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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

KAYLA LYNCH, individually, on behalf of
other members of the general public similarly
situated, and on behalf of aggrieved
employees pursuant to the Private Attorneys
General Act of 2004 (“PAGA”);

Plaintiff,

v.

JET DELIVERY, INC., a California
corporation; JET DELIVERY LLC, a
California limited liability company; and
DOES 1 through 100, inclusive;

Defendants.

Case No.: 34-2022-00322822-CU-OE-GDS

Assigned for All Purposes to:
Honorable Jill Talley
Department 23

CLASS ACTION

**PLAINTIFF’S NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT, CONDITIONAL
CERTIFICATION, APPROVAL OF
CLASS NOTICE, SETTING OF FINAL
APPROVAL HEARING DATE;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

[Declaration of Proposed Class Counsel
(Douglas Han); Declaration of Bob
Thompson; and [Proposed] Order filed
concurrently herewith]

Hearing Date: August 9, 2024
Hearing Time: 9:00 a.m.
Hearing Place: Department 23

Complaint Filed: July 5, 2022
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on August 9, 2024 at 9:00 a.m., or as soon as the matter
2 may be heard, before the Honorable Jill Talley in Department 23 of the Sacramento County
3 Superior Court located at 720 South 9th Street Alhambra, California 91801, Plaintiff Kayla Lynch
4 (“Plaintiff”) will and hereby does move for an order:

- 5 • Granting Preliminary Approval of the class action settlement described herein and
6 as set forth in the Class Action and PAGA Settlement Agreement (“Settlement
7 Agreement,” “Settlement,” or “Agreement”), attached as **Exhibit 2** to the
8 declaration of Douglas Han, including, and not limited to, the means of allocation
9 and distribution of funds;
- 10 • Conditionally certifying the Class for settlement purposes only;
- 11 • Appointing Plaintiff as the class representative;
- 12 • Appointing Justice Law Corporation as Class Counsel;
- 13 • Approving the Court Approved Notice of Class Action Settlement and Hearing
14 Date for Final Court Approval (“Class Notice”) attached as **Exhibit A** to the
15 Settlement Agreement;
- 16 • Directing the mailing of the Class Notice with a postage-paid return envelope to
17 the Class;
- 18 • Approving the proposed deadlines for the settlement administration process;
- 19 • Approving ILYM Group, Inc. as the Administrator; and
- 20 • Scheduling a hearing to consider whether to grant Final Approval of the Settlement
21 Agreement, at which time the Court will also consider whether to grant Final
22 Approval of the requests for the Class Counsel Fees Payment, Class Counsel
23 Litigation Expenses Payment, Class Representative Service Payment,
24 Administration Expenses Payment, and approval of the allocation of the Private
25 Attorney General Act of 2004 (“PAGA”) Penalties.

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1 Pursuant to Local Rule 1.06(A), the court will make a tentative ruling on the merits of this
2 matter by 2:00 p.m., the court day before the hearing. The complete text of the tentative rulings
3 for the department may be downloaded off the court's website. If the party does not have online
4 access, they may call the dedicated phone number for the department as referenced in the local
5 telephone directory between the hours of 2:00 p.m. and 4:00 p.m. on the court day before the
6 hearing and receive the tentative ruling. If you do not call the court and the opposing party by 4:00
7 p.m. the court day before the hearing, no hearing will be held.

8 This motion is based upon the following memorandum of points and authorities;
9 Declaration of Proposed Class Counsel (Douglas Han); Declaration Bob Thompson; [Proposed]
10 Order filed concurrently with this motion; pleadings and other records on file with the Court in
11 this matter; and such documentary evidence and oral argument as may be presented at the hearing.
12

13 Dated: May 6, 2024

JUSTICE LAW CORPORATION

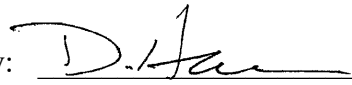
14 By: 
15 Douglas Han
16 *Attorneys for Plaintiff*
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TABLE OF CONTENTS

I.	INTRODUCTION	10
II.	BACKGROUND	10
III.	INVESTIGATION/ LITIGATION HISTORY	11
a.	Discovery, Investigation, and the Parties' Staunchly Conflicting Positions	11
b.	The Parties Were Able to Reach an Agreement on Settlement of the Action	11
i.	The Parties Attended Mediation Which Led to the Settlement	11
ii.	The Settlement Was Reached as a Result of Arm's-Length Negotiations	11
iii.	The Settlement Is the Result of Thorough Investigation and Discovery	12
c.	Terms of the Proposed Settlement	12
i.	Deductions from the Settlement.....	12
ii.	Calculating Settlement Payments	13
iii.	Notice to the Class	13
iv.	Distribution of Funds	13
v.	Release of Claims	14
d.	Counsel for Both Parties Are Experienced in Similar Litigation	15
IV.	ARGUMENT	15
a.	Class Action Settlements Are Subject to Court Review.....	15
b.	The Proposed Settlement Is a Reasonable Compromise of Claims.....	16
i.	The Settlement Amount of \$130,000 Is Fair and Reasonable	16
ii.	The PAGA Penalties of \$7,500 Is Reasonable	17
c.	Discount Analysis Justifies the Settlement.....	18
d.	Conditional Certification of the Class Is Appropriate	19
i.	The Proposed Class Is Ascertainable and Sufficiently Numerous.....	20
ii.	Class Members Share a Well-defined Community of Interest	20
1.	Common Issues Predominate.....	20

2.	Plaintiff’s Claims Are Typical of the Class Claims.....	21
3.	Plaintiff Is Adequate to Represent the Class.....	21
4.	Class Action is Superior for the Fair and Efficient Adjudication of this Controversy	22
e.	The Settlement Is Fair, Reasonable, and Adequate	22
f.	Notice to the Class Complies with California Rules of Court, Rule 3.769(f).....	22
V.	CONCLUSION.....	23

TABLE OF AUTHORITIES

<u>Cases</u>	<u>Page(s)</u>
<i>Acosta v. TransUnion, LLC</i>	
(C.D. Cal. 2007) 240 F.R.D. 564	19
<i>Aguilar v. Cintas Corp. No. 2</i>	
(2006) 144 Cal.App.4th 121	17
<i>Amaro v. Anaheim Arena Management, LLC</i>	
(2021) 69 Cal.App.5th 521	14
<i>Bartold v. Glendale Federal Bank</i>	
(2000) 81 Cal.App.4th 816	20
<i>In re Beef Industry Antitrust Litigation</i>	
(5th Cir. 1979) 607 F.2d 167	15
<i>Boyd v. Bechtel Corp.</i>	
(N.D.Cal. 1979) 485 F.Supp.610	12
<i>Brinker Restaurant Corp. v. Superior Court</i>	
(2012) 53 Cal.4th 1004	20
<i>Capitol People First v. Department of Developmental Services</i>	
(2007) 155 Cal.App.4th 676	20
<i>Classen v. Weller</i>	
(1983) 145 Cal.App.3d 27	21
<i>Detroit v. Grinnell Corp.</i>	
(2d Cir. 1974) 495 F.2d 448.....	19
<i>Dunbar v. Albertson's Inc.</i>	
(2006) 141 Cal.App.4th 1422	17
<i>Dunk v. Ford Motor Co.</i>	
(1996) 48 Cal.App.4th 1794	15, 22
<i>Espinoza v. Galardi South Enters.</i>	
(S.D.Fla. Jan. 11, 2016, No. 14-21244-CIV-GOODMAN) 2016 U.S.Dist.LEXIS.....	21

<u>Cases</u>	<u>Page(s)</u>
<i>In re General Motors Corp. Engine Interchange Litigation</i>	
(7th Cir. 1979) 594 F.2d 1106	19
<i>Ghazaryan v. Diva Limousine, Ltd.</i>	
(2008) 169 Cal.App.4th 1524	20
<i>Green v. Obledo</i>	
(1981) 29 Cal.3d 126	15
<i>Harris v. Superior Court</i>	
(2007) 154 Cal.App.4th 164	17
<i>Hicks v. Kaufman & Broad Home Corp.</i>	
(2001) 89 Cal.App.4th 908	20
<i>Hopson v. Hanesbrands Inc.</i>	
(N.D. Cal. Apr. 3, 2009) No. 08-00844, 2009 U.S. Dist. LEXIS 33900	18
<i>Iowa Beef Processors, Inc. v. Meat Price Investigators Ass’n</i>	
(1981) 452 U.S. 905	15
<i>Jones v. JGC Dallas LLC</i>	
(N.D.Tex. Nov. 29, 2012, Civil Action No. 3:11-CV-2743-O) 2012 U.S.Dist.LEXIS	
185042	21
<i>Kullar v. Foot Locker Retail, Inc.</i>	
(2008) 168 Cal.App.4th 116	16
<i>Linder v. Thrifty Oil Co.</i>	
(2000) 23 Cal.4th 429	20
<i>Linney v. Cellular Alaska P’ship</i>	
(9th Cir. 1998) 151 F.3d 1234	19
<i>Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles</i>	
(2010) 186 Cal.App.4th 399	16
<i>Nordstrom Com. Cases</i>	
(2010) 186 Cal.App.4th 576	18

<u>Cases</u>	<u>Page(s)</u>
<i>Sav-On Drug Stores, Inc. v. Superior Court</i>	
(2004) 34 Cal.4th 319	17, 19, 20
<i>Thurman v. Bayshore Transit Mgmt.</i>	
(2012) 203 Cal.App.4th 1112	17
<i>Vasquez v. Superior Court</i>	
(1971) 4 Cal.3d 800	15
<i>Walsh v. IKON Office Solutions, Inc.</i>	
(2007) 148 Cal.App.4th 1440	17
<u>Rules</u>	
California Rules of Court, Rule 3.769	15
California Rules of Court, Rule 3.769 (f)	22
California Rules of Court, Rule 3.769 (g).....	15
Federal Rule 23	15
<u>Statutes</u>	
Business & Professions Code § 17200	16
Code of Civil Procedure § 382.....	19, 22
Code of Civil Procedure § 877.6.....	16
Code of Civil Procedure § 1542.....	14
Labor Code § 201.....	17
Labor Code § 202.....	17
Labor Code § 203.....	17
Labor Code § 204.....	17
Labor Code § 210.....	17
Labor Code § 218.5.....	17
Labor Code § 221.....	17
Labor Code § 226.3.....	17
Labor Code § 226.7.....	17

<u>Statutes</u>	<u>Page(s)</u>
Labor Code § 226 (a)	17
Labor Code § 246.....	17
Labor Code § 432.5.....	17
Labor Code § 510.....	17
Labor Code § 512 (a)	17
Labor Code § 551.....	17
Labor Code § 552.....	17
Labor Code § 558.....	17
Labor Code § 1174 (d).....	17
Labor Code § 1194.....	17
Labor Code § 1197.....	17
Labor Code § 1197.1.....	17
Labor Code § 1198.....	17
Labor Code § 2800.....	17
Labor Code § 2802.....	17

1 **I. INTRODUCTION**

2 This motion seeks preliminary approval of a non-reversionary proposed wage-and-hour
3 class action settlement by Plaintiff on behalf of herself and all current and former hourly-paid or
4 non-exempt employees of Defendant Jet Delivery LLC (“Defendant”) within the State of
5 California at any time during the period from July 5, 2018, through November 9, 2023 or the date
6 in which the number of Workweeks exceeds 13,970, whichever date is earlier (“Class,” “Class
7 Members,” and “Class Period”). At the time of this filing, the number of Class Members is
8 estimated to be five hundred thirty-nine (539), which was confirmed by Defendant. (Declaration
9 of Douglas Han In Support of Plaintiff’s Motion for Preliminary Approval of Class Action
10 Settlement (“Han Decl.”), ¶¶ 8-9.)

11 **II. BACKGROUND**

12 On June 29, 2022, Plaintiff provided written notice to the California Labor and Workforce
13 Development Agency (“LWDA”). (Han Decl., *supra*, at ¶ 10; Exhibit 3.)

14 On July 5, 2022, Plaintiff filed a wage-and-hour class action lawsuit in the Superior Court
15 of California, County of Sacramento, against Defendant and Jet Delivery, Inc., alleging ten (10)
16 causes of action. (Han Decl., *supra*, at ¶ 11; Exhibit 4.)

17 On July 15, 2022, Plaintiff provided an amended written notice to the LWDA. (Han Decl.,
18 *supra*, at ¶ 12; Exhibit 5.)

19 On August 22, 2022, Plaintiff dismissed Jet Delivery, Inc. as one of the named defendants
20 without prejudice. (Han Decl., *supra*, at ¶ 13.)

21 After engaging in discovery, investigations, and negotiations, the Parties remotely attended
22 mediation with the mediator Lisa Klerman on September 8, 2023. (Han Decl., *supra*, at ¶ 14.)
23 While the Parties did not initially settle at mediation, continued negotiations eventually resulted in
24 the settlement of this matter via a mediator’s proposal. (*Ibid.*)

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III. INVESTIGATION/ LITIGATION HISTORY

a. Discovery, Investigation, and the Parties' Staunchly Conflicting Positions

After initiating this lawsuit, the Parties engaged in discovery. (Han Decl., *supra*, at ¶ 16.) Specifically, the Parties met and conferred and agreed to engage in an informal exchange of information and then eventually remotely attended mediation. (*Ibid.*)

Defendant produced several documents relating to its policies, practices, and procedures. (Han Decl., *supra*, at ¶ 17.) As part of Defendant's production, Plaintiff also reviewed time records, pay records, and information relating to the size and scope of the Class. (*Ibid.*) Putative class members were also located and interviewed to attain a better understanding of the extent and frequency of the alleged day-to-day violations. (*Ibid.*) The Parties discussed Defendant's current financial condition and the recent financial hardships it has been experiencing. (*Ibid.*)

Based on the information provided by Defendant and interviews with putative class members, Plaintiff contends – and Defendant denies – Defendant: (1) failed to provide employees with legally mandated meal and rest breaks; (2) failed to pay employees for all hours worked; (3) failed to reimburse employees for necessary business expenses; (4) issued noncompliant wage statements; and (5) is liable for waiting time penalties. (Han Decl., *supra*, at ¶¶ 19-25.)

b. The Parties Were Able to Reach an Agreement on Settlement of the Action

i. The Parties Attended Mediation Which Led to the Settlement

The Parties remotely attended mediation with an experienced mediator. (Han Decl., *supra*, at ¶ 26.) During the mediation, the Parties discussed Defendant's current financial condition and the financial hardships it has been experiencing in recent years. (*Ibid.*) Under the auspices of the mediator, the Parties reached a settlement, the terms were memorialized in the Settlement Agreement. (*Id.* at ¶ 26; Exhibits 2, 6.)

ii. The Settlement Was Reached as a Result of Arm's-Length Negotiations

The Settlement was reached because of arm's-length negotiations. (Han Decl., *supra*, at ¶ 29.) Though cordial and professional, the settlement negotiations have always been adversarial and non-collusive in nature. (*Ibid.*) At the mediation, the Parties' counsel conducted extensive arm's-length settlement negotiations until an agreement was ultimately reached. (*Ibid.*)

1 Plaintiff and Class Counsel recognize the expense and length of additional proceedings
2 necessary to continue the litigation through trial and any possible appeals. (Han Decl., *supra*, at ¶
3 30.) Plaintiff and Class Counsel also considered the uncertainty and risk of further litigation,
4 potential outcome, and difficulties and delays inherent in such litigation. (*Ibid.*) Plaintiff and Class
5 Counsel also considered Defendant’s present financial condition, financial hardships it has been
6 experiencing in recent years, and its ability to fund a settlement. (*Ibid.*) Based on the foregoing,
7 Plaintiff and Class Counsel believe the Settlement is a fair, adequate, and reasonable settlement
8 and is in the best interests of the Class Members. (*Ibid.*)

9 **iii. The Settlement Is the Result of Thorough Investigation and Discovery**

10 The Parties investigated and evaluated the strengths and weaknesses of the claims and
11 defenses before reaching the Settlement and engaged in research and discovery to support the
12 Settlement. (Han Decl., *supra*, at ¶ 31.) The Settlement was only possible following significant
13 investigation and evaluation of the relevant policies and practices, permitting Class Counsel to
14 engage in a comprehensive analysis of liability and potential damages. (*Ibid.*) This case has
15 reached the stage where the Parties understand “the strength of the case; the reasonableness of the
16 settlement in light of the attendant risks of litigation, and in light of the best possible recovery”
17 sufficient to support the Settlement’s reasonableness, adequacy, and fairness. (Han Decl., *supra*,
18 at ¶ 31; *Boyd v. Bechtel Corp.* (N.D.Cal. 1979) 485 F.Supp. 610, 617.)

19 **c. Terms of the Proposed Settlement**

20 **i. Deductions from the Settlement**

21 The Parties agreed (subject to the Court’s approval) this action be settled and compromised
22 for the non-reversionary total sum of \$130,000 (“Gross Settlement Amount”) which includes: (1)
23 Class Counsel Fees Payment up to \$45,500 (35% of the Gross Settlement Amount); (2) Class
24 Counsel Litigation Expenses Payment up to \$15,000; (3) Class Representative Service Payment
25 up to \$10,000; (4) Administration Expenses Payment up to \$15,000; and (5) PAGA Penalties up
26 to \$7,500. (Han Decl., *supra*, at ¶ 27.)

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1 **ii. Calculating Settlement Payments**

2 After all Court-approved deductions from the Gross Settlement Amount, it is estimated
3 \$37,000 (“Net Settlement Amount”) will be paid to Participating Class Members. (Han Decl.,
4 *supra*, at ¶ 28.)

5 The Participating Class Members will receive a proportionate share of the Net Settlement
6 Amount using the formula set forth in the Settlement Agreement. (Han Decl., *supra*, at ¶ 26;
7 Exhibit 2, *supra*, at § C(2)(d).) Individual Class Payments will be allocated twenty percent (20%)
8 to the settlement of wage claims and eighty percent (80%) to the settlement of claims for interests
9 and penalties. (*Id.* at § C(2)(d)(i).)

10 The portion of the PAGA Penalties that is to be paid to each Aggrieved Employee shall be
11 determined using the formula set forth in the Settlement Agreement. (Han Decl., *supra*, at ¶ 26;
12 Exhibit 2, *supra*, at § C(2)(e)(i).) Aggrieved Employees’ portion of the PAGA Penalties will be
13 allocated as one hundred percent (100%) penalties. (*Id.* at § C(2)(e)(ii).)

14 **iii. Notice to the Class**

15 No later than thirty (30) calendar days after the Court grants Preliminary Approval of the
16 Settlement, Defendant will deliver the Class Data to the Administrator. (Han Decl., *supra*, at ¶ 26;
17 Exhibit 2, *supra*, at § G(4)(a).) No later than fourteen (14) calendar days after receiving the Class
18 Data, the Administrator will send the Class Notice to all Class Members identified in the Class
19 Data via first-class United States Postal Service mail. (*Id.* at § G(4)(c).)

20 **iv. Distribution of Funds**

21 The Gross Settlement Amount will be funded and distributed pursuant to the timeline and
22 manner set forth in the Settlement. (Han Decl., *supra*, at ¶ 26; Exhibit 2, *supra*, at §§ D(2), D(3).)
23 Uncashed settlement checks will be canceled and transmitted to the California Controller’s
24 Unclaimed Property Fund in the name of the Class Member. (*Id.* at §§ D(3)(a), D(3)(c).)

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1 **v. Release of Claims**

2 Effective on the date when Defendant fully funds the entire Gross Settlement Amount and
3 funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, all
4 Participating Class Members, on behalf of themselves and their former and present representatives,
5 agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from
6 the Released Class Claims. (Han Decl., *supra*, at ¶ 26; Exhibit 2, *supra*, at § E(2).)

7 Effective on the date when Defendant fully funds the entire Gross Settlement Amount and
8 funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, all
9 Aggrieved Employees, are deemed to release, on behalf of themselves and their former and present
10 representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released
11 Parties from the Released PAGA Claims. (Han Decl., *supra*, at ¶ 26; Exhibit 2, *supra*, at § E(3).)

12 Effective on the date when Defendant fully funds the entire Gross Settlement Amount and
13 funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, in
14 addition to the claims released under Sections E.2 and E.3 of the Settlement Agreement, Plaintiff
15 and her former and present spouses, representatives, agents, attorneys, heirs, administrators,
16 successors, and assigns agree to a general release of any and all claims, transactions, primary
17 rights, or occurrences against Released Parties. (Han Decl., *supra*, at ¶ 26; Exhibit 2, *supra*, at §
18 E(1).) Plaintiff also expressly waives and relinquishes the provisions, rights, and benefits, if any,
19 of section 1542 of the Civil Code. (*Id.* at § E(1)(a).)

20 With regards to class action releases, “““[A] court may release not only those claims alleged
21 in the complaint and before the court, but also claims which ‘could have been alleged by reason of
22 or in connection with any matter or fact set forth or referred to in’ the complaint.””” (*Amaro v.*
23 *Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 537.) The scope of the releases in
24 this case are acceptable because they are limited to the scope of the allegations in the operative
25 complaint. Moreover, the released claims are “““based on *the identical factual predicate* as that
26 underlying the claims in the settled class action.””” (*Ibid.*) In other words, the released claims do
27 not “““go beyond the scope of the allegations in the operative complaint””” (*Ibid.*)

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1 **d. Counsel for Both Parties Are Experienced in Similar Litigation**

2 The Parties' counsel are experienced in wage-and-hour employment law and class actions.
3 (Han Decl., *supra*, at ¶¶ 2-7; Exhibit 1.) Class Counsel have prosecuted numerous cases on behalf
4 of employees for Labor Code violations and are experienced and qualified to evaluate the class
5 claims, settlement versus trial on a fully informed basis, and viability of the defenses. (*Ibid.*) This
6 experience instructed Class Counsel on the risks and uncertainties of further litigation and guided
7 their determination to endorse the Settlement.¹ (*Ibid.*)

8 **IV. ARGUMENT**

9 **a. Class Action Settlements Are Subject to Court Review**

10 California Rules of Court, rule 3.769 requires court approval for class action settlements.²
11 “Before final approval, the court must conduct an inquiry into the fairness of the proposed
12 settlement.” (Cal. Rules of Court, rule 3.769(g).) Rule 3.769 further requires a noticed motion for
13 preliminary approval of class settlements:

14 (a) A settlement or compromise of an entire class action, or a cause of action in
15 a class action, or as to a party, requires the approval of the court after
 hearing.

16 ...

17 (c) Any party to a settlement agreement may serve and file a written notice of
18 motion for preliminary approval of the settlement. The settlement
 agreement and proposed notice to class members must be filed with the
 motion, and the proposed order must be lodged with the motion.

19 Courts have discretion to approve settlements that are fair, not collusive, and consider “all
20 the normal perils of litigation as well as the additional uncertainties inherent in complex class
21 actions.” (*In re Beef Industry Antitrust Litigation* (5th Cir. 1979) 607 F.2d 167, 179, cert. den. *sub*
22 *nom. Iowa Beef Processors, Inc. v. Meat Price Investigators Ass’n* (1981) 452 U.S. 905.)

23 ¹ The final factor mentioned in *Dunk* – the number of objectors – is not determinable until
24 the Class Notice has been provided to the Class, and they have had an opportunity to respond. This
25 information will be provided to the Court in conjunction with the Motion for Final Approval of
26 Class Action Settlement.

27 ² The California Supreme Court has authorized California's trial courts to use Federal Rule
28 23 and cases applying it for guidance in considering class issues. (See *Vasquez v. Superior Court*
(1971) 4 Cal.3d 800, 821; see *Green v. Obledo* (1981) 29 Cal.3d 126, 145-146.) Where appropriate,
the Parties cite Federal Rule 23 and federal case law in addition to California law.

1 **b. The Proposed Settlement Is a Reasonable Compromise of Claims**

2 An understanding of the amount in controversy is an important factor in whether the
3 settlement “of the class members’ claims is reasonable in light of the strengths and weaknesses of
4 the claims and the risks of the particular litigation.” (*Kullar v. Foot Locker Retail, Inc.* (2008) 168
5 Cal.App.4th 116, 129; see also *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186
6 Cal.App.4th 399, 409.) The most important factor in this regard is ““the strength of the case for
7 plaintiffs on the merits, balanced against the amount offered in settlement.”” (*Kullar*, at p. 130;
8 see also *Munoz*, at p. 409.)

9 *Kullar* instructs the court is not to “decide the merits of the case or to substitute its
10 evaluation of the most appropriate settlement for that of the attorneys.” (*Kullar v. Foot Locker*
11 *Retail, Inc.*, *supra*, 168 Cal.App.4th at p. 133.) *Kullar* does not require a statement of the maximum
12 amount the class could recover if plaintiff prevailed on all his claims, provided there is a record
13 that allows “an understanding of the amount that is in controversy and the realistic range of
14 outcomes of the litigation.” (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, *supra*, 186
15 Cal.App.4th at p. 409.) “[A]s the court does when it approves a settlement as in good faith under
16 Code of Civil Procedure § 877.6, the court must at least satisfy itself that the class settlement is
17 within the ‘ballpark’ of reasonableness.” (*Kullar*, at p. 133.)

18 **i. The Settlement Amount of \$130,000 Is Fair and Reasonable**

19 The Settlement Agreement was only possible following significant investigation and
20 evaluation of the relevant policies and procedures, as well as the data produced, as referenced in
21 Section III above, permitting Class Counsel to engage in a comprehensive analysis of liability and
22 potential damages. (Han Decl., *supra*, at ¶ 31.)

23 The claims are predicated on the purported: (1) failure to pay overtime wages; (2) failure
24 to pay minimum wages; (3) failure to provide meal and rest breaks and consistently pay applicable
25 premium wages; (4) failure to timely pay wages; (5) failure to issue compliant wage statements;
26 (6) failure to reimburse business expenses; (7) violation of PAGA; and (8) violation of Business
27 & Professions Code section 17200, *et seq.* (Han Decl., *supra*, at ¶ 32.) Defendant vehemently
28 denies the theories of liability. (*Id.* at ¶ 33.)

1 While Plaintiff believes the case is suitable for certification, uncertainties with respect to
2 certification are always present. (Han Decl., *supra*, at ¶ 34.) As the California Supreme Court
3 ruled in *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, class certification is
4 always a matter of the trial court's sound discretion. (*Ibid.*) Decisions following *Sav-On Drug*
5 *Stores, Inc.* have reached different conclusions concerning certification of wage-and-hour claims.³
6 (*Ibid.*) Thus, the calculations for potential damages were discounted.

7 **ii. The PAGA Penalties of \$7,500 Is Reasonable**

8 The provisions of the Labor Code potentially triggering PAGA penalties include Labor
9 Code sections 201, 202, 203, 204, 210, 218.5, 221, 226(a), 226.3, 226.7, 246, 432.5, 510, 512(a),
10 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802. (Han Decl., *supra*, at ¶ 42.)
11 Defendant asserted, regardless of the results of the underlying causes of action, PAGA penalties
12 are not mandatory but permissive and discretionary. (*Ibid.*) Defendant also maintained it had a
13 strong argument it would be unjust to award maximum PAGA penalties given the law's current
14 unsettled state concerning PAGA penalties. (Han Decl., *supra*, at ¶ 42; *Thurman v. Bayshore*
15 *Transit Mgmt.* (2012) 203 Cal.App.4th 1112 [reducing penalties by 30% under this authority].)
16 Furthermore, Defendant argued without stacking and limited to the initial violation, the PAGA
17 penalties would be limited to about **\$45,200** (452 employees x \$100 penalty for initial violation)
18 on the low end and **\$271,200** (452 employees x \$100 penalty for initial violation x 6 theories of
19 recovery) on the high end. (Han Decl., *supra*, at ¶¶ 43-45.)

20 Plaintiff recognized the risk that any PAGA award could be reduced. (Han Decl., *supra*,
21 at ¶ 46.) Many of the causes of action brought were also duplicative of the statutory claims. (*Ibid.*)
22 Allocating \$7,500 to PAGA civil penalties was reasonable given that Defendant is also paying an
23 additional \$122,500 in the class settlement. (*Ibid.*) When PAGA penalties are negotiated in good

24 _____
25 ³ (See e.g. *Harris v. Superior Court* (2007) 154 Cal.App.4th 164 [reversing decertification
26 of class claiming misclassification and ordering summary adjudication in favor of employees],
27 review granted Nov. 28, 2007, (2007) 171 P.3d 545 [not cited as precedent, but rather for
28 illustrative purposes only]; *Walsh v. IKON Office Solutions, Inc.* (2007) 148 Cal.App.4th 1440
[affirming decertification of class claiming misclassification]; *Aguiar v. Cintas Corp. No. 2* (2006)
144 Cal.App.4th 121 [reversing denial of certification]; *Dunbar v. Albertson's Inc.* (2006) 141
Cal.App.4th 1422 [affirming denial of certification].)

faith and “there is no indication that [the] amount was the result of self-interest at the expense of other Class Members,” such amounts are reasonable.⁴ (Han Decl., *supra*, at ¶ 46.)

Considering Defendant’s defenses, supporting evidence, position that the case is not suitable for class treatment, and current financial condition and recent financial hardships, the Settlement Agreement is reasonable, adequate, and fair.

c. Discount Analysis Justifies the Settlement

Excluding the civil penalties, which could be completely discretionary, the total estimated potential exposure, assuming certification and prevailing at trial, would be about **\$4,289,627** on the low end and around **\$4,349,127** on the high end. (Han Decl., *supra*, at ¶ 48.)

Category	Potential Exposure	Certification Risk	Merits Risk	Realistic Exposure
Rest Break Premiums	\$475,742	75%	65%	\$41,627.43
Meal Break Premiums	\$713,613	65%	65%	\$87,417.59
Overtime/Minimum Wage: Off-the-Clock Work	\$118,935.50 to \$178,435	65%	65%	\$14,569.60 to \$21,858.29
Unreimbursed Business Expenses	\$58,620	35%	75%	\$9,525.75
Wage Statement Penalty	\$971,800	75%	75%	\$60,737.50
Waiting Time Penalty	\$1,950,916.80	75%	75%	\$121,932.30
MAXIMUM TOTAL EXPOSURE	\$4,289,627 to \$4,349,127⁵			\$335,810.17 to \$343,098.86⁶

The realistic recovery for this case is about **\$335,810.17** on the low end and **\$343,098.86** on the high end. (Han Decl., *supra*, at ¶ 54.) The Gross Settlement Amount is about three percent (2.99%) of the maximum potential exposure and around thirty-eight percent (37.89%) of the

⁴ (*Hopson v. Hanesbrands Inc.* (N.D.Cal. Apr. 3, 2009, No. CV-08-0844 EDL) 2009 U.S.Dist.LEXIS 33900, at *24; see e.g. *Nordstrom Com. Cases* (2010) 186 Cal.App.4th 576, 579, “[T]rial court did not abuse its discretion in approving a settlement which does not allocate any damages to the PAGA claims”.)

⁵ (Han Decl., *supra*, at ¶¶ 35-41.)

⁶ (*Id.* at ¶¶ 48-53.)

1 maximum realistic exposure. (Han Decl., *supra*, at ¶ 54.) This is a reasonable settlement when
2 considering Defendant’s present financial condition and recent financial hardships. (*Ibid.*)

3 The only question at preliminary approval is whether the settlement is within the range of
4 possible approval. (*In re General Motors Corp. Engine Interchange Litigation* (7th Cir. 1979) 594
5 F.2d 1106, 1124; *Acosta v. TransUnion, LLC* (C.D. Cal. 2007) 240 F.R.D. 564, 575.) “The fact
6 that a proposed settlement may only amount to a fraction of the potential recovery does not, in and
7 of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.”
8 (*Detroit v. Grinnell Corp.* (2d Cir. 1974) 495 F.2d 448, 455; see also *Linney v. Cellular Alaska*
9 *P’ship* (9th Cir. 1998) 151 F.3d 1234, 1242, “[I]t is the very uncertainty of outcome in litigation
10 and avoidance of wasteful and expensive litigation that induce consensual settlements. The
11 proposed settlement is not to be judged against a hypothetical or speculative measure of what
12 might have been achieved by the negotiators”). Nevertheless, this settlement is in line with the
13 realistic exposure if Plaintiff prevailed at trial and provides a significant recovery for Class
14 Members when considering Defendant’s financial condition.

15 **d. Conditional Certification of the Class Is Appropriate**

16 Code of Civil Procedure section 382 “authorizes class actions ‘when the question is one of
17 a common or general interest, of many persons, or when the parties are numerous, and it is
18 impracticable to bring them all before the court.’” (*Sav-On Drug Stores, Inc. v. Superior Court*,
19 *supra*, 34 Cal.4th at p. 326.) California courts certify class actions if plaintiff identifies “both [1]
20 an ascertainable class and [2] a well-defined community of interest among class members.” (*Ibid.*)

21 The Class is ascertainable and numerous as to make it impracticable to join all Class
22 Members, and there are common questions of law and fact that predominate over any questions
23 affecting any individual Class Member. (Han Decl., *supra*, at ¶ 55.) Plaintiff contends her claims
24 are typical of the claims of the Class, and Class Counsel will fairly and adequately protect the
25 interests of the Class. (*Ibid.*) Plaintiff asserts the prosecution of separate actions by individual
26 Class Members would create the risk of inconsistent or varying adjudications. (*Ibid.*)

27 ///

28 ///

1 **i. The Proposed Class Is Ascertainable and Sufficiently Numerous**

2 “Ascertainability is required in order to give notice to putative class members as to whom
3 the judgment in the action will be res judicata.” (*Hicks v. Kaufman & Broad Home Corp.* (2001)
4 89 Cal.App.4th 908, 914.) “A class is ascertainable if it identifies a group of unnamed plaintiffs
5 by describing a set of common characteristics sufficient to allow a member of that group to identify
6 himself or herself as having a right to recover based on the description.” (*Bartold v. Glendale*
7 *Federal Bank* (2000) 81 Cal.App.4th 816, 828.) The proposed class must also be sufficiently
8 numerous. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.)

9 This case involves approximately five hundred thirty-nine (539) Class Members, meaning
10 the Class is sufficiently numerous. (Han Decl., *supra*, at ¶ 56; *Ghazaryan v. Diva Limousine, Ltd.*
11 (2008) 169 Cal.App.4th 1524, 1531, n.5 [finding a proposed class of “as many as 190 current and
12 former employees” is sufficiently numerous].)

13 **ii. Class Members Share a Well-defined Community of Interest**

14 The community of interest requirement “embodies three factors: (1) predominant common
15 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and
16 (3) class representatives who can adequately represent the class.” (*Sav-On Drug Stores, Inc. v.*
17 *Superior Court*, *supra*, 34 Cal.4th at p. 326.) “[T]he community of interest requirement for
18 certification *does not mandate that class members have uniform or identical claims.*” (*Capitol*
19 *People First v. Department of Developmental Services* (2007) 155 Cal.App.4th 676, 692 (emphasis
20 in original).) Rather, courts focus on the defendant’s internal policies and “pattern and practice . .
21 . in order to assess whether that common behavior toward similarly situated plaintiffs renders class
22 certification appropriate.” (*Ibid.*) The application of each of these factors is discussed below.

23 **1. Common Issues Predominate**

24 The “common issues” requirement “involves analysis of whether the proponent’s ‘theory
25 of recovery’ is likely to prove compatible with class treatment.” (*Capitol People First v.*
26 *Department of Developmental Services*, *supra*, 155 Cal.App.4th at p. 690.) In other words, courts
27 determine whether the elements necessary to establish liability are susceptible to common proof,
28 even if the class members must individually prove their damages. (*Brinker Restaurant Corp. v.*

1 *Superior Court* (2012) 53 Cal.4th 1004, 1024). These types of claims are regularly granted class
2 certification when the plaintiff can present evidence of common policies. (See e.g. *Jones v. JGC*
3 *Dallas LLC* (N.D.Tex. Nov. 29, 2012, Civil Action No. 3:11-CV-2743-O) 2012 U.S.Dist.LEXIS
4 185042 [certified collective action involving 190 dancers]; *Espinoza v. Galardi South Enters.*
5 (S.D.Fla. Jan. 11, 2016, No. 14-21244-CIV-GOODMAN) 2016 U.S.Dist.LEXIS 2904 [court
6 certified class of dancers on state law claims].)

7 Plaintiff asserts common issues of fact and law predominate as to each of the claims
8 alleged. (Han Decl., *supra*, at ¶ 57.) Plaintiff contends all Class Members were subject to the same
9 or similar employment practices, policies, and procedures described in detail above. (*Ibid.*)

10 **2. Plaintiff's Claims Are Typical of the Class Claims**

11 Typical claims rely on legal theories and facts that are substantially like those of other class
12 members. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 46.)

13 Plaintiff is a former employee of Defendant and alleges she and the Class Members were
14 employed by the same company and injured by the common policies and practices related to the
15 claims described above. (Han Decl., *supra*, at ¶ 58.) Plaintiff seeks relief for these claims and
16 derivative claims on behalf of the Class. (*Ibid.*) Thus, the claims arise from the same employment
17 practices and are based on the same legal theories applicable to the Class. (*Ibid.*)

18 **3. Plaintiff Is Adequate to Represent the Class**

19 Plaintiff has proven to be an adequate class representative. (Han Decl., *supra*, at ¶ 59.)
20 Plaintiff conducted herself diligently and responsibly in representing the Class in this litigation,
21 understands the fiduciary obligations, and actively participated in the prosecution of this case.
22 (*Ibid.*) Plaintiff spent time in meetings and conferences with Class Counsel to provide them with
23 a complete understanding of the work experience and environment. (*Ibid.*) Plaintiff also has no
24 interest averse to the interests of the other Class Members. (*Ibid.*)

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27 ///

1 **4. Class Action Is Superior for the Fair and Efficient Adjudication**
2 **of this Controversy**

3 A class action is superior to other available means for the fair and efficient adjudication of
4 this controversy. Plaintiff contends the joinder of all Class Members is impractical and that class
5 treatment will permit many similarly situated persons to prosecute their common claims for
6 settlement purposes simultaneously in a single forum without the duplication of effort and expense
7 that numerous individual actions would necessitate. Because several Class Members are also
8 current employees, Plaintiff believes fear of retaliation further supports the superiority of class-
9 wide relief as this fear often discourages current employees from seeking legal redress.

10 **e. The Settlement Is Fair, Reasonable, and Adequate**

11 In deciding whether to approve a proposed class action settlement under Code of Civil
12 Procedure section 382, the Court must find a proposed settlement is “fair, adequate and
13 reasonable.” (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) A proposed class action
14 settlement is presumed fair under the following circumstances: (1) parties reached settlement after
15 arm’s-length negotiations; (2) investigation and discovery were sufficient to allow counsel and the
16 court to act intelligently; (3) counsel is experienced in similar litigation; and (4) percentage of
17 objectors is small. (*Id.* at p. 1802.) All these elements are present here.

18 **f. Notice to the Class Complies with California Rules of Court, Rule 3.769(f)**

19 California Rules of Court, rule 3.769(f), provides:

20 If the court has certified the action as a class action, notice of the final approval hearing
21 must be given to class members in the manner specified by the court. The notice must
22 contain an explanation of the proposed settlement and procedures for class members to
23 follow in filing written objections to it and in arranging to appear at the settlement hearing
and state any objections to the proposed settlement.

24 The Class Notice meets all these requirements. The Class Notice advises the Class
25 Members of their right to participate in the Settlement, how and when to object to or request
26 exclusion from the Settlement, and date, time, and location of the Final Approval Hearing.

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28 ///

1 **V. CONCLUSION**

2 Plaintiff submits the Settlement is in the Class's best interests. Under the applicable class
3 action criteria and guidelines, the Settlement should be preliminarily approved by the Court, Class
4 should be conditionally certified for settlement purposes, and Class Notice should be approved.
5

6 Dated: May 6, 2024

JUSTICE LAW CORPORATION

7 By: 
8 Douglas Han
9 *Attorneys for Plaintiff*
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**PROOF OF SERVICE
1013A(3) CCP**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

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

On May 6, 2024, I served the foregoing document described as

**PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT, CONDITIONAL CERTIFICATION,
APPROVAL OF CLASS NOTICE, SETTING OF FINAL APPROVAL HEARING
DATE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF**

for the following case: **Lynch v. Jet Delivery, Inc. et al.**
LWDA/Court Case No.: **LWDA-CM-892157-22**
34-2022-00322822-CU-OE-GDS
Sacramento County Superior Court

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

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

[X] BY ELECTRONIC SUBMISSION

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

[X] STATE

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

Executed on May 6, 2024, at Pasadena, California.



Mariah Anderson