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Attorneys for Plaintiffs ARACELY ANDRADE and SEBASTIAN MAGNARELLI, in a Representative capacity only, and on behalf of other members of the general public similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

ARACELY ANDRADE and SEBASTIAN
MAGNARELLI, in a Representative
capacity only, and on behalf of other
members of the general public similarly
situated,

Plaintiffs

v.

HLT CONRAD DOMESTIC EMPLOYER
LLC, a Delaware Limited Liability
Company; HILTON HOTEL EMPLOYER
LLC, a Delaware Limited Liability
Company; HILTON RESORTS
CORPORATION, a Delaware Corporation;
and DOES 1-10, inclusive

Defendants

CASE NO. 37-2024-00009775-CU-OE-CTL

**PLAINTIFF'S *EX PARTE* APPLICATION
*RE:***

- (1) UNOPPOSED PAGA SETTLEMENT
APPROVAL, or in the alternative,**
- (2) ORDER SHORTENING TIME TO
HEAR A MOTION FOR PAGA
SETTLEMENT APPROVAL**

Date: September 17, 2026

Time: 8:30 a.m.

Dept: C-74

Judge: Hon. Blaine K. Bowman

I. SUMMARY OF APPLICATION

This is a Labor Code §2698 *et seq.* “Wage and Hour” (“PAGA”) action, brought against HLT CONRAD DOMESTIC EMPLOYER LLC, (Hereinafter, “Defendant” or “HLT”).

Following significant investigation and formal discovery, over approximately 31 months, the parties participated in formal Mediation, before experienced Mediator Steven Serratore. The Mediation eventually resulted in an agreement to fully resolve the entire litigation, dependent on Approval from the Trial Court.

Recently, Mr. William Sullivan (Plaintiffs Trial Counsel, and main contact with the clients) was informed that he will (again) have to undergo Medical Leave, for a significant (and long-term) condition. The individual Plaintiffs have both requested that Mr. Sullivan delay his Medical Leave, until the instant settlement has received Approval from the Trial Court. (Yaeckel Dec., ¶16).

The office of Plaintiffs counsel has prepared a summary of a (potentially) forth-coming Motion for Approval of PAGA Settlement. The summary is attached hereto as **Exhibit A**, and provides all information required under California law, and necessary for the Trial Court to Approve (or deny) the proposed - and **unopposed** - settlement.

Given the potential adverse impact on (1) the parties (via increased delay), (2) the individual Plaintiffs, and (3) Plaintiffs counsel, it is respectfully requested that the Trial Court approve the unopposed Settlement on an *ex parte* basis.

II. DISCUSSION

On **July 24, 2026**, the parties reached the preliminary terms of their proposed settlement agreement following the exchange of extensive information and employment records. The final terms were agreed to on September 10, 2026. (See **Ex. 1**). The parties submit the proposed settlement of PAGA penalties is fair, adequate, and reasonable, as set forth in section B, below.

A. **THE BASIS FOR THE *EX PARTE* REQUEST**

The request to expedite this matter on an *ex parte* basis is proper, for *several* separate reasons.

i. **The Current Medical Condition of Plaintiff’s Trial Counsel (Mr. Sullivan)**

The primary reason for this requests is due to the fact that Mr. Sullivan (Plaintiffs’ Trial counsel, the principal client contact) was recently scheduled (ordered) to proceed to an extended medical leave, and Plaintiffs have specifically requested that this matter be finalized *before* that occurs,

in case further involvement by Mr. Sullivan is necessary. If requested by the Court, Mr. Sullivan is willing to share additional information about his ongoing medical issues. (Yaeckel decl. ¶16).

Please Note: Neither Plaintiffs nor their counsel have *ever* requested an “expedited approval” before this time period, and do so here only because of Mr. Sullivan’s current medical condition. (Please see Yaeckel Dec., ¶16). Mr. Sullivan cannot delay his treatment in order to accommodate a “regular” motion calendar.

ii. The (Adverse) Impact on Notice to Ex- Employees

Additionally, the instant *Ex Parte* request is also based on the fact that notice to certain ex-employees may be adversely impacted by further delay (*i.e.* ex-employees may change their mailing address without filing a proper “forwarding address”). (Yaeckel Decl., ¶ 17).

Moreover, an expedient approval of this settlement will provide a direct benefit to the impacted employees at issue. The “fixes” provide a guarantee of future Labor Code compliance, and an immediate monetary benefit. It also allows Defendant the opportunity to move on, and focus on future business. (Yaeckel Decl., ¶ 18).

iii. The Unopposed Nature of the Request for Trial Court Approval

Finally, this request is un-opposed by any party. Based on counsel’s experience, this Superior Court has encouraged PAGA settlement approvals on an *ex-parte* basis (in such un-opposed cases), so as not to overburden the Court’s already impacted motion calendar. (Yaeckel Decl., ¶ 19).

B. THE VERIFIED FACTS, RE: SPECIFIC APPROVAL FACTORS

To the extent the Court wishes to analyze the settlement and a additional facts which support settlement approval and this (un-opposed) request, all said factors are set forth within **Exhibit A** to the instant *Ex Parte* request. (Please see Yaeckel Dec., ¶ 47).

Further, a summary of all relevant facts and law is set forth immediately below.

The Total Value of the proposed Settlement is **\$935,000.00** which is broken down as follows:

*	\$24,045.89	Costs of Litigation
*	\$20,000.00	Payment for Plaintiffs’ Enhancement Award (\$10,000 each)
*	\$7,919.20	Administration Expenses
*	\$311,666.67	Attorneys’ Fees (1/3 of total settlement value);
*	Sub-Total of \$571,368.24 . 75% (\$428,526.18) shall be assigned/paid to the	

1 LWDA as penalties; and

2 * The remaining 25% (**\$142,842.06**) will be disbursed among all employees
3 based on work weeks employed during the PAGA period. (Yaeckel Decl., ¶ 7).

4 Given the above, the average payment to each individual employee will be approximately
5 **\$109.87**. (*Id.*) Further, there are no restrictions for any of the approximately **1,300** employees to file
6 individual actions, as the settlement agreement covers PAGA claims only. (Yaeckel Decl., ¶ 8; **Exhibit**
7 **1**, ¶38(b)).

8 Plaintiffs' counsel is well versed in class/representative (PAGA) litigation. Counsel submits
9 the settlement represents a fair payment to the LWDA and the employees. (Yaeckel Decl., ¶¶9-15).

10 Should the Court deem it necessary, a lodestar cross-check confirms the propriety of the
11 requested attorneys fees. Given the actual fees incurred, in the amount of approximately **\$223,602.50**,
12 a modest multiplier of approximately **1.39** is necessary for the full award requested (and undisputed)
13 by Plaintiff. . (Yaeckel Decl. ¶ 37).

14 The parties' proposed notice, to accompany the settlement checks following approval, is
15 attached to the declaration of Eric K. Yaeckel as **Exhibit 3**. CAC Services, LLC will serve as the
16 settlement administrator. They are experienced settlement administrators with detailed security
17 protocols in place. (Yaeckel Decl. ¶48).

18 The Parties submit that the Court can (and should) approve the settlement on an *Ex Parte* basis.
19 However, if the Court is not inclined to approve the settlement via the instant *Ex Parte*, the Parties
20 request that the Court grant an "Order Shortening Time" to hear the instant request via noticed motion.

21 **Please Note:** that the terms of the Agreement were only recently finalized and agreed upon by
22 the parties. Accordingly, the copy of the Agreement attached as Exhibit 1 to the Declaration of Eric
23 K. Yaeckel is not yet fully executed and currently lacks the signatures of the parties. A fully executed
24 copy of the Agreement will be provided to the Court prior to the hearing date. (Yaeckel decl. ¶52).

25 Dated: September 10, 2026

SULLIVAN & YAECKEL LAW GROUP, APC

Cody Archer

Eric K. Yaeckel

Cody D. Archer

Attorneys for Plaintiffs ARACELY ANDRADE and
SEBASTIAN MAGNARELLI, in a Representative
capacity only, and on behalf of other members of the
general public similarly situated

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EXHIBIT A
**ADDITIONAL FACTORS
SUPPORTING PAGA
APPROVAL**

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I. CONTROLLING AUTHORITY

PAGA “authorizes an employee to bring an action for civil penalties on behalf of the state against his or her employer for Labor Code violations committed against the employee and fellow employees.” (*Iskanian v. CLS Trans. Los Angeles, LLC* (2014) 59 Cal. 4th 348, 360). “To compensate for the lack of [a]dequate financing of essential labor law enforcement functions,’ the California legislature enacted PAGA to permit aggrieved employees to act as private attorneys general to collect civil penalties for violations of the Labor Code.” (*Sakkab v. Luxottica Retail N. Am., Inc.* (9th Cir. 2015) 803 F.3d 425, 430).

Recently the Court of Appeal has given guidance to trial courts in reviewing a PAGA settlement:

We therefore hold that **a trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws.** (*See Williams , supra ,* 3 Cal.5th at p. 546, 220 Cal.Rptr.3d 472, 398 P.3d 69 (PAGA "sought to remediate present violations and deter future ones"); *Arias , supra ,* 46 Cal.4th at p. 980, 95 Cal.Rptr.3d 588, 209 P.3d 923 (the declared purpose of PAGA was to augment state enforcement efforts to achieve maximum compliance with labor laws).) (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal. App. 5th 56, 77).

Prior to *Moniz*, other Courts have followed the rationale in *O'Connor v. Uber Techs., Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 132-35, which states a court is permitted to approve a PAGA settlement if it is “fair and adequate in view of the purposes and policies of the statute.” (*Id.*)

A court may award a lesser amount than the maximum civil penalty amount if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory. (Lab. Code, § 2699(e)(2); *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1213-1214; *See e.g., Fleming v. Covidien Inc.* (C.D. Cal. Aug. 12, 2011) 2011 WL 7563047, at *4 [reducing PAGA penalties by 82%]).

In *Flores v. Starwood Hotels & Resorts Worldwide, Inc.* (“*Flores*”), the court was asked to approve a PAGA settlement (the “Settlement”). (*Flores v. Starwood Hotels & Resorts Worldwide, Inc.* (C.D. Cal. 2017) 253 F. Supp. 3d 1074, 1075–76). In deciding whether the court should approve the Settlement, the court looked to the California legislature, the California Courts of Appeal, the California Supreme Court, and the California Labor & Workforce Development Agency for a definitive answer as to what precedent the court should follow in either approving or denying the

1 settlement. (*Id.*) The court was not able to find a definitive answer. (*Id.*) As such, the court followed
2 the rationale in *O'Connor v. Uber Techs. Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 132-35, which
3 states a court is permitted to approve a PAGA settlement if the settlement is “fair and adequate in view
4 of the purposes and policies of the statute.” (*Id.*)

5 In deciding whether the settlement was “fair and adequate,” the court’s have looked at how the
6 parties divvied up the civil penalties under Section 2699(i) of the California Labor Code. (*Flores*, 253
7 F. Supp. 3d at 1076–77). As the court felt the parties’ division of penalties was fair and adequate
8 pursuant to the statute, the court approved the Settlement. (*Id.*)

9 **II. THE NATURE AND SCOPE OF THE ALLEGED VIOLATIONS**

10 The Complaint alleges Labor Code violations which triggered penalties under the PAGA
11 statute. (Labor Code §2698 *et seq.*; See ROA #1 [Civil Complaint]). Plaintiffs also alleged all
12 employees were denied compliant Meal and Rest Periods, minimum wages, overtime, accurate wage
13 statements, reimbursements, and suffered waiting time violations. (See ROA #1 [Civil Complaint];
14 Exhibit 1, ¶25).

15 Specifically, Plaintiffs allege that they – and other employees – received “short,” “late,” or
16 “missing” Meal Periods, including those documented within Defendant’s Time Records. (Yaeckel
17 Decl., ¶ 20). Plaintiffs also challenged whether Defendant maintained lawful meal and rest periods.
18 Plaintiffs alleged they – and other employees – were not properly compensated due to Defendant’s
19 failure to maintain accurate time records. (*Id.*)

20 **III. ANALYSIS OF POTENTIAL LIABILITY, ON A REPRESENTATIVE BASIS**

21 The catalyst of this litigation concerned allegations that Mr. Andrade and Mr. Magnarelli were
22 denied legally compliant meal and rest periods, and was not paid for all Overtime hours worked.
23 (Yaeckel Decl., ¶ 20). Plaintiffs claim that investigations completed by Plaintiffs’ counsel support
24 Plaintiffs’ allegations that Defendant’s timekeeping policies and employee records were not in
25 compliance with California law. (Yaeckel Decl., ¶ 21). Defendant disputes this allegation. However,
26 Plaintiff concedes these investigations also revealed that the “rate of violation” by Defendant was
27 significantly less than 100%. (*Id.*) On many of those occasions, it appears that Defendant did comply
28 with the law. (*Id.*)

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1 **1. The Parameters of the Proposed PAGA Group**

2 Plaintiffs’ counsel have independently verified, that there are approximately **1,300** employees
3 who worked a total of 64,210 pay periods from December 26, 2022 to September 22, 2026. (Yaeckel
4 decl. ¶ 3; Exhibit 1, ¶¶33.a.iii, 33.f).

5 If the Court approves the “contingent costs” as requested in the moving papers, the total
6 amount of PAGA penalties will be **\$571,368.24**. 75% (**\$428,526.18**) shall be assigned/paid to the
7 LWDA as penalties. The remaining 25% (**\$142,842.06**) will be disbursed among all employees based
8 on pay periods worked during the PAGA period. If you divide the \$142,842.06 in penalties between
9 the 1,300 employees, it results in an average payout of **\$109.87** per employee. (Yaeckel Decl. ¶ 7).

10 **Please Note:** This is an average only. The actual payout per employee will vary based on the
11 total pay periods worked during the PAGA period. (Exhibit 1, ¶33).

12 **2. The Analysis of the Claims and Scope of Liability**

13 Prior to settlement, Plaintiffs conducted a through analysis of the documents and data produced
14 by Defendant. This included an analysis of all relevant written policies and a sampling of time and
15 wage records for other putative aggrieved employees. Plaintiffs’ Counsel were able to realistically
16 assess the value of Plaintiffs’ claims, and intelligently engage Defense Counsel in settlement
17 discussions that culminated in the proposed settlement now before the Court.

18 Plaintiffs’ calculated the estimated maximum scope of liability as being between \$3,500,000
19 and \$4,000,000. Defendant disputed this calculation. However, as is set forth more fully below, all
20 counsel are aware that “maximum” awards in PAGA only cases are exceedingly rare. Moreover, most
21 trial Courts (including this Trial Court, in the *Carrington* matter) decline to “stack” PAGA penalties.
22 “Stacking” refers to imposing multiple penalties for one alleged “harm” (*e.g.* one single late meal
23 period could arguably violate at least four Labor Code provisions that allow for separate penalties
24 pursuant to PAGA). (Yaeckel Decl. ¶¶ 22-23).

25 Taking these facts into consideration, if penalties were awarded for only three out of the six
26 claims (*i.e.* the non-derivative claims), and the penalties were further reduced from \$100 per employee
27 to \$5 per employee, in line with the *Carrington* decision, the maximum recovery would be reduced
28 to **\$700,000 - \$800,000**. (Yaeckel Decl. ¶ 24). Accordingly, Plaintiff submits this settlement is properly
valued given this more realistic range of settlement.

1 **i. Meal and Rest Period Claims**

2 Plaintiffs alleged that Defendants denied its employees of compliant Meal and Rest Periods
3 – and Meal and Rest Period payments – and failed to possess compliant Meal and Rest Period policies
4 and practices based on Defendant’s Time Records. Plaintiff claimed that many pay periods were
5 missing, late, or short meal periods in violation of, *inter alia*, Labor Code sections 226.7 and 512.
6 Defendant denied these allegations and Defendant asserted that employees were given the opportunity
7 for breaks and self recorded their meal periods in compliance with California law. (Yaeckel Decl.,
8 ¶ 25).

9 Plaintiffs also alleged that Defendant’s written rest period policies failed to fully inform
10 employees of their rights with respect to rest periods. (Yaeckel Decl., ¶ 26). Defendant disputed these
11 allegations and disputed that its written policies violate the Labor Code. (*Id.*)

12 **ii. Unpaid Wage Claims**

13 Plaintiffs claimed that HLT failed to pay its employees all compensation due in violation of,
14 among other statutes, Labor Code section 1197. Plaintiffs alleged that although HLT would receive
15 “to-the-minute” start and end times (due to the mandated timekeeping practices required of
16 employees), HLT would thereafter alter – and deduct time from – the Time Records, prior to payment
17 of compensation to the employees. Plaintiffs alleged that Defendant failed to pay its employees all
18 compensation due. HLT disputed these claims. (Yaeckel Decl. ¶ 27).

19 Plaintiffs alleged that HLT’s payments for non-compliant Meal Periods were not paid at the
20 employee’s regular rate. Instead, Plaintiffs alleged that these payments were made at an employee’s
21 base rate and did not include the value of, *inter alia*, all actual compensation owed, and/or all
22 employee benefits such as, for example, non-discretionary compensation and other employee benefits.
23 HLT disputed that it incorrectly calculated the regular rate and further disputed any shortcoming in
24 paying meal period premiums. (Yaeckel Decl. ¶ 28).

25 **iii. Wage Statements, Reimbursement and Other Derivative Penalties**

26 The remaining claims are largely derivative, in that Wage Statement and Labor Code § 203
27 penalties would only be permissible if the above claims are proven. Plaintiffs have also alleged
28 violations for failure to reimburse business expenses pursuant to Labor Code § 2802. However, any un-
reimbursed expenses would have been very minimal. (Yaeckel Decl. ¶ 29).

1 **iv. The Arguments for Mitigation of PAGA Penalties**

2 Moreover, Plaintiffs’ counsel is aware of the Court’s discretion to mitigate penalties pursuant
3 to California Labor Code section 2699(e)(2). (Yaeckel Decl., ¶ 30). To confirm, Plaintiffs’ counsel
4 experienced the mitigation of “PAGA” penalties in *Carrington v. Starbucks Corp.* (2018) 30
5 Cal.App.5th 504. (*Id.*) In *Carrington*, Judge Bacal significantly mitigated PAGA penalties (\$5 per
6 violation), due to the efforts made by the employer to comply with the law. (*Id.*)

7 Plaintiffs’ counsel agrees with the Court, and with the provision of the Labor Code, that
8 penalties *should* be mitigated where violations are minimal (or rare), or where the employer makes
9 significant efforts to comply with the Labor Code. (Yaeckel Decl., ¶ 31).

10 As the above factors exist in this case, it is the opinion of Plaintiff’s counsel that the settlement
11 is fair, adequate, and reasonable. (Yaeckel Decl., ¶ 32).

12 **3. Counsel Are Well Experienced in PAGA Matters and Recommend the Settlement**

13 Plaintiffs’ counsel, William B. Sullivan has approximately 30 years of experience in “class
14 action” litigation, both as plaintiff and defense counsel. (Yaeckel Decl., ¶ 9-12). Plaintiffs’ counsel,
15 Eric K. Yaeckel, has over 15 years of experience prosecuting class and representative action claims
16 under the California Labor Code. (*Id.*) Plaintiffs’ counsel, Eric K. Yaeckel and William B. Sullivan,
17 are the attorneys of record in a matter that was recently heard (and favorably decided) before the
18 California Supreme Court titled *Donohue v. AMN Servs., LLC* (2021) 11 Cal.5th 58. (*Id.*) The
19 *Donohue* matter was a certified class and PAGA action. (*Id.*)

20 Plaintiffs’ counsel were lead counsel on approximately 50 employment “wage and hour” claims
21 with class action, or representative action allegations. (Yaeckel Decl., ¶ 12-15). Based on said
22 experience, it is the opinion of Plaintiffs’ counsel that this settlement represents a fair and adequate
23 payment. (*Id.*)

24 **IV. THE ALLOCATION OF PENALTIES, AND LIMITED RELEASE OF CLAIMS**

25 While Labor Code section 2699(l) requires a court to “review and approve any penalties sought
26 as part of a proposed settlement agreement,” it does not provide any guidance as to what is considered
27 an ‘adequate’ allocation of these penalties. However, Trial Courts have held that *where the* division
28 of penalties was fair and adequate and in accordance with the PAGA statute, the court should approved
the settlement. (*Flores*, 253 F. Supp. 3d at 1076–77.)

1 After subtracting the contingent costs set forth above, the parties seek to allocate **\$571,368.24**
2 of the total settlement to the Total Value of the PAGA Fund. 75% (**\$428,526.18**) shall be assigned/paid
3 to the LWDA as penalties. The remaining 25% (**\$142,842.06**) will be allocated and distributed among
4 the current or ex-employees within the PAGA representation period. (Yaeckel Decl., ¶ 32).

5 The parties contend the settlement agreement amount is fair, adequate, and reasonable.
6 (Yaeckel Decl., ¶¶15, 32). Moreover, the PAGA settlement does not bar any employee from pursuing
7 their own individual Labor Code claims. (Yaeckel Decl. ¶ 8). The release only applies to the PAGA
8 claims for penalties, based upon the allegations in Plaintiffs' operative Complaint. (**Exhibit 1**, ¶38).

9 **V. REQUEST FOR ATTORNEYS' FEES, COSTS & ENHANCEMENT AWARDS**

10 Plaintiffs also request that the Court approve the requested attorneys' fees, costs reimbursement
11 and plaintiffs' enhancement awards for the reasons set forth below.

12 **1. Request for Reasonable Costs of Litigation**

13 Plaintiffs' Counsel are entitled to reimbursement of their discretionary litigation costs. Cal.
14 Lab. Code § 2699(g)(1). Out-of-pocket discretionary expenses are compensable if they would normally
15 be billed to a fee-paying client. (See *Beasley v. Wells Fargo Bank* (1991) 235 Cal.App.3d 1407, 1419
16 [*overruled in part on other grounds in Olson v. Automobile Club of Southern Calif.* (2008) 42 Cal.4th
17 1142].) Such discretionary costs may be claimed as part of an attorneys' fees motion when seeking
18 statutory fees under the Labor Code. (See *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157,
19 1218 n.27 [awarding costs that are necessarily incurred].)

20 As itemized in Plaintiffs' Counsel's declaration, Counsel advanced **\$24,045.89** in out-of-pocket
21 costs to the State for, among other things, filing fees, and mediation fees. (Yaeckel Decl. ¶ 34; **Ex. 2**).
22 Because these reasonable costs were necessarily incurred during the case's pendency, these costs are
23 reasonable and should be awarded. (See also Cal. Civ. Pro. Code § 1033.5(c)(4) ["[i]tems not
24 mentioned in this section and items assessed upon application may be allowed or denied in the court's
25 discretion"].)

26 **2. Request for Reasonable Attorneys' Fees**

27 For the reasons discussed in detail below, an award of attorneys' fees in the amount of one third
28 of the gross settlement fund is fair and reasonable, and in line with what other California courts, both
state and federal, have awarded in settlements of similar litigation.

1 The PAGA statute provides that a plaintiff is entitled to recover reasonable attorneys' fees,
2 expenses, and costs. Section 2699(g)(1) of the California Labor Code provides that "[a]ny employee
3 who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs." In a
4 *qui tam* action, reasonable attorneys' fees and costs are typically awarded under the common fund
5 doctrine where, as here, the litigation creates a common fund of money in a specific amount for the
6 benefit of others. PAGA "is a type of *qui tam* action." (See *Iskanian*, 59 Cal.4th at 382.) "A *qui tam*
7 action 'is a type of private attorney general lawsuit' [citation], in which 'the *qui tam* plaintiff stands
8 in the shoes of the state or political subdivision [citation].' " (*People ex rel. Stratham v. Acacia*
9 *Research Corp.* (2012) 210 Cal.App.4th 487, 501.)

10 Where, as here, a common fund is created in a *qui tam* action by the successful litigation of a
11 plaintiff and her attorneys, the plaintiff's attorneys are entitled to recover their fees from the common
12 fund:

13 Those benefitting from the recovery of the fund, in this case some depositors and eventually
14 the People of the State of California, must bear their share of the cost of litigation. Fees for
15 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.

16 (*Bank of America v. Cory* (1985) 164 Cal.App.3d 66, 91[authorizing common fund fees in a *qui tam*
17 taxpayer suit against certain banks].)

18 Likewise, through the successful efforts of Plaintiffs and their attorneys, a common fund was
19 created in the amount of **\$935,000.00** for the benefit **of the employees and the State of California.**

20 The California Supreme Court recently upheld the use of the common fund theory of recovery
21 for attorneys' fees in *Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal.5th 480, 506. In *Laffitte*, the
22 settlement created a common fund of \$19 million. The Court approved the award of attorneys' fees
23 in the amount of one third of the gross \$10 million settlement (e.g., an award of \$6.33 million) under
24 the common fund theory. (*Id.*) By awarding counsel a percentage of the total recovery, rather than fees
25 based on hours worked, the common fund method encourages attorneys to efficiently litigate to
26 achieve the best results possible. (See *Laffitte*, 1 Cal.5th at 492-494.) Indeed, "the percentage method
27 is generally favored in common fund cases because it allows courts to award fees from the fund in a
28 manner that awards counsel for success and penalizes it for failure. (*Id.* at 493 [quoting *In re Rite Aid*
Corp. Securities Litig. (3d Cir. 2005) 396 F.3d 294, 300 [internal quotations omitted].)

California state and federal courts routinely award attorneys' fees approximating one-third of

1 the common fund. (See, e.g. *Laffitte v. Robert Half Internat. Inc.* (2016) 231 Cal.App.4th 860, 871
2 ["33 1/3 percent of the common fund is consistent with, and in the range of, awards in other class
3 action lawsuits"]; *Chavez*, 162 Cal.App.4th at 66 n.11 ["Empirical studies show that, regardless
4 whether the percentage method or the lodestar method is used, fee awards in class actions average
5 around one-third of the recovery"].)

6 A fee award in the amount of one-third of the common fund is also reasonable because it best
7 reflects the market rate for contingency fees. (See *Lealoe v. Beneficial Cal. Inc.* (2000) 82 Cal.App.4th
8 19, 47 ["attorneys providing the essential enforcement services must be provided incentives roughly
9 comparable to those negotiated in the private bargaining that takes place in the legal marketplace
10 . . ."].) Fees representing one-third of the recovery reflect the rate negotiated in "typical contingency
11 fee agreements [which] provide that class counsel will recover 33% if the case is resolved before trial
12 and 40% if the case is tried." (*Fernandez v. Victoria Secret Stores, LLC* (C.D. Cal. July 21, 2008) No.
13 CV 06-04149 MMM SHX, 2008 WL 815086, at *16 [citing an academic study collecting contingency
14 fee agreements and finding that a fee award constituting 34% of the fund is reasonable on that basis].)
15 Because the negotiated fee structure mimics the marketplace, it is reasonable and should be approved.

16 For all of these reasons, a common fund fee award in the amount of one third of the total
17 settlement (\$311,666.67) is fair and reasonable.

18 **3. A Lodestar Cross Check Further Confirms the Fee is Reasonable**

19 Given the attorneys fees incurred – in the approximate amount of \$223,602.50– a multiplier
20 of approximately 1.39 is necessary for the full award requested (and undisputed) by Plaintiff. (Yaeckel
21 decl. ¶37).

22 California courts and the Ninth Circuit hold that the trial court in determining whether to apply
23 a multiplier should look at the case and its results as a whole. Historically, California courts have
24 approved **multipliers of 1.5 to 4**. See *Coalition for Los Angeles County Planning v. Board of*
25 *Supervisors*, (1977) 76 Cal. App. 3d 241, 251 (multiplier of 2+); *Kern River Public Access Committee*
26 *v. City of Bakersfield*, (1985) 170 Cal. App. 3d 1205, 1228 (multiplier of 1.5); *Downey Cares v.*
27 *Downey Community Development Commission*, (1987) 196 Cal. App. 3d 983, 994 (multiplier of 1.5);
28 *Sternwest Com. v. Ash*, (1986) 183 Cal. App. 3d 74, 75.

Furthermore, the Federal courts have applied multipliers ranging from 1.7 to 4.0, even when

1 the class action involved relatively routine issues. See *Rabin v. Concord Assets Group, Inc.*, (S.D.N.Y.
2 1991) Fed. Sec. L. Rep. (CCH) Par. 96,471 at 92, 091 (multiplier of 4.4); *Behrens v. Wometco*,
3 (S.D.Fla 1988) 118 F.R.D. 534, 549 (multiplier of 3); *Rievmann v. Burlington Northern Railroad Co.*,
4 (S.D.N.Y. 1987) 118 F.R.D. 29, 35 (noting multiplier~ between 3 and 4.5 are common).

5 Here, the multiplier requested is within the range of what California and federal courts often
6 apply in class action or representative action cases. Moreover, the results obtained here, versus the risk
7 of a zero recovery, given the numerous asserted defenses, support this modest multiplier request.
8 (Yaeckel decl. ¶38).

9 In the event the Court deems a lodestar analysis is necessary it will confirm that Plaintiffs'
10 counsels' fees are reasonable. Counsel submits its fees are reasonable and in line with (or lower) than
11 rates charged in the community by attorneys with similar experience. (See Yaeckel Decl. ¶ 35).

12 **Please Note:** there is no authority Plaintiff is aware of requiring a lodestar analysis in a PAGA
13 only settlement, which is why Plaintiff has relied upon the Class Action authority cited above.
14 Moreover, the results obtained here, including the average net recovery per PAGA Member exceed
15 those normally observed in PAGA only settlements. (See Yaeckel Decl. ¶ 36).

16 **4. Request for PAGA Representative Enhancement**

17 The named Plaintiffs requests an enhancement payment of **\$10,000** each for their service as
18 the PAGA representatives and for recognition that they were also required to release all of their
19 underlying Labor Code claims via a full section 1542 release. (Yaeckel Decl. ¶ 39). There is no such
20 restriction on the other alleged aggrieved employees. (*Id.*)

21 An enhancement is justified in light of the "reputational risk" that Plaintiff assumed by
22 litigating claims against a former employer. (Yaeckel Decl. ¶ 40-43; See *Billinghausen v. Tractor*
23 *Supply Co.* (N.D. Cal. 2015) 306 F.R.D. 245, 267-68 [finding "personal detriment" upon testimony
24 that future employers can easily learn that a prospective employee served as a plaintiff through the
25 internet]).

26 Second, the separate settlement payment is reasonable because Plaintiffs "remained fully
27 involved and expended considerable time and energy during the course of the litigation. (See *In re*
28 *Toys "R" Us-Del FACTA Litig.*, 295 F.R.D. at 471 [citation omitted].) Plaintiffs devoted their time
and effort toward assisting their attorneys with the prosecution of the claims, and assisted counsel with

1 finalizing the settlement. (Yaeckel Decl. ¶ 41).

2 The separate payment is also appropriate because Plaintiffs otherwise “will not gain any benefit
3 beyond that [they] would receive as an ordinary [Aggrieved Employee].” (*In re Toys “R” Us FACTA*
4 *Litig.*, 295 F.R.D. at 472; *Van Vranken*, 901 F.Supp. at 299 [holding that a substantial award is
5 appropriate where a [representative’s] claim made up “only a fraction of the common fund”].

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

15 Here, by “sticking their neck out” as PAGA Representatives in a publicly filed lawsuit,
16 Plaintiffs took a substantial risk that may adversely impact their ability to work in this field in the
17 future. Any company who does a detailed background check, will be able to determine that Plaintiffs
18 asserted legal claims against their former employer. An entire industry exists that allows employers
19 to run extensive background searches on potential employees. Companies who provide these services
20 specifically highlight the fact that their services allow employers to weed out litigious employment
21 candidates. (Yaeckel Decl. ¶ 40-44).

22 Plaintiffs also risked personally owing a large cost award, into the tens of thousands of dollars,
23 had their claims been unsuccessful. (Yaeckel Decl., ¶ 45).

24 The enhancement also recognizes that although this involves a PAGA only settlement,
25 Plaintiffs agreed to release all claims (e.g., a full 1542 release) as a part of the proposed settlement.
26 (Yaeckel Decl., ¶ 33; **Exhibit 1**, ¶33.c-d). In addition to the PAGA claims, Plaintiffs possessed
27 individual Labor Code violations that were required to be released as a result of this settlement. All
28 other employees are subjected to a limited release of PAGA claims only.

The Enhancement Award Payment will be issued using an IRS 1099 Form. (**Exhibit 1**, ¶33).

1 **5. CAC Services Group, LLC Will Serve as the Settlement Administrator**

2 The parties have agreed to engage CAC Services Group, LLC (“CAC”) as the Settlement
3 Administrator. CAC has agreed to carry out all Administration duties for an amount not to exceed
4 **\$7,919.20.** (Yaeckel Decl., ¶50; **Exhibit 1**, ¶33.f).

5 CAC has extensive experience acting as a Settlement Administrator and is prepared to carry
6 out all Settlement Administration duties consistent with the parties Agreement and the Final Order of
7 this Court. (Yaeckel Decl. ¶51).

8 **VI. THE LWDA WAS NOTIFIED, AND DOES NOT OBJECT**

9 On **September 10, 2026**, Plaintiffs’ counsel gave notice of the hearing and instant Settlement
10 to the LWDA. (Yaeckel Decl., ¶ 5). To date, Plaintiffs’ counsel has not received notice that the LWDA
11 would intervene. (*Id.*)

12 On **September 10, 2026**, Plaintiffs’ counsel uploaded via the LWDA’s electronic filing portal
13 copies of this entire *ex parte* application, including the Notice, this supporting Memorandum,
14 Declaration, and Proposed Order & Judgment. (Yaeckel Decl., ¶ 6; See Concurrent Proof of Service
15 on the LWDA). To date, Plaintiffs’ counsel has not received any response. (*Id.*)

16 To date, Plaintiffs have not received a response from the LWDA regarding the proposed
17 settlement. If the LWDA contacts Plaintiffs’ counsel at any time prior to the hearing, Plaintiffs’
18 counsel will provide an updated declaration to the Court. (Decl. Yaeckel ¶ 6).

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CONCLUSION

The parties respectfully request that the Court approve their proposed allocation of PAGA penalties to the LWDA and the represented employees.

In the alternative, should the Court wish to have a noticed motion, Plaintiff asks for an order shortening time to have the motion heard based on these unopposed moving papers.

Dated: September 10, 2026

SULLIVAN & YAECKEL LAW GROUP, APC

Cody Archer

Eric K. Yaeckel

Cody D. Archer

Attorneys for Plaintiffs ARACELY ANDRADE and SEBASTIAN MAGNARELLI, in a Representative capacity only, and on behalf of other members of the general public similarly situated