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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BERNARDINO

WAFA MWANES, an individual, on behalf of
herself, and on behalf of all persons similarly
situated,

Plaintiff,

vs.

ABOUT FOOD INC. dba RELANDS RANCH
MARKET, an unknown business entity; and
DOES 1 through 50, Inclusive,

Defendants.

Case No. CIVDS2018742

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

Date: August 14, 2023

Time: 1:30 p.m.

Judge: Hon. Joseph T. Ortiz

Dept.: S 17

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I. INTRODUCTION

Plaintiff WAFA MWANES (“Plaintiff”) seeks preliminary approval of the Stipulation of Class and PAGA Action Claims and Release of Claims (“Agreement”)¹, which if approved, would provide valuable monetary relief for approximately 519 Class Members and 322 PAGA Class Members. The basic terms of the Agreement provide for the following:

1. The “**Class Members**” and “**Class Period**” shall mean “all current and former non-exempt employees who worked for Defendant About Food, Inc. (“Class Members”) during the time period beginning September 16, 2016, to April 29, 2023 (“Class Period”). Agreement at §§ I(G); I(J). At the time of mediation there were approximately 512 Class Members who worked approximately 22,000 Workweeks during the Class Period. Agreement at § III(A)(2).

2. The “**Settlement Class Member**” refers to all Class Members who do not file a timely and valid Request for Exclusion. Agreement at § I(KK).

3. The “**PAGA Class Members**” and “**PAGA Period**” means “all current and former non-exempt employees who worked for Defendant during the PAGA Period (“PAGA Class Member”). Agreement at § I(V). The “PAGA Period” refers to the time period beginning November 2, 2019, to April 29, 2023. Agreement at § I(Y). PAGA Class Members do not have the ability to opt-out of the PAGA portion of the settlement. Agreement at §§ III(L)(8). At the time of mediation there were approximately 322 PAGA Class Members who worked approximately 5,809 pay periods during the PAGA Period. JCL Dec., ¶ 9.

4. The “**Gross Settlement Amount**” is Five Hundred Eighty Thousand Dollars and Zero Cents (\$580,000.00). Agreement at § I(P). The Gross Settlement Amount is non-reversionary and includes the following:

a. A “**Service Award**” in the amount of \$10,000 to Plaintiff for her services on behalf of the Class Members. Agreement at §§ I(II); III(M)(9);

b. A payment of “**Attorneys’ Fees and Attorneys’ Expenses**” in the amount not to exceed one-third of the Gross Settlement Amount for attorney’s fees, currently estimated to be

¹ The Agreement is attached as Ex “1” to the Declaration of Jean-Claude Lapuyade (“JCL Dec.”) at ¶ 3. All citations to the Agreement incorporate by this reference a citation to the JCL Dec., ¶ 3. Further, unless indicated otherwise, capitalized terms used herein have the same meaning as those defined by the Agreement.

\$193,333.33 *and* litigation costs and expenses not to exceed \$20,000, to be paid to Class Counsel. Agreement at § III(M)(10);

c. A “**PAGA Payment**” in the amount of \$20,000.00 shall be set aside from the Gross Settlement Amount for settlement of claims for civil penalties under the Private Attorneys General Act of 2004. The Settlement Administrator shall pay \$15,000 representing 75% of the PAGA Payment to the Labor and Workforce Development Agency (“LWDA PAGA Payment”). The Settlement Administrator shall distribute \$5,000.00 representing 25% of the PAGA Payment to the PAGA Class Members (“Individual PAGA Payment”). Agreement at §§ I(Z); III(M)(11); and

d. “**Claims Administration Costs**” not to exceed \$9,500.00 payable to the Settlement Administrator, Apex Class Action LLC, for, *inter alia*, the administration of the Class Notice and Individual Settlement Payments. Agreement at §§ I(E); III(M)(12).

3. The “**Net Settlement Amount**” refers to the portion of the Gross Settlement Amount that remains after accounting for any Individual PAGA Payments, the LWDA PAGA Payment, Service Award, Attorneys’ Fees and Attorneys’ Expenses, and the Claims Administration Costs. Agreement at § I(R). The Net Settlement Amount is approximately \$327,166.67, which will be allocated to all Settlement Class Members on a pro-rata basis according to the number of Workweeks each Settlement Class Member worked during the Class Period. The entire Net Settlement Amount will be paid to all Settlement Class Members who do not opt out of the Settlement resulting in an average Individual Settlement Payment of approximately **\$630.37**. Declaration of Jean-Claude Lapuyade (“JCL Dec.”), ¶ 8.

An objective evaluation of the Settlement confirms that the relief negotiated on behalf of the Class is fair, reasonable, and adequate. The Settlement was negotiated by the Parties at arm’s length. The Settlement confers substantial benefits to the Settlement Class. The relief offered by the Settlement is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, Class Members will not have to wait (possibly years) for relief. JCL Dec., ¶ 9.

As discussed below, the proposed Settlement satisfies all criteria for preliminary settlement approval and falls within the range of reasonableness. The average Individual Settlement Payment to

the Settlement Class meets or exceeds awards in similar wage and hour class actions. Moreover, on May 31, 2022, the Court granted the Parties stipulation certifying the Class. Accordingly, Plaintiff respectfully requests the Court grant preliminary approval of the Settlement. JCL Dec., ¶ 10.

II. FACTS AND PROCEDURE

A. Overview of the Litigation

Defendant operates international grocery stores throughout California, including Redlands, California, where Plaintiff worked. This action asserts claims on behalf of all current and former non-exempt employees who worked for Defendant during the Class Period. Plaintiff worked for Defendant as a non-exempt employee in California from May 2020 to October 2020. At all times during her employment, Plaintiff earned an hourly wage and was entitled to legally compliant meal and/or rest periods, and minimum, regular and overtime wages for all hours worked. Throughout her employment, Plaintiff was subject to Defendant’s written policies and procedures contained in, among other documents, the “Employee Handbook.” JCL Dec., ¶ 11; Declaration of Wafa Mwanes (“WM Dec.”) at ¶¶ 1-5.

Generally, Plaintiff claims that Defendant failed to furnish accurate itemized wage statements, failed to provide compliant meal and rest periods, failed to pay for all time worked, and failed to pay all wages upon separation. Defendant forcefully denies liability for each of Plaintiff’s claims. Further, Defendant asserts that it fully complied with all applicable employment laws and raised several other significant defenses to Plaintiff’s claims, including but not limited to, asserting that it issued compliant wage statements, maintained facially compliant meal and rest period policies, paid for all hours worked, and timely paid all wages due upon separation of employment. JCL Dec., ¶ 12.

On September 16, 2020, Plaintiff filed a class action complaint in the San Bernardino Superior Court, Case Number CIVDS2018742 (“Action”). The Action alleged ten causes of action against Defendant for: (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) Violation of California Labor Code §§ 226.7 (Unpaid Rest Period Premiums); (4) Violations of California Labor Code §§ 1194, 1197, 1197.1 (Unpaid Minimum Wages); (5) Violations of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages Not

1 Timely Paid During Employment; (7) Violation of California Labor Code § 226(a) (Non-Compliant
2 Wage Statements); (8) Violation of California Labor Code § 1174(d) (Failure to Keep Requisite Payroll
3 Records); (9) Violation of California Labor Code § 2800 and 2802 (Unreimbursed Business Expenses);
4 (10) Violation of California Business & Professions Code §§ 17200, *et seq.* JCL Dec., ¶ 13.

5 On November 2, 2020, Plaintiff served Defendant and the Labor and Workforce Development
6 Agency (“LWDA”) with a Notice of Violations (“PAGA Notice”). Plaintiff’s PAGA Notice set forth
7 the facts and theories supporting Defendant’s alleged violations of various provisions of the California
8 Labor Code and applicable Industrial Welfare Commissions (“IWC”) Wage Order and of her intent to
9 pursue claims under California Labor Code Private Attorneys General Act, Cal. Lab. Code Sections
10 2698 *et seq.* (“PAGA”). JCL Dec., ¶ 14.

11 On January 11, 2021, Plaintiff filed a separate representative action complaint in the San
12 Bernardino County Superior Court case number CIVSB2102442 alleging a single cause of action for
13 violation of PAGA. JCL Dec., ¶ 15.

14 The Parties agreed relatively early to mediate the Action. To prepare for mediation, the Parties
15 agreed to informally exchange additional documents and data points subject to the mediation privilege,
16 including but not limited to, employee handbooks, the Class Members’ time data, and certain payroll
17 data points. As discussed *infra*, Plaintiff’s counsel retained the forensic consultants at Berger
18 Consulting Group (“BCG”) to analyze Defendant’s time and payroll data. JCL Dec., ¶ 16.

19 On February 28, 2023, the Parties participated in a full day mediation with mediator Steven
20 Serratore. After arms-length negotiations and bargaining, the Parties reached an agreement to settle
21 and signed a Memorandum of Understanding. After reaching an agreement in principle, the Parties
22 drafted and negotiated a long-form settlement agreement, which is the subject of the instant motion.
23 JCL Dec., ¶ 17.

24 **B. Class Counsel Thoroughly Investigated the Factual and Legal Issues**

25 Months before filing the Action, Class Counsel began their pre-filing investigation into
26 Plaintiff’s complaints. Class Counsel’s investigation started with several lengthy interviews with
27 Plaintiff. As part of the interview process, Plaintiff produced documents related to her employment,
28 including her wage statements and Defendant’s employee handbook. At the conclusion of the

1 interviews, Class Counsel determined that each Plaintiff's complaints justified further inquiry. JCL
2 Dec., ¶ 18.

3 Class Counsel subsequently requested Plaintiff's employee file from Defendant. In response,
4 Defendant produced various documents, including but not limited to, copies of Plaintiff's employment
5 agreements, performance evaluations, timekeeping policies, payroll and time records, and separation
6 documents. Class Counsel reviewed and analyzed the documents and determined the documents
7 appeared to substantiate Plaintiff's claim that Defendant failed to, among other things, issue accurate
8 itemized wage statements, provide compliant meal and rest periods, and pay for all time worked. JCL
9 Dec., ¶ 19.

10 Considering the many anticipated factual disputes, the Parties agreed that it would be in the best
11 interest of both Parties to mediate the matter. To prepare for mediation, Class Counsel requested
12 documents and data points to further evaluate Plaintiff's claims, Defendant's liability exposure to the
13 Class Members, and Defendant's ability to pay any settlement. In response to Class Counsel's request,
14 Defendant produced time records for the Class Members, aggregate workweek and pay period data for
15 the Class Members, aggregate meal premiums paid to the Class Members, average hourly rate for the
16 Class Members, and copies of applicable handbooks, policies, and agreements containing, *inter alia*,
17 compensation, timekeeping, and meal and rest period policies. In total, Defendant produced several
18 hundred pages of time and payroll data for Class Counsel to analyze. JCL Dec., ¶ 20.

19 Class Counsel then retained the statisticians and economists at BCG to evaluate the Class
20 Members' payroll and time data. BCG provides data analysis and damage modeling consulting
21 services, specializing in wage and hour class actions. BCG's team of financial and data analysts are
22 credentialed and experienced experts in their fields and have provided their expertise on thousands of
23 cases. Stated differently, the BCG is well-qualified to analyze Defendant's time and payroll data. JCL
24 Dec., ¶ 21.

25 BCG analyzed Defendant's time and payroll data to assist in the development of various damage
26 models. Among other things, BCG determined the approximate number of work shifts, workweeks,
27 pay periods, average length of shift and average number of hours worked per week and pay periods
28 during the Class Period. BCG also estimated the number of missed, late or truncated meal and rest

1 periods, the amount of missed meal period premiums paid during the Class Period, and the amount of
2 unpaid wages due to rounding by the Class Members during the Class Period. JCL Dec., ¶ 22.

3 In advance of mediation, Class Counsel created several damage models predicated on the BCG
4 analysis. Class Counsel's models calculated Defendant's potential liability exposure while accounting
5 for the uncertainties of continued litigation. These damage models informed and guided Class Counsel
6 during the mediated settlement discussions. JCL Dec., ¶ 23.

7 Overall, Class Counsel thoroughly investigated the claims at issue, including: (1) determining
8 Plaintiff's suitability as a putative class representative through interviews, background investigations,
9 and analysis of her employment files; (2) evaluating all of Plaintiff's potential claims; (3) researching
10 similar wage and hour class actions as to the claims brought, the nature of the positions, and the type
11 of employer; (4) analyzing the Settlement Class' time and payroll records; (5) analyzing Defendant's
12 labor policies and practices; (6) researching settlements in similar cases as well as outstanding issues
13 which could affect settlement approval; (7) evaluating Plaintiff's claims and estimating Defendant's
14 liability for purposes of settlement; (8) drafting the mediation brief; and (9) participating in the
15 mediation. This investigation allowed Class Counsel to fully assess the nature and magnitude of the
16 claims being settled, as well as the impediments to recovery, such as to make an independent
17 assessment of the reasonableness of the terms to which the Parties have agreed. JCL Dec., ¶ 24.

18 Class Counsel only agreed to enter the Settlement following this thorough investigation and
19 evaluation of Plaintiff's claims. Based on their investigation of the facts, applicable law, and
20 marketplace for similar settlements, and considering the risk of significant delay, uncertainty associated
21 with litigation, and the various defenses asserted by Defendant, Class Counsel firmly believe this
22 Agreement to be in the best interests of the Class Members. Because the Settlement's terms are fair,
23 reasonable, and adequate, the Court should preliminarily approve the Settlement. JCL Dec., ¶ 25.

24 **C. The Parties Settled at Mediation**

25 On February 28, 2023, the Parties conducted a full day of mediation with Steven Serratore, a
26 mediator of wage and hour class and representative actions. Mediator Serratore helped manage the
27 Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides. The
28 Parties made substantial progress with Mediator Serratore's assistance. Namely, the Parties exchanged

information regarding their respective claims and defense, including their respective evaluation of the damages. The mediation concluded with a settlement, the complete and final terms of which are now set forth in the Agreement. Class Counsel submit that the Settlement constitutes a fair, adequate, and reasonable compromise of the claims at issue. JCL Dec., ¶ 26.

D. The Proposed Settlement Fully Resolves Plaintiff's Claims

1. The Composition of the Settlement Class Members

The proposed Settlement Class consists of all current and former non-exempt employees who worked for Defendant during the Class Period and who do not file a timely and valid Request for Exclusion. Agreement at § I(KK). In the data exchanged at the time the Agreement was executed, there were approximately 512 Class Members that worked approximately 22,000 workweeks. Agreement at ¶ III(A)(2).

2. The Settlement Consideration

The Parties agreed to settle the underlying class claims in exchange for the Gross Settlement Amount of \$580,000.00. The Gross Settlement Amount includes: (1) Individual Settlement Payments to the Settlement Class; (2) a Service Award of \$10,000.00 to Plaintiff for her services on behalf of the Settlement Class; (3) PAGA Payment in the amount of \$20,000.00; (4) Claims Administration Costs estimated at \$9,500.00; (5) Attorneys' Fees and Attorneys' Expenses in the amount of \$213,333.33, comprised of attorneys' fees equal to one-third of the Gross Settlement Amount estimated to be \$193,333.33 and an estimated \$20,000.00 for actually incurred litigation expenses. *See generally* Agreement at § III(M).

Subject to the Court approving the Service Award, Attorneys' Fees and Attorneys' Expenses, PAGA Payment, and the Claims Administration Costs, the Net Settlement Amount will be distributed to each participating member of the Settlement Class Member. Agreement at § I(Q). There is no reversion to Defendant and Defendant must separately pay for its share of the employer payroll taxes. Agreement at §§ I(P); III(A)(1).

3. The Funding Date

Assuming there are no objectors, and no appeal is filed, Defendant will fund the \$580,000.00 Gross Settlement Amount within five (5) business days of the Court's entry of the order granting final

1 approval of this Settlement. Agreement at § I(O).

2 4. Formula for Calculating Individual Settlement Payments

3 Each Settlement Class Member will receive an Individual Settlement Payments. The Class Data
4 provided by Defendant to the Settlement Administrator will include the number of eligible Workweeks
5 for each Settlement Class Member. The Individual Settlement Payments will be calculated by dividing
6 the Net Settlement Amount by the total number of Workweeks worked by all Settlement Class
7 Members during the Class Period and multiplying the result by each Settlement Class Member's
8 Workweeks. Agreement at § I(B); III(M)(1). Each Individual Settlement Payments will be reduced by
9 any legally mandated employee tax withholdings (*e.g.*, employee payroll taxes, etc.).

10 Given that there are approximately 512 Settlement Class Members, *the average gross recovery*
11 *is approximately \$630.37* (Net Settlement Amount divided by Settlement Class Members). JCL Dec.,
12 ¶ 8.

13 5. Release by Settlement Class Members

14 Generally, as of the Funding Date, Plaintiff and the Settlement Class Members will agree to
15 release the Released Parties from the Released Class Claims. The Released Class Claims are defined
16 as all class claims alleged in the operative Complaint, or which could have been alleged in the operative
17 complaint based on the facts alleged, which occurred during the Class Period, and expressly excluding
18 all other claims, including claims for vested benefits, wrongful termination, unemployment insurance,
19 disability, social security, workers' compensation, and class claims outside of the Class Period.
20 Agreement at § I(EE).

21 6. PAGA Release by the State of California on behalf of the PAGA Class Members

22 Generally, upon the Court's entry of Final Approval Order and Judgment, and funding of the
23 Gross Settlement Amount, Plaintiff, acting as the representative of the State of California, on behalf of
24 the PAGA Class Members, will release the Released Parties from the Released PAGA Claims. The
25 Released PAGA Claims include all PAGA claims alleged in the operative Complaint and Plaintiffs
26 PAGA notice to the LWDA which occurred during the PAGA Period, and expressly excluding all other
27 claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability,
28 social security, workers' compensation, and PAGA claims outside of the PAGA Period. Agreement at

§ I(FF).

III. ARGUMENT

A. The Court Should Preliminarily Approve the Proposed Class Action Settlement

The proposed Settlement, including a Gross Settlement Amount of \$580,000.00, meets the standards for preliminary approval. Pre-trial settlement of complex class actions is a judicially favored remedy. (*Officers for Justice v. Civil Serv. Comm’n* (9th Cir. 1982) 688 F.2d 615, 625 (“Voluntary conciliation and settlement are the preferred means of dispute resolution.”).) Class action settlement approval requires an early “preliminary” review by the trial court and a subsequent “final” review after notice of the settlement has been distributed to class members for their comments and objections. (C.R.C. 3.769(c)-(g); *Cellphone Termination Fee Cases*, 180 Cal.App.4th 1110, 1118 (2010) (the court first “preliminarily approves the settlement” and later “conducts a final approval hearing to inquire into the fairness of the proposed settlement”).)

Although Rule of Court Rule 3.769 does not provide detail as to the scope of review of the proposed settlement, preliminary approval is warranted if the settlement falls within a “reasonable range.” (*See North County Contractor’s Assn., Inc. v. Touchstone Ins. Services* (1994) 27 Cal.App.4th 1085, 1089-90; Conte & Newberg, *Newberg on Class Actions*, §§ 11.26 (4th ed. 2002).) Reasonableness and fairness are presumed where: (1) the settlement is reached through “arms-length bargaining;” (2) investigation and discovery are “sufficient to allow counsel and the court to act intelligently;” (3) counsel is “experienced in similar litigation. . . .” (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802.) The presumption of fairness is consistent with California’s public policy goal of favoring settlements. (*Stambaugh v. Super. Ct* (1976) 62 Cal.App.3d 231, 236 (“the law wisely favors settlements”); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118 (“public policy generally favors the compromise of complex class action litigation”); *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1151 (“voluntary conciliation and settlement are the preferred means of dispute resolution ... [t]his is especially true in complex class action litigation”).)

Additionally, in reviewing the fairness of a class action settlement, due regard should be given to what is “otherwise a private consensual agreement between the parties.” (*Cellphone Termination*

1 *Fee Cases* (2010) 186 Cal.App.4th 1380, 1389.) The inquiry “must be limited to the extent necessary
2 to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or
3 collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable
4 and adequate to all concerned.” (*Id.*)

5 1. The Parties Reached the Settlement Through Arm’s-Length Bargaining Led by
6 Experienced Counsel.

7 “[W]hat transpires in settlement negotiations is highly relevant to the assessment of a proposed
8 settlement’s fairness.” (*State v. Levi Strauss & Co.* (1986) 41 Cal.3d 460, 482.) Courts presume the
9 absence of fraud or collusion in the negotiation of a settlement, unless evidence to the contrary is
10 offered; thus, there is a presumption that settlement negotiations are conducted in good faith. (Newberg,
11 § 11.51.)

12 The Parties participated in mediation with the highly respected mediator Steven Serratore.
13 Mediator Serratore managed the Parties’ expectations and provided a useful, neutral analysis of the
14 issues and risks to both sides. (*In re Apple Computer, Inc. Derivative Litig.* No. C 06-4128 JF (HRL),
15 2008 U.S. Dist. LEXIS 108195 (N.D. Cal. Nov. 5, 2008) (mediator’s participation weighs considerably
16 against any inference of a collusive settlement); *D’Amato v. Deutsche Bank* (2d. Cir. 2001) 236 F.3d
17 78, 85 (a “mediator’s involvement in pre-certification settlement negotiations helps to ensure that the
18 proceedings were free of collusion and undue pressure.”).) Prior to and during the mediation and
19 settlement discussions, the Parties exchanged information and engaged in a detailed discussion
20 regarding their evaluate of the case and various aspects of the matter, including but not limited to, the
21 risks and delays of further litigation, as well as evidence of Defendant’s financial condition and ability
22 to pay a settlement. At all times, the Parties’ negotiations were at an arm’s length, adversarial, and
23 non-collusive. Mediator Serratore only arrived at his proposal after hearing arguments, reviewing
24 evidence, evaluating the Parties’ respective claims and defenses, and accounting for Defendant’s
25 financial ability to pay any agreed upon settlement. JCL Dec., ¶ 27.

26 Once the Parties agreed to the Mediator’s proposal, the parties subsequently executed a binding
27 and enforceable Memorandum of Understanding. The Agreement is the final product of these mediated
28 negotiations. Objectively, the Settlement terms are fair, adequate and represent a reasonable

1 compromise of the claims at issue. JCL Dec., ¶ 28.

2 2. Class Counsel’s Thorough Investigation Provided an Objective Measurement of the
3 Settlement’s Reasonableness.

4 As set forth in greater detail above, Class Counsel conducted a very thorough investigation into
5 the factual and legal issues in dispute. In addition to informal discovery, document review, data
6 analysis and legal research, Class Counsel also researched similar wage and hour actions. Although no
7 two cases are identical, this research provided Class Counsel with a marker to inform settlement
8 discussions and, ultimately, to measure this settlement against. The investigation allowed Class
9 Counsel to realistically assess the value of the claims and intelligently engage defense counsel in
10 settlement discussions that culminated in the proposed settlement now before the Court. JCL Dec., ¶
11 29.

12 Class Counsel only agreed to enter the Settlement following their thorough investigation and
13 evaluation of Plaintiff’s claims. Based on his investigation of the facts, applicable law, and marketplace
14 for similar settlements, and considering the risk of significant delay, uncertainty associated with
15 litigation, and the various defenses asserted by Defendant, Class Counsel firmly believe this Agreement
16 to be in the best interests of the Class Members. Because the Settlement’s terms are fair, reasonable,
17 and adequate, the Court should preliminarily approve the Settlement. JCL Dec., ¶ 30.

18 3. The Settlement Falls Within the Recognized Range of Reasonableness.

19 The Gross Settlement Amount of \$580,000.00 is within the range of reasonableness. To
20 determine whether a settlement is fair and reasonable, the court should “consider enough information
21 about the nature and magnitude of the claims being settled, as well as the impediments to recovery, to
22 make an independent assessment of the reasonableness of the terms to which the parties have agreed.”
23 (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.) In making this determination,
24 the court is “not to try the case” but rather “satisfy itself that the class action settlement is within the
25 ‘ballpark of reasonableness.’” (*Id.* (emphasis added).) For this analysis, courts do “not require any such
26 explicit statement of value; [they] require[] a record which allows an understanding of the amount that
27 is in controversy and the realistic range of outcomes of the litigation.” (*Munoz v. BCI Coca-Cola*
28 *Bottling Co.* (2010) 186 Cal.App.4th 399, 409 (internal citation omitted).) The reasonableness of a

1 settlement is not dependent upon its actual value approaching the potential recovery plaintiffs might
2 have received if they had succeeded at trial.² Indeed, “[t]he determination whether a settlement is
3 reasonable does not involve the use of a ‘mathematical equation yielding a particularized sum.’ ”
4 (*Frank v. Eastman Kodak Co.* (W.D.N.Y. 2005) 228 FRD. 174, 186 (quoting *In re Michael Milken and*
5 *Assoc. Sec. Litig.* (S.D.N.Y. 1993) 150 F.R.D. 57, 66).)

6 **a. The Gross Settlement Amount Meets the Recognized Range of**
7 **Reasonableness.**

8 The Gross Settlement Amount of \$580,000.00 is fair and reasonable considering the nature and
9 magnitude of the claims being settled and the various potential impediments to recovery. Prior to
10 mediation, Class Counsel retained BCG to develop economic damage models measuring Defendant’s
11 liability exposure while accounting for the uncertainties of continued litigation. The various models
12 were informed by Class Counsel’s investigation, including the analysis of a significant sample of time
13 and payroll data. Class Counsel projected Defendant’s liability exposure for *class claims* (excluding
14 PAGA Penalties) ranged between \$2,378,039.50 million dollars (“Conservative Model”) and
15 \$4,752,738.00 million dollars (“Aggressive Model”) if successful at trial. This range reflects the
16 uncertainty regarding several of the claims, together with the uncertainty surrounding derivative
17 liability for inaccurate wage statements and waiting time penalties. Thus, the Gross Settlement Amount
18 of \$580,000.00 represents approximately between 12.2% (“Aggressive Model”) and 24.39%
19 (“Conservative Model”) of Defendant’s *class-wide* liability exposure as estimated by Class Counsel at
20 the time of mediation. The following summarizes Defendant’s estimated exposure. JCL Dec., ¶ 31.

21
22 ///

23 ² Federal district courts recognize that there is an inherent “range of reasonableness” in determining whether to approve a
24 settlement “which recognizes the uncertainties of law and fact in any particular case and the concomitant risks and costs
25 necessarily inherent in taking any litigation to completion.” *Newman v. Stein* (2d. Cir. 2002) 464 F.2d 689, 693; *see In re*
26 *Omnivision Tech, Inc.* (N.D. Cal. 2008) 559 F.Supp.2d 1036; *see also Nat’l Rural Telecomm. Coop. v. Directv. Inc.* (C.D.
27 Cal. 2004) 221 F.R.D. 523, 527 (“well settled law that a proposed settlement may be acceptable even though it amounts to
28 only a fraction of the potential recovery”); *In re Global Crossing Sec. and ERISA Litig.* (S.D.N.Y 2004) 225 F.R.D. 436,
460 (“settlement amount’s ratio to the maximum potential recovery need not be the sole, or even dominant, consideration
when assessing settlements fairness”); *In re IKON Office Solutions, Inc Sec Litig.* (E.D. Pa. 2000) 194 F.R.D. 166, 184 (“the
fact that a proposed settlement constitutes a relatively small percentage of the most optimistic estimate does not, in itself,
weigh against the settlement; rather the percentage should be considered in light of strength of the claims”); *Officers for*
Justice v. Civil Serv. Comm. (9th Cir. 1982) 688 F.2d 615, 628 (it is “the complete package, taken as a whole rather than the
individual component parts, that must be examined for overall fairness”).

1 (1) Exposure for Wage Statement Violations

2 Plaintiff's primary claim in the Action alleged that Defendant failed to furnish its employees
3 with accurate itemized wage statements. Specifically, Plaintiff alleges that Defendant issued wage
4 statements that failed to include Defendant's correct legal name in violation of Labor Code Section
5 226(a)(8). *See e.g. Noori v. Countrywide Payroll & HR Solutions, Inc.* (2019) 43 Cal.App.5th 957,
6 964-966 (providing serious truncations of the employer's name on issued wage statements can violate
7 Labor Code Section 226(a)(8) where confusion *might* ensue.) Defendant denied liability for the claim
8 and argued that it substantially complied with its obligation to provide its correct legal name on the
9 wage statements issued to its employees. Further, Defendant argued that even if it failed to furnish
10 accurate wage statements, Plaintiff could not establish the injury requirement on a class-wide basis. As
11 a result, Plaintiff discounted this claim 50% to account for this risk. Plaintiff estimated that Defendant's
12 exposure on this claim ranged between \$549,575 and \$1,099,150. JCL Dec., ¶ 32.

13 (2) Exposure for Meal Period Violations.

14 Plaintiff also alleged that Defendant failed to provide compliant meal periods. Specifically,
15 Plaintiff alleges that as a result of their rigorous work schedules, Plaintiff, Class Members, and PAGA
16 Class Members were not able to take timely and duty-free meal periods. Consequently, Plaintiff alleges
17 that she is owed meal period premiums for meal period violations that occurred during the Class Period.
18 An analysis of the Class Members' time and payroll data revealed a 36% meal period violation rate.
19 JCL Dec., ¶ 33.

20 Conversely, Defendants argued, among other things, that they provided all their employees, i.e.,
21 Class Members and PAGA Class Members, with the opportunity to take compliant meal periods.
22 Defendants also argued that they maintained facially compliant meal period policies. Defendant also
23 argued that it began paying missed meal period premiums after this litigation commenced, however,
24 no records were produced to support its contention. Thus, Defendant argued that any missed meal
25 periods were voluntarily and did not trigger liability for premium payments. JCL Dec., ¶ 34.

26 Consequently, Plaintiff applied a 50% discount to the Conservative Model to account for
27 Defendant's facially compliant policies and alleged payment of meal period premiums. Plaintiff
28 estimated that the damages for this claim ranged from approximately \$250,366.50 to approximately

1 \$500,733. JCL Dec., ¶ 35.

2 (3) Exposure for Rest Period Violations

3 Plaintiff also alleged that Defendants failed to provide compliant rest periods. Specifically,
4 Plaintiff alleged that because of their rigorous work schedules, Plaintiff and Class Members were not
5 able to take timely and duty-free rest periods. Additionally, Plaintiff argued that Defendant maintained
6 a rest period policy that required employees to remain on premises during their rest periods. JCL Dec.,
7 ¶ 36.

8 Again, Defendant denied liability and asserted that they maintained legally compliant rest period
9 policies and practices throughout the Class Period. Accordingly, Plaintiff assumed a 36% violation
10 rate based on the rate of meal period violations applied a 50% discount to the Conservative Model.
11 Plaintiff estimated the range of potential outcomes for this claim was between approximately
12 \$250,366.50 to approximately \$500,733. JCL Dec., ¶ 37.

13 (4) Exposure for Unpaid Wages Due to Rounding

14 Plaintiff alleged that because of Defendant's unlawful rounding practice, Defendant failed to pay
15 Plaintiff and Class Members for all hours worked. Defendant denied liability and asserted that their
16 employees were paid for all time worked. Furthermore, Defendants argued that, even if successful, this
17 claim resulted in minimal actual damage to the Class Members—and Plaintiff's expert confirmed this
18 to be true. Thus, Plaintiff's applied a 25% discount to the Conservative Model for this claim and
19 estimated Defendants' exposure for this claim ranged from approximately \$5,191.50 to approximately
20 \$6,922. JCL Dec., ¶ 38.

21 (5) Exposure for Waiting Time Penalties

22 Plaintiff also alleged that the Defendant's labor code violations resulted in derivative liability for
23 waiting time penalties. Although these *penalties* represented Defendant's largest dollar amount of
24 exposure, this is Plaintiff's most uncertain claim. Specifically, Defendant argued that Plaintiff could
25 not prove the "willful" prong needed to obtain waiting time penalties under Labor Code section 203.
26 Notwithstanding the uncertain nature of the claims, Plaintiff estimated Defendant's exposure for
27 waiting time penalties ranged between \$1,322,600 and \$2,645,200 because of the aforementioned risk
28 factors. JCL Dec., ¶ 39.

1 (6) Defendant's PAGA Exposure

2 In all, Class Counsel projected Defendant's liability exposure for PAGA claims ranged between
3 \$3,075,920.90 dollars ("Conservative Model") and \$7,922,830.80 million dollars ("Aggressive Model")
4 if successful at trial. JCL Dec., ¶ 40. The proposed PAGA allocation of the Gross Settlement Amount
5 is fair, just, and reasonable. *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77. Where settlements
6 "negotiate a good faith amount" for PAGA Payment and "there is no indication that this amount was the
7 result of self-interest at the expense of class members," such amounts are generally considered
8 reasonable. *Hopson v. Hanesbrands Inc.*, No. CV-08-0844 EDL, 2009 WL 928133, at *9 (N.D. Cal.
9 Apr. 3, 2009). Courts routinely approve of amounts for PAGA Payment in the range of zero to two
10 percent of the settlement. *See id.* at *1, 9 (approving a PAGA payment of 0.3%); *Jack v. Hartford Fire*
11 *Ins. Co.*, No. 09cv1683 MMA (JMA), 2011 WL 4899942, at *6 (S.D. Cal. Oct. 13, 2011) (approving a
12 PAGA payment of 0.25%); *McKenzie v. Fed. Express Corp.*, No. CV 10-02420 GAF (PLAx), 2012 WL
13 12882124, at *5 (C.D. Cal. Jan. 23, 2012) (acknowledging that courts approve PAGA claim settlements
14 in the range of zero to two percent of the total settlement).

15 Here, the Parties negotiated a good faith PAGA Payment in the amount of \$20,000 which is 3.44%
16 of the Gross Settlement Amount. This amount falls well within the range of approved PAGA Payment.
17 Seventy-Five percent (75%) of the PAGA Payment (\$15,000.00) will be paid to the LWDA ("LWDA
18 PAGA Payment") with the remaining twenty-five percent (25%) of the PAGA Payment (\$5,000.00) will
19 be distributed to the PAGA Class Members, which is within the range of PAGA Payment approved by
20 courts and should be approved. JCL Dec., ¶ 41.

21 Under PAGA, Courts have considerable discretion to reduce the penalty award. In *Fleming v.*
22 *Covidien*, 2011 U.S. Dist. LEXIS 154590 (C.D. Cal. 2011), a federal court reduced PAGA penalties
23 from \$2,800,000 to \$500,000, a reduction of 82.2%, because the court found maximum penalties
24 "unjust" because the employees had suffered no injuries. Some trial courts have actually awarded no
25 civil penalties, even when Labor Code violations are established. *See In re Nordstrom Com. Cases*, 186
26 Cal.App.4th 576, 589 (2010) (affirming an award of \$0 in PAGA penalties in a wage and hour class
27 action); *In re Taco Bell Wage & Hour Actions*, 2016 U.S. Dist. LEXIS 48557, *40-43 (E.D. Cal. Apr.
28 6, 2016) (PAGA penalties denied after trial).

1 In order to recover any PAGA penalties, Plaintiff would be required at trial to prove each of the
2 underlying Labor Code violations. *See Cardenas v. McLane Foodservice, Inc.*, 2011 U.S. Dist. LEXIS
3 13126, *10 (C.D. Cal. 2011) ("Given the statutory language [of PAGA], a plaintiff cannot recover on
4 behalf of individuals whom the plaintiff has not proven suffered a violation of the Labor Code by the
5 defendant."). Here, Plaintiff would need to prove that each PAGA Class Member suffered a violation
6 for each pay period the employee worked. Again, Defendant raised several defenses that presented
7 serious threats to the claims of the Plaintiff and the PAGA Class Members. In addition to those
8 arguments discussed *supra*, Defendant also argued that the Court of Appeals decision in *Cacho v.*
9 *Eurostar, Inc.* (2019) 43 Cal.App.5th 885, weakened Plaintiff's claims, on liability, value, and
10 manageability as to the rest period claims. JCL Dec., ¶ 42.

11 *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, illustrates the risk of PAGA claims.
12 In *Carrington*, while the plaintiff prevailed on his PAGA claim upon trial, the trial court reduced the
13 maximum PAGA penalty amount by 90%, citing the employer's good faith attempt at complying with
14 the law. *Id.* at 517. Upon review, the Court of Appeal found such reduction to be proper. *Id.* at 539.
15 Again, the *Carrington* decision was after Plaintiff actually prevailed at trial, and even then, the PAGA
16 penalties were reduced by 90%.

17 For the aforementioned reasons, the PAGA allocation of the Gross Settlement Amount is fair,
18 just, and reasonable.

19 **b. Inherent Risks of Continued Litigation Support Preliminary Approval.**

20 "It can be difficult to ascertain with precision the likelihood of success at trial. The Court cannot
21 and need not determine the merits of the contested facts and legal issues at this stage, [Citation], and to
22 the extent courts assess this factor, it is to 'determine whether the decision to settle is a good value for a
23 relatively weak case or a sell-out of an extraordinary strong case.'" (*Misra v. Decision One Mortg. Co.*
24 (C.D. Cal. 2009) 2009 WL 4581276, at *7.)

25 "The Settlement eliminates these and other risks of continued litigation, including the very real
26 risk of no recovery after several years of litigation." (*In re Nvidia Derivs. Litig.* (N.D. Cal. 2008) 2008
27 WL 5382544, at *3.) Indeed, potential appeals aside, litigating a complex case through trial is
28 inherently perilous regardless of the strengths of merits of the claims:

[N]othing is assured when litigating against commercial giants with vast litigative resources, particular in such complex litigation as this, which would strain the cognitive capacities of any jury. Defense judgments were hardly beyond the realm of possibility. Accordingly, this factor weighs in favor of preliminary approval.

(*Rebney v. Wells Fargo Bank* (1990) 220 Cal.App.3d 1117, 1140, *opinion modified* (June 18, 1990).)

Finally, continuing to litigate this action would require continued and extensive resources coupled with significant Court time to proceed through trial and post-trial motions; which can often take years. Furthermore, wage and hour litigation is complex and expensive, as it often necessitates extensive expert testimony, particularly with regards to damages. But even if Plaintiff is successful at trial, Plaintiff is acutely aware that a judgment does not end the litigation. Plaintiff fully expects that Defendant would appeal any favorable judgment. As demonstrated by *Magadia, supra*, 999 F.3d 668, the risk of an appeal and subsequent reversal is real. JCL Dec., ¶ 43. “Avoiding such a trial and the subsequent appeals in this complex case strongly militates in favor of settlement rather than further protracted and uncertain litigation.” (*Nat’l Rural Telecomms. Coop v. DirecTV* (C.D. Cal. 2004) 221 F.R.D. 523, 527.) Thus, “unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with uncertain results.” (*Id.* at 526.)

In this matter, Class Counsel negotiated a Gross Settlement Amount of \$580,000.00 that is roughly between 10.42% (“Aggressive Model”) and 20.82% (“Conservative Model”) of Defendant’s maximum class wide liability exposure for damages and statutory penalties. Given the amount of the settlement here, as compared to potential value of the claims, offset by the various inherent risks to continued litigation, the settlement is fair and reasonable. JCL Dec., ¶ 44.

B. The Proposed Notice Informs the Class about the Case and Settlement

The Settlement Class is entitled to the best practical notice under the circumstances. (*Kass v. Young* (1977) 67 Cal.App.3d 100, 106.) The purpose of the notice is to give class members sufficient information to decide whether they should accept the benefits offered, opt out and pursue their own remedies, or object to the settlement. (*Trotsky v. Los Angeles Fed Savings & Loan Assn.* (1975) 48 Cal.App.3d 143, 151-52.) The notice must advise class members “that they may be excluded from the

class if they so request and that they will be bound by the judgment, whether favorable or not, if they do not request exclusion.” (*Kass*, 67 Cal.App.3d at 106.) Authorities generally require service of the class notice by mail or similar reliable means. (*Chance v. Super. Ct.* (1962) 58 Cal.2d 275, 290; *Cart v. Super. Ct.* (1975) 50 Cal.App.3d 960, 972.)³

The Parties jointly drafted the Class Notice which fairly and neutrally informs the Class Members of their rights and remedies. The Settlement Administrator will first verify addresses, then mail the proposed Class Notice to all Class Members. The Notice will include information regarding the nature of the lawsuit, a summary of the substance of the Settlement’s terms, the procedure, and time period within which to requests for exclusions or objections to the Settlement, the date for the final approval hearing, the formula used to calculate settlement payments, and the terms and scope of the Released Class Claims. Agreement at § III(L)(2). The Parties negotiated this method to ensure delivering the most reasonable method of notice to the Class Members while ensuring cost effective administration of the Settlement. JCL Dec., ¶ 45.

Accordingly, both the method of disseminating the Class Notice and content of the Class Notice satisfy due process. (*See* C.R.C. 3.776(e)-(f); *State of Cal. v. Levi Strauss* (1986) 41 Cal.3d 460,485 (the class notice must “fairly apprise the class members of the terms of the proposed compromise and of the options open to dissenting class members.”).)

C. The Court Should Preliminarily Approve the Service Award

Enhancement payments “are fairly typical in class action cases.” (*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1393 (affirming incentive awards of \$10,000); *Rodriguez v. West Publishing Corp.* (9th Cir. 2009) 563 F.3d 948, 958, *citing* 4 Newberg on Class Actions (4th ed. 2002) § 1 1:38, and Eisenberg & Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study*, 53 UCLA L. Rev. 1303 (2006).) Enhancement payments “are intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general.”

³ Due process does not require that each class member actually receive a notice, but rather a procedure reasonably certain to reach class members. Wright, A. Miller & M. Kane, *Federal Practice and Procedure* § 1789, at 253 (2d ed. 1986). If appropriate notice is given, class members will be bound by the judgment even if they never actually receive the notice. *Fontana v. Elrod* (7th Cir. 1987) 826 F.2d 729, 732.

(*Rodriguez*, 563 F.3d at 958-59.) “[T]he rationale for making enhancement or incentive awards to named plaintiffs is that they should be compensated for the expense or risk they have incurred in conferring a benefit on other members of the class.” (*Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785.)

The Settlement provides for a Service Award of \$10,000.00 for Plaintiff. The service award is fair and reasonable compensation for the Plaintiff’s efforts bringing the action, assisting Class Counsel with the litigation and settlement, regularly conferring with Class Counsel on the status of her case and the strategies for prosecuting the claims, and reviewing the proposed Settlement to ensure that its terms are fair and provide adequate relief for the Settlement Class. JCL Dec., ¶ 46.

Class Counsel on behalf of Plaintiff will file a formal motion for the negotiated Service Award once preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above showing is sufficient for preliminary approval of the negotiated Service Award. JCL Dec., ¶ 47.

D. The Court Should Preliminarily Approve the Attorneys’ Fees and Attorneys’ Expenses

The purpose of a payment to Class Counsel for Attorneys’ Fees and Attorneys’ Expenses in class action litigation is to reward counsel who took the risk of non-payment and invested in a case that achieved a substantial positive result for the class. California courts routinely award attorneys’ fees equaling one-third or more of the potential value of the common fund, the amount requested under this settlement. (*See Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (“Empirical studies show that regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery.”); Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, *J. of Empirical Legal Studies*, Vol. 1, Issue 1, 27-78, March 2004, at 35 (independent studies of class action litigation nationwide have come to a similar conclusion that a one-third fee is consistent with market rates).)

Class Counsel took this matter on a contingency fee basis and invested significant time and expense successfully prosecuting Plaintiff’s claims. As discussed *supra*, the estimated average Individual Settlement Payment illustrates the demonstrably positive outcome for the Settlement Class Members. Considering the positive outcome for the Class Members, and in light of the supporting authority, the proposed Attorneys’ Fees and Attorneys’ Expenses payment is fair and reasonable. JCL

Dec., ¶ 48.

Plaintiff will file a formal motion for the negotiated Attorneys' Fees and Attorneys' Expenses once preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above showing is sufficient for preliminary approval of the negotiated attorneys' fees. JCL Dec., ¶ 49.

E. The Parties Stipulated to Class Certification

On May 31, 2023, the Court granted the Parties stipulation certifying the Class. JCL Dec., ¶ 50.

1. The Standard for Class Certification

Class actions are statutorily authorized "when the question is one of common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court" (*Cal.Civ.Proc. Code* § 382; *Lee v. Dynamex, Inc.* (2008) 166 Cal.App.4th 1325, 1332.) Class certification is appropriate when there is an "ascertainable class and a well-defined community of interest among class members." (*Sav-On Drug Stores, Inc.* (2014) 34 Cal.4th 319, 326.) Class treatment is appropriate even if class members at some point may be required to make an individual showing as to eligibility for recovery. (*Bufile v. Dollar Financial Group, Inc.* (2008) 162 Cal.App.4th 1193, 1207; *Sav-On*, 34 Cal.4th at 333.)

2. The Proposed Settlement Class is Ascertainable and there is a Well-Defined Community of Interest Among the Settlement Class Members.

Whether a class is "ascertainable" within the meaning of Code of Civil Procedure section 382 is "determined by examining (1) the class definition, (2) the size of the class, and (3) the means available for identifying class members." (*Lee*, 166 Cal.App.4th at 1334.) Class members are ascertainable where they may be readily identified without unreasonable expense or time by reference to official records. (*Id.*)

The community of interest requirement embodies three factors: (1) predominant common questions of law or fact; (2) a class representative with claims or defenses typical of the class; and (3) a class representative and counsel who can adequately represent the class. (*Cal. Civ. Proc. Code* § 382.)

In April 2012, the Supreme Court expounded on the element of predominance: The "ultimate question" the element of predominance presents is whether "the issues which may be jointly tried, when compared with those requiring separate adjudication, are so numerous or substantial that the

1 maintenance of a class action would be advantageous to the judicial process and to the litigants.”
2 (*Brinker*, 53 Cal. 4th at 1021-1022 (citations omitted).)

3 Because all Class Members are Defendant’s current and former employees, the class is readily
4 ascertainable from Defendant’s regular business records, i.e., payroll records. JCL Dec., ¶ 51.

5 The statutes relating to each of Plaintiff’s claims apply with equal force and effect to the entire
6 Settlement Class. Factually, Defendant’s policies and practices apply class-wide and Defendant’s
7 liability can be determined by facts common to all members of the class. The wage and hour issues are
8 both numerous and substantial, and a class action is the most advantageous method of dealing with the
9 claims of the Settlement Class. JCL Dec., ¶ 52.

10 Plaintiff’s wage and hour claims are typical of the proposed Settlement Class because they arise
11 from the same factual basis and are based on the same legal theories applicable to the other Class
12 Members. Likewise, Plaintiff’s interests are entirely coextensive with the interests of the Settlement
13 Class. Plaintiff alleges that she was injured by the same company-wide practices to which the proposed
14 Class Members were subject to and seek the same relief. Plaintiff has already demonstrated her ability
15 to advocate for the interests of the Class Member by initiating this litigation, undertaking extensive
16 class discovery, and evaluating the proposed settlement to assure that it is fair. JCL Dec., ¶ 53.

17 Additionally, Plaintiff is represented by competent Class Counsel who have extensive experience
18 in litigating wage and hour class action cases. Class Counsel successfully briefed, argued, certified, and
19 gained state court settlement approval of the same class-wide causes of action that are at issue in this
20 case. Class Counsel’s wage and hour class action experience establishes that they are well qualified to
21 represent the interests of this Class. JCL Dec., ¶¶ 54, 56-62, Declaration of Shani Zakay, ¶¶ 1-3.

22 A class action is superior to a multitude of individual lawsuits. Given the size and amount of
23 each individual claim, the Class Members likely have little incentive to litigate their claims on an
24 individual basis because the out-of-pocket expense and personal commitment necessary to litigate each
25 claim outweighs any potential recovery. In sum, class treatment is superior to individual, case-by-case
26 adjudication. JCL Dec., ¶ 55.

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Dated: July 6, 2023

By: _____

Jean-Claude Lapuyade, Esq.