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JOSE FIGUEROA, and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES-CENTRAL DISTRICT

(*UNLIMITED JURISDICTION*)

JOSE FIGUEROA, as an "aggrieved employee" on behalf of himself and other similarly situated "aggrieved employees" under the Labor Code Private Attorneys General Act of 2004,

Plaintiff,

vs.

JJ PROPERTY MAINTENANCE NETWORK, INC., a California corporation; and DOES 1 to 25, inclusive,

Defendants.

Case No.: 24STCV01057

NOTICE OF MOTION AND PLAINTIFF'S UNOPPOSED MOTION FOR APPROVAL OF PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES

Action filed:	January 16, 2024
Hearing Date:	April 13, 2026
Hearing Time:	1:30 p.m.
Hearing Dept:	10, Hon. William F. Highberger

Submitted Herewith Under Separate Cover:

1. Declaration of Maralle Messrelian;
2. Declaration of Jose Figueroa;
3. Declaration of Lisa Mullins; and
4. [Proposed] Order and Judgment Approving PAGA Settlement.

TO ALL PARTIES, THE CALIFORNIA LABOR AND WORKFORCE DEVELOPMENT AGENCY, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on April 13, 2026 at 8:30 a.m., or as soon thereafter as the matter may be heard, in Department SSC-10 of the above-entitled court, located at 312 N. Spring St., Los Angeles, California 90012, Plaintiff Jose Figueroa ("Plaintiff" or "Figueroa") will and hereby does move this Court for an Order approving the "PAGA Settlement Agreement" (the "Settlement" or "Settlement Agreement") entered into by Plaintiff and Defendant JJ Property Maintenance Network, Inc. As reflected in the memorandum of points and authorities filed concurrently herewith, this includes:

- Approving the Settlement Administration Costs;
- Approving the PAGA Counsel's Attorneys' Fees and Costs;
- Approving the Release by Aggrieved Employees and Plaintiff;
- Directing consummation of the Settlement pursuant to its terms and provisions;
- Dismissing the Action with prejudice;
- Entering Judgment approving the Settlement; and
- Reserving continued jurisdiction over the Parties, Action, and Settlement solely for purposes of (i) enforcing the Settlement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

The Motion is based on this Notice of Motion and Motion, the attached Memorandum of Points and Authorities, the declarations of Maralle Messrelian, Jose Figueroa, and Lisa Mullins, the Settlement Agreement and its exhibits, all papers and pleadings on file with the Court in this action, all matters judicially noticeable, and on such oral and documentary evidence as may be presented in connection with the hearing on the Motion.

Respectfully submitted,

MM LAW, APC

Dated: January 13, 2026

By: Maralle Messrelian

Maralle Messrelian
Attorneys for Plaintiff, Jose Figueroa

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Jose Figueroa ("Plaintiff" or "Figueroa") submits this memorandum of points and authorities in support of his motion for approval of the "PAGA Settlement Agreement" (the "Agreement", "Settlement", or "Settlement Agreement")[1] for the civil penalties claim he brought against Defendant JJ Property Maintenance Network, Inc. ("Defendant" or "JJ") under the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.* ("PAGA"). Plaintiff brings this motion because Labor Code section 2699, subdivision (*s*)(2), of the PAGA requires Court-approval of any settlement of a civil action filed pursuant to PAGA. Through this motion, Plaintiff respectfully requests for this Court to approve the PAGA Settlement.

II. FACTUAL AND PROCEDURAL BACKGROUND

JJ first began to employ Plaintiff as a janitor in or around February 2023. Plaintiff's employment ended on or around June 14, 2023. MM, ¶ 5.

A. Plaintiff's Written Notice to the State of California

Plaintiff complied with the procedures of Labor Code § 2699.3 for bringing suit under the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, et seq. ("PAGA"). On July 26, 2023, Plaintiff, on behalf of himself and JJ's other California non-exempt hourly employees (hereafter collectively the "Aggrieved Employees") gave written notice by electronic service to the California Labor and Workforce Development Agency ("LWDA") and via certified mail to Defendant of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. The specific provisions alleged to have been violated in the PAGA notice letter included Labor Code sections §§ 98.6, 201, 202, 203, 204, 226, 226.7, 233, 246, 246.5, 510, 512, 558, 558.1, 1174, 1194, 1197, 1198, 2802, and IWC Wage Order No. 4-2001. MM, ¶ 6, Ex. 2.

B. Plaintiff's Lawsuit

On January 16, 2024, Plaintiff filed a putative wage and hour Class Action Complaint,

[1] The Settlement Agreement is attached as Exhibit ("Ex.") 1 to the Declaration of Maralle Messrelian ("MM"), which is submitted herewith under a separate cover.

based on these same allegations in the PAGA Notice, in the Los County Superior Court, Case no.: 24STCV0105, against Defendant alleging that Defendant: (1) failed to pay all wages earned for all hours worked at the correct rates of pay; (2) failed to provide rest breaks; (3) failed to provide meal periods; (4) failed to indemnify employees for expenditures; (5) failed to provide accurate itemized wage statements; (6) failed to pay wages when employment ends; (7) civil penalties under the Private Attorney's General Act ("PAGA"); and (8) unfair business practices (the "Complaint"). MM, ¶ 7, Ex. 3. In response to Plaintiff's assertions, Defendant filed its Answer on February 15, 2024. MM, ¶ 7, Ex. 4.

The parties met and conferred and agreed that it may be in their mutual interests to discuss Plaintiff's allegations informally, rather than through litigation, and scheduled private mediation. MM, ¶ 8.

C. Mediation With Professional Neutral Laurie Quigley Saldana

Upon mutual agreement of the parties, on September 3, 2025, the parties participated in a full-day mediation session with professional neutral Laurie Quigley Saldana. MM, ¶ 8. At the mediation, Defendant provided information regarding its financial condition to the mediator and the Parties engaged in discussions regarding Defendant's financial condition and the feasibility of a class settlement. During mediation, and after considering Defendant's financial condition, the Parties determined that a class action settlement was not viable. Accordingly, at the conclusion of the mediation, the Parties agreed to resolve the representative PAGA claim and reached a settlement of the PAGA cause of action. MM, ¶ 9. On November 19, 2025, after considering the parties' stipulation and the declaration from Plaintiff's counsel in support, the Court granted dismissal of the class action claims without prejudice. MM, ¶ 9, Ex. 5.

Prior to the mediation, the Parties engaged in informal discovery regarding JJ's policies, practices, operations, time and payroll information and other topics. In advance of mediation, Defendant provided Plaintiff's counsel with information and documents relating to other Aggrieved Employees, including timekeeping and payroll data. *Id*. Through extensive, arm's length negotiations at the mediation, and only after discovery and investigation were performed, the parties agreed to settlement terms. Now that the parties have finalized the PAGA Settlement, Plaintiff submits the Settlement to this Court for review and approval. *Id*.

Throughout the Lawsuit and as reflected in the Settlement Agreement, Defendant has vigorously disputed and denied any liability or wrongdoing of any kind whatsoever associated with the lawsuit and maintained that Defendant elected to enter to the Settlement to avoid the burden and expense of continued litigation in connection with the Action. As provided in the Settlement, the parties wish to fully, finally, and forever compromise, and discharge all claims known or unknown related to those alleged in Plaintiff's lawsuit. MM, ¶ 10.

III. OVERVIEW OF SETTLEMENT

A. "Aggrieved Employees" Definition

The Aggrieved Employees means all individuals who are, or were, employed by Defendant JJ Property Maintenance Network, Inc. as non-exempt employees in California during the PAGA Period. The PAGA Period means the period from July 26, 2022 through September 3, 2025. Agreement, ¶¶ 1.4, 1.20.

B. Monetary Terms Of The Settlement

Defendant has agreed to pay a total of $100,000.00 ("Gross Settlement Amount" or "GSA") to settle the PAGA claims identified in Plaintiff's LWDA letter and Complaint (described more fully below), from which all settlement payments to the Aggrieved Employees, to the State of California, to Plaintiff for his Enhancement Payment, to PAGA Counsel for Court approved attorneys' fees and costs, and for Settlement Administration Costs shall be paid. Agreement, ¶ 30. Each Aggrieved Employee will receive a portion of the civil penalties on a pro-rata basis calculated based on the total number of pay periods each Aggrieved Employee worked as a non-exempt hourly employee of JJ in California during the PAGA Period. *See*, Agreement, ¶ 31(c). The GSA will be divided as follows:

1. PAGA Counsel Fees Payments amounting to $33,333.33 (1/3 of the GSA),
2. PAGA Counsel Litigation Expenses Payment not to exceed $8,500;
3. Plaintiff's Enhancement Payment in the amount of $5,000;
4. Settlement Administration Costs not to exceed $5,000 to ILYM Group,

Inc.

to administer the Settlement;

5. Approximately $48,166.67 ("Net Settlement Amount"), divided as follows:
   a. $36,125.00 for the LWDA Payment $(48,166.67 x 75% = $36,125)
   b. $12,041.67 for the Aggrieved Employee Payment ($48,166.67 x 25% = $12,041.67)

Agreement, ¶ 3.2.

C. Funding and Distribution of the Settlement

Provided that the Court approves the Settlement, Defendant shall make four payments to fully fund the Gross Settlement Amount by transmitting the funds to the Administrator:

- Payment 1: $25,000 – Due within 30 days of the Effective Date.
- Payment 2: $25,000 – Due within 3 months following the first payment.
- Payment 3: $25,000 – Due within 3 months following the second payment.
- Payment 4: $25,000 – Due within 3 months following the third payment (final payment, completing all payments within 12 months of the first).

Agreement, ¶ 4.3. Within Ten (10) days after Defendant fully funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment and the Enhancement Payment. *Id*., ¶ 4.3. 4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. Agreement, ¶ 4.4.1. Together with the Individual PAGA Payments, the Settlement Administrator will issue each Aggrieved Employee the Notice of PAGA Settlement in English and Spanish, attached as Exhibit A to the Settlement Agreement. *Id.* Each Aggrieved Employee will be paid for his or her pro rata share of 25% of the Net Settlement Amount calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period. Agreement, ¶ 3.2.4.

Within thirty(30) days of the Effective Date, Defendant will provide the Aggrieved Employee Data to the Settlement Administrator which will based on Defendant's records identifying the Aggrieved Employees by name, social security number, and last known home address, and identify the number of pay periods worked by each Aggrieved Employee during the

PAGA Period. Agreement, ¶ 4.2. Before mailing any checks, the Administrator must update the recipients' mailing addresses using the National Change of Address Database. Agreement, ¶ 4.4.1. Any checks returned as non-deliverable on or before the cashing deadline will be resent within seven (7) days via regular First-Class U.S. Mail to the forwarding address affixed thereto. *Id*.

D. Individual PAGA Payments and Uncashed Checks

The settlement checks issued to Aggrieved Employees will remain valid for one hundred eighty (180) days. Agreement, ¶ 4.4.1. Any settlement checks remaining uncashed for more than one hundred eighty (180) days after issuance will be distributed to the California State Controller's Unclaimed Property Fund in the name of the Aggrieved Employee. Agreement, ¶ 4.4.3. The Individual PAGA Payments shall be deemed penalties and shall be reported using IRS tax form 1099. Agreement, ¶ 3.2.4.2.

E. Release of Claims For Aggrieved Employees Limited To Those That Could Reasonably Arise From the Facts Alleged In The Action.

Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiff, on behalf of himself for purposes of his individual PAGA claim and as the representative for the State of California and all Aggrieved Employees will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released PAGA Claims with respect to Defendant JJ Property Maintenance Network, Inc. and each of their former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns, employees, parent and subsidiary companies, affiliates, holding companies, joint ventures, insurers and re-insurers, present and former spouses and heirs. (the "Released Parties"). The Released PAGA Claims means:

> all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice, including California Labor Code sections 201, 202, 203, 204, 226, 226.7, 233, 246, 246.5, 510, 512, 558, 558.1, 1174, 1194, 1197, 1198, and 2802.

Agreement, ¶¶ 1.27, 5.1, 5.2.

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IV. ARGUMENT

A. STANDARD FOR APPROVAL OF A PAGA SETTLEMENT

The Settlement of a PAGA claim requires court approval. *Lab. Code,* § 2699, subd. (*s*)(2). The Court necessarily has broad discretion in making the decision to approve or reject a settlement for civil penalties as the statutory scheme authorizes the Court to determine whether, in certain circumstances, penalties should be assessed and, if so assessed, the appropriate amount of penalties based on the facts and circumstances of the particular case. *See Lab. Code,* § 2699, subds. (e)(1)-(2), Although the PAGA does not set forth the particular standards against which a PAGA settlement should be evaluated, the LWDA has provided guidance for approval that mirrors the standards for evaluating class action settlements. MM, ¶ 12; *See, e.g.*, *Salazar v. Sysco Cent. Cal., Inc.*, 2017 U.S. Dist. LEXIS 14971, *6, n. 4-5 (E.D. Cal. 2017) (stating, based on the LWDA's guidance, that approval of PAGA settlements may be had where the statutory requirements of the PAGA are met and the terms of the settlement are fundamentally fair, reasonable, and adequate). The established standards for evaluating whether class action settlements are fair, reasonable, and adequate provide a familiar, useful framework for the Court to evaluate PAGA settlements and have been adopted by several courts. *Id.*, *See Juarez v. Villafan*, 2017 U.S. Dist. LEXIS 137205, *5 n. 4 (E.D. Cal. 2017) (*citing Officers for Justice v. Civil Serv. Comm'n of City & Cty. of San Francisco*, 688 F.2d 615, 625 (9th Cir. 1982)); *Ramirez v. Benito Valley Farms, LLC*, 2017 U.S. Dist. LEXIS 137272, *8-9 (N.D. Cal. 2017) (citing *Hanlon v. Chrysler Corp*., 150 F.3d 1011, 1026 (9th Cir. 1998)); *Gutilla v. Aerotek, Inc.*, 2017 U.S. Dist. LEXIS 41655, *7, n.4 (E.D. Cal. 2017); *Smith v. H.F.D. No. 55, Inc.*, 2018 U.S. Dist. LEXIS 67192, *6 (E.D. Cal. 2018); *Rincon v. W. Coast Tomato Growers, LLC*, 2018 U.S. Dist. LEXIS 22886, *6 (S.D. Cal. 2018).

In making the determination whether a settlement taken as a whole is fair, reasonable, and adequate, the Court should be careful to still give "proper deference to the private consensual decision of the parties," since "the court's intrusion upon what is otherwise a private consensual agreement negotiated between the parties to a lawsuit must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties . . . ." *Hanlon*, 150 F.3d at, 1027. The law favors settlement of lawsuits, particularly complex litigation cases where substantial resources can be conserved by avoiding the time, expense, and rigors of formal litigation. *See Neary v. Regents of Univ. of Cal.*, 3 Cal. 4th 273, 277-81 (1992); *In re Synocor ERISA Litigation*, 516 F.3d 1095, 1101 (9th Cir. 2008); *In re Exec. Life Ins. Co.*, 32 Cal.App.4th 344, 382 (1995).

B. THE SETTLEMENT MEETS THE STATUTORY REQUIREMENTS OF PAGA

PAGA imposes two requirements for the settlement of a PAGA claim. Both are met here. First, any civil penalties recovered, whether by judgment or settlement, must be distributed as follows: for PAGA notices filed on or before June 19, 2024 (as applies here), 75 percent to the LWDA, and the remaining 25 percent to the Aggrieved Employees. *See Moorer v. Noble L.A. Events, Inc*. (2019) 32 Cal.App.5th 736, 742; *Lab. Code,* § 2699, subd. (i). The parties' Settlement so provides. MM, ¶ 13, Ex. 1. Second, the LWDA must be given notice of the settlement so that it may be heard before the Court decides whether to grant approval. *Lab. Code,* § 2699, subd. (*l*)(2). Here, notice is being given to the LWDA concurrently with the filing of this motion. MM, ¶¶ 13, 42, Ex. 8. As a result, Plaintiff has met all procedural statutory requirements for settling a PAGA action.

C. THIS COURT SHOULD APPROVE THE PAGA SETTLEMENT BECAUSE IT IS FAIR, REASONABLE AND ADEQUATE

To make its determination that the PAGA settlement is fair, reasonable, and adequate, the Court may consider several factors, including:

> the strength of the Plaintiff's case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, and the experience and views of counsel.

Dunk v. Ford Motor Co., 48 Cal. App. 4th 1794, 1801 (1996); *Juarez*, 2017 U.S. Dist. LEXIS 137205, *5 n.4; *Ramirez*, 2017 U.S. Dist. LEXIS 137272, *8-9; *Gutilla*, 2017 U.S. Dist. LEXIS 41655, *7, n.4; *Smith*, 2018 U.S. Dist. LEXIS 67192, *6; *Rincon*, 2018 U.S. Dist. LEXIS 22886, *6. The Court properly begins its analysis with a presumption that the proposed settlement is fair where the following factors are present: "(1) the settlement is reached through arm's length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation . . . ." *Dunk*, 48 Cal. App. 4th at 1802.

Here, the PAGA Settlement warrants a presumption of fairness for several reasons: (1) The parties reached the Settlement through arm's-length bargaining with the aid of a respected mediator; (2) The parties conducted sufficient investigation and discovery to allow Counsel and the Court to act intelligently. Plaintiff requested and Defendant provided the number Aggrieved Employees, the total number of pay periods during the PAGA Period, all policies in effect during the PAGA Period, and a sampling of anonymized payroll and time punch data for its California non-exempt employees for the relevant period; and (3) Counsel for the Parties are experienced with PAGA cases. MM, ¶ 19. Moreover, neither Plaintiff nor Plaintiff's Counsel have any conflicts of interest with the absent allegedly Aggrieved Employees and there are no issues of ascertainability. *Id*. For the reasons discussed below, this Court should approve the PAGA Settlement.

1. <u>The PAGA Settlement Is A Result of Extensive, Non-Collusive Arm's Length Negotiations Between The Parties.</u>

The PAGA Settlement was reached only after substantial informal discovery and arms' length negotiations between experienced attorneys, which included a full-day mediation with professional neutral Laurie Quigley Saldana and continuing settlement discussions thereafter. At all times, the negotiations were adversarial and contentious, although still professional in nature. MM, ¶ 9.

Counsel for the Parties further investigated the applicable law as applied to the facts discovered regarding Plaintiff's claims, the defenses thereto, and the Labor Code violations claimed by Plaintiff. Plaintiff's counsel is experienced in prosecuting PAGA lawsuits. Counsel for the Defendant are experienced in defending PAGA cases. Based on the parties' own independent investigations and evaluations, the parties and their respective counsel are of the opinion that the Settlement for the consideration and on the terms set forth in the Agreement are fair, reasonable and adequate and are in the best interests of Plaintiff, the Aggrieved Employees, the State, and Defendant in light of all known facts and circumstances and the risks inherent in litigation. MM, ¶ 11.

2. **<u>The Parties Conducted Sufficient Investigation and Discovery To Allow Counsel and the Court To Act Intelligently.</u>**

Plaintiff considered various sources of information in the lead-up to and during the mediation of September 3, 2025 that enabled him to achieve the PAGA Settlement at issue. MM, ¶ 20. Among other things, Plaintiff considered the following:

- Defendant produced and Plaintiff's counsel reviewed Plaintiff's personnel file.
- Plaintiff requested that Defendant provide any and all policies regarding overtime and double-time wages, off the clock work, expense reimbursement, meal periods, rest breaks, meal period waivers and agreements, compensation plans, and complaints about working conditions in effect during the relevant time period beginning in July of 2022. Defendant produced those policies as part of their employee handbook.
- Plaintiff requested that Defendant provide the total number of employees, paychecks, and the pay cycles during the relevant period. Defendant provided the answers to each of these questions.
- The parties agreed to a sampling of time and payroll records. Defendant provided payroll and time punch data for approximately 22 of its non-exempt employees during the relevant time period.
- Plaintiff retained a professional data analyst, James Toney, to examine the records and determine the meal and rest period violation rates, if there was any pay discrepancy in timesheet hours versus paid hours, and if there was any rounding/time shaving issues. If necessary, Plaintiff is prepared to provide the Court with the data analysis for *in camera* inspection upon its request.
- Plaintiff analyzed the state of caselaw on PAGA claims, meal and rest break violations, claims for "off the clock" work and business expense reimbursement, including as these issues related to arguments asserted by the defense.

MM, ¶ 20.

3. **<u>The Settlement Is Fair and Reasonable Based on the Risks and Costs of Further Litigation</u>**

According to Defendant's records there were approximately 269 Aggrieved Employees who worked approximately 3,546 pay periods from July 26, 2022 through August 14, 2025. Based on this information, Plaintiff's counsel prepared an estimate of the maximum possible civil penalties under the PAGA. MM, ¶ 21. The maximum possible civil penalties under the PAGA is the total number of pay periods with one or more violations multiplied by the maximum possible civil penalty amount per pay period. *Id*.

Plaintiff's analysis revealed that 42.4% of pay periods with shifts greater than 6 hours had at least one meal violation (late, short, or no meal – net of meal period premiums paid). Under the civil penalty formulas applicable under PAGA, Plaintiff calculated JJ's potential exposure as follows: $50 penalty per pay period, assuming a 42.4% violation, based on Labor Code § 558 for violation of Labor Code § 512 (failure to provide meal periods)(3,546 x 42.4% x $50 =$ 75,175.20); $100 penalty per pay period under Labor Code sec. 2699(f)(2), assuming the same 42.4% violation rate for rest break violations (3,546 x $100 x 42.4% =$150,350.4); $250 penalty per pay period, assuming 42.4% violation rate, based on Labor Code § 226.3 for violation of Labor Code § 226 (failure to provide compliant wage statements) (3,546 x $250 x 42.4% = $375,876); $100 penalty per pay period, assuming 42.4% violation rate, based on Labor Code § 210 for violation of Labor Code §§ 201-204 (untimely wages) (3,546 x $100 x 42.4% = $ 150,350.4). Stacking each of these maximum recoverable civil penalty estimates yields a total amount of $751,752.00. In addition to stacking potential penalties, this calculated maximum exposure also presumed that the Court will not reduce the penalty award as unjust, arbitrary, oppressive, or confiscatory. For the rest period violations, it also presumed that the meal and rest period violation rates were identical. MM, ¶ 22. Such presumptions and assumptions posed various risk factors and bases for reduction of awarded penalties, even if Plaintiff's claims could be successfully proven. *Id*.

In connection with the litigation, Plaintiff identified numerous risks attending Plaintiff's meal and rest period claims. Defendant contended that, to establish a violation for missed meal periods, a plaintiff must do more than show that a meal break was not taken. *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. So long as an employer provides employees with a "reasonable opportunity" to take a duty-free meal period, it has no further duty to "police meal breaks and ensure no work thereafter is performed." *Id*. at 1040-41. Instead, a plaintiff must show the employer impeded, discouraged, or prohibited the employee from taking a proper break, or otherwise failed to release the employee of all control. Id. “Thus, the crucial issue with regard to the meal break claim is the reason that a particular employee may have failed to take a meal break.” *Washington v. Joe’s Crab Shack* (N.D. Cal. 2010) 271 F.R.D. 629, 641. Determining by a review of JJ’s time records the exact reasons why a meal period appeared to be short or late would be difficult and pinpointing those days in which Plaintiff and the Aggrieved Employees worked during their meal periods would be a challenge. Additionally, Defendant provided evidence that it provides employees with the opportunity to take meal and rest breaks, and also regularly paid meal premium payments throughout the PAGA Period. Supporting this, meal period premium payments were observed in the sample records. In addition, JJ’s Handbook contains legally compliant meal period and rest break policies. MM, ¶ 23.

Defendant also contended that it provided non-exempt employees with the opportunity to take rest breaks in accordance with California law, and, accordingly, that Plaintiff’s rest break claim has no support. Additionally, there are other risks to Plaintiff’s rest period claim. Employers are not required to record rest periods and such periods are paid time. Furthermore, there was no evidence to prove that the employer refused to authorize and permit a rest break. MM, ¶ 24.

As it relates to Plaintiff’s other claims, and unlike the arguments for meal/rest period violations, there would be issues with proof. As it relates to any overtime issues, the data showed that when employees worked over 8.0 hours, they were paid 1.5 times their regular rate. Moreover, Defendant provided overall strong written policies as it related to wage and hour practices and showed that Plaintiff acknowledged the policies. There were and there remain risks to Plaintiff’s claim for unreimbursed expenses. Plaintiff alleges that Defendant did not reimburse him or the other Aggrieved Employees for for use their own personal cell phones. In addition to other arguments asserted by Defendant, there was a risk that the Court may consider Plaintiff’s claims as to Defendant’s alleged failure to indemnify for business expenses to be individualized in nature. As such, Plaintiff’s Counsel concluded it was appropriate to significantly discount the value of this claim during settlement negotiations. MM, ¶ 25.

Moreover, Plaintiff’s counsel is unaware of any California State court decision awarding a plaintiff and the other Aggrieved Employees he represents multiple civil penalties (i.e. stacking penalties) for the same pay period under different Labor Code provisions. As such, one of the risks Plaintiff faces is that the Court would refuse to "stack" civil penalties arising under the various Labor Code statutes. Given this, Plaintiff's counsel concluded it was appropriate to substantially discount the value of these claims in the settlement negotiations for this and a variety of other reasons. At best, Plaintiff could only reasonably hope to recover one penalty for each pay period (regardless of the different Labor Code violations that potentially occurred for the same employee, during the same pay periods). This appeared especially so given Defendant's robust policies and evidence of high compliance rates. MM, ¶ 26.

Additionally, PAGA states a court has discretion to award a lesser amount than the maximum penalty. *See Lab. Code,* § 2699, subd. (e)(2) ("…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."); *see also Thurman v. Bayshore Transit Management, Inc.* (2012) 203 Cal.App.4th 1112, 1135 (reducing PAGA award). There is a substantial risk that the Court could reduce civil penalties to an insignificant amount if it is unpersuaded by Plaintiff's evidence of willful and intentional conduct. *Carrington v. Starbucks* (2018) 30 Cal.App.5th 504 ("*Carrington*") illustrates this. In that case, the Court of Appeal affirmed a trial court's heavily discounted award of only $5 per violation because it was within the Court's discretion to significantly reduce PAGA penalties even when there is a finding that a violation of the California Labor Code occurred. The plaintiff in *Carrington* had requested penalties in excess of $70 million and was successful in proving the PAGA claim during a bench trial. However, the trial court reduced the total award after trial to only $150,000 (30,000 violations x $5) and stated that this reduction was warranted because imposing the maximum penalty would be "unjust, arbitrary, and oppressive", based on Starbucks's "good faith attempts" to comply with meal break obligations and because the Court found the violations were minimal. Echoing the *Carrington* considerations, Defendant also posed formidable defenses to the Labor Code claims underlying Plaintiff's allegations. Thus, Plaintiff viewed the chance of Plaintiff recovering a higher amount than the Gross Settlement Amount as highly uncertain. MM, ¶ 27.

All in all, considering all of the risks detailed above, as well as potential manageability issues, the risk of not prevailing at trial, the risk that, even if Plaintiff prevailed, the damages would be limited due to the largely discretionary nature of the damages, and taking into account Defendant's defenses and robust compliance on the merits, Plaintiff applied a 50% discount to the maximum PAGA exposure of $751,752.00, resulting in a risk-discounted realistic potential exposure of $375,876.00. Given this, Plaintiff views the Gross Settlement Amount of $100,000 as a great result: it constitutes relief consistent with the underlying purpose of PAGA, and represents approximately 26.6% of the risk-discounted realistic potential recovery. MM, ¶ 28. *See In re Cendant Corp., Derivative Action Litig*., 232 F. Supp. 2d 327 (D. N.J. 2002) (approving settlement that only provided a 2% recovery based on the estimated liability exposure).

The Parties further recognized that the issues presented in the representative PAGA claim were likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation would cause inconvenience, distraction, disruption, delay, and expense disproportionate to the maximum potential benefits to the Aggrieved Employees and Plaintiff from continued litigation. Moreover, based on Defendant's financials, there was also a risk that Defendant may have been forced to cease operations or seek bankruptcy protections if the case continued or in the event of an adverse verdict. MM, ¶ 29.

The settlement of the representative PAGA claim involves monetary relief to all Aggrieved Employees, Plaintiff, his attorneys, and the State of California. The Settlement is reasonable given the uncertainties this lawsuit entails. It is also reasonable given the structure and purpose of the PAGA, since the PAGA is not a restitution statute. Rather, it is essentially a punishment statute. It provides for civil penalties only. Within the PAGA framework he is bound by, Plaintiff, considering the evidence he faced, achieved a great result for the employees concerned. Furthermore, any employees who are dissatisfied with the amount they received in civil penalties can pursue any damages they believe they are owed by the Defendant. The Settlement does not require them to opt out to do so. MM, ¶ 30.

Furthermore, Plaintiff recognizes that continued litigation presents significant risks that support a significant downward departure from Plaintiff's estimated civil penalties amount. In view of the risks, the Settlement represents a fair, adequate, and reasonable compromise amount for these claims and is in the best interest of Plaintiff and Aggrieved Employees and thus, warrants approval. *See Laguna v. Coverall N. Am., Inc.*, Case No. 12-55479 (9th Cir. June 3, 2014) 2014 WL 2465049, * 3. The PAGA settlement and its terms are fair, just, reasonable, adequate, and equitable to Defendant, Plaintiff, and the State, especially in light of the current economic climate, and are the product of good faith, and informed arms-length negotiations between the Parties consistent with public policy and fully comply with applicable provisions of law. MM, ¶ 31.

As such, the Gross Settlement Amount of $100,000.00, of which 75% of the net amount after PAGA Counsel's attorneys' fees and costs, Representative Plaintiff's Enhancement Payment and Settlement Administrator costs ($36,125.00) will be paid to the LWDA and 25% ($12,041.67) will be distributed to the Aggrieved Employees, is reasonable and appropriate under the circumstances. MM, ¶ 32.

4. <u>Each Aggrieved Employee Will Be Paid Based on the Potential Extent of His or Her Injury Compared to Other Aggrieved Employees</u>

Each PAGA Employee will receive a portion of the civil penalties on a pro-rata basis depending on the number of pay periods Defendant employed them for during the PAGA Period. Agreement, ¶ 3.2.4.1. At the time of the mediation (September 3, 2025), Defendant's records revealed that there were approximately 269 Aggrieved Employees who worked a total of 3,546 pay periods during the PAGA Period. After deducting the requested Court-approved PAGA Counsel's Attorneys' Fees ($33,333.33), PAGA Counsel's litigation costs ($8,500.00), Plaintiff's Enhancement Payment ($5,000) and the Settlement Administration Costs ($5,000.00), the Net Settlement Amount will be approximately $48,166.67. Seventy five percent (75%) of the Net Settlement Amount will be paid to the Labor and Workforce Development Agency ("LWDA") ($36,125.00), and twenty five percent (25%) ($12,041.67) will be paid to the Aggrieved Employees on a pro-rata basis based upon their respective number of pay periods during the PAGA Period. Agreement, ¶ 3.2.4.1. Based on this amount, the average estimated individual recovery for an Aggrieved Employee is approximately $44.76 ($12,041.67/269

Aggrieved Employees). Given the discretionary nature of awarding PAGA penalties and Defendant's compliant policies and Aggrieved Employees' pay and time data, and considering the risk of not being able to proceed on a representative basis at all due to the risk of not prevailing at trial, and the risk that, even if Plaintiff prevailed, the damages would be limited due to the largely discretionary nature of the damages, this is an excellent result, amounting to relief consistent with the underlying purpose of PAGA. MM, ¶ 33.

5. Counsel for the Parties Are Experienced in Similar Litigation

Plaintiff's counsel has considerable experience in wage and hour litigation and is qualified to evaluate the PAGA claims, the value of settlement versus moving forward with litigation, and viability of possible affirmative defenses. *See* MM, ¶¶ 14-18, 36. Similarly, Defendant's counsel, Arturo Santana, Jr., has broad experience in handling employment matters and wage and hour litigation. MM, ¶ 36.

6. The Proposed Attorneys' Fees and Costs Are Fair, Adequate, and Reasonable and Should Be Approved.

Of the 100,000.00 allocated towards the GSA, Plaintiff's counsel requests $33,333.33 (1/3 of the GSA) in attorney's fees and up to $8,500.00 in litigation costs, which is fair and reasonable. MM, ¶¶ 34-36.

It is an accepted practice in wage and hour class action settlements to award attorneys' fees to Plaintiff's counsel based on a percentage of the total settlement value agreed upon by the parties. California courts have long recognized that an appropriate method for awarding attorneys' fees in class actions is to award a percentage of the common fund. (*Serrano v. Priest* (1977) 20 Cal.3d 25, 48-49 ["when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney's fees out of the fund"]; *Wershba v. Apple Computer, Inc*. (2001) 91 Cal.App.4th 224, 254; *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 26-30.)

California courts have the discretion to employ (or decline to employ) a "lodestar cross-check" on a request for a percentage of the fund award. *Laffitte v. Robert Half Intern*, *Inc*. (2016) 1 Cal. 5th 480, 505 ("*Laffitte*"). However, the California Supreme Court in *Laffitte* has now made clear that this cross-check is not required and approved one-third of the class action settlement fund as reasonable attorney fees as "[t]he percentage of the fund method survives in California class action cases...." *Id.* at 574. As other courts have acknowledged since *Laffitte,* "California courts routinely award attorneys' fees of one-third of the common fund." *Lopez v. Mgmt. & Training Corp*., 2020 U.S. Dist. LEXIS 70029. The *Lopez* court explained that it need not "engage in a full-blown lodestar analysis when the primary basis remains the percentage method…" The lodestar calculation is merely a "useful perspective on the reasonableness of a given percentage award." *Id. See also Austin v. Foodliner, Inc.*, 2019 U.S. Dist. LEXIS 79638 ("Trial courts 'also retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee.'" *Id.* (citing *Laffitte*)).

"[R]egardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery." (See *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, fn.11 ("*Chavez*")); *In re Pacific Enter. Sec. Litig.* (9th Cir. 1995) 47 F.3d 373, 379 ("*Pacific*") [affirming 33% fee award]; *Williams v. MGM-Pathe Communications Co.* (9th Cir. 1997) 129 F.3d 1026, 1027 ("*MGM*") (awarding 33% of total fund amount).) This is also consistent with Plaintiff's Counsel's experience in wage and hour class and PAGA settlements. MM, ¶ 34.

Should the Court elect to use Plaintiff's Counsel's lodestar as the method for awarding fees, notwithstanding courts' clear preference for the percentage method, Plaintiff's Counsel's fee request of $33,333.33 (1/3 of GSA) is fair and reasonable based on their lodestar as cross-checked against the percentage of the recovery. MM, ¶ 37-38. Plaintiff's counsel's previous experience in litigating wage and hour class and representative actions and the caliber of opposing counsel also support the reasonableness of the fee request. MM, ¶ 39. The award of attorneys' fees sought is also justified by the contingency nature of the attorney-client relationship, the risks of non-payment and non-reimbursement, the delay in payment and cost reimbursement, and the great results Plaintiff's Counsel has achieved for the Aggrieved Employees. *Id.*

Plaintiff's counsel's previous experience in litigating wage and hour class and representative actions and the caliber of opposing counsel also support the reasonableness of the fee request. MM, ¶ 36. The award of attorneys' fees sought is justified here by the contingency nature of the attorney-client relationship, the risks of non-payment and non-reimbursement, the delay in payment and cost reimbursement, and the great results Plaintiff's Counsel has achieved for the Aggrieved Employees while bearing the substantial burdens of contingency representation. *Id.*

In addition, Plaintiff's counsel incurred substantial costs, $8,296.55 to date, including the costs of a mediator, to aid in the representation of the Aggrieved Employees. MM, ¶ 37, Ex. 6. *Id*. As the evidence submitted herewith shows, all of these costs are documented and reasonably incurred. *Id*. Accordingly, the $8,296.55 requested amount warrants the Court's approval.

7. <u>Plaintiff's Enhancement Payment Is Fair, Adequate, and Reasonable and Should Be Approved.</u>

Plaintiff's PAGA Representative Enhancement Payment of $5,000 is being paid to Plaintiff for his service to the State of California and the Aggrieved Employees in prosecuting the Lawsuit and for his general release. MM, ¶ 38, 40, Agreement ¶ 1.10, 5.1. *See also* Declaration of Jose Figueroa ("Figueroa Decl.").

There is authority for the Enhancement Payment to Plaintiff. While the statutory language of the PAGA is silent on the issue of incentive awards to named Plaintiff, it nonetheless provides implicit support for incentive payments to named Plaintiffs. Moreover, language from the Ninth Circuit Court of Appeals and recent California district court caselaw indicates that such awards are permitted. MM, ¶¶ 38-40.

8. <u>The Proposed Settlement Administration Costs Are Fair and Reasonable and Should Be Approved.</u>

With regard to the settlement administration costs provision, it is reasonable. Before agreeing to ILYM Group, Inc. ("ILYM"), the Parties sought and reviewed bids from other reputable third-party administrators and ILYM's bid was the lowest. MM, ¶ 41, Ex. 7; Declaration of Lisa Mullins, Ex. C. Thus, the settlement administration costs provision should be given approval.

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V. CONCLUSION

For the reasons stated above, this Court should grant the Plaintiff' Motion in its entirety and adopt the proposed order submitted concurrently herewith, which is also attached as Exhibit A to the Settlement Agreement.

Respectfully submitted,

MM LAW, APC

Dated: January 13, 2026

By: Maralle Messrelian

Maralle Messrelian
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