AEGIS LAW FIRM, PC
Samuel A. Wong, State Bar No. 217104
Kashif Haque, State Bar No. 218672
Jessica L. Campbell, State Bar No. 280626
Alex J. Valle, State Bar No. 334263
9811 Irvine Center Drive, Suite 100
Irvine, California 92618
Telephone: (949) 379-6250
Facsimile: (949) 379-6251
Email: avalle@aegislawfirm.com

Attorneys for Plaintiff Melinda Andre, individually, and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

MELINDA ANDRE, individually and on behalf of all others similarly situated, Plaintiff, vs. SUPPORTIVE HOSPICE CARE CORP; and DOES 1 through 20, inclusive, Defendant.	Case No. CIVSB2134297 *Assigned for All Purposes to:* *Hon. Christian Towns Dept.S26* **PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** Date: July 2, 2026 Time: 8:30 A.M. Dept: S26

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I. INTRODUCTION

Pursuant to California Rules of Court 3.769 (d) and (e), Plaintiff Melinda Andre ("Plaintiff") requests that the Court grant preliminary approval of a class action settlement of wage and hour claims, including claims under the California Private Attorneys General Act of 2004, codified at Lab. Code § 2698, *et seq.* ("PAGA"), against Defendant Supportive Hospice Care Corp. ("Defendant") (collectively, Plaintiff and Defendant referred to as, the "Parties"). The putative class consists of approximately 250 non-exempt employees employed by Defendant in California (individually, "Class Member"; collectively, the "Class") from June 19, 2017 to October 29, 2025 (the "Class Period"). The basic terms of the Class Action and PAGA Settlement Agreement ("Settlement Agreement" or "Settlement")[1] provide for the following:

(1) A non-reversionary Gross Settlement Amount of $450,000[2] allocated to approximately 250 Class Members on a pro rata basis according to the number of weeks each Class Member worked during the Class Period;

(2) An award of up to one-third of the Gross Settlement Amount (currently $150,000) and up to $30,000 in reimbursement of costs to Plaintiff's Counsel for services rendered as counsel on this matter;

(3) Incentive Award of up to $10,000 to Plaintiff Melinda Andre;

(4) Settlement Administration fees and costs of up to $7,995; and

(5) Allocation of $20,000 for settlement of claims for civil penalties under PAGA. Seventy-five percent (75%) of this payment will be paid to the California Labor and Workforce Development Agency ("LWDA Payment"), and twenty-five percent (25%) will be paid to the Net Settlement Amount for distribution to PAGA Group Members.

The Settlement satisfies the criteria for preliminary approval and falls well within the range of

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[1] A true and correct copy of the fully-executed "Class Action and PAGA Settlement Agreement" is attached as **Exhibit 1** to the Declaration of Alex J. Valle in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Valle Decl."), filed concurrently herewith. Unless otherwise defined herein, all capitalized terms in this Motion will be used as such terms are defined and used in the Settlement.

[2] Defendant will also separately pay an individual settlement to Plaintiff of $50,000 in exchange for a release of all of her individual claims against it.

reasonableness given the risks and costs of continued litigation. The Settlement was reached through informed, arms-length bargaining at and after mediation between experienced attorneys. As such, Plaintiff requests that the Court grant preliminary approval of the Settlement, conditionally certify the Class for settlement purposes only, appoint Plaintiff as the Class Representative, appoint Plaintiff's Counsel as Class Counsel, appoint Phoenix Settlement Administrators as the Settlement Administrator, authorize the Settlement Administrator to send notice of the Settlement, and set a final approval hearing date.

II. SUMMARY OF THE LITIGATION

On December 14, 2021, Plaintiff filed this class action on behalf of Defendant's non-exempt employees and alleged the following claims: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to permit rest breaks; (5) failure to provide accurate wage statements; (6) failure to pay all wages timely and upon separation of employment; and (7) violation of Business and Professions Code § 17200, *et seq*., based on the preceding claims. Valle Decl., ¶ 3.

On December 14, 2021, before adding a PAGA claim, Plaintiff provided written notice to the LWDA and Defendant regarding Defendant's alleged Labor Code violations, as required by Lab. Code § 2699.3(a). Valle Decl., ¶ 4, Ex. 2. The LWDA did not respond to this notice, indicating it did not intend to investigate, thus allowing Plaintiff to bring a PAGA claim against Defendant. *Id.* As such, on July 14, 2022, Plaintiff filed her First Amended Complaint to add a claim for PAGA. *Id.*

Through formal discovery, Defendant produced significant amount of documents and information, including Plaintiff's personnel files, policy documents, the class members' contact information, and class members' timekeeping and pay records. Valle Decl., ¶ 5. Plaintiff's Counsel contacted several Class Members to obtain additional information about their work experiences with Defendant and potential claims. *Id.* After formal discovery and engaging in numerous discussions between the Parties' attorneys, the Parties agreed to attend a private mediation session. *Id.*

On October 29. 2025, the Parties attended a mediation session with Hon. Richard Stone (Ret.), a respected mediator. Valle Decl., ¶ 6. The Parties agreed to settle this matter and executed a memorandum of understanding that memorialized the terms of their agreement. *Id.* The Parties spent the next several months negotiating the terms of the Settlement, which was finalized in January 2026. *Id.* The negotiations were adversarial, conducted at arm's length and tempered by the efforts of both sides to serve the interests of their clients. *Id.* Plaintiff submitted the Settlement to the LWDA pursuant to Lab. Code § 2699(l)(2). *Id.* at ¶ 7, Ex. 3.

III. SUMMARY OF THE SETTLEMENT

A. Terms of Settlement

Plaintiff and Defendant agreed to settle the class claims in exchange for a Gross Settlement Amount of $450,000. Valle Decl., Ex. 1, § 3.1. The Gross Settlement Amount will be used to make payments for the following: (1) Individual Settlement Payments to Participating Class Members; (2) attorneys' fees to Class Counsel of up to one-third of the Gross Settlement Amount; (3) reimbursement of Class Counsel's litigation costs of up to $30,000; (4) an Incentive Award to Plaintiff of up to $10,000; (5) Settlement Administration fees and costs of $7,995; and (6) a payment to the LWDA of $15,000 pursuant to PAGA. *Id.* at §§ 3.2-3.2.6. Class Members' Individual Settlement Payments will be distributed after final approval of the Settlement and Defendant funds the Gross Settlement Amount. *Id.* at §§ 4.3-4.4. Individual Settlement Payments will be calculated by comparing the total Qualifying Workweeks for the Class to each individual Class Member's Qualifying Workweeks. *Id.* at § 3.2.5. With approximately 250 Class Members, the Net Settlement Amount allocates an average of around $930 per Class Member. The Settlement Administrator will calculate the actual estimated recovery to include in the Class Notice and provide the estimated low and high range of possible recovery at final approval. *Id.* at Ex. A.

The Parties have agreed to allocate $20,000 of the Gross Settlement Amount to the resolution of PAGA Group Members' claims arising under PAGA. Settlement Agreement, § 3.2.6. Of this amount, 75% will go to the LWDA and the remaining 25% will be distributed to the Aggrieved Employees which re defined as all non-exempt employees employed by Defendant in California at any time from December 14, 2020 through October 29, 2025 (the "PAGA Period"), regardless of whether he or she opts out of the class settlement. Settlement Agreement, §§ 1.4, 1.31, 7.4.5. The PAGA Settlement Amount will be divided between all Aggrieved Employees in proportion to the number of pay periods that each PAGA Group Member worked during the PAGA Period. *Id.* at § 3.2.6.1.

The Individual Settlement Payments to Class Members will be allocated for tax purposes as follows: 20% to wages; 80% to penalties and interest. Valle Decl., Ex. 1 § 3.2.5.1. The PAGA Settlement Amount to be distributed to Aggrieved Employees are to be considered 100% penalties. *Id.* at § 3.2.6.2. The employer-side payroll taxes on the portion allocated to wages will be paid by Defendant separately from, and in addition to the Gross Settlement Amount. *Id.* at § 3.1. No portion of the Gross Settlement Amount will revert to Defendant. *Id*. Funds from uncashed or undeliverable checks will be tendered by the Settlement Administrator to the State Controller Unclaimed Property Fund in the name of the Class Member for whom the funds are designated. *Id*. at § 4.4.3.

B. Proposed Opt-Out and Objection Process

The Settlement Administrator will send Class Members the Notice of Class Action Settlement ("Class Notice") by first-class mail after checking for updated addresses through the National Change of Address database. Valle Decl., Ex. 1, § 7.4.2. The Class Notice provides information regarding the nature of the lawsuit, a summary of the substance of the settlement terms, the formula for calculating Individual Settlement Payments, the individual's estimated payout, a statement that Class Members who take no action will release their claims and receive settlement checks, instructions regarding how to dispute the calculations, instructions regarding how to request exclusion or object to the Settlement, the date for the final approval hearing, the amounts sought for attorneys' fees and costs, the Settlement Administration Costs, the class representative's Incentive Award, the PAGA allocation, and information on how to access the court's website to view the case records. *Id.* at Ex. A.

The Class Notice provides instructions for Class Members who choose to exclude themselves from the Settlement. Valle Decl., Ex. 1(A). To opt out, Class Members are instructed to submit a Request for Exclusion to the Settlement Administrator by a specified date (60 days after the date of mailing of the Class Notice). *Id.* Class Members do not need to submit a claim form to participate in the Settlement. *Id.* Class Members are informed of how they can object to the Settlement, and the Class Notice informs Class Members of the date, time, and location of the final fairness and approval hearing so that they can appear in person. *Id.* Accordingly, the content of the Class Notice complies with the requirements of Cal. R. Ct. 3.766(d).

If Class Notice packets are returned as undeliverable, the Settlement Administrator will perform a skip-trace or other search, and re-mail the Class Notice with an extended deadline, to opt out or object, of 14 days from the date of mailing. Valle Decl., Ex. 1, § 7.4.4. The initial 60-day notice period and extension process ensures the notice program provides due process by giving Class Members enough time to determine whether they want to participate in the Settlement. This means of notice is reasonably calculated to apprise Class Members of the pendency of the action. *See* Cal. R. Ct. 3.766 (d)-(f).

C. Proposed Release

The release to be given by Class Members is limited to the Defendant and each of its former and present directors, officers, shareholders, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates ("Released Parties"). Valle Decl., Ex. 1, § 1.41. Under the proposed release, Class Members who do not exclude themselves from the Settlement will be deemed to have released the following "Released Claims" against the Released Parties:

> all claims alleged or that could have been alleged based on the facts alleged in the Operative Complaint, which arose during the Class Period. Except as set forth in Section 5.3 of [the Settlement Agreement], Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

Id § 5.2.

Aggrieved Employees will also release the Released Parties from all claims for civil penalties under PAGA arising during the PAGA Period that were alleged or could have been alleged, based on the facts stated in the Operative Complaint, and PAGA Notice. *Id.* at § 5.3.

Only Plaintiff will agree to a general release of any and all claims, whether known or unknown, which exist or may exist on Plaintiff's behalf as of the date of the Settlement, and a waiver of Civ. Code § 1542. Settlement Agreement, §§ 5.1-5.1.1.

IV. LEGAL ARGUMENTS SUPPORTING PRELIMINARY APPROVAL

A. Provisional Certification of the Class is Appropriate

Class certification is appropriate when there exists (1) an ascertainable and sufficiently numerous class, (2) a well-defined community of interest among class members, and (3) when certification would be a fair and efficient means of adjudicating the action, rendering class litigation superior to alternative means. *See Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th 1004, 1021 (2012).

1. The Proposed Class is Numerous and Ascertainable

Whether a class is "ascertainable" is "determined by examining (1) the class definition, (2) the size of the class, and (3) the means available for identifying class members." *Reyes v. Bd. of Supervisors*, 196 Cal. App. 3d 1263, 1271 (1987). Here, the Class consists of all non-exempt employees employed by Defendant in California from June 19, 2017 to October 29, 2025. Valle Decl., Ex. 1, §§ 1.5, 1.12. Defendant's records show the Class consists of approximately 250 individuals, making joinder of all Class Members impracticable. Valle Decl., ¶ 8. Further, the Class is readily ascertainable from Defendant's business records because all Class Members are current or former employees of Defendant. *Id*.

2. A Well-Defined Community of Interest Exists Among Class Members

"[T]he 'community of interest requirement embodies three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class.'" *Fireside Bank v. Superior Court*, 40 Cal. 4th 1069, 1089 (2007) (quoting *Richmond v. Dart Industries, Inc.*, 29 Cal. 3d 462, 470 (1981)).

a. <u>Common Questions Predominate</u>

To assess whether common questions predominate, courts focus on whether the theories of recovery advanced are likely to prove amenable to class treatment. *See Sav-On Drug Stores, Inc. v. Superior Court*, 34 Cal. 4th 319, 327 (2004). In other words, courts determine whether the elements necessary to establish liability are susceptible of common proof, even if the class members must individually prove their damages. *Brinker*, *supra*, 53 Cal. 4th at 1021-1022, 1024.

Plaintiff alleged that Defendant maintained uniform employment policies and/or practices that illegally deprived Class Members of lawful wages, meal periods, rest breaks, accurate wage statements, and waiting time pay. Valle Decl., ¶ 9. Plaintiff's allegations present common legal and factual questions of, *inter alia*, whether Defendant applied the same scheduling, timekeeping, minimum and overtime pay, meal period, and rest break policies to all Class Members; whether these policies and practices resulted in Labor Code violations; whether Defendant's conduct was intentional; and whether Class Members are entitled to penalties. *Id*. These common questions could be resolved using Class Members' schedules, time punches, and payroll records, Defendant's corporate representative's testimony, written communications between Defendant and Class Members, and Class Member declarations. *Id*. Thus, the Court can and should exercise its discretion to grant conditional class certification for settlement purposes.

b. *<u>Plaintiff's Claims are Typical of the Class Claims</u>*

The typicality requirement is satisfied when the legal theories and facts supporting Plaintiff's claims are substantially similar to other class members. *See Classen v. Weller*, 145 Cal. App. 3d 27, 46 (1983). Here, Plaintiff alleges that she and other Class Members were employed by Defendant and injured by Defendant's common wage and hour policies and practices, including Defendant's scheduling, timekeeping, minimum wage pay, overtime pay, meal period, and rest break policies. Valle Decl., ¶ 10. Through documents and information exchanged in formal discovery, including production of thousands of pages of documents by Defendant, Plaintiff confirmed that these common policies and practices similarly affected Plaintiff and the Class. *Id.* Thus, Plaintiff's claims arise from the same employment practices and are based on the same legal theories as those applicable to other Class Members, as further explained in Plaintiff's exposure analysis below.

c. *<u>Plaintiff and Plaintiff's Counsel Will Adequately Represent the Interests of the Proposed Class</u>*

Certification requires adequacy of both the proposed class representative(s) and proposed class counsel. With respect to the class representative, a plaintiff must adequately represent and protect the interests of other members of the class and demonstrate that his or her claim is not inconsistent with the claims of other members of the class. *See Capitol People First v. State Dep't of Developmental Servs.*, 155 Cal. App. 4th 676, 696-697 (2007). Here, Plaintiff's interests are coextensive with the interests of the Class. Declaration of Melinda Andre ("Andre Decl."), ¶ 6. Plaintiff demonstrated an ability to advocate for the interests of the Class by initiating this litigation, gathering documents and information, responding to discovery, sitting for deposition, being available on the day of mediation to answer questions, meeting with their attorneys on several occasions to understand the claims and theories of liability at issue, assisting attorneys in preparing for mediation, reviewing the proposed settlement agreement and its terms to make sure it was fair. *Id.* at ¶ 7, Likewise, Aegis Law Firm, PC has expended considerable time and effort on this case and will continue to do so through final approval. *See generally,* Valle Decl. Accordingly, Plaintiff should be appointed Class Representative, and Plaintiff's Counsel should be appointed Class Counsel.

3. A Class Action is Superior to a Multitude of Individual Lawsuits

Class treatment is superior to other methods of adjudication when the probability is small that each class member will come forward to prove his or her claim and when the class approach would deter and redress the alleged wrongdoing. *See Linder v. Thrifty Oil Co.*, 23 Cal. 4th 429, 435, 446 (2000); *Ghazaryan v. Diva Limousine, Ltd.*, 169 Cal. App. 4th 1524, 1537-1538 (2008). Here, none of the other 250 Class Members had shown any interest in bearing the expense and burden of litigating their own claims. Valle Decl., ¶ 22. Thus, a class action is the superior method for seeking relief.

B. The Settlement Meets the Standards for Preliminary Approval

Preliminary approval is warranted if the settlement falls within a "reasonable range." *See North County Contractor's Ass'n., Inc. v. Touchstone Ins. Servs.*, 27 Cal. App. 4th 1085, 1089-90 (1994); Conte & Newberg, *Newberg on Class Actions*, § 11.26 (4th ed. 2002). In reviewing the fairness of a class action settlement, due regard should be given to what is "'otherwise a private consensual agreement between the parties.'" *Cellphone Termination Fee Cases*, 186 Cal. App. 4th 1380, 1389 (2010). The inquiry "must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." *Id.*

Reasonableness and fairness are presumed where (1) the settlement is reached through "arms-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." *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1802 (1996). The Settlement satisfies the first three factors. Plaintiff will analyze the fourth factor at the final approval stage.

1. The Settlement is Entitled to a Presumption of Fairness

a. The Settlement is the Result of Arm's-Length Negotiations

Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless evidence to the contrary is offered. Thus, there is a presumption that settlement negotiations are conducted in good faith. Here, the Settlement was the product of a mediation session with a respected mediator, after formal discovery. Valle Decl., ¶¶ 5-6. The negotiations were adversarial, conducted at arm's length and tempered by the efforts of both sides to serve the interests of their clients. *Id.* at ¶ 6. The amount of Plaintiff's requested Class Representative Enhancement and individual settlement was not negotiated until after the Parties agreed to the Gross Settlement Amount and many other terms. *Id.* at ¶ 23.

b. *Plaintiff's Counsel Conducted Sufficient Investigation and Discovery*

Plaintiff's Counsel thoroughly investigated the class claims, applicable law, and potential defenses. *See generally,* Valle Decl. In particular, Plaintiff's Counsel assessed the value of the class claims using Defendant's data and documents produced through formal discovery. Valle Decl., ¶ 5. Plaintiff's counsel extensively reviewed policy documents and Class Members' time and pay records to perform a thorough exposure analysis. *Id*. Accordingly, Plaintiff's Counsel fully understood the strengths and weaknesses of the claims before the Parties reached a settlement. *Id*. at ¶ 10.

c. *Plaintiff's Counsel is Experienced in Similar Litigation*

Plaintiff is represented by Aegis Law Firm ("Class Counsel"). Class Counsel prosecute wage and hour class actions on behalf of employees and others who have had their rights violated. Valle Decl., ¶¶ 25-39. The attorneys working on this case have been appointed class counsel in many cases, through both contested motions and settlement approval motions. *Id.* Thus, Plaintiff's Counsel has extensive experience in similar litigation and should be appointed as Class Counsel.

2. The Settlement is Reasonable Given the Strengths of Plaintiff's Claims and the Risks and Expense of Litigation

Courts have discretion to approve class settlements by assessing several factors, including the "strength of plaintiffs' case, risk, expense, complexity and likely duration of further litigation and risk of maintaining the class action through trial." *Munoz v. BCI Coca-Cola Bottling Co. of L.A.*, 186 Cal. App. 4th 399, 407 (2010); *see Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129 (2008).

While Plaintiff and her counsel believed and continue to believe this is a strong case for certification, the significant risks and expenses associated with class certification and liability proceedings were taken into account. Valle Decl. ¶ 12. To determine if the amount offered at mediation was reasonable, Plaintiff's Counsel weighed that figure against many risk factors. *Id.* at ¶ 13. If Plaintiff continued to prosecute the claims rather than accept a settlement, Plaintiff would have faced deadlines to file a motion for class certification, had to have engaged in more formal written discovery and taken depositions, expended time and resources to resolve disputes, prepared and filed potential dispositive motions and/or discovery motions, and engaged in extensive trial preparation. *Id*. at ¶ 14. An adverse ruling at any one of these stages could have prevented the Class from obtaining any recovery. *Id.*

a. *Exposure Analysis*

A settlement does not have to provide 100% of the damages sought to be considered a fair and reasonable settlement. *See Rebney v. Wells Fargo Bank*, 220 Cal. App. 3d 1117, 1139 (1991). Rather, compromise is expected:

> Compromise is inherent and necessary in the settlement process . . . even if "the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated," this is no bar to a class settlement because "the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation."

Wershba v. Apple Computer, Inc., 91 Cal. App. 4th 224, 250 (2001) (citation omitted). Here, Plaintiff contend that her claims are based on Defendant's common, class-wide policies and procedures, and that liability could be determined on a class-wide basis without dependence on individual assessments of liability. Valle Decl., ¶ 11. Although the amount of Defendant's potential exposure – if proven – is substantial, the legitimate and serious risks of succeeding at class certification and trial compelled a serious consideration of the benefit of a settlement. *Id.* at ¶ 13.

Unpaid Wages Claims: Plaintiff's minimum wage claims were premised on the theories that Defendant underpaid on-call time, and did not pay employees for time spent completing paperwork during their shifts or traveling during their lunch breaks. Valle Decl., ¶ 15. Plaintiff calculated that the minimum wage claim was worth approximately $3.2 million. *Id.* However, Defendant argued that it had compliant meal period policies informing employees not to work during breaks, it complied with applicable law regarding recording of hours worked, and it did not stop Class Members from recording time spent completing paper work or traveling. *Id.* As such, Plaintiff discounted this claim accordingly. *Id.*

Overtime Wages Claims: Plaintiff's overtime claims were premised on the theories that Defendant paid hours worked in excess of 8 hours per shift at straight time, rather than overtime. Valle Decl., ¶ 16. Plaintiff calculated that the overtime claim was worth approximately $600,000. *Id.* However, Defendant argued that most Class Members were properly paid overtime, and could defeat this claim by showing that only a small number (unlikely to meet numerosity requirements) were not correctly paid overtime. *Id.* As such, Plaintiff discounted this claim accordingly. *Id.*

Meal Break Claims: Plaintiff's theory of liability for meal period violations was based on Defendant's failure to provide meal periods after 5 hours of work, interrupted meal periods, failed to provide second meal periods, and failure to pay premiums when the records showed violations. Valle Decl., ¶ 17. Plaintiff's damages could reach $2,400,000 for meal period violations. *Id.* However, Defendant argued that it had compliant policies that provided for lawful meal periods, and employees waived their meal periods voluntarily. *Id.* Certification would likely have required depositions of Class Members who provided declarations, and Defendant surely would have obtained opposing declarations stating either meal breaks were taken or were voluntarily waived. *See, e.g., Ordonez v. Radio Shack, Inc.*, 2013 WL 210223, at *11 (C.D. Cal. Jan. 17, 2013) ("Because of the competing testimony before the Court, plaintiff's evidence that defendant may have an illegal, written rest break policy is insufficient for this Court to find that common issues predominate."); *Villa v. United Site Servs. of California, Inc.*, 2012 WL 5503550, at *8 (N.D. Cal. Nov. 13, 2012) ("Indeed, Plaintiff's own evidence confirms that the written policy does not generate uniform practices."). As a result, Plaintiff discounted this claim accordingly. *Id.*

Rest Break Claims: Plaintiff's rest break claim was based on the allegations that Defendant failed to provide rest breaks when working full shifts each day, and failed to pay rest break premiums. Valle Decl., ¶ 18. Assuming a 50% violation rate, Plaintiff's expert calculated that this claim could be worth approximately $1.4 million. *Id.* However, Defendant argued that it had compliant policies for most of the Class Period that provided for lawful rest breaks, and employees could waive their rest breaks voluntarily. *Id.* Moreover, after interviewing Class Members, few Class Members stated that they suffered rest break violations, making it hard to recover full damages for this claim, even if Plaintiff could certify it. *Id.* Certification would likely have required depositions of Class Members who provided declarations, and Defendant surely would have obtained opposing declarations stating either rest breaks were taken or rest breaks were voluntarily waived. *See, e.g., Ordonez*, 2013 WL 210223, at *11; *Villa*, 2012 WL 5503550, at *8. As a result, Plaintiff discounted this claim significantly. *Id.*

<u>Reimbursement Claims</u>: Plaintiff's reimbursement claim was based on the theories that Defendant did not reimburse employees for mileage incurred for traveling to visit clients or for using their cell phones to contact clients. Valle Decl., ¶ 19. Assuming violations in every month, Plaintiff's expert calculated that this claim could be worth as much as $1.6 million. *Id.* However, Defendant argued that it paid a reimbursement of $30 per month that was designed to cover the use of personal cell phones, it reimbursed mileage at the IRS rate, and it provided employees with laptops so they could work at patient's houses. *Id.* As a result, Plaintiff discounted this claim significantly, as she believed this claim would be hard to recover the full value. *Id.*

<u>Derivative Waiting Time and Wage Statement Penalty Claims</u>: Plaintiff's Counsel also considered the arguable presence of various penalties, and weighed the potential recoveries against probable defenses. Valle Decl., ¶ 20. Specifically, Defendant could argue that Plaintiff could not prove the "willful" prong needed to obtain waiting time penalties under Lab. Code § 203. *Id.* Additionally, Defendant could argue that Plaintiff could not show that Class Members suffered an "injury" as a result of wage statement violations, as required by Lab. Code § 226. *Id.* Although the Class arguably could have seen a payout of approximately $670,000 for waiting time penalties and $616,000 for wage statement penalties, Plaintiff would not recover any of these derivative penalties if she failed to prove the underlying claims. *Id.* This was especially true where Defendant had compliant policies for most of the Class Period, provided reimbursements, and had paid wages for on-call time. *Id.* Thus, Plaintiff discounted these claims appropriately. *Id.*

<u>PAGA Claim</u>: The PAGA claim presented even higher hurdles. Valle Decl., ¶ 21. Although Plaintiff's Counsel found Defendant's exposure could potentially reach approximately $725,000 under Lab. Code § 2699(f), assuming the initial penalty rate of $100 for each pay period, Plaintiff would have to prove a violation in every pay period. *Id.* Most importantly, the Court would have discretion to reduce the PAGA award based on whether the amount of the award would be "unjust, arbitrary and oppressive, or confiscatory." Lab. Code § 2699(e)(2). In theory, the Court could reduce the award by 99% if it so

wished. Valle Decl., ¶ 21. Plaintiff was doubtful she could recover any PAGA penalties, especially if a large class judgment was entered for the same violations. *Id.* Accordingly, Plaintiff could not place a high value on the PAGA penalties, and therefore allocated $20,000 of the Gross Settlement Amount to settle these claims. *Id.*

C. The Requested Incentive Award for Plaintiff

Plaintiff seeks an Incentive Award of up to $10,000 to Plaintiff for accepting the responsibilities of representing the interests of the Class and assuming risks and potential costs that were not borne by any other Class Members. A named plaintiff is eligible for payment that reasonably compensates him or her for undertaking and fulfilling a fiduciary duty to represent absent class members. *See Cellphone Termination Fee Cases*, *supra,* 186 Cal. App. 4th at 1393; *Bell v. Farmers Ins. Exch.*, 115 Cal. App. 4th 715, 726 (2004).

Here, Plaintiff had the option to pursue her claims individually, but instead chose to pursue this class action, delaying individual recovery until approval of a class action settlement. Valle Decl., ¶ 22. Throughout the case, Plaintiff assisted counsel in gathering the evidence necessary to prosecute the class claims, maintained regular contact with counsel, were available on the day of mediation and communicated with their attorneys during the day of mediation to answer critical questions, responded to discovery, sat for a deposition, and reviewed the Settlement to make sure it was fair to the Class. *Id.*; Andre Decl., ¶ 7. No action would likely have been taken by Class Members individually, and no compensation would have been recovered for them, but for Plaintiff's services on behalf of the Class. Valle Decl., ¶ 22.

By actively pursuing this action, Plaintiff furthered the California public policy goal of enforcing the State's wage and hour laws. *See Sav-On Drug Stores, Inc.*, *supra*, 34 Cal. 4th at 340. The requested Incentive Award for Plaintiff's service as the class representative and for a general release of all employment claims is reasonable and should be preliminarily approved. At the final approval stage, Plaintiff will further support the request for Incentive Award by declaration addressing the factors for the award. Valle Decl., ¶ 24.

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D. The Requested Attorneys' Fees and Costs

The purpose of an attorneys' fee award in class action litigation is to reward counsel who invested in a case despite the risk of non-payment and achieved a substantial positive result for the class. Attorneys' fees are awarded as a matter of equity. California courts routinely award attorneys' fees equaling one-third or more of the potential value of the common fund. *See Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, n.11 (2008) ("Empirical studies show that, regardless of whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery").

Plaintiff seeks appointment of Aegis Law Firm, PC as Class Counsel. The attorneys performed significant work and expended litigation costs in prosecuting the matter with no guarantee of any payment. Valle Decl., ¶ 40. Plaintiff's Counsel seeks preliminary approval of up to one-third of the Gross Settlement Amount for attorneys' fees, which is currently $150,000 and up to $30,000 in reimbursement of litigation costs. Given the work performed in this matter, the extensive information exchange, and substantial recovery obtained on behalf of Plaintiff and the Class, Plaintiff's Counsel achieved a settlement through efficient and diligent work. *See generally,* Valle Decl. At final approval, Plaintiff's Counsel will fully brief the merits of its request for the award of attorneys' fees and litigation costs. *Id.* at ¶ 41.

V. <u>CONCLUSION</u>

The Parties have negotiated a fair and reasonable Settlement of the class claims in light of the risks present in this case. Plaintiff has appropriately presented the materials and information necessary for preliminarily approval, and therefore, respectfully requests that the Court preliminarily approve the Settlement and schedule a date to conduct the final approval hearing.

Dated: February 11, 2026

AEGIS LAW FIRM, PC

By: ______________________________
Alex J. Valle
Attorneys for Plaintiff