KINGSLEY SZAMET
EMPLOYMENT LAWYERS
ERIC B. KINGSLEY, Esq. (SBN 185123)
eric@kingsleylawyers.com
KELSEY M. SZAMET, Esq. (SBN 260264)
kelsey@kingsleylawyers.com
16133 Ventura Blvd., Suite 1200
Encino, CA 91436
Tel: (818) 990-8300, Fax (818) 990-2903

BENJAMIN J. SMITH, Esq. (SBN 266712)
benjy@thesmithlawcorp.com
SMITH LAW
8605 Santa Monica Blvd PMB, 97638
West Hollywood, CA 90069
Tel: (818) 839-9607

Attorneys for Plaintiff and the aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

MIRYAN ELISA KADDIS, an individual, on behalf of the State of California, as a private attorney general,

PLAINTIFF,

v.

VACASA LLC; and DOES 1 thru 50, inclusive,

DEFENDANTS.

Case No. 37-2023-00033686-CU-OE-CTL

[Case Assigned for All Purposes to Hon. Evan P. Kirvin in Dept. C-69]

NOTICE OF MOTION AND MOTION FOR APPROVAL OF REPRESENTATIVE ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

[Filed concurrently with Declarations of Kelsey M. Szamet, *Jodey Lawrence of Phoenix Class Action Administration Solutions, and Plaintiff Miryan Elisa Kaddis in Support of Plaintiff's Motion for Approval of Representative Action Settlement; [Proposed] Order, and Judgment]*

Date: July 9, 2027
Time: 9:00 AM
Dept.: C-69
Reservation Number: 106224

Complaint Filed: August 7, 2023
Trial Date: None set

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on July 9, 2027 at 9:00 AM in Department C-69 of the above-entitled court, Plaintiff MIRYAN ELISA KADDIS will move the Court for an Order Granting Approval of Representative Action Settlement.

The Motion will be made on the grounds that the proposed Settlement is fair, adequate, reasonable, and in the best interest of Plaintiff, all aggrieved employees, and the Parties.

The Motion will be based on this Notice of Motion, the attached Memorandum of Points and Authorities, the Declaration of Kelsey M. Szamet, the PAGA Settlement Agreement (Exhibit "1" to the concurrently filed Szamet Declaration), all other papers and records on file in this action, and on such oral and documentary evidence as may be presented at the hearing on this Motion.

DATED: November 3, 2026

KINGSLEY SZAMET EMPLOYMENT LAWYERS

By: _____

Kelsey M. Szamet
Attorneys for Plaintiff MIRYAN ELISA KADDIS and all aggrieved employees

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Miryan Elisa Kaddis ("Plaintiff" or "PAGA Representative") submits this Memorandum of Points and Authorities in support of Motion for Approval of Representative Action Settlement. Plaintiff and Defendant VACASA LLC ("Defendant") (collectively, the "Parties") have reached a proposed settlement documented in the PAGA Settlement Agreement ("Agreement"), attached to the concurrently-filed declaration of Kelsey M. Szamet.[1]

This is a Settlement under the Private Attorneys General Act of 2004, Labor Code §2699, et seq. ("PAGA"). The Gross Settlement Amount is $225,000.00. After deduction of attorney's fees and litigation expenses, litigation enhancement to Plaintiff, and settlement administration costs as discussed in the Agreement, the remaining amount to be divided between the Labor and Workforce Development Agency ("LWDA") and the aggrieved employees as required by Labor Code section 2699(i) is $121,030.28, with $90,772.71 (or 75%) going to the LWDA and $30,257.57 (or 25%) distributed to the aggrieved employees.[2]

Plaintiff requests that the Court "review and approve any settlement of any civil action filed pursuant to this part" (*See* Lab. Code § 2699(l)(2).) If the Court deems the Settlement fair and acceptable, Plaintiff requests that the Court: (1) enter an order approving the Settlement and ordering the Parties to carry out the terms of the Settlement Agreement; and (2) enter a Final Judgment thereon.[3]

II. BACKGROUND OF THE CASE AND RELEVANT PROCEDURAL HISTORY

A. Litigation Overview and Procedural History

On June 1, 2023, Plaintiff sent a notice letter, pursuant to Labor Code section 2699.3, subdivision (a), to Defendant and the Labor and Workforce Development Agency ("LWDA")

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[1] The Parties also entered into a separate confidential settlement for Plaintiff Miryan Elisa Kaddis's individual claims.

[2] Pursuant to PAGA, civil penalties recovered by aggrieved employees shall be distributed 75 percent to the Labor and Workforce Development Agency ("LWDA") and 25 percent to the aggrieved employee(s). Lab. Code § 2699(i).

[3] Plaintiff's Motion for Approval of Representative Action Settlement will be concurrently uploaded to the LWDA's website on the date this Motion is filed. Proof of submission of Plaintiff's Motion for Approval of Representative Action Settlement, all related documents, and copy of the email from the LWDA confirming receipt can be provided to the Court upon request. (Szamet Decl. ¶106.)

regarding her intent to seek civil penalties for Defendant's violation of Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1194.2, and 1199, under Labor Code section 2699, et seq. (Szamet Decl. ¶5.) Pursuant to Labor Code §2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA evidencing its intention to investigate within 65 calendar days of the postmark date of the notice. (Szamet Decl. ¶6.)

Plaintiff filed her Representative Action Complaint on August 7, 2023, seeking penalties under Labor Code § 2699 et seq., the Private Attorneys General Act ("PAGA"), for Defendant's violation of Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1194.2, and 1199. (Hereafter, the "Action".) (Szamet Decl. ¶7.)

B. The Discovery Process and Mediation

On April 30, 2024, Plaintiff served her First Set of Discovery to Defendant. (Szamet Decl. ¶8.) Defendant served its responses on October 4, 2024. (Szamet Decl. ¶9.) The Parties focused their efforts on resolving this case through early mediation. (Szamet Decl. ¶10.) Defendant produced Plaintiff's personnel file, including her time and pay records, as well as a randomized sample of time and pay records for the PAGA group, for mediation purposes only. (*Id.*)

On May 7, 2025, the Parties participated in an all-day mediation before Kevin Barnes, Esq., and on June 13, 2025, the Parties attended a half-day mediation session, also presided over by Mr. Barnes, which led to the Agreement to settle the Action (Szamet Decl. ¶11.) The Parties engaged in good faith, arm's-length negotiations with Defendant concerning possible resolution of the claims asserted in the Litigation. (*Id.*) Although Defendant denies that it violated any pertinent law, it recognized the risks and attendant costs of litigation, and the Parties were able to reach a tentative settlement subject to finalization of a formal PAGA Settlement Agreement and the approval of the Court. (*Id.*) The Parties negotiated the terms and conditions of the Settlement and now present the agreed-upon Settlement to the Court for Approval. (*Id.*)

III. PAGA ACTIONS AND THE REQUIREMENTS

A. The PAGA Statutory Scheme

PAGA creates a means of "deputizing" citizens as private attorney generals to enforce the Labor Code on behalf of the LWDA. *Brown v. Ralphs Grocery Co.* (2011) 197 Cal.App.4th 489,

501, review den. (Oct. 19, 2011, No. S195850), *cert. denied* (Apr. 16, 2012) 132 S.Ct. 1910. A plaintiff may not — and Plaintiff here does not — bring a PAGA claim simply on his or her own behalf as an individual claim, but "as the proxy or agent of the state's labor law enforcement agencies." *Arias v. Superior Court* (2009) 46 Cal.4th 969, 986; *see also Reyes v. Macy's, Inc.* 202 Cal.App.4th 1119, 1123-1124(2011); *Iskanian v. CLS Transp. Los Angeles*, LLC (2014) 59 Cal.4th 348, 380.)

When an aggrieved employee brings a PAGA claim, "the government is always the real party in interest." *Securitas Sec. Servs. USA, Inc. v. Sup. Ct. of San Diego Cnty.*, 234 Cal.App.4th 1109, 1119 (2015); *Montano v. The Wet Seal Retail, Inc.* 232 Cal.App.4th 1214, 1222 (2015) ("[A] PAGA action is a dispute between an employer and the State agency."). Accordingly, a plaintiff that brings a PAGA claim represents "the same legal right and interest as state labor law enforcement agencies," in that the plaintiff is seeking to recover those civil penalties that otherwise would have been assessed and collected by the LWDA. *Arias*, *supra*, 46 Cal.4th at 986; Lab. Code § 2699 (a) & (f); *Securitas*, *supra*, 234 Cal.App.4th at 1119; *see also Medina v. Vander Poel* (E.D. Cal. 2015) 523 B.R. 820, 825 (holding "PAGA plaintiffs do not have property rights in their cases."). This is borne out by the fact that the LWDA receives 75 percent of any civil penalties recovered; thus, recoveries are principally for the state and only secondarily for aggrieved employees. Lab. Code § 2699 (i). Therefore, when a plaintiff brings a PAGA claim, he or she is properly conceived of as a private attorney general prosecuting violations of California's labor laws on behalf of the state.

An employee may commence a PAGA action by fulfilling the requirements of Cal. Lab. Code § 2699.3 (a)(1), which simply states:

> "The aggrieved employee or representative shall give written notice by certified mail to the Labor and Workforce Development Agency and the employer of the specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violation."

Lab. Code § 2699.3 (a)(1)

As explained above, Plaintiff has complied with the notice requirements and has properly pled a PAGA cause of action.

B. The Court Has Discretion When Awarding the Amount of Penalties

PAGA provides for penalties in the amount of one hundred dollars ($100) for each aggrieved employee per pay period for the initial violation and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation. Lab. Code § 2699(f)(2).

"PAGA penalties...are mandatory, not discretionary" and must be awarded upon a showing that Defendant violated the Labor Code.[4] *Amaral v. Cintas Corp. No. 2* 163 Cal. App. 4th 1157, 1213 (2008); *Moreno v. Autozone, Inc.* (N.D. Cal. June 5, 2007) No. C05-04432 MJJ, 2007 WL 1650942, at *3.

However, PAGA does provide the Court with discretion when it awards these penalties. Labor Code §2699(e)(2) states that "a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." Here, Defendant denies that it violated any law or that it engaged in any knowing or intentional conduct giving rise to liability, and expressly denies that any employees suffered harm.

C. Standards for Settlement Approval

When approving a settlement of a PAGA action, the statute simply requires the Court to "review and approve any settlement of any civil action filed pursuant to this part." (Lab. Code § 2699(*l*)(2).) A trial court should approve a PAGA settlement upon finding it is "fair, reasonable, and adequate in view of 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; accord *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 534.) Trial courts have likewise approved PAGA settlements where the penalties are "genuine and meaningful" and "consistent with the underlying purpose of the statute to benefit the public." (*O'Connor v. Uber Techs., Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1133 [applying the LWDA's guidance].) Because Plaintiff submitted her PAGA notice on June 1, 2023, this action is governed by the version of PAGA in effect prior to the 2024 reform legislation, which applies only to actions based on PAGA notices filed on or after June 19, 2024. (Stats. 2024, chs. 44–45.)

[4] *See also Willner v. Manpower Inc.* (N.D. Cal. 2014) 35 F.Supp.3d 1116, 1136; *McKenzie v. Federal Express Corp.* (C.D. Cal. 2011) 765 F.Supp.2d 1222, 1232.

Additionally, as explained in *Arias v. Superior Court* (2009) 46 Cal.4th 969, class action procedural rules do not apply in PAGA cases, including the two-step preliminary and final approval process. Rather, the approval process consists of one step where the court decides if the settlement should go into effect.

IV. THE SETTLEMENT

Defendant will pay the total sum of $225,000.00 in full and final settlement of the PAGA claims alleged. (Szamet Decl. ¶12., Exhibit 1, ¶3.) Per the Agreement, the amount is allocated as follows:

Gross Settlement Amount:	$225,000.00
PAGA Counsel Fees Payment:	$75,000.00
PAGA Counsel Litigation Expenses Payment:	$11,469.72[5]
Administration Expenses Payment:	$10,000.00
Named Plaintiff Enhancement:	$7,500.00
PAGA Penalties:	$121,030.28 *($90,772.71 to the LWDA;* $30,257.57 in Individual PAGA Payments to the Aggrieved Employees*)*

(Szamet Decl. ¶13., Exhibit 1, ¶3.)

Each aggrieved employee shall receive a pro-rata portion of the remaining amount in PAGA penalties calculated by dividing the Aggrieved Employees' 25% share of the Net Settlement Amount (approximately $30,125.00) by the total number of PAGA Pay Periods worked by all aggrieved employees during the PAGA Period[6], and then multiplying the result by each aggrieved employee's PAGA Pay Periods. (Szamet Decl. ¶15., Exhibit 1, ¶3.2.5.)

For settlement purposes, the Aggrieved Employees are defined as: "all individuals employed by Defendant in the State of California on a non-exempt hourly or salaried non-exempt

[5] The Agreement provided for counsel to receive cost reimbursement up to $12,000.00. However, counsel's final costs come to $11,469,72. (Szamet Decl., Ex. 1) The extra $530.28 will remain in the net settlement fund, causing the net amount for distribution to the LWDA and Aggrieved Employees to be slightly higher than the $120,500.00 contemplated in the settlement agreement. (Szamet Decl., Ex. 1, ¶14)

[6] The PAGA Period means the period from June 1, 2022, to August 12, 2025. (Szamet Decl. ¶16, Exhibit 1, ¶1.26)

basis at any time during the PAGA Period" ("Aggrieved Employees"). (Szamet Decl. ¶17., Exhibit 1, ¶1.4.)

The Settlement is non-reversionary: the Administrator will disburse the entire Gross Settlement Amount without requiring Aggrieved Employees to respond, and no portion of the Gross Settlement Amount will revert to Defendant. (Szamet Decl. ¶18., Exhibit 1, ¶3.1.) Based on Defendant's records as of the first mediation session, there are approximately 1,511 Aggrieved Employees who worked approximately 28,700 PAGA Pay Periods. (Szamet Decl. ¶19., Exhibit 1, ¶8.1.) The Agreement also contains an escalator clause: if the number of pay periods worked by the Aggrieved Employees increases by more than 7.5%, the Gross Settlement Amount will increase on a pro-rata basis. (Szamet Decl. ¶20., Exhibit 1, ¶8.2.)

In exchange, the Aggrieved Employees will release only the Released PAGA Claims—claims for civil penalties under the PAGA that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint or the PAGA Notice. (Szamet Decl. ¶21., Exhibit 1, ¶¶1.29, 5.2.) The release does not extinguish the Aggrieved Employees' individual claims for unpaid wages or damages. Plaintiff alone, in exchange for the Enhancement Payment, will execute a separate, broader general release of her individual claims. (Szamet Decl. ¶22., Exhibit 1, ¶5.1.)

V. ARGUMENT

A. The Court Should Approve the Agreement

The Parties recognize that in accordance with Labor Code §2699(l), Court approval is required in the event of a settlement of a PAGA action on a representative basis. However, as explained in *Arias v. Superior Court* 46 Cal.4th 969 (2009), the Parties are not obligated to follow the class action procedural rules in PAGA cases and therefore need not obtain approval of the PAGA settlement through a motion for preliminary or final approval. Nonetheless, in order to comply with the requirements of Labor Code §2699, the Parties submit the instant Motion and the Agreement (Exhibit "1" to the Szamet Declaration) for Court approval.

B. The Risks of Moving Forward with Plaintiff's PAGA Claim

To help the Court evaluate the fairness of the Settlement, a discussion of the risk evaluation

and discount taken follows. (Szamet Decl. ¶23.) Plaintiff believed that Defendant may persuasively argue that the Court should exercise its discretion under PAGA to significantly reduce or altogether waive any penalties under PAGA. (Szamet Decl. ¶24.) Pursuant to Labor Code §226.3, the Labor Commissioner has the discretion to "decide not to penalize an employer for a first violation when that violation was due to a clerical error or inadvertent mistake." (Szamet Decl. ¶25.) And in accordance with PAGA, the court in a PAGA action has the same discretion "to assess a civil penalty" that the Labor Commissioner would have, as well as complete discretion to "award a lesser amount than the maximum civil penalty amount specified [by PAGA] if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." (Labor Code § 2699(e)(1) and (e)(2)). (Szamet Decl. ¶26.)

PAGA Counsel anticipated that, at trial, Counsel for Defendant could make a potentially persuasive argument that Defendant: (1) the Aggrieved Employees were properly paid in accordance with Defendant's lawful policies and practices, and that any alleged failure to compensate the Aggrieved Employees was the result of inadvertence and clerical error; (2) the Aggrieved Employees were provided with the opportunity to take meal and rest breaks in compliance with California law; (3) until this Action was filed, no employees had complained about any alleged failure to pay wages, provide meal and/or rest breaks, issue accurate itemized wage statements; (4) none of Defendant's employees suffered any harm from or actual damage as a result of the conduct that forms the basis for Plaintiff's allegations. (Szamet Decl. ¶27.) All of which, Counsel for Defendant would argue, should mitigate in favor of significantly reducing or waiving any PAGA penalties. (*Id.*) While Plaintiff disagrees that this analysis is legally correct or persuasive, PAGA Counsel had to consider the foregoing facts and arguments and how they might impact any judgment ultimately awarded to Aggrieved Employees if the Court were persuaded by them. (Szamet Decl. ¶28.)

1. The Risks Associated with the Wages/Overtime Claim

"California employees are entitled to compensation for all hours worked, which means "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." (Cal. Code Regs.,

tit. 8, § 11050, subd. 2(K); *See Troester v. Starbucks Corp.* (2018) 5 Cal.5th 829, 845, as modified on denial of reh'g (Aug. 29, 2018).) Time is compensable if an employee is "*subject to the control* of an employer" even if not working, or if an employee "is *suffered or permitted to work*" even if not "under the employer's control, provided the employer has or should have knowledge of the employee's work." (*Frlekin v. Apple Inc.* (2020) 8 Cal.5th 1038, 1046, reh'g denied (May 13, 2020) (citations omitted.) An employer controls an employee if the employer directs an employee and the employee is unable to use their time how they wish. (*Id.* at p. 1047.) Other factors courts may consider include whether the activity is required, "the location of the activity, the degree of the employer's control, whether the activity primarily benefits the employee or employer, and whether the activity is enforced through disciplinary measures." (*Id.* at p. 1056; *Cf. Gibbs v. TWC Administration, LLC* (S.D. Cal., Jan. 3, 2020, No. 17CV01513DMSAGS) 2020 WL 42768, at *9 (denying Defendant's motion for summary judgment when plaintiff-employees conducted off-the-clock pre-shift activity in preparation to start work right when they clocked in).)

Additionally, California workers are statutorily entitled to overtime compensation, unless they are properly classified as falling within one of the narrow exemption categories. Under California law, "[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek…shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." (Lab. Code, § 510, subd. (a).) Furthermore, "[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee." (Lab. Code, § 510, subd. (a).) Labor Code §§ 510, 1194, and 1199 require an employer to pay its employees the legal minimum wage and the legal overtime compensation applicable.

Here, Plaintiff alleges that Defendant has had a consistent policy of failing to pay wages and/or overtime to Plaintiff and all aggrieved employees. (Szamet Decl. ¶29.) On a few occasions, Plaintiff was asked to return to a job site to re-clean an area after she had already clocked out. (Szamet Decl. ¶30.) At least once or twice per month, Plaintiff was also instructed to arrive to the jobsites to begin cleaning before the start of her shift. (Szamet Decl. ¶31.) As a result, Defendant failed to provide Plaintiff and the aggrieved employees with all wages and/or overtime.

By their policy of requiring Plaintiff and the Aggrieved Employees to work without being paid all wages at their appropriate regular rate of pay and to work in excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without compensating them at the rate of one and one-half (1½) times their regular rate of pay, Plaintiff alleges that Defendant willfully violated the provisions of Labor Code §§ 510, 1194, 1194.2, and 1199, as well as its own written policies. Plaintiff alleges that Defendant therefore owes penalties under PAGA. Defendant disputes this off the clock time and argues that all employees were paid for all hours worked.

2. The Risks Associated with the Meal Period Claim

Under California Labor Code section 512 and IWC Wage Order No. 5, no employer shall employ any person for a work period of more than five hours without providing a meal period of not less than thirty minutes. The first meal period must be permitted to commence no later than after five hours of work, or the start of the sixth hour of work (5.0 hours on the clock). (*Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1049.) The second meal period must be permitted to commence no later than after ten hours of work, or the start of the eleventh hour of work (10.0 hours on the clock). (Ibid.) The California Supreme Court succinctly described Section 512's mandate: "Employers must afford employees uninterrupted half-hour periods in which they are relieved of any duty or employer control and are free to come and go as they please." (*Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1037.)

Furthermore, Labor Code §§ 226.7 and 512 require an employer to pay an additional hour of compensation for each meal period the employer fails to provide. Employees are entitled to a first meal period of at least thirty (30) minutes for shifts over five (5) hours, to be provided within the first five (5) hours of the shift.

Plaintiff alleges that Defendant failed to apprise Plaintiff and the aggrieved employees of their rights associated with meal periods and failed to provide timely meal periods. (Szamet Decl. ¶32.) Defendant has had a consistent policy of: (1) failing to provide Plaintiff and the aggrieved employees compliant meal periods within the first five hours of each shift; and (2) failed to pay such employees one (1) hour of pay at the employees' regular rate of compensation for each workday that the first meal period was not provided within the first five (5) hours of the shift. (*Id*.)

Here, Plaintiff contends that she would often take her lunch at the second jobsite. (Szamet Decl. ¶33.) Because she was on the premises and often worked by herself, she contends that she would be easily interrupted during her meal period either by the client or by phone. (*Id*.) Further, Plaintiff maintains that Defendant assigned very heavy workloads to housekeepers which made it extremely difficult to take a full 30-minute break, and Plaintiff and the aggrieved employees would frequently be able to only take 15-20 minute lunches. (Szamet Decl. ¶34.)

Defendant argued that the employees did receive their meal periods, the time records show largely compliant meal periods, and presented evidence that other employees would testify to that fact. (Szamet Decl. ¶35.) Additionally, Defendant maintained valid meal and rest period policies. (Szamet Decl. ¶36.) This presented a risk on the meal period claim that Plaintiff considered when evaluating this settlement. (Szamet Decl. ¶37.)

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3. The Risks Associated with the Rest Period Claim

Labor Code section 226.7, subdivision (c), requires an employer to pay an additional hour of compensation for each workday the employer fails to provide a rest period according to law. Employees are entitled to a paid ten (10) minute rest break for every four (4) hours worked, or major fraction thereof. (Cal. Code Regs., tit. 8, § 11050, subd. 12(A).)

Plaintiff's and the Aggrieved Employees' rest period claims arise from an allegedly common course of conduct wherein Defendant did not provide employees with the opportunity to take first, second, and/or third 10-minute rest breaks in compliance with California law. The California Supreme Court has held: "Employees are entitled to 10 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours and so on." (*Brinker Rest. Corp v. Superior Court*, supra, 53 Cal.4th at 1029.) In an eight-hour workday, being denied the two paid rest breaks in a day is "essentially perform[ing] 20 minutes of 'free' work." (*Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1104).

The Court has also clarified what steps an employer must take to make rest breaks available to its employees:

An employer is required to authorize and permit the amount of rest break

> time called for under the wage order for its industry. If it does not—if, for example, it adopts a uniform policy authorizing and permitting only one rest break for employees working a seven-hour shift when two are required—it has violated the wage order and is liable. No issue of waiver ever arises for a rest break that was required by law but never authorized; if a break is not authorized, an employee has no opportunity to decline to take it.

(*Brinker Rest. Corp. v. Superior Court*, supra, 53 Cal.4th at 1033 (emphasis added.).)

Employers must authorize and permit a net ten-minute paid rest period for every four hours, or major fraction thereof, of work for its employees. If an employer does not, then the employer must pay the employee one hour of pay at the employee's regular rate of pay for each workday that the rest period is not provided. (Cal. Code Regs., tit. 8, § 11050, subd. 12(B).)

Here, Plaintiff alleges that Defendant failed to provide Plaintiff and the aggrieved employees with rest breaks of not less than ten (10) minutes per four (4) hour work period, or major fraction thereof. (Szamet Decl. ¶38.) Defendant failed to provide Plaintiff and the aggrieved employees with compliant rest periods. (Szamet Decl. ¶39.) Further, Plaintiff and the aggrieved employees were not compensated with one (1) hour of wages for each missed rest period as required by Labor Code § 226.7. (Szamet Decl. ¶40.) Plaintiff alleges she was never able to take rest breaks, and thus assumes a 100% violation rate. Plaintiff's pay records do not show any rest break premiums either. (Szamet Decl. ¶41.)

Defendant again raised the defense that employees received their rest breaks and presented evidence that employees would testify as such. (Szamet Decl. ¶42.) Given that the rest period policy was accurate, Plaintiff considered this a viable risk. (Szamet Decl. ¶43.)

4. The Risks Associated with the Wage Statement Claims

California Labor Code §226(a) requires Defendant to provide its employees with an accurate, itemized written wage statement that shows, in relevant part, total hours worked by the employee, their name and address of the legal entity that is the employer, and all applicable hourly rates and the corresponding number of hours worked. Specifically, Labor Code §226(a) requires employers to furnish accurate itemized wage statements in writing that show total hours worked by the employee and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. (Labor Code §§ 226(a)(2) and (9) respectively.)

Plaintiff alleges that Defendant furnished Plaintiff and the Aggrieved Employees with itemized wage statements that do not accurately show total hours worked by the employee and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. (Szamet Decl. ¶44.) Defendant furnished Plaintiff and the Aggrieved Employees with itemized wage statements that do not accurately show all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate because Plaintiff and the Aggrieved Employees performed work while off the clock. (Szamet Decl. ¶45.) The work performed off the clock was not recorded and thus was not reflected in the Aggrieved Employees' wages and wage statements. (*Id*.)

Further, Plaintiff and the Aggrieved Employees are issued wage statements that do not include accurate meal and rest premiums as a result of the claims alleged above. (Szamet Decl. ¶46.) Defendant's failure to provide accurate itemized wages statements according to Labor Code § 226(a) was all done on a regular and consistent basis. Thus, Defendant owes the Aggrieved Employees penalties under PAGA for failing to provide accurate and itemized wage statements.

As this is a derivative claim, the same risks present for the above claims were present for this claim. (Szamet Decl. ¶47.)

5. The Risks Associated with the Waiting Time Penalties Claim

Under Labor Code section 203, if an employer fails to provide wages at the time of an employee's termination or within seventy-two (72) hours of resignation, then the employee's wages shall continue as a penalty for up to thirty (30) days. (Labor Code § 203.) Section 203 reflects a public policy that favors the full and prompt payment of earned wages. (See, e.g., *Barnhill v. Robert Saunders & Co.* (1981) 125 Cal.App.3d 1, 7; *Mamika v. Barca* (1998) 68 Cal.App.4th 487, 492.)

Here, Plaintiff and numerous Aggrieved Employees are no longer employed by Defendant. Defendant failed to pay all wages owed and due upon their termination and/or resignation. (Szamet Decl. ¶48.) Defendant's actions were willful, as they have intentionally failed or refused to perform an act which was required to be done. (See *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1201.) "The failure to pay is willful if the employer 'knows what [it] is doing

[and] intends to do what [it] is doing', and does not also require proof that the employer acted with "a deliberate evil purpose to defraud work[ers] of wages which the employer knows to be due.'" (*Diaz v. Grill Concepts Services, Inc.* (2018) 23 Cal.App.5th 859, 868.)

Plaintiff factored in the risk of establishing that any violation was "willful" and the fact that this claim is derivative. (Szamet Decl. ¶49.)

In light of all these significant risks and given that PAGA gives the Court broad discretion to reduce any penalties ultimately awarded, PAGA Counsel determined that the Gross Settlement Amount of $225,000.00 was fair and reasonable. (Szamet Decl. ¶50.)

D. A Court May Exercise its Discretion to Reduce the Maximum Civil Penalty Awarded for Technical Violations of the Labor Code

"PAGA penalties…are mandatory, not discretionary" and must be awarded upon a showing that Defendant violated the Labor Code. *Amaral v. Cintas Corp. No.* 2 163 Cal. App 4th 1157, 1213 (2008); *Moreno v. Autozone, Inc.* (N.D. Cal. June 5, 2007) No. C05-04432 MJJ, 2007 WL 1650942, at *3.

However, PAGA does provide the Court with discretion when it awards these penalties. Labor Code section 2699(e)(2) states that "a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory."

In *Fleming v. Covidien Inc.* (C.D. Cal. Aug. 12, 2011, No. EDCV 10-01487 RGK (OPx)) 2011 WL 7563047, the Court exercised its discretion to reduce the PAGA penalty amount. There, the plaintiff brought a PAGA claim for violations of section 226(a) based on the following issues: (a) the statements did not show either an employee identification number or the last four digits of the social security number of the employee; (b) the statements did not show the beginning date of the pay period for which the employee was paid; (c) the statements identified Covidien as the employee's employer. (*Id.* at *2). There were approximately 28,000 wage statements at issue. (*Id.* at *3). The *Fleming* court calculated the maximum potential civil penalty exposure at $2.8 million ($100 per wage statement). (*Ibid*; *see also* Labor Code § 2699(f)(2)). After a bench trial, the Court

elected to exercise its discretion to reduce the civil penalty per wage statement to $18 per wage statements, reflecting 18% of the potential exposure. (*Id*. at *4). The Court reasoned:

> Here, the aggrieved employees suffered no injury due to the erroneous wage statements, and made no complaint of the errors or omissions contained therein prior to filing suit. Also, Defendants were not aware that the wage statements violated the law and took prompt steps to correct all violations once notified. Given these circumstances, the Court finds a $2.8 million penalty unjust according to § 2699(e)(2). Accordingly, in its discretion, the Court reduces the penalty to $500,000.

Id. at *4. A court exercising its discretion to significantly reduce the civil penalty awarded under PAGA is not a rare occurrence. *See e.g., Carrington v. Starbucks Corp*. (2018) 30 Cal. App. 5th 504, 529 (awarding 10% of maximum civil penalty for meal break claims in light of Starbuck's "good faith attempts" to comply and because the violations were minimal).

Here, as explained above, Plaintiff's counsel anticipated that, at trial, Counsel for Defendant would argue that: (1) the Aggrieved Employees were properly paid and in accordance with Defendant's lawful policies and practices, and that any alleged failure to compensate the Aggrieved Employees was the result of inadvertence and clerical error; (2) the Aggrieved Employees were provided with the opportunity to take meal and rest breaks in compliance with California law; (3) until this Action was filed, no employees had complained about any alleged failure to pay wages, provide meal and/or rest breaks, issue accurate itemized wage statements; (4) none of Defendant's employees suffered any harm from or actual damage as a result of the conduct that forms the basis for Plaintiff's allegations. All of which, Counsel for Defendant would argue, should mitigate in favor of significantly reducing the civil penalty.

After engaging in pertinent informal discovery in this Action, Plaintiff's counsel determined that a settlement of $225,000.00 is reasonable given the above risks.

E. <u>There is a Strong Risk the Higher $200 Civil Penalty Triggered for "Subsequent" Violations Will Not Apply</u>

Plaintiff believes there is a strong risk that the Court will not award the $200 civil penalty triggered for "subsequent" violations. Labor Code section 2699(f)(2). If this case were to proceed to trial, Plaintiff would argue that a "subsequent" violation simply means that Defendant violated

the Labor Code more than once for a given employee. Plaintiff is not aware of any case law that interprets "subsequent" in the context of section 2699. However, Defendant is likely to rely on *Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157 (2008) because it rejected a purely temporal understanding of the term "subsequent" and interpreted its use in Labor Code sections 210 and 225.5 to require that "the employer has been notified that it is violating a Labor Code provision" before higher penalties are triggered. *Id*. at 1209. Defendant presumably will take the position that it has not been notified that it actually violated the Labor Code until the Labor Commissioner has issued a formal citation or this Court made a finding that a violation existed. Even if the Court would agree with Plaintiff that Defendant was put on notice on June 1, 2023, the date of Plaintiff's PAGA Notice, the $200 civil penalty would at most apply to violations occurring between June 1, 2023 and August 12, 2025 (the end of the PAGA Period).

C. Based on the Risks Above and the Analysis of the Maximum Penalties Available, Plaintiff Believes this Settlement is Fair and Reasonable

Based on these figures, the maximum potential exposure for the PAGA claims for the Aggrieved Employees is $2,870,000.00 (approximately 28,700 pay periods at issue multiplied by $100 a pay period). (Szamet Decl. ¶51., Exhibit 1, ¶8.1.) If the Court were to apply the $200 subsequent-violation rate across the PAGA Period, the theoretical maximum could balloon to $5,740,000.00, but in light of the immense discretion available, Plaintiff believes the Settlement is reasonable. Given that the Gross Settlement Amount of $225,000.00 represents approximately 7.8% of the maximum theoretical exposure—before any discretionary reduction under section 2699(e)(2)—and that $120,500.00 in PAGA Penalties will flow directly to the LWDA and the Aggrieved Employees, Plaintiff believes this is a fair and reasonable settlement.

VI. THE REQUEST FOR ATTORNEYS' FEES AND COSTS

As detailed fully in the Settlement, the settlement provides for Defendant to create a Gross Settlement Amount of $225,000.00. (Szamet Decl. ¶56; Ex. 1 at ¶¶3.) From that fund, Plaintiff requests an award of attorneys' fees for PAGA Counsel in the amount of $75,000.00, or 33.33% of the Gross Settlement Amount, and $11,469.72 in reimbursement for litigation costs. (*Id*; Ex. 1 at ¶3.)

A. Plaintiff's Counsel are Entitled to a Fee from the Common Fund

On August 11, 2016, the California Supreme Court decided *Laffitte v. Robert Half International,* which addressed the correct methodology for awarding fees in a class action settlement. (*Laffitte v. Robert Half Internat., Inc.* (2016) 2 Cal.5th 480, 503.) The *Laffitte* Court approved awarding fees as a percentage of the settlement fund in cases like the present one, where a settlement results in the creation of a common fund on behalf of a class:

> We join the overwhelming majority of federal and state courts in holding that when class action litigation establishes a monetary fund for the benefit of the class members, and the trial court in its equitable powers awards Class 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.

(*Id.* at p. 503.) The Court then set out several reasons why the percentage-of-the-fund method is preferred over the alternative lodestar-multiplier approach in California courts:

> 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 [citations]—convince us the percentage method is a valuable tool that should not be denied our trial courts.

(*Id.* at p. 503.)

An award of 33.33% of the common fund is appropriate here under the "substantial benefit" theory. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1810; *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 254.) That theory permits a litigant who has sued in a representative capacity to recover fees when the litigant's efforts have created a substantial, actual, and concrete benefit for members of an ascertainable class and the court's jurisdiction over the subject matter makes possible an award which spreads the cost proportionately among the members of the benefitted class. (*See Ciani v. San Diego Trust & Sav. Bank* (1994) 25 Cal.App.4th 563, 578.)

This doctrine rests on the understanding that attorneys should normally be paid by their clients, and that unless attorneys' fees are paid out of the common fund, those who benefitted from the fund would be unjustly enriched. (*Woodland Hills Residents Assn., Inc. v. City Council* (1979)

23 Cal.3d 917, 943; *Save El Toro Ass'n v. Days* (1979) 98 Cal.App.3d 544, 548-49.) To prevent this unfair result, courts exercise their inherent equitable powers to assess attorneys' fees against the entire fund, thereby spreading the cost of those fees among all those who benefitted. (*Serrano v. Priest* (1977) 20 Cal.3d 25, 35 (*Serrano III*).) "A court, in the exercise of its equitable discretion, may decree that those receiving the benefit should contribute to the costs of its production." (*Save El Toro Assn., supra*, 98 Cal.App.3d at 548.) As this approach "better approximates the workings of the marketplace than the lodestar approach," there is "a greater judicial willingness to evaluate a fee award as a percentage of the recovery" in common fund cases. (*Lealao v. Beneficial Calif., Inc.* (2000) 82 Cal.App.4th 19, 31, 48.)

B. The Attorneys' Fees Request Are Well Within the Range of Fees in Comparable Cases

Courts historically award fees in the twenty-to-fifty percent range, depending on the circumstances of the case. As stated in Newberg:

> No general rule can be articulated on what is a reasonable percentage of a common fund. Usually 50% of the fund is the upper limit on a reasonable fee award from a common fund in order to assure that the fees do not consume a disproportionate part of the recovery obtained for the Class, although somewhat larger percentages are not unprecedented.

(Newberg on Class Actions, 3rd Ed., 1992, § 14.03; *and see Chavez v. Netflix, Inc*. (2008) 162 Cal.App.4th 43, 66, fn 11 ["Empirical 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."].) Thus, PAGA Counsel's requested fee of 33.33% is not only well within the range of reasonableness, but consistent with the average fee award of approximately one-third of the recovery, and is fair compensation for undertaking this complex, risky, expensive, and time-consuming litigation on a contingent basis.

C. PAGA Counsel's Fee Request is Reasonable Under a Lodestar Crosscheck

Courts may "cross-check" the results of the common fund method against the lodestar method. (*See In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557.) The lodestar is calculated by multiplying the reasonable hours expended by a reasonable hourly rate. (*Serrano III*,

supra, 20 Cal.3d at pp. 48–49.) Those rates reflect "the general local hourly rate for a fee-bearing case" and do "not include any compensation for contingent risk, extraordinary skill, or any other factors." (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1138.) The court may then enhance the lodestar with a multiplier. (*Wershba, supra*, 91 Cal.App.4th at 254; *Serrano III, supra*, 20 Cal.3d at 49.)

i. Requested Multiplier

The purpose of using the lodestar/multiplier method is to mirror the legal marketplace. Counsel will not handle cases for straight hourly fees payable only if they win; therefore, an enhancement is often awarded so that the fee received is commensurate with what attorneys could expect to be compensated for services in similar circumstances. (*See San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 755 [an award must be large enough "to entice competent counsel to undertake difficult public interest cases"].) No specific findings reflecting the court's calculations are required. (*Wershba*, *supra*, 91 Cal.App.4th at 254; *Rebney v. Wells Fargo Bank* (1991) 232 Cal.App.3d 1344, 1349.) "The record need only show that the attorney fees were awarded according to the 'lodestar' or 'touchstone' approach." (*Ibid.*)

Here, a lodestar cross-check confirms that the percentage requested is reasonable. (Szamet Decl. ¶65.) PAGA Counsel have an aggregate lodestar in the amount of $45,807.00 which represents 50.9 hours of attorney work on this litigation from its inception through the date of this filing of Plaintiff's instant Motion. (*Id*.) As such, PAGA Counsel is asking for a lodestar multiplier of 1.64. (Szamet Decl. ¶66.) Typically, the lodestar is merely the starting point of the calculation of a reasonable fee, and courts often multiply the lodestar by a factor to account for the risk of non-payment, delay in payment, the quality of work, and the novelty and difficulty of the issues involved. (*See Rader v. Thrasher,*(1962) 57 Cal.2d 244, 253; *Beasley v. Wells Fargo Bank,* (1991) 235 Cal.App.3d 1407, 1419; *Coal. for L.A. County Planning v. Bd. of Supervisors,* (1977) 76 Cal.App.3d 241, 251.)

This case dealt with difficult legal and factual questions. (Szamet Decl. ¶67.) Significantly, the risk attendant to the underlying claims in this matter was great considering Defendant's

defenses as discussed in detail above. *(Ibid.)* Were this case to proceed, Defendant would have a strong incentive to litigate tenaciously. *(Ibid.)* There are genuine issues in dispute. *(Ibid.)* Furthermore, PAGA Counsel was able to obtain close to the full value for this case. (Szamet Decl. ¶68.)

As discussed above, PAGA Counsel are skilled wage and hour practitioners with decades of experience who diligently prepared and litigated this matter. (Szamet Decl. ¶69.) To achieve the ultimate result in this case, my firm had to incur substantial risk and expense, and were precluded from taking other fee generating employment for 50.9 hours of attorney time. (Szamet Decl. ¶70.) This matter had been handled purely on a contingency fee basis and my firm has advanced many thousands of dollars in costs while deferring all payment of fees, with no guarantee that any of the fees incurred or costs advanced would ever be recovered, and diverting significant firm resources to prosecution of this matter. (Szamet Decl. ¶71.) PAGA Counsel believe this is an exceptional result that has been well received by the Aggrieved Employees. (Szamet Decl. ¶72.)

D. The Hourly Rates Requested are Reasonable

PAGA Counsel is entitled to be compensated at hourly rates that reflect the reasonable market value of their legal services, based on their experience and expertise. (*See Serrano IV, supra*, 32 Cal.3d at pp. 640-43, n.31.) "The reasonable hourly rate is that prevailing in the community for similar work." (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095.) Payment at full market rates is essential to entice well-qualified counsel to undertake difficult cases, such as this one. (*San Bernardino Valley Audubon Soc'y v. County of San Bernardino* (1984) 155 Cal. App. 3d 738, 755.) Additionally, calculation of a lodestar based on current hourly rates is appropriate as a means of compensating for delay in payment. (*Missouri v. Jenkins by Agyei* (1989) 491 U.S. 274, 283-84.)

The requested hourly rates in this case range from $450.00 per hour to $1,250.00. (Szamet Decl. ¶73.) PAGA Counsel's hourly rates are fully supported by their experience and reputation in handling complex employment litigation, including wage and hour class actions. (Szamet Decl. ¶74; ¶¶78-82.)

Mr. Kingsley is a 30-year attorney with expertise in wage and hour class action lawsuits. (Szamet Decl. ¶75.) He has litigated several hundred such cases, including at the appellate level at the U.S. Supreme Court, California Supreme Court, the Ninth Circuit, and the California Court of Appeal. (Szamet Decl. ¶76.) He is also a prolific speaker at various seminars on employment law and has contributed to legal publications on employment topics. (Szamet Decl. ¶77.)

Biographical information for the other handling attorneys is included in the concurrently filed Declaration of Kelsey M. Szamet. (Szamet Decl. ¶¶78-82.)

PAGA Counsel's charged rates are commensurate with the prevailing market rates in San Diego County for attorneys of comparable experience and skill handling complex litigation. (Szamet Decl. ¶84.) Furthermore, PAGA Counsel's rates in calculating the lodestar are the same rates charged to non-contingent hourly clients and thus necessarily reflect the current market value of counsel's legal services.[7] (Szamet Decl. ¶85.) PAGA Counsel has made all reasonable attempts to avoid duplication of assignments and to assign tasks to timekeepers at the appropriate billing rates. (Szamet Decl. ¶86.)

Finally, Class Counsel's rates are in line with the adjusted Laffey Matrix, which is a fee scale that courts often consult in determining the reasonableness of hourly rates. Under the adjusted Laffey Matrix, a reasonable rate for an attorney with 20+ years of experience, such as Mr. Kingsley, is $1227, a reasonable rate for an attorney with 16 years of experience, such as Ms. Szamet, is $1019, a reasonable rate for an attorney with 4-7 years of experience, such as Ms. Bulaon, is $625, and a reasonable rate for an attorney with 3 or less years of experience, such as Ms. Baines is $508.. (Szamet Decl. ¶87; Ex. 4 [2025-2026 Adjusted Laffey Matrix].)

E. The Fees Requested are Reasonable

The trial court has substantial discretion in adjusting the lodestar to account for various factors inadequately reflected therein. (*See Lealao*, supra, 82 Cal.App.4th at pp. 40-45.) A lodestar multiplier is recognized as earned compensation: "The adjustment to the lodestar, e.g., to provide a fee enhancement reflecting the risk the attorney will not receive payment if the suit does not

[7] The Court should also note that other California courts approved many of these same rates over 15 years ago. (See, e.g., *Bihun v. AT&T Info. Sys., Inc*. (1993) 13 Cal.App.4th 976, 997, disapproved on other grounds, 6 Cal.4th 644, 664 [$450 hourly rate was a reasonable fee based on counsel's knowledge, skill, experience and reputation].)

succeed, constitutes earned compensation; unlike a windfall, it is neither unexpected nor fortuitous." (*Ketchum*, supra, 24 Cal.4th at p. 1138.)

In California, courts regularly use a multiplier of 2.0 or greater in statutory fee cases to approximate market fees. In fact, "[m]ultipliers in the 3-4 range are common in lodestar awards for lengthy and complex class action litigation." (*Van Vraken v. Atlantic Richfield Co*. (N.D.Cal.1995) 901 F.Supp. 294, 298; *see also, Wershba, supra*, 91 Cal.App.4th at p. 255 ["Multipliers can range from 2 to 4 or even higher."].)

VII. THE COURT SHOULD APPROVE THE REQUEST FOR REIMBURSEMENT OF COSTS

In addition to their request for fees, PAGA Counsel further request reimbursement of the reasonable out-of-pocket expenses advanced and/or incurred by them in connection with this litigation, in the amount of $11,469.72. (Szamet Decl. ¶94.) To date, PAGA Counsel has incurred $11,169.72 in costs. (Szamet Decl. ¶95.) PAGA Counsel anticipates incurring an additional $300.00 in costs to file and serve this motion, but the Settlement provides for a reimbursement of litigation costs of up to $12,000.00. (Szamet Decl. ¶96.) As such, counsel is requesting a cost reimbursement of $11,169.72. (Szamet Decl. ¶97.)

All of the requested costs are reasonable in amount and were necessarily incurred by PAGA Counsel in prosecuting this litigation. (Szamet Decl. ¶98.); Exhibit "5" [Cost Report].) Expenses in this matter to date include costs for filing fees, research, mediation, and additional costs for the prosecution of this case evidenced in the costs spreadsheet attached to the Declaration of Kelsey M. Szamet. All of these costs have been incurred in the course of this litigation, and all costs advanced have already been paid by PAGA Counsel, with the exception of the anticipated cost of filing the present motion. (Szamet Decl. ¶99.)

Accordingly, the requested reimbursement of the reasonable out-of-pocket expenses advanced and/or incurred is appropriate and justified as part of the overall settlement and the Court should approve the request for reimbursement in the amount of $11,469.72. (Szamet Decl. ¶100.)

VIII. ENHANCEMENT TO PLAINTIFF

The Settlement calls for an enhancement payment of $7,500.00 to the named PAGA

Representative, to be paid from the Gross Settlement Amount. (Szamet Decl. ¶101; Ex. 1 at ¶3.2.) Incentive awards "are intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and sometimes, to recognize their willingness to act as a private attorney general." (*Rodriguez v. West Publishing Corp.* (9th Cir. 2009) 563 F.3d 948, 958-59.) "[I]t is established that named plaintiffs are eligible for reasonable incentive payments to compensate them for the expense or risk they have incurred in conferring a benefit on other members of the class." (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 412 (citing *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 805-806; *Staton v. Boeing Co.* (9th Cir.2003) 327 F.3d 938, 977)).

Here, the enhancement takes into consideration the time, effort, and expense incurred by PAGA Representative in coming forward to litigate this matter on behalf of the Aggrieved Employees. The time spent by Miryan Elisa Kaddis includes identifying competent counsel, providing information to PAGA Counsel regarding PAGA Representative's relevant employment experiences, compiling documents, meeting with PAGA Counsel frequently to discuss the status of the case and the theories of liability, reviewing settlement documents, and making herself available for a full-day mediation session on May 7, 2025, and a half-day mediation session on June 13, 2025. (Szamet Decl. ¶102.)

PAGA Counsel considers this to be a fair and reasonable enhancement. (Szamet Decl. ¶103.) In addition, in exchange for the Enhancement Payment, Plaintiff will execute a separate general release of her individual claims that is broader than the PAGA-only release given by the other Aggrieved Employees, which further supports the requested award. (Szamet Decl. ¶104.; Exhibit 1, ¶¶3.2.1, 5.1.) The enhancement takes into consideration the time, effort, risks, and expense incurred by PAGA Representative in coming forward to litigate this matter on behalf of the Aggrieved Employees. (Szamet Decl. ¶105.) Accordingly, PAGA Representative should be awarded the agreed-upon enhancement of $7,500.00.

IX. CONCLUSION

Plaintiff and Plaintiff's Counsel submit that the proposed Settlement as documented in the

Agreement is fair, adequate, reasonable, and in the best interest of the Parties and the State of California. Plaintiff respectfully requests that the Court approve the Settlement and Order that the Settlement is carried out according to the terms of the Agreement.

DATED: November 3, 2026

KINGSLEY SZAMET EMPLOYMENT LAWYERS

By: _____

Kelsey M. Szamet
Attorneys for Plaintiff MIRYAN ELISA KADDIS and all aggrieved employees

(PROOF OF SERVICE)
[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On November 3, 2026, I served all interested parties in this action the following documents described as: **NOTICE OF MOTION AND MOTION FOR APPROVAL OF REPRESENTATIVE ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

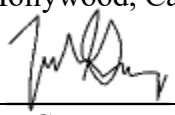
David G. Hoiles, Jr.
david.hoiles@jacksonlewis.com
James E. Pilley
james.pilley@jacksonlewis.com
Susan Najjar
susan.najjar@jacksonlewis.com
Kristine Hammett
kristine.hammett@jacksonlewis.com
JACKSON LEWIS P.C.
225 Broadway, Suite 1800
San Diego, CA 92101

[XX] BY ELECTRONIC SERVICE: I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (https://dir.tfaforms.net/315) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

[XX] (BY ELECTRONIC MAIL TRANSMISSION): I caused the document to be sent to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the above email address(es).

[XX](STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 3, 2026, at West Hollywood, California.



Taylor Gregg