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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF SAN BERNARDINO**

LATRIESE CHERI BECKER, LAKEISHA BECKER, ELIZABETH CASTRO, and MAGALI YASMIN MIRANDA-JIMENEZ, on behalf of the State of California and other aggrieved persons,

*Plaintiffs*,

vs.

ASISTENCIA VILLA POST ACUTE LLC, a California limited liability company; and DOES 1 through 10, inclusive,

*Defendants*.

Case No.: CIVSB2526310

[*Assigned for all purposes to:* Hon. Charlie L. Hill, Jr., Dept. S30]

**PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR APPROVAL OF PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES**

PAGA APPROVAL HEARING:
DATE: February 4, 2027
TIME: 8:30 a.m.
DEPT.: S30

| | |
|---|---|
| Complaint filed: | September 10, 2025 |
| FAC filed: | November 24, 2025 |
| SAC filed: | September 17, 2026 |
| Trial date: | Not set |

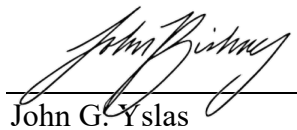
**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that on February 4, 2027, at 8:30 a.m., or as soon thereafter as the matter may be heard in Department S30 of the above-entitled Court, located at the San Bernardino Justice Center, 247 West Third Street, San Bernardino, California 92415, Plaintiffs Latriese Cheri Becker, Lakeisha Becker, Elizabeth Castro, and Magali Yasmin Miranda-Jimenez ("Plaintiffs") will and hereby do move for an order approving the settlement of the PAGA claims alleged against Defendant AVPA LLC dba Asistencia Villa Post Acute LLC ("Defendant") in accordance with Labor Code §2699(l). The proposed settlement is set forth in the accompanying PAGA Settlement Agreement ("Settlement Agreement").

This Motion will be based on this notice, the accompanying points and authorities, the Declaration of John G. Yslas, the Declaration of Sean Hartranft of Apex Class Action LLC, the Declarations of Plaintiffs Latriese Cheri Becker, Lakeisha Becker, Elizabeth Castro, and Magali Yasmin Miranda-Jimenez, and the complete files and records in this action. The Labor and Workforce Development Agency has been served with this motion and the Settlement Agreement as set forth in the accompanying proof of service.

Dated: October 30, 2026

**WILSHIRE LAW FIRM, PLC**

By: 

John G. Yslas
Arrash T. Fattahi
John O. Bishay

Attorneys for Plaintiffs

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## MEMORANDUM OF POINTS AND AUTHORITIES

## I. INTRODUCTION

Plaintiffs Latriese Cheri Becker, Lakeisha Becker, Elizabeth Castro, and Magali Yasmin Miranda-Jimenez ("Plaintiffs") and Defendant AVPA LLC dba Asistencia Villa Post Acute LLC ("Defendant") (Plaintiffs and Defendant are collectively referred to as the "Parties") reached a settlement of the Labor Code Private Attorneys General Act of 2004, Cal. Labor Code § 2699, *et seq.* ("PAGA") claims asserted in this action. In accordance with Labor Code §2699(l), Plaintiffs now ask this Court to review and approve the settlement of Plaintiffs' PAGA claims. This is a PAGA settlement for civil penalties and is not a class settlement and does not release the individual wage claims, if any, of the affected employees other than those of Plaintiffs. Cal. Labor Code § 2699(g)(1); *Iskanian v. CLS Transportation*, 59 Cal. 4th 348, 381 (2014); *ZB, N.A. v. Superior Court*, 8 Cal. 5th 175, 182 (2019) (unpaid wages are not recoverable under PAGA).

The PAGA Settlement is set forth in the accompanying PAGA Settlement Agreement ("Settlement Agreement"). A true and correct copy of the Settlement Agreement which sets forth the terms for the settlement of the PAGA claims is attached as Exhibit 2 to the Declaration of John G. Yslas in Support of Plaintiffs' Motion for Approval of PAGA Settlement ("Yslas Decl."), filed concurrently herewith. Capitalized terms shall have the same meaning as defined in the Settlement Agreement. The LWDA received notice of this Settlement on October 28, 2026. Yslas Decl. ¶ 35, Ex. 7.

## II. RELEVANT FACTS AND PROCEDURAL HISTORY

On August 16, 2024, Plaintiff Latriese Becker filed a related putative class action against Defendant in this Court, Case No. CIVSB2424563 (the "Class Action"). Yslas Decl. ¶ 3. On July 31, 2025, the Court granted Defendant's motion to compel Plaintiff Latriese Becker to arbitrate her claims on an individual basis, which also sought dismissal of her class allegations, and stayed the Class Action pending arbitration. *Id.*

On September 10, 2025, Plaintiffs Latriese Becker and Lakeisha Becker commenced this action by filing a representative action against Defendant alleging a single cause of action for civil penalties pursuant to the California Private Attorneys General Act, Cal. Labor Code § 2699, et seq.

("PAGA"). Yslas Decl. ¶ 3. On November 24, 2025, Plaintiffs Latriese Becker and Lakeisha Becker filed a First Amended Complaint adding Elizabeth Castro as a named plaintiff. *Id.* On September 17, 2026, Plaintiffs filed a Second Amended Complaint adding Magali Yasmin Miranda-Jimenez as a named plaintiff (the "Operative Complaint"). *Id.* ; Settlement Agreement § 2.3.

Pursuant to Labor Code section 2699.3, subdivision (a), Plaintiffs gave timely written notice to the Labor and Workforce Development Agency ("LWDA") and Defendant of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories in support. Plaintiffs Latriese Becker and Lakeisha Becker gave notice on June 20, 2024 (LWDA-CM-1035159-24 and LWDA-CM-1035129-24, respectively), Plaintiff Elizabeth Castro gave notice on September 19, 2025 (LWDA-CM-1126502-25), and Plaintiff Magali Yasmin Miranda-Jimenez gave notice on June 4, 2026 (LWDA-CM-1182166-26). Settlement Agreement §§ 1.22, 2.4; Yslas Decl. ¶ 4, Ex. 1.

Thereafter, the Parties met and conferred and agreed to mediate the PAGA Action with Joshua Konecky, Esq. (the "Mediator"), a well-respected and experienced mediator in wage-and-hour class and representative actions. Yslas Decl. at ¶ 5. In advance of mediation, PAGA Counsel conducted a thorough investigation into the facts of, and applicable law to, the PAGA Action. Settlement Agreement § 2.6; Yslas Decl. at ¶ 5. Prior to mediation, Plaintiffs obtained through informal discovery a representative sampling of time and payroll data for Aggrieved Employees and the necessary policy documents to properly evaluate the strengths and weaknesses of the claims and engage in meaningful settlement discussions. *Id*.

On July 7, 2026, the Parties engaged in an all-day mediation session before the Mediator. Settlement Agreement § 2.5; Yslas Decl. at ¶ 6. With the help of the Mediator, the Parties were able to reach an agreement on general settlement terms at mediation. *Id*. The settlement was negotiated in light of all known facts and circumstances and the uncertainty associated with litigation – including the risk of Plaintiffs not being able to maintain representative claims, the difficulty of proving Plaintiffs' claims in a manageable trial, the merits of Defendant's potential defenses, and the significant delay and potential appellate issues inherent to litigation – and was reached after extensive arm's length negotiations, with the assistance of the Mediator. Settlement Agreement §§ 2.5, 2.6;

Yslas Decl. at ¶ 6.

Pursuant to the Settlement Agreement, on October 26, 2026, Plaintiff Latriese Becker filed a Request for Dismissal of the Class Action in its entirety, without prejudice, and dismissal was entered the same day. Settlement Agreement § 2.1; Yslas Decl. ¶ 3.

## III. TERMS OF THE PAGA SETTLEMENT

### A. Aggrieved Employees

"Aggrieved Employee" means any non-exempt, hourly-paid employee who worked for Defendant in California at any time during the PAGA Period, which runs from September 20, 2024, through September 7, 2026. Settlement Agreement §§ 1.5, 1.20. Defendant estimates that there are approximately 363 Aggrieved Employees who worked an estimated 6,261 Pay Periods during the PAGA Period. *Id.* at § 4.1.

### B. Settlement Terms

The Settlement Agreement negotiated by the Parties provides for a Gross Settlement Amount ("GSA") payment in the amount of $138,000.00 to resolve the PAGA Action. Settlement Agreement §§ 1.12, 3.1; Yslas Decl. at ¶ 7. The GSA will be used to pay the Individual PAGA Payments, LWDA PAGA Payment, PAGA Counsel Fees, PAGA Counsel Costs, PAGA Service Awards, and Administration Costs. Settlement Agreement § 1.12; Yslas Decl. at ¶ 7. After deducting the PAGA Counsel Fees ($46,000.00), PAGA Counsel Costs ($19,617.26), PAGA Service Awards ($30,000.00), and Administration Costs ($6,500.00) from the GSA, the amount remaining, currently estimated to be $35,882.74, shall be distributed as PAGA Penalties, with 65% allocated to the LWDA PAGA Payment ($23,323.78) and 35% allocated to Individual PAGA Payments ($12,558.96). Settlement Agreement § 1.23; Yslas Decl. at ¶ 7.

PAGA Penalties: The PAGA Penalties will be distributed with sixty-five percent (65%) allocated to the LWDA PAGA Payment and the remaining thirty-five percent (35%) allocated to the Individual PAGA Payments for Aggrieved Employees. Settlement Agreement §§ 1.16, 1.23. This 65/35 allocation is required by Labor Code §2699 as explained by *ZB, N.A. v. Superior Court*, 8 Cal.5th 175 (2019).

Individual PAGA Payments: The Administrator will calculate each Individual PAGA

Payment by (a) dividing the amount of the Aggrieved Employees' 35% share of PAGA Penalties by the total number of Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's Pay Periods. Settlement Agreement § 3.2.4.1. The PAGA Period is the period from September 20, 2024, through September 7, 2026. Settlement Agreement § 1.20.

PAGA Service Awards: Subject to Court approval, each Plaintiff shall be paid a PAGA Service Award not to exceed $7,500.00 ($30,000.00 total) for initiating the Action and providing services in support of the Action on behalf of the State and other Aggrieved Employees. Settlement Agreement §§ 1.24, 3.2.1.

PAGA Counsel Fees: Subject to Court approval, PAGA Counsel shall be entitled to receive an award of reasonable attorneys' fees of not more than one-third (1/3) of the GSA, which is currently estimated to be $46,000.00. Settlement Agreement § 3.2.2.

PAGA Counsel Costs: Per the Settlement Agreement, PAGA Counsel shall be entitled to request reimbursement of costs, not to exceed $30,000.00. Settlement Agreement § 3.2.2. Counsel seeks reimbursement of actual costs incurred in the amount of $19,617.26. Yslas Decl. ¶ 33. The remaining $10,382.74 will therefore be distributed as PAGA Penalties to the LWDA and Aggrieved Employees. *Id*.

Administration Costs: The Parties agreed to appoint Apex Class Action LLC ("Apex") as the Administrator for the Settlement. Settlement Agreement §§ 1.3, 7.1. The Administration Costs, which are not to exceed $8,990.00,[1] shall be paid from the GSA. Settlement Agreement §§ 1.4, 3.2.3.

**C. Releases**

Plaintiffs' Release: "Plaintiffs and Plaintiffs' respective former and present representatives, agents, attorneys (including PAGA Counsel), administrators, successors, and assigns generally, release and discharge Released Parties from all claims, known and unknown, including but not limited to, claims arising during the PAGA Period that were alleged, or reasonably could have been

[1] Because the anticipated Administration Costs are less than $8,990.00, upon approval, the remaining amount will be distributed as PAGA Penalties to the LWDA and Aggrieved Employees.

alleged, based on the facts contained in the Operative Complaint and the PAGA Notice ('Plaintiffs' Release'). Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agrees, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them." Settlement Agreement § 5.1.

Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. "For purposes of Plaintiffs' Release, each Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads: A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party." Settlement Agreement § 5.1.1.

Aggrieved Employees' Release: "All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, administrators, successors, and assigns, the Released Parties from all claims for PAGA Penalties arising during the PAGA Period that were alleged, or reasonably could have been alleged, based on the facts and allegations in the Operative Complaint and the PAGA Notice." Settlement Agreement § 5.2.

**D. Settlement Administration**

Defendant will provide the Aggrieved Employee Data to the Administrator within fifteen (15) days after entry of Judgement. Settlement Agreement §§ 1.6, 4.2. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted Aggrieved Employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. *Id*.

Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator in two (2) equal installments, with the first due no later than thirty (30) days after entry

of Judgment and the second due no later than sixty (60) days after entry of Judgment. Settlement Agreement § 4.3.

Within fourteen (14) days after Defendant funds the GSA, the Administrator will issue checks for the Individual PAGA Payments and send them to Aggrieved Employees via First-Class U.S. Mail to Aggrieved Employees' last known mailing address. Settlement Agreement §§ 4.4. 4.4.1. The Administrator must conduct an Address Search for all Aggrieved Employees whose checks are returned undelivered without a United States Postal Service ("USPS") forwarding address. *Id*. at § 4.4.2. Within seven (7) calendar days of receiving a returned check the Administrator must re-mail the check to the USPS forwarding address provided or to an address ascertained through the Address Search. *Id*.

Each Individual PAGA Payment check will state a void date not less than 180 days after the date of mailing. Settlement Agreement § 4.4.1. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee. Settlement Agreement § 4.4.3. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms. *Id.* at § 3.2.4.2.

Within fourteen (14) days after Defendant funds the GSA, the Administrator will also pay the LWDA PAGA Payment, the Administration Costs, the PAGA Counsel Fees, the PAGA Counsel Costs, and the PAGA Service Awards. Settlement Agreement § 4.4. Disbursement of the PAGA Counsel Fees, PAGA Counsel Costs, and PAGA Service Awards shall not precede disbursement of the Individual PAGA Payments. *Id*.

Pursuant to California Labor Code Section 2699(s)(2), Plaintiffs submitted the proposed Settlement Agreement to the LWDA on October 28, 2026. Yslas Decl. at ¶ 35, Ex. 7. Plaintiffs will submit a copy of the Court's judgment and order approving the Settlement Agreement to the LWDA within ten (10) days after entry of judgment or order. *Id*.

## IV. THE COURT SHOULD GRANT APPROVAL OF THE PAGA SETTLEMENT

### A. Legal Standard

Labor Code § 2699(l) requires that the Court "shall review and approve any settlement of any

civil [PAGA] action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court." In doing so, the trial court must consider whether the settlement is "fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." *Moniz v. Adecco USA, Inc*., 72 Cal. App. 5th 56, 77-78 (Cal. Ct. App. Nov. 30, 2021) (overruled in part on other grounds); *see also O'Connor v. Uber Technologies, Inc*., 201 F. Supp. 3d 1110, 1133 (N.D. Cal. 2016) (adopting guidance from the LWDA providing that "when a PAGA claim is settled, the relief provided for under the PAGA [must] be genuine and meaningful, consistent with the underlying purpose of the statute to benefit the public").

The court's role in reviewing PAGA settlements differs from its gatekeeping function in the class action context. In class actions, courts have a fiduciary duty to protect the interests of absent class members, whose individual claims will be discharged. *Kullar v. Foot Locker Retail, Inc*., 168 Cal.App.4th 116, 129 (2008). In this role, courts conduct an "independent assessment of the adequacy of the settlement terms," which requires them to have sufficient data and information about the amount in controversy and the realistic range of outcomes. *Id*. at 132. Courts consider a variety of factors in conducting this analysis, including whether the settlement is negotiated at an arm's length, whether there is sufficient discovery and information to permit parties and the court to act intelligently, whether the attorneys have experience with the type of issues, and whether the number of objectors is small. *Dunk v. Ford Motor Co*., 48 Cal.App.4th 1794, 1800-1801 (1996).

However, a PAGA representative action is "not akin to a class action," it "is a species of qui tam action." *Flores v. Starwood Hotels & Resorts Worldwide, Inc*., 253 F.Supp.3d 1074, 1076 (C.D. Cal. 2017). When reviewing a PAGA-only settlement, courts do not consider the value of individuals' claims for damages because a PAGA settlement does not release those claims. *See Kim v. Reins Int'l California, Inc*., 9 Cal.5th 73, 87 (2020) (PAGA claims differ from individual claims); *ZB, N.A. v. Superior Court*, 8 Cal.5th 175, 188 (2019) (noting that PAGA penalties do not seek damages that are compensatory in nature). "The state's interest in such an action is to enforce its laws, not to recover damages on behalf of a particular individual." *Huff v. Securitas Sec. Servs., USA, Inc*., 23 Cal.App.5th 745, 760 (2018). Instead of focusing on fair recovery for individual claims, the

goal of PAGA enforcement is to achieve "maximum compliance with state labor laws." *Id*. at 756; *see also Iskanian*, 59 Cal.4th at 383 (noting that the goal of PAGA is to impose civil penalties for Labor Code violations "significant enough to deter violations"); *McKenzie v. Federal Exp. Corp*., 765 F.Supp.2d 1222, 1233 (C.D. Cal. 2011) ("Unlike a class action seeking damages… for injured employees, the purpose of PAGA is to incentivize private parties to recover civil penalties for the government that otherwise may not have been assessed and collected by overburdened state enforcement agencies.").

**B. The PAGA Penalties Secured by the Settlement Are Genuine and Meaningful and Fulfill PAGA's Underlying Purpose to Benefit the Public**

The Settlement of $138,000.00 penalizes Defendant for the alleged violations of California's labor laws in an amount that is significant enough to deter violations and provide genuine and meaningful relief – and approximately $ $35,882.74[2] in PAGA Penalties to the State of California and Aggrieved Employees – thus fulfilling the underlying purpose of PAGA to benefit the public. Yslas Decl. at ¶¶ 7-12; *see Jordan v. TCS Grp., Inc*., No. EDCV161701JVSSPX, 2018 WL 1409590, at *3 (C.D. Cal. Jan. 5, 2018) ("The proposed settlement imposes a substantial penalty payment of $150,000.00, paid in exchange for a release of only those claims pled in the notice to the LWDA and the Complaint. This penalty has a substantial deterrent effect on Defendant and other California employers. Furthermore, the proposed settlement encourages compliance with the specific requirements of the Labor Code, which has the effect of protecting workers from unlawful employment practices and working conditions."); *Echavez v. Abercrombie & Fitch Co*., No. CV 11-09754-GAF, 2017 WL 3669607, at *3 (C.D. Cal. Mar. 23, 2017) (finding that "[t]he primary purpose of PAGA, i.e., the empowerment of Aggrieved Employees to act as private attorneys general to collect civil penalties from their employers for Labor Code violations, [was] served by the proposed PAGA penalty in the parties' settlement agreement," where $340,000 of $700,000 settlement was allocated to PAGA penalties which were divided 75% to the LWDA and 25% to an estimated 10,000

[2] The PAGA Penalties amount of $35,882.74 was calculated using the following arithmetic: $138,000.00 minus $46,000.00 for PAGA Counsel's attorneys' fees, minus $19,617.26 for PAGA Counsel's litigation costs, minus $6,500.00 for administration costs, and minus $30,000.00 for the PAGA Service Awards.

Aggrieved Employees).

This PAGA Settlement amount compares favorably to the estimated amount of PAGA penalties. Plaintiffs calculated that the maximum amount of statutory PAGA civil penalties was potentially $626,100.00 for an estimated 363 employees based on 6,261 pay periods.[3] Yslas Decl. at ¶ 8. Importantly, however, these calculations were performed at the maximum statutory rate for the penalties, when in fact, it is likely that any penalties awarded would be at a lower rate. California Labor Code Section 2699(e)(1) permits a Court to award a lesser amount than the maximum civil penalty if based on the facts and circumstances to do otherwise would result in an award that is "unjust, arbitrary and oppressive or confiscatory." *See Carrington v. Starbucks Corp*., 30 Cal.App.5th 504 (2018) (affirming a judgment after trial that only provided for a PAGA penalty of $5 per pay period). Therefore, at trial, any PAGA penalties awarded could be significantly less than Plaintiffs' calculation even where Plaintiffs prevailed on the PAGA claim. *See Fleming v. Covidien*, No. ED CV 10-01487 RGK (OPx), 2011 U.S. Dist. LEXIS 154590 (C.D. Cal. Aug. 12, 2011) (a federal court reduced PAGA penalties from $2,800,000.00 to $500,000.00, a reduction of 82.2%, because the court found maximum penalties "unjust" because the employees had suffered no injuries).

**C. The Settlement is Reasonable Given the Risks of Further Litigation**

In order to recover any PAGA penalties, Plaintiffs would be required at trial to prove each of the underlying Labor Code violations. *See Cardenas v. McLane Foodservice, Inc*., No. BCV-23-102915, 2011 U.S. Dist. LEXIS 13126, *10 (C.D. Cal. Jan. 31, 2011) ("Given the statutory language [of PAGA], a plaintiff cannot recover on behalf of individuals whom the plaintiff has not proven suffered a violation of the Labor Code by the defendant."). Here, Plaintiffs would need to prove, among other things, that each Aggrieved Employee suffered a violation for each period the employee

[3] Stacking is where more than one civil penalty is imposed in a pay period for the same conduct. The valuation of $626,100.00 is the civil penalty amount without stacking. If stacking is permitted, then the valuation increases with each additional penalty added to each pay period. Courts that have considered the issue have refused to "stack" penalties. *See Carrington v. Starbucks Corp*., 30 Cal.App.5th 504 (2018).

worked in relation to (1) failure to pay for all hours worked, including minimum, straight time, and overtime wages; (2) failure to provide meal periods; (3) failure to authorize and permit rest periods; (4) failure to pay all earned wages twice per month; (5) failure to maintain accurate records of hours worked and meal periods; (6) failure to timely pay all wages at termination; (7) failure to furnish accurate itemized wage statements; and (8) failure to indemnify for necessary expenditures.

Plaintiffs and their counsel remain confident of the merits of Plaintiffs' claims. Yslas Decl. at ¶ 9. However, Plaintiffs acknowledge that their position includes risk and uncertainty, as described in more detail below. For instance, Plaintiffs' allegations that Defendant failed to pay Plaintiffs and the aggrieved employees all of their owed wages are based on Defendant's failure to pay employees for work performed "off-the-clock." *Id*. With respect to the meal period allegation, Plaintiffs allege that Defendant lacked compliant policies providing meal periods during the PAGA Period. *Id.* Although Plaintiffs contend that this allegation is meritorious, there is risk with this underlying claim, particularly because Defendant issued some meal period premiums to its employees and implemented meal period waivers throughout the covered period. *Id.* With respect to the rest period allegation, Plaintiffs contend that employees, including themselves, were not provided with California-compliant rest periods. *Id.* Again, despite Plaintiffs' contention that this allegation is credible, proving rest period allegations is particularly difficult because rest periods do not have to be recorded and Defendant can argue that the aggrieved employees chose to voluntarily forego their rest periods. *Id.* With respect to the unreimbursed business expenses allegation, Plaintiffs allege that Defendant required Plaintiffs and the other aggrieved employees to purchase work attire, without reimbursement from Defendant. Defendant disputes this claim. *Id.* Lastly, with regard to Plaintiffs' wage statement claims, Defendant argues that the wage statements issued to employees meet the requirements of Labor Code § 226(a). *Id.*

Additionally, Plaintiffs faced a significant risk that even if the Court did award PAGA penalties, the Court could drastically reduce the penalties based on the discretionary factors contained in Labor Code § 2699(e)(2) ("In action by an aggrieved employee…, 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."). Plaintiffs believed there was a legitimate risk of the Court significantly reducing penalties given the technical nature of the alleged violations. Yslas Decl., ¶ 10.

Without this settlement, the Parties face preparation for trial, as well as extensive formal discovery efforts and depositions. *Id*. As a result, the Parties would incur considerably more attorneys' fees and costs through trial. *Id*. This settlement avoids those risks and the accompanying expense. Thus, this factor favors settlement approval. *Id*.

As described above, the proposed Settlement provides a fair and reasonable monetary recovery for the aggrieved employees and the LWDA in the face of the contested claims. Plaintiffs estimated Defendant's realistic exposure for the PAGA penalties as follows:

PAGA Penalties for Unpaid Wages, Meal Period Violations, Rest Period Violations, and Unreimbursed Business Expenses

Defendant estimates that the aggrieved employees worked 6,261 pay periods during the PAGA Period. Settlement Agreement § 4.1; Yslas Decl., ¶ 11. Plaintiffs' expert determined that substantially all of those pay periods presented issues with regard to unpaid wages, meal period violations, rest period violations, and unreimbursed business expenses. Yslas Decl., ¶ 11. Plaintiffs acknowledge that when evaluating Defendant's potential exposure, it is likely that the Court would impose only the initial $100 violation for all PAGA violations. (*See Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1207 (finding that the "initial" violation rate applies until the employer has been notified that it is violating a Labor Code provision.) Applying the $100 "initial violation" penalty for each of these pay periods, Defendant's potential PAGA exposure is $626,100.00 (based on 6,261 pay periods). Yslas Decl., ¶ 11. However, Plaintiffs discounted this maximum exposure by 70% to account for Defendant's contention that the underlying allegations lacked merit, Defendant's largely compliant policies, Defendant's issuance of meal period premiums to aggrieved employees, Defendant's implementation of meal period waivers throughout the liability period, the relatively modest violation rate for meal periods (3.6%), the risk of not prevailing on the merits, and the Court's discretion in reducing penalties. *Id.* The estimated realistic total potential recovery is therefore $187,830.00 ($626,100.00 x 30%). *Id.*

Using these estimated figures, Plaintiffs predicted that the realistic total potential recovery for the aggrieved employees and the LWDA would be approximately $187,830.00. Yslas Decl., ¶ 11. The proposed Settlement of $138,000.00 therefore represents approximately 73.5% of Plaintiffs' reasonably forecasted total recovery. *Id.* at ¶ 12. "The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved." (*Linney v. Cellular Alaska Partnership* (9th Cir. 1998) 151 F.3d 1234, 1242 [internal quotations omitted].) In this case, continued litigation would delay payment to the LWDA and the aggrieved employees as they await trial and, potentially, appellate proceedings. *Id*. Furthermore, while Plaintiffs are confident in the merits of the case, a legitimate controversy exists as to each of the predicate Labor Code violations. *Id.* The possibility that the Court finds no liability at the PAGA bench trial is also a risk. *Id.* In sum, when the risks of litigation, the burdens of proof necessary to establish liability, and the probability of appeal of a favorable judgment are balanced against the merits of Plaintiffs' claims, it is clear that the Settlement amount is fair. *Id.* Further, because of the proposed Settlement, the aggrieved employees will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment. *Id.*

If the Court approves the terms of the Settlement, each aggrieved employee's payment will average approximately $34.60 and approximately $23,323.78 will go to the LWDA. Yslas Decl., at ¶ 13. In reality, some employees will likely receive more, and others may receive less depending on the length of their employment with Defendant. *Id*.

## V. THE ATTORNEYS' FEES AND COSTS ARE FAIR AND REASONABLE

PAGA Counsel seeks approval of attorneys' fees from the PAGA settlement in the amount of $46,000.00, representing one-third (1/3), of the GSA and costs not to exceed $30,000.00. Settlement Agreement § 3.2.2. Plaintiffs are entitled to attorneys' fees under Labor Code section 2699(g)(1), which provides that "[a]ny employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs." Lab. Code § 2699(g)(1); *see also Gouskos v. Aptos Village Garage, Inc*., 94 Cal.App.4th 754, 765 (2001) (holding that attorneys' fees to prevailing party are mandatory when the statute uses the word "shall"). It is undisputed that Plaintiffs are the prevailing parties. *See Graciano v. Robinson Ford Sales, Inc*., 144 Cal. App. 4th 140, 153 (2006)

("[P]laintiffs may be considered 'prevailing parties' for attorney's fee purposes if they succeed on any significant issue in the litigation that achieves some of the benefit the parties sought in bringing suit.") (internal citation omitted). Accordingly, Plaintiffs are entitled to recover attorneys' fees and costs.

### A. Plaintiffs' Counsel's Requested Attorneys' Fees Are Reasonable under the Common Fund Method

The request for attorneys' fees as a percentage of the gross settlement amount is supported by the "common fund theory," where "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." *Serrano v. Priest*, 20 Cal.3d 25, 35 (1977).

The purpose of the common fund approach is to "spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." *Vincent v. Hughes Air West, Inc*., 557 F.2d 759, 769 (9th Cir. 1977). Thus, 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." *City and County of San Francisco v. Sweet*, 12 Cal.4th 105, 110 (1995); *see Quinn v. State of California*, 15 Cal.3d 162, 167 (1975) ("[O]ne 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.").

A number of other courts have recognized the advantages of awarding fees as a percentage of the common fund over the alternative lodestar approach, which usually involves wading through voluminous and often indecipherable time records. *See*, e.g., *In re Activision Securities Litigation*, 723 F.Supp. 1373, 1375 (N.D. Cal. 1989). The percentage approach is preferable to the lodestar method because: (1) it provides predictability to counsel; (2) encourages efficient resolution of the litigation by providing an incentive for early, yet reasonable, settlement; and (3) reduces the demands on judicial records. *Id*. at 1378-79; *see also Lealao v. Beneficial Cal., Inc*., 82 Cal.App.4th 19, 28 (2000) (discussing findings of task force commissioned by the Third Circuit, which "concluded that the lodestar approach (1) increases the workload of an already overtaxed judicial system, (2) is insufficiently objective and produces results that are far from homogenous, (3) creates a sense of

mathematical precision that is unwarranted in terms of the realities of the practice of law, (4) is subject to manipulation by judges who prefer to calibrate fees in terms of percentages of the settlement fund or the amounts recovered by the Claimants or of an overall dollar amount, (5) encourages lawyers to expend excessive hours, and engage in duplicative and unjustified work, (6) creates a disservice for the early settlement of cases, (7) deprives trial courts of flexibility to reward or deter lawyers so that desirable objectives, such as early settlement, will be fostered, (8) works to the particular disadvantage of the public interest bar, and (9) results in confusion and lack of predictability.").

The percentage of attorneys' fees set forth in the Settlement Agreement – one-third (1/3) of the Gross Settlement Amount – is reasonable. Historically, courts have awarded percentage fees in the range of 20% to 50% in common fund cases. *Newberg on Class Actions*, 4th Ed. 2002, § 14:6. *Newberg* notes that achievement of a substantial recovery with modest hours expended should not be penalized but should be rewarded for considerations of time saved by superior services performed. *Id*. Furthermore, California and federal courts have long recognized that a percentage of recovery for attorneys' fees is properly awarded on the basis of the total value. *Boeing v. Van Gemert*, 444 U.S. 472, 480-481 (1980); *see also In re Consumer Privacy Cases*, 175 Cal.App.4th 545, 558 n.13 (2009) ("Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery.")

The Court should also consider that Plaintiffs' counsel's efforts have resulted in substantial benefits to the State of California and the Aggrieved Employees, in the form of a significant, non-reversionary settlement fund established to compensate the State of California and the Aggrieved Employees and to penalize Defendant for the alleged PAGA violations. Without the efforts of Plaintiffs' counsel, the claims alleged in the complaint would likely have gone without remedy. Yslas Decl. at ¶ 32.

**B. A Lodestar Cross-Check Confirms the Reasonableness of the Requested Fee**

Although *Laffitte v. Robert Half Int'l, Inc*., 1 Cal.5th 480, 489 (2016) makes clear that a lodestar cross-check is not required, PAGA Counsel's lodestar supports the reasonableness of the requested fee. The lodestar is determined by multiplying the number of hours reasonably expended

by the reasonable hourly rate. *PLCM Group, Inc. v. Drexler*, 22 Cal.4th 1084, 1095 (2000). The lodestar figure may then be adjusted, based on consideration of factors specific to the case, in order to fix the fee at the fair market value for the legal services provided." *Id*. The factors that can be considered include "the nature of the litigation, its difficulty, the amount involved, the skill required in its handling, the skill employed, the attention given, the success or failure, and other circumstances in the case." *Melnyk v. Robledo*, 64 Cal.App.3d 618, 623-624 (1976) (citations omitted).

The total hours expended on this action by PAGA Counsel were reasonable and in line with comparable cases. While it is not necessary to substantiate the fee award with a lodestar in this PAGA Action, it should be noted that PAGA Counsel spent approximately 126.9 hours prosecuting this action, which were divided among the attorneys working on this case according to skill level. Yslas Decl. at ¶¶ 30-31. Multiplying the total hours expended by PAGA Counsel by their reasonable hourly rates yields a lodestar of $91,240.00. Id. at ¶ 30. This amount surpasses the requested fee award of $46,000.00, resulting in a negative multiplier. Id. at ¶ 31. This amount does not include the time PAGA Counsel will spend at the PAGA approval hearing and assisting the Settlement Administrator following approval. *Id*. PAGA Counsel dedicated significant resources to this case by dividing the tasks required according to skill level. *Id*. The hours expended by each attorney were not duplicative and reflect the extensive investigation and analysis that was required to achieve this Settlement. This time could have been spent on other potentially lucrative cases. *Id*. PAGA Counsel's lodestar reflects the efficiencies achieved by attorneys experienced in this field. *Id*. Moreover, PAGA Counsel has singularly assumed the risk and costs of litigation purely on a contingency basis. *Id*. And, while Plaintiffs are confident in the merits of their claims, a legitimate controversy exists as to each cause of action, posing an actual risk that Plaintiffs may not succeed at trial. *Id*. Any of these obstacles could have prevented recovery completely, meaning PAGA Counsel would have been left with no compensation for all the time and money invested in litigating this case. *Id*. Despite these risks, PAGA Counsel took this case on a contingency basis so that Aggrieved Employees (a particularly vulnerable group of hourly paid workers) could be compensated for their unpaid wages. *Id*. Consequently, PAGA Counsel was precluded from focusing on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain. *Id*.

The Court should also consider that PAGA Counsel's efforts have resulted in substantial benefits to the State of California and the Aggrieved Employees, in the form of a significant, non-reversionary settlement fund established to compensate the State of California and the Aggrieved Employees and to punish Defendant for the alleged PAGA violations. Yslas Decl. at ¶ 32. Without the efforts of PAGA Counsel, the claims alleged in the complaint would likely have gone without remedy. *Id*.

**C. Plaintiffs' Counsel's Rates Are Similar to Those Approved by California Courts in Comparable Cases.**

Plaintiffs' Counsel's hourly rates are comparable to those charged by other class action plaintiffs' counsel and the firms defending class actions. Yslas Decl. at ¶ 24. Plaintiffs' Counsel's rates are well within the range of hourly rates that the Los Angeles legal marketplace would compensate counsel for similar services accomplishing similar results. *Id*. For example, in *Bronshteyn v. State of California*, Los Angeles County Superior Ct. No. 19SMCV00057, Order Granting Plaintiff's Motion for Statutory Attorneys' Fees and Costs filed March 30, 2023, an employment action brought by two small law firms (Levy, Vinick, Burrell & Hyams LLP and Law Offices of Wendy Musell), the court found that counsel's 2022 hourly rates of $1,100 and $1,000 per hour were reasonable for the plaintiff's five senior attorneys, including $1,000 per hour for the plaintiff's 23-year lead counsel and $850 per hour for a senior associate. *Id*. These rates were then augmented by a 1.75 lodestar multiplier and affirmed by the California Court of Appeal. *Id*. The rates requested here are well in line with those found reasonable in *Bronshteyn*. In *Tran v. Golden State FC LLC*, *et al*. (LASC Case No. BC699931), Fee Order filed 4/8/2022, the court found hourly rates of $1,300 per hour reasonable for plaintiff's 32-year attorney and $1,000 per hour reasonable for a 14-year attorney. *Id*.

Plaintiffs' Counsel has also been approved as Class Counsel by courts in California. Yslas Decl. at ¶ 25. *See,* e.g., *Matthew Veliz v. DrinkPak, LLC*, Los Angeles County Superior Court, Case No. 22STCV37384; Ismael *Villegas-Sanchez v. COE Orchard Equipment, Inc.*, Sutter County Superior Court, Case No. CVCS22-0002261; *Jessica Bronsal v. PTI Technologies Inc.*, Ventura County Superior Court, Case No. 202200570361CUOE; *Miguel A. Vigil Ruiz v. The De Ruosi Group,*

*LLC*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2022-8780; *Gutierrez v. Top Drawer Merch, LLC, et al.,* Los Angeles County Superior Court, Case No. 23STCV04299; *Wing v. Road Machinery, LLC, et al.,* Kern County Superior Court, Case No. BCV-22-102896; *Hernandez v. SGPS Showrig Los Angeles, Inc.*, Los Angeles County Superior Court, Case No. 22STCV28155; *Azevedo v. Tulare Nursing & Rehabilitation Hospital, Inc.*, Tulare County Superior Court, Case No. VCU293325; *Haser v. Universal Chain of California, Inc.*, Sacramento County Superior Court, Case No. 34-2022-00332268; *Caldera v. Performance Online, Inc., et al.,* Riverside County Superior Court, Case No. CVRI2306013; *Goosby v. CiminoCare, Inc.*, Sacramento County Superior Court, Case No. 34-2022-00329033; *Rooks v. Hot Cakes Restaurant Group, Inc.*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2022-11056; *Garcia v. Compassionate Heart*, Orange County Superior Court, Case No. 30-2022-01294409-CU-OE-CXC; *Parra v. Citrus Valley Management Services, Inc.*, Riverside County Superior Court, Case No. CVRI2301768; *Torres v. HomeShield Pest Control Inc.*, Placer County Superior Court, Case No. S-CV-0049525; *Cabrera v. Creekside Auto Group*, Santa Clara County Superior Court, Case No. 23CV415661; *Simpson v. Arcos, Riverside County Superior Court*, Case No. CVRI2303337; *Payne v. Planned Parenthood: Shasta-Diablo, Inc.*, San Francisco County Superior Court, Case No. CGC-23-607359. *Id*. The total hours expended on this action are reasonable and in line with those expended in comparable cases. *Id*.

In cases in which Plaintiffs' Counsel has been approved as Class Counsel, California courts have approved rates similar to those requested by Plaintiffs' Counsel in the instant case. Yslas Decl. at ¶ 26. *See*, e.g., *Rodolfo Ponce v. Youbar, Inc.*, Los Angeles County Superior Court, Case No. 22STCV37519 (WLF's rates were approved as follows: John G. Yslas ($1,500.00), Samantha A. Smith ($1,000.00), Jeffrey C. Bils ($850.00), Aram Boyadjian ($600.00), Lisa B. Iturriaga ($550.00), and Andrew Sandoval ($500.00)); *Sabrina N. Batres v. Wish Automotive II, Inc. dba Infiniti of Van Nuys*, Los Angeles County Superior Court, Case No. 23STCV19968 (WLF's rates were approved as follows: John G. Yslas ($1,500.00), Jeffrey C. Bils ($850.00), Aram Boyadjian ($600.00), Lisa B. Iturriaga ($550.00), and Andrew Sandoval ($500.00)); *Diandrea Correa et al. v. CareMeridian, LLC, et al.,* Los Angeles County Superior Court, Case No. 23STCV10707 (WLF's rates were

approved as follows: John G. Yslas ($1,500.00), Samantha A. Smith ($1,000.00), Jeffrey C. Bils ($850.00), Fawn F. Bekam ($800.00), Diego Aviles ($800.00), Aram Boyadjian ($600.00), Harry Erganyan ($600.00), Lisa B. Iturriaga ($550.00), and Andrew Sandoval ($500.00)); *Carlos Santos Granados v. Sunny Hills Management Co., Inc.,* Los Angeles County Superior Court, Case No. 23STCV02109 (WLF's rates were approved as follows: John G. Yslas ($1,500.00), Samantha A. Smith ($1,000.00), Jeffrey C. Bils ($850.00), Diego Aviles ($750.00), Courtney M. Miller ($650.00), Aram Boyadjian ($600.00), Harry Erganyan ($600.00), Mariam Nazaretyan ($550.00), Lisa B. Iturriaga ($550.00), and Andrew Sandoval ($500.00)); *Kayla Kurges v. Khanna Enterprises, Ltd. dba Sheraton Agoura Hills,* Los Angeles County Superior Court, Case No. 24STCV01590 (WLF's rates were approved as follows: John G. Yslas ($1,500.00), Jeffrey C. Bils ($850.00), Aram Boyadjian ($600.00), Lisa B. Iturriaga ($550.00), and Andrew Sandoval ($500.00)); *Thora Magney et al. v. Levi Strauss & Co., et al.*, Los Angeles County Superior Court, Case No. 24STCV02320 (WLF's rates were approved as follows: John G. Yslas ($1,500.00), Samantha A. Smith ($1,000.00), Jeffrey C. Bils ($850.00), Fawn F. Bekam ($800.00), Aram Boyadjian ($600.00), Lisa B. Iturriaga ($550.00), and Andrew Sandoval ($500.00)); *Armando Muniz, et al. v. Lot LLC, dba Lot Management LLC (fka Red Cow, Inc.), et al.,* Los Angeles County Superior Court, Case No. 22STCV32901 (WLF's rates were approved as follows: John G. Yslas ($1,500.00), Samantha A. Smith ($1,000.00), Jeffrey C. Bils ($850.00), Diego Aviles ($750.00), Aram Boyadjian ($600.00), Harry Erganyan ($600.00), Mariam Nazaretyan ($550.00), Lisa B. Iturriaga ($550.00), and Andrew Sandoval ($500.00)); *George Munoz v. Century West, LLC dba Century West BMW*, Los Angeles County Superior Court, Case No. 23STCV04247 (WLF's rates were approved as follows: John G. Yslas ($1,500.00), Samantha A. Smith ($1,000.00), Jeffrey C. Bils ($850.00), Aram Boyadjian ($600.00), Lisa B. Iturriaga ($550.00), and Andrew Sandoval ($500.00)); *Ivan S. Martinez II, et al. v. The Haar Company, et al.,* Los Angeles County Superior Court, Case No. 23STCV21651 (WLF's rates were approved as follows: John G. Yslas ($1,500.00), Samantha A. Smith ($1,000.00), Jeffrey C. Bils ($850.00), Diego Aviles ($750.00), Aram Boyadjian ($600.00), Harry Erganyan ($600.00), Mariam Nazaretyan ($550.00), Lisa B. Iturriaga ($550.00), and Andrew Sandoval ($500.00)). *Id*.

Likewise, WLF's hourly rates are reasonable when compared to rates charged within the

relevant legal marketplace. Yslas Decl. ¶¶ 27-28, Exs. 3, 4. In light of the foregoing, and considered against the risks of continued litigation, and the importance of advocating for employment rights and a speedy recovery, the relief provided under the Settlement represents a very strong result for the Aggrieved Employees. PAGA Counsel's fee request is fair and reasonable and should be approved.

### D. PAGA Counsel's Costs Are Reasonable

PAGA Counsel is entitled to reimbursement of its litigation costs under PAGA. *See* Lab. Code § 2699(k)(1) ("Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs."). The Settlement provides for reimbursement of costs not to exceed $30,000.00. Settlement Agreement § 3.2.2. To date, PAGA Counsel has incurred costs in the amount of $19,617.26.[4] Yslas Decl. at ¶ 33, Ex. 5. These costs were reasonably incurred in prosecuting this Action on behalf of the Aggrieved Employees and should be approved by the Court. *Id*. Accordingly, PAGA Counsel respectfully requests the Court approve costs in the amount of $19,617.26.

## VI. THE REQUESTED PAGA SERVICE AWARDS TO PLAINTIFFS ARE REASONABLE

Both the State of California and the Aggrieved Employees are beneficiaries of a settlement that would not have been made possible but for the effort and commitment of Plaintiffs. The Settlement provides that each Plaintiff shall be paid a PAGA Service Award not to exceed $7,500.00 ($30,000.00 total) for initiating the Action and providing services in support of the Action on behalf of the State and other Aggrieved Employees. Settlement Agreement §§ 1.24, 3.2.1. The requested awards are intended to recognize each Plaintiff's effort in bringing the Action, serving as private attorneys general under PAGA, assisting counsel with the investigation, litigation, and settlement, regularly conferring with counsel on the status of the case, and reviewing the proposed settlement to ensure that its terms are fair and achieve PAGA's objectives.

Each Plaintiff has provided a declaration detailing the risk they faced in bringing the suit, the

[4] Because PAGA Counsel's costs are less than $30,000.00, upon approval of $19,617.26 for the PAGA Counsel Costs, the remaining $10,382.74 will be distributed as PAGA Penalties to the LWDA and Aggrieved Employees. Yslas Decl. at ¶ 33.

notoriety and personal difficulties they encountered, the amount of time and effort they spent on this litigation, the duration of this litigation, and the personal benefit they will receive as a result of the litigation. *See generally* Declarations of Latriese Cheri Becker, Lakeisha Becker, Elizabeth Castro, and Magali Yasmin Miranda-Jimenez in Support of Plaintiffs' Motion for Approval of PAGA Settlement (collectively, "Plaintiffs' Decls."). Plaintiffs also faced the real risk that future employers may not hire them because they each lent their names as PAGA representatives in this case, and they could have been liable for Defendant's litigation costs if the case went to trial and they lost. Plaintiffs' Decls. at ¶¶ 4-5. Accordingly, Plaintiffs respectfully request that the Court approve PAGA Service Awards of $7,500.00 to each Plaintiff, for a total of $30,000.00.

## VII. CONCLUSION

Based on the foregoing, Plaintiffs respectfully request this Court approve the PAGA settlement as set forth in the Settlement Agreement and enter the proposed order and judgment submitted herewith.

Dated: October 30, 2026

**WILSHIRE LAW FIRM, PLC**

By: 

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