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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN**

ALEXA ROS COLEMAN, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

LL FLOORING, INC., a Delaware
corporation; and DOES 1 through 100,
inclusive,

Defendant.

Case No.: BCV-23-103493

[*Assigned to Hon. David Zulfa, Division JJ*]

**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: March 18, 2024
Time: 8:30 a.m.
Division.: J, 1215 Truxton Ave,
Bakersfield, CA 93301

Complaint Filed: October 18, 2023
Trial Date: None Set

1 **LAW OFFICES OF RAPHAEL A. KATRI, APC**

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9 ALEXA ROS COLEMAN

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

2 PLEASE TAKE NOTICE that on March 18, 2024 at 8:30 a.m., or as soon thereafter as the matter
3 may be heard in Division J of the above-entitled Court, located at 1215 Truxton Ave, Bakersfield,
4 California 93301, Plaintiff Alexa Ros Coleman ("Plaintiff"), on behalf of herself and all other aggrieved
5 employees, will and hereby does move this Court for entry of an Order as follows:

- 6 1. Granting approval, pursuant to California Labor Code section 2698 *et seq.*, and specifically
7 Labor Code section 2699(1)(2), of the proposed Settlement of claims brought pursuant to the
8 Private Attorneys General Act of 2004 (Cal. Lab. Code § 2698 *et seq.*) and set forth in the
9 Settlement;
- 10 2. Appointing Phoenix Settlement Administrators as the Settlement Administrator, and
11 approving an award of \$4,000.00 in anticipated costs to Phoenix for its settlement
12 administration services;
- 13 3. Approving the proposed Notice of PAGA Settlement and Release of Claims as to form and
14 content, and directing that it be distributed to the Aggrieved Employees pursuant to the terms
15 of the Settlement;
- 16 4. Directing the distribution of the Gross Settlement Amount pursuant to the terms of the
17 Settlement;
- 18 5. Approving an award of \$130,000.00, which is one-third of the Gross Settlement Amount in
19 attorneys' fees to Plaintiff's Counsel;
- 20 6. Approving an award of \$6,100.65 in actual litigation costs reimbursement to Plaintiff's
21 Counsel;
- 22 7. Approving an enhancement award of \$7,500.00 to Plaintiff for her service to the Aggrieved
23 Employees and the State of California; and
- 24 8. Approving the payment of \$181,799.51 to the California Labor & Workforce Development
25 Agency for its share of PAGA civil penalties.
- 26 9. Approving the payment of \$60,599.84 to the Aggrieved Employees on a *pro rata* basis based
27 on number of pay periods worked during the relevant time period.

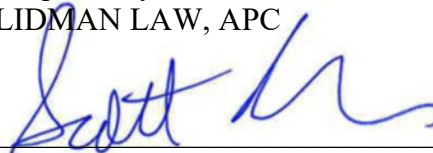
28 This Motion is based on this Notice, the attached Memorandum of Points and Authorities; the
declarations of Scott M. Lidman, Paul K. Haines, Milan Moore, Raphael A. Katri, Plaintiff Alexa Ros

1 Coleman, and Jodey Lawrence on behalf of Phoenix and the exhibits attached thereto, the pleadings and
2 other papers filed in this action, and on any further oral or documentary evidence or argument presented
3 at the time of hearing.

4
5 Dated: February 13, 2024

Respectfully Submitted,
LIDMAN LAW, APC

6
7 By:



8 Scott M. Lidman
9 Attorneys for Plaintiff
10 ALEXA ROS COLEMAN
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TABLE OF CONTENTS

I.	INTRODUCTION	8
II.	SUMMARY OF THE LITIGATION	9
A.	The Parties	9
B.	Procedural History	9
C.	Informal Discovery, Mediation, And Arms-Length Negotiations.....	10
III.	ARGUMENT	11
A.	Standard For Approval Of A PAGA Settlement.....	11
B.	This Court Should Approve The Settlement Because It Is A Fair, Adequate, And Reasonable Compromise Of Disputed Claims	12
1.	Factors In Evaluating A Representative PAGA Settlement	12
a)	Overview Of The Proposed Settlement.....	13
i.	“Aggrieved Employees” Defined	13
ii.	Essential Terms Of The Settlement	14
iii.	Payment To The LWDA and Aggrieved Employees	15
b)	Risk, Expense, Complexity, And Duration Of Further Litigation	15
c)	Strength Of Plaintiff’s Case And Realistic Value of Claims	16
d)	The Experience and Views of Counsel	22
C.	Requested Award of Attorneys’ Fees/Costs Are Fair and Reasonable.....	22
D.	Notice and Requested Settlement Administration Costs Are Fair and Reasonable.....	25
E.	Plaintiff’s Requested Enhancement Award is Fair, Adequate, and Reasonable.....	26
IV.	CONCLUSION.....	27

TABLE OF AUTHORITIES

Federal Cases

<i>Air Line Stewards, etc., Local 550 v. Am. Airlines, Inc.,</i> 455 F.2d 101 (7th Cir. 1972)	13
<i>Boyd v. Bank of Am. Corp.,</i> 2014 WL 6473804 (C.D. Cal. Nov. 18, 2014).....	24
<i>Fleming v. Covidien Inc.,</i> Case No. ED CV10-01487 RGK (OPx), 2011 WL 7563047 (C.D Cal. Aug. 12, 2011).....	20
<i>Guippone v. BH S&B Holdings, LLC,</i> 2011 U.S., Dist. LEXIS 126026 (S.D.N.Y. Oct. 28, 2011)	26
<i>Hanlon v. Chrysler Corp, supra,</i> 150 F.3d at 1027	12
<i>In re Pacific Enterprises Securities Litigation,</i> 47 F.3d 373 (9th Cir. 1995)	22, 23
<i>In re Taco Bell Wage and Hour Actions,</i> 2016 WL 2755938, at *7 (E.D. Cal. April 8, 2016).....	18,19
<i>Linney v. Cellular Alaska Partnership,</i> 151 F.3d 1234 (9th Cir. 1998).....	21
<i>Mendez v. Tween Brands, Inc.,</i> 2010 WL 2650571 (E.D. Cal. Jul. 1, 2010)	11
<i>Ochoa-Hernandez v. Cjaders Foods, Inc.,</i> 2010 WL 1340777 (N.D. Cal. Apr. 2, 2010)	11, 12
<i>Vizcaino v. Microsoft Corp.,</i> 290 F.3d 1043 (9th Cir. 2002)	24

State Cases

<i>Amalgamated Transit Union, Local 1756,</i> <i>AFL-CIO v. Sup. Ct.,</i> 46 Cal. 4th 993 (2009)	12
<i>Amaral v. Cintas Corp No. 2,</i> 163 Cal. App. 4th 1157 (2008).....	18,19
<i>Brinker Restaurant Corp. v. Superior Court,</i> 53 Cal. 4th 1004 (2012)	18
<i>Cabrera v. Advantage Sale & Marketing, LLC,</i> Case No. BC485259, 2013 WL 1182822 (Super. Ct. L.A. County, March 12, 2013)	12, 24
<i>Cellphone Termination Fee Cases,</i> 186 Cal. App. 5th 1380 (2010)	26
<i>Chavez v. Netflix, Inc.,</i> 162 Cal.App.4th 43 (2008)	23
<i>Chavez v. Saticoy Lemon Ass'n,</i> Case No. 56-2015-00468600-CU-OE-VTA (2015 WL 5561118) (Ventura Cty. Super. Ct., Aug. 29, 2015)	23

1	<i>Clark v. Am. Residential Serv. LLC,</i>	
2	175 Cal.App.4th 785 (2009)	13
3	<i>Coalition for L. County Planning etc. Interest v. Bd. of Supervisors,</i>	
4	76 Cal.App.3d 241 (1977)	23
5	<i>Dunk v. Ford Motor Co.,</i>	
6	48 Cal.App.4th 1794 (1996)	12
7	<i>Kao v. Joy Holiday,</i>	
8	12 Cal.App.5th 947 (2017)	20
9	<i>Kullar v. Foot Locker Retail, Inc.,</i>	
10	168 Cal.App.4th 116 (2008)	12, 13, 22
11	<i>Laffitte v. Robert Half Int'l, Inc.,</i>	
12	1 Cal.5th 480 (2016)	23
13	<i>Maria P. v. Riles,</i>	
14	43 Cal.3d 1281 (1987)	22
15	<i>Penaloza v. PPG Industries Inc.,</i>	
16	Case No. BC471369, 2013 WL 2917624 (Super. Ct. L.A. County, May 20, 2013)	12, 24
17	<i>Price v. Starbucks Corp.,</i>	
18	192 Cal.App.4th 1136 (2011)	19
19	<i>Reed v. United Teachers Los Angeles,</i>	
20	208 Cal.App.4th 322 (2012)	12
21	<i>Serrano v. Priest,</i>	
22	20 Cal.3d 25 (1977)	22, 23
23	<i>Stambaugh v. Superior Court,</i>	
24	62 Cal.App.3d 231 (1976)	12
25	<i>Wershba v. Apple Computer, Inc.,</i>	
26	91 Cal.App.4th 224 (2001)	13
27	<i>Westside Community for Independent Living, Inc. v. Obledo,</i>	
28	33 Cal.3d 348 (1983)	22

Statutes

21	Cal. Code Civ. Proc. § 1021.5(a)	22
22	Cal. Lab. Code § 2698 <i>et seq.</i>	8,9,10
23	Cal. Lab. Code § 2699(1)	11
24	Cal. Lab. Code § 2699(g)	9, 14,15
25	Cal. Lab. Code § 2699(i)	11, 22

Regulations

26	8 Cal. Code Regs. § 13520	20
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Alexa Ros Coleman (“Plaintiff”), an “Aggrieved Employee” under the California Labor
4 Code § 2698 *et seq.* (“PAGA”), respectfully requests this Court grant approval of the Settlement¹ with
5 LL Flooring, Inc. (“LL Flooring” or “Defendant”) pursuant to Labor Code section 2699(1)(2). This
6 PAGA action is based on LL Flooring’s alleged failure to: (1) pay all minimum wages owed; (2) pay all
7 overtime wages owed; (3) provide legally compliant meal periods, and/or remit proper payment of meal
8 period premiums for non-compliant meal periods; (4) permit and authorize compliant rest periods, and/or
9 remit proper payment of rest period premiums for non-compliant rest periods; (5) reimburse necessary
10 business expenditures; (6) pay sick pay at the proper rate, provide proper sick leave and itemize accrued
11 sick leave; (7) provide accurate, itemized wage statements; and (8) pay and/or timely pay all wages owed
12 at the time of separation and/or termination of employment. This PAGA action seeks civil penalties on
13 behalf of the California Labor & Workforce Development Agency (“LWDA”) and all “Aggrieved
14 Employees,” defined in the Settlement as “all current and former hourly, non-exempt employees of
15 Defendant LL Flooring, Inc. who worked in California at any time from August 30, 2022 through
16 February 6, 2024.”

17 As set forth herein, the proposed Settlement should be approved because it is fair, reasonable, and
18 adequate, as it (1) is the product of arm’s-length negotiations, (2) was negotiated by attorneys experienced
19 in wage-and-hour issues, (3) was negotiated subsequent to undertaking sufficient investigation to
20 evaluate the relative strength and value of the PAGA-based claims, and (4) reflects a reasoned
21 compromise based directly on the relative strength and value of the PAGA-based claims, as well as the
22 risks, expense, complexity and likely duration of further litigation.

23 This proposed PAGA Settlement that ASC will pay a **non-reversionary** Gross Settlement
24 Amount (“GSA”) of \$390,000.00. After deducting amounts for requested attorneys’ fees (one-third of
25 the GSA, \$130,000.00), requested actual costs incurred by Plaintiff’s counsel (\$6,100.65), an
26

27 ¹ The PAGA Settlement Agreement (“Settlement”) is attached to the Declaration of Scott M. Lidman as Exhibit 4. The
28 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.

enhancement award for Plaintiff (\$7,500.00), and settlement administration costs (\$4,000.00) to Phoenix Settlement Administrators, the Settlement provides for distribution of civil penalties in the amount of \$242,399.35. Pursuant to Labor Code section 2699(i), 75% of \$242,399.35 (or \$181,799.51) will be distributed to the LWDA and 25% of \$242,399.35 (or \$60,599.84) 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 330 Aggrieved Employees, the average individual payment to each Aggrieved Employees is estimated to approximately \$183.64 (and will vary based on an employee's actual number of pay periods worked during the relevant time period).

The GSA of \$390,000.00 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 not 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 LL Flooring 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. SUMMARY OF THE LITIGATION

A. The Parties

LL Flooring does business by selling a wide variety of premium flooring, including vinyl, hardwood and laminate. *See* Declaration of Scott M. Lidman ("Lidman Decl."), ¶ 10. Plaintiff, a former hourly employee, was employed by LL Flooring as a non-exempt Store Manager from approximately January 3, 2023 until April 29, 2023. *See* Declaration of Alexa Ros Coleman ("Coleman Decl."), ¶ 3.

B. Procedural History

On August 30, 2023, October 18, 2023, and December 19, 2023, Plaintiff sent a written notice and two supplementary notices 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 various alleged violations of the California Labor Code. Lidman Decl., ¶¶ 11-12; Exhs. 1-3.

On October 18, 2023, Plaintiff filed her original complaint in this action which asserted a sole claim for civil penalties pursuant to California Labor Code Private Attorney General Act, Labor Code section 2698, *et seq.* (“PAGA”) stemming from alleged violations of the California Labor Code set forth in the LWDA notices. Lidman Decl., ¶ 12. On December 19, 2023, Plaintiff filed the operative First Amended Complaint which asserts a sole claim for civil penalties pursuant to the PAGA stemming from alleged violations of the California Labor Code set forth in the LWDA notices, including the failure to: (1) pay all minimum wages owed; (2) pay all overtime wages owed; (3) provide legally compliant meal periods, and/or remit proper payment of meal period premiums for non-compliant meal periods; (4) permit and authorize compliant rest periods, and/or remit proper payment of rest period premiums for non-compliant rest periods; (5) reimburse necessary business expenditures; (6) pay sick pay at the proper rate, provide proper sick leave and itemize accrued sick leave; (7) provide accurate, itemized wage statements; and (8) pay and/or timely pay all wages owed at the time of separation and/or termination of employment. Lidman Decl., ¶¶ 11-13; Exhs. 1-3.

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. *Id.* at ¶ 41, Exh. 7.

C. Informal Discovery, Mediation, And Arms-Length Negotiations

After agreeing to participate in a private mediation, LL Flooring informally produced to Plaintiff information and documents pertaining to Plaintiff and other Aggrieved Employees, including sampling of timekeeping records and payroll data, wage and hour policies and other relevant documents and information for the underlying claims. Lidman Decl., ¶ 14. After the detailed review of the payroll and time records analysis and other documents and policies produced by LL Flooring, 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 8, 2023, the Parties participated in mediation with Kevin Barnes Esq., a well-respected wage and hour class and representative action mediator. Lidman Decl., ¶ 15. During mediation, the Parties vigorously debated their opposing legal positions and the likelihood of Plaintiff’s ability to proceed on a representative basis. *Id.* Ultimately, the Parties reached a settlement through a mediator’s proposal, the terms of which were subsequently finalized in writing after mediation. Lidman Decl., ¶ 15, Exh. 4.

III. ARGUMENT

A. Standard For Approval Of A PAGA Settlement

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 set expressly 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.

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* at *5.

B. This Court Should Approve The Settlement Because It Is A Fair, Adequate, And Reasonable Compromise Of Disputed Claims

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.

1. Factors In Evaluating A Representative PAGA Settlement

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

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).

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.

a) Overview Of The Proposed Settlement

i. “Aggrieved Employees” Defined

Aggrieved Employees are defined as, “all current and former hourly, non-exempt employees of Defendant LL Flooring, Inc. who worked in California at any time from August 30, 2022 through

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.

February 6, 2024.” See Settlement, Section 1, ¶¶ 2, 14. The Aggrieved Employees, including Plaintiff, worked a total of 13,480 pay periods during the period of August 30, 2023 through December 8, 2023. See Settlement, Section III, ¶ 3.

ii. Essential Terms Of The Settlement

This Settlement provides for LL Flooring to pay a Gross Settlement Amount of \$390,000.00. Settlement, Section 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). Settlement, Section III., ¶¶ 4-5.

Gross Settlement Amount:	\$390,000.00⁴
Minus Court-approved attorneys’ fees (1/3):	\$130,000.00
Minus Court-approved attorneys’ costs:	\$6,100.65
Minus Court-approved enhancement award:	\$7,500.00
Minus settlement administrator costs:	\$4,000.00
Net Settlement Amount:	\$242,399.35
Net Settlement Amount:	\$242,399.35
75% to LWDA	\$181,799.51
25% to Aggrieved Employees	\$60,599.84

Lidman Decl., ¶ 16.

The payment of the GSA shall be made within 30 calendar days of Court approval of the settlement and when the judgment becomes final. See Settlement, ¶¶ I.7 and III.2. Within 10 business days of the court signing the approval order, Defendant shall provide the Settlement Administrator with

⁴ Defendant represents that there are an estimated 13,480 pay periods worked by the Aggrieved Employees during the PAGA Period of August 30, 2022 through February 6, 2024. If the number of pay periods worked by the Aggrieved Employees during the PAGA period is more than 10% greater than this figure, Defendant agrees to increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in the number of pay periods worked by the PAGA Period (i.e., if there was an 11% increase in the number pay periods during the PAGA Period, Defendant agrees to increase the Gross Settlement Amount by 11%). Alternatively, to avoid any increase in the Gross Settlement Amount, Defendant may choose to limit the PAGA Period to the date that the number of pay periods worked by the Aggrieved Employees reaches 10% above 13, 480. See Lidman Decl., ¶ 17 (Settlement, ¶ III.3).

1 information for Aggrieved Employees in order to calculate and distribute checks to Aggrieved
2 Employees. *See* Settlement, ¶ IV.2. Upon receipt of this information, the Settlement Administrator will
3 prepare and circulate an anonymized spreadsheet containing the estimated individual settlement
4 payments to each Aggrieved Employee for the Parties approval. The Settlement Administrator shall also
5 determine whether the Escalator Clause in Section III.3 has been triggered. Within two business days of
6 receiving the Parties' approval, the Settlement Administrator shall mail copies of the explanatory letter
7 to all Aggrieved Employees with their checks. *See* Settlement, ¶ IV.3. The Settlement does not require
8 Aggrieved Employees to submit a claim form to reap financial benefit from the Settlement. *Id.* Any
9 checks remaining uncashed for more than 180 days will be tendered to the State Controller's Office under
10 the unclaimed property fund laws in the names of the Aggrieved Employees to whom the checks were
11 issued. *See* Settlement, ¶ IV.4.

12 **iii. Payment To The LWDA and Aggrieved Employees**

13 The entire NSA shall be designated as PAGA civil penalties. Of the NSA, 75% of the NSA will
14 be distributed to the LWDA and 25% will be distributed to the Aggrieved Employees pursuant to Labor
15 Code § 2699(i). Based on these distributions, the amount to be paid to the LWDA will be \$181,799.51
16 and the amount paid to Aggrieved Employees is estimated to be \$60,599.84. Lidman Decl., ¶ 16. This
17 portion of the NSA shall be paid to all Aggrieved Employees pro rata based on the proportional number
18 of pay periods worked by each Aggrieved Employee during the PAGA Period and **will be reported on**
19 **an IRS Form 1099**. Settlement, ¶ III.5.b. The average payment to an Aggrieved Employee is estimated
20 to be \$183.64. Lidman Decl., ¶ 17.

21 **b) Risk, Expense, Complexity, And Duration Of Further Litigation**

22 The Parties conducted an extensive exchange of informal documents and information for
23 mediation which allowed Plaintiff to thoroughly evaluate the claims. *See* Lidman Decl., ¶ 14. Had the
24 Parties not settled, they would need to continue to engage in formal discovery, potential cross-summary
25 judgment motions, preparation for trial as well as the prospect of appeals in the wake of a summary
26 judgment ruling for either party, and/or post trial-motions. As a result, the Parties would incur
27 considerably more attorneys' fees and costs through trial. This settlement avoids those risks, the
28

1 accompanying expense, and protracted litigation.

2 **c) Strength Of Plaintiff's Case And Realistic Value of Claims**

3 Here, Aggrieved Employees' claims arise from LL Flooring's timekeeping, minimum and
4 overtime payment practices, meal and rest period policies and practices, reimbursement practices and
5 sick pay practices and policies. Although she maintains that the PAGA action is meritorious, Plaintiff
6 acknowledges that her position includes real risks and uncertainty, especially in the face of LL Flooring's
7 numerous defenses on the merits discussed below. While Plaintiff maintains she could rebut these
8 defenses, Plaintiff nonetheless faced several substantial challenges in prevailing in this matter, and this
9 risk factor weight in favor of approving the Settlement. Plaintiff estimates LL Flooring's realistic
10 exposure, based on these defenses and risks, follows:

11 Civil Penalties Owed for Failing to Pay for All Minimum Wages: Plaintiff alleges that LL
12 Flooring required its non-exempt employees to complete pre-opening tasks, including without limitation,
13 unlocking the doors, disarming the alarm and booting up computers in order to clock in for the start of
14 the shifts. Lidman Decl., ¶ 18. Additionally, at the end of a shift, LL Flooring required non-exempt
15 employees to complete post-closing tasks, including without limitation, turning off the computer, arming
16 the alarm, throwing away the garbage, and locking the doors. *Id.* Plaintiff estimates that it took about
17 10 minutes per shift to complete the pre-opening and post-closing tasks. Plaintiff contends that LL
18 Flooring failed to compensate its non-exempt employees at least minimum wages for these pre-opening
19 and post-closing tasks. *Id.*

20 Plaintiff contends that the aforementioned alleged violations occurred in each and every pay
21 period during the relevant time period, which is approximately 13,480 pay periods. Accordingly,
22 pursuant to Labor Code section 1197.1, Plaintiff calculated Defendant's exposure at \$1,348,000 (13,480
23 x \$100 initial violation). *Id.*

24 LL Flooring counters that it compensated Plaintiff and all other non-exempt employees for all
25 their time worked. Lidman Decl., ¶ 19. LL Flooring also contends that its practices were lawful,
26 employees kept track of and reported their own time, and any unpaid time was *de minimis* and therefore
27 non-compensable. *Id.* LL Flooring also contends that any pre-opening or closing tasks were performed
28 by only a few individuals. *Id.* In light of these defenses and Defendant's argument that the Court would

1 exercise its discretion to reduce any civil penalty due to its good faith efforts to comply with applicable
2 law, Plaintiff discounted the maximum recovery on this claim by 85% to account for the risk that
3 Defendant could prevail in their defenses, to arrive at a projected total of \$202,000.00. *Id.*

4 Civil Penalties Owed for Failing to Pay for All Overtime Wages: Plaintiff alleges that Defendant
5 provides various types of health and other related benefits to its non-exempt employees and makes
6 employer-sponsored contributions to same. Lidman Decl., ¶ 20. Plaintiff further alleges that all of these
7 benefits were and are assignable by the employees and, as such, the employer contributions should have
8 been included in the regular rate of pay for purposes of calculating overtime for the employees. *Id.*
9 Plaintiff also alleges that Defendant paid bonuses to the non-exempt employees which should have been
10 included in the regular rate of pay for purposes of calculating overtime for the employees. *Id.* These
11 bonuses and received assignable benefits and/or other forms of pay provided to the non-exempt
12 employees were not excludable as a matter of law when calculating an employee's regular rate
13 (hereinafter the aforementioned forms of pay are collectively referred to as "Incentive Pay"). *Id.* Despite
14 Defendant's payment of Incentive Pay to Plaintiff and other hourly, non-exempt employees, Plaintiff
15 alleges that its policies and/or procedures failed to include all forms of Incentive Pay when calculating
16 the regular rate of pay, thereby causing Plaintiff and other hourly, non-exempt employees to be underpaid
all of their required overtime wages. *Id.*

17 Based on a review of the relevant timekeeping and payroll data, Plaintiff believes that the
18 aforementioned alleged violations occurred in approximately 8,605 pay periods during the relevant time
19 period. Accordingly, pursuant to Labor Code section 510, Plaintiff calculated Defendant's exposure at
20 \$860,500 (8,605 x \$100 initial violation). *Id.*

21 Defendant counters that it compensated Plaintiff and all other non-exempt employees all of their
22 overtime at the proper rate of pay as it contends it included the bonuses in the regular rate for purpose of
23 overtime. Lidman Decl., ¶ 21. Further, Defendant contends that the contributions for benefits are
24 properly excludable from the computation of overtime pursuant to state and federal laws and regulations.
25 *Id.* In light of these defenses and Defendant's argument that the Court would exercise its discretion to
26 reduce any civil penalty due to its good faith efforts to comply with applicable law, Plaintiff discounted
27 the maximum recovery on this claim by 75% to account for the risk that Defendant could prevail in their
28 defenses, to arrive at a projected total of \$215,125.00. *Id.*

1 Civil Penalties Owed for Failing to Provide Legally Compliant Meal Periods: Plaintiff alleges that
2 as a result of the work demands imposed by Defendant and, meal periods often were less than 30 minutes
3 in length or did not start before the end of their fifth hour of work, meaning the meal periods were late or
4 otherwise short or unlawful in violation of Labor Code section 512. Lidman Decl., ¶ 22. Further, Plaintiff
5 contends that when Defendant paid meal period premiums, it failed to pay them at the legal regular rate
6 of pay. *Id.* Based on the time data produced in connection with mediation, there appears to be at least
7 one meal period violation in approximately 53% of the pay periods, or approximately 6,740 pay periods.
8 *Id.* Accordingly, pursuant to Labor Code section 558, Plaintiff calculated Defendant’s maximum exposure
9 at \$337,000.00 (6,740 pay periods x \$50 initial violation). *Id.*

10 Defendant counters that it has always provided non-exempt employees with an opportunity to take
11 legally compliant meal periods, and any non-compliant meal periods reflected in employee timekeeping
12 records were solely the result of employee choice, rather than any policy or practice of Defendant.
13 Lidman Decl., ¶ 22. Defendant also contends that it paid meal period premiums every time an employee
14 may not have been provided with a lawful meal period. *Id.* Defendant also points out that under *Brinker*
15 *Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, it is only required to “provide” the
16 opportunity to take meal periods, not “ensure” meal periods are taken, and that they have always done so.
17 *Brinker, supra*, 53 Cal.4th at 1038 (rejecting “ensure” standard). *Id.* Defendant also contends that
18 Plaintiff could not recover the \$100 civil penalty for “subsequent violations” because it did not have
19 notice of any initial violation. *Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157, 1209 (2008); *In re*
20 *Taco Bell Wage and Hour Actions*, 2016 WL 2755938, at *7 (E.D. Cal. April 8, 2016). Lastly, Defendant
21 contends that the Court would use its discretion provided for in the PAGA to reduce the maximum penalty
22 exposure due to its good faith efforts to comply with applicable law. In light of these defenses, Plaintiff
23 discounted the maximum recovery on this claim by 45% to account for the risk that Defendant could
24 prevail in its defenses, to arrive at a projected total of \$185,350.00. Lidman Decl., ¶ 22.

25 Civil Penalties Owed for Failing to Authorize and Permit Rest Periods: Plaintiff alleges that LL
26 Flooring failed to authorize and permit all legally required rest periods. Lidman Decl., ¶ 23. Specifically,
27 Plaintiff alleges that due to work demands, she and the other non-exempt employees were not authorized
28 to take all required rest periods. *Id.* Plaintiff contends that the aforementioned alleged violations occurred
in each and every pay period during the relevant time period, which is approximately 13,480 pay periods.

1 Accordingly, pursuant to Labor Code section 558, Plaintiff calculated Defendant's exposure at
2 \$1,348,000 (13,480 x \$100 initial violation). *Id.*

3 LL Flooring counters contends it has always maintained and enforced lawful rest period policies
4 and practices, and Plaintiff and other non-exempt employees were authorized and permitted to take all
5 off-duty rest periods in compliance with California law. Lidman Decl., ¶ 24. Defendant also contends
6 that Plaintiff could not recover the \$100 civil penalty for "subsequent violations" because it did not have
7 notice of any initial violation. *Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157, 1209 (2008); *In re*
8 *Taco Bell Wage and Hour Actions*, 2016 WL 2755938, at *7 (E.D. Cal. April 8, 2016). Lastly, Defendant
9 contends that the Court would use its discretion provided for in the PAGA to reduce the maximum penalty
10 exposure due to its good faith efforts to comply with applicable law. In light of these defenses, Plaintiff
11 discounted the maximum recovery on this claim by 85% to account for the risk that Defendant could
12 prevail in its defenses, to arrive at a projected total of \$215,125.00. *Id.*

13 Civil Penalties for Derivative Wage Statement Violations: As Plaintiff's PAGA claim was based
14 on the underlying failure to pay all wages and meal and rest period premiums and deficient wage
15 statements, Plaintiff asserts PAGA penalties for each Aggrieved Employee for each pay period in the
16 PAGA limitations period. Lidman Decl., ¶ 25. Therefore, pursuant to Labor Code § 226.3 and only
17 applying the initial violation rate of \$100, the estimated exposure is \$1,348,000 (13,480 pay periods x
18 \$100 initial violation). *Id.*

19 Defendant argues that Plaintiff's underlying claims will fail and, as a result, the wholly derivative
20 wage statement claim will also fail. Lidman Decl., ¶ 26. *See Price v. Starbucks Corp.* (2011) 192
21 Cal.App.4th 1136, 1147 ("Because the underlying causes of action fail, the derivative UCL and PAGA
22 claims also fail."). Further, Defendant argues that the "second violation" should not be applied where
23 the LWDA has not previously cited Defendant for any wrongdoing. Finally, Defendant argues that since
24 the primary allegations in this case are that Defendant failed to pay all wages and provide all meal and
25 rest periods, imposing multiple penalties based on different Labor Code section under derivative theories
26 of liability for the same conduct would be inappropriate and unfair. As such, Plaintiff discounted that
27 figure by 90% to account for the risk of losing on the merits and for the risk of the Court reducing
28 penalties, to arrive at a realistic recovery for Aggrieved Employees of \$134,800.00. *See, e.g., Thurman,*

1 *supra*, 203 Cal.App.4th at 1136 (affirming reduction of PAGA penalties); *Fleming v. Covidien Inc.*, Case
2 No. ED CV10-01487 RGK (OPx), 2011 WL 7563047 at *5 (C.D Cal. Aug. 12, 2011) (reducing PAGA
3 penalties by more than 82%). *Id.*

4 Civil Penalties for Unreimbursed Business Expenses: Plaintiff alleges that Defendant failed to
5 reimburse her and other non-exempt employees for necessary business expenditures, including for
6 driving personal vehicles and using personal cell phones, as required under Labor Code section 2802.
7 Lidman Decl., ¶ 27. Accordingly, applying \$100 for each of the 324 employees at issue, Plaintiff
8 calculated Defendant's maximum exposure at \$32,400.00. *Id.*

9 Defendant denies that it failed to reimburse for any necessary expenses, notes that its employees
10 did not have to use their vehicles for work-related purposes and that use of personal cellular phones was
11 not required or necessary. Lidman Decl., ¶ 28. Lastly, Defendant contends that the Court would use its
12 discretion provided for in the PAGA to reduce the maximum penalty due to its good faith efforts to
13 comply with applicable law. Given these defenses, the maximum recovery on this claim is discounted
14 by 50% to account for the risk that Defendant could prevail in its defenses, to arrive at a projected total
15 of \$16,200.00. *Id.*

16 Civil Penalties for Failing to Timely Pay Wages Upon Termination: Plaintiff alleges that
17 Defendant is liable for waiting time penalties under Labor Code section 203 as a result of its failure to
18 pay all wages and meal and rest period premiums. Lidman Decl., ¶ 29. Based on the data provided by
19 Defendant, 122 Aggrieved Employees have separated their employment with Defendant during the
20 relevant time period who could be entitled to waiting time penalties. *Id.* Therefore, Plaintiff calculated
21 Defendant's maximum exposure for waiting time penalties at approximately \$12,200.00 (122 former
22 employees x \$100). *Id.*

23 Defendant asserts it has strong defenses to the waiting time claim because there exist good-faith
24 disputes as to Plaintiff's underlying claims, precluding imposition of penalties. Lidman Decl., ¶ 30; *see*
25 8 Cal. Code Regs. § 13520 (a "good faith dispute that any wages are due will preclude imposition of
26 waiting time penalties"); *Kao v. Joy Holiday*, 12 Cal.App.5th 947, 963 (2017) (holding that "good faith
27 dispute" over whether employee was exempt precluded imposition of waiting time penalties over
28 contested wages owed). In light of these defenses, Plaintiff discounted the maximum recovery on this

1 claim by 50% to account for the risk that Defendant could prevail in its arguments, to arrive at a projected
2 total of \$6,100.00. *Id.*

3 Civil Penalties for Sick Pay Violations: Plaintiff alleges that Defendant failed to pay sick pay at
4 the correct rate of pay, as required under Labor Code section 246. Lidman Decl., ¶ 31. Accordingly,
5 applying \$100 for each pay period at issue, Plaintiff calculated Defendant maximum exposure at
6 \$1,348,000.00. *Id.* Plaintiff also contends that Defendant failed to provide the correct written notice to
7 employees on wage statements which accurately itemized available sick leave hours. *Id.* Accordingly,
8 applying \$100 for each pay period at issue, Plaintiff calculated Defendant maximum exposure at another
9 \$1,348,000.00. *Id.* Thus, the maximum penalty exposure on the various sick pay claims totals
10 \$2,696,000.00.

11 Defendant contends that it paid all sick leave pay at the proper rate, and that its wage statements
12 correctly itemized all available sick leave. Lidman Decl., ¶ 32. Defendant also contends that the Court
13 would use its discretion provided for in the PAGA to reduce the maximum penalty due to its good faith
14 efforts to comply with applicable law, and also it would not impose double penalties for various sick
15 leave pay violations. Given these defenses, the maximum recovery on this claim is discounted by 80%
16 to account for the risk that Heimark could prevail in its defenses, to arrive at a projected total of
17 \$539,200.00. *Id.*

18 Summary: Based on the sum of the foregoing estimated figures, Plaintiff predicts the realistic
19 total recovery for the Aggrieved Employees to be approximately \$1,513,900.00. Lidman Decl., ¶ 33.

20 The proposed settlement of \$390,000.00 therefore represents approximately 25.8% of the
21 realistic total recovery for Aggrieved Employees and avoids the risks of proceeding through trial. *Id.*
22 “The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in
23 and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.”
24 *Linney v. Cellular Alaska Partnership*, 151 F.3d 1234, 1242 (9th Cir. 1998) (internal quotations omitted).
25 Plaintiff acknowledges that there was substantial uncertainty and risk as to these claims. Approval is
26 appropriate since this settlement will provide tangible, monetary relief to Aggrieved Employees and the
27 State of California.

1 **d) The Experience and Views of Counsel**

2 “Parties represented by competent counsel are better positioned than courts to produce a
3 settlement that fairly reflects each party’s expected outcome in litigation.” *In re Pacific Enterprises*
4 *Securities Litigation*, 47 F.3d 373, 378 (9th Cir. 1995).

5 Here, Plaintiff’s Counsel collectively brings over four decades of wage-and-hour class and
6 representative action experience. *See* Lidman Decl., ¶¶ 2-8; Declaration of Paul K. Haines (“Haines
7 Decl.”), ¶¶ 2-7; Declaration of Milan Moore (“Moore Decl.”), ¶¶ 2-8; and Declaration Raphael A. Katri
8 (“Katri Decl.”), ¶¶ 2-6. They have been certified as class counsel in numerous cases alleging wage and
9 hour claims. *Id.* Their experience in similar matters was integral in evaluating the strengths and
10 weaknesses of the case against LL Flooring and the reasonableness of the Settlement. Practice in the
11 narrow field of wage-and-hour litigation requires skill and knowledge concerning the rapidly evolving
12 substantive state and federal law, as well as the procedural law of class and representative action
13 litigation. Because it is reasonable to compensate Plaintiff’s Counsel commensurate with their skill,
14 reputation, and experience, a fee award of one-third of the GSA is reasonable. Other factors show that
15 the amount of fees requested is reasonable. This case involved legal issues regarding the propriety of
16 civil PAGA penalties, an unsettled area of law. LL Flooring was also represented by respected counsel
17 with extensive wage-and-hour litigation experience. This factor strongly supports settlement approval.
18 *See, Kullar, supra*, 168 Cal.App.4th at 130 (“The court undoubtedly should give considerable weight to
19 the competency and integrity of counsel and the involvement of a neutral mediator in assuring itself that
20 a settlement agreement represents an arm’s length transaction entered without self-dealing or other
21 potential misconduct.”).

22 **C. Requested Award of Attorneys’ Fees/Costs Are Fair and Reasonable**

23 Plaintiff, as the prevailing party in settlement, is entitled to recover attorneys’ fees and costs for
24 these claims. *See* Cal. Labor Code § 2699(g) (“Any employee who prevails in any action shall be entitled
25 to an award of reasonable attorney’s fees and costs.”); Cal. Code of Civil Procedure § 1021.5(a). A fee
26 award is justified where the legal action has produced its benefits by way of a voluntary settlement. *See,*
27 *e.g., Maria P. v. Riles*, 43 Cal.3d 1281, 1290-91 (1987); *Westside Community for Independent Living,*
28 *Inc. v. Obledo*, 33 Cal.3d 348, 352-53 (1983); *Serrano v. Priest*, 20 Cal.3d 25, 34 (1977) (“when a number

1 of persons are entitled in common to a specific fund, and an action brought by a plaintiff...for the benefit
2 of all results in the creation or preservation of that fund, such plaintiff...may be awarded attorney's fees
3 out of the fund.”)

4 Fee awards of roughly one-third of the settlement fund are routinely awarded in California state
5 and federal courts in class and representative PAGA actions.⁵ Indeed, the California Supreme Court
6 approved the use of the “percentage of fund” method in California. *See Laffitte v. Robert Half Int’l, Inc.*,
7 1 Cal.5th 480, 506 (2016) (“the percentage of fund method survives in California class action cases...”).
8 This is also consistent with Plaintiff’s Counsel’s experience in similar wage-and-hour class and PAGA
9 matters. *See* Lidman Decl., ¶ 27. Here, Plaintiff’s Counsel’s fee request of \$130,000.00 (one-third of
10 the GSA) is the same percentage sought in *Laffitte*, and is fair and reasonable based on the percentage of
11 the recovery method.

12 The California Supreme Court in *Laffitte* also held that trial courts have discretion to assess the
13 reasonableness of fee awards with tools such as the “lodestar cross-check,” whereby the trial court
14 calculates counsel’s lodestar and determines whether the “lodestar multiplier” needed to bring the lodestar
15 on par with the percentage of recovery is reasonable. *Laffitte*, 1 Cal.5th at 503-06. Under the lodestar
16 method, the court multiplies the number of hours reasonably expended by each attorney or legal staff
17 member by their reasonable hourly rates, then enhances this lodestar figure by a “multiplier” to account
18 for a range of factors. *See Serrano v. Priest* 20 Cal.3d 25, 48-49 (1977).

19 Lodestar multipliers can range from 2 to 4 or even higher. *See, e.g., Chavez, supra*, 162 Cal. App.
20 4th at 49-50 (approving multiplier of approximately 2.5); *Coalition for L. County Planning etc. Interest*
21 *v. Bd. of Supervisors*, 76 Cal. App. 3d 241, 251 (1977) (approving multiplier of approximately 12.8). In
22 this case, Plaintiff’s Counsel have a lodestar of \$147,145.00 without the use of any multiplier, which is
23 more than the \$130,000.00 fee request. *See* Lidman Decl., ¶ 37; Katri Decl., ¶ 7. A general summary
24 showing the number of hours of work performed by each attorney and paralegals is set forth in the Lidman
25 Declaration filed concurrently herewith. The billing rates used are reasonable in light of the hourly rates

26 ⁵ *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, fn. 11 (2008); *see also, In re Pacific Enterprises Securities Litig.*,
27 47 F.3d 373, 379 (9th Cir. 1995) (affirming 33% fee award); *Chavez v. Saticoy Lemon Ass’n*, Case No. 56-2015-
28 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).

identified based on years of experience in the *Laffey* Matrix, submitted concurrently herewith. Lidman Decl., ¶ 38, Exh. 5.

Name	Rate	Hours	Pre-Multiplier Lodestar
Scott M. Lidman (25 th Year Attorney)	\$900	84.3	\$75,870.00
Paul K. Haines (17 th Year Attorney)	\$800	23.3	\$18,640.00
Milan Moore (8 th Year Attorney)	\$600	42.3	\$25,380.00
Raphael A. Katri (21 st Year Attorney)	\$725	22.5	\$23,562.50
Paralegals	\$175	21.1	\$3,692.50
Total Lodestar			\$147,145.00

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 and with respect to the propriety of "stacking penalties" based on a single primary allegation and the Court's authority to reduce an award of PAGA penalties. 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.

1 Indeed, since undertaking representation of Plaintiff, Plaintiff's Counsel dedicated substantial
2 resources to this litigation, including expending a total of \$6,100.65 (including costs associated with the
3 instant motion) in actual litigation costs, without receiving any compensation to date. Lidman Decl., ¶
4 43, Exh. 6. Plaintiff's Counsel conducted legal research regarding the merits of Plaintiff's claims, the
5 ability to recover penalties under the PAGA, and LL Flooring's potential defenses. *Id.* Plaintiff's Counsel
6 spent significant time conducting informal discovery, reviewing LL Flooring's informal discovery. Class
7 Counsel also analyzed the data and information produced informally prior to mediation and prepared an
8 exposure analysis on the PAGA penalties. *Id.* Plaintiff's Counsel also expended significant additional
9 effort in preparing subsequent settlement documents, this Motion for settlement approval, and supporting
10 declarations, and will oversee the settlement administration process. *Id.* Given the considerable potential
11 for adverse outcomes in this case, the contingent risk borne by Plaintiff's Counsel was great. The quality
12 of Plaintiff's Counsel's work, and the efficacy and dedication with which it was performed, should be
13 compensated.

14 Thus, Plaintiff's Counsel submit that the requested fee award is fair, reasonable and adequate and
15 should be approved. Plaintiff's request for reimbursement of actual litigation costs of \$6,100.65 is also
16 fair and reasonable. As the evidence submitted herewith shows, all of Plaintiff's litigation costs are
17 documented and reasonably incurred. *See* Lidman Decl., ¶ 43, Exh. 6.

18 **D. Notice and Requested Settlement Administration Costs Are Fair and Reasonable**

19 The parties agreed to engage Phoenix as the settlement administrator. *See* Settlement, ¶ I.20.
20 Under the Settlement, Parties have agreed to have the proposed Notice of PAGA Settlement and Release
21 ("Notice"), subject to Court approval, be sent with the settlement checks to inform the Aggrieved
22 Employees about the scope of the released claims and their responsibility for any taxes payable on the
23 amount received. The PAGA does not require notice and the Aggrieved Employees do not have the right
24 to opt-out. The Notice which is attached as Exhibit B to the Settlement and Exhibit A to the [Proposed]
25 Order is only being provided as a courtesy.

26 Phoenix shall be responsible for translating and mailing the Notice in English and calculating and
27 distributing the settlement checks, among other duties. The parties have designated \$4,000.00 as
28 settlement administration costs. Settlement, ¶ III.4.c. Phoenix's quote is attached as Exhibit B to the

1 Declaration of Jodey Lawrence on behalf of Phoenix in support of Motion for Approval of PAGA
2 Settlement filed concurrently herewith.

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

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

10 Here, pursuant to the Settlement, Plaintiff seeks an enhancement award of \$7,500.00. *See*
11 Settlement, ¶ III.4.b. Plaintiff will request the Court award an enhancement award of \$7,500.00 in
12 recognition of her unique contributions to the prosecution of this case and her efforts in bringing this case
13 to a successful and significant resolution. *Id.*; Coleman Decl., ¶¶ 3-12. This request is reasonable given
14 Plaintiff's efforts in this case and the risks she undertook on behalf of the Aggrieved Employees. Plaintiff
15 provided substantial factual information to Plaintiff's Counsel, attended meetings with Plaintiff's
16 Counsel, and otherwise assisted in the litigation of this action. Coleman Decl., ¶¶ 3-12. Further, Plaintiff
17 put her future employment prospects at risk by becoming a class representative, as the fact that she filed
18 a lawsuit “is searchable on the internet and may become known to prospective employers when
19 evaluating” them for employment. *Guippone v. BH S&B Holdings, LLC*, 2011 U.S., Dist. LEXIS
20 126026, *20 (S.D.N.Y. Oct. 28, 2011). Accordingly, Plaintiff's request is appropriate and justified as
21 part of the Settlement.

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24 ⁶ California courts routinely award enhancement payments in PAGA-only, non-class actions. *See Canul v. Basmat,*
25 *Inc.*, LA County Case No. BC674940, Judge Beaudet (Dept. 50) (approved a PAGA-only settlement including a
26 \$5,000 enhancement award to the named plaintiff); *Pickett v. 99 Cents Only Stores, et al*, LA County Case No.
27 BC473038 (Judge Hiroshige (Dept. 54) approved a \$12,500 enhancement payment to each of two named plaintiffs
28 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).

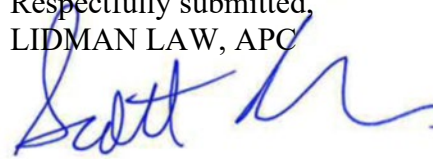
1 **IV. CONCLUSION**

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

6
7 Dated: February 13, 2024

Respectfully submitted,
LIDMAN LAW, APC

8
9 By:



10 Scott M. Lidman
11 Attorneys for Plaintiff
ALEXA ROS COLEMAN
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