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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

CHERYL A. GERRISH and SHENIKA AKINS, individually, and on behalf of all others similarly situated,

Plaintiffs,

vs.

ORANGE COUNTY'S CREDIT UNION; and DOES 1 through 10, inclusive,

Defendants

Case No.: 30-2024-01400951-CU-OE-CXC

[Assigned for all purposes to: Hon. William Claster, Dept. CX101]

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR APPROVAL OF PAGA SETTLEMENT

[Filed with (1) the Declaration of Kane Moon, (2) the Declaration re: Qualifications and Costs for Settlement Administration, (3) [Proposed] PAGA Approval Order, and (4) [Proposed] Judgment]

PAGA APPROVAL HEARING:
Date: September 19, 2025
Time: 9:00 a.m.
Dept.: CX101

Complaint filed: May 21, 2024
Trial date: Not set

TO THIS HONORABLE COURT, TO ALL PARTIES, AND TO COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on September 19, 2025, at 9:00 a.m. in Department CX101 of the Orange County Superior Court's Civil Complex Center located at 751 West Santa Ana Blvd., Santa Ana, California 92701, Plaintiffs Cheryl A. Gerrish and Shenika Akins ("Plaintiffs") will, and hereby do, move the Court for an Order, pursuant to California Labor Code sections 2698, *et seq.*, as follows:

1. Approving the PAGA Settlement Agreement ("Settlement") between Plaintiffs and Defendant Orange County's Credit Union;
2. Approving a non-reversionary payment of $300,000.00 as the Gross Settlement Amount, subject to potential increase under an escalator clause;
3. Appointing Kane Moon, Allen Feghali, and Charlotte Mikat-Stevens of Moon Law Group, PC as PAGA Counsel;
4. Approving a PAGA Counsel Costs Payment for reimbursement of actual litigation costs not to exceed $21,000;
5. Approving a PAGA Counsel Fees Payment of one-third of the Gross Settlement Amount;
6. Appointing ILYM Group, Inc. as the Settlement Administrator and approving an Administration Costs Payment not to exceed $5,000;
7. Approving the Released PAGA Claims by Plaintiffs, the Labor and Workforce Development Agency ("LWDA"), and Aggrieved Employees;
8. Approving at least $174,000 for PAGA Penalties as settlement of the Released PAGA Claims, subject to potential increase under the escalator clause, to be distributed as 75% (at least $130,500) to the LWDA and 25% (at least $43,500) to Aggrieved Employees;
9. Directing consummation of the Settlement pursuant to its terms and provisions;
10. Entering Judgment and dismissing the above-captioned action with prejudice; and
11. Retaining jurisdiction over the Parties, Action, and the Settlement solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be

appropriate under court rules or as set forth in the Settlement.

This Motion is based upon this notice, the attached Memorandum of Points and Authorities, the declarations and exhibits filed concurrently herewith, the records and files in this action, and any other further records or argument that the Court may properly receive at or before the hearing.

DATED: August 21, 2025

Respectfully submitted,

MOON LAW GROUP, PC

By:______________________________________

Kane Moon
Allen Feghali
Charlotte Mikat-Stevens
Attorneys for Plaintiffs

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Cheryl A. Gerrish ("Plaintiff Gerrish") and Shenika Akins ("Plaintiff Akins") (together, "Plaintiffs") seek approval of a non-reversionary $300,000 gross settlement of claims for civil penalties alleged pursuant to the California Private Attorneys General Act, Labor Code sections 2698, *et seq.* ("PAGA"). After a full day of mediation with experienced, neutral mediator the Honorable Carl West (ret.), Plaintiffs reached a settlement with Defendant Orange County's Credit Union ("Defendant") (together with Plaintiffs, the "Parties"). The Parties have executed a PAGA Settlement Agreement (the "Settlement"), a true and correct copy of which is attached as **Exhibit 1** to the Declaration of Kane Moon in Support of Motion for Approval of PAGA Settlement ("Moon Decl.") submitted concurrently herewith. Pursuant to Labor Code section 2699(s)(2), Plaintiffs now file this motion seeking an order approving the proposed Settlement.

Plaintiffs brought the PAGA claims alleged in this wage-and-hour action on behalf of the California Labor and Workforce Development Agency (the "LWDA"), themselves, and all other current and former non-exempt employees of Defendant who worked in California at any time during the PAGA Period ("Aggrieved Employees"). (Moon Decl., ¶ 3.)[1]

Settlement of a PAGA claim requires court approval. Pursuant to the operative PAGA statute, the "court shall review and approve any penalties sought as part of a proposed settlement agreement pursuant to this part." (Lab. Code § 2699(s)(2).) In deciding whether to grant approval of a proposed settlement, the primary issue to be decided is whether the settlement is fair, adequate, and reasonable. Specifically, the issue is whether the PAGA penalties to which the parties have agreed provide "genuine and meaningful" relief that is "consistent with the underlying purpose of the statute to benefit the public," and whether the penalties are reasonable in light of the potential verdict value in this case. (*Villalobos v. Calandri Sonrise Farm LP* (C.D. Cal. July 22, 2015) No. CV 12-2615 PSG (JEMx), 2015 WL 12732709,

[1] For purposes of settlement, the "PAGA Period" is May 19, 2023, through the earlier of 60 days from the date of mediation or the date of the Court's Approval Order. (Settlement, ¶ 1.27.) Because the Parties' mediation was held on May 14, 2025, the PAGA Period ended on July 13, 2025 (i.e., 60 days from mediation). (Moon Decl., ¶ 3, n.1.)

at *5; *see also O'Connor v. Uber Techn., Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1135.)

As set forth herein, the proposed Settlement embodies all the features of a settlement that is fair, adequate, and reasonable, as (1) it is the product of an arm's-length negotiation, (2) negotiated by attorneys experienced in wage-and-hour litigation, (3) following meaningful investigation necessary to evaluate the relative strength and value of the PAGA claims, and (4) reflects a reasoned compromise based directly on the relative strength and value of the PAGA claims as well as the risks, expense, complexity, and likely duration of further litigation.

The fair value achieved by the Settlement at issue may be gleaned from the fact that the LWDA and the estimated **370** Aggrieved Employees will, collectively, receive no less than **$174,000**. (Moon Decl., ¶¶ 21–22.) This is a significant recovery considering further litigation may have resulted in a net-zero recovery based on the facts of the case and defenses asserted by Defendant, as an investigation by experienced PAGA counsel and analysis of discovery revealed few identifiable violations. (*See, e.g.*, *id.* at ¶¶ 25–27.) Further, Plaintiffs' Counsel took into account the discretionary nature of awarding PAGA penalties and the risk of not being able to proceed on a representative basis at all due to the potential manageability issues and current state of the law. (*Id.* at ¶¶ 29–30.) For these reasons, as set forth more fully below, Plaintiffs respectfully request the Court enter the proposed order and judgment submitted concurrently herewith.

II. SUMMARY OF THE LITIGATION AND SETTLEMENT

A. Plaintiffs' Claims and Procedural Background

Defendant is a regional bank founded and primarily based in Orange County, California proving various banking services, including checking accounts, savings accounts, credit cards, investments, insurance products, as well as home, auto, and personal loans. (*Id.* at ¶ 4.) Defendant employed Plaintiffs and other non-exempt employees at various branches in California during the PAGA Period. (*Id.*) Plaintiff Gerrish worked in Defendant's accounting department based out of Defendant's Santa Ana headquarters, and was employed from June 21, 2022, through March 29, 2024. (*Id.*) Towards the end of her employment, Plaintiff Gerrish worked remotely. (*Id.*) Plaintiff Akins worked as a member service representative out of Defendant's Mission Viejo branch, and was employed from September 11, 2023, through June 20, 2024. (*Id.*) Throughout their employment, Plaintiffs were classified as non-exempt and were typically scheduled to work 5 days per week and 8 hours per day. (*Id.*) Plaintiffs contend they and their former coworkers were subjected to the same or similar unlawful labor practices during their employment by Defendant, including failure to pay all wages. (*Id.*)

Plaintiffs' claims for unpaid wages stem from allegations of Defendant's failure to pay all wages owed, including for off-the-clock ("OTC") work related to timekeeping as well as for failure to incorporate all renumerations into the regular rate of pay for purposes of paying overtime, sick pay, and meal premiums. (*Id.* at ¶ 5.) Plaintiffs' meal period claim is based on allegations that Defendant failed to pay premium wages owed despite time records showing clear violations and the absence of any signed waivers. (*Id.*) Plaintiffs' rest period claim is based on allegations that due to the demands of work, employees regularly experienced missed, untimely, or interrupted breaks, and that Defendant failed to provide any premiums for non-compliant rest breaks. (*Id.*) Plaintiffs further allege they were not reimbursed for all necessary and/or reasonable business expenses incurred in direct consequence of their job duties, including personal cell phone use, home internet, and computer monitor. (*Id.*) Plaintiffs also allege they did not receive all wages owed at the time of termination nor their accurate itemized wage statements due to Defendant's failure to pay all wages and premiums owed during employment. (*Id.*) Accordingly, Plaintiffs allege Defendant is liable for civil penalties under PAGA. (*Id.*)

Because of the foregoing alleged Labor Code violations, Plaintiff Gerrish filed a Class Action Complaint on May 21, 2024, alleging Defendant systematically: (1) failed to pay minimum wages, (2) failed to pay overtime compensation, (3) failed to provide meal periods, (4) failed to authorize and permit rest breaks, (5) failed to indemnify necessary business expenses, (6) failed to timely pay final wages at termination, (7) failed to provide accurate itemized wage statements, and (8) engaged in unfair business practices. (*Id.* at ¶ 6.) Pursuant to PAGA, on May 19, 2024, Plaintiff Gerrish submitted notice of the alleged Labor Code violations to the LWDA, with certified mail service on Defendant, and paid the required filing fee. (*Id.* at ¶ 7, Ex. 2A.) The administrative exhaustion period under PAGA expired without the LWDA indicating any intent to investigate the allegations. (*Id.* at ¶ 7.) On July 23, 2024, Plaintiff Gerrish timely filed a First Amended Class and Representative Action Complaint to allege a ninth cause of action for civil penalties under PAGA. (*Id.*)

After this action was filed, Defendant produced a copy of an arbitration agreement signed by

Plaintiff Gerrish containing a class action waiver. (*Id.* at ¶ 8.) After reviewing the arbitration clause, Plaintiffs' Counsel determined it would likely be enforced if Plaintiff Gerrish opposed individual arbitration. (*Id.*) Plaintiffs' Counsel also determined the class action waiver would likely be found enforceable under *Epic Systems Corp. v. Lewis* (2018) 138 S.Ct. 1612. (*Id.*) The Parties subsequently stipulated to dismiss the class claims and stay proceedings pending arbitration of the individual claims, which the Court granted by way of Order entered on July 11, 2204. (*Id.*) On August 5, 2024, the Court dismissed the class claims without prejudice. (*Id.*)

In lieu of initiating arbitration, Defendant and Plaintiff Gerrish agreed to schedule mediation. (*Id.* at ¶ 9.) Plaintiff Gerrish's firm was subsequently retained by Plaintiff Akins who alleged similar wage-and-hour claims against Defendant. (*Id.*) Following further meet and confer, the Parties stipulated to amend the complaint to add Plaintiff Akins. (*Id.*) On September 7, 2024, Plaintiffs submitted an amended PAGA Notice to the LWDA to add Plaintiff Akins to the action. (*Id.* at ¶ 9, Ex. 2B.) The administrative exhaustion period under PAGA expired without the LWDA indicating any intent to investigate the allegations. (*Id.* at ¶ 9.) On October 18, 2024, the Court granted leave to amend the complaint to add Plaintiff Akins. (*Id.*) On November 12, 2024, Plaintiffs filed the operative Second Amended Representative Action Complaint. (*Id.*)

Defendant ardently opposes the merits of this case and denies Plaintiffs' factual allegations. (*Id.* at ¶ 11.) Defendant argues all employees were properly paid all wages owed, that OTC work was prohibited, that any OTC time related to timekeeping was *de minimis*, and that it correctly calculated the regular rate of pay as additional renumeration consisted of bonuses that were discretionary. (*Id.*) Defendant maintains all employees were provided with the opportunity to take all code-compliant meal and rest breaks and that missed breaks, if any, were solely the result of employees' voluntary choice to waive their rights. (*Id.*) As for business expenses, Defendant maintains employees were informed of Defendant's expense reimbursement policy and that it reimbursed employees for any and all business expenses if employees submitted a reimbursement request. (*Id.*) Defendant further maintains any unreimbursed expenses claimed by Plaintiffs were individualized and not appropriate for representative treatment under PAGA. (*Id.*) Defendant also maintains that it provided cell phone stipends to those employees who were required to use personal phones for work purposes, and that Plaintiff Akins was not required to use her personal phone for work. (*Id.*) To the extent employees received wage statements that were allegedly inaccurate, Defendant argues penalties are not warranted because employees suffered no actual damage or harm as a result. (*Id.*; *see, e.g.*, *Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013) No. C 12–05860 CRB, 2013 WL 622032, at *10 ["A plaintiff must adequately plead an injury arising from an employer's failure to provide full and accurate wage statements, and the omission of the required information alone is not sufficient."].) Additionally, Defendant alleges its good-faith belief that it paid all wages precludes the imposition of waiting time penalties because Plaintiffs would be unable to show Defendant's alleged conduct was done willfully or knowingly. (Moon Decl., ¶ 11; *see, e.g.*, *Pedroza v. PetSmart, Inc.* (C.D. Cal. June 14, 2012) No. ED CV 11–298 GHK (DTBx), 2012 WL 9506073, *5.) For these reasons, Defendant claims it did not engage in any unfair business practices and denies liability under PAGA. (Moon Decl., ¶ 11.) Defendant also maintains the claims are not susceptible to proof on a representative basis because of the individualized and varying nature of each employee's experience, making this matter unmanageable. (*Id.*)

B. <u>Discovery and Investigation</u>

In advance of mediation, Defendant produced, through informal but extensive discovery, Plaintiffs' personnel files with time and pay records, an approximate 15% sampling of time and pay records for other Aggrieved Employees, three employee handbooks in effect during the PAGA Period, and demographic information. (*Id.* at ¶ 12.) Notably, Defendant did not produce any signed meal period waivers. (*Id.*) Additionally, Plaintiffs identified another former employee of Defendant who experienced similar issues as Plaintiffs. (*Id.*)

Prior to mediation, Plaintiffs' Counsel reviewed in depth all the information that Defendant produced, including the time/pay records, and analyzed it in conjunction with information provided by Plaintiffs and their witness. (*Id.* at ¶ 13.) Plaintiffs' Counsel retained an expert to analyze the time/pay data and prepare a damage analysis for mediation. (*Id.*) The time/pay records produced contained 18,862 shifts worked by Aggrieved Employees, representing roughly 15% of all shifts worked as of mediation, which allowed Plaintiffs' expert to prepare an analysis with a high degree of certainty. (*Id.*) Further, Plaintiffs' Counsel investigated the applicable law regarding the claims and defenses asserted in this action. (*Id.*) Accordingly, Plaintiffs' Counsel were able to meaningfully evaluate the probability of success on the merits and Defendant's monetary exposure. (*Id.*) In sum, Plaintiffs and their Counsel's familiarity with the facts of the case and the legal issues involved allowed them to act intelligently in negotiating the Settlement. (*Id.*)

C. Settlement Negotiations and Notice to the LWDA

On May 14, 2025, the Parties participated in a full day of private mediation facilitated by the Hon. Carl West (ret.), an experienced class and PAGA action mediator. (*Id.* at ¶ 14.) The negotiations were at arm's length and although conducted in a professional manner, were adversarial. (*Id.*) Both sides went into the mediation willing to explore the potential for a settlement of the dispute, but they were also prepared to litigate their position through trial and appeal if a settlement had not been reached. (*Id.*) Negotiations were protracted, with extended discussions and instances in which it appeared the Parties would not reach a resolution. (*Id.*) Following a full discussion of the strengths and weaknesses of the claims and defenses at a full day of mediation, the Parties ultimately reached a resolution, the material terms of which are encompassed within the Settlement at issue. (*Id.*)

In reaching a resolution, the Parties recognized that the issues presented in this action are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will lead to inconvenience, distraction, disruption, delay, and expense disproportionate to the potential benefits of litigation. (*Id*. at ¶ 15.) Plaintiffs and their Counsel also considered the risk and uncertainty of the outcome inherent in any litigation when determining whether this Settlement was the correct option. (*Id.*) In sum, Plaintiffs and their Counsel believe the proposed Settlement is in the best interests of Aggrieved Employees and the LWDA. (*Id.*) In compliance with Labor Code section 2699(s)(2), notice of settlement and a copy of the proposed Settlement was submitted to the LWDA and to date, the LWDA has not indicated any objection. (*Id*. at ¶ 16, Ex. 3.)

D. Key Terms of the Proposed Settlement

The Settlement's key financial and other terms include:

1. Gross Settlement Amount ("GSA"): Defendant will pay a non-reversionary amount of at least **$300,000.00**, subject to potential increase under an Escalator Clause, to resolve this litigation. (Settlement, ¶ III.2.)

2. Escalator Clause: The GSA was negotiated based on an estimate that as of mediation, there were 14,519 cumulative pay periods worked by Aggrieved Employees in the PAGA Period. (*Id.* at ¶ III.3.) The Settlement includes an Escalator Clause whereby should the actual number of pay periods in the PAGA Period exceed the estimated amount by more than 10%, then Defendant will make a pro-rata increase to the GSA for each additional pay period above the escalator. (*Id.*)

3. Funding, Disbursement, and Uncashed Funds: Defendant's settlement funding will be due within 30 calendar days of the Court's Approval Order. (*Id.* at ¶ IV.2b.) Disbursement will occur within 14 days of funding. (*Id.* at ¶ IV.2c.) Any funds remaining uncashed after 180 days from issuance will be transmitted to the California State Controller's Office, to be held pursuant to the Unclaimed Property Law in the name of each individual who failed to cash his or her check prior to the void date. (*Id.* at ¶ IV.5.)

4. PAGA Counsel Fees and Costs Payments:[2] The Settlement provides attorneys' fees to Plaintiffs' Counsel in an amount up to one-third of the GSA (i.e., $100,000, subject to potential increase if the Escalator Clause is triggered), plus reimbursement for out-of-pocket litigation costs not to exceed $21,000.00, payable from the GSA. (*Id.* at ¶ III.4a.) In the event actual costs are less and/or the amount of fees and costs approved by the Court are less than the amounts requested, the difference will be allocated to the Net Settlement Amount as PAGA Penalties. (*Id.*)

5. Administration Costs Payment: The Settlement provides an Administration Costs Payment to the Settlement Administrator, payable from the GSA, in an amount up to $5,000.00, for its services and costs in administering this Settlement. (*Id.* at ¶ III.4b.) In the event the amount of actual administration costs is less and/or the amount approved by the Court is less than requested, the difference will be allocated to the Net Settlement Amount as PAGA Penalties. (*Id.*) Following a competitive bidding process, the Parties jointly selected Simpluris as the neutral entity to administer this Settlement. (*Id.* at ¶

[2] Filed herewith is a declaration from Plaintiffs' Counsel in support of the requested fee award and reimbursement of litigation costs. (Moon Decl., ¶¶ 41–72.) To date, Plaintiffs' Counsel have incurred $18,422.05 in litigation costs. (*Id.* at ¶ 70, Ex. 4.) Plaintiffs' Counsel anticipate incurring additional costs pertaining to the filing of the instant motion and accompanying papers. (*Id.* at ¶ 71.) Plaintiffs' Counsel do not anticipate reaching, let alone exceeding, the maximum allocation for litigation costs ($21,000) that is provided for under the Settlement. (*Id.*) Moreover, pursuant to the terms of Settlement, the difference between the maximum allocation and actual costs will revert to the Net Settlement Amount. (*Id.*) Thus, Plaintiffs' Counsel respectfully submit that the reimbursement request for only actual costs not to exceed $21,000 is fair and reasonable. (*Id.*)

I.28.) Bids were requested from four competent administration entities, and ILYM Group provided the lowest bid at $4,250. (Moon Decl., ¶ 20, Ex. 5; Declaration of Lisa Mullins on Behalf of ILYM Group, Inc. Re: Qualifications and Costs for Settlement Administration, ¶ 6, Ex. C.)

6. Net Settlement Amount a.k.a. PAGA Penalties: After deducting the PAGA Counsel Fees and Costs Payments and the Administration Costs Payment from the GSA, in the amounts specifically approved by the Court, any difference in the amounts requested and the amounts awarded will be allocated to the Net Settlement Amount as PAGA Penalties. (Settlement, ¶ I.16.) Accordingly, the Net Settlement Amount will be no less than **$174,000**,[3] which will be distributed 75% (i.e., no less than .75 * $174,000 = **$130,500**) to the LWDA and 25% (i.e., no less than .25 * $174,000 = **$43,500**) to Aggrieved Employees pursuant to PAGA law governing Plaintiffs' claims.[4] (Moon Decl., ¶ 21; Settlement, ¶ III.5.)

7. Aggrieved Employees, PAGA Period, Individual PAGA Payments, and No Claim Form: The Settlement includes only all current and former employees of Defendant who worked in California in a non-exempt position at any time during the PAGA Period. (Settlement, ¶ I.4.) Each Aggrieved Employee will be entitled to his or her pro rata amount from the 25% share of PAGA Penalties that is directly proportional to the number of pay periods worked in the PAGA Period without having to submit any claim form. (*Id.* at ¶¶ III.5b, IV.3.) This results in an average Individual PAGA Payment of roughly **$117.57** for each of the estimated **370** Aggrieved Employees ($43,500 / 370), and a PAGA Pay Period value of roughly **$3.00** for each of the 14,519 estimated PAGA Pay Periods ($43,500 / 14,519). Individual PAGA Payments will be allocated as 100% penalties for tax purposes. (*Id.* at ¶ III.4a.) Aggrieved Employees will receive an explanatory letter with their payment. (*Id.* at ¶ IV.3.)

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[3] The estimated Net Settlement Amount was calculated by deducting the following amounts from the GSA ($300,000): $21,000 for the maximum PAGA Counsel Costs Payment, $100,000 for the PAGA Counsel Fees Payment, and $5,000 for the maximum Administration Costs Payment. (Moon Decl., ¶ 21, n.2.)

[4] On July 1, 2024, new legislation was enacted to amend PAGA in several respects, including as to the recovery split for civil penalties. (Stats. 2024, ch. 44 (Assem. Bill No. 2288), § 1, eff. Jul. 1, 2024).) As amended, PAGA now provides for a 65%-LWDA/45%-aggrieved employee split. (Lab. Code § 2699(m).) However, this provision does not apply retroactively prior to June 19, 2024. (*Id.* at § 2699(v)(1).) In other words, because Plaintiff Gerrish's PAGA Notice was submitted prior to June 19, 2024, any civil penalties recovered in this action will be split according to prior PAGA law (i.e., 75% to the LWDA and 25% to Aggrieved Employees). (Moon Decl., ¶ 21, n.3.)

8. Released PAGA Claims and Released Parties: The "Released PAGA Claims" are limited to claims for civil penalties under PAGA arising during the PAGA Period and that were alleged in Plaintiffs' PAGA Notices and in Plaintiffs' operative Second Amended Representative Action Complaint. (*Id.* at ¶ III.6.) The release of claims will be effective upon the Court's approval order and Defendant's full Settlement funding. (*Id.*) The "Released Parties" means: Defendant and each of its past, present and future owners, parents, affiliates, related companies, divisions, subsidiaries, and all their past, present and future officers, directors, partners, members, managers, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, affiliates, assigns, advisors, accountants, attorneys, insurers, reinsurers, trustees, heirs, executors, administrators, and representatives. (*Id.* at ¶ I.27.)

9. No Related Actions: To the best of Plaintiffs' knowledge, there is no other pending litigation involving similar claims against Defendant that may be impacted by approval of the Settlement at issue, nor has Defendant pointed to any. (Moon Decl., ¶ 24.)

III. DISCUSSION

A. Availability of Civil Penalties

The LWDA and its constituent departments and divisions are authorized to assess and collect civil penalties for specified violations of the Labor Code committed by an employer. With a stated goal of improving enforcement of existing Labor Code obligations, the California Legislature adopted the Private Attorneys General Act of 2004, permitting, as an alternative, an aggrieved employee to initiate a private civil action on behalf of him- or herself and other current or former employees. (Lab. Code § 2699(a).) Before an employee may file an action seeking to recover civil penalties for violations the of Labor Code provisions enumerated in Labor Code section 2699.5, he or she must comply with the Act's administrative procedures as set forth in Labor Code section 2699.3(a), which include providing notice to the LWDA and the employer of the alleged violations, and then waiting a prescribed period of time to permit the LWDA to investigate and to decide whether to cite the employer for the alleged violations. (*Id.* at §§ 2699.3, 2699.5; *Caliber Bodyworks, Inc. v. Superior Court* (2005) 134 Cal.App.4th 365, 370; *see also Dunlap v. Superior Court* (2006) 142 Cal.App.4th 330.)

Here, Plaintiffs have complied with the requisites for bringing a civil action under PAGA and therefore, are duly authorized to act as private attorneys general with respect to the PAGA claims involved in this action. (Moon Decl., ¶ 10.) In compliance with Labor Code section 2699(s)(1), Plaintiff submitted to the LWDA a file-stamped copy of the amended complaint containing the Court-assigned case number. (*Id.* at ¶ 7.) To date, the LWDA has not sought to intervene in this action. (*Id.* at ¶ 10.)

B. The Proposed Settlement Merits Approval

Settlement of PAGA claims must be approved by a Court. (Lab. Code § 2699(s)(2).) Here, the circumstances weigh heavily in favor of approval, as explained below.

1. The Relief is Genuine, Meaningful, and Consistent with the Dual Statutory Purposes of Deterrence and Punishment under PAGA

Here, the $300,000 GSA constitutes "genuine and meaningful, consistent with the underlying purpose of the statute to benefit the public." (Moon Decl., ¶ 33; *see O'Connor*, 201 F.Supp.3d at 1133–35 [denying settlement approval where allocation for PAGA claims was 0.1% of the estimated full worth].) This is an excellent result, particularly because, under the Settlement, Aggrieved Employees and the LWDA will receive timely, guaranteed relief and will avoid the risk of not being able to recover anything at all. (Moon Decl., ¶ 33.)

The Settlement is a fair and reasonable resolution that satisfies PAGA's dual statutory purposes of deterrence and punishment, on the one hand, and providing Aggrieved Employees with genuine and meaningful relief, on the other. (Lab. Code §§ 2698, *et seq.*) As a result of this litigation, Defendant has had to hire legal counsel, engage in employee-wide discovery, and participate in mediation. (Moon Decl., ¶ 34.) Assuming approval is granted, Defendant also will have to pay civil penalties pursuant to PAGA. (*Id.*) Not including its own attorneys' fees and costs, Defendant will pay no less than $300,000 to resolve this matter—of which at least **$130,500** is allocated toward PAGA Penalties and will be distributed as 75% to the LWDA and 25% to Aggrieved Employees in compliance with PAGA law governing the claims here. (*Id.*) Additionally, the release provided under the Settlement does not preclude Aggrieved Employees from pursuing any individual (non-PAGA) claims they may have against Defendant or the other Released Parties. (*Id.*)

2. The Settlement Amount Provides a Realistic Value for the Claims that is within the "Ballpark" of Reasonableness

There can be no doubt that this Settlement is the result of vigorous, adversarial, non-collusive, and arm's-length negotiations between the Parties. (*Id.* at ¶ 25.) Based on Plaintiffs' Counsel's analysis of the arguments and information provided by Defendant, on an expert analysis of the time and pay records, and on information from Plaintiffs and other witnesses, Plaintiffs' Counsel evaluated both Defendant's maximum (*optimistic*) and risk-adjusted (*realistic*) potential exposure in preparation for mediation. (*Id.*) Although analysis revealed that the time and pay records supported several violations by Defendant, those identifiable violations were primary limited to the meal period and regular rate of pay claims. (*Id.*) The records themselves did not provide strong support for the OTC, expense reimbursement, rest period, and related derivative penalties claims, as those claims are predominantly testimony based. (*Id.*) In other words, Plaintiffs' Counsel's analysis revealed that certain claims were not as strong as originally believed. (*Id.*)

Even as to the meal period and regular rate of pay claims, Plaintiffs' Counsel's analysis found that Defendant's exposure is less than was initially believed. (*Id.* at ¶ 26.) Specifically, Plaintiffs' expert identified 394 meal period violations (2,671 when extrapolated to all Aggrieved Employees). (*Id.*) However, this resulted only in a 2.3% violation overall rate. (*Id.*) Additionally, the violation rate decreased to .02% when offset by records showing meal premium payments made for non-compliant meals. (*Id.*) As for the regular rate claim, while 420 additional compensation payments were identified, information provided by Defendant at mediation indicated that many of these payments were discretionary and thus not required to be factored into the regular rate of pay for purposes of calculating overtime, meal premiums, and sick pay. (*Id.*)

Because the OTC, expense reimbursement, and rest period claims are testimony based, Defendant's records themselves will not be sufficient to establish these claims on the merits. (*Id.* at ¶ 27.) For example, the lack of reimbursements may not indicate failure to reimburse but rather that no reimbursement request was submitted and thus, that Defendant was not on notice that any reimbursement was due. (*Id.*) As to home internet and computer monitors, Defendant emphasized that these expenses were individualized and limited to Plaintiff Gerrish who worked from home, whereas other Aggrieved

Employees did not incur these expenses as they were required to work from the office. (*Id.*) Defendant also emphasized that usage of personal phones was not required for work for all Aggrieved Employees, including Plaintiff Akins, and that as supported by the pay records, Defendant did compensate those Aggrieved Employees who used their cell phones for work purposes. (*Id.*) Additionally, as employees were not required to record rest break times, testimony by Plaintiffs and other Aggrieved Employees would be needed to establish non-compliant breaks. (*Id.*) In sum, proof of a majority of Plaintiffs' claims would need to be supported by declarations from Aggrieved Employees regarding actual OTC work performed on each shift, expenses that were unreimbursed, and rest breaks that were missed, shorted, or untimely. (*Id.*)

Indeed, the maximum exposure figures that were calculated for mediation were based on assumed high violation rates that would not likely be demonstrated at trial. (*Id.* at ¶ 28.) This is because the maximum exposure assumes either the participation of all Aggrieved Employees (which would be difficult given the large size of this group), or alternatively, the use of surveys or statistical data as a surrogate (which would still require the participation of a majority of Aggrieved Employees to establish a sound representation of all non-exempt employees). (*Id.*) For example, for purposes of mediation, Plaintiffs' Counsel assumed a 100% violation rate for rest period violations, unpaid OTC time, and unreimbursed expenses. (*Id.*) The reality is that many, if not all, employees would be unwilling to participate due to fear of retaliation. (*Id.*) Indeed, prior to mediation, Plaintiffs' Counsel interviewed a former coworker of Plaintiffs who provided useful information but wase unwilling to disclose their identity to Defendant. (*Id.*) Even assuming employees would be willing to participate, obtaining declarations would potentially reveal that each Aggrieved Employee had a different experience. (*Id.*) The individualized nature of their employment experience and the numerosity of employees affected present significant risk with manageability and proof on the merits. (*Id.*)

Further, the likelihood that Defendant could assert viable legal defenses would likely further reduce its overall exposure. (*Id.* at ¶ 29.) For example, the individualized and testimony-intensive nature of the claims could bar manageability of this representative action or otherwise significantly reduce Defendant's overall liability. (*Id.*)

Additionally, a maximum exposure analysis involving a claim-by-claim penalty calculation is overly optimistic as it presumes Plaintiffs would be able to stack the penalties although not expressly permitted by PAGA. (*Id.* at ¶ 30.) Rather, without either (i) a prior finding by the LWDA or a court within the past five years that the employer violated PAGA or (ii) evidence that the employer's conduct was malicious, fraudulent or oppressive, PAGA only provides for a maximum $100 penalty for each pay period. (Lab. Code § 2699(f)(2)(A)–(B).) Moreover, Plaintiffs' Counsel believe it would be unrealistic to expect the Court would stack penalties given the discretionary nature of awarding penalties and given Defendant's defenses, including that any failure to pay OTC wages, rest period premiums, or expense reimbursements was not knowingly or willfully done and that to the extent employees received wage statements that were inaccurate, employees suffered no actual resulting damage or harm. (Moon Decl., ¶ 30.) Plaintiffs' Counsel further determined that penalty-stacking would not be awarded in this case as awarding all penalties would likely raise Due Process concerns. (*Id.*) Thus, in reaching the Settlement amount, Plaintiffs' Counsel concluded that Defendant's *realistic* exposure is far below the *optimistic* maximum estimate. (*Id.*)

Based on the foregoing, Plaintiffs' Counsel believe it is more reasonable to assess penalties on a $100 penalty per-pay-period basis pursuant to Labor Code § 2699(f)(2)(A) for each of the estimated 14,519 pay periods at issue, rather than a claim-by-claim approach. (*Id.* at ¶ 31.) Accordingly, Plaintiffs' Counsel estimated Defendant's maximum PAGA exposure to be **$1,415,900** ($100 x 14,519). (*Id.*) However, based on the discovery obtained, Defendant's arguments at mediation, an understanding that the claims are heavily dependent on the unlikely participation by Aggrieved Employees and their varying employment experience, and other important considerations discussed above, it is reasonable to assume a violation occurred at most only in one-fourth of all pay periods, which results in a realistic (*risk-adjusted*) exposure of **$353,975** ($1,415,900 / 4). (*Id.*) As a result, the GSA of $300,000 represents roughly **85%** of the realistic exposure ($300,000 / $353,975). (*Id.*)

The Settlement thus represents a substantial recovery when compared to the reasonably forecasted recovery. (*Id.* at ¶ 32.) Considered against the risks of litigation, the uncertainties involved in continued litigation, the burdens of proof necessary to establish liability, and the probability of appeal, it is clear the GSA of $300,000 is within the "ballpark" of reasonableness and that settlement approval is appropriate. (*Id.*; *Kullar v. Foot Locker Retail, Inc*. (2008) 168 Cal.App.4th 116, 133; *see Munoz v. BCI Coca-*

Cola Bottling Co. of L.A. (2010) 186 Cal.App.4th 399, 408–09 [holding that *Kullar* does not require "an explicit statement of the maximum amount the plaintiff class could recover if it prevailed on all its claims," but instead, only an "understanding of the amount that is in controversy and the realistic range of outcomes of the litigation"].)

3. The Settlement is a Fair and Reasonable Result Following a Thorough Investigation and Accounting of Various Litigation Risks

Plaintiffs' Counsel have conducted a thorough investigation into the facts of the allegations. (Moon Decl., ¶ 35.) Based on the foregoing discovery, on their own independent investigation and evaluation, and on their extensive experience in wage-and-hour litigation, Plaintiffs' Counsel are of the opinion that the Settlement is fair, reasonable, and adequate. (*Id.*) Furthermore, considering all known facts and circumstances, the risk of significant delay, trial risk, appellate risk, the defenses that could be asserted by Defendant on the merits, the Settlement is in the best interests of the Aggrieved Employees and the State of California. (*Id.*)

Although Plaintiffs' Counsel believe there is merit to Plaintiffs' allegations, they also acknowledge a legitimate controversy exists as to each allegation. (*Id.* at ¶ 36.) Plaintiffs' Counsel also recognize that proving the amounts of penalties owed to each Aggrieved Employee would be an expensive, time-consuming, and uncertain proposition. (*Id.*)

Moreover, Plaintiffs' Counsel are also of the opinion that because the issues here are fairly contested, there is a possibility of the Court not awarding PAGA penalties even if Plaintiffs prevailed on the merits due to the largely discretionary nature of awarding PAGA penalties. (*Id.* at ¶ 37.) Indeed, a Court may reduce PAGA 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." (Lab. Code § 2699(e)(2).) In other words, were this matter to go to trial, any award granted would be at the discretion of the Court and subject to a substantial reduction. (Moon Decl., ¶ 37.) While Plaintiffs' Counsel believe there would be no persuasive grounds to reduce penalties, they recognize that the Court could determine otherwise and significantly reduce any award of penalties. (*Id.* at ¶ 38.) This wide range of potential recovery and additional delays and risks of trial provide justification to settle for a reasonable amount of recovery at this point in the litigation. (*Id.*) In all, based on the investigation and analysis of the claims in preparation for mediation, the maximum exposure did not comport with the realistic exposure that Defendant faced, as discussed above. (*Id.*)

Plaintiffs' Counsel took into account the risk of not being able to proceed on a representative basis at all due to the potential manageability issues, the risk of not prevailing at trial, and the risk that even if Plaintiffs prevailed at trial, the penalties would be limited due to the largely discretionary nature of awarding PAGA penalties. (*Id.* at ¶ 39.) PAGA specifically provides that penalties are not mandatory, but rather, permissive. (Lab. Code § 2699(e)(2).) Accordingly, it is entirely possible that even if Plaintiffs would be successful at trial, assuming they are first able to defeat the manageability issues presented at litigation by the large number of Aggrieved Employees in this action, Plaintiffs may still be awarded substantially less than what was obtained through the Settlement. (Moon Decl., ¶ 39.)

The Settlement avoids the significant risks, burdens, and the accompanying expense of further litigation. (*Id.* at ¶ 40.) Though the Parties have engaged in a significant amount of investigation, discovery, and employee data analysis, they have not taken depositions or engaged in formal expert discovery. (*Id.*) Moreover, preparation for trial and the prospect of appeals in the wake of any summary judgment ruling would remain for the Parties. (*Id.*) As a result, the Parties would incur considerably more attorneys' fees and costs through trial, a lengthy and uncertain process that could result in recovering fewer penalties than was settled for. (*Id.*)

C. <u>The Requested Amounts for Attorneys' Fees and Costs Are Reasonable</u>

In line with the Settlement, Plaintiffs' Counsel request an award of attorneys' fees in an amount of one-third of the GSA, plus reimbursement for actual litigation costs up to a maximum of $21,000. (Moon Decl., ¶ 60; *see* Settlement, ¶ III.4a.)

1. Plaintiffs' Counsel Request an Award of Fees Based on the Common Fund Method

California courts have long awarded attorneys' fees as a percentage of the benefit created by counsel in pursuing claims on behalf of a class. (*See, e.g.*, *Serrano v. Priest* (1977) 20 Cal.3d 25.) The California Supreme Court has held, "when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney's fees out of the fund." (*Id.* at p. 34.)

Plaintiffs' Counsel seek an award of attorneys' fees on the "percentage of recovery/common fund" theory. (Moon Decl., ¶ 61.) The purpose of this approach is to "spread litigation costs proportionately among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." (*Vincent v. Hughes Air W., Inc.* (9th Cir. 1977) 557 F.2d 759, 769.) In *Quinn v. State of Cal.* (1975) 15 Cal.3d 162, the California Supreme Court stated, "one who expends attorneys' fees in winning a suit which creates a fund from which others derive benefits, may require those passive beneficiaries to bear a fair share of the litigation costs." (*Id.* at p. 167.) Similarly, in *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court recognized that the common fund doctrine has been applied "consistently in California when an action brought by one party creates a fund in which other persons[ ] are entitled to share." (*Id.* at pp. 110–11 [pincite omitted].) The reasons for applying this doctrine include:

> fairness to the successful litigant, who might otherwise receive no benefit because his recovery might be consumed by the expenses; correlative prevention of an unfair advantage to the others who are entitled to share in the fund and who should bear their share of the burden of its recovery; encouragement of the attorney for the successful litigant, who will be more willing to undertake and diligently prosecute proper litigation for the protection or recovery of the fund if he is assured that he will be properly and directly compensated should his efforts be successful.

(*Id.* at p. 111.)

Several courts have expressed frustration with the alternative "lodestar" approach for deciding fee awards, which usually involves wading through voluminous and often indecipherable time records. Commenting on the lodestar approach, Chief Judge Marilyn Hall Patel wrote in *In re Activision Securities Litigation* (N.D. Cal. 1989) 723 F.Supp.1373:

> **This court is compelled to ask, "Is this process necessary?" Under a cost-benefit analysis, the answer would be a resounding, "No!"** Not only do the *Lindy* and *Kerr–Johnson* analyses consume an undue amount of court time with little resulting advantage to anyone, but, in fact, it may be to the detriment of the class members.

(*Id.* at p. 1375 [emphasis added].) The percentage approach is preferable to the lodestar because: (1) it aligns the interests of class counsel and absent class members; (2) it encourages efficient resolution of the litigation by providing an incentive for early, yet reasonable, settlement; and (3) it reduces the demands on judicial resources. (*Id.* at pp. 1378–79.) California Courts now routinely use the percentage of the common fund approach to determine the award of attorney's fees. (*See*, *e.g.*, *In re Pac. Enter. Sec.*

Litig. (9th Cir. 1995) 47 F.3d 373, 378–79 [approving attorneys' fee award of 33%].)

2. The Matter Involves a Fee and Cost Shifting Provision under PAGA

Labor Code section 2699 provides for the recovery reasonable attorney's fees as well as costs of suit. (Lab. Code § 2699(k)(1).) Under this provision, Plaintiffs would be permitted to recover their actual attorneys' fees, even if those fees were larger than the total recovery for the Aggrieved Employees at the conclusion of this case. (*Id.*) This fee/cost-shifting provision reflects the understanding that Plaintiffs' Counsel must accept significant risk of substantial expenses and consumption of time, energy, and other resources in litigating a PAGA claim and thus, that Plaintiffs' Counsel are not only permitted, but entitled, to recover reasonable attorneys' fees and costs if successful in litigating a PAGA claim.

The Settlement at issue is beneficial in that it limits the risk of continued expenses and consumption of time, energy, and resources facing Defendant while at the same time rewarding Plaintiffs' Counsel for their decision to assume risk by taking on this matter. In fact, prosecution of this action involved significant financial risk for Plaintiffs' Counsel. (Moon Decl., ¶¶ 62–71.) Plaintiffs' Counsel undertook this matter solely on a contingent basis, with no guarantee of recovery. (*Id.* at ¶ 68.) Once Counsel undertook this litigation, they committed to pursue it to its conclusion and were thereby precluded from focusing on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain. (*Id.* at ¶ 67.)

3. Counsel's Experience, Reputation, and Ability Support the Requested Fee Award

As demonstrated by their prior experience in pursuing class and representative actions on behalf of employees, Plaintiffs' Counsel possess considerable expertise in litigating class action and representative matters. (*Id.* at ¶¶ 41–57.) Plaintiffs' Counsel have been involved as lead counsel or co-counsel in a multitude of class and representative actions resulting in beneficial results to class members and aggrieved employees in California. (*Id.*) Because it is reasonable to compensate Plaintiffs' Counsel commensurate with their skill, reputation, and experience, the requested fee award is supported here.

Plaintiffs' Counsel's experience in wage-and-hour class and representative actions was integral in evaluating the strengths and weaknesses of the case against Defendant and the reasonableness of this Settlement. (*Id.* at ¶ 58.) Practice in the narrow field of wage-and-hour litigation requires skill and knowledge concerning the rapidly evolving substantive law (state and federal), as well as the procedural law of representative action litigation. (*Id.* at ¶ 56.) Based on these and other factors, Plaintiffs' Counsel have frequently received fee awards of this percentage from the gross recovery for aggrieved employees. (*See id.* at ¶¶ 45, 50, 55.) Thus, the requested fee award is reasonable and fair.

4. While the Lodestar Method is Not Necessary in Common Fund Cases, the Court May Perform a Cross-Check to Award Fees

"Despite its primacy, the lodestar method is not necessarily utilized in common fund cases." (*Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 27.) Courts have criticized the lodestar method as a drain on the judicial system and a disincentive on attorneys to take on high-risk, challenging cases. (*Id.* at p. 29.) Indeed, the lodestar approach: "(1) 'increases the workload of an already overtaxed judicial system,' (2) is 'insufficiently objective and produce[s] results that are far from homogenous,' (3) 'creates a sense of mathematical precision that is unwarranted in terms of the realities of the practice of law,' (4) 'is subject to manipulation by judges who prefer to calibrate fees in terms of percentages of the settlement fund or the amounts recovered by the plaintiffs or of an overall dollar amount,' (5) 'encourages lawyers to expend excessive hours, and . . . engage in duplicative and unjustified work,' (6) 'creates a disincentive for the early settlement of cases,' (7) deprives trial courts of 'flexibility to reward or deter lawyers so that desirable objectives, such as early settlement, will be fostered,' (8) 'works to the particular disadvantage of the public interest bar,' and (9) results in 'confusion and lack of predictability.'" (*Id.* [quoting Third Circuit Task Force, *Court Awarded Attorney Fees* (1985) 108 F.R.D. 237, 246–49].)

Although California Courts support the common fund doctrine, the lodestar method can be used to cross-check fee awards. "It may be appropriate in some cases, assuming the class benefit can be monetized with a reasonable degree of certainty, to 'cross-check' or adjust the lodestar in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation." (*In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557 [quoting *Lealao*, *supra*, 82 Cal.App.4th at pp. 49–50].)

Applying the lodestar method is a two-step process. The first step is to multiply the number of hours reasonably expended by a reasonable hourly rate, and the second step is to apply a multiplier to the lodestar to account for various factors. (*Id.* at p. 556.) "The purpose of such adjustment is to fix a fee at the fair market value for the particular action. In effect, the court determines, retrospectively, whether the litigation involved a contingent risk or required extraordinary legal skill justifying augmentation of the unadorned lodestar in order to approximate the fair market rate for such services." (*Id.*) "Under certain circumstances, a lodestar calculation may be enhanced on the basis of a percentage-of-the-benefit analysis." (*Id.* at pp. 556–57.)

Further, "California case law permits fee awards in the absence of detailed time sheets." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 255.) The Court "should defer to the winning lawyer's professional judgment as to how much time he was required to spend on the case." (*Moreno v. City of Sacramento* (9th Cir. 2008) 534 F.3d 1106, 1112.) Generally, hours are reasonable if they were "reasonably expended in pursuit of the ultimate result achieved in the same manner that an attorney traditionally is compensated by a fee-paying client." (*Hensley v. Eckerhart* (1983) 461 U.S. 424, 431.)

Here, Plaintiffs' Counsel's current lodestar is *no less than* **$105,695**, which is based on *no less than* **136.3 hours** of attorney time spent to-date at their customary hourly rates. (Moon Decl., ¶ 62.) Thus, in comparison to this lodestar, although application of a positive multiplier would be warranted in this case, none is requested. (*Id.* at ¶¶ 64–65.) In other words, Plaintiffs' Counsel are requesting *less* than what they are reasonably entitled to. Further, the foregoing lodestar does not reflect additional work that will be devoted to this litigation, including to obtain and monitor approval of the Settlement and requested awards, oversee the settlement administration and distribution of funds, respond to inquiries, and communicate with Plaintiffs regarding the case. (*Id.* at ¶ 63.) Plaintiffs' Counsel also bear the risk of taking whatever actions are necessary if Defendant fails to pay. (*Id.*) In sum, the requested fee award is warranted based on the contingent risk that Plaintiffs' Counsel incurred, the difficulty of the questions involved, the substantial benefit conferred on the Aggrieved Employees and State of California as a result of the Settlement, and the skill displayed. (*Id.* at ¶ 65.)

5. Plaintiffs' Counsel's Costs Were Actually and Reasonably Incurred

Winning counsel are entitled to recover the out-of-pocket costs and expenses they reasonably incurred in investigating, prosecuting, and settling a case. (*Staton v. Boeing Co.* (9th Cir. 2003) 327 F.3d 938, 974; Lab. Code § 2699(k)(1).) Here, Plaintiffs' Counsel seek reimbursement of at least $**18,422.05** for litigation costs actually and reasonably incurred, plus costs for filing the instant motion and accompanying papers and the filing costs of any notice of entry of approval order and judgment, to be determined after filing. (Moon Decl., ¶¶ 70–71, Ex. 4.) The difference between the maximum allocation under the Settlement ($21,000) and actual costs will revert to the Net Settlement Amount. (Settlement, ¶ III.4a.)

IV. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request the Court grant approval of the Settlement and enter the proposed approval order and proposed judgment submitted herewith.

Respectfully submitted,

DATED: August 21, 2025

MOON LAW GROUP, PC

By: ______________________

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