

LIBERATION LAW GROUP, P.C.
Arlo Garcia Uriarte, State Bar No. 231764
arlo@liberationlawgroup.com
Un Kei Wu, SBN 270058
unkei@liberationlawgroup.com
Elizabeth L. Lyons, SBN 327742
elizabeth@liberationlawgroup.com
2760 Mission Street
San Francisco, CA 94110
Telephone: (415) 695-1000
Facsimile: (415) 695-1006

Attorneys for Plaintiffs
Victor Corona and Rosa Alcaute

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

VICTOR CORONA; and ROSA ALCAUTE,

Plaintiffs,

v.

SAN FRANCISCO BREWING CO, LLC;
and DOES 1 through 10, inclusive,

Defendants.

Case No. CGC-20-583125

CLASS ACTION - COMPLEX

[ASSIGNED FOR ALL PURPOSES TO
THE HON. ANDREW Y.S. CHENG]

**NOTICE OF MOTION AND MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

Hearing Date: September 12, 2024

Hearing Time: 9:30 a.m.

Dept.: 613

Action Filed: February 21, 2020

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This motion will be made and based upon: (1) this notice of motion; (2) the memorandum of points and authorities in support thereof; (3) the declaration of Arlo Garcia Uriarte and the exhibits attached thereto, all of which are filed and served concurrently herewith; as well as (4) the records, pleadings, and papers on file in this action, and upon such other matters as may be presented at the time of hearing on this motion.

and

Arlo Garcia Uriarte
Liberation Law Group, P.C.
Attorney for Plaintiffs

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I. INTRODUCTION

Plaintiffs Victor Corona and Rosa Alcaute (“Plaintiffs”) respectfully request final approval of the instantly proposed \$400,000 class and representative action settlement reached between them and Defendant San Francisco Brewing Co., LLC (“Defendant”) (collectively “the Parties”). The Court granted preliminary approval on March 19, 2024, and certified the following “Settlement Class:” “all current and former non-exempt, hourly employees of Defendant who worked in California at any time during the Settlement Class Period¹ and did not request exclusion or opt-out of this settlement.”

The settlement administrator, CPT Group, Inc. (hereinafter “CPT”), mailed and e-mailed the Court-approved notice form to putative Settlement Class members (sometimes abbreviated “SCM”) on June 21, 2024. [Soto-Najera Dec.² ¶ 6]. In total, the notice form was sent to 350 people. [*Id.*]. Forty-nine forms were initially returned as undeliverable by the USPS, but CPT successfully re-mailed thirty-eight of those forms; thus, only eleven forms remain undeliverable to date. [*Id.* at ¶ 6-7].

Employee reaction to the settlement has been stellar – no one has requested exclusion and there are no objections. [*Id.* at ¶ 8]. Trial courts find settlement terms to be presumptively fair when there are no objections or very few objections. *See, Carter v. City of L.A.* (2014) 224 Cal. App. 4th 808, 822 citing *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1802; *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.

SCM are set to recover \$758.00 each on average, and the highest projected individual recovery is \$5,383.74. [Soto-Najera Dec. ¶ 10]. This is in exchange for a limited release. Plaintiffs describe the SCM release as limited because it only reaches the claims that were “...expressly pleaded in [this] Action... and all other claims and allegations made that could have been made in the Action during the Class Period based on the facts and allegations in the

¹ The Class Period begins April 20, 2018 and ends on March 19, 2024.

² “Soto-Najera Dec.” means the declaration of Chantal Soto-Najera. Ms. Soto-Najera is employed by CPT as a Case Manager. [*Id.* at ¶ 1]. Her declaration is attached as Exhibit “1” to the declaration of Arlo Garcia Uriarte (hereinafter “Uriarte Dec.”), which is filed concurrently herewith.

operative Complaint and preceding PAGA notice.” [AGMT³ ¶ A(34)]. With all of the above in mind, Plaintiffs and Class Counsel⁴ respectfully submit that SCM are best served by the instantly proposed settlement rather than by further litigation and the ensuing substantial risks.

II. CASE BACKGROUND

Defendant owns and operates a restaurant and brewery in San Francisco’s Ghirardelli Square. [See, Defendant’s website: <https://www.sfbrewingco.com/>]. Plaintiff Alcaute was employed by Defendant as a dishwasher and assistant line cook from September 4, 2018, through July 22, 2019; plaintiff Corona was employed as a line cook and a pizza maker from June 8, 2018, through July 22, 2019. [Uriarte Dec. ¶2].

Plaintiffs initiated this lawsuit on February 21, 2020. Plaintiffs’ First Amended Complaint, the operative complaint at hand, lists the following causes of action: (1) failure to pay all wages; (2) failure to pay overtime compensation; (3) failure to permit meal periods; (4) failure to permit rest periods; (5) failure to furnish accurate wage statements; (6) waiting time penalties; (7) conversion; (8) civil penalties pursuant to the Private Attorneys General Act (Labor Code §§2698, et seq.); and (9) Unfair Competition in Violation of Cal. Business and Professions Code §§17200, et seq.

Causes of action five through nine are derivative of causes of action one through four because the former cannot succeed without the latter. Causes of action one through four are based on two central allegations: (1) Defendant fails to compensate Plaintiffs and putative class members for the time it takes to don and doff their uniforms plus, and separately, Defendant frequently required them to work during unpaid meal period times (“off-the-clock work claims”); (2) also, Defendant often failed to provide Plaintiffs and putative class members adequate meal and rest periods due to their work demands and what they perceived as

³ The Class and PAGA Action Settlement Agreement (hereinafter “Agreement” or “AGMT”), along with its Addendum, contain the terms of the proposed settlement (hereinafter “Settlement”) and are attached as Exhibit “2” to Uriarte Dec.

⁴ “Class Counsel” refers to Arlo Garcia Uriarte of Liberation Law Group, P.C., as appointed by the Court in its order granting Preliminary Approval.

understaffing (“break claims”). Defendant denies these violations occurred and argue that the matter is not suitable for class treatment.

Despite their differences, the Parties agreed to this proposed settlement with the assistance of a highly experienced class/representative action mediator, the Honorable Ernest Goldsmith (Ret.). [Uriarte Dec. ¶ 4]. The Parties attended a full-day’s mediation session with Judge Goldsmith on April 25, 2023. *Id.* The Parties were unable to reach a proposed settlement that day. *Id.* However, Judge Goldsmith issued a mediator’s proposal that the Parties eventually accepted after some additional negotiation. *Id.* A memorandum of understanding was fully executed by the Parties on June 6, 2023. *Id.* After, the Parties drafted and finalized a long-form settlement agreement, which was fully executed on October 27, 2023. [See, Agreement ¶ H].

The Parties agreed to mediate this matter in or around October of 2022. *Id.* Formal discovery was placed on hold shortly thereafter, but the Parties agreed to exchange key information prior to mediation to facilitate the process. [Uriarte Dec. ¶ 3]. Along these lines, Defendant produced: (1) all relevant wage and hour policies, specifically those contained in its operative Handbook from 2018 and a meal period policy which appears on its meal period waiver forms; (2) a large sample of pay and time records applicable to 202 out of 329 putative class members (current number⁵ at the time); (3) a sample putative class list with contact information for 43 putative class members; and (4) numerous signed meal period waiver forms and “time sheet edit acknowledgment” forms. *Id.* Defendant also provided the following data points regarding the putative class: (1) 329 total putative class members; (2) 50 currently employed putative class members (3) 278 separated putative class members (no longer employed by Defendant); 15,902 aggregate workweeks during the Class Period; (5) 3,874 pay periods in the PAGA period; and (6) an average pay rate of \$16.69 per hour for all putative class members. *Id.*

Plaintiffs moved for preliminary approval on December 12, 2023. The Court ordered supplemental briefing, which was submitted by Plaintiffs on March 7, 2024. The supplemental

⁵ As expected, the number of SCM has increased slightly from 329 to 350. Defendant has ostensibly hired additional employees since October 2022 leading to the marginal increase.

1 briefing discussed Defendant’s unsteady financial condition, a factor that influenced Plaintiffs’
2 settlement decision. Preliminary approval was granted on March 19, 2024. Now, Plaintiffs
3 move for final approval and also for attorneys’ fees, costs, and their enhancement in the
4 accompanying motion.

5 **III. OVERVIEW OF THE SETTLEMENT AGREEMENT**

6 The Parties have reached an agreement here for \$400,000. From that total, Plaintiffs
7 request the following deductions: (1) attorneys’ fees for Class Counsel equaling 25% of the gross
8 settlement amount or \$100,000; (2) \$5,698.41 in accrued litigation costs for Class Counsel; (3) a
9 maximum of \$13,000 in settlement administration fees for CPT; (4) representative enhancement
10 awards to Plaintiffs equaling \$3,000 each (\$6,000 total); and (5) a \$10,000 PAGA allocation
11 (\$7,500 of this allocation must go to the LWDA, per Cal. Lab. Code § 2699(i), while the
12 remainder is for SCM who worked during the PAGA Period). Defendant agrees to pay any
13 applicable employer-side payroll withholding taxes separate and apart from the gross settlement
14 amount. [AGMT ¶ A(20)].

15 Plaintiffs have significantly reduced their requested deductions as to attorneys’ fees (25%
16 instead of 33.33%) and their enhancement (\$3,000 each instead of \$5,000 each) due to the fact
17 that this is a financially limited settlement. [See, Plaintiffs’ Supplemental Briefing (hereinafter
18 “PSB”) 1:16-2:10]. All remaining funds (*i.e.*, the “Net Settlement Fund”) are to be distributed
19 *pro rata*⁶ to SCM who do not exclude themselves from the Settlement – claims are not
20 necessary. [AGMT ¶¶ C(1) and E(6)].

21
22
23 ⁶ The Agreement details the individual payment calculation method and formula. “Defendant
24 will calculate the total number of weeks that each Class Member (“Individuals Workweeks”) and all Class Members (“Class Workweeks”) worked during the Settlement Class Period. Alternatively, Defendant may provide the relevant start and termination dates (as applicable) for each Class Member from which the Settlement Administrator may calculate the same. Any fraction of a workweek actually worked will be rounded up to a full workweek.” [AGMT ¶ E(5)(a)]. “The individual settlement awards for the class claims will be determined by dividing the Net Settlement Amount by the total number of pay periods for the Class Members, resulting in the Pay Period Value, and then multiplying the Pay Period Value by the number of pay period worked by each Class Member.” [AGMT ¶ E(5)(b)].

1 SCM distributions will account for both an individual settlement payment and a PAGA
2 payment where applicable. [AGMT ¶ E(4)]. Anyone who opts out from the Settlement will still
3 receive a PAGA payment if they worked during the PAGA Period. [AGMT ¶ D(2)(b)] For tax
4 purposes, 33.33% of individual settlement payments will be allocated to wages, and the required
5 tax withholding will be made by the Settlement Administrator for this portion. [AGMT ¶
6 E(5)(d)]. The remainder will be allocated to penalties and interest. *Id.* The Settlement
7 Administrator shall issue any necessary Form W-2 and 1099 statements to Class Members for
8 their respective individual settlement payments. *Id.*

9 SCM who do not request exclusion automatically receive checks within fifteen days of
10 the Agreement's Effective Date⁷. [AGMT ¶ E(5)(d)]. Defendant shall fund the Settlement as
11 follows: "[w]ithin fifteen (15) days of the Effective Date, Defendant shall pay the initial sum of
12 \$100,000.00...[a]fter...Defendant shall have fifteen (15) months to fully satisfy its payment
13 obligation. Defendant shall pay the total sum of at least \$50,000 per quarter."

14 SCM who negotiate their initial settlement check may receive a second settlement check
15 if a re-distribution is required; a re-distribution is required if more than ten percent of the Net
16 Settlement Fund remains unnegotiated. [AGMT ¶ E(5)(c)]. If ten percent or less of the Net
17 Settlement Fund remains unnegotiated, then the Parties agree that the outstanding amount should
18 be awarded to a Court-approved *cy pres*. *Id.*

19 The Parties have selected La Raza Centro Legal (hereinafter "LRCL") as a worthy *cy*
20 *pres* for this settlement. [Addendum to Agreement ¶ 2]. It is LRCL's "...mission is to provide
21 high quality, free legal representation to the Latino community and other low-income immigrant
22 families, as the most trusted partner in legal services." [https://www.lrcl.org/mission-vision-
23 values]. Plaintiffs' counsel nor his firm are directly affiliated with LRCL; they have no financial
24 investment in the non-profit nor do they have any say-so as to its management. [Uriarte Dec. ¶
25 5].

26 The NSF is projected to be \$265,301.59, assuming the Court approves all requested
27 deductions. [Soto-Najera Dec. ¶ 9]. This would allow individuals to recover approximately

28 ⁷ The "Effective Date" definition is found in paragraph A(16) of the Agreement.

1 \$758.00 each on average, and the highest projected individual recovery is \$5,383.74. [Soto-
2 Najera Dec. ¶ 10]. Plaintiffs are proud to have attained a favorable recovery and release for SCM
3 under difficult circumstances, Defendant's financial condition in particular. The alternative
4 would be continued putative class and representative action litigation which of course comes
5 with uncertain outcomes. Plaintiffs and their counsel are confident that the settlement is fair,
6 reasonable, and adequate. .

7 **IV. FINAL SETTLEMENT APPROVAL IS APPROPRIATE**

8 **A. Class Action Settlements Are Favored; Applying Analogous Federal Law in** 9 **State Court is Appropriate**

10 Numerous courts have agreed that especially for class action litigation, "voluntary
11 conciliation and settlement are the preferred means of dispute resolution." *7-Eleven Owners for*
12 *Fair Franchising v. Southland Corp.* (2000) 85 Cal. App. 4th 1135, 1151, quoting *Officers for*
13 *Justice v. Service Comm'n of City and County of San Francisco* (9th Cir. 1982) 688 F.2d 615,
14 625. See also, *Pilkington v. Cardinal Health, Inc., (In re Syncor ERISA Litig.)* (9th Cir. 2008)
15 516 F.3d 1095, 1101; *Van Bronkhorst v. Safeco Corp.* (9th Cir. 1976) 529 F.2d 943, 950 ("there
16 is an overriding public interest in settling and quieting litigation," and this is "particularly true
17 in class action suits.").

18 California courts commonly look to Federal Rule of Civil Procedure ("FRCP") 23
19 jurisprudence for guidance when adjudicating class action litigation under CCP § 382 and
20 California Rule of Court ("CRC") 3.769. *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821;
21 *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800-01. See also, *Bell v. Farmers Ins.*
22 *Exchange* (2004) 115 Cal.App.4th 715, 740, citing *City of San Jose v. Superior Court* (1974) 12
23 Cal.3d 447, 453 ("the California Supreme Court has urged trial courts to be procedurally
24 innovative in determining whether to allow class suits, encouraging them to incorporate
25 procedures from outside sources in particular Rule 23 of the Federal Rules of Civil Procedure")
26 (internal quotations omitted).

27 **B. Class Action Settlements Should Be Fair, Reasonable, and Adequate**

28 "A settlement or compromise of an entire class action...requires the approval of the

1 court after hearing.” [California Rule of Court, rule 3.769]. Specifically, “a two-step process is
2 required. First, the court preliminarily approves the settlement, and the class members are
3 notified as directed by the court...Second, the court conducts a final approval hearing to inquire
4 into the fairness of the proposed settlement...If the court approves the settlement, a judgment is
5 entered with provision for continued jurisdiction for the enforcement of the judgment.”
6 *Cellphone Termination Fee Cases* (2009) 180 Cal. App. 4th 1110, 1118, *quoting* California
7 Rule of Court, rule 3.769.

8 While trial courts have “broad discretion” to determine whether class action settlements
9 are fair, the inquiry “must be limited to the extent necessary to reach a reasoned judgment that
10 the agreement is not the product of fraud or overreaching by, or collusion between, the
11 negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to
12 all concerned.” *Cho v. Seagate Technology Holdings, Inc.* (2009) 177 Cal. App. 4th 734, 742-
13 743, *quoting Officers for Justice*, 688 F.2d at 624. *See also, Dunk v. Ford Motor Company*
14 (1996) 48 Cal. App. 4th 1794, 1801 (whether a proposed settlement is “fair, adequate, and
15 reasonable” is the paramount concern). Indeed, due regard should be given to what is otherwise
16 a private consensual agreement. *In re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 723.
17 Because all together, “the [trial] court’s determination is nothing more than ‘an amalgam of
18 delicate balancing, gross approximations and rough justice.” *Dunk*, *supra* at 1801, *quoting*
19 *Officers for Justice*, 688 F.2d at 624. *See also, Wershba v. Apple Computer* (2001) 91 Cal. App.
20 4th 224, 246 (“The proposed settlement is not to be judged against a hypothetical or speculative
21 measure of what might have been achieved had plaintiffs prevailed at trial.”).

22 **C. All Relevant Factors Weigh in Favor of Final Approval**

23 The following “well-recognized factors” are typically considered when evaluating the
24 reasonableness of a proposed settlement. This list “is not exhaustive and should be tailored to
25 each case”: (1) the strength of plaintiff's case; (2) the risk, expense, complexity and likely
26 duration of further litigation; (3) the risk of maintaining class action status through trial; (4) the
27 amount offered in settlement; (5) the extent of discovery completed and the stage of the
28 proceedings; (6) the experience and views of counsel; (7) the presence of a governmental

1 participant; and (8) the reaction of the class members to the proposed settlement. *Kullar v. Foot*
2 *Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128, *citing Dunk* 48 Cal.App.4th at 1801;
3 Newberg on Class Actions, §§ 11:41, 11:43, 13:68 (4th ed. 2002).

4 Plaintiffs briefed the relevant *Kullar* factors when they moved for preliminary approval.
5 [See, Plaintiffs' Preliminary Approval Motion (hereinafter "Pl. PAM") 15:14-25:8]. The Court
6 expressed concern over the settlement discount given, so Plaintiffs provided additional briefing
7 to help quell those concerns. In their supplemental briefing, Plaintiffs raised Defendant's
8 challenging financial condition (Defendant's owner/brewmaster, Josh Leavy submitted a
9 declaration to help corroborate the fact) and provided a list of comparator settlements. [See,
10 PSB 1:9-4:4]. All of the foregoing led to the settlement's preliminary approval.

11 Since preliminary approval was granted, nothing has occurred to cast doubt on the
12 Court's positive determination. In fact, the notice process has been completed successfully,
13 showing a very positive employee reaction: no objections and zero requests for exclusion. A
14 presumption of fairness exists where: (1) the settlement is reached through arm's length
15 bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act
16 intelligently; (3) counsel are experienced in similar litigation; and (4) the percentage of
17 objectors is small. *Dunk, supra* at 1802.

18 **1. The Parties Reached the Proposed Settlement Aided by an**
19 **Experienced Mediator**

20 The Parties reached the instant settlement with the careful assistance of a highly
21 experienced retired judge and mediator, the Honorable Ernest Goldsmith. [Uriarte Dec. ¶ 4].
22 The Parties attended a full-day's mediation session with Judge Goldsmith on April 25, 2023,
23 but the Parties were unable to reach a proposed settlement then. *Id.* However, Judge Goldsmith
24 issued a mediator's proposal that the Parties eventually accepted after additional negotiation. *Id.*
25 The Agreement not fully executed until October 2023. [See, Agreement ¶ H] The adversarial,
26 arms-length manner in which the deal was reached tends to show that the settlement is fair,
27 reasonable, and adequate.
28

1 2. **The Strengths and Weaknesses of Plaintiffs’ Claims Have Been**
2 **Carefully Considered**

3 As explained to attain preliminary approval, Plaintiffs’ claims are generally strong from
4 a class certification perspective because Defendant owns and operates just a single restaurant
5 with a small, attached brewing operation. The odds of common practices and procedures⁸ (*i.e.*,
6 working conditions) are high because there is no location variability. If the same working
7 conditions are shared, then any problems that stem therefrom are likely to be common as well.
8 Commonality⁹ is integral to certifying any proposed class.

9 In terms of overarching weaknesses, Defendant has struggled financially since the
10 COVID-19 pandemic. Its owner stated via declaration that the company would have to close its
11 doors if it were required to pay more than gross settlement amount. [See, PSB 1:18-26].
12 Moreover, the pandemic significantly limits potential damages from March 2020 through June
13 2021, a time period when California restaurants were required to shut down entirely or operate
14 in limited fashion. If the matter were to proceed through litigation, Defendant would
15 undoubtedly argue that it was run by a much smaller crew during the pandemic (when it was
16 allowed to be open), business was generally down, and Plaintiffs’ allegations, which are largely
17 based on the theory that Defendant’s operations were routinely quite busy and understaffed, do
18 not apply. Plaintiffs’ damages model can be seen as exaggerated when considering this reality.

19 a. Unpaid Off-the-Clock Work

20 Plaintiffs have a strong “off-the-clock work” legal theory because Defendant cannot
21 require the donning and doffing of uniforms at work without pay nor can it require employees to

22 ⁸ Plaintiffs would have to focus on challenging unlawful **practices** because Defendant’s written
23 policies are legally complaint in their counsel’s estimation. [Uriarte Dec. ¶ 11]. It is more
24 difficult to achieve certification of claims that challenge allegedly flawed employment **practices**
25 as opposed to unlawful written **policy**. *See, e.g., Payton v. CSI Electrical Contractors, Inc.*
26 (2018) 27 Cal. App. 5th 832, 840, *citing Duran v. U.S. Bank National Assn.* (2014) 59 Cal. 4th
1, 29; *Mateo v. V.F. Corp.*, No. C 08-05313 CW, 2009 U.S. Dist. LEXIS 105921, at *18-19 n.2
(N.D. Cal. Oct. 27, 2009) [collecting cases].

27 ⁹ *Washington Mutual Bank v. Superior Court* (2001) 24 Cal.4th 906, 913 (Section 382 of the
28 Code of Civil Procedure requires putative class members to share a question of common or
general interest)

work when they are off-the-clock and on a supposed meal period. However, their theory only garnered marginal support. Prior to mediation, Plaintiffs attained just six declarations from putative class members who stated it was Defendant’s common practice to require the donning and doffing of uniforms at the workplace while off-the-clock, which included waiting in line to use the changing area; furthermore, these putative class members stated it was common for them to sometimes work during unpaid meal period times due to certain time sensitive tasks. Defendant secured significantly more declarations from putative class members who disagreed with Plaintiffs’ off-the-clock work allegations.

b. Meal and Rest Period Violations

Plaintiffs break claims, including unpaid wages tied to meal period violations, are challenging due to the nature of an employer’s burden in this context. The California Supreme Court indicated that “[a]n employer's duty with respect to meal [and rest] breaks is an obligation to **provide** [break opportunities] to its employees,” not to ensure that meal and rest periods were taken. *Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1040 (emphasis added). In other words, employers do not have an obligation to “police” breaks. If an employer merely has to present an opportunity, then it is not as simple as determining whether employees went on break or not; the reasons why breaks were unavailable becomes a key consideration. A declarations battle is likely in this context because the alleged break problems do not stem from a poorly written meal or rest period policy promulgated by Defendant. Plaintiffs would have to hope that they could attain many more declaration in post-certification discovery.

3. Significant Investigation and Evaluation Supports the Recommendation of the Settlement

The proposed settlement was agreed to after some pre-certification discovery, a pre-mediation information exchange (to help bridge the gap from discovery to mediation), and a mediation that necessitated a mediator’s proposal. [Uriarte Dec. ¶ 3]. Prior to mediation, Plaintiffs received sufficient information to adequately prepare their strategy and negotiating position.

Defendant produced: (1) all relevant wage and hour policies, specifically those

1 contained in its operative Handbook from 2018 and a meal period policy which appears on its
2 meal period waiver forms; (2) a large sample of pay and time records applicable to 202 out of
3 329 putative class members; (3) a sample putative class list with contact information for 43
4 putative class members; and (4) numerous signed meal period waiver forms and “time sheet edit
5 acknowledgment” forms. *Id.* Defendant also provided the following data points regarding the
6 putative class: (1) 329 total putative class members; (2) 50 currently employed putative class
7 members (3) 278 separated putative class members (no longer employed by Defendant); 15,902
8 aggregate workweeks during the Class Period; (5) 3,874 pay periods in the PAGA period; and
9 (6) an average pay rate of \$16.69 per hour for all putative class members. *Id.*

10 Plaintiffs are still confident in their evaluation of damages, which they carefully detailed
11 for preliminary approval [See, Pl. PAM 22:12-25:8]. Plaintiffs submit they thoroughly
12 investigated the action, patiently weighed the pros and cons of a potential deal, and held out for
13 as much money as they believed was possible without risking a denial of class certification.
14 [Uriarte Dec. ¶ 7]. Had Plaintiffs attempted to certify the class and been denied, their putative
15 case would be worth zero dollars. In light of the foregoing, Plaintiffs and Class Counsel are
16 confident that the settlement is fair, reasonable, and adequate and in the best interests of the
17 Settlement Class. [Uriarte Dec. ¶¶ 6, 7].

18 **4. Class Counsel is Experienced and Endorses the Settlement**

19 Class Counsel submits that given the constraints and realities of the case and his
20 significant class action experience, the Parties have been able to arrive at a settlement that is
21 fair, reasonable, adequate, and in the best interests of SCM. [*Id.*]. Courts should rely upon the
22 judgment of experienced counsel when assessing the adequacy of proposed class action
23 settlements. *Clark v. Am. Residential Servs. LLC* (2009) 175 Cal. App. 4th 785, 786 (“A court
24 should give considerable weight to the competency and integrity of counsel and the
25 involvement of a neutral mediator in assuring itself that a class action settlement agreement
26 represents an arm's-length transaction entered without self-dealing or other potential
27 misconduct.”); *Weinberber v. Kendrick* (2d Cir. 1982) 698 F.2d 61, 74 (“The court is entitled to
28 rely heavily on the assessment of able counsel negotiating at arms' length...When a settlement

1 is achieved through arms-length negotiations between experienced counsel, the court should be
2 hesitant to substitute its own judgment for that of counsel absent a showing of fraud, collusion
3 or other forms of bad faith.”). *See also, Rodriguez v. W. Publ’g Corp.* (9th Cir. 2009) 563 F.3d
4 948, 965 (courts have long deferred to the judgment of counsel when approving class
5 settlements so long as they are experienced and well-informed).

6 Class Counsel has considerable class action experience, specifically regarding actions
7 involving the application of California’s wage and hour laws. [Uriarte Dec. ¶¶ 9-11]. Class
8 Counsel’s experience renders him qualified to evaluate the class claims and defenses at hand.
9 Counsel is confident that the proposed settlement meets all applicable requirements of
10 California law, and given the unique circumstances present, it is in the best interests of the
11 Settlement Class. [Uriarte Dec. ¶¶ 6, 7].

12 **5. Class Member Reaction Has Been Very Positive**

13 The reaction of the Settlement Class clearly supports final approval. No one has
14 objected, and no one has requested exclusion. [Soto-Najera Dec. ¶ 8]. Courts have found
15 settlement terms to be presumably fair when there is an absence or even a low percentage of
16 objectors. *Carter v. City of Los Angeles* (2014) 224 Cal.App.4th 808, 820, *citing Dunk, supra*,
17 48 Cal.App.4th at p. 1802. *See also, Custom LED, LLC v. eBay, Inc.* (N.D. Cal. June 24, 2014)
18 2014 U.S. Dist. LEXIS 87180, *16; *Jones v. Agilysys, Inc.* (N.D. Cal. May 19, 2014) 2014 U.S.
19 Dist. LEXIS 68562, *6-7; *Rosales v. El Rancho Farms* (E.D. Cal. July 21, 2015), *43 (absence
20 of objections raises a strong presumption that the terms of a proposed settlement are favorable
21 to the class members).

22 Additionally, Class Counsel has been in communication with certain SCM who have
23 asked questions about the notice form or settlement [Uriarte Dec. ¶ 8]. Class Counsel has
24 endeavored to provide the right guidance to these SCM whenever possible. *Id.* Plaintiffs submit
25 that these efforts have been important in ameliorating objections or requests for exclusion.

26 **D. The Court Approved Notice Plan Has Been Executed Satisfactorily** 27 **Satisfying Due Process Standards**

28 Courts have broad discretion when ordering a notice plan as long as it meets the dictates

1 of the California Rules of Court. CRC 3.769(f) (“If the court has certified the action as a class
2 action, notice of the final approval hearing must be given to the class members in the manner
3 specified by the court. The notice must contain an explanation of the proposed settlement and
4 procedures for class members to follow in filing written objections to it and in arranging to
5 appear at the settlement hearing and state any objections to the proposed settlement.”).

6 Class notice procedures “must fairly apprise the class members of the terms of
7 compromise and the options open to dissenting class members.” *Trotsky v. Los Angeles Fed.*
8 *Sav. & Loan Assoc.*, (1975) 48 Cal. App. 3d 134, 151-52. Class notice should strike a balance
9 between thoroughness and the need to avoid unduly complicating its content. *Wershba, supra*
10 91 Cal. App. 4th at 252. Generally, “notice is satisfactory if it...describes the terms of the
11 settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come
12 forward and be heard.” *Churchill Village, LLC v. General Electric* (9th Cir. 2004) 361 F.3d
13 566, 575 (internal quotations omitted).

14 Here, the Court-approved notice procedures have met all the aforementioned
15 requirements. As previously determined by the Court during preliminary approval, the relevant
16 form contains all required information. A website was also used to make that key information
17 more accessible. [Addendum to Agreement ¶ 1(a)]. Moreover, SCM had sufficient time to
18 decide whether to opt-out or object to the settlement, specifically forty-five days. [AGMT ¶
19 A(12)]. The notice process commenced on June 21, 2024, and therefore concluded on August 5,
20 2024. [Soto-Najera Dec. ¶ 6].

21 **E. The Court Should Confirm its Certification of the Class**

22 California Rule of Court, rule 3.769(d) provides: “[t]he court may make an order
23 approving...certification of a provisional settlement class after the preliminary settlement
24 hearing.” For the instant action, the Court provisionally certified the Settlement Class in its
25 Preliminary Approval order on March 19, 2024. No subsequent event has occurred to disrupt
26 the soundness of that initial determination. As such, Plaintiffs ask the Court to confirm its grant
27 of class certification for settlement purposes only.

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Dated: August 20, 2024

Arlo Garcia Uriarte
Liberation Law Group, P.C.
Attorney for Plaintiffs

PROOF OF SERVICE

I, the undersigned, hereby declare:

I am employed in the City of San Francisco, State of California. I am over the age of 18 years and not a party to the within cause; my business address is 2760 Mission Street, San Francisco, California.

I served the document(s) listed below as follows:

Date Served: August 20, 2024

Documents Served:

Notice and Motion for Final Approval of Class Action Settlement;

Notice of Motion and Motion for Award and Attorneys' Fees, Reimbursement of Costs, and Plaintiffs' Enhancement; and ,

Declaration of Arlo Garcia Uriarte in Support of Plaintiff's Final Fairness Hearing Motions.

Parties Served:

Gonzalo Morales
GonzaloMorales@jacksonlewis.com

Kevin D. Reese
Kevin.Reese@jacksonlewis.com

Jackson Lewis P.C.
50 California Street, 9th Floor
San Francisco, California 94111-4615

☐ BY MAIL: I placed a true and correct copy of the document(s) in a sealed envelope with first class postage fully prepaid in the United States Mail at San Francisco, California, addressed as shown above.

☒ BY ELECTRONIC MAIL: I caused true and correct copies of the above document(s) to be sent to the person(s) at the electronic service address(es) listed above. Such documents were transmitted via electronic mail from the electronic address: Luiseth@liberationlawgroup.com in

portable document format ("PDF") Adobe Acrobat.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on August 20, 2024, at San Francisco, CA



Luiseth Contreras

PROOF OF SERVICE