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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN FRANCISCO**

MAYA AMERSON, an individual, on behalf
of herself and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

REDDIT, INC., a Corporation; and DOES 1
through 50, inclusive,

Defendants.

CASE NO.: **CGC-22-603466**

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS
SETTLEMENT**

Hearing Date: May 23, 2024
Hearing Time: 1:30 p.m.

Judge: Hon. Daniel A. Flores
Dept.: 306

Action Filed: December 13, 2022
Trial Date: Not set

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1 **I. INTRODUCTION**

2 Plaintiff Maya Amerson (“Plaintiff”) respectfully submits this memorandum in support of the
3 unopposed motion for preliminary approval of the proposed class action settlement with Defendant
4 Reddit, Inc. (“Defendant”), and seek entry of an order: (1) preliminarily approving the proposed
5 settlement of this class action with Defendant; (2) for settlement purposes only, conditionally certifying
6 the Class, which is comprised of “all individuals who are or previously were employed by Defendant
7 in the State of California during the Class Period that either (i) were classified as non-exempt, or (ii)
8 whose positions were classified as exempt during the Class Period but were re-classified as non-exempt
9 during the Class Period” of December 13, 2018 through March, 31, 2024; (3) provisionally appointing
10 Plaintiff as the representative of the Class; (4) provisionally appointing Norman B. Blumenthal, Kyle
11 R. Nordrehaug, and Aparajit Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class
12 Counsel; (5) approving the form and method for providing class-wide notice; (6) directing that notice
13 of the proposed settlement be given to the class; (7) appointing Apex Class Action as Administrator,
14 and (8) scheduling a final approval hearing date, proposed for October 3, 2024 which is at least 120
15 days from preliminary approval, to consider Plaintiff’s motion for final approval of the settlement and
16 for approval of attorneys’ fees and expenses. Plaintiffs and Defendant (collectively the “Parties”) have
17 reached a full and final settlement of the above-captioned action, which is set forth in the Class Action
18 and PAGA Settlement Agreement (“Agreement”) filed concurrently with the Court.¹ A copy of the
19 fully executed Agreement is attached as Exhibit #1 to the Declaration of Kyle Nordrehaug (“Decl.
20 Nordrehaug”), served and filed herewith. The form of the Agreement is based upon the Los Angeles
21 County Superior Court model form for a class and PAGA settlement.

22 As consideration for this Settlement, the non-reversionary Gross Settlement Amount of Five
23 Hundred Twenty-Five Thousand Dollars (\$525,000) (the “Gross Settlement Amount”) is to be paid by
24 Defendant, as set forth in the Agreement. The Gross Settlement Amount will settle all issues pending
25 in the Action between the Parties and will be made in full and final settlement of the Released Class
26 Claims in exchange for the payments to Participating Class Members from the Net Settlement Amount,

27
28 ¹ Capitalized terms shall have the same meaning as defined in the Agreement.

1 and includes (a) the costs of administration of the settlement, (b) all attorneys' fees and costs, (c) Class
2 Representative Service Payments, and (d) the PAGA Penalties payment allocated 75% to the LWDA
3 and 25% to the Aggrieved Employees. (Agreement at ¶ 1.22.) Decl. Nordrehaug at ¶3. The following
4 is a table of the key Settlement terms and the proposed deductions:

5 **\$525,000** (Gross Settlement Amount)

- 6 - \$10,000 (Plaintiff's proposed service awards not to exceed amount)
- 7 - \$32,000 (Class Counsel Litigation Expenses Payment - not to exceed amount)
- 8 - \$175,000 (Class Counsel Fees Payment - not to exceed 1/3 of settlement)
- 9 - \$15,000 (PAGA Payment - 75% to LWDA / 25% to Aggrieved Employees)
- 10 - \$9,000 (Administration Expenses Payment - not to exceed amount)

11 **\$284,000** (Net Settlement Amount)

12 Based upon 120 Class Members who worked an estimated 12,558 work weeks (Agreement at ¶ 4.1),
13 the Gross Settlement Amount provides an average value of \$4,375 per Class Member and \$41.80 per
14 workweek and after deductions the Net Settlement Amount provides an average recovery of \$2,104.16
15 per Class Member and a recovery of \$20.10 per workweek, with the nine individuals with safeguard
16 claims receiving an additional \$3,500 each. Decl. Nordrehaug at ¶6.

17 On December 15, 2023, the Parties participated in an all-day mediation session presided over
18 Tripper Ortman, a respected jurist and experienced mediator of wage and hour class actions. Following
19 the mediation, the Parties agreed on the basic terms of a settlement pursuant to a mediator's proposal
20 which was memorialized in the form of a Memorandum of Understanding. Decl. Nordrehaug at ¶5.
21 The Settlement is fair, reasonable and adequate, and should be preliminarily approved because there
22 is a substantial monetary payment, and there are significant litigation and class-certification risks.
23 Therefore, Plaintiff respectfully requests that this Court grant preliminary approval of the Agreement
24 and enter the proposed order submitted herewith.

25 **II. DESCRIPTION OF THE SETTLEMENT**

26 The Gross Settlement Amount is Five Hundred Twenty-Five Thousand Dollars (\$525,000).
27 (Agreement at ¶ 1.22.) Under the Settlement, the Gross Settlement Amount consists of the following
28 elements: (1) payment of the Individual Class Payments to the Participating Class Members; (2) Class
Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (3) Administration Expenses
Payment; (4) the Class Representative Service Payment to the Plaintiff; and (5) the PAGA Penalties
payment. (Agreement at ¶ 1.22.) The Gross Settlement Amount does not include Defendant's share

1 of payroll taxes. (Agreement at ¶ 3.1.) The Gross Settlement Amount shall be all-in with no reversion
2 to Defendant. (Agreement at ¶ 3.1.) Decl. Nordrehaug at ¶15.

3 The Agreement contains appropriate terms which have been previously approved by this Court
4 and Courts throughout California. (See Agreement at ¶¶ 1.28, 3.2, 4.3, 5.1.) The proposed Class
5 Notice also provides the required protections for the Class to opt out, object or dispute their weeks
6 worked. (See Agreement at ¶¶ 8.5, 8.6, 8.7, and Exhibit A.) The additional details of the Settlement
7 are addressed in the Decl. Nordrehaug at ¶¶ 16-22. As set forth in the accompanying proof of service,
8 the LWDA has been served with this motion and the Agreement.

9 **III. CASE BACKGROUND**

10 The description of the case and claims, along with the procedural history is set forth in the
11 Declaration of Kyle Nordrehaug at ¶¶ 7-14. The Parties engaged in thorough investigation and the
12 exchange of documents and information in connection with the Action for more than two years which
13 permitted Class Counsel to perform a thorough analysis of the claims. Decl. Nordrehaug, ¶¶ 10 and
14 14. The Parties participated in mediation on December 15, 2023 with Tripper Ortman, which after
15 arms' length negotiations through this mediation, resulted in this Settlement. Decl. Nordrehaug, ¶12.

16 **IV. THE SETTLEMENT MEETS THE CRITERIA NECESSARY FOR THIS COURT TO 17 GRANT PRELIMINARY APPROVAL**

18 California "[p]ublic policy generally favors the compromise of complex class action litigation."
19 *Nordstrom Comm'n Cases*, 186 Cal. App. 4th 576, 581 (2010) quoting *Cellphone Termination Fee*
20 *Cases*, 180 Cal.App.4th 1110, 1117-18 (2009). Class action settlements are approved where the
21 proposed settlement is "fair, adequate and reasonable." *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794,
22 1801 (1996) (citing *Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 625 (9th Cir. 1982), cert.
23 denied, 459 U.S. 1217 (1983)).

24 Preliminary approval is the first of three steps that comprise the approval procedure for
25 settlements of class actions. The second step is the dissemination of notice of the settlement to all class
26 members. The third step is a final settlement approval hearing, at which evidence and argument
27 concerning the fairness, adequacy, and reasonableness of the settlement may be presented, and class
28 members may be heard regarding the settlement. *See Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794,

1 1801 (1996); *Manual for Complex Litigation, Second* §30.44 (1993); Cal. Rules of Court, rule 3.769.

2 The primary question presented on an application for preliminary approval of a proposed class
3 action settlement is whether the proposed settlement is “within the range of possible approval.”
4 *Manual for Complex Litigation, Second* §30.44 at 229; *Gautreaux v. Pierce*, 690 F.2d 616, 621 n.3 (7th
5 Cir. 1982).² Preliminary approval is merely the prerequisite to giving notice so that “the proposed
6 settlement... may be submitted to members of the prospective Class for their acceptance or rejection.”
7 *Sayaman v. Baxter Healthcare Corp.*, 2010 U.S. Dist. LEXIS 151997, *3 (C.D. Cal. 2010). There is
8 “a presumption of fairness . . . where . . . [a] settlement is reached through arms-length bargaining.”
9 *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 245 (2001) (citation omitted); see also *Cho v.*
10 *Seagate Tech. Holdings, Inc.*, 177 Cal. App. 4th 734, 742-45 (2009) (upholding trial court's
11 determination that settlement was “fair, reasonable and adequate” where the settlement “provided
12 valuable benefits to the class . . . that were ‘particularly valuable in light of the risks plaintiff would have
13 faced if she proceeded to litigate her case.’”); *Newberg*, 3d Ed., §11.41, p.11-88. However, the ultimate
14 question of whether the proposed settlement is fair, reasonable and adequate is made after notice of the
15 settlement is given to the class members and a final settlement hearing is held by the Court.

16 **A. The Role Of The Court In Preliminary Approval Of A Class Action Settlement**

17 The approval of a proposed settlement of a class action suit is a matter within the broad
18 discretion of the trial court. *Wershba, supra*, 91 Cal.App.4th at 234-235; *Dunk*, 48 Cal.App.4th 1794.
19 In considering a potential settlement for preliminary approval purposes, the trial court does not have
20 to reach any ultimate conclusions on the issues of fact and law which underlie the merits of the dispute,
21 and need not engage in a trial on the merits. *Wershba, supra*, 91 Cal.App.4th at 239-40; *Dunk, supra*,
22 48 Cal.App. 4th at 1807. The Ninth Circuit explained that, “the very essence of a settlement is
23 compromise, ‘a yielding of absolutes and an abandoning of highest hopes.’” *Officers for Justice*, 688
24 F.2d at 624. Thus, when analyzing the settlement, the amount is “not to be judged against a

25
26 ² California courts look to federal authority on class actions. *Vasquez v. Superior Court*, 4 Cal.3d
27 800, 821 (1971). “It is well established that in the absence of relevant state precedents trial courts are
28 urged to follow the procedures prescribed in Rule 23 of the Federal Rules of Civil Procedure for
conducting class actions.” *Frazier v. City of Richmond*, 184 Cal. App.3d 1491, 1499 (1986), citing
Green v. Obledo, 29 Cal.3d 126, 145-146 (1981).

1 hypothetical or speculative measure of what might have been achieved by the negotiators.” *Officers*
2 *for Justice*, 688 F.2d at 625, 628.

3 With regard to class action settlements, the opinions of counsel should be given considerable
4 weight both because of counsel’s familiarity with this litigation and previous experience with cases
5 such as these. *Officers for Justice*, 688 F.2d at 625. As a result, courts hold that the recommendation
6 of counsel is entitled to significant weight. *Nat’l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221
7 F.R.D. 523, 528 (C.D. Cal. 2004).

8 **B. Factors To Be Considered In Granting Preliminary Approval**

9 A number of factors are to be considered in evaluating a settlement for purposes of preliminary
10 approval. In determining whether to grant preliminary approval, the court considers whether the "(1)
11 the proposed settlement appears to be the product of serious, informed, non-collusive negotiations, (2)
12 has no obvious deficiencies, (3) does not improperly grant preferential treatment to class representatives
13 or segments of the class, and (4) falls within the range of possible approval." *In re Tableware Antitrust*
14 *Litig.*, 484 F.Supp. 2d 1078, 1079 (N.D. Cal. 2007). Courts hold that “a presumption of fairness exists
15 where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery
16 are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar
17 litigation; and (4) the percentage of objectors is small.” *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.
18 App. 4th 116, 128 (2008). Here, the Settlement meets all of these criteria for preliminary approval and
19 therefore the presumption applies.

20 **1. The Settlement is the Product of Serious, Informed and**
21 **Arm’s Length Negotiations by Experienced Counsel**

22 This settlement is the result of extensive and hard-fought litigation as well as negotiations
23 before an experienced and well-respected mediator. Defendant has expressly denied and continues to
24 deny any wrongdoing or legal liability arising out of the conduct alleged in the Action. Plaintiff and
25 Class Counsel have determined that it is desirable and beneficial to the Class to resolve the Released
26 Class Claims of the Class in accordance with this Settlement. The release applicable to the Class is
27 appropriately tethered to allegations in the Action. (Agreement at ¶¶ 1.38 and 6.2.)

28 Class Counsel are experienced and qualified to evaluate the class claims, the defenses asserted,

1 and the risks and benefits of trial and settlement, and Class Counsel are particularly experienced in
2 wage and hour employment class actions, as Class Counsel has previously litigated and certified similar
3 claims against other employers. Decl. Nordrehaug at ¶31. The view of qualified and well-informed
4 counsel that a class action settlement is fair, adequate, and reasonable is entitled to significant weight.
5 *See Kullar v. Foot Locker*, 168 Cal. App. 4th 116, 133 (2008) (the trial court "undoubtedly should
6 continue to place reliance on the competence and integrity of counsel, the involvement of a qualified
7 mediator, and the paucity of objectors to the settlement."); *Dunk*, 48 Cal. App. 4th at 1802.

8 The Parties attended an arms-length mediation session with Tripper Ortman, a respected and
9 experienced mediator of wage and hour class actions, in order to reach this Settlement. In preparation
10 for the mediation, Defendant provided Class Counsel with payroll, time and employment data, along
11 with and other information regarding the Class Members, various internal documents, and other
12 compensation and employment-related materials. Class Counsel analyzed the data with the assistance
13 of damages expert Berger Consulting and prepared and submitted a mediation brief to the mediator. The
14 final settlement terms were negotiated and set forth in the Agreement now presented for this Court's
15 approval. Decl. Nordrehaug at ¶ 5. Importantly, Plaintiff and Class Counsel believe that this
16 Settlement is fair, reasonable and adequate.

17 Class Counsel has conducted a thorough investigation into the facts of the class action as
18 detailed in the Decl. Nordrehaug. Based on the Class data and their own independent investigation,
19 evaluation and experience, Class Counsel believes that the settlement with Defendant on the terms set
20 forth in the Agreement is fair, reasonable, and adequate and is in the best interest of the Class in light
21 of all known facts and circumstances, including the risk of significant delay, defenses asserted by
22 Defendant, and potential appellate issues. Decl. Nordrehaug at ¶ 14. Plaintiff and Class Counsel
23 recognize the risks, expense and length of continuing to litigate and trying this Action against
24 Defendant and then litigating possible appeals which could take several years. Plaintiff and Class
25 Counsel have determined that the Settlement set forth in the Agreement is in the best interest of the
26 Class Members. Decl. Nordrehaug, ¶ 23.

27 Here, there can be no dispute that the litigation has been hard-fought with aggressive and
28 capable advocacy on both sides. The Parties were represented by experienced and capable counsel who

1 zealously advocated their positions. Accordingly, “[t]here is likewise every reason to conclude that
2 settlement negotiations were vigorously conducted at arms’ length and without any suggestion of undue
3 influence.” *In re Wash. Public Power Supply Sec. Litig.*, 720 F. Supp. 1379, 1392 (D. Ariz 1989).

4 **2. The Settlement Has No "Obvious Deficiencies" and Falls Well Within**
5 **the Range for Approval**

6 The proposed Settlement herein has no "obvious deficiencies" and is well within the range of
7 possible approval. All Class Members will receive an opportunity to participate in the Settlement and
8 receive payment according to the same formula. (Agreement at ¶ 3.2(e).) Based upon 120 Class
9 Members who worked an estimated 12,558 work weeks (Agreement at ¶ 4.1), the Gross Settlement
10 Amount provides an average value of \$4,375 per Class Member and \$41.80 per workweek and after
11 deductions the Net Settlement Amount provides an average recovery of \$2,104.16 per Class Member
12 and a recovery of \$20.10 per workweek, with the nine individuals with safeguard claims receiving an
13 additional \$3,500 each. Decl. Nordrehaug, ¶6.

14 The calculations to compensate for the amount due for the Class at the time of the mediation
15 were calculated by Berger Consulting, Plaintiff’s damage expert. As to the Class whose claims are at
16 issue in this Action, Plaintiff used the expert to analyze the data and determine the potential unpaid
17 wages for the employees. The maximum potential damages were calculated to be \$957,524 for the
18 alleged unpaid wages for off-the-clock work at 1 hour per week, \$3,668 for the alleged unpaid overtime
19 wages due to miscalculation of the regular rate when paying wages, \$2,117 for the alleged
20 underpayment of meal period premiums and sick pay, \$1,382,329 for alleged meal period damages
21 based upon a 50% potential violation rate for shifts worked and after deducting the meal premiums
22 actually paid by Defendant, \$1,435,075 for alleged rest period damages based upon the same 50%
23 potential violation rate for shifts worked and, \$16,255 for alleged unreimbursed business expenses for
24 personal cell phone usage at \$5 per month. Decl. Nordrehaug, ¶6. As a result, the total damage
25 valuation was calculated that Defendant was subject to a maximum damage claim in the amount of
26 \$3,796,968. As to potential penalties, Plaintiffs calculated that potential waiting time penalties were
27 a maximum of between \$110,269 and \$710,625, and potential maximum wage statement penalties were
28

1 \$355,150.³ Defendant vigorously disputed Plaintiff's calculations and exposure theories. Decl.
2 Nordrehaug, ¶6.

3 Consequently, the Gross Settlement Amount of \$525,000 represents more than 13.8% of the
4 maximum value of the alleged damages at issue in this case at the time this Settlement was negotiated.⁴
5 The above maximum calculations should then be adjusted in consideration for both the risk of class
6 certification and the risk of establishing class-wide liability on all claims. As to the "safeguard claim"
7 for the nine individuals, their settlement amount of \$3,500 is based upon the similar settlements with
8 Facebook and YouTube which paid \$1,000 and \$3,284 per person, respectively. Given the amount of
9 the settlement as compared to the potential value of claims in this case and the defenses asserted by
10 Defendant, this settlement is fair and reasonable.⁵ Clearly, the goal of this litigation has been met.
11 Decl. Nordrehaug, ¶6.

12 Where both sides face significant uncertainty, the attendant risks favor settlement. *Hanlon v.*
13 *Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998). Here, a number of defenses asserted by
14 Defendant present serious threats to the claims of the Plaintiff and the other Class Members. Defendant
15 asserted that Defendant's practices complied with all applicable Labor laws. Defendant argued that

16
17 ³ While Plaintiff alleged claims for statutory penalties pursuant to Labor Code Sections 203 and
18 226, at mediation Plaintiff recognized that these claims were subject to additional, separate defenses
19 asserted by Defendant, including, a good faith dispute defense as to whether any premium wages for
20 meal or rest periods or other wages were owed given Defendant's position that Plaintiffs and Class
Members were properly compensated. *See Nordstrom Commission Cases*, 186 Cal. App. 4th 576, 584
(2010) ("There is no willful failure to pay wages if the employer and employee have a good faith
dispute as to whether and when the wages were due.").

21 ⁴ Because the PAGA claim is not a class claim and primarily is paid to the State of California,
22 Plaintiff has not included the PAGA claim in this discussion of the value of the class claims. The
PAGA claim is addressed in the Decl. Nordrehaug at ¶33.

23 ⁵ See *Glass v. UBS Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476 (N.D. Cal. 2007) (approving a
24 settlement where the settlement amount constituted approximately 25% of the estimated overtime
25 damages for the class); *Stovall-Gusman v. W.W. Granger, Inc.*, 2015 U.S. Dist. LEXIS 78671, at *12
26 (N.D. Cal. 2015) (granting final approval where "the proposed Total Settlement Amount represents
approximately 10% of what class might have been awarded had they succeeded at trial."); *Viceral v.*
27 *Mistras Grp., Inc.*, 2016 WL 5907869 (N.D. Cal. 2016) (approving wage and hour class action
28 settlement amounting to 8.1% of full value); *Ma v. Covidien Holding, Inc.*, 2014 WL 2472316, (C.D.
Cal. 2014) (approving wage and hour class action settlement worth "somewhere between 9% and 18%"
of maximum valuation).

1 Class Members were paid for all time worked and that all work time was properly recorded. Defendant
2 maintained there was no miscalculation of the regular rate when paying wages to the Plaintiff and the
3 Class. Defendant contends that its meal and rest period policies fully complied with California law and
4 Defendant did not fail to provide the opportunity for legally required meal and rest breaks. Defendant
5 could argue that its payment of meal and rest period premiums is evidence of its lawful practices.
6 Defendant contend that there was no failure to pay for business expenses and any cell phone usage was
7 merely convenient and voluntary such that reimbursement was not legally required. Finally, Defendant
8 could argue that the Supreme Court decision in *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012),
9 weakened Plaintiff's claims, on liability, value, and class certifiability as to the meal and rest period
10 claims. Defendant also argues that based on its facially lawful practices, Defendant acted in good faith
11 and without willfulness, which if accepted would negate the claims for waiting time penalties and/or
12 inaccurate wage statements. If successful, Defendant's defenses could eliminate or substantially reduce
13 any recovery to the Class. While Plaintiff believes that these defenses could be overcome, Defendant
14 maintains these defenses have merit and therefore present a serious risk to recovery by the Class. Decl.
15 Nordrehaug, ¶ 24.

16 There was also a significant risk that, if the Action was not settled, Plaintiff would be unable
17 to obtain a certified class and maintain the certified class through trial, and thereby not recover on
18 behalf of any employees other than themselves. At the time of the mediation, Defendant forcefully
19 opposed the propriety of class certification, arguing that individual issues precluded class certification.
20 Further, as demonstrated by the California Supreme Court decision in *Duran v. U.S. Bank National*
21 *Assn.*, 59 Cal. 4th 1 (2014), there are significant hurdles to overcome for a class-wide recovery even
22 where the class has been certified. While other cases have approved class certification in wage and
23 hour claims, class certification in this action was hotly disputed and the maintenance of a certified class
24 through trial was by no means a foregone conclusion. Decl. Nordrehaug, ¶ 25.

25 After arm's length negotiations between experienced and informed counsel, the Parties
26 recognized the potential risks and agreed on the Settlement with a Gross Settlement Amount of
27 \$525,000. As the Court held in *Glass*, where the parties faced uncertainties similar to those here:

28 In light of the above-referenced uncertainty in the law, the risk, expense, complexity,

1 and likely duration of further litigation likewise favors the settlement. Regardless of
2 how this Court might have ruled on the merits of the legal issues, the losing party likely
3 would have appealed, and the parties would have faced the expense and uncertainty of
litigating an appeal. 'The expense and possible duration of the litigation should be
considered in evaluating the reasonableness of [a] settlement.'"

4 2007 WL 221862, at *4 (quoting *In re Mego Financial Corp. Securities Litigation*, 213 F.3d 454, 458
5 (9th Cir. 2000)).

6 **3. The Settlement Does Not Improperly Grant Preferential Treatment To**
7 **Class Representatives or Segments Of The Class**

8 The relief provided in the Settlement will benefit all members of the Class. The Settlement does
9 not grant preferential treatment to Plaintiff or segments of the Class in any way. Payments to the Class
10 Members are all determined under a neutral methodology. Each Participating Class Member will
11 receive the same opportunity to participate in and receive payment through a neutral formula that is
12 based upon the weeks worked for that individual. Decl. Nordrehaug, ¶4.

13 Plaintiff will apply to the Court for a Class Representative Service Payment in consideration
14 for her services and for the risks undertaken on behalf of the Class.⁶ (Agreement at ¶ 3.2(a).) Plaintiff
15 performed her duties admirably by working with Class Counsel over the course of litigation. The
16 Declaration of the Plaintiff is submitted herewith in support. Decl. Nordrehaug at ¶27. At this stage,
17 the requested service award of \$10,000 is within the accepted range of awards for purposes of
18 preliminary approval. *See e.g. Andrews v. Plains All Am. Pipeline L.P.*, 2022 U.S. Dist. LEXIS
19 172183, at *11 (C.D. Cal. 2022) (finding that the requested service awards of \$15,000 each are
20 appropriate); *Reynolds v. Direct Flow Med., Inc.*, 2019 U.S. Dist. LEXIS 149865, at *19 (N.D. Cal.
21 2019) (granting request for \$12,500 service award); *Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018 U.S.
22 Dist. LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500 where average class member payment was
23 \$351); *Louie v. Kaiser Foundation Health Plan, Inc.*, 2008 WL 4473183, *7 (S.D. Cal. Oct. 06, 2008)
24 (awarding \$25,000 service award to each of six plaintiffs in overtime class action); *Glass v. UBS Fin.*
25 *Servs.*, 2007 WL 221862, *16-17 (N.D. Cal. 2007) (awarding \$25,000 service award in overtime class

26 ⁶ Plaintiff brought individual (non-class) claims alleged in the complaint, which were negotiated
27 at mediation after resolution of the class/PAGA claims, and that although the terms of the individual
28 settlement are confidential, Plaintiff will make the Individual Settlement Agreement available for the
Court's in-camera review/under seal upon the Court's request. (Agreement at ¶ 6.1(b).)

1 action and a pool of \$100,000 in enhancements). As explained in *Glass*, service awards are routinely
2 awarded to class representatives to compensate the employees for the time and effort expended on the
3 case, for the risk of litigation, for the fear of suing an employer and retaliation there from, and to serve
4 as an incentive to vindicate the statutory rights of all employees. 2007 WL 221862 at *16-17.

5 **4. The Stage Of The Proceedings Are Sufficiently Advanced To Permit**
6 **Preliminary Approval Of The Settlement**

7 The stage of the proceedings at which this Settlement was reached also militates in favor of
8 preliminary approval and ultimately, final approval of the Settlement. Class Counsel has conducted
9 a thorough investigation into the facts of the class action. Class Counsel began investigating the Class
10 Members' claims before the Action were filed, and during the course of litigation, depositions were
11 taken and Class Counsel and engaged in both formal and informal discovery to obtain necessary
12 information. Class Counsel conducted a review and analysis of the relevant documents and data. Class
13 Counsel was also experienced with these claims, as Class Counsel previously litigated and settled
14 similar claims in other actions. Accordingly, the agreement to settle did not occur until Class Counsel
15 possessed sufficient information to make an informed judgment regarding the likelihood of success on
16 the merits and the results that could be obtained through further litigation. Decl. Nordrehaug at ¶28.

17 Based on the foregoing data and their own independent investigation and evaluation, Class
18 Counsel is of the opinion that the Settlement with Defendant for the consideration and on the terms set
19 forth in the Agreement is fair, reasonable, and adequate and is in the best interest of the Class in light
20 of all known facts and circumstances, including the risk of significant delay, defenses asserted by
21 Defendant, and numerous potential appellate issues. Decl. Nordrehaug at ¶29.

22 **V. THE CLASS IS PROPERLY CERTIFIED FOR SETTLEMENT PURPOSES ONLY**

23 Plaintiff contends that the proposed settlement meet all of the requirements for class
24 certification under California Code of Civil Procedure § 382 as demonstrated below, and therefore, the
25 Court may appropriately approve the Class as defined in the Agreement. This Court should
26 conditionally certify the Class for settlement purposes only, defined as follows:

27 All individuals who are or previously were employed by Defendant in the State of
28 California during the Class Period that either 1) were classified as non-exempt, or 2)
whose positions were classified as exempt during the Class Period but were re-classified
as non-exempt during the Class Period.

1 (Agreement at ¶ 1.5.)

2 The Class Period is from December 13, 2018 through March 31, 2024. (Agreement at ¶ 1.13)

3 **A. California Code of Civil Procedure § 382**

4 Plaintiff seeks certification of this Class for settlement purposes under California Code of Civil
5 Procedure § 382. The California Supreme Court has summarized the standard for determining whether
6 class certification is appropriate as follows:

7 Code of Civil Procedure Section 382 authorizes class actions “when the question is one
8 of a common or general interest, of many persons, or when the parties are numerous,
9 and it is impracticable to bring them all before the court...” The party seeking
10 certification has the burden to establish the existence of both an ascertainable class and
11 a well-defined community of interest among class members. (*citations omitted*). The
“community of interest” requirement embodies three factors: (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.

12 *Sav-On Drug Stores, Inc. v. Superior Court*, 34 Cal. 4th 319, 326 (2004).

13 While Defendant reserves all rights to dispute that the Plaintiff can satisfy these requirements,
14 the Parties agree that Defendant will not dispute that these requirements may be satisfied in this case
15 for purposes of settlement only and therefore, the proposed Class should be certified for purposes of
16 settlement only. (Agreement at ¶ 2.7.)

17 **B. The Proposed Class Is Ascertainable and Numerous**

18 Plaintiff brings this action on behalf of a Class of non-exempt employees of Defendant during
19 the Class Period. Plaintiff asserts that these individuals are ascertainable because the class members
20 can readily be determined through examination of Defendant’s files. Given that the Class consists of
21 120 individuals, Plaintiff maintains that numerosity is clearly satisfied. *See Bowles v. Superior Court*,
22 44 Cal.2d 574 (1955) (class with 10 members sufficiently numerous); *Rose v. City of Hayward*, 126
23 Cal.App.3d 926, 934 (1981) (class of 48 members satisfies numerosity requirement.) Plaintiff asserts
24 that the 120 current and former employees that comprise the Class can be identified based on
25 Defendant’s records and are sufficiently numerous for class certification. Decl. Nordrehaug at ¶30.

26 **C. Common Issues of Law and Fact Predominate**

27 Predominance of common issues of law or fact does not require that the common issues be
28 dispositive of the entire controversy or even that they be dispositive of all liability issues. 1 *Newberg*

1 on *Class Actions*, Section 4.25 at 4-82, 4-83 (1992). “Predominance is a comparative concept, and ‘the
2 necessity for class members to individually establish eligibility and damages does not mean individual
3 fact questions predominate.’” *Sav-On*, 34 Cal. 4th at 334.

4 Commonality exists if there is a predominant common legal question regarding how an
5 employer’s policies impact its employees. *Ghazaryan v. Diva Limousine, Ltd.*, 169 Cal. App. 4th 1524,
6 1536 (2008) (“[T]he common legal question remains the overall impact of Diva's policies on its
7 drivers.”) Whether the plaintiff is likely to prevail on their theory of recovery is irrelevant at the
8 certification stage since the question is “essentially a procedural one that does not ask whether an action
9 is legally or factually meritorious.” *Linder v. Thrifty Oil Co.*, 23 Cal. 4th 429, 439-440 (2003).

10 Here, Plaintiff contends that common questions of law and fact are present, specifically the
11 common questions of whether Defendant’s employment practices were lawful, whether Defendant
12 failed to provide meal and rest periods to Class Members, whether Class members were lawfully
13 compensated for all hours worked, whether Defendant miscalculated the regular rate when paying Class
14 Member overtime, meal period premiums and/or sick pay, whether Defendant failed to provide required
15 expense reimbursement, and whether Class Members are entitled to damages and penalties as a result
16 of these practices. Plaintiff contends that certification of this Class is appropriate because Defendant
17 allegedly engaged in uniform practices with respect to the Class Members. As a result, these common
18 questions of liability could be answered on a class wide basis. Decl. Nordrehaug, ¶30. Defendant
19 disputes that common questions predominate but will not oppose such a finding for purposes of this
20 Settlement only.

21 **D. The Claims of the Plaintiff Are Typical of the Class Claims**

22 The typicality requirement requires the Plaintiff to demonstrate that the members of the class
23 have the same or similar claims as the Plaintiff. “The typicality requirement is met when the claims
24 of the [p]laintiff arise from the same event or are based on the same legal theories.” *Tate v.*
25 *Weyerhaeuser Co.*, 723 F.2d 598, 608 (8th Cir. 1983). In *Hanlon, supra*, 150 F.3d at 1020, the Ninth
26 Circuit held that “[u]nder the rule's permissive standards, representative claims are ‘typical’ if they are
27 reasonably coextensive with those of absent class members; they need not be substantially identical.”

28 In this Action, Plaintiff contends that the typicality requirement is fully satisfied. Plaintiff, like

1 every other member of the Class, were employed by Defendant as non-exempt employees, and, like
2 every other member of the Class, were subject to the same employment practices. Plaintiff, like every
3 other member of the Class, also claims owed compensation as a result of the Defendant's uniform
4 company policies and practices. Thus, the claims of Plaintiff and the members of the Class arise from
5 the same course of conduct by Defendant, involve the same issues, and are based on the same legal
6 theories. Decl. Nordrehaug at ¶30. For purposes of settlement, Plaintiff asserts that the typicality
7 requirement is met as to the common issues presented in this case. Defendant does not oppose a finding
8 of typicality for purposes of this Settlement only.

9 **E. The Class Representation Fairly and Adequately Protected the Class**

10 Plaintiff contends that the Class Members are adequately represented here because Plaintiff and
11 representing counsel (a) do not have any conflicts of interest with other class members, and (b) will
12 prosecute the case vigorously on behalf of the class. *Hanlon*, 150 F.3d at 1020. First, Plaintiff is well
13 aware of her duties as the representative of the Class. Plaintiff effectively communicated with Class
14 Counsel, provided documents and information to Class Counsel, and participated in the investigation
15 and resolution of the Action. The personal involvement of the Plaintiff was essential to the prosecution
16 of the Action and the monetary settlement reached. Second, Plaintiff retained competent counsel who
17 are experienced in employment class actions and who have no conflicts. Decl. Nordrehaug at ¶ 31.
18 Third, there is no antagonism between the interests of the Plaintiff and those of the Class. Both the
19 Plaintiff and the Class Members seek monetary relief under the same set of facts and legal theories.
20 Under such circumstances, adequacy of representation is satisfied. *Reaves v. Ketoro, Inc.*, 2020 U.S.
21 Dist. Lexis 167926, *23 (C.D. Cal. 2020). Defendant disputes that the adequacy requirement is
22 satisfied but will not oppose such a finding for purposes of this Settlement only.

23 **F. The Superiority Requirement Is Met**

24 To certify a class, the Court must also determine that a class action is superior to other available
25 methods for the fair and efficient adjudication of the controversy. "Where classwide litigation of
26 common issues will reduce litigation costs and promote greater efficiency, a class action may be
27 superior to other methods of litigation." *Valentino v. Carter-Wallace, Inc.*, 97 F.3d 1227, 1234 (9th Cir.
28 1996). As courts have previously observed:

1 Absent class treatment, each individual plaintiff would present in separate, duplicative
2 proceedings the same or essentially the same arguments and evidence, including expert
testimony.

3 *Sav-On*, 34 Cal. 4th at 340, citing *Boggs v. Divested Atomic Corp.*, 141 F.R.D. 58, 67 (S.D. Ohio 1991).

4 Here, Plaintiff contends that a class action is the superior mechanism for resolution of the claims
5 as pled by the Plaintiff. While Defendant disputes that class treatment is superior, Defendant does not
6 dispute a finding of superiority in this action for purposes of this Settlement only.

7 **VI. THE PROPOSED METHOD OF CLASS NOTICE IS APPROPRIATE**

8 The Court has broad discretion in approving a practical notice program. *7- Eleven Owners for*
9 *Fair Franchising v. Southland Corp.*, 85 Cal. App. 4th 1135, 1164 (2000). The Parties have agreed
10 upon procedures by which the Class Members will be provided with written notice of the Settlement
11 similar to that approved and utilized in hundreds of class action settlements and the Class Notice
12 includes all relevant information. (See Exhibit “A” to the Agreement.) Decl. Nordrehaug at ¶32. The
13 Class Notice will explain that the Class Members shall have sixty (60) days from the date that the Class
14 Notice is mailed to them (the “Response Deadline”) to request exclusion (opt-out) or to submit a written
15 objection. (Agreement at ¶¶ 1.42, 8.5, 8.7.) Class Members shall be given the opportunity to object
16 to the Settlement and the request for attorneys’ fees and expenses, and to appear at the Final Approval
17 Hearing. (Agreement at ¶ 8.7.) This notice program was designed to meaningfully reach the Class
18 Members and it advises them of all pertinent information concerning the Settlement. Decl. Nordrehaug
19 at ¶32. The distribution of the Class Notice satisfies the requirements of due process and is the best
20 notice practicable under the circumstances and complies with Rules of Court 3.766 and 3.769(f).

21 **VII. CONCLUSION**

22 Plaintiff respectfully requests that the Court preliminarily approve the proposed settlement, sign
23 the proposed Preliminary Approval Order, submitted herewith, and schedule the final approval hearing
24 for the proposed date of October 3, 2024.

25 Dated: April 29, 2024

**BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP**

By: /s/ Kyle Nordrehaug
Kyle R. Nordrehaug, Esq., Attorney for Plaintiffs