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7 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
8
9 IN AND FOR THE COUNTY OF SACRAMENTO
10
11 UNLIMITED JURISDICTION

12 JHALIL KING

13 Plaintiff,

14 vs.

15 APRIA HEALTHCARE LLC;
16 MSI HEALTH SOLUTIONS LLC;
ADONIA LOGISTICS LLC; and
17 DOES 1 through 25, inclusive,

18 Defendants.
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Case No. 24CV011659

Assigned for all purposes
To Hon. Jill Talley
Dept 8A

**NOTICE OF AND MOTION TO APPROVE
SETTLEMENT PURSUANT TO THE LABOR CODE
PRIVATE ATTORNEYS GENERAL ACT OF 2004;
MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

Date: October 9, 2026
Time: 9:00 a.m.
dept: 8A

Action Filed: June 12, 2024
Trial Date: September 28, 2026

RESERVATION # A-11659-001

PLEASE TAKE NOTICE that on October 9, 2026 at 9:00 a.m. in Department 8A of this Court, located at 500 G Street, Sacramento, CA 95814, Plaintiff Jhalil King (“King” or “Plaintiff”) will move for an order, pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* (“PAGA”), approving a settlement between King and Defendants Apria Healthcare, LLC and MSI Health Solutions, LLC. (“Defendants”), which would dismiss the PAGA claim alleged in this action.

Plaintiff's Motion will be based on this Notice of Motion, the attached Memorandum of Points and Authorities, the Declarations of Bryan J. McCormack and Jhalil King in support, the records and file herein, and on such other evidence as may be presented at the hearing on the motion.

McCORMACK LAW FIRM

Byron McCord

By: Bryan J. McCormack, Esq.
Attorneys for Plaintiff
JHALIL KING

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11 2003 Cal. Legis. Serv. Ch. 906 § 1(a)6

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I. INTRODUCTION

Plaintiff Jhalil King (“Plaintiff”) and defendants Apria Healthcare LLC (“Apria”) and MSI Health Solutions LLC (“MSI”) (collectively “Defendants”) seek the Court’s approval, pursuant to Labor Code section 2699(l), of a settlement of Plaintiff’s claims under the Labor Code Private Attorneys General Act (“PAGA”), arising from Plaintiff’s allegation that Defendants misclassified couriers who performed service for Apria through third party contractors, including MSI, from April 1, 2023 to March 31, 2025 (“PAGA Period”). Plaintiff has entered into a settlement with Defendants for the non-reversionary sum of \$675,000 for alleged violations of Labor Code Sections 201, 202, 203, 218.5, 226, 226.3, 226.7, 226.8, 510, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, and 2802, that occurred during the PAGA Period. The settlement was reached after the parties mediated the matter with experienced mediator Michael Young, Esq. on February 18, 2026.

For the reasons stated below, the parties respectfully request that the Court approve the settlement.

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II. PROCEDURAL HISTORY

In February 2023, Plaintiff entered into an independent contractor owner/operator agreement with Adonia Logistics LLC (“Adonia”), which was later acquired by MSI.¹ On January 7, 2024, Plaintiff entered into an independent contractor owner/operator agreement with MSI. From February 2023 to January 30, 2024, Plaintiff provided courier services to Apria’s Sacramento branch and was paid by Adonia, then MSI, for those services. Plaintiff last worked for Defendants on or about February 21, 2024.

On April 1, 2024, Plaintiff provided written notice to the LWDA (via its website) of his claim that he was improperly classified as an independent contractor by Apria, MSI and Adonia, and in doing so, Apria, MSI and Adonia violated Labor Code sections 201, 202, 203, 218.5, 226, 226.3, 226.7, 226.8, 510, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, and 2802. In that notice, Plaintiff sought to pursue his claims of independent contractor misclassification on behalf of himself and all other couriers who performed services for Apria by third party contractors including, but not limited

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¹ Based on MSI counsel’s representation that MSI acquired the assets and liabilities of Adonia Logistics, LLC and that company no longer exists; Plaintiff dismissed Adonia without prejudice on April 1, 2026.

1 to, MSI and Adonia (“Aggrieved Employees”). (Declaration of Bryan McCormack (“McCormack
2 Decl.”), ¶4, Exhibit A.)

3 On June 12, 2024, Plaintiff filed a Complaint, which asserts claims against Defendants for
4 Labor Code penalties under PAGA based on the aforementioned alleged violations in addition to
5 individual claims against Defendants for (1) race discrimination and harassment in violation of
6 FEHA, (2) failure to prevent race discrimination and harassment in violation of FEHA, (3) retaliation
7 in violation of FEHA, (4) retaliation in violation of Labor Code Section 1102.5, (5) wrongful
8 termination in violation of public policy. A copy of the Complaint filed in this action has been
9 provided to the LWDA. (McCormack Decl., ¶5, Ex. B.)

10 In discovery and in connection with mediation, Defendants provided Plaintiff with
11 information and documents pertaining to Plaintiff and other Aggrieved Employees in order for
12 Plaintiff’s Counsel to investigate Plaintiff’s allegations and value the claims prior to mediation.
13 (McCormack Decl., ¶7.)

14 III. THE SETTLEMENT AGREEMENT

15 On February 18, 2026, the Parties participated in mediation before experienced mediator
16 Michael Young, Esq. With the assistance of Mr. Young, the Parties agreed to fully and finally
17 resolve the PAGA claims as to Plaintiff and the other Aggrieved Employees. A settlement was
18 reached as a result of a mediator’s proposal. The parties subsequently entered into the settlement
19 agreement presently before the Court. (McCormack Decl., ¶ 8, Exhibit C). The Parties and their
20 counsel agree that the settlement set forth in the Joint Stipulation for Settlement is fair, reasonable
21 and adequate, and is in the best interest of the Plaintiff, the LWDA, and the Aggrieved Employees.

22 The material terms of this agreement (for purposes of this motion) are as follows:

23 A. The Payment

24 Pursuant to the Joint Stipulation for Settlement (“Agreement”), attached as Exhibit C, the
25 Parties agreed to settle this matter for the non-reversionary Gross Settlement Amount (“GSA”) of
26 \$675,000, including attorneys’ fees of up to one-third of the GSA (\$225,000); attorneys’ litigation
27 costs and expenses related to the Action of up to \$20,000 (actual expenses are only \$8,944); (c)
28 settlement administration costs up to \$4,500; and (d) a service award to Plaintiff in the amount of up

1 to \$7,500. After the amounts for attorneys' fees, costs, administration costs, and service award are
2 deducted from the GSA, the "Net Settlement Amount" or "NSA" is \$429,056. Apria agreed to
3 deposit the full amount of the GSA into an account to be established by the Settlement Administrator,
4 within twenty-one (21) days of entry of the order granting approval of the Settlement. The Parties
5 separately executed an individual settlement agreement related to Plaintiff's non-PAGA claims for
6 discrimination, retaliation and wrongful termination.²

7 The LWDA will receive 75% of the "net" settlement amount (after fees, costs, and incentive
8 payments are deducted). The Aggrieved Employees will receive 25% of the net settlement amount on
9 a pro-rated basis. Each Aggrieved Employee covered by the release will receive an apportioned
10 amount based on weeks worked during the PAGA period. Any uncashed checks will be paid to the
11 California State Controller's Unclaimed Property Fund. (McCormack Decl., ¶8, Exhibit C.)

12 **B. The Aggrieved Employees and Released Claims**

13 In exchange for the Settlement Amount, the State and the identified Aggrieved Employees
14 will release specified PAGA claims covered by the Agreement. The Aggrieved Employees covered
15 by the release consist of all couriers who were classified as independent contractors and performed
16 services for Apria by third party contractors including, but not limited to MSI, in California during
17 the time period of April 1, 2023 to March 31, 2025, as alleged in Plaintiff's April 1, 2024 LWDA
18 Letter. Aggrieved Employees are not eligible to opt out of the Settlement Agreement. According to
19 Defendants, there are approximately 254 Aggrieved Employees covered by the Release.

20 The Release language contained in the Agreement is as follows:

21 "PAGA Released Claims" means all claims for civil penalties predicated on the alleged
22 independent contractor misclassification, failure to pay wages for all time worked, pay
23 overtime compensation and minimum wages, failure to issue accurate itemized wage
24 statements, and failure to reimburse necessary business expenses, based on facts and
25 theories alleged in Plaintiff's April 1, 2024 LWDA Letter and in the Action, including
26 claims for PAGA civil penalties based on alleged violations of California Labor Code
sections 201, 202, 203, 218.5, 226, 226.3, 226.7, 226.8, 510, 558, 1174, 1174.5, 1194,
1194.2, 1197, 1197.1, and 2802, and related alleged violations of the California
Industrial Commission Wage Orders, that occurred during the PAGA Period.

27 (McCormack Decl., ¶8, Ex. C.)

28 ² If the Court would like to review the terms of Plaintiff's individual settlement agreement, Plaintiff agrees to provide a
copy for a review *in camera*.

1 The Release covers all couriers classified as independent contractors who worked for Apria
2 from April 1, 2023 to March 31, 2025 for the claims alleged in Plaintiff’s April 1, 2024 PAGA letter.
3 This includes workers who were placed by MSI, Adonia and other companies, including but not
4 limited to FedMed, Spoke and Johnson. The settlement resolves all such PAGA claims during the
5 relevant PAGA period, including but not limited to claims covered by a July 3, 2024 LWDA letter
6 submitted by Angela Tisdale and Terrance Pratt covering similar claims, which is the subject of
7 *Tisdale; Pratt v. Apria Healthcare LLC*, Case 24STCV16583, filed in Los Angeles Superior Court on
8 July 3, 2024 (after this lawsuit was filed), subsequently removed to federal court (Case No. 2:24-cv-
9 09620).

10 **C. Administration Process**

11 The Agreement provides for a settlement administrator to distribute the settlement proceeds
12 pursuant to the Agreement in accordance with a specified schedule. In distributing the settlement
13 checks to the Aggrieved Employees, the settlement administrator will provide a notice to Aggrieved
14 Employees explaining the payment and the case. (McCormack Decl., ¶8, Exhibit C). Subject to Court
15 approval, the Parties have agreed on Phoenix Class Action Settlement Administrators as the
16 settlement administrator (“Phoenix” or “Settlement Administrator”).

17 **IV. LEGAL ARGUMENT**

18 **A. Standard of Review**

19 Cal. Labor Code § 2699(s)(2) states that “the superior court shall review and approve any
20 settlement of any civil action filed pursuant to this part.” Unfortunately, PAGA does not specify a
21 standard of review for PAGA settlements, and there is no published appellate authority on the subject.
22 See, e.g. *Flores v. Starwood Hotels & Resorts Worldwide, Inc.* (C.D. Cal. 2017) 253 F.Supp.3d,
23 1074, 1075 (“[N]either the California legislature, nor the California Supreme Court, nor the
24 California Courts of Appeal, nor the [LWDA]” has definitively addressed the standard of review for
25 PAGA).

26 Existing law does, however, provide some guidance as to the appropriate standard of review.
27 Plaintiff contends that the Court should look to: (1) the standard of review used in analogous statutory
28 schemes; (2) Federal court decisions approving PAGA settlements; and (3) the purposes and policies

1 of PAGA.

2 1. Analogous Statutory Schemes

3 A PAGA case is in the nature of a *qui tam* proceeding. (*Iskanian v. CLS Transp. Los Angeles*
4 *LLC* (2014) 59 Cal.4th 348, 394.) California has at least two other statutory schemes whereby an
5 individual may sue on behalf of the State or in the public interest: The California False Claims Act
6 and Proposition 65. Under both schemes, a court must approve a settlement or dismissal of the action.

7 Under the California False Claims Act, a *qui tam* plaintiff may only dismiss the case with a
8 court's (and the government's) consent. (Cal. Gov't Code § 12652(c)(1).) In deciding whether to
9 give consent, a court must take into account "the best interests of the parties involved and the public
10 purposes behind the act." *Id.* Moreover, if a *qui tam* plaintiff objects to a settlement between the
11 government and a defendant, the court can only approve the settlement after finding it is "fair,
12 adequate, and reasonable under all the circumstances." (Cal. Gov't Code § 12652(e)(2)(B).)

13 Similarly, Proposition 65 actions, like PAGA actions, are brought by private plaintiffs to
14 safeguard public rights. *Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006)
15 141 Cal.App.4th 46, 63. In addition to complying with specified statutory criteria, Prop 65
16 settlements may only be approved if: (1) they are "just" and (2) they "serve the public interest." *Id.* at
17 61-62. In making this determination, the *Kintetsu* court described the appropriate inquiry as similar to
18 the "fair, reasonable, and adequate" test used in class actions. *Id.* at 61. The *Kintetsu* court also stated
19 that, in determining whether to approve a Prop 65 settlement, a court should consider the policies
20 underlying the statute. *Id.* at 63.

21 2. Federal Cases

22 In addition to analogous California law, several federal district court cases have also
23 enunciated a standard for reviewing PAGA actions in the context of larger class action settlements. In
24 *O'Connor v. Uber Technologies* (N.D. Cal. 2016) 201 F.Supp.3d 1110, the district court denied a
25 class settlement that included PAGA claims because the PAGA portion of the settlement was not
26 "fair and adequate in view of the purposes and policies of the statute." *Id.* at 1135. Following
27 *O'Connor*, other federal courts have concluded that a PAGA settlement should only be approved
28 when it is "genuine and meaningful, [and] consistent with the underlying purpose of the statute to

benefit the public.” (*Viceral v. Minstras Group, Inc.* (N.D. Cal. Oct. 11, 2016) 2016 WL 5907869 * 9. See, also, *Ferreri v. Bask Technology, Inc.* (S.D. Cal 2016) 2016 WL 6833927, * 5 [evaluating PAGA settlement in light of purposes and policies of PAGA].)

3. *The Purposes and Policies of PAGA*

PAGA was passed because the Legislature believed it necessary “to achieve maximum compliance with state labor laws” and “to ensure an effective disincentive for employers to engage in unlawful and anticompetitive business practices.” (2003 Cal. Legis. Serv. Ch. 906 § 1(a).) The Legislature further found that, while self-policing efforts have had some success, “in other cases the only meaningful deterrent to unlawful conduct is the vigorous assessment and collection of civil penalties as provided in the Labor Code.” *Id.* at § 1(b). Through PAGA, the Legislature thus: (1) sought to “enlist[] willing citizens in the task of civil enforcement,” *Iskanian*, 59 Cal.4th at 390; (2) “deputized” aggrieved employees to sue on behalf of the State to enforce state labor laws; and (3) authorized them to recover civil penalties, attorneys’ fees, and costs. (2003 Cal. Legis Serv. Ch. 906 (Legislative Counsel’s Digest).) In bringing a PAGA action, “[t]he employee-plaintiff acts as the proxy or agent of the state labor enforcement agencies, representing the same legal right and interest as those agencies” (*Iskanian*, *supra*, 59 Cal.4th at 394 [Chin, J., concurring].)

As for the interests of the LWDA (in whose shoes Plaintiff stands), its top enforcement priorities are “to vigorously enforce minimum labor standards in order to ensure employees are not required or permitted to work under substandard unlawful conditions” and to “protect employers who comply with the law from those who attempt to gain a competitive advantage at the expense of their workers by failing to comply with minimum labor standards.” Cal. Labor Code § 90.5(a). Moreover, in addition to the collection of civil penalties, Cal. Labor Code Section 1194.5 (which is specifically referenced in Labor Code § 90.5) authorizes the LWDA to seek injunctive relief.

* * *

In light of the above law, as well as the policies and purposes of PAGA, Plaintiff proposes that the Court consider the following factors in determining whether to approve the settlement:

- (1) The extent to which the settlement achieves compliance with state labor laws.
- (2) The extent to which the settlement deters violations of the state labor laws.

1 (3) Whether the settlement serves to enlist private citizens in public enforcement of
PAGA.

2 (4) Whether the settlement is otherwise “just” and “in the public interest.”

3 Because the proposed settlement reasonably and fairly advances each of the above factors, the
4 parties ask that it be approved.

5 **B. The Settlement Should Be Approved**

6 1. Although the Parties Dispute Whether Any Violations Have Occurred, the
7 Settlement Achieves Compliance With, and Deters Violations of, State Labor
8 Laws

9 Defendants have informed Plaintiff that they have stopped classifying couriers as independent
10 contractors effective March 31, 2025. Therefore, while the parties dispute whether Defendants’
11 conduct violated the law, the misclassification issue and related Labor Code penalties have essentially
12 been resolved. Plaintiff contends that this action and similar class and PAGA actions brought by
13 couriers alleging they were misclassified by Apria, MSI and other companies caused or at the very
14 least contributed to this change. In addition, Defendants have agreed to pay a substantial sum in
15 settlement to the Aggrieved Employees. Accordingly, the proposed settlement reasonably advances
16 PAGA’s purpose by achieving compliance with the Labor Code and deterring similar violations.

17 2. The Settlement Serves to Enlist Private Citizens in Public Enforcement of
18 PAGA

19 Plaintiff also believes the proposed settlement acts to encourage private enforcement of
20 PAGA. Through the settlement, Plaintiff may receive an incentive payment, Plaintiff’s counsel will
21 receive attorneys’ fees and costs as determined by the Court, and all Aggrieved Employees will
22 receive a 25% share of the net settlement amount, as well as notice of the claim.

23 3. The Settlement Is “Just” and “In the Public Interest”

24 Finally, the proposed settlement is both just and in the public’s interest. Cal. Labor Code §
25 2698 *et seq.* (the “PAGA”) provides for a mechanism for Plaintiff to seek an award of civil penalties
26 on behalf of the State of California, which any such penalties recovered being split 75% to the State
27 of California, and 25% to the “aggrieved employees.” Cal. Labor Code § 2699(i). However, given
28 that “a court may award a lesser amount than the maximum civil penalty amount specified by [the
PAGA] if, based on the facts and circumstances of the particular case, to do otherwise would result in

1 an award that is unjust, arbitrary, and oppressive, or confiscatory,” there is significant uncertainty
2 regarding an award of penalties pursuant to continued litigation.

3 In this case, Plaintiff argued that Aggrieved Employees were willfully misclassified as
4 independent contractors and as such Defendants violated Cal. Labor Code Section 226.8, which
5 provides for a penalty of \$5,000 for initial violations and significantly higher penalties for subsequent
6 violations³. At least one appellate court held, in the context of other Labor Code violations, that the
7 “subsequent” violation penalty rate for a Labor Code violation does not apply until an employer is
8 notified that its conduct violates the law. (*Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th
9 1157, 1207-09.) Defendants argued that they did not violate Section 226.8 because the drivers were
10 not misclassified, and even if they were, penalties were not warranted because such misclassification,
11 if any, was not willful.

12 During litigation, Plaintiff argued that Defendant could be liable for more than \$5,000 per
13 person because the Los Angeles County Superior Court granted the plaintiff’s motion for summary
14 judgment on February 1, 2024 in a similar case against Apria (*Quintero v. Apria Healthcare LLC*, et
15 al, Case No. 20STCV42367). Since that ruling occurred in the middle of the PAGA period in this
16 case, for settlement purposes Plaintiff calculated the potential exposure at approximately \$7,500 per
17 person, for a total potential exposure of 1.55 million dollars in Section 226.8 penalties. (McCormack
18 Decl., ¶11.) However, Defendant argued that the subsequent penalties should not apply because it
19 took them some time to implement those changes, and in fact they did implement those changes by
20 March 31, 2025. Due to the risks of litigation and unlikelihood that the subsequent violation rate
21 would apply, Plaintiff believes the realistic exposure for Section 226.8 violations is in the \$1,000 to
22 \$5,000 range.

23 Plaintiff also alleged other Labor Code violations, including waiting time penalties, wage
24 statement penalties, business record violations, unpaid business expenses, missed breaks, overtime,
25 and minimum wage penalties. Although Plaintiff calculated the total potential exposure for those
26 penalties at approximately 2.7 million dollars (McCormack Decl., ¶11), in Plaintiff Counsel’s

27 ³ Pursuant to Labor Code 226.8(b) and (c), employers are subject to penalties of \$5,000 to \$15,000 for initial violations,
28 and \$10,000 to \$25,000 for subsequent violations when the employer has engaged in a pattern or practice of engaging in
such violations.

1 experience claims for such Labor Code penalties are given significantly less consideration in value
2 than class wage claims, which are not present in this case. Part of the reason for this is the standard
3 that must be shown. For instance, waiting time penalties under Labor Code § 203 require a finding of
4 willfulness. (Cal. Labor Code § 203(a).) A good faith dispute will preclude a finding of willfulness.
5 (Cal. Code Regs. tit. 8 § 13520; *Amaral v. Cintas Corp. No. 2, supra*, 163 Cal.App.4th at 1203.)
6 Clearly, there is a good faith dispute here. Similarly, Labor Code §§ 226 and 1197.1 require plaintiffs
7 to make a showing that a defendant's conduct was "knowing and intentional" and "intentional,"
8 respectively. (Cal. Labor Code §§ 226(e)(1) and 1197.1(a)(1).)

9 Typically, PAGA penalty awards are small even for egregious, intentional violations of the
10 Labor Code. In fact, there are very few decisions under PAGA with substantial awards of civil
11 penalties and there is a substantial risk the Court could reduce civil penalties to an insignificant
12 amount if it is unpersuaded by evidence of willful and intentional conduct. In *Ghrdilyan v. RJ*
13 *Financial, Inc.*, Los Angeles Superior Court case number BC430633, Plaintiffs sought in excess of \$9
14 million in civil penalties under the PAGA. After a bench trial, the Honorable Judge Ronald M.
15 Sohigian awarded approximately \$325,000 in civil penalties under the PAGA. (Plaintiff's Request
16 for Judicial Notice ("RJN"), ¶3, Ex. 3.) In a similar PAGA case, *Shields v. Security Paving*
17 *Company, Inc.*, LA Superior Court case no. BC492828, the court on October 24, 2017 awarded the
18 prevailing PAGA Plaintiffs civil penalties totaling \$50.00. (Plaintiff's RJN, ¶4, Ex. 4) A similar result
19 could occur here.

20 PAGA also vests the Superior Court with discretionary authority to limit PAGA's reach and
21 effect. (Cal. Labor Code § 2699(e)(2).) Under PAGA, courts are empowered to substantially reduce
22 any award of civil penalties based on discretionary factors. More specifically, Labor Code §
23 2699(e)(2) states that "a court may award a lesser amount than the maximum civil penalty amount
24 specified by this part if, based on the facts and circumstances of the particular case, to do otherwise
25 would result in an award that is unjust, arbitrary and oppressive, or confiscatory." (*See O'Connor v.*
26 *Uber Technologies, Inc., supra*, 201 F.Supp.3d at 1133 [noting that even if PAGA penalties amounted
27 to \$1 billion, such award "could well be reduced, as a court may reduce the penalty when to do
28 otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory"]; *Cotter v.*

1 *Lyft, Inc.*, 193 F.Supp.3d 1030, 1037 (N.D. Cal. 2016) [finding \$1 million PAGA allocation reasonable
2 and noting that a “significant reduction” of PAGA penalties would be appropriate].)

3 Despite the significant litigation risks to Plaintiff, Defendants have agreed to pay a gross
4 settlement amount of \$675,000⁴ in exchange for a PAGA release involving approximately 254
5 aggrieved employees who were allegedly misclassified as independent contractors. As such,
6 Defendants are paying an average of \$2,657 per Aggrieved Employee. On a net basis, after the
7 deduction of all fees and expenses, the LWDA and the Aggrieved Employees will receive \$429,056,
8 of which \$321,792 will go to the LWDA and \$107,264 will go to Aggrieved Employees. As there are
9 9,227 affected workweeks in the PAGA period, Defendants are effectively paying \$73.15 per
10 workweek on a gross basis, and \$46.50 on net basis. Each PAGA Aggrieved Employee will receive,
11 on average, \$422, which is significant compared to other PAGA settlements. (McCormack Decl.,
12 ¶9.)

13 In our case, the proposed settlement, even with deductions, provides a substantial sum to the
14 State and to Aggrieved Employees. Plaintiff contends this notice will educate aggrieved employees
15 as to the requirements of the Labor Code, something that is in the public interest and consistent with
16 PAGA’s purpose. *See* Cal. Labor Code § 2699(j) (stating that civil penalties recovered under PAGA
17 shall be distributed to the LWDA for [among other things] “education of employers and employees
18 about their rights and responsibilities under this code.”)

19 Lastly, public policy strongly favors the settlement of litigation. *Consumer Advocacy Group*
20 *v. Kintetsu, supra*, 141 Cal.App.4th at 63. Because the proposed settlement is neither unjust nor
21 ignores the public interest, it should be approved. (*Id.*)

22 In view of the litigation risks, the Settlement reflects Plaintiff’s counsel’s estimate of the total
23 amount of civil penalties that Aggrieved Employees could reasonably expect to be awarded at trial,
24 taking into account the likelihood of prevailing and other attendant risks. It also represents a fair,
25 adequate, and reasonable compromise amount for these claims and warrants approval. (*See Staton v.*
26 *Boeing Co.*, (9th Cir. 2003) 327 F.3d 938, 966.)

27 ⁴ This \$675,000 gross settlement amount represents 16% of the fully-loaded damages, stacked, and with maximum
28 penalties. If however the willfulness standard is not applied, the settlement amounts to 27% recovery of total penalties.
(McCormack Decl., ¶11.)

1
2 4. The Settlement Compares Favorably to Other PAGA Settlements with
3 Defendants

4 The Settlement appears favorably to other PAGA settlements with Apria and MSI in similar
5 cases. In *Quintero v. Apria Healthcare LLC*, et al, Case No. 20STCV42367 filed in Los Angeles
6 County Superior Court, the court approved a class settlement on July 14, 2025 for 16.5 million dollars
7 for both class and PAGA claims involving drivers who were allegedly misclassified by Apria as
8 independent contractors. (Plaintiff's RJN, ¶1, Ex. 1). The settlement in that case was particularly
9 high because it contained class claims with a substantial amount of alleged unpaid wages, and
10 because the court ruled in favor of Plaintiff's summary judgment motion finding that the drivers were
11 employees. In the settlement agreement, the parties allocated one million dollars of the settlement to
12 the PAGA claims for 411 Aggrieved Employees. As such, Apria paid on average \$2,433 per PAGA
13 member in *Quintero*. In comparison, Apria will pay, on average, \$2,657 per PAGA member in our
14 case.⁵

15 In *Nevels v MSI Health Solutions, Inc.*, Case No 24STCV02453 filed in Los Angeles County
16 Superior Court, the court approved a class settlement on September 30, 2025 for \$165,000 for both
17 class and PAGA claims for drivers who were classified by MSI as independent contractors.
18 (Plaintiff's RJN, ¶2, Ex. 2.) The parties allocated \$10,000 of that amount to the PAGA claims for
19 911 aggrieved employees. As such, the PAGA members in that case received a small fraction of
20 what they will receive in this case.

21 As the settlement compares favorably to other PAGA settlements with Defendants, it should
22 be approved.

23 C. Payment of Attorneys' Fees, Costs, and Incentive Payments

24 Finally, the settlement requires that attorney fees, costs, and incentive payments be paid from
25 the settlement proceeds. This is appropriate, even in the non-class action context. Plaintiff has filed a
26 contemporaneous fee motion detailing Plaintiff's request for fees, costs, and incentive payments. That

27 _____
28 ⁵ As the PAGA Period in *Quintero* covered more than 5 years, while in our case it covers only 2 years, the average per
week recovery is presumably significantly more in our case, although that information is not in the *Quintero* Court's
Order.

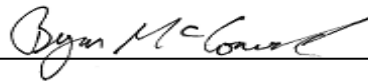
1 said, the proposed settlement is not contingent upon any particular fee, incentive payment, or cost
2 award (other than with respect to the settlement administrator's costs), and should not serve as a basis
3 for rejecting the proposed settlement.

4 V. CONCLUSION

5 For all the reasons discussed above, the parties request that the Court approve the
6 proposed settlement and approve the proposed notice.

7
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9 Date: September 11, 2026

McCORMACK LAW FIRM

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13 Attorneys for Plaintiff
14 JHALIL KING
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