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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TROY CROSSLEY and EARNELL WORTHY, on Behalf of the State of California and Aggrieved Employees, and Others Similarly Situated Plaintiffs, v. MANPOWER U.S., INC., KUEHNE + NEGEL, INC., and DOES 1 through 50, inclusive, Defendants.	CASE NO. CIVSB2325323 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT** Date: April 13, 2026 Time: 8:30 a.m. Dept.: S22 *Assigned for all Purposes to Judge David E. Driscoll, Dept. S22*

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I. INTRODUCTION

Plaintiffs Troy Crossley and Earnell Worthy (together, "Plaintiffs"), individually and on behalf of the putative Class and the State of California, respectfully request that the Court grant preliminary approval of the Settlement[1] with Defendant Kuehne + Nagel, Inc. ("K+N") and Manpower U.S., Inc. ("Manpower") (jointly "Defendants"). The purpose of the Court's preliminary evaluation of the proposed Settlement is to determine whether it is within the "range of reasonableness" and thus, whether notice to the Class of the terms and conditions of the Settlement and the scheduling of a formal fairness hearing are worthwhile. Here, the proposed Settlement satisfies all the criteria for preliminary approval under California law and falls well within the range of reasonableness.

The basic terms of the Settlement are as follows: (1) Defendants will pay a non reversionary Gross Settlement Amount of $685,000.00, in addition to employer-side payroll taxes; (2) Plaintiffs request actual expenses for the Settlement Administrator to administer the Settlement, currently estimated at $9,000.00; (3) Plaintiffs request, and Defendants do not oppose, a Service Award of $13,000 each, for their efforts on behalf of the Class; (4) Plaintiffs requests, and Defendants do not oppose, attorneys' fees in the amount of 35% of the Gross Settlement Amount, or $239,750.00, and actual costs not to exceed $35,000.00; (5) the PAGA Payment is $20,000.00 (75% of which is payable to the California Labor and Workforce Development Agency ("LWDA") and 25% of which is payable to the Aggrieved Employees); and (6) an estimated Net Settlement Amount of approximately $360,250.00 will be available for distribution to Participating Individuals. The Net Settlement Amount is tantamount to an estimated average recovery of approximately $883.00 per Participating Individual, assuming 100% participation in the Settlement.

This is a meaningful recovery for a wage and hour class action, particularly considering the risks and factual circumstances described herein. The Settlement satisfies the criteria for settlement

[1] "Settlement" or "Agreement" refers to collectively to the Agreement and Release ("Original Agreement"), and Amendment No. 1 to Class Action Settlement Agreement and Release ("Amendment"), attached as Exhibit A and Exhibit B, respectively to the Declaration of Esther L. Bylsma ("Bylsma Decl."), filed concurrently. Unless otherwise defined herein, capitalized terms have the same meaning as defined in the Agreement.

approval under California law, falls well within the range of reasonableness, and the Court should preliminarily approve it.

II. SUMMARY OF THE LITIGATION

A. Factual Background

This is a wage and hour class and PAGA action. As alleged in the operative complaint: Defendant K+N owns and operates a warehouse in Ontario, California that held goods for the Louis Vuitton corporation. Bylsma Decl., ¶7. Defendant Manpower is an employment and staffing company. *Id*.

Plaintiff Crossley, placed by Manpower to work with K+N, was a former non-exempt Manpower employee who worked for K+N from November 25, 2020 to December 11, 2020. *Id*. Plaintiff Worthy, placed by Manpower to work with K+N, was a former non-exempt Manpower employee who worked for K+N from approximately July 2020 to February 2021. *Id*.

The claims in the Action are based on off-the-clock security checks and health screenings that Defendants required Plaintiffs and Employees to undergo. *Id*., ¶8. Plaintiffs also allege meal and rest period, and expense reimbursement violations. *Id*. Plaintiffs allege that Defendants failed to pay minimum wages and overtime wages, failed to pay wages for all hours worked, failed to provide meal and rest periods or premiums in lieu thereof, failed to provide accurate itemized wage statements, failed to timely pay wages both during employment and at termination, failed to prepare and maintain employment and related records, failed to reimburse employees' reimbursable expenses, and violated the California Business and Professions Code Sections 17200 *et. seq.* ("UCL"). *Id*. Plaintiffs seek monetary damages on behalf of the putative Class and civil penalties on behalf of the State of California under the PAGA. *Id*.

The Class is defined as all non-exempt employees of Defendant Manpower who worked at K+N locations in California from February 9, 2020 through the date of Preliminary Approval. *Id*., ¶9.

B. Procedural Background

The procedural history of this action, spanning almost five years, is set forth in detail in the Bylsma Decl., and summarized below.

1. Crossley PAGA Action

On February 9, 2021, Plaintiff Crossley submitted his PAGA notice to the LWDA. *Id.*, ¶11. On April 20, 2021, Plaintiff Crossley filed his PAGA complaint in the Alameda County Superior Court, styled *Crossley v. Manpowergroup, Inc., et al.*, Alameda Superior Court Case No. RG21096212. *Id.*

On July 22, 2021, Defendant Manpower filed a motion to transfer venue, seeking to transfer the Crossley matter to the San Bernardino Superior Court, which Plaintiff Crossley opposed. *Id.*, ¶¶14-15. On August 20, 2021, the Alameda Superior Court denied Defendant Manpower's motion to transfer venue. *Id.*, ¶16.

On September 30, 2021, the parties filed a stipulation to permit Plaintiff Crossley to file an amended complaint adding Defendant K+N as a defendant and fixing Defendant Manpower U.S. Inc.'s name. *Id.*, ¶17.

On October 1, 2021, Plaintiff Crossley filed his First Amended Complaint, adding Defendant K+N as a defendant. *Id.*, ¶18.

On October 29, 2021, Defendants filed a motion to stay the Crossley PAGA case pending the completion of Plaintiff Crossley's individual arbitration (*see* Section II.B.2, below). *Id.*, ¶20. On December 8, 2021, Plaintiff Crossley filed an opposition to Defendants' motion to stay. *Id.*, ¶23. On January 21, 2022, the Alameda Superior Court denied Defendants' motion to stay. *Id.*, ¶27.

Around this period, throughout the next several months, Plaintiff Crossley and Defendants engaged in formal discovery. *Id.*, ¶21. The Parties, among other things, served written discovery requests, served objections and responses to written discovery request, produced documents, took Plaintiff Crossley's deposition, served supplemental responses to discovery requests, produced a privilege log, and produced supplemental documents. *Id.*, ¶¶22-30.

On May 11, 2022, Defendants filed a renewed motion to transfer venue, seeking to transfer the Crossley PAGA Action to the San Bernardino Superior Court. *Id.*, ¶31. On May 25, 2022, the parties filed a Stipulation to continue Defendants' motion to transfer venue as "the Parties have agreed to attend mediation and have confirmed a mediation date for December 12, 2022 with private mediator Gig Kyriacou [following formal discovery exchanges and ongoing meet and confer correspondences]." *Id*., ¶32.

2. *Crossley* Class Action and Arbitration

On July 16, 2021, Plaintiff Crossley filed a putative class and collective action complaint in the United States District Court, Central District of California ("Federal Court"), styled *Crossley v. Manpower US, Inc., et al.*, Case No. 5:21-cv-01196-JWH-SP (CD Cal. July 16, 2021) ("*Crossley* Class Action"). *Id*., ¶33.

On September 15, 2021, Plaintiff Crossley and Defendants filed a stipulation to submit Plaintiff Crossley's individual claims to arbitration, to dismiss Plaintiff's class and collective claims without prejudice, and to stay the *Crossley* Class Action pending resolution of the arbitration. *Id*., ¶34.

On October 13, 2021, Plaintiff Crossley initiated an individual arbitration in JAMS. *Id*., ¶35.

3. *Worthy* Action

On July 26, 2021, Plaintiff Worthy submitted his PAGA notice to the LWDA. *Id*., ¶36.

On October 29, 2021, Plaintiff Worthy filed his PAGA complaint in the San Bernardino Superior Court, styled *Worthy v. Kuehne + Nagel, Inc., et al.*, San Bernardino Superior Court Case No. CIVSB2131092 ("Worthy Action"). *Id*., ¶37.

On April 27, 2022, Defendants filed a Demurrer seeking abatement or a stay of the *Worthy* Action on the basis of the *Crossley* Action. *Id*., ¶38. On May 6, 2022, Plaintiff Worthy opposed Defendants' Demurrer, arguing that PAGA does not prohibit simultaneous actions by different plaintiffs against the same employer. *Id*., ¶39. On or around June 9, 2022, the Court sustained in part and overruled in part Defendants' Demurrer. *Id*., ¶40. The Court overruled the Demurrer as to claims for penalties for meal period violations and failure to reimburse business expenses, which were allowed to proceed, and sustained the Demurrer as to all other claims. *Id*.

4. The Parties Conduct Mediation

On or around May 11, 2022, the Parties agreed in principle to attend mediation and scheduled mediation with mediator Gig Kyriacou on December 12, 2022. *Id*., ¶43.

Over the next several months, the Parties engaged in informal pre-mediation discovery. Defendants produced relevant data and a sample of time and pay records. *Id*., 44. In November 2022, Class Counsel deposed each Defendant. ¶¶45-46.

On December 12, 2022, the Parties conducted mediation with mediator Gig Kyriacou. *Id*., ¶47. This mediation was not successful. *Id*. ¶48.

5. The Parties Present Arguments to the Ninth Circuit

In or around the first half of 2023, Plaintiff Crossley conducted formal discovery in his individual arbitration. *Id*., ¶49.

On July 17, 2023, Plaintiff Crossley filed an *Ex Parte* Application, arguing that Defendants' failure to pay arbitration fees within the time required by California Code of Civil Procedure Section 1281.98 meant that Plaintiff Crossley should be permitted to continue his litigation in Court. *Id*., ¶50. Defendant opposed, and the Federal Court denied the *Ex Parte* Application indicating that a normal motion would be appropriate. *Id*., ¶¶51-52.

On August 8, 2023, Plaintiff Crossley filed a noticed motion to lift the stay in the *Crossley* Class Action. *Id*., ¶53. Defendant opposed, and the Federal Court denied the motion to lift the stay. *Id*., ¶¶54-55.

On January 4, 2024, Plaintiff Crossley filed a Petition for Writ of Mandamus. *Id*., ¶56.

On January 19, 2024, the United States Court of Appeals for the Ninth Circuit issued an order stating Plaintiff's Petition raises issues that warrant an answer. *Id*., ¶57. On February 8, 2024, Defendants filed their answer. *Id*., ¶58. On February 16, 2024, Plaintiff Crossley filed his reply. *Id*., ¶59.

On June 11, 2024, the Ninth Circuit court held oral argument on Plaintiff Crossley's Petition. *Id*., ¶60. On June 17, 2024, the Ninth Circuit court filed an order denying Plaintiff Crossley's Petition. *Id*., ¶61.

6. The Parties Additionally Continue Litigation of the PAGA Claims

On February 3, 2023, Plaintiff Crossley and Defendants filed a stipulation to transfer the *Crossley* PAGA case to this Court. *Id*., ¶62.

On October 9, 2023, the Alameda Superior Court issued a Notice of Outgoing Transfer indicating that the Crossley PAGA case was transferred to this Court. *Id*., ¶63. On December 6, 2023, the Parties filed a stipulation to consolidate the Crossley PAGA case and the Worthy case for discovery purposes. *Id*., ¶64.

In March 2024, Defendants filed a Motion to Stay the Crossley PAGA Action pending the arbitration of Crossley's individual arbitration. *Id*., ¶¶65-66. Plaintiff Crossly opposed, and on June 12, 2024, the Court denied Defendants' Motion to Stay the Crossley PAGA case. *Id*., ¶¶66-68.

7. The Parties Attend A Further Mediation

On or around July 17, 2024, the Parties met and conferred and agreed to schedule a further mediation for August or September 2024. *Id*., ¶69.

On November 6, 2024, the Parties participated in a mediation with Hon. Patrick Walsh (Ret.). *Id*., ¶70. This mediation concluded without resolving any issue or claim in dispute. *Id*.

8. The Parties Reach Settlement Agreement

On November 13, 2024, Plaintiff Crossley in a Status Report filed in the Crossley Class Action indicated his intent to move the court for an order to lift the stay, based on the Ninth Circuit's recent decision *Ortiz v. Randstad Inhouse Servs., LLC*, 95 F.4th 1152 (9th Cir. 2024). *Id*., ¶71. The Ninth Circuit held in *Ortiz* that workers involved in interstate commerce and working in distribution warehouses are covered by the transportation worker exception to the Federal Arbitration Act ("FAA"). *Id*.

On or around January 16, 2025, with the assistance of mediator Hon. Patrick Walsh (ret.), the Parties reached a global settlement in principle that includes all claims that were or could be alleged in the Crossley PAGA case, Worthy case, the Crossley Class Action case, and Plaintiff Crossley's claims in arbitration. *Id*., ¶72.

On or around June 27, 2025, the Parties executed the Original Agreement. *Id.*, ¶75. On or around November 7, 2025, the Parties executed the Amendment. *Id.* On or around January 9, 2025, the Parties submitted a joint stipulation to amend the complaint. *Id.*

III. SUMMARY OF THE SETTLEMENT TERMS

A. Monetary Terms

The Settlement provides for a non-reversionary Gross Settlement Fund of $685,000.00. Bylsma Decl., ¶76. Defendant will separately pay all employer payroll taxes arising from the payments made under this Settlement. *Id.*

With the motion for final approval, Class Counsel will seek fees not to exceed 35% of the Gross Settlement Fund, or $239,750.00, and actual costs, not to exceed $36,000.00. *Id.*, ¶77. The Settlement also provides for the actual costs of settlement administration, estimated to be $9,000.00, and a $13,000.00 service award to each Plaintiff for their service to the Class. *Id.*

The Settlement sets aside a PAGA Payment of $20,000.00, of which $5,000.00 will be distributed to Aggrieved Employees on a *pro rata* pay period basis. *Id.*, ¶78. Lastly, $15,000.00 will be paid to the LWDA for the PAGA claims. *Id.*

The estimated Net Settlement Fund available to the approximately 408 Class Members totals $360,250.00. *Id.* ¶80. This provides an estimated average recovery of $883 per Class Member, assuming 100% participation in the Settlement, or approximately $116.70 per pay period for each Class Member. *Id.*, ¶81. The Net Settlement Fund is to be divided among all Settlement Class Members on a *pro rata* workweek basis. *Id.*, ¶82.

The Settlement contains an escalator clause pursuant to Defendant may increase the Gross Settlement Amount if the number of total pay periods exceeds the previously estimated number by more than 5%. Settlement, ¶42.

B. Proposed Release

The release is confined to the factual predicate set forth in the operative complaint. "Released Claims" means: "The Class Members who do not timely and validly request exclusion from the Settlement shall release the Releasees from any and all claims, known or unknown, that were alleged or could have been alleged based on the facts alleged, related to, or ascertained in the

Actions, any amendment(s) thereto, or in the Notice of Labor Code Violations Letter(s) sent to the LWDA based on the factual allegations contained therein or that could have been alleged therein. This includes but is not limited to claims for: the purported payment or nonpayment of compensation, including, but not limited to, wages, minimum wage, straight time, overtime, premium pay, and the calculation or miscalculation of any of the foregoing; meal or rest period premiums or penalties, including the calculation or miscalculation thereof; failure to pay for all hours worked, including but not limited to alleged off-the-clock work; failure to timely pay wages during employment; failure to pay wages at discharge or termination; failure to provide compliant meal and rest periods; failure to accurately record time, including all time worked (such as off-the-clock work); failure to provide timely and compliant wage statements and to maintain records; failure to reimburse business expenses; unfair business practices; related premiums, statutory penalties, waiting time penalties, civil penalties; liquidated damages; interest; punitive damages; costs; attorneys' fees; injunctive relief; declaratory relief; or accounting, whether such causes of action are in tort, contract, or pursuant to a statutory remedy... This release of the Released Class Claims shall run through the date the Superior Court of the State of California, County of San Bernardino, grants Final Approval of the Settlement." Settlement, ¶12.

IV. PRELIMINARY APPROVAL OF THE SETTLEMENT IS APPROPRIATE

A class action may not be dismissed, compromised, or settled without the approval of the court. California Civil Code § 1781(f); California Rule of Court 3.769. California Rule of Court 3.769 describes three distinct steps for approval of class action settlements by California courts: (1) preliminary approval of the proposed settlement after submission of a motion for preliminary approval, the proposed class action settlement, and the proposed class notice; (2) mailing of notice of the settlement to all affected members of the settlement class; and (3) a final settlement approval hearing at which members of the settlement class may be heard regarding the settlement, and at which evidence and argument concerning the fairness, adequacy, and reasonableness of the settlement is presented.

With this Motion, Plaintiff requests that the Court take the first step in the settlement approval process and grant preliminary approval. The purpose of the Court's preliminary evaluation of the proposed Settlement is to determine whether it is within the "range of reasonableness" and, thus, whether notice to the Class of the terms and conditions of the settlement, and the scheduling of a formal fairness hearing, are worthwhile. *Newberg on Class Actions*, § 11:26. As set forth below, the proposed Settlement meets this standard.

A. Applicable Legal Standard

The decision to approve or reject a proposed settlement is committed to a court's broad discretion. *Wershba v. Apple Computer, Inc*., 91 Cal. App. 4th 224, 234-35 (2001). To grant preliminary approval of a class action settlement, courts need find only that the settlement falls within the range of possible final approval, also described as "the range of reasonableness." *See, e.g., North County Contractor's Assn., Inc. v. Touchstone Ins. Svcs*., 27 Cal. App. 4th 1085, 1089-90 (1994); *see also Newberg on Class Actions*, § 11:25.

To make this determination, courts must consider several relevant factors, including "the strength of [the] plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, [and] the experience and views of counsel." *Dunk v. Ford Motor Co*., 48 Cal. App. 4th 1794, 1801 (1996). "The list of factors is not exclusive, and the court is free to engage in a balancing and weighing of the factors depending on the circumstances of each case." *Wershba*, 91 Cal. App. 4th at 245. Under the relevant factors, the Settlement warrants preliminary approval.

B. The Proposed Settlement Is Entitled to a Presumption of Fairness

A presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. *Dunk*, 48 Cal. App. 4th at 1802.

Here, the material terms of the Settlement were only agreed to by the parties after **two** mediation sessions with two different mediators, both highly experienced in wage and hour litigation. Bylsma Decl., ¶¶32, 70. The Parties did not reach resolution at the end of their mediation sessions but subsequently continued to discuss potential resolution with assistance of mediator Hon.

Patrick Walsh (ret.). *Id.*, ¶71. In January 2025, with Judge Walsh's assistance, the Parties reached a settlement in principle. *Id.*, ¶72. Subsequently, the Parties engaged in negotiating, drafting, and finalizing the long-form Settlement Agreement, which the Parties executed on June 17, 2025 and November 7, 2025. *Id.*, ¶¶33-35. Thus, the Settlement was clearly the result of an arms-length bargaining process and satisfies the first factor.

Additionally, the material terms of the Settlement were only agreed to by the parties after significant investigation and discovery. The Parties engaged in formal discovery – including propounding and responding to discovery requests, producing and reviewing documents, taking Plaintiff's deposition, producing supplemental discovery responses and documents – as well as attended two mediations to explore the strengths of Plaintiffs' claims and Defendants' potential defenses. *Id.*, ¶¶21-22, 24-26, 28-30. This allowed Class Counsel to formulate and assess potential damages against the risk of continuing litigation. Thus, the Settlement satisfies the second factor.

Class Counsel are experienced and respected class action litigators. *Id.*, ¶¶5-6. *See also* Declaration of James Hawkins in Support of Plaintiffs' Motion for Preliminary Approval of Class and PAGA Action Settlement, filed concurrently herewith ("Hawkins Decl."), ¶¶5-12. Thus, the Settlement satisfies the third factor. Finally, after preliminary approval and notice to the Class, Plaintiff expects that the fourth factor (*i.e.*, low number of objectors) will also be satisfied.

C. The Proposed Settlement is Within the Range of Fairness

The estimated Net Settlement Fund available to the approximately 408 Class Members totals $360,250.00. *Id.* ¶80. This provides an estimated average recovery of $883 per Class Member, assuming 100% participation in the Settlement. *Id.*, ¶81.

Similar figures have been approved by California courts. *See e.g., Barbosa v. Cargill Meat Solutions Corp.*, 297 F.R.D. 431, 440 (E.D. Cal. 2013) (approving wage-and-hour settlement providing for an average recovery of **$601.91**); *Tapia v. Zale Del. Inc.*, No. 13cv1565-PCL, 2017 U.S. Dist. LEXIS 59869, at *8 (S.D. Cal. Apr. 18, 2017) (finding "approximately **$500** average recovery per class member" a factor that "weighs in favor of the settlement being fair, reasonable, and adequate").

Class Counsel's exposure analysis also supports the Settlement. The Gross Settlement Amount is approximately twenty-nine percent (29%) of the $2.4 million, and the Net Settlement Amount is fifteen percent (15%) of the $2.4 million estimated exposure. Bylsma Decl., ¶¶99-103. These percentages fall comfortably within the within the range of reasonableness. *See, e.g., Viceral v. Mistras Grp., Inc.*, 2016 U.S. Dist. LEXIS 140759, at *7 (N.D. Cal. 2016) (approving wage and hour settlement which represented approximately 8% of the total verdict value); *Stovall-Gusman v. W.W. Granger, Inc.*, 2015 WL 3776765, at *4 (N.D. Cal. 2015) ("10% gross and 7.3% net figures are 'within the range of reasonableness."); *Balderas v. Massage Envy Franchising, LLP*, 2014 WL 3610945, at *5 (N.D. Cal. 2014) (gross settlement amount of 8% of maximum recovery and net settlement amount of 5%); *Ma v. Covidien Holding, Inc.*, 2014 WL 360196, at *4-5 (C.D. Cal. 2014) (9.1% of "the total value of the action" is within the range of reasonableness); *In re Omnivision Techs. Inc.*, 559 F.Supp.2d 1036, 1042 (N.D. Cal. 2008) (approving settlement of 6% to 8% of estimated damages); *In re Uber FCRA Litig.*, No. 14-cv-05200-EMC, 2017 U.S. Dist. LEXIS 101552, at *23- 24 (N.D. Cal. June 29, 2017) (granting preliminary approval to class action settlement where gross settlement fund, prior to deducting attorneys' fees and services awards, was valued at 7.5% or less of total possible verdict); *Cruz v. Sky Chefs, Inc.*, No. 12-cv-02705-DMR, 2014 WL 7247065, at *5 (N.D. Cal. Dec. 19, 2014) (granting final approval where gross settlement amount represented 8.6% of the maximum potential recovery from the class claims and estimated amount distributable to class after accounting for attorneys' fees and other deductions represented approximately 6.1% of maximum potential recovery).[2]

Accordingly, this factor militates in favor of the Court granting preliminary approval.

D. The Risks of Continued Litigation Favors Preliminary Approval

It is well-settled that a proposed settlement is not to be measured against a hypothetical ideal result that might have been achieved. *See, e.g., 7-Eleven Owners for Fair Franchising v. Southland*

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[2] The PAGA Payment is approximately 3% of the Gross Settlement Amount. *See Hurtado v. Esperer Holdings*, 2021 Cal. Super. LEXIS 137529 at *6 (Los Angeles Super. Ct. 2021) ("typical PAGA settlement[s] . . . include those that provide for less than 1% allocation to PAGA penalties."); *Haralson v. U.S. Aviation Servs. Corp.*, 383 F. Supp. 3d 959, 972-74 (N.D. Cal. 2019) (citing cases reflecting approval of PAGA settlements valued at 0.2% to 1.1% of the verdict value of PAGA penalty).

Corp., (2000) 85 Cal. App. 4th 1135, 1150 "[I]t is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements. The proposed settlement is not to be judged against a hypothetical or speculative measure of what might have been achieved by the negotiators." *Id*.

Here, Plaintiffs' class claims against Defendant presented substantial risks in terms of establishing liability and damages, which Class Counsel carefully assessed. Bylsma Decl., ¶¶107-118. As the case dockets reflect, this case has been contentiously litigated, extending through appellate practice. *Id*., ¶108. Defendants have denied the allegations in Plaintiffs' complaint and denied all liability. *Id*., ¶109. Defendants have taken the position that this case is not suitable for class treatment, have raised affirmative defenses of arbitration agreements, and have successfully filed motions to compel arbitration and dismiss class claims (although dismissed without prejudice). *Id*. Defendants have asserted that they have fully complied with their obligations under California's labor laws. *Id*. Defendants have asserted legal and factual grounds available to defend this action, all of which present difficult hurdles for Plaintiffs. *Id*. Defendants also assert that they maintain compliant policies to compensate Class Members for all work during the Class Period. *Id*. For example, for the off-the-clock claims, Defendants have also raised a good faith defense, asserting that any alleged violation was not knowingly, willfully, or intentionally done, and have invoked the de minimis doctrine. *See e.g., Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1051 (2012) (citation omitted) ("that employees are clocked out creates a presumption they are doing no work, a presumption [plaintiff] and the putative class members have the burden to rebut . . . [L]iability is contingent on proof [the employers] knew or should have known off-the-clock work was occurring."). *Id*.

With respect to Plaintiffs' meal and rest period claims, Defendants assert that they maintain strong policies regarding meal and rest periods, and that it complies with all meal and rest period requirements under the law. *Id*., ¶109. Defendants assert that their records reveal high compliance rates. *Id*.

Litigating the class claims will require Plaintiffs to be successful in obtaining an order lifting the stay, and convincing the Court to permit Plaintiffs to add class claims based on the Ninth Circuit's decision *Ortiz v. Randstad Inhouse Servs., LLC*, 95 F.4th 1152 (9th Cir. 2024). *Id*., ¶110.

Even if the Court granted Plaintiffs permission, Plaintiffs would need to expend substantial additional preparation and discovery in preparation for class certification, which would likely involve the depositions of Class Members and experts, the presentation of percipient and expert witnesses at trial, as well as the consideration, preparation, and presentation of voluminous documentary evidence and the preparation and analysis of expert reports. *Id*., ¶111.

Assuming that class certification is granted, Plaintiffs will then have to establish class-wide liability and prove various issues regarding damages. *Id*., ¶112. Proving liability and damages issues would also be complicated by any individualized differences among Class Members and will be vigorously disputed by Defendants. *Id*.

In short, obtaining class certification, establishing liability, and proving damages will require months, if not years, of further litigation and will necessitate expert witness testimony and significant additional resources. *Id*., ¶113. Defendants are represented by experienced employment lawyers and have the means to vigorously fight Plaintiffs at every step. *Id*.

While Plaintiffs believe that they would have prevailed on these issues and others, they also recognize the risk that a fact-finder may have found for Defendants on one or more of these issues or found damages to be significantly less than what Plaintiffs claims. *Id*., ¶114.

Despite Plaintiffs' confidence in their ability to prove claims on a class-wide basis, any one of the above defenses, if decided in favor of Defendants, could have reduced, or even eliminated any potential damages award. *Id*., ¶115. Class Counsel contends that this settlement is a highly satisfactory result in consideration of all the risks. *Id*., ¶¶115-16. In contrast to the risk and uncertainty of continued litigation, the settlement will yield a prompt, certain, and substantial recovery for Class Members. *Id*., ¶117. Such a result will also have the benefit of preserving judicial resources. *Id*. Based on the foregoing, Class Counsel has determined that the settlement is a fair, adequate, and reasonable settlement, and that it is in the best interests of the Class Members. *Id*., ¶118.

E. The Proposed Service Award is Reasonable.

Enhancement awards "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." *Cellphone Termination Fee Cases*, 186 Cal. App. 4th 1380, 1393–94 (2010). Here, Plaintiffs have substantially contributed their time and efforts over a period almost five years between the initial PAGA notice, in pursuing the Class and PAGA claims, and Plaintiffs' role were crucial in this case. As demonstrated in Plaintiffs' Declarations, Plaintiffs had discussions with Class Counsel, worked with Class Counsel to review facts and answer voluminous questions, responded to numerous discovery requests, were deposed, further assisted Class Counsel in their mediation and settlement negotiation efforts, and remained actively engaged in the case. *See* Declaration of Troy Crossley in Support of Plaintiffs' Motion for Preliminary Approval of Class and PAGA Action Settlement, filed concurrently herewith, ¶¶1-14; Declaration of Earnell Worthy in Support of Plaintiffs' Motion for Preliminary Approval of Class and PAGA Action Settlement, filed concurrently herewith, ¶¶1-11.

Moreover, Plaintiffs took the significant risks associated with self-identifying, coming forward to advance the interests of their fellow employees. *See e.g.*, Bylsma Decl., ¶121. They did so in order that the class claims could proceed, acting out of a sincere desire to see through the challenge to, and adjudication of Defendants' treatment of its employees. *Id*. It was no small step for them to subject themselves and their personal relations to the risks associated with identifying themselves on behalf of others into broad public view. *Id*.

Plaintiffs' service awards in the amount of $13,000.00 each is reasonable considering the efforts they made and the risks they took in prosecuting this action. *Id*., ¶122.

F. The Proposed Payment of Attorneys' Fees and Costs is Reasonable.

Plaintiffs seeks reasonable attorneys' fees and expenses from the Gross Settlement Amount. *Id*., ¶123. Under the terms of the Settlement, Class Counsel may seek 35% of the Gross Settlement Amount, or $239,750.00 and actual costs not to exceed $35,000.00. *Id*.

In this case, there was no guarantee of compensation or reimbursement. *Id*., ¶124. Rather, Class Counsel has undertaken all the risks of this litigation on a completely contingent fee basis.

Id. The inherent risk of proving liability and damages on a class-wide basis and Defendants' representation by skillful counsel confronted Class Counsel with the prospect of recovering nothing or close to nothing for their commitment to and investment in the case. *Id*. Nevertheless, Plaintiff and Class Counsel have committed themselves to developing and pressing Plaintiff's legal claims to enforce the employees' rights and maximize monetary recovery for the Class. *Id*.

Class Counsel's fee request of 35% of the settlement fund is well within the range customarily approved by California and federal courts in comparable class actions. *See e.g., Laffitte v. Robert Half Int'l Inc*., 1 Cal. 5th 480, 506 (2016) ("33 1/3 percent of the common fund is consistent with, and in the range of, awards in other class action lawsuits"). *See also, e.g*., *Singer v. Becton Dickenson and Co.*, 2010 U.S. Dist. LEXIS 53416, 2010 WL 2196104, *8 (S.D. Cal. 2010) (approving attorney fee award of 33.33% of common fund and holding that award was similar to awards in three other wage and hour class action cases where fees ranged from 33% to 40%).[3]

Furthermore, reasonable litigation expenses are ordinarily included with an award of attorneys' fees pursuant to California wage and hour law. *Serrano v. Priest*, 20 Cal. 3d 25, 35 (1977); *Rider v. County of San Diego*, 11 Cal. App. 4th 1410, 1424 (1992). Class Counsel's expenses were reasonable, were necessary to the prosecution, and are customarily billed to fee-paying clients. Bylsma Decl., ¶131. Thus, the requested attorneys' fees and costs are reasonable compensation for the excellent recovery achieved and should be preliminarily approved.

G. Class Certification is Appropriate

This Court should certify the proposed Class for settlement purposes. California has a strong public policy in favor of broad enforcement of wage and hour laws for the benefit of workers and

[3] *See also Chavez v. Netflix, Inc*., 162 Cal. App. 4th 43, 66 n.11 (2008); Eisenberg & 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 conclude that fees representing one-third of the total recovery is consistent with market rates); *Ochoa v. Haralambos Beverage Co.*, No. BC319588 (approving 33.3% fee award with no mention of lodestar crosscheck) (Los Angeles Super. Ct., Feb. 1, 2007); *Jones v. Alliance Imaging, Inc.,* No. RG05210418 (approving 33% fee award with no mention of lodestar crosscheck) (Alameda Super. Ct., Nov. 27, 2006); *Garcia v. Save Mart Supermarkets,* No. 312026 (Stanislaus Super. Ct., Aug. 3, 2004) (approving 33% fee award with no mention of lodestar crosscheck); *Terrell v. Ocean's 11 Casino, Inc.*, No. GIC795732 (San Diego Super. Ct., Feb. 10, 2004) (approving 33% fee award with no mention of lodestar crosscheck).

in favor of using the class action device. *Sav-on Drug Stores, Inc. v. Superior Court*, 34 Cal. 4th 319, 340 (2004). A party seeking class certification has the burden to establish the existence of both an ascertainable class and a well-defined community of interest among class members. The community of interest requirement embodies three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class. *Id*. at 326.

Plaintiffs satisfy the class certification factors.

1. Plaintiffs Satisfy Numerosity Requirements

Plaintiffs have defined the Class according to objective criteria, and the Class members are easily identifiable and can be easily located from Defendants' records. Bylsma Decl., ¶¶134-137. The Class consists of approximately 408 individuals, making joinder impracticable. *Id*., ¶138.

2. Common Questions of Law and Fact Predominate

"[T]he focus in a certification dispute is on what type of questions – common or individual – are likely to arise in the action[.]" *Sav-On*, 34 Cal. 4th at 427. Predominance does not require that all questions of law and fact be uniform for all members of the class. *Id*. at 338; *see also Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1022 (2012); *Bradley v. Networkers Int'l, LLC*, 211 Cal. App. 4th 1129, 1150 (2012).

Here, Plaintiffs contend that Defendant's company-wide policies and procedures raise common issues of law and fact that are applicable to the claims of Plaintiffs and Class Members. Bylsma Decl., ¶139. At issue are Defendants' policies and procedures that Plaintiffs contend applied uniformly to Class Members, including Defendants' policies and procedures related to off-the-clock work, Defendants' policies and procedures for meal and rest periods, and Defendants' policies and procedures for expense reimbursement. *Id.,* ¶140. Plaintiffs contend that they, like other Class Members, were subject to Defendants' policies and procedures described above, and suffered damages from the alleged wage and hour violations that emanated as a result. *Id*., ¶141. Plaintiffs also assert that the Class Members were subjected to the same illegal practices and policies to which Plaintiffs were subjected and the Class claims are based on the same legal theory as Plaintiffs' individual claims. *Id*., ¶142. Accordingly, Plaintiffs are members of the Class they seek to represent, and their claims are "typical" of those asserted by other Class Members. *Id*.

3. Plaintiffs Satisfy the Typicality Requirement

A representative plaintiff's claims are "typical" if they arise from the same event, practice, or course of conduct that gives rise to the claims of the other class members and if their claims are based on the same legal theory. *Classen v. Weller*, 145 Cal. App. 3d 27, 46-47 (1983); *Seastrom v. Neways, Inc*., 149 Cal. App. 4th 1496, 1502 (2007). The typicality requirement is not onerous and does not require the claims to be identical. *Id*. Here, Plaintiffs' claims are typical of those of all other Class members. Bylsma Decl., ¶142. Plaintiffs were subjected to the same alleged illegal policies and practices by Defendant that form the basis of the claims asserted in this case. *Id*.

H. Plaintiffs Satisfy the Adequacy Requirement

A plaintiff is an adequate class representative if his or her claims are not inconsistent with or antagonistic to the claims of the class members. *See Johnson v. GlaxoSmithKline*, *Inc*., 166 Cal. App. 4th 1497, 1509 (2008); *McGhee v. Bank of Am*., 60 Cal. App. 3d 442, 450 (1976). In the instant case, there is no conflict between Plaintiffs and the proposed Class. Bylsma Decl., ¶143. Plaintiffs' interests are in line with those of the Class, and Plaintiffs have prosecuted this case with the interests of the Class in mind. *Id*. Furthermore, Plaintiffs are represented by counsel with extensive experience in wage and hour class actions, and who do not have any conflict with the Class. *Id*.

V. THE PROPOSED NOTICE PROVIDES ADEQUATE NOTICE TO THE CLASS

"Adequate notice is critical to court approval of a class settlement . . ." *Hanlon v. Chrysler Corp*., 150 F.3d 1011, 1025 (9th Cir. 1998). A class action settlement notice "is satisfactory if it generally describes the terms of the settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come forward and be heard." *Churchill Village LLC v. General Electric,* 361 F.3d 566, 575 (9th Cir. 2004).

Here, Defendants will identify all Class Members, and the Settlement Administrator will send the Class Notice via First-Class U.S. Mail to each Class Member at their last known addresses provided by Defendant, making reasonable efforts to identify current addresses via public and proprietary systems. Bylsma Decl., ¶146. Any Settlement Notice returned to the Settlement Administrator with a forwarding address shall be re-mailed within three (3) business days following receipt of the returned mail. *Id*. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine a correct address using a skip-trace, or other search using the name, address and/or Social Security number of the Settlement Class Member involved and shall re-mail the Notice of Settlement. *Id*.

The proposed Class Notice is clear, straightforward, and provides information on the case, the meaning and nature of the proposed settlement, its terms and provisions, and the rights of the Class Members to participate, opt out, and object. *Id*., ¶147. It describes the monetary awards that the settlement will provide to Class Members, how awards were calculated, and the class release. *Id*. It also provides the date, time, and location of the Final Approval Hearing, and the identity and contact information for Class Counsel. *Id*.

Thus, the proposed Class Notice fulfills the requirement of neutrality in class notices. *See Newberg on Class Actions* at §§ 8:21 and 8:39; *Manual for Complex Litig.* at §§ 21:311 and 21:312. Based on the foregoing, the Class Notice complies with the standards of fairness, completeness, and neutrality required of a settlement class notice disseminated under authority of the Court.

VI. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant this Motion for Preliminary Approval and enter an order consistent with the Proposed Order submitted herewith/

Respectfully submitted,

Dated: February 6, 2026 By: Esther Lee Bylsma

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