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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

BRENT RAYMOND ABBOTT, on behalf of  
himself and all others similarly situated, and  
the general public,

Plaintiff,

v.

WESTERN UNIVERSITY OF HEALTH  
SCIENCES, a California corporation; and  
DOES 1 through 50, inclusive,

Defendants.

Case No. 24STCV09686

Assigned for all purposes to:  
Hon. Carolyn Kuhl  
Dept.: 12

**NOTICE OF MOTION AND MOTION TO  
APPROVE THE PARTIES PAGA  
SETTLEMENT AGREEMENT;  
MEMORANDUM OF POINTS AND  
AUTHORITIES**

Hearing Date: January 11, 2027  
Time: 1:45 p.m.  
Dept.: 12

Action filed: April 17, 2024  
Trial date: None Set

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

2           PLEASE TAKE NOTICE that on January 11, 2027, at 1:45 p.m., or as soon thereafter as  
3 the matter may be heard in Department 12 at Spring Street Courthouse of the Superior Court for  
4 the County of Los Angeles located at 111 North Hill Street, Los Angeles, CA 90012, Plaintiff  
5 Brent Raymond Abbott (“Plaintiff”) on behalf of himself and other similarly situated employees  
6 of Defendant Western University of Health Sciences (“Defendant”) (Plaintiff and Defendant are  
7 collectively referred to herein as “the Parties”) will and hereby does move this Court for entry of  
8 an order: (1) approving the representative action settlement embodied in the Parties’ PAGA  
9 Settlement Agreement (“Settlement Agreement”); (2) approving PAGA Counsel’s application for  
10 attorney’s fees and litigation costs and costs for the Administrator; and (3) entering judgment  
11 approving the Settlement Agreement (the “Motion”).

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

18           Defendant does not oppose this Motion. Plaintiff bases this Motion on this Notice and the  
19 accompanying Memorandum of Points and Authorities, the Declaration of Marta Manus and  
20 exhibits thereto, the Declaration of Brent Abbott, the complete pleadings, records, and files in the  
21 case, and such other further oral and documentary evidence which may be submitted at or before  
22 the hearing on this Motion.

23 Date: September 3, 2026

**D.LAW, INC.**

24  
25 By:   
26 Enoch J. Kim  
27 Marta Manus  
28 Attorneys for Brent Raymond Abbott and  
Aggrieved Employees

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Through this Motion, plaintiff Brent Raymond Abbott (“Plaintiff”) requests that the Court  
4 grant approval of the PAGA Settlement Agreement (“Settlement” or “Settlement Agreement”)  
5 reached between Plaintiff and defendant Western University of Health Sciences (“Defendant”)  
6 (Plaintiff and Defendant collectively referred to herein as “the Parties”) to resolve claims brought  
7 under the Private Attorneys General Act of 2004, Labor Code § 2698, *et seq.* (“PAGA”) seeking civil  
8 penalties for various alleged violations of the California Labor Code and Industrial Wage  
9 Commission’s Wage Orders. The PAGA Settlement Agreement is attached to the concurrently filed  
10 Declaration of Marta Manus (“Manus Decl.”), as **Exhibit 1**.

11 Pursuant to the Settlement Agreement, Defendant will pay a Gross Settlement Amount of  
12 \$587,500.00 (“Gross Settlement Amount”). (Manus Decl., Ex. 1, ¶ 1.11.) Defendant shall fund the  
13 Gross Settlement Amount of the PAGA Resolution, in the amount of Five Hundred Eight-Seven  
14 Thousand Five Hundred Dollars and Zero Cents (\$587,500.00) as follows: (1) the first half of the  
15 Gross Settlement Amount of the PAGA Resolution shall be placed in a Qualified Settlement Fund  
16 administrated by an agreed upon claims administrator, within thirty (30) days after the Court enters  
17 an order approving the PAGA settlement agreement; and (2) the second half of the Gross Settlement  
18 Amount of the PAGA Resolution shall be placed in the same Qualified Settlement Fund no sooner  
19 than July 3, 2027. Should the Court approve the PAGA settlement agreement on or after July 3, 2027,  
20 then Defendant will fund the full amount of the Gross Settlement of the PAGA Resolution within  
21 thirty days after the Court enters an order approving the PAGA settlement agreement. (Manus Decl.,  
22 Ex. 1, ¶ 4.3.) The Settlement applies to all “Aggrieved Employees,” defined all hourly, non-exempt  
23 employees employed by Defendant Western University of Health Sciences, who worked during at  
24 least one pay period during the period defines as April 17, 2023, to July 3, 2026 (the “PAGA Period”).  
25 (Manus Decl., ¶ 14, Ex. 1, ¶¶ 1.5, 1.20.)

26 As further explained below, Plaintiff and his counsel (“PAGA Counsel”) believe that the  
27 Settlement is fair, reasonable, and in the best interests of the State and the Aggrieved Employees.  
28 Accordingly, Plaintiff requests that the Court “review and approve” the Settlement pursuant to Labor

Code § 2699(l)(2). If the Court deems the Settlement fair and acceptable, Plaintiff requests that the Court enter an order approving the Settlement in the form lodged herewith and ordering the Parties and Administrator to carry out the terms of the Settlement Agreement and enter a Final Judgment thereon.<sup>1</sup>

## **II. RELEVANT BACKGROUND AND PROCEDURAL HISTORY**

### **A. Litigation Overview and Procedural History**

On April 17, 2024, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for: (1) failure to provide meal periods; (2) failure to provide rest periods; (3) failure to pay hourly wages and overtime; (4) failure to provide accurate written statements; (5) failure to timely pay all wages; (6) failure to indemnify; and (7) unfair competition; and pursuant to California Labor Code sections 201-204, 212, 213, 215, 216, 218.6, 223, 225, 226, 226.6, 226.7, 227.3, 246, 354, 408, 510, 512, 553, 1174, 1175, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802, and Cal. Bus. Code sections 17200 *et. seq.*, as well as failure to pay reporting time pay under the California Labor Code and applicable IWC Wage Orders, failure to pay proper sick pay under California Labor Code section 246, failure to pay vacation wages under California Labor Code section 227.3, and failure to pay wages due, negotiable and payable in cash on demand under California Labor Code sections 212 and 213, failure to pay split shift premiums under IWC Wage Order Nos. 1-15, section 4. (“the Action”). (Manus Decl., ¶ 4.)

On April 17, 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 Defendant. (“PAGA Notice”). (*Id.* at ¶ 5.) The PAGA Notice sought civil penalties for the alleged violations of the Labor Code alleged in the Action. The PAGA Notice is attached to the Declaration of Marta Manus as **Exhibit 2**. The LWDA did not respond to the PAGA Notice and did not notify Plaintiff that it intended to investigate Plaintiff’s allegations. (*Id.* at ¶ 5.)

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<sup>1</sup> 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(l)(2). (Manus Decl., ¶ 48, Exhibit 7.)

On June 28, 2024, Plaintiff filed a First Amended alleging an eighth cause of action for civil penalties under the PAGA, Labor Code § 2698, *et seq.* The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint”). (*Id.* at ¶ 6.) On November 20, 2024, the Court ordered the class claims dismissed and Plaintiff’s individual Labor Code and PAGA claims to arbitration while Plaintiff’s non-individual PAGA representative claims remained stayed in Court. Therefore, the only remaining cause of action in the Operative Complaint is for civil penalties under the PAGA. (*Id.*)

#### **B. Mediation and Settlement**

The Parties met and conferred about the claims and issues in this case, including the existence of an arbitration agreement between the Parties, and agreed to explore the resolution of the representative component of the case through mediation with a highly respected mediator. On March 8, 2026, the Parties mediated this matter before Steve Rottman, Esq., a well-respected employment law mediator. (Manus Decl., ¶ 7.)

Prior to mediation, Defendant provided a 10% sampling of pertinent payroll, timekeeping, and other data for Plaintiff and the Aggrieved Employees. (Manus Decl., ¶ 9.) The information and data exchanged by Plaintiff and Defendant prior to and during mediation and settlement negotiations were sufficient to reliably assess the merits of the Parties’ respective positions, to compromise the issues on a fair and equitable basis, and to devise a formula for distribution of civil penalties among the Aggrieved Employees that took into consideration the strength of the PAGA claims. (*Id.* at ¶ 10.)

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

1 before the Court for approval. (Manus Decl., ¶ 12.)

2 The Parties believe and agree that the Settlement provides for a fair, adequate, and reasonable  
3 resolution of the Action, and the Parties arrived at the Settlement after extensive, arm's-length  
4 negotiations. (Manus Decl., ¶ 13.) PAGA Counsel believes that the Settlement confers real benefits  
5 upon the State and the Aggrieved Employees and that an independent review of the Settlement by the  
6 Court in the approval process will confirm this conclusion. (*Id.*)

### 7 **III. PAGA ACTIONS AND THE REQUIREMENTS**

#### 8 **A. The PAGA Statutory Scheme**

9 PAGA creates a means of “deputizing” citizens as private attorneys general to enforce the  
10 Labor Code on behalf of the LWDA. *Brown v. Ralphs Grocery Co.* (2011) 197 Cal. App. 4th 489,  
11 501, *review den.* (Oct. 19, 2011, No. S195850), *cert. denied* 132 S.Ct. 1910 (Apr. 16, 2012). A  
12 plaintiff may not — and Plaintiff here does not — bring a PAGA claim simply on his or her own  
13 behalf as an individual claim, but “as the proxy or agent of the state’s labor law enforcement  
14 agencies.” *Id.*, at 986; *see also Reyes v. Macy’s, Inc.* (2011) 202 Cal. App. 4th 1119, 1123-1124;  
15 *Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 380. When an aggrieved employee  
16 brings a PAGA claim, “the government is always the real party in interest.” *Securitas Sec. Servs.*  
17 *USA, Inc. v. Sup. Ct. of San Diego Cnty.* (2015) 234 Cal. App. 4th 1109, 1119; *Montano v. The Wet*  
18 *Seal Retail, Inc.* (2015) 232 Cal. App. 4th 1214, 1222 (“[A] PAGA action is a dispute between an  
19 employer and the State agency.”) Accordingly, a plaintiff that brings a PAGA claim represents “the  
20 same legal right and interest as state labor law enforcement agencies,” in that the plaintiff seeks to  
21 recover those civil penalties that the LWDA otherwise would assess and collect. *Arias v. Super. Ct.*  
22 (2009) 46 Cal.4th 969, 986; Labor Code § 2699(a) & (f); *Securitas, supra*, 234 Cal. App. 4th at 1119;  
23 *see also Medina v. Vander Poel* (E.D. Cal. 2015) 523 B.R. 820, 825 (holding “PAGA plaintiffs do  
24 not have property rights in their cases.”), and *Amalgamated Transit Union, Local 1756, AFL-CIO v.*  
25 *Superior Court* (2009) 46 Cal.4th 993, 1003.

26 Therefore, when a plaintiff brings a PAGA claim, he or she is properly viewed as a private  
27 attorney general prosecuting violations of California’s labor laws on behalf of the state. An employee  
28 may commence a PAGA action by fulfilling the requirements of California Labor Code §

2699.3(a)(1), which simply states: “The aggrieved employee or representative shall give written notice by certified mail to the Labor and Workforce Development Agency and the employer of the specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violation.” Labor Code § 2699.3(a)(1). As explained above, Plaintiff complied with the notice requirements and properly pled a PAGA claim. (Manus Decl., ¶ 5.)

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

PAGA provides for penalties in the amount of \$100 for each violation per aggrieved employee per pay period for the initial violation and \$200 for each violation per aggrieved employee per pay period for each subsequent violation. Labor Code § 2699(f)(2). “PAGA penalties...are mandatory, not discretionary” and must be awarded upon a showing that defendants violated the Labor Code. *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1213. However, PAGA provides the Court with discretion when it finds liability and awards these penalties as part of a judgment. Labor Code § 2699(e)(2) states that “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.”

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

PAGA provides for the recovery of reasonable attorneys’ fees and costs. Labor Code § 2699(g)(1) (“Any employee who prevails in any action shall be entitled to an award of reasonable 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, Defendant will pay the Gross Settlement Amount of \$587,500.00 on a non-reversionary basis. (Manus Decl., ¶ 16, Exhibit 1, ¶ 1.11.) Defendant shall fund

the Gross Settlement Amount of the PAGA Resolution, in the amount of Five Hundred Eight-Seven Thousand Five Hundred Dollars and Zero Cents (\$587,500.00) as follows: (1) the first half of the Gross Settlement Amount of the PAGA Resolution shall be placed in a Qualified Settlement Fund administrated by an agreed upon claims administrator, within thirty (30) days after the Court enters an order approving the PAGA settlement agreement; and (2) the second half of the Gross Settlement Amount of the PAGA Resolution shall be placed in the same Qualified Settlement Fund no sooner than July 3, 2027. Should the Court approve the PAGA settlement agreement on or after July 3, 2027, then Defendant will fund the full amount of the Gross Settlement of the PAGA Resolution within thirty days after the Court enters an order approving the PAGA settlement agreement (Manus Decl., ¶ 16, Exhibit 1, ¶ 4.3.)

Pending Court approval, the Gross Settlement Amount will be allocated as follows: (1) attorneys' fees of one third of the Gross Settlement Amount, which is **\$195,833.33** ("PAGA Counsel Fees Payment"); (2) actual litigation costs incurred in this matter in the amount of **\$28,264.17** ("PAGA Counsel Litigation Expenses Payment"); (3) The PAGA Representative Enhancement Award to Plaintiff of not more than \$5,000.00 and (4) settlement administration cost payment of up to **\$7,946.00** to be paid to the Administrator, Rust Consulting, Inc. ("Rust"), ("Administrator Expenses Payment"). (Manus Decl., ¶ 16.) The remaining settlement amount of **\$350,456.50** ("Net Settlement Amount") is designated as the PAGA Settlement Payment under the Settlement Agreement, with 75% (\$262,842.37) allocated to the LWDA ("LWDA Payment") and 25% (\$87,100.62) allocated to the Aggrieved Employees on a pro-rata basis. ("Individual PAGA Payment(s)"). (*Id.*)

The Individual PAGA Payment for each Aggrieved Employee will be based on a pro rata share of the 25% of the PAGA Penalties (\$87,100.62) calculated according to the number of Pay Periods each Aggrieved Employee worked during the PAGA Period. (Manus Decl., Exhibit 1, ¶ 16.) Based on its records to date, Defendant represents that there are 1,500 Aggrieved Employees who worked approximately 47,000 PAGA Pay Periods during the PAGA Period. (Manus Decl., ¶ 15.) If the actual total number of pay periods worked by Aggrieved Employees during the PAGA Period should exceed the foregoing representation of 47,000 pay periods by more than fifteen percent (15%)

(i.e. greater than 54,050), then the PAGA Settlement Amount shall be proportionally increased (i.e., if the pay periods increase by seventeen percent (17%), the Gross Settlement Amount would increase by two percent (2%)). (Manus Decl., ¶ 15, Exhibit 1, ¶ 8.)

The average Aggrieved Employee Payment Share to the Aggrieved Employees will be approximately \$58.41 (\$87,614.13) divided by 1,500 Aggrieved Employees, which is the approximate number of Aggrieved Employees based on the data given at the time of mediation). (*Id.* at ¶ 16.)

## **V. ARGUMENT**

### **A. The Court Should Approve the Settlement Agreement.**

Pursuant to Labor Code § 2699(*I*), 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 help the Court evaluate the fairness of the Settlement, below is a discussion of the risk evaluation made by Plaintiff and PAGA Counsel. Plaintiff and PAGA Counsel 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 prevailed at trial.

Plaintiff estimated that the theoretical maximum exposure on the PAGA claim is \$4,700,000, calculated by multiplying the total estimated number of PAGA Pay Periods of 47,000 by \$100 per violation. (Manus 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 their damages calculation) and assumes liability could be established for each underlying alleged Labor Code violation. Although Plaintiff estimated maximum potential exposure of approximately \$4.7 million, that figure does not represent the realistic settlement value of the case. Rather, it represents a theoretical maximum that assumes virtually every material fact and legal issue

1 will ultimately be resolved in Plaintiff's favor. For purposes of evaluating the reasonableness of the  
2 Settlement, Plaintiff reasonably applied an 80% risk adjustment of the maximum, resulting in a risk-  
3 adjusted PAGA valuation of approximately \$940,000.00. (*Id.*)

4 **C. Trial of Plaintiff's PAGA Claim Would Have Presented Many Hurdles.**

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

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

19 Labor Code § 2699(e)(2) states that "a court may award a lesser amount than the maximum  
20 civil penalty amount specified by this part if, based on the facts and circumstances of the particular  
21 case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or  
22 confiscatory." (*See also Thurman v. Bayshore* (2012) 203 Cal. App. 4th 1112 (reducing PAGA  
23 penalties by 30% under this provision); *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 529  
24 (2018) (affirming penalty reduction of 90% for practice that resulted in meal periods occasionally  
25 starting minutes after the fifth hour of work); *Sanchez v. McDonald's Corp.* (2017), LASC Case No.  
26 No. BC 499888 (98% reduction from \$41 million to \$775,000); *Ghrdilyan v. RJ Financial* (2012),  
27 LASC Case No. BC430633 (94% reduction from \$5.4 million to \$325,000); *Fleming v. Covidien*,  
28 Inc. (2011), USDC Case No. ED CV 10-01487-RGK (OPx) (87% reduction from \$2.8 million to

1 \$375,000).). (*Id.* at ¶ 23.)

2 In departing from the \$100/pay period calculation to arrive at the \$587,500.00 Gross  
3 Settlement Amount in this case, Plaintiff considered what the realistic potential exposure could be  
4 and why the Court may reduce any eventual recovery at its discretion, including Defendant’s defenses  
5 to the claims and the potential manageability issues with PAGA claims at trial. (Manus Decl., at ¶  
6 23.) Based on those considerations, Plaintiff concluded that a discount would have to be applied to  
7 the maximum potential exposure to arrive at the settlement amount. (*Id.* at ¶ 24.)

8 The Gross Settlement Amount of \$587,500.00 is **62.5%** of the adjusted calculated exposure  
9 of \$940,000.00. From PAGA Counsel’s review of the facts, strengths, and weaknesses of the case  
10 and the risks and delays posed by further litigation, PAGA Counsel believes that the recovery for the  
11 State and the Aggrieved Employees is fair and reasonable. (*Id.* at ¶ 25.)

12 **VI. THE REQUEST FOR ATTORNEYS’ FEES AND COSTS**

13 **A. The Court Should Approve the Requested Attorneys’ Fees and Costs**

14 PAGA Counsel is requesting a PAGA Counsel Fees Payment in the amount of \$195,833.33  
15 for attorneys’ fees and a PAGA Counsel Litigation Expenses Payment of approximately \$28,264.17  
16 for litigation costs incurred. (Manus Decl., ¶ 26.)

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

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

27 As previously indicated, this is *not* a class action. However, like a class action, it is a  
28 representative action where, instead of a class, the Plaintiff represents the State and the public. As a

1 matter of law and substance, counsel’s client is the public at large and the State of California. The  
2 Plaintiff is simply a “proxy” for the State. On August 11, 2016, the California Supreme Court decided  
3 *Laffitte v. Robert Half International*, which addressed, in a class action context, the correct  
4 methodology for awarding fees in a representative action settlement. *Laffitte v. Robert Half Intern.*  
5 *Inc.* (2016) 205 Cal.Rptr.3d 555, 573. The *Laffitte* Court approved awarding fees as a percentage of  
6 the settlement fund.:

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

12 *Id.* at p. 573. Here, the \$587,500.00 common fund created for the benefit of the public is, with Plaintiff  
13 as a proxy for the State, not unlike the fund created in class action settlements, with the public the  
14 equivalent of the class referenced in *Laffitte*.

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

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

23 *Id.* at 573.

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

1 fee award as a percentage of the recovery.” *Lealao v. Beneficial Calif., Inc.* (2000) 82 Cal. App. 4th  
2 19, 31, 48.

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

4 PAGA Counsel at D.Law, Inc. are experienced employment attorneys with expertise in wage  
5 and hour class and representative actions. (Manus Decl., ¶¶ 35-42.) Throughout this case, PAGA  
6 Counsel have borne, and continue to bear, the entire risk and cost of litigation associated with this  
7 Action on a purely contingency basis. (Manus Decl., ¶¶ 27-28.) As a result, PAGA Counsel have yet  
8 to receive any compensation for the amount of time and money invested in the case to date. (*Id.*)  
9 Moreover, courts in this county and others have approved attorneys’ fees awards in other PAGA  
10 settlements on a common fund basis at higher percentages than the one-third Plaintiff is requesting  
11 here. (*Id.*)

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

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

16 PAGA Counsel’s fee request is reasonable when calculated using the lodestar method. Under  
17 the lodestar method, a base fee amount is calculated from a compilation of time reasonably spent on  
18 the case and the reasonable hourly compensation of the attorney. *Serrano v. Priest* (1977) 20 Cal.3d  
19 25, 48. The court then may enhance this lodestar figure by a “multiplier” to account for a range of  
20 factors, such as the novelty and difficulty of the case, its contingent nature, and the degree of success  
21 achieved. *Id.* at 49; *see also Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132-36; *Thayer v. Wells*  
22 *Fargo Bank* (2001) 92 Cal. App. 4th 819, 834, (“[t]here is no...rule limiting the factors that may  
23 justify an exercise of judicial discretion to [adjust the] lodestar”). Here, the factors warranting a  
24 modest multiplier were apparent in this case.

25 Throughout this case, PAGA Counsel have borne, and continue to bear, the entire risk and  
26 cost of litigation associated with this Action on a purely contingency basis. (Manus Decl., ¶ 27.) As  
27 a result, PAGA Counsel have yet to receive any compensation for the amount of time and money  
28 invested in the case to date. (*Id.*)

Contingent-fee cases present the very real risk of working hundreds if not thousands of hours that may never be entirely compensated. (Manus Decl., ¶ 28.) Moreover, while the case is being litigated, counsel must pay overhead (salaries, rent, etc.), provide for their own expenses, and in most cases pay the out-of-pocket expenses incurred on the plaintiff's behalf. (*Id.*) And the prospect of a court-awarded fee does not greatly reduce the risk posed by these cases. (*Id.*) In many cases, the prospect is nothing more than a potential that never materializes. (*Id.*) First, you must win the case to get a court-awarded fee; even those cases that seem strongest at the onset can be lost and sometimes are lost (*Id.*). Second, there are always pitfalls and unforeseen obstacles that arise along the way, such as settlement offers that the client may accept without ensuring that we receive a reasonable fee or changes in the law that substantially affect the merits of the case, or other uncertainties involving the client. (*Id.*) Finally, there is the great risk inherent in advancing tens if not hundreds of thousands of dollars in out-of-pocket expenses. (*Id.*) If that money were to be invested in some sort of financial investment, one would expect a reasonable rate of return on that investment. (*Id.*) Here, however, the best we can hope to recover is our money, and then only if we are substantially successful; if we are not, all or part of this "investment" can be lost. (*Id.*)

PAGA Counsel is well acquainted with the contingent fee market throughout California, particularly as it pertains to PAGA and class action litigation. (Manus Decl., ¶ 29.) PAGA Counsel has negotiated numerous contingency-fee agreements with plaintiffs, both as individuals and as representatives in class-action and PAGA suits. (*Id.*) Many of those agreements required that counsel receive a fee under certain scenarios that exceed one-third of the recovery. (*Id.*) Plaintiff here signed a retainer agreement indicating that PAGA Counsel could receive a fee under certain scenarios that exceed one-third of the recovery, as much as 40%. (*Id.*) PAGA Counsel's recent attorneys' fees awards in similar wage-and-hour class and PAGA actions have been one-third of the recovery. (*Id.*)

Moreover, PAGA Counsel spent substantial time on this matter. (Manus Decl., ¶ 31.) Aside from drafting the initial complaint, PAGA Counsel conducted informal discovery, reviewed and analyzed time and pay records, Plaintiff's personnel file, relevant policies, and other documentation, researched the applicable law and potential defenses, constructed damage models based on interpretations of California law, reviewed information provided by Defendants at the mediation,

engaged in meet and confer efforts with Defendants, drafted and revised the Memorandum of Understanding and the Settlement Agreement, and drafted this Motion. (*Id.*)

PAGA Counsel worked at least **122** hours on this matter and calculated the base lodestar at **\$112,184.50** at rates reflecting those currently earned in the marketplace. (Manus Decl., ¶¶ 31-32.) Senior Attorney David Keledjian's records indicate at least 29.20 hours on this matter with an hourly rate of \$1,177. (*Id.*) Senior Attorney Enoch Kim's records indicate at least 1 hour on this matter with an hourly rate of \$1,350. I have invested at least 16.4 hours on this matter with an hourly rate of \$1,227. Associate Attorney Norayr Zakaryan records indicate at least 33.70 hours on this matter with an hourly rate of \$559. Associate Attorney Kevin Burns' records indicate 27.70 hours on this matter with an hourly rate of \$610. Associate Attorney Samantha Smith's records indicate 14 hours on this matter with an hourly rate of \$1,472 (Manus Decl., ¶¶ 31-32, Ex. 4.) Thus, consideration of the lodestar method as a cross-check to the percentage figure sought strongly supports the reasonableness of the requested fee award. (Manus Decl., ¶ 33.)

Multiplying the total hours billed by PAGA Counsel to the litigation by their reasonable hourly rates yields a lodestar of \$112,184.50. (Manus Decl., ¶ 33.) PAGA Counsel respectfully request that the Court grant their request for \$195,833.33 in fees, which results in a modest multiplier of 1.7.

A 1.7 multiplier is reasonable and well within the range of multipliers approved by California courts. California law recognizes that the lodestar is only the starting point. (*Ketchum*, supra, 24 Cal.4th at p. 1132.) A court may enhance the lodestar based upon such factors as: (1) the novelty and difficulty of the issues; (2) the skill displayed in litigating the matter; (3) the extent to which the litigation precluded other employment; and (4) the contingent nature of the representation. (*Ibid.*; *Serrano v. Priest* (1977) 20 Cal.3d 25, 49.)

The contingency factor is particularly significant. As the California Supreme Court explained in *Ketchum*, a contingency enhancement compensates counsel for undertaking representation at the risk of nonpayment and is intended to approximate the fair-market compensation that attorneys receive for assuming that risk. (*Ketchum*, supra, 24 Cal.4th at pp.

1 1132–1133, 1138.) An enhancement for contingency risk therefore constitutes earned  
2 compensation rather than an impermissible windfall. (*Id.* at p. 1138.)

3 The requested enhancement is particularly appropriate because Plaintiff’s counsel  
4 prosecuted this action entirely on a contingency basis. Counsel received no guaranteed  
5 compensation for the time devoted to the litigation and bore the risk that, despite devoting  
6 substantial attorney time and resources to the action, the litigation could result in no recovery and  
7 therefore no fee.

8 California courts recognize contingency risk as one of the principal grounds supporting a  
9 positive multiplier. (*Ketchum, supra*, 24 Cal.4th at pp. 1132, 1138; *Graham v. DaimlerChrysler*  
10 *Corp.* (2004) 34 Cal.4th 553, 579–580; *Nishiki v. Danko Meredith, APC*, (2018) 25 Cal.App.5th  
11 883, 899.) As *Graham* explains, an attorney working on contingency effectively provides both  
12 legal services and the financing of those services; compensation limited to an unenhanced lodestar  
13 does not necessarily reflect the market value of assuming the additional risk that the attorney will  
14 receive nothing if the case is unsuccessful.

15 That rationale applies with particular force here. PAGA Counsel bore the risk of  
16 nonpayment throughout the litigation, committed attorney time that otherwise could have been  
17 devoted to paying matters, and obtained a \$587,500.00 settlement without any assurance at the  
18 outset that the action would produce a recovery. A 1.7 multiplier reasonably compensates PAGA  
19 Counsel for that risk and delayed payment.

20 The California Supreme Court’s decision in *Laffitte* provides additional guidance concerning  
21 proportionality. There, the Court affirmed an award equal to one-third of a common fund where the  
22 lodestar cross-check generated a multiplier of approximately 2.03 to 2.13. (*Laffitte, supra*, 1 Cal.5th  
23 at pp. 485, 503–506.) The Court recognized the trial court’s discretion to consider the percentage of  
24 the recovery in evaluating the reasonableness of counsel’s fee. Although *Laffitte* involved a class-  
25 action common fund rather than a PAGA-only settlement, its lodestar cross-check analysis is  
26 instructive. Here, the requested multiplier of only 1.7 is materially below the multiplier approved in  
27 *Laffitte*.

28 As such, the Court should find that the requested attorneys’ fee award of \$195,833.33 is fair

1 and reasonable.

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

3 The litigation expenses incurred by PAGA Counsel in this Action are also to be reimbursed  
4 under the Settlement Agreement. (Manus Decl., ¶ 16.a.) PAGA Counsel incurred \$28,264.17 in  
5 expenses in litigating this case. The lion's share of these costs was incurred in connection with  
6 mediation, and the others listed were all reasonably incurred and necessary to the prosecution of this  
7 Action. (*Id.* at ¶ 25.) Thus, PAGA Counsel respectfully request that the Court approve their request  
8 for reimbursement in the amount of \$28,264.17. (*Id.*)

9 **VII. THE COURT SHOULD APPROVE PLAINTIFF'S ENHANCEMENT AWARD**

10 Plaintiff served the interests of the Aggrieved Employees well by performing considerable  
11 services on behalf of those similarly aggrieved since he first searched for an attorney, collected and  
12 gathered the requested documents and information, met with his attorneys, and made himself  
13 available every time PAGA counsel called about Defendants' policies and procedures produced in  
14 informal discovery, discussed during conversations with opposing counsel, or raised in pleadings  
15 filed in this matter. (Manus Decl., ¶ 50.) Plaintiff continued to be engaged in settlement negotiations  
16 that were ultimately required to reach a settlement in this case. (*Id.*) Further, Plaintiff does not have  
17 any interests that are adverse to those of the Aggrieved Employees. (*Id.*)

18 Plaintiff's Service Payment request of \$5,000.00 is only approximately 0.85% of the Gross  
19 Settlement Amount of \$587,500.00. (Manus Decl., ¶ 52.) Plaintiff's initiative and efforts as the  
20 PAGA Representative have conferred a significant benefit to Aggrieved Employees. (*Id.*) In light of  
21 the foregoing, PAGA Counsel believes the Enhancement Award in the amount of \$5,000.00 to  
22 Plaintiff is fair and reasonable. (*Id.*)

23 **VIII. THE COURT SHOULD APPROVE THE COSTS OF ADMINISTRATION AND**  
24 **NOTICE**

25 The Parties agreed to use Rust Consulting as the third-party settlement administrator in this  
26 case. (Manus Decl., ¶ 45.) Rust will be responsible for updating the addresses of Aggrieved  
27 Employees, mailing a notice of Settlement, and calculating and distributing the settlement checks,  
28 among other duties. (*Id.*) (Declaration of Eric Bishop, filed herewith). Rust capped its fees at

1 \$7,946.00 for administering the Settlement and based on PAGA Counsel’s experience in other class  
2 and PAGA settlements, Rust’s costs for administering this Settlement are fair and reasonable. (*Id.*)

3 The Administrator will mail the Aggrieved Employee Payment Share along with a letter  
4 providing notice of the Settlement and release of claims to the Aggrieved Employees (“PAGA Notice  
5 of Settlement”). (*Id.* at ¶ 46.) The PAGA Notice of Settlement includes, among other things, an  
6 explanation of PAGA, a description of the allegations in the Action and the scope of released claims,  
7 and a statement of the Gross Settlement Amount and payment allocations from the Net Settlement  
8 Amount. (*Id.*)

9 **IX. CONCLUSION**

10 Plaintiff and PAGA Counsel submit that the proposed Settlement, as documented in the  
11 Settlement Agreement, is fair, adequate, reasonable, and in the best interest of the Aggrieved  
12 Employees and the State of California. Plaintiff respectfully requests that the Court approve the  
13 Settlement and order the Parties to carry out the Settlement according to the terms of the Settlement  
14 Agreement and the Amendments to the Settlement Agreement and enter the concurrently filed  
15 [Proposed] Order Granting Approval and Judgment to that end.

16 DATED: September 3, 2026

**D.LAW, INC**

17  
18 By 

19 Enoch J. Kim  
20 Marta Manus  
21 Attorney for Plaintiff  
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