

MARALLE MESSRELIAN (SBN 316974)

maralle@mmlawapc.com

MM LAW, APC

500 N. Brand Blvd., Ste 2000

Glendale, CA 91203

Telephone (818) 810-7747

Facsimile (818) 230-9018

Attorneys for Plaintiff,

MARGARITA SOTELO, and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

(UNLIMITED JURISDICTION)

MARGARITA SOTELO, as an “aggrieved employee” on behalf of herself and other similarly situated “aggrieved employees” under the Labor Code Private Attorneys General Act of 2004,

Plaintiff,

vs.

LA REINA MARKETS, LLC; and DOES 1 to 25, inclusive,

Defendants.

Case No.: 30-2024-01373350-CU-OE-CXC

DECLARATION OF MARALLE MESSRELIAN IN SUPPORT OF PLAINTIFF’S UNOPPOSED MOTION FOR APPROVAL OF PAGA SETTLEMENT

Assigned for All Purposes to

Hon. Melissa R. McCormick, Dept. CX104

Action filed: 01/16/2024

Hearing Date: 08/14/2025

Hearing Time: 2:00 p.m.

Hearing Dept: CX104

Reservation Number: 74528898

**DECLARATION OF MARALLE MESSRELIAN IN SUPPORT OF
PLAINTIFF’S UNOPPOSED MOTION FOR APPROVAL OF PAGA SETTLEMENT**

I, MARALLE MESSRELIAN, declare and state as follows:

1. I am an attorney duly licensed to practice before all the Courts of the State of California. I am the managing attorney of MM Law, APC and the attorney of record for Margarita Sotelo (individually, “Sotelo” or “Plaintiff”) in her lawsuit against Defendant La Reina Markets, LLC (“Defendant” or “LA REINA”).

2. Except as otherwise indicated, I have personal knowledge of all matters set forth herein and, if called as a witness, could and would competently testify thereto under oath.

3. A true and correct copy of the California Private Attorneys’ General Act (PAGA) Settlement and Release Agreement (the “Settlement or “Agreement”) is attached hereto as **Exhibit 1**.

4. A true and correct copy of the explanatory letter to the below-defined Aggrieved Employees is attached hereto as **Exhibit 2**.

Factual and Procedural Background

5. LA REINA first began to employ Plaintiff in or around April of 2022 to work in the Bakery department of its grocery store located at 508 N. East St. in Anaheim, California. LA REINA continuously employed her in that capacity until on or about February 1, 2023 when her employment ended.

6. Plaintiff complied with the procedures of Labor Code § 2699.3 for bringing suit under the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, et seq. (“PAGA”). On October 14, 2023, Plaintiff, on behalf of herself and LA REINA’s other California non-exempt hourly employees (hereafter collectively the “Aggrieved Employees”) gave written notice by electronic service to the California Labor and Workforce Development Agency (“LWDA”) and via certified mail to Defendant of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. The specific provisions alleged to have been violated in the PAGA notice letter included Labor Code sections 201, 202, 203, 204, 226, 226.7, 233, 246, 246.5, 510, 512,

1 558, 1174, 1194, 1197, 1198, 2802 and Industrial Welfare Commission Order No. 7-2001. A
2 true and correct copy of Plaintiff's letter to the LWDA is attached hereto as **Exhibit 3**.

3 7. On January 16, 2024, Plaintiff filed a representative lawsuit with a single cause
4 of action for recovery of civil penalties against Defendant in the Orange County Superior Court
5 (the "Lawsuit") pursuant to PAGA based on the same allegations set forth in her LWDA letter
6 dated October 14, 2023. Specifically, Plaintiff alleged that Defendant had failed to pay her and
7 the Aggrieved Employees all wages earned for all hours worked at the correct rates of pay;
8 provide meal and rest periods or pay correctly-calculated premium wages in lieu thereof;
9 indemnify for business expenses; issue only accurate and complete itemized wage statements;
10 timely pay wages during and upon separation of employment; provide paid sick leave/statements
11 of sick leave available; and maintain accurate employment records. A true and correct copy of
12 Plaintiff's Lawsuit is attached hereto as **Exhibit 4**. In response to Plaintiff's assertions,
13 Defendant filed its Answer on March 11, 2024. A true and correct copy of Defendant's Answer
14 is attached hereto as **Exhibit 5**.

15 8. The parties met and conferred and agreed that it may be in their mutual interests
16 to discuss Plaintiff's allegations informally, rather than through litigation, and scheduled private
17 mediation. Upon mutual agreement of the parties, on August 29, 2024, the parties participated
18 in a full-day mediation session with professional neutral Stever Cerveris.

19 9. At the mediation, the parties agreed to settle the Action. Before agreeing to the
20 terms of the Settlement, the parties engaged in informal discovery regarding LA REINA's
21 policies, practices, operations, time and payroll information and other topics. In advance of
22 mediation, Defendant provided Plaintiff's counsel with information and documents relating to
23 other Aggrieved Employees, including timekeeping and payroll data. The parties also
24 exchanged information pertaining to Plaintiff's individual claims. Through extensive, arm's
25 length negotiations at the mediation, and only after discovery and investigation were performed,
26 the parties agreed to the settlement terms. Now that the parties have finalized the PAGA
27 Settlement, Plaintiff submits it to this Court for approval.

28 10. Defendant denies any liability or wrongdoing of any kind whatsoever associated

1 with the lawsuit. It is the desire of the parties to fully, finally, and forever compromise, and
2 discharge all claims known or unknown related to those alleged in Plaintiff's lawsuit.

3 11. Counsel for the parties have further investigated the applicable law as applied to
4 the facts discovered regarding Plaintiff's claims, the defenses thereto, and the Labor Code
5 violations claimed by Plaintiff. I am experienced in prosecuting PAGA lawsuits. Counsel for the
6 Defendant are experienced in defending PAGA cases. Based on the parties' own independent
7 investigations and evaluations, the parties and their respective counsel are of the opinion that the
8 Settlement for the consideration and on the terms set forth in the Agreement are fair, reasonable
9 and adequate and are in the best interests of Plaintiff, the Aggrieved Employees, the State, and
10 Defendant in light of all known facts and circumstances and the risks inherent in litigation.

11 12. The Settlement of a PAGA claim requires court approval. Lab. Code §2699(1)(2).
12 The Court necessarily has broad discretion in making the decision to approve or reject a
13 settlement for civil penalties as the statutory scheme authorizes the Court to determine whether,
14 in certain circumstances, penalties should be assessed and, if so assessed, the appropriate amount
15 of penalties based on the facts and circumstances of the particular case. Although the PAGA
16 does not set forth the particular standards against which a PAGA settlement should be evaluated,
17 the LWDA has provided guidance for approval that mirrors the standards for evaluating class
18 action settlements.

19 13. PAGA imposes two requirements for the settlement of a PAGA claim. Both are
20 met here. First, any civil penalties recovered, whether by judgment or settlement, must be
21 distributed as follows: 75 percent to the LWDA, and the remaining 25 percent to the aggrieved
22 employees. *See Moorer v. Noble L.A. Events, Inc.* (2019) 32 Cal.App.5th 736, 742; Cal. Lab.
23 Code, § 2699(i). The parties' Settlement so provides (*See Exhibit 1*). Second, the LWDA must
24 be given notice of the settlement so that it may be heard before the Court decides whether to
25 grant approval. Cal. Lab. Code § 2699(1)(2). Here, notice is being given to the LWDA
26 concurrently with the filing of this motion. A true and correct copy of Plaintiff's submission with
27 the LWDA and a confirmation email is attached as **Exhibit 12**. As a result, Plaintiff has met all
28 procedural statutory requirements for settling a PAGA action.

1 ***Background of Counsel***

2 14. In 2003, I earned a Bachelor of the Science degree with a major in Accounting
3 from Cal State University, Northridge. In 2017, I earned a Juris Doctor degree from
4 Southwestern University School of Law.

5 15. In December of 2017, the Supreme Court for the State of California admitted me
6 as an Attorney and Counselor at Law and licensed me to practice law in all the Courts of this
7 State.

8 16. I am experienced in handling employment law matters and specifically wage and
9 hour cases. I have been practicing law since 2017. My experience has been almost exclusively
10 in the area of employment law representing employees with claims of wrongful termination,
11 harassment, whistleblower retaliation, discrimination, wage and hour, and family and medical
12 leave violations. I am a member of the California Employment Lawyers Association (CELA).

13 17. In my representation of employees, I have prosecuted several lawsuits on behalf
14 of employees with claims of rest and meal period and overtime violations or other wage claims.

15 18. I have been involved in the prosecution of numerous wage and hour class and
16 representative actions at various stages of litigation. A small sampling of the wage and hour
17 class and representative action cases in which I have been counsel of record is as follows:

18 a) *Joshua Silva v. Payo Laboratories, Inc., et al.*, San Luis Obispo County
19 Superior Court, Case No. 19CV-0689 (appointed Class Counsel and granted final approval of
20 class action settlement by the court).

21 b) *Mervin Perkins v. CC Venice, LLC, et al.*, Los Angeles Superior Court, Case
22 No. BC703660 (appointed Class Counsel and granted final approval of class action settlement
23 by the court).

24 c) *Jashar Bryant v. Pinnacle Cabling & Construction, Inc., et al.*, Orange
25 County Superior Court, Case No. 30-2020-01123094-CU-OE-CXC (appointed Class Counsel
26 and granted final approval of class action settlement by the court).

27 d) *Collins v. Spa Products Import & Distribution Co., LLC, et al.*, Los Angeles
28 County Superior Court, Case No. 19STCV10586 (granted final approval of class action

1 settlement by the court)

2 e) *Sabrina Slater v. Avalon Care Center – Sonora, L.L.C., et al.*, Tuolumne
3 County Superior Court, Case No. CV62006 (granted final approval of class action settlement by
4 the court)

5 f) *Violet Avalos v. Smithcare Incorporated, et al.*, Tulare County Superior
6 Court, Case No. VCU272975 (granted final approval of class action settlement by the court)

7 g) *David Contreras v. HTX Services LLC, et al.*, Los Angeles County Superior
8 Court, Case No. 19STCV43405 (granted final approval of class action settlement by the court)

9 h) *Devin Cherry v. LA Corral Three, Inc., et al.*, Kern County Superior Court,
10 Case No., BCV-18-101817-DRL (granted final approval of class action settlement by the court)

11 i) *Vikki Curl and Anthony J. Gratton v. Reel Security Corp., et al.*, Los Angeles
12 County Superior Court, Case No. 18STCV09302 (granted final approval of class action
13 settlement by the court)

14 j) *Corrine Lashbrook and Joshua Sweat v. Andy's BP, Inc., et al.*, San Mateo
15 County Superior Court, Case No. 19CIV02344 (granted final approval of class action settlement
16 by the court)

17 k) *Stephen Aguirre and Christopher Walls v. Anlin Industries*, Fresno County
18 Superior Court, Case No. 17CECG04326 (order and judgment approving PAGA settlement by
19 the court)

20 l) *Rebecca Mallory v. Odyssey Healthcare Operating A, L.P.*, Kern County
21 Superior Court, Case No. BCV-19-102735 (order and judgment approving PAGA settlement by
22 the court)

23 m) *Wendy Chavez v. Texas De Brazil (Fresno) Corporation, et al.*, Fresno
24 County Superior Court, Case No. 19CECG04249 (order and judgment approving PAGA
25 settlement by the court)

26 n) *Kevin Littleton v. Lincoln Military Property Management LP.*, San Diego
27 County Superior Court, Case No. 37-2018-00061799-CU-OE-NC (order and judgment
28 approving PAGA settlement by the court)

1 o) *Krystal Thomas v. Choice Physicians Network, Inc., et al.*, San Bernardino
2 County Superior Court, Case No. CIVDS2013964 (order and judgment approving PAGA
3 settlement by the court)

4 p) *Otina Sengvong v. Probuild Company, LLC, et al.*, United States District
5 Court, Southern District of California, Case No. 3:19-cv-02231-MMA (JLB) (granted final
6 approval of class action settlement by the court)

7 q) *Orland Perez Avalos v. Milagros Restaurant LLC, et al.*, San Mateo County
8 Superior Court, Case No. 22-CIV-01222 (order and judgment approving PAGA settlement by
9 the court)

10 r) *David Xiqui Vasquez v. The Province LLC, et al.*, Santa Clara County
11 Superior Court, Case No. 22CV397541 (order and judgment approving PAGA settlement by
12 the court)

13 s) *Manuel Melendrez v. Clean Auto Inc., et al.*, San Mateo County Superior
14 Court, Case No. 22CIV01967 (order and judgment approving PAGA settlement by the court)

15 t) *Arturo Vera Lopez v. Green Valley Landscape, et al.*, Monterey County
16 Superior Court, Case No. 22CV003751 (order and judgment approving PAGA settlement by
17 the court)

18 u) *Erasmus Gomez v. A-I Jay's Machining, Inc., et al.*, Santa Clara County
19 Superior Court, Case No. 22CV394795 (order and judgment approving PAGA settlement by
20 the court)

21 v) *Iris Rodriguez v. Facility Masters, Inc.*, Santa Clara County Superior Court,
22 Case No. 23CV423999 (order and judgment approving PAGA settlement by the court)

23 w) *Mariana Ruelas v. Vista La Mesa Senior Living, Inc., et al.*, San Diego
24 Superior Court, Case No. 37-2023-00050755-CU-OE-CTL (order and judgment approving
25 PAGA settlement by the court).

26 x) *Jose Angel Lopez v. Moreno & Associates, Inc., et al.*, Santa Clara Superior
27 Court, Case No. 23CV422622 (order and judgment approving PAGA settlement by the court).

28 y) *Irma Tapia v. Posada Associates, et al.*, Santa Cruz Superior Court, Case No.

1 23CV00355 (order and judgment approving PAGA settlement by the court).

2 z) *Andres Ibarra v. Stadco, et al.* Los Angeles Superior Court, Case No.

3 23STCV26591 (order and judgment approving PAGA settlement by the court).

4 ***Exposure and Risk Analysis***

5 19. The PAGA Settlement warrants a presumption of fairness for several reasons: (1)
6 The parties reached the Settlement through arm's-length bargaining with the aid of a respected
7 mediator; (2) The parties conducted sufficient investigation and discovery to allow Counsel and
8 the Court to act intelligently. Plaintiff requested and Defendant provided the number Aggrieved
9 Employees, the number of total pay periods during the PAGA Period, all policies in effect during
10 the PAGA Period, and anonymized payroll and time punch data for all of its California non-
11 exempt employees for the relevant period; and (3) Counsel for the parties are experienced with
12 PAGA cases. Moreover, neither Plaintiff nor I have any conflicts of interest with the absent
13 Aggrieved Employees and there are no issues of ascertainability. The parties are not aware of
14 any other cases that may be impacted by the Settlement.

15 20. I considered various sources of information in the lead-up to the mediation of
16 August 29, 2024 that enabled Plaintiff to achieve the Settlement at issue. Among other things,
17 Plaintiff considered the following:

- 18 • Defendant produced and Plaintiff's counsel reviewed Plaintiff's personnel file.
- 19 • Plaintiff's counsel requested that Defendant provide any and all policies regarding
20 overtime and double-time wages, off the clock work, expense reimbursement, meal
21 periods, rest breaks, meal period waivers and agreements, compensation plans, and
22 complaints about working conditions in effect during the relevant time period beginning
23 in November of 2022. Defendant produced those policies as part of their employee
24 handbook.
- 25 • Plaintiff's counsel requested that Defendant provide the total number of employees,
26 paychecks, and the pay cycles during the relevant period. Defendant provided the
27 answers to each of these questions.
- 28 • Plaintiff requested a 20% sampling of time and payroll records. Defendant provided
Plaintiff's counsel with anonymized payroll and time punch data for approximately 31
of its non-exempt employees during the relevant time period.

- Plaintiff's counsel then retained a professional data analyst, James Toney, to examine the records and determine the meal period violation rates, if there was any pay discrepancy in timesheet hours versus paid hours, and if there was any rounding/time shaving issues. Plaintiff is prepared to provide the Court with the data analysis for *in camera* inspection upon its request.
- Plaintiff's counsel analyzed the state of caselaw on PAGA claims, meal and rest break violations, claims for "off the clock" work and business expense reimbursement, especially as it relates to "manageability" arguments brought up by the defense.

21. Defendant estimated for purposes of mediation that, through August 29, 2024, there were approximately 153 Aggrieved Employees who incurred 9,370 pay periods during the relevant period. Based on this information, Plaintiff's counsel prepared an estimate of the maximum possible civil penalties under the PAGA. Based on this information and with the help of the data analyst, Plaintiff prepared an estimate of the maximum possible civil penalties under the PAGA. The maximum possible civil penalties under the PAGA is the total number of pay periods with one or more violations multiplied by the maximum possible civil penalty amount per pay period.

22. Plaintiff's analysis, which Defendant strongly disputes, revealed that 10.3% of pay periods with shifts greater than 5 hours had at least one meal violation (late, short, or no meal). Under the civil penalty formulas applicable under PAGA, Plaintiff calculated Defendant's potential exposure as follows: \$50 penalty per pay period, assuming 10.3% violation, based on Labor Code § 558 for violation of Labor Code § 512 (failure to provide meal periods)(9,370x \$50 x 10.3% =\$48,255.50); \$100 penalty per pay period under Labor Code sec. 2699(f)(2), assuming the same 6% violation rate for rest break violations (9,370x \$100 x 10.3% =\$96,511); \$250 penalty per pay period, based on Labor Code § 226.3 for violation of Labor Code § 226 (failure to provide compliant wage statements) (9,370 x \$250 x 10.3% = \$241,277.50). Stacking each of these maximum recoverable civil penalty estimates yields a total amount of \$386,044. Assuming that Plaintiff's calculations and analysis are accurate, the maximum exposure also presumes that the Court will not reduce the penalty award as unjust, arbitrary, oppressive, or confiscatory. For the rest period violations, it also presumes that the meal and rest period violation rates were identical. The potential for recovery of approximately \$386,044 in civil

1 penalties depends on circumstances that are extremely unlikely independently and in
2 combination. It would depend on the Court stacking the maximum recoverable civil penalties for
3 meal period violations, rest break violations, and faulty wage statement violations per pay period
4 for all 9,370 pay periods for all 153 Aggrieved Employees during the PAGA Period. Plaintiff's
5 counsel is not aware of any California State court decision awarding a plaintiff and the other
6 aggrieved employees she represents multiple civil penalties for the same pay period under
7 different Labor Code provisions. At best, Plaintiff could hope to recover one penalty for each pay
8 period (regardless of the different Labor Code violations that potentially occurred for the same
9 employee, during the same pay periods). Plaintiff had to substantially discount the value of these
10 claims in the settlement negotiations for this and a variety of other reasons (outlined below).

11 23. There are risks to Plaintiff's meal and rest period claims. Defendant contends
12 that, to establish a violation for missed meal periods, a plaintiff must do more than show that a
13 meal break was not taken. *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004.
14 So long as an employer provides employees with a "reasonable opportunity" to take a duty-free
15 meal period, it has no further duty to "police meal breaks and ensure no work thereafter is
16 performed." *Id.* at 1040-41. Instead, a plaintiff must show the employer impeded, discouraged,
17 or prohibited the employee from taking a proper break, or otherwise failed to release the
18 employee of all control. *Id.* "Thus, the crucial issue with regard to the meal break claim is the
19 reason that a particular employee may have failed to take a meal break." *Washington v. Joe's*
20 *Crab Shack* (N.D. Cal. 2010) 271 F.R.D. 629, 641. Determining by a review of LA REINA's
21 time records the exact reasons why a meal period appears to be short or late would be difficult
22 and pinpointing those days in which Plaintiff and the Aggrieved Employees worked during their
23 meal periods will be a challenge. Additionally, LA REINA's Employee Handbook contains
24 legally compliant meal period and rest break policies. Furthermore, at mediation Defendant
25 produced exemplars of employees' weekly meal and rest break confirmations.

26 24. Defendant contends they provided non-exempt employees with the opportunity to
27 take rest breaks in accordance with California law, and, accordingly, that Plaintiff's rest break
28 claim has no support. Additionally, there are other risks to Plaintiff's rest period claim.

1 Employers are not required to record rest periods and such periods are paid. Unlike meal periods,
2 where there are often records showing whether an employee clocked out or not, there is no such
3 evidence to prove a missed rest period or that the employer refused to authorize and permit one.

4 25. There are risks to Plaintiff's claim for unreimbursed expenses. Plaintiff alleges
5 that Defendant did not reimburse her or the other Aggrieved Employees for uniform and mobile
6 phone expenses. There is a risk that the Court may consider Plaintiff's claims as to Defendant's
7 alleged failure to indemnify for business expenses to be individual in nature. Moreover,
8 Defendant provided evidence at mediation that it supplied all of its employees with two new
9 shirts and a hat every year. As such, Plaintiff had to significantly discount the value of this claim
10 during settlement negotiations.

11 26. Additionally, PAGA states a court has discretion to award a lesser amount than
12 the maximum penalty. *See Lab. Code*, § 2699, subd. (e)(2) ("...a court may award a lesser amount
13 than the maximum civil penalty amount specified by this part if, based on the facts and
14 circumstances of the particular case, to do otherwise would result in an award that is unjust,
15 arbitrary and oppressive, or confiscatory."); *see also Thurman v. Bayshore Transit Management,*
16 *Inc.* (2012) 203 Cal.App.4th 1112, 1135 (reducing PAGA award). There is a substantial risk that
17 the Court could reduce civil penalties to an insignificant amount if it is unpersuaded by Plaintiff's
18 evidence of willful and intentional conduct. *Carrington v. Starbucks* (2018) 30 Cal.App.5th 504
19 ("*Carrington*") illustrates this. In that case, the Court of Appeal affirmed a trial court's heavily
20 discounted award of only \$5 per violation because it was within the Court's discretion to
21 significantly reduce PAGA penalties even when there is a finding that a violation of the
22 California Labor Code occurred. The plaintiff in *Carrington* had requested penalties in excess of
23 \$70 million and was successful in proving the PAGA claim during a bench trial. However, the
24 trial court reduced the total award after trial to only \$150,000 (30,000 violations x \$5) and stated
25 that this reduction was warranted because imposing the maximum penalty would be "unjust,
26 arbitrary, and oppressive", based on Starbucks's "good faith attempts" to comply with meal break
27 obligations and because the Court found the violations were minimal. Applying the same formula
28 here and assuming there was one violation during each pay period, the award of civil penalties

1 could not exceed \$46,850 in PAGA penalties (9,370 violations x \$5). As such, this Settlement is
2 a great result based solely on the risk the Court chooses to apply the *Carrington* formula.
3 Defendant has also posed formidable defenses to the Labor Code claims underlying Plaintiff's
4 allegations. Thus, the chance of Plaintiff recovering a higher amount than the Gross Settlement
5 Amount is uncertain.

6 27. All in all, considering all of the risks detailed above, as well as potential
7 manageability issues, the risk of not prevailing at trial, the risk that, even if Plaintiff prevailed,
8 the damages would be limited due to the largely discretionary nature of the damages, and taking
9 into account Defendant's defenses on the merits, Plaintiff applied a 50% discount to the
10 maximum PAGA exposure of \$386,044, resulting in a risk-discounted realistic potential
11 exposure of \$193,022. Therefore, the PAGA Settlement Amount of \$130,000 is a great result,
12 amounts to relief consistent with the underlying purpose of PAGA, and represents approximately
13 67% of the risk-discounted realistic potential recovery. *See In re Cendant Corp., Derivative*
14 *Action Litig.*, 232 F. Supp. 2d 327 (D. N.J. 2002) (approving settlement that only provided a 2%
15 recovery based on the estimated liability exposure).

16 28. The parties further recognize that the issues presented in the representative PAGA
17 claim are likely only to be resolved with extensive and costly pretrial and trial proceedings, and
18 that further litigation will cause inconvenience, distraction, disruption, delay, and expense
19 disproportionate to the maximum potential benefits to the Aggrieved Employees and Plaintiff
20 from continued litigation, especially in the post pandemic era where further and extensive
21 litigation may cause businesses to shut down, resulting in no monetary compensation to Plaintiff,
22 Plaintiff's attorneys, other PAGA Employees, and the State of California.

23 29. The settlement of the representative PAGA claim involves monetary relief to all
24 Aggrieved Employees, Plaintiff, her attorneys, and the State of California. The Settlement is
25 reasonable given the uncertainties this lawsuit entails. It is also reasonable given the structure
26 and purpose of the PAGA, since the PAGA is not a restitution statute. Rather, it is essentially a
27 punishment statute. It provides for civil penalties only. Within the PAGA framework she is bound
28 by, Plaintiff, considering the evidence she faced, achieved a great result for the employees

1 concerned. Furthermore, any employees who are dissatisfied with the amount they received in
2 civil penalties can pursue any damages they believe they are owed by the Defendant. The
3 Settlement does not require them to opt out to do so.

4 30. Furthermore, Plaintiff recognizes that continued litigation presents significant
5 risks that support a significant downward departure from Plaintiff's estimated civil penalties
6 amount. In view of the risks, the Settlement represents a fair, adequate, and reasonable
7 compromise amount for these claims and is in the best interest of Plaintiff and PAGA Employees
8 and thus, warrants approval. *See Laguna v. Coverall N. Am., Inc.*, Case No. 12-55479 (9th Cir.
9 June 3, 2014) 2014 WL 2465049, * 3. The PAGA settlement and its terms are fair, just,
10 reasonable, adequate, and equitable to Defendant, Plaintiff, and the State, especially in light of
11 the current economic climate, and are the product of good faith, and informed arms-length
12 negotiations between the parties consistent with public policy and fully comply with applicable
13 provisions of law.

14 31. As such, the settlement of PAGA penalties in the gross sum of \$130,000.00, of
15 which 75% of the net amount after attorney's fees, litigation costs, and settlement administration
16 costs (\$55,256.10) will be paid to the LWDA and 25% (\$18,418.70) will be distributed to the
17 Aggrieved Employees, is reasonable and appropriate under the circumstances.

18 ***Individual PAGA Payments***

19 32. Defendant represented that at the time of mediation there were approximately
20 153 Aggrieved Employees who worked a total of 9,370 pay periods during the PAGA Period.
21 After deducting the requested Court-approved Plaintiff's counsel's Attorneys' Fees payment
22 (\$43,333.33), Plaintiff's counsel's Costs payment (\$10,241.87), and the Settlement
23 Administrator's Fees/Costs (\$2,750.00), the NSA will be approximately \$73,674.80. Seventy
24 five percent (75%) of the NSA will be paid to the Labor and Workforce Development Agency
25 ("LWDA") (\$55,256.10), and twenty five percent (25%) (\$18,418.70) of the NSA will be paid
26 to the Aggrieved Employees on a pro-rata basis based upon their respective number of pay
27 periods during the PAGA Period. Based on this amount, the lowest estimated individual
28 recovery for an Aggrieved Employee would be \$1.97 (\$18,418.70 divided by 9,370 pay periods

1 as estimated at the time of mediation) if he/she worked only one (1) pay period during the PAGA
2 Period. The maximum estimated individual recovery for an Aggrieved Employee would be
3 approximately \$279.74 if he/she worked 142 pay periods (estimated total pay periods from
4 November 22, 2022 to approval hearing date of August 14, 2025 [\$1.97*142 pay periods]) under
5 the proposed settlement. The average estimated individual recovery for an Aggrieved Employee
6 is approximately \$120.38 (\$18,418.70/153 Aggrieved Employees). Given the discretionary
7 nature of awarding PAGA penalties based upon Defendant's compliant policies and Aggrieved
8 Employees' pay and time data, and considering the risk of not being able to proceed on a
9 representative basis at all due to the risk of not prevailing at trial, and the risk that, even if
10 Plaintiff prevailed, the damages would be limited due to the largely discretionary nature of the
11 damages, this is an excellent result, amounting to relief consistent with the underlying purpose
12 of PAGA. This is a great result given the uncertainties this lawsuit entails.

13 ***Plaintiff's Individual Settlement***

14 33. At the mediation, Plaintiff negotiated an individual settlement agreement
15 separate from the PAGA Settlement. The parties agreed that the consideration Plaintiff received
16 pursuant to the individual settlement agreement was to settle her individual wage and hour
17 claims, disability discrimination, failure to accommodate, failure to engage in the interactive
18 process, failure to prevent disability discrimination, and wrongful termination in violation of
19 public policy claims. A true and correct copy of Plaintiff's individual settlement is attached
20 hereto as **Exhibit 6**. My firm did not receive any attorney's fees and costs in relation to the
21 individual settlement.

22 34. As part of this confidential agreement, Plaintiff also provided Defendant with a
23 general release of all claims, whether known or unknown, including unknown claims covered
24 by Civil Code Section 1542. The settlement of Plaintiff's separate individual claims does not
25 and would not render Plaintiff inadequate to represent the Aggrieved Employees. Plaintiff has
26 no conflict of interest with the absent Aggrieved Employees and is adequate to represent the
27 Aggrieved Employees. Plaintiff has maintained contact with my office and helped me gather
28 information and evidence to prove the alleged claims and has agreed to remain involved as a

1 PAGA representative even if the Court does not approve the Settlement. While Plaintiff and I
2 believe that Plaintiff's individual settlement has no bearing on her adequacy as a PAGA
3 Representative, Plaintiff has included a copy of her individual settlement to the Court for review
4 (See **Exhibit 6**). It represents a fair resolution for Plaintiff's individual wage and hour claims,
5 disability discrimination, failure to accommodate, failure to engage in the interactive process,
6 failure to prevent disability discrimination, and wrongful termination in violation of public
7 policy claims. See generally Declaration of Margarita Sotelo.

8 35. The PAGA statute does not forbid service awards. Courts frequently award them
9 in PAGA-only cases as well. See *Mancini v. W. & S. Life Ins. Co.* (S.D. Cal. Sept.18, 2018),
10 2018 WL 4489590, at *2 (approving an incentive award of \$5,000 to named plaintiff in a PAGA-
11 only settlement); see also *Kinney v. Harvest Al Mgmt. Sub LLC*, (E.D. Cal. Sept. 6, 2013) 2013
12 WL 12415482, at *2 (awarding an incentive award of \$3,000 to a named plaintiff in a PAGA-
13 only settlement). The work Plaintiff has done on this case includes hiring my firm, speaking
14 with our office on many occasions by phone, explaining what her employment at LA REINA
15 was like, explaining what her employment at LA REINA had in common with other employees
16 who worked for LA REINA, explaining her claims to me and my staff, participating in
17 mediation, and communicating with me and my staff about the settlement agreement and related
18 documents. Despite this, Plaintiff is **not** asking for a service award for her involvement and the
19 time she spent assisting my firm with the PAGA action. See generally Declaration of Margarita
20 Sotelo.

21 *Attorneys' Fees and Costs*

22 36. I represent Plaintiff on a straight contingency basis. My firm's request for
23 \$43,333.33 in attorney fees and \$10,241.87 in litigation costs is fair and reasonable. "[R]egardless
24 whether the percentage method or the lodestar method is used, fee awards in class actions average
25 around one-third of the recovery." (See *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66,
26 fn.11 ("*Chavez*")); *In re Pacific Enter. Sec. Litig.* (9th Cir. 1995) 47 F.3d 373, 379 ("*Pacific*")
27 [affirming 33% fee award]; *Williams v. MGM-Pathe Communications Co.* (9th Cir. 1997) 129
28 F.3d 1026, 1027 ("*MGM*") (awarding 33% of total fund amount).) This is also consistent with my

1 experience in wage and hour class and PAGA settlements.

2 37. Should the Court elect to use Plaintiff's Counsel's lodestar as the method for
3 awarding fees, notwithstanding courts' clear preference for the percentage method, my request
4 for attorneys' fees of \$43,333.33 (33.3% of the Gross Settlement Amount) is fair and reasonable
5 based on my firm's lodestar as cross-checked against the percentage of the recovery. To date, I
6 have investigated and prosecuted this matter for over 48.20 hours, including the initial intake and
7 research, drafting the initial PAGA notice and Lawsuit; drafting informal discovery questions,
8 reviewing Defendant's informal document production, including wage and hour policies; sending
9 and receiving emails on the case with defense counsel, including substantive discussions; sending
10 the PAGA data to Plaintiff's expert for review/analysis and reviewing the expert's
11 findings/conclusions; drafting a mediation brief, preparing for mediation and engaging in a full
12 day private mediation; and drafting this PAGA approval motion. I also expect to perform
13 additional work on this case if the Court grants final approval of the Settlement, including
14 supervision of the Administrator's disbursement of the settlement funds to the Aggrieved
15 Employees.

16 38. My hourly rate during this case is \$650.00/ hour (8th year attorney handling wage
17 and hour class and PAGA actions). In this case, my firm has a total lodestar of approximately
18 \$31,330.00 without the use of any multiplier, which results in a multiplier of 1.383 when
19 compared against the \$43,333.33 request for attorneys' fees.¹ True and correct copies of the time
20 records of my firm are collectively attached as **Exhibit 7** to this declaration. I will have waited
21 for over two years to be awarded attorneys' fees for work performed since October of 2023,
22 when Plaintiff first contacted my office, compared to Defendant's counsel who have been paid
23

24 ¹The multiplier of 1.383 is supported by California case law. Under California law, lodestar multipliers can range
25 from 2 to 4 or even higher. See *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 49; *Wershba v. Apple Computer,*
26 *Inc.*, 91 Cal.App.4th at p. 255; *Natural Gas Anti-Trust Cases I, II, III & IV* (Cal. Sup. Ct. 2006) 2006 WL 5377849,
27 *4 ("This Court and numerous cases have applied multipliers of between 4 and 12 to counsel's lodestar in awarding
28 fees."); *In re California Indirect Purchases* (Cal. Sup. Ct. 1998) 1998 WL 1031494, *10 (citing *Wilson v. Bank of*
America Nat'l Trust & Sav. Ass'n., (Cal Sup. Ct. 1982) No. 643872 (multiplier of 10 times the hourly rate awarded)
(cited in 3 Newberg & Conte, *Newberg on Class Actions*, section 1403, at 14-5 n. 21), and *Glendora Community*
Redevelopment Agency v. Demeter (Cal. App. 2 Dist., 1984) 155 Cal. App. 3d 465, 479 (approving fee award 12
times estimated lodestar multiplier).

1 as they performed work during this case.

2 39. My previous experience in litigating wage and hour actions also supports the
3 reasonableness of the fee request. Based on past experience with similar matter, I was able to
4 evaluate the strengths and weaknesses of this case and the reasonableness of the Settlement.
5 Because it is reasonable to compensate me commensurate with my skill, reputation, and
6 experience, attorney's fees of approximately one-third of the Gross Settlement Amount is
7 reasonable. Likewise, the caliber and experience of opposing counsel in labor and employment
8 litigation, Guillermo M. Tello and J. Anthony Flores of Clark Hill LLP, also supports the
9 fairness and reasonableness of the requested fee award. The award of attorneys' fees sought is
10 justified here by the contingency nature of the attorney-client relationship, the risks of non-
11 payment and non-reimbursement, the delay in payment and cost reimbursement, and the great
12 results Plaintiff's Counsel has achieved for the Aggrieved Employees while bearing the
13 substantial burdens of contingency representation.

14 40. In addition, my firm incurred substantial costs to date, \$10,241.87 as part of the
15 PAGA Settlement. This amount consists of the LWDA filing fee and certified mailing postage
16 fees, the complaint filing fees, the data analyst fees, mediator fees, court filing fees, and attorney
17 service fees in the Action . A true and correct summary of my firm's costs and expenses incurred
18 to date along with invoices is attached as **Exhibit 8** to this declaration. As the evidence submitted
19 herewith shows, all of these costs are documented and reasonably incurred. Accordingly, they
20 warrant the Court's approval.

21 ***Settlement Administration Costs***

22 41. Before agreeing to Simpluris, Inc. ("Simpluris"), the parties sought and reviewed
23 bids from other reputable third-party administrator and Simpluris' bid was the lowest.

24 A. Simpluris, Inc.= \$2,750.00

25 B. Phoenix Class Action Administration Solutions =\$4,292.83; and

26 C. ILYM Group, Inc. =\$4,250.00

27 A true and correct copy of the bid from Simpluris is attached hereto as **Exhibit 9**. A true
28 and correct copy of the bid from Phoenix Class Action Administration Solutions is attached

1 hereto as **Exhibit 10**. A true and correct copy of the bid from ILYM Group, Inc. is attached
2 hereto as **Exhibit 11**. Furthermore, the Declaration of Denise Islas with attached exhibits, filed
3 under separate cover, sets forth Simpluris Inc.'s qualifications and costs to administer the
4 settlement. *See generally* Declaration of Denise Islas, Ex. B. Thus, the settlement administration
5 costs provision should be given approval.

6 ***Notice of Settlement to the LWDA***

7 42. Pursuant to Lab. Code § 2699(1)(2), Plaintiff submitted a copy of the Settlement
8 with the LWDA at the same time the Settlement is being filed with the Court. True and correct
9 copies of Plaintiff's submission with the LWDA and the confirmation email are collectively
10 attached as **Exhibit 12** to this declaration.

11 I declare under the penalty of perjury of the laws of the State of California that the
12 foregoing is true and correct to the best of my knowledge.

13 Executed April 6, 2025 , at Glendale, California.

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15 
16 MARALLE MESSRELIAN,
17 Declarant
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