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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ALIXUS CORTEZ, an individual; KIARA THIBODEAUX, an individual; ASHLEY MENDEZ, an individual; on behalf of themselves and all others similarly situated and the general public, Plaintiffs, vs. BLACK KNIGHT PATROL, INC., a California corporation; and DOES 1 through 100, inclusive, Defendants.	Case No. 23STCV02135 [Assigned for All Purposes to: The Hon. Stuart M. Rice, Dept. 1] **PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** Date: January 6, 2025 Time: 10:30 a.m. Dept: 1

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

PLEASE TAKE NOTICE that on January 6, 2025, at 10:30 a.m., or as soon thereafter as the matter may be heard in Department 1 of the above-entitled court, located at the Los Angeles Superior Court, 312 North Spring Street, Los Angeles, California 90012, Plaintiffs Alixus Cortez, Kiara Thibodeaux, and Ashley Mendez ("Plaintiffs") will hereby move the Court for an order granting Plaintiffs' Motion for Preliminary Approval of Class Action Settlement. In this unopposed motion, Plaintiffs seeks the entry of an order to: (1) preliminarily approve the proposed settlement of this class action on behalf of all current and former non-exempt employees of Defendant Black Knight Patrol, Inc. who worked between January 31, 2019 through the date of preliminary approval; (2) certify a class for settlement purposes only and appoint Bartz Law Group, APC as class counsel for settlement purposes only (hereinafter "Class Counsel"); (3) approve the substance, form, and method to provide class-wide notice; (4) direct that notice of the proposed settlement be given to all Settlement Class Members; and (5) schedule a hearing at which time the following will be considered: (i) the request for final approval of the proposed settlement; (ii) the entry of the Final Judgment; and (iii) approval of Class Counsel's motion for attorneys' fees and costs, and Plaintiffs' enhancement awards.

This Motion is based upon this Notice, the attached Memorandum of Points and Authorities, the Declarations of Alixus Cortez, Kiara Thibodeaux, Ashley Mendez, Aaron Bartz and Jodey Lawrence, all documents and records on file in this action, and on such other further oral and documentary evidence as may be given at the hearing on this Motion.

Dated: November 11, 2024 BARTZ LAW GROUP, APC

//Aaron Bartz//

Aaron A. Bartz
Attorneys for Plaintiffs ALIXUS CORTEZ, KIARA THIBODEAUX, and ASHLEY MENDEZ, and all others similarly situated

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I. INTRODUCTION

This class action and PAGA settlement is sought on behalf of approximately 785[1] current and former non-exempt employees who worked for Defendant Black Knight Patrol, Inc. ("Defendant")[2] between January 31, 2019 and the date of preliminary approval.

The case arises out of Plaintiffs' allegations that Defendant violated California's wage and hour laws, including failing to pay all wages owed and overtime, failing to authorize and permit meal and rest periods, failing to reimburse class members for necessary business expenses, failing to properly maintain and submit wage statements, and waiting time penalties.

After engaging in extensive informal discovery, and attending a full day mediation, the parties have agreed to a non-reversionary, all-in common fund settlement of $500,000. The net amount to be paid to class members (after payment of class counsel fees and expenses, settlement administration costs, Private Attorneys General Act ("PAGA") penalties, and Plaintiffs' enhancement awards), is approximately $267,084. Each settlement class member's share of the settlement is based on each of their eligible number of workweeks, and shall receive, on average, approximately $340. So long as the class members do not opt out of the settlement, they will receive a settlement payment. For purposes of this settlement only, the parties agree that the proposed Settlement Class satisfies each of the requirements of Code of Civil Procedure section 382. The settlement is fair and reasonable, and confers a substantial monetary benefit to the entire class. Accordingly, Plaintiffs request that the court grant preliminary approval of the Class Action and PAGA Settlement Agreement and Class Notice ("Settlement Agreement") submitted herewith (Declaration of Aaron Bartz ("Bartz Decl."), ¶ 2, and Ex. A), conditionally

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[1] Defendant is confirming settlement class data and this number is currently an estimate.

[2] Defendant's owner Manuel Jimenez was also added as a defendant to this action, and he is also responsible for fulfilling all settlement obligations individually and jointly and severally with Defendant Black Knight Patrol, Inc.

certify the Settlement Class, approve the proposed Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval.

II. PRE-TRIAL PROCEEDINGS AND SETTLEMENT

A. Informal Discovery

Plaintiffs filed their initial Class Action Complaint on January 31, 2023, and a First Amended Complaint adding PAGA allegations on April 3, 2023, and the operative Second Amended Complaint on June 27, 2024. (Bartz Decl., ¶ 5, and Ex. C). Plaintiffs served initial set of Requests for Production of Documents and Special Interrogatories, but thereafter, the parties agreed to stay formal discovery, in order to pursue the possibility of early resolution. As such, the parties thereafter engaged in informal discovery to evaluate the class and PAGA claims. (Bartz Decl., ¶ 6).

To that end, Defendant produced thousands of pages of time and payroll records, based on a representative sampling for the class. (Bartz Decl., ¶ 7). Plaintiffs also hired experienced damages expert James Toney, to analyze the payroll and related wage data and create a damages model for the various claims alleged in the case. Based upon the analysis of the time records and payroll data, Mr. Toney and Class Counsel were able to calculate damage estimates on a class-wide basis. (Bartz Decl., ¶ 8). Class Counsel also extensively reviewed Defendant's financial statements, with the assistance of a licensed CPA, to evaluate Defendant's financial condition, based on Defendant's representations that its finances would be an impediment to settlement. (Bartz Decl., ¶¶ 10-12).

The parties did not attend Mediation in this matter until they had sufficient data and documents to evaluate the claims in the case. On May 29, 2024, the parties attended a full-day Mediation before experienced employment mediator Laurie Saldaña. (Bartz Decl., ¶ 9). At the end of full-day mediation, the parties were able to reach a settlement. The parties entered into a Long Form Settlement Agreement in September 2024. (Bartz Decl., Ex. A).

B. The Operative Settlement Terms And Plan of Allocation

The class members entitled to the settlement fund are all current and former non-exempt employees who worked for Defendant between January 31, 2019 and the date of preliminary approval. Based upon current estimates, there are approximately 785 class members. (Bartz Decl., ¶ 22).

The settlement fund is all in (except for the employer's share of payroll taxes, which Defendant shall pay in addition to the $500,000 settlement), there is no claim form requirement, and no residual will revert to Defendant. (Bartz Decl., ¶ 13). Defendant will pay the entirety of the settlement in four installments, with the first payment being made on March 18, 2025, with the remaining 3 payments made every nine months thereafter. In the event that any installment payment is missed, all payments are accelerated and due immediately (after a brief cure period). Defendants also must provide ongoing financial statements upon Plaintiffs' request throughout the period of time when the installment payments are made. Plaintiffs took into account Defendant's financial condition, and determined that there was a very real possibility that Defendant would have closed down and/or filed for bankruptcy if the settlement terms were more onerous or if Plaintiffs obtained a substantial verdict at trial. (Bartz Decl., ¶ 12).

As part of the settlement, Class members will be paid as long as they do not opt out of the settlement. (Bartz Decl., ¶ 13) If a Settlement Class Member opts out, their share of the Net Settlement Amount will be allocated to other members of the Settlement Class. (*Ibid*.) In the event a class member does not negotiate (cash) his or her settlement check, the claims administrator shall distribute the unclaimed funds to the California State Controller's Unclaimed Property Fund. (*Ibid*.)

The payment to the Settlement Class Members will be characterized eighty percent interest and penalties, and twenty percent wages. (Bartz Decl., ¶ 14). The class administrator will issue W-2 statements for the wage portion of the settlement, and a form 1099 for all amounts paid as penalties and interest. (*Ibid*.)

Based upon Class Counsel's independent analysis and investigation in this matter, the Settlement Class will be compensated based on each member's respective number of workweeks worked during the Class Period. (Bartz Decl., ¶ 15). Defendant estimates that the total number of workweeks was 40,000 through May 2024, and if the total number of workweeks exceeds 44,000, Defendant will pay additional amounts as part of the Gross Settlement Amount.[3] (*Ibid.*)

Based on the settlement terms, there will be an approximate net settlement fund of **$267,084**. (Bartz Decl., ¶ 16). After all payments are disbursed to the class members, the class will release Released Parties from any and all claims rights, demands, liabilities, and causes of action, whether statutory, in tort, contract, or otherwise, alleged in the Operative Complaint and/or LWDA Letter, or that could have been alleged based on the facts pleaded in the Operative Complaint and/or LWDA Letter, arising during the Class Period as set forth in the Settlement Agreement at Paragraph 5.3. The named Plaintiffs will, in addition to releasing claims alleged in the lawsuit, give a general release of all claims pursuant to Civil Code section 1542 as set forth in Section 5.1 and 5.2. (*Ibid.*)

The parties further agree to appoint an experienced settlement administrator, Phoenix Class Action Administration Solutions ("Phoenix") to prepare and send notice to the class, receive and process objections, and prepare and mail settlement checks to Settlement Class Members. (Bartz Decl., ¶ 17). The settlement administrator will conduct skip-tracing for any Settlement Class Member whose addresses cannot be found. (*Ibid.*)

The all-in settlement fund will also include all of the attorneys' fees and costs allowed by this Court. (Bartz Decl., ¶ 18). The attorneys' fees shall not exceed one-third of the $500,000 settlement fund, or $166,666. (*Ibid.*) Defendant will also pay class counsel's costs, not to exceed $15,000, as well as settlement administration costs not to exceed $21,250, out of the common fund. (*Ibid.*)

The PAGA allocation of the settlement is $10,000, of which $7,500 (75%) will be distributed to the Labor Workforce and Development Agency (LWDA), with the remaining portion - $2,500 (25%) - going to PAGA Members (all allegedly aggrieved persons who worked

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[3] Paragraph 9 of the Settlement Agreement contains an escalator clause.

for Defendant at any time from January 25, 2022 through the date of preliminary approval. (Bartz Decl., ¶ 19).

The settlement also includes Plaintiffs' class representative enhancements. Based on Plaintiffs' work in connection with this case, including connecting Class Counsel with other witnesses, meeting and conferring with Class Counsel regarding legal strategies, and assisting with developing the claims and theories in this case, and attending Mediation, Plaintiffs seek $22,500 (i.e. $7,500 for each named Plaintiff). (Bartz Decl., ¶ 20).

In summary, the settlement fund is allocated as follows:

(1) Net settlement fund: $267,084;

(2) Attorney's fees and costs: $166,666 in attorneys' fees and up to $15,000 in costs;

(3) Settlement administrator expenses not to exceed $21,500;

(4) PAGA payment to the LWDA: $7,500, and $2,500 for individual PAGA payments.

(5) Class representative enhancements totaling $22,500, or $7,500 for each named Plaintiff.

III. <u>THE SETTLEMENT IS FAIR AND REASONABLE BASED UPON OBJECTIVE EVIDENCE</u>

The settlement is fair, reasonable and adequate pursuant to *Kullar v. Footlocker Retail Inc.*, 168 Cal.App.4th 116, 118 (2008) and *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794 (1996), and as set forth in detail in the accompanying Declaration of Aaron Bartz submitted with this Motion. (Bartz Decl., ¶ 25(a)-(g)). Plaintiffs recognize the expense and length of continued proceedings necessary to continue the litigation against Defendant through trial and through any possible appeals. Plaintiffs have also taken into account the uncertainty and risk of denial of motion for class certification and the uncertain outcomes resulting from further litigation, and the difficulties and delays inherent in such litigation.

The settlement was reached after extensive factual and legal research and informal discovery for Plaintiffs and other class members. The Parties attended a full-day Mediation, and in preparation for that Mediation, Defendant provided extensive documentation and data related to the claims asserted in this case as well as the number of workweeks and pay periods, class size and other necessary information for Plaintiffs to create a damage exposure analysis. Plaintiffs hired an expert economist to prepare damage calculations and an exposure analysis for the mediation. (Bartz Decl., ¶ 8).

The settlement amount is, of course, a compromise figure. Plaintiffs took into account the risks that the class would be certified, strengths and weaknesses of Defendant's defenses, as well as Defendant's financial condition. (*See* Bartz Decl., ¶ 25(g)).

IV. CONDITIONAL CERTIFICATION OF THE CLASS

A. Class Certification Is Appropriate in this Case

The proposed settlement seeks conditional certification of the Class. The certification of the Class is essential to the settlement. California public policy favors the use of the class action device. *Richmond v. Dart Industries* (1981) 29 Cal.3d 462, 469. California Code of Civil Procedure §382 authorizes class suits in California when "the question is one of the common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the courts, one or more may sue or defend for the benefit of all." To obtain certification, a party must establish the existence of both an ascertainable class and a well-defined community of interest among class members. *Linder v. Thrifty Oil Co.* (2000) 23 Cal. 4th 429, 435. The "community of interest" requirement depends on three factors: (1) whether common issues of law or fact predominate; (2) whether the class representatives have claims that are typical of the class; and (3) whether the class representatives will adequately represent the class. *Richmond*, *supra*, 29 Cal.3d at 470. Because the policy of favoring use of class actions is so strong, any doubts as to the appropriateness of class treatment must be resolved in favor of certification, subject to later modification. *Richmond*, *supra*, 29 Cal.3d at 473-75. Except in extraordinary circumstances not present here, the trial court does not weigh the merits of the claims in ruling on a motion for class certification. *Linder*, *supra*, 23 Cal.4th at 443. The seminal California Supreme Court decision of *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326 has reemphasized the procedural nature of the certification motion.

B. The Proposed Class Is Ascertainable and Numerous

For a class to exist, the class description must be sufficiently definite so that it is administratively feasible for the court to determine whether a particular individual is a member of the proposed Class by reference to objective criteria. The class definition is sufficiently specific to enable potential Class Members, and the court, to readily determine the parameters of the class. *See Clothesrigger, Inc. v. GTE Corp.* (1987) 191 Cal.App.3d 605, 617.

Here, there are approximately 785 Class Members, all of whom have been identified by Defendant's employment and payroll records (*See* Bartz Decl., ¶ 22). This is sufficient to satisfy numerosity requirements. As a general matter, courts have found that numerosity is satisfied when class size exceeds 40 members, but not satisfied when membership dips below 21. See *Ansari v. New York Univ*., 179 F.R.D. 112, 114 (S.D.N.Y. 1998) (citing a thorough review of cases in 5 MOORE'S FEDERAL PRACTICE §23.22[3][a] (Matthew Bender 3d ed. 1999)). The Ninth Circuit has not offered a precise numerical standard; other District Courts have, however, enacted presumptions that the numerosity requirement is satisfied by a showing of 25-30 members. *See, e.g.*, *In re Kirschner Med. Corp. Sec. Litig.*, 139 F.R.D. 74, 78 (D. Md. 1991); *EEOC v. Printing Indus., Inc.*, 92 F.R.D. 51, 53 (D.D.C. 1981), *Slaven v. BP America, Inc.*, 190 F.R.D. 649, 654 (C.D. Cal. 2000).

C. Common Issues of Law or Fact Predominate

Common questions of law and fact predominate here, as the main issues involve the legality of Defendant's policies regarding the failure to pay all wages due, failure to provide all meal periods, the failure to provide all legally compliant off duty and uninterrupted paid rest periods, failure to timely furnish accurate itemized wage statements, and failure to timely pay all former employees all wages owed. Whether each member of the Class might be required to ultimately justify an individual claim does not preclude maintenance of a class action (see, e.g. *Collins v. Rocha* (1972) 7 Cal.3d 232, 238). Plaintiffs contend that these are all pay policy questions that are uniform and can be proven by common objective evidence. The evidence to support these claims consists of pay policies, payroll records, time records and pay stubs given to all Class Members. (*See* Bartz Decl., ¶ 23). In assessing whether common issues predominate over individual issues, it is not necessary that the Class Members' claims or their circumstances be identical. *L.A. Fire & Police Protective League* (1972) 23 Cal.App.3d 67, 74 (in an overtime action, the fact that there were 19 different subgroups of employees did not preclude finding that common issues predominated.) California law specifically authorizes class actions when a defendant's corporate policies result in injury to a group of plaintiffs. In *Stephens v. Montgomery Ward & Co., Inc.* (1987) 193 Cal.App.3d 411, 421, the court held that testimony from the class representative, coupled with proof of company-wide policies and practices, was sufficient to prove that common issues affecting the class of employees as a whole predominated over individual issues. *See Sav-On*, *supra*, 34 Cal.4th 319.

D. Plaintiffs' Claims Are Typical of the Class Claims

Typicality simply means that the representative's claims be similar to those of Class Members. The interests of the class representative need not be identical to those of other Class Members; the class representative must simply be similarly situated. *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1347; *Classen v. Weller* (1983) 145 Cal.App.3d 27, 46. Here, the class representatives worked as hourly, non-exempt security guards who worked during the Class Period and worked pursuant to Defendant's uniform pay, meal, and rest policies applicable to all hourly employees. (*See* Bartz Decl., ¶ 24).

E. Adequacy of Representation

Adequacy of representation depends on whether the class representatives and Plaintiffs' attorneys are qualified to conduct the proposed litigation and whether the representative Plaintiffs' interests are antagonistic to those of the Class. In this case, the representative Plaintiffs have the same injuries and damages similar to those of the Class they seek to represent. Plaintiffs have no claims that are antagonistic to the Class. Plaintiffs' counsel are also very experienced and qualified (*See* Bartz Decl., ¶¶ 26-30).

V. **THE CLASS ACTION SETTLEMENT MEETS THE REQUIREMENTS FOR PRELIMINARY APPROVAL**

When a proposed class action settlement is reached, the settlement must be submitted to the court for approval. H. Newberg & A. Conte, *Newberg on Class Actions* (3d ed. 1992) at § 11.41, p. 11-87. Review of a proposed class action settlement involves two hearings. First, the settlement must be preliminarily approved by the court. Second, a final settlement approval hearing is set, where evidence and argument are submitted concerning the fairness, adequacy, and reasonableness of the settlement, and class members may be heard regarding the settlement. *See* Manual for Complex Litigation, Fourth §§ 21.632-21.633 (2004).

The question presented on a motion for preliminary approval of a proposed class action settlement is whether the proposed settlement is "within the range of possible approval." *Manual for Complex Litigation*, Fourth, § 21.632 at 321; *Gautreaux v. Pierce*, 690 F.2d 616, 621 n.3 (7th Cir. 1982). Preliminary approval is merely the prerequisite to giving notice so that "the proposed settlement...may be submitted to members of the prospective Class for their acceptance or rejection." *Philadelphia Housing Authority v. American Radiator & Standard Sanitary Corp.* 323 F.Supp. 364, 372 (E.D. Pa. 1970). The court must determine whether the settlement is fair, adequate, and reasonable. *See Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996) *citing Officers for Justice v. Civil Service Com'n*, etc., 688 F.2d 615, 625 (9th Cir. 1982) and Fed. Rules Civ. Proc., Rule 23(e). There is an initial presumption of fairness when a proposed settlement, which was negotiated at arm's length by counsel for the Class, is presented for court approval. *Newberg, supra*, §11.41, p. 11-88. However, the ultimate question of whether the proposed settlement is fair, reasonable and adequate is made after notice of the settlement is given to the class members and a final settlement hearing is held by the court.

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

The approval of a proposed settlement of a class action suit is a matter within the broad discretion of the trial court. *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 234-235

(2001); *Dunk*, 48 Cal. App. 4th at 1801. Preliminary approval does not require the trial court to answer the ultimate question of whether a proposed settlement is fair, reasonable and adequate. That determination is made only after notice of the settlement has been given to the class members and after they have been given an opportunity to voice their views of the settlement or to be excluded from the settlement. *See, e.g.*, J. Moore, Moore's Federal Practice §§ 23.80-23.85 (2003). With regard to class action settlements, the opinions of counsel should be given considerable weight both because of counsel's familiarity with this litigation and previous experience with cases such as these. *See Officers for Justice, supra*, 688 F.2d at 625.

B. <u>Factors To Consider In Granting Preliminary Approval</u>

A number of factors are to be considered in evaluating a settlement for purposes of preliminary approval. No one factor should be determinative, but rather all factors should be considered. These criteria have been summarized as follows:

> If the proposed settlement is the product of serious, informed, noncollusive negotiations, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class, and falls within the range of possible approval, the court should direct notice to be given to the class members of a formal fairness hearing, at which evidence may be presented in support of and in opposition to the settlement.

Manual of Complex Litigation, Second §30.44, at 229 (1985). This settlement meets all of these criteria.

1. <u>The settlement is the product of serious, informed, and non-collusive negotiations</u>

This settlement is the result of arms-length and hard-fought negotiations. Defendant has denied and continues to deny all of the claims and contentions alleged in this case. Nonetheless, Defendant has agreed to settle this case in the manner and upon the terms and conditions set forth in the Settlement Agreement in order to avoid the expense, inconvenience, and burden of further legal proceedings, and the uncertainties of trial and appeals.

Plaintiffs and Class Counsel recognize the expense of continuing to litigate and trying this case against Defendant through possible appeals which could take several years. Class

Counsel are also mindful of and recognize the inherent problems of proof under, and alleged defenses to, the claims asserted in the case. Based upon their evaluation, Plaintiffs and Class Counsel have determined that the settlement set forth in the Settlement Agreement is in the best interest of the Class Members.

Here, the litigation has been adversarial and displayed capable and experienced advocacy on both sides. "There is likewise every reason to conclude that settlement negotiations were vigorously conducted at arm's length and without any suggestion of undue influence." *In re Wash. Public Power Supply System Sec. Litig*., 720 F. Supp. 1379, 1392 (D. AZ 1989).

2. <u>The settlement has no "obvious deficiencies" and falls within the range for approval</u>

The proposed settlement herein also has "no obvious deficiencies" and is well within the range of permissible compromise. This settlement, which represents approximately 43% of the reasonable settlement exposure faced by Defendant, is entitled to preliminary approval. *See, e.g., Glass v. UBS Fin. Servs.*, 2007 WL 221862, *4 (N.D. Cal. January 26, 2007) (approving settlement of unpaid overtime wages where the settlement amount constituted approximately 25 to 35% of the estimated actual loss to the class). Each Settlement Class Member will receive the same opportunity to participate in and receive payment. Clearly, the goal of this litigation, to seek redress for the Class, has been met.

Where both sides face significant uncertainty, the attendant risks favor settlement. *Hanlon v. Chrysler Com*., 150 F.3D 1011, 1026 (9th Cir. 1998). Here, Defendant's financial condition may precipitate a bankruptcy filing, even if Plaintiffs and the Class prevailed at trial. Notwithstanding the risk of continuing to litigate this case, after vigorous, arms-length negotiations that included an all day mediation, the parties reached a proposed settlement of $500,000, where each member of the Class will receive payment unless the class member opts out of the settlement.

3. No preferential treatment is given to the class representatives or other members of the class

All of the class members will share in the settlement according to the number of workweeks worked during their employment with Defendant. The compensation formula is objective, justified, and reasonable in this case, and does not improperly grant preferential treatment to any class member.

4. The parties engaged in adequate discovery prior to settlement

The agreement to settle did not occur until Class Counsel possessed sufficient information to make an informed judgment regarding the likelihood of success on the merits and the results that could be obtained through further litigation. Class Counsel obtained substantial informal discovery from Defendant, including personnel policies, and pay data for Plaintiffs, and pay and time records for the class.

Based on the foregoing data and their own independent investigation and evaluation, Class Counsel is of the opinion that the settlement with Defendant for the consideration and on the terms set forth in the Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the class in light of all known facts and circumstances, including the risk of significant delay, defenses asserted by Defendant, and Defendant's financial condition. Defendant and its counsel also agree that the settlement is fair and in the best interest of the Settlement Class Members. There can be no doubt that counsel for both parties possessed sufficient information to make an informed judgment regarding the likelihood of success on the merits and the results that could be obtained through further litigation.

5. The class representatives' service payments are reasonable

The Plaintiffs have spent numerous hours working with Class Counsel to uncover the alleged wage violations, reviewing payroll records, and being on-call for the mediation, to achieve the result herein. But for the class representatives, this settlement would not have been reached. The proposed class representative service award payments for Plaintiffs are intended to recognize their initiative, risk, and efforts on behalf of the Settlement Class. Courts routinely approve class representative service payments, also known as incentive awards, to compensate named plaintiffs for the services they provide and the risks they incur during class action litigation. *See In re Cellphone Fee Termination Cases*, 186 Cal. App. 4th 1380, 1393 (2010); *see also Bell v. Farmers Ins. Exch*., 115 Cal. App. 4th 715, 726 (2004) (upholding "service payments" to named plaintiffs for efforts in bringing the case); Manual for Complex Litigation, Fourth, § 21.62, fn. 971 (noting that such awards "may sometimes be warranted for time spent meeting with Class Members, monitoring cases, or responding to discovery").

6. Plaintiffs' counsel's attorney's fees and costs are reasonable

California courts have recognized that an appropriate method for determining an award of attorneys' fees is based on a percentage of the total value of benefits to class members by the settlement. *Serrano v. Priest* (1977) 20 Cal.3d 25, 34; *Vincent v. Hughes Air West, Inc.*, 557 F.2d 759, 769 (9th Cir. 1977). The purpose of this equitable doctrine is to avoid unjust enrichment of counsel and to "spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." *Vincent*, 557 F.2d at 769.

Class Counsel has extensive experience in employment litigation and has successfully handled wage and hour class actions. Class Counsel seeks up to 33.33% of the Settlement Amount for attorney's fees, and Class Counsel will submit detailed billing with the final approval motion.

Moreover, Class Counsel seeks costs not to exceed $15,000, plus class administrator expenses not to exceed $21,250, which Defendant has agreed to pay out of the settlement amount. All such costs, as well as the class administrator's expenses to oversee the class notice procedure and remit the settlement fund to the class, are reasonably necessary in prosecuting this action.

VI. THE PROPOSED CLASS NOTICE IS FAIR AND APPROPRIATE

The method and content of a Class Notice class members should be designed to fairly apprise them of the terms of the proposed settlement and options available to them. *See Philadelphia Housing Authority v. American Radiators& Standard Sanitary Corp.*, 323 F. Supp. 364, 378 (E.D. Pa. 1970). An appropriate notice is one which has a reasonable chance of reaching a substantial percentage of the class members. *See Cartt v. Superior Court*, 50 Cal. App. 3d 960, 974 (1975).

The proposed Notice of Class Settlement is fair and reasonable in this case. It describes the nature of the lawsuit, the Settlement Class, the settlement amount, the proposed plan of allocation of the settlement amount, and the attorneys' fees that Class Counsel may receive. The proposed notice also describes the Settlement Agreement in sufficient detail to allow the Settlement Class Members to make an informed choice to accept or reject it. The proposed Notice also contains information on opting out of the Class, objecting to the settlement, and sets forth the final approval hearing date and time.

Moreover, the parties propose that the Class Notice be mailed by the Settlement Administrator to all Class members at the last known address maintained by Defendant, and updated by the Settlement Administrator, if necessary, after accessing the National Change of Address database. In the event the Class Notice is returned as undeliverable, the Settlement Administrator will perform a skip-trace procedure, and if such procedure reveals a new address, the Settlement Administrator will re-mail the Notice within five business days.

In summary, the proposed notice here describes the proposed settlement with enough specificity to permit class members to make an informed decision whether to participate in the settlement.

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VII. CONCLUSION

Based on the foregoing, Plaintiffs respectfully request that this Court preliminarily approve the Settlement, approve the Class Notice, and set the date and time for the Final Approval Hearing.

Dated: November 11, 2024

BARTZ LAW GROUP, APC

//Aaron Bartz//
Aaron A. Bartz
Attorneys for Plaintiffs ALIXUS CORTEZ, KIARA THIBODEAUX, and ASHLEY MENDEZ, and all others similarly situated