

1 EVAN S. GAINES, Esq. SBN 287668
2 **GAINES LAW CORPORATION**
3 4550 E. Thousand Oaks Blvd., Suite 100
4 Westlake Village, CA 91362
5 Telephone: (805) 892-8200
6 Facsimile: (805) 800-8928
7 Email: evan@gaines.law

8 Attorneys for Plaintiff Vincent Urrea,
9 on behalf of himself all others similarly situated,
10 the general public, and all “aggrieved employees”
11 pursuant to Labor Code § 2698 *et seq.*,
12

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF MADERA**

15 VINCENT URREA, on behalf of himself
16 all others similarly situated, the general
17 public, and all “aggrieved employees”
18 pursuant to Labor Code § 2698 *et seq.*,

19 Plaintiff,

20 v.

21 EVAPCO, INC., a California corporation,
22 and DOES 1 through 10, inclusive,

23 Defendants.
24
25
26
27
28

CASE NO: MCV094877

Assigned to the Honorable Eric J. LiCalsi, Dept. 44

**NOTICE OF UNOPPOSED MOTION AND
UNOPPOSED MOTION FOR PRELIMINARY
APPROVAL OF CLASS AND
REPRESENTATIVE ACTION SETTLEMENT**

Date: August 4, 2026

Time: 8:30 a.m.

Dept.: 44

Complaint Filed: April 21, 2025

1 **PLEASE TAKE NOTICE THAT** on August 4, 2026 at 8:30 a.m., or as soon thereafter as
2 the matter may be heard, in Department 9 of the above-entitled Court, located at 200 S G St,
3 Madera, California 93637, Plaintiff Vincent Urrea will and hereby does move unopposed for an
4 Order (1) preliminarily finding that the settlement between the parties falls within the range of
5 reasonableness and preliminarily approving the proposed class action settlement in the above-
6 captioned case, (2) conditionally certifying, for settlement purposes only, a settlement class, (3)
7 provisionally approving the appointment of Plaintiff Vincent Urrea as Class Representative, (4)
8 provisionally approving the appointment of Gaines Law Corporation as Class Counsel,
9 (5) provisionally approving the appointment of ILYM Group, Inc. as settlement administrator,
10 (6) approving as to content and form the notice to the settlement class, and directing it be
11 disseminated by the Settlement Administrator; and (7) setting a final fairness and approval hearing.

12 This unopposed Motion is made pursuant to Rule 3.769 of the California Rules of Court,
13 which provides for court approval of the settlement of a purported class action and allows the Court
14 to preliminarily certify a class for settlement purposes only.

15 The basis for this unopposed Motion is that the proposed settlement is fair, adequate, and
16 reasonable and in the best interests of the settlement class as a whole, and that the procedures
17 proposed by the Parties are adequate to ensure the opportunity of class members to participate in,
18 opt out of, or object to the settlement.

19 This Motion will be based on the Memorandum of Points and Authorities set forth herein,
20 the Joint Stipulation and Settlement Agreement of Class Action and PAGA Claims, the
21 Declarations of Evan S. Gaines, Lisa Mullins of ILYM Group, Inc., and Vincent Urrea, such
22 evidence or oral argument as may be presented at the hearing, and on the complete record and file
23 herein.

24 Dated: July 9, 2026

Respectfully submitted,
GAINES LAW CORPORATION

25
26 By: 
27 EVAN S. GAINES
28 Attorney for Plaintiff Vincent Urrea and
Proposed Class Counsel

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. BACKGROUND AND PROCEDURAL HISTORY	1
III. INVESTIGATION AND SETTLEMENT DISCUSSIONS	2
IV. LEGAL ANALYSIS	4
A. The Proposed Settlement Terms	4
1. The Settlement Class	4
2. Allocations to be Paid from the Gross Settlement Amount.....	4
3. Settlement of Claims Pursuant to Labor Code § 2699 <i>et seq.</i> (PAGA).....	5
B. Two-Step Approval Process	5
C. Procedures for Settlement Before Class Certification	6
1. The Settlement Class Should Be Certified for Settlement Purposes	7
a. The Settlement Class is Ascertainable.....	7
b. Questions of Law or Fact Common to Members of the Settlement Class Predominate	8
c. The Proposed Class Representative’s Claims are Typical of the Class Members’ Claims	8
D. The Settlement Is Fair and Reasonable and Not the Result of Fraud or Collusion.....	9
1. The Settlement Falls Within The “Ballpark” of Reasonableness	10
2. Despite the Asserted Fairness of the Settlement Terms, Class Members May Request Exclusion From, Or Object To, The Settlement	12
V. CONCLUSION.....	13

TABLE OF AUTHORITIES

Page

CASES

<i>Amchem Products, Inc. v. Windsor</i> (1987) 521 U.S. 591.....	7
<i>Clark v. American Residential Services LLC</i> (2009) 175 Cal.App.4th 785	10
<i>Classen v. Weller</i> (1983) 145 Cal. App. 3d 27	8
<i>Dunk v. Ford Motor Co.</i> (1996) 48 Cal. App. 4th 1794	1, 7
<i>Green v. Obledo</i> (1981) 29 Cal.3d 126	5
<i>Hammon v. Barry</i> (D.D.C. 1990) 752 F. Supp. 1087	9
<i>In re Armored Car Antitrust Litig.</i> (N.D. Ga. 1979) 472 F. Supp. 1357	9
<i>In re Baldwin-United Corp.</i> (S.D.N.Y. 1984) 105 F.R.D. 475	7
<i>In re Chicken Antitrust Litig.</i> (N.D. Ga. 1980) 560 F. Supp. 957	9
<i>In re Paine Webber Ltd. P'ships Litig.</i> (S.D.N.Y. 1997) 171 F.R.D. 104	9
<i>Kullar v. Foot Locker Retail, Inc.</i> (2008) 168 Cal.App.4th 116	10
<i>Mars Steel Corp. v. Continental Illinois Nat'l Bank & Trust Co.</i> (7th Cir. 1987) 834 F.2d 677	9
<i>Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.</i> (C.D. Cal. 2004) 221 F.R.D. 523	9
<i>Priddy v. Edelman</i> (6th Cir. 1989) 883 F.2d 438	9
<i>Reyes v. Board of Supervisors</i> (1987) 196 Cal. App. 3d 1263	7

TABLE OF AUTHORITIES

(continued)

	<u>Page</u>
<i>Sommers v. Abraham Lincoln Federal Sav. & Loan Ass'n</i> (E.D. Pa. 1978)	9
<i>Steinberg v. Carey</i> (S.D.N.Y. 1979) 470 F. Supp. 471	9
<i>Vasquez v. Superior Court</i> (1971) 4 Cal.3d 800	5
<i>Wershba v. Apple Computer</i> (2001) 91 Cal.App.4th 224	6, 7

STATUTES

Cal. Bus. & Prof. Code § 17200	2
Cal. Labor Code §§ 201-203	2, 8, 12
Cal. Labor Code § 226	2, 8, 11
Cal. Labor Code § 226.3	2
Cal. Labor Code § 226.7	2, 8, 10, 11
Cal. Labor Code § 510	2, 8, 10
Cal. Labor Code § 512	2, 8, 11
Cal. Labor Code § 1174	2, 8, 10
Cal. Labor Code § 1174.5	2, 8, 10
Cal. Labor Code § 1194	2, 8, 10
Cal. Labor Code § 1194.2	2, 8, 10
Cal. Labor Code § 2698	8
Cal. Labor Code § 2699	2, 5, 7, 8

RULES AND REGULATIONS

Cal. R. Ct. 3.769	5, 6
Fed. R. Civ. P. 23(e)	5

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF AUTHORITIES
(continued)

Page

OTHER AUTHORITIES

4 Alba Conte & Herbert B. Newberg, *Newberg on Class Actions* (4th ed. 2002).....6, 7, 9

Manual for Complex Litigation (Third) § 30.41.....6

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 The Parties have reached a resolution of this class action and hereby submit their Settlement
4 Agreement and Release of Claims (“Settlement”) for the Court’s approval. The Settlement is made
5 and entered into by and between Plaintiff Vincent Urrea (“Plaintiff” or “Urrea”), individually and
6 on behalf of all others similarly situated, and Defendant Evapco, Inc. (“Defendant”).

7 The Settlement occurred as a result of extensive arm’s-length negotiations by experienced
8 counsel with the assistance of a respected mediator with experience in the area of employment class
9 actions. Most importantly, the Settlement will result in significant financial benefit to the
10 participating claimants, on terms that are by any measure fair, reasonable and adequate. *See*
11 *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801-02. The proposed Settlement provides
12 for a non-reversionary class settlement in the gross amount of \$970,000 to a settlement class of
13 approximately 351 Settlement Class Members, yielding a gross recovery of nearly **\$2,763.53** each.
14 As detailed below, the Settlement is in the best interests of the class in light of all of the facts and
15 circumstances and the risks and delays of further litigation.

16 For the foregoing reasons, the Parties respectfully request that the Court: (a) grant
17 preliminary approval of the Settlement and preliminarily find that the Settlement falls within the
18 range of reasonableness; (b) conditionally grant certification of the proposed Settlement Class, for
19 settlement purposes only; (c) provisionally approve the appointment of Plaintiff Vincent Urrea as
20 Class Representative; (d) provisionally approve the appointment of Gaines Law Corporation as
21 Class Counsel; (e) provisionally approve appointment of ILYM Group, Inc. as the Settlement
22 Administrator; (f) authorize the mailing of the proposed class action notice packet; and (g) schedule
23 a final fairness and approval hearing.

24 **II. BACKGROUND AND PROCEDURAL HISTORY**

25 On February 14, 2025, Plaintiff exhausted the pre-filing requirements of the Labor Code
26 Private Attorneys General Act of 2004 (“PAGA”). Declaration of Evan S. Gaines (“Gaines Decl.”)
27 at ¶ 6.

28 On April 21, 2025, Plaintiff initiated his Action in the Madera County Superior Court by

1 filing a Class and Representative Action Complaint, pursuant to PAGA, on behalf of himself, all
2 others similarly situated, the general public, and all “aggrieved employees.” Gaines Decl. at ¶ 7.

3 On February 26, 2026, in conjunction with the Settlement, Plaintiff filed a First Amended
4 Complaint that added additional claims and clarified the existing claims (“Complaint”). Gaines
5 Decl. at ¶ 8.

6 The Complaint asserts claims against Defendant for (1) Failure To Provide Meal Periods
7 Or Compensation In Lieu Thereof (Labor Code §§ 226.7, 510, 512, 1174, 1174.5, and 1194; IWC
8 Wage Order 1-2001); (2) Failure To Provide Rest Periods Or Compensation In Lieu Thereof (Labor
9 Code § 226.7; IWC Wage Order 1- 2001); (3) Failure To Comply With Itemized Employee Wage
10 Statement Provisions (Labor Code § 226(a), (e), (h)); (4) Failure To Timely Pay Wages Due At
11 Separation Of Employment (Labor Code §§ 201-203); (5) Failure To Pay All Minimum And
12 Overtime Wages Due (Labor Code §§ 510, 1174, 1174.5, 1194, and 1194.2; IWC Wage Order 1-
13 2001); (6) Violation Of Business And Professions Code § 17200 et seq.; (7) Penalties Pursuant To
14 Labor Code § 2699(f) For Violations Of Labor Code §§ 201, 202, 226(a), 226.7, 510, 512, 1174,
15 1174.5, and 1194 and Pursuant To Labor Code § 2699(a) For Violations Of Labor Code §§ 226.3
16 and 558. Gaines Decl. at ¶ 9.

17 Defendant denies any liability or wrongdoing of any kind whatsoever in connection with
18 the claims in the Action and further denies that, for any purpose other than settling this Action, this
19 Action is appropriate for class action or representative treatment. Gaines Decl. at ¶ 10.

20 The Class Representative contends that Defendant violated the California Labor Code and
21 Industrial Welfare Commission Wage Order(s), and that this case is appropriate for class
22 certification. Gaines Decl. at ¶ 11.

23 **III. INVESTIGATION AND SETTLEMENT DISCUSSIONS**

24 Class Counsel conducted a thorough investigation into the facts and law during the
25 prosecution of this class action case, including the exchange of limited informal discovery,
26 including, but not limited to, documents regarding Defendant’s employment/workplace policies in
27 place during the applicable period and a sample of records relating to the wage statements contents
28 and wages paid to Defendant’s non-exempt employees during the relevant time periods, and the

1 review and verification of other facts and information provided by Defendant. Class Counsel also
2 represents that they have investigated the applicable law as applied to the facts discovered regarding
3 the alleged claims of Plaintiff and potential defenses thereto, and the damages and other losses
4 claimed by Plaintiff. Gaines Decl. at ¶ 12.

5 On December 10, 2025, the Parties participated in a full-day mediation with Hon. Howard
6 Broadman (Ret.), wherein a settlement of Plaintiff's class and representative wage and hour claims
7 and individual termination-related claims was reached following a mediator's proposal. Gaines
8 Decl. at ¶ 13.

9 Based on his own independent investigation and evaluation, Class Counsel is of the opinion
10 (and will so represent to the Court) that settlement for the consideration and on the terms set forth
11 in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the
12 Settlement Class in light of all known facts and circumstances, including the risk of significant
13 delay, the risk the Settlement Class will not be certified by the Court, and the defenses asserted by
14 Defendant. Gaines Decl. at ¶ 14.

15 The Parties agree that the Settlement Class described herein may be certified for settlement
16 purposes only and that any motion for approval seeking, *inter alia*, certification of the Settlement
17 Class is for purposes of the settlement only. If for any reason the Settlement is not approved, the
18 certification will have no force or effect and will immediately be revoked. The Parties further agree
19 that certification for purposes of the settlement is in no way an admission that class certification is
20 proper under the more stringent standard applied for litigation and that evidence of this Settlement
21 Agreement is for settlement purposes only and will not be admissible for any purpose in this or any
22 other proceeding. Gaines Decl. at ¶ 15.

23 **IV. LEGAL ANALYSIS**

24 **A. The Proposed Settlement Terms**

25 **1. The Settlement Class**

26 The Parties have agreed to a settlement class composed of "all individuals who worked for
27 any Defendant in California as an hourly, non-exempt employee at any time during the Class
28

Period.” Settlement at 1.5. The Class Period is defined as April 21, 2021 through April 8, 2026.
Settlement at 1.13.

2. **Allocations to be Paid from the Gross Settlement Amount**

The Parties agree to settle the Action for a Gross Settlement Amount of \$970,000 (the “Gross Settlement Amount”).¹ The Gross Settlement Amount includes: (a) payments to Settlement Class Members (excluding any appropriate and lawfully required employer-side payroll taxes owed by Defendant on such payments, which Defendant shall separately be responsible for apart from the Gross Settlement Amount); (b) the Enhancement Award to the Class and PAGA Representative; (c) the PAGA Payment; (d) the Settlement Administrator’s fees and costs, and (e) Class Counsel’s approved attorneys’ fees and costs/expenses. In no circumstance shall Defendant be required to pay any additional monies beyond the Gross Settlement Amount plus the employer-side payroll taxes. Settlement at 3.1.

From the Gross Settlement Amount, Defendant will not oppose Plaintiff’s counsel’s application to the Court for up to 33 1/3% of the Gross Settlement Amount for attorneys’ fees (projected to be \$323,333.33). Settlement at 3.2(b).

From the Gross Settlement Amount, Defendant will not oppose Plaintiff’s counsel’s application to the Court for up to \$12,000 in reimbursement of litigation costs and expenses. Settlement at 3.2(b).

From the Gross Settlement Amount, Defendant will not oppose Plaintiff’s counsel’s application to the Court for Enhancement Award to Plaintiff Vincent Urrea in the gross amount of \$5,000, in consideration for his efforts in instituting and participating in the Action. Settlement at 3.2(a).

¹ The Gross Settlement Amount was calculated with, and is premised on, the understanding that the Class Members and PAGA Employees worked approximately 48,851 Workweeks during the Class Period. The Parties agree that if the total number of Workweeks during the Class Period exceeds Ten Percent (10%) of the estimated 48,851 pay periods (*i.e.*, exceeds 53,736 pay periods), Defendant shall have the option of either: (1) increasing the amount of the Gross Settlement Amount proportionally for the excess increase in the total number of Workweeks beyond the 53,736 (so that the Gross Settlement Amount will increase by 1% for every 1% increase in Workweeks over the 10% threshold, to be paid by Defendant), or (2) modifying the applicable end date of the Class Period to a date prior to incurring the pro rata increase to keep the maximum Workweeks at 53,736 (which is 10% more than 48,851) and not to trigger the Escalator Clause. Settlement at 9.

1 From the Gross Settlement Amount, settlement administration fees paid to ILYM Group,
2 Inc. will be no more than \$7,000. Settlement at 3.2(c).

3 From the Gross Settlement Amount, the portion to be allocated for settlement of any and all
4 claims for penalties under the PAGA is \$35,000 (“PAGA Payment”), 65% (\$22,750) shall be paid
5 directly to the LWDA and 35% (\$12,250) shall be distributed to the PAGA Employees as PAGA
6 Employee Payments. Settlement at 3.2(d).

7 The Gross Settlement Amount shall encompass the following: (1) Class Counsel’s fees,
8 costs, and expenses; (2) the Enhancement Award; (3) the Settlement Administrator’s fees and costs;
9 (4) the PAGA Payment; and (5) the Net Settlement Amount (the “NSA”). After the deduction of
10 the amounts approved for the Enhancement Award, the PAGA Payment, the Settlement
11 Administrator’s fees and costs, and Class Counsel’s fees, costs, and expenses from the Gross
12 Settlement Amount, the remainder shall be referred to as the Net Settlement Amount. Settlement
13 at 3.2.

14 **3. Settlement of Claims Pursuant to Labor Code § 2699 *et seq.* (PAGA)**

15 Pursuant to PAGA, the Parties have agreed that \$35,000 of the Gross Settlement Amount
16 will be allocated to settle the claims brought under Labor Code § 2699 *et seq.* Pursuant to Labor
17 Code § 2699(m), “civil penalties recovered by aggrieved employees shall be distributed as follows:
18 65 percent to the Labor and Workforce Development Agency . . . and 35 percent to the aggrieved
19 employees.” As such, 65% of the apportioned PAGA settlement amount – or \$22,750 – shall be
20 paid directly to the LWDA, and 35%, i.e., \$12,250, shall be distributed to the PAGA Employees as
21 PAGA Employee Payments. Settlement at 3.2(d).

22 **B. Two-Step Approval Process**

23 Any settlement of class litigation must be reviewed and approved by the Court. Cal. R. Ct.
24 3.769; Fed. R. Civ. P. 23(e).² This is done in two steps: (1) an early (preliminary) review by the
25 trial court, and (2) a final review after notice has been distributed to the Class Members informing

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

1 them of the terms of the settlement and allowing them to exclude themselves from, participate in
2 and/or object to the settlement. The Manual for Complex Litigation (Third) § 30.41 states:

3 Approval of class action settlements involves a two-step process.
4 First, counsel submit the proposed terms of settlement and the court
5 makes a preliminary fairness evaluation. If the preliminary
6 evaluation of the proposed settlement does not disclose grounds to
7 doubt its fairness or other obvious deficiencies, such as unduly
8 preferential treatment of class representatives or of segments of the
9 class, or excessive compensation for attorneys, and appears to fall
10 within the range of possible approval, the court should direct that
11 notice ... be given to the class members of a formal fairness hearing,
12 at which arguments and evidence may be presented in support of and
13 in opposition to the settlement.

14 Thus, the preliminary approval by the trial court is simply a conditional finding that the
15 settlement appears to be within the range of acceptable settlements. *See Wershba v. Apple*
16 *Computer* (2001) 91 Cal.App.4th 224, 234-35. “The strength of the findings made by a judge at a
17 preliminary hearing or conference concerning a tentative settlement proposal may vary. The court
18 may find that the settlement proposal contains some merit, is within the range of reasonableness
19 required for a settlement offer, or is presumptively valid subject only to any objections that may be
20 raised at a final hearing.” 4 Alba Conte & Herbert B. Newberg, *Newberg on Class Actions*, § 11.26
21 (4th ed. 2002).

22 The procedures for the Parties’ submission of a proposed settlement for preliminary
23 approval by the Court also are discussed in 4 *Newberg on Class Actions*:

24 When the parties to an action reach a monetary settlement, they will
25 usually prepare and execute a joint stipulation of settlement, which
26 is submitted to the court for preliminary approval. The stipulation
27 should set forth the essential terms of the agreement, including but
28 not limited to, the amount of settlement, form of payment, manner of
determining the effective date of settlement and any recapture clause.

Id. at § 11.24.

Here, the Parties have reached such an agreement and have submitted the Settlement
herewith. *See* Gaines Decl., **Exhibit B**; Gaines Decl. ¶ 16.

C. Procedures for Settlement Before Class Certification.

Pursuant to California Rules of Court, Rule 3.769(d), parties also may, at the preliminary
approval stage, request that the court provisionally approve certification of the class – conditioned

1 upon final approval of the settlement. “[P]re-certification settlements are routinely approved if
2 found to be fair and reasonable.” *Wershba, supra*, 91 Cal. App. 4th at 240. *Accord Dunk, supra*,
3 48 Cal. App. 4th at 1803 (although the settlement was reached before any “adversary certification,”
4 the court was satisfied that it was “fair, adequate and reasonable.”). *See also In re Baldwin-United*
5 *Corp.* (S.D.N.Y. 1984) 105 F.R.D. 475, 478³ (“many courts have employed this practice in the
6 name of judicial efficiency in order to facilitate apparently beneficial settlement proposals.”)

7 The strength of the findings made by a judge at a preliminary hearing
8 or conference concerning a tentative settlement proposal . . . may be
9 set out in conditional orders granting tentative approval to the various
10 items submitted to the court. Three basic rulings are often
11 conditionally entered at this preliminary hearing. These conditional
12 rulings may approve a temporary settlement class, the proposed
13 settlement, and the class counsel’s application for fees and expenses.

14 4 *Newberg on Class Actions*, at § 11.26.

15 As required by Labor Code § 2699(1)(2), concurrent with Plaintiff’s submission of the
16 Settlement to the Court, his counsel is transmitting it, together with this Motion, to the LWDA.
17 Gaines Decl. at ¶ 29.

18 1. **The Settlement Class Should Be Certified for Settlement Purposes**

19 It is well established that trial courts should use a lower standard for determining the
20 propriety of certifying a settlement class, as opposed to a litigation class. *Dunk, supra*, 48 Cal.
21 App. 4th at 1807, n. 19. The reason for this is that no trial is anticipated in a settlement class, so
22 the case management issues inherent in determining if the class should be certified need not be
23 confronted. *Amchem Products, Inc. v. Windsor* (1987) 521 U.S. 591, 620. The proposed
24 Settlement Class meets all requirements for certification, as discussed below.

25 a. **The Settlement Class is Ascertainable**

26 The proposed Settlement Class is ascertainable. The class definition, the size of the Class,
27 and the means for identifying the members of the class determine whether the class is ascertainable.
28 *Reyes v. Board of Supervisors* (1987) 196 Cal. App. 3d 1263, 1274. In this case, the Class Members
are identifiable from Defendant’s employment and payroll records. Further, the Settlement Class

³ In determining the fairness and reasonableness of a proposed settlement, California courts may look to federal cases for guidance. *See Wershba*, 91 Cal. App. 4th at 239-40.

1 is sufficiently numerous to warrant certification. According to Defendant's records, the Class
2 comprises approximately 351 members. Gaines Decl. ¶ 22.

3 b. **Questions of Law or Fact Common to Members of the Settlement**
4 **Class Predominate**

5 The Class Members' claims all stem from a common source: members of the Settlement
6 Class allege that Defendant violated the same Labor Code provisions in connection with their
7 employment in non-exempt positions. All members of the Class seek the same relief under the same
8 California laws (related to failure to pay all wages due, provide meal and rest periods, issue accurate
9 and complete wage statements, timely pay wages due upon separation, and derivative claims).
10 Under these circumstances, the commonality requirement is satisfied for purposes of certifying the
11 Settlement Class for settlement purposes. Gaines Decl. ¶ 26.

12 c. **The Proposed Class Representative's Claims Are Typical of the**
13 **Class Members' Claims**

14 A class representative's claims are typical when they arise from the same event or course
15 of conduct that gives rise to the claims of the class, and are based on the same legal theory.
16 *Classen v. Weller* (1983) 145 Cal. App. 3d 27, 46-47. In this case, named Plaintiff and proposed
17 Class Representative Vincent Urrea is a former non-exempt employee who worked for Defendant
18 in the State of California during the Class Period. He contends that Defendant failed to pay all
19 minimum and overtime pay wages, failed to provide meal and rest periods, failed to comply with
20 itemized employee wage statement provisions, and failed to timely pay wages at the separation of
21 employment, in violation of Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1174, 1174.5,
22 1194, 1194.2, 2698, and 2699, among other Labor Code provisions. He has the same claims as
23 those that the members of the Settlement Class would reasonably be expected to bring based on the
24 course of conduct alleged herein. Gaines Decl. ¶ 27.

25 Plaintiff has also demonstrated that he will aggressively and competently assert the interests
26 of the proposed Settlement Class; he has taken an active role in the litigation and has no apparent
27 conflicts with other class members. Gaines Decl. ¶ 28; Declaration of Vincent Urrea ("Urrea
28 Decl."). Furthermore, Plaintiff has retained competent counsel, experienced in litigating class

1 action claims in the employment context. *See* Gaines Decl. ¶¶ 2-5.

2 **D. The Settlement Is Fair and Reasonable and Not the Result of Fraud or**
3 **Collusion**

4 Courts presume the absence of fraud or collusion in the negotiation of a settlement unless
5 evidence to the contrary is offered. *Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447; *Mars*
6 *Steel Corp. v. Continental Illinois Nat'l Bank & Trust Co.* (7th Cir. 1987) 834 F.2d 677, 682; *In re*
7 *Chicken Antitrust Litig.* (N.D. Ga. 1980) 560 F. Supp. 957, 962. Courts do not substitute their
8 judgment for that of the proponents, particularly where, as here, settlement has been reached with
9 the participation of experienced counsel familiar with the litigation. *Nat'l Rural Telecomms.*
10 *Coop. v. DIRECTV, Inc.* (C.D. Cal. 2004) 221 F.R.D. 523, 528; *Hammon v. Barry* (D.D.C. 1990)
11 752 F. Supp. 1087, 1093; *Steinberg v. Carey* (S.D.N.Y. 1979) 470 F. Supp. 471, 478; *In re Armored*
12 *Car Antitrust Litig.* (N.D. Ga. 1979) 472 F. Supp. 1357, 1368; *Sommers v. Abraham Lincoln*
13 *Federal Sav. & Loan Ass'n* (E.D. Pa. 1978) 79 F.R.D. 571, 580.

14 While the recommendations of counsel proposing the settlement are not conclusive, the
15 Court can properly take them into account, particularly where, as here, such counsel have been
16 involved in informal discovery and negotiations for some period of time, appear to be competent,
17 have experience with this type of litigation, and have exchanged substantial evidence with the
18 opposing party. *See Newberg on Class Actions, supra*, § 11.47; *In re Paine Webber Ltd. P'ships*
19 *Litig.* (S.D.N.Y. 1997) 171 F.R.D. 104, 125 (“[s]o long as the integrity of the arm’s-length
20 negotiation process is preserved, however, a strong initial presumption of fairness attaches to the
21 proposed settlement . . . [citations] and ‘great weight’ is accorded to the recommendations of
22 counsel, who are most closely acquainted with the facts of the underlying litigation”); *see* Gaines
23 Decl. ¶¶ 2-5, 12-24.

24 Here, the Parties’ counsel have a great deal of experience in class action litigation and
25 specialize in employment wage and hour matters. Moreover, counsel for both Parties conducted
26 an extensive investigation of the factual allegations involved in this case. The Parties have engaged
27 in a broad exchange of documents, data, records and other information. Each side has apprised the
28 other, informally and at a formal mediation, of their respective factual contentions, legal theories

1 and defenses, resulting in extensive arm's-length negotiations taking place among the Parties. *See*
2 Gaines Decl. ¶¶ 2-5, 12-24.

3 1. **The Settlement Falls Within The “Ballpark” of Reasonableness**

4 The Court must make an “independent assessment of the reasonableness of the terms of the
5 settlement” prior to granting preliminary and final approval. *Clark v. American Residential*
6 *Services LLC* (2009) 175 Cal.App.4th 785, 799; *Kullar v. Foot Locker Retail, Inc.* (2008) 168
7 Cal.App.4th 116, 127-28, 130, 133. To do so requires the Parties to submit “basic information
8 about the nature and magnitude of the claims in question and the basis for concluding that the
9 consideration being paid for the release of those claims represents a reasonable compromise.”
10 *Clark, supra*, 175 Cal.App.4th at 800. However, the Court should *not* “attempt to decide the merits
11 of the case or to substitute its evaluation of the most appropriate settlement for that of the attorneys.”
12 *Kullar, supra*, 168 Cal.App.4th at 133.

13 Plaintiff contends that Defendant allegedly failed to pay all minimum and overtime wages
14 earned during the course of employment, in violation of Labor Code §§ 510, 1174, 1174.5, 1194,
15 and 1194.2, when it rounded down or shaved off the hours reflected on Plaintiff's and Class
16 Members' time records to pay fewer hours than were actually worked. On a weekly basis, this
17 rounding and/or shaving practice deprived Plaintiff and other Class Members of significant hours
18 worked and wages due. However, Defendant also maintained defenses to this claim. Defendant
19 contends it complied with all state and federal law and does not have any liability whatsoever to
20 Plaintiff and the class members. Based on informal sampling provided by Defendant, Plaintiff's
21 expert calculated damage liability of \$885,723 and PAGA civil liability of \$2,060,400. Gaines
22 Decl. ¶ 17.

23 Plaintiff also asserts that Defendant failed to pay Plaintiff and Class Members premium
24 wages for missed, denied and unauthorized rest periods in violation of Labor Code § 226.7 and
25 IWC Wage Order 5-2001. Plaintiff and other Class Members contend that they were denied, and
26 therefore unable to take, 10-minute on-the-clock rest periods for every four hours of work or major
27 fraction thereof, but were not paid premium wages of one hour's pay for each missed, denied and
28 unauthorized rest period. Due to the busy nature of their work, Plaintiff and Class Members were

1 simply denied and not authorized to take their legally entitled rest periods and were never paid
2 premium wages for missed rest periods. Defendants also maintained a practice requiring Plaintiff
3 and Class Members to remain on the company premises during their rest periods. However,
4 Defendant also maintained defenses to this claim. Defendant contends it authorized and permitted
5 employees to take all meal and rest periods in conformance with the law. Based on a 50% violation
6 rate based on Plaintiff's experience, he calculates the damage liability for this claim at up to
7 \$3,343,261.01 and PAGA civil penalty liability totaling up to \$1,030,200. Gaines Decl. ¶ 18.

8 Plaintiff further alleges that Defendant failed to permit or authorize Plaintiff and Class
9 Members to take timely 30-minute meal periods for shifts greater than 5 hours in length, in violation
10 of Labor Code §§ 226.7, 512, and 558 and IWC Wage Order 5-2001. When Plaintiff and Class
11 Members did receive a meal period, they were typically late. Furthermore, Defendants did not
12 require Plaintiff and Class Members to record their meal period start and stop times—instead,
13 Defendants would either adjust Plaintiff's and Class Members' timesheets to clock them out for 30-
14 minutes (and therefore show a legally compliant meal period) or perform an auto-deduct, and
15 Plaintiff and Class Members would take their meal period later, thereby resulting in uncompensated
16 time, unpaid wages, and inaccurate records. Based on an analysis of a wage and time data provided
17 by Defendant through informal discovery, Plaintiff has ascertained a meal period violation rate of
18 33.8%. Plaintiff calculates premium wages on this claim at up to \$1,961,578.94 and PAGA civil
19 penalty liability for this claim at \$696,415.20. Gaines Decl. ¶ 19.

20 Plaintiff also argues that Defendant failed to issue Plaintiff and Class Members accurately
21 itemized wage statements. As detailed above, Plaintiff and Class Members contend that they were
22 not paid all wages due. As a result, the wage statements issued by Defendant to Plaintiff and Class
23 Members would fail to accurately state all gross wages earned, in violation of Labor Code §
24 226(a)(1), and net wages earned, in violation of Labor Code § 226(a)(5). Separately, the wage
25 statements issued to Plaintiff and Class Members fail to set forth all applicable hourly rates in effect
26 during the pay period and the corresponding number of hours worked, in violation of Labor Code
27 § 226(a)(9)—the wage statements simply omit these entries, making it impossible to determine
28 their veracity or whether they are fully compensated for all hours worked at the correct rates of pay.

1 Plaintiff calculates the statutory penalty liability for this claim at up to \$906,900 and PAGA civil
2 penalty liability for this claim at \$2,060,400. Gaines Decl. ¶ 20.

3 Defendant also allegedly failed to pay Plaintiff and 86 formerly employed Class Members
4 all wages due timely upon separation of employment, in violation of Labor Code §§ 201-203. This
5 is a derivative claim for which Plaintiff calculates the statutory penalty liability at \$557,280 and
6 PAGA civil penalty liability at \$8,600. Gaines Decl. ¶ 21.

7 The compromise reached here is fair and reasonable considering the factual and legal
8 disputes among the Parties, the defenses raised by Defendant as to class certification and the merits
9 of Plaintiff's claims, and the risk the Court would reduce or eliminate any award of penalties, and
10 the fact that Defendant has a limited ability to pay any judgment due to financial constraints.
11 Defendant strongly contends that its policies and practices do not violate any laws. It contends that
12 it properly paid all wages due upon separation of employment and that the wage statements it
13 provided to its employees were fully compliant with California law. Gaines Decl. ¶ 22.

14 When the costs and risks of non-certification and loss on the merits are considered,
15 Plaintiff's counsel are of the opinion that the Settlement reached is clearly a favorable one. Gaines
16 Decl. ¶¶ 14-24.

17 The settlement for each Class Member is fair, reasonable and adequate, given the inherent
18 risk of litigation, the risk relative to class certification and the costs of pursuing such litigation. The
19 settlement shall finally resolve all claims of the Class Members as alleged in the Action. Gaines
20 Decl. ¶ 24.

21 2. **Despite the Asserted Fairness of the Settlement Terms, Class Members**
22 **May Request Exclusion From, Or Object To, The Settlement**

23 Despite the asserted fairness of the settlement terms, any potential Class Member who
24 objects to the terms of the settlement set forth in the Settlement has the right to submit a request for
25 exclusion (*i.e.*, opt out) from the settlement, pursuant to which the Class Member would otherwise
26 retain any claim he or she may have against Defendant.

27 Moreover, Class Members who do not opt out may, upon providing proper notice to the
28 Parties and the Court, attend the final fairness and approval hearing for the purpose of objecting to

one or more of the settlement terms set forth in the Settlement.

V. CONCLUSION

Based on the foregoing, as part of its preliminary approval of the settlement, the Parties request that the Court enter an order:

1. Preliminarily finding that the settlement falls within the range of reasonableness and approving the proposed settlement;
2. Conditionally certifying, for settlement purposes only, the Settlement Class;
3. Provisionally appointing Plaintiff Vincent Urrea as the Class Representative;
4. Provisionally appointing Gaines Law Corporation as Class Counsel;
5. Provisionally approving ILYM Group, Inc. as Settlement Administrator;
6. Approving as to content and form the notice to the Settlement Class, and directing it to be disseminated by the Settlement Administrator; and
7. Setting the following schedule of settlement proceedings:

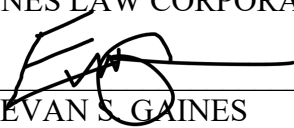
<u>EVENT</u>	<u>TIMING</u>
Last day for Defendant to provide to the Settlement Administrator a list of all Class Members, including the full name, telephone number, and last known address and full social security number of all Class Members; the information necessary to determine the estimated settlement allocation to each Class Member, including: (i) the total number of pay periods of each Class Member in California in an hourly-paid or non-exempt position within the Class Period; and (ii) the total number of pay periods of each PAGA Employee in California in an hourly-paid or non-exempt position within the PAGA Period (“Settlement Class Information”)	20 calendar days after entry of Court’s Order granting preliminary approval of Settlement
Last day for Settlement Administrator to mail Notice of Proposed Settlement (“Notice”) to Class Members	10 calendar days after Settlement Administrator’s receipt of the Class Member List
Last day for exclusion requests by Class Members to be postmarked to Settlement Administrator	45 calendar days after the initial mailing of the Notice to Class Members
Last day for objections to the Settlement by Class Members to be postmarked to Settlement Administrator	45 calendar days after the initial mailing of the Notice to Class Members

<u>EVENT</u>	<u>TIMING</u>
Last day for Class Counsel to file and serve moving papers in support of final settlement approval and request for attorneys' fees and costs	10 calendar days before the final settlement approval hearing date
Last day for Class Counsel to file with the Court and serve declaration by Settlement Administrator specifying the due diligence undertaken with regard to the mailing of the Notice	10 calendar days before the final settlement approval hearing date
Final settlement approval hearing	_____, 2025, at _____. (approximately 100 days after entry of this Order)

Dated: July 9, 2026

Respectfully submitted,

GAINES LAW CORPORATION

By: 

EVAN S. GAINES

Attorney for Plaintiff Vincent Urrea and
Proposed Class Counsel