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12 LOUIE YLIZ, on behalf of themselves and others
13 similarly situated

14 [Additional Counsel listed on following page]

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 FOR THE COUNTY OF SAN JOAQUIN

17 JASON GUTIERREZ AND LOUIE YLIZ, on
18 behalf of themselves and on behalf of all other
19 aggrieved employees,

20 Plaintiff,

21 vs.

22 AGTAC SERVICES, LLC, a limited liability
23 company; and DOES 1 through 50, inclusive,

24 Defendants.

Case No. STK-CV-UOE-2022-0006123

25 **[PROPOSED] ORDER GRANTING**
26 **FINAL APPROVAL FOR CLASS**
27 **SETTLEMENT**

28 *[filed concurrently with Notice of Motion and*
Motion for Final Approval; Declaration of
David Yeremian; Declaration of Cassandra
Polites; Declaration of Raul Perez; Declaration
of Roman Shkodnik; Declaration of Emma
Geesaman; [Proposed] Judgment]

Date: March 4, 2025
Time: 9:00 a.m.
Dept.: 10C

2 **[PROPOSED] ORDER GRANTING FINAL APPROVAL FOR CLASS SETTLEMENT**

FEB 06 2025

BY FAX

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1 On March 4, 2025, Plaintiffs' Motion for Final Approval of Class Action Settlement,
2 Attorneys' Fees and Expenses, and Incentive Award came before the Court, in Department 10C, for
3 hearing pursuant to the Order of this Court, dated October 8, 2024 ("Preliminary Approval Order"),
4 on the application of Plaintiffs Jason Gutierrez and Louie Yliz ("Plaintiff") and the Certified Class
5 for approval of the Settlement set forth in the Class Action and Private Attorneys General Act of
6 2004 ("PAGA") Settlement Agreement (collectively "Settlement" or "Settlement Agreement"). Full
7 and adequate notice having been given to the Class as required in the Court's Preliminary Approval
8 Order, and the Court having considered all papers filed and proceedings held herein and otherwise
9 being fully informed in the premises and good cause appearing therefor,

10 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

11 1. This Order incorporates by reference the definitions in the Settlement, and all
12 capitalized terms used, but not defined herein, shall have the same meanings as in the Settlement.

13 2. This Court has jurisdiction over the subject matter of the Action and over all parties
14 to the Action, including all Class Members.

15 3. The Motion for final approval is granted. The Court approves the settlement as fair,
16 reasonable and adequate. The Court makes the following awards and approves the following
17 payments:

18 a. \$293,333.33 (two hundred and ninety-three thousand and three hundred and
19 thirty-three dollars) in attorneys' fees and \$20,304.76 (twenty thousand three
20 hundred and four dollars and seventy-six cents) in costs to Class Counsel;

21 b. Ten thousand dollars (\$10,000.00) as Enhancement Awards to each of the
22 Plaintiffs Jason Gutierrez and Louie Yliz as the Class Representatives; and,

23 c. \$12,550.00 (twelve thousand and five hundred and fifty dollars) in Settlement
24 Administrator's Fees to the claim's administrator ILYM Group, Inc.

25 4. In accordance with the Settlement and the terms set forth in this order, this Order
26 shall not be deemed a judgment in favor of Class Members and shall not constitute an obligation for
27 direct compensation of any one or any number of the Class Members, but rather it simply approves
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1 and undertakes to monitor the execution of the settlement between the Parties. Except for the
2 payment due under the Settlement, the parties are each to bear their own costs and attorneys' fees.
3 The Court approves the Stipulation and Defendant AgTac Services, LLC ("Defendant" collectively
4 with Plaintiffs, "the Parties"), and the Released Parties are discharged from all Released Claims in
5 accordance with the terms of the Stipulation.

6
7 5. In this wage and hour class action lawsuit, Plaintiffs sued Defendant for a variety of
8 Labor Code violations. The operative complaint alleges that Defendant failed to pay minimum
9 wages and overtime, failed to pay reporting time pay, failed to pay split-shift, failed to provide meal
10 and rest breaks, failed to reimburse necessary business expenditures, failed to keep required payroll
11 records, failed to provide accurate wage statements, failed to pay final wages when due, committed
12 unfair business practices under California's Unfair Competition Law ("UCL"), and violated the
13 Private Attorneys General Act of 2004 ("PAGA"), all in violation of California law. The operative
14 complaint seeks recovery of unpaid minimum wages and overtime, unpaid reporting time pay and
15 split-shift wages, premium pay for improper meal breaks and rest breaks, reimbursement for
16 business expenses, for penalties for improper wage statements, waiting time penalties, restitution
17 under the UCL, penalties under Labor Code § 2699 *et seq.*, prejudgment interest, post-judgment
18 interest, and attorneys' fees and costs. Defendant answered the Complaint and denied all of
19 Plaintiffs' claims and maintained that it complied with all applicable laws.

20 6. The Parties settled this matter at mediation and thereafter sought and obtained
21 preliminary approval of the class action settlement on October 8, 2024. Defendant made and makes
22 no admission of liability and none shall be inferred from the Settlement or entry of judgment.
23 Neither this order nor the Settlement shall be used or submitted into evidence in any proceeding or
24 action, except for the sole purpose of enforcing the terms hereof.

25 7. In California, the notice to class members must have "a reasonable chance of reaching
26 a substantial percentage of the class members." *Wershba v. Apple Computer, Inc.* (2001) 91
27 Cal.App.4th 224, 251. Importantly, however, the plaintiff need not demonstrate that each member of
28 the class received notice. As long as the notice had a "reasonable chance" of reaching a substantial

1 percentage of class members, it should be found effective.

2 8. ILYM Group, Inc. is providing settlement administration services for this settlement.
3 (Declaration of Cassandra Polites Regarding Notice and Settlement Administration, ¶ 3.) On
4 November 6, 2024, ILYM Group, Inc. received the class information from Defendant; the list
5 contained 1,039 individual Class Members. (*Id.* at ¶ 5.) ILYM Group, Inc. conducted a search of the
6 NCOA to update addresses and, on November 21, 2024, mailed the Notice Packet to all Class
7 Members. (*Id.* at ¶¶ 6, 7.) ILYM Group, Inc. forwarded Notice Packets returned with forwarding
8 addresses and performed skip searches on all other returned mail. (*Id.* at ¶¶ 8-10.) ILYM Group, Inc.
9 received no objections, no requests for exclusion, and no disputes. (*Id.* at ¶¶ 11-13.) Based on the
10 foregoing, the Court finds that the notice provided to Class Members conforms to due process
11 requirements.

12 9. It is the duty of the Court, before finally approving the settlement, to conduct an
13 inquiry in the fairness of the proposed settlement. California Practice Guide, Civil Procedure Before
14 Trial, The Rutter Group, ¶ 14:139.12 (2012). The trial court has broad discretion in determining
15 whether the settlement is fair. In exercising that discretion, it normally considers the following
16 factors: strength of the plaintiff's case; the risk, expense, complexity and likely duration of further
17 litigation; the risk of maintaining class action status through trial; amount offered in settlement;
18 extent of discovery completed and stage of the proceedings; experience and views of counsel;
19 presence of a governmental participant; and reaction of the class members to the proposed class
20 settlement. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801; *In Re Microsoft I-V Cases*
21 (2006) 135 Cal.App.4th 706, 723. This list is not exclusive, and the Court is free to balance and
22 weigh the factors depending on the circumstances of the case. *Wershba v. Apple Computer, Inc.*
23 (2001) 91 Cal.App.4th 224, 244-245. Similar, to its review of class action settlements, the Court
24 must "determine independently whether a PAGA settlement is fair and reasonable," to protect "the
25 interests of the public and the LWDA in the enforcement of state labor laws." *Moniz v. Adecco*, 72
26 Cal.App.5th 56, 77.

27 10. The proponent bears the burden of proof to show the settlement is fair, adequate and
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1 reasonable. *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135,
2 1165-1166; *Wershba, supra*, 91 Cal.App.4th at 245. There is a presumption that a proposed
3 settlement is fair and reasonable when it is the result of arms'-length negotiations. 2 Herbert
4 Newburg & Albert Conte, *Newburg on Class Actions* §11.41 at 11-88 (3d ed. 1992); *Manual for*
5 *Complex Litigation* (Third) §30.42.

6 11. At the time of preliminary approval, Class Counsel's claims that Defendant failed to
7 pay minimum wage/overtime wages were valued in terms of maximum exposure at \$906,489 and an
8 additional \$142,521 of unpaid wages due to rounding. (Shkodnik Declaration re: Preliminary
9 Approval, at ¶ 27.) The meal and rest break violations were each valued at \$412,287.93. (*Id.* at ¶¶
10 31, 33.) The paystub violations were valued at \$739,000. (*Id.* at ¶ 36.) The claim for failure to pay
11 final wages was valued at \$2,746,752. (*Id.* at ¶ 40.) The claim for failure for failure to reimburse
12 necessary business expenditures was valued at \$137,155. (*Id.* at ¶ 41.) The claim under Labor Code
13 § 2699 *et seq.* was valued at \$739,000. (*Id.* at ¶ 45.)

14 12. Had this case not settled, there would have been additional risks and expenses
15 associated with continuing to litigate. Procedural hurdles (e.g., motion practice and appeals) are also
16 likely to prolong the litigation as well as any recovery by the Class Members.

17 13. There is always a risk of decertification. *Weinstat v. Dentsply Intern., Inc.* (2010) 180
18 Cal.App.4th 1213, 1226 ("Our Supreme Court has recognized that trial courts should retain some
19 flexibility in conducting class actions, which means, under suitable circumstances, entertaining
20 successive motions on certification if the court subsequently discovers that the propriety of a class
21 action is not appropriate.")

22 14. As part of the Court's analysis of this factor, the Court should take into consideration
23 the admonition in *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133. In *Kullar*,
24 objectors to a class settlement argued the trial court erred in finding the terms of the settlement to be
25 fair, reasonable, and adequate without any evidence of the amount to which class members would be
26 entitled if they prevailed in the litigation, and without any basis to evaluate the reasonableness of the
27 agreed recovery. The Court of Appeal agreed with the objectors that the trial court bore the ultimate
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1 responsibility to ensure the reasonableness of the settlement terms. Although many factors had to be
2 considered in making that determination, and a trial court was not required to decide the ultimate
3 merits of class members' claims before approving a proposed settlement, an informed evaluation
4 could not be made without an understanding of the amount in controversy and the realistic range of
5 outcomes of the litigation.

6 15. Defendant has agreed to settle for the non-reversionary amount of \$880,000.00 all in,
7 with no additional sums being due from Defendant for damages, costs, attorneys' fees, contributions,
8 reimbursements or for any other reason). According to the claims administrator's calculations, the
9 average settlement payment will be approximately \$456.32 per Class Member (Polites Declaration, ¶
10 16.)

11 16. Class Counsel conducted an investigation that included formal and informal
12 discovery, reviewed time records, reviewed Plaintiffs' documents, and formed damage models based
13 on all of these. (Shkodnik Declaration re: Preliminary Approval, ¶ 12.) The Parties also mediated
14 this case with Lisa Klerman, Esq., a respected and highly experienced mediator in wage and hour
15 class actions. In connection with mediation and through discussions with counsel for Defendant,
16 Class Counsel also discussed all aspects of the case, including the risks of litigation and the risks to
17 both parties of proceeding with a motion for class certification as well as the law relating to off-the-
18 clock work, meal and rest breaks, and wage statements. (Shkodnik Declaration re: Preliminary
19 Approval, ¶ 14.)

20 17. Class Counsel has experience with wage and hour class litigation. (Shkodnik
21 Declaration re: Preliminary Approval, ¶¶ 3-9.) He is of the opinion that this settlement is in the best
22 interest of the class (Shkodnik Declaration re: Final Approval, ¶ 6.) and provides substantial benefit
23 to Class Members. (Id. at ¶ 8.)

24 18. The class reacted very positively with 100% participation rate. (Shkodnik Declaration
25 re: Final Approval, ¶ 11.)

26 19. On balance, this is a fair settlement that satisfies the *Dunk* factors, such that final
27 approval is warranted.
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1 20. Class Counsel requested attorneys' fees of \$293,333.33. The Court employs the
2 lodestar method in awarding fees, as opposed to a "percentage of the common fund" method. This
3 amount would reflect the actual work performed, plus a multiplier (if applicable) to recognize
4 counsel's efforts. In common fund cases, the Court may employ a percentage of the benefit method,
5 as cross-checked against the lodestar: *Laffitte v. Robert Half Int'l., Inc.* (2016) 1 Cal.5th 480, 503.

6 21. Here, fees are sought pursuant to the percentage method. The determination of what
7 constitutes an appropriate percentage "is somewhat elastic and depends largely on the facts of a
8 given case, but certain factors are commonly considered. Specifically, the court may address the
9 percentage likely to have been negotiated between private parties in a similar case, percentages
10 applied in other class actions, the quality of class counsel, and the size of the award." *In re Ikon*
11 *Office Solutions, Inc., Securities Litigation* (E.D. Pa. 2000) 194 F.R.D. 166, 193.

12 22. These factors favor the \$293,333.33 award. As for the first factor, private contingency
13 fee agreements are routinely 30% to 40% of the recovery. (*Id.* at 194.) As for the second factor,
14 "[f]ee awards in class actions average around one-third of the recovery regardless of whether the
15 percentage method or the lodestar method is used." *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal.
16 App. 5th 521, 545 (2021) (quoting *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, fn. 11 (2008))
17 (internal quotations omitted). As for the third factor, Class Counsel has experience in class actions,
18 including wage and hour cases. Most importantly, Class Counsel achieved good results for the class
19 as evidenced by the Class Members' reaction to the settlement. As for the fourth factor, Class
20 Counsel negotiated a \$880,000.00 Gross Settlement Amount. Applying the lodestar cross-check, the
21 lodestar amount for Class Counsel is \$204,542.50 (\$47,770 for David Yeremian's time on the case,
22 \$69,875 for Roman Shkodnik's time on the case, \$12,775 for Emma Geesaman's time on the case
23 and \$74,122.50 for Capstone Law APC's time on the case) (Shkodnik FA Decl., ¶15; David
24 Yeremian Decl. re: Final Approval ¶ 6; Emma Geesaman Decl. re: Final Approval ¶ 5; Raul Perez
25 Decl. re: Final Approval ¶ 11.) The hourly rates appear to be reasonable for attorneys with their
26 respective years of experience. (Shkodnik FA Decl., ¶ 15; Perez FA Decl., ¶ 12), and the hours spent
27 is reasonable for this case, which has been pending for two years. It appears that Class Counsel
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1 utilized skill in litigating this case, and by all accounts, have good reputations in the legal
2 community; at the very least, there is no evidence before the Court to indicate that the attorneys have
3 negative reputations in the legal community. It also appears that Class Counsel spent appreciable
4 time on the case, which time could have been spent on other meritorious fee-generating cases. Based
5 on the \$204,542.50 lodestar, the fee request of \$293,333.33 translates into a multiplier of 1.43.
6 Because the fee request is based on a reasonable percentage of the settlement fund and is supported
7 by the lodestar calculation, and because the class was provided with notice of the fee request and did
8 not object, the Court awards fees in the amount requested.

9 Class Counsel requests costs in the amount of \$20,304.76. (Shkodnik FA Decl., ¶ 28, and
10 Exhibit 2 thereto; Perez FA Decl., ¶ 15.) Class Counsel incurred costs including, but not limited to,
11 filing fees (e.g. complaint, stipulation, motions), service of process, travel costs, mediation fees,
12 expert analysis fees, attorney-service costs for court filings, copy charges for documents, parking,
13 and postage charges. The Settlement provides for reimbursement to Counsel of reimbursement to
14 Counsel of Thirty Thousand Dollars (\$30,000.000) in costs and expenses and Counsel hereby
15 requests \$20,304.76 (twenty thousand three hundred and four dollars and seventy-six cents) which
16 were all reasonably incurred in the litigation of this action. These costs appear reasonable and
17 necessary to the conduct of the litigation. Further, as with the fee requests, the maximum cost
18 request was disclosed to Class Members and deemed unobjectionable. For these reasons, the cost
19 request is granted in the amount of \$20,304.76

20 23. Claims administrator ILYM, Inc. requests administration costs of \$12,550.00. Based
21 upon the work performed and yet to be performed, the request for administration costs of \$12,550.00
22 is granted.

23 24. The Court also approves the payment to the Labor and Workforce Development
24 Agency ("LWDA") in the amount of \$37,500.00 (out of \$50,000.00 as allocated to the claim under
25 the California Private Attorneys General Act).

26 25. Finally, Class Counsel seeks Enhancement Awards of \$10,000.00 to each Plaintiff as
27 the class representatives. The Court considers the following factors, among others, in determining
28

1 whether to pay an incentive or enhancement award to a class representative: whether an incentive
2 was necessary to induce the class representative to participate in the case; actions, if any, taken by
3 the class representative to protect the interests of the class; the degree to which the class benefited
4 from those actions; the amount of time and effort the class representative expended in pursuing the
5 litigation; the risk to the class representative in commencing suit, both financial and otherwise; the
6 notoriety and personal difficulties encountered by the class representative; the duration of the
7 litigation; and the personal benefit (or lack thereof) enjoyed by the class representative as a result of
8 the litigation. California Practice Guide, Civil Procedure Before Trial, ¶14:146.10 (The Rutter Group
9 2012) (citing *Clark v American Residential Services, LLC* (2009) 175 Cal.App.4th 785, 804; *Bell v.*
10 *Farmers Ins. Exch.* (2004) 115 Cal.App.4th 715, 726; *In re Cellphone Fee Termination Cases* (2010)
11 186 Cal.App.4th 1380, 1394; *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186
12 Cal.App.4th 399, 412. Plaintiffs devoted numerous hours to this litigation. (Louie Yliz Declaration
13 “Yliz Decl.” ¶ 5; Jason Gutierrez Declaration “Gutierrez Decl.” ¶ 5.) They assisted their attorneys by
14 having multiple conferences with them and by providing documents. (*Id.*) Plaintiffs also helped
15 Class Counsel prepare for mediation. (*Id.*) Plaintiffs freely chose to champion the rights of the class
16 and accepted the risks associated with acting as class representatives. (Yliz Decl. ¶¶ 7, 8; Gutierrez
17 Decl. ¶ 7, 8.) The Court grants an enhancement award of \$10,000.00 to each Plaintiff for the
18 following reasons: Plaintiffs spent significant time on this litigation; Plaintiffs’ actions benefitted the
19 Class; and Plaintiffs accepted the risks and notoriety that are associated with acting as a class
20 representative.

21 26. All Parties, including each and all Class Members, are bound by this Final Approval
22 Order and by the Settlement. All Class Members shall be deemed to have entered into the Settlement
23 and the releases provided therein. Defendant shall have no obligation to pay any sums in excess of
24 the \$880,000.00 settlement payment set forth in the Settlement (save and except for the additional
25 employer payroll taxes associated therewith). Other than as provided in the Settlement, Defendant
26 shall have no obligation after entry of judgment to pay any sum to any person, whether for costs,
27 attorneys’ fees, Class Member reimbursement or contribution, as a result of entry of judgment.
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1 27. The Court previously certified the Action as a class action under California Code of
2 Civil Procedure section 382. The Class is defined as follows:

3 a. "Participating Class Members:" all current and former hourly-paid or non-exempt
4 employees employed by Defendant within the State of California during the Class
5 Period.

6 b. "Class Period:" is defined as July 19, 2018 through June 22, 2023.

7 28. Excluded from the Class would have been those persons who validly requested
8 exclusion in accordance with the requirements set forth in the Preliminary Approval Order. The
9 Court finds that, based on the declaration of Cassandra Polites, there were no requests for exclusion.

10 29. The certified Class continues to meet all the requirements of California Code of Civil
11 Procedure section 382, as already found, and for the reasons set forth, in the Court's Preliminary
12 Approval Order.

13 30. Plaintiffs Jason Gutierrez and Louie Yliz is the Court-appointed Class Representative
14 for the Claims Class.

15 31. David Yeremian of the law firm David Yeremian & Associates, Inc., Roman
16 Shkodnik and Emma Geesaman of the law firm D.Law, Inc., and Raul Perez, Orlando Villalba, and
17 Helga Hakimi of Capstone Law APC are the Court-appointed Class Counsel.

18 32. As set forth in the Settlement and in compliance with Code of Civil Procedure section
19 384(b) any checks issued to Class Members will expire one hundred and eighty (180) days from the
20 date they are issued by the Claims Administrator. Any check not cashed within one hundred eighty
21 (180) days will become void. Any checks that, after an appropriate skip trace, are undeliverable,
22 shall become void. Any settlement shares for which checks remain un-cashed and become void shall
23 be transmitted to the California Controller's Unclaimed Property Fund and be held in the name of the
24 Class Member.

25 33. Upon the Effective Date (as defined in the Settlement), all Released Claims of each
26 and every member of the Classes, save and except for those who timely requested exclusion, are and
27 shall be deemed to be conclusively released as against the Releasees. All persons and entities who
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1 are in the Classes are hereby forever barred and enjoined from commencing, prosecuting or
2 continuing, either directly or indirectly, against the Releasees, in this or any other jurisdiction or
3 forum, any and all Released Claims (as defined in the Stipulation).

4 34. Without affecting the finality of this Order in any way, this Court hereby retains
5 continuing jurisdiction over: (a) implementation of the Settlement and any award or distribution of
6 the Gross Settlement Amount, including interest earned thereon; (b) disposition of the Gross
7 Settlement Amount; (c) hearing and determining applications for attorney fees and expenses in the
8 Action; (d) all parties hereto for the purpose of construing, enforcing, and administering the
9 Settlement Agreement and the Settlement therein; and (e) Class Members who seek to pursue
10 Released Claims, including any dispute as to whether such claims were released as against the
11 Releasees.

12 35. There is no just reason for delay in the entry of judgment approving the Class
13 Settlement and immediate entry by the Clerk of the Court is expressly directed.

14 **IT IS SO ORDERED.**

15
16 DATED: 3/4/25

17 
HON. JAYNE LEE
JUDGE OF THE SUPERIOR COURT

18 Jayne C. Lee
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