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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

SONIA YANETH SABILLON
RODRIGUEZ, individually, and on behalf
of all others similarly situated,

Plaintiff,

vs.

PASADENA CARE CENTER, LLC, a
limited liability company; and DOES 1
through 10, inclusive,

Defendants

Case No.: 24STCV12436

REPRESENTATIVE ACTION

**PLAINTIFF’S NOTICE OF MOTION AND
MOTION FOR APPROVAL OF PAGA
SETTLEMENT**

[Filed with (1) the Declaration of Kane Moon, (2) the Declaration of Plaintiff, (3) the Mullins Declaration re: Qualifications and Costs for Settlement Administration, (4) [Proposed] PAGA Approval Order, and (5) [Proposed] Judgment]

PAGA APPROVAL HEARING:

Date: November 26, 2025

Time: 10:00 a.m.

Dept.: SSC-10

Judge: William F. Highberger

Action filed: May 16, 2024

Trial date: Not set

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

2 PLEASE TAKE NOTICE that on November 26, 2025, at 10:00 a.m. in Department 10 of the
3 Los Angeles County Superior Court, Spring Street Courthouse, 312 North Spring Street, Los
4 Angeles, California 90012, Plaintiff Sonia Yaneth Sabillon Rodriguez (“Plaintiff”) will, and hereby
5 does, move the Court for an Order and Judgment, pursuant to California Labor Code sections 2698, *et*
6 *seq.*, as follows:

- 7 1. Approving the PAGA Settlement Agreement (“Settlement”) between Plaintiff and Defendant
8 Pasadena Care Center, LLC;
- 9 2. Appointing Kane Moon, Allen Feghali, and Charlotte Mikat-Stevens of Moon Law Group, PC
10 as PAGA Counsel;
- 11 3. Approving the requested PAGA Counsel Fees Payment of \$43,333.33, subject to potential
12 increase under an escalator clause;
- 13 4. Approving the requested PAGA Counsel Litigation Expenses Payment of \$16,547.71;
- 14 5. Appointing Plaintiff as the PAGA Representative and approving a \$7,500.00 Enhancement
15 Award to her;
- 16 6. Appointing ILYM Group, Inc. as the Administrator and approving a \$4,650.00 as the
17 Administration Expenses Payment;
- 18 7. Approving the scope of the Released PAGA Claims and Released Parties;
- 19 8. Approving a non-reversionary Gross Settlement Amount of at least \$130,000.00, subject to
20 potential increase under an escalator clause;
- 21 9. Approving at least \$57,968.96 for PAGA Penalties as settlement of the Released PAGA
22 Claims, subject to potential increase pursuant to the escalator clause, to be distributed as 75%
23 (at least \$43,476.72 to the LWDA) and 25% (at least \$14,492.24 to Aggrieved Employees);
- 24 10. Directing consummation of the Settlement pursuant to its terms and provisions;
- 25 11. Entering Judgment and dismissing the above-captioned action with prejudice; and
- 26 12. Retaining jurisdiction over the Parties, this action, and this Settlement, including
27 following any entry of Judgment for purposes of enforcement, interpretation, settlement
28 administration, and any post-Judgment issues that arise.

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.

Respectfully submitted,

DATED: October 1, 2025

MOON LAW GROUP, PC

By: 

Kane Moon
Allen Feghali
Charlotte Mikat-Stevens
Attorneys for Plaintiff

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Sonia Yaneth Sabillon Rodriguez (“Plaintiff”) seeks approval of a non-reversionary
4 \$130,000.00 gross settlement of claims for civil penalties alleged pursuant to the California Private
5 Attorneys General Act, Labor Code sections 2698, *et seq.* (“PAGA”). After a fully day of mediation with
6 experienced and neutral mediator Hon. Carl West (ret.), and months of extended settlement negotiations,
7 Plaintiff reached a resolution with Defendant Pasadena Care Center, LLC (“Defendant”) (collectively,
8 Plaintiff and Defendant are the “Parties”). The Parties have executed a PAGA Settlement Agreement (the
9 “Settlement”), a true and correct copy of which is attached as **Exhibit 1** to the Declaration of Kane Moon
10 in Support of Motion for Approval of PAGA Settlement (“Moon Decl.”) submitted concurrently
11 herewith. Pursuant to Labor Code section 2699(s)(2), Plaintiff now files this motion seeking an order
12 approving the proposed Settlement.

13 The Settlement resolves all claims for civil penalties under PAGA that arose during the PAGA
14 Period and that were alleged in the above-captioned matter (“Action”). (Settlement, ¶ 2.3.) For purposes
15 of settlement, the “PAGA Period” is May 22, 2023, through July 22, 2025. (*Id.* at ¶ 1.27.) This Settlement
16 is on behalf of the California Labor and Workforce Development Agency (the “LWDA”), Plaintiff, and
17 all current and former non-exempt, hourly-paid employees who worked for Defendant in California
18 during the PAGA Period (“Aggrieved Employees”). (*Id.* at ¶ 1.4.) Plaintiff is unaware of any other
19 pending litigation involving similar claims against Defendant that may be impacted by approval of the
20 Settlement, nor has Defendant pointed to any. (Moon Decl., ¶ 24.)

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

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

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

8 The meaningful value achieved by the Settlement at issue may be gleaned from the fact that the
9 LWDA and the estimated **174** Aggrieved Employees will, cumulatively, receive no less than **\$57,968.96**
10 as PAGA Penalties. (Moon Decl., ¶ 21.) This is a significant recovery, not only because further litigation
11 may have resulted in a net-zero recovery based on the facts of the case and defenses asserted by
12 Defendant, but also because an investigation by experienced PAGA counsel and analysis of discovery
13 revealed minimal identifiable violations, the discretionary nature of awarding PAGA penalties, and the
14 risk of not being able to proceed on a representative basis at all due to the potential manageability issues
15 and current state of the law. For these reasons, as set forth more fully below, Plaintiff respectfully requests
16 the Court enter the proposed order and proposed judgment submitted concurrently herewith.

17 **II. SUMMARY OF THE LITIGATION AND SETTLEMENT**

18 **A. Plaintiff's Claims and Procedural Background**

19 Defendant operates a 24-hour skilled nursing care facility in Pasadena, California that
20 provides medical services, assisted living, and personal care. (Moon Decl., ¶ 4.) Plaintiff worked for
21 Defendant from June 28, 2022 until January 8, 2024 as a Dietary Aide. (*Id.*) Throughout her
22 employment, Plaintiff was classified as non-exempt and paid on an hourly basis. (*Id.*) Plaintiff
23 contends she and her former coworkers were subjected to the same or similar unlawful labor practices
24 during their employment by Defendant, including failure to pay all wages. (*Id.*)

25 Plaintiff's claims for unpaid wages stems from allegations of Defendant's failure to pay
26 employees all minimum, overtime, sick pay, and regular rate wages owed, including due to
27 Defendant's failure to compensate employees for off-the-clock work, such as for timekeeping and
28 COVID checks, and Defendant's failure to incorporate all remunerations into the regular rate of pay.

(*Id.* at ¶ 5.) Plaintiff’s meal and rest period claims are based on allegations that due to the nature of their work and Defendant’s employment practices, employees regularly experienced missed, untimely, or interrupted breaks, and that Defendant failed to provide any premiums for non-compliant rest breaks or all premiums for non-compliant meals. (*Id.*) Plaintiff also alleges that Defendant failed to reimburse employees for all reasonable and necessary business expenses incurred, including expenses incurred for the use of employees’ personal cellphone and the purchase of scrubs and non-slip shoes for work purposes. (*Id.*) Plaintiff further alleges she and other employees did not receive all wages owed at the time of termination nor accurate itemized wage statements due to Defendant’s failure to pay all wages and premiums. (*Id.*) Accordingly, Plaintiff alleges Defendant is liable for civil penalties under PAGA. (*Id.*)

Because of the foregoing alleged violations of the Labor Code, Plaintiff filed a Class Action Complaint on May 16, 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) failure 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 12, 2021, Plaintiff 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. 2.) The administrative exhaustion period under PAGA expired without the LWDA indicating any intent to investigate the allegations. (*Id.* at ¶ 7.) On July 26, 2024, Plaintiff filed a First Amended Class and Representative Action Complaint to allege a ninth cause of action for civil penalties under PAGA (the “Operative Complaint”). (*Id.*) Accordingly, Plaintiff is duly authorized to act as a private attorney general with respect to the PAGA claims involved in this action. (*Id.*) In compliance with Labor Code section 2699(s)(1), Plaintiff subsequently submitted to the LWDA a file-stamped copy of the Operative Complaint containing the Court-assigned case number. (*Id.* at ¶ 8.) To date, the LWDA has not sought to intervene in this action. (*Id.*)

After this action was filed, Defendant produced an arbitration agreement between Defendant and Plaintiff containing a class action waiver. (*Id.* at ¶ 9.) Therefore, Plaintiff sought dismissal of her class action claims, which the Court granted by way of Order entered on September 11, 2024, and

1 compelled Plaintiff's individual claims to arbitration. (*Id.*)

2 Defendant ardently opposes the merits of this case and denies Plaintiff's factual allegations. (*Id.*
3 at ¶ 10.) Defendant argues all employees were properly paid for all hours worked and that it did not require
4 or permit employees to work off-the-clock. (*Id.*) As for the regular rate claim, Defendant argues there was
5 no issue with paying employees the proper regular rate of pay because any additional remuneration was
6 discretionary and thus, not required to be incorporated into the regular rate of pay. (*Id.*) Defendant
7 maintains all employees were provided with the opportunity to take all their code-compliant meal and
8 rest breaks and that missed breaks, if any, were solely the result of employees' voluntary choice. (*Id.*) As
9 for the unreimbursed business expenses, Defendant maintains it did not require employees to incur any
10 business-related expenses. (*Id.*) To the extent employees received wage statements that were allegedly
11 inaccurate, Defendant argue penalties are not warranted because employees suffered no actual damage or
12 harm as a result. (*Id.*; *see, e.g., Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013) No. C 12–05860
13 CRB, 2013 WL 622032, at *10 [“A plaintiff must adequately plead an injury arising from an employer's
14 failure to provide full and accurate wage statements, and the omission of the required information alone
15 is not sufficient.”].) Additionally, Defendant alleges its good-faith belief that it paid all wages precludes
16 the imposition of waiting time penalties because Plaintiff would be unable to show Defendant's alleged
17 conduct was done willfully or knowingly. (Moon Decl., ¶ 10; *see, e.g., Pedroza v. PetSmart, Inc.* (C.D.
18 Cal. June 14, 2012) No. ED CV 11–298 GHK (DTBx), 2012 WL 9506073, *5.) For these reasons,
19 Defendant claims it did not engage in any unfair business practices and denies liability under PAGA.
20 (Moon Decl., ¶ 10.) Defendant also maintains the claims are not susceptible to proof on a representative
21 basis because of the individualized and varying nature of each employee's experience, making this matter
22 unmanageable. (*Id.*)

23 **B. Discovery and Investigation**

24 Before initiating arbitrating regarding Plaintiff's individual claims, the Parties agreed to an
25 early mediation of the representative PAGA claims. (*Id.* at ¶ 11.) The Parties engaged in informal
26 discovery exchange prior to mediation. (*Id.*) Defendant provided information and documents, which
27 enabled Plaintiff's Counsel to meaningfully investigate Plaintiff's allegations and assess the value of
28 the PAGA claims. (*Id.*) Specifically, Defendant produced Plaintiff's personnel file and her time and

1 payroll records, a prospective meal period waiver signed by an Aggrieved Employee, documents
2 regarding Defendant's written policies and practices in effect during the relevant period, and time and
3 corresponding payroll records for approximately 24% of all Aggrieved Employees. (*Id.*)

4 Prior to mediation, Plaintiff's Counsel reviewed and analyzed all the information that Defendant
5 produced, including the time/pay records and Defendant's written policies, in conjunction with
6 information provided by Plaintiff. (*Id.* at ¶ 12.) Plaintiff's Counsel retained an expert to analyze the
7 time/pay records and prepare a damage analysis prior to mediation. (*Id.*) The time/pay records contained
8 8,489 shifts actually worked (roughly 24% of all shifts when extrapolated), which allowed the expert to
9 prepare an analysis with a high degree of certainty. (*Id.*) Further, Plaintiff's Counsel investigated the
10 applicable law regarding the claims and defenses asserted in this action. (*Id.*) Accordingly, Plaintiff's
11 Counsel were able to evaluate the probability of success on the merits and Defendant's monetary
12 exposure. (*Id.*) In sum, Plaintiff and her Counsel's familiarity with the facts of the case and the legal issues
13 involved allowed them to act intelligently in negotiating the Settlement. (*Id.*)

14 C. Settlement Negotiations

15 On July 22, 2025, the Parties participated in a full day of private mediation facilitated by the
16 Hon. Carl West (ret.), an experienced PAGA action mediator. (*Id.* at ¶ 13.) The negotiations were at
17 arm's length and although conducted in a professional matter, were adversarial. (*Id.*) Both sides went
18 into the mediation willing to explore the potential for a settlement of the dispute, but they were also
19 prepared to litigated their position through trial and appeal if a settlement had not been reached. (*Id.*)
20 Negotiations were protracted, with extended discussions and instances in which it appeared the
21 Parties would not reach a resolution. (*Id.*) Following a full discussion of the strengths and weaknesses
22 of the claims and defenses, the Parties ultimately reached a resolution, the material terms of which
23 are encompassed within the Settlement at issue. (*Id.*)

24 In reaching a resolution, the Parties recognized that the issues presented in this action are
25 likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further
26 litigation will lead to inconvenience, distraction, disruption, delay, and expense disproportionate to
27 the potential benefits of litigation. (*Id.* at ¶ 14.) Plaintiff and her Counsel also considered the risk and
28 uncertainty of the outcome inherent in any litigation when determining whether this Settlement was

1 the correct option. (*Id.*) In sum, Plaintiff and her Counsel believe the proposed Settlement is in the
2 best interests of Aggrieved Employees and the LWDA. (*Id.*) In compliance with Labor Code
3 section 2699(s)(2), notice of settlement and a copy of the proposed Settlement has been
4 submitted to the LWDA along with a copy of Plaintiff's motion and the hearing date. (*Id.* at ¶
5 15, Ex. 3.) To date, the LWDA has not indicated any objection to the Settlement. (*Id.* at ¶ 15.)

6 **D. Key Terms of the Proposed Settlement**

7 The Settlement's key financial and other terms include:

8 1. Gross Settlement Amount, Funding, Disbursement, and Uncashed Checks. The Gross
9 Settlement Amount ("GSA") is \$130,000.00, subject to potential increase under an Escalator Clause and
10 entry of the Court's Approval Order, and is non-reversionary. (Settlement, ¶ 3.1.) Defendant's settlement
11 funding contribution will be due in two installments: 1) the first installment in the amount of \$60,000.00
12 will be due within 30 calendar days of entry of the Court's Approval Order, and 2) the second installment
13 in the amount of \$70,000.00, plus any increase owed under the Escalator Clause, will be due within six
14 months of the first installment. (*Id.* at ¶ 4.3.) Disbursement will occur within 14 days after Defendant fully
15 funds the GSA. (*Id.* at ¶ 4.4.) Any funds remaining uncashed after 180 days from issuance will be
16 transmitted to the California State Controller's Office, to be held pursuant to the Unclaimed Property Law
17 in the name of each individual who failed to cash his or her check prior to the void date. (*Id.* at ¶¶ 4.4.1,
18 4.4.3.)

19 2. Escalator Clause: The GSA was negotiated based on an estimate that as of the date of the
20 Parties' mediation, there are 4,222 aggregate PAGA Pay Periods worked by approximately 174
21 Aggrieved Employees. (*Id.* at ¶ 8.) The Settlement includes an Escalator Clause whereby should the
22 actual number of PAGA Pay Periods exceed the 10% of the estimated count, Defendant agrees to either
23 (1) make a proportional increase to the GSA by the percentage increase for each additional PAGA Pay
24 Period above the escalator, or (2) modify the PAGA Period such that no more than 4,644.2 PAGA Pay
25 Periods are included in the Settlement. (*Id.*)

26 3. Enhancement Award. The Settlement includes an Enhancement Award to Plaintiff in an
27 amount up to \$7,500.00, payable from the GSA. (*Id.* at ¶ 3.2.1.) This payment is in recognition of Plaintiff
28

1 having initiated the action and her services provided and role in the action. (*Id.*) In the event the amount
2 approved by the Court is less, the difference will be allocated to the Net Settlement Amount. (*Id.*)

3 4. Attorneys' Fees and Costs. The Settlement includes attorneys' fees in an amount up to one-
4 third (33%) of the GSA (i.e., at least \$43,333.33), plus reimbursement for out-of-pocket litigation costs
5 not to exceed \$17,000.00, payable to Plaintiff's Counsel from the GSA. (*Id.* at ¶ 3.2.2.) In the event actual
6 costs are less and/or the amount of fees and costs approved by the Court are less than the amounts
7 requested, the difference will be allocated to the Net Settlement Amount. (*Id.*)

8 5. Administration Costs. The Settlement provides an Administration Expenses Payment to the
9 Administrator, payable from the GSA, in an amount up to \$5,000.00, for its fees and expenses in
10 administering this Settlement. (*Id.* at ¶ 3.2.3.) In the event the amount of actual administration costs is less
11 and/or the amount approved by the Court is less than requested, the difference will be allocated to the Net
12 Settlement Amount. (*Id.*) Following a competitive bidding process, the Parties jointly selected ILYM
13 Group, Inc. as the neutral entity to administer this Settlement. (*Id.* at ¶ 1.2; Moon Decl., ¶ 20, Ex. 5;
14 Declaration of Lisa Mullins on Behalf of ILYM Group, Inc. Re: Qualifications and Costs for Settlement
15 Administration, ¶ 7, Ex. C.)

16 6. Net Settlement Amount. After deducting the Enhancement Award, PAGA Counsel Fees and
17 Litigation Expenses Payments, and Administration Expenses Payment from the GSA, in the amounts
18 specifically approved by the Court, any difference in the amounts requested and the amounts awarded
19 will be allocated to the Net Settlement Amount as PAGA Penalties. (Settlement, ¶ 1.19.) Accordingly,
20 the Net Settlement Amount is estimated to be no less than **\$57,968.96**,¹ which will be distributed 75%
21 (i.e., no less than 75% * \$57,968.96= **\$43,476.72**) to the LWDA and 25% (i.e., no less than 25% *
22 \$57,968.96= **\$14,492.24**) to Aggrieved Employees pursuant to PAGA law governing Plaintiff's claims.²
23 (Moon Decl., ¶ 21.)

24
25 ¹ The estimated Net Settlement Amount was calculated by deducting the following amounts from the
26 GSA (\$130,000): \$7,500.00 for the Enhancement Award, \$16,547.71 for the PAGA Counsel Litigation
27 Expenses Payment, \$43,333.33 for the PAGA Counsel Fees Payment, and \$4,650.00 for the
28 Administration Expenses Payment. (Moon Decl., ¶ 21, n.1; *see* Settlement, ¶ 3.2.)

² 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

1 7. Individual PAGA Payments. Each Aggrieved Employee will be entitled to his or her pro rata
2 amount from the 25% share of PAGA Penalties that is directly proportional to the number of pay periods
3 worked in the PAGA Period without having to submit any claim form. (*Id.* at ¶¶ 3.1, 3.2.4.1.) This results
4 in an average Individual PAGA Payment of roughly **\$83.29** for each of the estimated 174 Aggrieved
5 Employees (\$14,492.24 / 174), and a PAGA Pay Period value of **\$3.43** for each of the 4,222 estimated
6 PAGA Pay Periods (\$14,492.24 / 4,222). Individual PAGA Payments will be allocated to 100% penalties
7 for tax purposes. (*See id.* at ¶ 3.2.4.2.) Aggrieved Employees will receive an explanatory letter, in English
8 and Spanish, with their payment. (*Id.* at ¶ 1.12.)

9 8. Releases of Claims. The Released PAGA Claims will be effective upon entry of the Court's
10 Approval Order and Defendant's full funding of the Gross Settlement Amount. (*Id.* at ¶ 5.1.) The
11 release of claims is limited to claims for civil penalties pursuant to PAGA, which were alleged in
12 Plaintiff's PAGA Notice to the LWDA on May 12, 2024, and in Plaintiff's Operative Complaint, and
13 arising during the PAGA. (*Id.* at ¶ 5.1.) The "Released Parties" are "Defendant and each of its former
14 and present directors, officers, employees, shareholders, owners, members, attorneys, insurers,
15 predecessors, successors, assigns, subsidiaries, and affiliates." (*Id.* at ¶ 1.31.)

16 **III. DISCUSSION**

17 **A. Availability of Civil Penalties**

18 The LWDA and its constituent departments and divisions are authorized to assess and collect civil
19 penalties for specified violations of the Labor Code committed by an employer. With a stated goal of
20 improving enforcement of existing Labor Code obligations, the California Legislature adopted the Private
21 Attorneys General Act of 2004, permitting, as an alternative, an aggrieved employee to initiate a private
22 civil action on behalf of him- or herself and other current or former employees." (Lab. Code § 2699(a).)
23 Before an employee may file an action seeking to recover civil penalties for violations of any of the Labor
24 Code provisions enumerated in Labor Code section 2699.5, he or she must comply with the Act's

25
26 _____
27 § 2699(m).) However, this provision does not apply retroactively prior to June 19, 2024. (*Id.* at §
28 2699(v)(1).) In other words, because Plaintiff'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.2.)

1 administrative procedures as set forth in Labor Code section 2699.3, subdivision (a), which include
2 providing notice to the LWDA and the employer of the alleged Labor Code violations, and then waiting
3 a prescribed period of time to permit the LWDA to investigate and to decide whether to cite the employer
4 for the alleged violations. (*Id.* at §§ 2699.3, 2699.5; *Caliber Bodyworks, Inc. v. Superior*
5 *Court* (2005) 134 Cal.App.4th 365, 370; *see also Dunlap v. Superior Court* (2006) 142
6 Cal.App.4th 330.)

7 Here, in compliance with Labor Code section 2699.3, Plaintiff submitted notice of the
8 Labor Code violations at issue to the LWDA, and she exhausted administrative remedies without
9 the LWDA noticing any intent to investigate the claims. (Moon Decl., ¶ 7, Ex. 2.) Accordingly,
10 Plaintiff is duly authorized to act as a private attorney general pursuant to PAGA. (*Id.* at ¶ 7.)

11 **B. The Settlement Merits Approval**

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

14 **1. The Relief Is Genuine, Meaningful, and Consistent with the Dual Statutory Purposes**
15 **of Deterrence and Punishment under PAGA**

16 The \$130,000.00 GSA amounts to “genuine and meaningful” relief “consistent with the
17 underlying purpose of the statute to benefit the public.” (Moon Decl., ¶ 34; *see O’Connor*, 201
18 F.Supp.3d at 1133–35 [denying settlement approval where allocation for PAGA claims was 0.1% of
19 the estimated full worth].) This is an excellent result, particularly because, under the Settlement,
20 Aggrieved Employees and the LWDA will receive timely, guaranteed relief and will avoid the risk of
21 not being able to recover anything at all. (Moon Decl., ¶ 34.)

22 The Settlement is a fair and reasonable resolution that satisfies PAGA’s dual statutory
23 purposes of deterrence and punishment, on the one hand, and providing Aggrieved Employees
24 with genuine and meaningful relief, on the other. (Lab. Code §§ 2698, *et seq.*) As a result of this
25 litigation, Defendant has had to hire legal counsel, engage in employee-wide discovery, and
26 participate in mediation. (Moon Decl., ¶ 35.) Assuming approval is granted, Defendant will also have
27 to pay civil penalties pursuant to PAGA. (*Id.*) Not including its own attorneys’ fees and costs,
28 Defendant will pay at least \$130,000 to resolve this matter—of which at least \$57,968.96 is allocated

1 toward PAGA Penalties and will be distributed as 75% to the LWDA and 25% to Aggrieved
2 Employees, in compliance with PAGA law governing the claims in this action. (*See* Settlement, ¶
3 3.2.4.) This amount represents roughly 42% of the realistic exposure for the claims (\$57,968.96 /
4 \$140,733.33), as discussed below. (Moon Decl., ¶ 35.) Additionally, the release obtained under the
5 Settlement does not preclude Aggrieved Employees from pursuing any individual (non-PAGA)
6 claims they may have against Defendant or the other Released Parties. (*Id.*; Settlement, ¶ 5.1.)

7 **2. The Settlement Amount Provides a Realistic Value for the Claims that is within the**
8 **“Ballpark” of Reasonableness**

9 There can be no doubt that this Settlement is the result of vigorous, adversarial, non-collusive, and
10 arm’s-length negotiations between the Parties. (Moon Decl., ¶ 13.) Plaintiff’s Counsel performed an
11 extensive investigation into the facts, claims, and defenses at issue and Defendant’s potential liability,
12 including a review of governing law and analysis of informal discovery, including Defendant’s written
13 policies and time/pay data for a majority of Aggrieved Employees. (*Id.* at ¶¶ 11–12.) Plaintiff’s Counsel
14 used the foregoing discovery and investigation to prepare for mediation and, with the assistance of a
15 statistics expert, assessed the probability of success on the merits and Defendant’s monetary exposure,
16 discussed the strengths and weaknesses of the claims and defenses in depth at mediation and months of
17 continued negotiations, and ultimately negotiated the resulting Settlement. (*Id.* at ¶¶ 11–14.)

18 Based on Plaintiff’s Counsel’s analysis of the arguments and information provided by Defendant,
19 on an expert analysis of the time/pay records, and on information from Plaintiff, Plaintiff’s Counsel
20 evaluated Defendant’s both maximum (*optimistic*) and risk-adjusted (*realistic*) potential exposure in
21 preparation for mediation. (*Id.* at ¶ 25.) Although the expert’s analysis revealed that the time and pay
22 records supported several violations by Defendant, those identifiable violations were primary limited to
23 the regular rate and meal period claims. (*Id.*) The records themselves did not provide strong support for
24 the off-the-clock work, rest period, and expense reimbursement claims, and derivative penalties for those
25 claims, as these claims are predominantly testimony based. (*Id.*) In other words, Plaintiff’s analysis
26 revealed that certain claims were not as strong as originally believed. (*Id.*)

27 Because Defendant did not require employees to record rest periods, there are no records to
28 establish the rest period claim on the merits. (*Id.* at ¶ 26.) Additionally, there are no records to establish

1 the off-the-clock work claim on the merits. (*Id.*) Rather, proof of these claims would need to be supported
2 by declarations from Aggrieved Employees regarding missed rest periods and off-the-clock work as the
3 records themselves cannot demonstrate what breaks were missed, when, and why and they cannot
4 demonstrate the time, if any, Aggrieved Employees spent working off the clock. (*Id.*)

5 Indeed, the maximum exposure figures that were calculated for mediation were based on assumed
6 high violation rates that would not likely be demonstrated at trial, as they assume either the participation
7 of all Aggrieved Employees (which would be difficult given the particularly large size of this group), or
8 alternatively, the use of surveys or statistical data as a surrogate (which would still require the participation
9 of a majority of Aggrieved Employees to establish a sound representation of all non-exempt employees).
10 (*Id.* at ¶ 27.) The reality is that many, if not all, employees would be unwilling to participate due to fear
11 of retaliation. (*Id.*) However, even assuming those employees would be willing to participate, obtaining
12 such declarations would potentially reveal that each Aggrieved Employee had a different experience.
13 (*Id.*) The individualized nature of their employment experience and the numerosity of employees
14 affected present significant risk with manageability and proof on the merits. (*Id.*)

15 Even as to the regular rate and meal period claims, our analysis found that Defendant's exposure
16 is less than initially believed. (*Id.* at ¶ 28.) As to meal periods, a review of the time/pay records shows
17 only a 17.9% violation rate for Defendant. (*Id.*) The records also show a high 39.7% payment of meal
18 period premium rate for Defendant, reducing the net violation rate to 13%. (*Id.*) As to the regular rate
19 issue, Plaintiff's expert identified 18 total payments that were not factored into the regular rate of pay for
20 purposes of paying sick pay, meal break premiums, and overtime, resulting in a 0.4% violation rate for
21 unpaid overtime, 0.1% violation rate for unpaid meal break premiums, and 0.1% violation rate for unpaid
22 sick pay. (*Id.*) Moreover, these violation rates assume Plaintiff would be able to show the 18 bonus
23 payments were non-discretionary payments that should have been factored into the regular rate. (*Id.*)

24 The likelihood that Defendant could assert viable legal defenses would likely further reduce its
25 overall exposure. (*Id.* at ¶ 29.) For example, the individualized and testimony-intensive nature of the
26 claims could bar manageability of this representative action or otherwise significantly reduce Defendant's
27 overall liability. (*Id.*) Further, the maximum exposure analysis involved a claim-by-claim penalty
28 calculation, which is overly optimistic as it presumes Plaintiff would be able to stack the penalties,

1 although penalty stacking is not expressly permitted by PAGA. (*Id.* at ¶ 30.) Rather, without either (i) a
2 prior finding by the LWDA or a court within the past five years that the employer violated PAGA or (ii)
3 evidence that the employer’s conduct was malicious, fraudulent, or oppressive, PAGA only provides for
4 a maximum \$100 penalty for each pay period. (Lab. Code § 2699(f)(2)(A)–(B).) Moreover, Plaintiff’s
5 Counsel believe it would be unrealistic to expect the Court would award the full (penalty-stacked)
6 exposure given the discretionary nature of awarding penalties and given Defendant’s defenses, including
7 that any failure to pay premiums, regular rate wages, or for off-the-clock work was not knowingly or
8 willfully done, and additionally, to the extent employees received wage statements that were allegedly
9 inaccurate, employees suffered no actual resulting damage or harm. (Moon Decl., ¶ 30.) Moreover,
10 awarding the full penalties amount would likely raise Due Process concerns. (*Id.*) For the foregoing
11 reasons, the *realistic* exposure is thus far below the *optimistic* maximum estimate. (*Id.* at ¶ 31.)

12 Based on the foregoing, Plaintiff’s Counsel believe it is more reasonable to assess penalties on a
13 \$100 civil penalty per pay period basis pursuant to Labor Code § 2699(f)(2)(A) for each of the estimated
14 4,222 pay periods at issue, as opposed to a claim-by-claim approach. (*Id.* at ¶ 32.) Accordingly,
15 Plaintiff’s Counsel estimate Defendant’s maximum PAGA exposure to be **\$422,200.00** (\$100 x 4,222).
16 (*Id.*) However, based on the discovery, Defendant’s arguments at mediation and continued settlement
17 discussions, an understanding that the claims are heavily dependent on the unlikely participation by
18 Aggrieved Employees and their varying employment experience, and other important considerations
19 discussed above, it is reasonable to assume a violation occurred only in at most one-third of all pay
20 periods, which results in a realistic (*risk-adjusted*) exposure of **\$140,733.33** (\$422,200 / 3). (*Id.*) As a
21 result, the GSA of \$130,000 represents roughly **92%** of the realistic exposure (\$130,000 / \$140,733.33).
22 (*Id.*)

23 The proposed Settlement therefore represents a substantial recovery when compared to the
24 reasonably forecasted recovery. (*Id.* at ¶ 33.) When considering the risks of litigation, the uncertainties
25 involved in continued litigation, the burdens of proof necessary to establish liability, and the probability
26 of appeal, it is clear the GSA of \$130,000 is within the “ballpark” of reasonableness, and that settlement
27 approval is appropriate. (*Id.*; *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133; *see*
28 *Munoz v. BCI Coca-Cola Bottling Co. of L.A.* (2010) 186 Cal.App.4th 399, 408–09 [holding that *Kullar*

1 does not require “an explicit statement of the maximum amount the plaintiff class could recover if it
2 prevailed on all its claims,” but instead, only an “understanding of the amount that is in controversy and
3 the realistic range of outcomes of the litigation”].)

4 **3. The Settlement Is a Fair and Reasonable Result Following a Thorough Investigation**
5 **and Accounting of Various Litigation Risks**

6 Plaintiff’s Counsel have conducted a thorough investigation into the facts of the allegations.
7 (Moon Decl., ¶ 36.) Based on the foregoing discovery and on their own independent investigation and
8 evaluation, Plaintiff’s Counsel are of the opinion that the proposed Settlement is fair, reasonable, and
9 adequate. (*Id.*) Furthermore, considering all known facts and circumstances, the risk of significant
10 delay, trial risk, appellate risk, the defenses that could be asserted by Defendant on the merits, the
11 Settlement is in the best interests of the Aggrieved Employees and the State of California. (*Id.*)

12 Although Plaintiff’s Counsel believe there is merit to Plaintiff’s allegations, they also
13 acknowledge a legitimate controversy exists as to each allegation. (*Id.* at ¶ 37.) Plaintiff’s Counsel
14 also recognize that proving the amounts of penalties owed to each Aggrieved Employee would
15 be an expensive, time-consuming, and uncertain proposition. (*Id.*) Moreover, Plaintiff’s Counsel
16 are also of the opinion that because the issues here are fairly contested, there is a possibility of
17 the Court not awarding PAGA penalties even if Plaintiff prevailed on the merits due to the
18 largely discretionary nature of awarding PAGA penalties. (*Id.* at ¶ 38.) Indeed, a Court may reduce
19 PAGA penalties “if, based on the facts and circumstances of the particular case, to do otherwise would
20 result in an award that is unjust, arbitrary and oppressive, or confiscatory.” (Lab. Code § 2699(e)(2).)
21 In other words, were this matter to go to trial, any award granted would be at the discretion of
22 the Court and subject to a substantial reduction. (Moon Decl., ¶ 38.) While Plaintiff’s Counsel
23 believe there would be no persuasive grounds to reduce penalties, they recognize that the Court could
24 determine otherwise and significantly reduce any award of penalties. (*Id.* at ¶ 39.) This wide range of
25 potential recovery and additional delays and risks of trial provide justification to settle for a reasonable
26 amount of recovery at this point in the litigation. (*Id.*) In all, based on the investigation and analysis of
27 the claims in preparation for mediation, the maximum exposure did not comport with the realistic
28 exposure that Defendant faced, as discussed above. (*Id.*)

1 Plaintiff's Counsel took into account the risk of not being able to proceed on a representative
2 basis at all due to the potential manageability issues, the risk of not prevailing at trial, and the risk that
3 even if Plaintiff prevailed at trial, the penalties would be limited due to the largely discretionary nature
4 of awarding PAGA penalties. (*Id.* at ¶ 40.) The provisions of the Labor Code triggering PAGA
5 penalties in this case include Labor Code sections 203, 210, 226, 1197.1, and 2802. (*Id.*) However,
6 PAGA penalties are not mandatory, but rather, permissive. (Lab. Code § 2699(e)(2).) Accordingly,
7 it is entirely possible that even if Plaintiff would be successful at trial, assuming she is first able to
8 win on the merits regarding her individual claims at arbitration and then defeat the manageability
9 issues presented at litigation by the large number of Aggrieved Employees in this action, Plaintiff
10 may still be awarded substantially less than what was obtained through the Settlement. (Moon Decl.,
11 ¶ 40.)

12 The Settlement avoids the significant risks, burdens, and the accompanying expense of further
13 litigation. (*Id.* at ¶ 41.) Though the Parties have engaged in a significant amount of investigation,
14 informal discovery, and employee data analysis, they have not participated in formal discovery
15 procedures, including depositions and expert discovery. (*Id.*) Moreover, Plaintiff would have to
16 proceed with arbitration of her individual claims and win on the merits before proceeding with litigation
17 of the representative PAGA claims. (*Id.*) Preparation for trial and the prospect of appeals in the wake
18 of any summary judgment ruling would remain for the Parties. (*Id.*) As a result, the Parties would incur
19 considerably more attorneys' fees and costs through trial, a lengthy and uncertain process that could
20 result in recovering less than was settled for. (*Id.*)

21 **C. The Enhancement to Plaintiff is Reasonable and Should Be Approved**

22 Service awards are particularly important to plaintiffs in wage and hour cases because they
23 promote the important public policies underlying the wage and hour laws. This strong policy is codified
24 in California Labor Code section 90.5, which provides, “[i]t is the policy of this state to vigorously
25 enforce minimum labor standards in order to ensure employees are not required or permitted to work
26 under substandard unlawful conditions . . .” (Lab. Code § 90.5.) Nonetheless, the California Supreme
27 Court has noted that “retaliation against employees for asserting statutory rights under the Labor Code
28 is widespread,” despite anti-retaliation statutes designed to protect employees. (*Gentry v. Super. Ct.*

(2007) 42 Cal.4th 443, 460–61.) In this context, PAGA representatives should be rewarded for assuming the risk of retaliation for the sake of aggrieved employees.

Here, in light with the Settlement and subject to the Court’s approval, Plaintiff requests an Enhancement Award of \$7,500.00. (Settlement, ¶ 3.2.1.) Plaintiff and her Counsel respectfully submit that the requested enhancement is reasonable in recognition of Plaintiff’s role as the named Plaintiff and PAGA Representative, for the risks to future employment inherent in undertaking this role and for her service and participation in litigation that resulted in a fair settlement under PAGA. (Moon Decl., ¶¶ 42–45; Declaration of Plaintiff Sonia Yaneth Sabillon Rodriguez in Support of Motion for Approval of PAGA Settlement, ¶¶ 6–19.)

D. The Requested Attorneys’ Fees/Costs Are Reasonable and Should Be Approved

In line with the Settlement, my firm requests an award of attorneys’ fees in an amount of one-third of the GSA (i.e., no less than \$43,333.33, subject to potential increase under the escalator clause), plus reimbursement for actual litigation costs in the amount of \$16,547.71. (Moon Decl., ¶ 69; *see* Settlement, ¶ 3.2.2.)

1. Plaintiff’s 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.)

Here, Plaintiff’s Counsel seek an award of attorneys’ fees on the “percentage of recovery/common fund” theory. (Moon Decl., ¶ 70.) 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).) Specifically, it states: “Any employee who prevails in any [PAGA] action shall be entitled to an award of reasonable attorney’s fees and costs . . .” (*Id.*) Under this provision, Plaintiff would be permitted to recover her 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 Plaintiff’s Counsel must accept significant risk of substantial

1 expenses and consumption of time, energy, and other resources in litigating a PAGA claim, and thus, that
2 Plaintiff's Counsel is not only permitted, but entitled, to recover reasonable attorneys' fees and costs if
3 successful in litigating a PAGA claim.

4 The Settlement at issue is beneficial in that it limits the risk of continued expenses and
5 consumption of time, energy, and resources facing Defendant while at the same time rewarding Plaintiff's
6 Counsel for their decision to assume risk by taking on this matter. In fact, prosecution of this action
7 involved significant financial risk for Plaintiff's Counsel who undertook this matter on a contingent basis,
8 with no guarantee of recovery. (Moon Decl., ¶¶ 71–80.) Once Plaintiff's Counsel undertook this litigation
9 on behalf of the Aggrieved Employees, they committed to pursue it to its conclusion, and were
10 accordingly precluded from focusing on, or taking on, other cases which could have resulted in a
11 larger, and less risky, monetary gain. (*Id.* at ¶ 76.)

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

13 As demonstrated by their prior experience in pursuing class and representative actions on behalf
14 of employees, Plaintiff's Counsel possess considerable expertise in litigating class action and
15 representative matters. (*Id.* at ¶¶ 46–66.) Plaintiff's Counsel have been involved as lead counsel or co-
16 counsel in a multitude of class and representative actions resulting in beneficial results to class members
17 and aggrieved employees in California. (*Id.*) Because it is reasonable to compensate Plaintiff's Counsel
18 commensurate with their skill, reputation, and experience, the requested fee award is supported here.

19 Plaintiff's Counsel's experience in wage-and-hour class and representative actions was integral
20 in evaluating the strengths and weaknesses of the case against Defendant and the reasonableness of this
21 Settlement. (*Id.* at ¶ 67.) Practice in the narrow field of wage-and-hour litigation requires skill and
22 knowledge concerning the rapidly evolving substantive law (state and federal), as well as the procedural
23 law of representative action litigation. (*Id.* at ¶ 65.) Based on these and other factors, Plaintiff's Counsel
24 have frequently received fee awards of this percentage from the gross recovery for aggrieved employees.
25 (*See id.* at ¶¶ 50, 55, 60.) Thus, the requested fee award is reasonable and fair.

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

3 “Despite its primacy, the lodestar method is not necessarily utilized in common fund cases.”
4 (*Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 27.) Courts have criticized the lodestar
5 method as a drain on the judicial system and a disincentive on attorneys to take on high-risk, challenging
6 cases. (*Id.* at p. 29.) Indeed, the lodestar approach: “(1) ‘increases the workload of an already overtaxed
7 judicial system,’ (2) is ‘insufficiently objective and produce[s] results that are far from homogenous,’ (3)
8 ‘creates a sense of mathematical precision that is unwarranted in terms of the realities of the practice of
9 law,’ (4) ‘is subject to manipulation by judges who prefer to calibrate fees in terms of percentages of the
10 settlement fund or the amounts recovered by the plaintiffs or of an overall dollar amount,’ (5) ‘encourages
11 lawyers to expend excessive hours, and . . . engage in duplicative and unjustified work,’ (6) ‘creates a
12 disincentive for the early settlement of cases,’ (7) deprives trial courts of ‘flexibility to reward or deter
13 lawyers so that desirable objectives, such as early settlement, will be fostered,’ (8) ‘works to the particular
14 disadvantage of the public interest bar,’ and (9) results in ‘confusion and lack of predictability.’” (*Id.*
15 [quoting Third Circuit Task Force, *Court Awarded Attorney Fees* (1985) 108 F.R.D. 237, 246–
16 49].)

17 Although California Courts support the common fund doctrine, the lodestar method can be used
18 to cross-check fee awards. “It may be appropriate in some cases, assuming the class benefit can be
19 monetized with a reasonable degree of certainty, to ‘cross-check’ or adjust the lodestar in comparison to
20 a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of
21 fees freely negotiated in the legal marketplace in comparable litigation.” (*In re Consumer Privacy*
22 *Cases* (2009) 175 Cal.App.4th 545, 557 [quoting *Lealao, supra*, 82 Cal.App.4th at pp. 49–50].)
23 Applying the lodestar method is a two-step process. The first step is to multiply the number of hours
24 reasonably expended by a reasonable hourly rate, and the second step is to apply a multiplier to the
25 lodestar to account for various factors. (*Id.* at p. 556.) “The purpose of such adjustment is to fix a fee at
26 the fair market value for the particular action. In effect, the court determines, retrospectively, whether the
27 litigation involved a contingent risk or required extraordinary legal skill justifying augmentation of the
28 unadorned lodestar in order to approximate the fair market rate for such services.” (*Id.*) “Under certain

1 circumstances, a lodestar calculation may be enhanced on the basis of a percentage-of-the-benefit
2 analysis.” (*Id.* at pp. 556–57.)

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

10 Here, Plaintiff’s Counsel current lodestar is *no less than* **\$66,227.50**, which is based on *no less*
11 *than 89.8 hours* of attorney time spent to-date at their customary hourly rates. (Moon Decl., ¶ 71.) Thus,
12 in comparison to this lodestar, although application of a positive multiplier would be warranted in this
13 case, none is requested. (*Id.* at ¶¶ 73–74.) In other words, Plaintiff’s Counsel are requesting less than what
14 they are reasonably entitled to. Further, the foregoing lodestar does not reflect additional works that will
15 be devoted to this litigation, including to obtain and monitor approval of the Settlement and
16 requested awards, oversee the settlement administration process and distribution of funds,
17 respond to inquiries, and communicate with Plaintiff regarding the case. (*Id.* at ¶ 72.) The amount
18 of fees requested under the Settlement is warranted based on the contingent risk that Plaintiff’s Counsel
19 incurred, the difficulty of the questions involved, the substantial benefit conferred on the Aggrieved
20 Employees and State of California as a result of the Settlement, and the skill displayed by Plaintiff’s
21 Counsel. (*Id.* at ¶ 74.) Plaintiff’s Counsel also bear the risk of taking whatever actions are necessary if
22 Defendant fails to pay. (*Id.* at ¶ 72.) Thus, the request for attorneys’ fees is more than reasonable under
23 a lodestar check.

24 **5. Plaintiff’s Counsel’s Costs Were Actually and Reasonably Incurred**

25 Winning counsel are entitled to recover the out-of-pocket costs and expenses they
26 reasonably incurred in investigating, prosecuting, and settling a case. (*Staton v. Boeing Co.* (9th
27 Cir. 2003) 327 F.3d 938, 974; Lab. Code § 2699(k)(1).) Here, Plaintiff’s Counsel seek
28 reimbursement in the total amount of \$16,547.71 for expenses that were actually and reasonably

1 incurred in this litigation. (Moon Decl., ¶ 79, Ex. 4.) Moreover, this amount is below the
2 maximum allocation under the Settlement and thus, the remainder (\$452.29) will revert to the
3 PAGA Penalties. (*Id.* at ¶ 80; Settlement, ¶ 3.2.2.) Thus, costs should be reimbursed in full.

4 **IV. CONCLUSION**

5 For the foregoing reasons, Plaintiff respectfully requests the Court grant approval of the
6 Settlement and enter the proposed approval order and proposed judgment submitted herewith.

7 Respectfully submitted,

8 DATED: October 1, 2025

MOON LAW GROUP, PC

9
10 By: 
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