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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MONTEREY

VENICE MOSES, individually, and on behalf of all others similarly situated,

Plaintiff,

v.

CVAC, INC. dba CARMEL VALLEY ATHLETIC CLUB and CVAC and REFUGEE, an Illinois corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No. 23CV001337

Assigned for all purposes to:
Hon. Thomas W. Wills
Dept. 15

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES

FINAL APPROVAL HEARING:
Date: November 14, 2025
Time: 8:30 a.m.
Dept: 15

Action Filed: April 28, 2023

TO ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on November 14, 2025, at 8:30 a.m., or as soon thereafter as the matter may be heard in Department 15 of the above-entitled Court located at 1200 Aguajito Road, Monterey, CA 93940. Plaintiff Venice Moses ("Plaintiff") will and hereby does move this Court for an Order:

1. Granting final approval of the proposed Class Action and PAGA Settlement Agreement;
2. Awarding Class Counsel attorneys' fees in the amount of $200,000.00 and reimbursement of litigation costs in the amount of $14,393.01;
3. Awarding Plaintiff a Class Representative Service Payment in the amount of $7,500.00;
4. Awarding $10,000.00 to Phoenix Settlement Administrators ("Phoenix") for its settlement administration expenses; and
5. Approving allocation of $30,000.00 as civil penalties under the Private Attorneys General Act of 2004 ("PAGA"), 75% of which ($22,500.00) will be paid to the California Labor and Workforce Development Agency, and 25% of which ($7,500.00) will be distributed to Aggrieved Employees based on the number of pay periods worked during the PAGA Period.

This Motion is based on this Notice of Motion, Memorandum of Points and Authorities, the Declaration of John G. Yslas, the Declaration of Kevin Lee, the Declaration of Venice Moses and on all records and documents on file, together with such oral and documentary evidence that may be presented at the hearing on this matter.

Dated: October 22, 2025

WILSHIRE LAW FIRM, PLC

By: ______________________________

Emily Borman
Attorneys for Plaintiff Venice Moses

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Venice Moses ("Plaintiff") seeks final approval of a non-reversionary Gross Settlement Amount of $600,000.00. The Amended Class Action and PAGA Settlement Agreement ("Settlement") provides that the deductions will be made from the Gross Settlement Amount:

1. Attorneys' fees in the amount of up to $200,000.00;
2. Litigation costs in the amount of up to $14,393.01;
3. A Class Representative Service Payment of up to $7,500.00;
4. Settlement administration expenses of up to $10,000.00; and
5. Civil penalties in the amount of $30,000.00 for claims under the Private Attorneys General Act of 2004 ("PAGA"), 75% of which ($22,500.00) will be paid to the California Labor and Workforce Development Agency ("LWDA), and 25% of which ($7,500.00) will be distributed to Aggrieved Employees based on the number of pay periods worked during the PAGA Period. *See* Settlement §§ 3.2.5, 3.2.5.1; *see also* Declaration of Kevin Lee ("Lee Decl."), at ¶ 14.

After all deductions are made, the Net Settlement Amount will be distributed to 414 Class Members as of the filing of this Motion for Final Approval of Class Action and PAGA Settlement (the "Motion") ("Participating Class Members" or "Settlement Class Member") based on the number of weeks worked during the Class Period. Lee Decl. at ¶ 11.

The proposed Settlement is a product of diligent efforts, litigation, arm's length negotiations, and informal discovery that resulted in the best possible outcome for the Class. By resolving this matter now, Class Members will receive a guaranteed recovery without risk of nonpayment, delay, or an adverse judgment at trial.

There are no objections to the Settlement and no requests for exclusion. *Id*. at ¶¶ 7-9. The Participating Class Members will receive an average settlement payment of $816.68, with the highest payout reaching $4,021.28. Lee Decl. at ¶ 13. Aggrieved Employees will receive an average settlement payment of $29.30, with the highest payout reaching $85.90. *Id*. at ¶ 14.

Plaintiff Moses' estimated Individual Class Payment is approximately $1,384.48, and her estimated Individual PAGA Payment is approximately $4.91. *Id*. at ¶13, 14. Accordingly, Plaintiff's estimated Individual Class Payment and her Individual PAGA Payment totals $1,389.39. *Id*. In light of the Class's favorable response, and the facts and law set forth below as well as in the motion for preliminary approval, Plaintiff respectfully requests that the Court now enter an Order: (1) granting final approval of the Settlement; (2) entering final judgment; (3) requiring distribution of individual settlement shares to Participating Class Members; and (4) approving payments for attorneys' fees, litigation costs, the Class Representative Service Payment, Settlement Administration Expenses, and civil penalties under PAGA.

II. THE SETTLEMENT MERITS FINAL APPROVAL

In deciding whether to grant final approval of a class action settlement, California courts consider whether the settlement is "fair, adequate, and reasonable." *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996). In evaluating whether a settlement is fair, adequate, and reasonable, courts evaluate the following factors: (1) the strength of the plaintiff's case; (2) the risk, expense, complexity and duration of further litigation; (3) the risk of maintaining class action status through trial; (4) the amount offered in settlement; (5) the extent of discovery completed and the stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental participant; and (8) the reaction of class members to the proposed settlement. *Id.*

A. A Presumption of Fairness Exists

While the burden is on the proponent to demonstrate that a proposed settlement is fair, adequate, and reasonable, "a presumption of fairness exists where: (1) the settlement is reached through arm's length bargaining; (2) investigation is 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." *Id.* at 1802.

At preliminary approval, Plaintiff presented evidence that this Settlement is entitled to a presumption of fairness because: (1) it was reached through arm's length bargaining with the assistance of an experienced mediator; (2) Plaintiff conducted a thorough investigation through informal discovery and an analysis of Class Members' time and payroll records; and (3) Plaintiff's Counsel is experienced in similar litigation. *See* Declaration of John G. Yslas in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement ("Yslas MPA Decl.") filed October 30, 2024 at ¶¶ 6-9, 21-30. None of the Class Members have opted out and none have objected. *See* Lee Decl. at ¶¶ 7-9. Therefore, the Court can confidently conclude that a presumption of fairness exists.

B. The Strength of Plaintiff's Claims, and the Risks, Expense, Complexity, and Likely Duration of Further Litigation as a Class Action Through Trial

Courts are not required to ensure that a settlement maximizes the value of released claims with mathematical precision. "[T]he test is not the maximum amount plaintiffs might have obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the circumstances." *Wershba v. Apple Computer, Inc.* 91 Cal.App.4th 224, 250 (2001), disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.*, 4 Cal.5th 260, 269-270 (2018); *see also 7-Eleven Owners for Fair Franchising v. Southland Corp.*, 85 Cal.App.4th 1135, 1150 (2000) ("the merits of the underlying class claims are not a basis for upsetting the settlement of a class action; the operative word is 'settlement.'"). The relevant circumstances include the strengths and weaknesses of plaintiffs' claims and the risks they faced in litigation. *7-Eleven*, 85 Cal.App.4th at 1146.

Here, Plaintiff presented sufficient information at preliminary approval regarding the number of class members and an estimate of the maximum value of each of the claims alleged. *See* Yslas MPA Decl. at ¶¶ 10-18. Plaintiff has also described in detail the risks the Class faced in litigation and the strengths and weaknesses of each of the claims. *See id.* Plaintiff noted potential difficulties in obtaining class certification and succeeding on the merits at trial. *See id*. The factual record here is sufficiently developed to allow the Court to independently satisfy itself "that the consideration being received for the release of the class members' claims is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation." *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, 186 Cal.App.4th 399, 410 (2010).

C. The Amount Offered in Settlement

The Settlement provides a $600,000.00 Gross Settlement Amount ("GSA") to be distributed among the 414 Class Members who did not opt out as of the date of this filing. LeeLee Decl. at ¶¶ 5-10, 12. The Gross Settlement Amount will be used to pay Class Counsel's attorneys' fees and costs, Plaintiff's Class Representative Service Payment, and Phoenix ("Phoenix") for its administration of the Class Notice and settlement funds. *Id*. at ¶ 12. The Settlement also allocates $30,000.00 from the Gross Settlement Amount to civil penalties under PAGA. *See* Settlement at ¶ 3.2.5; *see also* Lee Decl. ¶ 14. After all deductions are made, the Net Settlement Amount will be $38,106.99, which will be distributed to Participating Class Members according to the number of weeks they worked for Defendant during the Class Period. *See* Settlement at ¶ 3.2.4; *see also* Lee Decl. ¶ 10-12.

The Settlement Administrator has calculated a total of 23,758 workweeks[1] in the Class Period. Lee Decl. at ¶ 10-11. As a result, the average recovery for Participating Class Members is $816.68, and the highest payout is $4,021.28. *Id*. at ¶ 13. Weighing the potential value of the class claims against the risk and expense of trial, the Settlement provides sufficient relief in light of the potential risks associated with seeking a class judgment.

D. The Extent of Discovery Completed and the Stage of the Proceedings

Class Counsel sufficiently investigated the alleged claims, applicable law, and potential defenses. *See* Yslas MPA Decl. at ¶ 9. Specifically, Class Counsel assessed the value of the claims using data and documents provided by Defendant in informal discovery, which included policy documents and timekeeping and payroll records. *See id*. Following a complete analysis of this information, the Parties attended mediation on June 28, 2024, with an experienced mediator. *Id*. at ¶ 6. The Parties were able to reach an agreement and spent the next several months negotiating the terms of the Settlement. *Id*. at ¶¶ 6-8.

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[1] The Class Size Estimates and Escalator Clause in the Agreement indicates that, if the total number of workweeks during the Class Period exceeds 21,625 by more than 10% (i.e. if there are more than 23,788 workweeks), then Defendant shall, at its option, a) increase the Gross Settlement Amount on a pro-rata basis equal to the percentage increase in the number of workweeks above 10%, or, b) cap the Class Period as of the date the number of workweeks reaches but does not exceed 10%. Defendant elected to cap the Class Period as of September 26, 2024, which is the date on which there were twenty-three thousand seven hundred fifty-eight (23,758) workweeks. *See* Settlement at ¶ 8.

E. The Experience and Views of Counsel

Plaintiff is represented by Wilshire Law Firm, PLC. Declaration of John G. Yslas in Support of Motion for Final Approval of Class Action and PAGA Settlement ("Yslas MFA Decl.") at ¶ 3. Class Counsel prosecute wage and hour cases, including class and representative actions. *Id*. at ¶¶ 4, 5. Class Counsel has litigated many wage and hour cases and have successfully resolved cases involving similar issues presented in this matter. *Id*. at ¶¶ 4-16. Class Counsel has negotiated a settlement here that they believe is fair, reasonable, and adequate based on their prior experience litigating these types of cases. *Id*. at ¶ 22.

F. The Presence of a Government Participant

The LWDA has received the required notice of this Settlement. *Id*. at ¶ 23. On April 14, 2024, Plaintiff provided notice to the LWDA of her intention to file a PAGA claim. Yslas MPA Decl. at ¶ 4. The Settlement provides for the payment of $30,000.00 in civil penalties, 75% of which ($22,500.00) will be paid to the LWDA, and 25% of which ($7,500.00) will be paid to Aggrieved Employees based on the number of pay periods worked during the PAGA Period. *See* Lee Decl. at ¶ 14; *see also* Settlement at §§ 3.2.5, 3.2.5.1. Plaintiff submitted a copy of the Class Action and PAGA Settlement Agreement to the LWDA on October 29, 2024. Yslas MPA Decl. at ¶ 8, Exhibit 2. The LWDA has not responded to or objected to the Settlement. Yslas MFA Decl. at ¶ 23.

G. The Reaction of Class Members to the Proposed Settlement

Class Members' reaction to the Settlement has been favorable. A court may properly infer that a class action settlement is fair, reasonable, and adequate when few class members object to or opt out of it. *Lealo v. Beneficial California, Inc.*, 82 Cal.App.4th 19, 51 (2000).

When the Court granted preliminary approval, it also approved the method of providing notice to Class Members. Following a search of the National Change of Address database, Phoenix mailed the Class Notice to all Class Members on August 12, 2025. Lee Decl. at ¶¶ 4-5. The Class Notice informed Class Members of the terms of the Settlement, the amount of their individual settlements and how those amounts were calculated, their right to either participate in the Settlement, opt out of it, object to it, or dispute the amount of their individual settlement payment, the procedures and deadlines to submit an opt out, objection, or dispute, and the date, time, and place of the hearing on Plaintiff's Motion for Final Approval and instructions to be heard at the hearing. *See* Yslas MPA Decl. at ¶ 7, Exhibit A. Here, in response to the Class Notice, zero (0) Class Members opted out, and none objected as of the date of the filing of this Motion. *Id*. at ¶¶ 6-8. Class Members' favorable response to the Settlement further supports final approval.

III. THE REQUESTED FEE AWARD IS REASONABLE AND SHOULD BE APPROVED

There are two primary methods of determining a reasonable attorney fee in the context of class action litigation. *Laffitte v. Robert Half Int'l, Inc.*, 1 Cal.5th 480, 489 (2016). The percentage-of-recovery method calculates the fee as a percentage of a common fund recovered on behalf of the class. *Id*. The lodestar method calculates the fee by multiplying the number of hours reasonably expended by counsel by a reasonable hourly rate, which amount then may be adjusted based on other factors. *Id*. In *Laffitte*, the California Supreme Court held that trial courts have the discretion to choose between the two calculation methods. *Id*. at 504. Trial courts also have the discretion to blend the two fee calculation methods, using one method to "cross-check" the reasonableness of the other's result, but a cross-check is not required. *Id*. 506.

A. The Requested Fee Award is Fair and Reasonable Based on the Percentage-of-Recovery Method

The ultimate purpose of the percentage-of-recovery method is to "spread the attorney fee among all the beneficiaries of the fund." *Id*. at 503. The California Supreme Court recognized that the percentage-of-recovery method has many advantages, "including relative ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement is provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation [citation] . . ." *Id*.

The requested fee award (33 1/3% or one-third of the GSA) is consistent with the average fee award in class actions. *See*, *e.g.*, *Roos v. Honeywell Int'l, Inc.*, 241 Cal.App.4th 1472 (2015) (fee award of 37.5% was not an abuse of discretion), disapproved of on other grounds by

Hernandez v. Restoration Hardware, Inc., 4 Cal.5th 260, 287 (2018); *Wren v. RGIS Inventory Specialists*, No. C–06–05778 JCS, 2011 WL 1230826, at *29 (N.D. Cal. Apr. 1, 2011) (approving fee award of 42%); *Singer v. Becton Dickinson and Co.*, No. 08–CV–821–IEG, 2010 WL 2196104, at *8 (S.D. Cal. June 1, 2010) (approving fee award of one-third and noting that the typical fees awarded in wage and hour class action cases ranges from 33.33% to 40%). Therefore, the percentage-of-recovery method should be utilized to approve the requested fee.

B. A Lodestar Cross-Check Confirms the Reasonableness of the Requested Fee

Although *Laffitte* makes clear that a lodestar cross-check is not required, Class Counsel's lodestar supports the reasonableness of the requested fee. The lodestar is determined by multiplying the number of hours reasonably expended by the reasonable hourly rate. *PLCM Group, Inc. v. Drexler*, 22 Cal.4th 1084, 1095 (2000). The lodestar figure may then be adjusted, based on consideration of factors specific to the case, in order to fix the fee at the fair market value for the legal services provided." *Id*. The factors that can be considered include "the nature of the litigation, its difficulty, the amount involved, the skill required in its handling, the skill employed, the attention given, the success or failure, and other circumstances in the case." *Melnyk v. Robledo*, 64 Cal.App.3d 618, 623-624 (1976) (citations omitted). Additionally, Courts utilize "multipliers" to account for the risk of taking on cases where there is no guarantee of recovery, uncertainties as the amount that will be recovered, uncertainty as to the cost of litigating the case (both in effort and expenses), and uncertainty about how much time will pass before the recovery is obtained. *Ketchum v. Moses*, 24 Cal.4th 1122, 1132-33 (2001); see also *Serrano v. Priest*, 20 Cal. 3d 25, 48-49 (1977) (approving the adjustment of the lodestar figure based on factors specific to the case to ensure fair market value for legal services provided on a contingency basis). Application of that rule is particularly appropriate where the case is brought to redress important rights of vulnerable persons. *Ketchum*, 24 Cal.4th at 1133.

Generally, "[m]ultipliers can range from 2 to 4 or even higher." *Wershba v. Apple Computers, Inc.*, 91 Cal.App.4th at p. 255 (2001); *see also Sutter Health Uninsured Pricing Cases*, 171 Cal. App. 4th 495, 512 (2009) (applying a 2.52 multiplier on a cross-check in an antitrust class action); *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th, 60 (2008) (applying a 2.5

multiplier on a lodestar cross-check); *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 n.6 (9th Cir. 2002) ("most" common fund cases apply a multiplier of 1.0-4.0); *Laffitte v. Robert Half Int'l*, 231 Cal. App. 4th 860, 881-82 (2004) (affirming a 2.13 multiplier after finding that "2 to 4" is a reasonable range for multipliers on a cross-check).

Here, the total hours expended on this action were reasonable and in line with comparable cases. *See* Yslas MFA Decl., ¶ 19. Class Counsel spent 320.1 hours prosecuting this action, which were divided among the attorneys working on this case according to skill level. *Id.* at ¶¶ 17-20. Multiplying the total hours expended by Class Counsel by their reasonable hourly rates yields a lodestar of $269,260.00. *Id*. at ¶ 19. The hours expended by each attorney were reasonable and not duplicative and reflect the extensive investigation and analysis that was required to achieve this Settlement. *Id*. at ¶ 20. Class Counsel's Lodestar surpasses the requested fee award of $200,000.00, resulting in a negative multiplier. *Id*. This amount does not include the time Class Counsel will spend at the final approval hearing and assisting the Settlement Administrator following final approval. *Id*. WLF dedicated significant resources to this case by dividing the tasks required according to skill level. *Id*. The hours expended by each attorney were not duplicative and reflect the extensive investigation and analysis that was required to achieve this Settlement. *Id*. This time could have been spent on other potentially lucrative cases. WLF's lodestar reflects the efficiencies achieved by attorneys experienced in this field. *Id*. Moreover, Class Counsel's hourly rates are comparable to those charged by other class action counsel. *Id*. at ¶ 17.

The risk factors present in this case favor Court approval of Class Counsel's fee request. *See* Yslas MFA Decl., ¶ 20. First, Class Counsel has singularly assumed the risk and costs of litigation purely on a contingency basis. *Id*. And, while Plaintiff is confident in the merits of her claims, a legitimate controversy exists as to each cause of action posing an actual risk that Plaintiffs may not succeed at class certification and/or trial. *Id*. Any of these obstacles could have prevented recovery completely, meaning Class Counsel would have been left with no compensation for all the time and money invested in litigating this case. *Id*. Despite these risks, Class Counsel took this case on a contingency basis so that Class Members (a particularly vulnerable group of hourly paid workers) could be compensated for their unpaid wages. *Id*. Consequently, Class Counsel was precluded from focusing on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain. *Id*.

Considered against the risks of continued litigation, and the importance of advocating for employment rights and a speedy recovery, the relief provided under the Settlement represents a very strong result for the Class. Class Counsel's fee request is fair and reasonable and should be approved. Accordingly, Class Counsel respectfully requests the Court approve their $200,000.00 fee request.

IV. THE REQUESTED COST AWARD IS REASONABLE AND SHOULD BE APPROVED

The Settlement permits Class Counsel to seek reimbursement of actual litigation costs. The actual costs incurred are $14,393.01, as such, Class Counsel is seeking reimbursement of $14,393.01. *Id*. at ¶ 21, Exhibit 1. These costs were reasonable and necessary to prosecute this case and obtain the results achieved. *Id*.

V. THE REQUESTED CLASS REPRESENTATIVE SERVICE PAYMENT IS REASONABLE AND SHOULD BE APPROVED

Plaintiff also requests that she be awarded a service payment of $7,500.00 for her role in obtaining the Settlement. In evaluating a service payment, the Court may consider: "(1) the risk, both financial and otherwise, the class representative faced in bringing the suit; (2) the notoriety and personal difficulties encountered by the class representative; (3) the amount of time and effort spent by the class representative; (4) the duration of the litigation; and (5) the personal benefit received by the class representative as a result of the litigation." *Golba v. Dick's Sporting Goods, Inc.*, 238 Cal.App.4th 1251, 1272 (2015); *Clark v. American Residential Services, LLC*, 175 Cal.App.4th 785, 804 (2009).

Here, Plaintiff provided a declaration in support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement and a declaration in support of Plaintiff's Motion for Final Approval of Class Action and PAGA Settlement detailing the risk she faced in bringing the suit, the notoriety and personal difficulties she encountered, the amount of time and effort she spent on this litigation, the duration of this litigation, and the personal benefit she will receive as a result of the litigation. *See generally* Declaration of Venice Moses in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement filed on October 30, 2024 and Declaration of Plaintiff Venice Moses in Support of Motion for Final Approval of Class Action and PAGA Settlement filed concurrently herewith. Plaintiff should be adequately compensated for her role in obtaining in this Settlement.

Additionally, no Class Members objected to the amount of additional compensation sought by Plaintiff. As such, the award is reasonable in light of the substantial benefits Plaintiff conferred upon the settlement class.

VI. THE SETTLEMENT ADMINISTRATION COSTS ARE REASONABLE AND SHOULD BE APPROVED

The Parties agreed to hire Phoenix as the Settlement Administrator in this case and the Court approved this choice at preliminary approval. The Settlement Administrator was responsible for updating Class Members' mailing addresses, mailing the Class Notice to each Class Member, responding to Class Member questions, providing weekly status reports, and providing a declaration as to the results of the mailing. *See* Lee Decl. at ¶ 2. Following final approval, Phoenix's duties will continue in order to calculate and to mail the settlement payments to Class Members, disburse other payments as ordered by the Court, and perform such other duties described in the Settlement. *Id*. The requested amount of $10,000.00 for services rendered and to be rendered is therefore fair and reasonable.

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VII. CONCLUSION

Based on the foregoing, Class Counsel respectfully requests that the Court grant final approval of the Amended Class Action and PAGA Settlement, approve Class Counsel attorneys' fees in the amount of $200,000.00 and reimbursement of litigation costs in the amount of $14,393.01, the Class Representative Service Payment in the amount of $7,500.00, civil penalties under PAGA in the amount of $30,000.00, and $10,000.00 to Phoenix for its settlement administration expenses.

Dated: October 22, 2025

WILSHIRE LAW FIRM, PLC

By: ______________________

Emily Borman
Attorneys for Plaintiff Venice Moses