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individually and on behalf of all others similarly situated

IN THE SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

DANIEL OCTAVE CHOWYUK, individually and on behalf of all others similarly situated, Plaintiff, v. GOLDEN WEST PACKAGING GROUP, LLC; and DOES 1 through 100, Defendant.	Case No. 24CV005976 **PLAINTIFF DANIEL CHOWYUK'S NOTICE OF MOTION AND MOTION FOR APPROVAL OF PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF MANNY STARR; DECLARATION OF DANIEL CHOWYUK; [PROPOSED] ORDER** **Date: March 13, 2026** **Time: 9:00AM** **Department: 22** **Reservation #: A-05976-004**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on _____, _____, at _____ a.m. or as soon thereafter as the matter may be heard in Department _____ of the Sacramento County Superior Court in the Gordon D. Schaber Superior Court located at 720 9th Street, Sacramento, CA 95814, Plaintiff Daniel Octave Chowyuk will move the Court for an Order approving the settlement of this PAGA action pursuant to Labor Code section 2699(s)(2).

The Motion is based on this notice, the Memorandum of Points and Authorities, the declaration of Manny Starr, the declaration of Plaintiff Daniel Octave Chowyuk, pleadings on file, and arguments at the hearing on this motion.

DATED: December 19, 2025

____
MANNY STARR
Attorney for Plaintiff
Daniel Octave Chowyuk

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Daniel Octave Chowyuk ("Plaintiff") and Defendant Golden West Packaging Group, LLC ("Defendant") reached an agreement to settle the above-captioned action (the "Action"). The Parties have memorialized the terms of the PAGA settlement in a Settlement Agreement (the "Settlement Agreement"). (*See* PAGA Settlement Agreement, attached as **Exhibit 2** to Declaration of Manny Starr ("Starr Decl.").) Pursuant to California Labor Code § 2699(s)(2), Plaintiff seeks an order approving the settlement on the terms outlined in the Settlement Agreement. Plaintiff and Defendant are collectively referred to as the "Parties."

II. ALLEGATIONS AND INVESTIGATION

Defendant is an LLC based in Los Angeles that provides packaging and promotions services throughout North America and East Asia. Plaintiff worked for Defendant as a Clamp Operator at Defendant's Stockton location from May 16, 2022, to July 25, 2023. Plaintiff's duties included operating and maintaining the clamp truck, which is a type of forklift, inspecting and approving loads, and adjusting electronic records. At all times during his employment, Plaintiff was a full-time, hourly, non-exempt employee.

On January 19, 2024, a PAGA notice was sent by certified mail to Defendant and uploaded to the LWDA website. On March 28, 2024, Plaintiff filed the complaint. Plaintiff pled causes of action for: (1) failure to provide compliant meal periods; (2) failure to provide compliant rest periods; (3) wage statement penalties; (4) waiting time penalties; (5) violation of the Unfair Competition Law; and (6) PAGA penalties.

On July 30, 2024, Defendant filed a motion to compel arbitration, which Plaintiff opposed; the Court denied the motion. On September 23, 2024, Defendant filed a motion to reconsider the denial, which Plaintiff opposed; the Court further denied the motion. Rather than needlessly waste additional time and effort on continued motion practice, the Parties agreed in good faith to limit the scope of the Action to Defendant's Stockton location, where Plaintiff was employed. The Parties then exchanged both formal and informal discovery, which included, among other things, a representative 20% sample of the Aggrieved Employees' time and payroll records.

The Aggrieved Employees are all non-exempt employees employed by Defendant and who worked at Defendant's Stockton, California facility during the PAGA Period. According to Defendant's records, Defendant employed 74 Aggrieved Employees from January 19, 2023, through October 3, 2025 ("PAGA Period"), and there are 3,300 pay periods worked during the PAGA Period. (Starr Decl. ¶16.)

On September 3, 2025, the Parties participated in a full day of mediation before an experienced employment mediator, the Honorable Judge Leo Papas (Ret.). The Parties reached a settlement at the Gross PAGA Settlement Amount of $175,000. There is also a separate settlement for the individual wage and hour claims for $15,000. (Id., at ¶12.)

Based on their own independent investigations and evaluations, the Parties and their respective counsel are of the opinion that the Settlement for the consideration and on the terms set forth in this motion are fair, reasonable, and adequate.

The Parties further recognize that the issues presented for the PAGA claim would likely require extensive and costly pretrial and trial proceedings, and that further litigation would cause inconvenience, distraction, disruption, delay, and expense disproportionate to the maximum potential benefits.

III. A COPY OF THE SETTLEMENT AGREEMENT HAS BEEN GIVEN TO THE LWDA PURSUANT TO LABOR CODE § 2699(s)(2)

When enacting PAGA, the Legislature intended to ensure the LWDA retained "primacy" over private enforcement actions of the Labor Code. *See* 2003 Cal. Stat. ch. 906 § 1(d). To that end, PAGA requires parties who seek approval of a proposed PAGA settlement to submit the proposed settlement to the LWDA online at the same time that it is submitted to the court. In satisfaction of that requirement, Plaintiff submitted a copy of the Settlement and this motion to the LWDA through the LWDA's online filing system in conjunction with filing this motion. (Starr Decl. ¶48.)

IV. FAIRNESS OF THE SETTLEMENT

In *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, the court found that the "fair, reasonable, and adequate" standard applicable to class actions applies to PAGA settlements. (*Id*. at p. 64.) The court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws. (*Id*.) The following discussion analyzes the value of the claims.

a. Meal Break Violations

Labor Code section 512 and the Wage Orders require employers to provide non-exempt employees with meal periods of at least 30 minutes for work periods exceeding five hours, and a second meal period for work periods exceeding ten hours. The meal periods must be uninterrupted, with employers relieving employees of all duties. If an employer did not provide a compliant meal period, it must pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

Plaintiff's theory of liability centers on Defendant's chronic understaffing and the operational requirement that Plaintiff and the Aggrieved Employees wait to be relieved from duty by coworkers before taking a break. (Starr Decl. ¶19.) This practice effectively guaranteed late meal breaks due to the lack of replacement or backup staff, implicating a pattern of non-compliance. (Id., at ¶20.) These late meal breaks were a direct result of Defendant's failure to provide sufficient staff coverage and ensure compliant scheduling, leaving employees in the untenable position of either continuing to work or abandoning operational needs. (Id., at ¶21.) Plaintiff sometimes felt compelled to record meal periods at incorrect times in order to make them appear compliant due to Defendant's chronic unwillingness to provide adequate staffing levels, compounded by Defendant's frequently malfunctioning timeclock devices. (Id., at ¶22.)

The maximum liability is 3,300 x $100 (Labor Code Labor Code 2699 penalty) = $330,000. (Id., at ¶23.)

However, Defendant presents strong defenses that reduce the likelihood of recovering the maximum penalty amount. Defendant maintains that Plaintiff's claims of non-compliant meal periods are anecdotal, specific to Plaintiff, and not a result of any company policy or practice; Defendant expects that the other Aggrieved Employees will support Defendant's claims. (Id., at ¶24.) Defendant's written policies regarding meal breaks are facially compliant, and Defendant attempted to cure any alleged timekeeping issues by switching to a computer system that pays employees to the penny and allows clocking in and out via mobile app and not just via a static timekeeping machine. (Id., at ¶25.) Finally, Defendant paid 756 meal period premiums for all recorded non-compliant meal periods during the PAGA Period. (Id., at ¶26.)

Given these defenses and documented compliance efforts, a risk adjustment to 25% of the maximum potential liability is appropriate. Therefore, the risk-adjusted liability is $330,000 x 0.25 = $82,500. (Id., at ¶27.) This adjustment acknowledges both the discretion to reduce PAGA penalties under Labor Code section 2699(e)(2) when they would be unjust, arbitrary, oppressive, or confiscatory, and the challenges Plaintiff would face in proving widespread violations were the result of Defendant's policies.

b. Rest Break Violations

The Wage Orders require employers to authorize and permit employees to take rest periods at the rate of 10 minutes net per four hours or major fraction thereof. Employers must relieve employees of all duties during rest periods and allow them to leave the premises. If an employer does not provide a compliant rest period, it must pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

Plaintiff alleges that Defendant failed to provide compliant rest breaks entirely during their employment. (Id., at ¶28.) Defendant's supervisors and HR failed to provide any training or guidance regarding rest break rights or obligations, leaving the Aggrieved Employees uninformed about their entitlement to rest breaks. (Id., at ¶29.) Rest breaks were not tracked in the timekeeping system, and there was no mechanism to record missed rest breaks at all. (Id., at ¶30.) The maximum PAGA liability is 3,300 pay periods x $100 (Labor Code 2699) = $330,000. (Id., at ¶31.)

However, Defendant presents strong defenses that reduce the likelihood of recovering the maximum penalty amount. Defendant contends that the rest break issues are specific to Plaintiff and not as a result of any company policy or practice, which are facially compliant. (Id., at ¶32.) Since meal period premiums paid suggest minimal meal break violation rates, it follows that rest break violations follow the same pattern. (Id., at ¶33.)

Given these defenses, the low violation rates, and the inherent difficulties in proving rest break violations, a risk adjustment to 25% of the maximum potential liability is appropriate. Therefore, the risk-adjusted liability is $330,000 x 0.25 = $82,500. (Id., at ¶34.)

c. Wage Statement Penalties

The wage statement violations are derivative of the meal and rest break violations. (Id., at ¶35.) Assuming a violation on every single wage statement over the 3,300 pay periods at issue, the maximum theoretical value of this claim is 3,300 x $100 per Labor Code 2699 = $330,000. (Id., at ¶36.)

However, because this claim is derivative, defeating liability on the underlying claims also defeats liability on the Wage Statement claim. (Id., at ¶37.) Even if the underlying claim prevails, Defendant could counter that any alleged omission of information from the wage statements was not knowing and intentional, which could negate wage statement penalties. (*Harris v. Vector Mktg. Corp.* (N.D. Cal. 2009) 656 F. Supp. 2d 1128, 1145-46.) Consequently, Plaintiff estimates that the risk-adjusted liability on this claim is 20% of its maximum value, or $66,000. (Starr Decl. at ¶38.)

d. Waiting Time Penalties

Similarly, the waiting time penalties are derived from the missed break allegations. (Id., at ¶39.) There are 22 former employees, so the maximum PAGA liability is 22 x $100 (Labor Code 2699) = $2,200. (Id., at ¶40.)

On the other hand, Defendant can defeat the waiting time penalty claim if it defeats the underlying predicate claims. (Id., at ¶41.) In addition, much like the wage statement claims, Defendant will argue that any failure to pay was not willful, that it disputes that any wages were due, that violations were minimal, and that any affected Aggrieved Employee was not following company procedure. (Id., at ¶42.) Given this double risk of losing on liability, Plaintiff evaluates the risk-adjusted value of this claim to be 10% or $220. (Id., at ¶43.)

e. The Total Settlement Amount is Fair and Reasonable

Summarizing the above, the maximum PAGA liability is the following:

1. Meal break violations -	$330,000
2. Rest break violation -	$330,000
3. Wage statement violation -	$330,000
4. Waiting time violation -	$2,200
Total -	$992,200

The gross PAGA settlement of $175,000 is 17.6% of the maximum liability.

The total risk-adjusted liability is the following:

1. Meal break violation -	$82,500
2. Rest break violation -	$82,500
3. Wage statement violation -	$66,000
4. Waiting time violation -	$220
Total -	$231,220

The gross PAGA settlement of $175,000 is 75.7% of the risk-adjusted liability.

Both figures are within the range of reasonableness. (*See*, e.g., *Gilmore v. McMillan-Hendryx Inc.*, 2022 WL 184004, at *4 (E.D. Cal. Jan. 20, 2022) (PAGA award of 4.2% of the maximum estimated value of PAGA claims and 2.3% of the total settlement amount was "not unreasonable and weighs in favor of settlement"); *Merante v. Am. Inst. for Foreign Study, Inc.*, 2022 WL 2918896, at *6 (N.D. Cal. July 25, 2022) (PAGA award of between 0.27% and 2% of the maximum estimated value of PAGA claims was "small" but "within the range of reasonableness").

In addition to the risks related to each of the theories of liability as outlined above, Plaintiff recognizes that there are additional risks related to litigation in general which justify a settlement that is lower than the estimated risk adjusted liability; Defendant further contends that, unlike for Plaintiff, it could enforce its arbitration agreement over the other Aggrieved Employees. (Starr Decl. at ¶44.) In view of the risks, the Settlement of $175,000 (17.6% of maximum liability, 75.7% of risk adjusted liability) represents a fair, adequate, and reasonable compromise amount for these claims and is in the best interest of Plaintiff and Aggrieved Employees and thus, warrants approval. (Id., at ¶45.) *See Laguna v. Coverall N. Am., Inc.*, Case No. 12-55479 (9th Cir. June 3, 2014) 2014 WL 2465049, * 3. The PAGA settlement and its terms are fair, just, reasonable, adequate, and equitable to Defendant, Plaintiff, and the State, especially in light of the current economic climate, and are the product of good faith, and informed arms-length negotiations between the Parties consistent with public policy and fully comply with applicable provisions of law. (Starr Decl. ¶47.)

V. <u>TERMS AND PROCEDURES OF THE SETTLEMENT</u>

The Settlement covers all PAGA penalties and claims arising from Plaintiff's allegations in the Complaint, as laid out above. Defendant agrees to pay $175,000 for the Settlement (the "Gross Settlement Amount" or "GSA") distributed by the Settlement Administrator as follows:

a. $61,250 (35% of the GSA) in attorney's fees to Frontier Law Center;
b. Actual costs, up to $12,000 in attorney litigation costs to Frontier Law Center;
c. $2,995 in PAGA Settlement Administrator costs to Phoenix Class Action Administration Solutions;
d. $5,000 enhancement award to Plaintiff Daniel Octave Chowyuk;
e. The remainder, estimated as $93,755 (the "Net Settlement Amount" or "NSA") will be divided as follows:
    i. $70,316.25 (75% of NSA) to the LWDA;
    ii. $23,438.75 (25% of NSA) (the "Aggrieved Employee Payment") to the Aggrieved Employees.

Plaintiff and each Aggrieved Employee shall receive a portion of the Aggrieved Employee Payment on a pro-rata basis by the ratio of (i) the number of pay periods worked by the Aggrieved Employee during the release period and (ii) the total number of pay periods worked by all Aggrieved Employees during the release period. The average Aggrieved Employee will receive $316.74, or $7.10 per workweek. (Starr Decl. ¶17.)

For purposes of taxes, one hundred percent (100%) of the Aggrieved Employee Payment Share shall be considered to be a civil penalty and shall not be subject to withholding, unless otherwise required by law.

VI. THE PROPOSED ATTORNEY'S FEES AND COSTS ARE FAIR, ADEQUATE, AND REASONABLE AND SHOULD BE APPROVED

Plaintiff's counsel represents Plaintiff on a straight contingency basis. (Id., at ¶52.) Plaintiff counsel's request for $61,250 in attorney fees and $12,000 in litigation costs is fair and reasonable. (Id., at ¶53 & ¶54.) "Empirical studies show that, regardless of whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery. (*Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 47 fn. 11; *see also Lafitte v. Robert Half Int'l Inc.* (2016) 1 Cal.5th 480, 503 (holding that courts can use the percentage method for the calculation of attorneys' fees).) This is also consistent with Plaintiff's Counsel's experience in cases involving PAGA claims. The award is justified because Plaintiff's counsel achieved a strong result for the Aggrieved Employees and the State while bearing the burdens of contingency representation. (Starr Decl. ¶52.)

It is an accepted practice in wage and hour class action settlements to award attorneys' fees to Plaintiff's Counsel based on a percentage of the total settlement. California courts have long recognized that an appropriate method for awarding attorneys' fees in class actions is to award a percentage of the common fund. (*See Serrano v. Priest* (1977), 20 Cal.3d. 25, 48-49: "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"; *Wershba v. Apple Computer, Inc.* (2001), 91 Cal.App.4th, 230, 254.) While PAGA actions are not class actions, the same logic holds true as PAGA actions are also representative actions.

Generally, courts award multipliers between 2 to 4 times the lodestar to reward counsel for accepting the contingent risks of the litigation or obtaining good results. (*Pellegrino v. Robert Half Intern., Inc.* (2010), 182 Cal.App.4th 278 (noting reasonable multipliers of 2.0 to 4.0 are often applied and affirming 1.75 multiplier); *Wershba v. Apple Computer, Inc.* (2001), 91 Cal.App.4th 224, 254 (noting that multipliers can range from 2 to 4 or higher).) Courts multiply the lodestar by a factor to account for the risk of non-payment, delay in payment, the quality of work, and the novelty and difficulty of the issues involved. (*Ketchum v. Moses* (2001), 24 Cal.4th 1122, 1132.) The requested fee award is justified by the work performed, especially in a matter as complex as the Action, with its extensive number of Aggrieved Employees and PAGA Pay Periods and its long procedural history. The fee award is almost at parity with Plaintiff's Counsel's current lodestar of $53,990.00 and simply includes a reasonable multiplier of 1.13 with additional work to be performed such that the multiplier will ultimately be less than 1.13. (Starr Decl. ¶53.)

The litigation costs expended include the following: certified mail costs of $8.53 for the PAGA notice to Defendant and $8.53 for the record request letter to Defendant; $75.00 filing fee for filing the PAGA notice; $8,450 for Plaintiff's portion of the mediation fee; $240.00 in mediation-related travel fees; $466.26 for the initial filing fee; $1,000.00 to the Clerk of the Superior Court for complex fees; $160.89 in additional filing fees and service charges; and $136.00 for process service. All of these costs are documented and reasonably incurred. (Id., at ¶54.) The costs include charges by One Legal, Plaintiff's counsel's electronic filing processor, where applicable.

VII. <u>NO ADMISSION OF LIABILITY OR WRONGDOING</u>

The payment of consideration or any other obligation are not and shall not be construed in any way as an admission of wrongdoing or liability on the part of Defendant, or any other person or business entity. Defendant adamantly denies all allegations of wrongdoing and liability arising out of the employment relationship between the Parties, including the Aggrieved Employees. The Parties intend merely to avoid the expense, delay, uncertainty, and burden of continued litigation.

VIII. <u>PAGA SETTLEMENT ADMINISTRATION</u>

The Parties agreed to use Phoenix Class Action Administration Solutions to handle the administration of this Settlement.

a. Aggrieved Employee Data

Within 15 business days of the Court's Order granting approval of this Agreement, Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employees' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

b. Funding of Settlement

The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund under US Treasury Regulation section 468B-1. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than thirty (30) days after the Court enters the order approving the Settlement.

c. Payment to LWDA, Plaintiff's Counsel, Plaintiff, and Settlement Administrator

Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees and Litigation Expenses Payments, and the PAGA Representative Service Payment. Disbursement of the PAGA Counsel Fees and Litigation Expenses Payments shall not precede disbursement of Aggrieved Employee Payments.

d. Employee Notices and Payments to Aggrieved Employees

Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Aggrieved Employee Payments. The Administrator will issue checks for the

Aggrieved Employee Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are retuned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re- mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

e. Expiration of Settlement Checks

The face of each check shall prominently state the date (not less than 120 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. 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.

f. Disputes Relating to Settlement Administration

If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the suppo1ting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement.

IX. <u>TAXES</u>

Plaintiff and Aggrieved Employees assume full responsibility and liability for any taxes owed on the PAGA Representative Service Payment and their Aggrieved Employee Payments.

X. <u>RELEASED CLAIMS</u>

All Aggrieved Employees 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 claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice, which shall include claims for PAGA civil penalties for alleged violation of California Labor Code sections 201-203, 226,226.3, 226.7, 227.3, 512, 558, and 2699, for alleged failure to provide compliant meal and rest breaks and associated premiums; wage statement violations; untimely wages and wages due during employment and upon termination; any other claims related to this Action by all individuals whether known or unknown, suspected or unsuspected, that were or could have been alleged or asserted based on Aggrieved Employees' employment with Defendant during the PAGA Period, including all claims that were or could have been brought under the Private Attorneys General Act as it relates to the underlying California Labor Code claims referenced above, including any interest, statutory and civil penalties, attorneys' fees, costs, or any other form of relief whatsoever in connection to Plaintiffs claims for PAGA civil penalties during the PAGA Period.

XI. <u>CONCLUSION</u>

The Settlement being fair, reasonable, and adequate, Plaintiff respectfully requests that the Court approve the Settlement.

DATED: December 19, 2025

MANNY STARR
Attorney for Plaintiff
Daniel Octave Chowyuk