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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

KAREN HARTSTEIN, in her representative capacity and on behalf of herself and all others similarly situated,

Plaintiff,

vs.

HYATT CORPORATION, a Delaware corporation doing business in California; and DOES 1 through 100, inclusive,

Defendants.

Case No. 20STCV15895

Honorable Laura A. Siegle
Department 17

NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Date:	August 27, 2025
Time:	9:00 a.m.
Dept.:	17
Complaint Filed:	April 24, 2020
FAC Filed:	January 4, 2021
Trial Date:	Not Set

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on **August 27, 2025 at 9:00 a.m.** in Department 17 of the above-captioned Court located at Spring Street Courthouse, 312 North Spring Street, Los Angeles, California, pursuant to California Code of Civil Procedure section 382 and Rule 3.769 of the California Rules of Court, Plaintiff Karen Hartstein ("Plaintiff") will and hereby does move the Court for an Order granting preliminary approval of the proposed class action and PAGA settlement between Plaintiff and Defendant Hyatt Corporation ("Defendant").

Plaintiff requests that the Court enter an Order:

1. Preliminarily approving the Joint Stipulation of Class Action and PAGA Settlement ("Settlement" or "Settlement Agreement") attached as Exhibit 4 to the Declaration of Alexandra Rose in Support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement ("Rose Decl.");

2. Certifying the Class for Settlement purposes;

3. Appointing Plaintiff Karen Hartstein as the Class Representative for Settlement purposes;

4. Appointing Jonathan M. Genish, Matthew Dietz, Karen I. Gold, Marissa A. Mayhood, and Alexandra Rose of Blackstone Law, APC as Class Counsel for Settlement purposes;

5. Approving the proposed Notice of Class Action Settlement ("Class Notice"), attached as Exhibit A to the Settlement Agreement, to be mailed to the Class;

6. Approving the opt-out and objection procedures provided in the Settlement Agreement and set forth in the Class Notice;

7. For each Class Member, directing Defendant to furnish their full name, last known email address, last known mailing address, Social Security number, hourly rate of pay; and (6) full time or part time designation within fourteen (14) calendar days after entry of the order granting preliminary approval of the Settlement;

8. Approving the proposed deadlines for the settlement administration process; and

9. Setting a Final Approval Hearing.

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Pursuant to California Labor Code section 2699(1)(2), on June 6, 2025, a copy of the Settlement was submitted to the California Labor and Workforce Development Agency ("LWDA") via online submission through the LWDA's website. (Rose Decl., ¶ 66 and Exh. 5).

This Motion is based upon this Notice, the attached Memorandum of Points and Authorities, the Declaration of Alexandra Rose, the Declaration of Plaintiff Karen Hartstein, the Declaration of the Settlement Administrator (Sean Hartranft of Apex Class Action LLC), the pleadings and other records on file with the Court in this matter, and any other further evidence or argument that the Court may properly receive at or before the hearing.

Respectfully submitted,

Dated: July 29, 2025

BLACKSTONE LAW, APC

By: ______________________________
Alexandra Rose
Attorneys for Plaintiff Karen Hartstein

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Karen Hartstein ("Plaintiff") seeks preliminary approval of the Joint Stipulation of Class Action and PAGA Settlement ("Settlement" or "Settlement Agreement") entered into between Plaintiff and Defendant Hyatt Corporation ("Defendant") (together, with Plaintiff, the "Parties"). (Declaration of Alexandra Rose in Support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement ["Rose Decl."], Exh. 4). The Settlement terms are outlined as follows:

- Class Size: Six thousand one hundred eighty-seven (6,187) individuals.
- Gross Settlement Amount: Eleven Million Eight Hundred Fifty Dollars and Zero Cents ($11,850,000.00).
- Attorneys' Fees and Costs: Attorneys' fees of thirty-five percent (35%) of the Gross Settlement Amount (i.e., $4,147,500.00 if the Gross Settlement Amount is $11,850,000.00) plus actual litigation costs and expenses not to exceed Three Hundred Fifty Thousand Dollars and Zero Cents ($350,000.00), to be paid from the Gross Settlement Amount.
- Enhancement Payment: Twenty-Five Thousand Dollars and Zero Cents ($25,000.00), to be paid from the Gross Settlement Amount.
- Settlement Administration Costs: Not to exceed Thirty-Five Thousand Dollars and Zero Cents ($35,000.00), to be paid from the Gross Settlement Amount.
- PAGA Amount: Five Hundred Thousand Dollars and Zero Cents ($500,000.00) from the Gross Settlement Amount, 75% of which will be paid to the Labor and Workforce Development Agency ("LWDA") and the remaining 25% to be paid to the PAGA Employees.
- Estimated Net Settlement Amount: Six Million Seven Hundred Ninety-Two Thousand Five Hundred Dollars and Zero Cents ($6,792,500.00) to be distributed to Settlement Class Members.

As set forth herein, the Settlement is the product of informed discovery and arms-length negotiations, and provides a fair, adequate, and reasonable recovery for the Class. Plaintiff therefore respectfully requests that the Court grant preliminarily approval of the Settlement, conditionally certify the Class, approve the proposed Notice of Class Action Settlement ("Class Notice"), and set a hearing date for final settlement approval, among other requested relief.

II. FACTUAL AND PROCEDURAL BACKGROUND

Defendant is a multinational hospitality company that manages and franchises luxury and business hotels, resorts, and vacation properties. (Rose Decl., ¶ 9). Plaintiff was employed by Defendant as an hourly-paid, non-exempt employee from approximately July 31, 2000 to December 1, 2013, and then again from approximately March 24, 2014 to March 27, 2020. (Declaration of Plaintiff Karen Hartstein in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement ["Hartstein Decl."], ¶ 2).

In March 2020, Defendant temporarily furloughed thousands of California employees in response to the COVID-19 pandemic and did not automatically pay out all of its employees' vested vacation wages and floating holiday wages at the time of the furlough, which Plaintiff contends violated the California Labor Code. (Rose Decl., ¶ 9).

On April 23, 2020, Plaintiff provided written notice to the LWDA by online submission and to Defendant by U.S. Certified Mail, pursuant to California Labor Code Section 2699.3, of the specified provisions of the California Labor Code alleged to have been violated by Defendant. (*Id*., ¶ 10 and Exh. 2).

On April 24, 2020, Plaintiff filed a Class Action Complaint in the action entitled *Karen Hartstein v. Hyatt Corporation*, Los Angeles County Superior Court Case No. 20STCV15895 ("Action"), on behalf of a putative class of all California employees whose employment was terminated, including by layoff or furlough, and who were not paid for earned or accrued vacation immediately upon cessation of their employment during the period from April 24, 2016 to final judgment. (*Id*., ¶ 11). It alleged five causes of action for (1) Failure to Pay All Wages Upon Discharge or Layoff; (2) Waiting Time Penalties; (3) Failure to Furnish Accurate, Itemized Wage Statements; (4) Unfair and Unlawful Business Practices; and (5) PAGA. (Ibid).

On June 1, 2020, Defendant removed the Action to the United States District Court for the Central District of California, where it was assigned Case No. 2:20-cv-04874-DSF-JPR (the "Federal Action"). (*Id*., ¶ 12).

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On June 19, 2020, Plaintiff propounded written formal discovery onto Defendant (specifically, Interrogatories (Set One), Requests for Production of Documents (Set One), and Request for Admissions (Set One)). (*Id.*, ¶ 13). On July 13, 2020, Plaintiff served a notice of subpoena onto Defendant. (Ibid). On July 30, 2020, Plaintiff served a notice of deposition of Defendant under Federal Rules of Civil Procedure, Rule 30(b)(6) along with request for production of documents. (Ibid). On August 3, 2020, Plaintiff propounded additional written formal discovery onto Defendant (specifically, Requests for Production of Documents (Set Two)). (Ibid). On August 10, 2020, Defendant responded to Plaintiff's discovery requests (specifically, Interrogatories (Set One), Requests for Production of Documents (Set One), and Request for Admission (Set One)). (Ibid). On September 9, 2020, Defendant served responses and supplemental responses to Plaintiff's discovery requests (specifically, Interrogatories (Set One), Request for Admissions (Set One), Requests for Production of Documents (Set Two), and Requests for Production of Documents (Set Two)). (Ibid). On October 28, 2020, Plaintiff served a re-notice of deposition of Defendant under Federal Rules of Civil Procedure, Rule 30(b)(6) along with request for production of documents. (Ibid).

On October 30, 2020, Plaintiff provided an amended written notice to the LWDA by online submission and to Defendant by U.S. Certified Mail, pursuant to California Labor Code Section 2699.3 ("PAGA Letter"). (*Id.*, ¶ 14).

On November 10, 2020, Blackstone Law, APC took the deposition of Defendant's Person Most Knowledgeable (Director of Human Resources). (*Id.*, ¶ 15).

On January 4, 2021, Plaintiff filed a First Amended Class Action Complaint ("Operative Complaint") in the Federal Action, which additionally asserted a regular rate claim due to Defendant's alleged failure to factor hotel room stays into the regular rate of pay for purposes of overtime compensation, claims for the unpaid value of unused hotel room stays for all individuals whose employment was terminated during the statutory period, and added a regular rate subclass and an unpaid hotel room bonus subclass to the proposed class. (*Id.*, ¶ 16).

On January 25, 2021, Defendant filed a Motion for Judgment on the Pleadings and supporting documents. (*Id.*, ¶ 17). On February 1, 2021, Plaintiff filed an Opposition to Defendant's Motion for Judgment on the Pleadings and supporting documents. (Ibid). On February 8, 2021, Defendant filed a

Reply in Support of Its Motion for Judgment on the Pleadings and supporting documents. (Ibid).

On February 8, 2021, Plaintiff propounded further additional written formal discovery (specifically, Interrogatories (Set Two), Request for Admissions (Set Two), and Requests for Production of Documents (Set Three)). (*Id*., ¶ 18).

On February 17, 2021, the court in the Federal Action denied Defendant's Motion for Judgment on the Pleadings without prejudice because Defendant filed its Motion for Judgment on the Pleadings before the pleadings were closed in violation of Federal Rules of Civil Procedure, Rule 12(c). (*Id*., ¶ 19).

On February 22, 2021, Defendant filed a Renewed Motion for Judgment on the Pleadings and supporting documents. (*Id*., ¶ 20). On March 1, 2021, Plaintiff filed an Opposition to Defendant's Renewed Motion for Judgment on the Pleadings and supporting documents. (Ibid). On March 8, 2021, Defendant filed a Reply in Support of Its Renewed Motion for Judgment on the Pleadings. (Ibid).

On March 9, 2021, Plaintiff served a notice of subpoena onto Defendant. (*Id*., ¶ 21). On March 10, 2021, Defendant responded to Plaintiff's discovery requests (specifically, Interrogatories (Set Two), Request for Admissions (Set Two), and Requests for Production of Documents (Set Three)). (Ibid). On March 19, 2021, Plaintiff served a continued notice of deposition under Federal Rules of Civil Procedure, Rule 30(b)(6) along with request for production of documents. (Ibid).

On March 19, 2021, the court in the Federal Action granted in part and denied in part Defendant's Renewed Motion for Judgment on the Pleadings and dismissed Plaintiff's fourth cause of action for failure to furnish accurate, itemized wage statements. (*Id*., ¶ 22).

On March 24, 2021, Defendant served two (2) notices of subpoena and deposition of Plaintiff's experts. (*Id*., ¶ 23). On March 31, 2021, Blackstone Law, APC defended the deposition of Plaintiff's expert. (Ibid). On April 7, 2021, Blackstone Law, APC took the continued deposition of Defendant's Person Most Knowledgeable (Director of Human Resources). (Ibid).

On April 12, 2021, Plaintiff filed a Motion for Class Certification and supporting documents. (*Id*., ¶ 24). On April 26, 2021, Defendant filed an Opposition to Plaintiff's Motion for Class Certification and supporting documents. (Ibid). On May 10, 2021, Plaintiff filed a Reply in Support of Plaintiff's Motion for Class Certification. (Ibid). On May 25, 2021, the court in the Federal Action granted Plaintiff's motion for class certification and certified the following class and subclasses:

Class: All individuals who were employed by Defendants in the State of California at any time during the period from April 24, 2016 to final judgment (the "Relevant Period") and who fall within the definition of one or all of the following Subclasses:

Subclass 1: All members of the Class whose employment was terminated (including, without limitation, temporarily laid off, laid off, or "furloughed") and who were not paid for vested vacation time and/or floating holidays immediately upon cessation of their employment within the Relevant Period.

Subclass 2: All members of the Class whose employment was terminated (including, without limitation, temporarily laid off, laid off, or "furloughed") and who were not paid for vested non-discretionary hotel room bonuses immediately upon cessation of their employment within the Relevant Period.

Subclass 3: All members of the Class who are or were hourly-paid and/or non-exempt, who worked overtime and received overtime pay, and who earned non-discretionary hotel room bonuses during the Relevant Period.

The court in the Federal Action appointed Plaintiff as the class representative and Blackstone Law, APC as class counsel. (Ibid).

On June 17, 2021, Plaintiff propounded additional written formal discovery (specifically, Interrogatories (Set Three), Request for Admissions (Set Three), and Requests for Production of Documents (Set Four)) and served two (2) deposition notices. (*Id*., ¶ 25). On July 2, 2021, Plaintiff served a re-notice of deposition. (Ibid). On July 23, 2021, Defendant responded to Plaintiff's discovery requests (specifically, Interrogatories (Set Three), Request for Admissions (Set Three), and Requests for Production of Documents (Set Four)). (Ibid). On July 21, 2021, a Belaire-West notice was mailed to fifteen thousand one hundred and twenty (15,120) putative class members by a third-party administrator. (Ibid).

On August 4, 2021, Blackstone Law, APC took the deposition of Defendant's Person Most Knowledgeable (Human Resources Information Systems Senior Analyst). (*Id*., ¶ 26). On August 11, 2021, Plaintiff served a deposition notice. (Ibid). On August 19, 2021, Blackstone Law, APC took the deposition of Defendant's Person Most Knowledgeable (Senior Vice President of Human Resources for the Americas). (Ibid).

On September 2, 2021, Plaintiff propounded additional written formal discovery (specifically, Interrogatories (Set Four), Request for Admissions (Set Four), and Requests for Production of Documents (Set Five)). (*Id.*, ¶ 27). On September 9, 2021, Plaintiff served a notice of deposition of Defendant under Federal Rules of Civil Procedure, Rule 30(b)(6) along with request for production of documents. (Ibid). On October 4, 2021, Defendant responded to Plaintiff's discovery requests (specifically, Interrogatories (Set Four), Request for Admissions (Set Four), and Requests for Production of Documents (Set Five)). (Ibid).

On October 17, 2021, Blackstone Law, APC took the deposition of Defendant's Person Most Knowledgeable (Vice President of Revenue Management). (*Id.*, ¶ 28).

On October 20, 2021, Plaintiff served an amended notice of deposition of Defendant under Federal Rules of Civil Procedure, Rule 30(b)(6) along with request for production of documents. (*Id.*, ¶ 29). On October 25, 2021, Defendant served supplemental responses to Plaintiff's discovery requests (specifically, Interrogatories (Set Three) and Request for Admissions (Set Three)). (Ibid). On October 26, 2021, Defendant served objections and responses to Plaintiff's amended deposition notice and request for production of documents. (Ibid).

On November 2, 2021, the Parties participated in mediation with Jeffrey Krivis, Esq., which did not result in a settlement at that time. (*Id.*, ¶ 30).

On November 15, 2021, Plaintiff filed a Motion for Partial Summary Judgment and supporting documents. (*Id.*, ¶ 31). On November 15, 2021, Defendant filed a Motion for Summary Judgment, or in the Alternative Partial Summary Judgment and supporting documents. (Ibid).

On December 6, 2021, Plaintiff filed an Opposition to Defendant's Motion for Summary Judgment, or in the Alternative Partial Summary Judgment and supporting documents. (*Id.*, ¶ 32). On December 6, 2021, Defendant filed an Opposition to Plaintiff's Motion for Partial Summary Judgment and supporting documents. (Ibid).

On December 20, 2021, Plaintiff filed a Reply in Support of Plaintiff's Motion for Partial Summary Judgment and supporting documents. (*Id.*, 33). On December 20, 2021, Defendant filed a Reply in Support of Its Motion for Summary Judgment, or in the Alternative Partial Summary Judgment.

(Ibid).

On November 16, 2021, Plaintiff filed a Motion to Compel Further Responses to Plaintiff's Request for Production of Documents (Set Four). (*Id*., ¶ 34). On December 9, 2021, the court in the Federal Action granted Plaintiff's Motion to Compel Further Responses to Plaintiff's Request for Production of Documents (Set Four). (Ibid).

On January 14, 2022, Defendant served supplemental responses to Plaintiff's Request for Production of Documents (Set Four). (*Id*., ¶ 35). On February 9, 2022, Plaintiff propounded additional written discovery (specifically, Interrogatories (Set Five), Request for Admissions (Set Five), and Requests for Production of Documents (Set Six)) and served five (5) deposition notices. (Ibid).

On February 14, 2022, the court in the Federal Action granted Defendant's Motion for Summary Judgment, denied Plaintiff's Motion for Partial Summary Judgment, and dismissed the Federal Action with prejudice. (*Id*., ¶ 36).

On March 15, 2022, Plaintiff filed a Notice of Appeal to the United States Court of Appeals for the Ninth Circuit. (*Id*., ¶ 37).

On September 22, 2023, the Ninth Circuit Court of Appeal issued its Opinion in which it reversed the district court's grant of summary judgment in favor of Defendant as to the vacation pay and waiting time penalties claims concluding that the California Labor Code required Defendant to pay the accrued vacation pay in March 2020 and that a temporary layoff without a specific return date within the normal pay period is a discharge that triggers the prompt payment provisions of California Labor Code Section 201; affirmed the grant of summary judgment as to the complimentary hotel room claim holding that complimentary hotel rooms Defendant provided to employees were excludable from the calculation of employees' regular rate of pay under the Fair Labor Standards Act because they were excludable as "other similar payments" under 29 C.F.R. Section 778.224; remanded the case for the court to consider whether Defendant acted willfully within the meaning of California Labor Code Section 203; and reversed the grant of summary judgment as to Plaintiff's derivative PAGA and unfair competition claims as to the vacation time and waiting time claims. (Ibid).

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On July 11, 2024, the Parties participated in a second mediation with Jeffrey A. Ross, Esq., which did not result in a settlement at that time. (*Id.*, ¶ 38). However, after further negotiations and with the assistance of the mediator's evaluations and a mediator's proposal, the Parties were able to reach an agreement to resolve this dispute on a class and representative basis. (Ibid). The Parties then worked diligently to negotiate and memorialize the terms in a long form settlement agreement. (Ibid).

On June 5, 2025, the Parties executed the Settlement Agreement. (*Id.*, ¶ 39 and Exh. 4).

On June 6, 2025, pursuant to the joint stipulation of the Parties, the Federal Action was remanded to Los Angeles Superior Court. (*Id.*, ¶ 40).

III. THE SETTLEMENT TERMS

A. Class Definition

For purposes of settlement only, the Parties have agreed that the Class shall be defined as "all individuals who were employed by Defendant in the State of California at any time during the Class Period whose employment was terminated (including, without limitation, temporarily laid off, laid off, or "furloughed") and who were not paid for vested vacation time and/or floating holidays immediately upon cessation of their employment within the Class Period" ("Class" or Class Member(s)"). (Rose Decl., ¶ 41; Settlement Agreement, ¶ 20.b). The Class Period is defined as the period from April 24, 2016 through October 30, 2024. (Rose Decl., ¶ 41; Settlement Agreement, ¶ 20.f). Defendant has represented that there are a total of six thousand one hundred and eighty-seven (6,187) Class Members.[1] (Rose Decl., ¶ 41; Settlement Agreement, ¶ 27). For the avoidance of doubt, the scope of this case is limited to only those individuals who were employed by Defendant in approximately March 2020 when Defendant furloughed many of its California employees in response to the Covid-19 pandemic, and runs through approximately June to August 2020, when Defendant paid its terminated employees all money owed for vested vacation time and/or floating holidays. (Rose Decl., ¶ 41; Settlement Agreement, ¶ 8).

B. Amount of Settlement

The Parties have agreed to settle the class and PAGA claims at issue in the Operative Complaint for a non-reversionary Gross Settlement Amount of Eleven Million Eight Hundred Fifty Dollars and Zero

[1] As of the date of this filing, Defendant's counsel advised that the Escalator Clause in Paragraph 27 of the Settlement Agreement has not been triggered.

Cents ($11,850,000.00). (Rose Decl., ¶ 42; Settlement Agreement, ¶ 20.p).

C. Allocation and Funding of the Gross Settlement Amount

The Gross Settlement Amount is a common fund and therefore includes all requested costs, fees, and other allocations. (Rose Decl., ¶ 42; Settlement Agreement, ¶ 20.p). The Gross Settlement Amount includes: (1) Class Counsel's fees in the amount of thirty-five percent (35%) of the Gross Settlement Amount (i.e., $4,147,500.00 if the Gross Settlement Amount is $11,850,000.00); (2) Class Counsel's actual litigation costs and expenses, not to exceed Three Hundred Fifty Thousand Dollars and Zero Cents ($350,000.00); (3) Settlement Administration Costs, not to exceed Thirty-Five Thousand Dollars and Zero Cents ($35,000.00); (4) Enhancement Payment in the amount of Twenty-Five Thousand Dollars and Zero Cents ($25,000.00); and (5) PAGA Amount in the amount of Five Hundred Thousand Dollars and Zero Cents ($500,000.00). (Rose Decl., ¶ 42; Settlement Agreement, ¶¶ 20.p, 23, 24, 25, and 26). After the above-estimated amounts are deducted from the Gross Settlement Amount, the Net Settlement Amount that will be available for Class Members is currently estimated to be Six Million Seven Hundred Nintey-Two Thousand Five Hundred Dollars and Zero Cents ($6,792,500.00). (Rose Decl., ¶ 42). Additionally, 25% of the PAGA Amount ("PAGA Employee Amount"), which is $125,000.00 out of $500,000.00, will be fully distributed to "all individuals who were employed by Defendant in the State of California at any time during the PAGA Period whose employment was terminated (including, without limitation, temporarily laid off, laid off, or "furloughed") and who were not paid for vested vacation time and/or floating holidays immediately upon cessation of their employment within the PAGA Period" ("PAGA Employee(s)"). (Rose Decl., ¶ 42; Settlement Agreement, ¶¶ 20.p, 20.w, 20.x, 20.y, and 25). The "PAGA Period" is defined as the period from April 23, 2019 through October 30, 2024. (Rose Decl., ¶ 42; Settlement Agreement, ¶ 20.z).

The Net Settlement Amount will be distributed and paid to all Class Members who do not submit a timely and valid Request for Exclusion ("Settlement Class Member(s)"). (Rose Decl., ¶ 43; Settlement Agreement, ¶ 20.u). The *pro rata* share of the Net Settlement Amount that a Class Member may be eligible to receive under the Class Settlement ("Individual Settlement Payment") will be calculated by the Settlement Administrator as follows:

> The Settlement Administrator will create a "Preliminary Allocation Percentage" for each Class Member. The numerator will be the individual Class Member's estimated full waiting time

> penalties, based on their hourly rate of pay and classification of full-time (8 hours per day) or part-time (5 hours per day) status, and the denominator will be the sum of all Class Members' estimated full waiting time penalties. The Settlement Administrator will then multiply the Preliminary Allocation Percentage for each Class Member by the Net Settlement Amount to determine that Class Member's estimated Individual Settlement Payment.

(Rose Decl., ¶ 43; Settlement Agreement, ¶¶ 6.4 and 28).

The PAGA Employee Amount will be distributed and paid to all PAGA Employees. (Rose Decl., ¶ 44; Settlement Agreement, ¶¶ 20.y and 25). The *pro rata* share of the PAGA Employee Amount that a PAGA Employee may be eligible to receive under the PAGA Settlement ("Individual PAGA Payment") will be calculated by the Settlement Administrator as follows:

> The Settlement Administrator will divide the PAGA Employee Amount, *i.e.*, 25% of the PAGA Amount, by the total number of PAGA Employees to yield each PAGA Employee's Individual PAGA Payment.

(Rose Decl., ¶ 44; Settlement Agreement, ¶¶ 20.q and 29).

Each Individual Settlement Payment and Individual PAGA Payment will be allocated as one hundred percent (100%) penalties and will be reported on an IRS Form 1099 (if applicable) by the Settlement Administrator. (Rose Decl., ¶ 45; Settlement Agreement, ¶ 30).

The Settlement Agreement is a non-reversionary and non-claims made settlement. (Rose Decl., ¶ 46; Settlement Agreement, ¶¶ 20.p and 48). The Net Settlement Amount will be fully distributed to Settlement Class Members and the PAGA Amount will be fully distributed to the LWDA and PAGA Employees, in accordance with the Settlement Agreement. (Rose Decl., ¶ 46; Settlement Agreement, ¶¶ 28 and 29). No money will revert to Defendant. (Rose Decl., ¶ 46; Settlement Agreement, ¶ 20.p).

Each Individual Settlement Payment and Individual PAGA Payment check will be valid and negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and thereafter, shall be canceled. (Rose Decl., ¶ 47; Settlement Agreement, ¶ 48). Any funds associated with such canceled checks will be distributed by the Settlement Administrator to the State of California's Unclaimed Property Division in the name of the Settlement Class Member and/or PAGA Employee. (Rose Decl., ¶ 47; Settlement Agreement, ¶ 48).

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D. Released Claims

Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff and all Settlement Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims. (Settlement Agreement, ¶ 49).

Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff, the State of California with respect to all PAGA Employees, and all PAGA Employees will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims. (*Id.*, ¶ 50).

"Released Class Claims" means any and all claims, rights, demands, charges, complaints, causes of action, obligations, damages, penalties, interest, or liability of any and every kind, which were alleged or could have been alleged based on the facts in the Operative Complaint, arising during the Class Period for Defendant's alleged failure to timely pay all wages and/or vested vacation time/paid time off and/or floating holidays immediately upon termination (including, without limitation, temporarily laid off, laid off, or "furloughed") in or around March 2020 in connection with the Covid-19 pandemic, allegedly in violation of California Labor Code Sections 201, 203, and 227.3, and for the alleged violation of California Business and Professions Code sections 17200, *et seq*. based on the aforementioned California Labor Code alleged violations. (*Id.*, ¶ 20.dd).

"Released PAGA Claims" means any and all claims, rights, demands, charges, complaints, causes of action, obligations, damages, penalties, interest, or liability of any and every kind, which were alleged or could have been alleged based on the facts in the Operative Complaint, for civil penalties under the Private Attorneys General Act of 2004, California Labor Code Sections 2698 *et seq*., as alleged in the PAGA Letter and/or Operative Complaint, arising in or around March 2020 for Defendant's alleged failure to timely pay all wages and/or vested vacation time/paid time off and/or floating holidays immediately upon termination (including, without limitation, temporarily laid off, laid off, or "furloughed") in connection with the Covid-19 pandemic, allegedly in violation of California Labor Code Sections 201, 203, and 227.3. (*Id.*, ¶ 20.ee).

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"Released Parties" means Defendant and its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates. (*Id*., ¶ 20.ff).

IV. STANDARD OF REVIEW FOR PRELIMINARY APPROVAL

The settlement of a class action requires court approval. (*See Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794 (1996)). "In general, questions whether a settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court's broad discretion." (*Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 234-35 (2001) (disapproved on other grounds)).

The review and approval of a proposed class action settlement involves a two-step process. (*See* Cal. Rules of Court, Rule 3.769(c)). First, counsel submit the proposed terms of the settlement and the Court makes a preliminary assessment of whether the settlement appears to be sufficiently within the range of a fair settlement to justify providing notice of the proposed settlement to class members. After notice is provided to the class, the Court must conduct a second inquiry into whether the proposed settlement is fair, reasonable, and adequate. (Ibid).

The initial evaluation of the settlement at the preliminary approval step "is not a fairness hearing." (*Armstrong v. Board of School Directors of City of Milwaukee*, 616 F.2d 305, 314 (7th Cir. 1980)). Rather, the limited purpose of this initial inquiry is to determine, at a threshold level, only whether the proposed settlement is within the range of possible approval and, as a result, "whether there is any reason to notify the class members of the proposed settlement and to proceed with a fairness hearing." A presumption of fairness exists 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. (*See In re Microsoft I-V Cases*, 135 Cal. App. 4th 706, 723 (2006)).

Preliminary approval does not require a court to make a final determination that the settlement is fair, reasonable, and adequate. Rather, that decision is made only at the final approval stage, after notice of the settlement has been given to the class members and they have had an opportunity to object or exclude themselves from the settlement. (*See* Cal. Rules of Court, Rule 3.769(g)). In considering a potential class settlement, the court need not reach any ultimate conclusions on the issues of fact and law which underlie the merits of the dispute and need not engage in a trial on the merits. (*See Officers for Justice v. Civil Service Commission*, 688 F.2d 615, 625 (9th Cir. 1982)).

V. THE SETTLEMENT IS PRESUMED FAIR

A. The Settlement Was Reached as a Result of Arm's-Length Bargaining

California courts recognize that "a presumption of fairness exists where . . . [a] settlement is reached through arm's-length bargaining." (*Wershba*, 91 Cal.App.4th at 245; *see also Clark v. Am. Residential Servs. LLC*, 175 Cal.App.4th 785, 799 (2009)). Here, the Parties' settlement negotiations were at all times made at arm's-length and were adversarial. (Rose Decl., ¶ 48). The Settlement was reached following five years of litigation and after a second mediation session with a highly respected mediator with substantial experience mediating wage and hour cases. (Ibid). At all times, both Parties were willing and prepared to litigate this matter through trial and/or upon further appeal if the Parties had been unable to reach a favorable resolution. (*Id.*, ¶ 49).

B. Sufficient Investigation and Discovery by Experienced Class Counsel

Courts typically assess the status of discovery in determining whether a class action settlement agreement is fair, reasonable, and adequate. (*Dunk*, 48 Cal.App.4th at 1801). The Parties engaged in extensive formal and informal discovery, motion practice, and certification of the Class prior to reaching a settlement. (Rose Decl., ¶ 49). This allowed Class Counsel to conduct an informed assessment and analysis of the strengths and weaknesses of the claims and the potential class-wide penalties. (Ibid).

Based on information exchanged, the Parties extensively briefed issues regarding class certification and liability and provided their analyses to the mediator who helped the Parties debate the strengths and weakness of their respective positions. (*Id.*, ¶ 50). Additionally, settlement negotiations were conducted by highly capable and experienced counsel. (Rose Decl., ¶¶ 1-8). Accordingly, Class Counsel had sufficient information and experience to act intelligently in negotiating the Settlement.

C. The Settlement is Fair and Reasonable in Light of the Parties' Respective Legal Positions and Recovery Risks

A settlement is not judged against what might have been recovered had a plaintiff prevailed at trial, nor does the settlement have to obtain 100% of the damages sought to be fair and reasonable.

(*Wershba*, 91 Cal.App.4th at 246, 250). In evaluating the reasonableness of a settlement, a trial court must consider "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement." (*Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008)).

Here, the reasonableness of the Settlement is underscored by the fact that Defendant has legal and factual grounds for defending the Action. Based upon Class Counsel's experience litigating similar complex matters, Plaintiff reasonably expected a vigorous and lengthy defense to both maintaining class certification and the merits of the Action absent a settlement.

1. Class Counsel's Analysis of the Maximum Available Liability and Damages

Class Counsel analyzed all available data and estimated Defendant's maximum potential waiting time penalties under California Labor Code Section 203 to be approximately $31,865,525. (Rose Decl., ¶ 51). Plaintiff further estimated that Defendant faced an additional exposure of $1,237,400 in potential, non-stacked (i.e., one penalty, per employee, per pay period during the PAGA statutory period) PAGA penalties. (Ibid). Together with the PAGA penalties, Defendant's maximum potential exposure totaled $33,102,925, excluding interest. (Ibid).

2. Class Counsel's Risk-Based Analysis and Risk-Based Adjustments

As described herein, on September 22, 2023, the Ninth Circuit Court of Appeal issued its Opinion in which it reversed the district court's grant of summary judgment in favor of Defendant as to the vacation pay and waiting time penalties claims concluding that the California Labor Code required Defendant to pay the accrued vacation pay in March 2020 and that a temporary layoff without a specific return date within the normal pay period is a discharge that triggers the prompt payment provisions of California Labor Code Section 201; affirmed the grant of summary judgment as to the complimentary hotel room claim holding that complimentary hotel rooms Defendant provided to employees were excludable from the calculation of employees' regular rate of pay under the Fair Labor Standards Act because they were excludable as "other similar payments" under 29 C.F.R. Section 778.224; remanded the case for the court to consider whether Defendant acted willfully within the meaning of California

Labor Code Section 203; and reversed the grant of summary judgment as to Plaintiff's derivative PAGA and unfair competition claims as to the vacation time and waiting time claims. (*Id.*, ¶ 52). Accordingly, although Plaintiff already partially prevailed on liability in this matter as the Ninth Circuit Court of Appeal ruled that Defendant was obligated to and did not timely pay wages that were due, Plaintiff faced the risk of Defendant's "good faith" basis for failing to comply with California law. (Ibid). Consideration of these risks factored into the negotiations and the decision to enter the Settlement.

Employees are entitled to waiting time penalties where an employer "willfully" fails to immediately pay all wages owing immediately upon discharge. (Rose Decl., ¶ 53; Cal. Lab. Code § 203). Once Plaintiff establishes that Defendant's conduct was "willful" (i.e., not inadvertent), the burden shifts to Defendant to establish a defense to imposition of California Labor Code Section 203 waiting time penalties. (Rose Decl., ¶ 53; *See e.g. Diaz v. Grill Concepts Services, Inc.*, 23 Cal.App.5th 866, 868 (2018); *see also Holandez v. Ent., LLC*, No. EDCV 21-01755 JGB (SHKx)) 2023 U.S.Dist.LEXIS 215399, at *41 (C.D. Cal. Oct. 27, 2023) (citing *Local 246 Util. Workers Union v. S. Cal. Edison Co*., 83 F.3d 292, 297 (9th Cir. 1996) ([T]he employer has the burden of establishing subjective and objective good faith in its violation of FLSA.")). Defendant has asserted the "Good Faith Dispute" defense, under which an employer's failure to pay wages owed is excused for purposes of California Labor Code Section 203 penalties if its failure to timely make such payments was due to (1) uncertainty in the law, (2) representations by an authority that no payment was required, or (3) the employer's good faith mistaken belief that wages are not owed grounded in a good faith dispute, which exists when the employer presents a defense, based in law or fact which, if successful, would preclude any recovery by the employee. (Rose Decl., ¶ 53; *Diaz*, 23 Cal.App.5th 859, 874 (2018); Cal. Code Regs., tit. 8, § 13520 (a)). Defendant argued that a good faith dispute unquestionably exists whether any wages were due because the statute at issue requires a payout of vacation on "termination," and no case or binding authority has ever held that a furlough, which it alleges occurred to the Class, where employees had access to their health and other benefits and continued to accrue vacation and could be paid out any or all vacation/PTO at any point during the furlough upon request, requires an employer to pay out accrued vacation. (Rose Decl., ¶ 53).

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Class Counsel is aware of Defendant's defenses and arguments and has also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation, including those involved in de-certification and a potential second appeal with the Ninth Circuit Court of Appeals. (*Id*., ¶ 54). Plaintiff further recognizes the significant benefits Class Members can receive more quickly in the Settlement. (Ibid). Plaintiff has also considered the Parties' settlement discussions, as well as the evaluations of the mediator, who is experienced and well-regarded in complex labor and employment matters. (Ibid).

Defendant denied and continues to deny any liability and wrongdoing of any kind associated with the claims alleged in the Action, and further denies that class certification is appropriate for any purpose other than the Settlement. (*Id*., ¶ 55). Defendant believes that it would ultimately prevail in the Action and would evidence a good faith defense to preclude the imposition of California Labor Code Section 203 penalties. (Ibid). Defendant proffered defenses to both certification and to the merits of Plaintiff's claims.

Therefore, taking into account how each of the above risks potentially affected de-certification, plus the cost and delay in recovering the alleged potential penalties, Class Counsel discounted its evaluation of Defendant's purported liability based on the challenges facing de-certification by 40% to $19,861,755. (*Id*., ¶ 56). The merits-based risk factors further reduced Plaintiff's evaluation of Defendant's purported liability by an additional 40%. (Ibid). This resulted in an adjusted estimated liability, in Plaintiff's view, of $11,917,053. (Ibid). In light thereof, the settlement amount of $11,850,000 is a significant settlement. (Ibid).

Class Counsel also contemplated the risks of proceeding with the PAGA claim and potential liability Defendant could face from this claim as part of the global resolution. (*Id*., ¶ 57). Existing case law makes PAGA claims subject to the same defenses and risks as Plaintiff's underlying wage claims. (Rose Decl., ¶ 57; see, *Elliot v. Spherion Pac. Work, LLC*, 572 F.Supp.2d 1169, 1181-82 (C.D. Cal. 2008) ("Plaintiff's claim under [PAGA] is wholly dependent upon her other claims. Because all of Plaintiff's other claims fail as a matter of law, so does her PAGA claim")). Class Counsel also anticipated that even if successful on the merits at trial, the imposition of cumulative civil penalties based on the alleged wage and hour violations could be considered unjust, arbitrary and oppressive, or confiscatory, and that

Defendant would argue that it made a good faith attempt to comply with its legal obligations warranting a reduction in penalties. (Rose Decl., ¶ 57).[2] Finally, Class Counsel was also mindful of the fact that PAGA is fundamentally not intended to be compensatory in nature but is instead intended to facilitate enforcement of California's labor laws by financing state activities and educating and deterring non-compliance. (Ibid).

Therefore, after considering this multitude of factors, Plaintiff and Class Counsel concluded that it was in the best interest of the State of California and the PAGA Employees to enter into the Settlement, and to allocate Five Hundred Thousand Dollars and Zero Cents ($500,000.00) of the Gross Settlement Amount towards the PAGA claim, which represents approximately 4.22% of the Gross Settlement Amount. (*Id*., ¶ 58). This percentage of the settlement is well within the range of wage and hour settlements regularly approved in both state and federal court for cases that include both a class and PAGA action. (Ibid). Typically, such hybrid cases allocate only 1% of the gross settlement value to resolve PAGA claims, and, indeed, settlements allocations as little as 0.22% of the gross settlement amount have been approved as reasonable by courts. (Ibid). Moreover, the overall relief obtained by the Settlement is significant, not only from a monetary perspective, but also because it fulfills the public policy objectives of PAGA—to promote enforcement of California's labor laws, provide funds to the state, and deter future non-compliance by the employer. (Ibid).

The Settlement is in the best interest of the Class Members, the PAGA Employees, and the State of California and is within the accepted range of recoveries for this type of litigation given the inherent risk of litigation, the risk of maintaining class certification, and the costs of further litigation. (*Id*., ¶ 59).

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[2] See, e.g., *Thurman v. Bayshore Transit Management, Inc.*, 203 Cal.App.4th 1112, 1131 (2012) (imposition of both statutory and civil penalties for same conduct is impermissible double recovery) (disapproved on other grounds); *Aguirre v. Genesis Logistics*, 2013 WL 10936035, at *3 (C.D. Cal. 2013) ("duplicative effect" of penalties is a factor in favor of "reducing ...the PAGA penalty"); *Smith v. Lux Retail North America, Inc.*, 2013 WL 2932243, at *3 (N.D. Cal. June 13, 2013) (declining to stack penalties based on the same conduct); *Castillo v. ADT, LLC*, 2017 WL 363108, at *4 (E.D. Cal. Jan. 25, 2017); *Sanchez v. McDonalds Restaurants of California, Inc.*, 2017 WL 4620746 (LA Super. Ct. July 6, 2017) (declining to stack penalties arising out of the same conduct); *Fleming v. Covidien, Inc.*, 2011 WL 756304718, at *4 (C.D. Cal. Aug. 12, 2011) (reducing PAGA penalties by 80%); *Cotter v. Lyft, Inc.*, 193 F.Supp.3d 1030 (N.D. Cal. 2016) (indicating that a substantial reduction is warranted where good faith dispute exists in legal obligations); *Carrington v. Starbucks Corp*., 30 Cal.App.5th 504, 529 (2018) (approving reduction in penalties from $50 per pay period to $5 per pay period based on good faith attempts to comply with obligations and minimal violations).

VI. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED

Code of Civil Procedure Section 382 provides that three basic requirements must be met in order to sustain any class action: (1) there must be an ascertainable class; (2) there must be a well-defined community of interest in the question of law or fact affecting the parties to be represented; and (3) certification will provide substantial benefits to litigants and the courts, i.e., proceeding as a class action is superior to other methods. (*See Dunk*, 48 Cal.App.4th at 1806). Plaintiff contends that the Class has already been certified and satisfies the class certification requirements under California Code of Civil Procedure section 382.

A. An Ascertainable Class Exists Which is So Numerous That Joinder of All Members is Impracticable

Whether an ascertainable class exists turns on three factors: (1) the class definition, (2) the size of the class, and (3) the means of identifying the class members. (*See Miller v. Woods*, 148 Cal.App.3d 862, 873 (1983)). In this case, all three considerations strongly favor class certification. Here, the Class is defined as "all individuals who were employed by Defendant in the State of California at any time during the Class Period whose employment was terminated (including, without limitation, temporarily laid off, laid off, or "furloughed") and who were not paid for vested vacation time and/or floating holidays immediately upon cessation of their employment within the Class Period." (Rose Decl., ¶ 41; Settlement Agreement, ¶ 20.b). This provides a clear and definite scope for the proposed class.

Next, the Class is sufficiently numerous. There is no magic number that satisfies the numerosity requirement. Courts have certified classes with as few as ten or twenty-eight class members. (*Rose v. City of Hayward*, 126 Cal.App.3d 926, 934 (1981); *Bowles v. Superior Court*, 44 Cal. 2d 574 (1995); *Hebbard v. Colgrove*, 28 Cal.App.3d 1017, 1030 (1972)). Here, the Class size of six thousand one hundred and eighty-seven (6,187) meets the numerosity requirement.

Finally, the question of whether class members are easily identifiable turns on whether a plaintiff can establish "the existence of an ascertainable class." (*Daar v. Yellow Cab Co.*, 67 Cal.2d 695 at 706 (1967)). The existence of an ascertainable class in this case can be established through Defendant's payroll records, and the Class definition is sufficiently specific to enable the Parties, Class Members, and the Court to determine the parameters of the Class. (*See Clothesrigger, Inc. v. GTE Corp.*, 191

Cal.App.3d 605, 617 (1987)).

B. The Class Shares a Well-Defined Community of Interest

The community of interest requirement embodies three factors: (1) predominant questions of law and fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class. (*Dunk*, 48 Cal.App.4th at 1806). Here, all three requirements are easily satisfied.

The commonality criterion requires the existence of common question of law or fact and is generally established with the issues of predominance and typicality. (*See Daar*, 67 Cal.2d 695, 706). What is required is that a common question of fact or law exists which predominates over issues unique to individual plaintiffs. The existence of individual issues or facts—generally present in any case arising from employment—is not a bar to class certification as long as they do not render class litigation unmanageable or predominate over the common issues. (*See B.W.I. Custom Kitchen v. Owens-Illinois, Inc.*, 191 Cal.App.3d 1341, 1354 (1987)).

Here, Plaintiff's claims present common issues of law and fact that predominate and warrant class certification. Plaintiff alleges that the Class Members were those employed by Defendant in approximately March 2020 when Defendant furloughed many of its California employees in response to the Covid-19 pandemic, through approximately June to August 2020, when Defendant paid its terminated employees all money owed for vested vacation time and/or floating holidays. Thus, class treatment is appropriate.

To satisfy the typicality requirement, California law does not require that plaintiffs' claims be identical to the other class members. Rather, the test of typicality for a class representative is whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiff, and whether other class members have been injured by the same course of conduct. (*See Seastrom v. Neways, Inc.*, 149 Cal.App.4th 1496, 1502 (2007)). The typicality requirement for a class representative refers to the nature of the claim or defense of the representative, and not to the specific facts from which it arose or the relief sought. (*See* Ibid).

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Here, Plaintiff alleges that her claims are similar to that of the other Class Members and that Plaintiff's claims arise out of the same alleged course of conduct giving rise to the claims of the other Class Members. Because Plaintiff's claims are based upon the same alleged conduct and business practices as those of Class Members, the typicality requirement has been satisfied.

Finally, the question of adequacy of representation "depends on whether the plaintiff's attorney qualifies to conduct the proposed litigation in the plaintiff's interest or not antagonistic to the interests of the class." (*McGee v. Bank of America*, 60 Cal.App.3d 442, 450 (1976)). Here, these considerations are satisfied. Class Counsel is well-regarded and is qualified and experienced in employment-related, class-action litigation. (Rose Decl., ¶¶ 1-8). Plaintiff will vigorously, adequately, and fairly represent the interests of the Class. Plaintiff has, at all times, throughout the course of the litigation considered the interests of the Class and understood that she must take steps to adequately represent the Class and their interests. (Hartstein Decl., ¶ 10). Because Plaintiff's claims are typical of other Class Members and are not based on unique circumstances, there is no antagonism between the interests of Plaintiff and the Class.

C. A Class Action is Superior to a Multiplicity of Litigation

Under the circumstances, proceeding as a class action is a superior means of resolving this dispute, as the Class Members and the Court will derive substantial benefits. Class certification would serve as the only means to deter and redress the alleged violations. (*See Linder v. Thrifty Oil Co.*, 23 Cal.4th 429, 434 (2000) (relevant considerations include the probability that each class member will come forward to prove his or her separate claim and whether the class approach would actually serve to deter and redress the alleged wrongdoing)). Further, individual actions arising out of the same operative facts would unduly burden the courts and could result in inconsistent results. Therefore, class action proceedings are superior to individual litigation.

VII. THE REQUESTED ENHANCEMENT PAYMENT IS REASONABLE

Plaintiffs in class action lawsuits are eligible for reasonable incentive payments as compensation "for the expense or risk they have incurred in conferring a benefit on other members of the class." (*Munoz v. BCI Coca-Cola Bottling Co.*, 186 Cal.App.4th 399, 412 (2010)). Courts routinely grant approval of class action settlement agreements containing enhancements for the class representative, which are necessary to provide incentive to represent the class and are appropriate given the benefit the class representatives help to bring about for the class. (*See In re Online DVD Rental*, 779 F.3d 934, 947-948 (9th Cir. 2014) (approving incentive award 417 times larger than individual payments where incentive award made up a mere .17% of the settlement); *Gaudin v. Saxon Mortgage Servs., Inc.*, 2015 WL 7454183, at *10 (N.D. Cal. Nov. 23, 2015) (finding service award of $15,000 to be “fair and reasonable”)).

Plaintiff initiated this litigation on behalf of her former co-workers who will now be entitled to receive payment from the Settlement. Plaintiff invested substantial time and effort into litigation, including her own research, reviewing documents and pleadings, and extensive discussions with Class Counsel. (Hartstein Decl., ¶¶ 5-6). For these reasons, Plaintiff requests that an Enhancement Payment of Twenty-Five Thousand Dollars and Zero Cents ($25,000.00) to Plaintiff be preliminarily approved by the Court. (Rose Decl., ¶ 60; Hartstein Decl., ¶ 13).

VIII. THE REQUESTED ATTORNEYS’ FEES AND COSTS ARE REASONABLE

Trial courts have “wide latitude” in assessing the value of attorneys’ fees and their decisions will “not be disturbed on appeal absent a manifest abuse of discretion.” (*Lealao v. Beneficial Cal, Inc.*, 82 Cal.App.4th 19, 41 (2000)). California law provides that attorney fee awards should be equivalent to fees paid in the legal marketplace to compensate for the result achieved and risk incurred. (*Id*. at 47). In cases where class members present claims against a common fund and the defendant agrees to a percentage of the fund as part of the settlement, use of the percentage method is appropriate. (*Id.* at 32).

Here, the requested attorneys’ fees of thirty-five percent (35%) of the Gross Settlement Amount (i.e., $4,147,500.00 if the Gross Settlement Amount is $11,850,000.00) is disclosed to Class Members in the proposed Class Notice. (Settlement Agreement, Exh. A). The requested fee was freely negotiated, is common in the legal marketplace, and is not opposed by Defendant. The Motion for Final Approval will elaborate on the nature of the legal services provided and will also support Class Counsel’s request for the reimbursement of litigation costs and expenses not to exceed Three Hundred Fifty Thousand Dollars and Zero Cents ($350,000.00). (Rose Decl., ¶¶ 61 and 63). The Attorneys’ Fees and Costs that are not ultimately approved by the Court shall instead be included in the Net Settlement Amount to be distributed to Settlement Class Members. (Settlement Agreement, ¶ 23).

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IX. THE CLASS NOTICE AND THE OPT-OUT AND OBJECTION PROCESS MEETS DUE PROCESS REQUIREMENTS

The Parties have jointly drafted the Class Notice, which will be mailed to the Class Members. (*Id*., Exh. A). The Class Notice will include information regarding the nature of the Action, a summary of the terms of the Settlement, the Class definition, information on how to object to and/or opt-out of the Class Settlement and to dispute their Individual Settlement Payment and/or hourly rate of pay to which they have been credited, and the date of the Final Approval Hearing. (Ibid). The Class Notice will list each Class Member's hourly rate of pay and their estimated Individual Settlement Payment and each PAGA Employee's estimated Individual PAGA Payment. (Ibid).

Within fourteen (14) calendar days after entry of the preliminary approval order, Defendant will provide a list in a formatted readable Microsoft Office Excel spreadsheet to the Settlement Administrator containing the following information for each Class Member: full name, last known email address, last known mailing address, Social Security number, hourly rate of pay, and full time or part time designation (collectively referred to as the "Class List"). (*Id*., ¶¶ 20.d and 37). Within seven (7) calendar days after receiving the Class List from Defendant, the Settlement Administrator will perform a search based on the National Change of Address Database or other similar services available, such as provided by Experian, for information to update and correct for any known or identifiable address changes, and will email a Class Notice in English and Spanish to all Class Members. (*Id*., ¶ 38.a). If an email address is not available, the Settlement Administrator shall mail the Class Notice by First-Class U.S. Mail, using the most current, known mailing addresses identified by the Settlement Administrator. (Ibid). The Parties have agreed to use Apex Class Action LLC as the Settlement Administrator. (Rose Decl., ¶ 64; Settlement Agreement, ¶ 20.ii).

In determining whether to approve a settlement of a class action, a trial court has virtually complete discretion as to the manner of giving notice to class members, and review on appeal is governed by the abuse of discretion standard. (*See In re Cellphone Fee Termination Cases*, 186 Cal.App.4th 1380 (2010)). Here, Class Counsel is not aware of an alternative method of providing notice to the Class which would result in a higher likelihood of actual notice. (Rose Decl., ¶ 65). The original source of the email and mailing addresses is from Class Members, who provided the information to Defendant. (Ibid).

Class Members will have forty-five (45) calendar days from the initial mailing of the Class Notice by the Settlement Administrator to submit a Request for Exclusion, Notice of Objection, and/or Dispute ("Response Deadline"). (Settlement Agreement, ¶ 20.hh).

Any Class Notice returned to the Settlement Administrator as undeliverable on or before the Response Deadline will be sent promptly via email (or First-Class U.S. Mail if an email address is not available) to the forwarding email address (or mailing address affixed thereto) and the Settlement Administrator will indicate the date of such re-mailing on the Class Notice. (*Id*., ¶ 38.b). If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace or other search, using the name, address, and/or Social Security number of the Class Member, and perform a single re-mailing within five (5) calendar days. (Ibid). In the event that a Class Notice is re-emailed or re-mailed to a Class Member, the Response Deadline for that Class Member shall be extended fifteen (15) calendar days from the original Response Deadline. (*Id*., ¶ 20.hh).

Class Members will have an opportunity to dispute the Individual Settlement Payment and/or hourly rate of pay to which they have been credited, as reflected in their respective Class Notices, by submitting a timely and valid letter ("Dispute") to the Settlement Administrator, by email or mail, emailed or postmarked on or before the Response Deadline. (*Id*., ¶¶ 20.j and 39). A Dispute must: (a) contain the case name and number of the Action; (b) contain the Class Member's full name, signature, address, telephone number, and the last four (4) digits of the Class Member's Social Security number; (c) clearly state that the Class Member disputes the amounts credited to that Class Member and what the Class Member contends is the correct rate; and (d) be returned by email or mail to the Settlement Administrator at the specified address, emailed or postmarked on or before the Response Deadline. (*Id*., ¶ 20.j).

Any Class Member wishing to be excluded from the Class Settlement must submit a timely and valid letter ("Request for Exclusion") to the Settlement Administrator, by email or mail, emailed or postmarked on or before the Response Deadline. (*Id*., ¶¶ 20.gg and 40). A Request for Exclusion must: (a) contain the case name and number of the Action; (b) contain the Class Member's full name, signature, address, telephone number, and last four (4) digits of the Class Member's Social Security number; (c) clearly state that the Class Member does not wish to be included in the Class Settlement; and (3) be returned by email or mail to the Settlement Administrator at the specified address, emailed or postmarked on or before the Response Deadline. (*Id.*, ¶ 20.gg). Notwithstanding the above, all PAGA Employees will be bound by the PAGA Settlement and will be issued their Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion. (*Id.*, ¶ 40).

To object to the Class Settlement, Settlement Class Members must submit a timely and complete written objection ("Notice of Objection") to the Settlement Administrator, by email or mail, emailed or postmarked on or before the Response Deadline. (*Id.*, ¶¶ 20.gg and 41). A Notice of Objection must: (a) contain the case name and number of the Action; (b) contain the objector's full name, signature, address, telephone number, and the last four (4) digits of the objector's Social Security number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be returned by mail to the Settlement Administrator at the specified address, emailed or postmarked on or before the Response Deadline. (*Id.*, ¶ 20.v). Settlement Class Members, individually or through counsel, may also present their objection orally at the Final Approval Hearing, regardless of whether they have submitted a Notice of Objection. (*Id.*, ¶ 41).

X. CONCLUSION

For all of the foregoing reasons, Plaintiff respectfully requests that this Court grant Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement and the relief requested herein.

Respectfully submitted,

Dated: July 29, 2025

BLACKSTONE LAW, APC

By: ______________________________
Alexandra Rose
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