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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KERN

VERONICA CORREIA, as an individual and on behalf of all others similarly situated,

Plaintiff,

vs.

OMNI FAMILY HEALTH, a California non-profit corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. BCV24100740

[Assigned for all purposes to the Honorable Thomas S. Clark, Dept. 17]

NOTICE OF MOTION AND PLAINTIFF'S MOTION FOR APPROVAL OF PAGA SETTLEMENT UNDER CALIFORNIA LABOR CODE §§ 2698 ET SEQ.; MEMORANDUM OF POINTS AND AUTHORITIES

Date: November 10, 2026
Time: 8:30 a.m.
Dept: 17

Action Filed: September 11, 2024
Trial Date: None Set

TO THE COURT AND DEFENDANT AND ITS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on November 10, 2026, at 8:30 a.m., or as soon thereafter as the matter may be heard, before the Honorable Thomas S. Clark, Judge presiding in Department 17 of the above-referenced Court, located at 1215 Truxtun Avenue, Bakersfield, California 93301, Plaintiff Veronica Correia ("Plaintiff"), on behalf of herself, the State of California, and all aggrieved employees, will and hereby does move this Court pursuant to California Labor Code section 2698 *et seq*. for an order approving the PAGA Settlement Agreement ("Agreement" or "Settlement") between Plaintiff and Defendant Omni Family Health ("Defendant" or "Omni").

This motion will be based on this notice of motion, the attached memorandum of points and authorities, the accompanying declarations of Kristen M. Agnew, Manny Star, Plaintiff Veronica Correia, and Jodey Lawrence (Phoenix Settlement Administrators), the records and file herein, and on such other evidence as may be presented at the hearing of the motion.

DATED: October 12, 2026

DIVERSITY LAW GROUP, P.C.
FRONTIER LAW CENTER

By:_____
Larry W. Lee
Kristen Agnew
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Attorneys for Plaintiff and the Aggrieved Employees

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I. INTRODUCTION

Through this Motion, Plaintiff Veronica Correia ("Plaintiff") request that the Court enter an order approving the non-reversionary settlement with Defendant Omni Family Health ("Defendant" or "Omni") as set forth in the concurrently filed PAGA Settlement Agreement ("Settlement" or "Settlement Agreement").[1] Plaintiff brought this representative action seeking civil penalties under the Private Attorneys General Act ("PAGA") based on Omni's alleged failure to calculate overtime wages and paid sick leave at the correct regular rate of pay. Following substantial investigation, formal discovery, and an arm's-length, full-day mediation, the Parties reached the Settlement now presented for the Court's approval.

Under the Settlement, Omni will pay a non-reversionary Gross Settlement Amount of $175,000.00. This amount includes $85,610.76 allocated to PAGA civil penalties for distribution to aggrieved employees and the California Labor and Workforce Development Agency ("LWDA"). The Settlement provides a meaningful and certain recovery while avoiding the considerable expense, delay, and uncertainty of continued litigation. In light of the disputed legal and factual issues, the risks of further litigation, and the results achieved, Plaintiff and her counsel believe the Settlement is fair, reasonable, and consistent with PAGA's purposes and the interests of the aggrieved employees and the State of California. Accordingly, Plaintiff respectfully requests that the Court approve the Settlement, direct the Parties and the Settlement Administrator to carry out its terms, and enter final judgment.

II. STATEMENT OF FACTS

A. Plaintiff's Employment with Omni Family Health

Omni Family Health is a nonprofit corporation that operates a network of community health centers throughout Kern, Kings, Tulare, and Fresno Counties. Plaintiff worked for Omni as a full-time Medical Assistant at its Brimhall Health Center from approximately September 20, 2021, through July 7, 2023. *See* Declaration of Veronica Correia ("Correia Decl.") ¶ 2. Throughout her

[1] A true and correct copy of the Settlement Agreement is attached to the Declaration of Kristen M. Agnew as Exhibit 1.

employment, Plaintiff was paid on an hourly basis and classified as a non-exempt employee. *See* Declaration of Veronica Correia. (*See id.*)

At issue is Omni's written Quarterly Incentive Plan (the "Plan"). Under the Plan, provider and non-provider staff were eligible to receive quarterly incentive payments when Omni achieved a profit margin exceeding 3 percent and satisfied other specified financial benchmarks. (*See* Agnew Decl. ¶ 6.) During Plaintiff's employment, Omni paid incentives for three quarters, and Plaintiff received an incentive payment for each of those quarters. (*See id.*) In quarters when Omni did not pay the incentive, no employees received one. (*See id.*)

Plaintiff contends that the quarterly incentives constituted nondiscretionary remuneration that was required to be included in the regular rate of pay. (*See* Agnew Decl. ¶ 6.) However, as a matter of corporate payroll policy and practice, Omni uniformly excluded the quarterly incentive from the regular rate used to calculate overtime and sick pay. (*See id.*) Because Omni uniformly excluded those payments from its regular rate calculations, Plaintiff alleges that she and other employees were underpaid whenever they received a quarterly incentive and also earned overtime or sick pay during the corresponding quarter. (*See id.*)

B. Plaintiff Exhausted the Administrative Perquisite and Filed this Representative PAGA Action

On October 26, 2023, Plaintiff submitted a PAGA Notice to the LWDA alleging that Defendant violated Labor Code sections 201, 202, 203, 226(a), 246, 510, 558, 1194, 1197, and 1197.1, pursuant to Labor Code section 2699. (*See* Agnew Decl. ¶ 3, Ex. 2.) After exhausting the applicable administrative prerequisites, Plaintiff commenced this representative action against Defendant on March 1, 2024. (*See id*. at ¶ 5.)[2]

In the Operative Complaint, Plaintiff alleged a representative PAGA claim predicated on

[2] On November 8, 2023, Plaintiff filed a Class Action Complaint against Defendant in the matter entitled *Veronica Correia v. Omni Family Health*, Kern County Superior Court Case No. BCV-23-103753 (the "Class Action"). (*See* Agnew Decl. ¶ 4.) In the Class Action, Plaintiff alleged class claims for: (1) violation of Labor Code sections 510, 558, 1194, 1197, and 1197.1; (2) violation of Labor Code sections 201, 202, and 203; (3) violation of Labor Code section 226(a); and (4) violation of Business and Professions Code section 17200 *et seq*. *See id.* However, because of an Arbitration Agreement, Plaintiff dismissed the Class Action without prejudice. *See id*.

Defendant's policy and practice of: (a) failing to pay overtime wages at the correct regular rate of pay, in violation of Labor Code sections 510, 558, 1194, 1197, and 1197.1; (b) failing to pay sick pay wages at the correct regular rate of pay, in violation of Labor Code sections 201, 202, 203 and 246; (c) failing to pay employees all earned wages at separation of employment due to the underpayment of overtime and/or sick pay wages, in violation of Labor Code sections 201, 202, 203; and (d) failing to provide accurate itemized wage statements, in violation of Labor Code section 226. (*See* Agnew Decl. ¶ 5.)

C. Plaintiff's Individual PAGA Claim Proceeded to Arbitration While the Representative Action Was Stayed

On April 10, 2024, the Court approved the Parties' stipulation to submit Plaintiff's individual PAGA claims to binding arbitration, and stay the Action pending the completion of arbitration. (*See* Agnew Decl. ¶ 7.) Plaintiff thereafter submitted a demand for arbitration in the matter of *Veronica Correia v. Omni Family Health*, JAMS Case No. 5220005862 (the "Individual Arbitration"). (*See id*. at ¶ 8.) On April 24, 2024, Defendant filed its Response to Demand for Arbitration in which it denied all of the allegations and causes of action in the demand and asserted 35 affirmative defenses. (*See id*. at ¶ 9.)

D. The Parties Conducted Substantial Discovery

The Parties engaged in substantial discovery in the Individual Arbitration. Among other things, they exchanged Rule 17 Initial Disclosures, propounded and responded to multiple sets of special interrogatories and requests for production, produced documents, and took depositions. (*See* Agnew Decl. ¶ 10.) This discovery allowed Plaintiff and her counsel to evaluate the evidentiary record, assess the strengths and risks of the claims and defenses, and make an informed assessment of Defendant's potential exposure. (*See id*.)

E. The Parties Reached a Settlement Following Informed, Arm's-Length Mediation.

The Parties agreed to participate in private mediation with Kelly Knight, a respected mediator experienced in complex wage and hour disputes. (*See* Agnew Decl. ¶ 11.) In preparation for mediation, Plaintiff obtained through informal discovery the number of alleged aggrieved

employees and the number of pay periods in which aggrieved employees earned overtime and/or sick pay during a quarter in which Omni paid a quarterly incentive. (*See id*. at ¶ 12.)

On June 16, 2026, the Parties participated in a full-day mediation before Mr. Knight. (*See* Agnew Decl. ¶ 13.) The negotiations were conducted at arm's length and were informed by the formal and informal discovery exchanged by the Parties. (*See id.*) With Mr. Knight's assistance, the Parties ultimately reached the Settlement now presented for the Court's approval. (*See id.*)

III. THE SETTLEMENT TERMS AND STRUCTURE

The material terms of the Settlement are described below and set forth in detail in the concurrently filed PAGA Settlement Agreement.

A. The PAGA Group Members

For purposes of the Settlement, "PAGA Group Members" are defined as "all persons employed by Defendant in the State of California as hourly, non-exempt employees who during the PAGA Period earned overtime wages and/or sick pay in the same period in which a quarterly bonus was paid." (Settlement Agreement § 1.18.) The PAGA Period is October 26, 2022, through and including February 21, 2025. (*Id*. at § 1.21.) Based on information provided by Omni, approximately 760 PAGA Group Members who collectively worked 2,353 Pay Periods—— that is a pay period during which an PAGA Group Member worked for Defendant for at least one day during the PAGA Period. (*Id*. at §§ 1.23, 9.)

B. The Gross Settlement Amount

Pursuant to the Settlement Agreement, Defendant will pay the Gross Settlement Amount of $175,000.00 on a non-reversionary basis. (Settlement Agreement §§ 1.7, 4.1.) Pending Court approval, the Gross Settlement Amount encompasses: (1) attorneys' fees of 35% of the Gross Settlement Amount which is $61,250.00 ("PAGA Counsel Fees"); (2) actual litigation costs incurred in this matter in the amount of $16,144.24 ("PAGA Counsel Expenses")[3]; (3) settlement administration costs of up to $6,995.00 to be paid to the Settlement Administrator, Phoenix

[3] At the time the Parties negotiated the Settlement Agreement, Plaintiff had not yet determined her actual litigation costs. Accordingly, the Settlement Agreement provides for reimbursement of actual litigation costs up to $27,000. (Settlement Agreement § 4.2(a).)

Settlement Administrators, for sending notices and for calculating settlement shares and preparing all checks and mailings ("Administrator Expenses"); and (4) Service Award of $5,000.00 to Plaintiff. (*Id*. at § 4.2.)

C. Payment to the LWDA and PAGA Group Members

The balance of the Gross Settlement Amount remaining after deduction of the approved PAGA Counsel Fees, PAGA Counsel Expenses, Administrator Expenses, and Service Award (the "Net Settlement Amount"), will be available for distribution to the LWDA and PAGA Group Members. (Settlement Agreement §§ 1.12, 4.2(d).) Assuming that the Court awards the requested amounts, the Net Settlement Amount will total $85,610.76. (Agnew Decl. ¶ 23.) Seventy-five percent (75%) of the Net Settlement Amount, or approximately $64,208.07, will be paid to the LWDA for PAGA penalties ("LWDA Fees"). (Settlement Agreement §§ 1.11, 4.2(d); Agnew Decl. ¶ 23.) The remaining twenty-five percent (25%), or approximately $21,402.69, will be distributed to PAGA Group Members on a pro rata basis based on the number of Pay Periods – *i.e.* any pay period in which a PAGA Group Member received the payment of a quarterly bonus during the PAGA Period – worked by each PAGA Group Member. (Settlement Agreement §§ 1.23, 4.2(d); Agnew Decl. ¶ 23.)

D. Attorneys' Fees and Reimbursement for Litigation Costs

As part of the Settlement, PAGA Counsel requests attorneys' fees in the amount of $61,250.00 (*i.e.* 35% of the Gross Settlement Amount), and reimbursement for actual litigation costs in the amount of $16,144.24, subject to Court approval, consisting of $23.06 incurred by Frontier Law Center and $16,121.18 incurred by Diversity Law Group. (Settlement Agreement § 4.2(a); Agnew Decl. ¶ 44; Declaration of Manny Star ("Star Decl.") ¶ 8.) Any portion of the PAGA Counsel Fees and/or PAGA Counsel Expenses that is not approved by the Court shall become part of the Net Settlement Amount. (Settlement Agreement § 4.2(a).)

E. The Administrator Expenses

The Settlement Administrator, Phoenix Settlement Administrators, will be responsible for preparing and mailing Settlement Notices, computing Individual Payments, and issuing checks and required tax reports. (Settlement Agreement §§ 1.2, 6.3.) The Administrator Expenses are estimated

to be $6,995.00. (*Id.* at § 4.2(c); Admin. Decl. ¶ 16, Ex. B.) Any portion of the Administrator Expenses that is not approved by the Court shall become part of the Net Settlement Amount. (Settlement Agreement § 4.2(c).)

F. The Requested Service Award

Plaintiff requests a Service Award in the amount of $5,000.00. (Settlement Agreement § 4.2(b).) The requested Service Award is intended to compensate Plaintiff for her efforts in prosecuting this Action on behalf of PAGA Group Members, including meeting and communicating with PAGA Counsel, reviewing the pleadings, documents, and Settlement Agreement, and undertaking the risks associated with serving as the named plaintiff, including potential reputational harm arising from her participation in litigation against her employer. (Agnew Decl. ¶ 20; Correia ¶¶ 6-10.) Any portion of the Service Award that is not approved by the Court shall become part of the Net Settlement Amount. (Settlement Agreement § 4.2(b).)

G. Scope of the Released Claims

Upon Defendant's payment of the Gross Settlement Amount, Plaintiff, PAGA Group Members, the State of California, and the LWDA are deemed to release the Released PAGA Claims against Defendant and other released parties. (Settlement Agreement § 8.1.) As defined in the Settlement, the term "Released PAGA Claims" means:

> All claims for civil penalties under the California Private Attorneys General Act, California Labor Code section 2698, et. seq. that were or could have been alleged in the Action and/or PAGA Notice based upon the allegations, facts, legal theories, or causes of action alleged in the Action and/or PAGA Notice, including, but not limited to claims for relief for civil penalties for (1) violation of Labor Code§§ 510,558, 1194, 1197, and 1197.1; (2) violation of Labor Code §§ 201, 202, and 203; (3) violation of Labor Code § 226(a); (4) violation of Labor Code§§ 2698, et seq.; (5) claims that could have been sought by the State of California Labor Commissioner for the violations of Labor Code sections 201, 202, 203, 226(a), 246, 510, 558, 1194, 1197, and 1197.1 identified in the Action and/or the PAGA Notice; (6) claims for equitable relief or liquidated damages for the violations of Labor Code sections 201, 202, 203, 226(a), 246, 510, 558, 1194, 1197, and 1197.1 identified in the Action and/or the PAGA Notice; (7) any other benefit claimed on account of the allegations asserted in the operative Complaint; and (8) any and all other related claims for attorneys' fees, costs, expenses, and/or

> interest with respect hereto or resulting from the foregoing. The Released PAGA Claims are limited to the PAGA Period.

(*Id.* at § 1.24) The release is expressly limited to civil penalties under PAGA and does not affect any individual claims that PAGA Group Members may have.

IV. ARGUMENT

A. The Settlement Is Fair, Reasonable, and Adequate.

Unlike a class action settlement, approval of a PAGA settlement is governed by Labor Code section 2699, subdivision (s)(2), which provides that "[t]he court shall review and approve any penalties sought as part of a proposed settlement agreement pursuant to this part." Cal. Lab. Code § 2699(s)(2). Although PAGA does not prescribe a detailed approval procedure comparable to the two-step process used in class actions, California courts have made clear that a trial court must independently evaluate whether a proposed PAGA settlement is fair, reasonable, and adequate in light of PAGA's purposes. *Moniz v. Adecco USA, Inc.*, 72 Cal.App.5th 56, 77 (2021).

That inquiry is necessarily different from the inquiry applicable to class settlements. A PAGA action is not a class action. It is a representative enforcement action in which the aggrieved employee acts as the proxy of the State to recover civil penalties for Labor Code violations. *Arias v. Superior Court*, 46 Cal.4th 969, 980-986 (2009). For that reason, plaintiffs pursuing PAGA claims "need not meet class action requirements," and the Court's focus is not whether the settlement mirrors the procedures or standards applicable to absent class members.[4] *Id.* at 987. Instead, the Court's task is to determine whether the proposed settlement is fair, reasonable, and adequate in view of PAGA's public purposes—namely, "to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." *Moniz*, 72 Cal.App.5th at 77; *see also Kang v. Wells Fargo Bank, N.A.*, 2021 WL 5826230, at *15 (N.D. Cal. Dec. 8, 2021) (evaluating whether the settlement was "fundamentally fair, reasonable, and adequate in view of PAGA's public policy goals"). In conducting that review, courts may consider factors commonly used in evaluating

[4] Unnamed aggrieved employees are not class members and therefore are not entitled to opt out of the action or object in the same manner as absent class members in a class action settlement. *Turrieta v. Lyft, Inc*., 16 Cal.5th 664, 712–16 (2024).

settlements more generally, including the strength of the claims, the risks and expense of continued litigation, the stage of the proceedings, and the amount of the settlement, so long as those factors are assessed through the lens of PAGA's enforcement objectives. *Moniz*, 72 Cal.App.5th at 76-77; *see also Norman v. Strateman* 112 Cal. App. 5th 92, 103 n.2 (2025).

The Settlement satisfies that standard here. This was not a quick or uninformed compromise. Rather, the Settlement was reached only after substantial discovery and arm's-length negotiations in a contested PAGA matter. (Agnew Decl. ¶¶ 10, 12, 13.) Counsel evaluated the strengths of the alleged Labor Code violations, the available defenses, and the uncertainty, delay, and expense that continued litigation would entail. (*Id.* at ¶ 34.) Against that backdrop, the Settlement secures a substantial six-figure recovery and provides an immediate, certain, and meaningful result in lieu of years of additional contested proceedings.

Just as important, the Settlement serves PAGA's deterrent and enforcement purposes. PAGA is "fundamentally a law enforcement action designed to protect the public," not merely a vehicle for private recovery. *Moniz*, 72 Cal.App.5th at 77; *Arias*, 46 Cal.4th at 980. The Gross Settlement Amount here is significant. It reflects a real economic consequence for the alleged wage and hour violations, promotes future compliance with California labor laws, and secures penalties now rather than risking a lesser recovery—or no recovery at all—after further motion practice, appeals, and trial. In these circumstances, the Settlement is fair, reasonable, and adequate under the Labor Code.[5]

B. Maximum Potential PAGA Exposure

At the time the Parties negotiated the Settlement, Defendant estimated that there were 2,353 pay periods in which a PAGA Group Member received the payment of a quarterly bonus during the PAGA Period. (Settlement Agreement §§ 1.23, 4.2(d).) Based on that estimate, PAGA Counsel calculated that—provided Plaintiff prevailed on the merits and the default penalty of $100 per pay

[5] The Settlement is also consistent with the State's public policy favoring resolution of disputes. *Consumer Advocacy Group, Inc. v. Kintetsu*, 141 Cal. App. 4th 46, 62-63 (2006) ("California law favors the settlement of disputes as our high court clarified in *Neary*[]. Settlement is efficient; it reduces costs, saves resources, and minimizes court congestion. [] The parties are best positioned to understand their interests and resolve a dispute in a mutually beneficial manner without court intervention into the settlement").

period applied— Defendant's maximum potential exposure was approximately $235,300. (Agnew Decl. ¶ 26.) The $175,000 Gross Settlement Amount represents approximately **74.4%** of that theoretical maximum exposure—an exceptionally strong result, particularly in light of the substantial risks and uncertainty associated with continued litigation.

C. Defendant's Defenses and the Risks of Continued Litigation

Plaintiff's principal theory of liability depended on establishing that Omni's quarterly incentive payments were nondiscretionary compensation that should have been included in the regular rate used to calculate overtime and sick pay. California law requires that all nondiscretionary compensation be factored into the regular rate of pay. *Ferra v. Loews Hollywood Hotel, LLC*, 11 Cal.5th 858, 863 (2021); *Martinez v. Sierra Lifestar, Inc.*, 119 Cal.App.5th 1303, 1313 (2026). A bonus may be excluded as discretionary if the employer retains sole discretion over both the fact and amount of payment until at or near the end of the relevant period, without any prior agreement or promise causing employees to expect the payment. (29 C.F.R. § 778.211(a)–(c).)

Plaintiff had substantial grounds to contend that Omni's quarterly incentive did not satisfy this narrow exclusion. The Quarterly Incentive Plan identified the conditions for payment, including a profit margin exceeding 3 percent and specified financial and cash-reserve benchmarks. (*See* Agnew Decl. ¶ 29.) The Plan also established objective eligibility criteria, calculated the incentive according to a financial formula, and assigned eligible employees to designated groups that determined their maximum payment. (*See id.*) Plaintiff therefore maintains that Omni did not retain unfettered discretion over both the fact and amount of payment; rather, the Plan created an expectation that eligible employees would receive the formula-based incentive when the specified financial conditions were satisfied.

Nevertheless, Omni had substantial arguments to the contrary. Omni contends that the Plan established only the conditions under which employees became eligible for a potential incentive—not an enforceable entitlement to payment. Omni's corporate representative further testified that receipt of a quarterly incentive was not automatic; an employee first had to satisfy the plan's eligibility requirements. (*See* Agnew Decl. ¶ 31.) Omni also reserved the right to remove an employee from the eligibility list based on significant disciplinary action, including placement on a

performance improvement plan, paid administrative leave arising from performance or conduct concerns, suspension, or probation. (*See id.*) Omni relied on this testimony and the Plan language to argue that the incentive was neither automatic nor guaranteed and that Omni retained discretion over which employees ultimately qualified to receive it. The distinction between discretionary payment decisions and threshold eligibility criteria presented a factual and legal issue that would have required resolution through continued litigation.

D. The Court's Discretion to Reduce Civil Penalties

Additionally, even if Plaintiff prevailed on the merits, the Court would retain discretion under Labor Code section 2699 (e)(2), to reduce any penalty award it found "unjust, arbitrary and oppressive, or confiscatory." Although "PAGA penalties…are mandatory, not discretionary" in the sense that penalties must be awarded upon a showing of a Labor Code violation, the amount awarded remains subject to reduction based on the facts and circumstances of the case. *Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1213 (2008); Lab. Code, § 2699(e)(2).

California courts have repeatedly recognized and applied that discretion. In *Carrington v. Starbucks Corp.*, for example, the plaintiff prevailed on his PAGA claim at trial, yet the trial court reduced the maximum penalty amount by 90 percent based on the employer's good-faith efforts to comply with the law, and the Court of Appeal affirmed. 30 Cal.App.5th 504, 517, 539 (2018). Similarly, in *Raines v. Coastal Pacific Food Distributors, Inc.*, the Court of Appeal recognized that trial courts may reduce PAGA penalties for technical or inadvertent violations, particularly where the violations caused little or no injury. 23 Cal.App.5th 667, 681 (2018). And in *Thurman v. Bayshore Transit Management, Inc.*, the Court of Appeal upheld a substantial reduction in PAGA penalties where the employer was not initially on notice of the violations and took steps to come into compliance once made aware of them, contrasting those circumstances with cases in which full penalties may be warranted because the employer acted with a "cavalier approach" to its obligations or with reckless disregard. (2012) 203 Cal.App.4th 1112, 1136.

Here, several case-specific considerations created a meaningful risk that the Court would decline to impose the maximum statutory penalties. First, the alleged violations did not involve a failure to pay employees their base wages, recorded overtime hours, or the quarterly incentives

themselves. (*See* Agnew Decl. ¶ 32.) Rather, the alleged underpayments were limited to the incremental amounts purportedly owed because Omni excluded the Quarterly Incentive from the regular rate used to calculate overtime and sick pay. Thus, the wages allegedly unpaid were only the additional amounts attributable to the regular-rate calculation. Second, liability depended on the genuinely disputed and fact intensive question whether the Quarterly Incentive constituted nondiscretionary compensation that was required to be included in the regular rate. (*See id*.) Third, the record did not reveal any prior agency or judicial determination placing Omni on notice that its treatment of the Quarterly Incentive was unlawful, or evidence that Omni deliberately concealed or withheld the incentive payments. (*See id*.)

Under these circumstances, even if Plaintiff prevailed on the underlying regular rate theory, Omni could reasonably argue that imposing the maximum PAGA penalty of $100 for every allegedly affected pay period would be disproportionate to the nature of the alleged violations, the incremental wages at issue, and the circumstances surrounding Omni's treatment of the Quarterly Incentive. This risk of a substantial reduction in PAGA penalties further supports the reasonableness of the Settlement.

V. REQUEST FOR ATTORNEYS' FEES AND COSTS

A. The Court Should Approve PAGA Counsel's Requested Attorneys' Fees

Pursuant to the Settlement Agreement, PAGA Counsel is requesting an award of attorneys' fees in the amount of $61,250.00 and an award of litigation costs to PAGA Counsel in the amount of $16,144.24, consisting of $23.06 incurred by Frontier Law Center, and $16,121.18 incurred by Diversity Law Group. (Agnew Decl. ¶ 46; Starr Decl. ¶ 8.) Labor Code section 2699(k)(1) provides for the recovery of attorneys' fees and costs in any successful action brought under PAGA.

Although this is not a class action, courts evaluating fee requests in representative wage and hour settlements have recognized that the percentage-of-the-benefit method provides a useful and appropriate framework for determining a reasonable fee. *Wershba v. Apple Computer, Inc*., 91 Cal. App. 4th 224, 254 (2001); *Laffitte v. Robert Half Int'l Inc.*, 1 Cal.5th 480, 503 (2016). Under that approach, the Court's objective is to award a fee that approximates the market rate for contingent representation and fairly compensates counsel for the result achieved. *See Laffitte*, 1 Cal.5th at 503;

Serrano v. Priest, 20 Cal.3d 25, 48 (1977).

Here, the requested fee award of 35% of the Gross Settlement Amount is reasonable and consistent with the market rate commonly approved in wage and hour representative actions. Courts have repeatedly recognized that one-third of the common fund falls within the range of reasonable fee awards, particularly where counsel undertook the matter on a fully contingent basis and achieved a substantial result without prolonged litigation through trial. *See Amaro v. Anaheim Arena Management, LLC*, 69 Cal.App.5th, 521 (2021) ("Fee awards in class actions average around one-third of the recovery regardless of whether the percentage method or the lodestar method is used"); *Chavez v. Netflix, Inc*., 162 Cal.App.4th 43, 66 (2008) ("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"); *Martin v. AmeriPride Servs.*, 2011 U.S. Dist. LEXIS 61796, 23 (S.D. Cal. 2011) (recognizing that "courts may award attorney's fees in the 30-40% range in wage and hour class actions that result in recovery of a common fund under $10 million").

That percentage is especially appropriate here given the risks assumed by PAGA Counsel. Counsel undertook the representation on a wholly contingent basis, advanced substantial time and expense with no guarantee of recovery, and faced the risks inherent in complex representative wage and hour litigation, including contested liability, manageability issues, and the prospect of extended proceedings against a sophisticated corporate defendant. (Agnew Decl. ¶ 45; Starr Decl. ¶ 10.) Under these circumstances, the requested fee fairly compensates PAGA Counsel for the risks undertaken and the result achieved, and should therefore be approved.

B. The Court Should Approve Reimbursement of PAGA Counsel's Actual Litigation Costs

PAGA Counsel's request for litigation costs is also reasonable. PAGA Counsel seeks reimbursement of $16,144.24 in costs actually incurred in prosecuting this matter, including filing fees, mediation expenses, postage, and copying costs. (Agnew Decl. ¶ 46, Ex. 4; Starr Decl. ¶ 8, Ex. B.) Those are the types of routine and necessary litigation expenses regularly reimbursed in representative actions and were reasonably incurred for the benefit of the LWDA and the PAGA Group Members. Accordingly, the requested costs should be approved in full.

VI. THE COURT SHOULD APPROVE THE SERVICE AWARD

Courts have held that named plaintiffs in class, or private attorney general actions can request a service award. *Rodriguez v. W. Publ'g Corp*., 563 F.3d 948, 958-59 (9th Cir. 2009) (explaining that service awards "are intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their **willingness to act as a private attorney general**") (emphasis added).

Here, Plaintiff seeks a Service Award in the amount $5,000.00. The Service Award is intended to compensate Plaintiff for the time spent on this case, including reviewing pleadings, the potential for hesitation from later prospective employers that might find out she brought this claim. (Settlement Agreement § 4.2(b); Agnew Decl. ¶ 20; Correia Decl. ¶¶ 6-10.) This requested enhancement is consistent with awards approved in common fund cases. *See Van Vranken v. Atlantic Richfield Co*., 901 F. Supp. 294, 299-300 (N.D. Cal. 1995) (incentive award of $50,000); *In re Dun & Bradstreet Credit Servs. Customer Litig*., 130 F.R.D. 366, 374 (S.D. Ohio 1990) (two incentive awards of $ 55,000, and three incentive awards of $35,000); *Brotherton v. Cleveland*, 141 F. Supp. 2d 907, 913-14 (S.D. Ohio 2001) (granting a $50,000 incentive award); *Enter. Energy Corp. v. Columbia Gas Transmission Corp*., 137 F.R.D. 240, 251-52 (S.D. Ohio 1991) ($50,000 awarded to each class representative); *Glass v. UBS Fin. Servs*., No. C-06-4068, 2007 U.S. Dist. LEXIS 8476, at *51-52 (N.D. Cal. Jan. 27, 2007) (awarding $25,000 incentive award in FLSA overtime wages class action); *Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998) (affirming $25,000 Incentive award to class representative in ERISA case).

VII. THE COURT SHOULD APPROVE THE COSTS OF ADMINISTRATION

The Parties agreed to use Phoenix Settlement Administrators as the third-party settlement administrator in this case. (Settlement Agreement § 1.2.) Phoenix will be responsible for updating the addresses for the PAGA Group Members (including conducting a National Change of Address search), mailing the Settlement Notices, calculating the Individual PAGA Payments based on Pay Periods, issuing settlement checks to PAGA Group Members and the LWDA, issuing required tax forms (IRS Form 1099), establishing a Qualified Settlement Fund, and handling returned mail and re-mailings, among other duties. (*Id.* at §§ 6.2 and 6.3.) Phoenix capped its fees at $6,995.00 for

administering the Settlement. (*Id*. at § 4.2(c); Admin. Decl. ¶ 16, Ex. B.) Based on PAGA Counsel's experience in other class and PAGA settlements, Phoenix's costs for administering this Settlement are competitive, standard for the scope of work required, and fair and reasonable. (Agnew Decl. ¶ 21.) Approval of these costs is necessary for the Settlement to be implemented.

VIII. NOTICE TO THE LWDA HAS BEEN PROVIDED

Concurrent with the filing of this Motion, Plaintiff uploaded the instant motion to the LWDA's website. (Agnew Decl. ¶ 47, Ex. 5.)

IX. CONCLUSION

Plaintiff and PAGA Counsel submit that the proposed Settlement as documented in the Settlement Agreement is fair, adequate, reasonable, and in the best interest of the PAGA Group Members and the State of California. Plaintiff respectfully requests that the Court approve the Settlement Agreement, approve the requested PAGA Counsel Fees, PAGA Counsel Expenses, Administrator Expenses, and Service Awards, and order the Parties and Administrator 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: October 12, 2026

DIVERSITY LAW GROUP, P.C.
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By:_____
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