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individually, and on behalf of Aggrieved
Employees pursuant to the California
Private Attorneys General Act

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CRUZ

CORINA MARTINEZ, individually, and on
behalf of Aggrieved Employees pursuant to
the California Private Attorneys General Act,

Plaintiffs,

vs.

STAGNARO BROS. SEAFOOD, INC., a
California corporation; and DOES 1 through 25,
inclusive,

Defendants.

Case No. 24CV00082

*Assigned for all purposes to Hon. Timothy Schmal,
Dept. 10*

**NOTICE OF MOTION AND MOTION FOR
APPROVAL OF PAGA SETTLEMENT AND
AWARD OF ATTORNEYS' FEES AND
COSTS, GENERAL RELEASE FEE, AND
SETTLEMENT ADMINISTRATION COSTS**

Date: November 27, 2024
Time: 8:30 a.m.
Department: 10

Complaint Filed: January 8, 2024
Trial Date: None Set

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1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE THAT** on November 27, 2024 at 8:30 a.m. in Department 10 of
3 the above-captioned Court located at the Santa Cruz Courthouse, 701 Ocean Street, Santa Cruz,
4 California 95060, Plaintiff Corina Martinez (“Plaintiff”) will and hereby does move the Court for an
5 Order granting approval of the California Labor Code Private Attorneys General Act of 2004,
6 California Labor Code sections 2698, *et seq.* (“PAGA”) settlement. Specifically, Plaintiff requests
7 that the Court enter an Order:

- 8 1. Granting approval pursuant to California Labor Code section 2699(l)(2) of the Private
9 Attorneys General Act Settlement Agreement and Release (“Settlement,” “Agreement,”
10 or “Settlement Agreement”) attached as **Exhibit 2** to the Declaration of Jonathan M.
11 Genish in Support of Plaintiff’s Motion for Approval of PAGA Settlement and Award of
12 Attorneys’ Fees and Costs, General Release Fee, and Settlement Administration Costs
13 (“Genish Decl.”);
- 14 2. Directing the distribution of the Gross Settlement Amount of Three Hundred Fifty
15 Thousand Dollars and Zero Cents (\$350,000.00) pursuant to the terms of the Agreement;
- 16 3. Approving the Net Settlement Amount, estimated to be One Hundred Ninety-Eight
17 Thousand One Hundred Sixty-Five Dollars and Ninety-Four Cents (\$198,165.94), of
18 which seventy-five percent (75%) will be distributed to the California Labor and
19 Workforce Development Agency (“LWDA”) and twenty-five percent (25%) of which will
20 be distributed to the Aggrieved Employees;
- 21 4. Approving an award of reasonable attorneys’ fees of One Hundred Twenty-Two
22 Thousand Five Hundred Dollars and Zero Cents (\$122,500.00) to Plaintiff’s Counsel;
- 23 5. Approving the amount of Nineteen Thousand Three Hundred Thirty-Four Dollars and Six
24 Cents (\$19,334.06) to Plaintiff’s Counsel for reimbursement of actual litigation costs and
25 expenses pursuant to California Labor Code section 2699(g)(1);
- 26 6. Approving the award of Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff as
27 a General Release Fee;
- 28 7. Appointing ILYM Group, Inc. as the Settlement Administrator; and

8. Approving an award of up to Five Thousand Dollars and Zero Cents (\$5,000.00) in anticipated costs to ILYM Group, Inc. for its settlement administration services.

In accordance with California Labor Code sections 2699 *et. seq.*, a copy of the proposed Settlement Agreement was submitted to the LWDA via online submission through the LWDA's website on October 3, 2024. (Genish Decl., ¶ 15 & Exh. 3).

This Motion is based upon this Notice, the attached Memorandum of Points and Authorities, the Declarations of Jonathan M. Genish, Plaintiff Corina Martinez, and the Settlement Administrator (Lisa Mullins of ILYM Group, Inc.), the pleadings and other records on file with the Court in this matter, and any other further evidence or argument that the Court may properly receive at or before the hearing.

Respectfully submitted,

Dated: October 16, 2024

BLACKSTONE LAW, APC

By:

Jonathan M. Genish
Attorneys for Plaintiff
CORINA MARTINEZ

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Pursuant to the California Labor Code Private Attorneys General Act, California Labor Code sections 2698, *et seq.* (“PAGA”), Plaintiff Corina Martinez (“Plaintiff”) seeks approval of the Private Attorneys General Act Settlement Agreement and Release (“Settlement,” “Agreement,” or “Settlement Agreement”) entered into with Defendant Stagnaro Bros. Seafood, Inc. (“Defendant”) (collectively with Plaintiff, the “Parties”), which is attached as Exhibit 2 to the Declaration of Jonathan M. Genish in Support of Plaintiff’s Motion for Approval of PAGA Settlement and Award of Attorneys’ Fees and Costs, General Release Fee, and Settlement Administration Costs (“Genish Decl.”). The Agreement terms are outlined as follows:

- Gross Settlement Amount: Three Hundred Fifty Thousand Dollars and Zero Cents (\$350,000.00).
- Attorneys’ Fees: One Hundred Twenty-Two Thousand Five Hundred Dollars and Zero Cents (\$122,500.00) (35% of the Gross Settlement Amount), to be paid from the Gross Settlement Amount.
- Attorneys’ Costs: Nineteen Thousand Three Hundred Thirty-Four Dollars and Six Cents (\$19,334.06), to be paid from the Gross Settlement Amount.
- General Release Fee: Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff, to be paid from the Gross Settlement Amount.
- Settlement Administration Costs: Not to exceed Five Thousand Dollars and Zero Cents (\$5,000.00), to be paid from the Gross Settlement Amount.
- Estimated Net Settlement Amount: One Hundred Ninety-Eight Thousand One Hundred Sixty-Five Dollars and Ninety-Four Cents (\$198,165.94), of which 75% (\$148,624.45) will be paid to the California Labor and Workforce Development Agency (“LWDA”) and the remaining 25% (\$49,541.49) will be paid to the Aggrieved Employees.

As set forth herein, the Settlement Agreement is the product of informed discovery, arms-length negotiations, and provides a fair, adequate, and reasonable recovery for the State of California and Aggrieved Employees. Plaintiff therefore respectfully requests that the Court grant approval of the proposed Settlement Agreement, among other requested relief.

II. FACTUAL AND PROCEDURAL BACKGROUND

Defendant is a seafood restaurant and outdoor fish market that sells seafood at the Santa Cruz Municipal Wharf and out of its wholesale location in Santa Cruz, California. (Genish Decl., ¶ 7). Defendant employed Plaintiff as an hourly-paid, non-exempt Server from approximately June 2023 to October 2023. (Genish Decl., ¶ 7; Declaration of Corina Martinez in Support of Plaintiff's Motion for Approval of PAGA Settlement and Award of Attorneys' Fees and Costs, General Release Fee, and Settlement Administration Costs ["Martinez Decl.,"] ¶ 2).

On November 2, 2023, Plaintiff provided written notice by electronic submission to the LWDA and by U.S. Certified Mail to Defendant, pursuant to California Labor Code § 2699.3, of the specific provisions of the California Labor Code alleged to have been violated by Defendant ("PAGA Notice"). (Genish Decl., ¶ 8 & Exh. 1).

On January 8, 2024, Plaintiff filed a Complaint for Enforcement Action Under the Private Attorneys General Act, Cal. Labor Code §§ 2698 *Et Seq* ("Operative Complaint") in the action entitled *Corina Martinez v. Stagnaro Bros. Seafood Inc.*, Santa Cruz County Superior Court Case No. 24CV00082 ("Action") alleging one cause of action under PAGA. (*Id.*, ¶ 9).

During the course of informal discovery in the Action, Plaintiff's Counsel conducted an intense investigation into the facts of the Action. (*Id.*, ¶ 10). This included obtaining data, information, and documents relating to the underlying alleged violations, including, but not limited to, Plaintiff's employee file, Aggrieved Employees' time and payroll records and data, Defendant's Employee Handbook, and Aggrieved Employees' data points so that Plaintiff could assess the number of alleged potential violations and value of the recoverable penalties, as well as evaluate the strengths and weaknesses of her claims. (*Ibid.*).

Based on the data, information, and documents received, as well as thorough discussions with Defendant's counsel, Plaintiff's Counsel was able to (i) determine the total number of distinct individuals falling within the definition of "Aggrieved Employees" for the relevant statutory period, (ii) the number of affected pay periods at issue among them, and (iii) construct a damages model that calculated the maximum realistic amount of PAGA penalties that could be levied against Defendant within the relevant statutory period. (*Id.*, ¶ 11). Defendant, however, disputed Plaintiff's claims and

1 disputed both the existence of and extent of liability as alleged by Plaintiff, which allowed Plaintiff's
2 Counsel to further assess the strength of Plaintiff's claims. (Ibid). Plaintiff's Counsel's experience in
3 litigating similar representative wage and hour claims, the degree of investigation that was conducted
4 here, and the amount of data, information, and documents that was obtained, was sufficient to
5 determine the potential value of the PAGA claims, and to evaluate the strength of these claims for
6 purposes of settlement. (Ibid).

7 On August 21, 2024, the Parties participated in a formal mediation conducted by Monique
8 Ngo-Bonnici, Esq., a neutral and respected mediator with extensive experience in complex wage and
9 hour matters, during which the Parties were able to reach an agreement to resolve the Action in its
10 entirety. (*Id.*, ¶ 12 & Exh. 2).

11 The Parties believe the Settlement Agreement is fair, reasonable, and adequate. (*Id.*, ¶ 13).
12 The Parties understand, acknowledge, and agree that the Settlement Agreement constitutes a
13 compromise of Plaintiff's PAGA claims, and that it is the desire and intention of the Parties to affect
14 a final and complete resolution of the Action. (Ibid).

15 Defendant denies all of the claims in the Action, and does not waive, but rather expressly
16 reserves, all rights to challenge all such claims and allegations upon all legal, procedural, and factual
17 grounds should the Settlement Agreement not become final. (*Id.*, ¶ 14). The Settlement Agreement
18 reflects a compromise reached to end litigation in the Action. (Ibid). Following significant
19 investigation and extensive settlement negotiations, Plaintiff now seeks approval of the proposed
20 Settlement Agreement, which will resolve all representative claims alleged in the Action. (Ibid).

21 **III. THE SETTLEMENT TERMS**

22 **A. Definition of the Aggrieved Employees**

23 For purposes of settlement only, the Parties have agreed that the "Aggrieved Employees" shall
24 be defined as "all current and former hourly-paid and/or non-exempt employees who worked for
25 Defendant in the State of California at any time during the PAGA Period. (Genish Decl., ¶ 16;
26 Settlement Agreement, ¶ 3(a)(5)). The "PAGA Period" is the period from November 2, 2022 to
27 November 21, 2024, subject to Section 3(a)(6) of the Settlement Agreement. (Genish Decl., ¶ 16;
28 Settlement Agreement, ¶ 3(a)(5)). As of August 21, 2024, there are approximately 163 Aggrieved

Employees. (Genish Decl., ¶ 16).

B. Amount of Settlement

The Parties have agreed to settle the PAGA claims at issue in the Action for a non-reversionary Gross Settlement Amount of Three Hundred Fifty Thousand Dollars and Zero Cents (\$350,000.00). (Genish Decl., ¶ 17; Settlement Agreement, ¶ 3(a)).

C. Allocation and Funding of the Gross Settlement Amount

The Gross Settlement Amount is a common fund and therefore includes all requested costs, fees, and other allocations. (Genish Decl., ¶ 17). The Gross Settlement Amount includes: (1) Plaintiff's Counsel's fees in the amount of thirty-five percent (35%) of the Gross Settlement Amount, equaling One Hundred Twenty-Two Thousand Five Hundred Dollars and Zero Cents (\$122,500.00); (2) Plaintiff's Counsel's actual litigation costs and expenses in the amount of Nineteen Thousand Three Hundred Thirty-Four Dollars and Six Cents (\$19,334.06); (3) General Release Fee in the amount of Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff; and (4) Settlement Administration Costs, not to exceed Five Thousand Dollars and Zero Cents (\$5,000.00). (Genish Decl., ¶ 17; Settlement Agreement, ¶¶ 3(a)(1)-(4)).

After the above-estimated amounts are deducted from the Gross Settlement Amount, the Net Settlement Amount will amount to approximately One Hundred Ninety-Eight Thousand One Hundred Sixty-Five Dollars and Ninety-Four Cents (\$198,165.94), of which seventy-five percent (75%), or One Hundred Forty-Eight Thousand Six Hundred Twenty-Four Dollars and Forty-Five Cents (\$148,624.45), will be paid to the LWDA ("LWDA Payment"), and twenty-five percent (25%), or Forty-Nine Thousand Five Hundred Forty-One Dollars and Forty-Nine Cents (\$49,541.49), will be distributed and paid to Aggrieved Employees ("Employees' Portion") on a *pro rata* basis based on the number of pay periods they each worked during the PAGA Period ("Pay Periods"). (Genish Decl., ¶ 18; Settlement Agreement ¶¶ 3(a)(4)-(5) & 5(b)).

No later than twenty-one (21) calendar days after the Court's order granting approval of the Settlement, Defendant will provide the Settlement Administrator with a list of all Aggrieved Employees, containing each Aggrieved Employee's first and last name, last known address, last known telephone number, Social Security number, and number of Pay Periods (collectively,

1 “Aggrieved Employee List”). (Genish Decl., ¶ 19; Settlement Agreement, ¶¶ 5(c)(1)).

2 No later than twenty-one (21) calendar days of the Court’s order granting approval of the
3 Settlement, Defendant will transmit the Gross Settlement Amount to a qualified settlement account
4 established by the Settlement Administrator for administration of the Settlement. (Genish Decl., ¶ 20;
5 Settlement Agreement, ¶ 5(a)).

6 No later than seven (7) calendar days after the Settlement Administrator receives the Aggrieved
7 Employees List and Gross Settlement Amount, the Settlement Administrator will distribute the
8 Individual PAGA Payments to Aggrieved Employees (along with a cover letter “Cover Letter”), the
9 LWDA Payment to the LWDA, the General Release Fee to Plaintiff, the Attorneys’ Fees and Costs to
10 Plaintiff’s Counsel, and the Settlement Administration Costs to itself. (Genish Decl., ¶ 21; Settlement
11 Agreement, ¶¶ 5(c)(3) & 5(c)(5)-(8)).

12 Prior to mailing the Individual PAGA Payment checks, the Settlement Administrator will
13 update the Aggrieved Employees’ mailing addresses using the National Change of Address Database.
14 (Genish Decl., ¶ 22; Settlement Agreement, ¶ 5(c)(2)). Additionally, for all Individual PAGA Payment
15 checks that are returned as undeliverable within thirty (30) calendar days of the initial mailing, the
16 Settlement Administrator will promptly attempt to locate an alternative, updated address for the
17 Aggrieved Employee at issue, by using a skip-trace search and shall attempt one (1) re-mailing of the
18 Individual PAGA Payment check. (*Id.*, ¶ 5(c)(3)).

19 The Individual PAGA Payment checks that are issued to Aggrieved Employees will remain
20 valid and negotiable for up to one hundred and eighty (180) calendar days, and thereafter, will be
21 canceled. (Genish Decl., ¶ 23; Settlement Agreement, ¶ 5(c)(4)). Any funds associated with such
22 canceled checks will be distributed to the State of State Controller’s Office Unclaimed Property
23 Division in the name of the Aggrieved Employee at issue and in the amount of their respective
24 Individual PAGA Payment(s). (Genish Decl., ¶ 23; Settlement Agreement, ¶ 5(c)(4)).

25 Defendant has represented that the Aggrieved Employees worked approximately 3,173 pay
26 periods during the period November 2, 2022 to August 21, 2024. (Genish Decl., ¶ 24; Settlement
27 Agreement, ¶ 3(a)(6)). If the actual number of Pay Periods worked by the Aggrieved Employees
28 during the PAGA Period increases by more than 10% (i.e., by more than 3,490 Pay Periods),

1 Defendant shall have the choice of either (1) increasing the Gross Settlement Amount by the
2 percentage increase in the number of Pay Periods above 10% (e.g., if the number of Pay Periods
3 increases by 11% to 3,522 Pay Periods, then the Gross Settlement Amount will increase by 1%); or
4 (2) rolling back the PAGA Period to the date that the Pay Periods reach but do not exceed 3,490 Pay
5 Periods. (Genish Decl., ¶ 24; Settlement Agreement, ¶ 3(a)(6)).

6 **IV. STANDARD FOR APPROVAL OF PAGA SETTLEMENT**

7 The settlement of a PAGA claim requires court approval. (California Labor Code (“Lab.
8 Code”) § 2699(l)). The Court must be mindful that a “[s]ettlement is a compromise, which balances
9 the possible recovery against the risks inherent in litigating further.” (*In re TD Ameritrade Account*
10 *Holder Litig.*, 2011 U.S. Dist. LEXIS 103222 at *24 (N.D. Cal. Sep. 12, 2011)). “[T]he very essence
11 of a settlement is ... ‘a yielding of absolutes and an abandoning of highest hopes,’” as “it is the very
12 uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce
13 consensual settlements.” (*Officers for Justice v. Civil Service Com.*, 688 F.2d 615, 624-26 (9th Cir.
14 1982)). As such, “the settlement or fairness hearing is not to be turned into a trial or rehearsal for trial
15 on the merits,” or “judged against a hypothetical or speculative measure of what might have been
16 achieved.” (Ibid).

17 Although the California Labor Code does not set forth the criteria by which a PAGA settlement
18 is to be evaluated, it is presumed that a reviewing court may take into consideration some of the factors
19 that courts use when reviewing a class action settlement. However, “a PAGA claim asserted on a non-
20 class representative basis...is not considered a class action but a law enforcement action, and therefore
21 does not have to meet the requirements of [a class action].” (*Casida v. Sears Holdings Corp.*, 2012
22 U.S. Dist. LEXIS 9302 at *8 (E.D. Cal. Jan. 25, 2012)).

23 A court’s review of a PAGA settlement necessarily implicates the following unique features
24 that render the approval process distinct from approval of a class action settlement under Code of Civil
25 Procedure Section 382 and California Rules of Court Rule 3.769. First, in evaluating the adequacy of
26 the settlement amount, the Court’s focus is not concerned with the amount aggrieved employees are
27 to receive, but rather, must focus on the total settlement amount in achieving PAGA’s objective.
28 Indeed, “[t]he remedy sought in a PAGA suit consists of civil penalties, not individual or class

1 damages,” and while a “[PAGA] action is ... designed to protect the public and penalize the employer
2 for past illegal conduct,” a reviewing court must be mindful of the fact that settlement of a PAGA
3 claim involves a compromise. (*Mendez v. Tween Brands, Inc.*, 2010 U.S. Dist. LEXIS 66454 at *11
4 (E.D. Cal. June 30, 2010)). “Unlike class actions, these civil penalties are not meant to compensate
5 unnamed employees because the action is fundamentally a law enforcement action.” (*Ochoa-
6 Hernandez v. Cjaders Foods, Inc.*, 2010 U.S. Dist. LEXIS 32774 at *12 (Apr. 2, 2010)). The Court
7 should not lose sight of the fact that, “[u]nlike a class action seeking damages or injunctive relief for
8 injured employees, the purpose of PAGA is to incentivize private parties to recover civil penalties for
9 the government that otherwise may not have been assessed and collected by overburdened state
10 enforcement agencies.” (*Ibid*).

11 Second, consistent with the fact that unnamed employees have no property interest in a PAGA
12 claim, “[u]nnamed employees need not be given notice of the PAGA claim, nor do they have the
13 ability to opt-out of the representative PAGA claim.” (*Ochoa-Hernandez*, 2010 U.S. Dist. LEXIS
14 32774 at *13). Indeed, “[PAGA] does not create property rights or any other substantive rights” as
15 “[i]t is simply a procedural statute allowing an aggrieved employees to recover civil penalties – for
16 Labor Code violations – that otherwise would be sought by state labor law enforcement agencies.”
17 (*Amalgamated Transit Union, Local 1756, AFL-CIO v. Sup. Ct.*, 46 Cal.4th 993, 1003 (2009)). This
18 renders the approval process of a PAGA settlement distinct from a class action settlement, as there is
19 no need for the Court to employ the “two-step approval process” required under California Rules of
20 Court Rule 3.769.

21 Finally, unlike class action settlements, the scope of release permitted in a PAGA settlement
22 is limited. While “judgment in [a PAGA] action is binding not only on the named employee plaintiff
23 but also on government agencies and any aggrieved employee not a party to the proceeding...the
24 nonparty employees, because they were not given notice of the action or afforded any opportunity to
25 be heard, would not be bound by the judgment as to remedies other than civil penalties.” (*Arias v.
26 Sup. Ct.*, 46 Cal.4th 969, 985-87 (2009)). Thus, the scope of a release in a PAGA settlement is
27 confined to the PAGA penalties alleged in the complaint and/or the plaintiff’s notice to the LWDA
28 and to the claims that were, or could have been, alleged pursuant to PAGA based on the factual

1 allegations in the complaint and/or the plaintiff's notice to the LWDA. In the case at hand, as the only
2 claims at issue are PAGA claims, those will be the only claims extinguished through the Settlement.

3 **V. THE AGREEMENT IS FAIR AND SHOULD BE APPROVED**

4 **A. The Agreement is Presumed to Be Fair**

5 California courts recognize that "a presumption of fairness exists where . . . [a] settlement is
6 reached through arm's-length bargaining." (*Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224,
7 245 (2001); *see also Clark v. Am. Residential Servs. LLC*, 175 Cal. App. 4th 785, 799 (2009)). Here,
8 the Agreement is presumptively fair because: (1) it occurred after counsel for the Parties engaged in
9 significant investigation to evaluate the strength and potential value of the PAGA claims, and the risks
10 of litigating these claims through trial; and (2) it was negotiated at great length and effort by counsel
11 with significant experience in similar complex labor and employment matters. (Genish Decl., ¶ 25).

12 **B. The Agreement is Fair, Adequate, and Reasonable in Light of the Parties' Respective**
13 **Legal Positions and Recovery Risks**

14 In deciding whether to approve a proposed settlement, a trial court has broad powers to
15 determine if it is fair given the circumstances of the case. (*Mallick v. Sup. Ct.*, 89 Cal.App.3d 434,
16 438 (1979)). In exercising these powers, the overriding concern is to ensure that a proposed settlement
17 is "fair, adequate, and reasonable." (*Dunk*, 48 Cal.App.4th at 1801 (internal quotations omitted)). A
18 settlement is not judged against what might have been recovered had a plaintiff prevailed at trial, nor
19 does the settlement have to obtain one hundred percent of the damages sought to be fair and reasonable.
20 (*Wershba*, 91 Cal.App.4th at 246, 250). In evaluating the reasonableness of a settlement, a trial court
21 must consider "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of
22 further litigation, the risk of maintaining class action status through trial, the amount offered in
23 settlement, the extent of discovery completed and the stage of the proceedings, the experience and
24 views of counsel, the presence of a governmental participant, and the reaction of the class members to
25 the proposed settlement."¹ (*Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008)).
26 Even though a *Kullar* analysis is not required for approval of a PAGA settlement, a brief analysis is
27

28 ¹ As this is not a class action, the *Kullar* factors pertaining to the risk of maintaining class action status through trial and the reaction of class members to the proposed settlement are inapplicable.

1 included to support approval of the Settlement Agreement. (*See* Genish Decl., ¶¶ 33-46).

2 These factors require balancing and are non-exhaustive. Trial courts should therefore tailor
3 the factors to each case and give due regard to “what is otherwise a private consensual agreement
4 between the parties.” (*Dunk, supra*, 48 Cal. App. 4th at 1801).

5 1. Strength of Plaintiff’s Cases

6 In order to prevail at trial, Plaintiff would have to prove violations of the California Labor
7 Code underlying her PAGA claims, demonstrate that Aggrieved Employees suffered, and demonstrate
8 that Defendant’s conduct gives rise to penalties. (*See Elliot v. Spherion Pac. Work, LLC*, 572
9 F.Supp.2d 1169, 1181-82 (C.D. Cal. 2008) [“Plaintiff’s claim under [PAGA] is wholly dependent
10 upon her other claims. Because all of Plaintiff’s other claims fail as a matter of law, so does her PAGA
11 claim.”]).

12 Here, Plaintiff’s core allegations are that Defendant systematically violated the California
13 Labor Code by, *inter alia*, failing to properly pay wages for all hours worked, failing to pay overtime
14 at the correct rate, failing to provide compliant meal and rest periods, failing to pay premiums at the
15 correct rate of pay, failing to timely pay wages during employment and upon termination, failing to
16 maintain accurate payroll records, failing to provide accurate wage statements, and failing to reimburse
17 necessary business expenses. (Genish Decl., ¶ 26).

18 Defendant maintained several defenses to Plaintiff’s theories of liability, which, if successfully
19 argued and proven, had the potential to eliminate or substantially reduce recovery. (*Id.*, ¶ 27).
20 Throughout this litigation, Defendant maintained, and continues to maintain, that it had, and continues
21 to have, compliant employment policies and practices throughout the time period at issue. (*Ibid*).
22 Defendant denies that it ever violated any provision of the California Labor Code, including, but not
23 limited to, those sections for which Plaintiff seeks penalties under PAGA. (*Ibid*). Defendant further
24 denied, and continues to deny, that the lawsuit is appropriate for representative treatment for any
25 purpose other than settlement. (*Ibid*). Defendant also challenged Plaintiff’s standing as an aggrieved
26 employee and denied that any of Defendant’s other employees whom Plaintiff seeks to represent are
27 aggrieved. (*Ibid*).

28 ///

1 Defendant also argued that an important feature of PAGA is that the Court retains discretion
2 to lower the penalties if, based on the facts and circumstances of the particular case, to do otherwise
3 would result in an award that is “unjust, arbitrary and oppressive, or confiscatory.” (Ibid; Lab. Code
4 § 2699(e)(2); *see also Thurman v. Bayshore Transit Management, Inc.*, 203 Cal.App.4th 1112, 1136
5 (2012) [holding that a court may reduce the amount of PAGA penalties awarded to an employee based
6 upon discretionary factors]).

7 Even if violations of the California Labor Code occurred, which Defendant denies, Defendant
8 contended that said violations would only be considered “initial violations” and thus heightened
9 “subsequent violation” penalties were not warranted. (Genish Decl., ¶ 28; Lab. Code § 2699(f)(2);
10 *see also Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1208-09 (2008) [“Until the employer
11 has been notified that it is violating a Labor Code provision [...], the employer cannot be presumed
12 to be aware that its continuing underpayment of employees is a ‘violation’ subject to penalties.”]).

13 Defendant also contended that, with respect to PAGA claims, the Court was unlikely to assess
14 cumulative penalties for the maximum number of possible, separate California Labor Code violations,
15 because it would be unjust, arbitrary, oppressive, and/or confiscatory, especially where certain conduct
16 may be regulated by multiple provisions of the California Labor Code that are interrelated and work
17 in tandem. (Genish Decl., ¶ 29). While the PAGA does provide the potential for a heightened penalty
18 for subsequent violations, courts are often hesitant to award a heightened penalty where there is no
19 prior citation by the Labor Commissioner, as is the case here. (*See Bernstein v. Virgin Am., Inc.*, 3
20 F.4th 1127, 1144 (9th Cir. 2021) (holding no heightened penalty where defendant was not notified by
21 Labor Commissioner or any court that it was subject to the California Labor Code)). The Ninth
22 Circuit’s holding in *Bernstein* also supports that a settlement valuation that does not “stack” penalties.
23 (Ibid).

24 While Plaintiff maintains that her PAGA claims have merit, in reaching the Agreement,
25 Plaintiff and her counsel took into account the strengths and weaknesses of each side’s position, and
26 the uncertainty of how the case might have concluded as litigation continued, at trial, and/or upon
27 appeal. (Genish Decl., ¶ 30). Based on these disputes, which had the potential to completely eliminate
28 Plaintiff’s recovery, the range of realistic “litigation outcomes” on Plaintiff’s PAGA claims was

1 defined by a “maximum possible liability” amount of approximately \$1,586,500 and a “risk-adjusted
2 realistic value” amount of approximately \$396,625 (*Id.*, ¶ 46). In light thereof, the Gross Settlement
3 Amount of \$350,000 is a significant settlement. (*Ibid.*).

4 2. Risk, Expense, Complexity, and Likely Duration of Further Litigation

5 Approval of the Settlement Agreement is also appropriate in light of the risk, expense, and
6 complexity of further litigation. As discussed above, the Settlement Agreement takes into
7 consideration the specific factual and legal hurdles faced by Plaintiff in establishing Defendant’s
8 penalty-liability in this case, which may have resulted in a net-zero recovery. Any recovery on these
9 claims is not certain. And even when liability is found, PAGA claims are discretionary, such that the
10 Court could decline to award their full value. Some of Plaintiff’s claims are also derivative, and as
11 such, Plaintiff must prevail on her underlying California Labor Code claims in order to prevail on the
12 derivative claims. These risks – when balanced with the fact that the Agreement achieved a very
13 significant recovery (as demonstrated below), and that further litigation posed a risk of diminishing
14 such recovery by increasing litigation expenses – weigh strongly in favor of settlement approval.

15 3. The Benefits Conferred by the Agreement Balance in Favor of Approval

16 The Settlement Agreement provides a *significant* monetary benefit that falls well within the
17 range of an acceptable settlement under the circumstances, which is the standard on which the instant
18 Agreement must be judged. As held by the Ninth Circuit: “The proposed settlement is not to be judged
19 against a hypothetical or speculative measure of what might have been achieved by the negotiators.”
20 (*Officers for Justice v. Civil Serv. Comm’n*, 688 F.2d at 625 (emphasis in original)). As the Second
21 Circuit has pointed out: “The fact that a proposed settlement may only amount to a fraction of the
22 potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate
23 and should be disapproved.” (*City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 455 & n.2 (2nd Cir.
24 1974)).

25 The Net Settlement Amount is currently estimated to be One Hundred Ninety-Eight Thousand
26 One Hundred Sixty-Five Dollars and Ninety-Four Cents (\$198,165.94). After all deductions are made
27 from the Gross Settlement Amount for the Attorneys’ Fees and Costs, General Release Fee, and
28 Settlement Administration Costs, One Hundred Forty-Eight Thousand Six Hundred Twenty-Four

1 Dollars and Forty-Five Cents (\$148,624.45) (i.e. 75% of the Net Settlement Amount) will go to the
2 LWDA, and Forty-Nine Thousand Five Hundred Forty-One Dollars and Forty-Nine Cents
3 (\$49,541.49) (i.e. 25% of the Net Settlement Amount) will go to the Aggrieved Employees, as required
4 by California Labor Code § 2699(i) (“civil penalties recovered by aggrieved employees shall be
5 distributed as follows: 75 percent to the Labor and Workforce Development Agency . . . and 25 percent
6 to the aggrieved employees.”). (Genish Decl., ¶ 47). There is no reason to doubt the fairness of the
7 proposed plan of allocation of the Net Settlement Amount as it fully complies with California Labor
8 Code section 2699(i). (Ibid).

9 The Settlement Agreement is a compromise of highly disputed claims. (*Id.*, ¶ 48). Plaintiff
10 and her counsel recognize the expense and length of continued proceedings necessary to litigate the
11 matter through trial and any possible appeals. (Ibid). Plaintiff and her counsel have also taken into
12 account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays
13 inherent in such litigation. (Ibid). Plaintiff and her counsel are also aware of the burdens of proof
14 necessary to establish liability, both generally and in response to Defendant’s defenses thereto, and
15 the difficulties in establishing Defendant’s liability for, and the right to recover, penalties on behalf of
16 Plaintiff, the State of California, and other Aggrieved Employees. (Ibid). Plaintiff and her counsel
17 have also taken into account Defendant’s agreement to enter into a settlement that confers significant
18 relief upon the Aggrieved Employees and the State of California. (Ibid). Considering all of the facts
19 in this case, Plaintiff and her counsel have determined that the Agreement represents a fair, adequate,
20 and reasonable resolution of the PAGA claims, and that it is in the best interests of the Aggrieved
21 Employees and the State of California. (Ibid).

22 The result achieved in this case is well within the range of what is considered an acceptable
23 settlement under the circumstances, especially when compared to the settlement of PAGA claims in
24 other cases. (*Id.*, ¶ 49). (*See, e.g., DCH Auto Wage and Hour Cases*, Los Angeles Superior Court,
25 Case No. JCCP4833 (May 2017) [approving \$15,000 out of \$4 million toward settlement of PAGA
26 claims]; *Garcia v. Gordon Trucking, Inc.*, 2012 U.S. Dist. LEXIS 160052, at *9 (E.D. Cal. Oct. 29,
27 2012) [approving \$10,000 out of \$3.7 million toward settlement of PAGA claims]; *Schiller v. David’s*
28 *Bridal, Inc.*, 2012 U.S. Dist. LEXIS 80776, at *40 (E.D. Cal. June 11, 2012) [approving \$7,500 out of

\$518,245 toward settlement of PAGA claims]; *Chu v. Wells Fargo Investments, LLC*, 2011 U.S. Dist. LEXIS 15821, at *4 (N.D. Cal. Feb. 15, 2011) (approving \$10,000 out of \$6.9 million toward settlement of PAGA claims]; *Franco v. Ruiz Food Prods.*, 2012 U.S. Dist. LEXIS 169057, at *14 (E.D. Cal. Nov. 27, 2021) [approving \$10,000 out of \$2.5 million toward settlement of PAGA claims]). Here, the value obtained for settlement of the PAGA claims is significant, and it will be distributed in accordance with and in fulfillment of the objectives of the PAGA statute.

4. The Scope of the Release is Narrowly Tailored

As discussed above, the California Supreme Court has concluded that in the context of PAGA “the nonparty 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*, 46 Cal. 4th, at 987). Thus, the scope of the limited release provided in exchange for the foregoing consideration is limited to the civil penalties asserted in the Operative Complaint and the PAGA Noticer, under California Labor Code §§ 2698 *et seq.* (*See Settlement Agreement*, at ¶ 6(a)).

As such, this factor balances strongly in favor of approval of the Agreement.

5. Experience and Views of Counsel Favor Approval

Plaintiff’s Counsel is experienced in complex representative and class action wage-and-hour litigation. (Genish Decl., ¶¶ 2-6 & 54). In the view of Plaintiff’s Counsel, the benefits conferred by the Agreement are eminently fair and reasonable, and in the best interests of the State of California and the Aggrieved Employees in light of the risk, delay, and uncertainty of continued litigation and the substantial monetary benefits provided for by the Agreement. (Genish Decl., ¶ 50). Furthermore, courts have acknowledged that “the interests of a plaintiff, counsel, and other potentially aggrieved employees are largely aligned. All stand to gain from proving as convincingly as possible as many Labor Code violations as the evidence will sustain[.]” (*Williams v. Superior Court*, 3 Cal. 5th 531, 548 (2017) [citing Labor Code § 2699(g)(1)(i)]).

6. The Extent of Discovery and Stage of Proceedings Favor Approval

In evaluating this element, the Court should be mindful that “‘formal discovery is not a necessary ticket to the bargaining table’” [*Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1239], as the relevant consideration is “whether ‘the parties have sufficient information to make an informed

1 decision about settlement.”” (See *Sandoval v. Roadlink United States Pac., Inc.*, 2011 U.S. Dist.
2 LEXIS 130378, at 26 (C.D. Cal. Nov. 9, 2011)).

3 Here, the extent of informal discovery conducted was sufficient to enable Plaintiff’s Counsel
4 to evaluate the strength and value of the PAGA claims for purposes of settlement. (Genish Decl., ¶
5 51). Prior to settling, Defendant provided Plaintiff with data, information, and documents relating to
6 the underlying alleged violations, including, but not limited to, Plaintiff’s employee file, Aggrieved
7 Employees’ time and payroll records and data, Defendant’s Employee Handbook, and Aggrieved
8 Employees’ data points. (*Id.*, ¶ 10). As discussed above, Plaintiff’s Counsel’s investigation was
9 sufficient to, among other things, tabulate with precision the total number of alleged California Labor
10 Code violations at issue during the relevant statutory period and identify the total number of
11 individuals falling within the definition of “Aggrieved Employees” for the relevant statutory period.
12 (*Id.*, ¶ 10).

13 Based on Plaintiff’s Counsel’s experience litigating wage and hour claims, such investigation
14 was sufficient to determine the potential value of the PAGA claims, and to evaluate the strength of
15 these claims for purposes of settlement. (*Ibid.*).

16 VI. THE REQUESTED ATTORNEYS’ FEES ARE FAIR AND REASONABLE

17 As the prevailing party in settlement, Plaintiff is entitled to recover attorneys’ fees and costs
18 for bringing her PAGA claims. (Lab. Code § 2699(g) [“Any employee who prevails in any action
19 shall be entitled to an award of reasonable attorney’s fees and costs.”]). Plaintiff’s Counsel is also
20 entitled to attorneys’ fees pursuant to Code of Civil Procedure section 1021.5(a), as the instant action
21 has resulted in the enforcement of important rights benefitting the public and secures monetary
22 recovery for the State of California as well as the Aggrieved Employees. A fee award is justified
23 where the legal action has produced its benefits by way of a voluntary settlement. (See, e.g., *Maria P.*
24 *v. Riles*, 43 Cal.3d 1281, 1290-91 (1987); *Westside Community for Independent Living, Inc. v. Obledo*,
25 33 Cal.3d 348, 352-53 (1983); *Serrano v. Priest*, 20 Cal.3d 25, 34 (1977) [“when a number of persons
26 are entitled in common to a specific fund, and an action brought by a plaintiff ... for the benefit of all
27 results in the creation or preservation of that fund, such plaintiff ... may be awarded attorney’s fees out
28 of the fund.”]).

1 In *Laffitte v. Robert Half Int'l, Inc.*, 1 Cal.5th 480, 506 (2016), the California Supreme Court
2 confirmed that “[t]he percentage of fund method survives in California class action cases.”
3 Specifically, the *Laffitte* Court held:

4 The recognized advantages of the percentage method—including relative ease of calculation,
5 alignment of incentives between counsel and the class, a better approximation of market
6 conditions in a contingency case, and the encouragement it provides counsel to seek an early
7 settlement and avoid unnecessarily prolonging the litigation—convince us the percentage
8 method is a valuable tool that should not be denied our trial courts.
9 (*Id.*, at 503 [internal citation omitted]).

10 While trial courts have discretion to apply either a lodestar method or percentage-of-the-fund
11 method, the California Supreme Court has taken the position that trial courts also “retain the discretion
12 to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested
13 percentage fee.” (*Lafitte*, 1 Cal.5th at 506; *see also Wershba*, 91 Cal.App. 4th at 253). Courts award
14 fees to serve as an economic incentive for lawyers to undertake litigation, and thereby enhance and
15 facilitate access to the judicial system for adjudication of meritorious claims, and to deter wrongdoing.
16 This is especially true in situations where multiple similar alleged wrongs would not be economically
17 feasible to pursue individually, such as here. Trial courts have “wide latitude” in assessing the value
18 of attorneys’ fees and their decisions will “not be disturbed on appeal absent a manifest abuse of
19 discretion.” (*Lealao v. Beneficial Cal., Inc.*, 82 Cal.App.4th 19, 41 (2000); *see also Laffitte*, 1 Cal.5th
20 at 506 [holding that “trial court did not abuse its discretion in using [the percentage of fund method],
21 in part to approve the fee request”]). Indeed, it is long settled that the “experienced trial judge is the
22 best judge of the value of professional services rendered in his court.” (*Ketchum v. Moses*, 24 Cal.4th
23 1122, 1132 (2001)).

24 The percentage method is particularly appropriate where a monetary settlement has been
25 recovered and “the benefit [recovered can be] easily quantified.” (*In re Bluetooth Headset Prods.*
26 *Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011)). Where the amount of a settlement is a “certain or
27 easily calculable sum of money,” California courts may calculate attorneys’ fees as a reasonable
28 percentage of the settlement created. (Weil and Brown, California Practice Guide, *Civil Procedure*

1 *Before Trial*, Chapter 14, section 14:145; *Dunk, supra*, 48 Cal. App. 4th at 1808). The percentage fee
2 method is preferred in representative actions because “it better approximates the workings of the
3 marketplace than the lodestar approach.” (*Lealao, supra*, 82 Cal.App.4th at 49). California law
4 provides that the award for attorneys’ fees should be equivalent to fees freely negotiated in the legal
5 marketplace and paid in comparable litigation based on the result achieved and risk incurred. (*See*
6 *Lealao*, 82 Cal.App.4th at 47-50; *Laffitte*, 1 Cal.5th 480 at 503). In cases where the settlement
7 agreement provides that the defendant will pay the plaintiffs’ attorneys a percentage of the fund created
8 by the settlement, use of that percentage method is appropriate. (*Lealao*, 82 Cal.App.4th at 32). Fee
9 awards that are too small will “chill the private enforcement essential to the vindication of many legal
10 rights and obstruct the representative actions that often relieve the courts of the need to separately
11 adjudicate numerous claims.” (*Id.* at 53). Therefore, fees in representative actions should approximate
12 the probable terms of a contingent fee contract negotiated by a sophisticated attorney and client in
13 comparable litigation. (*Id.* at 48). “The ultimate goal ... is the award of a ‘reasonable’ fee to
14 compensate counsel for their efforts, irrespective of the method of calculation.” (*Consumer Privacy*
15 *Cases*, 175 Cal.App.4th 545, 557-58 (2009) [quoting *Apple Computer, Inc. v. Superior Court, supra*,
16 126 Cal.App.4th at 1270]).

17 Plaintiff’s Counsel’s application for attorneys’ fees in light of the facts and circumstances
18 surrounding the case is within the range of reasonableness. Historically, courts have awarded fees as
19 high as fifty percent (50%) of the settlement in complex actions, depending on the circumstances of
20 the case. (*See In re Ampicillin Antitrust Litig.*, 526 F.Supp. 494 (D.D.C. 1981) [awarding attorneys’
21 fees in the amount of 45% of the \$7.3 million total settlement amount]; *Beech Cinema, Inc. v.*
22 *Twentieth-Century Fox Film Corp.* 480 F.Supp. 1195 (S.D.N.Y. 1979) [awarding approximately 53%
23 of the settlement as attorneys’ fees]).

24 Here, Plaintiff’s Counsel’s fee request of thirty-five percent (35%) of the Gross Settlement
25 Amount (i.e., \$122,500.00) is fair and reasonable based on the percentage of the recovery method.
26 Plaintiff’s Counsel has vigorously litigated this case since it was commenced, with the very real
27 possibility of an unsuccessful outcome and no fee recovery of any kind. (Genish Decl., ¶ 52). Counsel
28 for Plaintiff undertook significant investigation and invested a significant amount of time analyzing

1 relevant documents and data to evaluate the nature and extent of the alleged underlying California
2 Labor Code violations and calculation of the potential monetary recovery as they relate to Plaintiff's
3 PAGA claims under PAGA. (Genish Decl., ¶¶ 54-55). Plaintiff's Counsel possesses combined
4 extensive experience litigating wage and hour and other complex litigation matters, and the attorneys
5 who worked on this matter have been approved as class counsel and/or have had their billable rates
6 approved in the settlement of other class and PAGA actions, numerous times. (Genish Decl., ¶ 54-
7 56).

8 Even when courts have opted to award fees in settlement fund cases based on time reasonably
9 expended on the action, courts frequently apply multipliers to enhance the lodestar to reflect the risks
10 involved, the complexity of the litigation, and the other relevant facts. (*Vizcaino v. Microsoft* (9th Cir.
11 2002) 290 F.3d 1043, 1051; *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 579 ("One of
12 the most common fee enhancers [...] is for contingency risk."). Such an enhancement "mirrors the
13 established practice in the private legal market of rewarding attorneys for taking the risk of
14 nonpayment by paying them a premium over their normal hourly rates for winning contingency cases."
15 (*Vizcaino*, 290 F.3d at 1051). A risk multiplier also serves to bring the financial incentives for
16 enforcing important rights "into line with incentives [attorneys] have to undertake claims for which
17 they are paid on a fee-for-services basis." (*Ketchum* at 1132).

18 In determining whether or not to enhance the lodestar, California courts take into account
19 multiple factors. (*Cates v. Chiang* (2013) 213 Cal.App.4th 791, 822-823). Multiple factors warrant
20 enhancement in this case, including the following: the time and labor required; the skill requisite to
21 perform the legal services properly; the preclusion of other employment by the attorneys due to the
22 acceptance of the case; the contingent nature of the fee; the amount involved and results obtained; the
23 experience, reputation, and ability of the attorneys; and awards in similar cases. (*Ketchum* at 1134).

24 Based on the reasonable hourly rates of Plaintiff's Counsel, the requested fee award would
25 represent a multiplier of about 1.08 in which the total enhanced lodestar fees are \$123,396.75.
26 Plaintiff's Counsel seeks an attorneys' fee award of \$122,500 (35% of the Gross Settlement Amount).
27 Far greater multipliers have been awarded in similar cases, and the total amount of fees sought by
28 Plaintiff's Counsel is also reasonable compared to fees awarded in similar cases. Courts routinely

1 enhance lodestar amounts based on multipliers that “range from 2 to 4 or even higher.” (*Wershba* 91
2 Cal.App.4th at 224, 255; see also, e.g., *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66
3 (approving multiplier of 2.5); *Vizcaino*, 290 F.3d at 1051 (approving multiplier of 3.65); *Wal-Mart*
4 *Stores, Inc. v. Visa U.S.A., Inc.* (2d Cir. 2005) 396 F.3d 96, 123 (approving multiplier of 3.5); *Craft v.*
5 *County of San Bernardino* (C.D. Cal. 2006) 624 F.Supp.2d 1113, 1125 (awarding multiplier of 5.2
6 and referring to other cases with cross-check multipliers ranging from 4.5 to 19.6)).

7 Therefore, application of a modest multiplier of 1.08 is warranted, and the lodestar as a cross-
8 check to the percentage figure sought herein, strongly supports the reasonableness of the requested
9 attorneys’ fees award.

10 In the present case, Plaintiff’s Counsel has borne all of the risks and costs of litigation and will
11 not receive any compensation until recovery is obtained. (Genish Decl., ¶ 53). Plaintiff’s Counsel is
12 experienced in complex wage-and-hour litigation and used that experience to obtain a favorable result
13 for Plaintiff, the Aggrieved Employees, and the State of California. (Ibid). Considering the amount
14 of fees requested, work performed, risks incurred, and experience of Plaintiff’s Counsel in handling
15 similar matters, Plaintiff maintains that the requested attorneys’ fees of thirty-five percent (35%) of
16 the Gross Settlement Amount (i.e., \$122,500.00) are reasonable and should be awarded. (Genish
17 Decl., ¶ 53).

18 **VII. THE REQUESTED ATTORNEYS’ COSTS ARE FAIR AND REASONABLE**

19 The Agreement provides for reimbursement of actual litigation costs and expenses up to the
20 amount of Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). (Genish Decl., ¶ 57;
21 Settlement Agreement, ¶ 3(a)(1)). Plaintiff’s Counsel only seeks reimbursement of a total of Nineteen
22 Thousand Three Hundred Thirty-Four Dollars and Six Cents (\$19,334.06) in litigation costs and
23 expenses. (Genish Decl., ¶ 57 & Exh. 4). Accordingly, Plaintiff’s Counsel respectfully requests that
24 the Court reimburse it for actual litigation costs and expenses in the amount of Nineteen Thousand
25 Three Hundred Thirty-Four Dollars and Six Cents (\$19,334.06).

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1 **VIII. THE SETTLEMENT ADMINISTRATION COSTS ARE FAIR AND**
2 **REASONABLE**

3 As set forth in the Settlement Agreement, the Parties have agreed to retain, subject to approval
4 by the Court, ILYM Group, Inc. to handle the administration of the Agreement. (Genish Decl., ¶ 58;
5 Settlement Agreement, ¶ 3(a)(3)). The fees and expenses of the Administrator are estimated not to
6 exceed Five Thousand Dollars and Zero Cents (\$5,000.00). (Genish Decl., ¶ 58; Settlement
7 Agreement, ¶ 3(a)(3)). These costs include, but are not limited to, expenses for preparing, printing,
8 and mailing the Cover Letter and Individual PAGA Payment checks to the Aggrieved Employees, re-
9 mailing the returned Individual PAGA Payment checks to any new addresses obtained, and handling
10 inquiries from Aggrieved Employees regarding the Agreement, among other things. (Genish Decl., ¶
11 58). Accordingly, the Court should grant approval of the Settlement Administration Costs in the
12 amount of up to Five Thousand Dollars and Zero Cents (\$5,000.00) to ILYM Group, Inc., a necessary
13 third-party for handling the settlement process. (Ibid).

14 **IX. THE REQUESTED GENERAL RELEASE FEE IS FAIR AND REASONABLE**

15 The purpose of an enhancement award is to incentivize aggrieved employees to step into the
16 shoes of the state labor agency and undertake the responsibilities associated with initiating a lawsuit
17 and serving in a representative capacity. (*See, e.g., Bell v. Farmers Ins. Exch.*, 115 Cal.App.4th 715,
18 726 (2004) (upholding “service payments” to named plaintiffs for their efforts in bringing the action);
19 *Clark v. Am. Residential Servs., LLC*, 175 Cal.App.4th 785, 804 (2009) (“an incentive award is
20 appropriate ‘if it is necessary to induce an individual to participate in the suit’”). Plaintiff initiated
21 this litigation on behalf of the State of California and her former co-workers who will now be entitled
22 to receive payment from the Agreement. By initiating and pursuing the Action, Plaintiff stepped into
23 the shoes of the State of California and undertook the responsibilities of serving in a representative
24 capacity. (Genish Decl., ¶ 60; Martinez Decl., ¶¶ 4-6). Plaintiff was available whenever Plaintiff’s
25 counsel needed her and actively tried to obtain information that would benefit the prosecution of the
26 Action. (Genish Decl., ¶ 60; Martinez Decl., ¶¶ 5-6). The General Release Fee for Plaintiff is
27 eminently reasonable given the time and effort Plaintiff spent on this matter, her services on behalf of
28 the State of California and the Aggrieved Employees, and her broader, general release of claims.

1 (Genish Decl., ¶ 59).

2 Accordingly, Plaintiff respectfully submits that it is appropriate and just for Plaintiff to receive
3 a General Release Fee in the amount of Five Thousand Dollars and Zero Cents (\$5,000.00) in addition
4 to the Individual PAGA Payment she will receive as an Aggrieved Employee, for her services on
5 behalf of the State of California and the other Aggrieved Employees, as well as for the broader, general
6 release of claims. (Genish Decl., ¶ 61).

7 **X. CONCLUSION**

8 For all of the foregoing reasons, Plaintiff respectfully requests that this Court grant Plaintiff's
9 Motion for Approval of PAGA Settlement and Award of Attorneys' Fees and Costs, General Release
10 Fee, and Settlement Administration Costs and grant the relief requested herein.

11 Respectfully submitted,

12 Dated: October 16, 2024

BLACKSTONE LAW, APC

13
14 By: 

15 Jonathan M. Genish
16 Attorneys for Plaintiff
17 CORINA MARTINEZ
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