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GUDELIA CRUZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

GUDELIA CRUZ, an individual, on behalf of herself and all similarly situated employees,

Plaintiff,

vs.

SHABASCO, INC., a California Corporation; EL POLLO LOCO, INC., a California Corporation; SHABBIR RANGWALA, an individual; and DOES 1 through 100, inclusive,

Defendants.

Case No. 24STCV21759

ASSIGNED FOR ALL PURPOSES TO
THE HONORABLE ELAINE LU
DEPARTMENT: 9

NOTICE OF UNOPPOSED MOTION AND UNOPPOSED MOTION FOR AN ORDER APPROVING SETTLEMENT UNDER CALIFORNIA LABOR CODE PRIVATE ATTORNEYS GENERAL ACT AND ENTERING ORDER APPROVING PAGA SETTLEMENT (LABOR CODE § 2698 ET SEQ.)

[*Concurrently filed with [Proposed] Order; Declaration of Michael C. Robinson; Declaration of Jodey Lawrence; Declaration of Gudelia Cruz*]

Briefing Schedule by Court
Date: January 7, 2026
Time: 10:00 a.m.
Dept.: 9
Reservation ID: N/A
Opposition Due : December 18, 2025
Reply Due: December 24, 2025

TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on January 7, 2026 at 10:00 a.m. or as soon as thereafter as this matter may be heard in Department 9 of the Los Angeles Superior Court – Central District, Spring Street Courthouse (312 N. Spring St., Los Angeles, CA 90012), plaintiff GUDELIA CRUZ ("Plaintiff") will and does move the Court for an Order pursuant to California Labor Code § 2699(1):

1. Granting approval of the PAGA Settlement Agreement (the "Settlement" or "Settlement Agreement") between Plaintiff and Defendants Shabasco, Inc. and Shabbir Rangwala ("Defendants") attached as Exhibit B to the Declaration of Michael C. Robinson ("Robinson Decl."), including but not limited to the plan of allocation and distribution of the Gross Settlement Amount;

2. Approving the distribution of the Net Settlement Amount, currently estimated to be $101,666.67 of which sixty-five percent (65%) shall be paid to the California Labor and Workforce Development Agency and twenty-five percent (35%) shall be paid to the PAGA Members on a pro rata basis based upon the number of Pay Periods worked during the PAGA Period;

3. Appointing Phoenix Class Action Administration Solutions ("Phoenix") as the Settlement Administrator and approving the payment of $3,250.00 to Phoenix in connection with the costs of administering the Settlement;

4. Awarding Plaintiff's counsel, Robinson Di Lando, A Professional Law Corporation, attorney's fees totaling 1/3% of the Gross Settlement Amount estimated to be $58,333.33 and costs of $11,750.00 for reimbursement of actual litigation costs and expenses under Labor Code section 2699(g)(1).

5. Directing the deposit of the Gross Settlement Amount into an account for administration of the Settlement and directing the Settlement Administrator to distribute the Gross Settlement Amount in accordance with the Settlement Agreement; and

6. Directing the mailing of the Individual PAGA Payments checks to the Aggrieved Employees under a cover letter substantially similar in content and form to the proposed cover letter

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attached as “Exhibit C” to the Robinson Decl.

In accordance with Labor Code section 2699(1)(2), a copy of the proposed Settlement Agreement, as well as information regarding the approval hearing and this subject Motion were submitted to the California Labor and Workforce Development Agency via online filing on September 24, 2025 (See Robinson Decl. ¶ 15, Ex. D.)

This Motion is based on this Notice, the attached Memorandum of Points and Authorities, the concurrently filed Declaration of Michael Robinson (and attached exhibits), the concurrently filed Declaration of Jodey Lawrence on behalf of Phoenix, the concurrently filed Declaration of Plaintiff, all corresponding exhibits, all pleadings and papers on file, all matters of which the Court may take judicial notice, and any other written or oral evidence that may be presented at the hearing on this Motion.

Defendants do not oppose the subject Motion.

DATED: September 24, 2025

ROBINSON DI LANDO
A Professional Law Corporation

By: ______________________________
Michael C. Robinson, Jr.
Orion S. Robinson

Attorneys for Plaintiff
GUDELIA CRUZ

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION AND SUMMARY OF ARGUMENT

Plaintiff GUDELIA CRUZ ("Plaintiff") and Defendants SHABASCO, INC. and SHABBIR RANGWALA (collectively, "Defendants") seek approval of the PAGA Settlement Agreement (the "Settlement" or "Settlement Agreement") between Plaintiff and Defendants under Labor Code section 2699(1)(2). The settlement was reached through settlement discussions after extensive informal discovery (informal exchange of PAGA aggrieved employees' time and payroll records, pertinent wage policies, etc.), investigation by Plaintiff, the utilization of an expert to conduct several damage analyses, and after engaging in a full day mediation with an experienced mediator, Anthony Pantoni, Esq. (Signature Resolution). Through this Motion, the Parties request that the Court grant the approval of the Settlement Agreement signed by the parties and enter the Order Approving PAGA Settlement accordingly. The terms of the Settlement are:

- Number of Aggrieved Employees: Estimated to be 101;
- PAGA Period: September 4, 2023 through the date the Court enters the Order Approving PAGA Settlement;
- Gross Settlement Amount: $175,000.00;
- Plaintiff's Counsel Fees Payment: $58,333.33;
- Plaintiff's Counsel Litigation Costs Payment: $11,750.00;
- Settlement Administration Payment: not to exceed $3,250.00;
- Settlement Amount: $101,666.67.

The Net Settlement Amount will be distributed as follows: sixty-five percent (65%), i.e. $66,083.33, will be paid to the California Labor and Workforce Development Agency; thirty-five percent (35%), i.e. $35,583.34, will be paid to Aggrieved Employees on a pro rata basis according to the number of Pay Periods worked by each PAGA Member from September 4, 2023 through the date the Court enters the Order Approving PAGA Settlement (the "PAGA Period."). The Aggrieved Employees are comprised of all current and former hourly-paid, non-exempt employees who were employed by Defendants in the State of California at any time during the PAGA Period. (See

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Declaration of Michael Robinson ("Robinson Decl.") Ex. B, Settlement Agreement § 1.4.)

The Settlement is the product of formal discovery, informal discovery, the use of wage experts, a full day mediation, and arms-length negotiations by highly experienced counsel, and it is fair, reasonable, and adequate in light of the relative strengths of Plaintiff's PAGA claims, the risk, expense, and uncertainty of further litigation, the benefit conferred by the Settlement, and the underlying goals associated with recovery under the Private Attorneys General Act. Plaintiff has approved the settlement, and believes it is in the best interest of the aggrieved employees. (See Declaration of Gudelia Cruz ¶ 6.) The Parties therefore respectfully request that the Court approve the proposed Settlement and enter the Order Approving PAGA Settlement.

II. FACTUAL BACKGROUND

On or about August 26, 2024, Plaintiff filed this Action as a putative class action alleging claims for failure to pay minimum wages, failure to pay overtime wages, failure to compensate for missed meal periods, failure to compensate for missed rest periods, failure to pay for earned wages upon separation, failure to furnish accurate wage statements, violation of Labor Code § 226(C); violation of Labor Code § 1198.5, violation of Labor Code § 2802, and violation of Business and Professions Code section 17200. (Robinson Decl. ¶ 2.) On November 8, 2024, Plaintiff filed a First Amended Complaint to include a claim for Civil Penalties under Labor Code § 2699, et seq. (PAGA). (Robinson Decl. ¶ 2.)

Previously, on or about August 23, 2024, Plaintiff filed a letter with the Labor and Workforce Development Agency ("LWDA") and provided copies of this letter to Defendants via certified mail, asserting claims for Defendants' alleged violations of Labor Code Sections 2699.5, 98.6, 200, 201, 202, 203, 204, 210, 226, 226.3, 226.7, 2802, 510, 512, 558, 1102.5, 1174, 1194, 1194.2, 1197, 1197.1, 1198.5, 2802, 2699, and applicable Wage Orders. (Robinson Decl. ¶ 3, Exhibit A.)

On or around October 31, 2024, Defendants provided Plaintiff with an arbitration agreement for Plaintiff, and demanded that Plaintiff's individual claims submitted to binding arbitration and the representative PAGA claim stayed. (Robinson Decl. ¶ 4.) Plaintiff and Defendants met and

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conferred regarding the arbitration agreement, and agreed to proceed with mediation of Plaintiff's representative PAGA claim. (Robinson Decl. ¶ 4.)

Thereafter, the Parties agreed to stay formal discovery, schedule a mediation and conduct informal discovery consisting of:

- Plaintiff's time records, wage statements, and personnel file, including a copy of the meal period waiver in place;
- Time Records – a random 20% sample of PAGA Members' time records during the PAGA period;
- Payroll Records – a random 20% sample of PAGA Members'payroll information during the PAGA period;
- Policies, employee handbooks, and other forms related to the claims made in the matter and used during the PAGA period; and
- Data regarding the number of current and former non-exempt employees working during the PAGA period, pay periods worked, and average rate of pay.

(Robinson Decl. ¶ 5.)

Defendants provided Plaintiff with a sampling of time and payroll records, policies, and procedures, and Plaintiff subsequently provided the produced records to her retained wage expert for review and analysis. (Robinson Decl. ¶ 6.) On May 14, 2025, the Parties participated in a full day mediation with Anthony Pantoni, Esq. (Robinson Decl. ¶ 6.) The Parties were able to reach a settlement at the mediation.

III. SETTLEMENT TERMS

A. Definition of Aggrieved Employees

Under the Settlement Agreement, Plaintiff's representative claims include Aggrieved Employees defined as all persons employed by Shabasco in California, classified as hourly, non-exempt employees, during the PAGA Period of September 4, 2023 through the date the Court enters the Order Approving PAGA Settlement. (Robinson Decl. ¶ 7.) "PAGA Period" means the period of time commencing on September 4, 2023 through the date the Court enters the Order Approving PAGA Settlement. (Robinson Decl. ¶ 7.) There were approximately 101 Aggrieved Employees through February 19, 2025. (Robinson Decl. ¶ 8.)

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B. Gross Settlement Amount

The Parties have agreed to settle the PAGA claims at issue for a Gross Settlement Amount of $175,000 based on 2,777 pay periods through February 19, 2025. (Robinson Decl. 8.) Based on Defendants' counsel's review and analysis of the records, Defendants estimate that, through May 14, 2024, there were approximately 101 Aggrieved Employees who worked 3,155 Pay Periods during the PAGA Period. (Robinson Decl. 8; Settlement Agreement § 5.1.)

C. Allocation and Funding of the Gross Settlement Amount

The Settlement is a common fund and therefore includes all requested costs, fees, and other allocations. Subject to Court approval, the Gross Settlement Amount includes: (1) Plaintiff's Counsel Fees Payment in the amount of 1/3% of the Gross Settlement Amount estimated to be $58,333.33; (2) Plaintiff's Counsel Litigation Costs Payment of $11,750.00; and (3) the Settlement Administration Payment of $3,250.00. After the foregoing amounts are deducted from the Gross Settlement Amount, the remaining Net Settlement Amount will be paid to the LWDA and PAGA Members. (Robinson Decl. ¶ 9, Ex. B, Settlement Agreement ¶ 1.15.)

The Net Settlement Amount is currently estimated to be $101,666.67and will be distributed as follows: 65% of the Net Settlement Amount will be paid to the LWDA, and the remaining 35% will be paid to all Aggrieved Employees on a pro rata basis based upon the number of pay periods worked by each Aggrieved Employee during the PAGA Period. (Robinson Decl. ¶ 10; Ex. B, Settlement Agreement § 3.2.3.1.) The Administrator will report the Individual PAGA Payments on IRS 1099 forms. (Robinson Decl. ¶ 11; Ex. B, Settlement Agreement § 3.2.3.2.)

Defendants will deliver to the Administrator the Aggrieved Employee Data in the form of a Microsoft Excel Spreadsheet and Aggrieved Employee List within twenty one (21) days of the Court's approval of the settlement. (Robinson Decl. ¶ 12; Ex. B, Settlement Agreement § 5.2.) Within thirty (30) calendar days of the Effective Date (the date by when the Order Approving PAGA Settlement is final), Defendants will fully fund the Gross Settlement Amount by transmitting the funds to the Administrator. (Robinson Decl. ¶ 13; Ex. B, Settlement Agreement § 5.3.) Within fourteen (14) calendar days after Defendants fund the Gross Settlement Amount, the Administrator

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will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, and the PAGA Counsel Expenses Payment. (Robinson Decl. ¶ 13; Ex. B, Settlement Agreement § 5.4.) The Administrator will issue checks for the Individual PAGA Payments and send them to Aggrieved Employees via First Class U.S. Mail, postage prepaid. (Robinson Decl. ¶ 13; Ex. B, Settlement Agreement § 5.4.1.) Checks will remain negotiable for 180 days. (Robinson Decl. ¶ 13; Ex. B, Settlement Agreement § 5.4.1.) Before mailing any checks, the Administrator must update the recipients' mailing address using the National Change of Address Database. (Robinson Decl. ¶ 13; Ex. B, Settlement Agreement § 5.4.1.) The Administrator must conduct an address search for all Aggrieved Employees whose checks are returned undelivered without a USPS forwarding address. (Robinson Decl. ¶ 13; Ex. B, Settlement Agreement § 5.4.2.) For any Aggrieved employee who's Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved employee. (Robinson Decl. ¶ 13; Ex. B, Settlement Agreement § 5.4.3.)

D. Dismissal of the Class Claims Against Defendants

As part of the Settlement, Plaintiff agreed to seek approval to dismiss the class claims filed in the Action without prejudice, and does so in connection with this motion. (Robinson Decl. ¶ 14; Ex. B, Settlement Agreement § 4.1.) The Settlement is conditioned upon the approval of the PAGA Settlement and approval of the dismissal of the class claims without prejudice. (*Id.*)

E. Scope of the Release in the Settlement Agreement

Upon the Court's approval of this Settlement, Aggrieved Employees shall release Defendant and the Released Parties as follows:

> "All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice. (Robinson Decl. ¶ 14; Ex. B, Settlement Agreement § 6.1.)

This release shall apply to all such claims arising during the PAGA period. (Robinson Decl. ¶ 14.)

The mailing of the Individual PAGA Payments checks to the Aggrieved Employees will be sent under a cover letter substantially similar in content and form to the proposed cover letter attached to the declaration of Michael C. Robinson as "Exhibit C". (Robinson Decl. ¶ 15.) Further, in accordance with Labor Code section 2699(1)(2), a copy of the proposed Settlement Agreement, as well as information regarding the approval hearing and this subject Motion were submitted to the California Labor and Workforce Development Agency via online filing at https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html on September 24, 2025. (Robinson Decl. ¶ 15; Exhibit D.)

IV. LEGAL STANDARD

PAGA allows an "aggrieved employee" to bring a civil action on behalf of himself or herself, other aggrieved employees and the State to recover civil penalties which, outside of PAGA, only the LWDA can collect from an employer. (Lab. Code, § 2699(a).) The settlement of a PAGA action requires court approval. (See Lab. Code, § 2699 (l)(2).)

In reviewing a PAGA settlement, the Court need only ensure that "a negotiated resolution is fair to those affected." (*Williams v. Sup. Ct*. (2017) 3 Cal.5th 531, 549.) In making this assessment, the court's focus is not the monetary amount which the aggrieved employees or the State stand to receive, but on whether the total amount achieves PAGA's objective. (See *Ochoa- Hernandez v. CJADERS Foods, Inc.*, (N.D. Cal. Apr. 2, 2010) 2010 WL 1340777 at *4 [citing *Arias v. Sup. Ct*. (2009) 46 Cal.4th 969, 986].) Penalties recovered under PAGA are, in part, to "be distributed to the [LWDA] for enforcement of labor laws...and for education of employers and employees about their rights and responsibilities under this code...to supplement the funding to the agency for those purposes." (See Labor Code § 2699(j).) Because a PAGA claim is effectively considered a law enforcement action, it does not have to meet the requirements of a class action. (*Arias*, *supra*, 46 Cal.4th at pp. 980-88.) And because a PAGA claim is "a statutory action for penalties brought as a proxy for the State," "there is no need to protect absent employees' due process rights[.]" (*Williams*, *supra,* 3 Cal.5th at p. 546.) This renders approval of a PAGA settlement distinct from a class action settlement and, under both federal and state law, the Court need not employ the twostep approval process that applies to a class action settlement.

V. THE SETTLEMENT IS FAIR AND REASONABLE

"[A] trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." (*Moniz v. Adecco USA, Inc*. 2021) 72 Cal.App.5th 56, 77.) Many of the factors used to evaluate a settlement's fairness in class actions cases on may "be useful in evaluating the fairness of a PAGA settlement". (*Id*.)

As set forth below, the Settlement before the Court is the result of adversarial, arms-length negotiations with an experienced mediator and experienced counsel, extensive investigation, discovery, and fulfills the objectives of the PAGA. Moreover, the Settlement is fair and reasonable in light of the relative strengths of the PAGA Claims and risks associated with protracted litigation. Thus, the Settlement should be approved by the Court.

A. Plaintiff Complied with the Administrative Requirements of Labor Code Section 2699

Before bringing a civil action under PAGA, an employee must comply with the notice requirements described in Labor Code section 2699.3. Plaintiff complied with this requirement. (Robinson Decl. ¶ 16.) The Settlement Agreement and this Motion, along with supporting papers, are being submitted to the California Labor and Workforce Development Agency, as required by California Labor Code section 2699 (l)(2). (Robinson Decl. ¶ 17.)

B. Arms-Length Negotiations

Although PAGA settlements are not subject to the same, there are heightened requirements as a class action settlement, and the underlying guidelines utilized in class action settlements may be useful in evaluating the fairness of a PAGA settlement. California courts recognize that "a presumption of fairness exists where . . . [a] settlement is reached through arm's-length bargaining." (*Wershba v. Apple Computer* (2001) 91 Cal.App.4th 224, 245 [disapproved on other grounds].)

Here, the parties engaged in arms-length, non-collusive negotiations at all times including attending a full day of mediation with Anthony Pantoni, Esq., a highly respected mediator with extensive experience in wage and hour matters including actions brought pursuant to the Private

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Attorneys General Act. At all times, Plaintiff was willing and prepared to litigate this matter through arbitration and trial, and possible appeals if a favorable resolution had not been reached. The proposed Settlement was reached at the end of a process that was neither fraudulent nor collusive. To the contrary, counsel for each Party advanced their positions throughout the settlement negotiations. (Robinson Decl. ¶ 18.) Further, Plaintiff authorized the settlement because she believed it was fair, reasonable, adequate, and made in the best interest of the aggrieved employees. (Gudelia Cruz Decl. ¶ 6.)

C. Sufficient Investigation and Discovery by Experienced Counsel

Prior to mediation, the Parties engaged in informal discovery. Through informal discovery, Plaintiff's counsel obtained a random sampling of time and payroll records for the Aggrieved Employees, as well as information regarding the total number of employees, the number of current and former employees, the number of pay periods worked within the relevant time period, company policies and procedures related to wage and hour, meal waivers, and other relevant information. (Robinson Decl. ¶ 19.) Plaintiff's counsel retained a wage expert to review the records and conduct an analysis regarding Plaintiff's claims. (Robinson Decl. ¶ 19.) This allowed Plaintiff's counsel to conduct an informed assessment and analysis of Defendants' potential exposure. (Robinson Decl. ¶ 19.) The Parties briefed their positions regarding the strengths and weaknesses of Plaintiff's claims and Defendants' defenses, provided their analyses to each other and the mediator, and debated the merits of their respective positions at mediation. (Robinson Decl. ¶ 20.) Furthermore, negotiations were conducted by capable counsel who have strong records of effective advocacy in wage and hour litigation. (Robinson Decl. ¶ 20.) Plaintiff's counsel, with over thirty years of experience, has represented both plaintiffs and defendants in wage and hour litigation, including class action wage claims, PAGA claims, and individual wage and hour claims. (Robinson Decl. ¶ 21.) Plaintiff's counsel had sufficient information and experience to act competently in negotiating settlement. (Robinson Decl. ¶ 21.)

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D. The Settlement is Reasonable in Light of the Parties' Legal Positions, the Risks of Continued Litigation, and the Underlying Purpose of the PAGA

The Gross Settlement Amount of $175,000 is reasonable considering the strength of Plaintiff's claims and Defendants' defenses, the risks of further litigation, and the unique risks associated with litigation of PAGA claims. A settlement is not judged against what might have been recovered had a plaintiff prevailed at trial, nor does the settlement have to obtain 100% of the damages sought. (*Wershba*, *supra*, 91 Cal.App.4th at p. 250.) In the context of class action settlements, the Court of Appeal has held that a trial court should consider "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation...the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, [and] the experience and views of counsel," among other factors. (*Kullar v. Foot Locker Retail, Inc*. (2008) 168 Cal.App.4th 116, 128.) Here, the reasonableness of the Settlement is underscored by the fact that Defendants have legal and factual grounds for defending the Action.

1. <u>Plaintiff's Counsel's Analysis of Defendants' Maximum Potential Liability</u>

Based on a careful analysis of payroll and time punch data provided through Defendants' counsel, Plaintiff estimated there are about 101 aggrieved employees who incurred approximately 3,155 pay periods through the date of mediation. (Robinson Decl. ¶ 22.)

Plaintiffs' Counsel reviewed and analyzed an extensive sampling of time records, payroll records, and other relevant documents and data and, based on the discovery provided, estimated with all claims adjudicated in favor of Plaintiffs to be approximately $2,605,800.00 in penalties. But during mediation and settlement negotiations, Defendants raised several issues which impacted the risks attendant to proceeding with the PAGA claims through trial which Plaintiff had to take into consideration for a more realistic penalties analysis as detailed below. (Robinson Decl. ¶ 22.)

2. <u>Plaintiffs' Counsel's Risk-Based Analysis and Adjustments</u>

Despite this potentially large liability, substantial barriers to recovery of such penalties exist. First, Defendants advised that they had conducted a review and took "all reasonable steps" to be in compliance with the claims made in the PAGA Notice prior to and at least within 60 days of receiving the PAGA Notice, such that any penalties would have been capped at 15% or 30% of available penalties pursuant to Labor Code section 2699(g) or 2699(h). Secondly, Defendant claimed that Plaintiff's arbitration agreement would have required her to arbitrate her individual PAGA claim, and the result of any arbitration could either eliminate or narrow her standing for the claims she could raise on behalf of other employees.

Thirdly, for Plaintiff to prevail at trial on the PAGA claims, she would have to prove the underlying Labor Code violations, demonstrate that Aggrieved Employees suffered these violations, and show that Defendants' conduct gives rise to penalties. (See *Elliot v. Spherion Pac. Work* (C.D. Cal. 2008) *LLC* 572 F.Supp.2d 1169, 1181-82.) Plaintiff's core allegations are that Defendants systematically violated the California Labor Code because of a failure to pay wages, failure to pay overtime wages, failure to compensate for missed meal periods, failure to compensate for missed rest periods, failure to pay for earned wages upon separation, and failure to furnish accurate wage statements. Although Plaintiff maintains that such wage and hour claims are amenable to resolution as to a group of employees, some courts have found that the issues raised by Plaintiff, including off-the-clock work and meal and rest period violations, raise individualized issues that render a case unmanageable and unsuitable for adjudication as to a large group of employees. (See, e.g., *Duran v. U.S. Bank Nat. Assn*. (2014) 59 Cal.4th 1.)

Defendants also maintained several defenses to Plaintiff's theory of liability which, if successfully proven, had the potential to eliminate or substantially reduce Plaintiff's estimated recovery. (Robinson Decl. ¶ 23.) Throughout this litigation, Defendants maintain that in light of the evidence adduced from the Aggrieved Employees' time records, the Aggrieved Employees were not denied any meal or rest breaks and thus do not have standing to maintain a PAGA action. (See *Holak v. K Mart Corp*., Case No. 1:12-cv-00304-AWI-MJS, 2015 U.S. Dist. LEXIS 65439 (E.D. Cal. May 19, 2015) ("Because Plaintiff is not aggrieved by any of the specific Labor Code violations alleged in the PAGA claim, she does not have standing to maintain this PAGA action.").

Defendants also argued that Plaintiff could not maintain a PAGA claim because there is no evidence of a common policy or practice that prevented, inhibited, or discouraged employees from taking their statutory meal and rest breaks. (*See, e.g., Amey v. Cinemark USA, Inc.,* No. 13-05669, 2015 U.S. Dist. LEXIS 63524 (N.D. Cal. May 13, 2015) (striking PAGA claim because the evidence showed that numerous individualized determinations would be necessary to determine whether any class member has been injured)*; Ortiz v. CVS Caremark Corp.,* No. C-12-05859 EDL, 2014 U.S. Dist. LEXIS 36833 (N.D. Cal. Mar. 19, 2014); *Litty v. Merrill Lynch & Co., Inc.,* No. CV-14-0425 PA (PJWx), 2014 U.S. Dist. LEXIS 160448 (C.D. Cal. Nov. 10, 2014)*, Bowers v. First Student, Inc.,* No. 2-14-cv-8866 ODW (Ex), 2015 U.S. Dist. LEXIS 54238 (C.D. Cal. April 23, 2015); *Raphael v. Tesoro Ref. & Mktg. Co. LLC,* No. 2:15-CV-02862-ODW, 2015 U.S. Dist. LEXIS 130532 (C.D. Cal. Sept. 25, 2015).

Defendants maintain that Plaintiff and the Aggrieved Employees were properly paid all wages, and were prohibited from working off-the-clock. Plaintiff's Counsel also took into account that even if Plaintiff prevailed on the merits of his PAGA claim, Defendants could persuasively argue that the Court should exercise its discretion, under Labor Code § 2699(e), to reduce the amount of civil penalties assessed. A Court in a PAGA action has the same discretion "to assess a civil penalty" that the Labor Commissioner would have, as well as complete discretion to "award a lesser amount than the maximum civil penalty amount specified [by PAGA] if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." (See Lab., Code, § 2699(e)(2); *Thurman v. Bayshore Transit Management, Inc*. (2012) 203 Cal.App.4th 1112, 1136 [holding that a court may reduce the amount of PAGA penalties awarded to an employee based upon discretionary factors], disapproved on other grounds); Carrington v. Starbucks Corp. (2018) 30 Cal.App.5th 504, 529 [approving reduction in penalties based on good faith attempts to comply with obligations and minimal violations].)

Plaintiff's Counsel also recognized that protracted litigation of the alleged claims would be expensive, time-consuming, and uncertain. To prove liability and damages, Plaintiff will be required to conduct additional extensive discovery, conduct numerous depositions, request and analyze thousands of pages of documents, obtain the Aggrieved Employees' contact information, contact these employees, and obtain numerous declarations at great expense. Obtaining the

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cooperation of current employees would also be difficult, given the likely reluctance to aid prosecution of a lawsuit against a current employer. On the other hand, Defendants would likely be able to obtain the cooperation of its employees. And even if Plaintiff prevailed at trial, possible appeals could delay recovery. Accordingly, there is a significant risk that Plaintiff could ultimately recover nothing despite protracted litigation. (Robinson Decl. ¶ 23.)

Thus, while Plaintiff maintains that her PAGA claims are meritorious, Plaintiff's Counsel considered the strengths and weaknesses of each side's respective positions in evaluating Defendants' likely potential exposure. First, taking into account the risk of maintaining the case on a representative basis, potential arguments regarding manageability, and challenges to Plaintiff's status as aggrieved employees, Plaintiff discounted Defendants' estimated liability. In consideration for merits-based risk factors, including prevailing at trial, Plaintiff further discounted Defendants' estimated liability. Finally, given the discretionary nature of PAGA penalties, the likelihood that these potential penalties could be severely reduced by the Court's decision to decline to stack such penalties, and the fact that Defendants had potential arguments that the imposition of such penalties would be arbitrary and oppressive, Plaintiff discounted Defendants' estimated liability. The figure achieved on behalf of the State of California and Aggrieved Employees ($175,000.00) is warranted not only because it benefits the State and Aggrieved Employees, but it may address any conservative calculations that cannot be accounted for from off-the-clock work as this time was unrecorded. (Robinson Decl. ¶ 24.) In light of the Parties' respective legal positions and the risks to potential recovery, it is clear that the Gross Settlement Amount is fair, adequate, and reasonable.

3. <u>The Settlement Fulfills the Fundamental Purpose of PAGA and is Consistent with Other PAGA Settlement Approved by the Court</u>

After considering these many factors, Plaintiff and Plaintiff's Counsel concluded that it was in the best interest of the State of California and the Aggrieved employees to enter into the Settlement. The overall relief obtained by the Settlement is significant not only from a monetary perspective, but also because it fulfills the public policy objectives of PAGA—to promote enforcement of California's labor laws, provide funds to the state, and deter future non-compliance by Defendant. The Settlement is also well-within the range of settlements of PAGA claims approved by Courts in other cases. (Robinson Decl. ¶ 25.) For example, in *Schiller v. David's Bridal, Inc.*, 1:10-cv-00616-AWI-SKO, 2012 U.S. Dist. LEXIS 80776 (E.D. Cal. June 11, 2012), the Court approved a $10,000 PAGA settlement in a case involving 3,327 class members. Similarly, in *Chu v. Wells Fargo Investments, LLC*, No. C-05-4526 MHP, 2011 U.S. Dist. LEXIS 15821 (N.D. Cal. Feb. 16, 2011), the Court approved a $10,000 PAGA settlement in a case involving 2,752 class members. In this case, the Gross Settlement Amount is $175,000.00 for 101 employees with 3,155 PAGA Pay Periods. This amounts to approximately $55.47 per pay period. For these reasons, the Settlement presented here is fair, reasonable, and adequate. (Robinson Decl. ¶ 25.)

VI. THE REQUESTED ATTORNEYS' FEES PAYMENT IS FAIR AND REASONABLE, AND IT SHOULD BE APPROVED

A. A Fee Award based on a Percentage of the Settlement Fund is Appropriate

Plaintiff's Counsel is entitled to recover reasonable attorneys' fees and costs as a matter of right under PAGA. (See Lab. Code, § 2699(g)(1).) Plaintiff's Counsel is also entitled to fees and costs under Code of Civil Procedure section 1021.5, as this PAGA action is "for the benefit" of other and secures substantial monetary recovery of State of California and the PAGA Members. (See *Estrada v. FedEx Ground Package Sys. Inc*. (2007) 154 Cal.App.4th 1, 16-17.) Where the amount of a settlement is a "certain easily calculable sum of money," California courts may calculate attorneys' fees as a reasonable percentage of the settlement created. (See *Dunk v. Ford Motor Co*. (1996) 48 Cal.App.4th 1794, 1808.) The ultimate goal is the award of a "reasonable" fee to compensate counsel for their efforts, irrespective of the method of calculation. (*Apple Computer, Inc. v. Super. Ct.* (2005) 126 Cal.App.4th 1253, 1270.)

Here, the Settlement provides for Attorneys' Fees to Plaintiff's Counsel of $58,333.33, i.e., 1/3% of the Gross Settlement Amount, subject to Court approval. (Settlement Agreement § 3.2.1.) The requested fee award is well within the range of reasonableness. Plaintiff's Counsel risked substantial economic loss when they took this case on a contingency basis, knowing that there would likely be a long battle with an aggressive and competent defense counsel. As a result of Plaintiff's Counsel's willingness to take on this risk and their efforts in prosecuting this case, the

State and PAGA Members will receive a substantial recovery for violations that would otherwise have gone unaddressed. (Robinson Decl. ¶ 26.)

Accordingly, the requested fee award: (1) is consistent with the private marketplace where contingent-fee attorneys are customarily compensated on such a basis; (2) aligns the interests of Plaintiff's counsel, the State of California, and PAGA Members in achieving the maximum possible resolution of the case; (3) encourages the most efficient resolution of the litigation by providing an incentive for early, yet fair and reasonable settlement; and (4) reflects the work performed, risks incurred, results obtained, and experience of Plaintiff's Counsel in handling similar matters. Plaintiff's Counsel has obtained a fair recovery for the State of California and Aggrieved Employees, which justifies a fee award based on the 1/3% of the common fund. (Robinson Decl. ¶ 27.)

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B. The Requested Fee Award is Reasonable Based on Multiple Factors

Multiple factors may be considered in determining whether fee awards are reasonable in a common fund case, including (1) the time and labor required; (2) the skill to perform legal services; (3) the value, amount and results achieved; and (4) whether the fee is fixed or contingent. (*Camden I Condominium Association, Inc. v. Dunkle* (11th Cir. 1991) 946 F.2d 768, 772.) Evaluation of these factors shows that the fees award requested here is reasonable and should be approved.

1. Time and Labor Required

Plaintiff's Counsel has extensive experience in the handling of complex employment class actions and PAGA Actions. (Robinson Decl. ¶ 28.) Plaintiff's Counsel has aggressively litigated this case from the initial pleading to the settlement of this Action. The ongoing work performed by Plaintiff's Counsel has been extensive, complex, and ultimately successful in achieving a fair settlement for the Aggrieved Employees and the State. Plaintiff's Counsel actively participated in this litigation, attending multiple client meetings, attending court hearings, conducting legal research on unanticipated and remote legal defenses, participating in case strategy and analysis, drafting, reviewing, and revising pleadings and other documents, and attending a mediation. (Robinson Decl. ¶ 28.) Plaintiffs' counsel conducted extensive informal discovery and obtained hundreds of pages of wage records. (Robinson Decl. ¶ 28.) Plaintiff's counsel researched defenses raised by Defendants, investigated Defendants' policies, practices, and procedures, reviewed hundreds of documents, and analyzed a substantial sampling of time and payroll data. (Robinson Decl. ¶ 28.) Plaintiff's Counsel spent an extensive amount of time working with the wage expert regarding the claims and analysis. (Robinson Decl. ¶ 28.). Plaintiff's counsel spent an extensive amount of time preparing for mediation and attending a full day mediation. (Robinson Decl. ¶ 28.) Further, Plaintiff's Counsel spent significant time drafting and revising the Settlement presented to the Court. (Robinson Decl. ¶ 28.) A settlement was finally achieved despite all of the obstacles that had to be overcome, because Plaintiff's Counsel used their complex wage-and-hour litigation experience and skills to obtain the Settlement. (Robinson Decl. ¶ 28.)

2. The Skill to Perform Legal Services

The skill required to properly litigate this case is evident not only in the results achieved, but in the steps necessary to reach this result. Defendants retained well-respected counsel and vigorously denied liability. Indeed, Defendants and their Counsel felt strongly about Defendants' ability to prevail and mounted several defenses that posed significant threats to Plaintiff's claims, challenged the theories of Plaintiff's Counsel, and promised a strong defense moving forward. Defendants' counsel took the position that the time and pay records evidenced that Plaintiff was properly paid for all hours worked, properly paid daily and weekly overtime, provided complete and accurate wages statements, and properly reimbursed for business expenses. (Robinson Decl. ¶ 29.) Further, Defendants argued that the company's policies and California Supreme Court precedent establish that it was Plaintiff's responsibility to ensure that she took daily meal and rest breaks, and to report to the company if she could not do so. (Robinson Decl. ¶ 29.) In order to evaluate these claims and defenses, Plaintiff's Counsel were required to review and analyze a tremendous amount of data to determine Defendants' underlying practices and liability, a complex process that took considerable time, energy, and knowledge. This complicated analysis required substantial skill, but Plaintiff's Counsel were able to successfully navigate these challenges because of their extensive experience in complex wage and hour litigation. This settlement, against experienced defense counsel, and despite the existence of several strong defenses, was made possible through Plaintiff's Counsel's skill and reputation in complex employment matters. (Robinson Decl. ¶ 29.)

3. The Value, Amount, and Results Achieved

The Settlement represents a fair resolution of this case given the risks inherent in litigating it through trial and possible appeals. Although Plaintiff's Counsel predicts that Plaintiff would prevail at trial, several risks reduced value of the case. Had the case not settled, Plaintiff anticipates Defendants would have challenged that Plaintiff was an aggrieved employee in arbitration which would therefore preclude her ability to prosecute the representative PAGA claim, challenged manageability of the case, disputed Plaintiff's contentions on the merits, and sought reduction in the amount of penalties. Preparing the case for trial would have been expensive and risky. In contrast, settlement at this stage guarantees immediate recovery for the State of California and the Aggrieved Employees. Despite the challenges Plaintiffs still faced, Defendants agreed to pay a Gross Settlement Amount of at least $175,000. This is an outstanding result for a settlement limited to penalties arising under PAGA and which does not affect the Aggrieved Employees' individual wage claims. (Robinson Decl. ¶ 30.)

4. Whether the Fee is Fixed or Contingent

Whether the representation was provided on a contingency basis, as it was in this case, is an important factor. A contingent fee must be higher than a fee for the same legal services paid as they are performed. (*Cates v. Chiang* (2013) 213 Cal.App.4th 791, 823.) This case was litigated on a contingency basis. If Plaintiff's Counsel had been unsuccessful, they would not receive any fee or recover any portion of their expenses spent litigating this matter over a period of more than two years. Plaintiff's Counsel has borne all risks and costs associated with the litigation and will not receive any compensation until recovery is obtained. (Robinson Decl. ¶ 30.)

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C. The Requested Fee is Reasonable Under a Loadstar Analysis

While the percentage-of-the-benefit approach may be endorsed as the better approximation of the workings of the marketplace than the Lodestar approach, courts may also use the lodestar method to "cross-check" the results of the other. Here, the Lodestar is calculated based on reasonable hours at reasonable prevailing hourly rates for the attorneys who worked on these matters. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1131-32.) Counsel is entitled to compensation for every hour reasonably spent on the matter. (*Id*. at p. 1133.)

1. Counsel Spent a Reasonable Amount of Time

Reasonableness of hours is assessed by "the entire course of the litigation, including pretrial matters, settlement negotiations, discovery, litigation tactics, and the trial itself[.]" (*Vo v. Las Virgenes Municipal Water Dist*. (2000) 79 Cal.App.4th 440, 447.) This case was highly contested, as Defendants raised significant defenses and denied liability. Plaintiffs' Counsel invested significant time and labor into this matter. The services provided include, but were not limited to attending client meetings, attending court hearings, conducting legal research on unanticipated and remote legal defenses, participating in case strategy and analysis, drafting, reviewing, and revising pleadings and other documents, and attending a full day mediation. Plaintiff's Counsel conducted extensive informal discovery, researched defenses raised by Defendant investigated Defendants' policies, practices, and procedures, reviewed hundreds of documents, and analyzed a substantial sampling of time and payroll data, and meeting with a wage expert. As noted above, Plaintiff's Counsel also spent significant time drafting and revising the Settlement presented to the Court. A settlement was finally achieved despite all of the obstacles that had to be overcome, because Plaintiff's Counsel used their complex wage-and-hour litigation experience and skills to obtain the Settlement. Plaintiff's Counsel conservatively expended over 165 hours between two attorneys on this matter for over a year. The time spent on this matter was time Plaintiff's Counsel could not spend on other cases or performing other tasks. Plaintiffs' Counsel also bore the significant risk that, despite all their efforts, there might ultimately be no recovery. Accordingly, Plaintiff's Counsel has spent a reasonable number of hours working on this matter. (Robinson Decl. ¶ 31.)

2. Plaintiff's Counsel's Hourly Rate is Reasonable

California courts recognize that attorneys should be compensated for providing representation on a contingency basis and for taking on the risks associated with the representation, as well as being provided with financial incentives to enforce important rights and protections like those at issue in this Action. (See *Ketchum*, *supra*, 24 Cal.4th at p. 1132-33.) In awarding attorneys' fees, the aim is to mirror "the established practice in the private legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their normal hourly rates for winning contingency cases." (*Id*.)

As previously discussed, Plaintiff's Counsel have been actively involved in the Action from the filing of the initial complaint to completing these final approval papers. Plaintiffs' Counsel invested time and bore the risk that there could have been no recovery. Ultimately, Plaintiffs' Counsel was successful in reaching a settlement of $175,000 on behalf of the State and Aggrieved Employees.

Here, the use of a blended rate of at least $550.00 is appropriate based on the complexity of this matter and the professional background and experience of Plaintiff's Counsel. Plaintiff's Counsel Michael Robinson has over thirty years of experience and counsel Orion Robinson has approximately twelve years of experience. Michael Robinson and Orion Robinson serve as plaintiff's counsel and defense counsel on multiple class action and PAGA cases. (Robinson Decl. ¶ 32.) If Plaintiffs' counsel was billing at an hourly rate, the total amount of attorney's fees would be $90,750.00. Plaintiff's Counsel is requesting $58,333.33 in attorneys' fees. (Robinson Decl. ¶ 33.)

D. The Requested Costs Are Fair and Reasonable

Plaintiffs' Counsel requests the reimbursement of the costs incurred litigating this case in the total amount of $11,750.00. These costs include filing fees, expert witness fees, wage analysis, mediation, and other costs associated with the Action. This is not taking into account any future costs that will be necessary in order to successfully resolve this Action including costs associated with the filing of this joint stipulation and additional costs for filing declarations following distribution of the Gross Settlement Amount. These costs are less than allocated under the

Settlement and were necessary for the prosecution of the Action. Accordingly, Plaintiff respectfully requests these costs be reimbursed in full. (Robinson Decl. ¶ 34.)

VII. THE ADMINISTRATION COSTS ARE FAIR AND REASONABLE

Subject to Court approval, the Parties have agreed to utilize Phoenix to handle administration of the Settlement. The total fees and expenses of the Settlement Administrator shall not exceed $3,250.00. These costs include, but are not limited to, expenses for preparing, translating the cover letter to Spanish, printing and mailing the cover letter in English and Spanish and sending checks to the Aggrieved Employees, performing skip-traces; remailing returned payments; and handling inquiries from Aggrieved Employees regarding the Settlement. Plaintiffs therefore respectfully requests that the Court approve payment of administration costs in the amount of $3,250.00 to Phoenix. (Robinson Decl. ¶ 35.)

VIII. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant this Motion and issue an Order approving the parties' Settlement in accordance with the Labor Code Private Attorneys General Act and enter the Order Approving PAGA Settlement.

DATED: September 24, 2025

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By: ______________________________
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