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Attorneys for Plaintiff Silverio Perez
and all others similarly situated

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

SILVERIO PEREZ, on behalf of himself and all others similarly situated PLAINTIFF, V. ECOLAB PRODUCTION LLC, a Delaware Limited Liability Company; and DOES 1 through 100, inclusive DEFENDANTS.	Case No.: 5:24-cv-01954-SSS-SP CLASS ACTION **NOTICE OF MOTION AND MOTION FOR APPROVAL OF PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** Date: September 11, 2026 Time: 2:00 p.m. Courtroom: 2 [Honorable Sunshine S. Sykes] Complaint Filed: July 24, 2024 FAC Filed: October 22, 2024 Date of Removal: September 12, 2024

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 11, 2026 at 2:00 p.m. in Courtroom 2 of the United States District Court for the Central District of California located at 3470 Twelfth Street, Riverside, California 92501, Plaintiff Silverio Perez ("Plaintiff") will and hereby does move this Court for entry of an order and judgment approving the Private Attorneys General Act Settlement Agreement and Release of Claims ("Settlement" or "Settlement Agreement"), attached to the Declaration of Cassandra A. Castro as Exhibit 1, pursuant to the Private Attorneys General Act of 2004 ("PAGA") (Cal. Labor Code § 2698, *et seq*.) and Cal. Labor Code § 2699(s)(2).

This Motion will be based on this Notice of Motion and Motion, the Memorandum of Points and Authorities, the Declarations of Jason Hatcher, Cassandra A. Castro, and Plaintiff, the papers and records filed in support of this motion as well as on file herein, and on such oral and documentary evidence as may be presented at the hearing of the motion. This motion is made pursuant to Local Rule 7-3.

Dated: 8/14/26

Respectfully Submitted,
THE MYERS LAW GROUP, A.P.C.

By: *_/s/Cassandra A. Castro_*
David P. Myers,
Jason Hatcher,
Cassandra A. Castro,
Andriana N. Bravo,
Attorneys for Plaintiff Silverio Perez, on behalf of himself and all others similarly situated

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Silverio Perez ("Plaintiff") seeks an order and judgment approving the Private Attorneys General Act Settlement Agreement and Release of Claims ("Settlement" or "Settlement Agreement"), (Decl. Castro, Ex. 1 ("Ex. 1")[1]) for the civil penalties claim he brought against Defendant Ecolab Production, LLC ("Defendant") under Labor Code Private Attorneys General Act of 2004, Labor Code §§2699, *et seq*. ("PAGA").

The Settlement represents a non-reversionary Gross Settlement Amount ("GSA") of $550,000.00 with approximately $323,868.15 allocated to PAGA civil penalties. Of these civil penalties, $210,514.30 (65%) is allocated to the Labor Workforce Development Agency ("LWDA") and $113,353.85 (35%) is allocated to 365 aggrieved employees ("PAGA Employees"). The PAGA Employees consist of all current and former hourly non-exempt employees who work or worked as warehouse distribution employees of Defendant in California at any time between July 12, 2023 to May 25, 2026. The Settlement provides an "average" payment of $310.56 for each PAGA Employee ($113,353.85 (PAGA Employee Net Settlement Amount) / 365 (PAGA Employees)). (Ex. 1 at ¶¶ 1.14,6.1).

The Court should approve the Settlement as it is fair, reasonable, and adequate. (Decl. Hatcher at ¶16); (Decl. Castro at ¶4); (Decl. Perez at ¶16).

II. FACTUAL AND PROCEDURAL BACKGROUND

Defendant manufactures and distributes cleaning and safety products, equipment, and services to various business industries. This work is partly accomplished by Plaintiff and the PAGA Employees as Defendant's employees.

On July 12, 2024, Plaintiff submitted a PAGA Notice with the LWDA and mailed the same to Defendant. (Decl. Castro, Ex. 2). On July 24, 2024, Plaintiff filed

[1] The Settlement's definitions are incorporated by reference for all defined terms used herein.

a class action complaint against Defendant in San Bernardino Superior Court entitled *Perez v. Ecolab Production, LLC*, Case No. CIVSB2422765, alleging causes of action for: (a) failure to pay all overtime and double time wages; (b) failure to provide meal periods; (c) failure to provide rest periods; (d) failure to provide accurate wage statements; (e) failure to pay all wages due at separation; and (f) unfair competition. [Dkt. 1, Ex. A].

On September 12, 2024, Defendant removed the Action to the United States District Court for the Central District of California, at Case No. 5:24-cv-01954-SSS-SP. [Dkt. 1]. On October 22, 2024, Plaintiff filed a First Amended Complaint adding a claim for violation of PAGA. [Dkt. 11].

On November 12, 2024, Defendant filed a motion to compel arbitration ("MTCA") of Plaintiff's individual claims and to dismiss the putative class claims. [Dkt. 15]. On May 27, 2025, the Court granted Defendant's MTCA, compelling Plaintiff's individual claims to arbitration, dismissing the putative class claims asserted in the Action, and staying Plaintiff's representative PAGA claims pending arbitration. [Dkt. 40]. On or about July 21, 2025, Plaintiff initiated arbitration for his individual wage and hour claims and individual PAGA claims with the American Arbitration Association ("AAA"), Case No. 01-25-0003-4104. (Decl. Castro at ¶11).

On February 20, 2026, Plaintiff and Defendant (the "Parties") participated in private mediation with mediator Steve Pearl, Esq. Prior to mediation, Defendant provided Plaintiff with informal mediation-based PAGA discovery that included data detailing the number of aggrieved employees and pay periods, payroll data and documents, Plaintiff's personnel file, and wage and hour policies that allowed Plaintiff to prepare an estimated damages exposure. (Decl. Castro at ¶6). A settlement-in-principle was reached through the mediation by non-collusive, arm's-length negotiations, resulting in this Settlement. (Id. at ¶¶5-7).

Plaintiff moves this Court for entry of an order and judgment approving the Settlement pursuant to Labor Code § 2699(s)(2).

III. SUMMARY OF SETTLEMENT

A. Terms of the Settlement

1. The PAGA Employees

The PAGA Employees consist of "all current and former hourly nonexempt employees who work or worked as warehouse distribution employees for Defendant in California at any time(s) during the PAGA Period." (Ex. 1 at ¶ 1.14). The PAGA Period is from July 12, 2023 to May 25, 2026. (Id. at ¶ 1.19). There are 15,000 PAGA Pay Periods worked by 365 PAGA Employees. (Id. at ¶ 6.1).

2. Settlement Allocations and Distribution

Defendant has agreed to pay a non-reversionary GSA of Five Hundred Fifty Thousand Dollars and Zero Cents ($550,000.00). (Ex. 1 at ¶¶ 1.10). The GSA includes: (a) the PAGA Employee Net Settlement Amount; (b) the LWDA Net Settlement Amount; (c) Plaintiff's Counsel Fees Payment; (d) Plaintiff's Counsel Litigation Expenses Payment; (e) the Enhancement Award; and (f) the Administration Expenses Payment. (Id.). A full breakdown of the allocations of the GSA is as follows:

Gross Settlement Amount	$550,000.00
Plaintiff's Counsel Fees Payment	$183,333.33
Plaintiff's Counsel Litigation Expenses Payment	$22,398.52
Plaintiff's Enhancement Award	$15,000.00
Administration Expenses Payment	$5,400.00
PAGA Penalties	$323,868.15[2]
LWDA Net Settlement Amount	$210,514.30
PAGA Employee Net Settlement Amount	$113,353.85

Following the Effective Date, settlement administration shall occur as follows: No later than fifteen (15) days after the Effective Date, Defendant shall deliver the

[2] "PAGA Penalties" is subject to increase, should the Court award less than the amounts requested for attorneys' fees, litigation expenses, enhancement award, and/or administration fees. The difference will be distributed to the PAGA Penalties. See (Ex. 1 at ¶¶ 3.2,3.2.1,3.2.2,3.2.3,3.2.4).

PAGA Employee Data to the Administrator. (Ex. 1 at ¶¶ 1.16,4.4). No later than twenty (20) days after the Effective Date, Defendant shall fully fund the GSA by transmitting funds to the Administrator. (Ex. 1 at ¶ 4.5). Within seven (7) days of Defendant's funding of the GSA, the Administrator shall mail checks for all PAGA Penalties, Administrative Expenses Payment, Plaintiff's Counsel Fees Payment, Plaintiff's Counsel Litigation Expenses Payment and the Enhancement Award. (Ex. 1 at ¶ 4.6).

The PAGA Penalties is the amount remaining from the GSA after deductions of: (a) Plaintiff's Enhancement Award; (b) Plaintiff's Counsel Fees Payment; (c) Plaintiff's Counsel Litigation Expenses Payment; and (d) the Administration Expenses Payment; from which the LWDA Payment is equal to 65% of the PAGA Penalties and the total Individual PAGA Payments are equal to the 35% of the PAGA Penalties paid to the PAGA Employees under Labor Code section 2699, subd. (m). (Ex. 1 at ¶ 3.2.4).

The Administrator will calculate each Individual PAGA Payment by (a) dividing the PAGA Employee Net Settlement Amount by the total number of PAGA Pay Periods worked by all PAGA Employees during the PAGA Period and (b) multiplying the result by each PAGA Employee's individual PAGA Pay Periods. (Ex. 1 at ¶ 3.2.5).

The Administrator will issue checks for the Individual PAGA Payments and send the checks with Explanatory Letters to all PAGA Employees via First Class U.S. Mail, postage prepaid. (Ex. 1 at ¶ 4.6.1, Ex. A). Before mailing any checks and Explanatory Letters, the Administrator will update the recipients' mailing addresses using the National Change of Address Database and conduct a PAGA Employee Address Search for all PAGA Employees whose checks and Explanatory Letters are returned undelivered without USPS forwarding addresses. (Ex. 1 at ¶¶ 4.6.1,4.6.2). Within seven (7) days of receiving a returned check/Explanatory Letter, the Administrator will re-issue and re-mail checks and Explanatory Letters to a USPS forwarding address or to an address ascertained through the PAGA Employee Address Search. (Id.). If Individual PAGA Payment checks are uncashed and cancelled after the void date, the Administrator will transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund. (Ex. 1 at ¶ 4.6.3).

3. The Scope of the Release of PAGA Claims and Plaintiff's Individual Release

a) Released Parties

Under the Settlement, the Released Parties means Defendant and its past, present, and future predecessors, successors, officers, directors, employees, parents, subsidiaries, owners, members, shareholders, partners, insurers, contractors, assigns, legal representatives, attorneys, and agents. (Ex. 1 at ¶ 1.24).

b) Released PAGA Claims

The PAGA Employees will release the PAGA Released Claims as follows:

> Upon the Effective Date and Defendant's fulfillment of its payment obligations as set forth herein, Plaintiff, PAGA Employees, and the LWDA (to the extent Plaintiff is permitted to provide such a release for the State of California for the PAGA Period) shall be deemed to have released and forever discharged, for the duration of the PAGA Period, all claims for civil penalties under PAGA that were alleged, or reasonably could have been alleged, based on the facts asserted in the FAC and/or PAGA Notice, including, without limitation, all PAGA penalties and any attendant claims for attorneys' fees or costs under the PAGA relating to violations of: (a) California Labor Code sections 201, 202, 203, 218, 218.5, 218.6, 226, 226.7, 510, 511, 512, 516, 558, 1194, 1198, 2698, 2699, and 2699.3; (b) the applicable IWC wage orders; and (c) California Code of Regulations, Title 8, § 11050 *et seq*. (Ex. 1 at ¶ 5.2).

c) Plaintiff's Individual Release

Under the Settlement, Plaintiff, and only Plaintiff, is executing a general release of claims that includes a Civil Code §1542 release. (Ex. 1 at ¶ 5.1). Plaintiff, and only Plaintiff, is releasing non-PAGA claims as part of this Settlement, which includes Plaintiff's pending individual wage and hour claims pending in arbitration.

4. No Statutory Right to Opt-Out of Settlement

PAGA Employees have no statutory or other right to opt out or exclude themselves from the Settlement, which releases PAGA claims. *Williams v. Superior Court* (2017) 3 Cal.5th 531, 546-548. Accordingly, the Settlement does not provide PAGA Employees with a procedure to opt-out or exclude themselves from the Settlement. (Ex. 1 at ¶ 3.2.5).

5. Notice of Settlement to the LWDA

Upon the filing of this Motion, Plaintiff's counsel will submit the Settlement to the LWDA. *See* Cal. Lab. Code § 2699(s)(2). Confirmation of the same will be submitted on Reply.

IV. THE COURT SHOULD APPROVE THE PAGA SETTLEMENT

The trial 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(s)(2).

"In deciding whether to approve a PAGA settlement, California courts have a applied a standard similar to that used under Federal Rule of Civil Procedure 23, asking whether the settlement of the PAGA claims 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.'" *Turner v. Northrop Grumman Corp*., No. CV 23-3756 PA (PDx), 2025 U.S.Dist.LEXIS 210979, at *4-5 (C.D. Cal. May 14, 2025) *quoting Moniz v. Adecco USA, Inc*., (2021) 72 Cal.App.5th 56, 77.

Here, the Settlement meets the fair, reasonable, and adequate standard. The proposed Settlement is an exceptional outcome considering all known facts and circumstances, including the fact that civil penalties under PAGA are discretionary.[3]

[3] The trial court has discretion to award lesser penalties, including when imposition of the maximum statutory penalty would result in an award that is unjust, arbitrary, oppressive, or confiscatory. *Carrington v. Starbucks Corp*. (2018) 30 Cal.App.5th 504, 529 (applying a 90% discount) *quoting Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1213.

"Relief under PAGA is designed primarily to benefit the general public, not the party bringing the action." *Kim v. Reins Int'l Cal., Inc.*, (2020) 9 Cal.5th 73, 81. This Settlement does just that. The $210,514.30 payment to the LWDA is more than adequate "to supplement" funding the agency's "enforcement of labor laws" and "education of employers and employees about their rights and responsibilities under" the Labor Code. Cal. Lab. Code § 2699(n).

A. The Settlement is Fair, Reasonable, and Adequate

"[T]he court will approve a settlement of PAGA claims upon a showing that the settlement terms: (1) meet the statutory requirements set forth by PAGA; and (2) are fundamentally fair, reasonable, and adequate in view of PAGA's public policy goals." *Munoz v. RDO Equip. Co., No*. 1:23-cv-00979-DAD-AC, 2025 U.S.Dist.LEXIS 258850, at *9 (E.D. Cal. Dec. 12, 2025); *see also Turner*, 2025 U.S.Dist.LEXIS 210979, at *5 *quoting Officers for Just. v. Civ. Serv. Comm'n of City & Cnty. of San Francisco*, 688 F.2d 615, 625 (9th Cir. 1982).

A settlement is presumptively fair where it is reached through arm's-length bargaining through a neutral third-party mediator, based on sufficient discovery and investigation to allow counsel and the court to act intelligently, and counsel is experienced in similar litigation. *Dunk v. Ford Motor Co*. (1996) 48 Cal.App.4th 1794, 1802. Furthermore, courts review the discovery process and information received through it to aid them in assessing whether the parties sufficiently developed the claims and their supporting factual bases before reaching settlement. *See Turner*, 2025 U.S.Dist.LEXIS 210979, at *5; *Perez v. All AG, Inc*., No. 1:18-cv-00927-DAD-EPG, 2021 U.S.Dist.LEXIS 137898, at *11 n.6 (E.D. Cal. July 22, 2021); *Cresci v. Cox Auto. Corp. Servs.*, No. 2:20-cv-06832-VAP-SKx, 2021 U.S.Dist.LEXIS 134293, at *11 (C.D. Cal. May 5, 2021).

1. The Settlement is the Product of Arm's-Length Negotiations

The Settlement here is fair, reasonable and adequate. (Decl. Castro, ¶4). Plaintiff and Plaintiff's Counsel engaged in private mediation, on February 20, 2026, with well-respected mediator Steve Pearl, Esq. Prior to mediation, Plaintiff possessed sufficient information and documentation to make an informed decision and conduct a review and analysis of the facts, potential damages, and legal issues raised by the Action to reach the Settlement. (Id. at ¶¶5-8). Through the mediation process, the parties reached an arm's-length and non-collusive settlement-in-principle that is memorialized in the Settlement. (Id.).

In reaching the proposed Settlement, Plaintiff and Plaintiff's Counsel's negotiation efforts took into consideration relevant factors such as the number of PAGA Employees, data and documents obtained through informal discovery, Plaintiff's experiences, Defendant's projected liability, the expense and uncertainty of continued complex litigation, Defendant's policies, and the potential for appeals. (Decl. Castro at ¶¶5-8). Based on Plaintiff's Counsel's experience handling similar claims, Plaintiff's Counsel believe that the proposed settlement represents a favorable resolution for the LWDA and the PAGA Employees as it provides concrete compensation for Defendant's alleged violations without the further expense and uncertainty of further litigation. (Id. at ¶¶ 5-8); (Decl. Hatcher at ¶16). Accordingly, this Settlement is the product of thorough arm's-length and non-collusive privately mediated negotiations between the Parties. Thus, the Settlement is presumptively fair.

2. Sufficient Investigation and Discovery Has Been Conducted

Prior to mediation, Plaintiff conducted a comprehensive investigation into the facts and legal issues raised in the Action. Plaintiff's investigation included requesting and obtaining documents and information for the PAGA Employees, that included data detailing the total number of aggrieved employees and pay periods, payroll data and documents, Plaintiff's personnel file, and wage and hour policies that allowed Plaintiff to prepare an estimated damages exposure. (Decl. Castro, ¶¶5-8). At mediation, and prior to reaching the Settlement, Plaintiff was equipped with sufficient knowledge of the facts and legal claims at issue, and the evidence in support or in contention thereof, to properly evaluate the Action's merits, Defendant's defenses, and Defendant's scope of projected liability. (Decl. Castro, ¶¶6-8).

Given the foregoing, the Settlement is fair, reasonable, and adequate, given the inherent risks of litigation, costs of litigation, and Defendant prevailing on the merits and/or Defendant's affirmative defenses. (Decl. Hatcher, ¶16); (Decl. Castro at ¶¶4-8).

3. Plaintiff's Counsel is Experienced in Similar Litigation

Plaintiff's Counsel has handled numerous class and PAGA actions, the majority of which they served as class counsel. (Decl. Hatcher at ¶¶2-6); (Decl. Castro at ¶2). This experience and success in similar wage and hour class and PAGA action litigation supports the view that the proposed Settlement is fair, reasonable and adequate. Plaintiff's Counsel relied on their extensive experience when negotiating the proposed settlement. (Decl. Hatcher at ¶¶2-6); (Decl. Castro at ¶¶2, 5-8). As discussed above, Plaintiff's Counsel's settlement negotiations and considerations were founded upon the information and documentation obtained through thorough mediation-based discovery, Plaintiff's experiences, Defendant's general denials of wrongdoing, and the uncertainty, risk, expense and delay associated with litigating the action through the completion of the arbitration proceeding, subsequent litigation and trial, and the risks for potential appeals. (Id.). Plaintiff's Counsel also considered the just nature of the non-reversionary Settlement – any unclaimed funds go to the California State Controller's Office, Unclaimed Property Division in the name of the PAGA Employee. (Ex. 1 at ¶ 4.6.2,4.6.3). Therefore, Defendant is required to pay the entire GSA.

Based on the foregoing, the Settlement should be presumed fair since it was reached as the result of arm's-length negotiations, sufficient investigation and discovery was conducted, and Plaintiff's counsel's experience.

4. Benefits of the Settlement and the Risks of Continued Litigation

"[L]egal uncertainty favors approval of a settlement." *Ramirez v. Benito Valley*

Farms, LLC (N.D. Cal. Aug. 25, 2017) 2017 U.S.Dist.LEXIS 137272, at *13. The Settlement amount represents a significant portion of the estimated reasonable exposure. The settlement amount balanced against the merits of the PAGA claims is strong. Additionally, the risk remains that further litigation could result in no civil penalties being awarded (or reduced civil penalties being awarded[4]), potentially aggrieved employees remaining injured, and significant costs to the detriment of the parties. This factor favors approval.

This PAGA only Settlement of $550,000.00 is a considerable result in comparison to the settlement of PAGA claims in hybrid wage and hour class and PAGA action settlements. *See Smith v. Am. Greetings Corp.*, 2016 U.S.Dist.LEXIS 66247 (N.D. Cal. May 19, 2016) (approving $37,500 PAGA allocation in $4 million settlement); *Willner v. Manpower Inc*., 2015 U.S.Dist.LEXIS 80697 (N.D. Cal. June 20, 2015) (approving $65,655 PAGA allocation in $8.75 million settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 U.S.Dist.LEXIS 15821 (N.D. Cal. Feb. 15, 2011) (approving $10,000 PAGA allocation in $6.9 million settlement).

The Settlement accounts for the strengths and risks of each of the claims, as described below:

Unpaid Wage Claims. Plaintiff contends that Defendant failed to pay Plaintiff and the PAGA Employees for all hours worked, in violation of Labor Code §§ 510, 1194, 1194.2, 1197 and the Industrial Welfare Commission ("IWC") Wage Order. Plaintiff contends that Defendant rounded time entries for shifts beginning and end times and meal periods resulting in unpaid minimum, overtime, and double wages. *See Donohue v. AMN Services, LLC*, (2021) 11 Cal.5th 58, 61. Plaintiff contends the unlawful rounding resulted in approximately 1.3 minutes underpaid per shift. Defendant contends that its policies and practices regarding payment of minimum wages and overtime wages comply with the Labor Code and Wage Order. Defendant

[4] *See* Cal. Lab. Code § 2699(e)(2).

further contends that meal periods were duty free and thus did not require compensation. Accordingly, Defendant's reasonable exposure for the total unpaid wage claim is estimated at approximately $143,445.00 (15% of Defendants' estimated maximum 100% exposure of $956,300.00 for the alleged unpaid wage civil penalties).

Rest Period Violations. Plaintiff contends that Defendant failed to provide rest periods to Plaintiff and the PAGA Employees in violation of Labor Code §§ 226.7 and 512, and IWC Wage Order. Plaintiff contends that Defendant's rest period policies are unlawful, such that it failed to provide compliant rest periods to Plaintiff and the PAGA Employees, and/or premium pay in lieu thereof for shifts over 10 hours. The August 2022 Operations Handbook and rest period policy does not provide for a third rest period for employees who work anything less than 12 hours. Further, Plaintiff and the PAGA Employees were expected to promptly start and/or return from scheduled breaks, resulting in short rest periods due to excessive walking time to and from the designated break area(s), which were approximately 5-to-10 minutes away from workstations in Defendant's large facilities. Additionally, Plaintiff contends rest periods were (1) routinely interrupted by management, and (2) captive as Plaintiff and PAGA Employees were required to carry and monitor a walkie talkie or similar device on their person for the full duration of their shift, including during rest periods. *See Augustus v. ABM Security Services, Inc*. (2016) 2 Cal.5th 257, 265 (obligations are the same for meal and rest periods); *See also Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1040 (employer must relieve its employees of all duty, relinquish control over activities and permit them a reasonable opportunity to take an uninterrupted net 10-minute paid rest break, and cannot impede or discourage the same). However, Defendant maintains that it implemented and practiced compliant rest period practices during the PAGA Period. Further, Defendant contends that this claim is unmanageable due to individual questions as to rest period practices at the separate facilities and/or separate managers/supervisors, and individual questions as to whether employees chose to voluntarily skip rest periods. Accordingly, Plaintiff estimates Defendant's reasonable exposure is approximately $716,025.00 (approximately 25% of Defendant's estimated maximum 100% violation rate exposure of $2,864,100.00 for the alleged rest period civil penalties).

Meal Period Violations. Plaintiff contends that Defendant failed to provide meal periods to Plaintiff and the PAGA Employees in violation of Labor Code §§ 226.7 and 512, and the applicable IWC Wage Order. Plaintiff contends Defendant impermissibly rounded meal period punches until March 2025. *See Donohue*, 11 Cal.5th at 61 (meal period rounding impermissible). Plaintiff also contends Defendant's practice required PAGA employees to remain on-call via communication devices during meal periods. *See Augustus*, 2 Cal.5th at 265; *Brinker Restaurant Corp.*, 53 Cal.4th at 1039. Further, Plaintiff argues Defendant expected PAGA Employees to promptly start and/or return from scheduled breaks, resulting in short meal periods, as the break area and timekeeping device were approximately 5-to-10 minutes away from workstations. However, Defendant maintains that it implemented and practiced a compliant meal period practice during the PAGA Period. Further, Defendant contends that this claim is unmanageable due to individual questions as to meal period practices at the separate facilities and/or separate managers/supervisors. Accordingly, Plaintiff estimates Defendant's reasonable exposure is approximately $999,985.00 (approximately 35% of Defendant's estimated maximum 100% violation rate exposure of $2,857,100.00 for the alleged meal period civil penalties).

Wage Statement Violations. Plaintiff contends derivative wage statement violations pursuant to Labor Code § 226 based on failure to include accurate actual hours worked versus rounded hours paid, gross wages earned and/or net wages earned and/or all hourly rates at the corresponding rate of pay and/or meal and rest period premiums. *See Naranjo v. Spectrum Security Services, Inc.* (2022) 13 Cal.5th 93, 121; Labor Code §226(a)(1), (a)(5), (a)(9). In contrast, Defendant contends the Plaintiff's underlying claims will fail, thus it contends this derivative claim will fail. Further, Defendant contends there is no stacking for derivative claims in PAGA. Given this, Plaintiff estimates Defendant's reasonable exposure is approximately $1,145,640.00 (approximately 25% of Defendant's estimated maximum 100% violation rate exposure of $2,864,100.00 for alleged Labor Code 226(a) civil penalties).

Waiting Time Penalties. Plaintiff alleges derivative waiting time penalty claims, in violation of Labor Code §§ 201 and 203. Defendant contends the Plaintiff's underlying claims will fail and that this derivative claim will in turn fail. Further, that Plaintiff will not be able to establish the "willful" prong here for the underlying meal/rest period premium claims. Further, Defendant contends there is no stacking for derivative claims in PAGA. Given this, Plaintiff estimated Defendant's reasonable exposure is approximately $7,040.00 (approximately 25% of Defendant's estimated maximum 100% violation rate exposure of $ 17,600.00 in civil penalties for alleged Labor Code §203 civil penalties).

Considering the foregoing risk, uncertainty, and the discretionary nature of PAGA civil penalties awards, *See* Cal. Lab. Code § 2699(e)(2), Plaintiff's Counsel discounted Defendant's maximum 100% violation rate. . Plaintiff's Counsel estimates that Defendant's *reasonable* PAGA exposure here is $2,614,880.00 (approximately 27% of Defendant's maximum exposure of $9,559,200.00). The Settlement fund of $550,000.00, or 21.3% of the *reasonable* exposure, is an excellent result for the LWDA and PAGA Employees and is a sum that is fair and reasonable based on Defendant's reasonable exposure.

B. Settlement and Application to the LWDA

A copy of the Settlement and this motion will be provided to the LWDA contemporaneously to the filing of this motion.

V. PROPOSED FEE AWARD AND COST REIMBURSEMENT ARE FAIR, ADEQUATE AND REASONABLE AND SHOULD BE APPROVED

Plaintiff's Counsel seeks to recover reasonable attorneys' fees and costs as a matter of right under PAGA. See Labor Code § 2699(k)(1). Plaintiff's Counsel seek an attorney's fees award in the amount of $183,333.33 (one-third of the GSA) as compensation for significant work performed in pursuing this action, for bearing risks associated with litigating the case, and for achieving substantial benefits for the LWDA and the aggrieved employees by way of the hard-fought, efficient litigation and the resulting Settlement.

A. Fee Award is Fair and Adequate Under Percentage of Common Fund Doctrine

Where litigation leads to the creation of a common fund, like in this Settlement, courts can determine the reasonableness of a request for attorneys' fees using either the percentage-of-recovery method or the lodestar method. *Martinez v. Helzberg's Diamond Shops*, No. ED CV 20-1085 PSG (SHKx), 2021 U.S.Dist.LEXIS 260359 at *19 (C.D. Cal. Sep. 24, 2021); *see In re Bluetooth Headset Prods. Liab. Litig*., 654 F.3d 935, 944-45 (9th Cir. 2011).

Although the Ninth Circuit has established 25% of the common fund as a benchmark award for attorney fees, that benchmark is not rigid and leaves room for the consideration of the circumstances of the case based on several factors, including: (1) the results achieved; (2) the risk of litigation; (3) the skill required and quality of work; (4) the contingent nature of the fee and the financial burden carried by plaintiff; and (5) awards in similar cases. *Corona v. Remington Lodging & Hospitality, LLC*, 2019 U.S.Dist.LEXIS 68116, at *26-27 (C.D. Cal. Apr. 22, 2019, No. EDCV 17-1371 JGB (SPx); *Vizcaino v. Microsoft Corp*., 290 F.3d 1043, 104750 (9th Cir. 2002); *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 954-55 (9th Cir. 2015) (internal quotation mark omitted). Plaintiff's Counsel's request for a fee award of one-third of the $550,000.00 common fund is reasonable under these factors and the circumstances of this case. *See Munoz*, 2025 U.S.Dist.LEXIS 258850, at *29-38.

1. Plaintiff's Counsel Achieved an Excellent Result

The allocation of $323,868.15 of the GSA to the alleged PAGA claims, with the LWDA's payment of $210,514.30 and the PAGA Employee's Net Payment of

$113,353.85 is an excellent result. The Individual PAGA Payments made to the PAGA Employees are based on a pro rata share of $113,353.85.

There are 365 PAGA Employees and 15,000 PAGA Pay Periods in the PAGA Period. (Ex. 1 at ¶ 6.1). The estimated average Individual PAGA Payment is $310.56, ($113,353.85 (PAGA Employee Net Settlement Amount) / 365 (PAGA Employees)). The estimated highest Individual PAGA Payment is $574.33 and estimated lowest Individual PAGA Payment is $7.56. (Decl. Castro at ¶13). These results reflect that the PAGA payment is fair, reasonable, and adequate with respect to the LWDA and the PAGA Employees and supports approval of a fee request of one-third (1/3) of the common fund.

2. The Case Was Risky

The risk that further litigation might result in no recovery is a "significant factor" in assessing the fairness and reasonableness of an award of attorneys' fees. *Martinez*, 2021 U.S.Dist.LEXIS 260359, at *21-22. The claims at-issue in this litigation posed various uncertainty, risk, expense and delay associated with litigating the Action through arbitration, subsequent trial, and the risks for potential appeals. The Settlement avoids the risks of litigation in exchange for a narrowly tailored release of claims. (Ex. 1 at ¶ 5.2). *See Franco v. Ruiz Food Prods*. (E.D. Cal. Nov. 27, 2012) 2012 U.S.Dist.LEXIS 169057, at *45-46 (explaining that the risks involved weighed in favor of requested fee award because "the action was taken on a contingency fee basis and, as such, Plaintiff's Counsel invested time, effort, and money with no guarantee of recovery").

Accordingly, this factor supports the reasonableness of a fee of one-third of the common fund. *Corona*, 2019 U.S.Dist.LEXIS 68116 at *27 (the results achieved compared to/and the risk of litigation (e.g., the quality of defenses)).

3. Skill Required and Quality of Work

This case required specialist skills to litigate the legal theories relating to wage and hour law and labor law at issue in the case. Plaintiff's Counsel are experienced class litigators, including in employment class and PAGA litigation. (Decl. Hatcher at ¶¶2-6); (Decl. Castro at ¶2). This supports a ruling that the requested fees are reasonable. *Franco*, 2012 U.S.Dist.LEXIS 169057, at *46-47.

Moreover, Plaintiff's Counsel was competent in investigating, negotiating and achieving a significant monetary result for the unique, narrow, and specific wage and hour claims at-issue in this case. Plaintiff's Counsel carried a significant burden, requiring both skill and quality of work. *Espinosa v. Cal. Coll. of San Diego, Inc*. (S.D. Cal. Apr. 9, 2018) 2018 U.S.Dist.LEXIS 60106, at *30. Plaintiff's Counsel has consistently demonstrated the highest standards of professionalism, skill and ability to obtain significant results without delay or increased fees and costs. (Decl. Castro at ¶¶ 3-8). Plaintiff's Counsel brought their extensive, unique experience to this case and demonstrated superior skill to secure a significant recovery for the LWDA and PAGA Employees. Thus, these factors weigh in favor of finding a one-third fee award as reasonable.

4. Contingent Nature and Plaintiff's Financial Burden

This case was litigated on a contingent basis with all the concomitant risk factors inherent in such an uncertain undertaking. (Decl. Castro at ¶3). There is a substantial difference between the risk assumed by attorneys being paid by the hour and attorneys working on a contingent fee basis. The attorney being paid by the hour can go to the bank with his fee. *Powers v. Eichen*, (9th Cir. 2000) 229 F.3d 1249, 1256. The attorney working on a contingent basis can only log hours while working without pay towards a result that will hopefully entitle him or her to a marketplace contingent fee considering the risk and other factors of the undertaking. *Id.* at 1257. Otherwise, the contingent fee attorney receives nothing. *Id*. In this case, Plaintiff's Counsel subjected themselves to contingent fee market risk.

Given this case's contingent nature, Plaintiff's Counsel also carried the risk and financial burden of advancing all costs. This is significant, especially in representative litigation where expert costs and mediation costs are almost guaranteed and significant. Furthermore, because the corporate defendant and its attorneys are well-funded, this can prove to be expensive and risky. Because the risk of advancing costs can be significant, it is cost prohibitive to many attorneys. Here, the financial burden undertaken by Plaintiff's Counsel was not insubstantial by the time settlement was reached. Of course, the costs would have increased exponentially as the action progressed had there been no settlement. Plaintiff's Counsel advanced $22,398.52 in costs which would likely be forfeited if this case had been lost. This factor supports the reasonableness of a fee request of one-third of the common fund.

These factors further support a one-third fee award from the common fund is fair and reasonable considering the excellent monetary relief achieved by Plaintiff's Counsel for this litigation. *See Munoz*, 2025 U.S.Dist.LEXIS 258850, at *29-38.

5. One-Third of the Common Fund is the Market Rate

Federal Courts in California routinely approve fee requests equal to or greater than one-third of the common fund. See *Munoz*, 2025 U.S.Dist.LEXIS 258850, at *29-38; *Smith*, 2013 U.S.Dist.LEXIS 6049, at *14; *Dennis*, 2013 U.S.Dist.LEXIS 163118, at *23; *Singer*, 2010 U.S.Dist.LEXIS 53416, at *7; *Ingalls*, 2009 U.S.Dist.LEXIS 131078. "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." *Romero v. Producers Dairy Foods, Inc.* (E.D.Cal. Nov. 13, 2007, No. 1:05cv0484 DLB) 2007 U.S.Dist.LEXIS 86270, at *10; 4 Newberg and Conte, Newberg on Class Actions § 14.6 (4th ed. 2007); *see also Martinez*, 2021 U.S.Dist.LEXIS 260359, at *23. This factor supports the reasonableness of Plaintiff's Counsel's fee request.

B. Lodestar Method Supports the Requested Fee Award

As of August 13, 2026, Plaintiff's Counsel recorded no less than approximately 268.1 attorney and paralegal hours on this litigation. (Decl. Hatcher at ¶¶10,12, Ex. A). Accordingly, Plaintiff's Counsel's total lodestar is $151,031.50. (Id.). "In applying the 'lodestar method,' courts consider non-attorney fees, such as paralegal, secretarial, and technician services, as part of the attorney's fees calculation." *Castellon v. PennRidge Transp., Inc*. (C.D. Cal. Nov. 3, 2020, No. ED CV18-02136 JAK (KKx)) 2020 U.S.Dist.LEXIS 245742, at *30; *Ctr. for Biological Diversity v. EPA*, No. C 1700720 WHA, 2017 U.S. Dist. LEXIS 213709, at *10 (N.D. Cal. Dec. 4, 2017).

The fee request shows a modest multiplier of approximately 1.21 to Plaintiff's Counsel's lodestar, thus the fee award is fair and reasonable. *Syed v. M-I, L.L.C*., 2017 U.S.Dist.LEXIS 118064, at *18-19 (E.D.Cal. July 26, 2017, No. 1:12-cv01718-DAD-MJS); citing 4 Newberg on Class Actions § 14.7; *In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions*, 148 F.3d 283, 341 (3d Cir. 1998) ("[M]ultiples ranging from one to four are frequently awarded in common fund cases when the lodestar method is applied.") (quoting Newberg).

"The lodestar method requires 'multiplying the number of hours the prevailing party reasonably expended on the litigation (as supported by adequate documentation) by a reasonable hourly rate for the region and for the experience of the lawyer.'" *In re Online DVD-Rental Antitrust Litig*., 779 F.3d 934, 949 (9th Cir. 2015) (internal quotation omitted). The Ninth Circuit encourages courts to use the lodestar method as a "cross-check" on the reasonableness of a fee award determined with the percentage method. *Ochinero v. Ladera Lending* (C.D. Cal. July 19, 2021, No. SACV 19-1136 JVS (ADSx)) 2021 U.S.Dist.LEXIS 192406, at *22.

> The court may raise or lower the lodestar based on several factors:
> (1) the time and labor required; (2) the novelty and difficulty of the questions involved; (3) the skill requisite to perform the legal service properly; (4) the preclusion of other employment by the attorney due to acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the attorneys; (10) the "undesirability" of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases.

Ochinero v. Ladera Lending (C.D. Cal. July 19, 2021, No. SACV 19-1136 JVS

(ADSx)) 2021 U.S.Dist.LEXIS 192406, at *22-23; *Fischel v. Equitable Life Assurance Society*, 307 F.3d 997, 1007 n.7 (9th Cir. 2002). The Ninth Circuit has noted that multipliers range from 1.0-4.0 and a "bare majority" fall within the range of 1.5-3.0. *Id.; citing Vizcaino*, 290 F.3d at 1051 n.6; *Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 298 (N.D. Cal. 1995) ("Multipliers in the 3-4 range are common in lodestar awards for lengthy and complex class action litigation.")

1. Plaintiff's Counsel's Hourly Rates are Reasonable

Plaintiff's Counsel's hourly rates are between $475 and $775 and are in line with rates typically approved in wage and hour class action litigation and/or rates accepted by Courts in the Central District for lodestar cross-check. *Jordan*, 2020 U.S.Dist.LEXIS 154673, at *26-27 (Approving hourly rates of $750.00 to $475.00); (Decl. Hatcher at ¶¶2-7).

A reasonable hourly rate is the prevailing rate charged by attorneys of similar skill and experience in the relevant community. *PLCM Group, Inc.*, 22 Cal. 4th at 1095 (2000). When determining a reasonable hourly rate, counsel may consider factors such as the attorney's skill and experience, the nature of the work performed, the relevant area of expertise and the attorney's customary billing rates. *Flannery v. California Highway Patrol* (1998) 61 Cal. App.4th 629, 632.

Plaintiff's Counsel's skill and experience support their hourly rates. Their practice focuses on the representation of employees in wage and hour class action matters and they have been appointed class/co-class counsel in multiple class action and/or class and PAGA action cases. (Decl. Hatcher ¶¶2-6); (Decl. Castro ¶2). Plaintiff's Counsel monitors the prevailing market rates charged by both defense and plaintiff law firms and sets the billing rates of its attorneys and paralegals to be consistent with prevailing market rates in the private sector for attorneys and staff of comparable skill, qualifications, and experience. Accordingly, Plaintiff's Counsel's hourly rates are within the reasonable range charged in the relevant community.

2. Plaintiff's Counsel's Hours are Reasonable

The inquiry whether the hours expended were "reasonable" is made in view of the ultimate result of the litigation, and not a hindsight examination of each discrete step along the way. So long as the hours expended were reasonably incurred in pursuit of that ultimate result and are the type of work which would be billed to a paying client, they are properly included in the lodestar. *Hensely v. Eckerhart*, 461 U.S. 424, 431, 434 (1983).

As of August 13, 2026, Plaintiff's Counsel recorded approximately 268.1 attorney and paralegal hours on this litigation. (Decl. Hatcher at ¶¶10,12, Ex. A). "An attorney's sworn testimony that, in fact, it took the time claimed ... is evidence of considerable weight on the issue of the time required[.]" *Blackwell v. Foley*, 724 F. Supp. 2d 1068, 1081 (N.D. Cal. 2010). "To deny compensation, it must appear that the time claimed is obviously and convincingly excessive under the circumstances." *Id*.

In determining a lodestar fee, reasonable hours include, in addition to litigation work, the time spent before the action was filed, including interviewing the client and employees, investigating facts and law, and preparing initial pleadings. *See New York Gaslight Club, Inc. v. Carey* (1980) 447 U.S. 54, 62. This includes Plaintiff's Counsel balanced vigorous litigation of this case with the benefits of minimizing unnecessary work. *Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9th Cir. 2008) ("…[L]awyers are not likely to spend unnecessary time on contingency fee cases in the hope of inflating their fees. The payoff is too uncertain, as to both the result and the amount of the fee.").

Further, in accepting and litigating this matter, Plaintiff's Counsel had to pass on other cases which were also potentially meritorious and would likely have generated fees for the firm on a shorter-term basis than the instant action. Moreover, Plaintiff's Counsel's lodestar does not include post-approval work hours.

In sum, the number of hours that Plaintiff's Counsel devoted to this litigation are reasonable, particularly considering the excellent result obtained on behalf of Plaintiff, LWDA and PAGA Employees. *See Moreno*, 534 F.3d at 1112 ("[b]y and large, the court should defer to the winning lawyer's professional judgment as to how much time he was required to spend on the case; after all, he won, and might not have, had he been more of a slacker."). The fee request is fair and reasonable and should be granted as requested.

C. Approval of Actual Litigation Costs is Fair, Reasonable and Adequate

Plaintiff's counsel seeks reimbursement of actual litigation costs and expenses of $22,398.52. (Decl. Hatcher at ¶¶14-15, Ex. B). These costs were reasonable and necessary to the prosecution of this case (and results achieved) and are fair, reasonable, and unopposed by Defendant. (Id.); (Ex. 1 at ¶ 1.2.2). The difference between actual litigation costs and the amount allocated in the Settlement was added to PAGA Penalties. (Ex. 1 at ¶ 1.2.2) ($30,000.00 - $22,398.52 = $7,601.48). Considering the reasonableness of the expended costs, Plaintiff's counsel respectfully requests this Court approve Plaintiff's Counsel Litigation Expenses Payment of $22,404.29. The Ninth Circuit and other California courts have explained that plaintiffs' counsel in contingency cases may recover reasonable out-of-pocket expenses "that would normally be charged to a fee paying client." *Hoffman v. Constr. Protective Servs.* (C.D. Cal. Aug. 30, 2006) 2006 U.S.Dist.LEXIS 100559, at *24; *citing Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir.1994).

VI. <u>PLAINTIFF'S PROPOSED SERVICE AWARD IS FAIR, REASONABLE, AND ADEQUATE</u>

Plaintiff requests a service award of $15,000.00. (Decl. Perez, ¶ 13); (Decl. Castro, ¶12). First, the Settlement includes a Civil Code §1542 release for Plaintiff, which releases Plaintiff's individual non-PAGA claims currently pending in arbitration. (Decl. Perez at ¶13); (Decl. Castro at ¶12). Defendant's estimated maximum exposure for Plaintiff's non-PAGA civil penalty individual wage and hour claims is over $30,000.00. Plaintiff has done a great service for the LWDA and PAGA Employees and is releasing far more claims than the aggrieved employees through this Settlement. This alone warrants approval of Plaintiff's Enhancement Award.

Next, Plaintiff communicated with counsel on numerous occasions to discuss the case and provide substantive documents and information regarding Defendant's practices. (Decl. Perez, ¶¶7-8); (Decl. Castro at ¶12). Plaintiff provided invaluable insights, evidence, and documents that resulted in this Settlement. Moreover, Plaintiff took significant risks, both professionally and monetarily by pursuing the Action. (Decl. Perez ¶¶12-14). Plaintiff risked being liable for Defendant's costs and understood that individual cases typically resolve much faster and involve much less financial risk than a PAGA action. (Id. at ¶¶7-9, 12-14). Given that employers are much less likely to hire individuals who have filed employment-related lawsuits, particularly representative cases, Plaintiff faced significant risk in finding future suitable employment due to filing this case. (Id. at ¶ 12). Plaintiff took these risks upon himself to the benefit of the LWDA and the PAGA Employees. These significant actions weigh in favor of granting the requested enhancement.

Courts have routinely granted approval of settlements containing such enhancements. *See Billups-Larkin v. Aramark Servs., Inc.*, No. 21-cv-06852-RS, 2023 U.S.Dist.LEXIS 122756, at *8 (N.D. Cal. July 17, 2023) (service award of $15,000 where gross settlement fund was $460,000); *Van Vranken v. Atlantic Richfield Co.*, 901 F. Supp. 294, 299-300 (N.D. Cal. 1995) (incentive award of $50,000); *Glass v. UBS Fin. Servs.*, No. C-06-4068, 2007 U.S.Dist.LEXIS 8476, at *51-52 (N.D. Cal. Jan. 27, 2007) (awarding $25,000 incentive award in FLSA collective action).

Plaintiff's requested enhancement should be awarded for his commitment, dedication, and risks taken for this litigation.

VII. APPROVAL OF ADMINISTRATION EXPENSES

The Settlement provides up to $5,500.00 to Phoenix Settlement Administrators for administration-related fees and costs. (Ex. 1 at ¶ 1.3). The Administrator's requested fee for 365 PAGA Employees is not to exceed $5,400.00. (Decl. Castro at ¶10, Ex. 3). This amount is fair and reasonable for the work to be performed by the Administrator. (Id. at ¶¶ 4.1,4.2,4.3,4.4,4.6,4.6.1,4.6.2,4.6.3,4.7). The Court should approve the Administrator's request for an amount not to exceed $5,400.00.

VIII. CONCLUSION

The Court should approve the PAGA Settlement, as the Settlement is fair, reasonable and adequate.

Dated: 8/14/2026 **THE MYERS LAW GROUP, A.P.C.**

By: *<u>/s/Cassandra A. Castro</u>*
David P. Myers,
Jason Hatcher,
Cassandra A. Castro,
Andriana N. Bravo,
Attorneys for Plaintiff Silverio Perez, on behalf of himself and all others similarly situated

CERTIFICATION

The undersigned, counsel of record for Plaintiff Silverio Perez, hereby certifies that Plaintiff's Memorandum of Point and Authorities in Support of Plaintiff's Motion for Approval of PAGA Settlement contains 6,980 words, including headings, footnotes, and quotations but excluding the caption, the signature block, the certification required by L.R. 11-6.2, and any indices and exhibits. L.R. 11-6.1

Dated: 8/14/2026 By: *<u>/s/Cassandra A. Castro</u>*
Cassandra A. Castro