission Healthcare Services, Inc*., LASC 19STCV04602 (class size approx. 1,000; lead counsel); *Onofre v. Caitac Garment Processing, Inc*., LASC BC702283 (class size approx. 750; lead counsel); *Martinez v. Bail Hotline Bail Bonds, Inc.*, LASC BC700131 (class size approx. 173; lead counsel); *Jones v. Citiguard, Inc.*, LASC BC664890 (class size approx. 587; lead counsel); *Slaughter v. ACA Security Stems, LP*, LASC BC699137 (class size approx. 300; lead counsel); *Taylor v. Sherman’s Delicatessen & Bakery, LLC*, LASC BC722765 (class size approx. 515; lead counsel); *Vertti v. Bagcraft Papercon III, LLC*, LASC 19STCV12729 (class size approx. 260; lead counsel); *Rodriguez v. Rossmoyne, Inc.,* LASC BC699137 (class size approx. 220; lead counsel); *Vargas v. AMS Paving, Inc*., LASC BC722767 (case size approx. 260; lead counsel); *Garcia v. Comfy U.S.A. Apparel, Inc.*, LASC BC709630 (class size approx. 210; lead counsel); *Lagos v. ThyssenKrupp Elevator Corporation*, LASC BC682972 ($750,000 for 79 Class Members; lead counsel); *Aparicio v. Lineage Logistics, LLC*, LASC BC722764 (class size approx. 155; lead counsel).

44. This experience helps assess the reasonableness of settlements such as the one at issue here. From this experience, our firm, as Class Counsel, concluded that this lawsuit could not have been settled on better terms than provided under the present Settlement.

<u>Allen Feghali’s Experience And Qualifications</u>

45. Allen Feghali is a partner at Moon Law Group, P.C. He received a Bachelor of Arts in Global and International Studies from the University of California, Santa Barbara in 2011, and a Juris Doctorate from University of La Verne College of Law in 2014. Mr. Feghali became an Active Member of the State Bar of California in December 2014 and has been an Active Member

in good standing continuously since. He was selected by Super Lawyers as a "Southern California Rising Star" from 2020 to 2024.

46. Mr. Feghali began working at Moon Law Group, P.C. in May 2015, and his practice focuses on advocating for the rights of employees at the trial-court and appellate levels. Prior to approximately June 2018, with the exception of a handful of cases, his practice focused on individual FEHA and wrongful termination claims, as well as individual wage and hour claims. In June 2018, Mr. Feghali became heavily involved in the firm's class action practice.

47. During Mr. Feghali's tenure with Moon Law Group, P.C., he has played a critical role in obtaining outstanding results for employees who have been wronged by their employers. Mr. Feghali's litigation experience includes, but is not limited to:

(a) In March 2021, Mr. Feghali prepared the briefing in the matter of *Rivera, et al. v. Clearpath Federal Credit Union* (LASC No. 19STCV33504), which resulted in a certification order on all causes of action following contested briefing in a wage and hour class action.

(b) Mr. Feghali prepared the briefing in a contested class certification motion in the matter of *Dawson, et al. v. GoHealth, LLC, et al.* (No. CGC-19-577790), which was argued and taken under submission by the Court on February 3, 2022.

(c) Mr. Feghali prepared the briefing in a contested class certification motion in the matter of *Brown v. NTI-CA, Inc., et al.* (No. 21STCV04397).

(d) Mr. Feghali was part of a team that prepared the briefing in a contested class certification motion in the matter of *Thong, et al. v. Outlook Resources, Inc., et al*. (No. 19STCV44400), which was granted in part and denied in part in October 2022.

(e) Mr. Feghali prepared the briefing which resulted in a remand order in the matter of *Andrade v. Rehrig Pacific Corp.* (C.D. Cal. April 22, 2020, No. CV 20-1448 FMP (RAOx)) 2020 WL 1934954, where Defendant removed a wage and hour class alleging that Plaintiff's claims were pre-empted by the Labor Management Relations Act.

(f) Mr. Feghali briefed, argued, and won the matter of *Lee, et al. v. The Christian Herald, U.S.A., Inc.* (Cal. Ct. App. Dec. 12, 2017, No. B266853) 2017 WL 6333905, at *1. There, the Court of Appeal reversed a dismissal of an individual defendant following the trial court's granting of a demurrer without leave to amend relating to alter ego allegations.

(g) Mr. Feghali prepared the briefing which resulted in a remand order in the matter of *Sotelo v. Belfor USA Group, Inc.* (C.D. Cal. Mar., 13, 2018, No. 2:17–cv–09056–RSWL–MRWx) 2018 WL 1352910. Defendants there sought to remove the case based on the inclusion of a "sham defendant," but the court agreed with Mr. Feghali's briefing which argued that the individual defendant, who was alleged to have harassed the plaintiff under FEHA, was a proper defendant.

(h) Mr. Feghali has been the lead counsel, or co-lead counsel, in individual cases that settled for $850,000.00, $375,000.00, and $250,000.00. In addition to the foregoing, Mr. Feghali has resolved or assisted in the resolution of approximately 100 cases which has resulted in millions of dollars of unpaid wages being returned to low-wage employees.

(i) Mr. Feghali was part of a team that prepared the briefing in a contested class certification motion in the matter of Hernandez v. CR Laurence, Inc., et al. (No. 20STCV32372), which was granted, in part, and denied, in part, in February 2024.

48. Since June 2018, Mr. Feghali's practice has shifted to almost exclusively representing employees in wage and hour class and representative actions. His fee has been approved by Courts throughout the state. He has participated as lead, or co-lead counsel, in the litigation and resolution of over 100 wage and hour class actions, including obtaining preliminary and final approval of settlements. A selection of settled cases wherein Mr. Feghali served as lead or

co-lead class counsel includes the following: *Barahona v. Methodist Hosp. of Cal*. (No. 20STCV09876) ($5,000,000); *Stanley Black & Decker Wage and Hour Cases* (No. JCCP5218) ($3,500,000); *Vazquez v. St. Mar 2.0 Inc.* (No. 37-2021-00042702-CU-OE-CTL) ($2,250,000); *Duncan v. Infineon Technologies Americas Corp*. (No. 21STCV16872) ($2,500,000); *Aquino v. Coast King Packing, LLC* (No. 21CV002448) ($2,300,000); *Martinez, et al. v. Curative LLC* (No. 21STCV20778) ($1,500,000); *Calderon v. Installed Building Products* (No. 37-2021-00035844-CU-OE-CTL) ($1,500,000); *Majdoub v. Argent Hotel Mgmt.* (No. CGC-20-582921) ($1,800,000); *Fuentes v. Covid Clinic, Inc*. (No. CIVSB2106806) ($1,526,317.57); *Rahman, et al. v. Gate Gourmet, Inc*. (No. 3:20-cv-03047) ($3,850,000); *Pagoulatos v. Coast Hills Credit Union* (No. 20CV02801) ($1,100,000); *Hammers v. Redwood Oil Co., Inc*. (No. SCV-269625) ($1,180,000); *Cuadras v. R.C. Wendt Painting, Inc*. (No. BC705964) ($1,400,000); *Zaragoza v. The Roman Catholic Bishop of Fresno* (No. 22CV-00282) ($1,500,000); *Garcia v. San Jose Water Co.* (22CV396328) ($1,200,000); *Garcia v. Tri-Valley Plastering, Inc*. (No. 22CECG00591) ($1,250,000); *Garcia v. Tapia Enter., Inc*. ($2,137,651 for 507 class members); *Cha v. Center Point, Inc*. (No. CIV2102081) ($1,000,000); *Sison v. Cha Hollywood Med. Ctr., L.P*. (No. BC644129) (2,137 class members); *Lagos v. ThyssenKrupp Elevator Corp.* (No. BC682972) ($750,000 for 79 class members); and *Montoya v. Golden 1 Credit Union* (No. 34-2018-00228252) ($1,250,000).

<u>Jacquelyne VanEmmerik's Experience And Qualifications</u>

49. Jacquelyne VanEmmerik received a Bachelor of Arts in Law, History, and Culture from the University of Southern California in 2017, and a Juris Doctorate from the University of California, Davis School of Law in 2021. In law school, Ms. VanEmmerik served as a Judicial Extern for the Honorable Todd W. Eddins of the Supreme Court of Hawai'i and Senior Articles Editor of the Environmental Journal of Law and Policy.

50. Ms. VanEmmerik became an Active Member of the State Bar of California in November 2021 and has been an Active Member in good standing continuously since. Ms. VanEmmerik is also a member in good standing with the United States District Court for the Central and Northern Districts and was selected by Super Lawyers as a "Southern California

Rising Star" in 2024.

51. Ms. VanEmmerik is an associate attorney at Moon Law Group, P.C. and represents employees in all aspects of employment litigation, including wage-and-hour class and representative actions involving claims related to overtime and minimum wages, meal and rest break violations, improper wage statements, the California Private Attorneys General Act, and unfair business practices.

52. During her tenure with Moon Law Group, P.C., Ms. VanEmmerik has played a critical role in obtaining outstanding results for employees who have been wronged by their employers. Ms. VanEmmerik's litigation experience includes, but is not limited to:

(a) In March 2023, Ms. VanEmmerik briefed a Motion for Class Certification in the matter of *Roland Tolentino v. Gillig, LLC*, Case No. RG20073930, Alameda County Superior Court, thereafter, removed to Federal Court;

(b) In May 2023, Ms. VanEmmerik briefed, and prevailed on, an Opposition to Motion for Judgment on the Pleadings in the matter of *Rodrigo Gonzalez Guzman v. Wayne Provisions Co., Inc.*, Case No. 21STCV41124, Los Angeles Superior Court, in which Defendant attempted to invalidate Plaintiff's standing to bring a representative claim under the California Private Attorneys General Act of 2004;

(c) In January 2022, Ms. VanEmmerik briefed, and prevailed on, an Opposition to Demurrer in the matter of *Fernando Alquicira, et al. v. Sit N' Sleep, Inc., et al.*, Case No. 21STCV14594, Los Angeles Superior Court, in which Defendant wrongfully sought an order of abatement or stay of proceedings pending final judgment of an unrelated matter;

(d) In January 2022, Ms. VanEmmerik briefed, and prevailed on, an Opposition to Motion for Bifurcate and Sequence Discovery in the matter of *David Flores Valencia v. Wawona Packing Co., LLC*, Case No. 21CECG01163, Fresno County Superior Court, in which Defendant sought to subject Plaintiff to a preliminary trial to establish his status as an aggrieved employee before proceeding as a representative in his PAGA action; and

(e) From September 2021 to the present, Ms. VanEmmerik has participated in the litigation and/or resolution of approximately seventy wage-and-hour class and/or representative actions, including through successfully moving the Court for preliminary and final approval of settlements on the first attempt.

53. As demonstrated by the foregoing, my office is qualified to handle this litigation because we are experienced in litigating Labor Code and Wage Order violations in individual, class, and representative actions. The attorneys at my office have been appointed as lead or co-lead counsel in numerous PAGA actions in state and federal courts by way of motion for settlement approval. Including myself, Moon Law Group, P.C. is comprised of approximately 30 attorneys, all of whom are actively and continuously practicing employment litigation, representing almost entirely employee-plaintiffs, in both individual and class and/or PAGA actions, in this Superior Court and other Superior Courts throughout the State, in the Courts of Appeal, and in various federal courts.

54. Moon Law Group, P.C. has been engaged in the practice of employment and labor law for over a decade, and presently focuses exclusively on plaintiffs' employment law. The firm and its lawyers have tried both bench and jury trials (representing both plaintiffs and defendants) relating to employment matters. As noted above, Moon Law Group, P.C. has been appointed lead or co-lead class counsel in federal and state courts in California. Also, the firm and its lawyers have successfully settled hundreds of cases during that time, including wage and hour class and/or PAGA actions.

55. My experience and the experience of other PAGA Counsel helps assess the reasonableness of settlements, such as the one at issue here, and from this experience, PAGA Counsel concluded that this litigation could not have been settled on better terms than provided under the Settlement.

56. I do not believe I or any other attorneys of Moon Law Group, P.C. have a conflict of interest with the named Plaintiff, other Aggrieved Employees, or the Administrator or are related to

the same. I respectfully submit that Moon Law Group, P.C. is competent and well suited to act as PAGA Counsel in the Action and that we have represented, and will continue to vigorously represent, the interests of the Aggrieved Employees.

57. Pursuant to a joint prosecution and fee-sharing agreement between the PAGA Counsel law firms, and as consented to in a signed writing by Plaintiffs (the "JPA"), the firms will split the award for attorneys' fees with 40% to Moon Law Group, P.C., 30% to Shakouri Law Firm, and 30% to Arin James, APC, regardless of the amount awarded or whether the award is based on a common fund or lodestar analysis. As to costs, the JPA states that the PAGA Counsel firms will be reimbursed in full to the extent possible for their respective costs actually incurred.

58. PAGA Counsel bases the requested award of fees on the common fund method. However, the lodestar method can be used to cross-check the reasonableness of the award calculated under the common fund method.

59. The total current lodestar for Moon Law Group, P.C. is not less than the following:

Attorney	**Rate**	**Hours**	**Lodestar**
Kane Moon	$950.00	24.7	$23,465.00
Allen Feghali	$900.00	33.5	$30,150.00
Jacquelyne VanEmmerik	$700.00	57.1	$39,970.00
Total:		**115.3**	**$93,585.00**

60. There are additional hours devoted to this litigation by the attorneys and legal assistants in my office that are not reflected in the foregoing lodestar, including additional attorney time that will be spent to obtain and monitor approval of the Settlement and requested awards, oversee the settlement administration process and distribution of funds, respond to inquiries from Aggrieved Employees, and communicate with Plaintiff Dameta O'Brien regarding the case. I estimate that my office will commit no less than ten hours to these additional tasks, which are hours not included in the foregoing lodestar total. My office also bears the risk of taking whatever actions are necessary if Defendant fails to pay.

61. We can provide complete, detailed billing records in the event the Court requests them but would request the opportunity to redact attorney-client privileged information and any other privileged information.

62. The lodestar method requires the Court to determine a "touchstone" or lodestar figure based on a compilation of time spent and reasonable hourly compensation for each attorney. *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 579. Generally, hours are reasonable if they were "reasonably expended in pursuit of the ultimate result achieved in the same manner that an attorney traditionally is compensated by a fee-paying client." *Hensley v. Eckerhart* (1983) 461 U.S. 424, 431. The Court "should defer to the winning lawyer's professional judgment as to how much time he was required to spend on the case." *Moreno v. City of Sacramento* (9th Cir. 2008) 534 F.3d 1106, 1112.

(a) Number Of Hours Expended By My Office Is Reasonable: As set forth in the instant Declaration, my office expended a significant amount of time litigating the case to achieve an excellent result on behalf of the Aggrieved Employees. To date, my office has spent no less than approximately 115.3 hours litigating this case. In the event the Court grants settlement approval, my office will spend additional time related to this litigation, including monitoring the administration of the Settlement after approval and committing no less, although likely more, than ten hours to those additional tasks. The number of hours that my office has and will devote to this case is reasonable. *See, e.g.*, *Ketchum III v. Moses* (2001) 24 Cal.4th 1122, 1133 [fee award should be fully compensatory and, "absent circumstances rendering the award unjust, an attorney fee award should ordinarily include compensation for *all* the hours *reasonably spent*"] [emphasis in original]; *Serrano v. Unruh* (1982) 32 Cal. 3d 621, 624 [counsel are entitled to compensation for all hours reasonably expended]; *Hensley*, *supra*, 461 U.S. at 435–36; *Caudle v. Bristow Optical Co.* (9th Cir. 2000) 224 F.3d 1014, 1028; *Cabrales v. Cty. of L.A.* (9th Cir. 1991) 935 F.2d 1050, 1052–53. As discussed above, my office was required to expend considerable time and resources to investigate, litigate, and successfully settle these claims for the benefit of the Aggrieved Employees.

(b) The Attorneys' Hourly Rates Are Reasonable: "[T]he established standard when determining a reasonable hourly rate is the 'rate prevailing in the community for similar work performed by attorneys of comparable skill, experience, and reputation.'" *Camacho v. Bridgeport Fin., Inc.* (9th Cir. 2008) 523 F.3d 973, 979 [quoting *Barjon v. Dalton* (9th Cir. 1997) 132 F.3d 496, 502]. This rule applies even when, as here, the attorneys representing a named plaintiff perform the work on a contingent fee basis. *See, e.g.*, *Robertson v. Fleetwood Travel Trailers of Cal., Inc.* (2006) 144 Cal.App.4th 785, 818; *Blanchard v. Bergeron* (1989) 489 U.S. 87, 96. These hourly rates are reasonable in light of the significant experience, expertise, and skill my firm brought to this action. Rates are reasonable if they are "within the range of reasonable rates charged by and judicially awarded comparable attorneys for comparable work." *Children's Hosp. & Med. Ctr. v. Bonta* (2002) 97 Cal.App.4th 740, 783. The trial court may "find hourly rates reasonable based on evidence of other courts approving similar rates." *Parkinson v. Hyundai Motor Am.* (C.D. Cal. 2010) 796 F.Supp.2d 1160, 1172. The attorneys at Moon Law Group, P.C. are experienced litigators who specialize in employment law, with a substantial wage and hour class action practice. These rates are not opposed or challenged, and have been approved by other courts, as explained *supra*.

(c) Application Of A Positive Multiplier Is Warranted: Once this lodestar figure has been determined, the Court may take into account other "enhancement" factors to adjust the lodestar award. As the California Supreme Court has held, contingency fees should be higher than fees for the same legal services paid concurrently with the provision of the services. *Ketchum III*, *supra*, 24

Cal.4th at 1132–33; *see also Fischel v. Equitable Life Assurance Soc'y of the U.S.* (9th Cir. 2002) 307 F.3d 997, 1008; *Ketchum,* 24 Cal.4th at 1133 ("A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases.") Application of that rule is particularly appropriate where the case is brought to redress important rights of vulnerable persons. *Id.* A risk enhancement is "earned compensation; unlike a windfall, it is neither unexpected nor fortuitous. Rather, it is intended to approximate market-level compensation for such services, which typically includes a premium for the risk of nonpayment or delay in payment of attorney fees." *Id.* at 1138. **Multipliers normally range from two to four or higher.** *Wershba v. Apple Comp., Inc.* (2001) 91 Cal.App.4th 224, 255 [emphasis added]; *see also Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051, n.6 ["most" common fund cases apply a multiplier of 1.0–4.0]; *Been v. O.K. Indus., Inc.* (E.D. Okla. 2011, No. CIV–02–285–RAW) 2011 WL 4478766, *11 [citing a study "reporting [an] average multiplier of 3.89 in survey of 1,120 class action cases" and finding that a multiplier of 1.22 would be "per se reasonable"]. Factors considered in determining whether a lodestar multiplier is appropriate generally include: (1) the risks presented by the contingent nature of the case; (2) the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly; (3) the nature of the opposition; (4) the preclusion of other employment by the attorney due to acceptance of the case; and (5) the result obtained and the importance of the lawsuit to the public. *Serrano v. Ivy Baker Priest* (1977) 20 Cal. 3d 25, 48–49 [hereinafter "*Serrano III*"]. Here, all these factors favor approval of a multiplier along the lines of those approved in the cases above. To date, my office has incurred no less than $93,585.00 in attorneys' lodestar fees and has advanced $14,794.54 in actual litigation costs. After reimbursement of our out-of-pocket expenses, **the fee request for my firm ($266,666.67, or 40% of the total PAGA Counsel Fees Payment) represents a multiplier of approximately 2.42.**

(d) *Risks presented by the contingent nature of the case*: The major consideration in determining the necessity of a multiplier is the contingent nature of the award. *Ketchum III*, *supra*, 24 Cal.4th at pp. 1132–33; *see also Fischel*, *supra*, 307 F.3d at 1008. In determining what multiplier to award, the probability of success must be assessed *ex ante*, that is, as viewed from the outset of the case. *See, e.g.*, *Harman v. Lyphomed, Inc.* (7th Cir. 1991) 945 F.2d 969, 976. Further, the possibility of no recovery is only one of the uncertainties involved in taking on such a case. Other uncertainties are the amount that will be recovered, uncertainty as to the cost, both in effort and expenses, and uncertainty about how much time will pass before the recovery is obtained. *See, e.g.*, *Ketchum*, 24 Ca1.4th at 1132–1133, 1138. My office's outlay of time and money in this case has been significant. In all, my office has spent approximately 115.3 hours to date investigating, analyzing, researching, litigating, and negotiating a favorable resolution of this case, in addition to a minimum of ten hours that will be spent following final settlement approval, including monitoring the settlement administration and distribution of funds, and has incurred $14,794.54 in necessary litigation expenses. Unsettled legal issues also presented risks to the claims in this case. My office bore the substantial risk of an uncertain outcome in agreeing to prosecute this representative action case on a contingency fee basis, as well as the difficulties and delay inherent in such litigation. There was the prospect of the enormous cost inherent in PAGA action litigation, made certain by Defendant's poor financial condition in this matter. My office risked significant time and expense to ensure a successful settlement. As detailed *supra*, the risks presented in this case were significant, and Defendant's defenses posed serious risks to the success of this matter on the merits.

(e) *Difficulty of the questions involved and the skill required*: My office is comprised of skilled attorneys who have had success in wage and hour class and PAGA representative actions. This case required experienced and competent lawyers, as well as expertise in the issues presented herein. To obtain such an attorney on the free market, a client must pay the market rate.

(f) *Vigorous opposition by Defendant*: Counsel who skillfully overcome difficult issues or uncompromising opposition in the litigation are entitled to a fee enhancement. *Serrano III*, *supra*, 20 Cal.3d at 49. Here, before eventually agreeing to settle, Defendant asserted a vigorous defense. Further, proceeding to trial would have added years to the resolution of this case because of the difficult legal and factual issues raised and the likelihood of appeals. Indeed, even if Plaintiffs prevailed at trial, Defendant would likely have mounted an appeal.

(g) *The result obtained would justify an enhancement*: The results obtained in litigation can properly be used to enhance a lodestar calculation where an exceptional effort produced excellent results. *Graham*, *supra*, 34 Cal.4th at 582. Here, the final maximum settlement figure of $1,670,000.00 represents approximately 72% of Plaintiffs' realistic recovery. Considered against the size of the PAGA group, the risks posed by continued litigation, and the importance of the employment rights and a speedy recovery, the relief provided under the Settlement represents a very strong result for the Aggrieved Employees.

63. I am informed and believe that the fee and cost provisions under the Settlement are reasonable. The fee percentage requested is customarily charged by my office for most employment cases. My office invested significant time and resources into the case, with payment deferred to the end of the case, and then, of course, contingent on the outcome.

64. The risk to my office has been significant, particularly if we would have not been successful in pursuing this representative action. In that case, we would have been left with no compensation for all of the time taken in litigating this case. Indeed, I have taken on a number of class and/or PAGA action cases that have resulted in thousands of attorney hours being expended and ultimately having the defendant company go bankrupt. The contingent risk in these types of cases is very real and occurs regularly. Furthermore, we were precluded from focusing or taking on other cases which could have resulted in a larger, and less risky, monetary gain.

65. Because most individuals cannot afford to pay for representation in litigation on an hourly basis, Moon Law Group, P.C. represents virtually all its employment law clients on a contingency fee basis, including Plaintiff Dameta O'Brien in this litigation. Pursuant to this arrangement, we are not compensated for our time unless we prevail at trial or successfully settle our clients' cases. Because Moon Law Group, P.C. is taking the risk that we will not be reimbursed for our time unless our client settles or wins his or her case, we cannot afford to represent an individual employee on a contingency basis if, at the end of our representation, all we are to receive is our regular hourly rate for services. We must recover more than our regular hourly rate when we win if we are to remain in practice to be able to continue representing other individuals in civil rights employment disputes.

66. My office invested significant time and resources into the case, with payment deferred to the end of the case, and then, of course, contingent on the outcome. My office's efforts have included and will include, following an approval order, and without limitation:

(a) Multiple interviews with the Plaintiff Dameta O'Brien and reviews of the documents provided by her;

(b) Legal research and investigation regarding Defendant's practices at numerous points in the litigation;

(c) Preparation and submission of Plaintiff Dameta O'Brien's PAGA notice letter;

(d) Preparation of multiple drafts of the original class action complaint and subsequent amended complaints, as well as finalization and filing of said complaints;

(e) Preparation and submission of Plaintiff Dameta O'Brien's Request for Dismissal of Class
Allegations;

(f) Extensive "meet and confer" discussions with co-counsel regarding consolidation of Plaintiffs' claims;

(g) Extensive "meet and confer" discussions with Defendant's counsel to discuss the status of PAGA standing in view of *Viking River Cruises* and relevant documents and information needed through informal discovery;

(h) Analysis of the informal discovery production and preparation of a damages model with the aid of a data expert;

(i) Research and preparation of Plaintiffs' mediation brief;

(j) Attendance and active participation at the mediation;

(k) Drafting, negotiating, and reviewing multiple drafts of the Settlement and attachment thereto;

(l) Preparation, finalization, and filing of the motion for approval and accompanying filings;

(m) Anticipated preparation for and attendance at the hearing on motion for approval;

(n) Anticipated monitoring approval of the Settlement and requested awards;

(o) Anticipated overseeing the settlement administration process and distribution of funds; and

(p) Anticipated communications with Plaintiff Dameta O'Brien regarding the case.

<u>THE PAGA COUNSEL EXPENSES PAYMENT MERITS APPROVAL</u>

67. My office has incurred $14,794.54 to prosecute the Action. *See* Ex. 4. This sum reflects the expenses that my office necessarily incurred to initiate, litigate, mediate, and ultimately settle this matter, including, but not limited to, all filing, service, and mediation fees. Because the sum includes only necessary expenses, it is reasonable. Further, because the Aggrieved Employees have prevailed in the Action, their attorneys are entitled to the awarded costs. Moreover, these expenses, together with the expenses of Shakouri Law Firm and Arin James, APC, are below the maximum amount allowed in the Settlement, and the remainder will revert to the Net Settlement Amount. *Settlement*, ¶ 3.1.1. Therefore, the total requested costs are reasonable and permissible and should be reimbursed in full.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct. Executed on June 19, 2025, at Los Angeles, California.

____
Kane Moon