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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF IMPERIAL

JULIA TORRES, JOY OLIVER BANKS, and JOSE GOMEZ, in a Representative capacity only, and on behalf of other members of the general public similarly situated Plaintiff v. MANAGEMENT & TRAINING CORPORATION, a Delaware Corporation; and DOES 1-10, inclusive Defendants	CASE NO. ECU003320 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S *UNOPPOSED* MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT, AND CERTIFICATION OF PROVISIONAL SETTLEMENT CLASS** Date: February 9, 2026 Time: 8:30 a.m. Dept.: 5 Judge: Hon. Jeffrey B. Jones

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I. SUMMARY OF MOTION

This matter is a “Wage and Hour” representative (*i.e.*, “PAGA”) and Proposed class action. Plaintiff Julia Torres brings Labor Code claims against Defendant MANAGEMENT & TRAINING CORPORATION. (hereinafter, “MTC” or “Defendant”). This global settlement also includes the following other matters: *Joy Oliver Banks v. Management & Training Corporation, et al.,* Los Angeles Superior Court, Case Nos. 23STCV29589 & 23STCV23648; and *Jose Gomez v. Management & Training Corporation, et al.*, Imperial County Superior Court, Case No. ECU003580. The parties have stipulated to the filing of an amended Complaint which adds *Oliver-Banks* and *Gomez* as named Plaintiffs in this action.

Following approximately **<u>21</u>-months** of formal litigation, exchanges of formal and informal discovery, a full-day of Mediation, and extensive arms length negotiations, the parties agreed to the terms of a class and PAGA action settlement. The parties have drafted and executed a Joint “Stipulation of Settlement and Release” (the “Agreement”), lodged as **Exhibit A**[1] to the declaration of Cody Archer. Briefly, the parties’ settlement figures are estimated as follows:

Approximate size of class:	**1,015 individuals**
Notice Period:	**30 days from Mailing of Notice**
Settlement Fund (“GSA”):	**$1,400,000.00**
Settlement administration:	**$11,000.00** (or less)
Class representative incentive:	**$28,500.00** ($9,500.00 each)
LWDA payment:	**$37,500.00** (75 % Share of $50,000 allocation)
Attorney's fees:	**$490,000.00** (1/3 of total)
Litigation costs:	**$33,000.00**

The estimated average payment (before taxes) to each Class Member based on the above figures will be **$775.86**. These estimates are an “average” only, and do not account for the fact that Class Members will receive more or less than an “average” share, as the amounts owed are calculated based on the number of workweeks each individual worked for Defendants during the class period.

<u>Please Note</u>: This is a **<u>non</u> reversionary** settlement, in that the entire Net Settlement Amount, after the

[1] This Memorandum incorporates by reference the definitions in the Agreement and the terms used herein are intended to have the same meaning as set forth in the Agreement.

awarded costs, taxes and fees are deducted, will be automatically disbursed to all Class Members who do not file a request to "opt-out" of participation in the lawsuit. (**Exhibit A** at ¶ 3.1).

Plaintiffs now move the Court for an order: **(1)** preliminarily approving the proposed class action settlement; **(2)** directing that Notice (defined below) of the settlement be provided to Class Members; and **(3)** scheduling a hearing for final approval of the proposed settlement and entry of the parties' proposed Final Approval Order and Judgment. Defendants do not oppose Plaintiffs' motion.

II. FACTUAL AND PROCEDURAL HISTORY

The class is comprised of all hourly, non-exempt employees of Defendant who performed work for Defendant in California at any time between October 11, 2022 through September 10, 2025.

1. The Operative Claims, Investigation and Informal Discovery Conducted

On September 28, and December 4, 2023, Joy Oliver Banks filed her Complaints, in the County of Los Angeles Superior Court, Case Nos. 23STCV29589 and 23STCV23648, alleging meal and rest period violations, minimum wage and overtime violations, wage statement and final pay violations, and failure to pay all accrued sick pay and vacation time. (Archer Decl. ¶ 3; ROA # 1).

On January 12, 2024, Plaintiff Torres filed the Complaint in this matter. The Complaint alleged violations of the California Labor code involving, *inter alia*, (1) failure to pay minimum wages; (2) failure to pay proper overtime compensation; (3) failure to provide meal breaks; (4) failure to provide rest breaks; (5) failure to reimburse employees for necessary business expenses; (6) failure to provide accurate itemized wage statements; and (7) failure to pay all wages to upon termination. (Archer Decl. ¶4).

On June 20, 2024, Jose Gomez filed his Complaint, in the County of Imperial Superior Court, Case No. ECU003580, alleging meal and rest period violations, minimum wage and overtime violations, wage statement and final pay violations, and failure to pay all accrued sick pay and vacation time. (Archer Decl. ¶5).

Please Note: As part of this settlement, and prior to preliminary approval, Plaintiff Torres will file a First Amended Complaint (the "Operative Complaint"), (1) adding Plaintiffs Banks and Gomez as plaintiffs, and (2) amending the class definition to include certain claims that are the subject of this global Settlement. (**Exhibit A** at Recitals: § 2.5)

On February 1, 2024, Plaintiff propounded discovery requests on MTC. (Archer decl. ¶6).

Through these requests, Plaintiff sought, among other information and documents, the identities of putative class members, compensation policies, Meal and Rest Period policies, employee handbooks, wage statements, payroll records, time records, job descriptions, and reimbursement policies. (*Id*).

MTC provided discovery responses, documents, and objections to Plaintiff's requests. After a lengthy meet and confer processes, MTC produced, *inter alia*, Plaintiff's time and wage records, copies of the relevant employee handbooks, copies of all other relevant employee policies, the contents of Plaintiff's employee file, Plaintiff's time records, and itemized wage statements. (Archer decl. ¶7).

Defendant also propounded a set of written discovery on Plaintiff. (*Id.*).

Following further substantive exchanges of discovery and litigation, the parties agreed to explore resolution. As part of the settlement discussions, MTC agreed to voluntarily produce and verify hundreds of pages of documents. The production included all relevant policies. It also included a large electronic sampling of other class members' time and wage data. (Archer Decl. ¶8).

On July 8, 2025, the Parties attended a Mediation before experienced "Wage and Hour" Mediator, Gig Kyriacou. (Archer Decl. ¶9). Following a "mediators proposal,"the Parties agreed on key terms of a settlement that would globally resolve all class and representative "Wage and Hour" claims asserted in the operative complaint in this Action and the related Banks and Gomez Actions. (Archer Decl. ¶10).

2. Settlement Discussions

On July 8, 2025, the Parties attended a full day mediation before the experienced "Wage and Hour" mediator, Gig Kyriacou. (Archer Decl. ¶11). Prior to mediation, counsel for both parties agreed to the informal exchange of information, and case theories and defenses pertinent to a class-wide settlement. *Id*.

Following a "mediators proposal,"the Parties agreed on key terms of a settlement that would globally resolve all class and representative "Wage and Hour" claims asserted in the operative complaint in this Action and the related Banks and Gomez Actions.(Archer Decl. ¶12).

As of December 5, 2025, the parties agreed on all final terms of the settlement which was memorialized in the Agreement, which is attached to the declaration of Cody D. Archer as **Exhibit A**. (Archer Decl. ¶13). Plaintiffs now seek the Court's preliminary approval of the Agreement. (*Id*).

III. SETTLEMENT TERMS

The Agreement includes the following key terms:

1. Contingent Nature of the Settlement

This Agreement is contingent upon preliminary and final approval by the Court. If for any reason the Settlement does not become final, the Parties will be returned to their positions with respect to the Action as if the Agreement had not been entered into. Should the Settlement not become final, for whatever reason, Defendant reserves the right to move to contest certification should this Settlement be reversed on appeal or otherwise not become final. (**Ex. A** at ¶11.1).

2. Description of the Settlement Class

Solely for the purposes of the Agreement, the parties have agreed that the term "Class Member" is defined as:

> a person employed by Defendant in California and classified as an hourly, nonexempt employee who worked for Defendant during the Class Period. (**Exhibit A** at ¶1.5).

The parties estimate that as of July 8, 2025, the Settlement Class consisted of approximately One Thousand Fifteen (1,015) individuals, as determined by Defendant's employment records. (**Ex. A** at ¶8).

3. Appointment of Settlement Administrator

The parties agreed to use CAC Services Group, LLC, as the "Settlement Administrator" for purposes of providing the Notice of Class Action Settlement, issuing payments pursuant to the Agreement, and carrying out all duties pursuant to the Agreement. (**Ex. A** at ¶1.2). CAC's sole business is the administration of class action settlements and class action notices. (Archer decl.¶14).

4. Scope of the Release

For purposes of the Agreement, Class Members release all claims that are alleged in the First Amended Complaint ("FAC"). The precise release language is reflected in **Exhibit A** at ¶ 5.1.

5. Cash Payment and Allocation

The Agreement provides for an automatic Individual Settlement Payment to the members of the Class. No claims need be submitted. Class Members will be entitled to an average share of approximately $**775.86**. (Archer Decl. ¶15). The actual share will depend on the amount of workweeks they were employed during the limitations period. (**Exhibit A** at ¶ 3.2.4). The Individual Settlement will be allocated as follows: twenty percent (20%) constitutes wages (subject to withholdings and deductions and reported as wage income on a Form W-2) and eighty percent (80%) constitutes non-wage penalties, and interest. (**Exhibit A** at ¶3.2.4.1).

6. Proposed Settlement and Notice Program

Subject to Court approval, the Parties agree that, within thirty (30) days after the Court enters any Order granting preliminary approval of the Settlement, Defendant MTC will provide to the Settlement Administrator the following information for each Settlement Class Member in a readable Microsoft Office Excel spreadsheet: class member names and last known addresses, social security numbers, number of workweeks, and number of PAGA period workweeks. (*See* **Exhibit A** at ¶4.1). The Settlement Administrator will perform address updates and verifications, including running all names through the National Change of Address Database, prior to the first mailing. (*See* **Exhibit A** at ¶4.3). Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the class data, the Settlement Administrator will mail the Class Notice ("Notice") to each Class Member, by first class mail. (*See* **Exhibit A**, at ¶4.3). The parties' agreed upon Class Notice is attached to the Declaration of Cody D. Archer, as **Exhibit B**. (Archer Decl. ¶16).

The Notice is designed to provide Class Members with detailed information about the lawsuit, the Agreement, their rights and settlement benefits, and how to participate, exclude themselves, or object. (**Exhibit B**). The Class Members will have thirty (30) calendar days (from the date of notice) to request to be excluded, or file objections. This deadline will be extended an additional 14 days if notice is re-mailed. (**Exhibit A**, at ¶7.5, 7.7; **Exhibit B** at § V(B-C)).

The Class Members will be given notice of the release, and information about the expected settlement amount based on the workweeks employed with Defendants during the Class Period. If they wish to receive a share of the Settlement, Class Members need not take any additional action. Class Members are also given instructions on how to exclude themselves, object to the Settlement, or appear at the final approval hearing to state objections. (*See* **Exhibit A**, at ¶7.5, 7.7; **Exhibit B** at § V(A-C)).

The Notice process also has additional safeguards. For instance, for Notices returned as nondeliverable, the Settlement Administrator will perform a skip-trace and mail or re-mail Notice to an updated address (if any), upon receipt of the returned mail. (*See* **Exhibit A** at ¶7.4.3.) It is the intent of the parties that all reasonable means be used to locate Class Members.

The Notice will inform Class Members of the number of weeks worked during the Class Period (according to Defendant's records) and their estimated settlement amounts. Class Members will have the opportunity to dispute the workweek calculation by submitting written documentation to the Settlement Administrator. (*See* **Exhibit A** at ¶ 7.6 and **Exhibit B** at IV(E)).

PAGA Members do **not** require notice prior to a settlement, nor may they opt out of the PAGA penalty portion of the settlement. *Robinson v. S. Ctys. Oil*, (2020) 53 Cal. App. 5th 476, 482–83, 2020). PAGA members are nonetheless informed of the Settlement and estimated payments. PAGA members can opt-out of the Class Settlement to retain all non-PAGA claims in their individual capacities. These rights are explained in the Class Notice. (**Exhibit B** at § IV(H)).

7. Contingent Costs

The Agreement provides for Four Hundred Ninety Thousand (**$490,000.00**) in Attorneys' Fees, which is one-third (33%) of the total Settlement, and up to Thirty Three Thousand Dollars ($33,000.00) in litigation costs. (*See* **Exhibit A** at ¶3.2.2). For costs incurred in administrating the Settlement, the Agreement provides for an estimated Eleven Thousand Dollars ($11,000.00), or less. (*See* **Exhibit A** at ¶ 3.2.3).

The Agreement also provides for Fifty Thousand Dollars ($50,000.00) to be allocated for Plaintiff's PAGA claims with 75% of the amount, or Thirty Seven Thousand Five Hundred Dollars ($37,500.00) being paid to the LWDA, and 25%, or $12,500.00, being distributed amongst the PAGA Members. (*See* **Exhibit A** at ¶3.2.5).

The Agreement also provides payments to Plaintiffs Torres, Banks, and Gomez of Nine Thousand Five Hundred Dollars (**$9,500.00**) each, which represents a Class Representative Enhancement Payment in consideration for their services as Class Representatives. (*See* **Exhibit A** at ¶ 3.2.1). The class is being notified of the payments to Plaintiffs. (See **Ex. B** at § IV(B)).

The Class Representative Enhancement Payments were part of good faith negotiations and are intended to recognize that it was the Class Representatives (Ms. Torres, Ms. Banks and Mr.

Gomez) who initiated the lawsuits, initiated the PAGA claims, provided critical documents and witnesses to their attorneys, and worked with their attorneys to propound and prepare written discovery, all in an effort to obtain money allegedly owed not only to themselves, but to hundreds of other employees. (Archer Decl. ¶17).

IV. SUMMARY OF CLAIMS AND ESTIMATES OF POTENTIAL DAMAGES

Counsel hereby submits estimates and calculations for the total potential value of all claims so this Court may evaluate if the amount to be paid to the class ultimately could be determined to be fair and reasonable when balanced against the probable outcome of the future litigation. *Kullar v. Foot Locker Retail, Inc.*, (2008) 168 Cal. App. 4th 116, 133.

Concerning the strength of the plaintiff's case, the California Court of Appeal has said that the "merits of the underlying class claims are not a basis for upsetting the settlement of a class action; the operative word is 'settlement.'" *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal. App. 4th 1135, 1150 [citing, *inter alia, City of Detroit v. Grinnell Corp.* (2d Cir. 1974) 495 F.2d 448,455 ("The fact that a proposed settlement may only amount to a fraction the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved"); see also *Linney v. Cellular Alaska P'ship.* (9th Cir. 1998) 151 F.3d 1234, 1242 ("This court has aptly held that 'it is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements'"); *Officers for Justice v. Civil Servo Com.* (9th Cir. 1982) 688 F.2d 615, 625 ("The proposed settlement is not to be judged against a hypothetical or speculative measure of what might have been achieved by the negotiators.")

Each of the primary claims also had risks to obtaining class certification and a finding of liability. If Defendants' defenses were successful, the class would not receive anything. As set forth below, Plaintiff submits that the most realistic "best case" scenario would be an average recovery per class member of approximately **$775.86**, and a worst case scenario would be a recovery of $0, by way of decertification or defense verdict. (Archer decl. ¶18). Given all the risks on each claim, the estimated **$775.86** average recovery secured via this settlement is a reasonable compromise and is in the best interests of the class given all the risks of continued litigation. (Archer decl. ¶19).

A. FAILURE TO PAY ALL COMPENSATION CLAIMS

Plaintiffs' unpaid wages (and overtime) claims were based on the allegation that employees were performing unpaid work due to the MTC timekeeping system, which required employees to record their "scheduled" (not "actual") work times. Moreover, MTC timekeeping system took "minutes worked" and transferred that amount to a decimal, causing other losses due to certain alleged "transitional math errors" caused by the payroll system. Plaintiff alleged this resulted in regular time and overtime pay being owed where Defendants were on notice of work being performed without pay. (Archer decl. ¶28).

Defendants also denied that any unpaid work occurred, and even if some did occur, Defendants claimed it was not on notice of these alleged Labor Code violations and had a strict written prohibition against off-the-clock work and a mandate that all time worked must be accurately recorded. Defendants asserted proof of these alleged violations would require individualized inquiries, which could preclude class certification and make any PAGA claims unmanageable. (*Id.*).

Based on Class Counsels' analysis, this claim was worth as little as $0 (a defense verdict) or as much as **$781,590.60**. (Archer decl. ¶ 20).

B. MEAL AND REST PERIOD CLAIMS

Plaintiffs were able to identify hundreds of examples of missing or late Meal Periods without the provision of a Meal Period penalty payment. Defendants argued that these records do not conclusively show whether (1) Defendants actually failed to provide the Meal Period, (2) there was a voluntary waiver, (3) employees forgot to clock out, or (4) employees voluntarily chose to skip or take them late even though they were provided. Defendant further argued that evidence existed that rebutted any presumption that the same records could be used as a basis for determining liability. Additionally, in light of the written Meal and Rest Period policy, Hertz contended there was no uniform policy or practice of denying Meal and Rest Periods, requiring individualized inquiries that would make any PAGA claims unmanageable. (Archer decl. ¶ 29).

Plaintiffs allege that the Rest Period policy (1) contained patently illegal language restricting employees to the work premises, and (2) lacks additional required statutory language. Plaintiffs also alleged the Defendant's written policies improperly restricted class members from leaving the premises during their Rest Periods, among other deficiencies. MTC pointed out that it provided for adequate breaks and argued that witness testimony would demonstrate that in practice, no restriction on Rest Periods was ever enforced. MTC also contended individualized inquiries abound as to why individual employees may have failed to take appropriate Meal or Rest Periods. (Archer decl. ¶30).

While there are time records to support the existence of alleged Meal Period violations, there are no corresponding rest period records, making this aspect of the claim much harder to prove. Some Courts have been disinclined to accept survey evidence that may have been needed to help establish rest period violations. See e.g. *Duran v. U.S. Bank National Assn*. (2018) 19 Cal.App.5th 630.

Based on counsels' analysis, these claims were worth as little as $0 (a defense verdict) or as much as $**7,468,532.40**. (Archer decl. ¶20).

C. PLAINTIFF'S WAGE STATEMENT CLAIMS

Plaintiff acknowledges that these claims are largely derivative, in that both the gross and net wages could be found to be inaccurate, due to the above-referenced claims.

MTC argued that the failure to list gross and net wages are derivative of other claims that may ultimately fail and as a result there is no "knowing and intentional failure" to list information, which triggers liability under Labor Code §226(e). (Archer decl. ¶31).

The California Supreme Court has recently held that the failure to pay meal and rest period premiums ***may*** give rise to a claim for inaccurate wage statements (or waiting time penalties). However, such derivative liability is not automatic and the Plaintiff still must show *a* "knowing and intentional" or "wilful" failure to comply with the Labor Code. See *Naranjo v. Spectrum Security Services, Inc.* (2022) 13 Cal.5th 93,109. Defendants (as with the underlying Meal and Rest Period claims) maintained individualized inquires would abound as to why breaks were missed and whether meal and rest period premiums should have been paid, requiring individualized inquiries that would make any PAGA claims unmanageable. (Archer decl. ¶ 32).

Based on counsels' analysis, this claim was worth as little as $0 (a defense verdict) or as much as **$3,285,900.00**. (Archer decl. ¶ 20).

D. PLAINTIFF'S REIMBURSEMENT CLAIMS

Plaintiffs contended that MTC violated Labor Code section 2802 by failing to reimburse its employees for certain costs. MTC contended that Plaintiffs' (and others') position did not require the use of a personal cell phone. (Archer decl. ¶ 33). Based on counsels' analysis, this claim was worth as little as $0 (a defense verdict) or as much as $1,495,084.50. (Archer decl. ¶ 20).

E. OTHER "DERIVATIVE" CLAIMS

The remaining claims are derivative in that PAGA and Labor Code § 203 penalties would only be permissible if the above claims are proven. (Archer Decl.¶34).

The parties agreed to allocate $50,000.00 to the PAGA claims, which is 3.57% of the total settlement. This PAGA allocation is in the range routinely approved by California Courts. *See Garcia v. Gordon Trucking, Inc.* (E.D. Cal., Oct. 31, 2012, No. 1:10-CV-0324 AWI SKO) 2012 WL 5364575, at *7 (approving $10,000 PAGA penalty for a California class with a $3.7 million gross settlement payment); *Syed v. M-I, L.L.C.* (E.D. Cal., Feb. 22, 2017, No. 112CV01718DADMJS) 2017 WL 714367, at *13 (approving 2.53% of the estimated $3.95 million Net Settlement Amount allocated to the California class); *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-CV-02198-EMC) 2016 WL 5907869 (approving allocation of $20,000 to the PAGA claim (**0.15%** of its total value of $12,952,000) as reasonable in the context of the settlement as a whole); *In re Uber FCRA Litigation* (N.D. Cal., June 29, 2017, No. 14-CV-05200-EMC) 2017 WL 2806698 (approving a settlement agreement of $7.5 million, where the amount allocated to the PAGA claims was only $7,500.00 – .01% of the total settlement amount).

Based on Class Counsel's analysis, the PAGA and Labor Code § 203 claims were worth as little as $0 (a PAGA defense verdict or denial of certification of the § 203 claim) or as much as $11,500,650.00 and $6,990,893.70 respectively. (Archer decl. ¶ 20).

F. CASE LAW SUPPORTS A FURTHER REDUCTION ON ANY RECOVERY

Plaintiff concedes he would be highly unlikely to ever be awarded an amount approaching the maximum damages set forth above. To wit, the majority of the recovery would be "derivative" penalties under PAGA, Labor Code § 203 and Labor Code § 226. The Court would have great discretion to mitigate any penalties awarded. *Thurman v. Bayshore Transit Management, Inc.* (2012) 203 Cal.App.4th 1112, 1135 (disapproved on other grounds).

In a recent trial involving Class Counsel in this case, the Court found liability, but then reduced the PAGA penalties by 90%, from $50 per violation down to $5 a violation. See *Carrington v. Starbucks Corp*. (2018) 30 Cal.App.5th 504; See accord *Fleming v. Covidien, Inc.*, No. ED-CV-10-1487-RGK(OPx), 2011 WL 7563047 at *4 (C.D. Cal. Aug. 12, 2011) (reducing PAGA penalties by over 82%, in part because employer was "not aware" of violations). And in *Carrington*, the Trial Court declined to award penalties under Labor Code §§ 203 and 226, noting that other trial courts have declined to "stack" (impose multiple) penalties based on the same underlying Labor Code violation. See *Ruelas v. Costco Wholesale Corporation* (N.D. Cal. 2014) 67 F.Supp.3d 1137.

Class Counsel believes a mitigation of the damages and potential PAGA penalties would be warranted here. As in the *Carrington* case, there was evidence that MTC attempted to provide meal and rest periods in practice, and the written policies contained no facially non-compliant terms. Given this, it is likely that some of the violations by MTC were not "willful." Finally, given the defenses raised by Defendants, there was a significant risk that many of the certified claims would not have been maintained through trial and appeal. (Archer decl. ¶ 24).

The Parties agree the failure to pay "former employees" under § 203 is derivative of the other claims. As MTC asserts a "good faith dispute" for withholding any unpaid wages, it would be difficult to establish any liability for a "willful" failure to pay wages owed. (Archer decl. ¶ 25).

Based on the above, it is possible that PAGA penalties could be reduced to approximately $5 per violation and the Court would find no basis for imposing Labor Code §§ 203 or 226 penalties. (Archer decl. ¶ 26). Given those risks, the penalties were discounted by 75 %. If this occurred, the average class member's pre-tax share of a realistic best case recovery would be **$4,293.70**. (Archer decl. ¶ 27).

Class Counsel submits the **$775.86** average recovery secured via this Settlement, is a reasonable compromise and in the best interests of the Class. (Archer decl. ¶19).

V. PROVISIONAL CERTIFICATION OF THE CLASS IS APPROPRIATE

Under California law, a class action is appropriate when the class is ascertainable and there is "a well defined community of interest in the questions of law and fact involved affecting the parties to be represented." Cal. Code Civ. Proc. § 382; *Sav-on Drug Stores, Inc. v. Superior Court* (2004) 34 Cal. 4th 319, 341. State law requirements under California Code of Civil Procedure § 382 for class certification mirror those of federal law under Rule 23 of the Federal Rules of Civil Procedure: numerosity, typicality of the class representatives' claims, adequacy of representation, predominance of common issues, and superiority. See Fed. R. Civ. P. 23(a); see also *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1019. Thus, for settlement purposes, each of these elements must be present. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal. App. 4th 224, 237-38.

A. THE PROPOSED SETTLEMENT CLASS IS ASCERTAINABLE

The proposed class is ascertainable because all Class Members currently or formerly worked for Defendant as a nonexempt employee and will be identified through Defendant's employment records. See *Rose v. City of Hayward*, 126 Cal.App.3d 926 (1981) (finding that "Class Members are 'ascertainable' where they may be readily identified without unreasonable expense or time by reference to official records"). Thus, the ascertainability requirement is met. (Archer Decl. ¶37).

B. THE PROPOSED SETTLEMENT CLASS IS SUFFICIENTLY NUMEROUS

The numerosity requirement is met if the class is so large that joinder of all members would be impracticable. *In re Tobacco II Cases* (2009) 46 Cal. 4th 298, 318. Here, Defendant's records show that approximately **1,015 class members** worked for the company during the limitations period. (Archer Decl. ¶36). Thus, joinder of all members of the class would be impracticable.

C. THE COMMONALITY REQUIREMENT WAS MET

The commonality requirement is met if there are questions of law and fact common to the class.*See Hanlon*, *supra*, 150 F.3d at 1019. Here, for purposes of the Settlement, the parties agree the claims of Class Members all involve the same questions of law and fact. Namely, all class members were subject to the same employment policies and practices of Defendant. (Archer decl. ¶ 38). The common question exists as to whether the policies and practices Class Members were subjected to are illegal. Therefore, the commonality requirement is satisfied. See *Hanlon*, *supra*, 150 F.3d at 1019-20.

D. THE TYPICALITY REQUIREMENT IS MET

The typicality requirement is met if the class representatives and class counsel have no interests adverse to the interests of the proposed Class Members and are committed to vigorously prosecuting the case on behalf of the class. See *Wehner v. Syntex Corp.,* 117 F.R.D. 641, 644 (N.D.

Cal. 1987).

Here, there are no such adverse interests. Plaintiffs have claims substantially the same as all the other Class Members. (Archer decl. ¶39). Factual differences may exist between the class representatives and the Class Members so long as the claims arise from the same events or course of conduct and are based on the same legal theories. See *Hanlon,* 150 F.3d at 1020; see also 1 *Newberg* § 53.13 at 3-76-77 ("When it is alleged that the same unlawful conduct was directed at or affected both the named plaintiff and the class sought to be represented, the typicality requirement is usually met irrespective of varying fact patterns which under lie individual claims.")

E. THE ADEQUACY REQUIREMENT IS MET

The adequacy of representation component of the community of interest requirement for class certification "comes into play when the party opposing certification brings forth evidence indicating widespread antagonism to the class suit." *Capitol People First v. Dep't of Develop. Servs.* (2007) 155 Cal. App. 4th 676, 696-97. The adequacy inquiry "serves to uncover conflicts of interest between named parties and the class they seek to represent." *Id*. To assure "adequate" representation, the "class representative's [...] claim must not be inconsistent with the claims of other members of the class." *Id*.

Here, no such "inconsistencies" exist. Each Plaintiff will be compensated based on the same "pay period" formula as all other members of the Class. (Archer decl. ¶ 40)

Additionally, any Class Member who wishes to "opt out" of the Settlement may do so and retain all of their individual rights. (Archer decl. ¶ 41). There is therefore no conflict of interest between the Class Representatives and the Class Members. (*Id*.) Thus, at least for settlement purposes, the adequacy prong is met. (*Id*.)

F. COMMON ISSUES PREDOMINATE AND CLASS-WIDE SETTLEMENT IS SUPERIOR TO OTHER AVAILABLE METHODS OF RESOLUTION

Class certification is authorized where common questions of law and fact predominate over individual questions, and where class-wide treatment of a dispute is superior to individual litigation. See *Richmond v. Dart Indus., Inc.,* 29 Cal.3d 462, 469 (1981).

The proposed class in this case is sufficiently cohesive because, for purposes of the Settlement only, the parties have stipulated that all class certification elements are met. (Archer Decl. ¶42). All members of the Class worked under the same conditions and experienced the same policies and practices of Defendant. (See section IV, *supra*). Thus, the class is sufficiently cohesive.

Further, it is preferable to resolve all of the Class Members' claims by means of a class-wide settlement than to require each Class Member to litigate individual claims. (Archer decl. ¶43).

VI. PRELIMINARY APPROVAL OF THE CLASS ACTION SETTLEMENT IS PROPER

The trial court has broad discretion to determine whether a class action settlement is fair and reasonable. *In re Microsoft I-V* Cases (2006) 135 Cal.App.4th 706, 723. Fairness is presumed where (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. *Chaves v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 52; *Dunk v. Ford Motor Co.*(1996) 48 Cal.App.4th 1794, 1802. But, even where it appears the settlement is fair, the court must still determine on the record before it whether the settlement should be approved after considering "the strengths and weaknesses of the claims and risks of the particular litigation." *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129. The courts will consider: (i) the strength of the plaintiff's case; (ii) the risks, expense, complexity and likely duration of further litigation; (iii) the risk of maintaining class action status throughout the trial; (iv) the amount offered in settlement; (v) the extent of discovery completed; (vi) the stage of the proceedings; (vii) the experience and views of counsel; (viii) the presence of a governmental participant; and (ix) any reaction of putative class members to the proposed settlement. *Dunk*, 48 Cal.App.4th, at 1800-1801; *In re Microsoft I-V Cases*, 135 Cal.App.4th, at 723.

When evaluating factors, the court "must stop short of the detailed and thorough investigation that it would undertake if it were actually trying the case," but nonetheless it "must eschew any rubber stamp approval in favor of an independent evaluation." *Kullar*, 168 Cal.App.4th, at 130. Ultimately, the court approves the proposed class action settlement when the settlement is fair and falls "within the range of reasonableness."*Hernandez v. Vitamin* (2009) 174 Cal.App.4th 1441, 1446.

A. FAIRNESS OF THE SETTLEMENT

For preliminary approval purposes, a proposed class action settlement is *presumed* to be fair where, as here, (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; and (3) counsel is experienced in similar litigation. *Chaves*, *supra*, 162 Cal.App.4th at 52.

The proposed settlement here meets these criteria, and merits preliminary approval. As discussed above, the parties only entered into the Agreement after engaging in a full day of mediation with an experienced mediator who routinely handles "wage and hour" class action litigation. (Archer Decl. ¶¶11-13). The mediation was preceded by extensive discovery, investigation of claims at issue, interviews of Class Members, disclosure and review of documents detailing company-wide policies and practices, informal information exchanges for mediation purposes, and ongoing discussions about the merits between the parties' counsel during the span of the litigation. (Archer Decl. ¶¶6-12). Thereafter, the parties memorialized the details of this Settlement via the Agreement. (**Ex. A**).

When negotiating the Settlement, both sides took into account the strengths and weaknesses of their opponent's positions as pointed out by mediator Gig Kyriacou, the data available to evaluate liability and damages, the lack of data or evidence on certain issues, and the substantial and evolving law applicable to the merits of the claims. The Agreement was only agreed to after extensive arms-length negotiations resulting in a unique compromise that permits all parties to move forward and bring this action to close. Despite a mutual desire to resolve this action, the negotiations remained at all times adversarial. (Archer Decl. ¶44).

As set forth below in section H, *infra.*, counsel for both parties have extensive experience in litigating wage and hour class action lawsuits. Based on this experience, Class Counsel has determined that the settlement is fair, adequate, and reasonable. (Archer decl. ¶35).

B. STRENGTH OF PLAINTIFFS' CASE

The most important factor courts consider when evaluating the fairness of the class action settlement is the strength of the plaintiffs' case balanced against the amount offered in settlement. *Kullar*, 168 Cal.App.4th, at 130.

All of Plaintiffs' claims – individual, PAGA, and class– presented hurdles including a substantial risk of a defense verdict by way of summary judgment, or at trial. (Archer Decl. ¶¶28-34).

The assistance of an experienced "wage and hour" mediator, and the parties' ongoing negotiations all helped the parties realize the strengths and weaknesses of their case, as well as the risks and expenses of continuing litigation. (Archer Decl. ¶44).

Additionally, as trial approaches, each party's monetary risk increases significantly as substantial additional attorney hours and expert witness hours would have to be devoted to this case by each party. Each party bears a real risk at trial, and considering the balance of the strengths of Plaintiff's claims versus the risks inherent in trial and the consideration given to settle now, the settlement reflects a fair and adequate resolution to this action. (Archer Decl. ¶45).

C. THE RISK, EXPENSE, COMPLEXITY, AND LIKELY DURATION OF FURTHER LITIGATION

Plaintiffs' Counsel's effectiveness in prosecuting this case has translated into tangible monetary and non-monetary benefits for the Settlement Class Members in the following respects: **(1)** a guaranteed favorable result; **(2)** guaranteed monetary recovery over a reasonably short period of time, as opposed to possibly waiting additional years for a potentially worse result; and **(3)** significant savings in attorneys' fees and costs, which would have increased had the case progressed through trial and possible appeals. (Archer decl. ¶46).

Without entering into the Agreement, there existed a significant chance that Defendants would prevail on the merits of some or all claims and that Class Members would receive nothing. Through the Agreement, participating Class Members receive guaranteed cash, and this action has also been the catalyst for programmatic relief. (Archer decl. ¶47).

If the litigation were to proceed in lieu of settlement, additional and substantial attorneys fees and costs, expert witnesses fees would quickly accumulate. Given the numerous claims being litigated, the parties may be required to hire multiple experts each (as many as 6 total). This would result in not only the production of six expert reports, but six depositions as well. And, based on previous discussions between counsel regarding the remaining claims (including the PAGA claims), Plaintiff anticipated at least one motion to compel, and two dueling motions for summary judgment / adjudication (one from each side). (Archer decl. ¶48).

Importantly, even after engaging in all of the potential continued and protracted litigation set forth above, the putative class would continue to have no guarantee of success on any of the claims advanced in this case. Thus, the parties and their counsel believe in good faith that the proposed resolution is a fair, reasonable, and adequate compromise. (Archer decl. ¶49).

D. THE RISK OF MAINTAINING CLASS ACTION STATUS THROUGH THE TRIAL

At the time of the settlement, a Motion for Class Certification had not been filed. (Archer decl. ¶50). As the Court never ruled on any such motion, neither side had a decided advantage in the litigation. Even if Plaintiffs did obtain class certification of the claims, each claim is subject to substantial risk of a Defense verdict at trial. (*Id.*)

Regarding the representative (PAGA) claims, there is also a substantial risk that, at trial, Plaintiff will either fail to obtain a favorable judgment on some of these claims, or that a favorable award on one or more PAGA claims may be greatly reduced, as these claims are subject to mitigation by the Court. *See Thurman v. Bayshore Transit Mgmt., Inc.* (2012) 203 Cal.App.4th 1112, 1135.

E. THE AMOUNT OFFERED IN THE SETTLEMENT

After deduction from the total "Settlement Amount" of the projected costs of administration, proposed class representative service awards, potential attorney fees and costs, the "Net Settlement Amount ("NSA") will be distributed to all Class Members who do not file a request for exclusion. Participating Class Members will receive their share of the NSA based on the total amount of time they worked during the Class and PAGA Period. (**Exhibit A**, ¶3.2.4).

Based on the current proposed figures, each Class Member will receive an average of **$775.86** although the actual amount will vary based on the amount of pay periods employed. The Class Notice will list that individual class member's actual share. (See **Ex. B**.) Plaintiffs' counsel maintains this recovery was significant in light of the circumstances of the case. (Archer Decl. ¶51).

F. THE EXTENT OF DISCOVERY COMPLETED

Plaintiffs propounded a set of separate written discovery devices on Defendant, including requests for admission, special interrogatories, requests for production of documents, and general and employment form interrogatories. (Archer Decl. ¶6). Through these requests, Plaintiffs sought, among other information and documents, the identities of putative class members, Defendants' compensation policies, meal and rest period policies, employee handbooks, wage statements, time records, job descriptions, and reimbursement policies. (*Id.*)

After significant meet and confer efforts, Defendants provided detailed substantive responses detailing all relevant employment policies, in addition to producing hundreds of pages of documents.

The document production also included a large sampling of other putative class members time and wage records. (Archer Decl. ¶ ¶ 6-8). Plaintiffs' counsel has also interviewed several Class Members in the course of investigating and litigating this matter. (Archer decl. ¶ 52). Counsel has also reviewed hundreds of pages of documents produced by Defendants, Plaintiffs, and Class Members. (*Id*.)

Thus, sufficient discovery, both formal and informal, has been conducted to allow the parties to participate in an informed, arms-length negotiation process.

G. THE STAGE OF THE PROCEEDINGS

Plaintiffs had already obtained the data needed to evaluate the merits of the claims and the parties were familiar with Plaintiffs' central allegations and Defendants' defenses thereto. The next phase of this litigation would have been to complete class discovery, prepare expert reports and then prepare for Trial.

H. THE EXPERIENCE AND VIEWS OF COUNSEL

Class Counsel has considerable experience in wage and hour and class action litigation. William Sullivan has over 30 years of experience, 29 years of which has been devoted to both prosecuting and defending class action litigation. Mr. Yaeckel has over 14 years of experience in "class litigation." Mr. Archer has about a year of experience in class action litigation. (Archer Decl. ¶53).

Plaintiffs Banks's and Gomez's counsel is also well qualified to act on behalf of a class, based on the firms extensive class action experience. (Yadidsion decl. ¶¶ 3-7; Aroeste decl. ¶ 3).

Plaintiff's counsel considers the Agreement to represent a fair, adequate and reasonable settlement that is well within the accepted range of recoveries for similar cases. Counsel further believes the Agreement is in the best interests of the Settlement Class Members. (Archer Decl. ¶54).

I. PRESENCE OF A GOVERNMENTAL ACTOR

Although the State is not directly involved in this action, Plaintiffs "stand in the shoes" of the Labor and Workforce Development Agency ("LWDA") by bringing his PAGA action. Consideration has been made to compensate to Labor Workforce Development Agency ("LWDA") in the amount of $50,000.00, even though the LWDA declined to prosecute the claims itself. (*See* Exhibit "A," at ¶3.2.5). To confirm, 75% of the total allocation of $50,000 amount, or **$37,500.00**, is being paid to the LWDA, and 25%, or **$12,500.00**, being distributed amongst the class members. (*Id*). Counsel for the parties believe this is a fair, reasonable, and adequate allocation. (Archer Decl. ¶ 55).

J. REACTION OF THE CLASS MEMBERS TO THE PROPOSED SETTLEMENT

Prior to preliminary approval, what can be said of the reaction the class members is limited. However, Plaintiff's counsel has spoken to some Class Members since the parties reached a proposed settlement agreement, and <u>all</u> were in favor of the Settlement. (Archer Decl.¶ 56).

As explained in the Agreement, the Settlement Claims Administrator will send a Notice to the Settlement Class Members. (*See* Exhibit A at ¶7.4). The negotiated Class Notice form is attached to the declaration of Cody Archer as **Exhibit B**.

The proposed Notice advises the Settlement Class Members of their anticipated recovery under the Agreement, how to object, how to exclude themselves, the amount of fees and costs sought by Class Counsel, the amount of enhancement payment sought on behalf of the Class Representative, and the date of the final approval hearing. (*See* **Exhibit B**). Thus, the proposed Notice complies with the notice requirements set forth in CRC Rule 3.766(d) and Rule 3.769(f).

VII. PROPOSED TIMELINE OF EVENTS AND FINAL APPROVAL

Assuming the Settlement merits Preliminary Approval from the Court, Plaintiffs request that the Court set a Final Approval Hearing in accordance with the chronology of events set forth below:

1. Within ten (10) calendar days of Preliminary Approval, Defendant will provide to the Settlement Administrator the Class List including Class Members' names, last known addresses, social security numbers, and the dates of employment;
2. Within five (5) calendar days of receiving the Class List, the Settlement Administrator will perform an NCOA check for information to update and correct for any known or identifiable address changes and shall mail a Notice Packet to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List;
3. 30 calendar days after Settlement Administrator has mailed the Notice Packets to Class Members: Deadline for Class Members to postmark and submit all disputes of pay period information, request exclusion, or file written objection to the Settlement;
4. Approximately 10 Calendar days after the conclusion of the Notice and Response Period: Plaintiffs will file a Motion for Final Approval; and

5. 16 Court days after the filing of the Final Approval motion: the Court can conduct the Final Approval Hearing.

Consistent with the timeline above, Plaintiffs request a Final Approval Hearing on or around April 28, 2026, in department 5.

Dated: January 9, 2026

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