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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

JORDAN COUTCHER, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

HARMAN FITNESS, LLC, a California limited
liability company; BAKERSFIELD FITNESS,
LLC, a California limited liability company; DB
HEALTH & FITNESS, LLC, a California
limited liability company; LA VERNE
FITNESS, LLC, a California limited liability
company; NORWALK FITNESS, LLC, a
California limited liability company; RANCHO
CUCAMONGA FITNESS, LLC, a California
limited liability company; THOUSAND OAKS
FITNESS, LLC, a California limited liability
company; XI ENTERPRISE, INC., a California
corporation; FITNESS CLUB MANAGEMENT,
LLC, a California limited liability company;
CURTIS HARMAN, an individual; DAVID
HARMAN, an individual; and DOES 1 through
50, inclusive,

Defendants.

JORDAN COUTCHER, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

CANOGA PARK FITNESS, LLC, a California
limited liability company; CERRITOS FITNESS
& HEALTH, LLC, a California limited liability

Case No. 22STCV18360 (consolidated with
Case No. 22STCV18386 for all purposes and
with Case No. 24STCV25107 for settlement
purposes)

**PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
AND PAGA ACTION SETTLEMENT**

Date: September 28, 2026

Time: 10:30 a.m.

Dept.: 1, Spring Street Courthouse

Judge: Hon. Theresa M. Traber

[Assigned for all purposes]

Action Filed: June 3, 2022

Trial Date: None Set

company; CHATSWORTH HEALTH
FITNESS, LLC, a California limited liability
company; CHINO FITNESS, LLC, a California
limited liability company; CORONA HEALTH
& FITNESS, LLC, a California limited liability
company; HEMET FITNESS, LLC, a California
limited liability company; LA MIRADA
HEALTH & FITNESS, LLC, a California
limited liability company; LAKEWOOD
FITNESS, LLC, a California limited liability
company; LANCASTER FITNESS, LLC, a
California limited liability company; LONG
BEACH FITNESS, LLC, a California limited
liability company; MORENO VALLEY
FITNESS, INC., a California corporation;
MURRIETA FITNESS & HEALTH, LLC, a
California limited liability company; NORTH
RIVERSIDE FITNESS, INC., a California
limited liability company; NORTHRIDGE
HEALTH FITNESS, LLC, a California limited
liability company; SAN DIMAS FITNESS LLC,
a California limited liability company; SANTA
MARIA HEALTH & FITNESS, LLC, a
California limited liability company; SIMI
VALLEY FITNESS, LLC, a California limited
liability company; TEMECULA FITNESS,
LLC, a California limited liability company;
VAN NUYS FITNESS, LLC, a California
limited liability company; HARMAN FITNESS,
LLC, a California limited liability company;
FITNESS CLUB MANAGEMENT, LLC, a
California limited liability company; CURTIS
HARMAN, an individual; DAVID HARMAN,
an individual; and DOES 1 through 50, inclusive,

Defendants.

RUDY CONRIQUEZ, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

CERRITOS FITNESS & HEALTH, LLC, a
California limited liability company; FITNESS
CLUB MANAGEMENT, LLC, a California
limited liability company; CURTIS HARMAN,
an individual; DAVID HARMAN, an individual;
and DOES 1 through 10, inclusive,

Defendants.

TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, on September 28, 2026, at 10:30 a.m., or as soon thereafter as the matter may be heard, in Department 1 of the above-captioned court located at 312 N. Spring St., Los Angeles, CA 90012, Plaintiffs Jordan Coutcher and Rudy Conriquez, individually and on behalf of similarly situated classes of individuals, will and hereby do move this Court pursuant to Code of Civil Procedure Section 382 and Rule 3.769(c) of the California Rules of Court to enter an Order to:

1. Preliminarily approve the proposed class and PAGA action settlement set forth in the Class Action and PAGA Settlement Agreement (“Settlement Agreement” or “SA”), attached as Exhibit 1 to the Declaration of Keith Custis, which is submitted concurrently in support of the Motion;

2. Preliminarily certify the Class defined as: All persons who worked for Defendants Lancaster Fitness, LLC and/or XI Enterprise, Inc. as a non-exempt employee in California during the Coutcher Class Period (June 3, 2018 to April 12, 2026), and all persons who worked for Defendant Cerritos Fitness & Health, LLC as a non-exempt employee in California during the Conriquez Class Period (September 26, 2020 to April 12, 2026). (SA, ¶¶ 1.9, 1.17, 1.20);

3. Preliminarily appoint Plaintiff Jordan Coutcher as a Class Representative;

4. Preliminarily appoint Plaintiff Rudy Conriquez as a Class Representative;

5. Preliminarily appoint Custis Law, P.C. and its attorney Keith A. Custis as Class Counsel;

6. Appoint ILYM Group, Inc. as the Settlement Administrator;

7. Approve as to form and content the two Court Approved Notices of Class Action Settlement and Hearing Date for Final Court Approval—one for Lancaster/Palmdale Class Members and one for Cerritos Class Members—attached as Exhibits A and B, respectively, to the Settlement Agreement, and direct their distribution to members of the Class;

8. Set a hearing date, time and place to conduct the Final Approval Hearing on Plaintiffs’ Motion for Order Granting Final Approval of Class and Representative Action Settlement, as well as Plaintiffs’ Motion for an Award of Attorneys’ Fees and Costs, Class Representative Service

Awards and Settlement Administration Costs.

This Motion is based upon: (1) this Notice of Motion and Motion; (2) the Memorandum of Points and Authorities in Support of Motion for Preliminary Approval of Class and PAGA Action Settlement; (3) the Declarations of Keith A. Custis, Jordan Coutcher, Rudy Conriquez, Lisa Mullins, David Hoiles, David Harman, Curtis Harman, and Shah Roshan; (4) the Class Action and PAGA Settlement Agreement; (5) the two Court Approved Notices of Class Action Settlement and Hearing Date for Final Court Approval; (6) the concurrently lodged [Proposed] Order Granting Preliminary Approval of Class and PAGA Action Settlement; (7) the proposed Judgment; (8) the records, pleadings, and papers filed in the Actions; and (9) such other documentary and oral evidence or argument as may be presented to the Court at or prior to the hearing of this Motion.

As this Motion is unopposed, and because this Motion seeks preliminary approval of three related class actions that the Court consolidated for settlement purposes, Plaintiffs respectfully request relief from the page limit requirement set by California Rules of Court, rule 3.1113(d).

Pursuant to Labor Code § 2699(s)(2), a copy of the Class Action and PAGA Settlement Agreement along with a copy of this Motion were e-filed with the LWDA on September 1, 2026. Declaration of Keith Custis, ¶¶ 6-7, Exs. 5 & 6.

Respectfully submitted,

CUSTIS LAW, P.C.

Dated: September 1, 2026

By: _____
Keith Custis

Attorneys for Plaintiffs Jordan Coutcher and Rudy
Conriquez and the Proposed Class

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1 **I. INTRODUCTION**

2 Plaintiffs Jordan Coutcher and Rudy Conriquez respectfully seek preliminary approval of a
3 non-reversionary, no-claim-form class action and PAGA settlement resolving three related wage-
4 and-hour actions: two filed by Plaintiff Coutcher against defendants Lancaster Fitness, LLC
5 (“Lancaster Fitness” or “Lancaster Fitness, LLC”) and XI Enterprise, Inc. (“Palmdale Fitness” or
6 “XI Enterprise, Inc.”), and several other named defendants (the “Coutcher Actions”), and a third
7 class action lawsuit filed by Plaintiff Conriquez against Cerritos Fitness & Health, LLC (“Cerritos
8 Fitness”), and several other named defendants (the “Conriquez Action”). The Coutcher Actions have
9 been consolidated for all purposes. The Coutcher Actions and the Conriquez Action have been
10 consolidated for settlement purposes only, and are referred to collectively as the “Actions.”

11 Subject to Court approval, Defendants have agreed to settle the Actions by paying a non-
12 reversionary Gross Settlement Amount of \$900,000, exclusive of the employer’s share of payroll
13 taxes, which Defendants will pay separately. The Settlement resolves the three Actions through one
14 common settlement structure while preserving the distinct Coutcher and Conriquez Class Periods,
15 and the fact that only the Coutcher Actions include a PAGA claim. If approved, the Settlement will
16 provide monetary relief to 734 current and former non-exempt employees of defendants Lancaster
17 Fitness, Palmdale Fitness, or Cerritos Fitness. Those entities, together with Fitness Club
18 Management, LLC, Harman Fitness, LLC, Curtis Harman, and David Harman, are collectively
19 referred to herein as “Defendants.”

20 As detailed below, the proposed Settlement satisfies all criteria for preliminary approval.
21 Accordingly, Plaintiffs request that the Court grant this Motion, enter the proposed Preliminary
22 Approval Order, and set a date for the Final Approval Hearing.

23 **II. BACKGROUND**

24 **A. The Parties and Defendants’ Crunch Fitness Business**

25 Defendants operate Crunch Fitness gym locations in Southern California. Defendant
26 Lancaster Fitness, LLC operated the Crunch Fitness location in Lancaster, California. Defendant XI
27 Enterprise, Inc. operated the Crunch Fitness location in Palmdale, California. Defendant Cerritos
28 Fitness & Health, LLC operated a Crunch Fitness location in Cerritos. Defendant Fitness Club

1 Management, LLC provided human resources services that Plaintiffs contend were uniform across
2 all three locations throughout the respective Class Periods. Individual defendants Curtis and David
3 Harman are owners, officers, and managing agents of Defendants. Harman Fitness also is an owner
4 of the Lancaster and Cerritos Crunch locations.

5 Plaintiff Coutcher worked as a non-exempt employee at the Palmdale Crunch Fitness location
6 from January 2020 until December 2020. Declaration of Jordan Coutcher (“Coutcher Decl.”), ¶ 3.
7 Plaintiff Coutcher also worked as a non-exempt employee at the Lancaster Crunch Fitness location
8 from December 2020 until approximately June 2021, and again from January 2022 until
9 approximately July 2022. *Id.* Plaintiff Conriquez worked as a non-exempt employee at the Cerritos
10 Crunch Fitness location from May 2021 until December 2022. Declaration of Rudy Conriquez
11 (“Conriquez Decl.”), ¶ 3.

12 **B. Procedural History**

13 On June 3, 2022, Plaintiff Coutcher filed an initial class action complaint in Case No.
14 22STCV18360 against Defendants XI Enterprise, Inc., Harman Fitness, LLC, Fitness Club
15 Management, LLC, Curtis Harman, and David Harman, and other defendants that have since been
16 dismissed, alleging various wage and hour claims under the California Labor Code and Business and
17 Professions Code. Declaration of Keith Custis (“Custis Decl.”), ¶ 26.

18 Also, on June 3, 2022, Plaintiff Coutcher filed a second class action complaint in Case No.
19 22STCV18386 against Defendants Lancaster Fitness, LLC, Harman Fitness, LLC, Fitness Club
20 Management, LLC, Curtis Harman, and David Harman, and other defendants that have since been
21 dismissed, alleging various wage and hour claims under the California Labor Code and Business and
22 Professions Code. Custis Decl., ¶ 27.

23 On June 6, 2022, pursuant to Labor Code § 2699.3(a), Plaintiff Coutcher gave timely written
24 notice to Defendants and the LWDA of the alleged Labor Code violations on behalf of Plaintiff
25 Coutcher and similarly situated aggrieved employees (the “PAGA Notice”). Custis Decl., ¶¶ 5, 28;
26 Ex. 4 (copy of June 6, 2022 PAGA Notice). The PAGA Notice provided notice to Defendants XI
27 Enterprise, Inc., Lancaster Fitness, LLC, Harman Fitness, LLC, Fitness Club Management, LLC,
28 Curtis Harman, and David Harman, as well as other alleged defendant employers that have since

1 been dismissed.

2 On October 3, 2022, Plaintiff Coutcher filed a first amended class action complaint in Case
3 No. 22STCV18360, adding a cause of action for civil penalties under the PAGA. Custis Decl., ¶ 29.

4 On November 18, 2022, the Court related Case Nos. 22STCV18360 and 22STCV18386 and
5 deemed Case No. 22STCV18360 the lead action. Custis Decl., ¶ 30.

6 On February 9, 2024, the Court consolidated the two Coutcher Actions, Case Nos.
7 22STCV18360 and 22STCV18386, for all purposes. Custis Decl., ¶ 31.

8 On February 16, 2024, Plaintiff Coutcher filed the operative consolidated class action
9 complaint in Case No. 22STCV18360 (the “Operative Coutcher Complaint”), asserting ten causes of
10 action against Defendants: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3)
11 failure to provide rest periods; (4) failure to provide meal periods; (5) failure to reimburse business
12 expenses; (6) failure to provide accurate wage statements; (7) failure to pay wages timely during
13 employment; (8) failure to pay wages timely at separation; (9) violations of the Unfair Competition
14 Law; and (10) civil penalties under the PAGA. Custis Decl., ¶ 32.

15 On August 16, 2024, the Court dismissed all defendants in the Coutcher Actions other than
16 Defendants XI Enterprise, Inc., Lancaster Fitness, LLC, Harman Fitness, LLC, Fitness Club
17 Management, LLC, Curtis Harman, David Harman, and Bakersfield Fitness, LLC. Custis Decl., ¶
18 33. Bakersfield Fitness, LLC was dismissed on October 10, 2024. *Id.*

19 On September 26, 2024, Plaintiff Conriquez filed a class action complaint in Case No.
20 24STCV25107 against Defendants Cerritos Fitness & Health, LLC, Fitness Club Management, LLC,
21 Harman Fitness, LLC, Curtis Harman, and David Harman (the “Operative Conriquez Complaint”),
22 asserting causes of action for: (1) failure to pay minimum wages; (2) failure to pay overtime wages;
23 (3) failure to provide rest periods; (4) failure to provide meal periods; (5) failure to reimburse
24 business expenses; (6) failure to provide accurate wage statements; (7) failure to pay wages timely
25 during employment; (8) failure to pay wages timely at separation; and (9) violations of the Unfair
26 Competition Law. Custis Decl., ¶ 34.

27 On March 18, 2026, the Court consolidated the Coutcher Actions with the Conriquez Action
28 for settlement purposes only. Custis Decl., ¶ 35.

Defendants deny all material allegations and all liability, and contend that they have consistently compensated employees in accordance with all applicable laws. Custis Decl., ¶ 36.

C. Investigation and Discovery

The Parties engaged in extensive formal and informal discovery and investigation. As detailed in the Custis Declaration, before settlement Plaintiffs reviewed written discovery responses and more than 1,300 pages of documents, spreadsheets, class data, payroll and timekeeping information, together with the time-record sample and survey information described below, bearing on liability, class certification, damages, penalties, and Defendants' defenses. Custis Decl., ¶¶ 37-55. The specific documents reviewed by Class Counsel prior to settlement are identified in the Custis Declaration. *Id.*, ¶ 41. The parties also engaged in the *Belaire-West* notice process, through which Class Counsel obtained contact information for 298 putative class members who worked at the Crunch Fitness locations in Palmdale and Lancaster, California. *Id.*, ¶ 42. In 2026, prior to mediation, Class Counsel also conducted an online survey of those putative class members regarding the wage and hour issues in these Actions, and received 82 responses, a 27.5% response rate. *Id.*, ¶ 43.

Prior to the mediation, Defendants also provided Class Counsel with (1) the total number of putative Class Members for the Lancaster/Palmdale locations and separately for the Cerritos location, allocated between current and former Class Members; (2) the total number of aggregate Workweeks for each location and, for the Lancaster/Palmdale locations, the number of PAGA Pay Periods; and (3) other class data bearing on liability and damages. Custis Decl., ¶ 44. Class Counsel's investigation also included: (1) multiple telephonic conferences with Plaintiffs; (2) interviews of putative class members in addition to Plaintiffs; (3) investigation into the viability of class treatment of the claims; and (4) assembling data for calculating and analyzing potential class-wide damages. *Id.*, ¶ 45.

Class Counsel's pre-mediation evaluation was informed by timekeeping data samples for a substantial portion of each proposed class that Defendants represented to Class Counsel were randomly selected. Hoiles Decl., ¶ 4; Custis Decl., ¶ 46. The samples included 187 Lancaster/Palmdale Class Members and 119 Cerritos Class Members, for a total of 306 Class Members, which Class Counsel's expert analyzed before settlement. Custis Decl., ¶ 47. Following mediation, and after the April 12, 2026 close of the Class and PAGA Periods, Defendants represented

1 that there were a total of 420 Lancaster/Palmdale Class Members in the Coutcher Class Period, and
2 314 Cerritos Class Members; the samples thus represented 44.5% of the Lancaster/Palmdale Class,
3 37.9% of the Cerritos Class, and approximately 41.7% of the combined 734-member proposed
4 Settlement Class. Custis Decl., ¶ 48.

5 These samples are statistically reliable. At a 95% confidence level, the combined sample of
6 306 Class Members yields a margin of error of only 4%, and the Lancaster/Palmdale and Cerritos
7 samples yield margins of error of 5% and 7%, respectively. Custis Decl., ¶¶ 49-53 & Exs. 7-9.
8 California courts have long accepted random sampling of this kind in wage-and-hour class actions.
9 In *Bell v. Farmers Ins. Exchange* (2004) 115 Cal.App.4th 715, 753–755, the Court of Appeal upheld
10 an aggregate damages award based on a random sample of 295 of 2,402 class members—roughly
11 12% of the class—analyzed at a 95% confidence level, holding that the methodology reflected a level
12 of accuracy consistent with due process. The samples here are more than three times larger as a share
13 of the Class than the sample approved in *Bell*, and they were used not to adjudicate liability at trial
14 but to inform Class Counsel’s valuation of the claims for settlement—a context in which the
15 reliability showing is considerably less demanding. Based on the foregoing and as further explained
16 in the Custis Declaration, Plaintiffs’ investigation was sufficient to satisfy the criteria for court
17 approval set forth in *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801, and *Kullar v. Foot*
18 *Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130. Custis Decl., ¶ 55.

19 **D. The Parties Settled After Mediation**

20 On February 11, 2026, the Parties participated in a full-day private mediation with mediator
21 Steven Serratore, Esq., a well-respected mediator with considerable experience mediating wage and
22 hour class actions. The settlement discussions were conducted at arm’s length. After the Parties
23 reached an impasse, Mr. Serratore made a mediator’s proposal, which all Parties accepted. The
24 Parties thereafter negotiated additional settlement details and exchanged numerous drafts of the
25 settlement documents over several months before agreeing on the final form of the Settlement
26 Agreement. The negotiations were at all times adversarial and at arm’s length. Custis Decl., ¶ 56.

27 **E. Overview of the Settlement**

28 The comprehensive terms of the Settlement are set forth in the Class Action and PAGA

Settlement Agreement, attached to the Custis Declaration as **Exhibit 1**.

1. Settlement Class Definition

The Class is defined as: All persons who worked for Defendants Lancaster Fitness, LLC and/or XI Enterprise, Inc. as a non-exempt employee in California during the Coutcher Class Period (June 3, 2018 to April 12, 2026), and all persons who worked for Defendant Cerritos Fitness & Health, LLC as a non-exempt employee in California during the Conriquez Class Period (September 26, 2020 to April 12, 2026). SA, ¶¶ 1.9, 1.17, 1.20.

2. Gross Settlement Amount and Aggregate Class Fund

Defendants have agreed to pay a Gross Settlement Amount of \$900,000 (“GSA”) to settle the Actions. SA, ¶¶ 1.26, 3.1. Because the Settlement covers the Coutcher Actions and a separate Conriquez Action, which was consolidated with the Coutcher Actions for settlement only, the Settlement’s distribution structure differs from the more typical model in which a single “Net Settlement Amount” is divided pro rata among one class. This Settlement instead uses the following three-step structure:

First, from the GSA, the Administrator will pay the amounts approved by the Court for: (1) the Class Representative Service Payments, up to \$10,000 to Coutcher and \$5,000 to Conriquez; (2) the Class Counsel Fees Payment, not to exceed 33.33% of the GSA, or \$299,970; (3) the Class Counsel Litigation Expenses Payment, not to exceed \$34,000; and (4) the Administration Expenses Payment, not to exceed \$10,000 absent good cause. SA, ¶¶ 3.2.1-3.2.3. The amount remaining after those deductions—but before deduction of any PAGA Penalties—is the “Aggregate Class Fund.” SA, ¶ 1.5.

Gross Settlement Amount:	\$900,000.00
PAGA Penalties are deducted later from the Lancaster/Palmdale Class Allocation only	Not deducted here
Class Representatives’ Service Payments (maximum)	-\$15,000.00
Administration Expenses Payment (maximum)	-\$10,000.00
Class Counsel Fees Payment (maximum)	-\$299,970.00
<u>Class Counsel Litigation Expenses Payment (maximum)</u>	<u>-\$34,000.00</u>
Aggregate Class Fund (estimated; before PAGA Penalties)	\$541,030.00

Second, the Administrator will allocate the Aggregate Class Fund between the two groups of Participating Class Members in proportion to their respective Workweeks. That allocation produces

1 a “Lancaster/Palmdale Class Allocation” and a “Cerritos Class Allocation.” SA, ¶¶ 1.5, 3.2.4. Based
2 on Defendants’ records as of May 26, 2026, there are 734 Class Members who collectively worked
3 34,084 Workweeks—23,266 Lancaster/Palmdale Workweeks and 10,818 Cerritos Workweeks. SA,
4 ¶ 4.1.2. Based on the estimated \$541,030 Aggregate Class Fund and the 23,266 and 10,818
5 Workweeks worked, respectively, by those two groups, and the maximum amounts of payments
6 sought, the Aggregate Class Fund would be allocated \$369,311.23 to the Lancaster/Palmdale Class
7 Allocation and \$171,718.77 to the Cerritos Class Allocation.

8 Third, the entire \$25,000 (or other amount approved by the Court) in PAGA Penalties would
9 then be deducted only from the Lancaster/Palmdale Class Allocation, producing an estimated
10 Lancaster/Palmdale Net Allocation of \$344,311.23 (\$369,311.23 - \$25,000), while the Cerritos Class
11 Allocation would remain \$171,718.77. These figures are estimates based on the current Workweek
12 totals and maximum requested deductions; the actual allocations will depend on the Court-approved
13 deductions, final Class Data, and participation in each group. SA, ¶¶ 1.5, 3.2.4.2.4, 3.2.6.2, 4.1.2.

14 **3. Individual Settlement Payments**

15 Each Lancaster/Palmdale Participating Class Member’s Individual Class Payment will equal
16 that member’s pro rata share of the Lancaster/Palmdale Net Allocation based on Lancaster/Palmdale
17 Workweeks; each Cerritos Participating Class Member’s Individual Class Payment will equal that
18 member’s pro rata share of the Cerritos Class Allocation based on Cerritos Workweeks. SA, ¶¶ 1.5,
19 3.2.4.

20 To calculate each Aggrieved Employee’s Individual PAGA Payment, the Administrator will
21 divide the Aggrieved Employees’ 25% share of the PAGA Penalties (\$6,250), or other amount
22 approved by the Court, by the aggregate total number of PAGA Pay Periods worked by all Aggrieved
23 Employees during the PAGA Period, and multiply the result by each Aggrieved Employee’s total
24 number of PAGA Pay Periods worked during the PAGA Period. SA, ¶ 3.2.6.

25 For tax reporting purposes, the Settlement provides that ten percent (10%) of each Individual
26 Class Payment will be allocated to settlement of wage claims, will be subject to tax withholding, and
27 will be reported to each Participating Class Member on an IRS Form W-2. SA, ¶ 3.2.5.1. The
28 remaining ninety percent (90%) will be allocated to settlement of claims for interest and penalties

and will be reported on an IRS Form 1099. *Id.* One hundred percent (100%) of each Individual PAGA Payment will be allocated to penalties on an IRS Form 1099. *Id.*, ¶ 3.2.6.

No claim forms are required. The Administrator will mail Individual Class Payments automatically to all Participating Class Members and Individual PAGA Payments to all Aggrieved Employees, including Aggrieved Employees who opt out of the class portion. SA, ¶¶ 3.1, 4.3.1, 7.5.4. A single check combining the Individual Class Payment and Individual PAGA Payment, as applicable, may be used rather than sending two separate checks. SA, ¶ 4.3.1. The GSA is non-reversionary: no portion will revert to Defendants. *Id.*, ¶ 3.1.

The Settlement also contains an Escalator Clause, which has not been triggered based on Defendants' current estimate of 34,084 Workweeks, but which requires an increase to the GSA if the Class Data provided during settlement administration establishes that Class Members worked a total of 35,901 or more Workweeks during the Coutcher and Conriquez Class Periods. SA, ¶¶ 4.1.2-4.1.5.

4. Requests for Exclusion, Objection and Challenge Procedures

Class Members will have sixty (60) days from the mailing date of the two Class Notices (the "Response Deadline") to submit Requests for Exclusion, written objections, or Workweek challenges to the Settlement Administrator by the methods described in the Settlement and Notices. SA, ¶¶ 1.54, 7.5-7.7. A Class Member whose Class Notice is returned as undeliverable and re-mailed receives an additional fourteen (14) calendar days beyond the initial Response Deadline to respond. *Id.*, ¶ 7.4.4. Class Members may opt out only of the class portion of the Settlement. Aggrieved Employees cannot opt out of the PAGA component.

A Class Member who wishes to opt out must timely send the Administrator a writing that reasonably communicates the Class Member's election to be excluded. SA, ¶ 7.5.1. Although the Notices request identifying information and a signature, the Administrator may not reject a Request for Exclusion because it omits some requested information if the Administrator can ascertain the person's identity as a Class Member and the desire to be excluded. *Id.*, ¶ 7.5.2.

Any Participating Class Member may object to the class components of the Settlement by submitting a written objection to the Administrator by the Response Deadline, and also may appear at the Final Approval Hearing, personally or through counsel, to present an oral objection. SA, ¶ 7.7.

The Lancaster/Palmdale Notice explains that Class Members cannot object to the PAGA settlement itself. SA, Ex. A. The right to be heard orally at the Final Approval Hearing on matters open to Class Member objection is not conditioned on having submitted a written objection. SA, ¶ 7.7; Exs. A-B.

5. The Releases

The Lancaster/Palmdale Participating Class Members' released claims are defined as follows:

all claims that were alleged, or reasonably could have been alleged, based on the facts and allegations in the Operative Coutcher Complaint that are alleged to have occurred during the Coutcher Class Period including claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide rest periods; (4) failure to provide meal periods; (5) failure to reimburse business expenses; (6) failure to provide accurate wage statements; (7) failure to pay wages timely during employment; (8) failure to pay wages timely at separation; and (9) violations of the Unfair Competition Law.

SA, ¶ 5.2; *see also id.* ¶ 1.52 (defining Released Parties). The Cerritos Participating Class Members will provide a parallel release of claims that were alleged, or reasonably could have been alleged, based on the facts and allegations in the Operative Conriquez Complaint and occurring during the Conriquez Class Period. SA, ¶ 5.3.

The Aggrieved Employees' released PAGA claims are defined as

all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts and allegations in the Operative Coutcher Complaint or the PAGA Notice that are alleged to have occurred during the PAGA Period, including claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide rest periods; (4) failure to provide meal periods; (5) failure to reimburse business expenses; (6) failure to provide accurate wage statements; (7) failure to pay wages timely during employment; and (8) failure to pay wages timely at separation.

SA, ¶ 5.4; *see also id.* ¶ 1.52 (defining Released Parties). The Cerritos group does not provide a PAGA release because the Conriquez Action does not assert a PAGA claim. Only Plaintiffs will provide general releases and waivers of Civil Code § 1542. All releases become effective on the date when Defendants fully fund the entire GSA and fund all employer payroll taxes owed on the wage portion of the Individual Class Payments. SA, ¶ 5.

6. Treatment of Uncashed Settlement Checks

Settlement checks will be negotiable for at least 180 days. The Administrator will transmit

the sum of uncashed settlement payments, if any, to the Controller of the State of California to be held pursuant to the Unclaimed Property Law in the name of the Participating Class Member and/or Aggrieved Employee who did not cash their settlement checks until such time as they claim their property. *See* Civ. Proc. Code § 1500, *et seq.* SA, ¶¶ 4.3.1, 4.3.3-4.3.4. This disposition results in no “unpaid residue” under Code of Civil Procedure Section 384 because uncashed settlement payments remain held in the names of the individual Participating Class Members and/or Aggrieved Employees to whom those payments belong. *See id.*

7. Class Data and Confidentiality

The Settlement provides that the Class Data will be delivered to the Administrator, which must maintain the Class Data in confidence and use it only for purposes of the Settlement; the Class Data will not be shared in its entirety with Class Counsel. SA, ¶ 7.4.1. Class Counsel does not anticipate that provision will impede Class Counsel’s ability to discharge fiduciary duties because the Administrator will report to Class Counsel the number of Class Members, Aggrieved Employees, Workweeks, and PAGA Pay Periods in the Class Data, will provide weekly reports, and will provide copies of all Requests for Exclusion, objections, and Workweek challenges (and the Administrator’s determinations of those challenges). Custis Decl., ¶ 57; *see also* SA, ¶¶ 7.4.1, 7.6, 7.8.2-7.8.3. Additionally, any Class Member with questions may contact Class Counsel using the contact information provided in the Class Notice. In Class Counsel’s experience, Class Members routinely call with questions and requests. Custis Decl., ¶ 57.

III. THE CLASS SHOULD BE CONDITIONALLY CERTIFIED

Certification is appropriate when there exists “an ascertainable and sufficiently numerous class, a well-defined community of interest, and substantial benefits from certification that render proceeding as a class superior to alternatives.” *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1021. As the Supreme Court has noted, “[c]laims alleging a uniform policy consistently applied to a group of employees in violation of the wage and hour laws are of the sort routinely, and properly, found suitable for class treatment.” *Id.* at 1033. This is exactly such a case.

A. The Class is Ascertainable

A class is “ascertainable when it is defined ‘in terms of objective characteristics and common

transactional facts’ that make ‘the ultimate identification of Class Members possible when that identification becomes necessary.’” *Noel v. Thrifty Payless, Inc.* (2019) 7 Cal. 5th 955, 974 (citation omitted). The ascertainability requirement is met where Class Members “may be readily identified without unreasonable expense or time by reference to official records.” *Id.* (citing *Rose v. City of Hayward* (1981) 126 Cal. App. 3d 926, 932). Here, the Class Members can be ascertained from Defendants’ payroll, time, and other similar employment records. Ascertainability is satisfied.

B. The Class is Numerous

The numerosity requirement is satisfied where it would be impracticable to bring all of the potential Class Members before the Court. *See, e.g., Hebbard v. Colgrove* (1972) 28 Cal. App. 3d 1017, 1030 (holding that twenty-eight members were sufficient to maintain a class action). Here, the proposed Settlement Class consists of approximately 734 Class Members, 420 Lancaster/Palmdale Class Members and 314 Cerritos Class Members. Custis Decl., ¶ 48. Numerosity is satisfied.

C. The Community of Interest Requirements Are Met

The community of interest requirement has three essential elements: “(1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class.” *Brinker*, 53 Cal. 4th at 1021. Each of these criteria is met here.

1. Predominant Questions of Law and Fact Exist

The predominance requirement is satisfied when questions of law or fact common to the class predominate over individual questions. *Linder v. Thrifty Oil Co.* (2000) 23 Cal. 4th 429, 435. While the predominance element is extremely important in a disputed class certification motion, courts apply a “lesser standard of scrutiny for settlement cases” where the court does not need to consider whether the lawsuit is manageable for trial. *See Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1807 n.19. Here, the predominance factor is met because each claim challenges an alleged common policy or practice that Plaintiffs contend is illegal as to Plaintiffs and all Class Members. *See generally* Operative Complaints. These sorts of claims are commonly held to be proper for class certification. *See, e.g., Williams v. Superior Court* (2013) 221 Cal. App. 4th 1353, 1371 (certifying class based on uncompensated work time).

1 **2. Typicality Is Satisfied**

2 Typicality “requires a showing that the class representative has claims or defenses typical of
3 the class.” *See, e.g., Fireside Bank v. Superior Court* (2007) 40 Cal. 4th 1069, 1089. Typicality is
4 satisfied where the plaintiff’s claims are “reasonably co-extensive” with absent Class Members’
5 claims. *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1020. “[I]t has never been the law
6 in California that the class representative must have identical interests with the class members.”
7 *Classen v. Weller* (1983) 145 Cal. App. 3d 27, 46. Here, Coutcher’s claims are typical of the
8 Lancaster/Palmdale Class Members she seeks to represent, and Conriquez’s claims are typical of the
9 Cerritos Class Members he seeks to represent. Each Plaintiff was a non-exempt employee of the
10 employer or employers corresponding to her or his respective allocation group and challenges the
11 same categories of wage-and-hour policies and practices alleged on behalf of that group. Together,
12 Plaintiffs’ claims and alleged injuries are reasonably co-extensive with the claims of the Settlement
13 Class. Typicality is satisfied.

14 **3. Adequacy Is Satisfied**

15 The adequacy requirement examines conflicts of interest between named parties and the class
16 they seek to represent. *See Capital People First v. State Dept. of Developmental Services* (2007) 155
17 Cal. App. 4th 676, 697. Here, Plaintiffs and Class Counsel will adequately represent the Class
18 Members, and there are no conflicts between Plaintiffs and the Class. Custis Decl., ¶¶ 25, 58;
19 Coutcher Decl., ¶ 17; Conriquez Decl., ¶ 15. Each Plaintiff’s declaration confirms that she or he is
20 willing to serve, understands the responsibilities of a class representative, has participated in the
21 prosecution and settlement of her or his respective Action, and has no interests antagonistic to the
22 Class. Coutcher Decl., ¶¶ 16-17, 20-21; Conriquez Decl., ¶¶ 14-16, 18-19. Class Counsel has
23 extensive experience litigating complex class actions, including wage and hour class actions, and the
24 Custis Declaration identifies all prior cases in which Class Counsel has been approved to serve as
25 lead or class counsel. Custis Decl., ¶¶ 8-25; *see also McGhee v. Bank of America* (1976) 60 Cal. App.
26 3d 442, 450 (finding adequacy satisfied where there was no indication that plaintiff’s counsel was
27 not qualified and the named plaintiff had no interests antagonistic to those of the proposed class).
28

1 **D. Superiority Is Satisfied**

2 A class action is superior to a multitude of individual lawsuits. Given the size and amount of
3 each individual Class Member’s claim, Class Members likely have little incentive to litigate their
4 claims on an individual basis because the out-of-pocket expense necessary to litigate each claim
5 outweighs any potential recovery. *See Martinez v. Joe’s Crab Shack Holdings* (2014) 231 Cal. App.
6 4th 362, 367 (“Litigation by class action has long been recognized as a superior method of resolving
7 wage and hour claims in California.”).

8 **IV. THE COURT SHOULD PRELIMINARILY APPROVE THE SETTLEMENT**

9 **A. Standard for Preliminary Approval of Settlement**

10 A class action may not be dismissed, compromised, or settled without approval of the Court.
11 Cal. R. Ct. 3.769. The Court’s role in evaluating a proposed settlement is limited to ensuring that the
12 agreement taken as a whole is fair and is within the range of reasonableness. *See Hanlon*, 150 F.3d
13 at 1027; *see also Moniz v. Adecco USA Inc.* (2021) 72 Cal.App.5th 56, 77 (“a trial court should
14 evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of
15 PAGA’s purposes to remediate present labor law violations, deter future ones, and to maximize
16 enforcement of state labor laws”). All the criteria for preliminary approval are satisfied here.

17 **B. The Settlement Is Entitled To A Presumption of Fairness**

18 A presumption of fairness exists where: (1) the settlement is reached through arm’s-length
19 negotiations; (2) investigation and discovery are sufficient to allow counsel and the court to act
20 intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is
21 small. *Dunk*, 48 Cal.App.4th at 1802. The first three of these factors apply at this stage.

22 **1. The Settlement is the Product of Arm’s-Length Negotiations**

23 “[W]hat transpires in settlement negotiations is highly relevant to the assessment of a
24 proposed settlement’s fairness.” *State v. Levi Strauss & Co.* (1986) 41 Cal. 3d 460, 482. Courts
25 presume the absence of fraud or collusion in the negotiation of a settlement, unless evidence to the
26 contrary is offered; thus, there is a presumption that settlement negotiations are conducted in good
27 faith. *Newberg on Class Actions* § 11.51 (“Newberg”) (5th ed. 2011).

28 Here, as detailed above and in the Custis Declaration, the Settlement is the product of

extensive arm's-length negotiations carried out in an adversarial context. Custis Decl., ¶ 56. On February 11, 2026, the Parties participated in a full-day mediation with Steven Serratore, Esq., an experienced mediator of employment cases including wage and hour class actions. *Id.*; *see also Satchell v. Fed. Express Corp.* (N.D. Cal. Apr. 13, 2007), No. C03-2659 SI, 2007 WL 1114010, at *4 ("The assistance of an experienced mediator in the settlement process confirms that the settlement is non-collusive."); *In re Bluetooth Headset Prods. Liab. Litig.* (9th Cir. 2011) 654 F.3d 935, 948 (presence of a neutral mediator is a factor weighing in favor of a finding of non-collusiveness).

2. Investigation and Discovery Were Sufficient To Evaluate Risks

As detailed above and in the Custis Declaration, the investigation and discovery were sufficient to permit counsel and the Court to evaluate risk intelligently. Custis Decl., ¶¶ 37-55; Exs. 7-9.

3. Class Counsel Is Experienced In Similar Litigation

Class Counsel has substantial experience litigating wage and hour class actions and representative actions. Custis Decl., ¶¶ 8-25.

C. The Proposed Settlement is Fair, Adequate and Reasonable

When determining a settlement's fairness at preliminary approval, courts consider: "the strength of Plaintiff's case, the risk, expense, complexity and likely duration of 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*, 48 Cal. App. 4th at 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 v. Apple Computer, Inc.* (2001) 91 Cal. App. 4th 224, 245. Application of the *Dunk* factors here demonstrates the proposed settlement is fair, adequate and reasonable.

1. The Strength of Plaintiffs' Case

Although Plaintiffs maintain that their claims are meritorious, Plaintiffs acknowledge there are substantial risks and uncertainties in proceeding with class certification and trial on the merits. Custis Decl., ¶ 61. As described below, Defendants could present multiple defenses to Plaintiffs' claims, both on the merits and to class certification. Given those issues, Plaintiffs and Class Counsel

1 concluded that the non-reversionary Settlement of \$900,000 is fair, reasonable and adequate, and
2 will provide the Class with a substantial recovery. Custis Decl., ¶ 90; Coutcher Decl., ¶ 22; Conriquez
3 Decl., ¶ 20. Thus, while Plaintiffs were prepared to litigate the claims through class certification and
4 ultimately trial, success was far from certain. *Id.*

5 **2. Risk, Expense, Complexity and Duration of Further Litigation**

6 If the cases had not settled, Plaintiffs would anticipate two to three years of additional
7 litigation, including Plaintiffs' motions for class certification. Custis Decl., ¶ 62. The Parties would
8 also engage in extensive formal discovery including depositions of Plaintiffs, Defendants' persons
9 most knowledgeable and the Parties' experts. *Id.* If Plaintiffs' certification motions were granted, the
10 Parties would incur more attorneys' fees and costs through a possible decertification motion, trial,
11 and possible appeals. *Id.* This settlement avoids those risks and the accompanying expense.

12 **3. Risk of Maintaining Class Action Status**

13 Plaintiffs have not yet moved for class certification. While Plaintiffs maintain that the
14 requirements of class certification are met, Defendants would proffer various arguments why class
15 treatment is not appropriate, including that individualized issues among Class Members predominate
16 over common ones. Custis Decl., ¶ 63. Absent settlement, there was a risk that Plaintiffs could not
17 certify a class before trial, or if a class were certified, that it would consist of a substantially smaller
18 group of employees than the proposed Class, and the expected recovery would be significantly
19 reduced. *Id.* If Defendants defeated Plaintiffs' certification motions, there would be no class-wide
20 relief whatsoever. *Id.* Thus, this factor supports preliminary approval.

21 **4. Amount Offered in Settlement Given the Realistic Value of the Claims**

22 "The most important factor is the strength of the case for plaintiffs on the merits, balanced
23 against the amount offered in settlement." *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal. App.
24 4th 116, 130. In connection with mediation, Plaintiffs conducted an exposure analysis, which is
25 detailed below. Custis Decl., ¶ 64. Based on that analysis, Plaintiffs predicted the realistic total class-
26 wide recovery on the Class and PAGA claims would be \$1,553,829, as follows:

27 Minimum Wages Claim: Plaintiffs allege that Defendants failed to pay Class Members the
28 applicable minimum wage for all hours worked. Among other things, the Operative Complaints

1 allege that Defendants edited employees' clock-in and clock-out times to reduce or eliminate
2 recorded work time; required employees to perform pre- and post-shift work off the clock; and
3 required employees to complete Internet-based training off the clock. Custis Decl., ¶ 65.

4 Based on Class Counsel's investigation and interviews with Plaintiffs and putative Class
5 Members, as well as the survey of Class Members conducted by Class Counsel, Plaintiffs estimated
6 that Class Members worked an average of seven (7) minutes of uncompensated work per shift. Based
7 on that estimate, the average actual hourly rates of pay reflected in Defendants' payroll data, and
8 Plaintiffs' expert's analysis of the number of shifts worked by Class Members, Plaintiffs calculated
9 \$229,849 in unpaid straight-time wages attributable to off-the-clock work and \$78,568 in
10 prejudgment interest on those wages, for a total of \$308,417. Plaintiffs additionally calculated
11 \$247,312 in liquidated damages under Labor Code § 1194.2, based on the applicable statutory
12 minimum wage rates in effect during each year of the Class Periods. Thus, the maximum potential
13 recovery for this claim is estimated to be \$555,729. Custis Decl., ¶ 66. That is full value.

14 Defendants would make several arguments to defeat the minimum wage claim. First,
15 Defendants would argue that any claim for unpaid minimum wages based on off-the-clock work
16 could not be certified because individual issues would predominate, requiring employee-by-
17 employee inquiries concerning whether Class Members worked off the clock, the amount of such
18 work, and whether Defendants knew or should have known that the work was being performed.
19 Defendants maintained that the circumstances that could allegedly cause employees to perform work
20 off the clock varied among employees and locations, such that adjudicating the claim would require
21 individualized inquiries concerning the nature and duration of the alleged off-the-clock work.
22 Second, on the merits, Defendants would rely on written policies prohibiting employees from
23 performing work off the clock and dispute that they knew or should have known that Class Members
24 were performing uncompensated work. Defendants would also challenge whether the evidence
25 developed by Plaintiffs was sufficient to establish that the assumed seven minutes of off-the-clock
26 work per shift accurately reflected the experience of the Class as a whole. In light of these arguments
27 and risks, Plaintiffs discounted the maximum exposure by 50% to account for the risk of non-
28 certification and by an additional 50% to account for the risk of being unsuccessful on the merits,

1 resulting in an estimated realistic recovery of \$138,932. Custis Decl., ¶ 67.

2 Overtime Wages Claim: Plaintiffs' overtime claim is based on two allegations. In addition to
3 alleging that off-the-clock work could cause employees' total hours worked to exceed eight hours in
4 a workday or forty hours in a workweek, the Operative Complaints allege that Defendants paid Class
5 Members nondiscretionary forms of compensation in addition to their hourly wages but failed to
6 include such compensation when calculating the regular rate. Custis Decl., ¶ 68. Based on Plaintiffs'
7 expert's analysis of the sampling of Class Members' time records, however, only 7.1% of the shifts
8 worked by Class Members were eight or more hours in length. Because Class Members had so few
9 overtime violations, Plaintiffs concluded that the overtime class could not be certified because
10 individual issues predominated. As a result, Plaintiffs estimated that the realistic recovery for the
11 overtime claim was zero. *Id.*

12 Rest Period Premium Wages: Plaintiffs allege that understaffing, lack of coverage, and an
13 informal practice of discouraging employees from taking rest breaks prevented Class Members from
14 taking compliant rest periods on shifts of 3.5 hours or more, and that Defendants failed to pay
15 premium wages for rest period violations. Plaintiffs also identified a written policy requiring rest
16 periods to be taken on the premises, which Plaintiffs maintained is unlawful. Based on Class
17 Counsel's investigation and interviews with Plaintiffs and putative Class Members, as well as the
18 survey of Class Members conducted by Class Counsel, Plaintiffs assumed for settlement purposes a
19 100% violation rate for every shift lasting at least 3.5 hours. On that basis, the analysis identified an
20 estimated 74,046 violations for Lancaster, Palmdale and Cerritos. The calculated rest-period
21 premiums and interest were \$1,771,888. Custis Decl., ¶ 69. That is full value.

22 Defendants would argue that the rest-period claim presented substantial certification and
23 merits risks because determining whether Class Members received compliant rest periods would
24 require individualized inquiries into employee experiences, staffing, coverage, and management
25 practices. Defendants would also argue that Class Member testimony concerning whether an on-site
26 rest period policy was enforced and whether rest-period violations actually occurred would be
27 necessary and would not support certification. Defendants also maintained other written rest-period
28 policies requiring compliant breaks and would rely on those policies to dispute any uniform unlawful

1 practice. Defendants would also challenge Plaintiffs' assumed 100% violation rate for every
2 qualifying shift by submitting declarations from Class Members stating that they received compliant
3 rest periods. In light of these defenses and arguments, Plaintiffs discounted the maximum exposure
4 by 50% for the risk of non-certification, and by an additional 50% to account for Defendants'
5 defenses on the merits, resulting in an estimated realistic recovery of \$442,972. Custis Decl., ¶ 70.

6 Meal Period Premium Wages: Plaintiffs allege that Defendants failed to provide Class
7 Members with timely, uninterrupted, off-duty meal periods. This claim was based on allegations
8 that time records showing late, missed, or short meal periods were edited to eliminate any record of
9 a meal period penalty, that employees were required to clock out and continue working, and that
10 staffing levels and workload impeded employees from taking compliant meal periods. Plaintiffs also
11 alleged that Defendants failed to pay the one-hour premium required when a compliant meal period
12 was not provided. Custis Decl., ¶ 71.

13 Based on Class Counsel's investigation and interviews with Plaintiffs and putative Class
14 Members, as well as the survey of Class Members conducted by Class Counsel, Plaintiffs assumed
15 that 50% of shifts exceeding five hours involved a meal-period violation. Under that assumption,
16 Plaintiffs' expert identified 19,606 meal period violations for the Lancaster, Palmdale and Cerritos
17 Crunch locations. After offsetting meal-period premiums reflected as having been paid, Plaintiffs'
18 expert calculated the maximum potential recovery inclusive of prejudgment interest on the meal-
19 period claim at \$461,315. Custis Decl., ¶ 72.

20 However, Defendants would argue that they maintained legally compliant meal-period
21 policies throughout the Class Period. Defendants also contend that this claim would not be certified
22 due to the lack of any common evidence tying together the reason that Class Members experienced
23 a meal period violation. Defendants also would assert that, if meal periods were late, missed or short,
24 individual issues would predominate, precluding class certification because Class Members may
25 have voluntarily skipped a meal period and/or taken a late or short meal period. *Brinker Restaurant*
26 *Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1040 ("the employer is not obligated to police meal
27 breaks and ensure no work thereafter is performed"). Defendants also would argue that the issue of
28 voluntary waiver would necessarily devolve into a series of individualized mini-trials, precluding

1 class certification. *See Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 25 (holding
2 that the defendant must be provided an opportunity to litigate affirmative defenses, even when they
3 turn on individual questions). In light of these defenses, Plaintiffs discounted the maximum exposure
4 by 75% for the risk of non-certification, and an additional 50% to account for Defendants’ defenses
5 on the merits, to arrive at an estimated realistic recovery of \$57,664. Custis Decl., ¶ 73.

6 Unpaid Reimbursements: Plaintiffs allege that Class Members incurred necessary business
7 expenses arising from the required use of their personal cell phones and vehicles for work-related
8 purposes, but received no reimbursement for those expenses. Custis Decl., ¶ 74.

9 For purposes of evaluating maximum potential exposure, Plaintiffs separately modeled cell
10 phone and mileage expenses. Plaintiffs assumed \$40.20 per month for unreimbursed cell phone
11 expenses, based on a published industry-average reimbursement figure.¹ Based on interviews with
12 Class Members and Plaintiffs’ survey of Class Members, Plaintiffs further assumed that 43% of Class
13 Members incurred 16 miles per week in unreimbursed mileage, using applicable IRS mileage rates.
14 The potential value of the expense-reimbursement claim was estimated to be \$655,248, consisting of
15 \$346,323 in unreimbursed cellular-telephone expenses (8,615 aggregate Class Member-months ×
16 \$40.20 per month), \$139,586 in unreimbursed mileage expenses (assuming that 43% of Class
17 Members incurred 16 unreimbursed miles per week at the applicable IRS mileage rates), and
18 \$169,339 in prejudgment interest. Custis Decl., ¶ 75.

19 Among other defenses, Defendants would argue that any claim for unreimbursed business
20 expenses based on alleged required business use of personal vehicles could not be certified because
21 individual issues would predominate. Defendants also would argue that the Labor Code requires
22 reimbursement only for “necessary” expenses, as opposed to every expense incurred in the course of
23 performing work, and that determining whether particular expenses were necessary would require
24 individualized inquiries. Defendants further would argue that the wide variety of cell phone plans,
25 providers, and costs would create additional evidentiary complexities on an individual and class-

26
27 ¹ See Employees using cell phones for work? Here’s how California employers must pay up, Sept. 14, 2024,
28 available at <https://workforce.com/news/california-cell-phone-reimbursement-law> (“According to a study by Oxford Economics and Samsung, most company reimbursements for mobile expenses range between \$30 to \$50 per month. On average, the monthly amount is \$40.20 per employee.”).

1 wide basis. Custis Decl., ¶ 76.

2 Because Class Counsel’s investigation indicated that the majority of Class Members had not
3 been required to use their personal vehicles for work purposes, Plaintiffs assigned no estimated
4 realistic recovery to the mileage component of the reimbursement claim. Plaintiffs therefore limited
5 their realistic-recovery analysis to the cell phone component. Plaintiffs calculated \$346,323 in
6 maximum unreimbursed cell phone expenses and estimated that approximately \$120,693 of the total
7 prejudgment interest was attributable to those expenses by allocating the interest proportionately
8 between the cell phone and mileage components. To account for Defendants’ defenses, Plaintiffs
9 discounted that estimated exposure by 50%, resulting in an estimated realistic recovery of
10 approximately \$233,508 $((\$346,323 + \$120,693) \div 2)$. Custis Decl., ¶ 77.

11 Accurate Wage Statements: Plaintiffs contend that, as a result of the foregoing Labor Code
12 violations, Defendants issued inaccurate wage statements. Defendants paid Class Members on a
13 semi-monthly basis. Plaintiffs identified 382 Class Members who received wage statements during
14 the applicable wage-statement period, and an aggregate of 10,007 pay periods within that period.
15 Plaintiffs’ expert calculated maximum potential exposure for this claim of \$981,600, arrived at as
16 follows: $(382 \text{ initial violations} \times \$50 \text{ initial-violation penalty} = \$19,100) + (9,625 \text{ subsequent}$
17 $\text{violations} \times \$100 \text{ subsequent-violation penalty} = \$962,500) = \$981,600$. *See also* Labor Code §
18 226(e) (providing for a \$50 penalty for an initial violation and \$100 for each subsequent violation,
19 subject to the statutory maximum). Custis Decl., ¶ 78.

20 Based on Defendants’ arguments that (i) no violations occurred; (ii) any alleged violations
21 were not “knowing and intentional” as required by Labor Code § 226(e); (iii) no actual injury was
22 suffered; and (iv) their wage statements always accurately reflected hours worked and amounts paid
23 to employees, *see Maldonado v. Epsilon Plastics, Inc.* (2018) 22 Cal.App.5th 1308, 1336-37
24 (agreeing with employer’s “commonsense position that the pay stubs were accurate in that they
25 correctly reflected the hours worked and the pay received”), Plaintiffs discounted the maximum
26 exposure by 50% for the risk of non-certification, and an additional 50% for the risk of failure on the
27 merits, to arrive at an estimated realistic recovery of \$245,400. Custis Decl., ¶ 79.

28 Waiting Time Penalties: Plaintiffs contend that all Class Members whose employment with

Defendants ended within the three-year limitations period applicable to Labor Code § 203 penalties are entitled to waiting time penalties. Based on the Class Data provided by Defendants, Plaintiffs' expert estimated that there were 453 Class Members whose employment with Defendants ended within the limitations period. Plaintiffs' expert also determined that the weighted average hourly rate of pay for those Class Members was \$16.42, and that the weighted average length of a Class Member's shift each workday was 4.26 hours. Plaintiffs calculated the maximum potential exposure for this claim as \$950,610, arrived at as follows: 453 employees × \$16.42/hour × 4.26 hours × 30 days = \$950,610. Custis Decl., ¶ 80.

However, Defendants would argue that Class Members could only recover waiting time penalties if they were able to establish an entitlement to the underlying wages. Defendants would also argue they attempted to pay employees all final wages owed in good faith upon separation, thereby precluding a finding of willfulness necessary to obtain waiting time penalties. *See* Cal. Code Regs. tit. 8, § 13520. Based on Defendants' arguments, Plaintiffs discounted the maximum exposure by 50% for risk of non-certification, and an additional 50% for risk of being unsuccessful on the merits, to arrive at an estimated realistic recovery of \$237,653. Custis Decl., ¶ 81.

PAGA Claim: The success of Plaintiff Coutcher's PAGA claim is wholly dependent upon the success of the underlying claims occurring within the statute of limitations period applicable to the PAGA. Defendants maintained and continue to maintain that they had legally compliant employment policies and practices throughout the statutory period. Defendants denied and continue to deny that they ever violated any provision of the Labor Code and argued that, even assuming such violations occurred, Defendants would not be treated as having engaged in subsequent violations giving rise to heightened penalties. In other words, Defendants argued heightened civil penalties for subsequent violations would not be assessed unless it could be shown that Defendants had notice that they were violating the law, *e.g.*, they had been cited by a labor agency or adjudged by a court to have done so. *See, e.g., Amaral v. Cintas Corp.* (2008) 163 Cal.App.4th 1157, 1209. Thus, Defendants contended that, at best, even if a violation giving rise to a penalty was shown for each pay period, only the lower civil penalty associated with initial violations would apply. Custis Decl., ¶ 82.

There are 7,908 pay periods at issue in the relevant PAGA period, according to the Class

1 Data. Assuming that each pay period triggers PAGA penalties, and that PAGA penalties for the
2 minimum wage, meal period, rest period, wage statement, and unreimbursed business expenses
3 claims may be “stacked,” the maximum potential exposure was estimated to be approximately
4 \$3,954,000, arrived at by multiplying 7,908 pay periods by the \$100 default civil penalty by five
5 Labor Code violations. That amount, however, assumes 100% liability throughout the PAGA Period.
6 Defendants would have presented a number of defenses to the PAGA claim. Custis Decl., ¶ 83.

7 In Class Counsel’s judgment, however, the \$3,954,000 stacked figure materially overstates
8 the appropriate PAGA exposure for purposes of evaluating the Settlement. Using one \$100 penalty
9 per pay period, without stacking multiple penalties occurring in the same pay period, results in
10 maximum potential PAGA penalties of \$790,800. In addition, any PAGA recovery would remain
11 subject to substantial merits risks and the Court’s discretion concerning the amount of civil penalties
12 ultimately awarded. For those reasons, Class Counsel views \$790,800, rather than the \$3,954,000
13 stacked figure, as the more appropriate figure to use in assessing maximum potential PAGA recovery
14 for settlement purposes. Custis Decl., ¶ 84.

15 As with the other claims, Defendants would argue that Plaintiff Coutcher would not be able
16 to establish the underlying Labor Code violations, and therefore would not be able to recover any
17 PAGA civil penalties. Defendants would also assert that, before a PAGA claim could be tried, the
18 Court would have to be satisfied that the adjudication of the PAGA claim, based on a theory of
19 uniform wage and hour practices relating to a large group of aggrieved employees, is sufficiently
20 “manageable” so as not to interfere with Defendants’ right to due process. Defendants also would
21 argue that there was variation as to employees’ job duties, work hours, and the circumstances that
22 could allegedly cause employees to work off the clock or to be deprived of the opportunity to take
23 legally compliant, duty-free meal and/or rest breaks. Custis Decl., ¶ 85.

24 Defendants would further argue that, even if Plaintiff Coutcher was able to establish the
25 underlying Labor Code violations, the Court possesses the ability to significantly reduce any PAGA
26 civil penalties that may be awarded. *See* Labor Code § 2699(e)(2) (the Court may “award a lesser
27 amount than the maximum civil penalty amount [authorized by PAGA] if, based on the facts and
28 circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary

and oppressive, or confiscatory.”); *Thurman v. Bayshore Transit Mgmt., Inc.* (2012) 203 Cal. App. 4th 1112, 1135 (affirming reduction of PAGA penalties). Custis Decl., ¶ 86.

Further, Aggrieved Employees would only be entitled to 25% of any resulting award in the highly unlikely event that Plaintiff could successfully obtain a judgment for Defendants’ total estimated exposure. After taking these factors into consideration, Class Counsel applied discounts for the risks in establishing manageability and possible bifurcation of discovery and/or trial, the risks regarding success on the merits and establishing liability, and the risks of proving the extent of penalties that are warranted and possible discretionary reduction of penalties by the Court. In light of the foregoing risks and defenses, Class Counsel discounted the full value of the PAGA claim by 75%, resulting in an estimated realistic recovery of \$197,700. Custis Decl., ¶ 87.

The table below shows the maximum potential recovery on each claim alleged by Plaintiffs, presuming findings of liability, and the realistic recovery on each such claim as gauged by Class Counsel, applying the risk factors and discounts discussed above.

CLAIM	MAXIMUM POTENTIAL RECOVERY	REALISTIC RECOVERY
Unpaid Minimum Wages	\$555,729	\$138,932
Unpaid Overtime Wages	\$0.00	\$0.00
Meal Periods	\$461,315	\$57,664
Rest Periods	\$1,771,888	\$442,972
Expense Reimbursement	\$655,248	\$233,508
Wage Statement Penalties	\$981,600	\$245,400
Waiting Time Penalties	\$950,610	\$237,653
PAGA Penalties	\$790,800	\$197,700
TOTAL	\$6,167,190	\$1,553,829

Custis Decl., ¶ 88. The proposed settlement of \$900,000 thus represents 57.9% of the estimated class-wide realistic recovery of \$1,553,829. *Id.*, ¶ 89.

Preliminary approval is thus appropriate since the actual settlement value of \$900,000 falls well within the range of reasonableness, and is thus fair, adequate and reasonable, especially in light of the risks highlighted above and the possibility that Plaintiffs and the Class could be left with zero recovery. The fact that a settlement represents only a fraction of the maximum potential recovery

1 does not render it inadequate. *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85
2 Cal.App.4th 1135, 1150; see also *Wershba*, 91 Cal.App.4th at 250 (“Compromise is inherent and
3 necessary in the settlement process.”). Taking into account the risk of non-certification, failure to
4 prevail on the merits, and the Court’s power to reduce the civil penalties, the proposed settlement
5 falls within the realm of being fair, reasonable, and adequate.

6 **5. Discovery Completed and the Status of Proceedings**

7 As detailed above and in the Custis Declaration, Class Counsel engaged in extensive
8 investigation and discovery before mediation. Custis Decl., ¶¶ 37-55, Exs. 7-9.

9 **6. The Experience and Views of Counsel**

10 “Parties represented by competent counsel are better positioned than courts to produce a
11 settlement that fairly reflects each party’s expected outcome in litigation.” *In re Pacific Enterprises*
12 *Sec. Litig.* (9th Cir. 1995) 47 F.3d 373, 378. Plaintiffs are represented by competent and experienced
13 counsel who pressed Plaintiffs’ claims forward against reputable defense counsel well versed in class
14 actions and employment litigation. Class Counsel possesses extensive experience litigating wage and
15 hour class actions and representative actions. Custis Decl., ¶¶ 8-25. Based on that experience, Class
16 Counsel believes that the settlement is fair, reasonable and adequate. Custis Decl., ¶ 90.

17 For all of these reasons, application of the *Dunk* factors weighs heavily in favor of granting
18 preliminary approval to the Settlement.

19 **D. The Court Should Preliminarily Approve The Class Representatives’ Service Payments**

20 Service Payments “are fairly typical in class action cases.” *In re Cellphone Fee Termination*
21 *Cases* (2010) 186 Cal. App. 4th 1380, 1393-94. Service payments “are intended to compensate class
22 representatives for work done on behalf of the class, to make up for financial or reputational risk
23 undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private
24 attorney general.” *Rodriguez v. West Publishing Corp.* (9th Cir. 2009) 563 F.3d 948, 958–959.

25 The Settlement provides that Plaintiff Coutcher may seek Court approval for a Service
26 Payment of up to \$10,000 and Plaintiff Conriquez may seek Court approval for a Service Payment
27 of up to \$5,000, each to be paid from the GSA. SA, ¶ 3.2.1. These proposed payments are disclosed
28 in the proposed Class Notices. As will be fully briefed before the Final Approval Hearing, the

requested Service Payments are fair and reasonable compensation for Plaintiffs’ respective efforts in initiating the Actions, representing their respective groups of Class Members, assisting counsel with the litigation and settlement, participating in interviews and meetings with Class Counsel, identifying potential witnesses, reviewing drafts of the Settlement Agreement, and regularly communicating with counsel about the cases. Coutcher Decl., ¶ 20; Conriquez Decl., ¶ 18.

Based on the foregoing, Plaintiffs submit that the requested Service Payments are reasonable and should be preliminarily approved, subject to Court approval at the Final Approval Hearing.

E. The Court Should Preliminarily Approve Class Counsel’s Attorneys’ Fees And Costs

The Settlement provides that Class Counsel may apply for an award of attorneys’ fees in an amount not to exceed 33.33% of the GSA, or \$299,970, and litigation expenses not to exceed \$34,000. SA, ¶¶ 1.11, 3.2.2. The amounts of requested fees and litigation expenses are set forth in both proposed Class Notices. If the Court approves less than the requested fees or litigation expense amounts, the difference remains in the Aggregate Class Fund and increases the amount available for distribution under the Settlement formula. SA, ¶ 3.2.2. In connection with Plaintiffs’ Motion for an Award of Attorneys’ Fees and Costs, counsel will address the many reasons why this settlement justifies the requested fees and costs, and will provide additional information so that the Court can evaluate the amount of fees using the percentage-of-the-common-fund method with a lodestar cross-check. *Laffitte v. Robert Half Internat., Inc.* (2016) 1 Cal. 5th 480, 503. Based on the foregoing, Plaintiffs submit that the requested attorneys’ fees and costs are reasonable and should be preliminarily approved, subject to Court approval at the Final Approval Hearing.

F. The Court Should Preliminarily Approve the PAGA Penalties

Pursuant to the Settlement, \$25,000 from the GSA shall be allocated to the resolution of the PAGA claim, of which 75% (\$18,750) will be paid directly to the LWDA, and the remaining 25% (\$6,250) will be distributed to Aggrieved Employees. SA, ¶¶ 1.42, 3.2.6. This result was reached after good-faith negotiation between the Parties with input from the mediator. Where PAGA penalties are negotiated in good 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 generally considered reasonable. *Hopson v. Hanesbrands Inc.* (N.D. Cal. Apr. 3, 2009) No. CV-08-0844 EDL, 2009 WL 928133, at *9; *see*

1 *also Nordstrom Com. Cases* (2010) 186 Cal. App. 4th 576, 579 (“[T]rial court did not abuse its
2 discretion in approving a settlement which does not allocate any damages to the PAGA claims.”).

3 In addition, the amount of the Settlement allocated to PAGA Penalties is reasonable and fair
4 to those affected because the Settlement provides monetary relief to Participating Class Members.
5 *O’Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F. Supp. 3d 1110, 1134 (holding that
6 “the purposes of PAGA may be concurrently fulfilled” by a settlement providing substantial
7 monetary relief for the class because “a settlement not only vindicates the rights of the class members
8 as employees, but may have a deterrent effect upon the defendant employer and other employers, an
9 objective of PAGA.”); *Shahbazian v. Fast Auto Loans, Inc.* (C.D. Cal., June 20, 2019, No.
10 218CV03076ODWKSX) 2019 WL 8955420, at *8 (“[W]here a settlement for a Rule 23 class is
11 robust, the statutory purposes of PAGA may be fulfilled even with a relatively small award on the
12 PAGA claim itself.”). Moreover, the entire \$900,000 Settlement, viewed in its totality, furthers
13 “PAGA’s purposes to remediate present labor law violations, deter future ones, and to maximize
14 enforcement of state labor laws.” *See Moniz*, 72 Cal.App.5th at 77. Pursuant to Labor Code §
15 2699(s)(2), Plaintiffs submitted the Settlement along with this Motion to the LWDA on September
16 1, 2026, and will inform the Court if the LWDA objects to the amount allocated to PAGA penalties.
17 Custis Decl., ¶¶ 6-7, Exs. 5-6.

18 **G. The Court Should Appoint ILYM Group, Inc. As The Settlement Administrator And**
19 **Preliminarily Approve The Administration Expenses Payment**

20 The Parties jointly selected ILYM Group, Inc. (“ILYM”) to serve as the neutral Settlement
21 Administrator. SA, ¶¶ 1.4, 7.1. The Mullins Declaration describes ILYM’s qualifications, the scope
22 and basis of its not-to-exceed \$10,000 bid, its procedures for protecting Class Data, and the amount
23 and adequacy of its insurance coverage in the event of a data breach or defalcation of funds. Mullins
24 Decl., ¶¶ 2–6, Exs. A–C. The Settlement caps the Administration Expenses Payment at \$10,000
25 absent good cause. SA, ¶ 3.2.3. The Parties and counsel further disclose in their supporting
26 declarations that they do not have any actual or potential conflict of interest with the Administrator.
27 *See* Custis Decl., ¶ 59; Coutcher Decl., ¶ 18; Conriquez Decl., ¶ 16; Hoiles Decl., ¶ 6; Declaration of
28 Curtis Harman, ¶ 3; Declaration of David Harman, ¶ 3; Declaration of Shah Roshan, ¶ 3. Plaintiffs

request that the Court appoint ILYM and preliminarily approve an Administration Expenses Payment of up to \$10,000, subject to final approval.

H. The Court Should Order Distribution Of The Class Notice

The Court should order distribution of the proposed Class Notices to the Class by first-class mail, postage prepaid. The Settlement provides for two forms of Class Notice: (1) a Lancaster/Palmdale Class Notice, to be sent to Class Members who worked for Defendants Lancaster Fitness, LLC and/or XI Enterprise, Inc. during the Coutcher Class Period; and (2) a Cerritos Class Notice, to be sent to Class Members who worked for Defendant Cerritos Fitness & Health, LLC during the Conriquez Class Period. SA, ¶¶ 1.14, 7.4.2. Separate notices are appropriate because the Coutcher and Conriquez Actions involve different Class Periods, and only the Coutcher Actions include a PAGA claim.

The Settlement Administrator will mail the applicable Class Notice to each Class Member using the address information provided by Defendants and updated through the National Change of Address database. SA, ¶¶ 7.4.1-7.4.2. To the extent notices are returned as undeliverable, the Administrator will use forwarding information or conduct an Address Search and re-mail the applicable Class Notice. *Id.* ¶ 7.4.3. This manner of providing notice satisfies California law because it has “a reasonable chance of reaching a substantial percentage of the class members.” *Noel v. Thrifty Payless, Inc.* (2019) 7 Cal.5th 955, 984 (citation omitted); see also Cal. R. Ct. 3.769(f).

The contents of the proposed Class Notices satisfy Rule 3.766(d). Both Class Notices advise Class Members of the nature of the Actions, the claims asserted, Defendants’ denials, the material terms of the Settlement, the procedure and deadline for requesting exclusion from the Class Settlement or objecting to it, the formula for calculating Individual Class Payments, and each Class Member’s estimated Individual Class Payment and credited Workweeks. *See* Custis Decl., Ex. 1 [Settlement Agreement], Exs. A-B. The Lancaster/Palmdale Class Notice additionally explains the PAGA component of the Settlement. The Cerritos Class Notice explains that no portion of the PAGA Penalties will be deducted from or otherwise reduce the Cerritos Class Allocation. *Id.* The Class Notices will be provided in English based on Defendants’ representation that the Class Members speak and understand English. Hoiles Decl., ¶ 8.

To further ensure that Class Members are well informed concerning the Settlement, the Administrator will also establish a toll-free telephone number through which Class Members may obtain information about the Actions and the Settlement. SA, ¶ 7.8.1. The Administrator will also establish a Settlement website that will inform Class Members of the terms of the Settlement, their rights, and the dates and deadlines with respect to the Settlement, and related information. *Id.* Provided the Court finally approves the Settlement, the Court's Final Approval Order and Judgment will be posted on the Settlement website. *Id.*

I. The Parties Are Not Aware Of Any Other Actions That Will Be Extinguished Or Adversely Impacted By This Settlement

The parties and their counsel are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. *See* Custis Decl., ¶ 60; Coutcher Decl., ¶ 19; Conriquez Decl., ¶ 17; Hoiles Decl., ¶ 7; Declaration of Curtis Harman, ¶ 4; Declaration of David Harman, ¶ 4; Declaration of Shah Roshan, ¶ 4.

V. CONCLUSION

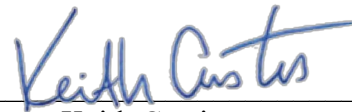
For the foregoing reasons, Plaintiffs respectfully request that the Court grant this Motion, enter the proposed Preliminary Approval Order, and set a date for the Final Approval Hearing.

Respectfully submitted,

CUSTIS LAW, P.C.

Dated: September 1, 2026

By: _____



Keith Custis

Attorneys for Plaintiffs Jordan Coutcher and Rudy Conriquez and the Proposed Class

PROOF OF SERVICE
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 years and not a party to the within action; my business address is 2121 Avenue of the Stars, Suite 800, Los Angeles, California 90067.

On September 1, 2026, I served the foregoing document(s) described as:

PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT

on the interested parties in this action,

David G. Hoiles, Jr.
Lauren R. Presser
Gabriella Han
Jackson Lewis, P.C.
225 Broadway Ste. 1800
San Diego, CA 92101
David.Hoiles@jacksonlewis.com
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by sending a true copy thereof to the interested parties as follows:

☒ **(BY ELECTRONIC TRANSMISSION THROUGH CASE ANYWHERE):** I caused the foregoing document(s) to be sent to the parties listed on the Electronic Service List maintained by Case Anywhere.

☒ **(BY EMAIL)** By electronically mailing a true and correct copy through Custis Law, P.C.'s electronic mail system from kcustis@custislawpc.com to the email addresses set forth above pursuant Code of Civil Procedure Section 1010.6(e) and Rule 2.251 of the California Rules of Court.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 1, 2026 in Los Angeles, California.

/s/

Keith Custis