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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CARLOS ZAVALA and GONZALO MARTINEZ, as individuals and on behalf of all other aggrieved employees,

Plaintiffs,

vs.

PASO ROBLES TANK, INC., a California corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No. 24STCV03493

[*Assigned for all purposes to the Hon. Timothy Patrick Dillon, Dept. SSC-15*]

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

Date: April 30, 2026
Time: 10:00 a.m.
Dept.: SSC-15

Complaint filed: February 9, 2024
Trial Date: None Set

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

PLEASE TAKE NOTICE that on April 30, 2026, at 10:00 a.m., or as soon thereafter as the matter may be heard in Department SSC-15 of the above-entitled Court, located at 312 North Spring Street, Los Angeles, California 90012, Plaintiffs Carlos Zavala and Gonzalo Martinez ("Plaintiffs"), 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' PAGA Settlement Agreement, a true and correct copy of which is attached to the Declaration of Sean M. Blakely filed concurrently herewith;
2. Appointing Phoenix Settlement Administrators as the Settlement Administrator;
3. Approving the proposed Notice of PAGA Settlement ("Notice") as to form and content, and directing that it be distributed to the Aggrieved Employees pursuant to the terms of the PAGA Settlement Agreement;
4. Directing the funding and distribution of the Maximum Settlement Amount pursuant to the terms of the Settlement Agreement;
5. Approving an award of attorneys' fees to Plaintiffs' counsel of $116,666.66 and an award of litigation costs to Plaintiffs' counsel in the amount of $5,553.56;
6. Approving PAGA Representative Enhancement Payments of $5,000.00 to each Plaintiff, for a total of $10,000.00, for their services to the Aggrieved Employees and the State of California;
7. Approving $4,750.00 in administration costs to Phoenix Settlement Administrators;
8. Approving the payment of $159,772.34 to the California Labor & Workforce Development Agency ("LWDA") for its share of PAGA civil penalties; and

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9. Approving the payment of $53,257.44 to the Aggrieved Employees on a pro rata basis based on the number of pay periods each Aggrieved Employee worked during the PAGA Period.

This Motion is based on this Notice; the attached Memorandum of Points and Authorities; the declaration of Sean M. Blakely and all exhibits attached thereto; the declaration of Paul K. Haines; the declaration of Jodey Lawrence of Phoenix Settlement Administrators and all exhibits attached thereto; the declaration of Plaintiff Carlos Zavala; the declaration of Plaintiff Gonzalo Martinez; 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: March 11, 2026

HAINES LAW GROUP, APC

By: ______________________

Sean M. Blakely
Attorneys for Plaintiffs

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Federal Cases

State Cases

Federal Statutes and Rules

State Statutes and Rules

Unpublished Cases

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Carlos Zavala and Gonzalo Martinez ("Plaintiffs"), "aggrieved employees" under the Private Attorneys General Act of 2004 ("PAGA"), respectfully move this Court for an Order granting approval of the PAGA Settlement Agreement ("Settlement") reached with Defendant Paso Robles Tank, Inc. ("PRT").[1] This PAGA representative action seeks civil penalties predicated on PRT's alleged violations of the California Labor Code from February 9, 2023 through the date of the Court Order granting approval of the PAGA Settlement (the "PAGA Period"). The proposed Settlement, under which PRT has agreed to pay a non-reversionary Maximum Settlement Amount of Three Hundred Fifty Thousand Dollars and Zero Cents ($350,000.00), will resolve Plaintiffs' representative claims filed on behalf of the State of California and all "Aggrieved Employees," which includes all current and former non-exempt employees who worked for PRT in California at any time during the PAGA Period.

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 also encompasses only PAGA civil penalties based upon the factual allegations and theories alleged by Plaintiffs in this Action, and only for claims arising during the PAGA Period, which, as noted above, runs through the date of approval of the Settlement.

In deciding whether to grant approval of the 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 noted, the Settlement provides for a non-reversionary Maximum Settlement Amount of $350,000.00. *See* Settlement, §§ 1.14, 3.1. After deducting amounts for requested attorneys' fees ($116,666.66), litigation costs ($5,553.56), PAGA Representative Enhancement Payments to each Plaintiff in the mount of $5,000.00 (for a total of $10,000.00), and settlement

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[1] The proposed PAGA Settlement Agreement is attached as **Exhibit 1** to the Declaration of Sean M. Blakely filed herewith. The proposed Explanatory Letter is attached as **Exhibit A** to the Settlement Agreement. All terms in the Motion have the same definitions as used in the Settlement.

administration costs ($4,750.00), the Settlement provides for a Net Settlement Amount of approximately $213,029.78 to be paid to Aggrieved Employees and the California Labor & Workforce Development Agency ("LWDA"). Settlement, §§ 1.15, 3.2; *see also* Declaration of Sean M. Blakely ("Blakely Decl."), ¶¶ 14, 24, Exhibit 4; Declaration of Jodey Lawrence of Phoenix Settlement Administrators ("Lawrence Decl."), ¶ 23, Exhibit B.

The Net Settlement Amount shall be distributed 75% (approximately $159,772.34) to the LWDA, and 25% (approximately $53,257.44) to Aggrieved Employees, pursuant to the requirements of the PAGA as codified in Lab. Code § 2699(i). *See* Settlement, § 3.2.4. There are approximately 188 Aggrieved Employees, resulting in average payments of approximately $283.28 to each Aggrieved Employee. *Id.*, at § 4.1; Blakely Decl., ¶ 14.

The Settlement represents a positive result for the State of California and Aggrieved Employees. Further litigation may have resulted in a smaller recovery or even no recovery at all, based on the defenses asserted by PRT and the significant ongoing litigation risks. Moreover, the Maximum Settlement Amount is greater than other PAGA penalty awards that have been approved as reasonable. The amounts requested for attorneys' fees and costs, Plaintiffs' enhancement payments, and settlement administration costs are all fair, adequate, and reasonable. Thus, Plaintiffs respectfully request that the Court enter the [Proposed] Judgment and Order submitted concurrently herewith.

II. SUMMARY OF THE LITIGATION

A. Brief Factual Background and Summary of Claims

PRT is a market leader in the construction of large-scale carbon steel welded tanks and stainless-steel liquid storage tanks for a wide variety of industries. Blakely Decl., ¶ 8. Plaintiff Carlos Zavala was employed by PRT as a non-exempt employee in the position of "Welder" from approximately 2020 through approximately December 2023. *See* Declaration of Plaintiff Carlos Zavala ("Zavala Decl."), ¶ 2. Plaintiff Gonzalo Martinez was employed by PRT as a non-exempt employee in the position of "Field Welder Helper" from approximately May 2021 through approximately September 2023. *See* Declaration of Plaintiff Gonzalo Martinez ("Martinez Decl."), ¶ 2. Plaintiffs, like all Aggrieved Employees, were employed by PRT in California as non-exempt employees during the PAGA Period and were subject to PRT's wage and hour policies and practices. *See* Zavala Decl., ¶ 3; Martinez Decl., ¶ 3.

Plaintiffs' PAGA claim is predicated primarily on allegations that they and other non-exempt employees were not compensated for all hours worked, were not provided compliant meal and rest periods, were not adequately reimbursed for all necessary work expenditures, and were not provided with accurate and compliant wage statements. As explained below and in the accompanying Blakely Declaration, PRT denies Plaintiffs' allegations and has asserted several affirmative defenses to their claims.

B. <u>Relevant Procedural History</u>

On February 9, 2024, Plaintiff Zavala filed his Class Action Complaint alleging causes of action for: (1) failure to pay overtime and minimum wages, (2) failure to provide meal periods, (3) failure to authorize and permit rest periods, (4) failure to indemnify all necessary business expenses, (5) failure to provide accurate wage statements, (6) failure to pay all wages owed at time of separation of employment, and (7) unfair competition. Blakely Decl., ¶ 9. On that same day, Plaintiff Zavala sent his PAGA notice letter to the LWDA. *Id.*; Exhibit 2 (Zavala LWDA Letter). On April 15, 2024, after exhausting his pre-filing PAGA requirements under Labor Code § 2699.3(a)(2)(A), Plaintiff Zavala filed a First Amended Class and Representative Action Complaint in this Court, adding a cause of action for civil penalties under the PAGA. Blakely Decl., ¶ 9. On January 6, 2025, this Court dismissed Plaintiff Zavala's class claims without prejudice and stayed the representative PAGA action pending resolution of Plaintiff Zavala's individual claims in arbitration. *Id*.

On July 9, 2024, Plaintiff Martinez sent his notification letter to the LWDA and PRT regarding PRT's alleged Labor Code violations and his intent to pursue a PAGA representative action, as required by Labor Code § 2699.3. Blakely Decl., ¶ 10; Exhibit 3 (Martinez LWDA Letter). On September 13, 2024, Plaintiff Martinez filed his Representative Action Complaint against PRT in Los Angeles County Superior Court, Case No. 24STCV23717, in the matter entitled *Gonzalo Martinez v. Paso Robles Tank, Inc.*, alleging civil penalties under the PAGA based on: (1) minimum wage violations, (2) failure to pay all overtime wages, (3) meal period violations, (4) rest period violations, (5) failure to reimburse aggrieved employees for all necessary business expenses, (6) wage statement violations, and (7) failure to pay all final wages due. Blakely Decl., ¶ 10.

On August 26, 2025, Plaintiff Zavala, Plaintiff Martinez, and PRT (collectively "the Parties") participated in mediation with Kristin Rizzo, Esq., a well-respected wage and hour mediator. Blakely Decl., ¶ 11. Prior to mediation, PRT produced information and documents pertaining to Plaintiffs and other Aggrieved Employees, including, but not limited to, payroll and timekeeping records for Plaintiffs and a sampling of Aggrieved Employees. *Id*. Additionally, PRT provided several data points, including the number of Aggrieved Employees and the number of aggregate pay periods worked by Aggrieved Employees during the PAGA Period, and its employee handbook and other written policies in effect during the PAGA Period, in order for Plaintiffs' counsel to investigate Plaintiffs' allegations and value the claims prior to mediation. *Id*. Plaintiffs conducted a comprehensive analysis and extrapolation of the data produced by PRT to calculate PRT's potential PAGA exposure. *Id*.

During mediation, the Parties vigorously debated Plaintiffs' ability to proceed on a representative basis, the legal basis for Plaintiffs' claims and PRT's defenses, the potential amount of penalties, and the Parties' data analyses and conclusions based thereon. Blakely Decl., ¶ 12. With the assistance of Ms. Rizzo, the Parties agreed to fully and finally resolve both Plaintiffs' representative PAGA claims. *Id*. Over the following months, the Parties negotiated and finalized the Settlement now before the Court. *Id*.

As a condition of the Settlement, on March 3, 2026, Plaintiff Zavala filed the operative Second Amended Representative Action Complaint ("SAC") adding Plaintiff Martinez as a named plaintiff in the Action. Blakely Decl., ¶ 13.

III. <u>SUMMARY OF THE SETTLEMENT</u>

A. <u>"Aggrieved Employees" Defined</u>

The "Aggrieved Employees" under the Settlement consist of all current and former non-exempt employees who worked for PRT in California at any time during the PAGA Period. *See* Settlement, § 1.4. The number of Aggrieved Employees, including Plaintiffs, is estimated to be approximately 188 individuals. *Id*., § 4.1. The PAGA Period is defined as the period from February 9, 2023, through the date of the Court Order granting approval of the PAGA Settlement. *Id*., § 1.19.

B. Monetary Terms

The Settlement provides for PRT's payment of a non-reversionary Maximum Settlement Amount of $350,000.00. *See* Settlement, § 1.14. After deducting requested attorneys' fees, litigation costs, Plaintiffs' enhancement payments, and administration costs, the Settlement provides for the Net Settlement Amount to be distributed 75% to the LWDA and 25% to Aggrieved Employees, per Labor Code § 2699(i). Settlement, §§ 1.15, 3.2.4. The 25% portion to Aggrieved Employees shall be distributed based on each Aggrieved Employee's proportional number of pay periods worked for PRT in California during the PAGA Period. *Id*., § 3.2.4.1.

1. Attorneys' Fees and Costs, Administration Costs, and Plaintiffs' Enhancement Payments

Plaintiffs' counsel requests one-third of the Maximum Settlement Amount (i.e., $116,666.66) in attorneys' fees, and $5,553.56 in litigation costs. *See* Settlement, § 3.2.2.; Blakely Decl., ¶¶ 23-24, Exhibit 4. As discussed in detail below, a fee award of one-third of the Maximum Settlement Amount is fair, adequate, and reasonable as a percentage of the settlement fund 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, § 7.1. Phoenix will update the Aggrieved Employee addresses using the National Change of Address database, calculate and distribute Individual PAGA Payments, mail payments to all Aggrieved Employees together with the Explanatory Letter, and perform other duties that are integral to the effectuation of the Settlement. *Id.*, at § 4.4.1. Plaintiffs request that the Court approve $4,750.00 in administration costs to Phoenix, which will cover all costs incurred by Phoenix in connection with the Settlement. *Id.,* at § 3.2.3; *see also* Lawrence Decl., Exhibit B.

Finally, Plaintiffs each request an enhancement payment of $5,000.00 (for a total of $10,000.00), in recognition of Plaintiffs' contributions to this case and their efforts in bringing this case to successful resolution. *See* Settlement, § 3.2.1; Zavala Decl., ¶¶ 5-7; Martinez Decl., ¶¶ 5-7.

2. *Payment to LWDA and Aggrieved Employees*

The Net Settlement Amount will be distributed 75% to the LWDA and 25% to Aggrieved Employees, pursuant to Labor Code § 2699(i); Settlement, § 3.2.4. Based on the above requested distributions, the Net Settlement Amount is estimated to be $213,029.78, with $159,772.34 paid to the LWDA and $53,257.44 distributed to allegedly Aggrieved Employees. Blakely Decl., ¶ 14. As noted, there are approximately 188 total Aggrieved Employees. *Id.*; Settlement, § 4.1. Thus, it is anticipated that overall, the Aggrieved Employees will receive average Individual PAGA Payments of approximately $283.28. Blakely Decl., ¶ 14.

3. *Funding of the Settlement*

PRT will deposit the Maximum Settlement Amount with Phoenix no later than ninety (90) calendar days after the Court enters final Judgement on its Order Approving the PAGA Settlement. *See* Settlement. § 4.3. Within fourteen (14) days after the Settlement has been fully funded, Phoenix will mail the Explanatory Letter, in English and Spanish, along with Individual PAGA Payments, to all Aggrieved Employees via First-Class U.S. Mail. *See* Settlement, §§ 4.4, 4.4.1. Funds from settlement checks remaining uncashed after the void date (180 days after the date of mailing) will be sent by Phoenix to the California State Controller's Office for deposit in the Unclaimed Property Fund in the name of the Aggrieved Employee. *See* Settlement, § 4.4.3.

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).

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).

First, in evaluating a PAGA settlement, the court is <u>not</u> concerned with amount(s) received by "aggrieved employees," but 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,* 2010 WL 2650571 at *4. 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 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, "[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*, 2010 WL 1340777 at *5; *see also Robinson v. Southern Counties Oil Co.*, 53 Cal.App.5th 476, 482 (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 plaintiff 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). Thus, the scope of release in a PAGA settlement is strictly confined to PAGA penalties.

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 Plaintiff' 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*.

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)). 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).

a. The Strength of Plaintiffs' Case

Although Plaintiffs steadfastly maintain their claims are meritorious, Plaintiffs acknowledge that there are substantial risks and uncertainty in proceeding to trial, as set forth in more detail in the concurrently filed Blakely Declaration. Blakely Decl., ¶¶ 15-20. While Plaintiffs were prepared to litigate their claims through trial, Plaintiffs faced substantial challenges in prevailing in this matter and obtaining a better result than will be provided through the Settlement. Thus, this factor supports approval.

b. Risk, Expense, Complexity, and Duration of Further Litigation

Although the Parties engaged in significant informal discovery prior to mediation, the Parties still had much formal discovery to conduct if the case did not settle. Substantive motion work and preparation for the PAGA trial 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. The Settlement avoids those risks and the accompanying expense.

c. Amount Offered in Settlement Given Realistic Value of Claims

The proposed Settlement provides a fair and reasonable monetary recovery for the State of California and Aggrieved Employees in the face of hotly disputed claims. Based on data provided by PRT, there were approximately 8,800 PAGA Pay Periods worked by the Aggrieved Employees during the PAGA Period. Blakely Decl., ¶ 21; Settlement, § 4.1.

Labor Code § 2699(f)(2) provides for PAGA civil penalties in the amount of $100 for per pay period for the initial violation, and $200 for each pay period for each subsequent violation. *See* Labor Code § 2699(f)(2). However, courts have interpreted section 2699(f)(2) to only impose the $200 subsequent penalty after an employer has been notified that its conduct violates the Labor Code. *See, e.g., Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1207 (2008) (finding "initial" violation rate applies until employer is notified that it is violating a Labor Code provision); *Trang v. Turbine Engine Components Technologies Corp.*, No. CV 12–07658 DDP (RZx), 2012 WL 6618854, at *5 (C.D. Cal. Dec. 19, 2012) ("courts have held that employers are not subject to heightened penalties for subsequent violations unless and until a court or commissioner notifies the employer that it is in violation of the Labor Code"); *Amalgamated Transit Union Local 1309, AFL-CIO v. Laidlaw Transit Services, Inc.*, No. 05cv1199–IEG–CAB, 2009 WL 2448430, at *9 (S.D. Cal. 2009) (finding that California law imposes the "subsequent violation penalty" only after an employer has been notified its conduct violates the Labor Code). Therefore, assuming that Plaintiffs could prove at least one Labor Code violation in each and every pay period during the PAGA Period, Plaintiffs calculated PRT's <u>maximum</u> PAGA exposure at approximately $880,000 (8,800 pay periods * $100 per violation). Blakely Decl., ¶ 21.

In light of PRT's arguments and defenses described in the concurrently filed Blakely Decl., Plaintiffs discounted that figure by 30% for a risk of losing on the merits and/or not recovering a PAGA penalty in each and every pay period, and by an additional 40% for risk of the Court reducing penalties, to arrive at a realistic exposure of approximately $369,600. Blakely Decl., ¶ 21; s*ee also, e.g., Thurman,* 203 Cal.App.4th at 1136 (affirming reduction of PAGA penalties); *Fleming,* 2011 WL 7563047 at *5 (reducing PAGA penalties by over 82%); *Carrington*, 30 Cal.App.5th at 529 (affirming PAGA civil penalty of just $5 per pay period).

In the face of PRT's defenses on the merits and the Court's discretion to reduce PAGA penalties, Plaintiffs felt that the negotiated settlement of $350,000, which represents approximately 94.6% of Plaintiffs' reasonably forecasted total recovery, was clearly in the best interests of the LWDA and the Aggrieved Employees and was well within the range of reasonableness. Blakely Decl., ¶ 21; *See Linney v. Cellular Alaska Partnership*, 151 F.3d 1234, 1242 (9th Cir. 1998) ("The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.") (internal quotations omitted).

Approval of the Settlement is appropriate, as the Settlement will provide tangible monetary relief to Aggrieved Employees and the State of California while avoiding the risks and costs of continued litigation and trial.

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

As noted, the Parties engaged in substantial informal discovery to evaluate the value of the PAGA claim. PRT provided Plaintiffs with, *inter alia*, a sampling of timekeeping and payroll records for non-exempt employees, additional relevant data points, and relevant written policies. Blakely Decl., ¶ 11. Only after engaging in mediation and adversarial discussions about the likelihood of proceeding on a representative basis and prevailing on the merits, 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). Plaintiffs are represented by experienced counsel with decades of combined experience, who believe this Settlement to be fair and adequate for all involved. Blakely Decl., ¶¶ 2-6; Declaration of Paul K. Haines ("Haines Decl."), ¶¶ 3-9. This factor supports settlement approval.

B. <u>The Requested Award of Attorneys' Fees is Reasonable as a Percentage of the Settlement Fund</u>

Plaintiffs are 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"). It is undisputed that by obtaining PAGA penalties for the LWDA and Aggrieved Employees, Plaintiffs have prevailed. *See 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.*, *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).

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 in *Laffitte v. Robert Half Int'l, Inc.*, 1 Cal.5th 480, 506 (2016), where it announced "the percentage of fund method survives in California class action cases…" 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 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 also consistent with Plaintiffs' counsel's experience in similar wage-and-hour class and PAGA matters. Blakely Decl., ¶ 23.

Here, Plaintiffs' fee request of one-third of the Maximum Settlement Amount (estimated to be $116,666.66) 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 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 the lodestar method, the court multiplies the number of hours reasonably expended by each attorney or legal staff member by their reasonable hourly rates, then enhances this lodestar figure by a "multiplier" to account for a range of factors, such as the contingent nature of the case and the degree of success achieved. *See Serrano v. Priest*, 20 Cal.3d 25, 48-49 (1977); *Ketchum v. Moses*, 24 Cal.4th 1122, 1132-36 (2001); *Thayer v. Wells Fargo Bank*, 92 Cal.App.4th 819, 834 (2001) ("There is no hard-and-fast rule limiting the factors that may justify an exercise of judicial discretion to increase or decrease a lodestar calculation").

In California, 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.A County Planning etc. Interest v. Bd. of Supervisors*, 76 Cal.App.3d 241, 251 (1977) (approving multiplier of approximately 12.8). In representative actions such as this one, where Plaintiffs' counsel efficiently protected the rights of the Aggrieved Employees and the value of the benefit conferred to the group "can be monetized with a reasonable degree of certainty," the 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, Plaintiffs' counsel has a lodestar of approximately $141,032.50 without the use of any multiplier, resulting in a negative multiplier compared to the $116,666.66 fee request. Blakely Decl., ¶ 25. Plaintiffs' counsel submits that the billing rates used are reasonable in view of the market rates and the rates at which Plaintiffs' counsel has been approved at in other courts. Blakely Decl., ¶¶ 25-26; Exhibit 5 (*Laffey* Matrix).

Critically, Plaintiffs' recovery for the State of California and the Aggrieved Employees of approximately $213,029.78 (Net Settlement Amount) exceeds other PAGA awards approved by California courts. *See, e.g., Aguirre v. DSW, Inc.*, No. DCV-11-01522-GW (SPx), 2012 WL 11875296 at *3 (C.D. Cal. Nov. 29, 2012) (approving $10,000 PAGA payment); *Jamil v. Workforce Res., LLC*, No. 18-CV-27 JLS (NLS), 2020 WL 6544660) at *6 (S.D. Cal. Nov. 5, 2020) (approving $10,000 total PAGA payment, finding the amount "fair and adequate in view of the purposes and policies of PAGA"); *Garcia v. Gordon Trucking, Inc.*, No. 1:10-cv-0324-AWI-SKO, 2012 WL 5364575 at *7 (E.D. Cal. Oct. 31, 2012) ("approving $10,000 total PAGA payment, finding that "[t]his comports with settlement approval of PAGA awards in other cases. [Citations.]").

As discussed above, this case presented significant risks to Plaintiffs' counsel, who took this case on a purely contingency basis. Plaintiffs' counsel conducted extensive research regarding the merits of Plaintiffs' claims, their ability to recover PAGA civil penalties, and PRT's potential defenses. Blakely Decl., ¶¶ 11, 15-20. Since undertaking representation of Plaintiffs, Plaintiffs' counsel has dedicated substantial resources to this litigation without receiving any compensation to date. *Id*., ¶¶ 23-24. Plaintiffs' counsel also performed extensive analysis of data and information produced by PRT, used this analysis to evaluate Plaintiffs' claims, and drafted a comprehensive mediation brief. *Id*., at ¶ 23. Plaintiffs' counsel attended a full-day mediation, and expended significant effort in preparing settlement documents, this Motion and supporting documents, and will oversee the settlement administration process. *Id*. Given the considerable potential for adverse outcomes in this case, the contingent risk borne by Plaintiffs' counsel was great. *Id*. The quality of Plaintiffs' counsel's work, and the efficacy and dedication with which it was performed, should be compensated. Thus, Plaintiffs submit the requested fee award is fair, reasonable and adequate and should be approved.

Plaintiffs' counsel have over three decades of combined wage-and-hour class and representative action experience and have been certified as class counsel in numerous class actions. Blakely Decl., ¶¶ 2-6; Haines Decl., ¶¶ 3-9. Because it is reasonable to compensate counsel according to their skill, reputation, and experience, a fee award of one-third of the Maximum Settlement Amount is reasonable. This case involved nuanced legal issues, including the legality of PRT's obligations to "provide" meal periods and "authorize and permit" rest periods, as well as the availability and amount of PAGA civil penalties for the alleged Labor Code violations. PRT was also represented by experienced wage-and-hour litigation counsel. Thus, Plaintiffs submit 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>

Plaintiffs' request for reimbursement of costs of $5,553.56 is also fair and reasonable. All of Plaintiffs' litigation costs are reasonably incurred and were necessary to further the prosecution of this case on behalf of the State of California and the Aggrieved Employees. *See* Blakely Decl., ¶ 24, Exhibit 4. Moreover, the costs Plaintiffs seek 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").

Likewise, the request for administration costs of $4,750.00 is also fair and reasonable. Phoenix was selected because it is an experienced settlement administrator and returned a reasonable bid. Blakely Decl., ¶ 22; *see* Settlement, § 7.1.; *see also* Lawrence Decl. and Exhibits. Moreover, Phoenix will perform several important functions that are integral to the implementation of the Settlement. Blakely Decl., ¶ 22. Its requested fee is therefore reasonable.

D. **The Court Should Approve Plaintiffs' Requested Enhancement Payments Because It Is Fair, Adequate, and Reasonable in View of Plaintiffs' Efforts and the Risks They Assumed in This Litigation.**

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 Plaintiff); *Van Vranken v. Atlantic Richfield Co*., 901 F. Supp. 294 (N.D. Cal. 1995) (approving $50,000 incentive payment). Here, Plaintiffs each seek a PAGA Representative Enhancement Payment of $5,000.00 each (for a total of $10,000.00). *See* Settlement, § 3.2.1. This request is reasonable given Plaintiffs' efforts in this case and the risks they undertook on behalf of the Aggrieved Employees and the State of California. Zavala Decl., ¶¶ 5-7; Martinez Decl., ¶¶ 5-7. Plaintiffs provided substantial factual information and documents to counsel, assisted in identifying potential witnesses, and participated in numerous discussions with Plaintiffs' counsel regarding the case. *Id.*; *see also* Blakely Decl., ¶ 27. Accordingly, Plaintiffs' requested PAGA Representative Enhancement Payments are appropriate and justified as part of the Settlement.

V. **CONCLUSION**

For the reasons stated herein, Plaintiffs respectfully request that this Court grant Plaintiffs' Motion and adopt the [Proposed] Judgment and Order Granting Settlement Approval submitted concurrently herewith.

Dated: March 11, 2026

Respectfully submitted,
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