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SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

DONNY SHELDON, individually and on
behalf of the Class; and THOMAS
GONZALES, GEORGE LYLE, DIANE
PARKER, PAMELA CARROLL and NEISHA
WAYNE, individually, and on behalf of the
State of California and Aggrieved Employees,

Plaintiffs,

vs.

U-HAUL CO. OF CALIFORNIA, a California
corporation,

Defendant.

Case No. 30-2021-01229571-CU-OE-CXC

Hon Layne H. Melzer
Dept. CX102

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

Date: January 15, 2026

Time: 2:00 p.m.

Dept.: CX102

Res. No.: 74625574

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Donny Sheldon (hereinafter “Class Plaintiff”), on behalf of the putative Class, and
4 Plaintiffs Thomas Gonzales, George Lyle, Pamela Carroll, Diana Parker, and Neisha Wayne
5 (hereinafter “PAGA Plaintiffs”), on behalf of the State of California and the PAGA Settlement Group
6 (collectively, “Plaintiffs”), seek preliminary approval of the settlement of this wage and hour Class
7 and Private Attorneys’ General Act (“PAGA”) action against Defendant U-Haul of California
8 (“Defendant”).¹ Plaintiffs have achieved a fair and reasonable result for the members of the Class, the
9 Exempt Business Expenses Settlement Subclass, and the Aggrieved Employees.² The Settlement
10 provides each of the approximately 8,313 proposed Class Members with an average of \$584.33³ to
11 resolve claims that are unlikely to have been prosecuted as individual actions, and in so doing provides
12 an excellent benefit to the members of the Class and the Aggrieved Employees.

13 The basic terms of the Settlement are as follows: (1) the Gross Settlement Amount is
14 \$7,750,000.00; (2) no portion of the Gross Settlement Amount will revert to Defendant; (3) a Net
15 Settlement Amount of approximately \$4,857,496.17 will be available for distribution to Participating
16 Class Members; (4) Plaintiff requests, and Defendant does not oppose, the following individual service
17 awards: \$12,000.00 each for Class Plaintiff Donny Sheldon and PAGA Plaintiff Thomas Gonzales,
18 and \$5,000.00 each for PAGA Plaintiffs George Lyle, Pamela Carroll, Diana Parker, and Neisha
19 Wayne, for their efforts on behalf of the Class and Aggrieved Employees; (5) a sum of \$150,000.00
20 for the PAGA Payment; (6) the actual costs and expenses of the Settlement Administrator, not to
21

22 ¹ A true and correct copy of the Class and Representative Action Settlement Agreement and Release
23 (“Settlement”) is attached as **Exhibit 1** to the Declaration of Attorney Carolyn H. Cottrell in Support
of the Motion for Preliminary Approval of the Settlement (“Cottrell Decl.”).

24 ² The Class Members and Aggrieved Employees are both defined in the Settlement as all individuals
employed by Defendant as hourly non-exempt employees between June 22, 2020, and February 28,
2025. (Settlement, ¶ 1.4, 1.5.) Because the Class Period and PAGA Period are identical, the terms will
25 be used interchangeably herein. The Exempt Business Expenses Settlement Subclass is defined as all
individuals employed by Defendant as exempt employees between June 22, 2020, and February 28,
2025. (Settlement, ¶ 1.6).

26 ³ Plaintiffs are unable to provide the Court with the estimated high and low payments to class members
27 at this stage of the settlement. There are many factors that go into that analysis that are yet
undeterminable, and which affect the estimated high and low payments, such as opt-out rates and
28 respective weeks worked by class members. Once the settlement administrator has this data at final
approval, it will be able to provide the Court with detailed information as to the high and low payments
to class members.

1 exceed \$51,000.00; (7) up to 33.3% of the Gross Settlement Amount, or \$2,583,333.33, for attorneys’
2 fees; and (8) reimbursement of actual costs to Class Counsel currently estimated at approximately
3 \$64,170.50.

4 Plaintiffs request that the Court: (1) grant preliminary approval of the Settlement; (2) appoint
5 Phoenix Class Action Administration Solutions (“Phoenix”) as Settlement Administrator for the
6 Settlement and approve as reasonable the estimated costs of settlement administration of up
7 to \$51,000.00; (3) appoint Schneider Wallace Cottrell Kim LLP (“SWCK”) as Class Counsel for the
8 Settlement Class; (4) appoint Plaintiff Donny Sheldon as Representative of the Settlement Class and
9 Plaintiffs Thomas Gonzales, George Lyle, Pamela Carroll, Diana Parker, and Neisha Wayne as
10 Representatives of the Aggrieved Employees; (5) provisionally certify the Class for settlement
11 purposes only; (6) preliminarily approve service awards of \$12,000.00 each for Class Plaintiff Donny
12 Sheldon and PAGA Plaintiff Thomas Gonzales, and \$5,000.00 each for PAGA Plaintiffs George Lyle,
13 Pamela Carroll, Diana Parker, and Neisha Wayne, for their efforts on behalf of the Class, and the State
14 of California and Aggrieved Employees; (7) preliminarily approve an allocation of \$150,000.00 for
15 the PAGA Payment; (8) preliminarily approve an award of attorneys’ fees to Class Counsel in the
16 amount of 33.3% of the Gross Settlement Amount, or \$2,538,333.33, plus reimbursement of Class
17 Counsel’s out-of-pocket expenses currently estimated at approximately \$64,170.50; (10) approve the
18 Notice of Class Action Settlement and Hearing Date for Final Court Approval (“Class Notice”)
19 attached as **Exhibit A** to the Settlement Agreement; and (11) approve the proposed notice
20 administration schedule, set forth in the Settlement and Notice of Motion filed herewith.

21 **II. SUMMARY OF THE LITIGATION**

22 **A. Factual Background**

23 Defendant U-Haul is a California corporation headquartered in Fremont, California. Defendant
24 is registered to do business in California, does business in California and employs or employed hourly,
25 non-exempt employees, including Plaintiffs, the putative Class Members, and Aggrieved Employees
26 in California. (Consolidated Complaint, ¶ 9).

27 Plaintiffs and approximately 8,313 Class Members and Aggrieved Employees are Defendant’s
28 current and former non-exempt hourly employees in California. (*Id.* at ¶¶ 10-15; Cottrell Decl., ¶ 9).

1 Plaintiffs allege that Defendant requires Plaintiffs, Class Members, and Aggrieved Employees
2 to continue assisting customers and communicate with supervisors via phone calls and text messages
3 when they are not clocked in for work, *i.e.*, after clocking out at the end of their shift, during clocked
4 out meal breaks, and on their days off. (Consolidated Complaint, ¶ 31).

5 Plaintiffs allege that Defendant also requires Plaintiffs, Class Members, and Aggrieved
6 Employees holding a resident manager position or similar positions to move and park vehicles and
7 trailers in outside parking lots, and commute to the bank to make deposits on their behalf after they
8 clocked out for the end of their shifts. (Consolidated Complaint, ¶ 31).

9 Plaintiffs allege that they, Class Members, and Aggrieved Employees are prohibited from
10 reporting this additional off-the-clock work due to Defendant's strict overtime authorization policy,
11 which subjects employees to discipline if they work overtime without pre-authorization. (*Id.* at ¶ 32).
12 As a result, and in order to avoid running afoul of said policy, Plaintiffs, Class Members, and
13 Aggrieved Employees do not report off-the-clock work. (*Id.*)

14 Moreover, Plaintiffs allege that Defendant's timeclocks frequently fail, preventing them, Class
15 Members, and Aggrieved Employees from accurately and contemporaneously recording their time
16 worked. (Consolidated Complaint at ¶ 33). Plaintiffs also allege that Plaintiffs, Class Members, and
17 Aggrieved Employees working outside of Defendant's locations are required to download and use the
18 "Workday" app on their personal cell phones to clock in and out. (*Id.* at ¶ 34). They allege that because
19 these employees work from remote locations often lacking cellphone service, they are frequently
20 unable to use the app and are forced to drive around the area in search of sufficient service to allow
21 them to clock in. (*Id.*) Plaintiffs allege that Defendant does not record or compensate Class Members
22 and Aggrieved Employees for this time worked. (*Id.*)

23 Additionally, Plaintiffs allege that Plaintiffs, Class Members, and Aggrieved Employees are
24 frequently denied compliant meal and rest periods, and that when they attempt to take a meal period,
25 it is often interrupted. (Consolidated Complaint, at ¶¶ 35-36). Plaintiffs further allege that they, Class
26 Members and Aggrieved Employees, do not receive compliant rest breaks or, when applicable,
27 compliant second meal breaks. (*Id.* at ¶¶ 37-38).

28 Plaintiffs further allege that Defendant fails to reimburse Plaintiffs, Class Members and

1 Aggrieved Employees for all necessary business expenditures.⁴ Although Defendant provides in store
2 pocket tablets to Plaintiffs, Class Members and Aggrieved Employees, Plaintiffs allege that these are
3 frequently broken and there are never enough for all Plaintiffs, Class Members and Aggrieved
4 Employees, therefore Defendant requires Plaintiffs, Class Members and Aggrieved Employees to
5 constantly use their cell phones to communicate with their supervisors regarding their work duties.
6 Plaintiffs also allege that Plaintiffs, Class Members and Aggrieved Employees receive multiple phone
7 calls, text messages, and emails each day on their personal cell phones regarding damages to U-Haul
8 vehicles, requests for assistance on electricity and plumbing issues, and instructions for work related
9 tasks. Moreover, Plaintiffs allege that Plaintiffs, Class Members and Aggrieved Employees are also
10 required to use the GPS on their personal cell phones to navigate between store locations, and
11 supervisors called and texted them on their personal cell phones to inquire about job status.
12 (Consolidated Complaint at ¶ 41).

13 As a result of these violations, Plaintiffs assert Cal. Lab. Code claims for (1) failure to
14 compensate for all hours worked; (2) failure to pay minimum wages; (3) failure to pay overtime wages;
15 (4) failure to authorize and permit and/or make available meal and rest periods; (5) failure to provide
16 rest periods; (6) failure to timely reimburse for necessary business expenses; (7) failure to provide
17 timely and accurate itemized wage statements; (8) waiting time penalties; (9) unlawful business
18 practices; and (10) penalties pursuant to PAGA. (Consolidated Complaint, *generally*; Cottrell Decl., ¶
19 10).

20 **B. Procedural History**

21 On June 22, 2021, Plaintiff Gonzales notified the Labor and Workforce Development Agency
22 (“LWDA”) of his intention to file a complaint against Defendant on behalf of himself and all hourly
23 paid non-exempt employees of Defendant in California, pursuant to PAGA.⁵ (Cottrell Decl., ¶ 11).

24 On November 2, 2021, Plaintiff Gonzales filed his Class and PAGA complaint, *Thomas*

26 ⁴ Plaintiffs’ allegations regarding Defendant’s failure to timely reimburse for necessary business
27 expenses apply to both members of the Class and members of the Exempt Business Expenses
28 Settlement Subclass as defined in the Settlement. (Settlement, ¶¶ 1.5, 1.6.).

⁵ On January 4, 2023, Plaintiff Gonzales amended his LWDA notice to include Plaintiffs Sheldon,
Lyle, Carroll, and Sheldon. On February 17, 2023, these Plaintiffs further amended their LWDA notice
to include Neisha Wayne. Copies of all three letters are attached to the Cottrell Decl. as Exhibits 2, 3,
and 4, respectively.

1 *Gonzales v. U-Haul Co. of California*, Orange County Superior Court Case No. 30-2021-01229571-
2 CU-OE-CXC (the “Gonzales PAGA Action”). (Cottrell Decl., at ¶ 12).

3 On January 11, 2022, Defendant filed a motion to compel Plaintiff Gonzales’ individual claims
4 to arbitration, dismiss the Class claims, and stay the representative PAGA claims pending individual
5 arbitration, which was granted by the court on August 3, 2022. (Cottrell Decl. at ¶ 13).

6 On June 9, 2023, Plaintiff Donny Sheldon filed a Class and PAGA Action Complaint, *Donny*
7 *Sheldon v. U-Haul Co. of California*, Alameda County Superior Court Case No. 23CV035675 (the
8 “Sheldon Class Action”). (Cottrell Decl. at ¶ 14).

9 On July 27, 2023, Plaintiffs George Lyle, Pamela Carroll, Diane Parker, and Neisha Wayne
10 filed a PAGA and individual Complaint, *Sam Miles, et al. v. U-Haul Co. of California*, Alameda
11 County Superior Court Case No. 23CV039574 (the “Miles PAGA Action”).⁶ (Cottrell Decl. at ¶ 15).

12 On August 14, 2023, Defendant filed an Answer in the Sheldon Class Action. (Cottrell Decl.
13 at ¶ 16). On September 20, 2023, Defendant filed an Answer in the Miles PAGA Action. (*Id.*)

14 Shortly thereafter, the Parties agreed to exchange informal discovery and attend global
15 mediation. In advance of mediation Defendant provided Plaintiffs with, (1) time and payroll records
16 for all Class Members and Aggrieved Employees; (2) data points including the total number of Class
17 Members and Aggrieved Employees during the relevant time period, the total number of Class
18 Members and Aggrieved Employees who did not sign an arbitration agreement; the aggregate number
19 of workweeks for all Class Members during the entire relevant time period; the aggregate number of
20 pay period worked by all Aggrieved Employees during the entire relevant time period; the total number
21 of current and former Class Members and Aggrieved Employees during the entire relevant time period;
22 and for each year during the relevant time period: (i) the total number of shifts worked by all Class
23 Members; (ii) the total number of shifts worked by Class Members qualifying for daily overtime; (iii)
24 the total number of pay periods for all Aggrieved Employees; (iv) the average rate of hourly pay for
25 all Class Members; and (v) all personnel records, time records, payroll records and wage statements
26 relating to all Plaintiffs. (Cottrell Decl., at ¶ 17).

27
28 ⁶ Plaintiff Sam Miles only alleges individual claims in the Miles PAGA Action. Therefore, he is not a PAGA representative.

On August 14, 2024, the Parties participated in a private mediation session with mediator Jeffrey A. Ross, Esq. Each Party hired experts to analyze of Defendant’s data prior to mediation and presented their experts analysis. Following the first mediation, the Parties and their experts conferred to resolve discrepancies between their respective experts’ analysis. On October 3, 2024, the Parties participated in a second mediation session with the same mediator. On October 18, 2024, the Parties accepted the mediator’s proposal to settle this Action. On December 18, 2024, the Parties executed a Term Sheet setting forth the essential terms of the settlement. (Cottrell Decl. at ¶ 18.)

As part of the Settlement, on May 16, 2025, the Plaintiffs filed a consolidated complaint, consolidating the PAGA Action and the Class Action for purposes of settlement. (Settlement, ¶ 1.1.; Cottrell Decl. at ¶ 19.)

The parties negotiated the full terms of the Settlement and executed the Long Form Settlement on May 29, 2025. (*Id.* at ¶ 20).

III. SUMMARY OF THE SETTLEMENT

A. Terms of the Settlement

The Settlement provides that Defendant will pay a non-reversionary Gross Settlement Amount of \$7,750,000.00, plus all employer payroll taxes owed on the wage portions of the Individual Settlement Payments to settle all aspects of the case.⁷ (Settlement, ¶ 3.1). The Settlement covers approximately 8,313 Class Members and Aggrieved Employees who collectively worked a total of approximately 590,000 work weeks during the Class and PAGA Periods. (Cottrell Decl., ¶ 21; Settlement, ¶ 8).

The Net Settlement Amount of approximately \$4,857,496.17 available to the Class Members is the Gross Settlement Amount, less deductions for: Plaintiffs’ service awards (\$44,000.00); attorneys’ fees to Class Counsel (not to exceed 33%, or \$2,583,333.33); Class Counsel’s actual costs, currently estimated at approximately \$64,170.50; administrative expenses to the Settlement Administrator not to exceed \$51,000.00; the Labor & Workforce Development Agency (“LWDA”) PAGA Payment (\$112,500.00 or 75% of the \$150,000.00 PAGA Payment), and the Individual PAGA Payments (\$37,500.00 or 25% of the \$150,000.00 PAGA Payment). (Cottrell Decl., ¶ 27; Settlement, ¶ 1.29).

⁷ 20 percent of each Individual Class Payment will be allocated to settlement of wage claims.

1 **1. Proposed Class Definition and Number of Workweeks.**

2 The Settlement Class to be certified for settlement purposes includes all current and former
3 hourly, non-exempt employees who were employed by Defendant and worked in California during the
4 time period starting from June 22, 2020, through February 28, 2025.⁸ (Settlement, ¶ 1.5). Aggrieved
5 Employees are workers who were employed by Defendant and worked in California during the time
6 period starting from June 22, 2020, through February 28, 2025. (Settlement, ¶ 1.4).

7 Defendant represented that there are approximately 8,313 Class Members who worked
8 approximately 590,000 workweeks during the Class Period between June 22, 2020, and August 14,
9 2024. (Settlement, ¶ 8). In the event that the total number of Workweeks worked by the Participating
10 Class Members during the Class Period exceeds this number by more than 5%, then: (1) Defendant
11 may elect to increase the Gross Settlement Amount proportionally, or (2) Defendant may elect to end
12 the Class and PAGA Periods on the date on which the actual number of workweeks exceeds exceed
13 590,000 and/or the actual number of pay periods exceed 297,000 by more than 5%. (Settlement, ¶ 9).

14 **2. Proposed Class Notice.**

15 The parties have jointly selected Phoenix Class Action Administration Solutions (“Phoenix”)
16 as the Settlement Administrator. (Cottrell Decl., ¶ 24). During the Class Notice process, the Settlement
17 Administrator will send out the proposed Class Notice, which informs Class Members of: (1) the
18 estimated dollar amounts of any Individual Settlement Payment and/or Individual PAGA Payment
19 payable to the Class Member and (2) the number of Workweeks and Pay Periods used to calculate
20 these amounts. (Settlement, Ex. A). Each Class Member and Aggrieved Employee shall have the
21 opportunity to challenge the number of Workweeks allocated to the Class Member or Aggrieved
22 Employee in the Class Notice. (*Id.*). Class Members who wish to exclude themselves from the
23 Settlement must submit a written request for exclusion from the Settlement by the Response Deadline.
24 (*Id.*).

25 **3. Proposed Release.**

26 Upon the Administrator’s remittance of all Individual Class Payments, all Individual PAGA

27 _____
28 ⁸ The Settlement also settles the claims of the Exempt Business Expenses Subclass, which includes all
individuals employed by Defendant as exempt employees between June 22, 2020, and February 28,
2025. (Settlement, ¶ 1.6.)

1 Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees
2 Payment, the Class Counsel Litigation Expenses Payment, and Service Payments, Participating Class
3 Members will be deemed to have fully released claims against Defendant and each of its past, present,
4 and future subsidiaries, parent companies, predecessors, affiliates, divisions, agents, managers,
5 owners, members, officers, directors, partners, trustees, administrators, real or alleged alter egos,
6 attorneys, and assigns (“Released Parties”) as follows:

- 7 • **Release by Participating Class Members**: All Participating Class Members release
8 Released Parties from all claims that were alleged, or could have been alleged, based on
9 the facts stated in the Consolidated Complaint in the Action, including: (1) Failure to Pay
10 All Earned Wages (minimum/regular/overtime); (2) Failure to Authorize or Permit Rest
11 Periods (or compensation in lieu thereof); (3) Failure to Authorize and Permit Meal Periods
12 (or compensation in lieu thereof); (4) Failure to Timely Pay All Wages Upon Separation of
13 Employment; (5) Failure to Provide Accurate, Itemized Wage Statements; (6) Failure to
14 Maintain Records of Hours Worked/Wages Earned; (7) Unfair Business Practices; and (8)
15 Failure to Reimburse Business Expenses; and (9) Penalties Pursuant to the Private
16 Attorneys General Act of 2004. Participating Class Members do not release any other
17 claims, including claims for vested benefits, wrongful termination, violation of the Fair
18 Employment and Housing Act, unemployment insurance, disability, social security,
19 workers’ compensation, or claims based on facts occurring outside the Class Period.
20 (“Released Class Claims.”)
- 21 • **Release by Exempt Business Expenses Settlement Subclass Employees**: All members
22 of the Exempt Business Expenses Settlement Subclass are deemed to release the Released
23 Parties from all claims for failure to reimburse necessary business expenses that were
24 alleged, or could have been alleged, based on the facts stated in the Consolidated Complaint
25 in the Action.
- 26 • **PAGA Release**: Plaintiffs, on behalf of the LWDA, to the extent permitted by law, are
27 deemed to release the Released Parties from all claims for PAGA penalties that were
28 alleged, or could have been alleged, based on the facts stated in the Consolidated Complaint

1 in the Action, and/or the PAGA Notice, including, but not limited to: (1) Failure to Pay All
2 Earned Wages (minimum/regular/overtime); (2) Failure to Authorize or Permit Rest
3 Periods (or compensation in lieu thereof); (3) Failure to Authorize and Permit Meal Periods
4 (or compensation in lieu thereof); (4) Failure to Timely Pay All Wages Upon Separation of
5 Employment; (5) Failure to Provide Accurate, Itemized Wage Statements; (6) Failure to
6 Maintain Records of Hours Worked/Wages Earned; (7) Unfair Business Practices; and (8)
7 Failure to Reimburse Business Expenses; and (9) Penalties Pursuant to the Private
8 Attorneys General Act of 2004. (“Released PAGA Claims.”)
9 (Settlement, ¶¶ 5.1).

10 Regardless of whether any Class Members opt out of the Class Settlement, they will still be
11 bound by the PAGA Release if they are Aggrieved Employees. (Settlement, ¶ 7.5.4)

12 **4. Proposed Allocation to Participating Class Members.**

13 The Settlement funds will be distributed fairly based on each employee’s pro rata workweeks.
14 Each Workweek during which work was performed by a Participating Class Member who is part of
15 the Class will be equal to ten (10) settlement shares. Each workweek during which work was
16 performed by a Class Member who is only part of the Exempt Business Expenses Settlement Subclass
17 will be equal to one (1) share. The total number of settlement shares for all Participating Class
18 Members will be added together and the resulting sum will be divided into the Net Settlement Amount
19 to reach a per share dollar value figure. That figure will then be multiplied by each Participating Class
20 Member’s number of settlement shares to determine to Participating Class Member’s *pro rata* portion
21 of the Net Settlement Amount. (Settlement, ¶ 3.2.3.1.)

22 20% of each Participating Class Member’s Individual Class Payment will be allocated to
23 settlement of wage claims (the “Wage Portion”). The Wage Portions are subject to tax withholding and
24 will be reported on an IRS W-2 Form. 80% of each Participating Class Member’s Individual Class
25 Payment will be allocated to settlement of claims or interest and penalties (the “Non-Wage Portion”).
26 The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms.
27 For the Exempt Business Expenses Settlement Subclass members, the payment shall be allocated as
28 non-wages, reported on IRS 1099 Forms, and not subject to wage withholdings. Participating Class

Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment. (*Id.*)

Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis. (Settlement, ¶ 3.2.3.2.)

5. Proposed Service Awards.

The Agreement provides for payment to Plaintiffs in the amount of \$12,000.00 each for Class Plaintiff Donny Sheldon and Plaintiff Thomas Gonzales, and \$5,000.00 each for Plaintiffs George Lyle, Pamela Carroll, Diana Parker, and Neisha Wayne, based on the efforts they made and the risks they took in filing and prosecuting this action and obtain this \$7,750,000.00 Settlement. Plaintiffs took the significant risk of coming forward to represent the interests of their fellow employees. (Cottrell Decl., ¶ 26). They have subjected themselves to risk with regards to future employment opportunities and their reputation in the community by participating in this action. (*Id.*). Their service as the named Plaintiffs in a wage-and-hour class action lawsuit may be discerned by potential employers and members of the community, creating a very real risk of future repercussions, particularly with respect to future job opportunities. (*Id.*).

6. Proposed Attorneys' Fees and Costs.

Plaintiffs seek reasonable attorneys' fees and costs from the \$7,750,000.00 Gross Settlement Amount. (Settlement, ¶ 3.2.2). Under the terms of the Settlement, Class Counsel may seek a fee award of up to 33.3% of the Gross Settlement Amount, or \$2,583,333.33, which will compensate Class Counsel for all work performed and to be performed in this Action. In addition, Class Counsel shall, subject to Court approval, receive reimbursement of Class Counsel's reasonable litigation costs, currently estimated at approximately \$64,170.50. (Cottrell Decl., ¶ 27).

IV. PRELIMINARY CERTIFICATION OF THE CLASS IS APPROPRIATE

This Court should certify the proposed Class pursuant to Cal. Code Civ. Proc. § 382. California has a strong public policy in favor of broad enforcement of wage and hour laws for the benefit of workers and in favor of using the class action device. *Sav-on Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 340. A party seeking class certification has the burden to establish the existence

1 of both an ascertainable class and a well-defined community of interest among class members. The
2 community of interest requirement embodies three factors: (1) predominant common questions of law
3 or fact; (2) class representatives with claims or defenses typical of the class; and (3) class
4 representatives who can adequately represent the class. *Id.* at 326.

5 For purposes of Settlement, Class Members are all individuals employed by Defendant as
6 hourly non-exempt employees between June 22, 2020, and February 28, 2025 (the “Class”) and all
7 individuals employed by Defendant as exempt employees between June 22, 2020, and February 28,
8 2025 (the “Exempt Business Expense Subclass”) (Settlement, ¶¶ 1.5, 1.6.). The parties stipulate that
9 the requisites for class certification with respect to the Class Members are met. (Settlement, ¶ 13.2)
10 Applying the standards outlined herein, the Court should certify the proposed Class.

11 **A. Plaintiff Satisfies Ascertainability and Numerosity Requirements**

12 To be certified, a class must be numerous in size such that it is impracticable to bring them all
13 before the court. Cal. Code Civ. Proc. § 382. Plaintiffs satisfy the numerosity element as there are
14 8,313 Class Members who would likely not have pursued their individual rights absent a class
15 mechanism, making joinder impracticable. *Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 934;
16 *Collins v. Rocha* (1972) 7 Cal.3d 232, 238.

17 In determining whether a class is “ascertainable,” courts “examine the class definition, the size
18 of the class, and the means of identifying the class members.” *Reyes v. Bd. of Supervisors* (1987) 196
19 Cal.App.3d 1263, 1274–75. Plaintiffs have defined the Class according to objective criteria. (Cottrell
20 Decl., ¶ 29). The Class Members are easily identifiable, and Defendant will provide a Class list
21 identifying each Class Member. (*Id.*).

22 **B. Common Questions of Law and Fact Predominate in This Action**

23 “[T]he focus in a certification dispute is on what type of questions – common or individual –
24 are likely to arise in the action[.]” *Sav-on*, 34 Cal.4th at 427. The California Supreme Court has
25 expressly held that predominance does not require that all questions of law and fact be uniform for all
26 members of the class. *Id.* at 338. Key here, “[t]he theory of liability” that a defendant employer “has
27 a uniform policy, and that that policy, measured against wage order requirements, allegedly violates
28 the law ...[,] “is by its nature a common question eminently suited for class treatment.” *Alberts v.*

1 *Aurora Behavioral Health Care* (2015) 241 Cal.App.4th 388, 409 (quoting *Brinker Rest. Corp. v.*
2 *Super. Ct.* (2012) 53 Cal.4th 1004 at 1033).

3 Common questions of law and fact predominate this action. Plaintiffs allege that Defendant's
4 pay and time records show that Defendant applied uniform Class-wide policies and practices that
5 resulted in unlawfully depriving Plaintiff and the Class Members of code-compliant meal breaks.
6 (Cottrell Decl., ¶ 48). Namely, Plaintiffs allege that the time and pay records show that rather than rely
7 on Class Members' accurate time punches for the purpose of compensating them Defendant relies on
8 modified time punches that reduce or eliminate facial meal break violations. Plaintiffs allege that
9 Defendant instructed supervisors to perform daily reviews of Class Members' time punches and to
10 modify those punches as necessary to show compliant meal breaks.

11 Plaintiffs also allege that Defendant fails to staff its facilities to the point that Class Members
12 are forced to continue working during off-duty meal and rest breaks and while off-the-clock after the
13 end of their shift.

14 Moreover, Plaintiffs allege that Class Members (i) regularly communicate with their
15 supervisors and customers during clocked out meal breaks, after hours, and on days off; (ii) perform
16 bank runs and cash deposits for Defendant post-shift for which they are not compensated or are
17 undercompensated; and (iii) often complete their duties and perform additional housekeeping tasks at
18 the direction of their supervisors after clocking out for the end of their shift. Plaintiffs allege that this
19 time spent working goes unrecorded and uncompensated for all Class Members. Plaintiffs allege that
20 the result is Class-wide injury, including unpaid wages, work during meal and rest breaks without
21 payment of premiums, and out-of-pocket expenses for Class Members. (Consolidated Complaint, ¶
22 50; Cottrell Decl., ¶ 33).

23 Where, as in this case, uniform policies and procedures apply on a class-wide basis, "the legal
24 question to be resolved is not an individual one. To the contrary, the common legal question remains
25 the overall impact of [Defendant's] policies on its [employees]." *Jaimez v. Daiohs USA, Inc.* (2010)
26 181 Cal.App.4th 1286, 1299.

27 **C. The Typicality Requirement is Satisfied**

28 Plaintiffs also must establish that their claims are typical to those of the putative Class they

1 seek to represent. *Chern v. Bank of America* (1976) 15 Cal.3d 866, 874. A representative plaintiff's
2 claims are "typical" if they arise from the same event, practice, or course of conduct that gives rise to
3 the claims of the other class members and if their claims are based on the same legal theory. *Classen*
4 *v. Weller* (1983) 145 Cal.App.3d 27, 46–47. The typicality requirement is not onerous and does not
5 require the claims to be identical. *Id.*

6 Here, Plaintiffs contend that they, like other Class Members, were subject to the policies and
7 practices that form the basis of the claims asserted in this case. (Consolidated Complaint., ¶ 35; Cottrell
8 Decl., ¶ 55). Plaintiffs claim they were denied legally compliant second meal breaks, overtime wages,
9 and minimum wages. (*Id.*). Plaintiffs also claim that the Class Members were subjected to the same
10 illegal policies and practices to which Plaintiffs were subjected and that the Class claims are based on
11 the same legal theory as Plaintiffs' individual claims. (*Id.*). Plaintiffs further claim that Defendant
12 required them to use their personal cell phones in the performance of their duties for the benefit of
13 Defendant. (*Id.*). Accordingly, Plaintiffs are members of the Class they seek to represent, and their
14 claims are "typical" of those asserted by other Class Members. *See Classen, supra*, at 46-7.

15 **D. The Adequacy Requirement is Satisfied**

16 A plaintiff is an adequate class representative if his or her claims are not inconsistent with or
17 antagonistic to the claims of the class members. *See Johnson v. GlaxoSmithKline, Inc.* (2008) 166
18 Cal.App.4th 1497, 1509. In the instant case, there is no conflict between Class Plaintiff Sheldon and
19 the proposed Class. (Cottrell Decl., ¶ 36; Declaration of Donny Sheldon in Support of Motion for
20 Preliminary Approval of Class Action and PAGA Settlement ("Sheldon Decl."), ¶ 4). Plaintiff's claims
21 are in line with those of the Class, and Plaintiff has prosecuted this case with the interests of the Class
22 in mind. (Cottrell Decl., ¶ 56; Sheldon Decl., ¶ 6). Plaintiff has met with Counsel, conducted interviews
23 regarding his work experiences, and participated in class-wide settlement decisions. (Cottrell Decl., ¶
24 37; Sheldon Decl., ¶¶ 6). Furthermore, Plaintiff has selected counsel with extensive experience in class
25 action and employment litigation, including wage and hour class actions, and who do not have any
26 conflict with the Class. (Cottrell Decl., ¶ 37; Sheldon Decl., ¶ 7). For the foregoing reasons, Plaintiff
27 is an adequate class representative, and Counsel are appropriate Class Counsel.

1 **V. THE SETTLEMENT WARRANTS PRELIMINARY APPROVAL**

2 California law strongly favors settlements, particularly in the class action context. *In re*
3 *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118 (noting that public policy favors
4 “the compromise of complex class action litigation”); *Ferguson v. Lieff, Cabraser, Heimann &*
5 *Bernstein* (2003) 30 Cal.4th 1037, 1054. Before a class action can settle, however, a court must
6 approve the terms of the proposed settlement. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794,
7 1800; Cal. Code Civ. Proc. § 1781(f); Cal. R. Ct., Rule 3.769(a).

8 In addition, the Labor Code provides that “[t]he superior court shall review and approve any
9 settlement of any civil action pursuant to [PAGA].” Cal. Lab. Code § 2699(l)(2). In seeking approval
10 of a PAGA settlement, parties are not obligated to “satisfy class action requirements” such as
11 commonality and typicality or abide by class action procedures such as notice and opt-out rights. *Arias*
12 *v. Superior Court* (2009) 46 Cal.4th 969 at 975; *O’Connor v. Uber Techs., Inc.* (N.D. Cal. 2016) 201
13 F.Supp.3d 1110, 1133. Instead, the Court’s role in reviewing the settlement of a PAGA claim is to
14 “determine whether it is fair, reasonable, and adequate in view of PAGA’s purposes to remediate
15 present labor law violations, deter future ones, and to maximize enforcement of state labor laws.”
16 *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77.

17 With this motion, the parties request that the Court take the first step and grant preliminary
18 approval. The Settlement proposed herein is based on arm’s length negotiations that were guided by
19 Class Counsel’s investigation and the evaluation of informal discovery. (Cottrell Decl., ¶¶ 38-41). The
20 negotiations included extensive negotiations between Class Counsel and counsel for Defendant and
21 two mediations with an experienced and respected mediator. (*Id.*). The proposed Settlement provides
22 substantial monetary recovery for the Settlement Class, and it satisfies all the required due process
23 protections. (*Id.* at ¶ 38). Thus, the proposed Settlement is fair, reasonable, and adequate, and Plaintiff
24 therefore requests that the Court grant preliminary approval.

25 Settlement of a class action requires court approval. *Dunk*, 48 Cal.App.4th at 1800; Cal. Code
26 Civ. Proc. § 1781(f). The decision to approve or reject a proposed settlement is within the Court’s
27 discretion. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234–35 (“In general,
28 questions whether a settlement was fair and reasonable, whether certification of the class was proper,

1 and whether the attorney fee award was proper are matters addressed to the trial court's broad
2 discretion."").

3 The Court's review and approval of a proposed class-action settlement involves a three-step
4 process: (1) preliminary approval of the proposed settlement after submission of a written motion for
5 preliminary approval, the proposed class action settlement, and the proposed class notice; (2) mailing
6 of notice of the settlement to all affected members of the settlement class; and (3) a final settlement
7 approval hearing at which members of the settlement class may be heard regarding the settlement, and
8 at which evidence and argument concerning the fairness, adequacy, and reasonableness of the
9 settlement is presented.⁹ Cal. R. Ct., Rule 3.769.

10 Preliminary approval does not require a court to make a final determination that the settlement
11 is fair, reasonable, and adequate. Instead, that decision is made at the final approval stage, after the
12 class members have been notified of the Settlement and they have had an opportunity to object to or
13 exclude themselves from the settlement. *See* Cal. R. Ct., Rule 3.769(g). At the preliminary approval
14 stage, the Court determines if the settlement falls within a "reasonable range." *North County*
15 *Contractor's Ass'n, Inc. v. Touchstone Ins. Serv.* (1994) 27 Cal.App.4th 1085, 1089– 90; Newberg on
16 Class Actions, § 11.26 (4th Ed. 2002). In reviewing the fairness of a class-action settlement, the inquiry
17 "must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the
18 product of fraud or overreaching by, or collusion between, the negotiating parties, and that the
19 settlement, taken as a whole, is fair, reasonable, and adequate to all concerned." *In re Cellphone*
20 *Termination Fee Cases*, 186 Cal.App.4th at 1389.

21 **A. The Settlement is Entitled to a Presumption of Fairness**

22 A presumption of fairness exists where: (1) the settlement is reached through arm's length
23 bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act
24 intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is
25 small. *Dunk*, 48 Cal.App.4th at 1802. The first three of these conditions are satisfied here, and
26 Plaintiffs expect that the fourth condition will also be satisfied.

27 ⁹ This procedure is similar to the procedure and criteria for approval of class actions under federal law
28 and is also endorsed by the nation's leading class action commentator, Professor Herbert Newberg.
See Newberg on Class Actions, § 11:24 (4th Ed. 2002); Manual for Complex Litigation, § 21:63 (4th
Ed. 2006).

1 **1. The Settlement Results from Arm’s Length Negotiations.**

2 The Settlement was reached through arm’s length negotiations. Indeed, the parties engaged in
3 extensive arm’s length settlement negotiations, including two full-day mediation sessions with
4 respected mediator Jeffery Ross after extensive informal discovery and investigation. Between the two
5 mediation sessions, the Parties and their experts conferred in order to resolve discrepancies between
6 their respective experts’ analysis. (Cottrell Decl., ¶ 18). Accordingly, this factor favors a presumption
7 of fairness.

8 **2. Class Counsel Conducted Sufficient Investigation of the Claims.**

9 Class Counsel’s investigation included the review and analysis of data and information
10 provided by Defendant for purpose of mediation, including an expert analysis of Defendant’s pay
11 records and timekeeping data. Plaintiffs were informed of the total number of Class Members and
12 Aggrieved Employees during the relevant time period, the total number of Class Members and
13 Aggrieved Employees who did not sign an arbitration agreement; the aggregate number of workweeks
14 for all Class Members during the entire relevant time period; the aggregate number of pay period
15 worked by all Aggrieved Employees during the entire relevant time period; and the total number of
16 current and former Class Members and Aggrieved Employees during the entire relevant time period.
17 In addition, for each year during the relevant time period Defendant provided: (i) the total number of
18 shifts worked by all Class Members; (ii) the total number of shifts worked by Class Members
19 qualifying for daily overtime; (iii) the total number of pay periods for all Aggrieved Employees; and
20 (iv) the average rate of hourly pay for all Class Members. (Cottrell Decl., ¶ 39).

21 Class Counsel also reviewed and analyzed all personnel records, time records, payroll records
22 and wage statements relating to each Plaintiff. (Cottrell Decl., ¶ 40).

23 **3. The Settlement is Presumptively Fair Because Class Counsel are Experienced**
24 **in Similar Litigation.**

25 Class Counsel are experienced and respected class action litigators. (Cottrell Decl., ¶ 41). Class
26 Counsel have litigated hundreds of similar class actions. Based on Class Counsel’s knowledge and
27 expertise in this area of law, Class Counsel believes the Settlement will provide an excellent benefit
28 to the Class Members and Aggrieved Employees. (*Id.*).

1 **4. Class Counsel Do Not Believe There Will be Many Objectors.**

2 While it is premature to analyze the percentage of objectors, Class Counsel believes that there
3 will be few if any objections to the Settlement. This factor will be addressed at final approval.

4 **B. The Settlement is Reasonable Considering the Risk and Cost of Continued**
5 **Litigation**

6 The amount of the Settlement is particularly reasonable in light of the risks, costs, and likely
7 duration of further litigation, including the risk of not obtaining class certification and not surviving
8 decertification. Absent this Settlement, it is estimated Plaintiff's Counsel's fees and costs would far
9 exceed \$2,000,000 to pursue these claims on behalf of Class Members. (Cottrell Decl., ¶ 42). Litigating
10 the Class claims in this action would require substantial additional preparation and discovery and
11 ultimately would involve the depositions of managerial employees and experts, the presentation of
12 witnesses at trial, as well as the consideration, preparation, and presentation of voluminous
13 documentary evidence and the preparation and analysis of expert reports. (*Id.*). In contrast to the risk
14 and uncertainty of continued litigation, the Settlement will yield a prompt, certain, and substantial
15 recovery for the employees. (*Id.*). Such a result will benefit the parties and the court system. (*Id.*).

16 Plaintiffs would face other significant risks if the litigation were to proceed to trial. (Cottrell
17 Decl., ¶ 34). For example, Defendant represented at mediation that out of approximately 8,313 Class
18 Members, only approximately 239 Class Members did not sign enforceable arbitration and class
19 waiver agreements. (*Id.*). Accordingly, continued litigation could have resulted in approximately 8.074
20 Class Members being excluded from the Class and required to prosecute their claims on an individual
21 basis in arbitration without any guarantee of recovery.

22 Moreover, Plaintiff's off-the-clock claims (*e.g.*, that Defendant requires Class Members to
23 continue assisting customers and communicate with supervisors via phone calls and text messages
24 when they are not clocked in for work, or that Defendant requires Class Members to move and park
25 vehicles and trailers in outside parking lots, and commute to the bank to make deposits on its behalf
26 after they clocked out for the end of their shifts) present substantial risks. Indeed, putative class actions
27 for off-the-clock claims, like the ones at issue here, have traditionally been difficult to certify. (*Id.* at
28 ¶ 44). For example, documentary evidence is not typically available for these off-the-clock claims, as

1 such work is not formally logged or tracked. (*Id.*). As a result, Plaintiffs’ off-the-clock claims would
2 have relied on testimony from Class Members that could have been disputed by competing testimony.
3 (*Id.*). In addition, off-the-clock claims can be difficult to certify for class treatment, given that the
4 nature, cause, and amount of the off-the-clock work may vary based on the individualized
5 circumstances of the worker, especially when, like here, Class Members work widely different
6 positions spread across hundreds of stores throughout California where management could
7 substantially differ.

8 Even assuming that certification is granted, Plaintiffs would then have to establish Class-wide
9 liability and prove up various issues regarding damages and penalties. (Cottrell Decl., ¶ 45). Liability
10 and damages issues would also be vigorously disputed by Defendant. (*Id.*). Obtaining class
11 certification, establishing liability, and proving damages would likely take years, and would
12 necessitate expert witness testimony and significant additional litigation. (*Id.*).

13 Additionally, Plaintiffs’ derivative claims regarding waiting time penalties and wage
14 statements rise and fall with Plaintiffs’ other wage payment claims. (Cottrell Decl., ¶ 46). For example,
15 Plaintiffs would recover nothing under § 203 if they were unable to prove the underlying claims or
16 defeat a “good faith” dispute defense. (*Id.*); *see* Cal. Code Regs. Tit. 8, § 13520 (good faith dispute,
17 based in law or fact, precludes award of waiting time penalties).

18 PAGA penalties present their own risks. (Cottrell Decl., ¶ 47). They derive from other
19 violations and include “stacking” of violations, and the law may only allow application of the initial
20 violation penalty amount. (*Id.*). In addition, the total amount may be reduced in the discretion of the
21 Court. *See* Cal. Lab. Code § 2699(e)(2) (permitting courts to reduce PAGA penalties “if, based on the
22 facts and circumstances of the particular case, to do otherwise would result in an award that is unjust,
23 arbitrary and oppressive, or confiscatory”). Moreover, recent decisions may make it difficult for PAGA
24 plaintiffs to recover statutory penalties, as opposed to actual missed wages. *See, e.g., Naranjo v.*
25 *Spectrum Sec. Servs., Inc.* (2023) 88 Cal.App.5th 937; but *see Gola v. Univ. of San Francisco* (2023)
26 90 Cal.App.5th 548, 566–67.

27 While Plaintiffs believe that they would have prevailed on these issues and others, they
28 recognize the risk that a fact finder may have found for Defendant on one or more of these issues and

1 or found damages to be significantly less than what Plaintiffs claim. (Cottrell Decl., ¶ 48). Defendant—
2 represented by experienced employment lawyers—raised the above arguments, and more, in
3 mediation and would have done so in continued litigation. (*Id.*). Despite Plaintiffs’ confidence in their
4 ability to prove their claims on a Class-wide basis, any one of the above defenses, if decided in favor
5 of Defendant, could have reduced or even eliminated any potential damages award. (*Id.*).

6 In contrast to the risk and uncertainty of continued litigation, the Settlement will yield a
7 prompt, certain, and substantial recovery for the employees. Such a result will benefit the parties and
8 the court system.

9 **1. The Settlement Amount is Fair and Reasonable**

10 “The most important factor is the strength of the case for plaintiffs on the merits, balanced
11 against the amount offered in settlement.” *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th
12 116 at 130. A preliminary review of the Settlement reveals the fairness of its terms. The \$7,750,000.00
13 settlement is reasonable and fair because it recovers a substantial portion of the potential recovery
14 sought. *See, e.g., In re Mego Fin. Corp. Sec. Litig.* (9th Cir. 2000) 213 F.3d 454, 459 (“It is well-settled
15 law that a cash settlement amounting to only a fraction of the potential recovery does not per se render
16 the settlement inadequate or unfair.”); *Bellinghausen v. Tractor Supply Co.* (N.D. Cal. 2015) 306
17 F.R.D. 245, 256 (“Settlement avoids the complexity, delay, risk and expense of continuing with the
18 litigation and will produce a prompt, certain, and substantial recovery for the Plaintiff class;”
19 approving settlement that provided 9% recovery based on estimated liability exposure); *Balderas v.*
20 *Massage Envy Franchising* (N.D. Cal. 2014) 2014 WL 3610945 (settlement approved of only 5% of
21 projected maximum recovery); *Villegas v. J.P. Morgan Chase* (N.D. Cal. 2012) 2012 WL 5878390
22 (approved settlement that was 15% of potential recovery).

23 Here, the estimated Net Settlement Amount of \$4,857,496.17 derived from the Gross
24 Settlement Amount of \$7,750,000.00 will result in fair and just relief to the Class Members and
25 Aggrieved Employees. (Cottrell Decl., ¶ 49). This amount provides an estimated average net recovery
26 of \$584.33 per Class Member, assuming 100% participation in the Settlement. (*Id.*). This is a strong
27 recovery for a wage-and-hour class action. The Settlement satisfies the criteria for preliminary
28 settlement approval under California law and falls well within the range of reasonableness.

1 The result is reasonable, particularly when considering the nature of Plaintiffs' claims and the
2 difficulty and risks presented by continuing this litigation. The \$7,750,000.00 settlement represents
3 approximately 38.6% of the total assessed value of \$20,048,964.70 for unliquidated, core claims for
4 unpaid wages, meal and rest breaks, and expense reimbursements. When adding derivative claims,
5 interest, and potential PAGA penalties, the \$7,750,000.00 settlement allocation represents
6 approximately 10.5% of Defendant's total potential exposure of \$73,953,912.90 (Cottrell Decl., ¶ 50).

7 For purposes of estimating these damages, Plaintiffs' Counsel prepared an exposure analysis
8 with the following data point based on their investigation:

- 9 a. Number of Workweeks for Class Period: 590,000
- 10 b. Number of Pay Periods in PAGA Period: 266,014
- 11 c. Number of Class Members: approximately 8,313
- 12 d. Number of Aggrieved Employees: approximately 8,313
- 13 e. Meal break violation rate: 25.5%
- 14 f. Rest break violation rate: 30%
- 15 g. Average hourly rate of pay: \$18.81
- 16 h. Average daily pay rate: \$112.59
- 17 i. Number of separated employees: 6,680

18 (Cottrell Decl., ¶ 51).

19 Additionally, Plaintiffs' Counsel made the following assumptions based on their investigation
20 and analysis:

- 21 a. that Plaintiff will prevail on all causes of action;
- 22 b. that Plaintiff can prove approximately five (5) minutes of off-the-clock work
23 per shift;
- 24 c. that Plaintiff can prove approximately 25.5% meal and rest break violations
25 (less the 257,000 meal break and rest break premiums allegedly paid during the
26 Class period);
- 27 d. that Plaintiff can prove approximately \$10.00 worth of unreimbursed business
28 expense per pay period per Class Member for usage of their personal cell phone.

- e. that each Class Member is entitled to receive the maximum penalty of \$4,000 under Cal. Lab. Code § 226;
- f. that each formerly employed Class Member is owed the maximum penalty for failure to pay wages at the time of discharge in violation of Cal. Lab. Code § 203; and
- g. that a civil penalty of \$100 will be imposed for every pay period that an Aggrieved Employee worked in the PAGA Period.

(Cottrell Decl., ¶ 52).

Based on these assumptions and the data points, the maximum potential exposure for each claim was estimated as follows:

a.	Unpaid Regular Wages (Lab. Code § 1194):	\$ 1,614,453.47
b.	Unpaid Overtime Premium (Lab. Code §§ 1194, 510):	\$ 1,420,003.96
c.	Meal Period Violations (Lab. Code § 512(a)):	\$ 5,897,706.21
d.	Rest Period Violations (Lab. Code § 512(a)):	\$ 8,456,661.03
e.	Business Expenses (Lab. Code § 2802):	\$ 2,660,140.00
f.	Inaccurate Wage Statement Penalties (Lab. Code § 226):	\$ 26,661,171.90
g.	Waiting Time Penalties (Lab. Code § 203):	\$ 642,776.31
h.	PAGA Penalties (Lab. Code § 2699):	\$ 26,601,000.00

(Cottrell Decl., ¶ 53)

Therefore, the estimated exposure for the substantive violations (*i.e.*, unpaid time worked off-the-clock, overtime, meal and rest break, and business expenses violations) is estimated at **\$20,048,964.70**. (Cottrell Decl., ¶ 54). The total maximum potential exposure for the Class Claims including substantive violations plus the derivative violations of Cal. Lab. Code §§ 203 and 226 is estimated at **\$47,352,912.90**. (*Id.*). The maximum potential exposure for PAGA penalties is estimated at **\$26,601,000.00**. (*Id.*). The total potential exposure for all claims is **\$73,953,912.90**.

The recovery of 10.5% of the total exposure, or 38.6 % of the maximum exposure for substantive violations, falls within the range of reasonableness. *See, e.g., Kullar*, 168 Cal.App.4th at 133 (citing *Tech-Bilt, Inc. v. Woodward-Clyde & Assoc.* (1985) 38 Cal.3d 488, 499-500) (“the court

1 must at least satisfy itself that the class settlement is within the “ballpark” of reasonableness”). “It is
2 well-settled law that a cash settlement amounting to only a fraction of the potential recovery does not
3 per se render the settlement inadequate or unfair.” *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d at 459
4 (internal quotations and citations omitted). Indeed, courts routinely approve settlements that provide
5 a fraction of the maximum potential recovery.¹⁰

6 It is equally well-settled that a proposed settlement is not to be measured against a hypothetical
7 ideal result that might have been achieved. *See, e.g., 7-Eleven Owners for Fair Franchising v.*
8 *Southland Corp* (2000) 85 Cal.App.4th 1135 at 1150. (“[I]t is the very uncertainty of outcome in
9 litigation and avoidance of wasteful and expensive litigation that induce consensual settlements. The
10 proposed settlement is not to be judged against a hypothetical or speculative measure of what might
11 have been achieved by the negotiators”). (*Id.*) (quoting *Linney v. Cellular Alaska P’ship* (9th Cir. 1998)
12 151 F.3d 1234 at 1242). The excellent result here easily satisfies these standards.

13 The PAGA Payment of \$150,000.00 represents 2% of the Gross Settlement Amount, which is
14 well within the settlements previously approved by courts in California.¹¹ In light of the challenges
15 that Plaintiffs would likely face in protracted litigation on both liability and damages, the
16 \$7,750,000.00 is reasonable and fair. *See, e.g., In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d at 459 (“It
17 is well-settled law that a cash settlement amounting to only a fraction of the potential recovery does
18 not per se render the settlement inadequate or unfair.”); *Bellinghausen*, 306 F.R.D. at 256 (“Settlement
19

20 ¹⁰ *See, e.g., Officers for Justice v. Civil Serv. Comm.* (9th Cir. 1982) 688 F.2d 615, 628; *Viceral v.*
21 *Mistras Grp., Inc.* (N.D. Cal. Oct. 11, 2016) No. 15-cv-02198-EMC, 2016 U.S. Dist. LEXIS 140759,
22 at *7 (approving wage-and-hour settlement representing 8.1% of the total verdict value); *see also*
23 *Stovall-Gusman v. W.W. Granger, Inc.* (N.D. Cal. June 17, 2015) No. 13-cv-02540-HSG, 2015 U.S.
24 Dist. LEXIS 78671, at *12 (approving and finding within the range of reasonableness settlement
representing 10% or less of the maximum recovery); *Balderas*, 2014 U.S. Dist. LEXIS 99966, at *16
(same); *Ma v. Covidien Holding, Inc.* (C.D. Cal. Jan. 31, 2014) No. SACV 12-02161-DOC (RNBx),
2014 U.S. Dist. LEXIS 13296, at *12 (same); *Escalante v. Urth Payroll Servs.* (Super. Ct. L.A. Cnty.
May 5, 2023) No. 20STCV25106 2023 Cal. Super. LEXIS 30449, at *7 (same).

25 ¹¹ *See Ramirez v. Benito Valley Farms, LLC* (N.D. Cal. Aug. 27, 2017) 2017 U.S. Dist. LEXIS 137272
26 at *14 (approving a PAGA settlement that represented only 4.5% of the total estimated possible
penalties under PAGA due to early stage of litigation, Defendant’s weak financial condition, and
27 stipulated injunctive relief); *Hartley v. On My Own, Inc.* (E.D. Cal. Aug. 25, 2020) 2020 WL 5017608
28 at *4 (approving settlement at 3.47% of verdict value of PAGA penalty, resulting in average payment
per employee of \$61); *Haralson v U.S. Aviation Servs. Corp.* (N.D. Cal. 2019) 383 F.Supp.3d 959 at
972–74 (citing cases reflecting approval of settlements at 0.2% to 1.1% of verdict value of PAGA
penalty); *Gilmore v. McMillan-Hendryx Inc.* (E.D. Cal. Jan. 20, 2022) 2022 U.S. Dist. LEXIS 11032
at *9 (recognizing the inherent risks and costs in any litigation matter and approving a PAGA
settlement that amounted to approximately 4.2% of the total exposure calculated by plaintiff).

1 avoids the complexity, delay, risk and expense of continuing with the litigation and will produce a
2 prompt, certain, and substantial recovery for the Plaintiff class;” approving settlement that provided
3 9% recovery based on estimated liability exposure).

4 **2. The Proposed Service Awards Are Reasonable**

5 It is well-established that representative plaintiffs are eligible for reasonable incentive
6 payments to compensate them for the expense or risk they have incurred in conferring a benefit on
7 other members of the class. *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186
8 Cal.App.4th 399, 412. Incentive awards “are intended to compensate class representatives for work
9 done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the
10 action, and, sometimes, to recognize their willingness to act as a private attorney general.” *In re*
11 *Cellphone Termination Fee Cases*, 186 Cal.App.4th at 1393–94.

12 Service awards in the amount of \$12,000.00 each for Class Plaintiff Donny Sheldon and PAGA
13 Plaintiff Thomas Gonzales and \$5,000.00 each for PAGA Plaintiffs George Lyle, Pamela Carroll,
14 Diana Parker, and Neisha Wayne are reasonable in light of the efforts they made and risks they took
15 in filing and prosecuting this action and obtain this \$7,750,000.00 Settlement. (Cottrell Decl., ¶ 56).
16 Throughout this litigation, Plaintiffs worked with Class Counsel and assisted in the development of
17 the case. (Cottrell Decl., ¶ 57; Sheldon Decl., ¶¶ 6-8; Declaration of Thomas Gozalez in Support of
18 Motion for Preliminary Approval of Class Action and PAGA Settlement (“Gonzales Decl.”), ¶¶ 6-8;
19 Declaration of George Lyle in Support of Motion for Preliminary Approval of Class Action and PAGA
20 Settlement (“Lyle Decl.”), ¶¶ 6-8; Declaration of Pamela Carroll in Support of Motion for Preliminary
21 Approval of Class Action and PAGA Settlement (“Carroll Decl.”), ¶¶ 6-8; Declaration of Diane Parker
22 in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement (“Parker Decl.”)
23 ¶¶ 6-8; Declaration of Neisha Wayne in Support of Motion for Preliminary Approval of Class Action
24 and PAGA Settlement (“Wayne Decl.”), ¶¶ 6-8). They provided extensive information and documents
25 during Class Counsel’s initial investigation and the preparation of the Complaints. (Cottrell Decl., ¶
26 57; Sheldon Decl., ¶ 8; Gonzales Decl., ¶ 8; Lyle Decl., ¶ 8; Carroll Decl., ¶ 8; Parker Decl., ¶ 8;
27 Wayne Decl., ¶ 8). They also provided responses to Class Counsel’s questions as the case progressed
28 and provided valuable insight into Defendant’s operations. (Cottrell Decl., ¶ 57; Sheldon Decl., ¶ 8;

1 Gonzales Decl., ¶ 8; Lyle Decl., ¶ 8; Carroll Decl., ¶ 8; Parker Decl., ¶ 8; Wayne Decl., ¶8). Plaintiffs
2 have taken part in the Settlement decision and remained apprised of the case during approximately
3 four years of litigation. (Cottrell Decl., ¶ 57; Sheldon Decl., ¶ 8; Gonzales Decl., ¶ 8; Lyle Decl., ¶ 8;
4 Carroll Decl., ¶ 8; Parker Decl., ¶ 8; Wayne Decl., ¶ 8).

5 In addition, larger service awards for Plaintiffs Gonzales and Sheldon are warranted because
6 both further contributed to the case in their roles as Representatives. (Cottrell Decl., ¶ 58; *see*,
7 *generally*, Sheldon Decl. and Gonzales Decl.). Plaintiff Gonzales initiated this action on November 2,
8 2021, approximately two years before the other Named PAGA Plaintiffs initiated the *Miles* Action on
9 July 27, 2023. (Gonzales Decl., ¶ 1). Thus, Plaintiff Gonzales represented the Aggrieved Employees
10 for significantly longer than the other named plaintiffs. (*Id.*). Plaintiff Sheldon is the only Named
11 Plaintiff who did not sign an arbitration agreement and therefore his participation made recovery for
12 Class Members possible.

13 As a result of Plaintiffs' efforts and willingness to step forward, the employees will receive
14 significant recoveries if the Settlement is approved. (Cottrell Decl., ¶ 59). On the other hand, if
15 Plaintiffs did not serve as Class Representatives or assist in the prosecution of this case, the claims of
16 the employees would never have been asserted. (*Id.*). Defendant's alleged conduct would have gone
17 unchecked. (*Id.*). Plaintiffs have committed their time to this case and assumed significant risk to
18 obtain the favorable result. (*Id.*).

19 3. The Proposed Attorneys' Fees and Costs are Appropriate and Should be 20 Preliminary Approved

21 Plaintiffs seek reasonable attorneys' fees and expenses as a percentage of the \$7,750,000.00
22 Gross Settlement Amount. (Settlement, ¶ 3.2.2). Under the terms of the Settlement, Class Counsel may
23 seek an award of up to 33.3% of the Gross Settlement Amount, or \$2,583,333.33, plus reimbursement
24 of reasonable costs. (Settlement, ¶ 3.2.2).

25 The California Supreme Court upheld the use of the common fund theory of recovery for
26 attorneys' fees in *Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal.5th 480, 506. In *Laffitte*, the Court
27 approved attorneys' fees in the amount of one third of the gross settlement (*e.g.*, an award of \$6.33
28 million) under the common fund theory. *Id.* By awarding counsel a percentage of the total recovery,

1 rather than fees based on hours worked, the common fund method encourages attorneys to efficiently
2 litigate to achieve the best results possible for the class. *Id.* at 492-94. Indeed, the “percentage-of-
3 recovery method is generally favored in common fund cases because it allows courts to award fees
4 from the fund ‘in a manner that rewards counsel for success and penalizes it for failure.’” *Id.* at 493
5 (quoting *In re Rite Aid Corp. Sec. Litig.* (3d Cir. 2005) 396 F.3d 294, 300).

6 In this case, given the excellent results achieved and the effort expended litigating the Action,
7 33.3% is warranted. (Cottrell Decl., ¶ 64). There was no guarantee of compensation or reimbursement.
8 (*Id.* at ¶ 67). Rather, counsel have undertaken all the risks of this litigation on a completely contingent
9 fee basis. (*Id.*). The inherent risk of proving liability and damages on a Class-wide basis and
10 Defendant’s representation by skillful counsel confront Class Counsel with the prospect of recovering
11 nothing or close to nothing for their commitment to and investment in the case. (*Id.*). Nevertheless,
12 Plaintiffs and Class Counsel have committed themselves to developing and pressing Plaintiffs’ legal
13 claims to enforce the employees’ rights and maximize the Class recovery. (*Id.*). As Participating Class
14 Members and Aggrieved Employees will receive a significant payment if the Settlement is approved,
15 Class Counsel seeks a reasonable fee award for their efforts and the risk they have assumed.

16 Counsel’s fee request of 33.3% of the Gross Settlement Amount is well within the range
17 customarily approved by California Superior Courts in comparable class actions,¹² Including
18 numerous wage-and-hour class actions.¹³ In addition, federal courts confirm that attorneys’ fees in this
19

20 ¹² See, e.g., *Asalati v. Intel Corp.* (Santa Clara Super. Ct., Oct. 29, 2018) No. 16cv302615 (approving
21 33.3% fee award, at a multiplier of 3.98); *Ochoa v. Haralambos Beverage Co.* (Los Angeles Super.
22 Ct., Feb. 1, 2007) No. BC319588 (33.3%); *Big Lots Overtime Cases* (San Bernardino Super. Ct., Feb.
23 4, 2004) JCC Proceeding No. 4283 (same); *Davis v. The Money Store, Inc.* (Sacramento Super. Ct.,
24 Dec. 26, 2000) No. 99AS01716 (same); *Miskell v. Auto. Club of Southern Cal.* (Orange Super. Ct.,
25 May 27, 2003) No. 01CC09035 (same); *Jones v. Alliance Imaging, Inc.* (Alameda Super. Ct., Nov. 27,
26 2006) No. RG05210418 (same); *Garcia v. Save Mart Supermarkets* (Stanislaus Super. Ct., Aug. 3,
27 2004) No. 312026 (same); *Terrell v. Ocean’s 11 Casino, Inc.* (San Diego Super. Ct., Feb. 10, 2004)
28 No. GIC795732 (same); *Laffitte v. Robert Half Int’l Inc.* (2014) 180 Cal.Rptr.3d 136, 149 (“...the
trial court’s use of a percentage of 33 1/3% of the common fund is consistent with, and in the range
of, awards in other class action lawsuits.”).

¹³ See, e.g. *Willey v. Techtronic Indus. North Am., Inc.* (Alameda Super. Ct. Aug. 4, 2017) No. RG
16806307; *Garrett v. Bank of Am., N.A.* (Alameda Cnty. Super. Ct., Nov. 1, 2016) No. RG13699027,
2016 WL 11431499; *Longstreth v. PAQ, Inc.* (San Luis Obispo Cnty. Oct. 20, 2016) 15-cv-0206, 2016
WL 7163981, at *2; *Lacy T. v. The Oakland Raiders* (Alameda Cnty. Super. Ct. March 3, 2015) No.
RG14710815, 2015 WL 13701077, affirmed in (Cal. Ct. App. Dec. 13, 2016) A144707, 2016 WL
7217584; *Penaloza v. PPG Indus. Inc.* (L.A. Cnty. Super. Ct. May 20, 2013) No. BC471369, 2013 WL
2917624; *Saberi v. BFS Retail & Com. Operations, LLC* (Alameda Cnty. Super. Ct. Sept. 19, 2010)
No. RG0806555, 2010 WL 5172447; *Parker v. City of L.A.* (1974) 44 Cal.App.3d 556, 567-68.

range are reasonable, including in wage-and-hour class actions.¹⁴

Plaintiff's Counsel's lodestar amount, which will be provided with the fee motion, supports this request and will only increase with preparation and attendance at the preliminary and final approval hearings, further communications with Class Members, and Settlement administration and oversight. (Cottrell Decl., ¶ 66).

Furthermore, reasonable litigation expenses are ordinarily included in an award of attorneys' fees pursuant to California wage and hour law. *Rider v. County of San Diego* (1992) 11 Cal.App.4th 1410, 1424. Class Counsel's litigation costs are currently estimated at approximately \$64,170.50 (Cottrell Decl. ¶ 68). Plaintiffs' counsel incurred costs including, inter alia, filing and service fees, costs for remote appearances, document retrieval, and mediation fees. These expenses were incidental and necessary for the effective representation of the Class and Aggrieved Employees. (*Id.*). They are reasonable and uncontested and should be approved.

C. The Proposed Settlement Notice Should be Approved

"Adequate notice is critical to court approval of a class settlement under Rule 23(e)." *Hanlon v. Chrysler Corp.* (1998) 150 F.3d 1011 at 1025. A class action settlement notice "...is satisfactory if it 'generally describes the terms of the settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come forward and be heard.'" *Churchill Village LLC v. General Elec.* (9th Cir. 2004) 361 F.3d 566, 575.

Here, all Class Members and Aggrieved Employees will be identified, and the Class Notice Packet will be mailed directly to each Class Member and Aggrieved Employee at their last known addresses provided by Defendant. (Settlement, ¶ 7.4.2, Ex. A). If the Notice is returned as undeliverable, the Settlement Administrator will perform a skip trace and resend the Notice. (*Id.* at ¶

¹⁴ See, e.g., *Bennett v. SimplexGrinnell LP* (N.D. Cal. Sept. 3, 2015) 2015 WL 12932332, *6-7 (order approving attorneys' fees of 38.8% of settlement in prevailing wage case); *Lee v. JPMorgan Chase & Co.* (C.D. Cal. Apr. 28, 2015) 2015 WL 12711659, *7-9 (approving one-third of class settlement in misclassification case); *Barbosa v. Cargill Meat Sols. Corp.* (E.D. Cal. 2013) 297 F.R.D. 431, 449 (one-third award based in part on "significant risks" and evidence that "Defendant vehemently contested liability..."); *Garcia v. Gordon Trucking, Inc.* (E.D. Cal. 2012) 2012 WL 5364575, at *10 (awarding one-third of the common fund where counsel "achieved a good result" and faced "uncertainty in California law as it related to Plaintiffs' meal break claims."); *Wren v. RGIS Inventory Specialists* (N.D. Cal. April 1, 2011) 2011 WL 1230826, at *29 (42% of the common fund in wage and hour class action); *Singer v. Becton Dickinson and Co.* (S.D. Cal. 2010) 2010 WL 2196104, *8 (awarding 33 1/3% and citing awards ranging from 30.3% to 40%).

1 7.4.3, Ex. A). Thus, reasonable steps will be taken to ensure that all Class Members and Aggrieved
2 Employees receive the Notice. (Cottrell Decl., ¶ 60).

3 The proposed Class Notice is clear and straightforward, and provides information on the case,
4 the Settlement, the rights of the Class Members and Aggrieved Employees to participate, opt out, and
5 object, the monetary awards that the Settlement will provide to Participating Class Members and
6 Aggrieved Employees, and the identity and contact information for Class Counsel. (*Id.* at ¶ 61).

7 The Class Notice summarizes the proceedings necessary to provide context for the Settlement
8 and summarizes the terms and conditions of the Settlement, including an explanation of how the
9 Settlement amount will be allocated between Plaintiffs, Class Counsel, the Settlement Administrator,
10 and Participating Class Members and Aggrieved Employees. (Cottrell Decl., at ¶ 62). It further defines
11 the Class and Aggrieved Employee. (*Id.*). The Class Notice also describes the release of claims to
12 which Class Members and Aggrieved Employees will be subject if they participate in the Settlement.
13 (*Id.*). Moreover, this summary is presented in a coherent, and easy-to-understand manner, all in
14 compliance with the Manual for Complex Litigation’s recommendation that “the notice contain a clear,
15 accurate description of the terms of the settlement.”

16 The Class Notice clearly explains the procedures and deadlines for opting out of the Settlement
17 and submitting objections and disputes, the consequences of taking or foregoing the various options
18 available to Class Members and Aggrieved Employees, and the date, time, and place of the Final
19 Approval Hearing. (Cottrell Decl., at ¶ 63). The Class Notice also sets forth the amount of attorneys’
20 fees and costs sought by Class Counsel and explains that Class Members and Aggrieved Employees
21 have the opportunity to object to Class Counsel’s requests for fees and costs. (*Id.*). In addition, the
22 Class Notice clearly states that the Settlement does not constitute admission of liability by Defendant.
23 (*Id.*). Finally, it makes clear that the final settlement approval decision has yet to be made. (*Id.*). The
24 Class Notice also fulfills the requirement of neutrality in class notices. (*Id.*). *See* Newberg on Class
25 Actions, at §§ 8:21 and 8:39 (4th Ed. 2002); Manual for Complex Litigation, at §§ 21:311 and 21:312
26 (4th Ed. 2006). Based on the foregoing, the Class Notice complies with the standards of fairness,
27 completeness, and neutrality required of a settlement class notice disseminated under authority of the
28 Court.

1 **VI. CONCLUSION**

2 For the foregoing reasons, Plaintiffs respectfully request that this Court grant preliminary
3 approval of the Settlement, in accordance with the schedule set forth in the Notice of Motion filed
4 herewith.

5 Dated: August 5, 2025

Respectfully Submitted,

6 

7 _____
8 Carolyn Hunt Cottrell
9 Ori Edelstein
Philippe M.J. Gaudard
10 **SCHNEIDER WALLACE**
11 **COTTRELL KIM LLP**

12 *Attorneys for Plaintiff, on behalf of the Class,*
13 *the State of California and Aggrieved Employees*

1 **PROOF OF SERVICE**

2
3 I, the undersigned, declare that I am, and was at the time of service of the papers herein
4 referred to, over the age of 18 years and not a party to the within action or proceeding. I am
employed at Schneider Wallace Cottrell Kim LLP located at 2000 Powell Street, Suite 1400,
Emeryville, California 94608.

5 On August 5, 2025 I served the following document(s):

6 **PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF**
7 **MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA**
8 **SETTLEMENT**

9 on the following person(s) listed below, as follows:

10 Ryan T. McCoy (SBN 239882)
11 **BAUTE CROCHETIERE**
12 **HARTLEY & McCOY LLP**
777 S Figueroa Street, Suite 3800
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Attorneys for Defendants
U-HAUL CO. OF CALIFORNIA
Email: rmccoy@bautelaw.com

14
15 ☒ **BY ELECTRONIC SERVICE:** Eugene Huffman, Paralegal, has submitted an
16 electronic version of the above-referenced document to the person(s) whose email
address(es) are known to me as listed above.

17
18 I declare under penalty of perjury under the laws of the State of California and the
United States of America that the foregoing is true and correct.

19 Executed on August 5, 2025, in Los Angeles, California.

20
21 
22 Eugene Huffman