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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

MONIQUE HILL, individually, and on behalf of all others similarly situated,

Plaintiff,

v.

WATERMANIDENCE OPCO, LLC, a limited liability company; and DOES 1 through 10, inclusive,

Defendants.

Case No.: CIVSB2406205

[Assigned for All Purposes to the Hon. Khymberli S. Apaloo, Dept. S25]

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR APPROVAL OF PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES

PAGA Approval Hearing:
Date: January 12, 2027
Time: 8:30 a.m.
Dept: S25

Action Filed: March 29, 2024

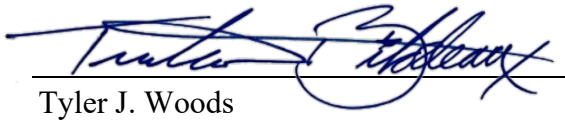
TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on January 12, 2027, at 8:30 a.m., or as soon thereafter as the matter may be heard in Department S25 of the above-entitled Court, located at 247 W. Third Street, San Bernardino, CA 92415. Plaintiff Monique Hill ("Plaintiff") will and hereby does move for an order approving the settlement of the PAGA claim alleged against Defendant Watermanidence OPCO, LLC ("Defendant") in accordance with Labor Code §2699(l). The proposed settlement is set forth in the accompanying PAGA Settlement Agreement ("Settlement").

This Motion will be based on this notice, the accompanying points and authorities, the Declaration of Tyler J. Woods, Plaintiff's Declaration, and the complete files and records in this action. The Labor and Workforce Development Agency has been served with this motion and the Settlement Agreement as set forth in the accompanying proof of service.

Dated: November 9, 2026

WILSHIRE LAW FIRM, PLC

By: 

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Monique Hill ("Plaintiff") and Defendant Watermanidence OPCO, LLC ("Defendant") (Plaintiff and Defendant collectively, the "Parties") reached a settlement of the California Private Attorneys General Act, Cal. Labor Code § 2699, et seq. ("PAGA") claims asserted in this action. In accordance with Labor Code §2699(l), Plaintiff now asks this Court to review and approve the settlement of Plaintiff's PAGA claims. This is PAGA Settlement for civil penalties and is not a class settlement and does not release the individual wage claims, if any, of the affected employees other than those of Plaintiff. Cal. Labor Code § 2699(g)(1); *Iskanian v. CLS Transportation*, 59 Cal. 4th 348, 381 (2014); *ZB, N.A. v. Superior Court*, 8 Cal. 5th 175, 182 (2019) (unpaid wages are not recoverable under PAGA).

The PAGA Settlement is set forth in the accompanying PAGA Settlement Agreement ("Settlement"). A true and correct copy of the Settlement which sets forth the terms for the settlement of the PAGA claims is attached as Exhibit 2 to the Declaration of Tyler J. Woods in Support of Motion for Approval of PAGA Settlement ("Woods Decl."), filed concurrently herewith. Capitalized terms shall have the same meaning as defined in the Settlement Agreement. The Settlement provides for a non-reversionary Gross Settlement Amount of $225,000.00, of which $125,690.24 will be distributed as PAGA Penalties—$94,267.68 (75%) to the LWDA and $31,422.56 (25%) to approximately 724 Aggrieved Employees. Settlement Agreement §§ 3.1, 3.2.4; Woods Decl. ¶ 7. The LWDA received notice of this Settlement on November 6, 2026. Woods Decl. ¶ 32, Ex. 6.

II. RELEVANT FACTS AND PROCEDURAL HISTORY

On March 29, 2024, Plaintiff filed this action as a putative class action against Defendant alleging: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to indemnify employees for expenditures; and (8) unfair business practices. On April 18, 2024, Plaintiff filed a First Amended Complaint adding an allegation for civil penalties

pursuant to California Private Attorneys General Act, Cal. Labor Code § 2699, et seq. ("PAGA"). Settlement Agreement § 2.1; Woods Decl. at ¶ 3. Defendant Watermanidence OPCO, LLC does business as Waterman Canyon Post Acute. Settlement Agreement § 1.9. On May 20, 2025, the Court granted Defendant's motion to compel arbitration of Plaintiff's individual PAGA and non-PAGA claims, dismissed Plaintiff's class claims, and stayed Plaintiff's non-individual PAGA claims. The First Amended Complaint, with the class claims dismissed, is the operative complaint in this Action (the "Operative Complaint"). Settlement Agreement § 2.1; Woods Decl. at ¶ 3.

Pursuant to Labor Code section 2699.3, subdivision (a), Plaintiff gave timely written notice on February 13, 2024, to the Labor and Workforce Development Agency ("LWDA") and Defendants of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories in support (LWDA-CM-1010846-24). Woods Decl. at ¶ 4, Ex. 1.

PAGA Counsel conducted a thorough investigation into the facts of, and applicable law to, the PAGA Action. Plaintiff obtained through informal discovery a representative sampling of time and payroll data for Aggrieved Employees and the necessary policy documents to properly evaluate the strengths and weaknesses of the claims and engage in meaningful settlement discussions. Settlement Agreement § 2.4; Woods Decl. at ¶ 5. The data sample covered approximately 190 employees, 30,512 shifts, 7,657 workweeks, and 4,023 biweekly pay periods between February 13, 2023 and June 5, 2025. Plaintiff retained a consulting expert, Berger Consulting Group LLC, which analyzed the sample and extrapolated the results to the full PAGA Period (approximately 724 Aggrieved Employees, 119,674 shifts, 30,032 workweeks, and 15,779 pay periods through January 14, 2026). Woods Decl. at ¶ 5.

On January 27, 2026, the Parties were able to reach an agreement on general settlement terms. Woods Decl. at ¶ 6. The settlement was negotiated in light of all known facts and circumstances and the uncertainty associated with litigation – including the risk of Plaintiff not being able to maintain representative claims, the difficulty of proving Plaintiff's claims in a manageable trial, the merits of Defendant's potential defenses, and the significant delay and potential appellate issues inherent to litigation – and was reached after extensive arm's length negotiations. Woods Decl. at ¶ 6. The Parties' informal settlement discussions took place before

the preliminary arbitration management conference scheduled for March 3, 2026. Settlement Agreement § 2.3. Defendant executed the Settlement Agreement on June 16, 2026, Plaintiff executed it on July 29, 2026, and counsel approved it as to form on July 30, 2026 and August 11, 2026. Settlement Agreement at 17–18; Woods Decl. at ¶ 6. The Parties have disclosed one related action, *McHenry v. Watermanidence Opco, LLC* (San Bernardino County Case No. CVISB2522536), which was settled on an individual basis and in which the PAGA claims are in the process of being dismissed. Settlement Agreement § 2.5.

III. TERMS OF THE PAGA SETTLEMENT

A. Aggrieved Employees

"Aggrieved Employee" means all individuals who worked for Defendant as a nonexempt, hourly employee in California during the PAGA Period from February 13, 2023, to January 14, 2026. Settlement Agreement §§ 1.4, 1.22. Defendant estimates that there are approximately 724 Aggrieved Employees who worked an estimated 15,779 PAGA Pay Periods. *Id*. at § 4.1.

B. Settlement Terms

The Settlement Agreement negotiated by the Parties provides for a Gross Settlement Amount ("GSA") payment in the amount of $225,000.00 to resolve the PAGA Action. Settlement Agreement §§ 1.13, 3.1; Woods Decl. at ¶ 7. The GSA will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees, PAGA Counsel Expenses, the Enhancement Award and the Administrator's Expenses. Settlement Agreement § 3.2; Woods Decl. at ¶ 7. After deducting the Enhancement Award ($7,500.00), PAGA Counsel Fees ($75,000.00), PAGA Counsel Litigation Expenses ($6,809.76), and the Administrator Expenses Payment (not to exceed $10,000.00) from the GSA, the amount remaining is the Net Settlement Amount ("NSA"). Settlement Agreement § 1.18; Woods Decl. at ¶ 7. The NSA, which is estimated to be $125,690.24, shall be distributed as PAGA Penalties with 75% of the NSA allocated to the LWDA PAGA Payment ($94,267.68) and 25% of the NSA allocated to Individual PAGA Payments ($31,422.56). Settlement Agreement § 3.2.4; Woods Decl. at ¶ 7.

None of the GSA will revert to Defendant. Settlement Agreement § 3.1.

PAGA Penalties: The NSA will be distributed as PAGA Penalties with seventy-five percent (75%) allocated to the LWDA PAGA Payment and the remaining twenty-five percent (25%) allocated to the Individual PAGA Payments for Aggrieved Employees. Settlement Agreement § 3.2.4. This 75/25 allocation is required by Labor Code §2699 as explained by *ZB, N.A. v. Superior Court*, 8 Cal.5th 175 (2019).

Individual PAGA Payments: The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Settlement Agreement § 3.2.4.1. The PAGA Period is the period from February 13, 2023, to January 14, 2026. Settlement Agreement § 1.22. Based on the estimated 15,779 PAGA Pay Periods, each PAGA Pay Period is worth approximately $1.99, and the average Individual PAGA Payment is approximately $43.40 across the 724 Aggrieved Employees. Woods Decl. at ¶ 7.

Enhancement Award: Subject to Court approval, the Plaintiff shall be paid a Enhancement Award not to exceed $7,500.00 for her time and effort in bringing and presenting the Action. Settlement Agreement §§ 1.11, 3.2.1.

PAGA Counsel Fees Payment: Subject to Court approval, PAGA Counsel shall be entitled to receive an award of reasonable attorneys' fees of not more than one third (1/3) of the GSA which is currently estimated to be $75,000.00. Settlement Agreement § 3.2.2.

PAGA Counsel Litigation Expenses Payment: Per the Settlement Agreement, PAGA Counsel shall be entitled to request reimbursement of costs, not to exceed $20,000.00. Settlement Agreement § 3.2.2. WLF has incurred $6,809.76 in actual litigation expenses, consisting of $2,388.30 in filing, service, and e-filing fees; $411.96 in mediation fees paid to JAMS, Inc.; and $4,009.50 for its consulting expert, Berger Consulting Group LLC (8.10 hours of work). Woods Decl. ¶ 30, Ex. 4. Because this is less than the $20,000.00 cap, the remaining $13,190.24 will remain in the NSA to be distributed as PAGA Penalties to the LWDA and

Aggrieved Employees. *Id*.

Administrator Expenses Payment: The Parties agreed to appoint Apex Class Action Administrator ("Apex") as the Administrator for the Settlement. Settlement Agreement § 6.1. The Settlement Administration Expenses, which are not to exceed $10,000.00 absent a showing of good cause and Court approval, shall be paid from the GSA. Any unused portion remains in the NSA for distribution to the LWDA and Aggrieved Employees. Settlement Agreement § 3.2.3.

Escalator Clause: The GSA was calculated based on an estimate that 724 Aggrieved Employees worked approximately 15,779 pay periods as of January 14, 2026. If the total number of pay periods increases by more than 10% (i.e., more than 17,356 pay periods), the GSA will increase proportionally for the pay periods worked in excess of that threshold, and the portion allocated to attorneys' fees will increase proportionally so that attorneys' fees remain one-third of the GSA. Settlement Agreement § 7.

C. Releases

Plaintiff's Release: "In exchange for the Enhancement Award, Plaintiff discharges and fully releases the Released Parties from all known and unknown claims Plaintiff may have or claim to have against Defendant as well as Defendant's members, owners, employees, officers, agents, affiliates, and insurers, arising from her employment with Defendant, separation of employment from Defendant, and any acts that have or could have been asserted in any legal action or proceeding against Defendant, including those arising under any federal, state, or local law, or statute, including, inter alia, those arising under the California Labor Code, Fair Labor Standards Act, Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, Employee Retirement Income Security Act, National Labor Relations Act, California Corporations Code, California Business and Professions Code, California Fair Employment and Housing Act, California Constitution (all as amended), and law of contract and tort, as well as for discrimination, harassment, retaliation, wrongful termination, lost wages, benefits, other employment compensation, emotional distress, medical expenses, other economic and non-economic damages, attorney fees, and costs, arising on or before the date of execution of the

Settlement Agreement. In connection with said release, Plaintiff shall waive all rights under California Civil Code section 1542 and any other provision of law that may restrict the release of unknown claims. Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them." Settlement Agreement § 5.1.

Plaintiff's Waiver of Rights Under California Civil Code Section 1542. "For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads: A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party." Settlement Agreement § 5.1.1.

Released PAGA Claims: "All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, 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 facts and allegations in the Operative Complaint that are alleged to have occurred during the PAGA Period and the PAGA Notice, including but not limited to California Labor Code sections 98.6, 201, 201.3, 202, 203, 204, 210, 216, 223, 226, 226.3, 226.7, 227.3, 232, 232.5, 245-248.5, 246, 432, 432.5, 432.7, 510, 512, 1102.5, 1174, 1174.5, 1194, 1197, 1197.1, 1197.5, 1198, 1198.5, 1527, 2698, et seq., 2699, et seq., 2802, 3366, 3457, 8397.4, 6401, and 6401, and Section 14(A-B) of all applicable IWC Wage Orders." Settlement Agreement § 5.2. The releases take effect on the date Defendant fully funds the Gross Settlement Amount. *Id*. at § 5.

/ / /

D. Settlement Administration

Defendant will provide the Aggrieved Employee Data to the Administrator not later than fourteen (14) days after the Court signs the Approval Order. Settlement Agreement §§ 1.5, 4.2. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employees Data omitted Aggrieved Employees identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. *Id*.

The Effective Date is the date when all of the following occurs: (a) the Court enters a Judgment on its Order Granting Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the date the Court enters Judgment. Settlement Agreement § 1.12. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator within fourteen (14) days of the Effective Date. *Id*. at § 4.3.

Within ten (10) calendar days after Defendant funds the GSA, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and the Enhancement Award. Disbursement of the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and the Enhancement Award shall not precede disbursement of Individual PAGA Payments. Settlement Agreement § 4.4. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail. *Id*. at § 4.4.1. The Administrator must conduct an Aggrieved Employee Address Search for all other Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. *Id*. at § 4.4.2. 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. *Id*.

The Individual PAGA payments will expire one hundred eighty (180) calendar days after the date of mailing. Settlement Agreement § 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 employee. Settlement Agreement § 4.4.3. All Individual PAGA Payments will be allocated 100% to the settlement of claims for civil penalties and shall be reported on an IRS Form 1099 by the Settlement Administrator. *Id*. at § 3.2.4.

Within ten (10) days after Defendant fully funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and the Enhancement Award. Disbursement of the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and the Enhancement Award shall not precede disbursement of Individual PAGA Payments. Settlement Agreement § 4.4.

Within ten (10) calendar days after the Administrator disburses all funds in the GSA, the Settlement Administrator will provide PAGA Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. Settlement Agreement § 6.4.1.

Pursuant to California Labor Code Section 2699(s)(2), Plaintiff submitted the proposed Settlement Agreement to the LWDA on November 6, 2026. Woods Decl. at ¶ 32, Ex. 6. Plaintiff will submit a copy of the Court's judgment and order approving the Settlement Agreement to the LWDA within ten (10) days after entry of judgment or order. *Id*.

IV. THE COURT SHOULD GRANT APPROVAL OF THE PAGA SETTLEMENT

A. Legal Standard

Labor Code § 2699(l) requires that the Court "shall review and approve any settlement of any civil [PAGA] action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court." In doing so, the trial court must consider whether the settlement 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." *Moniz v. Adecco USA, Inc*., 72 Cal. App. 5th 56, 77-78 (Cal. Ct. App. Nov. 30, 2021) (overruled in part on other grounds); *see also O'Connor v. Uber Technologies, Inc*., 201 F. Supp. 3d 1110, 1133 (N.D. Cal. 2016) (adopting guidance from the

LWDA providing that "when a PAGA claim is settled, the relief provided for under the PAGA [must] be genuine and meaningful, consistent with the underlying purpose of the statute to benefit the public").

The court's role in reviewing PAGA settlements differs from its gatekeeping function in the class action context. In class actions, courts have a fiduciary duty to protect the interests of absent class members, whose individual claims will be discharged. *Kullar v. Foot Locker Retail, Inc*., 168 Cal.App.4th 116, 129 (2008). In this role, courts conduct an "independent assessment of the adequacy of the settlement terms," which requires them to have sufficient data and information about the amount in controversy and the realistic range of outcomes. *Id*. at 132. Courts consider a variety of factors in conducting this analysis, including whether the settlement is negotiated at an arm's length, whether there is sufficient discovery and information to permit parties and the court to act intelligently, whether the attorneys have experience with the type of issues, and whether the number of objectors is small. *Dunk v. Ford Motor Co*., 48 Cal.App.4th 1794, 1800-1801 (1996).

However, a PAGA representative action is "not akin to a class action," it "is a species of qui tam action." *Flores v. Starwood Hotels & Resorts Worldwide, Inc*., 253 F.Supp.3d 1074, 1076 (C.D. Cal. 2017). When reviewing a PAGA-only settlement, courts do not consider the value of individuals' claims for damages because a PAGA settlement does not release those claims. *See Kim v. Reins Int'l California, Inc*., 9 Cal.5th 73, 87 (2020) (PAGA claims differ from individual claims); *ZB, N.A. v. Superior Court*, 8 Cal.5th 175, 188 (2019) (noting that PAGA penalties do not seek damages that are compensatory in nature). "The state's interest in such an action is to enforce its laws, not to recover damages on behalf of a particular individual." *Huff v. Securitas Sec. Servs., USA, Inc*., 23 Cal.App.5th 745, 760 (2018). Instead of focusing on fair recovery for individual claims, the goal of PAGA enforcement is to achieve "maximum compliance with state labor laws." *Id*. at 756; *see also Iskanian*, 59 Cal.4th at 383 (noting that the goal of PAGA is to impose civil penalties for Labor Code violations "significant enough to deter violations"); *McKenzie v. Federal Exp. Corp*., 765 F.Supp.2d 1222, 1233 (C.D. Cal. 2011) ("Unlike a class action seeking damages… 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.").

B. The PAGA Penalties Secured by the Settlement Are Genuine and Meaningful and Fulfill PAGA's Underlying Purpose to Benefit the Public

The Settlement of $225,000.00 penalizes Defendant for the alleged violations of California's labor laws in an amount that is significant enough to deter violations and provide genuine and meaningful relief – and approximately $125,690.24[1] in PAGA Penalties to the State of California and Aggrieved Employees ($94,267.68 to the LWDA and $31,422.56 to the Aggrieved Employees) – thus fulfilling the underlying purpose of PAGA to benefit the public. Woods Decl. at ¶¶ 7-11; *see Jordan v. TCS Grp., Inc*., No. EDCV161701JVSSPX, 2018 WL 1409590, at *3 (C.D. Cal. Jan. 5, 2018) ("The proposed settlement imposes a substantial penalty payment of $150,000.00, paid in exchange for a release of only those claims pled in the notice to the LWDA and the Complaint. This penalty has a substantial deterrent effect on Defendant and other California employers. Furthermore, the proposed settlement encourages compliance with the specific requirements of the Labor Code, which has the effect of protecting workers from unlawful employment practices and working conditions."); *Echavez v. Abercrombie & Fitch Co*., No. CV 11-09754-GAF, 2017 WL 3669607, at *3 (C.D. Cal. Mar. 23, 2017) (finding that "[t]he primary purpose of PAGA, i.e., the empowerment of Aggrieved Employees to act as private attorneys general to collect civil penalties from their employers for Labor Code violations, [was] served by the proposed PAGA penalty in the parties' settlement agreement," where $340,000 of $700,000 settlement was allocated to PAGA penalties which were divided 75% to the LWDA and 25% to an estimated 10,000 Aggrieved Employees).

[1] The Net Settlement Amount of $125,690.24 was calculated using the following arithmetic: $225,000.00 minus $75,000.00 for Plaintiff's Counsel's attorneys' fees, minus $6,809.76 for Plaintiff's Counsel's litigation expenses, minus $10,000.00 for administration costs (the maximum permitted under the Settlement Agreement), and minus $7,500.00 for the enhancement award to Plaintiff. Settlement Agreement §§ 3.2.1–3.2.3. If the Administrator's actual expenses are lower, or the Court awards less than requested, the difference will remain in the Net Settlement Amount and increase the PAGA Penalties distributed to the LWDA and Aggrieved Employees. *Id*. at § 3.2.

This PAGA Settlement amount compares favorably to the estimated amount of PAGA penalties. Plaintiff, with the assistance of a consulting expert, calculated that the maximum amount of statutory PAGA civil penalties, at $100.00 per pay period and without stacking, was potentially $1,577,900.00 for an estimated 724 employees based on 15,779 pay periods.[2] Woods Decl. at ¶ 8. Importantly, however, these calculations were performed at the maximum statutory rate for the penalties, when in fact, it is likely that any penalties awarded would be at a lower rate. California Labor Code Section 2699(e)(1) permits a Court to award a lesser amount than the maximum civil penalty if based on the facts and circumstances to do otherwise would result in an award that is "unjust, arbitrary and oppressive or confiscatory." *See Carrington v. Starbucks Corp*., 30 Cal.App.5th 504 (2018) (affirming a judgment after trial that only provided for a PAGA penalty of $5 per pay period). Therefore, at trial, any PAGA penalties awarded could be significantly less than Plaintiff's calculation even where Plaintiff prevailed on the PAGA claim. *See Fleming v. Covidien*, No. ED CV 10-01487 RGK (OPx), 2011 U.S. Dist. LEXIS 154590 (C.D. Cal. Aug. 12, 2011) (a federal court reduced PAGA penalties from $2,800,000.00 to $500,000.00, a reduction of 82.2%, because the court found maximum penalties "unjust" because the employees had suffered no injuries). Applying these principles, Plaintiff's counsel estimated a realistic PAGA recovery at trial of approximately $157,790.00 (10% of the unstacked maximum), taking into account the Court's discretion to reduce penalties, Defendant's defenses, and the risks of trial. Woods Decl. at ¶ 8. The $125,690.24 in PAGA Penalties under the Settlement represents approximately 80% of that realistic estimate, and the $225,000.00 Gross Settlement Amount represents approximately 14% of the unstacked maximum. *Id*.

C. The Settlement is Reasonable Given the Risks of Further Litigation

In order to recover any PAGA penalties, Plaintiff would be required at trial to prove each

[2] Stacking is where more than one civil penalty is imposed in a pay period for the same conduct. The valuation of $1,577,900.00 is the civil penalty amount without stacking. If stacking is permitted, then the valuation increases with each additional penalty added to each pay period. Courts to consider the issue have refused to "stack" penalties. *See Carrington v. Starbucks Corp*., 30 Cal.App.5th 504 (2018).

of the underlying Labor Code violations. *See Cardenas v. McLane Foodservice, Inc.*, No. BCV-23-102915, 2011 U.S. Dist. LEXIS 13126, *10 (C.D. Cal. Jan. 31, 2011) ("Given the statutory language [of PAGA], a plaintiff cannot recover on behalf of individuals whom the plaintiff has not proven suffered a violation of the Labor Code by the defendant."). Here, Plaintiff would need to prove, among other things, that each Aggrieved Employee suffered a violation for each period the employee worked in relation to (1) failure to pay for all hours worked, including minimum, straight time, and overtime wages; (2) failure to provide meal periods; (3) failure to authorize and permit rest periods; (4) failure to timely pay all wages at termination; (5) failure to furnish accurate itemized wage statements; (6) failure to indemnify for necessary expenditures.

Defendant maintains that Plaintiff and the Aggrieved Employees were properly compensated, and that Defendant did not commit any violations of the Labor Code as to Plaintiff or the Aggrieved Employees. Woods Decl. at ¶ 9. Accordingly, Defendant disputes and denies Plaintiff's allegations and claims asserted in the operative complaint which are resolved by the Settlement Agreement. *Id*. Defendant asserted additional defenses to the PAGA claim, not only as to liability but also as to the amount of the penalties. *Id*. Defendant could argue that no penalties prior to the PAGA notification should be awarded because the violations were not intentional, and at least one Court has so ruled. *Id*. These defenses present a risk to the PAGA claim and the potential that some or all the PAGA penalties sought may not be awarded. *Id*. The records themselves also present liability risks. The consultant's analysis of the sample time and payroll data reflected a meal-period violation rate of approximately 0.9% net of premiums, meal-period violations in only about 8.7% of pay periods (approximately 1,365 pay periods) and rest-period violations in only about 10.1% of pay periods (approximately 1,592 pay periods) once extrapolated to the PAGA Period, and Defendant had paid meal premiums on a substantial number of shifts in the sample. Woods Decl. at ¶ 9. Plaintiff's unpaid-wage theory, by contrast, rests on an assumed one hour of unrecorded work per workweek rather than on recorded data. *Id*. In addition, the Court's May 20, 2025 order compelling Plaintiff's individual claims to arbitration and staying the non-individual PAGA claims adds further delay and uncertainty.

Settlement Agreement § 2.1.

While Plaintiff is confident in the merits of the case, a legitimate controversy exists as to each cause of action for penalties, the factual allegations, the evidentiary basis, and the underlying claims. Woods Decl. at ¶ 10. Plaintiff also took into account the fact that continued litigation would be expensive, involving a trial and possible appeals, and would substantially delay and potentially reduce any recovery to the State of California and the Aggrieved Employees. *Id*. Assuming Plaintiff could prove at least one violation per pay period and the Court awarded $100.00 in PAGA penalties for each of the 15,779 pay periods during the PAGA Period (estimated as of the date of mediation), the total penalties would be approximately $1,577,900.00. *Id*. As such, the Gross Settlement Amount of $225,000.00 is approximately 14% of the maximum unstacked potential liability in this case. *Id*.

Thus, when the risks of litigation, the burdens of proof necessary to establish liability, and the probability of appeal of a favorable judgment are considered, it is clear the settlement amount of $225,000.00 is reasonable and in the best interest of the State of California and the public. Woods Decl. at ¶ 11. Plaintiff objectively and knowledgably balanced the strengths and weaknesses of her claims against the risk of continued litigation and were able to determine a realistic range of settlement recovery for PAGA penalties. *Id*. The Settlement therefore accomplishes PAGA's objectives by imposing sufficient civil penalties "to punish and deter" Defendant from future alleged Labor Code violations, while also ensuring that the penalties are not "unjust, arbitrary and oppressive, or confiscatory." Lab. Code § 2699(e)(2); *Iskanian*, 59 Cal. 4th at 384.

V. THE ATTORNEYS' FEES AND COSTS ARE FAIR AND REASONABLE

PAGA Counsel seeks approval of attorneys' fees from the PAGA settlement in the amount of $75,000.00 representing one third (1/3) of the GSA and reimbursement of actual litigation costs of $6,809.76 (the Settlement Agreement permits costs of up to $20,000.00). Settlement Agreement § 3.2.2. Plaintiff is entitled to attorneys' fees under Labor Code section 2699(g)(l), which 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(g)(1); *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"). It is undisputed that Plaintiff is the prevailing party. *See Graciano v. Robinson Ford Sales, Inc*., 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.") (internal citation omitted). Accordingly, Plaintiff is entitled to recover attorneys' fees and costs.

A. Plaintiff's Counsel's Requested Attorneys' Fees Are Reasonable under the Common Fund Method

The request for attorneys' fees as a percentage of the gross settlement amount is supported by the "common fund theory," where "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." *Serrano v. Priest*, 20 Cal.3d 25, 35 (1977).

The purpose of the common fund approach is to "spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." *Vincent v. Hughes Air West, Inc*., 557 F.2d 759, 769 (9th Cir. 1977). Thus, 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." *City and County of San Francisco v. Sweet*, 12 Cal.4th 105, 110 (1995); *see Quinn v. State of California*, 15 Cal.3d 162, 167 (1975) ("[O]ne 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.").

A number of other courts have recognized the advantages of awarding fees as a percentage of the common fund over the alternative lodestar approach, which usually involves wading through voluminous and often indecipherable time records. *See*, e.g., *In re Activision Securities Litigation*, 723 F.Supp. 1373, 1375 (N.D. Cal. 1989). The percentage approach is preferable to the lodestar method because: (1) it provides predictability to counsel; (2)

encourages efficient resolution of the litigation by providing an incentive for early, yet reasonable, settlement; and (3) reduces the demands on judicial records. *Id*. at 1378-79; *see also Lealao v. Beneficial Cal., Inc*., 82 Cal.App.4th 19, 28 (2000) (discussing findings of task force commissioned by the Third Circuit, which "concluded that the lodestar approach (1) increases the workload of an already overtaxed judicial system, (2) is insufficiently objective and produces 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 Claimants or of an overall dollar amount, (5) encourages lawyers to expend excessive hours, and engage in duplicative and unjustified work, (6) creates a disservice 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.").

The percentage of attorneys' fees set forth in the Settlement Agreement – one third (1/3) of the Gross Settlement Amount – is reasonable. Historically, courts have awarded percentage fees in the range of 20% to 50% in common fund cases. *Newberg on Class Actions*, 4th Ed. 2002, § 14:6. *Newberg* notes that achievement of a substantial recovery with modest hours expended should not be penalized but should be rewarded for considerations of time saved by superior services performed. *Id*. Furthermore, California and federal courts have long recognized that a percentage of recovery for attorneys' fees is properly awarded on the basis of the total value. *Boeing v. Van Gemert*, 444 U.S. 472, 480-481 (1980); *see also In re Consumer Privacy Cases*, 175 Cal.App.4th 545, 558 n.13 (2009) ("Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery.")

The Court should also consider that Plaintiff's counsel's efforts have resulted in substantial benefits to the State of California and the Aggrieved Employees, in the form of a significant, non-reversionary settlement fund established to compensate the State of California and the Aggrieved Employees and to penalize Defendant for the alleged PAGA violations.

Without the efforts of Plaintiff's counsel, the claims alleged in the complaint would likely have gone without remedy. Woods Decl. at ¶ 29.

B. A Lodestar Cross-Check Confirms the Reasonableness of the Requested Fee

Although *Laffitte v. Robert Half Int'l, Inc*., 1 Cal.5th 480, 489 (2016) makes clear that a lodestar cross-check is not required, PAGA Counsel's lodestar supports the reasonableness of the requested fee. The lodestar is determined by multiplying the number of hours reasonably expended by the reasonable hourly rate. *PLCM Group, Inc. v. Drexler*, 22 Cal.4th 1084, 1095 (2000). The lodestar figure may then be adjusted, based on consideration of factors specific to the case, in order to fix the fee at the fair market value for the legal services provided." *Id*. The factors that can be considered include "the nature of the litigation, its difficulty, the amount involved, the skill required in its handling, the skill employed, the attention given, the success or failure, and other circumstances in the case." *Melnyk v. Robledo*, 64 Cal.App.3d 618, 623-624 (1976) (citations omitted).

The total hours expended on this action by PAGA Counsel were reasonable and in line with comparable cases. While it is not necessary to substantiate the fee award with a lodestar in this PAGA Action, it should be noted that PAGA Counsel spent approximately 69.95 hours prosecuting this action, which were divided among the attorneys working on this case according to skill level. Woods Decl. at ¶¶ 26-27. Tyler J. Woods (hourly rate $1,200.00) spent 17.5 hours ($21,000.00); James Yoo (hourly rate $800.00) spent 31.25 hours ($25,000.00); Trenten N. Bilodeaux (hourly rate $700.00) spent 6.1 hours ($4,270.00); and Ruby Carrera (hourly rate $550.00) spent 15.1 hours ($8,305.00). *Id*. at ¶ 27. Multiplying the total hours expended by PAGA Counsel by their reasonable hourly rates yields a lodestar of $58,575.00. The requested fee award of $75,000.00 therefore represents a modest positive multiplier of approximately 1.28, well below the 1.75 multiplier applied in *Bronshteyn* (discussed below). *Id*. at ¶ 28. This amount does not include the time PAGA Counsel will spend at the final approval hearing and assisting the Settlement Administrator following final approval. The multiplier will decrease as that additional time is incurred. *Id*. PAGA Counsel dedicated significant resources to this case by dividing the tasks required according to skill level. *Id*. The hours expended by each attorney

were not duplicative and reflect the extensive investigation and analysis that was required to achieve this Settlement. This time could have been spent on other potentially lucrative cases. *Id*. PAGA Counsel's lodestar reflects the efficiencies achieved by attorneys experienced in this field. *Id*. Moreover, PAGA Counsel has singularly assumed the risk and costs of litigation purely on a contingency basis. *Id*. And, while Plaintiff is confident in the merits of her claims, a legitimate controversy exists as to each cause of action, posing an actual risk that Plaintiff may not succeed at trial. *Id*. Any of these obstacles could have prevented recovery completely, meaning PAGA Counsel would have been left with no compensation for all the time and money invested in litigating this case. *Id*. Despite these risks, PAGA Counsel took this case on a contingency basis so that the alleged Labor Code violations affecting Aggrieved Employees (a particularly vulnerable group of hourly paid workers) could be remedied through civil penalties. *Id*. Consequently, PAGA Counsel was precluded from focusing on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain. *Id*.

The Court should also consider that PAGA Counsel's efforts have resulted in substantial benefits to the State of California and the Aggrieved Employees, in the form of a significant, non-reversionary settlement fund established to compensate the State of California and the Aggrieved Employees and to punish Defendant for the alleged PAGA violations. Woods Decl. at ¶ 29. Without the efforts of PAGA Counsel, the claims alleged in the complaint would likely have gone without remedy. *Id*.

C. Plaintiff's Counsel's Rates Are Similar to Those Approved by California Courts in Comparable Cases.

Plaintiff's Counsel's hourly rates are comparable to those charged by other class action plaintiffs' counsel and the firms defending class actions. Woods Decl. at ¶ 24. Plaintiff's Counsel's rates are well within the range of hourly rates that the Los Angeles legal marketplace would compensate counsel for similar services accomplishing similar results. *Id*. PAGA Counsel's current hourly rates are $1,200.00 (Mr. Woods), $800.00 (Mr. Yoo), $700.00 (Mr. Bilodeaux), and $550.00 (Ms. Carrera). Woods Decl. at ¶¶ 20–23. For example, in *Bronshteyn v. State of California*, Los Angeles County Superior Ct. No. 19SMCV00057, Order Granting Plaintiff's

Motion for Statutory Attorneys' Fees and Costs filed March 30, 2023, an employment action brought by two small law firms (Levy, Vinick, Burrell & Hyams LLP and Law Offices of Wendy Musell), the court found that counsel's 2022 hourly rates of $1,100 and $1,000 per hour were reasonable for the plaintiff's five senior attorneys, including $1,000 per hour for the plaintiff's 23-year lead counsel and $850 per hour for a senior associate. *Id*. These rates were then augmented by a 1.75 lodestar multiplier and affirmed by the California Court of Appeals. *Id*. The rates (and multiplier) requested here are well in line with those found reasonable in *Bronshteyn*. In *Tran v. Golden State FC LLC*, *et al*. (LASC Case No. BC699931), Fee Order filed 4/8/2022, the court found hourly rates of $1,300 per hour reasonable for plaintiff's 32-year attorney and $1,000 per hour reasonable for a 14-year attorney. *Id*. The multiplier here is even more compelling given PAGA counsel represents approximately 724 PAGA Members. *Id*.

Likewise, WLF's hourly rates are reasonable when compared to rates charged within the relevant legal marketplace. Woods Decl. ¶ 25, **Ex. 3**. In light of the foregoing, and considered against the risks of continued litigation, and the importance of advocating for employment rights and a speedy recovery, the relief provided under the Settlement represents a very strong result for the Aggrieved Employees. PAGA Counsel's fee request is fair and reasonable and should be approved.

D. PAGA Counsel's Costs Are Reasonable

PAGA Counsel is entitled to reimbursement of its litigation costs under PAGA. *See* Lab. Code § 2699(k)(l) ("Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs."). The Settlement provides for reimbursement of costs not to exceed $20,000.00. Settlement Agreement § 3.2.2. To date, WLF has incurred $6,809.76 in actual litigation expenses, consisting of $2,388.30 in filing, service, and e-filing fees; $411.96 in mediation fees; and $4,009.50 for its consulting expert, Berger Consulting Group LLC, which analyzed Defendant's time and pay data (8.10 hours). [3] Woods Decl. at ¶ 30, **Ex. 4**. All the

[3] Because PAGA Counsel's costs are less than $20,000.00, upon approval of $6,809.76 for the PAGA Counsel Expenses Payment, the remaining $13,190.24 will remain in the NSA to be distributed as PAGA Penalties to the LWDA and Aggrieved Employees. Woods Decl. at ¶ 30.

costs incurred were reasonable and necessary for the prosecution of this case. These costs were reasonably incurred in prosecuting this Action on behalf of the Aggrieved Employees and should be approved by the Court. *Id*. Accordingly, PAGA Counsel respectfully requests the Court approve costs in the amount of $6,809.76.

VI. THE REQUESTED ENHANCEMENT PAYMENT TO PLAINTIFF IS REASONABLE

Both the State of California and the Aggrieved Employees are beneficiaries of a settlement that would not have been made possible but for the effort and commitment of Plaintiff. The Settlement provides the Plaintiff shall be paid an Enhancement Payment not to exceed $7,500.00, in recognition of her efforts in bringing and presenting the Action. Settlement Agreement § 3.2.1. The requested payment is intended to recognize Plaintiff's effort in bringing the Action, serving as private attorneys general under PAGA, assisting counsel with the investigation, litigation, and settlement, regularly conferring with counsel on the status of the case, and reviewing the proposed settlement to ensure that its terms are fair and achieve PAGA's objectives.

Plaintiff has provided a declaration detailing the risk she faced in bringing the suit, the notoriety and personal difficulties she encountered, the amount of time and effort she spent on this litigation, the duration of this litigation, and the personal benefit she will receive as a result of the litigation. *See generally* Declaration of Plaintiff Monique Hill Support of Plaintiff's Motion for Approval of PAGA Settlement ("Hill Decl."). Plaintiff also faced the real risk that future employers may not hire her because she lent her name as a PAGA representative in this case, and she could have been liable for Defendant's litigation costs if the case went to trial and she lost. Hill Decl. at ¶¶ 4, 6. Accordingly, Plaintiff respectfully requests that the Court approve the Enhancement Award in the amount of $7,500.00.

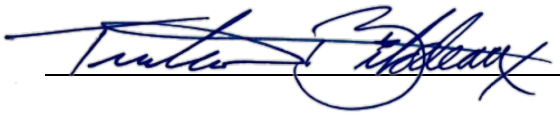
VII. CONCLUSION

Based on the foregoing, Plaintiff respectfully requests this Court approve the PAGA settlement as set forth in the Settlement Agreement and enter the proposed order and judgment submitted herewith. Specifically, Plaintiff requests approval of the $225,000.00 Gross

Settlement Amount and its allocation: attorneys' fees of $75,000.00; litigation costs of $6,809.76; an Enhancement Award of $7,500.00; Administration Expenses of up to $10,000.00; and PAGA Penalties of $125,690.24, to be distributed $94,267.68 to the LWDA and $31,422.56 to the Aggrieved Employees.

Dated: November 9, 2026

WILSHIRE LAW FIRM, PLC

By: 

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