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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF IMPERIAL**

13 PRISCILLA LOPEZ,

14 Plaintiffs,

15 vs.

16 GEO SECURE SERVICES, LLC, a Florida
17 Limited Liability Company; and DOES 1-10,
18 inclusive,

19 Defendants.

20 AND ALL CONSOLIDATED LITIGATIONS.

Case No. ECU002060

**PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THE UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF
SETTLEMENT AND CERTIFICATION OF
PROVISIONAL SETTLEMENT CLASS**

Date: January 5, 2024

Time: 8:30 a.m.

Dept.: 7

Judge: Hon. Jeffrey B. Jones

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I. SUMMARY OF MOTION

This matter is a “Wage and Hour” representative (*i.e.*, “PAGA”) and class action. The named Plaintiffs PRISCILLA LOPEZ, BRITNEY CASTILLO, SAMDEESHIA BELL, TEZSANIQUE HENDRICKSON and NICKOLAS ORTIZ bring Labor Code claims against Defendant GEO SECURE SERVICES, LLC (hereinafter, “GSS” or “Defendant”).

Following approximately several years of formal litigation in various pending cases across California State and Federal Courts, and three full days of Mediation, the parties have agreed to the terms of a Class and PAGA action settlement. The parties have drafted and executed a Joint “Settlement Agreement and Release” (the “Agreement”), lodged as **Exhibit A**¹ to the declaration of Eric K. Yaeckel. Briefly, the parties' settlement figures are estimated as follows:

Approximate size of class:	2,500 (estimated)
Notice Period:	45 days from Mailing of Notice
Settlement Fund (“GSA”):	\$3,690,000.00
Settlement administration:	\$21,000.00
Class representative incentives:	\$50,000.00 (\$10,000.00 each - Five Plaintiffs)
LWDA payment:	\$112,500.00 (75 % Share of \$150,000 allocation)
Attorney's fees:	\$1,230,000.00 (1/3 of total)
Litigation costs:	\$50,000.00

The estimated average payment (before taxes) to each Class Member based on the above figures will be **\$890.60**. These estimates are an “average” only, and do not account for the fact that Class Members will receive more or less than an “average” share, as the amounts owed are calculated based on the number of workweeks each individual worked for Defendant during the class period.

Please Note: This is a **non-reversionary** settlement, in that the entire Net Settlement Amount, after the awarded costs, taxes and fees are deducted, will be automatically disbursed to all

¹This Memorandum incorporates by reference the definitions in the Agreement and the terms used herein are intended to have the same meaning as set forth in the Agreement.

1 Class Members who do not file a request to “opt-out” of participation in the lawsuit. (**Exhibit A** at
2 ¶ 1).

3 Plaintiff now moves the Court for an order: **(1)** preliminarily approving the proposed class
4 action settlement; **(2)** directing that Notice (defined below) of the proposed settlement be provided
5 to Class Members; and **(3)** scheduling a hearing for final approval of the proposed settlement and
6 entry of the parties’ proposed Final Approval Order and Judgment. Defendant does not oppose
7 Plaintiff’s motion.

8 **II. FACTUAL AND PROCEDURAL HISTORY**

9 The class is comprised of all hourly, non-exempt employees of Defendant who performed
10 work for Defendant in California at any time between April 11, 2020 and September 30, 2023.

11 **1. The Lopez Action**

12 On September 9, 2021, Priscilla Lopez filed her lawsuit (in this case) entitled *Lopez v. GEO*
13 *Secure Services, LLC*, filed in Imperial County Superior Court, Case No. ECU002060 “*Lopez*
14 *PAGA Action*”). Plaintiff alleges (1) failure to pay overtime wages 2) failure to pay minimum
15 wages, 3) failure to provide meal periods, 4) failure to provide rest periods, 5) waiting time
16 penalties, 6) wage statement penalties, and, 8) failure to indemnify business expenses. (Yaeckel
17 Decl., ¶ 3.)

18 Ms. Lopez conducted substantial written discovery. (Please see section VI(F), below). She
19 also received additional informal discovery for her mediation. Her and her counsel prepared a
20 substantive mediation brief and damage model for use in mediation. (Yaeckel Decl., ¶ 9-10.)

21 **2. The Ortiz Actions**

22 On October 20, 2021, Plaintiff Nickolas Ortiz filed a class action lawsuit entitled *Nickolas*
23 *Ortiz v. The Geo Group, Inc., et al.*, filed in Kern County Superior Court, Case No. BCV-21-
24 102469 (“*Ortiz Class Action*”). Ortiz’s Complaint Alleges (1) failure to pay overtime wages 2)
25 failure to pay minimum wages, 3) failure to provide meal periods, 4) failure to provide rest periods,
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1 5) waiting time penalties, 6) wage statement penalties, 7) failure to timely pay wages, 8) failure to
2 indemnify, 9) violation of Labor Code section 227.3 and 10) unfair competition. (Bibiyan Decl., ¶
3 3.)

4 On December 21, 2021, Plaintiff Ortiz filed his notice with the LWDA alleging that
5 Defendants had violated multiple provisions of the California Labor Code and Industrial Welfare
6 Commission Wage Orders. (Bibiyan Decl., ¶ 1.)

8 On March 22, 2022, Ortiz filed a separate representative action pursuant to the Labor Code
9 Private Attorneys General Act of 2004, codified under Labor Code section 2698, *et seq.* (“PAGA”)
10 in Kern County Superior Court, Case No. BCV-22-100659 (“Ortiz PAGA Action”), against
11 Defendants for civil penalties under PAGA for the above alleged violations. (Bibiyan Decl., ¶ 4.)

12 Prior to mediation, Ortiz’s counsel obtained, through informal discovery: (1) time and
13 payroll records for the estimated 2,172 Class Members during the period from April 11, 2020
14 through the date of mediation (“Class Period”); (2) data points, including average rates of pay total
15 hours worked during the Class Period; (3) the number of pay periods worked during the Class
16 Period; (4) the number of terminated/separated Class Members eligible for waiting time penalties
17 and their dates of separation/termination; (5) the number of workweeks worked by specified Class
18 Members (“Aggrieved Employees”) during the period from April 24, 2020 through the date of
19 mediation (“PAGA Period”); (6) the number of former Aggrieved Employees; (7) the number of
20 pay periods in the Wage Statement/PAGA Period; (8) policy documents purporting to reflect
21 Defendants’ relevant policies and practices in effect during the Class Period; (9) Defendants’
22 definition of a workweek and work day; (10) a list of all locations in California where Defendants
23 employed Class Members during the Class Period; (11) the number of clock-in stations available to
24 Class Members during the Class Period; (12) a list of job titles held by Class Members during the
25 Class Period, as well as written descriptions of each; and (13) Plaintiff’s personal employment files
26 maintained by Defendants. (Bibiyan Decl., ¶ 8.)

1 3. **The Castillo Action**

2 On February 4, 2022, Plaintiff Julie Castillo filed her lawsuit entitled *Castillo v. GEO*
3 *Secure Services, LLC*, filed in Imperial County Superior Court, Case No. ECU002280 “*Castillo*
4 *Class Action*”). The Castillo Class Action was later removed to Federal Court in the Southern
5 District of California and was assigned Case No. 3:22-cv-00445-RSH-DDL. Plaintiff alleges on
6 behalf of a class (1) failure to pay overtime wages 2) failure to pay minimum wages, 3) failure to
7 provide meal periods, 4) failure to provide rest periods, 5) waiting time penalties, 6) wage
8 statement penalties, 7) failure to indemnify business expenses, and 8) violations of Business and
9 Professions Code. (Yaeckel Decl., ¶ 5.) Prior to settlement, Plaintiff Castillo has received
10 substantial written discovery (both formal and informal). (Please see section VI(F), below).
11 Castillo and her counsel prepared a substantive mediation brief and damage model for use in
12 mediation.
13

14
15 4. **The Hendrickson Action**

16 Plaintiff Hendrickson’s notice to the Labor and Workforce Development Agency
17 (“LWDA”) was filed on April 21, 2021. (Yuzna decl. ¶ 5). Her lawsuit entitled *Tezsanique*
18 *Hendrickson v. GEO Secure Services, LLC, et al.* San Bernardino County Superior Court, Case
19 No.: CIVSB2118376 (“Hendrickson Action”) was filed on June 28, 2021. (Yuzna Decl. ¶ 8.)
20 Hendrickson’s complaint sought civil penalties stemming from Defendant’s violation of various
21 sections of the California Labor and Government Code including causes of action for failure to pay
22 minimum and overtime wages, to provide meal and rest breaks or compensation in lieu thereof,
23 improper wage statements, failure to pay timely wages. (Yuzna Decl. ¶ 8).

24
25 Plaintiff Hendrickson has actively litigated her case. Prior to engaging in mediation, she
26 obtained substantial informal discovery. (Yuzna Decl. ¶ 10).
27
28

1 **4. The Bell Action**

2 Plaintiff Hendrickson’s notice to the Labor and Workforce Development Agency
3 (“LWDA”) was filed on April 21, 2012. (Yuzna Decl. ¶ 5).

4 On September 27, 2021, Plaintiff Bell filed a filed a complaint in the Superior Court of
5 California for the County of San Bernardino, Case Number CIVSB2124811, alleging causes of
6 action against Defendant for: (1) failure to pay overtime wages; (2) failure to pay minimum wages;
7 (3) failure to provide meal periods; (4) failure to provide rest periods (5) waiting time penalties; (6)
8 wage statements violations; (7) failure to produce personnel file; and (8) PAGA (“Bell Action”).
9 Bell also asserted wrongful termination and Fair Employment and Housing Act claims, which Bell
10 later dismissed. Defendant removed the Bell Action to the District Court of California – Central
11 District, Case No. 5:21-cv-01927-JGB-KK. (Yuzna Decl. ¶ 9).

12 Plaintiff Bell has actively litigated her case. Prior to engaging in mediation, she obtained
13 substantial informal discovery. (Yuzna Decl. ¶ 10).

14 **6. Settlement Discussions**

15 On August, 18, 2022, the Parties attempted a global mediation before the experienced
16 “Wage and Hour” mediator, Deborah Saxe, Esq. Prior to mediation, counsel for all parties agreed
17 to the informal exchange of information, and case theories and defenses pertinent to a class-wide
18 settlement. Prior to mediation, plaintiffs prepared and provided a detailed mediation brief and
19 damage analysis. The mediation was not successful, but the parties were better apprised of their
20 positions and case theories. (Yaeckel decl. ¶ 10).

21 On December 21, 2022, the Parties again attempted a global mediation before the
22 experienced “Wage and Hour” mediator, Lisa Klerman, Esq. The mediation was again
23 unsuccessful. (Yaeckel decl. ¶ 11). On August 1, 2023, the Parties attended a final full day
24 mediation before the experienced “Wage and Hour” mediator, Katherine J. Edwards. Prior to
25 mediation, plaintiffs prepared and provided a detailed mediation brief and updated damage
26
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1 analysis. The mediation did not result in a settlement that day. However, the parties continued to
2 engage in a settlement discussions facilitated by the mediator. (Yaeckel decl. ¶ 12).

3 On August 15, 2023, the parties agreed to a mediator's proposal which outlined some of the
4 key terms of the settlement. Negotiations over the final terms continued between the parties.
5 (Yaeckel decl. ¶13).

6 As of October 2, 2023, the parties agreed on all final terms of the settlement, which was
7 memorialized in the Agreement, which is attached to the declaration of Eric K. Yaeckel as **Exhibit**
8 **A**. Plaintiffs now seeks the Court's preliminary approval of the Agreement. (Yaeckel decl. ¶14).

9 **III. SETTLEMENT TERMS**

10 The Agreement includes the following key terms:

11 **1. Contingent Nature of the Settlement**

12 This Agreement is contingent upon preliminary and final approval by the Court. If, for
13 any reason, the Settlement does not become final the Parties will be returned to their positions
14 with respect to the Action as if the Agreement had not been entered into. Should the Settlement
15 not become final, for whatever reason, Defendant expressly reserves the right to move to contest
16 certification should this Settlement be reversed on appeal or otherwise not become final. (**Ex. A**
17 at p. 2 ¶1).

18 **2. Description of the Settlement Class**

19 Solely for the purposes of the Agreement, the parties have stipulated to the certification of
20 the following Settlement Class defined as:

21 All persons who were employed by GEO Secure Services, LLC as a non-exempt
22 employee in California at any time from April 11, 2020 through September 30, 2023
23 (the "Class").

24 Although formal class certification is not required for PAGA claims, there is also a PAGA
25 group comprised of:

26 All persons who were employed by GEO Secure Services, LLC as non-exempt
27 employees in California at any time between April 12, 2020 through September 30,
28 2023 ("PAGA Class")

1 (Exhibit A at p. 2 ¶1).

2
3 The parties estimate that as of September 30, 2023, the Settlement Class consisted of
4 approximately two thousand five hundred (2,500) individuals, as determined by Defendant's
5 employment records. (Yaeckel decl. ¶ 16).

6 **3. Appointment of Settlement Administrator**

7 The parties agreed to use ILYM, as the "Settlement Administrator" for purposes of
8 providing the Notice of Class Action Settlement, issuing payments pursuant to the Agreement, and
9 carrying out all duties pursuant to the Agreement. (Yaeckel decl. ¶15); Ex. B). ILYM's sole
10 business is the administration of class action settlements and class action notices. (Yaeckel decl.
11 ¶15).

12 **4. Scope of the Release**

13 For purposes of the Agreements, Class Members release all claims that are alleged in the
14 forthcoming Consolidated Complaint, that are, or could have been plead, based on the facts therein
15 with respect to the following claims: (a) failure to pay overtime wages; (b) failure to pay minimum
16 wages; (c) failure to provide meal periods; (d) failure to provide rest periods; (e) waiting time
17 penalties; (f) wage statement penalties; (g) failure to timely pay wages; (h) failure to reimburse
18 business expenses; (i) failure to pay accrued unused vacation pay; (j) unfair competition; and (k) all
19 claims alleged under the California Labor Code Private Attorneys General Act of 2004. The precise
20 release language is reflected in Exhibit A at ¶ 2(A).

21 **5. Cash Payment and Allocation**

22 The Agreement provides for an automatic Individual Settlement Payment to the members of
23 the Class. No claims need be submitted. The actual share will depend on the amount of workweeks
24 they were employed during the limitations period. (Exhibit A at ¶ 4(B)(a)). The Individual
25 Settlement will be allocated as follows: twenty percent (20%) constitutes wages (subject to
26 withholdings and deductions and reported as wage income on a Form W-2) and eighty percent
27 (80%) constitutes non-wage penalties, and interest. (Exhibit A at ¶ 4(D)).
28

1 **6. Proposed Settlement and Notice Program**

2 Subject to Court approval, the Parties agree that, within thirty (30) days after the Court
3 enters any Order granting preliminary approval of the Settlement, Defendant GEO will provide to
4 the Settlement Administrator the following information for each Settlement Class Member in a
5 readable Microsoft Office Excel spreadsheet: class member names and last known addresses, social
6 security numbers and dates of employment. (*See Exhibit A* at ¶9(A)). The Settlement
7 Administrator will perform address updates and verifications, including running all names through
8 the National Change of Address Database, prior to the first mailing. (*See Exhibit A* at ¶9(B)).
9 Using best efforts to perform as soon as possible, and in no event later than 10 days after receiving
10 the class data, the Settlement Administrator will mail the Class Notice (“Notice”) to each Class
11 Member, by first class mail. (*See Exhibit A* at ¶9(B)). The parties’ agreed upon Class Notice is
12 attached to the Declaration of Eric K. Yaeckel, as **Exhibit C**.

13 The Notice is designed to provide Class Members with detailed information about the
14 lawsuit, the Agreement, their rights and settlement benefits, and how to participate, exclude
15 themselves, or object. (**Exhibit C**). The Class Members will have forty-five (45) calendar days
16 (from the date of notice) to request to be excluded, or file objections. This deadline will be
17 extended an additional 14 days if notice is re-mailed. (*See Exhibit A* at ¶9(C)).

18 The Class Members will be given notice of the release, and information about the expected
19 settlement amount based on the workweeks employed with Defendant during the Class Period. If
20 they wish to receive a share of the Settlement, Class Members need not take any additional action.
21 Class Members are also given instructions on how to exclude themselves, object to the Settlement,
22 or appear at the final approval hearing to state objections. (*See Exhibit C* at §§ 4-8).

23 The Notice process also has additional safeguards. For instance, for Notices returned as
24 non-deliverable, the Settlement Administrator will perform a skip-trace and mail or re-mail Notice
25 to an updated address (if any), upon receipt of the returned mail. (*See Exhibit A* at ¶9(H)). It is the
26 intent of the parties that all reasonable means be used to locate Class Members.

27 The Notice will inform Class Members of the number of weeks worked during the Class
28 Period (according to Defendant’s records) and their estimated settlement amounts. Class Members

1 will have the opportunity to dispute the workweek calculation by submitting written documentation
2 to the Settlement Administrator. (See **Exhibit A** at ¶9(H); **Exhibit C** at p. 1).

3 PAGA Members do **not** require notice prior to a settlement, nor may they opt out of the
4 PAGA penalty portion of the settlement. *Robinson v. S. Ctys. Oil*, (2020) 53 Cal. App. 5th 476,
5 482–83, (Nov. 24, 2020). PAGA members are nonetheless informed of the Settlement and
6 estimated payments. PAGA members who are Class Members can opt-out of the Class Settlement
7 to retain all class claims in their individual capacities. These rights are explained in the Class
8 Notice. (**Exhibit C** at § 7).

9 7. Contingent Costs

10 The Agreement provides for One Million, Two Hundred Thirty thousand Dollars and zero
11 cents **\$1,230,000.00**) in Attorneys’ Fees, which is one-third (1/3%) of the total Settlement, and up
12 to Fifty Thousand Dollars (\$50,000.00) in litigation costs. (See **Exhibit A** at ¶ 3(C)(4)). For costs
13 incurred in administering the Settlement, ILYM quoted the parties at Twenty-One Thousand
14 Dollars (\$21,000.00), or less. (Yaeckel decl. ¶ 15; Ex. B).

15 The Agreement also provides for One Hundred Fifty Thousand Dollars (\$150,000.00) to be
16 allocated for Plaintiff’s PAGA claims with 75% of the amount, or One Hundred Twelve Thousand
17 Five Hundred Dollars (\$112,500.00) being paid to the LWDA, and 25%, or \$37,500.00, being
18 distributed amongst the PAGA Members. (See **Exhibit A** at ¶ ¶ 3(C)(5)).

19 The Agreement also provides payment to each of the Five Named Plaintiffs of Ten
20 Thousand Dollars (\$10,000.00) each, which represents a Class Representative Service Award in
21 consideration for their services as Class Representatives. (See **Exhibit A** at ¶ 3(C)(3)). The class is
22 being notified of the Service Awards. (See **Ex. C** at § E)).

23 The Class Representative Enhancement Payment was part of good faith negotiations and is
24 intended to recognize that it was the Class Representatives who initiated the lawsuits, initiated the
25 PAGA claims, provided critical documents and witnesses to their attorneys, and worked with their
26 attorney to propound and prepare written discovery, all in an effort to obtain money allegedly owed
27 not only to themselves, but to thousands of other employees. (Yaeckel Decl. ¶18).

1 **IV. SUMMARY OF CLAIMS AND ESTIMATES OF POTENTIAL DAMAGES**

2 Counsel hereby submits estimates and calculations for the total potential value of all claims
3 so this Court may evaluate if the amount to be paid to the class ultimately could be determined to
4 be fair and reasonable when balanced against the probable outcome of the future litigation. *Kullar*
5 *v. Foot Locker Retail, Inc.*, (2008) 168 Cal. App. 4th 116, 133.

6 Concerning the strength of the plaintiff's case, the California Court of Appeal has said that
7 the "merits of the underlying class claims are not a basis for upsetting the settlement of a class
8 action; the operative word is 'settlement.'" *7-Eleven Owners for Fair Franchising v. Southland*
9 *Corp.* (2000) 85 Cal. App. 4th 1135, 1150 [citing, *inter alia*, *City of Detroit v. Grinnell Corp.* (2d
10 Cir. 1974) 495 F.2d 448,455 ("The fact that a proposed settlement may only amount to a fraction
11 the potential recovery does not, in and of itself, mean that the proposed settlement is grossly
12 inadequate and should be disapproved"); see also *Linney v. Cellular Alaska P'ship.* (9th Cir. 1998)
13 151 F.3d 1234, 1242 ("This court has aptly held that 'it is the very uncertainty of outcome in
14 litigation and avoidance of wasteful and expensive litigation that induce consensual settlements'");
15 *Officers for Justice v. Civil Servo Com.* (9th Cir. 1982) 688 F.2d 615, 625 ("The proposed
16 settlement is not to be judged against a hypothetical or speculative measure of what might have
17 been achieved by the negotiators.")

18 Each of the primary claims also had risks to maintaining class certification and a finding of
19 liability. If Defendant' defenses were successful, the class would not receive anything. As is set
20 forth below, Plaintiff submits that the most realistic "best case" scenario would be an average
21 recovery per class member of approximately \$3,300, and a worst case scenario would be a recovery
22 of \$0, by way of decertification or defense verdict. (Yaeckel decl. ¶19). Given all the risks on each
23 claim, the estimated **\$890.60** average recovery secured via this settlement is a reasonable
24 compromise and is in the best interests of the class given all the risks of continued litigation.
25 (Yaeckel decl. ¶20).

26 **A. FAILURE TO PAY ALL COMPENSATION CLAIMS**

27 Plaintiff's unpaid wages (and unpaid overtime) claims were based on the allegation that Geo
28 employed a "graveyard shift" which on occasion serves to deny employees Overtime pay for work

1 performed in excess of 8 hours in a single day. Moreover, GEO' timekeeping system took "minutes
2 worked" and transferred that amount to a decimal and caused other losses due to certain alleged
3 "transitional math errors" caused by the payroll system. Plaintiff alleged this resulted in regular
4 time and overtime pay being owed where Defendant were on notice of work being performed
5 without pay.

6 Defendant also denies that any unpaid work occurred, and even if some did occur,
7 Defendant claimed it was not on notice of these alleged Labor Code violations and had a strict
8 written prohibition against off-the-clock work and a mandate that all time worked must be
9 accurately recorded. Defendant asserted proof of these alleged violations would require
10 individualized inquiries, which could preclude class certification and make any PAGA claims
11 unmanageable. (Yaeckel decl. ¶38).

12 Based on Class Counsels' analysis, this claim was worth as little as \$0 (a defense verdict) or
13 as much as \$8,548,488.00. (Yaeckel decl. ¶ 22).

14 **B. MEAL AND REST PERIOD CLAIMS**

15 Time records produced informally by Defendants reveal large numbers of unique meal
16 period violations. Defendant argued that these records do not conclusively show whether (1)
17 Defendant actually failed to provide the Meal Period, (2) there was a voluntary waiver, (3)
18 employees forgot to clock out, (4) employees voluntarily chose to skip or take them late even
19 though they were provided, or (5) whether the individual was working on a federal enclave and
20 therefore lacked standing to bring a Meal and Rest period claim. Defendant further argued that
21 evidence existed that rebutted any presumption that the same records could be used as a basis for
22 determining liability. Additionally, in light of the written Meal and Rest Period policy, GEO
23 contended there was no uniform policy or practice of denying Meal and Rest Periods, requiring
24 individualized inquiries that would make any PAGA claims unmanageable. (Yaeckel decl. ¶ 39).

25 Plaintiff alleges that the Rest Period policy lacks the required statutory language. Plaintiff
26 also alleged the Defendant's written policies improperly restricted class members from leaving the
27 premises during their Rest Periods, among other deficiencies. GEO pointed out that it provided for
28 adequate breaks and argued that witness testimony would demonstrate that in practice, no

1 restriction on Rest Periods was ever enforced. GEO also contended individualized inquiries abound
2 as to why individual employees may have failed to take appropriate Meal or Rest Periods. (Yaeckel
3 decl. ¶ 40).

4 While there are time records to support the existence of alleged Meal Period violations,
5 there are no corresponding rest period records, making this aspect of the claim much harder to
6 prove. Some Courts have been disinclined to accept survey evidence that may have been needed to
7 help establish rest period violations. See *e.g. Duran v. U.S. Bank National Assn.* (2018) 19
8 Cal.App.5th 630.

9 Based on counsels' analysis, the meal period claims were worth as little as \$0 (a defense
10 verdict) or as much as \$4,966,809.68. (Yaeckel decl. ¶ 23).

11 Based on counsels' analysis, the rest period claims were worth as little as \$0 (a defense
12 verdict) or as much as \$34,130,882.80. (Yaeckel decl. ¶ 24).

13 **C. PLAINTIFF'S WAGE STATEMENT CLAIMS**

14 Plaintiff acknowledges that these claims are largely derivative, in that both the gross and
15 Net wages could be found to be inaccurate, due to the above-referenced claims.

16 GEO argued that the failure to list gross and net wages are derivative of other claims that
17 may ultimately fail and as a result there is no "knowing and intentional failure" to list information,
18 which triggers liability under Labor Code §226(e). (Yaeckel decl. ¶41).

19 The California Supreme Court has recently held that the failure to pay meal and rest period
20 premiums *may* give rise to a claim for inaccurate wage statements (or waiting time penalties).
21 However, such derivative liability is not automatic and the Plaintiff still must show a "knowing and
22 intentional" or "willful" failure to comply with the Labor Code. See *Naranjo v. Spectrum Security*
23 *Services, Inc.* (2022) 13 Cal.5th 93,109. Defendant (as with the underlying Meal and Rest Period
24 claims) maintained individualized inquiries would abound as to why breaks were missed and
25 whether meal and rest period premiums should have been paid, requiring individualized inquiries
26 that would make any PAGA claims unmanageable. (Yaeckel decl. ¶ 42).

27 Based on counsels' analysis, this claim was worth as little as \$0 (a defense verdict) or as
28 much as \$11,300,900.00. (Yaeckel decl. ¶ 25).

1 **D. PLAINTIFF'S REIMBURSEMENT CLAIMS**

2 Plaintiff contended that GEO violated Labor Code section 2802 by failing to reimburse its
3 employees for certain costs. GEO contended that Plaintiffs (and others class members') positions
4 did not require the use of a personal cell phone. (Yaeckel decl. ¶ 43).

5 Based on counsels' analysis, this claim was worth as little as \$0 (a defense verdict or as
6 much as \$282,522.50. (Yaeckel decl. ¶ 26).

7 **E. OTHER "DERIVATIVE" CLAIMS**

8 The remaining claims are derivative in that PAGA, Inaccurate Recordkeeping Claims, and
9 Labor Code § 203 penalties would only be permissible if the above claims are proven.

10 The parties agreed to allocate \$150,000.00 to the PAGA claims, which is approximately
11 12.2% of the total settlement. This PAGA allocation is in the range (*and is actually higher than*) of
12 allocations routinely approved by California Courts. *See Garcia v. Gordon Trucking, Inc.*(E.D.
13 Cal., Oct. 31, 2012, No. 1:10-CV-0324 AWI SKO) 2012 WL 5364575, at *7 (approving \$10,000
14 PAGA penalty for a California class with a \$3.7 million gross settlement payment); *Syed v. M-I,*
15 *L.L.C.* (E.D. Cal., Feb. 22, 2017, No. 112CV01718DADMJS) 2017 WL 714367, at *13 (approving
16 2.53% of the estimated \$3.95 million Net Settlement Amount allocated to the California class);
17 *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-CV-02198-EMC) 2016 WL
18 5907869 (approving allocation of \$20,000 to the PAGA claim (**0.15%** of its total value of
19 \$12,952,000) as reasonable in the context of the settlement as a whole); *In re Uber FCRA*
20 *Litigation* (N.D. Cal., June 29, 2017, No. 14-CV-05200-EMC) 2017 WL 2806698 (approving a
21 settlement agreement of \$7.5 million, where the amount allocated to the PAGA claims was only
22 \$7,500.00 – .01% of the total settlement amount).

23 Based on Class Counsel's analysis, the derivative claims were worth as little as \$0 (a PAGA
24 defense verdict or denial of certification of the § 203 claim) or as much as \$8,879,072.58 and
25 \$67,805,400.00 respectively. (Yaeckel decl. ¶ 19).

26 **F. CASE LAW SUPPORTS A FURTHER REDUCTION ON ANY RECOVERY**

27 Plaintiff concedes she would be highly unlikely to ever be awarded an amount approaching
28 the maximum damages set forth above. To wit, the majority of the recovery would be "derivative"

1 penalties under PAGA, Labor Code § 203 and Labor Code § 226. The Court would have great
2 discretion to mitigate any penalties awarded. *Thurman v. Bayshore Transit Management, Inc.*
3 (2012) 203 Cal.App.4th 1112, 1135 (disapproved on other grounds).

4 In a recent trial involving Class Counsel in this case, the Court found liability, but then
5 reduced the PAGA penalties by 90%, from \$50 per violation down to \$5 a violation. See
6 *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504; See accord *Fleming v. Covidien, Inc.*,
7 No. ED-CV-10-1487-RGK(OPx), 2011 WL 7563047 at *4 (C.D. Cal. Aug. 12, 2011) (reducing
8 PAGA penalties by over 82%, in part because employer was "not aware" of violations). And in
9 *Carrington*, the Trial Court declined to award penalties under Labor Code §§ 203 and 226, noting
10 that other trial courts have declined to "stack" (impose multiple) penalties based on the same
11 underlying Labor Code violation. See *Ruelas v. Costco Wholesale Corporation* (N.D. Cal. 2014) 67
12 F.Supp.3d 1137.

13 Class Counsel believes a mitigation of the damages and potential PAGA penalties would be
14 warranted here. As in the *Carrington* case, there was evidence that GEO attempted to provide meal
15 and rest periods in practice, and the written policies contained no facially non-compliant terms.
16 Given this, it is likely that some of the violations by GEO were not "willful." Finally, given the
17 defenses raised by Defendant, there was a significant risk that many of the certified claims would
18 not have been maintained through trial and appeal.

19 The Parties agree the failure to pay "former employees" under § 203 is derivative of the
20 other claims. As GEO asserts a "good faith dispute" for withholding any unpaid wages, it would be
21 difficult to establish any liability for a "willful" failure to pay wages owed.

22 it would be likely that PAGA penalties would be reduced to approximately \$5 a violation,
23 and the Court would decline to impose Labor Code § 203 and Labor Code § 226 penalties. That
24 alone would reduce the liability by approximately \$85,000,000.00 down to \$55,000,000.00.
25 (Yaeckel decl. ¶ 34).

26 After taking into account the Discount Factors, Plaintiff's Counsel determined that it would
27 be reasonable to settle for a fraction of Defendant's maximum potential exposure for the class
28

1 claims, or approximately 15%, which is essentially the product of the probability of: (i)
2 certification being granted on all claims (? 55%); (ii) prevailing on summary judgment/motions in
3 limine/renewed motions to deny certification on all claims (? 55%); (iii) prevailing at trial on all of
4 Plaintiff's claims (? 50%); i.e., $55\% \times 55\% \times 50\%$. (Yaeckel decl. ¶ 35).

5
6 This discount would make the maximum best case recover approximately \$8,250,000.00.
7 (Yaeckel decl. ¶ 36).

8 Such a discount is inherently reasonable given that Plaintiff would have had to overcome
9 multiple, dependent contingencies to prevail on his claims. If anything, the projected odds for each
10 of the above contingencies is generous to the class member's position, since plaintiffs in
11 employment cases rarely prevail on all of the claims at any of these dispositive stages. Courts
12 routinely approve settlements that provide a similar discounted range of the maximum potential
13 recovery. See, e.g., *In re Warfarin Sodium Antitrust Litig.*, 212 F.R.D. 231, 256-58 (D. Del. 2002)
14 (recognizing that a reasonable settlement amount can be 1.6% to 14% of the total estimated
15 damages); *In re Armored Car Antitrust Litig.*, 472 F. Supp. 1357, 1373 (N.D. Ga. 1979)
16 (settlements with a value of 1% to 8% of the estimated total damages were approved); *In re Four*
17 *Seasons Secs. Laws Litig.*, 58 F.R.D. 19, 37 (W.D. Okla.1972) (approving 8% of damages);
18 *Balderas v. Massage Envy Franchising, LLP*, 2014 WL 3610945, at *5 (N.D. Cal. July 21, 2014)
19 (finding that settlement which amounted to 8% of maximum recovery "[fell] within the range of
20 possible initial approval based on the strength of plaintiff's case and the risk and expense of
21 continued litigation."); *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1042 (N.D. Cal. 2008)
22 (approving settlement of 6% to 8% of estimated damages.
23
24

25 **V. PROVISIONAL CERTIFICATION OF THE CLASS IS APPROPRIATE**

26 Under California law, a class action is appropriate when the class is ascertainable and there
27 is "a well-defined community of interest in the questions of law and fact involved affecting the
28

parties to be represented.” Cal. Code Civ. Proc. § 382; *Sav-on Drug Stores, Inc. v. Superior Court* (2004) 34 Cal. 4th 319, 341. State law requirements under California Code of Civil Procedure § 382 for class certification mirror those of federal law under Rule 23 of the Federal Rules of Civil Procedure: numerosity, typicality of the class representatives’ claims, adequacy of representation, predominance of common issues, and superiority. See Fed. R. Civ. P. 23(a); see also *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1019. Thus, for settlement purposes, each of these elements must be present. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal. App. 4th 224, 237-38.

A. THE PROPOSED SETTLEMENT CLASS IS ASCERTAINABLE

The proposed class is ascertainable because all Class Members currently or formerly worked for Defendant as a nonexempt employee and will be identified through Defendant’s employment records. See *Rose v. City of Hayward*, 126 Cal.App.3d 926 (1981) (finding that “Class Members are ‘ascertainable’ where they may be readily identified without unreasonable expense or time by reference to official records”). Thus, the ascertainability requirement is met.

B. THE PROPOSED SETTLEMENT CLASS IS SUFFICIENTLY NUMEROUS

The numerosity requirement is met if the class is so large that joinder of all members would be impracticable. *In re Tobacco II Cases* (2009) 46 Cal. 4th 298, 318. Here, Defendant’s records show that approximately **2,500 class members** worked for the company during the limitations period. (Yaeckel decl. ¶16). Thus, joinder of all members of the class would be impracticable.

C. THE COMMONALITY REQUIREMENT WAS MET

The commonality requirement is met if there are questions of law and fact common to the class. See *Hanlon, supra*, 150 F.3d at 1019. Here, for purposes of the Settlement only, the parties agree the claims of Class Members all involve the same questions of law and fact. (See section IV, *supra*). Namely, all class members were subject to the same employment policies and practices of Defendant. (Yaeckel decl. ¶ 45). The common question exists as to whether the policies and

practices Class Members were subjected to are illegal. Under these circumstances, the commonality requirement is satisfied. See *Hanlon*, *supra*, 150 F.3d at 1019-20.

D. THE TYPICALITY REQUIREMENT IS MET

The typicality requirement is met if the class representatives and class counsel have no interests adverse to the interests of the proposed Class Members and are committed to vigorously prosecuting the case on behalf of the class. See *Wehner v. Syntex Corp.*, 117 F.R.D. 641, 644 (N.D. Cal. 1987).

Here, there are no such adverse interests. The named Plaintiffs have alleged claims substantially the same as all the other Class Members. Factual differences may exist between the class representatives and the Class Members so long as the claims arise from the same events or course of conduct and are based on the same legal theories. See *Hanlon*, 150 F.3d at 1020; see also 1 *Newberg* § 53.13 at 3-76-77 (“When it is alleged that the same unlawful conduct was directed at or affected both the named plaintiff and the class sought to be represented, the typicality requirement is usually met irrespective of varying fact patterns which underlie individual claims.”) Thus, the typicality requirement is also satisfied.

E. THE ADEQUACY REQUIREMENT IS MET

The adequacy of representation component of the community of interest requirement for class certification “comes into play when the party opposing certification brings forth evidence indicating widespread antagonism to the class suit.” *Capitol People First v. Dep’t of Develop. Servs.* (2007) 155 Cal. App. 4th 676, 696-97. The adequacy inquiry “serves to uncover conflicts of interest between named parties and the class they seek to represent.” *Id.* To assure “adequate” representation, the “class representative’s [...] claim must not be inconsistent with the claims of other members of the class.” *Id.*

1 Here, no such “inconsistencies” exist. Each Plaintiff will be compensated based on the
2 same “pay period” formula as all other members of the Class. (**Exhibit A** at ¶ 4(B)(a)).

3 Additionally, any Class Member who wishes to “opt out” of the Settlement may do so and
4 retain all of their individual rights. (See Ex. C at sec. 7). There is therefore no conflict of interest
5 between the Class Representative and the Class Members. Thus, at least for settlement purposes,
6 the adequacy prong is met.
7

8 **F. COMMON ISSUES PREDOMINATE AND CLASS-WIDE SETTLEMENT IS**
9 **SUPERIOR TO OTHER AVAILABLE METHODS OF RESOLUTION**

10 Class certification is authorized where common questions of law and fact predominate over
11 individual questions, and where class-wide treatment of a dispute is superior to individual
12 litigation. See *Richmond v. Dart Indus., Inc.*, 29 Cal.3d 462, 469 (1981).

13 The proposed class in this case is sufficiently cohesive because, for purposes of the
14 Settlement only, the parties have stipulated that all class certification elements are met. (**Exhibit A**
15 at ¶9(A)(1)). All members of the Class worked under the same conditions and experienced the
16 same policies and practices of Defendant. (See section IV, *supra*). Thus, the class is sufficiently
17 cohesive.
18

19 Further, it would be preferable to resolve all of the Class Members’ claims by means of a
20 class-wide settlement than to require each Class Member to litigate individual claims. (Yaeckel
21 decl. ¶36).

22 **VI. PRELIMINARY APPROVAL OF THE CLASS ACTION SETTLEMENT IS PROPER**

23 The trial court has broad discretion to determine whether a class action settlement is fair
24 and reasonable. *In re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 723. Fairness is presumed
25 where (1) the settlement is reached through arm’s-length bargaining; (2) investigation and
26 discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is
27 experienced in similar litigation; and (4) the percentage of objectors is small. *Chaves v. Netflix, Inc.*
28

(2008) 162 Cal.App.4th 43, 52; *Dunk v. Ford Motor Co.*(1996) 48 Cal.App.4th 1794, 1802. But, even where it appears the settlement is fair, the court must still determine on the record before it whether the settlement should be approved after considering “the strengths and weaknesses of the claims and risks of the particular litigation.” *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129. The courts will consider: (i) the strength of the plaintiff’s case; (ii) the risks, expense, complexity and likely duration of further litigation; (iii) the risk of maintaining class action status throughout the trial; (iv) the amount offered in settlement; (v) the extent of discovery completed; (vi) the stage of the proceedings; (vii) the experience and views of counsel; (viii) the presence of a governmental participant; and (ix) any reaction of putative class members to the proposed settlement. *Dunk*, 48 Cal.App.4th, at 1800-1801; *In re Microsoft I-V Cases*, 135 Cal.App.4th, at 723.

When evaluating these factors, the court “must stop short of the detailed and thorough investigation that it would undertake if it were actually trying the case,” but nonetheless it “must eschew any rubber stamp approval in favor of an independent evaluation.” *Kullar*, 168 Cal.App.4th, at 130. Ultimately, the court approves the proposed class action settlement when the settlement is fair and falls “within the range of reasonableness.” *Hernandez v. Vitamin Shoppe Indus., Inc.* (2009) 174 Cal.App.4th 1441, 1446.

When negotiating the Settlement, both sides took into account the strengths and weaknesses of their opponent’s positions as pointed out by mediator Katherine J. Edwards, Esq., the data available to evaluate liability and damages, the lack of data or evidence on certain issues, and the substantial and evolving law applicable to the merits of the claims. The Agreement was only agreed to after extensive arms-length negotiations resulting in a unique compromise that permits all parties to move forward and bring this action to close. Despite a mutual desire to resolve this action, the negotiations remained at all times adversarial. (Yaeckel Decl. ¶ 46).

As set forth below in section H, *infra.*, counsel for all parties have extensive experience in litigating wage and hour class action lawsuits. Based on this experience, Class Counsel has determined that the settlement is fair, adequate, and reasonable. (Yaeckel decl. ¶44).

1 **C. FAIRNESS OF THE SETTLEMENT**

2 For preliminary approval purposes, a proposed class action settlement is *presumed* to be fair
3 where, as here, (1) the settlement is reached through arm’s-length bargaining; (2) investigation and
4 discovery are sufficient to allow counsel and the court to act intelligently; and (3) counsel is
5 experienced in similar litigation. *Chaves, supra*, 162 Cal.App.4th at 52.

6 The proposed settlement here meets these criteria, and merits preliminary approval. As discussed
7 above, the parties only entered into the Agreement after engaging in a full day of mediation with an
8 experienced mediator who routinely handles “wage and hour” class action litigation. (Yaeckel

9 Accordingly, Class Counsel submits the **\$890.60** average recovery secured via this
10 Settlement, is a reasonable compromise and is in the best interests of the Class given all the risks of
11 continued litigation. (Yaeckel decl. ¶20).

12 **B. STRENGTH OF PLAINTIFFS’ CASE**

13 The most important factor courts consider when evaluating the fairness of the class action
14 settlement is the strength of the plaintiffs’ case balanced against the amount offered in settlement.
15 *Kullar*, 168 Cal.App.4th, at 130.

16 All of Plaintiff’s claims — individual, PAGA, and class claims — presented hurdles
17 including a substantial risk of a defense verdict by way of summary judgment motion or at trial.
18 (Yaeckel Decl. ¶20).

19 The exchange of mediation briefs, the assistance of an experienced “wage and hour”
20 mediator, and the parties’ ongoing negotiations all helped the parties realize the strengths and
21 weaknesses of their case, as well as the risks and expenses of continuing litigation.

22 Additionally, as trial approaches, each party’s monetary risk increases significantly as
23 substantial additional attorney hours and expert witness hours would have to be devoted to this case
24 by each party. Each party bears a real risk at trial, and considering the balance of the strengths of
25 Plaintiff’s claims versus the risks inherent in trial and the consideration given to settle now, the
26 settlement reflects a fair and adequate resolution to this action.

1 **C. THE RISK, EXPENSE, COMPLEXITY, AND LIKELY DURATION OF**
2 **FURTHER LITIGATION**

3 Plaintiff's Counsel's effectiveness in prosecuting this case has translated into tangible
4 monetary and non-monetary benefits for the Settlement Class Members in the following respects:
5 (1) a guaranteed favorable result; (2) guaranteed monetary recovery over a reasonably short period
6 of time, as opposed to possibly waiting additional years for a potentially worse result; and (3)
7 significant savings in attorneys' fees and costs, which would have increased had the case
8 progressed through trial and possible appeals. (Yaeckel decl. ¶47).

9 Without entering into the Agreement, there existed a significant chance that Defendant
10 would prevail on the merits of some or all claims and that Class Members would receive nothing.
11 Through the Agreement, participating Class Members receive guaranteed cash, and this action has
12 also been the catalyst for programmatic relief. (Yaeckel decl. ¶48).

13 If the litigation were to proceed in lieu of settlement, additional and substantial attorney's
14 fees and costs, expert witnesses fees would quickly accumulate. Given the numerous claims being
15 litigated, the parties may be required to hire multiple experts each (as many as 8 total). This would
16 result in not only the production of eight expert reports, but eight depositions as well. And, based
17 on previous discussions between counsel regarding the remaining claims (including the PAGA
18 claims), Plaintiff anticipated at least one motion to compel, and two dueling motions for summary
19 judgment / adjudication (one from each side). (Yaeckel decl. ¶49).

20 Importantly, even after engaging in all of the potential continued and protracted litigation
21 set forth above, the putative class would continue to have no guarantee of success on any of the
22 claims advanced in this case. Thus, the parties and their counsel believe in good faith that the
23 proposed resolution is a fair, reasonable, and adequate compromise. (Yaeckel decl. ¶ 50).

24 **D. THE RISK OF MAINTAINING CLASS ACTION STATUS THROUGH THE TRIAL**

25 No Court in any of the underlying actions had ruled on a Motion for Class Certification at
26 the time settlement was reached. Defendant presented multiple different defenses to certification
27 during mediation and throughout litigation. Even assuming Plaintiff did obtain class certification of
28 the claims, each claim is subject to substantial risk of a Defense verdict at trial.

Regarding the representative (PAGA) claims, there is also a substantial risk that, at trial,

1 Plaintiff will either fail to obtain a favorable judgment on some of these claims, or that a favorable
2 award on one or more PAGA claims may be greatly reduced, as these claims are subject to
3 mitigation by the Court. *See Thurman v. Bayshore Transit Mgmt., Inc.* (2012) 203 Cal.App.4th
4 1112, 1135.

5 **E. THE AMOUNT OFFERED IN THE SETTLEMENT**

6 After deduction from the total “Settlement Amount” of the projected costs of
7 administration, proposed class representative service awards, potential attorney fees and costs, the
8 “Net Settlement Amount (“NSA”) will be distributed to all Class Members who do not file a
9 request for exclusion. Participating Class Members will receive their share of the NSA based on
10 the total amount of time they worked during the Class and PAGA Period. (**Exhibit A, ¶4(A)**).

11 Based on the current proposed figures, each Class Member will receive an average of
12 **\$890.60** although the actual amount will vary based on the amount of pay periods s employed. The
13 Class Notice will list that individual class member’s actual share. (See **Ex. C.**) Plaintiff’s counsel
14 maintains this recovery was significant in light of the circumstances of the case. (Yaeckel Decl.
15 ¶19-20).

16 **F. THE EXTENT OF DISCOVERY COMPLETED**

17 In each underlying action, Plaintiffs propounded multiple sets of separate written discovery
18 devices on Defendant, including requests for admission, special interrogatories, requests for
19 production of documents, and general and employment form interrogatories. (Yaeckel Decl. ¶¶4-6).
20 Through these requests, Plaintiffs sought, among other information and documents, the identities of
21 putative class members, Defendant’ compensation policies, meal and rest period policies, employee
22 handbooks, wage statements, time records, job descriptions, and reimbursement policies. *Id.*

23 After significant meet and confer efforts and Defendant provided detailed substantive
24 responses detailing all relevant employment policies, in addition to producing thousands of pages
25 of documents. The document production also included a large sampling of other putative class
26 members time and wage records. (Yaeckel Decl. ¶ 8). In total it appears there were at least 12 sets
27 of written discovery exchanged between the parties. (Yaeckel Decl. ¶7). Plaintiff’s counsel has also
28 interviewed several Class Members in the course of investigating and litigating this matter.

(Yaeckel decl. ¶ 51). Counsel has also reviewed hundreds of pages of documents produced by Defendant, Plaintiffs, and Class Members. (*Id.*)

Plaintiff Lopez and Castillo also took the depositions of Defendant’s “Person Most Knowledgeable” Deponent Karen Broadwater regarding the challenged policies and practices as issue. Ms. Castillo also sat for a full day of her deposition. (Yaeckel Decl. ¶ 7).

This information, along with documents and information obtained through formal discovery and from Class Members, allowed Plaintiff’s counsel to prepare a detailed Mediation Brief. (*Id.*) The Brief was provided to opposing counsel and contained a breakdown of potential damages based on all of the information obtained from all Parties. (*Id.*) GEO also provided a detailed mediation brief, outlining its defenses to both class certification and liability. (*Id.*)

Thus, sufficient discovery, both formal and informal, has been conducted to allow the parties to participate in an informed, arms-length negotiation process.

G. THE STAGE OF THE PROCEEDINGS

Plaintiffs had already obtained the majority of written discovery, taken depositions, and had filed a motion for class certification that had not yet been ruled on. The parties were familiar with Plaintiffs’ central allegations and Defendant’s defenses thereto. Following certification, the next phase of this litigation would have been to prepare for Trial.

H. THE EXPERIENCE AND VIEWS OF COUNSEL

Class Counsel has considerable experience in wage and hour and class action litigation. William Sullivan has over 29 years of experience, 28 years of which has been devoted to both prosecuting and defending class action litigation. Mr. Yaeckel has over 12 years of experience in “class litigation.” Mr. Yaeckel has 5 years of experience in class action litigation. (Yaeckel Decl. ¶52). Co-Counsel the Bibyian Law Group and the Colby law firm are also sufficiently experienced in prosecuting wage and hour class and representative action litigation. (Bibiyan Decl., ¶ 9-17; Yuzna Decl. ¶ 14-17).

Defendant’s attorneys are skilled and sophisticated lawyers, with significant class action

1 experience. Akerman LLP (counsel to Defendant) is a national law firm ranked among the 100
2 largest firms in the United States by The American Lawyer. Defendants' attorneys defended their
3 client vigorously throughout the litigation. (Yuzna Decl. ¶ 18).

4 Plaintiffs' counsel all considers the Agreement to represent a fair, adequate and reasonable
5 settlement that is well within the accepted range of recoveries for similar cases. Counsel further
6 believes the Agreement is in the best interests of the Settlement Class Members. (Yaeckel Decl.
7 ¶53; Yuzna decl. ¶ 22; Bibiyan Decl., ¶ 22).

9 **I. PRESENCE OF A GOVERNMENTAL ACTOR**

10 Although the State is not directly involved in this action, Plaintiff "stands in the shoes" of
11 the Labor and Workforce Development Agency ("LWDA") by bringing his PAGA action.
12 Consideration has been made to compensate to Labor Workforce Development Agency
13 ("LWDA") in the amount of \$150,000.00, even though the LWDA declined to prosecute the
14 claims itself. (*See* Exhibit "A," at ¶ 46). To confirm, 75% of the total allocation of \$150,000
15 amount, or **\$112,500.00**, is being paid to the LWDA, and 25%, or **\$37,500.00**, being distributed
16 amongst the class members. (*Id*). Counsel for the parties believe this is a fair, reasonable, and
17 adequate allocation. (Yaeckel Decl. ¶ 54).

18 **J. REACTION OF THE CLASS MEMBERS TO THE PROPOSED SETTLEMENT**

19 Prior to preliminary approval, what can be said of the reaction the class members is limited.
20 However, Plaintiff's counsel has spoken to some Class Members since the parties reached a
21 proposed settlement agreement, and all were in favor of the Settlement. (Yaeckel Decl. ¶ 55).

22 As explained in the Agreement, the Settlement Claims Administrator will send a Notice to the
23 Settlement Class Members. (*See* Exhibit A at ¶7). The negotiated Class Notice form is attached to
24 the declaration of Eric K. Yaeckel as **Exhibit C**.

25 The proposed Notice advises the Settlement Class Members of their anticipated recovery
26 under the Agreement, how to object, how to exclude themselves, the amount of fees and costs
27 sought by Class Counsel, the amount of enhancement payment sought on behalf of the Class
28

Representative, and the date of the final approval hearing. (*See* Exhibit “B”). Thus, the proposed Notice complies with the notice requirements set forth in CRC Rule 3.766(d) and Rule 3.769(f).

VII. PROPOSED TIMELINE OF EVENTS AND FINAL APPROVAL

Assuming the Settlement merits Preliminary Approval from the Court, Plaintiffs request that the Court set a Final Approval Hearing in accordance with the chronology of events set forth in the Agreement:

1. Within thirty (30) calendar days of Preliminary Approval, Defendant will provide to the Settlement Administrator the Class List including Class Members’ names, last known addresses, social security numbers, and the dates of employment;
2. Within ten (10) calendar days of receiving the Class List, the Settlement Administrator will perform an NCOA check for information to update and correct for any known or identifiable address changes and shall mail a Notice Packet to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List;
3. 45 calendar days after Settlement Administrator has mailed the Notice Packets to Class Members: Deadline for Class Members to postmark and submit all disputes of pay period information, request exclusion, or file written objection to the Settlement;
4. Approximately 7 Calendar days after the conclusion of the Notice and Response Period: Plaintiffs will file a Motion for Final Approval; and
5. 16 Court days after the filing of the Final Approval motion: the Court can conduct the Final Approval Hearing.

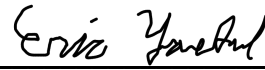
Based on this timeline, Plaintiff requests a Final Approval hearing that is approximately 125 days (or April 12, 2024, or the first available court date thereafter) after the date the Court enters an Order granting preliminary approval of the Settlement.

1 **VI. CONCLUSION**

2 Based on the foregoing, Plaintiffs respectfully requests that the Court issue an Order: (1)
3 Preliminarily approving the settlement as set forth in the Agreement; (2) Approving the proposed
4 Class Notice; and (3) Providing the parties with a Final Approval Hearing date consistent with
5 the proposed timeline of events.

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8 Dated: December 12, 2023

**SULLIVAN & YAECKEL LAW GROUP,
APC**

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