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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

LUIS SEDANO, individually and on behalf of all similarly situated and aggrieved employees of Defendants in the State of California,

Plaintiff,

v.

JALIMEX FOOD CORPORATION, JALIMEX and DOES 1 THROUGH 50, inclusive,

Defendants.

Case No.: 21CV386681

[Assigned for all purposes to the Honorable Beth McGowen, Department 22]

CLASS AND PAGA ACTION

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT

Date: August 20, 2026
Time: 1:30 p.m.
Dept: 22
Judge: Hon. Beth McGowen

[Filed concurrently herewith Notice of Motion; Declarations of Vilmarie Cordero, Luis Sedano, and Sean Hartranft of APEX; and [Proposed] Order]

Complaint Filed: September 14, 2021
FAC Filed: February 18, 2025
Trial: None Set

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I. INTRODUCTION

Plaintiff Luis Sedano ("Plaintiff") seeks preliminary approval of a non-reversionary $470,000 class and Private Attorneys General Act ("PAGA") action settlement on behalf of himself and approximately 312 similarly situated non-exempt and Aggrieved Employees who worked for Defendants Jalimex and Jalimex Food Corporation ("Defendants") in California from March 20, 2017, through February 26, 2026 (the "Class Period"). Plaintiff and Defendants (collectively, the "Parties") reached the settlement after extensive investigation, including a thorough analysis and review of Defendants' policies, putative class members' time and payroll records during the class period, in-depth interviews with putative class members, and a full-day mediation before Hon. Peter H. Kirwan (Ret.), an experienced mediator well-versed in wage and hour class actions.

Subject to Court-approval, and after deductions for a payment to the Labor Workforce and Development Agency ("LWDA") pursuant to the PAGA, settlement administration expenses, the Class Representative Service Award to Plaintiff, and attorneys' fees and costs to Class Counsel, Plaintiff estimates $259,843.32 will be distributed among Class Members. The Net Settlement Amount was calculated as follows:

Gross Settlement Amount	**$470,000.00**
PAGA Payment	$15,000.00
Administration Expenses Payment	$7,990.00
Class Representative Service Award	$7,500.00
Class Counsel's Attorney's Fees	$156,666.68
Class Counsel's Expenses	*$23,000.00 (*estimated)
Net Settlement Amount	**Approximately $259,843.32**

The Settlement, if approved, will provide for immediate payment of the settlement sum of $470,000.00—a significant monetary benefit to the Class Members and Aggrieved Employees. The $470,000.00 Settlement Amount was the product of hard-fought negotiations and reached only after both parties had conducted significant investigation. The investigation included a thorough analysis and review of Defendants' employment policies, putative class members' time and payroll records, in-depth interviews, two full-day mediation with experienced mediators well-versed in wage and hour class actions, and multiple post-mediation discussions and negotiations following the second mediation session. The

Settlement is strongly supported by the mediator and by the Parties' experienced counsel, who carefully considered the strength of the claims and Defendants' potential defenses thereto, as well as the risk, expense, and complexity, of continued litigation.

This Court should approve the Parties' Class and PAGA Settlement because it is fundamentally fair, adequate, and reasonable.

II. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

A. Plaintiff's Class Action Claims

This Settlement involves the wage and hour claims of approximately 312 current and former non-exempt, hourly employees who worked an estimated 26,002[1] work weeks for Defendants in California from March 20, 2017, through February 26, 2026. (Declaration of Vilmarie Cordero in Support of Plaintiff's Unopposed Motion for Preliminary Approval of Class and PAGA Representative Action Settlement ("Cordero Decl."), ¶ 67); Class Action and PAGA Settlement Agreement ("SA"), ¶ 3.1.1.)

Defendants operate a food distribution business throughout California. Defendants have been in business since 1979, and operate warehouses, one located in Los Angeles and one in San Jose, which distribute a wide variety of Hispanic food products to restaurants throughout the state. Plaintiff contends that Defendants are a single entity that perform the same services, operates as a single enterprise, and are owned and operated by the same owners and control-persons.

Plaintiff is a former employee of Defendants who worked as an hourly, nonexempt employee in Santa Clara County, California. Plaintiff worked for Defendants from 2014 until he was terminated in November 2020. (Declaration of Luis Sedano ("Sedano Decl."), ¶¶ 4-6). Plaintiff's primary duties included delivering food and supplies to stores and restaurants in Bay area, unloading the merchandise, and completing order-related paperwork at the delivery sites. (*Id.*)

Plaintiff alleges that he and other employees were deprived of compliant meal and rest breaks. Specifically, Plaintiff alleges that for much of the class period, Defendants lacked any written policies and maintained practices that required the class members to take on-duty or non-compliant meal and rest periods. (Cordero Decl. ¶ 29). For example, Plaintiff alleges that employees were routinely unable to take

[1] For purposes of the Settlement, the Parties agreed that the class members' workweeks will not exceed 10% of the estimated 26,002 workweeks, or a total of 28,602 during the Class Period.

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meal and rest periods at the request of their supervisor and/or as the result of following company's instructions, and inadequate staffing. Plaintiff claims meal and rest breaks were consistently on duty because class members were not allowed to leave the premises and were required to have WhatsApp on their phones and to answer any messages sent on WhatsApp. (Sedano Decl. ¶¶ 7-12) Defendants' payroll records showed that the required premium wages for missed breaks and rest breaks were not paid. (Cordero Decl. ¶ 66; Sedano Decl. ¶ 10).

Plaintiff further alleges that his time records showed Defendants rounded his punches to the nearest six minutes, including the meal periods, which resulted in meal periods being rounded up to 30 minutes when they were less than thirty minutes, e.g. 28 minutes, which was declared unlawful in California. *See Donohue v. AMN Servs., LLC*, 11 Cal. 5th 58 (2021).

Plaintiff also claims Defendants failed to pay all minimum, regular, and overtime wages for hours worked, including time spent responding to work-related communications off the clock and during meal periods, as well as performing uncompensated pre and post-shift tasks outside scheduled hours. (Cordero Decl. ¶ 9, 31-33).

Plaintiff further alleges Defendants failed to provide accurate, itemized wage statements. (Cordero Decl. ¶ 34). Specifically, the wage statements failed to accurately reflect hourly rates, hours worked at each rate, total hours, overtime rates, meal and rest period premiums, and gross and net wages; improperly calculated overtime at one-half the regular rate instead of one and one-half times the regular rate; omitted required sick pay information; and failed to identify the correct employing entity. (*Id.*)

Plaintiff alleges these unlawful practices resulted in Defendants' failure to maintain accurate payroll and timekeeping records, including complete records of hours worked and wages owed. (Cordero Decl. ¶¶ 35, 36).

Finally, Plaintiff alleges Defendants failed to timely pay all wages due and owing upon separation of employment. (Cordero Decl. ¶ 37).

B. Brief Procedural History

On May 12, 2021, Plaintiff provided written notice to the LWDA and Defendants of the Labor Code violations he alleged against Defendants and the factual basis for such violations. (Cordero Decl., ¶ 8). On September 14, 2021, Plaintiff filed his Class and PAGA representative action against Defendants in Santa Clara Superior Court. (Cordero Decl. ¶ 9). Soon thereafter, the parties engaged in formal discovery and Plaintiff requested the production of the Class list.

The parties agreed to participate in private mediation on October 2022, and elected to mediate before Hon. Joan M. Lewis (Ret.). The parties attended mediation on April 4, 2023, before Hon. Joan M. Lewis (Ret.) (Cordero Decl. ¶ 13). The Parties did not reach a settlement at this mediation. (*Id.*) However, Defendants agreed to provide additional documents and time and pay records and the Parties planned to schedule a second mediation in August 2024 once said documents were produced. (Cordero Decl. ¶ 14). Defendants' prior counsel did not respond to Plaintiff's follow up attempts and failed to provide the documents requested, and thus, the mediation had to ultimately be cancelled. (Cordero Decl. ¶ 15).

In January 2025, Greg Simonian of Casas, Riley, Simonian LLP substituted as attorney of record for Defendants and indicated Defendants were interested in mediation and committed to providing updated documents and information necessary for an informed mediation. (Cordero Decl. ¶ 16). The Parties agreed to use a different mediator and selected Hon. Peter H. Kirwan (Ret.), who is an experienced mediator in Class Wage and Hour litigation. (Cordero Decl. ¶ 17).

On February 18, 2025, Plaintiff filed a First Amended, and now operative Complaint. The amended complaint sought to correct the "Non-Exempt" class definition. (Cordero Decl. ¶ 18). The Parties scheduled a second mediation session for June 20, 2025, with Hon. Peter H. Kirwan (Ret.). (Cordero Decl. ¶ 17).

Ahead of the June 2025 mediation, Defendants produced additional documents and records, including an updated 20% random sampling of time and pay records for 62 putative class members. (Cordero Decl. ¶ 19). The time and pay records spanned from September 2017 through April 2025. (*Id.*)

On June 20, 2025, the Parties participated in a full-day mediation with Hon. Peter H. Kirwan. (Cordero Decl. ¶ 20). After hard-fought lengthy arm's length negotiations, the Parties reached an agreement in principle for the resolution of the Class and PAGA civil penalties claims alleged. (Cordero Decl. ¶ 21).

In the months following the mediation, the Parties engaged in further negotiations, still facilitated by Hon. Peter H. Kirwan, regarding specific details pertaining to the scope of the agreement and class members' release. (Cordero Decl. ¶ 22). The Parties executed a memorandum of understanding on

November 11, 2025. (Cordero Decl. ¶ 23). The Parties fully executed the Class and PAGA Representative Action Long Form Settlement Agreement and Release on June 16, 2026. (Cordero Decl. ¶ 25). In accordance with California Labor Code section 2699(1)(2), a copy of the notice and the Settlement, along with a copy of this Motion, was submitted to the LWDA on July 27, 2026. (Cordero Decl. ¶ 27).

C. Discovery and Investigation

The Parties engaged in significant investigation and discovery. (Cordero Decl. ¶¶ 49-63). Plaintiff served special interrogatories and request for production of documents on March 21, 2022. (Cordero Decl. ¶ 11). Through formal discovery, Plaintiffs obtained Plaintiff's personnel files, and the Class list. Plaintiff also obtained class contact information for putative class members following a Belaire West notice. (*Id.*) Plaintiffs obtained, through informal discovery, a representative sampling of payroll and timekeeping records, Defendants' policies and procedures related to the claims asserted, and relevant class and PAGA metrics. (Cordero Decl., ¶¶ 11, 19). Plaintiff's counsel also conducted 33 witness interviews with putative class members (Cordero Decl., ¶ 56).

After a thorough review of the documents and conducting interviews with putative class members, Class Counsel prepared a comprehensive mediation brief that outlined factual and legal issues relevant to the litigation. (Cordero Decl. ¶ 58). The brief was accompanied by a summary of the witness accounts obtained during class member interviews and presented a damages analysis of the potential maximum liability Defendants faced if Plaintiff succeeded on all claims at trial. (*Id.*)

During mediation, the Parties engaged in good-faith, non-collusive negotiations and discussed the realistic damages exposure to Defendants, the relative strengths and weaknesses of the claims and defenses, the risks and delays of further litigation, and the potential difficulty in maintaining class certification. (Cordero Decl. ¶ 61). The documents, information, and data obtained from Defendants, in addition to the information gleaned from interviews with putative class members, were sufficient to make an informed decision about a fair resolution of this action and demonstrated that the case was ripe for settlement after substantial work by both sides. (Cordero Decl. ¶ 60). Each party is represented by experienced class action attorneys well-versed in employment law, who determined that the $470,000.00 settlement is a fair resolution of the class and PAGA claims in this action. (Cordero Decl. ¶ 63, 133).

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Plaintiffs now seek preliminary approval of the Settlement and approval of the PAGA settlement. *See* Labor Code § 2699(l).

III. KEY SETTLEMENT TERMS

A. Class Definition

According to Defendants' records, there are approximately 312 Class Members who worked an estimated 26,002 Workweeks in the Class Period. (SA, § 3.1.1). "Class Members" or the "Settlement Class Members" consists of all current and former non-exempt employees who performed work for Defendants in the State of California at any time during the Class Period. (SA. § 1.5). The Class Period is defined as March 20, 2017, through February 26, 2026, subject to the Escalator Clause in the Agreement. (SA § 1.12). The Escalator Clause states that if the actual total number of work weeks as of February 26, 2026, exceeds 26,002 by more than 10% (28,602) Defendants, at their sole discretion, may choose to (i) pay the pro rata percentage increase in excess of 10% of the Gross Settlement Amount to include the additional workweeks up to February 26, 2026, which is the end date of the Class Period (e.g. an 11% increase in workweeks will result in a 1% increase of the Gross Settlement Amount, or $474,700); or (ii) decide not to increase the Gross Settlement Amount, and the end of the Class Period will be the date that 28,602 workweeks were met, but not exceeded.

B. Gross Settlement Amount and Allocation

Defendants will pay a $470,000.00 Gross Settlement to resolve this litigation (the "GSA"). (SA, § 3.1). The GSA is an all-in common fund, non-reversionary amount to be used to pay all payments required under the Settlement, including: the Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Expenses Payment, Class Representative Enhancement Payments, and the Administration Expenses Payment. (SA, § 3.4). Defendants shall pay the employer's share of payroll taxes in addition to the GSA. (SA, § 3.1). None of the GSA will revert to Defendants. (SA, § 3.1). The GSA will be allocated as follows:

<u>PAGA Allocation</u>. The Parties agreed to allocate the sum of $15,000.00 to settle the claims for civil penalties pursuant to PAGA. (SA § 3.4.5). Of this amount, 75% ($11,250.00) will be paid to the LWDA from the Gross Settlement Amount to cover the state of California's share of the total penalty

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amount, with the remaining 25% ($3,750.00) made available for distribution to the PAGA Group Members. (SA § 3.4.5).

Administration Costs. The Parties have selected Apex Class Action, LLC ("Apex") to serve as the Settlement Administrator after considering several different administration bids, in which Apex provided the lowest bid. (Decl. Cordero ¶ 94; SA §§ 3.4.3, 7.1). Apex is an experienced settlement administrator, and the cost of settlement administration in this case is estimated not to exceed $7,990.00. Declaration of Sean Hartranft ("Hartranft Decl.") Ex. B).

Service Payment to Plaintiff. Plaintiff will request, and Defendants do not oppose, a Service Payment award of $7,500.00. (Cordero Decl. ¶ 109; SA. § 3.4.2).

Class Counsel's Fees and Reimbursement Costs. Class Counsel will seek an award of fees and costs for the services rendered and yet to be rendered on behalf of the Class. Class Counsel will seek, and Defendants will not oppose, an award of $156,666.68 for attorneys' fees (equal to one third of the Gross Settlement Amount), and the reimbursement of reasonable costs actually incurred in the litigation. (Cordero Decl. ¶ 106; SA. § 3.4.3). Plaintiff estimates the actual litigation costs will not exceed $23,000.00. (Cordero Decl. ¶ 106).

Net Settlement Amount. The term Net Settlement Amount ("NSA") means the GSA, less the payments outlined above, in the amounts approved by the Court. (SA. § 1.28). The remainder is to be paid to Class Members as Individual Class Payments. *Id.* The NSA is currently estimated to be $259,843.32. (Cordero Decl. ¶ 87).

C. Individual Settlement and PAGA Payments from the NSA and Tax Allocation

Defendants will provide the Settlement Administrator the number of workweeks each Class Member worked during the Class Period. (SA. §§ 1.8, 4.1). Class Members shall be allocated a *pro rata* portion of the NSA available for distribution based on their respective number of workweeks in comparison to the total number of workweeks that all Class Members worked for Defendants. (SA § 3.4.6). The Administrator will calculate the individual PAGA Payments based on Aggrieved Employees' respective number of PAGA Pay Periods worked in comparison to the aggregate total number of PAGA Pay Periods worked by all Aggrieved Employees. (SA § 3.4.5.1).

Individual Class Payments to Class Members are allocated for tax purposes as 15% wages, 40%

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interest, and 45% penalties. (SA. § 3.4.6.1). The portion attributable to wages will be subject to payroll tax withholding and shall be reported on an IRS Form W-2. *Id.* Payments allocated to interest and/or statutory penalties will be reported on an IRS Form 1099. *Id.* Individual PAGA Payments will be designated as 100% non-wages and reported on an IRS Form 1099. (SA. § 3.4.5.2). If the court approves PAGA Penalties for less than the amount requested, the administrator will allocate the remainder to the NSA to be distributed among Class Members. (*Id.*)

D. Disposition of Unclaimed Funds

For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed after the void date, the Administrator shall transmit the funds represented by such checks to *cy pres* recipient Legal Aid at Work, leaving no "unpaid residue" subject to the requirements of Code of Civil Procedure section 384, subdivision (b). (SA. § 4.7).

E. Release Provisions

Class Release. Effective on the date Defendants fully fund the entire GSA, Plaintiff and all Participating Class Members will be deemed to have fully, finally and forever released, waived and discharged the Released Parties[2] of all Released Class Claims. (SA, § 5.1). The Released Class Claims include any and all claims alleged or which could have been alleged based on the factual allegations alleged in the Operative First Amended Complaint, arising during the Class Period, including but not limited to claims for Defendants alleged failure to provide meal periods and related meal period premiums, failure to provide rest periods and related rest period premiums, failure to pay minimum and regular wages, failure to pay overtime wages, failure to provide accurate itemized wage statements, failure to timely pay all wages due upon termination of employment, and related unpaid wages, in violation of California Labor Code Sections 201, 202, 203, 204, 210, 218.5, 218.6, 221, 223, 224, 226, 226.3, 226.7, 246, 248.5, 510, 512, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, the provisions of the applicable IWC Wage Order(s), alleged violation of Business and Professions Code 17200 et seq., fees, damages, liquidated damages, penalties and costs. (SA § 1.4).

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[2] Release Parties means Defendants and their present and former employees, officers, directors, owners, members, managers, shareholders, agents, parents, subsidiaries, affiliates, insurers, operators, partners, joint ventures, franchisees, franchisors, consultants, attorneys, successors, and assignees.

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PAGA Release. Effective on the date when Defendants fully fund the entire GSA, Plaintiff, all Aggrieved Employees, and the State of California with respect to the Aggrieved Employees, will be deemed to fully and forever release the Released Parties of all Released PAGA Claims. (SA, § 5.2). The Released PAGA Claims include any and all claims alleged or which could have been alleged based on the factual allegations alleged in the Operative First Amended Complaint and the PAGA Notice dated May 12, 2021, arising during the PAGA Period , including but not limited to claims for Failure to Provide Compliant Meal Periods and Authorize and Permit Rest Periods [Labor Code Sections 204, 210, 226.7, 512, 558, 1198 and related sections of the applicable IWC Wage Order(s)], Failure to Timely Pay Minimum, Regular and Overtime Wages [Labor Code 204, 210, 223, 225.5, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199 and related sections of the applicable IWC Wage Order(s)], Failure to Maintain Accurate Records [Labor Code 226, 1174, 1174.5, 1198 and related sections of the applicable IWC Wage Order(s)], Failure to Provide Accurate Itemized Wage Statements [Labor Code 226, 226.3, 246, 1198 and related sections of the applicable IWC Wage Order(s)], Failure to Timely Pay All Wages Due [Labor Code 201, 202, 203, 204, 210 and related sections of the applicable IWC Wage Order(s)], Retaliation [Labor Code 98.6, 246.5, 1102.5, 6310], Civil Penalties for Violation of Labor Code and IWC Wage Orders [Labor Code 98.6, 210, 226.3, 558, 558.1, 1102.5, 1174.1, 1174.5, 1197.1, 2699] Attorneys' Fees, Costs, Interest, Liquidated Damages, and Penalties [Labor Code 210, 218.5, 218.6, 225.5, 226, 248.5, 558, 1194, 1194.2, 1197.1, 2802, 2699 *et seq*.] (SA § 1.41).

IV. PRELIMINARY APPROVAL OF THE SETTLEMENT IS APPROPRIATE

"Public policy generally favors the compromise of complex class action litigation." *Cellphone Termination Fee Cases*, 180 Cal. App. 4th 1110, 1117-18 (2009). Settlement of a class action requires court approval to prevent fraud, collusion or unfairness to the class. *Dunk v. Ford Motor Co*., 48 Cal. App. 4th 1794, 1800-01 (1996). The purpose of the preliminary evaluation of a class action settlement is to determine whether the proposed settlement is within the range of possible approval, and whether notice to the class of the settlement terms and conditions and the scheduling of a formal fairness hearing are worthwhile. *Wershba v. Apple Computer, Inc*., 91 Cal. App. 4th 224, 234-35 (2001). To determine whether a class settlement is fair, adequate, and reasonable, a court must be provided with "basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration

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being paid for the release of those claims represents a reasonable compromise." *Clark v. American Residential Services LLC*, 175 Cal. App. 4th 785, 799 (2009).

The trial court must exercise its discretion through the application of several well-recognized factors when deciding whether a class action settlement is fair. (*Id*). The list of factors, which "is not exhaustive and should be tailored to each case," includes "the strength of plaintiff's 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, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement." *Kullar v. Foot Locker Retail, Inc*., 168 Cal. App. 4th 116, 128 (2008) (quoting *Dunk*, 48 Cal. App. 4th at 1801). The most important factor the trial court should consider in determining whether to approve a class action settlement is the strength of the case for plaintiff on the merits, balanced against the amount offered in settlement. *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, 186 Cal. App. 4th 399, 407-08 (2010); *Kullar*, 168 Cal. App. 4th at 130.

Here, the proposed $470,000.00 Settlement meets all the criteria for preliminary approval because it is supported by experienced counsel, was reached after hard fought arms-length negotiations, extinguishes the risk of continued litigation, provides significant monetary recovery to Class Members, and provides a fair and adequate distribution of Settlement proceeds to Class Members. (Cordero Decl. ¶¶ 26, 49-63, 87, 132, 133).

A. The Settlement is the Result of Arms' Length Negotiations and Presumptively Fair

California courts recognize that a "presumption of fairness exists where (1) the settlement is reached through arm's-length bargaining; (2) sufficient investigation allows 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. Courts presume the absence of fraud or collusion in the negotiation of a settlement unless evidence to the contrary is offered. In short, there is a presumption that the negotiations were conducted in good faith. William B. Rubenstein, *et al*., *Newberg on Class Actions* § 13:45 (5th ed. 2011-2017). "[W]hat transpires in settlement negotiations is highly relevant to the assessment of a proposed settlement's fairness." *State v. Levi Strauss & Co.*, 41 Cal. 3d 460, 482 (1986). The fact that a Settlement is reached with the assistance of a highly experienced and well-respected mediator with

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extensive expertise in wage and hour class action and PAGA matters, is testament to the integrity of the settlement negotiations. *See, e.g.*, *In re Apple Inc. Device Performance Litig.*, No. 5:18-md-02827-EJD (N.D. Cal. Mar. 17, 2021) 2021 WL 1022867, at *10.

Here, the Settlement is the result of extensive, non-collusive negotiations between the Parties, conducted at arm's length, and informed by substantial factual and legal investigation. (Cordero Decl. ¶ 20, 26, 61). The Parties participated in a full-day mediation with Hon. Peter H. Kirwan, a well-respected, neutral third-party mediator and former judge of the Santa Clara County Superior Court's complex division, well-versed and experienced in wage and hour class actions, who helped the Parties reach the Settlement. (*Id.*) At all times, the Parties' negotiations were hard-fought and conducted at arm's length between attorneys with substantial wage and hour class action experience. (*Id.*)

In sum, the Settlement is presumptively fair and should be approved.

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B. Substantial Investigation Supports the Settlement

A proposed settlement is fair and reasonable when there has been sufficient investigation and discovery to permit counsel and the court to act intelligently. *Dunk*, 48 Cal. App. 4th at 1802.

Here, the Parties conducted a lengthy and thorough investigation into the merits of Plaintiff's claims prior to reaching this Settlement. (Cordero Decl., ¶¶ 49-63). As described herein and in the accompanying declarations, the Settlement was reached only after extensive investigation and research, thorough calculations and risk evaluation, substantial formal and informal discovery—including 33 witness interviews, and comprehensive analysis of the claims and defenses. (Cordero Decl. ¶¶ 58-60). Class Counsel firmly believes that the information exchanged and analyzed is sufficient for the Parties to make an informed decision about a fair resolution of this action. (Cordero Decl., ¶¶ 49-63).

C. Class Counsel is Highly Experienced and Supports Preliminary Approval

The view of the attorneys actively conducting the litigation is entitled to significant weight in deciding whether to approve a settlement. *Ellis v. Naval Air Rework Facility* (N.D. Cal. 1980) 87 F.R.D. 15, 18, aff'd. 661 F.2d 939. (9th Cir. 1981). Although recommendations of counsel are not conclusive, the court can properly consider the recommendations, particularly if counsel have been involved in litigation for some period of time, appear to be competent, have experience with similar litigation, and have completed significant discovery. 4 *Newberg and Rubenstein on Class Actions* § 13:48 (6th ed. Dec. 2025).

Here, for nearly five years, Class Members have been represented by well-qualified counsel who have decades of experience in wage and hour class action litigation. (Cordero Decl., ¶¶ 125-130.) Class Counsel are qualified to evaluate the class claims, the benefits of settlement versus trial, and the viability of the defenses asserted. (*Id*.) Counsel on both sides share the view—endorsed by an experienced class action mediator—that this is a fair and reasonable settlement. (Cordero Decl., ¶ 132). Given the risks inherent in litigation, class certification proceedings, and the defenses asserted by Defendants, Class Counsel believe the proposed Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class. (Cordero Decl., ¶ 132, 133).

D. The Settlement Provides Fair, Reasonable, and Adequate Relief to the Class Members in Light of the Significant Risks and Expenses of Further Litigation

In reaching this Settlement, Class Counsel carefully considered the strength of the case versus the amount offered in settlement; the risk, expense, complexity, and likely duration of litigation and of maintaining class certification through trial; defenses raised by Defendants; the present state of the law as it applies to wage and hour class actions; and the burdens of proof necessary to establish liability against Defendants. (Cordero Decl. ¶¶ 61, 80). Class Counsel analyzed the merits of the class claims, which presented significant risks and hurdles. (*Id*.) Although Plaintiff maintains the claims are meritorious, Plaintiff acknowledges that Defendants possesses legitimate defenses to liability in the action. (Cordero Decl. ¶ 74, 80).

Defendants contend Plaintiff and putative class members meal and rest period claims are preempted by the Federal Motor Carrier Safety Act. (Cordero Decl. ¶¶ 76, 80). Defendants further contend that it complied with all of its meal and rest period obligations under California law, that they established written policies in 2024 and its written policies were lawful, and that employees were properly provided with a reasonable opportunity to take all meal and rest periods, while also instructed to notify Human Resources if meal or rest breaks were missed. (Cordero Decl. ¶ 40).

Defendants also maintain that they properly calculated and paid all minimum, regular, and overtime wages owed to putative class members, and that its timekeeping practices did not deprive Plaintiff or any putative class members of minimum, regular, or overtime wages. (Cordero Decl. ¶ 42). Defendant contends that each putative class member was required to accurately record all of his or her

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hours worked in Defendants' timekeeping system for payment of wages, and that it had policies prohibiting off-the-clock work. *Id*. Defendants also maintain that any off-the-clock work performed by putative class members was performed without Defendants' permission or knowledge, and if Defendants had known that putative class members had performed work off-the-clock during their meal periods, they would have provided class members compensation for their work. (Cordero Decl. ¶ 44).

Defendants further allege that wage statements complied with Labor Code § 226, and that it acted in good faith with regard to its issuance of wage statements to employees, and to the extent errors may have occurred the were inadvertent and do not reflect any knowing or intentional act on Defendants' part. (Cordero Decl. ¶ 45). Likewise, Defendants allege that Plaintiff will not be able to prove that there were any unpaid wages owed to him upon termination, and to the extent he may be able to, Defendants' alleged failure to pay all final wages at the time of separation was not "willful," precluding the imposition of waiting time penalties. (Cordero Decl. ¶ 46). Lastly, Defendants contend the named Defendant JALIMEX is wrongly named in this lawsuit because Plaintiff never worked for that entity. (Cordero Decl. ¶ 47).

Thus, Plaintiff faces substantial obstacles on the merits, in maintaining his class claims, as well as establishing the full amount of Plaintiff's estimated damages and civil penalties for his claims at trial. (Cordero Decl. ¶ 80). While Plaintiff maintains his case possesses substantial merit, the litigation cannot legitimately be characterized as being one without risk or one where Plaintiff would inevitably prevail at trial. These risks are averted by the proposed Settlement.

Additionally, continued litigation would likely be expensive and time consuming, reducing and substantially delaying any recovery by the Class. (Cordero Decl. ¶¶ 82-87). Although the Parties have engaged in a significant amount of investigation, the Parties are far from completing formal discovery. (*Id.*) For example, the Parties have not completed their written discovery, party depositions, witnesses' depositions, expert depositions, or damages analysis for trial purposes, among others. (*Id.*) Similarly, there would be a significant amount of motion practice should the Parties proceed with litigation, including a highly contested motion for class certification, and motions for summary judgement and adjudication. (*Id.*)

Even if Plaintiff is successful in certifying the class and proving the merits of the claims, Defendants may file an appeal, leading to expensive and protracted appellate practice. (Cordero Decl. ¶

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85). This Settlement avoids all the risks and expenses associated with further litigation and instead provides for immediate and substantial monetary relief to the Class Members. (Cordero Decl. ¶ 82-87).

E. The Amount Offered in Settlement Given the Estimated Value of the Claims Similarly Favors Preliminary Approval of the Settlement

To evaluate a settlement amount, the trial court must receive "basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise." (*Kullar*, 168 Cal. App. 4th at 133.) The record need not contain an explicit statement of the maximum theoretical recovery, but rather evidence sufficient to allow "an understanding of the amount that is in controversy and the realistic ranges of outcomes of the litigation." (*Munoz*, 186 Cal. App. 4th at 409 [citing *Kullar, supra*, 168 Cal. App. 4th at 120].)

Here, the proposed Settlement results in a significant benefit to Class Members and the GSA of $470,000.00 is a reasonable result by any measure. While Class Counsel could construct a maximum theoretical damages scenario assuming that all 312 class members experienced all alleged violations during all workweeks, such a calculation would be premised on an unlikely "everything goes right" scenario that does not account for the substantial risks and defenses discussed above. (*See* Cordero Decl., ¶¶ 68-75.) A more realistic valuation must account for the likelihood that class certification could be denied, that Defendants may prevail on some or all claims at summary judgment or trial (a significant risk), that damages would be reduced based on individualized proof showing that not all violations occurred for all class members during all time periods (a near certainty), and that ongoing, expensive litigation and appeals would be required before any recovery could be obtained (a certainty). (*Id.*)

By contrast, the $470,000.00 Settlement provides immediate and adequate monetary relief to the Class. Plaintiff estimates the net value per workweek to the putative class members at approximately $10.00 per workweek—calculated by dividing the net estimated settlement amount $259,843.32 by the 26,002 estimated workweeks. This represents a significant monetary recovery for the Class. Plaintiff estimates the average Individual Class Payment at approximately $832.83 for each Class Member if all estimated 312 Class Members participate. (Cordero Decl., ¶ 87). This will provide a fair and reasonable recovery to the entire Class without further delay. While the amount paid to Class Members represents a

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discount on Plaintiff's estimate of the overall exposure to Defendants, this reduction in the amount of recovery represents a reasonable compromise considering the substantial risks Plaintiff would face in the litigation. (Cordero Decl., ¶¶ 68-75.)

F. The Terms of the Settlement Agreement are Fair

The Settlement treats all Class Members fairly and equitably. The payment allocation formula is fair and does not give improper preferential treatment to any group. Individual Class Payments will be distributed on a pro rata basis according to the number of workweeks each Participating Class Member worked during the Class Period. (SA, § 3.4.6). Thus, Class Members who worked more workweeks during the Class Period will receive a larger portion of the Settlement, which is appropriate given that they had greater exposure to the alleged violations. (Cordero Decl. ¶ 87).

The Settlement is non-reversionary. (SA, § 3.3.) Any funds from uncashed settlement checks will be transmitted Legal Aid at work—a *cy pres* beneficiary that complies with CCP § 384. (SA, § 6.1.) The Administrator will disburse the entire GSA without asking or requiring Class Members to submit any claim as a condition of payment. (SA, § 3.2). The releases are appropriately tailored to claims that were or could have been alleged based on the operative complaint facts. (SA, §§ 5.1; 5.2.) Participating Class Members do not release any other claims, including claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits, wrongful termination claims, violation of the Fair Employment and Housing Act, or claims based on facts occurring outside the Class Period. (*Id.*) The tailored release protects Class Members' other potential claims while resolving the wage and hour claims at issue in this litigation.

The Settlement also provides fair and appropriate procedures for notice, opt-out rights, and objections. Class Members will receive individual notice by mail that includes clear instructions on how to object or opt out. (SA § 7.5; Exh. A) The Administrator will perform National Change of Address searches and re-mail returned notices to ensure maximum delivery. (SA, §§ 4.5, 7.4.3.) Class Members will have 45 days from the mailing of notice to submit objections or opt-out requests, with an additional 14 days for those whose notices are re-mailed. (SA, §§ 1.44, 7.4.5.) These procedures ensure adequate notice and opportunity to be heard.

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G. The Penalties Are Reasonable

Where a settlement includes a good faith amount for PAGA penalties and "there is no indication that this amount was the result of self-interest at the expense of other" class members, such amounts are generally considered reasonable. *Hopson v. Hanesbrands Inc.*, No. CV-08-0844 EDL, 2009 WL 928133, at *1, 9 (N.D. Cal. Apr. 3, 2009). Courts routinely approve PAGA allocations in the range of 0% to 10% of the gross settlement, with most falling in the 0-2% range. *E.g.*, *id.* (approving a PAGA payment of 0.3%, or $1,500); *Jack v. Hartford Fire Ins. Co.*, No. 09cv1683 MMA (JMA), 2011 WL 4899942, at *6 (S.D. Cal. Oct. 13, 2011) (approving a PAGA payment of 0.25%); *Mckenzie v. Fed. Express Corp.*, No. CV 10-02420 GAF (PLAx), 2012 WL 12882124, at *5 (C.D. Cal. Jan. 23, 2012) (acknowledging that courts approve PAGA claim settlements in the range of zero to two percent of the total settlement).

Here, the Parties negotiated a good faith PAGA settlement amount of $15,000.00, 75% of which ($11,250.00) will be paid to the LWDA, with the remaining 25% ($3,750.00) to be distributed to Aggrieved Employees. (SA. §§ 3.4.5). The $15,000.00 allocated to the PAGA Payment amounts to approximately 3.2% of the Gross Settlement Amount, which is in line with amounts that are routinely approved by courts in this state. The settlement of the claim for penalties under PAGA is reasonable because it was negotiated in good faith and was not the result of self-interest at the expense of any Class Member. (Cordero Decl. ¶ 78).The PAGA settlement is reasonable and should be approved.

H. The Service Award to Plaintiff is Reasonable

Courts routinely approve service awards to compensate named plaintiffs for the services they provide and the risks they incur during the course of the class litigation. *Bell v. Farmers Ins. Exch.*, 115 Cal. App. 4th 715, 726 (2004) (upholding "service payments" to plaintiffs for their efforts in bringing class case). Courts frequently approve awards of $10,000 or more. *In re Cellphone Fee Termination Cases*, 186 Cal. App. 4th 1380, 1393-1395 (2010) (upholding $10,000 service awards). The factors courts use in determining the amount of a class representative service award include: (1) a comparison between the service awards and the range of monetary recovery available to the class; (2) time and effort put into the litigation; (3) whether the litigation will further the public policy underlying the statutory scheme; and (4) risks of retaliation. *See Clark*, 175 Cal. App. 4th at 804-807. Here, all four factors support the approval of the $7,500.00 service award to Plaintiff.

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This case has been pending for nearly five years. Plaintiff consistently assisted and consulted with class counsel through the litigation, provided relevant information, provided relevant documents, searched for and preserved evidence, identified witnesses, and made himself available during the all-day mediation, and was at the ready to be deposed, among other things. (Cordero Decl. ¶¶ 109-114; Sedano Decl., ¶¶ 21-24, 25-29, 31, 38). As Plaintiff explains in his declaration, Plaintiff effectively and fairly, represented the Class Members, and did not place his interests above those of any member of the putative Class. (Sedano Decl. ¶¶ 35-37). Plaintiff faced real risks by bringing the class litigation, including payment of fees and costs to Defendants in the event Defendants prevailed. (Sedano Decl. ¶ 16, 35, 41). Plaintiff also undertook risks by stepping forward as class representatives, including potential retaliation and public identification with the lawsuit. (*Id.*) Moreover, the estimated average payment to the class members exceeds $800 for each Class Member. (Cordero Decl. ¶ 87). Accordingly, the $7,500.00 Service Payment for Plaintiff is reasonable, appropriate, and justified.

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I. The Work Performed by Class Counsel Supports the Fees and Costs Requested

Class Counsel has performed a significant amount of work in this class action for the past several years, including conducting extensive research, investigation, and analysis of each potential cause of action, active litigation, and anticipates in engaging in additional work if this Court approves the Settlement. (Cordero Decl. ¶¶ 101, 102). Class Counsel's work resulted in the Settlement which provides significant benefits to Class Members.

The California Supreme Court has unanimously held "when class action litigation establishes a monetary fund for the benefit of the class members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the court may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created." *Laffitte v. Robert Half International, Inc.*, 1 Cal. 5th 480, 503 (2016). The Court further held that although trial courts have discretion to use a lodestar multiplier cross-check or to forego a lodestar multiplier cross-check if some other means to evaluate the reasonableness of a requested fee percentage exists, "the percentage method is a valuable tool that should not be denied our trial courts." *Id*. at 503-06. California courts frequently award common fund fees calculated using a percentage-of-the-fund method that is not dependent on counsel's lodestar amount. Pearl, *California Attorney Fee Awards* (CEB 3d Ed. 2010) § 5.19 (citing *In re Sutter Health Uninsured Pricing Cases*, 171

Cal. App. 4th 495, 512 (2009); *Bell v. Farmers Ins. Exchange*, 115 Cal. App. 4th 715, 726 (2004); *Apple Computer, Inc. v. Superior Ct.*, 126 Cal. App. 4th 1253, 1270 (2005). This common fund approach is especially suitable where, as here, a settlement fund is readily available. *See Dunk*, 48 Cal. App. 4th at 1808-09.

Here, the proposed Settlement provides that Class Counsel may seek attorney's fees of up to one third of the GA ($156,666.68), in addition to reimbursement for the actual litigation costs. (SA §§ 3.4.3). The requested fee percentage is within the range routinely approved by California courts in class action settlements. *See e.g., Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 297 (N.D. Cal. 1995) (noting class counsel fee awards of 30-50% are more typical where the common fund is less than $10 million). As demonstrated in the Declaration of Vilmarie Cordero filed concurrently herewith, Class Counsel performed a significant amount of work litigating this action for nearly five years, including extensive research, investigation, and analysis of each potential cause of action; review and analysis of Defendants' policies, timekeeping data, and payroll records; analysis of violation rates and damages exposure; preparation and service of the PAGA notice; drafting of the Complaints; propounding discovery; motion practice; interviewing witnesses; preparation of a detailed mediation brief; participation in a full-day mediation; negotiation of settlement terms; and drafting of the Settlement Agreement and preliminary approval papers. (Cordero Decl., ¶¶ 101, 102). Class Counsel committed, and continues to commit, significant financial and staffing resources to this case and undertook this action on a contingency basis, thereby bearing all the risk of non-recovery and advancing all costs of this complex, risky, and time-consuming litigation. (Cordero Decl., ¶¶ 104, 105). Class Counsel's extensive experience in wage and hour class actions also supports the reasonableness of the fee request. (Cordero Decl., ¶¶125, 133). Accordingly, for purposes of this Motion, the requested fees and costs are reasonable. A detailed breakdown of fees and costs, including lodestar calculations, will be provided in support of the motion for final approval.

V. <u>THE NOTICE PLAN SATISFIES DUE PROCESS</u>

To protect the rights of absent class members, California Rule of Court 3.769(f) requires Class Members be provided with notice of the final approval hearing and an explanation of the proposed settlement and objection procedures. Procedural due process does not guarantee any particular procedure;

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it requires only notice reasonably calculated to apprise interested parties of the pendency of the action affecting their interests and an opportunity to present their objections. *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 812 (1985). Notice that meets this standard and is neutrally worded satisfies due process. *Ryan v. Cal. Interscholastic Fed'n - San Diego Section*, 94 Cal. App. 4th 1048, 1072 (2001).

Here, the proposed Class Notice provides all the information a reasonable person would need to make a fully informed decision about the Settlement. The Class Notice summarizes the lawsuit, including the contentions and denials of the Parties, the proceedings to date, and the terms and conditions of the Settlement in plain language in an informative and coherent manner. (SA, § 1.11; SA, Exh. A.) The Class Notice also fully informs Class Members of the terms of the Settlement, its effect on their rights, their options as Class Members and the procedure for opting out, objecting, and/or receiving payment, and the consequences of exercising those options. (*Id.*) The Class Notice notifies the Class Members of their reported Workweeks and PAGA Pay Periods, and the estimated Individual Class Payment they will receive. (*Id.*) The Class Notice also states the date, time, and place of the final approval hearing, and explains how Class Members can obtain additional information, as well as view a copy of the Settlement Agreement. (*Id.*)

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VI. PROVISIONAL CERTIFICATION OF THE CLASS IS APPROPRIATE

Provisional certification is appropriate at the preliminary approval stage where, as here, the Court has not yet certified the class and the requirements for certification are met. *Newberg on Class Actions* §§ 13:16-13:18 (5th ed. 2011-2017). *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1806 (1996); *Vasquez v. Superior Ct.*, 4 Cal. 3d 800, 809-11 (1971). The provisional certification process is less demanding than a traditional motion for class certification. *See Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 625-27 (1997); *Carter v. City of Los Angeles*, 224 Cal. App. 4th 808, 826 (2014).

A. There is an Ascertainable and Sufficiently Numerous Class

Whether a class is ascertainable is determined by examining the class definition, the size of the class and the means available for identifying class members. *Vasquez*, 4 Cal. 3d at 810-11. Here, Class Members are easily identifiable from Defendants' own personnel and payroll records. Records show a class size of approximately 312 Class Members. (Cordero Decl., ¶ 118-124; SA, § 4.1.) Because joinder of 312 employees would be impracticable, and Class Members can readily be determined by Defendants' personnel records, there is a numerous and ascertainable class that is suitable for provisional certification. (Cordero Decl., ¶ 124).

B. There is a Well-Defined Community of Interest

The community of interest requirement involves 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. *Linder v. Thrifty Oil Co.*, 23 Cal. 4th 429, 435 (2000).

1. Common Questions of Law and Fact Predominate

The predominance inquiry tests whether proposed classes are sufficiently cohesive to warrant adjudication by representation. *See*, *e.g.*, *Clothesrigger, Inc. v. GTE Corp.*, 191 Cal. App. 3d 605 (1987); *Lazar v. Hertz Corp.*, 143 Cal. App. 3d 128 (1983).

Here, common issues of fact and law predominate as to each claim alleged by Plaintiffs on behalf of the Class because this action concerns allegations that Defendants' common, class-wide policies and practices resulted in Labor Code violations. Common issues predominate because the challenged practices apply uniformly to all Class Members and the resolution of these over-arching questions will determine liability for the Class as a whole. (Cordero Decl., ¶ 119).

2. Plaintiffs' Claims are Typical

"Typicality" focuses on the proposed representatives' claims as they relate to the defendant's conduct and activities. *Classen v. Weller*, 145 Cal. App. 3d 27, 46-47 (1983). Here, Plaintiffs' claims are typical of the Class because Plaintiffs, like all Class Members, were subject to the same allegedly unlawful practices while working for Defendants and sustained the same/similar damages. (Cordero Decl.,¶ 120).

3. Plaintiffs and Class Counsel Will Adequately Represent the Class

The adequacy requirement is met by fulfilling two conditions: (1) a named plaintiff must be represented by counsel qualified to conduct the pending litigation; (2) a named plaintiff's interests cannot be antagonistic to those of the class. *McGhee v. Crocker-Citizens Nat. Bank*, 60 Cal. App. 3d 442, 450 (1976). Here, both are met. First, Plaintiffs retained counsel with extensive experience in prosecuting complex wage and hour class actions and who have worked diligently to obtain this Settlement for the Class. (Cordero Decl., ¶¶ 125-130). Second, Plaintiff has no conflict of interest with the Class and has worked toward a positive resolution of this case, demonstrating his interest in prosecuting this action and dedication to obtaining the best possible result for all Class Members. (Sedano Decl., ¶¶ 20, 21).

Accordingly, provisional certification for settlement purposes is warranted because all requirements are satisfied and certification for settlement purposes serves judicial efficiency.

VII. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests the Court grant preliminary approval of the Class and PAGA Action Settlement.

Respectfully submitted,

Dated: July 27, 2026

ARCH LEGAL, P.C.

By: ______________________________

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