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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF SAN DIEGO**

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|---|---|
| FLOYD LINDLEY and ANDREW SALSE, on behalf of the State of California,<br><br>Plaintiffs,<br><br>v.<br><br>GLEIBERMAN PROPERTIES, INC., a California Corporation; and DOES 1-50, inclusive.<br><br>Defendants. | CASE NO.: JCCP 5386<br><br>*Assigned to the Hon. Katherine A. Bacal*<br><br>**PLAINTIFFS' UNOPPOSED MOTION TO APPROVE THE SETTLEMENT PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004; MEMORANDUM OF POINTS AND AUTHORITIES**<br><br>**<u>Hearing Information:</u>**<br><br>Date: July 24, 2026<br>Time: 1:30 p.m.<br>Dept.: SD-63 |

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

**PLEASE TAKE NOTICE** that on July 24, 2026, at 1:30 p.m., or as soon thereafter as the matter may be heard in Department SD-63 of the San Diego County Superior Court, located at 330 W Broadway San Diego, CA 92101, before the Honorable Katherine A. Bacal, Plaintiffs Floyd Lindley and Andrew Salse will, and hereby does, move the Court for an order approving a settlement pursuant to the Private Attorneys General Act of 2004, Labor Code § 2698 *et seq*.

This unopposed motion seeks approval of a non-reversionary $734,580 settlement reached after mediation, which resolves all PAGA claims alleged in this action on behalf of non-exempt employees who worked for Defendant Gleiberman Properties, Inc. ("Defendant") in California during the PAGA period. The settlement allocates:

- 75% (presently estimated to be $331,982.18) to the Labor and Workforce Development Agency,
- 25% (presently estimated to be $110,660.72) to the Aggrieved Employees, distributed pro rata based on pay periods worked,
- up to $244,860 in Attorneys' Fees and $21,077.09 in Litigation Costs,
- a Service Award of $10,000 to each named Plaintiff,
- and up to $6,000 in Settlement Administration Costs.

This motion is based on the Memorandum of Points and Authorities, the Declarations of Plaintiffs' Counsel Mehrdad Bokhour and Joshua Falakassa, the Declaration of Plaintiffs Floyd Lindley and Andrew Salse, the PAGA Settlement Agreement, the proposed Order Granting Approval of Settlement, all pleadings and papers on file, and any argument or evidence presented at the hearing**.**

Dated: June 30, 2026

**BOKHOUR LAW GROUP, P.C.**
**FALAKASSA LAW, P.C.**

By: ______________________________
Mehrdad Bokhour, Esq.
Joshua Falakassa, Esq.
Attorneys for Plaintiffs and the Aggrieved Employees

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## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

Plaintiffs Floyd Lindley and Andrew Salse ("Plaintiffs")—individually and on behalf of other allegedly aggrieved employees, and acting as a representative of the State of California—brought this representative action for civil penalties against their former employer, Defendant Gleiberman Properties, Inc. ("Defendant") under the Private Attorneys General Act of 2004, California Labor Code § 2698 *et seq*. ("PAGA")[1]. (Declaration of Mehrdad Bokhour in Support of Plaintiffs' Motion to Approve Settlement Pursuant to PAGA ("Bokhour Decl."), ¶ 16.)

A PAGA action is a type of *qui tam* proceeding that enables private citizens to assist the State of California in enforcing labor laws. (*Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 380–382.) In such an action, the State of California is the real party in interest. (*Id.* at 382.)

As required by statute, the State of California Labor and Workforce Development Agency ("LWDA") was timely served with a copy of the executed Settlement Agreement and this Motion for Approval. (Declaration of Mehrdad Bokhour in Support of Plaintiffs' Motion for Approval of PAGA Settlement (Bokhour Decl., ¶ 40).

Plaintiffs' operative claims are brought on behalf of all non-exempt employees who worked for Defendant in California between December 5, 2022, and December 31, 2025 (the "Aggrieved Employees"). (Bokhour Decl. ¶ 9.)

Plaintiffs allege that during the relevant period:

- Defendant failed to pay all minimum and overtime wages. (Bokhour Decl. ¶ 10.)
- Plaintiffs and the Aggrieved Employees were denied compliant meal and rest periods as a result of Defendant's policies, practices, and operational requirements. (Bokhour Decl. ¶ 10.)

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[1] This action is governed by the version of the Private Attorneys General Act in effect before the amendments enacted through Senate Bill 92 and Assembly Bill 2288, which became effective on June 19, 2024. Because Plaintiffs' PAGA notices were submitted before the effective date of those amendments, the prior version of Labor Code section 2699, subdivision (i), applies. Accordingly, any civil penalties recovered must be distributed with 75 percent paid to the Labor and Workforce Development Agency and 25 percent paid to the aggrieved employees.

- Defendant failed to reimburse necessary business expenses, failed to timely pay wages, failed to pay timely wages at separation, and issued inaccurate itemized wage statements or otherwise failed to maintain records, thereby incurring civil penalties under PAGA. (Bokhour Decl. ¶ 11.)

Following informal discovery—including the exchange and review of workplace policies, a representative sample of time and payroll data, and an exposure analysis based on the Aggrieved Employees' pay periods—the Parties participated in private mediation before Jeffrey Fuchsman, Esq., an experienced wage-and-hour and employment mediator. (Settlement Agreement, Recitals ¶ 2.7.) With the assistance of Mr. Subramaniam, the Parties reached a resolution of the action. (*Id.*)

With a comprehensive Settlement Agreement now in place, Plaintiffs seek—without opposition from Defendant—the Court's approval of a $734,580 non-reversionary settlement resolving all claims alleged in this action pursuant to the Private Attorneys General Act of 2004, Labor Code § 2698 *et seq.* ("PAGA"). The settlement covers approximately 662 Aggrieved Employees and approximately 24,133 PAGA Pay Periods through December 31, 2025. (Settlement Agreement §§ 4.1, 8.)

Following the proposed deduction of:

- Attorneys' Fees of $244,860 (1/3 of the Gross Settlement Amount),
- Litigation Costs of $21,077.09,
- Settlement Administration expenses not to exceed $6,000, and
- A Service Award of $10,000 to each named Plaintiff for their service in pursuing the action and assisting with settlement efforts,

The balance of $442,642.91 will be allocated as PAGA penalties in accordance with Labor Code § 2699(m). (Settlement Agreement § 3.2.4.) Of that amount:

- 75% ($331,982.18) will be paid to the California Labor and Workforce Development Agency (LWDA), and
- 25% ($110,660.72) will be distributed to Aggrieved Employees on a pro rata basis based on the number of PAGA Pay Periods worked during the PAGA period. (Settlement Agreement § 3.2.4.)

This results in an average PAGA-only payment of approximately $167 per employee, which is meaningful relief for aggrieved employees, given that the settlement does not release any individual damages or statutory claims, other than for Plaintiffs, and that the value is being distributed solely as representative penalties under PAGA. (Settlement Agreement § 5.)

This settlement merits full approval because it furthers the statutory goals of PAGA:

- To deter future Labor Code violations,
- To incentivize employer compliance with wage and hour laws,
- And to provide meaningful enforcement of California labor standards for the public benefit. (*See* Labor Code § 2698 et seq.; *Arias v. Superior Court* (2009) 46 Cal.4th 969, 980.)

Approval of the settlement is governed by Labor Code section 2699(s)(2), which provides that "[t]he superior court shall review and approve any settlement of any civil action filed pursuant to this part." Consistent with California Supreme Court precedent, PAGA settlements are not subject to the requirements of class certification (such as numerosity, typicality, adequacy, or commonality), and there is no preliminary/final two-step process as is required in class actions. (*See Arias*, supra, at pp. 975–976; *Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 380–382.)

For these reasons—and those discussed in more detail below—Plaintiffs respectfully request that the Court grant approval of the PAGA Settlement as fair, reasonable, and in the public interest.

## II. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

Defendant Gleiberman Properties, Inc. is a fully integrated real estate company specializing in investing, redeveloping, and managing multifamily residential properties throughout California. (Bokhour Decl. ¶ 13).

Plaintiffs Floyd Lindley and Andrew Salse were employed by Defendant in nonexempt positions. Plaintiffs allege that Defendant maintained unlawful wage and hour policies and practices affecting them and other aggrieved employees, including Assistant Managers, Leasing Consultants, Community Managers, Maintenance Technicians, Porters, Leasing Agents, and other nonexempt employees throughout California. (Bokhour Decl. ¶ 14).

On April 11, 2024, Plaintiff Lindley filed a representative action asserting claims for civil penalties under the Private Attorneys General Act ("PAGA") based on alleged failures to pay minimum and overtime wages, provide compliant meal and rest periods or premium pay in lieu thereof, properly compensate sick leave, furnish accurate wage statements, timely pay wages during employment and upon separation, and related Labor Code violations. ((Bokhour Decl. ¶ 15; Settlement Agreement, Recitals ¶ 2.3.)

On April 30, 2024, Plaintiff Salse submitted a timely PAGA notice to the LWDA. (Bokhour Decl. ¶ 16; Settlement Agreement, Recitals ¶ 2.2.) That same day, Plaintiff Salse filed a class action complaint alleging numerous wage and hour violations, including failures to pay minimum and overtime wages, provide compliant meal and rest periods, furnish accurate wage statements, maintain accurate time records, timely produce employment records, timely pay wages, reimburse necessary business expenses, and violations of Business and Professions Code section 17200, et seq. (Bokhour Decl. ¶ 17; Settlement Agreement, Recitals ¶ 2.4.)

On July 5, 2024, Plaintiff Salse filed a separate representative PAGA action asserting civil penalty claims arising from substantially the same alleged Labor Code violations. (Bokhour Decl. ¶ 18; Settlement Agreement, Recitals ¶ 2.5.)

Defendant denies all material allegations, denies violating any provision of the California Labor Code, and denies any liability. Bokhour Decl. ¶ 19; (Settlement Agreement, Recitals ¶ 2.6.)

Prior to mediation, the Parties engaged in an informal exchange of relevant information and documents. Defendant produced policy documents and payroll and timekeeping records, enabling Plaintiffs' counsel to evaluate the factual and legal merits of the claims, analyze Defendant's pay practices, assess potential exposure, and prepare a comprehensive damages and civil penalties analysis. (Bokhour Decl. ¶¶ 20.) Plaintiffs' counsel also analyzed issues including regular rate calculations, meal and rest period compliance, expense reimbursement practices, wage statement compliance, and waiting time penalties in evaluating the strengths and risks of continued litigation. (Bokhour Decl. ¶ 21.)

On June 10, 2025, after conducting this investigation and exchanging sufficient information to meaningfully evaluate the claims, the Parties participated in a full-day mediation before Jeffrey Fuchsman, Esq., an experienced wage-and-hour mediator. Through good-faith, arm's-length negotiations, the Parties reached a settlement of this Action. (Settlement Agreement, Recitals ¶ 2.7; Bokhour Decl. ¶ 22.) The Parties thereafter negotiated and executed the written Settlement Agreement, which is now presented to the Court for approval pursuant to Labor Code section 2699, subdivision (l).

## III. THE PAGA AND ITS REQUIREMENTS

The Private Attorneys General Act of 2004 ("PAGA"), codified at Labor Code § 2698 *et seq*., provides a mechanism for aggrieved employees to recover civil penalties on behalf of the State of California for violations of the Labor Code committed by their employers. Before PAGA, the enforcement of such civil penalties was vested exclusively in California's labor enforcement agencies. (*Arias v. Superior Court* (2009) 46 Cal.4th 969, 980.).

However, recognizing both the limited resources of enforcement agencies and the prevalence of Labor Code violations, the California Legislature determined it was in the public interest to deputize private individuals as "private attorneys general" to enforce the law. (*Id.*) As the Legislature explained: "The only meaningful deterrent to unlawful conduct is the vigorous assessment and collection of civil penalties as provided in the Labor Code." (Stats. 2003, ch. 906, § 1(b).) Labor Code § 90.5(a) reinforces that California's labor laws exist to prevent employees from being "required or permitted to work under substandard unlawful conditions," and protect compliant employers from unfair competition by those who cut corners on labor standards. The Legislature further found that Labor enforcement agencies had insufficient staffing, were unlikely to keep pace with labor market growth, and that allowing private enforcement through PAGA was a necessary supplement while retaining agency primacy in enforcement. (Stats. 2003, ch. 906, § 1(c).)

Under Labor Code § 2699(m), civil penalties recovered in a PAGA action are distributed: 75% to the LWDA for enforcement and education efforts, and 25% to the aggrieved employees.

Before bringing a PAGA action, the employee must satisfy the notice and exhaustion requirements under Labor Code § 2699.3(a) by submitting written notice to both the employer and the LWDA that identifies the specific Labor Code provisions allegedly violated. The LWDA may then investigate or respond; if it declines to investigate or does not act within the statutory period, the aggrieved employee may proceed. (*See* Lab. Code §§ 2699.3(a)(2), 2699(h).)

In this case, Plaintiffs submitted a timely PAGA Notice Letter notifying the LWDA and Defendant of the alleged violations. The LWDA did not intervene, thereby authorizing Plaintiffs to proceed with this enforcement action on behalf of the State. (Bokhour Decl. ¶¶ 15–18.) Thus, the entire recovery in this case (the $734,580 PAGA Settlement) is the result of enforcement efforts undertaken solely by Plaintiffs and his counsel. The LWDA was provided with notice of the proposed Settlement Agreement and of this Motion, in accordance with Labor Code § 2699(l)(2). (Bokhour Decl. ¶ 40.)

PAGA also requires that any settlement of a PAGA claim brought by an aggrieved employee must be approved by the Court. (*Ibid.*) In *Arias*, the California Supreme Court held that PAGA representative actions are not subject to class certification requirements, nor is notice required for other employees. (*Arias*, 46 Cal.4th at 975–76, 980–88.) The Plaintiffs is deemed to act as a proxy or agent of California's labor law enforcement agencies. (*Id.* at 986.)

Accordingly, the Court's role is to review the terms of the PAGA settlement to ensure they are fair, reasonable, and in the public interest—goals that this proposed Settlement fully satisfies, as discussed below.

## IV. <u>THE SETTLEMENT AND DISTRIBUTION OF PAGA PENALTIES</u>

The following is a summary of the principal terms of the Settlement Agreement.

### A. <u>TERMS OF THE SETTLEMENT AND DISTRIBUTION OF PAGA PENALTIES</u>

The Settlement provides that Defendant will pay a non-reversionary Gross Settlement Amount of $734,580 (the "Gross Settlement Amount"), which is inclusive of:

- Civil penalties payable to the Labor and Workforce Development Agency ("LWDA") and Aggrieved Employees,
- Attorneys' Fees and Costs,
- Settlement Administration Expenses, and
- Service Awards to Plaintiffs (*See* Settlement Agreement ("S.A.") ¶¶ 3.1–3.2; Bokhour Decl., Ex. B.)

Following deduction of up to $244,860 in attorneys' fees, $21,077.09 in litigation costs, $6,000 in settlement administration fees, and $15,000 Service Awards to Plaintiffs, the remaining amount—approximately $442,642.91 —constitutes the PAGA Fund. (*See* S.A. ¶ 3.2.4.).

Pursuant to Labor Code § 2699(i) and the terms of the Settlement:

- 75 percent of the PAGA Fund ($331,982.18) will be paid to the LWDA, to be used for labor law enforcement and education;
- The remaining 25 percent ($110,660.72) will be distributed to the Aggrieved Employees on a pro-rata basis based on the number of PAGA Pay Periods worked during the PAGA period. (*See* S.A. ¶ 3.2.4.)

This structure complies with the statutory distribution scheme and provides meaningful recovery to the State and to employees, without the possibility of reversion to Defendant. Uncashed settlement checks will escheat to the State of California Unclaimed Property Fund in accordance with California law. (*See* S.A. ¶ 4.6.)

The following chart reflects the estimated payments from the Settlement Agreement:

| | **Amount** |
|---|---|
| ***Gross Settlement Amount*** | $734,580.00 |
| PAGA Counsel Fees Payment | $244,860 |
| PAGA Counsel Litigation Expenses Payment | $21,077.09 |
| Administration Expenses Payment | $6,000.00 |
| Plaintiffs' Service Awards | $20,000.00 |
| ***PAGA Fund*** | **$442,642.91** |
| 75% to the LWDA | $331,982.18 |
| 25% to Aggrieved Employees | $110,660.72 |
| | |

As such, the LWDA will receive approximately $331,982.18 (75 percent of the PAGA Fund) and the Aggrieved Employees will collectively receive approximately $110,660.72 (25 percent of the PAGA Fund), which will be paid on a pro-rata basis according to the number of pay periods worked during the PAGA Period. The average payment to the Aggrieved Employees is approximately $167 (Bokhour Decl. ¶ 30).

## B. <u>PAYMENT AND THE NOTICE</u>

Defendant will fund the Gross Settlement Amount to the Settlement Administrator no later than 30 days after the Effective Date. (*See* S.A. ¶ 4.3.) The Effective Date is defined as the date on which the Judgment becomes final. (*See* S.A. ¶ 1.10.)

Within fourteen (14) days after Defendant fully funds the Gross Settlement Amount, the

Settlement Administrator will issue payments to:A

- The Aggrieved Employees (25% of the PAGA Fund),
- The LWDA (75% of the PAGA Fund),
- The Settlement Administrator (for administration costs),
- Plaintiffs' Service Award, and
- Plaintiffs' counsel (approved Attorneys' Fees and Costs).

(*See* S.A. ¶¶ 4.3-4.5.)

Each Aggrieved Employee will have one hundred eighty (180) days from the date of issuance to cash their settlement checks. (*See* S.A. ¶ 4.4.1.) If any checks remain uncashed after that time, those funds will be voided and submitted to the California State Controller's Office – Unclaimed Property Fund in the name of the respective Aggrieved Employee. (*See* S.A. ¶ 4.4.3.)

### C. SETTLEMENT ALLOCATION TO THE AGGRIEVED EMPLOYEES

As set forth in the Settlement Agreement, twenty-five percent (25%) of the PAGA Fund—or \$110,660.72—will be allocated to the Aggrieved Employees. (*See* S.A. § 3.2.4.) According to data provided by Defendant, approximately 662 Aggrieved Employees will share in this allocation on a pro rata basis, based on the number of PAGA Pay Periods each individual worked during the applicable PAGA Period. (*See* S.A. §§ 1.11, 1.22).

The PAGA Period is defined in the Settlement Agreement to cover all non-exempt employees who worked for Defendant in California from December 5, 2022 through December 31, 2025. (*See* S.A. § 1.4, 1.20.)

The portion of each Aggrieved Employee's share of the PAGA Fund will be treated as non-wage income and, to the extent required by law, will be reported on an IRS Form 1099 by the Settlement Administrator. (*See* S.A. §§ 3.2.4.2.)

### D. THE RELEASE

The California Supreme Court has held that a judgment in "a representative action brought by an aggrieved employee under the Labor Code Private Attorneys General Act of 2004 ... is binding not only on the named employee Plaintiffs but also on government agencies and any aggrieved employee not a party to the proceeding." (*Arias v. Superior Court* (2009) 46 Cal.4th 969, 985–986.)

Here, the release in the Settlement Agreement is narrowly tailored and binds only the LWDA, the State of California, and the Aggrieved Employees, and only as to PAGA civil penalty claims as to Released Parties as defined in 1.28 of the Settlement Agreement. The release is triggered upon the Defendant's full funding of the Gross Settlement Amount. (*See* S.A. § 5.2.)

The relevant language provides:

> 5.2. Release by the LWDA, State of California, and Aggrieved Employees: Upon the occurrence of the Effective Date and the full funding of the Gross Settlement Amount, Plaintiffs, the PAGA Employee Group, the State of California, and the Labor and Workforce Development Agency shall release any and all claims under the California Labor Code Private Attorneys General Act of 2004 ("PAGA") against Defendant and the Released Parties. This release includes all PAGA claims asserted or that could have been asserted in the operative Complaint filed by Plaintiff Lindley, in the operative Complaint filed by Plaintiff Salse, in the Operative Complaint as amended in the Action, and/or in Plaintiffs' PAGA Notices based on the facts and allegations contained therein. The claims released include, but are not limited to, alleged violations for failure to pay for all hours worked, including off-the-clock work; failure to pay minimum wages; failure to pay overtime wages; failure to pay overtime wages at the regular rate of pay; failure to provide meal periods and premium pay; failure to pay meal period premium pay at the regular rate of pay; failure to authorize and permit rest periods and premium pay; failure to pay rest period premium pay at the regular rate of pay; failure to pay sick leave at the regular rate of pay; failure to provide one day of rest in seven; failure to provide reporting time pay; failure to reimburse necessary business expenses; failure to timely pay wages during employment; failure to provide timely wages upon separation of employment (waiting time penalties); failure to maintain accurate records; failure to timely produce requested employment records; failure to furnish complete, accurate, itemized wage statements; and violations of California's paid sick leave requirements. This release includes all claims for civil penalties arising under the California Labor Code, including but not limited to Labor Code sections 200, 201, 202, 203, 204, 204b, 210, 213(d), 216, 218, 218.5, 218.6, 221, 222.5, 223, 225.5, 226, 226(a), 226(e), 226(h), 226.3, 226.7, 227.3, 231, 245 through 248.5, 248.6, 248.7, 256, 404, 432, 450, 510, 512, 512(a), 516, 551, 552, 558, 558.1, 1174, 1174(d), 1174.4, 1174.5, 1181.12, 1194, 1194(a), 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2698 through 2699.5, 2800, 2802, 2804, 2810.5, and the applicable Wage Orders of the Industrial Welfare Commission. This release encompasses all PAGA claims, known and unknown, arising from the facts and allegations pleaded in the Actions during the PAGA Release Period.

Given these parameters, the release is appropriately narrow and consistent with California law governing representative PAGA actions and related to claims alleged and identified in the Plaintiffs' original and amended PAGA Notice Letters. Accordingly, the Parties respectfully submit that the scope of the release is both reasonable and enforceable.

## V. THE SETTLEMENT IS FAIR AND REASONABLE AND WARRANTS COURT APPROVAL

PAGA requires that "[t]he superior court shall review and approve any settlement of any civil action filed pursuant to this part." (Lab. Code § 2699(s)(2).) The same provision requires that the proposed settlement be submitted to the LWDA at the same time it is submitted to the Court. *Id.* Plaintiffs have complied with this requirement. The Settlement Agreement and this Motion for Approval have been concurrently submitted to the LWDA. (Bokhour Decl. ¶ 40; Ex. C.)

Beyond procedural compliance, courts must evaluate whether a proposed PAGA settlement is fair, reasonable, and consistent with PAGA's statutory purpose—namely, to deter Labor Code violations, incentivize employer compliance, and serve the State's interest in enforcing labor standards. (See *Arias v. Superior Court* (2009) 46 Cal.4th 969, 980.) Courts have held that a PAGA settlement should be approved where it represents a genuine and informed compromise, particularly when the parties have participated in arm's-length negotiations (such as mediation), exchanged relevant data or discovery, and thoroughly evaluated liability, exposure, and litigation risks. (*See Moniz v. Adecco USA, Inc*. (2021) 72 Cal.App.5th 56, 76.)

Here, the Parties engaged in meaningful pre-settlement litigation and arbitration efforts. They conducted discovery and factual investigation through arbitration proceedings and informal exchanges regarding Defendant's policies, as well as all time and payroll records available prior to mediation. Plaintiffs' counsel reviewed this data and conducted an exposure analysis to assess penalties and litigation risks. The Parties then participated in a full-day private mediation with an experienced wage-and-hour mediator and reached a negotiated resolution only after extensive analysis and good-faith negotiations. (Bokhour Decl. ¶¶ 19–21.)

The resulting non-reversionary $734,580 settlement reflects a fair and reasonable compromise. It accounts for Defendant's asserted as well as the challenges of proving liability and penalties, and the

Court's discretion to reduce penalties under Labor Code § 2699(e)(2). Of the PAGA Fund, $331,982.18 will be paid to the LWDA, and $110,660.72 will be distributed to approximately 662 Aggrieved Employees on a pro rata basis based on PAGA Pay Periods. Given the strength of Plaintiffs' claims, the risks of further litigation, and the real and meaningful recovery for both the State and employees, the proposed settlement is fair, adequate, reasonable, and in the public interest. Accordingly, the Parties respectfully request that the Court grant approval.

### A. Evaluation of the PAGA Settlement

Although PAGA and its legislative history do not expressly require courts to evaluate settlements against the theoretical "maximum value" of the claims, courts routinely assess whether the penalties recovered are reasonable in light of the potential exposure and litigation risks. Here, even under that framework, the penalties set forth in the Settlement are fair and reasonable.

Plaintiffs estimate that Defendant's maximum potential penalty exposure was approximately $2,413,300, based on approximately 24,133 PAGA Pay Periods and the statutory $100 per-pay-period penalty for a first violation. (Bokhour Decl. ¶ 31.) This figure is grounded in Plaintiffs' core theories—namely, underpaid overtime and sick pay due to improper regular-rate calculations, meal and rest-break violations, and derivative penalties for inaccurate wage statements, untimely wages, and untimely final wages.

However, Plaintiffs' analysis revealed that not all pay periods involved a violation. For example, late meal period violations occurred in approximately 20% of pay periods, and only a very limited subset of pay periods were affected by "regular rate of pay" miscalculations that impacted overtime or sick pay. Thus, while the theoretical maximum represents an upper bound, the actual exposure—if liability were established—would likely be substantially lower.

Plaintiffs based this estimate on civil penalties available under Labor Code § 2699(f)(2), which generally provides $100 for each violation, per aggrieved employee, per pay period. Citing *Amaral v. Cintas Corp.* (2008) 163 Cal.App.4th 1157, Plaintiffs asserted that Defendant's notice of the alleged violations through the PAGA notice letters justified applying at least the $100 rate for each pay period after the notice was served. However, Plaintiffs acknowledge that some courts have held that the $200 "subsequent violation" rate applies only after an employer has been put on notice of a violation by a court or commission, not merely by the PAGA letter. (See, e.g., *Amalgamated Transit Union Local 1309 v. Laidlaw Transit Servs.*, 2009 U.S. Dist. LEXIS 69842, *26 (C.D. Cal.).)

However, this maximum amount does not account for the various risks and potential defenses to the claims herein. Moreover, Defendant disputes liability altogether and argues that, even if violations occurred, the Court has discretion under Labor Code § 2699(e)(2) to significantly reduce any penalties "based on the facts and circumstances of the particular case," including where an award might otherwise be "unjust, arbitrary and oppressive, or confiscatory." Defendant further asserts that any violations were unintentional, isolated, or de minimis and that any penalties should be mitigated due to the absence of "willfulness" or based on their good-faith compliance efforts. Defendant also argues that stacking penalties for multiple derivative violations (e.g., wage statements and final pay) would be improper and excessive.

Despite these defenses and the litigation risks, Plaintiffs secured a $734,580 PAGA penalty fund, representing approximately 30% of the total maximum exposure. This result reflects a meaningful compromise following a thorough investigation, discovery, arbitration, and private mediation. Plaintiffs' counsel analyzed time and pay data, reviewed Defendant's policies and procedures, and modeled potential penalty outcomes using the data provided for approximately 662 Aggrieved Employees. (Bokhour Decl. ¶¶ 20, 30.)

The agreed-upon penalty fund ensures meaningful recovery to the State and affected employees while avoiding the uncertainty and cost of further litigation. It advances the goals of PAGA and is neither unjust, arbitrary, nor excessive. Accordingly, the Settlement is a fair and reasonable resolution of the disputed claims and warrants the Court's approval.

### B. THE REQUEST SERVICE AWARDS TO PLAINTIFFS IS FAIR AND REASONABLE

Plaintiffs respectfully requests that the Court approve a $15,000 Service Awards in recognition of his time, effort, and commitment in prosecuting this action on behalf of the State of California and Aggrieved Employees. The award is reasonable given Plaintiffs' active role in the case, including assisting counsel in preparing pleadings and declarations, participating in discovery and arbitration-related proceedings, attending status conferences, reviewing Defendant's policy documents and payroll data, and providing input throughout the settlement negotiations.

Courts routinely approve service or enhancement awards in PAGA-only cases to compensate Plaintiffs who invest time and energy in advancing claims for the benefit of others. Such awards reflect the burden representative Plaintiffs undertake and the critical role they play in enforcing the Labor Code, where state resources may be limited. (See, e.g., *Gonzalez v. CoreCivic of Tennessee, LLC* (E.D. Cal. Mar. 30, 2022) 2022 WL 1050300, at *6 [approving 10,000 Service Awards in PAGA-only settlement].)

Here, Plaintiffs helped initiate this enforcement action, litigated through arbitration, and supported the resolution of the case following extensive discovery and analysis. These efforts ultimately led to a significant, non-reversionary PAGA settlement. Notably, this matter remained pending for more than 2 years. Throughout that time, Plaintiffs remained committed to the prosecution of the case, consistently making themselves available to assist counsel, respond to requests for information, review documents, participate in proceedings, and support the litigation, despite the matter's length and the uncertainty inherent in representative employment litigation. Plaintiffs never wavered in their commitment to pursuing the claims on behalf of the State of California and the Aggrieved Employees. His dedication and perseverance were instrumental in achieving the settlement now before the Court. As the California Supreme Court has explained, a PAGA Plaintiff "represents the same legal right and interest as state labor law enforcement agencies," and acts as a proxy for the State in vindicating public rights. (*Arias v. Superior Court* (2009) 46 Cal.4th 969, 986; *Iskanian v. CLS Transp.* (2014) 59 Cal.4th 348, 387.)

In light of Plaintiffs' meaningful contributions to this matter, their steadfast participation throughout more than 2 years of litigation, the strong result obtained on behalf of the State and Aggrieved Employees, and their agreement to a general release of their individual claims, the requested $10,000 Service Award for each named Plaintiff is fair, reasonable, and appropriate. Plaintiffs devoted substantial time and effort to this case and remained committed to its successful resolution from inception through settlement. Accordingly, Plaintiffs respectfully request that the Court approve the award as part of the overall settlement.

## VI. THE REQUESTED ATTORNEYS' FEES AND LITIGATION COSTS ARE FAIR AND REASONABLE

For their efforts and the risk they undertook in obtaining a common fund settlement that benefits the LWDA and Aggrieved Employees, the Parties allocated $244,860 to Plaintiffs' Counsel for reasonable attorneys' fees, which is one-third of the Gross Settlement Amount. Additionally, the Parties agreed to reimburse Plaintiffs' Counsel for its actual litigation costs. These fees are warranted under the law and fall within the range commonly awarded in similar cases.

### A. PLAINTIFFS' COUNSEL ARE ENTITLED TO RECOVER ATTORNEYS' FEES UNDER THE COMMON FUND DOCTRINE IN THIS QUI TAM ACTION

PAGA provides that a Plaintiffs is entitled to recover reasonable attorneys' fees, expenses, and costs under section 2699(k)(1) of the California Labor Code, which provides that, "Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs, including any filing fee paid pursuant to subparagraph (B) of paragraph (1) of subdivision (a) or subparagraph (B) of paragraph (1) of subdivision (c) of Section 2699.3." As discussed below, in a qui tam action, reasonable attorneys' fees and costs are typically awarded under the common fund doctrine where, as here, the litigation creates a specific, identifiable fund for the benefit of others.

"A qui tam action is one brought under a statute that allows a private person to sue as a private attorney general to recover damages or penalties, all or part of which will be paid to the government." *People ex rel. Stratham v. Acacia Research Corp.* (2012) 210 Cal.App.4th 487, 491-492. "A qui tam action 'is a type of private attorney general lawsuit' (citation), in which 'the qui tam Plaintiffs stand in the shoes of the state or political subdivision (citation).'" *Id.* at 501. As the name of the PAGA statute makes clear (e.g., "Labor Code Private Attorney General Act"), a PAGA action is a *qui tam* action because the statute allows the employee Plaintiffs, acting as the proxy of the state's labor law enforcement agency, to sue his or her employer for Labor Code violations and recover civil penalties that otherwise would have been assessed and collected by the LWDA. *Iskanian*, 59 Cal.4th at 380. "A PAGA representative action is therefore a type of *qui tam* action." *Id.* at 382. Indeed, the majority of the civil penalties recovered in a PAGA action are paid to the state, with a smaller portion paid to aggrieved employees (e.g., 75% to the state; 25% to aggrieved employees). See Labor Code § 2699(m).

As here, where a common fund is created in a *qui tam* action by the successful litigation of a plaintiff and his attorneys, the attorneys are entitled to recover their fees from the common fund. *Bank of America v. Cory* (1985) 164 Cal.App.3d 66, 89-91. In *Bank of America*, California taxpayers compelled the State Controller to enforce the Unclaimed Property Law against banks that were retaining accounts that should have been turned over to the State. Because of the success of the taxpayers' lawsuit, a common fund was created in favor of some depositors and the State of California. *Id.* When the taxpayers' attorneys sought recovery of their attorney's fees from the judgment under the common fund doctrine, the Controller opposed the request. The Court of Appeal affirmed the trial court's fee award to the taxpayers' counsel under the common fund doctrine, stating:

> "Those benefiting from the recovery of the fund, in this case some depositors and eventually the People of the State of California, must bear their share of the cost of litigation. Fees for taxpayers' attorneys will be deducted from the judgment, and each claimant's share reduced proportionately. To the extent the judgment relies upon section 1021.5 for recovery of attorney fees, it must be modified to confine the award of fees to the common fund theory." *Id*. at p. 91.

In this case, the PAGA Settlement created a common fund for the benefit of the employees and the State of California. Thus, these beneficiaries must bear their share of the costs and attorneys' fees, which must be deducted from the settlement amount under the common fund theory. *Id*. Moreover, such fees are deducted as a percentage of the settlement amount. *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478-482; *Six (6) Mexican Workers v. Arizona Citrus Growers* (9th Cir. 1990) 904 F.2d 1301, 1311; *Williams v. MGM-Pathe Communications Co.* (9th Cir. 1997) 129 F.3d 1026, 1027; *Staton v. Boeing Co.*(9th Cir. 2003) 327 F.3d 938, 967.

The California Supreme Court upheld the use of the common fund theory of recovery for attorneys' fees in *Laffitte v. Robert Half Int' l Inc. (2016)* 1 Cal. 5th 480, 506. In *Laffitte*, the settlement created a $19 million common fund. This ruling is consistent with the Court's prior rulings recognizing that "when a number of persons are entitled in common to a specific fund, and an action brought by … Plaintiffs for the benefit of all results in the creation or preservation of that fund, such … Plaintiffs may be awarded attorneys' fees out of the fund." *Serrano III v. Priest* (1977) 20 Cal.3d 25, 34; *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980) ["(A) lawyer who recovers a common fund . . . is entitled to reasonable attorneys' fees from the fund as a whole"]; *Mills v. Electric Auto-Lite Co.* (1970) 396 U.S.

375, 393-394 [discussing the acceptance of awarding attorneys' fees and expenses from a settlement where "litigation has conferred a substantial benefit on the members of an ascertainable class"]; see also *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 26 ["(f)ee spreading occurs when a settlement or adjudication results in the establishment of a separate or so-called common fund for the benefit of the class."].)

Accordingly, the common fund doctrine allows a court to award attorneys' fees based upon a percentage of the total fund that is created for the satisfaction of beneficiaries' claims when the fund consists of a "certain or easily calculable sum of money." *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1809; *Jutkowitz v. Bourns, Inc.* (1981) 118 Cal.App.3d 102, 1,282.91 [application of the percentage of the fund recovery depended on "(t)he critical point" that "a fund was created from which attorneys' fees could be paid"]; A. Conte & H. Newberg, *Newberg on Class Actions*, § 14:6 (4th ed. 2002).

California law has long upheld, and continues to uphold, the percentage-of-recovery method for awarding attorneys' fees when a fund is established. See e.g., *Serrano v. Priest* (1977) 20 Cal.3d 25, 34; *Bell v. Farmers Insurance Exchange* (2004) 115 Cal.App.4th 715, 726; *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 563 ["fees based on a percentage of the benefits are in fact appropriate in large class actions…"]; *Sanders v. City of Los Angeles* (1970) 3 Cal.3d 252, 261, 263 [affirming award of attorneys' fee based on percentage of recovery]; *Chavez v. Netflix, Inc.*, *supra*, 162 Cal.App.4th at pp. 65-66; see also *Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc.* (2005) 127 Cal.App.4th 387, 397 [the common fund doctrine is "frequently applied in class actions when the efforts of the attorney for the named class representatives produce monetary benefits for the entire class"]; *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 254 ["courts recognize two methods for calculating attorney fees in class actions: the lodestar/multiplier method and the percentage of recovery"].

Based on the foregoing, awarding attorneys' fees of one-third of the Gross Settlement Amount is fair and warranted in light of the PAGA settlement that was reached on behalf of the State of California and Aggrieved Employees. Accordingly, awarding fees on this basis in this amount is reasonable and appropriate.

### B. The Percentage Fee of the Gross Settlement Amount Is Fair And Reasonable

An award of fees from the Gross Settlement Amount under the common fund doctrine prevents unjust enrichment of those who benefit from the common fund created through the successful efforts of Plaintiffs' counsel and furthers the important goal of attracting competent counsel to handle representative actions enforcing minimum labor standards. *Laffitte*, 1 Cal.5th at 503. In affirming the use of the common fund doctrine in California, the California Supreme Court summarized the benefits of the percentage method of recovery stating: "The recognized advantages of the percentage method—including relative ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation (citations)—convince us the percentage method is a valuable tool that should not be denied our trial courts." *Id*.

Among the factors considered in determining whether the requested fee percentage is reasonable are: (1) the results achieved; (2) the risk of further litigation; (3) the skill required of Plaintiffs' counsel and the quality of work performed by Plaintiffs' counsel; (4) the contingent nature of the fee and the financial burden carried by the Plaintiffs; and (5) awards made in similar cases. *Vizcaino v. Microsoft Corp*. (9th Cir. 2002) 290 F.3d 1043, 1048-50. All these factors support an award of one-third of the common fund.

First, Plaintiffs' counsel achieved a superb PAGA settlement in a case involving highly contested issues primarily related to small alleged underpayments and limited meal and rest break violation rates. Notably, Defendant had prevailed on their motion to compel arbitration, and the individual claims had to proceed in arbitration.

Second, Plaintiffs faced significant risks going forward with the litigation. As discussed above, Defendant raised various defenses, resulting in significant risks for Plaintiffs going forward in this litigation and requiring substantial time to realize any recovery in this action.

Third, Plaintiffs' Counsel are experienced representative PAGA action litigators, including having been selected as a "Super Lawyer" in employment litigation and having achieved some of the largest PAGA awards in the State of California (Bokhour Decl. ¶¶ 3-8). This experience and expertise, combined with the high quality of work performed by Plaintiffs' Counsel, resulted in the settlement achieved in this case.

Fourth, as discussed above and as set forth in the Declaration of Plaintiffs' Counsel, the request for attorneys' fees falls well within the norms accepted by state and federal courts in California in comparable wage and hour actions actually handled by Plaintiffs' Counsel.

For all of the above reasons, a fee award of one-third of the Gross Settlement Amount is fair and reasonable.

### C. A LODESTAR CROSS-CHECK CONFIRMS THE REASONABLENESS OF THE FEE AWARD

Despite recognized limitations of the lodestar method, California and federal courts often find it useful as a "cross-check" on the reasonableness of percentage-based attorneys' fee requests.[2] *Lealao*, *supra*, 82 Cal.App.4th at 46-47. Under this approach, the court calculates counsel's total lodestar by multiplying the hours reasonably expended by each attorney or legal staff member by that person's respective hourly rate. The resulting figure may then be adjusted using a multiplier based on factors such as the novelty or difficulty of the issues, the contingency risk, and the results achieved. (*See PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095–96; *Press v. Lucky Stores, Inc.* (1983) 34 Cal.3d 311, 322; *Lealao*, supra, at 43.)

Here, Plaintiffs' counsel requests fees in the amount of $244,860—representing one-third of the gross settlement amount. As set forth in the declarations of Plaintiffs' counsel submitted herewith, this fee represents a negative multiplier when cross-checked against their actual lodestar, which totals $$230,040. The table below summarizes the lodestar calculation:

**Lodestar Summary**

| Attorney | Experience | Hourly Rate | Total Hours | Lodestar |
|---|---|---|---|---|
| Mehrdad Bokhour | 13 years | $750 | 85[3] | $63,750 |
| Joshua Falakassa | 12 years | $725 | 80 | $58,325 |

[2] In practice, the lodestar method is difficult to apply, time-consuming to administer, inconsistent in result, and capable of manipulation. In addition, the lodestar creates inherent incentive to prolong the litigation until sufficient hours have been expended. Herr, David F., *Manual for Complex Litigation,* § 14.121 (1988); *see also In re Activision* (N.D. Cal 1989) 723 F.Supp 1373.

[3] Includes an estimated 25 hours of additional work in preparation for and attending the hearing, as well as work that is anticipated to be performed after the hearing with counsel, administrator, employees, and the court.

| | | | | |
|---|---|---|---|---|
| Aram Boyadjian | 5 years | $600.00 | 1.9 | $1,140.00 |
| Courtney M. Miller | 7 years | $700.00 | 1.9 | $2,100 |
| Gabriella Solé | 4 years | $550.00 | 40.7 | $22,385 |
| Eugene Zinovyev | 17 years | $950.00 | 56.9 | $54,055 |
| John G. Yslas | 30 years | $1,500.00 | 12.2 | $18,300. |
| | | **TOTAL** | | $230,040 |

(*See* Bokhour Decl. ¶ 36; Falakassa Decl. ¶ 29; Yslas Decl. ¶.20)

This is well within the range routinely approved by California courts, particularly in wage-and-hour litigation involving significant risk, meaningful relief, and a substantial investment of attorney time. The requested fee is thus reasonable and appropriate under both the percentage-of-recovery method and the lodestar cross-check.

The hourly rates requested by Plaintiffs' counsel are consistent with rates approved by California courts for attorneys of similar skill, experience, and reputation in complex wage-and-hour matters. The starting point for determining a reasonable hourly rate is the prevailing market rate in the relevant legal community. (*See PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095; *Chavez v. City of Los Angeles* (2010) 47 Cal.4th 970, 985.)

Given that Mr. Bokhour (14 years) requests $750 per hour and Mr. Falakassa (13 years) requests $725 per hour, their rates fall squarely within the approved and prevailing range for experienced counsel handling complex representative employment matters in California.

Thus, the hourly rates used in Plaintiffs' lodestar calculation are well-supported by recent authority and further confirm that the requested attorneys' fees are fair, reasonable, and consistent with market standards.

### D. THE REQUESTED LITIGATION COSTS ARE FAIR AND REASONABLE

Plaintiffs' Counsel respectfully requests reimbursement of their actual out-of-pocket litigation expenses incurred in prosecuting this action. These costs were both reasonable and necessary to the effective representation of Plaintiffs and the Aggrieved Employees. Courts routinely allow prevailing Plaintiffs to recover such costs under the common fund doctrine, which applies equally to representative PAGA actions. (*See Serrano v. Priest* (1977) 20 Cal.3d 25, 35 [common fund doctrine permits recovery of fees and costs from the fund]; *Rider v. County of San Diego* (1992) 11 Cal.App.4th 1410, 1424 n.6 [litigation costs may be recovered for the same reasons supporting a fee award].)

Additionally, courts recognize that counsel is entitled to recover "those out-of-pocket expenses that would normally be charged to a fee-paying client." (*Harris v. Marhoefer* (9th Cir. 1994) 24 F.3d 16, 19.) Such reimbursable expenses may include filing fees, mediation costs, court reporting, research, and related case administration expenses.

Here, the Settlement Agreement authorizes recovery of litigation costs of up to $21,077.09. (S.A. § 3.2.1; Bokhour Decl. ¶ 39; Yslas Decl. ¶ 23.) These costs are modest in relation to the size and complexity of the case and are uncontested by the Defendant.

Because the requested costs are well-documented, reasonably incurred, and fall below the cap set by the Settlement, Plaintiffs respectfully request that the Court approve reimbursement in the amount of $21,077.09. The remaining balance of the Gross Settlement Amount will be directed to the PAGA Fund, benefiting the LWDA and Aggrieved Employees.

## VII. SUBMISSION TO THE LWDA

As required by Labor Code § 2699(s)(2), Plaintiffs have concurrently submitted the Settlement Agreement and this Motion for Approval to the California Labor and Workforce Development Agency (LWDA). (*See* Bokhour Decl. ¶ 40.) Proof of the electronic submission to the LWDA is attached as Exhibit C to the Bokhour Declaration.

## VIII. THE SETTLEMENT ADMINISTRATOR

ILYM Group, Inc. ("ILYM") has been selected to serve as the Settlement Administrator. ILYM will be responsible for issuing settlement payments, providing notice to Aggrieved Employees, handling tax reporting, and performing other standard administrative functions related to the Settlement. ILYM submitted an all-inclusive bid to administer the Settlement for $6,000, which will be paid from the Gross Settlement Amount. (*See* S.A. § 3.2.3.)

## IX. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request—without opposition from Defendant—that the Court grant approval of the Parties' PAGA Settlement Agreement pursuant to Labor Code §

2699(s)(2). The Settlement is fair, adequate, and reasonable, and it advances the PAGA's enforcement goals by providing meaningful relief to the State of California and the Aggrieved Employees.

Dated: June 30, 2026

**BOKHOUR LAW GROUP, P.C.**
**FALAKASSA LAW, P.C.**

By: ______________________

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