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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA**

JARID GOMEZ, individually, and on behalf
of aggrieved employees pursuant to the
Private Attorneys General Act (“PAGA”);

Plaintiff,

v.

PARKER-HANNIFIN CORPORATION, an
Ohio corporation; and DOES 1 through 100,
inclusive;

Defendants.

Case No.: 56-2022-00563952-CU-OE-VTA

Assigned for All Purposes to:
Honorable Benjamin F. Coats
Dept. 43

CLASS ACTION

**PLAINTIFFS’ 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**

[Reservation ID: 2671845]

[Declaration of Proposed Class Counsel
(Douglas Han); and [Proposed] Order filed
concurrently herewith]

Hearing Date: October 11, 2022
Hearing Time: 8:30 a.m.
Hearing Place: Department 43

Complaint Filed: March 21, 2022
FAC Filed: May 26, 2022
SAC Filed: July 14, 2022
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on October 11, 2022, at 8:30 a.m., or as soon as the matter
2 may be heard, before the Honorable Benjamin F. Coats in Department 43 of the Ventura County
3 Superior Court, located at 330 West Broadway Ventura, California 92101, Plaintiffs Jarid Gomez,
4 Miguel Cortez, and Jacqueline Ulloa (“Plaintiffs”) will and hereby move for an order:

- 5 • Granting Preliminary Approval of the proposed class action settlement described
6 herein and as set forth in the Parties’ Joint Stipulation of Class Action and PAGA
7 Settlement (“Agreement,” “Settlement Agreement,” or “Settlement”), attached as
8 **Exhibit 2** to the Declaration of Douglas Han, including, and not limited to, the
9 means of allocation and distribution of funds, the allocations for payments under
10 the Labor Code Private Attorneys General Act of 2004 (“PAGA”), Attorney Fee
11 Award, Cost Award, Class Representative Enhancement Payment, and
12 Administration Costs;
- 13 • Conditionally certifying the proposed Class for settlement purposes only;
- 14 • Appointing Plaintiffs as the Class Representatives;
- 15 • Appointing Justice Law Corporation as Class Counsel;
- 16 • Approving the proposed Notice of Class Action Settlement (“Class Notice”)
17 attached as **Exhibit A** to the Agreement;
- 18 • Directing the mailing of the proposed Class Notice to the proposed Class;
- 19 • Approving the proposed deadlines for the notice and settlement administration
20 process;
- 21 • Approving CPT Group, Inc. (“CPT Group”) as the Settlement Administrator; and
- 22 • Scheduling a hearing to consider whether to grant Final Approval of the Settlement
23 Agreement, at which time the Court will also consider whether to grant Final
24 Approval of the requests for the Attorney Fee Award, the Cost Award, the Class
25 Representative Enhancement Payment, the Administration Costs, and approval of
26 the allocation of the PAGA Payment.

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

5
6 Dated: September 13, 2022

JUSTICE LAW CORPORATION

7
8 By:  _____

Douglas Han

Attorneys for Plaintiffs

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1 **I. INTRODUCTION**

2 This motion seeks preliminary approval of a non-reversionary \$6,000,000 proposed wage-
3 and-hour class action settlement by Plaintiffs on behalf of themselves and on behalf of all non-
4 exempt hourly-paid employees who worked for Defendant Parker-Hannifin Corporation within
5 the State of California at any time during the period from April 4, 2016 June 15, 2022 (“Class”
6 and Class Period”). At the time of this filing, the number of Class Members is estimated to be three
7 thousand four hundred thirty-eight (3,438). (Declaration of Douglas Han In Support of Plaintiffs’
8 Motion for Preliminary Approval of Class Action Settlement (“Han Dec.”), ¶ 8.)

9 It is requested this Court grant Preliminary Approval, as, when analyzing the strengths and
10 vulnerabilities of the class claims alongside Defendant Parker-Hannifin Corporation’s
11 (“Defendant”) potential liability exposure, this proposed Settlement of \$6,000,000 is well within
12 the range of reasonableness. Class Counsel and Plaintiffs are convinced that the proposed
13 Settlement is in the best interests of the Class Members based on the negotiations and detailed
14 knowledge of the issues present in this action.

15 **II. BACKGROUND**

16 On March 21, 2022, Plaintiff Miguel Cortez (“Cortez”) filed a wage-and-hour class action
17 lawsuit, against Defendant in the Superior Court of California, County of Los Angeles, Case No.
18 20STCV21661, alleging the following causes of action: (1) violation of Labor Code sections 510
19 and 1198 (unpaid overtime); (2) violation of Labor Code sections 226.7 and 512(a) (unpaid meal
20 period premiums); (3) violation of Labor Code section 226.7 (unpaid rest period premiums); (4)
21 violation of Labor Code sections 1194 and 1197 (unpaid minimum wages); (5) violation of Labor
22 Code sections 201 and 202 (final wages not timely paid); (6) violation of Labor Code section
23 226(a) (noncompliant wage statements); (7) violation of Labor Code sections 2800 and 2802
24 (unreimbursed business expenses); and (8) violation of Business & Professions Code section
25 17200, *et seq.* (the “Class Action”). (Han Dec., *supra*, at ¶ 10.) That matter was removed to the
26 United State District Court for the Central District of California on July 20, 2020. (Han Dec.,
27 *supra*, at ¶ 11.) The parties litigated that matter in federal court. (*Ibid.*)

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1 On September 21, 2021, Plaintiff Jarid Gomez (“Gomez”), provided written notice to the
2 California Labor and Workforce Development Agency (“LWDA”) and Defendant of the specific
3 provisions of the Labor Code he contends were violated and the theories supporting his
4 contentions. (Han Dec., *supra*, at ¶ 12.) After the expiration of the notice period, on March 21,
5 2022, Plaintiff Gomez filed a representative PAGA (Private Attorneys General Act of 2004)
6 action, pursuant to Labor Code section 2698, *et seq.*, against Defendant in the Superior Court of
7 California, County of Ventura, Case No. 56-2022-00563952-CU-OE-VTA (the “PAGA Action”)
8 (Han Dec., *supra*, at ¶ 13.)

9 On November 4, 2021, the Parties attended a mediation session with mediator Mark S.
10 Rudy, Esq. on the claims alleged in both the Class Action and PAGA Action. While the parties
11 did not settle at mediation, the parties continued to investigate alleged claims and continued to
12 negotiate through the mediator. (Han Dec., *supra*, at ¶ 14.) Under the auspices of the mediator,
13 the Parties were eventually able to reach an agreement by accepting a mediator’s proposal on April
14 28, 2022. (*Ibid.*) Pursuant to the mediator’s proposal, the parties dismissed the Cortez action and
15 seeks approval in this action. (*Ibid.*)

16 On May 5, 2022, Plaintiff filed a First Amended Complaint including the allegations in the
17 Cortez action and other allegations discussed and investigated during the lengthy investigation and
18 settlement negotiations. (Han Dec., *supra*, at ¶ 15.) On July 14, 2022, Plaintiffs filed a Second
19 Amended Complaint including an additional class representative Jacqueline Ulloa. (*Ibid.*)

20 **III. INVESTIGATION/ LITIGATION HISTORY**

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

22 Prior to the mediation, the Parties conducted significant investigation and discovery of the
23 facts and law both before and after this case was filed. (Han Dec., *supra*, at ¶ 17.) Specifically,
24 Defendant produced voluminous documents relating to its policies, practices, and procedures
25 regarding reimbursement of business expenses, paying non-exempt employees for all hours
26 worked, meal and rest period policies, and payroll and operational policies (i.e., employee
27 handbooks, training guides, collective bargaining agreements). (*Ibid.*) As part of Defendant’s
28 production, Class Counsel also reviewed time records, pay records, and information relating to the

size and scope of the Class, as well as data permitting Class Counsel to understand the number of workweeks in the Class Period. Class Counsel also interviewed several dozens of Class Members who worked for Defendant throughout the Class Period. (Han Dec., *supra*, at ¶ 17.) Specifically, Class Counsel analyzed the time and pay data of 1,635 Class Members, which accounted for 52% sample at the time of the data production. (*Ibid.*) The data allowed Class Counsel to assess the theories of liability including, rounding of time, alternative workweeks, meal and rest break violations spanning 1,003,213 shifts. (*Ibid.*)

Based upon the information provided by Defendant and interviews Class Counsel had with non-exempt employees, Plaintiffs contends – and Defendant denies – that Defendant: (a) failing to maintain compliant meal and rest break policies and practices; (b) failing to reimburse business expenses; and (c) failing to fully and properly compensate employees for, *inter alia*, all hours worked, overtime work, non-compliant meal and rest breaks, and for associated wage statement and waiting time penalties. (Han Dec., *supra*, at ¶¶ 19-25.)

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

i. The Parties Attended Mediation Which Ultimately Led to the Joint Stipulation of Class Action and PAGA Settlement

The Parties agreed to go to mediation with an experienced wage-and-hour mediator, Mark Rudy, Esq., on November 14, 2021. (Han Dec., *supra*, at ¶ 27.) With the assistance of the mediator, the Parties were eventually able to reach an agreement on settlement, the terms of which were memorialized in the Settlement Agreement that the Parties now seek approval. (*Id.* at ¶ 27; Exhibit 2.)

ii. The Settlement Was Reached as a Result of Arm's-length Negotiations

The Settlement Agreement was reached because of arm's-length negotiations. (Han Dec., *supra*, at ¶ 31.) Though cordial and professional, the settlement negotiations have always been adversarial and non-collusive in nature. (*Ibid.*) At the mediation and subsequent months before a deal was reached, both Parties' counsel conducted extensive arm's-length settlement negotiations until an agreement was reached. (*Ibid.*)

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1 Plaintiffs and Class Counsel believe in the merits of the case but also recognize the expense
2 and length of continued proceedings necessary to continue the litigation against Defendant. (Han
3 Dec., *supra*, at ¶ 32.) Plaintiffs and Class Counsel have also considered the inherent uncertainty
4 and risk of further litigation, the potential outcome, and the difficulties and delays of such
5 litigation. (*Ibid.*) Based on the foregoing, Plaintiffs and Class Counsel believe the Settlement is a
6 fair, adequate, and reasonable settlement, and is in the Class’s 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 of
9 Plaintiffs’ claims and Defendant’s defenses before reaching the Settlement and engaged in
10 sufficient investigation, research, and discovery to support the Settlement. (Han Dec., *supra*, at ¶
11 33.) The Settlement was only possible following significant investigation and evaluation of
12 Defendant’s relevant policies and procedures, as well as the data Defendant produced. (*Ibid.*)
13 Furthermore, this case has also reached the stage where “the Parties certainly have a clear view of
14 the strengths and weaknesses of their cases” sufficient to support the Settlement’s reasonableness,
15 adequacy, and fairness. (Han Dec., *supra*, at ¶ 33; *Boyd v. Bechtel Corp.* (N.D.Cal. 1979) 485
16 F.Supp. 610, 617.)

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

18 **i. Gross Settlement Amount**

19 The Parties have agreed (subject to and contingent upon the Court’s approval) that this
20 action is settled and compromised for the non-reversionary total sum of \$6,000,000 (“Gross
21 Settlement Amount”), which includes, subject to Court approval: (a) the Attorney Fee Award to
22 Class Counsel of 35% of the Gross Settlement Amount; (b) the Cost Award to Class Counsel of
23 \$30,000 for litigation costs and expenses; (c) the Class Representative Enhancement Payment of
24 \$10,000 to Plaintiffs; (d) Administration Costs to CPT Group, the Settlement Administrator, of
25 \$35,000; and (e) the PAGA Payment of \$300,000 to the LWDA and Eligible Aggrieved
26 Employees. (Han Dec., *supra*, at ¶ 28.)

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1 **ii. Calculation of the Class Members' Individual Settlement Shares**

2 After all Court-approved deductions from the Gross Settlement Amount, it is estimated
3 that \$3,512,500 ("Net Settlement Amount") will be distributed to Class Members – with an
4 average gross Individual Settlement Share estimated at \$1,021.67.¹ (Han Dec., *supra*, at ¶ 30.)

5 The Settlement Administrator will pay an Individual Settlement Share from the Net
6 Settlement Amount to each Participating Class Member in accordance with the formula listed in
7 the Agreement. (Settlement Agreement §III.I.1.a.) Individual Settlement Shares will be
8 apportioned as follows: twenty percent (20%) for wages and eighty percent (80%) for civil or
9 statutory penalties, statutory or other non-wage damages and interests. (Settlement Agreement
10 §III.I.2.)

11 Furthermore, the Settlement Administrator will pay a portion of the PAGA Payment of
12 \$75,000 to each Eligible Aggrieved Employee in accordance with the formula listed in the
13 Agreement. (Settlement Agreement §III.I.1.b.)

14 **iii. Notice to the Class**

15 Within fourteen (14) calendar days after entry of the Preliminary Approval Order,
16 Defendant shall deliver to the Settlement Administrator the Class Data. (Settlement Agreement
17 §III.M.2.) Within fourteen (14) calendar days from receipt of the Class Data, the Settlement
18 Administrator will mail the Class Notice to all identified Class Members via first-class regular
19 U.S. Mail. (*Ibid.*) Class Members are not required to submit a claim form to receive their Individual
20 Settlement Shares.

21 **iv. Distribution of Funds**

22 The Settlement will be funded pursuant to the timeline and manner set forth in the
23 Agreement. (Settlement Agreement §III.J.2.) Uncashed settlement checks will be mailed to the
24 California State Controller's Unclaimed Property Division in accordance with California
25 Unclaimed Property Law so that the Participating Class Member will have his or her Individual
26 Settlement Share available to him or her per the applicable claim procedure to request that money
27 from the State of California. (Settlement Agreement §III.J.5.)

28 ¹ \$3,512,500 (Net Settlement Amount) / 3,438 (Class Members) = \$1,021.67.

1 **v. Release of Claims**

2 As of the Effective Final Settlement Date and upon fully funding the settlement, all Class
3 Members, who do not submit a timely and valid request for exclusion, will be bound by a release
4 of all claims and causes of action falling under the definition of Released Claims for the Class
5 Period. Participating Class Members agree not to sue or otherwise make a claim against any of the
6 Released Parties for any of the Released Claims (“Released Claims”). (Settlement Agreement
7 §III.N.)

8 As of the Effective Final Settlement Date and upon fully funding the settlement, the LWDA
9 and each Eligible Aggrieved Employee, including Plaintiffs, individually and on behalf of their
10 heirs, executors, administrators, representatives, attorneys, successors, and assigns hereby
11 voluntarily and knowingly is barred from bringing any, and all claims seeking civil penalties under
12 the California Labor Code predicated on the PAGA Claims asserted in the Actions, during the
13 PAGA Timeframe against Defendant and Released Parties. (Settlement Agreement §III.O.)

14 As of the Effective Final Settlement Date, and in exchange for the Class Representative
15 Enhancement Payment to the Plaintiffs in an amount not to exceed \$10,000 each, in recognition
16 of their work and efforts in obtaining the benefits for the Class and undertaking the risk for the
17 payment of costs if this matter had not successfully resolved, Plaintiffs provides a general release
18 of claims for themselves and their spouse, heirs, successors and assigns. Plaintiffs’ Release of
19 Claims also includes a waiver of Civil Code section 1542. (Settlement Agreement §III.P.)

20 With regards to class action releases, “““[A] court may release not only those claims alleged
21 in the complaint and before the court, but also claims which ‘could have been alleged by reason of
22 or in connection with any matter or fact set forth or referred to in’ the complaint.””” (*Amaro v.*
23 *Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 537.) The scopes of the releases in
24 this case are acceptable because they are limited to the scope of the allegations in the Second
25 Amended Complaint. Moreover, the released claims are “““all claims, demands, rights, liabilities
26 causes of action, and factual or legal theories that were alleged in the Second Amended Complaint
27 or that could have been alleged in the Second Amended Complaint against Defendant (and its past
28 or present officers, directors, shareholders, employees, agents, principals, heirs, representatives,

1 accountants, auditors, consultants, and its respective successors and predecessors in interest,
2 subsidiaries, affiliates, parents and attorneys) [collectively, the “Released Parties”] based on the
3 facts contained in the Second Amended Complaint”” (Settlement Agreement §I.FF.) In other
4 words, the released claims do not go beyond the scope of the Second Amended Complaint.

5 **d. Counsel for Both Parties Are Experienced in Similar Litigation**

6 Counsel for both Parties are experienced in wage-and-hour employment law and class
7 actions. (Han Dec., *supra*, at ¶¶ 2-7; Exhibit 1.) Class Counsel have prosecuted numerous cases
8 on behalf of employees for Labor Code violations and, thus, are experienced and qualified to
9 evaluate the class claims, the settlement versus trial on a fully informed basis, and the viability of
10 the defenses. (*Ibid.*) These experiences instructed Class Counsel on the risks and uncertainties of
11 further litigation and guided their determination to endorse the proposed Settlement.² (*Ibid.*)

12 **IV. ARGUMENT**

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

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

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23 ² The final factor mentioned in *Dunk* – the number of objectors – is not determinable until
24 the Notice of Class Action and PAGA Settlement has been provided to the Class and they have
25 had an opportunity to respond. This information will be provided to the Court in conjunction with
26 the Motion for Final Approval of Class Action Settlement.

27 ³ The California Supreme Court has also authorized California’s trial courts to use Federal
28 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, Plaintiffs cite Federal Rule 23 and federal case law in addition to California law.

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

4 ...

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

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

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

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

21 In weighing the strength of the Plaintiffs’ case, *Kullar* instructs that the court is not to
22 “decide the merits of the case or to substitute its evaluation of the most appropriate settlement for
23 that of the attorneys.” (*Kullar v. Foot Locker Retail, Inc.*, *supra*, 168 Cal.App.4th at p. 133.)
24 Finally, *Kullar* does not require an explicit statement of the maximum amount the class could
25 recover if the Plaintiffs prevailed on all his claims, provided there is a record that allows “an
26 understanding of the amount that is in controversy and the realistic range of outcomes of the
27 litigation.” (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, *supra*, 186 Cal.App.4th at p.
28 409.) Put differently, “as the court does when it approves a settlement as in good faith under Code
of Civil Procedure § 877.6, the court must at least satisfy itself that the class settlement is within
the ‘ballpark’ of reasonableness.” (*Kullar*, at p. 133.)

///

1 **i. The Settlement Amount of \$6,000,000 Is Fair and Reasonable**

2 The Settlement was possible following significant investigation and evaluation of
3 Defendant's relevant policies and procedures, as well as the data Defendant produced for the
4 putative class, as referenced in Section III above, which permitted Class Counsel to engage in a
5 comprehensive analysis of liability and potential damages. (Han Dec., *supra*, at ¶ 33.)

6 Plaintiffs' claims are predicated on Defendant's purported: (a) failure to pay all wages
7 owed; (b) failure to provide meal and rest breaks and pay applicable premiums; (c) failure to pay
8 minimum wages; (d) failure to timely pay wages; (e) failure to pay all vested vacation pay (f)
9 failure to issue compliant wage statements; (g) failure to reimburse business expenses; (h) violation
10 of Labor Code section 2698, *et seq.* (PAGA); and (i) violation of Business & Professions Code
11 sections 17200, *et seq.* (Han Dec., *supra*, at ¶ 34.) Defendant denies Plaintiffs' theories of liability.
12 (*Id.* at ¶ 35.)

13 Although Plaintiffs believe the case is suitable for certification, uncertainties with respect
14 to certification are always present. (Han Dec., *supra*, at ¶ 36.) As the California Supreme Court
15 ruled in *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, class certification is
16 always a matter of the trial court's sound discretion. (*Ibid.*) Decisions following *Sav-On Drug*
17 *Stores, Inc.* have reached different conclusions concerning certification of wage-and-hour claims.⁴
18 (*Ibid.*) These factors led Plaintiffs to discount calculations of potential damages.

19 **ii. The PAGA Payment of \$300,000 Is Reasonable**

20 The provisions of the Labor Code potentially triggering PAGA penalties in this case
21 include, but are not limited to, Labor Code sections 201, 202, 203, 204, 221, 226(a), 226.3, 226.7,
22 227.3, 246, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802. (Han Dec., *supra*,
23 at ¶ 45.) Defendant asserted that, regardless of the results of the underlying causes of action, PAGA
24

25 ⁴ (See, e.g., *Harris v. Superior Court* (2007) 154 Cal.App.4th 164 [reversing decertification
26 of class claiming misclassification and ordering summary adjudication in favor of employees],
27 review granted Nov. 28, 2007, (2007) 171 P.3d 545 [not cited as precedent, but rather for
28 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].)

1 penalties are not mandatory but permissive and discretionary. (Han Dec., *supra*, at ¶ 45.)
2 Defendant maintained, in addition to its strong arguments against the underlying claims, it had a
3 strong argument that it would be unjust to award maximum PAGA penalties given the law's
4 unsettled state. (*Ibid.*; *Thurman v. Bayshore Transit Mgmt.* (2012) 203 Cal.App.4th 1112 [reducing
5 penalties by 30% under this authority].) It can be reasonably argued that without stacking and
6 limited to the initial violation, the PAGA penalties would be limited to \$233,600 (2,336 employees
7 x \$100 initial violations) on the low end and \$1,635,200 (2,336 employees x \$100 x 7 theories of
8 recovery) on the high end. (Han Dec., *supra*, at ¶¶ 46-48.)

9 Plaintiffs also recognized the risk that any PAGA award could be significantly reduced.
10 (Han Decl., *supra*, at ¶ 50.) Many of the causes of action brought were duplicative of the statutory
11 claims, such as violations of Labor Code sections 201, 202, 203, 226, 226.7, 510, 512(a), 1194,
12 1197, 1198, 2800, and 2802. (*Ibid.*) The maximum penalties for each pay period are not justified.
13 It was indeed arguable whether the Court would award the maximum penalties under the law.
14 (*Ibid.*) Thus, allocating \$300,000 to PAGA civil penalties was reasonable considering it is 128%
15 of the low end of the PAGA exposure and 18% of the high end of PAGA exposure. (*Ibid.*)
16 Furthermore, given the fact that Defendant is also paying an additional \$5,700,000 in the class
17 settlement there is sufficient deterrence for future violations. (*Ibid.*) When PAGA penalties are
18 negotiated in good faith and "there is no indication that [the] amount was the result of self-interest
19 at the expense of other Class Members," such amounts are generally considered reasonable.⁵
20 (*Ibid.*)

21 Considering Defendant's defenses, its supporting evidence, and its position that the case is
22 not suitable for class treatment, the Settlement of \$6,000,000 is fair, adequate, and reasonable.

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26 ⁵ (*Hopson v. Hanesbrands Inc.* (N.D.Cal. Apr. 3, 2009, No. CV-08-0844 EDL) 2009
27 U.S.Dist.LEXIS 33900, at *24; see, e.g., *Nordstrom Com. Cases* (2010) 186 Cal.App.4th 576,
28 579, "[T]rial court did not abuse its discretion in approving a settlement which does not allocate
any damages to the PAGA claims.".)

c. Discount Analysis Justifies the Settlement

Without considering the PAGA civil penalties, the total estimated maximum exposure, assuming certification and prevailing at trial, would be \$76,691,580. (Han Dec., *supra*, at ¶ 51.)⁶ The discount analysis of each claim is outlined in Han Dec. ¶¶ 37-59, which is summarized in the chart below.

Category	Potential Exposure	Certification Risk	Merits Risk	Realistic Exposure
Rest Break Premiums	\$13,672,622	75%	75%	\$854,538.87
Meal Break Premiums	\$19,691,299	50%	75%	\$2,461,412.30
Meal Break Premiums – Automatic Deduction	\$10,890,264	25%	60%	\$3,267,079.20
Unpaid Wage: Off-the-Clock Work	\$6,975,282.60	80%	50%	\$697,528.25
Unpaid Wages: Rounding	\$1,257,929.60	10%	25%	\$849,102.45
Unpaid Wages: Regular Rate	\$843,998	10%	50%	\$379,799.10
Unpaid Wages: Alternative Workweek Schedules	\$896,653.90	10%	50%	\$403,494.25
Unreimbursed Business Expenses	\$1,455,624	30%	50%	\$509,468.40
Wage Statement Penalty	\$10,244,000	35%	75%	\$1,664,650
Waiting Time Penalty	\$10,763,907	35%	50%	\$3,498,269.70
MAXIMUM TOTAL EXPOSURE	\$76,691,580			\$14,484,342.52

59. Based on this analysis, the realistic recovery for this case is \$14,484,342.52. The Gross Settlement Amount of \$6,000,000 is approximately forty-one percent (41%) of the maximum realistic exposure at trial, which is a fair and reasonable settlement. (Han Dec., *supra*, at ¶ 59.)

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.)

⁶ Defendant disputes Plaintiffs' calculation of potential exposure as it assumes noncompliance, which Defendant expressly denies.

1 “The fact that a proposed settlement may only amount to a fraction of the potential recovery does
2 not, in and of itself, mean that the proposed settlement is grossly inadequate and should be
3 disapproved.” (*City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495 F.2d 448, 455; see also
4 *Linney v. Ceullar Alaska Partnership* (9th Cir. 1998) 151 F.3d 1234, 1242, “[I]t is the very
5 uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce
6 consensual settlements. The proposed settlement is not to be judged against a hypothetical or
7 speculative measure of what might have been achieved by the negotiators”.) Nevertheless, this
8 settlement is in line with the realistic exposure had Plaintiffs prevailed at trial and provided a
9 significant recovery for the Class Members.

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

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

17 The proposed Class is ascertainable and numerous as to make it impracticable to join all
18 Class Members, and there are common questions of law and fact that predominate over any
19 questions affecting any individual Class Member. (Han Dec., *supra*, at ¶ 60.) Plaintiffs contend
20 that as a former hourly-paid, non-exempt employees of Defendant, their claims are typical of the
21 claims of the Class, and Class Counsel will fairly and adequately protect the interests of the Class.
22 (*Ibid.*) Also, Plaintiffs assert that the prosecution of separate actions by individual Class Members
23 would create the risk of inconsistent or varying adjudications. (*Ibid.*)

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

25 “Ascertainability is required in order to give notice to putative class members as to whom
26 the judgment in the action will be res judicata.” (*Hicks v. Kaufman & Broad Home Corp.* (2001)
27 89 Cal.App.4th 908, 914.) “A class is ascertainable if it identifies a group of unnamed plaintiffs
28 by describing a set of common characteristics sufficient to allow a member of that group to identify

1 himself or herself as having a right to recover based on the description.” (*Bartold v. Glendale*
2 *Federal Bank* (2000) 81 Cal.App.4th 816, 828.) The proposed class must also be sufficiently
3 numerous. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.)

4 This case involves approximately three thousand four hundred thirty-eight (3,438) Class
5 Members. (Han Dec., *supra*, at ¶ 61.) Thus, the Class is sufficiently numerous. (*Ibid.*; *Ghazaryan*
6 *v. Diva Limousine, Ltd.* (2008) 169 Cal.App.4th 1524, 1531, n.5 [finding that a proposed class of
7 “as many as 190 current and former employees” is sufficiently numerous].)

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

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

18 **1. Common Issues Predominate**

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

1 U.S.Dist.LEXIS [court certified class of dancers on state law claims].)

2 Plaintiffs assert common issues of fact and law predominate as to each of the claims
3 alleged. (Han Dec., *supra*, at ¶ 62.) Plaintiffs contend all Class Members were subject to the same
4 or similar employment practices, policies, and procedures described in detail above. (*Ibid.*)

5 **2. Plaintiffs' Claims Are Typical of the Class Claims**

6 Typical claims rely on legal theories and facts that are substantially like those of other class
7 members. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 46.) Plaintiffs are former employees of
8 Defendant and allege they and the Class Members were employed by the same company and
9 injured by Defendant's common policies and practices related to the claims described above. (Han
10 Dec., *supra*, at ¶ 63.) Plaintiffs seek relief for these claims and derivative claims on behalf of all
11 Class Members. (*Ibid.*) Thus, Plaintiffs' claims arise from the same employment practices and are
12 based on the same legal theories as those applicable to the Class. (*Ibid.*)

13 **3. Plaintiffs Are Adequate to Represent the Class**

14 Plaintiffs have proven to be adequate Class Representatives. (Han Dec., *supra*, at ¶ 64.)
15 Plaintiffs have conducted themselves diligently and responsibly in representing the Class in this
16 litigation, understand their fiduciary obligations, and have actively participated in the prosecution
17 of this case. (*Ibid.*) Plaintiffs have spent time in meetings and conferences with Class Counsel to
18 provide Class Counsel with a complete understanding of their work environment and requirements.
19 (*Ibid.*) Plaintiffs have no interest that is adverse to the interests of the other Class Members. (*Ibid.*)

20 **4. Class Action Is Superior for the Fair and Efficient Adjudication** 21 **of this Controversy**

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

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.* (1996) 48 Cal.App.4th 1794, 1801.) A proposed class action settlement is presumed fair under the following circumstances: (1) the parties reached settlement after arm’s-length negotiations; (2) investigation and discovery were 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. (*Id.* at p. 1802.) All these elements are present here.

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

If the court has certified the action as a class action, notice of the final approval hearing must be given to class members in the manner specified by the court. The notice must contain an explanation of the proposed settlement and procedures for 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.

The proposed Class Notice meets all these requirements. The proposed Class Notice advises the Class Members of their right to participate in the Settlement; how and when to object to or request exclusion from the Settlement; and the date, time, and location of the Final Approval hearing. (See Han Dec., *supra*; Exhibit A to Exhibit 2.)

Plaintiffs submit that the proposed Settlement is in the best interests of the Class, as it is fair, adequate, and reasonable. Under the applicable class action criteria and guidelines, the proposed Settlement should be preliminarily approved by the Court. The Class should be conditionally certified for settlement purposes only, and the Class Notice should be approved.

JUSTICE LAW CORPORATION

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Douglas Han
Attorneys for Plaintiffs

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PROOF OF SERVICE
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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 September 14, 2022, I served the foregoing document described as

PLAINTIFFS' 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: **Gomez v. Parker-Hannifin Corporation**
LWDA/Court Case No.: **LWDA Case No.: CM-845406-21**
Court Case No.: 56-2022-00563952-CU-OE-VTA
Ventura 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 September 14, 2022, at Pasadena, California.



Mariah Anderson