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on behalf of himself and on behalf of all other
aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF FRESNO

EDUARDO VELAZQUEZ, on behalf of himself and on behalf of all other aggrieved employees, Plaintiff, vs. CARLUCCI TRANSPORT dba CARLUCCI TRANSPORT INC., a California corporation; and DOES 1 through 50, inclusive, Defendants.	Case No. 22CECG03945 **PAGA ACTION** Assigned For All Purposes To: Hon. Kristi Culver Kapetan **PLAINTIFF'S MOTION FOR APPROVAL OF PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES** Date: August 20, 2026 Time: 3:30 p.m. Dept: 502 Action filed: September 9, 2022 FAC filed: May 5, 2023 Trial date: None Set

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MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction

A resolution has been reached in the amount of $225,000.00 related to the claim for violations of the Private Attorneys General Act ("PAGA") brought by Plaintiff Eduardo Velazquez ("Plaintiff") against Defendant Carlucci Transport dba Carlucci Transport Inc. ("Defendant"). Under Labor Code § 2699(l)(2), the Court must review and approve any proposed PAGA settlement. Here, the Parties agreed to a private mediation session, and following arm's-length negotiations and extensive review of documentation received through the litigation, reached a resolution of Plaintiff's PAGA claim. The Settlement is attached to the Declaration of Enoch J. Kim ("Kim Decl.") as **Exhibit 1**. Plaintiff now seeks this Court's approval of the Settlement terms.

II. Procedural History and Factual Background

Defendant is in the trucking industry where, pertinent to this action, non-exempt employees work for Defendant across the state of California to provide trucking-related services. Kim Decl. ¶ 4. Plaintiff worked for Defendant as a Truck Driver at one of Defendant's facilities in Fresno, CA from approximately 2020 until March of 2022. Kim Decl. ¶ 5.

On September 15, 2022, Plaintiff's counsel sent a letter to the California Labor & Workforce Development Agency ("LWDA") via online submission and to Defendant via certified mail regarding Defendant's alleged violations. *See* Kim Decl., ¶ 6, Exhibit 2. In this letter, Plaintiff asserted Defendant failed to comply with Labor Code sections 201, 202, 203, 204, 210, 226, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 1670.5, 2698, and 2699 *et seq*. *Id.* On December 13, 2022, Plaintiff submitted an amended PAGA Notice to the LWDA and served Defendant. *See* Kim Decl., ¶ 6, Exhibit 3. The LWDA did not respond to this notice within 65 days, indicating it did not intend to investigate, thus allowing Plaintiff to file the instant lawsuit pursuant to Labor Code Section 2699.3(a)(2)(A). Kim Decl. ¶ 7.

On September 9, 2022, Plaintiff initially commenced the present action in the Fresno County Superior Court (Case No. 22CECG03945) based on the alleged illegal practices in

Plaintiff's LWDA letter related to unpaid minimum and overtime wages; unlawful meal periods; unlawful rest breaks; failure to provide accurate itemized wage statements; failure to maintain accurate records, and failure to timely pay all wages due upon separation of employment. Kim Decl., ¶ 8. Plaintiff's action was brought on behalf of himself and other non-exempt employees who worked for Defendant in California during the PAGA Period ("Aggrieved Employees"). *Id*. On May 5, 2023, Plaintiff filed the First Amended Complaint alleging a claim for Failure to Reimburse Necessary Business Expenditures Under Labor Code § 2802 under PAGA. *Id*. at ¶ 9.

On August 15, 2023, Defendant filed its motion to compel arbitration of Plaintiff's individual claims under PAGA based on an arbitration agreement signed by Plaintiff during his employment with Defendant. *Id.* at ¶ 9. Plaintiff filed a demand with the arbitrator JAMS on August 28, 2023[1]. *Id.* On March 28, 2024, the Court entered its order adopting its tentative ruling denying Defendant's motion. *Id.* Thereafter, the Parties agreed to mediate Plaintiff's representative PAGA action. *Id.*

The Parties have engaged in substantive formal and informal discovery prior to reaching a settlement. Plaintiff served a first set of written discovery, seeking, *inter alia*, Plaintiff's personnel file, policy-related documents, the Aggrieved Employees' contact information, and Aggrieved Employees' timekeeping and pay records. Kim Decl., ¶ 10. After meeting and conferring on the discovery, written responses and responsive documents were partially received by Plaintiff. *Id*. To obtain all remaining documents and information, Plaintiff filed a motion to compel further discovery responses. *Id*. The Parties additionally agreed to an informal production of documents and information before the private mediation. Kim Decl., ¶ 11.

Through both formal and informal discovery, Plaintiff and his counsel have received substantial evidence to evaluate his PAGA claim and calculate Defendant's alleged exposure, including thousands of pages of work records encompassing the timecards and wage statements

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[1] Plaintiff filed a demand with the arbitrator based on his belief that the Court would grant Defendant's motion to compel arbitration eventually – if not the first time around, the second time around based on the correct version of the arbitration agreement signed by Plaintiff.

for Plaintiff and Aggrieved Employees. *Id*. Plaintiff also received the Aggrieved Employees' contact information and conducted interviews of Aggrieved Employees following a Belaire-West notice sent on July 11, 2024, and received Defendant's written work policies governing their employment. *Ibid*. For mediation, Plaintiff engaged an expert, Berger Consulting Group, to help quantify Defendant's potential exposure based on the produced timecards and wage statements, and then assessed the risks associated with each of the claims. *Id.* at ¶ 12.

On October 23, 2024, the Parties attended a full-day mediation with Jeffrey Owensby, a respected mediator. Kim Decl., ¶ 13. Settlement in principle was reached at mediation, and the Parties remained engaged in arm's length settlement discussions following the mediation to draft and execute a long-form settlement agreement. *Id.* at ¶ 14. Ultimately, the Parties' agreement was fully executed on November 21, 2024. Kim Decl., Ex. 1.

Plaintiff provided notice of the Settlement to the LWDA on May 13, 2025. Kim Decl., ¶ 15, Ex. 4. Plaintiff also provided a copy of this Motion to the LWDA on July 27, 2026. *Id*. at ¶ 16, Ex. 4.

III. REQUIREMENTS PURSUANT TO PAGA

Based on the California Supreme Court's opinions in *Arias v. Superior Court*, 46 Cal. 4th 969 (2009), and *Iskanian v. CLS Transportation Los Angeles, LLC,* 59 Cal. 4th 348 (2014), Plaintiffs can seek appropriate civil penalties as called for under PAGA on behalf of the State of California and other similarly aggrieved employees without seeking class certification or meeting the requirements of class certification (i.e. numerosity, typicality, commonality and adequacy). As such, the class action two-step preliminary and final approval process is not required.

PAGA was enacted to allow enforcement of the Labor Code and recovery of penalties by the State and by private individuals who have been aggrieved by their employers. The statute calls for 75% of any penalties recovered to be paid to California's LWDA and the remaining 25% to the aggrieved employees. Labor Code § 2699(i).

In order to enforce and seek penalties under PAGA in a civil action, an aggrieved employee must first provide written notice to the LWDA and the employer of the particular

Labor Code violations the aggrieved employee alleges the employer has violated. *See* Labor Code § 2699.3(a)(l)(A)(2016). Once the LWDA notifies the aggrieved employee that it does not intend to investigate the alleged violations, or if the LWDA does not respond within a certain time period, the aggrieved employee is then allowed to proceed in a civil action against the employer on behalf of the LWDA and all other similarly aggrieved employees. *See* Labor Code § 2699.3(a)(2)(A)(2016).

In 2009, the California Supreme Court considered the issue of whether an aggrieved employee who brings a PAGA representative claim needs to meet class certification requirements. *Arias,* 46 Cal. 4th at 976. After a substantial review of the legislative history of PAGA, the Court held that an aggrieved employee's representative action brought on behalf of other aggrieved employees against an employer for PAGA violations does not need to meet the requirements for class certification. *Id*. at 975, 980-88. As the Court held, a plaintiff bringing suit under PAGA does so as the proxy or agent of California's labor law enforcement agencies. *Id*. at 986. Because the employee's PAGA action functions as a substitute for an action brought by the government itself, a judgment in the PAGA action binds all those who would be bound by a judgment in an action brought by the government. *Id.*

Finally, in a settlement of a PAGA action brought by an aggrieved employee, the court need only "review and approve" the settlement. Labor Code § 2699(1)(2) (2016). The Parties to this current PAGA action have reached such an agreement and now seek this Court's approval of the proposed settlement.

IV. <u>THE SETTLEMENT TERMS AND DISTRIBUTION OF PENALTIES</u>

The Parties have agreed that Defendant will pay a total settlement amount of $225,000.00 (the "Gross Settlement Amount"). *See* Kim Decl., Ex. 1 (Settlement Agreement, §§ 1.11, 3.1).

From this amount, up to one-third (1/3) of the Gross Settlement Amount, or $75,000.00, is allocated to attorneys' fees and up to $15,000.00 to actual litigation costs. *Id.* at § 3.2.3. To date, Plaintiff's counsel has collectively spent $8,583.63 in actual litigation costs and incurred $153,545.00 in collective attorneys' fees based on their lodestar. *See* Kim Decl., ¶¶ 46, 48, Exhibits 5-6 and Yeremian Decl., Exhibits 1. The Settlement allocates up to $4,750.00 to payment for Phoenix Settlement Administrators' costs associated with administration of the Settlement. Kim Decl., Ex. 1 (Settlement Agreement, § 3.2.1).

After deducting the above amounts for attorneys' fees and costs, and the Settlement Administrator's costs, the remaining fund will constitute the "PAGA Penalties" in which 75% will be paid to the LWDA (the "LWDA PAGA Payment") and 25% will be paid to the Aggrieved Employees as their "Individual PAGA Payments". Kim Decl. Ex. 1 (Settlement Agreement, ¶ 3.2.2). The Aggrieved Employees are all individuals who were employed by Defendant, as hourly, non-exempt employees in California at any time during the PAGA Period. *Id.* at ¶ 1.4. The PAGA Period means the period from September 15, 2021, through November 15, 2024. *Id.* at ¶ 1.20.

The Individual PAGA Payments will be calculated pro rata based on the number of pay periods working during the PAGA Period. Settlement Agreement, § 1.12. Based on its records, Defendant estimates that there are 15,427 Pay Periods worked by Aggrieved Employees during the PAGA Period. *Id*. at ¶ 8. If the number of PAGA Pay Periods exceeds 15,427 by more than 13%, the Gross Settlement Amount will either increase pro rata per additional PAGA Pay Period, or at Defendant's option, end on the date where the PAGA Pay Periods do not exceed 17,432. Settlement Agreement § 8. The Individual PAGA Payments shall be paid to the Aggrieved Employees by way of a single check which will be valid for 180 days. *Id.* at § 4.3.1. All funds not claimed within 180 days of mailing of payment shall be sent to the cy pres recipient La Instituto Laboral de La Raza. *Id.* at § 4.4.3. The Individual PAGA Payments will be characterized as penalties for tax purposes and reported on IRS Form 1099. *Id.* at § 3.2.4.2.

Prior to this disbursement, the Settlement Administrator shall check the Aggrieved Employees' addresses provided by Defendant using the National Change of Address database. Settlement Agreement, §§ 1.6, 4.3.2. For any returned payments without a forwarding address, the Settlement Administrator shall run a skip trace. *Id*. At § 4.3.2. Aggrieved Employees will receive a letter along with their Individual PAGA Payment explaining the reason for the payment. The proposed letter is attached to the Settlement Agreement as **Exhibit A**.

In exchange for the settlement payment, the State of California and the Aggrieved

Employees will release the following claims:

> "Upon entry of judgement, all Aggrieved Employees will be bound by the judgment and are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notices and ascertained in the course of the Action, including, but not limited to, civil penalties pursuant to PAGA for or related to alleged violations of Labor Code §§ 226, & 226.6 (Wage Statements); Labor Code §§ 510 & 1194 (Overtime); Labor Code § 226.7 (Rest Periods); Labor Code § 512 (Meal Periods); Labor Code §§ 204, 210, 226.2, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 1670.5 (Pay All Hours Worked); Labor Code §§ 201-203 (Waiting Time); declaratory relief as it relates to the claims listed above, penalties recoverable pursuant to the claims listed above, interest, fees, costs, as well as all other claims and allegations alleged in the Action, throughout the PAGA Period ("Released PAGA Claims")."
>
> "'Released Parties' means: Defendant and all of its present and former parents, owners, subsidiaries, divisions, affiliated or related person or entities, and each of their respective officers, directors, employees, partners, shareholders, attorneys, agents, executors and assigns.

See Settlement Agreement, §§ 1.27; 5.2. Plaintiff has agreed to settle his individual claims, which is contingent on approval of the Settlement Agreement. *Id.* at ¶ 5.1.

V. <u>THE SETTLEMENT IS FAIR AND REASONABLE</u>

A. Standard for Approval

PAGA settlements must be "fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." *Moniz v. Adecco USA, Inc*., 72 Cal.App.5th 56, 77 (2021). The court must find that the plaintiff "has adequately represented the state's interests, and hence the public interest." *Id.* At 89. The LWDA must be notified of the settlement and be given an opportunity to object. The court may look to parallel class action guidelines to determine what is "fair, adequate and reasonable." *Kullar v. Foot Locker Retail,* 168 Cal.App.4th 116, 126 (2008). In that analysis, the court has "broad discretion in making this determination." *In re Microsoft I-V Cases*, 135 Cal.App.4th 706,723 (2006). Relevant factors may include "the strength of the plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, … 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 …." *Dunk v. Ford Motor Co*., 48 Cal.App.4th 1794, 1801(1996).

B. The Settlement Meets the Standard for Approval

Here, the $225,000.00 Gross Settlement Amount is reasonable for a group of 375 Aggrieved Employees and is equivalent to a penalty of $600 per Aggrieved Employee. Kim Decl., ¶ 17. A penalty by way of the $225,000.00 Gross Settlement Amount is large enough to punish Defendant for alleged past violations and deter future violations. At the same time, the penalty amount is not so large as to be unjust, oppressive or confiscatory, considering the company's potential exposure explained below. *Id*. at ¶ 18. The Gross Settlement Amount is also reasonable in light of the facts of the foregoing action and inherent risks and uncertainties associated with PAGA claims. *Id*. at ¶ 19.

Defendant represented based on its records that there were 375 Aggrieved Employees who collectively worked a total of 15,247 pay periods at issue ahead of mediation. Kim Decl., ¶ 20. Plaintiff calculated Defendant's potential exposure at the initial violation rate of $100 per pay period (*see* Labor Code § 2699(f)(2)) as follows: 15,427 total pay periods x $100 PAGA penalty per pay period equals $1,542,000 in total exposure. *Id*. This calculation follows the principle of one penalty award per affected pay period under PAGA. *Id*. If the Court "stacked" multiple penalties in the same pay period, Plaintiff's expert calculated Defendant's maximum exposure to be:

a. $100 x 13,844 pay periods with unpaid minimum and overtime wages (assuming a 90% violation rate) = $1,384,400 in penalties for unpaid wage violations;

b. $100 x 15,273 pay periods with rest break violations (assuming a 99% violation rate) = $1,527,300 in penalties for rest break violations;

c. $100 x 12,342 pay periods with a meal period violation (assuming an 80% violation rate) = $1,234,200 in penalties for meal period violations; and

d. $100 x 92 terminated employees with waiting time violations = $9,200 in penalties; and

e. $100 x 15,427 pay periods with derivative wage statement violations (assuming a 100% violation rate) = $1,542,700 for wage statement penalties.

f. $100 x 3,856.75 pay periods (assuming a 25% violation rate) = $385,675 for the unreimbursed business expenses claim.

Id. However, case law supports the notion that it is inappropriate to "stack" penalties for multiple violations, particularly when those violations all stem from the same alleged "injury." Aguirre v. Genesis Logistics, 2015 U.S. Dist. LEXIS 78748 (citing Villacres v. ABM Indus., Inc., 189 Cal.App.4th 562, 577 (2010)). ("One injury gives rise to only one claim for relief…The violation of one primary right constitutes a single cause of action.") As such, Plaintiff's calculation of $1,542,000 as the maximum exposure under PAGA is appropriate. Moreover, even if "stacking" were permitted, the above calculations assumed the Court would find multiple violations in every pay period based on Plaintiff's theories of liability, and agree with all of Plaintiff's arguments and supporting evidence as to Defendant's exposure, which would have been unlikely given Defendant's defenses to the claims at issue in this matter. Kim Decl., ¶ 21. In addition, damages exposure estimates for mediation purposes such as the one here are inherently aggressive and seek to maximize the potential exposure based on assumptions of very high violation rates and without any regard to the defenses to the merits of each claim. *Id.*

Plaintiff alleged that Defendant failed to pay Aggrieved Employees for the time they spent conducting pre-trip inspections and preparing trucks for trips, unloading trucks post-trip, and performing post-trip duties such as completing reports and getting diesel fuel. Kim Decl. ¶ 22. Defendant contended that Aggrieved Employees were responsible for accurately reporting their time worked (including for pre and post-trip activities), that Aggrieved Employees presumably rounded up their reported time worked prior to and after their trips, and that Defendant paid at least minimum wages for the time that Plaintiff and Aggrieved Employees reported on their daily logs, including the time spent for pre and post-trip activities, thereby paying for more time than actually worked by Aggrieved Employees. *Id.* As a result, this claim would be dependent upon competing testimonial evidence through depositions and declarations about Defendant's practice, which renders the merits and value of this claim uncertain. *Id.* Moreover, Defendant contended that Aggrieved Employees were exempt from overtime requirements under the Federal Motor Carrier Safety Act and California law because Aggrieved Employees, including Plaintiff, were commercial drivers driving vehicles weighing more than 26,001 pounds. *Id.* The establishment of even one of these defenses would likely preclude a finding of liability on this claim or significantly reduce any potential exposure.

Plaintiff also alleged that Aggrieved Employees were required to work during their meal and rest periods or were not able to take their meal and rest breaks on a timely basis. Defendant contended that the Federal Motor Carrier Safety Act exempted Aggrieved Employees from the meal and rest break requirements under California law based on vehicle weight and thus there were no violations of the meal and rest break requirements. Defendant also contended that it had lawful written policies governing meal and rest breaks and that it informed Aggrieved Employees of those policies. Kim Decl. ¶ 24. Defendant further contended that Aggrieved Employees were free to take their meal and rest breaks during their shifts and that it did nothing to restrict their ability to timely take meal and rest breaks, that Aggrieved Employees were responsible for accurately reporting their meal breaks, and that any missed or untimely meal and rest breaks were at the voluntary election of Aggrieved Employees. *Id*. In addition to these defenses, Plaintiff had to consider that rest breaks, unlike meal breaks, need not be recorded, making the rest break claim subject to competing testimonial evidence about rest breaks and potential manageability issues at trial given the number of Aggrieved Employees who could be called to testify in a trial proceeding. *Id*. Plaintiff recognized the risks associated with the meal and rest break claims and the possibility that no liability could be found on these claims if one of these defenses are established. *Id*. at ¶ 25.

Based on the unpaid wages and meal and rest break claims, Plaintiff alleged that Defendant failed to provide accurate wage statements and pay all wages due at the time of termination on a timely basis. Defendant contended that Plaintiff's wage statement and untimely payment of wages claims were merely derivative of the unpaid wages and meal and rest break claims and thus similarly had no merit. Kim Decl., ¶ 26. Defendant further contended that the wage statement and untimely payment of wages claims were subject to a good faith dispute, which would preclude the finding of a "willful" violation and as a result, preclude the finding of liability on these claims. *Id*. Plaintiff considered these defenses when evaluating the merits and value of these derivative claims during settlement negotiations. *Id*.

Finally, Plaintiff also alleged Defendant failed to reimburse Aggrieved Employees for cellular phone usage and tools and protective gear, which were used in the course of performing their job duties for Defendant. Kim Decl., ¶ 27. Defendant contended that it provided company-issued mobile phones and hardhats to Aggrieved Employees and reimbursed Aggrieved Employees for any necessary expenses incurred for their job duties pursuant to their expense reimbursement policy. *Id*. Defendant further contended that any other expenses allegedly incurred by Aggrieved Employees were not necessary for the performance of their job duties and thus not required to be reimbursed by Defendant. *Id*.

Another crucial factor in evaluating the value of a PAGA-only case is that all PAGA awards are discretionary and can be reduced by the Court. Kim Decl., ¶ 28. Under Labor Code § 2699(e)(2), the Court can reduce the PAGA 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." *Id*. In other words, were this matter to go to trial, any award granted would be at the discretion of the Court. *Id*.

Plaintiff recognizes that the Court could determine otherwise and significantly reduce the PAGA penalties even if Plaintiff were to prevail on the PAGA claim. (See *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 529 (2018) (affirming penalty reduction of 90% for practice that resulted in meal periods occasionally starting minutes after the fifth hour of work); *Sanchez v. McDonald's Corp.* (2017), LASC Case No. BC 499888 (98% reduction from $41 million to $775,000); *Ghrdilyan v. RJ Financial* (2012), LASC Case No. BC430633 (94% reduction from $5.4 million to $325,000); *Fleming v. Covidien*, Inc. (2011), USDC Case No. ED CV 10-01487-RGK (OPx) (87% reduction from $2.8 million to $375,000).). Kim Decl., ¶ 29. The precedent is clear that courts will not hesitate to make steep reductions in PAGA penalty awards even if plaintiffs are successful in establishing liability under PAGA at trial. *Id*.

Applying discounts to the potential exposure for settlement purposes is not an exact science. *Id*. However, based on Plaintiff's Counsel's experience in evaluating similar claims and the likelihood of success on the merits of each claim in light of Defendant's various defenses discussed above and the formal and informal discovery conducted, including interviews of Aggrieved Employees, as well as the precedent of courts significantly reducing PAGA penalty awards, Plaintiff believed that a discount of at least 80% to the total exposure to get a more realistic exposure for settlement purposes was reasonable under the circumstances. *Id*. The potential for little to no recovery and the additional delays and risks of trial justified settling at this point for a reasonable amount of recovery for the State and Aggrieved Employees. *Id*.

C. The Requested Fee Award Is Fair And Reasonable

Plaintiff's Counsel seeks a fee award of one-third of the Gross Settlement Amount. The requested fee award, $75,000.00, is reasonable and should be approved for being notably less than the actual fees expended on the case by Plaintiff's Counsel. Kim Decl., ¶¶ 45-46. Plaintiff's lodestar reflects $153,545.00 in fees based on 269.1 total hours of work billed from Plaintiff's Counsel, with work delegated among qualified attorneys. *Id*.

PAGA allows a prevailing plaintiff to obtain attorneys' fees and costs. Labor Code § 2699(g). Fees representing up to forty percent of the recovery reflect the rate negotiated in "typical contingency fee agreements [which] provide that class counsel will recover 33% if the case is resolved before trial and 40% if the case is tried." *Fernandez v. Victoria Secret Stores LLC*, 2008 U.S. Dist. LEXIS 123546, *55-57 (C.D. Cal. July 21, 2008) (citing an academic study collecting contingency fee agreements and finding that a fee award constituting 34% of the fund is reasonable on that basis). Because the negotiated fee structure mimics the marketplace, it is reasonable and should be approved.

In *Laffitte*, the California Supreme Court held that it is not an abuse of discretion for a trial court to utilize the percentage method for calculating an attorneys' fee award. *Laffitte v. Robert Half International, Inc.*, 1 Cal. 5th 480, 503 (2016); see also *Serrano v. Priest*, 20 Cal. 3d 25, 35-40 (1977); *City and County of San Francisco v. Sweet*, 12 Cal. 4th 105, 110 (1995) (the common fund doctrine has been applied "consistently in California when an action brought by one party creates a fund in which other persons are entitled to share.”). In so doing, the Court rejected the appellant’s arguments against use of the percentage method, pointing out that the method has widespread acceptance in courts throughout the country. *Id*. Explaining that the percentage method “is a valuable tool” for trial courts to calculate attorneys‘ fees, the Court extolled “[t]he recognized advantages” of the method, such as “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.” *Id*. (citations omitted).

Here, Plaintiff’s counsel efficiently litigated this matter, making the entire portion of PAGA Penalties available to Aggrieved Employees and the State with no reversion to Defendant. Plaintiff’s counsel has spent a significant amount of time litigating this case, including time evaluating and analyzing the relevant legal theories, drafting and filing PAGA letters, drafting and filing the complaint and amended complaint, filing pleadings and discovery motions, opposing a motion to compel arbitration, attending hearings, engaging in substantive discovery and meeting and conferring as necessary, interviewing Aggrieved Employees, engaging an expert to perform an analysis on the time and payroll records, and attending mediation. Kim Decl. ¶¶ 3-14. Plaintiff’s counsel expects to spend additional time on the settlement approval and administration process as well. In short, the percentage of fees sought by Plaintiff’s Counsel is in line with awards in similar cases in California, is less than the fees actually expended by Plaintiff’s counsel, and is reasonable for the benefit obtained for Aggrieved Employees and the State in this case.

D. Plaintiff’s Counsel’s Costs Were Reasonably Incurred

Plaintiff’s Counsel’s collective cost report reflects $8,583.63 in litigation costs. Kim Decl. ¶ 48, Ex. 5. These costs include filing fees, service costs, costs to retain an expert to evaluate the time and payroll records, mediation costs, and various other litigation costs. *Ibid*. The $8,583.63 requested for costs reimbursement should be granted and is less than the $15,000.00 allocated to costs in the Settlement (the remainder of which will be paid as PAGA Penalties). *See* Kim Decl., Ex. 1 (Settlement Agreement, § 3.2.1).

E. The Settlement Administration Costs Are Reasonable

The Parties agreed to hire Phoenix Class Action Administration as the Settlement Administrator. The Settlement Administrator will be responsible for updating the mailing addresses of the Aggrieved Employees, mailing the Settlement Notices to each Aggrieved Employees, responding to Aggrieved Employee inquiries, answering questions posed by Counsel for the Parties, providing a declaration to document its duties and responsibilities under the Settlement, calculating and mailing the settlement payments and notices to Aggrieved Employees, disburse other payments as ordered by the Court, and performing such other duties as described in the Agreement. *See generally* Declaration of Jodey Lawrence on behalf of Phoenix Class Action Administration Solutions ("Lawrence Decl."). The requested amount of $4,750.00 for services rendered and to be rendered is fair and reasonable and should be granted. Lawrence Decl., Ex. B.

VI. CONCLUSION

Based on the above facts and arguments, Plaintiff respectfully requests the Court to approve the Parties' PAGA Settlement.

Dated: July 27, 2026 D.LAW, INC.

By: ______________________________

Enoch J. Kim, Esq.
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