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ADRIAN ANGEL

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO

ADRIAN ANGEL, an individual;

Plaintiff,

vs.

FIBERCO GENERAL ENGINEERING
CONTRACTORS, INC., a California
corporation; BARRETT BUSINESS
SERVICES, INC., a Maryland corporation;
DAVID ZUNIGA, an individual; and DOES 1
through 20, inclusive,

Defendants.

Case No. 23CV005096

**PLAINTIFF ADRIAN ANGEL'S
NOTICE OF MOTION AND MOTION
FOR APPROVAL OF SETTLEMENT
OF PAGA CLAIMS AND
REASONABLE ATTORNEYS' FEES
AND COSTS**

*Filed concurrently with Declaration of Tuvia
Korobkin, Declaration of Jodey Lawrence,
and [Proposed] Order*

Date: September 9, 2025

Time: 1:30 p.m.

Dept.: 53

Reservation ID: 581226229432

Complaint Filed: July 20, 2023

Trial Date: None Set

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on September 9, 2025 at 1:30 p.m., or as soon thereafter
3 as the matter may be heard in Department 53 of the above-entitled Court, located at 813 6th Street,
4 Sacramento, CA 95814, Plaintiff Adrian Angel (“Plaintiff”), individually and on behalf of the
5 State of California and other Aggrieved Employees, will, and hereby does, move this Court for
6 entry of an Order as follows:

- 7 1. Granting approval, pursuant to California Labor Code section 2699, subdivision (l), of the
8 proposed settlement of claims brought pursuant to the Private Attorneys General Act of
9 2004 (“PAGA”) under Labor Code section 2698, et seq., and as set forth in the parties’
10 Settlement Agreement, a true and correct copy of which is attached to the Declaration of
11 Tuvia Korobkin filed concurrently herewith;
- 12 2. Appointing Phoenix Settlement Administrators as the Settlement Administrator;
- 13 3. Approving the proposed Notice of PAGA Settlement (attached as Exhibit A to the
14 Settlement Agreement), and directing that it be distributed to Aggrieved Employees
15 pursuant to the terms of the Settlement Agreement;
- 16 4. Directing the funding and distribution of the PAGA Gross Settlement Amount pursuant
17 to the terms of the Settlement Agreement;
- 18 5. Approving an award from the Gross Settlement Amount of attorneys’ fees to Plaintiff’s
19 counsel of \$33,333.33 and an award of litigation costs to Plaintiff’s counsel of \$2,401.41;
- 20 6. Approving \$2,500.00 from the Gross Settlement Amount in administration costs to
21 Phoenix Settlement Administrators; and
- 22 7. Approving payment of \$46,323.95 from the Gross Settlement Amount to the California
23 Labor & Workforce Development Agency for its share of PAGA civil penalties pursuant
24 to the Settlement Agreement.

25 This Motion is based on this Notice; the attached Memorandum of Points and Authorities;
26 the declaration of Tuvia Korobkin and all exhibits attached thereto; the Settlement Agreement;
27 all other pleadings and papers on file in this action; and on any further oral or documentary
28 evidence or argument presented at the time of hearing.

1 Pursuant to Local Rule 1.06 (A), the Court will make a tentative ruling on the merits of
2 this matter by 2:00 p.m., the court day before the hearing. The complete text of the tentative ruling
3 may be downloaded off the Court's website. If the party does not have online access, they may
4 call the dedicated phone number for the department as referenced in the local telephone directory
5 between the hours of 2:00 p.m. and 4:00 p.m. on the court day before the hearing and receive the
6 tentative ruling. If you do not call the Court and the opposing party by 4:00 p.m. the court day
7 before the hearing, no hearing will be held.

8
9 Dated: June 25, 2025

MARQUEE LAW GROUP, APC

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13 Tuvia Korobkin
14 Nancy Goodes
15 Attorneys for Adrian Angel
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I. INTRODUCTION

This PAGA representative settlement resolves Plaintiff's claim for civil penalties predicated on Defendants' alleged violations of the Labor Code, from May 4, 2022 through August 31, 2024 (the "PAGA Period"). The proposed Settlement, under which Defendants have agreed to pay a Gross Settlement Amount ("GSA") of **\$100,000.00**, will resolve Plaintiff's representative claim for civil penalties filed on behalf of the State of California and all "Aggrieved Employees," which consists of approximately 80 current and former non-exempt employees who worked for Defendants in California during the PAGA Period.

In deciding whether to grant approval of a PAGA settlement, the primary issue is whether the settlement is fair, reasonable, and adequate. As set forth herein, the proposed Settlement embodies all of the features of a settlement that is fair, reasonable, and adequate, as it: (1) is the product of arm's-length negotiations; (2) was negotiated by attorneys experienced in wage-and-hour issues and PAGA litigation with the assistance of an experienced, neutral mediator; (3) was negotiated after undertaking sufficient investigation and document exchanges to evaluate the relative strength and value of Plaintiff's PAGA claims and Defendants' defenses thereto; and (4) reflects a reasoned compromise based on the relative strength and value of the PAGA claims, as well as the risks, expenses, complexity, and likely duration of further litigation, as well as Defendants' financial condition.

As noted above, the Settlement provides for a PAGA GSA of \$100,000. After deducting amounts for requested attorneys' fees (\$33,333.33), litigation costs (\$2,401.41), and Administration Costs of \$2,500, the Settlement provides for distribution of a Net Settlement Amount ("NSA") of approximately \$61,765.26 to be paid to Aggrieved Employees and the California Labor and Workforce Development Agency ("LWDA"). (Declaration of Tuvia Korobkin ("Korobkin Decl.") at ¶¶ 20, 23, 28-34, Exhs. C-F.)

The NSA shall be distributed 75% (approximately \$46,323.95) to the LWDA, and 25% (approximately \$15,441.31) to Aggrieved Employees, on a *pro rata* basis based on their respective number of pay periods worked for Defendants during the PAGA Period, pursuant to the requirements of the PAGA as codified in Labor Code section 2699, subdivision (i). (See Korobkin Decl. at Exh. C ["Settlement Agreement"].) There are approximately 80 Aggrieved Employees, resulting in average payments of approximately \$193.02 to the Aggrieved Employees. (Korobkin Decl. at ¶ 34.)

This Settlement represents a reasonable recovery for the State of California and Aggrieved Employees, who will receive significant monetary benefit in exchange for release of only civil penalties. In addition, the monetary recovery furthers the PAGA's purposes to "remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77 [disapproved on other grounds in *Turrieta v. Lyft, Inc.* (2024) 16 Cal.5th 664].) Further, the amounts requested for attorneys' fees and costs and settlement administration costs are fair, adequate, and reasonable.

II. SUMMARY OF THE LITIGATION

A. Brief Factual Background and Summary of Claims

Fiberco is a general engineering contractor that specializes in paving services, resurfacing, and maintenance in and throughout the state of California. (Korobkin Decl. at ¶ 11.) Fiberco was owned and operated by David Zuniga who further controlled and/or managed employee schedules, duties, break policies, sick pay policies and wage policies during Fiberco's operation. (*Ibid.*) Plaintiff was employed by Defendants as a non-exempt traffic control lead from approximately in or about July 2022 through January 2, 2023. (*Ibid.*)

1 In this lawsuit, Plaintiff contends that Defendants failed to pay overtime wages for hours
2 worked in excess of 8 hours per day and only paid weekly overtime. (Korobkin Decl., ¶ 12.)
3 Plaintiff further alleged that he was not provided legally compliant meal and rest periods, and was
4 further never provided with a second meal period when working in excess of 10 hours in a day.
5 (*Id.*) Furthermore, Plaintiff alleges that when employees were sent home early due to an alleged
6 lack of work, Defendants unilaterally chose to apply accrued sick leave pay instead of providing
7 reporting time pay, thereby violating California's sick leave law. (*Id.*)

8 Plaintiff also alleged claims for whistleblower retaliation and wrongful termination
9 premised upon his complaints regarding violations of OSHA standards, shorted pay, lack of meal
10 and rest breaks, and misappropriation of his accrued sick leave, for which he was wrongfully
11 terminated by Defendants in retaliation. (Korobkin Decl. at ¶ 13.) These claims were resolved in
12 a separate individual settlement and are not at issue in this motion. (*Id.*)

13 As explained below, Defendants deny Plaintiff's PAGA allegations and assert several
14 affirmative defenses to his claims. Defendants also claimed that they did not have the ability to
15 pay a large settlement due to their financial condition (and unlike Plaintiff's wrongful termination
16 claim, the PAGA claim was not covered by insurance). (Korobkin Decl., ¶¶ 17, 19-20.) Indeed,
17 the corporate defendant in this case, FiberCo, declared bankruptcy in March 2025. (*Id.*)

18 **B. Relevant Procedural History**

19 On May 4, 2023, Plaintiff provided written notice to the LWDA and Defendants of his
20 intent to pursue civil penalties under PAGA for alleged violations of the California Labor Code
21 based on the above violations, including Labor Code sections 201, 203, 204, 210, 226, 226.3,
22 226.7, 245 et seq., 256, 510, 512, 558, 558.1, 1174, 1194, 1197, 1198, 1199, and IWC Wage
23 Order 16. (Korobkin Decl., ¶ 14 & Exh. A.)

24 On July 20, 2023, Plaintiff filed the instant action as an individual and PAGA action for
25 Labor Code violations, and individual action for retaliation and wrongful termination. (Korobkin
26 Decl. at ¶ 15.) Defendants filed an Answer on October 23, 2023. Former defendant BBSI was
27 dismissed on November 28, 2023 as Plaintiff concluded that BBSI was not properly named as
28 Plaintiff's employer. (*Id.*)

1 **C. Pre-Mediation Discovery and Mediation**

2 Counsel for Plaintiff and counsel for Defendants engaged in substantive discussions about
3 the case, and agreed to attend a private mediation with Monique Ngo-Bonnici, Esq. (Korobkin
4 Decl., ¶ 16.) Mediation was originally scheduled for June 2024, but was postponed until August
5 19, 2024 to give Defendants additional time to produce relevant documents and information. (*Id.*)
6 In connection with mediation, Defendants informally produced information and documents
7 pertaining to Plaintiff and other Aggrieved Employees, including payroll and timekeeping data
8 for a sampling of pay periods during the PAGA Period, an Aggrieved Employee list including
9 hire dates and termination dates of all non-exempt employees within the PAGA Period, and other
10 relevant documents. (*Id.*)

11 On August 19, 2024, the parties participated in a full-day mediation with Ms. Ngo-
12 Bonnici. (Korobkin Decl., ¶ 17.) The parties vigorously debated the legal basis for Plaintiff's
13 claims and Defendants' defenses, the parties' data analyses and conclusions based thereon, as
14 well as Defendants' ability to pay a PAGA settlement. (*Id.*) At the conclusion of mediation, Ms.
15 Ngo-Bonnici made a mediator's proposal that was accepted by the Parties, in which the Parties
16 agreed to resolve Plaintiff's individual claims and PAGA claims in two separate settlement
17 agreements. (*Id.*) The settlement of Plaintiff's PAGA claims was expressly premised on the
18 production of FiberCo's tax returns, profit and loss statements, and other documents evidencing
19 its financial condition. (*Id.*) Defendants produced those documents in September and October
20 2024. (*Id.*) After reviewing those documents as well as discussing various questions about the
21 documents with defense counsel, Plaintiff's counsel was satisfied that FiberCo would not be able
22 to fund a PAGA settlement greater than the mediator's proposal. Over the following months, the
23 Parties negotiated the finer terms of the settlement, ultimately resulting the Settlement Agreement
24 now before the Court. (Korobkin Decl., ¶¶ 17-18 & Exh. C ["Settlement Agreement"].)

25 **D. Fiberco's Bankruptcy Filing**

26 During mediation, Fiberco expressed that it may file bankruptcy as a result of Plaintiff's
27 litigation, and particularly the PAGA claim. (Korobkin Decl., ¶ 19.) On June 3, 2025, Defendants
28 did in fact file a Notice of Filing for Bankruptcy by Fiberco General Engineering Contractors,

1 Inc. in this Court (“Fiberco Bankruptcy Filing”). (*Id.*) The Fiberco Bankruptcy Filing specified
2 that Fiberco had filed a voluntary Chapter 11 petition on March 10, 2025, which meant that “any
3 action to collect a pre-petition debt, including the debt allegedly owed to Adrian Angel
4 (“Plaintiff”), is stayed by the automatic bankruptcy stay as of the date of the filing of the Chapter
5 11 petition”. (*Id.*)

6 Notably, only Fiberco has filed a notice of filing for bankruptcy, *not* Defendant David
7 Zuniga, who is also a party to the Settlement Agreement and is jointly and severally liable under
8 the Settlement Agreement. (Korobkin Decl., ¶ 20; Settlement Agreement at ¶ IV(3)(a).)

9 **III. SUMMARY OF THE SETTLEMENT AGREEMENT**

10 The Settlement provides for Defendants’ joint and several liability for payment of a Gross
11 Settlement Amount (“GSA”) of \$100,000, to be paid in five (5) total payment installments “Due
12 to Defendants’ financial condition.” (Settlement Agreement at ¶ III(2).) Specifically, these
13 payments are to be made as follows: forty thousand dollars (\$40,000.00) within 30 days after
14 Court approval; and four (4) subsequent payments of fifteen thousand dollars (\$15,000.00) each,
15 payable every 30 days after the first payment is due. (*Id.*) After deducting requested attorneys’
16 fees, litigation costs, and settlement administration costs, the Settlement Agreement provides for
17 the Net Settlement Amount (“NSA”) to be distributed 75% to the LWDA and 25% to Aggrieved
18 Employees, per Labor Code section 2699, subdivision (i).¹ (*Id.*, ¶ III(3).)

19 Plaintiff’s counsel requests one-third of the GSA (i.e., \$33,333.33) in attorneys’ fees, and
20 \$2,401.41 in litigation costs. (Korobkin Decl., ¶ 33.) As discussed below, one-third of the GSA
21 is fair, adequate, and reasonable as a percentage of the settlement fund. The Parties have agreed
22 to engage Phoenix Settlement Administrators (“Phoenix”) as the third-party Settlement
23 Administrator. (Settlement Agreement, ¶ IV(1).) Phoenix will update Aggrieved Employees’
24 addresses using the NCOA database, calculate and distribute individual payments, mail payments
25 to all Aggrieved Employees together with the Notice, and perform other duties integral to the
26 Settlement. (*Id.*, ¶ IV(2).) Plaintiff requests that the Court approve \$2,500 in Administration Costs
27

28 ¹ Because Plaintiff’s PAGA notice was submitted prior to June 2024, the June 2024 amendments do not
apply. References to the PAGA statute herein are to the PAGA statute as it existed prior to June 2024.

1 to Phoenix, which will cover all costs incurred by Phoenix in connection with the Settlement.
2 (See Declaration of Jodey Lawrence (“Lawrence Decl.”), ¶¶ 12-16 & Exh. B.)

3 Based on the above requested distributions, the NSA is estimated to be \$61,765.26, with
4 \$46,323.95 paid to the LWDA and \$15,441.31 distributed to Aggrieved Employees. (Korobkin
5 Decl., ¶ 35.)

6 **IV. LEGAL ARGUMENT**

7 **A. Legal Standard for Approval of a PAGA Settlement**

8 The PAGA statute provides that the “court shall review and approve any settlement of any
9 civil action filed pursuant to this part.” (Lab. Code § 2699, subd. (l).) “[T]he very essence of a
10 settlement is... ‘a yielding of absolutes and an abandoning of highest hopes,’” as “it is the very
11 uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce
12 consensual settlements.” (*Officers for Justice v. Civil Service Com.* (9th Cir. 1982) 688 F.2d 615,
13 624-25.) As such, “the settlement or fairness hearing is not to be turned into a trial or rehearsal
14 for trial on the merits” or “judged against a hypothetical or speculative measure of what might
15 have been achieved by the negotiators.” (*Id.*)

16 As the Court of Appeal held in *Moniz*, “a trial court should evaluate a PAGA settlement to
17 determine whether it is fair, reasonable, and adequate in view of PAGA’s purposes to remediate
18 present labor law violations, deter future ones, and to maximize enforcement of state labor laws.”
19 (*Moniz*, 72 Cal.App.5th at 77.) Courts are not to act as a fiduciary for aggrieved employees, but
20 rather merely prevent “fraud, collusion or unfairness” in PAGA settlements. (*Id.*) A court should
21 also evaluate the fairness of a PAGA settlement “under all the circumstances” including the
22 plaintiff’s case, the risk, the stage of the proceeding, and the complexity and likely duration of
23 further litigation. (*Id.*)

24 Further, consistent with the fact that unnamed employees have no property interest in a
25 PAGA claim², unnamed employees need not be given notice of the PAGA claim, nor do they
26

27 ² “The [PAGA] does not create property rights or any other substantive rights” as “[i]t is simply
28 a procedural statute allowing an aggrieved employee to recover civil penalties—for Labor Code
violations—that otherwise would be sought by state labor law enforcement agencies.”
Amalgamated Transit Union, Local 1756, AFL-CIO v. Sup. Ct., 46 Cal.4th 993, 1003 (2009).

1 have the ability to opt-out of the representative PAGA claim. (See *Robinson v. Southern Counties*
2 *Oil Co.* (2020) 53 Cal.App.5th 476, 482 [recognizing that “there is no mechanism for opting out
3 of the judgment entered on the PAGA claim.”].) This renders the approval process of a PAGA
4 settlement distinct from a class action settlement, as the Court need not employ the “two-step
5 approval process” required for class action settlements under California Rule of Court, rule 3.769.

6 Finally, unlike a class action settlement under Rule of Court 3.769, the scope of release in
7 a PAGA settlement is limited to *civil penalties*. (*Arias v. Superior Court* (2009) 46 Cal. 4th 969,
8 986-87.) While “judgment in [a PAGA] action is binding not only on the named employee
9 Plaintiffs but also on government agencies and any aggrieved employee not a party to the
10 proceeding...the nonparty employees, because they were not given notice of the action or
11 afforded any opportunity to be heard, would not be bound by the judgment as to remedies other
12 than civil penalties.” (*Arias, supra*, 46 Cal. 4th at 986-87.)

13 **B. The Settlement Amounts are Fair and Reasonable.**

14 The proposed Settlement Agreement provides a fair and reasonable monetary recovery for
15 the State of California and Aggrieved Employees, particularly in the face of the filing of
16 bankruptcy of the corporate defendant, the small number of Aggrieved Employees, disputed
17 claims, and potential realistic exposure. Based on Plaintiff’s review of the timekeeping and payroll
18 records produced by Defendants, and after applying reasonable discounts for the possibility of
19 losing on the merits and of the Court reducing penalties, the realistic PAGA exposure for
20 Defendants’ alleged overtime, meal period, and rest period violations was approximately
21 \$137,055. (Korobkin Decl. at ¶¶ 24-26.) The Gross Settlement Amount of \$100,000 therefore
22 represents approximately 73% of the realistic exposure, a favorable result for the State of
23 California and Aggrieved Employees.

24 Approval of the Settlement is appropriate, as the Settlement will provide tangible monetary
25 benefit to Aggrieved Employees and the State of California, while avoiding the risks and costs of
26 continued litigation and trial.

27 ///

28 ///

1 ***i. The Strength of Plaintiff's Case***

2 While Plaintiff is confident in the merits of his claims, Plaintiff acknowledges there were
3 substantial risks and uncertainty in proceeding to trial. (Korobkin Decl., ¶ 22.) For example,
4 Defendants argue that employees were subject to an alternative workweek scheduled (“AWS”)
5 and signed an agreement to that effect, consenting to regularly work four 10-hour days or three
6 12-hour days without overtime pay unless the hours worked exceeded 10 hours or 12 hours
7 respectively, or exceeded 40 hours per week. (*Id.*) Defendants further argue that any missed meal
8 or rest periods were the result of employees voluntarily waiving their meal and/or rest periods,
9 rather than Defendants failing to provide them. (*Id.*) Furthermore, Defendants argued, time and
10 pay records failed to conclusively substantiate that Aggrieved Employees’ accrued sick leave was
11 utilized in place of reporting time pay, and that any potential violation would be extremely
12 individualized and not manageable on a representative basis. (*Id.*) Defendants also argue Plaintiff
13 cannot “stack” penalties, and that for any pay period in which multiple violations allegedly
14 occurred, Plaintiff could only recover one penalty, substantially reducing damages. (*Id.*)

15 Defendants further contend that given their defenses and good-faith attempts to comply
16 with the law, as well as Fiberco’s financial condition, even if liability were established for some
17 Aggrieved Employees, this Court would utilize its discretion under Labor Code § 2699(e)(2) to
18 substantially reduce the amount of penalties awarded. (Korobkin Decl., ¶ 23; *see also* Lab. Code
19 § 2699(e)(2) [authorizing reduction in PAGA penalties in court’s discretion]; *Thurman v.*
20 *Bayshore Transit Mgmt., Inc.* (2012) 203 Cal.App.4th 1112, 1135 [affirming reduction of PAGA
21 penalties because “defendants took their obligations...seriously and attempted to comply with the
22 law”]; *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, 529 [affirming PAGA penalty
23 of just \$5 per pay period where employer made “good faith attempts” to comply with the law].)

24 ***ii. The Experience and Views of Counsel***

25 “Parties represented by competent counsel are better positioned than courts to produce a
26 settlement that fairly reflects each party’s expected outcome in litigation.” (*In re Pac. Enter. Sec.*
27 *Litig.* (9th Cir. 1995) 47 F.3d 373, 378.) Plaintiff is represented by experienced counsel who
28 believe that, under the circumstances of this case, the Settlement is fair and adequate for all

involved. (Korobkin Decl. at ¶¶ 2-10.) This factor strongly supports settlement approval. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130 [“The court undoubtedly should give considerable weight to the competency and integrity of counsel and the involvement of a neutral mediator in assuring itself that a settlement agreement represents an arm’s length transaction entered without self-dealing or other potential misconduct.”].)

iii. The Requested Award of Attorneys’ Fees is Reasonable as a Percentage of the Settlement Fund as Confirmed by a Lodestar Cross-Check

Plaintiff is entitled to attorneys’ fees in this PAGA action under Labor Code § 2699(g)(1), which provides that “[a]ny employee who prevails in any [PAGA] action shall be entitled to an award of reasonable attorneys’ fees and costs.” (*See also Gouskos v. Aptos Village Garage, Inc.* (2001) 94 Cal.App.4th 754, 765 [holding that attorneys’ fees to prevailing party are mandatory when the statute uses the word “shall”]; *Graciano v. Robinson Ford Sales* (2006) 144 Cal.App.4th 140, 153 [“plaintiffs may be considered ‘prevailing parties’ for attorney’s fee purposes if they succeed on any significant issue in the litigation that achieves some of the benefit the parties sought in bringing suit.”].)

A fee award is justified where legal action has produced benefits for its proponents, including through voluntary settlement. (*See, e.g., Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1290-91; *Westside Comty. for Independent Living, Inc. v. Obledo* (1983) 33 Cal.3d 348, 352-53; *Serrano v. Priest* (1977) 20 Cal.3d 25, 34 [“when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff...for the benefit of all results in the creation or preservation of that fund, such plaintiff...may be awarded attorney’s fees out of the fund.”]; *Rawlings v. Prudential-Bache Properties, Inc.* (6th Cir. 1993) 9 F.3d 513, 516 [percentage of the fund method more accurately reflects the results achieved than the lodestar method and “establishes reasonable expectations on the part of plaintiffs’ attorneys as to their expected recovery; and it encourages early settlement, which avoids protracted litigation.”]; *In re Rite Aid Corp. Sec. Litig.* (3d Cir. 2005) 396 F.3d 294, 300 [“The percentage-of-recovery method is generally favored in common fund cases because it allows courts to award fees from the fund ‘in a manner that rewards counsel for success and penalizes it for failure.’”].)

1 Fee awards of one-third of the settlement fund are routinely awarded in California courts
2 in class and representative PAGA actions. (*Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66,
3 fn. 11 “[F]ee awards in class actions average around one- third of the recovery.”.) The
4 California Supreme Court confirmed its approval of the use of the “percentage of fund” method.
5 (See *Laffitte v. Robert Half Int’l, Inc.* (2016) 1 Cal.5th 480, 503, 506 [“the recognized advantages
6 of the percentage method... convince us the percentage method is a valuable tool that should not
7 be denied our trial courts.”].) This is also consistent with Plaintiff’s counsel’s experience in
8 similar wage-and hour class and PAGA matters. (Korobkin Decl., ¶ 27.)

9 Here, Plaintiff’s fee request of one-third of the PAGA GSA (\$33,333.33), which is the
10 same percentage approved by the California Supreme Court in *Laffitte*, is fair and reasonable
11 based on the percentage of the recovery method.

12 In *Laffitte*, the California Supreme Court held that trial courts have discretion to assess the
13 reasonableness of fee awards with tools such as the “lodestar cross-check,” whereby the trial court
14 calculates counsel’s lodestar and determines whether the “lodestar multiplier” needed to bring
15 the lodestar on par with the percentage of recovery is reasonable. (*Laffitte, supra* at 503-06.)
16 While a trial court may utilize the lodestar cross-check, it need not do so. (*Id.* at 506 [“[w]e hold
17 further that the trial courts have discretion to conduct a lodestar cross-check on a percentage fee,
18 as the court did here; they also retain the discretion to forgo a lodestar cross-check and use other
19 means to evaluate the reasonableness of a requested percentage fee.”].)

20 Under the lodestar method, the court multiplies the number of hours reasonably expended
21 by each attorney by their reasonable hourly rates, then enhances this lodestar figure by a
22 “multiplier” to account for a range of factors, such as the contingent nature of the case and the
23 degree of success achieved. (See *Serrano v. Priest, supra* at 48-49; *Ketchum v. Moses* (2001) 24
24 Cal.4th 1122, 1132-36; *Thayer v. Wells Fargo Bank* (2001) 92 Cal.App.4th 819, 834 [“There is
25 no hard-and-fast rule limiting the factors that may justify an exercise of judicial discretion to
26 increase or decrease a lodestar calculation”].)

27 “Multipliers can range from 2 to 4 or even higher.” (*Wershba v. Apple Computer, Inc.*
28 (2001) 91 Cal.App.4th 230, 255; see also *Chavez, supra* 162 Cal.App.4th at 49-50, 66 [approving

multiplier of about 2.5]; *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1050 [upholding multiplier of 3.65].) In representative actions such as this one, where Plaintiff's counsel effectively protected the rights of Aggrieved Employees and the State of California and where the value of the benefit conferred "can be monetized with a reasonable degree of certainty," the Court may "adjust the lodestar in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation." (*Consumer Privacy Cases* (2009) 175 Cal. App. 4th 545, 557.)

In this case, and as represented in the table below, Plaintiff's counsel has a lodestar of approximately \$78,229.50 (accounting solely for hours worked on the PAGA causes of action), resulting in a *negative* multiplier of about 0.43 compared to the \$33,333.33 fee request. (Korobkin Decl. at ¶¶ 28-30.) The billing rates used are reasonable in view of the evidence submitted herewith. (Korobkin Decl., ¶¶ 28-30 & Exh. D ["*Laffey Matrix*"].)

Name	Rate	Hours	Pre-Multiplier Lodestar
Tuvia Korobkin (17th Year Attorney)	\$725	45.9	\$33,277.50
Gary S. Brotman (14th Year Attorney)	\$695	36.5	\$23,567.50
Owen Lin (4th Year Attorney)	\$395	10.9	\$4,305.50
Nancy Goodes (3rd Year Attorney)	\$395	32.2	\$12,719.00
Legal Staff	\$200	12.8	\$2,560.00
Total Lodestar			\$78,229.50

As discussed above, this case presented significant risks, including the financial condition of Defendants (as evidenced by Fiberco's recent bankruptcy filing), defenses presented on the merits, as well as the risk of significant reduction of penalties by the Court. It is fair and reasonable to account for these risks in compensating Plaintiff's counsel, as well as the risks involved in undertaking this litigation and expending considerable effort while working on a pure contingency basis. Since undertaking representation of Plaintiff, Plaintiff's counsel dedicated

1 substantial resources to this litigation, including expending thousands of dollars in litigation costs.
2 (Korobkin Decl., ¶ 33 & Exh. E.) Plaintiff's counsel conducted significant pre-filing research
3 regarding the merits of Plaintiff's claims, his ability to recover PAGA civil penalties, and
4 Defendants' potential defenses. Plaintiff's counsel also conducted extensive informal discovery,
5 analyzed the data and information produced by Defendants, and drafted a comprehensive
6 mediation brief. (Korobkin Decl., ¶ 28.) Plaintiff's counsel also attended a full-day private
7 mediation, and spent considerable time and effort reviewing Fiberco's financial documents and
8 negotiating and preparing the settlement and related documents, as well as this Motion and
9 supporting documents. (*Id.*) Plaintiff's counsel will also expend additional time attending the
10 hearing on this Motion and overseeing the settlement administration process. (*Id.*) Given the
11 significant potential for adverse outcomes in this case, the contingent risk borne by Plaintiff's
12 counsel was great. (*Id.*) The quality of Plaintiff's counsel's work, and the efficacy and dedication
13 with which it was performed, should be compensated.

14 Here, as noted above, Plaintiff's counsel expended significant time and resources in
15 litigating this case, which resulted in a positive result for Plaintiff, the State of California, and
16 Aggrieved Employees in the face of significant defenses. Counsel also bore the contingency risk
17 of this litigation for the benefit of the Aggrieved Employees, as well as the State of California
18 (which elected not to take the case after receiving Plaintiff's notification letter).

19 Plaintiff's counsel's previous experience in litigating wage and hour representative
20 actions also supports the reasonableness of the fee request. Plaintiff's counsel is well-versed in
21 wage and hour class and PAGA action litigation. (Korobkin Decl., ¶¶ 2-9.) Plaintiff's counsel's
22 experience in similar matters was integral in evaluating the strengths and weaknesses of this
23 case and the reasonableness of the Settlement. (*Id.*) Because it is reasonable to compensate
24 Plaintiff's counsel commensurate with their skill, reputation, and experience, the requested fee
25 award is fair, reasonable and adequate, and should therefore be approved. Based on all of the
26 above, Plaintiff respectfully submits that the requested fee award is fair, reasonable and adequate
27 and should be approved.

28 ///

1 ***iv. The Requested Litigation Costs and Settlement Administration Costs Are***
2 ***Fair, Reasonable, and Adequate***

3 Plaintiff's request for reimbursement of litigation costs of \$2,401.41 is also fair and
4 reasonable. All of Plaintiff's litigation costs were reasonably incurred, and Plaintiff's counsel
5 only allocated a portion of the costs incurred to the PAGA causes of action and allocated the
6 remainder of the costs to the individual causes of action. (Korobkin Decl., ¶ 33.) Moreover, the
7 costs Plaintiff seeks are the types of costs routinely approved by courts. (See, e.g., *Harris v.*
8 *Marhoefer* (9th Cir. 1994) 24 F.3d 16, 19 [counsel should recover "those out- of-pocket expenses
9 that would normally be charged to a fee paying client"]; *In re Immune Response Sec. Litig.* (S.D.
10 Cal. 2007) 497 F.Supp.2d 1166, 1177-78 [finding mediation expenses, postage, filing fees,
11 messenger and overnight delivery costs, and other costs reimbursable].)

12 Likewise, the request for administration costs of \$2,500 is also fair and reasonable.
13 Phoenix was selected because it is an experienced settlement administrator and returned a
14 reasonable bid at that amount. (Lawrence Decl., ¶¶ 5-11 & Exhs. A-B.) Moreover, Phoenix will
15 perform several important functions that are integral to the implementation of the Settlement. Its
16 requested fee is therefore reasonable.

17 **C. The Settlement Furthers the Purpose of PAGA**

18 The Settlement provides a fair, adequate, and reasonable recovery for the LWDA and the
19 aggrieved employees "in view of PAGA's purposes to remediate present labor law violations, deter
20 future ones, and to maximize enforcement of state labor laws." (*Moniz*, 72 Cal.App.5th at 89 ["In
21 review and approval of a proposed settlement under section 2699, subd. (l)(2), a trial court [] must
22 scrutinize whether, in resolving the action, a PAGA plaintiff has adequately represented the state's
23 interests, and hence the public interest."].) Here, the Settlement represents the state's interests by
24 serving PAGA's remedial, deterrence, and enforcement purposes considering the total potential
25 realistic exposure involved here. Specifically, this Settlement recovers approximately 73% of
26 Plaintiff's reasonably forecasted total recovery. In addition, it rectifies the alleged violations by
27 providing significant monetary recovery for both the State of California and the Aggrieved
28 Employees.

1 ***i. Zuniga’s Continued Liability As a Non-Debtor Defendant***

2 The Bankruptcy Code does not authorize a bankruptcy court to approve a release and
3 injunction that extinguishes claims against non-debtor third parties without the consent of affected
4 claimants. (*Harrington v. Purdue Pharma L.P.* (2024) 603 U.S. 204, 215-227.) In *Harrington*, the
5 United States Supreme Court held that where a corporate defendant files for Chapter 11 bankruptcy
6 (as Fiberco has in this case), the bankruptcy plan cannot discharge related claims against an
7 individual non-debtor (i.e., someone who did not file for bankruptcy). Therefore, in a case like this
8 where a non-debtor individual defendant (Zuniga) is jointly and severally liable for payment under
9 a settlement agreement, the non-debtor defendant may not be discharged from his obligations
10 under the settlement by virtue of the corporate defendant’s (Fiberco) Chapter 11 bankruptcy plan,
11 absent the consent of the creditor. Here, the creditors are Plaintiff, the State of California, and the
12 Aggrieved Employees, who have not given their consent to the discharge of their claims against
13 Zuniga under the Settlement Agreement.

14 As stated herein above, Defendants agreed to be jointly and severally liable for the funding
15 of the GSA under the Settlement Agreement. (Settlement Agreement, ¶ IV(3)(a).) While Fiberco
16 has filed for bankruptcy, Zuniga has not. (Korobkin Decl., ¶¶ 19-20.) Therefore, Zuniga’s liability
17 for payment pursuant to the Settlement Agreement may not be extinguished by Fiberco’s
18 bankruptcy filing. (*Ibid.*; see *Harrington*, at 215-227.) As such, there is no fraud, collusion, or
19 unfairness in approving the instant PAGA settlement wherein one of the jointly and severally liable
20 Defendants has not filed bankruptcy.

21 Rather, it would run *counter to* the purposes of PAGA to allow an individual owner and
22 operator of a business to escape his obligation under a PAGA settlement when the business itself
23 has declared bankruptcy, but the owner and operator remains solvent. The purposes of PAGA
24 include to “remediate present labor law violations, deter future ones, and to maximize enforcement
25 of state labor laws.” (*Moniz, supra*, at 77.) Here, failing to approve the PAGA settlement due to
26 the filing of bankruptcy by one of the jointly and severally liable defendants would strip the
27 Aggrieved Employees of their remediation of the labor law violations they endured and allow a
28 solvent defendant to escape liability without being deterred from re-engaging in violations of

1 PAGA in the future. Therefore, it would best serve the purposes of PAGA to approve the settlement
2 between the parties so Plaintiff can properly enforce the settlement against Zuniga.

3 *ii. Risk, Expense, Complexity, and Duration of Further Litigation*

4 Although the Parties had engaged in significant informal discovery, the Parties still had
5 much written and deposition discovery to conduct if the case did not settle. Substantive motion
6 work and trial preparation also remained for the Parties, as well as potential appeals. As a result,
7 the Parties would likely incur considerably more attorneys' fees and costs through trial and
8 possible appeal, resulting in further delay in remediation and the draining of financial resources
9 from Defendants which could have gone to Aggrieved Employees through early settlement. The
10 Settlement avoids those risks and the accompanying expense and furthers PAGA's purpose in
11 expediting remediation of PAGA violations and enforcement against Defendants.

12 **V. CONCLUSION**

13 For the reasons stated herein, Plaintiff respectfully requests that this Court grant Plaintiff's
14 Motion and adopt the [Proposed] Order Granting Settlement Approval submitted concurrently
15 herewith.

16 Dated: June 25, 2025

MARQUEE LAW GROUP, APC

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18 _____
19 Tuvia Korobkin
20 Nancy Goodes
21 Attorneys for Adrian Angel
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