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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF TULARE

NAYELI ARROYO, on behalf of the State of California, as a private attorney generals, Plaintiff, vs. CIGNA HEALTH AND LIFE INSURANCE COMPANY, a Corporation; CIGNA-EVERNORTH SERVICES INC., a Corporation; and DOES 1 through 50, inclusive, and DOES 1 through 50, inclusive, Defendants.	Case No. **VCU312956** **NOTICE OF MOTION AND MOTION TO APPROVE PAGA SETTLEMENT;** **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO APPROVE PAGA SETTLEMENT** Hearing Date: August 14, 2025 Hearing Time: 8:30a.m. Judge: Hon. David Mathias Dept.: 1 Action Filed: September 13, 2024 FAC Filed: January 16, 2025

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

YOU ARE HEREBY NOTIFIED THAT on August 14, 2025 at 8:30 a.m. in Department 1 of the above entitled Court located at 221 S. Mooney Blvd. Visalia, CA 93291, before the Honorable David Mathias, Plaintiffs Nayeli Arroyo and Ivette Garduno ("Plaintiffs") will and hereby do move for an order approving the settlement of the PAGA claim alleged against Defendant Cigna Health and Life Insurance Company and Cigna-Evernorth Services, Inc., ("Defendant") in accordance with California Labor Code §2699(l) (2016) amended by Stats. 2024, c. 44 (A.B. 2288), § 1, eff. July 1, 2024.). The proposed settlement is set forth in the accompanying PAGA Settlement Agreement ("Agreement").

This Motion will be based on this notice, the accompanying points and authorities, the Declaration of Sergio J. Puche, the Agreement, and the complete files and records in this action. The Labor Workforce Development Agency has been served with this motion and the Agreement as set forth in the accompanying proof of service.

Respectfully submitted,

Dated: July 21, 2025

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: *__/s/ Sergio J. Puche__*
Sergio J. Puche

Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Nayeli Arroyo and Ivette Garduno ("Plaintiffs") reached a settlement of the California Private Attorneys General Act, Cal. Labor Code §2699, *et seq*. ("PAGA") claim asserted in this action against Cigna Health and Life Insurance Company and Cigna-Evernorth Services, Inc., ("Defendant") (collectively, the "Parties") which provides for a "Gross PAGA Settlement Amount" payment in the amount of One Million Two Hundred-Ten Thousand Dollars ($1,210,000.00). In accordance with California Labor Code §2699(l) (2016), Plaintiffs now ask this Court to review and approve the settlement of Plaintiff's PAGA claims.[1] This is only a settlement of the PAGA claims for civil penalties and is not a class settlement and does not release the individual wage claims, if any, of the affected employees other than the Plaintiffs themselves. Cal. Labor Code § 2699(g)(1); *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 ("Agreement") and the form used for the Agreement is the Los Angeles Superior Court's model form. A true and correct copy of the Agreement which sets forth the terms for the settlement of the PAGA claims is attached as Exhibit #1 to the Declaration of Sergio J. Puche, filed herewith. Capitalized terms shall have the same meaning as defined in the Agreement. The LWDA received notice of this Settlement, and this motion as set forth in the accompanying proof of service.

A proposed order confirming review and approval of the PAGA settlement is submitted herewith.

II. RELEVANT FACTS

PAGA Counsel sent the necessary correspondence to the California Labor and Workforce Development Agency ("LWDA") on behalf of Plaintiff Nayeli Arroyo on June 26, 2024, followed by Plaintiff Nayeli Arroyo's September 13, 2024 amended letter, and Plaintiffs Nayeli Arroyo and Ivette

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[1] Section 2699(1)(2) provides as follows: "The superior court shall review and approve any settlement of any civil action pursuant to this part." Cal. Lab. Code § 2699 (2016) (*amended by* Stats. 2024, c. 44 (A.B. 2288), § 1, eff. July 1, 2024.).

Garduno's January 28, 2025 amended letter and Plaintiffs Nayeli Arroyo and Ivette Garduno's July 18, 2025 amended letter providing notice pursuant to Labor Code section 2699.3, subd.(a). requesting authorization from the LWDA to seek civil penalties as provided by the Private Attorney General Act of 2004 ("PAGA") for the wage and hour violations alleged in the PAGA Notices. (Declaration of Sergio J. Puche ("Puche Decl."), at ¶ 3.) The 65-day notice period for the LWDA to notify of its intent to investigate has expired for all but the July 18, 2025 amended letter. The Parties expect the Second Amended Complaint will be filed prior to the hearing on this instant motion.

Plaintiffs and Defendant agreed to mediate with Deborah C. Saxe, Esq. Prior to mediation, Plaintiffs obtained key company documents and data, including an approximately 20% sampling of time and payroll records for the alleged Aggrieved Employees through informal discovery. Additionally, Plaintiffs were provided with sufficient records and data to determine the number of Aggrieved Employees and the number of pay periods in the PAGA Period. The Parties agree that the above-described investigation and evaluation, as well as the information exchanged during the settlement negotiations, are more than sufficient to assess the merits of the Parties' positions and to compromise the issues on a fair and equitable basis. (Puche Decl., at ¶ 3(a), Agreement at ¶ 2.4)

Plaintiffs' theory of PAGA liability as argued at mediation alleged that Defendant is liable for off the clock claims due to pre-shift booting up, post-shift calls and referral processing, and arriving early to comply with Defendant's strict Timekeeping, Attendance and Tardiness policies. (Puche Decl. ¶¶ 3(b), 14(a).) Plaintiffs argued, Meal breaks were typically taken by employees based on a daily schedule set by Defendant but were often stuck on calls and were not able to take their lunch prior to the end of the 5th hour. Plaintiffs alleged that Employees typically returned from lunch 5 minutes early to be ready to log into the different systems and be ready to begin working, but they were not allowed to clock in early, before reaching a full 30 minutes by management. Moreover, Plaintiffs argued Defendant's Rest period policy is facially deficient as it does not indicate that employees are free to leave the premises during their Rest periods but does advise of this privilege for their meal periods. Additionally, Plaintiffs asserted Meal premiums and sick pay were underpaid at the hourly rate. Defendant paid employees non-discretionary bonus compensation in the form of "Production Bonus" and "Cigna Bonus Plan" payments. However, Plaintiff's Argued that these payments were not considered in calculating the regular rate of pay for employees vacation and sick pay. The meal violation rate assuming waiver is 5.5%, mainly from late first meals however, only 75% of the violations had meal premiums paid. Plaintiff's analysis found that 31/3% of shifts greater than 12 hours failed to include a recorded 2nd meal break. Employees used their personal cell phone to call and text management and co-workers. Calls and texts would be sent to employees both on and off the clock by supervisors. Additionally, when employees worked from home, they did not receive reimbursements for home office expenses. Assuming just $5 per month, the total amount owed for unreimbursed business expenses including interest is $158,636.

On April 28, 2025, the Parties engaged in a mediation session before Mediator Deborah C. Saxe, Esq., a respected and experienced mediator knowledgeable of both the wage and hour laws and representative claims at issue in this action. Through arms-length negotiations with the assistance of the mediator, the Parties reached an agreement to settle the PAGA claims in this action which led to the signing of a Memorandum of Understanding memorializing the settlement.[2] (Puche Decl., at ¶ 3(c))

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 difficulty of proving Plaintiffs' claims in a manageable trial, the merits of Defendant's potential defenses, and the significant delay and potential appellate issues inherent to litigation – and was reached after extensive arm's length negotiations, with the assistance of Mediator Saxe. (Puche Decl., at ¶¶ 3,6.)

III. TERMS OF THE PAGA SETTLEMENT

[2] In addition to the Gross PAGA Settlement Amount, Defendant agreed to pay an Individual Settlement Amount to Plaintiffs in exchange for a settlement of Plaintiffs' individual claims arising out of her employment and a release of all known and unknown claims against Defendant and the Released Parties under Civil Code § 1542. (Agreement at ¶ 2.3, 5.1-5.2). Defendant has agreed to separately pay Plaintiffs an Individual Settlement to resolve all of their individual claims. (*Id.*). The individual claims are not at issue in this action and exist independent and apart from the PAGA claims at issue before the Court. *See Kim v. Reins Int'l Cal., Inc.*, 9 Cal. 5th 73, 80 (2020) (the "[s]ettlement of individual claims does not strip an Aggrieved Employee of standing, as the state's authorized representative, to pursue PAGA remedies" nor resolve the PAGA claims.). (Puche Decl. ¶ 15).

The PAGA settlement is subject to Court approval consistent with Labor Code §2699(1)(2) (2016). (Agreement at ¶ 6.1). The Agreement negotiated by the Parties provides for a "Gross Settlement Amount" payment in the amount of $1,210,000 to resolve the Released PAGA Claims (hereinafter referred to as the "PAGA Settlement"). From this PAGA Gross Settlement Amount of $1,210,000, there is a deduction of attorneys' fees ("PAGA Counsel Fees Payment") up to $403,333 (which is one-third of the PAGA Settlement), reimbursement of incurred costs ("PAGA Counsel Litigation Expenses Payment") in an amount not to exceed $25,000, and Settlement Administration Costs ("Administration Expenses Payment") not to exceed $9,340. (Agreement at ¶¶ 3.2.1-3.2.3).[3] After these deductions, the amount remaining is the "PAGA Penalties Payment", which is estimated to be no less than $772,327.

Of the PAGA Payment amount, sixty-five percent (65%) (no less than $502,012.55) will be paid to the LWDA and the remaining thirty-five percent (35%) (no less than $270,314.45) will be paid to the Aggrieved Employees (Agreement at ¶ 3.2.3).[4] This 65/35 allocation is required by Labor Code §2699 as amended because this Action was filed after June 2024. *See* Cal. Lab Code § 2699 (m) (2024).

The Individual PAGA Payment for each Aggrieved Employee shall be based on the number of pay periods each Aggrieved Employee worked during the PAGA Period as an Aggrieved Employee, as a percentage of the total pay periods worked by all Aggrieved Employees during the PAGA Period.[5]

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[3] If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder of these amounts to the PAGA Payment. (Agreement at ¶ 3.2.1). To the extent the Administration Expenses are less, or the Court approves payment less than $9,340 the Administrator will allocate the remainder of this amount to the PAGA Payment (*Id*. at ¶ 3.2.2).

[4] "Aggrieved Employee" means all individuals employed by Defendants in hourly, non-exempt positions in California at any time during the PAGA Period. The PAGA Period is the period from June 10, 2023, through the earliest of either the date of Court approval of this PAGA settlement or June 26, 2025. (Agreement at ¶¶ 1.4 and 1.20).

[5] See Agreement at ¶ 3.2.3.1 ("The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 35% share of PAGA Penalties (no less than $270,314.45) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods.")

The PAGA Period is the time period from July 10, 2023 through the earliest of either the date of Court approval of this PAGA settlement or June 28, 2025. (Agreement at ¶ 1.20).

For mediation, Defendant represented that there are approximately 921 Aggrieved Employees who worked approximately 33,250 PAGA Pay Periods from July 10, 2023, through April 28, 2025, the date of mediation. (Puche Decl. ¶¶ 4, 14(b)(c)); Agreement at ¶ 4.1).

Upon entry of final judgment, the Released Parties shall be entitled to a release from the Plaintiffs included in "Plaintiffs' Release" which include: Plaintiffs and their former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences, including, but not limited to: (a) representative claims that could have been assessed upon and collected from the Released Parties under California Labor Code section 2698, *et seq.,* including any and all claims for civil penalties recoverable under PAGA known or unknown, arising during the PAGA Period based on the facts alleged in the Operative Complaint and the PAGA Notices, including Labor Code sections 201, 202, 203, 204, 210, 218, 221, 226(a), 226.3, 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2802, 2269(f)(2), California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating) and for violations of the applicable IWC Wage Orders (including, *inter alia,* Wage Orders 4-2001) and any resulting claim for attorneys' fees and costs under PAGA ("Plaintiffs' Release"). Plaintiffs' Release does not extend to their individual claims being separately settled with the individual settlement agreements, 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. Plaintiffs acknowledge that they may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them. (Agreement at ¶ 5.1). Additionally, Aggrieved Employees for claims included in the "Release by Aggrieved Employees", on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notices. (collectively the "Release by Aggrieved Employees"). (Agreement at ¶ 5.2). The Released Parties" means Defendants and each of their current and former parents, owners, subsidiaries, divisions, and affiliated or related persons or entities, and each of their respective officers, directors, employees, partners, shareholders, attorneys, agents, executors, and assigns. (Agreement at ¶ 1.27).

Within fourteen (14) days after Defendant funds the Gross PAGA Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, and the PAGA Counsel Expenses Payment. (Agreement at ¶ 3.2.1, 4.4).[6] The face of each check shall prominently state the void date, which is 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. (*Id*. at ¶ 4.4.1) For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the State Controller Unclaimed Property Fund in the name of the individual who failed to cash their check. (*Id*. at ¶ 4.4.3)

Pursuant to California Labor Code Section 2699(1), Plaintiffs are providing a copy of the Agreement and this motion to the LWDA concurrently with the filing of the instant motion for settlement approval as set forth in the accompanying proof of service in compliance with Labor Code section 2699(1). In addition, Plaintiffs shall submit to the LWDA a copy of the Court's judgment and order approving the Agreement within ten (10) days after entry of judgment or order.

IV. THE PARTIES HAVE SETTLED THE PAGA CLAIMS

The claim before this Court on this motion is solely the representative claim under PAGA on behalf of the State of California for civil penalties pursuant to the PAGA. The Parties have agreed to

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[6] Disbursement of the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment, shall not precede disbursement of Individual PAGA Payments. (Agreement at ¶4.4).

settle this PAGA claim in its entirety after investigation and an arm's length mediation session. (Puche Decl., at ¶¶ 2, 3.) The settlement is intended to fully and finally resolve the Released PAGA Claims asserted by Plaintiffs on behalf of the State of California. This is only a settlement of the PAGA claims for civil penalties and is not a class settlement and does not release the individual claims, if any, of the Aggrieved Employees, other than any claims under PAGA. This settlement does not release any claim that is not a PAGA claim.[7] PAGA Counsel Fees equal to one-third of the Gross PAGA Settlement amount ($1,210,000), and PAGA Counsel Litigation Expenses in an amount not to exceed $25,000 will also be paid to PAGA Counsel as part of the settlement in accordance with California Labor Code § 2699(g)(1), as set forth in the Agreement.[8] Lastly, payment to the Administrator in an amount not to exceed $9,340 to perform the administrative duties to distribute the settlement money shall also be paid. (Puche Decl., at ¶ 4.)

V. THE PARTIES REQUEST REVIEW AND APPROVAL OF THE SETTLEMENT OF THE PAGA CLAIM

Labor Code § 2699(l) 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." Cal. Lab. Code § 2699 (1) (2016). Consequently, the Parties respectfully ask the Court to review and approve the settlement of the PAGA claims and the PAGA Payment to be paid as part of the proposed settlement.

A. The PAGA Settlement Amount To Be Paid Is Fair And Reasonable

The Parties believe that the PAGA Settlement amount is fair and reasonable and therefore "shall" be reviewed and approved. Here, the Gross PAGA Settlement Amount of $1,210,000 is more than other PAGA settlements as it constitutes approximately $36.39 per pay period. (Declaration of Puche, at ¶ 5.)

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[7] As explained by the Supreme Court in *ZB, N.A.*, 8 Cal. 5th at 196: "Nonparty employees are bound by the judgment in an action under the PAGA, but only with respect to recovery of civil penalties."

[8] As set forth in the accompanying Declaration of Sergio J. Puche, PAGA Counsel incurred costs in the current amount of $16,535.91, which is less than the cost allocation in the Agreement. See Declaration of Puche at ¶8.

This PAGA Settlement amount compares favorably to the estimated amount of PAGA penalties. With the assistance of an expert, Plaintiffs calculated that the maximum amount of statutory PAGA civil penalties was potentially $3,325,000 based on 33,250 pay periods applicable to the Aggrieved Employees during the PAGA Period.[9] (Declaration of Puche, at ¶¶ 5,14(b)-(c)). Importantly, however, these calculations were performed at the maximum statutory rate for the penalties, when in fact, it is likely that any penalties awarded would be at a lower rate. California Labor Code Section 2699(e)(1) 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 "unjust, arbitrary and oppressive or confiscatory."

In *Carrington v. Starbucks Corp*., 30 Cal. App. 5th 504 (2018), the Court of Appeal affirmed a judgment after trial which 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. If the amount of $5 per pay period from *Carrington v. Starbucks* is used, the potential recovery of civil penalties would be only $166,250, which is less than half of what this settlement provides. (Declaration of Puche, at ¶¶ 5, 14(d).)

Under PAGA, Courts have considerable discretion to reduce the penalty award. In *Fleming v. Covidien*, 2011 U.S. Dist. LEXIS 154590 (C.D. Cal. 2011), a federal court reduced PAGA penalties from $2,800,000 to $500,000, a reduction of 82.2%, because the court found maximum penalties "unjust" because the employees had suffered no injuries. Some trial courts have actually awarded no civil penalties, even when Labor Code violations are established. See *Makabi v. Gedalia*, 2016 Cal. App. Unpub. 1489, *5-7 (2nd Dist. Ct. of App. Mar. 6, 2016) (no PAGA penalties were awarded by the Los Angeles County Superior Court) (unpublished decision); *In re Taco Bell Wage & Hour*

[9] Stacking is where more than one civil penalty is imposed in a pay period for the same conduct. The valuation of $3,325,000 is the civil penalty amount without stacking. If stacking is permitted, then the valuation increases with each additional penalty added to each pay period. Plaintiffs, however, is not aware of any PAGA award which permitted stacking and in the cases cited herein, only one penalty per pay period was assessed. In addition, the recent amendment of PAGA casts further doubt on the availability of stacking penalties.

Actions, 2016 U.S. Dist. LEXIS 48557, *40-43 (E.D. Cal. Apr. 6, 2016) (PAGA penalties denied after trial).

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*., 2011 U.S. Dist. LEXIS 13126, *10 (C.D. Cal. 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 that each Aggrieved Employee suffered a violation for each period the employee worked in relation to meal or rest period violations, failure to pay minimum wages, failure to pay overtime and sick pay wages, failure to provide accurate itemized wage statements, failure to reimburse employees for required expenses, failure to maintain records, failure to provide suitable seating and failure to pay wages when due.

Defendant maintains that Plaintiffs and the Aggrieved Employees were properly compensated, and that it did not violate the Labor Code. Accordingly, Defendant disputes and denies Plaintiffs' allegations and claims asserted in both the PAGA Notice and the Operative Complaint, which are resolved by the Agreement. Defendant asserted additional defenses to the PAGA claim, not only as to liability but also as to the amount of the penalties. Defendant could argue that no penalties prior to the PAGA notification should be awarded because the violations were not intentional, and at least one Court has so ruled. These defenses present a risk to the PAGA claims and the potential that some or all of the PAGA penalties sought may not be awarded. (Declaration of Puche, at ¶¶ 6, 14(g).)

Given Defendant's potential defenses to the violations at issue, the risks and costs of continued litigation, Plaintiffs and their attorneys believe that the PAGA Settlement is fair and reasonable. (Declaration of Puche, at ¶¶ 5, 6, 14(g).) Defendant has similarly concluded that it is desirable that the action is settled in the manner and upon the terms and conditions set forth in the Agreement in order to avoid further expense, inconvenience and distraction of further legal proceedings, as well as the uncertainty of litigation. Defendant has determined that it is desirable and beneficial to put to rest the claims in this action and Defendant agrees that the PAGA Settlement is fair, reasonable, and adequate.

PAGA Counsel have significant experience litigating wage and hour claims including claims for PAGA penalties, and the PAGA Settlement here is similar to or greater than similar settlements that courts have approved. (Declaration of Puche, at ¶ 6.) The PAGA Settlement, along with the other terms of the proposed settlement, were negotiated by experienced counsel at arm's length with the assistance of a private mediator, Deborah Saxe Esq. (Declaration of Puche, at ¶¶ 2, 3, 6.)

As set forth in the accompanying proof of service, the LWDA has been provided notice of this motion and the PAGA settlement. The decision of the LWDA to accept the PAGA Settlement and not oppose the motion should be given considerable weight. This is not a situation where the Court needs to be concerned about the rights of absent employees as in a class settlement, as this PAGA-only settlement does not release the individual claims of absent employees other than PAGA claims, and the LWDA is a sophisticated government entity that is more than able to look out for its own rights.

B. The Remaining Settlement Terms Are Fair And Reasonable

Although PAGA requires that a court approve the proposed PAGA settlement, Labor Code § 2699(1) does not require that a court approve any other elements of the proposed settlement. See Cal. Lab. Code § 2699 (2016). Because there are no class allegations for which Plaintiffs seek approval, the approval provisions applicable to class settlements under Cal. Code Civil Proc. §382 do not apply. Accordingly, the Court only needs to approve the settlement of the civil penalties sought in the PAGA claim. Nevertheless, as explained herein, the settlement terms for attorneys' fees and costs are reasonable.

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

PAGA Counsel seek approval of attorneys' fees from the PAGA settlement in the amount of $403,333 representing one-third of the $1,210,00 Gross PAGA Settlement Amount. PAGA does not have any requirements for reviewing attorneys' fees, and Plaintiffs' position is that the payment of attorneys' fees and costs in this settlement is a matter of contract for contingent representation. Nevertheless, should this Court review the requested attorneys' fees, it is clear that the requested fees and costs are reasonable.

First, the requested fees are justified by the result achieved. PAGA Counsel negotiated a recovery of $1,210,000 and this result justifies the requested fees equal to one third of this recovery. This percentage is within the standard contingent recovery percentage of one-third, and this percentage is what was expressly approved by the Supreme Court in *Laffitte v. Robert Half Int'l Inc*., 1 Cal.5th 480, 504, (2016); *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal. App. 5th 521, 545 (2021) (recognizing that "'fee awards in class actions average around one-third of the recovery'" regardless of "'whether the percentage method or the lodestar method is used.'" (*quoting Chavez v. Netflix, Inc*., 162 Cal.App.4th 43, 66, fn. 11 (2008)).

Second, the fee award is justified by the work performed and contributions to the case. As detailed in the accompanying Puche Decl. at ¶ 7, the fee award is less than PAGA Counsel's current lodestar of $147,247.50 representing a 2.7 multiplier with significant additional work to be performed.[10]

Generally, the Ninth Circuit and California Courts award positive multipliers between 2 to 4 times the lodestar to reward counsel for accepting the contingent risks of the litigation or obtaining good results. See, e.g., *Laffitte*, 1 Cal. 5th at 506 (approving one-third fee award with multiplier between 2.03 and 2.13); *Pellegrino v. Robert Half Intern., Inc.*, 182 Cal.App.4th 278 (2010) (noting reasonable multipliers of 2.0 to 4.0 are often applied and affirming 1.75 multiplier); *Wershba v. Apple Computer, Inc*., 91 Cal.App.4th 224, 254 (2001) (noting that multipliers can range from 2 to 4 or higher); *Vandervort v. Balboa Capital Corp*., 8 F. Supp. 3d 1200, 1210 (C.D. Cal. 2014) (awarding one-third of fund, which was a 2.52 multiplier of lodestar); *Boyd v. Bank of America*, 2014 WL 6473804, at *11 (C.D. Cal. 2014) (awarding one-third of fund, which was a 2.58 multiplier of lodestar); *Hopkins v. Stryker Sales Corp*., No. 11-CV-02786-LHK, 2013 WL 496358, at *6 (N.D. Cal. Feb. 6, 2013) (approving fee award that represented a multiplier of 2.76 as falling within the "majority" range for risk multipliers).

Third, consideration of the service factors justify the service of the lodestar. Courts multiply the lodestar by a factor to account for the risk of non-payment, delay in payment, the quality of work,

[10] A true and correct copy of PAGA Counsel's billing records are attached as Exhibit #2 to the Declaration of Sergio J. Puche, filed herewith.

and the novelty and difficulty of the issues involved. See *Ketchum v. Moses*, 24 Cal.4th 1122, 1132 (2001). Failure to apply a risk multiplier in cases that meet these criteria is an abuse of discretion. *Stetson v. Grissom*, 821 F.3d 1157, 1166 (9th Cir. 2016).

Finally, as to litigation expenses, PAGA Counsel will be recovering Counsel Litigations Expenses Payment in the total amount of $16,535.91 which is less than the $35,000 allocation for costs in the Agreement, so the difference of $18,464.09 will be added to the PAGA Payment amount. These expenses are documented in the accompanying Declaration of Puche at ¶8.

VII. CONCLUSION

Based on the foregoing, Plaintiffs respectfully requests this Court approve the PAGA settlement as set forth in the Agreement and enter the proposed order and judgment submitted herewith.

Dated: July 21, 2025

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: *<u>/s/ Sergio J. Puche</u>*
Sergio J. Puche
Attorney for Plaintiff

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