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JORGE RIVERA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

UNLIMITED JURISDICTION

JORGE RIVERA, on behalf of himself and all others similarly situated, and the general public,

Plaintiff,

vs.

NATIONAL STEEL AND SHIPBUILDING COMPANY, a Nevada Corporation; GENERAL DYNAMICS LAND SYSTEMS INC., a Delaware Corporation; GENERAL DYNAMICS ORDNANCE AND TACTICAL SYSTEMS, INC., a Virginia Corporation; GENERAL DYNAMICS INFORMATION TECHNOLOGY, INC., a Virginia Corporation; GENERAL DYNAMICS MISSION SYSTEMS, INC., a Delaware Corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. 24CV443480

Assigned for All Purposes to the Honorable Theodore C. Zayner, Department 19

DECLARATION OF SHAUN SETAREH IN SUPPORT OF PLAINTIFF'S UNOPPOSED MOTION FOR APPROVAL OF PAGA SETTLEMENT, AND AWARD OF ATTORNEYS' FEES, ENHANCEMENT AWARD AND REIMBURSEMENT OF LITIGATION COSTS

Date: February 25, 2026
Time: 1:30 p.m.
Place: Dept. 19

Complaint Filed: July 22, 2024

<u>DECLARATION OF SHAUN SETAREH</u>

I, Shaun Setareh, declare as follows:

1. I am an attorney in good standing duly admitted to the State Bar of California, the principal attorney at Setareh Law Group, counsel of record for JORGE RIVERA ("Plaintiff") in this action against Defendant NATIONAL STEEL AND SHIPBUILDING COMPANY, ("NASSCO" or "Defendant") (Plaintiff and Defendant, collectively, the "Parties"). This declaration is made in support of Plaintiff's Unopposed Motion for Approval of PAGA Settlement and Award of Attorneys' Fees, Enhancement Award, and Reimbursement of Litigation Costs filed concurrently herewith.

2. Except for those matters stated on information and belief, which I am informed and believe are true and correct, I have personal knowledge of all matters set forth herein. If called as a witness, I could and would competently testify thereto.

Experience of Plaintiff's Counsel

3. I received my undergraduate degree from UCLA in 1996 and my law degree from Loyola Law School in 1999. Since being admitted to the State Bar of California in 1999, I have actively practiced civil litigation for the entirety of that time period.

4. Setareh Law Group and I, as its principal attorney, are well-experienced class action and PAGA representative action attorneys. I, along with the attorney assigned to this case, Brian Louis,[1] have considerable experience in class action and PAGA litigation. I, and the attorneys at Setareh Law Group, have been involved as lead class counsel, co-lead class counsel, and other levels of involvement in over 100 wage-and-hour, consumer, and antitrust class action cases. Because of this, Setareh Law Group has more than 240 Westlaw citable opinions, including the following noteworthy appellate decisions:

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[1] The Senior Attorney from Setareh Law Group who originally handled this case through settlement, Jose Patino, and the Junior Attorney assigned to this case Brian Louis are no longer with the firm.

State Appellate Decisions

a. *Troester v. Starbucks Corporation, et al.*, 5 Cal.5th 829 (2018) (reversed summary judgment in favor of Defendants, issuing a landmark published decision that clarified and rejected the application of the widely adopted federal *de minimis* doctrine to California's wage-and-hour laws). In this victory for Plaintiff in the Supreme Court of California, I was appointed as Lead Counsel and received the California Lawyer of the Year or "CLAY" award for my work on the case.

b. *Allen v. Labor Ready Southwest, Inc.* (Cal.App. 2 Dist., 2013) 2013 WL 1910293 (reversing an Order from the Superior Court of Los Angeles County compelling Plaintiff's claims to arbitration, finding that Defendant waived the right to compel arbitration by litigating the merits of Plaintiff's arbitrable federal and state claims).

c. *Lacour v. Marshalls of CA, LLC, et al.* (Cal.App. 1 Dist., 2023) 2023 WL 5543622 (reversing an Order from the Superior Court of Alameda County granting judgment on the pleadings, holding that the trial court erred in giving claim preclusive effect to a federal court judgment in a prior PAGA case against the same defendant.).

Setareh Law Group has prevailed in its six most recent Ninth Circuit appeals. Four of the six cases resulted in reversals of the trial court decision, with the remaining two cases (*Harris* and *Parsittie*) affirming a decision favorable to the Plaintiff. These six cases are listed below:

Ninth Circuit Decisions

d. *Troester v. Starbucks Corp.,* 738 Fed. Appx. 562 (9th Cir. 2018) (Ninth Circuit opinion following the California Supreme Court answering the Ninth Circuit's certified question).

e. *Gilberg v. California Check Cashing Stores, LLC*, 913 F.3d 1169 (9th Cir. 2019) (vacated district court's summary judgment in favor of Defendants and remanded for further proceedings, holding that Defendants' Fair Credit Reporting Act disclosure form lacked sufficient clarity in a published opinion).

f. *Rodriguez v. U.S. Healthworks*, 813 Fed.Appx. 315 (9th Cir. 2020) (reversed district court's summary judgement in favor of Defendants with instructions to remand the action to state court).

g. *Harris v. KM Industrial, Inc.,* 980 F.3d 694 (9th Cir. November 13, 2020) (affirmed the district court's granting of Plaintiff's motion to remand, holding in a published opinion that Defendants had failed to establish by a preponderance of the evidence that the amount in controversy exceeded $5 million as required under the Class Action Fairness Act for removal).

h. *Parsittie v. Schneider Logistics, Inc. et al.,* Case No. 20-55470 (9th Cir. June 9, 2021) (reversed the district court's dismissal of Plaintiff's meal and rest break claims, holding that Plaintiff's security check allegations were sufficient to state a claim for break-time violations and remanding for further proceedings).

i. *Ahlstrom v. DHI Mortg. Co., Ltd., L.P.*, 21 F.4th 631 (9th Cir. December 29, 2021) (reversed the district court's ruling compelling claims to arbitration, holding that parties cannot delegate issues of formation of an arbitration agreement to the arbitrator for determination).

j. *Allen v. Bedolla*, 787 F.3d 1218 (9th Cir. June 2, 2015) (affirming the district court's Order denying objector's motion to intervene and remanding to the district court where settlement was granted final approval. Final approval was upheld on a subsequent appeal in the 9th Cir. [*see Bedolla v. Allen*, 736 Fed.Appx. 614 (9th Cir. May 18, 2018)]).

Class Counsel Appointments. The following is a sampling of class actions in which the Setareh Law Group and I have been appointed as class counsel:

Federal Cases

k. *Cerdenia v. USA Truck, Inc.*, U.S. District Court, Central District of California, Case No. 10-CV-1489-JVS (granted final approval in an action on behalf of truck drivers for meal and rest period violations, off-the-clock pre- and post-shift work, and unauthorized wage deductions).

l. *Fronda v. Staffmark*, U.S. District Court, Northern District of California, Case No. 15-CV-02315-MEJ (granted final approval in a case involving alleged uncompensated security checks for warehouse workers).

m. *Garcia v. Am. Gen. Fin. Mgmt. Corp.*, U.S. District Court, Central District of California, Case No. 09-CV-1916 (granted final approval in a case filed on behalf of account managers in case involving, among other things, alleged overtime miscalculations and meal and rest period violations).

n. *Jones v. Shred-It USA, Inc.*, U.S. District Court, Central District of California, Case No. 11-CV-00526 (granted final approval in a case brought on behalf of customer service representatives and balers for alleged off-the-clock work and meal and rest period violations).

o. *O'Neill v. Genesis Logistics, Inc.*, U.S. District Court, Northern District of California, Case No. 08-CV-4707 (granted final approval in a case involving claims for failure to provide meal periods to employees who worked as drivers delivering goods to 7-11 stores throughout California and failure to pay final wages in a timely manner to terminated employees).

p. *Padilla v. UPS*, U.S. District Court, Central District of California, Case No. 08-CV-1590 (granted final approval in a case involving claims for failure to provide meal periods to part time employees engaged in sort operations and failure to pay final wages in a timely manner to terminated employees).

q. *Pitre v. Wal-Mart Stores, Inc.*, U.S. District Court, Central District of California, Case No. 17-cv-01281-DOC (granting class certification against Wal-Mart for a class of almost 5,000,000 in a Fair Credit Reporting Act action).

r. *Utne v. Home Depot U.S.A., Inc.*, U.S. District Court, Northern District of California, Case No. 16-cv-01854-RS (granting class certification against Home Depot in connection with uncompensated off-the-clock work occurring at the start of all employee shifts and at the end of closing shifts).

s. *Vang v. Burlington Coat Factory Warehouse Corp.*, U.S. District Court, Central District of California Case No. 09-CV-8061 (granted final approval in a case involving, among other things, vacation pay forfeitures, failures to provide meal and rest periods, and failures to pay overtime wages based on employee misclassification).

t. *Wilson v. TE Connectivity,* Northern District of California Case No. 3:14-cv-

04872-EDL (granted class certification through contested motion in case on behalf of manufacturing facility employees subject to auto-deduction of meal breaks).

State Cases

u. *Alvarez v. Gary Grace Enterprises, LP*, Marin Superior Court, Case No. CIV 1002553 (granted final approval in a case on behalf of hair salon employees for overtime miscalculation and related claims).

v. *Butler v. Lexxiom, Inc.*, San Bernardino Superior Court, Case No. CIVRS 1001579 (granted final approval in an action on behalf of debt resolution center employees alleging, among other things, meal and rest period violations and overtime calculation errors).

w. *Calderon v. GreatCall, Inc.*, San Diego Superior Court, Case No. 37-2010-00093743-CU-OE-CTL (granted final approval in a case on behalf of customer service employees for, among other things, alleged meal and rest period violations and overtime calculation errors).

x. *Douglas v. California Credit Union*, Los Angeles Superior Court, Case No. BC445050 (granted final approval in a case on behalf of customer service representatives alleging overtime miscalculation claims).

y. *Green v. Staples Contract and Commercial, Inc.*, Los Angeles Superior Court, Case No. BC389789 (granted final approval in a case involving claims for unprovided meal and rest periods, inaccurate wage statements, waiting time penalties, and unfair business practices on behalf of truck drivers delivering Staples office supplies in California).

z. *Green v. Universal Music Group*, Los Angeles Superior Court, Case No. BC374253 (granted final approval in a case involving misclassification claims of current or former IT Support employees, including engineers, server analysts, desktop support, and technical leads).

aa. *Sandoval v. Rite Aid Corp.*, Los Angeles County Superior Court, Case No. BC431249 (granted class certification through contested motion in case on behalf of former pharmacy employees based on late final wage payments in violation of Labor Code §§ 201–203; subsequently granted final approval of class action settlement).

bb. *Spokes v. Lush Cosmetics, LLC*, Los Angeles Superior Court, Case No. BC391397 (granted final approval in a case alleging failures to provide meal and rest periods and failure to timely pay all final wages to California sales associates and key holders).

cc. *Valencia v. SCIS Air Security Corp.*, Los Angeles Superior Court, Case No. BC421485 (granted class certification through contested motion in case on behalf of former security workers based on late final wage payments in violation of Labor Code §§ 201–203; subsequently granted preliminary approval of proposed class action settlement).

5. As the above shows, the Setareh Law Group and I have substantial experience in wage-and-hour class action litigation, including actions alleging failure to provide meal and/or rest periods, failure to pay wages, failure to provide accurate wage statements, failure to provide timely final wage payments, and other related claims. We are knowledgeable about the applicable law and have worked diligently to investigate and identify the potential claims in this action. I will continue to commit my firm's resources to further the interests of the Class. Setareh Law Group and I have no known conflicts of interest with Plaintiffs, the State of California, or with absent aggrieved employees.

Procedural Background

6. Defendant is a shipbuilding company which designs, builds, and repairs ships in San Diego.

7. Plaintiff JORGE RIVERA worked for Defendants as an hourly, non-exempt journeyman shipfitter for several periods starting in November 2004 to May 18, 2023.

8. On May 16, 2024, Plaintiff submitted a letter to the LWDA and mailed a copy to Defendants to notify them pursuant to PAGA of Plaintiff's intent to seek civil penalties under PAGA for alleged violations of Labor Code sections 201, 202, 203, 204, 223, 226, 226. 7, 227. 3, 510, 512, 558, 1194, 1197, 1197. 1, 1198, 1199 and 2802. That day, Plaintiff also sent a copy of the letter to Defendant by certified mail. A true and correct copy of the Notice Letter to the LWDA is attached hereto as **Exhibit 1**. A true and correct copy of the cover page of the Notice Letter to the LWDA and the certified mail receipt showing a mailing date of May 16, 2024, is attached hereto as **Exhibit 2**.

9. October July 22, 2024, Plaintiff filed the complaint in this Action in the above-titled Court alleging a single cause of action against Defendants for civil penalties under Lab. Code §§ 2698 *et*

seq., based on alleged violations of Labor Code sections 201, 202, 203, 204, 223, 226, 226. 7, 227. 3, 510, 512, 558, 1194, 1197, 1197. 1, 1198, 1199 and 2802.

10. Before the mediation, the Parties engaged in both formal and informal discovery to facilitate the mediation. Defendants formally produced Plaintiff's entire personnel file, payroll and timekeeping records, including policies and agreements he signed and acknowledged, copies of its relevant company written policies, and time-keeping records and paycheck data and records.

Investigation Into the Claims; Settlement

11. On May 22, 2025, the Parties participated in an all-day mediation presided over by David Rotman.

12. During the mediation, each party, represented by its respective counsel, recognized the risk of an adverse result in the Action and agreed to settle the Action and resolve all claims all claims for civil PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts in the Operative Complaint, and the PAGA Notice to the fullest extent permitted by law and without any admission of liability or wrongdoing by Defendants. Each of the Parties, represented by its respective counsel, recognized the risk of an adverse result in the Action.

13. Before the mediation, the Parties engaged in formal discovery as well as an extensive informal exchange of data about the allegedly Aggrieved Employees. Defendant's policies and procedures pertaining to the claims at issue; a representative sample of timekeeping and payroll records; and data reflecting the number of potentially Aggrieved Employees and the number of pay periods at issue.. Defendant also provided relevant data points for the PAGA Period, like the number of current and former Aggrieved Employees.

14. On or around August 20, 2025, the Parties fully executed the Settlement.

15. Counsel believe the proposed Settlement is fair, reasonable, and adequate in light of the complexities of the case, the uncertainties of further litigation, and that it represents a fair and reasonable recovery for the State of California and the aggrieved employees. The Parties have not engaged in any collusion or improper negotiations. The Parties do not have any agreements regarding the proposed Settlement that are not reflected in the Settlement.

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Summary of the Settlement Terms

16. Key provisions of the proposed Settlement include the following:

(a) "Aggrieved Employees" is defined to mean (a) all individuals who were union-represented, non-exempt employees of Defendant in California at any time during the period from May 18, 2023, to the date of entry of the Judgment; and (b) all individuals who were non-union represented, non-exempt employees of Defendant in California at any time during the portion of the PAGA Period that began on May 20, 2024. (Settlement, ¶ 9 (b).). "PAGA Period" means (a) for union-represented Aggrieved Employees, the period between May 18, 2023 and the entry of the Judgment; and (b) for non-union-represented Aggrieved Employees, the time period between May 20, 2024 and the entry of the Judgment. (*Id.*, ¶ 9 (d).).

(b) Defendant agrees to pay the GSA of **$750,000.00**, which includes Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, the Administrator's Expenses Payment, and the Representative Enhancement Payment. (Settlement, ¶¶ 9 (i); 15.)

(c) Defendant shall deposit the GSA with the Settlement Administrator. (*Id.*, ¶ 12.)

(d) Plaintiff will be paid up to **$5,000.00** as his enhancement payment for his efforts and time in prosecuting this Action resulting in the proposed Settlement and a general release of his individual claims. (*Id.*, ¶ (16)(d).).

(e) Plaintiff's Counsel will not seek an amount greater than 33% of the GSA (**$250,000.00**) for attorneys' fees. (*Id.*, ¶ 13(a).)

(f) Plaintiff's Counsel will not seek an amount greater than what was actually expended for which there is documentation for reimbursement of litigation costs up to a maximum of $25,000.00 with any amount below that maximum being added to the PAGA Allocation. (*Id.*) The actual costs incurred to date are **$15,013.40**. (Setareh Decl., ¶ 28.)

(g) Notice to Aggrieved Employees and administration of the Settlement will be accomplished through a third-party settlement administrator, Rust Consulting, with an estimated administration cost not to exceed **$12,965.00** (Settlement, ¶ (13)(d).)

(h) PAGA Allocation: Approximately **$467,021.60** will be available for distribution to the Aggrieved Employees and the LWDA. (*Id.*, ¶ (16)(a).) Of this amount, the LWDA will receive 75%, or approximately **$350,266.20**, and Aggrieved Employees will receive 25%, or approximately **$116,755.40**[2]. (*Id.*)

(i) In exchange for the above settlement consideration, Defendant shall be entitled to a *limited* release from all Aggrieved Employees, including Plaintiff. (*Id.*, ¶ 16.)

The Settlement Meets All the Criteria for Approval

17. Plaintiff and his counsel have diligently investigated the claim in this matter. Plaintiff and Counsel concluded, after taking into account the disputed factual and legal issues involved in this Action, the substantial risks attending further prosecution, including risks related to the outcome of possible summary judgment efforts, and the substantial benefits to be received pursuant to the compromise and settlement of the Action as set forth in the Settlement, that settlement on the terms agreed to are in the best interest of Plaintiff and the Aggrieved Employees and are fair and reasonable. Plaintiff's counsel brought to bear a great deal of experience with wage and hour actions in negotiating the settlement of this case.

18. Resolution at this time will forestall the need for additional expensive and time-consuming litigation that could very well result in an outcome less satisfactory than that proposed under this settlement. But, before any other consideration, Plaintiff and his counsel have agreed to this settlement because it is objectively reasonable. The potential for resolution benefits the Aggrieved Employees and the State of California, since they do not have to wait additional years for a similar recovery. The efficiency of this litigation benefits the Court, the parties and their counsel. A settled resolution now is the most realistic method for addressing the claims raised in this matter.

19. The Parties have engaged in the necessary investigation in this case that made it possible for us to exercise informed judgment in those aspects of the settlement process in which we were

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[2] Pursuant to the operative version of Labor Code section 2699(i), awards of PAGA penalties are split with 25% going to the aggrieved employees and 75% going to the LWDA. These percentages were recently amended in 2024 such that PAGA penalties are now split with 35% going to aggrieved employees and 65% going to the LWDA; however, the PAGA reforms do not apply to Plaintiff's case because his PAGA notice was filed with the LWDA before June 19, 2024. Labor Code, § 2699(u)(2).

involved. Defendants produced its policies and sampling of payroll and time punch data. The information produced was sufficient to permit Plaintiff's counsel to adequately evaluate the settlement. Plaintiff had more than enough information upon which to evaluate a fair and reasonable settlement amount.

20. Here, the expense, complexity and likely duration of future litigation was to some extent an unknown. However, what is certain is that to adequately establish the foundational violations that would support a substantial penalty award, tremendous time and expense would be invested.

21. The Settlement provides a significant monetary benefit that falls well within "the range of an acceptable settlement" under the circumstances, which is the standard on which the instant Settlement must be judged. As held by the Ninth Circuit, a settlement may be fair and reasonable even where it only provides a fraction of what could have been obtained at trial.

22. The Settlement is the product of arm's-length negotiations between the Parties occurring throughout the litigation. In light of the uncertainties of protracted litigation and the state of the law regarding the legal positions of the Parties, the settlement amount reflects the best feasible recovery. The settlement amount is, of course, a compromise figure. By necessity it took into account risks related to liability, damages, and all the defenses asserted by the Defendants. Given the strong case that Defendants could bring to bear, this is not an inconsequential settlement.

Estimated Maximum Potential Recovery

23. At the time of mediation, Defendant provided certain data points that included a sampling of payroll and time records for the aggrieved employees during the relevant PAGA period.

The following chart provides the estimated potential recovery that Plaintiff believes he could reasonably achieve for all aggrieved employees *if he were to prevail on all his causes of action*:

Plaintiff's Estimated Potential Recovery		
Assumptions During PAGA Period (based on time/payroll data provided by Defendant) Number of Aggrieved Employees: 3,216; Number of Former Aggrieved Employees: 519; Total Pay Periods: 227,260 Note: *All numbers and calculations based on data sampling provided by Defendant and analyzed by an expert retained by Plaintiff prior to mediation.*		
Claim (Labor Codes)	**Estimated Potential Civil Penalties**	**Calculations for Estimated Maximum Potential Recovery**

Off-the-Clock Work • Minimum Wage (1194, 1197, 1197.1, 1199)	$11,363,000	227,260 pay periods x $100/pay period x 50% reduction in penalties[3]
Meal and Rest Period Premiums (204, 512, 226.7, 1198)	$11,363,000	227,260 pay periods x $100/pay period x 50% reduction in penalties.
Waiting Time Penalties (201, 202, 203)	$51,900	519 separated employees x $100 per 1st (and only) violation
Wage Statements (226)	$11,363,000	227,260 pay periods x $100/pay period x 50% reduction in penalties.
TOTAL	**$34,140,900**	

Risks of Continued Litigation and Discounts in Settlement

24. Despite a total potential recovery of approximately $34 million in PAGA penalties, Plaintiff recognizes the challenge he faced in establishing liability on the underlying wage and hour claims. Plaintiff estimates that his likelihood of proving his underlying claims are low and thus his likelihood of recovering approximately $34 million or anything close to that amount in civil penalties is very unlikely. This is compounded with the fact that to continue litigation will drive up the costs for both sides possibly to amounts in excess of the potential recovery in relation to the number of Aggrieved Employees. In that respect, the GSA represents an excellent recovery of the potential civil penalties.

Furthermore, Plaintiff must prevail at a trial on the merits. In addition to having to prove that Plaintiff and the Aggrieved Employees were not paid for all hours worked, Plaintiff must establish

[3] This case was filed on July 22, 2024. Labor Code § 2699(o) provides that all penalties recovered under PAGA shall be reduced by one-half if the employer's pay period is weekly. *See Osuna v. Spectrum Sec. Services, Inc.*, 111 Cal.App.5th 516, 520 (2025). (Finding PAGA amendments apply to lawsuits filed on or after June 19, 2024.)

willfulness with respect to their waiting time penalties claim under Labor Code Section 203 as well as a knowing and intentional violation under Labor Code Section 226 for wage statement penalties.

With respect to the claims asserted on behalf of the aggrieved employees in this case, there are significant risks that support the reduced compromise amount. These risks include, but are not limited to the following:

(i) The risk that Plaintiff would be unable to establish liability for allegedly unpaid straight time and overtime wages. *See Duran v. U.S. Bank Nat'l Ass'n*, 59 Cal.4th 1, 39 & fn. 33 (2014) ("Duran"), citing *Dilts v. Penske Logistics*, LLC 2014 WL 205039 (S.D. Cal. 2014) (dismissing certified off-the-clock claims based on proof at trial). Defendant contends, e.g., that straight time was paid and that overtime was properly paid or not due or owing to the Aggrieved Employees as alleged by Plaintiff.

(ii) The risk that Plaintiff would not be able to prove liability for alleged failure to provide compliant meal periods and rest breaks; or that to establish liability for the failure to provide compliant meal periods and rest breaks would require an individualized inquiry that would perhaps lead to inconsistent testimony.

(iii) The risk that Plaintiff would not recover waiting time and wage statement penalties pursuant to Labor Code sections 203 and 226. Section 203 requires that a plaintiff show the employer committed a "willful" violation of the law in withholding wages. "A good faith dispute that any wages are due will preclude imposition of waiting time penalties under Section 203." 8 Cal. Code Regs. § 13520. Similarly, penalties pursuant to section 226 require a "knowing and intentional" violation. Defendant contends that it would present several good faith defenses that would preclude a finding of willfulness under section 203. *See Choate v. Celite Corp.* (2013) 215 Cal. App.4th 1460 (reversing award of section 203 penalties based on good faith defense where underlying wage claim presented issue of first impression). Any such good faith dispute could preclude penalties.

(iv) The risk that any civil penalties award under PAGA could be reduced by the Court in its discretion, which would materially impact the recovery by the aggrieved employees. *See* Labor Code section 2699(e)(1).

(v) The risk that lengthy appellate litigation could ensue, with associated litigation risk and costs, further enhances the value of a confirmed settlement as opposed to unpredictable litigation.

(vi) Although the PAGA penalties recoverable could potentially amount to $34,140,900, that amount is not likely to bear fruit in this case. Most significantly, the ultimate decision as to the amount of penalties is always up to the discretion of the Court. Labor Code § 2699(e)(2) states: "In any action by an aggrieved employee seeking recovery of a civil penalty available under subdivision (a) or (f), a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." Subdivision (a) states, "Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3." Subdivision (f) specifies the penalties in instances where the underlying statute does not specify any civil penalty. In other words, where the facts and circumstances of the particular case demonstrate that an unreduced award would be "unjust, arbitrary and oppressive, or confiscatory," the court (or arbitrator) may reduce the award so as to ameliorate any such finding. Substantially reduced PAGA penalty awards are commonplace. See, e.g., Carrington v. Starbucks Corp. (2018) 30 Cal.App.5th 504, 529 [affirming trial court's 90% reduction of maximum penalty]; Kaanaana v. Barrett Business Servs., Inc. (2018) 29 Cal.App.5th 778, 788 [87% reduction]. That risk was especially high here, when NASSCO contends that it maintains compliant policies and procedures designed to comply with California law. Given the potential for the Court to reduce the amount of penalties awarded, Plaintiff discounted the maximum exposure by 50%. Coupled with a further discount of 50% to account for Defendant's good faith defenses, the risk-adjusted exposure is $8,535,225. The Settlement, thus, is roughly 8.8% of the risk-adjusted exposure.

(vii) There was an additional risk that Defendant would be unable to pay a higher amount than the GSA if so awarded.

(viii) Moreover, Plaintiff faced the risk of a potentially prolonged and expensive trial.

(ix) Plaintiff faced the risk of being held liable for Defendant's attorneys' fees and costs if this case had been unsuccessful.

Each of these factors bore heavily on the negotiations leading to the Settlement. In view of these risks, the Settlement reflects a fair, adequate, and reasonable compromise amount for these claims and warrants preliminary approval. Indeed, while the risks listed herein are far from exhaustive, they show that the Settlement is fair, adequate, and reasonable in view of them.

In these respects, Defendants strongly deny any liability. Continued litigation of this lawsuit presented Plaintiff and Defendants with substantial legal risks that were (and continue to be) very difficult to assess.

In light of the uncertainties of protracted litigation, the Settlement amount reflects a fair and reasonable recovery for the State of California and the Aggrieved Employees. The Settlement amount is, of course, a compromise figure. By necessity, it took into account risks related to liability, discretionary penalties, and all the defenses asserted by Defendant as to all such matters.

Fairness of Distribution

25. The proposed method of distribution is fair and reasonable because each Aggrieved Employee's actual potential penalties varies proportionally based on his or her pay periods worked during the PAGA Period. An Aggrieved Employee who worked a greater number of pay periods will have a larger potential claim than one who worked pay periods during the PAGA Period will likewise receive a proportionately greater share of the Net Settlement Amount allocated to the Aggrieved Employees.

Settlement Agreement, Notice of Settlement, and Litigation Costs

26. The Settlement was constructed from the Los Angeles Superior Court Model PAGA Settlement Agreement [LASC CIV 298]. A true and correct copy of the PAGA Settlement Agreement ("Settlement") executed by the Parties is attached hereto as **Exhibit 3**.

27. A true and correct copy of the Proposed Order Granting Approval of PAGA Settlement and Judgement is attached hereto as **Exhibit A to Exhibit 3**.

28. A true and correct copy of the Notice of PAGA Settlement to be mailed with each of the checks for the Individual PAGA Payments is attached hereto as **Exhibit B to Exhibit 3**.

29. <u>Litigation Costs</u>: Attached hereto as **Exhibit 4** is a true and correct copy of a report showing all expenses incurred in this matter by Plaintiff's counsel in the amount of $15,013.40. The amount incurred was fair and reasonable and necessary to advance the litigation.

Attorneys' Fees

30. The amount of Plaintiff's Counsel's fee request (approximately one-third of the Gross Settlement Amount) is reasonable as a percentage of the settlement fund. I have been awarded attorneys' fees equaling approximately one-third of the fund in several recent wage and hour class actions, including, but not limited to: *O'Brien v. Optima Network Services, Inc.,* San Bernardino County Superior Court, Case No. CIVRS1107056 (one-third of settlement fund); *Noyd v. The Cristcat Group, et al.*, Los Angeles County Superior Court, Case No. BC439558 (one-third of settlement fund); *Perez v. Southwest Dealer Services, Inc.*, Los Angeles County Superior Court, Case No. BC439253 (one-third of settlement fund); *Alvarez v. Gary Grace Enterprises, LP*, Marin County Superior Court, Case No. CIV1002553 (one-third of settlement fund); *Calderon v. Greatcall, Inc.*, San Diego Superior Court, Case No. 37-2010-00093743-CU-OE-CTL (one-third of settlement fund); *Butler v. Lexxiom, Inc.*, San Bernardino County Superior Court, Case No. CIVRS1001579 (one-third of settlement fund); *Huynh v. Carefusion Resources, LLC, et al,* San Diego County Superior Court, Case No. 37-2009-00103277-CU-OE-CTL (one-third of settlement fund); *Stucker v. L'Oreal USA S/D, Inc.*, Los Angeles County Superior Court, Case No. BC456080 (one-third of settlement fund); *Sandoval v. Thrifty Payless, Inc.*, Los Angeles County Superior Court, Case No. BC431249 (one-third of settlement fund); *Tucker v. Maly's West, Inc.*, Los Angeles County Superior Court, Case No. BC483920 (one-third of settlement fund); *Tiwari v. Merrill's Packaging*, San Mateo Superior Court, Case No. 519070 (one-third of settlement fund); *Montgomery v. Del Monte Corp., et al*, Kings County Case No. 13C0204 (one-third of settlement fund); *Adams v. Medical Staffing Network, et al*, Sacramento County Case No. 34-2012-00137491-CU-OE-GDS (33% of gross settlement fund).

31. The Setareh Law Group has done extensive work in connection with this case, including but not limited to: conducting the initial investigation of the case and developing the facts and theories regarding meal and rest break, and unpaid wages claims, conducting formal and informal discovery to obtain the applicable employment policies, pay policies, meal and rest break policies, and recordkeeping policies, and employee data, reviewing hundreds of pages of documents obtained from Defendant, conducting a review of the record and preparing a damages analysis in preparation for mediation, engaging in contentious arms-length negotiation, and working with Defendant to prepare the Settlement Agreement, related forms, and PAGA settlement approval stipulation.

32. The Setareh Law Group prosecuted this matter on a contingent basis meaning that if the case were unsuccessful the firm would have received no compensation or reimbursement of costs. The time spent on the litigation took a considerable amount of time and effort that could have been spent on other fee generating work.

33. I have reviewed the work performed on the case and the billing entered by the attorneys working on this case at my firm. The table below includes a summary of all the hours worked. My firm's lodestar is currently $76,430.00, resulting in a multiplier of approximately 3.27. Looking at the work of attorneys for Plaintiff in this matter (***and excluding paralegals***), the lodestar all firm attorneys involved in this matter is estimated to be as follows:

Attorney	**Bar Year**	**Hourly Rate**	**Hours**	**Total Fees**
Shaun Setareh	1999	$ 1,150.00	16.7	$ 19,205.00
Jose Maria D. Patino, Jr.	2010	$ 725.00	46.9	$ 35,175.00
Tyson Gibb	2021	$ 350.00	32.6	$ 11,410.00
Brian Louis	2023	$ 350.00	16.3	$ 5,705.00
Jose Ramirez-Gomez	2023	$ 350.00	14.1	$ 4,935.00
Total			126.6	$ 76,430.00
Fees Sought				$ 250,000.00
Multiplier				**3.27**

34. Plaintiff's counsel will incur approximately 3 additional hours in preparing for the approval hearing, appearing at the approval hearing, and communicating with the Settlement Administrator.

35. The hours billed represent time spent on tasks that were essential to litigation and settlement. The standard hourly rates for counsel—ranging from $350 to $1,150—are reasonable. These rates are in line with those charged by experienced class action lawyers who practice on a national scale and within the range of those approved by other courts in similar circumstances. *See, e.g., Spano v. Boeing Co.*, No. 06-CV-743-NJR-DGW, 2016 WL 3791123, at *3 (S.D. Ill. Mar. 31, 2016) (approving hourly rates of $460 to $998 for attorneys, $309 for paralegals, and $190 for legal assistants). The 2024-2025 Adjusted Laffey Matrix states that an attorney with 20 years of experience can reasonably charge

$1141 per hour. http://www.laffeymatrix.com/see.html. However, that rate is derived from the Washington, D.C. area and requires a costs of living correction for Los Angeles. Using federal statistics for average attorney salaries, attorney pay is 1.56% lower in metro Los Angeles, compared to the metro Washington, D.C. area, indicating a 1.56% downward adjustment to the Laffey Matrix is appropriate. https://www.bls.gov/oes/current/oes231011.htm#(9). Applying an adjustment factor of -1.56%, the locality corrected Adjusted Laffey Matrix hourly rate for attorneys with 20 years of experience is $1,123.20.[4]

36. It is only fair that every aggrieved employee who benefits from the settlement pay his or her *pro rata* share of attorney's fees, and Plaintiff's request for fees here means that Plaintiff's Counsel seek an amount of fees less than the amount Plaintiff's Counsel would likely receive if they represented each aggrieved employee individually. Typical contingent fee contracts of plaintiffs' counsel provide for attorney's fees of about 40% of any recovery obtained for a client.

Reasonableness of PAGA Representative Enhancement Award

37. Plaintiff's request for a Service Award of $5,000 is fair and reasonable in view of his efforts in this case, the risks he has undertaken, and the results he has achieved. Courts routinely approve incentive awards to compensate named plaintiffs for the services they provide and the risks they incur during class action litigation, often in much higher amounts than that sought here. *See, e.g.*, *Bell v.*

[4] The full 2024-2025 Adjusted Laffey Matrix provides for the following hourly rates for paralegals/law clerks and attorneys falling into various ranges of years of experience:

Year	Adj. Factor	Paralegal Clerk	1-3	4-7	8-10	11-19	20
6/01/24- 5/31/25	1.080182	$258	$473	$571	$839	$948	$1141

Applying the -1.56% locality adjustment to those rates, the Los Angeles rates for the Adjusted Laffey Matrix are as follows:

Year	**Adj. Factor**	**Paralegal Clerk**	**1-3**	**4-7**	**8-10**	**11-19**	**20**
6/01/24- 5/31/25	**0.9844**	**$253.98**	**$465.62**	**$562.09**	**$825.91**	**$933.21**	**$1123.20**

Farmers Ins. Exchange (2004) 115 Cal.App.4th 715, 726 (upholding "service payments" to named plaintiffs for their efforts in bringing the case); *Van Vranken v. Atlantic Richfield Co.* (N.D.Cal. 1995) 901 F.Supp. 294 (approving $50,000 enhancement award).

Here, the Settlement provides that Plaintiff may seek an enhancement award of up to $5,000.00. This amount is just over 06.6% of the GSA.

a. The Substantial Time and Effort Plaintiffs Expended on This Lawsuit Justify the PAGA Representative Enhancement Award

Awarding Plaintiff just over 0.66% of the GSA is entirely reasonable given Plaintiff's efforts in this case undertaken on behalf of the State of California and the Aggrieved Employees. In this case, Plaintiff has devoted several hours of his time advancing their interests. Plaintiff has done this by, among other things, retaining experienced counsel, providing Plaintiff's Counsel with extensive information about his work history with Defendants and Defendants' policies and practices with respect to the wage and hour claims at issue, forgoing pursuit of his individual claims in favor of a fair resolution, and being actively involved in the settlement process to ensure a fair result for the Aggrieved Employees and the State of California as a whole.

b. Plaintiff's Heavy Fiduciary Responsibilities Justify the Representative Enhancement Award

As a representative, Plaintiff agreed to: (1) consider the interests of the State of California and the Aggrieved Employees as he would consider his own interests and, in some cases, to put the interests of the Aggrieved Employees and the State of California before his own interests; (2) actively participate in the lawsuit, as necessary, by among other things, answering interrogatories, producing documents to Defendant and giving deposition and trial testimony if requested; (3) travel to give such testimony; (4) recognize and accept that any resolution of the lawsuit by dismissal or settlement, is subject to court approval, and must be designed in the best interest of the Aggrieved Employees and the State of California as a whole; (5) follow the progress of the lawsuit and provide all relevant facts to Plaintiff's Counsel; (6) champion many other people with similar claims and injuries because of the importance of the case and that necessity that all Aggrieved Employees and the State of California benefit from the lawsuit; and (7) fight for a resolution in which the individual recoveries to each Aggrieved Employees and the State of California, including Plaintiff, may be relatively small. Plaintiff agreed to shoulder all of these responsibilities in exchange for a proportionate share of funds made available for distribution to the Aggrieved Employees and the LWDA. Plaintiff had no guarantee of an enhancement award. This justifies the enhancement award sought on behalf of Plaintiff.

c. <u>The Risks That Plaintiff Undertook Justify the Enhancement Award</u>

In taking the actions outlined above, Plaintiff exposed herself to significant risks. These include the risk that he could have been ordered to pay Defendants' attorneys' fees and costs if this action had been unsuccessful under Labor Code §§ 218.5 and 218.6, California's fee and cost shifting statutes applicable to wage disputes. On many occasions, California courts have ordered wage and hour plaintiffs and would be class representatives to pay outrageous fee and/or cost awards for unsuccessful claims. A few examples are:

- *Zalewa v. Tempo Research Corp.* (CA 2nd Dist. March 1, 2013) No. B238142, 2013 WL 766535 (employer requested $2,210,360 in attorney's fees to be paid by employee for employee's unsuccessful suit for unpaid bonuses);
- *Cun v. Café Tiramisu LLC* (CA 1st Dist. Nov. 30, 2011) No. A131241, 2011 WL 5979937 (court ordered the employee to pay $36,612.50 in attorney's fees and costs to employer for unsuccessful suit for unpaid wages);
- *Csaszi v. Sharp Healthcare* (CA 4th Dist. Feb. 18, 2003) No. D038558, 2003 WL 352422 (court ordered the employee to pay $20,269 in attorney's fees and costs to the employer for unsuccessful suit for unpaid wages and overtime);
- *Villalobos v. Guertin* (U.S.D.C. Eastern Dist. Dec. 3, 2009) No. CIV. S–07–2778 LKK/GGH, 2009 WL 4718721 (court ordered Plaintiff's counsel to pay $21,180 in attorney's fees and $1,525.80 in costs to defense counsel for unpaid wages);
- *Wymore v. Minto* (CA 1st Dist. Sept. 22, 2010) No. A125476, 2010 WL 3687511 (court awarded employer $6,577.50 in attorney's fees for employee's unsuccessful suit for unpaid salary and commissions);
- *Wagner v. Lim* (CA 4th Dist. March 18, 2005) No. D044086, 2005 WL 635059 (court awarded employer $4,500 in attorneys' fees for unsuccessful suit for wages)

Such cost awards are substantially higher than the share of the gross settlement amount that Plaintiff stands to receive as an aggrieved employee. It is unfair in view of the substantial risk of an adverse fee or cost award of several thousand dollars that Plaintiff receives less as a reward for taking such a risk. Even the lowest of the cost awards listed above would have devastating consequences for Plaintiff in view of his modest earnings.

d. Plaintiff's Share of the Gross Settlement Amount Will Likely Be Less Than Absent Aggrieved Employees for Greater Portions of the PAGA Period

Plaintiff's individual share of the recovery will likely be less than that of some absent Aggrieved Employees. Under the Settlement, each Aggrieved Employee will receive a share of the Settlement proceeds based upon his or her total number of pay periods worked during the PAGA Period compared to the total number of pay periods worked by Aggrieved Employees during the PAGA Period. Some Aggrieved Employees who worked during more of the PAGA Period will receive more than those who worked fewer pay periods. There will likely be Aggrieved Employees who worked more pay periods than Plaintiff and, as a result, larger shares in the recovery – *even though they did not actively participate in the lawsuit.* While this is a risk that Plaintiff assumed when he brought the lawsuit, it seems unfair to limit Plaintiff's enhancement award to an amount not much greater than an absent Aggrieved Employee's share of the recovery. To encourage employees like Plaintiff to assume the role of representing other aggrieved employees (and thereby advance the important public policies behind class actions), the Court should award something substantial to Plaintiff for his readiness to receive less than absent Aggrieved Employees.

e. The Public Policy Behind Class and Representative Actions Justifies the Representative Enhancement Awards

The public policy behind class and representative actions that seek an aggregate recovery of otherwise small amounts of money is equally important and has been recognized by the courts. "The policy at the very core of the class action mechanism is to overcome the problem that small recoveries do not provide the incentive for any individual to bring a solo action prosecuting his or her rights. A class action solves this problem by aggregating the relatively paltry potential recoveries into something worth someone's (usually an attorney's) labor." *Amchem Products, Inc. v. Windsor* (1997) 521 U.S. 591

(quoting *Mace v. Van Ru Credit Corp.* (1997) 109 F.3d 338, 344). "Frequently numerous consumers are exposed to the same dubious practice by the same seller so that proof of the prevalence of the practice as to one consumer would provide proof for all. Individual actions by each of the defrauded consumers are often impracticable because the amount of individual recovery would be insufficient to justify bringing a separate action; thus, an unscrupulous seller retains the benefits of its wrongful conduct." *Vasquez v. Superior Court* (1971) 4 Cal.3d 800. "A company which wrongfully exacts a dollar from each of millions of customers will reap a handsome profit; the class action is often the only effective way to halt and redress such exploitation." *Blue Chip Stamps v. Superior Court* (1976) 18 Cal.3d 381. "A current employee who individually sues his or her employer is at greater risk of retaliation. We have recognized that retaining one's employment while bringing formal legal action against one's employer is not a viable option for many employees." *Gentry v. Superior Court* (2007) 42 Cal.4th 443. If would-be class-action and PAGA-representative plaintiffs are not adequately incentivized to assume the risk of a substantial cost award, it is unlikely that they will bring such lawsuits in the first place.

The average Aggrieved Employee in this case would be unlikely to pursue his or her individual claims against Defendant for because such a claim would be too small to justify the cost and the risk. An aggrieved employee will be unlikely to find an attorney who is willing to pursue an individual's claims because the claim is too small to justify the hundreds of hours of legal work necessary to prove each claim. Only the class and representative action vehicles, which allow for the aggregation of hundreds of risky small dollar value claims, makes such claims advantageous for an attorney to pursue on a contingency basis and there can be no class or PAGA action without a class member or aggrieved employee assuming the great fiduciary responsibilities of class or PAGA representative. This Court should allow the enhancement award requested because to do otherwise would discourage employees (and attorneys) from bringing class and representative actions in the first place.

If would-be class and representative action plaintiffs are not adequately incentivized to advance the public policy behind class and PAGA actions in court in light of the time and risk it will entail, it is unlikely that they will bring such lawsuits in the first place. Once employers realize that such lawsuits are unlikely, they will have no incentive to comply with wage and hour laws.

f. <u>The Risk of Impairment to Plaintiff's Job Prospects Justifies the Enhancement Award</u>

Plaintiff faced the risk that he could face worsened career prospects for suing a former employer for wage and hour violations and serving as the named plaintiff in a PAGA representative action lawsuit. Because he filed a lawsuit in California Superior Court, a public record now exists that Plaintiff sued his employer for Labor Code violations – a fact that would not be lost on prospective employers considering him for a job, especially in the same industry. Common sense dictates that an employer will think twice about hiring someone who sued their last employer. California even has laws to address this risk: Labor Code section 1102.5 prohibits retaliation against employees who speak up about Labor Code violations and Labor Code section 98.6 prohibits discrimination against employees who bring Labor Code violations to the attention of the Labor Commissioner. Thus, the risks to Plaintiff's future employment and prospects show that the enhancement awards sought is fair, adequate, and reasonable, and warrant approval of the Court.

g. The Low Individual Burden on Each Aggrieved Employee Justifies the Enhancement Award

The burden on each aggrieved employee to pay Plaintiff's enhancement award is extremely modest. There are approximately 3,216 aggrieved employees. Dividing the $5,000 enhancement award to Plaintiff evenly among the aggrieved employees yields a per person payment of only $1.55, an amount approximately 0.66% of the average aggrieved employee's share of the gross settlement amount. For an average aggrieved employee, this is an extremely small price to pay to have someone else prosecute the absent aggrieved employee's claims and bear the absent aggrieved employee's risk of an adverse cost award while the absent aggrieved employee simply waits to receive his or her share of the winnings.

h. Plaintiff's Counsel's Dependence on Plaintiff Justifies the Enhancement Award

Plaintiff's Counsel depended heavily on Plaintiff's input. Plaintiff made this case possible in a number of ways. For one, Plaintiff challenged his employer on unlawful practices that led to Defendant paying some of the unpaid wages to the remainder of their employees. Furthermore, Plaintiff provided Plaintiff's Counsel with detailed descriptions of how Defendant's business operates, the hours and scheduling of employees, and the nature of the work he performed.

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Settlement Administrator

38. The Parties propose Rust Consulting, Inc. ("Rust Consulting") as the administrator of this Settlement. Plaintiffs' counsel obtained bids from no less than three established settlement administrators. Ultimately, Rust Consulting was selected as it presented the most cost-effective bid. Rust Consulting is an experienced class action and representative action settlement administrator. Based on my experience, Rust Consulting' bid is reasonable for a settlement with this number of aggrieved employees.

LWDA Notice

39. I directed Brian Louis, an Attorney at Setareh Law Group, to upload a copy of the Settlement Agreement to the California Labor Workforce and Development Agency ("LWDA"). A true and correct copy of the email from the LWDA confirming the submission on November 4, 2025, is attached hereto as **Exhibit 5**. The LWDA has not objected to or commented upon the Settlement.

40. Upon the filing and service of the Plaintiff's Unopposed Motion for Approval of PAGA Settlement, a copy of the Motion will be uploaded to the LWDA by my office.

I declare under the penalty of perjury of the laws of the State of California that the foregoing is true and correct to the best of my knowledge. Executed on this Fourth day of November 2025 in Beverly Hills, California.

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Shaun Setareh