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on behalf of herself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES– SPRING STREET COURTHOUSE

DARLENE M. STROUD, an individual, on
behalf of herself and others similarly
situated,

Plaintiff,

vs.

JM WEST, INC., d/b/a Jersey Mike's Subs, a
California Corporation; JM WEST II, INC.,
d/b/a Jersey Mike's Subs, a California
Corporation; JM SANTA MARIA LP, d/b/a
Jersey Mike's Subs, a California limited
partnership; JM ARROYO GRANDE LP,
d/b/a Jersey Mike's Subs, a California
limited partnership; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 24STCV06910

Assigned To:
Hon. Laura Siegle
Dept.: 17

**NOTICE OF MOTION AND MOTION FOR
APPROVAL OF THE PARTIES' JOINT
STIPULATION OF REPRESENTATIVE
PAGA ACTION SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Hearing Date: July 2, 2025
Time: 9:00 a.m.
Department: 17

Complaint Filed: March 19, 2024
Amended Complaint Filed: May 23, 2024
Trial Date: Not Yet Set

1 **TO THE COURT, DEFENDANTS, AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on July 2, 2025, at 9:00 a.m., or as soon thereafter as the
3 matter may be heard in Department 17 at Spring Street Courthouse of the Superior Court for the
4 County of Los Angeles located at 312 North Spring Street, Los Angeles, CA 90012, Plaintiff
5 Darelene M. Stroud (“Plaintiff”) on behalf of herself and other similarly situated employees of
6 Defendants JM Santa Maria LP (d/b/a Jersey Mike’s Subs) and JM Arroyo Grande LP (d/b/a Jersey
7 Mike’s Subs) (“Defendants”) (Plaintiff and Defendants collectively referred to herein as “the
8 Parties”) will and hereby does move this Court for entry of an order: (1) approving the
9 representative action settlement embodied in the Parties’ Joint Stipulation of Representative
10 PAGA Action Settlement and Release of Claims (“Settlement Agreement”) and Amendments
11 thereto; (2) approving PAGA Counsel’s application for attorney’s fees and litigation costs and
12 costs for the Administrator; and (3) entering judgment approving the Settlement Agreement (the
13 “Motion”).

14 The grounds for this Motion, as set forth in the attached Memorandum of Points and
15 Authorities and supporting Declarations, are that the settlement is fair and reasonable, benefits the
16 PAGA Group, and was the product of informed, non-collusive negotiations by the parties who
17 were represented by experienced and able counsel. *See Wershba v. Apple Computer, Inc.*, 91 Cal.
18 App 4th 224, 244-45 (1996); *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1802 (1996); Manual
19 for Complex Litigation, (Second), § 30.44 (1985).

20 Defendants do not oppose this Motion. Plaintiff bases this Motion on this Notice and the
21 accompanying Memorandum of Points and Authorities, the Declarations of Enoch J. Kim and
22 Jodey Lawrence, the complete pleadings, records, and files in the case, and such other further oral
23 and documentary evidence which may be submitted at or before the hearing on this Motion.

24 DATED: June 6, 2025

D.LAW, INC.

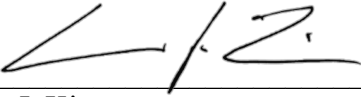
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26 By: 
27 Enoch J. Kim
28 Attorneys for Darlene Stroud and
Aggrieved Employees

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Through this Motion, plaintiff Darlene M. Stroud (“Plaintiff”) requests that the Court grant
4 approval of the parties’ Joint Stipulation of Representative PAGA Action Settlement and Release of
5 Claims (“Settlement” or “Settlement Agreement”) reached between Plaintiff and defendants JM
6 Santa Maria LP (d/b/a Jersey Mike’s Subs) and JM Arroyo Grande LP (d/b/a Jersey Mike’s Subs)
7 (“Defendants”) (Plaintiff and Defendants collectively referred to herein as “the Parties”) to resolve
8 claims brought exclusively under the Private Attorneys General Act of 2004, Labor Code § 2698, *et*
9 *seq.* (“PAGA”) seeking civil penalties for various violations of the California Labor Code and
10 Industrial Wage Commission’s Wage Orders. The Parties’ Settlement Agreement and the Parties
11 Amendment to the Settlement Agreement are attached to the concurrently filed Declaration of Enoch
12 J. Kim (“Kim Decl.”), as **Exhibit 1**.

13 Pursuant to the Settlement Agreement, Defendants will pay a Maximum Settlement Amount
14 of **\$75,000.00** (“Maximum Settlement Amount”). (Kim Decl., Exhibit 1, ¶ 9.) For the purpose of
15 Settlement, “PAGA Group” is defined as all current and former hourly-paid, non-exempt employees
16 of Defendants in California during the PAGA Period, which is the period of time from March 19,
17 2023 through January 25, 2025. (Kim Decl., ¶ 14, Exhibit 1, ¶¶ 1.15, 1.16.) “Aggrieved Employees”
18 are defined as individuals who are members of the PAGA Group (or if any such person is
19 incompetent, deceased, or unavailable due to military service, the person’s legal representative or
20 successor in interest, evidenced by reasonable verification). (Kim Decl., ¶ 14, Exhibit 1, ¶ 1.15.)

21 As further explained below, Plaintiff and her counsel (“PAGA Counsel”) believe that the
22 Settlement is fair, reasonable, and in the best interests of the State and the PAGA Group. Accordingly,
23 Plaintiff requests that the Court “review and approve” the Settlement pursuant to Labor Code §
24 2699(1)(2). If the Court deems the Settlement fair and acceptable, Plaintiff requests that the Court
25 enter an order approving the Settlement in the form lodged herewith and ordering the Parties and
26 Administrator to carry out the terms of the Settlement Agreement and enter a Final Judgment
27
28

thereon.¹

II. RELEVANT BACKGROUND AND PROCEDURAL HISTORY

A. Litigation Overview and Procedural History

On March 19, 2024, Plaintiff filed a claim online with the California Labor & Workforce Development Agency (the “LWDA”) pursuant to Labor Code § 2699.3(a)(1) and gave notice to Defendants as well as JM West, Inc. and JM West II, Inc., two erroneously named defendants who were later dismissed from the Action without prejudice.² (“PAGA Notice”). (Kim Decl., ¶ 5.) The PAGA Notice is attached to the Declaration of Enoch J. Kim as Exhibit 2.

The PAGA Notice sought civil penalties and alleged claims against Defendants for failure to pay minimum wages, failure to pay wages and overtime in violation of Labor Code § 510, failure to pay vacation wages in violation of Labor Code § 227.3, failure to provide suitable seating to employees under the wage orders, failure to provide meal and rest breaks, failure to issue accurate wage statements, unlawfully collecting or receiving wages in violation of Labor Code § 221, failure to issue semimonthly payments in violation of Labor Code § 204, failure to maintain records in accordance with Labor Code § 1174, failure to pay waiting time penalties, failure to provide information upon hiring pursuant to Labor Code § 2810.5, and failure to reimburse business expenses Labor Code § 2802. (*Id.*) The LWDA did not respond to the PAGA Notice and did not notify Plaintiff that it intended to investigate Plaintiff’s allegations. (*Id.*)

Plaintiff simultaneously filed a Class Action Complaint against Defendants in Los Angeles Superior Court on March 19, 2025, which asserted the following causes of action: (1) Failure to Pay Minimum Wages and for All Hours Worked; (2) Failure to Pay Wages and Overtime Under Labor Code § 510; (3) Failure to Pay Vacation Wages Under Labor Code § 227(e); (4) Failure to Provide Suitable Seating; (5) Meal Period Liability Under Labor Code § 226.7; (6) Rest-Break Liability Under

¹ Plaintiff has submitted the Settlement and this Motion to the LWDA by uploading it on the LWDA’s website concurrently with the filing of this Motion as required by Labor Code § 2699(1)(2). (Kim Decl., ¶ 43, Exhibit 5.)

² On June 6, 2025, Plaintiff provided notice to the LWDA that defendants JM West, Inc. and JM West II, Inc. were erroneously named and were dismissed without prejudice from the Action on July 10, 2024. (Kim Decl., ¶ 9.)

1 Labor Code § 226.7; (7) Violation of Labor Code § 226(a); (8) Violation of Labor Code § 221; (9)
2 Violation of Labor Code § 204; (10) Violation of Labor Code § 203; (11) Violation of Labor Code §
3 245 and § 246; (12) Failure to Reimburse Necessary Uniform and Business Expenses under Labor
4 Code § 2802; and (13) Violation of Business & Professions Code § 17200 *et seq.* (“the Action”).
5 (Kim Decl., ¶ 4.) On May 23, 2024, 65 days after Plaintiff’s submission of the PAGA Notice, Plaintiff
6 filed a First Amended Complaint, alleging a fourteenth cause of action for civil penalties under PAGA
7 (“Operative Complaint”). (Kim Decl., ¶ 6.)

8 After initiating the Action, the Parties met and conferred about the claims and issues in this
9 case, including Defendants’ position that JM West, Inc. and JM West II, Inc. were erroneously named
10 on the Action, and as a result, the Parties agreed to dismiss the two erroneously named defendants
11 without prejudice. (Kim Decl., ¶ 9.) The Parties also discussed the existence of an arbitration
12 agreement between the Parties and thereafter agreed to explore the resolution of the representative
13 component of the case through mediation with a highly respected mediator. (*Id.*)

14 **B. Mediation and Settlement**

15 Prior to mediation, Defendants provided data, numbers, and documents, including job
16 descriptions for positions the PAGA Group held, various iterations of Defendants’ employee
17 handbooks and onboarding documents provided to the PAGA Group on their first day, such as
18 Defendants’ wage and hour policies, arbitration agreement (unsigned), etc. Defendants also provided
19 a 20% sampling of the PAGA Group’s timekeeping records and corresponding payroll data, as well
20 as information relating to the number of Aggrieved Employees and PAGA Pay Periods. (Kim Decl.,
21 ¶ 9.) The information and data exchanged by Plaintiff and Defendants prior to and during mediation
22 and settlement negotiations were sufficient to reliably assess the merits of the Parties’ respective
23 positions, to compromise the issues on a fair and equitable basis, and to devise a formula for
24 distribution of civil penalties among the PAGA Group that took into consideration the strength of the
25 PAGA claims. (*Id.* at ¶ 10.)

26 On December 6, 2024, the Parties mediated this matter before Todd Smith, a well-respected
27 employment law mediator. (Kim Decl., ¶ 7.) During mediation, the Parties exchanged further

1 information and discussed all aspects of the case, including Plaintiff’s claims, Defendants’ defenses,
2 procedural challenges in the case, and the prospects of further litigation. (*Id.* at ¶ 11.) The Parties
3 recognized that the issues presented in the Action are likely only to be resolved with extensive and
4 costly pretrial and trial proceedings and that further litigation would lead to inconvenience,
5 distraction, disruption, delay, and expense disproportionate to the potential benefits of litigation. (*Id.*)
6 The Parties took into account the risk and uncertainty of the outcome inherent in representative
7 actions such as this one. (*Id.*) With the assistance of a highly respected wage and hour mediator, the
8 Parties agreed to the general terms for settling this Action and negotiated and executed the long-form
9 Settlement Agreement now before the Court for approval. (Kim Decl., ¶ 12.)

10 The Parties believe and agree that the Settlement provides for a fair, adequate, and reasonable
11 resolution of the Action, and the Parties arrived at the Settlement after extensive, arm’s-length
12 negotiations. (Kim Decl., ¶ 13.) PAGA Counsel believes that the Settlement confers real benefits
13 upon the State and the PAGA Group and that an independent review of the Settlement by the Court
14 in the approval process will confirm this conclusion. (*Id.*)

15 **III. PAGA ACTIONS AND THE REQUIREMENTS**

16 **A. The PAGA Statutory Scheme**

17 PAGA creates a means of “deputizing” citizens as private attorneys general to enforce the
18 Labor Code on behalf of the LWDA. *Brown v. Ralphs Grocery Co.* (2011) 197 Cal. App. 4th 489,
19 501, *review den.* (Oct. 19, 2011, No. S195850), *cert. denied* 132 S.Ct. 1910 (Apr. 16, 2012). A
20 plaintiff may not — and Plaintiff here does not — bring a PAGA claim simply on his or her own
21 behalf as an individual claim, but “as the proxy or agent of the state’s labor law enforcement
22 agencies.” *Id.*, at 986; *see also Reyes v. Macy’s, Inc.* (2011) 202 Cal. App. 4th 1119, 1123-1124;
23 *Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 380. When an aggrieved employee
24 brings a PAGA claim, “the government is always the real party in interest.” *Securitas Sec. Servs.*
25 *USA, Inc. v. Sup. Ct. of San Diego Cnty.* (2015) 234 Cal. App. 4th 1109, 1119; *Montano v. The Wet*
26 *Seal Retail, Inc.* (2015) 232 Cal. App. 4th 1214, 1222 (“[A] PAGA action is a dispute between an
27 employer and the State agency.”) Accordingly, a plaintiff that brings a PAGA claim represents “the
28

1 same legal right and interest as state labor law enforcement agencies,” in that the plaintiff seeks to
2 recover those civil penalties that the LWDA otherwise would assess and collect. *Arias v. Super. Ct.*
3 (2009) 46 Cal.4th 969, 986; Labor Code § 2699(a) & (f); *Securitas, supra*, 234 Cal. App. 4th at 1119;
4 *see also Medina v. Vander Poel* (E.D. Cal. 2015) 523 B.R. 820, 825 (holding “PAGA plaintiffs do
5 not have property rights in their cases.”), and *Amalgamated Transit Union, Local 1756, AFL-CIO v.*
6 *Superior Court* (2009) 46 Cal.4th 993, 1003.

7 Therefore, when a plaintiff brings a PAGA claim, he or she is properly viewed as a private
8 attorney general prosecuting violations of California’s labor laws on behalf of the state. An employee
9 may commence a PAGA action by fulfilling the requirements of California Labor Code §
10 2699.3(a)(1), which simply states: “The aggrieved employee or representative shall give written
11 notice by certified mail to the Labor and Workforce Development Agency and the employer of the
12 specific provisions of this code alleged to have been violated, including the facts and theories to
13 support the alleged violation.” Labor Code § 2699.3(a)(1). As explained above, Plaintiff complied
14 with the notice requirements and properly pled a PAGA claim. (Kim Decl., ¶ 5.)

15 **B. The Court Has Discretion When Awarding the Amount of Penalties.**

16 PAGA provides for penalties in the amount of \$100 for each violation per aggrieved employee
17 per pay period for the initial violation and \$200 for each violation per aggrieved employee per pay
18 period for each subsequent violation. Labor Code § 2699(f)(2). “PAGA penalties...are mandatory,
19 not discretionary” and must be awarded upon a showing that defendants violated the Labor Code.
20 *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1213. However, PAGA provides the
21 Court with discretion when it finds liability and awards these penalties as part of a judgment. Labor
22 Code § 2699(e)(2) states that “a court may award a lesser amount than the maximum civil penalty
23 amount specified by this part if, based on the facts and circumstances of the particular case, to do
24 otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.”

25 **C. PAGA Authorizes the Payment of PAGA Counsel’s Fees and Costs**

26 PAGA provides for the recovery of reasonable attorneys’ fees and costs. Labor Code §
27 2699(g)(1) (“Any employee who prevails in any action shall be entitled to an award of reasonable
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attorney’s fees and costs, including any filing fee paid...). The monetary settlement and programmatic relief make Plaintiff a “prevailing party.” *Folsom v. Butte County Ass’n of Gov’ts* (1982) 32 Cal. 3d 668,671; *Santisas v. Goodin* (1998) 17 Cal.4th 599, 621. Even if Labor Code § 2699(g)(1) did not authorize fees, Plaintiff would be entitled to fees as a Private Attorney General under Code of Civil Procedure § 1021.5 because Plaintiff brought this action to, and the action does, benefit the public. *Arias*, 46 Cal.4th at 985–986.

IV. THE SETTLEMENT

Pursuant to the Settlement Agreement, Defendants will pay the Maximum Settlement Amount of \$75,000.00 on a non-reversionary basis. (Kim Decl., ¶ 15, Exhibit 1, ¶ 9.)

Pending Court approval, the Maximum Settlement Amount will be allocated as follows: (1) attorneys’ fees of one third of the Maximum Settlement Amount, which is **\$25,000.00** (“PAGA Counsel Fees Payment”); (2) actual litigation costs incurred in this matter in the amount of **\$17,998.29** (“PAGA Counsel Litigation Expenses Payment”), which is less than the \$20,000 “not-to-exceed” amount allocated in the Settlement Agreement; and (3) settlement administration cost payment of up to **\$2,750.00** to be paid to the Settlement Administrator, Phoenix Class Action Administration Solutions (“Phoenix”), for sending notices and for calculating settlement shares and preparing all checks and mailings (“Settlement Administrator Payment”). (Kim Decl., ¶ 16.) The remaining settlement amount of \$29,251.71 (“Net Settlement Amount”) is designated as the PAGA Settlement Payment under the Settlement Agreement, with 75% (\$21,938.78) allocated to the LWDA (“LWDA Payment”) and 25% (\$7,312.93) allocated to the PAGA Group on a pro-rata basis. (“Aggrieved Employee Payment Share(s)"). (*Id.*)

The Aggrieved Employee Payment Shares will be calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period. (Kim Decl., Exhibit 1, ¶ 16.) Based on its records, Defendants represent that as of December 3, 2024, the number of Pay Periods worked by the Aggrieved Employees in the PAGA Period is approximately 1,132. (Kim Decl., ¶ 15.) Should the number of Pay Periods worked by the Aggrieved Employees as of January 25, 2025, increase by more than 10% (i.e., to more than 1,246 Pay Periods), then Defendants shall have the

option of either (i) increasing the Maximum Settlement Amount by an amount determined by the following formula: $[(\text{Actual Number of Pay Periods} - 1,246) \div 1,246] \times \text{Maximum Settlement Amount}$; or (ii) changing the end date of the PAGA Period to a date for which there are no more than 1,246 Pay Periods. (Kim Decl., ¶ 15, Exhibit 1, ¶ 10.)

V. ARGUMENT

A. The Court Should Approve the Settlement Agreement.

Pursuant to Labor Code § 2699(l), the Parties must obtain Court approval of a settlement of a PAGA action on a representative basis. However, as explained in *Arias v. Superior Ct.* (2009) 46 Cal.4th 969, the Parties need not follow the class action procedural rules in PAGA cases, and therefore, need not obtain approval of the PAGA settlement through a motion for preliminary or final approval. Nonetheless, to comply with the requirements of Labor Code section 2699, Plaintiff submits this Motion and the Settlement Agreement for Court approval.

B. The Risks of Moving Forward with Plaintiff's PAGA Claim

To assist the Court in evaluating the fairness of the Settlement, below is a discussion of the risk evaluation made by Plaintiff and PAGA Counsel. They considered the arguments and defenses asserted by Defendants at mediation and assessed the risks of moving forward to trial and what this Court could do in awarding penalties even if Plaintiff were to prevail at trial.

Plaintiff estimated that the maximum potential exposure on the PAGA claim is \$113,200.00, calculated by multiplying the total number of PAGA Pay Periods (1,132) by \$100 per violation. (Kim Decl., ¶ 21.) Plaintiff's calculation of the total potential exposure on the PAGA claim was based on one PAGA penalty per PAGA Pay Period (i.e., Plaintiff did not stack the PAGA penalties in her damages calculation). (*Id.*) Case law supports the notion that it is inappropriate to "stack" penalties for multiple violations, particularly when those violations all stem from the same alleged "injury." (*Id.*)

The Maximum Settlement Amount of \$75,000.00 is 66.25% of the maximum potential exposure of \$113,200.00. (*Id.* at ¶ 24.) The Maximum Settlement Amount, therefore, represents a strong value at approximately \$66.25 per PAGA Pay Period. From PAGA Counsel's review of the

1 facts, strengths, and weaknesses of the case and the risks and delays posed by further litigation, PAGA
2 Counsel believes that the recovery for the State and the PAGA Group is fair and reasonable. (*Id.*)

3 **C. Trial of Plaintiff’s PAGA Claim Would Have Presented Many Hurdles.**

4 Defendants denied and continue to deny all of the claims made by Plaintiff in this Action and
5 contend that they acted at all relevant times in conformance with the law. (*Id.* at ¶ 19.) Defendants
6 contend that Plaintiff and Aggrieved Employees were paid for all hours worked and that Defendants
7 prohibited Plaintiff and Aggrieved Employees from working beyond their scheduled shifts; that
8 Defendants provided Plaintiff and Aggrieved Employees with compliant meal periods and rest breaks
9 and that any deviations were at the voluntary election of Plaintiff and/or Aggrieved Employees and
10 not at the request of Defendants or due to work requirements; that Defendants paid all wages due on
11 a timely basis and using Labor Code compliant instruments; that Defendants’ wage statements
12 complied with the law; and that neither Plaintiff nor any of the PAGA Group incurred reasonable
13 business-related expenses for which they were not reimbursed. (*Id.*) Defendants further contend that
14 their above defenses are supported by their written policies applicable to Plaintiff and Aggrieved
15 Employees. (*Id.*) As a result, PAGA Counsel had to appropriately discount the amount recoverable
16 from Defendants in a settlement. (*Id.*)

17 **D. The Court May Have Exercised Its Discretion to Reduce Civil Penalties.**

18 “PAGA penalties...are mandatory, not discretionary,” and the Court must award penalties
19 upon a showing that Defendants violated the Labor Code. *Amaral v. Cintas Corp. No. 2* (2008) 165
20 Cal. App. 4th 1157, 1213; *Moreno v. Autozone, Inc.* (N.D. Cal. June 5, 2007) No. C05-04432 MJJ,
21 2007 WL 1650942, at *3. However, PAGA does provide the Court with discretion when it awards
22 these penalties. Labor Code § 2699(e)(2) states that “a court may award a lesser amount than the
23 maximum civil penalty amount specified by this part if, based on the facts and circumstances of the
24 particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or
25 confiscatory.” (*See also Thurman v. Bayshore* (2012) 203 Cal. App. 4th 1112 (reducing PAGA
26 penalties by 30% under this provision).

27 In departing from the \$100/pay period calculation to arrive at the \$75,000.00 Maximum
28

Settlement Amount in this case, Plaintiff considered what the realistic potential exposure could be and why the Court may reduce any eventual recovery at its discretion, including Defendant's defenses to the claims and the potential manageability issues with PAGA claims at trial. (Kim Decl., at ¶ 23.) Based on those considerations, Plaintiff concluded that a discount would have to be applied to the maximum potential exposure to arrive at the settlement amount. (*Id.*)

VI. THE REQUEST FOR ATTORNEYS' FEES AND COSTS

A. The Court Should Approve the Requested Attorneys' Fees and Costs

PAGA Counsel is requesting a PAGA Counsel Fees Payment in the amount of **\$25,000.00** for attorneys' fees and a PAGA Counsel Litigation Expenses Payment of **\$17,998.29** for litigation costs incurred. (Kim Decl., ¶ 25.)

Prior to the enactment of PAGA, when the State had the resources to seek civil penalties on behalf of the public, it paid its employees (including their attorneys) their salaries and benefits for pursuing such penalties. The Legislature enacted PAGA because the Labor Commissioner and other agencies were hampered in their enforcement of civil penalties by inadequate funding and staffing constraints. *Iskanian, supra*, 59 Cal.4th at 379. To facilitate broader enforcement, the Legislature enacted PAGA, authorizing "aggrieved employees" to pursue civil penalties on the state's behalf. Labor Code § 2699(a). In creating PAGA, the Legislature expressly provided that the private counsel retained by the Plaintiff to represent the public's interest can recover fees if the Plaintiff is the prevailing party. Labor Code § 2699(g)(1).

1) PAGA Counsel Are Entitled to Fees from the Civil Penalties Recovered

As previously indicated, this is *not* a class action. However, like a class action, it is a representative action where, instead of a class, the Plaintiff represents the State and the public. As a matter of law and substance, counsel's client is the public at large and the State of California. The Plaintiff is simply a "proxy" for the State. On August 11, 2016, the California Supreme Court decided *Laffitte v. Robert Half International*, which addressed, in a class action context, the correct methodology for awarding fees in a representative action settlement. *Laffitte v. Robert Half Intern. Inc.* (2016) 205 Cal.Rptr.3d 555, 573. The *Laffitte* Court approved awarding fees as a percentage of

1 the settlement fund.:

2 We join the overwhelming majority of federal and state courts in holding that when
3 class action litigation establishes a monetary fund for the benefit of the class
4 members, and the trial court in its equitable powers awards Class Counsel a fee out
of that fund, the court may determine the amount of a reasonable fee by choosing
an appropriate percentage of the fund created.

5 *Id.* at p. 573. Here, the \$75,000.00 common fund created for the benefit of the public is, with Plaintiff
6 as a proxy for the State, not unlike the fund created in class action settlements, with the public the
7 equivalent of the class referenced in *Laffitte*.

8 The Court, in *Laffitte*, pointed out several reasons why the percentage-of-the-fund method is
9 preferred over the alternative lodestar multiplier approach in California courts:

10 The recognized advantages of the percentage method—including relative ease of
11 calculation, alignment of incentives between counsel and the class, a better
12 approximation of market conditions in a contingency case, and the encouragement
13 it provides counsel to seek an early settlement and avoid unnecessarily prolonging
the litigation [citations]—convince us the percentage method is a valuable tool that
should not be denied our trial courts.

14 *Id.* at 573.

15 An award of one-third of the civil penalties realized in the Settlement is appropriate here under
16 the “substantial benefit” theory. *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1810;
17 *Wershba v. Apple Computer, Inc.* (2001) 91 Cal. App. 4th 224, 254. That theory permits a litigant
18 who has sued in a representative capacity to recover fees from the beneficiaries of that representation.
19 Courts exercise their inherent equitable powers to assess attorneys’ fees against the entire fund,
20 thereby spreading the cost of those fees among the public who benefit from PAGA actions. *Serrano*
21 *v. Priest* (1977) 20 Cal.3d 25, 35 (*Serrano III*). As this approach “better approximates the workings
22 of the marketplace than the lodestar approach,” there is “a greater judicial willingness to evaluate a
23 fee award as a percentage of the recovery.” *Lealao v. Beneficial Calif., Inc.* (2000) 82 Cal. App. 4th
24 19, 31, 48.

25 2) The Attorneys’ Fees Request Is Within the Range of Reasonable Fees

26 PAGA Counsel at D.Law, Inc. are experienced employment attorneys with expertise in wage
27 and hour class and representative actions. (Kim Decl., ¶¶ 35-41.) Throughout this case, PAGA

Counsel have borne, and continue to bear, the entire risk and cost of litigation associated with this Action on a purely contingency basis. (Kim Decl., ¶¶ 27-28.) As a result, PAGA Counsel have yet to receive any compensation for the amount of time and money invested in the case to date. (*Id.*) Moreover, courts in this county and others have approved attorneys' fees awards in other PAGA settlements on a common fund basis at higher percentages than the one-third Plaintiff is requesting here. (*Id.*)

For these reasons, PAGA Counsel's requested fee of one-third of the Maximum Settlement Amount is well within the range of reasonableness and is fair compensation for undertaking this complex and risky litigation on a contingent basis.

3) PAGA Counsel's Fee Request Is Reasonable Under the Lodestar Crosscheck.

PAGA Counsel's fee request is reasonable when calculated using the lodestar method. Under the lodestar method, a base fee amount is calculated from a compilation of time reasonably spent on the case and the reasonable hourly compensation of the attorney. *Serrano v. Priest* (1977) 20 Cal.3d 25, 48. The court then may enhance this lodestar figure by a "multiplier" to account for a range of factors, such as the novelty and difficulty of the case, its contingent nature, and the degree of success achieved. *Id.* at 49; *see also Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132-36; *Thayer v. Wells Fargo Bank* (2001) 92 Cal. App. 4th 819, 834, ("[t]here is no...rule limiting the factors that may justify an exercise of judicial discretion to [adjust the] lodestar"). Here, the factors warranting a modest multiplier were apparent in this case.

Here, the lodestar cross check establishes that the fees requested are significantly less than the amount warranted by lodestar analysis; therefore, the factors warranting positive multipliers do not come into play, even though they were apparent in this case.

PAGA Counsel worked at least **138.80** hours on this matter and calculated the base lodestar at **\$82,120.00** at rates reflecting those currently earned in the marketplace. (Kim Decl., ¶¶ 31-32.) Senior Attorney Alvin B. Lindsay's records indicate at least 27.50 hours on this matter with an hourly rate of \$800. (*Id.*) Associate Attorney Melissa Rodriguez's records indicate at least 20.30 hours on this matter with an hourly rate of \$400. (*Id.*) Associate Attorney Jean Power's records indicate at least

69 hours on this matter with an hourly rate of \$500. Senior Attorney Enoch Kim’s records indicate at least 12.00 hours on this matter with an hourly rate of \$750. Managing Attorney David Yeremian’s records indicate at least 10.00 hours on this matter with an hourly rate of \$850. (Kim Decl., ¶¶ 31-32.) Thus, consideration of the lodestar method as a cross-check to the percentage figure sought strongly supports the reasonableness of the requested fee award. (Kim Decl., ¶ 33.) As such, PAGA Counsel respectfully request that the Court grant their request for \$25,500.00 in fees.

4) The Court Should Approve the Reimbursement of PAGA Counsel’s Costs.

The litigation expenses incurred by PAGA Counsel in this Action are also to be reimbursed under the Settlement Agreement. (Kim Decl., ¶ 15.a.) PAGA Counsel incurred **\$17,998.29** in expenses in litigating this Action. The lion’s share of these costs was incurred in connection with mediation, and the others listed were all reasonably incurred and necessary to the prosecution of this Action. (*Id.* at ¶ 25.) Thus, PAGA Counsel respectfully request that the Court approve their request for reimbursement in the amount of **\$17,998.29**. (*Id.*)

VII. THE COURT SHOULD APPROVE THE COSTS OF ADMINISTRATION AND NOTICE

The Parties agreed to use Phoenix Class Action Administration Solutions as the third-party settlement administrator in this case. (Kim Decl., ¶ 14.) Phoenix will be responsible for updating the addresses of Aggrieved Employees, mailing a notice of Settlement, and calculating and distributing the settlement checks, among other duties. (*Id.*) Phoenix capped its fees at \$2,750.00 for administering the Settlement, and based on PAGA Counsel’s experience in other class and PAGA settlements, Phoenix’s costs for administering this Settlement are fair and reasonable. (*Id.*)

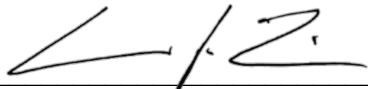
The Settlement Administrator will mail the Aggrieved Employee Payment Share along with a letter providing notice of the Settlement and release of claims to the Aggrieved Employees (“PAGA Notice of Settlement”). (*Id.* at ¶ 43.) The PAGA Notice of Settlement includes, among other things, an explanation of PAGA, a description of the allegations in the Action and the scope of released claims, and a statement of the Maximum Settlement Amount and payment allocations from the Maximum Settlement Amount. (*Id.*)

1 **VIII. CONCLUSION**

2 Plaintiff and PAGA Counsel submit that the proposed Settlement, as documented in the
3 Settlement Agreement, is fair, adequate, reasonable, and in the best interest of Plaintiff, Defendant,
4 the PAGA Group, and the State of California. Plaintiff respectfully requests that the Court approve
5 the Settlement and order the Parties to carry out the Settlement according to the terms of the
6 Settlement Agreement and the Amendments to the Settlement Agreement and enter the concurrently
7 filed [Proposed] Order Granting Approval and Judgment to that end.

8 DATED: June 6, 2025

D.LAW, INC

9
10 By 
11 Enoch J. Kim
12 Attorney for Plaintiff on behalf of herself and
13 Aggrieved Employees
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