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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

PARADICE BROOKS, IGNACIO GOMEZ, and GAIL ANN GAINES, on behalf of themselves, all others similarly situated, and on behalf of the general public, Plaintiffs, vs. BIG BANG ENTERPRISES, INC. dba THE RETAIL OUTSOURCE; BIG BANG ENTERPRISES, INC.; and DOES 1-100, Defendant.	Case No. CIVSB2135164 [Assigned for all Purposes to the Hon. Christian Towns, Dept. S-26] **PLAINTIFFS' NOTICE OF MOTION AND UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT** DATE: December 16, 2025 TIME: 8:30 a.m. DEPT: S-26

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Attorneys for Plaintiffs PARADICE BROOKS, IGNACIO GOMEZ, and GAIL ANN GAINES

TO THIS HONORABLE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on December 16, 2025, at 8:30 a.m. in Department S-26 of the above-captioned court located at 247 West Third Street, San Bernardino, CA 92415, Plaintiffs PARADICE BROOKS, IGNACIO GOMEZ, and GAIL ANN GAINES ("Plaintiffs") will, and hereby do, move for an order:

1. Granting preliminary approval of the proposed Class Action and PAGA Settlement Agreement;
2. Appointing Plaintiffs as the Class Representatives;
3. Appointing Plaintiffs' counsel as Class Counsel;
4. Appointing Phoenix Settlement Administrators as the Settlement Administrator;
5. Approving the form of notice to the Class and Notice Procedures;
6. Setting the hearing date for a Motion for Final Approval.

This motion is made on the ground that the settlement is fair, reasonable, and adequate because it is the product of arm's-length, good-faith negotiations after significant litigation, and given the relative strengths and weaknesses of the claims and defenses, as well as the risks involved in pursuing further litigation. This motion will be based upon this Notice, the accompanying Memorandum of Points and Authorities, Declaration of Reuben D. Nathan ("Nathan Decl."), Declaration of David Mara ("Mara Decl."), Declaration of Joseph Szilagyi ("Szilagyi Decl."), as well as the pleadings and papers on file herein and upon any other matters that may be presented to the Court at the hearing.

Dated: November 20, 2025

Respectfully Submitted,

NATHAN & ASSOCIATES, APC

Reuben D. Nathan
Attorneys for Plaintiffs

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs PARADICE BROOKS ("Brooks"), IGNACIO GOMEZ ("Gomez"), and GAIL ANN GAINES ("Gaines") (collectively, "Plaintiffs") and Defendant BIG BANG ENTERPRISES, INC. ("Defendant" or "BIG BANG") have reached a proposed settlement that resolves this putative wage-and-hour class action and PAGA action and seek preliminary approval of this settlement pursuant to California Code of Civil Procedure §384 and California Rules of Court, Rule 3.769.

BIG BANG is a privately held employment agency. Defendant employed Plaintiff PARADICE BROOKS from approximately April 2019 through August 2019. Defendant employed Plaintiff IGNACIO GOMEZ, from approximately July 2021 through October 2021. Defendant employed Plaintiff GAIL ANN GAINES, from approximately May 2021through September 2021.

The parties have reached a settlement of the claims alleged in the lawsuit on behalf of the following class: All individuals employed in California by Defendant in hourly, non-exempt positions during the Class Period[1].

The settlement class consists of approximately 856 employees and the Settlement provides the settlement class with an average payment of approximately $642.52 gross recovery per class member. The Settlement will also provide a payment of $18,750.00 to the California Labor and Workforce Development Agency (i.e., 75% of the $25,000.00 amount allocated to resolve the PAGA allegations). This is an excellent result for the class, which consists of approximately 856 individuals (current and former similarly situated employees within the statute of limitations) and the LWDA. This Settlement will fully resolve the lawsuit in connection with the claims alleged in the First Amended Complaint ("FAC"). As set forth below, the settlement is fair, reasonable, and adequate, and Plaintiff respectfully requests that the Court grant preliminary approval.

II. NOTICE TO THE LWDA

This Motion, supporting papers, and the Settlement Agreement will be submitted to the LWDA PAGA Portal contemporaneously with the filing of this Motion. Nathan Decl. ¶ 77; Exhibits 4-6 (proofs of submission).

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[1] "Class Period" means July 15, 2016, through August 30, 2025.

III. RELEVANT FACTUAL BACKGROUND

A. The Parties and Plaintiffs' Allegations

Defendant employed Plaintiff PARADICE BROOKS from approximately April 2019 through August 2018. Defendant employed Plaintiff IGNACIO GOMEZ, from approximately July 2021 through October 2021. Defendant employed Plaintiff GAIL ANN GAINES, from approximately May 2021 through September 2021. See Declaration of Reuben D. Nathan ("Nathan Decl.") ¶ 3.

Plaintiffs and all other similarly situated employees were employed by Defendant in non-exempt positions, which are related to Defendant's company. As non-exempt employees, Plaintiffs allege that they were not paid for all hours worked, including minimum wage, on-call time pay, straight time pay, overtime and double overtime pay, and reporting time pay, were not paid their wages timely, denied meal and rest breaks, did not receive proper wage statements, were not paid all wages upon separation, and not reimbursed for all business expenses, had wages unlawfully deducted, were not provided written notice pursuant to Labor Code § 2810.5, that Defendant failed to maintain accurate employment records and failed to adopt a compliant sick pay/paid time off policy. The violations were consistent (i.e., not paid all wages owed including straight time and overtime, premium pay, did not receive proper wage statements, were not paid or reimbursed for business-related expenses) throughout their employment. Nathan Decl. ¶ 4.

The Class Period is from July 15, 2016, through August 30, 2025. See Joint Stipulation of Class Action and PAGA Settlement ("Settlement Agreement") ¶ 5, Ex. 1 to Nathan Decl.

B. Relevant Procedural History [Nathan Decl. ¶¶ 6-14]

On November 14, 2019, and June 25, 2020, Brooks through her attorneys, submitted the original letter and an amended letter to the LWDA for the purpose of complying with California Labor Code § 2699.3's notice requirement. On December 27, 2021, Gomez through his attorneys, submitted a letter to the LWDA for the purpose of complying with California Labor Code § 2699.3's notice requirement. On February 9, 2022, Gaines through her attorneys, submitted a letter to the LWDA for the purpose of complying with California Labor Code § 2699.3's notice requirement. On July 15, 2020, Brooks filed her Class Action Complaint with the Contra Costa Superior Court; Case No. MSC20-01342 ("Brooks Contra Costa Action"). On May 12, 2021, Brooks filed the Second

Amended Complaint in the Brooks Contra Costa Action. On December 28, 2021, Gomez filed his class action Complaint with the San Bernardino Superior Court; Case No. CIVSB2135164 ("Gomez Class Action"), alleging similar claims as alleged by Brooks. On March 8, 2022, Gomez filed his PAGA Complaint with the San Bernardino Superior Court; Case No. CIVSB2204888 ("Gomez PAGA Action"), alleging causes of action as Brooks. On February 10, 2022, Gaines filed the Class Action Complaint with the Contra Costa Superior Court; Case No. MSC22-00281 ("Gaines Action"), alleging causes of action similar to the claims alleged by Brooks and Gomez.

On July 22, 2022, Paradice Brooks, Ignacio Gomez, and Gail Ann Gaines filed the consolidated First Amended Class Action Complaint ("Consolidated FAC") in the Gomez Class Action, alleging causes of action set forth in the First Amended Consolidated Complaint.

On October 27, 2022, the Parties in the Brooks Contra Costa Action filed the Joint Stipulation for Dismissal. On October 28, 2022, the Court in the Brooks Contra Costa Action issued its Order granting the Parties' Joint Stipulation for Dismissal, dismissing the Brooks Contra Costa Action as to Plaintiff's individual claims without prejudice, the putative class claims without prejudice, the PAGA claims without prejudice, and the action in its entirety, without prejudice.

On March 18, 2025, the Parties participated in a full-day mediation with mediator Doug Leach. The Parties did not resolve the case at mediation.

On June 30, 2025, the Parties participated in a half day second session mediation with mediator Doug Leach. The Parties resolved the case at the second session mediation.

C. Discovery and Investigation

Plaintiffs' counsel sought and received information for the number of employees, the number of pay periods, the number of workweeks, dates of employment, the average pay rate, and any meal and rest break premiums paid. As a part of the mediation, Defendant provided information based on the wage and time records for 856 class members. Defendant also provided Plaintiffs with hundred pages of documents and various other forms of data in preparation for mediation based on a 20% sampling. See Nathan Decl. ¶¶ 15; Mara Decl. ¶¶ 16-18.

1. Settlement Negotiations

All of Plaintiffs' counsel's pre-filing investigation and discovery during litigation aided

Plaintiffs in evaluating this case. Plaintiffs were thus able to enter settlement negotiations armed with the information required to settle this matter for a fair and reasonable amount, having thoroughly assessed the risks and prepared an estimated class-wide damages model. On March 18, 2025, the Parties participated in a full-day mediation with mediator Doug Leach, which was resolved on June 30, 2025 in a second session. Nathan Decl. ¶ 16.

Furthermore, Plaintiffs' counsel is familiar with wage and hour class actions that arise with similar claims alleged herein. Plaintiffs' counsel has been counsel of record and settled cases that involve the same groups of employees, issues, and industry. Here there are approximately 856 employees. Nathan Decl. ¶ 17, 69-72; Mara Decl. ¶¶ 2-8; Szilagyi Decl. ¶¶ 3-15. Plaintiffs' counsel's experience in litigating and settling similar wage and hour cases in various industries provided Plaintiffs with a strong foundation to not only appreciate the strengths and the weaknesses of each side's position but also how to value the claims for purposes of a settlement. Nathan Decl. ¶ 18, 69-72; Mara Decl. ¶¶ 2-8; Szilagyi Decl. ¶¶ 3-15.

During the course of the parties' settlement discussions, Defendant was forthcoming with all the necessary information to evaluate the claims in this case. Nathan Decl. ¶ 19.

The parties negotiated the terms of the Settlement Agreement, and the Class Notice. These negotiations lasted for more than one month and the parties encountered numerous difficulties in reaching agreement as to the terms of the settlement and the language of the notice packet. Nevertheless, the parties worked together as best they could to finalize the settlement terms, which are memorialized in the Settlement Agreement. A true and correct copy of the Settlement Agreement (hereinafter "Sett. Agmt.) is attached as Exhibit 1 to the Nathan Decl., which is being filed concurrently herewith. The Class Notice, which consists of a Notice of Class Action and PAGA Settlement and instructions on how to opt-out or object, is attached as Exhibit 2 to the Nathan Decl. The Class Notice is also attached to the Proposed Order as Exh. 1. Nathan Decl. ¶ 20, Exh. 1-2.

The negotiations were conducted at more than arm's-length and the resulting settlement was the outcome of an informed and educated analysis regarding certification and liability issues and the total exposure in relation to the costs and risks affecting Plaintiffs and the Class. This settlement was accomplished after discovery and investigation, with Plaintiffs having invested in extensive factual and legal research, engaged in numerous discussions and exchanges of correspondence, reviewed and analyzed time and payroll records and data, policy documents, and other relevant documents, and conducted extensive negotiations thereafter. It was only after the parties thoroughly assessed the risks that they entered into a well-reasoned settlement. Nathan Decl. ¶ 21.

There were risks and uncertainty regarding several factors in the case, which gave the parties the perspective and the incentive to thoroughly assess the risks of the case. In addition to Defendant's financial position and the fact it no longer does business in California, it is possible that Plaintiffs would not be able to certify all of the claims. Plaintiffs believed it would be straightforward to certify the claim for reimbursement of expenses for cell phones, however, the off-the-clock claim would likely prove more challenging to certify since the payroll records and wage statements on their face appear accurate and employees logged out of the system. Further, many of the rest break policies appeared to be facially compliant, which would present challenges, which is supported by complaint meal and rest break policies. Even if Plaintiffs succeeded in certifying some or all of the claims, there was no guarantee that Plaintiffs would win on the merits, and surviving any post-trial motions or appeals would have come at great litigation costs and expenses to the Class. Nathan Decl. ¶ 22. These factors also support a finding that the settlement is fair and reasonable.

Plaintiffs' counsel thoroughly analyzed all of the available information and documents to evaluate the strength of each claim and prepare a class-wide damages analysis, taking into account the strengths and weaknesses of the parties' positions, the risks of litigation to arrive at this settlement. Nathan Decl. ¶ 23.

IV. SUMMMARY OF SETTLEMENT TERMS

A. The Proposed Settlement Class

The Settlement Class to be conditionally certified shall consist of all individuals employed in California by Defendant in hourly, non-exempt positions at any point between July 15, 2016, through August 30, 2025. Nathan Dec. ¶ 26. See Sett. Agmt. ¶ 5 which is attached to the Nathan Decl. as **Ex. 1**.

B. Relief Provided by the Settlement Agreement

The Gross Settlement Amount is $550,000.00, which will be used to make a $18,750.00

payment to the LWDA (75% of the $25,000 PAGA allocation), and pay the Settlement Administrator's expenses, the Class Representatives' service payments, and Class Counsel's attorneys' fees and costs. Sett. Agmt. ¶¶ 6, 15, 23, 35, 59(a). The Net Settlement Amount is the Gross Settlement Amount, less the Class Counsel Award, Class Representative Service Awards, PAGA Payment, and Settlement Administration Costs. The Net Settlement Amount shall be used to compensate the Class Members. Sett. Agmt. ¶ 17, 18, 59(a)(i). Defendant shall be separately responsible for the employer share of payroll taxes on the Wage Portion of each Settlement Share distributed to the Participating Class Members. Sett. Agmt. ¶ 61. Nathan Decl. ¶ 27, 41, 42.

1. Settlement Allocation Formula

The participating Class Members ("Class Participants") will be paid pursuant to an allocation formula based on the number of workweeks they worked for Defendant during the Class Period. From the Net Settlement Amount, the Settlement Administrator will calculate each Individual Settlement Award by dividing the Net Settlement Amount by the total number of Workweeks, resulting in the Workweek Value; and then multiplying the Workweek Value by the number of Workweeks worked by each Class Member, as defined above. As necessary, and to the extent not already provided by Defendant, the Settlement Administrator will calculate the number of Workweeks worked by the Class Members during the Class Period. The Settlement Administrator will also calculate the amount to be paid per Workweek, and the Individual Settlement Awards to eligible Class Members. All Workweek Disputes will be resolved and decided by the Settlement Administrator, in consultation with Class Counsel and/or Defense Counsel, as appropriate, and subject to review by the Court as needed. Sett. Agmt. ¶ 59(a)(i). Nathan Decl. ¶ 28.

For tax purposes, Individual Settlement Awards shall be allocated as follows: twenty percent (20%) as alleged unpaid wages subject to all applicable tax withholdings; forty percent (40%) as alleged unpaid interest; and forty percent (40%) as alleged unpaid penalties. The Settlement Administrator shall issue an IRS Form W-2 to each Participating Class Member for the portion of each Individual Settlement Award payment allocated as alleged unpaid wages and subject to all applicable tax withholdings. The Settlement Administrator shall issue an IRS Form 1099 to each Participating Class Member including PAGA Member, for the portion of each Individual Settlement

Award including Individual PAGA Payment allocated as alleged unpaid non-wage penalties and interest and not subject to payroll tax withholdings. Sett. Agmt. ¶ 59(a)(v). Nathan Decl. ¶ 29.

2. No Reversion and No Claim Form Required

This is a non-reversionary settlement. Sett. Agmt. ¶ 59(a). To make the relief provided by the Settlement as accessible to Class Members as possible, the Parties have agreed to eliminate the claims process. Sett. Agmt. ¶ 59(a). Each Class Member who does not submit a timely and valid request for exclusion within 45 days after the Notice Packet is first mailed will be automatically mailed a check for his or her pro rata portion of the Settlement. Sett. Agmt. ¶¶ 32, 33. Nathan Decl. ¶ 30.

3. Distribution of Uncashed Settlement Checks

The Settlement Agreement provides that Class Members shall have one-hundred eighty (180) calendar days from the postmark date of the checks to deposit or otherwise cash their settlement checks. After the expiration of the 180-day period to cash/deposit the Individual Settlement Award checks, the Settlement Administrator will prepare the Final Report regarding the distribution of the Gross Settlement Amount as detailed above. The total amount of any uncashed settlement checks will be transmitted to the California State Controller's Office Unclaimed Property Fund, in the name of the individual. Sett. Agmt. ¶ 14, 59(a)(vi). Nathan Decl. ¶ 31.

4. Scope of the Release of Claims

Plaintiffs, Participating Class Members will release all claims arising from the same set of facts alleged in the FAC or in the LWDA letters and as set forth in the Settlement Agreement ¶¶ 30, 55, 56. In addition to the releases of the Released Claims and PAGA Released Claims, Plaintiffs, Plaintiffs expressly waive and relinquish all rights and benefits of section 1542 of the Civil Code of the State of California. Sett. Agmt. ¶¶ 57. The time period covered by the release is July 15, 2016, through August 30, 2025. Sett. Agmt. ¶ 5, 30.

PAGA Members release all claims for penalties under PAGA that arise out of or relate to California Labor Code sections 201 through 203, 204, 205.5, 210, 221, 222, 223, 224, 225.5, 226, 226.7, 233, 234, 246, 510, 512, 558, 1174, 1174.5, 2810.5, 1194, 1197, 1197.1, 1198, 1199, 2751, and 2810.5 as pled in the Operative Complaint and the PAGA Notices, during the PAGA Period (November 14, 2018, through August 30, 2025). Sett. Agmt. ¶¶ 24, 25.

The released parties are defined as:

> Defendant and its respective present and former parents, owners, subsidiaries, and any affiliated or related persons or entities and each of their respective officers, directors, partners, shareholders, attorneys and agents and any other successors, assigns, or legal representatives.
>
> Sett. Agmt. ¶ 31.

The release also includes all claims for PAGA penalties that were alleged or could have been alleged by Plaintiffs based on the facts alleged in the FAC. Sett. Agmt. ¶ 25, 56.

[Nathan Decl. ¶¶ 32 – 37]

C. Requested Attorneys' Fees and Costs and Proposed Service Payments to the Class Representatives

The Settlement Agreement allows Class Counsel to apply for an award of attorneys' fees of not more than 33.33% of the Total Settlement Amount ($183,315) and litigation costs not to exceed $60,000. Sett. Agmt. ¶ 2, 15. Plaintiffs will apply to the Court for a service payment of $10,000 each to compensate Plaintiffs for their time and service to the class. Sett. Agmt. ¶ 6. These amounts are preliminarily reasonable and justified based on the work performed and the costs incurred by Plaintiffs and Plaintiffs' counsel in order to obtain a successful result on behalf of the Class Members. Nathan Decl. ¶¶ 38-39.

To provide further justification for awarding these amounts, Plaintiffs will apply for award of Class Representatives Service Payments, Settlement Administrator's Expenses, and Class Counsel's Attorneys' Fees and Costs to be heard at the Motion for Final Approval. If the Court approves a Class Counsel Fees Payment or a Class Counsel Litigation Expenses Payment of less than these amounts, which are presently $183,315 and $60,000. Sett. Agmt. ¶ 59(a)(iii). Nathan Decl. ¶ 40.

D. Settlement Administration

As explained further in Section IV.B.7 below, the Settlement Agreement provides for Class Members to receive direct notice of the Settlement by mail. *Id*. ¶ 58(a)(i). The notice administration plan will ensure that substantially all of the Class Members will receive notice of the Settlement and will be adequately apprised of and able to exercise their rights and options thereunder. Phoenix Class Administration Solutions ("Phoenix"), an experienced third-party claims administrator, will handle all aspects of the notice process and settlement administration. Phoenix's CV is marked and attached as Exhibit 3 to the Nathan Decl. Class Counsel will also be available to the Class Members to answer their questions and encourage participation. Nathan Decl. ¶ 46.

V. ARGUMENT

A. Legal Standard for Preliminary Approval Under California Law

Under California Code of Civil Procedure § 382 and California Rules of Court, Rule 3.769, California courts require class action settlements to comply with statutory and judicial standards by demonstrating that the settlement is fair, reasonable, and adequate for the class and the public interest. Under the California Code of Civil Procedure § 382, a representative action may be maintained where the questions of law or fact are common to the class, and trial courts must determine whether settlement is fundamentally fair, adequate, and reasonable, considering factors such as class counsel's experience, risks, and the settlement's value to the class (*Sav-On Drug Stores, Inc. v. Superior Court*, 34 Cal.4th 319, 326–327 (2004); *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012); *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 1163, 1172-1173 (2008); *Linder v. Thrifty Oil Co.*, 23 Cal.4th 429, 435-436 (2000)). California Rule of Court 3.769 provides procedural requirements for settlement approval, including notice, an opportunity for objection, and judicial review. California Labor Code §§ 2698–2699.8 ("PAGA") establish a statutory framework for representative claims seeking civil penalties on behalf of the State of California and aggrieved employees.

B. The Settlement Class Should Be Provisionally Certified

During the preliminary approval analysis, the Court determines whether certification of a provisional settlement class is appropriate and whether the settlement is fair. *Carlin v. DairyAmerica, Inc.*, 328 F.R.D. 393, 398-399 (E.D. Cal. 2018) (citing *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011)). Pursuant to Federal Rule of Civil Procedure 23(a), the plaintiff must show that the requirements of numerosity, commonality, typicality, and adequacy of representation are met. The settlement class must also meet one of the requirements of Fed. R. Civ. P. 23(b) and Plaintiffs seek certification under Fed. R. Civ. P. 23(b)(3), which requires that common questions of law or fact predominate over individual questions and that class treatment is a superior method of resolving the controversy. California adopts Fed. R. Civ. P. 23 in terms of the criteria that must be met for class certification. Each of the factors are discussed below. See *Sav-on Drug Stores v. Superior Court*, 34 Cal.4th 319, 326 (2004). Under Cal. Code of Civ. Proc. § 382 and *Sav-On*, the settlement class satisfies ascertainability, community of interest (with predominance), and superiority/"substantial benefits" as recognized by the California Supreme Court.

1. The Settlement Class Is Sufficiently Numerous

The first requirement is that the class be so numerous that joinder of all members would be "impracticable." Numerosity is satisfied with as few as 40 class members. *See Welling v. Allexy*, 155 F.R.D. 654, 656 (N.D. Cal. 1994). Here, numerosity is satisfied because there are approximately 856 class members – all of whom are identifiable from Defendants' records.

2. There Are Common Issues of Law and Fact

Rule 23(a) also requires "questions of law or fact common to the class." Fed. R. Civ. P. 23(a)(2). Here, there are common questions to support include: (1) whether Plaintiffs and the class members worked time for which they were not compensated; (2) whether Plaintiffs and the class members were properly paid all straight time wages; (3) whether Plaintiffs and the class members were paid all overtime for all overtime hours worked; (4) whether Plaintiffs and the class members were timely paid all wages; (5) whether Plaintiffs and the class members were provided with a duty-free meal break of at least 30 minutes for every 5 hours of work; (6) whether Plaintiffs and the class members were provided with a duty-free rest break of at least 10 minutes for every 4 hours of work or major fraction thereof; (7) whether Plaintiffs and the class members were provided with accurate, itemized wage statements; (8) whether Defendant maintained accurate employment records; (9) whether Plaintiffs and the class members were paid all wages due at the time of termination of employment; (10) whether Defendant adopted a compliant sick pay/paid time off policy; (11) whether Plaintiffs and the class members were reimbursed for all expenses incurred while performing work for Defendant; (12) whether Plaintiffs and the class members suffered from unlawful deductions; (13) whether Defendant provided written notice pursuant to Cal. Lab. Code § 2810.5; and (14) whether Defendant engaged in unlawful business practices. These questions are based on alleged policies and practices that apply to the entire class and discrete subclasses. This is sufficient to satisfy the commonality requirement for settlement purposes. *See Stonehocker v. Kindred Healthcare Operating LLC*, 2021 WL 1643226 (N.D. Cal. Apr. 27, 2021) (granting final approval of a settlement involving allegations of off-the-clock work and failure to provide meal and rest breaks).

3. Plaintiffs' Claims Are Typical of the Settlement Class

Under Fed. R. Civ. P. 23(a)(3), Plaintiffs must establish that the "claims or defense of the representative parties are typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). This is a permissive standard that is met so long as the representative claims "are reasonably coextensive with those of absent class members." *Hanlon*, 150 F.3d at 1020. The typicality requirement is met if the claims of the representative plaintiff are typical of the claims of the class. (*See, Fireside Bank v. Superior Court* (2007) 40 Cal. 4th 1069, 1090). Here, the named Plaintiffs seeking to represent the proposed Settlement Class satisfies the typicality requirement because they have held the same positions and assert the same types of injury arising from the same conduct by Defendant as Plaintiffs.

4. Plaintiffs and Their Counsel Will Adequately Represent the Settlement Class

Rule 23 also requires that "the representative parties fairly and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)(4). To satisfy this element, Plaintiffs must establish that: (1) the class representatives do not have a conflict of interest; and (2) class counsel will adequately represent the interests of the class. *See Lerwill v. Inflight Motion Pictures, Inc.*, 582 F.2d 507, 512 (9th Cir. 1978). "Adequacy of representation depends on whether the plaintiff's attorney is qualified to conduct the proposed litigation and the plaintiff's interests are not antagonistic to the interests of the class." *McGhee v. Bank of America*, 60 Cal.App.3d 442, 450-451 (1976). "[A]n essential concomitant of adequate representation is that the party's attorney be qualified, experienced and generally able to conduct the proposed litigation." *Richmond v. Dart Industries, Inc*. (1981) 29 Cal.3d 462, 478-479.

Plaintiffs have no conflict of interest with the Class Members. Plaintiffs performed similar work and were subject to the same policies and practices as the Class Members. Plaintiffs' claims are identical to the claims of the other Class Members and arise from the same course of conduct by Defendant. Plaintiffs have embraced their responsibilities as the class representatives by actively participating in this case, providing documents, identifying potential witnesses, providing valuable information regarding the policies and practices at issue in this case and Defendant's business structure, engaging in the settlement process, and consulting with counsel throughout the litigation. Nathan Decl. ¶ 63. Plaintiffs have devoted considerable time to this litigation and are prepared to continue to do so, demonstrating their commitment to achieving the best possible result for the class.[2] Nathan Decl. ¶ 64. Further, Plaintiffs are represented by qualified and competent counsel, who have the experience and resources necessary to vigorously pursue this action. Nathan Decl. ¶¶ 65, 69-72; Mara Decl. ¶¶ 2-8; Szilagyi Decl. ¶¶ 3-15. Plaintiffs' attorneys have certified many class actions in state and federal court, for both litigation and settlement purposes, and have recovered many millions of dollars on behalf of class members.

5. Common Issues Predominate Over Individualized Issues

Fed. R. Civ. P. 23(b)(3) certification is proper when common questions "predominate over any questions affecting only individual members" and class resolution is "superior to other available methods for the fair and efficient resolution of the controversy." Fed. R. Civ. P. 23(b)(3). Both Rule 23(b)(3)'s predominance and superiority requirements are satisfied for purposes of certifying the proposed Settlement Class. "The Rule 23(b)(3) predominance inquiry tests whether proposed class [is] sufficiently cohesive to warrant adjudication by representation." *Amchem Prods. Inc. v. Windsor*, 521 U.S. 591, 623 (1997). As *Brinker v. Superior Court* 53 Cal. 4th 1004 (2012) explained, the core test for certification is whether "the issues which may be jointly tried, when compared with those requiring separate adjudication, are so numerous or substantial that the maintenance of a class action would be advantageous to the judicial process and to the litigants." *Id*. at 1021 (quoting *Collins v. Rocha*, 7 Cal. 3d 232, 238 (1972)). This motion confirms that Plaintiffs satisfy this test.

This inquiry tests whether the "proposed classes are sufficiently cohesive to warrant adjudication by representation." *Tyson Foods, Inc. v. Bouaphakeo*, 577 U.S. 442, 453 (2016) (quotations omitted). An individual question is defined as "one where members of a proposed class will need to present evidence that varies from member to member." *Id*. A common question, on the other hand, is "one where the same evidence will suffice for each member to make prima facie showing [or] the issue is susceptible to generalized, class-wide proof." *Id*.

/ /

[2] Further details regarding Plaintiffs' work on the case will be presented in a declaration with the motion for final approval.

Here, the legality of the challenged policies and practices involve common questions that can be decided with common proof and will generate an answer common to the entire class. The common questions are set forth in Sect. V(A)(2) above.

If the case were to be litigated, the common proof would include, among other things, employee handbooks, standalone policy documents, performance reviews that reflect productivity rules, and Plaintiffs' and the Class Members' time and payroll records, as well as documents reflecting when employees used their personal cell phones and vehicles while discharging their duties for Defendant. The Class Members would have to individually prove their damages, but "damage calculations alone cannot defeat certification." *Yokoyama v. Midland Nat'l Life Ins. Co.*, 594 F.3d 1087, 1094 (9th Cir. 2010); *Leyva v. Medline Indus., Inc.*, 716 F.3d 510, 513 (9th Cir. 2013) ("damages determinations are individual in nearly all wage-and-hour class actions").

6. A Class Action Is Superior to Individual Actions

Fed. R. Civ. P. 23(b)(3)'s final requirement is "that the class action be superior to other methods of adjudication." This requirement is satisfied because there is no indication that Class Members seek to individually control their cases, that individual litigation is already pending in other forums, or that this particular forum is undesirable for any reason. Rule 23(b)(3)(A)-(D). In addition, the alternative of hundreds of individual actions "is not realistic." *See Wren v. RGIS Inventory Specialists*, 256 F.R.D. 180, 210 (N.D. Cal. 2009). Accordingly, certification of a settlement class is superior to any other method of resolving this matter, since it will promote economy, expediency, and efficiency. California has a strong "public policy that encourages the use of the class action device." *Sav-On Drug*, *supra*, 34 Cal. 4th at 340. There, the Supreme Court counseled that in circumstances such as those in the case at bar, class treatment is superior to individual trials:

> Many of the issues likely to be most vigorously contested in this dispute, as noted, are common ones. Absent class treatment, each individual plaintiff would present in separate, duplicative proceedings the same or essentially the same arguments and evidence, including….The result would be a multiplicity of trials conducted at enormous expense to both the judicial system and the litigants. It would be neither efficient nor fair to anyone…to force multiple trials to hear the same evidence and decide the same issues.

Id. (internal citations omitted). The superiority analysis also includes considerations of whether individual members are likely to come forward and claim a part of the recovery and whether a group action will serve to deter future wrongdoing. *Linder v. Thrifty Oil Co.* (2000) 23 Cal. 4th 429, 445.

There is no better evidence that the case should proceed on a class-wide basis than the fact that if absent class members were to bring their claim individually, they would each rely on the same evidence of Defendant's standard policy of non-payment of wages for all hours worked, failure to pay overtime, failure to reimburse for all business expenses, failure to pay all wages upon separation, and failure to provide meal and rest breaks pursuant to California law.

Although Defendant disagrees that the proposed class would satisfy the requirements for a litigated class action, Defendant does not object to certification of the class for purposes of this settlement. Sett. Agmt. ¶ 43, 54, 69.

7. The Court Should Appoint Plaintiffs as the Class Representatives and Plaintiffs' Counsel as Class Counsel

Because the commonality, typicality, and adequacy requirements of Fed. R. Civ. P. 23(a) are met, Plaintiffs should be appointed as the class representatives. Plaintiffs' counsel should also be appointed to represent the settlement class. The factors that apply in deciding whether to appoint class counsel are: (1) the work counsel has done in identifying or investigating potential claims in the action; (2) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (3) counsel's knowledge of the applicable law; and (4) the resources that counsel will commit to representing the class. Fed. R. Civ. P. 23(g) (1)(A).

As set forth herein, Plaintiffs' counsel conducted a thorough investigation of the claims at issue before filing the complaint and during litigation leading up to this settlement. Plaintiffs' counsel has extensive experience litigating wage-and-hour class actions and representative actions, is well-versed in the applicable law, and has ample resources to dedicate to the case. Nathan Decl. ¶¶ 66-67, 69-72; Mara Decl. ¶¶ 2-8; Szilagyi Decl. ¶¶ 3-15. The firms representing Plaintiffs have vigorously represented the Class Members' interests and will continue to do so.

C. The Settlement Should Be Preliminarily Approved

A class action settlement requires court approval upon a finding that the settlement is fair, reasonable, and adequate. Fed. R. Civ. P. 23(e); *Hanlon*, 150 F.3d at 1026. There are two sources of factors for the fairness analysis: case law, and Federal Rule of Civil Procedure 23(e). The fairness factors established by case law provide that a settlement should be preliminarily approved if it (1) appears to be the product of serious, informed, non-collusive negotiations; (2) has no obvious deficiencies; (3) does not improperly grant preferential treatment to the class representatives or segments of the class; and (4) falls within the range of possible approval. *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1079-1080 (N.D. Cal. 2007).

The relevant factors are under Rule 23(e)(2) are whether: (1) the class representatives and class counsel have adequately represented the class; (2) the proposal was negotiated at arm's length; (3) the relief provided for the class is adequate, taking into account (a) the costs, risks, and delay of trial and appeal; (b) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class members' claims; (c) the terms of any proposed award of attorney's fees, including the timing of the payment; and (d) any agreement required to be identified under Rule 23(e)(3)[3]; and (4) the proposal treats class members equitably relative to each other.

The relative degree of importance of a particular factor depends on "the unique facts and circumstances presented by each individual case." *Officers for Justice v. Civil Serv. Comm'n of City & Cty. of San Francisco*, 688 F.2d 615, 625 (9th Cir. 1982). In applying these factors, the Court should also be guided by the "strong judicial policy' that favors the settlement of class actions." *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992); *Hanlon*, 150 F.3d at 1027 (a settlement is a "private consensual decision of the parties" and the approval analysis is limited to considering whether the settlement is a product of collusion and is fair as a whole).

1. The Settlement Was Negotiated at Arm's Length by Experienced Counsel

The Settlement is the product of protracted arm's-length negotiation by mediating with mediator Doug Leach. Class Counsel advocated vigorously on behalf of the Class throughout the negotiations in order to negotiate a settlement that is in the best interest of the Class Members and provides adequate class-wide relief. Nathan Decl. ¶¶ 16-24. The vigorous negotiations between the Parties resulted in a reasonable compromise that is the product of genuine give and take justified by the facts of this case. Plaintiffs' counsel requested certain information from Defendant in order for the parties to engage in mediation and have any meaningful discussion towards settlement.

[3] There are no agreements to disclose under this rule.

Specifically, Plaintiffs' counsel sought and received information about the number of employees, the number of pay periods, the number of workweeks, dates of employment, the average pay rate, and any meal and rest break premiums paid. Defendant provided information based on the wage and time records for 856 class members. Defendant also provided Plaintiffs with over one hundred pages of document production in order to prepare for mediation. Plaintiffs are represented by highly experienced class action litigators, who believe that the Settlement is an excellent result for the Class Members. Nathan Decl. ¶ 25.

Further, there are no "subtle signs of collusion." *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 947 (9th Cir. 2011). The settlement is non-reversionary and there is no clear sailing provision. The Settlement provides for an attorneys' fee award of up to 33.33% of the Gross Settlement Amount, which is in line with the market rate. *Lealao v. Beneficial California, Inc.*, (2000) 82 Cal. App. 4th 19.

2. The Settlement Provides Excellent Relief for the Class

The Settlement provides a significant monetary relief to the Class Members to compensate them for the alleged wage-and-hour violations at issue in this case. Under California Code of Civil Procedure § 382 and California Rules of Court, Rule 3.769, the Court must determine whether the settlement is fair, reasonable, and adequate for the class and the public interest. Evaluation of the Settlement and analysis of claims, including PAGA penalties allocated pursuant to Labor Code sections 2698–2699.8, is provided in the Nathan Decl. at ¶¶ 47-62. In determining whether to grant preliminary approval, the Court considers the factors established by *Kullar v. Foot Locker Retail, Inc.,* 168 Cal.App.4th 116 (2008); *Moniz v. Adecco USA, Inc.*, 72 Cal.App.5th 56 (2021); and *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794 (1996).

The $25,000 allocation for PAGA penalties, split 75% to the LWDA and 25% for aggrieved employees, is reasonable given the risks specific to the representative claims, including uncertainty regarding liability and challenges to manageability. This allocation reflects a genuine compromise considering potential penalties at issue and complies with *Moniz v. Adecco USA, Inc.*, 72 Cal.App.5th 56, 64 (2021) (requiring PAGA settlements to be "fair, reasonable, and adequate"). Evaluation of risks and strengths underlying this allocation is provided in the Nathan Declaration ¶¶ 56, 57-61.

3. The Settlement Is Non-Reversionary and Checks Will Be Mailed Automatically

The method for distributing relief to the Class Members is simple and effective. The Class Members have been identified from Defendant's employment records and will be mailed automatic payments unless they opt out. No part of the settlement will revert to Defendant. Nathan Decl. ¶ 30.

4. The Process for Uncashed or Unclaimed Funds is Appropriate

Pursuant to California Code of Civil Procedure § 384, the Court must ensure that any distribution of class action settlement funds, including unpaid or unclaimed funds, serves the interests of the Class. In accordance with California law and the terms of the Settlement, any settlement payments issued to participating class members that remain uncashed after the expiration period will be remitted to the California State Controller's Office, Unclaimed Property Fund, as required by statute. This process ensures the residual funds are properly handled for the benefit of the class and in compliance with state escheatment requirements. Nathan Decl. ¶ 31.

5. There Is No Unfair Preferential Treatment of Class Members

The Settlement does not give preferential treatment to any Class Members. The settlement provides for the funds to be allocated to each participating Class Member proportionally based on the number of weeks they worked for Defendant, as shown by Defendant's records. Sett. Agmt. ¶ 59(a)(i). Nathan Decl. ¶ 62.

Further, the proposed incentive award to Plaintiffs is within the range approved by courts in this district. The requested award also accounts for the risk that Plaintiffs took on by filing this lawsuit with the possibility of receiving backlash from other similar companies in this industry.

6. The Proposed Attorneys' Fee Award is Preliminarily Appropriate

Pursuant to the Settlement Agreement, Plaintiffs' counsel will seek attorneys' fees not to exceed $183,315 (33.33% of the Gross Settlement Amount) and actual litigation costs not to exceed $60,000. Sett. Agmt. ¶ 2. Class counsel appreciates that this Court will utilize the period of time before the hearing on final approval to consider any comments from Class Members and inform itself of all aspects of the settlement. Further, at the final approval stage, this Court will rule upon the reasonableness of any attorney's fees, the class representatives' enhancement requests and general release payments, and repayment of costs advanced by Plaintiffs' counsel. In preparation for final approval, Plaintiffs will provide this Court with further briefing pertaining to those requests. Nathan Decl. ¶ 68.

However, at this preliminary stage the requested fee award is less than Class Counsels' lodestar and in line with the market rate. Class Counsel intends to seek attorneys' fees based on a percentage of the common fund, and, consistent with California law, including Code of Civil Procedure section 384 regarding proper distribution and administration of class settlement funds, the Court will cross-check the percentage against the lodestar at the time of final approval as required by *Lealao v. Beneficial California, Inc.*, 82 Cal.App.4th 19, 26-27, and subsequent authority.

The awarded fees and costs will be paid after the settlement has been finally approved and the deadline to file appeals has passed, assuming that no appeals are filed. To the extent the Court awards less than the requested amount of fees and costs, the difference will be distributed *pro rata* to the Class Members. Sett. Agmt. ¶ 59(a)(iii).

7. The Release Is Narrowly Tailored

As set forth above in Section III.B.4, the release is tailored to track the definition of the Class. The Class Members will release all claims arising from the same set of facts alleged in the operative FAC and in Plaintiffs' LWDA letters. Sett. Agmt. ¶ 30. The release period for class claims is from July 15, 2016, through August 30, 2025. Sett Agmt. ¶ 5, 30. Nathan Decl. ¶ 32-37.

8. The Proposed Class Notice, Notice Plan, and Settlement Administrator Are Sufficient

The Class Members have already been identified from Defendant's records and the Class Notice will be mailed to them using the last known mailing address in Defendants' records. Sett. Agmt. ¶ 58(a). Prior to mailing, the Settlement Administrator will perform a search in the National Change of Address database to update the addresses. Sett. Agmt. ¶ 58(a)(i). If a Class Notice is returned because of an incorrect address, the Settlement Administrator will promptly, and not later than five (5) days from receipt of the returned Class Notice, search for a more current address for the Class Member and re-mail the Class Notice to the Class Member. Sett. Agmt. ¶ 58(a)(ii). There will be a 45-day period to opt out of and object to the settlement. Sett. Agmt. ¶ 33. Nathan Decl. ¶ 43.

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The Class Notice (also attached to the Proposed Order) will describe the nature of the action; the definition of the settlement class; the total settlement amount and the proposed deductions for the payment to the LWDA, class representative service award, attorneys' fees and costs, and settlement administration costs; the scope of the release; the formula for calculating individual settlement payments and how to challenge the number of workweeks and pay periods used to calculate the payments; how to participate in, object to, and opt out of the Settlement, and the deadlines for doing so; that Class Members may enter an appearance through an attorney if desired; the binding effect of the judgment on Class Members; information about when and where the final approval hearing will be held, and how to check if the hearing date has changed; and how to obtain further information about the lawsuit and the Settlement. The Class Notice also includes Class Counsel's contact information and the address for the settlement administration website. *Id*. The notice will be sent in English and in Spanish. A true and correct copy of the Class Notice is attached as Exhibit 2 to the Nathan Decl. Nathan Decl. ¶ 44.

In order to request exclusion from the Settlement, Class Members only need to follow the instructions included in the Class Notice, which explains that in order to exclude one's self they "must send a letter, email, or fax with your name, signature, address, telephone number, and the last four digits of your Social Security number, and a statement that clearly states you do not wish to be included in the Settlement," and provides an email address, fax number, and address that the request for exclusion must be sent to and provides the deadline for doing so. The Notice Packet also states that Class Members may submit a written objection to the Settlement Administrator and the deadline for doing so, or alternatively, may appear at the Final Approval hearing in-person to present any objection for the Court to consider. Written objections must state the ground for the objection, and Class Members will also be permitted to make oral objections if they appear at the final approval hearing. Additionally, the Class Notice provides notice that the PAGA portion of the settlement cannot be opted out of. Nathan Decl. ¶ 45.

V. PROPOSED IMPLEMENTATION SCHEDULE

Plaintiffs propose the following implementation schedule for further proceedings:

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a.	Deadline for Defendants to Submit Class List and Data to Settlement Administrator	**Twenty one (21) calendar days after the Court enters an Order Granting Preliminary Approval of the Settlement.**
b.	Deadline for Settlement Administrator to Mail the Notice Packet to Class Members	**Seven (7) calendar days after Defendants provide the Settlement Administrator with the Class List and Data**
c.	Deadline for Class Members to Submit Opt-Out Forms or Objections to Settlement	**Forty-five (45) calendar days after mailing of Notice Packets to Class Members**
e.	Deadline for Class Counsel to file (1) Motion for Final Approval of Class Action Settlement and (2) Motion for Award of Class Representative Enhancement Award, Claims Administrator's Expenses and Attorneys' Fees and Costs	**__________, 2025**
f.	Hearing on: • Motion for Final Approval of Class Action Settlement; • Motion for Award of Class Representative Enhancement Award, Settlement Administrator's Expenses and Attorneys' Fees and Costs	**__________, 2025** **at _______ a.m.**

VI. CONCLUSION

Accordingly, Plaintiffs respectfully request that this Court grant preliminary approval of the proposed settlement, certify the Settlement Class, appoint Plaintiffs as the Class Representatives, appoint Plaintiffs' counsel as Class Counsel, appoint the Settlement Administrator, and approve the Notice Packet and proposed implementation schedule.

Dated: November 20, 2025

Respectfully Submitted,

NATHAN & ASSOCIATES, APC

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