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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

DOMINGO MURCHISON, individually and)
on behalf of all current and former similarly)
situated employees in the State of California,)

Plaintiff,)

v.)

MVP EVENT PRODUCTIONS, LLC, a)
California Limited Liability Company dba)
MVP EVENT STAFFING; GREGORY)
FIELDING, an individual; LEGENDS)
HOSPITALITY, LLC, a Delaware Limited)
Liability Company (previously designated by)
the fictitious name of "DOE 1"; and DOES 2)
to 50, inclusive.)

Defendant.)

CASE NO.: 30-2021-01234789-CU-OE-CXC

ASSIGNED FOR ALL PURPOSES TO: HON.
WILLIAM CLASTER; Dept.: CX-101

Reservation Number: **74940680**

Date: October 2, 2026

Time: 9:00 a.m.

Dept.: CX-101

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFFS' RENEWED MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT AND
FOR PROVISIONAL CLASS
CERTIFICATION FOR SETTLEMENT
PURPOSES ONLY

[Filed Concurrently with Notice of Motion;
Declaration of Natalie Mirzayan; Request for
Judicial Notice; and Proposed Order]

Complaint Filed: December 6, 2021

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiffs DOMINGO MURCHISON and DAVINA BHULLAR (“Plaintiffs” or “Class
4 Representatives”), on behalf of themselves and all others similarly situated, renew their motion for
5 preliminary approval of the class and PAGA settlement with Defendant LEGENDS HOSPITALITY,
6 LLC (“Defendant” or “Legends”). The settlement is governed by the Joint Stipulation Regarding
7 Class Action and PAGA Settlement and Release (“Agreement”) and Addendum No. 1
8 (“Addendum”), attached to the Declaration of Natalie Mirzayan (“Mirzayan Decl.”) as Exhibits 1
9 and 2. (Mirzayan Decl., ¶¶ 3–4.) Defendant will pay a non-reversionary Gross Settlement Amount
10 of \$815,000, plus the employer’s share of payroll taxes. The settlement was reached after extensive
11 formal and informal discovery, expert analysis, a full-day mediation before the Hon. Ann I. Jones
12 (Ret.), a mediator’s proposal, and further negotiations responding directly to the Court’s concerns.

13 Following the prior hearing, the Parties improved and narrowed the settlement by:
14 (1) increasing the Gross Settlement Amount from \$775,000 to \$815,000; (2) doubling the PAGA
15 allocation from \$40,000 to \$80,000; (3) narrowing the Tip Class Period by approximately three years
16 and eight months so it matches the Class Period of August 21, 2021 through April 28, 2025, rather
17 than beginning December 6, 2017; (4) increasing the share of the Net Settlement Amount allocated
18 by workweeks to the Class Settlement from 90% to 95% and reducing the Tip Class Settlement from
19 10% to 5%; (5) removing Labor Code sections 2810.5, 221, 223, 246, and 227.3 from the PAGA
20 release; and (6) reducing the settlement administration costs. (Agreement and Addendum, ¶¶ 1.2,
21 1.8, 1.24, 1.25, 1.37, 3.1, 3.2.2; Mirzayan Decl., ¶ 5.) This renewed motion therefore focuses on the
22 evidence supporting the claim-specific valuations and the reasons the revised settlement is fair.

23 Pursuant to Rule 3.769 of the California Rules of Court, Plaintiffs seek an Order:

- 24 1) Granting Preliminary Approval of the proposed Class Action Settlement in this Action;
25 2) Certification of the Class and Tip Class for Settlement purposes only, respectively defined as
26 follows:

27 All individuals who were employed by Legends Hospitality, LLC in the State of California
28 on a non-exempt basis at any time during August 21, 2021 to April 28, 2025.

1 All individuals who were employed by Legends Hospitality, LLC in the State of California
2 who was eligible to receive tips during August 21, 2021 through April 28, 2025.

3 3) Granting Approval of the proposed PAGA Settlement in this action on behalf of all
4 “Aggrieved Employees”, defined as follows:

5 All individuals who were employed by Legends Hospitality, LLC in the State of California
6 on a non-exempt basis at any time during September 18, 2021 to April 28, 2025.

7 4) Preliminary approval of a non-reversionary settlement payment by LEGENDS
8 HOSPITALITY, LLC (“Defendant” or “Legends”) in the amount of Eight Hundred Fifteen
9 Thousand Dollars and No Cents (\$815,000.00) to resolve the released claims and settlement costs,
10 inclusive of all Net Settlement Payments to the Class, Individual PAGA Payments, service payments
11 to Plaintiffs, Administration Expenses, Litigation Expenses, Class Counsel Fees, and the payment of
12 PAGA penalties to the LWDA. Legends will separately pay any required employer payroll taxes and
any additional amount expressly required under the Agreement.

13 5) Preliminary approval of Plaintiffs Davina Bhullar and Domingo Murchison as Class
14 Representatives;

15 6) Preliminary approval of Natalie Mirzayan of Mirzayan Law, APLC as Class Counsel;

16 7) Preliminary approval of the form and manner of the Notice to the Class;

17 8) Preliminary approval of the appointment of Apex Class Action Administration (“Apex”) as
18 the Administrator and preliminary approval of the costs of administration of the Settlement for an
19 amount estimated not to exceed \$32,500.00 to be paid from the Gross Settlement Amount
20 (“Administration Expenses”);

21 9) Preliminary approval of the Class Representatives Service Payment to each of the Class
22 Representatives, \$10,000.00 to Davina Bhullar and \$15,000.00 to Domingo Murchison, in the light
23 of his commitment as Class Representative since 2021 (in addition to any Individual Class Payment
24 and any Individual PAGA Payment the Class Representatives are entitled to receive as a Participating
25 Class Member) to be paid from the Gross Settlement Amount (“Class Representative Service
26 Payment”);

27 10) Preliminary approval of the application by Class Counsel to the Court seeking an award of
28 attorneys' fees not to exceed Three Hundred Twenty-Six Thousand (\$326,000.00), which is 40% of

the Gross Settlement Amount, and Litigation Expenses (not to exceed \$50,000.00) as supported by invoices to be paid from the Gross Settlement Amount;

11) Preliminary approval of the payment of Eighty Thousand Dollars (\$80,000.00) from the Gross Settlement Amount to fully settle and resolve all PAGA penalty claims. Sixty Thousand Dollars (\$60,000.00), representing seventy-five percent (75%), to be paid to the Labor and Workforce Development Agency (“LWDA”) of the State of California, and the remaining \$20,000.00, which represents twenty-five percent (25%), to be distributed to Aggrieved Employees on a pro-rata basis based on the total number of PAGA Pay Periods.

12) Establishing a schedule for the Class Notice to Class Members; and

13) Approving the filing of Plaintiffs’ Fourth Amended Complaint, which was stipulated to by Plaintiffs and Defendant in the Agreement and is attached to the Declaration of Natalie Mirzayan, ¶ 9, Exhibit “3”.

14) Setting a Final Approval hearing date.

Based on the information produced pursuant to both formal and informal discovery, and Class Counsel’s own independent investigation and evaluation, Class Counsel believes that the proposed settlement is fair, reasonable, and adequate under the circumstances, and it is in the best interest of the Class. In the light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, various defenses asserted by Defendant, the likely difficulties with class certification, and numerous potential appellate issues, Plaintiffs and Defendant chose to settle their dispute.

For the reasons set forth below, this Court should certify the Class for settlement purposes, grant Preliminary Approval, and order that the Notice be issued as requested.

II. FACTUAL BACKGROUND

A. The Parties

Legends provides venue operations including food and beverage, merchandise, and retail services at various stadiums and concert arenas in California, as well as across the nation. The vast majority of Legends’ non-exempt employees are employed on a part-time basis. Legends’ part-time employees work, on average, one to two shifts a week during their home venue’s season.

1 The venues that Legends services in California include some that are unionized, each under
2 their own collective bargaining agreement, and some that are not unionized. The venues at which
3 Legends has provided services during the Class Period include Angel Stadium, BMO Stadium,
4 Golden 1 Center, Los Angeles Coliseum, SoFi Stadium (including YouTube Theatre), Concord,
5 Chula Vista (North Island), Five Point Amphitheater, Glen Helen Amphitheater, Shoreline
6 Amphitheater, Toyota Wheatland, and Pechanga Casino. Depending on the venue, the venue
7 primarily hosts sports games and/or concerts, and operates during a particular season. For example,
8 the non-union venues at which Legends provides services typically operate in late Spring or Summer
9 through late Summer or Fall. Legends' non-unionized part-time employees are terminated at the end
10 of each season.

11 The seasons for the unionized locations differ based upon the season for the type of sport the
12 venue hosts (e.g., baseball games for Angel Stadium, soccer games for BMO, professional football
13 games for SoFi Stadium, college football games for Los Angeles Coliseum, basketball games for
14 Golden 1 Center). However, such locations also host some other types of events before, during and
15 after the sports season (e.g., concerts, conferences, receptions, and catered events). Legends' unionized
16 employees are also eligible to be "borrowed" to work at venues other than their home venue when their
17 home venue does not have a scheduled event, meaning, they can volunteer, but are not required, to
18 work at another venue. For these reasons, as well as the terms of the applicable collective bargaining
19 agreements, Legends contends that unionized employees can work shifts year-round and Legends does
20 not discharge unionized employees at the end of any particular venue's season.¹

21 Legends' unionized employees agree to be scheduled for all mandatory events during their
22 home venue's season (*i.e.*, all pre-season, regular and post-season sport games). However, Legends'
23 non-unionized employees are not required to work any events.

24
25 ¹ In response to this Court's previous question regarding the effect of the CBAs, importantly, CBAs
26 affect not only the value of the class claims, but potentially the existence of a class action on behalf
27 of individuals employed at certain venues. Each agreement contains a grievance provision that
28 mandates arbitration of the wage and hour claims alleged in this case. In fact, in some other actions,
Legends has successfully enforced the grievance provisions set forth in the Anaheim Stadium,
Golden 1 Stadium, and Los Angeles Coliseum CBA to compel arbitration on an individual basis. The
risk of class claims on behalf of individuals employed at the foregoing venues resulted in discounting
the merits of the class claims.

1 Plaintiff Domingo Murchison contends that he is a former employee who was employed by
2 Legends from August to October 2021 at several venues in Southern California.

3 Plaintiff Davina Bhullar, a current employee, was hired by Legends in June 2022 at Golden
4 1 Center in Northern California as a non-exempt part-time seasonal employee. She contends that her
5 employment is terminated by Legends at the end of each season.

6 **B. Procedural History**

7 **1. Pleadings**

8 On December 6, 2021, Plaintiff Murchison filed this putative class action in the Orange
9 County Superior Court against MVP Event Productions, LLC dba MVP Event Staffing and Gregory
10 Fielding. (ROA No. 2.) The Complaint asserted claims for: (1) failure to pay wages for all hours
11 worked, including overtime (Labor Code sections 510 and 1198); (2) failure to provide meal periods
12 (sections 226.7 and 512); (3) failure to authorize and permit rest periods (section 226.7); (4) failure
13 to pay minimum wages (sections 1182.12, 1194, 1197, 1197.1, and 1198); (5) failure to provide
14 accurate wage statements (sections 226(a), 1174(d), and 246(i)); (6) waiting-time penalties (sections
15 201, 202, and 203); (7) failure to pay all wages timely during employment (sections 201.3 and 210);
16 (8) conversion; (9) injunctive relief; and (10) unfair business practices (Business and Professions
17 Code sections 17200–17208). Mirzayan Decl., ¶ 6.

18 On November 22, 2022, Plaintiff Murchison filed a First Amended Complaint, which
19 removed the Conversion claim and added a claim for penalties under the Private Attorneys General
20 Act. *Id.*, ¶ 7; (ROA No. 100.)

21 On April 21, 2023, Plaintiff Murchison filed a Second Amended Complaint, in which he
22 added Legends Hospitality, LLC as a defendant. (ROA No. 124.) On June 26, 2023, Plaintiff
23 Murchison filed a Third Amended Complaint replacing a Doe defendant with Defendant Legends
24 Hospitality, LLC. (ROA No. 159.) *Id.*, ¶ 8.

25 A Fourth Amended Complaint is attached to the Declaration of Natalie Mirzayan (the
26 “Operative Complaint” or “FAC”), adding Ms. Bhullar as a class representative and including
27 additional factual allegations matching the scope of the resolution reached by the Parties.
28 Specifically, the FAC includes the following claims: (1) Failure to Pay Wages for All Hours Worked,

1 Including Overtime (Labor Code sections 510 and 1198); (2) Failure to Provide Meal Periods (Labor
2 Code sections 226.7 and 512); (3) Failure to Authorize and Permit Rest Periods (Labor Code section
3 226.7); (4) Failure to Pay Minimum Wages (Labor Code sections 1182.12, 1194, 1197, 1197.1, and
4 1198); (5) Failure to Provide Accurate Wage Statements (Labor Code sections 226(a), 1174(d), and
5 246(i)); (6) Waiting Time Penalties; (7) Failure to Pay All Wages Timely During Employment (Labor
6 Code sections 201.3 and 210); (8) Unreimbursed Expenses (Labor Code section 2802); (9) Unfair
7 Business Practices (Business and Professions Code sections 17200–17208 and Labor Code section
8 351); and (10) penalties under the Private Attorneys General Act. *Id.*, ¶ 9, Exhibit “3”.

9 **2. PAGA Notices**

10 On December 3, 2021, Plaintiff Murchison sent notice to the LWDA to exhaust
11 administrative remedies under PAGA. On April 11, 2023, Plaintiff Murchison submitted an amended
12 notice identifying Legends Hospitality, LLC as a Doe employer. On April 14, 2025, Plaintiffs
13 Murchison and Bhullar submitted the operative amended notice adding Bhullar as a representative
14 and additional statutes and factual theories. The operative notice alleges violations of Labor Code
15 sections 200, 201, 201.3, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 233, 246, 246.5, 247.5, 351,
16 510, 512, 1194, 1197, 1197.1, 1198, 558, 2802, and 2810.5. *Id.*, ¶ 10, Exhibit “4”. The LWDA issued
17 a notice of investigation on June 18, 2025. While the Court’s August 1, 2025 Order recognized that
18 the ensuing 120-day investigation period had not yet expired at that time, that period expired on
19 October 16, 2025. The LWDA filed an objection on October 20, 2025, but the stated record identifies
20 no citation or civil action commenced within the 120-day period. As such, Plaintiffs became
21 authorized to act as a Private Attorneys General on all alleged PAGA claims.

22 **3. Settlement Approval Proceedings**

23 On July 9, 2025, Plaintiff re-noticed the Motion for Preliminary Approval of a class and
24 PAGA settlement (which was previously filed and noticed for a different department) setting the
25 hearing for August 1, 2025. (ROA No. 526.) Mirzayan Decl., ¶ 12.

1 On July 18, 2025, Scott Shuster moved to intervene (ROA No. 531), and Trinity Martinez
2 and Demetrius Crook joined the request (ROA Nos. 557 and 565).² Plaintiffs and Legends opposed.
3 On August 15, 2025, after considering the requests for mandatory and permissive intervention, this
4 Court denied both (ROA No. 609). The timing is part of a documented procedural history, not a
5 substitute for merits review. Shuster had also been a noticed class member in *Hightower v. Legends*
6 *Hospitality, LLC*, Santa Clara County Superior Court No. 18CV328576. After notice of the
7 preliminarily approved *Hightower* settlement was mailed on August 9, 2022, Shuster filed a separate
8 class action on October 3, 2022, objected on October 7, 2022, and moved to intervene on December
9 15, 2022; that intervention motion was denied on February 2, 2023, when final approval was granted.
10 In this action he again sought intervention, leave to present PAGA arguments and evidence, and later
11 coordination. This repeated post-settlement procedural activity is relevant to the timing and weight
12 of the objections, but Plaintiffs recognize that the Court must independently test every objection and
13 the fairness of the settlement.
14

15 On July 25, 2025, Plaintiff filed a Supplemental Declaration In Support of Motion for
16 Preliminary Approval of Class and PAGA Settlement, which was set for hearing on August 15, 2025.
17 (ROA No. 544.) *Id.*, ¶ 14.

18 On July 29, 2025, Shuster filed a Request for Leave to file “Arguments & Evidence” in
19 Opposition to Proposed Settlement under PAGA. (ROA No. 552.) *Id.*, ¶ 15.

20 On October 20, 2025, the LWDA filed an Objection to the Motion for Preliminary Approval.
21 (ROA No. 621.) On October 24, 2025, both Legends and Plaintiff each filed a Response. (ROA No.
22 623 and ROA No. 627, respectively.) On November 4, 2025, this Court continued the hearing on the
23 Motion for Preliminary Approval and requested supplemental briefing from both the Plaintiff and
24 the LWDA. (ROA No. 636.) *Id.*, ¶ 16.
25
26

27 ² The Parties are not aware of any cases other than *Shuster, Martinez, Crook, and Lampkin v.*
28 *Legends*, Los Angeles Superior Court Case No. 26STCV05689 that may be affected by this
settlement. The *Lampkin* Action is a PAGA-only action that was filed on February 23, 2026.
Therefore, it overlaps with the PAGA release in this Action by approximately two-months.

1 On December 9, 2025, both the LWDA and the Plaintiff in response to the Court’s request
2 each submitted supplemental briefing. (ROA No. 639 and ROA 645–647, respectively.) On
3 December 19, 2025, this Court denied the Motion for Preliminary Approval *without prejudice*.
4 (ROA No. 649.) During the hearing, the Court directed the Parties to appear at a Status Conference
5 *prior* to filing a renewed motion. On February 24, 2026, the Court held a Status Conference and
6 authorized the Parties to file this renewed motion. *Id.*, ¶ 17.

7 On May 8, 2026, Shuster submitted a Petition for Coordination (“Petition”) to the
8 Chairperson of the Judicial Council after the Los Angeles Superior Court, Judge Samantha Jessner,
9 granted permission to file it on April 10, 2026. This Court is hearing the Petition on September 11,
10 2026.

11 **C. Discovery**

12 Class Counsel obtained substantial payroll and other data related to Class Members for
13 mediation purposes. Legends provided formal discovery responses regarding Plaintiff Murchison as
14 well as its formal discovery responses to Requests for Production, Requests for Admission, Special
15 Interrogatories, and Form Interrogatories in the *Shuster* Action. Substantial informal discovery and
16 production of documents took place as well. Class Counsel obtained Defendant’s part-time employee
17 handbook that applies to all Class Members and Aggrieved Employees, all relevant wage and hour
18 policies and procedures during the Class Period, collective bargaining agreements for each unionized
19 venue, a sample of time and payroll records as well as tip and other data for Class Members and
20 Aggrieved Employees, venue event schedules, return to work forms relating to unionized employees,
21 sample meal break waivers, exemplars of time edit authorization forms, scheduling paperwork,
22 physical schedules posted on-site at each event, documents regarding a one-time tip issue, links to
23 websites with events, venue maps, sample job descriptions, emails sent to Class Members and
24 Aggrieved Employees, total number of Class Members and Aggrieved Employees during the Class
25 Period and PAGA Period, average rates of pay, estimated workweeks and shifts during the Class and
26 PAGA Period, average number of days worked during a workweek, and other statistics. *Id.*, ¶ 19.

27 Additionally, Defendant’s counsel informed Class Counsel that all formal and informal
28 discovery provided to Shuster’s counsel was also provided to Plaintiffs’ counsel, except Shuster’s

1 personnel file, private documents relating to Shuster, and contact information provided to Shuster's
2 counsel following a Belaire notice. Mirzayan Decl., ¶ 19.

3 Plaintiffs' counsel interviewed Legends' employees to investigate and value the claims
4 alleged³. Mirzayan Decl., ¶ 20.

5 Furthermore, Plaintiffs' counsel has investigated the law as applied to the facts discovered
6 regarding the alleged claims of Plaintiffs and potential defenses thereto, and the potential damages
7 claimed by Plaintiffs.

8 Plaintiff also employed an expert to prepare calculations of the amount of potential damages
9 to the Class Members and potential PAGA penalties. Mirzayan Decl., ¶ 21. A true and correct copy
10 of Sean Chasworth's professional CV is attached to the Mirzayan Declaration as Exhibit "5".

11 No depositions were taken in this case.⁴ The deposition of Legends' PMK was noticed twice.
12 Legends served objections to both. Plaintiff compelled the deposition of the PMK. The Court granted
13 Plaintiff's motion compelling the appearance of Legends PMK along with the documents responsive
14 to Plaintiff's PMK deposition notice at a mutually agreeable date. Due to settlement discussions, and
15 the Parties' agreement to an informal discovery stay while exchanging meaningful information to
16 attend mediation, which resulted in the settlement, Plaintiff ended up not taking the deposition of
17 Legends' PMK. Mirzayan Decl. ¶ 22. However, through the above referenced formal and informal
18 discovery, Defendant and Defendant's counsel provided Class Counsel with adequate documents and
19 information to necessarily investigate the claims such that Plaintiffs' investigation was sufficient to
20 satisfy the criteria for court approval set forth in *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th
21 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129–130
22 ("*Dunk/Kullar*"). Mirzayan Decl., ¶ 23.

23 **D. Arms-Length Negotiation**

24 Counsel for the respective Parties engaged in extensive discussions about the strengths and
25 weaknesses of the claims and defenses. Plaintiffs and Defendant undertook mediation efforts,
26 including attending all day mediation on February 21, 2025, with well-respected mediator (Ret.)

27
28 ³ November 4, 2025 Order, Question No. 6.

⁴ November 4, 2025 Order, Question No. 5.

1 Honorable Judge Ann Jones, who is a former magistrate judge in the United States District Court for
2 the Central District of California and former judge in Los Angeles Superior Court’s complex
3 division. The Parties did not reach a settlement at that time. Judge Jones made a Mediator’s Proposal,
4 which the Parties subsequently accepted and memorialized. Mirzayan Decl., ¶ 24.

5 Following the December 19, 2025 ruling on the original Motion for Preliminary Approval,
6 the Parties engaged in further extensive negotiations. Those negotiations resulted in improvements
7 to the settlement, which are discussed in Section I above.

8 **III. ARGUMENT**

9 **A. The Presumption of Fairness**

10 The law favors settling lawsuits, particularly class actions and other complex cases where
11 substantial resources can be conserved by avoiding the time, expense, and rigors of formal litigation.
12 *See Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1117–1118; *In re Microsoft I-*
13 *V Cases* (2006) 135 Cal.App.4th 706, 723 n.14; *Nordstrom Com. Cases* (2010) 186 Cal.App.4th 576,
14 581; *see also Neary v. Regents of Univ. of Cal.* (1992) 3 Cal.4th 273, 277–81. “Due regard should
15 be given to what is otherwise a private consensual agreement between the parties. The inquiry ‘must
16 be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product
17 of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement,
18 taken as a whole, is fair, reasonable and adequate to all concerned.’” *See Dunk, supra*, 48 Cal.App.4th
19 at p. 1801; *see also Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118; *In re*
20 *Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 723; *Nordstrom Com. Cases* (2010) 186
21 Cal.App.4th 576, 581.

22 The purpose of the Court’s preliminary evaluation of a proposed class action settlement is to
23 determine only whether it is within the range of possible approval such that notice to the class of its
24 terms and conditions and the scheduling of a formal fairness hearing is warranted. *See Wershba v.*
25 *Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234–35. If the Court finds a proposed settlement
26 falls within “the range of reasonableness,” it should grant preliminary approval of the class action
27 settlement. *See, e.g., North County Contr.’s Assn., Inc. v. Touchstone Ins. Svcs.* (1994) 27
28 Cal.App.4th 1085, 1089–90; *Kullar, supra*, 168 Cal.App.4th at p. 133. Factors to consider in

determining whether the settlement is fair, reasonable, and adequate include the strength of the plaintiff's case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement. *See Dunk*, supra, 48 Cal.App.4th at p. 1801. However, this Court should begin its analysis with a presumption that the proposed settlement is fair. "A presumption of fairness exists where: (1) the settlement is reached through arm's length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small." *Id.* at 1802.

Here, the Settlement is entitled to a presumption of fairness because: (1) it is the product of arm's length bargaining between the Parties' respective counsel through a full-day mediation and mediator's proposal; (2) the Parties have investigated the claims, defenses, and potential damages in this case after factual and legal research, formal and informal discovery, preparation of damage analysis using an expert; and (3) Class Counsel is experienced in complex and class action litigation, including matters involving violations of California wage and hour laws. Therefore, there is an entitlement to a presumption of fairness. *See 7-Eleven Owners For Fair Franchising v. The Southland Corp.* (2000) 85 Cal.App.4th 1135, 1146; *Dunk*, supra, 48 Cal.App.4th at p. 1802.

B. The Settlement is Fair and Reasonable Based Upon Objective Evidence

1. The Settlement Was Negotiated at Arm's Length and is Not Collusive

The settlement is the product of substantial effort by the parties and their counsel. The settlement was reached after extensive factual and legal investigation and research, numerous discussions, exchanges of documents, correspondence, and arm's length negotiations before Ret. Honorable Ann Jones, a highly respected mediator skilled at helping parties attempt to negotiate reasonable settlements in wage and hour class and PAGA actions, and follow-up negotiations. The settlement amount is, of course, a compromise figure. It considered, risks related to liability, damages, and all the defenses asserted by Defendant. Counsel for Plaintiffs is satisfied that this figure is reasonable in light of the risks and expense of continued litigation. Mirzayan Decl., ¶ 25.

1 **2. The Settlement Is Well Within Range of Reasonableness**

2 As set forth below, the settlement is well within the range of reasonableness. Plaintiffs'
3 statistical expert, Sean Chasworth at Phillips Fractor and Company, analyzed this information
4 enabling Class Counsel to evaluate the potential liability and damages for the Class Members. See
5 Mirzayan Decl., ¶ 26. Based upon this information, Class Counsel was able to act intelligently and
6 effectively in negotiating the proposed Settlement. Id., ¶ 27.

7 Plaintiffs and Class Counsel remain confident of the merits of Plaintiffs' claims. However,
8 Plaintiffs and Class Counsel considered several factors in reaching the decision to settle at this point
9 in the litigation. Class Counsel has calculated the maximum potential damages and penalties of the
10 Class Members and alleged aggrieved employees, and settlement value as set forth below.

11 **a. Unreimbursed Business Expenses (Lab. Code § 2802)**

12 Plaintiffs alleged that Defendant failed to reimburse Class Members for expenses associated
13 with parking and personal cellphone use. Plaintiffs' expert calculated potential damages of
14 \$2,541,101.11, based on an assumption of \$7.50 per pay period. Mirzayan Decl., ¶ 28. This estimate
15 was based on assumption that employees had no other means by which to learn their schedules or
16 communicate regarding work-related matters, and that no complimentary parking was provided by
17 Legends. The evidence and defenses demonstrated substantial risks both to class certification and to
18 Plaintiffs' ability to establish an underlying violation of Labor Code section 2802.

19 The evidence undermined the parking component of the claim. Defendant produced
20 evidence, such as CBA's and event-specific communications referencing parking passes and maps,
21 showing that it provided adequate complimentary employee parking. Class Counsel's investigation
22 did not reveal a systematic practice of employees being required to pay for parking, nor did the
23 evidence establish that complimentary parking was unavailable on a classwide basis. If an employee
24 elected to use paid parking despite the availability of complimentary employee parking, Defendant
25 had a substantial defense that the charge resulted from the employee's personal choice rather than a
26 necessary expense incurred in direct consequence of performing the employee's duties.

27 The evidence also showed that Defendant did not maintain a uniform policy or practice
28 requiring employees to own or use personal cellphones, maintain personal data plans, or use personal

1 devices to perform their duties or obtain their schedules. Mirzayan Decl., ¶ 29. Defendant's written
2 policies prohibited employees from using personal cellphones while working. Mirzayan Decl., ¶ 29.
3 Employees who needed to communicate during an event were provided radios, and employees who
4 were not assigned radios could communicate through their managers. This evidence directly
5 undermined the contention that personal cellphones were necessary tools for performing employees'
6 event-related duties.

7 With respect to whether employees incurred expenses by using their personal device to access
8 their schedule, the evidence showed that employees could obtain their schedules through several
9 alternative methods. Schedules were communicated verbally, in writing at new hire orientation at the
10 beginning of each season, posted in paper form in common employee areas, available while employees
11 were on-site, and accessible through a website from any internet-enabled device. Employees could also
12 obtain their schedules directly from the office at their assigned venue. A produced communication also
13 advised Shuster that his unconfirmed schedule was available for review through Enterprise Self
14 Service. At least one non-unionized venue prepared employees' schedules using paper calendars. The
15 evidence further showed that work schedules were generally established as much as seven months in
16 advance, given that concerts and sport game dates are set months in advance. Mirzayan Decl., ¶ 30.
17 Unionized employees were required to work all sport games and could only call off a certain number
18 of games or else face discipline pursuant to the CBA. Employees therefore were not uniformly
19 dependent on last-minute cellphone communications to determine when they were scheduled to work.
20 To the extent an employee elected to review an advance schedule or reminder through a personal
21 cellphone, Defendant had a substantial defense that the employee did so for convenience rather than
22 because personal cellphone use was required or reasonably necessary to perform the employee's duties.
23 Further, employees who wished to check or communicate about their schedules could go to Human
24 Resources or Legends' Wi-Fi while on-site. The ABI MasterMind materials independently confirm
25 that Enterprise Self Service is a web-based platform accessible through a standard webpage or mobile
26 browser rather than a cellphone-only system.⁵

27 _____
28 ⁵ ABI MasterMind's official materials describe Enterprise Self Service ("ESS") as a web-based
employee portal accessible through a standard webpage or mobile browser, either inside or outside a
venue, and capable of providing schedule, availability, messaging, time-worked, and document

1 The evidence also created substantial class-certification risks. Plaintiffs did not identify a
2 uniform policy requiring all employees to use personal cellphones or pay for parking. Determining
3 liability could instead require employee-specific inquiries into whether an employee used a personal
4 cellphone for a required business purpose or for convenience; which alternative scheduling methods
5 were available and used; whether a particular communication required a response or the performance
6 of work; whether the employee incurred a cellphone-related expense; whether complimentary
7 parking was available at the employee's venue; and whether the employee's use of paid parking was
8 necessary or voluntary. The practices between the unionized and non-unionized venues varied
9 greatly. These variations created a substantial risk that Plaintiffs could not establish liability and
10 damages through common proof. That risk is supported by *Wilson v. The La Jolla Group* (2021) 61
11 Cal.App.5th 897, 918–920, in which the appellate court affirmed denial of certification of a section
12 2802 expense claim where liability turned on whether each expense was incurred in direct
13 consequence of work, whether the employer knew or should have known of it, and widely varying
14 worker experiences. Likewise, *Potts v. Sirius XM Radio, Inc.* (9th Cir. Mar. 28, 2024, No. 23-55282)
15 2024 WL 1328191 at *1–*2 affirmed summary judgment where the employer lacked actual or
16 constructive knowledge of the claimed expenses. And *Williams v. J.B. Hunt Transportation, Inc.* (9th
17 Cir. Aug. 12, 2025, Nos. 24-933 & 24-2970) slip op. at pages 31–33 affirmed a defense judgment on
18 section 2802 and derivative claims, emphasizing that *Cochran* applies when personal-cellphone use
19 is mandatory and does not eliminate proof that an expense was mandatory, reasonable, and necessary.

20 Accordingly, Plaintiffs reasonably discounted the \$2,541,101.11 theoretical maximum by
21 85% to account for the substantial risk of non-certification, and then applied an additional 85%
22 discount to account for Defendant's substantial defenses on the merits, resulting in a risk-adjusted
23 value of \$57,174.78.

24
25
26
27 functions enabled by the employer. (Mirzayan Decl., ¶ 53) The vendor materials independently
28 establish that ESS is not a cellphone-only platform; Legends separately represented that employees
could access scheduling electronically through computers in Human Resources or Legends' onsite
Wi-Fi. The ABI materials are not offered to establish that Legends supplied tablets or maintained
HR computers at every venue.

b. Claims Related To Unpaid Wages:

Plaintiffs alleged that Defendant failed to pay Plaintiffs and Class Members for all hours worked because employees allegedly underwent security and COVID-19 screenings before clocking in. Plaintiffs' expert calculated \$820,939.55 in unpaid wages. The calculation assumes five minutes of uncompensated screening time per workday—a 100% violation rate. Mirzayan Decl., ¶ 31.

The principal factual issue was whether Class Members actually underwent screenings while off the clock. The evidence showed that employees could clock in at the parking lot before proceeding through security. Employees who followed that procedure were already on the clock and being paid while undergoing security checks. The evidence did not establish a uniform policy or practice requiring employees to complete screenings before recording their time. Instead, Defendant maintained that employees were required to record all time worked and were paid for all time reflected in its timekeeping records.

The evidence also did not establish that every employee underwent a security check on every workday, that every security check occurred before the employee clocked in, or that every check lasted 5 minutes. The duration and circumstances of any screening could vary depending on the venue, event, date, staffing level, employee arrival time, length of the line, location of the time clock, and whether a screening occurred at all. Thus, the expert's assumption of 5 uncompensated minutes for every Class Member on every workday represented a theoretical maximum rather than an amount established by the available evidence.

The evidence further showed that COVID-19 screenings occurred only during a limited portion of the class period. Those screenings were temporary pandemic-related measures and were discontinued several years ago. They therefore could not support an assumption that every Class Member incurred unpaid COVID-19 screening time on every workday throughout the class period. The evidence also did not establish that every COVID-19 screening occurred before the employee clocked in or lasted 5 minutes.

To the extent an employee occasionally failed to record time accurately despite being permitted to clock in before screening and being required to record all hours worked, Defendant had a substantial defense that such an occurrence was sporadic and contrary to its timekeeping policies

1 rather than the result of a uniform company practice. Defendant also had a substantial defense where
2 it neither knew nor reasonably should have known that an employee performed unrecorded work.
3 See *Jong v. Kaiser Foundation Health Plan, Inc.* (2014) 226 Cal.App.4th 391, 395, 399–400. The
4 produced employee handbook independently supports that assessment. It requires nonexempt
5 employees to use designated time clocks, directs employees to begin working after they clock in, and
6 expressly prohibits performing work before clocking in or after clocking out. A current-pay-period
7 time-edit form allowed an employee and manager to document a missing or incorrect swipe, the
8 actual clock-in and clock-out times, and missed meal punches, with both signatures required. These
9 documents do not foreclose an implementation violation in a particular instance, but they contradict
10 a facial or uniform policy of requiring off-the-clock work and provide a correction mechanism for
11 isolated recording errors.

12 The evidence therefore created substantial class-certification risks. Plaintiffs did not identify
13 a uniform policy requiring all Class Members to undergo security or COVID-19 screenings before
14 clocking in. Determining whether uncompensated time occurred could instead require employee- and
15 shift-specific inquiries into where and when the employee clocked in; whether the employee
16 underwent a screening on a particular workday; whether the employee was already on the clock;
17 what type of screening occurred; how long it lasted; whether any time was omitted from the
18 employee’s records; and whether Defendant knew or reasonably should have known that the
19 employee performed unrecorded work.

20 These variations created a substantial risk that Plaintiffs could not establish liability or
21 damages through common proof. A classwide statistical model also could not simply assume that
22 every employee experienced an identical violation if the evidence showed that some employees were
23 already on the clock, some did not undergo a screening, and others experienced materially different
24 screening times. See *Duran v. U.S. Bank National Assn.* (2014) 59 Cal.4th 1, 31–35, 40 (a classwide
25 statistical method must be reliable and preserve the defendant’s ability to demonstrate that some class
26 members were not injured).

1 Accordingly, Plaintiffs discounted the \$820,939.55 maximum exposure by 85% for the risk
2 of non-certification and an additional 90% to account for Defendant's defenses on the merits,
3 resulting in an estimated exposure of \$12,314.09.

4 **c. Claims Related to Meal Break Violations:**

5 Plaintiffs alleged that Defendant failed to provide Class Members with legally compliant
6 meal periods and that Class Members therefore were entitled to meal-period premium payments
7 under Labor Code section 226.7. Plaintiffs' expert calculated \$5,929,603.40 in potential meal-period
8 premiums under the five-hour scenario. Mirzayan Decl., ¶ 32.

9 However, the evidence showed that Defendant maintained a written meal-and-rest-period
10 policy that complied with California law. Mirzayan Decl., ¶ 33. The evidence did not reveal a uniform
11 written policy requiring employees to miss, delay, shorten, or work through their meal periods.
12 Defendant maintained that employees were provided the opportunity to take a first meal period before
13 the end of the fifth hour of work and, when required, a second meal period before the end of the tenth
14 hour.

15 Class Counsel's employee interviews further showed that, on event days, employees
16 generally arrived at work at least two hours before the venue opened to guests. Defendant provided
17 employees with a family meal during the pre-opening period, and the interviewed employees
18 confirmed that they were able to take a compliant meal period during that time. This evidence
19 materially undermined the assumption that the operational demands of an active event uniformly
20 prevented employees from taking timely, uninterrupted meal periods.

21 The evidence also showed that employees working shifts six hours or less could waive their
22 first meal periods. *Plaintiffs' maximum calculation did not account for valid meal-period waivers*
23 *and therefore treated waived meal periods as violations.* Nor did the calculation distinguish between
24 a meal period that Defendant failed to provide and one that an employee voluntarily chose to waive,
25 delay, shorten, or work through despite having been provided a reasonable opportunity to take it.

26 The production includes the actual written waiver form, which was compliant. A season-
27 training acknowledgment separately identifies "Time Edit and Meal Waiver Expectations" as a
28 training subject. These contemporaneous forms materially support Defendant's ability to rebut a

1 universal-violation assumption, while leaving the validity and use of any particular waiver to
2 employee- and shift-specific proof.

3 Further, Defendant could attempt to rebut the presumption by showing that a compliant meal
4 period was provided but voluntarily waived or not taken by the employee. Here, the evidence of a
5 compliant written policy, valid waivers, pre-opening meal opportunities, and employees' ability to
6 take compliant meal periods provided substantial grounds for a rebuttable presumption of meal-
7 period violations defense. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58, 74–77; *Salazar*
8 *v. See's Candy Shops, Inc.* (2021) 64 Cal.App.5th 85, 94–95

9 The evidence also created substantial class-certification risks. Because Defendant maintained
10 a facially compliant policy and the evidence showed that employees were provided opportunities to
11 take timely meal periods, determining liability could require employee- and shift-specific inquiries
12 into the length of the shift; whether a meal period was legally required; whether the employee validly
13 waived the meal period; whether Defendant provided a reasonable opportunity to take a timely and
14 uninterrupted meal period; whether the employee took the available meal period; and, if a meal period
15 was missed, late, or shortened, whether that resulted from Defendant's conduct or the employee's
16 voluntary choice. *See Brinker Restaurant Corp. v. Super. Ct.* (2012) 53 Cal.4th 1004; *see also*
17 *Cirrincone v. American Scissor Lift, Inc.* (2022) 80 Cal.App.5th 227, 236–237, 241–242 (affirming
18 denial of certification where individualized issues concerning meal-period waiver and the reasons
19 for noncompliant meal periods predominated).

20 Accordingly, Plaintiffs discounted the \$5,929,603.40 maximum exposure by 90% for the risk
21 of non-certification and an additional 95% to account for Defendant's defenses on the merits,
22 resulting in an estimated exposure of \$29,648.02.

23 **d. Rest Break Violations:**

24 Plaintiffs alleged that Defendant failed to authorize and permit Class Members to take legally
25 compliant rest periods and that Class Members therefore were entitled to rest-period premium
26 payments under Labor Code section 226.7. Plaintiffs' expert calculated a theoretical maximum of
27 \$16,919,632.81 in potential rest-period premiums. Mirzayan Decl., ¶ 33.

1 However, the evidence showed that Defendant maintained a written meal-and-rest-period
2 policy that complied with California law. Mirzayan Decl., ¶ 33. The evidence did not reveal a uniform
3 written policy requiring employees to miss, delay, shorten, or work through their rest periods.
4 Defendant maintained that employees were authorized and permitted to take timely rest periods
5 during which they were relieved of work-related duties.

6 The evidence further showed that, on event days, employees generally arrived at work at least
7 two hours before the venue opened to guests. During this pre-opening period, employees were not
8 yet responding to the demands associated with guests entering and attending an event. This evidence
9 supported Defendant's position that employees had time during the first portion of their shifts to take
10 a compliant first rest period. Defendant also maintained that employees working shifts of sufficient
11 length were authorized and permitted to take a second compliant rest period.

12 Defendant's document production reflected that nonexempt employees and supervisors
13 received annual rest-break training, supervisors received frequent policy reminders, and employees
14 were reminded during pre-shift meetings. It also reported that approximately 20% of the shifts
15 analyzed for the challenged second-break subclass were shorter than six hours, meaning no second
16 rest period was due on those shifts. The same analysis explained that departments differed in how
17 breaks were scheduled and that venue policies were not identical. These facts independently
18 undermine both a 100% violation rate and the premise that liability could be established by one policy
19 or one common inference.

20 The evidence therefore did not support the expert's assumption that every Class Member was
21 denied every required rest period on every eligible shift. The evidence instead showed a facially
22 compliant policy, a pre-opening period during which employees could take a first rest period, and
23 authorization for additional rest periods on longer shifts. No uniform policy or practice prohibiting
24 rest periods was identified.

25 Plaintiffs' maximum calculation also did not adequately distinguish between shifts of
26 different lengths. An employee working less than three and one-half hours generally is not entitled
27 to a rest period, while entitlement to one or more rest periods depends on the employee's total daily
28 hours worked. *Brinker*, supra, 53 Cal.4th at p. 1028–1029. The maximum calculation nevertheless

1 assumed a 100% violation rate and was not sufficiently limited to shifts in which employees worked
2 enough hours to become entitled to one or two rest periods. It therefore potentially treated ineligible
3 shifts as violations and treated every other shift as if Defendant denied every required rest period.

4 Unlike meal periods, rest periods generally are not separately recorded in an employer's
5 timekeeping system. Determining whether a rest period was provided therefore could require
6 testimony concerning the circumstances of a particular employee and shift. Those inquiries could
7 include the length of the shift; the number of rest periods required; whether Defendant authorized
8 and permitted the employee to take a rest period; whether the employee took the available break;
9 and, if a break was not taken, whether that resulted from Defendant's conduct, the operational
10 circumstances of a particular event, or the employee's voluntary choice.

11 These employee- and shift-specific circumstances created substantial class-certification risks.
12 Because the evidence showed a facially compliant policy and did not establish a uniform practice of
13 denying rest periods, Plaintiffs faced a substantial risk that liability could not be established through
14 common proof. See *Cacho v. Eurostar, Inc.* (2019) 40 Cal.App.5th 625, 640–641 (a compliant policy,
15 without substantial evidence of a uniform unlawful practice, did not support certification of a rest-
16 period class); *Dailey v. Sears, Roebuck & Co.* (2013) 214 Cal.App.4th 974, 997–1001 (affirming
17 denial of certification where the evidence did not establish a uniform practice of denying meal and
18 rest periods and individualized issues predominated).

19 Accordingly, Plaintiffs reasonably discounted the \$16,919,632.81 theoretical maximum by
20 95% to account for the substantial risk of non-certification and an additional 95% to account for
21 Defendant's defenses on the merits, resulting in an estimated exposure of \$42,299.08.

22 **e. Wage Statement Penalties:**

23 Plaintiffs alleged that Defendant failed to provide Class Members with accurate, itemized
24 wage statements as required by Labor Code section 226(a). Plaintiffs' expert calculated
25 \$22,711,167.19 in potential wage-statement penalties, which assumed a \$50.00 for each initial
26 paystub, \$100 for each subsequent pay period at a maximum of \$4,000 per employee.

27 The evidence showed that, apart from the alleged omission of hours and wages associated
28 with the disputed off-the-clock security and COVID-19 screening claim, Defendant's wage

1 statements appeared to contain the information required by section 226(a). Mirzayan Decl., ¶ 35.
2 Class Counsel’s investigation did not identify a separate, facial defect uniformly appearing on the
3 wage statements. The claim therefore depended primarily on Plaintiffs first proving that Class
4 Members performed uncompensated off-the-clock work that should have been reflected on their
5 wage statements.

6 Defendant also had substantial legal grounds to dispute whether the alleged nonpayment of
7 additional wages automatically established a derivative wage-statement violation. In *Maldonado v.*
8 *Epsilon Plastics, Inc.* (2018) 22 Cal.App.5th 1308, 1336–1337, the Court of Appeal held that wage
9 statements accurately reflecting the hours and compensation recorded at the time did not necessarily
10 become actionable under section 226 merely because additional overtime wages were later
11 determined to be owed. This authority created an additional risk that Plaintiffs could recover the
12 allegedly unpaid wages, if proven, without also recovering statutory wage-statement penalties.

13 The evidence also did not establish that any alleged wage-statement deficiency resulted from
14 a “knowing and intentional” failure to comply with section 226(a). Defendant maintained that
15 employees were paid for all recorded time, employees were required to record all hours worked, and
16 employees could clock in before undergoing security. Defendant therefore had substantial grounds
17 to argue that it reasonably and in good faith believed the wage statements accurately reported the
18 hours and wages reflected in its payroll records. See *Naranjo v. Spectrum Security Services, Inc.*
19 (2024) 15 Cal.5th 1056, 1078–1079 (holding an employer’s objectively reasonable, good-faith belief
20 that it provided compliant wage statements precludes an award of penalties under section 226(e)(1)
21 because the failure is not “knowing and intentional”).

22 Plaintiffs also faced substantial obstacles in establishing the injury required by section 226(e).

23 The evidence further created substantial class-certification risks. Because the alleged wage-
24 statement violations depended primarily on the disputed off-the-clock claim, determining whether
25 any particular wage statement was inaccurate could require employee- and shift-specific inquiries
26 into whether the employee underwent a security or COVID-19 screening; whether the employee had
27 already clocked in; whether any compensable time was omitted; how much time was allegedly
28 omitted; whether Defendant knew or reasonably should have known of the unrecorded work; and

1 whether the employee suffered the injury required by section 226(e). The absence of a separate,
2 uniform, facial wage-statement defect created a substantial risk that Plaintiffs could not establish
3 liability through common proof. See *Woodworth v. Loma Linda University Medical Center* (2023)
4 93 Cal.App.5th 1038, 1088–1090, review granted Nov. 1, 2023, S281717 (distinguishing a stand-
5 alone wage-statement claim from a derivative claim and upholding denial of certification of the
6 derivative wage-statement class where the underlying wage claims were not certified).

7 Accordingly, Plaintiffs reasonably discounted the \$22,711,167.19 theoretical maximum by
8 80% to account for the substantial risk of non-certification, and an additional 95% discount to account
9 for Defendant’s substantial defenses on the merits, to arrive at an estimated exposure of \$227,111.67.

10 **f. Waiting Time Penalties:**

11 Plaintiffs alleged that Defendant failed to timely pay all wages due upon separation, thereby
12 entitling former employees to waiting-time penalties under Labor Code sections 201, 202, and 203.
13 The claim rested on two theories. First, Plaintiffs alleged that the unpaid wages underlying their off-
14 the-clock, meal-period, rest-period, and related claims remained unpaid when employees separated
15 from employment. Second, Plaintiff Davina Bhullar alleged that Defendant “discharged” event
16 employees at the conclusion of each season but did not immediately pay all wages due at that time.
17 Plaintiffs’ expert calculated a theoretical maximum of approximately \$16,106,059.68 in waiting-time
18 penalties. Mirzayan Decl., ¶ 36. The evidence did not support this.

19 First, at least a substantial portion of the alleged failure to timely pay final wages was
20 derivative of the claims that are in dispute, such that the Court may well find that there was not a
21 willful showing that the employer knew of its obligation and intentionally refused to act. *Baker v.*
22 *American Horticulture Supply, Inc.* (2010) 186 Cal.App.4th 1059, 1076. As discussed above,
23 Plaintiff’s failure to pay wages and provide meal and rest break claims provided risk such that if
24 Plaintiffs could not establish that additional wages or premiums were owed at separation, they
25 likewise could not establish a derivative failure to pay those amounts as final wages.

26 The evidence and case law also materially undermined Plaintiffs’ separate theory that event
27 employees were discharged at the end of every event or season. Labor Code section 201 does not
28 define “discharge,” but California courts have explained that a discharge requires the end of the

1 employment relationship. *Smith v. Superior Court (L'Oreal USA, Inc.)* (2006) 39 Cal.4th 77, 90–92;
2 *Young v. RemX Specialty Staffing* (2023) 91 Cal.App.5th 427, 433–435. Thus, the conclusion of a
3 particular assignment does not necessarily constitute a discharge when the employment relationship
4 continues.

5 The evidence showed that Legends employed its nonexempt event employees on a
6 continuing, part-time basis. Legends provided schedules to unionized and nonunionized employees
7 at the beginning of each season, and employees knew their scheduled shifts well in advance. The
8 evidence did not show that Legends required employees to complete new-hire paperwork, tax-
9 withholding forms, or other onboarding documents before every event, as would ordinarily be
10 expected if the employment relationship ended and restarted after each assignment.

11 For employees at nonunion venues, the evidence showed that Legends formally terminated
12 part-time employees at the end of the season and paid their final wages on the same date. Those
13 employees therefore were paid when the employment relationship actually ended. This evidence
14 substantially undermined the contention that Legends violated section 201 at nonunion venues and
15 justified assigning no value to alleged seasonal-termination penalties for employees whose final
16 wages were timely paid upon their actual termination.

17 For employees at unionized venues, the evidence showed that the employment relationship
18 continued beyond individual events and sports seasons. The unionized venues hosted sporting events,
19 concerts, and other events throughout the year, and unionized employees could be eligible to work
20 at venues other than their home venues when no event was scheduled at the home venue. The
21 applicable collective-bargaining agreements provided that unionized employees could be terminated
22 only for just cause, and the conclusion of an event or season was not identified as a basis for
23 termination. The agreements also contained continuing seniority, scheduling, and call-off provisions
24 that would have little practical meaning if each employee were discharged and rehired after every
25 event. The production also includes return-to-work communications welcoming employees back for
26 the 2023 and 2024 seasons and requesting their availability, further corroborating a continuing
27 seasonal employment relationship rather than an automatic discharge after each event. An employee
28 training history likewise records completion of “Return To Work” training, rather than a new-hire

1 onboarding event, for the succeeding season. The terminology and retained training history provide
2 additional contemporaneous support for continuing employee status between event seasons.

3 This evidence supported Defendant's position that the end of an event or a gap between
4 scheduled shifts did not terminate the employment relationship. The fact that an employee was not
5 scheduled for a particular period also did not necessarily establish a layoff or discharge. Defendant
6 could have offered the employee work that the employee declined, an employee could have called
7 off, the employee's home venue could have had no event scheduled, or the employee could have
8 remained eligible to work at another venue.

9 Payroll records alone would not resolve those questions. Determining whether an employee
10 was actually discharged could require consideration of the employee's venue, union status,
11 collective-bargaining agreement, seasonal schedule, future scheduled shifts, work opportunities
12 offered or declined, call-offs, seniority, communications with Legends, and whether Legends
13 affirmatively ended the employment relationship.

14 The available authority created additional litigation risk. In *Smith*, the employee was hired
15 for a single, one-day modeling assignment with the express understanding that the employment
16 would end upon completion of that assignment. *Smith*, supra, 39 Cal.4th at p. 81, 90–92. Here, by
17 contrast, the evidence showed an ongoing employment relationship involving recurring event
18 assignments, advance schedules, continuing seniority, and collective-bargaining protections.

19 Similarly, *Hartstein v. Hyatt Corp.*, 82 F.4th 825, 832–834 (9th Cir. 2023), involved an
20 indefinite pandemic-related layoff without a specific return date within the regular pay period. The
21 Ninth Circuit treated that indefinite layoff as a discharge triggering section 201. Here, the evidence
22 showed that employees had future event schedules and specific anticipated return dates rather than
23 indefinite layoffs with no scheduled return. *Hartstein* therefore presented a distinguishable factual
24 scenario.

25 The evidence was more analogous to *Young*, where the Court of Appeal held that the end of
26 a particular temporary assignment did not constitute a discharge because the employee's relationship
27 with the temporary-services employer had not ended. *Young*, supra, 91 Cal.App.5th at p. 433–435.
28 Although Legends is not alleged to be a temporary-services employer governed by section 201.3,

1 *Young* supports the broader principle that completion of an assignment does not itself constitute a
2 discharge when the underlying employment relationship continues.

3 Labor Code section 201.8 also provides that, for covered events, i.e., employees at
4 professional baseball venues, the conclusion of an event, homestand, or season does not by itself
5 constitute a discharge or other break in service. Although section 201.8 applies specifically to
6 covered professional-baseball events employees and does not directly control employees at other
7 venues, it demonstrates the substantial legal uncertainty surrounding the theory that event employees
8 are discharged at the conclusion of every event or season. That uncertainty further supported
9 Defendant's good-faith defense to the willfulness required for section 203 penalties.

10 The California Supreme Court likewise recognized in *Melendez v. San Francisco Baseball*
11 *Associates LLC* (2019) 7 Cal.5th 1, 11, that both sides presented "credible arguments" regarding
12 whether event employees were discharged upon completing particular assignments. Although
13 *Melendez* addressed a professional baseball venue and did not resolve the merits of that question, the
14 Supreme Court's acknowledgment of credible competing interpretations further demonstrated that
15 Defendant's position was not unreasonable or frivolous.

16 The evidence also created substantial class-certification risks. Determining whether a
17 qualifying separation occurred, whether final wages remained due, and whether any nonpayment was
18 willful could require individualized inquiries into:

- 19 • Whether the employee worked at a unionized or nonunionized venue;
- 20 • Whether a collective-bargaining agreement governed the employment relationship;
- 21 • Whether Legends formally terminated the employee at the end of a season;
- 22 • Whether final wages were paid on the actual termination date;
- 23 • Whether the employee had future scheduled event dates;
- 24 • Whether the employee remained eligible to work at another venue;
- 25 • Whether Legends offered work that the employee declined;
- 26 • Whether a gap in work resulted from scheduling, a call-off, a declined assignment, or an
27 actual termination;
- 28 • Whether any underlying wages or premiums remained unpaid; and
- Whether Defendant maintained a good-faith factual or legal dispute regarding the amounts
allegedly due.

These differences created a substantial risk that Plaintiffs could not establish through
common proof that all affected employees experienced qualifying discharges, received late final
wages, or were subject to willful nonpayment. Accordingly, Plaintiffs reasonably discounted the

1 \$16,106,059.68 theoretical maximum by 90% to account for the substantial risk of non-certification,
2 and an additional 90% discount to account for Defendant's substantial defenses on the merits, for an
3 estimated exposure of approximately \$161,060.60.

4 **g. Unpaid Tips (Lab. Code § 351)**

5 Plaintiffs alleged that Class Members occasionally earned tips that were not distributed
6 because of transaction-processing errors. Plaintiffs' statistical expert calculated a theoretical
7 maximum of approximately \$1,259,843, based on the assumption that each affected employee was
8 deprived of \$5 in tips during every workweek. The evidence developed through Class Counsel's
9 investigation and evaluated during mediation, however, did not support the assumption of a uniform
10 \$5 weekly loss or a systematic practice of withholding tips.

11 The evidence showed that Defendant maintained a policy and practice of distributing tips to
12 eligible employees through its regular weekly payroll. Tips were paid on Tuesdays with employees'
13 regular wages. Class Counsel's investigation did not reveal a systematic practice of Defendant
14 retaining employees' tips, deducting processing fees from tips, or failing to distribute recorded tips.

15 The principal processing problem identified through informal discovery arose on September
16 18, 2022, when FreedomPay, the third-party company Defendant used to process credit-card
17 transactions, experienced a national outage. Mirzayan Decl., ¶¶ 37–38. The outage caused delays in
18 processing certain transactions and resulted in the loss of some transaction data. The evidence
19 showed that when Defendant later received data identifying tips associated with delayed transactions,
20 Defendant paid those amounts to the affected employees. The records confirm both a genuine
21 disruption in the ordinary processing of gratuities and a corrective-payment process when transaction
22 data became available. Devoting 5% of the Net Settlement Amount to the Tip Class therefore
23 recognizes the possibility of a genuine loss from unrecovered transaction data while accounting for
24 the isolated third-party nature of the principal incident, the documented corrective payments, and the
25 transaction-specific proof required to establish any remaining underpayment.

26 The evidence also showed sporadic complaints of tips not registering or being paid
27 throughout the Tip Class Period. Class Counsel's investigation revealed that upon such complaints
28

1 being raised, Defendant performed investigations and any additional tips owed were distributed.
2 Thus, the evidence did not show a systematic continuing company policy of withholding tips.

3 The evidence also created substantial class-certification risks. Determining liability and
4 damages could instead require transaction- and employee-specific inquiries into:

- 5 • Whether a particular patron authorized a tip;
- 6 • Whether the transaction was completed, delayed, lost, or canceled;
- 7 • Whether Defendant in fact received the tip or the corresponding transaction data;
- 8 • Which employee or employees were the intended recipients;
- 9 • Whether the amount was included in the employee's regular payroll;
- 10 • Whether Defendant later received corrected data and paid the tip; and
- 11 • Whether any remaining underpayment resulted from the September 2022 outage or another isolated processing error.

12 These individualized questions created a substantial risk that Plaintiffs could not establish liability
13 or damages through common proof.

14 Accordingly, Plaintiffs reasonably discounted the \$1,259,843 theoretical maximum by 90%
15 to account for the substantial risk of non-certification, and an additional 90% to account for
16 Defendant's defenses on the merits, to arrive at an estimated exposure of \$12,598.43.

17 **h. Paid-Sick-Leave Claims Face Threshold Enforcement and Proof**
18 **Defenses:**

19 The Released Class Claims identify paid-sick-leave theories under Labor Code sections 233,
20 246, and 246.5, including the wage-statement disclosure requirement in section 246(i). Agreement,
21 ¶ 1.45.1. The Addendum removes those provisions from the Released PAGA Claims. Addendum, ¶
22 3. The settlement analysis is therefore confined to private class remedies, and those remedies face
23 substantial threshold limitations.

24 **(1) Sections 246, 246.5, and 246(i).**

25 The Healthy Workplaces, Healthy Families Act does not create a standalone private action
26 for damages. Section 248.5 authorizes an employee to report a suspected violation to the Labor
27 Commissioner and authorizes the Labor Commissioner or Attorney General to bring a civil
28 enforcement action. The Legislature deliberately deleted language that would have authorized an
aggrieved employee to sue directly. *Wood v. Kaiser Foundation Hospitals* (2023) 88 Cal.App.5th
742, 757–758. The California Supreme Court subsequently explained that, without a private right of
action, an employee ordinarily proceeds through the Labor Commissioner's Berman process; a

1 superior court may adjudicate the claim when reviewing the Labor Commissioner’s ruling de novo,
2 but that procedure does not create an original private class action under section 246. *Iloff v. LaPaille*
3 (2025) 18 Cal.5th 551, 573–574. Courts accordingly have dismissed standalone claims under section
4 246, including claims based on an allegedly incorrect sick-pay rate and notice or balance-disclosure
5 theories. *Miranda v. Centerra Services International, Inc.* (S.D. Cal. Dec. 29, 2025, No. 24-cv-
6 02340-BAS-MMP) slip op. at pp. 27–29; *White v. Capital One, N.A.* (E.D. Cal. Oct. 23, 2024, No.
7 1:24-cv-00633-KES-SKO) 2024 WL 4555936 at *3; *Titus v. McLane Foodservice, Inc.* (E.D. Cal.
8 Sept. 14, 2016, No. 2:16-cv-00635-KJM-EFB) 2016 WL 4797497 at *4.

9 **(2) Section 233.**

10 Section 233 is different because it expressly permits an employee to sue for denial of
11 protected sick-leave use or retaliation and authorizes reinstatement, actual damages or one day’s pay,
12 and equitable relief. Lab. Code, § 233, subds. (c)–(e). But that limited cause of action does not convert
13 every alleged rate-calculation or balance-disclosure violation under section 246 into a section 233
14 claim. *McCarther v. Pacific Telesis Group* (2010) 48 Cal.4th 104, 110–111 (describing section 233
15 as protecting the use of accrued sick leave for covered purposes). The produced evidence did not
16 identify a uniform denial of sick leave, discipline for using it, or retaliation. To the contrary, wage
17 statements document payment of paid sick leave. Thus, while section 233 supplies a private remedy
18 when its distinct elements are proven, the developed facts supplied little support for such a claim
19 here. Mirzayan Decl., ¶ 39.

20 Based on the foregoing, Plaintiffs did not calculate a separate classwide value for the paid-
21 sick-leave theories, and the limited record does not provide a reliable basis to extrapolate a dollar
22 amount across the Class. The record therefore does not support assigning a violation or statutory
23 recovery to every Class Member or every pay period, and the absence of a standalone private
24 damages action for the principal released theories materially supports assigning no separate
25 incremental value to those ancillary theories. Mirzayan Decl., ¶ 40.

26 **i. Summary of Class Valuation**

27 Based on the expert’s modeled maximums and the claim-specific litigation-risk reductions
28 discussed above, Class Counsel calculated a risk-adjusted class valuation of \$542,206.67: expenses,

\$57,174.78; off-the-clock wages, \$12,314.09; meal premiums, \$29,648.02; rest premiums, \$42,299.08; wage-statement penalties, \$227,111.67; waiting-time penalties, \$161,060.60; and tips, \$12,598.43. The \$815,000 Gross Settlement Amount equals approximately 150% of that valuation. After subtracting the separate \$80,000 PAGA allocation, the \$735,000 class-side value equals approximately 136% of that valuation.⁶

3. PAGA Penalties:

The Settlement allocates \$80,000 toward settlement of Plaintiffs' PAGA claim. In addition to the analysis set forth above regarding the merits of alleged minimum-wage and overtime violations, meal and rest periods, expense reimbursement, wage statements, waiting-time penalties, timely payment during employment, and unpaid tips, Class Counsel analyzed the standalone suitable-seating predicate and the other legal and factual issues affecting the probable recovery of PAGA penalties.

a. PAGA Minimum-Wage and Overtime Predicates:

Plaintiffs' expert's PAGA model calculated theoretical maximum penalties of \$25,862,696.13 for the minimum-wage predicate and \$15,842,371.43 for the overtime predicate. Both amounts arise from the same disputed theory that employees underwent security or temporary COVID-19 screening before recording their time. They therefore represent maximum penalty models, not findings that every modeled pay period involved uncompensated work, a minimum-wage shortfall, or an overtime violation.

The evidence showed that employees could clock in at the parking lot before proceeding through security, that Defendant maintained no uniform policy requiring screening before clock-in, that COVID-19 screening occurred during only a limited portion of the PAGA period, and that the occurrence and duration of any screening varied by employee, venue, event, and shift. Defendant's

⁶ The class-damages figures stated in this motion use a different calculation model that excludes prejudgment interest and applies extrapolation to the resulting interest-free amounts. The initial preliminary-approval motion used an interest-inclusive model and reported the following maximum amounts by claim: unreimbursed business expenses, \$3,129,169.38; off-the-clock minimum and overtime wages, \$4,239,541.37; meal-period premiums, \$7,349,482.81; rest-period premiums, \$20,807,390.78; wage-statement penalties, \$22,711,167.19; waiting-time penalties, \$16,106,059.68; and unpaid tips, \$1,259,843.00, for a combined interest-inclusive maximum of \$75,602,654.21. The differences between those figures and the figures stated here result from the different treatment of prejudgment interest and extrapolation in the two calculation models. The prior off-the-clock figure also used the workbook's 12-minute scenario; the present figure uses the five-minute temporary-screening scenario described in the text.

1 written policies required employees to record all working time, prohibited off-the-clock work, and
2 provided a procedure to correct missing or inaccurate punches. Overtime presented the additional
3 requirement of proving that any unrecorded minutes caused an employee to cross an applicable daily
4 or weekly overtime threshold. Because the two predicates materially overlap and arise from the same
5 alleged conduct, assigning maximum penalties to both in every modeled pay period would also create
6 a substantial duplication and stacking risk. Applying a 99% claim-specific reduction, and retaining
7 1% of each theoretical maximum, results in risk-adjusted values of \$258,626.96 for minimum wage
8 and \$158,423.71 for overtime.

9 **b. PAGA Meal- and Rest-Period Predicates:**

10 The expert calculated a theoretical rest-period maximum of \$25,523,625.34 and, using the
11 five-hour meal-period eligibility scenario, a theoretical meal-period maximum of \$12,996,541.69.
12 Applying the claim-specific retained values used in the renewed analysis—0.5% for rest periods and
13 5% for meal periods—results in risk-adjusted values of \$127,618.13 and \$649,827.08, respectively.

14 **c. Suitable Seating:**

15 Plaintiffs asserted a PAGA claim for alleged suitable-seating violations under section 14 of
16 Industrial Welfare Commission Wage Order No. 5. See Cal. Code Regs. tit. 8, § 11050(14). For
17 settlement-evaluation purposes, Plaintiffs modeled a theoretical maximum of \$25,862,696.13 by
18 assuming a 100% suitable-seating violation rate. That maximum assumes that every eligible
19 employee experienced a violation during every applicable pay period. That amount is a conservative
20 upper-bound assumption, not a seating-specific finding. The evidence developed through Class
21 Counsel’s investigation, however, did not support that maximum-value assumption.

22 Section 14(A) of Wage Order No. 5 requires suitable seats when “the nature of the work
23 reasonably permits the use of seats.” Section 14(B) separately provides that when employees are not
24 engaged in active duties and the nature of the work requires standing, suitable seats must be placed in
25 reasonable proximity to the work area and employees must be permitted to use them when doing so
26 does not interfere with the performance of their duties. Cal. Code Regs. tit. 8, § 11050(14)(A)–(B).

27 Under *Kilby v. CVS Pharmacy, Inc.* (2016) 63 Cal.4th 1, 18–21, whether the nature of the
28 work reasonably permits sitting is determined objectively under the totality of the circumstances.

1 The inquiry focuses on the tasks employees perform at the particular location for which seating is
2 claimed, including the relationship between seated and standing tasks, the frequency and duration of
3 those tasks, the physical layout of the workspace, whether transitioning between sitting and standing
4 would interfere with other duties, and whether seating would affect the quality or effectiveness of
5 job performance.

6 The evidence showed that Legends provided seats in designated break areas as well as other
7 feasible locations in working areas. Mirzayan Decl., ¶ 41. Class Counsel's investigation did not
8 reveal a uniform practice of denying employees seating during authorized breaks, in designated break
9 areas, or where the work and space permitted seats. The evidence further showed that bartenders,
10 cooks, and concession employees remained actively engaged in work throughout event operations.
11 When employees were not directly greeting or serving guests, they were expected to restock products
12 and supplies, prepare food or beverages, clean and organize their workstations, and ensure that their
13 areas were ready to serve additional guests. Mirzayan Decl., ¶ 41. The investigation did not reveal
14 regular operational lulls during which event employees remained on the clock but had no active
15 duties to perform.

16 The evidence therefore supported Defendant's position that sitting in most work areas would
17 interfere with employees' active work duties. Bartenders and concession employees were required
18 to move among registers, beverage stations, storage areas, preparation surfaces, and service counters.
19 Cooks similarly were required to move among preparation, cooking, storage, and cleaning areas. The
20 frequency of those movements and the need to respond quickly to guests materially reduced the
21 feasibility of performing the work while seated.

22 The evidence also showed that Legends' bars, concession stands, and kitchens generally had
23 limited working space. Employees regularly moved back and forth through those areas while carrying
24 food, beverages, equipment, and supplies. Placing chairs or stools in the active work areas could
25 obstruct employees' movement, interfere with standing tasks, and create tripping or safety hazards.
26 The physical configuration of these workspaces therefore provided substantial evidentiary support
27 for Defendant's contention that additional seating was not practicable.
28

1 *LaFace v. Ralphs Grocery Co.* (2022) 75 Cal.App.5th 388 was particularly instructive. There,
2 the Court of Appeal affirmed judgment for the employer where cashiers were expected to remain
3 productive during periods without customers by cleaning, restocking, and performing other assigned
4 duties. The court concluded that section 14 did not require seating when sitting would interfere with
5 those active duties. *Id.* at 404, 408–409. Similarly, the evidence here showed that Legends’
6 employees were expected to restock, prepare, clean, organize, and perform other active tasks
7 whenever they were not directly serving guests. Further, courts consistently grant summary
8 judgment of suitable seating claims where the work does not reasonably permit seating. *See, e.g.,*
9 *Singletary v. Teavana Corp.*, 2014 U.S. Dist. LEXIS 62073 (N.D. Cal. 2014) (granting employer
10 summary judgment where job required constant movement and employee could not work while
11 seated); *Garvey v. Kmart Corp.*, No. C 11-02575 WHA, 2012 WL 6599534, at *1 (N.D. Cal. Dec.
12 18, 2012) (employee failed to prove that the nature of the work reasonably permitted the seating
13 modification requested).

14 Accordingly, Plaintiffs faced a substantial risk that the Court would conclude that the nature
15 of the work did not reasonably permit seating under section 14(A) and that section 14(B) did not
16 require additional seating because employees remained actively engaged in assigned duties. The
17 availability of seats in designated break areas further supported Defendant’s position that employees
18 had access to seating when relieved from their active work responsibilities.

19 The evidence also created substantial proof and trial-management problems. The suitable-
20 seating inquiry could vary according to the employee’s job, assigned workstation, venue, event,
21 workspace configuration, physical layout, available floor space, frequency of guest interactions, mix
22 of standing and moving tasks, and existence or duration of any operational lull. Plaintiffs therefore
23 faced the burden of proving, across numerous venues and work areas, that the tasks performed at each
24 location reasonably permitted seated work or that employees experienced genuine periods without
25 active duties during which nearby seating could have been used without interfering with their work.

26 Under *Estrada v. Royalty Carpet Mills, Inc.* (2024) 15 Cal.5th 582, 611–612, a court may not
27 strike a PAGA claim merely because it is unmanageable. The court may, however, use available case-
28 management tools, limit the scope of evidence, and require the plaintiff to prove violations through

1 competent and manageable evidence. *Id.* at 612–614. Thus, the individualized nature of the seating
2 inquiry did not itself authorize dismissal, but it created a substantial risk that Plaintiffs would be unable
3 to prove widespread violations or support penalties covering every employee and pay period.

4 The maximum calculation assumed precisely the opposite of what the evidence showed. It
5 assumed a suitable-seating violation for every covered employee during every applicable pay period,
6 without accounting for employees who remained continuously engaged in active duties, job positions
7 that required constant movement, work areas in which seating would obstruct performance or create
8 safety hazards, seats available in designated break areas, or differences among venues and
9 workstations.

10 The reduction to \$25,862.70 reflects three components rather than an arbitrary percentage: the
11 substantial risk of establishing no liability under *Kilby* and *LaFace*; the limited percentage of
12 workstations, employees, and pay periods for which a violation could be proven even if liability were
13 established somewhere; and the probability of a further reduction under section 2699(e)(2). The
14 maximum assumes 100% success on all three components. The evidence instead supported
15 Defendant’s position that seated work generally was not feasible, and it did not support extrapolating
16 a violation at one workstation or venue to every employee and pay period. The resulting claim-specific
17 settlement value represents 0.1% of the theoretical maximum: $\$25,862,696.13 \times 0.1\% = \$25,862.70$.

18 **d. PAGA Penalties for Failure to Timely Pay Wages at Separation:**

19 As discussed above, Class Counsel’s investigations revealed that significant discounting was
20 warranted as to the merits of claims for unpaid wages and denial of meal and rest breaks, which in
21 turn warranted discounting of the merit of claims for failure to timely pay wages upon separation
22 from employment.

23 Further, there is substantial risk that Legends will prove that its employees are paid all wages
24 owed upon termination and that its employees continue to be employed in between events worked.
25 Indeed, Class Counsel’s investigation indicated that the non-unionized employees who were
26 terminated at the end of the season were generally paid final wages the day of their termination. That
27 evidence substantially undermines any claim that Legends maintained a uniform practice of failing
28 to timely pay final wages to employees who were affirmatively discharged. With respect to

1 unionized employees, the evidence showed that they were not discharged after each event or season.
2 The applicable collective-bargaining agreements provided that these employees could be terminated
3 only for cause, and neither the completion of an event nor the end of a season constituted cause for
4 termination. The evidence further showed that unionized employees remained eligible to work at
5 their home venues and, under appropriate circumstances, at other Legends venues throughout the
6 year. Their continuing seniority and scheduling rights were also inconsistent with the theory that the
7 employment relationship ended after every event.

8 Even if Legends did not obtain partial summary judgment on the intermittent termination
9 theory, such claim would require minitrials regarding the reason employees did not work each pay
10 period (e.g., was each employee offered a shift, did each employee refuse a shift, etc.).

11 Plaintiffs calculated maximum possible waiting-time PAGA penalties of \$426,000 for the
12 4,260 terminated employees included in the modeled population. However, Labor Code section
13 201.8 provides that covered baseball-event employees are not discharged merely because of a break
14 in service, and the pertinent authorities create substantial uncertainty concerning Plaintiffs' broader
15 intermittent-termination theory. The evidence also showed that nonunion employees affirmatively
16 terminated at season's end generally received final wages on the termination date, while union
17 employees continued to possess seniority and scheduling rights. Because the intermittent-termination
18 theory was limited to particular employees and venues and required proof of an actual separation,
19 unpaid wages, and willfulness, retaining 10% of the theoretical maximum—\$42,600—was
20 appropriate.

21 **e. Wage Statement PAGA Penalties:**

22 Plaintiffs sought PAGA penalties based on Defendant's alleged failure to provide accurate,
23 itemized wage statements under Labor Code section 226(a). Plaintiffs calculated a modeled
24 maximum of \$25,862,695.08 for the wage-statement PAGA claim. The model applied a \$100 penalty
25 to each of the 161,856 pay periods identified in the produced sample payroll data, resulting in
26 \$16,185,600, and then applied a 1.597883 extrapolation factor to account for employees not
27 represented in that data. The calculation therefore assumed a violation in 100% of the pay periods
28 included in the model. That maximum treats the modeled statements as independently actionable,

1 although Class Counsel's investigation did not identify a uniform facial defect and the claim
2 depended principally on first proving disputed underlying wage-and-hour violations.

3 The evidence also created substantial proof and trial-management risks. Because Plaintiffs
4 did not identify a uniform facial defect, establishing a violation could require determining whether a
5 particular employee experienced an underlying wage or break violation during a particular pay
6 period; whether additional wages or premiums were owed; whether the corresponding wage
7 statement omitted required information; and whether the alleged error was later corrected. These
8 inquiries create a substantial risk that Plaintiffs could prove only a limited number of violations rather
9 than the universal violations assumed by their expert.

10 The \$25,862,695.08 maximum assumes that every modeled wage statement was
11 noncompliant during every pay period. The evidence showed the opposite: the wage statements
12 appeared facially compliant, no independent uniform defect was identified, and the claim depended
13 primarily on Plaintiffs first proving disputed underlying wage-and-hour violations. Even if Plaintiffs
14 established some predicate violations, the evidence did not support extrapolating them to every
15 employee and pay period at a 100% rate.

16 Valuing the PAGA wage-statement claim at 1% of its theoretical maximum reflects the
17 combined probability of proving a predicate wage violation, proving a corresponding section 226(a)
18 omission for the affected pay period, establishing that the theory extended beyond a limited number
19 of employees and statements, and avoiding a substantial discretionary reduction. The facial
20 compliance of the statements, derivative nature of the claim, absence of a systematic reporting defect,
21 and Defendant's good-faith defenses materially reduced each component. The resulting claim-
22 specific settlement value is \$258,626.95: $\$25,862,695.08 \times 1\% = \$258,626.95$.

23 **f. Timing of Wages During Employment:**

24 Although the PAGA Release includes Labor Code sections 204 and 210 on the theory that
25 Aggrieved Employees did not receive timely payment, Labor Code section 204 establishes when
26 wages must be paid. In *See's Candy Shops, Inc. v. Superior Court* (2012) 210 Cal.App.4th 889, the
27 Court of Appeal confirmed that section 204 concerns the timing of wage payments, not the method
28 used to ascertain work time. Class Counsel's investigation did not reveal systemic late payroll

1 payments during employment, and this predicate was largely derivative of the disputed claim that
2 additional wages should have been recorded and paid. The expert's model calculated a theoretical
3 maximum of \$25,862,696.13. Retaining 0.1% to reflect the absence of a systemic late-payment
4 practice, the derivative nature of the theory, the disputed predicate wages, and the probability of a
5 discretionary reduction results in a risk-adjusted value of \$25,862.70.

6 **g. PAGA Penalties For Expense Reimbursement:**

7 Plaintiffs assert a theory seeking penalties for unreimbursed business expenses based on cell
8 phone or email use for email communications. Class Counsel's investigation confirms that Legends
9 maintained a policy of prohibiting personal cell phone use during work. Therefore, the primary
10 theory advanced was for expenses associated with reviewing emails regarding schedules. Labor
11 Code section 2802 provides that "[a]n employer shall indemnify his or her employee for all necessary
12 expenditures or losses incurred by the employee in direct consequence of the discharge of his or her
13 duties, or of his or her obedience to the directions of the employer . . ."

14 First, investigations revealed that the vast majority of communications at issue consist of
15 automated reminder emails regarding scheduled shifts and related topics. Nothing indicated that
16 employees were required to review or respond to the emails, or that there was a time limit by which to
17 review them. Moreover, many employees are informed of their schedules and related information well
18 in advance, and schedules are also available at the work sites. As such, emails are duplicative reminders
19 provided for the employee's convenience, rather than necessary communications for employees to
20 carry out their duties. *See, e.g., Pyara v. Sysco Corp.*, No. 2:15-cv-01208-JAM-KJN, 2017 WL
21 928715, at *1–2 (E.D. Cal. Mar. 9, 2017); *Dugan v. Ashley Furniture Indus., Inc.*, No. SA CV 16-1125
22 PA (FFMx), 2016 WL 9173459, at *1 (C.D. Cal. Nov. 29, 2016) (dismissing 2802 claim for cell phone
23 use where employer did not have policy requiring employees to use personal cell phones and employees
24 could have used employer's equipment). Even if reminders were not provided, employees could still
25 discharge their duties based on information they already had, and therefore review of the emails were
26 arguably not a necessary expense for the discharge of employees' duties.

27 Second, Legends pointed out that Section 2802 mandated reimbursement of expenses
28 incurred "in direct consequence of the discharge" of duties, and did not extend to prerequisites to

1 work. As discussed in greater detail in Plaintiffs’ Reply to Objections of Real Party in Interest filed
2 October 24, 2025,⁷ expenses incurred as a *prerequisite* to work but not for “the discharge” of work
3 are not covered under Labor Code section 2802. In fact, California courts have long recognized this
4 principle, and it is well-established that commuting, or *getting to* work, is not considered discharge
5 of duties. *See, Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 588. Based on this principle,
6 Legends argued that *obtaining* work (such as reviewing scheduling reminders or volunteering for
7 shifts) is not discharge of work duties, and therefore expenses incurred therefrom do not fall under
8 Labor Code section 2802.

9 Third, Legends pointed out that even if employees opted to review emails, they could do so
10 while at a Legends work site or another location with free internet access. Again, there was no
11 requirement that employees review these communications. As described above, the information
12 communicated via emails was available via in person verbal and written communications. There was
13 also no deadline for reviewing the emails. If employees chose to review the emails, they could wait
14 to review such communications until a time when they were at a location where they did not need to
15 use their cell phones or incur expenses. In addition to the alternative scheduling channels described
16 in the class analysis, the records identified Enterprise Self Service, Human Resources computers, and
17 worksite Wi-Fi as means of obtaining information or completing electronic procedures without
18 requiring use of a personal cellphone. Those alternatives do not independently defeat reimbursement
19 if personal-device use was required, but they materially support the dispute over whether such use
20 was necessary in any particular instance.

21 Class Counsel reviewed more than 800 employee emails that were Bates Stamped
22 LEGENDS_SHUSTER000994–001822, which the LWDA referenced in its objection to the original
23 Motion for Preliminary Approval. Such emails do not reflect all communications should be treated
24 as one undifferentiated category. Approximately 50% of the emails sent to unionized employees were
25 automated reminders concerning schedules already assigned and communicated in advance. Those
26 reminders did not require or permit employees to respond or perform work through a personal device.

27
28 ⁷ Plaintiffs will endeavor to avoid repeating the contents of prior filings and instead incorporate such discussions herein.

1 Approximately 14% invited employees to volunteer for optional shifts at non-home venues. The
2 LWDA's nine selected examples likewise did not establish a uniform personal-device requirement:
3 three concerned optional staffing opportunities, four principally supplied event-day logistics—
4 including complimentary family-meal information, one described the procedure for requesting time
5 off, and one asked employees to sign a return-to-work form if they planned to continue working for
6 Legends at the start of a new season. Some examples contemplated review or electronic action, but
7 none established that the employee had to use a personally owned or personally funded device. The
8 volume of messages therefore did not establish that employees were uniformly required to access
9 them through personal cellphones, incurred a necessary business expense, or experienced a violation
10 in every pay period.

11 The facts materially distinguish *Cochran v. Schwan's Home Service, Inc.* (2014) 228
12 Cal.App.4th 1137, 1144. *Cochran* requires reimbursement of a reasonable percentage of a personal-
13 cellphone bill when an employee must use the phone for work; it does not make receipt of an optional
14 or duplicative email proof of mandatory personal-device use. *Williams v. J.B. Hunt Transportation,*
15 *Inc.* (9th Cir. Aug. 12, 2025, Nos. 24-933 & 24-2970) slip op. at pages 31–33 applied that distinction
16 in affirming a defense judgment on section 2802 and derivative claims: reimbursement is not required
17 irrespective of whether the expenditure was mandatory, and the claimant must prove an expense
18 incurred in direct consequence of job duties that was reasonable and necessary. Likewise, *Thai v.*
19 *International Business Machines Corp.* (2023) 93 Cal.App.5th 364, 371–372, involved thousands of
20 employees expressly directed to perform their regular jobs from home using personally purchased
21 internet, telephone, computer, and related equipment. Here, the evidence did not establish a
22 comparable required use of personally funded devices to perform assigned duties or that employees
23 lacked alternative means to obtain schedules and communicate at work.

24 Plaintiffs do not contend that an employee's preexisting data plan automatically defeats
25 reimbursement. The evidentiary problem is different: the record does not establish which employees
26 accessed particular communications using personally funded devices, whether such use was required
27 or reasonably necessary, or the pay periods in which any reimbursable expense occurred. The email
28 records contain no read receipts, device-identification data, or employee-specific expense

1 information, and receipt of an email does not establish that the employee used a personal cellphone
2 rather than another available means of access. Nor does the date an automated email was sent
3 establish a section 2802 violation in that pay period. Accordingly, the 800-plus emails do not support
4 treating every modeled employee and pay period as a reimbursement violation.

5 *Estrada v. Royalty Carpet Mills, Inc.* (2024) 15 Cal.5th 582, 619, does not permit dismissal
6 of this PAGA predicate merely because representative proof is difficult, but it confirms that Plaintiffs
7 bear the burden of proving the number and scope of the underlying violations and that the court may
8 limit the evidence and representative scope. Where alleged widespread violations cannot be
9 efficiently proven, the resulting punishment may be minimal. Any resulting penalties would therefore
10 have to be tied to the employees and pay periods established by the evidence, rather than the model's
11 companywide assumption. Here, the available evidence did not establish the same required reading,
12 personal-device use, necessary expenditure, employer knowledge, and nonreimbursement for every
13 employee during every modeled pay period. The theoretical maximum therefore materially exceeded
14 the penalties that could likely be established through the available evidence.

15 Finally, Legends contends that even if a PAGA penalty could be triggered, such penalty
16 would be capped at one \$100 penalty per employee, and not a recurring penalty each pay period.
17 Legends points out that, unlike with wages, the Labor Code does not impose a specific deadline for
18 employers to reimburse employees for business expenses, and does not require employers to pay
19 such reimbursement each pay period. *See, e.g., Lab. Code, §§ 204, 210; cf. id., § 2802.* Rather, the
20 available penalties are much more aligned with those available to terminated employees, whereby a
21 single PAGA penalty is appropriate for each terminated employee.

22 Plaintiffs' expert calculated a theoretical maximum of \$25,862,696.13 for the expense-
23 reimbursement PAGA predicate. Retaining 5% reflects the absence of a uniform personal-device or
24 paid-parking requirement, the alternative scheduling and communication methods, the content of the
25 emails reviewed, the disputed necessity and amount of any expense, Defendant's one-penalty-per-
26 employee argument, and the probability of a further discretionary reduction. The resulting risk-
27 adjusted value is \$1,293,134.81: $\$25,862,696.13 \times 5\% = \$1,293,134.81$.

1 **h. PAGA Penalties For Tip Claim:**

2 As discussed above, the tip claim is primarily limited to a single instance around September
3 2022, during which a national outage at the credit card processing vendor caused delays and missed
4 transactions, and sporadic instances of alleged issues. Legends paid out tips to employees following
5 the outage, did not cause the outage, took reasonable steps to address the problem, and investigated
6 and paid out other one-off tip issues.

7 Plaintiffs' expert calculated a theoretical maximum of \$25,862,696.13 for the tips claim. The
8 evidence showed principally a third-party national outage and sporadic reported issues that
9 Defendant investigated and corrected, rather than a uniform policy of retaining tips. Retaining 0.1%
10 reflects the isolated nature of the principal event, Defendant's corrective payments, the transaction-
11 and employee-specific proof, the limited likelihood of proving recurring violations, and the
12 probability of a further discretionary reduction. The resulting risk-adjusted value is \$25,862.70:
13 $\$25,862,696.13 \times 0.1\% = \$25,862.70$.

14 **i. Discounting PAGA Penalties:**

15 The model calculated a theoretical maximum by applying a 100% violation rate within each
16 predicate's modeled population and applying the applicable extrapolation factor. The resulting
17 theoretical maximum was \$248,758,759.44. The revised model uses initial-violation penalty rates
18 for the modeled Labor Code predicates because the evidentiary record did not establish the notice or
19 prior adjudication necessary to apply heightened subsequent-violation rates, rather than the
20 previously presented figures with higher subsequent penalty rates. This is a deliberately conservative
21 statutory maximum, not an assessment that Plaintiffs would establish every modeled violation or that
22 all penalties would be stacked⁸.

23 The theoretical maximum also assumes that separate PAGA penalties may be stacked for
24 multiple predicates arising from the same underlying conduct. Courts have recognized substantial

25 _____
26 ⁸ The prior motion's approximately \$592.7 million figure used the higher 2.195766 extrapolation
27 factor and initial-and-subsequent penalty rates. The present 1.597883 factor gives employees outside
28 the produced dataset 50% weight, avoiding the unrealistic assumption that they had the exact same
exposure as employees in the analyzed data. Published California authority also limits heightened
penalties absent the required notice or adjudicated predicate. See *Gunther v. Alaska Airlines, Inc.*
(2021) 72 Cal.App.5th 334, 356–358; see also *Bernstein v. Virgin America, Inc.* (9th Cir. 2021) 3
F.4th 1127, 1143–1144.

1 uncertainty concerning stacking, and the recoverable amount would be materially lower if the Court
2 imposed one penalty for overlapping violations in a pay period rather than a separate penalty for
3 every derivative predicate. See, e.g., *Singh v. Roadrunner Intermodal Services, Inc.*, No. 1:15-cv-
4 01497-DAD-BAM, 2019 WL 316814, at *6 (E.D. Cal. Jan. 24, 2019) (noting that stacked penalties
5 exceeded \$14 million while finding a \$100,000 PAGA settlement appropriate).

6 For each released predicate, Class Counsel considered the evidence supporting and opposing
7 liability, the likely scope of any provable violations, the availability of common proof, the need for
8 employee-, venue-, shift-, transaction-, or pay-period-specific evidence, the overlap among
9 derivative predicates, Defendant's legal and factual defenses, and the likelihood that the Court would
10 exercise its discretion to reduce or decline to stack penalties. The retained percentage assigned to
11 each predicate reflects Class Counsel's assessment of those combined litigation risks for settlement
12 purposes. Applying the claim-specific reductions supported above produces a complete risk-adjusted
13 PAGA valuation of \$2,866,445.74: rest periods, \$127,618.13; meal periods under the five-hour
14 eligibility scenario, \$649,827.08; minimum wage, \$258,626.96; overtime, \$158,423.71; expense
15 reimbursement, \$1,293,134.81; wage statements, \$258,626.95; waiting time, \$42,600; section 204
16 timely payment, \$25,862.70; tips, \$25,862.70; and suitable seating, \$25,862.70. The \$80,000 PAGA
17 allocation equals approximately 2.79% of this risk-adjusted valuation.

18 Additionally, the Court is authorized to exercise discretion to assess civil penalties and may
19 award a lesser amount than the maximum civil penalty amount if, based on the facts and
20 circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary
21 and oppressive, or confiscatory. See Cal. Lab. Code § 2699(e).

22 Discounting the potential PAGA penalties is appropriate because “a court may award a lesser
23 amount than the maximum civil penalty amount specified by this part [*i.e.*, PAGA] if, based on the
24 facts and circumstances of the particular case, to do otherwise would result in an award that is unjust,
25 arbitrary and oppressive, or confiscatory.” Cal. Lab. Code § 2699(e)(2); *Carrington v. Starbucks*
26 *Corp.* (2018) 30 Cal.App.5th 504, 529; *Thurman v. Bayshore Transit Mgmt., Inc.* (2012) 203
27 Cal.App.4th 1112, 1135 (affirming reduction of PAGA penalties); *Fleming v. Covidien Inc.*, No. ED
28 CV 10–01487 RGK (OPx), 2011 WL 7563047, at *4 (C.D. Cal. Aug. 12, 2011) (reducing PAGA

1 penalties from \$2.8 million to \$500,000); *Ghrdilyan v. RJ Financial*, No. BC430633 (Cal.Super. Ct.
2 L.A. Cnty. Apr. 23, 2012) (reducing the PAGA penalty by 94%).

3 Courts frequently “consider[] whether they would be likely to exercise their discretion under
4 Cal. Lab. Code § 2699(e)(2) to reduce the amount of PAGA penalties, were those claims to be litigated
5 through judgment.” See, *Haralson v. U.S. Aviation Services Corp.*, 383 F. Supp. 3d 959, 973 (N.D.
6 Cal. 2019). In *Cotter v. Lyft, Inc.*, 193 F. Supp. 3d 1030, 1037 (N.D. Cal. 2016), the court stated:

7 A significant reduction would be appropriate here. This is not a case where a company
8 has deliberately evaded a clear legal obligation to provide legally required pay and
9 benefits to its employees. Nor does this appear to be a case where a company negligently
10 failed to learn about its obligations under the wage and hour laws. Rather, as the prior
11 rulings in this case have discussed, Lyft’s obligations to its drivers are genuinely unclear
(and will likely remain so absent legislative or executive action) because there is no
straight answer to the question whether those drivers must be classified as employees or
independent contractors under California law. On these facts, if the case went to
judgment and if the drivers prevailed, the Court would very likely reduce the award of
PAGA penalties by a substantial amount.

12 (internal citations omitted). See also *Viceral v. Mistras Grp., Inc.*, 2016 WL 5907869, at *9 (N.D.
13 Cal. 2016) (granting approval of settlement where \$20,000 was allocated to PAGA settlement, or
14 0.15 percent of its total value of \$12,952,000, in the context of the settlement as a whole).

15 Here, significant discretionary discounting is likely for several reasons. First, the evidence
16 showed that Legends maintained compliant policies with respect to the claims asserted.

17 Second, putative aggrieved employees are part-time workers who often work only 1–2 shifts
18 per pay period, meaning that even if violations occurred, they were likely to occur on a much less
19 frequent basis than employees who worked 5 shifts per week, and thus reduction of penalties would
20 be appropriate.

21 Third, Legends paid employees on a weekly basis. The newly published decision in *Taduran*
22 *v. James R. Glidewell, Dental Ceramics, Inc.* (2026) 121 Cal.App.5th 197 is especially persuasive
23 here and constitutes new authority issued after this Court’s prior denial of preliminary approval. The
24 Court of Appeal certified the opinion for publication on June 17, 2026. *Taduran* was a PAGA action,
25 liability was not being estimated for settlement purposes or contested at trial. The parties submitted
26 joint stipulations in lieu of trial evidence, stipulated to the material employee and pay-period facts,
27 and informed the court that liability had been determined on each of the four remaining Labor Code
28 issues. Glidewell expressly stipulated to liability on the rest-period claim, while liability on the wage-

1 statement, bonus-pay, and uptime-pay claims had been adjudicated or conceded. The only remaining
2 merits issue submitted to Judge Claster was the amount of PAGA civil penalties. Thus, unlike this
3 case, the reduction in *Taduran* was imposed after liability had been established through the parties’
4 submitted stipulations, concessions, and prior adjudication. Even in that materially stronger liability
5 posture, this Court—Judge William D. Claster—reduced the plaintiff’s asserted maximum civil
6 penalties from \$55,985,350 to \$515,965, approximately 0.92 percent of the asserted maximum. The
7 California Court of Appeal, Fourth Appellate District, Division Three, affirmed Judge Claster’s
8 reduction and held that, after calculating a theoretical maximum on a per-pay-period basis, a trial
9 court may use any reasonable method to reduce that maximum, including a percentage, per-
10 employee, or per-pay-period reduction. (*Id.* at 203, 207–208.) The factual considerations supporting
11 that reduction closely parallel those present here: weekly payroll caused the theoretical maximum to
12 become enormous compared with the underlying alleged harm; several violations produced minimal
13 or no lost wages; the employer acted in good faith and corrected or maintained practices intended to
14 comply with the law; and the asserted penalties were grossly disproportionate to the nature and
15 impact of the alleged violations. Here, Legends likewise paid weekly, many Aggrieved Employees
16 worked only one or two shifts in a pay period, Plaintiffs confront substantial proof and manageability
17 problems, and several released theories depend on unsettled or highly fact-specific questions rather
18 than deliberate evasion of a clear legal obligation. *Taduran* therefore is direct, newly published, and
19 controlling California appellate authority supporting Plaintiffs’ position. It is not merely an out-of-
20 district trial-court settlement order or nonbinding federal decision; it is a published decision from the
21 Fourth Appellate District, Division Three affirming this Court’s own exercise of PAGA penalty
22 discretion. It confirms that the LWDA’s percentage comparison to an assumption-driven theoretical
23 maximum does not determine reasonableness. The contrast is compelling: if a reduction to 0.92
24 percent was permissible where liability had already been established, a substantial reduction is even
25 more justified here, where Legends disputes liability, the frequency of any violation, the applicability
26 of multiple released theories, and whether any section 2802 expense was necessarily incurred in a
27 given pay period. Moreover, the proposed \$80,000 PAGA payment equals approximately 2.79
28 percent of Plaintiffs’ complete risk-adjusted PAGA valuation of \$2,866,445.74—more than two and

one-half times the percentage of the asserted maximum affirmed in *Taduran*—notwithstanding the materially greater liability and proof risks here. Because this intervening published decision directly rejects the percentage-centered premise of the LWDA’s objection, that objection should be overruled if presented again. The Court may evaluate the evidence, actual impact, good faith, frequency of proven violations, litigation risk, and proportionality, and should approve the percentage reduction reflected in this PAGA settlement because imposing assumption-driven maximum penalties would otherwise be unjust, arbitrary, and oppressive.

Critically, there was no remaining litigation risk as to liability for the four violations submitted for the penalty determination in *Taduran*. Liability had already been established through summary adjudication, concessions, and the parties’ submitted stipulation; only the amount of civil penalties remained for Judge Claster to decide. The approximately 0.92% comparison therefore was not calculated against a separately risk-adjusted denominator. Here, by contrast, Defendant disputes liability, and Plaintiffs face the additional risk of proving whether violations occurred, their frequency, the affected employees and pay periods, the overlap among derivative predicates, and the availability of stacked penalties before the Court exercises its section 2699(e)(2) discretion.

Fourth, reducing wage statement penalties to nearly “zero percent” is reasonable where the wage statements contain all of the required information. *Id.* at 208 n.2.

Fifth, Class Counsel acknowledges that a number of theories are arguably novel, such as expense reimbursement for prerequisite activities, recurring penalties for expense reimbursements, intermittent termination, and suitable seating in an event concession environment. For many of these claims, existing case law does not create any clear basis for liability. As such, even if Plaintiffs prevailed on these theories, there is significant risk that the Court would substantially reduce potential penalties on account of the lack of clear case law regarding employer obligations.

j. Discounting PAGA Settlement:

Because this is a settlement, further significant discounting is warranted, to avoid protracted litigation and risks associated with the claims. The significant discounting of PAGA penalties for purposes of class and PAGA action settlement is well-supported. See, e.g., *Singh v. Roadrunner Intermodal Services, Inc.*, No. 1:15-cv-01497-DAD-BAM, 2019 WL 316814, at *6 (E.D. Cal. Jan.

24, 2019) (noting that while stacked penalties would total more than \$14 million, finding settlement of \$100,000 was appropriate). For example, attempted intervenor Scott Shuster’s counsel, Mr. Dennis Moss, previously negotiated settlements such as:

- \$2,500,000 Gross Settlement Amount, \$50,000 of which was allocated to PAGA Penalties (2% of GSA). *See*, Request for Judicial Notice (“RJN”), Exh. A, *Sun Valley Class Action Settlement*;
- \$4,000,000 Gross Settlement Amount, \$25,000 of which was allocated to PAGA Penalties (1% of GSA). *See* RJN, Exh. B, *Mortgage Contracting Services Settlement*;
- \$8,000,000 Gross Settlement Amount, \$225,000 of which was allocated to PAGA Penalties (3% of GSA). *See* RJN, Exh. C, *T-Mobile USA Settlement*;
- \$2,500,000 Gross Settlement Amount, \$3,750 of which was allocated to PAGA Penalties (<1% of GSA). *See* RJN, Exh. D, *Del Monte Foods Settlement*.

Mr. Moss’ PAGA allocation in class and PAGA settlements is not unique. A brief survey of recent settlements approved by various courts, including the Orange County Superior Court, reflect that courts regularly approve settlements where PAGA represents between 1 and 5% of the gross settlement amount. *See*, e.g., *Westfall v. Ball Metal Beverage Container Corp.*, 2025 WL 2753246, at *11 (E.D. Cal. Sept. 26, 2025) (approving \$100,000 PAGA allocation out of \$4.5 million total settlement, representing 2.2% of GSA); *Gonzalez v. Buccola Landscape Services, Inc.*, No. 30–2023–01356654-CU-OE-CXC (Cal. Super. Ct. Orange Cnty. Mar. 26, 2026) (approving \$65,000 PAGA allocation out of \$1.3 million GSA, representing 5% of GSA; *see* RJN, Exh. E); *Cano v. 360 Health Plan*, No. 30–2022–01257308-CU-OE-CXC (Cal. Super. Ct. Orange Cnty. Apr. 6, 2026) (approving \$10,000 PAGA allocation out of \$350,000 GSA, representing 2.8% of GSA; *see* RJN, Exh. F).

Here, the proposed \$80,000 allocation towards PAGA reflects 9.8% of the Gross Settlement Amount. This allocation is well over double the commonly seen allocation amongst other settlements discussed herein. As such, the PAGA settlement is fair and reasonable, particularly vis-à-vis comparable settlements approved by this Court.

1 4. **The Requested Service Awards Are Supported by Representative-**
2 **Specific Evidence**

3 Davina Bhullar seeks \$10,000.00 and Domingo Murchison seeks \$15,000.00 in the light of
4 his commitment as Class Representative since 2021. Each Class Representative requests a service
5 award for their services as a class representative. Defendant does not oppose the requested service
6 award to the Plaintiffs. Mirzayan Decl., ¶ 45. The typical service award in wage and hour class actions
7 ranges from approximately \$10,000 to \$40,000, although some awards are higher.

8 In evaluating an enhancement award, courts consider the representative's actions to protect
9 the class, the degree to which the class benefited, the time and effort expended, and the risks
10 undertaken. (*Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804–807.)
11 The requested awards reflect different levels and durations of service. Murchison has served since
12 2021, initiated the action, assisted the investigation and witness contacts, gathered wage information,
13 and participated in litigation and settlement strategy over several years. Bhullar joined later but
14 supplied evidence concerning Northern California and seasonal-event practices, assisted counsel's
15 investigation, and undertook the responsibilities of representing absent employees. Both accepted the
16 burdens of discovery, public participation in litigation, and a broader release than absent Class
17 Members. Mirzayan Decl., ¶ 45.

18 The awards do not reduce any Class Member's proportional entitlement beyond the amount
19 disclosed in the Notice, and each representative will also receive only the same formula-based class
20 and PAGA payments available to other eligible employees. The differing \$15,000 and \$10,000
21 requests are therefore tied to the evidence of their respective service rather than granted merely
22 because they served as named Plaintiffs.

23 Courts have long acknowledged that active litigants are entitled to be compensated for
24 bearing the risk and time to represent others. *Bell v. Farmers Ins. Exchange* (2004) 115 Cal.App.4th
25 715, 725 (upholding enhancement award to named plaintiffs of their efforts in bringing class case).

26 The Service Awards sought here are justified by the Class Representatives' participation in
27 this lawsuit. They assisted in the investigation, gathered wage information, contacted witnesses,
28 helped analyze documents, and contributed to litigation and settlement strategy. They also accepted

1 the burdens of discovery, public participation, and broader releases than absent Class Members. The
2 requested Service Awards are therefore fair and reasonable in light of their respective service.

3 **5. The Proposed Class Counsel's Fees and Costs Are Reasonable and**
4 **Routinely Awarded**

5 Class Counsel will seek no more than \$326,000 and reimbursement of documented Litigation
6 Expenses not exceeding \$50,000. Preliminary approval does not determine either award; it authorizes
7 notice of the maximum requests. At final approval, the Court will independently evaluate the
8 percentage under Laffitte, conduct a lodestar cross-check, review billing rates and hours, examine
9 the requested multiplier and contingent risk, and require invoices for expenses. (*Laffitte v. Robert*
10 *Half International Inc.* (2016) 1 Cal.5th 480, 503–506.) *Any reduction remains in the class Net*
11 *Settlement Amount and does not revert to Defendant.*

12 Those considerations support permitting notice of the requested maximum. Counsel litigated
13 the matter on a wholly contingent basis, pursued discovery, retained and worked with a statistical
14 expert, compelled a person-most-qualified deposition, analyzed multiple collective-bargaining
15 agreements and venue-specific practices, participated in a full-day mediation and continuing
16 negotiations, responded to an intervention effort and LWDA objections, and obtained an increased,
17 narrowed, non-reversionary settlement. Counsel also remains responsible for notice, final approval,
18 implementation, employee questions, and any disputes concerning workweek or payment
19 calculations.

20 California permits a percentage-of-the-fund method in common-fund cases, with a lodestar
21 cross-check available to test the reasonableness of the percentage. (*Laffitte v. Robert Half*
22 *International Inc.* (2016) 1 Cal.5th 480, 503–506.) The Court may consider the results achieved, the
23 novelty and difficulty of the issues, the skill displayed, the contingent risk, and the extent to which
24 counsel's work precluded other employment. *Id.* at 489, 504; *Vincent v. Hughes Air West, Inc.*, 557
25 F.2d 759, 769 (9th Cir. 1977).

26 The purpose of the common fund/percentage approach is to “spread litigation costs
27 proportionally among all the beneficiaries so that the active beneficiary does not bear the entire
28 burden alone.” *Vincent*, 557 F.2d at 769. In *Quinn v. State of California* (1975) 15 Cal.3d 162, 167,

1 the California Supreme Court stated: "[O]ne who expends attorneys' fees in winning a suit which
2 creates a fund from which others derive benefits may require those passive beneficiaries to bear a
3 fair share of the litigation costs." Similarly, in *City and County of San Francisco v. Sweet* (1995) 12
4 Cal.4th 105, 110, the California Supreme Court recognized that the common fund doctrine has been
5 applied "consistently in California when an action brought by one party creates a fund in which other
6 persons are entitled to share." The reasons for applying the common fund doctrine include: "fairness
7 to the successful litigant, who might otherwise receive no benefit because his recovery might be
8 consumed by the expenses; correlative prevention of an unfair advantage to the others who are
9 entitled to share in the fund and who should bear their share of the burden of its recovery;
10 encouragement of the attorney for the successful litigant, who will be more willing to undertake and
11 diligently prosecute proper litigation for the protection or recovery of the fund if he is assured that
12 he will be properly and directly compensated should his efforts be successful." *Id.* The percentage
13 approach is preferable to the lodestar because: (1) it aligns the interests of class counsel and absent
14 class members; (2) it encourages efficient resolution of the litigation by providing an incentive for
15 early, yet reasonable, settlement; and (3) it reduces the demands on judicial resources. *See In re*
16 *Oracle Securities Litigation* (N.D.Cal. 1990) 131 F.R.D. 688, 689; *In re Activision Securities*
17 *Litigation* (N.D.Cal. 1989) 723 F.Supp. 1373, 1375, 1378–1379. The Ninth Circuit now routinely
18 uses the percentage of the common fund approach to determine the award of attorney's fees. (E.g., *In*
19 *re Pacific Enterprises Securities City and County of San Francisco Litigation*, 47 F.3d 373, 378–79
20 (9th Cir. 1994) (approving attorney's fee of 33 1/3%).

21 The requested maximum is supported by the result and the work described in the declarations,
22 not by a claimed automatic percentage range. Counsel litigated on a contingent basis, pursued formal
23 and informal discovery, retained a statistical expert, compelled a person-most-qualified deposition,
24 analyzed venue and CBA issues, participated in mediation and continuing negotiations, responded
25 to intervention and LWDA proceedings, and obtained an increased and narrowed non-reversionary
26 settlement. The final request will quantify that work so the Court can determine whether 40% is
27 justified.
28

1 Class Counsel have borne, and continue to bear, the entire risk and cost of litigation associated
2 with this class action on a pure contingency basis. Based on past experience in wage and hour class
3 action litigation, it is safe to state that Class Counsel is very likely to be called upon, after the Notice
4 Packet has been sent, to expend substantial amounts of additional time to help Class Members
5 understand the terms of the proposed settlement, and to assist Class Members in the preparation and
6 documentation of their claims. It is also likely that, even after final approval of the settlement has
7 been granted, Class Counsel will be called upon to expend additional amounts of time in the
8 presentation and resolution of contests and disputes relating to Class Members' claims under the terms
9 of the proposed settlement, as to the amounts of individual claims and perhaps other individual issues.

10 The Court should authorize notice of the maximum fee and cost requests, reserving the
11 amount of any award for final approval after the required evidentiary submissions and lodestar cross-
12 check.

13 At final approval, Class Counsel will submit contemporaneous or reconstructed time records,
14 billing rates, a lodestar calculation, invoices supporting expenses, and any requested multiplier. That
15 evidence will allow the Court to determine whether the requested percentage is justified and to award
16 a lower amount if appropriate. Any reduction will remain in the Net Settlement Amount for the Class
17 rather than reverting to Defendant.

18 **6. Has Proposed Class Counsel Been Appointed Class Counsel Previously⁹?**

19 Yes, Class Counsel has been appointed as class counsel previously in many cases. In fact, the
20 settlement reached by Class Counsel has been commended and acknowledged by other courts. For
21 example, following a successful appeal of a trial court's order granting defendants' motion to compel
22 arbitration, Class Counsel reached a settlement with defendants on behalf of a class of misclassified
23 employees as exempt, which was recognized and commended by the Orange County Superior Court
24 as "excellent results for the class." Other courts also commended the results achieved by class counsel
25 that not only resulted in a reasonable settlement but also as part of Class Counsel's settlement,
26 defendants were required to change their policies. A list of cases can be provided during the Final
27 Approval and Attorneys' Fees Motion.

28 _____
⁹ November 4, 2025 Order, Question No. 12.

1 7. **The Proposed Class Notice is Adequate and Includes All Required**
2 **Components**

3 Attached to the Agreement as Exhibit “A” is the proposed Court Approved Notice of Class
4 Action Settlement and Hearing Date for Final Court Approval (“Class Notice”) to be distributed to
5 the class members. This Class Notice is revised to include the changes requested by the Court as
6 stated in its November 4, 2025 Order. To be clear, the font size will be the same as provided to the
7 Court, and the Parties do not anticipate the need for translating the Class Notice to different
8 languages. Mirzayan Decl., ¶ 49. A redline comparing the previously submitted Class Notice to the
9 revised Class Notice is attached to the Mirzayan Declaration as Exhibit “7”. A notice of settlement
10 of a class action “must contain an explanation of the proposed settlement and procedures for class
11 members to follow in filing written objections to it and in arranging to appear at the settlement hearing
12 and state any objections to the proposed settlement.” *California Rules of Court* 3.769(f).

13 Under Cal. R. Ct. 3.766(d) the notice must include the following: (1) A brief explanation of
14 the case, including the basic contentions or denials of the parties; (2) A statement that the court will
15 exclude the member from the class if the member so requests by a specified date; (3) A procedure
16 for the member to follow in requesting exclusion from the class; (4) A statement that the judgment,
17 whether favorable or not, will bind all members who do not request exclusion; and (5) A statement
18 that any member who does not request exclusion may, if the member so desires, enter an appearance
19 through counsel. The court has broad discretion in deciding whether to approve the proposed class
20 notice. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 252.

21 Here, the Class Notice was based on the Model Class Notice prepared by the Los Angeles
22 County Superior Court and it contains all the required components. Specifically, it includes: (1) the
23 definition of the Class, (2) a description of the substantive issues and proceedings to date; (3) a neutral
24 description of the Settlement; (4) the amounts of Class Counsel Fees and Litigation Expenses;
25 (5) information regarding the right to opt out of the Settlement, the procedure for doing so and the date
26 by which such action must be taken; (6) information regarding the right to challenge one's number of
27 work weeks, the procedure for doing so and the date by which such action must be taken;
28 (7) information regarding the right to exclude oneself from the Settlement, the procedure for doing so
and the date by which such action must be taken; (8) information regarding the right to file an objection

1 regarding the Settlement, the procedure for doing so and the date by which such action must be taken;
2 (9) the consequences of remaining a member of the Settlement Class, including the fact that one will
3 be bound by the judgment; (10) the date, time and place of the final approval hearing; (11) the identity
4 of the Class Representatives; and (12) the identity and contact information of Class Counsel and the
5 Administrator. Mirzayan Decl., ¶ 50. The font size will be the same as provided to the Court. The
6 Parties do not anticipate the need to translate the Class Notice to different languages.

7 Further, the method of notice is more than adequate, in that the Class Notice will be mailed to
8 Class Members at their last known address and there are procedures in place to make reasonable efforts
9 to locate Class Members who no longer live at their last known address. Mirzayan Decl., ¶ 51.

10 The Parties have agreed to use Apex Class Action Administration to administer the Settlement
11 for an amount not to exceed \$32,500. The Administration Expenses will be paid from the Gross
12 Settlement Amount. A true and correct copy of Apex's not-to-exceed bid is attached as Exhibit "6"
13 to the Mirzayan Declaration. Mirzayan Decl., ¶ 52. Plaintiffs request that the Court appoint Apex as
14 Administrator and approve dissemination of the Class Notice in the manner and on the schedule set
15 forth in the Agreement, as amended.

16 **C. The Proposed Class Meets the Requirements for Provisional Certification**

17 To certify a class for settlement, the Court must find an ascertainable class and a well-defined
18 community of interest, including predominant common questions, typical claims, and adequate
19 representation. (Cal. Civ. Proc. Code § 382; *Brinker Restaurant Corp. v. Superior Court* (2012) 53
20 Cal.4th 1004, 1021; *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326.) Each
21 of the criteria for class certification is clearly satisfied herein.

22 1. Numerosity – The class must be so numerous that utilization of the class action
23 procedure will inure to the benefit of the judicial system. *Richmond v. Dart Indust., Inc.* (1981) 29
24 Cal.3d 462, 470. Defendant identified 10,587 Class Members in this Action, which exceeds the
25 minimum number of individuals required to meet the numerosity requirement. *See Gay v. Waiters*
26 *& Dairy Lunchmen's Union*, 489 F. Supp. 282 (N.D. Cal. 1980), *aff'd* 694 F.2d 531 (9th Cir. 1982).

27 2. Commonality – “[Q]uestions of law or fact common to the class [must be]
28 substantially similar and predominate over the questions affecting the individual members.” Common

1 issues predominate when they would be “the principal issues in any individual action, both in terms
2 of time to be expended in their proof and of their importance.” *Vasquez*, supra, 4 Cal.3d at p. 810.
3 Common questions need only be “sufficiently pervasive to permit adjudication in a class action rather
4 than in a multiplicity of suits.” *Id.* Commonality is easily satisfied if there is one issue common to the
5 class members. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1019 (9th Cir. 1998).

6 For settlement purposes, the claims present common questions concerning Defendant’s
7 written policies, centralized payroll and timekeeping systems, standardized wage statements, and the
8 legality of the challenged practices, although the evidence showed that the application of those
9 practices varied by employee, venue, position, event, and shift. Those common questions include:

10 (i) Defendant’s failure to pay all regular wages, sick pay wages, minimum wages, overtime wages
11 due, vacation wages, gratuities, and liquidated damages in violation of Labor Code sections 227.3,
12 233, 246, 246.5, 351, 510, 1182.12, 1194, 1197, 1197.1, and 1198; (ii) failure to provide legally
13 compliant meal periods or compensation in lieu thereof in violation of Labor Code sections 226.7,
14 512; (iii) failure to authorize and permit legally compliant rest breaks or compensation in lieu thereof
15 in violation of Labor Code section 226.7); (iv) failure to provide complete, accurate wage statements
16 in violation of Labor Code Sections 226(a), 1174(d), 246(i); (v) failure to pay wages timely at time
17 of termination or resignation in violation Labor Code Sections 201–203; (vi) failure to pay all wages
18 timely during employment in violation of Labor Code sections 201.3, 204 *et seq.*, 210; and
19 (vii) failure to reimburse necessary business expenses in violation of Labor Code section 2802.

20 Because there are common issues, this requirement is satisfied for purposes of settlement.

21 3. Typicality - Typicality requires only that the named plaintiffs’ interests in the action
22 be significantly similar to those of other class members. *Richmond*, supra, 29 Cal.3d at p. 473–475.
23 A representative plaintiff’s claims are typical if they arise from the same event, practice, or course
24 of conduct that gives rise to the claims of other class members, and if his or her claims are based on
25 the same legal theories. *Miller v. Woods* (1983) 148 Cal.App.3d 862, 873–874. Indeed, when the
26 same underlying conduct affects the named plaintiffs and the class sought to be represented, the
27 typicality requirement is met irrespective of any varying fact patterns that may underlie individual
28 claims. *Daniels v. Centennial Group, Inc.* (1993) 16 Cal.App.4th 467, 473 (*named plaintiffs’*

1 *interests need only be significantly similar to those of other class members*). Plaintiffs' claims arise
2 from the same challenged policies and practices as the Class Members' claims. Plaintiffs worked for
3 Defendant during the relevant periods and challenge the same recorded-time, break, pay, expense,
4 and tip practices. Differences in venue, shift, position, or individual application create litigation risk
5 but do not defeat typicality for settlement purposes because the named Plaintiffs' interests remain
6 aligned with the Class and they seek the same forms of relief. "[I]t has never been the law in
7 California that the class representative must have identical interests with the class members. The only
8 requirements are that common questions of law and fact predominate and that the class representative
9 be similarly situated." (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 46.) Accordingly, Plaintiffs'
10 claims are typical of those of the Class Members.

11 4. Adequacy requires that the representatives protect the Class, have no disabling
12 conflict, and be represented by competent counsel. (Cal. Civ. Proc. Code § 382; *McGhee v. Bank of*
13 *America* (1976) 60 Cal.App.3d 442, 450.)

14 1. **No Disabling Conflict of Interest Exists Between the Class**
15 **Representatives and the Class**

16 No conflicts, disabling or otherwise, exist between the Class Representatives and Class
17 Members because Plaintiffs allege that they were damaged by the same conduct and have the
18 incentive to fairly represent all Class Members' claims to achieve the maximum possible recovery.
19 Indeed, the Class Representatives stand in the same shoes as the Class Members with the same
20 incentive to maximize the overall recovery. *See Richmond*, supra, 29 Cal.3d at p. 473; *Harrison v.*
21 *Bd. of Supervisors* (1975) 44 Cal.App.3d 852, 863. *Under the Agreement, Plaintiffs and the*
22 *Participating Settlement Class Members will receive a pro rata share of the settlement based on the*
23 *number of workweeks they worked for Defendant. See Agreement, Ex. A (Class Notice). Finally, any*
24 *settlement class member who wishes to opt-out of the settlement may do so, and he or she may also*
25 *dispute the number of workweeks stated in the Notice of Settlement. Id.*

1 **2. Class Counsel Is an Experienced Class Action Attorney**

2 Class Counsel is an experienced class action attorney who has been appointed as class counsel
3 in numerous cases alleging similar claims. Mirzayan Decl. ¶ 54. This factor supports preliminary
4 approval of the Settlement. *See Kullar*, supra, 168 Cal.App.4th at p. 130.

5 **D. The Court Should Set a Final Approval Hearing**

6 Pursuant to the Agreement, Plaintiffs request that a Fairness and Final Approval Hearing be
7 scheduled for approximately 120 days following the Court's granting of preliminary approval of the
8 class settlement. *See* Cal. R. Ct. 3.769.

9 **IV. CONCLUSION**

10 The revised settlement is non-reversionary, requires Defendant to pay employer payroll taxes
11 separately, and was reached after discovery, expert analysis, mediation, and further negotiations
12 responding to the Court's concerns. The \$735,000 gross non-PAGA fund equals approximately
13 136% of the \$542,206.67 risk-adjusted class valuation, while the estimated \$301,500.00 class Net
14 Settlement Amount equals approximately 56% of that valuation. The \$80,000 PAGA allocation
15 equals approximately 9.8% of the \$815,000 Gross Settlement Amount, with \$60,000 payable to the
16 LWDA and \$20,000 to Aggrieved Employees. Plaintiffs respectfully request preliminary approval,
17 provisional certification of the settlement classes, approval of a Notice conformed in every respect
18 to the \$815,000 Gross Settlement Amount, \$80,000 PAGA allocation, 95%/5% class-allocation
19 formula, amended Tip Class Period, narrowed PAGA release, and the setting of a final-approval
20 hearing.

21 *Respectfully Submitted,*

22
23 Dated: September 1, 2026

MIRZAYAN LAW, APLC

24 

25 _____
26 Natalie Mirzayan
27 Attorney for Plaintiffs and the Putative Class
28