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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MONTEREY

ADRIAN CUEVAS-GRANADOS and JUAN FERNANDO MERENDON-CEREGA, as individuals and on behalf of all other aggrieved employees, Plaintiffs, vs. SABOR FARMS, LLC, a California limited liability company; and DOES 1 through 100, Defendants.	Case No. 24CV000743 [*Unlimited Jurisdiction*] **PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR APPROVAL OF SETTLEMENT OF CLAIMS BROUGHT UNDER THE PRIVATE ATTORNEYS' GENERAL ACT AND REASONABLE ATTORNEYS' FEES, COSTS, AND ENHANCEMENT PAYMENTS** Date: December 19, 2025 Time: 8:30 a.m. Dept.: 14 Complaint filed: February 23, 2024 Trial Date: None Set

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

PLEASE TAKE NOTICE that on December 19, 2025 at 8:30 a.m., or as soon thereafter as the matter may be heard in Department 14 of the above-entitled Court, located at 1200 Aguajito Road, Monterey, California 93940, Plaintiffs Adrian Cuevas-Granados and Juan Fernando Merendon-Cerega ("Plaintiffs"), individually and on behalf of the State of California and other Aggrieved Employees, will, and hereby do, move this Court for entry of an Order as follows:

1. Granting approval, pursuant to California Labor Code § 2699(l), of the proposed settlement of claims brought pursuant to the Private Attorneys General Act of 2004 (Cal. Labor Code § 2698, *et seq.*) and as set forth in the Parties' PAGA Settlement Agreement ("Settlement Agreement"), a true and correct copy of which is attached to the Declaration of Sean M. Blakely filed concurrently herewith;
2. Appointing ILYM Group, Inc. as the Settlement Administrator;
3. Approving the proposed Notice of PAGA Settlement ("Notice") as to form and content, and directing that it be distributed to Aggrieved Employees pursuant to the terms of the Settlement Agreement;
4. Directing the funding and distribution of the Maximum Settlement Amount pursuant to the terms of the Settlement Agreement;
5. Approving an award of attorneys' fees to Plaintiffs' counsel of $221,666.67 and an award of litigation costs to Plaintiffs' counsel in the amount of $11,430.75;
6. Approving representative enhancement payments of $5,000.00 to each Plaintiff ($10,000.00 total) for their service to Aggrieved Employees and the State of California;
7. Approving $6,550.00 in administration costs to ILYM Group, Inc.; and
8. Approving the payment of approximately $311,514.44 to the California Labor & Workforce Development Agency ("LWDA") for its share of PAGA civil penalties.

This Motion is based on this Notice; the attached Memorandum of Points and Authorities; the declaration of Sean M. Blakely and all exhibits attached thereto; the declaration of Paul K.

Haines; the declaration of Scott E. Wheeler and all exhibits attached thereto; the declaration of Anthony Rogers of ILYM Group, Inc. and all exhibits attached thereto; the declaration of Plaintiff Adrian Cuevas-Granados; the declaration of Plaintiff Juan Fernando Merendon-Cerega; the Settlement Agreement; all other pleadings and papers on file in this action; and on any further oral or documentary evidence or argument presented at the time of hearing.

Respectfully submitted,

Dated: November 25, 2025

HAINES LAW GROUP, APC

By: ______________________________
Sean M. Blakely
Attorneys for Plaintiffs

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Adrian Cuevas-Granados and Juan Fernando Merendon-Cerega ("Plaintiffs"), "aggrieved employees" under the Private Attorneys' General Act of 2004 ("PAGA"), respectfully move this Court for an Order granting approval of the PAGA Settlement Agreement ("Settlement") with Defendant Sabor Farms, LLC ("Sabor Farms").[1] This PAGA representative action seeks civil penalties predicated on Sabor Farms' alleged violations of the California Labor Code from July 24, 2022 through March 15, 2025 (the "PAGA Period"). The proposed Settlement, under which Sabor Farms has agreed to pay a non-reversionary Maximum Settlement Amount of Six Hundred Sixty-Five Thousand Dollars and Zero Cents ($665,000.00), will resolve Plaintiffs' representative claims filed on behalf of the State of California and all "Aggrieved Employees," which includes all current and former non-exempt employees who worked for Sabor Farms in California at any time during the PAGA Period.

Notably, the relief provided for under the Settlement, and the claims released thereunder, are *solely* for the payment of *civil penalties* under the PAGA, and not for any underlying Labor Code violations. The release also encompasses only PAGA civil penalties based upon the factual allegations and theories alleged by Plaintiffs in this Action, and only for claims arising during the PAGA Period, which, as noted above, ends on March 15, 2025.

In deciding whether to grant approval of the Settlement, the primary issue is whether the Settlement is fair, reasonable, and adequate. As set forth herein, the proposed Settlement embodies all of the features of a settlement that is fair, reasonable, and adequate, as it: (1) is the product of arm's-length negotiations; (2) was negotiated by attorneys experienced in wage-and-hour issues and PAGA litigation with the assistance of an experienced, neutral mediator; (3) was negotiated after undertaking sufficient discovery and investigation to evaluate the relative strength and value of Plaintiffs' PAGA claim and Sabor Farms' defenses thereto; and (4) reflects

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[1] The proposed PAGA Settlement Agreement is attached as **Exhibit 1** to the Declaration of Sean M. Blakely filed herewith. The Explanatory Letter to Aggrieved Employees is attached as **Exhibit A** to the Settlement Agreement. All terms in the Motion have the same definition as used in the Settlement.

a reasoned compromise based on the relative strength and value of the PAGA claim, as well as the risks, expenses, complexity and likely duration of further litigation.

As noted, the Settlement provides for a non-reversionary Maximum Settlement Amount of $665,000.00. Settlement, §§ I.10, III.2. After deducting amounts for requested attorneys' fees ($221,666.67), litigation costs ($11,430.75), Plaintiffs' Enhancement Payments ($5,000.00 each for a total of $10,000.00), and settlement administration costs ($6,550.00), the Settlement provides for distribution of a Net Settlement Amount of approximately $415,352.58 to be paid to Aggrieved Employees and the California Labor & Workforce Development Agency ("LWDA"). Settlement, §§ III.2, III.4-5; *see also* Declaration of Sean M. Blakely ("Blakely Decl."), ¶¶ 12, 22, Exhibit 3; Declaration of Anthony Rogers ("Rogers Decl."), ¶ 7, Exhibit C.

The Net Settlement Amount shall be distributed 75% ($311,514.44) to the LWDA, and 25% ($103,838.14) to Aggrieved Employees, pursuant to the requirements of the PAGA as codified in Lab. Code § 2699(i). *See* Settlement, § III.5. There are approximately 611 Aggrieved Employees, resulting in average payments of approximately $169.95 to each Aggrieved Employee. Blakely Decl., ¶ 12.

The Settlement represents a positive result for the State of California and Aggrieved Employees. Further litigation may have resulted in a smaller recovery or even no recovery at all, based on the defenses asserted by Sabor Farms and significant ongoing litigation risks. Moreover, the Maximum Settlement Amount is greater than other PAGA penalty awards that have been approved as reasonable. *See, e.g., Penaloza v. PPG Industries Inc*., Case No. BC471369, 2013 WL 2917624 at *2 (Super. Ct. L.A. County, May 20, 2013) (approving total PAGA set-aside of $5,000, or $7.49 per employee); *Cabrera v. Advantage Sale & Marketing, LLC*, Case No. BC485259, 2013 WL 1182822 (Super. Ct. L.A. County, Mar. 12, 2013) (approving PAGA set-aside of $10,000, or $3.33 per employee). The amounts requested for attorneys' fees and costs, Plaintiffs' Representative Enhancement Payments, and settlement administration costs are all fair, adequate, and reasonable. Thus, Plaintiffs respectfully request that the Court enter the [Proposed] Judgment and Order submitted concurrently herewith.

/ / /

II. SUMMARY OF THE LITIGATION

A. Brief Factual Background and Summary of Claims

Founded in 2006, Sabor Farms produces and distributes various produce, including baby spinach, baby leaf lettuces, cilantro, kale, and other vegetables throughout the State of California. Blakely Decl., ¶ 8. Plaintiff Merendon-Cerega was employed by Sabor Farms as a non-exempt employee from approximately January 2014 through April 2023. *See* Declaration of Plaintiff Juan Fernando Merendon-Cerega ("Merendon-Cerega Decl."), ¶ 3. Plaintiff Cuevas-Granados worked for Sabor Farms at its Winterhaven, California location as a non-exempt tractor driver from January 2021 until November 2023. *See* Declaration of Plaintiff Adrian Cuevas-Granados ("Cuevas-Granados Decl."), ¶ 2.

Plaintiffs' PAGA claim is predicated primarily on allegations that they and other employees were not paid all wages for all hours worked due to Sabor Farms' allegedly unlawful timekeeping policies/practices, were denied compliant meal and rest periods, and did not receive accurate and compliant wage statements. As explained below, Sabor Farms denies Plaintiffs' allegations and asserted several affirmative defenses to their claims.

B. Relevant Procedural History

On July 24, 2023, Plaintiff Merendon-Cerega sent his correspondence to the LWDA and Sabor Farms regarding Sabor Farms' violation of the Labor Code and his intent to seek civil penalties under the PAGA. *See* Declaration of Scott Ernest Wheeler ("Wheeler Decl."), ¶ 3, Exhibit A. On October 2, 2023, Plaintiff Merendon-Cerega filed a representative action for civil penalties under the PAGA in Monterey Superior Court, Case No. 23CV003181 (the "*Merendon-Cerga* Action").

On February 23, 2024, Plaintiff Cuevas-Granados filed the instant action, alleging violations of the California Labor Code for: (1) minimum wage violations, (2) failure to pay all overtime wages; (3) meal period violations; (4) rest period violations; (5) wage statement penalties; (6) waiting time penalties; and (7) unfair competition. Blakely Decl., ¶ 9. That same day, Plaintiff Cuevas-Granados submitted his notification letter to the LWDA and Sabor Farms regarding Sabor Farms' alleged Labor Code violations and his intent to pursue a PAGA representative action, as required by Labor Code § 2699.3. *Id.*, Exhibit 2. On April 29, 2024, Plaintiff Cuevas-Granados filed a First Amended Class and Representative Action Complaint ("FAC"), adding a cause of action for civil penalties under the PAGA. *Id.*

On January 15, 2025, the Parties in this Action and the *Merendon-Cerga* Action participated in mediation before mediator Kevin T. Barnes, Esq. Blakely Decl., ¶ 10. In connection with mediation, Sabor Farms informally produced information and documents pertaining to Plaintiffs and other Aggrieved Employees, including, but not limited to, payroll and timekeeping records for Plaintiffs and a sample of Aggrieved Employees during the PAGA Period, along with several data points, including the number of Aggrieved Employees and the number of aggregate pay periods worked by Aggrieved Employees during the PAGA Period, in order for Plaintiffs' counsel to investigate Plaintiffs' allegations and value the claims prior to mediation. *Id*. Plaintiffs conducted a comprehensive analysis and extrapolation of the data produced by Sabor Farms to calculate Sabor Farms' potential PAGA exposure. *Id*.

During mediation, the parties vigorously debated Plaintiffs' ability to proceed on a representative basis, the legal basis for Plaintiffs' claims and Sabor Farms' defenses, the potential amount of penalties, and the Parties' data analyses and conclusions based thereon. Blakely Decl., ¶ 11. With the assistance of Mr. Barnes, the Parties agreed to fully and finally resolve Plaintiffs' PAGA claims at the conclusion of mediation. *Id*. Over the following months, the parties negotiated and finalized the Settlement now before the Court. *Id*.

On May 23, 2025, as a condition of the Settlement, Plaintiff Cuevas-Granados filed the operative Second Amended Representative Action Complaint ("SAC"), adding Plaintiff Merendon-Cerega as a named plaintiff along with certain allegations from Plaintiff Merendon-Cerega's complaint. Blakely Decl., ¶ 11. The Court also granted the Parties' stipulation to dismiss Plaintiff Cuevas-Granados' class claims without prejudice. *Id.* On June 3, 2025, Plaintiff Merendon-Cerega's dismissed his case without prejudice. *Id.*

III. SUMMARY OF THE SETTLEMENT

A. "Aggrieved Employees" Defined

The "Aggrieved Employees" under the Settlement consist of all current and former non-exempt employees who worked for Sabor Farms in California at any time during the PAGA Period. *See* Settlement, § I.2. The number of Aggrieved Employees, including Plaintiffs, is estimated to be approximately 611 individuals. *Id*. The PAGA Period is defined as the time period from July 24, 2022 through March 15, 2025. *Id*., § I.13.

B. <u>Monetary Terms</u>

The Settlement provides for Sabor Farms' payment of a <u>non-reversionary</u> Maximum Settlement Amount of $665,000.00. *See* Settlement, §§ I.10; III.2. After deducting requested attorneys' fees, litigation costs, Plaintiffs' Enhancement Payments, and administration costs, the Settlement provides for the Net Settlement Amount to be distributed 75% to the LWDA and 25% to Aggrieved Employees, per Labor Code § 2699(i). Settlement, §§ III.4(a)-(c), III.5. The 25% portion to Aggrieved Employees shall be distributed based on each Aggrieved Employee's proportional number of pay periods worked for Sabor Farms in California during the PAGA Period. *Id*., at § III.5.

1. *Attorneys' Fees and Costs, Administration Costs, and Plaintiffs' Enhancement Payments*

Plaintiffs' counsel requests one-third of the Maximum Settlement Amount (i.e., $221,666.67) in attorneys' fees, and up to $11,430.75 in litigation costs. *See* Settlement, § III.4.a; Blakely Decl., ¶¶ 21-22, Exhibit 3; Wheeler Decl., ¶¶ 27-28. As discussed in detail below, a fee award of one-third of the Maximum Settlement Amount is fair, adequate, and reasonable as a percentage of the settlement fund and is in line with fee awards in other PAGA settlements.

The parties have agreed to engage ILYM Group, Inc. ("ILYM") as the third-party settlement administrator. *See* Settlement, § IV.1. ILYM will update Aggrieved Employee addresses using the National Change of Address database, calculate and distribute Individual PAGA Payments, mail payments to all Aggrieved Employees together with the Notice, and perform other duties that are integral to the effectuation of the Settlement. *Id.*, §§ IV.2-6. Plaintiffs request that the Court approve $6,550.00 in administration costs to ILYM, which will cover all costs incurred by ILYM in connection with the Settlement. *Id.,* at § III.4.c; *see also* Rogers Decl., Exhibit C.

Finally, Plaintiffs request enhancement payments of $5,000.00 each ($10,000.00 total), in recognition of Plaintiffs' contributions to this case and their efforts in bringing this case to successful resolution. *See* Settlement, § III.4.b; Cuevas-Granados Decl., ¶¶ 5-7; Merendon-Cerega Decl., ¶¶ 11-15, 21-24.

2. *Payment to LWDA and Aggrieved Employees*

The Net Settlement Amount will be distributed 75% to the LWDA and 25% to Aggrieved Employees, pursuant to Labor Code § 2699(i); Settlement, § III.5. Based on the above requested distributions, the Net Settlement Amount is estimated to be $415,352.58, with $311,514.44 paid to the LWDA and $103,838.14 distributed to Aggrieved Employees. Blakely Decl., ¶ 12. As noted, there are approximately 611 total Aggrieved Employees. *Id.* Thus, it is anticipated that overall, Aggrieved Employees will receive average Individual PAGA Payments of approximately $169.95. *Id*.

3. *Funding of the Settlement*

Sabor Farms shall deposit the Maximum Settlement Amount as follows: (1) Sabor Farms shall make a first installment payment of $332,500.00 with the Settlement Administrator upon the Effective Date; and (2) Sabor Farms shall make a second installment payment of $332,500.00 with the Settlement Administrator within six months of the first installment payment. *See* Settlement. § III.2. Within ten (10) business days after the Settlement has been fully funded, ILYM will mail the Notice in English and Spanish, and Individual PAGA Payments, to Aggrieved Employees via First-Class U.S. Mail. *See* Settlement, § IV.3.

Funds represented by checks returned as undeliverable after a re-mailing, checks for whom the Settlement Administrator could not locate an updated address after performing a skip trace, and funds represented by checks remaining un-cashed more than 180 days after issuance shall escheat to *cy pres* recipient, The Food Bank for Monterey County. *See* Settlement, § IV.4.

IV. <u>LEGAL ARGUMENT</u>

A. <u>Standards for Approval of a PAGA Settlement</u>

The settlement of a PAGA claim requires court approval pursuant to the PAGA statute, which states that the "court shall review and approve any settlement of any civil action filed pursuant to this part." Labor Code § 2699(l). Of course, "[s]ettlement is a compromise, which balances the possible recovery against the risks inherent in litigating further." *See In re TD Ameritrade Account Holder Litig.*, 2011 WL 4079226 (N.D. Cal. Sept. 13, 2011) at *9. "[T]he very essence of a settlement is… 'a yielding of absolutes and an abandoning of highest hopes,'" as "it is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements." *Officers for Justice v. Civil Service Com*., 688 F.2d 615, 624 (9th Cir. 1982). As such, "the settlement or fairness hearing is not to be turned into a trial or rehearsal for trial on the merits" or "judged against a hypothetical or speculative measure of what might have been achieved by the negotiators." *Id*.

Although the PAGA statute does not set forth the criteria by which a PAGA settlement is to be judged, it is presumed that a reviewing court may utilize some of the factors for review of a class action settlement. However, "a PAGA claim asserted on a non-class representative basis…is not considered a class action but a law enforcement action, and therefore does not have to meet the requirements of [a class action]." *Casida v. Sears Holdings Corp.*, 2012 WL 253217 (E.D. Cal. Jan. 26, 2012) at *3; *Mendez v. Tween Brands, Inc.*, 2010 WL 2650571 (E.D. Cal. Jul. 1, 2010) at *4 ("PAGA claims are law enforcement actions, not class actions"). A court's review of a PAGA settlement implicates the following unique features that render the approval process distinct from approval of a class action settlement.

First, in evaluating a PAGA settlement, the court is <u>not</u> concerned with amount(s) received by "aggrieved employees," but rather, must focus on the total settlement amount in achieving PAGA's objective. "The remedy sought in a PAGA suit consists of civil penalties, not individual or class damages." *Mendez,* 2010 WL 2650571 at *4. "Unlike class actions, these civil penalties are not meant to compensate unnamed employees because the action is fundamentally a law enforcement action." *Ochoa-Hernandez v. Cjaders Foods, Inc.*, No. C-08-2073-MHP 2010 WL 1340777 (N.D. Cal. Apr. 2, 2010) at *4. As our Supreme Court confirmed, "PAGA claims are 'representative' actions in the sense that they are brought on the state's behalf. The employee… 'represents the same legal right and interest as' those agencies — 'namely, recovery of civil penalties that otherwise would have been assessed and collected by the [LWDA].'" *ZB, N.A. v.*

Sup. Ct., 8 Cal.5th 175, 185 (2019) (citing *Iskanian v. CLS Transp. Los Angeles, LLC*, 59 Cal.4th 348, 380 (2014)).

Moreover, while "'[a PAGA] action is … designed to protect the public and penalize the employer for past illegal conduct" (*Mendez*, 2010 WL 2650571 at *4), a PAGA settlement – like any settlement – involves a compromise that stops short of rendering findings of liability and damages. "Unlike a class action seeking damages or injunctive relief for injured employees, the purpose of PAGA is to incentivize private parties to recover civil penalties for the government that otherwise may not have been assessed and collected by overburdened state enforcement agencies." *Ochoa-Hernandez,* 2010 WL 1340777 at *4.

Second, consistent with the fact that unnamed employees have no property interest in a PAGA claim,[2] "[u]nnamed employees need not be given notice of the PAGA claim, nor do they have the ability to opt-out of the representative PAGA claim." *Ochoa-Hernandez*, 2010 WL 1340777 at *5; *see also Robinson v. Southern Counties Oil Co.*, 53 Cal.App.5th 476, 482 (2020) (recognizing that "there is no mechanism for opting out of the judgment entered on the PAGA claim."). This renders the approval process of a PAGA settlement distinct from a class action settlement, as the Court need not employ the "two-step approval process" required for class action settlements under Fed. R. Civ. Proc. Rule 23(e) and Cal. Rule of Court 3.769.

Finally, unlike a class action settlement under Fed. R. Civ. Proc. Rule 23(e) or Cal. Rule of Court 3.769, the scope of release in a PAGA settlement is limited to *civil penalties*. While "judgment in [a PAGA] action is binding not only on the named employee plaintiff but also on government agencies and any aggrieved employee not a party to the proceeding…the non-party employees, because they were not given notice of the action or afforded any opportunity to be heard, would not be bound by the judgment as to remedies other than civil penalties." *Arias v. Sup. Ct.*, 46 Cal. 4th 969, 986-87 (2009). Thus, the scope of release in a PAGA settlement is strictly confined to PAGA penalties.

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

1. *Factors in Evaluating a Representative PAGA Settlement.*

In deciding whether to approve a proposed settlement, a trial court has broad powers to determine if the proposed settlement is fair under the circumstances of the case. *Mallick v. Sup. Ct.*, 89 Cal.App.3d 434, 438 (1979). In exercising these powers, the overriding concern is to ensure that a proposed settlement is "fair, adequate, and reasonable." *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996) (internal quotations omitted). Relevant factors for the Court to consider include, but are not limited to:

> [T]he strength of 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, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

Id. These factors require balancing, are non-exhaustive, and trial courts should tailor the factors to each case and give due regard to "what is otherwise a private consensual agreement between the parties." *Id*. In the context of a PAGA settlement, the third and eighth factors (risk of maintaining class action status and reaction of class members to settlement) are inapplicable.

Because settlements inherently involve compromise, even a settlement providing for substantially narrower relief than might be obtained if the suit were successfully litigated can be reasonable because "the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation." *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 250 (2001) (quoting *Air Line Stewards, etc., Local 550 v. Am. Airlines, Inc.*, 455 F.2d 101, 109 (7th Cir. 1972)). In addition, courts review the discovery process and information received through it to aid them in assessing whether the parties sufficiently developed the claims and their supporting factual bases before reaching settlement. *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 129-31 (2009). Information is sufficient where it allows the parties and the court to form "an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation." *Clark v. Am. Residential Serv. LLC*, 175 Cal.App.4th 785, 801 (2009). This requirement exists so that the parties can provide the court with "a meaningful and substantiated explanation of the manner in which the factual and legal issues have been evaluated." *Kullar,* 168 Cal.App.4th at 132.

a. The Strength of Plaintiffs' Case

Although Plaintiffs steadfastly maintain their claims are meritorious, Plaintiffs acknowledge that there are substantial risks and uncertainty in proceeding to trial. For example, with respect to Plaintiffs' claim that Sabor Farms only compensated employees for their scheduled shift times, shaving down their total hours worked, resulting in an underpayment of wages, Sabor Farms counters that its timekeeping policies/practice complied with California law and that it has always properly compensated Aggrieved Employees for all hours worked throughout the PAGA Period. Blakely Decl., ¶ 13. Sabor Farms further argues no pre-shift or post-shift work was actually being performed, and therefore, employees were paid for all hours actually worked. *Id*. Finally, Sabor Farms also asserts that Plaintiffs' unpaid wage claims are not suited for representative treatment, as its timekeeping policies/practices are facially neutral and individualized inquiries would be necessary as to whether employees were in fact underpaid or overpaid for each workday in question (including whether they were actually working when they were clocked in). *Id*.

With respect to Plaintiffs' meal period claims, Sabor Farms counters that it maintained compliant written meal period policies throughout the PAGA Period and provided compliant meal periods in line with those policies. Blakely Decl., ¶ 14. Sabor Farms further contends that it always provided employees with the opportunity to take meal periods and is not required to ensure that the meal periods are taken. *Id*.; *see Brinker Restaurant Corporation v. Superior Court*, 53 Cal.4th 1004, 1034 (2012) (rejecting "ensure" standard). Thus, Sabor Farms argues, any non-compliant meal periods were the result of lawful employee choice, rather than any policy and/or practice of Sabor Farms. Blakely Decl., ¶ 14. As for second meal periods, Sabor Farms asserts many employees chose to waive their second meal periods on shifts over 10.0 hours but less than 12.0 hours, as they may do under Labor Code § 512(a), so that they do not need to stay at work for an extra unpaid 30 minutes. *Id*. Finally, Sabor Farms maintains Plaintiffs' meal period claim is not suited for representative treatment, since individual inquiries would be needed to assess which employees, if any, took non-compliant or missed meal periods, how many meal periods were non-compliant or missed, the reasons why a particular employee did not take a meal period on a particular shift, and (for second meals) whether they waived the meal period. *Id*.

With respect to Plaintiffs' rest period claim, Sabor Farms contends that it maintained and enforced compliant written rest period policies/practices, that it has always authorized and permitted employees a 10-minute rest period for each four (4) hours worked, or major fraction thereof, as required under the Wage Order, and that any failure to take rest periods was a result of employee choice rather than any Sabor Farms policy and/or practice. Blakely Decl., ¶ 15. Sabor Farms further argues that Plaintiffs' rest period claim is not amenable to representative treatment, since individual inquiries would be required to determine which employees failed to take rest periods, how many rest periods they failed to take, and the reasons why each employee failed to take rest period(s) on a particular shift. *Id*. These manageability concerns are especially present with respect to rest period claims, Sabor Farms argues, given that rest periods are not, and need not, be recorded. *Id*.

With respect to Plaintiffs' claim that Sabor Farms failed to reimburse Plaintiffs and other aggrieved employees for necessary business expenditures, Sabor Farms argues that employees were not required to use their own safety and personal protective equipment. Blakely Decl., ¶ 16. Sabor Farms further contends that this claim would require individual inquiries into whether Aggrieved Employees actually used their own safety and personal protective equipment for work purposes, how much expense they incurred, whether they submitted a request for reimbursement, and the reasonableness of that expense, thus precluding representative treatment. *Id*.; *see also*, e.g., *Gattuso v. Harte-Hanks Shoppers, Inc.*, 42 Cal.4th 554, 568 (2007) ("In calculating the reimbursement amount due under section 2802, the employer may consider not only the actual expenses that the employee incurred, but also whether each of those expenses was 'necessary,' which in turn depends on the reasonableness of the employee's choices").

As a result of Sabor Farms' alleged failure to pay all wages and all meal and rest period premiums, Plaintiffs allege derivative PAGA claims for failure to issue accurate and itemized wage statements. *See* Labor Code § 226(a); Blakely Decl., ¶ 17. In response, Sabor Farms argues that Plaintiffs' underlying claims will fail and, as a result, the derivative wage statement claims will also fail. *See Price v. Starbucks Corp.*, 192 Cal.App.4th 1136, 1147 (2011) ("Because the underlying causes of action fail, the derivative UCL and PAGA claims also fail"). Sabor Farms also maintains that any "derivative" PAGA claims for violations of Labor Code Sections 226 would be entirely duplicative and would be unlikely to be awarded in any significant manner by a Court. Blakely Decl., ¶ 17.

Sabor Farms further maintains that even if the Court awarded PAGA penalties for any of the alleged violations, it would substantially reduce the penalties based on the discretionary factors in Labor Code § 2699(e)(2) (authorizing reduction in penalties "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"). Blakely Decl., ¶ 18. Indeed, Sabor Farms argues, many courts have reduced PAGA penalties drastically where, as here, the employer presented good-faith defenses and attempted to comply with the law. *Id.*; *see Thurman v. Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, 1135 (2012) (affirming reduction of PAGA penalties because "Defendant took their obligations…seriously and attempted to comply with the law"); *Fleming v. Covidien, Inc.*, No. ED-CV-10-1487-RGK, 2011 WL 7563047 (C.D. Cal. Aug. 12, 2011) at *4 (reducing PAGA penalties by over 82%, in part because employer "not aware" of violations); *Carrington v. Starbucks Corp.*, 30 Cal.App.5th 504, 529 (2018) (affirming PAGA penalty of just $5 per pay period where employer made "good faith attempts" to comply with the law).

While Plaintiffs were prepared to litigate their claims through trial, Plaintiffs faced substantial challenges in prevailing in this matter and obtaining a better result than will be provided through the Settlement. Thus, this factor supports approval.

b. <u>Risk, Expense, Complexity, and Duration of Further Litigation</u>

Although the Parties engaged in significant informal discovery prior to mediation, the Parties still had much formal discovery to conduct if the case did not settle. Substantive motion work and trial preparation also remained for the Parties, as well as potential appeals. As a result, the Parties would likely incur considerably more attorneys' fees and costs through trial and possible appeal. The Settlement avoids those risks and the accompanying expense.

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c. <u>Amount Offered in Settlement Given Realistic Value of Claims</u>

The proposed Settlement provides a fair and reasonable monetary recovery for the State of California and Aggrieved Employees in the face of hotly disputed claims. Based on data provided by Sabor Farms, there were approximately 28,348 Pay Periods worked by the Aggrieved Employees during the PAGA Period. Blakely Decl., ¶ 19; Settlement, § III.3.

Labor Code § 2699(f)(2) provides for PAGA civil penalties in the amount of $100 for each aggrieved employee per pay period for the initial violation, and $200 for each aggrieved employee per pay period for each subsequent violation. *See* Labor Code § 2699(f)(2). However, courts have interpreted section 2699(f)(2) to only impose the $200 subsequent penalty after an employer has been notified that its conduct violates the Labor Code. *See, e.g., Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1207 (2008) (finding "initial" violation rate applies until employer is notified that it is violating a Labor Code provision); *Trang v. Turbine Engine Components Technologies Corp.*, No. CV 12–07658 DDP (RZx), 2012 WL 6618854, at *5 (C.D. Cal. Dec. 19, 2012) ("courts have held that employers are not subject to heightened penalties for subsequent violations unless and until a court or commissioner notifies the employer that it is in violation of the Labor Code"); *Amalgamated Transit Union Local 1309, AFL-CIO v. Laidlaw Transit Services, Inc.*, No. 05cv1199–IEG–CAB, 2009 WL 2448430, at *9 (S.D. Cal. 2009) (finding that California law imposes the "subsequent violation penalty" only after an employer has been notified its conduct violates the Labor Code). Therefore, assuming that Plaintiffs could prove at least one Labor Code violation in each pay period, Plaintiffs calculated Sabor Farms' <u>maximum</u> PAGA exposure at $2,834,800 (28,348 pay periods * $100 per violation). Blakely Decl., ¶ 19.

In light of Sabor Farms' arguments and defenses described above, Plaintiffs discounted that figure by 45% for a risk of losing on the merits and/or not recovering a PAGA penalty in each and every pay period, and by an additional 55% for risk of the Court reducing penalties, to arrive at a realistic exposure of approximately $701,613. Blakely Decl., ¶ 19; s*ee also, e.g., Thurman,* 203 Cal.App.4th at 1136 (affirming reduction of PAGA penalties); *Fleming,* 2011 WL 7563047 at *5 (reducing PAGA penalties by over 82%); *Carrington*, 30 Cal.App.5th at 529 (affirming PAGA civil penalty of just $5 per pay period).

In the face of Sabor Farms' defenses on the merits and the Court's discretion to reduce PAGA penalties, Plaintiffs felt that the negotiated settlement of $665,000.00, which represents approximately 95% of Plaintiffs' reasonably forecasted total recovery, was clearly in the best interests of the LWDA and the aggrieved employees and was well within the range of reasonableness. Blakely Decl., ¶ 19; *See Linney v. Cellular Alaska Partnership*, 151 F.3d 1234, 1242 (9th Cir. 1998) ("The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.") (internal quotations omitted).

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

d. <u>Discovery Completed and the Status of Proceedings</u>

As noted, the parties engaged in substantial informal discovery to evaluate the value of Plaintiffs' PAGA claim. Sabor Farms provided Plaintiffs with, *inter alia*, a sampling of timekeeping and payroll records for non-exempt employees and additional relevant data points, including the number of Aggrieved Employees and the aggregate number of Pay Periods worked by Aggrieved Employees during the PAGA Period. Blakely Decl., ¶ 10. Only after engaging in mediation and in adversarial discussions about the likelihood of proceeding on a representative basis and prevailing on the merits, did the parties reach the proposed Settlement. Thus, this factor supports settlement approval.

e. <u>The Experience and Views of Counsel</u>

"Parties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation." *In re Pac. Enter. Sec. Litig.*, 47 F.3d 373, 378 (9th Cir. 1995). Plaintiffs are represented by experienced wage and hour counsel with decades of combined experience, who believe this Settlement to be fair and adequate for all involved. Blakely Decl., ¶¶ 2-6; Declaration of Paul K. Haines ("Haines Decl."), ¶¶ 3-8; Wheeler Decl., ¶¶ 6-13. This factor strongly supports settlement approval. *Kullar*, 168

Cal.App.4th at 130 ("The court undoubtedly should give considerable weight to the competency and integrity of counsel and the involvement of a neutral mediator in assuring itself that a settlement agreement represents an arm's length transaction entered without self-dealing or other potential misconduct").

B. <u>The Requested Award of Attorneys' Fees is Reasonable as a Percentage of the Maximum Settlement Amount</u>

Plaintiffs are entitled to attorneys' fees in this PAGA action under Labor Code § 2699(g)(1), which provides that "[a]ny employee who prevails in any [PAGA] action shall be entitled to an award of reasonable attorneys' fees and costs." *See also Gouskos v. Aptos Village Garage, Inc.*, 94 Cal.App.4th 754, 765 (2001) (holding that attorneys' fees to prevailing party are mandatory when the statute uses the word "shall"). It is undisputed that by obtaining PAGA penalties for the LWDA and Aggrieved Employees, Plaintiffs have prevailed. *See Graciano v. Robinson Ford Sales*, 144 Cal.App.4th 140, 153 (2006) ("[P]laintiffs may be considered 'prevailing parties' for attorney's fee purposes if they succeed on any significant issue in the litigation that achieves some of the benefit the parties sought in bringing suit." (internal citation omitted)).

A fee award is justified where the legal action has produced its benefits by way of settlement. *See*, *e.g.*, *Maria P. v. Riles*, 43 Cal.3d 1281, 1290-91 (1987); *Westside Comty. for Independent Living, Inc. v. Obledo*, 33 Cal.3d 348, 352-53 (1983); *Serrano v. Priest*, 20 Cal.3d 25, 34 (1977) ("when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff…for the benefit of all results in the creation or preservation of that fund, such plaintiff…may be awarded attorney's fees out of the fund."); *Serrano v. Unruh* (1982) 32 Cal.3d 621, 627 (in awarding a fee from the common fund obtained for the benefit of all parties, the trial court acts within its equitable power to prevent the other parties' unjust enrichment); *Rawlings v. Prudential-Bache Properties, Inc.*, 9 F.3d 513, 516 (6th Cir. 1993) (the percentage of the fund method for calculating attorneys' fees more accurately reflects the results achieved for the putative class than the lodestar method and "establishes reasonable expectations on the part of Plaintiff's attorneys as to their expected recovery; and it encourages early settlement, which avoids protracted litigation."); *In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 300 (3d Cir. 2005) ("The percentage-of-recovery method is generally favored in common fund cases because it allows courts to award fees from the fund 'in a manner that rewards counsel for success and penalizes it for failure.").

Fee awards of one-third of the settlement fund are routinely awarded in California courts in class and representative PAGA actions. The California Supreme Court confirmed its approval of the use of the "percentage of fund" method in *Laffitte v. Robert Half Int'l, Inc.*, 1 Cal.5th 480, 506 (2016), where it announced "the percentage of fund method survives in California class action cases…" Specifically, the *Laffitte* Court held:

> The recognized advantages of the percentage method—including relative ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation—convince us the percentage method is a valuable tool that should not be denied our trial courts.

Id., at 503 (internal citation omitted). Indeed, "[F]ee awards in class actions average around one-third of the recovery." *Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 66, fn. 11 (2008); *see also Chavez v. Saticoy Lemon Ass'n*, 2015 WL 5561118 (Ventura Cty. Super. Ct., Aug. 29, 2015) (approving attorneys' fees of one-third of settlement fund in PAGA settlement); *Clavel v. Lupe's Thousand Oaks Mexican Restaurant, Inc.*, 2016 WL 1601223 (Ventura Cty. Super. Ct., Mar. 25, 2016) (same). This is also consistent with Plaintiffs' counsel's experience in similar wage-and-hour class and PAGA matters.

Here, Plaintiffs' fee request of one-third of the Maximum Settlement Amount (estimated to be $221,666.67), which is the same percentage approved by the California Supreme Court in *Laffitte*, is fair and reasonable based on the percentage of the recovery method, as confirmed by a lodestar cross-check.

In *Laffitte*, the California Supreme Court held that trial courts have discretion to assess the reasonableness of fee awards with tools such as the "lodestar cross-check," whereby the trial court calculates counsel's lodestar and determines whether the "lodestar multiplier" needed to bring the lodestar on par with the percentage of recovery is reasonable. *Laffitte,* 1 Cal.5th at 503-06. While a trial court may utilize the lodestar cross-check, it need not do so. *Id*. at 506 ("[w]e hold further that trial courts have discretion to conduct a lodestar cross-check on a percentage fee, as the court did here; they also retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee.").

Under the lodestar method, the court multiplies the number of hours reasonably expended by each attorney or legal staff member by their reasonable hourly rates, then enhances this lodestar figure by a "multiplier" to account for a range of factors, such as the contingent nature of the case and the degree of success achieved. *See Serrano v. Priest*, 20 Cal.3d 25, 48-49 (1977); *Ketchum v. Moses*, 24 Cal.4th 1122, 1132-36 (2001); *Thayer v. Wells Fargo Bank*, 92 Cal.App.4th 819, 834 (2001) ("There is no hard-and-fast rule limiting the factors that may justify an exercise of judicial discretion to increase or decrease a lodestar calculation").

Under California law, lodestar multipliers can range from 2 to 4 or even higher. *See, e.g., Chavez*, 162 Cal.App.4th at 49-50 (approving multiplier of approximately 2.5); *Coalition for L.A County Planning etc. Interest v. Bd. of Supervisors*, 76 Cal.App.3d 241, 251 (1977) (approving multiplier of approximately 12.8). In representative actions such as this one, where Plaintiffs' counsel efficiently protected the rights of the aggrieved employees and where the value of the benefit conferred to the group "can be monetized with a reasonable degree of certainty," the Court may "adjust the lodestar in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation." *Consumer Privacy Cases*, 175 Cal. App. 4th 545, 557 (2009).

In this case, Plaintiffs' counsel has a collective lodestar of approximately $283,682.50, resulting in a *negative* multiplier compared to the $221,666.67 fee request. Blakely Decl., ¶ 23, Exhibit 4; Wheeler Decl., ¶¶ 14, 16, Exhibit B. Plaintiffs' counsel submit that the billing rates used are reasonable in view of the market rates and the rates at which Plaintiffs' counsel has been approved at in other courts. Blakely Decl., ¶¶ 23-24; Exhibit 5 (*Laffey* Matrix); Wheeler Decl., ¶¶ 14-19.

Critically, Plaintiffs' recovery for the State of California and Aggrieved Employees of approximately $415,352.58 (Net Settlement Amount) significantly exceeds other PAGA awards approved by California courts. *See, e.g., Aguirre v. DSW, Inc.*, No. DCV-11-01522-GW (SPx), 2012 WL 11875296 at *3 (C.D. Cal. Nov. 29, 2012) (approving $10,000 PAGA payment); *Jamil v. Workforce Res., LLC*, No. 18-CV-27 JLS (NLS), 2020 WL 6544660) at *6 (S.D. Cal. Nov. 5, 2020) (approving $10,000 total PAGA payment, finding the amount "fair and adequate in view of the purposes and policies of PAGA"); *Garcia v. Gordon Trucking, Inc.*, No. 1:10-cv-0324-AWI-SKO, 2012 WL 5364575 at *7 (E.D. Cal. Oct. 31, 2012) ("approving $10,000 total PAGA payment, finding that "[t]his comports with settlement approval of PAGA awards in other cases. [Citations.]"); *Boyd v. Bank of Am. Corp.*, No. SACV-13-0561-DOC (JPRx), 2014 WL 6473804 at *8 (C.D. Cal. Nov. 18, 2014) (approving $18,750 PAGA payment); *Franco v. Ruiz Food Prods.*, No. 1:10-cv-02354-SKO, 2012 WL 5941801 at *14 (E.D. Cal. Nov. 27, 2012) (approving $10,000 PAGA payment); *Chu v. Wells Fargo Inv., LLC*, 2011 WL 672645 at *1 (N.D. Cal. Feb. 16, 2011) ($10,000 PAGA payment).

As discussed above, this case presented significant risks to Plaintiffs. Plaintiffs' counsel conducted extensive research regarding the merits of Plaintiffs' claims, their ability to recover PAGA civil penalties, and Sabor Farms' potential defenses. Blakely Decl., ¶¶ 13-19. Since undertaking representation of Plaintiffs, Plaintiffs' counsel has dedicated substantial resources to this litigation without receiving any compensation to date. *Id*., ¶ 22; Wheeler Decl., ¶ 26. Plaintiffs' counsel also performed extensive analysis of data and information produced by Sabor Farms, used this analysis to evaluate Plaintiffs' claims, and drafted a comprehensive mediation brief. Blakely Decl., ¶ 10. Plaintiffs' counsel attended a full-day mediation, and expended significant effort in preparing settlement documents, this Motion and supporting documents, and will oversee the settlement administration process. *Id*. Given the considerable potential for adverse outcomes in this case, the contingent risk borne by Plaintiffs' counsel was great. The quality of Plaintiffs' counsel's work, and the efficacy and dedication with which it was performed, should be compensated. Thus, Plaintiffs submit the requested fee award is fair, reasonable and adequate and should be approved.

Plaintiffs' counsel has over three decades of combined wage-and-hour class and representative action experience and has been certified as class counsel in numerous wage and hour class actions. Blakely Decl., ¶¶ 2-6; Haines Decl., ¶¶ 3-8; Wheeler Decl., ¶¶ 6-13. Because it is reasonable to compensate counsel commensurate with their skill, reputation, and experience, a fee award of one-third of the Maximum Settlement Amount is reasonable. Other factors show the requested fee is reasonable. This case involved nuanced legal issues, including the legality of Sabor Farms' timekeeping practices and obligations to "provide" meal periods, as well as the availability and amount of PAGA civil penalties for the alleged Labor Code violations. Blakely Decl., ¶ 21. Sabor Farms was also represented by experienced wage-and-hour litigation counsel. *Id*. Thus, Plaintiffs submit the requested fee award is fair, reasonable and adequate and should be approved.

C. <u>The Requested Litigation Costs and Administration Costs Are Fair, Reasonable, and Adequate</u>

Plaintiffs' request for reimbursement of litigation costs of $11,430.75 is also fair and reasonable. All of Plaintiffs' litigation costs are reasonably incurred. *See* Blakely Decl., ¶ 22, Exhibit 3; Wheeler Decl., ¶¶ 27-28. Moreover, the costs Plaintiffs seek are the types of costs routinely approved by courts. *See*, *e.g.*, *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994) (counsel should recover "those out-of-pocket expenses that would normally be charged to a fee paying client"); *Ashker v. Sayre*, 2011 WL 825713 at * 3 (N.D. Cal. Mar. 7, 2011) ("costs of reproducing pleadings, motions and exhibits are typically billed by attorneys to their fee-paying clients" and are reimbursable); *Trustees of Const. Industry & Laborers Health and Welfare Trust v. Redland Ins. Co.*, 460 F.3d 1253, 1258-59 (9th Cir. 2006) (legal research costs reimbursable); *In re Immune Response Sec. Litig.*, 497 F.Supp.2d 1166, 1177-78 (S.D. Cal. 2007) (mediation expenses, consultant and expert fees, legal research, copies, postage, filing fees, messenger and overnight delivery costs are reimbursable).

Likewise, the request for administration costs of $6,550.00 is also fair and reasonable. ILYM was selected because it is an experienced settlement administrator and returned a reasonable bid. Blakely Decl., ¶ 20; *See* Settlement, §§ III.4.c, IV.1; *See also* Rogers Decl. and Exhibits. Moreover, ILYM will perform several important functions that are integral to the implementation of the Settlement. Settlement, § IV.2-6; Blakely Decl., ¶ 20. Its requested fee is therefore reasonable.

D. <u>The Court Should Approve Plaintiffs' Requested Enhancement Payments Because They Are Fair, Adequate, and Reasonable in View of Plaintiffs' Efforts and the Risks They Assumed in This Litigation.</u>

Courts routinely approve enhancement payments to compensate named plaintiffs for the services they provide and the risks they incur during representative litigation. *See, e.g., Bell v. Farmers Ins. Exch.*, 115 Cal.App.4th 715, 726 (2004) (upholding "service payments" to named Plaintiff); *Van Vranken v. Atlantic Richfield Co*., 901 F. Supp. 294 (N.D. Cal. 1995) (approving $50,000 incentive payment). Here, Plaintiffs seek Enhancement Payments of $5,000.00 each ($10,000.00 total). *See* Settlement, § III.4.b. This request is reasonable given Plaintiffs' efforts in this case and the risks they undertook on behalf of Aggrieved Employees. Cuevas-Granados Decl., ¶¶ 5-7; Merendon-Cerega Decl., ¶¶ 9-15, 21-22. Plaintiffs provided substantial factual information and documents to counsel, assisted in identifying potential witnesses and participated in numerous discussions with Plaintiffs' counsel regarding the case. *Id*. Accordingly, Plaintiffs' requested Enhancement Payments are appropriate and justified as part of the Settlement.

V. <u>CONCLUSION</u>

For the reasons stated herein, Plaintiffs respectfully request that this Court grant Plaintiffs' Motion and adopt the [Proposed] Judgment and Order Granting Settlement Approval submitted concurrently herewith.

Respectfully submitted,

Dated: November 25, 2025 HAINES LAW GROUP, APC

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