John G. Yslas (SBN 187324)
john.yslas@wilshirelawfirm.com
Jeffrey C. Bils (SBN 301629)
jeffrey.bils@wilshirelawfirm.com
Aram Boyadjian (SBN 334009)
aram.boyadjian@wilshirelawfirm.com
Lisa B. Iturriaga (SBN 339678)
lisa.iturriaga@wilshirelawfirm.com
Andrew Sandoval (SBN 346996)
andrew.sandoval@wilshirelawfirm.com
WILSHIRE LAW FIRM, PLC
660 S. Figueroa Street, Sky Lobby
Los Angeles, California 90017
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

Attorneys for Plaintiff Sabrina N. Batres

[*Additional Counsel on next page*]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

SABRINA N. BATRES, individually, and on behalf of all others similarly situated,

Plaintiffs,

v.

WISH AUTOMOTIVE II, INC. DBA INFINITI OF VAN NUYS, a California corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 23STCV19968 (Lead)
Consolidated for all purposes with
Case No. 23STCV28137

Assigned for all purposes to:
Hon. Timothy P. Dillon
Dept. 15

NOTICE OF MOTION AND MOTION FOR APPROVAL OF PAGA SETTLEMENT

Date: January 26, 2026
Time: 10:00 a.m.

David Lavi, Esq. (State Bar No. 277604)
Email: dlavi@ebralavi.com
Arie Ebrahimian, Esq. (State Bar No. 274961)
Email: arie@ebralavi.com
E&L, LLP
8889 W. Olympic Blvd., 2nd Floor
Beverly Hills, California 90211
Telephone: (213) 213-0000
Facsimile: (213) 213-0025
Attorneys for Plaintiff J. Felix Rosas Cordova

TABLE OF CONTENTS

TABLE OF AUTHORITIES

State Cases

Statutes

Treatises

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

YOU ARE HEREBY NOTIFIED THAT at 10:00 a.m. on January 26, 2026, or as soon thereafter as the matter can be heard, in Department 15 of the above entitled Court, located at 312 N Spring St., Los Angeles, CA 90012, plaintiffs Sabrina N. Batres and J. Felix Rosas Cordova (collectively, "Plaintiffs") will and hereby do move for an order approving the settlement of the PAGA claim alleged against defendants Wish Automotive, Inc. dba Nissan of Van Nuys, Wish Automotive II, Inc. dba Infiniti of Van Nuys, and Wish Automotive III, Inc. dba Nissan of Alhambra (collectively, "Defendants") in accordance with Labor Code §2699(l). The proposed settlement is set forth in the accompanying PAGA Settlement Agreement ("Settlement Agreement").

This Motion will be based on this notice, the accompanying points and authorities, the Declaration of John G. Yslas, the Declaration of David Lavi, the Declaration of Sabrina N. Batres, the Declaration of J. Felix Rosas Cordova, and the complete files and records in this action. The Labor Workforce Development Agency has been served with this motion and the Settlement Agreement as set forth in the accompanying proof of service.

Respectfully submitted,

Dated: November 25, 2025

WILSHIRE LAW FIRM, PLC
E&L, LLP

By: Lisa Iturriaga
Lisa B. Iturriaga
David Lavi
Attorneys for Plaintiffs

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Sabrina N. Batres and J. Felix Rosas Cordova (collectively, "Plaintiffs") reached a settlement of the California Private Attorneys General Act, Cal. Labor Code §2699, *et seq*. ("PAGA") claim asserted in this action against defendants Wish Automotive, Inc. dba Nissan of Van Nuys, Wish Automotive II, Inc. dba Infiniti of Van Nuys, and Wish Automotive III, Inc. dba Nissan of Alhambra (collectively, "Defendants") (collectively, the "Parties"). In accordance with California Labor Code §2699(l), Plaintiffs now ask this Court to review and approve the settlement of Plaintiffs' PAGA claim.[1] This is a PAGA Settlement for civil penalties and is not a class settlement and does not release the individual wage claims, if any, of the affected employees other than the Plaintiffs. Cal. Labor Code § 2699(g)(1); *Iskanian v. CLS Transportation*, 59 Cal. 4th 348, 381 (2014); *ZB, N.A. v. Superior Court*, 8 Cal. 5th 175, 182 (2019) (unpaid wages are not recoverable under PAGA).

The PAGA Settlement is set forth in the accompanying PAGA Settlement Agreement ("Settlement Agreement"). A true and correct copy of the Settlement Agreement which sets forth the terms for the settlement of the PAGA claims is attached as Exhibit 1 to the Declaration of John G. Yslas in Support of Motion for Approval of PAGA Settlement ("Yslas Decl."), filed herewith. Capitalized terms shall have the same meaning as defined in the Settlement Agreement. The LWDA received notice of this Settlement on November 25, 2025. Yslas Decl. ¶ 32.

A proposed order confirming review and approval of the PAGA settlement is submitted herewith.

II. RELEVANT FACTS AND PRODCEDURAL HISTORY

On August 21, 2023, Plaintiff Batres filed a class action complaint in the Los Angeles County Superior Court. Yslas Decl., ¶ 3. On September 11, 2023, Plaintiff Batres gave timely written notice to Defendants and the LWDA (LWDA-CM-980932-33). *Id*. On November 15, 2023, Plaintiff Batres

[1] Section 2699(1)(2) provides as follows: "The superior court shall review and approve any settlement of any civil action pursuant to this part."

filed a PAGA representative action complaint alleging causes of action against defendant Wish Automotive II, Inc. dba Infiniti of Van Nuys for civil penalties under PAGA. *Id*.

On January 16, 2024, the Court on its own motion ordered that the class and PAGA action be consolidated for all purposes, with the class action (Case No. 23STCV19968) being designated as the lead case. *Id*.

On April 29, 2024, Plaintiff Cordova gave timely written notice to Defendants and the LWDA (LWDA-CM-1025299-24). Yslas Decl., ¶ 4; *see also* Declaration of David Lavi in Support of Motion for Order Approving Settlement Pursuant to California Labor Code Private Attorneys General Act and Rendering Judgment ("Lavi Decl."), ¶ 4. On July 22, 2024, Plaintiff Cordova filed a PAGA representative action alleging causes of action against defendant Wish Automotive II, Inc. dba Infiniti of Van Nuys for civil penalties under PAGA. Yslas Decl., ¶ 4; Lavi Decl., ¶ 5.

Thereafter, the Parties met and conferred and agreed to mediate the PAGA Action with Kevin Barnes, Esq., a well-respected and experienced mediator in wage and hour class and representative actions, on May 19, 2025. Yslas Decl., ¶ 5; Lavi Decl., ¶ 7. In advance of mediation, PAGA Counsel conducted a thorough investigation into the facts of, and applicable law to, the PAGA Action. Yslas Decl., ¶ 5. Prior to mediation, Plaintiffs obtained through informal discovery, including a representative sampling of time and payroll data for Aggrieved Employees and the necessary policy documents to properly evaluate the strengths and weaknesses of the claims and engage in meaningful settlement discussions. *Id*.

On May 19, 2025, the Parties engaged in an all-day mediation session before Mr. Barnes. Yslas Decl., ¶ 6. With the help of Mr. Barnes, the Parties were ultimately able to reach an agreement resolving all PAGA claims. *Id*. The settlement was negotiated in light of all known facts and circumstances and the uncertainty associated with litigation – including the risk of Plaintiffs not being able to maintain representative claims, the difficulty of proving Plaintiffs' claims in a manageable trial, the merits of Defendants' potential defenses, and the significant delay and potential appellate issues inherent to litigation – and was reached after extensive arm's length negotiations, with the assistance of Mr. Barnes. *Id*.

On October 15, 2025, with knowledge of defendant's counsel, Plaintiff Cordova submitted an amended PAGA letter to the LWDA informing them of additional defendants named as co-defendants. Lavi Decl., ¶ 8. A copy of the letter was also provided to counsel for Defendants. *Id*.

Plaintiffs intend to consolidate their actions by filing a First Amended PAGA Representative Action Complaint in the Los Angeles County Superior Court, Case No. 23STCV19968 against Defendants prior to the scheduled hearing on this PAGA Approval Motion. Yslas Decl., ¶ 7; Lavi Decl., ¶¶ 9-10.

III. TERMS OF THE PAGA SETTLEMENT

A. <u>Aggrieved Employees</u>

"Aggrieved Employees" means all current and former hourly, non-exempt employees employed by Defendants in the State of California during the PAGA Period. Settlement Agreement, § 1.4. Defendant has represented that there are 539 Aggrieved Employees that worked a total of 15,000 PAGA Pay Periods between January 24, 2022 and the date of mediation. *Id*. at § 4.1.

B. <u>Settlement Terms</u>

The Settlement Agreement negotiated by the Parties provides for a Gross Settlement Amount ("GSA") payment in the amount of $300,000.00 to resolve the PAGA Action. Settlement Agreement, § 3.1. The Gross Settlement Amount will be used to pay Individual PAGA Payments, PAGA Counsel Fees, PAGA Counsel Expenses, the PAGA Representatives Service Payments and the Administrator's Expenses. *Id*. at §§ 3.2.1-3.2.4. After these deductions, the amount remaining is the Net Settlement Amount or "NSA," which is estimated to be $155,842.14. *Id*. at § 1.17; Yslas Decl, ¶ 8. The NSA will be distributed to the LWDA and Aggrieved Employees as PAGA Penalties. Settlement Agreement, § 3.2.4.

1. <u>PAGA Penalties:</u> The NSA will be distributed as PAGA Penalties with seventy-five percent (75%) allocated to the LWDA PAGA Payment and the remaining twenty-five percent (25%) allocated to the Individual PAGA Payments for Aggrieved Employees. *Id*., ¶ 3.2.4. This 75/25 allocation is required by Labor Code §2699 as explained by *ZB, N.A. v. Superior Court*, 8 Cal.5th 175 (2019).

2. Individual PAGA Payments: The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. *Id*. at ¶ 3.2.4. The PAGA Period is the time period from January 24, 2022 to the date of PAGA Approval. *Id*. at ¶ 1.21.

3. PAGA Representatives Service Payments: Subject to Court approval, Plaintiffs shall be paid PAGA Representatives Service Payments not to exceed $10,000.00 each, for their time and effort in bringing and presenting the Action. *Id*. at ¶ 3.2.1.

4. PAGA Counsel Fees Payment: Subject to Court approval, PAGA Counsel shall be entitled to receive an award of reasonable attorneys' fees of not more than 1/3 (one-third), which is currently estimated to be $100,000.00. *Id*. at ¶ 3.2.2.

5. PAGA Counsel Litigation Expenses Payment: Subject to Court approval, PAGA Counsel shall be entitled to receive reimbursement of costs, not to exceed $30,000.00. *Id*. Counsel seeks reimbursement of actual costs incurred in the amount of $19,607.86 ($11,732.56 for Wilshire Law Firm, PLC's costs and $7,875.30 for E&L, LLP's costs). Yslas Decl. ¶ 30, Exhibit 2; Lavi Decl. ¶ 50, Exhibit 2.

6. Administrator Expenses Payment: The Parties agreed to appoint ILYM Group, Inc. ("ILYM") as the Administrator for the Settlement. *Id*. at ¶ 1.2. The Settlement Administration Expenses, which are estimated not to exceed $4,550.00 shall be paid from the Gross Settlement Amount. Settlement Agreement, ¶ 3.2.3.

C. Release

Effective as of the date that Defendants fully fund the entire GSA, Plaintiffs, Aggrieved Employees, and PAGA Counsel, will release claims against all Released Parties from all claims for PAGA civil penalties that are alleged or reasonably could have been alleged based on the facts alleged in the Operative Complaint and in the Amended PAGA Letter. The Released PAGA Claims are those that accrued during the PAGA Period, including but not limited to (and for illustrative purposes only), claims for PAGA civil penalties for: (1) failure to pay for all hours worked, including minimum, straight time, and overtime wages; (2) failure to provide meal periods; (3) failure to authorize and permit rest periods; (4) failure to pay all earned wages twice per month; (5) failure to maintain accurate records of hours worked and meal periods; (6) failure to timely pay all wages at termination; (7) failure to furnish accurate itemized wage statements; (8) failure to indemnify for necessary expenditures; (9) failure to produce requested employment records; (10) failure to keep accurate and complete payroll records; (11) failure to provide proper sick leave and supplemental paid sick leave; (12) refusal to pay wages due and payable and/or denial of the validity of any claim to wages due; (13) secretly paying wages lower than required by statute while purporting to pay legal wages; (14) failure to pay vested vacation and/or paid time off; (15) failure to provide suitable seating; (16) for unlawful agreements; (17) for failure to timely provide temporary workers with wages; (18) for preventing employees from using or disclosing the skills, knowledge and experience they obtained at Employers, and whistleblower violations; (19) for unlawful inquiries into criminal histories; and (20) for workplace health and safety violations. Settlement Agreement, § 5.2.

D. <u>Settlement Administration</u>

Defendants will provide the Aggrieved Employee Data to the Administrator, ILYM, in the form of a Microsoft Excel spreadsheet within ten (10) calendar days after the Court grants PAGA Approval. *Id*. at § 4.2. Defendants have a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted Aggrieved Employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. *Id*.

Defendants shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than twenty-one (21) days after the Effective Date. *Id*. at §§ 1.9, 4.3. Within ten (10) days after receipt of the GSA from Defendant, the Settlement Administrator will issue to each Aggrieved Employee a check for their Individual PAGA Payment at their last known home address along with an explanatory letter.[2] *Id*. at §§ 4.4., 4.4.1. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. *Id*. at § 4.4.2. If no forwarding address is provided, the Settlement

[2] The form of the notice to accompany the checks is attached as Exhibit 2 to the Settlement Agreement.

Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address, Social Security number, phone number, credit reporting and social media of the Aggrieved Employee involved and will then perform a re-mailing. *Id.*

All checks not cashed within 180 days of payment shall be paid to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee. *Id*. at § 4.4.3. The Individual PAGA Payments are 100% penalties and shall be reported using IRS tax form 1099. *Id*. at § 3.2.4.

Within ten (10) days after receipt of the GSA from Defendant, the Administrator will pay the Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and the PAGA Representatives Service Payments. *Id*. at § 4.4. Disbursement of the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment and the PAGA Representative Service Payment shall not precede disbursement of Individual PAGA Payments. *Id*. Within 10 calendar days, the Settlement Administrator will provide PAGA Counsel and Defense Counsel with a final report detailing its disbursements. *Id*. at § 6.4.1.

Pursuant to California Labor Code Section 2699(1), Plaintiffs provided a copy of the Settlement Agreement to the LWDA. Yslas Decl., ¶ 32, Exhibit 3. In addition, Plaintiffs will submit to the LWDA a copy of the Court's judgment and order approving the Settlement Agreement within ten (10) days after entry of judgment or order. *Id*. at ¶ 32.

IV. THE COURT SHOULD GRANT APPROVAL OF THE PAGA SETTLEMENT

A. Legal Standard

Labor Code § 2699(l) requires that the Court "shall review and approve any settlement of any civil [PAGA] action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court." In doing so, the trial court must consider whether the settlement 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., 72 Cal. App. 5th 56, 77-78 (Cal. Ct. App. Nov. 30, 2021)(overruled in part on other grounds); see also *O'Connor v. Uber Technologies, Inc.*, 201 F. Supp. 3d 1110, 1133 (N.D. Cal. 2016)(adopting guidance from the LWDA providing that "when a PAGA claim is settled, the relief provided for under the PAGA [must] be genuine and meaningful, consistent with the underlying purpose of the statute to benefit the public").

The court's role in reviewing PAGA settlements differs from its gatekeeping function in the class action context. In class actions, courts have a fiduciary duty to protect the interests of absent class members, whose individual claims will be discharged. *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 129 (2008). In this role, courts conduct an "independent assessment of the adequacy of the settlement terms," which requires them to have sufficient data and information about the amount in controversy and the realistic range of outcomes. *Id.* at 132. Courts consider a variety of factors in conducting this analysis, including whether the settlement is negotiated at an arm's length, whether there is sufficient discovery and information to permit parties and the court to act intelligently, whether the attorneys have experience with the type of issues, and whether the number of objectors is small. *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1800-1801 (1996).

However, a PAGA representative action is "not akin to a class action;" it "is a species of *qui tam* action." *Flores v. Starwood Hotels & Resorts Worldwide, Inc.,* 253 F.Supp.3d 1074, 1076 (C.D. Cal. 2017). When reviewing a PAGA-only settlement, courts do not consider the value of individuals' claims for damages because a PAGA settlement does not release those claims. *See Kim v. Reins Int'l California, Inc.*, 9 Cal.5th 73, 87 (2020)(PAGA claims differ from individual claims); *ZB, N.A. v. Superior Court*, 8 Cal.5th 175, 188 (2019) (noting that PAGA penalties do not seek damages that are compensatory in nature). "The state's interest in such an action is to enforce its laws, not to recover damages on behalf of a particular individual." *Huff v. Securitas Sec. Servs., USA, Inc.*, 23 Cal.App.5th 745, 760 (2018). Instead of focusing on fair recovery for individual claims, the goal of PAGA enforcement is to achieve "maximum compliance with state labor laws." *Id*. at 756; *see also Iskanian*, 59 Cal.4th at 383 (noting that the goal of PAGA is to impose civil penalties for Labor Code violations "significant enough to deter violations"); *McKenzie v. Federal Exp. Corp.*, 765 F.Supp.2d 1222, 1233 (C.D. Cal. 2011)("Unlike a class action seeking damages… 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.").

B. The PAGA Penalties Secured by the Settlement Are Genuine and Meaningful and Fulfill PAGA's Underlying Purpose to Benefit the Public

The Settlement of $300,000.00 is significant enough to deter violations and provide genuine and meaningful relief—approximately $155,842.14 in PAGA Penalties to the State and the Aggrieved Employees—thus fulfilling the underlying purpose of PAGA to benefit the public. Yslas Decl., ¶¶ 8 – 13; *see Jordan v. NCI Grp., Inc.*, No. EDCV161701JVSSPX, 2018 WL 1409590, at *3 (C.D. Cal. Jan. 5, 2018) ("The proposed settlement imposes a substantial penalty payment of $150,000.00, paid in exchange for a release of only those claims pled in the notice to the LWDA and the Complaint. This penalty has a substantial deterrent effect on NCI and other California employers. Furthermore, the proposed settlement encourages compliance with the specific requirements of the Labor Code, which has the effect of protecting workers from unlawful employment practices and working conditions."); *Echavez v. Abercrombie & Fitch Co.*, No. CV 11-09754-GAF, 2017 WL 3669607, at *3 (C.D. Cal. Mar. 23, 2017) (finding that "[t]he primary purpose of PAGA, i.e., the empowerment of aggrieved employees to act as private attorneys general to collect civil penalties from their employers for Labor Code violations, [was] served by the proposed PAGA penalty in the parties' settlement agreement," where $340,000 of $700,000 settlement was allocated to PAGA penalties which were divided 75% to the LWDA and 25% to an estimated 10,000 aggrieved employees).

This PAGA Settlement amount compares favorably to the estimated amount of PAGA penalties. Plaintiff calculated that the maximum amount of statutory PAGA civil penalties was potentially $1.5 million for 539 employees based on 15,000 pay periods.[3] Yslas Decl., ¶ 9. Importantly, however, these calculations were performed at the maximum statutory rate for the penalties, when in fact, it is likely that any penalties awarded would be at a lower rate. California Labor Code Section 2699(e)(1) permits a Court to award a lesser amount than the maximum civil penalty if based on the facts and circumstances to do otherwise would result in an award that is "unjust, arbitrary and

[3] Stacking is where more than one civil penalty is imposed in a pay period for the same conduct. The valuation of $1.5 million is the civil penalty amount without stacking. If stacking is permitted, then the valuation increases with each additional penalty added to each pay period. Plaintiffs, however, are not aware of any PAGA award that permitted stacking and, in the cases cited herein, only one penalty per pay period was assessed. Yslas Decl., ¶ 9.

oppressive or confiscatory." *See Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018) (affirming a judgment after trial that only provided for a PAGA penalty of $5 per pay period). Therefore, at trial, any PAGA penalties awarded could be significantly less than Plaintiff's calculation even where Plaintiff prevailed on the PAGA claim. *See Fleming v. Covidien*, No. ED CV 10-01487 RGK (OPx), 2011 U.S. Dist. LEXIS 154590 (C.D. Cal. Aug. 12, 2011) (a federal court reduced PAGA penalties from $2,800,000.00 to $500,000.00, a reduction of 82.2%, because the court found maximum penalties "unjust" because the employees had suffered no injuries).

C. <u>The Settlement Is Reasonable Given the Risks of Further Litigation</u>

In order to recover any PAGA penalties, Plaintiffs would be required at trial to prove each of the underlying Labor Code violations. *See Cardenas v. McLane Foodservice, Inc.*, No. BCV-23-102915, 2011 U.S. Dist. LEXIS 13126, *10 (C.D. Cal. Jan. 31, 2011) ("Given the statutory language [of PAGA], a plaintiff cannot recover on behalf of individuals whom the plaintiff has not proven suffered a violation of the Labor Code by the defendant."). Here, Plaintiffs would need to prove that each Aggrieved Employee suffered a violation for each period the employee worked in relation to (1) failure to pay for all hours worked, including minimum, straight time, and overtime wages; (2) failure to provide meal periods; (3) failure to authorize and permit rest breaks; (4) failure to pay all earned wages twice per month; (5) failure to maintain accurate records of hours worked and meal periods; (6) failure to timely pay all wages at termination; (7) failure to furnish accurate itemized wage statements; (8) failure to indemnify for necessary expenditures; (9) failure to produce requested employment records; (10) recordkeeping requirement violations; (11) violation of wage theft protection act of 2011; (12) violations of California labor code §§ 245-248.5; (13) failure to provide supplemental paid sick leave (14) refusal to make payment; (15) seating violations; (16) statutory wage violations; (17) failure to pay vested vacation/paid time off; (18) failure to timely provide temporary workers with owed wages; (19) unlawful agreements; (20) unlawful criminal history inquiries; (21) unlawful PAGA waiver; (22) preventing employees from using or disclosing skills, knowledge, and experience; (23) whistleblower violations; (24) workplace health and safety violations; and (25) unfair business practices (Cal. Lab. Code §§ 17200, *et seq*.). Yslas Decl., ¶ 10.

Defendants maintain that Plaintiffs and the Aggrieved Employees were properly compensated, and that they did not violate the Labor Code as to any of them. *Id*. at ¶ 11. Accordingly, Defendant disputes and denies Plaintiffs' allegations and claims asserted in the operative complaint which are resolved by the Settlement Agreement. *Id*. Defendants asserted additional defenses to the PAGA claim, not only as to liability but also as to the amount of the penalties. *Id*. Defendants could argue that no penalties prior to the PAGA notification should be awarded because the violations were not intentional, and at least one Court has so ruled. *Id*. These defenses present a risk to the PAGA claim and the potential that some or all of the PAGA penalties sought may not be awarded. *Id*.

While Plaintiffs are confident in the merits of the case, a legitimate controversy exists as to each cause of action for penalties, the factual allegations, the evidentiary basis, and the underlying claims. *Id*. at ¶ 12. Plaintiffs also took into account the fact that continued litigation would be expensive, involving a trial and possible appeals, and would substantially delay and potentially reduce any recovery to the state and the Aggrieved Employees. *Id.* Assuming Plaintiffs could prove at least one violation per pay period and the Court awarded $100.00 in PAGA penalties for each of the 15,000 pay periods during the PAGA Period, the total penalties would be approximately $1.5 million. *Id*. As such, the Gross Settlement Amount of $300,000.00 is approximately 20% of the maximum realistic liability in this case.

Thus, when the risks of litigation, the burdens of proof necessary to establish liability, and the probability of appeal of a favorable judgment are considered, it is clear that the settlement amount of $300,000.00 is reasonable and in the best interest of the state and the public. *Id.* at ¶ 12. Plaintiffs objectively and knowledgably balanced the strengths and weaknesses of their claims against the risk of continued litigation and were able to determine a realistic range of settlement recovery for PAGA penalties. *Id.* The Settlement therefore accomplishes PAGA's objectives by imposing sufficient civil penalties "to punish and deter" Defendants from future alleged Labor Code violations, while also ensuring that the penalties are not "unjust, arbitrary and oppressive, or confiscatory." Lab. Code § 2699(e)(2); *Iskanian,* 59 Cal. 4th at 384.

/ / /

/ / /

V. THE ATTORNEYS' FEES AND COSTS ARE FAIR AND REASONABLE

PAGA Counsel seeks approval of attorneys' fees from the PAGA settlement in the amount of $100,000.00 representing one-third (1/3) of the GSA and $19,607.86 in costs (costs not to exceed $30,000.00). Settlement Agreement, § 3.2.2; Yslas Decl. ¶ 30, Exhibit 2; Lavi Decl. ¶ 50, Exhibit 2. Plaintiffs are entitled to attorneys' fees under Labor Code section 2699(g)(l), which provides that "[a]ny employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs." Lab. Code § 2699(g)(1); *see also Gouskos v. Aptos Village Garage, Inc.*, 94 Cal.App.4th 754, 765 (2001) (holding that attorneys' fees to prevailing party are mandatory when the statute uses the word "shall"). It is undisputed that Plaintiffs are the prevailing party. *See Graciano v. Robinson Ford Sales, Inc.*, 144 Cal. App. 4th 140, 153 (2006) ("[P]laintiffs may be considered 'prevailing parties' for attorney's fee purposes if they succeed on any significant issue in the litigation that achieves some of the benefit the parties sought in bringing suit.") (internal citation omitted).

Accordingly, Plaintiffs are entitled to recover attorneys' fees and costs.

A. Plaintiffs' Counsel's Requested Attorneys' Fees Are Reasonable under the Common Fund Method

The request for attorneys' fees as a percentage of the Gross Settlement Amount is supported by the "common fund theory," where "one who expends attorneys' fees in winning a suit which creates a fund from which others derive benefits, may require those passive beneficiaries to bear a fair share of the litigation costs." *Serrano v. Priest*, 20 Cal.3d 25, 35 (1977).

The purpose of the common fund approach is to "spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." *Vincent v. Hughes Air West, Inc.*, 557 F.2d 759, 769 (9th Cir. 1977). Thus, the common fund doctrine has been applied "consistently in California when an action brought by one party creates a fund in which other persons are entitled to share." *City and County of San Francisco v. Sweet*, 12 Cal.4th 105, 110 (1995)*; see Quinn v. State of California*, 15 Cal.3d 162, 167 (1975)("[O]ne who expends attorneys' fees in winning a suit which creates a fund from which others derive benefits may require those passive beneficiaries to bear a fair share of the litigation costs.").

A number of other courts have recognized the advantages of awarding fees as a percentage of the common fund over the alternative lodestar approach, which usually involves wading through voluminous and often indecipherable time records. *See*, e.g., *In re Activision Securities Litigation*, 723 F.Supp. 1373, 1375 (N.D. Cal. 1989). The percentage approach is preferable to the lodestar method because: (1) it provides predictability to counsel; (2) encourages efficient resolution of the litigation by providing an incentive for early, yet reasonable, settlement; and (3) reduces the demands on judicial records. *Id*. at 1378-79; *see also Lealao v. Beneficial Cal., Inc*., 82 Cal.App.4th 19, 28 (2000) (discussing findings of task force commissioned by the Third Circuit, which "concluded that the lodestar approach (1) increases the workload of an already overtaxed judicial system, (2) is insufficiently objective and produces results that are far from homogenous, (3) creates a sense of mathematical precision that is unwarranted in terms of the realities of the practice of law, (4) is subject to manipulation by judges who prefer to calibrate fees in terms of percentages of the settlement fund or the amounts recovered by the Claimants or of an overall dollar amount, (5) encourages lawyers to expend excessive hours, and engage in duplicative and unjustified work, (6) creates a disservice for the early settlement of cases, (7) deprives trial courts of flexibility to reward or deter lawyers so that desirable objectives, such as early settlement, will be fostered, (8) works to the particular disadvantage of the public interest bar, and (9) results in confusion and lack of predictability.").

The percentage of attorneys' fees set forth in the Settlement Agreement—1/3 (one-third) of the Gross Settlement Amount—is reasonable. Historically, courts have awarded percentage fees in the range of 20% to 50% in common fund cases. Newberg on Class Actions, 4th Ed. 2002, § 14: 6. Newberg notes that achievement of a substantial recovery with modest hours expended should not be penalized but should be rewarded for considerations of time saved by superior services performed. *Id*. Furthermore, California and federal courts have long recognized that a percentage of recovery for attorneys' fees is properly awarded on the basis of the total value. *Boeing v. Van Gemert*, 444 U.S. 472, 480-481 (1980); *see also In re Consumer Privacy Cases*, 175 Cal.App.4th 545, 558 n.13 (2009)("Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery.")

The Court should also consider that Plaintiffs' counsel's efforts have resulted in substantial benefits to the State of California and the Aggrieved Employees, in the form of a significant, non-reversionary settlement fund established to compensate the State and the Aggrieved Employees and to punish Defendants for the alleged PAGA violations. Without the efforts of Plaintiffs' counsel, the claims alleged in the complaint would likely have gone without remedy. Yslas Decl., ¶ 29.

B. A Lodestar Cross-Check with a Modest Multiplier Confirms the Reasonableness of the Requested Fee

A prevailing party in a PAGA action is entitled to recover his attorneys' fees and costs for his claims. (Cal. Lab. Code § 2699(g) ["Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs."].) A fee award is justified where the legal action has produced its benefits by way of a voluntary settlement. (*See, e.g., Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1290-91; *Westside Community for Independent Living, Inc. v. Obledo* (1983) 33 Cal.3d 348, 352-53.).

Fee awards of roughly one-third of the settlement fund are routinely awarded in California state and federal courts in class and representative PAGA actions. "[F]ee awards in class actions average around one-third of the recovery." (*Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, fn. 11 ; *see also In re Pacific Enterprises Securities Litig.* (9th Cir. 1995) 47 F.3d 373, 379 [affirming 33% fee award]; *Williams v. MGM-Pathe Communications Co.* (9th Cir. 1997) 129 F.3d 1026, 1027 [holding that class counsel's fee award should have been calculated as one-third of the gross settlement fund]; *Chavez v. Saticoy Lemon Ass'n* (Cal. Super. Ct. Ventura Cty. Aug. 10, 2015) Case No. 56-2015-00468600-CU-OE-VTA, 2015 WL 5561118 [approving attorneys' fees of one-third of settlement fund in representative PAGA settlement]; *Clavel v. Lupe's Thousand Oaks Mexican Restaurant, Inc.* (Cal. Super. Ct. Ventura Cty. Mar. 25, 2016) Case No. 56-2015-00467353-CU-OE-VTA, 2016 WL 1601221 [same].)

The fee award requested here, $100,000.00, representing 1/3 (one-third) of the $300,000.00 Gross Settlement Amount, is justified because Plaintiffs' counsel achieved a significant monetary recovery for the aggrieved employees and the LWDA 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 rates described above. While it is not necessary to substantiate the fee award with a lodestar in this PAGA Action, it should be noted that PAGA Counsel have invested approximately 290.2 hours in the litigation of this matter, resulting in a lodestar of $216,660.00. Yslas Decl., ¶¶ 27-28; Lavi Decl., ¶¶ 43-45, Exhibit 1.

Moreover, PAGA Counsel's hourly rates are comparable to those charged by other representative action counsel, and the total hours expended on this action were reasonable and in line with comparable cases. Yslas Decl., ¶ 26; Lavi Decl., ¶¶ 35-49, Exhibit 1. PAGA Counsel spent 290.2 hours in prosecuting this action, divided among the attorneys working on this case according to skill level. Yslas Decl. ¶¶ 27-28; Lavi Decl., ¶ 45. The hours expended by each attorney were not duplicative and reflect the extensive investigation and analysis that was required to achieve this Settlement. *Id*.

Considered against the risks of continued litigation, and the importance of advocating for employment rights and a speedy recovery, the relief provided under the Settlement represents a very strong result for the Aggrieved Employees. PAGA Counsel's fee request is fair and reasonable and should be approved.

C. PAGA Counsel's Costs Are Reasonable

PAGA Counsel is entitled to reimbursement of its litigation costs under PAGA. *See* Lab. Code § 2699(k)(l) ("Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs."). The Settlement provides for reimbursement of costs not to exceed $30,000.00. Settlement Agreement, § 3.2.2. To date, PAGA Counsel has incurred actual costs in the amount of $19,607.86. Yslas Decl., ¶ 30, Exhibit 2; Lavi Decl., ¶ 50, Exhibit 2. These costs were reasonably incurred in prosecuting this Action on behalf of the Aggrieved Employees and should be approved by the Court. *Id*. Accordingly, PAGA Counsel respectfully requests the Court approve costs in the amount of $19,607.86.

VI. THE REQUESTED PAGA REPRESENTATIVES SERVICE PAYMENTS TO PLAINTIFFS ARE REASONABLE

Both the State of California and the Aggrieved Employees are beneficiaries of a settlement that would not have been made possible but for the effort and commitment of Plaintiffs. The

Settlement provides that Plaintiffs shall be paid a PAGA Representative Service Payments not to exceed $10,000.00 each, in recognition of their effort in bringing and presenting the Action. Settlement Agreement § 3.2.1. The requested payment is intended to recognize Plaintiffs' effort in bringing the Action, serving as private attorney general under PAGA, assisting counsel with the investigation, litigation, and settlement, regularly conferring with counsel on the status of the case, and reviewing the proposed settlement to ensure that its terms are fair and achieve PAGA's objectives.

Plaintiffs have provided a declaration detailing the risks they faced in bringing the suit, the notoriety and personal difficulties they encountered, the amount of time and effort they spent on this litigation, the duration of this litigation, and the personal benefit they will receive as a result of the litigation. *See generally* Declaration of Plaintiff Sabrina N. Batres in Support of Motion for Approval of PAGA Settlement ("Batres Decl."); Declaration of Plaintiff J. Felix Rosas Cordova in Support of Motion for Order Approving Settlement Pursuant to California Labor Code Private Attorneys General Act and Rendering Judgment ("Cordova Decl.").

Accordingly, Plaintiffs respectfully request that the Court approve the PAGA Representatives Service Payments in the amount of $10,000.00 each ($20,000.00 total).

VII. CONCLUSION

Based on the foregoing, Plaintiffs respectfully request this Court approve the PAGA settlement as set forth in the Settlement Agreement and enter the proposed order and judgment submitted herewith.

Dated: November 25, 2025

WILSHIRE LAW FIRM, PLC
E&L, LLP

By: Lisa Iturriaga

Lisa B. Iturriaga
David Lavi
Attorneys for Plaintiffs