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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY<br>NAME: Jonathan M. Genish<br>FIRM NAME: Blackstone Law, APC<br>STREET ADDRESS: 8383 Wilshire Blvd., Suite 745<br>CITY: Beverly Hills<br>TELEPHONE NO.: (310) 622-4278<br>EMAIL ADDRESS: jgenish@blackstonepc.com<br>ATTORNEY FOR (name): Plaintiff ANGEL RODRIGUEZ<br><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES</b><br>STREET ADDRESS: 312 N. Spring St.<br>MAILING ADDRESS: 312 N. Spring St.<br>CITY AND ZIP CODE: Los Angeles, CA 90012<br>BRANCH NAME: Spring Street Courthouse | STATE BAR NUMBER: 259031<br>STATE: CA ZIP CODE: 90211<br>FAX NO.: (855) 786-6356<br><b>FOR COURT USE ONLY</b> |
| PLAINTIFF/PETITIONER: ANGEL RODRIGUEZ<br>DEFENDANT/RESPONDENT: AMERICAN TEXTILE MAINTENANCE                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                               |
| <p align="center"><b>NOTICE OF ENTRY OF JUDGMENT<br/>OR ORDER</b></p> <p>(Check one): <input checked="" type="checkbox"/> <b>UNLIMITED CASE</b><br/>(Amount demanded exceeded \$35,000)</p> <p><input type="checkbox"/> <b>LIMITED CASE</b><br/>(Amount demanded was \$35,000 or less)</p>                                                                                                                                                                                                                                            | CASE NUMBER:<br>22STCV17855                                                                                   |

**TO ALL PARTIES :**

1. A judgment, decree, or order was entered in this action on (date): December 4, 2024
2. A copy of the judgment, decree, or order is attached to this notice.

Date: December 4, 2024

Jonathan M. Genish

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)
  
 (SIGNATURE)

# EXHIBIT A

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**Civil Division**

Central District, Spring Street Courthouse, Department 9

**22STCV17855**

**ANGEL RODRIGUEZ vs AMERICAN TEXTILE  
MAINTENANCE**

December 4, 2024

9:00 AM

Judge: Honorable Elaine Lu  
Judicial Assistant: R. Arraiga  
Courtroom Assistant: M. Tavakoli

CSR: None  
ERM: None  
Deputy Sheriff: None

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**APPEARANCES:**

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

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**NATURE OF PROCEEDINGS:** Hearing on Motion for Preliminary Approval of Settlement;

On 03/21/2024, the Court notified all parties in this action via Case Anywhere that effective 04/02/2024, Judge Elaine Lu would be temporarily assigned to Department 9 at 312 N. Spring Street, Los Angeles, California 90012, Spring Street Courthouse.

On 12/03/2024, the Court again notified all parties again that Judge Elaine Lu has been temporarily assigned to Department 9, including the instant action. The Court invited all parties to respond to this notice either (a) by indicating on Case Anywhere acceptance of Judge Elaine Lu to preside over the upcoming matters set for hearing on 12/04/2024, or (b) by filing a peremptory challenge under Code of Civil Procedure section 170.6 (if one is still available to that party) prior to the commencement of the hearings. The Court also distributed a tentative ruling on Case Anywhere.

Having been so advised, all parties in this action indicated via Case Anywhere that they each accept the assignment of Judge Elaine Lu to preside over the matters set for hearing on 12/04/2024.

The matter is **NOT** called for hearing.

The Court's tentative ruling was served on the parties via Case Anywhere on 12/03/2024.

The parties submitted to the Court's tentative ruling via the Case Anywhere message on 12/04/2024.

The Court now adopts its tentative **RULING RE: MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** as the final order of the court. Said ruling is filed this date and is incorporated into the case file.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**Civil Division**

Central District, Spring Street Courthouse, Department 9

**22STCV17855**

**ANGEL RODRIGUEZ vs AMERICAN TEXTILE  
MAINTENANCE**

December 4, 2024

9:00 AM

Judge: Honorable Elaine Lu  
Judicial Assistant: R. Arraiga  
Courtroom Assistant: M. Tavakoli

CSR: None  
ERM: None  
Deputy Sheriff: None

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The Court's ruling is as follows:

**The Notice of Motion and Motion for Preliminary Approval of Class Action and PAGA Settlement; Memorandum of Points and Authorities in Support Thereof filed by Angel Rodriguez on 05/20/2024 is Granted.**

The Parties' Motion for Preliminary Approval of Class Action Settlement is **GRANTED** as the settlement is fair, adequate, and reasonable.

The Parties' Motion for Final Approval of Class Action Settlement must be filed and served by **09/04/2025**. Plaintiff must call the Court **PRIOR** to filing and serving to obtain a hearing date.

The Parties' Motion for Final Approval of Class Action Settlement **MUST** include a concurrently lodged **single** document that constitutes a [Proposed] Order and Judgment containing among other things, the class definition, full release language, and names of the any class members who opted out.

If the motion is **NOT** filed and served by said date, subsequently an Order to Show Cause Re: Sanctions hearing may be set.

**A Non-Appearence Case Review Re: Filing and Serving of Motion for Final Approval is scheduled for 09/11/2025 at 08:30 AM in Department 9 at Spring Street Courthouse.**

When the parties submitted to the tentative, Plaintiff was ordered to download the minute order and signed final order from the Court's website and to give further and formal notice to all parties.

# **EXHIBIT B**

**FINAL RULING RE: MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

**Angel Rodriguez v. American Textile Maintenance**

**Case No.: 22STCV17855** [Consolidated with: 22STCV10611]

**Department SSC-9**

**Hon. Elaine Lu**

**Hearing: December 4, 2024**

The Parties' Motion for Preliminary Approval of Class Action Settlement is **GRANTED** as the settlement is fair, adequate, and reasonable.

The essential terms are:

- The Gross Settlement Amount ("GSA") is **\$1,175,000**, non-reversionary. (¶6.p)
- The Net Settlement Amount ("Net") is the GSA minus the following:
  - Up to **\$391,666.66** (33 1/3%) for attorney fees (¶9);
  - Up to **\$30,000** for litigation costs (*ibid.*);
  - Up to **\$15,000 total [\$7,500 each]** for Service Awards to the Named Plaintiffs (¶10);
  - Up to **\$25,000** for settlement administration costs (¶12); and
  - Payment of **\$50,000** PAGA Penalty (75% or \$37,500 to the LWDA; and 25% or \$12,5000 to the Aggrieved Employees). (¶11)
- Employer's share of the payroll taxes on the taxable portion of the settlement payments shall be paid separately from the GSA by Defendant. (¶6.p)
- Plaintiffs shall release Defendants from claims described herein.

The Parties' Motion for Final Approval of Class Action Settlement must be filed by **September 4, 2025**. Plaintiff must call the Court **PRIOR** to filing and serving to obtain a hearing date.

The Parties' Motion for Final Approval of Class Action Settlement must include a concurrently lodged **single** document that constitutes a [Proposed] Order and Judgment containing among other things, the class definition, full release language, and names of the any class members who opted out.

**Non-Appearence Case Review is set for September 11, 2025, 8:30 a.m., Department 9.**

**BACKGROUND**

Plaintiffs Angel Rodriguez and Lucio Menjivar sue their former employer, Defendant American Textile Maintenance Company (doing business as Republic Master Chefs), for alleged wage and hour violations. Defendant is a linen and uniform service that delivers hospitality, healthcare, and retail linen and uniforms. Plaintiffs seek to represent a class of Defendant's current and former non-exempt employees.

On March 28, 2022, Plaintiff Menjivar filed a complaint against Defendant for violation of the California Private Attorneys General Act of 2004, California Labor Code § 2698 et seq. (Case No. 22STCV10611), alleging civil penalties under PAGA for Defendant's alleged failure to pay minimum wages, failure to timely pay wages during employment, failure to pay all wages due upon separation of employment, and failure to furnish accurate itemized wage statements.

On May 31, 2022, Plaintiff Rodriguez filed a Class Action Complaint against Defendant alleging causes of action for Defendant's alleged failure to pay overtime wages, failure to pay minimum wages, failure to provide compliant meal periods and premium payments in lieu thereof, failure to provide compliant rest periods and premiums payments in lieu thereof, failure to provide accurate wage statements, and failure to timely pay wages upon termination, and for violations of California Business & Professions Code Section 17200, et seq. based on the aforementioned California Labor Code violations. On August 4, 2022, Plaintiff Rodriguez filed a First Amended Class Action Complaint which added a cause of action under PAGA.

On May 16, 2023, Plaintiffs and Defendant participated in a formal mediation conducted by Jill R. Sperber, Esq., which did not result in a settlement at that time. After continued negotiations, the parties were able to reach an agreement to resolve the dispute on a class and representative basis. On April 29, 2024, the Court entered a Minute Order which related the *Rodriguez* Action and *Menjivar* Action. On the same date, pursuant to the parties' joint stipulation, the Court entered an Order which consolidated the actions and deemed the *Rodriguez* Action the lead case.

The terms of settlement are finalized in the long-form *Joint Stipulation of Class Action and PAGA Settlement* ("Settlement Agreement"), a copy of which was initially attached to the Declaration of Jonathan M. Genish filed May 20, 2024 ("Genish Decl.") as Exhibit 2.

On August 28, 2024, the Court issued a "checklist" to the parties pertaining to deficiencies in the proposed settlement. In response, the parties filed further briefing, including the First Amended Settlement Agreement attached to the Supplemental Declaration of Jonathan M. Genish filed October 30, 2024 as Exhibit 2.

Now before the Court is the Motion for Preliminary Approval of the Settlement Agreement.

#### **SETTLEMENT CLASS DEFINITION**

- “Class” or “Class Member(s)” means all current and former hourly-paid and/or non-exempt employees who worked for Defendant in the State of California at any time during the Class Period. (¶6.b)
- “Class Period” the period from May 31, 2018 through June 23, 2024. (¶6.f)
- “PAGA Members” means all current and former hourly-paid and/or nonexempt employees who worked for Defendant in the State of California at any time during the PAGA Period. (¶6.x)
- “PAGA Period” means the period from January 18, 2021 through June 23, 2024. (¶6.z)
- “Settlement Class” or “Settlement Class Member(s)” means all Class Members who do not submit a timely and valid Request for Exclusion. (¶6.11)

### **TERMS OF SETTLEMENT AGREEMENT**

#### **The essential terms are as follows:**

- The Gross Settlement Amount (“GSA”) is **\$1,175,000**, non-reversionary. (¶6.p)
  - Escalator Clause: If it is determined by the Settlement Administrator that the total number of Workweeks worked by the Class Members during the Class Period exceeds 110,000, then Defendant shall, at its option, either (a) increase the Gross Settlement Amount on a pro rata basis equal to the percentage increase in the number of Workweeks worked by the Class Members above 110,000 Workweeks; or (b) cap the Class Period and PAGA Period to the date that 110,000 Workweeks is reached but not exceeded. (¶13)
  - At preliminary approval, the settlement administrator represents that the Class List is comprised of 1,481 individuals who worked a total of 109,614 Workweeks. (Decl. of Madely Nava ¶5.) Accordingly, the escalator clause is not triggered.
- The Net Settlement Amount (“Net”) (**\$663,333.34**) is the GSA minus the following:
  - Up to **\$391,666.66** (33 1/3%) for attorney fees (¶9);
  - Up to **\$30,000** for litigation costs (*Ibid.*);
  - Up to **\$15,000 total [\$7,500 each]** for Service Awards to the Named Plaintiffs (¶10);
  - Up to **\$25,000** for settlement administration costs (¶12); and
  - Payment of **\$50,000** PAGA Penalty (75% or \$37,500 to the LWDA). (¶11)
- Defendant shall pay the Employer Taxes separately and in addition to the Gross Settlement Amount. (¶6.p)
- There is no claim form requirement. (Notice p. 1)
- Individual Settlement Payment Calculation: After Final Approval, the Settlement Administrator will divide the final Net Settlement Amount by the Workweeks of all Settlement Class Members to yield the “Final Workweek Value,” and multiply each Settlement Class Member’s individual Workweeks by the Final Workweek Value to each Settlement Class Member’s final Individual Settlement Share. (¶14.b)



- PAGA Payments: Individual PAGA Payments will be calculated and apportioned from the PAGA Member Amount based on the PAGA Member's number of PAGA Workweeks, as follows: The Settlement Administrator will divide the PAGA Member Amount, i.e., 25% of the PAGA Amount, by the PAGA Workweeks of all PAGA Members to yield the "PAGA Workweek Value," and multiply each PAGA Member's individual PAGA Workweeks by the PAGA Workweek Value to yield each PAGA Member's Individual PAGA Payment. (§15)
  - Tax Allocation: Class Members' Individual Settlement Shares will be allocated as follows: 20% as wages, 80% as interest, penalties and non-wage damages. The Administrator will report Individual PAGA Payments on IRS 1099 Forms. (§16)
- Response Deadline: "Response Deadline" means the deadline by which Class Members must submit a Request for Exclusion, Notice of Objection, and/or Workweeks Dispute, which shall be the date that is forty-five (45) calendar days from the initial mailing of the Class Notice by the Settlement Administrator to Class Members, unless the 45th day falls on a Sunday or Federal holiday, in which case the Response Deadline will be extended to the next day on which the United States Postal service is open. In the event that a Class Notice is re-mailed to a Class Member, the Response Deadline for that Class Member shall be extended by fifteen (15) calendar days from the original Response Deadline. (§16.ii)
  - If more than ten percent (10%) of the Class Members submit timely and valid Requests for Exclusion, Defendant, in its sole discretion, shall have the option to rescind the Settlement Agreement. (§29.A)
- Funding of Settlement: As of December 31, 2023, Defendant has deposited the Gross Settlement Amount into a Qualified Settlement Fund ("QSF") within the meaning of Treasury Regulation Section 1.468B-1, et seq., that was established by the Settlement Administrator. Prior to the Effective Date, the Settlement Administrator will notify Defendant of the amount of the Employer Taxes. No later than five (5) business days of the Effective Date and the date the Settlement Administrator notifies Defendant of the amount of the Employer Taxes, whichever is later, Defendant will deposit the Employer Taxes into the QSF. Defendant shall provide all information necessary for the Settlement Administrator to calculate necessary payroll taxes including its official name, 8-digit state unemployment insurance tax ID number, and other information requested by the Settlement Administrator, no later than five (5) business days after the Effective Date. (§32)
- Disbursement: Within five (5) business days of the Effective Date, the Settlement Administrator will issue the Individual Settlement Payments to Settlement Class Members, Individual PAGA Payments to PAGA Members, LWDA Payment to the LWDA, Enhancement Payments to Plaintiffs, Attorneys' Fees and Costs to Class Counsel, and Settlement Administration Costs to itself. In addition, the Settlement Administrator will reimburse to Defendant an amount equal to the interest earned on the Gross Settlement Amount through the date of distribution of the Gross Settlement Amount as reflected above. The Settlement Administrator shall also set aside the Employer Taxes and all employee-side payroll taxes, contributions, and withholding, and timely forward these to the appropriate government authorities. (§33)

- Uncashed Settlement Checks: Each Individual Settlement Payment and Individual PAGA Payment check will be valid and negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and thereafter, shall be canceled. Any funds associated with such canceled checks shall be distributed by the Settlement Administrator to the State of California's Unclaimed Property Division in the name of the Settlement Class Member and/or PAGA Member. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out to Settlement Class Members, whether or not they cash their settlement checks. (¶134)
- The settlement administrator will be Apex Class Action LLC. (¶16.jj)
- Notice of Final Judgment will be posted on the Settlement Administrator's website. (¶138)
- The proposed Settlement Agreement was submitted to the LWDA on October 28, 2024. (Supp. Decl. of Genish, Exhibit 5.)
- Participating class members and the named Plaintiffs will release certain claims against Defendant. (See further discussion below)

### **ANALYSIS OF SETTLEMENT AGREEMENT**

#### **1. Does a presumption of fairness exist?**

1. Was the settlement reached through arm's-length bargaining? On May 16, 2023, Plaintiffs and Defendant participated in a formal mediation conducted by Jill R. Sperber, Esq., which did not result in a settlement at that time. After continued negotiations, the parties were able to reach an agreement to resolve the dispute on a class and representative basis. (Genish Decl. ¶14.)

2. Were investigation and discovery sufficient to allow counsel and the court to act intelligently? Class Counsel represents that prior to mediation, Defendant produced a random 25% sampling of putative class members' time and pay data and records. The random sampling was conducted by sorting putative class members' last names alphabetically, then selecting every third employee until the 25% sampling was met. Defendant also produced relevant wage and hour policies, and information regarding the total number of putative class members, the total number of current putative class members, and the average rate of pay of the putative class members. (*Id.* at ¶26.)

3. Is counsel experienced in similar litigation? Yes. Class Counsel is experienced in class action litigation, including wage and hour class actions. (*Id.* at ¶¶6-7; Declaration of Rana Nader ¶6.)

4. What percentage of the class has objected? This cannot be determined until the fairness hearing. See Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2014) ¶ 14:139.18, ("Should the court receive objections to the proposed settlement, it will consider and either sustain or overrule them at the fairness hearing.").

**CONCLUSION:** The settlement is entitled to a presumption of fairness.

#### **2. Is the settlement fair, adequate, and reasonable?**

1. Strength of Plaintiffs' case. "The most important factor is the strength of the case for plaintiff on the merits, balanced against the amount offered in settlement." (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130.) Here, Class Counsel has provided information, summarized below, regarding the estimated values of the class claims alleged:

| <b>Violation</b>             | <b>Maximum Exposure</b> |
|------------------------------|-------------------------|
| Meal Period Violations       | \$5,396,024             |
| Rest Period Violations       | \$5,469,081             |
| Unpaid Wages (Rounding)      | \$780,655               |
| Unpaid Wages (Off-the-Clock) | \$1,768,984             |
| Unpaid Overtime              | \$56,777                |
| Waiting Time Penalties       | \$3,372,886             |
| Wage Statement Penalties     | \$2,795,650             |
| PAGA Penalties               | \$2,839,000             |
| <b>Total</b>                 | <b>\$22,479,057</b>     |

(Genish Decl. ¶¶29-42.)

2. Risk, expense, complexity and likely duration of further litigation. Given the nature of the class claims, the case is likely to be expensive and lengthy to try. Procedural hurdles (e.g., motion practice and appeals) are also likely to prolong the litigation as well as any recovery by the class members.

3. Risk of maintaining class action status through trial. Even if a class is certified, there is always a risk of decertification. (See *Weinstat v. Dentsply Intern., Inc.* (2010) 180 Cal.App.4th 1213, 1226 ("Our Supreme Court has recognized that trial courts should retain some flexibility in conducting class actions, which means, under suitable circumstances, entertaining successive motions on certification if the court subsequently discovers that the propriety of a class action is not appropriate.").)

4. Amount offered in settlement. Class Counsel estimated Defendant's maximum damages at \$22,479,057 and discounted damages at \$1,573,535 (see Genish Decl. ¶39). Class Counsel obtained a \$1,175,000 non-reversionary settlement. This is approximately 5.2% of Plaintiffs' estimated maximum recovery and 74.7% of the discounted recovery which, given the uncertain outcomes, is within the "ballpark" of reasonableness.

The \$1,175,000 settlement amount, after reduced by the requested deductions, leaves approximately \$663,333.34 to be divided among approximately 1,474 class members. Assuming full participation, the resulting payments will average approximately \$450.02 per class member.

5. Extent of discovery completed and stage of the proceedings. As indicated above, at the time of the settlement, Class Counsel had conducted sufficient discovery.

6. Experience and views of counsel. The settlement was negotiated and endorsed by Class Counsel who, as indicated above, is experienced in class action litigation, including wage and hour class actions.

7. Presence of a governmental participant. This factor is not applicable here.

8. Reaction of the class members to the proposed settlement. The class members' reactions will not be known until they receive notice and are afforded an opportunity to object, opt-out and/or submit claim forms. This factor becomes relevant during the fairness hearing.

CONCLUSION: The settlement can be preliminarily deemed “fair, adequate, and reasonable.”

### **3. Scope of the release**

Class Settlement Release. Upon the Effective Date, Plaintiffs and all Settlement Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims. (¶35)

- “Released Class Claims” means any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, or causes of action which were alleged or which could have been alleged based on the factual allegations in the Rodriguez Operative Complaint, arising during the Class Period, under any federal, state, or local law, and shall specifically include claims for Defendant’s alleged failure to pay overtime wages; failure to pay minimum wages; failure to provide meal periods or compensation in lieu thereof; failure to provide rest periods or compensation in lieu thereof; failure to pay waiting time penalties upon termination; failure to provide accurate wage statements; violation of California Labor Code Sections 201, 202, 203, 226, 226(a), 226(c), 226.7, 226.7(b), 510, 512, 512(a), 1194, 1194.2, 1197, 1197.1, and 1198, and the applicable Industrial Welfare Commission Order; California Business and Professions Code sections 17200, et seq.; and any other claims, including claims for statutory penalties, pertaining to the Class Members. (¶6.ee)
- PAGA Settlement Release. Upon the Effective Date, Plaintiffs, the State of California with respect to all PAGA Members, and all PAGA Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims. (¶36)
  - “Released PAGA Claims” means any and all PAGA claims and/or causes of action which were alleged or could have been alleged based on the factual allegations in the PAGA Letters and Operative Complaints, arising during the PAGA Period, for civil penalties under the Private Attorneys General Act of 2004, California Labor Code sections 2698 et seq., including all claims for attorneys’ fees and costs related thereto, for Defendant’s alleged failure to pay overtime wages; failure to pay minimum wages; failure to provide meal periods or compensation in lieu thereof; failure to provide rest periods or compensation in lieu thereof; failure to pay waiting time penalties during employment and upon termination; failure to provide accurate wage statements; and failure to provide accurate payroll records; and civil penalties pursuant to California Labor Code Sections 210, 226, 226.3, 558, 1174.5, 1197.1, 2698, and 2699 in connection with violations of California Labor Code Sections 201, 202, 203, 204, 226, 226(a), 226.7, 226.7(b), 510, 512, 512(a), 558, 558.1, 1174, 1174(d), 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, and 2802; and Industrial Welfare Commission Wage Order No. 6-2001. (¶6.ff)
  - All PAGA Members will be bound to the PAGA Settlement and will be issued their Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion. (¶26)

- “Released Parties” means Defendant and its present and former officers, directors, members, owners, shareholders, assigns, subsidiaries, attorneys, insurers, successors, predecessors, and affiliates. (¶16.gg)
- Named Plaintiffs will also provide a general release and CC § 1542 waiver. (¶137)

#### 4. May conditional class certification be granted?

##### 1. Standards

A detailed analysis of the elements required for class certification is not required, but it is advisable to review each element when a class is being conditionally certified (*Amchem Products, Inc. v. Windsor* (1997) 521 U.S. 620, 622-627.) The trial court can appropriately utilize a different standard to determine the propriety of a settlement class as opposed to a litigation class certification. Specifically, a lesser standard of scrutiny is used for settlement cases. (*Dunk* at 1807, fn 19.) Finally, the Court is under no “ironclad requirement” to conduct an evidentiary hearing to consider whether the prerequisites for class certification have been satisfied. (*Wershba* at 240.)

##### 2. Analysis

a. Numerosity. There are approximately 1,474 class members. (Genish Decl. ¶17.) This element is met.

b. Ascertainability. The proposed class is defined above. The class definition is “precise, objective and presently ascertainable.” (*Sevidal v. Target Corp.* (2010) 189 Cal.App.4th 905, 919.) The class members are identifiable from Defendant’s records. (Genish Decl. ¶17.)

c. Community of interest. “The community of interest requirement involves three factors: ‘(1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class.’” (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.)

As to commonality, Plaintiffs allege that Defendant denied compliant meal and rest periods to employees, required employees to perform work off-the-clock, and failed to fully compensate employees for all time actually worked, and that Defendant’s policies and practices were uniform as to all Class Members. (MPA at 17:12-25.)

As to typicality, Plaintiffs allege that the claims are similar to that of the other Class Members and that they arise out of the same alleged course of conduct giving rise to the claims of the other Class Members. (*Id.* at 17:26-18:8.)

As to adequacy, each Plaintiff represents that he is aware of the duties and risks of serving as class representative and has participated in the litigation. (Declaration of Angel Rodriguez ¶¶3-11; Amended Declaration of Lucio Menjivar ¶¶4-9.)

d. Adequacy of class counsel. As indicated above, Class Counsel has shown experience in class action litigation, including wage and hour class actions.

e. Superiority. Given the relatively small size of the individual claims, a class action appears to be superior to separate actions by the class members.

CONCLUSION: The class may be conditionally certified since the prerequisites of class certification have been satisfied.

## **5. Is the notice proper?**

1. Content of class notice. The proposed notice is attached to the Settlement Agreement as Exhibit A. Its content appears to be acceptable. It includes information such as: a summary of the litigation; the nature of the settlement; the terms of the settlement agreement; the proposed deductions from the gross settlement amount (attorney fees and costs, enhancement awards, and administration costs); the procedures and deadlines for participating in, opting out of, or objecting to, the settlement; the consequences of participating in, opting out of, or objecting to, the settlement; and the date, time, and place of the final approval hearing.

Notice will be given in English and Spanish. (¶24.a)

### **2. Method of class notice.**

On September 16, 2024, Defendant provided the Class List to the Settlement Administrator. The names, addresses, telephone numbers, and Social Security numbers will only be disclosed to the Settlement Administrator and not to Class Counsel. All information provided to the Settlement Administrator will be marked CONFIDENTIAL. This information shall be kept confidential and shall not be disclosed, either in writing or orally, by the Settlement Administrator. The Settlement Administrator shall use due care with respect to the storage, custody, use, and/or dissemination of the confidential information. Such information must be stored in a secure fashion and all persons who access the data must agree to keep it confidential. (¶23)

Within seven (7) calendar days after receiving the Preliminary Approval Order from Class Counsel, the Settlement Administrator will perform a search based on the National Change of Address Database or any other similar services available, such as provided by Experian, for information to update and correct for any known or identifiable address changes, and will mail a Class Notice in English and Spanish (in the form attached as Exhibit A to the Settlement Agreement) to all Class Members via First-Class U.S. Mail, using the most current, known mailing addresses identified by the Settlement Administrator. (¶24.a)

Any Class Notice returned to the Settlement Administrator as undeliverable on or before the Response Deadline will be sent promptly via First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Class Notice. If no forwarding address is provided, the Settlement Administrator will, within five (5) calendar days of receipt of the returned mail, attempt to determine the correct address using a skip-trace or other search, using the name, address, and/or Social Security number of the Class Member, and perform a single re-mailing. (¶24.b)

3. Cost of class notice. As indicated above, settlement administration costs are estimated not to exceed **\$25,000**. Prior to the time of the final fairness hearing, the claims administrator must submit a declaration attesting to the total costs incurred and anticipated to be incurred to finalize the settlement for approval by the Court.

## **6. Attorney fees and costs**

CRC rule 3.769(b) states: “Any agreement, express or implied, that has been entered into with respect to the payment of attorney fees or the submission of an application for the approval of attorney fees must be set forth in full in any application for approval of the dismissal or settlement of an action that has been certified as a class action.”

Ultimately, the award of attorney fees is made by the court at the fairness hearing, using the lodestar method with a multiplier, if appropriate. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095-1096; *Ramos v. Countrywide Home Loans, Inc.* (2000) 82 Cal.App.4th 615, 625-626; *Ketchum III v. Moses* (2000) 24 Cal.4th 1122, 1132-1136.) Despite any agreement by the parties to the contrary, “the court ha[s] an independent right and responsibility to review the attorney fee provision of the settlement agreement and award only so much as it determined reasonable.” (*Garabedian v. Los Angeles Cellular Telephone Company* (2004) 118 Cal.App.4th 123, 128.)

The question of whether Class Counsel is entitled to **\$391,666.66** (33 1/3%) in attorney fees will be addressed at the fairness hearing when class counsel brings a noticed motion for attorney fees. Class counsel must provide the court with billing information so that it can properly apply the lodestar method and must indicate what multiplier (if applicable) is being sought as to each counsel.

Fee Split: Each Plaintiff represents that he consented to the fee split between the Class Counsel firms in writing. (Decl. of Rodriguez ¶13; Amended Decl. of Menjivar ¶10.)

Class Counsel should also be prepared to justify the costs sought (capped at **\$30,000**) by detailing how they were incurred.

## **7. Incentive Awards**

The Settlement Agreement provides for an enhancement award of up to **\$7,500 each** to the named Plaintiffs. In connection with the final fairness hearing, named Plaintiffs must submit a declaration attesting to why he or she should be entitled to an enhancement award in the proposed amount. The named Plaintiff must explain why he or she “should be compensated for the expense or risk she has incurred in conferring a benefit on other members of the class.” (*Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 806.) Trial courts should not sanction enhancement awards of thousands of dollars with “nothing more than *pro forma* claims as to ‘countless’ hours expended, ‘potential stigma’ and ‘potential risk.’ Significantly more specificity, in the form of quantification of time and effort expended on the litigation, and in the form of reasoned explanation of financial or other risks incurred by the named plaintiff, is required in order for the trial court to conclude that an enhancement was ‘necessary to induce [the named plaintiff] to participate in the suit . . . .’” (*Id.* at 806-807, italics and ellipsis in original.) The Court will decide the issue of the enhancement award at the time of final approval.

## **CONCLUSION**

The Parties’ Motion for Preliminary Approval of Class Action Settlement is **GRANTED** as the settlement is fair, adequate, and reasonable.

The essential terms are:

- The Gross Settlement Amount (“GSA”) is **\$1,175,000**, non-reversionary. (¶16.p)

- The Net Settlement Amount (“Net”) is the GSA minus the following:
  - Up to **\$391,666.66** (33 1/3%) for attorney fees (¶9);
  - Up to **\$30,000** for litigation costs (*ibid.*);
  - Up to **\$15,000 total [\$7,500 each]** for Service Awards to the Named Plaintiffs (¶10);
  - Up to **\$25,000** for settlement administration costs (¶12); and
  - Payment of **\$50,000** PAGA Penalty (75% or \$37,500 to the LWDA; and 25% or \$12,500 to the Aggrieved Employees). (¶11)
- Employer’s share of the payroll taxes on the taxable portion of the settlement payments shall be paid separately from the GSA by Defendant. (¶16.p)
- Plaintiffs shall release Defendants from claims described herein.

The Parties’ Motion for Final Approval of Class Action Settlement must be filed by **September 4, 2025**. Plaintiff must call the Court **PRIOR** to filing and serving to obtain a hearing date.

The Parties’ Motion for Final Approval of Class Action Settlement must include a concurrently lodged **single** document that constitutes a [Proposed] Order and Judgment containing among other things, the class definition, full release language, and names of the any class members who opted out.

**Non-Appearence Case Review is set for September 11, 2025, 8:30 a.m., Department 9.**

THE PLAINTIFF IS ORDERED TO DOWNLOAD THE INSTANT **SIGNED** ORDER FROM THE COURT’S WEBSITE AND TO GIVE NOTICE TO ALL OTHER PARTIES.

IT IS SO ORDERED.

DATED: December 4, 2024




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Elaine Lu  
Judge of the Superior Court



1 **PROOF OF SERVICE**

2 I, Stephany Sinaguinan, certify and declare as follows:

3 I am over eighteen years of age and not a party to the within action; my business address is  
4 8383 Wilshire Blvd, Suite 745, Beverly Hills, California 90211. On December 4, 2024, I served a  
copy of the following document(s):

5 **NOTICE OF ENTRY OF JUDGMENT OR ORDER**

6 on the interested parties as follows:

7 Christine D. Baran  
8 Kyley S. Chelwick  
9 **FISHER AND PHILLIPS LLP**  
2050 Main St., Suite 1000  
Irvine, CA 92614  
10 Telephone: (949) 851-2424  
11 E-mails: cbaran@fisherphillips.com  
kchelwick@fisherphillips.com  
12 nsimpson@fisherphillips.com  
etoller@fisherphillips.com

13 *Attorneys for Defendant*

14  
15 Rana Nader  
Hengameh S. Safaei  
16 **PROXY LAW FIRM LLP**  
10880 Wilshire Boulevard, Suite 1101  
17 Los Angeles, California 90024  
18 Tel: (310) 853-8333 / Fax: (310) 861-5931  
E-mails: nader@proxylawfirm.com  
19 safaei@proxylawfirm.com

20 *Attorneys for Plaintiff Lucio Menjivar*

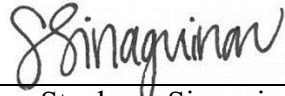
21 ☒ **BY ELECTRONIC SERVICE (CASE ANYWHERE):** I caused said documents to be sent  
22 to the addressees listed above via Case Anywhere. I did not receive, within a reasonable time  
23 after the transmission, any electronic message or other indication that the transmission was  
unsuccessful.

24 State of California, Labor & Workforce Development Agency  
25 Web URL:  
<http://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

26 ☒ **BY ONLINE SUBMISSION:** The foregoing document was transmitted to the California  
27 Labor and Workforce Development Agency through the online system established for the  
28 submission of notices and documents, in conformity with California Labor Code section  
2699(l). I did not receive any electronic message or other indication that the transmission was  
unsuccessful.

1    ☒    **STATE** – I declare under penalty of perjury under the laws of the State of California that the  
2    above is true and correct.

3    Executed on December 4, 2024 at Beverly Hills, California.

4    

5    \_\_\_\_\_  
6    Stephany Sinaguinan