

DOUGLAS HAN (SBN 232858)
SHUNT TATAVOS-GHARAJEH (SBN 272164)
JASON ROTHMAN (SBN 304961)
HAIG HOGDANIAN (SBN 334699)
JUSTICE LAW CORPORATION
751 N. Fair Oaks Avenue, Suite 101
Pasadena, California 91103
Telephone: (818) 230-7502
Facsimile: (818) 230-7259

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

MATHEW LANTZ, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

v.

TRIO MANUFACTURING, INC., a
California corporation; and DOES 1 through
100, inclusive;

Defendants.

Case No.: 21STCV44007

Assigned for All Purposes to:
Honorable Lawrence P. Riff
Department 7

CLASS ACTION

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT, CONDITIONAL
CERTIFICATION, APPROVAL OF
CLASS NOTICE, SETTING OF FINAL
APPROVAL HEARING DATE;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

[Declaration of Proposed Class Counsel
(Douglas Han); Declaration of Defense
Counsel (Douglas Leach); Declaration of
Defendant (Karla Echeverria); Declaration of
Proposed Class Representative (Mathew
Lantz); Declaration of Jodey Lawrence;
Declaration of Joan Graff and [Proposed]
Order filed concurrently herewith]

Hearing Date: May 11, 2023
Hearing Time: 10:00 a.m.
Hearing Place: Department 7

Complaint Filed: December 2, 2021
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on May 11, 2023 at 10:00 a.m., or as soon as the matter
2 may be heard, before the Honorable Lawrence P. Riff in Department 7 of the Los Angeles County
3 Superior Court (Spring Street Courthouse) located at 312 North Spring Street, Los Angeles,
4 California 90012, Plaintiff Mathew Lantz (“Plaintiff”) will and hereby does move for an order:

- 5 • Granting Preliminary Approval of the proposed class action settlement described
6 herein and as set forth in the Parties’ Class Action and PAGA Settlement
7 Agreement and Class Notice (“Settlement Agreement,” “Settlement,” or
8 “Agreement”), attached as **Exhibit 3** to the Declaration of Douglas Han, including,
9 and not limited to, the means of allocation and distribution of funds;
- 10 • Conditionally certifying the Class for settlement purposes only;
- 11 • Appointing Plaintiff as the class representative;
- 12 • Appointing Justice Law Corporation as Class Counsel;
- 13 • Approving the Court Approved Notice of Class Action and PAGA Settlement and
14 Hearing Date For Final Court Approval (“Class Notice”) attached as **Exhibit A** to
15 the Settlement Agreement;
- 16 • Directing the mailing of the Class Notice with a postage-paid return envelope to
17 the Class;
- 18 • Approving the deadlines for the notice and settlement administration process;
- 19 • Approving Phoenix Class Action Administration Solutions as the Administrator;
20 and
- 21 • Scheduling a hearing to consider whether to grant final approval of the Settlement
22 Agreement, at which time the Court will also consider whether to grant final
23 approval of the requests for the Class Counsel Fees Payment, Class Counsel
24 Litigation Expenses Payment, Class Representative Service Payment, and
25 Administration Expenses Payment, and Private Attorneys General Act of 2004
26 (“PAGA”) Penalties.

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1 This motion is based upon the following memorandum of points and authorities;
2 Declaration of Proposed Class Counsel (Douglas Han); Declaration of the Proposed Class
3 Representative (Mathew Lantz); Declaration of Douglas Leach; Declaration of Karla Echeverria;
4 Declaration of Jodey Lawrence; Declaration of Joan Graff; [Proposed] Order filed concurrently
5 with this motion; pleadings and other records on file with the Court in this matter; and such
6 documentary evidence and oral argument as may be presented at the hearing on this motion.

7
8 Dated: February 2, 2023

JUSTICE LAW CORPORATION

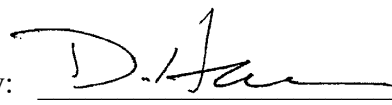
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10 By: 
11 Douglas Han
12 *Attorneys for Plaintiff*
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1 **I. INTRODUCTION**

2 This motion seeks preliminary approval of a non-reversionary \$633,000 proposed wage-
3 and-hour class action and PAGA settlement by Plaintiff on behalf of himself and all current and
4 former non-exempt hourly employees who are or were employed by Defendant Trio
5 Manufacturing, Inc. (“Defendant”) in California at any time during the December 2, 2017
6 February 28, 2023 (“Class” and “Class Period”). At this time, the number of Class Members is
7 estimated to be two hundred thirty-five (235), which was confirmed by Defendant.

8 It is requested this Court grant preliminary approval. Class Counsel are convinced the
9 Settlement is in the best interests of the Class Members based on the negotiations and a detailed
10 knowledge of the issues present in this matter.

11 **II. BACKGROUND**

12 On September 23, 2021, Plaintiff provided written notice to the California Labor and
13 Workforce Development Agency (“LWDA”) and Defendant. (Declaration of Douglas Han (“Han
14 Decl.”), ¶ 10; Exhibit 4.)

15 On December 2, 2021, Plaintiff filed a wage-and-hour class action lawsuit in the Superior
16 Court of California, County of Los Angeles, alleging nine (9) causes of action., including
17 violation of Labor Code section 2698 (PAGA). (Han Decl., *supra*, at ¶ 11; Exhibit 5.)

18 After engaging in discovery, investigations, and negotiations, the Parties remotely
19 attended mediation on the claims with mediator Mark S. Rudy on November 30, 2022. (Han
20 Decl., *supra*, at ¶ 12.) Under the auspices of the mediator after a full day of mediation, the Parties
21 managed to successfully negotiate a settlement for this matter. (*Ibid.*)

22 **III. INVESTIGATION/ LITIGATION HISTORY**

23 **a. Discovery, Investigation, and the Parties’ Staunchly Conflicting Positions**

24 After initiating this lawsuit, the Parties engaged in discovery. (Han Decl., *supra*, at ¶ 14.)
25 Specifically, Plaintiff propounded one (1) set of form interrogatories, one (1) set of special
26 interrogatories, one (1) set of requests for admissions, and one (1) set of requests for production
27 of documents. (*Ibid.*) Thereafter, the Parties met and conferred and agreed to engage in an
28 informal exchange of information and then eventually attend mediation. (*Ibid.*)

1 Prior to mediation, the Parties conducted significant investigation and discovery of the
2 relevant facts and law. (Han Decl., *supra*, at ¶ 15.) Specifically, Defendant produced Class
3 Members’ personnel records and documents (*i.e.*, employee handbooks, policy documents)
4 relating to its wage-and-hour policies, practices, and procedures. (*Ibid.*) Defendant also
5 assembled and produced, and Plaintiff reviewed, a random sampling of time and pay records,
6 information relating to the size and scope of the Class. (*Ibid.*) Putative class members were also
7 interviewed to attain a better understanding of the extent and frequency of the day-to-day alleged
8 violations and the day-to-day circumstances giving rise to these violations. (*Ibid.*)

9 Based upon the information provided by Defendant and interviews with putative class
10 members, Plaintiff contends – and Defendant denies – Defendant: (1) failed to provide employees
11 with legally mandated rest and meal breaks; (2) failed to pay employees for all hours worked; (3)
12 failed to properly calculate and pay overtime wages; (4) failed to reimburse employees for
13 necessary business expenses; (5) issued noncompliant wage statements; and (6) is liable for
14 waiting time penalties. (Han Decl., *supra*, at ¶¶ 17-24.)

15 **b. The Parties Were Able to Reach an Agreement on Settlement of the Action**

16 **i. Parties Attended Mediation Which Led to the Settlement Agreement**

17 During the Parties’ mediation on November 30, 2022, the Parties discussed the risks of
18 continued litigation, likelihood of certification, and merits of the claims and defenses versus the
19 benefits of settlement. (Han Decl., *supra*, at ¶ 25.) With the assistance of the mediator, the Parties
20 reached a settlement, the terms of which were memorialized in the Settlement Agreement, the
21 Parties seek Preliminary Approval of. (*Id.* at ¶ 25; Exhibits 3, 6.)

22 **ii. The Settlement Was Reached as a Result of Arm’s-length Negotiations**

23 The Settlement was reached because of arm’s-length negotiations. (Han Decl., *supra*, at
24 ¶ 41.) Though cordial and professional, the settlement negotiations have always been adversarial
25 and non-collusive in nature. (*Ibid.*) At the mediation, both Parties’ counsel conducted extensive
26 arm’s-length settlement negotiations until an exceptional settlement was reached. (*Ibid.*)

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1 Plaintiff and Class Counsel believe in the merits of the case but also recognize the expense
2 and length of additional proceedings necessary to continue the litigation. (Han Decl., *supra*, at ¶
3 42.) Plaintiff and Class Counsel considered the uncertainty and risk of further litigation, potential
4 outcome, and difficulties and delays inherent in such litigation. (*Ibid.*) Based on the foregoing,
5 Plaintiff and Class Counsel believe the Settlement is a fair, adequate, and reasonable settlement,
6 and is in the Class Members' best interests. (*Ibid.*)

7 **iii. The Settlement Is the Result of Thorough Investigation and Discovery**

8 The Parties thoroughly investigated and evaluated the factual strengths and weaknesses
9 of the claims and defenses before reaching the Settlement and engaged in sufficient investigation,
10 research, and discovery to support the Settlement. (Han Decl., *supra*, at ¶ 43.) The Settlement
11 was possible following significant investigation and evaluation of the relevant policies and
12 procedures and the data produced for the putative class. (*Ibid.*) Furthermore, this case has also
13 reached the stage where “the Parties certainly have a clear view of the strengths and weaknesses
14 of their cases” sufficient to support the reasonableness, adequacy, and fairness of the Settlement.
15 (Han Decl., *supra*, at ¶ 43; *Boyd v. Bechtel Corp.* (N.D.Cal. 1979) 485 F.Supp. 610, 617.)

16 **c. Terms of the Proposed Settlement**

17 **i. Deductions from the Settlement**

18 The Parties agreed this matter be settled and compromised for the non-reversionary total
19 sum of \$633,000 (“Gross Settlement Amount”), which includes: (a) Class Counsel Fees Payment
20 not to exceed \$221,550 (35% of the Gross Settlement Amount); (b) Class Counsel Litigation
21 Expenses Payment not to exceed \$25,000; (c) Class Representative Service Payment not to exceed
22 \$10,000; (d) Administration Expenses Payment not to exceed \$8,750; and (e) PAGA Penalties
23 not to exceed \$30,000. (Han Decl., *supra*, at ¶ 26; Exhibit 7.)

24 **ii. Calculation of Settlement Payments**

25 After all Court-approved deductions from the Gross Settlement Amount, it is estimated
26 \$337,700 (“Net Settlement Amount”) will be distributed to Class Members who do not submit
27 valid and timely Requests for Exclusion from the Settlement (“Participating Class Members”) –
28 with an *average* gross Individual Class Payment of \$1,437.02. (Han Decl., *supra*, at ¶ 27.)

1 The Administrator will calculate and pay Individual Class Payments using the formula set
2 forth in the Agreement. (Han Decl., *supra*, at ¶ 29.) Individual Class Payments will be allocated
3 twenty percent (20%) to the settlement of wage claims and eighty percent (80%) to the settlement
4 of claims for interest and penalties. (*Ibid.*) Defendant will pay employer’s share of payroll taxes
5 separate from the Gross Settlement Amount. (*Ibid.*)

6 The Administrator will calculate and pay Individual PAGA Payments using the formula
7 set forth in the Settlement. (Han Decl., *supra*, at ¶ 30.) Individual PAGA Payments will be
8 allocated one hundred percent (100%) to the settlement of interest and penalties. (*Ibid.*)

9 **iii. Notice to the Class**

10 No later than fourteen (14) days after the Court grants Preliminary Approval of the
11 Settlement, Defendant will simultaneously deliver the Class Data to the Administrator. (Han
12 Decl., *supra*, at ¶ 31.)

13 No later than seven (7) days after receiving the Class Data, the Administrator will send to
14 all Class Members identified in the Class Data, via first-class United States Postal Service
15 (“USPS”) mail, the Class Notice in both English and Spanish. (Han Decl., *supra*, at ¶ 32.)

16 **iv. Distribution of Funds**

17 Defendant shall fully fund the Gross Settlement Amount and fund the amounts necessary
18 to fully pay Defendant’s share of payroll taxes by transmitting the funds to the Administrator no
19 later than fourteen (14) days after the Effective Date. (Han Decl., *supra*, at ¶ 33.) Within fourteen
20 (14) days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks
21 for the above-mentioned payments. (*Ibid.*)

22 Participating Class Members and Aggrieved Employees must cash in their settlement
23 checks within one hundred eighty (180) days after their date of mailing. (Han Decl., *supra*, at ¶
24 34.) Uncashed settlement checks will be canceled and remitted to the *cy pres* recipient Legal Aid
25 At Work (“LAAW”). (*Ibid.*)

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1 **v. The Cy Pres Recipient Is Appropriate**

2 LAAW satisfies the policy of California “to ensure that the unpaid cash residue and
3 unclaimed or abandoned funds in class action litigation are distributed, to the fullest extent
4 possible, in a manner designed either to further the purposes of the underlying class action or
5 causes of action, or to promote justice for all Californians.” (Han Decl., *supra*, at ¶ 35; Code Civ.
6 Proc., § 384(a).) The Code of Civil Procedure further states:

7 [T]he court shall amend the judgment to direct the defendant to pay the sum of the
8 unpaid residue or unclaimed or abandoned class member funds, plus any interest
9 that has accrued thereon, to nonprofit organizations or foundations to support
10 projects that will benefit the class or similarly situated persons, or that promote the
11 law consistent with the objectives and purposes of the underlying cause of action,
 to child advocacy programs, or to nonprofit organizations providing civil legal
 services to the indigent.

12 (Han Decl., *supra*, at ¶ 35; Code Civ. Proc., § 384 (b).)

13 LAAW directly satisfies the legislature’s purpose and goal under Code of Civil Procedure
14 section 384. (Han Decl., *supra*, at ¶ 36.) The core of LAAW’s work is providing free legal
15 services to low-wage workers with employment claims. (*Ibid.*) LAAW’s Community Legal
16 Services Program also provides advice and counseling to low-wage workers on the full range of
17 employment law issues they face through twelve statewide Workers’ Rights Clinic locations
18 throughout California. (*Ibid.*) There can be no doubt LAAW is the type of non-profit organization
19 the legislature had in mind when drafting and amending section 384. (*Ibid.*) The Parties are not
20 also affiliated with and do not have any financial interest in LAAW. (*Ibid.*)

21 **vi. Release of Claims**

22 Effective on the date when Defendant fully funds the entire Gross Settlement Amount and
23 funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, all
24 Participating Class Members, on behalf of themselves and their respective former and present
25 representatives, agents, attorneys, heirs, administrators, successors, and assigns release Released
26 Parties from the Released Class Claims. (Han Decl., *supra*, at ¶ 37.)

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Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, all Aggrieved Employees, as well as the State of California and Labor and Workforce Development Agency, are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the Released PAGA Claims. (Han Decl., *supra*, at ¶ 38.)

Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from Plaintiff's Release. (Han Decl., *supra*, at ¶ 39.) Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the Civil Code. (*Ibid.*)

With regard to class action releases, “[A] court may release not only those claims alleged in the complaint and before the court, but also claims which ‘could have been alleged by reason of or in connection with any matter or fact set forth or referred to in’ the complaint.” (*Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 537.) The scopes of the releases in this case are acceptable because they are limited to the scope of the allegations contained in the operative complaint. The released claims are “‘based on the identical factual predicate as that underlying the claims in the settled class action.’” (*Ibid.*) In other words, the released claims do not “‘go beyond the scope of the allegations in the operative complaint’” (*Ibid.*)

d. Counsel for Both Parties Are Experienced in Similar Litigation

Both Parties' counsel are experienced in wage-and-hour employment law and class actions. (Han Decl., *supra*, at ¶¶ 2-7; Exhibits 1-2.) Class Counsel have prosecuted numerous cases on behalf of employees for Labor Code violations and are experienced and qualified to evaluate the class claims, advantages and disadvantages of settlement versus trial, and viability of the defenses. (Han Decl., *supra*, at ¶¶ 2-7; Exhibits 1-2.) Class Counsel's experience also guided their determination to endorse the proposed Settlement.¹ (*Ibid.*)

¹ The final factor mentioned in *Dunk v. Motor Co.* (1996) 48 Cal.App.4th 1794 – the number of objectors – is not determinable until the Class Notice has been provided to the Class

1 **IV. ARGUMENT**

2 **a. Class Action Settlements Are Subject to Court Review**

3 California Rules of Court, rule 3.769 requires court approval for class action settlements.²
4 “Before final approval, the court must conduct an inquiry into the fairness of the proposed
5 settlement.” (Cal. Rules of Court, rule 3.769(g).) Rule 3.769 further requires a noticed motion for
6 preliminary approval of class settlements:

7 (a) A settlement or compromise of an entire class action, or a cause of action in
8 a class action, or as to a party, requires the approval of the court after
9 hearing.

10 (c) Any party to a settlement agreement may serve and file a written notice of
11 motion for preliminary approval of the settlement. The settlement
12 agreement and proposed notice to class members must be filed with the
13 motion, and the proposed order must be lodged with the motion.

14 Courts have discretion to approve settlements that are fair, not collusive, and consider “all
15 the normal perils of litigation as well as the additional uncertainties inherent in complex class
16 actions.” (*In re Beef Industry Antitrust Litigation* (5th Cir. 1979) 607 F.2d 167, 179, cert. den. *sub*
17 *nom. Iowa Beef Processors, Inc. v. Meat Price Investigators Ass’n* (1981) 452 U.S. 905.)

18 **b. The Proposed Settlement Is a Reasonable Compromise of Claims**

19 An understanding of the amount in controversy is an important factor in whether the
20 settlement “of the class members’ claims is reasonable in light of the strengths and weaknesses
21 of the claims and the risks of the particular litigation.” (*Kullar v. Foot Locker Retail, Inc.* (2008)
22 168 Cal.App.4th 116, 129; see also *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010)
23 186 Cal.App.4th 399, 409.) The most important factor in this regard is “the strength of the case
24 for plaintiffs on the merits, balanced against the amount offered in settlement.” (*Kullar v. Foot*

25 _____
26 Members, and they have had an opportunity to respond. This information will be provided to the
27 Court in conjunction with the Motion for Final Approval of Class Action Settlement.

28 ² The California Supreme Court authorized California’s trial courts to use Federal Rule 23
and cases applying it for guidance in considering class issues. (See *Vasquez v. Superior Court*
(1971) 4 Cal.3d 800, 821; see *Green v. Obledo* (1981) 29 Cal.3d 126, 145-146.) Where
appropriate, the Parties cite Federal Rule 23 and federal case law in addition to California law.

1 *Locker Retail, Inc.*, *supra*, 168 Cal.App.4th at p. 129; see also *Munoz v. BCI Coca-Cola Bottling*
2 *Co. of Los Angeles*, *supra*, 186 Cal.App.4th at p. 409.)

3 In weighing the strength of the case, *Kullar* instructs the court is not to “decide the merits
4 of the case or to substitute its evaluation of the most appropriate settlement for that of the
5 attorneys.” (*Kullar v. Foot Locker Retail, Inc.*, *supra*, 168 Cal.App.4th at p. 133.) *Kullar* does not
6 require a statement of the maximum amount the class could recover if plaintiff prevailed on all
7 claims, provided there is a record allowing “an understanding of the amount that is in controversy
8 and the realistic range of outcomes of the litigation.” (*Munoz v. BCI Coca-Cola Bottling Co. of*
9 *Los Angeles*, *supra*, 186 Cal.App.4th at p. 409.) “[A]s the court does when it approves a settlement
10 as in good faith under Code of Civil Procedure § 877.6, the court must at least satisfy itself that
11 the class settlement is within the ‘ballpark’ of reasonableness.” (*Kullar*, at p. 133.)

12 **i. The Settlement Amount of \$633,000 Is Fair and Reasonable**

13 The proposed Settlement was only possible following significant investigation and
14 evaluation of the relevant policies and procedures and the data produced for the putative class, as
15 referenced in Section III above, which permitted Class Counsel to engage in a comprehensive
16 analysis of liability and potential damages. (Han Decl., *supra*, at ¶ 43.)

17 This investigation and evaluation informed the central theories of liability. (Han Decl.,
18 *supra*, at ¶ 44.) The claims are predicated on the alleged: (1) failure to pay overtime wages; (2)
19 failure to provide compliant rest and meal breaks and pay applicable premiums; (3) failure to pay
20 minimum wages; (4) failure to timely pay wages; (5) failure to issue compliant wage statements;
21 (6) failure to reimburse business expenses; (7) violation of Labor Code section 2698, *et seq.*
22 (PAGA); and (8) violation of Business & Professions Code section 17200, *et seq.* (*Ibid.*)
23 Defendant vehemently denies the theories of liability. (*Id.* at ¶ 45.)

24 Although Plaintiff believes the case is suitable for certification, uncertainties with respect
25 to certification are always present. (Han Decl., *supra*, at ¶ 46.) As the California Supreme Court
26 ruled in *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, class certification is
27 always a matter of the trial court’s sound discretion. (*Ibid.*) Decisions following *Sav-On Drug*
28 *Stores, Inc.* have reached different conclusions concerning certification of wage-and-hour

claims.³ (Han Decl., *supra*, at ¶ 46.) These factors led discounting the calculations of potential damages.

ii. The PAGA Penalties of \$30,000 Is Reasonable

The provisions of the Labor Code potentially triggering PAGA penalties in this case include, but are not limited to, Labor Code sections 201, 202, 203, 204, 210, 218.5, 221, 226(a), 226.3, 226.7, 246, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802. (Han Decl., *supra*, at ¶ 56.) Defendant asserts, regardless of the results of the underlying causes of action, PAGA penalties are not mandatory but permissive and discretionary. (*Ibid.*) Defendant also maintains it had a strong argument it would be unjust to award maximum PAGA penalties given the law's current unsettled state concerning PAGA penalties. (Han Decl., *supra*, at ¶ 56; *Thurman v. Bayshore Transit Mgmt.* (2012) 203 Cal.App.4th 1112 [reducing penalties by 30% under this authority].) Defendant argued without stacking and limited to the initial violation, the PAGA penalties would be limited to **\$16,400** (164 employees x \$100 penalty for initial violation) on the low end and **\$114,800** (164 employees x \$100 penalty for initial violation x 7 theories of recovery) on the high end. (Han Decl., *supra*, at ¶¶ 57-59.)

Plaintiff recognized the risk that any PAGA award could be reduced. (Han Decl., *supra*, at ¶ 60.) Many of the causes of action brought were also duplicative of the statutory claims. (*Ibid.*) Allocating \$30,000 to PAGA civil penalties was reasonable given that Defendant is paying an additional \$603,000 in the class settlement. (*Ibid.*) When PAGA penalties are negotiated in good faith and "there is no indication that [the] amount was the result of self-interest at the expense of other Class Members," such amounts are reasonable.⁴ (Han Decl., *supra*, at ¶ 60.)

³ (See, e.g., *Harris v. Superior Court* (2007) 154 Cal.App.4th 164 [reversing decertification of class claiming misclassification and ordering summary adjudication in favor of employees], review granted Nov. 28, 2007, (2007) 171 P.3d 545 [not cited as precedent, but rather for illustrative purposes only]; *Walsh v. IKON Solutions, Inc.* (2007) 148 Cal.App.4th 1440 [affirming decertification of class claiming misclassification]; *Aguilar v. Cintas Corp. No. 2* (2006) 144 Cal.App.4th 121 [reversing denial of certification]; *Dunbar v. Albertson's Inc.* (2006) 141 Cal.App.4th 1422 [affirming denial of certification].)

⁴ (*Hopson v. Hanesbrands Inc.* (N.D.Cal. Apr. 3, 2009, No. CV-08-0844 EDL) 2009 U.S.Dist.LEXIS 33900, at *24; see, e.g., *Nordstrom Com. Cases* (2010) 186 Cal.App.4th 576, 579, "[T]rial court did not abuse its discretion in approving a settlement which does not allocate any damages to the PAGA claims".)

Considering Defendant's defenses, supporting evidence, and position the case is not suitable for class treatment, the Settlement is reasonable, adequate, and fair.

c. Discount Analysis Justifies the Settlement

Excluding the civil penalties, which could be completely discretionary, the total estimated potential exposure, assuming certification and prevailing at trial, would be about **\$2,769,764.46** on the low end and **\$3,118,811.94** on the high end. (Han Decl., *supra*, at ¶ 61.)

Category	Potential Exposure	Certification Risk	Merits Risk	Realistic Exposure
Rest Break Premiums	\$207,184.82	70%	60%	\$24,862.18
Meal Break Premiums	\$581,900.08	60%	50%	\$116,380.02
Overtime/Minimum Wage: Off-the-Clock Work	\$698,094.96 to \$1,047,142.44	50%	50%	\$174,523.74 to \$261,785.61
Overtime/Minimum Wage: Regular Rate	\$19,677	30%	40%	\$8,264.34
Unreimbursed Business Expenses	\$204,666	20%	70%	\$49,119.84
Wage Statement Penalty	\$418,200	50%	50%	\$104,550
Waiting Time Penalty	\$640,041.60	50%	50%	\$160,010.40
MAXIMUM TOTAL EXPOSURE	\$2,769,764.46 to \$3,118,811.94⁵			\$637,710.52 to \$724,972.39⁶

Based on this analysis, the realistic recovery for this case is **\$637,710.52** on the low end and **\$724,972.39** on the high end. (Han Decl., *supra*, at ¶ 69.) The Gross Settlement Amount of \$633,000 is about twenty percent (20.30%) of the maximum potential exposure and around eighty-seven percent (87.31%) of the maximum realistic exposure at trial. (*Ibid.*)

The only question at preliminary approval is whether the settlement is within the range of possible approval. (*In re Tableware Antitrust Litig.* (N.D.Cal. 2007) 484 F.Supp.2d 1059, 1079.) “The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.” (*City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495 F.2d 448, 455; see also

⁵ (Han Decl., *supra*, at ¶¶ 47-55.)

⁶ (*Id.* at ¶¶ 62-68.)

1 *Linney v. Ceullar Alaska Partnership* (9th Cir. 1998) 151 F.3d 1234, 1242, “[I]t is the very
2 uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce
3 consensual settlements. The proposed settlement is not to be judged against a hypothetical or
4 speculative measure of what might have been achieved by the negotiators”.) Nevertheless, this
5 Settlement is in line with the realistic exposure had Plaintiff prevailed at trial and provides a
6 significant recovery for Class Members.

7 **d. Conditional Certification of the Class Is Appropriate**

8 Code of Civil Procedure section 382 “authorizes class actions ‘when the question is one
9 of a common or general interest, of many persons, or when the parties are numerous, and it is
10 impracticable to bring them all before the court.’” (*Sav-On Drug Stores, Inc. v. Superior Court*,
11 *supra*, 34 Cal.4th at p. 326.) Courts certify class actions where the plaintiff identifies “both [1] an
12 ascertainable class and [2] a well-defined community of interest among class members.” (*Ibid.*)

13 The Class is ascertainable and numerous as to make it impracticable to join all Class
14 Members, and there are common questions of law and fact that predominate over any individual
15 questions. (Han Decl., *supra*, at ¶ 70.) Plaintiff contends, as a former non-exempt hourly-paid
16 employee of Defendant, his claims are typical of the claims of the Class, and Class Counsel will
17 fairly and adequately protect the Class’s interests. (*Ibid.*) Plaintiff assert prosecution of separate
18 actions by Class Members would create the risk of inconsistent or varying adjudications. (*Ibid.*)

19 **i. The Proposed Class Is Ascertainable and Sufficiently Numerous**

20 “Ascertainability is required in order to give notice to putative class members as to whom
21 the judgment in the action will be res judicata.” (*Hicks v. Kaufman & Broad Home Corp.* (2001)
22 89 Cal.App.4th 908, 914.) “A class is ascertainable if it identifies a group of unnamed plaintiffs
23 by describing a set of common characteristics sufficient to allow a member of that group to
24 identify himself or herself as having a right to recover based on the description.” (*Bartold v.*
25 *Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 828.) The proposed class must also be
26 sufficiently numerous. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.)

27 This case involves approximately two hundred thirty-five (235) Class Members, meaning
28 the Class is sufficiently numerous. (Han Decl., *supra*, at ¶ 71; see *Ghazaryan v. Diva Limousine*,

1 *Ltd.* (2008) 169 Cal.App.4th 1524, 1531, n.5 [finding that a proposed class of “as many as 190
2 current and former employees” is sufficiently numerous].)

3 **ii. The Class Members Share a Well-defined Community of Interest**

4 The community of interest requirement “embodies three factors: (1) predominant common
5 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and
6 (3) class representatives who can adequately represent the class.” (*Sav-On Drug Stores, Inc. v.*
7 *Superior Court, supra*, 34 Cal.4th at p. 326.) “[T]he community of interest requirement for
8 certification *does not mandate that class members have uniform or identical claims.*” (*Capitol*
9 *People First v. Department of Developmental Services* (2007) 155 Cal.App.4th 676, 692
10 (emphasis in original).) Courts focus on the defendant’s internal policies and “pattern and practice
11 . . . in order to assess whether that common behavior toward similarly situated plaintiffs renders
12 class certification appropriate.” (*Ibid.*) The application of these factors is discussed below.

13 **1. Common Issues Predominate**

14 The “common issues” requirement “involves analysis of whether the proponent’s ‘theory
15 of recovery’ is likely to prove compatible with class treatment.” (*Capitol People First v.*
16 *Department of Developmental Services, supra*, 155 Cal.App.4th at p. 690 (emphasis added).) In
17 other words, courts determine whether the elements necessary to establish liability are susceptible
18 to common proof, even if the class members must individually prove their damages. (*Brinker*
19 *Restaurant Corporation v. Superior Court* (2012) 53 Cal.4th 1024). These types of claims are
20 regularly granted class certification when the plaintiff can present evidence of common policies.
21 (See, e.g., *Jones v. JGC Dallas LLC* (N.D.Tex. Nov. 29, 2012, Civil Action No. 3:11-CV-2743-
22 O) 2012 U.S.Dist.LEXIS 185042 [certified collective action involving 190 dancers]; *Espinoza v.*
23 *Galardi South Enters.* (S.D.Fla. Jan. 11, 2016, No. 14-21244-CIV-GOODMAN) 2016
24 U.S.Dist.LEXIS [court certified class of dancers on state law claims].)

25 Plaintiff asserts common issues of fact and law predominate as to each of the claims
26 alleged. (Han Decl., *supra*, at ¶ 72.) Plaintiff contends all Class Members were subject to the
27 same or similar employment practices, policies, and procedures, described above. (*Ibid.*)

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Typical claims rely on legal theories and facts that are substantially like those of other class members. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 46.)

Plaintiff is a former employee of Defendant and allege he and the Class Members were employed by the same company and injured by the common policies and practices related to the claims described above. (Han Decl., *supra*, at ¶ 73.) Plaintiff seeks relief for these claims and derivative claims on behalf of all Class Members. (*Ibid.*) Thus, the claims arise from the same employment practices and are based on the same legal theories applicable to the Class. (*Ibid.*)

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Plaintiff has proven to be an adequate class representative. (Han Decl., *supra*, at ¶ 74.) Plaintiff conducted himself diligently and responsibly in representing the Class in this matter, understands his fiduciary obligations, and actively participated in the prosecution of this case. (*Ibid.*) Plaintiff spent time in meetings and conferences with Class Counsel to provide Class Counsel with an understanding of the work environment and requirements. (*Ibid.*) Plaintiff has no interest averse to the interests of the other Class Members. (*Ibid.*)

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A class action is superior to other available means for the fair and efficient adjudication of this controversy. Plaintiff contends the joinder of all Class Members is impractical and that class treatment will permit many similarly situated persons to prosecute their common claims for settlement purposes simultaneously in a single forum without the duplication of effort and expense that numerous individual actions would necessitate. Because several Class Members are current employees, Plaintiff believes fear of retaliation further supports the superiority of class-wide relief as this fear often discourages current employees from seeking legal redress.

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In deciding whether to approve a proposed class action settlement under Code of Civil Procedure section 382, the Court must find that a proposed settlement is “fair, adequate and reasonable.” (*Dunk v. Ford Motor Co.*, *supra*, 48 Cal.App.4th at p. 1801.) A proposed class action

1 settlement is presumed fair under the following circumstances: (1) the parties reached settlement
2 after arm's-length negotiations; (2) investigation and discovery were sufficient to allow counsel
3 and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the
4 percentage of objectors is small. (*Id.* at p. 1802.) All these elements are present herein.

5 **f. Notice to Class Members Complies with California Rules of Court, Rule 3.769(f)**

6 California Rules of Court, rule 3.769(f), provides:

7 If the court has certified the action as a class action, notice of the final approval
8 hearing must be given to class members in the manner specified by the court. The
9 notice must contain an explanation of the proposed settlement and procedures for
10 class members to follow in filing written objections to it and in arranging to appear
at the settlement hearing and state any objections to the proposed settlement.

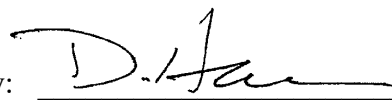
11 The Class Notice meets all these requirements. The Class Notice advises the Class
12 Members of their right to participate in the Settlement, how and when to object to or request
13 exclusion from the Settlement, and the date, time, and location of the Final Approval Hearing.

14 **V. CONCLUSION**

15 Plaintiff submits the Settlement is in the best interests of the Class, as it is fair, adequate,
16 and reasonable. Under the applicable class action criteria and guidelines, the Settlement should
17 be preliminarily approved by the Court, Class should be conditionally certified for purposes of
18 settlement only, and Class Notice should be approved.

19
20 Dated: February 2, 2023

JUSTICE LAW CORPORATION

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22 By: 
23 Douglas Han
24 Attorneys for Plaintiff
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**PROOF OF SERVICE
1013A(3) CCP**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is manderson@justicelawcorp.com

On February 2, 2023, I served the foregoing document described as

**PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT, CONDITIONAL CERTIFICATION,
APPROVAL OF CLASS NOTICE, SETTING OF FINAL APPROVAL HEARING DATE;
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF**

for the following case: **Lantz v. Trio Manufacturing, Inc.**
LWDA/Court Case No.: **LWDA Case No.: CM-845781-21**
Court Case No.: 21STCV44007
Los Angeles County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 2, 2023, at Pasadena, California.

