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Attorneys for Plaintiff MARQUITA N. WOOLDRIDGE,
on behalf of herself and current and former aggrieved employees

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

MARQUITA N. WOOLDRIDGE, on behalf of
herself and current and former aggrieved
employees

Plaintiff,

vs.

AGVA, LLC; and DOES 1 to 100, inclusive,

Defendants.

Case No.: 23STCV13199

Related Case No.: 23STCV07309

PAGA ACTION

[Assigned for All Purposes to the Hon. Theresa M. Traber; Dept. 1]

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR APPROVAL OF PRIVATE
ATTORNEYS GENERAL ACT
SETTLEMENT**

*[Filed concurrently with the Declarations in
Support thereof; [Proposed] Order]*

Hearing Information:

Date: March 6, 2026

Time: 10:30 a.m.

Dept.: 1

1 **TO THE HONORABLE COURT, TO ALL PARTIES, AND TO THEIR COUNSEL**
2 **OF RECORD: NOTICE IS HEREBY GIVEN** that on March 6, 2026, at 10:30 a.m. in Department
3 1 of the Superior Court of California, County of Los Angeles– Spring Street Courthouse, located at
4 312 North Spring Street, Los Angeles, CA 90012. Plaintiff MARQUITA N. WOOLDRIDGE
5 (“Plaintiff”) will move for an order granting approval of the proposed settlement on the terms and
6 conditions set forth in the Private Attorney General Act (Labor Code § 2698, *et seq.*) Settlement
7 Agreement (the “Settlement Agreement”) between Plaintiff, on the one hand, and Defendant AGVA,
8 LLC (“Defendant”), on the other hand. A copy of the Settlement Agreement is attached as **Exhibit**
9 **1** to the Declaration of Paolo Policastro in Support of Plaintiff’s Motion for Approval of Private
10 Attorneys’ General Act Settlement (“Policastro Dec.”).

11 **Notice to the LWDA:** On September 9, 2025, Plaintiff’s Counsel filed the settlement
12 agreement with the LWDA. (Policastro Dec. ¶ 60.) On February 11, 2026, Plaintiff’s Counsel filed
13 the revised moving papers with the LWDA in order to provide notice of the upcoming hearing and
14 inform the LWDA regarding the end date for the PAGA period. (Policastro Dec. ¶ 61)

15 The motion is based on this Notice of Motion and Motion, the Memorandum of Points and
16 Authorities, the Declaration of Paolo Policastro, all other pleadings and papers on file in this action,
17 and any oral argument or other matter that may be considered by the Court.

18
19 Date: February 11, 2026

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

20
21 By: /s/Paolo Policastro
Joseph Lavi, Esq.
22 Vincent C. Granberry, Esq.
Melanie S. Rodriguez, Esq.
23 Paolo Policastro, Esq.
Attorneys for PLAINTIFF MARQUITA N.
24 WOOLDRIDGE, on behalf of herself and other
aggrieved employees
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff MARQUITA N. WOOLDRIDGE (“Plaintiff”) respectfully submits this memorandum
4 in support of her motion for approval of the settlement of this action pursuant to the Private Attorneys
5 General Act of 2004, Labor Code section 2698, et seq. (hereinafter “PAGA”). Plaintiff seeks entry
6 of a proposed order and judgment granting approval of the PAGA settlement.

7 As consideration for this settlement, Defendant AGVA, LLC will fund a non-reversionary,
8 common fund settlement of \$105,000.00 (the “Settlement Amount”), which includes: Individual
9 PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel
10 Litigation Expenses Payment, PAGA Representative Service Payment, and the Administrator’s
11 Expenses Payment.

12 The entire Net Settlement Amount is for the payment of civil penalties under PAGA. The Net
13 Settlement Amount shall be allocated for payment of civil penalties and shall be distributed 75% to
14 the LWDA and 25% to the aggrieved employees. (Lab. Code §2699 former subd. i [civil penalties
15 recovered by aggrieved employees shall be distributed as follows: 75 percent to the [LWDA] ...; and
16 25 percent to the aggrieved employees]). As set forth below, Plaintiff believes this is a fair result for
the PAGA litigation.

17 **II. SUMMARY OF LITIGATION**

18 **A. The Parties**

19 Plaintiff worked as an hourly non-exempt certified nurse assistant from approximately June
20 16, 2021, to April 25, 2023. Defendant AGVA, LLC operates a skilled nursing facility located in
21 Los Angeles County. Based on the informal discovery produced by Defendant prior to mediation,
22 there were approximately 269 non-exempt hourly employees who worked for the Defendant from
23 April 4, 2022, through January 19, 2024. (Policastro Dec. ¶ 7.)

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B. The Complaint and Allegations

On April 4, 2023, Plaintiff submitted a letter to the California Labor and Workforce Development Agency (“LWDA”) to notify the LWDA pursuant to the Private Attorneys General Act of 2004, Labor Code section 2698, et seq. (“PAGA”) of Plaintiff’s intent to seek civil penalties under PAGA for violations of the Labor Code. (Policastro Dec. ¶ 8.) In conjunction with this Motion, Plaintiff is providing updated notice to the LWDA regarding the hearing date of this Motion and the PAGA period end date.

On June 9, 2023, Plaintiff commenced this Action by filing a Complaint alleging a single cause of action for Civil Penalties Pursuant to the Private Attorneys General Act of 2004 (“PAGA”) for the following claims against Defendants: (1) failure to pay for all hours worked at the legal minimum wage; (2) failure to pay for overtime hours worked at the overtime rate of pay; (3) failure to pay wages for to hourly non-exempt employees for workdays that Defendants provide legally required and compliant meal periods; (4) failure to pay wages for to hourly non-exempt employees for workdays that Defendants provide legally required and compliant rest periods; (5) failure to timely pay earned wages during employment; (6) failure to provide complete and accurate wage statements; (7); failure to pay employees all wages due at time of termination/resignation. (Policastro Dec. ¶ 9.)

At all times, Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint, and denies any and all liability for the causes of action alleged. (Policastro Dec. ¶ 10.)

C. Production of Directly Relevant Formal and Informal Discovery and Legal Analysis by Parties' Counsel

On May 2, 2024, Plaintiff and Defendant participated in an all-day mediation presided over by Monique Ngo-Bonnici, Esq. The Parties did not reach a settlement at the conclusion of the mediation. However, the mediator later issued a proposal related to settlement, which the Parties accepted on May 19, 2025, as memorialized herein. Plaintiff and Plaintiff’s Counsel concluded—after considering the sharply disputed factual and legal issues involved on the PAGA claims, the risks attending further prosecution, and the benefits to be received pursuant to the compromise and settlement of the action as set forth in the agreement—that settlement was in the best interest of the representative Plaintiff, the LWDA, and the aggrieved employees and is fair and reasonable and furthers the purpose of the PAGA to enforce the Labor Code. (Policastro Dec. ¶ 11.)

1 In preparation for mediation, Plaintiff obtained, through informal discovery, time records, payroll
2 records; wage statements; employee handbooks; corporate policies; including those relating to
3 timekeeping, meal and rest periods, overtime, compensation, wage statements, and reimbursement of
4 incurred expenses; and information relating to the size and scope of Aggrieved Employees, as well as data
5 permitting Plaintiff to fully understand the nature and scope of the allegations in the Operative Complaint,
6 including approximately 20% of time and wage records which were analyzed by Plaintiff's Counsel.
7 Based on the foregoing data and on their own independent investigation and evaluation, Plaintiff's
8 Counsel is of the opinion that the settlement with Defendant for the consideration and on the terms set
9 forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the LWDA
10 and PAGA Employees in light of all known facts and circumstances, including the risk of significant
11 delay, uncertainty associated with litigation, various defenses asserted by Defendants, and potential
12 appellate issues. Defendant and counsel for Defendant also agree that the Settlement is fair. (Policastro
Dec. ¶ 12.)

13 The Parties have undertaken reasonable investigation of the facts and law during the pendency
14 of this action. Plaintiff's Counsel diligently conducted and pursued an investigation of the PAGA
15 claims against Defendants, including research of the applicable law and the potential defenses and
16 review of relevant documents. Plaintiff obtained directly relevant data, including Defendant's written
17 policies related to the claims at issue in Plaintiff's Complaint. Plaintiff also received the number of
18 aggrieved employees and sampling of payroll data for Defendant's potentially aggrieved employees
19 during the PAGA period. (Policastro Dec. ¶ 13.)

20 Thereafter, the Parties negotiated and finalized the terms of a settlement memorialized in a long-
21 form PAGA Settlement Agreement. A true and correct copy of the fully executed PAGA Settlement
22 Agreement is attached as **Exhibit 1** to the Declaration of Paolo Policastro. (Policastro Dec. ¶ 14.)

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III. SUMMARY OF SETTLEMENT

A. Terms Of Settlement

The Parties have agreed to settle the Lawsuit by agreement upon the terms and conditions and for the consideration set forth in the Settlement Agreement a copy of which is attached to the concurrently filed Declaration of Paolo Policastro as **Exhibit “1”**.

A summary of the key terms of the Settlement is as follows:

1. Aggrieved Employees: means all non-exempt employees who worked at AGVA, LLC in California at any time during the PAGA Period. (Settlement § 1.4)
2. “PAGA Period” means the period from June 9, 2022, through June 30, 2024. (Settlement § 1.24.)
3. Gross PAGA Settlement Amount: means One Hundred and Five Thousand Dollars and Zero Cents (\$105,000.00), which is the total amount Defendant AGVA agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees, PAGA Counsel Litigation Expenses, PAGA Representative Service Payment, and the Administration Expenses Payment. (Settlement § 1.13.)
4. Net PAGA Settlement Amount: means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Representative Service Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid 75% to the LWDA as LWDA PAGA Payment and 25% to Aggrieved Employees as Individual PAGA Payments. (Settlement § 1.18.)
5. To Plaintiff: PAGA Representative Service Payment to the PAGA Representative of not more than \$5,000.00 (in addition to any Individual PAGA Payment that the PAGA Representative is entitled to receive as an Aggrieved Employee). Defendant will not oppose Plaintiff's request for a PAGA Representative Service Payment that does not exceed this amount. If the Court approves a PAGA Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the PAGA Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the PAGA Representative Service Payment, and agrees to indemnify Defendant and hold it harmless for any responsibility, liability, claim, complaint, damages, penalties, interest or any other actual or potential damages arising from Plaintiff's obligations to pay taxes owed on the PAGA Representative Service Payment. (Settlement § 3.2.1)
6. Attorneys' Fees and Costs: A PAGA Counsel Fees Payment of not more than Thirty-Five Percent of the Gross Settlement Amount, which is currently estimated to be Thirty-Six Thousand Seven Hundred and Fifty Dollars and Zero Cents (\$36,750.00), and a PAGA Counsel Litigation Expenses Payment of actual, reasonable costs. Defendant shall not oppose requests for PAGA Counsel Fees Payment of not more than 35% of the Gross Settlement Amount and for a PAGA Counsel Litigation

Expenses Payment which does not exceed \$35,311.63. In the event that the escalator clause described in Paragraph 8 herein is triggered and the Gross Settlement Amount is increased, the amount of PAGA Counsel Fees Payment will increase in order to remain 35% of the Gross Settlement Amount. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099-MISC Forms. PAGA Counsel agrees to hold Defendant harmless, and indemnify Defendant, from any dispute or controversy regarding taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment. (Settlement § 3.2.2.)

7. “Administrator”: means Apex Class Action LLC, the neutral entity the Parties have agreed to appoint to administer the Settlement. (Settlement § 1.2)
8. To the Administrator: An Administration Expenses Payment not to exceed \$5,490.00, except for a showing of good cause and as approved by the Court. To the extent that the Administrator’s expenses are less or the Court approves payment less than \$5,490.00, the Administrator will retain the remainder in the Net Settlement Amount.(Settlement § 3.2.3.)
9. Release of PAGA Claims. Upon approval by the Court and upon funding of the Gross Settlement Amount, Plaintiff Marquita N. Wooldridge, the state of California, and all Aggrieved Employees shall release the Released Parties from any and all claims and/or causes of action for PAGA penalties and other relief available pursuant to PAGA against the Released Parties that were pled or that could have been pled based on the facts asserted in the Operative Complaint and the PAGA Notice Letter dated April 4, 2023, including but not limited to any claims for (1) failure to pay wages for all hours worked at minimum wage in violation of Labor Code Sections 1194 and 1197; (2) failure to pay overtime wages for daily overtime worked in violation of Labor Code Sections 510,1194, and 1198; (3) failure to authorize or permit meal periods or to provide meal period premiums in violation of Labor Code Sections 512 and 226.7; (4) failure to authorize or permit rest periods or to provide rest period premiums in violation of Labor Code Section 226.7; (5) failure to timely pay earned wages during employment in violation of Labor Code section 204; (6) failure to provide complete and accurate wage statements in violation of Labor Code Section 226; (7) failure to timely pay all earned wages and final paychecks due at time of separation of employment in violation of Labor Code Sections 201, 202, 203, and 204; and (8) any and all claims arising out of the applicable Wage Orders.(Settlement ¶ 5.1)
10. Aggrieved Employee Size Estimates and Escalator Clause. Defendant has represented that there are 5,521 pay periods worked by aggrieved employees during the PAGA Release Period as of May 2, 2024. This is a material representation for Plaintiff to enter into this agreement. Should the actual number of pay periods during the PAGA Release Period increase by more than 750 pay periods, Defendant shall have the option of (a) increasing the Gross Settlement Amount by the percentage increase in the number of pay periods worked by the aggrieved employees above 6,271 pay periods; or (b) rolling back the end of the PAGA Release Period to the date in which 6,271 pay periods is met. (Settlement § 8.) Defendant elected to roll back the PAGA Release Period to June 30, 2024, which is the date 6,271 pay periods was met.

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B. Notice And Distribution of PAGA Funds

Defendant AGVA, LLC shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than thirty (30) days after the Effective Date. (Settlement §4.2.)

Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and the PAGA Representative Service Payment. Disbursement of the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and the PAGA Representative Service Payment shall not precede disbursement of Individual PAGA Payments. (Settlement § 4.3.)

The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Administrator must update the recipients' mailing addresses using the National Change of Address Database. (Settlement § 4.3.1.)

IV. ARGUMENT IN FAVOR OF APPROVAL

A. The Proposed PAGA Settlement Should Be Approved

It is well established that PAGA serves to augment the limited enforcement capability of the Labor and Workforce Development Agency by empowering employees to bring actions to enforce California's labor standards. (*Iskanian v. CLS Transportation L.A., LLC* (2014) 59 Cal.4th 348, 383; accord *Arias v. Sup. Ct.* (2009) 46 Cal.4th 969, 986 ["The act's declared purpose is to supplement enforcement actions by public agencies, which lack adequate resources to bring such actions themselves."].) In the similar context of wage and hour class actions, the Courts review settlements to determine whether the proposed settlement is within the range of reasonableness considering the strength of the claims against the proposed settlement, the risk, expense, complexity and likely duration of further litigation, the extent of discovery completed and the stage of the proceedings, and the experience and views of counsel. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) Furthermore, courts must give "proper deference to the private consensual decision of the parties"

1 because "the court's intrusion upon what is otherwise a private consensual agreement negotiated
2 between the parties to a lawsuit must be limited to the extent necessary to reach a reasoned judgment
3 that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating
4 parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned."
5 (*Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1027.)

6 In this case, the settlement was reached through arms-length bargaining, and sufficient
7 investigation was performed to allow counsel to act intelligently. (Policastro Dec. ¶ 15.) As described
8 above, the parties thoroughly investigated and evaluated the factual strengths and weaknesses of this case
9 before reaching the proposed settlement and engaged in sufficient investigation and discovery,
10 appropriate to the nature of the claims and in support of the settlement. Accordingly, the settlement came
11 only after the case was fully investigated by counsel. This litigation, therefore, had reached the stage
12 where "the Parties certainly have a clear view of the strengths and weaknesses of their cases" sufficient
13 to support the settlement. (*Boyd v. Bechtel Corp.* (N.D. Cal. 1979) 485 F. Supp. 610, 617.)

14 The settlement negotiations have been at all times adversarial and non-collusive in nature.
15 Indeed, continued good faith but occasionally contentious negotiations were required to reach an
16 agreement through mediation and with significant assistance from an experienced mediator. (Policastro
17 Dec. ¶ 16.) While Plaintiff believes in the merits of her case, she also recognizes the inherent risks of
18 litigation and understands the benefit of settlement and providing funds immediately as opposed to
19 delaying payment or risking an unfavorable decision on summary adjudication/judgment, at trial, and/or
20 the damages awarded, and/or appeal, all of which have the potential to eliminate any relief. (*Id.*)

21 Further, experienced counsel, operating at arms-length, have weighed the strengths of the case
22 and examined all of the issues and risks of litigation and endorse the proposed settlement. The view
23 of the attorneys actively conducting the litigation "is entitled to significant weight" in deciding
24 whether to approve the settlement. (*Fisher Bros. v. Cambridge Lee Industries, Inc.* (E.D. Pa. 1985)
25 630 F.Supp. 482, 488; *Ellis v. Naval Air Rework Facility* (N.D. Cal. 1980) 87 F.R.D. 15, 18, *affd.* 661
26 F.2d 939 (9th Cir. 1981); *Boyd*, 485 F.Supp. at 617.) Counsel is experienced in similar litigation and
27 approve the settlement. (Policastro Dec. ¶ 17.)

28 There are significant legal uncertainties associated with cases such as this, as they can be
factually complex and require protracted litigation to resolve. A settlement is not judged solely against

1 what might have been recovered had plaintiff prevailed at trial, nor does the settlement have to provide
2 100% of the damages sought to be fair and reasonable. (*Linney v. Cellular Alaska Partnership* (9th
3 Cir. 1998) 151 F. 3d 1234, 1242; *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 246
4 & 250; *Rebney v. Wells Fargo Bank* (1990) 220 Cal.App. 3d 1117, 1139.) Instead, “[c]ompromise is
5 inherent and necessary in the settlement process ... even if the relief afforded by the proposed
6 settlement is substantially narrower than it would be if the suits were to be successfully litigated, this
7 is no bar to a class settlement because the public interest may indeed be served by a voluntary
8 settlement in which each side gives ground in the interest of avoiding litigation” (*Wershba*, 91
9 Cal.App.4th at 250.) (Policastro Dec. ¶ 18.)

10 In evaluating the reasonableness of the Settlement in this case, our office thoroughly
11 evaluated the merits of this case and considered the nature and purpose of PAGA as well as
12 comparable PAGA settlements reached by our firm, and those obtained by other firms. (Policastro
13 Dec. ¶ 19.)

14 As consideration for this settlement, Defendant will fund a non-reversionary, common fund
15 settlement of \$105,000.00 (the “Settlement Amount”), which includes: payment to the California
16 Labor and Workforce Development Agency (“LWDA”) and the aggrieved employees, attorneys' fees
17 and costs, and settlement administration costs. (Policastro Dec. ¶ 20.)

18 **B. The Proposed Settlement is a Reasonable Compromise of Claims**

19 To evaluate a settlement, the trial court must receive "basic information about the nature
20 and magnitude of the claims in question and the basis for concluding that the consideration being
21 paid for the release of those claims represents a reasonable compromise." (See *Kullar v. Foot Locker*
22 *Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.) In evaluating the reasonableness of the Settlement
23 in this case, our office thoroughly evaluated the merits of this case and considered the nature and
24 purpose of PAGA as well as comparable PAGA settlements reached by our firm, and those obtained
25 by other firms. (Policastro Dec. ¶ 21.)

26 Here, the Gross Settlement Amount is appropriate in light of the underlying principles of
27 PAGA, i.e., “to ensure that settlements involving penalties arising out of Labor Code Section 2699
28 do not undercut the dual statutory purposes of punishment or deterrence, or result in unjust,
arbitrary, and oppressive, or confiscatory settlements.” (See July 29, 2004 Letter by Senator Dunn

1 to the President Pro Tem of the Senate Re SB 1809). The non-reversionary Settlement Amount of
2 \$105,000.00 represents an excellent recovery that is large enough to achieve PAGA's purposes.
3 The proposed Settlement provides a fair and reasonable monetary recovery for the LWDA and the
4 Aggrieved Employees in the face of hotly disputed claims. (Policastro Dec. ¶ 22.)

5 The Net Settlement Amount is for the payment of civil penalties under PAGA. The Net
6 Settlement Amount shall be allocated for payment of civil penalties and shall be distributed 75% to
7 the LWDA and 25% to the aggrieved employees. Lab. Code §2699 former subd. (i) [civil penalties
8 recovered by aggrieved employees shall be distributed as follows: 75 percent to the [LWDA] ...; and
9 25 percent to the aggrieved employees]. Plaintiff estimates a Net Settlement Amount of
10 approximately \$39,433.64. Plaintiff estimates the LWDA will receive approximately \$29,575.23
11 (\$39,433.64 X .75 to LWDA = \$29,575.23), and Plaintiff estimates \$9,858.41 will be distributed pro
12 rata to the aggrieved employees based on the number of pay periods worked during the PAGA Period
13 (\$39,433.64 X .25 = \$9,858.41). (Policastro Dec. ¶ 23); As set forth below, Plaintiff believes this is
14 a fair result for the PAGA litigation.

15 Based on the informal discovery produced by Defendant prior to mediation for the dates of
16 April 4, 2022, through January 19, 2024, Defendant employed approximately 269 aggrieved
17 employees over the course of approximately 5,521 pay periods. Based on the data, the maximum
18 exposure for the PAGA claim amounted to approximately \$5,701,250.00, which assumes that a
19 violation for each claim could be proven during each pay period and application of subsequent
20 violation penalties. As discussed below, this degree of exposure is unlikely to be proven, and even
21 if proved, significantly more than is likely to be awarded or recovered. (Policastro Dec. ¶ 24). This
22 amount was calculated based on the PAGA penalty calculations as follows:

23 **1. Failure to Pay Minimum and Overtime Wages for All Hours Worked:**

24 In the PAGA exhaustion letter to the LWDA, as well as the Complaint, Plaintiff alleged
25 since the COVID-19 pandemic, Plaintiff and similarly situated employees were required to line up
26 to wait to undergo and undergo off-the-clock COVID-19-related medical screenings, including
27 temperature checks and COVID-19-related medical questionnaires prior to being permitted to
28 clock-in for their start shifts. Plaintiff also alleged that Defendant failed to include all remuneration
including, but not limited to, for example "emergency pay" when calculating Plaintiff's and other

1 current and former aggrieved California-based hourly non-exempt employees' regular rate of
2 compensation for the purpose of calculating overtime wages. (Policastro Dec. ¶ 25).

3 Based on Plaintiff's expert's analysis of the data provided by Defendant, Defendant
4 employed approximately 269 current and former employees over the course of approximately 5,521
5 pay periods. Therefore, Defendant's estimated maximum PAGA exposure for this claim amounts
6 to **\$1,077,300.00**, which assumes that a violation for each claim could be proven during each pay
7 period. (Policastro Dec. ¶ 26).

8 This amount was calculated based on the PAGA penalty calculation formula - (Initial
9 violation penalty x total number of employees in the one-year period) + (subsequent violation
10 penalty x [total number of pay periods in the one-year period – total number of employees in the
11 one-year period]) as follows: (269 employees X \$100 initial violations = \$26,900.00) + ([5,521 pay
12 periods - 269 employees = \$5,252.00] X \$200/subsequent violations = \$1,050,400.00) =
13 **\$1,077,300.00** (Policastro Dec. ¶ 27.)

14 **2. Failure to Provide All Meal Periods Pursuant to Labor Code Sections 226.7**
15 **and 512:**

16 Plaintiff alleged that Defendant failed to provide Plaintiff and similarly situated
17 employees timely, uninterrupted, duty-free meal breaks of at least 30 minutes for every five hours
18 worked. Plaintiff also alleged that Defendant failed to include all remuneration including, but not
19 limited to, for example, "emergency pay" when calculating Plaintiff's and other current and former
20 aggrieved California-based hourly non-exempt employees' regular rate of compensation for the
21 purpose of calculating meal period premium wages. (Policastro Dec. ¶ 28.)

22 Defendant's PAGA exposure for this claim amounts to **\$1,077,300.00**. This amount was
23 calculated as follows: (\$100 initial violations X 269 employees = \$26,900.00) + (\$200/subsequent
24 violations X [5,521 pay periods – 269 employees = 5,252.00]) = \$1,050,400.00) = \$1,077,300.00.
[Penalty Amounts set by Lab. Code, § 2699, former subd. (f)(2).] (Policastro Dec. ¶ 29.)

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1 **3. Failure to Provide All Rest Periods Pursuant to Labor Code Section 226.7:**

2 Plaintiff alleged that Defendant required her and similarly situated employees to
3 remain on the premises during their rest periods, resulting in rest periods that were not duty-free.
4 Additionally, Plaintiff alleged that Defendant failed to include all remuneration including, but not
5 limited to, for example, “emergency pay” when calculating Plaintiff’s and other current and former
6 aggrieved California-based hourly non-exempt employees’ regular rate of compensation for the
7 purpose of calculating rest period premium wages. (Policastro Dec. ¶ 30.)

8 Defendant’s PAGA exposure for this claim amounts to **\$1,077,300.00**. This amount was
9 calculated as follows: (\$100 initial violations X 269 employees = \$26,900.00) + (\$200/subsequent
10 violations X [5,521 pay periods – 269 employees = 5,252]) = \$1,050,400.00) = \$1,077,300.00.
11 [Penalty Amounts set by Lab. Code, § 2699, former subd. (f)(2).]]. (Policastro Dec. ¶ 31.)

12 **4. Failure to Timely Pay Earned Wages During Employment Pursuant to Labor**
13 **Code Section 204:**

14 Based on the foregoing allegations, Plaintiff alleged that Defendant failed to timely pay
15 Plaintiff and the aggrieved class their earned wages including minimum wage, overtime wages, meal
16 period premium wages and rest period premium wages. Therefore, the Defendant’s maximum
17 exposure for this claim amounted to **\$1,077,300.00**. This was calculated as follows: (\$100 initial
18 violations X 269 employees = \$26,900.00) + (\$200/subsequent violations X [1,521 pay periods – 269
19 employees = \$5,252]) = \$1,050,400.00) = **\$1,077,300.00**. [Penalty Amounts set by Lab. Code § 210.]
20 (Policastro Dec. ¶ 32.)

21 **5. Failure to Provide Complete and Accurate Wage Statements Pursuant to**
22 **Labor Code Section 226:**

23 Based on the foregoing allegations, Plaintiff alleged Defendant failed to provide complete and
24 accurate wage statements based on all minimum wages, overtime wages, meal and rest period
25 premiums owed, which were not reflected in the wage statements. Therefore, Defendant’s maximum
26 exposure for this claim amounted to **\$1,380,250.00**. This amount was calculated as follows: 5,521
27 pay periods X \$250 = **\$1,380,250.00**. [Penalty Amounts set by Lab. Code, § 226.3.] (Policastro Dec.
28

¶ 33.)

6. Failure to Timely Pay All Wages After Separation of Employment Pursuant to Labor Code Sections 201 and 202:

As a result of the foregoing allegations of wage, meal period, and rest period violations above, Plaintiff alleged that Defendant failed to timely pay all wages to employees following separation of employment by not paying employees for all time worked and for failing to pay meal and rest period premiums owed. Plaintiff estimated **\$11,800.00** in civil penalties for this claim (approximately 118 former employees (as of the date that Defendant provided information prior to mediation) x \$100 for violation at termination = **\$11,800.00**). (Policastro Dec. ¶ 34.)

C. Defendant's Defenses to Plaintiff's Claims:

Defendant would argue that Plaintiff is not entitled to recover PAGA penalties at the subsequent violation rate of \$200 per pay period. California's appellate courts have held that "[u]ntil the employer has been notified that it is violating a Labor Code provision (whether or not the commissioner or court chooses to impose penalties), the employer cannot be presumed to be aware [of the violation]" and therefore, until a Court or the Commissioner issues a finding of a violation, the initial \$100 violation rate applies for each pay period in which the alleged violation occurred. *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1209; accord *Amalgamated Transit Union Local 1309 v. Laidlaw Transit Service, Inc.* (S.D. Cal. Aug. 10, 2009) 2009 WL 2448430, at *9 ("[u]nder California law, courts have held that employers are not subject to heightened penalties for subsequent violations unless and until a court or commissioner notifies the employer that it is in violation of the Labor Code"). (Policastro Dec. ¶ 35.)

Plaintiff understood Defendant's position to be, using the most recent court of appeal decision on the topic of evaluating the value of a PAGA claim (*Carrington v. Starbucks, supra*) (i.e., unstacked at \$100.00 per pay period X 5,521 pay periods at issue), that it is likely Defendant's maximum exposure is actually only \$552,100.00. Defendant could argue that this Court would use the *Carrington* valuation as a ceiling for assessing PAGA penalties and that this amount (i.e., \$552,100.00. was its true "worst case scenario" exposure). As such, the settlement amount of \$105,000.00 is approximately **19%** of the "worst case scenario" exposure. This exposure estimate

1 presumes that the Court would not reduce the penalties available on an equitable basis below the \$100
2 per pay period estimate, as in *Carrington*, where the Court further reduced the penalties to \$5 per pay
3 period. (Policastro Dec. ¶ 36.)

4 Practically speaking, if Plaintiff continued litigating this matter, the Plaintiff, LWDA, and
5 employees potentially could have received nothing if the Court had agreed with Defendant's position,
6 especially in light of the volatility of this area of law and the aforementioned defenses. The settlement
7 is reasonable in light of the risks involved in this case—including the prospect of a potential adverse
8 summary adjudication ruling, defenses to the case, potential appeal, and potential costs which could
9 be forced on our client, if Plaintiff were not successful. (Policastro Dec. ¶ 37.)

10 Plaintiff's Counsel is convinced that the proposed settlement is fair based on the negotiations
11 and a detailed knowledge of the issues present in this action. The length and risks associated with a
12 motion for summary adjudication, trial, and other normal perils of litigation have impacted the value
13 of the claims and were all weighed in reaching the proposed settlement. In light of the above, the
14 proposed Settlement is well within the range of reasonableness and should be granted approval.
15 Plaintiff believes that in providing employees with relief and obtaining penalties for the LWDA, this
16 settlement furthers the purpose of PAGA to enforce compliance with the Labor Code and should be
17 approved. (Policastro Dec. ¶ 38.)

18 Accordingly, the gross PAGA penalty payment is highly reasonable in light of the risks and
19 uncertainties associated with the PAGA claims in this case. The Settlement commits Defendant to
20 pay a sum large enough to punish Defendant for alleged violations and to deter such alleged conduct
21 in the future. At the same time, in light of the alleged violations and defenses thereto, it is not so large
22 as to be unjust, oppressive, or confiscatory. Based upon the foregoing, the proposed settlement is fair,
23 reasonable, and in the best interest of the state of California and the Aggrieved Employees.
24 (Policastro Dec. ¶ 39.)

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1 **V. THE REQUESTED ATTORNEYS' FEES AND COSTS SHOULD BE APPROVED**

2 Plaintiff's counsel seeks \$36,750.00, thirty-five percent (35%) of the Gross Settlement
3 Amount, in fees for the time spent litigating this matter and reimbursement of expenses of \$18,326.36
4 incurred in the prosecution of this action. The request is for fair compensation for undertaking
5 complex, risky, expensive, and time-consuming litigation on a contingent fee basis. (Policastro Dec.
6 ¶ 40.)

7 **A. Plaintiff's Attorneys' Fee Request of \$36,750.00 Thirty Five percent of the**
8 **Gross Settlement, Is Proper Under the Common Fund Doctrine**

9 California state and federal courts have recognized that in actions creating a common fund
10 benefiting others as well as a plaintiff, an appropriate method for determining an award of attorneys' fees
11 is based on a percentage of the total value of benefits provided by the litigation. (*Laffitte v. Robert Half*
12 *Int'l Inc.* (2016) 1 Cal.5th 480, 497-499, 503-506; *Serrano v. Priest* (1977) 20 Cal.3d 25, 34; *Boeing Co.*
13 *v. Van Gemert* (1980) 444 U.S. 472, 478; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1977) 577 F.2d 759,
14 769.) Such "fee spreading" assures that all those benefited by the litigation pay their fair share of
15 obtaining the recovery. (*Lealao v. Beneficial Calif., Inc.* (2000) 82 Cal.App.4th 19, 26.) (Policastro Dec.
16 ¶ 41.)

17 In *Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal.5th 480, a wage and hour class action wherein
18 Counsel obtained a \$19 million non-reversionary settlement on behalf of the class, the California
19 Supreme Court approved the use of the percentage of fund or common fund method to award one-third
20 of the settlement amount or \$6,333.333.33 to Counsel for attorneys' fees. The Court stated:

21 Whatever doubts may have been created by *Serrano III, supra*, 20 Cal.3d 25,
22 [], or the Court of Appeal cases that followed, we clarify today that use of the
23 percentage method to calculate a fee in a common fund case, where the award
24 serves to spread the attorney fee among all the beneficiaries of the fund, does
25 not in itself constitute an abuse of discretion. We join the overwhelming
26 majority of federal and state courts in holding that when class action litigation
27 established a monetary fund for the benefit of the class members, and the trial
28 court in its equitable powers awards Counsel a fee out of that fund, the court
may determine the amount of a reasonable fee by choosing an appropriate
percentage of the fund created. The recognized advantages of the percentage
method - 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 it provides counsel to seek an early
settlement and avoid unnecessarily prolonging the litigation [] convince us the
percentage method is a valuable tool that should not be denied our trial courts.
(*Laffitte*, 1 Cal.5th at 503.) (Policastro Dec. ¶ 42.)

1 Under the “common fund” doctrine, “a litigant or a lawyer who recovers a common fund for
2 the benefit of persons other than himself or his client is entitled to a reasonable attorney’s fee from
3 the fund as a whole.” (*Boeing*, 444 U.S. at 478.) The Supreme Court explained: “The doctrine rests
4 on the perception that persons who obtain the benefit of a lawsuit without contributing to its costs are
5 unjustly enriched at the successful litigants’ expense. Jurisdiction over the fund involved in the
6 litigation allows a court to prevent this inequity by assessing attorney’s fees against the entire fund,
7 thus spreading fees proportionately among those benefitted by the suit.” (*Id.*) Thus, the common fund
8 doctrine ensures that each beneficiary of the settlement contributes proportionately to the payment of
9 the attorneys’ fees recovered from monetary payments that the prevailing party recovered in the
10 lawsuit. (*Stanton v. Boeing* (9th Cir. 2003) 327 F.3d 938, 967, citing *Wininger v. SI Mgmt. L.P.* (9th
11 Cir. 2002) 301 F.3d 1115.) (Policastro Dec. ¶ 43.)

12 In common fund cases, the percentage approach is preferable to the lodestar because: (1) it
13 aligns the interests of Counsel and absent class members; (2) it encourages efficient resolution of the
14 litigation by providing an incentive for early, yet reasonable, settlement; and (3) it reduces the
15 demands on judicial resources. (*Laffitte*, 1 Cal.5th at 486-487; see *Lealao*, 82 Cal.App.4th at 31 n.5
16 citing *In re Activision Sec. Litig.* (N.D. Cal 1989) 723 F. Supp. 1373, 1375, 1378-79.) (Policastro
17 Dec. ¶ 44.)

18 A percentage of the common fund is appropriate here given that PAGA actions are on behalf
19 of a large number of aggrieved employees, similar to a class action. As noted above in *Laffitte*, this
20 method is preferred to the lodestar method. Plaintiff’s counsel has been acting on behalf of the
21 aggrieved employees for a significant amount of time on a contingent fee basis and has achieved a
22 positive result for both the group of aggrieved employees and the State of California. The settlement
23 was reached quickly and efficiently, which has resulted in less of the Court’s resources being used
24 to litigate the action. The lodestar (described below) is merely a cross-check on the reasonableness
25 of the percentage sought by Plaintiff’s counsel. (Policastro Dec. ¶ 45.)

26 Furthermore, California appellate courts, while not expressly announcing a “benchmark,”
27 have instead found fees in the thirty-five percent (35%) range appropriate. (*See, Laffitte II*, 1 Cal.5th
28 at 506 (affirming award of 33% of the common fund); *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th

43, 66 n.11 (2008)("[e]mpirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery"); *Laffitte v. Robert Half Intern. Inc.* (2014) 180 Cal.Rptr.3d 136, 149 ("the trial court's use of a percentage of 33 1/3 percent of the common fund is consistent with, and in the range of, awards in other class action lawsuits.") Among other things, a 35% award is appropriate because "the amount of attorney's fees typically negotiated in comparable litigation should be considered in the assessment of a reasonable fee in representative actions Given the unique reliance of our legal system on private litigants to enforce substantive provisions of law through class ... actions, attorneys providing the essential enforcement services must be provided incentives roughly comparable to those negotiated in the private bargaining that takes place in the legal marketplace, as it will otherwise be economic for defendants to increase injurious behavior." *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 47 (emphasis added). Here, the legal marketplace for PAGA only settlements that result in a common fund provides for a fee award in the range of 35% (thirty-five percent). (Policastro Dec. ¶ 46.)

A fee of \$36,750.00, which constitutes 35% of the gross settlement, is within the range of reasonableness. (See *Laffitte*, 1 Cal.5th at 503-504 [approving common fund method used for attorneys' request of one-third of settlement].) Historically, courts have awarded percentage fees in the range of 20% to 50%, depending on the circumstances of the case. (See *In re Activision Sec. Litig.*, 723 F. Supp. at 1378.) Because Counsel's requested fee is reasonable and falls well within the historical range of attorney's fee awards under the common fund theory, the Court should approve the requested fees as reasonable pursuant to the common fund approach. (Policastro Dec. ¶ 47.)

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1 **B. Plaintiff's Fee Request Is Reasonable Under the Lodestar Method**

2 In a common fund settlement “[t]he lodestar method is merely a cross-check on the
3 reasonableness of a percentage figure.” (*Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043,
4 1050, n.5.) In this case, consideration of Counsel’s lodestar as a cross-check to the percentage figure
5 also strongly supports the reasonableness of the requested fee award. The base amount is then adjusted
6 in light of various factors. (*Serrano v. Priest*, 20 Cal.3d at 48.) (Policastro Dec. ¶ 48.)

7 In determining a lodestar, reasonable hours include, in addition to time spent during litigation,
8 the time spent before the action is filed, including time spent interviewing the clients, investigating
9 the facts and the law, and preparing the initial pleadings. (See *New York Gaslight Club, Inc. v. Carey*
10 (1980) 447 U.S. 54, 62.) Further, the fee award should include fees incurred to establish and defend
11 the attorneys’ fee claim. (*Serrano v. Unruh* (1982) 32 Cal.3d 621, 639.)

12 Plaintiff’s Counsel has spent a considerable amount of time extensively investigating,
13 researching, and litigating this matter, including but not limited to the following: reviewing Plaintiff’s
14 documents, speaking to Plaintiff, preparing the Notice to the LWDA, drafting and preparing the
15 complaint, and legal research into the viability of Plaintiffs’ claims; reviewing and researching
16 Defendant’s responsive pleadings; reviewing data, records, and documents produced via informal
17 discovery by Defendant prior to mediation; communicating with plaintiffs, defense counsel, the
18 mediator, and proposed settlement administrators; preparing for and attending mediation; preparing
19 the settlement agreement and moving papers for approval; negotiating and corresponding with
20 Defendant’s counsel in reaching the settlement at issue before the court; preparing and appearing for
21 approval. (Policastro Dec. ¶ 49)

22 Counsel’s total lodestar in this case as of the date of this motion is approximately \$81,757.00,
23 which exceeds the attorneys’ fees requested and allocated in the settlement, representing
24 approximately a 0.45 multiple relative to the amount requested. (Policastro Dec. ¶¶ 53-56.)
25 Counsel’s hourly rates are reasonable, Counsel’s Hourly Rate are reasonable, Counsel’s hours spent
26 are reasonable, and Plaintiff would even be entitled to a multiplier to account for the successful result
27 in this action and to compensate Plaintiff and her counsel for the contingent risk inherent in the
28 litigation and for the delay in receiving fees. (Policastro Dec. ¶ 50.)

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C. Counsel’s Hourly Rates and Hours Are Reasonable

The hourly rates of the attorneys—\$675 for Melanie S. Rodriguez, Malcolm E. Clayton, and Paolo Policastro; \$750 for Vincent C. Granberry, and \$1,000 for Joseph Lavi—are in line with rates approved for attorneys in this region with similar experience. (Policastro Dec. ¶¶ 51-58.) A reasonable hourly rate is the prevailing rate charged by attorneys of similar skill and experience in the relevant community. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal. 4th 1084, 1095.) When determining a reasonable hourly rate, courts may consider factors such as the attorney's skill and experience, the nature of the work performed, the relevant area of expertise, and the attorney's customary billing rates. (*Flannery v. California Highway Patrol* (1998) 61 Cal. App. 4th 629, 632.) Class Counsel’s skill and experience support their hourly rates. (Policastro Dec. ¶¶ 5-6; 54-58 [describing experience in employment law and class actions with Mrs. Rodriguez an attorney out of law school in 2019 and practicing law since 2020, Mr. Granberry out of law school and practicing law for over ten years, and Mr. Lavi, a founding partner and out of law school and practicing since 2000].)

The requested attorneys’ fees are justified here due to the contingent nature of the representation, the risks involved, the complexity of the issues, the high quality of legal work performed, and the excellent results obtained. After initially calculating the combined lodestar, the Court may adjust the lodestar based on several factors to “fix a fee at the fair market value for the particular action.” *Ketchum v. Moses* (2001) Cal.4th 1122, 1132; *Graham v. Daimler Chrysler Corp.* (2004) 34 Cal.4th 553, 574. These additional factors include the contingent risk of litigation, the novelty and complexity of the issues, and exceptional results obtained. *Ketchum*, 24 Cal.4th at 1132, Serrano III, 20 Cal.3d at 48. Moreover, the case involved significant risks of non-payment of attorneys’ fees and non-recovery of costs if the settlement was not granted approval, or if Plaintiff did not prevail. California courts consider the risks counsel takes in litigating a case where they may not prevail on the merits in granting attorneys’ fees awards. *See Graham v. Daimler Chrysler Corp.*, 34 Cal.4th 553, 583 (Cal. 2004). Thus, not only are Plaintiffs’ Counsel’s rates reasonable and typical, but the attorneys’ fees requested are also fair and reasonable. (Policastro Dec. ¶ 59.)

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1 **1. Counsel's Total Hours Are Reasonable**

2 In determining a lodestar, reasonable hours include, in addition to time spent during litigation,
3 the time spent before the action is filed, including time spent interviewing the clients, investigating
4 the facts and the law, and preparing the initial pleadings. (See *New York Gaslight Club, Inc. v. Carey*
5 (1980) 447 U.S. 54, 62.) Further, the fee award should include fees incurred to establish and defend
6 the attorneys' fee claim. (*Serrano v. Unruh* (1982) 32 Cal.3d 621, 639.)

7 **D. Plaintiff's Costs Request of \$18,326.36 Is Reasonable**

8 Plaintiff's Counsel requests \$18,326.36 in costs in this matter. This amount is reasonable and
9 incurred in the litigation of this matter. (See Policastro Dec. ¶ 60, **Exhibit 2**.) All costs were
10 reasonably incurred in prosecution of the lawsuit and paid on a contingency basis. (*Id.*) This amount
11 includes, but is not limited to, costs associated with Mediation, Arbitration, filing of the papers filed
12 and responded to in this matter, Los Angeles County Superior Court appearances, expert witness, and
13 depositions. Thus far, the total costs incurred are \$18,326.36, which is less than the Parties agreed
14 Plaintiff's Counsel could seek in the Settlement Agreement and will result in an increase in the Net
15 Settlement Amount payable to the State of California and Aggrieved Employees. Attached as
16 **EXHIBIT 2** [to Policastro Dec.] is a true and correct record of the costs incurred to date by Lavi &
17 Ebrahimian, LLP.

18 **E. Contributions of Plaintiff and Reasonableness of the Requested Service Award**

19 Both the State of California and the Aggrieved Employees are beneficiaries of a settlement
20 that would not have been made possible but for the effort and commitment of Plaintiff. The
21 Settlement Agreement provides that Plaintiff shall be paid a PAGA Representative Service Payment
22 in the amount not to exceed \$5,000.00 in recognition of her efforts and risks in prosecuting this matter.

23 Plaintiff has spent a significant amount of time litigating this action on behalf of the Aggrieved
24 Employees, including but not limited to: meeting with her attorneys, describing Defendant's policies
25 and practices, searching for and producing relevant documents, preparing for and responding to
26 questions from her attorneys in advance of the mediation and deposition, being deposed, participating
27 in settlement negotiations, and reviewing the Settlement Agreement. (See Declaration of Marquita
28 N. Wooldridge ("Wooldridge Dec."), ¶7).

1 Plaintiff also undertook risks that the other Aggrieved Employees did not undertake. For
2 example, Plaintiff faced the risks that future employers may not hire her because she lent her name
3 as a PAGA representative; she could have been liable for Defendant's litigation costs if the Action
4 went to trial and she lost; and she could have faced retaliation from Defendant and backlash from
5 former coworkers loyal to Defendant. (Wooldridge Dec. ¶¶ 8-9).

6 The amount of the requested payment is reasonable in light of the incentive payments
7 approved in other PAGA settlements. *See Blanchard v. BJ's Restaurants, Inc.*, Orange County
8 Superior Court Case No. 30-2014-00761961-CU-OE-CX (Sept. 26, 2016) (approving \$10,000
9 service award); *Bui v. Vitamin Shoppe Industries Inc.*, Los Angeles County Superior Court Case No.
10 BC518486 (Aug. 31, 2016) (approving \$10,000 service award); *Jesus Miranda v. HomeDeliveryLink,*
11 *Inc.*, San Bernardino County Superior Court Case No. CIV DS1505393 (Aug. 9, 2016) (approving
12 \$10,000 service award); *Mohamad Najjar v. Calop Business Systems, Inc. d/b/a Ca/op Aeroground*
13 *Service*, Los Angeles County Superior Court Case No. BC582290 (April 5, 2016) (approving \$10,000
14 service award); *Sheldon v. AHMC Monterey Park Hospital LP*, Los Angeles County Superior Court
15 Case No. BC440282 (March 2, 2016) (approving \$10,000 service award).

16 Moreover, as part of the Settlement, the LWDA will receive an anticipated \$21,250.23, as 75
17 percent of the PAGA Payment, which is a substantial amount to punish Defendant for alleged Labor
18 Code violations, to deter future violations, and to assist the LWDA with the enforcement of labor
19 laws. Without Plaintiff's efforts in bringing a PAGA claim, the Aggrieved Employees would not
20 have received payment for civil penalties. Accordingly, Plaintiff respectfully requests that the Court
21 approve the PAGA Representative Service Payment in the amount of \$5,000.00.

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1 **VI. ROLLING BACK THE PAGA PERIOD TO PREVENT TRIGGERING THE**
2 **ESCALATOR CLAUSE IS FAIR AND REASONABLE**

3 At the October 6, 2025 hearing, the Court asked for clarification regarding the attorney's fees
4 with respect to arbitration and "whether the escalator clause has been triggered and, if so, how the
5 settlement terms were modified." The parties complied with the Court's directions from October 6,
6 2025. Plaintiff's Counsel filed a supplemental declaration on October 31, 2025, confirming that the
7 escalator clause had been triggered and Defendant's election to roll back the PAGA period end date
8 (the "October 31, 2025, Declaration"). Plaintiff's Counsel also provided the requested information
9 related to attorney's fees. (Policastro Dec. ¶ 63.)

10 The parties included an escalator clause in the original settlement agreement. It permits
11 Defendant to roll back the PAGA period to the date when 6,271 pay periods were met. The vast
12 majority of wage and hour settlement agreements have escalator clauses. They provide protection to
13 both sides. Defendant complied with the terms of the settlement agreement and calculated the number
14 of pay periods. It was determined that the date when 6,271 pay periods was met was June 30,
15 2024. This information was timely and accurately provided to the Court. (Policastro Dec. ¶ 64.)

16 After the November 4, 2025 hearing, the Court issued an order denying the Motion for Approval
17 of the Private Attorneys General Act Settlement "based on the modified PAGA period end date." The
18 order indicated that "[t]he parties may file a supplement to the motion by 12/03/2025." At the
19 hearing, the Court raised concerns about whether the LWDA and other employees were aware of the
20 escalator clause and the potentially shorter PAGA period. As set forth below, the LWDA received
21 the settlement agreement containing the escalator clause. Additionally, the settlement agreement
22 containing the escalator clause was posted on the LWDA's website and was available for all
23 employees to review. (Policastro Dec. ¶ 65.)

24 On November 25, 2025, the Court issued a minute order in the related class case. It set a hearing
25 on an Order to Show Cause for Sanctions for Failure to File the Motion for Approval of the PAGA
26 settlement for January 8, 2026. The Court also stated this hearing would be vacated "[i]f a motion for
27 approval of PAGA settlement is filed before that date[.]" (Policastro Dec. ¶ 66.)
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1 On December 8, 2025, the Parties prepared a Joint Posting on CaseAnywhere requesting the
2 Court's guidance on how to proceed. On December 9, 2025, the Court issued a minute order vacating
3 the Order to Show Cause for Sanctions for Failure to File the Motion for Approval of the PAGA
4 settlement. The Court also scheduled a non-appearance case review on January 29, 2026. (Policastro
5 Dec. ¶ 67.)

6 In advance of the non-appearance case review, the Parties followed up on the Joint Posting on
7 CaseAnywhere on January 20, 2026. On January 29, 2026, the Court issued a minute order
8 scheduling a Hearing on Motion for Order Approving PAGA Settlement and a status conference on
9 March 6, 2026. The Court also required the parties to file supplemental papers by February 20, 2026.
10 (Policastro Dec. ¶ 68.)

11 To comply with the Court's Minute Order from January 29, 2026, the parties are filing the
12 instant Motion for Approval of PAGA Settlement. The parties are addressing the Court's concerns
13 related to whether the LWDA and other employees were aware of the escalator clause and the shorter
14 PAGA period. Out of an abundance of caution, additional notice is being provided to the LWDA that
15 explicitly informs them that the escalator clause has been triggered and regarding the end date of June
16 30, 2024 for the PAGA period. On February 11, 2026 Plaintiff's Counsel filed the revised moving
17 papers with the LWDA. The proof of electronic submission is attached as **EXHIBIT 12** to the
18 concurrently filed Declaration of Paolo Policastro. (Policastro Dec. ¶ 69.)

19 The LWDA is being provided with further notice in conjunction with the filing of this Motion.
20 It is being explicitly informed about the PAGA period end date applicable to the settlement (See
21 Exhibit 12) (Policastro Dec. ¶ 70.)

22 The allegedly aggrieved employees were not prejudiced by the updated PAGA period because
23 the escalator clause was set forth in the settlement agreement. The settlement agreement was reflected
24 on the Private Attorneys General Act (PAGA) Case Search website. This is publicly available for all
25 to see. The full version of the document is available on the website, which includes the escalator
26 clause. None of the allegedly aggrieved employees were misled or otherwise misinformed about the
27 PAGA period. There is no evidence suggesting that anyone held off filing a PAGA
28 lawsuit. (Policastro Dec. ¶ 71.)

1 **VII. CONCLUSION**

2 The PAGA settlement is fair, adequate, and reasonable. It will result in fair payment
3 considering the risks and defenses; it is non-collusive; and it was achieved as the result of informed,
4 extensive, and arms' length negotiations conducted by counsel for respective parties who are
5 experienced in wage and hour representative litigation. For the foregoing reasons, the parties
6 respectfully request that the Court grant approval of the proposed PAGA Settlement.

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8 Date: February 11, 2026

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

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