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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CIERRA NEWSOM, on behalf of herself, the State of California, and all Aggrieved Employees,

Plaintiff,

vs.

CITY PRIVATE SECURITY INC., a corporation; and DOES 1 through 100, inclusive,

Defendants.

Case No. 24STCV02386

[*Assigned for all purposes to the Hon. Theresa M. Traber, Dept. SSC-1*]

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR APPROVAL OF SETTLEMENT OF CLAIMS BROUGHT UNDER THE PRIVATE ATTORNEYS GENERAL ACT AND REASONABLE ATTORNEYS' FEES, AND COSTS

Date: September 30, 2025
Time: 10:30 a.m.
Dept.: SSC-1

Complaint Filed: January 30, 2024
Trial date: None Set

TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 30, 2025 at 10:30 a.m., or as soon thereafter as the matter may be heard in Department SSC-1 of the above-entitled Court, located at 312 North Spring Street, Los Angeles, California, 90012. Plaintiff Cierra Newsom ("Plaintiff"), individually and on behalf of the State of California and other Aggrieved Employees, will, and hereby does, move this Court for entry of an Order as follows:

1. Granting approval, pursuant to California Labor Code § 2699(l), of the proposed settlement of claims brought pursuant to the Private Attorneys General Act of 2004 (Cal. Labor Code § 2698, *et seq*.) and as set forth in the Parties' Settlement Agreement, a true and correct copy of which is attached to the Declaration of Neil M. Larsen filed concurrently herewith;
2. Appointing Phoenix Settlement Administrators ("Phoenix") as the Settlement Administrator;
3. Approving the proposed Explanatory Letter (attached as Exhibit A to the Settlement Agreement), and directing that it be distributed to Aggrieved Employees pursuant to the terms of the Settlement Agreement;
4. Directing the distribution of the Gross Settlement Amount pursuant to the terms of the Settlement Agreement;
5. Approving and confirming payment of PAGA penalties to the LWDA in the amount of $26,393.97 (75% of the penalties) and to Aggrieved Employees in the amount of $8,797.99 (25% of the penalties) as set forth in the Settlement Agreement.
6. Approving an award of attorneys' fees to Plaintiff's counsel of $33,333.33 and an award of litigation costs to Plaintiff's counsel of $22,224.71;
7. Approving an enhancement payment to Plaintiff in the amount of $5,000.00; and
8. Approving $4,250.00 in administration costs to Phoenix.

This Motion is based on this Notice; the attached Memorandum of Points and Authorities; the declaration of Neil M. Larsen and all exhibits attached thereto; the declaration of Jodey

Lawrence on behalf of Phoenix Settlement Administrators and all exhibits attached thereto; the declaration of Plaintiff Sharon Cheung; the Settlement Agreement; all other pleadings and papers on file in this action; and on any further oral or documentary evidence or argument presented at the time of hearing.

Respectfully submitted,

Dated: September 8, 2025

ABRAMSON LABOR GROUP

By: Neil Larsen

Neil M. Larsen
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Cierra Newsom ("Plaintiff") is an "Aggrieved Employee" under the Private Attorneys General Act of 2004 ("PAGA") and respectfully move this Court for an Order granting approval of the Settlement Agreement[1] ("Settlement") with Defendant City Private Security, Inc. ("Defendant").

This PAGA representative settlement resolves Plaintiff's claims for civil penalties predicated on Defendant's alleged failure to: provide meal periods, authorize and permit rest periods, reimburse business expenses, furnish accurate itemized wage statements, maintain accurate records, and timely pay final wages upon separation of employment.

The proposed Settlement, under which Defendant has agreed to pay a Gross Settlement Amount ("GSA") of $100,000.00, will resolve Plaintiff's representative claim for civil penalties filed on behalf of the State of California and all "Aggrieved Employees," which consists of the following: **all current and former non-exempt employees who worked for Defendant City Private Security, Inc. in California at any time from January 30, 2023 to May 5, 2025**.

Notably, the relief provided for under the Settlement, and the claims released thereunder, are solely for the payment of *civil penalties* under the PAGA, and not for any underlying Labor Code violations. The release encompasses PAGA civil penalties based upon the alleged violations mentioned above.

In deciding whether to grant approval of a PAGA settlement, the primary issue is whether the settlement is fair, reasonable, and adequate. As set forth herein, the proposed Settlement embodies all of the features of a settlement that is fair, reasonable, and adequate, as it: (1) is the product of arm's-length negotiations; (2) was negotiated by attorneys experienced in wage-and-hour issues and PAGA litigation with the assistance of a highly experienced wage and hour

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[1] The Settlement is attached as **Exhibit 1** to the Larsen Declaration. The Explanatory Letter is attached as **Exhibit 1-A** to the Settlement. The Parties have agreed upon the terms in the Settlement, and Defendant is in the process of securing signatures. Plaintiff will file a supplemental declaration prior the September 30, 2025 hearing date, with the fully-executed settlement agreement attached.

neutral mediator; (3) was negotiated after undertaking sufficient informal discovery and investigation to evaluate the relative strength and value of Plaintiff's PAGA claim and Defendant's defenses thereto; and (4) reflects a reasoned compromise based on the relative strength and value of the PAGA claim, as well as the risks, expenses, complexity, and likely duration of further litigation.

Moreover, Defendant made representations regarding its financial condition and produced financial records requested by Plaintiff. Declaration of Keith D. Messerschmidt ("Messerschmidt Decl."), ¶ 8. These financial records were analyzed by Plaintiff's expert forensic accountant, who after having analyzed Defendant's financial records, is of the opinion that Defendant could not afford to pay a settlement of more than $100,000. Messerschmidt Decl., ¶¶ 5-6. Moreover, Mr. Messerschmidt has opined that any amount exceeding a $100,000 settlement amount could risk significant harm to Defendant, and that Defendant would require an installment plan to fund the proposed $100,000 settlement in three (3) installment payments. *Id*. at ¶ 7

As noted above, the Settlement provides for a Gross Settlement Amount ("GSA") of $100,000.00. *See* Settlement §§ I.9, III.2. After deducting amounts for requested attorneys' fees ($33,333.33), litigation costs ($22,224.71), Plaintiff's Enhancement Payment ($5,000.00) and administration costs of $4,250.00, the Settlement provides for distribution of a Net Settlement Amount ("NSA") of approximately $35,191.96, to be paid to Aggrieved Employees and the California Labor and Workforce Development Agency ("LWDA"). *See* Settlement, §§ I.10, III.4; Declaration of Neil M. Larsen ("Larsen Decl."), ¶¶ 16, 24-27, 28, Exhibit 5.

The NSA shall be distributed 75% (approximately $26,393.97) to the LWDA, and 25% (approximately $8,797.99) to Aggrieved Employees, on a *pro rata* basis based on their respective number of pay periods worked for Defendant during the PAGA Period, pursuant to the requirements of the PAGA as codified in Lab. Code § 2699(i). *See* Settlement, § III.5. There are approximately 175 Aggrieved Employees, resulting in average payments of approximately $50.27 to the Aggrieved Employees. Larsen Decl., ¶ 16.

This Settlement represents a reasonable recovery for the State of California and Aggrieved Employees, who will receive a monetary benefit in exchange for release of only civil penalties.

In addition, the significant monetary recovery on behalf of the LWDA, furthers the PAGA's purposes to "remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." *Moniz v. Adecco USA, Inc.,* 72 Cal.App.5th 56, 77 (2021). Further, the amounts requested for attorneys' fees, litigation costs, and settlement administration costs are fair, adequate, and reasonable.

II. SUMMARY OF THE LITIGATION

A. Brief Factual Background and Summary of Claims

Defendant is a security company that offers security guard services in California. Larsen Decl., ¶ 8. Plaintiff was employed by Defendant as non-exempt employees in California during the PAGA Period, and therefore is an Aggrieved Employee. *See* Declaration of Cierra Newsom ("Newsom Decl."), ¶ 2.

In this lawsuit, Plaintiff contends that Defendant failed to provide meal periods, failed to authorize and permit rest periods, failed to reimburse business expenses, failed to furnish accurate itemized wage statements, failed to maintain accurate records, and failed to timely pay final wages upon separation of employment during the PAGA Period.

B. Procedural History

On January 30, 2024, Plaintiff filed a Class Action Complaint alleging violations of Labor Code§§ 201-204, 210,226,226.3 226.7, 512,516,558, 1198, 2802, and 2804. Larsen Decl., ¶ 9.

On January 30, 2024, Plaintiff also provided written notice to the LWDA and Defendant of her intent to seek civil penalties under PAGA for alleged violations of California Labor Code Labor Code sections 201-204, 210, 226, 226.3, 226.7, 512, 516, 558, 1174, 1198, 2802, and 2804, and California Industrial Commission Wage Order 4. Larsen Decl., ¶ 10, Exhibits 2-3.

On April 4, 2024, Plaintiff filed a the First Amended Class and Representative PAGA Action Complaint, alleging that Defendant failed to provide meal periods, failed to authorize and permit rest periods, failed to reimburse business expenses, failed to furnish accurate itemized wage statements, failed to maintain accurate records, and failed to timely pay final wages upon separation of employment during the PAGA Period. Larsen Decl., ¶ 11.

On September 5, 2025, Plaintiff filed her request to dismiss the alleged Class Action claims without prejudice and retain jurisdiction of Plaintiff's representative PAGA claims and individual claims. Larsen Decl., ¶ 12.

C. Pre-Mediation Discovery and Mediation

In connection with mediation, the Parties engaged in informal discovery, Defendant informally produced relevant policies to my office, a sampling of Aggrieved Employees' payroll and time records, and other relevant information and documents. Larsen Decl., ¶ 13.

On May 5, 2025, the Parties participated in a full-day mediation with experienced wage and hour mediator Monique Ngo-Bonnici, Esq. Larsen Decl., ¶ 14. At the mediation, the Parties vigorously debated Plaintiff's ability to proceed on a Class Action and/or on a representative PAGA basis, the ability of Defendant to litigate and financially settle a Class Action and/or representative PAGA basis, the legal basis for Plaintiff's claims and Defendant's defenses, the potential amount of civil penalties that could be recovered, and the data analyses and conclusions based thereon. *Id*. At the conclusion of the mediation, the Parties accepted a mediator's and were able to reach a settlement to resolve only Plaintiff's representative PAGA claim. *Id*.

SUMMARY OF THE SETTLEMENT

A. "Aggrieved Employees" Defined

As noted above, the settlement covers all current and former non-exempt employees who worked for Defendant in California at any time from January 30, 2023 to May 5, 2025. *See* Settlement, §§ I.2, I.12.

B. Monetary Terms

As noted above, the Settlement provides for Defendant's payment of a non-reversionary GSA of $100,000. Settlement, §§ I.9, III.2. After deducting amounts for requested attorneys' fees, litigation costs, and settlement administration costs, the Settlement provides for the remaining Net Settlement Amount ("NSA") to be distributed 75% to the LWDA and 25% to Aggrieved Employees, pursuant to Lab. Code § 2699(i). Settlement, § III.5. The 25% portion to Aggrieved Employees shall be distributed based on each Aggrieved Employee's proportional number of pay periods worked for Defendant in California during the PAGA Period. *Id*.

1. *Requested Attorneys' Fees, Litigation Costs, and Administration Costs*

Plaintiff's counsel requests one-third of the GSA (i.e., $33,333.33) in attorneys' fees, and $22,224.71 in litigation costs. *See* Settlement, §§ I.9, I.10, III.2, III.4; Larsen Decl., ¶¶ 16, 24-27, 28 & Exhibit 5. As discussed below, one-third of the GSA is fair, adequate, and reasonable as a percentage of the fund and as confirmed by a lodestar cross-check, and is in line with fee awards in other PAGA settlements.

The Parties have agreed to engage Phoenix Settlement Administrators ("Phoenix") as the third-party Settlement Administrator. *See* Settlement, § IV.1. Phoenix will update Aggrieved Employees' addresses using the National Change of Address database, calculate and distribute individual payments, mail payments to all Aggrieved Employees together with the Cover Letter, and perform other duties that are integral to the effectuation of the Settlement. Settlement, §§ IV.1-5; Declaration of Jodey Lawrence ("Lawrence Decl."), ¶¶ 12-16, Exhibit B. Plaintiff requests that the Court approve $4,250.00 in Administration Costs to Phoenix, which will cover all costs incurred by Phoenix in connection with the Settlement. Settlement, §§ IV.1-5; *see also* Lawrence Decl., ¶¶ 12-16, Exhibit B.

2. *Payment to the LWDA and Aggrieved Employees*

As noted above, the NSA will be distributed 75% to the LWDA and 25% to Aggrieved Employees, pursuant to Labor Code § 2699(i). Settlement, § III.5. Based on the above requested distributions, the NSA is estimated to be $35,191.96, with $26,393.97 paid to the LWDA and $8,797.99 distributed to Aggrieved Employees. *Id.* at §§ I.10, III.4, III.5.

3. *Funding of the Settlement*

The Gross Settlement Amount shall be funded in three installments to the Settlement Administrator as follows: (1) first installment payment of $50,000.00 shall be paid within 30 days of settlement approval by the court; (2) the second installment payment of $25,000.00 shall be made within 60 days of the first installment payment; and (3) the third and final installment payment of $25,000.00 shall be made within 60 days of the second installment payment. Defendant's share of payroll taxes shall be deposited by Defendant with the Settlement Administrator at the same time it deposits its third and final installment payment. *See* Settlement

§ III.2. As noted above, given Defendant's financial condition, an installment payment plan is needed in order to fund the settlement. *See* Messerschmidt Decl., ¶ 7.

Within twenty-one (21) days after the Gross Settlement Amount has been fully funded, and after receiving approval from counsel of the payment calculations, Phoenix will mail the Explanatory Letter and Individual PAGA Payments to Aggrieved Employees via First Class U.S. Mail. Settlement, § IV.3.

Funds represented by undeliverable checks, or checks remaining uncashed after 180 days, shall escheat to the California State Controller's Office for deposit in the Unclaimed Property Fund, in the name of the Aggrieved Employee. *Id.,* § IV.4.

IV. LEGAL ARGUMENT

A. Standards for Approval of a PAGA Settlement

The settlement of a PAGA claim requires court approval pursuant to the PAGA statute, which states that the "court shall review and approve any settlement of any civil action filed pursuant to this part." Labor Code § 2699(l). Of course, "[s]ettlement is a compromise, which balances the possible recovery against the risks inherent in litigating further." *See In re TD Ameritrade Account Holder Litig.*, 2011 WL 4079226 at *9 (N.D. Cal. Sept. 13, 2011). "[T]he very essence of a settlement is…'a yielding of absolutes and an abandoning of highest hopes,'" as "it is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements." *Officers for Justice v. Civil Service Com*., 688 F.2d 615, 624 (9th Cir. 1982). As such, "the settlement or fairness hearing is not to be turned into a trial or rehearsal for trial on the merits" or "judged against a hypothetical or speculative measure of what might have been achieved by the negotiators." *Id*.

Although the PAGA statute does not set forth the criteria by which a PAGA settlement is to be judged, it is presumed that a reviewing court may utilize some of the factors for review of a class action settlement. However, "a PAGA claim asserted on a non-class representative basis…is not considered a class action but a law enforcement action, and therefore does not have to meet the requirements of [a class action]." *Casida v. Sears Holdings Corp.*, 2012 WL 253217 at *3 (E.D. Cal. Jan. 26, 2012); *Mendez v. Tween Brands, Inc.*, 2010 WL 2650571 at *4 (E.D. Cal. Jul.

1, 2010) ("PAGA claims are law enforcement actions, not class actions"). A court's review of a PAGA settlement implicates the following unique features that render the approval process distinct from approval of a class action settlement.

First, in evaluating a PAGA settlement, the court is not concerned with amount(s) received by "aggrieved employees," but rather, must focus on the total settlement amount in achieving PAGA's objective. "The remedy sought in a PAGA suit consists of civil penalties, not individual or class damages." *Mendez*, *supra*, 2010 WL 2650571 at *4. "Unlike class actions, these civil penalties are not meant to compensate unnamed employees because the action is fundamentally a law enforcement action." *Ochoa-Hernandez v. Cjaders Foods, Inc.*, No. C-08-2073-MHP, 2010 WL 1340777 at *4 (N.D. Cal. Apr. 2, 2010). As our Supreme Court confirmed, "PAGA claims are 'representative' actions in the sense that they are brought on the state's behalf. The employee… 'represents the same legal right and interest as' those agencies — 'namely, recovery of civil penalties that otherwise would have been assessed and collected by the [LWDA].'" *ZB, N.A. v. Superior Court*, 8 Cal.5th 175, 185 (2019) (citing *Iskanian*, 59 Cal.4th at 380).

Moreover, while "'[a PAGA] action is … designed to protect the public and penalize the employer for past illegal conduct" (*Mendez*, 2010 WL 2650571 at *4), a PAGA settlement – like any settlement – involves a compromise that stops short of rendering findings of liability and damages. "Unlike a class action seeking damages or injunctive relief for injured employees, the purpose of PAGA is to incentivize private parties to recover civil penalties for the government that otherwise may not have been assessed and collected by overburdened state enforcement agencies." *Ochoa-Hernandez,* 2010 WL 1340777 at *4.

Second, consistent with the fact that unnamed employees have no property interest in a PAGA claim[2], "[u]nnamed employees need not be given notice of the PAGA claim, nor do they have the ability to opt-out of the representative PAGA claim." *Ochoa-Hernandez*, *supra*, 2010 WL 1340777 at *5; *see also Robinson v. Southern Counties Oil Co.*, 53 Cal.App.5th 476, 482

[2] "The [PAGA] does not create property rights or any other substantive rights" as "[i]t is simply a procedural statute allowing an aggrieved employee to recover civil penalties—for Labor Code violations—that otherwise would be sought by state labor law enforcement agencies." *Amalgamated Transit Union, Local 1756, AFL-CIO v. Sup. Ct.*, 46 Cal.4th 993, 1003 (2009).

(2020) (recognizing that "there is no mechanism for opting out of the judgment entered on the PAGA claim."). This renders the approval process of a PAGA settlement distinct from a class action settlement, as the Court need not employ the "two-step approval process" required for class action settlements under Fed. R. Civ. Proc. Rule 23(e) and Cal. Rule of Court 3.769.

Finally, unlike a class action settlement under Fed. R. Civ. Proc. Rule 23(e) or Cal. Rule of Court 3.769, the scope of release in a PAGA settlement is limited to *civil penalties*. While "judgment in [a PAGA] action is binding not only on the named employee Plaintiffs but also on government agencies and any aggrieved employee not a party to the proceeding…the non-party employees, because they were not given notice of the action or afforded any opportunity to be heard, would not be bound by the judgment as to remedies other than civil penalties." *Arias v. Sup. Ct.*, 46 Cal. 4th 969, 986-87 (2009).

The Settlement is fair and adequate because settlements inherently involve compromise, even a settlement providing for substantially narrower relief than might be obtained if the suit were successfully litigated can be reasonable because "the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation." *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 250 (2001) (quoting *Air Line Stewards, etc., Local 550 v. Am. Airlines, Inc.*, 455 F.2d 101, 109 (7th Cir. 1972)).

1. *Factors in Evaluating a Representative PAGA Settlement*

In deciding whether to approve a proposed settlement, a trial court has broad powers to determine if the proposed settlement is fair under the circumstances of the case. *Mallick v. Sup. Ct.,* 89 Cal.App.3d 434, 438 (1979). In exercising these powers, the overriding concern is to ensure that a proposed settlement is "fair, adequate, and reasonable." *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996) (internal quotations omitted). Relevant factors for the Court to consider include, but are not limited to:

> [T]he strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

Id. These factors require balancing, are non-exhaustive, and trial courts should tailor the factors to each case and give due regard to "what is otherwise a private consensual agreement between the parties." *Id*. In the context of a PAGA settlement, the third and eighth factors (risk of maintaining class action status and reaction of class members to settlement) are inapplicable.

Because settlements inherently involve compromise, even settlements providing for substantially narrower relief than likely would be obtained if the suit were successfully litigated can be reasonable because "the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation." *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 250 (2001) (quoting *Air Line Stewards, etc., Local 550 v. Am. Airlines, Inc.*, 455 F.2d 101, 109 (7th Cir. 1972)). In addition, courts review the discovery process and information received through it to aid them in assessing whether the parties sufficiently developed the claims and their supporting factual bases before reaching settlement. *Kullar v. Foot Locker Retail, Inc.,* 168 Cal.App.4th 116, 129-31 (2008). Information is sufficient where it allows the parties and the court to form "an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation." *Clark v. Am. Residential Serv. LLC,* 175 Cal.App.4th 785, 801 (2009). This requirement exists so that the parties can provide the court with "a meaningful and substantiated explanation of the manner in which the factual and legal issues have been evaluated." *Kullar*, *supra*, 168 Cal.App.4th at 132.

a. <u>The Strength of Plaintiff's Case</u>

Although Plaintiff steadfastly maintains that her claims are meritorious, Plaintiff acknowledges that her position includes real risks and uncertainty. Larsen Decl., ¶ 17. Additionally, as noted above, the proposed settlement took into account Defendant's representation that it is suffering financial distress, which was confirmed through an analysis and review of Defendant's financial records by Plaintiff's expert forensic accountant. *See* Messerschmidt Decl., ¶¶ 5-9.

Plaintiff alleges that she and Aggrieved Employees were often forced to "waive" their meal periods and would not be authorized and permitted to take rest periods. Larsen Decl., ¶ 17. Defendant argues that it has maintained compliant meal and rest period policies and practices throughout the relevant time period, and that under *Brinker* it is only required to "provide" the opportunity to take meal periods and "authorize and permit" rest periods, not to "ensure" that breaks are taken. *Id*. Further, Defendant argues that it informed Aggrieved Employees of their right to take meal and rest periods, and that any failure to take a compliant meal and rest period was the result of employee choice, and not Defendant's policy and/or practice. *Id*.

Plaintiff also alleges that Defendant failed to indemnify her and Aggrieved Employees for the use of their personal cell phones for work related purposes. Larsen Decl., ¶ 18. Defendant maintains that employees do not incur personal expenses, because there is no need or requirement that such expenses be incurred. *Id*. In the event that such an expense is incurred, without Defendant's approval, Defendant maintains that there are procedures in place for ermployees to request reimbursement of work-related expenses. *Id*. Defendant further contends that if employees used their personal cell phones for work purposes received, such employees had the opportunity to request reimbursement.

Plaintiff also alleges that Defendant failed to furnish her and Aggrieved Employees with accurate itemized wage statements in violation of Labor Code § 226. Larsen Decl., ¶ 19. Defendant asserts that it did not violate any wage statement obligations, and if an inadvertent clerical error did occur, Defendant has strong, good-faith defenses to Plaintiff's direct and derivate wage statement claims. *Id*. Defendant maintains that the wage statements furnished upon Aggrieved Employees accurately reflected amounts paid to employees, and thus Defendant cannot be found liable for wage statement violations under the relevant case law. *Id.*

Plaintiff also allege that Defendant failed to timely pay her and Aggrieved Employees final wages owed upon separation of employment. Larsen Decl., ¶ 20. Defendant asserts that it has strong, good faith defenses to Plaintiff's underlying claims, precluding waiting time penalties. *Id*.

Defendant further maintains that even if the Court awarded PAGA penalties for any of the alleged violations, in the event that Plaintiff was successful in a judgement based upon the merits, the Court would substantially reduce the penalties based on the discretionary factors in Labor Code § 2699(e)(2) (authorizing reduction in 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."). Larsen Decl., ¶ 21. Indeed, many courts have reduced PAGA penalties where, as here, the employer presented good-faith defenses and attempted to comply with the law. Larsen Decl., ¶ 21; *Thurman v. Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, 1135 (2012) (affirming reduction of PAGA penalties because "defendants took their obligations…seriously and attempted to comply with the law"); *Fleming v. Covidien, Inc.*, No. ED-CV-10-1487-RGK, 2011 WL 7563047 at *4 (C.D. Cal. Aug. 12, 2011) (reducing PAGA penalties by over 82%, in part because employer was "not aware" of violations); *Carrington v. Starbucks Corp.*, 30 Cal.App.5th 504, 529 (2018) (affirming PAGA penalty of just $5 per pay period where employer made "good faith attempts" to comply with the law). Larsen Decl., ¶ 21.

b. <u>Risk, Expense, Complexity, and Duration of Further Litigation</u>

Although the Parties had engaged in informal discovery and formal discovery, the Parties still had much written and deposition discovery to conduct if the case did not settle. Substantive motion work and trial preparation also remained for the Parties, as well as potential appeals. As a result, the Parties would likely incur considerably more attorneys' fees and costs through trial and possible appeal. Moreover, as noted above, the Settlement avoids the risks associate with continued litigation and the accompanying expense, and the risks of litigation.

c. <u>Amount Offered in Settlement Given Realistic Value of Claims</u>

The proposed Settlement provides a fair and reasonable monetary recovery for the State of California and Aggrieved Employees in the face of vigorously disputed claims, when compared with the potential realistic exposure.

Based on Plaintiff's review of the records and information produced by Defendant, and after applying reasonable discounts due to the possibility of losing on the merits and of the Court reducing penalties, the realistic PAGA exposure for Defendant's alleged labor code violations was $107,250. Larsen Decl., ¶¶ 17-23. The GSA of $100,000 therefore represents approximately 93% of the realistic exposure, a favorable result for the State of California and Aggrieved Employees. Larsen Decl., ¶ 23.

Approval of the Settlement is appropriate, as the Settlement will provide a tangible monetary benefit to Aggrieved Employees and the State of California, while avoiding the risks and costs of continued litigation and trial. In addition, approval of the Settlement is appropriate because it furthers the purpose of PAGA. First, it requires Defendant to pay a significant six-figure amount for alleged labor code violations. Second, it acts as a deterrent to Defendant and/or other employers from violating the Labor Code in the future. Finally, it rectifies the alleged violations by providing a monetary recovery for both the State of California and the Aggrieved Employees.

d. <u>Discovery Completed and the Status of Proceedings</u>

Only after the completion of informal discovery and following significant debate and discussion with a third-party mediator regarding the merits and defenses of this case, did the Parties reach the proposed Settlement. Thus, this factor supports settlement approval.

e. <u>The Experience and Views of Counsel</u>

"Parties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation." *In re Pac. Enter. Sec. Litig.*, 47 F.3d 373, 378 (9th Cir. 1995). Plaintiff is represented by experienced counsel with extensive experience in this field of law, who believe this Settlement to be fair and adequate for all involved. Larsen Decl., ¶¶ 2-6. This factor strongly supports settlement approval. *Kullar*, 168 Cal.App.4th at 130 ("The court undoubtedly should give considerable weight to the competency and integrity of counsel and the involvement of a neutral mediator in assuring itself that a settlement agreement represents an arm's length transaction entered without self-dealing or other potential misconduct.").

B. <u>The Requested Award of Attorneys' Fees is Reasonable as a Percentage of the Settlement Fund as Confirmed by a Lodestar Cross-Check</u>

Plaintiff is entitled to attorneys' fees in this PAGA action under Labor Code § 2699(g)(1), which provides that "[a]ny employee who prevails in any [PAGA] action shall be entitled to an award of reasonable attorneys' fees and costs." *See also Gouskos v. Aptos Village Garage, Inc.*, 94 Cal.App.4th 754, 765 (2001) (holding that attorneys' fees to prevailing party are mandatory when the statute uses the word "shall"); *see also Graciano v. Robinson Ford Sales*, 144 Cal.App.4th 140, 153 (2006) ("[P]laintiffs may be considered 'prevailing parties' for attorney's fee purposes if they succeed on any significant issue in the litigation that achieves some of the benefit the parties sought in bringing suit.”).

A fee award is justified where the legal action has produced its benefits by way of settlement. *See*, *e.g.*, *Maria P. v. Riles*, 43 Cal.3d 1281, 1290-91 (1987); *Westside Comty. for Independent Living, Inc. v. Obledo*, 33 Cal.3d 348, 352-53 (1983); *Serrano v. Priest*, 20 Cal.3d 25, 34 (1977) (“when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff…for the benefit of all results in the creation or preservation of that fund, such plaintiff…may be awarded attorney’s fees out of the fund.”); *Serrano v. Unruh*, 32 Cal.3d 621, 627 (1982) (in awarding a fee from the common fund obtained for the benefit of all parties, the trial court acts within its equitable power to prevent the other parties’ unjust enrichment); *Rawlings v. Prudential-Bache Properties, Inc.*, 9 F.3d 513, 516 (6th Cir. 1993) (the percentage of the fund method for calculating attorneys’ fees more accurately reflects the results achieved for the putative class than the lodestar method and “establishes reasonable expectations on the part of plaintiffs’ attorneys as to their expected recovery; and it encourages early settlement, which avoids protracted litigation.”); *In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 300 (3d Cir. 2005) (“The percentage-of-recovery method is generally favored in common fund cases because it allows courts to award fees from the fund ‘in a manner that rewards counsel for success and penalizes it for failure.”).

Fee awards of one-third of the settlement fund are routinely awarded in California courts in class and representative PAGA actions. The California Supreme Court confirmed its approval of the use of the “percentage of fund” method. *See Laffitte v. Robert Half Int’l, Inc.*, 1 Cal.5th 480, 506 (2016) (“the percentage of fund method survives in California class action cases…”)

Specifically, the *Laffitte* Court held:

> 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—convince us the percentage method is a valuable tool that should not be denied our trial courts.

Id., at 503 (internal citation omitted). Indeed, “[F]ee awards in class actions average around one-third of the recovery." *Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 66, fn. 11 (2008); *see also, e.g., Chavez v. Saticoy Lemon Ass'n*, 2015 WL 5561118 (Ventura Cty. Super. Ct., Aug. 29, 2015) (approving attorneys' fees of one-third of settlement fund in PAGA settlement). This is consistent with Plaintiff's counsel's experience in similar wage-and hour matters. Larsen Decl., ¶ 24.

Here, Plaintiff's fee request of one-third of the Gross Settlement Amount (estimated to be $33,333.33), which is the same percentage approved by the California Supreme Court in *Laffitte*, is fair and reasonable based on the percentage of the recovery method, as confirmed by a lodestar cross-check.

In *Laffitte*, the California Supreme Court held that trial courts have discretion to assess the reasonableness of fee awards with tools such as the "lodestar cross-check," whereby the trial court calculates counsel's lodestar and determines whether the "lodestar multiplier" needed to bring the lodestar on par with the percentage of recovery is reasonable. *Laffitte*, 1 Cal.5th at 503-06. While a trial court may utilize the lodestar cross-check, it need not do so. *Id.*, at 506 ("[w]e hold further that the trial courts have discretion to conduct a lodestar cross-check on a percentage fee, as the court did here; they also retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee."). Under California law, lodestar multipliers can range from 2 to 4 or even higher. *See, e.g., Chavez*, 162 Cal.App.4th at 49-50 (approving multiplier of approximately 2.5); *Coalition for L. County Planning etc. Interest v. Bd. of Supervisors*, 76 Cal.App.3d 241, 251 (1977) (approving multiplier of approximately 12.8). In class and representative actions, where the value of the benefit conferred "can be monetized with a reasonable degree of certainty," a court may "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." *Consumer Privacy Cases*, 175 Cal.App.4th 545, 557 (2009).

In this case, and as represented in the table below, Plaintiff's counsel has a lodestar of approximately $46,480.00, resulting in a negative multiplier of .71 compared to the $33,333.33 fee request. Larsen Decl., ¶ 26. A general summary showing the number of hours of work performed by each attorney is set forth below. The billing rates used are reasonable in view of the evidence submitted herewith. Larsen Decl., ¶ 26-27 & Exhibit 4 (Laffey Matrix).

Name	Rate	Hours	Pre-Multiplier Lodestar
Tuvia Korobkin (16th Year Attorney)	$675	20.2	$13,635.00
Neil M. Larsen (14th Year Attorney)	$650	42.8	$27,820.00
Jennifer S. Rivera (2nd Year Attorney)	$375	13.4	$5,025.00
Total Lodestar			**$46,480.00**

The requested fee award is also justified because Plaintiff's counsel achieved a significant monetary recovery in an uncertain and risky case, while bearing the substantial burden of representation on a contingency basis, and the fees requested are in line with the market rate. *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048-51 (9th Cir. 2002) (finding that exceptional results in a contingency case, significant risk and the absence of supporting precedents, are proper considerations in awarding attorneys' fees). Here, counsel expended significant time and resources in litigating this case, which resulted in a favorable result for Plaintiff, the State of California, and Aggrieved Employees in the face of significant defenses. Counsel also bore the contingency risk of this litigation for the benefit of the Aggrieved Employees, as well as the State of California (which declined taking the case). Larsen Decl., ¶¶ 24-26.

Critically, Plaintiff's recovery for the State of California and Aggrieved Employees of approximately $35,191.96 (the Net Settlement Amount) significantly exceeds other PAGA awards approved by California courts. *See*, *e.g.*, *Aguirre v. DSW, Inc.*, 2012 WL 11875296, *3 (C.D. Cal. Nov. 29, 2012) ($10,000 PAGA payment); *Garcia v. Gordon Trucking, Inc.,* 2012 WL 5364575 at *7 (E.D. Cal. Oct. 31, 2012) (approving $10,000 PAGA payment, finding it "comports with settlement approval of PAGA awards in other cases. [Citations.]"); *Boyd v. Bank of Am. Corp.*, 2014 WL 6473804, *8 (C.D. Cal. Nov. 18, 2014) ($18,750 PAGA payment); *Franco v. Ruiz Food Prods.*, 2012 WL 5941801, *14 (E.D. Cal. Nov. 27, 2012) ($10,000 PAGA payment); *Chu v. Wells Fargo Inv., LLC*, 2011 WL 672645, *1 (N.D. Cal. Feb. 16, 2011) ($10,000 PAGA payment).

Plaintiff's counsel's previous experience in litigating wage and hour representative actions also supports the reasonableness of the fee request. Plaintiff's counsel is well-versed in wage and hour class and PAGA action litigation. Larsen Decl., ¶¶ 2-6. Plaintiff's counsel's experience in similar matters was integral in evaluating the strengths and weaknesses of this case and the reasonableness of the Settlement. Because it is reasonable to compensate counsel commensurate with their skill, reputation, and experience, a fee award of one-third of the Gross Settlement Amount is reasonable. Based on all of the above, Plaintiff respectfully submits that the requested fee award is fair, reasonable and adequate and should be approved.

C. <u>The Requested Litigation Costs and Settlement Administration Costs Are Fair, Reasonable, and Adequate</u>

Plaintiff's request for reimbursement of litigation costs of $22,224.71 is also fair and reasonable. All of Plaintiff's litigation costs were reasonably incurred. *See* Larsen Decl., ¶ 28 & Exhibit 5. Moreover, the costs Plaintiff seeks are the types of costs routinely approved by courts. *See*, *e.g.*, *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994) (counsel should recover "those out-of-pocket expenses that would normally be charged to a fee paying client"); *Ashker v. Sayre*, 2011 WL 825713 at * 3 (N.D. Cal. Mar. 7, 2011) ("costs of reproducing pleadings, motions and exhibits are typically billed by attorneys to their fee-paying clients" and are reimbursable); *In re Immune Response Sec. Litig.*, 497 F.Supp.2d 1166, 1177-78 (S.D. Cal. 2007) (mediation expenses, consultant and expert fees, filing fees, messenger and overnight delivery costs, and other costs are reimbursable).

Likewise, the request for administration costs of $4,250.00 is also fair and reasonable. Phoenix was selected because it is an experienced settlement administrator and returned a reasonable bid. *See* Declaration of Jodey Lawrence & Exhibits. Moreover, Phoenix will perform several important functions that are integral to the implementation of the Settlement. *Id.* Its requested fee is therefore reasonable.

D. <u>The Court Should Approve Plaintiff's Requested Enhancement Payment Because It Is Fair Adequate, And Reasonable In View Of Plaintiff's Efforts And The Risks She Assumed In This Litigation</u>

Courts routinely approve enhancement awards to compensate named plaintiffs for the services they provide and the risks they incur during representative litigation. *See, e.g., Bell v. Farmers Ins. Exch.*, 115 Cal.App.4th 715, 726 (2004) (upholding "service payments" to named plaintiffs); *Van Vranken v. Atlantic Richfield Co*., 901 F. Supp. 294 (N.D. Cal. 1995) (approving $50,000 incentive payment); *Rodriguez v. West Publishing Co.*, 563 F.3d 948, 958-59 (9th Cir. 2009) (observing incentive awards are "fairly typical" and are awarded to named plaintiffs "…to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, **to recognize their willingness to act as a private attorney general**") (emphasis added); *see also Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 268 (N.D. Cal. 2015) (awarding $10,000 incentive award in wage-and-hour class/PAGA action, in addition to a $5,000 payment for the plaintiff's individual general release). Here, Plaintiff seeks an enhancement payment of $5,000.00. *See* Settlement, § III.4(b). This request is reasonable given Plaintiff's efforts in this case and the risks she undertook on behalf of Aggrieved Employees. *See* Newsom Decl., ¶¶ 4-5. Plaintiff provided substantial factual information to Counsel, searched for and gathered numerous documents, participated in numerous discussions with Counsel regarding the case and the settlement, reviewed the settlement agreement and other documents in connection with this case, took on significant reputational risk in being named plaintiffs in a representative action against a former employer, and agreed to place her name on a lawsuit that benefitted not just herself, but also the State of California and hundreds of Aggrieved Employees. *Id*.

Accordingly, Plaintiff's requested enhancement payment is appropriate and justified as part of the Settlement.

V. CONCLUSION

For the reasons stated herein, Plaintiff respectfully requests that this Court grant Plaintiff's Motion and adopt the [Proposed] Judgment and Order Granting Settlement Approval.

Respectfully submitted,

Dated: September 8, 2025

ABRAMSON LABOR GROUP

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