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JOSEF BERNSTEIN

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

JOSEF BERNSTEIN, as an individual and on
behalf of other similarly situated employees,

Plaintiff,

vs.

PAYREEL, INC., a Colorado corporation,
ANHEUSER-BUSCH, LLC, a Missouri
corporation, 1600 OVER90, ENDEAVOR
OPERATING COMPANY, LLC, a Delaware
corporation, and DOES 1-50, inclusive,

Defendant.

Case No. 25STCV08121

Assigned for all purposes to:
Judge Armen Tamzarian

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR ORDER APPROVING
PAGA SETTLEMENT UNDER
CALIFORNIA LABOR CODE
SECTION 2699 ET SEQ.**

Hearing Date: May 13, 2025
Hearing Time: 9:00 a.m.
Department: 52

Reservation ID: 062892163758

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1 **I. INTRODUCTION**

2 Plaintiff Josef Bernstein (“Plaintiff”) seeks an order from the Court approving the PAGA
3 Settlement between Plaintiff and Payreel, Inc., Anheuser-Busch, LLC, 160Over90, and Endeavor
4 Operating Company, LLC (referred to herein as “Defendants”). Plaintiff brought this action for
5 violations of the California Labor Code, both as an individual and in a representative capacity
6 under the Private Attorneys General Act (“PAGA”), as well as for unlawful business practices
7 (Bus. Prof. Code §17200, et seq.).

8 At the mediation, the parties were able to resolve all claims. Plaintiff and Defendants
9 entered into an agreement that settles all of Plaintiff’s outstanding claims, including a written
10 PAGA Settlement Agreement related to Plaintiff’s PAGA claim. Plaintiff and Defendants now
11 seek an Order from this Court approving the PAGA Settlement, as is required by California Labor
12 Code §2699(1)(2). (Declaration of Armond M. Jackson (“Jackson Decl.” ¶ 1, Ex. A, Settlement
13 Agreement.)

14 **II. BRIEF STATEMENT OF FACTS AND PROCEDURAL HISTORY**

15 **A. BACKGROUND**

16 Plaintiff alleges that he worked for Defendants as a non-exempt employee. Plaintiff filed
17 this Complaint on March 1, 2023. Through the March 1, 2023 Complaint, Plaintiff alleged that
18 Defendants, as alleged joint employers, required him and other similarly situated non-exempt
19 employees in the state of California to work through their meal and rest breaks (Cal. Lab Code §
20 512, 226.7 & Wage Order 5-2001). Plaintiff also alleged that he and other non-exempt
21 employees were not provided with accurate wage statements (Cal. Lab Code § 226(a), nor paid
22 premium wages upon termination (Cal. Lab. Code § 203) and were not paid all minimum and
23 overtime wages (Cal. Lab. Code §§ 510 and 1194). (See ROA No. 2). Plaintiff’s wage and hour
24 claims were brought on an individual and representative basis under PAGA pursuant to Cal. Lab.
25 Code § 2699 et seq. (*Id.*) Defendants denied and continue to deny all of these allegations.
26 Defendants Anheuser-Busch, LLC, 160Over90, and Endeavor Operating Company, LLC
27 specifically deny that they employed or jointly employed Plaintiff or the putative PAGA
28 members.

1 **B. PAGA NOTICE**

2 On May 17, 2022, Plaintiff served via certified mail, return receipt requested, the Labor
3 and Workforce Development Agency (“LWDA”) and the Defendants with notice of the alleged
4 wage and hour violations. (See Jackson Decl. ¶ 18, Ex. E.)

5 **C. COMPLAINT AND PROCEDURAL HISTORY**

6 On March 1, 2023, Plaintiff filed a putative class and PAGA action , titled *Bernstein v.*
7 *Payreel, Inc. et al.*, in Los Angeles County Superior Court, Case 23STCV04502 (“Lawsuit”),
8 alleging the following claims against Defendants: (1) failure to provide accurate wage statements;
9 (2) failure to maintain records; (3) failure to pay for meal periods and rest periods; (4) failure to
10 pay minimum wages and overtime wages; (5) failure to timely pay all wages due during
11 employment and upon termination; (6) failure to reimburse for all business-related expenses; and
12 (7) unlawful business practices.

13 On April 5, 2023, PayReel removed the matter to the Central District of California. On
14 May 17, 2023, PayReel moved to compel arbitration of Plaintiff’s individual claims and dismiss
15 Plaintiff’s class and representative PAGA claims, which Anheuser-Busch, Endeavor, and
16 160over90 joined. On July 5, 2023, the Court granted Defendants’ motion, dismissing Plaintiff’s
17 class claims without prejudice. On July 24, 2023, Plaintiff filed his demand for arbitration with
18 AAA, asserting his PAGA claim. On September 14, 2023, however, the Parties stipulated to stay
19 arbitration pending mediation.

20 On January 8, 2024, the Parties attended a full-day mediation with experienced wage and
21 hour mediator Mike Young. At the conclusion of the mediation, the Parties agreed to settle
22 Plaintiff’s PAGA claim. On April 15, 2024, the Parties executed a long form Settlement
23 Agreement, which provided that Plaintiff would refile a PAGA action in state court to facilitate
24 settlement, but under the Settlement Agreement, Defendants are not required to respond to the
25 newly filed complaint.

26 **D. SUBSTANTIAL DISCOVERY AND CASE ANALYSIS BY PLAINTIFF**

27 Plaintiff’s counsel conducted a thorough investigation of the merits of Plaintiff’s claims
28 before mediation. Specifically, the informal discovery conducted in this Action, including

1 substantial payroll data and timekeeping data provided by Defendants, the relevant policies and
2 procedures, as well as identifying the aggrieved employees at issue that were allegedly subjected
3 to the various Labor Code violations, and the information exchanged by the Parties before, after,
4 and during mediation and settlement discussions, was sufficient to allow Plaintiff to assess
5 reliably the merits of the respective Parties' positions and determine that this Settlement was fair,
6 reasonable, and in the best interests of the LWDA and PAGA Settlement Members. Plaintiff's
7 Counsel considered the merits of the action on balance with the risk of the court finding
8 Plaintiff's claims unmanageable; the risk of a finding Defendants complied with applicable
9 statutory and regulatory provisions or were not joint or client employers; the risk the Court
10 would not award PAGA penalties based on a lack of willfulness or difficulties in establishing bad
11 faith, the likelihood of substantial court reduction of any PAGA penalties awarded, and other
12 potential defenses of Defendants on the merits. Jackson Decl. ¶¶ 3-13.

13 Additionally, during each phase of litigation, Plaintiff's counsel engaged in a detailed case
14 analysis based on the information revealed. (Jackson Decl. ¶¶ 3-13.) Calculations were
15 performed, as well as analysis of the risks and rewards of continued litigation. (*Id.*) Under these
16 assumptions, for purposes of negotiation, it was determined that there was a total of
17 approximately 1,400 total aggrieved employees and 5,000 pay periods worked for Defendants
18 during the relevant time period. Plaintiff calculated that discounted PAGA penalties would
19 realistically amount to approximately \$516,500 for all violations if Plaintiff were to prevail on his
20 claims as to each putative PAGA member for each pay period at issue. (*Id.*) However, based on
21 risk factors identified above and the decision of *Viking River Cruises, Inc. v. Moriana* (2022) 142
22 S. Ct. 1906, Plaintiff applied a discount of a 75%. (Jackson Decl. ¶ 10.) After several rounds of
23 negotiations, a settlement of \$200,000 was reached at mediation. (*Id.*) This settlement results in
24 38.7% (\$516,500/\$200,000) of the maximum expected realistic exposure against Defendants for
25 civil penalties for PAGA claims for the aggrieved employees.

1 **E. SUBMISSION OF PAGA SETTLEMENT AGREEMENT AND MOTION**
2 **TO LWDA**

3 On April 4, 2025, Plaintiff submitted the PAGA Settlement Agreement, together with a
4 copy of this motion and all concurrently filed associated documents to the LWDA. (Jackson Decl.
5 ¶ 2, Ex. B.)

6 **III. LEGAL STANDARD**

7 When a plaintiff settles a PAGA claim, the court must review the settlement related to the
8 claims at issue and the payment of penalties for those claims. Cal. Labor Code § 2699.3(b)(4).
9 “PAGA settlements are subject to trial court review and approval, ensuring that any negotiated
10 resolution is fair to those affected.” (*Williams v. Superior Court*, 3 Cal.5th 531, 549 (2017)
11 [citing Lab. Code, § 2699(1)(2)].) “A court has discretion to approve the settlement of PAGA
12 claims if the settlement would be ‘fair.’” (See *Nordstrom Commission Cases*, 186 Cal. App. 4th
13 576, 581 (2010)).

14 **IV. ARGUMENT**

15 **A. THE PAGA SETTLEMENT IS A FAIR OUTCOME IN THIS CASE**

16 In seeking approval of a PAGA settlement, a settling party must provide sufficient
17 information to “enable the court to make an independent assessment of the adequacy of the
18 settlement terms.” *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 131-32 (2008). The
19 plain language of PAGA is consistent with “a standard requiring the trial court to determine
20 independently whether a PAGA settlement is fair and reasonable. . . .” *Moniz v. Adecco USA,*
21 *Inc.*, 72 Cal. App. 5th 56, 76 (2021). Relevant factors for a PAGA settlement include the
22 “strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further litigation.
23 . . the amount offered in settlement, the extent of discovery completed and the stage of the
24 proceedings, the experience and views of counsel, the presence of a governmental participant. . .
25 .” *Id.* The *Moniz* court held that “a trial court should evaluate a PAGA settlement to determine
26 whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present
27 labor law violations, deter future ones, and to maximize enforcement of state labor laws.” *Id.* at
28

77. A PAGA settlement should be approved when “a PAGA plaintiff has adequately represented the state's interests, and hence the public interest.” *Moniz*, 72 Cal. App. 5th at 89.

Settling parties are not required to partake in a hypothetical accounting exercise: “**Kullar does not ... require any such explicit statement of [maximum] value**; it requires a record which allows ‘an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation.’” “*Munoz v. BCI Coca-Cola Bottling Co.*, 186 Cal. App. 4th 399, 409-10 (2010) (quoting *Kullar*, 168 Cal. App. 4th at 120 (emphasis added)). Overall, “the most important factor” in determining “whether a settlement is fair and reasonable” is the “strength of the case for plaintiffs on the merits, balanced against the amount offered in the settlement.” *Id.* at 409 n.6 (quoting *Kullar*, 168 Cal. App. 4th at 130). As explained in detail below, the Gross Settlement Amount is within the range of reasonableness in light of the nature and magnitude of the claims being settled and the various potential impediments to recovery.

Defendants’ Realistic Exposure for the PAGA Claims (5,000 Pay Periods)	
Minimum Wage Penalties	\$62,500
Overtime Wage Penalties	\$62,500
Meal Period Claim	\$62,500
Rest Period Claim	\$62,500
Business Expense Reimbursement Claim	\$62,500
Wage Statement Claim ¹	\$62,500
Final Pay Claim ²	\$16,500
Failure to Timely Pay Wages During Employment	\$62,500
Failure to Timely Pay Wages During Employment	\$62,500
Discounted Realistic Risk Adjusted Exposure	\$516,500

Ultimately, Plaintiff’s Counsel determined an appropriate range of recovery for settlement purposes by offsetting Defendants’ maximum theoretical liability by: (i) the strength of the Defendants’ many merits, joint employer, and other defenses to the merits of Plaintiff’s claims; (ii) the risk of losing on any of a number of dispositive motions that could have been brought before trial (e.g., motions for summary judgment, and/or motions in limine or motions for a manageable PAGA trial plan) that might have eliminated all or some of Plaintiff’s claims, or

1 barred evidence/testimony in support of the claims; (iii) the risk of losing at trial; (iv) the chances
2 of a favorable verdict being reversed on appeal; (v) likely, substantial court reductions of any
3 PAGA recovery; (vi) the likelihood that Plaintiff would not have recovered subsequent pay period
4 penalties under PAGA because of Defendants' argument that neither a court nor Labor
5 Commissioner had ever notified them that they were in violation of the Labor Code; and (vii) the
6 difficulties attendant to collecting on a judgment (collectively, the "Discount Factors").

7 After taking into account the Discount Factors, Plaintiff's Counsel determined that it
8 would be reasonable to settle for a fraction of Defendants' maximum potential exposure for the
9 PAGA claims, or approximately 38.7% (i.e., a \$200,000 settlement where realistic, potential
10 discounted recovery was \$516,500). Such a discount is inherently reasonable given that Plaintiff
11 would have had to overcome **multiple, dependent** contingencies to prevail on his claims. If
12 anything, the projected odds for each of the above contingencies is generous to Plaintiff's
13 position, since plaintiffs in employment cases rarely prevail on **all of the claims** at any of these
14 dispositive stages. Courts routinely approve settlements that provide a similar discounted range of
15 the maximum potential recovery. *See, e.g., In re Warfarin Sodium Antitrust Litig.*, 212 F.R.D.
16 231, 256-58 (D. Del. 2002) (recognizing that a reasonable settlement amount can be 1.6% to 14%
17 of the total estimated damages); *In re Armored Car Antitrust Litig.*, 472 F. Supp. 1357, 1373
18 (N.D. Ga. 1979) (settlements with a value of 1% to 8% of the estimated total damages were
19 approved); *In re Four Seasons Secs. Laws Litig.*, 58 F.R.D. 19, 37 (W.D. Okla.1972) (approving
20 8% of damages); *Balderas v. Massage Envy Franchising, LLP*, 2014 WL 3610945, at *5 (N.D.
21 Cal. July 21, 2014) (finding that settlement which amounted to 8% of maximum recovery "[fell]
22 within the range of possible initial approval based on the strength of plaintiff's case and the risk
23 and expense of continued litigation."); *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1042
24 (N.D. Cal. 2008) (approving settlement of 6% to 8% of estimated damages).³

25
26 ³ *See also In re Uber FCRA Litig.*, No. 14-CV-05200-EMC, 2017 WL 2806698, at *7 (N.D. Cal. June 29, 2017)
27 (granting preliminary approval to class action settlement where gross settlement fund, prior to deducting attorneys'
28 fees and services awards, was valued at 7.5% or less of total possible verdict); *Viceral v. Mistras Grp., Inc.*, No. 15-
CV-02198-EMC, 2016 WL 5907869, at *7 (N.D. Cal. Oct. 11, 2016) (granting preliminary approval to class action
settlement representing "8.1% of the full verdict value" with net settlement amount representing approximately 5.3%
of full verdict value); *Stovall-Gusman v. W.W. Granger, Inc.*, No. 13-cv-02540-HSG, 2015 WL 3776765, at *4 (N.D.
Cal. June 17, 2015) (granting final approval to settlement with net recovery to Plaintiffs valued at 7.3% of potential

1 **i. Settlement Achieves the Purpose of PAGA**

2 The purpose of PAGA is “to incentivize private parties to recover civil penalties for the
3 government that otherwise may not have been accessed and collected by overburdened state
4 enforcement agencies.” (See *Ochoa-Hernandez v. CJADERS Fosods, Inc.* (N.D. Cal. Apr. 2,
5 2010) 2010 WL 1340777 at *4 (citing *Arias, supra*, 46 Cal.4th at 986.) Moreover, PAGA was
6 enacted “to achieve maximum compliance with state labor laws and “to ensure an effective
7 disincentive for employers to engage in unlawful and anticompetitive business practices.” 2003
8 Cal. Legis. Serv. H. 906 section 1(a).

9 Consistent with the purpose of PAGA, the following factors in determining whether to
10 approve the settlement should be applied:

- 11 (1) The extent to which the settlement achieves compliance with state labor laws;
12 (2) The extent to which the settlement deters violations of the state labor laws;
13 (3) Whether the settlement serves to enlist private citizens in public enforcement of
14 PAGA;
15 (4) Whether the settlement is otherwise “just” and “in the public interest.”

16 Because this proposed settlement reasonably and fairly advances each of the above
17 factors, the parties request approval.

18 **1. Factors (1) and (2): The Settlement Achieves Compliance with**
19 **State Labor Laws and Deters Further Violations**

20 As discussed above, Plaintiff believes that he experienced several Labor Code violations
21 during his employment. Defendants deny such violations occurred. Regardless, settlement
22 resolves Plaintiff’s allegations concerning these claimed violations and therefore furthers the
23 public interest in resolution of litigation and recovery by the State and on behalf of putative
24 aggrieved employees, thereby achieving the purpose of PAGA.

25 _____
26 maximum recovery); *Cruz v. Sky Chefs, Inc.*, No. 12-cv-02705-DMR, 2014 WL 7247065, at *5 (N.D. Cal. Dec. 19,
27 2014) (granting final approval where gross settlement amount represented 8.6% of the maximum potential recovery
28 from the class claims and estimated amount distributable to class after accounting for attorneys’ fees and other
deductions represented approximately 6.1% of maximum potential recovery); *In re LDK Solar Sec. Litig.*, No. 07-cv-
05182-WHA, 2010 WL 3001384, at *2 (N.D. Cal. July 29, 2010) (granting final approving where “[t]he proposed
settlement amount is [. . .] only about five percent of the estimated damages before fee and costs—even before any
reduction thereof for attorney’s fees and costs.”).

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1 Second, the settlement resolves Plaintiff's claim for PAGA penalties and the release is
2 narrowly tethered to the alleged Labor Code violations asserted in Plaintiff's PAGA notice and
3 his PAGA complaint.

4 Third, the settlement shall, even with deductions, provide a substantial sum to the State:
5 \$75,480.44. Given that the purpose of PAGA is not to compensate employees, who still retain any
6 non-PAGA private rights of action they may have had under the applicable Labor Code
7 provisions, this sum provided to the aggrieved employees is reasonable. Moreover, the settlement
8 will also provide notice that describes the litigation and settlement amount. Plaintiff contends this
9 notice will educate the aggrieved employees as to the requirements of the Labor Code, which is in
10 the public interest intended to achieve the purpose of PAGA. (See Labor Code section 2699(j)
11 (stating that civil penalties recovered under PAGA shall be distributed to the LWDA for [among
12 other things] "education of employers and employees about their legal rights and responsibilities
13 under this code."))

14 Lastly, public policy strongly favors the settlement of litigation. (*Consumer Advocacy*
15 *Group, Inc. v. Kinetsu Enterprises of America*, 141 Cal.App.4th, 46, 63 (2006).) This settlement
16 is just and furthers the public interest, and thus it should be approved.

17 **B. SETTLEMENT DISTRIBUTION UNDER PAGA**

18 The PAGA Settlement Agreement provides for a gross settlement in the amount of
19 \$200,000.00. (Jackson Decl. ¶ 1, Ex. A, p. 4, Section S.) This settlement amount covers civil
20 penalties (to be shared between the LWDA and aggrieved employees), as well as attorneys' fees,
21 litigation costs, and settlement administration costs. (*Id.*)

22 Pursuant to the agreement, the settlement amount will be distributed as follows: 1) Thirty-
23 Three and one-third percent, equaling \$66,666 will be apportioned to attorneys' fees to Plaintiff's
24 counsel to procure the PAGA penalties; 2) Litigation costs in the amount of \$10,756.16; 3)
25 Settlement Administration costs in the amount of \$10,500.00; 4) a PAGA Enhancement payment
26 of \$10,000.00 will be awarded to Plaintiff; 5) of the remaining \$102,077.84, Seventy-Five percent
27 (equaling \$76,558.38) will be apportioned to the LWDA; and 6) the remaining Twenty-Five
28 percent, equaling \$25,519.46, will be distributed to the PAGA group. (Jackson Decl. ¶ 1, Ex. A,

1 p. 3, Section 10.) The amount to be distributed to the PAGA group will be paid on a pro-rata basis
2 by dividing the Net Settlement Amount by the total number of pay periods worked by all
3 members of the PAGA Group during the settlement period and then multiplying the pay period
4 amount by the number of pay periods worked by the individual PAGA member. (Jackson Decl. ¶
5 1, Ex. A, p. 3, Section 8.)

6 **C. ATTORNEYS' FEES AND COSTS UNDER PAGA SETTLEMENT**
7 **AGREEMENT**

8 The Labor Code permits a Plaintiff to seek attorneys' fees and costs for actions arising
9 under PAGA. (Cal. Lab. Code §2699, subd. (g)(1))

10 **i. Attorneys' Fees Are Justified**

11 **1. Lodestar Analysis**

12 "Courts recognize two methods of calculating attorney fees in civil class action; the
13 lodestar/multiplier method and the percentage of recovery method." (*Wershba v. Apple*
14 *Computer, Inc.*, 91 Cal. App. 4th 224, 254 (2001).) "[T]he lodestar is calculated by multiplying
15 the reasonable hours expended by a reasonable hourly rate. The court may then enhance the
16 lodestar with a multiplier, if appropriate." (*Id.*) "The lodestar multiplier can range from 2 to 4 or
17 even higher." (*Id.* at 255.)

18 In calculating attorney's fees under the Labor Code, the court should follow the lodestar
19 approach adopted by the California Supreme Court in *Ketchum v. Moses* (2001) 24 Cal. 4th 1122,
20 1134. See also *Chavez v. City of Los Angeles* (2010) 47 Cal. 4th 970, 985. The "lodestar" method
21 is clearly defined in recent case law. It involves a five-step process. *In Re: Vitamin Cases* (2003)
22 110 Cal. App. 4th 1041, 1052. To determine the "lodestar number" – steps one through three of
23 the process – the court multiplies the number of hours reasonably worked by a reasonable hourly
24 rate. (*Id.*) Step four requires the Court to determine what, if any, multiplier should be applied to
25 the lodestar number. Step five determines the amount of the attorney fee award by applying the
26 multiplier to the lodestar number. (*Id.*)

27 For the Court's ease of reference, the following chart summarizes the attorneys' fees
28 PAGA Counsel seeks:

Item Description	Amount
Reasonable attorneys' fees incurred in procuring the underlying award applying the Lodestar method for calculating attorneys' fees in Labor Code cases (Armond M. Jackson: \$725 hourly rate; Anthony Filer Jr: \$250 hourly rate; Yesenia Villalba: \$145 hourly rate)	\$67,861.50 * no multiplier
TOTAL:	\$66,666 requested

2. The Number of Hours Expended by Plaintiff's Counsel Was Reasonable.

"The starting point of every fee award...must be a calculation of the attorney's services in terms of the time he has expended on the case." *Press v. Lucky Stores, Inc.*, 34 Cal. 3d 311, 322 (1983) . Reasonable hours include, in addition to time spent during litigation, time spent before the action is filed, including time reasonably spent interviewing the client, investigating the facts and the law, and preparing the initial pleadings, as well as time spent in exhausting administrative remedies. *New York Gaslight Club, Inc. v. Carey*, 447 U.S. 54 (1980) , 62.

The evidence submitted by PAGA Counsel in support of this motion reflects that PAGA Counsel reasonably expended a significant number of hours in the prosecution of this case. (Jackson Decl. ¶¶ 3-13, 17 Ex. D) Jackson Law filed this class and PAGA action in March 2023, more than 18 months prior to this hearing. A reasonable amount of work was performed pre-litigation, including conducting an extensive intake process. (Jackson Decl. ¶¶ 3-13, 17 Ex. D) Discovery was conducted by counsel regarding both the circumstances of Plaintiff's employment, hours worked during his employment, meal breaks, wage statements, and rest periods taken during his employment and Defendants' policies in general regarding the employment of individuals with respect to payment of wages, working conditions, meal breaks and rest periods, minimum wage, overtime violations and unreimbursed business expenses. (Jackson Decl. ¶¶ 3-13, 17 Ex. D)

The time expended during the discovery phase was also reasonably incurred. (*Id.*) Thereafter, numerous hours were spent by counsel in performing a damages analysis of the

1 number of aggrieved employees and their entitlement to wages for missed meal breaks, rest
2 periods, overtime, accurate wage statements, minimum wage claims, pay upon termination and
3 unreimbursed business expenses. (*Id.*)

4 The time expended to achieve approval of the settlement is also reasonably incurred. (*Id.*)
5 Counsel conducted extensive legal research on the procedures and issues involved in achieving
6 approval. (*Id.*) Armond M. Jackson appeared for court hearings on several occasions preparing
7 and arguing the motion and addressing any concerns of the Court. (*Id.*) These hours were
8 reasonably spent to achieve approval of this PAGA Settlement. (*Id.*)

9 As set forth in the declarations submitted herewith, the total number of hours spent on this
10 matter by PAGA Counsel is reasonable in light of the work required to achieve the result. (*Id.*)
11 Thus, the Court should conclude that all of the time spent on this case was reasonable and
12 necessary to achieve the favorable result and counsel is entitled to compensation for all the
13 attorney hours worked in this case. (*Id.*)

14 **3. The Hourly Rate Charged for the Services of Plaintiff's**
15 **Counsel is Reasonable.**

16 When determining a reasonable hourly rate for the attorney's services, courts consider the
17 following factors: (i) the prevailing rate charged by attorneys of similar skill and experience for
18 comparable legal services in the community, (ii) the nature of the work performed, and (iii) the
19 attorney's customary billing rates. *Serrano v. Unruh*, 32 Cal.3d 631 (1982) , 643; *See also Bihun*
20 *v. AT&T Information Systems, Inc.*, 13 Cal.App.4th 976 (1993), 997 *disapproved on other*
21 *grounds Lakin v. Watkins Associated Industries*, 6 Cal.4th 644, 664 (1993). The hourly rate is
22 determined at the time of the prevailing party's fee application rather than rates charged at the
23 time the litigation began. (*Gates v. Deukmejian* (9th Cir. 1992) 987 F.2d 1392, 1406.)

24 The Jackson Declaration lays the proper foundation for why the hourly rates charged for
25 each attorney working on this case are reasonable and customary for the rates charged in Southern
26 California by attorneys with similar experience. (Jackson Decl. ¶¶ 3-10, 17 Ex. D, 19 Ex. F)

27 Mr. Jackson's hourly rate on this matter (\$725 per hour) is consistent with the Laffey
28 Matrix. (Jackson Decl. ¶¶ 3-13, 17 Ex. D, 19 Ex. F) Mr. Jackson is a senior attorney who has

1 been litigating for over 13 years. (*Id.*) He has handled over a hundred employment matters on
2 behalf of plaintiffs in his career. (*Id.*) Mr. Jackson is a former member of the California
3 Employment Litigation Association (“CELA”). (Jackson Decl. ¶¶ 14-15.) Mr. Jackson has argued
4 before the Ninth Circuit and is responsible for a published opinion. (*Id.*) Based on his experience,
5 and based on his own research for purposes of keeping his law firm competitive and profitable, he
6 has knowledge of the hourly rates other plaintiff’s attorneys with similar experience charge in
7 employment cases. (*Id.*) Based on this foundation, Mr. Jackson believes that his regular hourly
8 rate of \$725 per hour is reasonable and similar to what attorneys with his tenure, experience and
9 expertise are charging in the Orange County area. (*Id.*) All other hourly rates for Mr. Jackson’s
10 staff that worked on this matter are also reasonable: (1) Anthony Filer Jr. as 2.5-year California
11 licensed attorney at \$250 per hour; and (2) Yesenia Villalba as paralegal with 5 years of litigation
12 experience at \$145 per hour. (Jackson Decl. ¶ 21.)

13 This evidence therefore supports the reasonableness of the fees charged in this case.

14 “Our Supreme Court has explained that the reasonable hourly rate used for the lodestar
15 calculation ‘is that prevailing in the community *for similar work.*’” *Syers Properties III, Inc. v.*
16 *Rankin*, 226 Cal.App.4th 691, 702, (2014). Reasonable hourly rates are determined by the
17 formula “‘reasonable market value’” and reached by evaluating the “‘comparable salaries earned
18 by private attorneys with similar experience and expertise in equivalent litigation’” and the
19 “‘hourly amount to which attorneys of like skill in the area would typically be entitled.’” (*Serrano*
20 *v. Unruh*, 32 Cal. 3d 621, 640, fn. 31 (1982).)

21 **4. Laffey Matrix Rates**

22 The Laffey Matrix is one well-established objective source setting rates for attorneys
23 based upon years of experience for attorneys practicing in the District of Columbia. *See*
24 <https://www.justice.gov/usao-dc/file/796471/download> (citing *Laffey v. Northwest Airlines, Inc.*,
25 572 F.Supp. 354 (D.D.C. 1983), *aff’d in part, rev’d in part* on other grounds. 746 F.2d 4 (D.C.Cir.
26 1984). The Laffey Matrix figures are adjusted to comport with the cost of living in areas where
27 the firm operates. (*In re HLP Technologies, Inc. Securities Litigation*, 366 F.Supp. 2d 912, 921
28 (2005).) Under the Laffey Matrix, Orange County attorney rates fall under the Locality of Pay

1 Rates of Los Angeles-Long Beach, California. When performing the appropriate calculation
2 $(126.65-124.78/124.78=2.3\%)$, the adjustment to the District of Columbia Laffey Matrix is 2.3%
3 for Orange County attorneys. (See *In re HLP Technologies, Inc. Securities Litigation*, 366
4 F.Supp. 2d 912, 922 fn. 1.)

5 Thus, according to the Laffey Matrix, Mr. Jackson's hourly rate as a 12-year plus attorney
6 should be \$895.56 but is discounted to \$725.00 (\$878 (D.C. Laffey Matrix 12-year attorney
7 without adjustment) + $\$878*2\% = \895.56 with locality adjustment). Mr. Filer Jr's rate as a 2.5-
8 year attorney according to the Laffey Matrix should be \$445.74 but is discounted to \$250 \$445.74
9 ($\$437$ (D.C. Laffey Matrix 2-year attorney without adjustment) + $\$437*2\% = \445.74). Lastly,
10 the rate for Yesenia Villalba as a paralegal, according to the Laffey Matrix, should be \$243.78 but
11 is discounted to \$145 ($\239 (D.C. Laffey Matrix for paralegal without adjustment) + $\$239*2\%$
12 $= \$243.78$). Thus, the applicable rates should be deemed reasonable. (Jackson Decl. ¶ 19, Ex. F)
13 According to the Laffey Matrix, the rates that Plaintiff's counsel is seeking are discounted.

14 **5. Attorney's Fees**

15 Plaintiff requests that 33.33% of the amount awarded under the PAGA settlement will be
16 apportioned to attorneys' fees. (Jackson Decl. ¶ 1, Ex. A, p. 3, Section 10) This amount is to be
17 distributed from the lump sum settlement payment of \$200,000.00 that the parties agreed to settle
18 Plaintiff's PAGA claims and amounts to a total of \$66,666. (*Id.*) A fee application of 33.33%
19 was used in this case to be consistent with standard practices for representative actions. (*Id.*)

20 The attorney time spent, as well as the costs incurred, were reasonable to prosecute
21 Plaintiff's claims. Plaintiff had to establish that he was an aggrieved employee to be able to
22 maintain standing under PAGA. (Cal. Lab. Code § 2699, subd. (a)). As of the date of this filing,
23 in excess of 103.5 hours of attorney time has been spent pursuing this case. A 33.33% allocation
24 of the \$200,000.00 award to PAGA is \$66,666. (*Id.*) Based upon the standard practices for
25 representative actions and the amount of time that has been spent pursuing the representative
26 action in this case, the attorneys' fees allocation that Plaintiff seeks is reasonable.

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6. Costs

Plaintiff seeks \$12,193.41 in litigation costs. This amount represents costs incurred including court-filing and process-serving fees; mediation costs, postage costs and expected filing fees for the instant motion. This amount of costs requested is modest and reflects efficient litigation of the case. (Jackson Decl, ¶ 16, Ex. C)

V. CONCLUSION

For the reasons set forth herein, Plaintiff requests that the Court approve the proposed settlement; approve the proposed notice; and adopt the Order filed concurrently herein.

Dated: April 5, 2025

JACKSON APC

By /s/ Armond M. Jackson

Armond M. Jackson
Attorneys for Plaintiff
JOSEF BERNSTEIN