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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **FOR THE COUNTY OF SANTA BARBARA**

16 MILTON URBINA and HECTOR ZAVALA,
17 an individual and on behalf of all others
18 similarly situated;

19 Plaintiffs,

20 vs.

21 MONTECITO RETIREMENT
22 ASSOCIATION, a California corporation; and
23 DOES 1 through 50,

24 Defendants.

Case No.: 24CV03420

[Assigned for All Purposes to:
Hon. Thomas P. Anderle, Dept. 3]

**NOTICE OF MOTION AND MOTION
FOR APPROVAL OF PAGA
SETTLEMENT, ATTORNEY'S FEES
AND COSTS, AND SERVICE AWARD**

(Filed Concurrently with Supporting
Declarations and [Proposed] Judgment and
Order)

DATE: December 9, 2026

TIME: 10:00 a.m.

DEPT: 3

Action Filed: June 18, 2024

Trial Date: Not Set

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1 TO THE COURT, AND TO ALL PARTIES AND THEIR COUNSEL OF RECORD:
2 PLEASE TAKE NOTICE that on December 9, 2026, at 10:00 a.m. in Department 3 of the
3 Superior Court of the State of California for the County of Santa Barbara, located at 1100 Anacapa
4 Street, Santa Barbara, CA 93101, before the Honorable Thomas P. Anderle, Judge presiding,
5 Plaintiffs Milton Urbina and Hector Zavala (“Plaintiffs”) will move the Court, pursuant to
6 California Private Attorneys General Act (“PAGA”), Labor Code §§ 2698, *et seq.*, for an Order:
7 1. Approving the settlement of this PAGA representative action in the form agreed to
8 by Plaintiffs and Defendant Montecito Retirement Association (“Defendant”) (together with
9 Plaintiffs, the “Parties”) in the PAGA Settlement Agreement (the “Settlement” or “Agreement”);
10 2. Appointing Plaintiffs’ counsel as PAGA counsel, for settlement purposes only, and
11 approving an award to Plaintiffs’ counsel for reasonable attorney’s fees in the amount of
12 \$118,333.33 (33 1/3% of the Gross Settlement Amount) and reasonable costs in the amount of
13 \$10,659.45;
14 3. Appointing Phoenix Settlement Administrators as the Settlement Administrator, and
15 approving payment of Settlement Administrator’s costs in the amount of \$5,950.00;
16 4. Approving a service award in the amount of \$5,000.00 to each Plaintiff, totaling
17 \$10,000.00, for Plaintiffs’ service to the LWDA and Aggrieved Employees;
18 5. Approving the release of PAGA claims by Plaintiffs on behalf of Aggrieved
19 Employees and the LWDA;
20 6. Directing consummation of the Settlement pursuant to its terms and provisions;
21 7. Entering final Judgment; and
22 8. Without affecting the finality of the Judgment and Order, reserving exclusive and
23 continuing jurisdiction over the Action, the Parties, and the Aggrieved Employees for purposes of
24 interpreting and enforcing the terms, conditions, and obligations of the Settlement pursuant to
25 California Code of Civil Procedure § 664.6.

26 This Motion will be based upon this notice, the attached Memorandum of Points and
27 Authorities, Declarations of William C. Sung, Max W. Gavron, William L. Marder, Milton
28 Urbina, Hector Zavala, and Jodey Lawrence of Phoenix Settlement Administrators, and exhibits

1 thereto that were filed concurrently herewith, the records and files in this action, and any other
2 further evidence or argument that the Court may properly receive at or before the hearing.

3
4 Respectfully submitted,

5 DATED: September 28, 2026

JUSTICE FOR WORKERS, P.C.

6
7 By: 

8 William C. Sung
9 Tiffany L. Luu
10 Joseph C. Ramli
11 Attorneys for Plaintiffs
12 Milton Urbina and Hector Zavala

13
14 DATED: September 28, 2026

DIVERSITY LAW GROUP, P.C.

15 By: /s. Max W. Gavron

16 Larry W. Lee
17 Max W. Gavron
18 Kym Kanenaka
19 Attorneys for Plaintiffs
20 Milton Urbina and Hector Zavala

21 DATED: September 28, 2026

Polaris Law Group

22 By: /s/ William L. Marder

23 William L. Marder
24 Attorneys for Plaintiffs
25 Milton Urbina and Hector Zavala
26
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiffs Milton Urbina and Hector Zavala (“Plaintiffs”) seek approval of a proposed
4 representative action settlement for civil penalties pursuant to the California Private Attorneys
5 General Act, Labor Code §§ 2698, *et seq.* (“PAGA”) against Defendant Montecito Retirement
6 Association (“Defendant”) (together with Plaintiffs, the “Parties”). After a full day of mediation
7 with experienced neutral mediator Jeffrey P. Fuchsman, Esq., the Parties reached a settlement and
8 thereafter executed a PAGA Settlement Agreement (the “Settlement” or “Agreement”)¹.

9 The Settlement calls for a Gross Settlement Amount of **\$355,000.00**. After deducting
10 Plaintiffs’ counsel’s reasonable attorney’s fees and costs awards, payment for the Settlement
11 Administrator’s cost, and required payment to the California Labor and Workforce Development
12 Agency (the “LWDA”), approximately **\$52,514.30** will be paid to approximately **437** Aggrieved
13 Employees. The average approximate share of the settlement paid to Aggrieved Employees is
14 **\$120.17**. Pursuant to Labor Code § 2699(1)(2)², Plaintiffs now file this unopposed motion, seeking
15 an order approving the proposed Settlement.

16 The settlement of a PAGA claim requires court approval pursuant to the operative PAGA
17 statute, which states that the “court shall review and approve any penalties sought as part of a
18 proposed settlement agreement pursuant to this part.” (Lab. Code § 2699(1)(2).) In deciding whether
19 to grant approval of a proposed settlement, the primary issues to be decided is whether the
20 settlement is fair, adequate, and reasonable. (*Villalobos v. Calandri Sunrise Farm LP* (C.D. Cal.,
21 July 22, 2015, No. CV 12-2615 PSG (JEMx)) 2015 WL 12732709, at *5.)

22 As set forth herein, the proposed Settlement embodies all the features of a settlement that is
23 fair, adequate, and reasonable, as it is the product of (1) an arm’s-length negotiation, (2) negotiated
24 by attorneys experienced in wage and hour issues, (3) subsequent to undertaking sufficient
25

26
27 ¹ A true and correct copy of the Agreement is attached as **Exhibit 1** to the Declaration of William C. Sung (“Sung
Decl.”). The proposed explanatory letter regarding PAGA settlement is attached to the Agreement as **Exhibit A** to the
Agreement. All defined terms in this Motion have the same definition as that in the Agreement.

28 ² This Action and Settlement are subject to pre-PAGA reform, July 1, 2024 PAGA requirements. All citations to Labor
Code §§ 2698, *et seq.* are to the pre-July 1, 2024 PAGA statute.

1 investigation necessary to evaluate the relative strength and value of the PAGA claim, and (4)
2 reflects a reasoned compromise based directly on the relative strength and value of the PAGA
3 claims, as well as the risks, expense, complexity, and likely duration of further litigation.

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

5 **A. PLAINTIFFS' CLAIMS AND PROCEDURAL BACKGROUND**

6 Defendant owns and operates the Casa Dorinda retirement community in Montecito,
7 California. (Sung Decl., ¶ 9.) Defendant employed Plaintiff Urbina as an hourly-paid, non-exempt
8 employee from approximately July 2023 to approximately June 6, 2024 as a cook. (Declaration of
9 Milton Urbina ["Urbina Decl.,"] ¶ 2.) Plaintiff Zavala worked as an hourly-paid, non-exempt
10 employee from approximately January 1, 2026, until about March 30, 2026. (Declaration of Hector
11 Zavala ["Zavala Decl.,"] ¶ 2.)

12 On June 17, 2024, Plaintiff Urbina submitted the LWDA Letter of alleged Labor Code
13 violations to Defendant and the California Labor and Workforce Development Agency (the
14 "LWDA"). (Sung Decl., ¶ 10, **Exh. 2** – LWDA Letter.) Plaintiffs' administrative exhaustion period
15 expired without the LWDA indicating its intent to investigate the allegations. (*Id.*)

16 On June 18, 2024, Plaintiff Urbina filed a Class Action Complaint alleging causes of action
17 for (1) Overtime Violations; (2) Meal Period Violations; (3) Rest Period Violations; (4) Wage
18 Statement Penalties; (5) Waiting Time Penalties; and (6) Unfair Competition (the "*Urbina Action*").
19 (Sung Decl., ¶ 11.) On August 21, 2024, Plaintiff filed the First Amended Complaint ("FAC")
20 adding a cause of action for Civil Penalties Under the California Private Attorneys General Act
21 ("PAGA"). (*Id.*)

22 On August 28, 2024, the Parties stipulated to arbitration of Plaintiff's individual claims,
23 dismiss class claims without prejudice, and to stay representative PAGA claims. (Sung Decl., ¶ 12.)
24 Thereafter, Plaintiff Urbina filed a Demand for Arbitration with JAMS. (*Ibid.*) During the course of
25 the arbitration proceedings, the Parties agreed to mediate on a PAGA representative basis. (*Ibid.*)

26 On or about April 2, 2026, Plaintiff Zavala submitted written notice under Labor Code §
27 2699.3 to the LWDA and Defendant. (Declaration of Max W. Gavron ["Gavron Decl.,"] ¶ 2.) As
28 set forth in the notice, Plaintiff alleged that Defendant violated California Labor Code §§ 201, 202,

203, 204, 226, 226.7, 510, 512, 558, 1194, 1197, and 1197.1, alleging that Defendant failed to pay meal and rest period premium pay at the regular rate of pay, failed to pay overtime wages based on the regular rate of pay, and failed to provide accurate itemized wage statements, among other alleged violations.

On April 7, 2026, Plaintiff Zavala filed a complaint in the Superior Court of California, County of Santa Barbara, alleging causes of action for: (1) failure to pay overtime wages; (2) violation of Labor Code §§ 226.7 and 512; (3) violation of Labor Code § 226.7; (4) violation of Labor Code § 226; and (5) violation of Business and Professions Code § 17200, *et seq.* (the “*Zavala* Action”). (Gavron Decl., ¶ 3.) Defendant thereafter moved to compel Plaintiff Zavala’s claims to arbitration and dismiss his putative class claims. (Gavron Decl., ¶ 3.)

Following the filing of the *Zavala* Action, Plaintiffs’ counsel became aware of the related actions. (*Id.*, ¶ 4.) Plaintiffs’ counsel subsequently met and conferred regarding the overlapping claims and parties and agreed to engage in a global mediation with Defendant. (*Id.*, ¶ 5.) After the Parties reached an agreement to globally resolve the *Urbina* and *Zavala* Actions, Plaintiff Urbina, with leave to amend, filed the operative Second Amended Complaint (“Operative Complaint”) adding Plaintiff Zavala and his PAGA claims to this Action for settlement approval purposes. (Sung Decl., ¶ 13, **Exh 3** – Operative Complaint.)

B. DISCOVERY AND INVESTIGATION

Prior to mediation, the Parties engaged in informal discovery which allowed the Parties to meaningfully mediate this matter. (Sung Decl., ¶ 14.) Specifically, Defendant produced: (1) PAGA demographics including the number of Aggrieved Employees and pay periods worked; (2) all employee time and payroll records; (3) Defendant’s employee handbook and relevant standalone policies and procedures; and (4) Plaintiff Urbina’s personnel file and wage statements. (*Id.*)

Plaintiffs’ counsel, with the assistance of a retained expert data analyst, analyzed and reviewed the documents regarding Defendant’s wage and hour policies and practices, the Aggrieved Employees’ time and pay records, and other information provided by Defendant and Plaintiffs. (Sung Decl., ¶ 15.) Plaintiffs’ counsel was able to evaluate the probability of success on the merits and Defendant’s maximum and risk-adjusted monetary exposure and prepare a damage analysis

1 prior to mediation. (*Id.*) In conjunction with their extensive factual investigation, Plaintiffs’ counsel
2 also investigated the applicable law regarding the claims and defenses asserted in the litigation. (*Id.*)

3 **C. SETTLEMENT NEGOTIATIONS**

4 On May 8, 2026, the Parties participated in private mediation before Jeffrey P. Fuchsman,
5 Esq., an experienced, neutral, class action and PAGA mediator. (Sung Decl., ¶ 16.) The settlement
6 negotiations were at arm’s length and, although conducted in a professional manner, were
7 adversarial. (*Id.*) After extensive negotiations and discussions regarding the strengths and
8 weaknesses of Plaintiffs’ claims and Defendant’s defenses, the Parties reached a global settlement
9 of the two actions at mediation. (*Id.*) The Parties recognized that the issues presented in the Actions
10 are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that
11 further litigation will lead to inconvenience, distraction, disruption, delay, and expense
12 disproportionate to the potential benefits of litigation. (*Id.*) Plaintiffs and Plaintiffs’ counsel
13 considered the risk and uncertainty of the outcome inherent in any litigation when determining
14 whether this Settlement was the correct option. (*Id.*)

15 **D. KEY TERMS OF THE PROPOSED PAGA SETTLEMENT**

16 The Settlement covers all current and former hourly or non-exempt employees employed by
17 Defendant in California during the PAGA Period (“Aggrieved Employees”). (Agreement, § I.2.)
18 The PAGA Period is from June 18, 2023 to July 22, 2026. (Agreement, § I.11.) The Gross
19 Settlement Amount of the Settlement is \$355,000.00. (Agreement, § I.9.) The Settlement provides
20 that Plaintiffs’ counsel may seek an award of reasonable attorney’s fees of up to one-third of the
21 Gross Settlement Amount (Plaintiffs only seek \$118,333.33, or 33 1/3%, in fees in this Motion),
22 and up to \$20,000.00 in litigation costs. (Agreement, § III.4.a.) Plaintiffs’ litigation costs are
23 approximately \$10,659.45, including estimated future costs in filing this Motion and supporting
24 papers (\$77.97), supplemental filings for this Motion (\$16.17), and filing of the Settlement
25 Administrator’s declaration of compliance re settlement administration (\$16.17). (Sung Decl., ¶ 17,
26 Exh. 4 – Itemized Costs; Gavron Decl., ¶ 25, Exh. B.)

27 The Settlement Administrator will be paid administration costs not to exceed \$5,950.00.
28 (Agreement, § III.4.b.) The Parties jointly selected Phoenix Settlement Administrator as the neutral

1 entity to administer this Settlement based on its bid of \$5,950.00. (Sung Decl., ¶ 18; *see also*
2 Declaration of Jodey Lawrence [“Admin. Decl.”], ¶ 22, Exh. B – Administrator Bid.) The
3 Settlement further provides that Plaintiffs will be paid a service award in the amount of \$5,000.00
4 each, totaling \$10,000.00, for Plaintiffs’ service to the LWDA and the Aggrieved Employees.
5 (Agreement, § III.4.c.)

6 After deducting Plaintiffs’ attorney’s fee and cost awards, service award, and payment to the
7 Settlement Administrator, in the amounts approved by the Court, the remainder, called the Net
8 Settlement Amount, will be distributed as 75% to the LWDA and 25% to Aggrieved Employees.
9 (Agreement, § III.5.) The amount estimated in the Net Settlement Amount for the LWDA payment
10 and the Aggrieved Employee payment is **\$210,057.22**. (Sung Decl., ¶ 19.) Accordingly,
11 approximately **\$52,514.30** (25% of the Net Settlement Amount) will be paid to the estimated 437
12 Aggrieved Employees on a pro-rata basis based on the number of pay periods each Aggrieved
13 Employee worked during the PAGA Period, and the raw average payment to Aggrieved Employees
14 is estimated at **\$120.17**, with the highest payment estimated at **\$276.65** and the lowest payment
15 estimated at **\$1.27**. (*Id.*; *see* Agreement, § III.5.a.)

16 Defendant will fund the Gross Settlement Amount within 14 days of the Effective Date,
17 which is the date that the Court enters a final order and judgment approving the Settlement.
18 (Agreement, §§ I.5, III.2.) Within 14 days of the Effective Date, Defendant will provide the
19 Settlement Administrator with a PAGA list of all Aggrieved Employees, including their full name,
20 last known mailing address, social security number, and number of Pay Periods or dates of
21 employment. (Agreement, § IV.2.)

22 Upon receipt of the PAGA list, the Settlement Administrator will perform a search on the
23 National Change of Address database to update the Aggrieved Employees’ addresses. (Agreement,
24 § IV.3.) Within 14 calendar days of the Settlement being fully funded, the Settlement Administrator
25 will mail copies of the explanatory letter, attached as **Exhibit A** to the Agreement and translated
26 into Spanish, along with Individual PAGA Payments to all Aggrieved Employees; and distribute the
27 75% share of PAGA penalties to the LWDA, court-approved attorney’s fees and cost awards to
28 Plaintiffs’ counsel; and court-approved administration costs to itself. (Agreement, §§ IV.3, IV.5.)

1 Any checks for Individual PAGA Payments returned as non-deliverable will be remailed to
2 the forwarding address affixed thereto. (Agreement, § IV.4.) If no forwarding address is provided,
3 the Settlement Administrator will promptly attempt to determine the correct address, using a skip-
4 trace or other similar search, using the name, address and/or Social Security number of the
5 Aggrieved Employee involved and will perform a single re-mailing if a new address is located. (*Id.*)
6 Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by
7 checks remaining un-cashed for more than 180 days after issuance, will be tendered to the State
8 Controller's Office under the unclaimed property fund laws in the names of the Aggrieved
9 Employees to whom the checks were issued. (*Id.*)

10 **III. DISCUSSION**

11 **A. AVAILABILITY OF CIVIL PENALTIES**

12 The LWDA and its constituent departments and divisions are authorized to assess and
13 collect civil penalties for specified violations of the Labor Code committed by an employer. With a
14 stated goal of improving enforcement of existing Labor Code obligations, the California Legislature
15 adopted the Labor Code Private Attorneys General Act of 2004, permitting, as an alternative, an
16 aggrieved employee to initiate a private civil action "on behalf of himself or herself and other
17 current or former employees...." (Lab. Code § 2699(a).) The penalties collected in these private
18 civil actions are to be distributed 75% to the LWDA and 25% to the aggrieved employees. (*Id.* at §
19 2699(i).) Before an employee may file an action seeking to recover civil penalties for violations of
20 any of the Labor Code provisions enumerated in Labor Code § 2699.5, he or she must comply with
21 the Act's administrative procedures as set forth in Labor Code § 2699.3, subdivision (a). (*Caliber*
22 *Bodyworks, Inc. v. Superior Court* (2005) 134 Cal.App.4th 365, 437; *see also Dunlap v. Superior*
23 *Court* (2006) 142 Cal.App.4th 330.) Here, in compliance with Labor Code § 2699.3, Plaintiffs
24 provided notice to the LWDA and Defendant. (Sung Decl., ¶ 10, Exh. 2; Gavron Decl., ¶ 2.)
25 Plaintiffs' administrative exhaustion periods expired without the LWDA indicating its intent to
26 investigate the allegations. (*Ibid.*) Accordingly, Plaintiffs may proceed with this PAGA
27 representative action.

28 ///

1 **B. THE SETTLEMENT WARRANTS APPROVAL**

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

4 **1. The Relief is Genuine, Meaningful, and Consistent with the Underlying**
5 **Purpose of the Statute to Benefit the Public**

6 Plaintiffs' counsel has conducted a thorough investigation into the facts of this case. (Sung
7 Decl., ¶ 20.) Based on the foregoing discovery and on their own independent investigation and
8 evaluation, Plaintiffs' counsel is of the opinion that the Settlement is fair, reasonable, and adequate.
9 (*Id.*) Furthermore, considering all known facts and circumstances, the risk of significant delay, trial
10 risk, appellate risk, the defenses that could be asserted by Defendant on the merits, the Settlement is
11 in the best interests of the Aggrieved Employees and the State. (*Id.*) The Settlement avoids the
12 risks, burdens, and the accompanying expense of further litigation. (*Id.*) Although the Parties have
13 engaged in a significant amount of investigation, informal discovery, and employee data analysis,
14 they have not participated in substantial formal discovery procedures, including depositions and
15 expert discovery. (*Id.*) Moreover, preparation for trial would remain for the Parties, as well as the
16 prospect of appeals in the wake of any summary judgment ruling. (*Id.*) As a result, the Parties
17 would incur considerably more attorneys' fees and costs through trial. (*Id.*)

18 Based on Plaintiffs' counsel's analysis of the time and payroll records provided by
19 Defendant and on information from Plaintiffs, Plaintiffs' counsel evaluated Defendant's maximum
20 and risk-adjusted potential exposure. (Sung Decl., ¶ 21.) Based on Defendant's disclosures, there
21 were approximately 437 Aggrieved Employees who collectively worked approximately 20,366 pay
22 periods. (*Id.*) Plaintiffs' counsel's damages valuation utilizes the initial violation rate penalty of
23 \$100 in analyzing PAGA penalties because, based on Plaintiffs' counsel's investigation, Defendant
24 has not been subject to any prior court judgments or Labor Commissioner order placing it on notice
25 of any violation pertaining to the claims Plaintiffs asserted and the heightened subsequent violation
26 penalty does not apply. (*Id.*; see *Bernstein v. Virgin America, Inc.* (9th Cir. 2021) 990 F.3d 1157,
27 1173.) Plaintiffs' counsel's valuation of each theory of liability is set forth below.

28 ///

1 Regular Rate Violations. Regular rate of pay, which can change from pay period to pay
2 period, includes adjustments to the straight time rate, reflecting, among other things, shift
3 differentials and the per-hour value of any nonhourly compensation the employee has earned.
4 *Alvarado v. Dart Container Corp. of California* (2018) 4 Cal.5th 542, 554; *see also Ferra v. Loews*
5 *Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863 (meal and rest period premiums to be paid at
6 regular rate of pay); Lab. Code § 246(l)(1) (paid sick leave to be paid at the regular rate of pay or at
7 a rate based on a 90-day lookback of compensation earned).

8 Here, Plaintiffs alleged that Defendant failed to factor all non-discretionary incentive
9 compensation, including shift differentials and other types of bonuses, into the regular rate of pay
10 for overtime, meal period premiums, and paid sick leave, and that Defendant unlawfully calculated
11 the regular rate on shift differentials for overtime under the rate-in-effect method, instead of the
12 weighted average method. (Sung Decl., ¶ 22.) Plaintiffs' counsel found approximately 34.53% of
13 pay periods had an overtime regular rate violation, 3.54% of pay periods had a meal period
14 premium regular rate violation, and approximately 12.58% of pay periods had a paid sick leave
15 violation. (*Id.*) At \$100 initial penalty rates and extrapolated to 20,366 pay periods, PAGA penalties
16 are \$703,294.00 for overtime violations, \$72,130.61 for meal period premium violations, and
17 \$256,281.63 for paid sick leave violations. (*Id.*)

18 In response, Defendant argued that it factored shift differentials into the overtime rate based
19 on the rate-in-effect method, which resulted in employees being paid more wages than under the
20 weighted average method advocated by Plaintiffs. (Sung Decl., ¶ 23.) Defendant further argued that
21 other types of bonuses at issue were discretionary and need not be factored into the regular rate or
22 damages were *de minimis*, and that Defendant is entitled to an offset for overpaid overtime wages
23 against underpaid meal period premiums and paid sick leave. (*Id.*).

24 Wage Statement Violations. Plaintiffs alleged that Defendant's wage statements violated
25 Labor Code § 226(a) because many of its shift differentials did not show the applicable hourly rates
26 in effect during the pay period and the corresponding number of hours worked at each hourly rate.
27 (Sung Decl., ¶ 24.) Plaintiffs' counsel found approximately 51.70% of pay periods contained one of
28 the shift differential codes that did not provide for corresponding rates and hours, and including

1 regular rate violations, the combined wage statement violation rate was 53.09%. (*Id.*) At \$100 initial
2 penalty rates and extrapolated to 20,366 pay periods, PAGA penalties for wage statement violations
3 are \$1,081,136.70. (*Id.*)

4 In response, Defendant argued that shift differentials were bonuses and therefore did not
5 need to have corresponding hours and rates in wage statements. (Sung Decl., ¶ 25.) Defendant
6 further pointed to its substantive defenses on regular rate to argue that these derivative claims will
7 fail with the underlying claims. (*Id.*)

8 Waiting Time Violations. Plaintiffs alleged that, as a result of the aforementioned wage
9 violations, Defendant failed to pay all wages due to formerly employed Aggrieved employees upon
10 their separation of employment in violation of Labor Code §§ 201 and 202. (Sung Decl., ¶ 26.) At
11 \$100 per former employee for 128 former employees, PAGA penalties are estimated to be
12 \$12,800.00. (*Id.*)

13 In response, Defendant points to its substantive defenses on regular rate claims to argue that
14 these derivative claims will fail with the underlying claims. (Sung Decl., ¶ 27.)

15 Maximum Exposure and Realistic Recovery. Based on the foregoing, Plaintiffs' counsel
16 estimates Defendant's maximum exposure for PAGA penalties to be approximately **\$2,114,022.9**,
17 which is approximately 16.79% of the Gross Settlement Amount. (Sung Decl., ¶ 28.) However,
18 PAGA penalties are subject to discretionary reduction by this Court. (*Id.*) Pursuant to Labor Code §
19 2699(f)(2), the Court can decline to award the full amount of PAGA penalties where "if, based on
20 the facts and circumstances of the particular case, to do otherwise, would result in an award that is
21 unjust, arbitrary and oppressive, or confiscatory." Indeed, courts have affirmed the reduction of
22 PAGA penalties in the past. As shown in *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504,
23 517, the Court of Appeal affirmed the trial court's reduction of PAGA penalties by 90%, citing the
24 employer's good-faith attempt at complying with the law. (*See also Thurman v. Bayshore Transit*
25 *Mgmt., Inc.* (2012) 203 Cal.App.4th 1112, 1135 [affirming reduction of PAGA penalties]; *Fleming*
26 *v. Covidien Inc.* (C.D. Cal. 2011) Case No. ED CV10-01487 RGK (OPx), 2011 WL 7563047, at *4
27 [reducing PAGA penalties by over 82% in part because employer "not aware" of violations].) Here,
28 Defendant argued that based on its compliant policies and practices, its defenses on Plaintiffs'

1 theories of liability on the merits, and the hypertechnical nature of the regular rate claims, the Court
2 will significantly reduce any award of PAGA penalties based on its good-faith compliance with the
3 Labor Code. (Sung Decl., ¶ 28.)

4 Considering Defendant’s defenses on the merits and the potential for the Court to reduce a
5 PAGA penalty award, Plaintiffs’ counsel believes there is a 75% risk factor that the Court will find
6 some of the claims in Defendant’s favor and/or exercise its discretion to reduce the PAGA penalty
7 award. (Sung Decl. at ¶ 29.) Accordingly, applying a 75% discount to the maximum penalty
8 exposure, Plaintiffs’ counsel believes the realistic recovery at trial on these claims to be
9 **\$528,505.74.** (*Id.*) The \$355,000.00 settlement is an excellent result and amounts to “genuine and
10 meaningful” relief “consistent with the underlying purpose of the statute to benefit the public” as it
11 represents approximately **67.17%** of Plaintiffs’ realistic recovery. (*Id.*; see *Villalobos v. Calandri*
12 *Sonrise Farm LP* (C.D. Cal., July 22, 2015, No. CV 12-2615 PSG (JEMx)) 2015 WL 12732709, at
13 *5; see also *O’Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1135.)

14 **C. THE REQUESTED ATTORNEYS’ FEES AND COST AWARD SHOULD BE**
15 **APPROVED**

16 For the reasons set forth below, Plaintiffs request that the Court approve an attorney’s fee
17 award of **\$118,333.33** and cost award of **\$10,659.45** to Plaintiffs’ counsel.

18 **1. Plaintiffs’ Counsel Request an Award of Fees Based on the Common**
19 **Fund Method**

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

25 Plaintiffs’ counsel seeks an award of attorneys’ fees on the “percentage of recovery/common
26 fund” theory. The purpose of this approach is to “spread litigation costs proportionately among all the
27 beneficiaries so that the active beneficiary does not bear the entire burden alone.” (*Vincent v. Hughes Air*
28 *W., Inc.* (9th Cir. 1977) 557 F.2d 759, 769.) In *Quinn v. State of Cal.* (1975) 15 Cal.3d 162, the California

1 Supreme Court stated, “one who expends attorneys’ fees in winning a suit which creates a fund from
2 which others derive benefits, may require those passive beneficiaries to bear a fair share of the litigation
3 costs.” (*Id.* at p. 167.) Similarly, in *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, the
4 California Supreme Court recognized that the common fund doctrine has been applied “consistently in
5 California when an action brought by one party creates a fund in which other persons[] are entitled to
6 share.” (*Id.* at pp. 110–11 [pincite omitted].) The reasons for applying this doctrine include:

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

14 (*Id.* at p. 111.)

15 The percentage approach is preferable to the lodestar because: (1) it aligns the interests of
16 class counsel and absent class members; (2) it encourages efficient resolution of the litigation by
17 providing an incentive for early, yet reasonable, settlement; and (3) it reduces the demands on judicial
18 resources. (*Id.* at pp. 1378–79.) California Courts now routinely use the percentage of the common
19 fund approach to determine the award of attorney’s fees. (*See, e.g., In re Pac. Enter. Sec. Litig.* (9th
20 Cir. 1995) 47 F.3d 373, 378–79 [approving attorneys’ fee award of 33%].)

21 **2. The Requested Fee is in Line with Typical Cases**

22 According to a leading treatise on class actions: “No general rule can be articulated on what is a
23 reasonable percentage of a common fund. Usually, 50% of the fund is the upper limit on a reasonable fee
24 award from a common fund in order to assure that the fees do not consume a disproportionate part of the
25 recovery obtained for the class, although somewhat larger percentages are not unprecedented.” (Newberg,
26 *Newberg on Class Actions* (3rd ed. 1992) § 14.03.) Attorneys’ fees that are 50% of the fund are typically
27 considered the upper limit, with 30–40% commonly awarded in cases where the settlement is relatively
28 small. (*Id.*; *see also Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 297 [stating
that most cases where 30–50% was awarded involved “smaller” settlement funds of under \$10 million].)
Here, Plaintiffs request attorneys’ fees equal to 33 1/3% of the Gross Settlement Amount, which is
in line with the prevailing guidelines established under California case law and in academic

1 literature and is consistent with awards in California. (*Chavez v. Netflix, Inc.* (2008) 162
2 Cal.App.4th 43, 66, n.11 [“Empirical studies show that, regardless whether the percentage method
3 or the lodestar method is used, fee awards in class actions average around one-third of the
4 recovery.”].)

5 **3. The Matter Involves a Fee and Cost Shifting Provision under PAGA**

6 Labor Code § 2699 provides for the recovery of reasonable attorney’s fees as well as costs of
7 suit. (Lab. Code § 2699(g)(1).) Specifically, it states: “Any employee who prevails in any [PAGA]
8 action shall be entitled to an award of reasonable attorney’s fees and costs....” (*Id.*) This fee/cost-
9 shifting provision reflects the understanding that PAGA Counsel must accept significant risk of
10 substantial expenses and consumption of time, energy, and other resources in litigating a PAGA
11 claim, and thus, that PAGA Counsel is not only permitted, but entitled, to recover reasonable
12 attorneys’ fees and costs if successful in litigating a PAGA claim.

13 This Settlement is beneficial in that it limits the risk of continued expenses and consumption
14 of time, energy, and resources facing Defendant while at the same time rewarding Plaintiffs’
15 counsel for their decision to assume risk by taking on this matter. (Sung Decl., ¶ 30.) In fact,
16 prosecution of this action involved significant financial risk for Plaintiffs’ counsel. (*Id.*) Plaintiffs’
17 counsel undertook this matter solely on a contingent basis, with no guarantee of recovery. (*Id.*)
18 Once Plaintiffs’ counsel undertook this litigation on behalf of the Aggrieved Employees, they
19 committed to pursue it to its conclusion, placing their fiduciary duty to the Aggrieved Employees
20 ahead of all other concerns. (*Id.*)

21 **4. The Experience, Reputation, and Ability of Plaintiffs’ counsel Support**
22 **the Requested Fee Award**

23 As demonstrated by their past experience in pursuing class and representative actions on
24 behalf of employees, Plaintiffs’ counsel possess considerable expertise in litigating class action and
25 representative matters. (Sung Decl., ¶¶ 2-7; Gavron Decl., ¶¶ 9-16; Declaration of William L. Marder
26 [“Marder Decl.”], ¶¶ 3-7, 9.) Plaintiffs’ counsel have been involved as lead counsel or co-counsel in
27 a multitude of class and representative actions resulting in beneficial results to class members and
28 aggrieved employees in California. (Sung Decl., ¶¶ 5-7; Gavron Decl., ¶¶ 13-15; Marder Decl., ¶¶ 3-

7, 9.) Because it is reasonable to compensate Plaintiffs’ counsel commensurate with their skill, reputation, and experience, Plaintiffs’ counsel’s requested fee award is supported here. Plaintiffs’ counsels’ experience in wage and hour class and representative actions was integral in evaluating the strengths and weaknesses of the case against Defendant and the reasonableness of this Settlement. Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning the rapidly evolving substantive law (state and federal), as well as the procedural law of representative action litigation.

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

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

Although California courts support the common fund doctrine, the lodestar method can be used to cross-check fee awards. “It may be appropriate in some cases, assuming the class benefit can be monetized with a reasonable degree of certainty, to ‘cross-check’ or adjust the lodestar in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation.” (*In re*

1 *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557 [quoting *Lealao, supra*, 82 Cal.App.4th
2 at pp. 49–50].)

3 Applying the lodestar method is a two-step process. The first step is to multiply the number
4 of hours reasonably expended by a reasonable hourly rate, and the second step is to apply a
5 multiplier to the lodestar to account for various factors. (*Id.* at p. 556.) “The purpose of such
6 adjustment is to fix a fee at the fair market value for the particular action. In effect, the court
7 determines, retrospectively, whether the litigation involved a contingent risk or required
8 extraordinary legal skill justifying augmentation of the unadorned lodestar in order to approximate
9 the fair market rate for such services.” (*Id.*) “Under certain circumstances, a lodestar calculation
10 may be enhanced on the basis of a percentage-of-the-benefit analysis.” (*Id.* at pp. 556–57.) Further,
11 “California case law permits fee awards in the absence of detailed time sheets.” (*Wershba v. Apple*
12 *Computer, Inc.* (2001) 91 Cal.App.4th 224, 255.)

13 Under California law, lodestar multipliers can range from 2 to 4 or even higher. *See, e.g.,*
14 *Chavez v. Netflix* (2008) 162 Cal.App.4th 43, 49-50 (approving multiplier of about 2.5); *Coalition*
15 *for L.A. County Planning etc. Interest v. Bd. of Supervisors* (1977) 76 Cal.App.3d 241, 251
16 (approving multiplier of about 12.8). In representative actions such as this one, where the value of
17 the benefit conferred to the representative group “can be monetized with a reasonable degree of
18 certainty,” the court may “adjust the lodestar in comparison to a percentage of the common fund to
19 ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal
20 marketplace in comparable litigation.” *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557.

21 Moreover, the use of a multiplier is permitted in a PAGA action. PAGA provides that “[a]ny
22 employee who prevails in any action shall be entitled to an award of reasonable attorney’s fees and
23 costs.” (Lab. Code § 2699(g)(1).) Although PAGA does not provide a specific standard for
24 evaluating attorneys’ fees in connection with a settlement of PAGA claims, California Courts have
25 employed a lodestar analysis and use of multipliers for this purpose. “Where a settlement produces
26 a common fund for the benefit of the entire class, courts have discretion to employ either the
27 lodestar method or the percentage-of-recovery method. . . To guard against an unreasonable result,
28 the Ninth Circuit encourages district courts to “cross-check[] their calculations against a second

method. . . . Accordingly, the Court calculates attorneys’ fees in the instant case using the percentage-of-recovery method and then cross-checks its calculations against the lodestar method.” (*Hermosillo v. Davey Tree Surgery Co.* (N.D. Cal. July 7, 2021, No. 18-CV-00393-LHK) 2021 WL 2826697, at *1 [quoting *In re Bluetooth Headset Prods. Liab. Litig.* (9th Cir. 2011) 654 F.3d 935, 942, 944–45].) The court in *Hermosillo* granted, in part, a plaintiff’s counsel’s unopposed motion for attorneys’ fees and costs in a PAGA-only settlement, wherein 33.33% of the gross settlement fund was requested for fees. (*Hermosillo*, at *1–3.)

Here, Plaintiffs’ counsel’s current lodestar is **\$154,510.00**, broken down as:

Name	Laffey Matrix Fee	Actual Billing Rate	Hours Billed	Lodestar
Justice for Workers, P.C. Attorneys				
William C. Sung (15 th Year Attorney)	\$948	\$900	81.6	\$73,440
Tiffany L. Luu (6 th Year Attorney)	\$581	\$550	15.7	\$8,635
Joseph C. Ramli (5 th Year Attorney)	\$581	\$500	34.8	\$17,400
Guneez Ibrahim (1 st Year Attorney)	\$508	\$350	4.1	\$1,435
Diversity Legal Group Attorneys				
Max W. Gavron (13 th Year Attorney)		\$750	52.4	\$39,300
Polaris Law Group Attorneys				
William L. Marder (33 rd Year Attorney)		\$900	18.8	\$16,920

(Sung Decl., ¶¶ 31-33, **Exh. 5** – Time and Task Logs for William Sung, Tiffany Luu, and Joseph Ramli; Gavron Decl., ¶¶ 17-18, **Exh. A**; Marder Decl., ¶¶ 8-10, **Exh. A**.) Plaintiffs’ counsel’s requested fee award represents a **negative 0.76** lodestar multiplier. (Sung Decl., ¶ 31.) Additionally, Plaintiffs’ counsel estimate they will devote no less than 10 hours, although likely more time, to additional tasks, which are hours not included in the foregoing lodestar total. (Sung Decl., ¶ 34.) These additional hours will include time spent to obtain and monitor approval of the Settlement and requested awards, oversee the settlement administration process and distribution of funds, respond

1 to inquiries, and communicate with Plaintiffs regarding the case. (*Id.*)

2 Plaintiffs' counsel also bear the risk of taking whatever actions are necessary if Defendant
3 fails to pay. The amount of fees requested under the Settlement is warranted based on the
4 contingent risk that Counsel incurred, the difficulty of the questions involved, the substantial benefit
5 conferred on the Aggrieved Employees and State of California as a result of the Settlement, and the
6 skill displayed by Plaintiffs' counsel. Thus, the request for attorneys' fees satisfies a lodestar check.
7 Accordingly, the Court should find that the circumstances of the present case justify an award of 33
8 1/3% of the Gross Settlement Amount for attorneys' fees.

9 **6. Plaintiffs' Counsels' Costs Are Reasonable and Actually Incurred**

10 Plaintiffs' counsel are entitled to recover the out-of-pocket costs and expenses they
11 reasonably incurred in investigating, prosecuting, and settling a case. (*Staton v. Boeing Co.* (9th Cir.
12 2003) 327 F.3d 938, 974; Lab. Code § 2699(g)(1).) Under the proposed Settlement, Plaintiffs'
13 counsel may request reimbursement of costs up to \$20,000.00. (Agreement, § III.4.a.) Plaintiffs'
14 counsel seek reimbursement of actual costs in the amount of \$10,659.45, including estimated future
15 costs in filing this Motion and supporting papers (\$77.97), supplemental filings for this Motion
16 (\$16.17), and filing of the Settlement Administrator's declaration of compliance re settlement
17 administration (\$16.17). (Sung Decl., ¶ 17; **Exh. 4**; Gavron Decl., ¶ 25, **Exh. B.**) Plaintiffs'
18 mediation and expert invoices are included in Exhibit 4. These expenses were reasonably necessary
19 to the litigation and were actually incurred. Moreover, these expenses are below the maximum
20 amount allowed in the Settlement, and the remainder will be allocated to the Net Settlement
21 Amount. Therefore, costs should be reimbursed in full, up to the maximum amount allowed in the
22 Settlement.

23 **D. THE COURT SHOULD APPROVE THE REQUESTED PLAINTIFFS'**
24 **ENHANCEMENT AWARD.**

25 Courts routinely approve enhancement payments to compensate named plaintiffs for the
26 services they provide and the risks they incur during class action litigation. (*See, e.g., Bell v.*
27 *Farmers Ins. Exchange* (2004) 115 Cal.App.4th 715, 726 [upholding "service payments" to named
28 plaintiffs for their efforts in bringing the case]; *Van Vranken v. Atlantic Richfield Co.* (N.D. Cal.

1 1995) 901 F. Supp. 294 [approving \$50,000 service payment].) Indeed, “[i]ncentive awards are
2 fairly typical in class action cases.” (*Rodriguez v. West Publ’g Corp.* (9th Cir. 2009) 563 F.3d 948,
3 958.) The Court may award incentive payments to compensate a plaintiff for work done on behalf
4 of the class, to make up for financial or reputational risk undertaken in bringing the action. (*Id.* at
5 958-59.)

6 Here, Plaintiffs seek a service award of \$5,000.00 each, totaling \$10,000.00, and Plaintiffs
7 and Plaintiffs’ counsel submit that this request is reasonable given Plaintiffs’ efforts in this case and
8 the risks Plaintiffs undertook on behalf of the State and Aggrieved Employees. (Urbina Decl., ¶¶ 4-
9 5; Sung Decl., ¶ 35; Gavron Decl., ¶ 23; Zavala Decl., ¶ 7.) Plaintiffs expended substantial time and
10 effort on behalf of the State and Aggrieved Employees, including providing factual information and
11 documents to counsel, attending meetings with counsel to discuss the claims and theories at issue in
12 the litigation, and otherwise actively participating in the prosecution of their claims. (Urbina Decl.,
13 ¶ 4; Zavala Decl., ¶ 7.) As a result of Plaintiffs’ efforts, they have helped the State recover over
14 \$157,542.91 in civil penalties and 437 Aggrieved Employees recover on average \$120.17 in civil
15 penalties per person. (Sung Decl., ¶ 35.)

16 **E. THE COURT SHOULD APPROVE THE SETTLEMENT**
17 **ADMINISTRATION FEES**

18 Pursuant to the terms of the Settlement, the fees and costs of the Settlement Administrator,
19 are to be paid out of the common fund. (Agreement, § III.4.B.) The settlement administration fees
20 are based on a flat-sum amount of \$5,950.00. (*Id.*; Admin. Decl., ¶ 15, Exh. B.) The Settlement
21 Administrator’s duties include, but are not limited to, receiving and analyzing the Aggrieved
22 Employee list, processing Aggrieved Employees’ names and addresses against the National Change
23 of Address database (“NCOA”) prior to mailing, setting up and managing a Qualified Settlement
24 Fund (“QSF”) Escrow Account, calculating Individual PAGA Payments to Aggrieved Employees,
25 disbursing settlement payments to Aggrieved Employees, the State of California, and Plaintiffs’
26 counsel including necessary tax forms (i.e., 1099 Forms) and PAGA settlement explanatory letter,
27 tendering funds from uncashed checks to the Unclaimed Property Fund to be held in the name of the
28 Aggrieved Employee, and submitting final accounting to the Court. (Admin. Decl., ¶ 15, Exh. B;

1 Agreement, §§ IV.1-7.) All of these duties are included in the agreed-upon flat fee of \$5,950.00.

2 Thus, the Administrator's fees should be approved.

3 **F. PROOF OF SERVICE OF SETTLEMENT AND ALL MOVING PAPERS ON**
4 **THE LWDA**

5 On September 28, 2026, Plaintiffs' counsel served the LWDA via filing through its online
6 portal at <https://dir.govfa.net/432> (Proposed Settlement of PAGA Case) with a copy of the fully
7 executed Agreement, Motion for Approval of PAGA Settlement, all supporting declarations and the
8 Proposed Judgment and Order. (Sung Decl., ¶ 36, **Exh. 6** – LWDA Filing Confirmation.)

9 **IV. CONCLUSION**

10 For the foregoing reasons, Plaintiffs respectfully request that the Court grant approval of the
11 proposed Settlement, sign the (Proposed) Judgment and Order submitted herewith.

12
13 Respectfully submitted,

14 DATED: September 28, 2026

JUSTICE FOR WORKERS, P.C.

15
16 By: 

17 _____
William C. Sung
Tiffany L. Luu
Joseph C. Ramli
Attorneys for Plaintiffs
Milton Urbina and Hector Zavala

18
19
20 DATED: September 28, 2026

DIVERSITY LAW GROUP, P.C.

21
22
23 By: /s. Max W. Gavron

24 _____
Larry W. Lee
Max W. Gavron
Kym Kanenaka
Attorneys for Plaintiffs
Milton Urbina and Hector Zavala

1 DATED: September 28, 2026

Polaris Law Group

2
3 By: /s/ William L. Marder

4 William L. Marder

5 Attorneys for Plaintiffs

6 Milton Urbina and Hector Zavala
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