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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

ALFREDO HERNANDEZ, individually and on behalf of all others similarly situated,

Plaintiff,

v.

WWIL PERSONNEL DBA STAFFING NETWORK, LLC, Limited Liability Company; SEKO WORLDWIDE, LLC, Limited Liability Company; and DOES 1-20 Inclusive,

Defendants.

Case No.: 24CMCV00279

Assigned For All Purposes To:
Judge: Wendy L. Wilcox
Dept.: E

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR APPROVAL OF PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Hearing Information :
Location : Dept. E
Date : August 7, 2025
Time : 8:30 AM
Reservation ID: 807787699290

Action Filed: February 28, 2024

TO THE COURT, ALL PARTIES, AND THEIR COUNEL OF RECORD:

PLEASE TAKE NOTICE that on August 7, 2025 at 8:30 a.m. in Department E of the above-entitled Court, located at 200 West Compton Blvd, Compton, CA 90220, Plaintiff Alfredo Hernandez ("Plaintiff") on behalf of himself, the State of California, and other aggrieved employees described herein, will and hereby does move for approval of the PAGA Settlement ("Settlement Agreement") between Plaintiff and WWIL Personnel dba Staffing Network and SEKO Worldwide, LLC (collectively, "Defendants"). Plaintiff respectfully requests entry of an order:

(1) Granting approval pursuant to California Labor Code § 2699(l) of the parties' proposed Settlement Agreement of claims brought by Plaintiff pursuant to Private Attorneys General Act, California Labor Code (Cal. Lab. Code §§ 2698, *et seq.*) ("PAGA");

(2) Appointing ILYM Group, Inc. as the third-party Settlement Administrator, and approving an award of $3,350 in capped costs to ILYM Group, Inc. for its settlement administration services;

(3) Approving as to form and content the proposed PAGA Settlement Letter, and directing that it be distributed to the Aggrieved Employees pursuant to the terms of the Settlement Agreement;

(4) Directing the distribution of the Gross Settlement Amount pursuant to the terms of the Settlement Agreement;

(5) Approving an award of 40% of the Gross Settlement Amount (i.e., $48,000.00) in attorneys' fees to Plaintiff's Counsel;

(6) Approving an award of $8,136.35 in actual litigation costs reimbursement to Plaintiff's Counsel;

(7) Approving an award of $10,000 to Plaintiff as a service award

(8) Approving the payment of $36,487.50 (75% of the Net Settlement Amount) to the California Labor & Workforce Development Agency for its share of PAGA civil penalties;

(9) Approving the payment of $12,162.50 (25% of the Net Settlement Amount) to the Aggrieved Employees.

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Concurrently with this motion, as required by PAGA, Plaintiff provided a copy of the Settlement Agreement to the California Labor and Workforce Development Agency and informed the California Labor and Workforce Development Agency of the hearing on August 7, 2025.

Plaintiff respectfully submits that good cause exists for granting this Motion for reasons set forth in the concurrently filed documents. Defendant's counsel does not oppose this Motion.

This Motion is based on this Notice, the attached Memorandum of Points and Authorities, the Declaration of Christopher A. Adams, the Declaration of Plaintiff Alfredo Hernandez, all documents on file in this action, and upon such oral argument as may be presented at the time of hearing.

DATED: May 30, 2025

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Christopher A. Adams
Attorneys for Plaintiff Alfredo Hernandez

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Alfredo Hernandez (Plaintiff"), representative of the Aggrieved Employees and the State of California, requests approval of the Private Attorneys General Act Settlement Agreement ("Settlement Agreement" or "Settlement"), which is attached as Exhibit A to the Declaration of Christopher A. Adams ("Adams Decl.") to resolve this action in its entirety. The parties have entered into a settlement agreement which, subject to approval by this Court, fully releases Defendant WWIL Personnel dba Staffing Network and SEKO Worldwide, LLC (collectively, "Defendants") from all claims asserted under the Private Attorneys General Act California Labor Code (Cal. Lab. Code §§ 2698, *et seq.*) ("PAGA") and all individual claims asserted by Plaintiff in this action in exchange for a lump sum, non-reversionary payment of $120,000. There will be no claim forms, and the Aggrieved Employees will automatically receive their Employee Payments.

The Settlement Agreement was reached through arm's-length negotiations by informed counsel following extensive investigation of the asserted claims and relevant law, the exchange of informal discovery, and the assistance of experienced mediator Hon. Daniel Buckley. The Settlement provides significant benefits to the State of California and the Aggrieved Employees. Notably, the relief provided under the Settlement, and the claims released thereunder, are solely for the payment of civil penalties under PAGA.

In deciding whether to grant approval of the Settlement, the primary issue is whether the Settlement is fair, reasonable, and adequate. As set forth herein, the proposed Settlement embodies all of the features of a settlement that is fair, reasonable, and adequate, as it (1) is the product of arm's-length negotiations, (2) was negotiated by attorneys experienced in wage-and-hour issues, (3) was negotiated after the parties undertook sufficient investigation to evaluate the relative strength of the PAGA claim, and (4) reflects a reasoned compromised based directly on the relative strength and value of the PAGA claim, as well as the risks, expense, complexity and likely duration of further litigation.

II. FACTUAL BACKGROUND

A. Plaintiff's Claims Against Defendant and Procedural History

On November 14, 2023 as required by California Labor Code § 2699.3, Plaintiff served the

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California Labor and Workforce Development Agency ("LWDA") and Defendant an administrative complaint on behalf of himself and other former and current aggrieved employees. (Adams Decl. ¶ 12.) In his LWDA complaint, Plaintiff alleges, among other things, that Defendants failed to provide meal and rest breaks, pay minimum and overtime wages, provide accurate wage statements to its employees, pay reporting time pay, timely pay wages, provide suitable seating requirement, and failure to reimburse for business expenses. (*Id.*) After waiting the sixty-five days required by PAGA, the LWDA declined to investigate this matter, leaving Plaintiff free to pursue such PAGA claims in a superior court civil action under PAGA. (*Id.* at ¶ 13.) To that end, on February 28, 2024, Plaintiff filed this individual and representative action alleging eight causes of action: (1) Failure to Pay Minimum Wage; (2) Failure to Pay Overtime Wages; (3) Failure to Provide Meal Periods; (4) Failure to Furnish Accurate Wage Statements; (5) Waiting Time Penalties; (6) Failure to Reimburse for Business Expenditures and Losses; (7) Suitable Seating Requirements (8) Civil Penalties Under PAGA. (*Id.*) The PAGA claim is based on those allegations contained in the LWDA letter, and is alleged on a representative basis. (*Id.* at ¶ 14.) Specifically, in his complaint, Plaintiff seeks to represent the State of California and the following group of employees: all non-exempt employees who were assigned by WWIL Personnel to work at SEKO Worldwide, LLC in California during the PAGA Period. (*Id.*)

Following Defendants' answer, Plaintiff, through his legal counsel, met and conferred regarding the potential mediation of this Action and agreed to mediate the case on February 17, 2025 and March 6, 2025 before neutral mediator Hon. Daniel Buckley, who is well-respected and knowledgeable in wage-and-hour actions and has additional specific expertise in PAGA actions. (*Id.* at ¶ 15.) Defendants produced Plaintiff's personnel file and wage statements, and in anticipation to mediation, Plaintiff's counsel informally requested that Defendants produce their relevant policies, procedures, and practices and data demonstrating estimated representative size, hours worked, workweeks (pay periods), hourly-rates, and total compensation of non-exempt employees. (*Id.* at ¶ 16.) In response, Defendants produced: (1) the written policies and practices related to meal periods, rest periods, overtime, wage statements, payment of final wages, and any other wage-and-hour issues; (2) sample time records and wage statements; and (3) data demonstrating the total number of aggrieved employees and total number of pay periods — Defendants records indicate that

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there are approximately 712 PAGA pay periods. (*Id.*)

Using this general representative information and the payroll and timekeeping records, prior to mediation, counsel for Plaintiff analyzed this information and prepared its damage analysis accordingly. (*Id.* at ¶ 17.) Based on Plaintiff's counsel's experience and the claims in this matter, this information and documents were sufficient for Plaintiff's counsel to analyze the merits of this case, and, as explained below, estimate the damage exposure. (*Id.*)

On February 17, 2025, the parties participated in a full-day mediation, after undertaking an investigation and the exchange of information and documents pertaining to Plaintiff and the Aggrieved Employees, but were unable to reach a resolution. (*Id.* at ¶ 18). The Parties participated in a second mediation before Hon. Daniel J. Buckley on March 6, 2025, and were able to fully and finally resolve the action. The negotiations were rigorous and conducted at arm's-length. (*Id.*) Each side provided the other with several settlement proposals before the agreement was reached, and an agreement was only met with the assistance of an experienced mediator – indeed, the parties only reached a settlement after Defendants discussed amongst each other. (*Id.*) Defendants denied any wrongdoing and believe that it has meritorious defenses, but have concluded that the further defense of this Action would be lengthy and expensive for all parties. (*Id.*) Plaintiff and his counsel have considered the uncertainty and risks involved in further litigation, including the difficulties in manageability, reduction of penalties by the Court, and prevailing on the merits. (*Id.*; Declaration of Plaintiff Alfredo Hernandez ¶ 13.)

B. The Proposed Settlement and Notice

The Settlement was reached on a representative basis under PAGA on behalf of the State of California and the "Aggrieved Employees." (Adams Decl. ¶ 19.) The Settlement Agreement defines "Aggrieved Employees" to mean "all non-exempt employees who were assigned by WWIL Personnel to work at SEKO Worldwide, LLC in California during the PAGA Period. (*Id.*, Exh. A.) The "PAGA Period" means the time period from November 14, 2022 through May 7, 2025. (*Id.* at ¶ 20)

In exchange for a release of the PAGA claim, Defendant is providing substantial compensation to the State of California, and the Aggrieved Employees in the form of penalties. (*Id.*

at ¶ 21.) Specifically, Defendants have agreed to pay the payment of $120,000 (the "Gross Settlement Amount"). (*Id.*, Exh A.) After deducting amounts for requested attorneys' fees and costs, settlement administration costs, and Plaintiff's service award, the remaining Net Settlement Amount distributable to the Aggrieved Employees and the LWDA is $50,513.65. (*Id.* at ¶ 22.) This non-reversionary Settlement Agreement does not require Aggrieved Employees to submit a claim form to reap the financial benefits of the Settlement Agreement. (*Id.* at ¶ 23.) In summary, the monetary terms of the Settlement Agreement are:

Total Settlement Amount:	**$120,000.00**
Minus Court-approved attorneys' fees (40%):	$48,000.00
Minus Court-approved attorneys' costs:	$8,136.35
Plaintiff's Service Award:	$10,000.00
Minus estimated settlement administrator costs:	$3,350.00
Net Settlement Amount:	**$50,513.65**
Minus paid to Aggrieved Employees	**$12,628.42**
Total Paid to LWDA 75% Share of Section 2699 Penalties:	**$37,885.23**

(*Id.* at ¶ 24.) Specifically, as to each line item above, Plaintiff's Counsel requests $48,000.00 in attorneys' fees (40% of the Gross Settlement Amount) and $8,136.35 in actual litigation costs. (*Id.* at ¶ 25, Exh. C.) The parties have agreed to engage ILYM Group, Inc. ("ILYM") as the third-party administrator. (*Id.* at ¶ 26.) ILYM shall be responsible for, among other things, calculating the Employee Payments, and mailing the settlement checks to the Aggrieved Employees and to the LWDA. (*Id.*) ILYM has agreed to administer the Settlement Agreement for a capped fee of $3,350.00, which based on Plaintiff's counsel's experience, is a reasonable amount in light of the number of Aggrieved Employees and pay periods. (*Id.* at ¶ 27.)

Additionally, the entire Net Settlement Amount shall be designated as PAGA civil penalties. (Adams Decl. at ¶ 28.) From the Net Settlement Amount, $37,885.23 shall be distributed to the LWDA and $12,628.42 to the Aggrieved Employees. (*Id.*; *see also* Cal. Lab. Code § 2699(i) ("[C]ivil penalties recovered by aggrieved employees shall be distributed as follows: 75 percent to the [LWDA] . . . and 25 percent to the aggrieved employees.").)

Following approval of the Settlement, in addition to the settlement checks, the PAGA Settlement Letter ("PAGA Letter") will be mailed by first-Class mail to each Aggrieved Employee. (Adams Decl. ¶ 29; Exhibit B.) The PAGA Letter is attached as Exhibit B to the Declaration of

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Christopher A. Adams. (*Id.*) Aggrieved Employees will have 180 calendar days to cash his or her settlement check. (*Id.*) Prior to the disbursements of the Employee Payments, the Settlement Administrator shall run a single skip trace for every Aggrieved Employee to determine whether any more recent physical address information than that reflected in Defendant's regularly maintained records may be found. (*Id.*) The PAGA Letter will be translated into Spanish since that is the primary language of some of the Aggrieved Employees. (*Id.*)

III. LEGAL ARGUMENT

A. Standard For Approval of a PAGA Settlement

The settlement of a PAGA claim requires court approval. *See* Labor Code § 2699(l) (stating the "court shall review and approve any penalties sought as part of a proposed settlement agreement pursuant to this part."). The Court must be mindful that "[s]ettlement is a compromise, which balances the possible recovery against the risks inherent in litigating further." *In re TD Ameritrade Account Holder Litig.*, Case No. C 07-2852 SBA, 2011 WL 4079226, *9 (N.D. Cal. Sept. 13, 2011). Indeed, "the very essence of a settlement is ... 'a yielding of absolutes and an abandoning of highest hopes,'" as "it is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements." *Officers for Justice v. Civil Service Com.*, 688 F.2d 615, 624-25 (9th Cir., 1982). As such, "the settlement or fairness hearing is not to be turned into a trial or rehearsal for trial on the merits," or "judged against a hypothetical or speculative measure of what might have been achieved." *Id.*

Although the operative PAGA statute does not set forth the criteria by which a PAGA settlement is to be judged, it is presumed that a reviewing court may utilize some of the factors for review of a class action settlement, but "a PAGA claim asserted on a non-class representative basis . . . is not considered a class action but a law enforcement action, and therefore does not have to meet the requirements of [a class action]." *See Casida v. Sears Holdings Corp.*, 2012 WL 253217 at *3 (E.D. Cal. Jan. 26, 2012); *Mendez v. Tween Brands, Inc.*, 2010 WL 2650571 at *4 (E.D. Cal. Jul. 1, 2010). A court's review of a PAGA settlement necessarily implicates the following unique features that render the approval process distinct from approval of a class action settlement under Cal. Code Civ. P. § 382 and C.R.C. Rule 3.769. *See id.*

First, in evaluating the adequacy of the settlement amount, the Court's focus is not

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concerned with the amount(s) that "aggrieved employees" are to receive, but rather, must focus on the total settlement amount in achieving PAGA's objective. Indeed, "[t]he remedy sought in a PAGA suit consists of civil penalties, not individual or class damages," and while a "[PAGA] action is ... designed to protect the public and penalize the employer for past illegal conduct," a reviewing court must be mindful of the fact that settlement of a PAGA claim involves a compromise. *Mendez, supra*, 2010 WL 2650571 at *4. "Unlike class actions, these civil penalties are not meant to compensate unnamed employees because the action is fundamentally a law enforcement action." *Ochoa-Hernandez v. Cjaders Foods, Inc.*, 2010 WL 1340777 at *4 (N.D. Cal. Apr. 2, 2010). The court must not lose sight of the fact that "[u]nlike a class action seeking damages or injunctive relief for injured employees, the purpose of PAGA is to incentivize private parties to recover civil penalties for the government that otherwise may not have been assessed and collected by overburdened state enforcement agencies." *Id.*

Second, consistent with the fact that unnamed employees have no property interest in a PAGA claim, "[u]nnamed employees need not be given notice of the PAGA claim, nor do they have the ability to opt-out of the representative PAGA claim." *Ochoa-Hernandez*, 2010 WL 1340777 at *5. This renders the approval process of a PAGA settlement distinct from a class action settlement, as there is no need for the Court to employ the "two-step approval process" required under F.R.C.P. Rule 23 and C.R.C. Rule 3.769.

Finally, unlike class action settlements under Rule 23(e) and Rule 3.769, the scope of release permitted in a PAGA settlement is limited. While "judgment in [a PAGA] action is binding not only on the named employee plaintiff but also on government agencies and any aggrieved employee not a party to the proceeding . . . the non-party employees, because they were not given notice of the action or afforded any opportunity to be heard, would not be bound by the judgment as to remedies other than civil penalties." *See Arias v. Sup. Ct.*, 46 Cal.4th 969, 986-87 (2009). Thus, the scope of a release in a PAGA settlement is confined to the PAGA penalties alleged in the complaint and to the claims that were, or could have been, alleged pursuant to PAGA based on the factual allegations in the complaint. In the case at hand, as the only claims at issue are PAGA claims, those will be the only claims extinguished because of this Settlement.

B. The Proposed Settlement is Fair, Adequate, and Reasonable Compromise of Disputed Claims and Serves the Purposes of PAGA.

California courts have a strong policy in favor of settlement. *See, e.g., Stambaugh v. Superior Court*, 62 Cal. App. 3d 231, 236 (1976). Unlike individual settlements, class and representative PAGA settlements involve a court approval process that exists to prevent fraud, collusion, and unfairness to absent individuals. *See Malibu Outrigger Bd. of Governors v. Superior Court*, 103 Cal. App. 3d 573, 578-79 (1980). In general, to be approved, a settlement must be "fair, reasonable and adequate to all concerned." *Reed v. United Teachers Los Angeles*, 208 Cal. App. 4th 322, 337 (2012). Settlement is the preferred means of dispute resolution, particularly in complex representative litigation. *See In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101 (9th Cir. 2008). The court's role in evaluating a proposed settlement is limited to ensuring that the agreement taken as a whole is fair and is not the product of fraud or collusion between the negotiating parties. *See, e.g., Hanlon, supra*, 150 F.3d at 1027. There is an initial presumption of fairness when the settlement agreement was negotiated at arm's length by experienced counsel. *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 130 (2008). Because this Settlement is fair, adequate, and reasonable, Plaintiff respectfully requests that the Court grant approval.

1. <u>The Settlement Is the Result of Arm's-Length Bargaining</u>

As discussed above, the parties engaged in settlement negotiations after significant analysis, informal discovery, calculation of liability by Plaintiff's counsel, and the assistance of an experienced wage-and-hour mediator. (Adams Decl. ¶¶ 17-19.) Counsel aggressively pursued their respective positions before eventually reaching an agreement. (*Id.*) Each side provided the other with several settlement proposals before the agreement was reached. (*Id.*) The negotiations were rigorous and conducted at arm's-length. (*Id.*) The Settlement cannot be described as fraudulent or collusive. (*Id.*) Rather, the Settlement is the product of informed and rigorous negotiations by experienced counsel. (*Id.*)

2. <u>There Has Been Sufficient Investigation and Discovery to Allow Plaintiff and the Court to Act Intelligently and Evaluate the Settlement</u>

Prior to reaching an agreement to settle the PAGA claims, the parties engaged in substantial informal discovery. (Adams Decl. ¶¶ 16-18.) Defendant provided Plaintiff with the following information in advance of the mediation: (1) the written policies and practices related to meal periods, rest periods, overtime, wage statements, payment of final wages, and any other wage-and-hour issues; (2) sample time records and wage statements; and (3) data demonstrating the total number of aggrieved employees and total number of pay periods (*Id.*) Based on this represented data, Plaintiff obtained an analysis of potential PAGA violations based on the allegations in this case using an outside analyst. (*Id.*)

3. Plaintiff and his Counsel Support the Proposed Settlement and Counsel Is Experienced in Similar Litigation

Plaintiff and his counsel fully support the settlement. (Adams Decl. ¶ 11; Hernandez Decl. ¶ 13.) Plaintiff's counsel has experience prosecuting and defending class and representative wage-and-hour litigation, having been approved as class and representative counsel in various cases. (Adams Decl. ¶¶ 3-11.) Plaintiff's counsel is prepared to litigate Plaintiff's claims through trial and any resulting appellate proceeding. (*Id.* at ¶¶ 11, 18.) But because of the interest in avoiding the risks and expenses associated with this litigation, and the substantial benefits the Settlement confers upon the State of California and Aggrieved Employees, Plaintiff and his counsel have determined that the settlement is in the best interests of the State of California and the Aggrieved Employees. (*Id.*)

4. There Is No Known Opposition to the Settlement

To date, Plaintiff is unaware of any opposition to the settlement by the LWDA or any Aggrieved Employees. (Adams Decl. ¶ 30.) As mentioned above, concurrently with this motion, as required by PAGA, Plaintiff provided a copy of the Settlement Agreement to the LWDA and informed the LWDA of the hearing on August 7, 2025. (*Id.* at ¶ 31, Exh. E.) To date, the LWDA has not commented, constituting its tacit approval of the Settlement. (*Id.*) It is also important to note, that the LWDA declined to pursue the alleged PAGA violations in response to Plaintiff's administrative complaint submitted to the LWDA on November 14, 2023. (*Id.* at ¶ 32.) Equally important to note, recent California case law recently found that plaintiffs in other PAGA cases against similar defendants do not have standing to intervene or object to a PAGA settlement agreement that may resolve their PAGA claim. *See Turrieta v, Lyft, Inc.,* 69 Cal. App. 5th 955 (2021).

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5. <u>The Proposed Settlement Is Fair and Reasonable Given the Substantial Benefits to the State and the Risks and Expense of Complex and Protracted Litigation</u>

The Settlement confers substantial benefits on the State of California and the PAGA Aggrieved Employees. (Adams Decl. ¶ 33.) In particular, Defendant will pay $120,000 as consideration for the release of all asserted PAGA claims, resulting in $50,513.65 in penalties – of which, $37,885.23 goes to the LWDA and $12,628.42 to the Aggrieved Employees. (*Id.* at ¶ 34, Exh. A.)

Moreover, although not necessary, the Settlement is fair and reasonable in light of *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116 (2008), which requires, in class action settlements, that information be presented to the Court, acting as a fiduciary for the absent Class members ". . . to ensure that the recovery represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing the litigation. . ." *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, 186 Cal.App.4th 399, 409 (2010) clarified that a *Kullar* showing does not require the parties to submit an illusory prediction of the outer reaches of exposure without taking into account the actual risks of certification, decertification, dispositive motions, and trial. Additionally, *Kullar* does not require an explicit statement of the maximum amount the class could recover if it prevailed on all its claims provided there is a record which allows "an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation." *Id.*

PAGA authorizes aggrieved employees to recover civil penalties on behalf of the state, themselves, and other aggrieved employees. The default PAGA civil penalty is $100 per employee per pay period for an initial violation and $200 per pay period for any subsequent violations. Here, Defendant's payroll records indicate that it paid Plaintiff and other employees biweekly, resulting in a total of approximately 712 pay periods during the relevant PAGA Period. (Adams Decl. ¶ 35.)

Plaintiff's primary claims in this matter is that Defendants violated California wage-and-hour law for failing to provide all lawful meal and rest breaks, because its practice was to systematically pressure its employees to forego their breaks and continue working to meet customer demands. (*Id.* at ¶ 36.) Plaintiff's thorough analysis of Defendants' payroll time records and wage statements indicates that there is a PAGA violation approximately 80% of the pay periods due to Defendants'

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failure to provide meal breaks to employees. (*Id.*) This results in approximately 570 pay periods with a PAGA violation (712 total pay periods x 80% = 570 pay periods). (*Id.*)

As to Plaintiff's remaining alleged wage-and-hour violations giving rise to PAGA penalties, California law suggests that PAGA penalties are not "stackable." See *Smith v. Lux Retail N. Am., Inc.*, No. C 13-01579 WHA, 2013 WL 2932243, at *3 (N.D. Cal. June 13, 2013); *Hernandez v. Towne Park, Ltd.*, No. CV 12-02972 MMM JCGX, 2012 WL 2373372, at *17, n. 77 (C.D. Cal. June 22, 2012). This means that Plaintiff most likely could only recover a single PAGA penalty instead of multiple PAGA penalties. (Adams Decl. ¶ 38.) Moreover, while Plaintiff's counsel believes that Defendants can be subject to the higher "subsequent" violation amount pursuant to Labor Code Section 2699(f)(2), there is a risk that this section could be interpreted to only permit the higher "subsequent" violation amount if the Labor Commissioner or LWDA issues a formal citation for a prior violation. (Adams Decl. ¶ 38.) Indeed, current California case law suggests that this is the case. *See Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1209 (2008) ("Until the employer has been notified that it is violating a Labor Code provision (whether or not the commissioner or court chooses to impose penalties), the employer cannot be presumed to be aware that its continuing underpayment of employees is a 'violation' subject to penalties [and will be assessed only the 'initial' violation rate]."). After review of the facts in this case, current California case law, and Plaintiff's counsel's experience, Plaintiff feels it is appropriate to calculate the PAGA exposure at the initial violation rate. (*Id.*)

As a result, with a 80% violation rate discussed above and 570 pay periods with a violation, the total exposure in this case is $57,000 (570 pay periods x $100 penalty per pay period = $57,000). (Adams Decl. ¶ 39.)

At the same time, Defendant vehemently denied all of Plaintiff's allegations. (*Id.* at. ¶ 40.) Defendant maintained several arguments to Plaintiff's theories. (*Id.*) First, it argued that each employee received a full thirty-minute meal period and all of their rest period. (*Id.*) Defendant claimed the timecards evidence all employees who worked shifts longer than six hours clocked in and out for lunches of at least 30 minutes or longer. (*Id.*) Defendant attempted to demonstrate its method to calculate the overtime pay complied with the method approved by the DLSE. (*Id.*)

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Moreover, Defendant argued that its policies and procedures with regards to meal and rest breaks complied with California wage-and-hour law. (*Id.*) Accordingly, Defendant heavily discounted this claim. (*Id.*)

In addition to the defenses on the merits, Defendants argued that the trial methodology of PAGA cases continues to develop and is uncertain. (Adams Decl. ¶ 41.) Defendants' position is that, should this action be tried as a PAGA representative action, it would be unmanageable and involve a multitude of individual issues. (*Id.*) *See, e.g., Amiri v. Cox Comms. Cal.*, LLC, 272 F. Supp. 3d 1187, 1194 (C.D. Cal. 2017) ("[T]he Court finds it appropriate to strike Plaintiff's PAGA representative claims as unmanageable.").

Furthermore, Plaintiff's considered Defendants position that PAGA penalties are discretionary in nature and that even if Plaintiff were successful at trial, the Court has discretion to significantly decrease the amount of damages awarded in this PAGA action. (Adams Decl. ¶ 42.) For instance, the California Court of Appeal recently upheld a court's heavily-discounted award of only $5 per pay period in *Carrington v. Starbucks*, 30 Cal.App.5th 504 (2018). Plaintiffs in *Carrington* had requested more than $70 million in damages and were successful in proving their PAGA claim during a bench trial. But the superior court held that the defendants had attempted to comply with the law and reduced the total award after trial to only $150,000 out of the $70 million requested by plaintiff's counsel. *Id.* In affirming the court's ruling, the appellate court confirmed that it was within the Court's discretion to significantly reduce PAGA penalties even when there is a finding that a violation of the California Labor Code occurred. *Id.* In light of this and other similar cases, Plaintiff's counsel weighed the risks of being successful at trial and ultimately receiving only a portion of the requested PAGA penalties. But the instant result provides a significant recovery without undergoing such risk. (Adams Decl. ¶ 42.)

Finally, had the case not settled, the parties would have to conduct additional extensive formal discovery, including written discovery and multiple depositions of party and percipient witnesses all over the State of California, to prepare the case for trial. (*Id.* at ¶ 43.) From the inception of this litigation, Defendant indicated that it would aggressively litigate this case. (*Id.*) Even if Defendant failed to succeed on its defenses, litigating a complex PAGA action is inherently expensive, and the litigation could continue beyond entry of judgment if either party were to appeal adverse rulings.

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(*Id.*) Additionally, there was a real possibility that Plaintiff will recover nothing, either for himself or on behalf of the State of California or other Aggrieved Employees, after years of costly protracted litigation. (*Id.*) Avoiding these risks and the likelihood of future contentious litigation, which will involve significant costs, favors settlement. (*Id.*)

In light of these uncertainties, including Defendants' arguments and defenses and the maximum exposure in this matter, the parties entered into the instant Settlement Agreement which provides immediate benefits and minimizes the risks of any adverse ruling. (*Id.* at ¶ 44.) Considering the above and the settlement sum of $120,000 in this case, the Settlement is fair and reasonable under the circumstances. (*Id.*)

6. The Proposed Settlement Advances the Purposes of PAGA

The California Legislature enacted PAGA, because it recognized that "a shortage of government resources" — including inadequate financing and declining staffing levels for labor law enforcement agencies — had led and would continue to lead to the "fail[ure] to effectively enforce labor law violations." *Iskanian v. CLS Transp. Los Angeles, LLC*, 59 Cal. 4th 348, 379 (2014). Because the Legislature wanted to "achieve maximum compliance with state labor laws," it declared it "in the public interest to allow aggrieved employees, acting as private attorneys general, to recover civil penalties for Labor Code violations . . . that otherwise would have been assessed and collected by the Labor Workforce Development Agency." *Id.* Indeed, "'[c]ivil penalties are inherently regulatory, not remedial,' and are intended to secure obedience 'to statues and regulations validly adopted under the police power.'" *Home Depot U.S.A., Inc. v. Superior Court*, 191 Cal. App. 4th 210, 225-26 (2010).

Here, as a result of the Settlement Agreement, the LWDA will recover $37,885.23 in civil penalties for the alleged California Labor Code violations in this Action. If this Action was not filed, the LWDA would not have assessed and collected this amount in civil penalties. Mainly, as required by PAGA, on November 14, 2023, Plaintiff gave written notice to the LWDA of Defendant's alleged violations of various provisions of the California Labor Code and the applicable Industrial Welfare Commission Wage Order. (Adams Decl. ¶ 12.) After doing so, the LWDA did not provide notice of its intention to investigate Defendant's alleged violations within 65 calendar

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days of the November 14, 2023 notice, and so Plaintiff brought this Action. (*Id.*) As a result, this Action serves PAGA's purpose "to recover civil penalties for Labor Code violations . . . that otherwise would have been assessed and collected by the Labor Workforce Development Agency." *Iskanian,* 59 Cal. 4th at 348. This conclusion is further supported by the fact that — as described above — Plaintiff notified the LWDA of the Settlement Agreement and the LWDA has not objected. Moreover, these civil penalties are intended to "secure obedience" to California wage-and-hour laws, and Defendant's agreement to pay a lump sum, non-reversionary payment of $120,000 serves PAGA's purpose as well. *Home Depot U.S.A., Inc.*, 191 Cal. App. 4th at 225-26.

C. Attorneys' Fees and Litigation Costs are Reasonable

Plaintiff's Counsel now applies for an award of attorneys' fees of $48,000.00 (40% of the settlement fund created), and litigation costs of $8,136.35. (Adams Decl. ¶ 25, Exhibit D.) In class action and representative lawsuits under PAGA, California state and federal courts have recognized that an appropriate method for determining an award of attorneys' fees is based on a percentage of the total value of benefits to class members by the settlement, also known as the "common fund" method. *Serrano v. Priest, 20 Cal.3d 25, 34 (1997);* Boeing Co. v. Van Gemert, 444 U.S. 472, 478 (1980); *Vincent v. Hughes Air West, Inc.*, 557 F.2d 759, 769 (9th Cir. 1977); *Dunk v. Ford Motor Co.*, 48 Cal.App.4th at 1808 (awarding attorney fees as a reasonable percentage of a common fund may be used where a settlement is a certain or easily calculable sum of money).

The California Supreme Court recently reaffirmed attorneys' fees in common fund cases are properly granted based on a percentage of recovery. *Laffitte v. Robert Half International, Inc.*, 1 Cal.5th 480, 503 (2016). A fee award based on a percentage of the common fund recovery here is proper as it spreads the attorneys' fees among all beneficiaries of the fund, aligns the incentives between plaintiff's counsel and the State of California and the Aggrieved Employees, is a better approximation of the market conditions in a contingency case, and encourages representative counsel to seek early settlement and avoid unnecessarily prolonging the litigation. *Id.*

Here, Plaintiff's counsel has undertaken representation at their own expense spending hundreds of hours, with compensation wholly contingent upon providing a benefit to the State of California and the Aggrieved Employees. (Adams Decl. ¶ 33.) The State of California and the

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Aggrieved Employees will benefit by the terms of the proposed Settlement by receiving substantial monetary compensation. (*Id.*) Because there is a defined and clearly traceable benefit to the State of California and the Aggrieved Employees, the Court can base an award of attorneys' fees using a "common fund" approach to compensate Plaintiff's counsel.

IV. CONCLUSION

For the foregoing reasons, the parties respectfully request that the Court grant approval of the proposed Settlement and enter the proposed Order Granting Approval of the Settlement Agreement, authorize mailing of the PAGA notice and distribution of the PAGA penalties as outlined in the Settlement Agreement.

DATED: May 30, 2025

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Court Reservation Receipt

Reservation

Reservation ID: 807787699290	Status: RESERVED
Reservation Type: Motion to Confirm Settlement	Number of Motions: 1
Case Number: 24CMCV00279	Case Title: ALFREDO HERNANDEZ, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED vs WWIL PERSONNEL, et al.
Filing Party: ALFREDO HERNANDEZ, individually and on behalf of all others similarly situated (Plaintiff)	Location: Compton Courthouse - Department E
Date/Time: August 7th 2025, 8:30AM	Confirmation Code: CR-F6FJ35WHAFEGZ276Y

Fees

Description	Fee	Qty	Amount
Motion to Confirm Settlement	0.00	1	0.00
TOTAL			**$0.00**

Payment

Amount: $0.00	Type: NOFEE

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