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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

TRAVIS HUDSON, an individual, on behalf of himself and all others similarly situated and on behalf of the State of California and all similarly-aggrieved employees,

Plaintiff,

vs.

GRUMA CORPORATION, a Nevada corporation, d/b/a MISSION FOODS; and DOES 1 through 100, inclusive,

Defendants.

Case No.: 25CU054716C

Assigned for all purposes to:
Hon. Judy S. Bae, Dept. C-62

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Date: October 16, 2026
Time: 9:10 a.m.
Location: Dept. C-62

Complaint Filed: October 10, 2025
Trial Date: Not Set

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I. INTRODUCTION

Plaintiff Travis Hudson ("Plaintiff") seeks preliminary approval of the Class Action Settlement Agreement ("Settlement")[1] he entered with Defendant Gruma Corporation d/b/a Mission Foods ("Defendant" or "Gruma"). The Settlement provides for $2,300,000 to be paid to approximately 700 Class Members who signed and/or were signatories to one or more Distributor Agreements with Gruma for the distribution of Gruma's products within California. The Class Period makes up approximately 75,000 weeks during which Class Members distributed Defendant's goods, from August 1, 2023 through the date of preliminary approval. This means the settlement value represents over $30 per week during which a Class Member distributed Defendant's goods and over $3,280 per class member on average. Class Members will net over $2,000 on average – an excellent result for a wage and hour class action settlement.

For the reasons explained below, the Court should grant preliminary approval.

II. PROCEDURAL HISTORY

On January 13, 2025, Plaintiff filed a PAGA Notice Letter with the Labor and Workforce Development Agency ("LWDA") outlining the PAGA claims he intended to pursue against Defendant in this matter. (Markley Dec., ¶ 19, Ex. 3.) Next, on February 11, 2025, Plaintiff filed a class action against Defendant seeking to recover various causes of action for employment misclassification. (*See* Markley Dec., ¶ 20, Ex. 4 [Riverside County Superior Court, Case Number CVRI2500770] ["Original Class Complaint"].) On April 17, 2025, Defendant answered and removed the Original Class Complaint to the Central District of California, Case Number 5:25-cv-00947-RGK-SHK. (Markley Dec., ¶ 21.) The Central District referred the Parties to private mediation, and ordered such mediation to be completed by December 19, 2025. (*Id.* at ¶ 22.)

On July 24, 2025, the Parties attended a full-day mediation session with well-respected wage and hour mediator Antonio Piazza. At mediation, Plaintiff informed Defendant that he would be filing a separate PAGA action in state court and he would be amending the Original Class Complaint to add a cause of action for violation of the Cartwright Act. The Parties agreed to the instant

[1] *See* Declaration of Shaun Markley ("Markley Dec."), ¶ 24, Ex. 1 ("Settlement"). Unless otherwise stated herein, all capitalized terms in this Motion are the same as set forth in the Settlement.

settlement terms at mediation, inclusive of the claims set out in the Original Class Complaint, the PAGA letter, and the Cartwright Act theory of liability. The parties agreed that Plaintiff would file a consolidated Complaint capturing each theory of liability that the mediation resolved. As such, on September 10, 2025, Plaintiff dismissed the Original Class Complaint without prejudice. (Markley Dec., ¶ 23.) Subsequently, Plaintiff filed the instant case seeking class action damages under the Labor Code, Wage Orders, Cartwright Act, and Unfair Competition Law as well as a representative action under PAGA. (*See* Class and Representative Action Complaint [filed 10/10/25] ["Complaint"].)

The operative Complaint filed on October 10, 2025 contains causes of action against Defendant for: (1) recovery of civil penalties under PAGA; (2) failure to compensate for all hours worked; (3) failure to pay overtime; (4) failure to reimburse expenses; (5) unlawful deductions from wages; (6) failure to provide accurate wage statements; (7) failure to provide meal periods; (8) failure to provide rest breaks; (9) unfair competition; and (10) violation of the Cartwright Act. (*See* Complaint.) The primary thrust of these complaints is that, by classifying Plaintiff and other Class Members in California as "independent contractors" rather than employees, Defendant did not provide overtime and reimbursement of business expenses to Class Members. (*Id.*) With respect to the Carwright Act claim, Plaintiff alleged that Defendant engaged in vertical price-fixing by conspiring with retail outlets to fix the price at which Class Members, like Plaintiff, must sell Defendant's products to the retail outlets.

III. INVESTIGATIONS AND DISCOVERY PRIOR TO SETTLEMENT

Plaintiff had ample information on which to make an informed and positive settlement decision for the class at the time of settlement.

Prior to filing this case, Plaintiff's counsel performed substantial investigation. As an initial matter, Gruma makes certain financial information such as Annual Reports publicly available on its website. These documents contain detailed discussion of Gruma's direct-store-delivery (DSD) model, whereby Gruma used independent contractor "Distributors" like Plaintiff to get their product onto grocer's shelves. Plaintiff's counsel obtained and reviewed thousands of pages of relevant information from these filings and other documents available on Gruma's website. This allowed

Plaintiff's counsel to assess things like the importance of Distributors to Gruma's DSD system and the various levels of control Gruma exercises over its Distributors to meet its customers' needs. (*See* Markley Dec., ¶ 13.) This allowed Plaintiff's counsel to assess the likelihood of class certification and merits issues for the class.

Furthermore, Plaintiff contacted several members of the putative class and was able to receive relevant information from them including their contracts with Gruma, communications with Gruma's management, and damages information like how many hours those individuals expended in distributing Gruma's goods and expenses incurred. This allowed Plaintiff's counsel to assess arbitration and release obligations, changes year-to-year in Defendant's Distributor Agreements, and the control that could be exercised by Defendant through its Distributor Agreements. (*See* Markley Dec., ¶ 14.)

Further still, prior to mediation, Plaintiff received the usual set of datapoints needed to value a class action settlement including: number of putative class members, breakdown of current v. former putative class members, the total number of weeks the putative class distributed Gruma's goods, cost/revenue information for the putative class, and other relevant information. (*See* Markley Dec., ¶ 15.) Additionally, Plaintiff's counsel surveyed damages figures for claims like overtime, expenses, and deductions from various putative class members and others working in similar industries to assess the scope of damages that would not appear in any of Gruma's records like weekly overtime and business expenses. (*Id.* at ¶ 16.)

Plaintiff's counsel believes they had ample information to draw upon to fully evaluate things like the size of the class and potential damages, the possibility of beating arbitration and release agreements, and the possibility of certifying a class of Distributors. (*See* Markley Dec., ¶¶ 13-16.) They also drew upon their extensive experience in litigating independent contractor misclassification cases in California. (*Id.*)

IV. THE SETTLEMENT TERMS

A. The Basics.

The Settlement covers approximately 700 class members who signed and/or were signatories to one or more Distributor Agreements with Gruma for the distribution of Gruma's products within

California and were not classified as employees at any point between August 1, 2023 through the date of preliminary approval. (*See* Markley Dec., ¶ 27; Settlement at § 1.1, 1.6 [setting class definition and class period].) Defendant will pay a Gross Settlement Amount of $2,300,000.00, or just over $30/week during which an individual class member distributed Gruma's goods, a strong result. (*Id.* at § 1.18.) This is over $3,280 per class member recovered and class members will "net" over $2,000 after accounting for fees, costs, and other deductions from the gross settlement. (*See* Markley Dec., ¶ 28.)

Other notable settlement provisions include:

- Of the 2.3 million, the following amounts are set to come out under the Settlement subject to Court approval:
  - Class Counsel's attorneys' fees of 1/3 the common fund, or $766,666.70 (Settlement, § 1.3);
  - Class Counsel's costs not to exceed $25,000 (Settlement, § 1.4);
  - Plaintiff's enhancement award of $5,000 (Settlement, § 3.14);
  - A PAGA Settlement of $50,000 65% of which shall be paid to the Labor and Workforce Development Agency ("LWDA") (Settlement, § 3.16); and
  - Class administration fees not to exceed $20,000 (Settlement, § 3.17).
- This leaves a net settlement to be distributed to the class of $1,450,833.30 or just over $2,000/class member on average.
- Payment to each Settlement Class Member will be allocated as nonemployee compensation, penalties, and interest, which will be reported on an IRS Form 1099. (Settlement, § 3.13.2.)
- Of the Net Settlement Amount, 30% shall be divided equally among the Settlement Class Members and the remaining 70% shall be distributed based on Settlement Class Members' sales in California for their respective routes. (Settlement, § 3.13.5.)
- Individual PAGA Payments will be distributed pro rata based on the number of relevant weeks during which a PAGA group member distributed Gruma's goods. (Settlement, § 3.16.1.)

- Class and PAGA release periods of August 1, 2023 through the date of preliminary approval. (Settlement, § 1.6.)
- Class Members release: "any and all claims that are asserted in the Operative Complaint through the date of the Final Approval Order and Judgment, including, without limitation, statutory, constitutional, contractual, and/or common law claims for any price fixing violations under California or Federal law; any claims under the California Labor Code and applicable Industrial Welfare Commission Orders including but not limited to claims based on Settlement Class Members' alleged misclassification as independent contractors, for unpaid regular and/or overtime wages, meal period premiums, rest period premiums, restitution, expenses, interest, liquidated damages, punitive damages, interest, attorneys' fees, litigation costs, restitution, and/or statutory and civil penalties (including but not limited to penalties for failure to pay wages, underpayment of wages, late payment of wages, failure to provide accurate itemized statements or maintain records, waiting time penalties, and civil penalties (including civil penalties under the Private Attorneys' General Act)), including, but not limited to, claims arising out of the California Cartwright Act commencing with California Business and Professions Code section 16600, California Labor Code sections 201,202, 203, 204, 226, 226.2, 226.7, 226.8, 266.8, 510,512,515,558, 1174, 1182.12, 1194, 1197, 1198, 2802, 2699, et seq., and applicable IWC Wage Orders, between August 1, 2023, and the date the Court grants final approval of the Settlement; and any claim under the California Unfair Business Practices Act for related violations." (Settlement, § 1.28.)

B. Attorneys' Fees and Costs, and Enhancement Award.

At final approval, Plaintiff will apply for an Enhancement Award of $5,000. **(**Settlement, § 3.14.) "[I]ncentive awards are fairly typical in class action cases…and are intended to compensate class representatives for work done on behalf of the class [and] to make up for financial or reputational risk undertaken in bringing the action." (*In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1393-94.) As will be briefed at final approval, Plaintiff's requested payment

is in in recognition of the time and effort he expended on behalf of the Settlement Class, including providing factual information and documents to counsel, discussing with counsel the claims and theories at issue in the litigation, reviewing the settlement agreement and other documents, and otherwise actively participating in the prosecution of this case. Plaintiff respectfully submits that the requested payment is well within the range of permissible approval especially given the strong recovery obtained for the class here. (*See*, *e.g.*, *Alvarado v. Nederend* (E.D. Cal. May 17, 2011, No. 1:08-cv-01099-OWW-DLB) 2011 WL 1883188 at *10 [approving $7,500 award to each of five plaintiffs ($37,500 total) from $505,058.60 settlement]; *Martinez v. Knight Transportation, Inc.* (E.D. Cal. Sept. 11, 2023, No. 1:16-cv-01730-SKO) 2023 WL 5917989 [awarding $10,000 incentive award from $400,000 claims-made settlement with average payment of just $127.61].)

At final approval, Plaintiffs' counsel will also request attorneys' fees of one third the common fund (or $766,666.70), and up to $25,000 in litigation costs. (Settlement, §§ 1.3-1.4.) The requested fee is fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a contingent basis. Plaintiff's counsel have incurred substantial attorneys' fees in, among other things, conducting pre-filing investigation and legal research; drafting and filing initial pleadings; analyzing documents and other data and information to create a comprehensive damages model; interviewing class members and reviewing their documents; preparing for and attending mediation; negotiating and preparing the Settlement; preparing this Motion; and otherwise prosecuting this case. (*See* Markley Dec., ¶¶ 13-18.) Counsel will also incur future attorney fees in overseeing the Notice process, fielding phone calls from Class members, preparing the Final Approval Motion and supporting documents, and appearing at the Final Approval Hearing.

Itis appropriate to award attorney fees as a percentage of the "common fund" created by the settlement. (*Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480 [holding "the percentage of fund method survives in California class action cases"].) Counsel's fee request is well within the range of reasonableness and is typical for common fund settlements. (*See*, *e.g.*, *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, n.11 ["regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery"].) At final approval, Plaintiff will also provide information about counsel's loadstar for a "cross check." As will be briefed at final

approval, the fee request is reasonable in light of, *inter alia*, the substantial risks taken by counsel, the significant work undertaken, and the results obtained.

C. Settlement Administration.

The Settlement will be administered by Atticus Administration. (*See* Markley Dec., ¶ 25.) No more than 15 business days after the entry of a Preliminary Approval Order, Defendant shall provide Atticus with the Class Information for purposes of mailing the Class Notice to Class Members. (Settlement, § 3.4.2.) Upon receipt, the Administrator will utilize the best practicable means available for the purposes of verifying and/or updating the current address and telephone numbers for all Class Members. (Settlement, § 3.4.3.) No more than 14 calendar days after the deadline for Gruma to provide Atticus with the Class Information has passed, Atticus shall mail copies of the Class Notice to all Class Members by First-Class U.S. Mail. (Settlement, § 3.4.4.) Skip tracing and forwarding address remailings will also occur. (Settlement, § 3.4.5.) No submission of a claim form is necessary (i.e., this is not a claims made settlement). (Settlement, § 3.7.) The proposed Notice, available at Settlement, Ex. A, discloses the pendency of this litigation, summarizes the allegations against Defendant, defines the Class, and describes the consideration that Defendants will provide in settlement along with an estimate of each Settlement Class Member's estimated recovery. The notice also describes the claims that will be released and explains the procedures to be used by members of the class to be excluded from or object to the settlement. (Settlement, § 3.4.1.)

Based on the terms of the Settlement Agreement, the following sets forth the proposed schedule of events to occur with respect to the effectuation of the settlement:

EVENT	DATE
Deadline for Defendant to provide Class data to settlement administrator	Within fifteen (15) business days of preliminary approval
Deadline to mail Notice of Settlement to Class Members	Within fourteen (14) calendar days of the deadline for Defendant to provide Atticus with the class data
Response Deadline to dispute compensable gross sales, opt out of or object to settlement	Within thirty (60) calendar days of mailing or re-mailing of Notice of Settlement

EVENT	DATE
Deadline for settlement administrator to provide counsel with Declaration of Compliance and report regarding notice and exclusion process	Not later than fourteen (14) calendar days after the deadline to respond to the Notice of Settlement
Deadline to file motion for final approval of the settlement and award of attorneys' fees and costs	16 court days before final approval hearing
Hearing on motion for final approval of the settlement, granting of final approval, and entry of judgment	TBD
Deadline for Defendants to deliver funds to settlement administrator	Within twenty-one (21) calendar days of the Effective Date
Deadline for settlement administrator to distribute settlement funds	Within thirty (30) calendar days of the Effective Date

V. THE COURT SHOULD PRELIMINARILY APPROVE THE SETTLEMENT

Approval of a class settlement is committed to the sound discretion of the Court. (*See Wershba v. Apple Computer, Inc.* (2001) 91 Cal. App. 4th 224, 234-35.) Public policy and the law generally favor settlement, particularly in class actions where substantial resources can be conserved by avoiding the time, cost, and rigors of formal litigation. (*See In re Microsoft I-V Cases* (2006) 135 Cal. App. 4th 706, 723 n.14). Courts' class settlement inquiry "'must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.'" (*Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801; *see also*, *In re Microsoft I–V Cases*, 135 Cal. App. 4th at 723; *In re Cellphone Termination Fee Cases* (2009) 180 Cal. App. 4th 1110, 1117–18.)

In determining whether a settlement is fair, adequate, and reasonable, courts consider several factors, including "the strength of plaintiffs' case [compared with] the risk, expense, complexity and likely duration of further litigation [and] the risk of maintaining class action status through trial. . . ." (*See Dunk*, 48 Cal. App. 4th at 1801; *see also*, *In re Microsoft I-V Cases*, 135 Cal. App. 4th at 723; and *see* L.A. Superior Court, Complex Civil Department Checklist for Preliminary Approval

of Class Action Settlement at I(B) ("Approval Checklist") [discussing same factors]). Considering all the relevant factors, and as discussed further below, this Settlement is certainly in the "range of possible [final] approval." (*See Wershba*, 91 Cal. App. 4th at pp. 244-45.) Thus, the Court should grant preliminary approval.

A. Plaintiffs Obtained a Fair Percentage of the Maximum Realistic Recovery.

As in any independent contractor misclassification case, the main claims at issue are expense reimbursements and deductions from wages. (*See* Complaint, Causes of Action 4-5; Markley Dec., ¶ 26.) Plaintiff alleges that Class Members drive around in delivery vehicles to deliver Defendant's products and incur unreimbursed expenses or deductions from their earnings for things like mileage (covering vehicle, gas, repairs, insurance, etc.), cell phones/Internet, and fees and deductions for stale and lost product (*e.g.*, shrink). (*See* Markley Dec., ¶ 29.) Plaintiff's estimated damages are based on similar cases involving similar individuals where the case had progressed to expert reporting that was based on statistically significant response rates and adequate data as follows[2]: mileage $4,875,000; cell/Internet $1,500,000; stale and lost product $3,750,000. This brings maximum recovery on these liability theories to $10,125,000. (*See* Markley Dec., ¶ 29.)

Overtime and meal/rest breaks are harder to quantify given that different Class Members performed distribution services at different hours, but drawing on data from analogous classes, Plaintiff estimates 5 hours of overtime per week and 1.5 meal/rest violations per week. This results in class-wide exposure of $4,687,500 and $2,812,500 respectively. (*See* Markley Dec., ¶ 31-32.)

Penalty claims for wage statements and waiting time penalties are:

- Waiting Time Penalties: 150 former class members x 8 hours a day x $25 x 30 days = roughly $900,000;
- Wage Statement Penalties: $4,000 max x 550 class members in the one year class period = roughly $2,200,000;
- PAGA: at $100 per week over the 25,000 weeks in the PAGA period at issue, amounts to $2,500,000. (*See* Markley Dec., ¶ 33.)

[2] Because independent contractor cases inherently lack the usual employment records used to prosecute more garden variety employment matters, plaintiffs often rely on surveys and representative evidence. *Tyson Foods, Inc. v. Bouaphakeo* (2016) 577 U.S. 442, 455-57.

Finally, for Cartwright Act purposes, Plaintiff assumes that, absent the alleged vertical restraints on trade, the class could have negotiated a margin 1% higher than what was set by Defendant which, based on the margin data provided, would have amounted to $1,815,000. (*See* Markley Dec., ¶ 34.)

This brings maximum realistic exposure to just over $25,000,000, meaning the recovery is about 9 percent of the maximum exposure. (*See* Markley Dec., ¶ 35.) This is within normal ranges for a class settlement. (*See*, *e.g.*, *Haralson v. U.S. Aviation Servs. Corp.* (N.D. Cal. 2018) 383 F. Supp. 3d 959, 972-74 [citing cases reflecting approval of settlements at 0.2% to 1.1% of the potential verdict value]; *Ramirez v. Benito Valley Farms, LLC* (N.D. Cal. Aug. 25, 2017) 2017 WL 3670794, at *5 [approving settlement paying less than 4.5% of maximum]; *In re Mego Fin. Corp. Secs. Litig.* (9th Cir.2000) 213 F.3d 454, 459 [holding that class action settlement recovering 16% of potential exposure was fair and reasonable; "[i]t is well-settled law that a cash settlement amounting to only a fraction of the potential recovery does not per se render the settlement inadequate or unfair. Rather, the fairness and the adequacy of the settlement should be assessed relative to risks of pursuing the litigation to judgment"]; *Van Ba Ma v. Covidien Holding Inc*. (C.D. Cal. Jan. 31, 2014, No. 8:12-cv-02161) Dkt. No. 26 [court granted preliminary approval of wage and hour class settlement which obtained only 9.1% of projected damages, given the risks of continued litigation].)

Further supporting the fairness and adequacy of this settlement is the prior misclassification lawsuit against Defendant, *Dexter's LLC v. Gruma Corporation* (No. 23-CV-212-MMA-AHG). There, the parties resolved claims from July 1, 2020 through August 1, 2023 for worker misclassification and related wage violations. (*See Dexter's LLC v. Gruma Corporation* (S.D. Cal., Dec. 19, 2023, No. 23-CV-212-MMA-AHG) 2023 WL 8790268, at *1.) The gross settlement in *Dexter's* was $930,000 which netted out to an average payment of $897, or less than half of what the average class member will net in this case despite the shorter class period at issue here. (*Id.* at *2.)

B. Risks, Expenses, and Complexity Further Support the Settlement.

Further supporting the reasonableness and fairness of the Settlement are the risks and complexities of further proceedings. Early in this matter, the parties engaged in frank discussions regarding the core roadblocks of this case such as arbitration clauses the class signs as part of the

Distribution Agreements. (*See* Markley Dec., ¶ 36.) Arguably, PAGA would be the lone cause of action remaining should arbitration be enforced leaving total exposure in the case at only $2.5 million (slightly less than what Plaintiff obtained via this settlement). These issues were known heading into the parties' mediation, and settling the case on the best terms possible short of rolling the dice on having only individual claims in a tougher arbitration setting. (*Id.*) While Plaintiff believed his case and his arguments on these issues, having to overcome the obstacle of an arbitration clause to even get to a class certification and merits stage carries heavy risk. (*Id.*)

Class certification is also not assured in these contexts, especially where outside sales is at issue. (*Id.*; *Fleming v. Matco Tools Corp*. (N.D. Cal. Feb. 21, 2021, No. 19-CV-00463-WHO) 2021 WL 673445, at *14 [refusing to certify some claims in light of the outside sales defenses].) Furthermore, any change in Gruma's arbitration agreements over the years could have further complicated which class claims could go forward at all, in court or in arbitration, adding further risk. (*See* Markley Dec., ¶ 37-38.)

There is also a strong outside sales defense available in these kinds of cases where putative class members drive around to customer locations selling products. (*See* Markley Dec., ¶¶ 26, 38; and *see*, *e.g.*, *Fleming*, 2021 WL 673445 at *11 ["California's outside sales exemption exempts employers from the normal obligations to pay employees overtime and to provide meal and rest breaks."].) While this does not impact reimbursements or deduction claims, it eliminates valuable overtime and meal/rest claims.

Good faith defenses to penalties in these contexts also create risk. For PAGA, wage statements, and waiting time penalties, there is either discretion to issue them or a good faith defense which can attach in independent contractor cases. (*See* Markley Dec., ¶ 39; and *see*, *e.g.*, *Dalton v. Lee Publ'ns, Inc*. (S.D. Cal. Mar. 22, 2011, No. 08cv1072 BTM (NLS)) 2011 WL 1045107, at *5-6.

These cases can also take years to litigate as the two-step analysis in misclassification cases where putative class members first need to show they are employees and then that they suffered damages. Years of hard work can also result in adverse appellate rulings in these contexts even if early success is had. (*Id.*; and *see*, *e.g.*, *Bowerman v. Field Asset Servs., Inc*. (9th Cir. 2023) 60 F.4th

459, 471 (reversing class certification and liability determinations by the lower court in a misclassification setting).

Plaintiff's counsel has experience in these and similar matters and believes that, in light of the risks presented and value offered, this is a good settlement. (*See* Markley Dec., ¶¶ 2-12, 26.)

Thus, in light of the risks presented and hurdles ahead, obtaining roughly 9% of the max realistic exposure at this stage is beneficial to the class and warrants approval.

C. Other Relevant Considerations Support Fairness of the Settlement.

Before settling this matter, Plaintiff obtained adequate information through client and publicly available documents, class member calls, and the mediation related data provided by Defendant. (*See* Markley Dec., ¶¶ 13-18.)

This case settled through private mediation, for which both parties had the opportunity to brief central issues to this case. (*See* Markley Dec., ¶ 15.)

Finally, the amount attributable to PAGA is $50,000. This is roughly 2% of the gross settlement amount of $2.30 million which is normal in these contexts. (*See*, *e.g.*, *Franco v. Ruiz Food Prods., Inc.* (E.D. Cal. Nov. 27, 2012, No. 1:10-cv-02354-SKO) 2012 WL 5941801, at *14 [approving PAGA penalties of $10,000 as part of $2.5 million common-fund settlement]; *Garcia v. Gordon Trucking* (E.D. Cal. Oct. 31, 2012, No. 1:10-cv-0324-AWI-SKO) 2012 WL 5364575 at *3 [approving PAGA settlement payment of $10,000 out of $3.7 million common-fund settlement]).

This is not a claims-made settlement. (*See* Markley Dec., ¶ 44.)

VI. CONDITIONAL CLASS CERTIFICATION IS WARRANTED

The proposed settlement class satisfies the criteria for certification under California law. Section 382 of the Code of Civil Procedure "authorizes class suits in California when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court." (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.) "To obtain certification, a party must establish the existence of both an ascertainable class and a well-defined community of interest among the class members." (*Id.* at 435.) The community of interest requirement will be met when the following three factors exist: (1) predominant common

questions of law or fact; (2) class representatives with claims typical of the class; and (3) adequate representation of the class. (*Linder*, 23 Cal. 4th at 435.)

A. There is a Numerous and Ascertainable Class.

"An ascertainable class exists when, based upon the class definition, it is possible to give adequate notice to class members or to determine after the litigation has concluded who is barred from re-litigating. (Citation omitted.) The goal in defining the class is to use terminology that will convey sufficient meaning to enable persons hearing it to determine whether they are members of the class plaintiff wishes to represent." (*See Marler v. E.M. Johansing, LLC* (2011) 199 Cal. App. 4th 1450, 1459-1460.) Here, the Class definition is "all individuals or entities during the Class Period that signed and/or were signatories to one or more Distributor Agreement or similar styled document) with Gruma for the distribution of Products within California, in addition to their owners, proprietors, partners and/or members." (Settlement, § 1.1.) Defendant's list of Class Members in California identified 700 such individuals which also satisfies numerosity. (*See* Markley Dec., ¶ 40.)

B. There is a Well-Defined Community of Interest Among the Class Members.

All of the relevant community of interest sub-factors are met here.

1. Common Issues of Law and Fact Predominate.

To determine whether common issues predominate, "a court must examine the plaintiff's theory of recovery and assess the nature of the legal and factual disputes likely to be presented…As a general rule if the defendant's liability can be determined by facts common to all members of the class, a class will be certified even if the members must individually prove their damages." (*Benton v. Telecom Network Specialists, Inc.* (2013) 220 Cal. App. 4th 701, 716.)

Here, common issues exist with respect to Defendant's consistent policies and practices with respect to the misclassification of its Class Members as "independent" and not employees as well as the corresponding denial of basic wage protections to these Class Members like business expense reimbursement, wage deductions, overtime, meal and rest breaks, and associated penalties. Such claims warrant class certification. (*See*, *e.g.*, *Salinas v. Cornwell Quality Tools Co*. (C.D. Cal. 2022) 635 F. Supp. 3d 954, 974 ["The court finds that common issues predominate over individual issues with respect to the question of misclassification and Plaintiff's individual claims."].)

2. Plaintiffs' Claims Are Typical.

Like all Class Members who entered into Distributor Agreements with Defendant, Plaintiff was classified as an "independent contractor" and was denied basic wage protections. (*See* Complaint.) Plaintiff signed the usual Distributor Agreement and arbitration agreement as well and stood ready to challenge those. (*See* Section II.B; and *see* Markley Dec., ¶ 41.)

3. Plaintiffs and Counsel Have and Will Adequately Represent the Class.

"Adequacy of representation depends on whether the plaintiff's attorney is qualified to conduct the proposed litigation and the plaintiff's interests are not antagonistic to the interests of the class." (*McGhee v. Crocker-Citizens Nat. Bank* (1976) 60 Cal. App. 3d 442, 450.) Here, the Representative Plaintiff retained attorneys with extensive experience in prosecuting wage and hour class actions, in particular independent contractor misclassification claims, understanding that they would be representing interests broader than their own. (*See* Markley Dec., ¶¶ 2-12.) There is no conflict between the Plaintiffs and the Class. (*Id.*)

VII. THE CLASS NOTICE IS APPROPRIATE

"The principal purpose of notice to the class is the protection of the integrity of the class action process, one of the functions of which is to prevent burdening the courts with multiple claims where one will do." (*Cho v. Seagate Technology Holdings, Inc.* (2009) 177 Cal. App. 4th 734, 745-746.) Thus, an appropriate notice is one which has a reasonable chance of reaching a substantial percentage of the class members. (*Cartt v. Superior Court* (1975) 50 Cal. App. 3d 960, 974.)

The proposed Notice of Settlement addresses these concerns. It identifies the Representative Plaintiff and Defendant, provides a description of the lawsuit, the settlement amounts, the proposed plan of allocation, and the attorneys' fees and other deductions that may come out of the settlement.

The proposed Notice of Settlement provides information as to how to opt out and be excluded, how to object to the settlement, as well as the date of the final approval hearing. It also describes the Settlement Agreement with sufficient detail to allow Class Members to make an informed decision as to whether to accept or object to it. The proposed Notice of Settlement further provides that it will bind all Class members who do not request exclusion. (Settlement, Ex. A [Proposed Class Notice].) As such, the proposed Notice describes the settlement with enough

specificity to allow Class members to make an informed decision as to whether to participate in it. (*See* California Rules of Court, rule 3.766(d).)

Further, the manner of giving notice is to be done in such a way as to maximize its reach. The Notice of Settlement will be sent to members of the Class by First Class regular U.S. mail by the Settlement Administrator. (Settlement, § 3.4.4.) Prior to mailing, the Settlement Administrator shall utilize the best practicable means available for the purposes of verifying and/or updating the current address and telephone numbers for all Class Members. (Settlement, § 3.4.3.) The Settlement Administrator will mail the Notice of Settlement to the most current mailing address identified. (*Id.*)

VIII. MISCELLANEOUS

Plaintiff addresses any potentially remaining items to discuss here. No releases or terms are included in the Settlement that fall outside the operative complaint. (*Compare* Complaint *with* Settlement, § 1.28 [release terms]; and *see* Markley Dec., ¶ 42.)

Each Class Member will receive a copy of the Class Notice in English and Spanish. (Settlement, § 3.5; and *see* Markley Dec., ¶ 43.)

This is not an opt-in or claims-made settlement nor are there requirements placed on the class or counsel by the Settlement. (Markley Dec., ¶ 44.)

Plaintiff submitted the Settlement and related moving papers to the LWDA prior to filing this motion. (Markley Dec., ¶ 47.)

Plaintiff and his counsel intend to address and support with competent evidence the proposed enhancement as well as fees and costs for counsel in the final approval motion.

IX. CONCLUSION

For the foregoing reasons, Plaintiff, on behalf of himself and the Class, respectfully request that the Court grant preliminary approval of the Settlement.

Respectfully submitted:

Dated: March 11, 2026

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