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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

LUIS CASTILLO, as an individual and on behalf of all others similarly situated,

Plaintiff,

vs.

DSD CONTAINER FREIGHT STATION, INC., a California corporation; and DOES 1 through 100, inclusive,

Defendants.

Case No.: 23STCV16677

[Assigned for all purposes to the Hon. Elihu M. Berle, Dept. SSC-6]

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR SETTLEMENT APPROVAL OF CLAIMS BROUGHT UNDER THE PRIVATE ATTORNEYS GENERAL ACT AND REASONABLE ATTORNEYS' FEES, COSTS, AND ENHANCEMENT AWARD; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Date: February 13, 2026
Time: 11:00 a.m.
Dept.: SSC-6

Complaint Filed: July 17, 2023
Trial Date: None Set

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

PLEASE TAKE NOTICE that on February 13, 2026 at 11:00 a.m., or as soon thereafter as the matter may be heard in Department SSC-6 of the above-entitled Court, located at 312 N. Spring Street, Los Angeles, California 90012, Plaintiff Luis Castillo ("Plaintiff"), on behalf of himself and all other aggrieved employees, will and hereby does move this Court for entry of an Order as follows:

1. Granting approval, pursuant to California Labor Code section 2698 *et seq.*, and specifically Labor Code section 2699(l)(2), of the proposed Settlement of claims brought pursuant to the Private Attorneys General Act of 2004 (Cal. Lab. Code § 2698 *et seq.*) and set forth in the Settlement;
2. Appointing Phoenix Settlement Administrators ("Phoenix") as the Settlement Administrator, and approving an award of $2,750.00 in anticipated costs to Phoenix for its settlement administration services;
3. Approving the proposed Notice of PAGA Settlement and Release of Claims as to form and content, and directing that it be distributed to the Aggrieved Employees pursuant to the terms of the Settlement;
4. Directing the distribution of the Gross Settlement Amount pursuant to the terms of the Settlement;
5. Approving an award of $23,144.00, which is one-third of the Gross Settlement Amount, in attorneys' fees to Plaintiff's Counsel;
6. Approving an award in the amount of $13,565.47 in actual litigation costs to reimburse Plaintiff's Counsel;
7. Approving an enhancement award of $3,500.00 to Plaintiff for his release of the PAGA claims and service to the Aggrieved Employees and the State of California;
8. Approving the payment of $19,854.39 to the California Labor & Workforce Development Agency for its share of PAGA civil penalties; and
9. Approving the payment of $6,618.14 to the Aggrieved Employees on a *pro rata* basis based on number of pay periods worked during the relevant time period.

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This Motion is based on this Notice, the attached Memorandum of Points and Authorities; the declarations of Scott M. Lidman, Milan Moore, Tiara Gose-Hardy, Paul K. Haines, Plaintiff Luis Castillo, and Jodey Lawrence on behalf of Phoenix and the exhibits attached thereto, the pleadings and other papers filed in this action, and on any further oral or documentary evidence or argument presented at the time of hearing.

Dated: January 13, 2026

Respectfully Submitted,
LIDMAN LAW, APC

By: ______________________
Scott M. Lidman

Attorneys for Plaintiff
LUIS CASTILLO

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Luis Castillo ("Plaintiff"), an "Aggrieved Employee" under the California Labor Code § 2698 *et seq.* ("PAGA"), respectfully requests this Court grant approval of the Settlement[1] with DSD Container Freight Station, Inc. ("Defendant") pursuant to Labor Code section 2699(l)(2). This PAGA action is based on Defendant's alleged failure to pay all overtime wages owed, minimum wage violations, failure to provide meal periods, failure to authorize and permit rest periods, failure to provide accurate itemized wage statements, failure to reimburse all necessary business expenditures, and failure to maintain accurate records for its current and former employees in California who worked for Defendant as hourly, non-exempt employees, pursuant to various sections of the Labor Code. This PAGA action seeks civil penalties on behalf of the California Labor & Workforce Development Agency ("LWDA") and all "Aggrieved Employees," defined in the Settlement as "all current and former hourly, non-exempt employees who worked for Defendant DSD Container Freight Station, Inc. in California at any time from July 20, 2022 through the date the Court grants approval of this settlement."

As set forth herein, the proposed Settlement should be approved because it 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, (3) was negotiated subsequent to undertaking sufficient investigation to evaluate the relative strength and value of the PAGA-based claims, and (4) reflects a reasoned compromise based directly on the relative strength and value of the PAGA-based claims, as well as the risks, expense, complexity and likely duration of further litigation.

This proposed PAGA Settlement obligates Defendant to pay a **non-reversionary** Gross Settlement Amount ("GSA") of $69,432.00. After deducting amounts for requested attorneys' fees (one-third of the GSA, $23,144.00), costs incurred by Plaintiff's counsel ($13,565.47), an enhancement award for Plaintiff ($3,500.00), and settlement administration costs ($2,750.00) to Phoenix Settlement Administrators, the Settlement provides for distribution of civil penalties in the amount of $26,472.53.

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[1] The PAGA Settlement Agreement ("Settlement") is attached to the Declaration of Scott M. Lidman as Exhibit 2. The proposed Notice of PAGA Settlement and Release of Claims is attached to the Settlement as Exhibit B. All defined terms in this Motion have the same definitions as used in the Settlement.

Pursuant to Labor Code section 2699(i), 75% of $26,472.53 (or $19,854.39) will be distributed to the LWDA and 25% of $26,472.53 (or $6,618.14) will be distributed to the Aggrieved Employees on a *pro rata* basis. The amounts requested for attorneys' fees and costs, Plaintiff's enhancement award, and settlement administration costs are fair, adequate, and reasonable, particularly in light of the recovery obtained. Because there are approximately 45 Aggrieved Employees, the average individual payment to each Aggrieved Employee is estimated to be approximately <u>$147.06</u> (and will vary based on an employee's actual number of pay periods worked during the relevant time period).

The GSA of $69,432.00 represents a fair and reasonable recovery for the State of California and Aggrieved Employees considering the limited scope and time period of the release. The release in the Settlement does <u>*not*</u> impact any underlying Labor Code claims any of the Aggrieved Employees may have. Further litigation may have resulted in a smaller recovery or even no recovery at all based on the defenses asserted by Defendant and given the significant litigation risks involved.

In light of the foregoing, this Court should enter the [Proposed] Order and Judgment granting approval of the Settlement submitted concurrently herewith.

II. <u>SUMMARY OF THE LITIGATION</u>

A. <u>The Parties</u>

Defendant is in the business of providing freight forwarding services. *See* Declaration of Scott M. Lidman ("Lidman Decl."), ¶ 10. Plaintiff, a former forklift operator, was employed by Defendant from approximately the year 2019 through September 21, 2023. *See* Declaration of Luis Castillo ("Castillo Decl."), ¶ 3.

B. <u>Procedural History</u>

On July 17, 2023, Plaintiff filed a class action Complaint against Defendant asserting claims for (1) failure to pay all overtime wages owed; (2) minimum wage violations, (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to provide accurate, itemized wage statements; (6) failure to reimburse all necessary business expenditures; and (7) unfair competition. Lidman Decl., ¶ 11.

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On July 20, 2023, Plaintiff sent a written notice pursuant to Labor Code section 2698 *et seq*. to the Labor Workforce Development Agency ("LWDA") and Defendant asserting claims for civil penalties pursuant to the California Labor Code Private Attorney General Act, Labor Code section 2698, *et seq*. ("PAGA) stemming from Defendant's failure to pay all overtime wages, failure to pay minimum wage for all hours worked, failure to provide meal and rest periods, failure to furnish accurate and compliant itemized wage statements, failure to reimburse business expenses, and failure to maintain accurate records for all hourly, non-exempt employees. Lidman Decl., ¶ 12; Exh. 1.

On September 25, 2023, Plaintiff filed a First Amended Complaint, adding a claim for civil penalties pursuant to California Labor Code Private Attorney General Act, Labor Code section 2698, *et seq*. ("PAGA) stemming from Defendant's alleged violations of the California Labor Code set forth in the Complaint and LWDA notice. Lidman Decl., ¶ 13.

On October 20, 2023, Plaintiff served written discovery requests, Special Interrogatories and Requests for Production of Documents, onto Defendant. Defendant provided verified responses and responsive documents on December 6, 2023. Lidman Decl., ¶ 14.

On November 27, 2023, Defendant filed a motion for summary judgment/adjudication. The Court granted summary judgment on all claims except for the eighth cause of action for non-individual PAGA penalties. Lidman Decl., ¶ 15. Thus, the only remaining claim in this action is the PAGA representative claim. *Id*.

A copy of this motion, including the settlement agreement, has been submitted to the California Labor Workforce Development Agency ("LWDA") on the same date that Plaintiff filed this motion. Lidman Decl., ¶ 43, Exh. 6.

C. <u>Informal Discovery, Mediation, and Arms-Length Negotiations</u>

After engaging in formal discovery and agreeing to participate in a private mediation, Defendant informally produced to Plaintiff information and documents pertaining to Plaintiff and other Aggrieved Employees, including time records and payroll data for 25 percent of the Aggrieved Employees. Lidman Decl., ¶ 16. After the detailed review of the information produced by Defendant, Plaintiff's Counsel drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiff's case.

Id. This discovery allowed the parties to assess the merits and value of Plaintiff's claims and determine if a settlement could be reached. *Id*.

On December 20, 2024, the Parties participated in mediation with Judge Zaven Sinanian, a retired Los Angeles Superior Court judge and wage and hour class and representative action mediator. Lidman Decl., ¶ 17. During mediation, the Parties vigorously debated their opposing legal positions and the likelihood of Plaintiff's ability to proceed on a representative basis and ultimately obtain a judgment in his favor. *Id*. Ultimately, the Parties reached a settlement, the terms of which were subsequently finalized in writing after mediation. Lidman Decl., ¶ 16, Exh. 2.

III. <u>ARGUMENT</u>

A. <u>Standard For Approval of A PAGA Settlement</u>

The settlement of a PAGA claim requires court approval pursuant to the operative PAGA statute, which states that the "court shall review and approve any penalties sought as part of a proposed settlement agreement pursuant to this part." *See* Lab. Code § 2699(l). Notably, the PAGA statute does not expressly set forth the criteria by which a PAGA settlement is to be judged.

In evaluating the adequacy of the settlement amount, the Court's focus is not concerned with the amount(s) that "aggrieved employees" are to receive, but rather, must focus on the total settlement amount in achieving PAGA's objective. Indeed, "[t]he remedy sought in a PAGA suit consists of civil penalties, not individual or class damages." *Mendez v. Tween Brands, Inc.,* 2010 WL 2650571 (E.D. Cal. Jul. 1, 2010) 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.*, 2010 WL 1340777 at *4 (N.D. Cal. Apr. 2, 2010). 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 reviewing Court must take into account the fact that settlement of a PAGA claim – like any settlement – involves a "compromise" that stops short of rendering findings of liability and damages.

The Court must not lose sight of the fact that "[u]nlike 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,* at *4.

Additionally, 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* at *5.

B. <u>This Court Should Approve The Settlement Because It Is A Fair, Adequate, And Reasonable Compromise of Disputed Claims</u>

California courts have a strong policy in favor of settlement. *See, e.g., Stambaugh v. Superior Court* 62 Cal.App.3d 231, 236 (1976). To be approved, a settlement must be "fair, reasonable and adequate to all concerned." *Reed v. United Teachers Los Angeles*, 208 Cal.App.4th 322, 337 (2012). The Court's role in evaluating a proposed settlement is limited to ensuring that the agreement taken as a whole is fair and is not the product of fraud or collusion between the negotiating parties. *See, e.g., Hanlon, supra*, 150 F.3d at 1027. There is an initial presumption of fairness when the settlement agreement was negotiated at arm's length by experienced counsel. *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 130 (2008).

Here, the GSA secured by Plaintiff is greater than other PAGA penalty awards approved as reasonable within California state courts, which often range between $7,500.00 and $15,000.00 for PAGA claims impacting hundreds or thousands of individuals, resulting in much lower PAGA penalty payments on a per person basis. *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 PAGA penalties of $5,000.00 to class of 667 members); *Cabrera v. Advantage Sale & Marketing, LLC*, Case No. BC485259, 2013 WL 1182822 (Super. Ct. L.A. County, March 12, 2013) (approving PAGA penalties of $10,000.00 for class of approximately 3,000 members).

Because this Settlement is fair, adequate, and reasonable, Plaintiff respectfully requests that the Court approve the Settlement.

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[2] As held by the California Supreme Court, "[t]he Labor Code Private Attorneys General Act of 2004 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. <u>Factors in Evaluating a Representative PAGA Settlement</u>

A settlement is presumptively fair where it is reached through arm's-length bargaining, based on sufficient discovery and investigation to allow counsel and the court to act intelligently, and counsel is experienced in similar litigation. *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1802 (1996). Relevant factors for the Court to consider in determining whether the settlement is "fair, adequate, and reasonable" 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.
> *Dunk*, 48 Cal.App.4th at 1801.[3]

"In the context of a settlement agreement, the test is not the maximum amount Plaintiffs might have obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the circumstances." *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 250 (2001). Because settlements inherently involve compromise, even settlements providing for substantially narrower relief than likely would 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." *Id.* (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. *See Kullar, supra,* 168 Cal.App.4th at 129-31. 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.

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[3] As explained above, in the context of a representative PAGA settlement, the third and eighth factors (risk of maintaining class action status and reaction of class members to settlement) are inapplicable.

a) <u>Overview of the Proposed Settlement</u>

i. "Aggrieved Employees" Defined

Aggrieved Employees are defined as, "all current and former hourly, non-exempt employees who worked for Defendant DSD Container Freight Station, Inc. in California at any time from July 20, 2022 through the date the Court grants approval of this settlement." *See* Lidman Decl., ¶ 21, Exh. 2 (Settlement, Sec. I.2.). The Aggrieved Employees, including Plaintiff, worked a total of 789 pay periods during the period of July 20, 2022 through December 20, 2024 (the date of mediation) [4]. *See* Lidman Decl. ¶ 21, Exh. 2 (Settlement, Sec. III.3.).

ii. Essential Terms of The Settlement

This Settlement provides for Defendant to pay a Gross Settlement Amount of $69,432.00. Lidman Decl., ¶ 18, Exh. 2 (Settlement, Sec. III.2.). After deducting amounts for requested attorneys' fees, attorneys' costs, Plaintiff's requested enhancement award, and settlement administration costs, the Settlement provides for distribution of the remaining Net Settlement Amount ("NSA") to Aggrieved Employees and the LWDA distributed as follows: 75% to the LWDA and 25% to Aggrieved Employees pursuant to Labor Code 2699(i). Lidman Decl., ¶ 18, Exh. 2 (Settlement, Sec. III.5.).

Gross Settlement Amount:	**$69,432.00**
Minus Court-approved attorneys' fees (1/3):	$23,144.00
Minus Court-approved attorneys' costs:	$13,565.47
Minus Court-approved enhancement award:	$3,500.00
Minus settlement administrator costs:	$2,750.00
Net Settlement Amount:	**$26,472.53**

[4] Based on its records, Defendant estimates that, as of December 20, 2024, there were 789 PAGA Pay Periods during the PAGA Period. In the event that the final number of PAGA Pay Periods during the PAGA Period exceeds 985 PAGA Pay Periods, Defendant agrees to increase the GSA on a proportional basis equal to the percentage increase in the number of pay periods worked by the PAGA Period above the 25%. *See* Lidman Decl., ¶ 20, Exh. 2 (Settlement, Sec. III.3).

Net Settlement Amount:	**$26,472.53**
75% to LWDA	$19,854.39
25% to Aggrieved Employees	$6,618.14

Lidman Decl., ¶ 17.

The payment of the GSA shall be made within 30 calendar days of the "Effective Date" defined as the date upon entry of an Order by the Court approving the Settlement. *See* Lidman Decl., ¶ 19, Exh. 2 (Settlement, Sec. III.2.). Within ten (10) business days of the Effective Date, Defendant shall provide the Settlement Administrator with information for Aggrieved Employees in order to calculate and distribute checks to Aggrieved Employees. *See id.* (Settlement, Sec. IV.2). Within ten (10) business days of receiving the Aggrieved Employees' information from Defendant, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the estimated individual settlement payments to each Aggrieved Employee and the data used to calculate such payments. *Id*. The Settlement Administrator shall also determine whether the Escalator Clause in Section III.3 of the Settlement has been triggered. *Id*. Within ten (10) business days of receiving the Parties' approval, the Settlement Administrator shall mail copies of the explanatory letter to all Aggrieved Employees with their checks. *Id*. Any checks remaining uncashed for more than 180 days will be tendered to the State Controller's Office under the unclaimed property fund laws in the names of the Aggrieved Employees to whom the checks were issued. Settlement, Sec. IV.4.

iii. Payment to the LWDA and Aggrieved Employees

The entire NSA shall be designated as PAGA civil penalties. Lidman Decl., ¶ 20. Seventy-five percent (75%) of the NSA will be distributed to the LWDA and twenty-five percent (25%) will be distributed to the Aggrieved Employees pursuant to Labor Code § 2699(i). *Id*. Based on these distributions, the amount to be paid to the LWDA will be $19,584.39 and the amount paid to Aggrieved Employees is estimated to be $6,618.14. *Id*. This portion of the NSA shall be paid to all Aggrieved Employees pro rata based on the proportional number of pay periods worked by each Aggrieved Employee during the PAGA Period and **will be reported on an IRS Form 1099.** Lidman Decl. ¶ 20, Exh. 2 (Settlement, Sec. IV.3.). The average payment to an Aggrieved Employee is estimated to be $147.06. Lidman Decl., ¶ 20.

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

The Parties participated in formal discovery and conducted an extensive informal exchange of documents and information for mediation which allowed Plaintiff to thoroughly evaluate the claims. *See* Lidman Decl., ¶¶ 14, 16. Had the Parties not settled, they would need to engage in additional formal discovery, preparation for trial, and/or post-trial motions. As a result, the Parties would incur considerably more attorneys' fees and costs through trial. This settlement avoids those risks, the accompanying expense, and protracted litigation.

c) <u>Strength of Plaintiff's Case and Realistic Value of Claims</u>

Here, Aggrieved Employees' claims arise from Defendant's failure to pay all overtime wages owed, minimum wage violations, failure to provide meal periods, failure to authorize and permit rest periods, failure to provide accurate itemized wage statements, failure to reimburse all necessary business expenditures, and failure to maintain accurate records. Lidman Decl., ¶ 22. Although he maintains that the PAGA action is meritorious, Plaintiff acknowledges that his position includes real risks and uncertainty, especially in the face of Defendant's numerous defenses on the merits discussed below. While Plaintiff maintains he could rebut these defenses, Plaintiff nonetheless faced several substantial challenges in prevailing in this matter, and this risk factor weighs in favor of approving the Settlement. Plaintiff estimates Defendant's realistic exposure, based on these defenses and risks, as follows:

<u>Civil Penalties Owed for Meal Period Violations</u>: Plaintiff alleges that he and other Aggrieved Employees were not provided all meal periods due to Defendant's meal period policies and practices. Lidman Decl., ¶ 23. Specifically, first meal periods took place after the fifth hour of work when employees worked in excess of 5.0 hours in a day, and employees were not permitted to have a second meal period when working more than 10.0 and/or 12.0 hours in a day. *Id*. Further, meal periods were often less than 30 minutes in duration. *Id*. Therefore, based on a 46 percent violation rate, and pursuant to Labor Code section 226.7 and the default penalties set forth in the PAGA, Plaintiff calculated Defendant's exposure at $68,100.00 ((45 employees x $100) + (318 x $200 subsequent violation)). *Id*.

Defendant counters that it has always provided non-exempt employees with an opportunity to take legally compliant meal periods, and any non-compliant meal periods reflected in employee timekeeping records were solely the result of employee choice, rather than any policy or practice of Defendant. Lidman Decl., ¶ 24. Defendant points out that under *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, it is only required to "provide" the opportunity to take meal periods, not "ensure" meal periods are taken, and that it has always done so. *Id.*; *See Brinker*, *supra*, 53 Cal.4th at 1038 (rejecting "ensure" standard). Further, Defendant argues that it pays meal period premiums for missed meal periods. *Id.* Defendant also contends that only the initial violation rate would apply since it had never been cited to be in violation of the meal period laws. *Id.*

In light of these defenses and Defendant's argument that the Court would exercise its discretion to reduce any civil penalty due to its good faith efforts to comply with applicable law, Plaintiff discounted the maximum recovery on this claim by 30% to account for the risk that Defendant could prevail in its defenses, to arrive at a projected total of approximately $47,670.00. Lidman Decl., ¶ 24.

<u>Civil Penalties Owed for Rest Period Violations</u>: Plaintiff alleges that he and other Aggrieved Employees were not authorized and permitted to take all required rest periods due to Defendant's policies and practices and heavy work demands. Lidman Decl., ¶ 25. Pursuant to Labor Code section 226.7 and the default penalties set forth in the PAGA, and based on 789 pay periods having a shift of at least one shift over 3.5 hours, Plaintiff calculated Defendant's exposure at $153,300.00 ((45 employees x $100) + (744 x $200 subsequent violation)). *Id.*

Defendant contends it has always maintained and enforced lawful rest period policies and practices, and that hourly, non-exempt employees were authorized and permitted to take all off-duty rest periods in compliance with California law. Lidman Decl., ¶ 26. Defendant also contends that rest period violations would be difficult to litigate effectively and prove since records were not maintained of rest periods. *Id.* Lastly, Defendant contends that only the initial violation rate would apply since it had never been cited to be in violation of the rest period laws. *Id.*

In light of these defenses and Defendant's argument that the Court would exercise its discretion to reduce any civil penalty due to its good faith efforts to comply with applicable law, Plaintiff discounted the maximum recovery on this claim by 60% to account for the risk that Defendant could prevail in its defenses, to arrive at a projected total of approximately $61,320.00. Lidman Decl., ¶ 26.

<u>Civil Penalties Owed for Wage Statement Violations</u>: Plaintiff alleges that Defendant issued inaccurate wage statements in violation of Labor Code § 226 as a result of the alleged unpaid meal and rest period premium wages described above. Lidman Decl., ¶ 27. Plaintiff's data analysis reflected that there were approximately 789 wage statements issued during the relevant time period that had at least one meal and/or rest period violation. *Id*. Accordingly, pursuant to Labor Code section 226 and the default penalties set forth in the PAGA, Plaintiff calculated Defendant's exposure at $153,300.00 ((45 employees x $100) + (744 subsequent violations x $200)). *Id*.

Defendant argues that its alleged wage statement violations could not be shown to be "knowing and intentional," and that Plaintiff cannot show that he or any other employee "suffer[ed] injury" as a result of the alleged wage statement violations, as required by Lab. Code § 226(e) for imposition of penalties. Lidman Decl., ¶ 28. Defendant contends that only the initial violation rate would apply since it had never been cited to be in violation of the rest period laws. *Id*.

In light of these defenses and Defendant's argument that the Court would exercise its discretion to reduce any civil penalty due to its good faith efforts to comply with applicable law, Plaintiff discounted the maximum recovery on this claim by 40% to account for the risk that Defendant could prevail in its defenses, to arrive at a projected total of approximately $91,980.00. Lidman Decl., ¶ 28.

<u>Civil Penalties Owed for Failure to Reimburse</u>: Plaintiff alleges Defendant failed to reimburse non-exempt employees for all necessary business expenses incurred. Lidman Decl., ¶ 29. Specifically, Defendant required Plaintiff and non-exempt employees to use their personal cell phones for work-related purposes but did not reimburse the non-exempt employees for such usage in violation of Labor Code § 2802. *Id*. Therefore, Plaintiff calculated Defendant's exposes for unreimbursed business expenses at approximately $153,300.00 ((45 employees x $100) + (744 subsequent violations x $200)). *Id*.

Defendant contends employees were not required to use their personal electronic devices to communicate with team members and would only do so at their own volition. Lidman Decl., ¶ 30. Defendant further contends that any purportedly necessary expenses incurred by non-exempt employees were minimal. *Id.*

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In light of these defenses and Defendant's argument that the Court would exercise its discretion to reduce any civil penalty due to its good faith efforts to comply with applicable law, Plaintiff discounted the maximum recovery on this claim by 65% to account for the risk that Defendant could prevail in its defenses, to arrive at a projected total of approximately $53,655.00. Lidman Decl., ¶ 30.

Civil Penalties Owed for Waiting Time: Plaintiff alleges that Defendant failed to pay all wages at the time of separation of employment. Specifically, as a result of failing to pay all meal and rest period premiums due and owing at the end of employment, Defendant is liable for waiting time. Lidman Decl., ¶ 31. Therefore, Plaintiff calculated Defendant's exposure for waiting time at approximately $3,100.00 (31 former employees x $100). *Id*.

Defendant contends it has strong defenses to the waiting time claim because there exist good faith disputes as to Plaintiff's underlying claims. Lidman Decl., ¶ 32.

In light of these defenses and Defendant's argument that the Court would exercise its discretion to reduce any civil penalty due to its good faith efforts to comply with applicable law, Plaintiff discounted the maximum recovery on this claim by 30% to account for the risk that Defendant could prevail in its defenses, to arrive at a projected total of approximately $2,170.00 Lidman Decl., ¶ 32.

The proposed settlement of $69,432.00 therefore represents approximately 27 percent of the realistic total recovery ($256,795.00) for Aggrieved Employees and avoids the risks of proceeding through trial. Lidman Decl., ¶ 33. "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." *Linney v. Cellular Alaska Partnership*, 151 F.3d 1234, 1242 (9th Cir. 1998) (internal quotations omitted). Plaintiff acknowledges that there was substantial uncertainty and risk as to his claims of Labor Code violations. Approval is appropriate since this settlement will provide tangible, monetary relief to Aggrieved Employees and the State of California.

d) <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 Pacific Enterprises Securities Litigation*, 47 F.3d 373, 378 (9th Cir. 1995).

Here, Plaintiff's Counsel collectively brings over four decades of wage-and-hour class and representative action experience. *See* Lidman Decl., ¶¶ 2-8; Declaration of Paul K. Haines ("Haines Decl."), ¶¶ 2-8; Declaration of Milan Moore ("Moore Decl."), ¶¶ 2-5; and Declaration of Tiara Gose-Hardy ("Gose-Hardy Decl."), ¶¶ 2-4. They have been certified as class counsel in numerous cases alleging wage and hour claims. *Id.* Their experience in similar matters was integral in evaluating the strengths and weaknesses of the case against Defendant and the reasonableness of the Settlement. Lidman Decl., ¶ 35. Practice in the narrow field of wage-and-hour litigation requires skill and knowledge concerning the rapidly evolving substantive state and federal law, as well as the procedural law of class and representative action litigation. *Id*. Because it is reasonable to compensate Plaintiff's Counsel commensurate with their skill, reputation, and experience, a fee award of one-third of the GSA is reasonable. Other factors show that the amount of fees requested is reasonable. This case involved legal issues regarding the propriety of civil PAGA penalties, an unsettled area of law. Defendant was also represented by respected counsel with extensive wage-and-hour litigation experience. This factor strongly supports settlement approval. *See, Kullar, supra,* 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.").

C. <u>Requested Award of Attorneys' Fees/Costs Are Fair and Reasonable</u>

Plaintiff, as the prevailing party in settlement, is entitled to recover attorneys' fees and costs for these claims. *See* Cal. Labor Code § 2699(g) ("Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs."); Cal. Code of Civil Procedure § 1021.5(a). A fee award is justified where the legal action has produced its benefits by way of a voluntary settlement. *See, e.g., Maria P. v. Riles*, 43 Cal.3d 1281, 1290-91 (1987); *Westside Community 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.")

Fee awards of roughly one-third of the settlement fund are routinely awarded in California state and federal courts in class and representative PAGA actions.[5] Indeed, the California Supreme Court approved the use of the "percentage of fund" method in California. *See Laffitte v. Robert Half Int'l, Inc.*, 1 Cal.5th 480, 506 (2016) ("the percentage of fund method survives in California class action cases…"). This is also consistent with Plaintiff's Counsel's experience in similar wage-and-hour class and PAGA matters. Lidman Decl., ¶¶ 38-39. Here, Plaintiff's Counsel's fee request of $23,144.00 (one-third of the GSA) is the same percentage sought in *Laffitte*, and is fair and reasonable based on the percentage of the recovery method.

The California Supreme Court in *Laffitte* also 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. 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. *See Serrano v. Priest* 20 Cal.3d 25, 48-49 (1977).

Lodestar multipliers can range from 2 to 4 or even higher. *See, e.g., Chavez*, *supra*, 162 Cal. App. 4th at 49-50 (approving multiplier of approximately 2.5); *Coalition for L. County Planning etc. Interest v. Bd. of Supervisors*, 76 Cal. App. 3d 241, 251 (1977) (approving multiplier of approximately 12.8). In this case, Plaintiff's Counsel have a lodestar of $141,670.00 without the use of any multiplier, which is ***more*** than the $23,144.00 fee request. *See* Lidman Decl., ¶ 36. A general summary showing the number of hours of work performed by each attorney and paralegals is set forth in the Lidman Declaration filed concurrently herewith. The billing rates used are reasonable in light of the hourly rates identified based on years of experience in the *Laffey* Matrix, submitted concurrently herewith. Lidman Decl., ¶ 36, Exh. 4.

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[5] *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, fn. 11 (2008); *see also*, *In re Pacific Enterprises Securities Litig.*, 47 F.3d 373, 379 (9th Cir. 1995) (affirming 33% fee award); *Chavez v. Saticoy Lemon Ass'n*, Case No. 56-2015-00468600-CU-OE-VTA, 2015 WL 5561118 (Ventura Cty. Super. Ct., Aug. 29, 2015) (approving attorneys' fees of one-third of settlement fund in representative PAGA settlement).

Name	Rate	Hours	Pre-Multiplier Lodestar
Scott M. Lidman (26th Year Attorney)	$900	80.3	$72,270.00
Paul K. Haines (18th Year Attorney)	$850	25	$21,250.00
Milan Moore (9th Year Attorney)	$650	43.5	$28,275.00
Tiara Gose-Hardy (6th Year Attorney)	$525	30.2	$15,855.00
Paralegals	$200	20.1	$4,020.00
Total Lodestar			**$141,670.00**

The fee award requested here is justified because it is **lower** than lodestar. Further, the fee award requested here is justified because Plaintiff's Counsel achieved a fair civil penalty recovery for the State and the Aggrieved Employees in an uncertain and risky case, while bearing the substantial burdens of representation on a contingency basis, and the fees requested are in line with the market rate. *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048-51 (9th Cir. 2002) (finding that exceptional results in a contingency case, significant risk and the absence of supporting precedents, are proper considerations in awarding attorneys' fees). Additionally, Plaintiff's recovery for the State of California and Aggrieved Employees exceeds other PAGA awards approved by courts in California. *See, e.g., Boyd v. Bank of Am. Corp.*, 2014 WL 6473804 (C.D. Cal. Nov. 18, 2014) (approving $18,750 PAGA payment); *Penaloza, supra*, 2013 WL 2917624 (average PAGA penalties of $7.49); *Cabrera, supra*, 2013 WL 1182822 (average PAGA penalties of $3.33). That Plaintiff's Counsel achieved these results without engaging in a protracted legal battle, in the face of serious defense challenges and an uncertain legal landscape, confirms the strength of the results achieved.

As discussed above, this case carried substantial risks on the merits. It is fair and reasonable to account for these risks in compensating Plaintiff's Counsel, as well as the risks involved in undertaking this litigation and expending considerable effort while working on a pure contingency basis.

Indeed, since undertaking representation of Plaintiff, Plaintiff's Counsel dedicated substantial resources to this litigation, including expending a total of $13,565.47 (including costs associated with the instant motion) in actual litigation costs, without receiving any compensation to date. Lidman Decl., ¶ 41, Exh. 5. Plaintiff's Counsel conducted legal research regarding the merits of Plaintiff's claims, the ability to recover penalties under the PAGA, and Defendant's potential defenses. *Id*. Plaintiff's Counsel prepared an opposition to Defendant's motion for summary judgment/adjudication and zealously advocated for Plaintiff's claims at the hearing. Plaintiff's Counsel drafted specific discovery requests and reviewed Defendant's responses and responsive documents, as well as spent significant time reviewing and analyzing the data Defendant produced informally prior to mediation and prepared an exposure analysis on the PAGA penalties. *Id.* Plaintiff's Counsel expended significant additional effort in preparing subsequent settlement documents, this Motion for settlement approval, and supporting declarations, and will oversee the settlement administration process. *Id.* Given the considerable potential for adverse outcomes in this case, the contingent risk borne by Plaintiff's Counsel was great. Lidman Decl., ¶ 40. The quality of Plaintiff's Counsel's work, and the efficacy and dedication with which it was performed, should be compensated.

Thus, Plaintiff's Counsel submit that the requested fee award is fair, reasonable and adequate and should be approved. Plaintiff's request for reimbursement of litigation costs in the amount of $13,565.47 is also fair and reasonable. As the evidence submitted herewith shows, all of Plaintiff's litigation costs are documented and reasonably incurred. *See* Lidman Decl., ¶ 41, Exh. 5.

D. <u>Notice and Requested Settlement Administration Costs Are Fair and Reasonable</u>

The parties agreed to engage Phoenix Settlement Administrators ("Phoenix") as the settlement administrator. Lidman Decl., Exh. 2 (Settlement, Sec. I.18.). Under the Settlement, Parties have agreed to have the proposed Notice of PAGA Settlement and Release of Claims ("Notice"), subject to Court approval, be sent with the settlement checks to inform the Aggrieved Employees about the scope of the released claims and their responsibility for any taxes payable on the amount received. The PAGA does not require notice, and the Aggrieved Employees do not have the right to opt-out. Settlement, Sec. IV.3. The Notice which is attached as Exhibit B to the Settlement and Exhibit A to the [Proposed] Order is only being provided as a courtesy.

Phoenix shall be responsible for translating and mailing the Notice in English and Spanish, and calculating and distributing the settlement checks, among other duties. Settlement, Sec. IV.3. The parties have designated $2,750.00 as settlement administration costs. Settlement, Sec. III.4.c. Phoenix's quote is attached as Exhibit F to the Declaration of Jodey Lawrence on behalf of Phoenix in support of Motion for Approval of PAGA Settlement filed concurrently herewith.

E. Plaintiff's Requested Enhancement Award is Fair, Adequate, and Reasonable

Courts routinely approve enhancement awards to compensate named plaintiffs for the services they provide and the risks they incur during class and representative litigation. *Cellphone Termination Fee Cases*, 186 Cal. App. 5th 1380, 1393-94 (2010) ("These awards 'are discretionary, [citation], and are intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to ***recognize their willingness to act as a private attorney general***.'")[6]

Here, pursuant to the Settlement, Plaintiff seeks an enhancement payment of $3,500.00. *See* Lidman Decl., ¶42, Exh. 2 (Settlement, Sec. III.4.b.). Plaintiff will request the Court award this payment in recognition of his unique contributions to the prosecution of this case and his efforts in bringing this case to a successful and significant resolution. Lidman Decl., ¶42; Castillo Decl., ¶¶ 9-12. This request is reasonable given Plaintiff's efforts in this case and the risks he undertook on behalf of the Aggrieved Employees. Plaintiff provided substantial factual information to Plaintiff's Counsel, attended meetings with Plaintiff's Counsel, and otherwise assisted in the litigation of this action. *Id*. Further, Plaintiff put his future employment prospects at risk by becoming a representative, as the fact that he filed a lawsuit "is searchable on the internet and may become known to prospective employers when evaluating" them for employment. *Id.*; *Guippone v. BH S&B Holdings, LLC*, 2011 U.S., Dist. LEXIS 126026, *20 (S.D.N.Y. Oct. 28, 2011). Accordingly, Plaintiff's request is appropriate and justified as part of the Settlement.

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[6] California courts routinely award enhancement payments in PAGA-only, non-class actions. *See Canul v. Basmat, Inc*., LA County Case No. BC674940, Judge Beaudet (Dept. 50) (approved a PAGA-only settlement including a $5,000 enhancement award to the named plaintiff); *Pickett v. 99 Cents Only Stores, et al*, LA County Case No. BC473038 (Judge Hiroshige (Dept. 54) approved a $12,500 enhancement payment to each of two named plaintiffs in a PAGA only settlement); *Vargas v. JTS Modular, Inc*., Kern County Case No. BCV-20-100645-JEB (Judge Bradshaw approved a $7,500 enhancement in a PAGA only settlement); *Johnson v. DCH*, Ventura County Case No. 56-2018-00510579-Cu-OE-VTA (Judge Kellegrew approved $12,000 enhancements to each of three named plaintiffs in a PAGA only settlement).

IV. CONCLUSION

For the reasons stated herein, this Court should grant Plaintiff's Motion in its entirety and adopt the [Proposed] Order and Judgment Granting Plaintiff's Motion for Settlement Approval of Claims Brought Under the Private Attorneys General Act and Reasonable Attorneys' Fees, Costs, and Enhancement Award submitted concurrently herewith.

Dated: January 13, 2026

Respectfully submitted,
LIDMAN LAW, APC

By: ______________________________
Scott M. Lidman

Attorneys for Plaintiff
LUIS CASTILLO