

AEGIS LAW FIRM, PC

KASHIF HAQUE, State Bar No. 218672

SAMUEL A. WONG, State Bar No. 217104

JESSICA L. CAMPBELL, State Bar No. 280626

ALEX J. VALLE, State Bar No. 334263

9811 Irvine Center Drive, Suite 100

Irvine, California 92618

Telephone: (949) 379-6250

Facsimile: (949) 379-6251

Email: avalle@aegislawfirm.com

Attorneys for Plaintiffs Dachele Taylor-Bennett,
Ebony Battle, and Clarence Nash, individually,
and on behalf of all others similarly situated.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

DACHELLE TAYLOR-BENNETT,
EBONY BATTLE, and CLARENCE NASH,
individually and on behalf of all others
similarly situated,

Plaintiffs,

vs.

EPISCOPAL COMMUNITY SERVICES;
EPISCOPAL COMMUNITY SERVICES
OF SAN FRANCISCO; and DOES 1
through 20, inclusive,

Defendants.

Case No. CGC-22-599268

*Assigned for all purposes to
Hon. Ethan P. Shulman, Dept. 304*

**PLAINTIFF'S SUPPLEMENTAL
BRIEF IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF
CLASS AND REPRESENTATIVE
ACTION SETTLEMENT**

Date: July 19, 2024

Time: 2:30 p.m.

Dept: 304

1 **I. INTRODUCTION**

2 Plaintiffs Dachele-Taylor-Bennett, Ebony Battle, and Clarence Nash (collectively, “Plaintiffs’)
3 provide this supplemental submission in response to the Court’s April 3, 2024 ruling on Plaintiffs’
4 Motion for Preliminary Approval of Class and Representative Action Settlement. On April 4, 2024, the
5 Court continued the hearing to July 19, 2024 at 2:30 p.m., with instructions to address the concerns
6 outlined in the tentative ruling.

7 Concurrently with this submission, Plaintiffs submit the Declaration of Alex J. Valle and the
8 Declaration of Ebony Battle in support of Plaintiffs’ Supplemental Brief in support of their Motion for
9 Preliminary Approval. Plaintiffs hereby supplement their February 22, 2024 filing, and address the
10 Court’s concerns from its tentative ruling below:

11 **II. THE COURT’S TENTATIVE RULING**

12 **A. Settlement Class Certification**

13 The tentative ruling states, in part:

14 **“The Court finds Plaintiffs demonstrate there is an ascertainable and sufficiently**
15 **numerous class with a well-defined community of interest such that proceeding as a class**
16 **is superior to the alternatives. (See *Brinker Restaurant Corp. v. Super. Ct.* (2012) 53 Cal.4th**
17 **1004, 1021; Code Civ. Proc. § 382.) However, the Court is unable to evaluate whether**
18 **Plaintiff Ebony Battle’s claims are typical of those of the proposed settlement class and**
19 **whether she is adequate to serve as a settlement class representative. On February 21,**
20 **2024, Plaintiffs attempted to file Ebony Battle’s declaration. However, that filing was**
21 **rejected by the Clerk’s Office and was not re-filed. Accordingly, Plaintiffs’ counsel is**
22 **directed to re-file the declaration of Ebony Battle for the Court’s consideration.”**

23 Plaintiffs provide supplemental briefing as follows:

24 Plaintiffs’ counsel apologies for this error, as counsel mistakenly believed that the Declaration of
25 Ebony Battle was accepted by the Clerk’s Office during the February 22, 2024 re-filing of all other
26 documents related to this submission. (Declaration of Alex J. Valle (“Valle Decl.”), ¶ 3.) The
27 Declaration of Ebony Battle is filed herewith. (See Declaration of Ebony Battle.)
28

B. Fairness

The tentative ruling states, in part:

“The parties are required to provide sufficient information for the Court to independently determine whether the settlement is fair. Accordingly, Plaintiffs must describe the evidentiary record that supports the claim valuations provided. (See Campbell Decl. ¶¶ 18-24.) At present, Plaintiffs have not done so. In a supplemental filing, Plaintiffs must provide the calculations for each claim value, the assumptions used in each calculation, and the factual bases for those assumptions.”

Plaintiffs provide supplemental briefing as follows:

Prior to the Parties’ mediation, Plaintiffs reviewed two collective bargaining agreements provided by Defendants that were alleged to cover Class Members, timekeeping and payroll records produced for the Class Members, an employee roster, and Defendant Episcopal Community Services of San Francisco’s employee handbook. (Valle Decl., ¶ 4.) Plaintiffs also analyzed the employment data from the Class Members, including the total number of Class Members, Workweeks, and shifts. (*Id.*)

As a preliminary matter, the damages were extrapolated from records produced that covered the entire Class Period. (Valle Decl., ¶ 5.) The expert extrapolated from records produced to the entire class, which Defendants reported as close to 73,147 workweeks (as of January 27, 2023). (*Id.*) When the calculations below reference “extrapolation” to the class, it means that the expert used the damages amounts calculated for the sample group and multiplied by a factor of about 1.2946 to ensure there was accounting for maximum damages for all Class Members, or 94,695 total workweeks. (*Id.*) After analyzing these records, Plaintiffs calculated Defendants’ maximum exposure as follows:

1. Unpaid Wages Claims.

Plaintiffs’ unpaid wages claims are based on theories of rounding, failure to pay for hours worked, and failure to pay correct overtime wages. (Valle Decl., ¶ 6.)

Rounding Claim: Plaintiffs’ first claim is premised on the theory that Defendants improperly rounded Class Members’ time punches, and such rounding deprived Class Members of pay for hours worked. (Valle Decl., ¶ 7.) The expert found there were approximately 1,705 underpaid regular hours, 11,795 underpaid overtime hours, and 10,558 underpaid double-time hours; and an average rate of pay of

1 \$25.87. (*Id.*) However, Defendants could defeat this claim by showing it had facially neutral time
2 rounding policies. (*Id.*) This argument could be assisted by the records, which showed although their
3 were 1,705 underpaid regular hours, class members were actually overpaid regular hours in the
4 aggregate. (*Id.*) When considering off-setting overpayments, Class Members were only underpaid
5 10,905 overtime hours and 10,432 double-time hours. (*Id.*) After analyzing Defendants' employment
6 data, Plaintiffs' expert approximated that this claim would be valued at around \$445,830 after
7 considering the overpayment of regular hours. (*Id.*) The math is as follows: (\$25.87 regular rate of pay x
8 1.5 overtime x 10,905 underpaid overtime hours = \$423,168) + (10,432 underpaid double-time hours x
9 \$25.87 regular rate of pay x 2 double-time = \$539,751). (*Id.*) \$962,919 in underpaid overtime and double-
10 time hours - \$517,089 in overpaid regular hours (19,998 overpaid regular hours x \$25.87 regular rate of
11 pay) = \$445,830 total amount underpaid. (*Id.*)

12 Defendants also contended that Plaintiffs' claims could not be brought as individual or class
13 action claims because Plaintiffs and the Class Members were part of a union, the union's collective
14 bargaining agreements pre-empted Class Members' claims, the collective bargaining agreement
15 contained an arbitration provision, and Class Members would be required to arbitrate their claims. (Valle
16 Decl., ¶ 7.) After Plaintiffs' counsel analyzed the collective bargaining agreements and researched
17 applicable case law, they believed that although the Class Members were part of a union, the collective
18 bargaining agreement would not pre-empt the class claims or require individual arbitrations in all cases.
19 (*Id.*) Yet, Plaintiffs' counsel took these risks into account when negotiating the settlement, as Plaintiffs'
20 counsel believed the collective bargaining agreements would apply to employees during the vast
21 majority of the Class Period and the entirety of the PAGA Period. (*Id.*)

22 When considering these risks and reviewing Defendants' policies and relevant case law, Plaintiffs
23 believed that they had an approximately 50% chance of certifying this claim and a 25% chance of
24 prevailing at trial before taking into account whether the collective bargaining agreement would cover this
25 cause of action. (Valle Decl., ¶ 7.) Plaintiffs believed that while the risk of preemption was low, it still
26 warranted a reduction of another approximately 10% for this claim due to the risk. (*Id.*) As such, Plaintiffs
27 believed that the realistic value of this claim was \$50,155 (\$445,830 x 0.5 x 0.25 x 0.9). (*Id.*)
28

1 Failure to Pay Wages for Hours Worked: Plaintiffs' next unpaid wages claim was premised on
2 the theory that Class Members were not compensated for undergoing COVID-19 health screenings
3 before clocking in for work. (Valle Decl., ¶ 8.) An expert retained by Plaintiffs' Counsel calculated a
4 potential exposure of approximately \$265,469 for this claim based on Plaintiffs' estimations that they
5 each spent at least 1 minute per day going through workplace temperature checks before beginning their
6 shift and calculating the average rate of pay at \$25.87, and ensuring to calculate overtime or double-
7 time pay where that 1 minute would result in overtime or double-time hours worked. (*Id.*) However,
8 Defendants argued that COVID-19 health screenings were not compensable due to public health
9 mandates and the claim was pre-empted by the collective bargaining agreement. (*Id.*) When considering
10 these risks and reviewing Defendants' policies and relevant case law, Plaintiffs believed that they had an
11 approximately 50% chance of certifying this claim and a 25% chance of prevailing at trial before taking
12 into account whether the collective bargaining agreement would cover this cause of action. (*Id.*) Plaintiffs
13 again believed that while the risk of preemption was low, it still warranted a reduction of another
14 approximately 10% for this claim due to the risk. (*Id.*) As such, Plaintiffs believed that the realistic value
15 of this claim was \$29,865 ($\$265,469 \times .5 \times .25 \times .9$).

16 Overtime Wages Claim: Plaintiffs' overtime claim is mainly premised on the theory that
17 Defendants failed to include non-discretionary attendance bonuses in the regular rates of pay when
18 paying Class Members for overtime hours worked. (Valle Decl., ¶ 9.) After analyzing employees' pay
19 records and attributing all bonuses to Class Members' regular rates of pay, Plaintiffs' expert found that
20 Defendants had underpaid Class Members 78,456 overtime hours, resulting in a total underpayment of
21 \$1,049; 17,557 double-time hours resulting in a total underpayment of \$235; based on the
22 aforementioned claims, 26,886 off-the-clock and rounded hours (including double-time and overtime),
23 resulting in an underpayment of \$611. As a result, the expert estimated that this claim was valued at
24 approximately \$1,895.00. (*Id.*) However, Defendants argued its overtime calculation was correct under
25 the law because the bonuses were discretionary, and the collective bargaining agreement pre-empted
26 this claim. (*Id.*) When considering these risks, Plaintiffs believed that they had an approximately 75%
27 chance of certifying these claims, a 50% chance of prevailing at trial before taking into account whether
28 the collective bargaining agreement would cover this cause action. (*Id.*) Upon review of the collective

1 bargaining agreement, Plaintiffs believed that a reduction of another approximately 90% was warranted
2 for this claim, as there was a strong likelihood that even if Plaintiffs could certify a class on this issue, the
3 collective bargaining agreement could preempt this claim on the merits and severely reduce the potential
4 recovery for Class Members. (*Id.*) As such, Plaintiffs believed that the realistic value of this claim was
5 only approximately \$71 ($\$1,895 \times 0.75 \times 0.5 \times 0.1$). (*Id.*)

6 2. Meal Period Claims.

7 Plaintiffs' meal period claim was premised on the theories that Defendants: (1) automatically
8 deducted one 30-minute meal break per shift from all Class Members; and (2) failed to provide a second
9 meal period for shifts greater than 10 hours in length. (Valle Decl., ¶ 10.) Plaintiffs' expert analyzed
10 the employment data received from Defendants, analyzed the shifts for violations, and extrapolated the
11 results to the class, finding 129,710 shifts with meal period violations for which Defendant did not pay a
12 meal period premium. (*Id.*) Based on the average rate of pay of \$25.87, the expert calculated that the meal
13 period claim was potentially worth approximately \$3,355,597. (*Id.*) However, Defendants argued that
14 Class Members waived their meal periods, they had paid meal premiums for any violation, and that this
15 claim was pre-empted by the collective bargaining agreement. (*Id.*) When considering these risks,
16 Plaintiffs believed that they had an approximately 50% chance of certifying these claims, a 25% chance
17 of prevailing at trial before taking into account whether the collective bargaining agreement preempted
18 this claim, as only around 16,000 of approximately 395,000 shifts exceeded 10 hours in length. (*Id.*) Upon
19 review, the collective bargaining agreement (which included provisions for meal periods) likely would
20 significantly impact this claim, warranting a reduction of another approximately 75% due to the risk. (*Id.*)
21 As such, Plaintiffs believed that the realistic value of this claim was \$314,587 ($\$3,355,597 \times 0.75 \times 0.5 \times$
22 0.25). (*Id.*)

23 3. Rest Period Claims.

24 Plaintiffs' rest break claim was premised on the theory that Defendants only provided rest breaks
25 for every four hours worked, not every major fraction of four hours worked, thereby depriving Class
26 Members of rest breaks. (Valle Decl., ¶ 11.) Plaintiffs assumed a 100% violation rate (or one missed
27 rest break per shift per Class Member) based on the failure to provide rest breaks for every "major
28 fraction thereof" in Defendants' policies, and the practice of failing to permit Class Members to take

1 timely, duty-free rest breaks. (*Id.*) The expert retained by Plaintiffs' counsel analyzed Defendants' data
2 and estimated that the claim was worth approximately \$9,617,870, or 371,777 shifts x the average rate
3 of pay of \$25.87. (*Id.*)

4 However, Defendants argued that whether their policies actually deprived Class Members of rest
5 breaks would require Class Member testimony to prove this claim, and Defendants likely would have
6 obtained opposing declarations stating rest breaks were adequately taken or voluntarily waived,
7 significantly decreasing the likelihood of class certification. (*Id.*; see also, e.g., *Rai v. CVS Caremark*
8 *Corp.* (C.D. Cal. Oct. 11, 2013) 2013 U.S. Dist. LEXIS 177730 (denying certification of rest break
9 claims where competing testimony regarding actual practice meant adjudication would involve
10 predominantly individual issues); *Gonzalez v. OfficeMax North Am.* (C.D. Cal. Nov. 5, 2012) 2012 U.S.
11 Dist. LEXIS 163853, at *9–12 (denying certification on predominance grounds where plaintiff offered
12 no evidence that a uniform rest break policy was implemented uniformly)). Defendants also argued that
13 the collective bargaining agreement pre-empted this claim. (Valle Decl., ¶ 11.) When considering these
14 risks, Plaintiffs believed that they had an approximately 50% chance of certifying these claims, a 25%
15 chance of prevailing at trial before taking into account whether the collective bargaining agreement would
16 preempt this claim, as even if Plaintiffs could certify this claim, Plaintiffs would have a great difficulty
17 proving each Class Member frequently missed at least one rest break per shift. (*Id.*) Upon review,
18 Plaintiffs' counsel determined that the collective bargaining agreement would significantly impact this
19 claim (as it covered rest breaks), which warranted a reduction of another approximately 90%. (*Id.*) As
20 such, Plaintiffs believed that the realistic value of this claim was \$120,223 (\$9,617,870 x 0.5 x 0.25 x
21 0.1). (*Id.*)

22 4. Business Expense Reimbursements.

23 Plaintiffs' failure to reimburse business expenses claim was premised on the theories that
24 Plaintiffs incurred business expenses by using their personal cellphones for work and incurring travel
25 costs associated with using vehicles or public transportation for work purposes. (Valle Decl., ¶ 12.)
26 Assuming a 100% violation rate for all Class Members, Plaintiffs estimated that this claim could be
27 worth approximately \$2,800,000 based on their estimates of spending at least \$50.00 per month in
28 expenses during the Class Period. (*Id.*) However, Defendants could defeat these claims by showing that

1 it provided employees with cell phones for business use, allowed Class Members to seek reimbursement
2 for personal cell phone use, and the travel costs were not common to all Class Members. (*Id.*) When
3 considering these risks, Plaintiffs believed that they had an approximately 40% chance of certifying these
4 claims, a 15% chance of prevailing on the merits. (*Id.*) Plaintiffs' Counsel believed proving at trial that
5 every Class Member was frequently using their personal cell phone and incurring travel costs could be
6 difficult. (*Id.*) As such, Plaintiffs believed that the realistic value of this claim was \$168,000.00
7 (\$2,800,000 x 0.4 x 0.15). (*Id.*)

8 5. Waiting Time and Wage Statement Derivative Penalties.

9 Plaintiffs' Counsel considered the arguable presence of various derivative penalties, and weighed
10 the potential recoveries against probable defenses. (Valle Decl., ¶ 13.) Specifically, Defendants could
11 argue that Plaintiffs could not prove the "willful" prong needed to obtain waiting time penalties under
12 Labor Code § 203; Plaintiffs could not show that Class Members suffered an "injury" as a result of wage
13 statement violations, as required by Labor Code § 226; or that the wage statements correctly reflected the
14 wages paid and owed. (*Id.*) The expert calculated that the Class could have seen a potential payout of
15 approximately \$4,471,698 for waiting time penalties and approximately \$1,189,850 for wage statement
16 penalties. (*Id.*)

17 For the waiting time penalties, Plaintiffs' expert calculated penalties by multiplying the separated
18 employees' daily wage (final rate of pay upon separation) by the number of days that employee was not
19 paid up to a maximum of 30 days. (Valle Decl., ¶ 14.) For the purposes of calculating the derivative
20 penalties here, the expert assumed that none of the terminated employees were paid all wages due given
21 the violations described above. (*Id.*) The expert found that there were 770 terminated employees who
22 earned an average daily pay of \$193.58 (average shift length of approximately 7.48 hours per day x an
23 average final pay rate of \$25.87). (*Id.*) Thus, when multiplied by the statutory limit of 30 days, the expert
24 calculated \$4,471,698 in waiting time penalties. (*Id.*)

25 For the wage statement penalties, the expert assumed a violation in every pay period during the
26 wage statement liability period, and using Class Members' start and end dates of employment, assumed
27 \$50 for each initial penalty, and \$100 for each subsequent penalty. (Valle Decl., ¶ 15.) The calculation
28 included 311 employees who worked 12,054 pay periods within the statute of limitations for this claim.

(*Id.*) The math breaks down to 311 initial pay periods x \$50 per initial violation = \$15,550 for the initial penalties, plus 11,743 subsequent pay periods x \$100 per subsequent violation = \$1,174,300, for a total of \$1,189,850. (*Id.*)

However, Plaintiffs would not recover any of these derivative penalties if they failed to prove the underlying claims, or the collective bargaining agreement covered the underlying claims and reduced any potential recovery. (Valle Decl., ¶ 16.) When considering these risks, Plaintiffs believed that they had an approximately 75% chance of certifying these claims, a 50% chance of prevailing at trial before taking into account whether the collective bargaining agreement would reduce derivative penalties by preempting the theories of liability that comprised the underlying causes of action. (*Id.*) In total, Plaintiffs' Counsel believed the collective bargaining agreements warranted a reduction of another 75% due to preemption issues substantially affecting the overtime, meal period, and rest break claims. (*Id.*) As such, Plaintiffs believed that the realistic value of the wage statement claim was \$111,548 ($\$1,189,850 \times 0.75 \times 0.5 \times 0.25$), and the realistic value of the waiting time claim was \$419,221 ($\$4,471,698 \times 0.75 \times 0.5 \times .25$). (*Id.*)

6. PAGA Claim.

The PAGA claim presented even higher hurdles. (Valle Decl., ¶ 17.) Plaintiffs' expert analyzed the employment data provided by Defendants and found that Defendants' exposure could potentially reach approximately \$1,625,800 under Lab. Code § 2699(f), assuming the initial penalty rate of \$100 for each pay period multiplied by 16,258 total pay periods. (*Id.*) This damages estimate was intended to be extremely liberal and assume the best-case scenario for every aggrieved employee. (*Id.*) However, to recover that amount, Plaintiffs would have to prove a violation in every pay period, which would be difficult given the preemption and individualized issues that affected the aforementioned claims. (*Id.*) Most importantly, the Court would have discretion to reduce the PAGA award based on whether the amount of the award would be "unjust, arbitrary and oppressive, or confiscatory." (Lab. Code § 2699(e)(2).) In theory, the Court could reduce the award by 99% if it so wished. Here, Plaintiffs considered the possibilities that the Court would reduce PAGA penalties, given that Defendants had collectively bargained with the Class Members' labor union, and Defendants operated a non-profit organization that assisted with homelessness, addiction, and mental health care. (Valle Decl., ¶ 17.) As

1 such, Plaintiffs were doubtful they could recover substantial PAGA penalties, especially if a large class
2 judgment was entered for the same violations. (*Id.*)

3 Accordingly, Plaintiffs could not place a high value on the PAGA penalties, and therefore
4 allocated \$100,000 of the Gross Settlement Amount to settle these claims based on the above good faith
5 analysis of the risks present in this case. (Valle Decl., ¶ 18; *see also Hopson v. Hanesbrands Inc.* (N.D.
6 Cal. Apr. 3, 2009) 2009 U.S. Dist. LEXIS 33900 at *24 (finding amount of PAGA penalties reasonable
7 where the amounts are negotiated in good faith and “there is no indication that [the] amount was the
8 result of self-interest at the expense of other Class Members”); *Nordstrom Comm’n Cases* (2010) 186
9 Cal.App.4th 576, 579 (“trial court did not abuse its discretion in approving a settlement which does not
10 allocate any damages to the PAGA claims”).)

11 Thus, given the realistic exposure to Defendants, and the risks present in attempting to recover
12 the fully value of the maximum exposure at trial, the settlement amount of \$1,250,000 is reasonable,
13 fair, and proper.

14 C. Escalator Clause

15 The tentative ruling states, in part:

16 **“The escalator clause impermissibly allows Defendants to unilaterally cut-off or close the**
17 **Class Period in the event the escalator clause is triggered and after the Court grants**
18 **approval. The Court will not approve a provision that authorizes Defendants to**
19 **unilaterally modify a material term of the settlement agreement after the Court has**
20 **granted preliminary approval of its terms. Moreover, allowing Defendants to unilaterally**
21 **cut-off or close the Class Period calls into question the purpose of the escalator clause.**
22 **Accordingly, the Parties are directed to amend the settlement agreement to eliminate**
23 **Defendants’ option to unilaterally cut-off or close the Class Period or to substantially**
24 **modify the escalator clause.”**

25 Plaintiffs provide supplemental briefing as follows:

26 The Parties have amended the Settlement Agreement to remove Defendants’ option to cut-off or
27 close the Class Period. (Valle Decl., at Exh. 1, ¶ 9.) Under the terms of the Amended Settlement
28 Agreement, the Gross Settlement Amount will now automatically increase pro rate per additional

1 Workweek above 78,013 if the escalator clause is triggered. (*Id.*)

2 **D. Notice – Notice Process**

3 The tentative ruling states, in part:

4 **“First, the settlement agreement solely contemplates mail notice. (Campbell Decl. Ex. 1**
5 **¶¶ 1.11, 8.4.2; see id. at Ex. 1 ¶ 1.8 [class data includes mailing addresses].) The parties**
6 **are directed to amend the settlement agreement to include email notice where email**
7 **addresses are available and submit a revised bid from ILYM Group, Inc. that includes**
8 **any costs associated with email notice.**

9 **Second, the settlement agreement and notice should be amended to provide that Class**
10 **Members will be informed of the final determination regarding any workweek disputes.”**

11 Plaintiffs provide supplemental briefing as follows:

12 The Parties amended the Settlement Agreement to include email notice where email addresses are
13 available. (Valle Decl., at Exh. 1 ¶¶ 1.11 & 8.4.2.) The Parties also amended the Settlement Agreement
14 and Class Notice to provide that Class Members will be informed of the final determination regarding any
15 workweek disputes. (*Id.*, at ¶ 8.6 & p. 27.)

16 Moreover, Plaintiff contacted ILYM Group, Inc. and requested a revised bid providing for email
17 notice. (Valle Decl., ¶ 19.) Under the terms of the revised bid, ILYM Group, Inc. will provide email
18 notice, and no additional cost will be passed onto the Class Members as the amount of the Administrator
19 Expenses Payment will still not exceed \$12,000.00. (*Id.*; Valle Decl., at Exh. 3.)

20 **E. Notice Substance & Operative Complaint**

21 The chart below lists each of the Court’s concerns for these sections and the revisions made to
22 address each concern:

<u>Tentative Ruling</u>	<u>Revisions</u>
“Page One: In the first full paragraph, ‘California Private Attorney General Act’ should be ‘California Private Attorneys General Act.’”	The Parties have amended the Class Notice to make this correction. (Valle Decl., at Exh. 1, p. 21.)
“Page Two: Under ‘ Opt-Out of the Class Settlement ,’ the Notice states that Class Members can exclude themselves	The Parties have amended the Class Notice to remove “submitting the

1	from ‘the class settlement (opt-out) by submitting the written	written ‘Request for Exclusion’ or
2	‘Request for Exclusion’ or otherwise notifying the	otherwise” from this paragraph. (Valle
3	Administrator in writing.’ The reference to ‘the written	Decl., at Exh. 1, p. 22.)
4	‘Request for Exclusion’” implies there is a form for Class	
5	Members to complete. However, none is provided. Therefore,	
6	the parties should omit ‘the written ‘Request for Exclusion’ or	
7	otherwise’ from the Notice.”	
8	“Page Two: Under ‘ You Can Opt-out of the Class	The Parties have amended the Class
9	Settlement but not the PAGA Settlement, ’ Class Members	Notice to make this correction. (Valle
10	should be directed to Section 7 of the Notice rather than	Decl., at Exh. 1, p. 22.)
11	Section 6.”	
12	“Section One: This section should include a plain language	The Parties have amended the Class
13	explanation of a class and representative action.”	Notice to explain a class action lawsuit
14		and a PAGA representative action.
15		(Valle Decl., at Exh. 1, p. 23.)
16	“Section Three: Paragraph five directs Class Members to	The Parties have amended the Class
17	‘consult the rules of the [California Controller’s Unclaimed	Notice to direct Class Members to
18	Property] Fund for instructions on how to retrieve’ monies	Section 10 of the Class Notice, which
19	deposited into the Unclaimed Property Fund. The Notice	provides a link to the California State
20	should provide a link or other information about where Class	Controller’s Guidelines for Claiming
21	Members can locate the rules.”	Unclaimed Property. (Valle Decl., at
22		Exh. 1, pp. 25, 30.)
23	“Section Four: In paragraph three, the Notice states that Class	The Parties have amended the
24	Members ‘need to support [their workweek] challenge by	Settlement Agreement to state that
25	sending copies of pay stubs or other records.’ No such	Class Members who challenge the
26	requirement exists in the settlement agreement. Rather, class	calculation of workweeks must provide
27	members are encouraged to submit supporting documentation.	supporting documentation to the
28	(Proposed Settlement ¶ 8.6 [‘The Administrator must	Administrator. (Valle Decl., at Exh. 1,

1 encourage the challenging Class Member to submit	¶ 8.6.)
2 supporting documentation.”].) The notice should be revised to	
3 mirror the settlement agreement or the settlement agreement	
4 should be amended to reflect that Class Members must submit	
5 supporting documentation.”	
6 “Section Eight: Class Members who submit timely written	The Parties have amended the
7 objections must receive notice if the final approval hearing is	Settlement Agreement and Class
8 continued.”	Notice to make these changes. (Valle
9	Decl., at Exh. 1, ¶ 8.7.2 & p. 29.)
10 “Section Nine: The mailing address for Class Counsel is	The Parties have amended the Class
11 incomplete.”	Notice to make this correction. (Valle
12	Decl., at Exh. 1, p. 29.)
13 “The Settlement Agreement refers to the First Amended	The Parties have amended the
14 Complaint as the operative complaint in this action (Campbell	Settlement Agreement to make this
15 Decl. Ex. 1 ¶ 2.1.) However, the operative complaint is the	change, and to clarify that Plaintiff
16 Second Amended Complaint filed February 9, 2024, which	Clarence Nash is now a “named
17 added Clarence Nash as a named Plaintiff. The Parties are	Plaintiff[]” for the purposes of being a
18 directed to amend the settlement agreement to reflect that the	“Class Representative[.]” (Valle Decl.,
19 Second Amended Complaint is the operative complaint.”	at Exh. 1, ¶¶ 1.14 & 2.1.)

F. Class Size

The tentative ruling states, in part:

“Plaintiffs’ counsel declares that there are an estimated 1,151 Class Members. (Campbell Decl. ¶ 9.) The same estimate is included in the settlement agreement. (Id. at Ex. 1 ¶ 4.1.) However, Plaintiffs’ counsel also refers to ‘the other 619 Class Members’ in her declaration (Id. ¶ 25.) Plaintiffs must confirm the estimated class size in the supplemental filing.”

Plaintiffs provide supplemental briefing as follows:

Plaintiffs’ counsel meant to declare that there was an estimated 1,151 Class Members. (Valle Decl.,

¶ 20.)

G. Proposed Order

The tentative ruling states, in part:

“Plaintiffs’ counsel is directed to email a Word-editable version of the proposed order to ComplexLit@sftc.org.”

Plaintiffs provide supplemental briefing as follows:

Plaintiff’s counsel will email a Word-editable version of the proposed order to ComplexLit@sftc.org. (Valle Decl., ¶ 21.)

III. CONCLUSION

Having provided additional information in support of the Motion for Preliminary Approval, the Court is respectfully requested to grant preliminary approval of the Settlement and conduct the final approval hearing on November 15, 2024 at 1:30 p.m.

Dated: May 29, 2024

AEGIS LAW FIRM, PC

By: /s/ Alex J. Valle
Alex J. Valle
Attorney for Plaintiffs