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on behalf of himself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

CELIA FORD, on behalf of herself and all
others similarly situated,

Plaintiff,

vs.

WILDFLOUR BAKERY & CAFÉ, LLC, an
unknown business entity; KANAN BAKING
CO., an unknown business entity; GREG
YULISH, an individual; and DOES 1
through 10, inclusive,

Defendants.

Case No. 23STCV20084

Assigned for All Purposes To:
Hon. Lynne Hobbs
Dept.: 61

**NOTICE OF MOTION AND MOTION TO
APPROVE THE PRIVATE ATTORNEYS
GENERAL ACT SETTLEMENT UNDER
CALIFORNIA LABOR CODE §§ 2698 et seq.;
MEMORANDUM OF POINTS AND
AUTHORITIES**

[filed concurrently with Declaration of Blake
Jones; Declaration of Enoch J. Kim; and [Proposed]
Order

Hearing Date: May 30, 2025
Time: 9:00 a.m.
Department: 61

1 **TO THE COURT AND DEFENDANTS AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on May 30, 2025 at 9:00 a.m. in Department 61 of the
3 above-entitled Court, located at Stanley Mosk Courthouse, 111 North Hill Street Los Angeles, CA
4 90012. Plaintiffs Celia Ford and David Lord Lindsay (“Plaintiffs” or “PAGA Representatives”),
5 on behalf of themselves and all persons similarly situated, will and hereby does move this Court
6 pursuant to California Labor Code § 2698 et seq. for an order approving the settlement agreement
7 between Plaintiffs and Defendants Coolish Holdings, LLC, Wildflour Bakery & Café, LLC, Kanan
8 Baking Co., and Greg Yulish (“Defendants”) which will accomplish the following: approve the
9 representative action settlement embodied in the Private Attorney General Act (“PAGA”)
10 Settlement Agreement; approve PAGA Counsel’s application for attorney’s fees and litigation
11 costs; and enter judgment approving the PAGA Settlement Agreement.

12 The grounds for this Motion, as set forth in the attached Memorandum of Points and
13 Authorities and supporting declarations, are that this is a fair and reasonable settlement that
14 benefits the PAGA aggrieved employees and was the product of informed, non-collusive
15 negotiations by parties who were represented by experienced and able counsel. *See Wershba v.*
16 *Apple Computer, Inc.*, 91 Cal. App 4th 224, 244-45 (1996); *Dunk v. Ford Motor Co.*, 48 Cal. App.
17 4th 1794, 1802 (1996); Manual for Complex Litigation, (Second), § 30.44 (1985).

18 Defendants do not oppose this Motion. Plaintiffs base this Motion on this Notice and the
19 accompanying Memorandum of Points and Authorities, the Declarations of Blake Jones and Enoch
20 J. Kim, the complete pleadings, records and files in the case, and such other further oral and
21 documentary evidence which may be submitted at or before the hearing on this Motion.

22
23 DATED: February 20, 2025

D.LAW, INC.

24
25 By: 

26 Enoch J. Kim
27 Attorneys for David Lord Lindsay on behalf of
28 himself and others similarly situated

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Through this motion, Plaintiffs Celia Ford and David Lord Lindsay (“Plaintiffs”) request that
4 the Court grant approval of the Private Attorneys General Act Settlement Agreement (“Settlement”
5 or “Settlement Agreement”) reached between the parties to resolve claims brought exclusively under
6 the Private Attorneys General Act of 2004, Labor Code § 2698, *et seq.* (“PAGA”) seeking civil
7 penalties for various violations of the California Labor Code and Industrial Wage Commission’s
8 Wage Orders. Pursuant to the Settlement, Defendants Coolish Holdings, LLC, Wildflour Bakery &
9 Café, LLC, Kanan Baking Co., and Greg Yulish (“Defendants”) will pay the Gross Settlement
10 Amount of \$80,000.00. (Declaration of Blake Jones (“Jones Decl.”), Exhibit A, ¶ 3.1.) For purposes
11 of the Settlement, the group of allegedly aggrieved employees included in the Settlement is defined
12 as “all individuals who worked for Defendants, or any of them, as non-exempt employees in
13 California at any time between June 14, 2022 and December 31, 2022 (“Allegedly Aggrieved
14 Employees”).” (Jones Decl., Exhibit A, ¶ 1.4.)

15 The Parties agree that the Settlement is fair, reasonable, and appropriate because it was the
16 result of a rigorous, arms-length negotiation conducted during mediation with a highly experienced
17 wage and hour mediator. The resolution was reached only after Plaintiffs conducted comprehensive
18 informal discovery and Defendants provided extensive data, numbers, and documents, allowing for
19 a well-informed assessment of the claims and potential recovery. In addition, Defendants have ceased
20 operations, further reinforcing that the Settlement represents a fair and practical resolution under the
21 circumstances. Accordingly, Plaintiffs requests that the Court enter an order approving the
22 Settlement, directing the Parties and Administrator to implement its terms, and entering Final
23 Judgment.¹

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27 ¹ Plaintiff Lindsay has submitted this Motion to the LWDA by uploading it on the LWDA’s
28 website concurrently with the filing of this Motion as required by Labor Code § 2699(1)(2).
(Declaration of Enoch J. Kim (“Kim Decl.”) ¶ 5, Exhibit 3.)

II. RELEVANT BACKGROUND AND PROCEDURAL HISTORY

A. Litigation Overview and Procedural History

On August 21, 2023, Plaintiff Lindsay filed a putative Class Action complaint against Defendants Coolish Holdings, LLC (formerly known as Wildflour Bakery & Café LLC) and Kanan Baking Company asserting wage and hour violations, captioned *Lindsay v. Coolish Holdings, LLC, et al.* (Kim Decl., ¶ 4.) On the same day, Plaintiff Lindsay submitted his PAGA letter to the California Labor & Workforce Development Agency (“LWDA”) and Defendants. (*Id.*) On October 25, 2023, Plaintiff Lindsay filed a First Amended Complaint, adding a claim for violations of PAGA. (*Id.*)

On June 14, 2023, Plaintiff Ford submitted her PAGA letter to the LWDA and Defendants. (Jones Decl., ¶ 6.) On August 22, 2023, Plaintiff Ford filed a Complaint against Defendants alleging a single cause of action for violations of PAGA (the “Action”). (*Id.* at ¶ 7.) On September 19, 2024, Plaintiffs filed a First Amended Complaint alleging a single cause of action for alleged PAGA violations against Defendants (the “Operative Complaint”). (*Id.* at ¶ 15.)

Defendants deny each and all of Plaintiffs’ allegations in their entirety (Jones Decl., Exhibit A, ¶ 10.1.) The Settlement Agreement reached between the Parties does not constitute, is not intended to constitute, and will not be deemed to constitute, an admission of liability by Defendants as to the merits, validity, or accuracy of any of the allegations or claims made against Defendants in the Action. (*Id.*)

B. Mediation and Settlement

Prior to mediation, Plaintiffs conducted comprehensive informal discovery and Defendants provided data and numbers and documents. (Jones Decl., ¶ 11.) The information and data exchanged by Plaintiffs and Defendants prior to and during mediation and settlement negotiations were sufficient to reliably assess the merits of the Parties’ respective positions, to compromise the issues on a fair and equitable basis, and to devise a formula for distribution of civil penalties among the Allegedly Aggrieved Employees that took into consideration the strength of the PAGA claims. (Kim Decl., ¶¶ 7-8.)

On June 26, 2024, the Parties engaged in a good faith, arms-length negotiation during global mediation facilitated by a highly respected wage and hour mediator, Deborah Crandall Saxe.

(*Id.* at ¶ 8.) During mediation, Plaintiffs learned that Defendants had ceased operations at the end of 2022 and thus had a severely limited ability to pay any settlement and/or judgment in the Action. (*Id.*) In light of this discovery, and with the mediator’s expert guidance, the Parties reached an agreement on the general terms of a settlement, which were first memorialized in a Term Sheet and later formalized in the long-form Settlement Agreement now before the Court for approval. (*Id.*) The settlement reflects a well-balanced resolution that accounts for the realities of Defendants’ financial position while maximizing recovery for the Allegedly Aggrieved Employees. Given the risks and uncertainties of continued litigation, the settlement represents a fair, reasonable, and practical outcome that serves the best interests of all Parties and warrants Court approval.

The Parties believe and agree that the Settlement provides for a fair, adequate, and reasonable resolution of the Action and have arrived at the Settlement in extensive, arm’s length negotiations, considering all relevant factors, present and potential. (Kim Decl., ¶¶ 10-13). PAGA Counsel believes that the Settlement confers real benefits upon Plaintiffs and the Allegedly Aggrieved Employees with now defunct Defendants and that an independent review of the Settlement by the Court in the approval process will confirm this conclusion. (*Id.*).

III. PAGA ACTIONS AND THE REQUIREMENTS

A. The PAGA Statutory Scheme

PAGA creates a means of “deputizing” citizens as private attorneys general to enforce the Labor Code on behalf of the LWDA. *Brown v. Ralphs Grocery Co.* (2011) 197 Cal. App. 4th 489, 501, *review den.* (Oct. 19, 2011, No. S195850), *cert. denied* 132 S.Ct. 1910 (Apr. 16, 2012). A plaintiff may not — and Plaintiffs here do not — bring a PAGA claim simply on his or her own behalf as an individual claim, but “as the proxy or agent of the state’s labor law enforcement agencies.” *Id.*, at 986; *see also Reyes v. Macy’s, Inc.* (2011) 202 Cal. App. 4th 1119, 1123-1124; *Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 380. When an aggrieved employee brings a PAGA claim, “the government is always the real party in interest.” *Securitas Sec. Servs. USA, Inc. v. Sup. Ct. of San Diego Cnty.* (2015) 234 Cal. App. 4th 1109, 1119; *Montano v. The Wet Seal Retail, Inc.* (2015) 232 Cal. App. 4th 1214, 1222 (“[A] PAGA action is a dispute between an employer and the

State agency.”). Accordingly, a plaintiff that brings a PAGA claim represents “the same legal right and interest as state labor law enforcement agencies,” in that the plaintiff seeks to recover those civil penalties that the LWDA otherwise would assess and collect. *Arias v. Super. Ct.* (2009) 46 Cal.4th 969, 986; Labor Code § 2699(a) & (f); *Securitas, supra*, 234 Cal. App. 4th at 1119; *see also Medina v. Vander Poel* (E.D. Cal. 2015) 523 B.R. 820, 825 (holding “PAGA plaintiffs do not have property rights in their cases.”), and *Amalgamated Transit Union, Local 1756, AFL-CIO v. Superior Court* (2009) 46 Cal.4th 993, 1003.

Therefore, when a plaintiff brings a PAGA claim, he or she is properly viewed as a private attorney general prosecuting violations of California’s labor laws on behalf of the state. An employee may commence a PAGA action by fulfilling the requirements of California Labor Code § 2699.3(a)(1), which simply states: “The aggrieved employee or representative shall give written notice by certified mail to the Labor and Workforce Development Agency and the employer of the specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violation.” Labor Code § 2699.3(a)(1). As explained above, Plaintiffs complied with the notice requirements and properly pled a PAGA claim. (Kim Decl. ¶¶ 4-5).

B. The Court Has Discretion When Awarding the Amount of Penalties.

The PAGA provides for penalties in the amount of \$100 for each violation per aggrieved employee per pay period for the initial violation and \$200 for each violation per aggrieved employee per pay period for each subsequent violation. Labor Code § 2699(f)(2). “PAGA penalties...are mandatory, not discretionary” and must be awarded upon a showing that Defendants violated the Labor Code. *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1213. However, the PAGA provides the Court with discretion when it finds liability and awards these penalties as part of a judgment. Labor Code § 2699(e)(2) states that “a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” Here, Defendants deny each and all of Plaintiffs’ allegations in their entirety and maintain that their policies complied with California law. (Jones Decl., Exhibit A, ¶ 10.1.) Defendants contend Plaintiffs’ claims, particularly those based on off-the-clock work, meal and rest breaks, and

time spent on temperature checks and donning and doffing gear, would have faced significant hurdles at trial given Defendants’ clear policies prohibiting off-the-clock work and ensuring compliance with wage and hour laws. Moreover, Plaintiff Ford was an exempt employee not entitled to many of the protections she alleges were violated. While Defendants are confident in their defenses, settlement provides a more efficient resolution, avoiding the uncertainties and costs of litigation.

The Parties agree that the Court, in assessing the Settlement, should consider Defendants’ cessation of business operations and their limited ability to pay any settlement and/or judgment, along with the risk assessment, and the post-judgment prerogative the Court possesses to lower penalties had Plaintiffs prevailed at trial. The Parties believe that, based on these factors, the Court will find that this Settlement is fair and reasonable.

C. PAGA Authorizes the Payment of PAGA Counsel’s Fees and Costs

PAGA provides for the recovery of reasonable attorneys’ fees and costs. Labor Code § 2699(g)(1) (“Any employee who prevails in any action shall be entitled to an award of reasonable attorney’s fees and costs, including any filing fee paid...”). The monetary settlement and programmatic relief make Plaintiff a “prevailing party.” *Folsom v. Butte County Ass’n of Gov’ts* (1982) 32 Cal. 3d 668,671; *Santisas v. Goodin* (1998) 17 Cal.4th 599, 621. Even if Labor Code § 2699(g)(1) did not authorize fees, Plaintiffs would be entitled to fees as Private Attorneys General under Code of Civil Procedure § 1021.5 because Plaintiffs brought this action to, and the action does, benefit the public. *Arias*, 46 Cal.4th at 985–986. PAGA Counsel seeks 35% of the Gross Settlement Amount, or \$28,000.00 in fees and up to \$24,000.00 in actual litigation costs. Pursuant to PAGA, Labor Code § 2699(l)(2), Plaintiffs will be providing the LWDA notice of the Settlement and this Motion upon its filing. (Kim Decl., ¶ 35). The LWDA therefore will have the opportunity to object or otherwise comment on the terms of the Settlement.

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1 **IV. THE SETTLEMENT**

2 Pursuant to the Settlement Agreement, Defendants will pay the Gross Settlement Amount of
3 \$80,000.00 in full and final settlement of the PAGA claim alleged in the Operative Complaint. (Jones
4 Decl., Exhibit A, ¶ 3.1).

5 Pending Court approval, the Gross Settlement Amount will be allocated as follows: (1)
6 attorneys' fees of up to 35% of the Gross Settlement Amount which is **\$28,000.00** ("PAGA Counsel
7 Fees Payment") (Kim Decl., ¶ 10.); (2) actual litigation costs incurred in this matter in the amount of
8 **\$22,005.18** ("PAGA Counsel Litigation Expenses Payment") (*Id.*); (3) settlement administration
9 costs of up to **\$3,500.00** to be paid to the Settlement Administrator, Simpluris, for sending notices
10 and for calculating settlement shares and preparing all checks and mailings ("Administration
11 Expenses Payment") (*Id.*); (4) payment of **\$5,000.00** to each Plaintiff in exchange for their general
12 release of claims against Defendants ("Plaintiffs' General Release Payment") (*Id.*); and (5) PAGA
13 Penalties in the amount of **\$16,494.82**, with 75% (\$12,371.12) allocated to the LWDA ("LWDA
14 PAGA Payment") and 25% (\$4,123.70) allocated to the Allegedly Aggrieved Employees ("Individual
15 PAGA Payment"). (*Id.*) The Individual PAGA Payment will be calculated based on the number of
16 Pay Periods the Allegedly Aggrieved Employee worked during the PAGA Period of June 14, 2022
17 to December 31, 2022. (Jones Decl., Exhibit A, ¶ 1.11.)

18 Based on its records, Defendants estimate that there are 135 Allegedly Aggrieved Employees
19 who worked a total of 1,097 Pay Periods during the PAGA Period as of the date of the Settlement
20 Agreement. (*Id.* at ¶ 8.) The Allegedly Aggrieved Employees will receive an average of
21 approximately \$30.55 per person (\$4,123.70 divided by 135 Allegedly Aggrieved Employees) as
22 their share of the Individual PAGA Payment. (Kim Decl., ¶ 10.) If it is determined that the number
23 of Pay Periods during the PAGA Period exceeds 1,206 (i.e., 1,097 plus 10%), Defendants may elect
24 to either (1) end the PAGA Period on the date on which the number of Pay Periods reached 1,206, or
25 (2) increase the Gross Settlement Amount in proportion to the increased percentage in Pay Periods.
26 (Jones Decl., Exhibit A, ¶ 8.)

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1 **V. ARGUMENT**

2 **A. The Court Should Approve the Settlement Agreement.**

3 Pursuant to Labor Code § 2699(I), the Parties must obtain Court approval of a settlement of a
4 PAGA action on a representative basis. However, as explained in *Arias v. Superior Ct.* (2009) 46
5 Cal.4th 969, the Parties need not follow the class action procedural rules in PAGA cases and therefore
6 need not obtain approval of the PAGA settlement through a motion for preliminary or final approval.
7 Nonetheless, to comply with the requirements of Labor Code section 2699, Plaintiffs submit this
8 Motion and the Settlement Agreement for Court approval.

9 **B. The Risks of Moving Forward with Plaintiffs' PAGA Claim**

10 To help the Court evaluate the fairness of the Settlement, below is a discussion of the risk
11 evaluation made by Plaintiffs and their Counsel. They considered the arguments and defenses asserted
12 by Defense Counsel at mediation, assessed the risks of moving forward to trial and what this Court
13 could do in awarding penalties even if Plaintiffs prevailed at trial.

14 Plaintiffs estimated that the maximum potential exposure on the PAGA claim is \$107,900.00,
15 calculated by multiplying the total number of Pay Periods (1,079) by \$100 per violation. (Kim Decl.,
16 ¶ 15.) Plaintiffs' calculation of the total potential exposure on the PAGA claim was based on one
17 PAGA penalty per Pay Period (i.e., Plaintiffs did not stack the PAGA penalties in their damages
18 calculation). (*Id.*) Case law supports the notion that it is inappropriate to "stack" penalties for multiple
19 violations, particularly when those violations all stem from the same alleged "injury." (*Id.* at ¶ 16.)

20 The Gross Settlement Amount of \$80,000.00 is approximately 73% of the maximum potential
21 exposure of \$107,900.00. (*Id.* at ¶ 18.) The Gross Settlement Amount therefore represents a strong
22 value at approximately \$73.00 per Pay Period. (*Id.*) From PAGA Counsel's review of the facts,
23 strengths, and weaknesses of the case, the risks and delays posed by further litigation, and
24 Defendants' financial condition, PAGA Counsel believes that the recovery for each Allegedly
25 Aggrieved Employee is fair and reasonable. (*Id.*)

26 **C. Trial of Plaintiffs' PAGA Claims Would Have Presented Many Hurdles.**

27 Defendants denied and continue to deny all of the claims made by Plaintiffs in this Action and
28 contend that they acted at all relevant times in conformance with the law. (*Id.* at ¶ 13.) Defendants

1 contend that Plaintiffs and the Allegedly Aggrieved Employees were paid for all hours worked;
2 provided lawfully compliant meal periods and that any deviations were at the voluntary election of
3 the Plaintiffs and/or the Allegedly Aggrieved Employees and not at the request of Defendants or due
4 to work; that Defendants paid all wages due on a timely basis; that Defendants paid all wages due on
5 a timely basis and using Labor Code compliant instruments; that Defendants' wage statements
6 complied with the law; and that neither Plaintiffs nor any Allegedly Aggrieved Employees incurred
7 reasonable business related expenses for which they were not reimbursed. (*Id.*) Most significantly,
8 Defendants ceased business operations at the end of 2022 and thus had a severely limited ability to
9 pay any settlement and/or judgment in this matter. (*Id.*) As a result, PAGA Counsel carefully
10 evaluated the financial realities of the case and negotiated a settlement that ensures a fair and equitable
11 recovery for the affected employees while taking into account Defendants' inability to satisfy a larger
12 judgment. (*Id.*)

13 **D. The Court May Have Exercised Its Discretion to Reduce Civil Penalties.**

14 "PAGA penalties...are mandatory, not discretionary" and the Court must award penalties
15 upon a showing that Defendant violated the Labor Code. *Amaral v. Cintas Corp. No. 2* (2008) 163
16 Cal. App. 4th 1157, 1213; *Moreno v. Autozone, Inc.* (N.D. Cal. June 5, 2007) No. C05-04432 MJJ,
17 2007 WL 1650942, at *3. However, PAGA does provide the Court with discretion when it awards
18 these penalties. In departing from the \$100/pay period calculation to arrive at the \$80,000.00 Gross
19 Settlement Amount in this case, Plaintiffs considered various reasons why the Court may reduce any
20 eventual recovery at its discretion, and considered that PAGA penalties are not mandatory but
21 permissive. (Kim Decl., at ¶ 17.) Labor Code § 2699(e)(2) states that "a court may award a lesser
22 amount than the maximum civil penalty amount specified by this part if, based on the facts and
23 circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary
24 and oppressive, or confiscatory." (*See also Thurman v. Bayshore* (2012) 203 Cal. App. 4th 1112
25 (reducing PAGA penalties by 30% under this provision).

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1 **VI. THE REQUEST FOR ATTORNEYS' FEES AND COSTS**

2 **A. The Court Should Approve the Requested Attorneys' Fees and Costs**

3 Pursuant to the Settlement Agreement, PAGA Counsel is requesting an award of attorneys'
4 fees in the amount of **\$28,000.00** and an award of litigation costs to PAGA Counsel of **\$22,005.18**.

5 Prior to enactment of PAGA, when the State had the resources to seek civil penalties on behalf
6 of the public, it paid its employees (including their attorneys) their salaries and benefits for pursuing
7 such penalties. The Legislature enacted PAGA because the Labor Commissioner and other agencies
8 were hampered in their enforcement of civil penalties by inadequate funding and staffing constraints.
9 *Iskanian, supra*, 59 Cal.4th at 379. To facilitate broader enforcement, the Legislature enacted PAGA,
10 authorizing "aggrieved employees" to pursue civil penalties on the state's behalf. Labor Code §
11 2699(a). In creating PAGA, the Legislature expressly provided that the private counsel retained by
12 the Plaintiff to represent the public's interest can recover fees if the Plaintiff is the prevailing party.
13 Labor Code § 2699(g)(1).

14 1) PAGA Counsel Are Entitled to Fees from the Civil Penalties Recovered

15 As previously indicated, this is *not* a class action. However, like a class action, it is a
16 representative action where instead of a class, the Plaintiff represents the State and the public. As a
17 matter of law and substance, counsel's client is the public at large and the State of California. The
18 Plaintiff is simply a "proxy" for the State. On August 11, 2016, the California Supreme Court decided
19 *Laffitte v. Robert Half International*, which addressed, in a class action context, the correct
20 methodology for awarding fees in a representative action settlement. *Laffitte v. Robert Half Intern.*
21 *Inc.* (2016) 205 Cal.Rptr.3d 555, 573. The *Laffitte* Court approved awarding fees as a percentage of
22 the settlement fund.:

23 We join the overwhelming majority of federal and state courts in holding that when
24 class action litigation establishes a monetary fund for the benefit of the class
25 members, and the trial court in its equitable powers awards Class Counsel a fee out
26 of that fund, the court may determine the amount of a reasonable fee by choosing
27 an appropriate percentage of the fund created.

28 *Id.* at p. 573. Here, the \$80,000.00 common fund created for the benefit of the public is, with
Plaintiffs as proxies for the State, not unlike the fund created in class action settlements, with the

1 public the equivalent of the class referenced in *Laffitte*.

2 The Court, in *Laffitte*, pointed out several reasons why the percentage-of-the-fund method is
3 preferred over the alternative lodestar-multiplier approach in California courts:

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

8 *Id.* at 573.

9 An award of 35% of the civil penalties realized in the Settlement is appropriate here under the
10 “substantial benefit” theory. *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1810; *Wershba*
11 *v. Apple Computer, Inc.* (2001) 91 Cal. App. 4th 224, 254. That theory permits a litigant who has
12 sued in a representative capacity to recover fees from the beneficiaries of that representation. Courts
13 exercise their inherent equitable powers to assess attorneys’ fees against the entire fund, thereby
14 spreading the cost of those fees among the public who benefits from PAGA actions. *Serrano v. Priest*
15 (1977) 20 Cal.3d 25, 35 (*Serrano III*). As this approach “better approximates the workings of the
16 marketplace than the lodestar approach,” there is “a greater judicial willingness to evaluate a fee
17 award as a percentage of the recovery.” *Lealao v. Beneficial Calif., Inc.* (2000) 82 Cal. App. 4th 19,
18 31, 48.

19 2) The Attorneys’ Fees Request Is Within the Range of Reasonable Fees

20 PAGA Counsel at D.Law, Inc. and Blake Jones Law, PC are experienced employment
21 attorneys with expertise in wage and hour class and representative actions. (Kim Decl., ¶¶ 28-37;
22 Jones Decl., ¶¶ 16-17.) Throughout this case, PAGA Counsel have borne, and continue to bear, the
23 entire risk and cost of litigation associated with this Action on a purely contingency basis. (Kim Decl.,
24 ¶ 21.) As a result, PAGA Counsel have yet to receive any compensation for the amount of time and
25 money invested in the case to date. (*Id.*) Moreover, courts in this county and others have approved
26 attorneys’ fees awards in other PAGA settlements on a common fund basis at the same percentage
27 requested by Plaintiffs here. (*Id.* at ¶¶ 23-24.)

28 For these reasons, PAGA Counsel’s requested fee of 35% is well within the range of

1 reasonableness and is fair compensation for undertaking this complex and risky litigation on a
2 contingent basis.

3 3) PAGA Counsel's Fee Request Is Reasonable Under the Lodestar Crosscheck.

4 PAGA Counsel's fee request is reasonable when calculated using the lodestar method. Under
5 the lodestar method, a base fee amount is calculated from a compilation of time reasonably spent on
6 the case and the reasonable hourly compensation of the attorney. *Serrano v. Priest* (1977) 20 Cal.3d
7 25, 48. The court then may enhance this lodestar figure by a "multiplier" to account for a range of
8 factors, such as the novelty and difficulty of the case, its contingent nature, and the degree of success
9 achieved. *Id.* at 49; *see also Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132-36; *Thayer v. Wells*
10 *Fargo Bank* (2001) 92 Cal. App. 4th 819, 834, ("[t]here is no...rule limiting the factors that may
11 justify an exercise of judicial discretion to [adjust the] lodestar").

12 Here, the lodestar cross check establishes that the fees requested are significantly less than the
13 amount warranted by lodestar analysis; therefore, the factors warranting positive multipliers do not
14 come into play, even though they were apparent in this case.

15 PAGA Counsel worked at least 165.2 hours on this matter and calculated the base lodestar at
16 \$123,180.00 at rates reflecting those currently earned in the marketplace. Attorney Blake Jones'
17 records indicate at least 83.3 hours on this matter with an hourly rate of \$850. (Jones Decl. ¶¶ 19-20.)
18 Attorney Roman Shkodnik's records indicate at least 30.5 hours on this matter with an hourly rate of
19 \$700. (Kim Decl. ¶ 25.) Attorney Amanda Fazio's records indicate at least 21.5 hours on this matter
20 with an hourly rate of \$400. (*Id.*) Attorney Enoch Kim's records indicate at least 29.9 hours on this
21 matter with an hourly rate of \$750. (*Id.*)

22 Thus, consideration of the lodestar method as a cross-check to the percentage figure sought
23 strongly supports the reasonableness of the requested fee award. PAGA Counsel respectfully request
24 the Court grant its request for \$28,000.00 in fees, which requires **no multiplier**.

25 4) The Court Should Approve the Reimbursement of PAGA Counsel's Costs.

26 The litigation expenses incurred by PAGA Counsel in this Action are also to be reimbursed
27 under the Settlement Agreement. PAGA Counsel seek \$22,005.18 in reimbursement for litigation
28 costs (\$9,427.15 to Blake Jones Law, PC and \$12,578.03 to D.Law, Inc.) (Jones Decl., ¶ 23; Kim

Decl., ¶ 19.) The lion's share of these costs were incurred in connection with mediation, and the others listed were all reasonably incurred and necessary to the prosecution of this Action. Thus, PAGA Counsel respectfully request the Court approve their request for reimbursement in the amount of \$22,005.18.

VII. THE COURT SHOULD APPROVE THE COSTS OF ADMINISTRATION

The Parties agreed to use Simpluris as the third-party settlement administrator in this case. (Kim Decl., ¶ 34.) Simpluris will be responsible for updating the addresses for the Allegedly Aggrieved Employees, mailing the Notice of Settlement and calculating and distributing the settlement checks, among other duties. (*Id.*) Simpluris capped its fees at \$3,500.00 for administering the Settlement, and based on PAGA Counsel's experience in other class and PAGA settlements, Simpluris' costs for administering this Settlement are fair and reasonable. (*Id.*)

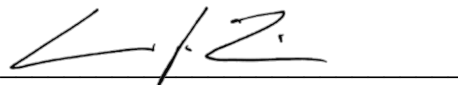
VIII. CONCLUSION

Plaintiffs and PAGA Counsel submit that the proposed Settlement as documented in the Settlement Agreement is fair, adequate, reasonable, and in the best interest of Plaintiffs, Defendants, the Allegedly Aggrieved Employees, and the State of California. Plaintiffs respectfully request that the Court approve the Settlement and order the Parties to carry out the Settlement according to the terms of the Settlement Agreement and enter the concurrently filed [Proposed] Order Granting Approval and Judgment to that end.

DATED: February 20, 2025

D.LAW, INC

By



Enoch J. Kim

Attorneys for Plaintiff David Lord Lindsay on
behalf of himself and others similarly situated