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AUGUSTINE BARRY, ON BEHALF OF HIMSELF,
AND ALL OTHERS SIMILARLY SITUATED

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

AUGUSTINE BARRY, an individual, on
behalf of himself, and all others similarly
situated;

Plaintiff,

vs.

PARETO INC. d/b/a PARETO AI., a Delaware
corporation; PHOEBE YAO, an individual, and
DOES 1 through 50, inclusive;

Defendants.

Consolidated Case No. 25CV117381 (Lead Case)

Non-Lead Case No. 25CV117467

[Assigned for all purposes to the Honorable Patrick
McKinney, Dept. 18]

**NOTICE OF MOTION AND MOTION FOR
PRELIMINARY APPROVAL OF CLASS AND
PAGA ACTION SETTLEMENT**

Date: October 28, 2026
Time: 1:30 p.m.
Dept.: 18

RESERVATION ID: 240007730588

Complaint filed: April 1, 2025
Trial Date: Not Assigned

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

2 **PLEASE TAKE NOTICE** that on October 28, 2026, at 1:30 p.m., or as soon thereafter as the
3 matter may be heard, in Department 18, located at 1225 Fallon Street, Oakland, California 94612, Plaintiff
4 Augustine Barry (“**Plaintiff**”) moves for preliminary approval of the class and PAGA action settlement
5 on the terms and conditions set forth in the CLASS ACTION AND PAGA SETTLEMENT
6 AGREEMENT (the “**Settlement**” or “**Settlement Agreement**”). A copy of the Settlement Agreement
7 is attached as **Exhibit A** to the Declaration of Daniel Valles. Plaintiff will further move that the
8 Preliminary Approval Order specifically encompass the following:

- 9 1. Grant preliminary approval of the settlement based on the terms of the Settlement Agreement;
- 10 2. Preliminarily certify a class for settlement purposes only;
- 11 3. For purposes of settlement, designate Plaintiff as Class Representative;
- 12 4. For purposes of settlement, designate and Daniel Valles and Kayla Rathjen of the law firm
13 Valles Law P.C. as Class Counsel;
- 14 5. Grant approval of the Private Attorneys General Act payment;
- 15 6. Approve Apex Class Action Administration as the Settlement Administrator;
- 16 7. Approve, as to form and content, the Class Notice attached as **Exhibit B** of the Declaration of
17 Daniel Valles submitted in support of this motion;
- 18 8. Approve, as to form and content, the Settlement Agreement attached as **Exhibit A** to the
19 Declaration of Daniel Valles submitted in support of this motion;
- 20 9. Direct mailing of the Class Notice as set forth in the Settlement Agreement;
- 21 10. Approve the form and content of the proposed method of participation in the settlement,
22 requesting exclusion from the settlement, or objecting to the settlement;
- 23 11. Grant preliminary approval of the Settlement; and
- 24 12. Set a Final Approval and Settlement Fairness hearing.

25 Plaintiff brings this motion pursuant to California Rules of Court, Rule 3.769. The Motion for
26 Preliminary Approval (the “**Motion**”) is based on this Notice, the Memorandum of Points and Authorities,
27 the Declaration of Daniel Valles (“**Valles Decl.**”), the Declaration of Plaintiff Augustine Barry (“**Barry**
28 **Decl.**”), Declaration of Sean W. Hartranft, Chief Executive Officer, Apex Class Action Administration

1 (“**Hartranft Decl.**”), and the various documents attached thereto, the records and file herein, and on such
2 evidence as may be presented at the hearing of the Motion.

3
4 DATED: September 30, 2026

VALLES LAW, PC.

5
6 By: 

DANIEL VALLES
KAYLA M. RATHJEN
Attorneys for Plaintiff
AUGUSTINE BARRY

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Augustine Barry (“**Plaintiff**”) respectfully submits this memorandum in support of his
4 motion for preliminary approval of the class and PAGA action settlement on the terms and conditions set
5 forth in the Settlement Agreement, as defined below (the “**Motion**”). Plaintiff has entered into the CLASS
6 ACTION AND PAGA SETTLEMENT AGREEMENT (the “**Settlement**” or “**Settlement Agreement**”) with
7 Defendants Pareto Inc. d/b/a Pareto AI and Phoebe Yao (“**Defendants**”) subject to court approval
8 and other conditions set forth in the Settlement Agreement. Plaintiff seeks entry of a proposed order: (1)
9 preliminarily approving the Settlement; (2) preliminarily approving the form and method for providing
10 Class Notice and directing that Class Notice be given to members of the Settlement Classes and PAGA
11 Settlement Groups; (3) preliminarily certifying the Settlement Classes for settlement purposes only; and
12 (4) scheduling a final approval hearing date.

13 On April 1, 2025, Plaintiff filed a class action in Alameda County Superior Court, Case No.
14 25CV117467, and a PAGA action on April 1, 2025, in Alameda County Superior Court, Case No.
15 25CV117381. Case Nos. 25CV117467 and 25CV117381 were consolidated into one Class and
16 Representative Action, *Augustine Barry v. Pareto Inc. and Phoebe Yao*, Case No. 25CV117381 (the
17 “Consolidated Complaint”). The Consolidated Complaint, filed on September 10, 2025, alleges eleven
18 causes of action against Defendants for: (1) failure to pay overtime (Wage Order 4-2001 and Labor Code
19 §§ 510 and 1198); (2) failure to provide meal periods (Wage Order 4-2001, §11, and Labor Code §§512
20 and 226.7); (3) failure to provide rest breaks (Wage Order 4-2001, §12, and Labor Code § 226.7); (4)
21 failure to pay minimum wages (Wage Order 4-2001 and Labor Code §§ 1194, 1197, and 1182.12); (5)
22 failure to timely pay wages (Labor Code §§ 204 and 210); (6) failure to provide accurate itemized wage
23 statements (Labor Code § 226); (7) failure to pay all wages earned upon discharge (Labor Code §§ 201,
24 202, and 203); (8) unreimbursed business expenses (Labor Code §§ 2800 and 2802); (9) denial of sick
25 time (Labor Code §§ 233 and 234); (10) unlawful business practices (Business and Professions Code §
26 17200); and (11) civil penalties pursuant to Labor Code Private Attorney General Act (“**PAGA**”) (Labor
27 Code §§ 2699, *et seq.*)

1 On June 29, 2026, the Plaintiff and Defendant (collectively, the “**Parties**”) participated in a
2 mediation session before respected class action mediator Shirish Gupta. After the mediation and after
3 extensive follow-up negotiations, the Parties reached the terms of a settlement, which was later finalized
4 in the Settlement Agreement for which Plaintiff now seeks preliminary approval.

5 Per the Settlement, Defendant shall pay Five Hundred Fifty Thousand Dollars and Zero Cents
6 (\$550,000.00) (the “**Gross Settlement Amount**” or “**GSA**”) in full satisfaction of all Released Claims by
7 the Settlement Classes and PAGA Settlement Groups arising from the action who do not exclude
8 themselves, which includes all Individual Settlement Payments to Class Members, Attorneys’ Fees and
9 Costs to Class Counsel, the Class/PAGA Representative Enhancement Payment to Plaintiff, the Labor and
10 Workforce Development Agency (“**LWDA**”) Payment, and Settlement Administration Costs to the
11 Settlement Administrator. (Declaration of Daniel Valles [“**Valles Decl.**”], ¶¶ 25-27.) Except as stated
12 herein below, in no event will Defendant be liable for more than the GSA. (*Id.*) The GSA includes
13 employee’s portion of payroll taxes. (*Id.*) Defendant shall pay the employer’s portion of payroll taxes on
14 all wage allocation in addition to the GSA. (*Id.*)

15 The Net Settlement Amount (“**NSA**”) is the portion of the GSA remaining after deductions of the
16 Court-approved Attorneys’ Fees and Costs of not more than \$183,333.33 in fees and not more than
17 \$25,000.00 in costs requested by Class Counsel, the Court-approved Settlement Administration Costs not
18 to exceed \$11,350.00, the PAGA Settlement Amount of \$20,000.00 (65% allocated to the LWDA as a
19 PAGA payment (i.e., \$13,000.00) and 35% allocated to the PAGA Settlement Groups (i.e., \$7,000.00),
20 and the Court-approved Class/PAGA Representative Enhancement Payment of no more than \$15,000.00.
21 (*Id.*) If all requested amounts are approved, the NSA is estimated to be \$320,316.67. (*Id.*)

22 The Net Class Settlement Amount of each Qualified Class Member’s Individual Settlement
23 Payments will be based on the number of Workweeks each Qualified Class Member worked during the
24 Class Period. The Class Period is January 6, 2021, to May 4, 2025. The PAGA Period is defined as
25 January 6, 2024, to May 4, 2025. Class Member’s Individual Settlement Payment shall be calculated by
26 dividing the Net Settlement Amount by the total number of Class Workweeks worked by all Participating
27 Class Members, and multiplying the result by each Participating Class Member’s Workweeks.
28 (Settlement, § 3.2.4.)

1 As of June 29, 2026, Defendant estimated there were approximately 202 California employees that
2 are Class Members (representing 1930 Workweeks). Accordingly, Plaintiff estimates that Class Members
3 will receive an average payment of \$1,585.73 and an additional \$34.65 average PAGA payment for a total
4 estimated average of \$1,620.38. As set forth below, Plaintiff believes this is a fair result for the Class
5 Members.

6 For purposes of this settlement only, the Parties agree that the Settlement Class satisfies each of
7 the requirements of Code of Civil Procedure section 382. The Settlement is fair, reasonable, and confers
8 a substantial monetary benefit to the entire class. Accordingly, under Rule of Court 3.769, the Parties
9 request that the Court grant preliminary approval of the Settlement submitted herewith as Exhibit A to the
10 Declaration of Daniel Valles, conditionally certify the Settlement Class for settlement purposes only,
11 approve the proposed Class Notice (attached as Exhibit B to the Valles Decl.), and set a hearing date for
12 final settlement approval.

13 **II. SUMMARY OF LITIGATION**

14 **A. The Parties**

15 Defendants are in the business of AI training, developing and training customer AI platforms.
16 Defendants hire individuals within the state of California as AI Trainers/AI Labelers (“**AI Trainers**”) to
17 develop and train their customers’ AI platforms.

18 Plaintiff worked for Defendant as an AI Trainer, which Defendant classified as an independent
19 contractor, in the state of California.

20 **B. The Claims and Defenses**

21 Plaintiff contends Defendants incorrectly classify its California AI Trainers as independent
22 contractors. Moreover, Defendants include in their “Independent Contractor Agreement” a statement that
23 they are “independent contractors,” and not entitled to any benefits provided to the Company’s employees.
24 Defendants then require their California AI Trainers to agree to this contractor classification as a condition
25 of their employment with Defendants.

26 Plaintiff further contends Defendants’ California AI Trainers are not exempt from overtime, nor
27 do they qualify for any exemption because they cannot be classified as independent contractors under the
28 ABC Test. (Lab. Code § 2775(b)(1).) Plaintiff contends that the California AI Trainers are incorrectly

1 classified as “independent contractors” and are entitled to overtime, meal and rest breaks, and all other
2 benefits bestowed on California employees. (*Id.*)

3 Plaintiff also contends Defendants have a policy and practice of providing no reimbursement to
4 any of its California employees for their business use of their home internet, or any other “work from
5 home” expenses (e.g., pens, paper, desk, chair, etc.) that they incur in the course and scope of their
6 employment.

7 Defendants do not admit, and specifically deny, that Defendants violated any federal, state, or local
8 law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable
9 laws, regulations or legal requirements; breached any contract; violated or breached any duty; engaged in
10 any misrepresentation or deception; or engaged in any other unlawful conduct with respect to its
11 employees or anyone else.

12 Defendants deny Plaintiff’s position, AI Trainer, was misclassified. Defendants contend AI
13 Trainers were and are properly classified as independent contractors, including Plaintiff, pursuant to Labor
14 Code section 2775. While Plaintiff disagrees with Defendants’ position, Plaintiff and Class Counsel
15 recognize that Defendants raise several factual and legal defenses that, if successful, would defeat or
16 substantially impair the value of Plaintiff’s claims.

17 Even if Plaintiff could establish he was misclassified, which Defendants deny, Defendants further
18 deny that Plaintiff can establish any of his underlying wage and hour claims (e.g., failure to provide meal
19 periods, failure to provide rest periods, unpaid wages (including minimum wage, over time, and sick pay),
20 unreimbursed business expenses, and other derivative claims). Defendants raise facts and defenses. For
21 example, Plaintiff had complete autonomy over his work schedule, including when to take meal and rest
22 periods. Plaintiff has no records or history demonstrating he worked overtime on a regular basis. And to
23 give another example, Defendants contend Plaintiff has no record demonstrating he ever requested for any
24 expenses or that he incurred any expenses that Defendants should or could have reasonably known about.
25 While Plaintiff disagrees with Defendants’ position, Plaintiff and Class Counsel recognize that Defendants
26 raise several factual and legal defenses that, if successful, would defeat or substantially impair the value
27 of Plaintiff’s claims.

28 Defendants further deny that this case is appropriate for class certification given the extent of

highly individualized inquiries necessary to assess whether any putative class members were subject to uniform practices and policies. Defendants raise several factual and legal defenses that, if successful, would defeat or substantially impair the value of Plaintiff's claims. For example, Defendants claim that Defendants had reasonable grounds for believing that payment, overtime, meal, and rest period practices complied with applicable laws and that such act of omission was not a violation of the California Labor Code or any applicable Wage Order, such that Plaintiff and/or any alleged putative Class Members are not entitled to any damages or penalties. Moreover, Defendants argue that proof as to meal and rest breaks necessarily will require individual proof, making class treatment improper. Defendants contend that calculating the reimbursement value for all Class Members would require timely and costly individual proof, creating manageability problems with obtaining and presenting individual proof. Finally, Defendants asserts that their time records establish compliance with wage and hour laws. Neither the Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, will be construed as an admission or concession by Defendants of any such violations or failures to comply with any applicable law. Except as necessary in proceeding to enforce the terms of the Settlement, the Settlement and its terms and provisions will not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendants or to establish the existence of any condition constituting a violation of, or a non-compliance with federal, state, local, or other applicable law.

While Plaintiff believes he would overcome Defendants' defenses, Plaintiff acknowledges that there is significant risk as to whether he can certify or prove his claims and whether he can overcome Defendants' defenses to each of his claims. Plaintiff also is cognizant that the final resolution of their claims could be delayed by one or more appeals, the risk of which can arise at multiple points in the litigation, including during class certification proceedings, during class and merits discovery, and during and after trial. As a result, Plaintiff and Class Counsel think the Settlement is in the best interest of the Class.

C. The Complaint and Allegations

Plaintiff's claims boil down to two issues: (1) whether Defendants misclassified its California AI Trainers as independent contractors; and (2) whether Defendants failed to comply with the California

1 Labor Code regarding wage payments, meal and rest breaks, and reimbursements to its California AI
2 Trainers during the putative Class Period.

3 As stated earlier, on April 1, 2025, Plaintiff filed a class action in Alameda County Superior Court,
4 Case No. 25CV117467, and a PAGA action on April 1, 2025, in Alameda County Superior Court, Case
5 No. 25CV117381. Case Nos. 25CV117467 and 25CV117381 were consolidated into one Class and
6 Representative Action, *Augustine Barry v. Pareto Inc. and Phoebe Yao*, Case No. 25CV117381 (the
7 “Consolidated Complaint”). The Consolidated Complaint, filed on September 10, 2025, alleges eleven
8 causes of action against Defendants for: (1) failure to pay overtime (Wage Order 4-2001 and Labor Code
9 §§ 510 and 1198); (2) failure to provide meal periods (Wage Order 4-2001, §11, and Labor Code §§512
10 and 226.7); (3) failure to provide rest breaks (Wage Order 4-2001, §12, and Labor Code § 226.7); (4)
11 failure to pay minimum wages (Wage Order 4-2001 and Labor Code §§ 1194, 1197, and 1182.12); (5)
12 failure to timely pay wages (Labor Code §§ 204 and 210); (6) failure to provide accurate itemized wage
13 statements (Labor Code § 226); (7) failure to pay all wages earned upon discharge (Labor Code §§ 201,
14 202, and 203); (8) unreimbursed business expenses (Labor Code §§ 2800 and 2802); (9) denial of sick
15 time (Labor Code §§ 233 and 234); (10) unlawful business practices (Business and Professions Code §
16 17200); and (11) civil penalties pursuant to Labor Code Private Attorney General Act (“PAGA”) (Labor
17 Code §§ 2699, *et seq.*)

18 **D. The Mediation, Exchange of Directly Relevant Informal Discovery, and Legal**
19 **Analysis by Parties’ Counsel**

20 The Parties have undertaken significant investigation of the facts and law during the pendency of
21 this action. Before filing the case, Plaintiff’s counsel conducted extensive legal research and fact
22 discovery regarding Defendants’ potential violations. Prior to and after the filing of the case, Class
23 Counsel spent over 50 hours interviewing Plaintiff and over ten (10) other current and former Pareto
24 employees (and following up with said individuals) to obtain information relevant to the matter and to
25 evaluate Pareto’s liability, including, but not limited to, data about compensation and commissions,
26 reimbursement history, pay practices, job duties, incurred expenses, employee’s typical days, breaks, and
27 other issues. (Valles Decl. ¶ 13). With its investigation, Plaintiff’s counsel looked into total hours worked
28 both in a day and week for purposes of average overtime calculation, number of days worked per week,

whether or not meal and rest periods were provided and taken (including the total duration of meal periods and whether such periods were interrupted by work), the nature of work performed, whether or not the potential class met the requirements to pass the ABC Test, the business use of potential class members' personal cell phones and home internet (as well as other potential expenses), and other potential wage and hour issues and causes of action that are alleged not only in the Complaint, but also in Plaintiff's LWDA filing. (*Id.* ¶ 14)

Class Counsel also spent well over forty (40) hours poring over and analyzing pay data from paystubs and other sources (including interviews with current and former employees regarding their wages, hours worked, etc.) as well as extrapolating out and calculating potential violation rates as well as potential damages. (*Id.* ¶¶ 15-16.)

In the interest of pursuing early resolution, the Parties agreed to exchange information informally, stay formal discovery, and privately mediate the matter. (*Id.* ¶ 18.) Prior to the mediation, the Parties exchanged extensive class data, information, and documents concerning Plaintiff's allegations, including production of company policies, time and pay information, as well as other various data for the Class Members. (*Id.*) Plaintiff's counsel took all of the class data provided by Defendants and analyzed it and cross-referenced it with Plaintiff's data as well as extrapolations from its own previous investigation and conducted an extensive secondary analysis based on the class data to calculate the overall potential liability and recovery for the potential Class and Aggrieved Individuals. (*Id.*).

Prior to mediation, Class Counsel also conducted extensive research into Defendants' asserted defenses as well as spent significant time drafting a mediation brief, class analysis and preparing for mediation. (*Id.* ¶ 19.) Class Counsel also researched recent developments into PAGA and class litigation to evaluate potential verdicts and risks at trial to have an informed view of not only the strengths and weakness of Plaintiff's case and potential recovery, but also Defendants' defenses. (*Id.*).

On June 29, 2026, the Parties participated in a mediation session before mediator Shirish Gupta, an experienced class action litigation mediator. (*Id.* ¶ 20.) The mediator actively assisted the Parties in settlement discussions, which enabled the Parties to reach the Settlement. (*Id.*) The Settlement was reached after extensive informal discovery as well as extensive negotiations conducted through mediation and through telephonic discussions between the Parties' counsel. (*Id.*) Due to extensive continued post-

mediation negotiations as to the full terms of the Settlement, the Parties finally finalized their Memorandum of Understanding on August 25, 2026, and the Parties memorialized the Settlement on August 25, 2026. (*Id.*). Plaintiff now submits this motion (along with its supporting documents) for preliminary approval of the Settlement.

Class Counsel represent that they have conducted a thorough investigation into the facts of this case as alleged above and have diligently pursued an investigation of the Class Members' claims against Defendants, including research of the applicable law and the potential defenses, review of relevant documents including Defendants' time records, pay records, pay stubs and relevant policy documents (including those procured through Plaintiff's own investigation and those produced by Defendants), and average hourly rate of non-exempt employees, and assessment of likelihood of certifying the claims on a class basis. (*Id.* ¶¶ 12-23).

After taking into account the sharply disputed factual and legal issues involved in this action, the risks attending further prosecution, likelihood of class certification, and the benefits to be received pursuant to the compromise and settlement of the action as set forth in the Settlement Agreement, Plaintiff and Class Counsel concluded that settlement on the terms set forth in the Settlement Agreement is in the best interest of the Class Members and is fair and reasonable. (*Id.* ¶ 23).

While Defendants denied and continue to deny Plaintiff's claims on behalf of himself, others similarly situated, and the allegedly aggrieved, Defendants have agreed to the Settlement Agreement after considering the expense and burden of protracted litigation.

III. SUMMARY OF SETTLEMENT

A. Terms of Settlement

Subject to Court approval pursuant to California Code of Civil Procedure §382 and California Rules of Court Rule 3.769, *et seq.*, the Parties have agreed to settle the lawsuit by agreement upon the terms and conditions and for the consideration set forth in the Settlement Agreement, a copy of which is attached to the Declaration of Daniel Valles as **Exhibit A**.

The Settlement resolves all claims of Plaintiff, the Settlement Class, and the PAGA Settlement Group against Defendants. A summary of the key terms of the Settlement is as follows:

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1 These amounts will be distributed on a pro rata basis to all Class Members, other than those who
2 may opt out of the settlement (if any).

3 *c) No Claims Made Procedure*

4 Settlement Class Members will not be required to file claims in order to receive their share of the
5 Net Class Settlement Amount. Individual Settlement Class Members will have the opportunity to object
6 to Defendants' records of the number of Workweeks worked by a specified challenge procedure or opt-
7 out if they choose to do so by a specified procedure.

8 *d) Settlement Administration*

9 The Parties have selected Apex Class Action Administration ("**Apex**") to serve as the Settlement
10 Administrator, subject to this Court's approval. Class Counsel sought quotes from various different
11 settlement administrators and received a quote from CPT Group, Inc., which Defendants agreed to. The
12 not-to-exceed quote from CPT Group, Inc. for Settlement Administration Costs is presently \$6,990.00,
13 provided that the class size does not change. (*See* Declaration of Sean W. Hartranft, Chief Executive
14 Officer of Apex ("**Hartranft Decl.**") at ¶ 7.) Class Counsel requests up to \$11,350.00 for the Settlement
15 Administration Cost to account for any potential fluctuation in the class size through preliminary approval.
16 Any unused portion of the Settlement Administration Cost allocation of \$11,350.00 will be reincorporated
17 into the GSA.

18 The Settlement Administrator will, among other things, distribute the Class Notice, calculate
19 Individual Settlement Payments for members of the Settlement Class and PAGA Settlement Group,
20 provide information to assist in resolution of any disputes over Workweeks attributed to members of the
21 Settlement Class and PAGA Settlement Group, draw and distribute checks to Qualified Class Members
22 and members of the PAGA Settlement Group, administer the GSA, prepare and file any necessary tax
23 reporting for the GSA, and report to the Court on the notice/opt out process and payment of the GSA.
24 Class Notice will be mailed to all Settlement Class Members, and a class website (which is included in
25 the Settlement Administration Cost above) will be established by the Settlement Administrator listing the
26 Settlement Agreement, operative complaint, and Class Notice, and other important documents as part of
27 the Settlement Administrator's not-to-exceed quote. (*Hartranft Decl.*, at ¶ 7.) The Class Administrator
28 has extensive experience in providing court approved notice of class actions and administering various

types of notice programs and settlements. (*Id.*, at ¶ 2.) The Class Administrator has operative procedures in place for protecting the security of class data, as well as insurance coverage in the event of a data breach, defalcation of funds or other misfeasance. (*Id.*, at ¶ 5.) The Settlement Administration Costs shall be paid out of the Gross Settlement Amount if the Court awards payments of Settlement Administration Costs in an amount that is less than the amount stated herein. If the costs incurred by the Settlement Administrator are less than those awarded by the Court, the remainder shall become part of the Gross Settlement Amount. Defendants will provide the Class List to the Settlement Administrator within twenty (20) business days after Preliminary Approval of the Settlement Agreement.

e) No Residual Distribution

Settlement checks not cashed by Qualified Class Members within 180 calendar days of mailing will become void and a stop payment will be placed on those checks. All amounts remaining from voided and uncashed checks after deduction of costs, such as stop payment charges, will be transmitted by the Settlement Administrator to the California Controller's Unclaimed Property Fund in the name of the applicable Qualified Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure §384(b). There will be no reversion of the GSA to Defendants.

f) Net Class Settlement Amount Distribution to Qualified Class Members

The Net Class Settlement Amount of each Qualified Class Member's Individual Settlement Payments will be based on the number of Workweeks each Qualified Class Member worked during the Class Period. This amount shall be calculated by: (a) dividing the Net Class Settlement Amount by the aggregate total number of Workweeks worked by all Class Members during the Class Period to derive the "Workweek Value"; and (b) then multiplying each Class Member's total number of Workweeks during the Class Period by the Workweek Value.

g) PAGA Settlement Amount and Distribution

The PAGA Settlement Amount of each PAGA Settlement Group member's Individual Settlement Payments will be based on the number of pay periods worked by each member of the PAGA Settlement Groups. The amount shall be calculated by: (a) dividing the Net Settlement Amount by the aggregate

total number of pay periods worked during the PAGA Period; and (b) then multiplying by each PAGA Settlement Group member's pay periods during the PAGA Period.

h) Tax Consequences of Individual Settlement Payments

The Net Settlement Class Amount shall be allocated as: (i) 10% as wages for which IRS Forms W-2 will be issued, and (ii) 90% toward penalties and interest reported as such to each applicable Qualified Class Member on an IRS Form W-2 and IRS Form 1099 MISC as applicable. Each PAGA Settlement Group member's PAGA payment will be allocated as non-wages (for alleged interest and penalties) for which IRS Forms 1099-MISC will be issued.

Defendants shall pay the employer's portion of payroll taxes on all wage allocation in addition to the Gross Settlement Amount.

i) Class Notice

All Class Members will be mailed a Class Notice. The Class Notice will provide: (i) information regarding the nature of the Action; (ii) a summary of the Settlement's principal terms; (iii) the definition of the Settlement Class; (iv) the definition of the PAGA Settlement Group; (v) the total number of Workweeks each Class Member worked for Defendants during the Class Period; (vi) the total number of pay periods each member of the PAGA Settlement Groups worked for Defendants during the PAGA Period; (vii) each Class Member's estimated Individual Settlement Payment and the formulas for calculating Individual Settlement Payments; (viii) the dates which comprise the Class Period and PAGA Period; (ix) instructions on how to submit a Request for Exclusion, Notice of Objection, or Workweek disputes; (x) the deadlines by which a Class Member must postmark or fax a Request for Exclusion, Notice of Objection, or Workweek dispute; and (xi) the claims to be released.

Class Members will have sixty (60) calendar days from the mailing of their Notice Packets to submit their objection to the Settlement to the Settlement Administrator. The Settlement Administrator shall email a copy of any such objection to the Parties' counsels and Settlement Class Counsel shall lodge a copy of the objection with the Court, or to indicate their decision to opt-out of the Settlement Class or to dispute the number of Workweeks. To the extent Class Members dispute the number of Workweeks or Pay Periods on record, Defendants' records shall presumptively control.

1 If a Class Member's Request for Exclusion is defective as to the requirements listed herein, that
2 Class Member will be given an opportunity to cure the defect(s). The Settlement Administrator will mail
3 the Class Member a cure letter within three (3) business days of receiving the defective submission to
4 advise the Class Member that his or her submission is defective and that the defect must be cured to render
5 the Request for Exclusion valid. The Class Member will have until the later of (i) Response Deadline or
6 (ii) fourteen (14) calendar days from the date of the cure letter, which ever date is later, to postmark or fax
7 a revised Request for Exclusion. If the revised Request for Exclusion is not postmarked or received within
8 that period, it will be deemed untimely.

9 Any Class Member wishing to opt-out from the Class portion of the Settlement (*i.e.*, to not waive
10 individual claims for relief encompassed by the Released Class Claims and not receive a portion of the
11 Net Class Settlement Amount) must sign and facsimile or postmark written Request for Exclusion to the
12 Settlement Administrator within the Response Deadline. In the case of Requests for Exclusion that are
13 mailed to the Settlement Administrator, the postmark date will be the exclusive means to determine
14 whether a Request for Exclusion has been timely submitted. Any Class Member who requests to be
15 excluded from the Class portion of the Settlement will not be entitled to any portion of the Net Class
16 Settlement Amount and will not be bound by the terms of the Class portion of the Settlement or have any
17 right to object, appeal, or comment thereon, although the PAGA settlement and release provisions
18 applicable to the PAGA Period will still apply to each such individual, and each such individual shall be
19 entitled to his or her pro rata share of the Net PAGA Settlement Amount.

20 ***j) Scope of Release and Final Judgment***

21 The releases contemplated by the proposed Settlement corresponds to the operative Complaint,
22 and are as follows:

23 Released Class Claims by Class Members means all claims and/or legal theories arising during the
24 Class Period under federal, state, or local laws, that were alleged or could reasonably have been alleged
25 during the Class Period under facts alleged in the Consolidated Complaint, including but not limited to,
26 claims stemming from an alleged misclassification of employees as independent contractors (Lab. Code
27 § 2775); (1) Failure to Pay Minimum Wages (Lab. Code §§ 1194, 1197, 1182.12); (2) Unpaid Overtime
28 (Lab. Code §§ 510 and 1198); (3) Meal Period Violations (Lab. Code §§ 226.7 and 512, 226.7; (4) Rest

1 Period Violations (Lab. Code § 226.7); (5) Failure to Provide Accurate Wage Statements (Lab. Code §
2 226); (6) Failure to Reimburse Necessary Business Expenses (Lab. Code §§ 2800, 2802); (7) Failure to
3 Timely Pay Wages During Employment and at Termination (Lab. Code §§ 201-204 and 210); (8) Denial
4 of Sick Time (Lab. Code §§ 233, 234); (9) Unfair Competition (Bus. & Prof. Code § 17200, *et seq.*); and
5 (10) all damages, penalties, interest and other amounts recoverable under these causes of action or primary
6 rights under the law, to the extent permissible, including but not limited to the California Labor Code, the
7 applicable Wage Orders, and Fair Labor Standards Act, as to the facts in the Complaint (collectively, the
8 “Released Class Claims”).

9 Released PAGA Claims by PAGA Settlement Group are all PAGA civil penalty claims arising
10 during the PAGA Period that were alleged or could reasonably have been alleged based on the facts
11 alleged in the Consolidated Complaint and the PAGA Notices, including but not limited to, PAGA civil
12 penalties statutes stemming from an alleged misclassification of employees as independent contractors,
13 pursuant to California Labor Code section 2775, including Labor Code sections 201, 202, 203, 204,
14 204(a), 210, 218, 218.5, 221, 222, 223, 224, 225.5, 226, 226.3, 226.7, 226.7(b), 226.8, 232.5, 233, 234,
15 246, 246.5, 247.5, 248.5, 300, 432.5, 510, 512, 551, 552, 558, 558.1, 925, 1174(d), 1174.5, 1182.12, 1194,
16 1194.2, 1197, 1197.1, 1198, 1199, 2775, 2800, 2802, 2810.5, 3700, 3700.5 as well as the applicable Wage
17 Orders (collectively, the “Released PAGA Claims”). The PAGA Settlement will foreclose the PAGA
18 Members from pursuing the Released PAGA Claims.

19 For all releases, the Released Parties are Defendants Pareto and Yao, and any of their former and/or
20 current parents, subsidiaries, and affiliates, and each of their past, present, and/or future, direct and/or
21 indirect officers, directors, members, managers, owners, executives, partners, employees, shareholders,
22 agents, attorneys, insurers, and any other predecessors, successors, assigns or legal representatives, and
23 all persons acting under, by, through, or in concert with any of them, and each of them.

24 Upon final approval of the Settlement Fund, the Parties will seek entry of final judgment on all of
25 the claims.²

26
27
28 ² The Parties are not aware of any cases pending in any other jurisdictions that would be affected by the Settlement and entry
of final judgment.

1 ***k) Appointment of Apex Class Action Administration as Settlement***
2 ***Administrator***

3 The Parties have selected Apex Class Action Administration as the Settlement Administrator to
4 administer the Settlement, subject to this Court’s approval. (Valles Decl. ¶ 99). Apex is a provider of
5 notice and settlement class action administration services since 2023 and has been appointed as a third-
6 party administrator by all major courts in California and a number of United States District Courts. (*Id.*
7 at ¶102). According to Apex, their Class Action team has been directly involved with class action
8 administration for a combined 150 years and has successfully managed numerous class action cases during
9 that time. (*Id.*)

10 The Settlement Administrator will, upon approval by this Court, establish a Qualified Settlement
11 Account for Defendant to submit payment of the GSA per the terms of the Settlement Agreement. The
12 Settlement Administrator will print and distribute the Notice Packets to the Class Members by First Class
13 mail; establish a mailing address and telephone number to receive Class Members’ inquiries about the
14 Settlement; receive, review, and process all opt-outs, disputes, and objections to the Settlement; receive
15 and process any written disputes and supporting documentation from Class Members as to their number
16 of Workweeks or pay periods; handle inquiries from Class Members regarding the Settlement; calculate
17 each Class Members’ Individual Settlement Payment; mail Individual Settlement Payments to Qualified
18 Class Members and PAGA Settlement Group members; and perform any other usual and customary duties
19 for administering a class action settlement. The Settlement Administrator’s fees and expenses shall be
20 paid out of the GSA in the amount not to exceed \$11,350.00. Any portion of this allocation of \$11,350.00
21 that is not utilized by the Settlement Administrator will be reincorporated into the NSA. Accordingly, the
22 Court should appoint Apex as the Settlement Administrator and direct Apex to mail the Notice Packets to
23 the Class Members in the manner and on the deadlines set forth in the Court’s order.

24 **B. Attorneys’ Fees and Costs**

25 As noted above, Class Counsel will request a payment of fees up to one-third (i.e., 33 1/3%) of the
26 GSA, which is currently estimated to be \$183,333.33, for Attorneys’ Fees, as a result of Plaintiff counsel’s
27 extensive of work and hours spent on this Action through the final approval hearing. (Valles Decl. ¶¶ 86-
28 90.) Class Counsel requests up to \$25,000.00 for Attorneys’ Costs. (*Id.* at ¶ 91). However, Class Counsel

1 anticipates that actual fees incurred will be less than that number as Class Counsel has incurred, to date,
2 just under \$19,000.00 in Attorneys' Costs. (*Id.*). Any unused portion of the litigation costs allocation of
3 \$25,000 will be reincorporated into the NSA. (*Id.*) The requested Attorneys' Fees is a fair compensation
4 for undertaking complex, risky, expensive, and time-consuming litigation on a contingent fee basis,
5 especially in light of the substantial benefits achieved by Class Counsel for the Class Members.

6 Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions will
7 "not be disturbed on appeal absent a manifest abuse of discretion." (*Lealao v. Beneficial Cal., Inc.*, 82
8 Cal.App.4th 19, 41 (2000).) Indeed, it is long settled that the "experienced trial judge is the best judge of
9 the value of professional services rendered in his court" (*Ketchum v. Moses*, 24 Cal.4th 1122, 1132
10 (2001).) California law provides that attorney fee awards should be equivalent to fees paid in the legal
11 marketplace to compensate for the result achieved and risk incurred. (*See Lealao*, 82 Cal.App.4th at 47.)
12 In *Lealao*, the court held that when an action leads to a recovery that can be "monetized" with a reasonable
13 degree of certainty, the trial court should "ensure that the fee awarded is within the range of fees freely
14 negotiated in the legal marketplace in comparable litigation." (*Id.* at 50.) In cases where class members
15 present claims against a maximum settlement fund and the settlement agreement provides that the
16 defendant agrees to pay the attorneys a percentage of the same, use of that percentage method is
17 appropriate. (*Id.* at 32.)

18 California courts have also recognized that one appropriate method for awarding attorneys' fees
19 in class actions is to award a percentage of the "common fund" created as a result of the settlement. (*City*
20 *& County of San Francisco v. Sweet*, 12 Cal.4th 105, 110-11 (1995); *Quinn v. State*, 15 Cal.3d 162, 168
21 (1975); *see also Apple Computer, Inc. v. Superior Court*, 126 Cal.App.4th 1253, 1270 (2005); *Lealao*, 82
22 Cal.App.4th at 26.) The basis of the common fund is fairness to the successful litigant, who might
23 otherwise receive no benefit because his recovery might be consumed by the expenses; correlative
24 prevention of an unfair advantage to others who are entitled to share in the fund and who should bear their
25 share of the burden of its recovery; encouragement of the attorney for the successful litigant, who will be
26 more willing to undertake and diligently prosecute proper litigation for the protection or recovery of the
27 fund if he is assured that he will be properly and directly compensated should his efforts be successful.
28 (*Sweet*, 12 Cal.4th at 111.) In *Quinn*, the California Supreme Court stated: "[O]ne who expends attorneys'

1 fees in winning a suit which creates a fund from which others derive benefits may require those passive
2 beneficiaries to bear a fair share of the litigation costs.” (*Quinn*, 15 Cal.3d at 167.) Similarly, in *Sweet*,
3 the California Supreme Court recognized that the common fund doctrine has been applied “consistently
4 in California when an action brought by one party creates a fund in which other persons are entitled to
5 share.” (*Sweet*, 12 Cal.4th at 110.)

6 Several courts have expressed frustration with the alternative “lodestar” approach for deciding fee
7 awards, which usually involves wading through voluminous and often indecipherable time records.
8 (*Lealao*, 82 Cal.App.4th at 31 n.5 [citing *In re Activision Sec. Litig.*, 723 F. Supp. 1373, 1375 (N.D. Cal
9 1989)].) The percentage approach is preferable to the lodestar because: (1) it aligns the interests of class
10 counsel and absent class members; (2) it encourages efficient resolution of the litigation by providing an
11 incentive for early, yet reasonable, settlement; and (3) it reduces the demands on judicial resources. (*In*
12 *re Activision Sec. Litig.*, 723 F. Supp. at 1378-79.) The Ninth Circuit now routinely uses the percentage
13 of the common fund approach to determine the award of attorneys’ fees. (*Lealao*, 82 Cal.App.4th at 30-
14 31; see e.g., *In re Pacific Enters. Sec. Litig.*, 47 F.3d 373, 378-79 (9th Cir. 1995) [approving attorney’s fee
15 of 33%].)

16 Class Counsel requests fees equal to thirty-three percent (33.33%) of the GSA in light of the facts
17 and circumstances surrounding the case is well within the range of reasonableness. Historically, courts
18 have awarded fees as high as fifty percent (50%) of the common fund, depending on the circumstances
19 of the case. (Alba Conte & Herbert B. Newberg, *Newberg on Class Actions* § 14.03 (4th ed. 2002.); see
20 also *In re Activision Sec. Litig.*, 723 F. Supp. at 1378; *In re Ampicillin Antitrust Litigation*, 526 F.Supp.494
21 (D. D.C. 1981) [awarding attorneys’ fees in the amount of 45% of the \$7.3 million settlement fund]; *Beech*
22 *Cinema, Inc. v. Twentieth-Century Fox Film Corp.*, 480 F.Supp. 1195 (S.D.N.Y. 1979) [awarding
23 approximately 53% of the settlement fund as attorney fees].) According to Professor Newberg: “[n]o
24 general rule can be articulated on what is a reasonable percentage of a common fund ... Usually 50 per
25 cent of the fund is the upper limit on a reasonable fee award from a common fund, in order to assure that
26 fees do not consume a disproportionate part of the recovery obtained for the class, though somewhat larger
27 percentages are not unprecedented.” (Newberg, at § 14.6.)

1 Class Counsel bore, and continue to bear, the entire risk and cost of litigation associated with this
2 action on a pure contingency basis and will not receive any compensation until recovery is obtained.
3 (Valles Decl. ¶¶ 88-89.) Moreover, any unused portion of the Attorneys' Costs will be reincorporated
4 into the NSA. (*Id.* at ¶ 91.)

5 The factual and legal issues posed in this case were highly disputed, and there were also risks as
6 to whether or not a class might be decertified or whether Plaintiff might succeed at trial, leaving a large
7 number of putative class members unlikely to receive any recovery. Class Counsel also litigated this case
8 extensively since 2025 and fully investigated the claims against Defendants and then engaged in hard
9 fought settlement negotiations. (*Id.* at ¶¶ 12-21, 31-38.) Additionally, the ongoing work has been
10 extensive, demanding, and ultimately successful in achieving a substantial settlement resolution. Class
11 Counsel conducted informal investigations into the facts of the case; spoke to Plaintiff and putative class
12 members regarding their job experiences at Defendants' business as well as their potential claims; engaged
13 in informal discovery; engaged in a detailed analysis of a sample of time and payroll records of
14 Defendants; conducted an extensive review of documents provided by Plaintiff, various punitive class
15 members, and Defendants; prepared for and attended the mediation; and engaged in extensive post-
16 mediation settlement discussions with Defendants' counsels. (*Id.*)

17 The Court should preliminarily approve the requested Attorneys' Fees and Costs, which are
18 justified by the results achieved, the complexity of the issues, the difficulty of the case, and the great risk
19 undertaken by Class Counsel. The requested Attorneys' Fees and Costs will not be opposed by Defendants
20 and are well within established guidelines. The Class Members will also be notified of the requested
21 Attorneys' Fees and Costs and have an opportunity to object to the requested Attorneys' Fees and Costs.

22 **C. Enhancement/Service Award**

23 Plaintiff and Class Counsel will request, and Defendants agree not to oppose, payment of up to
24 \$15,000 from the GSA to Plaintiff as a Class/PAGA Representative Enhancement Payment. (Valles Decl.,
25 ¶ 98). Plaintiff is entitled to an enhancement service award for his service as Class/PAGA Representative
26 and the risks in connection with that role. Enhancement awards in overtime cases typically range from
27 \$5,000.00 to \$40,000.00, although some awards are higher. Often, multiple class representatives receive
28 awards in the higher range. (*See e.g., Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186

1 Cal.App.4th 399, 412 (approving an enhancement request of \$10,000.00 per named plaintiff in a 188-
2 member class); *Cook v. Niedert* (7th Cir. 1998) 142 F.3d 1004, 1016; *Thornton v. East Texas Motor*
3 *Freight* (6th Cir. 1974) 497 F.2d 416, 420-421 (“We also think there is something to be said for rewarding
4 those drivers who protect and help to bring rights to a group of employees who have been the victims of
5 discrimination”).)

6 “The criteria courts may consider in determining whether to make an incentive award include: 1)
7 the risk to the class representative in commencing suit, both financial and otherwise; 2) the notoriety and
8 personal difficulties encountered by the class representative; 3) the amount of time and effort spent by the
9 class representative; 4) the duration of the litigation; and 5) the personal benefit (or lack thereof) enjoyed
10 by the class representative as a result of the litigation (internal quotation marks, brackets, ellipses, and
11 citations omitted).” (*Cell phone Termination Fee Cases*, (2010) 186 Cal. App. 4th 1380, 1394-1395.)

12 Plaintiff spent a substantial amount of time and effort in producing relevant documents and past
13 employment records and providing the facts and evidence necessary to prove Plaintiff’s allegations.
14 (Valles Decl., ¶¶ 92-95; Barry Decl. ¶¶ 10-15.) Plaintiff participated through the litigation and was
15 available whenever Class Counsel needed him as well as actively tried to obtain information that would
16 benefit the Settlement Class and PAGA Settlement Group, including, but not limited to, searching for and
17 providing information related to his employment and employment conditions, providing needed
18 information for mediation, settlement discussions, and potential class certification. (*Id.*) Plaintiff attended
19 meetings with Class Counsel and was present in person throughout the mediation session that resulted in
20 this Settlement, which Plaintiff had to take time off work to attend at a significant financial cost to him as
21 well as he lost a full day of work. (*Id.*) Plaintiff also took part in reviewing and approving the Settlement
22 and filings on behalf of the Settlement Class and PAGA Settlement Group. (*Id.*) In addition to the effort
23 that Plaintiff put into pursuing the case, he also took on great risk in pursuing a case against his previous
24 employer. Few people want to file lawsuits, especially against their employers. By bringing a lawsuit
25 against his employer, Plaintiff incurred a real risk of retaliation from his present employer, which is not
26 Defendants, and future employers that will be present for the rest of his work life. (*Id.*) Such conduct may
27 be considered by future employers when choosing between an applicant who has never sued a prior
28 employer and one that has. (*Id.*)

Moreover, Plaintiff forwent his own individual claims against Defendants for the non-payment of wage and hour violations, penalties, and fees, and other violations that Plaintiff contends would have ranged in a personal recovery, with a conservative estimate, of between \$120,000 to \$200,000, and far exceeded that amount that he would recover as a Class/PAGA Representative Enhancement Payment for the benefit of the Settlement Class and PAGA Settlement Group as a whole. (Valles Decl., ¶ 97; Barry Decl. ¶ 18). However, instead of electing to pursue those claims, which would have been more lucrative for Plaintiff, Plaintiff chose to put the Class ahead of himself and pursue recovery for all of his fellow class members and not just himself as Plaintiff believed that was the right thing to do.

As a condition of receiving his Class/PAGA Representative Enhancement Payment, Plaintiff is also required to release all potential claims against Defendants over and above the releases that are required by Class Members, including all of his potential claims mentioned above, which means Plaintiff is waiving his right to recover, from a conservative estimate, between \$120,000 to \$200,000. Specifically, Plaintiff's release for this Class/PAGA Representative Enhancement Payment is as follows:

5.1 Plaintiff's General Release. Plaintiff on behalf of himself, his former and present spouse(s), representatives, agents, attorneys, heirs, administrators, successors, assigns generally, and all those who claim through each of them or who assert claims on their behalf shall be deemed to have expressly released, waived and relinquished any and all claims, demands, rights, liabilities and causes of action they have or have ever had against any of the Released Parties, known or unknown, based in any way on, or otherwise arising from or related to, their work performed for Defendants, either in an employment or independent contractor relationship, or the termination of such relationship, as of the date of execution of this Settlement Agreement. This includes claims for economic damages, noneconomic damages, exemplary damages, penalties, restitution, injunctive or declaratory relief, interest, attorneys' fees, costs or any other forms of monetary or non-monetary relief. This general release by Plaintiff shall also include all statutory claims, common law claims (including but not limited to those sounding in contract, tort, and equity), and claims for compensation to the fullest extent permitted by law. Plaintiff further agrees not to sue or otherwise make a claim against any of the Released Parties, including Defendants, for any of the claims that are released pursuant to this Agreement.

5.2 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. Plaintiff acknowledges that the general release herein includes potential claims and costs that may not be known or suspected by Plaintiff to exist, and Plaintiff hereby expressly and affirmatively waives and relinquishes any and all rights and benefits which Plaintiff may otherwise have relating to the claims released in this Agreement pursuant to Civil Code section 1542, and any similar law of any state or territory of the United States. Civil Code section 1542 states as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE

1 *MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR*
2 *OR RELEASED PARTY.*

3 *Plaintiff may hereafter discover claims or facts in addition to, or different from, those which*
4 *Plaintiff now knows or believes to exist, but Plaintiff expressly agrees to fully, finally, and forever*
5 *settle and release any and all claims against the Released Parties, including Defendants, known*
6 *or unknown, suspected or unsuspected, which exist or may exist on behalf of or against the other*
7 *at the time of execution of this Agreement, including, but not limited to, any and all claims relating*
8 *to or arising from any and all activities or relationships, including, without limitation, employment*
9 *or independent contractor relationships, between Plaintiff and Released Parties, including*
10 *Defendants, and the termination of those activities or relationships.*

11 Accordingly, it is appropriate and just for Plaintiff to receive a Class/PAGA Representative
12 Enhancement Payment in the amount of \$15,000, in addition to his Individual Settlement Payment, for his
13 time and service as Class Representative. Moreover, the requested Class/PAGA Representative
14 Enhancement Payment is relatively modest, reasonable, and should be preliminarily approved in light of
15 the risks faced by Plaintiff and the personal financial loss he has faced by serving as the Class
16 Representative in this matter.

17 **IV. ARGUMENT IN FAVOR OF PRELIMINARY APPROVAL**

18 The proposed Settlement meets the standards for preliminary approval. Rule 3.769 of the
19 California Rules of Court requires court approval for class action settlements. “Before final approval. the
20 court must conduct an inquiry into the fairness of the proposed settlement.” (Cal. Rules of Court, rule 3.
21 769(g).) Courts act within their discretion in approving settlements which are fair, not collusive, and take
22 into account “all the normal perils of litigation as well as the additional uncertainties inherent in complex
23 class actions.” (*In re Beef Industry Antitrust Litigation* (5th Cir. 1979) 607 F .2d 167, 180. *cert. den. sub.*
24 *nom. Iowa Beef Processors. Inc. v. Meat Price Investigators Ass'n* (1981) 452 U.S. 905.)

25 The purpose of the preliminary evaluation of class action settlements is to determine only whether
26 the proposed settlement is within the range of reasonableness and, therefore, whether notice to the class
27 and the scheduling of a formal fairness hearing are warranted. (*Wershba v. Apple Computer. Inc.* (2001)
28 91 Cal.App.4th 224, 234-35; Newberg, *supra*, at § 11:25.) Courts have broad powers to determine whether
a proposed settlement is fair under the circumstances of the case. (*Wershba*, 91 Cal.App.4th at 234-35;
Mallick v. Superior Court (1979) 89 Cal.App.3d 434, 439.) In evaluating preliminary approval, courts
must consider several relevant factors, including “the strength of the Plaintiff’s case, the risk, expense,

complexity and likely duration or further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, [and] the experience and views of counsel....” (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) “The list of factors is not exclusive and the court is free to engage in a balancing and weighing, of the factors depending on the circumstances of each case.” (*Wershba*, 91 Cal.App.4th at 245.)

A proposed class action settlement is presumed fair under the following circumstances: (1) the parties reached settlement after arms-length negotiations; (2) investigation and discovery were sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation, and (4) the percentage of objections is small. (*Dunk*, 48 Cal.App.4th at 802.) The Declaration of Daniel Valles demonstrates that the proposed settlement was the product of serious, informed, and non-collusive negotiations and demonstrates Class Counsel’s extensive experience in both employment law as well as class action litigation.

A. The Settlement is the Result of Serious, Informed, and Non-Collusive Negotiations

The settlement negotiations have been, at all times, adversarial and non-collusive in nature. Indeed, continued good-faith but occasionally contentious negotiations were required to ultimately reach an agreement as a result of arms-length negotiations following significant investigation of the facts and law and a full-day mediation with respected class action mediator Shirish Gupta. While Plaintiff believes in the merits of his case, he recognizes the inherent risks of litigation and understands the benefit of the Settlement Class and PAGA Settlement Group receiving settlement funds immediately as opposed to delaying payment or risking an unfavorable decision on summary adjudication/judgment, motion for class certification, at trial and/or the damages awarded, and/or appeal all of which have potential to eliminate any relief for Class Members.

B. The Extent of the Information Provided Through Informal Discovery and the Stage of the Proceedings Supports Settlement

As described above, the Parties thoroughly investigated and evaluated the factual strengths and weaknesses of this case before reaching the Settlement and engaged in sufficient investigation and discovery as referenced above, to support the Settlement. The Parties agreed to the informal production of discovery and production of relevant declarations to fully inform the Parties of potential liability and

1 strength of Plaintiff's claims and Defendants' defenses. Such discovery and investigation included
2 investigation and research of relevant legal principles for liability and certification and production and
3 analysis of the documents and data produced. Counsel for the Parties have investigated the law as applied
4 to the facts regarding the alleged claims, potential defenses thereto, and the potential damages claimed,
5 including the review of class information produced by Defendants to Class Counsel for the purposes of
6 litigation and mediation.

7 The Settlement came only after the case was fully investigated by counsel, as set forth above. This
8 litigation, therefore, had reached the stage where the Parties certainly have a clear view of the strengths
9 and weaknesses of their cases sufficient to support the Settlement. (*See Boyd v. Bechtel Corp.* (N.D. Cal.
10 1979) 485 F. Supp. 610.)

11 **C. Plaintiff's Counsel is Experienced in Similar Litigation**

12 Experienced counsel, operating at arms-length, have weighed the strengths of the case and
13 examined all of the issues and risks of litigation and endorse the proposed settlement. The view of the
14 attorneys actively conducting the litigation "is entitled to significant weight" in deciding whether to
15 approve the settlement. (*Fisher Bros. v. Cambridge Lee Industries, Inc.* (E.D. Pa. 1985) 630 F.Supp. 482,
16 489; *Boyd*, 485 F.Supp. at 617.)

17 Both Plaintiff's and Defendants' counsel are experienced in employment, wage and hour and class
18 action matters. Regarding Plaintiff's and Class Counsel, Daniel Valles is the partner responsible for
19 handling this matter. Mr. Valles received his J.D. degree in 2009 from Boston College and has been
20 licensed to practice law in California since March 3, 2010. (Valles Decl., ¶¶ 4-8, 77-78.). From 2009 to
21 2019, Mr. Valles worked for three different law firms, including two international law firms, Baker
22 McKenzie, Nixon Peabody, LLP and Lewis Brisbois Bisgaard and Smith, LLP. (*Id.* at ¶ 5.) Mr. Valles
23 opened Valles Law, P.C. in 2019 and has nearly fifteen (15) years of experience litigating employment
24 law cases, including wage and hour class actions and single-plaintiff discrimination, harassment, and
25 retaliation cases. (*Id.* at ¶¶ 5-8.)

26 Ms. Michiko Vartanian, who is an associate assigned to this matter, received her J.D. degree in
27 2016 from Trinity Law School and has been licensed to practice law in California since December 8, 2018.
28 (*Id.* at ¶ 77.) Prior to joining Valles Law, Ms. Vartanian gained over 7 years of experience handling

1 complex litigation, including class action and PAGA matters as well as single-plaintiff discrimination,
2 harassment, and retaliation cases in both California State and Federal courts at Melmed Law, P.C.,
3 Loveless Law Firm, APC, and Laurel Employment Law, P.C. (*Id.* at ¶ 77.)

4 Ms. Kayla Rathjen, who is an associate assigned to this matter, received her J.D. degree in 2019
5 from Boston College and has been licensed to practice law in California since January 21, 2020. (*Id.* at ¶
6 78.) From 2019 to 2022, Ms. Rathjen worked at Jackson Lewis, P.C. before joining Valles Law, P.C. in
7 2022. (*Id.*) Between Valles Law and Jackson Lewis, Ms. Rathjen has over five (5) years of experience
8 handling complex employment litigation, including representative actions and class claims as well as
9 single-plaintiff discrimination, harassment, and retaliation cases in both California State and Federal court.
10 (*Id.*)

11 Both, Mr. Valles and Ms. Rathjen have also previously been approved as class counsel in the
12 matter entitled *Keller v ATvantage LLC D/B/A ATvantage Athletic Training*, California Superior Court for
13 the County of San Diego, Case No. 37-2022-00049697-CU-OE-CTL, in the Northern District of
14 California in the matter entitled *Seibert v SS&C Technologies, Inc.*, Case No. 4:23-cv-00279-DMR, and
15 in *Reece v. WalkMe, Inc.*, California Superior Court for the County of San Francisco, Case No. CGC-22-
16 602550. (Valles Decl., ¶ 9.) All of these cases involved wage and hour class issues similar to the present
17 case. (*Id.*) Moreover, during his career, Mr. Valles has also worked as defense counsel in several PAGA
18 and employment class action matters, including, but not limited to, in the matter of *J. Burkett, et al vs*
19 *Catholic Charities of Santa Clara County*, California Superior Court for the County of Santa Clara, Case
20 No. 2010-1-CV-187176, and *Kenia Beltran Morales v Invapharm, Inc.*, California Superior Court for the
21 County of Los Angeles, Case No. 24STCV27498. (Valles Decl., ¶ 10.) Ms. Vartanian has also been
22 approved as class counsel in several cases with Melmed Law, P.C. (*Id.*, at ¶ 77.) In short, Class Counsel
23 are experienced and qualified to evaluate the class claims and to evaluate settlement versus trial on a fully
24 informed basis, and to evaluate the viability of the defenses.

25 Counsel on both sides share the view that this is a fair and reasonable settlement in light of the
26 complexities of the case, the state of the law and uncertainties of litigation and trial, and the benefit the
27 settlement confers on the Class. Given the risks inherent in litigation, in class certification proceedings,
28 and in the defenses asserted, this Settlement is fair, adequate, and reasonable and in the best interests of

the Class Members.

D. The Settlement is Fair and Reasonable Based on the Strengths and Risks of Plaintiff's Case, Defendants' Defenses, and the Risks and Costs Associated with Further Litigation

Plaintiff and his counsel have concluded it was reasonable to enter into the Settlement. Defendants have denied and continue to deny they are liable for any of the claims asserted in the action. Although Defendants firmly believe Plaintiff's claims would ultimately fail, Defendants agreed to attempt resolution of the case through mediation to avoid the expense, distraction, and uncertainty of protracted litigation.

There are significant legal uncertainties associated with cases such as this as they can be factually complex and require protracted litigation to resolve. A settlement is not judged solely against what might have been recovered had plaintiff prevailed at trial, nor does the settlement have to provide 100% of the damages sought to be fair and reasonable. (*Linney v. Cellular Alaska Partnership* (9th Cir. 1998) 151 F.3d 1234, 1242; *Wershba*, 91 Cal.App.4th at 246 & 250; *Rebney v. Wells Fargo Bank* (1990) 220 Cal.App.3d 1117, 1139.) Instead, "[c]ompromise is inherent and necessary in the settlement process ... even if the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated, this is no bar to a class settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation." (*Wershba*, 91 Cal.App.4th at 250.)

Given the risks inherent in litigation, in class certification proceedings, and in the defenses asserted, this Settlement is fair, adequate, and reasonable and in the best interests of the Class Members.

E. The Proposed Settlement is a Reasonable Compromise of Claims

To evaluate a settlement, the trial court "bears the ultimate responsibility to ensure that the recovery represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing the litigation." (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130.) However, the record need not contain an explicit statement of the maximum theoretical recovery:

Greenwell misunderstands *Kullar*, apparently interpreting it to require the record in all cases to contain evidence in the form of an explicit statement of the maximum amount the plaintiff class could recover if it prevailed on all its claims – a number which appears

1 nowhere in the record of this case. But *Kullar*, does not, as Greenwell claims, require any
2 such explicit statement of value; it requires a record which allows “an understanding of the
3 amount that is in controversy and the realistic ranges of outcomes of the litigation.”

4 (*Munoz*, 186 Cal.App.4th at 409.)

5 To assist the Court with determining if the Settlement is within a range that is fair, reasonable, and
6 adequate, Plaintiff’s counsel analyzed the value of pleaded class allegations. As stated above, the
7 Settlement was reached only after exchanging discovery prior to mediation and conducting legal analyses
8 of both Plaintiff’s and Defendants’ theories.

9 While Plaintiff’s initial maximum damage calculation was high, Plaintiff had to account for real
10 risks that presented themselves during the parties’ information exchange and Plaintiff’s research into the
11 issues. As such, when coming into mediation, Plaintiff had a **realistic reduced valuation of the claims**
12 **at \$5,281,640.28**. As a result, the gross settlement in this case represents the recovery of approximately
13 10% of the realistic total damage analysis that Plaintiff had coming into mediation.

14 **Overtime and Minimum Wage Violations**: Plaintiff alleged that Plaintiff and other similarly
15 situated employees are not compensated for all of their time performing work as they were misclassified
16 as independent contractors by Defendants and paid based on a piece-rate compensation system, receiving
17 a set amount of compensation for each task performed. Because of the nature of their jobs, Plaintiff
18 alleged that California AI Trainers, including Plaintiff, regularly work in excess of forty (40) hours in a
19 week and eight (8) hours in a day; however, they are not paid overtime for these hours and were paid only
20 piece-rate compensation on account of being misclassified as independent contractors. As a result,
21 Plaintiff and other similarly situated employees were allegedly not paid for all hours worked. Plaintiff
22 originally estimated that this resulted in approximately ten (10) hours per week (on average) of overtime
23 with two (2) of those hours being double time. Although, Plaintiff recognized that this estimation was a
24 maximum theoretical assumption based on a smaller subset of information available to Plaintiff through
25 his own discovery efforts that may be difficult to establish for the entire class period. Moreover, Plaintiff
26 had to account for the risk that the actual overtime worked by Class Members may actually be significantly
27 less than originally estimated by Plaintiff. As a result, Plaintiff initially reduced the amount of estimated
28 overtime hours to 20% of his original estimate to account for the potentiality where no overtime was

worked and to account for the varying degrees of overtime that may exist between Class Members. This left Plaintiff with a revised initial estimation of overtime damages of \$1,149,780.45.

Meal Period Violations: Plaintiff alleged that Defendants do not have a written, actively enforced policy of providing meal and rest periods to Plaintiff and other similarly situated employees because the categorize and treat them as independent contractors. Plaintiff alleged that he and other similarly situated employees were misclassified as independent contractors, and Defendants must comply with California's meal break laws pursuant to Wage Order 4. Neither Plaintiff nor any similarly situated employees signed or executed any written agreement waiving their statutory meal periods. Plaintiff estimated a maximum meal period damage valuation based on violations occurring **each** workday during the relevant period for every member of the Class. As a result, Plaintiff's estimation of meal period damage valuation for settlement purposes was \$442,223.25.

Rest Period Violations: Plaintiff alleged that rest breaks were not received, and that Defendants did not have a policy in place where their employees would receive a rest break when they worked a shift of 3.5 hours or more. Plaintiff alleged that the AI Trainers were misclassified as independent contractors, and Defendants still must comply with California's rest break laws pursuant to Wage Order 4. Plaintiff alleged that the nature of the work performed by Plaintiff and other similarly situated employees prevented them from taking their ten (10) minute rest breaks, and that Defendants also intentionally do not schedule any breaks into Plaintiff and other similarly situated employees' workday. Plaintiff alleged that employees often work straight through their workday without a single rest break. As a result, Plaintiff estimated a maximum rest period damage valuation based on violations occurring **each** workday during the relevant period for every member of the Class. This left Plaintiff with an estimation of rest period damage valuation for settlement purposes of \$442,223.25.

Labor Code § 226 Penalties: Plaintiff alleged that based on the foregoing, wage statements inaccurately stated the number of hours worked and wages earned. According to Defendants' records, the Labor Code 226 penalties would amount to \$808,000.00.

Because this claim was derivative, it was subject to the defenses to the claims alleged above. In addition, Defendant asserted that Plaintiff could not demonstrate that the Defendants knowingly and intentionally provided employees with inaccurate wage statements. This risk of the Class Members

1 potentially walking away with nothing weighed heavily in compromising on this claim and Class Counsel
2 was required to heavily factor this potential risk of recovering \$0.

3 **Waiting Time Penalties:** Defendants provided Plaintiff with an estimate of 202 former employees
4 who separated employment with Defendants as every single class member was allegedly transferred to a
5 new employing entity as of May 5, 2025. Therefore, Plaintiff alleged that Plaintiff and similarly situated
6 employees were due and owed wages when their employment with Defendant Pareto ended on May 4,
7 2025. According to Defendants' records, the actual amount of waiting time penalties for those individuals
8 was \$2,222,808.00.

9 Because this claim was derivative, it was subject to the defenses to the underlying claims as alleged
10 above, which Plaintiff had to consider at the time of settlement. In addition, Plaintiff had to account for
11 the fact that Plaintiff would have needed to show that the violations were willful. (Lab. Code § 203, subd.
12 (a); CACI No. 2704.) Defendants asserted Plaintiff could not show Defendants willfully withheld owed
13 wages in the manner intended to be protected by the Labor Code and Plaintiff had to account for that risk
14 when settling this claim.

15 **Unreimbursed Business Expenses:** Plaintiff alleged Plaintiff and other similarly situated
16 employees in the state of California were not properly reimbursed for their business expenses (including,
17 but not limited to, business use of their personal home internet, cell phone, or any other "work from home"
18 expenses that they allegedly incur in the course and scope of their employment), or supplies. Accordingly,
19 Plaintiff estimated approximately \$65,105.33 in unreimbursed business expenses.

20 Defendants assert Plaintiff and other similarly situated employees were reimbursed for all
21 necessary business expenditures. Defendants did not and do not believe it owes Plaintiff or other
22 California employees any unreimbursed business expenses. As a result, Class Counsel had to account for
23 the risk when settling the matter that a trier of fact would feel that the reimbursement provided by
24 Defendants was sufficient for a cell phone and/or other work from home expenses.

25 **Employment Records Violations:** Plaintiff contends Defendants have a policy and practice of
26 not permitting its employees in the State of California to receive a copy of their payroll within twenty-one
27 (21) calendar days of making a request as required by Labor Code § 226(c). Plaintiff, as a former
28 employee of Defendants, contends he was subject to the aforementioned policy and practice. Plaintiff

1 contends he made a written request to Defendants for payroll records; however, Defendants failed to
2 provide Plaintiff with the records that he requested and was entitled to under California law within twenty-
3 one (21) calendar days. As the penalty for this claim is only \$750, the original valuation was not that high
4 given that the number of former employees that this applied to was only 202 meaning that the maximum
5 amount of penalties was only \$151,500.00.

6 However, in settlement, Plaintiff had to account for the real risk that not every single employee
7 requested their records and that only a few employees were actually not provided their records timely.
8 Moreover, the risk of the Class Members potentially walking away with nothing weighed heavily in
9 compromising on this claim at the time of settlement and Class Counsel was required to heavily factor
10 this potential risk of recovering \$0.

11 **PAGA Penalties:** Plaintiff alleged that Defendant is liable under the Private Attorneys General
12 Act (“PAGA”) for civil penalties.

13 Civil penalties under the PAGA are difficult to predict in view of the statute’s reduction provisions.
14 See Cal. Lab. Code § 2699(e)(2) (“ . . . a court may award a lesser amount than the maximum civil penalty
15 amount specified by this part if . . . to do otherwise would result in an award that is unjust, arbitrary and
16 oppressive, or confiscatory”). In fact, Court’s routinely reduce PAGA awards even in this County. For
17 example, in *Gola v University of San Francisco*, San Francisco Superior Court Case No. CGC-18565018,
18 the Court reduced \$3,634,900 in PAGA damages to \$545,235 or just 15% of the potential recovery. This
19 theme persists throughout, for example in *Glazer v. Sunnyvale Massage LLC*, San Mateo Superior Court
20 Case No. CIV527399, the Court reduced \$1,721,050 in PAGA damages to \$329,880 or just 19% of the
21 potential recovery, and in *Taduran v. Glidewell*, Orange Superior Court Case No. 30-2017-00934037, the
22 Court reduced \$55,985,350 in PAGA damages to \$515,965 or just 0.9% of the potential recovery. The
23 risk of the Class Members potentially walking away with virtually nothing weighed in PAGA penalties
24 also heavily in compromising and Class Counsel was required to heavily factor this potential risk.

25 Class Counsel is convinced that the Settlement is in the best interest of the Class Members based
26 on the negotiations and a detailed knowledge of the issues present in this action. The length and risks
27 associated with continued litigation, trial, and other normal perils of litigation, including those outlined
28 above, that may have impacted the value of the claims and were all weighed in reaching the Settlement.

1 In addition, the affirmative defenses asserted by Defendants and uncertainty on certification issues, the
2 difficulties of complex litigation, the lengthy process of establishing specific damages and various
3 possible delays and appeals, were also carefully considered by Class Counsel in agreeing to the Settlement.
4 In light of the above, the Settlement is well within the “ballpark” of reasonableness and should be granted
5 preliminary approval. The Settlement results in substantial benefits to the Class Members. If the Court
6 were to approve the estimated requested amounts for Attorneys’ Fees and Costs, LWDA payment, the
7 Class/PAGA Representative Enhancement Payment, and Settlement Administration Costs as set forth
8 above, Plaintiff estimates that the Settlement Class will receive an average payment of at least \$1,495.38.
9 This is a fair and reasonable result. Based on the nature of wage and hour cases, the actual unpaid amounts
10 of wages are relatively small for each individual class member. The Settlement will allow Class Members,
11 many of them current employees, to receive a portion of their unpaid wages without risk of retaliation or
12 having to file their own action, find an attorney, participate in the action, or incur the risk of costs if the
13 action is unsuccessful.

14 **SUMMARY:**

15 As noted above, realistic reduced valuation of the claims going into mediation was \$5,281,640.28,
16 which is broken down as follows:

- 17 • Unpaid Wages: \$1,149,780.45
- 18 • Meal Period Penalties: \$442,223.25
- 19 • Rest Period Penalties: \$442,223.25
- 20 • Wage Statement Penalties (Labor Code 226): \$808,000.00
- 21 • Waiting Time Penalties: \$2,222,808.00
- 22 • Employment Record Violations: \$151,500.00
- 23 • Unreimbursed Business Expenses: \$65,105.33

24 Plaintiff had to account of the real risk of a determination that the entire class was properly
25 classified as independent contractors. If Defendants were to be successful on this legal defense and it is
26 determined that they were properly classified as independent contractors, the Class Members would not
27 be entitled to any damages whatsoever and would recover \$0 for virtually every cause of actions asserted.
28 This risk weighed heavy in compromising the claims above and Class Counsel was required to heavily

factor this potential risk of recovering \$0. Moreover, Plaintiff also had to account for the risk that a class would not be certified here, and the Court could potentially find that the claims for meal and rest breaks as well as overtime were too individualized to warrant class certification, which would also obviate the Labor Code 226 and waiting time penalty claims. Plaintiff also had to account for Defendant's financial condition and the risk that there would not be a company to recover from as they represented all along that they did not have the financial resources if there were a verdict against them.

As a result of the foregoing, Plaintiff felt that recovering a gross settlement of approximately 10% of the realistic settlement value of the Class Claims going into mediation was a significant result for the class given the real risk that the Class Members had a realistic possibility of recovering \$0 as outlined in detail above.

V. THE COURT SHOULD CERTIFY THE CLASS FOR SETTLEMENT PURPOSES

The Court may make an order approving certification of a provisional settlement class after the preliminary settlement hearing. California Rules of Court Rule 3.769(d). For settlement purposes, courts use a less stringent standard for certification of classes. (*Global Minerals & Metals Corp. v. Superior Court* (2003) 113 Cal.App.4th 836, 859.) “The reason for this is that no trial is anticipated in a settlement class case, so the case management issues inherent in the ascertainable class determination need not be confronted.” (*Id.*; see also *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1161-1162 [affirming certification of class action for settlement purposes only].) Accordingly, this Court has discretion to certify Plaintiff’s class for settlement purposes only.

The requirements under California Code of Civil Procedure § 382 are all met for the purposes of certifying this case for settlement purposes:

Numerosity: The Settlement Classes consists of approximately 202 Class Members. Thus, the requirement of numerosity is met because joinder of 202 individual plaintiffs into a single case is otherwise impracticable in light of the circumstances of this case.

Ascertainability: The Settlement Classes are easily ascertainable based on Defendants’ payroll records.

Typicality: The claims of the Class Representative are typical of the claims of the Class Members. Plaintiff suffered the same alleged violations (e.g., he was misclassified as an independent contractor,

1 resulting in minimum, overtime wages, meal and rest period violation, derivative claims, etc.) as the Class
2 did and, thus, the claims of the Plaintiff fairly represent the claims of the Class.

3 Adequacy: Plaintiff has proven to be an adequate class representative. He has conducted himself
4 diligently and responsibly in representing the Class in this litigation, understands his fiduciary obligations,
5 and has actively participated in the prosecution of this case. (Valles Decl., ¶¶ 92-96.) Plaintiff has spent
6 hours in meetings and conferences with Class Counsel to provide Class Counsel with a better
7 understanding of his work environment and requirements. (*Id.*) Further, Plaintiff does not have any
8 interest adverse to the interests of the other Class Members. (*Id.*) Moreover, Class Counsel is adequate to
9 represent the Class for settlement purposes. (*Id.*)

10 Commonality/Predominance: Many common issues of law and fact unite the Class. The common
11 questions of law and fact include, but are not limited to:

- 12 i. whether Defendants maintained a policy and/or practice whereby Class Members
13 were improperly classified as independent contractors and exempt from overtime
14 as opposed to non-exempt employees;
- 15 ii. whether Defendants maintained a policy and/or practice of failing to pay Class
16 Members the legally mandated minimum-wage for all hours worked if Class
17 Members are proven to have been improperly classified as independent contractors;
- 18 iii. whether Defendants maintained a policy and/or practice of failing to pay Class
19 Members their legally mandated overtime in accordance with Labor Code § 510 for
20 all hours worked in excess of forty (40) hours in a week, eight (8) hours in a day,
21 or on a seventh consecutive day of a workweek if Class Members are proven to
22 have been improperly classified as independent contractors;
- 23 iv. whether Defendants maintained a policy and/or practice of failing to provide Class
24 Members the meal periods to which they were entitled under California law;
- 25 v. whether Defendants maintained a policy and/or practice of failing to allow Class
26 Members the rest breaks to which they were entitled under California law;
- 27 vi. whether Defendants maintained a policy and/or practice of failing to pay Class
28 Members the additional hour of compensation owed to them under Labor Code

1 section 226.7 for all shifts during which a mandated meal period was not provided
2 if Class Members are proven to have been improperly classified as independent
3 contractors;

4 vii. whether Defendants maintained a policy and/or practice of failing to pay Class
5 Members the additional hour of compensation owed to them under Labor Code
6 section 226.7 for all workdays during which they were deprived a mandated rest
7 break if Class Members are proven to have been improperly classified as
8 independent contractors;

9 viii. whether Defendants maintained a policy and/or practice of failing to maintain and
10 furnish accurate, itemized wage statements to Class Members in violation of Labor
11 Code §226 and Wage Order 4;

12 ix. whether Defendants maintained a policy and/or practice of failing to properly
13 reimburse all Class Members for all of their necessary expenditures or losses
14 incurred by the Class Members in direct consequence of the discharge of their
15 duties, or of their obedience to the directions of Defendants;

16 x. whether Defendants' cell phone reimbursement policy and practice for reimbursing
17 its Class Members for their business use of their personal cellphones was sufficient
18 to cover the reasonable business use of their personal cellphone;

19 xi. whether Defendants maintained a policy and/or practice of failing to properly pay
20 the Class Members within the time limits prescribed by Labor Code section 204;

21 xii. whether Defendant maintained a policy and/or practice of failing to properly pay
22 Class Members within the time limits prescribed by Labor Code sections 201 and
23 202;

24 xiii. whether Defendants maintained a policy and/or practice of failing to properly
25 provide Class Members a copy of or access to their employee file within the time
26 limits provided by Labor Code section 1198.5; and

27 xiv. whether Defendants' violations of the Labor Code serve as predicate
28 violations of Business and Professions Code §§ 17200, *et. seq.*

1 Superiority: A class action is superior to other available means for the fair and efficient
2 adjudication of this controversy. Joinder of all members of the proposed class is impractical. Class
3 treatment will permit a large number of similarly situated persons to prosecute their common claims in a
4 single forum simultaneously for settlement purposes without the unnecessary duplication of effort and
5 expense that numerous individual actions would engender.

6 **VI. THE PROPOSED CLASS NOTICE OF SETTLEMENT IS ADEQUATE AND**
7 **SHOULD BE APPROVED**

8 California statutory and case law vests the court with broad discretion in fashioning appropriate
9 class notice. (*See* California Civil Code §1781; *Cartt v. Superior Court*, 50 Cal.App.3d 960, 973-74
10 1975).) The proposed Class Notice in the form attached as **Exhibit B** to the Declaration of Daniel Valles
11 should be approved for dissemination to the Class Members. The Class Notice informs the Class on the
12 meaning and nature of the Settlement, the key terms and provisions of the Settlement, the relief the
13 Settlement will provide to the Settlement Class Members as well as their right to receive their proportional
14 share of the settlement and the manner in which to do so, the relief the Settlement will provide to PAGA
15 Settlement Group members, the application of Class Counsel for reimbursement of costs and attorneys'
16 fees, the date, time, and place of the final settlement approval hearing; and the procedure and deadlines
17 for participating, electing not to participate, or submitting objections to the Settlement, including their
18 right to appear in person or by counsel at the final approval hearing and to be heard regarding approval of
19 the Settlement. Adequate periods of time are provided for each of these procedures. Furthermore, the
20 date and time of the Final Approval hearing will be inserted in the Class Notices and will identify the
21 information upon which each Class Member's share will be calculated as well as the estimated amount he
22 or she can expect to receive if he or she chooses not to exclude him or herself.

23 The proposed Class Notice also fulfills the requirement of neutrality in class notices. (Newberg,
24 *supra*, at § 8.39.) "Sufficient information about the case should be provided to enable class members to
25 make an informed decision about their participation." (Manual for Complex Litigation (Fourth) § 21.311
26 at 413 (2007).) The Class Notice summarizes the proceedings to date and the terms and conditions of the
27 proposed Settlement in an informative and coherent manner. The Class Notice is "accurate, objective, and
28 understandable to class members" (*Mendoza v. United States*, 623 F.2d 1338 (9th Cir. 1980).) The

Class Notice recognizes that the Court has not yet granted final approval and apprises the Settlement Class members of how to object to the Settlement if they wish to do so. The Class Notice satisfies all due process requirements and complies with the standards of fairness, completeness, and neutrality. (Fed. R. Civ. P. 23(c)(2) and Fed. R. Civ. P. 23(e); Newberg, at §§8.21, 8.39; Manual for Complex Litigation, at §§ 21.311, 21.312; *See Cartt*, 50 Cal.App.3d at 960.) Accordingly, the Court should approve the Class Notice.

VII. PROPOSED SCHEDULE OF SETTLEMENT PROCEEDINGS

The Parties propose the following schedule for the fairness hearing and final proceedings:

Event	Timing
Preliminary Approval Order	TBD
Last Day for Defendant to Provide Class List to the Settlement Administrator	15 calendar days after entry of Preliminary Approval Order
Notice Date: Last Day for Settlement Administrator to Mail the Class Notice	10 calendar days after receipt of Class List
Deadline for Objections and Exclusion Requests	60 calendar days from the date the Settlement Administrator mails the Class Notice [plus an additional 15 calendar days for Class Members whose Class Notice is re-mailed]
Last Day for Settlement Administrator to Provide Declaration of Mailing of Class Notice and Claim Form	10 calendar days before Final Approval Hearing
Last Day for Plaintiff to File Motion and Supporting Documents for Final Approval of Class Action and PAGA Settlement	16 court days before the Final Approval Hearing
Hearing on Final Approval of Class Action Settlement	TBD

VIII. CONCLUSION

The Settlement is fair, adequate, and reasonable. It will result in fair and immediate payment to Settlement Class Members and the PAGA Settlement Group; it is non-collusive; and it was achieved as the result of informed, extensive, and arms-length negotiations conducted by counsel for respective parties who are experienced in wage and hour class action litigation. For the foregoing reasons, the Parties respectfully request that the Court grant preliminary approval of the proposed Settlement, sign the

1 proposed Order, approve and authorize mailing of the proposed Class Notice, and set a date for a final
2 approval hearing.

3
4 DATED: September 30, 2026

VALLES LAW, PC.

5
6 By: 

DANIEL VALLES
KAYLA M. RATHJEN
Attorneys for Plaintiff
AUGUSTINE BARRY



Make a Reservation

BARRY vs YAO, et al.

Case Number: 25CV117381 Case Type: Civil Unlimited Category: Other Employment Complaint Case
Date Filed: 2025-04-01 Location: Rene C. Davidson Courthouse - Department 18

Reservation	
Case Name: BARRY vs YAO, et al.	Case Number: 25CV117381
Type: Motion re: (For Preliminary Approval of Class and PAGA Settlement)	Status: RESERVED
Filing Party: Augustine Barry (Plaintiff)	Location: Rene C. Davidson Courthouse - Department 18
Date/Time: 10/28/2026 1:30 PM	Number of Motions: 1
Reservation ID: 240007730588	Confirmation Code: CR-PNJYNCEAJCESQTF5B

Fees			
Description	Fee	Qty	Amount
Motion re: (name extension)	0.00	1	0.00
Court Technology Fee	1.00	1	1.00
TOTAL			\$1.00

Payment	
Amount: \$1.00	Type: MasterCard
Account Number: XXXX7146	Authorization: 70639Z
Payment Date: n/a	

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Case Name: *Augustine Barry v. Pareto, Inc., et. al.*

Consolidated Case Number: 25CV117381

PROOF OF SERVICE

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 1230 Rosecrans Avenue, Ste. 300, Manhattan Beach, CA 90266.

On September 30, 2026, I served a copy of the within document(s):

- **NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT**
- **PROPOSED ORDER GRANTING PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT**
- **CLASS ACTION AND PAGA SETTLEMENT AGREEMENT**
- **DECLARATION OF SEAN W. HARTRANFT IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT**
- **DECLARATION OF DANIEL VALLES IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT**
- **DECLARATION OF AUGUSTINE BARRY IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT**

☐ **(BY MAIL)** I placed such sealed envelope, with postage thereon fully prepaid for first class mail, containing the document(s) listed above for collection and mailing in San Francisco, California, to the person(s) at the address(es) set forth below, following ordinary business practices. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **(BY OVERNIGHT MAIL)** I placed such sealed envelope containing the document(s) listed above in a sealed envelope and affixing a pre-paid air bill, and caused the envelope to be delivered to an agent for overnight delivery to person(s) at the address(es) set forth below.

☒ **(BY E-MAIL)** I transmitted via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below. I did not receive, within a reasonable time after the submission, any electronic message or other indication that the transmission was unsuccessful.

Richard H. Rahm, Esq.
Trinity E. Taylor, Esq.

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9 I declare under penalty of perjury that the foregoing is true and correct. Executed on September
10 30, 2026, at Newark, California.

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Edgar Garcia-Mesias