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on behalf of himself and current and former aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – STANLEY MOSK COURTHOUSE

JOSE ANTONIO ARROYO, on behalf of himself and current and former aggrieved employees, Plaintiff, vs. LEE KUM KEE USA, INC.; and DOES 1 to 100, inclusive, Defendants.	Case No.: 23STCV16328 **PAGA ACTION** *[Assigned for all purposes to the Honorable Stephen P. Pfahler, Dept. 68]* **PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR APPROVAL OF PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT** [*Filed concurrently with the Declaration of Eve Howe in Support; [Proposed] Order*] Hearing Information: Date: May 14, 2026 Time: 8:30 a.m. Dept.: 68 Res. ID.: 036171227969

TO THE HONORABLE COURT, TO ALL PARTIES, AND TO THEIR COUNSEL OF RECORD: NOTICE IS HEREBY GIVEN that on May 14, 2026, at 8:30 a.m. in Department 68 of the of the Superior Court of California, County of Los Angeles – Stanley Mosk Courthouse, located at 111 North Hill Street, Los Angeles, CA 90012. Plaintiff JOSE ANTONIO ARROYO ("Plaintiff") will move for an order granting approval of the proposed settlement on the terms and conditions set forth in the Private Attorney General Act (Labor Code § 2698, *et seq*.) Settlement Agreement (the "Settlement Agreement") between Plaintiff, on the one hand, and Defendant LEE KUM KEE USA, INC. ("Defendant"), on the other hand. A copy of the Settlement Agreement is attached as **Exhibit 1** to the Declaration of Eve Howe in Support of Plaintiff's Motion for Approval of Private Attorneys' General Act Settlement ("Howe Dec.").

Notice to the LWDA: On November 5, 2025, Plaintiff's Counsel filed the settlement agreement with the LWDA in accordance with Labor Code § 2699(l)(2). (Howe Dec. Ex. 3.)

The motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities in Support, Declaration of Eve Howe in Support, exhibits, all other pleadings and papers on file in this action, and any oral argument or other matter that may be considered by the Court.

Date: November 5, 2025

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

By: */s/ Eve Howe*
Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Eve Howe, Esq.
Attorneys for PLAINTIFF JOSE ANTONIO ARROYO, on behalf of himself and other aggrieved employees

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff JOSE ANTONIO ARROYO ("Plaintiff") respectfully submits this memorandum in support of his motion for approval of the settlement of this action pursuant to the Private Attorneys General Act of 2004, Labor Code section 2698, et seq. (hereinafter "PAGA"). Plaintiff seeks entry of a proposed order and judgment granting approval of the PAGA settlement.

As consideration for this settlement, Defendant LEE KUM KEE USA, INC. will fund a non-reversionary, common fund settlement of $255,000.00 (the "Settlement Amount") which includes: payment to the California Labor and Workforce Development Agency ("LWDA") and the aggrieved employees, Plaintiff's enhancement award, attorneys' fees and costs, and settlement administration costs.

The entire Net Settlement Amount is for the payment of civil penalties under PAGA. The Net Settlement Amount shall be allocated for payment of civil penalties and shall be distributed 75% to the LWDA and 25% to the aggrieved employees in accordance with Labor Code §2699, *former* subd. (i) [civil penalties recovered by aggrieved employees shall be distributed as follows: 75 percent to the [LWDA]; 25 percent to the aggrieved employees]. Plaintiff estimates that the LWDA will receive approximately $103,339.86. Plaintiff estimates $34,446.62 will be distributed pro rata to the Aggrieved Employees based on the number of pay periods employed during the PAGA Period. It is estimated that the average payment to the Aggrieved Employees will be approximately $121.29 ($34,446.62 ÷ 284 Aggrieved Employees = $121.29). As set forth below, Plaintiff believes this is a fair result for the PAGA litigation.[1]

II. SUMMARY OF LITIGATION

A. The Parties

Defendant LEE KUM KEE USA, INC. is an importer and producer of Asian food sauces, condiments, and oils for retailers worldwide. It has two locations in the United States, which are in

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[1] These figures account for Plaintiff's Counsel's actual costs of $19,463.52, which are less than the maximum allowed costs of $30,000.00 in the Settlement Agreement.

Los Angeles and New York. Plaintiff worked as an hourly non-exempt fork lift driver for Defendant from approximately April 2021 to May 2022. Based on information from Defendant, there were approximately 284 non-exempt hourly employees who worked for the Defendant in California during the period from April 11, 2022 through October 22, 2025 (the "PAGA Period"). (Howe Dec. ¶ 3.)

B. The Complaint and Allegations

On May 8, 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. (Howe Dec. ¶ 4.)

On July 13, 2023, Plaintiff commenced this Action seeking civil penalties pursuant to PAGA against Defendant arising from the following alleged predicate violations against Defendant: (1) failure to pay wages for all hours worked at the legal minimum wage; (2) failure to pay wages for overtime hours worked at the overtime rate of pay; (3) failure to pay wages to hourly non-exempt employees for workdays that Defendant failed to provide legally required and compliant meal periods; (4) failure to pay wages to hourly non-exempt employees for workdays that Defendant failed to provide legally required and compliant rest periods; (5) failure to pay wages for accrued paid sick days at the regular rate of pay; (6) failure to timely pay earned wages during employment; (7) failure to provide complete and accurate wage statements; and (8) failure to pay employees all wages due at time of termination/resignation, among other claims. (Howe Dec. ¶ 5.)

At all times, Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged. (Howe Dec. ¶ 6.)

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

On July 23, 2025 the Parties attended an all-day mediation with experienced wage-and-hour mediator Daniel Turner, Esq., and reached an agreement in principle to resolve the action. 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. (Howe Dec. ¶ 7.)

In preparation for mediation, Plaintiff obtained, through informal discovery, time and pay records for Plaintiff and the Aggrieved Employees, as well as documents establishing Defendant's policies, procedures, and practices. During this process, Plaintiff's counsel and Plaintiff's counsel's expert analyzed, researched, and investigated the potential issues, including matters related to the calculation of PAGA damages, interviews of the named Plaintiff, potential trial management issues, and appellate issues and risks. (Howe Dec. ¶ 8.)

The Parties have undertaken reasonable investigation of the facts and law during the pendency of this action. Plaintiff's Counsel diligently conducted and pursued an investigation of the PAGA claims against Defendant, including research of the applicable law and the potential defenses and review of relevant documents. Plaintiff obtained directly relevant data including Defendant's written policies related to the claims at issue in Plaintiff's Complaint. Plaintiff also received the number of aggrieved employees and sampling of payroll data for Defendant's potentially aggrieved employees during the PAGA period. (Howe Dec. ¶ 9.)

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 Eve Howe as **<u>Exhibit "1"</u>**.

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

1. <u>Aggrieved Employee</u>: means all current and former non-exempt California employees of Defendant who worked during the PAGA Period. (Settlement § 1.4.)
2. <u>Gross Settlement Amount</u>: means Two Hundred Fifty-Five Thousand Dollars ($255,000.00) which is the maximum amount Defendant agrees to pay under the settlement except as provided in Paragraph 8 of the Settlement. (Settlement § 1.13.)
3. <u>Administrator</u>: means Phoenix Class Action Administration Solutions, the neutral entity the Parties have agreed to appoint to administer the Settlement. (Settlement § 1.2.)

4. To the Administrator: An Administration Expenses Payment not to exceed $6,000 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 $6,000, the Administrator will retain the remainder in the Net Settlement Amount for distribution to the Aggrieved Employees. (Settlement § 3.2.3.)

5. To the Plaintiff: PAGA Representative Service Payment to the PAGA Representative of not more than $2,500.00 (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 for distribution to the Aggrieved Employees. The Administrator will pay the PAGA Representative Service Payment using IRS Form 1099. (Settlement § 3.2.1.)

6. Release by all current and former Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, and the PAGA Notice. (Settlement § 5.1.)

7. Aggrieved Employee Size Estimates: Based on its records, Defendant estimates that, as of the date of mediation, there were 12,000 PAGA Pay Periods worked by Aggrieved Employees. If the total number of PAGA Pay Periods as of the end of the PAGA Period (including those worked after the date of mediation but before the end of the PAGA Period) exceeds the above figure by greater than 10% (i.e., are greater than 13,200), Defendant shall, in its sole discretion, have the option to either: (i) increase the Gross Settlement in proportion to the increase in PAGA Pay Periods above 10% (i.e., if the total number of PAGA Pay Periods is 11% greater than the above figure, then the Gross Settlement Amount shall increase by 1%); or (ii) end the PAGA Period on a date in which the PAGA Pay Periods are equal to or less than 13,200 PAGA Pay Periods, provided that the PAGA Period may not end prior to the date of mediation (July 23, 2025). (Settlement § 8.)

B. Notice And Distribution of PAGA Funds

Defendant LEE KUM KEE USA, INC. shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than fourteen (14) days after the Effective Date. (Settlement §4.2.)

Within fourteen (14) days after Defendant LEE KUM KEE USA, INC. 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" because "the court's intrusion upon what is otherwise a private consensual agreement negotiated between the parties to a lawsuit must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." (*Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1027.)

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

The settlement negotiations have been at all times adversarial and non-collusive in nature. Indeed, continued good faith but occasionally contentious negotiations were required to reach an agreement through mediation and with significant assistance from an experienced mediator. Plaintiff believes in the merits of his case, he also recognizes the inherent risks of litigation and understand the benefit of settlement and providing funds immediately as opposed to delaying payment or risking an unfavorable decision on summary adjudication/judgment, at trial and/or the damages awarded, and/or appeal all of which have potential to eliminate any relief. (Howe Dec. ¶ 12.)

Further, experienced counsel, operating at arms-length, have weighed the strengths of the case and examined all of the issues and risks of litigation and endorse the proposed settlement. The view of the attorneys actively conducting the litigation "is entitled to significant weight" in deciding whether to approve the settlement. (*Fisher Bros. v. Cambridge Lee Industries, Inc.* (E.D. Pa. 1985) 630 F.Supp. 482, 488; *Ellis v. Naval Air Rework Facility* (N.D. Cal. 1980) 87 F.R.D. 15, 18, *affd.* 661 F.2d 939 (9th Cir. 1981); *Boyd,* 485 F.Supp. at 617.) Counsel is experienced in similar litigation and approve the settlement. (Howe Dec. ¶ 13.)

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 what might have been recovered had plaintiff prevailed at trial, nor does the settlement have to provide 100% of the damages sought to be fair and reasonable. (*Linney v. Cellular Alaska Partnership* (9th Cir. 1998) 151 F. 3d 1234, 1242; *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 246 & 250; *Rebney v. Wells Fargo Bank* (1990) 220 Cal.App. 3d 1117, 1139.) Instead, “[c]ompromise is inherent and necessary in the settlement process ... even if the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated, this is no bar to a class settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation" (*Wershba,* 91 Cal.App.4th at 250.) (Howe Dec. ¶ 14.)

In evaluating the reasonableness of the Settlement in this case, Plaintiff's Counsel thoroughly evaluated the merits of the case and considered the nature and purpose of PAGA as well as comparable PAGA settlements reached by Plaintiff's Counsel, and those obtained by other firms. (Howe Dec. ¶ 15.)

As consideration for this settlement, Defendant will fund a non-reversionary, common fund settlement of $255,000.00 (the "Settlement Amount") which includes: payment to the California Labor and Workforce Development Agency ("LWDA") and the aggrieved employees, Plaintiff's enhancement award, attorneys' fees and costs, and settlement administration costs. (Howe Dec. ¶ 16.)

B. The Proposed Settlement is a Reasonable Compromise of Claims

To evaluate a settlement, the trial court must receive "basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise." (See *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.) To assist the Court with determining if the proposed settlement is within a range that is fair, reasonable, and adequate, Plaintiff's counsel analyzed the value of pleaded PAGA allegations. As stated above, the settlement was reached only after exchanging information prior and conducting legal analyses of both Plaintiff's and Defendant's theories. (Howe Dec. ¶ 17.)

Here, the Gross Settlement Amount is appropriate in light of the underlying principles of PAGA, i.e., "to ensure that settlements involving penalties arising out of Labor Code Section 2699 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 to the President Pro Tem of the Senate Re SB 1809). The non-reversionary Settlement Amount of $255,000.00 represents an excellent recovery that is large enough to achieve PAGA's purposes. The proposed Settlement provides a fair and reasonable monetary recovery for the LWDA and the

Aggrieved Employees in the face of hotly disputed claims. (Howe Dec. ¶ 18.)

Based on the informal discovery produced by Defendant, during the PAGA Period, Defendant employed approximately 284 aggrieved employees over the course of approximately 12,000 pay periods. Based on the data, the maximum stacked exposure for the PAGA claims amounted to approximately **$6,409,200.00**, which assumes that a violation for each claim could be proven during each pay period and application of subsequent violation penalties. As discussed below, this degree of exposure is unlikely to be proven, and even if proved, significantly more than is likely to be awarded or recovered. (Howe Dec. ¶ 19). This amount was calculated based on the PAGA penalty calculations as follows:

1. <u>Failure to Pay Minimum and Overtime Wages for All Hours Worked</u>:

In the PAGA exhaustion letter to the LWDA, as well as the Complaint, Plaintiff alleged Defendant required him and other aggrieved employees to line up to wait to undergo off-the-clock COVID-19 temperature checks prior to being permitted to clock-in, and that he and other aggrieved employees were not compensated for this time spent waiting in line for testing, being tested, or traveling to the time clock and waiting in line again to clock-in after testing. Further Plaintiff alleged that Defendant required him and other aggrieved employees to keep their employer-issued cellphones on their person and to always monitor them and to take and respond to Defendant's management personnel at all times during their shift, resulting in them being on-duty during their off-the-clock meal breaks. (Howe Dec. ¶ 20).

Based on Plaintiff's expert's analysis of the data provided by Defendants, Defendant employed approximately 284 current and former employees over the course of approximately 12,000 pay periods. Therefore, Defendant's estimated maximum PAGA exposure for this claim amounts to **$1,200,000.00** which assumes that a violation for each claim could be proven during each pay period. This amount was calculated based on the PAGA penalty calculation formula: Initial violation penalty x total number of pay periods = 12,000 pay periods X $100 initial violation penalty = **$1,200,000.00**. (Howe Dec. ¶ 21.)

2. <u>Failure to Provide All Meal Periods Pursuant to Labor Code Sections 226.7 and 512</u>:

Plaintiff alleged that Defendant failed to provide him and other aggrieved employees with legally compliant meal periods due to Defendant's policy, practice, and/or procedure of requiring him and other aggrieved employees to keep their employer-issued cellphones on their person and to always monitor them and to take and respond to Defendant's management personnel at all times during their shift. As a result of Defendant exercising such control over the Plaintiff and other aggrieved employees during meal periods, meal periods were not duty-free as required by California law. (Howe Dec. ¶ 22.)

Defendant's PAGA exposure for this claim amounts to **$1,200,000.00**. This amount was calculated as follows: Initial violation penalty x total number of pay periods = 12,000 pay periods X $100 initial violation penalty = **$1,200,000.00**. (Howe Dec. ¶ 23.)

3. <u>Failure to Provide All Rest Periods Pursuant to Labor Code Section 226.7</u>:

Plaintiff alleged that Defendant failed to provide him and other aggrieved employees with legally compliant rest periods due to Defendant's policy, practice, and/or procedure of requiring him and other aggrieved employees to keep their employer-issued cellphones on their person and to always monitor them and to take and respond to Defendant's management personnel at all times during their shift, resulting in them being on-duty during their rest breaks. As a result of Defendant exercising such control over the Plaintiff and other aggrieved employees during rest periods, rest periods were not duty-free as required by California law. (Howe Dec. ¶ 24.)

Defendant's PAGA exposure for this claim amounts to **$1,200,000.00**. This amount was calculated as follows: Initial violation penalty x total number of pay periods = 12,000 pay periods X $100 initial violation penalty = **$1,200,000.00**. (Howe Dec. ¶ 25.)

5. <u>Failure to Pay Wages for Accrued Paid Sick Days at the Regular Rate of Pay</u>:

Plaintiff alleged that Defendant failed to pay him and other aggrieved employees wages for accrued paid sick days at the regular rate of pay due to Defendant's policy, practice, and/or procedure of failing to include all renumeration when calculating the sick time rate of pay, including "shift differential pay" and "premium 4 pay." (Howe Dec. ¶ 26.)

Assuming that employees used at most one day (8 hours) of paid sick leave per pay period, and employees accrued one hour of paid sick leave per 30 hours worked, employees would earn a day of paid sick leave every 240 hours worked, or approximately 6 workweeks (assuming 40 hour weeks) or 3 pay periods. Defendant's PAGA exposure for this claim amounts to **$400,000.00**. This amount was calculated as follows: Initial violation penalty x total number of pay periods ÷ 3 = 12,000 pay periods X $100 initial violation penalty ÷ 3 = **$400,000.00**. (Howe Dec. ¶ 27.)

6. <u>Failure to Timely Pay Earned Wages During Employment Pursuant to Labor Code Section 204</u>:

Based on the foregoing allegations, Plaintiff alleged that Defendant failed to timely pay him and other aggrieved employees their earned wages including minimum wage, overtime wages, meal period premium wages and rest period premium wages. Defendant's PAGA exposure for this claim amounts to **$1,200,000.00**. This amount was calculated as follows: Initial violation penalty x total number of pay periods = 12,000 pay periods X $100 initial violation penalty = **$1,200,000.00**. (Howe Dec. ¶ 28.)

7. <u>Failure to Provide Complete and Accurate Wage Statements Pursuant to Labor Code Section 226</u>:

Based on the foregoing allegations, Plaintiff alleged Defendant failed to provide him and other aggrieved employees complete and accurate wage statements based on all minimum wages, overtime wages, meal and rest period premiums owed which were not reflected in the wage statements. Defendant's PAGA exposure for this claim amounts to **$1,200,000.00**. This amount was calculated as follows: Initial violation penalty x total number of pay periods = 12,000 pay periods X $100 initial violation penalty = **$1,200,000.00**. (Howe Dec. ¶ 29.)

8. <u>Failure to Timely Pay All Wages After Separation of Employment Pursuant to Labor Code Sections 201 and 202</u>:

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 **$9,200.00** in civil penalties for this claim (approximately 92 former employees x $100 for violation at termination = **$9,200.00**). (Howe Dec. ¶ 30.)

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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"). (Howe Dec. ¶ 31.)

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 12,000 pay periods at issue), that it is likely Defendant's maximum exposure is actually only $1,200,000.00. Defendant could argue that this Court would use the *Carrington* valuation as a ceiling for assessing PAGA penalties and that this amount (i.e., $1,200,000.00) was its true "worst case scenario" exposure. The settlement amount of $255,000.00 is 21.25% of the maximum exposure estimated by Plaintiff. This exposure estimate presumes that the Court would not reduce the penalties available on an equitable basis below the $100 per pay period estimate, as in *Carrington,* the Court further reduced the penalties to $5 per pay period (i.e., $60,000.00 in this case). (Howe Dec. ¶ 32.)

Practically speaking, if Plaintiff continued litigating this matter, the Plaintiff, LWDA, and employees potentially could have received nothing if the Court had agreed with Defendant's position especially in light of the volatility of this area of law and the aforementioned defenses. The settlement is reasonable in light of the risks involved in this case—including the prospect of a potential adverse summary adjudication ruling, defenses to the case, potential appeal, and potential costs which could be forced on our client if Plaintiff was not successful. (Howe Dec. ¶ 33.)

Plaintiff's Counsel is convinced that the proposed settlement is fair based on the negotiations and a detailed knowledge of the issues present in this action. The length and risks associated with a motion for summary adjudication, trial, and other normal perils of litigation have impacted the value of the claims and were all weighed in reaching the proposed settlement. In light of the above, the proposed Settlement is well within the range of reasonableness and should be granted approval. Plaintiff believes that in providing employees with relief and obtaining penalties for the LWDA, this settlement furthers the purpose of PAGA to enforce compliance with the Labor Code and should be approved. (Howe Dec. ¶ 34.)

Accordingly, the gross PAGA penalty payment is highly reasonable in light of the risks and uncertainties associated with the PAGA claims in this case. The Settlement commits Defendant to pay a sum large enough to punish Defendant for alleged violations and to deter such alleged conduct in the future. At the same time, in light of the alleged violations and defenses thereto, it is not so large as to be unjust, oppressive or confiscatory. Based upon the foregoing, the proposed settlement is fair, reasonable, and in the best interest of the state of California and the Aggrieved Employees. (Howe Dec. ¶ 35.)

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

Plaintiff's counsel seeks $89,250.00, which is 35% of the Gross Settlement Amount, in fees for the time spent litigating this matter and reimbursement of expenses of $19,463.52 incurred in the prosecution of this action. The requested fees are fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a contingent fee basis.

A. Plaintiff's Attorneys' Fee Request of $89,250.00, 35% of the Gross Settlement, is Proper Under the Common Fund Doctrine

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

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

> Whatever doubts may have been created by *Serrano III, supra*, 20 Cal.3d 25, [], or the Court of Appeal cases that followed, we clarify today that use of the percentage method to calculate a fee in a common fund case, where the award serves to spread the attorney fee among all the beneficiaries of the fund, does not in itself constitute an abuse of discretion. We join the overwhelming majority of federal and state courts in holding that when class action litigation established a monetary fund for the benefit of the class members, and the trial 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.)

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

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

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

Furthermore, California appellate courts, while not expressly announcing a "benchmark," have instead found fees in the 35 percent range appropriate. (*See, Laffitte II,* 1 Cal.5th at 506 (affirming award of 35% of the common fund); *Chavez v. Nelflix, 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 provide for a fee award in the range of 35%.

A fee of $89,250.00 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.

B. Plaintiff's Fee Request Is Reasonable Under The Lodestar Method

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

Counsel's total lodestar in this case as of the date of this motion is approximately **$72,375**. (Howe Dec. ¶43.) Counsel's hourly rates are reasonable, Counsel's hours spent are reasonable, and Plaintiff would even be entitled to a multiplier to account for the successful result in this action and to compensate Plaintiff and their counsel for the contingent risk inherent in the litigation and for the delay in receiving fees. The breakdown of the hours worked by counsel in this matter is set forth as follows:

Attorney	**Hours**	**Hourly Rate**	**Total**
Joseph Lavi	30	$1,000	**$30,000**
Vincent Granberry	25	$750	**$18,750**
Melanie Rodriguez	15	$675	**$10,125**
Eve Howe	20	$675	**$13,500**
Total	**90**	N/A	**$72,375**

(Howe Dec. ¶¶45-49.)

1. Counsel's Hourly Rates Are Reasonable

The hourly rates of the attorneys stated above are in line with rates approved for attorneys in this jurisdiction with similar experience. (Howe Dec. Ex. 4-5 [printouts of California firms from 2014 NLJ Survey of Attorney Fees, 2008 NLJ Survey of Attorney Fees].) 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; *Hopson v. Hanesbrands Inc.* (N.D. Cal. Apr.

3, 2009, No. CV08-0844 EDL) 2009 U.S. Dist. LEXIS 33900.) 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.) Counsel's skill and experience support their hourly rates. (Howe Dec. ¶¶ 45-49.) Other attorneys working in California courts charge comparable if not higher rates as indicated in the printouts of California firms' billing rates from the 2014 National Law Journal Survey showing partner rates up to $1,195 and associate rates up to $750. (Howe Dec. Ex. 4 [printouts from 2014 National Law Journal Survey for California firms showing a high rate for partners of $1,195 and high for associates of $725]; *See* Ex. 5 [2008 National Law Journal Survey showing 2008 fees of California partners with high of $980 and associate high of $570]; *see, e.g., Richard v. Ameri-Force Mgmt. Servs., Inc.*, Case No. 37-2008-00096019 (San Diego Super. Ct., August 27, 2010) [$695 to $750 an hour for partners]; *Barrera v. Gamestop Corp.*, Case No. CV 09-1399 (C.D. Cal. Nov. 29, 2010) [$700 an hour for partners]; and *Anderson v. Nextel Retail Stores, LLC*, Case No. CV 07-4480 (C.D. Cal. June 20, 2010) [$655 to $750 an hour for partners].)

Plaintiff's Counsel's rates are also in line with the respective Laffey Matrix rates. (Howe Dec. **Exhibit 6** available at http://www.laffeymatrix.com/see.html.) California Courts have applied the Laffey Matrix with adjustments to the specific California locality where the Counsel's office is located based on "Locality Pay Tables." (*Syers Properties III, Inc. v. Rankin* (2014) 226 Cal.App.4th 691, 695-696 [affirming fee award based on Laffey Matrix with upward 9 percent rate adjustment from D.C. area compared to San Francisco Bay Area based on Locality Pay Tables]; *In re HPL Techs., Inc., Secs. Litig.* (N.D. Cal. April 22, 2005, No. C-02-3510 VRW) 365 F.Supp.2d 912, 921-922 [using Laffey Matrix with upward adjustment of 9 percent for San Francisco based on difference between D.C. Area 's +15.98 locality pay compared to San Francisco's +26.39 percent locality pay differential from the federal courts' "Judiciary Salary Plan Pay Tables."].) Here, Plaintiff's Counsel's offices are located in Los Angeles County. For 2025, the Locality Pay Tables (and Judiciary Salary Plan Pay Tables referred to in *In re HPL Techs., Inc.*), state a 36.47% locality payment for the Los Angeles-Long Beach, CA area, and a 33.95% locality payment for the Washington-Baltimore-Arlington area, resulting in an increase of 2.52% for Los Angeles County. (Howe Dec. **Exhibits 7-8** [2025 Locality

Pay Tables for Washington-Baltimore-Arlington and Los Angeles-Long Beach, CA available at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2025/general-schedule/]; (Howe Dec. **Exhibits 9-10**) [Judiciary Salary Plan Pay Tables available at http://www.uscourts.gov/careers/compensation/judiciary-salary-plan-pay-rates]; (Howe Dec. **Exhibit 11**) [2025 Locality Pay Area Definitions defining counties within Los Angeles-Long Beach, CA area available at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2025/locality-pay-area-definitions/].) In applying the 2.52% locality increase for attorneys working in Los Angeles County over the Washington-Baltimore area stated in the Laffey Matrix, the 2024/2025 Laffey Matrix states the following relevant rates: $485 for attorneys 1 to 3 years out of law school, $595 for attorneys 4 to 7 years out of school, $860 for attorneys 8 to 10 years out of school, $972 for attorneys 11 to 19 years out of law school and $1,170 for attorneys 20 plus years out of law school.

2. Counsel's Total Hours Are Reasonable

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

Counsel has spent approximately a combined 90 hours on this case. (Howe Dec. ¶¶45-49.) In summary form, counsel's many tasks included the following: pre-filing investigation, legal research, and research of Defendant and its operations; communicating with client regarding his responsibility in bringing the action, the facts of his case, his employment, his work environment, his documents and Defendant's policies and procedures; drafting pleadings and notices; drafting communications with the LWDA; reviewing Plaintiff's files and determining liability and evaluating claim and defense strengths and weaknesses; legal research of case law and wage orders regarding applicable claims and defenses; propounding and responding to informal discovery; meeting and conferring over directly relevant informal discovery; evaluating Defendant's policies; determining case strategy; communicating with Defendant's Counsel; evaluating data provided in informal discovery;

calculating PAGA damages; negotiating settlement and settlement documents; communicating with the administrator; preparing the motion for approval of PAGA and supporting documents. (Howe Dec. ¶44.)

Combining Plaintiff's counsels' hours and their hourly rates in this case amounts to a total of 90 hours, and calculating individual hourly contributions amounts to a total lodestar of $72,375. Counsel is seeking a $89,250.00 award of attorneys' fees in connection with this matter, which is in line with the calculated lodestar value, assuming a very modest multiplier of 1.24.

3. A 1.24 Multiplier Enhancement is Fully Justified Given the Contingent Risk, Preclusion of Other Work, Outstanding Result Obtained, and the Time Spent Litigating Without Compensation

Plaintiff's attorneys are seeking a 1.24 times multiplier of their lodestar rates.

"Under our precedents, the unadorned lodestar reflects the general local hourly rate for a fee-bearing case; it does not include any compensation for contingent risk, extraordinary skill, or any other factors a trial court may consider . . . ." (*Ketchum v. Moses* (2001) 24 Cal.4th at p. 1138.) "The purpose [of a multiplier] . . . is to bring the financial incentives for attorneys enforcing important constitutional rights . . . into line with incentives they have to undertake claims for which they are paid on a fee-for-services basis." (*Id*. at pp. 1132-1133.) To determine a fee that truly reflects market value, non-lodestar factors must be considered and the lodestar adjusted accordingly. (*Horsford v. Bd. of Trustees* (2005) 132 Cal.App.4th at pp. 394-395.). Specifically, *Ketchum* considers four factors in awarding a lodestar multiplier: (1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, and (4) the contingent nature of the fee award.

Here, given the contingent-risk, the lack of any payment for counsel's legal services for the course of litigation, the results obtained, the preclusion factor, the public interest advanced by the case, and the skill displayed in presenting the case, an enhancement to the lodestar of 2.02 is fully justified. (See e.g., *City of Oakland v. Oakland Raiders* (1988) 203 Cal.App.3d 78, 82 (2.34 multiplier even in noncontingent case); *Wershba v. Apple Computers, Inc.* (2001) 91 Cal.App.4th 224, 255 ("noting that "[m]ultipliers can range from 2 to 4 or even higher").

The "Difficulty," "Quality," and "Skill Displayed" Factors Support a Multiplier.

An enhancement can be based on what is called the "quality factor," which considers the novelty or difficulties in the case and skill displayed in presenting it. (*Ketchum*, *supra*, 24 Cal.4th at p. 1132.) "Novelty and difficulty of the questions involved, and the skill displayed in presenting them," can support an upward adjustment to the lodestar. (*Serrano v. Priest (Serrano III)* (1977) 20 Cal.3d 25, 49.) Here, this factor likewise supports an enhancement to the lodestar. Just like it can justify a higher fee in the legal marketplace (see Rules of Professional Conduct, Rule 4-200 subd. (B)(3)), the novelty, difficulty or undesirability of a particular case also justifies a lodestar enhancement. *Ketchum*, *supra*, at p. 1132 ("difficulty of questions presented" justifies enhancement); see also *Mangold v. CPUC* (9th Cir. 1995) 67 F.3d 1470 (affirming 2.0 lodestar multiplier based in part on defendant's "often unreasonable opposition.")).

Defendant hired competent defense counsel, Fisher & Phillips LLP, who litigated the case through the conclusion of the case. Fisher & Phillips LLP is an international labor and employment firm with over 600 attorneys across over 40 offices.[2] Needless to say, Counsel for Defendant had vast material and human resources to draw upon to litigate this case. While Counsel for Defendant worked hard to represent their client, Plaintiff needed to match that skill, except in a manner in which payment was not certain. Plaintiff's counsel's performance and hard work to quickly resolve the matter with only two years of litigation exhibited a heightened standard of skill.

The Preclusion Factor Fully Supports a Multiplier.

An enhancement to the lodestar may also be justified to compensate for the fact that a case precluded the attorneys from accepting other employment. (*Ketchum*, *supra*, 24 Cal.4th at p. 1132 (lodestar "may be adjusted by the court" based on, inter alia, "the extent to which the nature of the litigation precluded other employment by the attorneys."). Like in *Horsford*, "the demands of the present case substantially precluded other work during that extended period, which makes the ultimate risk of not obtaining fees all the greater (since the attorneys must use savings or incur debt to keep their offices afloat and their families fed" while focusing almost entirely on a single case). (*Horsford*, *supra*, 132

[2] Fisher Phillips LinkedIn, https://www.linkedin.com/company/fisher-&-phillips-llp/about/.

Cal.App.4th at pp. 399-400.) Here, the preclusion factor is evident given the number of hours spent by Plaintiff's counsel. (Howe Dec. ¶¶45-49.)

The Contingent-Risk Requires a Multiplier.

The contingent-risk rationale for a lodestar enhancement is a matter of common sense. To constitute market value payment, contingent compensation must be upward-adjusted to account for the risk of loss. "A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of her work if she is paid only for the second of these functions. If she is paid no more, competent counsel will be reluctant to accept fee award cases." (*Ketchum*, *supra*, 24 Cal.4th at pp. 1132-1133.) In *Ketchum*, the California Supreme Court resoundingly re-affirmed the importance of multipliers in cases where the party seeking fees is not paid on a fee-for-service basis: "The purpose of a fee enhancement, or so-called multiplier, for contingent risk is to bring the financial incentives for attorneys enforcing important constitutional rights . . . into line with incentives they have to undertake claims for which they are paid on a fee-for-services basis." (*Id*. at p. 1132.) The court recognized that "lawyers generally will not provide legal representation on a contingent basis unless they receive a premium for taking that risk." (*Id*. at p. 1136.) By contrast, the use of enhancements to provide premium compensation for successful contingent cases will counter-balance the risk of loss, ensuring that the rate awarded actually reflects the "market value" of the services. (*Id*. at p.1138 ("The adjustment of the lodestar figure, e.g., to provide a fee enhancement reflecting the risk that the attorney will not receive payment if the suit does not succeed, constitutes earned compensation; unlike a windfall, it is neither expected nor fortuitous."); *Beasley v. Wells Fargo* (1991) 235 Cal.App.3d 1407, 1419 ("The purpose is to compensate for the risk of loss generally in contingency cases as a class.") (italics in original).)

Relying on *Ketchum*, *Horsford* held that "the trial court abused its discretion in failing to consider the relevant factors for awarding an enhancement multiplier." (*Horsford, supra,* 132 Cal.App.4th at p. 399.) *Horsford* summarized the policies for a multiplier:

> [T]he contingent nature of civil rights attorney fees was discussed in the cases and scholarly writings summarized in *Ketchum v. Moses*, supra, 24 Cal.4th at pages 1132-1133, 104 Cal.Rptr.2d 377, 17 P.3d 735. There, of course, the focus is on the fact that litigation is fraught with uncertainty and even the most scrupulous attorney will "win some and lose some," as the saying goes. And settlement offers, such as the one plaintiffs rejected in the present case, will

> often be lump-sum offers, without separately providing for attorney fees, so counsel is then left to obtain payment under a traditional tort case contingency fee. Accordingly, the "contingency" factors summarized in Ketchum assume as a premise that statutory attorney fees are semi guaranteed after a plaintiff prevails, but that there is, nevertheless, a great element of contingency in any fee system that rewards only attorneys for prevailing parties.

(*Id*. at p. 400, fn. 11.)

Horsford thus held that "the contingent and deferred nature of the fee award in a civil rights or other case with statutory attorney fees requires that the fee be adjusted in some manner to reflect the fact that the fair market value of legal services provided on that basis is greater than the equivalent noncontingent hourly rate." (*Id*. at pp. 394-395.)

Here, the contingent-risk factor was significant. Plaintiff's counsel spent over 90 hours and advanced nearly $20,000 in out-of-pocket costs to prosecute the case on a purely contingent basis. This case was challenging given the burden of proof necessary to prove violations on a class-basis (especially given that the Class was never formally certified prior to settlement). Thus, the risk of a defense verdict or a modest verdict was real had the case proceeded to trial in lieu of settlement. A premium for the risk of non-payment in a case like this is just economics—the greater the risk, the greater the reward: "In theory, a contingent fee in a case with a 50 percent chance of success should be twice the amount of a non-contingent fee for the same case . . . ." (*Cazares v. Saenz*, (1989) 208 Cal.App.3d 279, 288.) Indeed, it is well-recognized in the plaintiff-side civil rights community that the risk of contingent representation should be met with an enhanced fee award upon a successful verdict.[3]

C. Plaintiff's Costs Request Of $19,463.52 Is Reasonable

Plaintiff's Counsel requests $19,463.52 in costs in this matter. This amount is reasonable and incurred in the litigation of this matter. (*See* Howe Dec. ¶ 50, Exhibit 2.) All costs were reasonably incurred in prosecution of the lawsuit and paid on a contingency basis. (*Id.*) This amount includes, but is not limited to, costs associated with the costs associated with filing of the papers filed and responded to in this matter, Los Angeles County superior court appearances, Plaintiff's expert witness, and mediation. Thus far, the total costs incurred is $19,463.52 which is less than the Parties

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[3] See, e.g., Maximizing your attorneys' fees recovery in the trial court following a successful FEHA judgment (April 2022), https://www.advocatemagazine.com/article/2022-april/maximizing-your-attorneys-fees-recovery-in-the-trial-court-following-a-successful-feha-judgment.

agreed Plaintiff's Counsel could seek in the Settlement Agreement and will result in an increase in the Net Settlement Amount payable to the State of California and Aggrieved Employees.

VI. CONCLUSION

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

Date: November 5, 2025

Respectfully submitted,
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