

Kane Moon (SBN 249834)
E-mail: kmoon@moonlawgroup.com
Allen Feghali (SBN 301080)
E-mail: afeghali@moonlawgroup.com
Enzo Nabiev (SBN 332118)
E-mail: enabiev@moonlawgroup.com
Jason Kwak (SBN 360940)
E-mail: jkwak@moonlawgroup.com
MOON LAW GROUP, PC
725 S. Figueroa Street, 31st Floor
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

Attorneys for Plaintiffs Sandra Mendibles
and Rogelio Pahua

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

SANDRA MENDIBLES and ROGELIO
PAHUA, individually, and on behalf of all
others similarly situated,

Plaintiffs,

vs.

TARZANA TREATMENT CENTERS, INC.,
a California corporation; and DOES 1 through
10, inclusive,

Defendants

Case No.: 25STCV17287

REPRESENTATIVE ACTION

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR APPROVAL OF PAGA
SETTLEMENT**

[Filed with (1) the Declaration of Kane Moon, (2)
the Declaration of Plaintiff Mendibles, (3) the
Declaration of Plaintiff Pahua, (4) the Declaration
of Jodey Lawrence, (5) [Proposed] PAGA
Approval Order, and (6) [Proposed] Judgment]

PAGA APPROVAL HEARING

Date: October 16, 2026

Time: 11:00 a.m.

Dept.: 11

Judge: Hon. Bruce Iwasaki

Action filed: June 16, 2025

Trial date: Not set

TO THIS HONORABLE COURT, TO ALL PARTIES, AND TO COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on October 16, 2026, at 11:00 a.m. in Department 11 of the Los Angeles County Superior Court, Spring Street Courthouse, 312 North Spring Street, Los Angeles, California 90012, Plaintiff Sandra Mendibles and Plaintiff Rogelio Pahua (collectively, “Plaintiffs”) will, and hereby do, move the Court for an Order and Judgment, pursuant to California Labor Code sections 2698, *et seq.*, as follows:

1. Approving the PAGA Settlement Agreement (“Settlement”) between Plaintiffs and Defendant Tarzana Treatment Centers, Inc.;
2. Appointing Kane Moon, Allen Feghali, Enzo Nabiev, and Jason Kwak of Moon Law Group, PC as PAGA Counsel;
3. Approving the requested PAGA Counsel Fees Payment of \$251,666.67, subject to potential increase under an escalator clause;
4. Approving the requested PAGA Counsel Litigation Expenses Payment of \$18,384.55;
5. Appointing Plaintiffs as the PAGA Representatives and approving a \$7,500.00 PAGA Enhancement Award to each Plaintiff;
6. Appointing Phoenix Class Action Administration Solutions as the Administrator and approving a \$10,500.00 as the Administration Expenses Payment;
7. Approving the scope of the Released PAGA Claims and Released Parties;
8. Approving a non-reversionary Gross Settlement Amount of \$755,000.00, subject to potential increase under an escalator clause;
9. Approving \$459,448.78 for PAGA Penalties as settlement of the Released PAGA Claims, to be distributed as 65% (\$298,641.71 to the LWDA) and 35% (\$160,807.07 to Aggrieved Employees);
10. Directing consummation of the Settlement pursuant to its terms and provisions;
11. Entering Judgment; and
12. Retaining jurisdiction over the Parties, this action, and this Settlement, including following any entry of Judgment for purposes of enforcement, interpretation, settlement administration, and any post-Judgment issues that arise.

1 This Motion is based upon this notice, the attached Memorandum of Points and Authorities, the
2 declarations and exhibits filed concurrently herewith, the records and files in this action, and any other
3 further records or argument that the Court may properly receive at or before the hearing.

4 As this Motion is unopposed, the Parties respectfully request relief from the page limit
5 requirement set by California Rules of Court, Rule 3.1113(d).

6 Respectfully submitted,

7 DATED: September 4, 2026

MOON LAW GROUP, PC

8 By: _____

9 Kane Moon
10 Allen Feghali
11 Enzo Nabiev
12 Jason Kwak

Attorneys for Plaintiffs

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Sandra Mendibles (“Plaintiff Mendibles”) and Plaintiff Rogelio Pahua (“Plaintiff Pahua”) (collectively, “Plaintiffs”) seek approval of a non-reversionary \$755,000.00 gross settlement of claims for civil penalties alleged pursuant to the California Private Attorneys General Act, Labor Code sections 2698, *et seq.* (“PAGA”). After a full day of mediation with experienced and neutral mediator Hon. Carl West (Ret.), Plaintiffs reached a resolution with Defendant Tarzana Treatment Centers, Inc. (“Defendant”) (collectively, Plaintiffs and Defendant are the “Parties”). The Parties have executed a PAGA Settlement Agreement (the “Settlement”), a true and correct copy of which is attached as **Exhibit 1** to the Declaration of Kane Moon in Support of Motion for Approval of PAGA Settlement (“Moon Decl.”) submitted concurrently herewith. Pursuant to Labor Code section 2699(s)(2), Plaintiffs now file this motion seeking an order approving the proposed Settlement.

The Settlement resolves all claims for civil penalties under PAGA that arose during the PAGA Period and that were alleged in the above-captioned matter (“Action”). (Settlement, ¶ 1.1.) For purposes of settlement, the “PAGA Period” is June 16, 2024, to September 5, 2026.¹ (*Id.* at ¶ 1.26.) This Settlement is on behalf of the California Labor and Workforce Development Agency (the “LWDA”), Plaintiffs, and all individuals who were employed by Defendant as hourly, non-exempt employees in California at any time during the PAGA Period (“Aggrieved Employees”). (*Id.* at ¶ 1.4.)

Settlement of a PAGA claim requires court approval. Pursuant to the operative PAGA statute, the “court shall review and approve any penalties sought as part of a proposed settlement agreement pursuant to this part.” (Lab. Code § 2699(s)(2).) In deciding whether to grant approval of a proposed

¹ The PAGA Period is defined as period commencing on June 16, 2024, and ending on either the date the Court enters an order granting approval of the Settlement, or September 5, 2026 (sixty days from the July 7, 2026 mediation), whichever occurs first, or to the modified end date pursuant to Paragraph 8. (Settlement, ¶ 1.26.). September 5, 2026 is earlier than the date of approval of the Settlement. (Moon Decl., ¶ 3, n.1.) Accordingly, the PAGA Period is June 16, 2024, to September 5, 2026. (*Id.*) The Parties plan to inform the Court before or at the hearing if the escalator clause pursuant to Paragraph 8 of the Settlement is triggered, and, if so, whether the PAGA Period end date will be modified. (*Id.*)

1 settlement, the primary issue to be decided is whether the settlement is fair, adequate, and reasonable.
2 Specifically, the issue is whether the PAGA penalties to which the parties have agreed provide
3 “genuine and meaningful” relief that is “consistent with the underlying purpose of the statute to
4 benefit the public,” and whether the penalties are reasonable in light of the potential verdict value in
5 this case. (*Villalobos v. Calandri Sunrise Farm LP* (C.D. Cal. July 22, 2015) No. CV 12-2615 PSG
6 (JEMx), 2015 WL 12732709, at *5; *see also O’Connor v. Uber Techn., Inc.* (N.D. Cal. 2016) 201
7 F.Supp.3d 1110, 1135.)

8 As set forth herein, the proposed Settlement embodies all the features of a settlement that is
9 fair, adequate, and reasonable, as (1) it is the product of an arm’s-length negotiation, (2) negotiated
10 by attorneys experienced in wage and hour litigation, (3) following sufficient investigation necessary
11 to evaluate the relative strength and value of the PAGA claims, and (4) reflects a reasoned
12 compromise based directly on the relative strength and value of the PAGA claims, as well as the
13 risks, expense, complexity, and likely duration of further litigation.

14 The meaningful value achieved by the Settlement at issue may be gleaned from the fact that
15 the LWDA and the estimated **1,572** Aggrieved Employees will, cumulatively, receive approximately
16 **\$459,448.78** as PAGA Penalties. (Moon Decl., ¶ 21.) This is a significant recovery, not only because
17 further litigation may have resulted in a net-zero recovery based on the facts of the case and defenses
18 asserted by Defendant, but also because an investigation by experienced PAGA counsel and analysis
19 of discovery revealed minimal identifiable violations, the discretionary nature of awarding PAGA
20 penalties, and the risk of not being able to proceed on a representative basis at all due to the potential
21 manageability issues and current state of the law. For these reasons, as set forth more fully below,
22 Plaintiffs respectfully request the Court enter the proposed order and proposed judgment submitted
23 concurrently herewith.

24 **II. SUMMARY OF THE LITIGATION AND SETTLEMENT**

25 **A. Plaintiffs’ Claims and Procedural Background**

26 Defendant is a non-profit full-service behavioral healthcare organization that provides
27 substance abuse and mental health treatment. (Moon Decl., ¶ 4.) Plaintiff Mendibles worked for
28 Defendant from approximately April 2022 to May 2025 as a substance abuse counselor. (*Id.*) Plaintiff

1 Pahua worked for Defendant from approximately February 2023 to June 2025 as an operator. (*Id.*)
2 Throughout their employment, Plaintiffs were classified as non-exempt and paid on an hourly basis.
3 (*Id.*) Plaintiffs contend they and their former coworkers were subjected to the same or similar
4 unlawful labor practices during their employment by Defendant, including failure to pay all wages.
5 (*Id.*)

6 Plaintiffs' claims for unpaid wages stem from allegations of Defendant's failure to pay
7 employees all minimum, overtime, and sick pay owed, including due to Defendant's alleged failure
8 to compensate employees for off-the-clock work, and Defendant's failure to incorporate all
9 remunerations into the regular rate of pay. (*Id.* at ¶ 5.) Plaintiffs' meal and rest period claims are
10 based on allegations that due to the nature of their work and Defendant's employment practices,
11 employees regularly experienced missed, untimely, or interrupted breaks, and that Defendant failed
12 to provide any premiums for non-compliant rest breaks or all premiums for non-compliant meals.
13 (*Id.*) Plaintiffs also allege that Defendant failed to reimburse employees for all reasonable and
14 necessary business expenses incurred, including expenses incurred for the use of employees' personal
15 cellphone for work purposes. (*Id.*) Plaintiffs further allege they and other employees did not receive
16 all wages owed at the time of termination nor accurate itemized wage statements due to Defendant's
17 failure to pay all wages and premiums. (*Id.*) Accordingly, Plaintiffs allege Defendant is liable for
18 civil penalties under PAGA. (*Id.*)

19 Because of the foregoing alleged violations of the Labor Code, Plaintiff Mendibles filed a
20 Class Action Complaint on June 16, 2025, alleging Defendant systematically: (1) failed to pay
21 minimum wages, (2) failed to pay overtime compensation, (3) failed to provide meal periods, (4)
22 failed to authorize and permit rest breaks, (5) failure to indemnify necessary business expenses, (6)
23 failed to timely pay final wages at termination, (7) failed to provide accurate itemized wage
24 statements, and (8) engaged in unfair business practices. (*Id.* at ¶ 6.)

25 Pursuant to PAGA, on June 15, 2025, Plaintiff Mendibles submitted notice of the alleged
26 Labor Code violations to the LWDA, with certified mail service on Defendant, and paid the required
27 filing fee. (*Id.* at ¶ 7, Ex. 2.) On August 22, 2025, Plaintiff Pahua submitted notice of the alleged
28 Labor Code violations to the LWDA, with certified mail service on Defendant, and paid the required

1 filing fee. (*Id.*) The administrative exhaustion period under PAGA expired without the LWDA
2 indicating any intent to investigate the allegations. (*Id.* at ¶ 7.) On September 9, 2025, Plaintiffs filed
3 a First Amended Representative Action Complaint adding Plaintiff Pahua as a named plaintiff and
4 alleging a ninth cause of action for civil penalties under PAGA. (*Id.*) Accordingly, Plaintiffs are duly
5 authorized to act as private attorneys general with respect to the PAGA claims involved in this action.
6 (*Id.*) In compliance with Labor Code section 2699(s)(1), Plaintiffs subsequently submitted to the
7 LWDA a file-stamped copy of the First Amended Complaint containing the Court-assigned case
8 number. (*Id.* at ¶ 8.) To date, the LWDA has not sought to intervene in this action. (*Id.*)

9 Pursuant to a joint stipulation between the Parties and an order entered by the Court on
10 September 12, 2025, Plaintiffs dismissed the class claims without prejudice based on arbitration
11 agreements, which contained class action waivers and would likely be enforced, and were permitted
12 to amend to add Rogelio Pahua as a plaintiff and to assert PAGA claims. (*Id.* at ¶ 9.) The First
13 Amended Representative Action Complaint, with the remaining representative claims under PAGA,
14 is the operative complaint in the Action (the "Operative Complaint"). (*Id.*)

15 Defendant ardently opposes the merits of this case and denies Plaintiffs' factual allegations.
16 (*Id.* at ¶ 10.) Defendant argues all employees were properly paid for all hours worked and that it did
17 not require or permit employees to work off-the-clock. (*Id.*) As for the regular rate claim, Defendant
18 argues there was no issue with paying employees the proper regular rate of pay because any additional
19 remuneration was discretionary and thus, not required to be incorporated into the regular rate of pay.
20 (*Id.*) Defendant maintains all employees were provided with the opportunity to take all their code-
21 compliant meal and rest breaks and that missed breaks, if any, were solely the result of employees'
22 voluntary choice. (*Id.*) As for the unreimbursed business expenses, Defendant maintains it did not
23 require employees to incur any business-related expenses. (*Id.*) To the extent employees received
24 wage statements that were allegedly inaccurate, Defendant argues penalties are not warranted because
25 employees suffered no actual damage or harm as a result. (*Id.*; *see, e.g., Angeles v. U.S. Airways, Inc.*
26 (N.D. Cal. Feb. 19, 2013) No. C 12–05860 CRB, 2013 WL 622032, at *10 ["A plaintiff must
27 adequately plead an injury arising from an employer's failure to provide full and accurate wage
28 statements, and the omission of the required information alone is not sufficient."].) Additionally,

Defendant alleges its good-faith belief that it paid all wages precludes the imposition of waiting time penalties because Plaintiffs would be unable to show Defendant's alleged conduct was done willfully or knowingly. (Moon Decl., ¶ 10; *see, e.g., Pedroza v. PetSmart, Inc.* (C.D. Cal. June 14, 2012) No. ED CV 11–298 GHK (DTBx), 2012 WL 9506073, *5.) For these reasons, Defendant claims it did not engage in any unfair business practices and denies liability under PAGA. (Moon Decl., ¶ 10.) Defendant also maintains the claims are not susceptible to proof on a representative basis because of the individualized and varying nature of each employee's experience, making this matter unmanageable. (*Id.*)

B. Discovery and Investigation

The Parties agreed to mediate the representative PAGA claims. (*Id.* at ¶ 11.) The Parties engaged in informal discovery exchange prior to mediation. (*Id.*) Defendant provided information and documents, which enabled Plaintiffs' Counsel to meaningfully investigate Plaintiffs' allegations and assess the value of the PAGA claims. (*Id.*) Specifically, Defendant produced Plaintiffs' personnel file and their time and payroll records, documents regarding Defendant's written policies and practices in effect during the relevant period, and time and corresponding payroll records for approximately 19.1% of all Aggrieved Employees. (*Id.*)

Prior to mediation, Plaintiffs' Counsel reviewed and analyzed all the information that Defendant produced, including the time/pay records and Defendant's written policies, in conjunction with information provided by Plaintiffs. (*Id.* at ¶ 12.) Plaintiffs' Counsel retained an expert to analyze the time/pay records and prepare a damage analysis prior to mediation. (*Id.*) The time/pay records contained 78,916 shifts actually worked (approximately 20% of all shifts), which allowed the expert to prepare an analysis with a high degree of certainty. (*Id.*) Further, Plaintiffs' Counsel investigated the applicable law regarding the claims and defenses asserted in this action. (*Id.*) Accordingly, Plaintiffs' Counsel were able to evaluate the probability of success on the merits and Defendant's monetary exposure. (*Id.*) In sum, Plaintiffs and their Counsel's familiarity with the facts of the case and the legal issues involved allowed them to act intelligently in negotiating the Settlement. (*Id.*)

C. Settlement Negotiations

On July 7, 2026, the Parties participated in a full day of private mediation facilitated by Hon.

1 Carl West (Ret.), an experienced PAGA action mediator. (*Id.* at ¶ 13.) The negotiations were at arm's
2 length and although conducted in a professional manner, were adversarial. (*Id.*) Both sides went into
3 the mediation willing to explore the potential for a settlement of the dispute, but they were also
4 prepared to litigate their position through trial and appeal if a settlement had not been reached. (*Id.*)
5 Negotiations were protracted, with extended discussions and instances in which it appeared the
6 Parties would not reach a resolution. (*Id.*) Following a full discussion of the strengths and weaknesses
7 of the claims and defenses, the Parties ultimately reached a resolution, the material terms of which
8 are encompassed within the Settlement at issue. (*Id.*)

9 In reaching a resolution, the Parties recognized that the issues presented in this action are
10 likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further
11 litigation will lead to inconvenience, distraction, disruption, delay, and expense disproportionate to
12 the potential benefits of litigation. (*Id.* at ¶ 14.) Plaintiffs and their Counsel also considered the risk
13 and uncertainty of the outcome inherent in any litigation when determining whether this Settlement
14 was the correct option. (*Id.*) In sum, Plaintiffs and their Counsel believe the proposed Settlement is
15 in the best interests of Aggrieved Employees and the LWDA. (*Id.*) In compliance with Labor Code
16 section 2699(s)(2), notice of settlement and a copy of the proposed Settlement has been submitted to
17 the LWDA along with a copy of Plaintiffs' motion and the hearing date. (*Id.* at ¶ 15, Ex. 3.) To date,
18 the LWDA has not indicated any objection to the Settlement. (*Id.* at ¶ 15.)

19 **D. Key Terms of the Proposed Settlement**

20 The Settlement's key financial and other terms include:

21 1. Gross Settlement Amount, Funding, Disbursement, and Uncashed Checks. The Gross
22 Settlement Amount ("GSA") is a non-reversionary \$755,000.00, subject to potential increase under
23 an Escalator Clause and entry of the Court's Approval Order. (Settlement, ¶ 3.1.) Defendant's
24 settlement funding contribution will be transmitted by Defendant to the Administrator no later than
25 fourteen (14) calendar days after the Effective Date. (*Id.* at ¶ 4.1.) Disbursement will occur within 14
26 calendar days after Defendant fully funds the GSA. (*Id.* at ¶ 4.2.) Any funds remaining uncashed after
27 180 days from the date of mailing will be distributed in accordance with the requirements of
28 California Code of Civil Procedure section 384. (*Id.* at ¶¶ 4.2.1, 4.2.3.)

1 2. Escalator Clause: The GSA was negotiated based on an estimate that as of the date of
2 the Parties' mediation, there are 56,961 aggregate PAGA Pay Periods worked by approximately 1,572
3 Aggrieved Employees. (*Id.* at ¶ 8.) If the actual number of PAGA Pay Periods is ten percent (10%)
4 higher than 56,961, or 62,657, during the PAGA Period, then Plaintiffs shall have the right to request
5 a pro rata increase in the GSA equal to the percentage increase in pay periods above 62,657 (i.e., if
6 the total pay periods increases by twelve percent (12%), then a two percent (2%) increase to the Gross
7 Settlement Amount). (*Id.*) In the alternative, Defendant shall have the option to alter the end date of
8 the PAGA Period to a date before which the pay periods exceed 62,657. (*Id.*) Defendant must inform
9 Plaintiffs of this election in advance of the hearing date on settlement approval. (*Id.*)

10 3. PAGA Representative Payment. The Settlement includes a Representative Payment to
11 each Plaintiff in an amount up to \$7,500.00, payable from the GSA. (*Id.* at ¶ 3.2.1.) This payment is
12 in recognition of the Plaintiffs' service to the Aggrieved Employees. (*Id.* at ¶ 1.14.) If the Court
13 awards less than the amount requested, any amount not awarded will become part of the Net
14 Settlement Amount for distribution to Aggrieved Employees. (*Id.* at ¶ 1.18.)

15 4. PAGA Counsel Fees and Litigation Expenses Payments. The Settlement includes
16 attorneys' fees in an amount not to exceed 33 1/3% of the GSA (i.e., \$251,666.67), plus
17 reimbursement for out-of-pocket litigation costs not to exceed \$25,000.00, payable to Plaintiffs'
18 Counsel from the GSA. (*Id.* at ¶ 3.2.2.) In the event actual costs are less and/or the amount of fees
19 and costs approved by the Court are less than the amounts requested, the difference will be allocated
20 to the Net Settlement Amount. (*Id.* at ¶ 1.18.) My firm has incurred \$18,384.55 in litigation costs.
21 (Moon Decl., ¶ 19, Ex. 4.)

22 5. Administration Costs. The Settlement provides an Administration Expenses Payment to
23 the Settlement Administrator, payable from the GSA, in an amount up to \$10,500.00, for its fees and
24 expenses in administering this Settlement. (Settlement, ¶ 3.2.3.) In the event the amount of actual
25 administration costs is less and/or the amount approved by the Court is less than requested, the
26 difference will be allocated to the Net Settlement Amount. (*Id.* at ¶ 1.18.) The Parties jointly selected
27 Phoenix Class Action Administration Solutions ("Phoenix") as the neutral entity to administer this
28

Settlement with a bid for \$10,500.00. (*Id.* at ¶¶ 1.1, 7.1; Moon Decl., ¶ 20, Ex. 5; Declaration of Jodey Lawrence, ¶ 22, Ex. B.)

6. Net Settlement Amount. After deducting the PAGA Enhancement Award, PAGA Counsel Fees and Litigation Expenses Payments, and Administration Expenses Payment from the GSA, in the amounts specifically approved by the Court, any difference in the amounts requested and the amounts awarded will be allocated to the Net Settlement Amount as PAGA Penalties. (*Id.* at ¶ 1.18.) Accordingly, the Net Settlement Amount is estimated to be **\$459,448.78**,² which will be distributed 65% (i.e., 65% * \$459,448.78= **\$298,641.71**) to the LWDA and 35% (i.e., 35% * \$459,448.78= **\$160,807.07**) to Aggrieved Employees pursuant to PAGA law governing Plaintiffs' claims. (Moon Decl., ¶ 21.)

7. Individual PAGA Payments. Each Aggrieved Employee will be entitled to his or her pro rata amount from the 35% share of PAGA Penalties that is directly proportional to the number of pay periods worked in the PAGA Period without having to submit any claim form. (*Id.* at ¶¶ 3.1, 3.2.4.) This results in an average Individual PAGA Payment of roughly **\$102.29** for each of the estimated 1,572 Aggrieved Employees (\$160,807.07 / 1,572), and a PAGA Pay Period value of **\$2.82** for each of the 56,961 estimated PAGA Pay Periods (\$160,807.07 / 56,961). Individual PAGA Payments will be allocated to 100% penalties for tax purposes. (*Id.* at ¶ 3.2.4.)

8. Releases of Claims. Upon approval by the Court of the Settlement and as of the Effective Date, the State of California and all Aggrieved Employees 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 only claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice for the duration of the PAGA Period. (*Id.* at ¶ 5.1.) The Aggrieved Employees are only releasing their claims for civil penalties under California Labor Code section

² The estimated Net Settlement Amount was calculated by deducting the following amounts from the GSA (\$755,000.00): \$7,500.00 for the PAGA Enhancement Award for each Plaintiff, \$18,384.55 for the PAGA Litigation Expenses Payment, \$251,666.67 for the PAGA Counsel Fees Payment, and \$10,500.00 for the Administration Expenses Payment. (*See* Settlement, ¶ 1.18.)

2698, *et seq.*, and are not releasing any other claims. (*Id.*) The “Released Parties” are “Defendant, and its former, present, and future owners, parents, and subsidiaries, and all of its current, former, and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.” (*Id.* at ¶ 1.29.)

III. DISCUSSION

A. Availability of Civil Penalties

The 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 California Legislature adopted the Private Attorneys General Act of 2004, permitting, as an alternative, an aggrieved employee to initiate a private civil action on behalf of him- or herself and other current or former employees.” (Lab. Code § 2699(a).) Before an employee may file an action seeking to recover civil penalties for violations of any of the Labor Code provisions enumerated in Labor Code section 2699.5, he or she must comply with the Act’s administrative procedures as set forth in Labor Code section 2699.3, subdivision (a), which include providing notice to the LWDA and the employer of the alleged Labor Code violations, and then waiting a prescribed period of time to permit the LWDA to investigate and to decide whether to cite the employer for the alleged violations. (*Id.* at §§ 2699.3, 2699.5; *Caliber Bodyworks, Inc. v. Superior Court* (2005) 134 Cal.App.4th 365, 370; *see also Dunlap v. Superior Court* (2006) 142 Cal.App.4th 330.)

Here, in compliance with Labor Code section 2699.3, Plaintiffs submitted notice of the Labor Code violations at issue to the LWDA, and they exhausted administrative remedies without the LWDA noticing any intent to investigate the claims. (Moon Decl., ¶ 7, Ex. 2.) Accordingly, Plaintiffs are duly authorized to act as private attorneys general pursuant to PAGA. (*Id.* at ¶ 7.)

B. The Settlement Merits Approval

Settlement of PAGA claims must be approved by a Court. (Lab. Code § 2699(s)(2).) Here, the circumstances weigh heavily in favor of approval, as explained below.

1 **1. The Relief Is Genuine, Meaningful, and Consistent with the Dual Statutory**
2 **Purposes of Deterrence and Punishment under PAGA**

3 The \$755,000.00 GSA amounts to “genuine and meaningful” relief “consistent with the
4 underlying purpose of the statute to benefit the public.” (Moon Decl., ¶ 33; *see O’Connor*, 201
5 F.Supp.3d at 1133–35 [denying settlement approval where allocation for PAGA claims was 0.1% of
6 the estimated full worth].) This is an excellent result, particularly because, under the Settlement,
7 Aggrieved Employees and the LWDA will receive timely, guaranteed relief and will avoid the risk
8 of not being able to recover anything at all. (Moon Decl., ¶ 33.)

9 The Settlement is a fair and reasonable resolution that satisfies PAGA’s dual statutory
10 purposes of deterrence and punishment, on the one hand, and providing Aggrieved Employees with
11 genuine and meaningful relief, on the other. (Lab. Code §§ 2698, *et seq.*) As a result of this litigation,
12 Defendant has had to hire legal counsel, engage in employee-wide discovery, and participate in
13 mediation. (Moon Decl., ¶ 34.) Assuming approval is granted, Defendant will also have to pay civil
14 penalties pursuant to PAGA. (*Id.*) Not including its own attorneys’ fees and costs, Defendant will pay
15 \$755,000.00 to resolve this matter—of which \$459,448.78 is allocated toward PAGA Penalties and
16 will be distributed as 65% to the LWDA and 35% to Aggrieved Employees, in compliance with
17 PAGA law governing the claims in this Action. (Settlement, ¶ 3.2.4.) This amount represents about
18 40% of the realistic exposure for the claims (\$459,448.78 / \$1,139,220.00), as discussed below.
19 (Moon Decl., ¶ 34.) Additionally, the release obtained under the Settlement does not preclude
20 Aggrieved Employees from pursuing any individual (non-PAGA) claims they may have against
21 Defendant or the other Released Parties. (*See id.* at ¶ 5.1.)

22 **2. The Settlement Amount Provides a Realistic Value for the Claims that is within the**
23 **“Ballpark” of Reasonableness**

24 There can be no doubt that this Settlement is the result of vigorous, adversarial, non-collusive,
25 and arm’s-length negotiations between the Parties. (Moon Decl., ¶ 24.) Plaintiffs’ Counsel performed
26 an extensive investigation into the facts, claims, and defenses at issue and Defendant’s potential
27 liability, including a review of governing law and analysis of informal discovery, including
28 Defendant’s written policies and time/pay data for approximately 19.1% of all Aggrieved Employees.

1 (*Id.* at ¶¶ 11–12.) Plaintiffs’ Counsel used the foregoing discovery and investigation to prepare for
2 mediation and, with the assistance of a statistics expert, assessed the probability of success on the
3 merits and Defendant’s monetary exposure, discussed the strengths and weaknesses of the claims and
4 defenses in depth at mediation and months of continued negotiations, and ultimately negotiated the
5 resulting Settlement. (*Id.* at ¶¶ 11–14.)

6 Based on Plaintiffs’ Counsel’s analysis of the arguments and information provided by
7 Defendant, on an expert analysis of the time/pay records, and on information from Plaintiffs,
8 Plaintiffs’ Counsel evaluated Defendant’s both maximum (*optimistic*) and risk-adjusted (*realistic*)
9 potential exposure in preparation for mediation. (*Id.* at ¶ 24.) Although the expert’s analysis revealed
10 that the time and pay records supported several violations by Defendant, those identifiable violations
11 were primarily limited to the regular rate and meal period claims. (*Id.*) The records themselves did
12 not provide strong support for the off-the-clock work, rest period, and expense reimbursement claims,
13 and derivative penalties for those claims, as these claims are predominantly testimony based. (*Id.*) In
14 other words, Plaintiffs’ analysis revealed that certain claims were not as strong as originally believed.
15 (*Id.*)

16 Because Defendant did not require employees to record rest periods, there are no records to
17 establish the rest period claim on the merits. (*Id.* at ¶ 25.) Additionally, there are no records to
18 establish the off-the-clock work claim and reimbursement claim on the merits. (*Id.*) Rather, proof of
19 these claims would need to be supported by declarations from Aggrieved Employees regarding
20 missed rest periods, off-the-clock work, and reimbursements as the records themselves cannot
21 demonstrate what breaks were missed, when, and why, what expenses were incurred without
22 reimbursement, and they cannot demonstrate the time, if any, Aggrieved Employees spent working
23 off the clock. (*Id.*)

24 Indeed, the maximum exposure figures that were calculated for mediation were based on
25 assumed high violation rates that would not likely be demonstrated at trial, as they assume either the
26 participation of all Aggrieved Employees (which would be difficult given the size of this group), or
27 alternatively, the use of surveys or statistical data as a surrogate (which would still require the
28 participation of a majority of Aggrieved Employees to establish a sound representation of all non-

1 exempt employees). (*Id.* at ¶ 26.) The reality is that many, if not all, employees would be unwilling
2 to participate due to fear of retaliation. (*Id.*) However, even assuming those employees would be
3 willing to participate, obtaining such declarations would potentially reveal that each Aggrieved
4 Employee had a different experience. (*Id.*) The individualized nature of their employment experience
5 and the numerosity of employees affected present significant risk with manageability and proof on
6 the merits. (*Id.*)

7 Even as to the regular rate and meal period claims, our analysis found that Defendant's
8 exposure is less than initially believed. (*Id.* at ¶ 27.) While a review of the time and pay records shows
9 a 13.6% violation rate for meal periods, the records also show that many of the violations were
10 accompanied by meal waivers. (*Id.*) The records also show that Defendant made some meal premium
11 payments. (*Id.*) Defendant argues that its payment of meal premiums and use of meal waivers indicate
12 that it did not intentionally fail to provide Aggrieved Employees with meal breaks. (*Id.*) Defendant
13 also argues that many meal breaks were taken and, where a violation appears, it was a result of the
14 Aggrieved Employee voluntarily choosing to forego a meal period, to take it after the end of the fifth
15 hour, or to stop his or her break early to return to work. (*Id.*) As to the regular rate issue, Plaintiffs'
16 expert found that only 16.4% of pay periods included overtime and additional compensation, only
17 20.9% of pay periods included sick pay and additional compensation, and that only 0.8% of pay
18 periods included meal premium and additional compensation. (*Id.*) Accordingly, to the extent
19 Defendant failed to incorporate any additional remunerations into the regular rate of pay for purposes
20 of paying overtime, sick pay, and meal break premiums, which Defendant denies, such failure
21 resulted in minimal underpayment to the Aggrieved Employees. (*Id.*) Additionally, the violation rates
22 assume that the bonuses were non-discretionary, which Defendant disputes. (*Id.*)

23 The likelihood that Defendant could assert viable legal defenses would likely further reduce
24 its overall exposure. (*Id.* at ¶ 28.) For example, the individualized and testimony-intensive nature of
25 the claims could bar manageability of this representative action or otherwise significantly reduce
26 Defendant's overall liability. (*Id.*) Further, the maximum exposure analysis involved a claim-by-
27 claim penalty calculation, which is overly optimistic as it presumes Plaintiffs would be able to stack
28 the penalties, although penalty stacking is not expressly permitted by PAGA. (*Id.* at ¶ 29.) Rather,

1 without either (i) a prior finding by the LWDA or a court within the past five years that the employer
2 violated PAGA or (ii) evidence that the employer's conduct was malicious, fraudulent, or oppressive,
3 PAGA only provides for a maximum \$100 penalty for each pay period. (Lab. Code § 2699(f)(2)(A)–
4 (B).) Moreover, Plaintiffs' Counsel believe it would be unrealistic to expect the Court would award
5 the full (penalty-stacked) exposure given the discretionary nature of awarding penalties and given
6 Defendant's defenses, including that any failure to pay premiums, regular rate wages, or for off-the-
7 clock work was not knowingly or willfully done, and additionally, to the extent employees received
8 wage statements that were allegedly inaccurate, employees suffered no actual resulting damage or
9 harm. (Moon Decl., ¶ 29.) Moreover, awarding the full penalties amount would likely raise Due
10 Process concerns. (*Id.*) For the foregoing reasons, the *realistic* exposure is thus far below the
11 *optimistic* maximum estimate. (*Id.* at ¶ 30.)

12 Based on the foregoing, Plaintiffs' Counsel believe it is more reasonable to assess penalties
13 on a \$100.00 civil penalty per pay period basis pursuant to Labor Code § 2699(f)(2)(A) for each of
14 the estimated 56,961 pay periods at issue, as opposed to a claim-by-claim approach. (*Id.* at ¶ 31.)
15 Accordingly, Plaintiffs' Counsel estimate Defendant's maximum PAGA exposure to be **\$5,696,100**
16 (\$100.00 x 56,961). (*Id.*) However, based on the discovery, Defendant's arguments at mediation and
17 continued settlement discussions, an understanding that the claims are heavily dependent on the
18 unlikely participation by Aggrieved Employees and their varying employment experience, and other
19 important considerations discussed above, it is reasonable to assume a violation occurred only in at
20 most 20% of all pay periods, which results in a realistic (*risk-adjusted*) exposure of **\$1,139,220.00**
21 (\$5,696,100.00 x 20%). (*Id.*) As a result, the GSA of \$755,000.00 represents approximately **66%** of
22 the realistic exposure (\$755,000.00 / \$1,139,220.00). (*Id.*)

23 The proposed Settlement therefore represents a substantial recovery when compared to the
24 reasonably forecasted recovery. (*Id.* at ¶ 32.) When considering the risks of litigation, the
25 uncertainties involved in continued litigation, the burdens of proof necessary to establish liability,
26 and the probability of appeal, it is clear the GSA of \$755,000.00 is within the "ballpark" of
27 reasonableness, and that settlement approval is appropriate. (*Id.*; *Kullar v. Foot Locker Retail, Inc.*
28 (2008) 168 Cal.App.4th 116, 133; *see Munoz v. BCI Coca-Cola Bottling Co. of L.A.* (2010) 186

Cal.App.4th 399, 408–09 [holding that *Kullar* does not require “an explicit statement of the maximum amount the plaintiff class could recover if it prevailed on all its claims,” but instead, only an “understanding of the amount that is in controversy and the realistic range of outcomes of the litigation”].)

3. The Settlement Is a Fair and Reasonable Result Following a Thorough Investigation and Accounting of Various Litigation Risks

Plaintiffs’ Counsel have conducted a thorough investigation into the facts of the allegations. (Moon Decl., ¶ 35.) Based on the foregoing discovery and on their own independent investigation and evaluation, Plaintiffs’ Counsel are of the opinion that the proposed Settlement is fair, reasonable, and adequate. (*Id.*) Furthermore, considering all known facts and circumstances, the risk of significant delay, trial risk, appellate risk, the defenses that could be asserted by Defendant on the merits, the Settlement is in the best interests of the Aggrieved Employees and the State of California. (*Id.*)

Although Plaintiffs’ Counsel believe there is merit to Plaintiffs’ allegations, they also acknowledge a legitimate controversy exists as to each allegation. (*Id.* at ¶ 36.) Plaintiffs’ Counsel also recognize that proving the amounts of penalties owed to each Aggrieved Employee would be an expensive, time-consuming, and uncertain proposition. (*Id.*) Moreover, Plaintiffs’ Counsel are also of the opinion that because the issues here are fairly contested, there is a possibility of the Court not awarding PAGA penalties even if Plaintiffs prevailed on the merits due to the largely discretionary nature of awarding PAGA penalties. (*Id.* at ¶ 37.) Indeed, a Court may reduce 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.” (Lab. Code § 2699(e)(2).) In other words, were this matter to go to trial, any award granted would be at the discretion of the Court and subject to a substantial reduction. (Moon Decl., ¶ 37.) While Plaintiffs’ Counsel believe there would be no persuasive grounds to reduce penalties, they recognize that the Court could determine otherwise and significantly reduce any award of penalties. (*Id.* at ¶ 38.) This wide range of potential recovery and additional delays and risks of trial provide justification to settle for a reasonable amount of recovery at this point in the litigation. (*Id.*) In all, based on the investigation and analysis of the claims in

1 preparation for mediation, the maximum exposure did not comport with the realistic exposure that
2 Defendant faced, as discussed above. (*Id.*)

3 Plaintiffs’ Counsel took into account the risk of not being able to proceed on a representative
4 basis at all due to the potential manageability issues, the risk of not prevailing at trial, and the risk
5 that even if Plaintiffs prevailed at trial, the penalties would be limited due to the largely discretionary
6 nature of awarding PAGA penalties. (*Id.* at ¶ 39.) The provisions of the Labor Code triggering PAGA
7 penalties in this case include Labor Code sections 203, 210, 226, 1197.1, and 2802. (*Id.*) However,
8 PAGA penalties are not mandatory, but rather, permissive. (Lab. Code § 2699(e)(2).) Accordingly,
9 it is entirely possible that even if Plaintiffs would be successful at trial, assuming they are first able
10 to win on the merits regarding their individual claims at arbitration and then defeat the manageability
11 issues presented at litigation by the large number of Aggrieved Employees in this action, Plaintiffs
12 may still be awarded substantially less than what was obtained through the Settlement. (Moon Decl.,
13 ¶ 39.)

14 The Settlement avoids the significant risks, burdens, and the accompanying expense of further
15 litigation. (*Id.* at ¶ 40.) Though the Parties have engaged in a significant amount of investigation,
16 informal discovery, and employee data analysis, they have not participated in formal discovery
17 procedures, including depositions and expert discovery. (*Id.*) Moreover, Plaintiffs would have to
18 proceed with arbitration of their individual claims and win on the merits before proceeding with
19 litigation of the representative PAGA claims. (*Id.*) Preparation for trial and the prospect of appeals in
20 the wake of any summary judgment ruling would remain for the Parties. (*Id.*) As a result, the Parties
21 would incur considerably more attorneys’ fees and costs through trial, a lengthy and uncertain process
22 that could result in recovering less than was settled for. (*Id.*)

23 **C. The Enhancement Award to Plaintiffs is Reasonable and Should Be Approved**

24 Service awards are particularly important to plaintiffs in wage and hour cases because they
25 promote the important public policies underlying the wage and hour laws. This strong policy is
26 codified in California Labor Code section 90.5, which provides, “[i]t is the policy of this state to
27 vigorously enforce minimum labor standards in order to ensure employees are not required or
28 permitted to work under substandard unlawful conditions . . .” (Lab. Code § 90.5.) Nonetheless, the

California Supreme Court has noted that “retaliation against employees for asserting statutory rights under the Labor Code is widespread,” despite anti-retaliation statutes designed to protect employees. (*Gentry v. Super. Ct.* (2007) 42 Cal.4th 443, 460–61.) In this context, PAGA representatives should be rewarded for assuming the risk of retaliation for the sake of aggrieved employees.

Here, in line with the Settlement and subject to the Court’s approval, each Plaintiff requests an Enhancement Award of \$7,500.00. (Settlement, ¶ 3.2.1; Declaration of Plaintiff Sandra Mendibles in Support of Motion for Approval of PAGA Settlement [“Plaintiff Mendibles Decl.”], ¶ 13; Declaration of Plaintiff Rogelio Pahua in Support of Motion for Approval of PAGA Settlement [“Plaintiff Pahua Decl.”], ¶ 13.) Plaintiffs and their Counsel respectfully submit that the requested enhancement is reasonable in recognition of Plaintiffs’ role as the named Plaintiffs and PAGA Representative, for the risks to future employment inherent in undertaking this role and for their service and participation in litigation that resulted in a fair settlement under PAGA. (Moon Decl., ¶¶ 41–44; Plaintiff Mendibles Decl., ¶¶ 6–11; Plaintiff Pahua Decl., ¶¶ 6–11.)

D. The Requested Attorneys’ Fees/Costs Are Reasonable and Should Be Approved

In line with the Settlement, my firm requests an award of attorneys’ fees in an amount of 33 1/3% of the GSA (i.e., \$251,666.67), plus reimbursement for actual litigation costs in the amount of \$18,384.55. (Moon Decl., ¶ 66; *see* Settlement, ¶ 3.2.2.)

1. Plaintiffs’ Counsel Request an Award of Fees Based on the Common Fund Method

California courts have long awarded attorneys’ fees as a percentage of the benefit created by counsel in pursuing claims on behalf of a class. (*See, e.g., Serrano v. Priest* (1977) 20 Cal.3d 25.) The California Supreme Court has held, “when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney’s fees out of the fund.” (*Id.* at p. 34.)

Here, Plaintiffs’ Counsel seek an award of attorneys’ fees on the “percentage of recovery/common fund” theory. (Moon Decl., ¶ 68.) The purpose of this approach is to “spread litigation costs proportionately among all the beneficiaries so that the active beneficiary does not bear the entire burden alone.” (*Vincent v. Hughes Air W., Inc.* (9th Cir. 1977) 557 F.2d 759, 769.) In

1 *Quinn v. State of Cal.* (1975) 15 Cal.3d 162, the California Supreme Court stated, “one who expends
2 attorneys’ fees in winning a suit which creates a fund from which others derive benefits, may require
3 those passive beneficiaries to bear a fair share of the litigation costs.” (*Id.* at p. 167.) Similarly, in
4 *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court
5 recognized that the common fund doctrine has been applied “consistently in California when an
6 action brought by one party creates a fund in which other persons[] are entitled to share.” (*Id.* at pp.
7 110–11 [pincite omitted].) The reasons for applying this doctrine include:

8 fairness to the successful litigant, who might otherwise receive no benefit because
9 his recovery might be consumed by the expenses; correlative prevention of an
10 unfair advantage to the others who are entitled to share in the fund and who should
11 bear their share of the burden of its recovery; encouragement of the attorney for
the successful litigant, who will be more willing to undertake and diligently
prosecute proper litigation for the protection or recovery of the fund if he is assured
that he will be properly and directly compensated should his efforts be successful.

12 (*Id.* at p. 111.)

13 Several courts have expressed frustration with the alternative “lodestar” approach for deciding
14 fee awards, which usually involves wading through voluminous and often indecipherable time
15 records. Commenting on the lodestar approach, Chief Judge Marilyn Hall Patel wrote in *In re*
16 *Activision Securities Litigation* (N.D. Cal. 1989) 723 F.Supp.1373:

17 **This court is compelled to ask, “Is this process necessary?” Under a cost-benefit**
18 **analysis, the answer would be a resounding, “No!”** Not only do the *Lindy* and *Kerr–*
19 *Johnson* analyses consume an undue amount of court time with little resulting
advantage to anyone, but, in fact, it may be to the detriment of the class members.

20 (*Id.* at p. 1375 [emphasis added].) The percentage approach is preferable to the lodestar because: (1)
21 it aligns the interests of class counsel and absent class members; (2) it encourages efficient resolution
22 of the litigation by providing an incentive for early, yet reasonable, settlement; and (3) it reduces the
23 demands on judicial resources. (*Id.* at pp. 1378–79.) California Courts now routinely use the
24 percentage of the common fund approach to determine the award of attorney’s fees. (*See, e.g., In re*
25 *Pac. Enter. Sec. Litig.* (9th Cir. 1995) 47 F.3d 373, 378–79 [approving attorneys’ fee award of 33%].)

26 **2. The Matter Involves a Fee and Cost Shifting Provision under PAGA**

27 Labor Code section 2699 provides for the recovery of reasonable attorney’s fees as well as
28 costs of suit. (Lab. Code § 2699(k)(1).) Specifically, it states: “Any employee who prevails in any

[PAGA] action shall be entitled to an award of reasonable attorney’s fees and costs . . .” (*Id.*) Under this provision, Plaintiffs would be permitted to recover their actual attorneys’ fees, even if those fees were larger than the total recovery for the Aggrieved Employees at the conclusion of this case. (*Id.*) This fee/cost-shifting provision reflects the understanding that Plaintiffs’ Counsel must accept significant risk of substantial expenses and consumption of time, energy, and other resources in litigating a PAGA claim, and thus, that Plaintiffs’ Counsel is not only permitted, but entitled, to recover reasonable attorneys’ fees and costs if successful in litigating a PAGA claim.

The Settlement at issue is beneficial in that it limits the risk of continued expenses and consumption of time, energy, and resources facing Defendant while at the same time rewarding Plaintiffs’ Counsel for their decision to assume risk by taking on this matter. In fact, prosecution of this action involved significant financial risk for Plaintiffs’ Counsel who undertook this matter on a contingent basis, with no guarantee of recovery. (Moon Decl., ¶¶ 66–75.) Once Plaintiffs’ Counsel undertook this litigation on behalf of the Aggrieved Employees, they committed to pursue it to its conclusion, and were accordingly precluded from focusing on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain. (*Id.* at ¶ 71.)

3. Counsel’s Experience, Reputation, and Ability Support the Requested Fee Award

As demonstrated by their prior experience in pursuing class and representative actions on behalf of employees, Plaintiffs’ Counsel possess considerable expertise in litigating class action and representative matters. (*Id.* at ¶¶ 45–63.) Plaintiffs’ Counsel have been involved as lead counsel or co-counsel in a multitude of class and representative actions resulting in beneficial results to class members and aggrieved employees in California. (*Id.*) Because it is reasonable to compensate Plaintiffs’ Counsel commensurate with their skill, reputation, and experience, the requested fee award is supported here.

Plaintiffs’ Counsel’s experience in wage-and-hour class and representative actions was integral in evaluating the strengths and weaknesses of the case against Defendant and the reasonableness of this Settlement. (*Id.* at ¶ 64.) Practice in the narrow field of wage-and-hour litigation requires skill and knowledge concerning the rapidly evolving substantive law (state and federal), as well as the procedural law of representative action litigation. (*Id.* at ¶ 62.) Based on these

1 and other factors, Plaintiffs’ Counsel have frequently received fee awards of this percentage from the
2 gross recovery for aggrieved employees. (*See id.* at ¶¶ 49, 54, 58.) Thus, the requested fee award is
3 reasonable and fair.

4 **4. While the Lodestar Method Is Not Necessary in Common Fund Cases, the Court**
5 **May Perform a Cross-Check to Award Fees**

6 “Despite its primacy, the lodestar method is not necessarily utilized in common fund cases.”
7 (*Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 27.) Courts have criticized the lodestar
8 method as a drain on the judicial system and a disincentive on attorneys to take on high-risk,
9 challenging cases. (*Id.* at p. 29.) Indeed, the lodestar approach: “(1) ‘increases the workload of an
10 already overtaxed judicial system,’ (2) is ‘insufficiently objective and produce[s] results that are far
11 from homogenous,’ (3) ‘creates a sense of mathematical precision that is unwarranted in terms of the
12 realities of the practice of law,’ (4) ‘is subject to manipulation by judges who prefer to calibrate fees
13 in terms of percentages of the settlement fund or the amounts recovered by the plaintiffs or of an
14 overall dollar amount,’ (5) ‘encourages lawyers to expend excessive hours, and . . . engage in
15 duplicative and unjustified work,’ (6) ‘creates a disincentive for the early settlement of cases,’ (7)
16 deprives trial courts of ‘flexibility to reward or deter lawyers so that desirable objectives, such as
17 early settlement, will be fostered,’ (8) ‘works to the particular disadvantage of the public interest bar,’
18 and (9) results in ‘confusion and lack of predictability.’” (*Id.* [quoting Third Circuit Task Force, *Court*
19 *Awarded Attorney Fees* (1985) 108 F.R.D. 237, 246–49].)

20 Although California Courts support the common fund doctrine, the lodestar method can be
21 used to cross-check fee awards. “It may be appropriate in some cases, assuming the class benefit can
22 be monetized with a reasonable degree of certainty, to ‘cross-check’ or adjust the lodestar in
23 comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and
24 within the range of fees freely negotiated in the legal marketplace in comparable litigation.” (*In re*
25 *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557 [quoting *Lealao, supra*, 82 Cal.App.4th
26 at pp. 49–50].) Applying the lodestar method is a two-step process. The first step is to multiply the
27 number of hours reasonably expended by a reasonable hourly rate, and the second step is to apply a
28 multiplier to the lodestar to account for various factors. (*Id.* at p. 556.) “The purpose of such

1 adjustment is to fix a fee at the fair market value for the particular action. In effect, the court
2 determines, retrospectively, whether the litigation involved a contingent risk or required
3 extraordinary legal skill justifying augmentation of the unadorned lodestar in order to approximate
4 the fair market rate for such services.” (*Id.*) “Under certain circumstances, a lodestar calculation may
5 be enhanced on the basis of a percentage-of-the-benefit analysis.” (*Id.* at pp. 556–57.)

6 Further, “California case law permits fee awards in the absence of detailed time sheets.”
7 (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 255.) The Court “should defer to the
8 winning lawyer’s professional judgment as to how much time he was required to spend on the case.”
9 (*Moreno v. City of Sacramento* (9th Cir. 2008) 534 F.3d 1106, 1112.) Generally, hours are reasonable
10 if they were “reasonably expended in pursuit of the ultimate result achieved in the same manner that
11 an attorney traditionally is compensated by a fee-paying client.” (*Hensley v. Eckerhart* (1983) 461
12 U.S. 424, 431.)

13 Here, Plaintiffs’ Counsel current lodestar is *no less than* **\$89,975.00**, which is based on *no*
14 *less than* **122.4 hours** of attorney time spent to-date at their customary hourly rates. (Moon Decl., ¶
15 68.) Thus, in comparison to this lodestar, the fee request represents a multiplier of approximately
16 **2.80**. (*Id.* at ¶ 71(c).) Further, the foregoing lodestar does not reflect additional work that will be
17 devoted to this litigation, including to obtain and monitor approval of the Settlement and requested
18 awards, oversee the settlement administration process and distribution of funds, respond to inquiries,
19 and communicate with Plaintiffs regarding the case. (*Id.* at ¶ 69.) The amount of fees requested under
20 the Settlement is warranted based on the contingent risk that Plaintiffs’ Counsel incurred, the
21 difficulty of the questions involved, the substantial benefit conferred on the Aggrieved Employees
22 and State of California as a result of the Settlement, and the skill displayed by Plaintiffs’ Counsel.
23 (*Id.* at ¶ 71.) Plaintiffs’ Counsel also bear the risk of taking whatever actions are necessary if
24 Defendant fails to pay. (*Id.* at ¶ 69.) Thus, the request for attorneys’ fees is more than reasonable
25 under a lodestar check.

26 **5. Plaintiffs’ Counsel’s Costs Were Actually and Reasonably Incurred**

27 Winning counsel are entitled to recover the out-of-pocket costs and expenses they reasonably
28 incurred in investigating, prosecuting, and settling a case. (*Staton v. Boeing Co.* (9th Cir. 2003) 327

1 F.3d 938, 974; Lab. Code § 2699(k)(1).) Here, Plaintiffs’ Counsel seek reimbursement in the total
2 amount of \$18,384.55 for expenses that were actually and reasonably incurred in this litigation.
3 (Moon Decl., ¶ 76, Ex. 4.) Moreover, this amount is below the maximum allocation under the
4 Settlement and thus, the remainder (\$6,615.45) will revert to the PAGA Penalties. (*Id.* at ¶ 77;
5 Settlement, ¶ 3.2.2.) Thus, costs should be reimbursed in full.

6 **IV. CONCLUSION**

7 For the foregoing reasons, Plaintiffs respectfully request the Court grant approval of the
8 Settlement and enter the proposed approval order and proposed judgment submitted herewith.

9 Respectfully submitted,

10 DATED: September 4, 2026

MOON LAW GROUP, PC

11 By: _____

12 Kane Moon
13 Allen Feghali
14 Enzo Nabiev
15 Jason Kwak
16 *Attorneys for Plaintiffs*
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