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CHANDON PETTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

CHANDON PETTY,

Plaintiff,

vs.

RENEWAL BY ANDERSEN LLC, a Minnesota Limited Liability Company; WEILAND SLIDING DOORS AND WINDOWS; ANDERSEN WINDOWS, INC.; ANDERSEN LOGISTICS SACRAMENTO, LLC; ANDERSEN DISTRIBUTION, INC.; ANDERSEN CORPORATION; rFINANCE COMPANY; and DOES 1-10, Inclusive,

Defendants.

Case No. 30-2024-01426932-CU-OE-CXC
Hon. David A. Hoffer
Dept.: CX103

NOTICE OF MOTION AND MOTION FOR APPROVAL OF PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Date: August 31, 2026
Time: 1:30 p.m.
Dept: CX103

Reservation No.: 74858111

Complaint Filed: September 19, 2024
Trial Date: None set

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on August 31, 2026, at 1:30 p.m., or as soon thereafter as counsel may be heard, in Department CX103 of the above-captioned Court, the Honorable David A. Hoffer presiding, Plaintiff Chandon Petty will and hereby does move this Court for an order approving the settlement of his representative PAGA claims. The key terms of the Settlement Agreement are described herein and in the Declaration of James B. Hardin filed concurrently herewith ("Hardin Dec.").

This Motion is made pursuant to Labor Code section 2699(s)(2). The settlement was reached through arm's-length negotiations facilitated by mediator David Phillips, Esq. of Signature Resolution. The key terms of the proposed settlement are as follows:

- Gross Settlement Amount: $25,000.00.
- Attorneys' Fees: $5,000.00 (twenty percent (20%) of the Gross Settlement Amount) to Plaintiff's Counsel.
- Litigation Costs: $2,500.00 (actual, documented out-of-pocket costs; Hardin Dec. ¶ 21).
- Representative Enhancement Award: $1,000.00 to Named Plaintiff Chandon Petty (Hardin Dec. ¶ 31).
- Settlement Administration Costs: $7,990.00 (not-to-exceed) to Apex Class Action Administration.
- Net Settlement Amount: The remaining $8,510.00 shall be distributed 75% to the LWDA ($6,382.50) and 25% to the approximately 1,000 PAGA Members ($2,127.50) on a per-employee headcount basis.
- Remedial Measures: Andersen has agreed to revise its Employment Agreements with California employees to remove or modify the challenged noncompete, choice-of-law, choice-of-venue, and fee-shifting provisions.
- Releases are limited to PAGA claims only; PAGA Members do not waive individual non-PAGA claims.
- No reversion: all settlement funds will be disbursed in full; none revert to Andersen.
- Settlement checks not cashed within 180 days are void; unclaimed funds are paid to the LWDA.

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This Motion is based upon this Notice of Motion, the accompanying Memorandum of Points and Authorities, the Declaration of James B. Hardin and exhibits thereto, all papers and pleadings on file in this action, and any argument or evidence offered at the hearing.

Dated: May 21, 2026

HARDIN LAW GROUP, APC

By: ______________________________

James B. Hardin
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Chandon Petty ("Plaintiff") moves the Court to approve the settlement of his claims under the Private Attorneys General Act ("PAGA"), Labor Code section 2698 *et seq.*, as amended effective July 1, 2024.[1] Plaintiff submitted a PAGA notice to the LWDA via certified mail on June 11, 2024, on behalf of himself and alleged aggrieved employees—that is, all current and former employees of Andersen, both exempt and non-exempt, who worked in the State of California during the PAGA Period (June 11, 2023 through August 29, 2025) (the "PAGA Members" or "Aggrieved Employees")[2]—with Defendant Renewal by Andersen LLC ("Andersen") and any other responsible entities or affiliates. After no action was taken by the LWDA during the statutory waiting period, Plaintiff filed this case in the Superior Court on September 19, 2024. Pursuant to the PAGA settlement, Plaintiff submitted an Amended LWDA Letter to the LWDA via certified mail on September 10, 2025, and subsequently filed a First Amended Complaint naming various Andersen affiliates so that they could participate in the settlement process. All Andersen defendants are collectively referred to herein as "Andersen."

The PAGA notice alleged four sets of violations arising from Andersen's standardized Employment Agreement: (1) a noncompete that contained an exception for employees residing in California but could arguably go into effect if someone moved out of California to seek alternative employment, thereby potentially violating Business & Professions Code sections 16600 *et seq.* and Labor Code section 432.5; (2) venue for certain disputes to be adjudicated in Minnesota, which could violate Labor Code section 925; (3) choice of law for certain issues, which could violate Labor Code section 925; and (4) fee shifting for certain disputes arising out of the Employment Agreement that could violate Labor Code section 925 as inconsistent with fee-shifting provisions applicable in wage and discrimination claims.

Andersen argued that certain of these provisions were only applicable to certain employees. For example, Andersen has three separate versions of its Employment Agreements (referred to as Form 0, Form 1, and Form 2), which it has revised from time to time, and the noncompete provision is generally

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[1] Plaintiff also asserted various discrimination claims, but these claims have been settled and dismissed with prejudice.

[2] The "Aggrieved Employees" or "PAGA Members" are all current and former employees of Andersen, both exempt and non-exempt, who worked in the State of California during the PAGA Period from June 11, 2023, through August 29, 2025. (*See* PAGA Agr., § II, subds. (A)(18) & (A)(20).)

reserved for exempt employees in California.

Pursuant to the settlement reached at mediation on June 25, 2025 before David Phillips, Esq. with Signature Resolution, Andersen in good faith has agreed to clarify any potential misunderstandings by working with its counsel to revise its Employment Agreements with California employees to ensure that they are legally compliant. Andersen disputes any wrongdoing or violations of law. Plaintiff's counsel notes that there is potential ambiguity on some of these items and in the law, and agrees that the best course of action is to revise the Employment Agreements rather than continue expensive and time-consuming litigation that would not likely benefit PAGA Members. Purely for settlement purposes, even though employees were subject to varying versions of the Employment Agreements, the Parties have agreed to include all exempt and non-exempt employees of Andersen in California, of which there are currently estimated to be approximately 1,000.

This PAGA dispute does not relate to any known lost wages or income from PAGA Members. There are no known monetary losses suffered by any PAGA Members. Thus, while the parties agreed to a $25,000 common fund for the PAGA settlement, the greatest value is achieved by the changes to be made to the Employment Agreements. By all measures, this is a just and fair resolution of the disputed issues.

II. INFORMAL DISCOVERY, MEDIATION, AND SETTLEMENT

Plaintiff learned there were an estimated 1,000 PAGA Members (including Plaintiff) during the PAGA Period (June 11, 2023 to August 29, 2025). As noted above, Andersen employees were subject to a variety of different Employment Agreements with different clauses, including Employment Agreements that did not contain noncompete provisions. Additionally, certain long-term employees did not sign Employment Agreements at all (since they were implemented in 2016) and other employees signed multiple versions of the Employment Agreement, each of which superseded the prior version (since Andersen typically had employees sign new versions of the Employment Agreement with any change in position, e.g., a promotion). Because determination of exactly which employees signed which versions of Employment Agreements would be a cumbersome process requiring Andersen to manually pull and parse through personnel files, and because PAGA penalties arguably attached solely upon entry into the allegedly unlawful agreement,[3] the Parties agreed for settlement purposes to use, and base settlement payments on, the total number of employees rather than a figure based on pay periods. Based on the number of employees at the time of mediation, the potential exposure for PAGA penalties (without "stacking" penalties) was estimated at a total of $100,000 (approximately 1,000 contracts × $100 penalty for each contract at issue). The settlement of $25,000 thus represents a 25% recovery of the estimated maximum exposure—a meaningful recovery given the significant litigation risks discussed below.

The parties participated in a mediation on June 25, 2025 with David Phillips, Esq., a respected mediator with extensive experience in resolving wage and hour class actions and PAGA representative action disputes. Plaintiff attended this mediation along with his counsel. As part of the mediation, Plaintiff reviewed extensive information, including company documents and related data. The parties each investigated the claims asserted, developed exposure models, and prepared detailed mediation briefs. The parties resolved the matter at the June 25, 2025 mediation with the assistance of the mediator.

Plaintiff has considered the expense and length of continued proceedings necessary to litigate his action through trial and through any possible appeals, and the burdens of proof necessary to establish liability for the claims asserted in the action, both generally and in response to Andersen's defenses thereto. Plaintiff has also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation. Plaintiff has also considered the most efficient outcome to provide the most benefit to the Aggrieved Employees. Based on the foregoing, Plaintiff has determined that the settlement is a fair and reasonable resolution that also promotes the objectives of PAGA.

Andersen maintains that it has, and continues to have, legally compliant employment policies and practices throughout the PAGA Period. Andersen does not admit that it ever violated any provision of the California Labor Code, including, but not limited to, those sections for which Plaintiff seeks civil penalties pursuant to PAGA, during the PAGA Period. It has, however, agreed to work with its legal counsel to revise its Employment Agreements as a key component of this settlement. (*See* PAGA Settlement, § II(E)(2).)

The Parties and their counsel recognize the expense and length of continued proceedings necessary

[3] See, e.g., *Williams v. Alacrity Solutions Group, LLC*, 110 Cal. App. 5th 932, 944–45 (2025); *Brown v. Dow Chemical Co.*, 2019 U.S. Dist. LEXIS 55991, at *4–5 (N.D. Cal. Apr. 1, 2019).

to litigate through trial and through any possible appeals and have also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation. The Parties and their counsel are also aware of the burdens of proof necessary to establish liability for the claims alleged, and the affirmative and other defenses asserted. Thus, reaching this Agreement now has the potential for having a higher value today than it might have later if this litigation was to continue. The Parties and their counsel have also taken into account that this Settlement confers substantial benefits to the State of California and to the PAGA Members. Based on the foregoing, each Party and their counsel have determined that the Settlement set forth in this Settlement Agreement is a fair, adequate, and reasonable settlement, and is in the best interests of the PAGA Members.

III. RELEVANT LAW UNDER PAGA

A. PAGA Statutory Scheme

Under PAGA, an "aggrieved employee" may bring an action for civil penalties on behalf of herself and other current or former employees. *See* Cal. Lab. Code § 2699(a). A plaintiff suing under PAGA "does so as the proxy or agent of the state's labor law enforcement agencies." *Arias v. Superior Court*, 46 Cal.4th 969, 986 (2009). Accordingly, a judgment in a PAGA action "binds all those, including nonparty aggrieved employees, who would be bound by a judgment in an action brought by the government." *Id.*; *Iskanian v. CLS Transp. L.A., LLC*, 59 Cal.4th 348, 381 (2014) ("When a government agency is authorized to bring an action on behalf of an individual or in the public interest, and a private person lacks an independent legal right to bring the action, a person who is not a party but who is represented by the agency is bound by the judgment as though the person were a party.")

B. Standard of Review for PAGA Settlements

Effective July 1, 2024, Labor Code section 2699(s)(2) provides that "the superior court shall review and approve any settlement of any civil action filed pursuant to this part." The Labor Code does not require the two-step settlement approval process utilized in class actions (i.e., preliminary, and then final approval)—instead, PAGA settlements are reviewed via a single motion. *See Salazar v. Sysco Central Cal, Inc.*, No. 15-cv-01758-DAD, 2017 WL 1135801, *2 (E.D. Cal. Feb. 2, 2017) (rejecting the application of class action settlement rules and procedures for PAGA settlement approval). The California Labor Workforce Development Agency has explained that when trial courts are reviewing PAGA settlements, they should consider whether "the relief provided for under the PAGA [is] genuine and meaningful, consistent with the underlying purpose of the statute to benefit the public." *O'Connor v. Uber Techs., Inc.*, No. 13-03826-EMC, CF No. 736 at 2–3 (N.D. Cal. Jul. 29, 2016); *see also Salazar*, 2017 WL 1135801, *2 (quoting the above passage). Accordingly, nothing in PAGA changes the strong judicial preference in support of approving settlements. *See, e.g., Osumi v. Sutton*, 151 Cal.App.4th 1355, 1357 (2007) (confirming the "[s]trong public policy in favor of the settlement of civil cases").

Several federal cases have evaluated these issues and provided persuasive authority on the appropriate standards of review. Federal courts have approved PAGA settlements "if the settlement terms (1) meet the statutory requirements set forth by PAGA, and (2) are fundamentally fair, reasonable, and adequate in view of PAGA's public policy goals." *Rincon v. West Coast Tomato Growers, LLC*, No. 13-CV-2473-JLS (KSC), 2018 WL 8281046, *62 (S.D. Cal. Feb. 12, 2018); *Gutilla v. Aerotek, Inc.*, No. 115CV00191DADBAM, 2017 WL 2729864, at *3 (E.D. Cal. Mar. 22, 2017) (same).

C. Statutory Requirements of PAGA

PAGA imposes limits on litigants. First, to bring an action under PAGA, an aggrieved employee must first provide written notice to the LWDA as well as to the employer. Cal. Lab. Code § 2699.3(a)(1). Further, as to monetary relief, a plaintiff suing under PAGA is limited to recovery of civil penalties only, rather than damages available privately through direct or class action claims. *Gutilla*, 2017 WL 2729864, at *2. Because "an aggrieved employee's action under . . . [PAGA] functions as a substitute for an action brought by the government itself, PAGA is limited to the recovery of civil penalties; statutory penalties cannot be recovered." *Rincon*, 2018 WL 8281046, at *3, citing *Iskanian*, 327 P.3d 129, 147. Any civil penalties recovered must be distributed as follows: 75% to the LWDA, and the remaining 25% to the aggrieved employees. Cal. Lab. Code § 2699(i). PAGA also requires that claim notices, responses, and certain court documents be filed with the LWDA, including any proposed settlement of PAGA claims and any Court Order or Judgment in any PAGA case. Cal. Lab. Code § 2699(l).

D. Purpose of PAGA

In 2003, the California Legislature enacted the Private Attorneys General Act ("PAGA"), Cal. Lab. Code § 2698 *et seq.*, after declaring: (i) that adequate financing of labor law enforcement was necessary to achieve maximum compliance; (ii) that staffing levels for state labor law enforcement agencies had declined and were unable to keep up with a growing labor market; (iii) that vigorous assessment and collection of civil penalties provides a meaningful deterrent to unlawful conduct; and (iv) that it was therefore in the public interest to allow aggrieved employees, acting as private attorneys general, to seek and recover civil penalties for Labor Code violations. *See, e.g., Gutilla*, 2017 WL 2729864, at *2 (citing 2003 Cal. Stat. 6629).

PAGA was passed because the Legislature believed it necessary "to achieve maximum compliance with state labor laws" and "to ensure an effective disincentive for employers to engage in unlawful and anticompetitive business practices." *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal.App.4th 365, 374 (2005) (citing 2003 Cal. Legis. Serv. Ch. 906 §§ 1(b)). The Legislature further found that, while self-policing efforts have had some success, "in other cases the only meaningful deterrent to unlawful conduct is the vigorous assessment and collection of civil penalties as provided in the Labor Code." *Id.* Through PAGA, the Legislature thus: (1) sought to "enlist[] willing citizens in the task of private enforcement," *Iskanian*, 59 Cal.4th at 390; (2) "deputized" aggrieved employees to sue on behalf of the State to enforce state labor laws; and (3) authorized them to recover civil penalties, attorneys' fees, and costs. 2003 Cal. Legis. Serv. Ch. 906 (Legislative Counsel's Digest). In bringing a PAGA action, "[t]he employee-plaintiff acts as the proxy or agent of the state labor enforcement agencies, representing the same legal right and interest as those agencies . . . ." *Iskanian*, 59 Cal.4th at 394.

As for the interests of the LWDA (in whose shoes Plaintiff stands), its top enforcement priorities are "to vigorously enforce minimum labor standards in order to ensure employers are not required or permitted to work under substandard unlawful conditions . . ." and to "protect employers who comply with the law from those who attempt to gain a competitive advantage at the expense of their workers by failing to comply with minimum labor standards." Cal. Lab. Code § 90.5(a).

E. Fairness of PAGA Settlements

A PAGA action is a quasi-law-enforcement action and therefore a PAGA settlement does not have to meet the requirements of a class action. *Arias*, 46 Cal.4th at 982. Thus, a court's "fairness" review of a PAGA settlement necessarily implicates unique features that render the process distinct from approval of a class action settlement under Rule 3.769 of the California Rules of Court.

First, in evaluating the adequacy of the settlement amount, the Court's focus is not concerned with the amount(s) that "aggrieved employees" are to receive, but rather, must focus on the total settlement amount in achieving PAGA's objective. "The remedy sought in a PAGA suit consists of civil penalties, not individual or class damages." *Mendez v. Tween Brands, Inc.*, No. 2:10-cv-00072-MCE-DAD, 2010 WL 2650571, *4 (E.D. Cal. Apr. 2, 2010), citing Cal. Lab. Code § 2699(a). "Unlike class actions, these civil penalties are not meant to compensate unnamed employees because the action is fundamentally a law enforcement action." *Ochoa-Hernandez v. CJADERS Foods, Inc.*, No. C 08-2073 MHP, 2010 WL 1340777, at *4 (N.D. Cal. Apr. 2, 2010). "Unlike a class action seeking damages or injunctive relief 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." *Id.*

Second, consistent with the fact that unnamed employees have no property interest in a PAGA claim, "[u]nnamed employees need not be given notice of the PAGA claim, nor do they have the ability to opt-out of the representative PAGA claim." *Id.* at *5. This renders the approval process of a PAGA settlement distinct from a class action settlement, as there is no need for the Court to employ the "two-step approval process" required under Rule 3.769 of the California Rules of Court.

Finally, unlike a class action settlement under Rule 3.769, the scope of release permitted in a PAGA settlement is limited. While judgment in a PAGA action is binding not only on the named employee plaintiff but also on government agencies and any aggrieved employee not a party to the proceeding, the nonparty employees would not be bound by the judgment as to remedies other than civil penalties. *Arias*, 46 Cal.4th at 986–87. Thus, except for the named Plaintiff, the scope of a release in a PAGA settlement is confined to the PAGA penalties alleged in the complaint and PAGA claims that were or could have been alleged pursuant to PAGA.

F. California Policy Favoring Settlements

California courts have a strong policy in favor of settlement. *Stambaugh v. Superior Court*, 62 Cal.App.3d 231, 236 (1976). To be approved, a settlement must be "fair, reasonable and adequate to all concerned." *Reed v. United Teachers Los Angeles*, 208 Cal.App.4th 322, 337 (2012). There is an initial presumption of fairness when the settlement agreement was negotiated at arm's length by experienced counsel. *See, e.g., Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 130 (2008); *Dunk v. Ford*

Motor Co., 48 Cal.App.4th 1794, 1802 (1996). Where these factors exist, as here, a court's review is generally "limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." *Dunk*, 48 Cal.App.4th at 1801.

"In the context of a settlement agreement, the test is not the maximum amount Plaintiff might have obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the circumstances." *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 250 (2001). "A settlement need not obtain 100 percent of the damages sought in order to be fair and reasonable." *Id.* Compromise is inherent and necessary in the settlement process. *Id.* Thus, even if the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated, this is no bar to a settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation. *Id.* In addition, courts review the discovery process and information received through it to assist them in assessing whether the parties sufficiently developed the claims and their supporting factual bases before reaching settlement. *See Kullar*, 168 Cal.App.4th at 129–31. Information is sufficient where it allows the parties and the Court to form "an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation." *Clark v. American Residential Services LLC*, 175 Cal.App.4th 785, 801 (2009).

IV. THE TERMS OF THE SETTLEMENT ARE FAIR AND REASONABLE

As explained in detail in the Hardin Declaration, the heart of Plaintiff's PAGA case involves four contractual paragraphs in Andersen's Employment Agreement. As noted above, that Employment Agreement for Plaintiff differs from Employment Agreements entered into by other Andersen employees—for example, certain Employment Agreements do not contain noncompete provisions. As a key component of this settlement, Andersen has agreed to work with its legal counsel to revise its Employment Agreements with California employees to address each of the four challenged provisions.

A. Paragraph 3 – Noncompete

Paragraph 3 of the Employment Agreement provides as follows:

3. Promises Not to Compete. During my employment and for twelve (12) months after the termination of my employment ("the Restricted Period") (whatever the cause or reason), I will not, within the Territory, do any of the following:

a. Work for or Support a Competing Business or a Covered Customer or Vendor;

> b. Sell any Competing Product or Service;
> c. Induce or encourage a Covered Customer or Vendor to reduce, cancel or discontinue its business with the Company, or in any other manner modify or change its existing or potential business relationship with the Company; or,
> d. Recruit Company Personnel.
> I also agree that, wherever I reside, before I accept employment with a new employer during the Restricted Period, I will inform my new employer of this Employment Agreement, provide my new employer a copy of this Employment Agreement and inform the Company of the identity of my new employer. While I reside in California, Nebraska, North Dakota or Oklahoma, subparagraphs 3(a), 3(b), and 3(c) will not apply to me.

Noncompetes are unenforceable under California law. *See* Cal. Bus. & Prof. Code §§ 16600, *et seq*. However, counsel is not aware of any case law interpreting a noncompete such as this one that does not apply while an employee resides within the jurisdiction of California but that could potentially apply if the employee moves out of California. Regardless, out of an abundance of caution, Andersen has agreed to revise its Employment Agreements with California employees so there is no potential confusion on this issue. If the settlement is approved, California employees will have clarification that they can seek alternative employment consistent with California laws and state policy.

B. Paragraph 9 – Choice of Law

Paragraph 9 of the Employment Agreement provides as follows:

> 9. Governing Law. Except for the Agreement to Arbitrate in paragraph 5 above, which is governed by the FAA, I agree this Employment Agreement will be governed by and construed under the laws of the State of Minnesota, without regard to any contrary conflict of laws principles of Minnesota or another state.

Labor Code section 925 provides that "An employer shall not require an employee who primarily resides and works in California, as a condition of employment, to agree to a provision that would … (1) Require the employee to adjudicate outside of California a claim arising in California (or) (2) Deprive the employee of the substantive protection of California law with respect to a controversy arising in California." Paragraph 9 mandates that any non-arbitrable claims arising under the Employment Agreement be construed under Minnesota law. Thus, if the arbitration clause did not apply or was held unenforceable in some context, this could result in a violation of Labor Code section 925. Andersen argues that the potential for improper application is narrow, particularly since (a) the arbitration provision itself is subject to the FAA and not Minnesota law, and (b) Andersen's corporate offices and principal places of business are in Minnesota. Nonetheless, Andersen has agreed to work with its counsel to revise this clause as appropriate. (*See* PAGA Settlement, § II(E)(2)(c).)

C. Paragraph 13 – Choice of Venue

Paragraph 13 of the Employment Agreement provides as follows:

> 13. Jury Trial Waiver and Procedure if Agreement to Arbitrate is Unenforceable. If (and only if) the Agreement to Arbitrate is ruled void or unenforceable in its entirety, the Company and I agree that all issues in connection with any Claim will be decided by a judge without a jury on an individual basis only, not as a class or collective action, and there will be no right or authority for any Claim to be submitted to, decided or heard by a jury ("Jury Trial Waiver"). The exclusive venue for any Claim subject to the Jury Trial Waiver will be Washington County, Minnesota. If no state or federal court serving Washington County, Minnesota ("a Minnesota court") has jurisdiction over me, forum will be proper in the state where I last regularly worked for the Company. I consent to a Minnesota court's personal jurisdiction, waive my right to object to a Minnesota court's jurisdiction, and I waive any defense that such court is an inconvenient forum.

Paragraph 13 contains two potential issues: (a) a waiver of a jury trial outside of the context of arbitration, and (b) a venue outside of California for employment-related disputes in the event the arbitration clause is held unenforceable. Here, too, Andersen argues that the potential unlawfulness of this provision is remote. It only applies in circumstances where the arbitration agreement itself is ruled unenforceable. Further, it provides that "If no state or federal court serving Washington County, Minnesota . . . has jurisdiction over me, forum will be proper in the state where I last regularly worked for the Company." As a matter of California law, this would mean that the proper forum for a California-based employee is California. Nonetheless, Andersen has agreed to work with its counsel to revise this provision, including clarifying that no jury trial waiver has occurred if the arbitration clause is ruled unenforceable. (*See* PAGA Settlement, §§ II(E)(2)(b) and (E)(2)(d).)

D. Paragraph 14 – Attorneys' Fees

Paragraph 14 of the Employment Agreement provides as follows:

> 14. Attorneys' Fees. The Company and I agree that if either of us brings a Claim against the other, the arbitrator (under paragraph 5) or the court (under paragraph 13, if applicable) will order the non-prevailing party to pay to the other the reasonable and necessary costs, disbursements and attorneys' fees incurred in connection with the Claim (or defense to the Claim), in any of the following instances:
>
> a. Where such an award is warranted under applicable law or rules, including an award of sanctions; or
>
> b. In connection with a Claim for breach of any term or condition of any of the following paragraphs within this Employment Agreement: paragraph 2, 3, 4, 5, 8 or 13.

California law provides for plaintiffs to recover their reasonable attorneys' fees and costs under various statutes, including certain wage claims and employment discrimination claims, but in most cases does not similarly provide for recovery by the employer/defendant as the prevailing party. Thus, Andersen has agreed to work with its legal counsel to revise its Employment Agreements with California employees to address the fee-shifting provisions. If the settlement is approved, California employees will have clarification that any attorneys' fee awards will be governed by existing California law and that the Employment Agreement makes no changes to such laws.

E. The Common Fund Settlement Is Fair

In addition to the significant changes to the Employment Agreement, the parties have agreed to a common fund settlement of Twenty-Five Thousand Dollars ($25,000.00), which is further allocated as follows: (i) Five Thousand Dollars ($5,000.00) for attorneys' fees; (ii) Two Thousand Five Hundred Dollars ($2,500.00) for litigation costs and expenses; (iii) One Thousand Dollars ($1,000.00) as a Representative Enhancement Award to Named Plaintiff Chandon Petty; (iv) Seven Thousand Nine Hundred Ninety Dollars ($7,990.00) for settlement administration costs; and (v) Eight Thousand Five Hundred Ten Dollars ($8,510.00) as the Net Settlement Amount for payment to the LWDA and Aggrieved Employees for settlement of PAGA claims. Seventy-Five Percent (75%) of the PAGA Payment ($6,382.50) shall be paid directly to the Department of Industrial Relations Accounting Unit and Twenty-Five Percent (25%) ($2,127.50) shall be distributed to PAGA Members on a per-employee headcount basis. Other than the named Plaintiff who has released other claims unrelated to the PAGA claims, the releases are limited to PAGA issues only and the other PAGA Members do not waive any individual, non-PAGA claims as part of this Settlement.

Although case law regarding approvals of PAGA-only settlements is somewhat sparse, the few rulings issued strongly indicate that this settlement is fair and reasonable. *See, e.g., Franco v. Ruiz Food Products, Inc.*, No. 1:10-cv-02354-SKO, 2012 WL 5941801 (E.D. Cal. Nov. 27, 2012) (court approved total PAGA penalty of $10,000, with the $2,500 employee portion divided between as many as 2,055 current and former employees); *Schiller v. David's Bridal, Inc.*, No. 1:10-cv-616-AWI-SKO, 2012 WL 217001 (E.D. Cal. June 28, 2012) (court approved total PAGA penalty of $10,000, with the $2,500 employee portion divided between as many as 3,326 individuals). Similarly, in the class action context, courts have approved PAGA allocations that are on par with the monetary result obtained in this case. *See, e.g., Garcia v. Gordon Trucking, Inc.*, No. 1:10-CV-0324 AWI SKO, 2012 WL 5364575, at *2–3 (E.D. Cal. Oct. 29, 2012) (approving settlement for $3.7 million with $10,000 allocated towards PAGA); *Reed v. Thousand Oaks Toyota*, No. 56-2012-00419282-CU-OE-VTA, 2013 WL 8118716 (Cal. Super. Ct. Apr. 8, 2013) (class action settlement approved for $108,624, with $1,500 allocated towards PAGA penalties); *Bolton v. U.S. Nursing Corp.*, No. C 12-4466 LB, 2013 WL 5700403 (N.D. Cal. Oct. 18, 2013) (approving class action settlement for $1,700,000, with $15,000 allocated towards PAGA); *Nordstrom Commission Cases*, 186 Cal.App.4th 576 (2010) (finding no abuse of discretion in approval of more than $9 million settlement releasing PAGA penalties, despite PAGA claims being allocated $0 value). This Settlement is fair and reasonable.

F. The Settlement Was Reached Through Arm's-Length Negotiation

"[W]hat transpires in settlement negotiations is highly relevant to the assessment of a proposed settlement's fairness." *State v. Levi Strauss & Co.*, 41 Cal.3d 460, 482 (1986). Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless evidence to the contrary is offered; thus, there is a presumption that settlement negotiations are conducted in good faith. *Nordstrom Com. Cases*, 186 Cal.App.4th at 581 (2010) (quoting *Cellphone Termination Fee Cases*, 180 Cal.App.4th 1110, 1117–1118 (2009)). The Parties participated in a full-day mediation with David Phillips, who provided useful, neutral analysis of the issues and risks to both sides.[4] At all times, the Parties' negotiations were adversarial and non-collusive. Additionally, both Andersen and Plaintiff were represented by experienced counsel through the negotiations. (Hardin Dec. ¶¶ 11–17); *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 129 (2008) (courts should weigh "the competency and integrity of counsel and the involvement of a neutral mediator in assuring . . . that a settlement agreement represents an arm's length transaction entered without self-dealing or other potential misconduct.")

Based on information obtained through informal discovery, Plaintiff's counsel was able to assess the strengths and weaknesses of the case and the benefits of settlement. As a result, Plaintiff's counsel firmly believes that the settlement represents a very favorable resolution of Plaintiff's and the Aggrieved Employees' claims.

[4] *In re Apple Computer, Inc. Derivative Litig.*, No. C 06-4128 JF (HRL), 2008 WL 4820784 (N.D. Cal. Nov. 5, 2008) (mediator's participation weighs considerably against any inference of a collusive settlement).

G. The Strengths and Weaknesses of Plaintiff's Claims

While Plaintiff believes his PAGA claims have merit, he also recognizes the significant risks of continued litigation. There are several factors that weighed heavily in Plaintiff's assessment that settlement is in the best interests of the PAGA Members.

First, Plaintiff's claims arise under a novel legal theory applying PAGA to Employment Agreement provisions rather than traditional wage and hour violations. Counsel is unaware of published authority directly addressing the specific noncompete structure at issue here—one that expressly exempts California residents but could apply upon relocation out of state—creating meaningful uncertainty as to whether it violates Business & Professions Code section 16600 at all.

Second, there are no known monetary losses suffered by any PAGA Member. Courts have broad discretion to reduce PAGA penalties under Labor Code section 2699(e)(2), particularly where employees suffer no actual harm. Courts have exercised that discretion to dramatically reduce penalties in appropriate cases. *See Cotter v. Lyft, Inc.*, 193 F.Supp.3d 1030, 1037 (N.D. Cal. 2016) (97.5% reduction from maximum penalty). Given the absence of any monetary harm to PAGA Members here, the risk of a similar reduction was significant.

Third, the parties' agreed methodology of calculating penalties on a per-contract (rather than per-pay-period) basis, while supported by authority, was subject to challenge. *See Williams v. Alacrity Solutions Group, LLC*, 110 Cal. App. 5th 932, 944–45 (2025). A per-pay-period calculation would have produced higher theoretical exposure, but courts could also have rejected that approach entirely.

Fourth, trial is always uncertain. Indeed, a number of PAGA trials have resulted in defense verdicts. *See, e.g., Childers v. Anthony Shenouda Inc.*, Case No. BC517798 (Super. Ct. L.A. County) (defense verdict after bench trial, Hon. Elihu Berle); *Allen v. American Multi-Cinema Inc.*, Case No. RG-11-585502 (Super. Ct. Alameda County) (defense verdict after bench trial, Hon. George C. Hernandez).

Thus, in the face of such uncertainty, settlement was advantageous to Plaintiff, the LWDA, and the PAGA Members as it secured a guaranteed monetary recovery supplemented by the significant Employment Agreement revisions that directly benefit all current and future California Andersen employees.

V. THE AGREED-UPON ATTORNEYS' FEES, COSTS, AND INCENTIVE PAYMENT ARE

FAIR AND REASONABLE

For their efforts and the substantial risk they undertook in obtaining the significant changes to the Employment Agreement and common fund settlement that benefits the LWDA and Aggrieved Employees, the Parties allocated $7,500.00 to Plaintiff's Counsel for reasonable attorneys' fees and litigation costs. Specifically, Plaintiff's counsel is seeking attorneys' fees in the amount of $5,000.00 and costs in the amount of $2,500.00. The attorneys' fee award equates to twenty percent (20%) of the $25,000 Gross Settlement Amount. As discussed below, these amounts are warranted under the law and within the range of fees commonly awarded in similar cases.

A. The Attorneys' Fees Are Appropriate Under the Common Fund Doctrine

PAGA provides that a plaintiff who prevails in any action is entitled to recover reasonable attorneys' fees, expenses, and costs under Labor Code section 2699(g)(1), which provides: "Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs, including any filing fee paid pursuant to subparagraph (B) of paragraph (1) of subdivision (a) or subparagraph (B) of paragraph (1) of subdivision (c) of Section 2699.3." In a qui tam action such as this, reasonable attorneys' fees are properly awarded under the common fund doctrine where, as here, the litigation creates a common fund of money in a specific amount for the benefit of others.

"A qui tam action is one brought under a statute that allows a private person to sue as a private attorney general to recover damages or penalties, all or part of which will be paid to the government." *People ex rel. Stratham v. Acacia Research Corp.*, 210 Cal.App.4th 487, 491–492 (2012). "A PAGA representative action is therefore a type of qui tam action." *Iskanian*, 59 Cal.4th at 382; *see, e.g., Laffitte v. Robert Half Int'l Inc.*, 1 Cal.5th 480, 506 (2016); *Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 66 n.11 (2008) (accord). Notably, the California Supreme Court in *Laffitte* affirmed a fee award representing 33 1/3 percent of the fund. *See Laffitte*, 1 Cal.5th at 506. Based on the foregoing, attorneys' fees here in the amount of $5,000.00, representing twenty percent (20%) of the $25,000 common fund, are proper and well within the range approved by California courts.

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

Some courts acknowledge the utility of a lodestar "cross-check." *Lealao v. Beneficial California, Inc.*, 82 Cal.App.4th 19, 44–47 (2000); *see also Laffitte*, 1 Cal.5th at 505. Under the "lodestar multiplier" method of cross-checking the reasonableness of attorneys' fees, the court ascertains Plaintiff counsel's total "lodestar" amount by multiplying the number of hours reasonably expended by each attorney or legal staff member by their hourly rates, and then enhances or reduces this lodestar figure by a "multiplier" to account for a range of factors, such as the novelty or difficulty of the case, its contingent nature, and the degree of success achieved. *PLCM Group, Inc. v. Drexler*, 22 Cal.4th 1084, 1095–96 (2000); *Press v. Lucky Stores, Inc.*, 34 Cal.3d 311, 322 (1983). Plaintiff's counsel is not requesting a multiplier in this case. As set forth in the Hardin Declaration submitted herewith, Plaintiff's counsel — Hardin Law Group, APC and former co-counsel Ward Lott — collectively devoted 93.75 hours of attorney time to this matter (11.75 hours by Mr. Hardin and 82.0 hours by Mr. Lott), representing a total lodestar that substantially exceeds the $5,000.00 fee award sought from this PAGA settlement. Even using only Mr. Hardin's 11.75 hours at his $800.00 hourly rate, the resulting lodestar of $9,400.00 alone exceeds the requested fee. Plaintiff's counsel anticipates dedicating approximately 5–10 additional attorney hours through final approval and the life of this litigation.

C. The Out-of-Pocket Litigation Costs Are Reasonable

Plaintiff's counsel has documented costs incurred in excess of $12,000 in this overall litigation matter, of which we seek reimbursement of only a small portion thereof ($2,500) from the PAGA settlement. A full itemization of costs is set forth in the Hardin Declaration. These costs were both necessary and reasonable considering the $25,000 common fund achieved by Plaintiff and his counsel's efforts.

D. The Incentive Payment Is Reasonable

The use of incentive and enhancement payments to lead plaintiffs in representative actions has long been approved by California courts. *See, e.g., In re Cellphone Fee Termination Cases*, 186 Cal.App.4th 1380, 1393 (2010), as modified (July 27, 2010). Here, Plaintiff seeks an incentive payment of $1,000.00, which is reasonable and consistent with case law given Plaintiff's contributions in initiating this enforcement action, assisting in the investigation, and participating in the mediation.

VI. CONCLUSION

For the foregoing reasons, the Court should grant Plaintiff's Unopposed Motion for Approval of PAGA Settlement.

Dated: May 21, 2026

HARDIN LAW GROUP, APC

By: ______________________________
James B. Hardin
Attorneys for Plaintiff

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 2901 W. Coast Highway, Suite 200, Newport Beach, California 92663.

On May 21, 2026, I served the foregoing document described as **NOTICE OF MOTION AND MOTION FOR APPROVAL OF PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** on the following person(s) in the manner indicated:

SEE ATTACHED SERVICE LIST

☐ (BY MAIL) I am familiar with the practice of Hardin Law Group, APC for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On this date, a copy of said document was placed in a sealed envelope, with postage fully prepaid, addressed as set forth herein, and such envelope was placed for collection and mailing at Hardin Law Group, APC, Newport Beach, California, following ordinary business practices.

☐ (BY OVERNIGHT FEDERAL EXPRESS) I am familiar with the practice of Hardin Law Group, APC for collection and processing of correspondence for delivery by overnight courier. Correspondence so collected and processed is deposited in a box or other facility regularly maintained by Federal Express that same day in the ordinary course of business. On this date, a copy of said document was placed in a sealed envelope designated by Federal Express with delivery fees paid or provided for, addressed as set forth herein, and such envelope was placed for delivery by Federal Express at Hardin Law Group, APC, Newport Beach, California, following ordinary business practices.

☐ (BY HAND DELIVERY) I am familiar with the practice of Hardin Law Group, APC for collection and processing of correspondence for hand delivery by courier. I caused such document to be delivered by hand to the addresse(s) designated.

☒ (BY ELECTRONIC TRANSMISSION) I served electronically from the electronic notification address of brice@hardinemploymentlaw.com the document described above and a copy of this declaration to the person and at the electronic notification address set forth herein. The electronic transmission was reported as complete and without error.

☐ **(**BY ELECTRONIC SERVICE) I am causing the document(s) to be served by email or electronic transmission via USA Legal sent on the date shown below to the email addresses of the persons listed in the attached service list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on May 21, 2026, at Newport Beach, California.

Briana Rice
Briana Rice

SERVICE LIST

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