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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

DANIEL KELLEY, on behalf of the State of California, as a private attorney general,

Plaintiff,

vs.

ORACLE AMERICA, INC., a Corporation; and DOES 1 through 50, inclusive,

Defendant.

Case No. **23-CIV-03540**

NOTICE OF MOTION AND MOTION TO APPROVE PAGA SETTLEMENT; and,

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION

Hearing Date: September 4, 2025
Hearing Time: 9:00 a.m.

Judge: Hon. Nina Shapirshteyn
Dept.: 11

Action Filed: July 31, 2023
Trial Date: Not Set

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

YOU ARE HEREBY NOTIFIED THAT at 9:00 a.m. on September 4, 2025, or as soon thereafter as the matter can be heard, in Department 11 of the above entitled Court before the Honorable Nina Shapirshteyn, Plaintiff Daniel Kelley ("Plaintiff") will and hereby does move for an order approving the settlement of the California Labor Code Private Attorneys General Act ("PAGA") claim alleged against Defendant Oracle America, Inc. ("Defendant") in accordance with Labor Code §2699(s)(2). The proposed settlement is set forth in the accompanying PAGA Settlement Agreement ("Agreement").

This Motion will be based on this notice, the accompanying points and authorities, the Declaration of Kyle Nordrehaug, the Agreement, and the complete files and records in this action. The Labor Workforce Development Agency has been served with this motion and the Settlement Agreement as set forth in the accompanying proof of service.

Respectfully submitted,

Dated: August 8, 2025

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: *_/s/ Kyle Nordrehaug_*
Kyle R. Nordrehaug

Attorneys for Plaintiff

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Daniel Kelley ("Plaintiff") reached a settlement of the California Private Attorneys General Act, Cal. Labor Code §2699, *et seq*. ("PAGA") claim asserted in this action against Defendant Oracle America, Inc. ("Defendant") (collectively, the "Parties") which provides for a "Gross Settlement Amount" payment in the amount of $2,360,000.00. In accordance with California Labor Code §2699(l), Plaintiff now asks this Court to review and approve the settlement of Plaintiff's PAGA claims.[1] This is a settlement of only the PAGA claims for civil penalties and is not a class settlement and does not release the individual wage claims, if any, of the affected employees other than the Plaintiff himself. Cal. Labor Code § 2699(g)(1); *Iskanian v. CLS Transportation*, 59 Cal. 4th 348, 381 (2014); *ZB, N.A. v. Superior Court*, 8 Cal. 5th 175, 182 (2019) (unpaid wages are not recoverable under PAGA).

The PAGA settlement is set forth in the accompanying Settlement Agreement and Release of PAGA Claim ("Agreement"). A true and correct copy of the Agreement which sets forth the terms for the settlement of the PAGA claims is attached as Exhibit #1 to the Declaration of Kyle Nordrehaug, filed herewith. Capitalized terms shall have the same meaning as defined in the Agreement. The LWDA received notice of this Settlement, and this motion as set forth in the accompanying proof of service and in the Declaration of Kyle Nordrehaug at ¶13.

A proposed order confirming review and approval of the PAGA settlement is submitted herewith.

II. RELEVANT FACTS

Plaintiff's Counsel mailed the necessary correspondence to the California Labor and Workforce Development Agency ("LWDA") on April 12, 2023, on behalf of Plaintiff, requesting authorization from the LWDA to seek civil penalties as provided by the Private Attorney General Act of 2004 ("PAGA") for the wage and hour violations alleged in the PAGA Notice. (Declaration of

[1] Labor Code Section 2699(1)(2) provides as follows: "The superior court shall review and approve any settlement of any civil action pursuant to this part." Because this Action was filed before June 2024, the 75/25 allocation is based upon the older enactment of Section 2699.

Kyle Nordrehaug, at ¶3). The 65-day notice period for the LWDA to notify of its intent to investigate expired on June 17, 2023. On July 31, 2023, Plaintiff filed a Representative Action Complaint in this Court against Defendant Oracle America, Inc. ("Defendant") alleging a single cause of action for recovery of civil penalties for Violation of the PAGA [Labor Code §§ 2698, *et seq*.]. On November 6, 2023, Oracle filed an Answer to the Complaint denying all of the claims alleged and asserting affirmative defenses.

Plaintiff and Defendant agreed to mediate with Steven J. Serratore, Esq. Prior to the mediation, the Parties conducted significant investigation and informal discovery of the facts and law. Defendant produced hundreds of pages of documents relating to its policies, practices, and procedures regarding paying non-exempt employees for all hours worked, overtime, meal and rest period policies, payroll and operations policies, and more. Plaintiff was provided with sufficient records and data to determine the number of Alleged Aggrieved Employees and the number of Eligible Pay Periods.[2] The Parties agree that the above-described investigation and evaluation, as well as the information exchanged during the settlement negotiations, are more than sufficient to assess the merits of the Parties' positions and to compromise the issues on a fair and equitable basis. (Declaration of Kyle Nordrehaug, at ¶3).

Plaintiff's theory of PAGA liability as argued at mediation alleged that Defendant is liable for underpayment of wages as a result of rounding the start and end time of work shifts and not paying for overtime worked. For example, Plaintiff alleged that while Defendant's policies required Plaintiff and other Alleged Aggrieved Employees to record their hours and submit their time sheets at least once a week, Alleged Aggrieved Employees were nonetheless constantly reminded by management that they were highly compensated individuals and, as such, they were akin to "salaried" employees". Plaintiff alleges that Alleged Aggrieved Employees were, therefore, unlawfully ordered to round their time instead of record their exact time worked. Plaintiff also alleged that Defendant directed the Alleged Aggrieved Employees to always fill out the time cards the same way, including having a saved template for a standard 9-5 workweek that they were instructed to use no matter what their actual hours were. Moreover, Plaintiff alleged that he was forbidden from recording overtime even when he found

[2] "Eligible Pay Period" means any pay period worked by an Alleged Aggrieved Employee while they are in a non-exempt or hourly-paid position in California at any time during the PAGA Period.

himself working early and after the hours recorded on the timecard almost every day. Plaintiff alleged that numerous times Plaintiff worked on weekend days for important deals, taking meetings and filing paperwork on weekends and holidays. Out of the 57,677 shifts analyzed by Plaintiff's expert, 99.6% showed all entries recorded to a quarter hour interval (e.g. 7:00 or 9:30). Plaintiff alleged that Defendant not only knew about and tolerated this widespread off-the-clock work practice but encouraged Alleged Aggrieved Employees to promptly read and respond to messages, emails, and answer phone calls – even if that meant to work during lunch hours and before or after regular business hours.

In addition to off-the-clock work, Plaintiff alleged Defendant required employees to report compliant meal periods on their time sheets, even if Alleged Aggrieved Employees took their meal periods late or skipped them altogether. Plaintiff alleged at mediation that Defendant created the expectation that Alleged Aggrieved Employees had to continue working through meal periods if current business required their attention. As a result, Plaintiff alleges he was often unable to take compliant meal and rest breaks. Moreover, Defendant failed to provide Plaintiff and other Alleged Aggrieved Employees with meal and rest break premium payments when these violations occurred. Plaintiff alleged that, according to the data provided for mediation, there were only 26 meal premium payments reported in 57,677 shifts analyzed, which is equivalent to only 2.7%. Plaintiff also alleged at mediation that the wage statements provided to Plaintiff and other Alleged Aggrieved Employees were often inaccurate. (Declaration of Kyle Nordrehaug, at ¶3). Oracle denied all of Plaintiff's claims, denied that it committed any wrongdoing, and denied that Plaintiff and the allegedly aggrieved employees were owed any penalties or any amount.

On December 4, 2024, the Parties engaged in an all-day mediation session before Mediator Steven J. Serratore, Esq., a respected and experienced mediator knowledgeable of both the wage and hour laws and representative claims at issue in this action. Through arms-length negotiations with the assistance of the mediator, the Parties reached an agreement to settle the PAGA claims in this action which led to the signing of a Memorandum of Understanding memorializing the settlement.[3] (Declaration of Kyle Nordrehaug, at ¶3).

The settlement was negotiated in light of all known facts and circumstances and the uncertainty associated with litigation – including the risk of Plaintiff not being able to maintain representative claims, the difficulty of proving Plaintiff's claims in a manageable trial, the merits of Defendant's potential defenses, and the significant delay and potential appellate issues inherent to litigation – and was reached after extensive arm's length negotiations, with the assistance of Mediator Serratore. (Declaration of Kyle Nordrehaug, at ¶3).

III. TERMS OF THE PAGA SETTLEMENT

The PAGA settlement is subject to Court approval consistent with Labor Code §2699(1)(2). The Agreement negotiated by the Parties provides for a "Gross Settlement Amount" payment in the amount of $2,360,000 to resolve the Released PAGA Claims (hereinafter referred to as the "PAGA Settlement"). From this PAGA Settlement of $2,360,000, there is a deduction of attorneys' fees in the amount of $786,666 (which is one-third of the PAGA Settlement), reimbursement of incurred costs in an amount not to exceed $35,000, a Service Award to Plaintiff with a maximum amount of $20,000, and the expense of settlement administration ("Settlement Administration Costs") not to exceed $25,000. (Agreement at ¶¶ 29 (a-c)).[4] After these deductions, the amount remaining is the "Net PAGA Settlement Amount", which is estimated to be no less than $1,493,334.

Of the Net PAGA Settlement Amount, seventy-five percent (75%) (no less than $1,120,000.50) will be paid to the LWDA and the remaining twenty-five percent (25%) (no less than

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[3] In addition to the Gross Settlement Amount, Defendant has agreed to separately settle Plaintiff's individual claims pursuant to separate confidential Individual Settlement Agreement ("Individual Settlement") (Settlement Agreement at ¶ 32). The individual claims were not at issue in this action and exist independent and apart from the PAGA claims at issue before the Court. *See Kim v. Reins Int'l Cal., Inc.*, 9 Cal. 5th 73, 80 (2020) (the "[s]ettlement of individual claims does not strip an Aggrieved Employee of standing, as the state's authorized representative, to pursue PAGA remedies" nor resolve the PAGA claims.).

[4] If the Court awards less than the requested Settlement Administration Costs, Attorneys' Fees and Costs, or Service Award,, the amounts not awarded will be added to the Net PAGA Settlement Amount (Agreement at ¶ 29(b)).

$373,333.50) will be paid to the Alleged Aggrieved Employees (Agreement at ¶ 29(e)).[5] This 75/25 allocation is required by Labor Code §2699 (as it was in effect prior to June 2024) as explained by *ZB, N.A. v. Superior Court*, 8 Cal.5th 175 (2019).

The Individual PAGA Payment for each Alleged Aggrieved Employee shall be based on the number of Eligible Pay Periods each Alleged Aggrieved Employee worked during the PAGA Period, to be distributed on a proportionate basis, using the number of Eligible Pay Periods worked by each Alleged Aggrieved Employee during the PAGA Period.[6] The PAGA Period is the time period from April 12, 2022 through February 2, 2025. (Agreement at ¶ 19). Defendant represents that there are approximately 4,132 Alleged Aggrieved Employees who collectively worked for approximately 156,310 Eligible Pay Periods during the PAGA Period. (Agreement at ¶ 50).

Effective on the date when Defendant fully funds the entire Gross Settlement Amount, the Released Parties shall be entitled to a release from all Alleged Aggrieved Employees as to the "Released PAGA Claims", which means any and all claims, debts, liabilities, demands, actions, or causes of action for civil penalties that were alleged or which could have been alleged based on the factual allegations in the operative complaint and Plaintiff's LWDA letter in the Action that occurred during the PAGA Period including all claims for civil penalties for failure to accurately record and pay for all time worked, including minimum wages and overtime; failure to accurately calculate the regular rate of pay; failure to provide compliant meal and rest periods; failure to provide reporting time pay; failure to timely pay all wages due; failure to accurately pay sick and vacation pay wages; failure to pay all wages due at termination, including unlawful deductions and failing to pay vacation; failure to provide suitable seating; and failure to provide accurate itemized wage statements, including by failing to show the correct gross and net wages earned including alleged violations of California

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[5] "Alleged Aggrieved Employees" means all current and former non-exempt or hourly-paid employees who were employed by Defendant Oracle America, Inc. in California for at least one Eligible Pay Period.

[6] See Agreement at ¶ 29(e)("The Administrator will calculate each Alleged Aggrieved Employees' Individual PAGA Payment by (a) dividing the amount of the Alleged Aggrieved Employees' 25% share of Net PAGA Settlement Amount by the total number of Eligible Pay Periods worked by all Alleged Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Alleged Aggrieved Employee's Eligible Pay Periods.).

Labor Code Sections 201, 202, 203, 204, 210, 218, 221, 226, 226.7, 227.3, 246, 510, 512, 558, 1194, 1197, 1197.1, 1198, 2699 *et seq*., California Code of Regulations, Title 8, Section 11040, California Code of Regulations, Title 8, Section 11070, and the applicable Wage Order(s). The Released PAGA Claims expressly excludes any other claims, including class claims, claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, claims based on facts occurring outside the PAGA Period or claims set forth in Plaintiff's separate confidential Individual Settlement Agreement. (Agreement at ¶ 30).

Within thirty (30) days after Defendant funds the Gross Settlement Amount, the Settlement Administrator will mail checks for all Individual PAGA Payments, the LWDA Settlement Proceeds, the Settlement Administrator's fees payment, the Service Award and the Attorney's Fees and Costs. (Agreement at ¶ 41). Checks will remain negotiable for one hundred eighty (180) days. (*Id*. at ¶¶ 42-43) Any funds in the Settlement Administrator's account as a result of a failure to timely cash a settlement check shall be transmitted to the California State Controller's Unclaimed Property Fund in the name of each respective Alleged Aggrieved Employee whose check was uncashed and voided, subject to Court approval. (*Id*. at ¶ 42).

Pursuant to California Labor Code Section 2699(1), Plaintiff is providing a copy of the Agreement and this motion to the LWDA concurrently with the filing of the instant motion for settlement approval as set forth in the accompanying proof of service in compliance with Labor Code section 2699(1). In addition, Plaintiff shall submit to the LWDA a copy of the Court's judgment and order approving the Agreement within ten (10) days after entry of judgment or order.

IV. THE PARTIES HAVE SETTLED THE PAGA CLAIMS

The claim before this Court is solely the representative claim under PAGA on behalf of the State of California for civil penalties pursuant to the PAGA. The parties have agreed to settle this PAGA claim in its entirety after investigation and an arm's length mediation session. (Declaration of Kyle Nordrehaug, at ¶4.) The settlement is intended to fully and finally resolve the Released PAGA Claims asserted by Plaintiff on behalf of the State of California. This is only a settlement of the PAGA claims for civil penalties and is not a class settlement and does not release the individual claims, if any, of the Alleged Aggrieved Employees, other than any claims under PAGA. This settlement does not release any claim that is not a PAGA claim.[7] Attorney's Fees equal to one-third of the Gross Settlement Amount ($786,666), a Service Award to Plaintiff with a maximum amount of $20,000 and attorney's costs in an amount not to exceed $35,000 will also be paid to Plaintiff's Counsel as part of the settlement in accordance with California Labor Code § 2699(g)(1), as set forth in the Agreement.[8] Lastly, payment to the Settlement Administrator in an amount not to exceed $25,000 to perform the administrative duties to distribute the settlement money shall also be paid. (Declaration of Kyle Nordrehaug, at ¶¶ 4-5.)

V. THE PARTIES REQUEST REVIEW AND APPROVAL OF THE SETTLEMENT OF THE PAGA CLAIM

Labor Code § 2699 (l) requires that the Court "shall review and approve any settlement of any civil [PAGA] action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court." Consequently, the parties respectfully ask the Court to review and approve the settlement of the PAGA claims and the Net PAGA Settlement Amount to be paid as part of the proposed settlement.

A. The PAGA Settlement Amount To Be Paid Is Fair And Reasonable

The Parties believe that the PAGA Settlement amount is fair and reasonable and therefore "shall" be reviewed and approved. Here, the Gross Settlement Amount of $2,360,000 is more than other PAGA settlements as it constitutes approximately $15.10 per pay period. (Declaration of Nordrehaug, at ¶6.)

This PAGA Settlement amount compares favorably to the estimated amount of PAGA penalties. With the assistance of an expert, Plaintiff calculated that the maximum amount of statutory

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[7] As explained by the Supreme Court in *ZB, N.A.*, 8 Cal. 5th at 196: "Nonparty employees are bound by the judgment in an action under the PAGA, but only with respect to recovery of civil penalties."

[8] Plaintiff's Counsel incurred costs in the current amount of $25,633.90, which is less than the cost allocation in the Agreement. See Declaration of Nordrehaug at ¶ 9.

PAGA civil penalties was potentially $15,631,000 based on 156,310 pay periods applicable to the Alleged Aggrieved Employees during the PAGA Period.[9] (Declaration of Nordrehaug, at ¶6.) Importantly, however, these calculations were performed at the maximum statutory rate for the penalties, when in fact, it is likely that any penalties awarded would be at a lower rate. California Labor Code Section 2699(e)(1) permits a Court to award a lesser amount than the maximum civil penalty if based on the facts and circumstances to do otherwise would result in an award that is "unjust, arbitrary and oppressive or confiscatory." Oracle disputed these valuations and argued that, if any penalties would be awarded at all, the Court would have used the discretion afforded to it under PAGA to award an amount of civil penalties far less than the maximum due to the circumstances of this case and the claims at issue.

In *Carrington v. Starbucks Corp*., 30 Cal. App. 5th 504 (2018), the Court of Appeal affirmed a judgment after trial which only provided for a PAGA penalty of $5 per pay period. Therefore, at trial, any PAGA penalties awarded could be significantly less than Plaintiff's calculation even where Plaintiff prevailed on the PAGA claim. If the amount of $5 per pay period from *Carrington v. Starbucks* is used, the potential recovery of civil penalties would be only $781,550, which is far less than this settlement provides. (Declaration of Nordrehaug, at ¶6.)

Under PAGA, Courts have considerable discretion to reduce the penalty award. In *Fleming v. Covidien*, 2011 U.S. Dist. LEXIS 154590 (C.D. Cal. 2011), a federal court reduced PAGA penalties from $2,800,000 to $500,000, a reduction of 82.2%, because the court found maximum penalties "unjust" because the employees had suffered no injuries. Some trial courts have actually awarded no civil penalties, even when Labor Code violations are established. See *Makabi v. Gedalia*, 2016 Cal. App. Unpub. 1489, *5-7 (2nd Dist. Ct. of App. Mar. 6, 2016) (no PAGA penalties were awarded by the Los Angeles County Superior Court) (unpublished decision); *In re Taco Bell Wage & Hour*

[9] Stacking is where more than one civil penalty is imposed in a pay period for the same conduct. The valuation of $15,631,000 is the civil penalty amount without stacking. If stacking is permitted, then the valuation increases with each additional penalty added to each pay period. Plaintiff, however, is not aware of any PAGA award which permitted stacking and in the cases cited herein, only one penalty per pay period was assessed, and Oracle argued against stacking.

Actions, 2016 U.S. Dist. LEXIS 48557, *40-43 (E.D. Cal. Apr. 6, 2016) (PAGA penalties denied after trial).

In order to recover any PAGA penalties, Plaintiff would be required at trial to prove each of the underlying Labor Code violations. See *Cardenas v. McLane Foodservice, Inc*., 2011 U.S. Dist. LEXIS 13126, *10 (C.D. Cal. 2011) ("Given the statutory language [of PAGA], a plaintiff cannot recover on behalf of individuals whom the plaintiff has not proven suffered a violation of the Labor Code by the defendant."). Here, Plaintiff would need to prove that each Alleged Aggrieved Employee suffered a violation for each Eligible Pay Period the employee worked in relation to meal or rest period violations, failure to pay minimum wages, failure to pay overtime and sick pay wages, failure to provide accurate itemized wage statements, failure to reimburse employees for required expenses, and failure to pay wages when due.

Oracle maintains that it complied with all applicable laws, including the California Labor Code and wage orders, denies all of Plaintiff's claims, and denies that Plaintiff and the allegedly aggrieved employees are owed any penalties or any amount. Defendant asserted additional defenses to the PAGA claim, both as to liability and as to the amount of penalties the Court would have awarded, if any. While Oracle argued that imposing any amount of penalties would not have been justified, it asserted that penalties, if any, could only be assessed at the initial violation rate and that the Court would use its discretion to reduce any penalties awarded. These defenses present a risk to the PAGA claims and the potential that some or all of the PAGA penalties sought may not be awarded. (Declaration of Nordrehaug, at ¶7.)

Given Defendant's potential defenses to the violations at issue, the risks and costs of continued litigation, Plaintiff and his attorneys believe that the PAGA Settlement is fair and reasonable. (Declaration of Nordrehaug, at ¶7.) Defendant has similarly concluded that it is desirable that the action is settled in the manner and upon the terms and conditions set forth in the Agreement in order to avoid further expense, inconvenience and distraction of further legal proceedings, as well as the uncertainty of litigation. Defendant agrees that the PAGA Settlement is fair, reasonable, and adequate.[10]

Plaintiff's Counsel have significant experience litigating wage and hour claims including claims for PAGA penalties, and the PAGA Settlement here is similar to or greater than similar settlements that courts have approved. (Declaration of Nordrehaug, at ¶¶ 7, 10.) The PAGA Settlement, along with the other terms of the proposed settlement, were negotiated by experienced counsel at arm's length with the assistance of a private mediator, Steven J. Serratore, Esq. (Declaration of Nordrehaug, at ¶7.)

As set forth in the accompanying proof of service, the LWDA has been provided notice of this motion and the PAGA settlement. The decision of the LWDA to accept the PAGA Settlement and not oppose the motion should be given considerable weight. This is not a situation where the Court needs to be concerned about the rights of absent employees as in a class settlement, as this PAGA-only settlement does not release the individual claims of absent employees other than PAGA claims, and the LWDA is a sophisticated government entity that is more than able to look out for its own rights.

B. The Remaining Settlement Terms Are Fair And Reasonable

Although PAGA requires that a court approve the proposed PAGA settlement, Labor Code § 2699(1) does not require that a court approve any other elements of the proposed settlement. Because there are no class allegations for which Plaintiff seeks approval, the approval provisions applicable to class settlements under Cal. Code Civil Proc. §382 do not apply. Accordingly, the Court only needs to approve the settlement of the civil penalties sought in the PAGA claim. Nevertheless, as explained herein, the settlement terms for attorneys' fees and costs are reasonable.

VI. THE ATTORNEYS' FEES AND COSTS ARE FAIR AND REASONABLE

Plaintiff's Counsel seeks approval of attorneys' fees from the PAGA settlement in the amount of $786,666 representing one-third of the $2,360,000 Gross Settlement Amount. PAGA does not have

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[10] Nothing herein or as part of the settlement process shall be construed to be a waiver or concession of any arguments, contentions or defenses that Oracle raised in the action or an admission of any wrongdoing or liability by Oracle.

any requirements for reviewing attorneys' fees, and Plaintiff's position is that the payment of attorneys' fees and costs in this settlement is a matter of contract for contingent representation. Nevertheless, should this Court review the requested attorneys' fees, it is clear that the requested fees and costs are reasonable.

First, the requested fees are justified by the result achieved. Plaintiff's Counsel negotiated a recovery of $2,360,000, and this result justifies the requested fees equal to one third of this recovery. This percentage is within the standard contingent recovery percentage of one-third, and this percentage is what was expressly approved by the Supreme Court in *Laffitte v. Robert Half Int'l Inc*., 1 Cal.5th 480, 504, (2016); *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal. App. 5th 521, 545 (2021) (recognizing that "'fee awards in class actions average around one-third of the recovery'" regardless of "'whether the percentage method or the lodestar method is used.'" (*quoting Chavez v. Netflix, Inc*., 162 Cal.App.4th 43, 66, fn. 11 (2008)).

Second, the fee award is justified by the work performed and contributions to the case. As detailed in the accompanying Declaration of Kyle Nordrehaug at ¶8, the fee award represents Plaintiff's Counsel's current lodestar of $241,002.50 with a reasonable multiplier of less than 3.3, with significant additional work to be performed such that the multiplier will ultimately be even less.[11]

Generally, the Ninth Circuit and California Courts award positive multipliers between 2 to 4 times the lodestar to reward counsel for accepting the contingent risks of the litigation or obtaining good results. See, e.g., *Laffitte*, 1 Cal. 5th at 506 (approving one-third fee award with multiplier between 2.03 and 2.13); *Pellegrino v. Robert Half Intern., Inc.*, 182 Cal.App.4th 278 (2010) (noting reasonable multipliers of 2.0 to 4.0 are often applied and affirming 1.75 multiplier); *Wershba v. Apple Computer, Inc*., 91 Cal.App.4th 224, 254 (2001) (noting that multipliers can range from 2 to 4 or higher); *Vandervort v. Balboa Capital Corp*., 8 F. Supp. 3d 1200, 1210 (C.D. Cal. 2014) (awarding one-third of fund, which was a 2.52 multiplier of lodestar); *Boyd v. Bank of America*, 2014 WL 6473804, at *11 (C.D. Cal. 2014) (awarding one-third of fund, which was a 2.58 multiplier of lodestar); *Hopkins v. Stryker Sales Corp*., No. 11-CV-02786-LHK, 2013 WL 496358, at *6 (N.D. Cal.

[11] A true and correct copy of Plaintiff's Counsel's billing records are attached as Exhibit #2 to the Declaration of Kyle Nordrehaug, filed herewith.

Feb. 6, 2013) (approving fee award that represented a multiplier of 2.76 as falling within the "majority" range for risk multipliers).

Third, consideration of the enhancement factors justify the enhancement of the lodestar. Courts multiply the lodestar by a factor to account for the risk of non-payment, delay in payment, the quality of work, and the novelty and difficulty of the issues involved. See *Ketchum v. Moses*, 24 Cal.4th 1122, 1132 (2001). Failure to apply a risk multiplier in cases that meet these criteria is an abuse of discretion. *Stetson v. Grissom*, 821 F.3d 1157, 1166 (9th Cir. 2016).

Finally, as to litigation expenses, Plaintiff's Counsel will be recovering litigation expenses in the total amount of $25,633.90 which is less than the $35,000 allocation for costs in the Agreement, so the difference of $9,366.10 will be added to the Net PAGA Settlement Amount. These expenses are documented in the accompanying Declaration of Nordrehaug at ¶9.

VII. CONCLUSION

Based on the foregoing, Plaintiff respectfully requests this Court approve the PAGA settlement as set forth in the Agreement and enter the proposed order and judgment submitted herewith.

Dated: August 8, 2025

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: */s/ Kyle Nordrehaug*
Kyle Nordrehaug
Attorney for Plaintiff