Miriam L. Schimmel (State Bar No. 185089)
mschimmel@blackstonepc.com
Joana Fang (State Bar No. 309623)
jfang@blackstonepc.com
Alexandra Rose (State Bar No. 329407)
arose@blackstonepc.com
Jasmine Y. Kianfard (State Bar No. 349975)
jkianfard@blackstonepc.com
Lizeth Marin (State Bar No. 360465)
lmarin@blackstonepc.com
BLACKSTONE LAW, APC
8383 Wilshire Boulevard, Suite 745
Beverly Hills, California 90211
Tel: (310) 622-4278 / Fax: (855) 786-6356

Attorneys for Plaintiffs YRENE DIAZ
and YOLANDA CASTRO

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JOSE PASCUAL SALGADO; YRENE DIAZ, individually, and on behalf of other members of the general public similarly situated, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act; and YOLANDA CASTRO, individually, and on behalf of other members of the public similarly situated;

Plaintiffs,

vs.

MACADI CLEANING CORPORATION, a California corporation; and DOES 1 through 25, inclusive,

Defendants.

Case No. 21STCV33823

Honorable Theresa M. Traber
Department 1

NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Date:	April 10, 2026
Time:	10:30 a.m.
Dept.:	1
Complaint Filed:	September 14, 2021
FAC Filed:	August 29, 2023
SAC:	October 16, 2025
Trial Date:	Not Set

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on **April 10, 2026 at 10:30 a.m.** in Department 1 of the above-captioned Court located at Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012, pursuant to California Code of Civil Procedure section 382 and Rule 3.769 of the California Rules of Court, Plaintiffs Yrene Diaz and Yolanda Castro (together, "Plaintiffs") will and hereby do move the Court for an Order granting preliminary approval of the proposed class action and PAGA settlement between Plaintiffs and Defendant Macadi Cleaning Corporation ("Defendant").

Plaintiffs request that the Court enter an Order:

1. Preliminarily approving the Joint Stipulation of Class Action and PAGA Settlement ("Settlement" or "Settlement Agreement") attached as Exhibit 3 to the Declaration of Alexandra Rose in Support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement ("Rose Decl.");

2. Certifying the Class for Settlement purposes;

3. Appointing Plaintiffs Yrene Diaz and Yolanda Castro as the Class Representatives for Settlement purposes;

4. Appointing Jonathan M. Genish, Miriam L. Schimmel, Joana Fang, Alexandra Rose, and Jasmine Y. Kianfard of Blackstone Law, APC as Class Counsel for Settlement purposes;

5. Approving the proposed Notice of Class Action Settlement ("Class Notice"), attached as Exhibit A to the Settlement Agreement, to be mailed to the Class;

6. Approving the opt-out and objection procedures provided in the Settlement Agreement and set forth in the Class Notice;

7. For each Class Member and Aggrieved Employee, directing Defendant to furnish their full name, last known mailing address, Social Security number, number of Non-Arbitration Workweeks, number of Arbitration Workweeks, and number of PAGA Pay Periods to the Settlement Administrator within fourteen (14) calendar days after entry of the order granting preliminary approval of the Settlement;

8. Approving the proposed deadlines for the settlement administration process; and

9. Setting a Final Approval Hearing.

Pursuant to California Labor Code section 2699(1)(2), on December 11, 2025, a copy of the Settlement was submitted to the California Labor and Workforce Development Agency ("LWDA") via online submission through the LWDA's website. (Rose Decl., ¶ 68 and Exh. 4).

This Motion is based upon this Notice, the attached Memorandum of Points and Authorities, the Declaration of Alexandra Rose, the Declaration of Plaintiffs Yrene Diaz and Yolanda Castro, the Declaration of the Settlement Administrator (Lisa Mullins of ILYM Group, Inc.), the Declaration of Defendant (Carla Lopez), the pleadings and other records on file with the Court in this matter, and any other further evidence or argument that the Court may properly receive at or before the hearing.

Respectfully submitted,

Dated: December 11, 2025

BLACKSTONE LAW, APC

By: ____________________________

Alexandra Rose
Attorney for Plaintiffs Yrene Diaz and Yolanda Castro

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Yrene Diaz ("Plaintiff Diaz") and Yolanda Castro ("Plaintiff Castro") (together, "Plaintiffs") seek preliminary approval of the Joint Stipulation of Class Action and PAGA Settlement ("Settlement" or "Settlement Agreement") entered into between Plaintiffs and Defendant Macadi Cleaning Corporation ("Defendant") (collectively, with Plaintiffs, the "Parties"). (Declaration of Alexandra Rose in Support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement ["Rose Decl."], Exh. 3). The Settlement terms are outlined as follows:

- Class Size: Approximately five hundred and thirty-five (535) individuals.
- Gross Settlement Amount: Five Hundred Thousand Dollars and Zero Cents ($500,000.00).
- Attorneys' Fees and Costs: Attorneys' fees of thirty-five percent (35%) of the Gross Settlement Amount (i.e., $175,000.00) plus actual litigation costs and expenses not to exceed Sixty Thousand Dollars and Zero Cents ($60,000.00), to be paid from the Gross Settlement Amount.
- Enhancement Payments: Five Thousand Dollars and Zero Cents ($5,000.00) to be paid to Plaintiff Diaz, and Two Thousand Five Hundred Dollars and Zero Cents ($2,500.00) to be paid to Plaintiff Castro, for a total of Seven Thousand Five Hundred Dollars and Zero Cents ($7,500.00), to be paid from the Gross Settlement Amount.
- Settlement Administration Costs: Not to exceed Ten Thousand Dollars and Zero Cents ($10,000.00), to be paid from the Gross Settlement Amount.
- PAGA Amount: Ten Thousand Dollars ($10,000.00) from the Gross Settlement Amount, 75% of which will be paid to the Labor and Workforce Development Agency ("LWDA") and the remaining 25% to be paid to the Aggrieved Employees.
- Estimated Net Settlement Amount: Two Hundred Thirty Seven Thousand Five Hundred Dollars and Zero Cents ($237,500.00) to be distributed to Settlement Class Members.

As set forth herein, the Settlement is the product of informed discovery and arms-length negotiations, and provides a fair, adequate, and reasonable recovery for the Class. Plaintiffs therefore respectfully request that the Court grant preliminarily approval of the Settlement, conditionally certify the Class, approve the proposed Notice of Class Action Settlement ("Class Notice"), and set a hearing date for final settlement approval, among other requested relief.

II. FACTUAL AND PROCEDURAL BACKGROUND

Defendant is janitorial company serving clients throughout Mission Viejo, Irvine, Costa Mesa, Lake Forest, and Languna Niguel since 1998. Defendant's services include commuter transportation, commercial, office cleaning, janitorial services, floor services, and pressure washing. Plaintiff Diaz was employed by Defendant as an hourly-paid, non-exempt Cleaner from approximately 2017 to approximately November 2022. (Declaration of Plaintiff Yrene Diaz in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement ["Diaz Decl."], ¶ 2). Plaintiff Castro was also employed by Defendant as an hourly-paid, non-exempt Cleaner until approximately 2020. (Declaration of Plaintiff Yolanda Castro in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement ["Castro Decl."], ¶ 2).

On August 4, 2021, former plaintiff Jose Pascual Salgado ("Former Plaintiff") provided written notice to the LWDA by online submission and to Defendant by U.S. Certified Mail, pursuant to California Labor Code Section 2699.3, of the specified provisions of the California Labor Code alleged to have been violated by Defendant. (Rose Decl., ¶ 10).

On September 14, 2021, Former Plaintiff filed a Class Action Complaint for Damages and Enforcement Action under the Private Attorneys General Act, California Labor Code §§ 2698, Et Seq. against Defendant in the action that is currently entitled *Yrene Diaz and Yolanda Castro v. Macadi Cleaning Corporation*, Los Angeles County Superior Court Case No. 21STCV33823 ("Action"), thereby commencing a putative class and representative Private Attorneys General Act of 2004 ("PAGA") action against Defendant. (*Id.*, ¶ 11).

On March 15, 2022, Former Plaintiff propounded written formal discovery onto Defendant, specifically Form Interrogatories – General (Set One), Special Interrogatories (Set One), Requests for Production (Set One), Requests for Admission (Set One), and Notice of Deposition of Defendant's Person Most Knowledgeable and Request for Production of Documents. (*Id.*, ¶ 12).

On May 16, 2022, a Belaire-West notice was mailed to three hundred and forty-five (345) putative class members by a third-party administrator. (*Id.*, ¶ 13).

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On May 16, 2022, Defendant served its Objections and Responses to Former Plaintiff's first set of written formal discovery. (*Id*., ¶ 14). On June 13, 2022, Former Plaintiff propounded Form Interrogatories – General (Set Two) onto Defendant. (Ibid).

On June 17, 2022, the Belaire-West notice was mailed to an additional forty-five (45) putative class members. (*Id*., ¶ 15).

On July 15, 2022, Defendant served Former Plaintiff its Objections and Responses to Former Plaintiff's Formal Interrogatories – General (Set Two). (*Id*., ¶ 16). On November 23, 2022, Defendant served Former Plaintiff with its Supplemental Objections and Responses to Former Plaintiff's first set of formal written discovery. (Ibid).

On May 2, 2023, Former Plaintiff and Defendant participated in mediation with the Honorable Amy D. Hogue (Ret.), a respected mediator of complex wage and hour actions, which did not result in a settlement at the time. (*Id*., ¶ 17).

On July 14, 2023, Defendant filed an *Ex Parte* Application and supporting documents, seeking the Court to enforce the terms of an individual settlement agreement with Former Plaintiff. (*Id*., ¶ 18).

On July 17, 2023, Former Plaintiff filed a Motion for Leave to Amend Complaint to Substitute Class and PAGA Representative and Request to Dismiss Individual Claims with Prejudice, and supporting documents, along with a Response to Defendant's *Ex Parte* Application to Enforce Settlement Agreement and supporting documents. (*Id*., ¶ 19).

On July 17, 2023, Plaintiff Diaz provided written notice to the LWDA by online submission and to Defendant by U.S. Certified Mail, pursuant to California Labor Code Section 2699.3, which, *inter alia*, informed the LWDA and Defendant that she intended to be added to the Action ("PAGA Letter"). (*Id*., ¶ 20 and Exh. 2).

On August 9, 2023, Former Plaintiff filed an Opposition to Defendant's Motion to Enforce Settlement Agreement and supporting documents. (*Id*., ¶ 21). On August 9, 2023, Defendant filed its Response in Opposition to [Former] Plaintiff's Motion to Amend and Substitute Class Representative and supporting documents along with an Application to File Documents Under Seal. (Ibid). On August 15, 2023, Defendant filed its Reply in Support of Motion to Enforce Settlement Agreement. (Ibid).

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On August 22, 2023, the Court held the hearing on [Former] Plaintiff's Motion for Leave to Amend Complaint to Substitute Class and PAGA Representative and Request to Dismiss Individual Claims with Prejudice and Defendant's Motion to Enforce Settlement Agreement and Application to File Documents Under Seal. (*Id*., ¶ 22). The Court granted the [Former] Plaintiff's Motion for Leave to Amend, denied Defendant's Motion to Enforce Settlement Agreement, and denied Defendant's Application to File Documents Under Seal. (Ibid).

On August 29, 2023, Former Plaintiff and Plaintiff Diaz filed a First Amended Class Action Complaint for Damages and Enforcement Action Under the Private Attorneys General Act, California Labor Code §§ 2698, Et Seq., which added Plaintiff Diaz as a named plaintiff in the Action. (*Id*., ¶ 23).

On November 8, 2023, the Court entered an Order, which dismissed Former Plaintiff's individual class and representative claims under PAGA without prejudice. (*Id*., ¶ 24).

On May 28, 2024, the Parties participated in mediation with Jonathan D. Andrews ("Mediator"), a respected mediator of complex wage and hour actions, which did not result in a settlement at the time. (*Id*., ¶ 25).

On May 31, 2024, Plaintiff Diaz propounded Notices of Deposition onto Defendant. (*Id*., ¶ 26). On June 12, 2024, Defendant served its Objections to Plaintiff Diaz's Notices of Deposition. (Ibid). On July 29, 2024, Plaintiff Diaz propounded Amended Notices of Deposition onto Defendant and Requests for Production. (Ibid). On August 22, 2024, Defendant served its Objections and Responses to Plaintiff Diaz's Amended Notices of Deposition. (Ibid).

On August 28, 2024 and August 29, 2024, Blackstone Law, APC took the deposition of Carla Lopez (Office Manager). (*Id*., ¶ 27).

On September 3, 2024, Plaintiff Diaz served a Second Amended Notice of Deposition onto Defendant. (*Id*., ¶ 28).

On September 6, 2024, Blackstone Law, APC took the deposition of Marco Lopez-Miller (General Manager and CEO). (*Id*., ¶ 29).

On September 27, 2024, Defendant served Supplemental Responses to Plaintiff Diaz's Requests for Production of Documents (Set Two). (*Id*., ¶ 30). On February 14, 2025, Defendant served its Second Supplemental Responses to Plaintiff Diaz's Requests for Production of Document (Set One). (Ibid).

On April 11, 2025, after further negotiations and with the assistance of the Mediator, the Parties reached a settlement. (*Id*., ¶ 31).

On October 16, 2025, Plaintiffs filed a Second Amended Class Action Complaint for Damages and Enforcement Action Under the Private Attorneys General Act, California Labor Code §§ 2698, Et Seq. ("Operative Complaint"), which added Plaintiff Castro as a named plaintiff. (*Id*., ¶ 32). The Operative Complaint alleges nine (9) causes of action for violations of the California Labor Code for failure to pay minimum wages, failure to pay overtime wages, failure to provide compliant meal periods and premium payments in leu thereof, failure to provide compliant rest periods and premium payments in leu thereof, failure to timely pay wages upon termination, failure to issue accurate wage statements, and failure to reimburse necessary business expenses, for violations of California Business & Professions Code Section 17200, *et seq.* based on the aforementioned California Labor Code violations, and for civil penalties under PAGA based on the aforementioned California Labor Code violations. (Ibid).

On November 18, 2025, the Parties executed the Settlement Agreement. (*Id*., ¶ 33 and Exh. 3).

III. THE SETTLEMENT TERMS

A. Class Definition

For purposes of settlement only, the Parties have agreed that the "Class" or "Class Member(s)" shall collectively be referred to as the Non-Arbitration Class Members and the Arbitration Class Members as follows:

(a) "Non-Arbitration Class Members(s)" means all individuals who worked for Defendant in California at any time during the Class Period who were classified as non-exempt and who did not sign an arbitration agreement.

(b) "Arbitration Class Member(s)" means all individuals who worked for Defendant in California at any time during the PAGA Period who were classified as non-exempt and who signed an arbitration agreement."

(Rose Decl., ¶ 34; Settlement Agreement, ¶ 15.d).

The "Class Period" is defined as the period from September 14, 2017 through August 2, 2025. (Rose Decl., ¶ 34; Settlement Agreement, ¶ 15.h). The "PAGA Period" is defined as the period from July 17, 2022 through August 2, 2025. (Rose Decl., ¶ 34; Settlement Agreement, ¶ 15.aa). Based on information provided by Defendant, it is estimated that there are a total of five hundred and thirty-five (535) Class Members. (Rose Decl., ¶ 34).

B. Amount of Settlement

The Parties have agreed to settle the class and PAGA claims at issue in the Operative Complaint for a non-reversionary Gross Settlement Amount of Five Hundred Thousand Dollars and Zero Cents ($500,000.00), exclusive of employer-side payroll taxes. (Rose Decl., ¶ 35; Settlement Agreement, ¶ 15.s).

C. Allocation and Funding of the Gross Settlement Amount

The Gross Settlement Amount is a common fund and therefore includes all requested costs, fees, and other allocations. (Rose Decl., ¶ 35; Settlement Agreement, ¶ 15.s). The Gross Settlement Amount includes: (1) Class Counsel's fees in the amount of thirty-five percent (35%) of the Gross Settlement Amount (i.e., $175,000.00); (2) Class Counsel's actual litigation costs and expenses, not to exceed Sixty Thousand Dollars and Zero Cents ($60,000.00); (3) Settlement Administration Costs, not to exceed Ten Thousand Dollars and Zero Cents ($10,000.00); (4) Enhancement Payments in the aggregate amount of Seven Thousand Five Hundred Dollars and Zero Cents ($7,500.00); and (5) PAGA Amount of Ten Thousand Dollars and Zero Cents ($10,000.00). (Rose Decl., ¶ 35; Settlement Agreement, ¶¶ 15.s, 18, 19, 20, and 21). After the above-estimated amounts are deducted from the Gross Settlement Amount, the Net Settlement Amount that will be available for Class Members is currently estimated to be Two Hundred Thirty Seven Thousand Five Hundred Dollars and Zero Cents ($237,500.00). (Rose Decl., ¶ 35). Additionally, 25% of the PAGA Amount ("Aggrieved Employee Amount"), which is $2,500.00 out of $10,000.00, will be fully distributed to "all individuals who worked for Defendant in California at any time during the PAGA Period and who were classified as non-exempt, regardless of whether they signed an arbitration agreement" ("Aggrieved Employee(s)"). (Rose Decl., ¶ 35; Settlement Agreement, ¶¶ 15.a and 15.b).

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The Net Settlement Amount will be distributed and paid to all Class Members who do not submit a timely and valid Request for Exclusion ("Settlement Class Member(s)")[1] on a *pro rata* basis based on their number of Non-Arbitration Workweeks and Arbitration Workweeks ("Workweeks") as follows:

(a) "Non-Arbitration Workweek(s)" means a week in which a Non-Arbitration Class Member performed work during the Class Period. Weeks in which a Non-Arbitration Class Member was employed but performed no work (i.e., was on sick leave, vacation, or other leave of absence) do not count as Non-Arbitration Workweeks. For purposes of settlement allocation, a Non-Arbitration Workweek counts as one (1).

(b) "Arbitration Workweek(s)" means a week in which an Arbitration Class Member performed work during the PAGA Period. Weeks in which an Arbitration Class Member was employed but performed no work (i.e., was on sick leave, vacation, or other leave of absence) do not count as Arbitration Workweeks. For purposes of settlement allocation, an Arbitration Workweek counts as 0.5, or one-half of a Non-Arbitration Workweek.

(Rose Decl., ¶ 36; Settlement Agreement, ¶ 15.nn)

The *pro rata* share of the Net Settlement Amount that a Class Member may be eligible to receive under the Class Settlement ("Individual Settlement Share") will be calculated by the Settlement Administrator, in accordance with the Settlement Agreement. (Rose Decl., ¶ 36; Settlement Agreement, ¶¶ 15.v and 23).

The Aggrieved Employee Amount will be distributed and paid to all Aggrieved Employees on a *pro rata* basis based on the number of bi-weekly pay periods each Aggrieved Employee performed work during the PAGA Period ("PAGA Pay Period(s)"). (Rose Decl., ¶ 37; Settlement Agreement, ¶ 15.cc). The *pro rata* share of the Aggrieved Employee Amount that an Aggrieved Employee may be eligible to receive under the PAGA Settlement ("Individual PAGA Payment") will be calculated by the Settlement Administrator, in accordance with the Settlement Agreement. (Rose Decl., ¶ 37; Settlement Agreement,

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[1] "Settlement Class" or "Settlement Class Member(s)" collectively refers to the Non-Arbitration Settlement Class Members and the Arbitration Settlement Class Members as follows:

(a) "Non-Arbitration Settlement Class Members" are all Non-Arbitration Class Members who do not submit a timely and valid Request for Exclusion.

(b) "Arbitration Settlement Class Members" are all Arbitration Class Members who do not submit a timely and valid Request for Exclusion.

(Rose Decl., ¶ 36; Settlement Agreement, ¶ 15.mm).

¶¶ 15.t and 24).

The Parties have agreed on a maximum number of combined Non-Arbitration Workweeks and Arbitration Workweeks, which shall not exceed 25,000 ("WWPP Maximum"). (Rose Decl., ¶ 38; Settlement Agreement, ¶¶ 15.oo and 22). If it is determined that the WWPP Maximum has been exceeded during the Class Period (i.e., if the Workweeks exceed 25,000), then the Class Period and PAGA Period shall end on the date that the WWPP Maximum is reached but not exceeded. (Rose Decl., ¶ 38; Settlement Agreement, ¶ 22). Prior to the filing of this Motion, Defendant represented that there are a total of 18,100 Workweeks. (Rose Decl., ¶ 38). Accordingly, the Escalator Clause has not been triggered. (Ibid).

Each Individual Settlement Share will be allocated as twenty percent (20%) wages and eighty percent (80%) penalties, interest, and non-wage damages. (Rose Decl., ¶ 39; Settlement Agreement, ¶ 25). The portion allocated to wages will be reported on an IRS Form W-2 and the portions allocated to penalties, interest, and non-wage damages will be reported on an IRS Form 1099 (if applicable) by the Settlement Administrator. (Rose Decl., ¶ 39; Settlement Agreement, ¶ 25). The Settlement Administrator will withhold the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares, and issue checks to Settlement Class Members for their net payment of their Individual Settlement Share ("Individual Settlement Payment"). (Rose Decl., ¶ 39; Settlement Agreement, ¶¶ 15.u and 25). The employer's share of taxes and contributions in connection with the wages portion of Individual Settlement Shares will be paid by Defendant separately and in addition to the Gross Settlement Amount. (Rose Decl., ¶ 39; Settlement Agreement, ¶¶ 15.n and 15.s). Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties and will be reported on an IRS Form 1099 (if applicable) by the Settlement Administrator. (Rose Decl., ¶ 39; Settlement Agreement, ¶ 25).

The Settlement Agreement is a non-reversionary and non-claims made settlement. (Rose Decl., ¶ 40; Settlement Agreement, ¶¶ 15.s and 43). The Net Settlement Amount will be fully distributed to Settlement Class Members and the PAGA Amount will be fully distributed to the LWDA and Aggrieved Employees, in accordance with the Settlement Agreement. (Rose Decl., ¶ 40; Settlement Agreement, ¶¶ 15.x, 15.z, 23, and 24). No money will revert to Defendant. (Rose Decl., ¶ 40; Settlement Agreement, ¶ 15.s).

Defendant shall pay the Gross Settlement Amount in thirteen (13) installments as follows:

(a) Initial Payment: No later than seven (7) calendar days after Final Approval, Defendant will deposit Two Hundred Fifty Thousand Dollars and Zero Cents ($250,000.00) of the Gross Settlement Amount and the Employer Taxes into a Qualified Settlement Fund ("QSF") within the meaning of Treasury Regulation Section 1.468B-1, *et seq.*, to be established by the Settlement Administrator.

(b) Installment Payment(s): The remainder of the Gross Settlement Amount shall be paid in twelve (12) equal payments for twelve (12) months thereafter until the Gross Settlement Amount has been fully paid. The first of the twelve (12) Installment Payments shall be paid by the 5th day of the calendar month following the Initial Payment but not sooner than thirty (30) calendar days after the Initial Payment or, if appealed, the 5th day of the calendar month following the date the appeal is finally resolved, but no sooner than thirty (30) calendar days after the appeal is resolved.

(c) If an appeal is filed, then the Initial Payment and the Employer Taxes shall be placed in an interest-bearing account by the Settlement Administrator, and interest will accrue and be credited toward the next Installment Payment(s). Defendant will not be responsible for any further Installment Payments until all appeals are resolved.

(d) Any failure by Defendant to timely pay the Initial Payment or any Installment Payment shall be an event of default. Within three (3) business days of any default, the Settlement Administrator shall email counsel for both Parties notifying them of any default (the "Default Notice"). Defendant shall have no more than ten (10) business days from the date of the Default Notice to cure the default. Any default that is not cured by the 15th business day from the date of the Default Notice shall entitle Plaintiffs to move ex parte to have all remaining unpaid Installment Payment(s) immediately accelerated and judgment entered against Defendant for the remaining unpaid Installment Payment(s).

(Rose Decl., ¶ 41; Settlement Agreement, ¶ 41).

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Distribution of the Gross Settlement shall be made as follows:

(a) Within five (5) business days of the funding of the Initial Payment and Effective Date, the Settlement Administrator will issue half of the Individual Settlement Payments to Settlement Class Members, half of the Individual PAGA Payments to Aggrieved Employees, half of the LWDA Payment to the LWDA, half of the Enhancement Payments to Plaintiffs, half of the Attorneys' Fees and Costs to Class Counsel, and half of the Settlement Administration Costs to itself. The Settlement Administrator shall also set aside the Employer Taxes and all employee-side payroll taxes, contributions, and withholding, and timely forward these to the appropriate government authorities.

(b) Within five (5) business days of the funding of the last Installment Payment, the Settlement Administrator will issue the remaining half of the Individual Settlement Payments to Settlement Class Members, remaining half of the Individual PAGA Payments to Aggrieved Employees, remaining half of the LWDA Payment to the LWDA, remaining half of the Enhancement Payments to Plaintiffs, remaining half of the Attorneys' Fees and Costs to Class Counsel, and remaining half of the Settlement Administration Costs to itself.

(Rose Decl., ¶ 42; Settlement Agreement, ¶ 42).

Each Individual Settlement Payment and Individual PAGA Payment check will be valid and negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and thereafter, shall be canceled. (Rose Decl., ¶ 43; Settlement Agreement, ¶ 43). Any funds associated with such canceled checks will be distributed by the Settlement Administrator to the State of California's Unclaimed Property Division in the name of the Settlement Class Member and/or Aggrieved Employee. (Rose Decl., ¶ 43; Settlement Agreement, ¶ 43).

D. Released Claims

Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiffs and all Non-Arbitration Settlement Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims for the Class Period. (Settlement Agreement, ¶ 44.a).

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Upon the Effective Date and full funding of the Gross Settlement Amount, all Arbitration Settlement Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims for the PAGA Period. (*Id*., ¶ 44.b).

Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiffs, the State of California with respect to all Aggrieved Employees, and all Aggrieved Employees will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims. (*Id*., ¶ 45).

"Released Class Claims" means any and all causes of action, claims, rights, statutory damages, penalties, liabilities, expenses, and losses against the Released Parties, arising out of the claims pled in the Operative Complaint (i.e., California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1197.1, 1198, 2800, and 2802, and Business & Professions Code §§ 17200, *et seq*. based on alleged violations of these California Labor Code provisions) and all other potential claims reasonably related to or arising out of the same set of facts pled in the Operative Complaint, such as those under the California Labor Code, Wage Orders, regulations, and/or other provisions of law. (*Id*., ¶ 15.ff). The Released Class Claims do not include claims for unemployment, workers compensation, wrongful termination, disability, race, gender or other discrimination, social security, vested benefits, or claims based on facts outside of the Class Period. (Ibid).

"Released PAGA Claims" means any and all claims for civil penalties under PAGA arising during the PAGA Period based on the California Labor Code violations alleged in the PAGA Letter, as well as all facts, theories, or claims for civil penalties that would be considered administratively exhausted under applicable law by the PAGA Letter, as well as any claims brought under the PAGA in the Operative Complaint. (*Id*., ¶ 15.gg). The Released PAGA Claims do not include claims for unemployment, workers compensation, wrongful termination, disability, race, gender or other discrimination, social security, vested benefits, or claims based on facts outside of the PAGA Period. (Ibid).

"Released Parties" means Defendant and all of its parent companies, subsidiaries, divisions, related or affiliated companies, and its or their shareholders, officers, directors, employees, agents, principals, representatives, attorneys, accountants, partners, investors, owners, administrators, insurers, predecessors, successors and assigns, and any individual or entity that could be liable for any of the Released Class Claims and Released PAGA Claims. (*Id*., ¶ 15.hh).

IV. STANDARD OF REVIEW FOR PRELIMINARY APPROVAL

The settlement of a class action requires court approval. (*See Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794 (1996)). "In general, questions whether a settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court's broad discretion." (*Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 234-35 (2001) (disapproved on other grounds)).

The review and approval of a proposed class action settlement involves a two-step process. (*See* Cal. Rules of Court, Rule 3.769(c)). First, counsel submit the proposed terms of the settlement and the Court makes a preliminary assessment of whether the settlement appears to be sufficiently within the range of a fair settlement to justify providing notice of the proposed settlement to class members. After notice is provided to the class, the Court must conduct a second inquiry into whether the proposed settlement is fair, reasonable, and adequate. (Ibid).

The initial evaluation of the settlement at the preliminary approval step "is not a fairness hearing." (*Armstrong v. Board of School Directors of City of Milwaukee*, 616 F.2d 305, 314 (7th Cir. 1980)). Rather, the limited purpose of this initial inquiry is to determine, at a threshold level, only whether the proposed settlement is within the range of possible approval and, as a result, "whether there is any reason to notify the class members of the proposed settlement and to proceed with a fairness hearing." A presumption of fairness exists where: (1) the settlement is reached through arm's length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. (*See In re Microsoft I-V Cases*, 135 Cal. App. 4th 706, 723 (2006)).

Preliminary approval does not require a court to make a final determination that the settlement is fair, reasonable, and adequate. Rather, that decision is made only at the final approval stage, after notice of the settlement has been given to the class members and they have had an opportunity to object or exclude themselves from the settlement. (*See* Cal. Rules of Court, Rule 3.769(g)). In considering a potential class settlement, the court need not reach any ultimate conclusions on the issues of fact and law which underlie the merits of the dispute and need not engage in a trial on the merits. (*See Officers for Justice v. Civil Service Commission*, 688 F.2d 615, 625 (9th Cir. 1982)).

V. THE SETTLEMENT IS PRESUMED FAIR

A. The Settlement Was Reached as a Result of Arm's-Length Bargaining

California courts recognize that "a presumption of fairness exists where . . . [a] settlement is reached through arm's-length bargaining." (*Wershba*, 91 Cal.App.4th at 245; *see also Clark v. Am. Residential Servs. LLC*, 175 Cal.App.4th 785, 799 (2009)). Here, the Parties' settlement negotiations were at all times made at arm's-length and were adversarial. (Rose Decl., ¶ 44). The Settlement was reached following two separate mediations with highly respected mediators with substantial experience mediating wage and hour cases. (Ibid). At all times, Plaintiffs were willing and prepared to litigate this matter through class certification and trial if the Parties had been unable to reach a favorable resolution. (*Id*., ¶ 44).

B. Sufficient Investigation and Discovery by Experienced Class Counsel

Courts typically assess the status of discovery in determining whether a class action settlement agreement is fair, reasonable, and adequate. (*Dunk*, 48 Cal.App.4th at 1801). Prior to mediation, Defendant produced putative class members' time and pay records as well as Defendant's relevant wage and hour policies, and information regarding the total number of putative class members, the number of current versus former employees, the total workweeks worked by the putative class members, and the average rate of pay for the putative class members. (Rose Decl., ¶ 45).

This allowed Class Counsel to conduct an informed assessment and analysis of the strengths and weaknesses of the claims and the potential class-wide damages. (*Id*., ¶ 46). Based on information exchanged, the Parties extensively briefed issues regarding class certification and liability and provided their analyses to the mediators who helped the Parties debate the strengths and weakness of their respective positions. (*Id*., ¶ 47). Additionally, settlement negotiations were conducted by highly capable and experienced counsel. (*Id*., ¶¶ 1–9). Accordingly, Class Counsel had sufficient information and experience to act intelligently in negotiating the Settlement.

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C. The Settlement is Fair and Reasonable in Light of the Parties' Respective Legal Positions and Recovery Risks

A settlement is not judged against what might have been recovered had a plaintiff prevailed at trial, nor does the settlement have to obtain 100% of the damages sought to be fair and reasonable. (*Wershba*, 91 Cal.App.4th at 246, 250). In evaluating the reasonableness of a settlement, a trial court must consider "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, 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)).

Here, the reasonableness of the Settlement is underscored by the fact that Defendant has legal and factual grounds for defending the Action. Based upon Class Counsel's experience litigating similar complex matters, Plaintiffs reasonably expected a vigorous and lengthy defense to both class certification and the merits of the Action absent a settlement.

1. Class Counsel's Analysis of the Maximum Available Liability and Damages

Class Counsel analyzed all available data and estimated Defendant's maximum potential exposure to be approximately $6,795,380, assuming the litigation was successful at trial on all claims at issue and every employee had a violation for each claim on every shift worked. (Rose Decl., ¶ 48). This maximum potential analysis was then reduced based on the challenges facing the likelihood of obtaining class certification, prevailing at trial, and other attendant risks. (Ibid). This estimate is based off an estimated maximum liability for all claims at issue and the total aggregate workweeks during the relevant time period, less interest, which included: $2,028,750 for meal period violations at a 100% violation rate; $2,028,750 for rest period violations at a 100% violation rate; $405,750 for unpaid off-the-clock work for 12 minutes per shift of off-the-clock work; $7,317 for unpaid overtime wages at the required regular rate of pay; $250,000 for unreimbursed business expenses at $10 per workweek; $1,125,713 for waiting time penalties; and $949,100 for wage statement penalties. (Ibid). Plaintiffs further estimated that Defendant faced an additional exposure of $463,800 in potential, non-stacked (i.e., one penalty, per employee, per pay period during the PAGA statutory period) PAGA penalties. (Ibid). Together with the

PAGA penalties, Defendant's maximum potential exposure totaled $7,259,180 in damages. (Ibid).

2. Class Counsel's Risk-Based Analysis and Risk-Based Adjustments

While Plaintiffs believe that Defendant faced significant exposure, substantial barriers to a recovery existed. Defendant contended that Plaintiffs' claims are not suitable for class certification because individual issues and affirmative defenses would predominate should this case go to trial. (Rose Decl., ¶ 51; *See Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012); *Duran v. U.S. Bank Nat. Assn.*, 59 Cal.4th 1, 35-36 (2014); *Wal-Mart Stores, Inc. v. Dukes*, 131 S.Ct. 2541, 2551 (2011)). While Plaintiffs and Class Counsel disagree with Defendant's predictions, they also recognize that there is a significant risk that the Court may deny class certification. (Rose Decl., ¶ 51; *see also*, *Findings of the Study of California Class Action Litigation*, 2000-2006, available at http://www.courts.ca.gov/documents/class-action-lit-study.pdf (finding that only 21.4% of all class actions were certified either as part of a settlement or as part of a contested certification motion)).

For example, Plaintiffs' meal period claims, which were based on Defendant's alleged failure to provide lawful meal periods, have been increasingly difficult to certify in recent years. (Rose Decl., ¶ 52; *See Brinker*, 53 Cal. 4th at 1034-35). Plaintiffs' theory of liability for meal period violations was based on allegations that Defendant had failed to implement its policies and that its practices failed to allow Class Members to take meal breaks in the manner required under California law. (Rose Decl., ¶ 52; *See Bradley v. Networkers Int'l, LLC,* 211 Cal.App.4th 1129, 1150 (2012) (holding that "the lack of a meal/rest break policy and the uniform failure to authorize such breaks are matters of common proof.")). Defendant contended that its policies and practices at all times during the Class Period were lawful. (Rose Decl., ¶ 52). Additionally, Defendant pointed to the fact that many of its employees who frequently worked shifts that did not exceed six hours in length had signed lawful meal period waivers, thereby reducing the alleged violation rate. (Ibid). Defendant further argued that the rate of purported meal period violations reflected in the data would require individualized inquiry and that such inquiry would prohibit a class from being certified. (Ibid). Class Counsel also had to consider the risk that the Court would find validity in an individualized proof defense to certification of Plaintiffs' meal period claim. (Ibid).

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Additionally, a large portion of Defendant's overall liability lies in Plaintiffs' rest period allegations. (*Id.*, ¶ 53). As with the meal period allegations, Defendant contended that it had a lawful written rest period policy, provided compliant rest breaks, and relieved Class Members of all duties under California law. (Ibid). However, this claim was even more uncertain given the difficulties associated with proving the alleged rest period violations, as Defendant was not required to record these breaks. (Ibid). Given the lack of records demonstrating rest period violations, there were legitimate concerns Plaintiffs would not be able to certify these claims or prove substantial damages with requisite certainty, which made the estimated value of this claim subject to much challenge. (Ibid).

Plaintiffs also faced challenges certifying and proving liability for their minimum wage and overtime claims. (*Id.*, ¶ 54). These claims were largely based on Defendant's unrecorded, off-the-clock work performed by the Class Members after their shifts and during purported meal periods. (Ibid). For example, Class Members reported that they often had to stay and work past the end of their shift to finish the work that had to be done. (Ibid). Although they worked past their scheduled shift, they reported that Defendant only paid them for the time they were scheduled to work. (Ibid). However, the individualized nature of why this work was performed and the individualized nature of damages presented substantial concerns regarding the manageability of the case and the risk the Court could find these issues prevented certification, and the estimated damages for this claim were based on an assumption that all Class Members worked off the clock for at least 12 minutes per shift. (Ibid).

Plaintiffs also contended that Defendant failed to reimburse Plaintiffs and the other Class Members for necessary business-related expenses, such as the purchase of attire to comply with Defendant's dress code, as well as use of their personal cell phones for work-related purposes. (*Id.*, ¶ 55). Defendant contended that, with respect to the alleged expenses for which Plaintiffs and the other Class Members never requested reimbursement from Defendant, it did not know and had no reason to know that alleged business-related expenses had been incurred. (Ibid). Defendant further contended that the reason for why a Class Member undertook certain expenses, while not others, and failed to receive reimbursement for certain expenses while not others, would raise individualized issues that could not be certified. (Ibid).

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There are also substantial risks associated with Plaintiffs' waiting time penalties and wage statement claims. (*Id*., ¶ 56). First, these claims were derivative of Plaintiffs' claims for unpaid meal period premiums, unpaid rest period premiums, unpaid minimum wages, and unpaid overtime wages, and if certification was denied on those underlying claims, these derivative claims for penalties would also likely fail. (Ibid). Further, even if Plaintiffs prevailed on their underlying claims, they would still be required to demonstrate that Defendant's violations of California Labor Code section 203 were *willful* violations. (Rose Decl., ¶ 56; *See, e.g*., *Choate v. Celite Corp*., 215 Cal App. 4th 1460, 1468 (2013) (holding that "an employer's reasonable, good faith belief that wages are not owed may negate a finding of willfulness")). Wage statement claims have also seen varying treatment at the appellate level because such claims have an element of discretion attached to them rather than a pure calculation of damages after liability is proven. (Rose Decl. ¶ 56; *Jaimez v. DAIOHS USA, Inc*., 181 Cal.App.4th 1286 (2010) *with Price v. Starbucks Corp*., 192 Cal.App.4th 1136 (2011)). Accordingly, these derivative claims, which comprised a substantial portion of Defendant's estimated liability, were therefore uncertain. (Rose Decl., ¶ 56).

Class Counsel also recognized that, even if Plaintiffs prevailed at class certification, proving the amount of wages due to Class Members would be an expensive, time-consuming, and uncertain proposition. (*Id*., ¶ 57). In order to prove liability and damages, Class Counsel will need to request and analyze thousands of pages of documents, obtain the Class Members' contact information, contact them, and obtain their declarations at great expense. (Ibid). Obtaining the cooperation of current employees would also be difficult, given the likely reluctance to aid prosecution of a lawsuit against a current employer. (Ibid). On the other hand, Defendant would likely be able to obtain the cooperation of its employees. (Ibid). Moreover, even if Plaintiffs prevailed at class certification and trial, possible appeals would substantially delay any recovery by the Class. (Ibid).

Therefore, taking into account how each of the above risks potentially effected Plaintiffs' ability to first obtain class certification, and then prove the underlying violations, plus the cost and delay in recovering the alleged potential damages, Class Counsel discounted Defendant's estimated liability based on the challenges facing their ability to succeed on class certification by 65% to $2,540,713. (*Id*., ¶ 58). The merits-based risk factors further reduced Defendant's estimated liability by an additional 65%.

(Ibid). This resulted in an adjusted estimated liability of $889,250. (Ibid). In light thereof, the settlement amount of $500,000 is a significant settlement. (Ibid).

Class Counsel also contemplated the risks of proceeding with the PAGA claims and potential liability Defendant could face from these claims as part of the global resolution. (*Id.*, ¶ 59). Existing case law makes PAGA claims subject to the same defenses and risks as Plaintiffs' underlying wage claims. (Rose Decl., ¶ 59; see, *Elliot v. Spherion Pac. Work, LLC*, 572 F.Supp.2d 1169, 1181-82 (C.D. Cal. 2008) ("Plaintiff's claim under [PAGA] is wholly dependent upon her other claims. Because all of Plaintiff's other claims fail as a matter of law, so does her PAGA claim")). Class Counsel also anticipated that even if successful on the merits at trial, the imposition of cumulative civil penalties based on the alleged wage and hour violations could be considered unjust, arbitrary and oppressive, or confiscatory, and that Defendant would argue that it made a good faith attempt to comply with its legal obligations warranting a reduction in penalties. (Rose Decl., ¶ 59).[2] Class Counsel also anticipated Defendant would argue that the violations per pay period were low, warranting an additional reduction in civil penalties. (Ibid). Finally, Class Counsel was also mindful of the fact that PAGA is fundamentally not intended to be compensatory in nature but is instead intended to facilitate enforcement of California's labor laws by financing state activities and educating and deterring non-compliance. (Ibid).

Therefore, after considering this multitude of factors, Plaintiffs and Class Counsel concluded that it was in the best interest of the State of California and the Aggrieved Employees to enter into the Settlement, and to allocate Ten Thousand Dollars and Zero Cents ($10,000.00) of the Gross Settlement Amount towards the PAGA claims, which represents approximately 2% of the Gross Settlement Amount. (*Id.*, ¶ 60). This percentage of the settlement is well within the range of wage and hour settlements regularly approved in both state and federal court for cases that include both a class and PAGA action.

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[2] See, e.g., *Thurman v. Bayshore Transit Management, Inc.*, 203 Cal.App.4th 1112, 1131 (2012) (imposition of both statutory and civil penalties for same conduct is impermissible double recovery) (disapproved on other grounds); *Aguirre v. Genesis Logistics*, 2013 WL 10936035, at *3 (C.D. Cal. 2013) ("duplicative effect" of penalties is a factor in favor of "reducing ...the PAGA penalty"); *Smith v. Lux Retail North America, Inc.*, 2013 WL 2932243, at *3 (N.D. Cal. June 13, 2013) (declining to stack penalties based on the same conduct); *Castillo v. ADT, LLC*, 2017 WL 363108, at *4 (E.D. Cal. Jan. 25, 2017); *Sanchez v. McDonalds Restaurants of California, Inc.*, 2017 WL 4620746 (LA Super. Ct. July 6, 2017) (declining to stack penalties arising out of the same conduct); *Fleming v. Covidien, Inc.*, 2011 WL 756304718, at *4 (C.D. Cal. Aug. 12, 2011) (reducing PAGA penalties by 80%); *Cotter v. Lyft, Inc.*, 193 F.Supp.3d 1030 (N.D. Cal. 2016) (indicating that a substantial reduction is warranted where good faith dispute exists in legal obligations); *Carrington v. Starbucks Corp.*, 30 Cal.App.5th 504, 529 (2018) (approving reduction in penalties from $50 per pay period to $5 per pay period based on good faith attempts to comply with obligations and minimal violations).

(Ibid). Typically, such hybrid cases allocate only 1% of the gross settlement value to resolve PAGA claims, and, indeed, settlements allocations as little as 0.22% of the gross settlement amount have been approved as reasonable by courts. (Ibid). Moreover, the overall relief obtained by the Settlement is significant, not only from a monetary perspective, but also because it fulfills the public policy objectives of PAGA—to promote enforcement of California's labor laws, provide funds to the state, and deter future non-compliance by the employer. (Ibid).

The Settlement is in the best interest of the Class Members, the Aggrieved Employees, and the State of California and is within the accepted range of recoveries for this type of litigation given the inherent risk of litigation, the risk of obtaining and maintaining class certification, and the costs of further litigation. (*Id*., ¶ 61).

VI. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED

Code of Civil Procedure Section 382 provides that three basic requirements must be met in order to sustain any class action: (1) there must be an ascertainable class; (2) there must be a well-defined community of interest in the question of law or fact affecting the parties to be represented; and (3) certification will provide substantial benefits to litigants and the courts, i.e., proceeding as a class action is superior to other methods. (*See Dunk*, 48 Cal.App.4th at 1806). Plaintiffs contend that the Action, which is based upon Defendant's wage and hour policies and practices, satisfies the class certification requirements under California Code of Civil Procedure section 382. Defendant denies Plaintiffs' allegations, but for purposes of the Settlement only, Defendant has stipulated to certification of the Class.

A. An Ascertainable Class Exists Which is So Numerous That Joinder of All Members is Impracticable

Whether an ascertainable class exists turns on three factors: (1) the class definition, (2) the size of the class, and (3) the means of identifying the class members. (*See Miller v. Woods*, 148 Cal.App.3d 862, 873 (1983)). In this case, all three considerations strongly favor class certification. Here, the Class is collectively referred to as the Non-Arbitration Class Members and the Arbitration Class Members. (Rose Decl., ¶ 34; Settlement Agreement, ¶ 15(d)). The definitions of the Non-Arbitration Class Members and the Arbitration Class Members provide a clear and definite scope for the proposed class.

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Next, the Class is sufficiently numerous. There is no magic number that satisfies the numerosity requirement. Courts have certified classes with as few as ten or twenty-eight class members. (*Rose v. City of Hayward*, 126 Cal.App.3d 926, 934 (1981); *Bowles v. Superior Court*, 44 Cal. 2d 574 (1995); *Hebbard v. Colgrove*, 28 Cal.App.3d 1017, 1030 (1972)). Here, the estimated Class size of five hundred and thirty-five (535) meets the numerosity requirement. (Rose Decl., ¶ 34).

Finally, the question of whether class members are easily identifiable turns on whether a plaintiff can establish "the existence of an ascertainable class." (*Daar v. Yellow Cab Co.*, 67 Cal.2d 695 at 706 (1967)). The existence of an ascertainable class in this case can be established through Defendant's payroll records, and the Class definition is sufficiently specific to enable the Parties, Class Members, and the Court to determine the parameters of the Class. (*See Clothesrigger, Inc. v. GTE Corp.*, 191 Cal.App.3d 605, 617 (1987)).

B. The Class Shares a Well-Defined Community of Interest

The community of interest requirement embodies three factors: (1) predominant questions of law and fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class. (*Dunk*, 48 Cal.App.4th at 1806). Here, all three requirements are easily satisfied.

The commonality criterion requires the existence of common question of law or fact and is generally established with the issues of predominance and typicality. (*See Daar*, 67 Cal.2d 695, 706). What is required is that a common question of fact or law exists which predominates over issues unique to individual plaintiffs. The existence of individual issues or facts—generally present in any case arising from employment—is not a bar to class certification as long as they do not render class litigation unmanageable or predominate over the common issues. (*See B.W.I. Custom Kitchen v. Owens-Illinois, Inc.*, 191 Cal.App.3d 1341, 1354 (1987)).

Here, Plaintiffs' claims present common issues of law and fact that predominate and warrant class certification. Plaintiffs allege that Defendant denied compliant meal and rest periods to employees, required employees to perform work off-the-clock, and failed to fully compensate employees for all time actually worked. These policies and practices meant that Defendant allegedly failed to pay minimum and overtime wages, and other related claims. Plaintiffs allege that Defendant's policies and practices were uniform as to all Class Members. Thus, class treatment is appropriate.

To satisfy the typicality requirement, California law does not require that plaintiffs' claims be identical to the other class members. Rather, the test of typicality for a class representative is whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiff, and whether other class members have been injured by the same course of conduct. (*See Seastrom v. Neways, Inc.*, 149 Cal.App.4th 1496, 1502 (2007)). The typicality requirement for a class representative refers to the nature of the claim or defense of the representative, and not to the specific facts from which it arose or the relief sought. (*See* Ibid).

Here, Plaintiffs allege that their claims are similar to that of the other Class Members and that Plaintiffs' claims arise out of the same alleged course of conduct giving rise to the claims of the other Class Members. Because Plaintiffs' claims are based upon the same alleged conduct and business practices as those of Class Members, the typicality requirement has been satisfied.

Finally, the question of adequacy of representation "depends on whether the plaintiff's attorney is qualified to conduct the proposed litigation and the plaintiff's interests are not antagonistic to the interests of the class." (*McGee v. Bank of America*, 60 Cal.App.3d 442, 450 (1976)). Here, these considerations are satisfied. Class Counsel is well-regarded and is qualified and experienced in employment-related, class-action litigation. (Rose Decl., ¶¶ 1–9). Plaintiffs will vigorously, adequately, and fairly represent the interests of the Class. Plaintiffs have, at all times, throughout the course of the litigation considered the interests of the Class and understood that they must take steps to adequately represent the Class and their interests. (Diaz Decl., ¶ 10; Castro Decl., ¶ 10). Because Plaintiffs' claims are typical of other Class Members and are not based on unique circumstances, there is no antagonism between the interests of Plaintiffs and the Class.

C. A Class Action is Superior to a Multiplicity of Litigation

Under the circumstances, proceeding as a class action is a superior means of resolving this dispute, as the Class Members and the Court will derive substantial benefits. Class certification would serve as the only means to deter and redress the alleged violations. (*See Linder v. Thrifty Oil Co.*, 23 Cal.4th 429, 434 (2000) (relevant considerations include the probability that each class member will come forward to prove his or her separate claim and whether the class approach would actually serve to deter and redress the alleged wrongdoing)). Further, individual actions arising out of the same operative facts would unduly burden the courts and could result in inconsistent results. Therefore, class action proceedings are superior to individual litigation.

VII. THE REQUESTED ENHANCEMENT PAYMENTS ARE REASONABLE

Plaintiffs in class action lawsuits are eligible for reasonable incentive payments as compensation "for the expense or risk they have incurred in conferring a benefit on other members of the class." (*Munoz v. BCI Coca-Cola Bottling Co.*, 186 Cal.App.4th 399, 412 (2010)). Courts routinely grant approval of class action settlement agreements containing enhancements for the class representative, which are necessary to provide incentive to represent the class and are appropriate given the benefit the class representatives help to bring about for the class. (*See In re Online DVD Rental*, 779 F.3d 934, 947-948 (9th Cir. 2014) (approving incentive award 417 times larger than individual payments where incentive award made up a mere .17% of the settlement); *Gaudin v. Saxon Mortgage Servs., Inc.*, 2015 WL 7454183, at *10 (N.D. Cal. Nov. 23, 2015) (finding service award of $15,000 to be "fair and reasonable")).

Plaintiffs have pursued this litigation on behalf of their former co-workers who will now be entitled to receive payment from the Settlement. Plaintiffs invested substantial time and effort into litigation, including their own research, reviewing documents, and extensive discussions with Class Counsel. (Diaz Decl., ¶¶ 3-5; Castro Decl., ¶¶ 3-5). Further, the requested amounts for Plaintiffs are also reasonable given the average award and the benefit gained by other Class Members. For these reasons, Plaintiffs request Enhancement Payments in the amount of Five Thousand Dollars and Zero Cents ($5,000.00) to Plaintiff Diaz, and in the amount of Two Thousand Five Hundred Dollars and Zero Cents ($2,500.00) to Plaintiff Castro, for a total of Seven Thousand Five Hundred Dollars and Zero Cents to Plaintiffs ($7,500.00) be preliminarily approved by the Court. (Rose Decl., ¶ 62; Diaz Decl., ¶ 12; Castro Decl., ¶ 12).

VIII. THE REQUESTED ATTORNEYS' FEES AND COSTS ARE REASONABLE

Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions are "not to be disturbed on appeal absent a manifest abuse of discretion." (*Lealao v. Beneficial Cal, Inc.*, 82 Cal.App.4th 19, 41 (2000)). California law provides that attorney fee awards should be equivalent to fees paid in the legal marketplace to compensate for the result achieved and risk incurred. (*Id*. at 47). In cases where class members present claims against a common fund and the defendant agrees to a percentage of the fund as part of the settlement, use of the percentage method is appropriate. (*Id.* at 32).

Here, the requested attorneys' fees of thirty-five percent (35%) of the Gross Settlement Amount (i.e., $175,000.00) is disclosed to Class Members in the proposed Class Notice. (Settlement Agreement, Exh. A). The requested fee was freely negotiated, is common in the legal marketplace, and is not opposed by Defendant. The Motion for Final Approval will elaborate on the nature of the legal services provided and will also support Class Counsel's request for the reimbursement of litigation costs and expenses not to exceed Sixty Thousand Dollars and Zero Cents ($60,000.00). (Rose Decl., ¶¶ 63 and 66). The Attorneys' Fees and Costs that are not ultimately approved by the Court shall instead be included in the Net Settlement Amount to be distributed to Settlement Class Members. (Settlement Agreement, ¶ 18).

IX. THE CLASS NOTICE AND THE OPT-OUT AND OBJECTION PROCESS MEETS DUE PROCESS REQUIREMENTS

The Parties have jointly drafted the Class Notice, which will be mailed to the Class Members. (*Id*., Exh. A). The Class Notice will include information regarding the nature of the Action, a summary of the terms of the Settlement, the Class definition, information on how to object to and/or opt-out of the Class Settlement and to dispute Workweeks, and the date of the Final Approval Hearing. (Ibid). The Class Notice will list each Class Member's total Workweeks and their estimated Individual Settlement Share and each Aggrieved Employee's total PAGA Pay Periods and their estimated Individual PAGA Payment. (Ibid).

Within fourteen (14) calendar days after entry of the preliminary approval order, Defendant will provide a list in a formatted readable Microsoft Office Excel spreadsheet to the Settlement Administrator containing the following information for each Class Member and Aggrieved Employee: full name; last known mailing address; Social Security number; number of Non-Arbitration Workweeks; number of Arbitration Workweeks; and number of PAGA Pay Periods. (*Id*., ¶¶ 15.f and 32). Within seven (7) calendar days after receiving the Class List from Defendant, the Settlement Administrator will perform a search based on the National Change of Address Database or other similar services available, such as provided by Experian, for information to update and correct for any known or identifiable address changes, and will mail a Class Notice in English and Spanish to all Class Members and Aggrieved Employees via First-Class U.S. Mail, using the most current, known mailing addresses identified by the Settlement Administrator. (*Id.*, ¶ 33(a)). The Parties have agreed to use ILYM Group, Inc. as the Settlement Administrator. (Rose Decl., ¶ 66; Settlement Agreement, ¶ 15.kk).

In determining whether to approve a settlement of a class action, a trial court has virtually complete discretion as to the manner of giving notice to class members, and review on appeal is governed by the abuse of discretion standard. (*See In re Cellphone Fee Termination Cases*, 186 Cal.App.4th 1380 (2010)). Here, Class Counsel is not aware of an alternative method of providing notice to the Class which would result in a higher likelihood of actual notice. (Rose Decl., ¶ 67). The original source of the mailing addresses is from Class Members, who provided the information to Defendant. (Ibid).

Class Members will have forty-five (45) calendar days from the initial mailing of the Class Notice by the Settlement Administrator to submit a Request for Exclusion, Notice of Objection, and/or Dispute ("Response Deadline"). (Settlement Agreement, ¶ 15.jj).

Any Class Notice returned to the Settlement Administrator as undeliverable on or before the Response Deadline will be sent promptly via First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Class Notice. (*Id.*, ¶ 33(b)). If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine a correct address using a skip-trace or other search, using the name, address, and/or Social Security number of the Class Member and/or Aggrieved Employee, and perform a single re-mailing within five (5) calendar days. (Ibid). In the event that a Class Notice is re-mailed to a Class Member and/or Aggrieved Employee, the Response Deadline for that Class Member and/or Aggrieved Employee shall be extended fifteen (15) calendar days from the original Response Deadline. (*Id.*, ¶ 15.jj).

Class Members and Aggrieved Employees will have an opportunity to dispute the number of Workweeks and/or PAGA Pay Periods to which they have been credited, as reflected in their respective Class Notices, by submitting a timely and valid letter ("Dispute") to the Settlement Administrator, by mail, postmarked on or before the Response Deadline. (*Id.*, ¶¶ 15.l and 34). A Dispute must: (a) contain the case name and number of the Action; (b) contain the Class Member's and/or Aggrieved Employee's full name, signature, address, telephone number, and the last four (4) digits of the Class Member's and/or

Aggrieved Employee's Social Security number; (c) clearly state that the Class Member and/or Aggrieved Employee disputes the number of Workweeks and/or PAGA Pay Periods credited to that Class Member and/or Aggrieved Employee and what the Class Member and/or Aggrieved Employee contends is the correct number; and (d) be returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline. (*Id*., ¶ 15.l).

Any Class Member wishing to be excluded from the Class Settlement must submit a timely and valid letter ("Request for Exclusion") to the Settlement Administrator, by mail, postmarked on or before the Response Deadline. (*Id*., ¶¶ 15.ii and 35). A Request for Exclusion must: (a) contain the case name and number of the Action; (b) contain the Class Member's full name, signature, address, telephone number, and last four (4) digits of the Class Member's Social Security number; (c) clearly state that the Class Member does not wish to be included in the Class Settlement; and (d) be returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline. (*Id*., ¶ 15.ii). Notwithstanding the above, all Aggrieved Employees will be bound by the PAGA Settlement and will be issued their Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion. (*Id*., ¶ 35).

To object to the Class Settlement, Settlement Class Members must submit a timely and complete written objection ("Notice of Objection") to the Settlement Administrator, by mail, postmarked on or before the Response Deadline. (*Id*., ¶¶ 15.y and 36). A Notice of Objection must: (a) contain the case name and number of the Action; (b) contain the objector's full name, signature, address, telephone number, and the last four (4) digits of the objector's Social Security number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline. (*Id*., ¶ 15(y)). Settlement Class Members, individually or through counsel, may also present their objection orally at the Final Approval Hearing, regardless of whether they have submitted a Notice of Objection. (*Id*., ¶ 36).

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X. CONCLUSION

For all of the foregoing reasons, Plaintiffs respectfully request that this Court grant Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement and the relief requested herein.

Respectfully submitted,

Dated: December 11, 2025

BLACKSTONE LAW, APC

By: ______________________________

Alexandra Rose
Attorneys for Plaintiffs Yrene Diaz and Yolanda Castro