John G. Yslas (SBN 187324)
john.yslas@wilshirelawfirm.com
Jose Maria D. Patino, Jr. (SBN 270194)
jose.patino@wilshirelawfirm.com
Brian Louis (SBN 353058)
brian.louis@wilshirelawfirm.com
Roger Ricardez (SBN 365063)
roger.ricardez@wilshirelawfirm.com
Lucy H. Nguyen (SBN 338783)
lucy.nguyen@wilshirelawfirm.com
WILSHIRE LAW FIRM, PLC
660 S. Figueroa St., Sky Lobby
Los Angeles, California 90017
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

Attorneys for Plaintiffs ASIA HOLLINS and ZOE SMITH, individually, and on behalf of the State of California and other aggrieved persons

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

ASIA HOLLINS and ZOE SMITH, individually, and on behalf of the State of California and other aggrieved persons,

Plaintiffs,

v.

AUTISM OUTREACH SOUTHERN CALIFORNIA LLC, a California limited liability company; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 25CU000815C

[Assigned for all purposes to the Hon. Judy S. Bae, Dept. C-62]

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

[Filed concurrently with Declarations of John G. Yslas, Asia Hollins, and Zoe Smith; [Proposed] Order and Judgment]

PAGA APPROVAL HEARING:
DATE: May 14, 2027
TIME: 9:10 a.m.
RES NO: 106147
DEPT.: C-62

Action Filed: January 6, 2025
Trial Date: None set

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on May 14, 2026, at 9:10 a.m., or as soon thereafter as the matter may be heard in Department C-62 of the above-entitled Court, located at 330 West Broadway, San Diego, California 92101, Plaintiffs Asia Hollins and Zoe Smith ("Plaintiffs") will and hereby do move for an order approving the settlement of the PAGA claim alleged against Defendant Autism Outreach Southern California LLC dba MeBe ("Defendant") in accordance with Labor Code § 2699, subdivision (s)(2). The proposed settlement is set forth in the accompanying PAGA Settlement Agreement ("Settlement Agreement"). Plaintiffs further request that the Court (1) approve the allocation of the $250,000 Gross Settlement Amount, including the payment of $83,333.33 in attorneys' fees and litigation costs not to exceed $16,000 to Plaintiffs' counsel, a PAGA Representative Service Payment of $5,000 to each Plaintiff, and Administration Expenses not to exceed $13,500 to Phoenix Settlement Administrators, Inc.; (2) approve the proposed Notice of PAGA Settlement to be mailed with each Individual PAGA Payment; (3) enter judgment in accordance with the Settlement Agreement; and (4) set a final accounting hearing.

This Motion will be based on this notice, the accompanying points and authorities, the Declarations of John G. Yslas, Asia Hollins, and Zoe Smith, the proposed Order and Judgment, and the complete files and records in this action. The Labor and Workforce Development Agency has been served with this motion and the Settlement Agreement as set forth in the accompanying proof of service.

Dated: October 30, 2026

WILSHIRE LAW FIRM, PLC

By: _____

Attorneys for Plaintiffs

TABLE OF CONTENTS

I. INTRODUCTION 5

II. RELEVANT FACTS AND PROCEDURAL HISTORY 5

III. TERMS OF THE PAGA SETTLEMENT 7

A. Aggrieved Employees 7

B. Settlement Terms 8

C. Payment Schedule 10

D. Releases 10

E. Settlement Administration 11

F. Notice to Aggrieved Employees 13

IV. THE COURT SHOULD GRANT APPROVAL OF THE PAGA SETTLEMENT 13

A. Legal Standard 13

B. The PAGA Penalties Secured by the Settlement Are Genuine and Meaningful and Fulfill PAGA's Underlying Purpose to Benefit the Public 14

C. The Settlement is Reasonable Given the Risks of Further Litigation 16

D. The Installment Payment Structure Is Supported by Defendant's Documented Financial Condition 19

V. THE ATTORNEYS' FEES AND COSTS ARE FAIR AND REASONABLE 20

A. Plaintiffs' Counsel's Requested Attorneys' Fees Are Reasonable under the Common Fund Method 21

B. A Lodestar Cross-Check Confirms the Reasonableness of the Requested Fee 23

C. Plaintiffs' Counsel's Rates Are Similar to Those Approved by California Courts in Comparable Cases. 24

D. PAGA Counsel's Costs Are Reasonable 27

VI. THE REQUESTED PAGA REPRESENTATIVE SERVICE PAYMENTS TO PLAINTIFFS ARE REASONABLE 27

VII. CONCLUSION 28

TABLE OF AUTHORITIES

CASES

Amaral v. Cintas Corp. No. 2, 163 Cal.App.4th 1157 (2008) 24

Carrington v. Starbucks Corp., 30 Cal.App.5th 504 (2018) 20

City and County of San Francisco v. Sweet, 12 Cal.4th 105 (1995) 29

Dunk v. Ford Motor Co., 48 Cal.App.4th 1794 (1996) 18

Gouskos v. Aptos Village Garage, Inc., 94 Cal.App.4th 754 (2001) 28

Graciano v. Robinson Ford Sales, Inc., 144 Cal. App. 4th 140 (2006) 28

Huff v. Securitas Sec. Servs., USA, Inc., 23 Cal.App.5th 745 (2018) 18

In re Consumer Privacy Cases, 175 Cal.App.4th 545 (2009) 30

Iskanian v. CLS Transportation, 59 Cal. 4th 348 (2014) 6, 18

Kim v. Reins Int'l California, Inc., 9 Cal.5th 73 (2020) 18

Kullar v. Foot Locker Retail, Inc., 168 Cal.App.4th 116 (2008) 18

Laffitte v. Robert Half Int'l, Inc., 1 Cal.5th 480 (2016) 30

Lealao v. Beneficial Cal., Inc., 82 Cal.App.4th 19 (2000) 29

Melnyk v. Robledo, 64 Cal.App.3d 618 (1976) 31

Moniz v. Adecco USA, Inc., 72 Cal. App. 5th 56 (Cal. Ct. App. Nov. 30, 2021) 17

PLCM Group, Inc. v. Drexler, 22 Cal.4th 1084 (2000) 31

Quinn v. State of California, 15 Cal.3d 162 (1975) 29

Serrano v. Priest, 20 Cal.3d 25 (1977) 28

Thurman v. Bayshore Transit Management, Inc., 203 Cal.App.4th 1112 (2012) 27

ZB, N.A. v. Superior Court, 8 Cal. 5th 175 (2019) 6, 18

STATUTES

Cal. Civil Code § 1542 ..... 12, 14

Cal. Code of Civil Procedure § 664.6 ..... 16, 27

Cal. Labor Code § 2699 ..... 6, 20, 23, 28

Cal. Labor Code § 2699(a) 6

Cal. Labor Code § 2699(k)(1) 28, 36

Cal. Labor Code § 2699(m) 11
Cal. Labor Code § 2699(s)(2) 6, 16, 17
Cal. Labor Code § 2699.3(a) 7

TREATISES

Newberg on Class Actions, 4th Ed. 2002 30

FEDERAL CASES

Boeing v. Van Gemert, 444 U.S. 472 (1980) 30
Cardenas v. McLane Foodservice, Inc., No. BCV-23-102915, 2011 U.S. Dist. LEXIS 13126 (C.D. Cal. Jan. 31, 2011) 21
Echavez v. Abercrombie & Fitch Co., No. CV 11-09754-GAF, 2017 WL 3669607 (C.D. Cal. Mar. 23, 2017) 19
Fleming v. Covidien, No. ED CV 10-01487 RGK (OPx), 2011 U.S. Dist. LEXIS 154590 (C.D. Cal. Aug. 12, 2011) 20
Flores v. Starwood Hotels & Resorts Worldwide, Inc., 253 F.Supp.3d 1074 (C.D. Cal. 2017) 18
In re Activision Securities Litigation, 723 F.Supp. 1373 (N.D. Cal. 1989) 29
Jordan v. TCS Grp., Inc., No. EDCV161701JVSSPX, 2018 WL 1409590 (C.D. Cal. Jan. 5, 2018) 19
Linney v. Cellular Alaska Partnership, 151 F.3d 1234 (9th Cir. 1998) 25
McKenzie v. Federal Exp. Corp., 765 F.Supp.2d 1222 (C.D. Cal. 2011) 18
O'Connor v. Uber Technologies, Inc., 201 F. Supp. 3d 1110 (N.D. Cal. 2016) 17
Vincent v. Hughes Air West, Inc., 557 F.2d 759 (9th Cir. 1977) 28

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Asia Hollins and Zoe Smith ("Plaintiffs") and Defendant Autism Outreach Southern California LLC dba MeBe ("Defendant") (Plaintiffs and Defendant collectively, the "Parties") reached a settlement of the Labor Code Private Attorneys General Act of 2004, Cal. Labor Code § 2699, et seq. ("PAGA") claims asserted in this action. In accordance with Labor Code § 2699, subdivision (s)(2), Plaintiffs now ask this Court to review and approve the settlement of Plaintiffs' PAGA claims. This is a PAGA Settlement for civil penalties. It is not a class settlement and does not release the individual wage claims, if any, of the aggrieved employees other than those of Plaintiffs, which were resolved in separate individual agreements. Cal. Labor Code § 2699, subd. (a); *Iskanian v. CLS Transportation*, 59 Cal. 4th 348, 381 (2014); *ZB, N.A. v. Superior Court*, 8 Cal. 5th 175, 182 (2019) (unpaid wages are not recoverable under PAGA).

The PAGA Settlement is set forth in the accompanying PAGA Settlement Agreement ("Settlement Agreement"). A true and correct copy of the Settlement Agreement which sets forth the terms for the settlement of the PAGA claims is attached as Exhibit 2 to the Declaration of John G. Yslas in Support of Motion for Approval of PAGA Settlement ("Yslas Decl."), filed concurrently herewith. Capitalized terms shall have the same meaning as defined in the Settlement Agreement. The settlement requires Defendant to pay a non-reversionary sum of $250,000 in installments over 35 months, an arrangement the Parties agreed to because of Defendant's documented financial condition, as discussed in Section IV.D below. The LWDA received notice of this Settlement on October 30, 2026. (Yslas Decl. ¶ 44, Exs. 6, 7.)

II. RELEVANT FACTS AND PROCEDURAL HISTORY

On September 30, 2024, Plaintiffs filed a putative class action against Defendant alleging: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to indemnify employees for expenditures; (8) failure to produce requested employment records; and (9) unfair business practices. *Hollins, et al. v. Autism Outreach Southern California LLC*, San Diego Case No. 24CU013833C (the

"Class Action"). (Yslas Decl. ¶ 3.) Pursuant to Labor Code section 2699.3, subdivision (a), Plaintiffs gave timely written notice on November 1, 2024, to the Labor and Workforce Development Agency ("LWDA") and Defendant of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories in support (LWDA-CM-1059534-24) (the "PAGA Notice"). (Yslas Decl. ¶ 4, Ex. 1.) After the notice period elapsed without the LWDA indicating an intent to investigate, on January 6, 2025, Plaintiffs filed this separate representative action against Defendant seeking civil penalties pursuant to PAGA (the "PAGA Action"). (Settlement Agreement §§ 1.1, 2.1; Yslas Decl. ¶ 3.) The Complaint in the PAGA Action is the operative complaint (the "Operative Complaint"). It alleges that Defendant, a provider of in-home behavioral therapy services, violated the Labor Code with respect to its hourly, non-exempt employees by failing at times to pay for all hours worked (including minimum, straight time, and overtime wages), to provide meal periods, to authorize and permit rest periods, to pay all earned wages twice per month, to maintain accurate records of hours worked and meal periods, to timely pay all wages at termination, to furnish accurate itemized wage statements, to indemnify for necessary business expenditures, and to produce requested employment records. Plaintiffs seek only civil penalties in the PAGA Action.

Defendant answered the Operative Complaint on February 27, 2025, denying the allegations and asserting twenty-five affirmative defenses, including that Plaintiffs' individual PAGA claims are subject to arbitration, that any penalties are capped or should be reduced because of Defendant's reasonable steps to comply, and that Plaintiffs are not adequate or typical representatives. (Yslas Decl. ¶ 5.) In the Class Action, on April 18, 2025, the Court granted Defendant's petition to compel Plaintiffs' individual claims to arbitration under arbitration agreements containing class and representative action waivers, and stayed the Class Action. (*Id.*) Plaintiffs commenced individual arbitrations before JAMS. (*Id.*) Those arbitrations and the Class Action have since been resolved and dismissed, and nothing in this Settlement releases any individual claim of any aggrieved employee other than Plaintiffs. (*Id.* ¶¶ 5, 18.)

The Parties thereafter met and conferred and agreed to mediate with the Hon. Mitchel R. Goldberg (Ret.) of Judicate West, a retired judge experienced in wage-and-hour class and representative actions. (Settlement Agreement § 2.3; Yslas Decl. ¶ 6.) In advance of mediation, PAGA Counsel conducted a thorough investigation into the facts of, and applicable law to, the PAGA Action. (Settlement

Agreement § 2.4; Yslas Decl. ¶ 6.) By agreement, the Parties exchanged informal discovery in lieu of formal discovery. Defendant produced, in four productions between October 29, 2025 and January 6, 2026, the time and payroll data of the aggrieved employees, its wage-and-hour policies, handbooks, and training and HR materials, and its financial records. (*Id.*) The Parties jointly retained an expert, Berger Consulting Group, to analyze the data and calculate the potential PAGA penalties, and Plaintiffs retained a forensic accountant, Kenneth Creal, CPA, to analyze Defendant's financial condition. (Settlement Agreement § 2.4; Yslas Decl. ¶¶ 6, 16.) These materials allowed Plaintiffs to properly evaluate the strengths and weaknesses of the claims and engage in meaningful settlement discussions. (*Id.*)

On January 13, 2026, the Parties engaged in an all-day mediation session before Judge Goldberg. (Settlement Agreement § 2.3; Yslas Decl. ¶ 7.) With the help of Judge Goldberg, the Parties were able to reach an agreement on the principal settlement terms, which they memorialized in a Memorandum of Understanding and then in the Settlement Agreement. (*Id.*) The settlement was negotiated in light of all known facts and circumstances and the uncertainty associated with litigation – including the risk of Plaintiffs not being able to maintain representative claims, the arbitration agreements, the difficulty of proving Plaintiffs' claims in a manageable trial, the merits of Defendant's potential defenses, Defendant's financial condition, and the significant delay and potential appellate issues inherent to litigation – and was reached after extensive arm's length negotiations, with the assistance of Judge Goldberg. (Settlement Agreement §§ 2.3, 2.4; Yslas Decl. ¶ 7.) The Parties are not aware of any other pending matter or action asserting claims that will be extinguished or affected by this settlement. (Settlement Agreement § 2.5; Yslas Decl. ¶ 46.)

III. TERMS OF THE PAGA SETTLEMENT

A. Aggrieved Employees

"Aggrieved Employee" means all non-exempt, hourly individuals who were employed by and worked for Defendant in California during the PAGA Period, which is the period beginning November 1, 2023 – one year before the PAGA Notice – through the date of PAGA approval (the Judgment) or Defendant's alternate release date. (Settlement Agreement §§ 1.4, 1.21, 7.) Defendant estimates that there are approximately 1,142 Aggrieved Employees who worked an estimated 17,970 Pay Periods between November 1, 2023 and January 13, 2026. (*Id.* § 7; Yslas Decl. ¶ 10.) The PAGA Period runs through the

date of approval so that the release covers only what the Aggrieved Employees and the LWDA could have claimed up to the time they are bound; the Settlement Agreement includes an escalator that increases the Gross Settlement Amount if the number of Pay Periods exceeds the estimate by more than 10% (i.e., more than 19,767 Pay Periods), under which the fee portion also increases only to remain at one-third. (Settlement Agreement § 7.) If the escalator would be triggered, Defendant may alternatively elect an earlier end date for the PAGA Period, which would shorten the release period accordingly. (*Id.*)

B. Settlement Terms

The Settlement Agreement negotiated by the Parties provides for a Gross Settlement Amount ("GSA") payment in the amount of $250,000.00 to resolve the PAGA Action. (Settlement Agreement §§ 1.12, 3.1; Yslas Decl. ¶ 8.) None of the GSA reverts to Defendant, and Aggrieved Employees are not required to submit a claim. (Settlement Agreement § 3.1.) The GSA will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees, PAGA Counsel Litigation Expenses, the Representative Service Payments to Plaintiffs (called Enhancement Awards in the Settlement Agreement), and the Administrator's Expenses. (*Id.* §§ 1.17, 3.2; Yslas Decl. ¶ 8.) After deducting the Representative Service Payments ($10,000 in total), PAGA Counsel Fees ($83,333.33), PAGA Counsel Litigation Expenses (not to exceed $16,000), and the Administration Expenses Payment (not to exceed $13,500) from the GSA, the amount remaining is the Net Settlement Amount ("NSA"). (Settlement Agreement § 1.17; Yslas Decl. ¶ 8.) The NSA, which is estimated to be $127,166.67 if each of those payments is approved at its maximum,[1] shall be distributed as PAGA Penalties with 65% of the NSA ($82,658.34) allocated to the LWDA PAGA Payment and 35% of the NSA ($44,508.33) allocated to Individual PAGA Payments. (Settlement Agreement § 3.2.4; Yslas Decl. ¶ 8.) If any of those payments is approved in a lesser amount, the difference is added to the NSA and shared by the LWDA and the Aggrieved Employees in the same proportions. (Settlement Agreement §§ 3.2.1-3.2.4.)

[1] The Net Settlement Amount of $127,166.67 was calculated using the following arithmetic: $250,000.00 minus $83,333.33 for Plaintiffs' Counsel's attorneys' fees, minus $16,000.00 (the maximum) for Plaintiffs' Counsel's litigation expenses, minus $13,500.00 (the maximum) for administration costs, and minus $10,000.00 for the PAGA Representative Service Payments to Plaintiffs ($5,000.00 each). To the extent any payment is approved in a lesser amount, the difference increases the Net Settlement Amount.

Consideration to the LWDA and the Aggrieved Employees: The only consideration paid by Defendant for the release of the PAGA claims is the GSA. All of the NSA is paid as civil penalties: 65% to the LWDA and 35% to the Aggrieved Employees, which is the allocation required by Labor Code § 2699, subdivision (m). (Settlement Agreement §§ 1.13, 1.16, 3.2.4.) No portion of the Individual PAGA Payments is allocated to wages. (*Id.* § 3.2.4.)

Individual PAGA Payments: The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 35% share of PAGA Penalties by the total number of Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. (Settlement Agreement § 3.2.4.1.) A "PAGA Pay Period" is any pay period in which the Aggrieved Employee worked at least one day during the PAGA Period. (*Id.* § 1.20.) The Individual PAGA Payments will be reported on IRS Form 1099 as 100% civil penalties, and each Aggrieved Employee is responsible for his or her own taxes; because no part of the payments is wages, no payroll withholding or employer-side payroll taxes arise. (*Id.* § 3.2.4, 3.2.4.1.) Assuming the maximum deductions, the average Individual PAGA Payment will be approximately $38.97 ($44,508.33 / 1,142 Aggrieved Employees), or approximately $2.47 per Pay Period worked. (Yslas Decl. ¶ 15.)

PAGA Representative Service Payments: Subject to Court approval, each Plaintiff shall be paid a Representative Service Payment not to exceed $5,000.00 (a total of $10,000.00) for her time and effort in bringing and presenting the Action, in addition to the Individual PAGA Payment she will receive as an Aggrieved Employee. (Settlement Agreement § 3.2.1.) In addition to those payments, and separate from the GSA, each Plaintiff received $5,000.00 under a separate individual settlement agreement in exchange for a general release of her individual claims (including a waiver of Civil Code section 1542) and the dismissal of her individual arbitration; those agreements expressly carve out the PAGA claims. (*Id.* § 5.1; Yslas Decl. ¶ 18.) Plaintiffs thus receive no other consideration from the PAGA settlement.

PAGA Counsel Fees Payment: Subject to Court approval, PAGA Counsel shall be entitled to receive an award of reasonable attorneys' fees of not more than one third (1/3) of the GSA, which is $83,333.33. (Settlement Agreement § 3.2.2.) Defendant will not oppose the request. (*Id.*)

PAGA Counsel Litigation Expenses Payment: Per the Settlement Agreement, PAGA Counsel

shall be entitled to request reimbursement of actual costs, not to exceed $16,000.00. (Settlement Agreement § 3.2.2.) Counsel seeks reimbursement of actual costs incurred in the amount of $15,916.01. (Yslas Decl. ¶ 41.) The remaining $83.99 will therefore revert to the NSA to be distributed as PAGA Penalties to the LWDA and Aggrieved Employees. (*Id.*)

Administrator Expenses Payment: The Parties agreed to appoint Phoenix Settlement Administrators, Inc. ("Phoenix") as the Administrator for the Settlement. (Settlement Agreement §§ 1.2, 6.1.) The Administration Expenses, which are not to exceed $13,500, absent good cause and approval by the Court, shall be paid from the GSA, and any unused portion is added to the NSA. (*Id.* § 3.2.3; Yslas Decl. ¶ 48.)

C. Payment Schedule

Because of Defendant's financial condition, the GSA is payable in 35 monthly installments from February 2026 through December 2028 as follows. (Settlement Agreement § 4.3; Yslas Decl. ¶ 9.)

Period	**Monthly Installment**	**Number of Months**	**Subtotal**
February 2026 – June 2027	$5,000	17	$85,000
July 2027 – December 2027	$7,500	6	$45,000
January 2028 – December 2028	$10,000	12	$120,000
Total		**35**	**$250,000**

The installments are paid into a Qualified Settlement Fund ("QSF") maintained by the Administrator, with an initial lump-sum payment equal to the monthly installments from February 2026 through the Effective Date and thereafter quarterly on the 20th of the month following each quarter. (Settlement Agreement §§ 4.3, 6.3.) The Effective Date is the date on which Defendant receives the Court's signed order entering judgment and the judgment is final; no money will be distributed unless and until the Effective Date occurs. (*Id.* § 1.11.) Interest earned on the QSF becomes part of the NSA. (*Id.* § 6.3.)

D. Releases

Plaintiffs' Release: "Plaintiff discharges Released Parties from all known and unknown claims Plaintiff may have or claim to have against the Released Parties as well as their respective members, owners, employees, officers, agents, affiliates, and insurers. . . . The claims released by Plaintiff pursuant

to the individual settlement agreement will specifically exclude Plaintiff's PAGA claims, which will be released pursuant to the PAGA Settlement Agreement. Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the PAGA Period." (Settlement Agreement § 5.1.)

Plaintiffs' Waiver of Rights Under California Civil Code Section 1542: "[F]or purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code." (Settlement Agreement § 5.1.1.) Only Plaintiffs waive section 1542; no Aggrieved Employee other than Plaintiffs gives a section 1542 waiver.

Aggrieved Employees' (and the LWDA's) Release: "The LWDA will release all claims for PAGA civil penalties that are alleged or reasonably could have been alleged on behalf of all Aggrieved Employees based on the facts alleged in the operative Complaint and in Plaintiff's November 1, 2024 PAGA Notice. The Released PAGA Claims are those that accrued with respect to the Aggrieved Employees' employment with the Released Parties during the PAGA Period. The Released PAGA Claims specifically exclude Plaintiff's non-PAGA individual claims, which will be released pursuant to the separate individual settlement agreements." (Settlement Agreement § 5.2.) The releases become effective only on the date Defendant fully funds the GSA. (*Id.* § 5.) Aggrieved Employees cannot opt out of the settlement and, whether or not they cash their checks, will be bound by the release.

E. Settlement Administration

Defendant will provide the Aggrieved Employee Data to the Administrator not later than thirty (30) calendar days after the Court grants approval. (Settlement Agreement § 4.2.) Defendant has a continuing duty to immediately cooperate to reconstruct or resolve any issues related to missing or omitted Aggrieved Employee Data. (*Id.*)

Defendant will fund the GSA according to the installment schedule above. (*Id.* § 4.3.) There will be two distributions. Within thirty (30) days of Defendant funding 50% of the GSA, the Administrator will issue checks for exactly 50% of each Individual PAGA Payment and will pay exactly 50% of the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and the Representative Service Payments; and no later

than February 1, 2029, following the full funding of the GSA, the Administrator will issue the second and final 50% of each. (*Id.* § 4.4.) Disbursement of the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and the Representative Service Payments shall not precede disbursement of the Individual PAGA Payments. (*Id.*) The Administrator will mail the checks, together with the Notice of PAGA Settlement, by First-Class U.S. Mail to each Aggrieved Employee's last known address after updating addresses through the National Change of Address database. (*Id.* § 4.4.1.) The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without a USPS forwarding address, and within seven (7) days of receiving a returned check must re-mail it to the USPS forwarding address or to an address ascertained through the search. (*Id.* § 4.4.2.)

The Individual PAGA Payment checks will remain valid for 180 calendar days after they are issued. (*Id.* § 4.4.1.) For any Aggrieved Employee whose check is uncashed and cancelled after the void date, the Administrator shall transmit the funds to the Legal Aid Society of San Diego as a cy pres beneficiary. (*Id.* § 4.4.3.) Neither the Parties nor their counsel have any interest in or relationship with that organization. (*Id.*; Yslas Decl. ¶ 46.) The Administrator will report the Individual PAGA Payments on IRS 1099 Forms. (Settlement Agreement § 3.2.4.) Within ten (10) days after the Administrator disburses all funds, it will provide PAGA Counsel and Defense Counsel a final report detailing its disbursements and, at least fifteen (15) days before any deadline set by the Court, a declaration suitable for filing attesting to its disbursements. (*Id.* § 6.4.1.) Plaintiffs request that the Court set a final accounting hearing for a date after the final distribution (the second distribution is due by February 1, 2029), at which PAGA Counsel will file the Administrator's declaration.

The Court will retain jurisdiction over the Parties and the Settlement for purposes of enforcement under Code of Civil Procedure section 664.6, including enforcement of Defendant's installment obligations. (Settlement Agreement §§ 8.2, 10.17; Yslas Decl. ¶ 46.)

Pursuant to California Labor Code Section 2699(s)(2), Plaintiffs submitted the proposed Settlement Agreement and the motion papers to the LWDA on October 30, 2026 – the same date they were submitted to the Court. (Yslas Decl. ¶ 44, Ex. 7.) Plaintiffs will submit a copy of the Court's judgment and order approving the Settlement Agreement to the LWDA within ten (10) days after entry

of judgment or order. (*Id.*)

F. Notice to Aggrieved Employees

A Notice of PAGA Settlement will accompany each Individual PAGA Payment. (Yslas Decl. ¶ 45, Ex. 8.) The Notice explains PAGA; describes the factual allegations of the Operative Complaint; describes the scope of the Released PAGA Claims; states the Gross Settlement Amount, the Net Settlement Amount, and the portions allocated to the LWDA and the Aggrieved Employees; explains how each Individual PAGA Payment was calculated (and states the recipient's number of pay periods and payment); describes the recipient's responsibility for taxes; and notifies each Aggrieved Employee that he or she cannot opt out of the settlement and that, even if he or she does not cash the check, he or she will be bound by the release. (*Id.*) The Notice also explains that the payment arrives in two installments, identifies the Administrator, and provides the Court's docket information and counsel's contact information. (*Id.*) Plaintiffs request that the Court approve the Notice in the form attached.

IV. THE COURT SHOULD GRANT APPROVAL OF THE PAGA SETTLEMENT

A. Legal Standard

Labor Code § 2699, subdivision (s)(2), requires that the Court "shall review and approve any settlement of any civil [PAGA] action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court." In doing so, the trial court must consider whether the settlement is "fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." *Moniz v. Adecco USA, Inc*., 72 Cal. App. 5th 56, 77-78 (Cal. Ct. App. Nov. 30, 2021) (overruled in part on other grounds); *see also O'Connor v. Uber Technologies, Inc*., 201 F. Supp. 3d 1110, 1133 (N.D. Cal. 2016) (adopting guidance from the LWDA providing that "when a PAGA claim is settled, the relief provided for under the PAGA [must] be genuine and meaningful, consistent with the underlying purpose of the statute to benefit the public").

The court's role in reviewing PAGA settlements differs from its gatekeeping function in the class action context. In class actions, courts have a fiduciary duty to protect the interests of absent class members, whose individual claims will be discharged. *Kullar v. Foot Locker Retail, Inc*., 168 Cal.App.4th 116, 129 (2008). In this role, courts conduct an "independent assessment of the adequacy of

the settlement terms," which requires them to have sufficient data and information about the amount in controversy and the realistic range of outcomes. *Id*. at 132. Courts consider a variety of factors in conducting this analysis, including whether the settlement is negotiated at an arm's length, whether there is sufficient discovery and information to permit parties and the court to act intelligently, whether the attorneys have experience with the type of issues, and whether the number of objectors is small. *Dunk v. Ford Motor Co*., 48 Cal.App.4th 1794, 1800-1801 (1996).

However, a PAGA representative action is "not akin to a class action," it "is a species of qui tam action." *Flores v. Starwood Hotels & Resorts Worldwide, Inc*., 253 F.Supp.3d 1074, 1076 (C.D. Cal. 2017). When reviewing a PAGA-only settlement, courts do not consider the value of individuals' claims for damages because a PAGA settlement does not release those claims. *See Kim v. Reins Int'l California, Inc*., 9 Cal.5th 73, 87 (2020) (PAGA claims differ from individual claims); *ZB, N.A. v. Superior Court*, 8 Cal.5th 175, 188 (2019) (noting that PAGA penalties do not seek damages that are compensatory in nature). "The state's interest in such an action is to enforce its laws, not to recover damages on behalf of a particular individual." *Huff v. Securitas Sec. Servs., USA, Inc*., 23 Cal.App.5th 745, 760 (2018). Instead of focusing on fair recovery for individual claims, the goal of PAGA enforcement is to achieve "maximum compliance with state labor laws." *Id*. at 756; *see also Iskanian*, 59 Cal.4th at 383 (noting that the goal of PAGA is to impose civil penalties for Labor Code violations "significant enough to deter violations"); *McKenzie v. Federal Exp. Corp*., 765 F.Supp.2d 1222, 1233 (C.D. Cal. 2011) ("Unlike a class action seeking damages... for injured employees, the purpose of PAGA is to incentivize private parties to recover civil penalties for the government that otherwise may not have been assessed and collected by overburdened state enforcement agencies.").

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

The Settlement of $250,000 penalizes Defendant for the alleged violations of California's labor laws in an amount that is significant enough to deter violations and provide genuine and meaningful relief – and approximately $127,166.67 in PAGA Penalties to the State of California and Aggrieved

Employees[2] – thus fulfilling the underlying purpose of PAGA to benefit the public. (Yslas Decl. ¶¶ 8-15); *see Jordan v. TCS Grp., Inc*., No. EDCV161701JVSSPX, 2018 WL 1409590, at *3 (C.D. Cal. Jan. 5, 2018) ("The proposed settlement imposes a substantial penalty payment of $150,000.00, paid in exchange for a release of only those claims pled in the notice to the LWDA and the Complaint. This penalty has a substantial deterrent effect on Defendant and other California employers. Furthermore, the proposed settlement encourages compliance with the specific requirements of the Labor Code, which has the effect of protecting workers from unlawful employment practices and working conditions."); *Echavez v. Abercrombie & Fitch Co*., No. CV 11-09754-GAF, 2017 WL 3669607, at *3 (C.D. Cal. Mar. 23, 2017) (finding that "[t]he primary purpose of PAGA, i.e., the empowerment of Aggrieved Employees to act as private attorneys general to collect civil penalties from their employers for Labor Code violations, [was] served by the proposed PAGA penalty in the parties' settlement agreement," where $340,000 of $700,000 settlement was allocated to PAGA penalties which were divided 75% to the LWDA and 25% to an estimated 10,000 Aggrieved Employees).

This PAGA Settlement amount compares favorably to the estimated amount of PAGA penalties. Using Defendant's own time and payroll data, the Parties' jointly retained expert calculated that the maximum amount of statutory PAGA civil penalties, at the $100 per-pay-period rate, was potentially $1,797,000 for an estimated 1,142 employees based on 17,970 pay periods.[3] (Yslas Decl. ¶ 10.) Importantly, however, these calculations were performed at the maximum statutory rate for the penalties across every violation category, when in fact, it is likely that any penalties awarded would be at a lower rate. California Labor Code Section 2699 permits a Court to award a lesser amount than the maximum civil penalty if, based on the facts and circumstances, to do otherwise would result in an award that is

[2] Of the approximately $127,166.67 Net Settlement Amount, 65% (approximately $82,658.34) will be paid to the LWDA and 35% (approximately $44,508.33) will be paid to the Aggrieved Employees. (Yslas Decl. ¶ 14.)

[3] Stacking is where more than one civil penalty is imposed in a pay period for the same conduct. The valuation of $1,797,000 is the civil penalty amount at $100 per pay period, without stacking additional penalties. If stacking is permitted, then the valuation increases with each additional penalty added to each pay period. Courts that have considered the issue have refused to "stack" penalties. *See, e.g., Carrington v. Starbucks Corp*., 30 Cal.App.5th 504 (2018).

"unjust, arbitrary and oppressive or confiscatory." *See Carrington v. Starbucks Corp*., 30 Cal.App.5th 504 (2018) (affirming a judgment after trial that only provided for a PAGA penalty of $5 per pay period). Therefore, at trial, any PAGA penalties awarded could be significantly less than Plaintiffs' calculation even where Plaintiffs prevailed on the PAGA claim. *See Fleming v. Covidien*, No. ED CV 10-01487 RGK (OPx), 2011 U.S. Dist. LEXIS 154590 (C.D. Cal. Aug. 12, 2011) (a federal court reduced PAGA penalties from $2,800,000.00 to $500,000.00, a reduction of 82.2%, because the court found maximum penalties "unjust" because the employees had suffered no injuries).

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

In order to recover any PAGA penalties, Plaintiffs would be required at trial to prove each of the underlying Labor Code violations. *See Cardenas v. McLane Foodservice, Inc*., No. BCV-23-102915, 2011 U.S. Dist. LEXIS 13126, *10 (C.D. Cal. Jan. 31, 2011) ("Given the statutory language [of PAGA], a plaintiff cannot recover on behalf of individuals whom the plaintiff has not proven suffered a violation of the Labor Code by the defendant."). Here, Plaintiffs would need to prove, among other things, that each Aggrieved Employee suffered a violation for each period the employee worked in relation to (1) failure to pay for all hours worked, including minimum, straight time, and overtime wages; (2) failure to provide meal periods; (3) failure to authorize and permit rest periods; (4) failure to pay all earned wages twice per month; (5) failure to maintain accurate records of hours worked and meal periods; (6) failure to timely pay all wages at termination; (7) failure to furnish accurate itemized wage statements; (8) failure to indemnify for necessary expenditures; and (9) failure to produce requested employment records.

Plaintiffs and their counsel remain confident of the merits of Plaintiffs' claims. (Yslas Decl. ¶ 11.) However, Plaintiffs acknowledge that their position includes risk and uncertainty, as described in more detail below. For instance, Plaintiffs' allegation that Defendant failed to pay Plaintiffs and the aggrieved employees all of their owed wages are based on Defendant's failure to pay employees for work performed "off-the-clock." (*Id*.) Defendant's timekeeping records do not capture off-the-clock work, the expert analysis assumed one unpaid hour per workweek, and proving the violation in each pay period would depend on testimony from the employees. (*Id*.) With respect to the meal period allegation, Defendant's own data show recorded meal period violations in roughly 27.5% of pay periods, but Defendant paid some meal period premiums to its employees, relies on meal period waivers (which

Plaintiffs contend are invalid), and contends its policies are facially compliant. (*Id.*) With respect to the rest period allegation, the data show recorded rest period violations in about 50% of pay periods, but proving rest period allegations is particularly difficult because rest periods do not have to be recorded and Defendant can argue that the aggrieved employees chose to voluntarily forego their rest periods. (*Id.*) With respect to the unreimbursed business expenses allegation, Plaintiffs allege that Defendants required Plaintiffs and the other aggrieved employees to use their personal cell phones (and at times their own vehicles) for work-related purposes, without full reimbursement from Defendants. Defendants dispute this claim. (*Id.*) Lastly, with regard to Plaintiffs' wage statement claims, Defendants argue that the wage statements issued to employees accurately reflected the pay actually received, that any violation was not knowing and intentional, and that a good-faith dispute exists. (*Id.*)

Plaintiffs also faced litigation risks beyond the merits. Defendant asserted that Plaintiffs' individual PAGA claims were subject to arbitration (the Court having already compelled Plaintiffs' individual wage claims to arbitration in the Class Action) and that the representative claims would be stayed in the interim. (Yslas Decl. ¶¶ 5, 11.) Defendant also asserted that any penalties are capped under the 2024 amendments to PAGA because it took reasonable steps to comply with the Labor Code before and after receiving the PAGA Notice and that it implemented specific remedial measures, and asserted that Plaintiffs are not adequate or typical representatives. (*Id.* ¶ 11.)

Additionally, Plaintiffs faced a significant risk that even if the Court did award PAGA penalties, the Court could drastically reduce the penalties based on the discretionary factors contained in Labor Code § 2699 ("[i]n action by an aggrieved employee..., a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory."). Plaintiffs believed there was a legitimate risk of the Court significantly reducing penalties given the technical nature of the alleged violations, Defendant's remedial steps, and Defendant's financial condition. (Yslas Decl. ¶ 12.) Without this settlement, the Parties face an arbitration-related stay, preparation for trial, as well as extensive formal discovery efforts and depositions. (*Id.*) As a result, the Parties would incur considerably more attorneys' fees and costs through trial. This settlement avoids those risks and the accompanying expense. Thus, this factor favors settlement approval. (*Id.*)

As described above, the proposed Settlement provides a fair and reasonable monetary recovery for the aggrieved employees and the LWDA in the face of the contested claims. Plaintiffs' retained expert determined that there were 17,970 pay periods during the relevant time period which presented issues with regard to unpaid wages, meal period violations, rest period violations, and unreimbursed business expenses. (Yslas Decl. ¶¶ 10, 13.) Applying the $100 "initial violation" penalty to each of these pay periods, Defendant's maximum potential PAGA exposure is $1,797,000 (based on the pay period counts above, without stacking separate penalties for the same conduct). (Yslas Decl. ¶ 13.) However, Plaintiffs discounted this maximum exposure by 80% to account for Defendant's contentions that the underlying allegations lack merit, Defendant's facially compliant policies, Defendant's issuance of some meal and rest period premiums, Defendant's meal period waivers, the relatively modest violation rates shown in Defendant's data (23.6% of shifts for meal periods and 29.0% of shifts for rest periods), the risk of not prevailing on the merits, the arbitration and stay defenses, the penalty caps Defendant invokes for its remedial steps, and the Court's discretion to reduce penalties. (*Id*.) The estimated realistic total potential recovery is $359,400 ($1,797,000 x 20%). (*Id*.)

Plaintiffs acknowledge that, when evaluating Defendant's potential exposure, it is likely that the Court would impose only the initial $100 violation penalty for all PAGA violations. *See Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1207 (finding that the "initial" violation rate applies until the employer has been notified that it is violating a Labor Code provision). The analysis above already applies the $100 "initial violation" penalty for each pay period. However, Plaintiffs discounted this maximum exposure by 80% to account for Defendant's contention that the underlying allegations lacked merit, Defendant's facially compliant policies, Defendant's issuance of meal and rest period premiums to some aggrieved employees, Defendant's meal period waivers, the relatively modest violation rates in Defendant's data (23.6% of shifts for meal periods and 29.0% of shifts for rest periods), the risk of not prevailing on the merits, the arbitration and penalty-cap defenses, and the Court's discretion in reducing penalties. The estimated realistic total potential recovery is therefore $359,400 ($1,797,000 x 20%). (Yslas Decl. ¶ 13.)

Using these estimated figures, Plaintiffs predicted that the realistic total potential recovery for the aggrieved employees and the LWDA would be approximately $359,400. The proposed Settlement of

$250,000 therefore represents approximately 69.5% of Plaintiffs' reasonably forecasted total recovery. (Yslas Decl. ¶ 14.) "The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved." *Linney v. Cellular Alaska Partnership* (9th Cir. 1998) 151 F.3d 1234, 1242 [internal quotations omitted]. In this case, continued litigation would delay payment to the LWDA and the aggrieved employees as they await arbitration, trial, and, potentially, appellate proceedings. (Yslas Decl. ¶ 14.) Furthermore, while Plaintiffs are confident in the merits of the case, a legitimate controversy exists as to each of the predicate Labor Code violations. (*Id.*) The possibility that the Court finds no liability at the PAGA bench trial is also a risk. (*Id.*) Even if Defendant's reasonable-steps defense succeeded in capping penalties at 30% or 15% of the maximum ($539,100 or $269,550), the Settlement would represent approximately 46.3% or 92.6% of those capped amounts. (*Id.*) In sum, when the risks of litigation, the burdens of proof necessary to establish liability, Defendant's limited ability to pay a judgment, and the probability of appeal of a favorable judgment are balanced against the merits of Plaintiffs' claims, it is clear that the Settlement amount is fair. (*Id.*) Further, because of the proposed Settlement, the aggrieved employees will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment. (*Id.*)

If the Court approves the terms of the Settlement and each payment is approved at its maximum, each aggrieved employee's payment will average approximately $38.97 (approximately $2.47 per pay period worked) and approximately $82,658.34 will go to the LWDA. (Yslas Decl. ¶ 15.) In reality, some employees will likely receive more, and others may receive less depending on the length of their employment with Defendant. (*Id.*)

D. The Installment Payment Structure Is Supported by Defendant's Documented Financial Condition

The Settlement is payable in installments because Defendant demonstrated – through its own financial records, independently reviewed by Plaintiffs' forensic accountant – that it could not fund a larger sum or pay in a lump sum. The Parties' agreement to a payment plan was thus a direct response to the risk that a larger judgment would be uncollectible. (Yslas Decl. ¶¶ 16-17.)

Defendant produced its financial statements and related records for the period beginning in 2021,

which were reviewed by a financial expert retained by Plaintiff's counsel. (Yslas Decl. ¶¶ 16-17.) The records show that Defendant and its related entities have operated at a loss in most years, and there was considerable financial distress. (Yslas Decl. ¶ 17.) Based on this record, Plaintiffs' counsel concluded that a lump-sum settlement of any significance was not feasible and that the best way to secure a meaningful recovery for the State and the Aggrieved Employees was to obtain a firm commitment to pay the full $250,000 over time, with monthly payments that increase as Defendant's cash flow is expected to improve. (*Id.*)

Courts recognize that a defendant's inability to pay is a legitimate consideration in valuing PAGA penalties and in evaluating a PAGA settlement. *See Thurman v. Bayshore Transit Management, Inc.* (2012) 203 Cal.App.4th 1112, 1136 (affirming reduction of PAGA penalties where evidence showed defendants' financial condition left them unable to pay the full award from ongoing revenues). Here, the choice was not between a $250,000 settlement paid over time and a larger lump sum; it was between a $250,000 guaranteed commitment and the prospect of a litigated judgment that Defendant's financial condition suggested could not be collected. In addition, the Settlement contains protections for the LWDA and the Aggrieved Employees: (1) all installments are paid into a QSF controlled by the Administrator; (2) no money reverts to Defendant; (3) the releases become effective only when the GSA is fully funded; (4) an escalator increases the GSA if the number of Pay Periods exceeds the estimate by more than 10%, unless Defendant elects an earlier end date for the PAGA Period; (5) PAGA Counsel's fees and costs and the Representative Service Payments are paid pro rata with, and not ahead of, the payments to the LWDA and Aggrieved Employees; and (6) the Court retains jurisdiction under Code of Civil Procedure section 664.6 to enforce Defendant's payment obligations. (Settlement Agreement §§ 4.3, 4.4, 5, 6.3, 7, 8.2, 10.17; Yslas Decl. ¶ 17.)

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

PAGA Counsel seeks approval of attorneys' fees from the PAGA settlement in the amount of $83,333.33, representing one third (1/3) of the GSA, and costs not to exceed $16,000. (Settlement Agreement § 3.2.2.) Plaintiffs are entitled to attorneys' fees under Labor Code section 2699, which provides that "[a]ny employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs." Lab. Code § 2699, subd. (k)(1); *see also Gouskos v. Aptos Village Garage,*

Inc., 94 Cal.App.4th 754, 765 (2001) (holding that attorneys' fees to prevailing party are mandatory when the statute uses the word "shall"). It is undisputed that Plaintiffs are the prevailing parties. *See Graciano v. Robinson Ford Sales, Inc*., 144 Cal. App. 4th 140, 153 (2006) ("[P]laintiffs may be considered 'prevailing parties' for attorney's fee purposes if they succeed on any significant issue in the litigation that achieves some of the benefit the parties sought in bringing suit.") (internal citation omitted). Accordingly, Plaintiffs are entitled to recover attorneys' fees and costs.

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

The request for attorneys' fees as a percentage of the gross settlement amount is supported by the "common fund theory," where "one who expends attorneys' fees in winning a suit which creates a fund from which others derive benefits, may require those passive beneficiaries to bear a fair share of the litigation costs." *Serrano v. Priest*, 20 Cal.3d 25, 35 (1977).

The purpose of the common fund approach is to "spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." *Vincent v. Hughes Air West, Inc*., 557 F.2d 759, 769 (9th Cir. 1977). Thus, the common fund doctrine has been applied "consistently in California when an action brought by one party creates a fund in which other persons are entitled to share." *City and County of San Francisco v. Sweet*, 12 Cal.4th 105, 110 (1995); *see Quinn v. State of California*, 15 Cal.3d 162, 167 (1975) ("[O]ne who expends attorneys' fees in winning a suit which creates a fund from which others derive benefits may require those passive beneficiaries to bear a fair share of the litigation costs.").

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

the workload of an already overtaxed judicial system, (2) is insufficiently objective and produces results that are far from homogenous, (3) creates a sense of mathematical precision that is unwarranted in terms of the realities of the practice of law, (4) is subject to manipulation by judges who prefer to calibrate fees in terms of percentages of the settlement fund or the amounts recovered by the Claimants or of an overall dollar amount, (5) encourages lawyers to expend excessive hours, and engage in duplicative and unjustified work, (6) creates a disservice for the early settlement of cases, (7) deprives trial courts of flexibility to reward or deter lawyers so that desirable objectives, such as early settlement, will be fostered, (8) works to the particular disadvantage of the public interest bar, and (9) results in confusion and lack of predictability.").

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

The Court should also consider that Plaintiffs' counsel's efforts have resulted in substantial benefits to the State of California and the Aggrieved Employees, in the form of a significant, non-reversionary settlement fund established to compensate the State of California and the Aggrieved Employees and to penalize Defendant for the alleged PAGA violations. Without the efforts of Plaintiffs' counsel, the claims alleged in the complaint would likely have gone without remedy. (Yslas Decl. ¶ 40.) In addition, because the fee is paid in installments on the same schedule as the payments to the LWDA and the Aggrieved Employees – with half of each payment held until the GSA is fully funded – PAGA Counsel shares the collection risk with the people it represents. (Settlement Agreement § 4.4; Yslas Decl. ¶ 39.) PAGA Counsel has no fee-splitting arrangement with any other counsel. (Yslas Decl. ¶ 42.)

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

Although *Laffitte v. Robert Half Int'l, Inc*., 1 Cal.5th 480, 489 (2016) makes clear that a lodestar cross-check is not required, PAGA Counsel's lodestar supports the reasonableness of the requested fee. The lodestar is determined by multiplying the number of hours reasonably expended by the reasonable hourly rate. *PLCM Group, Inc. v. Drexler*, 22 Cal.4th 1084, 1095 (2000). The lodestar figure may then be adjusted, based on consideration of factors specific to the case, in order to fix the fee at the fair market value for the legal services provided." *Id*. The factors that can be considered include "the nature of the litigation, its difficulty, the amount involved, the skill required in its handling, the skill employed, the attention given, the success or failure, and other circumstances in the case." *Melnyk v. Robledo*, 64 Cal.App.3d 618, 623-624 (1976) (citations omitted).

The total hours expended on this action by PAGA Counsel were reasonable and in line with comparable cases. While it is not necessary to substantiate the fee award with a lodestar in this PAGA Action, it should be noted that PAGA Counsel spent approximately 112.4 hours prosecuting this action, which were divided among the attorneys working on this case according to skill level. (Yslas Decl. ¶¶ 37-38.) Multiplying the total hours expended by PAGA Counsel by their reasonable hourly rates yields a lodestar of $93,940.00. (*Id.* at ¶ 38.) This amount surpasses the requested fee award of $83,333.33, resulting in a negative multiplier. (*Id.* at ¶ 39.) This amount does not include the time PAGA Counsel will spend at the PAGA approval hearing and assisting the Administrator following approval. (*Id*.) PAGA Counsel dedicated significant resources to this case by dividing the tasks required according to skill level. (*Id*.) The hours expended by each attorney were not duplicative and reflect the extensive investigation and analysis that was required to achieve this Settlement. This time could have been spent on other potentially lucrative cases. (*Id*.) PAGA Counsel's lodestar reflects the efficiencies achieved by attorneys experienced in this field. Moreover, PAGA Counsel has singularly assumed the risk and costs of litigation purely on a contingency basis. (*Id*.) And, while Plaintiffs are confident in the merits of their claims, a legitimate controversy exists as to each cause of action, posing an actual risk that Plaintiffs may not succeed at trial. Any of these obstacles could have prevented recovery completely, meaning PAGA Counsel would have been left with no compensation for all the time and money invested in litigating this case. (*Id*.) Despite these risks, PAGA Counsel took this case on a contingency basis so that Aggrieved

Employees (a particularly vulnerable group of hourly paid workers) could be compensated for their unpaid wages. (*Id.*) Consequently, PAGA Counsel was precluded from focusing on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain. (*Id.*)

The Court should also consider that PAGA Counsel's efforts have resulted in substantial benefits to the State of California and the Aggrieved Employees, in the form of a significant, non-reversionary settlement fund established to compensate the State of California and the Aggrieved Employees and to punish Defendant for the alleged PAGA violations. (Yslas Decl. ¶ 40.) Without the efforts of PAGA Counsel, the claims alleged in the complaint would likely have gone without remedy. (*Id.*)

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

Plaintiffs' Counsel's hourly rates are comparable to those charged by other class action plaintiffs' counsel and the firms defending class actions. (Yslas Decl. ¶¶ 26-31.) The hourly rates of the attorneys who worked on this matter range from $400 to $1,500 and reflect each attorney's experience. (*Id.* ¶¶ 26-30.) Plaintiffs' Counsel's rates are well within the range of hourly rates that the legal marketplace would compensate counsel for similar services accomplishing similar results. (*Id.*) For example, in *Bronshteyn v. State of California*, Los Angeles County Superior Ct. No. 19SMCV00057, Order Granting Plaintiff's Motion for Statutory Attorneys' Fees and Costs filed March 30, 2023, an employment action brought by two small law firms (Levy, Vinick, Burrell & Hyams LLP and Law Offices of Wendy Musell), the court found that counsel's 2022 hourly rates of $1,100 and $1,000 per hour were reasonable for the plaintiff's five senior attorneys, including $1,000 per hour for the plaintiff's 23-year lead counsel and $850 per hour for a senior associate. (*Id.* at ¶ 31.) These rates were then augmented by a 1.75 lodestar multiplier and affirmed by the California Court of Appeals. (*Id.*) The rates (and multiplier) requested here are well in line with those found reasonable in *Bronshteyn*. In *Tran v. Golden State FC LLC, et al*. (LASC Case No. BC699931), Fee Order filed 4/8/2022, the court found hourly rates of $1,300 per hour reasonable for plaintiff's 32-year attorney and $1,000 per hour reasonable for a 14-year attorney. (*Id.*) The multiplier here is even more compelling given PAGA counsel represents the State of California and approximately 1,142 Aggrieved Employees. (*Id.*)

Plaintiffs' Counsel has also been approved as Class Counsel by courts in California. (Yslas Decl.

¶ 32.) *See,* e.g., *Matthew Veliz v. DrinkPak, LLC*, Los Angeles County Superior Court, Case No. 22STCV37384; *Ismael Villegas-Sanchez v. COE Orchard Equipment, Inc.*, Sutter County Superior Court, Case No. CVCS22-0002261; *Jessica Bronsal v. PTI Technologies Inc.*, Ventura County Superior Court, Case No. 202200570361CUOE; *Miguel A. Vigil Ruiz v. The De Ruosi Group, LLC*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2022-8780; *Gutierrez v. Top Drawer Merch, LLC et al*, Los Angeles County Superior Court, Case No. 23STCV04299; *Wing v. Road Machinery, LLC et al*, Kern County Superior Court, Case No. BCV-22-102896; *Hernandez v. SGPS Showrig Los Angeles, Inc.*, Los Angeles County Superior Court, Case No. 22STCV28155; *Azevedo v. Tulare Nursing & Rehabilitation Hospital, Inc.*, Tulare County Superior Court, Case No. VCU293325; *Haser v. Universal Chain of California, Inc.*, Sacramento County Superior Court, Case No. 34-2022-00332268; *Caldera v. Performance Online, Inc. et al*, Riverside County Superior Court, Case No. CVRI2306013; *Goosby v. CiminoCare, Inc.*, Sacramento County Superior Court, Case No. 34-2022-00329033; *Rooks v. Hot Cakes Restaurant Group, Inc.*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2022-11056; *Garcia v. Compassionate Heart*, Orange County Superior Court, Case No. 30-2022-01294409-CU-OE-CXC; *Parra v. Citrus Valley Management Services, Inc.*, Riverside County Superior Court, Case No. CVRI2301768; *Torres v. HomeShield Pest Control Inc.*, Placer County Superior Court, Case No. S-CV-0049525; *Cabrera v. Creekside Auto Group*, Santa Clara County Superior Court, Case No. 23CV415661; *Simpson v. Arcos*, Riverside Superior Court, Case No. CVRI2303337; *Payne v. Planned Parenthood: Shasta-Diablo, Inc.*, San Francisco County Superior Court, Case No. CGC-23-607359. (*Id*.) The total hours expended on this action are reasonable and in line with those expended in comparable cases. (*Id*.)

In cases in which Plaintiffs' Counsel has been approved as Class Counsel, California courts have approved rates similar to those requested by Plaintiffs' Counsel in the instant case. (Yslas Decl. ¶ 33.) *See*, e.g., *Rodolfo Ponce v. Youbar, Inc.*, Los Angeles County Superior Court, Case No. 22STCV37519 (WLF's rates were approved as follows: John G. Yslas ($1,500.00), Samantha A. Smith ($1,000.00), Jeffrey C. Bils ($850.00), Aram Boyadjian ($600.00), Lisa B. Iturriaga ($550.00), and Andrew Sandoval ($500.00)); *Sabrina N. Batres v. Wish Automotive II, Inc. dba Infiniti of Van Nuys*, Los Angeles County Superior Court, Case No. 23STCV19968 (WLF's rates were approved as follows: John G. Yslas ($1,500.00), Jeffrey C. Bils ($850.00), Aram Boyadjian ($600.00), Lisa B. Iturriaga ($550.00), and

Andrew Sandoval ($500.00)); *Diandrea Correa et al. v. CareMeridian, LLC, et. al.,* Los Angeles County Superior Court, Case No. 23STCV10707 (WLF's rates were approved as follows: John G. Yslas ($1,500.00), Samantha A. Smith ($1,000.00), Jeffrey C. Bils ($850.00), Fawn F. Bekam ($800.00), Diego Aviles ($800.00), Aram Boyadjian ($600.00), Harry Erganyan ($600.00), Lisa B. Iturriaga ($550.00), and Andrew Sandoval ($500.00)); *Carlos Santos Granados v. Sunny Hills Management Co., Inc.,* Los Angeles County Superior Court, Case No. 23STCV02109 (WLF's rates were approved as follows: John G. Yslas ($1,500.00), Samantha A. Smith ($1,000.00), Jeffrey C. Bils ($850.00), Diego Aviles ($750.00), Courtney M. Miller ($650.00), Aram Boyadjian ($600.00), Harry Erganyan ($600.00), Mariam Nazaretyan ($550.00), Lisa B. Iturriaga ($550.00), and Andrew Sandoval ($500.00)); *Kayla Kurges v. Khanna Enterprises, Ltd. dba Sheraton Agoura Hills,* Los Angeles County Superior Court, Case No. 24STCV01590 (WLF's rates were approved as follows: John G. Yslas ($1,500.00), Jeffrey C. Bils ($850.00), Aram Boyadjian ($600.00), Lisa B. Iturriaga ($550.00), and Andrew Sandoval ($500.00)); *Thora Magney et al. v. Levi Strauss & Co., et al.*, Los Angeles County Superior Court, Case No. 24STCV02320 (WLF's rates were approved as follows: John G. Yslas ($1,500.00), Samantha A. Smith ($1,000.00), Jeffrey C. Bils ($850.00), Fawn F. Bekam ($800.00), Aram Boyadjian ($600.00), Lisa B. Iturriaga ($550.00), and Andrew Sandoval ($500.00)); *Armando Muniz, et al. v. Lot LLC, dba Lot Management LLC* (*fka Red Cow, Inc.*) *et. al.*, Los Angeles County Superior Court, Case No. 22STCV32901 (WLF's rates were approved as follows: John G. Yslas ($1,500.00), Samantha A. Smith ($1,000.00), Jeffrey C. Bils ($850.00), Diego Aviles ($750.00), Aram Boyadjian ($600.00), Harry Erganyan ($600.00), Mariam Nazaretyan ($550.00), Lisa B. Iturriaga ($550.00), and Andrew Sandoval ($500.00)); *George Munoz v. Century West, LLC dba Century West BMW*, Los Angeles County Superior Court, Case No. 23STCV04247 (WLF's rates were approved as follows: John G. Yslas ($1,500.00), Samantha A. Smith ($1,000.00), Jeffrey C. Bils ($850.00), Aram Boyadjian ($600.00), Lisa B. Iturriaga ($550.00), and Andrew Sandoval ($500.00)); *Ivan S. Martinez II et. al. v. The Haar Company, et. al.,* Los Angeles County Superior Court, Case No. 23STCV21651 (WLF's rates were approved as follows: John G. Yslas ($1,500.00), Samantha A. Smith ($1,000.00), Jeffrey C. Bils ($850.00), Diego Aviles ($750.00), Aram Boyadjian ($600.00), Harry Erganyan ($600.00), Mariam Nazaretyan ($550.00), Lisa B. Iturriaga ($550.00), and Andrew Sandoval ($500.00)). (*Id.*)

Likewise, WLF's hourly rates are reasonable when compared to rates charged within the relevant legal marketplace. (Yslas Decl. ¶¶ 34-35, Exs. 3, 4.) In light of the foregoing, and considered against the risks of continued litigation, and the importance of advocating for employment rights and a speedy recovery, the relief provided under the Settlement represents a very strong result for the Aggrieved Employees. PAGA Counsel's fee request is fair and reasonable and should be approved.

D. PAGA Counsel's Costs Are Reasonable

PAGA Counsel is entitled to reimbursement of its litigation costs under PAGA. *See* Lab. Code § 2699, subd. (k)(1) ("Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs."). The Settlement provides for reimbursement of costs not to exceed $16,000. (Settlement Agreement § 3.2.2.) To date, PAGA Counsel has incurred costs in the amount of $15,916.01.[4] (Yslas Decl. ¶ 40, Ex. 5.) These costs were reasonably incurred in prosecuting this Action on behalf of the Aggrieved Employees and should be approved by the Court. (*Id.*) Accordingly, PAGA Counsel respectfully requests the Court approve costs in the amount of $83.99.

VI. THE REQUESTED PAGA REPRESENTATIVE SERVICE PAYMENTS TO PLAINTIFFS ARE REASONABLE

Both the State of California and the Aggrieved Employees are beneficiaries of a settlement that would not have been made possible but for the effort and commitment of Plaintiffs. The Settlement provides that each Plaintiff shall be paid a PAGA Representative Service Payment not to exceed $5,000, in recognition of her efforts in bringing and presenting the Action. (Settlement Agreement § 3.2.1.) In a PAGA-only settlement the payment is not compensation for a class member's claim; it recognizes the service of a private attorney general who, at personal risk, acts as a proxy for the State to recover civil penalties for the State and for other employees. The requested payment is intended to recognize Plaintiffs' effort in bringing the Action, serving as private attorneys general under PAGA, assisting counsel with the investigation, litigation, and settlement, regularly conferring with counsel on the status of the case, and reviewing the proposed settlement to ensure that its terms are fair and achieve PAGA's objectives.

[4] Because PAGA Counsel's costs are less than $16,000, upon approval of $15,916.01 for the PAGA Counsel Litigation Expenses Payment, the remaining $83.99 will revert to the NSA to be distributed as PAGA Penalties to the LWDA and Aggrieved Employees. (Yslas Decl. ¶ 41.)

Each Plaintiff has provided a declaration detailing the risk she faced in bringing the suit, the notoriety and personal difficulties she encountered, the specific tasks she performed and the amount of time and effort she spent on this litigation, the duration of this litigation, and the personal benefit she will receive as a result of the litigation. (*See generally* Declaration of Plaintiff Asia Hollins ("Hollins Decl.") and Declaration of Plaintiff Zoe Smith ("Smith Decl.").) Each Plaintiff also faced the real risk that future employers may not hire her because she lent her name as a PAGA representative in this case, and she could have been liable for Defendant's litigation costs if the case went to trial and she lost. (Hollins Decl. ¶¶ 4, 6; Smith Decl. ¶¶ 4, 6.) Plaintiffs' involvement spanned nearly two years, including the related arbitration proceedings. (Hollins Decl. ¶ 7; Smith Decl. ¶ 7.) Each Plaintiff will receive $5,000 for her individual claims under a separate agreement, so the service payments are not duplicative of any payment for individual claims. (Hollins Decl. ¶ 8; Smith Decl. ¶ 8.) Accordingly, Plaintiffs respectfully request that the Court approve a PAGA Representative Service Payment of $5,000 to each Plaintiff.

VII. CONCLUSION

Based on the foregoing, Plaintiffs respectfully request this Court approve the PAGA settlement as set forth in the Settlement Agreement, approve the proposed Notice of PAGA Settlement, approve the payments from the Gross Settlement Amount as set forth above, set a final accounting hearing, and enter the proposed order and judgment submitted herewith.

Dated: October 30, 2026

WILSHIRE LAW FIRM, PLC

By: 

Attorneys for Plaintiffs