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By _____, Deputy
34-2022-00314949-CU-OI

1 Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
2 Renald Konini (Cal. State Bar No. 312080)
Shimoda & Rodriguez Law, PC
3 9401 East Stockton Boulevard, Suite 120
Elk Grove, CA 95624
4 Telephone: (916) 525-0716
Facsimile: (916) 760-3733

5 Attorneys for Plaintiffs CARLETON EDWARDS on behalf of himself
6 and similarly situated employees

7 [additional parties continued on next page]

8 **SUPERIOR COURT OF CALIFORNIA**

9 **FOR THE COUNTY OF SACRAMENTO**

10
11 CARLETON EDWARDS, MICHAEL
12 ADAMS, and PETER HALL, individually and
on behalf of all other similarly situated
13 employees,

14 Plaintiffs,

15 vs.

16 SUBURBAN PROPANE, L.P., a Delaware
Limited Partnership; and DOES 1 to 100,
17 inclusive,

18 Defendants.

Case No. 34-2022-00314949-CU-OE-GDS

*Assigned for All Purposes to Hon. Jill Talley,
Department 27*

CLASS ACTION

**DECLARATION OF JUSTIN P. RODRIGUEZ
IN SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Reservation No. 2720117

Date: June 30, 2023

Time: 9:00 a.m.

Dept.: 27

Judge: Hon. Jill Talley

BY FAX

Filed: February 2, 2022

FAC Filed: June 6, 2022

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Trial Date: None Set

1 POTTER HANDY LLP
Mark D. Potter (SBN 166317)
2 mark@potterhandy.com
James M. Treglio (SBN 228077)
3 jimt@potterhandy.com
100 Pine St., Ste 1250
4 San Francisco, CA 94111
(858) 375-7385
5 Fax: (888) 422-5191

6 Attorneys for Plaintiff MICHAEL ADAMS and the Putative Class

7 **BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

8 Norman B. Blumenthal (State Bar #068687)
9 Kyle R. Nordrehaug (State Bar #205975)
Aparajit Bhowmik (State Bar #248066)
Nicholas J. De Blouw (State Bar #280922)

10 2255 Calle Clara
La Jolla, CA 92037
11 Telephone: (858) 551-1223
Facsimile: (858) 551-1232
12 Website: www.bamlawca.com

13 Attorneys for Plaintiff PETER HALL
14
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1 I, Justin P. Rodriguez, declare:

2 1. I am an attorney at law duly admitted to practice before all the courts of the State of
3 California and an attorney of record for Plaintiff Carleton Edwards (“Plaintiff”) herein. I am making
4 this declaration on behalf of the named Plaintiffs, the putative class members, and in support of
5 Plaintiffs’ Motion for Preliminary Approval of Class Action and PAGA Settlement (“Motion”). A true
6 and correct copy of the Joint Stipulation Regarding Class Action and PAGA Settlement and Release
7 (“Agreement”) in this matter is filed with this Motion as Exhibit A.

8 2. The Agreement before the Court is the result of extensive litigation across four (4)
9 different cases. The cases include the present action, *Edwards, et al. v. Suburban Propane, L.P.*,
10 Sacramento County Superior Court, Case No. 34-2022-00314949 (“*Edwards Action*”), *Hall v.*
11 *Suburban Propane, L.P., et al.*, Los Angeles County Superior Court, Case No. 22STCV00670 (“*Hall*
12 *Class Action*”), *Hall v. Suburban Propane, L.P., et al.*, Los Angeles County Superior Court, Case No.
13 22AVCV00103 (“*Hall PAGA Action*”), and *Adams v. Suburban Propane, L.P., et al.*, Sacramento
14 County Superior Court, Case No. 34-2022-00316279 (“*Adams Action*”). Through tremendous effort by
15 all involved, the parties were able to come to a global resolution. The named plaintiffs in each of these
16 actions, Carleton Edwards, Michael Adams, and Peter Hall (collectively referred to “Plaintiffs” or
17 “Class Representatives”), and Suburban Propane, L.P. and Suburban Sales & Service, Inc.
18 (“Defendants”) agreed to consolidate the claims into one operative pleading in this case to ensure an
19 efficient settlement review process that would minimize potential confusion by Class Members from
20 multiple approval motions in different Courts, each with their own response deadlines and response
21 procedures.

22 3. A true and correct copy of the operative complaint (“Complaint”) in this matter
23 consolidating the four cases is being filed with this Motion as Exhibit B. In the Action, Plaintiffs have
24 alleged that Defendants 1) failed to pay overtime wages, 2) failed to pay minimum wages, 3) failed to
25 provide meal periods, 4) failed to provide rest periods, 5) failed to provide accurate wage statements, 6)
26 failed to timely pay all final wages, 7) failed to reimburse employees for incurred expenses, and 8)
27 engaged in unfair competition. Plaintiffs have also alleged that Defendants are liable for civil penalties
28 under the PAGA based on these violations. These claims were based allegations that Defendants

1 violated California law by 1) failing to pay for all hours worked, including minimum and overtime
2 wages for time spent completing paperwork, temperature checks and COVID-19 screenings, and
3 donning/doffing personal protective equipment, 2) failing to properly calculate the regular rate of pay
4 for premium wage payments such as overtime, meal and rest period premiums, and sick leave wages, 3)
5 failing to provide meal and rest periods due to required on-duty break requirements and the prohibition
6 on leaving work premises, 4) engaging in unlawful rounding of hours worked, 5) failing to reimburse
7 employees for the use of their personal cell phones to communicate with supervisory employees and
8 record their hours worked, 6) failing to pay all wages owed in a timely manner, including final wages,
9 and 7) failing to issue accurate itemized wage statements.

10 4. Plaintiffs are the only named representatives in this matter. Plaintiffs exhausted
11 administrative remedies through the Labor and Workforce Development Agency ("LWDA") prior to
12 asserting the PAGA claims. Plaintiff Edwards gave written notice via online submission to the Labor
13 and Workforce Development Agency ("LWDA") on approximately January 28, 2022, while Plaintiff
14 Adams submitted his LWDA notice on or about November 1, 2021. Plaintiff Hall submitted his
15 LWDA notice on November 16, 2021. True and correct copies of the notices filed with the LWDA are
16 being filed with this Motion as Exhibit C. Plaintiffs provided facts and legal bases for their claims
17 within the notice to the LWDA on all violations asserted under the PAGA cause of action. Plaintiffs
18 also submitted the \$75.00 filing fee. The notices were sent via certified mail to Defendants in
19 accordance with the PAGA statute. The LWDA did not provide any response to the notices regarding
20 any intent to investigate the claims alleged therein. As such, Plaintiffs became authorized to commence
21 a civil action under the PAGA. Copies of the complaints containing the PAGA claims in each of the 4
22 cases were uploaded to the LWDA, including the operative Complaint in this case on March 14, 2023.

23 5. Currently, there is no date set for a motion to certify the class and there is no trial date.

24 6. Defendants are represented in this matter by Efthalia S. Rofos and Megan A. Childress
25 of Barber Ranen LLP. From the beginning, Defendants has contested the merits of the case, the
26 suitability of the case for class action or representative treatment, the manageability of the case at trial,
27 and Plaintiffs' ability to prove a violation in each pay period for each employee among other defenses
28 and contentions they made challenging the propriety of this action. Defendants further contended, even

1 assuming there was a finding supporting the imposition of PAGA penalties, that the Court would likely
2 exercise its discretion to substantially reduce any such penalties owed based on evidence of good faith
3 attempts to comply with California Labor Code obligations by Defendants. Notwithstanding its
4 agreement to settle this matter, Defendants believe the practices Plaintiffs are contending are unlawful
5 either do not exist or, to the extent they do exist, fully comply with all state and federal employment
6 laws with respect to Plaintiffs and Class Members. Also, Defendants has contended that this matter is
7 not appropriate for class certification outside of this proposed class settlement.

8 7. Based on the expected testimony from Plaintiffs and Class Members, a review of
9 Defendants' policies and procedures and other documents relating to the alleged claims, information on
10 the number of Class Members, Class Members' workweeks and pay periods, and a representative
11 sample of Class Members' payroll data, the investigations performed by each of the three (3) law firms
12 representing Plaintiffs, the scope of the potential damages to Plaintiffs and Class Members in light of the
13 claims alleged, the uncertainty in the law with regard to certification, and the negotiations that have
14 taken place, I am convinced that the proposed settlement is in the best interest of the class. The length
15 and risks of trial and other normal perils of litigation that impact the value of the claims were also
16 considered and weighed in reaching the Agreement. In addition, all of Plaintiffs' counsel carefully
17 considered the prospect of potential class certification issues as well as the uncertainty of class
18 certification, the difficulties of complex litigation, and the lengthy process of establishing specific
19 damages and various possible delays and appeals in agreeing to the proposed settlement. We further
20 considered the fact that penalties under the PAGA could be substantially cut at the discretion of the
21 Court even if Plaintiffs were successful on proving those claims and there was risk that a Court could
22 find no willfulness in the failure to pay wages at separation, which would eliminate the value of the
23 waiting time penalty claim entirely. Overall, I believe it is more beneficial to secure a guaranteed
24 benefit to the class now rather than to proceed with litigation and potentially obtain zero funds to the
25 class due to legal or factual issues in the case.

26 8. As set forth in each of Plaintiffs' counsel's declarations, substantial amounts of time went
27 into litigating the case and analyzing the claims to ensure any potential settlement appropriately
28 compensated Class Members given the facts of the case. The review included analyzing all issues

1 relating to the merits, damages, and potential for class certification. Plaintiffs' counsel coordinated our
2 efforts and independent investigations to ensure a thorough investigation took place. For my office, my
3 partner, Galen T. Shimoda, my associate, Renald Konini, our paralegal, and myself, along with Plaintiff
4 Carleton Edwards' assistance, thoroughly investigated the merits of the claims and potential damages for
5 such claims. The parties engaged in informal discovery and exchange of documents, including a
6 representative sampling of employee data, such as timecards and payroll data, and relevant policies for
7 the entirety of the statute of limitations applicable to the alleged claims. From this production and
8 Plaintiffs' counsel's independent investigations, we were able to assess the implementation of the wage
9 and hour policies at issue, assess issues relating to manageability concerns at trial, and determine
10 information critical to a reliable damages analysis. This included, but is not limited to, the average
11 hourly rate, the average daily hours worked, the average number of shifts worked, the average number
12 of shifts triggering meal and/or rest period entitlements, the number of meal period premiums already
13 paid, the frequency with which non-discretionary remuneration in addition to the base hourly rate was
14 paid in the same week as other premium payments, the average number of workweeks and pay periods
15 that had potential violations based on the asserted claims, the frequency with which violations occurred
16 in a given week and/or pay period, and the number of former employees. This information allowed
17 Plaintiffs to create an accurate damages model. Plaintiffs assisted in all aspects of this litigation
18 including providing factual information relating to Plaintiffs' and Class Members' employment
19 conditions, providing a substantial number of documents, and answering questions regarding
20 Defendants' factual contentions in this matter. This was important because it directly related to the
21 ability to maintain this case as a class action and our ability to obtain a favorable settlement for the class.

22 9. Through the informal discovery and Plaintiffs' counsel's independent investigations,
23 Plaintiffs were also able to review and assess the impact of a prior class action filed against Defendants
24 in Fresno County Superior Court, *Fernandez et al. v. Suburban Propane, L.P.*, Case No. 16CECG00418
25 ("Fernandez Action") on Plaintiffs' claims. A class action settlement in the Fernandez Action received
26 final approval on November 29, 2022. With the exception of claims for unreimbursed expenses, the
27 Fernandez Action settlement released all of the same claims asserted in this litigation up to March 24,
28 2021. Individuals covered under the Fernandez Action settlement included all employees of Suburban

1 Propane, L.P., employed as either: 1) a Customer Service Representative and Customer Relation
2 Specialist in California from February 10, 2012, through March 24, 2021; or 2) a Service Technician in
3 California from November 2, 2014, through March 24, 2021. Because individuals who were class
4 members of the Fernandez Action already received payment for the wage and hour claims asserted in the
5 Complaint with the sole exception of claims for reimbursement, the Agreement creates two subclasses,
6 the Reimbursement Subclass and the Wage Subclass. Net Settlement Amount allocations between the
7 two subclasses is consistent with the value of the reimbursement claims compared to the value of all
8 other claims combined, *i.e.* the potential damages for the reimbursement claims was much smaller than
9 the total damages of all other claims combined at approximately 5% of the total damages.

10 10. Throughout this litigation our office had numerous communications with Defendants'
11 Counsel discussing our respective positions. The parties engaged in mediation on December 12, 2022,
12 using an experienced mediator, Louis Marlin. It was only after approximately sixteen (16) months of
13 extensive, arm's length negotiations that the parties were able to reach a settlement, which only occurred
14 after a full-day mediation. The negotiations were at all times contentious and adversarial, though still
15 professional in nature.

16 11. The following represents the potential maximum recovery for each of Plaintiffs' class
17 and PAGA claims based Defendants' relevant policies and the data produced by Defendants, including
18 a sample of time and payroll records for Class Members. There were 38,068 workweeks for Class
19 Members in the Wage Subclass and 21,913 workweeks for Class Members in the Reimbursement
20 Subclass. There were approximately 10,121 pay periods within the PAGA/penalty statute of
21 limitations that were not also covered by the Fernandez Action release period, an average base hourly
22 rate of \$21.78, and an average overtime rate of \$32.67.

- 23 a) Unpaid Minimum Wages: This claim is based on allegations that Defendants did not
24 pay Plaintiffs and similarly situated employees for all hours worked off-the-clock,
25 including time spent completing paperwork, temperature checks and COVID-19
26 screenings, time clocked out during on duty meal periods, unpaid time due to rounding
27 hours worked, and donning/doffing personal protective equipment. The combined
28 average of unpaid time between each of these categories of unpaid time was

1 approximately one hour per week per employee. The maximum damages for this claim
2 based on the data sample and average unpaid hours worked is \$494,884 in liquidated
3 damages.¹ This amount does not take into account any potential risks with respect to
4 Plaintiffs proving the merits or damages, which heavily disputed by Defendants.
5 Several categories of unpaid hours were either for very small periods of time (a few
6 minutes for any donning and doffing PPE) or for discrete periods of time rather than the
7 entire employment period (*i.e.* pre-hire paperwork/test and COVID-19 screenings),
8 although the calculations assumed a continuous amount of unpaid time for all weeks
9 worked. There is substantial risk with these claims because even small adjustments to
10 the amount of time ultimately found unpaid, if any, can have substantial effects tot the
11 total damages and whether there are even violations in a given week. With respect to
12 rounding, there is a split of authority whether or not the practice is permissible and the
13 issue is currently pending before the California Supreme Court. *Compare See's Candy*
14 *Shops, Inc. v. Sup. Ct.*, 210 Cal.App.4th 889, 907 (2012) (holding California law allows
15 rounding of employee work time if the policy is neutral on its face and as applied, even
16 if some employees ultimately are not paid for all time they have actually worked) *with*
17 *Camp v. Home Depot U.S.A., Inc.*, 84 Cal.App.5th 638 (2022) (finding rounding
18 disallowed where employer was able to easily track the actual hours worked) *review*
19 *granted*. Furthermore, the payroll records also showed payment down to the hundredth
20 of an hour for many employees, undermining the extent and impact of any potential
21 rounding. Defendants maintained policies requiring employees to record all hours
22 worked accurately and prohibiting any off-the-clock work. Defendant also had time
23 punch correction forms to allow employees to claim any additional time for any reason
24 and required employees to report to their managers if they felt they were not being paid
25 for hours worked. These policies and practices create substantial risk to off-the-clock
26 claims as an employer must know or have reason to know unpaid hours are being

27
28 ¹ Because Plaintiffs' calculations have assumed that all unpaid hours worked are also overtime hours, only liquidated damages are considered for the value of this claim to avoid duplication of remedies. All unpaid wages due to unpaid hours worked are accounted for in the overtime calculation.

1 worked in order to be liable. *See Brinker Rest. Corp. v. Superior Ct.*, 53 Cal.4th 1004,
2 1051 (2012). Because a good faith dispute would eliminate liability for liquidated
3 damages for unpaid minimum wages, it is unlikely that any liquidated damages would
4 be awarded based on the factual and legal disputes identified above. *See Cal. Lab. Code*
5 *§ 1194.2(b)*;

6 b) Unpaid Overtime: This claim is based, in part, on the same allegations supporting the
7 minimum wage claims. However, the claim is also based on Plaintiffs' contentions that
8 Defendants failed to properly calculate the regular rate of pay when paying overtime
9 wages. The maximum damages for this claim based on the data sample and average
10 unpaid hours worked is \$1,243,681.56. This amount does not take into account any
11 potential risks with respect to Plaintiffs proving the merits or damages, which were
12 heavily disputed. Because this claim is based, in part, on the same allegations
13 supporting the minimum wages claims is subject to those same risks identified above.
14 Additionally, the data sample showed that the regular rate was being recalculated for a
15 substantial amount of Class Members. Only a small subset of employees were affected
16 by the failure to incorporate all non-discretionary earnings and the amount of unpaid
17 wages for this subset was relatively small, ranging from approximately \$5.00 to \$15.00
18 per pay period. Taking the risk factors into account, I believe a more realistic range of
19 recovery for this claim is \$400,000 to \$600,000;

20 c). Meal and Rest Periods: These claims were based on allegations that Defendants failed
21 to provide meal and rest periods due to on-duty break requirements and the prohibition
22 on leaving work premises. Class Members worked approximately 4 days per week on
23 average. Approximately 92% of all shifts were in excess of 5 hours and 94% of shifts
24 were equal to or in excess of 3.5 hours, which would trigger meal and rest period
25 entitlements respectively. There were approximately 1,324 meal period premiums paid
26 during the claim period. Based on the sample data, the maximum exposure for the meal
27 period claim is approximately \$3,022,328.71 and the maximum exposure for the rest
28 period claim is approximately \$3,117,495.11. This amount does not take into account

1 any potential risks associated with this claim, which was heavily disputed. While
2 Plaintiffs contended that Defendants maintained a regular and consistent practice of
3 failing to provide meal and rest periods, Defendants had a facially valid written meal and
4 rest period policy in its handbook for a substantial majority of the claim period and
5 distributed standalone meal and rest policies to employees at time of hire. Defendants
6 also had correction forms where employees could submit claims for missed meal and
7 rest period premiums where they felt they were impeded from taking such breaks.
8 Defendants produced several of these forms as part of the data sample. Where the
9 violation is not based on a defective policy, obtaining certification of meal and rest
10 period claims is very difficult and creates a substantial risk for the claims. Additionally,
11 Class Members employed as drivers were potentially subject to preemption affirmative
12 defenses relating to meal and rest periods depending on what they drove, where they
13 drove to/from, and what they were hauling. *See s International Brotherhood of*
14 *Teamsters, Local 2785 v. Federal Motor Carrier Safety Administration*, 986 F.3d 841
15 (9th Cir. 2021) (noting the FMCSA acting within its authority to find California's meal
16 and rest period requirements were preempted for drivers subject to federal hours of
17 service regulations); Hazardous Materials: California Meal and Rest Break
18 Requirements, 83 FR 47961-01, 2018 WL 4504680. Thus, there were substantial risks
19 to certification, merits, and damages for these claims. Taking these risks into account, a
20 more realistic range of recovery for the meal period claim is \$750,000 to \$1,250,000. A
21 more realistic range of recovery for the rest period claim is \$250,000 to \$500,000;
22 d) Reimbursement: This claim was based on Plaintiffs' contention that Class Members
23 were required to communicate with their supervisors using their personal cell phone to
24 take pictures of relevant work issues and to clock in using the ADP app. Based on the
25 sample data and average costs associated with single user cell phone plans
26 (approximately \$100 per month), the maximum exposure for this claim is \$599,810.
27 This amount does not take into account any potential risks associated with this claim.
28 Defendants disputed the frequency and necessity of cell phone usage for work purposes

1 given the alternative available means of communication available to employees at the
2 worksites, including phones, office computers for emails, and the ability to submit
3 handwritten timecards. There was substantial risk the Court could find it was
4 unreasonable for employees to use their personal cell phones in lieu of available
5 alternatives, which would eliminate the claim entirely. Additionally, the valuation of the
6 claim does not account for the fact that cell phone plans often allow for additional lines
7 at a discounted cost of \$20 to \$30 per additional line rather than the base \$100 monthly
8 rate. To the extent Class Members utilized these discounted plans, the amounts to be
9 reimbursed would be similarly discounted. Taking these risks into account, a more
10 realistic range of recovery for this claim is \$0 to \$150,000;

11 e) Wage Statement Violations: This claim is derivative of Plaintiffs' overtime, minimum
12 wage, and meal and rest period claims. As such, it is subject to the same risks as those
13 claims. Based on the sample data, the maximum exposure for this claim is
14 approximately \$506,050. During our research, we did not find any prior Labor
15 Commissioner or court decisions that stated Defendants' practices and/or policies were
16 improper. As such, a "subsequent violation" may not be found for penalty calculation
17 purposes, and the exposure analysis here is based on an "initial violation" valuation
18 (\$50) being adopted by any fact finder if this matter went to trial. *See Amaral v. Cintas*
19 *Corp. No. 2*, 163 Cal.App.4th 1157, 1207-1209 (2008). This amount also assumes a
20 violation in every pay period, which is unlikely to occur given all the risks for each
21 claim that the wage statement claim is derivative of. Taking these risks into account, a
22 more realistic range of recovery for this claim is \$150,000 to \$250,000;

23 f) Waiting Time Penalties: This claim is derivative of Plaintiffs' overtime, minimum
24 wage, and meal and rest period claims. As such, it is subject to the same risks as those
25 claims. Based on the sample data, there are approximately 327 former employees within
26 the claim period, making the maximum exposure for this claim approximately
27 \$1,709,294.40. As outlined above, there are substantial disputes with regard to legal and
28 factual issues on all of the asserted claims. It is likely that these disputes will satisfy the

1 “good faith dispute” affirmative defense against waiting time penalties claims,
2 eliminating the value of the claim entirely. *See Diaz v. Grill Concepts Servs., Inc.*, 23
3 Cal.App.5th 859, 868 (2018);

4 g) PAGA: This claim is derivative of the Labor Code violations identified above and would
5 be subject to all the same risks as the underlying claims it is based on. Additionally, the
6 exposure analysis here is based on an “initial violation” valuation being adopted by any
7 fact finder if this matter went to trial. *See Amaral*, 163 Cal.App.4th at 1207-1209.
8 Based on Class Members’ payroll data, the Labor Code violations alleged, and the
9 applicable enumerated or default penalty amounts for each violation, the maximum
10 exposure for this claim is \$5,512,849. This amount does not take into account any of the
11 risks in proving the merits of the underlying claims that the PAGA damages are based
12 on. Additionally, I believe the Court may exercise its discretion to reduce PAGA
13 penalties in this case in because a majority of the civil penalties sought would be in
14 addition to amounts owed for substantive violations, some of the violations are due to
15 technical non-compliance with the Labor Code, such as derivative wage statement
16 violations, and Defendants produced legally compliant policies among other documents,
17 that a Court may find demonstrates a good faith attempt at compliance. Courts are
18 statutorily authorized to use discretion to reduce penalties and the range of discretion
19 used varies substantially. *See Thurman v. Bayshore Transit Mgmt., Inc.*, 203
20 Cal.App.4th 1112, 1135 (2012) (30% reduction); *Fleming v. Covidien, Inc.*, 2011 U.S.
21 DIST. LEXIS 154590, *9 (C.D. Cal. 2011) (82% reduction). The 82% reduction
22 equates to roughly \$9-\$50 worth of civil penalties per pay period per employee
23 depending on the total potential value of the civil penalty (*i.e.* \$50-\$250), which is more
24 in line with actual awards based on my experience and review of awards in other cases.
25 Thus, even if using the maximum values possible and setting aside risks of proving the
26 claims on the merits, the total exposure may be cut to approximately \$992,313 (82%
27 reduction) to \$3,858,994 (30% reduction) or lower. It is important to note that this
28 discretionary reduction is completely separate and in addition to any risks on the merits.

1 Given the substantial risks associated with the claims, we believe the amount that might
2 ultimately be awarded under this claim would be significantly lower than our maximum
3 exposure calculation. Allocating \$20,000 to the PAGA claims in this case is
4 appropriate, especially in light of amounts that Courts have approved as reasonable
5 valuations in other cases. *See Nordstrom Com. Cases*, 186 Cal.App.4th 576, 589 (2010)
6 (approving \$0 allocation to the resolution of PAGA claims based on their being disputed
7 and being part of a class settlement which was evaluated based on the terms of the
8 agreement overall); *Junkersfeld v. Med. Staffing Sols., Inc.*, 2022 WL 2318173, at *8 n.2
9 (E.D. Cal. 2022) (collecting cases with PAGA settlement values ranging from .037%-
10 1%); *Jennings v. Open Door Marketing, LLC*, 2018 WL 4773057, *9 (N.D. Cal. 2018)
11 (approving settlement of PAGA claims at 0.6% of total estimated value due to risk of no
12 recovery); *Ruch v. AM Retail Grp., Inc.*, 2016 WL 5462451, *7 (N.D. Cal. 2016)
13 (approving \$10,00 PAGA settlement allocation where total PAGA penalty exposure was
14 approximately \$5.2 million, or 0.2% of total estimated value); *Davis v. Cox Commc'ns*
15 *California, LLC*, 2017 U.S. Dist. LEXIS 63514, *1 (S.D. Cal. 2017) (preliminarily
16 approving \$4,000 PAGA allocation in \$275,000 settlement); *Moore v. Fitness Int'l,*
17 *LLC*, 2014 U.S. Dist. LEXIS 8358, *5 (S.D. Cal. 2014) (approving \$2,500 PAGA
18 allocation when attorneys' fees award alone amounted to \$200,000); *Jack v. Hartford*
19 *Fire Ins. Co.*, 2011 U.S. Dist. LEXIS 118764, *6 (S.D. Cal. 2011) (approving \$3,000
20 PAGA allocation in \$1,200,000 settlement); *Singer v. Becton Dickinson & Co.*, 2010
21 U.S. Dist. LEXIS 53416, *2 (S.D. Cal. 2010) (approving \$3,000 PAGA allocation in
22 \$1,000,000 settlement); *Hopson v. Hanesbrands Inc.*, 2009 U.S. Dist. LEXIS 33900, *9
23 (N.D. Cal. 2009) (approving \$1,500 PAGA allocation in \$1,026,000 settlement); *Syed v.*
24 *M-I, L.L.C.*, 2017 U.S. Dist. LEXIS 24880, *34-35 (E.D. Cal. 2017) (approving
25 \$100,000 PAGA allocation in a \$3,950,000 settlement even though PAGA exposure was
26 calculated at \$53,600,000, or 0.2% of total estimated value); *Garcia v. Gordon*
27 *Trucking, Inc.*, 2012 U.S. Dist. LEXIS 160052, at *7 (E.D. Cal. 2012) (approving
28 \$10,000 PAGA allocation in a \$3,700,000 settlement); *Franco v. Ruiz Food Prod., Inc.*,

2012 WL 5941801, at *14 (E.D. Cal. 2012) (\$10,000 in PAGA payment from \$2,500,000 settlement fund); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, at *1 (N.D. Cal. 2011) (approving PAGA settlement payment of \$7,500 to the LWDA out of \$6.9 million common-fund settlement).

12. In summary, Plaintiffs' gross recovery of \$945,000 under the Agreement equals approximately 5.8% of the maximum value of the claims in this matter (\$16,206,392.78) and between 14.3% and 37.2% of the more realistic range of recovery (\$2,542,312.82 to \$6,608,994.30). After deducting from the Gross Settlement Amount the proposed allocations for attorneys' fees and costs, any Enhancement Payment to the Class Representatives, Settlement Administrator Costs, and the PAGA Payment to the LWDA, the net recovery under the Agreement, \$537,500, represents approximately 3.3% of the maximum value of the claims in this matter. The net recovery also represents between 8.1% and 21.1% of the more realistic range of recovery. The average net award is approximately \$847.79. I believe the Agreement represents a reasonable compromise of claims based on the legal and factual disputes in this case. The ability to secure a guaranteed settlement now and ensure Class Members receive some compensation, rather than proceed to further litigation and potentially recover nothing, was a motivating factor in reaching this Agreement.

13. In agreeing to take on this case, our office agreed to take this case on a contingency basis, meaning that we would take a percentage of any settlement or judgment should we recover a monetary amount. We took a risk that we would not recover any money in this matter if we were unsuccessful at trial. We also took on the risk that the case may be subject to an unfavorable summary judgment ruling. However, we believe it is important to make sure employees are able to find affordable representation in order to ensure that employers are complying with all their legal obligations towards employees and paying employees all their hard-earned wages.

14. I am a shareholder at Shimoda & Rodriguez Law, PC. My law firm is a boutique law practice that focuses primarily on employment litigation, emphasizing wage and hour litigation. I attended and graduated college from U.C. Davis, receiving a Bachelor of Arts in Philosophy and the Departmental Citation for Academic Achievement in the Philosophy program. I was one of only two recipients of this award out of the entire Philosophy Department. After U.C. Davis, I attended the

1 University of the Pacific, McGeorge School of Law, graduating in 2011 and receiving a Juris
2 Doctorate. I graduated in the top 20% of my class and was a member of the Traynor Honor Society at
3 McGeorge. Other academic achievements of mine include receiving a Witkin Award (top grade) in my
4 legal research and writing course, a Witkin Award in complex civil litigation, being a member of the
5 Dean's List from 2008 to 2011, being a Legislative Staff Writer for the *McGeorge Law Review* from
6 2009–2010, being an Associate Comment Editor for the *Pacific McGeorge Global Business &*
7 *Development Law Journal* from 2010–2011, and being selected as a Sacramento County Bar
8 Association Diversity Fellow in 2009. I was also a member of the Employment and Labor Law Society
9 and an officer for the Latino Law Students Association from 2009 to 2010.

10 15. I have been practicing law since 2011. From 2011 to 2016, I worked with the Shimoda
11 Law Corp. as an Associate. I became a Shareholder/Partner in the firm in 2017. Shimoda Law Corp.
12 became Shimoda & Rodriguez Law, PC, in 2022. Since 2017, I have received an AV Preeminent
13 rating from Martindale-Hubbell for my legal ability and ethical standards. From 2018 to present, I have
14 been recognized as a Super Lawyer (Rising Star). I have been a panel speaker and presented a number
15 of seminars covering issues in wage and hour litigation in general and complex class and PAGA
16 litigation in particular. These engagements include the following: (1) *Epic Systems*, PAGA, and the
17 Future of Employment Arbitration in California (Sacramento County Bar Assoc., Sept. 2018); (2) Class
18 Actions and PAGA Claims (Assoc. of Defense Counsel of Northern California & Nevada, Jul. 2020);
19 (3) Mediation: The Experienced Trial Lawyers Perspective (Sacramento County Bar Assoc., Sept.
20 2020); (4) How to Become a Pivotal Part of Any Wage and Hour Practice Group (Sacramento County
21 Bar Assoc., Mar. 2021); (5) Emerging Trends and Issues Relating to Arbitration and PAGA Claims in a
22 Post-*Viking River Cruises* World (Sacramento County Bar Assoc., Nov. 2022). I was elected to the
23 Sacramento County Bar Association Labor and Employment Law Section's executive committee in
24 2019 and was the Chair of the executive committee for 2022. I have also been a member of the
25 Presiding Judge Civil Law Advisory Committee for Sacramento County Superior Court since August
26 2020. My practice focuses on complex civil litigation, including wage and hour class actions, PAGA
27 claims, and Fair Labor Standards Act ("FLSA") claims. I am actively involved in most all of the
28

1 complex litigation handled by our firm. Class and/or PAGA actions I have litigated or am currently
2 litigating, including the instant case, includes, but is not limited to, the following:

- 3 • *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- 4 • *Adams-Angway v. Placer Title Company, et al.*, Case No. SCV0040845 (Placer Sup. Ct.);
- 5 • *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- 6 • *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- 7 • *Aslam v. American Custom Private Security, Inc.*, Case No. STK-CV-UOE-2018-0012080
8 (San Joaquin Sup. Ct.);
- 9 • *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- 10 • *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- 11 • *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac.
12 Sup. Ct.);
- 13 • *Barkhausen v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin Sup.
14 Ct.);
- 15 • *Benak v. MDStat Urgent Care, Inc.*, Case No. 34-2015-00188181 (Sac. Sup. Ct.);
- 16 • *Bigornia v. Quest Diagnostics Clinical Laboratories, Inc., et al.*, Case No. 34-2019-
17 00271174 (Sac. Sup. Ct.);
- 18 • *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup.
19 Ct.);
- 20 • *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup.
21 Ct.);
- 22 • *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac.
23 Sup. Ct.);
- 24 • *Castorena v. Flowmaster, Inc.*, Case No. CV18-2191 (Yolo Sup. Ct.);
- 25 • *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup.
26 Ct.);
- 27 • *Carr, et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 28 • *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-

- 00209613 (Sac. Sup. Ct.);
- *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
 - *Cress, et al. v. Mitsubishi Chemical Carbon Fiber and Composites, Inc.*, Case No. 34-2017-00222101 (Sac. Sup. Ct.);
 - *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.);
 - *Ferreya v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
 - *Foye v. The Golden 1 Credit Union*, Case No. 34-2018-00235003 (Sac. Sup. Ct.);
 - *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
 - *Garcia v. Royal Plywood Company, LLC, et al.*, Case No. 34-2017-00221627 (Sac. Sup. Ct.);
 - *Gomes v. Progressive Casualty Insurance Company*, Case No. 34-2018-00241979 (Sac. Sup. Ct.);
 - *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
 - *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
 - *Gonzalez v. Northcentral Pizza, LLC, et al.*, Case No. 34-2019-00252018 (Sac Sup. Ct.);
 - *Gordon, et al. v. Hospice Source, LLC, et al.*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
 - *Gotts v. John L. Sullivan Chevrolet, Inc.*, Case No. 34-2018-00231576 (Sac Sup. Ct.);
 - *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
 - *Hellum v. A1 Protective Services, LLC, et al.*, Case No. 34-2018-00234449 (Sac. Sup. Ct.);
 - *Hercules v. Maximus Services, LLC, et al.*, Case No. 34-2019-00268385 (Sac Sup. Ct.);
 - *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac. Sup. Ct.);
 - *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
 - *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
 - *Insixiengmay v. Hyatt Corporation, et al.*, Case No. 2:18-cv-02993-TLN-DB (E.D. Cal.);
 - *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
 - *McMahon v. Airco Mechanical, Inc.*, Case No. 34-2019-00259269 (Sac. Sup. Ct.);
 - *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
 - *Nguyen v. Cardinal Health Pharmacy Services, LLC, et al.*, Case No. 2:19-cv-01939-KJM-EFB (E.D. Cal.);

- *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- *Roberts v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-00082201 (Sac Sup. Ct.);
- *Salas, et al. v. Joint Ventures, LLC, et al.*, Case No. 34-2018-00227493 (Sac. Sup. Ct.);
- *Salmon v. Ovarions Fanfare, L.P., et al.*, Case No. 34-2018-00244749 (Sac. Sup. Ct.) ;
- *Scarano v. J.R. Putman, Inc.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.) ;
- *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);
- *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac. Sup. Ct.);
- *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.); and
- *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

16. The preceding list does not include those cases where, for various reasons, the case was filed as a class action and/or PAGA action, but did not maintain that status through the end of the case.

17. My partner, Galen T. Shimoda, Esq., worked with me on this matter and was critical in assisting with all aspects of the litigation of this case. Mr. Shimoda and I are some of only a handful of plaintiff attorneys located in Sacramento who handle wage and hour class actions. Mr. Shimoda attended and graduated from the University of Utah in 2000 with a B.S. in Business Management and a B.A. in Asian Studies, with a minor in Japanese language. He then attended and graduated from the University of the Pacific, McGeorge School of Law and received his J.D. degree in 2003. He graduated from McGeorge in the top 5% of his class and was a member of the Order of the Coif and Traynor Honor Society. Since graduating from McGeorge, Mr. Shimoda has authored a number of employment law articles for journals and our firm regularly publishes articles on our firm's website. Mr. Shimoda has been a regular panel speaker for the CEB (Continuing Education of the Bar) Employment Review seminars from 2014 to the present. His speaking engagements include the

1 following: 1) Lorman Military Leave Law Speaker; 2) Restaurant Association Speaker at Annual
2 Seminar (Los Angeles); 3) Federal Bar Association, Sacramento Chapter: 2015 Amendments to the
3 Federal Rules of Civil Procedure (Mar. 30, 2016); 4) CEB – Employment Law Practice: 2016 Year in
4 Review (Jan. 20, 2017); 5) CEB – Employment Law Practice: 2015 Year in Review (Jan. 22, 2016); 6)
5 CEB – Employment Law Practice: Year in Review (2014) (Jan. 9, 2015); 7) CEB - Employment Law
6 Practice: Year in Review (2013) (Jan. 10, 2014); 8) Sacramento County Bar Association - Class
7 Actions from the Trenches: Real World Experiences from the Plaintiff and Defense Bar (Feb. 21,
8 2012); 9) Sacramento Employer Advisory Council – Wage and Hour Workshop: Going Beyond the
9 Exemption Discussion (Apr. 7, 2016); 10) Sacramento Employer Advisory Council - Wage & Hour
10 Panel and AB 1825 Training: Updates on California’s New Wage Laws and Manager Compliance
11 Training (Apr. 25, 2017); 11) Sacramento County Bar Association, Labor and Employment Section –
12 PAGA Representative Litigation: Emerging Trends and Issues (May 17, 2016); 12) Sacramento
13 Business Journal Panel – Overtime Rules (Jun. 23, 2016); 13) Association of Defense Counsel of
14 Norther California & Nevada - Employment Law Update – Do the Math: Calculation Exposure and
15 Damages in Wage and Hour Cases (Aug. 12, 2016); 14) California Employment Lawyers Association -
16 PAGA Today and PAGA Tomorrow: Moderate-Advanced Issues In PAGA Litigation (Oct. 20, 2017);
17 15) California Employment Lawyers Association Advanced Wage and Hour Seminar – Better Know a
18 Venue Roundup (May 17, 2019). Mr. Shimoda has been AV rated by Martindale Hubbell since 2013,
19 was recognized as a Super Lawyer (Rising Star) from approximately 2009 to 2013 and was recognized
20 as a Super Lawyer from 2014 to present.

21 18. Mr. Shimoda has practiced law in California since being admitted to the State Bar in
22 2003, litigating wage and hour class actions and individual wage and hour litigation among other cases.
23 Mr. Shimoda began practicing class action law on the defense side at the firm of Orrick, Herrington &
24 Sutcliffe LLP. He then switched to plaintiff class action work in 2005. His class action experience is
25 in wage and hour law. Mr. Shimoda has litigated several class action cases in California State and
26 Federal Courts, including up to certification, settlement, preliminary and final approval, and
27 disbursement of monies, and has been found to be satisfy the adequacy requirements for class counsel.
28

1 Some of the class action and/or PAGA cases he is litigating and/or has litigated as lead or co-counsel
2 include the following:

- 3 • *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- 4 • *Acosta v. Acosta Sales, LLC, et al.*, Case No. 2:11-CV-01796 (C.D. Cal.);
- 5 • *Atchley v. Blaggs Food Service, LLC*, 34-2017-0215930 (Sac. Sup. Ct.);
- 6 • *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- 7 • *Arnall v. North American Merchandising Service Inc.*, Case No. 06AS01439 (Sac. Sup. Ct.);
- 8 • *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- 9 • *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- 10 • *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- 11 • *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac.
12 Sup. Ct.);
- 13 • *Benak v. MDStat Urgent Care, Inc.*, No. 34-2015-00188181 (Sac. Sup. Ct.);
- 14 • *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup.
15 Ct.);
- 16 • *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup.
17 Ct.);
- 18 • *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac.
19 Sup. Ct.);
- 20 • *Carlos v. Abel Mendoza, Inc., et al.*, Case No. 34-2016-00195806 (Sac. Sup. Ct.);
- 21 • *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup.
22 Ct.);
- 23 • *Carr et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 24 • *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-
25 00209613 (Sac. Sup. Ct.);
- 26 • *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- 27 • *Colbert v. American Home Craft Inc.*, Case No. 05AS05012 (Sac. Sup. Ct.);
- 28 • *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.)

- 1 • *Diosdado v. Nor-Cal Venture Group, Inc., et al.*, Case No. STK-CV-UOE-2020-0008242
2 (San Joaquin Sup. Ct.);
- 3 • *Dugue v. Sierra Forever Families, et al.*, Case No. 34-2017-00210770 (Sac. Sup. Ct.);
- 4 • *Fadhl v. Siemens Healthcare Diagnostics, Inc., et al.*, Case No. 34-2017-00209518 (Sac.
5 Sup. Ct.);
- 6 • *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No. 20CV01255 (Butte Sup. Ct.);
- 7 • *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- 8 • *Gerard v. Les Schwab Tires Center of California, Inc.*, Case No. 34-2007-30000003 (Sac.
9 Sup. Ct.);
- 10 • *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- 11 • *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- 12 • *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- 13 • *Hernandez et al. v. MP Nexlevel, LLC et al*, Case No. 3 :16-cv-03015-JCS (N.D. Cal.);
- 14 • *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac Sup. Ct.);
- 15 • *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- 16 • *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- 17 • *James v. Language World Services, Inc., et al.*, Case No. 34-2020-00279929 (Sac. Sup. Ct.);
- 18 • *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- 19 • *Koretsky v. Furniture USA, Inc.*, Case No. 34-2014-00172142 (Sac. Sup. Ct.);
- 20 • *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- 21 • *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac. Sup. Ct.);
- 22 • *Miller v. Caldwell Transportation Company, LLC, et al.*, Case No. 34-2018-00234954 (Sac.
23 Sup. Ct.);
- 24 • *Miller v. Leaders in Community Alternatives*, Case No. FCSO47249 (Solano Sup. Ct.);
- 25 • *Pickens v. Elica Health Centers*, Case No. 34-2016-00200382 (Sac. Sup. Ct.);
- 26 • *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- 27 • *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- 28 • *Rickwalt v. Direct Reconditioning, LLC, et al.*, Case No. 34-2015-00175642 (Sac. Sup. Ct.);

- 1 • *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-
2 00082201 (Sac Sup. Ct.);
- 3 • *Rogers v. Les Scwhab Tires Center of California, Inc.*, Case No. 34-2009-00066320 (Sac.
4 Sup. Ct.);
- 5 • *Schechter et al. v. Isys Solutions, Inc.*, Case No. RG10550517 (Alameda Sup. Ct.);
- 6 • *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- 7 • *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- 8 • *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac.
9 Sup. Ct.);
- 10 • *Valencia v. Lowbrau Bier Garten, LLC, et al.*, Case No. 34-2019-00258038 (Sac Sup. Ct.);
- 11 • *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.);
- 12 • *Williams v. Civic Development Group*, Case No. 06AS00267 (Sac. Sup. Ct.); and
- 13 • *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

14 19. The preceding list of cases does not include those where, for a variety of reasons, the
15 case was initially filed as a class and/or PAGA action, but did not maintain that status through the end
16 of the case.

17 20. My associate, Renald Konini, Esq., also worked with me on this case. In May 2011, Mr.
18 Konini graduated from Seton Hall University School of Law. Prior to moving to California, he
19 practiced law in New Jersey. While working for my firm, Mr. Konini has worked on a variety of
20 individual and class action cases, including those involving wage and hour claims, Private Attorney
21 General Act claims, wrongful termination claims, discrimination claims, retaliation claims, and
22 harassment claims. Mr. Konini passed the July 2016 California Bar Examination and started practicing
23 as an associate at my firm from approximately April 2019 to February 2021 and rejoined my firm in
24 September 2022. Mr. Konini has worked on the written and oral discovery, including defending a
25 PAGA representative's deposition, drafting special interrogatories and request for production of
26 documents, calculating class-wide damages, communicating with class representatives, drafting
27 mediation briefs, negotiating, drafting correspondence to Defendants' counsel regarding the damages
28 calculated per plaintiffs' claims against Defendants companies, and more. Mr. Konini worked on other

1 class and/or PAGA wage and hour actions that my firm has filed, namely *Bertelli v. Air Products and*
2 *Chemicals, Inc.*, Case No. 34-2018-00236898, *Carr v. Howroyd-Wright Employment Agency, Inc.*,
3 Case No. 34-2018-00228290, *Gomez v. Vander Schaaf Dairy, et al.*, Case No. STK-CV-UOE-2020-
4 0003954, *Haggins v. Kelly Services, Inc.*, Case No. 34-2017-00220473, *Hussaini v. Integrated*
5 *Resources, Inc.*, et al, Case No. 34-2021-00297152. Mr. Konini's practice largely revolves around
6 wage and hour matters, including PAGA claims.

7 21. In connection with any final approval hearing, Plaintiffs' will be seeking attorneys' fees
8 and costs, an Enhancement Payment to the Class Representatives, and Settlement Administrator Costs
9 as set forth in the Agreement. Plaintiffs will be requesting attorneys' fees and costs pursuant to the
10 common fund doctrine as I believe it to be applicable to the present case pursuant to *Serrano v. Priest*,
11 20 Cal.3d 25, 34-35 (1977), *Laffitte v. Robert Half Internat. Inc.*, 1 Cal.5th 480 (2016), and *Paul,*
12 *Johnson, Alston & Hunt v. Graulity*, 886 F.2d 268, 271 (9th Cir. 1989). The facts and case law
13 supporting the requested amounts will be set forth in the final approval motion, including information
14 for the Court to perform a lodestar cross check of the requested attorney's fees, quantify the amount of
15 time spent by Plaintiffs on this case and any further risks and/or burdens incurred as a result of acting
16 as Class Representatives, an updated declaration in support of actual litigation costs and itemized cost
17 spreadsheet, and declaration from the Settlement Administrator detailing the work performed and
18 Settlement Administrator Costs incurred. The expected costs for all counsel through final approval is
19 not expected to exceed \$25,000. An itemized list of costs incurred will be submitted in connection with
20 briefing submitted for the final approval and fairness hearing. Any difference in the awarded fees and
21 costs, Class Representatives' Enhancement Payment, and Settlement Administrator Costs and the
22 amounts allocated for each under the Agreement will be added back to the Net Settlement Amount and
23 distributed pro rata to Class Members.

24 22. I have used several class action administrator companies in the wage and hour class
25 actions I have resolved in the past and believe ILYM Group, Inc. will provide the best service to
26 administer the proposed class settlement. ILYM Group, Inc. has provided a quote for the estimated
27 maximum cost of administering the class settlement of approximately \$14,900. A true and correct copy
28 of a cost estimate provided by ILYM Group, Inc. is filed with this Motion as Exhibit D. This is only an

1 estimate, and final pricing may vary depending on the issues, if any, that arise during the administration
2 of the settlement. However, the difference between the actual, lesser costs and \$20,000, if any, will be
3 paid to the Participating Class Members on a pro rata basis.

4 23. A copy of the Agreement was submitted to the LWDA for review at the same time the
5 Motion was submitted to the Court pursuant to California Labor Code section 2699(1)(2). A true and
6 correct copy of documents demonstrating the settlement documents were provided to the LWDA and
7 that the LWDA has confirmed receipt are being filed with this Motion as Exhibit F.

8 24. A true and correct copy of the proposed Notice of Settlement is being filed with this
9 Motion as Exhibit E.

10 25. The designated *cy pres* beneficiaries in this case are Capital Pro Bono, Inc. ("CPB") and
11 The Center For Workers Rights ("CFWR"). Only those funds that remain from uncashed settlement
12 checks will be sent to the *cy pres* beneficiaries pursuant to section 5.6 of the Agreement.

13 26. CPB is a 501(c)(3) nonprofit in good standing with the State of California that was
14 established in 1981 and incorporated in 1986 to provide free civil legal services to the indigent,
15 primarily through the use of volunteer attorneys. The formal service area includes Sacramento, Yolo,
16 San Joaquin, El Dorado and Placer counties, however it also regularly provides assistance, whether in
17 person or by phone, to individuals residing outside those counties, including Solano, Nevada, Merced,
18 Sutter, Yuba, and Stanislaus counties. CPB changed its name in 2020 from Voluntary Legal Services
19 Program of Northern California ("VLSP") to Capital Pro Bono, Inc. CPB has been the recipient of *cy*
20 *pres* funds from several jurisdictions in the State of California, including from Sacramento County
21 Superior Court.

22 27. If CPB is approved as a *cy pres* beneficiary, any funds received will be dedicated to the
23 Employment Law Clinic and Advice Line project, which assists the indigent with legal matters related to
24 their current or former employment. This assistance regularly includes, but is not limited to, free legal
25 advice regarding claims for unpaid wages, failure to provide meal and rest periods, failure to pay
26 reimbursement, and waiting time penalty claims. CPB provides legal advice, assistance with legal
27 forms, and direct representation in administrative hearings, including administrative hearings in front of
28 the California Labor Commissioner for unpaid wages. CPB has a staff attorney and clinic coordinator

1 who provide assistance, along with experienced employment law attorney volunteers. These services
2 have been a focus of the Employment Law Clinic and Advice Line project since its inception with VLSP
3 and continuing through today under CPB.

4 28. CFWR is also a qualified *cy pres* designee in class actions, under section 384, as it is a
5 501(c)(3) nonprofit in good standing with the State of California providing free civil legal services to the
6 indigent. Since its inception in 2014 and in partnership with Legal Aid at Work, the CFWR offers one-
7 on-one legal consultations for low-wage workers. The CFWR discusses employment issues with
8 workers and advises them as to the available legal remedies. In addition to individual counseling on
9 employment issues, the CFWR educates workers, unions, and community members about workplace
10 laws and remedies through "Know-Your-Rights" trainings conducted by the CFWR staff and volunteers.

11 29. The CFWR provides limited representation for low-wage workers in wage claims before
12 the California Labor Commissioner. The CFWR has provided services to low-wage workers in a variety
13 of industries across the entire state of California. CFWR primarily focuses on the enforcement of basic
14 workplace protections, including claims for unpaid wages, minimum wage violations, failure to pay
15 overtime, failure to pay reimbursement, waiting time penalties, and meal and rest period violations. The
16 CFWR helps workers navigate the wage claim process before the California Labor Commissioner
17 through advice given at its legal consultation clinics and/or, in some cases, through representing workers
18 in these claims. If the CFWR is approved as a *cy pres* beneficiary, the funds received will be dedicated
19 towards assisting low-wage workers with wage claims and enforcing the California Labor Code with
20 respect to those wage claims.

21 30. I believe the services provided by CPB and the CFWR promote the law consistent with
22 the objective of wage and hour class actions in general and in this case specifically.

23 31. I have spoken with every other attorney at my firm to determine whether they have any
24 relationship with either of the proposed *cy pres* beneficiaries.

25 32. I have volunteered for both organizations numerous times over the past several years,
26 either directly in the advice clinics or by presenting seminars on wage and hour laws for law students
27 seeking to also volunteer at advice clinics. I have also volunteered by sitting on CPB's advisory
28 committee. These organizations are non-profits that assist low-income workers throughout California,

1 giving free legal advice regarding employment law issues and representing employees with wage claims
2 before the California Labor Commissioner. I have witnessed firsthand the quality service and attention
3 these entities provide to individuals in need of employment law advice and representation at the
4 California Labor Commissioner.

5 33. Brittany V. Berzin has never done any work, volunteer or otherwise, with CPB. During
6 law school, Ms. Berzin was a student volunteer for the CFWR for two summers. Since graduating law
7 school, she has volunteered for the CFWR approximately one to two times per year, assisting in the
8 advice clinic. Recently, Ms. Berzin volunteered to be on the Board of Directors and is currently the
9 Chair, which is an unpaid position. As Chair, Ms. Berzin is one of seven Board Members, who are all
10 from different law firms and/or local public and private organizations. The Executive Director of the
11 CFWR controls the day-to-day operations of the CFWR, not Ms. Berzin or the Board of Directors.
12 Furthermore, CFWR has not, and does not, provide any referrals to Shimoda & Rodriguez Law, P.C.

13 34. Galen T. Shimoda has volunteered for both organizations on and off over the past several
14 years through either presenting wage and hour seminars to law students who staff the free advice clinics
15 or helping at the advice clinics themselves. However, Mr. Shimoda has not performed any volunteer
16 work with either organization since approximately March 2020. Mr. Shimoda has never received
17 payment or compensation of any kind in connection with any work he's done with either of the proposed
18 *cy pres* beneficiaries. Renald Konini has never done any work, volunteer or otherwise with Capital Pro
19 Bono, Inc. or the Center For Workers' Rights. Neither my firm, myself, Mr. Konini, Ms. Berzin, nor
20 Mr. Shimoda have ever received any compensation, direct or indirect, for designating CFWR or CPB as
21 *cy pres* beneficiaries or in connection with any of the volunteer work we have done with the
22 organizations.

23 35. I declare under penalty of perjury under the laws of the State of California that the
24 foregoing is true and correct. Executed on June 5th, 2023 in Sacramento, California.

25
26 
27 Justin P. Rodriguez
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