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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JENNIFER FINE, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

DAL GLOBAL SERVICES, INC., a
Delaware corporation; UNIFI AVIATION,
LLC, a Delaware limited liability company;
and DOES 1 through 100, inclusive,

Defendants.

Case No.: 22STCV23857

[Assigned to Hon. Robert B. Broadbelt; Dept. 53]

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR SETTLEMENT APPROVAL OF
CLAIMS BROUGHT UNDER THE PRIVATE
ATTORNEYS GENERAL ACT AND
REASONABLE ATTORNEYS' FEES, COSTS,
AND ENHANCEMENT AWARD;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

Date: November 13, 2024
Time: 10:00 a.m.
Department: 53
Reservation ID: 099330215170

Complaint Filed: July 25, 2022
Trial Date: None Set

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

3 PLEASE TAKE NOTICE that on November 13, 2024 at 10:00 a.m., or as soon thereafter as the
4 matter may be heard in Department 53 of the above-entitled Court, located at 111 North Hill Street, Los
5 Angeles, California 90012, Plaintiff Jennifer Fine (“Plaintiff”), on behalf of herself and all other
6 aggrieved employees, will and hereby does move this Court for entry of an Order as follows:

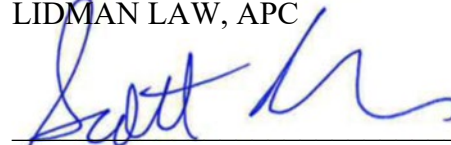
- 7 1. Granting approval, pursuant to California Labor Code section 2698 *et seq.*, and specifically
8 Labor Code section 2699(1)(2), of the proposed Settlement of claims brought pursuant to the
9 Private Attorneys General Act of 2004 (Cal. Lab. Code § 2698 *et seq.*) and set forth in the
10 Settlement;
- 11 2. Appointing Phoenix Settlement Administrators as the Settlement Administrator, and
12 approving an award of \$5,995.00 in anticipated costs to Phoenix for its settlement
13 administration services;
- 14 3. Approving the proposed Notice of PAGA Settlement and Release of Claims as to form and
15 content, and directing that it be distributed to the Aggrieved Employees pursuant to the terms
16 of the Settlement;
- 17 4. Directing the distribution of the Gross Settlement Amount pursuant to the terms of the
18 Settlement;
- 19 5. Approving an award of \$33,333.33, which is one-third of the Gross Settlement Amount in
20 attorneys’ fees to Plaintiff’s Counsel;
- 21 6. Approving an award of \$10,616.92 in actual litigation costs reimbursement to Plaintiff’s
22 Counsel;
- 23 7. Approving an enhancement award of \$5,000.00 to Plaintiff for her general release of claims
24 and service and to the Aggrieved Employees and the State of California; and
- 25 8. Approving the payment of \$33,791.12 to the California Labor & Workforce Development
26 Agency for its share of PAGA civil penalties.
- 27 9. Approving the payment of \$11,263.71 to the Aggrieved Employees on a *pro rata* basis based
28 on number of pay periods worked during the relevant time period.

1 This Motion is based on this Notice, the attached Memorandum of Points and Authorities; the
2 declarations of Scott M. Lidman, Paul K. Haines, Milan Moore, Plaintiff Jennifer Fine, and Jodey
3 Lawrence on behalf of Phoenix and the exhibits attached thereto, the pleadings and other papers filed in
4 this action, and on any further oral or documentary evidence or argument presented at the time of hearing.

5
6 Dated: March 29, 2024

Respectfully Submitted,
LIDMAN LAW, APC

7
8 By:



Scott M. Lidman
Attorneys for Plaintiff
JENNIFER FINE

TABLE OF CONTENTS

I.	INTRODUCTION	7
II.	SUMMARY OF THE LITIGATION	8
A.	The Parties	8
B.	Procedural History	8
C.	Informal Discovery, Mediation, and Arms-Length Negotiations.....	9
III.	ARGUMENT	10
A.	Standard For Approval Of A PAGA Settlement	10
B.	This Court Should Approve The Settlement Because It Is A Fair, Adequate, And Reasonable Compromise Of Disputed Claims.....	11
1.	Factors in Evaluating a Representative PAGA Settlement	12
a)	Overview of the Proposed Settlement	13
i.	“Aggrieved Employees” Defined.....	13
ii.	Essential Terms Of The Settlement.....	13
iii.	Payment to the LWDA and Aggrieved Employees	15
b)	Risk, Expense, Complexity, and Duration of Further Litigation	15
c)	Strength of Plaintiff’s Case and Realistic Value of Claims	15
d)	The Experience and Views of Counsel	17
C.	Requested Award of Attorneys’ Fees/Costs Are Fair and Reasonable	18
D.	Notice and Requested Settlement Administration Costs Are Fair and Reasonable	20
E.	Plaintiff’s Requested Enhancement Award is Fair, Adequate, and Reasonable	21
IV.	CONCLUSION	22

TABLE OF AUTHORITIES

Federal Cases

<i>Air Line Stewards, etc., Local 550 v. Am. Airlines, Inc.</i> 455 F.2d 101 (7th Cir. 1972)	12
<i>Boyd v. Bank of Am. Corp.</i> 2014 WL 6473804 (C.D. Cal. Nov. 18, 2014).....	19
<i>Guippone v. BH S&B Holdings, LLC</i> 2011 U.S., Dist. LEXIS 126026 (S.D.N.Y. Oct. 28, 2011)	22
<i>In re Pacific Enterprises Securities Litigation</i> 47 F.3d 373 (9th Cir. 1995)	17, 18
<i>Linney v. Cellular Alaska Partnership</i> 151 F.3d 1234 (9th Cir. 1998).....	19
<i>Mendez v. Tween Brands, Inc.</i> 2010 WL 2650571 (E.D. Cal. Jul. 1, 2010)	10
<i>Ochoa-Hernandez v. Cjaders Foods, Inc.</i> 2010 WL 1340777 (N.D. Cal. Apr. 2, 2010)	10
<i>Vizcaino v. Microsoft Corp.</i> 290 F.3d 1043 (9th Cir. 2002)	19

State Cases

<i>Amalgamated Transit Union, Local 1756, AFL-CIO v. Sup. Ct.</i> 46 Cal. 4th 993 (2009)	10
<i>Cabrera v. Advantage Sale & Marketing, LLC</i> Case No. BC485259, 2013 WL 1182822 (Super. Ct. L.A. County, March 12, 2013)	11, 19
<i>Cellphone Termination Fee Cases,</i> 186 Cal. App. 5th 1380 (2010).....	21
<i>Chavez v. Netflix, Inc.</i> 162 Cal.App.4th 43 (2008)	18, 19
<i>Chavez v. Saticoy Lemon Ass'n</i> Case No. 56-2015-00468600-CU-OE-VTA (2015 WL 5561118) (Ventura Cty. Super. Ct., Aug. 29, 2015)	18
<i>Clark v. Am. Residential Serv. LLC</i> 175 Cal.App.4th 785 (2009)	12
<i>Coalition for L. County Planning etc. Interest v. Bd. of Supervisors</i> 76 Cal.App.3d 241 (1977)	19
<i>Dunk v. Ford Motor Co.</i> 48 Cal.App.4th 1794 (1996)	12

1	<i>Kullar v. Foot Locker Retail, Inc.</i>	
	168 Cal.App.4th 116 (2008)	11, 12, 17
2	<i>Laffitte v. Robert Half Int'l, Inc.</i>	
3	1 Cal.5th 480 (2016)	18
4	<i>Maria P. v. Riles</i>	
	43 Cal.3d 1281 (1987)	18
5	<i>Penaloza v. PPG Industries Inc., Case No.</i>	
6	BC471369, 2013 WL 2917624 (Super. Ct. L.A. County, May 20, 2013).....	11, 19
7	<i>Price v. Starbucks Corp.</i>	
	192 Cal.App.4th 1136 (2011)	17
8	<i>Reed v. United Teachers Los Angeles</i>	
9	208 Cal.App.4th 322 (2012)	11
10	<i>Serrano v. Priest</i>	
	20 Cal.3d 25 (1977)	18, 19
11	<i>Stambaugh v. Superior Court</i>	
12	62 Cal.App.3d 231 (1976)	11
13	<i>Wershba v. Apple Computer, Inc.</i>	
	91 Cal.App.4th 224 (2001)	12
14	<i>Westside Community for Independent Living, Inc. v. Obledo</i>	
15	33 Cal.3d 348 (1983)	18
16	Statutes	
17	Cal. Code Civ. Proc. § 1021.5(a)	18
18	Cal. Lab. Code § 2698 <i>et seq.</i>	7, 8, 9
19	Cal. Lab. Code § 2699(g)	18
20	Cal. Lab. Code § 2699(i)	8, 15
21	Cal. Lab. Code § 2699(l)	10

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Jennifer Fine (“Plaintiff”), an “Aggrieved Employee” under the California Labor Code
4 § 2698 *et seq.* (“PAGA”), respectfully requests this Court grant approval of the Settlement¹ with Unifi
5 Aviation, LLC (formerly known as DAL Global Services, Inc. (“Unifi” or “Defendant”) pursuant to
6 Labor Code section 2699(1)(2). This PAGA action is based on Defendant’s alleged failure to provide
7 suitable seating to its current and former employees in California who worked for Defendants as
8 Customer Service Representatives, or similar positions, pursuant to California Code of Regulations, Title
9 8, § 10090(14), Section 14 of IWC Wage Order 9. This PAGA action seeks civil penalties on behalf of
10 the California Labor & Workforce Development Agency (“LWDA”) and all “Aggrieved Employees,”
11 defined in the Settlement as “all individuals employed by Defendant as a Customer Service Agent,
12 Customer Service Lead, Customer Service Supervisor, Customer Service Ops. Agent, Customer Service
13 Ticket Agent, Gate Agent or Skycap Agent and who was assigned to work at any time from July 25, 2021
14 to January 10, 2024 at one of the following California airports: BFL, BUR, FAT, LAX, LGB, ONT, PSP,
15 SAN, SBD, SFO, SMF or SNA.”

16 As set forth herein, the proposed Settlement should be approved because it is fair, reasonable, and
17 adequate, as it (1) is the product of arm’s-length negotiations, (2) was negotiated by attorneys experienced
18 in wage-and-hour issues, (3) was negotiated subsequent to undertaking sufficient investigation to
19 evaluate the relative strength and value of the PAGA-based claims, and (4) reflects a reasoned
20 compromise based directly on the relative strength and value of the PAGA-based claims, as well as the
21 risks, expense, complexity and likely duration of further litigation.

22 This proposed PAGA Settlement that ASC will pay a **non-reversionary** Gross Settlement
23 Amount (“GSA”) of \$100,000.00. After deducting amounts for requested attorneys’ fees (one-third of
24 the GSA, \$33,333.33), requested actual costs incurred by Plaintiff’s counsel (\$10,616.92), an
25 enhancement award for Plaintiff (\$5,000.00), and settlement administration costs (\$5,995.00) to Phoenix
26

27 ¹ The PAGA Settlement Agreement (“Settlement”) is attached to the Declaration of Scott M. Lidman as Exhibit 2. The
28 Proposed Notice of PAGA Settlement and Release of Claims is attached to the Settlement as Exhibit B. All defined terms in
this Motion have the same definitions as used in the Settlement.

1 Settlement Administrators, the Settlement provides for distribution of civil penalties in the amount of
2 \$45,054.83. Pursuant to Labor Code section 2699(i), 75% of \$45,054.83 (or \$33,791.12) will be
3 distributed to the LWDA and 25% of \$45,054.83 (or \$11,263.71) will be distributed to the Aggrieved
4 Employees on a *pro rata* basis. The amounts requested for attorneys' fees and costs, Plaintiff's
5 enhancement award, and settlement administration costs are fair, adequate, and reasonable, particularly
6 in light of the recovery obtained. Because there are approximately 597 Aggrieved Employees, the
7 average individual payment to each Aggrieved Employees is estimated to approximately \$18.87 (and
8 will vary based on an employee's actual number of pay periods worked during the relevant time period).

9 The GSA of \$100,000.00 represents a fair and reasonable recovery for the State of California and
10 Aggrieved Employees considering the limited scope and time period of the release. The release in the
11 Settlement does not impact any underlying Labor Code claims any of the Aggrieved Employees may
12 have. Further litigation may have resulted in a smaller recovery or even no recovery at all based on the
13 defenses asserted by Defendant and given the significant litigation risks involved.

14 In light of the foregoing, this Court should enter the [Proposed] Order and Judgment granting
15 approval of the Settlement submitted concurrently herewith.

16 **II. SUMMARY OF THE LITIGATION**

17 **A. The Parties**

18 Defendant is the largest North American aviation ground handling services provider, providing
19 services such as aircraft ground handling, customer service, ticketing, aircraft maintenance, cargo
20 handling, and many other aviation-related services at airports throughout California and the United States.
21 See Declaration of Scott M. Lidman ("Lidman Decl."), ¶ 10. Plaintiff, a former non-exempt Customer
22 Service Representative, was employed by Defendant from approximately July 2019 until approximately
23 September 2021. See Declaration of Jennifer Fine ("Fine Decl."), ¶ 3.

24 **B. Procedural History**

25 On May 19, 2022, Plaintiff sent a written notice pursuant to Labor Code section 2698 *et seq.* to
26 the Labor Workforce Development Agency ("LWDA") and Defendant asserting claims for civil penalties
27 pursuant to the California Labor Code Private Attorney General Act, Labor Code section 2698, *et seq.*

1 (“PAGA) stemming from Defendant’s failure to provide suitable seating to its Customer Service
2 Representatives, or similar positions. Lidman Decl., ¶¶ 11; Exh. 1.

3 On July 25, 2022, Plaintiff filed operative complaint in this action which asserted a sole claim for
4 civil penalties pursuant to California Labor Code Private Attorney General Act, Labor Code section 2698,
5 *et seq.* (“PAGA) stemming from Defendant’s alleged violations of the California Labor Code set forth in
6 the LWDA notices – namely, the failure to provide suitable seating to Customer Service Representatives,
7 or similar positions, in violation of California Code of Regulations, Title 8, § 10090(14), Section 14 of
8 IWC Wage Order 9. Lidman Decl., ¶ 12.

9 A copy of this motion, including the settlement agreement, has been submitted to the California
10 Labor Workforce Development Agency (“LWDA”) on the same date that Plaintiff filed this motion. *Id.*
11 at ¶ 31, Exh. 6.

12 **C. Informal Discovery, Mediation, and Arms-Length Negotiations**

13 After agreeing to participate in a private mediation, Defendant informally produced to Plaintiff
14 information and documents pertaining to Plaintiff and other Aggrieved Employees, including the metrics
15 regarding the number of allegedly aggrieved employees and number of relevant pay periods, as well as
16 detailed information regarding the various airports and provision of suitable seating. Lidman Decl., ¶ 13.
17 After the detailed review of the information and documents produced by Defendant, Plaintiff’s Counsel
18 drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiff’s
19 case. *Id.* This discovery allowed the parties to assess the merits and value of Plaintiff’s claims and
20 determine if a settlement could be reached. *Id.*

21 On October 18, 2023, the Parties participated in mediation with Honorable Amy D. Hogue (Ret.),
22 a well-respected former Los Angeles County complex judge and current wage and hour class and
23 representative action mediator. Lidman Decl., ¶ 14. During mediation, the Parties vigorously debated
24 their opposing legal positions and the likelihood of Plaintiff’s ability to proceed on a representative basis
25 and ultimately obtain a judgment in her favor. *Id.* Ultimately, the Parties reached a settlement, the terms
26 of which were subsequently finalized in writing after mediation. Lidman Decl., ¶ 14, Exh. 2.

1 **III. ARGUMENT**

2 **A. Standard For Approval Of A PAGA Settlement**

3 The settlement of a PAGA claim requires court approval pursuant to the operative PAGA statute,
4 which states that the “court shall review and approve any penalties sought as part of a proposed settlement
5 agreement pursuant to this part.” *See* Lab. Code § 2699(l). Notably, the PAGA statute does not set
6 expressly forth the criteria by which a PAGA settlement is to be judged.

7 In evaluating the adequacy of the settlement amount, the Court’s focus is not concerned with the
8 amount(s) that “aggrieved employees” are to receive, but rather, must focus on the total settlement
9 amount in achieving PAGA’s objective. Indeed, “[t]he remedy sought in a PAGA suit consists of civil
10 penalties, not individual or class damages.” *Mendez v. Tween Brands, Inc.*, 2010 WL 2650571 (E.D.
11 Cal. Jul. 1, 2010) at *4. “Unlike class actions, these civil penalties are not meant to compensate unnamed
12 employees because the action is fundamentally a law enforcement action.” *Ochoa-Hernandez v. Cjaders*
13 *Foods, Inc.*, 2010 WL 1340777 at *4 (N.D. Cal. Apr. 2, 2010). Moreover, while “[a PAGA] action is
14 ... designed to protect the public and penalize the employer for past illegal conduct” (*Mendez*, 2010 WL
15 2650571 at *4), a reviewing Court must take into account the fact that settlement of a PAGA claim – like
16 any settlement – involves a “compromise” that stops short of rendering findings of liability and damages.

17 The Court must not lose sight of the fact that “[u]nlike a class action seeking damages or
18 injunctive relief for injured employees, the purpose of PAGA is to incentivize private parties to recover
19 civil penalties for the government that otherwise may not have been assessed and collected by
20 overburdened state enforcement agencies.” *Ochoa-Hernandez*, at *4.

21 Second, consistent with the fact that unnamed employees have no property interest in a PAGA
22 claim,² “[u]nnamed employees need not be given notice of the PAGA claim, nor do they have the ability
23 to opt-out of the representative PAGA claim.” *Ochoa-Hernandez* at *5.

24
25
26 ² As held by the California Supreme Court, “[t]he Labor Code Private Attorneys General Act of 2004 does not
27 create property rights or any other substantive rights” as “[i]t is simply a procedural statute allowing an aggrieved
28 employee to recover civil penalties—for Labor Code violations—that otherwise would be sought by state labor law
enforcement agencies.” *See Amalgamated Transit Union, Local 1756, AFL-CIO v. Sup. Ct.*, 46 Cal. 4th 993, 1003
(2009).

1 **B. This Court Should Approve The Settlement Because It Is A Fair, Adequate, And**
2 **Reasonable Compromise Of Disputed Claims**

3 California courts have a strong policy in favor of settlement. *See, e.g., Stambaugh v. Superior*
4 *Court* 62 Cal.App.3d 231, 236 (1976). To be approved, a settlement must be “fair, reasonable and
5 adequate to all concerned.” *Reed v. United Teachers Los Angeles*, 208 Cal.App.4th 322, 337 (2012). The
6 Court’s role in evaluating a proposed settlement is limited to ensuring that the agreement taken as a whole
7 is fair and is not the product of fraud or collusion between the negotiating parties. *See, e.g., Hanlon,*
8 *supra*, 150 F.3d at 1027. There is an initial presumption of fairness when the settlement agreement was
9 negotiated at arm’s length by experienced counsel. *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th
10 116, 130 (2008).

11 Here, the GSA secured by Plaintiff is greater than other PAGA penalty awards approved as
12 reasonable within California state courts, which often range between \$7,500.00 and \$15,000.00 for
13 PAGA claims impacting hundreds or thousands of individuals, resulting in much lower PAGA penalty
14 payments on a per person basis. *See, e.g., Penaloza v. PPG Industries Inc.*, Case No. BC471369, 2013
15 WL 2917624 at *2 (Super. Ct. L.A. County, May 20, 2013) (approving PAGA penalties of \$5,000.00 to
16 class of 667 members); *Cabrera v. Advantage Sale & Marketing, LLC*, Case No. BC485259, 2013 WL
17 1182822 (Super. Ct. L.A. County, March 12, 2013) (approving PAGA penalties of \$10,000.00 for class
18 of approximately 3,000 members).

19 Specifically, many other suitable seating PAGA cases, have settled for a pay period rate that is
20 similar to or lower than the \$4.61 at issue herein, including the following: *DeLaCruz v. Dollar Tree*, Los
21 Angeles County Superior Court, December 2018 (\$0.40/pay period); *Hanna v. ULTA Salon*, Sacramento
22 County Superior Court, August 2023 (\$1.99/pay period); *Teng v. Nordstrom*, Central District of
23 California, January 2018 (\$2.72/pay period); *Enombang v. Target*, Alameda County Superior Court, June
24 2018 (\$4.64/pay period); *Sharp v. Safeway, Inc.*, Santa Clara County Superior Court, October 2019
25 (\$4.90/pay period); and *McDermott v. Albertson’s*, Orange County Superior Court, May 2019 (\$5.00/pay
26 period).

27 Because this Settlement is fair, adequate, and reasonable, Plaintiff respectfully requests that the
28 Court approve the Settlement.

1 **1. Factors in Evaluating a Representative PAGA Settlement**

2 A settlement is presumptively fair where it is reached through arm's-length bargaining, based on
3 sufficient discovery and investigation to allow counsel and the court to act intelligently, and counsel is
4 experienced in similar litigation. *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1802 (1996). Relevant
5 factors for the Court to consider in determining whether the settlement is "fair, adequate, and reasonable"
6 include, but are not limited to:

7 [T]he strength of Plaintiff's case, the risk, expense, complexity and likely
8 duration of further litigation, the risk of maintaining class action status
9 through trial, the amount offered in settlement, the extent of discovery
10 completed and the stage of the proceedings, the experience and views of
11 counsel, the presence of a governmental participant, and the reaction of the
12 class members to the proposed settlement.
13 *Dunk*, 48 Cal.App.4th at 1801.³

14 "In the context of a settlement agreement, the test is not the maximum amount Plaintiffs might
15 have obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the
16 circumstances." *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 250 (2001). Because settlements
17 inherently involve compromise, even settlements providing for substantially narrower relief than likely
18 would be obtained if the suit were successfully litigated can be reasonable because "the public interest
19 may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding
20 litigation." *Id.* (quoting *Air Line Stewards, etc., Local 550 v. Am. Airlines, Inc.*, 455 F.2d 101, 109 (7th
21 Cir. 1972)). In addition, courts review the discovery process and information received through it to aid
22 them in assessing whether the parties sufficiently developed the claims and their supporting factual bases
23 before reaching settlement. *See Kullar, supra*, 168 Cal.App.4th at 129-31. Information is sufficient
24 where it allows the parties and the court to form "an understanding of the amount that is in controversy
25 and the realistic range of outcomes of the litigation." *Clark v. Am. Residential Serv. LLC*, 175 Cal.App.4th
26 785, 801 (2009). This requirement exists so that the parties can provide the court with "a meaningful and
27 substantiated explanation of the manner in which the factual and legal issues have been evaluated."
28 *Kullar*, 168 Cal.App.4th at 132.

³ As explained above, in the context of a representative PAGA settlement, the third and eighth factors (risk of maintaining class action status and reaction of class members to settlement) are inapplicable.

1 **a) Overview of the Proposed Settlement**

2 **i. “Aggrieved Employees” Defined**

3 Aggrieved Employees are defined as, “all individuals employed by Defendant as a Customer
4 Service Agent, Customer Service Lead, Customer Service Supervisor, Customer Service Ops. Agent,
5 Customer Service Ticket Agent, Gate Agent or Skycap Agent and who was assigned to work at any time
6 from July 25, 2021 to January 10, 2024 at one of the following California airports: BFL, BUR, FAT,
7 LAX, LGB, ONT, PSP, SAN, SBD, SFO, SMF or SNA.” *See* Lidman Decl., ¶ 17, Exh. 2 (Settlement,
8 ¶¶ 1.1 and 1.20). The Aggrieved Employees, including Plaintiff, worked a total of 21,710 pay periods
9 during the period of July 25, 2021 through November 10, 2023 (the date of mediation). *See* Lidman
10 Decl., Exh. 2 (Settlement, Section ¶ 4.1).

11 **ii. Essential Terms Of The Settlement**

12 This Settlement provides for Defendant to pay a Gross Settlement Amount of \$100,000.00.
13 Lidman Decl., Exh. 2 (Settlement, Section ¶ 1.11). After deducting amounts for requested attorneys’
14 fees, attorneys’ costs, Plaintiff’s requested enhancement award, and settlement administration costs, the
15 Settlement provides for distribution of the remaining Net Settlement Amount (“NSA”) to Aggrieved
16 Employees and the LWDA distributed as follows: 75% to the LWDA and 25% to Aggrieved Employees
17 pursuant to Labor Code 2699(i). Lidman Decl., Exh. 2 (Settlement, Section ¶¶ 3.1-3.2.3).

18

Gross Settlement Amount:	\$100,000.00⁴
Minus Court-approved attorneys’ fees (1/3):	\$33,333.33
Minus Court-approved attorneys’ costs:	\$10,616.84
Minus Court-approved enhancement award:	\$5,000.00
Minus settlement administrator costs:	\$5,995.00

19
20
21

22

23 ⁴ Based on its records, Defendant estimates that, as of November 10, 2023, there were 597 Aggrieved
24 Employees who worked 21,710 PAGA Pay Periods during the PAGA Period. In the event that the final
25 number of PAGA Pay Periods during the PAGA Period exceeds 23,881 PAGA Pay Periods, Defendant
26 shall either: a) pay a proportionate increase in the Gross Settlement Amount for every Pay Period over
27 23,881; or b) revise the end date of the PAGA Period so that the PAGA Period includes no more than
28 23,881 PAGA Pay Periods. Defendant shall make its election at least two weeks before the hearing on
Plaintiff’s motion for approval of the Settlement. If option “b” is selected, the Parties shall advise the
Court at least one week before the aforementioned hearing date. *See* Lidman Decl., ¶ 17, fn.6, Exh. 2
(Settlement, ¶ 8).

Net Settlement Amount:	\$45,054.83
Net Settlement Amount:	\$45,054.83
75% to LWDA	\$33,791.12
25% to Aggrieved Employees	\$11,263.71

Lidman Decl., ¶ 15.

The payment of the GSA shall be made within 10 business days after the “Effective Date” defined as the date by when all of the following events have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) when the period for filing any appeal, writ or other appellate proceeding opposing the settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; (b) when any appeal, writ or other appellate proceeding opposing the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or (c) when any appeal, writ or other appellate proceeding has upheld the Court’s Final Order and Judgment with no right to pursue further remedies or relief. *See* Lidman Decl., ¶ 16, Exh. 2 (Settlement, ¶¶ 1.9 and 4.3). Within 15 business days of the court signing the approval order and judgment, Defendant shall provide the Settlement Administrator with information for Aggrieved Employees in order to calculate and distribute checks to Aggrieved Employees. *See id.* (Settlement, ¶ 4.2). Upon receipt of this information, the Settlement Administrator will prepare and circulate an anonymized spreadsheet containing the estimated individual settlement payments to each Aggrieved Employee for the Parties approval. The Settlement Administrator shall also determine whether the Escalator Clause in paragraph 8 of the Settlement has been triggered. Within ten (10) business days of receiving the Parties’ approval, the Settlement Administrator shall mail copies of the explanatory letter to all Aggrieved Employees with their checks. *See id.* (Settlement, ¶ 4.4. The Settlement does not require Aggrieved Employees to submit a claim form to reap financial benefit from the Settlement. *Id.* Any checks remaining uncashed for more than 180 days will be tendered to the State Controller’s Office under the unclaimed property fund laws in the names of the Aggrieved Employees to whom the checks were issued. *See id.* (Settlement, ¶ 4.4.3).

1 while sitting in a seat, at no time during her employment did Defendants provide suitable seating near
2 their workstations. Lidman Decl., ¶ 18. Plaintiff alleges that she and other Aggrieved employees were
3 not provided chairs, seats, or stools to perform their job, even though had Defendants provided seating,
4 it would have not interfered with Plaintiff and other Aggrieved Employees performing many of their job
5 duties and responsibilities, in violation of California Code of Regulations, Title 8, § 10090(14), Section
6 14 of Wage Order 9. *Id.*

7 Plaintiff contends that the aforementioned alleged violations occurred in each and every pay
8 period during the relevant time period, which is approximately 21,710 pay periods. Accordingly,
9 pursuant to Labor Code section 1198 and the default penalties set forth in the PAGA, Plaintiff calculated
10 Defendant's exposure at \$2,171,000 (21,710 x \$100 initial violation). *Id.*

11 Defendant presented numerous defenses to the suitable seating claim. Specifically, Defendant
12 contends that: (i) many of the airlines with whom Defendant contracts prohibit seats in the areas where
13 Customer Service Representatives work, thereby preventing Defendant from being able to provide
14 seating; (ii) Customer Service Representatives are continually handling luggage such that their job duties
15 prevent them from being able to sit during work; (iii) at various airports, Defendant indeed provides
16 available and suitable seating for the Customer Service Representatives; (iv) if seating were indeed
17 provided, it would interfere with required job duties and/or would result in unsafe working conditions;
18 and (v) there are no places where suitable seating could be stored. Lidman Decl., ¶ 19. As to the last
19 point, Defendant contends that the problem is that it does not control the airport premises and its
20 employees often work at a multi-use airport gate (i.e., a gate used by multiple airlines). Further,
21 Defendant contends that no one airline is permitted to leave an item such as a seat at the gate, and there
is no storage for such items there. *Id.*

22 Defendant also contends that every suitable seating case of which it is aware that has gone to trial
23 has resulted in a defense verdict. *Id.*

24 In light of these defenses and Defendant's argument that the Court would exercise its discretion
25 to reduce any civil penalty due to its good faith efforts to comply with applicable law, Plaintiff discounted
26 the maximum recovery on this claim by 85% to account for the risk that Defendant could prevail in their
27 defenses, to arrive at a projected total of approximately \$325,650.00. Lidman Decl., ¶ 20.

1 The proposed settlement of \$100,000.00 therefore represents approximately 30.1% of the
2 realistic total recovery for Aggrieved Employees and avoids the risks of proceeding through trial. *Id.*
3 “The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in
4 and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.”
5 *Linney v. Cellular Alaska Partnership*, 151 F.3d 1234, 1242 (9th Cir. 1998) (internal quotations omitted).
6 Plaintiff acknowledges that there was substantial uncertainty and risk as to her suitable seating claim.
7 Approval is appropriate since this settlement will provide tangible, monetary relief to Aggrieved
8 Employees and the State of California.

9 **d) The Experience and Views of Counsel**

10 “Parties represented by competent counsel are better positioned than courts to produce a
11 settlement that fairly reflects each party’s expected outcome in litigation.” *In re Pacific Enterprises*
12 *Securities Litigation*, 47 F.3d 373, 378 (9th Cir. 1995).

13 Here, Plaintiff’s Counsel collectively brings over four decades of wage-and-hour class and
14 representative action experience. *See* Lidman Decl., ¶¶ 2-8; Declaration of Paul K. Haines (“Haines
15 Decl.”), ¶¶ 2-7; and Declaration of Milan Moore (“Moore Decl.”), ¶¶ 2-4. They have been certified as
16 class counsel in numerous cases alleging wage and hour claims. *Id.* Their experience in similar matters
17 was integral in evaluating the strengths and weaknesses of the case against Defendant and the
18 reasonableness of the Settlement. Practice in the narrow field of wage-and-hour litigation requires skill
19 and knowledge concerning the rapidly evolving substantive state and federal law, as well as the
20 procedural law of class and representative action litigation. Because it is reasonable to compensate
21 Plaintiff’s Counsel commensurate with their skill, reputation, and experience, a fee award of one-third of
22 the GSA is reasonable. Other factors show that the amount of fees requested is reasonable. This case
23 involved legal issues regarding the propriety of civil PAGA penalties, an unsettled area of law. Defendant
24 was also represented by respected counsel with extensive wage-and-hour litigation experience. This
25 factor strongly supports settlement approval. *See, Kullar, supra*, 168 Cal.App.4th at 130 (“The court
26 undoubtedly should give considerable weight to the competency and integrity of counsel and the
27 involvement of a neutral mediator in assuring itself that a settlement agreement represents an arm’s length

transaction entered without self-dealing or other potential misconduct.”).

C. Requested Award of Attorneys’ Fees/Costs Are Fair and Reasonable

Plaintiff, as the prevailing party in settlement, is entitled to recover attorneys’ fees and costs for these claims. *See* Cal. Labor Code § 2699(g) (“Any employee who prevails in any action shall be entitled to an award of reasonable attorney’s fees and costs.”); Cal. Code of Civil Procedure § 1021.5(a). A fee award is justified where the legal action has produced its benefits by way of a voluntary settlement. *See, e.g., Maria P. v. Riles*, 43 Cal.3d 1281, 1290-91 (1987); *Westside Community for Independent Living, Inc. v. Obledo*, 33 Cal.3d 348, 352-53 (1983); *Serrano v. Priest*, 20 Cal.3d 25, 34 (1977) (“when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff...for the benefit of all results in the creation or preservation of that fund, such plaintiff...may be awarded attorney’s fees out of the fund.”)

Fee awards of roughly one-third of the settlement fund are routinely awarded in California state and federal courts in class and representative PAGA actions.⁵ Indeed, the California Supreme Court approved the use of the “percentage of fund” method in California. *See Laffitte v. Robert Half Int’l, Inc.*, 1 Cal.5th 480, 506 (2016) (“the percentage of fund method survives in California class action cases...”). This is also consistent with Plaintiff’s Counsel’s experience in similar wage-and-hour class and PAGA matters. Lidman Decl., ¶¶ 21-22, 25-26. Here, Plaintiff’s Counsel’s fee request of \$33,333.33 (one-third of the GSA) is the same percentage sought in *Laffitte*, and is fair and reasonable based on the percentage of the recovery method.

The California Supreme Court in *Laffitte* also held that trial courts have discretion to assess the reasonableness of fee awards with tools such as the “lodestar cross-check,” whereby the trial court calculates counsel’s lodestar and determines whether the “lodestar multiplier” needed to bring the lodestar on par with the percentage of recovery is reasonable. *Laffitte*, 1 Cal.5th at 503-06. Under the lodestar method, the court multiplies the number of hours reasonably expended by each attorney or legal staff

⁵ *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, fn. 11 (2008); *see also, In re Pacific Enterprises Securities Litig.*, 47 F.3d 373, 379 (9th Cir. 1995) (affirming 33% fee award); *Chavez v. Saticoy Lemon Ass’n*, Case No. 56-2015-00468600-CU-OE-VTA, 2015 WL 5561118 (Ventura Cty. Super. Ct., Aug. 29, 2015) (approving attorneys’ fees of one-third of settlement fund in representative PAGA settlement).

member by their reasonable hourly rates, then enhances this lodestar figure by a “multiplier” to account for a range of factors. *See Serrano v. Priest* 20 Cal.3d 25, 48-49 (1977).

Lodestar multipliers can range from 2 to 4 or even higher. *See, e.g., Chavez, supra*, 162 Cal. App. 4th at 49-50 (approving multiplier of approximately 2.5); *Coalition for L. County Planning etc. Interest v. Bd. of Supervisors*, 76 Cal. App. 3d 241, 251 (1977) (approving multiplier of approximately 12.8). In this case, Plaintiff’s Counsel have a lodestar of \$95,432.50 without the use of any multiplier, which is almost three times more than the \$33,333.33 fee request. *See* Lidman Decl., ¶ 24. A general summary showing the number of hours of work performed by each attorney and paralegals is set forth in the Lidman Declaration filed concurrently herewith. The billing rates used are reasonable in light of the hourly rates identified based on years of experience in the *Laffey* Matrix, submitted concurrently herewith. Lidman Decl., ¶ 25, Exh. 4.

Name	Rate	Hours	Pre-Multiplier Lodestar
Scott M. Lidman (25 th Year Attorney)	\$900	65.8	\$59,220.00
Paul K. Haines (17 th Year Attorney)	\$800	14.7	\$11,760.00
Milan Moore (8 th Year Attorney)	\$600	34.6	\$20,760.00
Paralegals	\$175	21.1	\$3,692.50
Total Lodestar			\$95,432.50

The fee award requested here is justified because it is lower than lodestar. Further, the fee award requested here is justified because Plaintiff’s Counsel achieved a fair civil penalty recovery for the State and the Aggrieved Employees in an uncertain and risky case, while bearing the substantial burdens of representation on a contingency basis, and the fees requested are in line with the market rate. *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048-51 (9th Cir. 2002) (finding that exceptional results in a contingency case, significant risk and the absence of supporting precedents, are proper considerations in awarding attorneys’ fees). Additionally, Plaintiff’s recovery for the State of California and Aggrieved Employees exceeds other PAGA awards approved by courts in California. *See, e.g., Boyd v. Bank of Am. Corp.*, 2014 WL 6473804 (C.D. Cal. Nov. 18, 2014) (approving \$18,750 PAGA payment); *Penaloza, supra*, 2013 WL 2917624 (average PAGA penalties of \$7.49); *Cabrera, supra*, 2013 WL 1182822 (average PAGA

1 penalties of \$3.33). That Plaintiff's Counsel achieved these results without engaging in a protracted legal
2 battle, in the face of serious defense challenges and an uncertain legal landscape, confirms the strength
3 of the results achieved.

4 As discussed above, this case carried substantial risks on the merits. It is fair and reasonable to
5 account for these risks in compensating Plaintiff's Counsel, as well as the risks involved in undertaking
6 this litigation and expending considerable effort while working on a pure contingency basis.

7 Indeed, since undertaking representation of Plaintiff, Plaintiff's Counsel dedicated substantial
8 resources to this litigation, including expending a total of \$10,616.84 (including costs associated with the
9 instant motion) in actual litigation costs, without receiving any compensation to date. Lidman Decl., ¶
10 29, Exh. 5. Plaintiff's Counsel conducted legal research regarding the merits of Plaintiff's claims, the
11 ability to recover penalties under the PAGA, and Defendant's potential defenses. *Id.* Plaintiff's Counsel
12 spent significant time conducting informal discovery and reviewing Defendant's informal discovery.
13 Class Counsel also analyzed the data and information produced informally prior to mediation and
14 prepared an exposure analysis on the PAGA penalties. *Id.* Plaintiff's Counsel also expended significant
15 additional effort in preparing subsequent settlement documents, this Motion for settlement approval, and
16 supporting declarations, and will oversee the settlement administration process. *Id.* Given the
17 considerable potential for adverse outcomes in this case, the contingent risk borne by Plaintiff's Counsel
18 was great. The quality of Plaintiff's Counsel's work, and the efficacy and dedication with which it was
19 performed, should be compensated.

20 Thus, Plaintiff's Counsel submit that the requested fee award is fair, reasonable and adequate and
21 should be approved. Plaintiff's request for reimbursement of actual litigation costs of \$10,616.84 is also
22 fair and reasonable. As the evidence submitted herewith shows, all of Plaintiff's litigation costs are
23 documented and reasonably incurred. *See* Lidman Decl., ¶ 29, Exh. 5.

24 **D. Notice and Requested Settlement Administration Costs Are Fair and Reasonable**

25 The parties agreed to engage Phoenix as the settlement administrator. Lidman Decl., Exh. 2
26 (Settlement, ¶ 1.2). Under the Settlement, Parties have agreed to have the proposed Notice of PAGA
27 Settlement and Release ("Notice"), subject to Court approval, be sent with the settlement checks to
28

1 inform the Aggrieved Employees about the scope of the released claims and their responsibility for any
2 taxes payable on the amount received. The PAGA does not require notice and the Aggrieved Employees
3 do not have the right to opt-out. The Notice which is attached as Exhibit A to the Settlement and
4 Exhibit A to the [Proposed] Order is only being provided as a courtesy.

5 Phoenix shall be responsible for translating and mailing the Notice in English and calculating and
6 distributing the settlement checks, among other duties. The parties have designated \$5,995.00 as
7 settlement administration costs. Lidman Decl., Exh. 2 (Settlement, ¶ 3.2.2). Phoenix's quote is attached
8 as Exhibit B to the Declaration of Jodey Lawrence on behalf of Phoenix in support of Motion for
9 Approval of PAGA Settlement filed concurrently herewith.

10 **E. Plaintiff's Requested Enhancement Award is Fair, Adequate, and Reasonable**

11 Courts routinely approve enhancement awards to compensate named Plaintiff for the services
12 they provide and the risks they incur during class and representative litigation. *Cellphone Termination*
13 *Fee Cases*, 186 Cal. App. 5th 1380, 1393-94 (2010) ("These awards 'are discretionary, [citation], and are
14 intended to compensate class representatives for work done on behalf of the class, to make up for financial
15 or reputational risk undertaken in bringing the action, and, sometimes, to *recognize their willingness to*
16 *act as a private attorney general.*'")⁶

17 Here, pursuant to the Settlement, Plaintiff seeks an enhancement/general release payment of
18 \$5,000.00. See Lidman Decl., ¶30, Exh. 2 (Settlement, ¶ 1.10). Plaintiff will request the Court award
19 this payment for her general release of claims against Defendant and also in recognition of her unique
20 contributions to the prosecution of this case and her efforts in bringing this case to a successful and
21 significant resolution. *Id.*; Fine Decl., ¶¶ 2-10. This request is reasonable given Plaintiff's efforts in this
22 case and the risks she undertook on behalf of the Aggrieved Employees. Plaintiff provided substantial
23

24 ⁶ California courts routinely award enhancement payments in PAGA-only, non-class actions. See *Canul v. Basmat,*
25 *Inc.*, LA County Case No. BC674940, Judge Beaudet (Dept. 50) (approved a PAGA-only settlement including a
26 \$5,000 enhancement award to the named plaintiff); *Pickett v. 99 Cents Only Stores, et al*, LA County Case No.
27 BC473038 (Judge Hiroshige (Dept. 54) approved a \$12,500 enhancement payment to each of two named plaintiffs
28 in a PAGA only settlement); *Vargas v. JTS Modular, Inc.*, Kern County Case No. BCV-20-100645-JEB (Judge
Bradshaw approved a \$7,500 enhancement in a PAGA only settlement); *Johnson v. DCH*, Ventura County Case
No. 56-2018-00510579-Cu-OE-VTA (Judge Kellegrew approved \$12,000 enhancements to each of three named
plaintiffs in a PAGA only settlement).

1 factual information to Plaintiff's Counsel, attended meetings with Plaintiff's Counsel, and otherwise
2 assisted in the litigation of this action. *Id.* Further, Plaintiff put her future employment prospects at risk
3 by becoming a representative, as the fact that she filed a lawsuit "is searchable on the internet and may
4 become known to prospective employers when evaluating" them for employment. *Guippone v. BH S&B*
5 *Holdings, LLC*, 2011 U.S., Dist. LEXIS 126026, *20 (S.D.N.Y. Oct. 28, 2011). Accordingly, Plaintiff's
6 request is appropriate and justified as part of the Settlement.

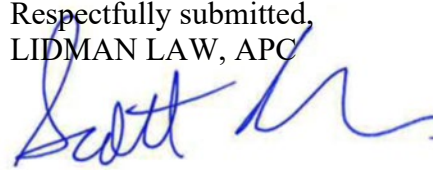
7 **IV. CONCLUSION**

8 For the reasons stated herein, this Court should grant Plaintiff's Motion in its entirety and adopt
9 the [Proposed] Order and Judgment Granting Plaintiff's Motion for Settlement Approval of Claims
10 Brought Under the Private Attorneys General Act and Reasonable Attorneys' Fees, Costs, and
11 Enhancement Award submitted concurrently herewith.

12
13 Dated: March 29, 2024

Respectfully submitted,
LIDMAN LAW, APC

14
15 By:



16 Scott M. Lidman
17 Attorneys for Plaintiff
18 JENNIFER FINE
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Make a Reservation

JENNIFER FINE vs DAL GLOBAL SERVICES, INC., A DELAWARE CORPORATION, et al.

Case Number: 22STCV23857 Case Type: Civil Unlimited Category: Other Employment Complaint Case

Date Filed: 2022-07-25 Location: Stanley Mosk Courthouse - Department 53

Reservation

Case Name:

JENNIFER FINE vs DAL GLOBAL SERVICES, INC., A
DELAWARE CORPORATION, et al.

Case Number:

22STCV23857

Type:

Motion re: (Motion for Settlement Approval of Claims Brought
Under the Private Attorneys General Act and Reasonable
Attorneys' Fees, Costs, and Enhancement Award)

Status:

RESERVED

Filing Party:

Jennifer Fine (Plaintiff)

Location:

Stanley Mosk Courthouse - Department 53

Date/Time:

11/13/2024 10:00 AM

Number of Motions:

1

Reservation ID:

099330215170

Confirmation Code:

CR-PJKUC5PQKY32UKS9D

Fees

Description	Fee	Qty	Amount
Motion re: (name extension)	0.00	1	0.00
TOTAL			\$0.00

Payment

Amount:

\$0.00

Type:

NOFEE

Account Number:

n/a

Authorization:

n/a

Payment Date:

1969-12-31

Print Receipt

Reserve Another Hearing