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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

IANNA DAVID, individually, and on behalf of all others similarly situated, Plaintiff, v. NORWALK RETIREMENT VILLA, LLC, a limited liability company; and DOES 1 through 10, inclusive, Defendants.	Case No.: 25NWCV01524 Related to 25STCV05682 *[Assigned for all purposes to the Hon. William F. Highberger, Dept. 10]* **PLAINTIFF'S NOTICE OF MOTION AND MOTION TO APPROVE THE PAGA SETTLEMENT AND ENTER JUDGMENT** Approval Hearing Date Date: September 23, 2026 Time: 11:00 a.m. Dept.: 10 Complaint filed: April 28, 2025 Trial date: None set

TO THE HONORABLE COURT AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 23, 2026 at 11:00 a.m. in Department 10 of the Spring Street Courthouse, Los Angeles County Superior Court, located at 312 N. Spring St., Los Angeles, CA 90012, the Honorable William F. Highberger presiding, Plaintiff Ianna David ("Plaintiff") will, and hereby does, move for an order pursuant to Labor Code § 2699(l)(2) approving the PAGA Settlement Agreement (the "Settlement" or "Agreement") and PAGA Cover Letter ("Notice") entered into by Plaintiff and Defendant Norwalk Retirement Villa, LLC ("Defendant") to settle the instant action brought by Plaintiff pursuant to the Private Attorneys General Act ("PAGA"), Lab. Code. § 2698, *et seq*. (the "Action"). A true and correct copy of the Agreement is attached as **Exhibit 2** to the Declaration of Karen L. Wallace in Support of Plaintiff's Motion to Approve PAGA Settlement ("Wallace Decl.").

The Settlement provides for the statutory allocation of civil penalties to the California Labor & Workforce Development Agency ("LWDA") and all "Aggrieved Employees," defined as all hourly-paid or non-exempt employees who worked for Defendant in California any time from February 22, 2024, to January 18, 2026 (the "PAGA Period"). The Parties agree that the amount of civil penalties to be paid by Defendant satisfies PAGA's purpose and thus is fair and reasonable.

This motion is based on this Notice, the Memorandum of Points and Authorities, the Declarations of Karen L. Wallace and Ianna David and attached exhibits, as well as the records on file in this action and any argument the Court is presented with at the time of the hearing (the "Motion").

Dated: June 26, 2026

WILSHIRE LAW FIRM

By: ______________________________
Nicol E. Hajjar
Rachel J. Vinson
Alan Wilcox
Karen L. Wallace

Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION.

On February 21, 2025, pursuant to Labor Code § 2699.3(a)(1), Plaintiff Ianna David ("Plaintiff") timely provided notice to the Labor and Workforce Development Agency ("LWDA") and Defendant Norwalk Retirement Villa, LLC ("Defendant") of alleged Labor Code violations ("PAGA Notice"). (Declaration of Karen L. Wallace ("Wallace Decl.") ¶ 5, Ex. 1.) The LWDA did not notify Plaintiff or Defendant that it intended to investigate the alleged violations, either within the statutory waiting period or thereafter. (*Id.*) Accordingly, on April 28, 2025, Plaintiff filed a complaint in the above-captioned court alleging against Defendant a cause of action under the Private Attorneys General Act ("PAGA"), Lab. Code § 2968, *et seq*., asserting the claims alleged in the PAGA Notice (the "Action"). (*Id*. ¶ 7.)

On December 1, 2025, Plaintiff and Defendant engaged in adversarial, arm's-length negotiations in a full-day mediation with experienced mediator Barry M. Appell, Esq. (the "Mediator"), which resulted in the Parties' proposed settlement (the "Settlement"). (*Id*. ¶ 10.) As memorialized in the settlement agreement (the "Agreement"), Defendant will pay $105,000.00 to resolve the Action ("Gross Settlement Amount" or "GSA"), including the statutory allocation of civil penalties to the LWDA and all hourly-paid or non-exempt employees who worked for Defendant in California during the "PAGA Period," from February 22, 2024, to January 18, 2026 ("Aggrieved Employees"). (*Id.* ¶ 11, Ex. 2.)

PAGA settlements require court approval and must be submitted to the LWDA when any motion for approval is filed with the court. Lab. Code § 2699(l)(2). Accordingly, on July 7, 2026, Plaintiff submitted the proposed Agreement to the LWDA. (*Id.* ¶ 13, Ex. 3.) The Parties now respectfully request that the Court approve the Settlement, for the reasons discussed below.

II. SUMMARY OF FACTS AND PROCEDURAL HISTORY.

This is a PAGA action brought by Plaintiff on behalf of the State of California, the LWDA, and all Aggrieved Employees. Defendant is an assisted living community in Norwalk, California, and Plaintiff is a former employee. (Wallace Decl. ¶ 3.)

Plaintiff alleges against Defendant the following wage and hour violations: failure to pay for all hours worked, including at the overtime rate of pay; failure to provide lawful meal periods or pay period premiums in lieu thereof; failure to authorize and permit rest periods or pay rest period premiums in lieu thereof; failure to pay all wages timely; failure to maintain accurate records; failure to furnish accurate, itemized wage statements; and failure to indemnify for necessary business expenditures. (*Id*. ¶ 4.)

On February 21, 2025, Plaintiff timely submitted the PAGA Notice, *supra*. (*Id*. ¶ 5, Ex. 1.) Neither Plaintiff nor Defendant received notice within the statutory 65-day waiting period that the LWDA intended to investigate the alleged violations. (*Id*.)

On February 28, 2025, on behalf of herself and a putative class of similarly situated employees, Plaintiff filed a class action complaint in the above-captioned court, Case No. 25STCV05682, alleging against Defendant various wage and hour violations arising since February 28, 2021 ("Class Action"). (*Id*. ¶ 6.)

Subsequently, on April 28, 2025, Plaintiff commenced the Action, *supra*, by filing a complaint alleging against Defendant a PAGA cause of action for the Labor Code violations alleged in the PAGA Notice and seeking civil penalties. (*Id*. ¶ 7.) The Class Action and the Action were deemed related on June 20, 2025. (*Id*. ¶ 8.)

After Plaintiff initiated the Class Action, the Parties began extensive discussions and informal discovery regarding the claims and defenses at issue. (*Id*. ¶ 9.) Prior to mediation, Defendant produced Plaintiff's personnel file, a sample of Class Members and Aggrieved Employees' timekeeping and payroll records, and Defendant's policies and procedures in effect during the relevant time periods. The Parties have thus engaged in sufficient discovery and investigation to assess the relative merits of the Parties' respective claims and contentions and the likelihood of prevailing at trial. (*Id*.)

On December 1, 2025, the Parties participated in a full-day mediation with the Mediator, *supra*. (*Id*. ¶ 10.) Settlement negotiations were at arm's length and adversarial, as both Parties, while willing to explore the potential for settlement, were prepared to litigate their positions through trial and appeal if a settlement had not been reached. Ultimately, with the help of the Mediator, the Parties agreed to the material terms of the Settlement. (*Id*.) In short, the Settlement

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covers approximately 95 Aggrieved Employees and includes the dismissal of the Class Action, without prejudice as to the class claims, but with prejudice as to Plaintiff's individual claims, on the grounds that Plaintiff lacks sufficient evidence to prosecute the Class Action. Defendant will pay $105,000.00 to resolve the Action ("Gross Settlement Amount" or "GSA"), including the statutory allocation of civil penalties to the LWDA and all Aggrieved Employees. (*Id*. ¶ 11, Ex. 2.) The material terms of the Settlement are discussed in detail below.

III. **ARGUMENT.**

Under PAGA, an aggrieved employee may sue an employer for alleged Labor Code violations and seek statutory civil penalties. (Lab. Code § 2699(a).) An "aggrieved employee" is any person who was employed by the alleged violator and personally suffered each of the violations alleged during the relevant period. (Lab. Code § 2699(c)(1).) Any such award of civil penalties is allocated thirty-five percent (35%) to the aggrieved employees and sixty-five percent (65%) to the LWDA. (Lab. Code § 2699 (m).).

Plaintiff is an "aggrieved employee," as she was employed by Defendant, the alleged violator, and personally suffered each of the Labor Code violations alleged. (*See* Declaration of Ianna David ("David Decl.") ¶ 3; Wallace Decl. ¶ 5, Ex. 1 (PAGA Notice).)

A. **Summary of Settlement Terms.**

Payment Terms

The Settlement provides for Defendant to pay the Gross Settlement Amount of $105,000. (Agreement § 1.12.) The following payments will be made from the Gross Settlement Amount (*Id*. § 3.2):

a. A "PAGA Representative Service Payment" in an amount not to exceed $10,000.00 to Plaintiff for initiating the Action and providing services in support of the Action;
b. A "PAGA Counsel Fees Payment" in an amount not to exceed one-third (1/3) of the GSA (currently estimated at $35,000.00) to PAGA Counsel for their attorneys' fees;
c. A "PAGA Counsel Litigation Expenses Payment" in an amount not to exceed $24,000 (currently estimated at $19,012.60) to PAGA Counsel for attorneys' costs incurred in the litigation; and

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d. An "Administration Expenses Payment" in an amount not to exceed $4,000.00 to the Phoenix Settlement Administrators (the "Administrator") for administration costs. (*See* Wallace Decl. ¶ 18, Ex. 4 ("Administrator Bid").)

If the Court approves the Settlement, the amount remaining after these deductions from the GSA will be paid to the LWDA and Aggrieved Employees to resolve all PAGA claims ("PAGA Penalties"). (*Id*. ¶¶ 15, 16.)

The PAGA Penalties will be allocated 65% ($23,400) to the LWDA ("LWDA PAGA Payment") and 35% ($12,600) to Aggrieved Employees ("Net Settlement Amount"). (*Id*. ¶ 16.) If the Court approves any payment less than the amount requested above, the Administrator will retain the remainder in the Net Settlement Amount to be disbursed to Aggrieved Employees on a pro-rata basis as Individual PAGA Payments. The average Individual PAGA Payment is currently estimated at $132.62 ($12,600 ÷ 95). (*Id*. ¶ 17.)

<u>Administration</u>

The "Effective Date" means the date on which the Judgment becomes final, *i.e*. the date the Judgment is entered by the Court based on the order granting approval of the Settlement. (Wallace Decl. ¶ 19; *see also* Agreement §§ 1.7, 1.11, 1.14.)

"Aggrieved Employee Data" means Aggrieved Employee identifying information in Defendant's possession including the Aggrieved Employee's name, last-known mailing address, last-known telephone number, last-known email address (if any), Social Security number, and number of PAGA Pay Periods. (Agreement § 1.5.) Within 14 days of the Court entering an order granting approval of the Settlement, Defendant will deliver said data to the Administrator in the form of a Microsoft Excel spreadsheet. In addition, without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data. (*Id*. § 4.2.) No later than 30 days after the Effective Date, Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator. (*Id.* § 4.3.) (*See also* Wallace Decl. ¶ 20.)

The Administrator will issue checks for Individual PAGA Payments and mail them to

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Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date when the check will be voided (not less than 180 days after the date of mailing). Before mailing any check, the Administrator must update the recipients' mailing addresses using the National Change of Address Database. (Agreement § 4.4.1; *see also* Wallace Decl. ¶ 21.) The Administrator must conduct an Address Search for all Aggrieved Employees whose checks are returned undelivered without a United States Postal Service ("USPS") forwarding address, and, within 7 days of receiving a returned check, the Administrator must re-mail the check to the USPS forwarding address provided or to an address ascertained through the Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. (Agreement § 4.4.2; *see also* Wallace Decl. ¶ 22.) For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such check to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee. (Agreement § 4.4.3; *see also* Wallace Decl. ¶ 23.)

<u>Releases of Claims</u>

"Released Parties" means Defendant and each of its former and present officers, directors, managerial employees, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, affiliates, and agents. (Agreement § 1.28; *see also* Wallace Decl. ¶ 24.) Effective on the date when Defendant fully funds the entire GSA, Plaintiff and PAGA Counsel will release claims against all Released Parties as follows: Plaintiff and Plaintiff's respective former and present representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims arising since February 28, 2021 ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time or based on occurrences prior to February 28, 2021. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release

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shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them. Plaintiff's Release includes a waiver of rights under Civil Code § 1542. (Agreement §§ 5, 5.1, 5.1.1.; *see also* Wallace Decl. ¶ 25.)

Also effective on the date when Defendant fully funds the entire GSA, Aggrieved employees release claims as follows: to the fullest extent permitted by law, the State of California and all Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for civil penalties under PAGA arising during the PAGA Period that were alleged, or reasonably could have been alleged, based on the facts and allegations in the Class Action Complaint, the Operative Complaint, and the PAGA Notice, including claims for civil penalties based on the following: (1) failure to pay minimum wages; (2) failure to pay straight time wages; (3) failure to pay overtime wages; (4) failure to provide meal periods; (5) failure to provide rest periods; (6) failure to timely pay wages during employment; (7) failure to maintain accurate records; (8) failure to timely pay final wages; (9) failure to furnish accurate wage statements; and (10) failure to indemnify employees for expenditures ("Released PAGA Claims"). (Agreement § 5.2; *see also* Wallace Decl. ¶ 26.)

B. <u>The Settlement is Fair and Reasonable and Should Be Approved.</u>

For purposes of approval generally, "[s]ettlement is a compromise, which balances the possible recovery against the risks inherent in litigating further." (*See In re TD Ameritrade Account Holder Litig.* (N.D. Cal. Sept. 13, 2011) 2011 WL 4079226, *9.) Indeed, "the very essence of a settlement is…'a yielding of absolutes and an abandoning of highest hopes,'" as "it is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements." (*See Officers for Justice v. Civil Service Com*. (9th Cir. 1982) 688 F.2d 615, 624-25 (citations omitted).) Accordingly, "the settlement or fairness hearing is not to be turned into a trial or rehearsal for trial on the merits" or "judged against a hypothetical or speculative measure of what might have been achieved by the negotiators." (*Id*.)

Like class action settlements, PAGA settlements, including any penalties sought must be

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reviewed and approved by the court. (Lab. Code § 2699(l). However, "an employee's representative action against an employer...seeking civil penalties under [PAGA] need not satisfy class action requirements." *Estrada v. Royalty Carpet Mills, Inc*., 15 Cal. 5th 582, 607 (2024) (internal quotations and citations omitted).) Because no express criteria exist for approval of a PAGA settlement, a reviewing court may utilize some of the factors for review of a class action settlement. (*See Casida v. Sears Holdings Corp.* (E.D. Cal. Jan. 26, 2012) 2012 WL 253217, *3 ("[A] PAGA claim asserted on a non-class representative basis…is not considered a class action but a law enforcement action, and therefore does not have to meet the requirements of [a class action]."); *Mendez v. Tween Brands, Inc.*, 2010 WL 2650571, *4 (E.D. Cal. July 1, 2010) ("The remedy sought in a PAGA suit consists of civil penalties, not individual or class damages."); *Ochoa-Hernandez v. Cjaders Foods, Inc.* (N.D. Cal. Apr. 2, 2010) 2010 WL 1340777, *4 (Unlike class actions, these civil penalties are not meant to compensate unnamed employees because the action is fundamentally a law enforcement action.").) Nevertheless, review of a PAGA settlement necessarily implicates several factors.

First, in evaluating the adequacy of the settlement, the Court's focus is not on the amount(s) that "aggrieved employees" will receive, but on the settlement as a whole in light of PAGA's objective, "to protect the public and penalize the employer for past illegal conduct." (*Mendez*, 2010 WL 2650571 at *4) Thus, while the reviewing Court must consider that a PAGA settlement– like any settlement – involves a "compromise" that stops short of rendering findings of liability and damages, (*Mendez*, 2010 WL 2650571 at *4), the Court must also consider the fact that "the purpose of PAGA is to incentivize private parties to recover civil penalties for the government that otherwise may not have been assessed and collected by overburdened state enforcement agencies." (*See Ochoa-Hernandez,* 2010 WL 1340777 at *4.)

Second, PAGA is a procedural statute that "does not create property rights or any other substantive rights" but rather "[allows] an aggrieved employee to recover civil penalties…that otherwise would be sought by state labor law enforcement agencies." (*Amalgamated Transit Union, Local 1756, AFL-CIO v. Superior Court* (2009) 46 Cal.4th 993, 1003.) Therefore, "[u]nnamed employees need not be given notice of the PAGA claim, nor do they have the ability to opt-out of the representative PAGA claim." (*Ochoa-Hernandez, supra,* 2010 WL 1340777 at *4.)

Finally, unlike a class action settlement under Rule 3.769, the scope of release permitted in a PAGA settlement is limited because "judgment in [a PAGA] action is binding not only on the named employee plaintiff but also on government agencies and any aggrieved employee not a party to the proceeding." (*Arias v. Superior Court* (2009) 46 Cal.4th 969, 986-87.) Thus, excluding only the named plaintiff, the release in a PAGA settlement is limited to the claims that were or could have been alleged under PAGA by the LWDA based on the factual allegations in the complaint. In the instant matter, the only claims at issue are PAGA claims, which will be extinguished as a result of this Settlement, excluding Plaintiff's much broader, general release.

California courts have a strong policy in favor of settlement. (*See, e.g., Stambaugh v. Superior Court* (1976) 62 Cal.App.3d 231, 236.) Unlike individual settlements, class and representative settlements require court approval to prevent fraud, collusion, and unfairness to absent individuals. (*Malibu Outrigger Bd. of Governors v. Superior Court* (1980) 103 Cal.App.3d 573, 578-79.) Thus, approval is based on "a standard requiring the trial court to determine independently whether a PAGA settlement is fair and reasonable is appropriate." (*Moniz v. Adecco USA, Inc*. 72 Cal. App. 5th 56, 76 (2021), *disapproved of on other grounds by Turrieta v. Lyft, Inc*., 16 Cal. 5th 664 (2024).) "Because many of the factors used to evaluate class action settlements bear on a settlement's fairness—including the strength of the plaintiff's case, the risk, the stage of the proceeding, the complexity and likely duration of further litigation, and the settlement amount—these factors can be useful in evaluating the fairness of a PAGA settlement." (*Moniz*, *supra*, at 76-77.) Furthermore, when approving a PAGA settlement, the Court can analyze the fairness of a settlement under the same framework as it does for class actions.

In the class action context, there is a presumption of fairness of a class action settlement when: (1) the settlement is reached as a result of arm's length negotiations; (2) there has been sufficient investigation and discovery; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802.) To approve a class action settlement, the trial court must understand "the amount that is

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in controversy and the realistic range of outcomes of the litigation." (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 120.).

The Settlement satisfies these factors as detailed below.

1. The Settlement Was Reached Through Arms-Length Bargaining.

The Parties reached the Settlement after a full-day mediation with the Mediator, and negotiations were at arm's length and adversarial, as both Parties were prepared to litigate their position through trial and appeal if a settlement had not been reached. (Wallace Decl. ¶ 10.)

2. The Settlement Is Based On Sufficient Investigation and Discovery.

Before mediation, PAGA Counsel investigated the claims and defenses at issue, conducted legal research, and engaged in informal discovery sufficient to assess the likelihood of prevailing at trial. Based upon the information obtained, PAGA Counsel was able to act intelligently and effectively in negotiating the proposed Settlement. (*Id.* ¶ 9.)

3. PAGA Counsel Have Extensive Experience in PAGA Actions.

Highly capable and experienced counsel conducted the settlement negotiations. PAGA Counsel are respected members of the bar with a strong record of vigorous and effective advocacy for their clients and experience litigating complex wage and hour class and PAGA actions. (Wallace Decl. ¶¶ 49-59.) PAGA Counsel believe this Settlement represents a fair and reasonable resolution. (*Id*. ¶ 46.)

4. Assessing the Amount in Controversy and the Risks of Trial.

2. Plaintiff and PAGA Counsel remain confident of the merits of Plaintiff's claims. (Wallace Decl. ¶ 27.) With respect to meal periods, Plaintiff alleges that Defendant did not have fully compliant written meal period policies. (*Id.*) Plaintiff believes the allegation has merit but is not without risk. (*Id.*) With respect to rest periods, Plaintiff contends that she and other Aggrieved Employees were not provided the opportunity to take all lawful rest periods to which they were entitled, as breaks were often missed, short, or interrupted due to a heavy workload. (*Id.*) Again, Plaintiff believes the allegation has merit but recognizes that proving rest period violations is particularly difficult, as rest periods are typically not recorded, and employees may elect to forego them. (*Id.*) With respect to derivative claims, Defendant contends that wage statements issued to

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Aggrieved Employees satisfy Labor Code § 226(a). (*Id.*) Defendant also maintains that Plaintiff cannot show that any alleged wage statement violation was "knowing and intentional" or that she or any other Aggrieved Employee "suffer[ed] injury" as a result, pursuant to Labor Code § 226(e). (*Id.* ¶ 28.) Finally, Plaintiff recognized the real risk that the Court could significantly reduce penalties given the technical nature of the alleged violations. (*Id*. ¶ 29.)

Without this Settlement, the Parties face preparation for trial, as well as extensive formal discovery efforts and further depositions, which would require the Parties to incur considerably more attorneys' fees and costs through trial. (*Id*.) This Settlement avoids those risks and the accompanying expense and provides for certain relief to the LWDA and Aggrieved Employees. (*Id*.) This factor thus favors approval.

As described above, based on the contested claims, the proposed Settlement provides a fair and reasonable monetary recovery for the LWDA and Aggrieved Employees. Plaintiff estimated Defendant's realistic exposure for the PAGA penalties as follows:

<u>PAGA Penalties for Unpaid Wages, Meal Period Violations and Rest Period Violations</u>

The Settlement covers multiple alleged Labor Code violations for 1,666 pay periods during the PAGA Period. (Wallace Decl. ¶ 30.) Using the default penalty under PAGA of $100 per aggrieved employee per pay period, Defendant's maximum potential exposure was estimated to be at least $654,100. (Lab. Code § 2699(f)(2)(A).) However, the default for wage statement violations may be limited to $25 per aggrieved employee per pay period if the court finds that "the employee could promptly and easily determine from the wage statement alone the accurate information specified by subdivision (a) of Section 226…[or] would not be confused or misled about the correct identity of their employer." (Lab. Code § 2699(f)(2)(A)(i).) Applying the lower default for wage statement violations, which means an estimated $37,950 in penalties for that claim, Defendant's maximum potential exposure is reduced to approximately $540,250. (Wallace Decl. ¶ 30.) PAGA Counsel, then discounted this amount by 50% due to the likelihood of Plaintiff's prevailing at trial based on the highly contested nature of the claims, the fact that multiple claims would have required the Court to assess disputed narratives regarding allegations, including those with no reliable documentary support, Defendant's defenses, and the Court's discretion to reduce penalties

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in order to avoid an unjust result. This discount yielded a more realistic maximum exposure of $270,125. (*Id.* ¶ 31; *see also Fleming v. Covidien Inc.* (C.D. Cal., Aug. 12, 2011, No. (OPX)) 2011 WL 7563047, at *4 (reducing PAGA penalties from $2.8 million to $500,000); *Thurman v. Bayshore Transit Management, Inc.* (2012) 203 Cal.App.4th 1112, 1136 (affirming trial court's finding that awarding maximum PAGA penalties would be unjust).)

The Gross Settlement Amount therefore represents approximately 39% of Plaintiff's reasonably forecasted total recovery ($105,000.00 / $270,125.00 = 39%). (Wallace Decl. ¶ 32.) "The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved." (*Linney v. Cellular Alaska Partnership* (9th Cir. 1998) 151 F.3d 1234, 1242 [internal quotations omitted].) In this Action, continued litigation would delay payment to the LWDA and the PAGA Employees as they await trial and, most likely, appellate proceedings. (Wallace Decl. ¶ 32.) Furthermore, while Plaintiff is confident the claims have merit, a legitimate controversy exists as to each of the predicate Labor Code violations, and there is a real risk that the Court could find no liability at trial. (*Id.*) Accordingly, balancing the risks of litigation, including the burdens of proof necessary to establish liability and the probability of appeal of a favorable judgment, against the strengths of Plaintiff's claims, the Settlement is both fair and reasonable. Moreover, the proposed Settlement will provide the LWDA and Aggrieved Employees timely, guaranteed relief and avoid the risk of an unfavorable judgment, thus serving the public interest. (*Id.*)

If the Court approves the terms of the Settlement, the average Individual PAGA Payment is estimated to be approximately $132.62 per Aggrieved Employee ($12,600.00 ÷ 95), assuming a roughly equal number of pay periods for each, and approximately $7.20 per pay period ($12,000.00 ÷ 1,666). (Wallace Decl. ¶ 17.)

C. <u>The PAGA Representative Service Payment Is Reasonable.</u>

Plaintiffs in class action lawsuits are eligible for reasonable incentive awards to compensate them "for the expense or risk they have incurred in conferring a benefit on other members of the class." (*Munoz v. BCI Coca-Cola Bottling Company of Los Angeles* (2010) 186

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Cal.App.4th 399, 412.) Courts also routinely grant approval of class settlements that include awards for PAGA representatives, which are "intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, **to recognize their willingness to act as a private attorney general**." (*Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1393-94 (citations omitted) (emphasis added).)

The Settlement provides for a PAGA Representative Service Payment to Plaintiff of not more than $10,000.00, intended to recognize: (1) the substantial time and effort that Plaintiff has expended on behalf of the State and Aggrieved Employees; (2) the risks faced by Plaintiff as a result of bringing the Action; (3) Plaintiff's putting the interests of the State and other Aggrieved Employees ahead of her own; and (4) the substantial benefit conferred upon the LWDA and Aggrieved Employees as a result of Plaintiff's efforts. (Agreement, § 3.2.1; Wallace Decl. ¶ 33.) Plaintiff has spent many assisting PAGA Counsel in litigating the Action, including consulting with Class Counsel regarding her employment with Defendant and the violations alleged; searching for and producing relevant documents; reviewing documents produced by Defendant, as well as pleadings and Settlement documents; staying informed about developments in the Action; and participating in decisions concerning the litigation, including mediation and settlement. Due in large part to Plaintiff's efforts, the LWDA and Aggrieved Employees will receive the benefit under PAGA of civil penalties for Defendant's alleged Labor Code violations. (*Id*. ¶ 34.)

Plaintiff also put herself at significant reputational risk in pursuing this Action as an agent of the State, as serving as a plaintiff in a publicly available legal action against a former employer could affect her prospects for future employment. Plaintiff also placed herself at substantial financial risk as she could be liable for Defendant's costs and attorneys' fees, if Defendant were to prevail. (*Id*. ¶ 35.)

In short, the Action, and the Settlement, would not have been possible without Plaintiff, who committed her time and effort, sacrificed the potential value of her individual claims by entering into a general release much broader than that of other Aggrieved Employees, and placed

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herself at risk for the sake of the State and Aggrieved Employees. Furthermore, Defendant will not oppose Plaintiff's request for the PAGA Representative Service Payment. (*Id.* ¶ 36.) Accordingly, the PAGA Representative Service Payment is reasonable and should be approved by the Court.

D. <u>The Requested Attorneys' Fees and Litigation Costs Are Reasonable.</u>

A prevailing party in a PAGA action is entitled to recover their attorneys' fees and costs. (Lab. Code § 2699 (k)(1) ("Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs.").) A fee award is also justified under section 1021.5 of the Code of Civil Procedure where the action enforces "an important right" and confers "a substantial benefit on the public." (*Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1289; *Broad Beach Geologic Hazard Abatement Dist. v. 31506 Victoria Point LLC*, 81 Cal. App. 5th 1068, 1096 (2022) ("The statute's purpose is to compensate with attorney fees litigants and attorneys who step forward to engage in public interest litigation when there are insufficient financial incentives to justify the litigation in economic terms.") (internal quotations and citation omitted).)

Fee awards of roughly one-third of the settlement fund are routinely approved by California courts in class and PAGA actions. "[F]ee awards in class actions average around one-third of the recovery." (*Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, fn. 11 (citation omitted); *see also*, *In re Pacific Enterprises Securities Litig.* (9th Cir. 1995) 47 F.3d 373, 379 (affirming 33% fee award); *Williams v. MGM-Pathe Communications Co.* (9th Cir. 1997) 129 F.3d 1026, 1027 (holding that class counsel's fee award should have been calculated as one-third of the gross settlement fund); *Clavel v. Lupe's Thousan Oaks Mexican Restaurant, Inc.*, No. 56201500467353CUOEVT, 2016 WL 1601221, at *5 (Cal.Super. Mar. 25, 2016) (approving PAGA Counsel's fees of 33.33% of common fund in settlement).)

As discussed, the Action carried substantial risk with respect not only to the merits of the claims alleged, but also to the potential reduction of relief sought, whether at trial or on summary judgment. Since undertaking the Action, PAGA Counsel has dedicated substantial resources, including approximately $19,012.60 in costs, without compensation, and accounting for these risks

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in the award of attorneys' fees is fair and reasonable. (*See* Wallace Decl. ¶¶ 37-47.) The requested PAGA Counsel Fees Payment of up to one-third (1/3) of the $105,000.00 Gross Settlement Amount ($35,000.00) is justified because PAGA Counsel achieved a significant monetary recovery for the LWDA and Aggrieved Employees in an uncertain and risky case on a contingency basis, and the fees requested are in line with the market. PAGA Counsel expended significant time and resources litigating the Action, despite the risks, to enforce important rights and recover a substantial benefit for the LWDA and Aggrieved Employees. (*Id*.) The fact that PAGA Counsel achieved these results without engaging in a protracted legal battle, in the face of serious defense challenges and an uncertain legal landscape, confirms the benefit of the result.

Here, PAGA Counsel's lodestar is at least $62,305 based on over 74.1 hours of work by attorneys, with a multiplier of approximately 0.59. (*Id*. ¶¶ 38-40.) Given the considerable potential for adverse outcomes in the Action, including Defendant defeating Plaintiff's claims on the merits and/or facing a potential drastic reduction of PAGA penalties, the contingent risk borne by PAGA Counsel was great, and the quality of PAGA Counsel's work, and the efficiency and dedication with which it was performed, should be compensated. PAGA Counsel's previous experience in litigating similar class and representative actions also supports the reasonableness of the fee request. Plaintiff's counsel brings extensive plaintiff-side wage-and-hour class, collective, and representative action experience and have been found to be adequate counsel in many such cases. (*Id*. ¶¶ 50-60.) Practice in the narrow field of wage-and-hour litigation, with rapidly evolving state and federal law, requires skill and knowledge. Because it compensates PAGA Counsel commensurate with their skill and knowledge, the requested PAGA Counsel Fees Payment is fair and reasonable.

Plaintiff's request for reimbursement of actual litigation costs of $19,012.60, which are documented, is also fair and reasonable. (*Id*. ¶ 48, Ex. 5.)

E. <u>The Administration Expenses Payment Is Reasonable.</u>

The Administration Expenses Payment in the amount of $4,000.00 is reasonable, given the tasks to be performed by the Administrator, including the following: mailing and re-mailing (if necessary) checks to approximately 95 Aggrieved Employees and the LWDA; establishing a

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qualified settlement fund; preparing and submitting to Aggrieved Employees and relevant government entities all appropriate tax filings and forms; distributing the PAGA Representative Service Payment, PAGA Counsel Fees Payment, and PAGA Counsel Litigation Expenses Payment; keeping the Parties apprised of the performance of all obligations under the Agreement; and voiding uncashed or undeliverable checks to issue those funds to the California Controller's Unclaimed Property Fund. (Wallace Decl. ¶ 49; *see also* Agreement, *generally*.) Plaintiff respectfully requests that the Court approve the requested Administration Expenses Payment.

IV. CONCLUSION.

For the reasons set forth above, Plaintiff requests that the Court grant this Motion and approve the Parties' PAGA Settlement.

Respectfully submitted,

Dated: July 8, 2026

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