PROPOSED TENTATIVE

On September 9, 2024, plaintiff Ramiro Figueroa-Villanueva (plaintiff) filed a class action and representative action under the Private Attorney General Act (the PAGA) against defendants BFI Harvesting, Inc., Babe Farms, and Babe Farms Specialties (defendants), claiming failure to pay minimum wages for all hours worked (Lab. Code,[1] §§ 204, 1194, 1192.2, and 1197); failure to pay overtime wages (§§ 1194, 1198); failure to pay for meal- and rest-time periods (§ 226.7, 512); failure to indemnify for necessary business expenses (§ 2802); failure to pay timely wages at termination (§§ 201-203); failure to provide accurate itemized wage statements (§ 226); an unfair competition violation (Bus & Prof. Code, § 17200, et seq.), and civil penalties under the PAGA (§ 2698, et seq.). Plaintiff worked for defendants from approximately May 2017 to February 2024. Defendants are specialties' farms, and have not answered. On November 14, 2024, the parties filed a stipulation for an order to send all individual claims to an arbitrator, to dismiss all class action claims, and to stay the action involving PAGA civil penalties. This court signed the stipulation on the same date it was filed.

On July 10, 2025, plaintiff filed a motion for approval of a settlement claim for all civil penalties under the PAGA (the only cause of action left pending after the above-mentioned stipulation), following a full-day medication session on April 1, 2025, with Henry Mongiovi, Esq., an experienced wage and hour mediator. The parties have agreed to settle all PAGA claims for a non-reversionary sum of $315,000, involving all nonexempt employees employed in California during the PAGA period, which runs from July3, 2023, through June 1, 2025. There are believed to be 221 "aggrieved employes" as part of the representative class, and there are approximately 14,200 pay periods during the PAGA period. Attached to the motion and memorandum of points and authorities are the following documents: 1) a declaration from attorney Tiffany Hyun, which in turn includes as Exhibit 1 the PAGA Settlement Agreement; the notices to be sent to the aggrieved employee class; a copy of the electronic confirmation that the PAGA settlement was sent to the Labor Workforce Development Agency (LWDA) on July 9, 2025; and a billing record of litigation costs; 2) a declaration from named plaintiff, offered to support a $5,000 enhancement request; 3) a proposed order; and 4) a belated declaration (with exhibits) from Jodey Lawrence, from third-party administrator Phoenix Class Action Administration Solutions.

According to the terms of the settlement, as noted, the settlement amount involves 221 aggrieved employees involving 14,200 pay period, between July 3, 2023, and April 1, 2025. The parties agreed that if the number of actual PAGA pay periods during the PAGA period exceeds 15% of the estimated pay periods (i.e., the pay periods exceed 16,300 pay periods), defendants will have the option of increasing the gross settlement amount of $315,000 or end the PAGA period on the date when the 15% is reached. With this in mind, plaintiff asks the court to subtract

[1] All further statutory references are to the Labor Code unless otherwise expressly indicated.

from gross settlement and approve the following costs: 1) counsel's fees of $105,000, which is .33333334 of the gross settlement amount of $315,000; 2) no more than $15,000 in litigation costs, with actual costs amounting to $9.979.85; 3) $4,000 in third-party settlement costs; and 4) an enhancement fee of $5,000. $315,000 minus $105,000, minus, $9,979.85, minus $4,000, and minus $5,000 equals a net settlement amount of $191,020.15, which will be distributed 65% to LWDA ($124,163.09) and 35% to the aggrieved employees ($66,857.52).[2]

The court will raise a preliminary concern with the written submissions, based on erroneous calculations provided by plaintiff, which the court expects counsel to address at the hearing. It will thereafter summarize the legal principles that frame the nature of the court's inquiry, and then examine the merits of the present application, examining 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) Preliminary Problems

The court directs counsel to address at the hearing the errors as identified in footnote 2, *ante*. The court will use the readjusted figures throughout the remainder of this order. These ***errors/omissions were completely avoidable; they have made the court's task that much more protracted.***

B) Legal Background

California's Labor Code 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 penalities, generally paid to the state. Under the PAGA's recently amended statutory scheme, effective July 1, 2024, per section 2699, subdivision (m), any "aggrived employee" may pursue civil penalties on the state's behalf, with 65% going to the LWDA,

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[2] ***Plaintiff's counsel has made two errors in their briefing.*** First, plaintiff in ***his*** declaration asks for $5,000 as an enhancement (p. 3 of declaration), not $7,500, as requested on page 4 of the memorandum of points and authorities, page 18 of Ms. Hyun's declaration, Item 9 on page 3 of the proposed order, and even in the PAGA Settlement Agreement itself (p. 3, item 6). The court finds that plaintiff's declarations ***in both English and Spanish***, which expressly request an enhancement as $5,000, is the dispositive request at issue. Second, counsel has failed to reduce the gross settlement amount with any enhancement award request (thereby altering the amounts available to the LWDA and the aggrieved employees, respectively). Specifically, counsel claims the net settlement amount is $196,020.15, but that is wrong. Counsel failed to deduct the enhancement award from this amount. The net settlement fee should be $196,020.15 - $5,000, which equals 191,020.15, meaning the LWDA (state) receives $124,163.09 and the aggrieved employees receive $66,9020.52. These adjusted figures will be utilized in the remainder of this order. Defendant will be directed to provide a new proposed order with these new, adjusted figures.

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].)

Because plaintiff represents the same legal rights and interests as state labor law enforcement agencies, the California Superme 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 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 stautory scheme].) It appears these requirements have been satisifed.

That being said, "[former] section 2699, subdivision (l)(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 to 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.*)

C) 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).) Exhibit 2 to Ms. Hyun's declaration consists of an electronic copy of the submission made to the LWDA. 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 Ms. Hyun's declaration, parties before mediation "exchanged extensive information and engaged in discussions regarding their evaluations of the case and various aspects of the case, including but not limited to, the risks and delays of further litigation, the risks to the Parties of proceeding and representative adjudication, the law relating regular rate violation, off-the-clock theory, meal and rest periods, and wage-and-hour law and enforcement, as well as the evidence produced and analyzed, and the possibility of appeals, among other things." The documents and data reviewed include employment records, a detailed sampling of the time and pay data, defendants' "Employee Handbook" and employment practices, procedures, and policies, and counsel met and conferred on numerous occasions. Counsel made the following determinations and evaluations of each category of civil penalties category, based on an estimated 14,200 pay periods, as follows:

- **Unpaid Overtime Claims**: These claims are premised on allegations that defendants required employees to complete all their tasks within the assigned shift times "while refusing to authorize payment of overtime," forcing the aggrieved employees to work "off the clock" and during mealtimes. Counsel calculated the penalties for unpaid overtime at a $50 penalty (at least once every two weeks), meaning the maximum possible value of the claim was 14,200 pay periods times $50 = $355,000. Given the number of defenses that could be advanced by

defendant, including and notably defendants' claimed lack of knowledge that off-the-clock work was performed, counsel determined that a realistic value would be $71,000, or 20% of the maximum value. (Ms. Hyun's Dec., Para. 15.)

- **Unpaid Minimum Wages**: The maximum value estimated would be based on $100 penalty for every two weeks, calculated as 14,200 pay periods times $100 divided by 2, which equals $710,000. Given the same defenses by defendants noted above, counsel assessed that a realistic settlement value of $142,000 would be appropriate (20% of the maximum value).
- **Failure to Provide Meal Periods**: These claims are premised on the allegations n that defendants failed to provide legally compliant meal periods to employees on a regular basis. Counsel determined that a $100 penalty is appropriate for each violation that occurred every two weeks, meaning the maximum value would be 14,200 pay periods times $100, divided by 2, or $710,000. Counsel felt the risks here were greater, notably because defendants claim the recorded time periods do not evidence clear violations, and, in any event, it was not required to give meal periods "because the entire farming operation was shut down" during significant periods. Counsel as result determined that $71,000 was a realistic settlement amount (10% of the maximum value).
- **Failure to Provide Rest Periods**: Plaintiff's claim is based on defendants' failure to provide legally compliant rest periods (and failure to maintain lawful rest period policies). The maximum liability calculated by plaintiff's conclusion was 14,200 pay periods, at $100 a violation every two weeks of $710,000. However, plaintiff's counsel concluded that the risks "were even greater than the risks involved in in a meal period claim because unlike meal period claims, rest periods are not recorded, and potential violations cannot easily be determined by reference to time and pay records." In counsel's experience (Ms. Hyun's Dec., ¶ 18), "rest period-based claims can be exceedingly difficult to prove up due to the fact that is both difficult to prove a specific violation occurred and also difficult to prove that violations occurred based on a policy or practice unless the policy is facially unlawful." Counsel "considered this to be . . . an uphill battle.," and found $35,000 a reasonable settlement amount (i.e., approximately 10% of the maximum value). -
- **Failure to Provide Lawfully Compliant Wage Statements:** Plaintiff's claims were premised on the allegations that defendants allegedly issued wage statements that failed to state the accurate number of hours worked and failed to list the correct rate of pay for any meal premiums paid. Plaintiff's counsel determined a maximum realistic value of $177,500 based on a $25 penalty per violation every two weeks for 14,200 pay periods, divided by 2. But in light of *Naranjo v. Spectrum Servs. Ins*. (2024) 15 Cal.5th 1056, 1065 [if an employer reasonably and in good faith believed it was providing a complete and accurate wage statement

then it was not knowingly and intentionally failing to comply with the wage statement law, precluding penalties], counsel determined a significant discount was appropriate, reducing the amount to $35,500 (approximately 20% of the maximum value).

- **Failure to Indemnify Necessary Business Expenses:** Plaintiff's claims were based on use of personal cell phones to communicate with co-workers and supervisors, and failure to maintain any written business reimbursement policy. Plaintiff's counsel estimated the maximum value of these claims at $710,000, at $100 a violation every 2 weeks for 14,200 pay periods. Defendants contend there was never a need for employees to use personal cell phones as part of their job duties, given the nature of the work (harvesting), and thus contends no written policy was necessary. Counsel applied a "significant discount" to these claims, "as the actual reasonable requirement for reimbursement of cell phone costs," in counsel's experience, "is typically a small fraction of an employee's bill," and as such, risk-adjusted the settlement amount to $17,500, which is approximately 2 percent of the maximum value.
- **Failure to Maintain Accurate Wage Records:** These claims are based on defendants' failure to maintain payroll records for a period of three years. The penalty is $500 per violation and the maximum value was calculated as $55,200 (221 aggrieved employees times $550, divided by 2). Defendant has denied that if failed to maintain records, and it claims that the only relevant allegations involve off-the-clock claims, which are derivative. "Based on the risks posed by [defendants'] defenses . . . to reduce such penalties, [counsel]" found a reduced risk assessment value for settlement was warranted, to $11,050, or approximately 20% of the maximum value.
- **Failure to Pay All Earned Wages Twice Per Month**: Plaintiff's claims are based on the defendants 'failure to pay all wages as discussed above. "Based on the 14,200 pay periods in the PAGA Period, this claim could theoretically trigger once per pay period [meaning, at $100, the maximum would be $142,000], but logically could not have done so given that Defendant paid the Aggrieved Employees on some number of occasions (if Defendants paid the Aggrieved Employees later than the timing provided for by section 204, there would be [fewer] violations than pay period)." Because it is uncertain whether such claims are properly grounded in derivative claims," counsel "discounted the claim by 90%," meaning the claims were valued at $14,200 for purposes of settlement.
- **Waiting Time Penalties:** Plaintiff's claims are based on allegations that "hourly-paid or non-exempt employees are entitled to back overtime compensation for time worked off-the-clock as well as missed mean and rest breaks, thereby triggering waiting time penalties upon [] separation . . .." Counsel nevertheless attributed "limited value" to these claims, as the violations must be either willful

> or intentional, in light of *Naranjo, supra*. The maximum value of the claim was $22,100 (221 aggrieved employees times $100 for each 2 weeks); plaintiff's counsel discounted the value to $2,210 for settlement purposes

With these figures in mind, the total maximum value of plaintiff's claims was calculated to be $3,591,800, with the discounted value of the claims at $398,960. The gross settlement amount is $315,000, which is approximately 8 percent of the maximum value, but approximately 78% of the reasonable discounted value. In reaching the settlement, counsel noted there were "serious risk" with the litigation, including the court's "inherent power to adjust penalties downward" based on good faith efforts by defendants. Also, according to counsel, based on her experience, she "believes that his compromise figure is fair and reasonable and presents and excellent value for the State and the Aggrieved Employees.: Further, opines counsel, resolution by settlement will obviate "the need for additional expensive and time-consuming litigation that could very well result in an outcome less satisfactory than that proposed under the settlement." Counsel has detailed her experience (and that of her colleagues) in her declaration. It is also clear there was on collusion, as the matter was resolved following a meeting with an independent mediator.

The court finds the amount of investigation and due diligence was adequate, counsel's explanations and attestations to be persuasive, and thus determines that the $315,000 settlement is fair, reasonable, and adequate, particularly in light of the discounted value of the lawsuit, which the court finds both realistic and reasonable. Counsel's reassessment, coupled with the arms-length negotiation following mediation, the volume of information obtained, and counsel's detailed experience outlined in her declaration, supports the reasonableness of the settlement amount. This is particularly true given the detailed explanations provided by Ms. Hyun in her declaration in support of the discounted value of the lawsuit. The court likely would find the settlement amount be reasonable, fair and adequate, even based on the maximum value, although that amount seems unrealistic, as explained by counsel in her declaration. (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 $315,000 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, 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 observes 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 has cited to *Moniz* (on pages 8 and 9 of its memorandum of points and authorities), but has failed to address the highlighted standard it articulates. Plaintiff is directed at the hearing to address orally whether the $315,000 is fair, reasonable, and adequate, ***given PAGA's purposes of remediating present labor law violations, deterring future ones, and maximizing enforcement***, under the standards enunciated by *Moniz*. For example, plaintiff fails to address the import of paragraphs 42 and 43 of the "PAGA Settlement Agreement[,]" which (respectively) address confidentiality and defendant's admission of *nonliability*. How is the public benefited, and how are the wage and hour laws enforced, when the settlement is confidential? How are wage and hour laws enforced in the future when defendant offers no admission of liability? Further, nothing in the "PAGA 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 in ascertaining the fairness of a PAGA settlement, 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 has simply ignored the highlighted standards noted above as contained in *Moniz* and progeny. Plaintiff makes no argument that the settlement "will deter future violations of the Labor Code . . . ." Of course, it is possible to argue that the ***aggregate*** settlement value -- $315,000 -- is sufficiently "robust" to ***alone*** 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, simply ignores the requirement in the briefing. This omission is troubling.

Accordingly, before the court can determine whether the settlement amount is fair, reasonable and adequate, counsel will have to explain at the hearing that 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. Counsel should come prepared to discuss.

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

Plaintiff asks for $105,000 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 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.)

Here, the settlement agreement creates a true common fund of $315,000 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, including one-third of the settlement amount. (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].) The fee request of $105,000, which amounts to approximately 33.3% of the gross settlement amount, is commensurate with existing practice in California.

As a cross-check, plaintiff's counsel has provided a declaration indicating four attorneys have worked on the action to date, involving 137.2 hours, for total amount of $89,807.5, with an anticipated 5 hours for the present motion, for a total billing of $92,807.50. The calculations are broken down as follows: Ms. Yang at $850 an hour (for 22.7 hours); Ms. Hyun at $625 an hour (for 88.1 hours); Mr. Jackson at $575 an hour (for 9.2 hours); and Ms. Le at $400 an hour (for 25.4 hours).

The court has no issue with the number of attorney hours worked for purposes of the lodestar calculation cross-check. The court does not agree, however, that it is appropriate to sanction hourly billing rates of $850 an hour for Ms. Yang and $625 an hour for Ms. Hyun, given the maximum hourly billing rates changed by attorneys in this area (including Santa Barbara). The highest rates in this area range between $550 to $600. The court will therefore reduce Ms. Yang's and Ms. Hyun's hourly billing rates to $600 each for purposes of the lodestar calculation. The new lodestar calculation amounts to $13,620 for Ms. Yang and $52,800 for Ms. Hyun, for an overall amount of $86,930. At the same time the court also recognizes a need for out-of-area attorneys in wage and hour litigation, which is necessary to achieve successful litigation results. This means the court will apply a multiplier to the $86,930 figure. In the Ninth Circuit, for example, multipliers "ranging from one to four are frequently awarded . . . when the lodestar method is applied." (*Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051 n. 6 [approving multiplier of 3.65].) The same is true in California courts. (*Wershba, supra,* 91 Cal.App.4th at p. 255 ["multipliers can range from 2 to 4 or even higher"]; *In re Lugo* (2008) 164 Cal.App.4th 1522, 1547 [same]; see generally *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66].) Recognizing the need for out-of-area expertise, and given the contingency nature of the employment, coupled with the difficulty and complexity of the case, the court is

willing to apply a multiplier of 1.2 (i.e., even if the court reduces the hourly rate to $600 an hour). (*Ketchum v, Moses* (2001) 24 Cal,4th 1122, 1132 [factors for a multiplier include novelty and difficulty of questions, skill displayed, extent to which the nature of the litigation precluded other employment, and the contingent nature of the fee award].) Under the new lodestar calculation, the new aggregate amount would be $104,316, which supports the percentage method calculation discussed above.

Accordingly, the court appoints Sentinel First, APC as counsel and finds that attorney fees of $105,000 are reasonable.

As for litigation costs, "The PAGA Settlement Agreement" contemplates litigation costs up to $15,000, although counsel is asking for actual costs of $9,979.85, which are explained in Exhibit 4 to Ms. Hyun's declaration. Most of the costs ($8,000) were for the mediator. The costs appear reasonable. The court awards litigation costs of $9,979.85, up to $15,000.

Finally, plaintiff asks the court to appoint Phoenix Class Action Settlement Administration Solutions, and requests costs/fees of up to 4,000. According to the declaration of Jodey Lawrence (belatedly submitted on July 31, 2025, after prompting from the court), Phoenix Class Action Settlement Administration Solutions has extensive experience in representative actions. In Exhibit A, attached to the declaration, there is an invoice for $4,000 in costs. The court appoints Phoenix Class Action Administration Solutions and approves costs of $4,000.

v) Enhancement

As observed above, the court has determined, based on plaintiff's English and Spanish declarations, that plaintiff is asking for an enhancement of $5,000, not the $7.500 as detailed in the briefing.[3] As plaintiff is the one asking for the enhancement, his request governs.

Plaintiff declares as follows: "I did research on many attorneys and looked for someone who had a lot of experience in employment law. During these calls, including my calls with the Sentinel Firm, I was asked numerous questions about my background, my employment history, and my work for BFI Harvesting. I was also asked for, and I provided the employment documents I received from BFI Harvesting that were still in my possession." "I understood from the beginning of the case . . . that I would have to take on significant responsibilities, burdens, and risks being involved in this case. Before I signed up, I was told there was a risk of cost or fee award issued against me if the case was not successful." It was a "difficult decision," as this lawsuit "would cause future employers to be less likely to hire me. . . ." After I "signed up, I was

[3] As explained later in the body of this order, the court would not award a $7,500 enhancement even if this were the request, for that amount constitutes a 24.8 multiplier over the average payout to the 221 aggrieved employees, an excessive number under the circumstances (and certainly not justified by generic attestations offered by plaintiff and Ms. Hyun in their respective declarations).

contacted numerous times by [counsel] . . . ." "As part of the preparation process for the then-upcoming mediation, I had several discussions with my lawyers to explain the specifics of my workday while I was employed . . . and how I was not paid properly or compensated for a significant amount of time that I spend working for BFI." After mediation, "I spend a significant amount of time reviewing the agreement and I spoke with my attorneys about the agreement so that they could answer a few questions I had about it." "Based on my efforts in this case, finding a lawyer, organizing and providing numerous documents to my lawyers that were very helpful to the case, numerous calls and emails with my lawyer, being named as plaintiff in a lawsuit, participating in the mediation process, my participating in the lawsuit as summarized above, and the settlement we were able to achieve, I believe the rested incentive payment of $5,000 is appropriate."

Attorney Hyun declares in relevant part as follows: " . . . Plaintiff faces actual risks with his future employment and any new careers he embarks on by putting himself on public record in an employment lawsuit, as a subsequent employer could look negatively on his litigation history against a previous employer. . .. Plaintiff also actively participated in all phases of the lawsuit, providing my offices with crucial information regarding the claims, including reviewing documents, holding discussions with our officers, discussing potential defenses that Defendants might assert, reviewing the settlement documents, and taking on the serious responsibility of acting" on behalf of the aggrieved employees.

The court is aware that no objections have been made to the enhancement amount, and that the representative class of 221 aggrieved employees is large. It is also aware, based on the readjusted numbers as discussed above, that $66,857.04 will be available to the 221 aggrieved class, meaning the average payout to each representative class member (aggrieved employee) is $302.52. The $5,000 enhancement constitutes an approximate multiplier of 16.52 over the average payout. In the analogous context of class action suits, courts have expressed concern when there is 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 aware and an average $24.17 recovery (a multiple 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 $5,000) falls within the reasonable range contemplated by these cases. While the two declarations could have been more specific about

hours worked and the specific risks at play (*Clark, supra*, at pp. 806-807), the court finds the $5,000 enhancement to be reasonable under the circumstances.

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

The letter notice and the payment instructions to be sent to the aggrieved employees (the representative class) in both English and Spanish seem reasonable. They describe the nature of the case, the attorneys representing both sides, a description of how the settlement impacts the rights of the aggrieved employees, how much a person can expect to receive minus all deductions discussed above, and the representative class. The notice details the nature of any release (albeit in generic terms). It describes what happens if the checks are uncashed (going to the California State Controller as unclaimed property). The court finds that the declaration submitted by Jodey Lawrence adequately explains the procedures the third-party administrator will utilize in disbursing the money to the aggrieved employees as part of the representative class. All requirements seem reasonable.

D) Summary

- Counsel at the hearing is directed to address the nature of the errors/omissions made in the briefing, as detailed in this order.
- Counsel is also directed to explain at the hearing why the settlement amount of $315,000 comports with the standards enunciated in *Moniz v. Adecco USA, Inc.*, (2021) 72 Cal.App.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 to *Moniz*, fails to acknowledge this standard. Plaintiff is directed to explain at the hearing to the court's satisfaction how this this settlement "remediate[s] present labor law violations, deter future ones," and maximize enforcement of state labor laws when defendant admits no wrongdoing and the agreement is confidential, as clearly contemplated in "The PAGA Settlement." As part of this plaintiff should address, inter alia, the confidentiality and non-liability admission provisions in The PAGA Settlement.
- ***If*** counsel's explanations about the above matters are satisfactory, the court will 1) find the settlement amount of $315,000 to be fair, reasonable, and adequate; appoint Sentinel Firm, APC as counsel; 2) award $105,000 in attorney's fees and up to $15,000 in litigation costs; 3) appoint Phoenix Class Action Administration Solutions as the third-party administrator, and award up to $4,000 in costs; 4) award $5,000 as an enhancement to plaintiff; and 5) determine that all payment procedures are adequate and reasonable. Plaintiff is directed to provide a new proposed order for signature commensurate with the readjusted figures discussed above.
- Counsel is directed to appear either in person or by Zoom at the hearing.