

PROPOSED TENTATIVE

On August 18, 2023, plaintiff Jose Martinez Eric Diaz (plaintiff) filed a representative action under the Private Attorney General Act, pursuant to Business and Professions Code section 2698, et seq. (the PAGA), for civil penalties, against defendant Firestone Walker, Inc., a craft beer producer (defendant). Plaintiff worked for defendant as a “Back of House 9’BOH’) Lead and Line Cook at their taproom restaurant location in Buellton.” Plaintiff is suing on his own behalf and other aggrieved employees, which are non-exempt or hourly paid employees in California. Plaintiff claims that aggrieved employees were not paid for all hours worked, all overtime compensation, minimum wages, meal and rest period premiums, sick pay leave, vested vacation time, were not given complete and accurate wage statements, with defendant failing to maintain accurate payroll information, forcing aggrieved employees to purchase uniforms, failing to provide suitable seating, amongst other violation. Plaintiff has alleged compliance with all administrative prerequisites for filing this PAGA action. On October 9, 2023, the court signed the parties stipulation for binding arbitration of individual PAGA claims and stayed the representative PAGA action. The matter was set for arbitration on January 12 and 13, 2026. The parties are directed, per the court’s October 9, 2024 order, to inform the court within a reasonable time after a final award is rendered or settlement is reached, the Parties shall advise this Court of the outcome of the arbitration proceedings, or any settlement.”¹

On March 5, 2026, plaintiff filed a motion for approval of a settlement claim for all civil penalties under the PAGA, following an arms-length mediation session with Jeffrey P. Fuchsman, Esq., on October 23, 2025, culminating in the consummated Settlement Agreement. The class of aggrieved employees includes “all persons who” worked for defendant “as non-exempt, hourly employees in the State of California” between June 12, 2022, through the earlier of January 21, 2026. Attached to the motion and memorandum of points and authorities are the following documents: 1) a declaration from Raul Perez, plaintiff’s counsel, including a copy of the “PAGA Settlement Agreement[,]” a copy of the 19-page June 12, 2023 online submission to the California Labor & Workforce Development Agency detailing the alleged violations at issue, a copy of the “Capstone Law APC” firm profile, and a copy of the “Laffey Matrix” for attorney’s fees; and 2) a declaration from Jose Martinez, explaining his involvement in the litigation as a justification for the enhancement award of \$10,000. Plaintiff has not included a declaration/invoice from the proposed settlement administrative ILYM Group, Inc., for costs of \$7,500.

According to the terms of the settlement, the settlement amount involves approximately 886 aggrieved employees and a gross, nonreversionary amount of \$310,000. This amount is

¹ It is not entirely clear from the submitted motion whether the settlement amount includes both individual and representative claims. Plaintiff, however, in his memorandum of points and authorities, observes that “no individual wage and hour claims will be extinguished by the Settlement . . .” (P. 14.) Counsel should be prepared to address this at the hearing.

asked to be reduced as follows: 1) \$103,333 for attorney’s fees (which amounts to 33.333% of the gross settlement amount); 2) litigation costs of \$18,016.30 (the settlement contemplates litigation costs of up to \$20,000); 3) a \$7,500 payment to the third-party settlement administrator ILYM Group, Inc.; and 4) an enhancement of \$10,000 to Jose Martinez. This leaves \$171,150.7 as the net settlement amount, of which 75% goes to the state of California (\$128,363.03) and 25% to the aggrieved employee class (\$42,787.76).² The latter amount will be split between the 886 aggrieved employees, calculated based on the total number on a pro-rata basis coupled with the number of pay periods worked by each employee during the PAGA period. The total pay periods are 5,692. Plaintiff’s counsel does not indicate in the briefing what the average payout will be for the aggrieved employees based on the total number of pay periods (a point the court will return to later in this order).

The court will summarize the legal principles that frame the nature of the court’s inquiry, and then examine the merits of the present application, exploring the fairness of the settlement, the reasonableness of any requests for attorney fees and costs, the appointment of and costs for the third-party administrator, the fairness of the enhancement request, and the nature and quality of the notices and disbursement procedures associated with the settlement. The court will conclude with a summary of its conclusions.

A) Legal Background

California’s Labor Code³; contains a number of provisions designed to protect the health, safety, and compensation of workers, and employers who violate these statutes may be sued by employees for civil penalties, generally paid to the state. Under the PAGA’s recently amended statutory scheme, effective July 1, 2024, per section 2699, subdivision (m), any “aggrieved employee” may pursue civil penalties on the state’s behalf, with 65% going to the LWDA, leaving 35% for “aggrieved employees.” (*Kim v. Reins International California, Inc.* (2020) 9 Cal.5th 73, 81; *Rose v. Hobby Lobby Stores, Inc.* (2025) 111 Cal.App.5th 162, 169 fn.2 [discussing new amendments]; see fn. 1, *ante.*)

Because plaintiff represents the same legal rights and interests as state labor law enforcement agencies, the California Supreme Court has found that “a judgment in an employee’s action under the act binds not only that employee but also the state labor enforcement agencies.” (*Arias v. Superior Court* (2009) 46 Cal.4th 969, 986.) That is, the judgment binds all those who would be bound by an action brought by the government, *including* nonparty employees. (*Ibid.*) There are two requirements for PAGA standing. The plaintiff must be an aggrieved employee, that is, someone “who was employed by the alleged violator” and

² On June 19, 2024, the Legislature changed the percentages as follows: 65% to the state and 35% to the aggrieved employees. As this lawsuit was filed before the operative date of the changes, the old percentages apply.

³ All statutory references are to the Labor Code unless expressly indicated otherwise.

against whom one or more of the alleged violations was committed. (*Id.* at p. 84; see *Shaw v. Superior Court of Contra Costa County* (2022) 78 Cal.App.5th 245, 254-255 [detailing the general background of the PAGA statutory scheme].) It appears these requirements have been satisfied.

That being said, “[former] section 2699, subdivision (1)(2) [now 2699, subdivision (s)(2)] requires the trial court to review and approve any PAGA settlement,” and in so doing, the court must “ensure that any negotiated resolution is fair to those affected.” (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 549.) A trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of the PAGA’s purpose to remediate present labor law violations, prevent future ones, and maximize enforcement of state labor laws. (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 76, disapproved on another ground in *Turrieta v. Lyft, Inc.* (2024) 16 Cal.5th 664, 710-711; see also *Shaw v. Superior Court of Contra Costa County* (2022) 78 Cal.App.5th 245,263 [“ We emphasize that in any case involving a proposed PAGA settlement, the trial court must review the settlement for fairness and ‘scrutinize whether, in resolving the action, a PAGA plaintiff has adequately represented the state’s interests, and hence the public interest,’ citing *Moniz*].) Because many of the factors used to evaluate class action settlements also bear on a settlement’s fairness – including the strength of the plaintiff’s case, the risk, the state of the proceeding, the complexity and likely duration of further litigation, and the settlement amount – these factors can be useful when evaluating the fairness of a PAGA settlement. (*Moniz, supra*, at p. 76.) “Given PAGA’s purpose to protect the public interest, we also agree with the LWDA and federal district courts that have found it appropriate to review a PAGA settlement to ascertain whether a settlement is fair in view of PAGA’s purposes and policies.” (*Ibid.*) “We therefore hold that a trial court should evaluate the PAGA settlement to determine whether it is fair, reasonable and adequate in view of a PAGA’s purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws.” (*Ibid.*)

B) Merits

Each of the enumerated categories listed above will be explored to determine whether the PAGA-only settlement is fair, reasonable, and adequate.

i) LWDA’s Presence/Any Objections

“The proposed settlement shall be submitted to the [LWDA] at the same time that it is submitted to the court.” (§ 2699, subd. (s)(2).) According to Mr. Perez’s declaration, paragraph 3, “a copy of the Settlement Agreement has been uploaded to LWDA’s website.” A copy of the

submission, and the LWDA's receipt of the submission, was filed under separate cover on March 5, 2026. The LWDA has not appeared or otherwise objected to the proposed settlement.

ii) *Strength of Plaintiff's Case*

The PAGA provides that the civil penalty generally is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation " except for provisions in which a penalty is specifically provided. (Former § 2699, subd. (f)(2).) The civil penalty for wage statement violations is \$250 for the initial violation and \$1,000 for each subsequent violation. (§ 226.3.) However, a court may "award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." (§ 2699, subd. (e)(2).)

According to the briefing, and notably Mr. Perez's declaration, prior to mediation defendant produced its "relevant California labor policies and procedures materials, the time and wage records for all Aggrieved Employees from June 12, 2022 through April 12, 2025 . . ." The mediation at issue was non-collusive but adversarial. In preparation for drafting the complaint, plaintiff's counsel "conducted their own preliminary investigation"; prepared a very detailed 19-page letter detailing the alleged PAGA violations; and in advance of mediation, received a "considerable amount of documents and data," including "employee demographic data, Plaintiff's personnel file, Defendant's employee handbook and labor policy documents, and time and wage records" as indicated above. Counsel determined that the aggrieved employees worked a total of approximately 31,000 pay periods during the relevant time frame. Under this calculus, using the \$100 statutory penalty as the base because heightened or subsequent penalties applies only after there has been determined to be Labor Code violation, which would be difficult to assess, counsel estimated that defendant's maximum exposure would be "approximately \$3,100,000 = 31,000 violative pay periods x \$100."

Plaintiff's counsel then discounted the amount based on a number of factors, including the risks of continued litigation, based on the strength of defendant's defenses. According to counsel, defendant maintains a number of defenses, namely that its policies are compliant with all California requirements, prohibiting off-the-clock work, compensation for all time worked, and offering all required meal and rest periods to employees. Defendant argues that the representative format would be difficult to assess any violations in this context, that wage statement claims amount to only technical violations without injury, that defendant operated in good faith at all times, that all vested vacation, sick leave, were paid. Additionally, counsel considered the risk of losing a trial; the risk the court would exercise discretion under PAGA to reduce the maximum civil penalties available by statute, such as occurred in *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, 528; and the chances of a favorable judgment.

According to counsel. “after considering all of these issues, defenses and the risks, a \$310,000 settlement for a limited release of PAGA penalties – no individual wage and hour claims will be extinguished by the Settlement – is a fair and just result and furthers PAGA’s objections”

The court agrees that the gross settlement amount is fair, reasonable and adequate, a point bolstered by counsel’s extensive wage and hour experience. Further, it is clear the settlement amount was reached through a rigorous mediation process with an experienced wage and hour mediator. Counsel’s assessments, coupled with the arms-length negotiation following mediation, the volume of information obtained, and counsel’s detailed experience as outlined in his declaration, supports the reasonableness of the settlement amount. This is particularly true given the detailed explanations provided by Mr. Perez in his declaration to support the discounted value of the lawsuit. (See, e.g., *Haralson v. U.S. Aviation Services Corp.* (N.D. Cal. 2019) 383 F.Supp.3d 959, 972–973 [in this district, courts have raised concerns about settlements of less than 1% of the total value of a PAGA claim]; *Jennings v. Open Door Mktg., LLC*, No. 15-CV-04080-KAW, 2018 WL 4773057, at *9 (N.D. Cal. Oct. 3, 2018); see also *Cotter*, 176 F. Supp. 3d at 940 [finding problematic, among other things, the “seemingly arbitrary reduction of [the PAGA] penalty to a miniscule portion of the settlement amount – \$ 122,250, which is less than one percent of the total”]; cf. *McLeod v. Bank of Am., N.A.*, No. 16-CV-03294-EMC, 2018 WL 5982863, at *4 (N.D. Cal. Nov. 14, 2018) [finding \$50,000 PAGA allocation for claims estimated at \$ 4.7 million – approximately 1.1 percent – adequate].)

The court finds the \$310,000 settlement amount to be fair, reasonable, and adequate.

iii) *Is the Settlement Genuine, Meaningful, and Consistent with the Statutory Purposes of PAGA to Benefit the Public?*

Even with this said, and as noted above, pursuant to *Moniz v. Adecco USA, Inc. supra*, 72 Cal.App.5th 56, the court must assess the reasonableness of the PAGA settlement agreement with the following in mind: “Given PAGA’s purpose to protect the public interest, we also agree with the LWDA and federal district courts that have found it appropriate to review a PAGA settlement to ascertain whether a settlement is fair in view of PAGA’s purposes and policies. [Citations and fn. omitted.] ***We therefore hold*** that a trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate ***in view of PAGA’s purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws.***” (*Moniz, supra*, 72 Cal.App.5th at p. 77, emphasis added.) This point is reinforced by case law that recognizes that the PAGA and class actions serve different remedial purposes. A representative action under the PAGA is **not** a class action. (*Huff v. Securitas Security Services, USA, Inc.* (2018) 23 Cal.App.5th 745, 757.) The PAGA claim is an enforcement action between the LWDA and the employer, with the PAGA plaintiff acting on behalf of the government. Although representative in nature, the PAGA claim is not simply a

collection of individual claims for relief. There is no individual component to the PAGA action. (*Kims v. Reins International California, Inc* (2020) 9 Cal.5th 73, 86.)

Plaintiff cites to *Moniz* (on page 10 of the memorandum of points and authorities), and even acknowledges that under *Moniz* the court's evaluation must "determine whether it is fair, reasonable, and adequate in view of the PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws," but then offers little meaningful analysis to allow the court to determine how future labor violations will be deterred. Notably, counsel fails to address the import of two parts of the settlement agreement, attached to Mr. Perez's declaration, that have a direct bearing on this inquiry. Paragraph 45 is a confidentiality provision, prohibiting plaintiff and counsel from publishing, posting, or reporting anything about plaintiff's claims, the claims of the aggrieved employees, or the settlement on their website; they are precluded from contacting reporters or media. In paragraph 46, defendant denies all liability, and the provision provides that nothing can be used "in other judicial, arbitral, administrative, investigative, or other forum or proceedings, as evidence of any violation of any federal, state or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity."

How is the public benefited, and how are the wage and hour laws enforced as required by *Moniz* in the future, when the settlement agreement contains these two provisions? How are wage and hour laws enforced in the future when defendant offers no admission of liability, and the settlement cannot be used as evidence of wrongdoing? **No explanation is offered.** "These factors are evaluated in light of PAGA's public policy goals of 'benefit[ing] the public by augmenting the state's enforcement capabilities, encouraging compliance with Labor Code provisions, and deterring noncompliance.'" (*Rodriguez v. Belfor USA Group, Inc.* (N.D. Cal., Oct. 9, 2025, No. 22-CV-02071-VKD) 2025 WL 2899211, at *5.) Compounding the problem is the fact that nothing in the settlement agreement contemplates any form of nonmonetary relief, a factor identified by federal district courts as relevant in the PAGA settlement calculus. (*Manuel Perez and Macario Perez, plaintiffs, v. All AG, Inc., a California corporation; et al., Defendants. Additional Party Names: Gold Coast Farms, LLC, Means Nursery, Inc.* (E.D. Cal., July 23, 2021, No. 118CV00927 DADEPG) 2021 WL 3129602, at *3 ["in light of the substantial amount of penalties to be paid under the PAGA fund distribution, the inclusion of non-monetary relief in the PAGA Agreement, the lack of objection from the LWDA despite being provided timely notice of the terms of this proposed settlement, and the fact that the individual PAGA group members are not precluded from bringing actions against defendants to seek recovery, . . . the court concludes the parties PAGA agreement is [] fair, reasonable, and adequate in view of the PAGA's public policy goals"].) While it remains true that a trial court may consider many of the same factors used to evaluate the fairness of class action settlements, "including the strength of the plaintiffs' case, the risk, the stage of the proceeding, the complexity and likely duration of further litigation, and the settlement amount," (*Moniz, supra*, at p. 77), plaintiff here seems to give this requirement superficial treatment. Of course, it is possible to argue that the **aggregate**

settlement value -- \$310,000 -- is sufficiently “robust” *alone* to satisfy the public benefits requirement for approval of a PAGA settlement, as there is no evidence that the PAGA civil penalties were inherently or fundamentally undervalued. And, of course, there has been no objection from LWDA. Plaintiff’s counsel, however, cannot simply ignore these requirements. This omission is troubling and must be addressed at the hearing.

Accordingly, before the court can determine whether the settlement amount is fair, reasonable and adequate, counsel will have to address at the hearing whether the PAGA settlement agreement satisfies PAGA’s purpose of remediating present labor code violations, deterring future ones, and maximizing enforcement of state wage and hour laws, in light of paragraphs 45 and 46 of the settlement agreement.

iv) *Attorney’s Fees and Costs (both Litigation Costs and Third-Party Settlement Costs)*

Plaintiff asks for \$103,333 in attorney’s fees. Section 2699, subdivision (k)(1) provides in relevant part that any “employee who prevails in any [PAGA] action shall be entitled to an award of reasonable attorney’s fees and costs, including any filing fees” (*Attempa v. Redrazzani* (2018) 27 Cal.App.5th 809, 814, 829 [because the statute provides that a prevailing employee “shall be entitled” to recover attorney fees, such an award is a matter of right].) Further, successful PAGA plaintiffs are entitled to an award of reasonable costs. (*Id.* at p. 829; *Villacres, supra*, 189 Cal.App.4th at p. 578 [“If an employee prevails in a PAGA action, he or she is entitled to an award of reasonable attorney fees and costs.”]; *Harrington v. Payroll Entertainment Services, Inc.* (2008) 160 Cal.App.4th 589, 594.) There really can be little doubt that plaintiff has prevailed on the PAGA claims.

There is little published California case law exploring the standards courts must apply in this context. What published California case law does exist provides that the PAGA has its roots in the private attorney general doctrine per Code of Civil Procedure section 1021.5, which incorporates common fund principles for attorney-fee determinations. (See, e.g., *Hawkins v. City of Los Angeles* (2019) 40 Cal.App.5th 384, 397 [recognizing attorney’s fees are authorized pursuant to § 2699(g)(1)], and determining fees were appropriately awarded on Code Civ. Proc. § 1021.5].) Further, the California Supreme Court has clarified, at least in the context of class action settlements, that trial courts may use a percentage method and cross-check the fee amount under the lodestar method. (*Laffite v. Robert Hale Internat. Inc.* (2016) 1 Cal.5th 480, 503, 504.) California federal district courts have looked to these discretionary standards in the PAGA context when, as here, the settlement amount involves a common fund. Regardless of which method is used, courts “have an independent obligation to ensure that the award, like the settlement itself, is reasonable, even if the parties have already agreed to an amount.” (*In re Bluetooth Headset Prods. Liab. Litig.* (9th Cir. 2011) 654 F.3d 935, 94, citations omitted.)

The settlement agreement creates a true common fund without any reversion to defendant, with net settlement proceeds going to the state and all representative class members. (*Laffite, supra*, 1 Cal.5th at p. 503.) Generally, the percentage method would be the typical way to determine the reasonableness of any attorney fee request. While the general benchmark in federal court is 25%, California allows trial courts a little more flexibility. (See, e.g., *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557, fn. 13 [empirical studies show that fee awards in class actions average around one-third of the recovery]; *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, fn. 11 [same]; see also *Amaro v. Anaheim Arena* (2021) 69 Cal.App.5th 521, 545 [‘[F]ee awards in class actions average around one-third of the recovery’ ” regardless of “ ‘whether the percentage method or the lodestar method is used.’ ”]) The fee request of \$103,333, which amounts to approximately 33% of the gross settlement amount, falls squarely within this general rule. The court finds the amount reasonable, and there is no need for a cross-check based on the lodestar method.

Accordingly, the court appoints Capstone Law APC as counsel and finds that attorney fees of \$103,333 are reasonable.

As for litigation costs, the settlement agreement contemplates litigation costs up to \$20,000, although counsel is asking for actual costs of \$18,016.30, which are detailed in paragraph 24 of Mr. Perez’s declaration. Most of the costs (\$9,412.50) were for data analysis of time and payroll records, with \$6,000 spent for mediation. The costs appear reasonable. The court awards litigation costs of \$18,016.30.

Finally, plaintiff asks the court to appoint ILYM Group, Inc. as the third-party administrator, and requests costs/fees of up to \$7,500. This comports with the settlement agreement. (¶ 17), although counsel addresses the issue in a single line on page 8 of the memorandum of points and authorities. Mr. Perez’s declaration is silent about the issue. More must be provided (for in the court’s experience, parties usually submit a declaration from the proposed third-party administrator, along with an invoice). At a minimum counsel should be prepared to explain that the \$7,500 in costs includes translation costs. If adequate explanations are provided, the court will appoint ILYM Group, Inc., and approve costs up to \$7,500.

v) *\$10,000 Enhancement*

Plaintiff Jose Martinez asks the court to approve an enhancement of \$10,000. Mr. Martinez has submitted a declaration attempting to explain why he is entitled to this amount. He declares as follows: “. . . Prior to filing the action, my attorneys and I had multiple conferences about the factual bases for the claims that I wanted to pursue Defendant. [Fn. Omitted.] . . .

When I agreed to represent the LWDA as a deputized private attorney general, I understood it was my duty to be readily available and to participate actively in this case. I knew that I would be required to review documents, search for documents and produce them to my attorneys, answer written questions, potentially answer oral questions and testify truthfully under oath, and be available to appear in court, if necessary. . . .” Plaintiff contends he “spent considerable time on the phone discussing the facts of my case with my attorneys[;] I discussed the facts related to my employment with Defendant, including discussing my job duties and responsibilities, my job position, the hours and days I worked, and how I was compensated.” He “collaborated with my attorneys on the prosecution of my claims, and I regularly contacted my attorneys to stay current on the status of the litigation, and to discuss my attorneys’ progress in prosecuting the claims.” He claims he “has spent large amounts of time and effort pursuing my claims and the claims of the other employees from the time I retained my attorneys to the present date.” He estimates that he spent between 25 and 35 hours “assisting my attorneys in the in the prosecution of this lawsuit. . . .”

Attorney Perez declares in relevant part as follows: The \$10,000 enhancement is justified “because of the extensive time Plaintiff spent and the assistance he has provided [] throughout this litigation,” for plaintiff was “intimately involved” and served as an “indispensable resource.” The amount also recognizes that his general release is “far broader” than other aggrieved employees. “Additionally, Plaintiff faces actual risks with respect to his future employment by putting himself on public record in an employment lawsuit. . . .” ,

The court is aware that no objections have been made to the requested enhancement amount, and that the representative class of 886 aggrieved employees is large. It is also aware that \$42,787.67 will be available to the 886 aggrieved class. Although at no point in the briefing does counsel alert the court to the average payout, basic math provides a possible baseline – an average payout of \$48.29 (\$42,787.67 divided by 886). The \$10,000 enhancement constitutes an approximate ***multiplier of over 207 times this amount.*** In the analogous context of class action suits, courts have expressed grave concern when there is such a large disparity between an incentive award and the recovery of individual class members. (*Clark v. American Residential Services, LLC* (2009) 175 Cal.App.4th 785, 806, fn. 14, citing *Alberto v. GMRI, Inc.* (2008) 252 F.R.D. 652, 669 [given a proposed \$5,000 incentive award and an average \$24.17 recovery (a multiplier of over 200), when there was no evidence demonstrating the quality of plaintiff’s representative service; plaintiff should be prepared to present evidence of the named plaintiff’s “substantial efforts” as class representative to justify the discrepancy between the award and those of the unnamed plaintiffs”]; see also *Stanton v. Boeing Co.* (9th Cir, 2003) 327 F.3d 938, 975 [condemning a class enhancement of \$30,000 when average payout was \$1,000, a multiplier of 30]; compare with *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 412 [noting there that class representatives would receive more than twice as much as the average payment to class members, in contrast to the multipliers of 30 and 44 in

Stanton and *Clark*, respectively].) The multiplier here (based on an enhancement award of \$10,000) is extreme as it falls within the range in which courts have expressed concern.

Neither Mr. Martinez’s nor Mr. Perez’s declarations alleviate these concerns (at least as presented). Mr. Martinez declares that he spent between 25 and 35 hours in pursuit of the litigation. Even if the court assumes plaintiff spent 35 hours, the enhancement amounts to \$285 an hour (approximately), a very high number indeed. As noted in *Clark*, when there is such a great disparity, it would be inappropriate to give an incentive award “with nothing more than pro forma claims as to ‘countless’ hours expended, ‘potential stigma,’ and ‘potential risk.’” Significantly, a greater specificity as to efforts expended on litigation is required in order for “the trial court to conclude that an enhancement was ‘necessary to induce [the named plaintiff] to participate in the suit’” (*Clark, supra*, at pp. 06-807.) The defects in the *Clark* declarations are similar to defects in the two declarations provided here. The court acknowledges that Mr. Martinez’s release may be broader than other aggrieved employees’ release. But given the disparity at issue, the declarants must do a better job of quantifying the relevant time actually spent, explaining specific risks were actually at play, and otherwise explain Mr. Martinez’s involvement with more specificity in order to justify \$285 an hour and/or a multiplier of 207 times over the potential average payout.

Plaintiff’s counsel is directed to address these concerns at the hearing. If counsel does not address them to the court’s satisfaction, the court will reduce the enhancement to \$5,000.

vi) *The Nature of the Plan for Distribution to the Aggrieved Employees, and the Nature of the Release*

The court wants counsel to confirm at the hearing that the notice to be sent to putative aggrieved employees will be both in English and Spanish. Otherwise, the letter notice and the payment instructions to be sent to the aggrieved employees (the representative class) seem reasonable. The notice describes the nature of the case, the attorneys representing both sides, a description of how the settlement impacts the rights of the aggrieved employees, and the representative class. The notice details the nature of any release (although generally). The settlement agreement describes how payments are calculated. The court finds that procedures in the notice and the settlement agreement appear reasonable.

C) *Summary*

- Counsel is directed to explain at the hearing the status of the arbitration of the PAGA individual claims, as was required in the court’s October 9, 2024 order.
- Counsel is directed to address at the hearing whether the notice to be sent to the putative aggrieved employee class will be in both Spanish and English.
- The court directs counsel to address the appointment of ILYM Group, Inc., as the third-party administrator, and up to \$7,500 in fees. In the court’s experience counsel usually submits a declaration and/or an invoice, and neither has been

done. At a minimum the court wants counsel to confirm that the translation costs are included in the \$7,500.

- Counsel is also directed to explain at the hearing why the settlement amount of \$310,000 comports with the standards enunciated in *Moniz v. Adecco USA, Inc.*, (2021) 72 Cal.App.5th 56, 76, disapproved on another ground in *Turrieta v. Lyft, Inc.* (2024) 16 Cal.5th 710-711. *Moniz* held that “a trial court should evaluate a PAGA settlement to determine whether it 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.” Plaintiff, while citing *Moniz*, does not really apply the standard with any rigor. Plaintiff is directed to explain at the hearing, to the court’s satisfaction, how this settlement “remediate[s] present labor law violations, deter future ones,” and maximizes enforcement of state labor laws when defendant admits no wrongdoing and the agreement is confidential, as clearly contemplated in the settlement agreement. Specifically, plaintiff should address the impact of paragraphs 45 and 46 in the settlement agreement under the *Moniz* calculus.
- Counsel is also directed to address why a \$10,000 enhancement is appropriate, when it amounts to 207+ multiplier over the supposed average payout, and/or approximate \$285 an hour (based on 35 hours), very high numbers. The two declarations submitted are too vague to justify such a wide/elevated incentive disparity, under the authority of *Clark v. American Residential Services, LLC* (2009) 175 Cal.App.4th 785, 806-807 in the analogous context of class action enhancements. Counsel should address these problems at the hearing to the court’s satisfaction. If the explanations are not sufficient, the court will reduce the enhancement to \$5,000.
- ***If*** counsel’s explanations about the above matters are satisfactory, the court will 1) find the settlement amount of \$310,000 to be fair, reasonable, and adequate; 2) appoint Capstone Law APC as counsel and award \$103,333 in attorney’s fees and \$18,016.30 in litigation costs; 3) appoint ILYM Group, Inc. as the third-party administrator and award costs of \$7,500; 4) award either \$5,000 or \$10,000 enhancement to Mr. Martinez, based on the supplemental showing made at the hearing; and 5) determine that all payment procedures are adequate and reasonable.
- Plaintiff is directed to provide a new proposed order for signature if there are any readjusted figures; otherwise, the court will sign the proposed order as filed.
- Counsel is directed to appear either in person or by Zoom at the hearing.