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

CARLOS CONTRERAS, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

v.

MERICAL, LLC, a California limited liability
company; and DOES 1 through 100,
inclusive;

Defendants.

Case No.: 30-2021-01214079-CU-OE-CJC
[Consolidated With Case No. 30-2022-
01259256-CU-OE-CXC]

Assigned for All Purposes to:
Honorable Melissa McCormick
Department CX-104

CLASS ACTION

**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 Number: 74475312]

*[Declaration of Proposed Class Counsel
(Douglas Han); Declarations of Proposed
Class Representatives (Carlos Contreras and
Lisa Buchanan); and Declaration of Jodey
Lawrence filed concurrently herewith]*

Hearing Date: June 26, 2025
Hearing Time: 2:00 p.m.
Hearing Place: Department CX-14

Complaint Filed: August 2, 2021
FAC Filed: December 12, 2024
Trial Date: None Set

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

Plaintiff,

v.

MERICAL, LLC, a California limited liability
corporation; and DOES 1 through 100,
inclusive;

Defendants.

Case No. 30-2022-01259256-CU-OE-CXC
[Consolidated With Case No. 30-2021-
01214079-CU-OE-CJC]

Complaint Filed: May 12, 2022

1 **PLEASE TAKE NOTICE** that on June 26, 2025 at 2:00 p.m. or as soon as the matter
2 may be heard, before the Honorable Melissa McCormick in Department CX-104 of the Orange
3 County Superior Court located at 751 West Santa Ana Boulevard, Santa Ana, California 92701,
4 Plaintiffs Carlos Contreras and Lisa Buchanan (“Plaintiffs,” “Plaintiff Contreras,” and “Plaintiff
5 Buchanan”) will and hereby do move for an order:

- 6 • Granting Preliminary Approval of the proposed class action settlement described
7 herein and as set forth in the Joint Stipulation of Class Action and PAGA
8 Settlement (“Settlement Agreement,” “Settlement,” or “Agreement”), attached as
9 **Exhibit 2** to the Declaration of Douglas Han, including, and not limited to, the
10 means of allocation and distribution of funds;
- 11 • Conditionally certifying the proposed Class for settlement purposes only;
- 12 • Appointing Plaintiffs as the class representatives;
- 13 • Appointing Justice Law Corporation as Class Counsel;
- 14 • Approving the proposed Notice of Class Action Settlement (“Class Notice”)
15 attached as **Exhibit A** to the [Proposed] Order Preliminarily Approving Class
16 Action Settlement and Settlement Agreement;
- 17 • Approving the proposed Request for Exclusion Form (“Exclusion Form”) attached
18 as **Exhibit B** to the [Proposed] Order Preliminarily Approving Class Action
19 Settlement and Settlement Agreement;
- 20 • Directing the mailing of the proposed Class Notice and Exclusion Form
21 (collectively, known as the “Notice Packet”) with a postage-paid return envelope
22 to the proposed Class;
- 23 • Approving the proposed deadlines for the notice and settlement administration
24 process;
- 25 • Approving Phoenix Class Action Administration Solutions as the Settlement
26 Administrator; and

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- Scheduling a hearing to consider whether to grant Final Approval of the Settlement Agreement, at which time the Court will also consider whether to grant Final Approval of the requests for the Attorney Fee Award, Cost Award, Class Representative Enhancement Payments, Administration Costs, and Private Attorneys General Act of 2004 (“PAGA”) Payment.

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

Dated: January 24, 2025

JUSTICE LAW CORPORATION

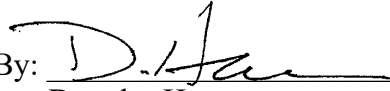
By: 
Douglas Han
Attorneys for Plaintiffs

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1 **I. INTRODUCTION**

2 This motion seeks preliminary approval of a fixed total non-reversionary proposed wage-
3 and-hour class action settlement by Plaintiffs on behalf of themselves and all current or former
4 hourly-paid or non-exempt employees of Defendant MeriCal, LLC (“Defendant”) who worked
5 directly for Defendant within the State of California at any time during the period from February
6 3, 2017, through June 18, 2024 (“Class,” “Class Members,” and “Class Period”). At the time of
7 this filing, the number of Class Members confirmed by Defendant is estimated to be seven
8 hundred seventy (770). (Declaration of Douglas Han In Support of Motion For Preliminary
9 Approval of Class Action Settlement (“Han Decl.”), ¶¶ 8, 9.)

10 **II. BACKGROUND**

11 On August 2, 2021, Plaintiff Contreras filed a wage-and- hour class action lawsuit in the
12 Superior Court of California, County of Orange, alleging eight (8) causes of action. (Han Decl.,
13 *supra*, at ¶ 10.)

14 On November 24, 2021, Plaintiff Buchanan provided written notice to the California
15 Labor and Workforce Development Agency and Defendant. (Han Decl., *supra*, at ¶ 11; Exhibits
16 3, 4.)

17 On May 12, 2022, Plaintiff Buchanan filed a representative PAGA action against
18 Defendant in the Superior Court of California, County of Orange. (Han Decl., *supra*, at ¶ 12;
19 Exhibit 5.)

20 After engaging in discovery, investigations, and negotiation, on June 18, 2024, the Parties
21 remotely attended mediation with the mediator Jason Marsili, eventually resulting in a global
22 settlement via a mediator’s proposal. (Han Decl., *supra*, at ¶ 13.)

23 In line with the settlement, on December 12, 2024, Plaintiff Contreras will be filing a First
24 Amended and Consolidated Class and Representative Action Complaint to consolidate the
25 lawsuits and adjust the “class” and “aggrieved employees” definitions. (Han Decl., *supra*, at ¶ 14;
26 Exhibit 6.)

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1 **III. INVESTIGATION/ LITIGATION HISTORY**

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

3 Plaintiffs propounded form interrogatories, special interrogatories, requests for admission,
4 and requests for production of documents. (Han Decl., *supra*, at ¶ 16.) Plaintiffs also drafted and
5 filed Motions to Compel Defendant to Provide Further Responses, and Defendant responded to
6 the formal discovery requests. (*Ibid.*) The Parties then met and conferred and agreed to engage in
7 an informal exchange of information and eventually remotely attended mediation. (*Ibid.*)

8 Prior to mediation, Defendant produced several documents relating to the wage-and-hour
9 policies, practices, and procedures. (Han Decl., *supra*, at ¶ 17.) Plaintiffs also reviewed time and
10 pay records and information relating to the size and scope of the Class. (*Ibid.*) Several putative
11 class members were also located and interviewed to obtain a better understanding of the extent
12 and frequency of the alleged day-to-day violations. (*Ibid.*)

13 Based upon the information provided and interviews with putative class members,
14 Plaintiffs contend – and Defendant denies – that Defendant: (1) failed to provide employees with
15 legally mandated meal and rest breaks; (2) failed to pay employees for all hours worked; (3) had
16 in place an illegal rounding practice; (4) failed to factor bonuses into employees’ regular rate of
17 pay; (5) failed to reimburse employees for necessary business expenses; (6) issued noncompliant
18 wage statements; and (7) is liable for waiting time penalties. (Han Decl., *supra*, at ¶¶ 19-27.)

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

20 **i. The Parties Attended Mediation That Led to the Settlement**

21 The Parties remotely attended mediation with the mediator. (Han Decl., *supra*, at ¶ 28.)
22 During the mediation, the Parties discussed the risks of continued litigation, likelihood of
23 certification, and merits of the claims and defenses versus the benefits of settlement. (*Ibid.*) Under
24 the auspices of the mediator, the Parties managed to negotiate a settlement via a mediator’s
25 proposal, the terms of which were memorialized in the Agreement. (*Id.* at ¶ 28; Exhibits 2, 7.)

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

2 The Settlement was reached because of arm’s-length negotiations. (Han Decl., *supra*, at ¶
3 31.) Though cordial and professional, the settlement negotiations have always been adversarial
4 and non-collusive in nature. (*Ibid.*) At the mediation, the Parties’ counsel conducted extensive
5 arm’s-length settlement negotiations until an agreement was ultimately reached. (*Ibid.*)

6 Plaintiffs and Class Counsel believe in the merits of the case but also recognize the
7 expense and length of additional proceedings necessary to continue the litigation. (Han Decl.,
8 *supra*, at ¶ 32.) Plaintiffs and Class Counsel have considered the uncertainty and risk of further
9 litigation, potential outcome, and difficulties and delays inherent in such litigation. (*Ibid.*)
10 Plaintiffs and Class Counsel believe that the settlement set forth in the Agreement is a fair,
11 adequate, and reasonable settlement and is in the best interests of the Class Members. (*Ibid.*)

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

13 The Parties thoroughly investigated and evaluated the factual strengths and weaknesses
14 of the claims and defenses and engaged in sufficient investigation, research, and discovery. (Han
15 Decl., *supra*, at ¶ 33.) The Settlement Agreement was only possible following significant
16 investigation and evaluation of the relevant policies and procedures in place and the data
17 produced. (*Ibid.*) This information permitted Class Counsel to engage in a comprehensive
18 analysis of liability and potential damages. (*Ibid.*) This case has reached the stage where the
19 Parties understand “the strength of the case; the reasonableness of the settlement in light of the
20 attendant risks of litigation, and in light of the best possible recovery” sufficient to support the
21 Settlement’s reasonableness, adequacy, and fairness. (Han Decl., *supra*, at ¶ 33; *Boyd v. Bechtel*
22 *Corp.* (N.D.Cal. 1979) 485 F.Supp. 610, 617.)

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

2 **i. Deductions from the Settlement**

3 The Parties agreed (subject to and contingent upon the Court’s approval) this case be
4 settled and compromised for a fixed total non-revisionary amount of \$3,725,000 (“Gross
5 Settlement Amount”), which includes: (1) Attorney Fee Award of up to thirty-five percent (35%)
6 of the Gross Settlement Amount; (2) Cost Award of up to \$30,000; (3) Class Representative
7 Enhancement Payments totaling \$20,000; (4) Administration Costs of up to \$12,950; and (5)
8 PAGA Payment of \$150,000. (Han Decl., *supra*, at ¶ 29.)

9 **ii. Calculation of the Individual Settlement Shares**

10 After all Court-approved deductions from the Gross Settlement Amount, it is estimated
11 \$2,208,300 (“Net Settlement Amount”) will be distributed to Participating Class Members. (Han
12 Decl., *supra*, at ¶ 30.)

13 Individual Settlement Shares will be calculated using the formula set forth in the
14 Settlement Agreement. (Han Decl., *supra*, at ¶ 28; Exhibit 2, *supra*, at § III(H)(1).) Eligible
15 Aggrieved Employees’ portion of the PAGA Payment will be calculated using the formula set
16 forth in the Settlement Agreement. (*Id.* at § III(I)(7)(e).)

17 **iii. The Allocation of 20% to Wages and 80% to Penalties and Interest Is**
18 **Justified Under the Claims of this Action**

19 Individual Settlement Shares will be apportioned as follows: (1) twenty percent (20%) as
20 wages; and (2) eighty percent (80%) as penalties and interest. (Han Decl., *supra*, at ¶ 28; Exhibit
21 2, *supra*, at § III(H)(2).)

22 The allocation of wages, penalties, and interest indicated above was based on the realistic
23 exposure that Plaintiffs could expect to receive for meal and rest break premiums, unpaid wages,
24 and underpaid wages. (Han Decl., *supra*, at ¶ 53.) Plaintiffs added the realistic exposure for rest
25 break premiums and meal break premiums ($\$264,458.36 + \$401,277.42 = \$665,735.78$). (*Ibid.*)
26 Plaintiffs then added the \$665,735.78 to the low end realistic exposure for unpaid wages due to
27 off-the-clock work and underpaid wages due to rounding and regular rate of pay ($\$665,735.78 +$
28 $\$477,686.96 + \$52,794.95 + \$21,222.04 = \$1,217,439.73$). (*Ibid.*) The realistic exposure of

\$1,217,439.73 that Plaintiffs can expect to receive if they were to prevail at trial for meal and rest break premiums, low end unpaid wages due to off-the-clock work, and underpaid wages due to rounding and regular rate of pay represents about twenty percent (20.74%) of the low end total realistic exposure and PAGA penalties ($\$1,217,439.73 \div \$5,869,324 = 0.20742 \times 100 = 20.74\%$). (*Ibid.*) Because this represents about twenty percent (20%) of wages, it is appropriate to apportion twenty percent (20%) of the Individual Settlement Share as wages and eighty percent (80%) of the Individual Settlement Share as penalties and interest pursuant to the Settlement Agreement. (Han Decl., *supra*, at ¶ 53.)

iv. Notice to the Class

Within fourteen (14) calendar days after entry of the Preliminary Approval Order, Defendant shall deliver the Class Data to the Settlement Administrator. (Han Decl., *supra*, at ¶ 28; Exhibit 2, *supra*, at § III(L)(2)(a).)

Within fourteen (14) calendar days after Defendant delivers the Class Data to the Settlement Administrator, the Settlement Administrator will mail the Notice Packet with a translation to all identified Class Members via first-class regular U.S. Mail. (Han Decl., *supra*, at ¶ 28; Exhibit 2, *supra*, at § III(L)(2)(b).)

v. Distribution of Funds

The Settlement will be funded and distributed in the manner and schedule set forth in the Settlement Agreement. (Han Decl., *supra*, at ¶ 28; Exhibit 2, *supra*, at §§ III(I)(2), III(I)(3).)

Participating Class Members and Eligible Aggrieved Employees must cash or deposit their settlement checks within one hundred eighty (180) calendar days after the checks are mailed to them. (Han Decl., *supra*, at ¶ 28; Exhibit 2, *supra*, at § III(I)(5).) Uncashed settlement checks will be paid to the California State Controller's Unclaimed Property Division. (*Ibid.*)

vi. Release of Claims

Upon the Effective Date and Defendant's fulfillment of its payment obligations set forth in the Settlement Agreement, Participating Class Members shall fully and finally release and discharge the Released Parties from the Released Class Claims as set forth in the Settlement Agreement. (Han Decl., *supra*, at ¶ 28; Exhibit 2, *supra*, at §§ I(JJ), III(M).)

1 Upon the Effective Date and Defendant’s fulfillment of its payment obligations set forth
2 in the Settlement Agreement, Plaintiffs and Eligible Aggrieved Employees shall fully and finally
3 release and discharge the Released Parties from the Released PAGA Claims as set forth in the
4 Settlement Agreement. (Han Decl., *supra*, at ¶ 28; Exhibit 2, *supra*, at §§ I(KK), III(N).)

5 Upon the Effective Date and Defendant’s fulfillment of its payment obligations set forth
6 in the Settlement Agreement, Plaintiffs shall provide a comprehensive release of claims. (Han
7 Decl., *supra*, at ¶ 28; Exhibit 2, *supra*, at § III(O).) Plaintiffs shall also knowingly and expressly
8 waive and relinquish, to the fullest extent permitted by law, the provisions, rights and benefits of
9 Civil Code section 1542, or any other similar provision under federal or state law. (*Ibid.*)

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

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

19 Counsel for both Parties are particularly experienced in wage-and-hour employment law
20 and class actions. (Han Decl., *supra*, at ¶¶ 2-7; Exhibit 1.) Class Counsel have prosecuted
21 numerous cases on behalf of employees for Labor Code violations and are experienced and
22 qualified to evaluate the class claims, advantages, and disadvantages of settlement versus trial,
23 and viability of the defenses. (*Ibid.*) Class Counsel’s experience guided their determination to
24 endorse the Settlement.¹ (*Ibid.*)

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27 ¹ The final factor mentioned in *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794 – the
28 number of objectors – is not determinable until the Notice Packet has been provided to the Class
Members, and they have had an opportunity to respond. This information will be provided to the
Court in conjunction with the Motion for Final Approval of Class Action Settlement.

1 **IV. ARGUMENT**

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

3 Rules of Court, rule 3.769 requires court approval for class action settlements.² “Before
4 final approval, the court must conduct an inquiry into the fairness of the proposed settlement.”
5 (Rules of Court, rule 3.769(g).) Rule 3.769 further requires a noticed motion for preliminary
6 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 ...
11 (c) Any party to a settlement agreement may serve and file a written notice of
12 motion for preliminary approval of the settlement. The settlement
13 agreement and proposed notice to class members must be filed with the
14 motion, and the proposed order must be lodged with the motion.

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

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

20 Understanding the amount in controversy is an important factor if settlement “of the class
21 members’ claims is reasonable in light of the strengths and weaknesses of the claims and the risks
22 of the particular litigation.” (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129;
23 see also *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 409.)
24 The most important factor is ““the strength of the case for plaintiffs on the merits, balanced
25 against the amount offered in settlement.”” (*Kullar*, at p. 130; see also *Munoz*, at p. 409.)

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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 Federal Rule 23 and federal case law in addition to California law.

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

10 **i. The Settlement Amount of \$3,725,000 Is Fair and Reasonable**

11 The Settlement was only possible following significant investigation and evaluation of the
12 relevant policies and procedures and the data produced for the putative class, as referenced in
13 Section III(b) above, permitting Class Counsel to engage in a comprehensive analysis of liability
14 and potential damages. (Han Decl., *supra*, at ¶ 33.)

15 This investigation and evaluation informed the central theories of liability that are
16 predicated on the alleged: (1) failure to pay overtime wages; (2) failure to provide meal and rest
17 breaks and pay applicable premiums; (3) failure to pay minimum wages; (4) failure to timely pay
18 wages; (5) failure to issue compliant wage statements; (6) failure to reimburse business expenses;
19 (7) violation of PAGA; and (8) violation of Business & Professions Code sections 17200. (Han
20 Decl., *supra*, at ¶ 34.) Defendant vehemently denies the theories of liability. (*Id.* at ¶ 35.)

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1 Although Plaintiffs believe that the case is suitable for certification, uncertainties with
2 respect to certification are always present. (Han Decl., *supra*, at ¶ 36.) As the California Supreme
3 Court ruled in *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, class
4 certification is a matter of the trial court's sound discretion. (*Ibid.*) Decisions following *Sav-On*
5 *Drug Stores, Inc.* have reached different conclusions concerning certification of wage-and-hour
6 claims.³ (*Ibid.*) These factors led to discounting the potential damages.

7 **ii. The PAGA Payment of \$150,000 Is Reasonable**

8 The provisions of the Labor Code potentially triggering PAGA penalties include, but are
9 not limited to, Labor Code sections 201, 202, 203, 204, 210, 218.5, 221, 226(a), 226.3, 226.7,
10 246, 432.5, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802. (Han
11 Decl., *supra*, at ¶ 46.) Defendant asserted that, regardless of the results of the underlying causes
12 of action, PAGA penalties are not mandatory but permissive and discretionary. (*Ibid.*) Defendant
13 maintained that it had a strong argument that it would be unjust to award maximum PAGA
14 penalties given the law's unsettled state. (Han Decl., *supra*, at ¶ 46; *Thurman v. Bayshore Transit*
15 *Mgmt.* (2012) 203 Cal.App.4th 1112 [reducing penalties by 30% under this authority].) Without
16 stacking and limited to the initial violation, the PAGA penalties would be limited to **\$55,100** (551
17 employees x \$100 initial violation) on the low end and **\$440,800** (551 employees x \$100 initial
18 violation x 8 theories of recovery) on the high end. (Han Decl., *supra*, at ¶¶ 47-50.)

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25 ³ (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 Office Solutions, Inc.* (2007) 148 Cal.App.4th 1440
[affirming decertification of class claiming misclassification]; *Aguiar 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].)

Plaintiffs also recognized the risk that any PAGA award could be reduced. (Han Decl., *supra*, at ¶ 51.) Many of the causes of action brought were duplicative of the statutory claims. (*Ibid.*) The maximum penalties for each pay period are likely not justified, and it was arguable the Court would award the maximum penalties. (*Ibid.*) Allocating \$150,000 to PAGA civil penalties was reasonable given that Defendant is paying an additional \$3,575,000 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 generally considered reasonable.⁴ (*Ibid.*)

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 **\$14,490,647.53** on the low end and **\$16,007,114.08** on the high end. (Han Decl., *supra*, at ¶ 52.)

Category	Potential Exposure	Certification Risk	Merits Risk	Realistic Exposure
Rest Break Premiums	\$3,022,381.26	75%	65%	\$264,458.36
Meal Break Premiums	\$3,275,734	65%	65%	\$401,277.42
Overtime/Minimum Wage: Off-the-Clock Work	\$3,032,933.10 to \$4,549,399.65	65%	55%	\$477,686.96 to \$716,530.45
Rounding	\$180,495.56	35%	55%	\$52,794.95
Regular Rate	\$85,745.61	45%	55%	\$21,222.04
Unreimbursed Business Expenses	\$1,065,998	25%	65%	\$279,824.48
Wage Statement Penalty	\$2,204,000	35%	35%	\$931,190
Waiting Time Penalty	\$1,623,360	35%	35%	\$685,869.60
MAXIMUM TOTAL EXPOSURE	\$14,490,647.53 to \$16,007,114.08⁵			\$3,114,323.81 to \$3,353,167.30⁶

⁴ (*Hopson v. Hanesbrands Inc.* (N.D.Cal. Apr. 3, 2009, No. CV-08-00844 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”).

⁵ (Han Decl., *supra*, at ¶¶ 37-45.)

⁶ (*Id.* at ¶¶ 54-61.)

1 Based on this analysis, the realistic recovery is **\$3,114,323.81** on the low end and
2 **\$3,353,167.30** on the high end. (Han Decl., *supra*, at ¶ 62.) The Gross Settlement Amount is about
3 twenty-three percent (23.27%) of the maximum potential exposure and above the maximum
4 realistic exposure, which is an excellent settlement. (*Ibid.*)

5 The only question at preliminary approval is whether the settlement is within the range of
6 possible approval. (*In re General Motors Corp. Engine Interchange Litigation* (7th Cir. 1979)
7 594 F.2d 1106, 1124; *Acosta v. TransUnion, LLC* (C.D. Cal. 2007) 240 F.R.D. 564, 575.) “The
8 fact that a proposed settlement may only amount to a fraction of the potential recovery does not,
9 in and of itself, mean that the proposed settlement is grossly inadequate and should be
10 disapproved.” (*Detroit v. Grinnell Corp.* (2d Cir. 1974) 495 F.2d 448, 455; see also *Linney v.*
11 *Cellular Alaska Partnership* (9th Cir. 1998) 151 F.3d 1234, 1242, “[I]t is the very uncertainty of
12 outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual
13 settlements. The proposed settlement is not to be judged against a hypothetical or speculative
14 measure of what might have been achieved by the negotiators”.) This settlement is in line with
15 the realistic exposure if Plaintiffs prevailed at trial and provides significant recovery for the Class.

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

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

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1 The Class is ascertainable and numerous as to make it impracticable to join all Class
2 Members, and there are common questions of law and fact that predominate over any questions
3 affecting any individual Class Member. (Han Decl., *supra*, at ¶ 63.) Plaintiffs contend that, as
4 former hourly-paid, non-exempt employees of Defendant, their claims are typical of the claims
5 of the Class, and Class Counsel will fairly and adequately protect the interests of the Class. (*Ibid.*)
6 Plaintiffs also assert that the prosecution of separate actions by individual Class Members would
7 create the risk of inconsistent or varying adjudications, and a class action is superior to other
8 available means for the fair and efficient adjudication of the case. (*Ibid.*)

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

10 “Ascertainability is required in order to give notice to putative class members as to whom
11 the judgment in the action will be res judicata.” (*Hicks v. Kaufman & Broad Home Corp.* (2001)
12 89 Cal.App.4th 908, 914.) “A class is ascertainable if it identifies a group of unnamed plaintiffs
13 by describing a set of common characteristics sufficient to allow a member of that group to
14 identify himself or herself as having a right to recover based on the description.” (*Bartold v.*
15 *Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 828.) The proposed class must also be
16 sufficiently numerous. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.)

17 This case involves approximately seven hundred seventy (770) Class Members, meaning
18 that the Class is sufficiently numerous. (Han Decl., *supra*, at ¶ 64; *Ghazaryan v. Diva Limousine,*
19 *Ltd.* (2008) 169 Cal.App.4th 1524, 1531, n.5 [finding a proposed class of “as many as 190 current
20 and former employees” is sufficiently numerous].)

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

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

11 **1. Common Issues Predominate**

12 The “common issues” requirement “involves analysis of whether the proponent’s ‘theory
13 of recovery’ is likely to prove compatible with class treatment.” (*Capitol People First v.*
14 *Department of Developmental Services, supra*, 155 Cal.App.4th at p. 690.) In other words, courts
15 determine whether the elements necessary to establish liability are susceptible to common proof,
16 even if the class members must individually prove their damages. (*Brinker Restaurant Corp. v.*
17 *Superior Court* (2012) 53 Cal.4th 1004, 1024). These types of claims are regularly granted class
18 certification when the plaintiff can present evidence of common policies. (See e.g. *Jones v. JGC*
19 *Dallas LLC* (N.D.Tex. Nov. 29, 2012, Civil Action No. 3:11-CV-2743-O) 2012 U.S.Dist.LEXIS
20 185042 [certified collective action involving 190 dancers]; *Espinoza v. Galardi South Enters.*
21 (S.D.Fla. Jan. 11, 2016, No. 14-21244-CIV-GOODMAN) 2016 U.S.Dist.LEXIS 2904 [court
22 certified class of dancers on state law claims].)

23 Plaintiffs assert common issues of fact and law predominate as to each of the claims
24 alleged. (Han Decl., *supra*, at ¶ 65.) Plaintiffs contend that all Class Members were subject to the
25 same or similar employment practices, policies, and procedures described in detail above. (*Ibid.*)

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Plaintiffs are former employees of Defendant and allege that they and the Class were employed by the same company and injured by the common policies and practices related to the claims described above. (Han Decl., *supra*, at ¶ 66.) Plaintiffs seek relief for these claims and derivative claims on behalf of the Class. (*Ibid.*) Plaintiffs' claims arise from the same employment practices and are based on the same legal theories as those applicable to the Class. (*Ibid.*)

Plaintiffs have proven to be adequate class representatives. (Han Decl., *supra*, at ¶ 67.) Plaintiffs have conducted themselves diligently and responsibly in representing the Class, understand the fiduciary obligations, and has actively participated in the prosecution of this case. (*Ibid.*) Plaintiffs have spent time in meetings and conferences with Class Counsel to provide Class Counsel with a complete understanding of the work environment and requirements. (*Ibid.*) Plaintiffs have no interest adverse to the interests of the Class. (*Ibid.*)

A class action is superior to other available means for the fair and efficient adjudication of this controversy. Plaintiffs contend that 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 numerous individual actions would necessitate. Because some Class Members may still be current employees, Plaintiffs believe that 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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1 **e. The Settlement Is Fair, Reasonable, and Adequate**

2 In deciding to approve a proposed class action settlement under Code of Civil Procedure
3 section 382, the Court must find a proposed settlement is “fair, adequate and reasonable.” (*Dunk*
4 *v. Ford Motor Co.*, *supra*, 48 Cal.App.4th at p. 1801.) A proposed class action settlement is
5 presumed fair under the following: (1) parties reached settlement after arm’s-length negotiations;
6 (2) investigation and discovery were sufficient to allow counsel and the court to act intelligently;
7 (3) counsel is experienced in similar litigation; and (4) percentage of objectors is small. (*Id.* at p.
8 1802.) All these elements are present here.

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

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

11 If the court has certified the action as a class action, notice of the final approval
12 hearing must be given to class members in the manner specified by the court. The
13 notice must contain an explanation of the proposed settlement and procedures for
14 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.

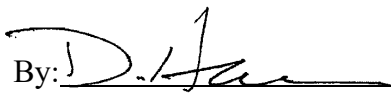
15 The Notice Packet meets all these requirements. The Notice Packet advises the Class
16 Members of their right to participate in the Settlement, how and when to object to or request
17 exclusion from the Settlement, and date, time, and location of the Final Approval Hearing.

18 **V. CONCLUSION**

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

23
24 Dated: January 24, 2025

JUSTICE LAW CORPORATION

25 By: 
26 Douglas Han
27 Attorneys for Plaintiffs
28

**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 ccastro@justicelawcorp.com

On January 24, 2024, I served the foregoing document described as

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: **Contreras, et al. v. MeriCal, LLC**
LWDA/Court Case No.: **LWDA Case No.: CM-854469-21**
Court Case No.: 30-2021-01214079-CU-OE-CJC
[Consolidated with Case No. 30-2022-01259256-CU-OE-CXC]
Orange 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 January 24, 2024, at Pasadena, California.



Christina Castro