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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CRISTINA INZUNZA, an individual and on behalf of all others similarly situated;

Plaintiff,

vs.

EOS HOSPITALITY L'ERMITAGE EMPLOYEE LLC, a Delaware limited liability company; and DOES 1 through 50,

Defendants.

Case No.: 24STCV30593

[Assigned for All Purposes to:
Hon. Carolyn B. Kuhl, Dept. 12]

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR APPROVAL OF PAGA SETTLEMENT, ATTORNEY'S FEES AND COSTS, AND SERVICE AWARD; MEMORANDUM OF POINTS AND AUTHORITIES

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

DATE: March 23, 2026
TIME: 1:45 p.m.
DEPT: 12

Action Filed: November 19, 2024
Trial Date: Not Set

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

PLEASE TAKE NOTICE that on March 23, 2026, at 1:45 p.m. in Department 12 of the Superior Court of the State of California for the County of Los Angeles, Spring Street Courthouse, located at 312 N. Spring Street, Los Angeles, CA 90012, before the Carolyn B. Kuhl, Judge presiding, Plaintiff Cristina Inzunza ("Plaintiff") will move the Court, pursuant to California Private Attorneys General Act ("PAGA"), Labor Code sections 2698, *et seq.,* for an Order:

1. Approving the settlement of this PAGA representative action in the form agreed to by Plaintiff and Defendant EOS Hospitality L'Ermitage Employee LLC ("Defendant") (together with Plaintiff, the "Parties") in the PAGA Settlement Agreement (the "Settlement" or "Agreement");

2. Appointing Plaintiff's counsel as PAGA counsel, for settlement purposes only, and approving an award to Plaintiff's counsel for reasonable attorney's fees in the amount of $25,000.00 and reasonable costs in the amount of $12,783.50;

3. Appointing Phoenix Settlement Administrators as the Settlement Administrator, and approving payment of Settlement Administrator's costs in the amount of $4,500.00;

4. Approving a service award in the amount of $5,000.00 to Plaintiff for Plaintiff's service to the LWDA and Aggrieved Employees;

5. Approving the release of PAGA claims by Plaintiff on behalf of Aggrieved Employees and the LWDA;

6. Directing consummation of the Settlement pursuant to its terms and provisions;

7. Entering final Judgment;

8. Setting a Hearing Regarding Distribution; and

9. Without affecting the finality of the Judgment and Order, reserving exclusive and continuing jurisdiction over the Action, the Parties, and the Aggrieved Employees for purposes of interpreting and enforcing the terms, conditions, and obligations of the Settlement pursuant to California Code of Civil Procedure section 664.6.

This Motion will be based upon this notice, the attached Memorandum of Points and Authorities, Declarations of William C. Sung, Cristina Inzunza, and Jodey Lawrence of Phoenix

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

DATED: December 19, 2025

Respectfully submitted,

JUSTICE FOR WORKERS, P.C.

By: ______________________

William C. Sung
Tiffany L. Luu
Joseph C. Ramli
Attorneys for Plaintiff CRISTINA INZUNZA

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I. INTRODUCTION

Plaintiff Cristina Inzunza ("Plaintiff") seeks approval of a proposed representative action settlement for civil penalties pursuant to the California Private Attorneys General Act, Labor Code sections 2698, *et seq.* ("PAGA") against Defendant EOS Hospitality L'Ermitage Employee LLC ("Defendant") collectively, the "Parties"). After a full day of mediation with experienced neutral mediator Tagore Subramaniam, Esq., the Parties reached a settlement and thereafter executed a PAGA Settlement Agreement (the "Settlement" or "Agreement")[1].

The Settlement calls for a Gross Settlement Amount of $75,000.00. After deducting Plaintiff's counsel's reasonable attorney's fees and costs awards, and payment for the Settlement Administrator's cost, approximately $18,015.73 in civil penalties will be paid to the California Labor and Workforce Development Agency (the "LWDA") and $9,700.78 in civil penalties will be paid to approximately 204 Aggrieved Employees. The average approximate share of the settlement paid to Aggrieved Employees is $47.55. Pursuant to Labor Code section 2699(s)(2)[2], Plaintiff now files this unopposed motion, seeking an order approving the proposed Settlement.

The settlement of a PAGA claim requires court approval pursuant to the operative PAGA statute, which states that the "court shall review and approve any penalties sought as part of a proposed settlement agreement pursuant to this part." Lab. Code § 2699(s)(2). In deciding whether to grant approval of a proposed settlement, the primary issues to be decided is whether the settlement is fair, adequate, and reasonable. *Villalobos v. Calandri Sonrise Farm LP* (C.D. Cal., July 22, 2015, No. CV 12-2615 PSG (JEMx)) 2015 WL 12732709, at *5; *see also O'Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1135.

As set forth herein, the proposed Settlement embodies all the features of a settlement that is fair, adequate, and reasonable, as it is the product of (1) an arms-length negotiation, (2) negotiated

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[1] A true and correct copy of the Agreement is attached as **Exhibit 1** to the Declaration of William C. Sung in Support of Motion for Approval of PAGA Settlement ("Sung Decl."). The proposed explanatory letter regarding PAGA settlement is attached to the Agreement as **Exhibit A** to the Agreement. All defined terms in this Motion have the same definition as that in the Agreement.

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

by attorneys experienced in wage and hour issues, (3) subsequent to undertaking sufficient investigation necessary to evaluate the relative strength and value of the PAGA claim, and (4) reflects a reasoned compromise based directly on the relative strength and value of the PAGA claims, as well as the risks, expense, complexity, and likely duration of further litigation.

II. SUMMARY OF THE LITIGATION AND SETTLEMENT

A. PLAINTIFF'S CLAIMS AND PROCEDURAL BACKGROUND

Defendant operates the L'Ermitage Beverly Hills Hotel in Beverly Hills, California. Sung Decl., ¶ 8. Defendant employed Plaintiff as an hourly-paid, non-exempt employee from approximately December 2021 to approximately July 24, 2024 as a housekeeper. Declaration of Cristina Inzunza ("Inzunza Decl."), ¶ 2. Plaintiff contends both Plaintiff and Plaintiff's coworkers were subjected to the same unlawful labor practices during their employment by Defendant. *Ibid.*

On November 19, 2024, Plaintiff submitted the LWDA Letter of alleged Labor Code violations to Defendant and the California Labor and Workforce Development Agency (the "LWDA"). Sung Decl., ¶ 9, **Exh. 2** – LWDA Letter. Plaintiff's administrative exhaustion period expired without the LWDA indicating its intent to investigate the allegations. *Ibid.*

On November 19, 2024, Plaintiff filed the Class Action Complaint alleging causes of action for: (1) Minimum Wage Violations, (2) Overtime Wage Violations, (3) Meal Period Violations, (4) Rest Period Violations, (5) Wage Statement Penalties, (6) Waiting Time Penalties, (7) Failure To Reimburse Necessary Business Expenses, and (8) Unfair Competition. Sung Decl., ¶ 10. On January 30, 2025, Plaintiff filed the operative First Amended Complaint ("Operative Complaint") adding a cause of action for Civil Penalties Under the California Private Attorneys General Act. Sung Decl., ¶ 11, **Exh. 3** – Operative Complaint. Plaintiff has uploaded the Operative Complaint with the LWDA. *Ibid.*

Prior to mediation, Defendant's counsel provided Plaintiff's counsel with Plaintiff's arbitration agreement and documentation authenticating the arbitration agreement. Sung Decl., ¶ 12. As such, the Parties agreed to mediate Plaintiff's PAGA claims only. *Ibid.* On December 3, 2025, following the execution of the Agreement, Plaintiff filed a Request for Dismissal of Class Claims Without Prejudice, support by Plaintiff's counsel's declaration under California Rule of Court

3.770. *Ibid.* The Request for Dismissal is currently pending with the Court. *Ibid.*

B. DISCOVERY, INVESTIGATION, AND MEDIATION

Prior to mediation, the Parties engaged in informal discovery which allowed the Parties to meaningfully mediate this matter. Sung Decl., ¶ 13. Specifically, Defendant produced: (1) PAGA demographics including the number of Aggrieved Employees and PAGA Pay Periods; (2) time records for all Aggrieved Employees from the start of the PAGA Period to June 16, 2025; (3) payroll records for all Aggrieved Employees from the start of the PAGA Period to August 23, 2025; (4) Defendant's relevant policies; and (5) Plaintiff's personnel records and wage statements. *Ibid.*

Plaintiff's counsel, with the assistance of a retained expert data analyst, analyzed and reviewed the documents regarding Defendant's wage and hour policies and practices, the Aggrieved Employees' time and pay records, and other information provided by Defendant and Plaintiff. Sung Decl., ¶ 14. Plaintiff's counsel was able to evaluate the probability of success on the merits and Defendant's maximum and risk-adjusted monetary exposure and prepare a damage analysis prior to mediation. *Ibid*. The time and pay records of all Aggrieved Employees allowed Plaintiff's counsel and their expert to prepare an analysis with a high degree of certainty. *Ibid*. In conjunction with their extensive factual investigation, Plaintiff's counsel also investigated the applicable law regarding the claims and defenses asserted in the litigation. *Ibid*. Thus, Plaintiff and Plaintiff's counsel's familiarity with the facts of the case and the legal issues raised by the pleadings allowed them to act intelligently in negotiating the Settlement. *Ibid*.

On October 6, 2025, the Parties participated in private mediation before Tagore Subramaniam, Esq., an experienced, neutral, class action and PAGA mediator. Sung Decl., ¶ 15. The settlement negotiations were at arm's length and, although conducted in a professional manner, were adversarial. *Ibid*. The Parties went into the mediation willing to explore the potential for a settlement of the dispute, but each side was also prepared to litigate their position through trial and appeal if a settlement had not been reached. *Ibid*. After extensive negotiations and discussions regarding the strengths and weaknesses of Plaintiff's claims and Defendant's defenses, the Parties reached a settlement of this Action, the material terms of which are encompassed within the Settlement. *Ibid*. The Parties recognized that the issues presented in the Action are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will lead to inconvenience, distraction, disruption, delay, and expense disproportionate to the potential benefits of litigation. *Ibid*. Plaintiff and Plaintiff's counsel considered the risk and uncertainty of the outcome inherent in any litigation when determining whether this Settlement was the correct option. *Ibid*.

C. KEY TERMS OF THE PROPOSED PAGA SETTLEMENT

The Settlement covers all of Defendant's current and former non-exempt California employees employed at any time during the PAGA Period ("Aggrieved Employees"). Agreement, § I.2. The Agreement provides an Escalator Clause up to 5,356 Pay Periods and, if the number of Pay Periods exceeds 5,356, Defendant may elect to increase the Gross Settlement Amount or adjust the PAGA Period end date so the number of Pay Periods stay within 5,356. Agreement, § III.3. Defendant has verified the number of Pay Periods and elected to adjust the PAGA Period end date to November 20, 2025, which is the date that Pay Periods hit 5,356. Sung Decl., ¶ 16. Thus, the PAGA Period is from November 19, 2023 through November 20, 2025 (the "PAGA Period"). *Ibid*; *see also* Agreement, §§ I.11, III.3.

The Gross Settlement Amount of the Settlement is $75,000.00. Agreement, § I.8. The Settlement provides that Plaintiff's counsel will seek an award of reasonable attorney's fees of $25,000.00, which is equivalent to one-third (33 1/3%) of the Gross Settlement Amount, and up to $20,000.00 in litigation costs. Agreement, § III.4.a. Plaintiff's litigation costs are approximately $12,783.50, including estimated future costs in filing this Motion and supporting papers ($77.97), courtesy copy delivery fee for this Motion ($164.30), supplemental filings for this Motion ($16.17), Case Anywhere System Access Fee from December 2025 to April 2026 ($302.00), and filing of the Settlement Administrator's declaration of compliance re settlement administration ($16.17). Sung Decl., ¶ 17; **Exh. 4** – Itemized Costs.

The Settlement Administrator will be paid administration costs not to exceed $3,975.00. Agreement, § III.4.b. The Parties jointly selected Phoenix Settlement Administrator as the neutral entity to administer this Settlement based on its bid of $4,500.00. Sung Decl., ¶ 18; *see also* Declaration of Jodey Lawrence of Phoenix Settlement Administrators ("Admin. Decl."), ¶ 22, **Exh.**

B – Administrator Bid. The Settlement further provides that Plaintiff will be paid a service award in the amount of $5,000.00 for Plaintiff's service to the LWDA and the Aggrieved Employees. Agreement, § III.4.c.

After deducting Plaintiff's counsel's attorney's fee and cost awards and payment to the Settlement Administrator, in the amounts approved by the Court, the remainder, called the Net Settlement Amount, will be distributed as 65% to the LWDA and 35% to Aggrieved Employees. Agreement, § III.5. The amount estimated in the Net Settlement Amount for the LWDA payment and the Aggrieved Employee payment is **$27,716.50**. Sung Decl., ¶ 19 Accordingly, approximately **$9,700.78** (35% of the Net Settlement Amount) will be paid to the estimated 204 Aggrieved Employees on a pro-rata basis based on the number of pay periods each Aggrieved Employee worked during the PAGA Period, and the raw average payment to Aggrieved Employees is estimated at **$48.14**. *Ibid*; *see* Agreement, § III.5.b.

Defendant will fund the Gross Settlement Amount within 60 court days of the Effective Date, which is the date that the Court enters a final order and judgment approving the Settlement. Agreement, §§ I.6, III.2. Within 5 business days of the Effective Date, Defendant will provide the Settlement Administrator with a PAGA list of all Aggrieved Employees, including their full name, last known mailing address, social security number, and number of pay periods worked during the PAGA Period or dates of employment. Agreement, § IV.2.

Upon receipt of the PAGA list, the Settlement Administrator will perform a search on the National Change of Address database to update the Aggrieved Employees' addresses. Agreement, § IV.3. Within 30 calendar days of the Settlement being fully funded, the Settlement Administrator will mail copies of the explanatory letter, attached as **Exhibit A** to the Agreement and translated into Spanish, along with Individual PAGA Payments to all Aggrieved Employees; and distribute the 65% share of PAGA penalties to the LWDA, court-approved attorney's fees and cost awards to Plaintiff's counsel; and court-approval administration costs to itself. Agreement, §§ IV.3, IV.5; *see* Admin Decl., ¶ 15, Exh. B (budgeting for the Spanish translation of the explanatory letter).

Any checks for Individual PAGA Payments returned as non-deliverable will be remailed to the forwarding address affixed thereto. Agreement, ¶ IV.4. If no forwarding address is provided, the

Settlement Administrator will promptly attempt to determine the correct address, using a skip-trace or other similar search, using the name, address and/or Social Security number of the Aggrieved Employee involved and will perform a single re-mailing if a new address is located. *Ibid*. Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, will be tendered to the State Controller's Office under the unclaimed property fund laws in the names of the Aggrieved Employees to whom the checks were issued. *Ibid*.

III. DISCUSSION

A. AVAILABILITY OF CIVIL PENALTIES

The LWDA and its constituent departments and divisions are authorized to assess and collect civil penalties for specified violations of the Labor Code committed by an employer. With a stated goal of improving enforcement of existing Labor Code obligations, the California Legislature adopted the Labor Code Private Attorneys General Act of 2004, permitting, as an alternative, an aggrieved employee to initiate a private civil action "on behalf of himself or herself and other current or former employees . . ." Lab. Code § 2699(a). The penalties collected in these private civil actions are to be distributed 65 percent to the LWDA and 35 percent to the aggrieved employees. Lab. Code, § 2699(m). However, before an employee may file an action seeking to recover civil penalties for violations of any of the Labor Code provisions enumerated in Labor Code section 2699.5, he or she must comply with the Act's administrative procedures as set forth in Labor Code section 2699.3, subdivision (a), which include providing notice to the LWDA and the employer of the alleged Labor Code violations, and then waiting a prescribed period of time to permit the LWDA to investigate and to decide whether to cite the employer for the alleged violations. *Caliber Bodyworks, Inc. v. Superior Court* (2005) 134 Cal.App.4th 365, 370; *see also Dunlap v. Superior Court* (2006) 142 Cal.App.4th 330.

Here, in compliance with Labor Code section 2699.3, on November 19, 2024, Plaintiff provided notice to the LWDA and Defendant. Sung Decl., ¶ 9; Exh. 2. Plaintiff's administrative exhaustion periods expired without the LWDA indicating its intent to investigate the allegations. *Ibid*. Accordingly, Plaintiff may proceed with this PAGA representative action.

B. THE SETTLEMENT WARRANTS APPROVAL

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

1. <u>The Dual Statutory Purposes of Deterrence and Punishment</u>

As a result of this litigation, Defendant has had to hire legal counsel, engage in informal discovery, and participate in mediation. Defendant is also now having to pay civil penalties to the LWDA pursuant to the terms of the Settlement. Not including its own attorneys' fees and costs, Defendant is paying $75,000.00 to resolve this matter.

2. <u>The Relief is Genuine, Meaningful, and Consistent with the Underlying Purpose of the Statute to Benefit the Public</u>

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

Based on Plaintiff's counsel's analysis of the time and payroll records provided by Defendant and on information from Plaintiff, Plaintiff's counsel evaluated Defendant's maximum and risk-adjusted potential exposure. Sung Decl., ¶ 21. Based on Defendant's disclosures, there were approximately 204 Aggrieved Employees who collectively worked approximately 4,422 pay periods. *Ibid*.

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Plaintiff's assessment of potential recovery of PAGA penalties in this Motion is limited to $30 per pay period because Defendant has represented that, within 60 days of receiving the LWDA Letter, Defendant conducted an audit of the alleged Labor Code violations, and to Plaintiff's knowledge, Defendant has not been subject to any prior court judgments or Labor Commissioner order placing it on notice of any violation pertaining to the claims Plaintiff asserted and the heightened subsequent violation penalty does not apply. Sung Decl., ¶ 22; *see* Lab. Code § 2699(h)(1)-(2) (limiting recoverable civil penalty to "30 percent" of the penalty sought if the defendant "has taken all reasonable steps to prospectively be in compliance," such as by conducting an audit); Lab. Code § 2699(f)(2)(B) (authorizing heightened $200 per pay period civil penalty if, "[w]ithin the five years preceding the alleged violation, the agency or any court issued a finding or determination to the employer that its policy or practice giving rise to the violation was unlawful.). Plaintiff's counsel's valuation of each theory of liability is set forth below.

Furthermore, as to all of Plaintiff's PAGA claims, Defendant argued that the Court will exercise its discretion to reduce PAGA penalties. Sung Decl., ¶ 23. Pursuant to Labor Code § 2699(e)(2), the Court can decline to award the full amount of PAGA penalties where ". . . 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." Indeed, courts have affirmed the reduction of PAGA penalties in the past. As shown in *Carrington v. Starbucks Corp*. (2018) 30 Cal.App.5th 504, 517, the Court of Appeal affirmed the trial court's reduction of PAGA penalties by 90%, citing the employer's good-faith attempt at complying with the law. (*See also Thurman v. Bayshore Transit Mgmt., Inc.* (2012) 203 Cal.App.4th 1112, 1135 [affirming reduction of PAGA penalties]; *Fleming v. Covidien Inc.* (C.D. Cal. 2011) Case No. ED CV10-01487 RGK (OPx), 2011 WL 7563047, at *4 [reducing PAGA penalties by over 82% in part because employer "not aware" of violations]. Here, Defendant argued that based on their compliant policies and practices, their defenses on Plaintiff's theories of liability on the merits, and the hyper technical nature of the regular rate claims, the Court will significantly reduce any award of PAGA penalties based on its good-faith compliance with the Labor Code. Sung Decl., ¶ 23.

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

Here, Plaintiff alleges that Defendant failed to factor commissions and incentives into the regular rate of pay for overtime, meal period premiums, and paid sick leave. Sung Decl., ¶ 24. Plaintiff's counsel found approximately 7.06% of pay periods had an overtime regular rate violation, 2.10% of pay periods had a meal period premium regular rate violation, and approximately 1.86% of pay periods had a paid sick leave violation. *Ibid*. At $30 initial penalty per pay period and extrapolated to the date of mediation, maximum PAGA penalties for regular rate violations total $14,751.79. *Ibid*.

In response, Defendant argued that Defendant has been truing up the regular rate on overtime properly, and within 60 days of its receipt of the LWDA Letter, conducted a regular rate audit and began truing up meal period premiums and paid sick leave at the regular rate. *Ibid.* In light of Defendant's defenses on the merits and the risk of this Court exercising its discretion to reduce PAGA penalties, Plaintiff applied a 25% discount to this claim, resulting in a realistic penalty award of **$11,063.84.**

Off-the-Clock Work. "An employer that requires its employees to work minutes off the clock on a regular basis or as a regular feature of the job may not evade the obligation to compensate the employee for that time by invoking the de minimis doctrine. As the facts here demonstrate, a few extra minutes of work each day can add up." *Troester v. Starbucks Corp.* (2018) 5 Cal.5th 829, 847, as modified on denial of reh'g (Aug. 29, 2018); *see also Troester v. Starbucks Corp*. (C.D. Cal. 2019) 387 F. Supp. 3d 1019, 1025 ("A few extra minutes each day can add up, amounting to enough to pay a utility bill, buy a week of groceries, or cover a month of bus fares.")

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Here, Plaintiff alleges she sometimes experienced off-the-clock work because she waited in line for several minutes to clock in and out for her shifts. Sung Decl., ¶ 25. At $30 initial penalty per pay period and estimating a 50% violation rate, maximum PAGA penalties for off the clock work violations total $66,330.00. *Ibid*. In response, Defendant vigorously contests that the few minutes Aggrieved Employees spent waiting in line to clock in and out was compensable. *Ibid*.; *see Troester*, 5 Cal.5th at 855 (Kruger J. Concurring) (In situations where employees needs to start their computers before clocking in, “requirement that the employer accurately account for every second spent on work tasks may well be impractical and unreasonable”). In light of Defendant’s defenses on the merits and the risk of this Court exercising its discretion to reduce PAGA penalties, Plaintiff applied an 80% discount to this claim, resulting in a realistic penalty award of **$13,266.00.**

Meal Period Violations. Plaintiff alleges that Defendant sometimes failed to provide her with uninterrupted, 30-minute meal periods before the end of the fifth hour of work. Sung Decl., ¶ 26. Plaintiff’s counsel and his expert analyzed employee time and payroll records and found, after applying for meal period premiums paid, approximately 15% of pay periods had one or more meal period violations. *Ibid*. At $30 initial penalty per pay period, maximum PAGA penalties for meal period violations are $9,494.50. *Ibid*.

In response, Defendant counters that it has maintained compliant meal period policies and practices throughout the PAGA Period and always provided compliant meal periods in line with those policies. *Ibid.; see Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1040-1041 (holding employers need only “provide” meal periods to employees and are not obligated to “police” meal periods). Defendant points to the fact that it paid approximately 1,1152 meal period premiums totaling $25,323.44 as evidence of its superior meal period compliance practices. *Ibid.* As such, Defendant maintains Plaintiff’s meal period claim is unmanageable since individual inquiries would be needed to assess which employees, if any, took non-compliant meal periods, how many meal periods were non-compliant, and the reasons why a particular employee did not take a meal period on a particular shift and a meal period premium was not paid. *Ibid.* In light of Defendant’s defenses on the merits and the risk of this Court exercising its discretion to reduce PAGA penalties, Plaintiff applied an 50% discount to this claim, resulting in a realistic penalty award of **$9,949.50.**

Rest Period Violations. Plaintiff contends that she occasionally could not take 10-minute rest breaks because of operational needs. Sung Decl., ¶ 27. Any rest period violations would not be reflected in the time or payroll records. *Ibid*. Estimating that Aggrieved Employees experienced rest period violations during approximately 15% of pay periods, and at $30 initial violation rates, maximum PAGA penalties for rest period violations are $19,899. *Ibid*.

In response, Defendant counters that it has maintained compliant rest period policies and practices throughout the PAGA Period and always provided compliant rest periods in line with those policies. *Ibid*. As such, Defendant maintains Plaintiff's rest period claim is unmanageable since individual inquiries would be needed to assess which employees, if any, took non-compliant rest periods, how many rest periods were non-compliant, and the reasons why a particular employee did not take a rest period on a particular shift. *Ibid.* light of Defendant's defenses on the merits and the risk of this Court exercising its discretion to reduce PAGA penalties, Plaintiff applied an 50% discount to this claim, resulting in a realistic penalty award of **$9,949.50.**

Failure to Reimburse Business Expenses. During the PAGA period, Plaintiff would use her personal cellphone to communicate with her supervisor and to send photos of rooms Plaintiff cleaned to her supervisor without reimbursement. Sung Decl., ¶ 28. Plaintiff was in the Housekeeping department and estimating that housekeeping employees accounted for 50% of pay periods, and at $30 per pay period, maximum PAGA penalties for reimbursement violations are $66,330.00. *Ibid*. In response, Defendant counters it provided radios to housekeeping employees and any cellphone usage was not required but out of employees' own volition. *Ibid.* light of Defendant's defenses on the merits and the risk of this Court exercising its discretion to reduce PAGA penalties, Plaintiff applied an 50% discount to this claim, resulting in a realistic penalty award of **$33,165.00**.

Derivative Violations. The current PAGA statute arguably does not permit recovery of civil penalties for derivative violations of Labor Code sections 201 to 203 (failure to pay all wages upon separation of employment); 204 (failure to timely pay wages); and 226 (failure to provide accurate, itemized wage statements. *See* Lab. Code § 2699(i) ("An aggrieved employee shall not collect a civil penalty for any violation of Sections 201, 202, 203, of the Labor Code, or for a violation of

Section 204 that is neither willful or intentional, or a violation of Section 226 that is neither knowing or intentional nor a failure to provide a wage statement, that is in addition to the civil penalty collected by that aggrieved employee for the underlying unpaid wage violation."). Thus, Plaintiff does not value these claims.

Maximum Exposure and Realistic Recovery at Trial. Based on the foregoing, Plaintiff's counsel estimates Defendant's maximum exposure for PAGA penalties to be approximately $187,209.79. Sung Decl., ¶ 29. Considering Defendant's defenses on the merits and the potential for the Court to reduce a PAGA penalty award, Plaintiff's counsel believes the realistic recovery at trial on these claims to be **$77,393.84**. *Ibid*. The $75,000.00 settlement is a fair result and amounts to "genuine and meaningful" relief "consistent with the underlying purpose of the statute to benefit the public" as it represents approximately **96.91%** of Plaintiff's realistic recovery. *Ibid*.; *see Villalobos v. Calandri Sonrise Farm LP* (C.D. Cal., July 22, 2015, No. CV 12-2615 PSG (JEMx)) 2015 WL 12732709, at *5; *see also O'Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1135. This is a fair and equitable result, particularly because, under the Settlement, Aggrieved Employees will receive timely, guaranteed relief and will avoid the risk of not being able to recover anything. Sung Decl., ¶ 29.

C. THE REQUESTED ATTORNEYS' FEES AND COST AWARD SHOULD BE APPROVED

For the reasons set forth below, Plaintiff requests that the Court approve an attorney's fee award of **$25,000.00** and cost award of **$12,783.50** to Plaintiff's counsel.

1. Plaintiff's Counsel Request an Award of Fees Based on the Common Fund Method

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

Plaintiff's counsel seeks an award of attorneys' fees on the "percentage of recovery/common fund" theory. The purpose of this approach is to "spread litigation costs proportionately among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." *Vincent v. Hughes Air W., Inc.* (9th Cir. 1977) 557 F.2d 759, 769. In *Quinn v. State of Cal.* (1975) 15 Cal.3d 162, 167 the California Supreme Court stated, "one who expends attorneys' fees in winning a suit which creates a fund from which others derive benefits, may require those passive beneficiaries to bear a fair share of the litigation costs." Similarly, in *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110-111, the California Supreme Court recognized that the common fund doctrine has been applied "consistently in California when an action brought by one party creates a fund in which other persons[ ] are entitled to share." The reasons for applying this doctrine include:

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

Id. at 111.

Several courts have expressed frustration with the alternative "lodestar" approach for deciding fee awards, which usually involves wading through voluminous and often indecipherable time records. Commenting on the lodestar approach, Chief Judge Marilyn Hall Patel wrote in *In re Activision Securities Litigation* (N.D. Cal. 1989) 723 F.Supp.1373:

> This court is compelled to ask, "Is this process necessary?" Under a cost-benefit analysis, the answer would be a resounding, "No!" Not only do the *Lindy* and *Kerr–Johnson* analyses consume an undue amount of court time with little resulting advantage to anyone, but, in fact, it may be to the detriment of the class members.

Id. at 1375. The percentage approach is preferable to the lodestar because: (1) it aligns the interests of class counsel and absent class members; (2) it encourages efficient resolution of the litigation by providing an incentive for early, yet reasonable, settlement; and (3) it reduces the demands on judicial resources. *Id.* at 1378-1379. California Courts now routinely use the percentage of the common fund approach to determine the award of attorney's fees. *See*, *e.g.*, *In re Pac. Enter. Sec. Litig.* (9th Cir. 1995) 47 F.3d 373, 378-379 (approving attorneys' fee award of 33%).

2. <u>The Requested Fee is in Line with Typical Cases</u>

"No general rule can be articulated on what is a reasonable percentage of a common fund. Usually, 50% of the fund is the upper limit on a reasonable fee award from a common fund in order to assure that the fees do not consume a disproportionate part of the recovery obtained for the class, although somewhat larger percentages are not unprecedented." Newberg, Newberg on Class Actions (3rd ed. 1992) § 14.03. Attorneys' fees that are 50% of the fund are typically considered the upper limit, with 30–40% commonly awarded in cases where the settlement is relatively small. *Ibid*.; *see also Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 297 (stating that most cases where 30–50% was awarded involved "smaller" settlement funds of under $10 million).

Here, Plaintiff request attorneys' fees equal to 33 1/3% of the Gross Settlement Amount, which is in line with the prevailing guidelines established under California case law and in academic literature and is consistent with awards in California. *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11 ("Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery.").

3. <u>The Matter Involves a Fee and Cost Shifting Provision under PAGA</u>

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

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

4. <u>The Experience, Reputation, and Ability of Plaintiff's counsel Support the Requested Fee Award</u>

As demonstrated by their past experience in pursuing class and representative actions on behalf of employees, Plaintiff's counsel possess considerable expertise in litigating class action and representative matters. Sung Decl., ¶¶ 2-6. Plaintiff's counsel have been involved as lead counsel or co-counsel in a multitude of class and representative actions resulting in beneficial results to class members and aggrieved employees in California. Sung Decl., ¶ 4. Because it is reasonable to compensate Plaintiff's counsel commensurate with their skill, reputation, and experience, Plaintiff's counsel's requested fee award is supported here.

Plaintiff's counsels' experience in wage and hour class and representative actions was integral in evaluating the strengths and weaknesses of the case against Defendant and the reasonableness of this Settlement. Sung Decl., ¶ 31. Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning the rapidly evolving substantive law (state and federal), as well as the procedural law of representative action litigation. *Ibid.* Based on these and other factors, Plaintiff's counsel have recently received fee awards based on a percentage of the gross recovery. *Ibid*. Therefore, the requested fee award is reasonable and fair.

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

"Despite its primacy, the lodestar method is not necessarily utilized in common fund cases." (*Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 27. Courts have criticized the lodestar method as a drain on the judicial system and a disincentive on attorneys to take on high-risk, challenging cases. Ibid. at p. 29. Indeed, the lodestar approach: "(1) 'increases the workload of an already overtaxed judicial system,' (2) is 'insufficiently objective and produce[s] results that are far from homogenous,' (3) 'creates a sense of mathematical precision that is unwarranted in terms of the realities of the practice of law,' (4) 'is subject to manipulation by judges who prefer to calibrate fees in terms of percentages of the settlement fund or the amounts recovered by the Plaintiff or of an overall dollar amount,' (5) 'encourages lawyers to expend excessive hours, and . . . engage in duplicative and unjustified work,' (6) 'creates a disincentive for the early settlement of cases,' (7) deprives trial courts of 'flexibility to reward or deter lawyers so that desirable objectives, such as early settlement, will be fostered,' (8) 'works to the particular disadvantage of the public interest bar,' and (9) results in 'confusion and lack of predictability.'" *Ibid*. (quoting Third Circuit Task Force, *Court Awarded Attorney Fees* (1985) 108 F.R.D. 237, 246-249).

Although California courts support the common fund doctrine, the lodestar method can be used to cross-check fee awards. "It may be appropriate in some cases, assuming the class benefit can be monetized with a reasonable degree of certainty, to 'cross-check' or adjust the lodestar in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation." *In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557 (quoting *Lealao*, 82 Cal.App.4th at 49-50).

Applying the lodestar method is a two-step process. The first step is to multiply the number of hours reasonably expended by a reasonable hourly rate, and the second step is to apply a multiplier to the lodestar to account for various factors. *Id.* at 556. "The purpose of such adjustment is to fix a fee at the fair market value for the particular action. In effect, the court determines, retrospectively, whether the litigation involved a contingent risk or required extraordinary legal skill justifying augmentation of the unadorned lodestar in order to approximate the fair market rate for such services." *Ibid*. "Under certain circumstances, a lodestar calculation may be enhanced on the basis of a percentage-of-the-benefit analysis." *Id.* at 556-557. Further, "California case law permits fee awards in the absence of detailed time sheets." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 255.

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

Moreover, the use of a multiplier is permitted in a PAGA action. PAGA provides that "[a]ny employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs." Lab. Code § 2699(k)(1). Although PAGA does not provide a specific standard for evaluating attorney's fees in connection with a settlement of PAGA claims, California Courts have employed a lodestar analysis and use of multipliers for this purpose. "Where a settlement produces a common fund for the benefit of the entire class, courts have discretion to employ either the lodestar method or the percentage-of-recovery method. . . To guard against an unreasonable result, the Ninth Circuit encourages district courts to "cross-check[] their calculations against a second method. . . . Accordingly, the Court calculates attorneys' fees in the instant case using the percentage-of-recovery method and then cross-checks its calculations against the lodestar method." *Hermosillo v. Davey Tree Surgery Co.* (N.D. Cal. July 7, 2021, No. 18-CV-00393-LHK) 2021 WL 2826697, at *1 (quoting *In re Bluetooth Headset Prods. Liab. Litig.* (9th Cir. 2011) 654 F.3d 935, 942, 944-945). The court in *Hermosillo* granted, in part, a plaintiff's counsel's unopposed motion for attorney's fees and costs in a PAGA-only settlement, wherein 33.33% of the gross settlement fund was requested for fees. *Id.* at *1–3.

Here, Plaintiff's counsel's current lodestar is **$64,815.00**, broken down as:

Name	Laffey Matrix Fee	Actual Billing Rate	Hours Billed	Lodestar
William C. Sung (14th Year Attorney)	$948	$850	57.90	$49,215.00
Tiffany L. Luu (5th Year Attorney)	$581	$500	26.50	$13,215.00
Joseph C. Ramli (4th Year Attorney)	$581	$500	4.70	$2,240.00
		Total:	**89.1**	**$64,815.00**

Sung Decl., ¶¶ 32-36. Plaintiff's counsel's requested fee award represents a **negative 0.39** lodestar multiplier. Sung Decl., ¶ 32. Additionally, Plaintiff's counsel estimate they will devote no less than

10 hours, although likely more time, to additional tasks, which are hours not included in the foregoing lodestar total. Sung Decl., ¶ 37. These additional hours will include time spent to obtain and monitor approval of the Settlement and requested awards, oversee the settlement administration process and distribution of funds, respond to inquiries, and communicate with Plaintiff regarding the case. *Ibid*.

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

6. <u>Plaintiff's Counsels' Costs Are Reasonable and Actually Incurred</u>

Plaintiff's counsel are entitled to recover the out-of-pocket costs and expenses they reasonably incurred in investigating, prosecuting, and settling a case. (*Staton v. Boeing Co.* (9th Cir. 2003) 327 F.3d 938, 974; Lab. Code § 2699(g)(1). Under the proposed Settlement, Plaintiff's counsel may request reimbursement of costs up to $20,000.00. Agreement, § III.4.a. Plaintiff's litigation costs are approximately $12,783.50, including estimated future costs in filing this Motion and supporting papers ($77.97), courtesy copy delivery fee for this Motion ($164.30), supplemental filings for this Motion ($16.17), Case Anywhere System Access Fee from December 2025 through April 2026 ($302.00), and filing of the Settlement Administrator's declaration of compliance re settlement administration ($16.17). Sung Decl., ¶ 16; Exh. 4. These expenses were reasonably necessary to the litigation and were actually incurred. Moreover, these expenses are below the maximum amount ($20,000.00) allowed in the Settlement, and the remainder will be allocated to the Net Settlement Amount. Therefore, costs should be reimbursed in full, up to the maximum amount allowed in the Settlement.

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D. THE COURT SHOULD APPROVE THE REQUESTED PLAINTIFF'S SERVICE AWARD.

Courts routinely approve enhancement payments to compensate named plaintiffs for the services they provide and the risks they incur during class action litigation. *See, e.g., Bell v. Farmers Ins. Exchange* (2004) 115 Cal.App.4th 715, 726 (upholding "service payments" to named plaintiffs for their efforts in bringing the case); *Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F. Supp. 294 (approving $50,000 service payment). Indeed, "[i]ncentive awards are fairly typical in class action cases." *Rodriguez v. West Publ'g Corp.* (9th Cir. 2009) 563 F.3d 948, 958. The Court may award incentive payments "to compensate [Plaintiff] for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action. *Id.* at 958-959.

Here, Plaintiff seeks an enhancement award of $5,000.00 and Plaintiff and Plaintiff's counsel submit that this request is reasonable given Plaintiff's efforts in this case and the risks Plaintiff undertook on behalf of the State and Aggrieved Employees. Inzunza Decl., ¶¶ 4-5; Sung Decl., ¶ 38. Plaintiff expended substantial time and effort on behalf of the State and Aggrieved Employees, including providing factual information and documents to counsel, attending meetings with counsel to discuss the claims and theories at issue in the litigation, and otherwise actively participating in the prosecution of his claims. Inzunza Decl., ¶ 4.

E. THE COURT SHOULD APPROVE THE SETTLEMENT ADMINISTRATION FEES

Pursuant to the terms of the Settlement, the fees and costs of the Settlement Administrator, are to be paid out of the common fund. Agreement, § III.4.B. The settlement administration fees are based on a flat-sum amount of $4,500.00. *Ibid*.; Admin. Decl., ¶ 22, Exh. B. The Settlement Administrator's duties include, but are not limited to, receiving and analyzing the Aggrieved Employee list, processing Aggrieved Employees' names and addresses against the NCOA prior to mailing, setting up and managing a QSF Escrow Account, calculating Individual PAGA Payments to Aggrieved Employees, disbursing settlement payments to Aggrieved Employees, the State of California, and Plaintiff's counsel including necessary tax forms (i.e., 1099 Forms) and PAGA settlement explanatory letter, tendering funds from uncashed checks to the Unclaimed Property Fund to be held in the name of the Aggrieved Employee, and submitting final accounting to the Court. Admin Decl., ¶¶ 12, 19-22, Exh. B; Agreement, §§ IV.1-7. All of these duties are included in the agreed-upon flat fee of $4,500.00. Thus, the Administrator's fees should be approved.

F. PLAINTIFF'S COUNSEL GAVE NOTICE OF THE PAGA SETTLEMENT TO THE LWDA

On December 19, 2025, Plaintiff's counsel gave notice of this Settlement to the LWDA by filing a copy of the fully executed Agreement, Motion for Approval of PAGA Settlement, supporting declarations, and Proposed Judgment and Order with the LWDA via uploading through its website. Sung Decl., ¶ 36, **Exh. 7**-LWDA Upload Confirmation.

IV. CONCLUSION

For the foregoing reasons, Plaintiff respectfully request that the Court grant approval of the proposed Settlement, sign the Proposed Order and Judgment submitted herewith, and set a Compliance Hearing Re: Status of Distribution.

DATED: December 19, 2025

Respectfully submitted,

JUSTICE FOR WORKERS, P.C.

By: ______________________

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