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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

SYED SHAMSUDDOHA, MIRIAM HERNANDEZ, ZACHARY LEWIS, RAFAEL MIRAVETE, and DEVON STARKS, as Covered Employees pursuant to the Private Attorneys General Act ("PAGA"),

Plaintiffs,

vs.

AUTOZONERS, LLC, a limited liability company; and DOES 1 through 10, inclusive,

Defendants.

Case No. CGC-16-550266

NOTICE OF MOTION AND MOTION TO APPROVE PAGA SETTLEMENT;

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO APPROVE PAGA SETTLEMENT

Hearing Date: December 2, 2026
Hearing Time: 9:00a.m.
Dept.: 302
Judge: Hon. Joseph M. Quinn

Action Filed:
Trial Date: Not Set

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TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

YOU ARE HEREBY NOTIFIED THAT on December 2, 2026 at 9:00am, in Department 302 of the above entitled Court located at 400 McAllister St., San Francisco, California 94102, before the Hon. Joseph M. Quinn, Plaintiffs Zachary Lewis, Rafael Miravete, Devon Starks, Syed Shamsuddoha, and Miriam Hernandez (collectively "Plaintiffs") will and hereby do move for an order approving the settlement of the PAGA claim alleged against Defendant AutoZoners, LLC, ("Defendant") in accordance with California Labor Code §2699(l) (2016) amended by Stats. 2024, c. 44 (A.B. 2288), § 1, eff. July 1, 2024.). The proposed settlement is set forth in the accompanying Joint Stipulation of PAGA Settlement and Release ("Settlement," "Settlement Agreement," "Agreement," or "Stipulation") which has been finalized and for which a fully executed copy will be submitted in advance of the PAGA Approval Motion Hearing.

This Motion will be based on this notice, the accompanying points and authorities, the Declaration of Sergio J. Puche and additional Supporting Declarations, the Agreement, and the complete files and records in this action. The Labor Workforce Development Agency has been served with this motion and the Agreement as set forth in the accompanying proof of service.

Respectfully submitted,

Dated: November 3, 2026

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: */s/ Sergio J. Puche*
Sergio J. Puche

Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Zachary Lewis ("Plaintiff Lewis"), Rafael Miravete ("Plaintiff Miravete"), Devon Starks ("Plaintiff Starks"), Syed Shamsuddoha ("Plaintiff Shamsuddoha") and Miriam Hernandez ("Plaintiff Hernandez") (collectively "Plaintiffs") reached a settlement of the California Private Attorneys General Act, Cal. Labor Code §2699, *et seq*. ("PAGA") claim asserted in this action against Defendant AutoZoners, LLC, ("Defendant") (collectively, the "Parties") which provides for a "Gross Settlement Amount" payment in the amount of $2,380,000. In accordance with California Labor Code §2699(l) (2016), Plaintiffs now ask this Court to review and approve the settlement of Plaintiffs' PAGA claims.[1] This is only a settlement of the PAGA claims for civil penalties and is not a class settlement and does not release the individual wage claims, if any, of the affected employees other than the Plaintiffs themselves. Cal. Labor Code § 2699(g)(1); *Iskanian v. CLS Transportation*, 59 Cal.4th 348, 381 (2014); *ZB, N.A. v. Superior Court*, 8 Cal.5th 175, 182 (2019) (unpaid wages are not recoverable under PAGA).

The Settlement is set forth in the accompanying Joint Stipulation of PAGA Settlement and Release ("Settlement," "Settlement Agreement," "Agreement," or "Stipulation") and the form used for the Agreement is the Los Angeles Superior Court's model form. A true and correct copy of the Agreement which sets forth the terms for the settlement of the PAGA claims is attached as Exhibit #1 to the Declaration of Sergio J. Puche ("Puche Decl."), filed herewith. Capitalized terms shall have the same meaning as defined in the Agreement. The LWDA received notice of this Settlement, and this motion as set forth in the accompanying proof of service.

II. RELEVANT FACTS

Plaintiffs' Counsel sent the necessary correspondence to the California Labor and Workforce Development Agency ("LWDA") on March 8, 2023, on behalf of Plaintiff Lewis, on December 30, 2015 on behalf of Plaintiff Hernandez and Plaintiff Shamsuddoha, and on April 30, 2025 on behalf of

[1] Section 2699(1)(2) provides as follows: "The superior court shall review and approve any settlement of any civil action pursuant to this part." Cal. Lab. Code § 2699 (2016) (*amended by* Stats. 2024, c. 44 (A.B. 2288), § 1, eff. July 1, 2024.).

Plaintiff Stark, requesting authorization from the LWDA to seek civil penalties as provided by the Private Attorney General Act of 2004 ("PAGA") for the wage and hour violations alleged in the PAGA Notice. On June 2, 2026, Plaintiff Lewis sent Amended Notice to the LWDA and Defendant adding Plaintiff Rafael Miravete. (Puche Decl., at ¶ 3.) The 65-day notice period for the LWDA to notify of its intent to investigate Plaintiff Lewis' original claims expired on May 12, 2023; on March 4, 2016 with regard to Plaintiffs Hernandez and Shamsuddoha's claims; on July 4, 2025 with regard to Plaintiff Starks' claims, and on August 6, 2026, as to Plaintiffs Lewis and Miravete's Amended Notice. On May 17, 2023, Plaintiff Lewis filed a Representative Action Complaint in the Superior Court for the County of Orange alleging one cause of action for civil penalties pursuant to Labor Code §§ 2699, et seq. (PAGA) for violations of the California Labor Code (the "Lewis PAGA Action"). On February 3, 2016, Plaintiffs Shamsuddoha and Hernandez filed a Representative Action Complaint in the Superior Court for the County of San Francisco alleging a single cause of action for civil penalties pursuant to PAGA ("Shamsuddoha and Hernandez PAGA Action"). Subsequently, on July 7, 2025 Plaintiff Stark filed a Representative Action Complaint in the Superior Court of Butte alleging a single cause of action for civil penalties pursuant to PAGA (the "Stark PAGA Action"). Plaintiffs Lewis, Miravete, Shamsuddoha, Hernandez and Stark intend to file a First Amended Complaint prior to the hearing on Plaintiff's PAGA Approval Motion, which effectively consolidates the Shamsuddoha and Hernandez PAGA Action, and the Stark PAGA Action, into the Lewis PAGA Action. (Puche Decl. at ¶ 3(a).) Plaintiffs' Counsel means: (1) Blumenthal Nordrehaug Bhowmik De Blouw LLP ("BNBD"); (2) Lavi & Ebrahimian, LLC ("L&E"); (3) Capstone Law APC ("CL"); (4) The Markham Law Firm ("MLF"); and United Employees Law Group ("UELG"). ("Plaintiff's Counsel"). (Agreement at ¶ 21).

Plaintiffs and Defendant agreed to mediate with Allison Eckstrom, Esq. Prior to the mediation, the Parties conducted significant investigation and discovery of the facts and law. Defendant produced hundreds of pages of documents relating to its policies, practices, and procedures regarding paying non-exempt employees for all hours worked, overtime, meal and rest period policies, payroll and operations policies, and more. Plaintiffs were also provided with sufficient records and data to determine the number of Covered Employees and the number of weekly pay periods in the Covered Period. The Parties agree that the above-described investigation and evaluation, as well as the

information exchanged during the settlement negotiations, are more than sufficient to assess the merits of the Parties' positions and to compromise the issues on a fair and equitable basis. (Puche Decl., at ¶ 3(a).)

Plaintiffs' theory of PAGA liability as argued at mediation alleged that Defendant is liable for off the clock claims due to pre-shift work and restrictions on clocking in prior to their scheduled start time. Plaintiffs alleged they were required to conduct post shift duties off the clock such as taking out the trash, ringing up customers, closing accounts, installing wiper blades, installing batteries, and parking vehicles after being forced to clock out at the 8 hour mark. Additionally, Plaintiffs allege they could not take compliant meal periods due to the stores being short staffed, and stocking, delivery and customer service obligations. Plaintiffs argue that Defendant had a meal violation rate net of premiums paid of 16.5%. Moreover, Plaintiffs alleged they were required to communicate on their personal cell phones off the clock and download the "Autozoners" and/or "Workday" applications on their personal cell phones. Plaintiffs argued that Defendant failed to pay for the hours worked, reporting time premiums or reimbursement for off the clock work and cell phone usage for scheduling. Plaintiffs allege Defendants failed to include additional remunerations in the regular rate of pay for paying overtime. (Puche Decl., ¶¶ 3(b), 14).

At mediation, Plaintiffs argued that, based on non-extrapolated sample data provided for mediation, Plaintiff alleged Defendant is liable for a myriad of PAGA Penalties, including PAGA waiting time penalties for approximately 21,019 former employees in the Covered Period; PAGA penalties for Unpaid Wages, Labor Code Section 226 Wage Statement Violations for a approximately 35,689 employees; Failure to Reimburse a total of approximately 35,689 employees for 1,117,472 pay periods as indicated in the sample data received; and PAGA penalties for failure to pay Meal Premiums to 23,942 employees as identified from the sample data received. (*Id*.) Defendant disputed all of those allegations, including that the data proved or supported any of those allegations.

On October 24, 2025, the Parties engaged in a mediation session before mediator Allison Eckstrom, Esq., a respected and experienced mediator knowledgeable of both the wage and hour laws and representative claims at issue in this action. Through arms-length negotiations with the assistance of the mediator, following the mediation, the Parties reached an agreement to settle the PAGA claims

in this action which led to the full execution of a Memorandum of Understanding memorializing the settlement on February 10, 2026.[2] (Puche Decl., at ¶ 3(c)).

The settlement was negotiated in light of all known facts and circumstances and the uncertainty associated with litigation – including the risk of Plaintiffs not being able to maintain representative claims, the difficulty of proving Plaintiffs' claims in a manageable trial, the merits of Defendant's potential defenses, and the significant delay and potential appellate issues inherent to litigation – and was reached after extensive arm's length negotiations, with the assistance of the Parties' mediator. (Puche Decl., at ¶¶ 3,6.).

III. TERMS OF THE PAGA SETTLEMENT

The Settlement is subject to Court approval consistent with Labor Code §2699(1)(2) (2016). (Agreement at ¶¶ 3, 29.b, 37.**)**. The Agreement negotiated by the Parties provides for a "Gross Settlement Amount" payment in the amount of $2,380,000 to resolve the Released PAGA Claims (hereinafter referred to as the "Settlement"). From this Gross Settlement Amount of $2,380,000, there is a deduction of attorneys' fees ("Attorneys' Fees") in the amount of $793,333 (one-third of the Gross Settlement Amount), which shall be allocated among Plaintiffs' Counsel as follows: 60% to BNBD and Gomez Law Firm ("GLF") [split 75% to BNBD, and 25% to GLF]; 25% to LE; 7.5% to CL; and 7.5% to MLF and UELG [split 50% to MLF, and 50% to UELG]. reimbursement of incurred costs ("Attorneys' Costs") in an amount not to exceed $68,000.00, Representative Enhancement Payments

[2] Pursuant to separate confidential settlement agreements, in addition to the Gross Settlement Amount, Defendant has agreed to separately pay Plaintiffs each an individual settlement to resolve all of their individual non-PAGA claims. The individual settlements are made in exchange for general releases of all of Plaintiffs' individual non-PAGA claims arising out of their respective employment with Defendant, including a waiver of any unknown claims pursuant to California Civil Code § 1542, which will be detailed in separate confidential settlement agreements. (Agreement at ¶ 35). The Gross Settlement Amount excludes the individual settlements separately paid to Plaintiffs for a General Release of their claims, addressed further herein. As such, the Gross Settlement Amount does not include Plaintiffs' individual settlements which are separately funded by Defendant and memorialized in separate individual settlement agreements. (Agreement at ¶ 14). The individual claims are not at issue in this action and exist independent and apart from the PAGA claims at issue before the Court. *See Kim v. Reins Int'l Cal., Inc.*, 9 Cal. 5th 73, 80 (2020) (the "[s]ettlement of individual claims does not strip a Covered Employee of standing, as the state's authorized representative, to pursue PAGA remedies" nor resolve the PAGA claims.). (Puche Decl., at ¶ 3(d)).

taken from the Gross Settlement Amount in the amount of Ten Thousand Dollars ($10,000) to each of the Plaintiffs (for a total of $50,000.00 in "Representative Enhancement Payments") and Administration Fees and Costs ("Administration Fees and Costs") not to exceed $85,745 (Agreement at ¶¶ 28.b.iv.).[3] After these deductions, the amount remaining is the "Gross PAGA Fund", which is estimated to be no less than $1,382,922.

Of the Gross PAGA Fund of $1,382,922 seventy-five percent (75%) (no less than $1,037,191.50) will be allocated to the LWDA Payment and twenty-five percent (25%) (no less than $345,730.50) will be allocated to the Net PAGA Fund as Individual PAGA Payments. (Agreement at ¶ 28.b.iii.).[4] This 75/25 allocation is required by Labor Code §2699 as explained by *ZB, N.A. v. Superior Court*, 8 Cal.5th 175 (2019), and the prior 75/25 split still applies because this Action was filed before June 2024. *See* Cal. Lab Code § 2699 (v) (2024).

Each Covered Employee's Individual PAGA Payment will be calculated by assigning a proportionate share of the Net PAGA Fund.[5] The Covered Period means October 5, 2022 through January 10, 2026. (Agreement at ¶ 10).

At the mediation, Defendant estimated that between October 5, 2022, and March 3, 2025 (the "Mediation Data Period"), there were approximately 1,426,230 Relevant Workweeks (i.e., workweeks in which Covered Employees recorded as performing work as non-exempt, hourly employees in California). Extrapolating that forward to January 10, 2026 (the "Extrapolated Period"), Defendant estimated that during that period there would be approximately 1,919,313 Relevant Workweeks. (Puche Decl., ¶¶ 4, 14(b)(c)); Agreement at ¶ 31).

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[3] To the extent the Administration Fees and Costs are less, or the Court approves payment less than $85,745, the Administrator will retain the remainder in the Gross PAGA Fund. (*Id*. at ¶ 28.b.iv.).

[4] "Covered Employee" means an individual who is or previously was employed by Defendant in California and is or was classified as a non-exempt employee at any time during the Covered Period. (Agreement at ¶ 10).

[5] See Agreement at ¶ 28.b.iii.a ("Specifically, the Settlement Administrator will calculate each Covered Employee's proportionate share as follows: [Individual PAGA Payment] = [(Covered Employee's Relevant Workweeks) / (Total Relevant Workweeks for all Covered Employees)] * [Net PAGA Fund].")

Upon entry of final judgment, the Released Parties shall be entitled to a release for any "Released PAGA Claims" means any and all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts and legal theories stated in the Operative Complaint and all PAGA Notices submitted by Plaintiffs to the LWDA, which occurred during the Covered Period while employed in a non-exempt position in California. The Released PAGA Claims cover all allegations in in the Operative Complaint for PAGA penalties including: failure to pay or properly pay all wages due (including regular wages, minimum wages, overtime wages, time rounding, "synthetic" timekeeping, double time wages, off the clock work, sick pay, sick leave wages, vacation wages, and all other wage payments); failure to properly calculate or pay the regular rate of pay; failure to provide properly meal and/or rest periods and/or to properly provide premium pay in lieu thereof; failure to properly calculate and/or pay meal and/or rest premiums; failure to reimburse all manner of business expenses; failure to provide suitable seating; failure to provide personnel records; recordkeeping violations; failure to provide complete and/or accurate wage statements; failure to properly and timely pay wages during employment; failure to properly and timely pay wages due upon termination of employment; failure to pay waiting time penalties; failure to provide paid sick leave; forced patronage; failure to pay accrued vacation pay; failure to pay or properly pay split shifts and/or reporting time; unlawful deductions from wages; and any other amounts recoverable under PAGA arising out of the Released PAGA Claims. The Released PAGA Claims exclude all other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, California class claims outside of the Covered Period, and PAGA claims outside of the Covered Period. The Released PAGA Claims also expressly exclude Plaintiffs' non-PAGA claims which are subject to a separate release, which will be set forth in a separate individual settlement agreement. (Agreement at ¶ 24). The "Released Parties" includes AutoZone, Inc. and AutoZoners, LLC and each of their past, present, and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers. (Agreement at ¶ 25).

The Gross Settlement Amount will be funded by a one-time deposit of Two Million Three Hundred Eighty Thousand Dollars ($2,380,000) into a qualified settlement fund account (to be established by the Settlement Administrator). That amount will be deposited within fourteen (14) calendar days of the Effective Date. Settlement funds will not be disbursed until after the Effective Date.[6] No later than seven (7) calendar days after the Settlement Administrator receives the Covered Employee List and Data, the Settlement Administrator shall mail a mutually agreed-upon (by all Parties) cover letter and Individual PAGA Payment checks (together the "Settlement Packet") to all Covered Employees by First-Class United States mail. For each Settlement Packet that is returned undeliverable within thirty (30) calendar days of the initial mailing, the Settlement Administrator shall promptly attempt to locate an alternative, updated address for the Covered Employee at issue by using a skip-trace search and shall attempt one (1) re-mailing of the Settlement Packet. (Agreement at ¶30.a.ii.). Covered Employees who are sent Individual PAGA Payments will have 180 calendar days after the date of mailing to cash their settlement checks and will be so advised of such deadline. Ninety calendar days after the checks are mailed, the Settlement Administrator will mail reminder postcards to Covered Employees whose checks remain uncashed. If Covered Employees do not cash their checks within that period, or a check is undeliverable, those checks will become void, and the settlement payment amounts will be paid out to a mutually agreed-upon *cy pres* beneficiary: AutoZone Assistance Fund, pursuant to Code of Civil Procedure section 384. (Agreement at ¶¶ 17, 28.e.).

Pursuant to California Labor Code Section 2699(1), Plaintiffs are providing a copy of the Agreement and this motion to the LWDA concurrently with the filing of the instant motion for settlement approval as set forth in the accompanying proof of service in compliance with Labor Code

[6] "Effective Date" of the Settlement Agreement shall mean the date upon which all of the following have occurred: (1) the Court has signed an order approving the Settlement; (2) all objections to the Settlement have been resolved and the time permitted for objections has expired; (3) the passage of the date for seeking appellate review of the Court's Approval of the Settlement; and (4) if Plaintiffs' Counsel appeals the reduction (if any) of category of monetary award or distribution, the later of the dismissal or withdrawal of the appeal, or conclusion of the appeal and any subsequent court proceedings upon remand to the trial court. In no event shall the Effective Date occur before the judgment of the Court granting Approval of the Settlement. (Agreement ¶12).

section 2699(1). In addition, Plaintiffs shall submit to the LWDA a copy of the Court's judgment and order approving the Agreement within ten (10) days after entry of judgment or order.

IV. THE PARTIES HAVE SETTLED THE PAGA CLAIMS

The claim before this Court on this motion is solely the representative claim under PAGA on behalf of the State of California for civil penalties pursuant to the PAGA. The Parties have agreed to settle this PAGA claim in its entirety after investigation and an arm's length mediation session. (Puche Decl., at ¶¶ 2, 3.) The settlement is intended to fully and finally resolve the Released PAGA Claims asserted by Plaintiffs on behalf of the State of California. This is only a settlement of the PAGA claims for civil penalties and is not a class settlement and does not release the individual claims, if any, of the Covered Employees, other than any claims under PAGA. This settlement does not release any claim that is not a PAGA claim.[7] An Attorneys' Fees Payment of not more than 33.33% of the Gross PAGA Settlement Amount, which is currently estimated to be Seven Hundred Ninety-Three Thousand Three Hundred Thirty-Three Dollars ($793,333) and Attorneys' Costs payment in an amount as documented in Plaintiffs' Counsel's billing statement and not more than Sixty-Eight Thousand Dollars and Zero Cents ($68,000.00) will also be paid to Plaintiffs' Counsel as part of the settlement in accordance with California Labor Code § 2699(g)(1), as set forth in the Agreement, along with Representative Enhancements Payments in the amount of Ten Thousand Dollars ($10,000) each (for a total of $50,000.00 in "Representative Enhancement Payments").[8] The Attorney' Costs payment shall be allocated among Plaintiffs' Counsel as follows: 60% to BNBD and Gomez Law Firm ("GLF") [split 75% to BNBD, and 25% to GLF]; 25% to LE; 7.5% to CL; and 7.5% to MLF and UELG [split 50%

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[7] As explained by the Supreme Court in *ZB, N.A.*, 8 Cal.5th at 196: "Nonparty employees are bound by the judgment in an action under the PAGA, but only with respect to recovery of civil penalties."

[8] As set forth in the accompanying Puche Decl., Plaintiffs' Counsel incurred total costs in the current amount of $54,394.43, which is less than the $68,000 cost allocation in the Agreement. See Puche Decl., at ¶8. Costs incurred include $38,446.77 for BNBD (Puche Decl., at ¶ 5); $3,386.83 for LE (Declaration of Paolo Policastro ("Policastro Decl.", at ¶ 24); $12,454.39 for CL (Declaration of Raul Perez ("Perez Decl."), at ¶28); $68.30 for MLF (Declaration of David R. Markham ("Markham Decl.") at ¶17); and $38.14 for UELG (Walter L. Haines ("Haines Decl.") at ¶10). The PAGA Payment will adjust accordingly.

to MLF, and 50% to UELG]. Lastly, payment to the Administrator in an amount not to exceed Eighty-Five Thousand, Seven Hundred Forty-Five Dollars ($85,745) to perform the administrative duties to distribute the settlement money shall also be paid. (Puche Decl., at ¶ 4, Agreement at ¶¶ 14, 26, 28.)

V. THE PARTIES REQUEST REVIEW AND APPROVAL OF THE SETTLEMENT OF THE PAGA CLAIM

Labor Code § 2699(l) requires that the Court "shall review and approve any settlement of any civil [PAGA] action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court" Cal. Lab. Code § 2699 (1) (2016). Consequently, the Parties respectfully ask the Court to review and approve the settlement of the PAGA claims and the Gross Settlement Payment to be paid as part of the proposed settlement.

A. The PAGA Settlement Amount To Be Paid Is Fair And Reasonable

The Parties believe that the Settlement amount is fair and reasonable and therefore "shall" be reviewed and approved. Here, the Gross Settlement Amount of $2,380,000 is more than other PAGA settlements as it constitutes approximately $1.24 per weekly pay period. (Puche Decl., at ¶ 5.)

This Settlement amount compares favorably to the estimated amount of PAGA penalties. With the assistance of an expert, Plaintiffs calculated that the maximum amount of statutory PAGA civil penalties was potentially $191,931,300 based on 1,919,313 weekly pay periods applicable to the Covered Employees during the Covered Period.[9] (Puche Decl., at ¶¶ 5,14(b)-(c)). Importantly, however, these calculations were performed at the maximum statutory rate for the penalties, when in fact, it is likely that any penalties awarded would be at a lower rate. California Labor Code Section 2699(e)(1) permits a Court to award a lesser amount than the maximum civil penalty if based on the facts and circumstances to do otherwise would result in an award that is "unjust, arbitrary and oppressive or confiscatory."

[9] Stacking is where more than one civil penalty is imposed in a pay period for the same conduct. The valuation of $191,931,300.00 is the civil penalty amount without stacking. If stacking is permitted, then the valuation increases with each additional penalty added to each pay period. Plaintiffs, however, are not aware of any PAGA award which permitted stacking and in the cases cited herein, only one penalty per pay period was assessed. In addition, the recent amendment of PAGA casts further doubt on the availability of stacking penalties.

In *Carrington v. Starbucks Corp*., 30 Cal. App. 5th 504 (2018), the Court of Appeal affirmed a judgment after trial which only provided for a PAGA penalty of $5 per pay period. Therefore, at trial, any PAGA penalties awarded would be comparable to Plaintiffs' calculation even where Plaintiffs prevailed on the PAGA claim. If the amount of $5 per bi-weekly pay period from *Carrington v. Starbucks* is used, the potential recovery of civil penalties would be $4,798,282.00, however, in analyzing all the claims and the action as a whole, Plaintiffs were forced to consider the risks of proceeding with litigating the action. This includes further risks if the case proceeded to trial such that the Court could award significantly less penalties than are statutorily prescribed if Defendant prevails on its arguments that it engaged in good faith conduct and maintained compliant employment policies. Plaintiffs also considered the risks and costs of litigating an appeal, as well as the costs of delay in obtaining payout for the LWDA and Covered Employees. Finally, public policy strongly favors the settlement of litigation. *Consumer Advocacy Group v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 46, 63. Because the proposed Settlement is neither unjust nor ignores the public interest, it should be approved. Practically speaking, if Plaintiffs continued litigating this matter, the Plaintiffs, LWDA, and employees potentially could have received nothing if the Court had agreed with Defendant's position especially in light of the volatility of this area of law and the aforementioned defenses. The settlement is reasonable in light of the risks involved in this case—including the prospect of a potential adverse summary adjudication ruling, defenses to the case, potential appeal, costs of delay, and potential costs that could be forced on our client if Plaintiffs were not successful. Plaintiffs' Counsel are convinced that the proposed settlement is fair based on the negotiations and a detailed knowledge of the issues present in this action. The length and risks associated with a motion for summary adjudication, trial, and other normal perils of litigation have impacted the value of the claims and were all weighed in reaching the proposed settlement. In light of the above, the proposed Settlement is well within the range of reasonableness and should be granted approval. Plaintiffs believe that in providing employees with relief and obtaining penalties for the LWDA, this settlement furthers the purpose of PAGA to enforce compliance with the Labor Code and should be approved. Accordingly, the Gross PAGA Fund is highly reasonable in light of the risks and uncertainties associated with the PAGA claims in this case. (Puche Decl., at ¶¶ 5, 14(d).)

Under PAGA, Courts have considerable discretion to reduce the penalty award. In *Fleming v. Covidien*, 2011 U.S. Dist. LEXIS 154590 (C.D. Cal. 2011), a federal court reduced PAGA penalties from $2,800,000 to $500,000, a reduction of 82.2%, because the court found maximum penalties "unjust" because the employees had suffered no injuries. Some trial courts have actually awarded no civil penalties, even when Labor Code violations are established. See *Makabi v. Gedalia*, 2016 Cal. App. Unpub. 1489, *5-7 (2nd Dist. Ct. of App. Mar. 6, 2016) (no PAGA penalties were awarded by the Los Angeles County Superior Court) (unpublished decision); *In re Taco Bell Wage & Hour Actions*, 2016 U.S. Dist. LEXIS 48557, *40-43 (E.D. Cal. Apr. 6, 2016) (PAGA penalties denied after trial).

In order to recover any PAGA penalties, Plaintiffs would be required at trial to prove each of the underlying Labor Code violations. See *Cardenas v. McLane Foodservice, Inc*., 2011 U.S. Dist. LEXIS 13126, *10 (C.D. Cal. 2011) ("Given the statutory language [of PAGA], a plaintiff cannot recover on behalf of individuals whom the plaintiff has not proven suffered a violation of the Labor Code by the defendant."). Here, Plaintiffs would need to prove that each Covered Employee suffered a violation for each period the employee worked in relation to meal or rest period violations, failure to pay minimum wages, failure to pay overtime and sick pay wages, failure to reimburse employees for required expenses, and failure to pay wages when due.

Defendant maintains that Plaintiffs and the Covered Employees were properly compensated, and that it did not violate the Labor Code. Accordingly, Defendant disputes and denies Plaintiffs' allegations and claims asserted in both the PAGA Notice and the Operative Complaint, which are resolved by the Agreement. Defendant asserted additional defenses to the PAGA claim, not only as to liability but also as to the amount of the penalties. Defendant could argue that no penalties prior to the PAGA notification should be awarded because the violations were not intentional, and at least one Court has so ruled. These defenses present a risk to the PAGA claims and the potential that some or all of the PAGA penalties sought may not be awarded. (Puche Decl., at ¶¶ 6, 14(g).)

Given Defendant's potential defenses to the violations at issue, the risks and costs of continued litigation, Plaintiffs and their attorneys believe that the Settlement is fair and reasonable. (Puche Decl., at ¶¶ 5, 6, 14(g).) Defendant has similarly concluded that it is desirable that the action is settled in the

manner and upon the terms and conditions set forth in the Agreement in order to avoid further expense, inconvenience and distraction of further legal proceedings, as well as the uncertainty of litigation. Defendant has determined that it is desirable and beneficial to put to rest the claims in this action and Defendant agrees that the Settlement is fair, reasonable, and adequate.

Plaintiffs' Counsel have significant experience litigating wage and hour claims including claims for PAGA penalties, and the Settlement here is similar to or greater than similar settlements that courts have approved. (Puche Decl., at ¶ 6.) The Settlement, along with the other terms of the proposed settlement, was negotiated by experienced counsel at arm's length with the assistance of a private mediator, Allison Eckstrom, Esq. (Puche Decl.., at ¶¶ 2, 3, 6.)

As set forth in the accompanying proof of service, the LWDA has been provided notice of this motion and the Settlement. The decision of the LWDA to accept the Settlement and not oppose the motion should be given considerable weight. This is not a situation where the Court needs to be concerned about the rights of absent employees as in a class settlement, as this PAGA-only settlement does not release the individual claims of absent employees other than PAGA claims, and the LWDA is a sophisticated government entity that is more than able to look out for its own rights. (*Id*.).

B. The Remaining Settlement Terms Are Fair And Reasonable

Although PAGA requires that a court approve the proposed Settlement, Labor Code § 2699(1) does not require that a court approve any other elements of the proposed settlement. See Cal. Lab. Code § 2699 (2016). Because there are no class allegations for which Plaintiffs seek approval, the approval provisions applicable to class settlements under Cal. Code Civil Proc. §382 do not apply. Accordingly, the Court only needs to approve the settlement of the civil penalties sought in the PAGA claim. Nevertheless, as explained herein, the settlement terms for attorneys' fees and costs are reasonable.

VI. THE ATTORNEYS' FEES AND COSTS ARE FAIR AND REASONABLE

Plaintiffs' Counsel seek approval of Attorneys' Fees in the amount of Seven Hundred Ninety-Three Thousand Three Hundred Thirty-Three Dollars ($793,333.00) representing 33.33% percent of the $2,380,000.00 Gross Settlement Amount. PAGA does not have any requirements for reviewing

attorneys' fees, and Plaintiffs' position is that the payment of attorneys' fees and costs in this settlement is a matter of contract for contingent representation. Nevertheless, should this Court review the requested attorneys' fees, it is clear that the requested fees and costs are reasonable.

First, the requested fees are justified by the result achieved. Plaintiffs' Counsel negotiated a recovery of $2,380,000 and this result justifies the requested fees equal to 33.33% of this recovery. This percentage is within the standard contingent recovery percentage of one-third, and this percentage is what was expressly approved by the Supreme Court in *Laffitte v. Robert Half Int'l Inc*., 1 Cal.5th 480, 504, (2016); *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal. App. 5th 521, 545 (2021) (recognizing that "'fee awards in class actions average around one-third of the recovery'" regardless of "'whether the percentage method or the lodestar method is used.'" (*quoting Chavez v. Netflix, Inc*., 162 Cal.App.4th 43, 66, fn. 11 (2008)).

A fee of $793,333, which constitutes 33.33% of the gross settlement is within the range of reasonableness. (See *Laffitte*, 1 Cal.5th at 503-504 [approving common fund method used for attorneys' request of one-third of settlement].) Historically, courts have awarded percentage fees in the range of 20% to 50%, depending on the circumstances of the case. (See *In re Activision Sec. Litig*., 723 F. Supp. at 1378.) Because Counsels' requested fee is reasonable and falls well within the historical range of attorney's fee awards under the common fund theory, the Court should approve the requested fees as reasonable pursuant to the common fund approach.

Second, the fee award is justified by the work performed and contributions to the case. As detailed in the accompanying Puche Decl., at ¶ 7, the fee award is less than Plaintiffs' Counsel's current lodestar of $946,035.50 ($227,307.50 for BNBD; $114,874.50 for LE [Policastro Decl. at ¶ 23]; $539,332.50 for CL [Perez Decl. at ¶ 23]; $28,896 for MLF [Markham Decl. at ¶¶ 14-16, Exhibit 1]; and $35,625.00 for UELG (Haines Decl. at ¶¶ 6-9]), representing a "negative multiplier", with significant additional work to be performed.[10]

[10] A true and correct copy of Plaintiffs' Counsel BNBD's billing records are attached as Exhibit #2 to the Declaration of Sergio J. Puche, filed herewith. True and correct information representing Co-Counsel's billing records are attached to the Declaration of Paolo Policastro; Declaration of Raul Perez; Declaration of David R. Markham; and Declaration of Walter L. Haines.

Generally, the Ninth Circuit and California Courts award positive multipliers between 2 to 4 times the lodestar to reward counsel for accepting the contingent risks of the litigation or obtaining good results. See, e.g., *Laffitte*, 1 Cal. 5th at 506 (approving one-third fee award with multiplier between 2.03 and 2.13); *Pellegrino v. Robert Half Intern., Inc.*, 182 Cal.App.4th 278 (2010) (noting reasonable multipliers of 2.0 to 4.0 are often applied and affirming 1.75 multiplier); *Wershba v. Apple Computer, Inc*., 91 Cal.App.4th 224, 254 (2001) (noting that multipliers can range from 2 to 4 or higher); *Vandervort v. Balboa Capital Corp*., 8 F. Supp. 3d 1200, 1210 (C.D. Cal. 2014) (awarding one-third of fund, which was a 2.52 multiplier of lodestar); *Boyd v. Bank of America*, 2014 WL 6473804, at *11 (C.D. Cal. 2014) (awarding one-third of fund, which was a 2.58 multiplier of lodestar); *Hopkins v. Stryker Sales Corp*., No. 11-CV-02786-LHK, 2013 WL 496358, at *6 (N.D. Cal. Feb. 6, 2013) (approving fee award that represented a multiplier of 2.76 as falling within the "majority" range for risk multipliers).

Third, consideration of the service factors justify the service of the lodestar. Courts multiply the lodestar by a factor to account for the risk of non-payment, delay in payment, the quality of work, and the novelty and difficulty of the issues involved. See *Ketchum v. Moses*, 24 Cal.4th 1122, 1132 (2001). Failure to apply a risk multiplier in cases that meet these criteria is an abuse of discretion. *Stetson v. Grissom*, 821 F.3d 1157, 1166 (9th Cir. 2016).

Finally, as to litigation expenses, Plaintiffs' Counsel will be recovering litigation expenses in the total amount of $54,394.43 which is less than the $68,000.00 allocation for costs in the Agreement, so the difference of $13,605.57 will be added to the Gross PAGA Fund. These expenses are documented in the accompanying Puche Decl. at ¶8; Policastro Decl. at ¶ 24; Perez Decl. at ¶28; Markham Decl. at ¶17; and Haines Decl. at ¶10.

VII. THE SERVICE AWARD IS REASONABLE

In the Agreement at paragraph 28.b.i.: "Representative Enhancement Payments" means the amounts which Plaintiffs will ask the Court to approve for payment from the Gross Settlement Amount in recognition of their effort and work in prosecuting the Actions on behalf of Covered Employees. Defendant will not object to such payments taken from the Gross Settlement Amount in the amount

of Ten Thousand Dollars ($10,000) to each of the Plaintiffs (for a total of $50,000). (Agreement ¶ 26). Plaintiffs request a Representative Enhancement Payment of $10,000.00 each, as recognition for Plaintiffs' efforts in securing this Settlement for the benefit of the Covered Employees and the LWDA. (Puche Decl., at ¶19; Declaration of Plaintiff Zachary Lewis ("Lewis Decl.") at ¶¶ 2-9; Declaration of Plaintiff Rafael Miravete ("Miravete Decl.") at ¶¶2-9; Declaration of Plaintiff Syed Shamsuddoha ("Shamsuddoha Decl.") at ¶¶2-17; and Declaration of Plaintiff Miriam Hernandez ("Hernandez Decl.") at ¶¶2-17). The Agreement provides for service awards as the named Plaintiffs not only served as the representative for these claims but also is justified in light of the reputational risk that Plaintiffs assumed by litigating claims against a former employer. See *Billinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 267-68 (N.D. Cal. 2015) (finding "personal detriment" upon testimony that future employers can easily learn that a prospective employee served as a plaintiff through the internet); see also *Guippone v. BH S&B Holdings LLC*, No. 09 Civ. 1029, 2011 U.S. Dist. LEXIS 126026, at **4, 20 (S.D.N.Y. Oct. 28, 2011) ("[T]he fact that a plaintiff has filed a federal lawsuit is searchable on the internet and may become known to prospective employers when evaluating the person . . . Even where there is not a record of actual retaliation, notoriety, or personal difficulties, [representative Plaintiffs] merit recognition for assuming the risk of such for the sake of absent [parties]."). (Puche Decl., at ¶19; Lewis Decl. at ¶6; Miravete Decl. at ¶6; Shamsuddoha Decl. at ¶15; and Hernandez Decl. at ¶15).

Employers commonly screen employee candidates to determine whether they have ever filed suit, and employee candidates who might be branded "litigious" are likely to be screened out of the process. In fact, an entire industry has developed for providing employers with background information on employee candidates. By bringing this action against an employer, Plaintiffs have assumed considerable reputational risk that may impact their ability to find employment in the future. *La Fleur v. Medical Management Intern, Inc*., No. 13-00398-VAP, 2014 WL 2967475, *8 (C.D. Cal. June 25, 2014) (awarding $15,000 to each named plaintiff in part for attesting to their fear that the lawsuit will harm their future job prospects in the industry). (*Id*.)

Moreover, the separate settlement payment is reasonable because Plaintiffs "remained fully involved and expended considerable time and energy during the course of the litigation." See *In Re Toys 'R' Us-Del FACTA* Litig., 295 F.R.D. at 471 (citation omitted). Plaintiffs devoted their time and

effort toward assisting their attorneys with the prosecution of the claims, including the prosecution of an individual arbitration action and assisted counsel with finalizing the settlement. Service awards are regularly awarded in this amount. See e.g. *Andrews v. Plains All Am. Pipeline L.P.*, 2022 U.S. Dist. LEXIS 172183, at *11 (C.D. Cal. 2022) (finding that the requested service awards of $15,000 each are appropriate). *Id*. (Puche Decl., at ¶19; Lewis Decl. at ¶¶5-9; Miravete Decl. at ¶¶5-9; Shamsuddoha Decl. at ¶¶4-17; and Hernandez Decl. at ¶¶4-17).

Lastly, because PAGA is a "type of qui tam action," it is appropriate for the Plaintiffs to receive a modest additional payment from the settlement as a "bounty" for her special effort in vindicating the State's interests by enforcing its labor laws. See *Iskanian*, 59 Cal. 4th at 382 ("A PAGA representative action is therefore a type of qui tam action."); see also *People ex rel. Strathmann v. Acacia Research Corp.*, 210 Cal. App. 4th 487, 500 (2012) ("The person who brings the qui tam action, called the 'relator,' stands in the shoes of the People of the State of California, who are deemed to be the real party in interest . . . The relator in a qui tam action under section 1871.7 does not personally recover damages but, if successful, receives [a portion] of the recovery as a bounty.") (internal citations omitted). (*Id*.)

Such a payment incentivizes employees to step forward to enforce the Labor Code. See *MMM Holdings, Inc. v. Reich*, 21 Cal. App. 5th 167, 180 (2018) ("The bounty advances the public purpose and benefit by encouraging private qui tam actions; indeed, this prospect of reward may be the only means of inducing such private parties to come forward with their information.") (internal quotations omitted). This is especially important in this context, as "the lack of government resources to enforce the Labor Code led to a legislative choice to deputize and incentivize employees uniquely positioned to detect and prosecute such violations through the PAGA." *Iskanian*, 59 Cal. 4th at 390. Absent the incentive payment, fewer employees would be willing to step forward, and PAGA's primary purpose—enforcement of the Labor Code—would be substantially undermined. (*Id*.)

VIII. CONCLUSION

Based on the foregoing, Plaintiffs respectfully request this Court approve the Settlement as set forth in the Agreement and enter the proposed order and judgment submitted herewith.

Dated: November 3, 2026

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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