Sally S. Chan, Esq. (SBN: 258775)
Karen K. Tso, Esq. (SBN: 285369)
WEST THEMIS LAW, PC
2476 Huntington Drive
San Marino, California 91108
Telephone: (626) 737-8585
Facsimile: (626) 737-8528
Email: info@wthemislaw.com

Attorneys for Plaintiff
QING YAO

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

NORTH CENTRAL DISTRICT - GLENDALE COURTHOUSE

QING YAO, an individual, Plaintiff, v. ANNAVEE INC. dba CHANG'S GARDEN, a California corporation; ANNAVEE WINGYI WONG KIM, an individual; and DOES 1 through 10, inclusive, Defendants.	Case No.: **24NNCV00369** *[Assigned for All Purposes to Hon. Ralph C. Hofer, Dept. D]* **PLAINTIFF QING YAO'S NOTICE OF MOTION AND MOTION FOR APPROVAL OF PAGA SETTLEMENT, ATTORNEY'S FEES AND COSTS AND EHNANCEMENT AWARD** Date: February 13, 2026 Time: 8:30 AM Dept: D **Reservation No: 971758089017** Action Filed: March 19, 2024

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on February 13, 2026 at 8:30 a.m., or as soon thereafter as the matter may be heard in Department D of the above-entitled Court, located at 600 East Broadway, Glendale, CA 91206, assigned for all purposes to Hon. Ralph C. Hofer, Plaintiff QING YAO ("Plaintiff"), shall move this Court, under Labor Code § 2699 ("PAGA"), for the following Order and Judgment:

1. Approval of the PAGA Settlement allocation and distribution thereof, as set forth in the executed Settlement Agreement.

2. Approving attorneys' fees in the amount of $40,000 (40% of the Gross Settlement Amount) and litigation costs of $1,000 to Plaintiff's counsel, West Themis Law, PC, pursuant to PAGA.

3. Approving the representative service award of $15,000 to Plaintiff Qing Yao.

4. Approving the payment of PAGA penalties in the amount of $41,000, allocated as:

a. $30,750 (75%) to the LWDA; and

b. $10,250 (25%) to the Aggrieved Employees, to be distributed on a pro rata basis.

5. Approving the payment of PAGA penalties in the amount of $41,000, allocated as: $30,750 (75%) to the LWDA; and $10,250 (25%) to the Aggrieved Employees, to be distributed on a pro rata basis.

6. Dismissing the PAGA claim with prejudice and retaining jurisdiction under Code of Civil Procedure § 664.6 to enforce the terms of the settlement.

7. Granting such other and further relief as this Court deems just and proper.

This Motion is based on this Notice, the Motion set forth below, the executed PAGA Settlement Agreement filed herewith, the Declaration of Sally S. Chan, esq, Declaration of Plaintiff Qing Yao, all pleadings and papers on file in this action, and such oral and documentary evidence as may be presented at the hearing.

Dated: November 11, 2025 Respectfully Submitted,

WEST THEMIS LAW, PC

By:______________________________

Sally S. Chan, Esq.
Karen K. Tso, Esq.
Attorneys for Plaintiff
QING YAO

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I. INTRODUCTION

Plaintiff QING YAO ("Plaintiff") Plaintiff Qing Yao respectfully moves this Court for an order granting approval of the Private Attorneys General Act ("PAGA") settlement reached in this action, as well as approval of the requested attorneys' fees, litigation costs, and enhancement award. This motion is brought pursuant to California Labor Code §§ 2698 et seq. and is supported by the executed PAGA Settlement Agreement between Plaintiff and Defendants Annavee Inc. dba Chang's Garden and Annavee Wingyi Wong Kim.

The proposed settlement provides meaningful relief to the State of California and to aggrieved employees, addressing alleged wage and hour violations and related Labor Code infractions. The settlement is the product of arm's-length negotiations, including mediation, and is designed to further the public interest by enforcing California's labor laws and deterring future violations. Plaintiff respectfully requests that the Court find the settlement fair, reasonable, and adequate under the standards set forth in Labor Code § 2699(l) and applicable case law, and enter the proposed order granting approval of the PAGA settlement.

II. BACKGROUND

Plaintiff Qing Yao is a former non-exempt employee of Defendants, having worked as a server at Chang's Garden for nearly fifteen (15) years. On March 19, 2024, Plaintiff initiated this action by filing a Complaint, which included a tenth cause of action under the Private Attorneys General Act of 2004 ("PAGA"), alleging numerous violations of the California Labor Code and applicable provisions of Industrial Welfare Commission Wage Order 5-2001.

Specifically, Plaintiff alleged that Defendants 1) failed to pay overtime compensation in violation of Labor Code §§ 510 and 1198; 2) failed to provide meal periods as required by Labor Code §§ 512(a), 226.7, and 1198; 3) failed to provide rest periods in violation of Labor Code §§ 226.7 and 1198; 4) failed to provide accurate wage statements in violation of Labor Code § 226(a); 5) failed to maintain personnel records in violation of Labor Code § 1198.5(c)(1); 6) failed to permit inspection and/or provide copies of personnel records in violation of Labor Code §§ 1198.5(a) and (b)(1); 7) failed to pay all wages due at termination in violation of Labor Code §§ 201, 202, and 203; 8) failed to reimburse employees for necessary business expenses in violation of Labor Code § 2802; 9) unlawfully retained or misappropriated tips in violation of Labor Code § 351; and 10) failed to pay wages for all hours worked, including off-the-clock work, in violation of Labor Code §§ 1194, 1197, 1198 and IWC Wage Order No. 5-2001.

Plaintiff timely exhausted all administrative remedies required under PAGA by submitting a written notice of alleged violations to Defendants and the California Labor and Workforce Development Agency ("LWDA") on November 29, 2023. The LWDA acknowledged receipt of Plaintiff's PAGA letter but no response was received within 65 days. Plaintiff then proceeded to file the complaint.

On November 5, 2025 Plaintiff filed the Third Amended Complaint, which is the operative complaint in this action. Defendants denied all allegations and liability for the claims asserted.

Following informal discovery, the parties participated in a half-day mediation on June 25, 2025, presided over by Ms. Natasha Roit. Although a final resolution was not reached at mediation, continued negotiations led to a final agreement to settle the PAGA claims executed on September 1, 2025. The parties, through their respective counsel, represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by this settlement.

III. <u>LEGAL STANDARDS FOR PAGA SETTLEMENT APPROVAL</u>

California's Private Attorneys General Act ("PAGA"), Labor Code §§ 2698 et seq. , authorizes aggrieved employees to bring representative actions to recover civil penalties for Labor Code violations on behalf of themselves, other employees, and the State of California. Any settlement of PAGA claims must be reviewed and approved by the court to ensure that it is fair, reasonable, and adequate, and that it serves the public interest in enforcing labor laws. § 2699.

Under Labor Code § 2699(l), a court shall review and approve any settlement of any civil action filed pursuant to PAGA. The statute requires that the settlement be submitted for judicial review, and that the court determine whether the proposed agreement adequately protects the interests of aggrieved employees and the State. PAGA settlements are subject to trial court review and approval, ensuring that any negotiated resolution is fair to those affected. See *Williams v. Superior Court (2017) 3 Cal.5th 531, 548.*

IV. PROPOSED PAGA SETTLMENT

When a PAGA claim is settled, the relief provided for under the PAGA must be genuine and meaningful, consistent with the underlying purpose of the statute to benefit the public. See, *O'Connor v. Uber Techs., Inc., 201 F. Supp.3d 1110, 1133 (2016*) (citing response from the LWDA).

Defendants have represented that there are twenty (20) PAGA aggrieved employees who will collectively have worked approximately 1200 pay periods during the applicable PAGA period of **March 2023 through the Effective Date**. The term **"Effective Date"** is defined in the Settlement Agreement as the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) the day the Court enters Judgment.

This information was relied upon by the Parties in determining the scope of aggrieved employees, estimating potential exposure under **Labor Code § 2699(f)**, and evaluating the fairness and reasonableness of the proposed **$100,000 non-reversionary settlement**.

The settlement with Defendants for the consideration and on the terms set forth in the Settlement Agreement is fair, reasonable, adequate and is in the best interest of the LWDA and PAGA Employees.

After deducting Settlement Administration Costs, the requested Attorneys' Fees and Costs, an Enhancement Award to Plaintiff, and assuming the Court approves these payments in full, there will be a Net Settlement Amount of $41,000 distributable to the LWDA, Plaintiff and the aggrieved employees.

The Net Settlement Amount will then be allocated pursuant to California Labor Code § 2699(i) as follows: 75 percent shall be paid to the Workforce Development Agency ("LWDA"), which is estimated to total $30,750.00 shall be paid to the LWDA, and $10,250.00 shall be paid to PAGA Employees by dividing Net Settlement Amount from the total number of aggrieved employees during the PAGA period as determined by the Settlement Administrator.

A breakdown of the Gross Settlement is as follows:

a. **Attorneys' Fees and Costs:** $40,000 in attorneys' fees (40% of the Gross Settlement Amount), plus up to $1,000 in litigation costs, subject to Court approval.

b. **Settlement Administration Costs:** Not to exceed $3,000, to be paid to the settlement administrator, ILYM Group.

c. **Service Award:** $15,000 to Plaintiff Qing Yao as a representative enhancement, subject to Court approval.

d. **LWDA and Aggrieved Employees:** After deductions, the net PAGA penalty portion is $41,000**,** allocated in accordance with Labor Code § 2699(i):

1. 75% ($30,750) to the Labor and Workforce Development Agency (LWDA)**;**
2. 25% ($10,250) to the approximately twenty (20) aggrieved employees**,** distributed on a pro rata basis based on the number of pay periods worked during the PAGA period (estimated at 1,200 pay periods).

The settlement ensures that both the State of California and the aggrieved employees receive their statutory share of penalties, while also compensating Plaintiff for her service and providing fair remuneration to counsel for the prosecution of this action.

Plaintiff's counsel request attorney's fees in the amount of $40,000 and costs in the amount of $1000.00 pursuant to Labor Code § 2699(g)(1). See Sally Chan's Declaration. As set forth below, the fees sought under the common fund and cross-checked by the lodestar are reasonable based upon the results achieved.

This allocation complies with the requirements of Labor Code § 2699(i) and furthers PAGA's dual purpose of deterring Labor Code violations and enforcing California's labor laws through meaningful civil penalties.

V. INVESTIGATION AND DISCOVERY BEFORE THE SETTLEMENT

Prior to reaching the proposed settlement, Plaintiff's counsel conducted a thorough factual and legal investigation into the claims at issue to the best of their ability, as records provided by Defendants were scant. Plaintiff's counsel relied on Plaintiff's testimony and personal records and reviewed and analyzed sample payroll records, wage statements, and scheduling documents provided by Plaintiff. Plaintiff's counsel also represents Wanxia Chen, who is a fellow server who also worked at Chang's Garden around the same time period, who also provided similar testimony and personal records. Based on the schedules provided by Plaintiff and her colleague Chen, Plaintiff's counsel was able to evaluate the number of employees that worked at Chang's Garden during the applicable time period and their estimated damages.

Plaintiff and her counsel were well apprised of the salient factual and legal issues and had sufficient information to evaluate, inter alia, the strengths and weakness of the case, the risks of continued litigation, and Defendants' potential exposure if Plaintiff was to prevail at trial.

In addition, the parties participated in a half-day mediation with experienced neutral mediator Natasha Roit on June 25, 2025. While the case did not resolve that day, continued negotiations led to the final Settlement Agreement executed on September 1, 2025.

This process—consisting of payroll review, document analysis, factual investigation, and mediation—ensured that the parties entered into settlement negotiations with a full understanding of the factual record, the legal issues, and the risks of continued litigation. The information obtained was more than sufficient to enable an informed evaluation of liability and potential penalties, and to support the reasonableness of the Settlement Agreement.

VI. RISK OF CONTINUED LITIGATION AND UNCERTAINTY

Approval of the proposed settlement is appropriate because it reflects a fair compromise in light of the significant risks, costs, and uncertainties of continued litigation.

First, Defendants deny liability and assert compliance with the California Labor Code. If this matter were to proceed to trial, Plaintiff would bear the burden of proving multiple alleged violations across the entire PAGA period, including: 1) failure to pay overtime compensation (Labor Code §§ 510, 1198); 2) failure to provide compliant meal periods (Labor Code §§ 512(a), 226.7, 1198); 3) failure to provide rest periods (Labor Code §§ 226.7, 1198); 4) failure to provide accurate wage statements (Labor Code § 226(a)); 5) failure to maintain personnel records (Labor Code § 1198.5(c)(1)); 6) failure to permit inspection and/or provide copies of personnel records (Labor Code §§ 1198.5(a), (b)(1)); 7) failure to pay all wages due at termination (Labor Code §§ 201, 202, 203); 8) failure to reimburse employees for necessary business expenses (Labor Code § 2802); and

9) unlawful retention or misappropriation of tips; and 10) failure to pay wages for all hours worked, including off-the-clock work (Labor Code §§ 351, 1194, 1197, 1198 and IWC Wage Order No. 5-2001).

Even if liability were established, Defendants would likely argue for a reduction in penalties under Labor Code § 2699(e)(2), asserting that the penalties are unjust, arbitrary, or oppressive. Continued litigation would also require extensive discovery, motion practice, and potentially expert testimony, followed by trial and likely appellate proceedings, all of which would significantly delay any recovery for the State and Aggrieved Employees.

In contrast, the proposed Settlement provides timely and meaningful relief to the State of California and PAGA Employees, avoiding the risk of an unfavorable judgment and the delay inherent in protracted litigation.

Second, a legitimate controversy exists as to each of the alleged Labor Code violations underlying Plaintiff's PAGA claim. Based on Plaintiff's legal theories and review of available records, counsel carefully evaluated the strengths and weaknesses of each claim. The absence of written policies and incomplete documentation produced by Defendants further complicates Plaintiff's ability to establish uniform violations suitable for representative adjudication. These evidentiary challenges, combined with the individualized defenses Defendants are expected to assert, present a real risk that the Court could find the claims unsuitable for PAGA relief or reduce penalties accordingly.

A PAGA settlement 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. See, *Moniz v. Adecco USA, Inc.* (2021) 72 Cal. App. 5th 56. When a PAGA claim is settled, the relief provided for under the PAGA must be genuine and meaningful, consistent with the underlying purpose of the statute to benefit the public. *O'Connor v. Uber Techs., Inc.*, 201 F. Supp.3d 1110, 1133 (2016) (citing response from the LWDA).

Plaintiff's counsel believes the settlement with Defendants for consideration and on the terms set forth in the Settlement Agreement is fair, reasonable, adequate and is in the best interest of the State of California, LWDA and PAGA Employees.

The proposed Settlement provides for a Gross Settlement Amount of One Hundred Thousand Dollars ($100,000.00). Pursuant to Paragraph 4.3 of the PAGA Settlement Agreement, Defendants shall fully fund the Gross Settlement Amount by transmitting the funds to the Settlement Administrator no later than fourteen (14) days after the Effective Date. *(See Exh A)*

After deducting Settlement Administration Costs (not to exceed $3,000.00), Attorneys' Fees and Costs ($40,000.00 and $1,000.00, respectively), and the Service Award to Plaintiff ($15,000.00), the remaining Net Settlement Amount will total $41,000.00.

In accordance with Labor Code § 2699(i), seventy-five percent (75%) of this amount ($30,750.00) shall be paid to the Labor and Workforce Development Agency (LWDA), and twenty-five percent (25%) ($10,250.00) shall be distributed to the aggrieved employees on a pro rata basis.

These payments provide meaningful relief to the State of California and PAGA Employees, in light of all known facts and circumstances, including the risk of significant delay, uncertainty associated with litigation, various defenses asserted by Defendant, and potential appellate issues.

Third, Plaintiff's counsel conducted a diligent review of the limited materials provided by Defendants. Despite repeated requests, Defendants failed to produce complete payroll records, personnel files, or written policies—effectively providing no meaningful documentation. As a result, Plaintiff was unable to perform a comprehensive computation of potential PAGA penalties. Nonetheless, based on informal investigation, partial disclosures, and counsel's experience with similar wage-and-hour matters, Plaintiff assessed the nature and scope of the alleged violations and the risks of continued litigation. Defendant disclosed that approximately 20 employees were affected over 1,200 pay periods. Using this data, Plaintiff applied the statutory PAGA penalty of $100 **for the first violation only** per pay period, resulting in an estimated exposure of approximately $610,950. This evaluation also considered the difficulty of proving systemic violations without records, the likelihood of individualized defenses, and the potential for reduced penalties under Labor Code § 2699(e)(2). In light of these factors, Plaintiff determined that the proposed settlement represents a fair, reasonable, and informed resolution of the PAGA claims under the circumstances.

The following table reflects a summary of estimated PAGA exposure for the first violation only per pay period:

Violations	Penalties
Failure to Pay Overtime Compensation (1200 x $100)	$120,000
Failure to Provide Meal Periods (1200 x $100)	$120,000
Failure to Provide Rest Periods (1200 x $100)	$120,000
Failure to Provide Accurate Wage Statements (1200 x $100)	$120,000
Failure to Maintain Personnel Records (20 x $500 per employee)	$10,000
Failure to Permit Inspection And/or Provide Copies of Personnel Records (20 x $750)	$15,000
Failure to Pay All Wages Due at Termination ($100x20)	$2000
Failure to Reimburse Employees for Necessary Business Expenses	$0
Unlawful Retention or Misappropriation of Tips (1200 x $100)	$120,000
Failure to Pay Wages for All Hours Worked (Off-The-Clock Work) (1200 x $100)	$120,000
Total	**$747,000**

Given Defendants' failure to produce meaningful documentation—including payroll records, personnel files, timekeeping data, and written policies—Plaintiff relied on informal investigation, limited disclosures, and sample data to evaluate the scope and nature of the alleged Labor Code and IWC Wage Order violations. Defendant disclosed that approximately 20 employees were affected over 1,200 pay periods. Based on this information, Plaintiff's counsel conducted a good-faith assessment of potential PAGA penalties using the statutory base rate of $100 per pay period. This yielded an estimated exposure of approximately $747,000 across multiple categories of violations, including meal and rest breaks, wage statement inaccuracies, off-the-clock work, and unreimbursed expenses. Counsel's evaluation also considered the risks of continued litigation, including evidentiary challenges, individualized defenses, and the court's discretion to reduce penalties under Labor Code § 2699(e)(2). In light of these factors, Plaintiff determined that the proposed settlement reflects a fair, reasonable, and informed resolution of the PAGA claims under the circumstances.

A. Failure to Pay Overtime Compensation

Plaintiff alleges that Defendants failed to pay overtime compensation as required under Labor Code §§ 510 and 1198. Specifically, Plaintiff and other Aggrieved Employees were expected to work beyond eight hours in a workday or forty hours in a workweek without receiving overtime pay.

Despite these claims, Defendants did not produce complete timekeeping records or payroll data that would allow Plaintiff to verify the extent of unpaid overtime across the workforce. Without documentation showing actual hours worked and corresponding compensation, Plaintiff faces significant challenges in establishing a uniform violation suitable for representative adjudication under PAGA.

Moreover, overtime claims often require individualized inquiries into each employee's schedule, duties, and compensation history. Courts may find that such inquiries outweigh common issues, making the claim inappropriate for representative treatment. In light of these evidentiary and procedural limitations, Plaintiff limited the overtime penalty estimate to a single count per pay period, resulting in a conservative exposure of $120,000 (1,200 pay periods × $100). This approach reflects a good-faith effort to balance the seriousness of the allegation with the practical constraints of proof and adjudication.

B. Failure to Provide Meal Periods

If Plaintiff's meal period claim were to proceed to trial, courts often interpret *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004 to require individualized inquiries into why compliant meal periods were not taken, which can weigh against representative treatment under PAGA.

Defendants are expected to argue that they provided legally compliant meal period opportunities and that employees, including Plaintiff and other Aggrieved Employees, took their breaks as required. However, Defendants failed to produce any written meal period policy or documentation demonstrating consistent compliance.

Despite the lack of records, Plaintiff's counsel identified patterns in the limited timekeeping data suggesting that meal periods were frequently less than thirty minutes and that premium payments were not issued for these short or missed breaks. These indicators may support a finding of systemic violations during regular working hours.

Nonetheless, without additional evidence of a uniformly applied unlawful practice, there remains a risk that the Court could find the claim unsuitable for representative adjudication under PAGA. Based on the available data and Defendant's disclosure of 1,200 total pay periods, Plaintiff conservatively estimates that 1,200 pay periods may reflect meal period violations. Applying the statutory base penalty of $100 per pay period, this claim represents an estimated exposure of $120,000, subject to dispute and evidentiary limitations.

C. Failure to Provide Rest Periods

Defendants did not produce any written rest period policy or records demonstrating consistent compliance with California law. Although Plaintiff raised concerns about missed rest periods during regular shifts, the absence of documentation made it difficult to assess the frequency or scope of potential violations. Courts often require individualized inquiries into whether rest breaks were offered and taken, which can weigh against representative treatment under PAGA.

Given these evidentiary limitations and the likelihood that Defendants will argue rest periods were made available in accordance with the law, Plaintiff acknowledges that this claim presents challenges in establishing a uniform violation suitable for representative adjudication. Nonetheless, based on Defendant's disclosure of 1,200 pay periods and the nature of the alleged violations, Plaintiff conservatively applied the statutory base penalty of $100 per pay period, resulting in an estimated exposure of $120,000 for this claim. This figure was considered in evaluating the fairness and reasonableness of the proposed settlement.

D. Failure to Provide Accurate Wage Statements

Plaintiff's wage statement claim pursuant to Labor Code § 226 is derivative of her other alleged violations. An employer is required to provide an accurate, itemized wage statement in compliance with Labor Code §226(a)(1)-(9). Labor Code §226(e) permits "[a]n employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a)" to recover the greater of actual damages or statutory penalties. "An employee is deemed to suffer injury" if the employer fails to provide accurate and complete information of the hourly rate, required by §226, subdivision (a), item (9), and "the employee cannot promptly and easily determine from the wage statement alone" the applicable hourly rate. (§ 226(e)(2)(B).) The statute defines "promptly and easily determine" to mean "a reasonable person would be able to readily ascertain the information without reference to other documents or information." (§ 226(e)(2)(C).)

For purposes of section 226(e), a plaintiff is "injured" "if the accuracy of any of the items enumerated in § 226(a) [including the hourly rate] cannot be ascertained from the four corners of the wage statement." (Ovieda v. Sodexo Operations, LLC (C.D.Cal., Oct. 9, 2013, No. CV 12-1750-GHK) 2013 WL 12122413, p. *3.) An actual injury is shown where "there is a need for both additional documentation and additional mathematical calculations in order to determine whether Plaintiffs were correctly paid and what they may be owed." (Reinhardt v. Gemini Motor Transport (E.D.Cal. 2012) 879 F.Supp.2d 1138, 1142.) In contrast, where the deficiency in the wage statement could be corrected by "simple math," there is no actual injury. (Price v. Starbucks Corp. (2011) 192 Cal.App.4th 1136, 1143.)

Plaintiff will not only experience problems with proving an injury identifying exactly how she was injured and exactly how her wage statement was inaccurate, but this cause of action also will likely result in individualized assessments as Aggrieved Employees will be unable to explain how their wage statements are inaccurate. All is not lost, as pursuant to Naranjo v. Spectrum Security Services, Inc., supra, Plaintiff can establish Defendants failed to include some meal period and rest period premiums on the wage statements derived from the time records.

This is an issue of common proof and likely to result in penalties pursuant to Labor Code §226(e) ($50.00 for the first violation and $100.00 thereafter). Plaintiff identifies approximately 1200 PAGA Pay Periods that would be impacted by this claim.

E. Failure to Maintain Records

Plaintiff may seek penalties of $500 per Aggrieved Employee pursuant to Labor Code §

1174, based on Defendants' failure to maintain required records. Defendants did not produce documentation showing hours worked—both regular and overtime—or wages paid. From Plaintiff's perspective, this failure includes the absence of records regarding missed meal period premium payments and the regular rate of pay.

Although Plaintiff identified 1,200 pay periods potentially impacted by this deficiency, the applicable penalty under § 1174 is a flat $500 per employee. Based on Defendant's disclosure of approximately 20 Aggrieved Employees, Plaintiff estimates a total exposure of **$10,000** for this violation. This figure was considered in evaluating the fairness and reasonableness of the proposed settlement.

F. Failure to Permit Inspection and/or Provide Copies of Personnel Records

Plaintiff seeks penalties under Labor Code § 1198.5 for Defendants' failure to permit inspection of and/or provide copies of personnel records within the statutory time limits. Plaintiff submitted multiple written requests for her personnel file, but Defendants failed to respond or produce any documents. This failure includes not responding to personnel-file requests, providing incomplete records, and/or producing them untimely.

Because § 1198.5 provides a civil penalty of $750 per violation, the PAGA remedy is recoverable under Labor Code § 2699(a), rather than the default per–pay-period scheme. Plaintiff conservatively estimates 20 qualifying violations, resulting in a total penalty of $15,000. This figure was included in the overall penalty assessment and considered in evaluating the fairness and reasonableness of the proposed settlement.

G. Failure to Pay All Wages Due at Termination

This claim is derivative of Plaintiff's other wage-related allegations. To recover waiting time penalties under Labor Code § 203, Plaintiff must show that Defendants willfully failed to pay all wages owed at separation. Courts often find that such claims require individualized proof of willfulness, which presents litigation risk and may weigh against representative treatment under PAGA. Defendants are expected to argue good-faith compliance and dispute the willfulness element.

Moreover, Defendants did not produce termination records or final pay documentation, making it difficult to identify the number of impacted Aggrieved Employees. Based on Plaintiff's informal investigation and conservative assumptions, counsel estimated 20 violations, applying a nominal penalty of $100 per violation, resulting in a total exposure of $2,000. This figure was included in the overall penalty assessment and considered in evaluating the fairness and reasonableness of the proposed settlement.

H. Failure to Reimburse Employees for Necessary Business Expenses

Plaintiff alleges that Defendants failed to reimburse employees for necessary business expenses incurred in direct consequence of their duties, as required under Labor Code § 2802. However, this claim may raise individualized issues regarding what expenses were incurred, whether they were necessary, and whether Defendants had actual or constructive knowledge of the expenditures. These factors present litigation risk and may weigh against representative treatment under PAGA.

In light of these evidentiary limitations and the individualized nature of the claim, Plaintiff did not include any penalty exposure for unreimbursed business expenses in the settlement valuation. This conservative approach reflects a good-faith effort to align the penalty assessment with the available proof and procedural constraints.

I. Unlawful Retention or Misappropriation of Tips

Plaintiff alleges that Defendants unlawfully retained or diverted tips intended for non-managerial employees, in violation of Labor Code § 351. This claim depends on establishing that tips were earned and improperly withheld, which may involve disputes over whether payments qualify as tips, who received them, and how they were distributed.

Tip-related claims often present litigation risk due to the individualized nature of the evidence required, including variations in job duties, customer interactions, and compensation structures. These factors may weigh against representative treatment under PAGA.

Based on Plaintiff's informal investigation and the nature of the alleged violations, counsel conservatively estimated that 1,200 pay periods may reflect tip-related violations. Applying the statutory base penalty of $100 per pay period, this claim represents an estimated exposure of $120,000, which was considered in evaluating the fairness and reasonableness of the proposed settlement.

J. Failure to Pay Wages for All Hours Worked (Off-the-Clock Work)

Plaintiff alleges that Defendants failed to compensate employees for all hours worked, including time spent performing tasks before or after scheduled shifts. These off-the-clock activities may include opening procedures, closing duties, or other work performed outside recorded hours.

While such claims are actionable under the Labor Code and applicable Wage Orders, they often raise factual disputes about whether the work was performed, whether Defendants knew or should have known about it, and whether it was compensable. These issues present litigation risk and may require individualized proof, which can weigh against representative treatment under PAGA.

Due to the lack of timekeeping records and the individualized nature of the claim, Plaintiff conservatively limited the penalty estimate to one violation per pay period, applying the statutory base penalty of $100, resulting in a total exposure of $120,000 (1,200 pay periods × $100). This figure was included in the overall penalty assessment and considered in evaluating the fairness and reasonableness of the proposed settlement.

Lack of Evidence Regarding Knowingly or Intentional Violations

It is unlikely Plaintiff would be able to prove any of the alleged violations were knowingly or intentionally made by Defendants. At the very least, Defendants arguably engaged in good faith regarding their policies and procedures and the payment of wages to the Aggrieved Employees.

Additionally, the derivative claims—such as inaccurate wage statements, failure to maintain records, failure to pay all wages at termination, and tip misappropriation—appear more likely the result of administrative or payroll errors rather than willful misconduct. There is no indication from public records that Defendants have previously been sued or found liable for Labor Code violations. These factors significantly limit Plaintiff's ability to prove knowing or intentional violations, which reduces the potential value of the PAGA claim.

For the PAGA claim to have any value, Plaintiff would have to be able to prove a violation on the merits, exposing Plaintiff's PAGA claim to the same risks identified above. Put differently, for instance, if Plaintiff was to fail on her meal and rest break claims, so too would Plaintiff fail on the underlying PAGA claim. *See*, *e.g.*, *Elliot v. Spherion Pacific Work, LLC*, 572 F.Supp.2d 1169, 1181-82 (C.D. Cal. 2008) ("Plaintiff's claim under the Private Attorneys General Act is wholly dependent upon his other claims since if all of Plaintiff's other claims fail as a matter of law, so does his PAGA claim.").

It is highly unlikely that Plaintiff would be able to recover the maximum PAGA penalties of $100 per pay period. PAGA penalties "are mandatory, not discretionary." *See, Carrington v. Starbucks* (2018) 30 Cal. App. 5th 504 and *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157. Even if Plaintiff was to prevail at trial and recover PAGA penalties, they would likely be reduced substantially. For example, it would be very challenging to prove Defendants willfully committed violations of the California Labor Code, likely rendering an imposition of substantial PAGA penalties unjust, arbitrary and oppressive or confiscatory. See *Amaral at* 1213-14.

In addition, the Court has the discretion to substantially reduce PAGA penalties pursuant to California Labor Code § 2699(e)(2). Indeed, courts routinely reduce PAGA penalties by a substantial percentage. See, e.g., *Cotter v. Lyft, Inc.*, 193 F.Supp.3d 1030 (N.D. Cal. 2016) (the court found that a "significant" reduction in the amount of civil penalties was "appropriate" in part because the employer did not "deliberately evad[e] a clear obligation to provide legally required pay and benefits to employees…"). Even if Plaintiff could recover PAGA penalties, they would likely be reduced substantially. And if they were not, lengthy appeals would likely ensue.

Plaintiff reasonably believes that the maximum PAGA penalties recoverable if this matter proceeded to trial is in the range of $200,000 to $250,000, after accounting for potential reductions under Labor Code § 2699(e)(2). The $100,000 Gross Settlement Amount therefore represents approximately 40% to 50% of the maximum potential recovery that Plaintiff might obtain at trial under her theories of liability, which is fair, reasonable, and adequate given the limited documentation, the risks of litigation, and the Court's discretion to reduce penalties.

Even if liability were established, proving the amount of penalties owed to all Aggrieved Employees would be expensive, time-consuming, and uncertain. Plaintiff would need to obtain contact information and secure declarations from PAGA Employees, which would require substantial resources. Cooperation from current employees would likely be limited due to concerns about retaliation or reluctance to participate in litigation against their employer. These practical challenges significantly reduce the likelihood of recovering maximum penalties and were considered in evaluating the reasonableness of the settlement.

In light of Plaintiff's evaluation of the maximum PAGA penalties potentially recoverable at trial—estimated to be in the range of $200,000 to $250,000 after accounting for reductions under Labor Code § 2699(e)(2)—and balanced against the risks and costs of continued litigation, and considering that the Settlement was reached through arm's-length negotiations between experienced counsel, Plaintiff believes the resolution provides meaningful relief to the State of California and the Aggrieved Employees. Accordingly, Plaintiff's counsel submits that the Settlement is fair, reasonable, and adequate under the standards governing PAGA approval.

VII. THE PROPOSED PAGA SETTLEMENT IS "GENUINE AND MEANINGUL" THAT IS "CONSISTENT WITH THE UNDERLYING PURPOSE OF PAGA"

The State's labor law enforcement agencies - LWDA and its constituent departments and divisions - are authorized to assess and collect civil penalties for specified violations of the Labor Code committed by an employer. With a stated goal of improving enforcement of existing Labor Code obligations, the Legislature adopted PAGA (Labor Code § 2698 et seq.), permitting, as an alternative, an aggrieved employee to initiate a private civil action.

A PAGA settlement 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. See, *Moniz v. Adecco USA, Inc.* (2021) 72 Cal. App. 5th 56. When a PAGA claim is settled, the relief provided for under the PAGA must be genuine and meaningful, consistent with the underlying purpose of the statute to benefit the public. *O'Connor v. Uber Techs., Inc.*, 201 F. Supp.3d 1110, 1133 (2016) (citing response from the LWDA).

A. The Settlement Provides Genuine and Meaningful Relief Consistent With PAGA's Purposes

The settlement is fair and reasonable in light of analogous class action settlements that have been approved by other courts where a far lower percentage of the potential maximum exposure is recovered. See, e.g., *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, *8 (N.D. Cal. Apr. 3, 2009) ("The settlement … represents less than two percent of that amount," but "may be justifiable … given … significant defenses that increase the risks of litigation."); *In re Toys R Us–Del., Inc.– Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 453–54 (C.D. Cal.2014) (granting final approval of a settlement providing for payment reflecting 3% of possible recovery); *Reed v. 1–800 Contacts, Inc.,* 2014 WL 29011, *6 (S.D. Cal. Jan. 2, 2014) (granting final approval where settlement represented 1.7% of possible recovery); *In re LDK Solar Sec. Litig.,* 2010 WL 3001384, *2 (N.D. Cal. July 29, 2010) (granting final approval where settlement was 5% of estimated damages); *Custom LED, LLC v. eBay, Inc.*, 2014 WL 2916871, at *4 (N.D. Cal. 2014) ("[C]ourts have held that a recovery of only 3% of the maximum potential recovery is fair and reasonable when the plaintiffs face a real possibility of recovering nothing absent the settlement.").

In light of Plaintiff's evaluation of maximum penalties recoverable at trial, when balanced against the risk of continued litigation, and the fact that this Settlement was negotiated at arm's-length through the assistance of a well-respected mediator by experienced counsel, as set forth above, Plaintiff's counsel believes that the Settlement provides meaningful relief to the State of California and PAGA Employees and is in all respects fair, reasonable, and adequate. As a result, Plaintiff's counsel likewise believes the PAGA settlement provides genuine and meaningful relief consistent with the purposes of PAGA they would not have otherwise obtained.

B. The Settlement is Presumptively Fair

A class action settlement, analogous to a PAGA settlement, is presumed to be fair if: "'(1) it is reached through arm's length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.'" Chavez v. Netflix, Inc. (2008) 162 Cal.App.4th 43, 52. As explained below, each of these factors demonstrate that this Settlement is presumptively fair.

First, the Parties participated in settlement negotiations, during which many difficult legal and factual issues were discussed and resolved between the parties. The Settlement was the product of extensive, hard-fought and arms-length adversarial negotiations.

Second, counsel engaged in (i) significant legal and factual investigation; (ii) extensive informal discovery, including professional but hard-fought negotiations with Defendants' counsel to obtain time and payroll records, which were ultimately not produced, requiring counsel to rely on sample records provided by Plaintiff; and (iii) reviewed and analyzed available information before agreeing to settle this matter.

Third, the settlement negotiations were conducted by capable and experienced counsel.

Fourth, there has been no opposition to the settlement by the LWDA.

VIII. <u>THE COURT SHOULD APPROVE COUNSEL'S REQUEST FOR AN AWARD OF REASONABALE ATTORNEY'S FEES AND COSTS</u>

Labor Code § 2699(g)(1) allows for an award of reasonable attorney's fees and costs to a prevailing plaintiff in an action under the PAGA. The parties' settlement agreement provides for this Court to determine the reasonableness of the fees, in an amount up to $40,000.00 and costs, in an amount up to $1,000.00.

This action resulted in the enforcement of an important right affecting the public interest, as Plaintiff sought to enforce the rights of aggrieved employees to recover PAGA penalties arising from Plaintiff's contention that Defendant's failed to provide meal and rest breaks and non-compliant wage statements. See *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1113 (noting that "health and safety concerns" are what motivated the Industrial Wage Commission to adopt mandatory meal and rest periods). This action also conferred a meaningful benefit for 19 other aggrieved employees. The Settlement provides a monetary benefit, in that it permits all current and former employees who worked during the PAGA Period to obtain penalties for non-compliant meal and rest periods and noncompliant wage statements.

The Settlement provides for attorneys' fees to counsel in an amount of up forty percent of the settlement fund, for a maximum fee award of $40,000.00 plus reimbursement of costs in the amount not to exceed $1,000.00. Counsel's actual costs total $1,793.50(excluding the amount of filing this motion) *See Sally Chan's Declaration*. The requested fees are well-within the range of fees generally sought and approved in analogous common fund class action cases. The amount of requested fees is also reasonable based on counsel's lodestar. In fact, the fee award requested is far less than counsel's lodestar, and thus counsel is actually requesting a *negative* multiplier, to the extent the Court analyzes counsel's lodestar.

A. Counsel's Requested Attorney's Fees are Reasonable Under the Common Fund Theory

The request for attorney's fees as a percentage of the Gross Settlement Amount is supported by the "common fund theory." *See Laffitte v. Robert Half Internat, Inc.* (2016) 1 Cal.5th 480, 503 ("We join the overwhelming majority of federal and state courts in holding that when class action litigation establishes a monetary fund for the benefit of the class members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the court may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created."). The purpose of the common fund/percentage approach is to "spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769. *In Quinn v. State of California* (1975) 15 Cal.3d 162*, the California Supreme Court stated:* "[O]ne who expends attorneys' fees in winning a suit which creates a fund from which others derive benefits may require those passive beneficiaries to bear a fair share of the litigation costs." Id. at 167. Similarly, in *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110*,* the California Supreme Court recognized that 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."

Moreover, several courts have expressed frustration with the alternative "lodestar" approach for deciding fees, which usually involves wading through voluminous and often indecipherable time records. *See, e.g., In re Activision Securities Litigation* (N.D. Cal. 1989) 723 F. Supp. 1373, 1375. The percentage approach is preferable to the lodestar because: (1) it provides predictability to class counsel and class members; (2) encourages efficient resolution of the litigation by providing an incentive for early, yet reasonable, settlement; and (3) reduces the demands on judicial records. *Id.* at 1378-79. Attorney's fee applications in California class actions based upon a percentage of a common fund now have substantial support by the Ninth Circuit Court of Appeals. See, e.g., *Paul, Johnson, Alston & Hunt v. Graulty* (9th Cir. 1989) 886 F.2d 268; *In Re Washington Pub. Power*

Supply Sys. Sec. Lit. (9th Cir. 1994) 19 F.3d 1291.

Most recently, in a detailed analysis regarding the award of attorney's fees in the class action context, the California Supreme Court approved the trial court's award of attorneys' fees under the common fund theory where there is an actual common fund established (i.e., there is no claims process and no money shall revert back to the defendant). See *Laffitte*, 1 Cal.5th at 503. Here, the Gross Settlement Amount is $100,000.00, which represents a true common fund, as there is no claims process and no money under the Settlement will revert to Defendants. See *Williams v. MGM-Pathe Communications Co.* (9th Cir. 1997) 129 F.3d 1026, 1027 (The percentage is properly based upon the gross settlement, rather than on the amount of claims made).

The requested attorneys' fees represent approximately 40% of the Gross Settlement Amount. Historically, courts have awarded percentage fees in the range of 20% to 50%, depending on the circumstances of the case. *See* Newberg on Class Actions, 4th Ed. 2002, § 14: 6. Newberg notes that achievement of a substantial recovery with modest hours expended should not be penalized, but should be rewarded for considerations of time saved by superior services performed. *Id.* Furthermore, state and federal courts in California have long recognized that a percentage of recovery for attorney's fees is properly awarded on the basis of the total value. See, e.g., *Boeing v. Van Gemert* (1980) 444 U.S. 472, 480-481; *In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 558 n.13 ("Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around *one-third* of the recovery.") (emphasis added).

The requested fee percentage is within reason of the percentages charged by counsel for other employment cases and is in line with the recovery that was recognized as standard for analogous class actions. The court should also consider that the efforts of counsel have resulted in benefits to the aggrieved employees, in the form of a settlement fund established to compensate aggrieved employees for the alleged wage and hour violations. Without the efforts of counsel, the claims alleged in the complaint would likely have gone without remedy. The requested fee award is also appropriate based on the contingent risk incurred by counsel, the benefit conferred on Plaintiff and aggrieved employees and State as a result of the settlement, and the skill displayed by counsel.

In sum, the Court should approve counsel's request for attorneys' fees based on the percentage fund method.

B. Counsel's Requested Attorneys' Fees are Reasonable Under the Lodestar Method

Although the Court should analyze this fee request under the common fund theory, Plaintiff's fee application is also clearly reasonable based on counsel's lodestar. *See Sally Chan's Declaration.* Under the lodestar method, the Court considers a compilation of the time spent and a reasonable hourly compensation of each attorney to evaluate the reasonableness of the fee requested. See *Ramos v. Countrywide Home Loans, Inc*. (2000) 82 Cal.App.4th 615, 622. The hours spent and the reasonable hourly compensation are computed to arrive at a "lodestar" figure which may then be diminished by the court taking into account various "multiplier" factors. See *Id*. at 622 (citing *Serrano* (1977) 20 Cal.3d 25, at 48-49). Trial courts have "discretion to conduct a lodestar cross-check on a percentage fee." See *Laffitte*, 1 Cal.5th at 506.

Here, Counsel's total lodestar is approximately $98,712.00 which is based on approximately 363 hours of attorney time at her customary hourly rate. *See Declaration of Sally S. Chan, Esq.*.

With the requested fee award of $40,000.00, Plaintiff is requesting that the Court apply a negative multiplier. Counsel has been actively working on this case, expending significant time and resources which could have been directed towards other cases. Counsel agreed to litigate this case on a contingency fee basis, and in the process assumed considerable risk given the uncertain proposition these types of cases entail.

Plaintiff respectfully requests that the Court award counsel the requested fees of $40,000.00 under the common fund theory with a lodestar cross-check or, alternatively, based on the lodestar method with a negative multiplier.

1. Counsel's Hours are Reasonable

In determining whether the number of hours expended on the litigation was reasonable, the court must determine that "the time spent was reasonably necessary and that counsel made 'a good faith effort to exclude from the fee request hours that are excessive, redundant, or otherwise unnecessary." *Jordan v. Multnomah County* (9th Cir. 1987) 815 F.2d 1258, 1263 n.8. The court "should defer to the winning lawyer's professional judgment as to how much time he was required to spend on the case." *Moreno v. City of Sacramento* (9th Cir. 2008) 534 F.3d 1106, 1112 (noting that "[l]awyers are not likely to spend unnecessary time on contingency fee cases in the hope of inflating their fees. The payoff is too uncertain, as to both the result and the amount of the fee.").

Counsel expended a significant amount of time litigating the case to achieve the positive result on behalf of the aggrieved employees. The efforts expended by counsel thus far include, but are not limited to, the following: numerous interviews with Plaintiff; preparation and filing of various pleadings; propounding and responding to numerous written interrogatories; numerous conferences and correspondence with Defendants' counsel; analysis of sample time and payroll records provided by Plaintiff; legal research regarding Defendants' wage and hour practices; research and preparation for settlement discussions; drafting, negotiation, and revision of the Settlement Agreement; drafting the PAGA Notices and the motion for approval of the PAGA settlement; communicating with the Settlement Administrator regarding the settlement administration process; and drafting the motion for approval of the PAGA settlement and accompanying declarations.

2. Counsel's Hourly Rate is Reasonable

The reasonable hourly rate is that prevailing in the community for similar work. *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095. "[I]n assessing a reasonable hourly rate, the trial court is allowed to consider the attorneys' skill as reflected in the quality of work, as well as the attorneys' reputation and status." *MBNA American Bank, N.A. v. Gorman* (2006) 147 Cal.App.4th 1, 3. The trial court may also "find hourly rates reasonable based on evidence of other courts approving similar rates." *Parkinson v. Hyundai Motor America* (C.D. Cal. 2010) 796 F.Supp.2d 1160, 1172.

1. Hourly rates as set forth in the *Laffey* Matrix, provide further support for counsel's requested hourly rate. The *Laffey* Matrix is an attorney's fee matrix developed in *Laffey v. Nw. Airlines, Inc.* (D.D.C. 1983) 572 F. Supp. 354, 371, which provides market rates for attorneys working the Washington D.C. and Baltimore areas. The LSI *Laffey* Matrix, which relies on the Legal Services Index of the Bureau of Labor Statistics, provides national legal rates adjusted for inflation, rather than local and generalized cost data. See, LSI *Laffey* Matrix at

http://www.laffeymatrix.com/see.html. Federal courts in the Ninth Circuit have found that hourly rates determined using the *Laffey* Matrix, "are reasonable and commensurate with those charged by attorneys with similar experience in the market." See, e.g., *Kumar v. Salov N. Am. Corp.*, No. 14-CV-2411-YGR, 2017 WL 2902898, at *7 (N.D. Cal. July 7, 2017). Utilizing the Laffey Matrix, counsel's hourly rate would be $750.00 per hour.

Plaintiff's counsel has practiced law for approximately 15 years, with a primary focus on civil litigation and employment law, and have served as lead counsel in numerous jury and bench trials. Given the skill and experience of Class Counsel and the positive result achieved for the aggrieved employees in this case, the requested hourly rate of $750.00 for Sally S. Chan is reasonable. Similarly, based on her extensive experience in employment and civil litigation, My partner, Karen K. Tso, Esq.'s requested hourly rate of $600 is likewise reasonable and consistent with prevailing market rates in Los Angeles County for attorneys with comparable skill, experience, and qualifications. My clerks' time are billed at $170 per hour which is also within the range of prevailing rates for this jurisdiction.

Based on my experience, qualifications, and prevailing market rates in Los Angeles County, my hourly rate is $750. This rate is consistent with or below prevailing rates for attorneys with comparable experience and trial credentials in this jurisdiction. Similarly, my partner, Karen K. Tso, Esq., bills at $600 per hour, a rate that is likewise reasonable and consistent with prevailing market rates for attorneys with comparable skill, experience, and qualifications in this jurisdiction. Law clerks' time is billed at $170 per hour, which aligns with standard market rates for substantive legal support work. These rates are reasonable given the legal skill and diligence required to prosecute complex PAGA claims.

C. Counsel's Costs are Reasonable

The Settlement provides for reimbursement of litigation costs not to exceed One Thousand Dollars ($1,000.00). The costs incurred are reasonable and necessary to the prosecution of this action. Accordingly, Plaintiff's counsel respectfully requests that the Court approve reimbursement of costs in the amount of $1,000.00.

D. There is no Opposition to Counsel's Request for Fees and Costs or Governmental

Participation

Significantly, notice has been provided to the LWDA regarding the proposed Settlement prior to the time of hearing. *See* **Exhibit D**. No objection has been received from the LWDA to counsel's request for fees and costs.

IX. THE COURT SHOULD APPROVE THE REQUESTED REPRESENTATIVE ENHANCEMENT AWARD

The Settlement provides for a $15,000.00 Representative Enhancement Award to Plaintiff. The requested enhancement award is eminently reasonable according to controlling case law. See, e.g., Cellphone Termination Cases (2010) 186 Cal.App.4th 1380, 1394-1395 (approving enhancement awards of $10,000 to each of the four named plaintiffs). The Enhancement Award is also far less than what could be awarded to Plaintiff, as federal courts in the Ninth Circuit have approved allocation of the full 25% of PAGA penalties to the named plaintiff. See, e.g., *Eschavez v. Abercrombie & Fitch Co., 2*017 WL 3669607, at *4, CV-11-09754-GAF (C.D. Cal. Mar. 23, 2017) ("The PAGA representative is entitled to recover 25% of the PAGA penalty.").

Enhancements are especially appropriate where the plaintiffs are employees whose positions or employment credentials or recommendations may be at risk by reason of having prosecuted the suit. See, e.g., *Covillo v. Specialty's Cafe*, 2014 WL 954516, at *8 (N.D. Cal. Mar. 6, 2014) (awarding $8,000 each to two named plaintiffs, noting that "the incentive awards are particularly appropriate in this wage and hour class action, where Plaintiffs undertook a significant 'reputational risk' in bringing this action against their former employer.").

The California Superior Courts has awarded service awards of more than $5,000 to named plaintiffs in PAGA only cases:

- *Garrett v. Bank of America*, Alameda County Superior Court, Case No. RG 1399027 (October 28, 2016): awarding three PAGA plaintiffs $25,000 each.
- *Brewer v. Connell Chevrolet*, Orange County Superior Court, Case No. 30-2016-00852123 (June 15, 2017): awarding the PAGA plaintiff an individual settlement payment of $15,000.
- *Garcia v. Macy's West Stores, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1515007 (Sept. 13, 2017): awarding the PAGA plaintiff a service award of $10,000.

The Settlement provides for a $15,000 enhancement award to Plaintiff Qing Yao, subject to Court approval. This award is fair and reasonable given Plaintiff's substantial efforts and the risks she undertook in bringing this action.

Plaintiff assumed responsibilities far beyond those of an ordinary employee. She met extensively with counsel, provided detailed information regarding Defendants' pay practices, reviewed records, and assisted in preparing pleadings and mediation materials. Plaintiff also participated in a mediation with a neutral mediator and remained actively involved throughout the litigation, ensuring her claims were fully and fairly prosecuted.

The requested $15,000 award is consistent with, and in many cases lower than, service awards approved in comparable PAGA and wage-and-hour settlements. Given Plaintiff's contributions and the successful resolution achieved, the award is appropriate compensation for her efforts on behalf of the State and aggrieved employees.

A PAGA plaintiff's status as the proxy or agent of the state is not merely semantic; it reflects a PAGA litigant's substantive role in enforcing California's labor laws on behalf of state law enforcement agencies. *See Turrieta v. Lyft, Inc.(2024) 16 Cal. 5th 664*. Plaintiff's efforts directly contributed to the recovery of civil penalties and the advancement of workplace protections. The requested enhancement award is reasonable and proportionate to the time, risk, and effort expended, and is consistent with awards approved in similar PAGA actions.

In sum, this PAGA action settlement would not have been possible without the aid of Plaintiff, who put substantial time and effort into this litigation, sacrificed the value of her own individual wage and hour claims as well as all other potential unknown claims, and placed herself at risk for the sake of the aggrieved employees, to achieve this Settlement. *See* **Plaintiff Qing Yao's Declaration.**

Accordingly, Plaintiff requests that the Court approve an enhancement award of $15,000 to be paid from the total settlement fund.

X. <u>CONCLUSION</u>

For the foregoing reasons, Plaintiff respectfully requests that the Court:

1. Grant approval of the PAGA Settlement;

2. Approve Plaintiff's request for attorneys' fees and litigation costs;

3. Approve the requested $15,000 representative enhancement award;

4. Approve payment of $30,750 to the LWDA;

5. Approve payment of settlement administration costs not to exceed $3,000; and

6. Approve disbursement of the aggrieved employees' pro rata settlement payments.

Dated: November 11, 2025

Respectfully Submitted,

WEST THEMIS LAW, PC

By:______________________________

Sally S. Chan, Esq.
Karen K. Tso, Esq.
Attorneys for Plaintiff
QING YAO

PROOF OF SERVICE

I am a resident of the State of California, over the age of 18 years and not a party to the within action. My business address is *WEST THEMIS LAW, PC, 2476 Huntington Drive San Marino, California 91108*. On the date set forth below, I caused the parties herein to be served in the manner indicated below, at the addresses set forth below, with the attached document, to wit:

PLAINTIFF QING YAO'S NOTICE OF MOTION AND MOTION FOR APPROVAL OF PAGA SETTLEMENT AND DISMISSAL OF PAGA CLAIM
DECLARATION OF SALLY CHAN
DECLARATION OF PLAINTIFF QING YAO
DECLARATION OF LISA MULLINS OF ILYM GROUP, INC.

☐ Email: By transmitting via electronic mail the document(s) listed above to the email set forth below on this date per Code of Civil Procedure § 1010.6.

☒ Electronic Service Provider: By transmitting via electronic mail the document(s) listed above to the email set forth below on this date through electronic filing service provider, in accordance with the Code of Civil Procedure § 1010.6.

☐ U.S. Postal Service: By placing the document(s) listed above a sealed envelope with postage properly prepaid and putting same in a United States mailbox located Los Angeles County, California the same day.

☐ By Personal Service: By personal delivery this business day.

ADDRESS(ES):	EMAIL(S)
NIELSEN & PERRY, LLP KAELAN T. NIELSEN, State Bar No. 318177 ALEXANDER M. PERRY, State Bar No. 318241 11850 Wilshire Boulevard, Suite 201 Los Angeles, CA 90025 Telephone: (818) 531-0077 Facsimile: (818) 531-0077	KNielsen@LossOfLuxury.com APerry@LossOfLuxury.com

I declare under perjury under the laws of the State of California that the foregoing is true and correct except as to those matters stated on information and belief and as to those matters, I believe it to be true.

DATED: November 11, 2025

Sharon Chan

Journal Technologies Court Portal

Make a Reservation

QING YAO vs ANNAVEE INC. DBA CHANG'S GARDEN, et al.

Case Number: 24NNCV00369 Case Type: Civil Unlimited Category: Wrongful Termination
Date Filed: 2024-03-19 Location: Glendale Courthouse - Department D

Reservation

Case Name: QING YAO vs ANNAVEE INC. DBA CHANG'S GARDEN, et al.	Case Number: 24NNCV00369
Type: Motion for Order (MOTION FOR APPROVAL OF PAGA SETTLEMENT, ATTORNEY'S FEES AND COSTS AND EHNANCEMENT AWARD)	Status: RESERVED
Filing Party: Qing Yao (Plaintiff)	Location: Glendale Courthouse - Department D
Date/Time: 02/13/2026 8:30 AM	Number of Motions: 1
Reservation ID: 971758089017	Confirmation Code: CR-P62BY73IJY735VPEU

Fees

Description	Fee	Qty	Amount
Motion for Order (name extension)	0.00	1	0.00
TOTAL			**$0.00**

Payment

Amount: $0.00	Type: NOFEE
Account Number: n/a	Authorization: n/a
Payment Date: n/a	

Print Receipt | Reserve Another Hearing | View My Reservations

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