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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

NATASHA DENISE TAYLOR, on behalf
of herself and all others similarly situated,
and the general public,

Plaintiff,

vs.

REALTY INCOME CORPORATION, a
Maryland corporation; ROBERT HALF,
INC., a Delaware corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. 23-CIV-05673

Assigned for All Purposes To:

Hon. Jeffrey R. Finigan

Dept.: 24

**NOTICE OF MOTION AND MOTION FOR
APPROVAL OF PAGA SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES**

[filed concurrently with Declaration of David
Arakelyan; Declaration of Jodey Lawrence;
Declaration of Nartasha Denise Taylor; and
[Proposed] Order]

Date: July 25, 2025

Time: 2:00 p.m.

Dept.: 24

Original Complaint filed: November 29, 2023

Trial Date: None set

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

2 **PLEASE TAKE NOTICE** that on July 25, 2025 at 2:00 9.m. in Department 24 of the
3 above-entitled Court, located at 800 N. Humboldt Street, San Mateo, CA 94401, Plaintiff Natasha
4 Denise Taylor (“Plaintiff” or “PAGA Representative”), on behalf of herself, the State of
5 California, and all aggrieved employees (the “Aggrieved Employees”), will and hereby does move
6 this Court pursuant to California Labor Code § 2698 et seq. for an order approving the settlement
7 agreement between Plaintiff and Defendant Realty Income Corporation (“Defendant”) (Plaintiff
8 and Defendant collectively referred to as the “Parties”) which will accomplish the following:
9 approve the representative action settlement embodied in the PAGA Settlement Agreement and
10 Release (“Settlement Agreement”); approve PAGA Counsel’s application for attorney’s fees and
11 litigation costs; and enter judgment approving the 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 Aggrieved Employees and the State 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 Defendant does not oppose this Motion. Plaintiff bases this Motion on this Notice and the
19 accompanying Memorandum of Points and Authorities, the Declaration of David Arakelyan
20 (“Arakelyan Decl.”), Declaration of Jodey Lawrence (“Lawrence Decl.”), and Declaration of
21 Natasha Denise Taylor (“Taylor Declaration”), the complete pleadings, records and files in the
22 case, and such other further oral and documentary evidence which may be submitted at or before
23 the hearing on this Motion.

24 DATED: June 30, 2025

D.LAW, INC.

25
26 By: /s/ David Arakelyan

27 David Arakelyan
28 Attorneys for Natasha Denise Taylor on behalf
of herself and Aggrieved Employees

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Through this motion, Plaintiff Natasha Denise Taylor (“Plaintiff”) requests that the Court
4 grant approval of the PAGA Settlement Agreement and Release (“Settlement” or “Settlement
5 Agreement”) reached between the Parties to resolve claims brought exclusively under the Private
6 Attorneys General Act of 2004, Labor Code § 2698, *et seq.* (“PAGA”) seeking civil penalties for
7 various violations of the California Labor Code and Industrial Wage Commission’s Wage Orders.
8 Pursuant to the Settlement, Defendant Realty Income Corporation (“Defendant”) will pay the Gross
9 Settlement Amount of \$170,000.00 on non-reversionary basis. (Declaration of David Arakelyan
10 (“Arakelyan Decl.”), ¶ 13; Exhibit 1, ¶ 3.1.)

11 As further explained below, Plaintiff and her counsel (“PAGA Counsel”) believe that the
12 Settlement is fair, reasonable and in the best interests of the State and the Aggrieved Employees.
13 Accordingly, Plaintiff requests that the Court “review and approve” the Settlement pursuant to Labor
14 Code § 2699(I)(2). If the Court deems the Settlement fair and acceptable, Plaintiff requests that the
15 Court enter an order approving the Settlement in the form lodged herewith and ordering the parties
16 and Administrator to carry out the terms of the Settlement Agreement and enter a Final Judgment
17 thereon.¹

18 **II. RELEVANT BACKGROUND AND PROCEDURAL HISTORY**

19 **A. Litigation Overview and Procedural History**

20 On November 29, 2023, Plaintiff commenced this Action by filing a Class Action Complaint
21 against Defendants alleging failure to provide meal and rest periods, failure to pay wages for off-the-
22 clock work, failure to pay overtime and double time wages at the correct rates, failure to reimburse
23 for necessary business expenses, failure to provide accurate written wage statements, and failure to
24 pay final wages upon separation from employment. (Arakelyan Decl., ¶ 4). Prior to the filing of the
25

26
27 ¹ Plaintiff has submitted the Settlement Agreement and this Motion to the LWDA by uploading it
28 on the LWDA’s website concurrently with the filing of this Motion as required by Labor Code §
2699(I)(2). (Declaration of David Arakelyan (“Arakelyan Decl.”) ¶ 47, Exhibit 6.)

Complaint, on September 25, 2023, Plaintiff gave timely written notice to Defendants and the LWDA by sending the PAGA Notice pursuant to Labor Code § 2699.3(a). (*Id.*, **Exhibit. 2.**)

After initiating the Action, the Parties met and conferred regarding the allegations in the Class Action Complaint and PAGA Notice and the enforceability of an arbitration agreement signed by Plaintiff. (Arakelyan Decl., ¶ 5.) On March 1, 2024, Defendant Robert Half, Inc. filed a Motion to Compel Arbitration of Plaintiff's individual PAGA claim. Defendant Realty Income Corporation joined the motion on April 2, 2024. (*Id.*, ¶ 6.)

After several postponements and an oral argument that took place on June 28, 2024, the Court issued an Order granting the Motion to Compel Arbitration and Staying the Case on August 2, 2024. (*Id.*, ¶ 7.)

On December 6, 2024, Defendant Robert Half, Inc. was dismissed from this lawsuit. (*Id.*, ¶ 8.)

On November 18, 2024, the Parties attended a half-day mediation with Scott Marcus. (*Id.*, ¶ 10.) With the assistance of a highly respected wage and hour mediator, the Parties agreed to the general terms for settling this Action that were first memorialized in a Memorandum of Understanding and thereafter in the long-form PAGA Settlement Agreement now before the Court for approval. (*Id.*)

PAGA Counsel represents that he is not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement. (Arakelyan Decl., ¶ 48.)

III. TERMS OF THE SETTLEMENT

A. Key Financial Terms of the Settlement

Gross Settlement Amount: Pursuant to the Settlement Agreement, Defendant Realty Income Corporation will pay a maximum, non-reversionary settlement amount of \$170,000.00 in full and final settlement of all claims alleged in the Operative Complaint and PAGA Notices ("Gross Settlement Amount"). (Arakelyan Decl., ¶ 13; Exhibit 1, ¶ 3.1).

Pending Court approval, the Gross Settlement Amount will be allocated as follows:

- a) Attorneys' fees in the amount of 1/3 (One-Third) of the Gross Settlement Amount, which is currently estimated to be \$56,667.00 ("PAGA Counsel Fees Payment"), and

litigation costs of not more than \$15,000.00 (“Litigation Expenses Payment”); (Arakelyan Decl. ¶ 13; Exh. 1, ¶ 3.2.1.) Plaintiff’s actual costs are at \$12,661.45, including the estimated costs for this filing, as evidenced by Plaintiff’s Cost Log, showing those amounts (*Id.*, also, **Exhibit 3**).

- b) Administration costs in the amount of \$5,000.00 to be paid to the Administrator (“Administration Expenses Payment”), Phoenix Class Action Administration Solutions (“Phoenix”), for sending notices and for calculating settlement shares and preparing all checks and mailings; (Exh. 1, ¶ 3.2.3.);
- c) Plaintiff’s Enhancement Award payment in the amount of \$5,000.00 to be paid to Plaintiff; (Exh. 1, ¶ 3.2.2.); and
- d) The remainder of the Gross Settlement Amount (the “Net Settlement Amount” or “PAGA Penalties”) after deducting the above costs is approximately \$90,671.55 and shall be designated as PAGA Penalties to be allocated between the LWDA and the Aggrieved Employees pursuant to Labor Code section 2699(i), with 75% (\$68,003.66) being paid to the LWDA (the “LWDA PAGA Payment”) and 25% (\$22,667.89) being paid to the Aggrieved Employees on a pro-rata basis (“Individual PAGA Payment”). (Exh. 1, ¶ 3.2.4.) The estimated average that each Aggrieved Employee will receive per PAGA Pay Period is \$158.52 (dividing \$22,667.89 with the total estimated number of Aggrieved Employees (143)). The estimated amount that each Aggrieved Employee will receive per PAGA Pay Period is \$4.53.

The Parties selected Phoenix to handle the notice and administration of the Settlement based on the competitiveness of their bid, their competency in administering settlements, and their responsiveness to the Parties’ counsel. (Arakelyan Decl., ¶ 14; Exh. 1, ¶ 7.1.)

B. Other Material Terms of the Settlement

Aggrieved Employee or Aggrieved Employees: means all any individuals who were directly employed by Defendant Realty in California as non-exempt employees and who worked during at least one day in California during the PAGA Period. (Arakelyan Decl., ¶ 12; Exhibit 1, ¶ 1.4.)

1 **PAGA Period:** means the period from September 25, 2022, through the date the Court
2 files an Order approving this PAGA settlement. (Arakelyan Decl., ¶ 12; Exhibit 1, ¶ 1.20.)

3 **PAGA Pay Period:** means any Pay Period during which an Aggrieved Employee worked
4 for REALTY INCOME CORPORATION for at least one day during the PAGA Period.
5 (Arakelyan Decl., Exhibit 1, ¶ 1.19.)

6 **Escalator Clause:** Based on its records, Defendant Realty Income Corporation estimates
7 that there are approximately 143 Aggrieved Employees who worked a total of 5,000 PAGA Pay
8 Periods during the PAGA Period. (Arakelyan Decl., ¶ 12, Exh. 1, ¶ 8.) If the actual number of
9 PAGA Pay Periods is more than 10% greater than 5,000, then the Gross Settlement Amount shall
10 be increased in proportion to increase in PAGA Pay Periods above 10% (e.g., if the number of
11 PAGA Pay Periods is 12% greater than 5,000, then the Gross Settlement Amount will be increased
12 by 2%). (Arakelyan Decl., ¶ 12; Exh. 1, ¶ 8.)

13 **IV. SUMMARY OF THE CLAIMS, DISCOVERY AND MEDIATION**

14 **A. Summary of the Claims**

15 Plaintiff alleges that Defendants violated various provisions of California law and seeks
16 civil penalties for the foregoing violations pursuant to PAGA. Under Labor Code § 2699,
17 specifically, Plaintiff alleged that Defendants:

18 • Failed to pay the Aggrieved Employees minimum wages and overtime by
19 implementing an unlawful time-rounding policy and practice which rounded down and reduced
20 the actual working hours recorded by Plaintiff and Aggrieved Employees. Furthermore, Plaintiff
21 and Aggrieved Employees were also consistently required to perform work “off-the-clock” both
22 before and after their shifts, including undergoing mandatory temperature checks, including
23 opening and scanning tax bills. (Arakelyan Decl., ¶ 18.)

24 • Failed to provide the Aggrieved Employees with compliant meal periods because
25 they were frequently interrupted during meal periods and regularly had to work through their meal
26 periods. (*Id.*) Furthermore, Defendant failed to pay Plaintiff and Aggrieved Employees premium
27 pay wages at their appropriate regular rates of pay for each meal and rest period denied. (*Id.*)

28 • Failed to provide the Aggrieved Employees with compliant rest periods as they

frequently received interrupted, shortened, or no rest periods. (*Id.*)

- Failed to reimburse the Aggrieved Employees for business expenses, including the use of their personal cell phones for work-related activities. (*Id.*)

- Failed to provide accurate wage statements as mandated by law pursuant to Labor Code section 226, including the failure to include all hours worked by the Aggrieved Employees. (*Id.*)

Defendant denied and continues to deny all of the claims made by Plaintiff in this Action and contend that they acted at all relevant times in conformance with the law. (Arakelyan Decl., ¶ 19.) Defendant contends that Plaintiff and the Aggrieved Employees were paid for all hours worked, that Plaintiff and the Aggrieved Employees were instructed and required to report all hours worked, that Defendant prohibited Plaintiff and the Aggrieved Employees from working beyond their scheduled shifts, and that any alleged off-the-clock work was performed without Defendant's knowledge and was de minimis; that Defendant provided lawfully compliant meal and rest periods and that any deviations were at the voluntary election of Plaintiff and/or the Aggrieved Employees and not at the request of Defendant or due to work requirements; that Defendant paid all wages due on a timely basis and using Labor Code compliant instruments; that Defendants' wage statements complied with the law; and that neither Plaintiff nor any Aggrieved Employees incurred reasonable business related expenses for which they were not reimbursed. (*Id.*) Defendant further contends that their above defenses are supported by their written policies applicable to Plaintiff and Aggrieved Employees. (*Id.*) As a result, PAGA Counsel had to appropriately discount the amount recoverable from Defendant in a settlement. (*Id.*)

B. Discovery, Mediation and Settlement

Prior to mediation, Plaintiff conducted comprehensive informal discovery and Defendant Realty Income Corporation provided data and numbers and documents, including a sampling of timekeeping records and wage statements relating to Plaintiff and Aggrieved Employees, documents containing Defendant's wage and hour policies, practices and procedures, meal and rest break policies, uniform policy, use of cell phone policy and summaries of data pertaining to the number of employees allegedly affected by Defendant Realty Income Corporation's wage and

hour policies, practices and procedures. (Arakelyan Decl., ¶ 9.) The information and data exchanged by Plaintiff and Defendant Realty Income Corporation prior to and during mediation and settlement negotiations were sufficient to reliably assess the merits of the Parties’ respective positions. (*Id.*)

As discussed above, on November 18, 2024, the Parties attended an all-day mediation with Scott Marcus. (Arakelyan Decl., ¶ 10.) With the assistance of a highly respected wage and hour mediator, the Parties agreed to the general terms for settling this Action that were first memorialized in a Memorandum of Understanding and thereafter in the long-form PAGA Settlement Agreement now before the Court for approval. (*Id.*)

V. THE SCOPE OF THE RELEASE

The Settlement Agreement defines “Released Parties” as “REALTY INCOME CORPORATION and each of its affiliated or related entities, as well as former and present partners, associates, employees, directors, officers, trustees, shareholders, owners, attorneys, agents of Realty, insurers, predecessors, successors, assigns, and subsidiaries.” (Arakelyan Decl., ¶ 15; Exh. 1, ¶ 1.27.) Subject to this Court’s approval of the Settlement Agreement, and effective on the date when Defendants fully fund the entire Gross Settlement Amount, Plaintiff and Aggrieved Employees will release claims against all Released Parties as follows:

Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice, including, but not limited to: (1) failure to pay overtime wages; (2) failure to pay double time wages; (3) failure to include all remuneration in calculating regular rate of pay; (4) failure to provide meal periods; (5) failure to provide rest periods; (6) failure to pay meal and rest period premiums; (7) failure to reimburse for necessary business expenses; (8) failure to pay off-the-clock wages; (9) failure to provide accurate wage statements; and (10) failure to pay final wages upon separation. This release shall expressly include a release for PAGA claims under California Labor Code Sections 201-203, 204, 210, 212,

213, 226, 226.3, 226.7, 226.8, 510, 512, 515, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, and the applicable IWC Wage Orders. This release shall also include a release for claims under the California Unfair Competition Law, California Business & Professional Code sections 17200, *et seq.* (Arakelyan Decl., ¶ 16(a); Exh. 1, ¶ 5.1.)

VI. 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 Plaintiff here does 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, Plaintiff complied with the notice requirements and properly pled a PAGA claim. (Arakelyan Decl. ¶ 4.)

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

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, 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.”

D. 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, Plaintiff would be entitled to fees as a Private Attorney General under Code of Civil Procedure § 1021.5 because Plaintiff brought this action to, and the action does, benefit the public. *Arias*, 46 Cal.4th at 985–986.

VII. ARGUMENT

A. The Court Should Approve the Settlement Agreement.

Pursuant to Labor Code § 2699(l), the parties must obtain Court approval of a settlement of a PAGA action on a representative basis. However, as explained in *Arias v. Superior Ct.* (2009) 46 Cal.4th 969, the parties need not follow the class action procedural rules in PAGA cases and therefore need not obtain approval of the PAGA settlement through a motion for preliminary or final approval.

Nonetheless, to comply with the requirements of Labor Code section 2699, Plaintiff submits this Motion and the Settlement Agreement for Court approval.

B. The Settlement is Fair and Adequate

Settlements to resolve PAGA Claims require court approval. (Labor Code ¶ 2699(1)(2).) Further, in accordance with the statutory requirement, Plaintiff provided a copy of the Settlement Agreement to the LWDA on the same day he filed the instant motion with this Court. (Arakelyan Decl., ¶ 47; Exh. 6.) PAGA civil penalties recovered on the State’s behalf are intended to “remediate present violations and deter future ones, not to redress employees’ injuries.” (*Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 542.) The standard for evaluating a PAGA settlement is not whether the employees are fully compensated for their injuries, but “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.” (*Moniz v. Adecco USA, Inc.*, (2021) 72 Cal.App.5th 56, 77, *disapproved of on other grounds by Turrieta v. Lyft, Inc.*, 16 Cal. 5th 664 (2024)).

Here, as discussed above, Defendant Realty Income Corporation must pay the Gross Settlement Amount of \$170,000.00 in full and final settlement of all claims alleged in the Operative Complaint and PAGA Notice. (Arakelyan Decl., ¶ 13; Exh. 1, ¶ 3.1.) This settlement payment would purportedly remediate any alleged labor law violations and deter future violations.

In addition, the settlement amount is fair to those affected because it accounts for a realistic assessment of the PAGA exposure on the claims as well as the significant possibility of the Court awarding only a fraction of the PAGA penalties sought by Plaintiff if Plaintiff prevailed on the merits due to the Court’s discretion to substantially reduce PAGA penalties under Labor Code § 2699(e)(2). Indeed, PAGA settlements for as little as \$0 have been approved (*See Nordstrom Com’n Cases* (2010) 186 Cal.App.4th 576, 589 (approving PAGA settlement and release that allocated \$0 to PAGA claim).) Courts have also approved settlements for \$20,000 or less. (*See, e.g., Hicks v. Toys ‘R’ Us-Delaware, Inc.*, (C.D. Cal. Sept. 2, 2014) 2014 WL 4703915, at *1 (approving \$5,000 PAGA payment in \$4 million settlement); *Chu v. Wells Fargo Invest. LLC* (N.D. Cal. Feb 16, 2011) 2011 WL 672645, at *1 (approving PAGA payment of \$7,500 in \$6.9

1 million settlement); *Williams v. Brinderson Constructors* (C.D. Cal. Feb. 6, 2017) 2017 WL
2 490901, at *5 (\$10,000 PAGA settlement in \$300,000 settlement).)

3 A review of the approval criteria demonstrates a substantial basis for granting this Motion.

4 **C. The Risks of Moving Forward with Plaintiff's PAGA Claim**

5 To help the Court evaluate the fairness of the Settlement, below is a discussion of the risk
6 evaluation made by Plaintiff and PAGA Counsel. They considered the arguments and defenses
7 asserted by Defendant at mediation, assessed the risks of moving forward to trial and what this Court
8 could do in awarding penalties even if Plaintiff were to prevail at trial.

9 Plaintiff estimated that the maximum potential exposure on the PAGA claim is \$500,000.00,
10 calculated by multiplying the total number of PAGA Pay Periods (5,000) by \$100 per violation.
11 (Arakelyan Decl., ¶ 21.) Plaintiff's calculation of the total potential exposure on the PAGA claim was
12 based on one PAGA penalty per pay period (i.e., Plaintiff did not stack the PAGA penalties in his
13 damages calculation). (*Id.*) Case law supports the notion that it is inappropriate to "stack" penalties
14 for multiple violations, particularly when those violations all stem from the same alleged "injury."
15 (*Id.* at ¶ 22.)

16 **D. Trial of Plaintiff's PAGA Claims Would Have Presented Many Hurdles.**

17 Defendant denied and continues to deny all of the claims made by Plaintiff in this Action and
18 contends that it acted at all relevant times in conformance with the law. (Arakelyan Decl., at ¶ 19.)
19 Defendant contend that Plaintiff and the Aggrieved Employees were paid for all hours worked and
20 that Defendant prohibited Plaintiff and the Aggrieved Employees from working beyond their
21 scheduled shifts; that Defendant provided lawfully compliant meal and rest periods and that any
22 deviations were at the voluntary election of Plaintiff and/or the Aggrieved Employees and not at the
23 request of Defendant or due to work requirements; that Defendant paid all wages due on a timely
24 basis; that Defendant paid all wages due on a timely basis and using Labor Code compliant
25 instruments; that Defendant's wage statements complied with the law; and that neither Plaintiff nor
26 any Aggrieved Employees incurred reasonable business related expenses for which they were not
27 reimbursed. (*Id.*) Defendant further contend that their above defenses are supported by their written
28 policies applicable to Plaintiff and Aggrieved Employees. (*Id.*) As a result, PAGA Counsel had to

1 appropriately discount the amount recoverable from Defendant in a settlement. (*Id.*)

2 **E. The Court May Have Exercised Its Discretion to Reduce Civil Penalties.**

3 “PAGA penalties...are mandatory, not discretionary” and the Court must award penalties
4 upon a showing that Defendant violated the Labor Code. *Amaral v. Cintas Corp. No. 2* (2008) 163
5 Cal. App. 4th 1157, 1213; *Moreno v. Autozone, Inc.* (N.D. Cal. June 5, 2007) No. C05-04432 MJJ,
6 2007 WL 1650942, at *3. However, PAGA does provide the Court with discretion when it awards
7 these penalties. Labor Code § 2699(e)(2) states that “a court may award a lesser amount than the
8 maximum civil penalty amount specified by this part if, based on the facts and circumstances of the
9 particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or
10 confiscatory.” (*See also Thurman v. Bayshore* (2012) 203 Cal. App. 4th 1112 (reducing PAGA
11 penalties by 30% under this provision).

12 In departing from the \$100/pay period calculation to arrive at the \$170,000.00 Gross
13 Settlement Amount in this case, Plaintiff considered what the realistic potential exposure could be
14 and why the Court may reduce any eventual recovery at its discretion, including Defendant’s defenses
15 to the claims and the potential manageability issues with PAGA claims at trial. (Arakelyan Decl., at
16 ¶ 23.) Based on those considerations, Plaintiff applied a discount of 60% to the maximum potential
17 exposure (which equates to \$40 penalty per pay period) to get a realistic potential exposure of
18 \$200,000.00 (5,000 pay periods x \$40 penalty per pay period). (*Id.*)

19 The Gross Settlement Amount of \$170,000.00 is 85% of the realistic potential exposure of
20 \$200,000.00. PAGA Counsel submits that this is an excellent result for the State and Aggrieved
21 Employees in light of the strengths and weaknesses of the case and the risks and delays posed by
22 further litigation. (*Id.*, ¶ 24.)

23 **VIII. THE SETTLEMENT ADMINISTRATION PROCESS**

24 **A. Selection of Administrator**

25 The Parties selected Phoenix Class Action Administration Solutions (“Phoenix” or the
26 “Administrator”) to handle the notice and administration of the Settlement based on the
27 competitiveness of their bid, their competency in administering settlements, and their
28 responsiveness to the Parties’ counsel. (Arakelyan Decl., ¶ 14; Exh. 1, ¶ 7.1.) Pursuant to the

Settlement Agreement, the administration costs shall not exceed \$5,000.00. (Arakelyan Decl., ¶ 13(b).)

B. Administration Process

Within 15 calendar days of the Court filing the Approval Order, Defendant Realty Income Corporation will deliver the Aggrieved Employee Data (identifying information in Defendants' possession including the Aggrieved Employee's full name, last-known mailing address, and Social Security number, and information necessary to determine the estimated settlement allocation to each Aggrieved Employee) to the Administrator in the form of a Microsoft Excel spreadsheet. (Arakelyan Decl., Exh. 1, ¶ 4.2.) Defendant Realty Income Corporation shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than fourteen (14) days after the Effective Date.² (Arakelyan Decl., Exh. 1, ¶ 4.3.) Thereafter, within ten (10) days of Defendant's funding the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Expenses Payment, and Plaintiff's Enhancement Award payment. (Arakelyan Decl., Exh. 1, ¶ 4.4.) For all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address, the Administrator must conduct an Aggrieved Employee Address Search and re-mail checks within three days to the USPS forwarding address provided within 7 days of receiving a returned check. (Arakelyan Decl., Exh. 1, ¶ 4.4.2.) The checks issued by the Administrator will be voided after 180 days if remained uncashed, and the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee. (Arakelyan Decl., Exh. 1, ¶ 4.4.1-4.4.3.)

IX. THE REQUEST FOR ATTORNEYS' FEES AND COSTS

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

Pursuant to the Settlement Agreement, PAGA Counsel is requesting an award of attorneys' fees in the amount of **\$56,667.00** and an award of litigation costs to PAGA Counsel of **\$12,661.45**,

² Effective Date means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment is final the day the Court enters Judgment. (Arakelyan Decl., Exh. 1, ¶ 1.10)

1 which is lower than the requested \$15,000.00 “not-to-exceed” amount in the Settlement
2 Agreement. (Arakelyan Decl., ¶ 13.)

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

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

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

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

26 *Id.* at p. 573. Here, the \$170,000.00 common fund created for the benefit of the public is, with Plaintiff
27 as a proxy for the State, not unlike the fund created in class action settlements, with the public the
28 equivalent of the class referenced in *Laffitte*.

29 The Court, in *Laffitte*, pointed out several reasons why the percentage-of-the-fund method is
30 ///

1 preferred over the alternative lodestar-multiplier approach in California courts:

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

8 *Id.* at 573.

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

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

20 PAGA Counsel at D.Law, Inc. are experienced employment attorneys with expertise in wage
21 and hour class and representative actions. (Arakelyan Decl., ¶¶ 33-42.) Throughout this case, PAGA
22 Counsel have borne, and continue to bear, the entire risk and cost of litigation associated with this
23 Action on a purely contingency basis. (Arakelyan Decl., ¶ 27.) As a result, PAGA Counsel have yet
24 to receive any compensation for the amount of time and money invested in the case to date. (*Id.*)
25 Moreover, courts have approved attorneys’ fees awards in other PAGA settlements on a common
26 fund basis at higher percentages than the one-third Plaintiff is requesting here. (*Id.* at ¶¶ 29-30.)

27 For these reasons, PAGA Counsel’s requested fee of one-third of the Gross Settlement
28 Amount is well within the range of reasonableness and is fair compensation for undertaking this
29 complex and risky litigation on a contingent basis.

30 ///

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

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

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

13 Associate Attorney David Arakelyan's current billing rate is \$500.00 (4 years out of law
14 school, Laffey Matrix rate of \$581.00), and he spent approximately 87.8 hours in this matter with a
15 lodestar amount of \$51,011.80. (Arakelyan Decl., ¶ 31.) Senior Attorney David Keledjian's current
16 billing rate is \$650.00 (9 years out of law school, Laffey Matrix rate of \$839.00), and he spent
17 approximately 28.4 hours in this matter with a lodestar amount of \$23,827.60. (*Id.*) Associate
18 Attorney Svetlana Hovhannisyan's billing rate is \$425.00 (1 year out of law school, Laffey Matrix
19 rate of \$473), and she spent approximately 5 hours on this matter with a lodestar amount of \$2,365.
20 Associate Attorney Pola Bernabe's billing rate (at the time of her employment with D.Law, Inc.) was
21 \$475.00 (2.5 years out of law school, Laffey Matrix rate of \$473), and she spent approximately 0.9
22 hours on this matter with a lodestar amount of 427.50. Attorney Alvin Lindsay's billing rate is
23 \$900.00 (over 20 years out of law school, Laffey Matrix rate of \$1,141.00, and he spent
24 approximately 0.5 hours on this matter with a lodestar amount of \$570.50 Associate Attorney Kevin
25 Burns' billing rate is \$425.00 (2 years out of law school, Laffey Matrix rate of \$ 473.00), and he spent
26 approximately 0.1 hours on this matter with a lodestar amount of \$42.50. The hourly rates for each
27 attorney listed above are the reasonable and usual hourly rates charged by that attorney for class
28 action and PAGA litigation. The total lodestar for PAGA Counsel is \$78,244.90, above the fee request

of \$56,667.00 and requires no **multiplier**. (*Id.*; **Exhibit 4.**)

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

The litigation expenses incurred by PAGA Counsel in this Action are also to be reimbursed under the Settlement Agreement. PAGA Counsel seek **\$12,661.45** in reimbursement for litigation costs (Kim Decl., ¶ 13.) The lion's share of these costs were incurred in connection with mediation (and the related expert analysis), 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 \$12,661.45.

X. THE REQUEST FOR PLAINTIFF'S ENHANCEMENT AWARD PAYMENT

Plaintiff is entitled to a reasonable service payment for his efforts and initiative in bringing and helping to prosecute this action. (Arakelyan Decl., ¶ 43.) Plaintiff initiated this litigation on behalf of State of California and Aggrieved Employees who will now be entitled to receive payment from the Agreement. (*Id.*) By initiating and pursuing the Action, Plaintiff stepped into the shoes of the State of California and undertook the responsibilities of serving in representative capacity. Plaintiff spent significant time better apprising himself of his rights, deciding whether remedial action should be taken, how it should be taken, searching for attorneys, and contacting PAGA Counsel, who spent many hours with Plaintiff discussing the case and the law. In the end, Plaintiff decided to vindicate not only his own rights but also those of other aggrieved employees by filing a representative action lawsuit. (*Id.*)

Both before and after the filing of this lawsuit, Plaintiff conferred with PAGA Counsel on to discuss every aspect of his case. (Arakelyan Decl., ¶ 44.) Plaintiff provided PAGA Counsel with information about Defendant and about the industry generally, produced and reviewed documents, identified witnesses, consulted with PAGA Counsel regarding litigation strategy, participated in the mediation process, monitored the progress of the litigation with PAGA Counsel, and reviewed and signed the Settlement Agreement. (*Id.*)

In light of the foregoing, PAGA Counsel believes that Plaintiff's Enhancement Award payment of \$5,000.00 is fair and reasonable. (Arakelyan Decl., ¶ 45.)

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1 **XI. THE COURT SHOULD APPROVE THE COSTS OF ADMINISTRATION**

2 The parties agreed to use Phoenix as the third-party settlement administrator in this case.
3 (Arakelyan Decl., ¶ 46.) Phoenix will be responsible for updating the addresses for the Aggrieved
4 Employees, mailing the Notice of PAGA Settlement and Release of Claims (“Notice of Settlement”) and
5 calculating and distributing the settlement checks, among other duties. (*Id.*) Phoenix capped its
6 fees at \$3,995.00 for administering the Settlement, and based on PAGA Counsel’s experience in other
7 class and PAGA settlements, Phoenix’s costs for administering this Settlement are fair and
8 reasonable. (*Id.*)

9 **XII. CONCLUSION**

10 Plaintiff and PAGA Counsel submit that the proposed Settlement as documented in the
11 Settlement Agreement is fair, adequate, reasonable, and in the best interest of Plaintiff, Defendant,
12 the Aggrieved Employees, and the State of California. Plaintiff respectfully requests that the Court
13 approve the Settlement and order the Parties to carry out the Settlement according to the terms of the
14 Settlement Agreement and enter the concurrently filed [Proposed] Order Granting Approval and
15 Judgment to that end.

16 DATED: June 30, 2025

D.LAW, INC

17
18 By: /s/ David Arakelyan
19 David Arakelyan
20 Attorneys for Plaintiff Natasha Denise Taylor
21 on behalf of herself and Aggrieved
22 Employees
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