Justin Lo, Esq. (SBN 280102)
justin@caworklawyer.com
Jarrod Y. Nakano, Esq. (SBN 235548)
jarrod@caworklawyer.com
WORK LAWYERS, PC
22939 Hawthorne Blvd., Suite 300
Torrance, CA 90505
Phone: (310) 248-2944
Fax: (424) 355-8335

Attorneys for Plaintiff ALEXANDER J. SCHMEEL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

ALEXANDER J. SCHMEEL, individually and on behalf of all others similarly situated,

Plaintiff,

v.

TRIGO ADR AMERICAS LLC, a Limited Liability Company doing business in California; and DOES 1 through 50, inclusive,

Defendant.

Case No.: 24CU014335C

Assigned for all purposes to the Hon. Carolyn M. Caietti; Dept. C-70

NOTICE OF UNOPPOSED MOTION AND MOTION FOR AN ORDER APPROVING SETTLEMENT OF CLAIMS BROUGHT PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004, AWARDING ATTORNEYS' FEES, COSTS, AND REIMBURSEMENT OF SETTLEMENT ADMINISTRATION EXPENSES; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATIONS OF JUSTIN LO AND JARROD Y. NAKANO IN SUPPORT THEREOF

Hearing:
Date: July 23, 2027
Time: 10:30 a.m.
Dept.: C-70

RESERVATION ID: 105899

Complaint Filed: October 1, 2024
Trial Date: None Set

PLEASE TAKE NOTICE THAT on July 23, 2027, at 10:30 a.m., or as soon thereafter as the matter may be heard, in Department C-70 of the above entitled Court, located at the Hall of Justice, 330 West Broadway, San Diego, California 92101, Plaintiff ALEXANDER J. SCHMEEL will and hereby moves unopposed for an Order: (1) granting approval of the proposed settlement of claims brought pursuant to the Private Attorneys General Act of 2004 (Lab. Code, § 2698 *et seq.*) ("PAGA") set forth in the parties' PAGA Settlement Agreement (the "Settlement Agreement"); (2) appointing Phoenix Settlement Administrator as the Settlement Administrator and approving payment of its fees of $3,254.11 from the Gross Settlement Amount; (3) directing disbursement of the Gross Settlement Amount pursuant to the terms of the Settlement Agreement; and (4) directing payment from the Gross Settlement Amount of $38,000.00 in attorneys' fees and $15,234.70 in litigation costs to Plaintiff's counsel.

This motion will be based on this Notice, the supporting memorandum of points and authorities, the parties' PAGA Settlement Agreement, the Declarations of attorneys Justin Lo and Jarrod Y. Nakano, the documents and records on file in this matter, and such additional arguments, authorities, and evidence and other matters as may be presented by the parties hereafter.

Date: October 29, 2026

WORK LAWYERS, PC

By: /s/ Justin Lo

Justin Lo, Esq.
Jarrod Y. Nakano, Esq.
Attorney for Plaintiff,
ALEXANDER J. SCHMEEL

Table of Contents

MEMORANDUM OF POINTS AND AUTHORITIES ..... **Error! Bookmark not defined.**

I. INTRODUCTION 6

II. STATEMENT OF THE CASE AND THE SETTLEMENT 7

A. The Parties 7

B. The Claims Asserted 7

C. Procedural Posture 8

D. Plaintiff's Counsel's Investigation 8

E. Settlement Negotiations 9

F. The Proposed Settlement 9

III. LEGAL ARGUMENT 11

A. Standards for Approval of A PAGA Settlement 11

B. The Settlement Meets All the Criteria For Approval 12

1. The Factors Giving Rise to a Presumption of Fairness Exist 12

2. The Risk, Expense, and Complexity of Further Litigation Balances Strongly in Favor of Approval of the Settlement 13

3. The Benefits Conferred by the Settlement Balance in Favor of Approval 13

4. The Scope of the Release is Narrowly Tailored 14

5. The Experience and Views of Plaintiff's Counsel Favor Approval of the Settlement 14

6. The Extent of Documentation Exchanged And The Stage Of The Proceedings Favor Approval of the Settlement 15

7. Additional Factors Weigh In Favor Of Finding The Terms Of The Proposed Settlement To Be Fair, Adequate, And Reasonable 15

IV. PLAINTIFF'S COUNSEL ARE ENTITLED TO RECOVER THEIR REASONABLE FEES AND COSTS 15

A. Plaintiff's Counsel Are Entitled To Recover Their Reasonable Fees And Costs As A Matter Of Right 16

B. The Fee Amount Requested Is Reasonable 17

C. The Fee Amount Allocated by The Settlement Agreement Is Within the Zone of Reasonableness Under the "Percentage of the Fund" Method 18

D. Plaintiff's Counsel's Request for Costs is Reasonable 18

V. CONCLUSION 19

Table of Authorities

Page(s)

CALIFORNIA CASES

Arias v. Superior Court (2009) 46 Cal.4th 969 14

D'Amico v. Board of Medical Examiners (1974) 11 Cal.3d 1 ..... 16, 17

Estrada v. FedEx Ground Package System, Inc. (2007) 154 Cal.App.4th 1 17

Glendale City Employees' Assn. v. City of Glendale (1975) 15 Cal.3d 328 16

Laffitte v. Robert Half Internat. Inc. (2016) 1 Cal.5th 480 17

Moniz v. Adecco USA, Inc. (2021) 72 Cal.App.5th 56 11

Quinn v. State of California (1975) 15 Cal.3d 162 16

Serrano v. Priest (1977) 20 Cal.3d 25 ..... 16, 17

FEDERAL CASES

Anderson v. Nextel Retail Stores, LLC (C.D.Cal. Apr. 12, 2010) 2010 U.S.Dist.LEXIS 43377 12

Boeing Co. v. Van Gemert (1980) 444 U.S. 472 16

In re GNC Shareholder Litigation (W.D.Pa. 1987) 668 F.Supp. 450 19

In re TD Ameritrade Accountholder Litigation (N.D.Cal. Sept. 12, 2011) 2011 U.S.Dist.LEXIS 103222 11

In re United Energy Corp. Securities Litigation (C.D.Cal. 1989) 1989 WL 73211 19

Linney v. Cellular Alaska Partnership (9th Cir. 1998) 151 F.3d 1234 ..... 12, 14, 15

Martin v. AmeriPride Services, Inc. (S.D.Cal. June 9, 2011) 2011 U.S.Dist.LEXIS 61796 18

National Rural Telecommunications Cooperative v. DIRECTV, Inc. (C.D.Cal. 2004) 221 F.R.D. 523 12

Officers for Justice v. Civil Service Com. (9th Cir. 1982) 688 F.2d 615 ..... 11, 14

Sandoval v. Roadlink USA Pacific, Inc. (C.D.Cal. Nov. 9, 2011) 2011 U.S.Dist.LEXIS 130378 15

Schiller v. David's Bridal, Inc. (E.D.Cal. June 11, 2012) 2012 U.S.Dist.LEXIS 80776 17

Vasquez v. Coast Valley Roofing, Inc. (E.D.Cal. 2010) 266 F.R.D. 482 18

STATUTES

Code of Civil Procedure, § 1021.5 17

Labor Code, §§ 201-204 7

Labor Code, § 226 7

Labor Code, § 226.7 7

Labor Code, § 510 7

Labor Code, § 512 7

Labor Code, § 1174 7

Labor Code, § 1194 7

Labor Code, § 1197 7
Labor Code, § 1197.1 7
Labor Code, § 2698 *et seq.* 14
Labor Code, § 2699, subd. (e)(2) 13
Labor Code, § 2699, subd. (g)(1) 17
Labor Code, § 2699, subd. (i) 7, 14
Labor Code, § 2699, subd. (l)(1) 8
Labor Code, § 2699, subd. (l)(2) 11, 19
Labor Code, § 2699.3 8
Labor Code, § 2802 7

OTHER AUTHORITIES

Newberg, *Attorney Fee Awards* (1987) § 2.19 19

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff ALEXANDER J. SCHMEEL ("Plaintiff") and the allegedly aggrieved employees under the Labor Code's Private Attorneys General Act of 2004 ("PAGA") respectfully move this Court for an Order granting approval of the proposed Settlement of the above-captioned lawsuit against Defendant TRIGO ADR AMERICAS LLC ("Defendant"). The proposed Settlement will dispose of the Released PAGA Claims asserted on behalf of Plaintiff and approximately 44 current and former non-exempt employees employed by Defendant in California at any time between April 30, 2023, through June 19, 2026, who worked approximately 1,250 pay periods (the "Aggrieved Employees").

This case addresses claimed violations of employee protections embodied in the California Labor Code and civil penalties under PAGA. Plaintiff alleges that approximately 44 Aggrieved Employees suffered Labor Code violations during up to 1,250 aggregate pay periods. Defendant denies all liability.

In deciding whether to grant approval of the proposed Settlement, the primary issue to be decided is whether the Settlement is fair, adequate and reasonable. As set forth herein, the proposed Settlement embodies all of the features of a settlement that is fair, reasonable, and adequate, as it: (1) is the product of arms-length negotiations, (2) was negotiated by attorneys experienced in wage and hour issues, (3) occurred subsequent to undertaking sufficient investigation necessary to evaluate the relative strength and value of the PAGA claim, and (4) reflects a reasoned compromise based directly on the relative strength and value of the PAGA claim, as well as the risks, expense, complexity and likely duration of further litigation.

The value achieved by the Settlement may be gleaned from the fact that the Labor and Workforce Development Agency ("LWDA") and the 44 Aggrieved Employees encompassed by the Settlement will receive $57,511.19 under the terms of the Settlement, which, pursuant to the

operative statute, shall be allocated "75 percent to the Labor and Workforce Development Agency . . . and 25 percent to the aggrieved employees." *See* Lab. Code, § 2699, subd. (i) (as in effect before June 19, 2024). Nakano Decl. ¶ 6.

For these reasons, as set forth more fully herein, Plaintiff respectfully requests that this Court enter the Order submitted herewith.

II. STATEMENT OF THE CASE AND THE SETTLEMENT

A. The Parties

Defendant provides quality inspection and related quality services to its clients, including the inspection of products at its clients' facilities in California. Defendant employed Plaintiff as an hourly, non-exempt source inspector in California from approximately November 2023 to February 2024. The Aggrieved Employees are all persons employed by Defendant in California and classified as non-exempt employees who worked for Defendant at any time during the PAGA Period, April 30, 2023 through June 19, 2026. Nakano Decl. ¶¶ 7-8; Settlement Agreement ¶¶ 1.4, 1.19.

B. The Claims Asserted

On October 1, 2024, Plaintiff filed this action by filing a Class Action and PAGA Complaint. Settlement Agreement ¶ 2.1. On January 7, 2025, the Court granted the Parties' joint stipulation dismissing Plaintiff's class claims without prejudice. Lo Decl. ¶ 2. Plaintiff asserted claims that Defendant failed to pay Plaintiff and the Aggrieved Employees all wages due, including all minimum wages and overtime wages, in violation of Labor Code sections 510, 1194, 1197, and 1197.1; failed to provide legally compliant meal and rest periods, or premiums in lieu thereof, in violation of Labor Code sections 226.7 and 512; failed to issue accurate itemized wage statements in violation of Labor Code section 226; failed to timely pay all wages due during employment and upon separation in violation of Labor Code sections 201-204; failed to reimburse all necessary business expenses in violation of Labor Code section 2802; and failed to maintain accurate records in violation of Labor Code section 1174. Plaintiff asserts these claims under PAGA, seeking civil penalties for the alleged Labor Code violations. Nakano Decl. ¶ 8.

C. Procedural Posture

On April 30, 2024, pursuant to Labor Code section 2699.3, Plaintiff gave written notice by online filing with the LWDA and by certified mail to Defendant of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violation. Nakano Decl. ¶ 5; Exhibit A. After the LWDA declined to take action within the statutorily permissible time, Plaintiff filed this representative action complaint in this Court. Nakano Decl. ¶ 5.

Plaintiff submitted the Complaint to the LWDA on October 29, 2026, pursuant to Labor Code section 2699, subdivision (l)(1). Nakano Decl. ¶ 10. Concurrently with the filing of this Motion, Plaintiff submitted the Settlement Agreement, together with this Motion and all supporting documents, to the LWDA via online upload on October 29, 2026. Confirmation of the submission to the LWDA is attached as Exhibit B to the Nakano Declaration. Nakano Decl. ¶ 9; Exhibit B.

D. Plaintiff's Counsel's Investigation

Counsel for Plaintiff engaged in formal and informal discovery regarding Defendant's alleged Labor Code violations, which specifically targeted evaluating the strength and value of the PAGA claims. Defendant produced Plaintiff's personnel file and wage and time records, its written policies, and other documents, and Plaintiff's counsel took the depositions of two of Defendant's persons most qualified regarding Defendant's pay and timekeeping practices. In advance of mediation, Defendant produced time punch data, payroll records, and wage statements for the Aggrieved Employees, which Plaintiff's counsel reviewed and provided to Plaintiff's data expert for analysis. Nakano Decl. ¶ 11.

Plaintiff's Counsel obtained and reviewed multiple documents, including (i) Plaintiff's personnel file, time records, and wage statements, (ii) Defendant's written policies and hundreds of pages of documents produced by Defendant, and (iii) time punch data, payroll register data, and wage statements for the Aggrieved Employees, and the number of pay periods within the PAGA Period relating to the number of alleged violations and the value of the recoverable penalties. Nakano Decl. ¶ 12.

Based on the information received, as well as through discussions with Defendant's Counsel,

Plaintiff's Counsel, with the assistance of Plaintiff's data expert, were able to (i) determine the total number of distinct individuals falling within the definition of "Aggrieved Employee" for the PAGA Period, and (ii) construct a damage model that calculated the maximum realistic amount of PAGA penalties that could be levied against Defendant within the PAGA Period. Defendant, however, disputed Plaintiff's claims and disputed both the existence of and extent of liability as alleged by Plaintiff. Lo Decl. ¶¶ 3-6; Nakano Decl. ¶¶ 2-3, 11-13.

Based on Plaintiff Counsel's experience in litigating similar "representative" wage and hour claims, the degree of investigation that was conducted, and the amount of data that was obtained, was sufficient to determine the potential value of the PAGA claim, and to evaluate the strength of this claim for purposes of settlement. Lo Decl. ¶¶ 3-6; Nakano Decl. ¶¶ 2-3, 11-13.

E. Settlement Negotiations

The Parties have conducted a thorough investigation into the facts of the PAGA Action. This included exchanging extensive data and information as well as documents relating to the underlying alleged violations. On June 19, 2026, the Parties participated in a full-day private mediation with Michael D. Mandel, Esq., an experienced wage and hour mediator, which led to a mediator's proposal that both Parties accepted. Nakano Decl. ¶ 14; Settlement Agreement ¶ 2.3. Following extensive arm's length negotiation regarding the terms and extent of any release, the Parties fully executed the Settlement Agreement on August 27, 2026. Nakano Decl. ¶ 15.

F. The Proposed Settlement

The Parties jointly prepared and executed the PAGA Settlement Agreement. Nakano Decl. ¶ 15; Exhibit C (the "Settlement Agreement"). The Settlement Agreement sets forth the terms of the Settlement reached by the Parties, including the following key points:

1. Defendant agrees to settle this matter for the payment of $114,000.00 (hereinafter the "Gross Settlement Amount"), which shall be all inclusive, encompassing (i) all payments to the Labor and Workforce Development Agency and Aggrieved Employees, (ii) any and all costs of third-party administration of the settlement, and (iii) Plaintiff's Counsel's attorneys' fees and costs of suit. No part of the Gross Settlement Amount will revert to Defendant. Defendant estimates that the 44

Aggrieved Employees worked 1,250 PAGA Pay Periods; if the actual number exceeds 1,375 PAGA Pay Periods, the escalator clause in Paragraph 8 of the Settlement Agreement applies. *See* Settlement Agreement ¶¶ 1.11, 3.1, 4.1, 8.

2. The total sum available for payment of PAGA penalties shall be calculated by deducting $38,000.00 for the payment of Plaintiff's Counsel's fees, $15,234.70 in costs, and the costs of settlement administration of $3,254.11, yielding $57,511.19 in PAGA Penalties. Seventy-five percent (75%) of this amount, or $43,133.39, shall be distributed to the LWDA, and the remaining twenty-five percent (25%), or $14,377.80, shall be distributed to the Aggrieved Employees. The Settlement Agreement estimates the PAGA Penalties at $52,745.89 because that estimate assumes the maximum costs ($20,000.00); Plaintiff's Counsel's actual costs are lower, so the PAGA Penalties are $4,765.30 higher. *See* Settlement Agreement ¶¶ 1.22, 3.2.1, 3.2.3; Nakano Decl. ¶ 17.

3. All Aggrieved Employees will receive a pro rata share of the approximately $14,377.80 allocated to Aggrieved Employees, which shall be distributed based on the number of PAGA Pay Periods each Aggrieved Employee worked for Defendant in California during the PAGA Period. *See* Nakano Decl. ¶ 16; Settlement Agreement ¶ 1.12. Although these calculations will not be made until after approval, a rough estimation of the value to the 44 individuals falling within the definition of "Aggrieved Employee" may be gleaned from the fact that an equal division would provide approximately $326.77 to each Aggrieved Employee, net of payments to the LWDA, to the Settlement Administrator, and attorneys' fees and costs. The LWDA will be paid at least $43,133.39. *See* Nakano Decl. ¶ 17.

4. In exchange for the above settlement consideration, Defendant and the Released Parties, under Paragraph 5.2 of the Settlement Agreement shall be entitled to the following release from each and every Aggrieved Employee, including Plaintiff:

> *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. (Settlement Agreement ¶ 5.2.)*

5. Settlement administration, which is to be paid from the Gross Settlement Amount, will not exceed $3,254.11. Phoenix Settlement Administrator, a reputable settlement administration company, has agreed to administer the settlement for a not-to-exceed amount of $3,254.11. *See* Settlement Agreement ¶ 3.2.2; Nakano Decl. ¶ 21, Exhibit D.

6. Finally, under the terms of Settlement, the value of any check not cashed by its void date, which is not less than 180 days after the date of mailing, shall be transmitted to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee. *See* Settlement Agreement ¶¶ 4.4.1, 4.4.3.

III. LEGAL ARGUMENT

A. Standards for Approval of A PAGA Settlement

The settlement of a PAGA claim requires court approval pursuant to the operative PAGA statute, which states that "[t]he superior court shall review and approve any settlement of any civil action filed pursuant to this part." *See* Lab. Code, § 2699, subd. (l)(2).

As with any settlement, the Court must be mindful in conducting its inquiry that "[s]ettlement is a compromise, which balances the possible recovery against the risks inherent in litigating further." *See In re TD Ameritrade Accountholder Litigation* (N.D.Cal. Sept. 12, 2011) 2011 U.S.Dist.LEXIS 103222, *24. Indeed, "the very essence of a settlement is … 'a yielding of absolutes and an abandoning of highest hopes'" [*Officers for Justice v. Civil Service Com.* (9th Cir. 1982) 688 F.2d 615, 624], as "it is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements." *See id.* at p. 625. As such, "the settlement or fairness hearing is not to be turned into a trial or rehearsal for trial on the merits" or "judged against a hypothetical or speculative measure of what might have been achieved by the negotiators." *See id.*

The Court reviews a PAGA settlement to determine whether it is "fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th

56, 77. Courts may also draw on the factors used to review class action settlements, to the extent they apply.[1]

B. The Settlement Meets All the Criteria For Approval

1. The Factors Giving Rise to a Presumption of Fairness Exist

In conducting a review of a settlement, it is generally recognized that an "agreement . . . reached through arms-length negotiation between experienced parties . . . is entitled to a presumption of fairness." *See Anderson v. Nextel Retail Stores, LLC* (C.D.Cal. Apr. 12, 2010) 2010 U.S.Dist.LEXIS 43377, *44. A presumption of fairness exists here, as the proposed Settlement (1) is the product of arms-length negotiations [Nakano Decl. ¶¶ 14-15], (2) that was negotiated by Counsel with significant experience in similar wage and hour litigation [Lo Decl. ¶¶ 3-6, Exhibit A; Nakano Decl. ¶¶ 2-3], (3) which occurred after Counsel had conducted sufficient investigation to evaluate the strength and potential value of the PAGA claims, as well as evaluating the risks of litigating this claim through trial. *See* Nakano Decl. ¶¶ 11-13, 18-19. Based thereon, the court should give considerable weight to the competency and integrity of counsel in assuring itself that the Settlement Agreement represents an arm's length transaction entered without self-dealing or other potential misconduct.

The relative strength of the PAGA claims brought by Plaintiff weighs in favor of the Court finding that the settlement is fair, adequate, and reasonable, as Defendant maintained numerous defenses to the theories of penalty-liability put forward by Plaintiff that, if successful, had the potential to completely eliminate any recovery.

Defendant's maximum theoretical exposure in this action, without stacking potentially duplicative penalties, totals approximately $125,000.00 computed by multiplying 1,250 PAGA Pay

[1] As held by the Ninth Circuit, evaluation of a class action settlement under Rule 23 "[involves] a balancing of several factors which may include, among others, some or all of the following: [1] the strength of Plaintiffs' case; [2] the risk, expense, complexity, and likely duration of further litigation; [3] the risk of maintaining class action status throughout the trial; [4] the amount offered in settlement; [5] the extent of discovery completed, and the stage of the proceedings; [6] the experience and views of counsel; [7] the presence of a governmental participant; and [8] the reaction of the class members to the proposed settlement." *See Linney v. Cellular Alaska Partnership* (9th Cir. 1998) 151 F.3d 1234, 1242. "Not all of these factors will apply to every class action settlement" and "[u]nder certain circumstances, one factor alone may prove determinative in finding sufficient grounds for court approval." *See National Rural Telecommunications Cooperative v. DIRECTV, Inc.* (C.D.Cal. 2004) 221 F.R.D. 523, 525-526.

Periods by $100 each. *See* Nakano Decl. ¶ 18.

Defendant contends it acted within the requirements of California law at all times as to all Aggrieved Employees. It further contends that not every pay period at issue involved an alleged Labor Code violation subject to civil penalties. Moreover, it maintained that even if the Court did award penalties, the Court could and would *substantially* reduce the penalties awarded based on the discretionary factors contained in Labor Code section 2699, subdivision (e)(2) ("In any action by an aggrieved employee . . . , a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory."). *See* Nakano Decl. ¶ 18.

Based on these disputes, which had the potential to completely eliminate Plaintiff's recovery, the range of realistic "litigation outcomes" on the Plaintiff's PAGA claim was defined by the "maximum possible liability" amount of approximately $125,000.00, *id.*, and a net-zero recovery based on the defenses asserted by Defendant. *See* Nakano Decl. ¶¶ 18-19. Notwithstanding the existence of such issues, the Settlement achieves a significant benefit. As such, this factor weighs very heavily in favor of resolution by way of the compromise set forth in the Settlement. *Id.*

2. The Risk, Expense, and Complexity of Further Litigation Balances Strongly in Favor of Approval of the Settlement

Approval of the proposed Settlement Agreement is also appropriate in light of the risk, expense, and complexity of further litigation. As discussed above, the proposed Settlement Agreement takes into consideration the specific factual and legal hurdles faced by the Plaintiff in establishing Defendant's penalty-liability in this case, which again, may have resulted in a net-zero recovery. These risks – when balanced with the fact that the settlement achieved a very significant recovery (as demonstrated below), and that further litigation posed a risk of diminishing such recovery by increasing litigation expenses – weigh strongly in favor of settlement approval.

3. The Benefits Conferred by the Settlement Balance in Favor of Approval

The Settlement Agreement provides a significant monetary benefit that falls well within "the range of an acceptable settlement" under the circumstances, which is the standard on which the

instant Settlement must be judged. As held by the Ninth Circuit, a settlement may be fair and reasonable even where it only provides a fraction of what could have been obtained at trial. *Officers for Justice*, *supra*, 688 F.2d at pp. 624-625; *Linney*, *supra*, 151 F.3d at p. 1242.

Here, after all deductions are made for administration, attorneys' fees and costs, at least $57,511.19 will be paid out [Nakano Decl. ¶ 6], of which $43,133.39 (i.e. 75%) will go to the LWDA, and $14,377.80 (i.e. 25%) will go to the Aggrieved Employees, as required by Labor Code section 2699, subdivision (i) (as in effect before June 19, 2024) ("civil penalties recovered by aggrieved employees shall be distributed as follows: 75 percent to the Labor and Workforce Development Agency . . . and 25 percent to the aggrieved employees."). Nakano Decl. ¶¶ 6, 17.

Thus, notwithstanding the existence of issues having the potential to completely eliminate recovery on the PAGA claim, the Settlement Agreement recovers significant monies for Aggrieved Employees which they otherwise would not receive. As such, this factor balances strongly in favor of approval of the Settlement. Nakano Decl. ¶ 19.

4. <u>The Scope of the Release is Narrowly Tailored</u>

As discussed above, the California Supreme Court has concluded that in the context of PAGA "the nonparty 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." *See Arias v. Superior Court* (2009) 46 Cal.4th 969, 987. Thus, the scope of the release provided in exchange for the foregoing consideration is limited to the civil penalties asserted in the Action under Labor Code section 2698 *et seq.* *See* Settlement Agreement, at Paragraph 5.2. As such, this factor balances strongly in favor of approval of the Settlement.

5. <u>The Experience and Views of Plaintiff's Counsel Favor Approval of the Settlement</u>

Plaintiff's Counsel has a significant degree of experience in complex wage and hour litigation. *See* Lo Decl. ¶¶ 3-6, Exhibit A; Nakano Decl. ¶¶ 2-3. In Plaintiff's Counsel's view, the benefit conferred by the proposed Settlement is fair, reasonable, and adequate under the circumstances, as it reflects a reasoned compromise which takes into consideration the risks inherent in this case which had the potential to completely eliminate recovery. Nakano Decl. ¶¶ 18-19. As

such, this factor balances in favor of approval of the Settlement.

6. The Extent of Documentation Exchanged And The Stage Of The Proceedings Favor Approval of the Settlement

In evaluating this element, the Court should be mindful that "'formal discovery is not a necessary ticket to the bargaining table'" [*Linney*, *supra*, 151 F.3d at p. 1239], as the relevant consideration is "whether 'the parties have sufficient information to make an informed decision about settlement.'" *See Sandoval v. Roadlink USA Pacific, Inc.* (C.D.Cal. Nov. 9, 2011) 2011 U.S.Dist.LEXIS 130378, *26.

Here, the extent of formal and informal discovery and exchange of wage and hour documents exchanged was sufficient to enable Plaintiff's Counsel to evaluate the strength and value of the claim for purposes of settlement. Nakano Decl. ¶¶ 11-14. As discussed above, Plaintiff's Counsel's investigation was sufficient to, among other things, tabulate with precision the total number of alleged Labor Code violations at issue during the PAGA Period, reliably determine the number of pay periods at issue and identify the total number of individuals falling within the definition of "Aggrieved Employee" for the PAGA Period.

Based on Plaintiff's Counsel's experience litigating wage and hour claims, such investigation was sufficient to determine the potential value of the PAGA claim, and to evaluate the strength of this claim for purposes of settlement. *See* Nakano Decl. ¶¶ 12-13.

7. Additional Factors Weigh In Favor Of Finding The Terms Of The Proposed Settlement To Be Fair, Adequate, And Reasonable

The Settlement contemplates entry of an order (submitted concurrently herewith) which approves the Settlement. Paragraph 9 of the Settlement Agreement and paragraph 9 of the proposed order authorize the Court to retain jurisdiction over the Action. This procedure effectively disposes of the Action in its entirety, documents the Court's approval of the Settlement as required by PAGA, and allows for Court intervention if necessary to enforce the terms of the Settlement Agreement. *See* Nakano Decl. ¶ 20. In sum, under the applicable standards for approval of PAGA settlements in California, the settlement in this case meets the standards for approval.

IV. PLAINTIFF'S COUNSEL ARE ENTITLED TO RECOVER THEIR REASONABLE

FEES AND COSTS

Pursuant to the terms of the Settlement, Plaintiff's Counsel seeks attorneys' fees of $38,000.00 and reimbursement of litigation costs of $15,234.70, falling within the bounds authorized by the Settlement Agreement, which Defendant has agreed not to oppose. *See* Settlement Agreement ¶ 3.2.1. Plaintiff's Counsel's entitlement to an award of attorneys' fees and costs is warranted on multiple independent grounds. Plaintiff's counsel has performed at least 123.1 hours of contingent service on this case and anticipates 1.8 additional hours, for a total of 124.9 hours and a lodestar of $96,800.00, calculated at $800 per hour for attorneys Justin Lo and Jarrod Y. Nakano and $150 per hour for paralegals. The requested fee of $38,000.00 is a multiplier of approximately 0.39 on that lodestar, meaning counsel requests less than half the value of the time spent. Even calculating Mr. Lo's time at his prior court-approved rate of $750 per hour, the lodestar would be $94,245.00. *See* Lo Decl. ¶¶ 12-13, Exhibit B. Based thereon, Plaintiff's Counsel respectfully requests that the Court enter an order approving the fee and cost amounts requested.

A. Plaintiff's Counsel Are Entitled To Recover Their Reasonable Fees And Costs As A Matter Of Right

Plaintiff's Counsel are entitled to recover attorneys' fees and costs under the "common fund" doctrine as a matter of right. As held by the U.S. Supreme Court, "a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole." *See Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478. Courts have long recognized the "common fund" or "common benefit'" doctrine, under which attorneys who create a common fund or benefit for a group of persons may be awarded their fees and costs to be paid out of the fund. *Serrano v. Priest* (1977) 20 Cal.3d 25, 35 (*Serrano III*), quoting *D'Amico v. Board of Medical Examiners* (1974) 11 Cal.3d 1, 25; *Glendale City Employees' Assn. v. City of Glendale* (1975) 15 Cal.3d 328, 341, fn. 19; *Quinn v. State of California* (1975) 15 Cal.3d 162, 167.

The California Supreme Court has held that, "when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorneys' fees out of the fund." *Serrano III*, *supra*, 20 Cal.3d at p. 35, quoting *D'Amico*, *supra*, 11

Cal.3d at p. 25.

The California Supreme Court has confirmed that when litigation creates a monetary fund for the benefit of others and the court awards counsel a fee from that fund, "the court may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created." *Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 503. The court may also, but need not, check that percentage against counsel's lodestar. *Id.* at p. 506. In *Laffitte*, the Supreme Court affirmed an award of one-third of the settlement fund. Here, Plaintiff's Counsel requests the same one-third, $38,000.00 of the $114,000.00 Gross Settlement Amount, and a lodestar cross-check confirms it is reasonable: against a lodestar of $96,800.00, the fee is a multiplier of approximately 0.39, less than half the value of the time spent. Lo Decl. ¶¶ 12-13, Exhibit B.

Thus, as Plaintiff's Counsel have expended a significant amount of time and money to secure a $57,511.19 settlement fund for the LWDA and the Aggrieved Employees [*Schiller v. David's Bridal, Inc.* (E.D.Cal. June 11, 2012) 2012 U.S.Dist.LEXIS 80776, *43 ("A common fund results when 'the activities of the party awarded fees have resulted in the preservation or recovery of a certain or easily calculable sum of money-out of which sum or 'fund' the fees are to be paid.'")], and in doing so, have exclusively borne the risk of loss for such expenditures of time and expenses (as the LWDA elected not to take the case after receiving the PAGA Notice), Plaintiff's Counsel are entitled to claim reasonable fees from that fund under applicable precedent.[2]

B. <u>The Fee Amount Requested Is Reasonable</u>

In addition to the forgoing, Plaintiff's Counsel's request for attorneys' fees in the amount of $38,000.00 or 33 1/3% of the $114,000.00 Gross Settlement Amount, falls well within the "zone of reasonableness."

It is important to highlight at the outset that the fee amount presently sought is not

[2] Plaintiff's Counsel is also entitled to recover attorney's fees and costs as a matter of right under the PAGA statute [Lab. Code, § 2699, subd. (g)(1) ("Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs.")], and under Code of Civil Procedure section 1021.5, as the instant PAGA action was by definition "for the public benefit" and secured monetary awards for approximately 44 aggrieved employees. *See, e.g., Estrada v. FedEx Ground Package System, Inc.* (2007) 154 Cal.App.4th 1, 16-17 (section 1021.5 satisfied where plaintiff "ultimately obtained awards for 209 drivers").

extraordinary, but actually falls at the "average" fee deemed reasonable by courts in California, as it is recognized that "courts may award attorney's fees in the 30-40% range in wage and hour class actions that result in recovery of a common fund under $10 million." *See, e.g., Martin v. AmeriPride Services, Inc.* (S.D.Cal. June 9, 2011) 2011 U.S.Dist.LEXIS 61796, *23. In fact, this fee request is at the lower end of that range.

C. The Fee Amount Allocated by The Settlement Agreement Is Within the Zone of Reasonableness Under the "Percentage of the Fund" Method

The amount of fees requested by Plaintiff's Counsel is also reasonable based on standards applicable to the "percentage of the fund" method. "When assessing whether the percentage requested is reasonable, courts look to factors such as: (a) the results achieved; (b) the risk of litigation; (c) the skill required, (d) the quality of work; (e) the contingent nature of the fee and the financial burden; and (f) the awards made in similar cases." *See Vasquez v. Coast Valley Roofing, Inc.* (E.D.Cal. 2010) 266 F.R.D. 482, 492.

First, the results achieved by Plaintiff's Counsel are significant, as Defendant has agreed to pay $114,000.00 pursuant to the Settlement. This is a significant recovery given the risk of success in obtaining any recoverable penalties. [Nakano Decl. ¶¶ 6, 19].

Second, such results were achieved in the face of significant risks. As explained above, Defendant maintained defenses to Plaintiff's PAGA claims that very well could have resulted in a net-zero recovery at trial.

Third, notwithstanding this risk of loss, Plaintiff's Counsel undertook representation of the instant PAGA claim for the benefit of the State of California on a contingency basis. *See* Lo Decl. ¶ 7.

D. Plaintiff's Counsel's Request for Costs is Reasonable

In the course of this litigation, Plaintiff's Counsel collectively incurred out-of-pocket costs of $15,234.70 through the conclusion of this matter. *See* Lo Decl. ¶ 14, Exhibit C.

As demonstrated in the Lo Declaration submitted, the incurred costs included filing and service fees, LWDA filing fees, deposition transcript fees, mediation fees, expert data analysis fees and other charges typical of litigation of this nature. *Id.* Such costs are appropriate for cost

reimbursement in these types of cases. *See, e.g., In re United Energy Corp. Securities Litigation* (C.D.Cal. 1989) 1989 WL 73211, *6 (quoting Newberg, *Attorney Fee Awards* (1987) § 2.19); *see also In re GNC Shareholder Litigation* (W.D.Pa. 1987) 668 F.Supp. 450, 452.

The costs incurred by Plaintiff's Counsel in this litigation benefited Plaintiff, Aggrieved Employees, and the State. In light of the litigation costs that Plaintiff's Counsel was required to incur to prosecute this action, Plaintiff's cost request is reasonable and should be granted.

V. CONCLUSION

As shown herein, the Settlement Agreement is fair, adequate and reasonable, as it represents a reasoned compromise obtained through arms-length negotiations. Plaintiff respectfully requests that this Court, as set forth in the proposed Order Approving Settlement, do the following:

1. Grant approval of the Settlement Agreement, pursuant to Labor Code section 2699, subdivision (l)(2);

2. Appoint Phoenix Settlement Administrator as the Settlement Administrator and approve its administration fees of $3,254.11 for payment out of the Gross Settlement Amount;

3. Approve the award of attorneys' fees of $38,000.00 and costs of $15,234.70 to Plaintiff's Counsel, which shall come from the Gross Settlement Amount;

4. Direct disbursement of the remaining Gross Settlement Amount to the LWDA and all Aggrieved Employees as provided for in the Settlement Agreement.

Date: October 29, 2026

WORK LAWYERS, PC

By: /s/ Justin Lo

Justin Lo, Esq.
Jarrod Y. Nakano, Esq.
Attorney for Plaintiff,
ALEXANDER J. SCHMEEL