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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

ROGESTER HARRISON and GABRIELLE B. YARBROUGH, individuals, on behalf of themesleves and on State of California, as a private attorney general, Plaintiffs, v. SNAPMEDTECH, INC., a Corporation; and DOES 1 through 50, inclusive, Defendants.	Case No. **37-2023-0005835-CU-OE-CTL** **NOTICE OF MOTION AND MOTION TO APPROVE PAGA SETTLEMENT;** **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO APPROVE PAGA SETTLEMENT** Hearing Date: June 12, 2026 Hearing Time: 9:00am Judge: Hon. Michael D. Washington Dept.: C-73 Action Filed: December 11, 2023 Trial Date: Not Set

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TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

YOU ARE HEREBY NOTIFIED THAT on June12 , 2026 at 9:00am, in Department C-73 of the above entitled Court located at 330 West Broadway, San Diego, CA 92101, before the Honorable Michael D. Washington, Plaintiffs Rogester Harrison and Gabrielle B. Yarbrough ("Plaintiffs") will and hereby do move for an order approving the settlement of the PAGA claim alleged against Defendant Snapmedtech, Inc., ("Defendant") in accordance with California Labor Code §2699(l) (2016) amended by Stats. 2024, c. 44 (A.B. 2288), § 1, eff. July 1, 2024.). The proposed settlement is set forth in the accompanying PAGA Settlement Agreement ("Agreement").

This Motion will be based on this notice, the accompanying points and authorities, the Declaration of Sergio J. Puche, Declaration of Alexander G.L. Davies, Declaration of Gabrielle B. Yarbrough, Declaration of Rogester Harrison, the Agreement, and the complete files and records in this action. The Labor Workforce Development Agency has been served with this motion and the Agreement as set forth in the accompanying proof of service.

Respectfully submitted,

Dated:, May 18, 2026

BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP

By: *_/s/ Sergio J. Puche_*
Sergio J. Puche

Attorneys for Plaintiffs

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Rogester Harrison and Gabrielle B. Yarbrough ("Plaintiffs") reached a settlement of the California Private Attorneys General Act, Cal. Labor Code §2699, *et seq*. ("PAGA") claim asserted in this action against SnapMedTech, Inc., ("Defendant") (collectively, the "Parties") which provides for a "Gross PAGA Settlement Amount" payment in the amount of $170,000.00. In accordance with California Labor Code §2699(l) (2016), Plaintiffs now ask this Court to review and approve the settlement of Plaintiffs' PAGA claims.[1] This is only a settlement of the PAGA claims 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 herself. 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 ("Agreement") and the form used for the Agreement is the Los Angeles Superior Court's model form. A true and correct copy of the fully executed Agreement which sets forth the terms for the settlement of the PAGA claims is attached as Exhibit #1 to the Declaration of Sergio J. Puche, filed herewith. Capitalized terms shall have the same meaning as defined in the Agreement. The LWDA received notice of this Settlement, and this motion as set forth in the accompanying proof of service.

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

II. RELEVANT FACTS

PAGA Counsel sent the necessary correspondence to the California Labor and Workforce Development Agency ("LWDA") on October 24, 2023, on behalf of Plaintiffs Rogester Harrison, and on April 26, 2024 on behalf of Plaintiffs Gabrielle Yarbrough, requesting authorization from the LWDA to seek civil penalties as provided by the Private Attorney General Act of 2004 ("PAGA") for

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[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." Cal. Lab. Code § 2699 (2016) (*amended by* Stats. 2024, c. 44 (A.B. 2288), § 1, eff. July 1, 2024.).

the wage and hour violations alleged in the PAGA Notice. (Declaration of Sergio J. Puche ("Puche Decl."), at ¶ 3; *see also* Declaration of Alexander G.L. Davis ("Davis Decl." at ¶3.) The 65-day notice period for the LWDA to notify of its intent to investigate expired on December 28, 2023 and June 30, 2024 respectively. The LWDA did not respond to either notice within 65 days, indicating it did not intend to investigate, thus allowing Plaintiffs to file lawsuits pursuant to Labor Code Section 2699.3(a)(2)(A). (Davies Decl., ¶ 4.)

On December 11, 2023, Plaintiff Rogester Harrison ("Plaintiff Harrison") commenced the Harrison Action by filing a Complaint alleging causes of action against Defendant for wage and hour violations. The Complaint is the operative complaint in the Harrison Action (the "Harrison Complaint."). On October 18, 2024, Plaintiff Harrison filed a Demand for Arbitration with the American Arbitration Association, for the individual wage and hour and wrongful termination claims pled in Plaintiff Harrison's San Diego Superior Court Complaint (the "Harrison Arbitration Demand").

On April 26, 2024, Plaintiff Gabrielle Yarbrough ("Plaintiff Yarbrough") commenced the Yarbrough Action by filing a Complaint alleging causes of action against Defendant for wage and hour violations. (Davies Decl., ¶ 5.) On July 24, 2024, Plaintiff Yarbrough filed a First Amended Complaint adding a cause of action against Defendant for PAGA violations. (Puche Decl. at ¶ 3(a); see also, Davies Decl., ¶ 6.) On October 21, 2025, the Court Granted Plaintiff Yarbrough's Request for Dismissal of her Class Action claims, leaving her individual claims and representative claims for enforcement of PAGA. (Davies Decl., ¶ 7.)

On January 16, 2026 Plaintiff Rogester Harrison filed a First Amended Complaint consolidating the Yarbrough and Harrison PAGA Actions.

Plaintiffs and Defendant agreed to mediate with Debra Mellinkoff, Esq. (Davies Decl., ¶ 10). Prior to the mediation, the Parties conducted significant investigation and discovery of the facts and law. (Davies Decl., ¶ 9.) Defendant produced hundreds of pages of documents relating to its policies, practices, and procedures regarding paying non-exempt employees for all hours worked, overtime, meal and rest period policies, payroll and operations policies, and more. Plaintiffs were also provided with sufficient records and data to determine the number of Aggrieved Employees and the number of pay periods in the PAGA Period. (*Id.*) The Parties agree that the above-described investigation and evaluation, as well as the information exchanged during the settlement negotiations, are more than sufficient to assess the merits of the Parties' positions and to compromise the issues on a fair and equitable basis. (Puche Decl., at ¶ 3(a).)

Plaintiffs' theory of PAGA liability as argued at mediation alleged that Defendant failed to pay Plaintiffs and other aggrieved employees at least the legal minimum wage, straight time wage, sick pay, and overtime wage at the correct rate of pay (in violation of Labor Code sections 246, 510, 558, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198) due to Defendant's policy and practice of requiring Plaintiffs and aggrieved employees to work off-the-clock, failing to pay for training time such as the self-study training, failing to pay wages using the appropriate regular rate of pay (e.g., excluding per diem pay, guaranteed overtime differentials, or other incentive pay) or the required minimum wage, failing to provide sick pay, paying for scheduled time rather than actual time worked, failing to pay overtime correctly on overnight shifts, and/or failing to pay for all recorded time, among other reasons.

Plaintiffs and the other aggrieved employees recorded weekly time sheets on paper. Plaintiffs alleged that Defendant instituted a rounding policy by which all hours worked and recorded were rounded to the nearest quarter of an hour as identified by the time sheets. Further, Plaintiffs argued that Defendant failed to pay Plaintiffs' and other aggrieved employees all minimum, regular, and overtime wages for these hours. Plaintiffs' Expert Analysis uncovered that Defendant's net under underpayment of employees due to their rounding policy, occurred in 25% of pay periods

At Mediation, Plaintiffs argued that Defendant is liable for a myriad of PAGA Penalties, including PAGA waiting time penalties for 179 former employees in the PAGA Period; PAGA penalties for Unpaid Wages, Wage Statement Violations for 392 employees, and Waiting Time Penalties for a total of 493 former employees; PAGA Penalties for Failure to Reimburse for 392; and PAGA penalties for failure to pay Meal Premiums to 392 employees. (*Id.*)

On June 11, 2025, the Parties engaged in a mediation session before Mediator Debra Mellinkoff, Esq., a respected and experienced mediator knowledgeable of both the wage and hour laws and representative claims at issue in this action. (Davies Decl., ¶ 10.) Through arms-length negotiations with the assistance of the mediator, the Parties reached an agreement to settle the PAGA claims in this action which led to the signing of a Memorandum of Understanding memorializing the settlement.[2] (Puche Decl., at ¶ 3(c) ; *see also,* Davies Decl., ¶¶ 10 -11.)

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 Defendant's 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 Mediator Melnikoff. (Puche Decl., at ¶¶ 3,6.)

III. TERMS OF THE PAGA SETTLEMENT

The PAGA settlement is subject to Court approval consistent with Labor Code §2699(1)(2) (2016). (Agreement at ¶ 6.1). The Agreement negotiated by the Parties provides for a "Gross PAGA Settlement Amount" payment in the amount of $170,000.00 to resolve the Released PAGA Claims (hereinafter referred to as the "PAGA Settlement"). From this PAGA Gross PAGA Settlement Amount of $170,000.00, there is a deduction of attorneys' fees ("PAGA Counsel Fees Payment") up to $56,666.67 (which is one-third of the PAGA Settlement), reimbursement of incurred costs ("PAGA Counsel Litigation Expenses Payment") in an amount not to exceed $34,000, Service Award Payments for each of the named Plaintiffs in the amount of $12,500 (for a total of $25,000 in Service Award Payments) and Settlement Administration Costs ("Administration Expenses Payment") not to exceed

[2] In addition to the Gross PAGA Settlement Amount, Plaintiffs have also entered into confidential standalone agreements to release their individually alleged claims against Defendant, including non-wage and hour claims and all other claims arising out of her employment ("Plaintiffs' Individual Settlement Agreements"). Plaintiffs' Individual Settlement Agreements both include a general release of all known and unknown claims of any type whatsoever Plaintiffs may have against Defendant, including a waiver of Section 1542, but excluding their PAGA action wage and hour claims,. (Agreement at ¶ 5.1.1). Payment of the amount agreed to in Plaintiffs' Individual Settlement Agreements shall be made by Defendant separate from, and in addition, to the Gross Settlement Amount paid in resolution of the PAGA claims alleged in the Action. (*Id.*). The individual claims are not at issue in this action and exist independent and apart from the PAGA claims at issue before the Court. *See Kim v. Reins Int'l Cal., Inc.*, 9 Cal. 5th 73, 80 (2020) (the "[s]ettlement of individual claims does not strip an Aggrieved Employee of standing, as the state's authorized representative, to pursue PAGA remedies" nor resolve the PAGA claims.). (Puche Decl. ¶ 3(d)).

$5,060. (Agreement at ¶¶ 3.2.1-3.2.3).[3] After these deductions, the amount remaining is the "PAGA Payment", which is estimated to be no less than $61,773.33. (Agreement at ¶¶ 3.2.4).

Of the PAGA Payment amount, seventy-five percent (75%) (no less than $46,330.00) will be paid to the LWDA and the remaining twenty-five percent (25%) (no less than $15,443.33) will be paid to the Aggrieved Employees (Agreement at ¶ 3.2.3).[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), and the prior 75/25 split still applies because this Action was filed before June 2024. *See* Cal. Lab Code § 2699 (v) (2024).

The Individual PAGA Payment for each Aggrieved Employee shall be based on the number of pay periods each Aggrieved Employee worked during the PAGA Period as an Aggrieved Employee, as a percentage of the total pay periods worked by all Aggrieved Employees during the PAGA Period.[5] The PAGA Period is the time period from October 24, 2022 to July 1, 2025. (Agreement at ¶ 1.23).

For Settlement, Defendant represented that there are approximately 392 Aggrieved Employees who worked a total of 3,500 PAGA Pay Periods. (Puche Decl. ¶¶ 4, 14(b)(c)); Agreement at ¶ 4.1).

Upon entry of final judgment, the Released Parties shall be entitled to a release from the Aggrieved Employees for any "Released PAGA Claims", which means any and all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the operative Complaint, and the PAGA Notices submitted by Plaintiffs to the LWDA, which occurred during the PAGA Period, and expressly excluding all other claims, including Plaintiffs' individual claims that are subject to a separate release, claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security,

[3] If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder of these amounts to the PAGA Payment. (Agreement at ¶ 3.2.1). To the extent the Administration Expenses are less, or the Court approves payment less than $5,060.00, the difference shall become part of the PAGA Payment (*Id*. at ¶ 3.2.2).

[4] "Aggrieved Employee" means all individuals who are or previously were employed by Defendant in California and classified as non-exempt employees at any time during the PAG Period. The PAGA Period means the period from October 24, 2022 to July 1, 2025. (Agreement at ¶¶ 1.6, 1.23).

[5] See Agreement at ¶ 3.2.4.1 ("The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Payment 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.")

workers' compensation, and California class claims, and PAGA claims outside of the PAGA period (collectively the "Released PAGA Claims"). (Agreement at ¶¶ 1.30, 5.2). The "Released Parties" Defendant and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns. (Agreement at ¶ 1.30). The Released PAGA Claims expressly excludes all other non-PAGA claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, California class claims, and PAGA claims outside of the PAGA period. (Agreement at ¶ 5.2) Plaintiffs and his or her respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, and the PAGA Notices submitted by Plaintiffs to the L WDA, which occurred during the PAGA Period ("Plaintiffs' Release"). Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the PAGA Period. Plaintiffs' release also does not extend to the release of their individual non-wage and hour PAGA claims, which shall be released by Plaintiffs in their separately executed Individual Settlement Agreements. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now knows or believes to be true but agrees, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them. (Agreement at ¶ 5.1).[6]

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[6] Separate from Plaintiffs' agreement to release all PAGA wage and hour claims alleged in the Action, Plaintiffs have also entered into confidential standalone agreements to release their individually alleged claims against Defendant, including non-wage and hour claims and all other claims arising out of her employment ("Plaintiffs' Individual Settlement Agreements"). Plaintiffs' Individual Settlement Agreements both include a general release of all known and unknown claims of any type whatsoever Plaintiffs may have against Defendant, including a waiver of Section 1542, but excluding their PAGA action wage and hour claims, which they are releasing in this Agreement. Payment of the amount agreed to in Plaintiffs' Individual Settlement Agreements shall be made by Defendant separate from,

Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 14 days after the Effective Date. (Agreement at ¶ 4.3).[7] Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the L WDA PAGA Payment, the Individual Settlement for Plaintiffs, the Administration Expenses Payment, the PAGA Counsel Expenses Payment, and the PAGA Counsel Fees Payment. (Agreement at ¶4.4). The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. (*Id*. at ¶ 4.4.1) For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, 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 thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b). (*Id*. at ¶ 4.4.3)

Pursuant to California Labor Code Section 2699(1), Plaintiffs is providing a copy of the Agreement and this motion to the LWDA concurrently with the filing of the instant motion for settlement approval as set forth in the accompanying proof of service in compliance with Labor Code section 2699(1). In addition, Plaintiffs shall submit to the LWDA a copy of the Court's judgment and order approving the Agreement within ten (10) days after entry of judgment or order.

IV. THE PARTIES HAVE SETTLED THE PAGA CLAIMS

The claim before this Court on this motion is solely the representative claim under PAGA on behalf of the State of California for civil penalties pursuant to the PAGA. The Parties have agreed to settle this PAGA claim in its entirety after investigation and an arm's length mediation session. (Puche Decl., at ¶¶ 2, 3.) The settlement is intended to fully and finally resolve the Released PAGA Claims asserted by Plaintiffs on behalf of the State of California. This is only a settlement of the PAGA

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and in addition, to the Gross Settlement Amount paid in resolution of the PAGA claims alleged in the Action.

[7] Disbursement of the PAGA Counsel Litigation Expenses Payment and PAGA Counsel Fees Payment shall not precede disbursement of Individual PAGA Payments. (Agreement at ¶4.4).

claims for civil penalties and is not a class settlement and does not release the individual claims, if any, of the Aggrieved Employees, other than any claims under PAGA. This settlement does not release any claim that is not a PAGA claim.[8] PAGA Counsel Fees Payment equal to one-third of the Gross PAGA Settlement amount ($56,666.67), and PAGA Counsel Litigation Expenses in an amount not to exceed $34,000 will also be paid to PAGA Counsel as part of the settlement in accordance with California Labor Code § 2699(g)(1), as set forth in the Agreement (Agreement 3.2.1).[9] Lastly, payment to the Administrator in an amount not to exceed $5,115 to perform the administrative duties to distribute the settlement money shall also be paid. (Puche Decl., at ¶ 4.)

V. THE PARTIES REQUEST REVIEW AND APPROVAL OF THE SETTLEMENT OF THE PAGA CLAIM

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." Cal. Lab. Code § 2699 (1) (2016). Consequently, the Parties respectfully ask the Court to review and approve the settlement of the PAGA claims and the PAGA Payment to be paid as part of the proposed settlement.

A. The PAGA Settlement Amount To Be Paid Is Fair And Reasonable

The Parties believe that the PAGA Settlement amount is fair and reasonable and therefore "shall" be reviewed and approved. Here, the Gross PAGA Settlement Amount of $170,000 is more than other PAGA settlements as it constitutes approximately $48.57 per pay period. (Declaration of Puche, at ¶ 5.)

This PAGA Settlement amount compares favorably to the estimated amount of PAGA penalties. With the assistance of an expert, Plaintiffs calculated that the maximum amount of statutory PAGA civil penalties was potentially $350,000.00 based on 3,500 pay periods applicable to the

[8] As explained by the Supreme Court in *ZB, N.A.*, 8 Cal. 5th at 196: "Nonparty employees are bound by the judgment in an action under the PAGA, but only with respect to recovery of civil penalties."

[9] As set forth in the accompanying Declaration of Sergio J. Puche, PAGA Counsel incurred costs in the current amount of $21,700.87 to BNBD and $6,884.94 to AEGIS, which is less than the cost allocation in the Agreement. See Declaration of Puche at ¶8.

Aggrieved Employees during the PAGA Period.[10] (Declaration of Puche, at ¶¶ 5,14(b)-(c)). 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 oppressive or confiscatory."

In *Carrington v. Starbucks Corp*., 30 Cal. App. 5th 504 (2018), the Court of Appeal affirmed a judgment after trial which only provided for a PAGA penalty of $5 per pay period. Therefore, at trial, any PAGA penalties awarded could be significantly less than Plaintiffs' calculation even where Plaintiffs prevailed on the PAGA claim. If the amount of $5 per pay period from *Carrington v. Starbucks* is used, the potential recovery of civil penalties would be only $17,500.00, which is a fraction what this settlement provides. (Declaration of Puche, at ¶¶ 5, 14(d).)

Under PAGA, Courts have considerable discretion to reduce the penalty award. In *Fleming v. Covidien*, 2011 U.S. Dist. LEXIS 154590 (C.D. Cal. 2011), a federal court reduced PAGA penalties from $2,800,000 to $500,000, a reduction of 82.2%, because the court found maximum penalties "unjust" because the employees had suffered no injuries. Some trial courts have actually awarded no civil penalties, even when Labor Code violations are established. See *Makabi v. Gedalia*, 2016 Cal. App. Unpub. 1489, *5-7 (2nd Dist. Ct. of App. Mar. 6, 2016) (no PAGA penalties were awarded by the Los Angeles County Superior Court) (unpublished decision); *In re Taco Bell Wage & Hour Actions*, 2016 U.S. Dist. LEXIS 48557, *40-43 (E.D. Cal. Apr. 6, 2016) (PAGA penalties denied after trial).

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*., 2011 U.S. Dist.

[10] Stacking is where more than one civil penalty is imposed in a pay period for the same conduct. The valuation of $350,000.00 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, is not aware of any PAGA award which permitted stacking and in the cases cited herein, only one penalty per pay period was assessed. In addition, the recent amendment of PAGA casts further doubt on the availability of stacking penalties.

LEXIS 13126, *10 (C.D. Cal. 2011) ("Given the statutory language [of PAGA], a Plaintiffs cannot recover on behalf of individuals whom the Plaintiffs 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 meal or rest period violations, failure to pay minimum wages, failure to pay overtime and sick pay wages, failure to provide accurate itemized wage statements, failure to reimburse employees for required expenses, and failure to pay wages when due.

Defendant maintains that Plaintiffs and the Aggrieved Employees were properly compensated, and that it did not violate the Labor Code. Accordingly, Defendant disputes and denies Plaintiffs' allegations and claims asserted in both the PAGA Notice and the Operative Complaint, which are resolved by the Agreement. Defendant asserted additional defenses to the PAGA claim, not only as to liability but also as to the amount of the penalties. Defendant 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. These defenses present a risk to the PAGA claims and the potential that some or all of the PAGA penalties sought may not be awarded. (Declaration of Puche, at ¶¶ 6, 14(g).)

Given Defendant's potential defenses to the violations at issue, the risks and costs of continued litigation, Plaintiffs and her attorneys believe that the PAGA Settlement is fair and reasonable. (Declaration of Puche, at ¶¶ 5, 6, 14(g).) Defendant has similarly concluded that it is desirable that the action is settled in the manner and upon the terms and conditions set forth in the Agreement in order to avoid further expense, inconvenience and distraction of further legal proceedings, as well as the uncertainty of litigation. Defendant has determined that it is desirable and beneficial to put to rest the claims in this action and Defendant agrees that the PAGA Settlement is fair, reasonable, and adequate.

PAGA Counsel have significant experience litigating wage and hour claims including claims for PAGA penalties, and the PAGA Settlement here is similar to or greater than similar settlements that courts have approved. (Declaration of Puche, at ¶ 6; *see also,* Davies Delc., ¶¶ 13-25.) The PAGA Settlement, along with the other terms of the proposed settlement, were negotiated by experienced counsel at arm's length with the assistance of a private mediator, Debra Melinkoff Esq. (Declaration of Puche, at ¶¶ 2, 3, 6.)

As set forth in the accompanying proof of service, the LWDA has been provided notice of this motion and the PAGA settlement. The decision of the LWDA to accept the PAGA Settlement and not oppose the motion should be given considerable weight. This is not a situation where the Court needs to be concerned about the rights of absent employees as in a class settlement, as this PAGA-only settlement does not release the individual claims of absent employees other than PAGA claims, and the LWDA is a sophisticated government entity that is more than able to look out for its own rights.

B. The Remaining Settlement Terms Are Fair And Reasonable

Although PAGA requires that a court approve the proposed PAGA settlement, Labor Code § 2699(1) does not require that a court approve any other elements of the proposed settlement. See Cal. Lab. Code § 2699 (2016). Because there are no class allegations for which Plaintiffs seeks approval, the approval provisions applicable to class settlements under Cal. Code Civil Proc. §382 do not apply. Accordingly, the Court only needs to approve the settlement of the civil penalties sought in the PAGA claim. Nevertheless, as explained herein, the settlement terms for attorneys' fees and costs are reasonable.

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

PAGA Counsel seek approval of attorneys' fees from the PAGA settlement in the amount of $56,666.67 representing one-third of the $170,000 Gross PAGA Settlement Amount. Pursuant to Agreement, 60% or $34,000.00 of the attorneys' fees will be paid to Blumenthal Nordrehaug Bhowmik De Blouw LLP; and 40% or $22,666.67 to Aegis Law, Inc. PAGA does not have any requirements for reviewing attorneys' fees, and Plaintiffs' position is that the payment of attorneys' fees and costs in this settlement is a matter of contract for contingent representation. Nevertheless, should this Court review the requested attorneys' fees, it is clear that the requested fees and costs are reasonable.

First, the requested fees are justified by the result achieved. PAGA Counsel negotiated a recovery of $170,000 and this result justifies the requested fees equal to one third of this recovery. This percentage is within the standard contingent recovery percentage of one-third, and this percentage is what was expressly approved by the Supreme Court in *Laffitte v. Robert Half Int'l Inc*., 1 Cal.5th 480, 504, (2016); *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal. App. 5th 521, 545 (2021) (recognizing that "'fee awards in class actions average around one-third of the recovery'" regardless of "'whether the percentage method or the lodestar method is used.'" (*quoting Chavez v. Netflix, Inc*., 162 Cal.App.4th 43, 66, fn. 11 (2008)).

Second, the fee award is justified by the work performed and contributions to the case. As detailed in the accompanying Puche Decl. at ¶ 7 d Davies Decl. T ¶¶ 27-29, the fee award is less than PAGA Counsel BNBD's current lodestar of $115,795 and AEGIS' current lodestar of $80,630.00, representing a "negative multiplier", with significant additional work to be performed.[11]

Generally, the Ninth Circuit and California Courts award positive multipliers between 2 to 4 times the lodestar to reward counsel for accepting the contingent risks of the litigation or obtaining good results. See, e.g., *Laffitte*, 1 Cal. 5th at 506 (approving one-third fee award with multiplier between 2.03 and 2.13); *Pellegrino v. Robert Half Intern., Inc.*, 182 Cal.App.4th 278 (2010) (noting reasonable multipliers of 2.0 to 4.0 are often applied and affirming 1.75 multiplier); *Wershba v. Apple Computer, Inc*., 91 Cal.App.4th 224, 254 (2001) (noting that multipliers can range from 2 to 4 or higher); *Vandervort v. Balboa Capital Corp*., 8 F. Supp. 3d 1200, 1210 (C.D. Cal. 2014) (awarding one-third of fund, which was a 2.52 multiplier of lodestar); *Boyd v. Bank of America*, 2014 WL 6473804, at *11 (C.D. Cal. 2014) (awarding one-third of fund, which was a 2.58 multiplier of lodestar); *Hopkins v. Stryker Sales Corp*., No. 11-CV-02786-LHK, 2013 WL 496358, at *6 (N.D. Cal. Feb. 6, 2013) (approving fee award that represented a multiplier of 2.76 as falling within the "majority" range for risk multipliers).

Third, consideration of the service factors justify the service of the lodestar. Courts multiply the lodestar by a factor to account for the risk of non-payment, delay in payment, the quality of work,

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[11] A true and correct copy of PAGA Counsel's billing records are attached as <u>Exhibit #2</u> to the Declaration of Sergio J. Puche, filed herewith.

and the novelty and difficulty of the issues involved. See *Ketchum v. Moses*, 24 Cal.4th 1122, 1132 (2001). Failure to apply a risk multiplier in cases that meet these criteria is an abuse of discretion. *Stetson v. Grissom*, 821 F.3d 1157, 1166 (9th Cir. 2016).

Finally, as to litigation expenses, PAGA Counsel will be recovering litigation expenses in the total amount of $31,699.38, which is less than the $34,000.00 allocation for costs in the Agreement, so the difference of $2,300.62 will be added to the PAGA Payment amount. These expenses are documented in the accompanying Declaration of Puche at ¶8 and Davies Decl. at ¶ 26 and Exhibit 2.

VII. THE SERVICE AWARD IS REASONABLE

In the Agreement at paragraph 1.16, "Service Awards for Plaintiffs" means service award payments to the named Plaintiffs in the amount of $12,500 each (for a total of $25,000 in service award payments) (Agreement ¶¶ 1.16, 3.2.2). "Service Award for Plaintiffs" are intended to compensate Plaintiffs' for initiating the Action, performing work in support of the Action, and undertaking the risk of liability for Defendants' expenses, and for the release of individual PAGA claims by Plaintiffs. Plaintiffs requests the Service Award of $12,500 each, as recognition for Plaintiffs' efforts in securing this Settlement for the benefit of the Aggrieved Employees and the LWDA. (Puche Decl. ¶19; *see also,* Declaration of Rogester Harrison ("Harrison Decl.") and Declaration of Gabrielle B. Yarbrough ("Yarbrough Decl.") at ¶¶ 2- 21). The Agreement provides for service awards as the named Plaintiffs not only served as the representative for these claims, but also is justified in light of the reputational risk that Plaintiffs assumed by litigating claims against a former employer. See *Billinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 267-68 (N.D. Cal. 2015) (finding "personal detriment" upon testimony that future employers can easily learn that a prospective employee served as a plaintiff through the internet); see also *Guippone v. BH S&B Holdings LLC*, No. 09 Civ. 1029, 2011 U.S. Dist. LEXIS 126026, at **4, 20 (S.D.N.Y. Oct. 28, 2011) ("[T]he fact that a plaintiff has filed a federal lawsuit is searchable on the internet and may become known to prospective employers when evaluating the person . . . Even where there is not a record of actual retaliation, notoriety, or personal difficulties, [representative Plaintiffs] merit recognition for assuming the risk of such for the sake of absent [parties].”). (Puche Decl. ¶ 19; Harrison Decl., and Yarbrough Decl., ¶¶ 6, 16 - 18.)

Employers commonly screen employee candidates to determine whether they have ever filed suit, and employee candidates who might be branded “litigious” are likely to be screened out of the process. In fact, an entire industry has developed for providing employers with background information on employee candidates. By bringing this action against an employer, Plaintiffs have assumed considerable reputational risk that may impact their ability to find employment in the future. *La Fleur v. Medical Management Intern, Inc*., No. 13-00398-VAP, 2014 WL 2967475, *8 (C.D. Cal. June 25, 2014) (awarding $15,000 to each named plaintiff in part for attesting to their fear that the lawsuit will harm their future job prospects in the industry). (*Id*.)

Moreover, the separate settlement payment is reasonable because Plaintiffs “remained fully involved and expended considerable time and energy during the course of the litigation.” See *In Re Toys ‘R’ Us-Del FACTA* Litig., 295 F.R.D. at 471 (citation omitted). Plaintiffs devoted their time and effort toward assisting their attorneys with the prosecution of the claims, including the prosecution of an individual arbitration action and assisted counsel with finalizing the settlement. Service awards are regularly awarded in this amount. See e.g. *Andrews v. Plains All Am. Pipeline L.P.*, 2022 U.S. Dist. LEXIS 172183, at *11 (C.D. Cal. 2022) (finding that the requested service awards of $15,000 each are appropriate). (*Id*. Harrison Decl., and Yarbrough Decl., ¶¶ 16, 19 – 21.)

Lastly, because PAGA is a “type of qui tam action,” it is appropriate for the Plaintiffs to receive a modest additional payment from the settlement as a “bounty” for her special effort in vindicating the State’s interests by enforcing its labor laws. See *Iskanian*, 59 Cal. 4th at 382 (“A PAGA representative action is therefore a type of qui tam action.”); see also *People ex rel. Strathmann v. Acacia Research Corp.*, 210 Cal. App. 4th 487, 500 (2012) (“The person who brings the qui tam action, called the ‘relator,’ stands in the shoes of the People of the State of California, who are deemed to be the real party in interest . . . The relator in a qui tam action under section 1871.7 does not personally recover damages but, if successful, receives [a portion] of the recovery as a bounty.”) (internal citations omitted). (Id.)

Such a payment incentivizes employees to step forward to enforce the Labor Code. See *MMM Holdings, Inc. v. Reich*, 21 Cal. App. 5th 167, 180 (2018) ("The bounty advances the public purpose and benefit by encouraging private qui tam actions; indeed, this prospect of reward may be the only means of inducing such private parties to come forward with their information.") (internal quotations omitted). This is especially important in this context, as "the lack of government resources to enforce the Labor Code led to a legislative choice to deputize and incentivize employees uniquely positioned to detect and prosecute such violations through the PAGA." *Iskanian*, 59 Cal. 4th at 390. Absent the incentive payment, fewer employees would be willing to step forward, and PAGA's primary purpose—enforcement of the Labor Code—would be substantially undermined. (*Id.*)

VIII. CONCLUSION

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

Dated: May 18, 2026

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: */s/ Sergio J. Puche*

Sergio J. Puche
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