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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

JOCELYN TRIGUEROS, individually, and
on behalf of other members of the general
public similarly situated;

Plaintiff,

v.

STANFORD FEDERAL CREDIT UNION, an
unknown business entity; CARDTRONICS
USA, INC., a Delaware corporation; ATM
NATIONAL, LLC d/b/a ALLPOINT
NETWORK, a Delaware limited liability
company; and DOES 1 through 100,
inclusive;

Defendants.

Case No.: 21CV375168

Assigned for All Purposes to:
Honorable Sunil R. Kulkarni
Department 1

CLASS ACTION

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT, CONDITIONAL
CERTIFICATION, APPROVAL OF
CLASS NOTICE, SETTING OF FINAL
APPROVAL HEARING DATE;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

[Declaration of Proposed Class Counsel
(Douglas Han); Declaration of Proposed
Settlement Administrator (Jodey Lawrence);
and [Proposed] Order filed concurrently
herewith]

Hearing Date: March 16, 2023
Hearing Time: 1:30 p.m.
Hearing Place: Department 1

Complaint Filed: January 8, 2021
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on March 16, 2023 at 1:30 p.m., or as soon as the matter
2 may be heard, before the Honorable Sunil R. Kulkarni in Department 1 of the Santa Clara Superior
3 Court (Downtown Superior Court) located at 191 North First Street, San Jose, California 95113,
4 Plaintiff Jocelyn Trigueros (“Plaintiff”) moves for an order:

- 5 • Granting Preliminary Approval of the proposed class action settlement described
6 herein and as set forth in the Parties’ Class Action and PAGA Settlement
7 Agreement and Release of Claims (“Agreement,” “Settlement Agreement,” or
8 “Settlement”), attached as **Exhibit 2** to the declaration of Douglas Han, including,
9 and not limited to, the means of allocation and distribution of funds, the allocations
10 for payments under the Private Attorneys General Act of 2004 (“PAGA”), Class
11 Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class
12 Representative Service Payment, and Settlement Administration Expenses;
- 13 • Conditionally certifying the proposed Class for settlement purposes only;
- 14 • Appointing Plaintiff as the class representative;
- 15 • Appointing Justice Law Corporation as Class Counsel;
- 16 • Approving the proposed Notice of Proposed Settlement of Class Action and
17 Hearing Date (“Class Notice”) attached as **Exhibit A** to the Settlement Agreement
18 and [Proposed] Order Preliminarily Approving Class Action Settlement;
- 19 • Directing the mailing of the proposed Class Notice with a postage-paid return
20 envelope to the proposed Class;
- 21 • Approving the proposed deadlines for the notice and settlement administration
22 process;
- 23 • Approving Phoenix as the Settlement Administrator;
- 24 • Approving the settlement of Plaintiff’s PAGA claims; and

25 ///

26 ///

27 ///

- Scheduling a hearing to consider whether to grant Final Approval of the Settlement Agreement, at which time the Court will also consider whether to grant Final Approval of the requests for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, Settlement Administration Expenses, and allocation of the PAGA Payment.

This motion is based upon the following memorandum of points and authorities; Declaration of Proposed Class Counsel (Douglas Han); Declaration of the Proposed Settlement Administrator (Jodey Lawrence); [Proposed] Order filed concurrently with this motion; pleadings and other records on file with the Court in this matter; and such documentary evidence and oral argument as may be presented at the hearing on this motion.

Dated: February 17, 2023

JUSTICE LAW CORPORATION

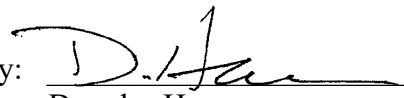
By: 
Douglas Han
Attorneys for Plaintiff

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1 **I. INTRODUCTION**

2 This motion seeks preliminary approval of a non-reversionary \$1,125,000 wage-and-hour
3 class action settlement by Plaintiff on behalf of himself and all Stanford Federal Credit Union’s
4 (“Defendant”) current and former non-exempt employees in California beginning July 17, 2016
5 through November 23, 2022, excluding those former employees who signed separate individual
6 severance and release agreements covering the claims alleged in this matter (“Class” and “Class
7 Period”). At the time of this filing, the number of Class Members confirmed by Defendant is
8 estimated to be two hundred sixty (260). (Declaration of Douglas Han In Support of Plaintiff’s
9 Motion For Preliminary Approval of Class Action Settlement (“Han Dec.”), ¶¶ 8-9.)

10 It is requested the Court grant Preliminary Approval because when analyzing the strengths
11 and vulnerabilities of the claims alongside Defendant’s potential liability exposure, the Settlement
12 is well within the range of reasonableness. Plaintiff and Class Counsel are convinced the
13 Settlement is in the best interests of the Class Members.

14 **II. BACKGROUND**

15 On January 8, 2021, Plaintiff Jocelyn Trigueros filed a wage-and-hour class action lawsuit
16 against Defendant in the Superior Court of California, County of Santa Clara, alleging nine (9)
17 causes of action. (Han Dec., *supra*, at ¶ 10.)

18 After engaging in litigation, exchange of information, and negotiations, the Parties
19 attended mediation on March 23, 2022 with Hon. Carl J. West (Ret.), resulting in the settlement
20 of this matter via a mediator’s proposal. (Han Dec., *supra*, at ¶ 11.)

21 In line with the settlement, Plaintiff provided written notice to the California Labor and
22 Workforce Development Agency (“LWDA”) and Defendant on January 15, 2021. (Han Dec.,
23 *supra*, at ¶ 12.)

24 **III. INVESTIGATION/ LITIGATION HISTORY**

25 **a. Discovery, Investigation, and the Parties’ Staunchly Conflicting Positions**

26 Prior to mediation, both Parties engaged in informal discovery. (Han Dec., *supra*, at ¶
27 14.) Specifically, Defendant produced documents relating to its policies, practices, and
28 procedures regarding reimbursement of business expenses, paying non-exempt employees for all

1 hours worked, meal and rest break policies, and payroll and operational policies. (Han Dec.,
2 *supra*, at ¶ 14.) As part of Defendant’s production, Plaintiff also reviewed time records, wage
3 statements, and information relating to the size and scope of the Class, as well as data permitting
4 Plaintiff to understand the number of workweeks in the Class Period. Plaintiff also interviewed
5 putative class members who apprised Plaintiff of their work experience. (*Ibid.*)

6 After mediation, Plaintiff engaged in further formal discovery. Plaintiff propounded one
7 (1) set of form interrogatories, one (1) set of special interrogatories, one (1) set of requests for
8 admissions, and one (1) set of requests for production of documents. (Han Dec., *supra*, at ¶ 15.)
9 Based upon the information provided by Defendant and interviews with non-exempt employees,
10 Plaintiff contends – and Defendant denies – Defendant: (1) failed to provide employees with
11 legally mandated meal and rest breaks; (2) failed to pay employees for all hours worked; (3) failed
12 to reimburse employees for necessary business expenses; (4) issued noncompliant wage
13 statements; and (5) is liable for waiting time penalties. (Han Dec., *supra*, at ¶¶ 17-23.)

14 **b. The Parties Were Able to Reach an Agreement on Settlement of the Action**

15 **i. The Parties Attended Mediation Which Ultimately Led to the**
16 **Settlement Agreement**

17 The Parties attended mediation with experienced wage-and-hour mediator Hon. Carl West
18 (Ret.) that took place on March 23, 2022. (Han Dec., *supra*, at ¶ 24.) During the mediation and
19 in the negotiations thereafter, the Parties discussed the risks of continued litigation, the likelihood
20 of certification, and the merits of the Parties’ claims and defenses versus the benefits of settlement.
21 (*Ibid.*) While the Parties ultimately did not reach a settlement at mediation, the Parties later
22 reached a settlement agreement, the terms of which were memorialized in the Agreement the
23 Parties now seek Preliminary Approval of. (*Ibid.*; Exhibit 2.)

24 **ii. The Settlement Was Reached as a Result of Arm’s-length Negotiations**

25 The Agreement was reached because of arm’s-length negotiations. (Han Dec., *supra*, at
26 ¶ 34.) Though cordial and professional, the settlement negotiations have always been adversarial
27 and non-collusive in nature. (*Ibid.*) At the mediation, both Parties’ counsel conducted extensive
28 arm’s-length settlement negotiations until an agreement was reached after mediation. (*Ibid.*)

1 Plaintiff and Class Counsel believe in the merits of the case but recognize the expense and
2 length of additional proceedings necessary to continue the litigation. (Han Dec., *supra*, at ¶ 35.)
3 Plaintiff and Class Counsel considered the uncertainty and risk of further litigation, potential
4 outcome, and difficulties and delays inherent in such litigation. (*Ibid.*) Plaintiff and Class Counsel
5 believe the settlement set forth in the Settlement Agreement is fair, adequate, reasonable and in
6 the Class Members’ best interests. (*Ibid.*)

7 **iii. The Settlement Is the Result of Thorough Investigation**

8 The Parties thoroughly investigated and evaluated the factual strengths and weaknesses
9 of the Parties’ claims and defenses and engaged in sufficient investigation, research, and informal
10 discovery. (Han Dec., *supra*, at ¶ 36.) The Settlement was only possible following significant
11 investigation and evaluation of the relevant policies and procedures. (*Ibid.*) This information
12 provided by Defendant permitted Class Counsel to engage in a comprehensive analysis of liability
13 and potential damages. Furthermore, this case has reached the stage where “the Parties certainly
14 have a clear view of the strengths and weaknesses of their cases” sufficient to support the
15 Settlement. (*Ibid.*; *Boyd v. Bechtel Corp.* (N.D.Cal. 1979) 485 F.Supp. 610, 617.)

16 **c. Terms of the Proposed Settlement**

17 **i. Deductions from the Settlement**

18 The Parties agreed (subject to the Court’s approval) this action be settled and
19 compromised for the non-reversionary total sum of \$1,125,000 (“Gross Settlement Amount”)
20 which includes the: (1) Class Counsel Fees Payment of up to \$375,000.00; (2) Class Counsel
21 Litigation Expenses of up to \$20,000; (3) Class Representative Service Payment of \$10,000; (4)
22 Settlement Administration Expenses not to exceed \$7,750; (5) PAGA Payment of \$100,000; and
23 (6) any employer-side payroll taxes due on the portion of the Settlement Shares allocated to
24 wages. (Han Dec., *supra*, at ¶ 25.)

25 **ii. Calculation of the Class Members’ Settlement Shares**

26 If the Court approves the proposed deductions from the Gross Settlement Amount, it is
27 estimated \$612,250 (“Net Settlement Amount”) will be distributed to Class Members who do not
28 submit valid and timely Elections Not to Participate in Settlement (“Participating Class

Members”), resulting in an *average* Settlement Share of \$2,354.80. (Han Dec., *supra*, at ¶ 26.)

The Settlement Administrator will calculate and pay Settlement Shares from the Net Settlement Amount to Participating Class Members using the formula set forth in the Agreement. (Han Dec., *supra*, at ¶ 27.) The Settlement Administrator shall also calculate and pay PAGA Shares to Aggrieved Employees using the formula set forth in the Agreement. (*Ibid.*)

iii. The Allocation of 1/3 to Wages, 1/3 to Penalties, and 1/3 to Interest Is Justified Under the Claims of this Action

Settlement Shares will be apportioned 1/3 in the settlement of wage claims, 1/3 in the settlement of claims for penalties, and 1/3 in the settlement of claims for interest allegedly due to employees. (Han Dec., *supra*, at ¶ 27.)

The allocation of wages and penalties indicated above was based on the realistic exposure Plaintiff could expect to receive for meal and rest break premiums and unpaid wages. (Han Dec., *supra*, at ¶ 54.) First, Plaintiff added the realistic exposure for rest break premiums and meal break premiums (\$116,998.84 + \$21,578.30 = \$138,577.14). (*Ibid.*) Plaintiff then added the \$138,577.14 to the low-end realistic exposure for unpaid wages due to off-the-clock work (\$138,577.14 + \$332,400 = \$470,977.14). (*Ibid.*) The realistic exposure of \$470,977.14 Plaintiff can expect to receive if he were to prevail at trial for meal and rest break premiums, low end unpaid wages due to off-the-clock work, and underpaid overtime wages, sick leave, and premium wages represents about 1/3 of the total low-end realistic exposure (\$470,977.14 ÷ \$1,388,767.14 = 0.3391). (*Ibid.*) Because this represents approximately 1/3 of wages, it means allocating 1/3 as wages, 1/3 as penalties, and 1/3 as interest pursuant to the Settlement Agreement is appropriate. (*Ibid.*)

iv. Notice to the Class

No later than fifteen (15) business days after the Court enters an Order Granting Preliminary Approval of the Settlement, Defendant will provide to the Settlement Administrator an electronic database containing known as the Class Data. (Han Dec., *supra*, at ¶ 28.) Afterwards, in no event later than fourteen (14) calendar days after receiving the Class Data, the Settlement Administrator will mail the Class Notice to all Class Members. (*Ibid.*)

1 **v. Distribution of Funds**

2 Defendant shall fund the Gross Settlement Amount by depositing the money with the
3 Settlement Administrator within sixty-five (65) calendar days of the Effective Final Settlement
4 Date. (Han Dec., *supra*, at ¶ 29.) Within fourteen (14) calendar days after Defendant funds the
5 Gross Settlement Amount, the Settlement Administrator will make all the payments due. (*Ibid.*)

6 Participating Class Member must cash their settlement check within one hundred eighty
7 (180) calendar days after they are mailed. (Han Dec., *supra*, at ¶ 30.) Uncashed settlement checks
8 will be paid to the California State Controller’s Unclaimed Property Fund. (*Ibid.*)

9 **vi. Release of Claims**

10 Upon entry of final judgment and payment by Defendant of the Gross Settlement Amount
11 in accordance with section III(J)(9) of the Agreement, Defendant and the Released Parties shall
12 be entitled to the Released Claims set forth in the Agreement. (Han Dec., *supra*, at ¶ 31.)

13 Upon entry of final judgment and payment by Defendant of the Gross Settlement Amount
14 in accordance with section III(J)(9) of the Agreement, Plaintiff generally, unconditionally,
15 irrevocably, and absolutely releases and discharges the Released Parties from any and all claims,
16 transactions, or occurrences between them that occurred during the Class Period, to the fullest
17 extent permitted by law. (Han Dec., *supra*, at ¶ 32.) Plaintiff waives and relinquishes the
18 provisions, rights, and benefits of section 1542 of the Civil Code. (*Ibid.*)

19 Regarding class action releases, “[A] court may release not only those claims alleged in
20 the complaint and before the court, but also claims which ‘could have been alleged by reason of
21 or in connection with any matter or fact set forth or referred to in’ the complaint.”” (*Amaro v.*
22 *Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 537.) The scope of the class
23 releases in this case are acceptable because they are tied to the allegations in the complaint or
24 allegations that could have been asserted based on the facts in the complaint. The released claims
25 do not ““go beyond the scope of the allegations in the operative complaint”” (*Ibid.*)

26 **d. Counsel for Both Parties Are Experienced in Similar Litigation**

27 Counsel for both Parties are experienced in wage-and-hour employment law and class
28 actions. (Han Dec., *supra*, at ¶¶ 2-7; Exhibit 1.) Class Counsel have prosecuted numerous cases

on behalf of employees for Labor Code violations. (Han Dec., *supra*, at ¶¶ 2-7; Exhibit 1.) Thus, Class Counsel are experienced and qualified to evaluate the class claims, advantages and disadvantages of settlement versus trial, and viability of the defenses. (*Ibid.*) Class Counsel’s experience guided their determination to endorse the Settlement.¹ (*Ibid.*)

IV. ARGUMENT

a. Class Action Settlements Are Subject to Court Review

California Rules of Court, rule 3.769 requires court approval for class action settlements.² “Before final approval, the court must conduct an inquiry into the fairness of the proposed settlement.” (Cal. Rules of Court, rule 3.769(g).) Rule 3.769 further requires a noticed motion for preliminary approval of class settlements:

(a) A settlement or compromise of an entire class action, or a cause of action in a class action, or as to a party, requires the approval of the court after hearing.

...
(b) Any party to a settlement agreement may serve and file a written notice of motion for preliminary approval of the settlement. The settlement agreement and proposed notice to class members must be filed with the motion, and the proposed order must be lodged with the motion.

Courts have discretion to approve settlements that are fair, not collusive, and consider “all the normal perils of litigation as well as the additional uncertainties inherent in complex class actions.” (*In re Beef Industry Antitrust Litigation* (5th Cir. 1979) 607 F.2d 167, 179, cert. den. *sub nom. Iowa Beef Processors, Inc. v. Meat Price Investigators Ass’n* (1981) 452 U.S. 905.)

b. The Proposed Settlement Is a Reasonable Compromise of Claims

An understanding of the amount in controversy is an important factor in whether the settlement “of the class members’ claims is reasonable in light of the strengths and weaknesses

¹ The final factor mentioned in *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794 – the number of objectors – is not determinable until the Class Notice has been provided to the Class Members, and they have had an opportunity to respond. This information will be provided to the Court in conjunction with the Motion for Final Approval of Class Action Settlement.

² The California Supreme Court has also authorized California’s trial courts to use Federal Rule 23 and cases applying it for guidance in considering class issues. (See *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821; see *Green v. Obledo* (1981) 29 Cal.3d 126, 145-146.) Where appropriate, Plaintiff cites Federal Rule 23 and federal case law in addition to California law.

1 of the claims and the risks of the particular litigation.” (*Kullar v. Foot Locker Retail, Inc.* (2008)
2 168 Cal.App.4th 116, 129; see also *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010)
3 186 Cal.App.4th 399, 409.) The most important factor in this regard is “the strength of the case
4 for Plaintiff on the merits, balanced against the amount offered in settlement.” (*Kullar*, at p. 129;
5 see also *Munoz*, at p. 409.)

6 In weighing the strength of the case, *Kullar* instructs the court is not to “decide the merits
7 of the case or to substitute its evaluation of the most appropriate settlement for that of the
8 attorneys.” (*Kullar v. Foot Locker Retail, Inc.*, *supra*, 168 Cal.App.4th at p. 133.) Finally, *Kullar*
9 does not require an explicit statement of the maximum amount the class could recover if the
10 plaintiff prevailed on all his claims, provided there is a record that allows “an understanding of
11 the amount that is in controversy and the realistic range of outcomes of the litigation.” (*Munoz v.*
12 *BCI Coca-Cola Bottling Co. of Los Angeles*, *supra*, 186 Cal.App.4th at p. 409.) Put differently,
13 “as the court does when it approves a settlement as in good faith under Code of Civil Procedure
14 § 877.6, the court must at least satisfy itself that the class settlement is within the ‘ballpark’ of
15 reasonableness.” (*Kullar*, at p. 133.)

16 **i. The Gross Settlement Amount of \$1,125,000 Is Fair and Reasonable**

17 The Settlement was only possible following significant investigation and evaluation of the
18 relevant policies and procedures in place and the data provided for the putative class, as referenced
19 in Section III(b)(iii) above, permitting Class Counsel to engage in a comprehensive analysis of
20 liability and potential damages. (Han Dec., *supra*, at ¶ 36.)

21 This investigation and evaluation informed the central theories of liability predicated on
22 Defendant’s alleged: (1) failure to pay minimum and overtime wages; (2) failure to provide meal
23 and rest breaks and pay applicable premiums; (3) failure to provide complete and accurate wage
24 statements; (4) failure to reimburse business expenses; (5) failure to timely pay wages during
25 employment and upon separations; (6) failure to maintain compliant wage statements; (7) failure
26 to accurately calculate and pay sick leave; (8) violation of PAGA; and (9) violation of Business
27 & Professions Code sections 17200, *et seq.* (Han Dec., *supra*, at ¶ 37.) Defendant continues to
28 deny the theories of liability. (*Id.* at ¶ 38.)

1 While Plaintiff believes the case is suitable for certification, uncertainties with respect to
2 certification are always present. (Han Dec., *supra*, at ¶ 39.) As the California Supreme Court
3 ruled in *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, class certification is
4 a matter of the trial court's sound discretion. (*Ibid.*) Decisions following *Sav-On Drug Stores,*
5 *Inc.* have reached different conclusions concerning certification of wage-and-hour claims.³ (*Ibid.*)
6 These factors led Plaintiff to discount the calculations of potential damages.

7 **ii. The PAGA Payment of \$100,000 Is Reasonable**

8 The provisions of the Labor Code potentially triggering PAGA penalties in this case
9 include, but are not limited to, Labor Code sections 201, 202, 203, 204, 218.5, 221, 223, 226,
10 226.3, 226.7, 246, 510, 512(a), 516, 558, 1174(d), 1182.12, 1194, 1194.2, 1197, 1197.1, 1198,
11 2800, and 2802. (Han Dec., *supra*, at ¶ 47.) Defendant asserts, regardless of the results of the
12 underlying causes of action, PAGA penalties are not mandatory but permissive and discretionary.
13 (Han Dec., *supra*, at ¶ 47.) Defendant also maintains it had a strong argument it would be unjust
14 to award maximum PAGA penalties given the law's unsettled state. (*Ibid.*; *Thurman v. Bayshore*
15 *Transit Mgmt.* (2012) 203 Cal.App.4th 1112 [reducing penalties by 30% under this authority].)
16 Defendant argued without stacking and limited to the initial violation, the PAGA penalties would
17 be limited to **\$21,800** (218 employees x \$100 initial violation) on the low end and **\$152,600** (218
18 employees x \$100 initial violation x 7 theories of recovery) on the high end. (Han Dec., *supra*,
19 at ¶¶ 48-50.)

20 Plaintiff also recognized the risk any PAGA award could be reduced. (Han Decl., *supra*,
21 at ¶¶ 51-52.) Many of the causes of action brought were duplicative of the statutory claims, such
22 as Labor Code sections 201, 202, 203, 226.7, 510, 512, 1194, 1197, 1198, 2800, and 2802. (*Ibid.*)
23 Thus, allocating \$100,000 as the PAGA Payment was reasonable based on a rate of **\$10.84** per
24 pay period [$\$100,000 \div 9,225$ pay periods in PAGA date range (opinioned by Plaintiff's expert)],

25 ³ (See, e.g., *Harris v. Superior Court* (2007) 154 Cal.App.4th 164 [reversing decertification
26 of class claiming misclassification and ordering summary adjudication in favor of employees],
27 review granted Nov. 28, 2007, (2007) 171 P.3d 545 [not cited as precedent, but rather for
28 illustrative purposes only]; *Walsh v. IKON Solutions, Inc.* (2007) 148 Cal.App.4th 1440 [affirming
decertification of class claiming misclassification]; *Aguilar v. Cintas Corp. No. 2* (2006) 144
Cal.App.4th 121 [reversing denial of certification]; *Dunbar v. Albertson's Inc.* (2006) 141
Cal.App.4th 1422 [affirming denial of certification].)

given that Defendant is paying an additional \$1,025,000 in the class settlement.⁴ (Han Decl., *supra*, at ¶¶ 51-52.) When PAGA payments are negotiated in good faith and “there is no indication that [the] amount was the result of self-interest at the expense of other Class Members,” such amounts are generally considered reasonable.⁵ (*Ibid.*)

Considering Defendant’s defenses, its supporting evidence, and its position the case is not suitable for class treatment, the settlement of \$1,125,000 is reasonable, adequate, and fair.

c. Discount Analysis Justifies the Settlement

Excluding the civil penalties, which could be completely discretionary, the total estimated potential exposure, assuming certification and prevailing at trial, would be about **\$5,036,620.24** on the low end and **\$5,590,620.24** on the high end. (Han Dec., *supra*, at ¶ 53.)

Category	Potential Exposure	Certification Risk	Merits Risk	Realistic Exposure
Rest Break Premiums	\$974,907.04	70%	60%	\$116,998.84
Meal Break Premiums	\$86,313.20	50%	50%	\$21,578.30
Overtime/Minimum Wage: Off-the-Clock Work	\$1,108,000.00 to \$1,662,000.00	40%	50%	\$332,400 to \$498,600
Unreimbursed Business Expenses	\$780,000	20%	70%	\$187,200
Wage Statement Penalty	\$924,000	30%	50%	\$323,400
Waiting Time Penalty	\$1,163,400	30%	50%	\$407,190
MAXIMUM TOTAL EXPOSURE	\$5,036,620.24 to \$5,590,620.24			\$1,388,767.14 to \$1,554,967.14

Based on this analysis, the realistic recovery is **\$1,388,767.14** on the low end and **\$1,554,967.14** on the high end. (Han Dec., *supra*, at ¶ 61.) The Gross Settlement Amount is about twenty percent (20.12%) of the maximum potential exposure and about seventy-two (72.34%) of

⁴ (See *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, 529 [affirming a rate of \$5 per violation and a total PAGA penalty of \$150,000 while the plaintiff requested a rate of \$25 to \$75 per violation and a total PAGA penalty of \$70,000,000].)

⁵ (*Hopson v. Hanesbrands Inc.* (N.D. Cal. Apr. 3, 2009) No. 08-00844, 2009 U.S. Dist. LEXIS 33900 at *24; see, e.g., *Nordstrom Com. Cases* (2010) 186 Cal.App.4th 576, 579, “[T]rial court did not abuse its discretion in approving a settlement which does not allocate any damages to the PAGA claims”).

1 the maximum realistic exposure at trial, which is a fair and adequate settlement. (Han Dec., *supra*,
2 at ¶ 61.)

3 The only question at preliminary approval is whether the settlement is within the range of
4 possible approval. (*In re Tableware Antitrust Litig.* (N.D.Cal. 2007) 484 F.Supp.2d 1059, 1079.)
5 “The fact that a proposed settlement may only amount to a fraction of the potential recovery does
6 not, in and of itself, mean that the proposed settlement is grossly inadequate and should be
7 disapproved.” (*City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495 F.2d 448, 455; see also
8 *Linney v. Cellular Alaska Partnership* (9th Cir. 1998) 151 F.3d 1234, 1242, “[I]t is the very
9 uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce
10 consensual settlements. The proposed settlement is not to be judged against a hypothetical or
11 speculative measure of what might have been achieved by the negotiators”). Nevertheless, the
12 Settlement is in line with the realistic exposure had Plaintiff prevailed at trial and provides
13 significant recovery for the Class Members.

14 **d. Conditional Certification of the Class Is Appropriate**

15 Code of Civil Procedure section 382 “authorizes class actions ‘when the question is one
16 of a common or general interest, of many persons, or when the parties are numerous, and it is
17 impracticable to bring them all before the court.’” (*Sav-On Drug Stores, Inc. v. Superior Court*,
18 *supra*, 34 Cal.4th at p. 326.) California courts certify class actions if the plaintiff can identify
19 “both [1] an ascertainable class and [2] a well-defined community of interest among class
20 members.” (*Ibid.*)

21 The Class is ascertainable and numerous as to make it impracticable to join all Class
22 Members, and there are common questions of law and fact amongst the Class. (Han Dec., *supra*,
23 at ¶ 62.) Plaintiff contends that, as a former non-exempt employees of Defendant, her claims are
24 typical of the claims of the Class, and Class Counsel will fairly and adequately protect the interests
25 of the Class. (*Ibid.*) Also, Plaintiff asserts the prosecution of separate actions by individual Class
26 Members would create the risk of inconsistent or varying adjudications. (*Ibid.*)

27 ///

28 ///

1 **i. The Proposed Class Is Ascertainable and Sufficiently Numerous**

2 “Ascertainability is required in order to give notice to putative class members as to whom
3 the judgment in the action will be res judicata.” (*Hicks v. Kaufman & Broad Home Corp.* (2001)
4 89 Cal.App.4th 908, 914.) “A class is ascertainable if it identifies a group of unnamed Plaintiff
5 by describing a set of common characteristics sufficient to allow a member of that group to
6 identify himself or herself as having a right to recover based on the description.” (*Bartold v.*
7 *Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 828.) The proposed class must also be
8 sufficiently numerous. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.)

9 This case involves about two hundred sixty (260) Class Members, meaning the Class is
10 sufficiently numerous. (Han Dec., *supra*, at ¶ 63.) Class Members will be identified by the
11 Settlement Administrator through a review of Defendant’s employment records. (*Ibid.*)

12 **ii. The Class Members Share a Well-defined Community of Interest**

13 The community of interest requirement “embodies three factors: (1) predominant common
14 questions of law or fact; (2) Class Representative with claims or defenses typical of the class; and
15 (3) Class Representative who can adequately represent the class.” (*Sav-On Drug Stores, Inc. v.*
16 *Superior Court*, *supra*, 34 Cal.4th at p. 326.) “[T]he community of interest requirement for
17 certification *does not mandate that class members have uniform or identical claims.*” (*Capitol*
18 *People First v. Department of Developmental Services* (2007) 155 Cal.App.4th 676, 692
19 (emphasis in original).) Rather, courts focus on the defendant’s internal policies and “pattern and
20 practice . . . in order to assess whether that common behavior toward similarly situated Plaintiff
21 renders class certification appropriate.” (*Ibid.*)

22 **1. Common Issues Predominate**

23 The “common issues” requirement “involves analysis of whether the proponent’s ‘theory
24 of recovery’ is likely to prove compatible with class treatment.” (*Capitol People First v.*
25 *Department of Developmental Services*, *supra*, 155 Cal.App.4th at p. 690 (emphasis added).)
26 Courts determine whether the elements necessary to establish liability are susceptible to common
27 proof, even if the class members must individually prove their damages. (*Brinker Restaurant*
28 *Corporation v. Superior Court* (2012) 53 Cal.4th 1024). These types of claims are regularly

1 granted class certification when the plaintiff can present evidence of common policies. (See, e.g.,
2 *Jones v. JGC Dallas LLC* (N.D.Tex. Nov. 29, 2012, Civil Action No. 3:11-CV-2743-O) 2012
3 U.S.Dist.LEXIS 185042 [certified collective action involving 190 dancers]; *Espinoza v. Galardi*
4 *South Enters.* (S.D.Fla. Jan. 11, 2016, No. 14-21244-CIV-GOODMAN) 2016 U.S.Dist.LEXIS
5 [court certified class of dancers on state law claims].)

6 Plaintiff asserts common issues of fact and law predominate as to each of the claims
7 alleged. (Han Dec., *supra*, at ¶ 64.) Plaintiff contends all Class Members were subject to the same
8 or similar employment practices, policies, and procedures described in detail above. (*Ibid.*)

9 **2. Plaintiff's Claims Are Typical of the Class Claims**

10 Typical claims rely on legal theories and facts that are substantially like those of other
11 class members. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 46.) Plaintiff is a former employee
12 of Defendant and alleges she and the Class Members were employed by the same company and
13 injured by Defendant's common policies and practices related to the claims described above. (Han
14 Dec., *supra*, at ¶ 65.) Plaintiff seeks relief for these claims and derivative claims on behalf of all
15 Class Members. (*Ibid.*) Plaintiff's claims arise from the same employment practices and are based
16 on the same legal theories as those applicable to the Class. (Han Dec., *supra*, at ¶ 65.)

17 **3. Plaintiff is Adequate to Represent the Class**

18 Plaintiff has proven to be an adequate representative. (Han Dec., *supra*, at ¶ 66.) Plaintiff
19 has conducted himself diligently and responsibly in representing the Class in this litigation,
20 understands his fiduciary obligations, and has actively participated in the prosecution of this case.
21 (*Ibid.*) Furthermore, Plaintiff has no adverse interest to that of the Class. (*Ibid.*)

22 **4. Class Action Is Superior for the Fair and Efficient** 23 **Adjudication of this Controversy**

24 A class action is superior to other available means for the fair and efficient adjudication
25 of this controversy. Plaintiff contends the joinder of all Class Members is impractical and that
26 class treatment will permit many similarly situated persons to prosecute their common claims for
27 settlement purposes simultaneously in a single forum without the duplication of effort and
28 expense. Because several Class Members are current employees, Plaintiff believes fear of

retaliation further supports the superiority of class-wide relief as this fear deters legal redress.

e. The Settlement Is Fair, Reasonable, and Adequate

In deciding whether to approve a proposed class action settlement under Code of Civil Procedure section 382, the Court must find a proposed settlement is “fair, adequate and reasonable.” (*Dunk v. Ford Motor Co.*, *supra*, 48 Cal.App.4th at p. 1801.) A proposed class action settlement is presumed fair under the following circumstances: (1) the parties reached settlement after arm’s-length negotiations; (2) investigation and discovery were sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. (*Id.* at p. 1802.) All these elements are present here.

f. Notice to Class Members Complies with California Rules of Court, Rule 3.769(f)

California Rules of Court, rule 3.769(f), provides:

If the court has certified the action as a class action, notice of the final approval hearing must be given to class members in the manner specified by the court. The notice must contain an explanation of the proposed settlement and procedures for class members to follow in filing written objections to it and in arranging to appear at the settlement hearing and state any objections to the proposed settlement.

The Class Notice meets all these requirements. The proposed Class Notice advises the Class Members of their right to participate in the Settlement; how and when to object to or request exclusion from the Settlement; and the date, time, and location of the Final Approval Hearing.

V. CONCLUSION

Plaintiff submits the Settlement is in the best interests of the Class, as it is fair, adequate, and reasonable. Under the applicable class action criteria and guidelines, the Settlement should be preliminarily approved by the Court, the Class should be conditionally certified for purposes of settlement only, and the Class Notice should be approved.

Dated: February 17, 2023

JUSTICE LAW CORPORATION

By: 

Douglas Han

Attorneys for Plaintiff

**PROOF OF SERVICE
1013A(3) CCP**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is aokada@justicelawcorp.com

On February 17, 2023, I served the foregoing document described as

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, CONDITIONAL CERTIFICATION, APPROVAL OF CLASS NOTICE, SETTING OF FINAL APPROVAL HEARING DATE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

for the following case: **Trigueros v. Stanford Federal Credit Union, et al.**
LWDA/Court Case No.: **LWDA Case No.: CM-811357-20**
Court Case No.: 21CV375168
Santa Clara County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 17, 2023, at Pasadena, California.



Anna Okada