JOHN A. LOFTON, ESQ. (222259)
Aiman-Smith & Marcy, P.C.
7677 Oakport Street, Suite 1000
Oakland, CA 94621
Telephone: 510-779-2625
Email: jal@asmlawyers.com
Attorneys for Plaintiff Vincent Williams

SUPERIOR COURT OF THE STATE OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

VINCENT WILLIAMS, an individual,

Plaintiff,

v.

AUTO-CHLOR SYSTEM OF NORTHERN CALIFORNIA, INC., a California corporation; AUTO-CHLOR SYSTEM, LLC, a Delaware limited liability company; and DOES 1-25, inclusive,

Defendants.

Case No. CGC-23-608789

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR APPROVAL OF SETTLEMENT OF LABOR CODE §2698, *et seq.* PRIVATE ATTORNEYS GENERAL ACT ("PAGA") CLAIMS

Date: September 14, 2026
Dept.: 301
Time: 9:00 a.m.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

State Cases

Federal Cases

Statutes

Secondary Authorities

MEMORANDUM

Plaintiff Vincent Williams respectfully submits the following Memorandum of Points and Authorities in Support of Plaintiff's Motion for Approval of Settlement of Labor Code Section 2698, *et seq*., Private Attorneys General Act ("PAGA") Claims:

I. INTRODUCTION

This PAGA action involves a number of underlying claims arising from Defendants Auto-Chlor System of Northern California, Inc. and Auto-Chlor System, LLC's alleged Labor Code violations relating to their alleged failure to provide meal and rest periods, failure to accurately record all hours worked by employees, failure to pay employees minimum and overtime wages for all hours worked, failure to reimburse work-related expenses, and related Labor Code violations. Plaintiff alleged that this conduct subjects Defendants to penalties under PAGA, as well as costs and attorneys' fees.

Defendants have generally denied the allegations, contending that all employees were allowed compliant meal and rest periods, that they were paid appropriately for all hours worked, that they were reimbursed for any work-related expenses, and that all hours were accurately recorded. Defendants further denied that Plaintiff qualified as a PAGA representative. Regardless, the Parties have been able to reach a fair and reasonable settlement that will avoid trial.

By this motion, Plaintiff requests that the Court grant approval of the Settlement reached between the Parties.[1] The Settlement Agreement is submitted concurrently with this motion as Attachment B to the Declaration of John A. Lofton. A copy of the Settlement Agreement and this Motion will be served on the Labor Workforce and Development Agency ("LWDA") contemporaneously with the filing of this motion. See Declaration of John A. Lofton ("Lofton Decl."), ¶ 8. Unless otherwise indicated, all capitalized terms used herein shall have the meanings set forth in the Settlement Agreement.

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[1] The Parties have settled Plaintiff's individual claims separately so that the entire case is now resolved, subject to the Court's approval of this motion.

II. SUMMARY OF THE LITIGATION

Defendant Auto-Chlor System, LLC manufactures commercial appliances, namely, dishwashers, and Defendant Auto-Chlor System of Northern California, Inc. leases and services those appliances. Defendants employed approximately 314 employees during the PAGA Period of July 13, 2022 to April 10, 2026 (the "PAGA Employees"). See Lofton Decl., ¶ 10. Plaintiff was employed by Defendants from approximately June 2021 to June 2023. See Second Amended Complaint (filed May 3, 2024), ¶ 7.

Plaintiff submitted his notice of Labor Code violations to the LWDA on July 13, 2023 and an amended notice on November 10, 2024. See Lofton Decl., ¶ 3, Exhibit A. Plaintiff filed his Complaint in San Franciso Superior Court on September 1, 2023, and a First Amended Complaint ("FAC") on September 18, 2023, and a Second Amended Complaint ("SAC") on May 3, 2024. See Complaint (filed September 1, 2023), FAC (filed September 18, 2023), SAC (filed May 3, 2024).

Plaintiff alleged that Defendants misclassified non-exempt employees and failed to provide compliant meal and rest periods. See SAC, ¶ 7-9, 13-14. These failures, Plaintiff claims, led to unpaid wages, incorrect record keeping, and inaccurate wage statements. See id., ¶ 10. Plaintiff also alleged that Defendants failed to reimburse employees for work-related expenses and made unauthorized deductions from wages. See id., ¶¶ 11-12.

The specific Labor Code sections that Plaintiff alleged were violated by Defendants are: Labor Code §§ 201, 202, 204, 226, 226.7, 247.5, 510, 512, 558, 1174, 1197, and IWC Wage Order Nos. 4-2001 and 7-2001 (8 C.C.R. §§11040, 11070). See id., ¶ 19. With respect to Plaintiff and the PAGA Employees, who have allegedly been injured as a result of these violations, Plaintiff alleged that they are entitled to civil penalties pursuant to PAGA and to recover costs and attorneys' fees pursuant to California law, including Labor Code §2699(k)(1). See id.

Defendants answered on September 29, 2023 and May 31, 2024, respectively, denying all allegations. See Answer to Plaintiff Vincent Williams First Amended Complaint (filed September 29, 2023) and Answer to Plaintiff Vincent Williams Second Amended Complaint (filed May 31, 2024). Over the course of nearly three years, the Parties zealously litigated this case, conducted extensive discovery, and engaged in substantial motion practice, ultimately settling the case on June 30, 2026 after months of mediation and negotiations. See Lofton Decl., ¶¶ 4-7.

III. SUMMARY OF THE SETTLEMENT TERMS

Pursuant to the Settlement and subject to Court approval, Defendants will pay a non-reversionary Gross Settlement Amount of $140,000 ("Gross Settlement Amount"). See Lofton Decl., Exhibit B (¶ 28). All settlement payments will be made from the Gross Settlement Amount, including Attorneys' Fees and Costs, the Incentive Award, Settlement Administrator Costs, the LWDA Settlement Proceeds, and the PAGA Employees' Settlement Proceeds, and all other payments associated with the Settlement. See id. From the Gross Settlement Amount, Plaintiff's Counsel requests approval of attorneys' fees equal to 35% of the Gross Settlement, or $49,000, and reimbursement of costs incurred to prosecute this case in the amount of $23,971.19. See id., ¶¶ 16-29, Exhibit C. Plaintiff further requests that the Court approve CPT Group, Inc. as the settlement administrator, with costs for administration not to exceed $7,000. CPT Group, Inc. has provided an initial quote in the amount of $6,500. See id., ¶ 30, Exhibit D. Plaintiff requests that the Court award a PAGA representative Incentive Award in the amount of $5,000 to Plaintiff, in consideration of Plaintiff's efforts herein, including initiating and pursuing this lawsuit. After deducting these amounts from the Gross Settlement Amount, at least $55,500 will be distributed to the LWDA and the PAGA Employees pursuant to PAGA. See id., Exhibit B (¶ 4).

As required by PAGA, 75% of the approximately $55,500 Net Settlement Amount, or $41,625 shall be paid to the LWDA. See Labor Code §2699(i). The remaining 25%, or approximately $13,875 shall be distributed among the PAGA Employees.

A. Definition of PAGA Employees

The aggrieved employees, identified as "PAGA Employees" in the Settlement Agreement, are defined as "all current and former exempt and non-exempt employees of Defendants in California at any time between July 13, 2022 and April 10, 2026 who allegedly personally suffered the violations alleged during this period." See Lofton Decl., Exhibit B (¶ 11).

Defendants employed approximately 314 PAGA Employees from July 13, 2022 and April 10, 2026 (the "PAGA Period"). See id., Exhibit B (¶ 25). Individual settlement payments to PAGA Employees will be calculated based on the number of pay periods worked by each PAGA Employee during the PAGA Period. See id., Exhibit B (¶ 28).

B. Summary of the Settled Claims and Mediation

Over the course of the litigation and with the benefit of discovery, the Parties were able to refine the claims at issue, all of which were adequately alleged in the PAGA claim notices. The principal claims, after accounting for "stacking" related claims and derivative claims, and the available evidence sufficient to support those claims, can generally be described as:

- Defendants' alleged failure to provide meal and rest periods, leading to unpaid wages, inaccurate record keeping, and inaccurate wage statements,

Defendants' extensive wage and time records were the primary evidence, along with Plaintiff's testimony and the testimony of numerous witnesses. See Lofton Decl., ¶ 11. If the matter had not settled, testimony of many other employees, through what would likely have been dozens of time-consuming depositions, would have been necessary. See id.

On January 12, 2026, the Parties participated in a mediation conducted by T. Warren Jackson, an experienced mediator of employment and PAGA cases. See id., ¶ 9. In advance of the mediation, the Parties had litigated this case for over two and a half years, with Defendants providing Plaintiff's Counsel with tens of thousands of records relating to the PAGA Employees' scheduling, pay, hours, wages, meal periods, overtime pay, and the like. See id. This information was sufficient to allow Plaintiff's counsel to analyze the case and determine the value of the claims and likelihood of success on the merits. See id.

During the mediation, each side, represented by its respective counsel, recognized the risk of an adverse result in the case and the costs involved litigating it, as well as the Court's substantial discretion in modifying the dollar amount of any award. It was with this understanding that the Parties agreed to resolve the claims presented as set forth in the Settlement Agreement.

IV. ANALYSIS OF THE PROPOSED SETTLEMENT

A. Standard of Approval for PAGA Settlements

Labor Code §2699(s)(2) provides: "[t]he superior court shall review and approve any settlement of any civil action filed pursuant to this part." The court in Moniz v. Adecco USA, Inc., 72 Cal.App.5th 56, 75-77 (2021), held that: "a trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." (citing Williams v. Superior Court, 3 Cal.5th 531, 546 (2017); Arias v. Superior Court, 46 Cal.4th 969, 980 (2009)).

However, because PAGA claims are not class actions, the usual rules or various findings required by Rule 23 or C.C.P. §382 do not apply. See, e.g., Navarro v. Ordaz Cultured Marble & Onyx, Inc. 2015 U.S. Dist. LEXIS 21374, at *2 (N.D. Cal. Feb. 23, 2015). There is no requirement to provide notice to the PAGA Employees, the PAGA Employees do not have the right to object to or opt out of the Settlement, and there is no need for separate preliminary and final hearings. See Amalgamated Transit Union, Local 1756 v. Superior Court, 46 Cal.4th 993, 1003 (2009); Urbino v. Orkin Services of California 726 F.3d 1118, 1122-23 (9th Cir. 2013).

The requirements for a settlement under the PAGA are that the settling parties are to submit the proposed settlement to the LWDA at the same time it is filed with the Court, and then, if the settlement is approved, to submit the judgment or order to the LWDA within 10 days after entry. See Labor Code §2699(s)(3).

B. The Terms of the Settlement are Fair, Reasonable, and Adequate.

The Settlement was reached only after arm's-length and good faith negotiations. See Lofton Decl., ¶ 9. Prior to mediation, the Parties engaged in formal discovery and a significant exchange of data, including tens of thousands of wage and time records and related documents. See id. Counsel and the Parties attended a full-day mediation on January 12, 2026. Both Parties provided detailed mediation briefs and Plaintiff's Counsel prepared an extensive analysis of the potential exposure. See id. The risks of continued litigation had to be considered and a compromise of the claims was settled upon. See id.

As noted above, over the course of the litigation and with the benefit of discovery, the Parties were able to refine the claims at issue. Plaintiff asserts the evidence supported Plaintiff's PAGA claims for missed meal and rest periods, which in turn supported the derivative claims of unpaid wages, inaccurate record keeping, and inaccurate wage statements. See id., ¶ 11. Defendant denies these contentions.

In all cases, Defendants' extensive wage and time records were the primary evidence, along with Plaintiff's testimony. See id., ¶ 11. If the matter had not settled, the Parties had depositions planned for over twenty employees, at least one motion for summary adjudication, further written discovery, and significant expert work – all adding substantial expense to an already expensive case. See id.

Although Plaintiff alleged multiple violations, it is the experience of Plaintiff's Counsel that courts often lump all violations together to assess a single per-violation penalty. Although there were 11,523 pay periods during the PAGA Period, the wage and time records did not show consistent violations per pay period. See id. To the contrary, the violations alleged by Plaintiff – namely, inadequate meal and rest periods due to Defendants' understaffing, overworking employees, and requiring employees to work through their breaks – are by their nature not reflected in wage and time records, and can be difficult to prove. See id. Plaintiff anticipated that his own testimony and the representative testimony of numerous other employees would be necessary. See id. Likewise, the documentary evidence developed in the course of discovery in support the claim of unauthorized deductions from wages and failure to reimburse turned out to be minimal. See id.

With the above in mind, Plaintiff estimated that while Defendants' maximum potential exposure could exceed $1,000,000, such a figure was unrealistic in practice, and the more likely potential exposure was in the range of $350,000. See id., ¶ 10. That figure was based on a penalty assessment in the range of $30 per pay period. See id. Moreover, Defendants provided concrete evidence that they had taken remedial measures, including paying many employees the penalty prescribed under Labor Code §226.7 for missed meal and rest periods and changing their policies to minimize further violations – both of which are substantial mediating factors that could significantly reduce the PAGA penalties assessed. See id.

In the face of these issues, a compromise of $140,000.00 is fair and reasonable, resulting in an award of approximately $1.20 per pay period and $44.19 average total per employee.

PAGA grants trial courts discretion to reduce the amount of civil penalties to be imposed. See Labor Code §2699(e)(2); See also, Bernstein v. Virgin Am., Inc., 365 F.Supp.3d 980, 985, 992 (N.D.Cal. 2019) (judgment reducing PAGA penalties from $33,300,000 to $24,981,150).

In Carrington v. Starbucks Corp., 30 Cal.App.5th 504 (2018), the trial Court reduced the PAGA penalty amount to $5 per pay period. In Carrington, the plaintiff requested penalties in excess of $70 million, which was based on a $25 to $75 penalty per violation. The trial court instead awarded a $5 penalty per pay period. Even if Defendants were held liable for the PAGA violations, it was highly possible that this Court would give deference to their substantial remedial efforts and reduce the penalties assessed.

Other courts have also reduced PAGA civil penalties, often dramatically. For example, in Thurman v. Bayshore Transit Mgmt., Inc., 203 Cal.App.4th 1112, 1136 (2012), the Court of Appeal affirmed the trial court's reduction of PAGA civil penalties by 30 percent, finding that awarding the full penalties would have been "unjust" because the "evidence showed…defendants took their obligations…seriously and attempted to comply with the law," and that the defendants' financial condition "rendered them unable to pay penalties from ongoing revenues." Similarly, in Fleming v. Covidien, Inc. 2011 U.S. Dist. LEXIS 154590, at *8-9 (C.D.Cal. Aug. 12, 2011), the court reduced PAGA civil penalties for wage statement violations from $2,800,000 to $500,000. Accordingly, while courts cannot deny PAGA civil penalties outright if liability is found, they can and do reduce the awarded penalties based on such considerations as the egregiousness of the violations, the employer's efforts at compliance, and the employer's ability to pay.

Finally, the fact that the total amount potentially available, assuming a full recovery on all claims is greater than the value of a settlement, this does not militate against approval of this Settlement. As the court in Shames v. Hertz Corp., 2012 U.S. Dist. LEXIS 158577, at *6 (N.D.Cal. Nov. 5, 2012) (citing Dunleavy v. Nadler (In re Mego Fin. Corp. Sec. Litig.), 213 F.3d 454 (2000) (court approved a settlement constituting one-sixth of the potential recovery) held:

"While settlement amounts that are close to the Plaintiff's estimate of damages provide strong support for approval of the settlement, settlement offers that constitute only a fraction of the potential recovery do not preclude a court from finding the settlement offer is fair."

Here, the Settlement reflects a compromise of the maximum likely potential exposure, but a reasonable return per PAGA Employee given Defendants' defenses and remedial efforts, resulting in a fair and reasonable settlement. See Lofton Decl., ¶¶ 10-11.

V. SETTLEMENT ADMINISTRATION AND PAYMENTS

Within fifteen calendar days after the date the Court approves this settlement (the "Effective Date"), Defendants will provide the Settlement Administrator with the PAGA List setting forth the names and last known addresses for each PAGA Employee during the PAGA Period. See Lofton Decl., Exhibit B (¶ 34). Upon receiving this information, the Settlement Administrator will perform a National Change of Address Search on all PAGA Employees and update all addresses. See id., Exhibit B (¶ 35).

Within fifteen calendar days after the Effective Date, Defendants shall transfer to the Settlement Administrator the entire Gross Settlement Amount of $140,000.00. See id., Exhibit B (¶ 36).

Within fifteen calendar days of receipt of the Gross Settlement Amount and PAGA List from Defendants, the Settlement Administrator shall release the Court-approved PAGA representative Incentive Award to Plaintiff and the Court-approved Plaintiff's Counsel Attorneys' fees and costs to Plaintiff's Counsel, and the LWDA Payment to the LWDA, and pay itself its Court-approved Settlement Administration Costs. See id.

Per PAGA, 75% of the approximately $55,500.00 Net Settlement Amount, or approximately $41,625, shall be paid to the LWDA. See Labor Code §2699(i). The remaining 25%, or approximately $13,875, shall be distributed among the PAGA Employees. Defendants have identified approximately 314 PAGA Employees who worked approximately 11,523 pay periods during the PAGA Period, from July 13, 2022 to April 10, 2026. See Lofton Decl., ¶ 10. The PAGA Employees share of the $13,875 will be divided by the total number of pay periods (11,523) for a per-pay period amount of approximately $1.20 per pay period, which will be multiplied by the number of pay periods each PAGA Employee worked in the PAGA Period to determine the amount he or she will receive. For example, a PAGA Employee who worked 25 pay periods during the PAGA Period would receive $30.00 (25 x $1.20). See Lofton Decl., Exhibit B (¶ 28). If all PAGA Employees had worked the same number of workweeks, the average recovery per PAGA Employee would be approximately $44.19. See id.

Within fifteen calendar days of receipt of the Gross Settlement Amount from Defendants, the Settlement Administrator shall mail via U.S. First Class mail each PAGA Employee's settlement check to their last known address with directions to the Postmaster to forward the payment checks and return all undeliverable payment checks to the Settlement Administrator. See id., Exhibit B (¶ 38). A letter approved by the Parties explaining this Settlement will be included in the mailing of each PAGA Employee's individual settlement check. See id. PAGA Employees will have 120 days to cash their checks. See id., Exhibit B (¶ 39). After the last outstanding check becomes invalid, the Settlement Administrator will transfer the amounts of the outstanding checks to the State Controller's Office Unclaimed Property Division in the names of the PAGA Employees at issue and in the amount of their respective Individual PAGA Payment. See id.

Each PAGA Employee's share shall be allocated as one hundred percent (100%) penalties, from which there will be no payroll tax withholdings and for which an IRS Form 1099 will be issued by the Settlement Administrator, as needed. See id., Exhibit B (¶ 40).

VI. COSTS, FEES, AND AWARDS

A. Attorneys' Fees and Litigation Costs

In considering the overall fairness of the Settlement, the Court may look to the reasonableness of the attorneys' fees and costs allocated in the Settlement Agreement. This case was heavily litigated over more than two and a half years with numerous motions and extensive discovery. See id., ¶ 28. The case involved multiple rounds of discovery, almost all of which were heavily disputed, four discovery motions, production of tens of thousands of employment records and other documents, multiple depositions, and two rounds of Belaire-West notices to employees. See id. Plaintiff's Counsel's work was productive in advancing the case – out of eight motions filed in this case, Plaintiff prevailed on seven of them and recovered $5,000 in discovery sanctions. See id.

Plaintiff's Counsel's litigation costs were all reasonable and necessary expenses incurred in litigating and resolving this action. A copy of the itemized list of out-of-pocket costs, in the amount of $23,971.19 is attached to the Declaration of John A. Lofton as Exhibit C.

Plaintiff seeks 35% of the Gross Settlement Amount, or $49,000.00, in attorneys' fees. For the purposes of a lodestar cross-check, Plaintiff's Counsel has spent over 340 hours working on this PAGA matter for a total of more than $297,500.00, calculated as follows:

John Lofton	Of Counsel (24 years experience)	340 hours	$875/hour

See id., ¶¶ 27-28; Plaintiff's Counsel expects to spend another 5-10 hours seeing this motion through approval, assisting in the administration of the settlement, responding to questions and concerns of the PAGA Employees, and generally supervising compliance, incurring approximately another $4,000 - $8,000. See id. The $49,000.00 requested represents a significant discount from the actual work that was and will be performed by Plaintiff's Counsel.

The attorneys' fees sought will compensate Plaintiff's Counsel for work performed in recovering a significant benefit for the LWDA and PAGA Employees. Courts have long recognized the "common fund" or "common benefit" doctrine, under which attorneys who create a common fund or benefit for a group of persons may be awarded their fees and costs to be paid out of the fund. See Laffitte v. Robert Half Internat. Inc., 1 Cal.5th 480, 504 (2016); See also, Serrano v. Priest ("Serrano III"), 20 Cal.3d 25, 34 (1977); Glendale City Employees' Assoc. v. City of Glendale, 15 Cal.3d 328, 341, fn. 19 (1975); In re Consumer Privacy Cases, 175 Cal.App.4th 545, 557 (2009); In re Sumitomo Copper Litig., 74 F.Supp.2d 393, 396-398 (S.D.N.Y. 1999) (describing the overwhelming weight of federal authority in favor of the percentage fee method); Mills v. Electric Auto-Lite Co., 396 U.S. 375, 391-392 (1970) (United States Supreme Court endorsing the common fund approach to class actions.)

The California Practice Guide: Civil Trials and Evidence (The Rutter Group) at §7.172.3 explains the common fund doctrine as follows:

Where the lawsuit results in the recovery of a fund or property benefiting others as

> well as plaintiff (*e.g.*, a class action), the court has inherent equitable power to order Plaintiff's attorney fees paid out of the common fund or property [citations]. Such fee spreading assures that all of those benefited by the litigation pay their fair share of obtaining the recovery.

Numerous appellate courts have similarly endorsed the "percentage fee" method for determining reasonable attorneys' fees in common benefit cases.[2]

In the Laffitte decision, the California Supreme Court held that, "when class action litigation establishes a monetary recovery fund for the benefit of the class members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the court may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created." Laffitte, supra, 1 Cal.5th at 503. The California Supreme Court also noted that the percentage of the fund method "more accurately reflects the results achieved" than the lodestar method, serves as a "better approximation of market conditions in a contingency case," and encourages "counsel to seek an early settlement and avoid unnecessarily prolonging the litigation." Id. at 503-504.

Courts have recognized that a one-third fee is appropriate in common fund cases. See, e.g., Chavez v. Netflix, Inc., 162 Cal.App.4th 43, 66, fn.11 (2008) ("Empirical studies show that, regardless of whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the total recovery.")

The attorneys' fees requested here are in line with other fee awards in California wage and hour cases. For example, in Smiles v. Walgreens Co., Alameda Superior Court Case Number RG17862495, Judge Seligman awarded attorneys' fees of 35% of the $15,000,000 settlement in a PAGA case, plus costs; in Pearce v. Linens 'N Things. Inc., Orange County Superior Court Case No. 00CC04830, Judge McDonald awarded attorneys' fees equal to 33 1/3% of the settlement

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[2] See, e.g., Knoff v. City and County of San Francisco, 1 Cal.App.3d 184, 203-204 (1969) (court upheld a "contingent percentage" award of attorneys' fees in a representative action as the proper exercise of the court's equitable powers); Rider v. County of San Diego, 11 Cal.App.4th 1410, 1423 (1992) (attorneys' fees and expenses properly awarded from common benefit composed of illegally imposed sales and use tax); Bank of America v. Cory, 164 Cal.App.3d 66, 89-92 (1985) (fees awarded from common benefit created by action compelling state to claim dormant bank accounts); Parker v. Los Angeles, 44 Cal.App.3d 556, 567-568 (1974) (court upheld fee award equal to one-third of the damages to owners of residential property in an inverse condemnation action.)

fund, plus costs; in Albrecht v. Rite Aid Corp., San Diego Superior Court Case No. 729129, Judge Haden awarded attorneys' fees equal to 35% of the settlement fund, plus costs; in Crandall v. U-Haul International, L.A. Superior Court Case No. BC 178775, Judge Czuleger awarded Plaintiff's counsel attorneys' fees equal to 40% of the settlement fund; in Graubard v. Goodyear Tire Rubber Company, LA Superior Court Case No. BC 230520, Judge Mohr awarded attorneys' fees equal to 32.1% of the settlement fund, plus costs. These cases illustrate that California courts recognize that a one-third fee is appropriate in a wage and hour common fund case.

Given the results achieved under the circumstances of this litigation, the requested fee award is reasonable and a substantial discount from the fees actually incurred by Plaintiff's Counsel. As discussed in In re Sumitomo Copper Litigation, supra, 74 F.Supp.2d at 396:

> No one expects a lawyer whose compensation is contingent on the success of his services to charge, when successful, as little as he would charge a client who in advance of the litigation has agreed to pay for his services, regardless of success. Nor, particularly in complicated cases producing large recoveries, is it just to make a fee depend solely on the reasonable amount of time expended.

In that vein, this Court should consider the contingent nature of this case, the uncertainty of the outcome, the quality of the counsel, and the preclusion from other employment.

1. The Contingent Nature

From the outset of the case to the present, prosecution of this action has involved significant financial risk for Plaintiff's Counsel. Plaintiff's Counsel undertook this matter solely on a contingent basis, with no guarantee of recovery. Plaintiff's Counsel have placed their own resources at risk to prosecute this action with no guarantee of success. See Lofton Decl., ¶¶ 20-21. Indeed, Plaintiff's Counsel spent over 340 hours on this case, incurring nearly $300,000 in attorneys' fees, but only seeks to recover $49,000. See id., ¶¶ 26-28. Likewise, if Defendants prevailed on any one of the affirmative defenses raised, it could substantially reduce, if not wholly defeat, recovery. See id. Despite such challenges, Plaintiff's Counsel was able to secure a favorable settlement resolving the PAGA claims on behalf of Plaintiff, the PAGA Employees, and the LWDA. See id.

2. The Experience, Reputation, and Ability of Counsel, and the Skill Displayed in Litigation

Plaintiff's Counsel has substantial experience in complex and representative action litigation, including many wage and hour cases and multiple published decisions in their clients' favor. See Lofton Decl., ¶¶ 17-18.

The quality of opposing counsel is also important to evaluating the quality of the work done by Plaintiff's Counsel. Here, Defendants were represented by Craig A. Horowitz and Wayne Clayton of Horowitz & Clayton, a Professional Corporation, experienced employment litigators with close to 80 years combined experience. Both began their careers at O'Melveny & Myers. Thus, the complexity and potential duration of the case, and that in the face of experienced and resourceful opposition, weigh in favor of awarding the requested attorneys' fees. See id. ¶ 22.

3. The Results Achieved

The results achieved by the Settlement support Plaintiff's Counsel's request for attorneys' fees. As noted, the Settlement will result in payment of approximately $41,625 to the LWDA and $13,875 to the PAGA Employees. See id., ¶ 23.

The efficiency with which this litigation was conducted and resolved should be rewarded. See id., ¶ 24. Plaintiff and Defendants prosecuted this case vigorously and diligently since the filing in September 2023, and have reached a settlement that will avoid trial. See id., ¶¶ 3-7. The LWDA and PAGA Employees will directly benefit from the prompt and fair resolution of their claims. They will be receiving an award promptly upon court approval as opposed to waiting years to recover some undetermined amount if they succeeded at trial, which is an uncertainty in itself. See id., ¶ 24.

4. Preclusion of Other Employment

As California law recognizes, Plaintiff's Counsel's commitment to this litigation should not be assessed in a vacuum. See, Serrano, supra, 20 Cal.3d at 49. A relevant factor in determining attorneys' fees is whether the litigation required Plaintiff's Counsel to forego other employment. See id. Additional work was available that Plaintiff's Counsel had to forgo to devote the time necessary to pursue this litigation. See Lofton Decl. ¶ 25. Specifically, Plaintiff's Counsel undertakes marketing efforts that generate a steady stream of leads and potential cases, and the firm is only able to take on a portion of those cases and forego the remainder, so it is essential that Plaintiff's Counsel receive its fair compensation for the cases it does accept. See id.

Accordingly, attorneys' fees in the amount of $49,000.00, which is 35% of the Gross Settlement Amount is fair and reasonable under the circumstances, and under California precedent, along with $23,971.19 in litigation costs.

B. Incentive Award to the PAGA Representative

Plaintiff requests that the Court award him an Service Award in the amount of $5,000, in consideration of Plaintiff's efforts herein, which include initiating and pursuing this lawsuit, assisting in formal discovery and participating in the all-day mediation of the matter, undertaking the risk of liability for attorneys' fees and expenses in the event they might be unsuccessful in the prosecution of this lawsuit, and having their names forever part of a public record of suing their employer. See Lofton Decl., ¶¶ 13-15. The Settlement Administrator will pay the PAGA representative Incentive Award approved by the Court of up to $5,000 out of the Gross Settlement Amount.

Awarding an incentive to a PAGA representative follows the same principle that applies in the class action context. "[T]he rationale for making enhancement or incentive awards to named plaintiffs is that they should be compensated for the expense or risk they have incurred in conferring a benefit on other members of the class. An incentive award is appropriate if it is necessary to induce an individual to participate in the suit." Cellphone Termination Fee Cases, 186 Cal.App.4th 1380, 1395 (2010) (quoting Clark v. Am. Residential Servs. LLC, 175 Cal.App.4th 785, 804-806 (2009)). An award of $5,000 falls well below the average enhancement award according to one study. See, Theodore Eisenberg & Geoffrey P. Miller, INCENTIVE AWARDS TO CLASS ACTION PLAINTIFFS: AN EMPIRICAL STUDY (2006) 53 UCLA L. Rev. 1303, 1308 (concluding the average award per class representative was $15,992).

An incentive award in a PAGA case is especially important where the Plaintiff has filed suit on behalf of the LWDA and, are thus, providing a vital service for the State. As a result of Plaintiff's efforts, the LWDA will receive approximately $41,625.

Plaintiff spent a significant amount of time helping Counsel with the prosecution of this action and performing the following tasks: (1) meeting with and communicating with his attorneys on numerous occasions; (2) detailing his experiences and producing copies of pertinent documents; (3) identifying and contacting witnesses and persuading them to cooperate; (4) assisting in preparing and reviewing the PAGA claim notices and complaint; (5) providing material support in the preparation and review of formal and informal discovery; (6) reviewing the employment records and wage and time records produced by Defendants; (7) having his deposition taken; (8) reviewing the mediation documents prepared and participating in the full day mediation; (9) reviewing the terms of and signing the Settlement Agreement; and (10) assisting in the preparation of this motion. See, Lofton Decl., ¶¶ 13-15.

In light of the work that Plaintiff performed on behalf of the LWDA and PAGA Employees, and the penalties recovered for them, the requested PAGA representative Service Award of $5,000 is reasonable and appropriate.

C. Settlement Administrator Costs

The Settlement Administrator will pay out of the Gross Settlement Amount to itself its reasonable fees and expenses, not to exceed $7,000.00, after such payment has been approved by the Court. CPT Group, Inc. has submitted a quote for its costs for administration at $6,500.00. See Lofton Decl., ¶ 30, Exhibit D. CPT Group, Inc. is a well-known and respected Settlement Administrator. Plaintiff's Counsel has used CPT Group, Inc. in other matters, and knows its rates to be fair and competitive. See id. Plaintiff requests that CPT Group, Inc. be approved as Settlement Administrator by the Court.

VI. CONCLUSION

Because the Settlement is fair, reasonable, and adequate, Plaintiff respectfully requests that the Court grant approval of all terms of the Settlement, as set forth in the Settlement Agreement, attached to Lofton Decl., Exhibit B.

DATED: August 12, 2026

AIMAN-SMITH & MARCY, P.C.

John A. Lofton, Esq.
Attorneys for Plaintiff Vincent Williams