

DOUGLAS HAN (State Bar No. 232858)
SHUNT TATAVOS-GHARAJEH (State Bar No. 272164)
DANIEL J. PARK (State Bar No. 274973)
JUSTICE LAW CORPORATION
411 North Central Avenue, Suite 500
Glendale, California 91203
Telephone: (818) 230-7502
Facsimile: (818) 230-7259

Jong Yun Kim, Esq. (SBN 272176)
LAW OFFICES OF JONG YUN KIM
3600 Wilshire Boulevard, Suite 2226
Los Angeles, California 90010
Telephone: (213) 351-9400
Facsimile: (213) 736-6514

Attorneys for Plaintiffs Sherrie Ward and Kemit Johnson

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

SHERRIE WARD and KEMIT JOHNSON;
individually, an on behalf of other members of
the general public similarly situated,

Plaintiffs,

v.

AMAZON PROCESSING, LLC, a Delaware
Limited Liability Company dba APPSTAR
FINANCIAL; and DOES 1-100, inclusive,

Defendants.

Case No.: 37-2015-00012522-CU-OE-CTL

Assigned for all purposes to
Hon. Timothy Taylor in Dept. C-72

**NOTICE OF MOTION AND UNOPPOSED
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

[Filed concurrently with Declaration of Proposed
Class Counsel (Douglas Han and Jong Yun
Kim); [Proposed] Order]

Date: December 23, 2016
Time: 9:00 a.m.
Place: C-72

Complaint Filed: April 15, 2015
Trial Date: None Set

1 **TO ALL PARTIES AND TO THEIR RESPECTIVE ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on December 23, 2016, at 9:00 a.m., or as soon
3 thereafter as the matter may be heard in Department C-72 of the above-entitled Court, located at 300
4 W. Broadway, San Diego, California 92101, Plaintiffs Sherrie Ward and Kemit Johnson (“Plaintiffs”)
5 will, and hereby do, move this Court for an order:

- 6 • Granting preliminary approval of the proposed class action settlement described herein and
7 as set forth in the parties’ Joint Stipulation and Settlement of Class Action (“Settlement,”
8 “Agreement,” or “Settlement Agreement”), attached as “**EXHIBIT A**” to the Declaration
9 of Jong Yun Kim, including, and not limited to, the means of allocation and distribution of
10 funds, and the allocations for penalties under the California Labor Code Private Attorneys
11 General Act of 2004 (“PAGA”), an award of attorneys’ fees and reimbursement of
12 litigation costs and expenses (“Attorneys’ Fees and Costs”), Class Representative
13 Enhancement Awards, and Settlement Administration Costs;
 - 14 • Certifying the proposed Class for settlement purposes;
 - 15 • Appointing Plaintiffs Sherrie Ward and Kemit Johnson as the Class Representatives;
 - 16 • Appointing Law Offices of Jong Yun Kim and Justice Law Corporation as Class Counsel;
 - 17 • Approving the proposed Notice of Class Action Settlement (“Class Notice”), attached as
18 “Exhibit 1” to the Settlement Agreement;
 - 19 • Approving the propose Exclusion Form, attached as “Exhibit 2” to the Settlement
20 Agreement;
 - 21 • Directing the mailing of the proposed Notice Packet to the Class Members;
 - 22 • Approving the proposed deadlines for the notice and settlement administration process;
 - 23 • Approving Simpluris, Inc. as the Settlement Administrator; and
 - 24 • Scheduling a hearing to consider whether to grant final approval of the Settlement, at
25 which time the Court will also consider whether to grant final approval of the requests for
26 an award of Attorneys’ Fees and Costs, Class Representative Enhancement Awards, and
27 Settlement Administration Costs.
- 28

1 This motion is made pursuant to California Rules of Court, rule 3.769 on the ground
2 that the proposed settlement is within the range of possible final approval, and notice should therefore
3 be provided to the Class. This motion is based upon this notice, the Memorandum of Points and
4 Authorities in Support Thereof, the Declarations of Douglas Han and Jong Yun Kim filed concurrently
5 herewith, any such argument of counsel as may be presented at the hearing on this matter, and all
6 papers and records on file herein.

7
8 DATED: December 1, 2016

JUSTICE LAW CORPORATION

9
10 By: 

Douglas Han
Attorneys for Plaintiffs

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiffs Sherrie Ward and Kemit Johnson (“Plaintiffs”) seek preliminary approval of
4 the Joint Stipulation and Settlement of Class Action (“Settlement”).¹ Subject to Court approval,
5 Plaintiffs and Amazon Processing, LLC (“Defendant”) have agreed to settle their and Class Members’
6 claims on a class-wide basis that provides \$535,272.00 as a guaranteed fund to be paid to the Class
7 without requiring Class Members to submit claim forms or other documentation.

8 For the reasons set forth below, Plaintiffs and Plaintiffs’ counsel believe the Settlement
9 reached by Plaintiffs and Defendant (collectively the “Parties”) is fair, reasonable, and adequate, and
10 thus request that the Court preliminarily approve the Settlement so that the Class may receive the
11 benefits for which the Settlement provides.

12 **II. LEGAL STANDARD**

13 Any settlement of class litigation must be reviewed and approved by the court. Cal.
14 Rules of Court, rule 3.769(a); *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1800 (1996). This is
15 done in two steps: (1) a preliminary review by the court, and (2) a final review and approval by the
16 court after notice has been distributed to the class members for their comment or objections. Cal.
17 Rules of Court, rule 3.769(c)-(f). If the court has not yet certified the action as a class action when
18 settlement is reached, the court must certify the class according to the standards set out in California
19 Code of Civil Procedure § 382, in addition to distributing the settlement notice. Cal. Rules of Court,
20 rule 3.769(d).

21 At the preliminary approval stage, “the judge must make a preliminary determination
22 on the fairness, reasonableness, and adequacy of the settlement terms and must direct the preparation
23 of notice of the certification, proposed settlement, and date of the final fairness hearing.” MANUAL FOR
24 COMPLEX LITIGATION (FOURTH) § 21.632 (2004). A court should grant preliminary approval of a class
25 action settlement where it is within the “range of reasonableness.” Alba Conte & Herbert B. Newberg,
26 *Newberg on Class Actions*, § 11.26 (4th Ed. 2009); *see also Hernandez v. Vitamin Shoppe Indus., Inc.*,

27
28 ¹ A true and correct copy of the Settlement Agreement is attached as **EXHIBIT A** to the Declaration of Jong Yun Kim (“Kim Decl.”).

1
2 174 Cal. App. 4th 1441, 1446 (2009) (finding the proposed settlement was “within the range of
3 reasonableness”).

4 **III. SUMMARY OF THE CASE**

5 **A. Legal and Factual Basis for Plaintiffs’ Claims**

6 Plaintiffs Sherrie Ward and Kemit Johnson are former Sales Consultants of Defendant,
7 who filed a representative PAGA and class action on behalf of all current and former California-based
8 “Independent Consultants,” or persons who held similar job titles and/or performed similar job duties,
9 who provided services for Defendant within the State of California and were classified as independent
10 contractors during the Class Period.

11 Defendant sells and leases credit/debit payment processing systems. Defendant’s
12 operation is based out of San Diego, but hires “Sales Consultants” to sell these payment processing
13 systems throughout the United States.

14 Plaintiffs’ allegations are that, since April 2011, Defendant has violated the California
15 Labor and California Business and Professions Codes by carrying out a uniform practice of
16 misclassifying these “Independent Consultants” as independent contractors. Defendant did not pay
17 any wages other than commissions (if a sale was made), did not provide meal and rest periods, and did
18 not reimburse necessary business expenses. Many consultants stopped work after several weeks as the
19 sales were difficult to make and they were not compensated or reimbursed for their expenses.

20 Plaintiffs’ operative complaint asserts eight class-wide and representative causes of
21 action: (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of
22 California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) Violation of
23 California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (4) Violation of
24 California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid); (5) Violation of California
25 Labor Code § 226(a) (Non-Compliant Wage Statements); (6) Violation of California Labor Code §§
26 2801 and 2802 (Unreimbursed Business Expenses); (7) Violation of California Labor Code §§ 2698,
27 et seq. (Private Attorneys General Act of 2004); and (8) Violation of California Business and
28 Professions Code § 17200, et seq. (“UCL”).

1 Plaintiffs concede that even if Class Members were properly classified as employees,
2 other than the initial training period, they would be exempt from overtime, minimum wage, meal and
3 rest breaks as well as record keeping requirements due to the Outside Sales Exemption. Therefore, the
4 scope of the claims alleged relate to time spent during mandatory training and reimbursement of
5 business expenses.

6 **1. Overtime Wages and Minimum Wages: Training Wages**

7 Plaintiffs allege that they should have been paid for time spent on mandatory training.
8 The training included but was no limited to reviewing and studying the training manual, internet and
9 telephone conference training and additional follow up training. While this time could potentially be
10 exempt due to the independent contractor status and the outside sales exemption. Plaintiffs maintained
11 that due the level of control over their activities and alleged that the mandatory training took place
12 before any selling activities occurred, thus was compensable time.

13 Defendant contends that it has always properly classified Plaintiffs and other Sales
14 Consultants as independent contractors, thus obligated to compensate for training time. Furthermore,
15 Defendant contends that even if Sales Consultants were misclassified they would be exempt under the
16 Outside Sales Exemption.

17 **2. Meal and Rest Breaks**

18 Plaintiffs alleged that they should have been provided meal and rest breaks during the
19 mandatory training time. Because the tele-training is six hours in length, Plaintiffs alleged that they
20 should have been provided at least one meal break and one rest break. Furthermore, Plaintiffs alleged
21 that Defendant has no policy or practice of providing premium pay for missed, short, late, or
22 interrupted meal periods and/or rest breaks.

23 Defendant contends that as to independent contractors it has no obligation to provide
24 meal and rest breaks.

25 ///

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27 ///

1 **3. Accurate Payroll Records**

2 Based on the violations stated above, Plaintiffs assert Defendant has failed to keep
3 accurate records as required under the California Labor Code. Labor Code § 226 addresses record-
4 keeping requirements imposed on employers. More specifically, Labor Code § 226 states:

5 Every employer shall, semimonthly or at the time of each payment of wages, furnish each
6 of his or her employees, either as a detachable part of the check, draft, or voucher paying
7 the employee's wages, or separately when wages are paid by personal check or cash, an
8 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours
9 worked by the employee . . . (4) all deductions, provided that all deductions made on
written orders of the employee may be aggregated and shown as one item, (5) net wages
earned . . . and (9) all applicable hourly rates in effect during the pay period and the
corresponding number of hours worked at each hourly rate by the employee.

10 Cal. Labor Code § 226(a) (emphasis added).

11 Plaintiffs assert that Defendant's failure to properly document all training worked at a
12 proper rate constitutes an intentional violation of Defendant's obligation to document the gross and net
13 wages earned by each member of the Class.

14 Defendant contends that it has no obligation to comply with California Labor Code §
15 226 as Sales Consultants were independent contractors. Moreover, Defendant contends that it
16 complied with all itemized wage statement requirements as mandated under California Labor Code §
17 226.

18 **4. Waiting Time Penalties**

19 Where an employer willfully fails to timely pay wages due to an employee who is
20 discharged or quits, the wages of the employee continue as a penalty for thirty days. Cal. Labor Code
21 § 203(a). An employee who is discharged must be paid any unpaid wages immediately upon
22 termination; an employee who quits must be paid within 72 hours thereafter. Cal. Labor Code §§
23 201(1), 202(a). Based on the allegation that Defendant failed to timely pay overtime and minimum
24 wages for unpaid training time, Plaintiffs assert that the waiting time penalties are justified.

25 Defendant again claim that it had California Labor Code § 203 do not apply to
26 independent contractors. Defendant denies any legal violations and contends that even if any
27 underlying liability is found, there was no "willful" violation to trigger waiting time penalties.

28 ///

1 **5. Failure to Reimburse Business Expenses**

2 Where an employee is required to incur out-of-pocket expenses in direct consequence
3 of discharge of his or her duty, the employer must reimburse its employees for those expenses. Cal.
4 Labor Code § 2802. Plaintiffs alleged that they and other Sales Consultants were required to drive
5 their own vehicles, use their personal cellular phones, use their own office equipment and supplies but
6 were not reimbursed for any business expenses.

7 Defendant contends that no reimbursements must be provided because Plaintiffs and
8 other Sales Consultants were independent contractors responsible for their own expenses.

9 **6. PAGA**

10 PAGA authorizes individual aggrieved employees to recover penalties on behalf of
11 other current and former employees for specified violations of the Labor Code, including all of the
12 claims alleged in Plaintiffs' operative complaint. Cal. Labor Code § 2698 *et seq.* Thus, Plaintiffs need
13 only prevail on one of the claims asserted in order to recover pursuant to PAGA. Additionally, PAGA
14 mandates payment of "an amount sufficient to recover underpaid wages" for violation of California's
15 minimum wage and overtime wage provisions. Cal. Labor Code §§ 558, 1197.1.

16 **C. Investigation and Discovery**

17 The Parties have engaged in diligent investigation and discovery in this matter over the
18 course of fourteen months of litigation. (Declaration of Douglas Han filed concurrently herewith
19 ("Han Decl.") ¶ 7.) (Declaration of Jong Yun Kim filed concurrently herewith ("Kim Decl.") ¶¶ 6-7.)
20 Specifically, Plaintiffs (1) propounded multiple sets of written discovery, including Special
21 Interrogatories and Requests for Production, (2) reviewed voluminous documents (thousands of pages
22 of documents) containing thousands of lines of time and payroll data, and thousands of pages of
23 employment contracts and employment records, (3) reviewed personnel records obtained individually
24 on behalf of Plaintiffs and class members, (4) reviewed Defendant's documents relating to its
25 employment policies and practices, and (5) analyzed putative class data provided by Defendant
26 relating to the number of appointments, commissions plans, number of employees for each year in the
27 Class Period, and number of pay periods affecting class-wide damages and (6) conducted surveys with
28

1 putative class members relating to the claims alleged. (“Han Decl., ¶ 8.) Class Counsel obtained all
2 the information necessary to adequately evaluate the case.

3 There are approximately 841 putative Class Members as of the date of the mediation on
4 June 23, 2016. (Han Decl., ¶ 8.) One hundred and sixty-one (161) putative Class Members negotiated
5 individual settlement payments in exchange for \$79,172.30 (“Releasees”). (Id.) The Releasees are
6 excluded from the Settlement Class but will receive a pro-rata portion of the PAGA payment.

7 **D. Estimate of Actual Loss**

8 Plaintiffs provide this estimate of actual loss, for a comparison of the settlement amount
9 to the actual loss is the appropriate calculation for whether a settlement is within the range of
10 reasonableness. *Glass v. UBS Fin. Svs., Inc.*, 2007 U.S. Dist. LEXIS 8476 at *28 (N.D. Cal. Jan. 26,
11 2007) (holding that a class settlement for a wage and hour action that sought penalties was within the
12 range of reasonableness, as it provided for “approximately 25% to 35% of the estimated actual loss”);
13 *Sullivan v. DB Investments, Inc.*, 667 F.3d 273, 325 (3rd Cir. 2011) (there appears to be “no authority
14 that requires a district court to assess the fairness of a settlement in light of the potential for treble
15 damages.”).

16 **1. Overtime and Minimum Wages: Training Pay**

17 Based upon Plaintiffs’ theory that Defendant failed to pay for mandatory training time,
18 Plaintiffs believe that there was violation of minimum wage and/or overtime. (Han Decl., ¶ 16.)
19 Based upon counsel’s review of Defendant’s mandatory training requirements, Class Members were
20 not paid for approximately 12 hours of mandatory training time.

21 Assuming that the case is certified and Plaintiffs prevail on the misclassification theory,
22 the damages result in \$90,828 (12 hours x \$9.00/hr. x 841 Sales Consultants). (Han Decl., ¶ 17).
23 These are high estimates, based on maximum violation rates, and there are significant risks with
24 respect to certification and appeal, and factual risks with respect to proving up the estimated damages.
25 (Id.) At jury trial, assuming certification is granted and affirmed on possible appeal, Plaintiffs’
26 certified common theories of liability and damage may not result in the full estimated high end of
27 harm. (Id.)

28 ///

1 Defendant's position included, but was not limited to, the fact that the Sales
2 Consultants were independent contractors and were not entitled to hourly wages. (Han Decl., ¶ 18.)
3 Moreover, Defendant argued that the training time alleged was based on suggested time but not actual
4 time spent on training, therefore speculative. (Id.)

5 Plaintiffs would have to apply at least a 50% discount for the certification risk for
6 misclassification theory and further apply a discount based on the argument that the amount of time
7 spent on training is speculative. (Id.)

8 **2. Meal and Rest Breaks**

9 With respect to meal and rest break premiums, Plaintiffs assumed 100% violation rate
10 for each Class Member one meal and rest break violation because the mandatory tele-training was six
11 hours in length. A discount is applied due the fact that if the tele-training is only six hours in length
12 the Class Member could have waived the meal period. (Han Decl., ¶ 19.) Again, Defendant argued
13 that Class Members were properly classified and even if they were not, the Outside Salesperson
14 Exemption would apply to both meal and rest breaks. Counting two premium wages per day on the
15 average hourly rate of \$9.00 per hour, this would result in a total of \$15,138 in unpaid premiums
16 (\$9.00 x 2 premiums per Sales Consultant (841). (Id.)

17 **3. Waiting Time Penalties**

18 Plaintiffs contend that all Class Members who were subject the mandatory training are
19 still owed their unpaid minimum wages. (Han Decl., ¶ 21.) Therefore, Plaintiffs contend that the Class
20 is owed waiting time penalties up to \$4,216.80 per Class Member. (Id.) Even assuming that the case
21 is certified and Plaintiffs prevail on the merits, the damages result in \$1,458,000 (8 hours x \$9.00 x 30
22 x 675 former employees). (Id.) The number of Class Members who are eligible for the waiting time
23 penalties includes six hundred and seventy-five. (Id.) However, this figure assumes one hundred
24 percent violation. Moreover, it assumes a finding of willfulness to justify the penalties.

25 **4. Record Keeping Penalties**

26 Plaintiffs contend that because Defendant had a practice of failing to account for the
27 training time, it failed to accurately record the total hours of work in compliance with Labor Code
28 section 226(a). (Han Decl., ¶ 20.) However, Plaintiffs concede that there was only one violation per

1 Class Member for the very first pay period as they only performed the mandatory training at the
2 beginning of their retention. (Id.) This claim is derivative of the claims addressed above and was
3 provided the same level of discount in the context of settlement. (Id.) The maximum penalties
4 Plaintiffs calculated is based on one pay period for two-hundred and ninety-five (295) eligible Class
5 Members at \$50 dollars per pay period totaling \$14,750. (Id.) Again, this assumes certification and
6 assuming Plaintiffs prevail on the merits of the derivative claims.

7 **5. Reimbursement for Business Expenses**

8 With regard to the reimbursement claim, other than providing the business cards,
9 forms, and contracts, Class Members were required to travel in their own vehicles to and from
10 appointments, use their personal cellular phones, office equipment such as a computer, Internet
11 service, paper, ink, printer. (Han Decl., ¶ 22.) These expenses are required to perform the job such as
12 communicating with clients, supervisors, receiving and obtaining the appointments, printing the
13 contracts, forms, and etc. (Id.) A representative survey of the Class Members revealed that the median
14 out-of-pocket expenses they spent was \$1,080 dollars, which were not reimbursed. On a per week
15 basis, Class Members estimate spending on average of \$156.05. (Id.) The total damages for this claim,
16 using the median estimate for each Class Member results in \$908,280 (\$1,080 x 841). (Id.) This claim
17 is also subject to discount, as Defendant argued that certain expenses are not a reimbursable cost
18 because they can be used for personal purposes and are not an actual requirement. (Id.) Therefore,
19 appropriate discounts were applied to this claim.

20 **6. PAGA Civil Penalties**

21 The Labor Code Private Attorneys General Act, Labor Code sections 2699 *et seq.*,
22 allows Plaintiffs to obtain civil penalties on behalf of themselves and other Settlement Class Members
23 for Defendant's violation of any provision of the Labor Code enumerated under Labor Code section
24 2699.5. Where civil penalties are provided in the statute, those civil penalties are recoverable; where
25 no civil penalties are recoverable, Labor Code section 2699 (f) establishes civil penalties of one (\$100)
26 for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for
27 each aggrieved employee per pay period for each subsequent violation. Pursuant to Labor Code
28 section 2699(i), seventy-five (75) percent of the penalties recovered must be allocated to the Labor and

1 Workforce Development Agency (LWDA), with the remaining twenty-five (25) percent allocated to
2 the affected employees. The limitations period as for all penalties is limited to one year prior to the
3 filing of the complaint.

4 The provisions of the Labor Code potentially triggering PAGA penalties in this case
5 include but are not limited to Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512, 1194
6 and 1198. (Han Decl., ¶ 23.). Defendant asserted that regardless of the results of the other claims,
7 PAGA penalties are not mandatory but permissive. (Id.) Defendant maintained that in addition to its
8 strong arguments against the underlying claims it had a strong argument that, given the current
9 unsettled state of law, it would be unjust to award maximum PAGA penalties. (Id.).

10 Class Counsel calculated damages under this cause of action by multiplying the number
11 of active Class Members (because of the shortened statutory period for this claim), by the civil
12 penalties that each could be awarded for the Labor Code sections enumerated under Labor Code
13 section 2699.5 that were applicable in this case, and then applied discounts in light of the
14 countervailing arguments with regard to the other causes of action, and moreover the Court's power to
15 award "a lesser amount than the maximum civil liability." (Han Decl., ¶ 24.).

16 Given the state of the law and the range of PAGA penalties requested and actually
17 awarded in California courts, it is difficult to determine a reasonable value and actual exposure for
18 PAGA penalties. (Han Decl., ¶ 25.). However, if PAGA penalties are granted on any one of the
19 violations alleged in Plaintiffs' operative complaint, the total penalties exposure for the eligible pay
20 periods could be approximately \$0 to \$29,500 (\$6,300 x 295) or \$0 to \$383,000 for violation of 2802
21 based on the average duration of service of 14 weeks or seven pay periods (\$100 x 295 aggrieved
22 employees x 1 pay period) + (\$200 x 295 x 6 pay periods). (Id.)

23 Plaintiffs calculated Defendant's PAGA exposure using a 100% violation rate based on
24 the number of pay periods during the one-year statutory period. (Han. Decl., ¶ 26.). However, when
25 allocating the actual civil penalties in the Settlement there was significant justification for reduction.
26 Civil penalties cannot be recovered where it would be "unjust, arbitrary, oppressive, or confiscatory."
27 See California Labor Code § 2699(e)(2). In this case, the major theories driving the litigation and
28 settlement was Defendant's alleged misclassification of sales consultants as independent contractors

1 and the derivative claims for meal and rest periods as well as the alleged failure of Defendant to pay
2 for training time and reimburse business expenses. (Id.) These theories resulted in the derivative
3 claims, including Labor Code section 201, 202, 203, and 226(a). (Id.)

4 Given the potentially large PAGA penalties at issue, Plaintiffs recognized the risk that
5 any PAGA award could be significantly reduced. (Id.) Where PAGA penalties are negotiated in good
6 faith and “there is no indication that [the] amount was the result of self-interest at the expense of other
7 Class Members,” such amounts are generally considered reasonable. *Hopson v. Hanesbrands Inc.*,
8 Case No. 08-00844, 2009 U.S. Dist. LEXIS 33900, at *24 (N.D. Cal. Apr. 3, 2009); *see, e.g.*,
9 *Nordstrom Com. Cases*, 186 Cal. App. 4th 576, 579 (20 10) (“[T]rial court did not abuse its discretion
10 in approving a settlement which does not allocate any damages to the PAGA claims.”).

11 **7. Summary of the Risk Analysis and Reasonableness of the Settlement**
12 **Amount.**

13 Excluding the civil penalties for the reasons stated above, the total estimated potential
14 exposure, assuming certification and prevailing at trial, would be approximately \$2,486,996. (Han
15 Decl., ¶ 28.).

Unpaid Wages	\$90,828
Unpaid Premium Wages	\$15,138
Unreimbursed Business Expenses	\$908,280
203 Waiting Time Penalties	\$1,458,000
226 Penalties	\$14,750
Total Potential Exposure	\$2,486,996

16 Applying a 50% risks for certification and an additional 50% on merits the realistic
17 potential exposure is approximately \$621,749. (Id.). The Gross Settlement Amount of \$535,272 is
18 approximately 46 percent of the maximum potential exposure and approximately 86% of the realistic
19 exposure, which are in the ball-park of reasonableness considering the risks and defenses. (Id.).

20 The only question at preliminary approval is whether the settlement is within the range
21 of possible approval. (*In re Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1079 (N.D. Cal. 2007).).
22 “The fact that a proposed settlement may only amount to a fraction of the potential recovery does not,
23 in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.”
24 (*City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495 F. 2d 448, 455, *see also* *Linney v. Ceullar*

1 *Alaska Partnership* (9th Cir. 1998) 151 F.3d 1234,1242 (“(I)t is the very uncertainty of outcome in
2 litigation and avoidance of wasteful and expensive litigation that induce consensual settlements. The
3 proposed settlement is not to be judged against a hypothetical or speculative measure of what might
4 have been achieved by the negotiators.”).).

5 Here, the settlement certainly falls within the range. (Han Decl., ¶ 29.). The parties’
6 Settlement Agreement is fair, free from collusion, and provides a substantial benefit to the Settlement
7 Class. For all the reasons above, Plaintiffs respectfully requests that the Court grant Plaintiffs’
8 unopposed motion for preliminary approval of class action settlement.

9 **D. Arm’s-Length Negotiations**

10 At all times, the Parties negotiated at arm’s-length. The Parties participated in a full-
11 day mediation with Mark S. Rudy, an experienced class action and employment mediator, on June 28,
12 2016. (Han Decl., ¶ 11; Kim Decl., ¶ 10.) While the parties were not able to settle on that date, the
13 mediation ended with a mediator’s proposal, which the parties later accepted. (Id.) The Parties then
14 continued discussions toward drafting a long-form settlement agreement. (Id.)

15 **IV. CLASS CERTIFICATION**

16 The Class is defined as any persons who provided services to Defendant as an
17 independent contractor in California during the period from April 15, 2011 through September 5,
18 2016, excluding Releasees².

19 **A. The Class is Sufficiently Numerous**

20 Based upon Defendant’s representation and Plaintiffs’ review of Defendant’s records,
21 the putative Class consists of approximately 841 persons. Thus, the proposed Class is sufficiently
22 numerous. *Ghazaryan v. Diva Limousine, Ltd.*, 169 Cal. App. 4th 1524, 1531 n.5 (2008).

23 **B. The Class is Ascertainable**

24 “Ascertainability is achieved by defining the class in terms of objective characteristics
25 and common transactional facts making the ultimate identification of class members possible.”
26 *Sevidal v. Target Corp.*, 189 Cal. App. 4th 905, 919 (2010) (internal quotation marks and citations
27

28 ² “Releasees” means those current or former independent contractors who signed a Release Agreement with Defendant during the pendency of this Action.

omitted). “Thus, class members are ‘ascertainable’ where they may be readily identified without unreasonable expense or time by reference to official or business records.” *Id.*

As stated above, the Class is defined as all persons who provided services to Defendant as an independent contractor in California during the Class Period. Here, the Class is readily identified without unreasonable expense for four primary reasons: (1) the class definition is stated in terms that are objectively easy to understand and do not require any specific knowledge of Defendant’s business, (2) all of the independent contractors worked in California, (3) Defendant maintains its records and service contracts such that it can readily identify the Class Members, and (4) Defendant’s entire workforce of independent contractors consists predominately of Class Members. The Class is therefore ascertainable. *Id.* (proposed class definition must provide “an objective means of identifying those persons who will be bound by the results of the litigation”).

C. There Exists a Community of Interests Amongst Class Members

The community interest requirement has three essential elements: (1) predominant questions of law and fact, (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class. *Linder v. Thriftv Oil Co.*, 23 Cal. 4th 429, 435 (2000).

1. Common Questions of Law and Fact Predominate

For common questions of law or fact to predominate, “the issues which may be jointly tried, when compared with those requiring separate adjudication, must be sufficiently numerous and substantial to make the action advantageous to the judicial process and to the litigants.” *Washington Mut. Bank v. Superior Court*, 24 Cal. 4th 906, 913-14 (2001); *see also Medrazo v. Honda of N. Hollywood*, 166 Cal. App. 4th 89, 99-100 (2008) (“Predominance is a comparative concept, and ‘the necessity for class members to individually establish eligibility and damages does not mean individual fact questions predominate.’ [Citations.] Individual issues do not render class certification inappropriate so long as such issues may effectively be managed.”). “The existence of even one significant issue common to the class” has been found sufficient to warrant certification. *Californians for Disability Rights, Inc. v. Cal. Dep’t of Transp.*, 249 F.R.D. 334, 346 (N.D. Cal. 2008).

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1 This action concerns Defendant’s statewide policies and practices that affected all Class
2 Members equally. *See Stephens v. Montgomery Ward*, 193 Cal. App. 3d 411, 421 (1987) (finding that
3 company-wide policies and practices that affected all within the proposed class satisfied the
4 commonality requirement). Plaintiffs contend that Defendant, as a policy and practice, misclassified
5 them as independent contractors and failed to properly pay for all time worked, permit duty-free meal
6 and rest breaks during mandatory training, reimburse for necessary business expenses such as personal
7 cellular phones, mileage, and office expenses. Thus, Plaintiffs contend the only question that needs to
8 be resolved is whether or not Defendant’s policies and practices complied with California law.

9 **2. The Claims of the Named Plaintiffs are Typical of the Claims of the Class**

10 “The test of typicality is whether other members have the same or similar injury,
11 whether the action is based on conduct which is not unique to the named plaintiffs, and whether other
12 class members have been injured by the same course of conduct.” *Martinez v. Joe’s Crab Shack*
13 *Holdings*, 2013 Cal. App. LEXIS 979 at *20 (2013) (internal quotation marks and citations omitted).

14 The requirement is satisfied here, where the claims alleged by Plaintiffs arise from the
15 same course of conduct that gave rise to the claims of other Class Members. Specifically, Plaintiffs’
16 allegations regarding misclassification, unpaid training time, failure to receive duty-free meal periods
17 and rest breaks during mandatory training, and failure to reimburse for business expenses are based
18 upon Defendant’s policies, practices, and procedures that uniformly apply to all other Class Members.
19 Plaintiffs’ claims are typical of the Class as a whole because they arise from the same factual basis and
20 are based on the same legal theory as is applicable to the Class.

21 **3. Class Counsel and the Class Representatives are Adequate**

22 “It is axiomatic that a putative representative cannot adequately protect the class if his
23 interests are antagonistic to or in conflict with the objectives of those he purports to represent.”
24 *Richmond v. Dart Indus., Inc.*, 29 Cal. 3d 462, 470 (1981). “But only a conflict that goes to the very
25 subject matter of the litigation will defeat a party’s claim of representative status.” *Id.*

26 Here, no conflict exists between Plaintiffs and the Class where Plaintiffs contend they
27 have been damaged by the same alleged conduct and have the incentive to fairly represent all Class
28 Members to achieve the maximum possible recovery. Plaintiffs are fully informed of their duties as

1 class representatives and are further aware that they surrendered any right to compromise the group
2 action for their own individual gains. Plaintiffs have spent considerable efforts in this case, including
3 assisting with discovery, gathering evidence, communicating with Class Members, and investigating
4 the facts of the action. Plaintiffs were and remain willing to vigorously prosecute this action to the
5 benefit of the Class.

6 Furthermore, Plaintiffs are represented by counsels who have extensive experience in
7 complex wage-and-hour litigation and have protected the interests of the Class Members. (Han Decl.,
8 ¶¶ 4-5; Kim Decl., ¶¶ 4-5.) Indeed, Plaintiffs’ counsel carefully reviewed thousands of pages of
9 documents, which included policies and voluminous payroll data, has propounded discovery,
10 interviewed numerous Class Members and have carefully analyzed the produced data. (Han Decl., ¶¶
11 7-8). Accordingly, Plaintiffs and Plaintiffs’ counsel are adequate and will continue to fairly and
12 adequately represent the Class.

13 **D. The Class Action Method is the Superior Means of Adjudication**

14 Class actions are the superior method of adjudication when they unify claims that
15 would otherwise require adjudication of numerous separate actions arising out of the same basic facts.
16 *See Jaimez v. Daiohs USA, Inc.*, 181 Cal. App. 4th 1286, 1308 (2010) (“[i]n light of the numerous
17 common issues of fact and law that predominate in this lawsuit, we conclude that proceeding by way
18 of class action is the superior method of adjudication”); *Sav-On Drug Stores, Inc. v. Superior Court*,
19 34 Cal. 4th 319, 326 (2004) (“As alleged, each class member’s claim to unpaid overtime depends on
20 whether he or she worked for defendant during the relevant period in a position that was misclassified
21”). Further, there is recognition by the courts that class actions are encouraged where “absent
22 effective enforcement, the employer’s cost of paying occasional judgments and fines may be
23 significantly outweighed by the cost savings of not paying overtime.” *Gentry v. Superior Court*, 42
24 Cal. 4th 443, 462 (2007).

25 Here, the numerous common issues of law and fact that predominate in this case make
26 class treatment the superior method of adjudication. Plaintiffs’ claims are based on the same system-
27 wide policies, procedures, and practices that apply to all Class Members. This class action will serve
28 to deter further unlawful employment practices on the part of Defendant. For all these reasons, a class

1 action is the superior means of resolving Plaintiffs' and Class Members' claims, and this action should
2 be certified accordingly.

3 **V. THE SETTLEMENT TERMS**

4 **A. Summary of the Terms of the Settlement**

5 The Settlement provides for \$535,272.00³ as the Gross Settlement Amount. ***This is a***
6 ***guaranteed fund.*** Following the deduction of Court-approved attorneys' fees and litigation costs,
7 Settlement Administration costs, Enhancement Award to the Class Representatives, and the PAGA
8 Payment, the Net Settlement Amount will automatically be distributed to all Class Members who do
9 not submit timely and valid requests for exclusion. (Han Decl., ¶ 15.)

10 Each Class Member's Individual Settlement Amount shall be determined based on the
11 number of Appointments Run by the Class Members during the Class Period, divided by the total
12 number of Appointments Run by Class Members during the Class Period, multiplied by the Net
13 Settlement Amount. (Kim Decl., at Exhibit A, Settlement Agreement § E(4)(a).) For Class Members
14 who did not have any Appointments Run, the Settlement Administrator shall allocate a minimum of
15 one appointment to the Class Member. (Id.) The calculation of a Class Member's Appointments Run
16 shall be construed from Defendant's records. For those individuals who received monies in exchange
17 for individual releases per the *Pickup Stix* settlement campaign early in this Action, they will not be
18 able to participate in the settlement other than to receive their pro-rata share of the PAGA Payment.
19 (Id.)(Settlement Agreement § E(2).)

20 The Notice Packet explains to the Class Members all the procedures for the Settlement
21 and will provide the Class Members information as to how they may dispute their dates of
22 employment, or object to, or request exclusion from the Settlement. (Settlement Agreement § D(3).)
23 The Settlement provides forty-five (45) days for Class Members to request exclusion from the
24 Settlement. (Id. at § D(5).) Most, if not all, Class Members reside in the State of California, and thus
25 should receive their Notice Packets within two days of mailing. Because the Class Members are
26
27

28 ³ \$79,172 of the Gross Settlement Amount has already been distributed to Releasees who provided releases in exchange
for monies per the *pickup stix* settlements.

1 limited to California, they are therefore likely to learn of the Settlement simply by word-of-mouth,
2 even in the event any Class Member does not actually receive a Notice Packet.

3 The Settlement provides for an award of attorneys' fees to Plaintiffs' counsel in an
4 amount not to exceed 35% of the Gross Settlement Amount, or \$187,345.20. (Settlement Agreement §
5 E(8).) It also provides for litigation costs, currently estimated at \$20,000. (Id.) The Settlement also
6 provides for a Representative Enhancement Awards to Plaintiffs Sherrie Ward and Kemit Johnson in
7 an amount up to \$5,000 each, subject to approval of the Court at the time of the final approval and
8 fairness hearing. (Id § E(5).)

9 Class Members may request exclusion from the Settlement if they so choose. In the
10 event 5% or more Class Members serve proper and timely Requests for Exclusion prior to the final
11 approval and fairness hearing, Defendant shall have the sole and absolute discretion to void the
12 Settlement. (Settlement Agreement §F(5).)

13 The release is narrowly tailored to any and all claims, debts, liabilities, demands,
14 obligations, costs, expenses, attorneys' fees, interest, penalties, damages, actions or causes of action of
15 every nature and description, whether pled or could have been pled based on the factual allegations in
16 the Complaint and First Amended Complaint or based on the following alleged causes of action: (1)
17 Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of California
18 Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) Violation of California Labor
19 Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (4) Violation of California Labor Code
20 §§ 201 and 202 (Final Wages Not Timely Paid); (5) Violation of California Labor Code § 226(a)
21 (Non-Compliant Wage Statements); (6) Violation of California Labor Code §§ 2801 and 2802
22 (Unreimbursed Business Expenses); (7) Violation of California Labor Code §§ 2698, et seq. (Private
23 Attorneys General Act of 2004); and (8) Violation of California Business and Professions Code §
24 17200, et seq. as well as any potential penalties associated with these causes of action under the
25 California Labor Code (Settlement Agreement § A definition of "Released Claims".)

26 Finally, the Settlement requires Plaintiffs and their counsel to apply for an award of
27 attorneys' fees, costs, and Enhancement Awards by application to the Court. The purpose of the
28 application is to provide Class Members with sufficient information justifying the requested attorneys'

1 fees, costs, and Enhancement Award. The timing will permit Plaintiffs and their counsel to include a
2 summary of the time spent answering questions of Class Members that are received in response to the
3 Notice Packet.

4 **B. Notice to the Class**

5 The Settlement provides that the agreed-upon Settlement Administrator will send by
6 U.S. Mail a copy of the Court-approved Notice Packet to all Class Members. The Settlement
7 Administrator will perform a search based on the National Change of Address Database prior to
8 mailing. (Settlement Agreement, § D(3).) For any Notice Packet returned to the Settlement
9 Administrator as undeliverable, the Settlement Administrator will make reasonable efforts to obtain a
10 valid mailing address by using the social security number of the Class Member and standard skip
11 tracing devices to conduct a search for a correct mailing address. (Id.) Following each search that
12 results in a corrected address, the Settlement Administrator shall promptly resend the original Notice
13 Packet to the Class Member by first-class mail, postage prepaid. (Id.)

14 The Notice Packet provides Class Members with everything they need to know in order
15 to make an informed decision, including (1) a brief explanation of the case, (2) a statement that each
16 Class Member may request exclusion from the Settlement, and the Final Date for Submission of Opt-
17 Outs and Objections, (3) the procedure to request exclusion from the Settlement, (4) a statement that a
18 judgment will bind all Class Members who do not request exclusion from the Class, and (5) a
19 statement that each Class Member may hire his or her own attorney and appear at the Final Approval
20 Hearing. Cal. Rules of Court, rule 3.766(d). (Settlement Agreement, Exhibit 1). The Notice Packet
21 also provides Class Members with an estimate of their respective Individual Settlement Amount, the
22 method by which the Individual Settlement Amount were calculated, and the manner and timing of
23 distribution. (Id.)

24 Parties contemplate posting of the Judgment on the Settlement Administrator's website
25 for a period of 120 after entry in satisfaction of California Rules of Court, Rule 3.771.

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1 **C. Settlement Administration Process**

2 As discussed above, the Settlement is a guaranteed fund. Class Members are not
3 required to submit claims to receive compensation. Thus, the anticipated claims rate is close to 100%,
4 as all persons who do not opt-out of the Settlement will receive their Individual Settlement Payment⁴.

5 The Final Date for Submission of Opt-Outs and Final Date for Submission of
6 Objections are forty-five (45) calendar days from mailing of the Notice Packet. The Response
7 deadline is reasonable. Most, if not all, Class Members reside in the State of California, and thus
8 should receive their Notice Packets within two days of mailing. (Kim Decl., ¶ 21.) Second, because
9 the Class Members are limited to California, they are likely to learn of the Settlement simply by word-
10 of-mouth, even in the event any Class Member does not actually receive a Notice Packet. (Id.)

11 The Parties have agreed on Simpluris, Inc. to handle the notice and settlement
12 administration and respectfully request this Court appoint Simpluris, Inc. to handle these procedures.
13 After Defendant provides the contact information of the Class Members to Simpluris, Inc., it will print
14 and distribute the Notice Packet to the Class Members by First Class mail; establish a mailing address,
15 email address, facsimile number, and telephone number to receive Class Members' inquiries about the
16 proposed Settlement; receive, review, and process opt-out requests or objections to the proposed
17 Settlement; receive and process any written disputes and supporting documentation as to the validity
18 of the information regarding the number of workweeks worked by the Class Members provided by
19 Defendant; handle inquiries from Class Members regarding the proposed Settlement; calculate each
20 Class Member's individual Settlement Payment; mail the payment checks to the Class Members; and
21 perform any other usual and customary duties for administering a class action settlement. The
22 Settlement Administrator's fees and expenses shall be paid out of the Gross Settlement Amount,
23 which is estimated to be \$10,500.00. (Han Decl., ¶ 40.)

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28 ⁴ Any Individual Settlement Payment not cashed within 180 days of issuance will revert to Defendant.

1 **D. Costs, Fees, and Class Representative Enhancement Award**

2 **1. The Requested Attorney's Fees and Costs Are Justified**

3 Plaintiffs' counsel will seek an award of attorneys' fees in the amount of \$187,345.20
4 of the Gross Settlement Amount, as well as a reimbursement of litigation costs not to exceed \$20,000.
5 Plaintiffs' counsel will file a Motion for Attorneys' Fees and Costs with a detailed explanation of the
6 hours worked and tasks performed by Plaintiffs' counsel, in addition to an itemization of the costs
7 incurred.

8 The requested award is commensurate with (1) the risk Plaintiffs' counsel took in
9 commencing this action; (2) the time, effort, and expense dedicated to the case; (3) the skill and
10 special knowledge of Plaintiffs' counsel; and (4) the value of this guaranteed settlement achieved for
11 Class Members.

12 Plaintiffs' counsel faced risk and difficulty on numerous levels. First, it was clear from
13 the outset that this case could be strongly contested and would require the dedication of significant
14 attorney resources to litigate properly and successfully. Second, due to the individual nature of the
15 work performed by Class Members, there was substantial effort to establish common practices among
16 the Class Members for certain claims. Third, Plaintiffs' counsel bore all of the risks and costs of
17 litigation and will not receive any compensation until recovery is obtained.

18 Further, Plaintiffs' counsel expended significant time and effort in the prosecution of
19 this matter, including propounding written discovery; reviewing voluminous documents containing of
20 thousands lines of time and payroll data and documents; reviewing personnel records obtained on
21 behalf of the Class Representatives; interviewing numerous Class Members; reviewing Defendant's
22 documents relating to its employment policies and practices; reviewing Defendant's documents to
23 analyze putative class data provided by Defendant relating to the number of workweeks, hourly pay
24 rates, number of independent contractors for each year in the Class Period, number of pay periods
25 affecting class-wide damages; and preparing a class wide damages analysis and model. (Han Decl., ¶¶
26 6-9; Kim Decl., ¶¶ 6-8.)

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1 Plaintiffs' counsel are well-versed in wage-and-hour class actions, which they practice
2 almost exclusively. Plaintiffs' counsel have been deemed class counsel in numerous class actions in
3 California courts. (Han Decl., ¶¶ 4-5.) Any award of attorneys' fees granted will be shared between
4 Plaintiffs' counsel per agreement. (Han Decl., Exhibit A Disclosure and Client Consent to Fee Split
5 Agreement).

6 **2. Plaintiffs' Enhancement Award Is Warranted**

7 Plaintiffs request that the Court appoint them as the Class Representatives and approve
8 an Enhancement Award in the amount of \$5,000 each. Plaintiffs request that the Court permit Notice
9 to the Class so that the Class may provide input on the appropriateness of the requested Enhancement
10 Award. Plaintiffs will apply to the Court for approval of their Enhancement Award with a detailed
11 explanation of the tasks performed and the hardships endured in this action. However, in order to
12 provide the Court with an understanding why the requested tentative Enhancement Award should be
13 preliminarily approved, Plaintiffs provide as follows:

14 Plaintiff Sherrie Ward commenced this litigation in April 2015 and has been actively
15 involved ever since. In fact, Ms. Ward has expended significant time and resources on this case. (Kim
16 Decl., ¶ 22.) Plaintiff Kemit Johnson was ready and willing to join the litigation when he first
17 contacted Plaintiffs' counsel regarding this matter in September 2015. (Id. at ¶ 23.) While not named
18 as an additional Class Representative until May 2016, he actively participated and spent time and
19 resources on this case. (Id.)

20 "Incentive awards are fairly typical in class actions." *Cellphone Termination Fee*
21 *Cases*, 186 Cal. App. 4th 1380, 1393 (2010) (internal quotation marks and citations omitted). "The
22 rationale for making enhancement or incentive awards to named plaintiffs is that they should be
23 compensated for the expense or risk they have incurred in conferring a benefit on other members of
24 the class." *Id.* at 1394. Particularly in employment class actions, the named plaintiffs should be
25 entitled to an Enhancement Award as an incentive to take the risks associated with pursuing
26 employment claims on behalf of other employees. An award is justified where the plaintiffs are a
27 "present or past employee whose present position or employment credentials or recommendation may
28 be at risk by reason of having prosecuted the suit, who therefore lends his or her name and efforts to

1 the prosecution of litigation at some personal peril.” *Roberts v. Texaco*, 979 F. Supp. 185, 201
2 (S.D.N.Y.1997).

3 The amounts sought by Plaintiffs are warranted in this case. Plaintiffs conferred with
4 counsel on numerous occasions, provided detailed and crucial information in this case, searched for
5 and located relevant documents, and assisted in all aspects of discovery. (Kim Decl., ¶ 24; Han Decl.,
6 ¶ 14.)

7 Further, by being the named representative, Plaintiffs put their name forward on the
8 public record at the risk of possible future adverse employment consequences by future or potential
9 employers who might not choose to hire him because they took the lead in this lawsuit. This, too, is a
10 significant risk that Plaintiffs have borne for the Class of employees who have reaped the benefits of
11 this case without having to face this risk personally themselves. *See Roberts*, 979 F. Supp. at 201.
12 Plaintiffs’ counsel believes this should also be considered in the award of the Class Representative
13 Enhancement Award.

14 Finally, as part of the Settlement, Plaintiffs will provide Defendant with a full and
15 general release of any and all claims, which was not required of Class Members. (Kim Decl., ¶ 24).
16 Plaintiffs thus surrender much more than Class Members by participating in this Settlement.

17 The amount of \$5,000 to each Plaintiff is reasonable given the risks that they took and
18 bore for the Class, and given the benefits they conveyed on the Class Members. Based on the
19 foregoing, Plaintiffs request the Court to preliminarily approve the requested Enhancement Award.

20 **VI. THE SETTLEMENT SHOULD BE PRELIMINARILY APPROVED AS FAIR,**
21 **REASONABLE, AND ADEQUATE**

22 Courts will consider the following non-exhaustive list of factors when making a
23 determination regarding final settlement approval: (1) the strength of the plaintiffs’ claims, (2) the
24 expense, complexity and likely duration of continued litigation, (3) the risk of maintaining class action
25 status through trial, (4) the settlement amount, (5) the stage of the proceedings and extent of any
26 completed discovery, (6) experience and views of respective counsel, and (7) the reaction of the class
27 members to the proposed settlement. *Dunk*, 48 Cal. App. 4th at 1800.

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1 As discussed above, Plaintiffs believe they have strong meritorious claims; however,
2 they recognize the risks associated with continued litigation. In particular, a portion of the damages
3 assessed above are attributable to penalties for violation of Labor Code §§ 203 and 226, which permit
4 good faith defenses and therefore pose a greater hurdle to recovery. Further, courts have broad
5 discretion to reduce the amount of PAGA penalties awarded to an employee based upon discretionary
6 factors other than the employer's ability to pay. *Thurman v. Bayshore Transit Management, Inc.*, 203
7 Cal. App. 4th 1112, 1136 (2012), *cert. denied*, 2012 Cal. LEXIS 5624 (2012).

8 Further, although this litigation has endured for over a year and was approaching a
9 phase of the litigation where Plaintiffs and Plaintiffs' counsel were preparing to file their class
10 certification motion, continued litigation is likely to result in significant expenditure of additional time
11 and resources. Plaintiffs have not yet engaged the services of an expert, which would be required for
12 class certification. Additionally, Plaintiffs have not yet had the opportunity to take the depositions of
13 Person Most Qualified or contact Defendant's Class Member declarants, and may have required
14 additional depositions for this purpose. Thus, the expense and complexity of continued litigation
15 would impose a significant burden on the Parties and the Court, and would likely endure for several
16 years.

17 Counsel for both Parties are of the opinion the Settlement is fair, reasonable, and
18 adequate. The Parties have negotiated a guaranteed Settlement that provides the Class with significant
19 benefit when compared with the risks of continued litigation. Plaintiffs therefore respectfully submit
20 that the Court should preliminarily approve the Settlement as fair, reasonable, and adequate.

21 **VII. CONCLUSION**

22 Based on the foregoing, Plaintiffs respectfully request the Court enter an order granting
23 preliminary approval of the class action Settlement in this action.

24
25 DATED: December 1, 2016

JUSTICE LAW CORPORATION

26
27 By: 

Douglas Han
Attorneys for Plaintiffs

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is nalonsoesteban@justicelawcorp.com

On December 11, 2025, I served the foregoing document described as

**NOTICE OF MOTION AND UNOPPOSED MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINT AND
AUTHORITIES IN SUPPORT THEREOF**

for the following case: **Ward et al v. Amazon Processing, LLC et al.**
LWDA/Court Case No.: **LWDA-CM-296484-17**
Court Case No.: 37-2015-00012522-CU-OE-CTL
San Diego Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

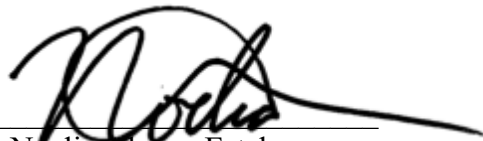
[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 11, 2025, at Pasadena, California.



Noelia Alonso Esteban