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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE**

NADIA TULIAU, an individual, on behalf
of herself and all others similarly situated
and as a private attorney general pursuant
to the Private Attorneys General Act,

Plaintiff,

v.

THE KROGER CO., RALPHS
GROCERY COMPANY, and DOES 1
through 10,

Defendants.

Lead Case No. CVRI2100447
Consolidated with Case No. CVRI2100447
(Assigned for All Purposes to the Hon. Harold W.
Hopp, Dept. 1)

CONSOLIDATED CLASS AND PAGA ACTION

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION AND PAGA
SETTLEMENT**

Date Action Filed: June 26, 2020
Trial Date: Not Yet Set

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1 **I. INTRODUCTION**

2 Plaintiffs Nadia Tuliau and Karlos White-Valdez (“Plaintiffs”) request that the Court take
3 the first step in the settlement approval process and grant preliminary approval of the settlement
4 of this consolidated¹ class and PAGA² action against Defendants Ralphs Grocery Company
5 (“Ralphs”) and The Kroger Co. (together, “Defendants”).³ The purpose of the Court’s preliminary
6 evaluation of the proposed Settlement is to determine whether it is within the range of
7 reasonableness and whether the terms and conditions of the Settlement are fair and worthwhile.
8 Here, the proposed Settlement meets all the criteria for preliminary approval and is well-within
9 the range of reasonableness.

10 The key Settlement terms are as follows: (1) a non reversionary Gross Settlement Amount
11 of \$3,600,000.00; (2) Plaintiffs request actual expenses to be paid to the Settlement Administrator
12 to administer the Settlement, currently estimated to be \$17,500.00; (3) Plaintiffs request, and
13 Defendants do not oppose, a service award of \$15,000.000 for each Plaintiff for their
14 representative efforts; (4) Plaintiffs request attorneys’ fees in the amount of 35% of the Gross
15 Settlement Amount, or \$1,290,000, and actual costs to not exceed \$60,000; and a (5) PAGA
16 Settlement Amount of \$2,219,500.00 to be allocated 75% (\$1,664,625.00) to the Labor &
17 Workforce Development Agency (“LWDA”) and 25% (\$554,875.00) to the PAGA Group
18 Members and a Wage Statement Class Fund in the amount of \$13,000.00 to be distributed in
19 equal shares to the Class Members.

20 With thousands of employees anticipated to receive concrete monetary recovery, the
21 Settlement satisfies the criteria for preliminary approval and falls within the range of
22 reasonableness given the risks and costs of continued litigation. The Settlement was reached
23 through informed, arm’s-length bargaining among experienced attorneys after significant formal

24 _____
25 ¹ For purposes of settlement only, Plaintiffs and Defendants have agreed that Plaintiffs may file a consolidated Second
26 Amended Complaint that includes all of the claims alleged in both actions.

27 ² “PAGA” refers to the Private Attorneys General Act of 2004, Cal. Lab. Code §§ 2698 *et seq.*

28 ³ “Settlement” refers to the Amendment to Class Action and PAGA Settlement Agreement and Release attached as
 Exhibit 1 to the Declaration of Carolyn H. Cottrell (“Cottrell Decl.”) filed concurrently herewith.

1 and informal discovery and two full-day mediations before neutral third-party mediators.
2 Plaintiffs therefore request that the Court grant preliminary approval of the Settlement; appoint
3 Plaintiff Tuliau as Class Representative and Plaintiffs as PAGA representatives and Schneider
4 Wallace Cottrell Konecky LLP, Peter R. Dion-Kindem, P.C., The Blanchard Law Group, APC,
5 and The Holmes Law Group, APC as Class Counsel; appoint Phoenix Class Action
6 Administration Solutions as Settlement Administrator; authorize the Settlement Administrator to
7 disseminate notice of the Settlement; authorize the filing of Plaintiffs' consolidated Second
8 Amended Complaint and Defendants' Answer thereto for settlement purposes only; and set a final
9 approval hearing date.

10 **II. BACKGROUND**

11 **A. Factual Background**

12 This is a wage-and-hour class and PAGA consolidated action. Defendants own, operate,
13 and manage various supermarket retail stores and distribution centers throughout the United
14 States and California and employ tens of thousands of hourly non-exempt workers. (Declaration
15 of Carolyn H. Cottrell ("Cottrell Decl."), ¶ 9). Plaintiffs worked for Defendant Ralphs as non-
16 exempt employees in Ralphs' distribution center in Riverside, California. (*Id.* at ¶ 10).

17 Plaintiffs allege that Defendants are liable for substantial penalties under Labor Code
18 § 226(e) and PAGA for their (1) failure to compensate employees for all hours worked, including
19 time spent undergoing pre- and post-shift security screenings; (2) failure to pay employees
20 overtime wages as required by California law; (3) failure to provide employees accurate, itemized
21 wage statements; and (4) failing to timely pay employees wages owed upon termination of
22 employment, (Cottrell Decl., ¶ 11). Specifically, Plaintiffs allege that Defendants had an exit
23 security process from certain of its parking lots whereby employees for whom a random "blue
24 light" was triggered were required to pullover, stop, and open their trunks to be searched before
25 being allowed to leave and that that this exit search could take between 45 seconds and a minute
26 and a half. Plaintiffs contend Defendants did not pay for this time. (Dion-Kindem Decl.⁴, ¶ 9).

27 ⁴ Declaration of Peter R. Dion-Kindem ("Dion-Kindem Decl.")
28

Further, Plaintiffs allege that Defendants also had a security entrance and exit process at certain of its three warehouse facilities that included a visual bag inspection for those employees who had bags (other than purses). (*Id.* at ¶ 10)

The Class consists of approximately 256 of Ralphs’ non-exempt employees who received a wage statement that did not reflect “Ralphs Grocery Company” as the employer at any time between April 17, 2019 and November 15, 2021, who did not sign an arbitration agreement, and who did not previously opt out of the “Wage Statement Class,” as certified by this Court in the lead case on May 10, 2023. The PAGA Group consists of approximately 3,617 of Ralphs’ current and former non-exempt distribution center employees who worked for Ralphs in California at any time between April 17, 2019 and the date of preliminary approval, or such earlier date as Defendants may elect to avoid triggering the Settlement’s Escalator Clause. (Settlement, ¶¶ II.E-V).

B. Procedural History

1. The *Tuliau* Action

On June 26, 2020, Plaintiff Tuliau filed a class-action and PAGA complaint in the *Tuliau* Action, Riverside County Superior Court Case No. RIC2002168. (Settlement, ¶ I.A). Plaintiff Tuliau filed a first amended complaint on July 14, 2020. (*Id.*). The *Tuliau* Action asserts five causes of action: (1) failure to pay all wages owed, (2) failure to pay wages timely upon termination, (3) failure to provide accurate itemized wage statements, (4) statutory unfair competition (Bus. & Prof. Code, § 17203), and (5) civil penalties under PAGA. (*Id.*). The first amended complaint in the *Tuliau* Action seeks PAGA penalties premised on, and based on Defendants’ alleged violations of, Labor Code sections 201, 202, 203, 210, 218.5, 226, 226.3, 256, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 2698 *et seq.*, the applicable Wage Orders, Code of Civil Procedure section 1021.5, and Business & Professions Code section 17200, *et seq.* (*Tuliau* First Amended Compl., filed July 14, 2020.) Before filing the first amended complaint, Plaintiff Tuliau filed a notice with the LWDA on April 17, 2020, stating her intent to file an action against Defendants seeking PAGA penalties. (Settlement, ¶ I.A). Defendants answered the

1 *Tuliau* First Amended Complaint on October 16, 2020, generally denying all the allegations
2 contained in it and asserting numerous separate and additional defenses. (*Id.*)

3 On November 15, 2022, Plaintiff *Tuliau* moved for class certification. (*Id.*). On May 10,
4 2023, the Court denied certification of the three proposed classes whose claims were based on
5 alleged security screenings at Ralphs' warehouse facilities but certified a class defined as "all
6 non-exempt employees of Ralphs Grocery Company who received a wage statement that did not
7 reflect Ralphs Grocery Company as the employer at any time during the period from April 17,
8 2019 to November 15, 2021 and who did not sign an arbitration agreement." (the "Wage
9 Statement Class"). (*Id.*).

10 On February 23, 2024, Plaintiff *Tuliau* submitted her proposed trial plan for the PAGA
11 claims. (Settlement, ¶ I.A). Defendants filed their response to Plaintiff's *Tuliau*'s proposed trial
12 plan on March 15, 2024. (*Id.*). Instead of engaging in further motion practice regarding the
13 parties' disputes over the sufficiency of Plaintiff *Tuliau*'s proposed trial plan, Plaintiff *Tuliau* and
14 Defendants agreed at that time to explore whether a resolution could be reached through private
15 mediation (discussed below). (*Id.*).

16 2. The White-Valdez Action

17 After providing the requisite notice to the LWDA, Plaintiff *White-Valdez* filed a PAGA-
18 only complaint in the *White-Valdez* Action (Riverside County Superior Court Case No.
19 CVRI2100447) on January 29, 2021. (Settlement, ¶ I.B). In the complaint, he asserts claims for
20 civil penalties for Defendants' failure to (1) pay employees for all hours worked, (2) pay
21 employees overtime wages as required by California law, (3) provide employees with accurate,
22 itemized wage statements, and (4) pay wages owed upon termination of employment. (*Id.*). The
23 complaint in the *White-Valdez* Action seeks civil penalties premised on, and based on Defendants'
24 alleged violations of, Labor Code sections 200, 201, 202, 203, 204, 212, 216, 221, 222, 223, 225.5,
25 226, 226.3, 226.7, 256, 510, 1182.12, 1194, 1197, 1198, 2698 *et seq.*, and 2802, and the applicable
26 Wage Orders, and Code of Civil Procedure section 1021.5. (*White-Valdez* Compl., filed Jan. 29,
27 2021.)
28

On March 23, 2021, Defendants filed a Notice of Related Cases, giving the Court notice pursuant to Rule 3.300 of the California Rules of Court that the *White-Valdez* Action and the *Tuliau* Action were related within the meaning of Rule 3.300(a). (Settlement, ¶ I.B.). On March 26, 2021, Defendants filed a Special Demurrer and Motion to Stay proceedings based on the *Tuliau* Action, which the Court denied on May 31, 2021. (Settlement, ¶ I.B.). Defendants answered the *White-Valdez* Complaint on May 24, 2021, generally denying all the allegations contained in it and asserting numerous affirmative defenses. (*Id.*)

On May 17, 2022, Plaintiff White-Valdez and Defendants mediated before third party neutral Stephanie Chow. The Parties did not reach an agreement to resolve the White-Valdez Action at that time. (Cottrell Decl., ¶ 14).

On July 14, 2022, Defendants moved to compel arbitration of Plaintiff White-Valdez’s individual PAGA claims and to dismiss his non-individual PAGA claims. (Settlement, ¶ I.B.). On August 10, 2022, the Court granted Defendants’ motion to compel Plaintiff White-Valdez’s individual PAGA claims to arbitration but chose to stay rather than dismiss the non-individual PAGA claims pending the arbitration. (*Id.*). Plaintiff White-Valdez submitted a demand for arbitration with JAMS seeking individual civil penalties pursuant to PAGA on May 18, 2023. (*Id.*). The arbitration commenced on August 3, 2023 (the “*White-Valdez* Arbitration”) before Arbitrator Deborah Saxe. (*Id.*).

On June 6, 2024, the parties participated in a global mediation of the Actions (*i.e.*, the *Tuliau* Action, the *White-Valdez* Action, and the *White-Valdez* Arbitration) before Michael Loeb, Esq. of JAMS. (*Id.*). At the conclusion of the mediation, Mr. Loeb presented a mediator’s proposal for the parties’ consideration that would resolve the Actions in their entirety. (*Id.*). Both sides accepted the proposal by the mediator’s deadline on June 13, 2024. (*Id.*). Before the mediation, the parties had already engaged in extensive formal discovery in the *Tuliau* Action, the *White-Valdez* Action, and the *White-Valdez* Arbitration, including deposing witnesses and propounding and responding to written discovery requests (including requests for policy documents, time and pay records, employee headcounts, and the number of Pay Periods worked

1 during the relevant periods). (*Id.*). In these and other ways, the parties investigated the facts and
2 analyzed the relevant legal issues regarding the claims in the Actions and Defendants’ defenses to
3 them. (*Id.*).

4 Following the successful mediation, the parties spent weeks negotiating and finalizing the
5 Settlement, which the parties fully executed on October 16, 2024. The Parties executed an
6 Amendment to the Settlement Agreement to adjust costs on November 13, 2024. (Cottrell Decl.,
7 ¶ 17). To facilitate the full and final resolution of the Actions, the parties agreed to file a second
8 amended consolidated complaint in the *Tuliau* Action, consolidating into that action both
9 Plaintiffs and all of the claims and theories in all of the Actions. (Settlement, ¶ I.B).

10 **III. SUMMARY OF THE SETTLEMENT**

11 **A. Monetary Terms**

12 Defendants will pay a non-reversionary Gross Settlement Amount of \$3,600,000.00 to
13 settle all claims in the Actions. (Settlement, ¶ II.R). From this amount, the Settlement
14 Administrator will make the following payments: (1) the PAGA Settlement Amount of
15 \$2,219,500.00, 25% (\$554,875.00) of which will be distributed to the PAGA Group Members on
16 a *pro-rata*, pay-period basis, and 75% (\$1,664,625.00) of which will be paid to the LWDA; (2)
17 the Wage Statement Class Fund of \$13,000.00, paid to the Class Members; (3) Class Counsel’s
18 attorneys’ fees and costs in an amount not to exceed \$1,320,000.00 (\$1,260,000.00 in fees and
19 \$60,000.00 in costs); (4) service payments to Plaintiffs in the amount of \$15,000.00 each for their
20 services and their execution of general releases; and (5) settlement administration costs to itself in
21 an amount not to exceed \$17,500.00. (Settlement, ¶¶ II.R, III.F, III.G, III.H, IV.E.3; amend.⁵).

22 **B. Calculation and Tax Treatment of Settlement Awards**

23 The Class Settlement Award for each Class Member will be the Class Member’s *pro-rata*
24 share of the Wage Statement Class Fund, with each Class Member receiving an equal share.

25
26 ⁵ “Amend.” refers to the Amendment to Class Action and PAGA Settlement Agreement and Release, executed on
27 November 13, 2024, attached as **Exhibit 1** to the Declaration of Carolyn H. Cottrell (“Cottrell Decl.”) filed
28 concurrently herewith.

(Settlement, ¶ IV.E.1). Members of the Wage Statement Class in the *Tuliau* Action who submitted valid requests to opt out of the certified Wage Statement Class are not considered Class Members for purposes of the Settlement and will not receive a Class Settlement Award. (Settlement, ¶ IV.E.2). There were only four opt-outs after the class was certified. (Settlement, ¶ IV.B.2).

PAGA Group Members will also receive a *pro-rata* share of their aggregate settlement fund (the PAGA Settlement Amount), calculated as follows. The Settlement Administrator will calculate the total number of PAGA Pay Periods worked by all PAGA Group Members during the PAGA Period by adding together all the PAGA Pay Periods provided by Defendants for each PAGA Group Member. (Settlement, ¶ IV.E.3). The Settlement Administrator will then divide the PAGA Fund (25% of the PAGA Settlement Amount) by the total PAGA Group Member Pay Periods, resulting in a per PAGA Pay Period value. (*Id.*). The Settlement Administrator will then multiply the per PAGA Pay Period value by the individual number of PAGA Pay Periods worked by each PAGA Group Member to yield his or her PAGA Settlement Award. (*Id.*).

Given that the claims in the Actions are for civil and statutory penalties, the entirety of each Class Settlement Award and each PAGA Settlement Award will be allocated as penalties, interest, and non-wage damages. (Settlement, ¶ IV.F.1). These payments, as well as the payments to Plaintiffs and Class Counsel, will be reported on IRS Forms 1099-MISC, and the Settlement Administrator will prepare and file all necessary information and other tax returns. (Settlement, ¶ IV.F.2).

C. Settlement Administrator's Duties

The Settlement Administrator's duties will include: (i) printing and mailing the Notice to Class Members as directed by the Court; (ii) taking all steps reasonably necessary to ensure Class Members timely receive the Notice; (iii) resolving any questions or disputes received from Class Members or PAGA Group Members related to the Settlement; (iv) taking receipt of and safeguarding the Settlement Fund Amount; (v) calculating and distributing Class Settlement Awards, PAGA Settlement Awards, the portion of the PAGA Settlement Amount payable to the LWDA, the Service Payments, and the Fee and Expense Award, provided such amounts are

1 approved by the Court; (vi) issuing tax forms; and (vii) filing such other reports with the taxing
2 authorities as required by law, together with such other tasks as the parties may mutually agree or
3 the Court may order the Settlement Administrator to perform. (Settlement, ¶ IV.B.2).

4 The Settlement Administrator will also provide toll-free telephone support to Class
5 Members and make a copy of the Settlement and other relevant documents available on its
6 website; receive and account for all returned Notices and Objections; calculate the Class
7 Members' and PAGA Group Members' payments; and prepare and deliver weekly reports to
8 Class Counsel and Defendants' Counsel that communicate the status of the notice process,
9 including the number of Notices mailed, returned, searched, and re-mailed as well as Objections
10 that it has received. (Settlement, ¶ IV.B.2). The Settlement Administrator will also prepare final
11 declarations, reports, and invoices that accurately describe the notice process, any objections
12 received, the level of participation, and actions taken to ensure the best possible notice was
13 provided to Class Members. (*Id.*).

14 Before the Final Approval Hearing, the Settlement Administrator will provide Class
15 Counsel with a declaration that (1) identifies the four Wage Statement Class Members who opted
16 out after receiving notice of the Court's May 10, 2023 order certifying the Wage Statement Class
17 in the *Tuliau* Action and (2) attach all Objections for filing with the Court. (Settlement, ¶ IV.B.2).

18 **D. Proposed Notice and Objection Process**

19 No later than ten business days after receipt of the Class Members' and PAGA Group
20 Members' contact and pay-period information, the Settlement Administrator will mail the Notice.
21 (Settlement, ¶ IV.B.3). Any Notices returned within 30 calendar days of the initial mailing, with a
22 forwarding address, will be immediately re-mailed by the Settlement Administrator. (*Id.*). The
23 Settlement Administrator will conduct a skip-trace address search for any Notice that is returned
24 to the Settlement Administrator within 30 calendar days of the initial mailing without a
25 forwarding address and will, upon obtaining a different address, immediately re-mail the Notice.
26 (*Id.*).

27 The opt-out process for the Class has already been completed. Each Wage Statement Class
28

1 Member who did not opt out of the Wage Statement Class certified by the Court on May 10, 2023
2 is a Class Member and will be bound by the Settlement regardless of whether he or she cashes his
3 or her Class Settlement Award. (Settlement, ¶ IV.B.4). However, Class Members may object to
4 the Settlement by submitting to the Settlement Administrator a written statement objecting to the
5 Settlement within 45 days after the initial mailing of the Notice.⁶ (Settlement, ¶¶ II.T, IV.B.4,
6 IV.D.1).

7 Award checks issued to the Class Members and PAGA Group Members will remain
8 negotiable for 180 days after they are issued. (Settlement, ¶ IV.K.3). After 180 days, any amounts
9 from unnegotiated checks will be transmitted to the Office of the Controller of the State of
10 California, Unclaimed Property Division, in accordance with Code of Civil Procedure § 384, to be
11 held in trust for those persons who did not timely cash their checks. (*Id.*). The Settlement
12 Administrator will mail a reminder postcard to any Class Member whose settlement check has not
13 been negotiated within 60 days after mailing. (Settlement, ¶ IV.B.2).

14 **E. Releases**

15 Upon the Effective Date and full funding of the Settlement Fund, Plaintiffs, the Class
16 Members, and the PAGA Group Members will make the following releases, as applicable.

17 **1. The Settlement Class Release**

18 All Class Members will release the Released Parties from all claims and causes of action
19 of any kind arising during the Class Period made on behalf of the Wage Statement Class that were
20 alleged in any of the Complaints⁷ or that could have been alleged against any of the Released
21 Parties based on the facts alleged in any of the Complaints under Labor Code §§ 226, 226.3,
22 1174, 1174.5, the applicable IWC Wage Orders as they relate to wage statement obligations,
23 Code of Civil Procedure §1021.5, and Business and Professions Code §§ 17200 *et seq.* as it
24 relates to wage statement violations. (Settlement, ¶¶ II.II, V.C).

26 ⁶ If a Notice is re-mailed, the deadline will be extended by 15 calendar days. (Settlement, ¶ II.T).

27 ⁷ “Complaints” means the original, first amended, and second amended complaints in the *Tuliau* Action, the complaint
28 in the *White-Valdez* Action, and the demand in the *White-Valdez* Arbitration. (Settlement, ¶ II.J).

1 **2. The PAGA Group Release**

2 All PAGA Group Members will release the Released Parties from all claims that were or
3 could have been asserted pursuant to PAGA that arose during the PAGA Period and that were
4 alleged in any of the Complaints or underlying PAGA notices, or that could have been alleged
5 based on any facts alleged in any of the Complaints or underlying PAGA notices against any of
6 the Released Parties, including but not limited to PAGA claims premised on Labor Code §§ 200,
7 201, 202, 203, 204, 210, 212, 216, 218.5, 221, 222, 223, 225.5, 226, 226.3, 226.7, 256, 510, 512,
8 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2698 *et seq.*, and 2802, the
9 applicable IWC Wage Orders, and Code of Civil Procedure § 1021.5. (Settlement, ¶¶ II.JJ, V.D).

10 **3. Plaintiffs' General Release**

11 In addition, Plaintiffs will release the Released Parties from all claims and causes of action
12 they have or ever had against any of the Released Parties in any way arising out of or relating to
13 any facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions, or
14 failures to act from the beginning of time to the date they sign the Settlement, including but not
15 limited to any claims arising from or related to their employment with Ralphs or the termination of
16 that employment. (Settlement, ¶ V.E). As part of this general release, Plaintiffs will waive all
17 rights and benefits afforded by California Civil Code § 1542.⁸

18 **F. Uncashed Checks**

19 Individual Settlement Payments will be valid 180 days after issuance. In the event there
20 are any uncashed checks and/or unclaimed funds, any amounts from cancelled checks after 180
21 days from issuance, shall be transmitted to the Office of the Controller of California, Unclaimed
22 Property Division, with an identification of the person to whom the funds belong, in accordance
23 with Code of Civil procedure section 384. (Settlement, ¶ IV.K.3).

24 **IV. ARGUMENTS SUPPORTING PRELIMINARY APPROVAL**

25
26 _____
27 ⁸ Cal. Civ. Code § 1542 provides: “A general release does not extend to claims that the creditor or releasing party does
28 not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her,
would have materially affected his or her settlement with the debtor or released party.”

1 **A. The PAGA portion of the Settlement warrants approval.**

2 **1. PAGA Settlement Approval Standard**

3 The Labor Code provides that “[t]he superior court shall review and approve any
4 settlement of any civil action pursuant to [PAGA].” Cal. Lab. Code § 2699(s)(2). In seeking
5 approval of a PAGA settlement, parties are not obligated to “satisfy class action requirements”
6 such as commonality and typicality or abide by class-action procedures such as notice and opt-out
7 rights. *Arias v. Super. Ct.* (2009) 46 Cal.4th 969 at 975; *O’Connor v. Uber Techs., Inc.* (N.D. Cal.
8 2016) 201 F.Supp.3d 1110, 1133. Instead, the Court’s role in reviewing the settlement of a PAGA
9 claim is to “determine whether it is fair, reasonable, and adequate in view of PAGA’s purposes to
10 remediate present labor law violations, deter future ones, and to maximize enforcement of state
11 labor laws.” *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77. The Settlement, which
12 primarily resolves PAGA claims, satisfies this standard. (Cottrell Decl., ¶ 26).

13 **2. The Settlement enforces PAGA’s purpose.**

14 PAGA is not a restitution statute, and a PAGA action does not seek damages. “A PAGA
15 action is ... a civil enforcement action filed on behalf of and for the benefit of the state.”
16 *Baumann v. Chase Inv. Servs. Corp.* (9th Cir. 2014) 747 F.3d 1117, 1124. The Court’s focus in
17 evaluating a PAGA settlement, therefore, is not the amount aggrieved employees receive as a
18 result of a settlement, but whether the total settlement achieves PAGA’s objectives, even if it
19 represents only a portion of a defendant’s total exposure. *See* Cal. Lab. Code §§ 2699(m)–(n),(s);
20 *Rosario v. Inter-Con Sec. Sys.* (Super. Ct. Alameda Cnty. Jan. 28, 2019) No. RG17849836, 2019
21 Cal. Super. LEXIS 95638, at *7.

22 If approved by the Court, the \$2,219,500.00 penalty will achieve PAGA’s objectives by (1)
23 holding Defendants accountable for their alleged violations of the Labor Code; (2) deterring
24 future violations of the Labor Code by Defendants and other employers; (3) collecting penalties
25 from Defendants and recovering 75% of those penalties (*i.e.*, \$1,664,625.00) on behalf of the
26 State of California for purposes of enforcement and education; and (4) distributing 25% of the
27 penalties (*i.e.*, \$554,875.00) to the PAGA Group Members as remediation for their injuries.
28

1 The \$2,219,500.00 penalty in this case serves as a warning to Defendants and to
2 employers throughout California that failing to ensure strict compliance with the California Labor
3 Code will lead to costly repercussions. The Settlement will encourage employers to expend
4 additional resources to ensure that, in policy and practice, they are complying with the law. In
5 doing so, the Settlement will hold Defendants accountable for their alleged Labor Code
6 violations, and it will deter Defendants and other employers from violating the Labor Code in the
7 future.

8 In addition, the Settlement will result in a meaningful payment to the LWDA to use for
9 furthering its mission of protecting workers, as well as reasonable payments to the PAGA Group
10 Members, who will receive an estimated average net recovery of \$153.40 each (\$554,875.00
11 divided by 3,617 PAGA Group Members), which is well within the range of recoveries provided
12 by other PAGA settlements approved by courts in California.⁹ (Cottrell Decl., ¶ 26).

13 **3. The Settlement provides a substantial portion of the maximum**
14 **damages.**

15 It is well-settled that a proposed settlement is not to be measured against a hypothetical
16 ideal result that might have been achieved. *See, e.g., 7-Eleven Owners for Fair Franchising v.*
17 *Southland Corp.* (2000) 85 Cal.App.4th 1135, 1150. A settlement that represents only a fraction of
18 the potential recovery is still reasonable. *See, e.g., In re Mego Fin. Corp. Sec. Litig.* (9th Cir.
19 2000) 213 F.3d 454, 459 (“It is well-settled law that a cash settlement amounting to only a
20 fraction of the potential recovery does not per se render the settlement inadequate or unfair.”)
21 (internal quotation marks omitted). Nonetheless, and even though PAGA is not a restitution
22 statute, the PAGA Settlement Amount here compared to Defendants’ estimated exposure further
23

24 ⁹ *See Hartley v. On My Own, Inc.* (E.D. Cal. Aug. 25, 2020) No. 2:17-cv-00353-KJM-EFB, 2020 U.S. Dist. LEXIS
25 154315, at *11 (approving settlement of PAGA claims resulting in \$61.18 per PAGA settlement group member);
26 *Whitworth v. Solarcity Corp.* (N.D. Cal. May 1, 2023) No. 16-cv-01540-JSC, 2023 U.S. Dist. LEXIS 75564, at *12–13
27 (approving PAGA settlement resulting in approximately \$35.00 per aggrieved employee); *Patel v. Nike Retail Servs.*
28 (N.D. Cal. May 8, 2019) No. 14-cv-04781-RS, 2019 U.S. Dist. LEXIS 77988 (approving settlement award amounting
to an average of approximately \$30 per aggrieved employee); *Ducote v. HSS, Inc.*, Alameda County Superior Court,
Case No. HG19036564, February 13, 2024 Order (approving PAGA settlement resulting in approximately \$60 per
aggrieved employee).

1 supports the reasonableness of the Settlement. (Cottrell Decl., ¶ 27).

2 Defendants represented that 3,617 PAGA Group Members worked 387,280 PAGA Pay
3 Periods during the PAGA Period up until August 2023. Notably, Defendants compensated their
4 employees on a *weekly* basis (rather than the usual biweekly basis), driving the total pay periods in
5 this case to double than in the usual case Assuming a full 100% violation rate for each pay period
6 at \$100 per employee for all PAGA Group Members, the penalties that amount for a substantive
7 violation of failing to pay wages is \$38,728,000.00. Class Counsel recognize that courts generally
8 disfavor and/or reject calculations stacking civil penalties, particularly when civil penalties are for
9 violations that are derivative of the substantive violation. *See e.g., Smith v. Lux Retail N. Am., Inc.*,
10 No. C 13-01579 WHA, 2013 U.S. Dist. LEXIS 83562, at *9 (N.D. Cal. June 13, 2013) (rejecting
11 calculation stacking penalties; “But is it plausible that we would really pile one penalty on another
12 for a single substantive wrong?”). However, if the Court in this case permitted full stacking, and
13 without any discounting of any violation, Defendants’ undiscounted penalties exposure for
14 Plaintiffs’ claims on all cumulative theories could be as high as \$137,835,850.00. The
15 undiscounted exposure considers the stacking of nine different and labor code violations, including
16 derivative violations. (Cottrell Decl., ¶¶ 27-28). This undiscounted exposure number is unrealistic,
17 however, considering Class Counsel’s factual and legal analyses in this case.

18 Class counsel understood, however, that the undiscounted penalties should be discounted to
19 reflect the risks in pursuing the specific claims. For example, regarding Plaintiffs’ claim based on
20 security checks at the three warehouse facilities, Defendants asserted that not everyone was
21 subjected to a visual search and that many workers merely walked by the security office without
22 stopping. (Dion-Kindem Decl., ¶ 10). Moreover, the Court refused to certify these claims based on
23 the lack of predominance and commonality, inter alia, and Ralphs has contended that these claims
24 were unmanageable and would require the individual testimony of every worker and therefore
25 there is no meaningful PAGA exposure. (*Id.*) Although Plaintiffs dispute Ralphs’ contentions,
26 there is a real risk that a Court would limit or foreclose this claim at trial. Plaintiffs’ have therefore
27 valued this claim for very little. (*Id.*) Assuming a 5% chance of prevailing at \$100 per pay period
28

1 per worker, the exposure would be less than \$2 million. (*Id.*)

2 Plaintiffs contend their “blue light” vehicle check claim was a stronger claim however, not
3 all employees were subject to these checks at each pay period. Based on the analysis of the data
4 and information provided by Defendant, the potential PAGA penalties for these Blue-Light Search
5 violations is \$628,300 assuming a \$100 violation per pay period. (*Id.* at ¶ 9)

6 The PAGA Settlement Amount of \$2,219,500.00 exposure reflects ***a multiple of 3.53*** of
7 the \$628,300.00 exposure amount of Plaintiff’s strongest substantive claim. The PAGA Settlement
8 Amount of \$2,219,500.00 is also meaningful considering the risks of continuing litigation, which
9 Class Counsel carefully assessed. (Cottrell Decl., ¶ 31).

10 11 **4. Avoiding the expense and risk of trial favors approval.**

12 Not only does the Settlement impose a significant penalty on Defendants, but the result
13 achieved is fair and reasonable considering the cost and risk Plaintiffs would face in proving their
14 claims. Although Plaintiffs believe their case is strong, trials are inherently risky, and fees and
15 costs would increase significantly if the Actions were to go to trial and/or proceed in arbitration.
16 (Cottrell Decl., ¶ 30). Plaintiffs’ claims would require substantial additional preparation and
17 discovery. (*Id.*). They would require depositions of experts, the presentation of percipient and
18 expert witnesses at trial, as well as the consideration, preparation, and presentation of voluminous
19 documentary evidence and the preparation and analysis of expert reports. (*Id.*). The certain
20 benefits of the Settlement must be weighed against the risks of continuing litigation, which Class
21 Counsel carefully assessed. Defendants have denied the allegations in Plaintiffs’ Complaints and
22 have denied all liability. For example, Defendants assert that the wage statements were a result of
23 clerical error and will contest this on the merits. Furthermore, Defendants assert that Plaintiffs’
24 alleged security checks and uniform checks are unmanageable and that any Blue Light checks
25 were *de minimis*, among other arguments. (Cottrell Decl., ¶ 31). Defendants also contend that not
26 everyone was subjected to a visual search and that many workers merely walked by the security
27 office without stopping. (Dion-Kindem Decl., ¶ 10).

1 By contrast, resolving this case by means of the Settlement will yield a prompt, certain,
2 and substantial recovery for the PAGA Group Members and the State. (*Id.*). Such a result will
3 benefit the parties and the court system and will bring finality to over four years of litigation.
4 (*Id.*). There is also the risk that, even if Plaintiffs were to prevail in proving liability, the Court
5 would award penalties in an amount less than Defendants' total exposure. "A trial court's
6 discretion to reduce PAGA penalties might be a reason to ultimately discount the value of PAGA
7 claims, perhaps even significantly, in reaching a settlement." *Gonzales v. CoreCivic of Tenn., LLC*
8 (E.D. Cal. Sept. 12, 2018) No. 1:16-cv-01891-DAD-JLT, 2018 U.S. Dist. LEXIS 156549, at *26.
9 Indeed, courts exercise broad discretion when discounting PAGA civil penalties.¹⁰

10 Accordingly, considering the expense and risk of continued litigation, the PAGA
11 component of the Settlement is fair, reasonable, and adequate.

12 **B. The Class portion of the Settlement warrants preliminary approval.**

13 Settlement of a class action requires court approval. *Dunk v. Ford Motor Co.* (Cal.App.
14 1996) 48 Cal.App.4th 1794, 1800; Cal. Civ. Code § 1781(f). The decision to approve or reject a
15 proposed settlement is within the Court's discretion. *Wershba v. Apple Computer, Inc.* (Cal.App.
16 2001) 91 Cal.App.4th 224, 234–35 ("In general, questions whether a settlement was fair and
17 reasonable, whether certification of the class was proper, and whether the attorney fee award was
18 proper are matters addressed to the trial court's broad discretion."). Accordingly, a court's
19 decision to approve a class-action settlement may be reversed only upon a strong showing of clear
20 abuse of discretion. *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1026; *Class*
21 *Plaintiffs v. City of Seattle* (9th Cir. 1982) 955 F.2d 1268, 1276.¹¹

22 Approval of a class-action settlement is a two-part process: (1) a preliminary review by
23

24 ¹⁰ See *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504 (\$75 million in penalties sought, yet court awarded
25 PAGA penalties of only \$150,000 based on 30,000 violations and reduced the penalty rate to \$5 per violation, equating
26 to a 95% discount of the initial penalty rate of \$100 per violation; affirmed on appeal); *Thurman v. Bayshore Transit*
Mgmt., Inc. (2012) 203 Cal.App.4th 1112 (requested \$512,000, awarded \$358,588, reflecting a 25% discount; *Amaral*
v. Cintas Corp. No. 2 (2008) 163 Cal.App.4th 1157, 1214 (requested \$500,000, awarded \$258,900, reflecting a 48%
discount)).

27 ¹¹ California courts look to federal authority for guidance in evaluating class action settlements. *Dunk*, 48 Cal.App.4th
28 at 1801, n.7 (citing *Vasquez v. Superior Court* (Cal. 1971) 4 Cal.3d 800, 821).

1 the court; and (2) a later detailed review after the period during which notice is distributed to class
2 members for their comment or objections. Conte & Newberg, *Newberg on Class Actions* § 11.24
3 (4th ed.). Preliminary approval does not require a court to make a final determination that a
4 settlement is fair, reasonable, and adequate. Instead, that decision is made at the final approval
5 stage, after the class members have been notified of the Settlement and they have had an
6 opportunity to object to or exclude themselves from the settlement. *See* Cal. R. Ct. 3.769(g).

7 Preliminary approval is warranted if the settlement falls within a “reasonable range.”
8 *North County Contractor’s Ass’n, Inc. v. Touchstone Ins. Serv.* (Cal.App. 1994) 27 Cal.App.4th
9 1085, 1089–90; *Newberg*, § 11.26. In reviewing the fairness of a class-action settlement, due
10 regard should be given to what is “otherwise a private consensual agreement between the parties.”
11 *Cellphone Termination Fee Cases* (Cal. App. 2010) 186 Cal.App.4th 1380, 1389. The inquiry
12 “must be limited to the extent necessary to reach a reasoned judgment that the agreement is not
13 the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the
14 settlement, taken as a whole, is fair, reasonable, and adequate to all concerned.” *Id.*

15 Reasonableness and fairness are presumed where: “(1) the settlement is reached through
16 “arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the
17 court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of
18 objectors is small.” *Dunk*, 48 Cal.App.4th at 1802. The Settlement satisfies the first three of these
19 factors, and Plaintiffs will analyze the fourth in their motion for final approval. (Cottrell Decl., ¶
20 33).

21 **1. The Settlement is entitled to a presumption of fairness.**

22 **a) The Settlement resulted from arm’s-length negotiations.**

23 Courts presume the absence of fraud or collusion in the negotiation of a settlement unless
24 evidence to the contrary is offered; there is a general presumption that negotiations are conducted
25 in good faith. Here, the Settlement was the product of a mediation session with respected
26 mediator, Michael Loeb¹² after extensive discovery and investigation. (Cottrell Decl., ¶ 17). The

27 ¹² The *White-Valdez* Action was also mediated in May of 2022. (Cottrell Decl., ¶ 14).
28

1 mediation was then followed by weeks of negotiation of the Settlement’s terms among
2 experienced counsel. (*Id.*). Accordingly, this factor favors a presumption of fairness.

3 **b) Plaintiffs’ experienced counsel conducted sufficient discovery.**

4 Pursuant to *Kullar v. Foot Locker Retail, Inc.* (Cal.App. 2008) 168 Cal.App.4th 116,
5 Plaintiffs conducted a significant amount of discovery and analysis to evaluate the potential value
6 and merit of their claims. (Cottrell Decl., ¶ 35). Through formal and informal discovery, review of
7 policy documents and other materials, Class outreach and interviews, and analysis of Defendants’
8 time and pay records, Plaintiffs have confirmed that a significant number of employees suffered
9 the alleged Class violations during their employment with Defendants. (*Id.*). Plaintiffs used this
10 information—which indicates, among other things, that 260¹³ employees received a wage
11 statement that did not reflect “Ralphs Grocery Company” as the employer during the Class
12 Period—to prepare for mediation and to formulate a damages model. (*Id.* at ¶ 36). Plaintiffs
13 therefore understood the strengths and weaknesses of their Class claim, as well as its value, before
14 reaching the Settlement. (*Id.*).

15 Furthermore, Plaintiffs are represented by experienced counsel Schneider Wallace Cottrell
16 Konecky LLP (“SWCK”), Peter Dion-Kindem, P.C. (“PDK”), The Blanchard Law Group, APC
17 (“BLG”), and The Holmes Law Group, APC (“HLG”) The attorneys at these firms are
18 experienced class-action litigators. (Cottrell Decl., ¶¶ 39; Dion-Kindem Decl., ¶¶ 5). Accordingly,
19 all¹⁴ of the requirements for a presumption of fairness have been met.

20 **c) The Wage Statement Class Fund Amount represents 100% of**
21 **Defendants’ exposure for statutory penalties on the Class claim.**

22 The Wage Statement Class Fund of \$13,000.00 represents 100% of the total available
23 statutory penalties for the Class Member’s claim for inaccurate wage statements under Labor
24 Code § 226(a)(8). Labor Code § 226(e)(1) provides that an employee suffering a violation of §
25 226(a) is entitled to recover \$50 per violation, and the Wage Statement Class Fund reflects this:

26
27 ¹³ As noted above, four employees opted out of the Wage Statement Class, resulting in a Class size of 256 employees.
28 ¹⁴ Plaintiffs anticipate that the number of objectors will be small. (Cottrell Decl., ¶ 38).

260 multiplied by \$50 is \$13,000.00. In addition, all Class Members are PAGA Group Members, so the Wage Statement Class Fund represents only a portion of each employee's total award under the Settlement. (*See* Settlement, ¶ IV.E.4). Thus, the Settlement fairly compensates the Class Members for their claim.

C. The requested attorneys' fees and costs are reasonable.

Among the factors considered in determining whether a requested fee percentage is reasonable are: (1) the results achieved; (2) the risk of further litigation; (3) the skill required of counsel and the quality of the work performed; (4) the contingent nature of the fee and the financial burden carried by the plaintiffs; and (5) awards made in similar cases. *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1048–50. For the reasons below, these factors support the award requested here.

First, Plaintiffs' counsel's efforts resulted in a total Settlement Fund of \$3,600,000.00. This is an excellent settlement and an especially favorable result in light of the number of PAGA Group Members and the challenges Plaintiffs may have faced at trial. (Cottrell Decl., ¶ 31). This result was achieved by the work and success of Plaintiffs' counsel, who negotiated the Settlement after extensive preparation. (*Id.* at ¶ 23). Second, Plaintiffs faced risks and expense going forward with this litigation, as discussed above.

Third, Plaintiffs' counsel are experienced representative-action litigators. (Cottrell Decl., ¶¶ 7; Dion-Kindem Decl., ¶ 5). This experience and expertise, combined with the high quality of work performed in this case by Plaintiffs' counsel, resulted in the Settlement. Fourth, Plaintiffs' counsel have been representing Plaintiffs, the Class and PAGA Group Members, and the State in this matter on strictly contingency-fee basis. (Cottrell Decl., ¶ 42). Plaintiffs' counsel have exposed themselves to the risk of zero recovery after a substantial investment of time, money, and resources, and have done so since the inception of the Actions without any payment or compensation. (*Id.*).

Fifth, the request for attorneys' fees in the amount of 35% of the Settlement Fund falls within the range found acceptable by state and federal courts in California in comparable wage-

1 and-hour actions. *See, e.g., Roos v. Honeywell Int’l, Inc.*, 241 Cal. App. 4th 1472, 1489 (2015)
2 (affirming award of 37.5% of the common fund), disapproved on other grounds by *Hernandez v.*
3 *Restoration Hardware, Inc.*, 4 Cal. 5th 260, 287 (2018); *Martin v. Ameripride Servs., Inc.* (S.D.
4 Cal. June 9, 2011) No. 08cv440-MMA (JMA), 2011 U.S. Dist. LEXIS 61796, at *23 (“[C]ourts
5 may award attorneys’ fees in the 30–40% range in wage and hour ... actions that result in
6 recovery of a common fund under \$10 million.”); *Gomez v. H & R Gunlund Ranches*, No. CV F
7 10-1163 LJO MJS, 2011 U.S. Dist. LEXIS 135424, at *6, 14–16 (E.D. Cal. Nov. 22,
8 2011) (awarding 45% of the common fund); *Van Vranken v. Atlantic Richfield Co.*, 901 F. Supp.
9 294, 297–98 (N.D. Cal. 1995) (“Class Counsel have also cited 73 district court opinions in which
10 fees in the range of 30–50 percent of the common fund were awarded.”); *Pena v. Taylor Farms*
11 *Pac., Inc.*, No. 2:13-cv-01282-KJM-AC, 2021 U.S. Dist. LEXIS 45326, at *13 (E.D. Cal. Mar.
12 10, 2021) (awarding fees equaling 35% of the common fund).

13 Plaintiffs will submit detailed lodestar information with their final approval papers.
14 (Cottrell Decl., ¶ 47). To date, Plaintiffs’ counsel has expended 2,030.65 hours on this matter,
15 corresponding to \$1,902,102.25 in fees. (*Id.*) Plaintiffs will incur additional fees in connection
16 with settlement administration and final approval.

17 Reasonable litigation expenses are also ordinarily included with an award of attorneys’
18 fees pursuant to California wage-and-hour law. (Cottrell Decl., ¶ 48); *Serrano v. Priest* (Cal.
19 1977) 20 Cal.3d 25, 35; *Rider v. County of San Diego* (Cal.App. 1992) 11 Cal.App.4th 1410,
20 1424. Class Counsel’s expenses here were reasonable, were necessary to the prosecution, and are
21 of the type customarily billed to fee-paying clients. (Cottrell Decl., ¶ 48).

22 Class Counsel has borne all the risks and costs of litigation in the Actions and will not
23 receive any compensation until recovery is obtained. (*Id.* at ¶ 46). Class Counsel is experienced in
24 wage-and-hour class actions and used that experience to obtain an excellent result for the Class
25 and PAGA Group. (*Id.* at ¶ 45). Considering the amount of the fee requested, the years of work
26 performed, and the risks incurred, the requested fees and costs are reasonable and should be
27 approved.
28

1 **D. The requested service payments are reasonable.**

2 Service awards “are intended to compensate ... representatives for work done on behalf of
3 the class, to make up for financial or reputational risk undertaken in bringing the action, and,
4 sometimes, to recognize their willingness to act as a private attorney general.” *Cellphone*
5 *Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1393–94.

6 The service payments requested here are fair and appropriate. (Cottrell Decl., ¶ 49).
7 Plaintiffs spent a substantial amount of time and effort in pursuing the Class and representative
8 claims. (*Id.*). As demonstrated in Plaintiffs’ Declarations, Plaintiffs had numerous discussions
9 with Class Counsel, worked with Class Counsel to review facts, answered questions, and help
10 prepare the complaints and demands in the Actions, attended their respective depositions, assisted
11 Class Counsel in mediation efforts, reviewed the proposed Settlement to understand its legal
12 effect, and agreed to a broad release in order to obtain a fair settlement on behalf of Class
13 Members, PAGA Group Members, and the State. (Declaration of Nadia Tuliau (“Tuliau Decl.”), ¶
14 7; Declaration of Karlos White-Valdez (“White-Valdez Decl.”), ¶¶6-13).

15 Plaintiffs also took on great risk in pursuing a case against a former employer. (Cottrell
16 Decl., ¶ 50). By bringing the Actions, Plaintiffs incurred a real risk of retaliation from future
17 employers that will be present for the rest of their work lives. (*Id.*). Such conduct may be
18 considered by future employers when choosing between an applicant who has never sued a prior
19 employer and one that has. (*Id.*). Accordingly, it is appropriate and just for Plaintiffs to receive a
20 reasonable service award in the amount of \$15,000.00 in addition to their shares of the Class
21 Settlement Award and PAGA Fund for their time and service as Class Representatives. (*Id.*); *see*
22 *also Golba v. Dick’s Sporting Goods, Inc.* (2015) 238 Cal.App.4th 1251, 1272 (identifying “the
23 risk ... the class representative faced in bringing the suit” and “the amount of time and effort
24 spent by the class representative” as factors supporting a service award).

25 Plaintiffs are also executing general releases with section 1542 waivers.

26 **E. The proposed Notice is adequate.**

27 California law vests the Court with broad discretion in fashioning an appropriate class
28

1 notice. Cal. Civ. Code §1781; *Cartt v. Superior Court* (Cal. App. 1975) 50 Cal.App.3d 960, 973–
2 74. The proposed Notice provides information on the meaning and nature of the Settlement, the
3 terms and provisions of the proposed Settlement, the relief the proposed Settlement will provide
4 to the Class Members, the application of Class Counsel for reimbursement of costs and attorneys’
5 fees, the date, time, and place of the final approval hearing, and the procedure and deadlines for
6 objecting to the Settlement. (Cottrell Decl., ¶ 52). The proposed Notice does not include an
7 opportunity to opt out because the Wage Statement Class already had an opportunity to opt out
8 after certification. (*Id.*) The proposed Notice is consistent with class certification notices approved
9 by numerous state and federal Courts. (*Id.*).

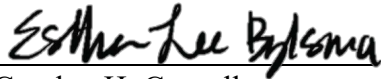
10 The proposed Notice also fulfills the requirement of neutrality in class notices. (*Id.* at ¶
11 53); *Newberg*, § 8.39. “Sufficient information about the case should be provided to enable class
12 members to make an informed decision about their participation.” *Manual for Complex*
13 *Litigation*, § 21.311 at 413 (4th ed. 2007). The proposed Notice summarizes the proceedings to
14 date and the terms and conditions of the proposed Settlement in an informative and coherent
15 manner. (Cottrell Decl., ¶ 52). The proposed Notice is “accurate, objective, and understandable to
16 class members . . .” *Mendoza v. United States* (9th Cir. 1980) 623 F.3d 1338. The proposed
17 Notice recognizes that the Court has not yet granted final approval and apprises the Class
18 Members of how to object to the proposed Settlement and provides an objection form Class
19 Members may use. (*Id.*). The proposed Notice satisfies all due process requirements and complies
20 with the standards of fairness, completeness, and neutrality. (Cottrell Decl., ¶ 53); Fed. R. Civ. P.
21 23(c)(2), 23(e); *Newberg*, §§ 8.21, 8.39; *Cartt*, 50 Cal.App. 3d at 960. Accordingly, Plaintiffs
22 respectfully request that the Court approve the proposed Notice.

23 **V. CONCLUSION**

24 For the foregoing reasons, Plaintiffs respectfully request that the Court grant this motion
25 and enter an order consistent with the proposed order filed herewith.
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Dated: November 13, 2024

Respectfully submitted,

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