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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

AUSTIN TEFFETELLER, an individual,

Plaintiff,

v.

FITNESS INTERNATIONAL, LLC DBA LA FITNESS, a California limited liability company; and DOES 1 through 50, inclusive,

Defendants.

Case No. 30-2024-01407578-CU-OE-CXC

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR APPROVAL OF PAGA SETTLEMENT**

Date: February 26, 2026
Time: 2:00 p.m.,
Judge: Hon. Melissa R. McCormick
Dept. CX105

Reservation No.: 74734448

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Plaintiff AUSTIN TEFFETELLER ("Plaintiff") respectfully submits the following Memorandum of Points and Authorities in support of their Motion for Approval of PAGA Settlement.

Plaintiff Austin Teffeteller and Defendant Fitness International, LLC (collectively, "Parties"), have entered into a Settlement and Release Agreement (the "Settlement Agreement" or "Agreement") to resolve Plaintiff's cause of action brought pursuant to the Private Attorneys General Act of 2004 ("PAGA") on behalf of covered current and former Fitness International employees in the State of California at any time from November 23, 2021 through October 18, 2025 ("Allegedly Aggrieved Employees"). The motion seeks approval of a non-reversionary settlement for $783,115.00 on behalf of approximately 20,947 Allegedly Aggrieved Employees who worked approximately 343,203 pay periods.

PAGA is codified at Cal. Labor Code Section 2698 et seq. and provides:

> The superior court shall review and approve any settlement of any civil action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court.
>
> (3) A copy of the superior court's judgment in any civil action filed pursuant to this part and any other order in that action that either provides for or denies an award of civil penalties under this code shall be submitted to the agency within 10 days after entry of the judgment or order.

California Lab. Code § 2698(l).

On or about April 11, 2024, (prior to the June 19, 2024 effective date for the recent PAGA reform) Plaintiff sent notice to the LWDA, exhausting his pre-filing notice requirements. (Declaration of Thomas E. Daugherty ("Daugherty Decl.") ¶3.) In his LWDA letter, Plaintiff alleged failure to compensate for off the clock work; failure to provide complete and accurate itemized wage statements; failure to reimburse employees for reasonable business expenses; failure to pay reporting time; and failure to pay full and final wages. (*Ibid*.) On or about August 8, 2025, Plaintiff sent the LWDA and Defendant an amended notice that added additional claims. (*Id*., ¶4.)

The LWDA did not respond to the April 11, 2024 notice within the statutorily required time frame and, as such, Plaintiff became authorized to act as a Private Attorney General on the alleged claims. (*Id*., ¶3.) The LWDA similarly has not responded to the amended PAGA notice. (*Id*., ¶4.)

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Plaintiff filed a Complaint on June 17, 2024, in Orange County Superior Court, alleging the same claims outlined in the April 11, 2024 notice. (*Id*., ¶5.) On September 11, 2025, the Court approved Plaintiff's filing of a First Amended Complaint ("FAC") alleging the same claims and theories outlined in the August 8, 2025 notice. The FAC was filed on October 16, 2025. (ROA No. 49; Daugherty Decl., ¶6.)

## I. PROPOSED SETTLMENT TERMS

The settlement reached by the Parties is intended to resolve the entirety of this matter on behalf of Plaintiff and all Allegedly Aggrieved Employees. The proposed Settlement Agreement (Daugherty Decl., ¶7, Ex. A) requires the formation of a non-reversionary fund totaling $783,115.00 ("Gross Settlement Fund") that will be apportioned as follows:

| Purpose | Amount |
|---|---|
| Attorneys' Fees | Not to exceed $261,038.33 |
| Attorneys' Costs | Not to exceed $10,000.00 |
| PAGA Administrator | Not to exceed $36,000.00 |
| Total PAGA Penalties | Not less than $473,576.67 |
| LWDA Portion (75%) | Not less than $355,182.50 |
| Allegedly Aggrieved Employee Portion (25%) | Not less than $118,394.17 |
| Individual Settlement Amount | $2,500 |

## II. STANDARDS FOR APPROVAL OF PAGA SETTLEMENTS

PAGA allows an "aggrieved employee" to bring a civil action on behalf of himself or herself and on behalf of other aggrieved employees and the State of California to recover civil penalties which, outside of PAGA, only the LWDA can assess upon and collect from an employer. Cal. Lab. Code § 2699(a). Before bringing a civil action under PAGA, an employee must comply with California Labor Code section 2699.3. Cal. Lab. Code § 2699(a). Plaintiff has complied.

The settlement of a PAGA action requires court approval. *See* Cal. Lab. Code § 2699(l)(2) ("The superior court shall review and approve any settlement of any civil action filed pursuant to



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this part.”). However, “[a] PAGA claim asserted on a non-class representative basis . . . is not considered a class action but a law enforcement action” and therefore does not have to meet the requirements of a class action. *Casida v. Sears Holdings Corp.* (E.D. Cal. Jan. 26, 2012) 2012 WL 253217, at *3; *Thomas v. Aetna Health of Cal., Inc.* (E.D. Cal. June 2, 2011) 2011 WL 2173715, at *11; *Arias, supra,* 46 Cal.4th at 980-88 (affirming lower court’s holding that “plaintiff need not satisfy class action requirements” to assert a PAGA claim); *Pedroza v. PetSmart, Inc.* (C.D. Cal. Jan. 28, 2013) 2013 WL 1490667, at *15. As such, a court’s review of a PAGA settlement involves analysis of several unique features that render the approval process distinct from, and simpler than, the process for approval of a class action settlement. A court reviewing a PAGA settlement need only “ensur[e] that a negotiated resolution is fair to those affected.” *Williams, supra,* 549 (citing Cal. Lab. Code § 2699(l)(2)).

In a PAGA case, the court’s focus is not the monetary amount which aggrieved employees or the State stand to receive, but instead, whether the settlement amount achieves the PAGA’s objectives. The purpose of the PAGA is “to incentivize private parties to recover civil penalties for the government that otherwise may not have been assessed and collected by overburdened state enforcement agencies.” *See Ochoa-Hernandez*, *supra*, 2010 WL 1340777, at *4 (citing *Arias, supra,* 46 Cal.4th at 986). Penalties recovered under PAGA are, in part, to “be distributed to the [LWDA] for enforcement of labor laws . . . and for education of employers and employees about their rights and responsibilities under this code, to be continuously appropriated to supplement and not supplant the funding to the agency for those purposes.” *See* Cal. Lab. Code § 2699(j). The recovery of penalties on behalf of the State, by way of a PAGA claim, is essentially a law enforcement action. *See Amalgamated, supra,* 46 Cal.4th at 1003 (stating that the PAGA is a mechanism for “an aggrieved employee to recover civil penalties—for Labor Code violations—that otherwise would be sought by state labor law enforcement agencies”); *see also Iskanian, supra,* at 381.

A PAGA settlement is a settlement of claims for penalties and other remedies which the LWDA could assess and collect on behalf of employees without their involvement or approval. “[U]nnamed employees need not be given notice of the PAGA claim, nor do they have the ability to opt-out of the representative PAGA claim.” *Ochoa-Hernandez*, *supra*, 2010 WL 1340777, at *5.

This renders the approval process of a PAGA settlement distinct from a class action settlement, and the Court need not employ the two-step approval process that applies to a class action settlement, under both state and federal law.

## III. SETTLEMENT IS FAIR AND REASONABLE AND SHOULD BE APPROVED

### A. The Factors Giving Rise to a Presumption of Fairness Exist

The Parties reached the Settlement through arm's-length negotiations, after a mediation with an experienced and respected mediator, the Honorable Glenda Sanders (Ret.). (Daugherty Decl., ¶ 7.) A settlement that is "the product of extensive and hard-fought adversarial negotiations between the parties" is entitled to a presumption of fairness. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245. The Settlement is presumptively fair because: (1) it is the product of adversarial, noncollusive, and arm's-length negotiations with the assistance of an independent mediator knowledgeable in complex labor and employment matters; (2) it was negotiated by counsel with significant experience in similar complex labor and employment matters; and (3) it occurred after counsel for the Parties engaged in significant investigation to evaluate the strength and potential value of the PAGA claim, and risks and expenses of litigating this claim through trial.

After engaging in significant investigations, through informal discovery, and the exchange of information, data, and documents, the Parties participated in settlement negotiations to try to resolve the lawsuit. (Daugherty Decl., ¶ 8.) These efforts included participating in formal mediation conducted by Hon. Glenda Sanders (Ret.), a well-respected mediator experienced in not only mediating complex labor and employment matters but also presiding over (and approving settlements of) many representative PAGA actions in her time serving on the bench in the Complex Civil Department. (Daugherty Decl., ¶ 9.) In the course of mediation and settlement negotiations, the Parties discussed all aspects of the case, including the risks and delays of further litigation and proceeding with trial, as well as the law relating to representative PAGA actions, off-the-clock theory, meal and rest periods, meal break waivers, arbitration agreements, and wage-and-hour enforcement, evidence produced and analyzed, and the possibility of bifurcation of discovery and/or trial and appeals, among other things. (Daugherty Decl., ¶ 10.) During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.

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Based on all of the information available to the Parties, the Parties agree that this matter is well-suited for settlement given the strengths and weaknesses of the PAGA claim and the facts and circumstances of the case. (Daugherty Decl., ¶ 11.) Plaintiff and Plaintiff's Counsel believe that the settlement is a fair, adequate, and reasonable resolution of this matter. (Daugherty Decl., ¶ 12.) Plaintiff's Counsel has extensive experience handling representative and class action wage-and-hour litigation and used that experience to achieve a settlement recovery for Plaintiff, the State of California, and the Allegedly Aggrieved Employees. (Daugherty Decl., ¶ 13.) Therefore, the Court should give considerable weight to the competency, experience, and opinion of counsel and the involvement of a highly qualified neutral mediator in assuring that the settlement is a product of arm's length bargaining. See *Kirkorian v. Borelli* (N.D. Cal. 1988) 695 F.Supp. 446, 451 (opinion of experienced counsel is entitled to considerable weight); *Boyd v. Bechtel Corp.* (N.D. Cal. 1979) 485 F.Supp. 610, 616-17, 622 (recommendations of plaintiffs' counsel should be given a presumption of reasonableness); see also *Satchell v. Fed. Express Corp.* (N.D. Cal. Apr. 13, 2007) 2007 WL 1114010, at *4 (stating that the "assistance of an experienced mediator in the settlement process confirms that the settlement is non-collusive").

**B. <u>The Relative Strength of the PAGA Claim and the Range of Possible Outcomes in the Litigation Strongly Favor Approval of the Settlement</u>**

In order for Plaintiff to prevail on the PAGA claim, he would have to prove that Defendant engaged in the alleged California Labor Code violations and demonstrate that Defendant's conduct warrants the imposition of penalties. *See*, e.g., *Elliot v. Spherion Pac. Work, LLC* (C.D. Cal. 2008) 572 F.Supp.2d 1169, 1181-82 ("Plaintiff's claim under [PAGA] is wholly dependent upon her other claims. Because all of plaintiff's other claims fail as a matter of law, so does her PAGA claim.").

Plaintiff's core allegation is that Defendants have systematically violated the California Labor Code, with respect to Plaintiff and the Allegedly Aggrieved Employees, by, *inter alia*, failure to compensate for off the clock work; failure to provide complete and accurate itemized wage statements; failure to reimburse employees for reasonable business expenses; failure to pay reporting time; and failure to pay full and final wages. On or about August 8, 2025, Plaintiff sent



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the LWDA and Defendant an amended notice that added additional claims for failure to compensate employees for all hours actually worked, including paying minimum or overtime wages; failure to compensate for time spent working before clocking in and after clocking and by rounding hours worked to the nearest quarter hour; failure to properly blend bonus, commissions, and other non-base hourly wages for purposes of paying meal and rest period premiums, overtime wages, vacation wages, and sick pay wages at the correct rates of pay; failure to provide meal periods or pay correct premium wages to employees denied meal periods; failure to maintain accurate records showing the correct start and stop time of meal periods; failure to provide rest periods or pay correct premium wages to employees denied a rest period; failure to timely pay employees all wages earned at least twice during each calendar month; and failure to pay earned paid time off.

Defendant's primary argument in defense is that this is a case with exceptional circumstances, systemic fail-safes to prevent wage and hour noncompliance, and, the raw number of pay periods notwithstanding, the potential liability on the merits is extremely limited. (Daugherty Decl., ¶ 14.) Defendant has robust meal and rest period compliance systems in place, including compliant wage and hour policies, a mostly part-time workforce, a timekeeping system that affords employees full and complete autonomy over the submission of hours worked, and edits thereto, and which requires multiple levels of verification by the employee to ensure accuracy, documented meal period waivers when available, which are agreed to within the timeclock software, and automatic payment of premiums and waiting time penalties when required. (Daugherty Decl., ¶ 15.) Additionally, the vast majority of shifts worked by hourly employees were less than five hours, significantly reducing the number of possible meal period claims. (Daugherty Decl., ¶ 16.) Defendant's timekeeping system is set up to ensure that employees can enter all their time worked, have full autonomy to adjust their time as needed, and must attest to the accuracy of their time records on their subsequent shifts. (Daugherty Decl., ¶ 17.) Under *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58, Defendant's timekeeping system shows evidence of compliance.

Defendant also maintains that Plaintiff would struggle to characterize Defendant as a bad actor deserving of stiff penalties. (Daugherty Decl., ¶ 18.) An important feature of PAGA is that the Court retains discretion to lower the penalties 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* Cal. Lab. Code § 2699(e)(2); *see also Thurman v. Bayshore Transit Management, Inc.* (2012) 203 Cal.App.4th 1112, 1136 (holding that a court may reduce the amount of PAGA penalties awarded to an employee based upon discretionary factors). Defendant maintains, and continues to maintain, that it had and continues to have, legally compliant employment policies and practices throughout the time period at issue. (Daugherty Decl., ¶ 18.) Defendant denies Plaintiff's claims. (Daugherty Decl., ¶ 18.) Even if, *arguendo,* such violations occurred, which Defendant denies, Defendant contends that said violations would only be considered "initial violations" and thus heightened "subsequent violation" penalties were not warranted. *See* Cal. Lab. Code § 2699(f)(2); *see also Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1208-09 ("Until the employer has been notified that it is violating a Labor Code provision […], the employer cannot be presumed to be aware that its continuing underpayment of employees is a 'violation' subject to penalties."). (Daugherty Decl., ¶ 19.)

Defendant also contends that, with respect to PAGA claims, the Court is unlikely to assess cumulative penalties for the maximum number of possible, separate California Labor Code violations, because it would be unjust, arbitrary, oppressive, and/or confiscatory, especially where certain conduct may be regulated by multiple provisions of the California Labor Code that are interrelated and work in tandem. (Daugherty Decl., ¶ 20.) As such, Defendant contends that cumulative penalties and heightened penalties would be unjust, arbitrary, oppressive, and confiscatory. (*Ibid*.)

While Plaintiff disagrees with Defendant's contentions and maintains that his PAGA claims have merit, in reaching the settlement, Plaintiff and his counsel took into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded as litigation continued, at trial, and/or upon appeal. (Daugherty Decl., ¶ 21.)

### C. The Settlement Avoids Risky, Complex, and Lengthy Further Litigation

Courts favor voluntary conciliation and settlement of complex litigation. *Class Plaintiffs v. City of Seattle* (9th Cir. 1992) 955 F.2d 1268, 1276. Generally, "unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with uncertain results." *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.* (C.D. Cal. Jan. 5, 2004) 221 F.R.D. 523, 526 (citation omitted).

Prior to reaching the Settlement, the Parties investigated the veracity, strength, and scope of the PAGA claim and allegations. (Daugherty Decl., ¶ 10.) In addition, the Parties exchanged a large volume of information, documents, and data relevant to Plaintiff's claims and Defendant's defenses thereto, including, and not limited to, the employment records of Plaintiff, Defendant's Arbitration Agreement, and Defendant's operations and employment practices, policies, and procedures documents (such as, Defendant's Code of Business Conduct and Ethics, Meal Break and Rest Period Policies, Overtime Policy, and Timekeeping Policies, among other documents). (Daugherty Decl., ¶ 8.) Counsel for the Parties undertook significant investigation, and also invested time reviewing and analyzing relevant information, documents, and data from a sampling of the employment time keeping and wage data, to evaluate Plaintiff's claims and allegations, including, and not limited to, calculating the potential monetary recovery under PAGA. (Daugherty Decl., ¶ 8.) Other work performed by Plaintiff's Counsel included, but was not limited to: meeting and conferring with Defendant's counsel regarding the pleadings, case management, discovery, the mediation, settlement negotiations, and settlement, among other issues; case strategy and analysis; drafting, reviewing, and revising the pleadings, court filings, the mediation brief, settlement agreement, and settlement approval motion papers; claims evaluation and analysis and preparing for the mediation and settlement negotiations; and appearing for court proceedings and participating in mediation and settlement negotiations. (Daugherty Decl., ¶ 8.)

Had the case not settled, the Parties would have conducted extensive additional formal discovery, including propounding written discovery requests as well as multiple depositions of party and percipient witnesses all over the State of California, to prepare the case for trial. (Daugherty Decl., ¶ 22.) From the inception of this litigation, Defendant indicated that it would aggressively

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litigate this case. (*Ibid.*) Even if Defendant failed on its defenses, litigating a complex PAGA action is inherently expensive, and the litigation could continue beyond entry of judgment if either party were to appeal adverse rulings. (*Ibid.*) Additionally, there is a real possibility that Plaintiff would recover nothing, either for themselves or on behalf of the State of California or other PAGA Group Members after years of costly and labor-intensive litigation. (*Ibid.*) Avoiding these risks and the likelihood of future contentious litigation, which would involve significant costs, favors settlement.

**D. The Settlement is Fair, Adequate, and Reasonable**

"[T]he very essence of a settlement is compromise, 'a yielding of absolutes and an abandoning of highest hopes.'" *Officers for Justice v. Civil Service Comm'n* (9th Cir. 1981) 688 F.2d 615, 624. "The proposed settlement is not to be judged against a hypothetical or speculative measure of what might have been achieved by the negotiators." *Id.* at 625.

The Settlement provides significant benefits to the State of California and the Allegedly Aggrieved Employees and falls well-within the range of acceptable settlements under the circumstances. Under the Agreement, Defendant has agreed to pay a Total Settlement Amount of $783,115.00, subject to possible increase pursuant to Section 3(b) of the Settlement Agreement, which encompasses the PAGA Penalties Fund, Attorneys' Fees and Costs, Settlement Administration Costs, and General Release Fees. (Daugherty Decl., ¶¶ 23, 7, Exh. A, p.7.) Subject to approval by the Court, the following amounts will be subtracted from the Total Settlement Amount to yield the PAGA Penalties Fund: (1) Attorneys' Fees and Costs consisting of attorneys' fees in the amount of $261,038.33 and reimbursement of litigation costs and expenses in the amount of $10,000.00 to Plaintiff's Counsel; (2) Settlement Administration Costs of up to $36,000 to the PAGA Settlement Administrator; and (3) General Release Fees of to $2,500 to Plaintiff. (*Ibid.*)

The PAGA Penalties Fund is currently estimated to be $473,576.67, of which an estimated $118,394.17 is to be distributed to Allegedly Aggrieved Employees on a *pro rata* basis, based on their Compensable Pay Periods and $355,182.50 is to be distributed to the LWDA. (Daugherty Decl., ¶ 24.) There is no reason to doubt the fairness of the proposed plan of allocation of the PAGA Penalties Fund as it fully complies with California Labor Code section 2699(i).



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The Settlement is a compromise of highly disputed claims. Plaintiff and his counsel recognize the expense and length of continued proceedings necessary to litigate the matter through trial and any possible appeals. (Daugherty Decl., ¶ 22.) Plaintiff and his counsel have also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation. (*Ibid*.) Plaintiff and his counsel are also aware of the burdens of proof necessary to establish liability, both generally and in response to Defendant's defenses thereto, and the difficulties in establishing Defendant's liability for, and the right to recover, penalties on behalf of Plaintiff, the State of California, and other Allegedly Aggrieved Employees. (*Ibid*.) Plaintiff and his counsel have also taken into account Defendant's agreement to enter into a settlement that confers significant relief upon the Allegedly Aggrieved Employees and the State of California. (Daugherty Decl., ¶ 23.)

Considering all of the facts in this case, Plaintiff and his counsel have determined that the Settlement represents a fair, adequate, and reasonable resolution of the PAGA claim, and that it is in the best interests of the Allegedly Aggrieved Employees and the State of California. (Daugherty Decl., ¶ 25.)

The result achieved in this case, and the monetary recovery provided by this settlement, are well-within the range of an acceptable settlement under the circumstances, especially when compared to trial court penalties assessments in contested cases and the settlement of PAGA claims in other cases. (Daugherty Decl., ¶ 26.) Here, the value obtained for settlement of the PAGA claim is significant, and it will be distributed in accordance with and in fulfillment of the objectives of the PAGA statute.

**E. <u>Plaintiff's Counsel Experience and Views of Favor Approval of Settlement</u>**

Plaintiff's Counsel is highly experienced in complex representative and class action wage-and-hour litigation. (Daugherty Decl., ¶ 13.) In the view of Plaintiff's Counsel, the benefits conferred by the settlement are eminently fair and reasonable, and in the best interests of the State of California and the Allegedly Aggrieved Employees in light of the risk, delay, and uncertainty of continued litigation and the substantial monetary benefits provided for by the Settlement. (Daugherty Decl., ¶ 27.) Furthermore, courts have acknowledged that "the interests of plaintiff,



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counsel and other potentially aggrieved employees are largely aligned. All stand to gain from proving as convincingly as possible as any Labor Code violations as the evidence will sustain[.]" *Williams, supra,* 548 (citing Cal. Lab. Code § 2699(g)(1)(i)).

## IV. <u>Requested Attorneys' Fee Award is Fair and Reasonable, and Should Be Approved</u>

### A. <u>A Fee Award of a Percentage of the Entire Fund is Appropriate</u>

The Settlement provides for attorneys' fees in an amount of up to one-third (33.3%) of the Total Settlement Amount, subject to approval and award by the Court. (Daugherty Decl., ¶¶ 28, 7, Exh. A, pp.7-9.) The requested attorneys' fees award is commensurate with: (1) the risk that Plaintiff's Counsel took in bringing and litigating the case, (2) the time, effort, and expense dedicated to the case, (3) the skill and determination that Plaintiff's Counsel has shown, (4) the results that Plaintiff's Counsel has achieved in the case, (5) the value that Plaintiff's Counsel has achieved in the case, and (6) the other cases that Plaintiff's Counsel has turned down in order to devote its time and effort to this case. Plaintiff's Counsel is entitled to recover reasonable attorneys' fees and costs as a matter of right under PAGA. *See* Cal. Lab. Code § 2699(g)(1) ("Any employee who prevails in any [PAGA] action shall be entitled to an award of reasonable attorney's fees and costs"). Plaintiff's Counsel is also entitled to fees and costs under California Code of Civil Procedure section 1021.5, as the instant PAGA action is by definition "for the benefit" of others and secures monetary recovery for a large number of Allegedly Aggrieved Employees, as well as the State of California. *See Estrada v. FedEx Ground Package Sys. Inc.* (2007) 154 Cal.App.4th 1, 16-17 (recognizing that recovery obtained on behalf of 209 individuals satisfies the "significant benefit," "public interest," and "large class of persons" requirements of Code of Civil Procedure section 1021.5, regardless of plaintiff's personal motivation). The settlement will also benefit the state labor agency in enforcing labor laws and educating "employers and employees about their rights and responsibilities under [the California Labor Code]." Cal. Lab. Code § 2699(i).

The propriety of calculating and awarding attorneys' fees as a percentage of a monetary fund that has, by litigation, been preserved or recovered for the benefit of others, has been confirmed by the California Supreme Court. *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480 at 486 & 506. While trial courts have discretion to apply either a lodestar method or percentage-of-the-fund





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method, the California Supreme Court has taken the position that trial courts also "retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee" and "[t]he percentage of fund method survives in California." *Id*. (internal quotes omitted); see also *Wershba*, *supra*, 91 Cal.App. 4th at 253.

The percentage method is particularly appropriate where a monetary settlement has been recovered and "the benefit [recovered can be] easily quantified." *In re Bluetooth Headset Prods. Liab. Litig.* (9th Cir. 2011) 654 F.3d 935, 942. Where the amount of a settlement is a "certain easily calculable sum of money," California courts may calculate attorneys' fees as a reasonable percentage of the settlement created. Weil and Brown, California Practice Guide, *Civil Procedure Before Trial*, Chapter 14, section 14:145; *Dunk*, *supra*, 48 Cal. App. 4th at 1808.

The percentage fee method is preferred in representative actions because "it better approximates the workings of the marketplace than the lodestar approach." *Lealao*, *supra*, 82 Cal.App.4th at 49. California law provides that the award for attorneys' fees should be equivalent to fees freely negotiated in the legal marketplace and paid in comparable litigation based on the result achieved and risk incurred. *See Lealao*, *supra*, 82 Cal.App.4th at 47-50; *Laffitte*, *supra*, 1 Cal.5th 480 at 503. In cases where the settlement agreement provides that the defendant will pay the plaintiff's attorneys a percentage of the fund created by the settlement, use of that percentage method is appropriate. *Lealao*, *supra*, 82 Cal.App.4th at 32. Therefore, fees in representative actions should approximate the probable terms of a contingent fee contract negotiated by a sophisticated attorney and client in comparable litigation. *Id*. at 48. "The ultimate goal . . . is the award of a 'reasonable' fee to compensate counsel for their efforts, irrespective of the method of calculation." *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557-58 (quoting *Apple Computer, Inc. v. Superior Court*, *supra*, 126 Cal.App.4th at 1270).

Plaintiff's Counsel's application for attorneys' fees in light of the facts and circumstances surrounding the case is well-within the range of reasonableness. Historically, courts have awarded fees as high as fifty percent (50%) of the settlement in complex actions, depending on the circumstances of the case. *See In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys' fees in the amount of 45% of the $7.3 million total settlement amount); *Beech*

*Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys' fees). California courts routinely approve attorneys' fees awards "average[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found the range of contingency fees in marketplace to be 20 to 40 percent and determined such a percentage fee was appropriate).

Plaintiff's Counsel has litigated this case since it was commenced, with the very real possibility of an unsuccessful outcome and no fee recovery of any kind. (Daugherty Decl., ¶ 29.) Counsel for the Parties undertook significant investigation, and also invested time reviewing and analyzing relevant information, documents, and data to evaluate the allegations, including, and not limited to, calculating the potential monetary recovery under PAGA. (Daugherty Decl., ¶ 8.) Other work performed by Plaintiff's Counsel included, but was not limited to: meeting and conferring with Defendant's counsel regarding the pleadings, case management, the mediation, settlement negotiations, and settlement, among other issues; case strategy and analysis; drafting, reviewing, and revising the pleadings, court filings, the mediation brief, settlement agreement, and settlement approval motion papers; claims evaluation and analysis and preparing for the mediation and settlement negotiations; and appearing for court proceedings and participating in mediation and settlement negotiations. (*Ibid*.)

In the present case, Plaintiff's Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained. (Daugherty Decl., ¶ 29.) Plaintiff's Counsel is experienced in complex wage-and-hour litigation and used that experience to obtain a settlement recovery for Plaintiff, the Allegedly Aggrieved Employees, and the State of California. (Daugherty Decl., ¶ 13.) Considering the amount of fees requested, work performed, risks incurred, results obtained, and experience of Plaintiff's Counsel in handling similar matters, Plaintiff maintains that the requested attorneys' fees are reasonable and should be awarded.

**B. <u>Costs To Be Reimbursed Are Fair And Reasonable, And Should Be Approved</u>**

The Settlement provides for reimbursement of litigation costs and expenses of up to $10,000.00. Plaintiff's Counsel seeks reimbursement of $8,529.24 in litigation costs and expenses. (Daugherty Decl., ¶ 30.) These expenses were reasonable and necessary in the prosecution of this

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matter and to obtain the Settlement, and the amount sought for reimbursement is less than the maximum amount allocated under the Settlement Agreement for reimbursement of litigation costs and expenses. (*Ibid*.)

## V. PROPOSED COVER LETTER TO THE PAGA GROUP SHOULD BE APPROVED

Although PAGA does not require notice to unnamed aggrieved employees of a settlement, the Parties prepared, and now present for the Court's consideration and approval, the Cover Letter for transmission to the Allegedly Aggrieved Employees along with their Individual Settlement Share checks (together, PAGA Settlement Package), substantially in the form attached as "**EXHIBIT 1**" to the [Proposed] Order and Judgment and as "EXHIBIT A" to the Settlement Agreement. The Cover Letter informs the Allegedly Aggrieved Employees about the Action and the Settlement. Accordingly, Plaintiff respectfully requests that the Court approve the Cover Letter for transmission to the Allegedly Aggrieved Employees at the time of disbursing their Individual Settlement Shares.

## VI. PROPOSED ADMINISTRATION COSTS ARE FAIR AND REASONABLE, AND SHOULD BE APPROVED

As set forth in the Settlement Agreement, the Parties have agreed to retain, subject to approval by the Court, Atticus Administration, LLC to handle the administration of the Settlement. The fees and expenses of the PAGA Settlement Administrator are estimated not to exceed $36,000.00. These costs include, but are not limited to, expenses for preparing, printing, and mailing the Cover Letter and Individual Settlement Share checks to the Allegedly Aggrieved Employees (i.e., PAGA Settlement Packages); performing skip-trace searches; re-mailing the returned PAGA Settlement Packages to any updated addresses located; and handling inquiries from PAGA Group Members regarding the Settlement, among other things. Accordingly, the Court should grant approval of the Settlement Administration Costs in the amount of up to $36,000.00 to Simpluris, a necessary third-party for handling the settlement process.

## VII. CONCLUSION

The Settlement is fair, adequate, and reasonable, as it represents a reasoned compromise of disputed claims that has been reached through arm's-length negotiations, in light of the risks, complexity, and expense of further litigation. Plaintiff respectfully requests that the Court approve

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the Settlement, including the plan of allocation and distribution of the Total Settlement Amount for the LWDA Payment to the LWDA, Individual Settlement Shares to the PAGA Group Members Attorneys' Fees and Costs to Plaintiff's Counsel, Settlement Administration Costs to the PAGA Settlement Administrator, and General Release Fees to Plaintiff, and permit the filing of a memorandum that exceeds the page limit.

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DATED: December 22, 2025

By: ______________________________
Thomas E. Daugherty
Attorneys for Plaintiff Austin Teffeteller

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