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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET

TAMI RAE JONES, and APRIL CRUMP, individually, and on behalf of all others similarly situated, Plaintiffs, vs. RMI INTERNATIONAL, INC., a California corporation; and DOES 1 through 10, inclusive, Defendants.	Case No.: 23STCV30866 [Hon. Carolyn B. Kuhl, Dept. 12] **PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR APPROVAL OF PAGA SETTLEMENT** [*Filed with (1) the Declaration of Kane Moon, (2) the Declaration of Raul Perez, (3) the Declaration of Lisa Mullins, (4) [Proposed] PAGA Approval Order, and (5) [Proposed] Judgment*] PAGA APPROVAL HEARING: Date: July 1, 2026 Time: 1:45 p.m. Dept.: 12 Action Filed: December 18, 2023 Trial date: Not set

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

PLEASE TAKE NOTICE that on July 1, 2026, at 1:45 p.m. in Department 12 of this Court located at the Spring Street Courthouse at 312 North Spring Street, Los Angeles, California 90012, Plaintiffs Tami Rae Jones and April Crump (together, "Plaintiffs") will, and hereby do, move the Court for an Order, pursuant to California Labor Code sections 2698, *et seq.*, as follows:

1. Approving the PAGA Settlement Agreement ("PAGA Settlement") entered into by Plaintiffs and Defendant RMI International, Inc.;
2. Appointing Moon Law Group, PC and Capstone Law APC as PAGA Counsel, and approving the requested PAGA Counsel Litigation Expenses Payment and PAGA Counsel Fees Payment;
3. Appointing ILYM Group, Inc. as the Administrator and approving the Administration Expenses Payment;
4. Approving the Released PAGA Claims by the LWDA, Aggrieved Employees, and PAGA Counsel;
5. Directing consummation of the PAGA Settlement pursuant to its terms and provisions;
6. Dismissing the Action with prejudice and entering Judgment; and
7. Retaining jurisdiction over the Parties, Action, and the PAGA Settlement solely for purposes of (i) enforcing the PAGA Settlement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

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This Motion is based upon this notice, the attached Memorandum of Points and Authorities, the declarations and exhibits thereto that were filed concurrently herewith, the records and files in this action, and any other further evidence or argument that the Court may properly receive at or before the hearing.

DATED: March 11, 2026

Respectfully submitted,

MOON LAW GROUP, PC

By: ______________________________

Kane Moon
Allen Feghali

Attorneys for Plaintiff Tami Rae Jones

Dated: March 11, 2026

CAPSTONE LAW APC

By: ______________________________

Raul Perez
Orlando Villalba
Helga Hakimi
Attorneys for Plaintiff April Crump

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Tamie Rae Jones ("Plaintiff Jones") and April Crimp ("Plaintiff Crump") (together, "Plaintiffs") seek approval of a proposed non-reversionary $385,000.00 gross settlement of claims for civil penalties alleged pursuant to the California Private Attorneys General Act, Labor Code sections 2698, *et seq.* ("PAGA"). After a full day of mediation with experienced neutral mediator Steven Rottman, Esq., and subsequent negotiations following mediation, Plaintiffs have reached a settlement with Defendant RMI International, Inc. ("Defendant" or "RMI") (together with Plaintiffs, the "Parties"). The Parties have executed a PAGA Settlement Agreement (the "PAGA Settlement"). (A true and correct copy of the PAGA Settlement is attached as **Exhibit 1** to the Declaration of Kane Moon in Support of Plaintiffs' Motion for Approval of PAGA Settlement [hereinafter "Moon Decl."] submitted concurrently herewith.) Pursuant to Labor Code section 2699, subdivision (s)(2), Plaintiffs now file this motion seeking an order approving the proposed PAGA Settlement.

The PAGA Settlement resolves Plaintiffs' PAGA claims alleged in the Second Amended Representative Action Complaint filed in the above-captioned matter (the "Action"). The alleged PAGA claims were based on Defendant's alleged failure to pay all minimum and overtime wages, failure to provide meal, failure to authorize and permit rest breaks, failure to indemnify necessary business expenses, failure to timely pay final wages at termination, and failure to provide accurate itemized wage statements. The PAGA Settlement resolves these claims on behalf of the California Labor and Workforce Development Agency (the "LWDA") and all persons employed by RMI in California and classified as a non-exempt, hourly employee who worked for RMI during the period from December 20, 2022 to November 20, 2024. (PAGA Settlement, ¶¶ 1.4, 1.19.).

The settlement of a PAGA claim requires court approval pursuant to the operative PAGA statute, which states that the "court shall review and approve any penalties sought as part of a proposed settlement agreement pursuant to this part." (Lab. Code § 2699(s)(2).) In deciding whether to grant approval of a proposed settlement, the primary issues to be decided is whether the settlement is fair, adequate, and reasonable. Specifically, the issues are whether the PAGA penalties to which the parties have agreed provide "genuine and meaningful" relief, "consistent with the underlying purpose of the statute to benefit the public," and whether the penalties are reasonable in light of the potential verdict value in this case. (*Villalobos v. Calandri Sonrise Farm LP* (C.D. Cal. July 22, 2015) No. CV 12-2615 PSG (JEMx), 2015 WL 12732709, at *5; *see also O'Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1135.)

As set forth herein, the proposed PAGA Settlement embodies all the features of a settlement that is fair, adequate, and reasonable, as (1) it is the product of an arm's-length negotiation, (2) negotiated by attorneys experienced in wage and hour issues, (3) following sufficient investigation necessary to evaluate the relative strength and value of the PAGA claims, and (4) reflects a reasoned compromise based directly on the relative strength and value of the PAGA claims, as well as the risks, expense, complexity, and likely duration of further litigation.

The value achieved by the PAGA Settlement may be gleaned from the fact that the LWDA and the estimated **974** Aggrieved Employees will, cumulatively, receive no less than **$221,085.18** pursuant to the operative statute for settlement of the PAGA claims, which shall be allocated as "75% to the [LWDA] and 25% to the aggrieved employees." (Lab. Code § 2699.[1]) This is a significant recovery, not only because further litigation may have resulted in a net-zero recovery based on the facts of the case and defenses asserted by Defendant, the discretionary nature of awarding PAGA penalties, and the risk of not being able to proceed on a representative basis at all due to the potential manageability issues and the current state of the law. For these reasons, as set forth more fully herein, Plaintiffs respectfully request this Court enter the proposed order and proposed judgment submitted herewith.

II. SUMMARY OF THE LITIGATION AND SETTLEMENT

A. Plaintiffs' Claims and Procedural Background

Defendant provides security guard officers to its clients. (Moon Decl., ¶ 3.) Plaintiffs were classified as non-exempt and paid on an hourly basis throughout their employment. (*Id.*) Plaintiffs

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[1] On July 1, 2024, new legislation was enacted to amend PAGA in several respects, including as to the recovery split for civil penalties. (Stats. 2024, ch. 44 (Assem. Bill No. 2288), § 1, eff. Jul. 1, 2024).) As amended, PAGA now provides for a 65%-LWDA/45%-aggrieved employee split. (Lab. Code § 2699(m).) However, because Plaintiffs' respective PAGA matters were initiated prior to June 19, 2024, any civil penalties recovered in this action will be split 75% to the LWDA and 25% to Aggrieved Employees as the recent PAGA amendments do not apply retroactively. (Lab. Code § 2699(v)(1).)

contend they and their former coworkers were subjected to the same unlawful labor practices during their employment by Defendant, including failure to pay all wages. (*Id.*)

Plaintiffs' claim for unpaid wages stems from allegations of Defendant recording employees' shift time as their time worked rather than recording employees' actual time worked, Defendant implementing a time-rounding system that resulted in the underpayment to employees, Defendant requiring employees to work off-the-clock without compensation. (*Id.* at ¶ 4.) Plaintiffs' meal and rest period claims are based on allegations that due to the nature of their work and Defendant's employment practices, employees regularly experienced missed, untimely, or interrupted lunches and breaks. (*Id.*) Plaintiffs also allege they and other employees were not reimbursed for all necessary business expenses incurred in direct consequence of their job duties, including for the use of their personal cellphones for work related purposes. (*Id.*) Plaintiffs further allege they and other employees did not receive all wages owed at the time of termination nor accurate itemized wage statements. (*Id.*) Thus, Plaintiffs allege Defendant is liable for civil penalties under PAGA. (*Id.*)

Because of Defendant's alleged violations of various provisions of the Labor Code, Plaintiff Jones filed a class action on December 18, 2023, against Defendant for Failure to Pay Minimum Wages; Failure to Pay Overtime Compensation; Failure to Provide Meal Periods; Failure to Authorize and Permit Rest Breaks; Failure to Indemnify Necessary Business Expenses; Failure to Timely Pay Final Wages at Termination; Failure to Provide Accurate Itemized Wage Statements; and Unfair Business Practices. (*Id.* at ¶ 5.) On February 23, 2024, Plaintiff Jones filed a First Amended Class and Representative Action Complaint to allege a ninth cause of action as follows: (9) Civil Penalties under PAGA. (*Id.* at ¶ 6.) Plaintiffs' Counsel subsequently submitted a conformed copy of the FAC to the LWDA in compliance with Labor Code section 2699. (*Id.*) After Plaintiff Jones initiated her action, Defendant provided a copy of an arbitration agreement purportedly signed by Plaintiff Jones, which did not explicitly permit arbitration on a class-wide basis. (*Id.* at ¶ 7.) Accordingly, Plaintiff Jones sought dismissal of his individual and class allegations, which the Court granted by way of an Order entered on July 10, 2024. (*Id.*)

On April 8, 2024, Plaintiff Crump commenced a representative PAGA action by filing a Complaint alleging a single cause of action against RMI under PAGA for Failure to Pay Minimum

Wages; Failure to Pay Overtime Compensation; Failure to Provide Meal Periods; Failure to Authorize and Permit Rest Breaks; Failure to Provide and Maintain Compliant Wage Statements; Failure to Reimburse Necessary Business Expenses; Failure to Pay Wages During Employment; Failure to Properly Calculate Sick Leave Rates of Pay; Failure to Timely Pay Final Wages at Termination; Failure to Provide Written Notice of Material Terms of Employment; and Failure to Provide and Maintain Compliant Wage Statements. (*Id.* at ¶ 8.) Plaintiffs' Counsel subsequently submitted a conformed copy of the complaint to the LWDA pursuant to Labor Code section 2699. (*Id.*)

On March 24, 2025, to ensure all claims alleged against the Defendant are consolidated into one forum, Plaintiffs filed a Second Amended Complaint in this Action to add Plaintiff Crump as a named plaintiff and allege a single cause of action under PAGA. (*Id.* at ¶ 9.) The Second Amended Complaint is the Operative Complaint in this Action (the "Operative Complaint"). (*Id.*)

Pursuant to California Labor Code § 2699.3(a), Plaintiffs gave timely written notice of their allegations against Defendant by online submission of their respective PAGA Notice to the LWDA, with certified mail service on Defendant, and paying the required filing fee. (*Id.* at ¶ 10, Exs. 2–3.) Plaintiffs' administrative exhaustion period expired without the LWDA indicating its intent to investigate the allegations, and Plaintiffs' respective complaints to add a PAGA claim were timely filed. (*Id.*)

Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint, and denies any and all liability for the causes of action alleged. (*Id.* at ¶ 11.)

B. <u>Discovery and Investigation</u>

Following the filing of Plaintiff Crump's action, Plaintiffs met and conferred with Defendant regarding an agreement to mediate the action with Plaintiff Jones' action on November 22, 2024, with Steven Rottman, Esq., an experienced, neutral class action and PAGA mediator, and further, agreed to a protocol for an informal exchange of documents and information before mediation. (*Id.* at ¶ 12.) Prior to mediation, Plaintiffs obtained, through informal but extensive discovery, information sufficient to meaningfully evaluate the claims at issue, including Plaintiffs' personnel file, applicable written documents regarding Defendant's wage and hour policies and practices in effect during the PAGA Period, estimated numbers of Aggrieved Employees and PAGA Pay Periods, and a randomized sample of time and corresponding payroll records for the Aggrieved Employees. (*Id.*)

After reviewing and analyzing the documents regarding Defendant's wage and hour policies and practices, the sample time and pay records, and other information provided by Defendant and Plaintiffs, Plaintiffs' Counsel were able to evaluate the probability of success on the merits and Defendant's maximum and risk-adjusted monetary exposure. (*Id.* at ¶ 13.) Plaintiffs' Counsel retained an expert to analyze the sample records produced and prepare a damage analysis prior to mediation. (*Id.*) After reviewing the sample records, Plaintiffs' expert was able to prepare an analysis with a high degree of certainty. (*Id.*) In conjunction with their extensive factual investigation, Plaintiffs' Counsel also investigated the applicable law regarding the claims and defenses asserted in the litigation. (*Id.*) Thus, Plaintiffs and their Counsel's familiarity with the facts of the case and the legal issues raised by the pleadings allowed them to act intelligently in negotiating the PAGA Settlement. (*Id.*)

C. <u>Settlement Negotiations</u>

Mediation occurred on November 22, 2024. (*Id.* at ¶ 14.) The settlement negotiations were at arm's length and, although conducted in a professional manner, were adversarial. (*Id.*) Counsel went into the mediation willing to explore the potential for a settlement of the dispute, but each side was also prepared to litigate their position through trial and appeal if a settlement had not been reached. (*Id.*) After discussions regarding the strengths and weaknesses of Plaintiffs' claims and Defendant's defenses, the Parties reached a settlement, the material terms of which are encompassed within the PAGA Settlement. (*Id.*) The Parties recognized that the issues presented in the Actions are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will lead to inconvenience, distraction, disruption, delay, and expense disproportionate to the potential benefits of litigation. (*Id.*) Plaintiffs and their Counsel also considered the risk and uncertainty of the outcome inherent in any litigation when determining whether this PAGA Settlement was the correct option. (*Id.*)

Specifically, Plaintiffs' Counsel took into account the risk of not being able to proceed on a representative basis at all due to the potential manageability issues, the risk of not prevailing at trial, and the risk that even if Plaintiffs prevailed at trial, the damages would be limited due to the largely discretionary nature of the damages. (*Id.* at ¶ 31.) Indeed, pursuant to Labor Code section 2699, subdivision (e)(2), a Court may reduce PAGA penalties "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." (Labor Code § 2699(e)(2).) In other words, were this matter to go to trial, any award would be at the discretion of the Court and subject to a substantial reduction. (Moon Decl., ¶ 31.)

D. <u>Key Terms of the Proposed PAGA Settlement</u>

Under the PAGA Settlement, Defendant will pay an all-inclusive, non-reversionary Gross Settlement Amount of at least **$385,000.00**, subject to potential increased under an escalator clause, to resolve this litigation. (PAGA Settlement, ¶ 3.1.) The Gross Settlement Amount will be used to pay the LWDA PAGA Payment, the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, the Administration Expenses Payment, and the remainder of the Gross Settlement will be paid to Aggrieved Employees as Individual PAGA Payments. (*Id.* at ¶ 3.1.) The PAGA Settlement's key terms include:

1. <u>Aggrieved Employee or PAGA Group Member</u>: means "all persons employed by RMI in California and classified as a non-exempt, hourly employee who worked for RMI during the PAGA Period." (*Id.* at ¶ 1.4.)
2. <u>PAGA Period</u>: means "the period from December 20, 2022 to November 20, 2024." (*Id.* at ¶ 1.19.)
3. <u>Escalator</u>: Based on its records, RMI estimates that, at the time of mediation, there are 40,000 Pay Periods during the PAGA Period. (*Id.* at ¶ 8.) The parties agree that this escalator clause will be triggered if the Pay Periods worked exceeds the estimate by more than 10%. (*Id.*) In the event the number of Pay Periods worked increases by more than 10%, then RMI can either (a) increase the GSA proportionally by the Workweeks worked in excess of 44,000 Pay Periods (e.g., if the total number of Pay Periods is 12% higher than 40,000, the GSA will increase by 2%), or (b) end the PAGA Period on a date when there are no more than 44,000 Pay Periods worked by Aggrieved Employees (*Id.*) As of November 20, 2024, RMI estimates there are a total of 38,892 PAGA Pay Periods. (*Id.* at ¶ 4.1.) As of filing of this Motion, the Parties do not anticipate that the escalator clause will be triggered.

4. PAGA Pay Period: means "any pay period during which an Aggrieved Employee worked for RMI for at least one day during the PAGA Period." (*Id.* at ¶ 1.18.)
5. PAGA Penalties: The amount allocated as PAGA Penalties is at least **$221,085.18**. (Moon Decl., ¶ 29.) Of this amount, the LWDA will receive 75% (at least **$165,813.88**) and Aggrieved Employees will receive 25% (at least **$55,271.29**) (*Id.*) Plaintiffs' Counsel have provided notice of the proposed PAGA Settlement to the LWDA, and to date the LWDA has not made any objections thereto. (Moon Decl., ¶ 15, Ex. 4.) No claim form is required for Aggrieved Employees to receive a settlement payment. (PAGA Settlement, ¶ 3.1.) The Administrator will issue checks for the Individual PAGA Payments and send the Aggrieved Employees via First Class U.S. Mail, postage prepaid with a cover letter in English. (*Id.* at ¶ 4.4.1., Ex 1.)
6. PAGA Counsel Fees Payment: Plaintiffs' Counsel request an award of attorneys' fees in the amount of one-third of the Gross Settlement Amount (currently estimated to be **$128,333.33**). (PAGA Settlement, ¶ 3.2.1.) In the event the amount approved by the Court is less than the amount requested, the difference will revert to the Net Settlement Amount. (*Id.*)
7. PAGA Counsel Litigation Expenses Payment: Plaintiffs' Counsel seek reimbursement of actual litigation costs up to a maximum amount of $35,000.00. (*Id.*) Specifically, Plaintiffs' Counsel request a total of **$27,731.49**, with $20,889.78 to Moon Law Group, PC ("MLG") and $6,841.71 to Capstone Law APC ("Capstone"). (Moon Decl., ¶ 17, Ex. 5.; Declaration of Raul Perez in Support of Plaintiffs' Motion for Approval of PAGA Settlement, ["Perez Decl."], ¶ 20.) In the event the amount of actual costs is less than the maximum allocation and/or the amount approved by the Court is less than the amount requested, the difference will revert to the Net Settlement Amount as PAGA Penalties. (PAGA Settlement, ¶ 3.2.1.)
8. Administration Expenses Payment: The Administrator will be paid an Administration Expenses Payment not to exceed $10,000.00 for its fees and expenses in administering this Settlement. (*Id.* at ¶ 3.2.2.) To the extent the Administration Expenses are less and/or the Court approves payment less than $10,000.00, the Administrator will retain the remainder in the Net Settlement Amount. (*Id.*) The Parties have jointly appointed ILYM Group, Inc. as the neutral

entity to administer this Settlement based on its fixed fee bid of $7,850.00. (PAGA Settlement, ¶ 1.2., Moon Decl., ¶ 18, Ex. 6.)

9. Funding: RMI shall fully fund the Gross Settlement Amount in 12 equal monthly installments, transmitted to the Administrator. (PAGA Settlement, ¶ 4.3.) RMI's first payment shall be made no later than 60 days after the Effective Date; thereafter, payments shall be made on the 1st of each month. (*Id.*) The Gross Settlement amount shall be fully funded. (*Id.*) "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its PAGA Approval Order; and (b) the Judgment is final. (*Id.* at ¶ 1.9) The Judgment is final as of the day the Court enters Judgment. (*Id.*)

10. Uncashed Checks: Checks for Individual PAGA Payments will be voided if remain uncashed for more than 180 days after date of mailing (the "void date"). (*Id.* at ¶ 4.4.1.) For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee. (*Id.* at ¶ 4.4.3.)

11. Release by Aggrieved Employees: All Aggrieved Employees, Plaintiff, and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all civil penalties, costs, expenses, attorneys' fees, or interest for any Labor Code or Wage Order violation alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Jones Complaint, Crump Complaint, the Operative Complaint, and/or the PAGA Notices, including but not limited to claims for failure to pay minimum wages, failure to pay overtime wages at the correct rate, improper rounding practice and policy, failure to accurately record hours worked, failure to pay double time wages at the correct rate, failure to pay overtime and/or double time wages by failing to include all applicable remuneration in calculating the regular rate of pay, failure to provide meal periods, failure to provide

rest periods, failure to pay premium wages for missed meal and rest periods, failure to provide and maintain accurate written wage statements, failure to reimburse for necessary business expenditures, failure to timely pay wages during employment and at termination, failure to properly calculate paid sick leave to include all applicable remuneration in calculating the regular rate of pay, failure to provide notice of material terms of employment, failure to pay all accrued vacation wages at termination, failure to pay all earned wages twice per month, and any other claims, including claims for statutory and/or civil penalties. (*Id.* at ¶ 5.1.) Aggrieved Employees may not opt-out of the Release by Aggrieved Employees. (*Id.*)

12. Release by PAGA Counsel: PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the RMI and the Released Parties from all claims for attorneys' fees and costs incurred in connection with the Jones, Crump, and Operative Complaint and/or the PAGA Period facts stated in the Jones, Crump, and Operative Complaints and the PAGA Notices. (*Id.* at ¶ 5.2.)

13. Released Parties: RMI and each and all of its former, present, and future parents, divisions, managing members, employees, affiliated entities, related entities, directors, officers, shareholders, owners, board members, agents, trustees, attorneys or legal representatives, insurers, representatives, administrators, fiduciaries, beneficiaries, subrogees, partners, predecessors, successors, assigns, subsidiaries, and affiliates, and members of the foregoing; and/or any other entity or individual which could be liable for the acts or omissions of the RMI based on or arising out of the Released PAGA Claims. (*Id.* at ¶ 1.26.)

After extensive discovery and investigation, reviewing the facts, strengths, and weaknesses of the case, considering the risks and delays posed by further litigation, and based on Plaintiffs' Counsel's own prior litigation experience, Plaintiffs' Counsel believe the proposed recovery for the LWDA and each Aggrieved Employee is fair, reasonable, and adequate, taking into consideration the amounts received in other PAGA actions, the risks inherent in litigation of this genre, and the reasonable tailoring of each Aggrieved Employee's claim to the settlement award he or she will receive. (Moon Decl., ¶¶ 21–32.) Further, Defendant vigorously contested liability and damages. (*Id.* at ¶¶ 11, 14.) Ultimately, based on the settlement negotiations, which were hard-fought and conducted in good faith and at arm's length between attorneys with substantial experience litigating class and representative actions, the PAGA Settlement was the product of a non-collusive settlement process in Defendant were forced to make significant compromises in the interest of reaching a full and complete settlement of the Action. (*Id*. at ¶ 14.)

III. DISCUSSION

A. Availability of Civil Penalties

The LWDA and its constituent departments and divisions are authorized to assess and collect civil penalties for specified violations of the Labor Code committed by an employer. With a stated goal of improving enforcement of existing Labor Code obligations, the California Legislature adopted the Labor Code Private Attorneys General Act of 2004, permitting, as an alternative, an aggrieved employee to initiate a private civil action on behalf of him- or herself and other current or former employees." (Lab. Code § 2699(a).) Before an employee may file an action seeking to recover civil penalties for violations of any of the Labor Code provisions enumerated in Labor Code section 2699.5, he or she must comply with the Act's administrative procedures as set forth in Labor Code section 2699.3, subdivision (a), which include providing notice to the LWDA and the employer of the alleged Labor Code violations, and then waiting a prescribed period of time to permit the LWDA to investigate and to decide whether to cite the employer for the alleged violations. (*Id.* at §§ 2699.3, 2699.5; *Caliber Bodyworks, Inc. v. Superior Court* (2005) 134 Cal.App.4th 365, 370; *see also Dunlap v. Superior Court* (2006) 142 Cal.App.4th 330.)

Here, in compliance with Labor Code section 2699.3, Plaintiffs provided notice to the LWDA of their PAGA claims, and Plaintiffs' administrative exhaustion period expired without the LWDA indicating its intent to investigate. (Moon Decl., ¶ 10.) Further, Plaintiffs' respective complaints to add a PAGA claim were timely filed. (*Id.*) Thus, Plaintiffs may proceed as private attorneys general with respect to the alleged PAGA claims. (*Id.*)

B. The PAGA Settlement Warrants Approval

Settlement of PAGA claims must be approved by a Court. (Lab. Code § 2699(s)(2).) Here, the circumstances weigh heavily in favor of approval, as explained below.

1. The Dual Statutory Purposes of Deterrence and Punishment

As a result of this litigation, Defendant has had to hire legal counsel, engage in extensive discovery, and participate in mediation. (Moon Decl., ¶¶ 12, 14.) Also, Defendant will have to pay civil penalties to the LWDA pursuant to the terms of the PAGA Settlement upon approval. (PAGA Settlement ¶ 1.14.) Not including its own attorneys' fees and costs, Defendant are paying at least $385,000.00 to resolve this matter, and the release obtained as a result of this PAGA Settlement does not preclude the Aggrieved Employees from seeking remedies based on any individual non-PAGA claims they may have against Defendant or the other Released Parties. (*Id.* at ¶¶ 3.1, 5.1.)

2. The Relief is Genuine, Meaningful, and Consistent with the Underlying Purpose of the Statute to Benefit the Public

The provisions of the California Labor Code triggering PAGA penalties in this case include Labor Code sections 203 and 226(a). (Moon Decl., ¶ 4; *see* Lab. Code §§ 203, 226(a).) However, PAGA penalties are not mandatory, but rather, permissive. (Lab. Code § 2699(e)(2).) Accordingly, it is entirely possible that even if Plaintiffs would be successful at trial, assuming they are able to defeat the manageability issues presented by the large number of Aggrieved Employees in this action, Plaintiffs may still be awarded substantially less than what was obtained through this PAGA Settlement.

Plaintiffs' Counsel have conducted a thorough investigation into the facts of this case. (Moon Decl., ¶ 30.) Based on the foregoing discovery and on their own independent investigation and evaluation, Plaintiffs' Counsel are of the opinion that the proposed PAGA Settlement is fair, reasonable, and adequate. (*Id.*) Furthermore, considering all known facts and circumstances, the risk of significant delay, trial risk, appellate risk, the defenses that could be asserted by Defendant on the merits, the PAGA Settlement is in the best interests of the Aggrieved Employees and the State of California. (*Id.*) The PAGA Settlement avoids the significant risks, burdens, and the accompanying expense of further litigation. (*Id.* at ¶ 32.) Though the Parties have engaged in a significant amount of investigation, informal and formal discovery, and employee data analysis, they have not participated in extensive formal discovery procedures such as depositions and expert discovery. (*Id.*) Moreover, preparation for trial would remain for the Parties as well as the prospect of appeals in the wake of any summary judgment ruling. (*Id.*) As a result, the Parties would incur considerably more attorneys' fees and costs through trial, a lengthy process that could result in recovering fewer penalties than the Parties settled for. (*Id.*)

Based on Plaintiffs' Counsel's analysis of the time, payroll, and additional records and information provided by Defendant, on Plaintiffs' expert's analysis of the sample time and payroll records, and on information from Plaintiffs, Plaintiffs' Counsel evaluated Defendant's maximum and risk-adjusted potential exposure in preparation for mediation. (*Id.* at ¶ 21.) Although Plaintiffs' expert's analysis revealed that the time and payroll records supported several violations by Defendant, the records themselves did not provide overwhelming evidence to support the case on a representative basis. (*Id.*) Indeed, the maximum exposure figures that were calculated for mediation were based on assumed high violation rates that would not likely be demonstrated at trial, as they assume either the participation of all Aggrieved Employees (which would be difficult given the significantly large size of this group), or alternatively, the use of surveys or statistical data as a surrogate (which would still require the participation of a majority of Aggrieved Employees to establish a sound representation of all non-exempt employees). (*Id.*) The reality is that many, if not all, employees would be unwilling to participate due to fear of retaliation. (*Id.*) Additionally, the likelihood that Defendant could assert viable legal defenses would likely further reduce its overall exposure. (*Id.*) Thus, the realistic exposure is far below the optimistic *maximum* estimate. (*Id.*)

Based on a review of its records as of November 20, 2024, RMI estimates there are 974 Aggrieved Employees who worked a total 38,892 of PAGA Pay Periods. (PAGA Settlement, ¶ 4.1.) Prior to mediation, Plaintiffs' expert analyzed the sample of time and corresponding payroll records Defendant produced and accordingly, was able to find support for some, but not all, of Plaintiffs' allegations. (Moon Decl., ¶ 22.) For example, the records themselves do not provide evidence of off-the-clock work, as this claim is primarily testimony based, as are the rest period and unreimbursed expenses claims. (*Id.*) As to rounding claim, Plaintiffs' expert found that Defendant's rounding practice also resulted in overpayment to some employees. (*Id.*) In other words, Plaintiffs' expert's analysis revealed that certain claims were not as strong as originally believed. (*Id.*)

The records also did not provide strong support for Plaintiffs' claim for unreimbursed business expenses, particularly as the business expenses claim is dependent on testimony from Plaintiffs and other Aggrieved Employees. (*Id.* at ¶ 23.) Moreover, Plaintiffs' claims for rest period violations and for unpaid wages based on off-the-clock work would need to be supported by declarations from Aggrieved Employees regarding actual work performed off-the-clock as the records themselves cannot demonstrate what work, if any, was performed off-the-clock, and how many rest breaks were missed and why. (*Id.*) However, even assuming those employees would be willing to participate, obtaining such declarations would potentially reveal that each Aggrieved Employee had a different experience. (*Id.*) The individualized nature of employees' employment experience and the numerosity of employees affected present significant risk with manageability and proof on the merits. (*Id.*) Thus, based on PAGA Counsel's investigation and analysis, the maximum exposure did not comport with the reasonable exposure that Defendant faced. (*Id.*)

Although Plaintiffs' Counsel believe there is merit to Plaintiffs' allegations, they also acknowledge a legitimate controversy exists as to each allegation. (*Id.* at ¶ 24.) In particular, Defendant argued it paid employees for all hours worked, that it did not permit off-the-clock work, that it complied with all meal and rest period obligations, and that any missed lunches or breaks were solely the result of employees' voluntary choice. (*Id.*) Further, to the employees who received wage statements that were allegedly inaccurate, Defendant asserted employees suffered no actual damage or harm as a result. (*Id.*)

Additionally, for purposes of the settlement negotiations, Plaintiffs' Counsel considered, as in any PAGA action, all PAGA awards are discretionary and can be reduced by the Court. (Lab. Code § 2699(e).) Plaintiffs' Counsel took all foregoing issues and risks into consideration when valuing Defendant's realistic exposure had the Parties not reached a settlement. (Moon Decl., ¶ 25.)

Although Plaintiffs believe there would be no persuasive grounds to reduce penalties, they recognize that the Court could determine otherwise and significantly reduce any award of penalties. (*Id.* at ¶ 26.) This wide range of potential recovery and additional delays and risks of trial provide justification to settle for a reasonable amount of recovery at this point in the litigation. (*Id.*) In all, based on the investigation and analysis of the claims in preparation for mediation, the maximum exposure did not comport with the realistic exposure that Defendant faced. (*Id.*)

Accordingly, Plaintiffs' Counsel estimated, based on an evaluation that assumes a $100 "catch-all" civil penalty per pay period (pursuant to PAGA provisions for civil penalties) for the total

38,892 estimated pay periods, Defendant's potential maximum exposure to be $3,889,200.00. (*Id.* at ¶ 27.) However, based on the discovery obtained, Defendant's arguments at mediation, and other important considerations discussed above, it is reasonable to assume a violation occurred in approximately one-fourth of all pay periods, which results in a realistic *risk-adjusted* exposure of **$972,300.00** ($3,889,200.00 / 4). (*Id.*) The Gross Settlement Amount of $385,000.00 is about **40%** of the realistic catch-all PAGA exposure. (*Id.*)

It is clear that the **$385,000.00** settlement is an excellent result and amounts to "genuine and meaningful" relief "consistent with the underlying purpose of the statute to benefit the public." (Moon Decl., ¶ 28, *Villalobos v. Calandri Sonrise Farm LP* (C.D. Cal. July 22, 2015) No. CV 12-2615 PSG (JEMx), 2015 WL 12732709, at *5; *see also O'Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1135.) This is an excellent result, particularly because, under the Settlement, Aggrieved Employees will receive timely, guaranteed relief and will avoid the risk of not being able to recover anything. (Moon Decl., ¶ 28.)

After the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment and the Administrative Expenses Payment, the amount estimated as PAGA Penalties for the LWDA and Aggrieved Employees will be at least **$221,085.18**. (*See* PAGA Settlement, ¶ 3.2.3.[2]) The PAGA Penalties will be split with 75% going to the LWDA and 25% going to Aggrieved Employees on a pro rata basis in Individual PAGA Payments. (*Id.*) Accordingly, at least **$165,813.88** (75% * $221,085.18) will be available to the LWDA and **$55,271.29** (25% * $221,085.18) will be available to Aggrieved Employees. (*Id.*) Each Aggrieved Employee will receive payment directly proportional to the number of PAGA Pay Periods the Aggrieved Employee worked within the PAGA Period. (*Id.* at ¶ 3.2.3.) This results in an average Individual PAGA Payment of **$56.75** for each of the estimated 974 Aggrieved Employees, and a Pay Period value of **$1.42** for each of the 38,892 estimated Pay Periods. (*See id.* at ¶ 4.0, Moon Decl., ¶ 29.)

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[2] $221,085.18 as PAGA Penalties was calculated by deducting the following amounts from the Gross Settlement Amount ($385,000.00): $27,731.49 for the PAGA Counsel Litigation Expenses Payment, $128,333.33 for the PAGA Counsel Fees Payment, and $7,850.00 for the Administration Expenses Payment. (PAGA Settlement, ¶ 3.2.)

C. The Requested Attorneys' Fees and Cost Award Should Be Approved

Subject to the Court's approval, Plaintiffs' Counsel seek attorneys' fees in amount up to one-third of the Gross Settlement, and actual litigation costs up to $35,000.00. (PAGA Settlement, ¶ 3.2.1.) To date, Plaintiffs' Counsel's actual costs total **$27,731.49**, with $20,889.78 incurred by MLG and $6,841.71 incurred by Capstone. (Moon Decl., ¶ 19, Ex. 6; Perez Decl., ¶ 20.)

Pursuant to a joint prosecution and fee-sharing agreement between the two law firms representing Plaintiffs, and as consented to in a signed writing by Plaintiffs (the "JPA"), the firms will split the award for attorneys' fees with 75% to MLG and 25% to Capstone, regardless of the amount awarded or whether the award is based on a common fund or lodestar analysis. (Moon Decl., ¶ 54.) As to costs, the JPA states that the two firms will be reimbursed in full to the extent possible for their respective costs actually incurred. (*Id.*)

1. Plaintiffs' Counsel Request an Award of Fees Based on the Common Fund Method

California courts have long awarded attorneys' fees as a percentage of the benefit created by counsel in pursuing claims on behalf of a class. (*See, e.g.*, *Serrano v. Priest* (1977) 20 Cal.3d 25.) The California Supreme Court has held, "when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney's fees out of the fund." (*Id.* at p. 34.)

Plaintiffs' Counsel seek an award of attorneys' fees on the "percentage of recovery/common fund" theory. (Moon Decl., ¶ 53.) The purpose of this approach is to "spread litigation costs proportionately among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." (*Vincent v. Hughes Air W., Inc.* (9th Cir. 1977) 557 F.2d 759, 769.) In *Quinn v. State of Cal.* (1975) 15 Cal.3d 162, the California Supreme Court stated, "one who expends attorneys' fees in winning a suit which creates a fund from which others derive benefits, may require those passive beneficiaries to bear a fair share of the litigation costs." (*Id.* at p. 167.) Similarly, in *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court recognized that the common fund doctrine has been applied "consistently in California when an action brought by one party creates a fund in which other persons[ ] are entitled to share." (*Id.* at pp. 110–11 [pincite omitted].) The reasons for applying this doctrine include:

> fairness to the successful litigant, who might otherwise receive no benefit because his recovery might be consumed by the expenses; correlative prevention of an unfair advantage to the others who are entitled to share in the fund and who should bear their share of the burden of its recovery; encouragement of the attorney for the successful litigant, who will be more willing to undertake and diligently prosecute proper litigation for the protection or recovery of the fund if he is assured that he will be properly and directly compensated should his efforts be successful.

(*Id.* at p. 111.):

Several courts have expressed frustration with the alternative "lodestar" approach for deciding fee awards, which usually involves wading through voluminous and often indecipherable time records. Commenting on the lodestar approach, Chief Judge Marilyn Hall Patel wrote in *In re Activision Securities Litigation* (N.D. Cal. 1989) 723 F.Supp.1373:

> **This court is compelled to ask, "Is this process necessary?" Under a cost-benefit analysis, the answer would be a resounding, "No!"** Not only do the *Lindy* and *Kerr–Johnson* analyses consume an undue amount of court time with little resulting advantage to anyone, but, in fact, it may be to the detriment of the class members.

(*Id.* at p. 1375 [emphasis added].) The percentage approach is preferable to the lodestar because: (1) it aligns the interests of class counsel and absent class members; (2) it encourages efficient resolution of the litigation by providing an incentive for early, yet reasonable, settlement; and (3) it reduces the demands on judicial resources. (*Id*. at pp. 1378–79.) California Courts now routinely use the percentage of the common fund approach to determine the award of attorney's fees. (*See*, *e.g.*, *In re Pac. Enter. Sec. Litig.* (9th Cir. 1995) 47 F.3d 373, 378–79 [approving attorneys' fee award of 33%].)

2. The Matter Involves a Fee and Cost Shifting Provision under PAGA

Labor Code section 2699 provides for the recovery reasonable attorney's fees as well as costs of suit. (Lab. Code § 2699(k)(1).) Specifically, it states: "Any employee who prevails in any [PAGA] action shall be entitled to an award of reasonable attorney's fees and costs . . ." (*Id.*) Under this provision, Plaintiffs would be permitted to recover their actual attorneys' fees, even if those fees were larger than the total recovery for the Aggrieved Employees at the conclusion of this case. (*Id.*) This fee/cost-shifting provision reflects the understanding that PAGA Counsel must accept significant risk of substantial expenses and consumption of time, energy, and other resources in litigating a PAGA claim, and thus, that PAGA Counsel is not only permitted, but entitled, to recover reasonable attorneys' fees and costs if successful in litigating a PAGA claim.

The PAGA Settlement is beneficial in that it limits the risk of continued expenses and consumption of time, energy, and resources facing Defendant while at the same time rewarding Plaintiffs' Counsel for their decision to assume risk by taking on this matter. In fact, prosecution of this action involved significant financial risk for Plaintiffs' Counsel. (Moon Decl., ¶¶ 56–62.) Plaintiffs' Counsel undertook this matter solely on a contingent basis, with no guarantee of recovery. (*Id.*) Once Counsel undertook this litigation on behalf of the Aggrieved Employees, they committed to pursue it to its conclusion, placing their fiduciary duty to the PAGA group ahead of all other concerns. (*Id.* at ¶ 59.)

3. Counsel's Experience, Reputation, and Ability Support the Requested Fee Award

As demonstrated by their past experience in pursuing class and representative actions on behalf of employees, Plaintiffs' Counsel possess considerable expertise in litigating class action and representative matters. (*Id.* at ¶¶ 34–50; Perez Decl., ¶¶ 7-15, Ex. 1.) Plaintiffs' Counsel have been involved as lead counsel or co-counsel in a multitude of class and representative actions resulting in beneficial results to class members and aggrieved employees in California. (Moon Decl., ¶¶ 34–50; Perez Decl., ¶¶ 7-15, Ex. 1.) Because it is reasonable to compensate Plaintiffs' Counsel commensurate with their skill, reputation, and experience, Plaintiffs' Counsel's requested fee award is supported here. Plaintiffs' Counsel's experience in wage and hour class and representative actions was integral in evaluating the strengths and weaknesses of the case against Defendant and the reasonableness of this Settlement. (Moon Decl., ¶ 51.) Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning the rapidly evolving substantive law (state and federal), as well as the procedural law of representative action litigation. (*Id.* at ¶ 49.) Based on these and other factors, Plaintiffs' Counsel have frequently received fee awards of this percentage from the gross recovery for aggrieved employees. (*See id.* at ¶¶ 38, 43, 48; Perez Decl., ¶ 17.) Thus, the requested fee award is reasonable and fair.

4. While the Lodestar Method is Not Necessary in Common Fund Cases, the Court May Perform a Cross-Check to Award Fees

"Despite its primacy, the lodestar method is not necessarily utilized in common fund cases." (*Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 27.) Courts have criticized the lodestar method as a drain on the judicial system and a disincentive on attorneys to take on high-risk, challenging cases. (*Id.* at p. 29.) Indeed, the lodestar approach: "(1) 'increases the workload of an already overtaxed judicial system,' (2) is 'insufficiently objective and produce[s] results that are far from homogenous,' (3) 'creates a sense of mathematical precision that is unwarranted in terms of the realities of the practice of law,' (4) 'is subject to manipulation by judges who prefer to calibrate fees in terms of percentages of the settlement fund or the amounts recovered by the plaintiffs or of an overall dollar amount,' (5) 'encourages lawyers to expend excessive hours, and . . . engage in duplicative and unjustified work,' (6) 'creates a disincentive for the early settlement of cases,' (7) deprives trial courts of 'flexibility to reward or deter lawyers so that desirable objectives, such as early settlement, will be fostered,' (8) 'works to the particular disadvantage of the public interest bar,' and (9) results in 'confusion and lack of predictability.'" (*Id.* [quoting Third Circuit Task Force, *Court Awarded Attorney Fees* (1985) 108 F.R.D. 237, 246–49].)

Although California Courts support the common fund doctrine, the lodestar method can be used to cross-check fee awards. "It may be appropriate in some cases, assuming the class benefit can be monetized with a reasonable degree of certainty, to 'cross-check' or adjust the lodestar in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation." (*In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557 [quoting *Lealao*, *supra*, 82 Cal.App.4th at pp. 49–50].)

Applying the lodestar method is a two-step process. The first step is to multiply the number of hours reasonably expended by a reasonable hourly rate, and the second step is to apply a multiplier to the lodestar to account for various factors. (*Id.* at p. 556.) "The purpose of such adjustment is to fix a fee at the fair market value for the particular action. In effect, the court determines, retrospectively, whether the litigation involved a contingent risk or required extraordinary legal skill justifying augmentation of the unadorned lodestar in order to approximate the fair market rate for such services." (*Id.*) "Under certain circumstances, a lodestar calculation may be enhanced on the basis of a percentage-of-the-benefit analysis." (*Id.* at pp. 556–57.) Further, "California case law permits fee awards in the absence of detailed time sheets." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 255.)

Moreover, the use of a multiplier is permitted in a PAGA action. PAGA provides that "[a]ny employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs." (Lab. Code § 2699(k)(1).) Although, PAGA does not provide a specific standard for evaluating attorneys' fees in connection with a settlement of PAGA claims, California Courts have employed a lodestar analysis and use of multipliers for this purpose. "Where a settlement produces a common fund for the benefit of the entire class, courts have discretion to employ either the lodestar method or the percentage-of-recovery method. . . . To guard against an unreasonable result, the Ninth Circuit encourages district courts to "cross-check[] their calculations against a second method. . . . Accordingly, the Court calculates attorneys' fees in the instant case using the percentage-of-recovery method and then cross-checks its calculations against the lodestar method." (*Hermosillo v. Davey Tree Surgery Co.* (N.D. Cal. July 7, 2021) No. 18-CV-00393-LHK, 2021 WL 2826697, at *1 [quoting *In re Bluetooth Headset Prods. Liab. Litig.* (9th Cir. 2011) 654 F.3d 935, 942, 944–45].)

Here, counsel have incurred **$143,915.00 in fees** which is based on **215.8 hours** of attorney time at their customary hourly rates.[3] (Moon Decl., ¶ 55; Perez Decl., ¶ 16.) These hours reflect work spent to-date as well as additional hours to obtain and monitor approval of the PAGA Settlement and requested awards, oversee the settlement administration process and distribution of funds, respond to inquiries, and communicate with Plaintiffs regarding the case. (Moon Decl., ¶ 56.) Accordingly, **the total lodestar is greater than the fee request** ($143,915.00 lodestar compared to $128,333.33 fee request). (*Id.* at ¶ 58(c); *see* Perez Decl., ¶ 16.) The amount of fees requested under the PAGA Settlement is warranted based on the contingent risk that Plaintiffs' Counsel incurred, the difficulty of the questions involved, the substantial benefit conferred on the Aggrieved Employees and State of California as a result of the PAGA Settlement, and the skill displayed by Plaintiffs' Counsel. (Moon Decl., ¶ 58.) Plaintiffs' Counsel also bear the risk of taking whatever actions are necessary if Defendant fails to pay. (*Id.* at ¶ 56.) Thus, the request for attorneys' fees satisfies a lodestar check.

[3] Here, MLG's lodestar is **$63,602.50** which is based on **79.1 hours** of attorney time at their customary hourly rates, and Capstone's lodestar is **$80,312.50** which is based on **136.7 hours** of attorney time at their customary hourly rates.

5. Plaintiffs' Counsel's Costs Are Reasonable and Actually Incurred

Winning counsel are entitled to recover the out-of-pocket costs and expenses they reasonably incurred in investigating, prosecuting, and settling a case. (*Staton v. Boeing Co.* (9th Cir. 2003) 327 F.3d 938, 974; Lab. Code § 2699(k)(1).) Here, Plaintiffs' Counsel seek reimbursement of actual costs in the amount of $, with $20,889.78 to MLG and $6,841.71 to Capstone. (Moon Decl., ¶ 17, Ex. 5; Perez Decl., ¶ 20.) These expenses were reasonably necessary to the litigation and were actually incurred. (Moon Decl., ¶ 63, Perez Decl., ¶ 20.) Therefore, costs should be reimbursed in full.

IV. <u>CONCLUSION</u>

The PAGA Penalties, Administration Expenses Payment, PAGA Counsel Attorneys' Fees Payment, and PAGA Counsel Litigation Expenses Payment are meaningful, reasonable, and lawful under Labor Code sections 2698, *et seq*. For this reason, Plaintiffs respectfully request that the Court grant approval of the PAGA Settlement and enter the [Proposed] PAGA Approval Order and [Proposed] Judgment submitted herewith.

DATED: March 11, 2026

Respectfully submitted,

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