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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

HAMID KONDORI and JOHN JEROME, on behalf of themselves, those similarly situated, and all aggrieved California-based non-exempt employees, Plaintiffs, vs. MISSION IMPORTS, a California corporation; and DOES 1 through 25, inclusive, Defendants.	Case No. 30-2022-1295280-CU-OE-CXC Honorable Melissa R. McCormick Department CX-104 **NOTICE OF MOTION AND MOTION FOR APPROVAL OF PAGA SETTLEMENT, AWARD OF PAGA COUNSEL'S FEES, PAGA COUNSEL'S COSTS, ENHANCEMENT AWARDS, AND ADMINISTRATION COSTS; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** **Reservation ID: 74448223** Date: April 24, 2025 Time: 2:00 p.m. Dept.: CX-104 Complaint Filed: December 6, 2022 Trial Date: None Set

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on April 24, 2025 at 2:00 p.m. in Department CX-104 of the above-captioned Court located at the Civil Complex Center, 751 West Santa Ana Boulevard, Santa Ana, California 92701, Plaintiffs ("Plaintiffs") will and hereby do move the Court for an Order granting approval of California Labor Code Private Attorneys General Act of 2004, California Labor Code sections 2698, *et seq*. ("PAGA") settlement. Specifically, Plaintiffs request that the Court enter an Order:

1. Granting approval pursuant to California Labor Code section 2699(l)(2) of the PAGA Settlement Agreement ("Settlement" or "Settlement Agreement") attached as **Exhibit 3** to the Declaration of Jonathan M. Genish in Support of Plaintiffs' Motion for Approval of PAGA Settlement and Award of PAGA Counsel's Fees, PAGA Counsel's Costs, Enhancement Awards, and Administration Costs ("Genish Decl.");
2. Directing the distribution of the Gross Settlement Amount of Three Hundred Ninety-Five Thousand Dollars and Zero Cents ($395,000.00) pursuant to the terms of the Settlement;
3. Approving the PAGA Penalties, estimated to be Two Hundred Twenty-Nine Thousand Four Hundred Forty-Nine Dollars and One Cent ($229,449.01), of which seventy-five percent (75%) will be distributed to the California Labor and Workforce Development Agency ("LWDA") and twenty-five percent (25%) will be distributed to the Aggrieved Employees;
4. Approving an award of reasonable attorneys' fees of One Thirty-Eight Thousand Two-Hundred Fifty Dollars and Zero Cents ($138,250.00) to PAGA Counsel, Blackstone Law, APC;
5. Approving the amount of Nine Thousand Eight Hundred Dollars and Ninety-Nine Cents ($9,800.99) to PAGA Counsel, Blackstone Law, APC, for reimbursement of actual litigation costs and expenses pursuant to California Labor Code section 2699(g)(1);
6. Approving the award of Five Thousand Dollars and Zero Cents ($5,000.00) *each* to Plaintiffs (for a total of $10,000.00) as Enhancement Awards;
7. Appointing ILYM Group ("ILYM" or "Administrator") as the Administrator; and

8. Approving an award of up to Seven Thousand Five Hundred Dollars and Zero Cents ($7,500.00) in anticipated costs to ILYM for its settlement administration services.

Pursuant to California Labor Code section 2699(l)(2), a copy of the proposed Settlement, as well as information regarding the approval hearing in this matter, were submitted to the LWDA via online submission through its public portal concurrently with the filing of this Motion. (Genish Decl., ¶ 17).

This Motion is based upon this Notice, the attached Memorandum of Points and Authorities, the Declarations of PAGA Counsel Jonathan M. Genish and Plaintiffs Hamid Kondori and John Jerome, the pleadings and other records on file with the Court in this matter, and any other further evidence or argument that the Court may properly receive at or before the hearing.

Respectfully submitted,

Dated: December 13, 2024

BLACKSTONE LAW, APC

By: ______________________________
Jonathan M. Genish
Attorneys for Plaintiffs,
Hamid Kondori and John Jerome

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Pursuant to the California Labor Code Private Attorneys General Act, California Labor Code sections 2698, *et seq*. ("PAGA"), Plaintiffs Hamid Kondori and John Jerome ("Plaintiffs") seek approval of the PAGA Settlement Agreement ("Settlement" or "Settlement Agreement") entered into with Defendant Mission Imports ("Defendant") (collectively with Plaintiffs, the "Parties"), which is attached as Exhibit 3 to the Declaration of Jonathan M. Genish in Support of Plaintiffs' Motion for Approval of PAGA Settlement and Award of PAGA Counsel's Fees, PAGA Counsel's Costs, Enhancement Awards, and Administration Costs ("Genish Decl."). The Settlement terms are outlined as follows:

- Number of Aggrieved Employees: 386 individuals.
- Gross Settlement Amount: Three Hundred Ninety-Five Thousand Dollars and Zero Cents ($395,000.00).
- Requested PAGA Counsel's Fees: One Hundred Thirty-Eight Thousand Two Hundred Fifty Dollars and Zero Cents ($135,250.00) (35% of the Gross Settlement Amount).
- Requested PAGA Counsel's Costs: Nine Thousand Eight Hundred Dollars and Ninety-Nine Cents ($9,800.99).
- Enhancement Awards: Five Thousand Dollars and Zero Cents ($5,000.00) to *each* of the two Plaintiffs (for a total of $10,000.00).
- Administration Costs: Not to exceed Seven Thousand Five Hundred Dollars and Zero Cents ($7,500.00).
- Estimated PAGA Penalties: Two Hundred Twenty-Nine Thousand Four Hundred Forty-Nine Dollars and One Cent ($229,449.01), of which 75% ($172,086.76) will be paid to the California Labor and Workforce Development Agency ("LWDA") and the remaining 25% ($57,362.25) will be paid to the Aggrieved Employees.

As set forth herein, the Settlement is the product of extensive informal discovery, arms-length negotiations, and provides a fair, adequate, and reasonable recovery for the State of California and Aggrieved Employees. Plaintiffs therefore respectfully request that the Court grant approval of the proposed Settlement, among other requested relief.

II. FACTUAL AND PROCEDURAL BACKGROUND

Defendant Mission Imports is a Mercedes-Benz dealership located in Laguna Niguel, California. (Genish Decl., ¶ 7). Defendant employed Plaintiff Hamid Kondori ("Plaintiff Kondori") as an hourly-paid, non-exempt 'financial lease manager' beginning in or around May 2014 through approximately February 2022. (Declaration of Hamid Kondori in Support of Motion for Approval of PAGA Settlement and Award of PAGA Counsel's Fees, PAGA Counsel's Costs, Enhancement Awards, and Administration Costs ["Kondori Decl."], ¶ 3; Genish Decl., ¶ 7). Defendant employed Plaintiff John Jerome ("Plaintiff Jerome") as an hourly-paid, non-exempt 'financial lease manager' beginning in or around October 2011 through approximately October 2021. (Declaration of John Jerome in Support of Motion for Approval of PAGA Settlement and Award of PAGA Counsel's Fees, PAGA Counsel's Costs, Enhancement Awards, and Administration Costs ["Jerome Decl."], ¶ 3; Genish Decl., ¶ 7). Both Plaintiffs earned commissions in their positions working at Defendant. (Kondori Decl. ¶ 3, Jerome Decl. ¶ 3, Genish Decl. ¶ 7).

On September 29, 2022, Plaintiffs provided written notice by electronic submission to the Labor and Workforce Development Agency ("LWDA") and by Certified U.S. Mail to Defendant, pursuant to California Labor Code § 2699.3, providing notice of the specific provisions of the California Labor Code which Plaintiffs alleged Defendant violated, including the facts and theories to support the allegations ("PAGA Notice"). (Genish Decl., ¶ 8, Exh. 1).

On December 6, 2022, Plaintiffs filed a Class Action Complaint for Damages and Enforcement Action under the Private Attorneys General Act alleging ten (10) causes of action for: (1) violation of Labor Code sections 510 and 1198 (unpaid overtime); (2) violation of Labor Code sections 1194, 1197, and 1197.1 (unpaid minimum wages); (3) violation of Labor Code sections 226.7 and 512 (unpaid meal period premiums); (4) violation of Labor Code section 226.7 (unpaid rest period premiums); (5) violation of Labor Code sections 226(a) (failure to provide accurate wage statements); (6) violation of Labor Code sections 201, 202, and 203 (final wages not timely paid); (7) violation of Labor Code section 221 (chargebacks); (8) Conversion; (9) violation of Business and Professions Code sections 17200, et seq. (unfair and unlawful business practices); and (10) violation of Labor Code section 2699, et seq. (Private Attorneys General Act), in the action entitled *Hamid Kondori and*

John Jerome v. Mission Imports, Orange County Superior Court Case No. 30-2022-01295280-CU-OE-CXC ("Action"). This complaint remains the operative complaint in the Action ("Operative Complaint (*Id*., ¶ 9).

On May 24, 2023, Defendant filed its Answer to the Operative Complaint, asserting forty-three (43) affirmative defenses. (Genish Decl., ¶ 10).

On January 19, 2024, Plaintiffs and Defendant (collectively, the "Parties") attended a formal mediation conducted by Monique Ngo-Bonnici, a neutral and respected mediator with extensive experience in complex wage and hour matters. The Parties reached an agreement in principle at the mediation and fully executed a final memorandum of understanding within days of the mediation. (*Id.*, ¶ 11).

During the course of informal discovery in the Action, PAGA Counsel conducted an intense investigation into the facts of the Action. (*Id*., ¶ 12). This included obtaining data, information, and documents relating to the underlying alleged violations, including, but not limited to, Plaintiffs' personnel files, a sampling of Aggrieved Employees' time punch and payroll records, Defendant's Employee Handbooks, Defendant's arbitration agreement, and Aggrieved Employees' data points so that Plaintiffs could assess the number of alleged potential violations and value of the recoverable penalties, as well as evaluate the strengths and weaknesses of their claims. (*Ibid*).

Based on the data, information, and documents received, as well as thorough discussions with Defendant's counsel, PAGA Counsel was able to (i) determine the total number of distinct individuals falling within the definition of "Aggrieved Employees" for the relevant statutory period, (ii) determine the number of affected pay periods at issue among them, and (iii) construct a damages model that calculated the maximum realistic amount of PAGA penalties that could be levied against Defendant within the relevant statutory period. (*Id*., ¶ 13). Defendant, however, disputed Plaintiffs' claims and disputed both the existence of and extent of liability as alleged by Plaintiffs, which allowed PAGA Counsel to further assess the strength of Plaintiffs' claims. PAGA Counsel's experience in litigating similar representative wage and hour claims, the degree of investigation that was conducted here, and the amount of data, information, and documents that were obtained, was sufficient to determine the potential value of the PAGA claim, and to evaluate the strength of this claim for purposes of settlement. (Genish Decl., ¶ 13).

Ultimately, the Parties were able to reach an agreement to resolve the Action in its entirety. The Parties believe the Settlement is fair, reasonable, and adequate. (*Id*., ¶¶ 14, 15). The Parties understand, acknowledge, and agree that the Settlement Agreement constitutes a compromise of Plaintiffs' PAGA claims, and that it is the desire and intention of the Parties to affect a final and complete resolution of the Released PAGA Claims. (*Id*., ¶ 15).

Defendant denies all of the claims in the Action, and does not waive, but rather expressly reserves, all rights to challenge all such claims and allegations upon all legal, procedural, and factual grounds should the Settlement Agreement not be approved by the Court. (*Id*., ¶ 16). The Settlement Agreement reflects a compromise reached to end litigation in the Action. (*Ibid*). Now, following significant investigation and extensive settlement negotiations, Plaintiffs seek approval of the proposed Settlement, which will resolve all representative claims alleged in the Operative Complaint. (*Ibid*).

In accordance with California Labor Code sections 2699 *et. seq*., PAGA Counsel provided notice of the proposed Settlement to the LWDA by uploading this Motion and the Settlement Agreement to the LWDA's online portal concurrently with the filing of this Motion on December 13, 2024. (*Id*., ¶ 17).

III. THE SETTLEMENT TERMS

A. <u>Definition of the Aggrieved Employees</u>

For purposes of settlement only, the Parties have agreed that "Aggrieved Employees" shall be defined as all current and former hourly, non-exempt employees and commissioned employees who worked for Mission Imports and Foothill Ranch Imports, LLC in California during the PAGA Period. (Genish Decl., ¶ 18; Settlement Agreement, Page 2). The "PAGA Period" is the period from October 31, 2021, to January 19, 2024. (Genish Decl., ¶ 18; Settlement Agreement, Page 2). Based on its records, Defendant represented that there are 386 Aggrieved Employees who worked a total of 13,370 Pay Periods during the PAGA Period. (Genish Decl., ¶ 18; Settlement Agreement, ¶ 8).

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B. Amount of Settlement

The Parties have agreed to settle the PAGA claims at issue in the Operative Complaint for a non-reversionary Gross Settlement Amount of Three Hundred Ninety-Five Thousand Dollars and Zero Cents ($395,000.00). (Genish Decl., ¶ 19; Settlement Agreement, ¶ 5).

C. Allocation and Funding of the Gross Settlement Amount

The Gross Settlement Amount is a common fund and therefore includes all requested costs, fees, and other allocations. (Genish Decl., ¶ 19). The Gross Settlement Amount includes: (1) PAGA Counsel's fees in the amount of thirty-five percent (35%) of the Gross Settlement Amount, equaling One Hundred Thirty-Eight Thousand Two Hundred Fifty Dollars and Zero Cents ($138,250.00); (2) PAGA Counsel's actual litigation costs and expenses of Nine Thousand Eight Hundred Dollars and Ninety-Nine Cents ($9,800.99); (3) Administration Costs, not to exceed Seven Thousand Five Hundred Dollars and Zero Cents ($7,500.00); and (4) Enhancement Awards in the amount of Five Thousand Dollars and Zero Cents ($5,000.00) *each*, (for a total of $10,000.00) to Plaintiffs. (Genish Decl., ¶ 19; Settlement Agreement, ¶¶ 5.a – c).

After the above-estimated amounts are deducted from the Gross Settlement Amount, the PAGA Penalties will amount to approximately Two Hundred Twenty-Nine Thousand Four Hundred Forty-Nine Dollars and One Cent ($229,449.01), of which seventy-five percent (75%), or One Hundred Seventy-Two Thousand Eighty-Six Dollars and Seventy-Six Cents ($172,086.76), will be paid to the LWDA ("LWDA Payment"), and twenty-five percent (25%), or Fifty-Seven Thousand Three Hundred Sixty-Two Dollars and Twenty-Five Cents ($57,362.25), will be distributed and paid to Aggrieved Employees on a *pro-rata* basis based their number of pay periods worked for Defendant as an hourly, non-exempt employee and/or commissioned employee for Mission Imports and/or Foothill Ranch Imports, LLC during the PAGA Period ("Pay Periods"). (Genish Decl., ¶ 20; Settlement Agreement ¶¶ 5.d, 7).

Within forty-five (45) calendar days of the Effective Date, Defendant will deliver Aggrieved Employee identifying information in Defendant's possession, including each Aggrieved Employee's full name, last-known mailing address, telephone number, Social Security number, and number of Pay Periods during the PAGA Period, (collectively, "Aggrieved Employee Data") to the

Administrator in the form of a Microsoft Excel spreadsheet, or a comparable format. (Genish Decl., ¶ 21; Settlement Agreement, ¶ 11.a).

Within forty-five (45) calendar days of the Effective Date, Defendant will fund the Gross Settlement Amount by transmitting the funds to the Administrator (Genish Decl., ¶ 22; Settlement Agreement, ¶ 11.a).

Within fifteen (15) calendar days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA Payment, the Administration Costs, the Enhancement Awards, the PAGA Counsel's Fees, and the PAGA Counsel's Costs. Disbursement of the PAGA Counsel's Fees and PAGA Counsel's Costs shall not precede disbursement of Individual PAGA Payments. (Genish Decl., ¶ 23; Settlement Agreement, ¶ 11.b).

Prior to mailing the Individual PAGA Payment checks, the Administrator will update the Aggrieved Employees' mailing addresses using the National Change of Address Database. (Settlement Agreement, ¶ 11.a). Additionally, for all Individual PAGA Payment checks that are returned as undeliverable without a USPS forwarding address, the Administrator will conduct an investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods, and means including, but not limited to, the National Change of Address database, skip-traces, and direct contact by the Administrator with the Aggrieved Employees. (Genish Decl., ¶ 24; Settlement Agreement, ¶ 11.a). Within ten (10) calendar days of receiving a returned check, the Administrator will re-mail the check to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee address search. The Administrator will promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date. (Genish Decl., ¶ 24; Settlement Agreement, ¶ 11.a).

Individual PAGA Payment checks that are issued to Aggrieved Employees will be valid and negotiable for up to one hundred and eighty (180) calendar days after the checks are initially mailed to the Aggrieved Employees, and thereafter, will be canceled. (Genish Decl., ¶ 25; Settlement Agreement, ¶ 11.c). Any funds associated with such canceled checks will be distributed to the State of California's Unclaimed Property Fund in the name of the Aggrieved Employee. (Genish Decl., ¶ 25; Settlement Agreement, ¶11.c).

If the actual number of Pay Periods during the PAGA Period exceeds 13,370 by more than ten percent (10%) (i.e., is more than 14,707) then the Gross Settlement Amount will increase by the actual percentage over the 10% threshold. For example, if the total number of Pay Periods during the PAGA Period is 11% more than 6,618 (i.e., 14,840) then the Gross Settlement Amount will increase 1%. (Genish Decl., ¶ 26; Settlement Agreement, ¶ 8).

IV. STANDARD FOR APPROVAL OF PAGA SETTLEMENT

The settlement of a PAGA claim requires court approval. (California Labor Code ("Lab. Code") § 2699(l).) 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 Account Holder Litig.*, 2011 U.S. Dist. LEXIS 103222 at *24 (N.D. Cal. Sep. 12, 2011).) "[T]he 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." (*Ibid*).

Although the California Labor Code does not set forth the criteria by which a PAGA settlement is to be evaluated, it is presumed that a reviewing court may take into consideration some of the factors that courts use when reviewing 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]." (*Casida v. Sears Holdings Corp.*, 2012 U.S. Dist. LEXIS 9302 at *8 (E.D. Cal. Jan. 25, 2012).)

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 under Code of Civil Procedure Section 382 and California Rules of Court Rule 3.769. First, in evaluating the adequacy of the settlement amount, the Court's focus is not concerned with the amount 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 v. Tween Brands, Inc.*, 2010 U.S. Dist. LEXIS 66454 at *11 (E.D. Cal. June 30, 2010).) "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 U.S. Dist. LEXIS 32774 at *12 (Apr. 2, 2010).) The Court should 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." (*Ibid*).

Second, consistent with the fact that unnamed employees have no property interest in a PAGA claim, "[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 U.S. Dist. LEXIS 32774 at *13.) Indeed, "[PAGA] does not create property rights or any other substantive rights" as "[i]t is simply a procedural statute allowing an aggrieved employees 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.*, 46 Cal.4th 993, 1003 (2009).) 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 California Rules of Court Rule 3.769.

Finally, unlike class action settlements, the scope of release permitted in a PAGA settlement is limited. While "judgment in [a PAGA] action is binding not only on the named employee plaintiff but also on government agencies and any aggrieved employee not a party to the proceeding...the 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." (*Arias v. Sup. Ct.*, 46 Cal.4th 969, 986-87 (2009).) 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 through the Settlement.

V. THE SETTLEMENT IS FAIR AND SHOULD BE APPROVED

A. The Settlement is Presumed to Be Fair

California courts recognize that "a presumption of fairness exists where . . . [a] settlement is reached through arm's-length bargaining." (*Wershba v. Apple Computer, Inc.,* 91 Cal.App.4th 224, 245 (2001); *see also Clark v. Am. Residential Servs. LLC*, 175 Cal. App. 4th 785, 799 (2009).) Here, the Settlement is presumptively fair because: (1) it occurred after counsel for the Parties engaged in significant investigation to evaluate the strength and potential value of the PAGA claims, and the risks of litigating the PAGA claims through trial; and (2) it was negotiated at great length and effort by counsel with significant experience in similar complex labor and employment matters. (Genish Decl., ¶ 27).

B. The Settlement is Fair, Adequate, and Reasonable in Light of the Parties' Respective Legal Positions and Recovery Risks

In deciding whether to approve a proposed settlement, a trial court has broad powers to determine if it is fair given the circumstances of the case. (*Mallick v. Sup. Ct.*, 89 Cal.App.3d 434, 438 (1979).) 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). A settlement is not judged against what might have been recovered had a plaintiff prevailed at trial, nor does the settlement have to obtain one hundred percent of the damages sought to be fair and reasonable. (*Wershba*, 91 Cal.App.4th at 246, 250.) In evaluating the reasonableness of a settlement, a trial court must consider "the 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."[1] (*Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008)). Even though a Kullar analysis is not required for approval of a PAGA settlement, a brief analysis is included to support approval of the Settlement.

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." (*Ibid*).

1. Strength of Plaintiffs' Case

In order to prevail at trial, Plaintiffs would have to prove violations of the California Labor Code underlying their PAGA claims, demonstrate that Aggrieved Employees suffered violations of the Labor Code, and demonstrate that Defendant's conduct gives rise to penalties. (*See Elliot v. Spherion Pac. Work, LLC*, 572 F.Supp.2d 1169, 1181-82 (C.D. Cal. 2008) ["Plaintiffs' claim under [PAGA] is wholly dependent upon her other claims. Because all of plaintiff's other claims fail as a matter of law, so does her PAGA claim."].)

This case and settlement address important employee protections embodied in the California Labor Code. (Genish Decl., ¶ 28). Plaintiffs' core allegations are that Defendant systematically violated the California Labor Code by, *inter alia,* failing to properly pay wages for all hours worked, failure to properly pay overtime and to pay overtime at the correct rate, failing to provide compliant meal and rest periods, failing to timely pay wages during employment and upon termination, failing to provide accurate wage statements, and unlawful application of chargebacks to wage calculations. (Genish Decl., ¶ 28).

Defendant's maximum theoretical exposure in the Action, without stacking penalties, totals approximately $1,337,000.00, computed by multiplying 13,370 aggregate Pay Periods by $100 each. (*Id*., ¶ 29). While the PAGA does provide the potential for a heightened penalty for subsequent violations, courts are often hesitant to award a heightened penalty where there is no prior citation by the Labor Commissioner, as is the case here. *See Bernstein v. Virgin Am., Inc.*, 3 F.4th 1127, 1144 (9th Cir. 2021) (holding no heightened penalty where defendant was not notified by Labor

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[1] As this is not a class action, the *Kullar* factors pertaining to the risk of maintaining class action status through trial and the reaction of class members to the proposed settlement are inapplicable.

Commissioner or any court that it was subject to the California Labor Code). The Ninth Circuit's holding in *Bernstein* also supports a settlement valuation that does not "stack" penalties. (*Ibid*).

Defendant maintained several defenses to Plaintiffs' theories of liability, which, if successfully argued and proven, had the potential to eliminate or substantially reduce recovery. (Genish Decl., ¶ 30). Throughout this litigation, Defendant maintained, and continues to maintain, that it had, and continues to have, compliant employment policies and practices throughout the time period at issue. (*Ibid*). Defendant denies that it ever violated any provision of the California Labor Code, including, but not limited to, those sections for which Plaintiffs seek penalties under PAGA. (*Ibid*). Defendant further denied, and continues to deny, that the lawsuit is appropriate for representative treatment for any purpose other than settlement. (*Ibid*). Defendant also challenged Plaintiffs' standing as aggrieved employees and denied that any of Defendant's other employees whom Plaintiffs seek to represent are aggrieved. (*Ibid*).

Defendant also argued that an important feature of PAGA is that the Court retains discretion to lower the penalties if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is "unjust, arbitrary and oppressive, or confiscatory." (*Ibid*). (Lab. Code § 2699(e)(2); *see also Thurman v. Bayshore Transit Management, Inc.*, 203 Cal.App.4th 1112, 1136 (2012) [holding that a court may reduce the amount of PAGA penalties awarded to an employee based upon discretionary factors].)

Even if violations of the California Labor Code occurred, which Defendant denies, Defendant contended that said violations would only be considered "initial violations" and thus heightened "subsequent violation" penalties were not warranted. (Genish Decl., ¶ 31). (Lab. Code § 2699(f)(2); *see also Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1208-09 (2008) ["Until the employer has been notified that it is violating a Labor Code provision [...], the employer cannot be presumed to be aware that its continuing underpayment of employees is a 'violation' subject to penalties."].)

Defendant also contended that, with respect to PAGA claims, the Court was unlikely to assess cumulative penalties for the maximum number of possible, separate California Labor Code violations, because it would be unjust, arbitrary, oppressive, and/or confiscatory, especially where certain conduct may be regulated by multiple provisions of the California Labor Code that are interrelated and work in tandem. (Genish Decl., ¶ 32). As such, Defendant contended that cumulative penalties and heightened penalties would be unjust, arbitrary, oppressive, and confiscatory. (*Ibid*).

Some courts have held that the claims raised by a plaintiff may raise individualized issues and/or be unmanageable and thus not suitable for adjudication as to a group of employees. (*See, e.g., Duran v. U.S. Bank Nat. Assn.*, 59 Cal.4th 1, 25, 29, 31, 34-35 (2014) [even where employer consistently imposed a uniform policy, plaintiff "must still demonstrate that the illegal effects of this conduct can be proven efficiently and manageably" and in litigating representative actions the procedures utilized by the court "may not be used to abridge a party's substantive rights"]; *Ali v. U.S.A. Cab Ltd.*, 176 Cal.App.4th 1333, 1341 (2009) [affirming denial of certification because employees' declarations attesting to having taken meal and rest breaks demonstrated that individualized inquiries were required to show harm]; *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1018 (2012) [although employers must authorize employees to take duty-free meal and rest breaks, they are not obligated to affirmatively ensure that no work related tasks are performed during such periods]). Although California case law clearly states that PAGA actions need not satisfy class action requirements, Plaintiffs' Counsel remained mindful of the fact that some courts have nevertheless held that PAGA claims must still be able to prove the alleged violations in an efficient manner.

While Plaintiffs maintain that their PAGA claims have merit, in reaching the Settlement, Plaintiffs and their counsel took into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded as litigation continued, at trial, and/or upon appeal. (Genish Decl., ¶ 33). Based on these disputes, which had the potential to completely eliminate Plaintiffs' recovery, the range of realistic "litigation outcomes" on Plaintiffs' PAGA claims was defined by a "maximum possible liability" amount of approximately $1,337,000.00 (*Id*., ¶ 29), and a *net-zero recovery* based on the defenses asserted by Defendant. Notwithstanding the existence of these issues, the Settlement achieves a sizeable benefit obtained. (*Id*., ¶ 33).

2. <u>Risk, Expense, Complexity, and Likely Duration of Further Litigation</u>

Approval of the Settlement Agreement is also appropriate in light of the risk, expense, and complexity of further litigation. As discussed above, the Settlement Agreement takes into consideration the specific factual and legal hurdles faced by Plaintiffs in establishing Defendant's penalty-liability in this case, which again, may have resulted in a net-zero recovery. Any recovery on these claims is not certain. And even when liability is found, PAGA claims are discretionary, such that the Court could decline to award their full value. Some of Plaintiffs' claims are also derivative, and as such, Plaintiffs must prevail on the underlying California Labor Code claims in order to prevail on the derivative claims. These risks – when balanced with the fact that the Settlement achieved a very significant recovery (as demonstrated below), and that further litigation posed a risk of diminishing such recovery by increasing litigation expenses – weigh strongly in favor of settlement approval.

3. The Benefits Conferred by the Settlement Balance in Favor of Approval

The Settlement Agreement provides a *significant* monetary benefit that falls well within "the range of an acceptable settlement" under the circumstances, which is the standard on which the instant Settlement must be judged. As held by the Ninth Circuit, a settlement may be fair and reasonable even where it only provides a fraction of what could have been obtained at trial:

> The proposed settlement is not to be judged against a hypothetical or speculative measure of what might have been achieved by the negotiators." *Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d at 625 (emphasis in original). Thus, "the very essence of a settlement is compromise, 'a yielding of absolutes and an abandoning of highest hopes.'" *Id.* at 624 (citations omitted). As the Second Circuit has pointed out: "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." *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 455 & n.2 (2nd Cir. 1974).

See Linney, supra, 151 F.3d at 1242

The PAGA Penalties are currently estimated to be $229,449.01. After all deductions are made from the Gross Settlement Amount for the PAGA Counsel's Fees, PAGA Counsel's Costs, Enhancement Awards, and Administration Costs, $172,086.76 (i.e. 75% of the PAGA Penalties) will go to the LWDA, and $57,362.25 (i.e. 25% of the PAGA Penalties) will go to the Aggrieved Employees. Note that the Action was filed on December 6, 2022, and, at that time, the California Labor Code § 2699(i) (2004) specified that "civil penalties recovered by aggrieved employees shall be distributed as follows: 75 percent to the Labor and Workforce Development Agency . . . and 25 percent to the aggrieved employees." (Genish Decl., ¶ 43). There is no reason to doubt the fairness of the proposed plan of allocation of the PAGA Penalties as it fully complies with California Labor Code section 2699(i), as it was applied at the time of the filing of the Action. (Genish Decl., ¶ 43).

The Settlement is a compromise of highly disputed claims. (*Id*., ¶ 44). Plaintiffs and their counsel recognize the expense and length of continued proceedings necessary to litigate the matter through trial and any possible appeals. (*Ibid*). Plaintiffs and their counsel have also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation. (*Ibid*). Plaintiffs and their counsel are also aware of the burdens of proof necessary to establish liability, both generally and in response to Defendant's defenses thereto, and the difficulties in establishing Defendant's liability for, and the right to recover, penalties on behalf of Plaintiffs, the State of California, and other Aggrieved Employees. (*Ibid*). Plaintiffs and their counsel have also taken into account Defendant's agreement to enter into a settlement that confers significant relief upon the Aggrieved Employees and the State of California. (*Ibid*). Considering all of the facts in this case, Plaintiffs and their counsel have determined that the Settlement represents a fair, adequate, and reasonable resolution of the PAGA claim, and that it is in the best interests of the Aggrieved Employees and the State of California. (*Ibid*).

The result achieved in this case is well within the range of what is considered an acceptable settlement under the circumstances, especially when compared to the settlement of PAGA claims in other cases. (*Id*., ¶ 45). (*See, e.g., DCH Auto Wage and Hour Cases,* Los Angeles Superior Court, Case No. JCCP4833 (May 2017) [approving $15,000 out of $4 million toward settlement of PAGA claims]; *Garcia v. Gordon Trucking, Inc.,* 2012 U.S. Dist. LEXIS 160052, at *9 (E.D. Cal. Oct. 29, 2012) [approving $10,000 out of $3.7 million toward settlement of PAGA claims]; *Schiller v. David's Bridal, Inc.*, 2012 U.S. Dist. LEXIS 80776, at *40 (E.D. Cal. June 11, 2012) [approving $7,500 out of $518,245 toward settlement of PAGA claims]; *Chu v. Wells Fargo Investments, LLC,* 2011 U.S. Dist. LEXIS 15821, at *4 (N.D. Cal. Feb. 15, 2011) (approving $10,000 out of $6.9 million toward settlement of PAGA claims]; *Franco v. Ruiz Food Prods.,* 2012 U.S. Dist. LEXIS 169057, at *14 (E.D. Cal. Nov. 27, 2021) [approving $10,000 out of $2.5 million toward settlement of PAGA claims]). Here, the value obtained for settlement of the PAGA claims is significant, and it will be distributed in accordance with and in fulfillment of the objectives of the PAGA statute.

4. The Scope of the Release is Narrowly Tailored

As discussed above, the California Supreme Court has concluded that in the context of PAGA "the nonparty 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*, 46 Cal. 4th, at 987. Thus, the scope of the limited release provided in exchange for the foregoing consideration is limited to a full release of the PAGA Claims that could have been sought by the State of California Labor Commissioner for the violations identified in Plaintiffs' PAGA Notice under California Labor Code §§ 2698 *et seq*. *See* Settlement Agreement, at ¶ 2. As such, this factor balances strongly in favor of approval of the Settlement.

5. Experience and Views of Counsel Favor Approval

PAGA Counsel is experienced in complex representative and class action wage-and-hour litigation. (Genish Decl., ¶¶ 2-6, 46 – 47). In the view of PAGA Counsel, the benefits conferred by the Settlement are eminently fair and reasonable, and in the best interests of the State of California and the Aggrieved Employees in light of the risk, delay, and uncertainty of continued litigation and the substantial monetary benefits provided for by the Settlement. (*Id*., ¶ 44). Furthermore, courts have acknowledged that "the interests of plaintiff, counsel and other potentially aggrieved employees are largely aligned. All stand to gain from proving as convincingly as possible as many Labor Code violations as the evidence will sustain[.]" (*Williams v. Superior Court*, 3 Cal. 5th 531, 548 (2017) [citing Labor Code § 2699(g)(l)(i)].)

6. The Extent of Discovery and Stage of Proceedings Favor Approval

In evaluating this element, the Court should be mindful that "'formal discovery is not a necessary ticket to the bargaining table'" [*Linney*, 151 F.3d at 1239], as the relevant consideration is "whether 'the parties have sufficient information to make an informed decision about settlement.'" *See Sandoval v. Roadlink United States Pac., Inc.*, 2011 U.S. Dist. LEXIS 130378, at 26 (C.D. Cal. Nov. 9, 2011).

Here, the extent of informal discovery conducted was sufficient to enable PAGA Counsel to evaluate the strength and value of the PAGA claim for purposes of settlement. (Genish Decl., ¶¶ 12, 13, & 42). Prior to settling, Defendant provided Plaintiffs with data, information, and documents relating to the underlying alleged violations, including but not limited to, Plaintiffs' personnel files, a sampling of Aggrieved Employees' time punch and payroll records, Defendant's Employee Handbooks, Defendant's arbitration agreement, and Aggrieved Employees' data points. (*Id.*, ¶ 12). As discussed above, PAGA Counsel's investigation was sufficient to, among other things, tabulate with precision the total number of alleged California Labor Code violations at issue during the relevant statutory period and identify the total number of individuals falling within the definition of "Aggrieved Employees" for the relevant statutory period. (*Ibid*).

Based on PAGA Counsel's experience litigating wage and hour claims, such investigation was sufficient to determine the potential value of the PAGA claim, and to evaluate the strength of this claim for purposes of settlement. (*Id.*, ¶¶ 12, 13, 27, 42 & 47).

VI. THE REQUESTED PAGA COUNSEL FEES PAYMENT IS FAIR AND REASONABLE

As the prevailing party in settlement, Plaintiffs are entitled to recover attorneys' fees and costs for bringing their PAGA claim. (Lab. Code § 2699(g) ["Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs."].) PAGA Counsel is also entitled to attorneys' fees pursuant to Code of Civil Procedure section 1021.5(a), as the instant action has resulted in the enforcement of important rights benefitting the public and secures monetary recovery for the State of California as well as the Aggrieved Employees. 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*, 43 Cal.3d 1281, 1290-91 (1987); *Westside Community for Independent Living, Inc. v. Obledo*, 33 Cal.3d 348, 352-53 (1983); *Serrano v. Priest*, 20 Cal.3d 25, 34 (1977) ["when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff ... for the benefit of all results in the creation or preservation of that fund, such plaintiff ... may be awarded attorney's fees out of the fund."].)

In *Laffitte v. Robert Half Int'l, Inc.*, 1 Cal.5th 480, 506 (2016), the California Supreme Court confirmed that "[t]he 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].) Fee awards of roughly one-third of the settlement fund are routinely awarded in California state and federal courts in class actions. (*Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 66, fn. 11 (2008); *see also, e.g., In re Pacific Enterprises Securities Litig.*, 47 F.3d 373, 379 (9th Cir. 1995) [affirming 33% fee award]).

While trial courts have discretion to apply either a lodestar method or percentage-of-the-fund method, the California Supreme Court has taken the position that trial courts also "retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee." (*Lafitte*, 1 Cal.5th at 506; *see also Wershba*, 91 Cal.App. 4th at 253.) Courts award fees to serve as an economic incentive for lawyers to undertake litigation, and thereby enhance and facilitate access to the judicial system for adjudication of meritorious claims, and to deter wrongdoing. This is especially true in situations where multiple similar alleged wrongs would not be economically feasible to pursue individually, such as here. Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions will "not be disturbed on appeal absent a manifest abuse of discretion." (*Lealao v. Beneficial Cal., Inc*., 82 Cal.App.4th 19, 41 (2000); *see also Laffitte,* l Cal.5th at 506 [holding that "trial court did not abuse its discretion in using [the percentage of fund method], in part to approve the fee request"].) Indeed, it is long settled that the "experienced trial judge is the best judge of the value of professional services rendered in his court." (*Ketchum v. Moses*, 24 Cal.4th 1122, 1132 (2001).)

The percentage method is particularly appropriate where a monetary settlement has been recovered and "the benefit [recovered can be] easily quantified." (*In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011).) Where the amount of a settlement is a "certain or easily calculable sum of money," California courts may calculate attorneys' fees as a reasonable percentage of the settlement created. (Weil and Brown, California Practice Guide, *Civil Procedure Before Trial,* Chapter 14, section 14:145; *Dunk, supra,* 48 Cal. App. 4th at 1808.) The percentage fee method is preferred in representative actions because "it better approximates the workings of the marketplace than the lodestar approach." (*Lealao, supra,* 82 Cal.App.4th at 49.) California law provides that the award for attorneys' fees should be equivalent to fees freely negotiated in the legal marketplace and paid in comparable litigation based on the result achieved and risk incurred. (*See Lealao,* 82 Cal.App.4th at 47-50; *Laffitte,* 1 Cal.5th 480 at 503.) In cases where the settlement agreement provides that the defendant will pay the plaintiffs' attorneys a percentage of the fund created by the settlement, use of that percentage method is appropriate. (*Lealao,* 82 Cal.App.4th at 32.) Fee awards that are too small will "chill the private enforcement essential to the vindication of many legal rights and obstruct the representative actions that often relieve the courts of the need to separately adjudicate numerous claims." (*Id.* at 53). Therefore, fees in representative actions should approximate the probable terms of a contingent fee contract negotiated by a sophisticated attorney and client in comparable litigation. (*Id.* at 48). "The ultimate goal ... is the award of a 'reasonable' fee to compensate counsel for their efforts, irrespective of the method of calculation." (*Consumer Privacy Cases*, 175 Cal.App.4th 545, 557-58 (2009) [quoting *Apple Computer, Inc. v. Superior Court, supra,* 126 Cal.App.4th at 1270].)

PAGA Counsel's application for attorneys' fees in light of the facts and circumstances surrounding the case is within the range of reasonableness. Historically, courts have awarded fees as high as fifty percent (50%) of the settlement in complex actions, depending on the circumstances of the case. (*See In re Ampicillin Antitrust Litig.*, 526 F.Supp. 494 (D.D.C. 1981) [awarding attorneys' fees in the amount of 45% of the $7.3 million total settlement amount]; *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* 480 F.Supp. 1195 (S.D.N.Y. 1979) [awarding approximately 53% of the settlement as attorneys' fees].) California courts routinely approve attorneys' fees awards "average[ing] around one-third of the recovery." (*Chavez*, 162 Cal.App.4th at 66 [trial court found the range of contingency fees in marketplace to be 20 to 40 percent and determined such a percentage fee was appropriate]; *see also, e.g., Resendez v. Bridgestone Retail Operations, LLC,* Los Angeles County Superior Court, Case No. BC596892 (June 2016) [approving a fee award of one-third of the settlement amount of $950,000 in a PAGA action, because it was "reasonable and consistent with fee awards in class action cases"].)

Here, PAGA Counsel's fee request of thirty-five percent (35%) of the Gross Settlement Amount (i.e., $138,250.00) is fair and reasonable based on the percentage of the recovery method. PAGA Counsel has vigorously litigated this case since it was commenced, with the very real possibility of an unsuccessful outcome and no fee recovery of any kind. (Genish Decl., ¶ 48). Counsel for Plaintiffs undertook significant investigation and invested a significant amount of time analyzing relevant documents and data to evaluate the nature and extent of the alleged underlying Labor Code violations and calculation of the potential monetary recovery as they relate to Plaintiffs' claims under PAGA. (*Id*., ¶¶ 12, 13, 16, 27, 42 & 47). The attorneys at Blackstone Law, APC possess combined extensive experience litigating wage and hour and other complex litigation matters, and the attorneys who worked on this matter have been approved as class counsel and/or have had their billable rates approved in the settlement of other class and PAGA actions, numerous times. (*Id*., ¶ 50).

In the present case, PAGA Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained. (*Id*., ¶ 49). PAGA Counsel is experienced in complex wage-and-hour litigation and used that experience to obtain a favorable result for Plaintiffs, the Aggrieved Employees, and the State of California. (*Id.,* ¶¶ 2-6; 50). Considering the amount of fees requested, work performed, risks incurred, and experience of PAGA Counsel in handling similar matters, Plaintiffs maintain that the requested attorneys' fees of thirty-five percent (35%) of the Gross Settlement Amount (i.e., $138,250.00) are reasonable and should be awarded. (*Id.,* ¶¶ 51, 52).

VII. THE REQUESTED PAGA COUNSEL LITIGATION EXPENSES PAYMENT IS FAIR AND REASONABLE

The Settlement provides for reimbursement of actual litigation costs and expenses up to the amount of Fifteen Thousand Dollars and Zero Cents ($15,000.00). (Genish Decl., ¶ 53; Settlement Agreement, ¶ 5.a). PAGA Counsel only seeks reimbursement of a total of $9,800.99 in litigation costs and expenses. (Genish Decl., ¶ 53, Exhibit 4 thereto). Accordingly, PAGA Counsel respectfully requests that the Court reimburse them for actual litigation costs and expenses in the amount of $9,800.99.

VIII. THE COST OF ADMINISTRATION PAYMENT IS FAIR AND REASONABLE

As set forth in the Settlement Agreement, the Parties have agreed to retain, subject to approval by the Court, ILYM Group to handle the administration of the Settlement. (Genish Decl., ¶ 54; Settlement Agreement, ¶ 12). The fees and expenses of the Administrator are estimated not to exceed $7,500.00. (Genish Decl., ¶ 54; Settlement Agreement, ¶ 5.c). These costs include, but are not limited to, expenses for preparing, printing, and mailing the Cover Letter and Individual PAGA Payment checks to the Aggrieved Employees, re-mailing the returned Individual PAGA Payment checks to any new addresses obtained, and handling inquiries from Aggrieved Employees regarding the Settlement, among other things. (Genish Decl., ¶ 54). Accordingly, the Court should grant approval of the Cost of Administration Expenses in the amount of up to $7,500.00 to ILYM Group, a necessary third-party for handling the settlement process. (*Ibid*).

IX. THE REQUESTED ENHANCEMENT AWARDS ARE FAIR AND REASONABLE

The purpose of an enhancement award is to incentivize aggrieved employees to step into the shoes of the state labor agency and undertake the responsibilities associated with initiating a lawsuit and serving in a representative capacity. *See, e.g., Bell v. Farmers Ins. Exch*., 115 Cal.App.4th 715, 726 (2004) (upholding "service payments" to named plaintiffs for their efforts in bringing the action); *Clark v. Am. Residential Servs., LLC*, 175 Cal.App.4th 785, 804 (2009) ("an incentive award is appropriate 'if it is necessary to induce an individual to participate in the suit'"). Plaintiffs initiated this litigation on behalf of the State of California and their former co-workers who will now be entitled to receive payment from the Settlement. By initiating and pursuing the Action, Plaintiffs stepped into the shoes of the State of California and undertook the responsibilities of serving in a representative capacity. (Genish Decl., ¶ 55; Kondori Decl., ¶¶ 4-11; Jerome Decl., ¶¶ 4-11). Plaintiffs were available whenever Plaintiffs' counsel needed them and actively tried to obtain information that would benefit the prosecution of the Action. (Genish Decl., ¶ 55; Kondori Decl., ¶¶ 4-11; Jerome Decl., ¶¶ 4-11). The Enhancement Awards are eminently reasonable given the time and effort Plaintiffs spent on the Action, and the benefit to the other Aggrieved Employees and the State of

California as a result of Plaintiffs' actions. (Genish Decl., ¶ 55). Accordingly, Plaintiffs respectfully submit that it is appropriate and just for Plaintiffs to receive Enhancement Awards in the amount of $5,000.00 *each* in addition to the Individual PAGA Payments they will receive as Aggrieved Employees, for their services on behalf of the State of California and the other Aggrieved Employees. (*Ibid*).

X. CONCLUSION

For all of the foregoing reasons, Plaintiffs respectfully request that this Court grant Plaintiffs' Motion for Approval of PAGA Settlement and Award of PAGA Counsel's Fees, PAGA Counsel's Costs, Enhancement Awards, and Administration Costs and grant the relief requested herein.

Respectfully submitted,

Dated: December 13, 2024

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