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on behalf of herself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF YOLO

TESSA TEUSCHER, individually and on behalf of herself and all others similarly situated, Plaintiff, v. SALLY BEAUTY SUPPLY, LLC, a Virginia Limited Liability Company; SALLY BEAUTY HOLDINGS, INC., a Delaware Corporation, and DOES 1-50, inclusive. Defendants.	Case No. CV2022-1842 Assigned For All Purposes to: Hon. Samuel T. McAdam **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR APPROVAL OF PAGA SETTLEMENT AGREEMENT** Date: August 7, 2025 Time: 9:00 a.m. Dept: 14 Complaint Filed: October 25, 2022 Trial: Not Set

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I. INTRODUCTION

Plaintiff Tessa Teuscher ("Plaintiff") brings this Motion for Approval of PAGA Settlement Agreement pursuant to Cal. Lab. Code § 2699(1)(2). Plaintiff filed this case pursuant to the Private Attorneys General Act of 2004 ("PAGA"). Plaintiff and Defendants Sally Beauty Supply, LLC and Sally Beauty Holdings, Inc. ("Defendants") have reached a proposed settlement that effectuates the purposes of PAGA and, by this motion, Plaintiff, pursuant to California Labor Code § 2699(l), seeks Court approval of such settlement. The terms of the settlement are set forth in the PAGA Settlement Agreement ("Settlement") attached as **Exhibit 1** to the Declaration of James R. Hawkins ("Hawkins Decl.") filed in support of this Motion. Under the Settlement, Defendants will pay a Gross Settlement Amount of $1,090,000. The non-reversionary Gross Settlement Amount will be allocated as follows:

1. PAGA Counsel's Fees: up to one-third (1/3) of the Gross Settlement Amount ($363,333.33) and actual costs of $25,593.15;
2. A PAGA Representative Service Payment to Plaintiff Tessa Teuscher of $2,500.00;
3. Settlement Administration Costs of $21,690.00; and
4. Net Settlement Amount: (approximately $676,883.52), of which 75% (approximately $507,662.64) will be paid to the LWDA, and 25% (approximately $169,220.88) will be paid to the Aggrieved Employees.

As detailed below, the Settlement is fair, reasonable, and adequate. Plaintiff requests that the Court: (1) enter an Order approving the settlement pursuant to California Labor Code § 2698, *et seq*. and ordering the Parties to carry out the terms of the PAGA Settlement Agreement; and (2) enter a final Judgment thereon.

II. BACKGROUND OF THE CASE AND RELEVANT PROCEDURAL HISTORY

A. Procedural History

This PAGA representative action was commenced on October 25, 2022. Plaintiff, having provided written notice to Defendants and the California Labor and Workforce Development Agency ("LWDA") of alleged Labor Code violations by Defendants, pursuant to Labor Code section 2699.3, commenced this Action by filing a Complaint alleging a number of wage and hour violations and seeking penalties under the Private Attorneys General Act ("PAGA") (Declaration of James R.

Hawkins “Hawkins Decl.”, ¶ 3–4).)

On January 24, 2025, the Parties participated in an all-day mediation presided over by Steve Mehta. Prior to mediation, Plaintiff obtained, through informal discovery, policy documents, time and pay records, and data points related to the Aggrieved Employees. With the guidance of Mr. Mehta, the Parties were able to reach a resolution of the claims in this Action. (Id. ¶ 5).

Plaintiff submitted an amended PAGA letter to the LWDA and filed a First Amended Complaint on or about June 11, 2025, to add claims for PAGA penalties based on Defendants alleged (1) Failure to Provide Suitable Seating; (2) Failure to Pay All Vested Vacation Wages; (3) Failure to Provide COVID-19 Supplemental Sick Leave; and (4) Failure to Permit Timely Inspection of Personnel Records. The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint.”). On June 13, 2025, Plaintiff filed a First Amended adding additional claims that were investigated and settled at mediation (Id. ¶ 6)

B. Discovery, Investigation, and Mediation

Plaintiff engaged in extensive formal discovery in this matter, including interrogatories, requests for production, and a deposition of Defendants’ Person(s) Most Knowledgeable. The Parties thereafter agreed to pursue mediation in an attempt to resolve Plaintiff’s PAGA claims. In preparation for mediation, the Parties exchanged documents and information that allowed both sides to calculate the potential damages and evaluate potential risks, including sampling of schedules, time records, and wage statements for Aggrieved Employees during the PAGA Period, all employee handbooks used during the PAGA Period, and a detailed list of policies and practices concerning timekeeping, meal and rest periods, overtime calculations, and other relevant employment conditions. For Plaintiff specifically, we requested all-time records, actual wage statements, and the methods used for time tracking, such as badge or card swipes and computer log-ins. Plaintiff’s counsel analyzed, researched, and investigated the potential issues, including matters related to calculating damages, trial, and potential appeal. This shared data facilitated a precise evaluation of Defendants’ potential liability and damages based on the presented claims. (Id. ¶¶ 10-16).

On January 24, 2025, the Parties participated in an all-day mediation presided over by Steve Mehta. (Id. ¶ 5.). Following this, the Parties executed an amended PAGA Settlement Agreement on

May 9, 2025. (Id. ¶¶ 7, 16, Ex. 1, "Settlement").

III. SUMMARY OF THE SETTLEMENT

A. Aggrieved Employees and PAGA Period Definitions

The Aggrieved Employees are "all individuals who were employed by Defendants in California as non-exempt employees, at any time during the PAGA Period." The PAGA Period is from August 18, 2021 through the date the Court grants approval of this Settlement. (Settlement, §§ 1.4, 1.6.) It is estimated that the number of Aggrieved Employees is 5,024 and PAGA Pay Periods is 141,334. (Hawkins Decl. ¶ 24, Ex. 1 at § 9.)

B. Amount of the Settlement and Allocation of Settlement Amounts

In consideration for this Settlement and a release by Plaintiff, Aggrieved Employees, and the LWDA, as provided herein, Defendants have agreed to pay $1,090,000.00, to be allocated as follows:

Settlement Administration Costs	$21,690.00
PAGA Counsel's Costs	$25,593.15.00
PAGA Representative Service Payment	$2,500.00
PAGA Counsel's Attorneys' Fees	$363,333.33
LWDA Share (75% of Net Settlement Amount)	$507,662.35
Aggrieved Employee Share (25% of Net Settlement Amount)	$169,220.78

(Ex. 1, § 3.2). The Aggrieved Employee Share is the portion (25%) of the Net Settlement Amount distributed to the Aggrieved Employees. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Each Aggrieved Employee assumes full responsibility and liability for any taxes owed on his or her Individual PAGA Payment. (Ex. 1 at § 3.2).

C. Release by Aggrieved Employees

Upon the entry of Judgment and funding of the Gross Settlement Amount, Plaintiff, the State of California, and all the Aggrieved Employees will be forever barred from pursuing against the Released Parties all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the factual allegations stated in the Operative Complaint, the Actions, and the

Plaintiff's PAGA Notice, which occurred during the PAGA Period. The Released PAGA Claims include claims for PAGA penalties based on the following allegations: (1) failure to pay minimum wages; (2) failure to accurately pay overtime wages; (3) failure to provide lawful meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay wages during employment; (6) failure to timely pay wages owed upon separation from employment; (7) failure to reimburse necessary expenses; (8) knowing and intentional failure to comply with itemized wage statement provisions; (9) violation of the unfair competition law; (10) failure to keep accurate records; (11) failure to pay sick leave at the proper rate; (12) failure to pay vested vacation wages; (13) failure to provide suitable seating; (14) failure to permit timely inspection of personnel records; and (15) failure to provide COVID-19 supplemental paid sick leave.. (Ex. 1, §§ 1.9, 8).

D. Settlement Administration

The Parties mutually selected Apex Class Action ("Apex") to serve as the Settlement Administrator, which will be responsible for processing the settlement payments and providing notice to the Aggrieved Employees. Apex estimates the costs of administration will not exceed $21,690.00. (Id. § 3.2).

IV. <u>THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE</u>

A. PAGA Settlements Require Court Approval

Any settlement of a PAGA action brought by an aggrieved employee must be approved by the Court. (Cal. Lab. Code § 2699(1)(2).) The Labor Code does not require the two-step settlement approval process utilized in class actions—instead, PAGA settlements are approved on a single motion. (See *Salazar v. Sysco Central Cal,* No. 15-01758-DAD, 2017 WL 1135801, *2 (E.D. Cal. Feb. 2, 2017) (rejecting the application of class action settlement rules and procedures for PAGA settlement approval).) When trial courts review PAGA settlements, they should consider whether "the relief provided for under the PAGA [is] genuine and meaningful, consistent with the underlying purpose of the statute to benefit the public." (*O'Connor v. Uber Techs., Inc.*, No. 13-03826-EMC (N.D. Cal. Jul. 29, 2016), ECF No. 736 at 2-3; see also *Salazar*, 2017 WL 1135801, *2 (quoting the above passage).) Nothing in PAGA changes the strong judicial preference in support of approving settlements. (See, e.g., *Osumi v. Sutton* (2007) 151 Cal. App. 4th 1355, 1357 (confirming the "[s]trong public policy in favor of the settlement of civil cases").)

B. The PAGA Settlement is Fair and Reasonable and Accomplishes the Objectives of PAGA

Although PAGA and its legislative history do not seem to require a Court to analyze a PAGA settlement in comparison to the "value" of the claims, the penalties herein are reasonable when considered in this context as well.

Based upon the current estimates provided by Defendants, Plaintiff's Counsel estimates that maximum realistic liability that Defendants faced for the Aggrieved Employees during the PAGA period is approximately $14,334,00.00 based on approximately 141,334 PAGA Pay Periods at $100 per pay period. The risks associated with continuing the litigation underscore that the Settlement represents a fair resolution of the contested claims, achieved through thorough arm's length negotiations. (Hawkins Decl. ¶¶ 23-32). Further, Defendants dispute that any liability exists, and if any were found to exist for any reason, asserts the Court would likely use its discretion to reduce any penalties since it claims that any issues were unintentional and inconsequential. (Id.)

While Plaintiff argued that Defendants could face over $70 million in penalties based upon the assessment of initial and subsequent penalties and stacking of penalties, Plaintiff is aware of adverse authority and the attendant risk. In *Amaral v. Cintas Corp.* (2008) 163 Cal. App. 4th 1157, the plaintiff argued that the trial court should assess a $200 civil penalty for each violation that occurred after the plaintiff submitted their PAGA letter(s) to the LWDA, thereby informing defendant of their claims. However, the defendant objected to this argument, relying on a later district court case construing *Amaral*, holding that the trial court can only assess a $200 civil penalty for "subsequent" violations after the date that "a court or commission" notifies the employer of a violation. (*Amalgamated Transit Union Local 1309 v. Laidlaw Transit Servs.* (C.D. Cal 2009) U.S. Dist. LEXIS 69842, *26; see also *Bernstein v. Virgin Am., Inc*. (9th Cir. 2021) 990 F.3d 1157, 1173 (reversing judgment as to "heightened civil penalties" because the defendant was not given notice by the Labor Commissioner when the "subsequent" violations occurred*)*; *Vieyara-Flores v. Sika Corp.* (C.D. Cal. June 10, 2019) No. EDCV19606JVSKKX, 2019 WL 2436998, at *5 ("employers are not subject to heightened penalties . . . until a court or commissioner notifies the employer that it is in violation of the Labor

Code . . . [Plaintiff] has not offered evidence that the Labor Commission or a court has notified them of PAGA violations [thus] PAGA's heightened penalty of $200 for subsequent violations will not be calculated to determine the amount in controversy"); *Chen v. Morgan Stanley Smith Barney*, LLC (C.D. Cal., October 2, 2014) No. 8:14-CV-01077 ODW (FFMx), 2014 WL 4961182 ("Under the Labor Code, if an employer does not have notice that they are committing a violation, they are not subject to the heightened penalties."); *Trang v. Turbine Engine Components Technologies Corp.* (C.D. Cal. Dec. 19, 2012) No. CV 12–07658 DDP (RZx), 2012 WL 6618854 ("courts have held that employers are not subject to heightened penalties for subsequent violations unless and until a court or commissioner notifies the employer that it is in violation of the Labor Code").)

While Plaintiff argued that stacking was allowed, and that it was appropriate to award $100 for each initial violation and $200 for each subsequent violation, and that each violation of the Labor Code gave rise to a separate penalty such that Defendants could ultimately face liability in excess of $70 million for initial and subsequent violations, Defendants argued that under no circumstances should a penalty more than $100 per pay period be awarded for alleged PAGA violations and cited various cases (as set forth above) supporting such a result. (Hawkins Decl. ¶ 25.). Defendants contended that PAGA penalties cannot and should not be stacked and that, even if they could, very few Courts have ever exercised discretion to stack them. (Id.). In this case, Plaintiff's Counsel is cognizant that there is at least an argument that Defendants' maximum exposure would be approximately $14,133,400.00 (141,334 violative pay periods multiplied by $100 per pay period). (Id. ¶ 26).

However, this maximum amount does not consider the risks and defenses to the claims asserted. For example, Defendants contend that Plaintiff and PAGA Members were paid for all hours worked, that any off-the-clock work was done without Defendants' knowledge, that its policies were compliant, that Plaintiff and PAGA Members acknowledged being provided compliant meal and rest breaks, and that any non-compliant breaks were due to the employee's voluntary choice. (Hawkins Decl. at ¶¶ 27-32).

Additionally, Defendants assert that, even if the claims were proven, Plaintiff's alleged maximum exposure figure fails to acknowledge that courts have wide latitude to reduce the amount of civil penalties "based on the facts and circumstances of a particular case" and to avoid "an award that is unjust, arbitrary and oppressive, or confiscatory." (Cal. Lab. Code § 2699(h).) Moreover, Defendants argue against the merits of the underlying claims particularly to the extent that "wilfulness" and/or "good faith" defenses mitigate the civil penalty claims. (Hawkins Decl. ¶¶ 25, 28). In light of these arguments and defenses, Plaintiff reasonably estimated Defendants' realistic exposure to be significantly less than $100 per pay period.

Despite these defenses, Plaintiff still obtained a settlement which commits Defendants to pay $1,090,000 for resolution of the action– a reasonable result in light of the risks and uncertainties associated with the PAGA claims in this case. This is sufficient to accomplish the objectives of PAGA while not being unjust, arbitrary and oppressive, or confiscatory. For these reasons, the Parties submit that the agreed-upon PAGA Settlement is fair and reasonable. (Id. ¶¶ 30-32).

C. Plaintiff's PAGA Representative Service Payment is Proper

Plaintiff is a former employee of Defendants who took the extraordinary step to challenge her former employer's actions by bringing this action. (See, generally, Declaration of Tessa Teuscher). Plaintiff's action has resulted in a substantial recovery under PAGA. Plaintiff fully participated in the case's preparation, initiation, litigation, and mediation. (*Id.*) She provided valuable information and documents pertaining to the claims and kept well informed of the nature and extent of settlement discussions, and approved the same. (*Id.*). Additional, Plaintiff had her deposition taken by Defendant, and participated in a full day mediation. (Id.)

The proposed PAGA Representative Service Payment to Plaintiff is reasonable and represents only a small percentage of the Gross Settlement Amount. Absent the actions taken by Plaintiff, neither the LWDA nor the Aggrieved Employees would have reaped the rewards of this action. Plaintiff respectfully requests that this Court approve the Settlement and the PAGA Representative Service Payment in amount of $2,500.00.

V. <u>THE REQUESTED ATTORNEYS' FEES AND LITIGATION COSTS ARE FAIR AND REASONABLE</u>

For their efforts and the risk undertaken in obtaining a common fund settlement that benefits the LWDA and Aggrieved Employees, the Parties allocated $363,333.33 to PAGA Counsel for reasonable attorneys' fees, or one-third of the Settlement Amount. Additionally, the Parties agreed to reimburse PAGA Counsel for their actual litigation costs of up to $30,000.00. These fees and costs are warranted under the law and within the range of fees commonly awarded in similar cases.

A. PAGA Counsel are Entitled to Recover Attorney's Fees Under the Common Fund Doctrine In This Qui Tam Action

PAGA provides that a plaintiff is entitled to recover reasonable attorneys' fees, expenses, and costs under section 2699(g)(1) of the California Labor Code, which provides that, "Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs, including any filing fee paid pursuant to subparagraph (B) of paragraph (1) of subdivision (a) or subparagraph (B) of paragraph (1) of subdivision (c) of Section 2699.3. As discussed below, in a *qui tam* action, reasonable attorney's fees and costs are typically awarded under the common fund doctrine where, as here, the litigation creates a common fund of money in a specific amount for the benefit of others.

"A qui tam action is one brought under a statute that allows a private person to sue as a private attorney general to recover damages or penalties, all or part of which will be paid to the government." (*People ex rel. Stratham v. Acacia Research Corp.* (2012) 210 Cal. App. 4th 487, 491-492.) "A qui tam action 'is a type of private attorney general lawsuit' [citation], in which 'the qui tam plaintiff stands in the shoes of the state or political subdivision [citation].'" (*Id.* at p. 501.) As the name of the PAGA statute makes clear (*e.g.* "Labor Code Private Attorney General Act"), a PAGA action is a qui tam action because the statute allows the employee plaintiff, acting as the proxy of the state's labor law enforcement agency, to sue his or her employer for Labor Code violations and recover civil penalties that otherwise would have been assessed and collected by the LWDA. (*Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal. 4th 348, 380.) "A PAGA representative action is therefore a type of *qui tam* action." (*Id.* at p. 382.) Indeed, the majority of the civil penalties recovered in a PAGA action are paid to the state, with a smaller portion paid to the aggrieved employees (e.g., 75% paid to the state; 25% paid to the aggrieved employees). (See Cal. Lab. Code § 2699(i).)

As here, where a common fund is created in a qui tam action by the successful litigation of a plaintiff and their attorneys, the plaintiff's attorneys are entitled to recover their fees from the common fund. (*Bank of America v. Cory* (1985) 164 Cal. App. 3d 66, 89-91.) In *Bank of America*, California taxpayers compelled the State Controller to enforce the Unclaimed Property Law against banks who were retaining accounts that should have been turned over to the State. Because of the success of the taxpayers' lawsuit, a common fund was created in favor of some depositors and the State of California. (*Id.)* When the taxpayers' attorneys sought recovery of their attorney's fees from the judgment under the common fund doctrine, the Controller opposed the request. The Court of Appeal affirmed the trial court's fee award to the taxpayers' counsel under the common fund doctrine stating:

> "Those benefiting from the recovery of the fund, in this case some depositors and eventually the People of the State of California, must bear their share of the cost of litigation. Fees for taxpayers' attorneys will be deducted from the judgment, and each claimant's share reduced proportionately. To the extent the judgment relies upon section 1021.5 for recovery of attorney fees, it must be modified to confine the award of fees to the common fund theory." *Id*. at p. 91.

In this case, the Settlement creates a common fund for the benefit of the employees and the State of California. Thus, these beneficiaries must bear their share of the costs and attorney's fees, which must be deducted from the settlement amount under the common fund theory. (*Id*.) Moreover, such fees are deducted as a percentage of the settlement amount. (*Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478-482; *Six (6) Mexican Workers v. Arizona Citrus Growers* (9th Cir. 1990) 904 F.2d 1301, 1311; *Williams v. MGM-Pathe Communications Co.* (9th Cir. 1997) 129 F.3d 1026, 1027; *Staton v. Boeing Co.* (9th Cir. 2003) 327 F.3d 938, 967.)

The California Supreme Court also upheld the use of the common fund theory of recovery for attorney's fees in *Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal. 5th 480, 506. "[W]hen a number of persons are entitled in common to a specific fund, and an action brought by … plaintiffs for the benefit of all results in the creation or preservation of that fund, such … plaintiffs may be awarded attorneys' fees out of the fund." *Serrano III v. Priest* (1977) 20 Cal. 3d 25, 34; *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478 ("[A] lawyer who recovers a common fund . . . is entitled to reasonable attorneys' fees from the fund as a whole;" *Mills v. Electric Auto-Lite Co.* (1970) 396 U.S. 375, 393-394 (Discussing award of attorneys' fees and expenses in a settlement where "litigation has conferred a substantial benefit on the members of an ascertainable class"); see also *Lealao v. Beneficial California, Inc.* (2000) 82 Cal. App. 4th 19, 26 ("[f]ee spreading occurs when a settlement or adjudication results in the establishment of a separate or so-called common fund for the benefit of the class.").)

Accordingly, the common fund doctrine allows a court to award attorneys' fees based upon a percentage of the total when the fund consists of a "certain or easily calculable sum of money." (*Dunk v. Ford Motor, Co.* (1996) 48 Cal. App. 4th 1794, 1809; *Jutkowitz v. Bourns, Inc.* (1981) 118 Cal. App. 3d 102, 1,282.91 [application of the percentage of the fund recovery depended on "[t]he critical point" that "a fund was created from which attorneys' fees could be paid"]; A. Conte & H. Newberg, *Newberg on Class Actions*, § 14:6 (4th ed. 2002).)

California law supports the percentage of the recovery method for awarding attorneys' fees where a fund is established. (See e.g., *Serrano v. Priest* (1977) 20 Cal. 3d 25, 34; *Bell v. Farmers Insurance Exchange* (2004) 115 Cal. App. 4th 715, 726; *Chavez v. Netflix, Inc.* (2008) 162 Cal. App. 4th 43, 563 ("fees based on a percentage of the benefits are in fact appropriate in large class actions…"); *Sanders v. City of Los Angeles* (1970) 3 Cal. 3d 252, 261, 263 (affirming award of attorneys' fee based on percentage of recovery); *Chavez v. Netflix, Inc.*, *supra*, 162 Cal. App. 4th at pp. 65-66; *see also Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc.* (2005) 127 Cal. App. 4th 387, 397 (the common fund doctrine is "frequently applied in class actions when the efforts of the attorney for the named class representatives produce monetary benefits for the entire class"); *Wershba v. Apple Computer, Inc.* (2001) 91 Cal. App .4th 224, 254 ("courts recognize two methods for calculating attorney fees in class actions: the lodestar/multiplier method and the percentage of recovery").)

Based on the foregoing, awarding attorneys' fees of one-third of the Settlement Amount is fair and warranted in light of the PAGA settlement that was reached on behalf of the State of California and Aggrieved Employees. Accordingly, the requested fees are reasonable and appropriate.

B. The Percentage Fee of the Gross Settlement Amount Is Fair And Reasonable

An award of fees from the Gross Settlement Amount under the common fund doctrine prevents unjust enrichment of those who benefit from the common fund created through PAGA Counsel's successful efforts and furthers the important goal of attracting competent counsel to handle representative actions enforcing minimum labor standards. (*Laffitte v. Robert Half Int'l. Inc.* (2016) 1 Cal. 5th 480, 503.) In affirming the use of the common fund doctrine in California, the California

Supreme Court summarized the benefits of the percentage method of recovery stating: "The recognized advantages of the percentage method—including relative ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation [citations]—convince us the percentage method is a valuable tool that should not be denied our trial courts." (*Id*.)

Among the factors considered in determining whether the requested fee percentage is reasonable are: (1) the results achieved; (2) the risk of further litigation; (3) the skill required of PAGA Counsel and the quality of work performed by PAGA Counsel; (4) the contingent nature of the fee and the financial burden carried by the plaintiff; and (5) awards made in similar cases. (*Vizcaino v. Microsoft Corp*. (9th Cir. 2002) 290 F.3d 1043, 1048-50.) All these factors support an award here of one-third of the common fund.

First, PAGA Counsel achieved a respectable PAGA-only settlement in a case that involved highly contested issues. (Hawkins Decl. ¶¶ 27-32).

Second, Plaintiff faced significant risks going forward with the litigation. As discussed above, Defendants raised various defenses which threatened recovery and, as such, Plaintiff faced significant risk going forward with this litigation, and it would have taken significant time to realize any recovery in this action. (Id.).

Third, PAGA Counsel are experienced class and representative PAGA action litigators and have achieved some of the largest representative awards in the State of California. (Id. ¶¶ 37-59.). This experience and expertise, combined with the high quality of work performed in this case by PAGA Counsel, resulted in the settlement achieved in this case. (Id.)

Fourth, as discussed above and as set forth in the Declaration of James Hawkins, the request for attorney's fees falls well within the norms accepted by state and federal courts in California in comparable wage and hour actions actually handled by PAGA Counsel. (Hawkins Decl. ¶ 49.)

For all of the above reasons, a fee award here in the amount of one-third of the Gross Settlement Amount is fair and reasonable.

C. A Lodestar Cross-Check Confirms the Reasonableness of the Fee Award

Despite recognized limitations of the so-called lodestar method, some California and federal courts acknowledge the utility of a lodestar "cross-check." (*Lealao, supra,* 82 Cal. App. 4th at 46-47.) Under the "lodestar multiplier" method of cross-checking the reasonableness of attorneys' fees in class actions, the court ascertains class counsel's total "lodestar" amount by multiplying the number of hours reasonably expended by each attorney or legal staff member by their hourly rates, and then enhances or reduces this lodestar figure by a "multiplier" to account for a range of factors, such as the novelty or difficulty of the case, its contingent nature, and the degree of success achieved. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal. 4th 1084, 1095-96; *Press v. Lucky Stores, Inc*. (1983) 34 Cal.3d 311, 322; *Lealao, supra,* 82 Cal. App. 4th at 43 (court has discretion to use a multiplier to ensure that the "fee awarded is within the range of fees freely negotiated in the legal marketplace in comparable litigation").)

As set forth in the Declaration of James Hawkins submitted herewith, the lodestar for James Hawkins APLC is approximately $259,590.00, which will continue to increase as our firm carries out the terms of the Settlement, as reflected in the following table:

Lodestar Summary For James Hawkins, APLC			
Timekeeper	**Hours**	**Rate**	**Total**
James Hawkins	146.8	$1050	$154,140.00
Christina Lucio	49.3	$775	$38,207.50
Mitchell Murray	13.3	$750	$9,642.50
Associate Attorneys	101.6	$450	$45,720.00
Paralegal Staff	59.4	$200	$11,880.00
TOTALS	**370.4**		**$259,590.00**

(Hawkins Decl. at ¶¶ 37-46.) This lodestar requires a multiplier of only 1.4, and only represents the value of work of our firm, which supports that the requested fee is justified, reasonable and appropriate.

The hourly rates above are comparable to those of other attorneys with equal or similar experience. The starting point in determining the appropriate hourly fee is to discern the prevailing rate for similar work in the pertinent geographic region. (See*, Manual for Complex Litigation*, § 14.122 (1984) ("reasonable fees ... are to be calculated according to the prevailing market rates in the relevant community.").) Thus, not only are PAGA Counsel's rates reasonable and typical, but the attorneys' fees requested are far less than lodestar, which further confirms that the fee request is fair and reasonable. (Hawkins Decl. ¶¶ 40-43.)

D. The Requested Litigation Costs are Fair and Reasonable

PAGA Counsel requests reimbursement of their actual out-of-pocket expenses incurred to prosecute this action. These expenses were incidental and necessary to the effective representation of the employees. (See *Harris v. Marhoefer* (9th Cir. 1994) 24 F.3d 16, 19.) PAGA Counsel are permitted to recover their litigation costs and expenses under the common fund doctrine. (See *Serrano v. Priest* (1977) 20 Cal. 3d 25, 35 (common fund doctrine permits recovery of fees and costs from the fund); *Rider v. County of San Diego* (1992) 11 Cal. App .4th 1410, 1424 n.6 (costs are recoverable from the common fund "[o]f necessity, and for precisely the same reasons discussed above with respect to the recovery of attorneys' fees by . . . [Plaintiffs'] attorneys").) Furthermore, PAGA Counsel are entitled to recover "those out-of-pocket expenses that would normally be charged to a fee-paying client." (*Harris v. Marhoefer* (9th Cir. 1994) 24 F.3d 16, 19.)

The Settlement Agreement authorizes PAGA Counsel to recover litigation costs up to $30,000. (Ex. 1, Settlement, § 3.2) The actual costs through the approval hearing are projected to be $25,593.15, which is less than the amount requested. (Hawkins Decl. ¶ 71, Ex. 2.) These costs are reasonable, uncontested, and should be approved. Although some of these costs are attributable to the litigation of class claims alleged in this action, the litigation of the Class claims ultimately played a crucial role in the resulting settlement of the PAGA claims, and for this reason PAGA counsel requests an award of $25,593.15 (Id.)

VI. SUBMISSION TO THE LWDA

The Settlement was submitted to the LWDA on June 16, 2025, and a copy of this Motion was submitted to the LWDA in accordance with Labor Code section 2699(l)(2) on July 7, 2025 (Hawkins Decl. at ¶ 73).

VII. CONCLUSION

The Settlement reached by the Parties is fair, adequate, and reasonable and should be approved. Based on the above, Plaintiff respectfully requests that this Court: 1) approve the Parties' settlement and order the Parties to carry out the terms of the Settlement, and 2) enter a final Judgment thereon.

DATED: July 7, 2025 **JAMES HAWKINS APLC**

By: */s/James Hawkins*

James R. Hawkins
Christina M. Lucio

Attorneys for Plaintiff Tessa Teuscher,
on behalf of herself and in her representative capacity as
private attorneys general