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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

JUAN DORANTES MIRANDA, as an individual and on behalf of all others similarly situated, Plaintiff, vs. C M C STEEL FABRICATORS, INC., dba CMC REBAR, a Texas corporation; and DOES 1 through 100, inclusive, Defendants.	CASE NO. CIVSB2511003 [*Assigned for all purposes to the Hon. Wilfred J. Schneider, Jr., Dept. S32*] **PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR SETTLEMENT APPROVAL OF CLAIMS BROUGHT UNDER THE PRIVATE ATTORNEYS GENERAL ACT, REASONABLE ATTORNEYS' FEES AND COSTS, AND REPRESENTATIVE ENHANCEMENT PAYMENT** Date: August 27, 2026 Time: 8:30 a.m. Dept.: S32 Action Filed: April 17, 2025 Trial Date: None Set

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

PLEASE TAKE NOTICE that on August 27, 2026 at 8:30 a.m., or as soon thereafter as the matter may be heard, in Department S32 of the San Bernardino County Superior Court, located at 247 W. 3rd Street, San Bernardino, California 92415, Plaintiff Juan Dorantes Miranda ("Plaintiff"), individually and on behalf of other PAGA Aggrieved Employees, will and hereby does move this Court for entry of an Order as follows:

1. Granting approval pursuant to Labor Code section 2699(l) of the parties' proposed PAGA Settlement Agreement of claims brought by Plaintiff pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698 *et seq.*;
2. Appointing Phoenix Settlement Administrators ("Phoenix") as the third-party Settlement Administrator, and approving an award of $4,500 in anticipated costs to Phoenix for its settlement administration services;
3. Approving as to form and content the proposed Notice of PAGA Settlement and Release of Claims ("PAGA Notice"), and directing that it be distributed to the Aggrieved Employees pursuant to the terms of the PAGA Settlement Agreement;
4. Directing the distribution of the Gross Settlement Amount ($265,668.00) pursuant to the terms of the PAGA Settlement Agreement;
5. Approving an award of 35% of the Gross Settlement Amount ($92,983.80) in attorneys' fees to Haines Law Group, APC, as Plaintiff's counsel;
6. Approving an award of $26,505.18 in actual litigation costs reimbursement to Plaintiff's counsel;
7. Approving a PAGA representative enhancement payment of $5,000.00 to Plaintiff for his service to the Aggrieved Employees and the State of California;
8. Approving the payment of $88,841.36 to the California Labor & Workforce Development Agency for its 65% share of PAGA civil penalties; and
9. Approving the payment of $47,837.66 to the Aggrieved Employees for their 35% share of PAGA civil penalties.

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This Motion is based on this Notice, the attached Memorandum of Points and Authorities; the declarations of Matthew K. Moen, Paul K. Haines, Fletcher W. Schmidt, Plaintiff Juan Dorantes Miranda, Jodey Lawrence of Phoenix, Melissa Rodriguez on behalf of Defendant C M C Steel Fabricators, Inc., dba CMC Rebar ("Defendant"), and all exhibits attached thereto; the PAGA Settlement Agreement; all other pleadings and papers on file in this action; and on any further oral or documentary evidence or argument presented at the time of hearing.

Given the multiplicity of issues addressed herein, Plaintiff's memorandum of points and authorities necessitates exceeding the 20-page limit set forth in California Rule of Court 3.764(c)(2). As this Motion is unopposed, Plaintiff respectfully requests that the Court consider the entire Motion, which is 21 pages in length.

Dated: August 4, 2026

Respectfully Submitted,
HAINES LAW GROUP, APC

By: ____________________
Matthew K. Moen
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Juan Dorantes Miranda ("Plaintiff"), an "aggrieved employee" under the Private Attorneys General Act, Labor Code section 2698 *et seq.* ("PAGA"), respectfully moves this Court for an Order granting approval of the PAGA Settlement Agreement (the "Settlement Agreement" or "Settlement")[1] entered into between Plaintiff and Defendant C M C Steel Fabricators, Inc., dba CMC Rebar ("Defendant").[2] The proposed Settlement, under which Defendant will pay a non-reversionary Gross Settlement Amount of $265,668.00, will dispose of Plaintiff's representative PAGA claim filed on behalf of the State of California and all "Aggrieved Employees." This PAGA action is predicated on Defendant's alleged failures to: pay all minimum and overtime wages; provide all lawful meal periods; authorize and permit all lawful rest periods; reimburse all necessary business expenses; pay sick time pay at the regular rate of compensation; issue accurate itemized wage statements; timely pay all final wages upon separation; pay all wages earned at least twice during each calendar month; and maintain accurate records.

This PAGA action seeks civil penalties for Defendant's Labor Code violations on behalf of the California Labor & Workforce Development Agency ("LWDA") and all "Aggrieved Employees," defined as all non-exempt employees who worked for Defendant in California at any time from April 17, 2024 to April 30, 2026 (the "PAGA Period").[3] *See* Settlement, §§ 1.4, 1.24, 8. Notably, the claims released under the Settlement are *solely* for the payment of civil penalties under the PAGA, and Aggrieved Employees other than Plaintiff will not be releasing any underlying wage and hour claims through this settlement. Based on the information provided by Defendant, there are approximately 271 Aggrieved Employees.

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[1] The Settlement Agreement is attached as Exhibit 1 to the Declaration of Matthew K. Moen ("Moen Decl."), filed concurrently with this Motion, and the Notice of PAGA Settlement and Release of Claims ("PAGA Notice") is attached as Exhibit 2 to the Moen Decl. *See* Moen Decl., ¶ 11, Exhibits 1-2.

[2] Concurrently with the filing of this motion, Plaintiff provided notice of the proposed Settlement, a copy of this motion, and all papers filed in support hereof, to the LWDA. *See* Moen Decl., ¶ 12, Exhibit 3.

[3] While the Settlement Agreement provides for the PAGA Period to run through the date the Court approves the Settlement or June 8, 2026, whichever is earlier, the Settlement also includes an Escalator Clause. *See* Settlement, §§ 1.24, 8. Defendant has represented that its payroll and employment records confirm that the escalator clause was triggered, and has therefore exercised its right to cut off the PAGA Period as of April 30, 2026. *See* Declaration of Melissa Rodriguez ("Rodriguez Decl."), ¶¶ 4-7.

In deciding whether to grant approval of the Settlement, the primary issue is whether the Settlement is fair, reasonable, and adequate. As set forth herein, the proposed Settlement is fair, reasonable, and adequate, as it (1) is the product of extensive arm's-length negotiations, (2) was negotiated by attorneys experienced in wage-and-hour issues with the assistance of an experienced, neutral mediator, (3) was negotiated after the parties undertook sufficient investigation to evaluate the relative strength and value of the PAGA claim, and (4) reflects a reasoned compromise based directly on the relative strength and value of the PAGA claim, as well as the risks, expense, complexity and likely duration of further litigation.

Pursuant to the Settlement, Defendant will pay a Gross Settlement Amount ("GSA") of $265,668.00 on a non-reversionary basis. *See* Settlement, §§ 1.12 and 3.1. After deducting amounts for requested attorneys' fees ($92,983.80), attorney costs ($26,505.18),[4] Plaintiff's representative enhancement payment ($5,000.00), and settlement administration costs ($4,500),[5] the Settlement provides for distribution of $88,841.36 to the LWDA for its 65% share of the civil penalties pursuant to Labor Code section 2699(*l*), and approximately $47,837.66 to the Aggrieved Employees, an average of approximately $176.52. *Id.*, §§ 1.12, 1.17, 3.2.

The GSA represents a reasonable recovery for the State of California and Aggrieved Employees when considering the limited release of only PAGA claims based on the factual allegations in Plaintiff's operative complaint, Plaintiff's April 17, 2025 PAGA Notice Letter, and Plaintiff's June 1, 2026 Supplemental PAGA Notice Letter. Additional litigation may have

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[4] Although the Settlement provides for reimbursement of Plaintiff's verified litigation costs and expenses "up to $30,000.00," Plaintiff's counsel is requesting an expense reimbursement of only $26,505.18. Moen Decl., ¶ 13; Settlement, § 3.2.1. The remainder of the "not to exceed" amount shall be allocated to the Net Settlement Amount. *Id.* Although Plaintiff's Counsel's expense summaries identify Plaintiff's Counsel's to-date out of pocket expenses as $26,241.45, the total amount that Plaintiff's Counsel is requesting for expense reimbursement ($26,505.18) includes an additional $263.73 in reasonably anticipated future costs for the filing and service of this Motion and the Settlement Administrator's final accounting declaration, as well as attending the hearings on this Motion and final accounting hearing, which will be incurred by Plaintiff's Counsel following the filing of this Motion. Moen Decl., ¶ 13; Exhibit 4. These costs are both foreseeable and necessary to fully implement the terms of the Settlement.

[5] Although the Settlement provides for an Administration Expenses Payment "not to exceed $15,000.00," Plaintiff requests a payment of $4,500.00 to Phoenix for all settlement administration tasks to be performed, pursuant to the administration bid provided by Phoenix. Moen Decl., ¶ 14; Declaration of Jodey Lawrence ("Lawrence Decl."), ¶ 22, Exhibit B; *see* Settlement, § 3.2.2. The remainder of the "not to exceed" amount shall be allocated to the Net Settlement Amount. Settlement, § 3.2.2.

resulted in a smaller recovery, or even no recovery at all, based on the defenses asserted by Defendant and the significant litigation risks involved. Moreover, the GSA results in individual payments that exceed other PAGA penalty awards approved as reasonable throughout California. *See, e.g., Penaloza v. PPG Industries Inc*., Case No. BC471369, 2013 WL 2917624 at *2 (Super. Ct. L.A. County, May 20, 2013) (average PAGA penalties of $7.49); *Cabrera v. Advantage Sale & Marketing, LLC*, Case No. BC485259, 2013 WL 1182822 (Super. Ct. L.A. County, March 12, 2013) (average PAGA penalties of $3.33). Further, the amounts requested for attorneys' fees and costs, Plaintiff's enhancement payment, and settlement administration costs are fair, adequate, and reasonable. The Court should enter the [Proposed] Judgment and Order submitted herewith.

II. SUMMARY OF THE LITIGATION

A. The Parties

Defendant operates a metal manufacturing business based out of Texas with various locations in California, including in Fontana in San Bernardino County. Moen Decl., ¶ 15. Plaintiff was employed by Defendant as a non-exempt Machine Operator from approximately October 2023 to January 2025, first through a staffing agency then as a direct-hire employee on March 11, 2024. Declaration of Juan Dorantes Miranda ("Dorantes Decl."), ¶ 2. Plaintiff's primary job duties consisted of cutting cable. *Id*. Plaintiff, like all Aggrieved Employees, was subject to Defendant's wage and hour policies and practices. *Id*., ¶ 3; Moen Decl., ¶ 15.

B. Procedural History

On April 17, 2025, Plaintiff filed a class action lawsuit against Defendant and other named defense entities in San Bernardino County Superior Court, alleging that Defendant failed to: (i) pay all minimum wages owed; (ii) pay all overtime wages owed; (iii) authorize and permit all lawful rest periods; (iv) reimburse all necessary business expenses incurred; (v) issue accurate itemized wage statements; (vi) timely pay all final wages owed upon separation; and (vii) comply with California's Unfair Competition laws. Moen Decl., ¶ 16. After exhausting his pre-filing requirements, Plaintiff filed the First Amended Complaint on June 24, 2025, adding a cause of action for civil penalties under PAGA premised upon the same underlying Labor Code violations. *Id*. On July 29, 2025, Plaintiff dismissed one named defendant and his individual and class action claims, without prejudice, due to an arbitration agreement Plaintiff signed during his employment with Defendant, and has since proceeded on a PAGA-only basis. *Id*. On January 28, 2026, the remaining improperly named defendants were dismissed, without prejudice, leaving Defendant as the only named defendant in the Action. *Id*. On February 27, 2026, Defendant removed the Action to the United States District Court, Central District of California. *Id*.

On March 9, 2026, the parties attended mediation with mediator Todd A. Smith, Esq., an experienced wage and hour mediator. Moen Decl., ¶ 17. Prior to attending mediation, Defendant provided Plaintiff with a 20% representative sampling of the Aggrieved Employees' timekeeping and payroll records spanning the relevant time period, as well as policy documents and key data points. *Id*. Plaintiff then retained an expert with a Ph.D. in economics to examine Defendant's produced data and conduct an exposure analysis for the claims at issue. *Id*. During mediation, the parties debated the legal bases for their claims and defenses, their respective data analyses, and their positions regarding the extent to which the Court might reduce any PAGA penalties recovered. *Id*. At the conclusion of mediation, Mr. Smith made a mediator's proposal to resolve Plaintiff's PAGA claim, which the parties ultimately accepted. *Id*. Over the following months, the parties negotiated the final terms of the proposed Settlement. *Id*.

On March 25, 2026, the parties remanded the Action to the San Bernardino County Superior Court for purposes of seeking settlement approval. Moen Decl., ¶ 18. As a material term of the Settlement, Plaintiff sent a supplemental PAGA letter to the LWDA on June 1, 2026, clarifying the Labor Code violations asserted by Plaintiff under PAGA that had been analyzed prior to mediation and included in the parties' settlement negotiations. *Id*., Exhibit 5. On June 23, 2026, Plaintiff filed the operative Second Amended Complaint, incorporating the factual allegations and claims alleged in Plaintiff's Supplemental PAGA Letter into the Action. *Id*.

C. <u>Plaintiff's Claims and Defendant's Defenses</u>

Plaintiff alleges that Defendant failed to pay Plaintiff and the Aggrieved Employees all minimum and overtime wages owed. Moen Decl., ¶ 19. Specifically, Plaintiff asserts that Defendant maintained an unlawful rounding practice that resulted in Defendant systematically underpaying Plaintiff and Aggrieved Employees all earned wages. *Id*.; *see also Camp v. Home Depot U.S.A., Inc*. (2022) 84 Cal.App.5th 638.

Defendant argues that its rounding practice is neutral and operated in an even-handed way, which Defendants assert is lawful under the court's ruling in *See's Candy Shops, Inc. v. Superior Court* (2012) 210 Cal.App.4th 889. Moen Decl., ¶ 19. Moreover, Defendant asserts that, even if employees clocked in prior to the scheduled start of their shift, no work could be performed until safety announcements were made by supervisors, which always took place after the scheduled start of the shift. *Id*. Further, Defendant discontinued its rounding practice in May 2025, and therefore argued Plaintiff had significantly overstated the significance of its rounding practice. *Id*. Finally, because *Camp v. Home Depot U.S.A., Inc*. has been granted review by the California Supreme Court, the decision is only persuasive, not binding authority, and Plaintiff faces the risk that the *Camp* holding could be reversed, rendering Plaintiff's reliance on *Camp* misplaced. *Id*

Plaintiff further asserts that Defendant paid Plaintiff and the Aggrieved Employees non-discretionary bonuses based on company sales and other forms of incentive pay that cannot be excluded from the regular rate of pay as a matter of law, but failed to properly incorporate the value of these earned non-discretionary bonuses when calculating the regular rate of pay, resulting in unpaid overtime wages and sick pay wages. Moen Decl., ¶ 20. Defendant, however, argues that the bonuses in question were properly included in the regular rate of pay, and paid to employees as an overtime true-up within the reported value of the bonus itself. *Id*. As a result, Defendant asserts that Plaintiff's regular rate claim fails on its merits. *Id*.

Plaintiff also asserts that Defendant failed to provide Aggrieved Employees with all timely duty-free 30-minute meal periods to which they were entitled. Moen Decl., ¶ 21; *see* Labor Code § 512(a). Specifically, Plaintiff asserts Defendant implemented its time rounding policy/practice with respect to Plaintiff's and the Aggrieved Employees' meal period time punches, thus masking and making appear lawful meal periods that were actually late, short, and interrupted. *Id*.; *see also Kaanaana, et al. v. Barrett Business Services, Inc., et al.* (2018) 29 Cal.App.5th 778, 808 (finding that time worked during meal periods results in liability for both "premium pay for the meal period violation and payment of minimum wages for all time worked.").

As with Plaintiff's minimum and overtime wage theories, Defendant contends it maintained lawful written meal period and timekeeping policies and lawful practices throughout the PAGA Period. Moen Decl., ¶ 21. Defendant asserts that its time records show compliance with meal period laws throughout the PAGA Period, and that it discontinued its rounding practice in May 2025, rendering Plaintiff's theory of liability meritless for most of the PAGA Period. *Id*.

Plaintiff also alleges that Defendant failed to authorize and permit Plaintiff and the Aggrieved Employees to take all legally compliant rest periods to which they were entitled. Moen Decl., ¶ 22. Specifically, Defendant failed to authorize and permit Plaintiff and the Aggrieved Employees to take a third 10-minute, duty-free rest period unless the employee worked more than 12.0 hours, rather than 10.0 hours, resulting in Defendant's failure to authorize and permit third rest periods for shifts lasting between 10.0 and 12.0 hours in length. *Id*.

In response, Defendant contends it maintained lawful rest period policies/practices at all times, and authorized and permitted all lawful rest periods to which Plaintiff and the Aggrieved Employees were entitled. Moen Decl., ¶ 22. Further, Defendant argues it scheduled employee rest periods to be taken by all employees in a work crew simultaneously in the middle of every work period, which included a third rest period that occurred after 10.0 hours but prior to 12.0 hours into the employees' shifts. *Id*. Thus, Defendant argues the rest period claim fails on the merits. *Id*

In addition, Plaintiff alleges that Defendant required Plaintiff and the Aggrieved Employees to use their personal cellular phones to communicate with supervisors for work-related purposes, but did not reimburse Plaintiff and other Aggrieved Employees for a reasonable portion of their monthly cellular phone bills. Moen Decl., ¶ 23; *see Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137, 1144 ("If an employee is required to make work-related calls on a personal cell phone, then he or she is incurring an expense for purposes of section 2802."). In response, Defendant argues it maintained a practice to reimburse all necessary business expenditures and that, to the extent that any expenses were not reimbursed, they were not reasonably incurred. Moen Decl., ¶ 23. Defendant also maintains that this claim will fail on its merits since, Defendant argues, due to safety concerns present in its facility as a result of machines constantly in operation, cell phone use by employees was strictly banned on the production floor per written policy. *Id*. Instead, supervisors had radios that they used to communicate with employees, but cell phones were strictly prohibited. *Id*.

Finally, Plaintiff alleges that, as a result of Defendant's failure to pay all overtime wages, minimum wages, sick pay wages, and meal and rest period premium wages owed, Defendant also maintained inaccurate payroll records, issued inaccurate wage statements, and failed to pay all final wages owed to Plaintiff and the Aggrieved Employees upon their separations from employment. Moen Decl., ¶ 24. In response, Defendant argues that Plaintiff's underlying claims will fail, and as a result, the derivative claims will also fail. *Id.*; *See Price v. Starbucks Corp*. (2011) 192 Cal.App.4th 1136, 1147 ("Because the underlying causes of action fail, the derivative UCL and PAGA claims also fail."). Defendant also argues that, given its asserted good faith defenses, this Court would exercise its discretion to substantially reduce any PAGA penalties awarded. Moen Decl., ¶ 24; *see also* Labor Code § 2699(e)(2); *Naranjo v. Spectrum Sec. Servs., Inc.*, 88 Cal.App.5th 937 (2023); *Thurman v. Bayshore Transit Mgmt., Inc*. (2012) 203 Cal.App.4th 1112, 1135 (affirming reduction of PAGA penalties); *Carrington v. Starbucks Corporation* (2018) 30 Cal.App.5th 504 (affirming reduction of PAGA penalties to 10% of exposure). Further, Defendant argues that the PAGA reform that applies to cases filed after June 19, 2024—including the instant case—provides that the heightened $200 per pay period penalty applies only if the Labor Commissioner or any Court has issued a finding or determination that the employer's policy or practice was unlawful, or the Court finds that the employer's conduct was malicious, fraudulent, or oppressive. *See* Labor Code § 2699(f)(2)(B). Therefore, Defendant asserts that Plaintiff could only seek PAGA penalties at the $100 "initial" violation rate. Moen Decl., ¶ 24. Moreover, Defendant argued that it took all reasonable steps to prospectively be in compliance will all provisions of the Labor Code identified in Plaintiff's PAGA Notice within 60 days after receiving notice of the alleged Labor Code violations, thereby limiting Plaintiff's maximum potential recovery to no more than 30 percent of the total penalty amount sought. *Id.*; *see also* Labor Code § 2699(h)(1).

III. <u>THE PROPOSED SETTLEMENT</u>

A. <u>"Aggrieved Employees" Defined</u>

The Aggrieved Employees are: all non-exempt employees who worked for Defendant in California during the PAGA Period. Settlement, § 1.4. The PAGA Period is April 17, 2024, through April 30, 2026. *Id.*, §§ 1.19, 8; Rodriguez Decl., ¶¶ 4-7.

B. Essential Terms Of The Settlement

Defendant will pay a GSA of $265,668.00. *See* Settlement, § 1.12. After deducting amounts for requested attorneys' fees and costs, Plaintiff's representative enhancement payment, and settlement administration costs, the remaining Net Settlement Amount ("NSA") distributable to the Aggrieved Employees and the LWDA is estimated to be $136,679.02. *See id*, § 1.17. The monetary terms of the Settlement are as follows:

Gross Settlement Amount:	**$265,668.00**
Minus Court-approved attorneys' fees:	$92,983.80
Minus Court-approved attorneys' costs:	$26,505.18
Minus Court-approved representative enhancement payment:	$5,000.00
Minus settlement administrator costs:	$4,500.00
Net Settlement Amount:	**$136,679.02**
LWDA's 65% Share:	$88,841.36
Total Paid to Aggrieved Employees:	**$47,837.66**

1. Attorneys' Fees and Costs

Plaintiff's counsel requests 35% of the GSA ($92,983.80) in attorneys' fees, and $26,505.18 in actual litigation costs. Moen Decl., ¶ 13, Exhibit 4; Settlement, § 3.2.1.

2. Settlement Administration Costs

The parties agree to engage Phoenix Settlement Administrators ("Phoenix") as the third-party settlement administrator. *See* Settlement, § 1.2. Phoenix shall be responsible for calculating the settlement checks and mailing the settlement checks and PAGA Notice to the Aggrieved Employees in English and Spanish, among other duties. *Id*., §§ 6, 7.1-7.4. Phoenix estimates incurring $4,500 in costs in connection with the administration of this settlement. *See* Declaration of Jodey Lawrence ("Lawrence Decl."), ¶ 22, Exhibit B.

3. Plaintiff's Representative Enhancement Payment

Plaintiff also requests a representative enhancement payment of $5,000.00 in recognition of his efforts to initiate this case, his contributions to the prosecution of this case, and his efforts in bringing this case to a resolution. Settlement, §§ 1.26, 3.2.3; Dorantes Decl., ¶¶ 4-5.

4. Payment to the LWDA and Aggrieved Employees

The entire NSA shall be designated as PAGA civil penalties. Settlement, § 1.17. From the NSA, 65% ($88,841.36) will be distributed to the LWDA, and 35% ($47,837.66) will be distributed to the Aggrieved Employees. *Id*., at § 3.2.4; *see also* Labor Code § 2699(m) ("[C]ivil penalties recovered by aggrieved employees shall be distributed as follows: 65 percent to the [LWDA]…and 35 percent to the Aggrieved Employees."). 100% of the individual payments to the Aggrieved Employees will be reported using IRS Form 1099-MISC, since all funds received under Section 2699 are civil <u>penalties</u> that do not trigger payroll taxes or withholdings. *See* Settlement, § 3.2.4.2. Individual PAGA Payments shall be apportioned based on the proportionate number of pay periods worked by each Aggrieved Employee compared to the total aggregate pay periods worked by all Aggrieved Employees during the PAGA Period. *Id.*, § 3.2.4.1. There are approximately 23,730 aggregate weekly pay periods worked by the 271 Aggrieved Employees. Rodriguez Decl., ¶ 4. Therefore, in addition to the $88,841.36 recovery for the State of California, average payments to the Aggrieved Employees are estimated at $176.52. Moen Decl., ¶ 25. The lowest possible recovery, if an Aggrieved Employee worked for one pay period during the PAGA Period, is approximately $2.01, while the highest possible recovery is approximately $213.06. *Id.*

5. <u>Funding of the Settlement</u>

Defendant will fully fund the GSA no later than 30 days after the Effective Date, as that term is defined in the Settlement. Settlement, §§ 1.11, 4.3. Within 10 business days of the Effective Date, Defendant will provide Phoenix with information for the Aggrieved Employees, including their names, last known mailing addresses, Social Security numbers, and pay period information during the PAGA Period. *Id.*, §§ 1.6, 4.2. Within 10 business days after Defendant funds the full GSA, Phoenix will mail copies of the explanatory letter in English and Spanish,[6] along with the Individual PAGA Payments, to the Aggrieved Employees via First-Class U.S. Mail. *Id.*, §§ 4.4 *et seq.*, 6. Before mailing, Phoenix will perform a search on the National Change of Address database to update the Aggrieved Employees' addresses. *Id.*, § 4.4.2.

IV. <u>ARGUMENT</u>

A. <u>Standards for Approval of a PAGA Settlement</u>

The settlement of a PAGA claim requires court approval. *See* Labor Code § 2699(s)(2) (stating, "The superior court shall review and approve any settlement of any civil action filed pursuant to this part."). The Court must be mindful that "[s]ettlement is a compromise, which balances the possible recovery against the risks inherent in litigating further." *In re TD Ameritrade*

[6] Based on Defendant's employees' demographics, only English and Spanish PAGA Notices are necessary.

Account Holder Litig., Case Nos. C 07-2852 SBA, C 07-4903 SBA, 2011 WL 4079226, *9 (N.D. Cal. Sept. 13, 2011). 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." *Officers for Justice v. Civil Service Com*., 688 F.2d 615, 624-25 (9th Cir., 1982). As such, "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." *Id.*

Although the PAGA statute does not set forth the criteria by which a PAGA settlement is to be judged, it is presumed that a reviewing court may utilize some of the factors for review of a class action settlement. However, "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]." *See Casida v. Sears Holdings Corp.*, 2012 WL 253217 at *3 (E.D. Cal. Jan. 26, 2012); *Mendez v. Tween Brands, Inc.*, 2010 WL 2650571 (E.D. Cal. Jul. 1, 2010). A court's review of a PAGA settlement necessarily implicates the following unique features that render the approval process distinct from approval of a class action settlement.

First, in evaluating the adequacy of the settlement amount, the Court's focus is not concerned with the amount(s) that "Aggrieved Employees" are to receive, but rather, must focus on the total settlement amount in achieving PAGA's objective. Indeed, "[t]he remedy sought in a PAGA suit consists of civil penalties, not individual or class damages," and while a "[PAGA] action is … designed to protect the public and penalize the employer for past illegal conduct," a reviewing Court must be mindful of the fact that settlement of a PAGA claim involves a compromise. *Mendez, supra*, 2010 WL 2650571 at *4. "Unlike class actions, these civil penalties are not meant to compensate unnamed employees because the action is fundamentally a law enforcement action." *Ochoa-Hernandez v. Cjaders Foods, Inc.*, 2010 WL 1340777 at *4 (N.D. Cal. Apr. 2, 2010). The Court must not lose sight of the fact that "[u]nlike a class action seeking damages or injunctive relief for injured employees, 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." *Id.*

Second, consistent with the fact that unnamed employees have no property interest in a PAGA claim,[7] "[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,* 2010 WL 1340777 at *5. This renders the approval process of a PAGA settlement distinct from a class action settlement, as there is no need for the Court to employ the "two-step approval process" required under F.R.C.P. Rule 23 ("Rule 23") and C.R.C. Rule 3.769 ("Rule 3.769").[8]

Finally, unlike class action settlements under Rule 23(e) and Rule 3.769, the scope of release permitted in a PAGA settlement is limited. "[T]he non-party employees, because they were not given notice of the action or afforded any opportunity to be heard, would not be bound by the judgment as to remedies other than civil penalties." *See Arias v. Sup. Ct.* (2009) 46 Cal.4th 969, 986-87. Thus, the scope of a release in a PAGA settlement is confined to the PAGA penalties alleged in the complaint and to the claims that were, or could have been, alleged pursuant to PAGA based on the factual allegations in the complaint. In the case at hand, as the only claims at issue are PAGA claims, those will be the only claims extinguished because of this Settlement.

B. <u>The Settlement Is a Fair, Adequate, and Reasonable Compromise</u>

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 PAGA settlements involve a court approval process that exists to prevent fraud, collusion, and unfairness to absent individuals. *See Malibu Outrigger Bd. of Governors v. Superior Court* (1980) 103 Cal.App.3d 573, 578-79. California law generally follows the same standards applicable under Rule 23. *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998) (stating that Rule 23(e) requires the trial court to determine "whether a proposed settlement is fundamentally fair, adequate, and reasonable"). To be approved, a settlement must be "fair,

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[7] As held by the California Supreme Court, "[PAGA] does not create property rights or any other substantive rights" as "[i]t is simply a procedural statute allowing an aggrieved employee to recover civil penalties—for Labor Code violations—that otherwise would be sought by state labor law enforcement agencies." *Amalgamated Transit Union, Local 1756, AFL-CIO v. Sup. Ct.* (2009) 46 Cal.4th 993, 1003.

[8] The "two-step" approval process of Rule 23(e) is required to facilitate "notice" to absent class members, as Rule 23(e) expressly requires notice and an opportunity for absent class members to exclude themselves or object. *See Fed. R. Civ. Proc. R.* 23(e). Rule 3.769 contains similar rules for State court class actions.

reasonable and adequate to all concerned." *Reed v. United Teachers Los Angeles* (2012) 208 Cal.App.4th 322, 337. Settlement is the preferred means of dispute resolution, particularly in complex representative litigation. *See In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101 (9th Cir. 2008). The Court's role in evaluating a proposed settlement is limited to ensuring that the agreement taken as a whole is fair and is not the product of fraud or collusion between the negotiating parties. *See, e.g., Hanlon, supra*, 150 F.3d at 1027. There is an initial presumption of fairness when the settlement agreement was negotiated at arm's length by experienced counsel. *Kullar v. Foot Locker Retail, Inc*. (2008) 168 Cal.App.4th 116, 130.

1. <u>Factors in Evaluating a Representative PAGA Settlement</u>

A settlement is presumptively fair where it is reached through arm's-length bargaining, based on sufficient discovery and investigation to allow counsel and the court to act intelligently, and counsel is experienced in similar litigation. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802; *see also Kullar, supra*, 168 Cal.App.4th at 130. In deciding whether to approve a proposed settlement, a trial court has broad powers to determine if the proposed settlement is fair under the circumstances of the case. *Mallick v. Sup. Ct.* (1979) 89 Cal.App.3d 434, 438. In exercising these powers, the overriding concern is to ensure that a proposed settlement is "fair, adequate, and reasonable." *Dunk*, 48 Cal.App.4th at 1801 (internal quotations omitted). Relevant factors for the Court to consider include, but are not limited to:

> [T]he strength of Plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

Id. These factors require balancing and are non-exhaustive. Trial courts should therefore tailor the factors to each case and give due regard to "what is otherwise a private consensual agreement between the parties." *Id.* In the context of a PAGA settlement, the third and eighth factors (risk of maintaining class action status and reaction of class members to settlement) are inapplicable.

"In the context of a settlement agreement, the test is not the maximum amount Plaintiffs might have obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the circumstances." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224,

250. Because settlements inherently involve compromise, settlements providing for narrower relief than can be obtained if the suit were successfully litigated can be reasonable because "the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation." *Air Lines Stewards, etc., Local 550 v. Am. Airlines, Inc.*, 455 F.2d 101, 109 (7th Cir. 1972). Further, courts review the discovery conducted by the parties to aid in assessing whether the parties sufficiently developed the claims and supporting factual bases before reaching settlement. *See Kullar, supra,* 168 Cal.App.4th at 129-31. Information is sufficient where it allows the parties and the court to form "an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation." *Clark v. Am. Residential Serv. LLC* (2009) 175 Cal.App.4th 785, 801. This requirement exists so that parties can provide the trial court with "a meaningful and substantiated explanation of the manner in which the factual and legal issues have been evaluated." *Kullar,* 168 Cal.App.4th at 132.

a) <u>The Strength of Plaintiff's Case</u>

Plaintiff acknowledges that there are substantial risks and uncertainty in proceeding to trial. Defendant presented numerous defenses to Plaintiff's underlying claims and arguments to why Plaintiff's damages calculations were overstated and that the Court would utilize its discretion to substantially reduce any award of PAGA penalties. While prepared to litigate his claims through trial, Plaintiff faced substantial challenges in prevailing in this matter and obtaining a better result than will be provided through Settlement. This factor supports approval.

b) <u>Risk, Expense, Complexity, and Duration of Further Litigation</u>

Although the parties engaged in significant informal discovery prior to mediation, no formal written or deposition discovery had been conducted prior to mediation. Moen Decl., ¶ 26. Absent settlement, the parties will be required to expend substantial time and resources engaging in formal discovery. *Id*. Preparation for trial remained, as well as the prospect of appeals in the wake of a summary judgment ruling for either party and after trial. *Id*. This Settlement avoids these considerable costs, risks, and the accompanying burden of continued litigation on the Court.

c) <u>Amount Offered in Settlement Given Realistic Value of Claims</u>

This proposed Settlement provides a fair and reasonable monetary recovery for the LWDA and Aggrieved Employees in the face of disputed claims and significant litigation risks.

Plaintiff and his retained expert analyzed Defendant's produced data, and forecasted Defendant's realistic exposure for PAGA civil penalties as follows:

As of the date of mediation, the Aggrieved Employees had worked an aggregate 20,436 weekly pay periods during the relevant time period. Moen Decl., ¶ 27; Settlement, § 8. As discuss above, Labor Code § 2699(f)(2)(A) provides for PAGA civil penalties in the amount of $100 for each employee per pay period. *See* Labor Code § 2699(f)(2)(A). The PAGA reform that applies to cases filed after June 19, 2024 provides that the heightened $200 per pay period penalty applies only if the Labor Commissioner or any Court has issued a finding or determination that the employer's policy or practice was unlawful, or the Court finds that the employer's conduct was malicious, fraudulent, or oppressive. *See* Labor Code § 2699(f)(2)(B). Further, Labor Code § 2699(o) has also been amended following the PAGA reform to state that "the penalty recovered pursuant to this part shall be reduced by one-half if the employees' regular pay period is weekly rather than biweekly or semimonthly." *See* Labor Code § 2699(o).

Plaintiff's expert's analysis determined that at least one of Plaintiff's theories of relief (minimum, overtime, and sick pay violations, meal and rest period violations, and failure to reimburse business expenses) would be triggered in every pay period during the PAGA Period. Moen Decl., ¶ 27. Therefore, assuming that Plaintiff could prove at least one Labor Code violation in every pay period during the PAGA Period, Plaintiff calculated Defendant's <u>maximum</u> possible PAGA exposure at $1,021,800.00 (20,436 weekly pay periods x $100 per violation ÷ half). *Id*.

However, as discussed above, Defendant raised numerous defenses to the merits of Plaintiff's underlying claims and argued that even if found liable, the Court would exercise its discretion to drastically reduce any potential PAGA penalties awarded. Moen Decl., ¶ 28; *see also* Section II.C, *supra*. In the face of Defendant's defenses on the merits and the Court's discretion to reduce PAGA penalties, Plaintiff discounted this figure by 35% to account for the risk of losing on the merits and/or to account for Defendant's assertion that Plaintiff's damages calculations were overstated following Defendant's discontinuance of its rounding practice, and by an additional 60% for the risk of the Court reducing the penalties and/or agreeing that the steps taken by Defendant to prospectively be in compliance with all provisions of the Labor Code identified in Plaintiff's PAGA Notice satisfied the requirements under the PAGA reform to limit Plaintiff's maximum potential recovery to 30 percent of the total penalty amount sought, to arrive at a realistic recovery of $265,668.00. Moen Decl., ¶ 28; *see also, Fleming v. Covidien Inc.*, Case No. ED CV 10-01487 RGK (OPx), 2011 WL 7563047, *4 (C.D. Cal. Aug. 12, 2011) (reducing PAGA penalties to 17% of exposure); *Carrington, supra*, 30 Cal.App.5th 504 (affirming reduction of PAGA penalties to 10% of maximum exposure); Labor Code § 2699(h)(1).

Thus, the mediator's proposed settlement amount of $265,668 represents precisely 100% of Plaintiff's reasonably forecasted recovery, which is well within the range approved by courts as fair, reasonable and adequate, while also avoiding further expense and risk of litigation. Moen Decl., ¶ 28; *see Linney v. Cellular Alaska Partnership* (9th Cir. 1998) 151 F.3d 1234, 1242 ("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.") (internal quotations omitted). Approval is appropriate since the Settlement will provide tangible, monetary relief to the Aggrieved Employees and the State of California.

d) <u>Discovery Completed and the Status of Proceedings</u>

The parties engaged in a significant informal exchange of documents and data necessary to evaluate the value of the PAGA claim prior to mediation. Moen Decl., ¶ 17. Defendant provided Plaintiff with a representative sampling of the Aggrieved Employees' timekeeping and payroll records, and all relevant written wage and hour policies. *Id*. It was only after the completion of this informal discovery exchange and Plaintiff's expert's comprehensive data analysis that the parties attended mediation. *Id.* Thus, this factor supports settlement approval.

e) <u>The Experience and Views of Counsel</u>

"Parties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation." *In re Pacific Enterprises Securities Litigation*, 47 F.3d 373, 378 (9th Cir. 1995). Here, Plaintiff is represented by competent and experienced wage and hour counsel who possess extensive experience litigating wage and hour class actions and PAGA representative actions, and who believe this Settlement to be fair and adequate for all involved. Moen Decl., ¶¶ 2-8; *see also, generally,* Declaration of

Paul K. Haines ("Haines Decl."); Declaration of Fletcher W. Schmidt ("Schmidt Decl."). Further, the proposed Settlement was reached with the input and assistance of mediator Todd A. Smith, Esq., whose mediator's proposal was ultimately accepted by the parties. Moen Decl., ¶ 17. Thus, this factor supports settlement approval. *See, Kullar, supra,* 168 Cal.App.4th at 130 ("The court undoubtedly should give considerable weight to the competency and integrity of counsel and the involvement of a neutral mediator in assuring itself that a settlement agreement represents an arm's length transaction entered without self-dealing or other potential misconduct.").

C. **The Requested Award for Attorneys' Fees is Reasonable as a Percentage of the GSA Confirmed by a Lodestar Cross-Check**

Plaintiff, as the prevailing party in settlement, is entitled to recover attorneys' fees and costs for bringing this PAGA claim. *See* Cal. Labor Code § 2699(g) ("Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs."); Code of Civil Procedure § 1021.5(a). A fee award is justified where the legal action has produced its benefits by way of a voluntary settlement. *See, e.g., Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1290-91; *Westside Community for Independent Living, Inc. v. Obledo* (1983) 33 Cal.3d 348, 352-53. California state and federal courts routinely award fee awards of one-third of the settlement fund in class and PAGA actions. *Chavez v. Netflix, Inc.* (2008) 162 Cal. App. 4th 43, 66, fn. 11; *see also Wershba*, *supra*, 91 Cal. App. 4th at 254 (recognizing the "percentage of recovery" method); *In re Pacific Enterprises Securities Litig.* (9th Cir. 1995) 47 F.3d 373, 379 (affirming 33% fee award). Indeed, the California Supreme Court approved the use of the "percentage of fund" method. *See Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 506 ("the percentage of fund method survives in California class action cases…"). Specifically, the *Laffitte* Court held:

> 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—convince us the percentage method is a valuable tool that should not be denied our trial courts.

Id., at 503 (internal citation omitted); *see also Rawlings v. Prudential-Bache Properties, Inc.*, 9 F.3d 513, 516 (6th Cir. 1993) (the percentage of the fund method more accurately reflects the results achieved than the lodestar method and "establishes reasonable expectations on the part of plaintiffs' attorneys as to their expected recovery; and it encourages early settlement, which avoids protracted litigation."); *In re Rite Aid Corp. Securities Litigation*, 396 F.3d 294, 300 (3d Cir. 2005) ("The percentage-of-recovery method is generally favored in common fund cases.").

Here, Plaintiff's counsel's fee request of $92,983.80 (35% of the GSA) is fair and reasonable based on the percentage of the recovery method. In *Laffitte*, the California Supreme Court held that trial courts have discretion to assess the reasonableness of fee awards with tools such as the "lodestar cross-check," whereby the trial court calculates counsel's lodestar and determines whether the "lodestar multiplier" needed to bring the lodestar on par with the percentage of recovery is reasonable. *Laffitte,* 1 Cal.5th at 503-06. Under the lodestar method, the court multiplies the number of hours reasonably expended by each attorney or legal staff member by their reasonable hourly rates, then enhances this lodestar figure by a "multiplier" to account for a range of factors, such as the contingent nature of the case and the degree of success achieved. *See Serrano v. Priest*, (1977) 20 Cal.3d 25, 48-49; *Ketchum v. Moses*, (2001) 24 Cal.4th 1122, 1132-36; *Thayer v. Wells Fargo Bank*, (2001) 92 Cal.App.4th 819, 834 ("There is no hard-and-fast rule limiting the factors that may justify an exercise of judicial discretion to increase or decrease a lodestar calculation").

Under California law, lodestar multipliers can range from 2 to 4 or even higher. *See, e.g., Chavez*, 162 Cal.App.4th at 49-50 (approving multiplier of approximately 2.5); *Coalition for L. County Planning etc. Interest v. Bd. of Supervisors*, (1977) 76 Cal.App.3d 241, 251 (approving multiplier of approximately 12.8). In class and representative actions, where the value of the benefit conferred "can be monetized with a reasonable degree of certainty," a court may "adjust the lodestar in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation." *Consumer Privacy Cases*, (2009) 175 Cal.App.4th 545, 557.

In this case, Plaintiff's counsel has a lodestar of approximately $100,445.00, which results in a *negative* 0.92 multiplier compared to the $92,983.80 fee request. Moen Decl., ¶ 29. A summary showing the number of hours of work performed by each attorney and paralegal is set forth below. *Id*. The billing rates used are reasonable in view of the evidence submitted herewith, and have all been previously approved by various courts throughout California.[9] *Id.*, ¶¶ 2-8, 29-30, Exhibit 6 (2026 *Laffey* Matrix); Haines Decl., ¶¶ 2-14; Schmidt Decl., ¶¶ 2-9.

Name	Rate	Hours	Pre-Multiplier Lodestar
Paul K. Haines (20th Year Attorney)	$975	13.8	$13,455.00
Fletcher W. Schmidt (14th Year Attorney)	$875	33.7	$29,487.50
Matthew K. Moen (10th Year Attorney)	$775	56.1	$43,477.50
Humberto Castorena (2nd Year Attorney)	$450	26.5	$11,925.00
Firm Paralegals	$250	8.4	$2,100.00
Total Lodestar			**$100,445.00**

The fee award requested here is justified because Plaintiff's counsel achieved a significant monetary recovery for the Aggrieved Employees and the State of California (who did not take this case after receiving Plaintiff's PAGA Notice letters) in an uncertain and risky case, while bearing the substantial burdens of representation on a contingency basis. Moen Decl., ¶ 31. Additionally, Plaintiff's recovery for the State of California and Aggrieved Employees exceeds other PAGA awards approved by courts in California. *See, e.g., Penaloza, supra*, 2013 WL 2917624 (average PAGA penalties of $7.49); *Cabrera, supra*, 2013 WL 1182822 (average PAGA penalties of $3.33). That Plaintiff's counsel achieved these results in the face of serious defense challenges and an uncertain legal landscape, confirms the strength of the results achieved. As discussed, this case presented significant risks, and it is fair and reasonable to account for these risks in compensating Plaintiff's counsel, as well as the risks involved in undertaking this litigation and expending considerable effort while working on a pure contingency basis. Since undertaking representation of Plaintiff, Plaintiff's counsel dedicated substantial resources to this litigation, including expending $26,505.18 in litigation costs, without receiving any compensation

[9] When setting rates, courts should utilize attorneys' "current" rates, i.e., their rates at the time of the fee application. This accounts for the delay in receiving payment, as well as lost interest and inflation. *See Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 584 (approving use of current rates to account for the delay in payment); *Pennsylvania v. Delaware Valley Citizens' Council for Clean Air* (1987) 483 U.S. 711, 716 ("courts have regularly recognized the delay factor…by basing the award on current rates."); *Bouman v. Block*, 940 F.2d 1211, 1235 (9th Cir.1991) (affirming use of current hourly rates).

to date. Moen Decl., ¶¶ 13 and 31, Exhibit 4. Plaintiff's counsel's efforts include conducting pre-filing investigation, analyzing Plaintiff's claims, conducting legal research and analysis, drafting and filing Plaintiff's complaints and PAGA Notice letters to the LWDA, drafting, reviewing, and revising all pleadings, stipulations, and status reports filed in this action, meeting and conferring extensively with Defendant's counsel and previously named defendants' counsel regarding the case, meeting and conferring with Defendant's counsel regarding informal discovery, reviewing substantial documents and data produced by Defendant prior to mediation, retaining an expert to analyze Defendant's document production, evaluating the timekeeping and payroll data and policy documents prior to mediation, drafting a mediation brief, preparing for and attending mediation, negotiating and revising the Settlement Agreement and PAGA Notice, preparing this Motion for settlement approval and all supporting documents hereto, and otherwise litigating the case. *Id*., ¶ 31. Plaintiff's counsel will spend additional time attending the hearing on this Motion and overseeing the settlement administration process. *Id*. The contingent risks borne by Plaintiff's counsel was great, and the quality of Plaintiff's counsel's work and the dedication with which it was performed should be compensated.

Plaintiff's Counsel's previous experience in litigating wage and hour class and representative PAGA actions also supports the reasonableness of the fee request. Plaintiff's Counsel are well-versed in plaintiff- and defense-side wage and hour class and representative action litigation, and collectively bring more than four decades worth of wage-and-hour class and representative action litigation experience. *See* Moen Decl., ¶¶ 2-8; *see also generally* Haines Decl.; Schmidt Decl. Plaintiff's Counsel have also been certified as class counsel in numerous class action cases alleging wage and hour claims. *See id*. Plaintiff's Counsel's experience in similar matters was integral in evaluating the strengths and weaknesses of this case and the reasonableness of the Settlement. Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning the rapidly evolving substantive state and federal law, as well as the procedural law of representative litigation. Moen Decl., ¶ 31. Because it is reasonable to compensate Plaintiff's Counsel commensurate with their skill, reputation, and experience, the requested fee award of $92,983.80 is fair and reasonable, and should therefore be approved.

D. <u>The Requested Cost Reimbursement is Fair, Adequate, and Reasonable</u>

Plaintiff's Counsel incurred and respectfully requests reimbursement of $26,505.18 in actual litigation costs. Moen Decl., ¶ 13, Exhibit 4.[10] Plaintiff's Counsel's request is fair, adequate, and reasonable, as all costs are documented and reasonably incurred. *Id*. Moreover, the costs Plaintiff seeks are the types of costs routinely approved by courts. *See*, *e.g.*, *Harris v. Marhoefer* (9th Cir. 1994) 24 F.3d 16, 19 (counsel should recover "those out-of-pocket expenses that would normally be charged to a fee paying client"); *Berkeley Cement, Inc. v. Regents of University of California* (2019) 30 Cal.App.5th 1133, 1142 (mediation costs reimbursable); *Ashker v. Sayre*, No. 05-03759 CW, 2011 WL 825713, * 3 (N.D. Cal. 2011) (copying costs reimbursable); *Trustees of Const. Industry & Laborers Health and Welfare Trust v. Redland Ins. Co.*, 460 F.3d 1253, 1258-59 (9th Cir. 2006) (legal research costs reimbursable); *In re Immune Response Securities Litigation* (S.D. Cal. 2007) 497 F.Supp.2d 1166, 1177-78 (mediation expenses, legal research, copies, postage, filing fees, messenger and overnight delivery costs are reimbursable). Because the costs were reasonably incurred, the Court should grant Plaintiff's Counsel's request for $26,505.18 in actual litigation costs reimbursement.

E. <u>The Court Should Approve the Requested Administration Costs</u>

Plaintiff also requests that the Court approve $4,500.00 in administration costs to the Settlement Administrator, Phoenix. Moen Decl., ¶ 33; Lawrence Decl., ¶ 22, Exhibit B. As detailed in the Settlement Agreement and declaration of Jodey Lawrence, submitted concurrently with this Motion, Phoenix will perform duties in connection with this Settlement that are integral in effectuating the Settlement and the PAGA Notice process. Among other things, Phoenix will calculate each Aggrieved Employee's Individual PAGA Payment, update addresses contained in the employee data supplied by Defendant, format and translate the PAGA Notices for mailing and mail PAGA Notices to all Aggrieved Employees, and otherwise administer the Settlement. *See generally,* Lawrence Decl.; Settlement, § 7. Phoenix was selected to administer this Settlement because it is an experienced and well-respected settlement administrator, and returned

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[10] Plaintiff's Counsel utilized the expert services of Berkeley Research Group to perform all expert analyses for this case, and are providing a copy of the expert invoice received by Plaintiff's Counsel in support of this Motion. Moen Decl., ¶ 32, Exhibit 7 (Expert Invoice).

a bid at a competitive rate. Moen Decl., ¶ 33; *see generally,* Lawrence Decl. For these reasons, Phoenix's requested costs are fair, reasonable, and adequate, and should be approved.

F. This Court Should Approve Plaintiff's Representative Enhancement Payment Because it is Fair, Adequate, and Reasonable

Courts routinely approve enhancement awards to compensate named plaintiffs for the services they provide and the risks they incur during class and representative litigation. *See, e.g., Bell v. Farmers Ins. Exch.* (2004) 115 Cal.App.4th 715, 726 (upholding "service payments" to named plaintiffs for their efforts in bringing the case). This is also true in the context of PAGA-only settlements. *See* Moen Decl., ¶ 34, Exhibit 8. Here, Plaintiff seeks a representative enhancement payment of $5,000.00. Settlement, §§ 1.26, 3.2.3. This request is reasonable given Plaintiff's efforts in this case, the time devoted to the prosecution and resolution of this action, and the risks he undertook on behalf of the Aggrieved Employees. Among other things, Plaintiff searched for relevant documents for use in the lawsuit, provided factual information and relevant documents to his attorneys, had innumerable phone calls with his attorneys to discuss the claims in the lawsuit and Defendant's practices, discussed the status of the case and general case strategy with his attorneys on multiple occasions, provided valuable input and documents to assist his attorneys in preparing for mediation, made himself available throughout the mediation that lead to this Settlement, answered questions posed by the mediator about his time and experiences working for Defendant, reviewed and provided input regarding the settlement in this case, and otherwise assisted his attorneys in moving this case towards resolution. Dorantes Decl., ¶ 5. Plaintiff has spent approximately 25-30 hours total on these activities that lead to the Settlement. *Id*. Thus, Plaintiff's enhancement payment is appropriate and justified as part of the Settlement.

V. CONCLUSION

For the reasons stated herein, this Court should grant Plaintiff's Motion in its entirety and adopt the [Proposed] Judgment and Order submitted concurrently herewith.

Dated: August 4, 2026

Respectfully submitted,
HAINES LAW GROUP, APC

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