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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

ERNEST RABELAS, on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

ARAM LOGISTICS, INC., a California
corporation; and DOES 1 through 100, inclusive,

Defendants.

Case No.: 37-2023-00003165-CU-OE-CTL

CLASS ACTION

*[Assigned for all purposes to Hon.
Gregory W. Pollack, Dept. C-71]*

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: December 22, 2023

Time: 9:30 a.m.

Dept.: C-71

Action Filed: January 24, 2023

Trial Date: None Set

PLEASE TAKE NOTICE that pursuant to Rule 3.769 of the California Rules of Court, on December 22, 2023 at 9:30 a.m., or as soon thereafter as the matter may be heard in Department C-71 of the above-entitled Court, located at 330 W. Broadway, San Diego, California 92101, Plaintiff Ernest Rabelas ("Plaintiff") will, and hereby does, move this Court for:

1. Preliminary approval of the proposed Settlement Agreement ("Settlement") between Plaintiff and Defendant Aram Logistics, Inc. ("ALI" or "Defendant");

2. Pursuant to Section 382 of the California Code of Civil Procedure, provisional certification, for settlement purposes only, of the following Settlement Class:

All current and former employees who worked for ALI in California at any time from January 24, 2022 through August 4, 2023 (the "Class Period").

3. Preliminary appointment of Plaintiff as Class Representative;

4. Preliminary appointment of Abramson Labor Group as Class Counsel;

5. Appointment of ILYM Group, Inc. as the Settlement Administrator;

6. Approval of the proposed Class Notice and Notice of Estimated Settlement Award (together, the "Notice Packet"), and an order that the Notice Packet be disseminated to the Settlement Class as provided in the Settlement; and

7. The scheduling of a hearing to consider whether the Settlement should be finally approved and to award a Class Representative Service Payment to Plaintiff, PAGA payment to the LWDA, and attorneys' fees and costs to Class Counsel.

This motion is based on this notice of motion; the attached memorandum of points and authorities; the declaration of Tuvia Korobkin and exhibits attached thereto; the declaration of Kimberly Sutherland and exhibits attached thereto; the declaration of Plaintiff; the pleadings and other papers filed in this action; and any further oral or documentary evidence or argument presented at the time of hearing.

Dated: November 28, 2023

Respectfully Submitted,
ABRAMSON LABOR GROUP


Tuvia Korobkin
Attorneys for Plaintiff

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Ernest Rabelas (“Plaintiff”) seeks preliminary approval of a class action
4 settlement agreement (“Settlement”) with Defendant Aram Logistics, Inc. (“ALI” or
5 “Defendant”) (together with Plaintiff, the “Parties”). The Settlement resolves a class and
6 representative action pending before this Court (the “Action”), in which Plaintiff alleges that ALI
7 failed to include its full address on employee wage statements, and that ALI is liable for civil
8 penalties under the Private Attorneys General Act (“PAGA”) for a failure to pay wages timely
9 pursuant to Labor Code §§ 204 and 204b.

10 Plaintiff now respectfully requests that this Court preliminarily approve this non-
11 reversionary, common-fund class action Settlement,¹ in which ALI has agreed to pay \$120,000.00
12 to the following Settlement Class, which is estimated to consist of 32 individuals:

13 All current and former employees who worked for ELI in California at any time
14 from January 22, 2022 through August 4, 2023 (the “Class Period”).

15 The Settlement was reached after the parties engaged in a mediation with Hon. Steven R.
16 Denton (Ret.), an experienced class action mediator. Prior to mediation, ALI provided Plaintiff’s
17 counsel with informal discovery that included a class list with each pay period and pay date for
18 each employee, as well as sample wage statements and sample arbitration agreements that had
19 been entered into by a number of putative class members. In addition, prior to the Parties’
20 mediation, ALI had submitted a cure notice to the LWDA regarding the alleged wage statement
21 violation, and the LWDA determined that ALI had cured the alleged wage statement violation by
22 amending its wage statements to include ALI’s full address and distributing amended wage
23 statements to all affected employees, pursuant to Labor Code §§ 2699(d) and 2699.3(c)(2)(A).

24 After extensive research and investigation, including an analysis of ALI’s potential
25 exposure, the mediation session was held with Judge Denton on July 31, 2023. At the conclusion
26 of the mediation, the Parties agreed to a mediator’s proposal to resolve the Action. Over the
27 following months, the Parties negotiated the finer terms of the settlement, ultimately resulting in
28 the Settlement.

¹ The Settlement is attached as Exhibit 1 to the Korobkin Declaration. The Class Notice and Notice of Estimated Settlement Award are attached as Exhibits A and B, respectively, to the Settlement.

Notably, Settlement Class members need not submit a claim to receive a payment (“Settlement Award”). After deductions for proposed administration costs, attorney fees and costs, Plaintiff’s incentive award, and the LWDA’s share of PAGA civil penalties, the average Settlement Award is estimated to be at least \$1,187.50. For the reasons discussed herein, Plaintiff respectfully requests that the Court grant preliminary approval of the Settlement.

II. SUMMARY OF THE LITIGATION

A. FACTUAL AND PROCEDURAL BACKGROUND

ALI is a third-party consulting and logistics service provider, with operations in Chula Vista and other cities in California. *See* Declaration of Tuvia Korobkin (“Korobkin Decl.”), ¶ 9. Plaintiff is a former Assistant Operations Manager who worked for ALI from approximately June 2020 to October 2022. *Id.*

On January 24, 2023, Plaintiff filed this Action, alleging that ALI failed to include its complete address on employee wage statements. Korobkin Decl., ¶ 10. Plaintiff also submitted a notice letter to the Labor & Workforce Development Agency (“LWDA”), alleging that ALI failed to timely pay its employees. *Id.* ALI subsequently submitted a cure letter, advising that, *inter alia*, it had amended its wage statements to include its full address and had provided amended wage statements to all affected employees. *Id.*, ¶ 11. Plaintiff submitted a cure dispute, and after reviewing the evidence and submissions from both Parties, the LWDA concluded that ALI had cured the alleged wage statement violations. *Id.*, Exh. 4 (LWDA decision on cure dispute).

On April 3, 2023, Plaintiff filed a First Amended Complaint that alleged a class action claim for the alleged wage statement violations and a claim for PAGA civil penalties for alleged failure to timely pay wages pursuant to Labor Code §§ 204 and 204b. *Id.*, ¶ 12.

B. PLAINTIFF’S CLAIMS AND ALI’S DEFENSES

1. Claim for Failure to Include Full Address on Wage Statements

Plaintiff alleges that ALI failed to include its full address on employee wage statements, in that it wrote “Aram Logistics – Chula Vista CA 91911” on employee wage statements but did not include ALI’s street address, in violation of Labor Code § 226(a)(8). Korobkin Decl., ¶ 13.

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ALI contends that this was the result of a payroll error that occurred when it switched to a different payroll provider in 2022. Korobkin Decl., ¶ 13. Indeed, ALI provided evidence that its paystubs prior to 2022 included its full address. *Id.* Thus, ALI contends, any failure to include its full address was not the result of a “knowing and intentional” act by ALI, as required to establish liability for penalties under Labor Code § 226(e). Further, ALI contends, neither Plaintiff nor any other employee suffered any actual “injury” as a result of this alleged failure, as there is no allegation that any employees were underpaid or otherwise injured as a result of the alleged violation. *Id.* In fact, ALI “cured” this violation after becoming aware of it, as confirmed by the LWDA. *Id.*, Exh. 4. Thus, ALI contends, the Court would likely not find it liable for any penalties under Labor Code § 226(e), or would alternatively severely reduce any awarded penalties. *Id.*, ¶ 13. Finally, ALI produced an arbitration agreement that it asserted was signed by approximately two-thirds of the putative class, and argued that Plaintiff would not be able to certify a class – or would only certify a much smaller class – in light of these agreements. *Id.*

2. Claim for Failure to Timely Pay Wages

Plaintiff next alleges that ALI failed to timely pay employee wages, as it paid employees weekly but paid them 10 days after the end of the pay period. Korobkin Decl., ¶ 14.

ALI contends that it has always paid employees timely, as it pays them weekly “on a regular day designated by the employer in advance of the rendition of services as the regular payday” (see Labor Code § 204b), and that Labor Code § 204 therefore does not apply. ALI further contends that even if the Court were to find ALI in violation of the payment timing requirements, only PAGA penalties are available for such violations, and the Court would utilize its discretion under the PAGA to reduce penalties drastically. Korobkin Decl., ¶ 14. This is particularly true, ALI argues, in light of ALI’s good-faith attempts to comply with the law and given that no employees were underpaid as a result of the alleged violation. *Id.*; *see also* Lab. Code § 2699(e)(2) (authorizing reduction in PAGA penalties in court’s discretion); *Thurman v. Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, 1135 (2012) (affirming reduction of PAGA penalties because, *inter alia*, “the evidence showed... defendants took their obligations...seriously and attempted to comply with the law”); *Fleming v. Covidien, Inc.*, No.

ED-CV-10-1487-RGK (OPx), 2011 WL 7563047 at *4 (C.D. Cal. 2011) (reducing PAGA penalties by over 82% in part because employer was “not aware” of violations); *Carrington v. Starbucks Corp.*, 30 Cal.App.5th 504, 529 (2018) (affirming PAGA penalty of just \$5 per pay period where employer made “good faith attempts” to comply with the law).

C. DISCOVERY AND MEDIATION

In advance of mediation, ALI produced a class list with the pay periods and pay dates applicable to each putative class member. Korobkin Decl., ¶ 15. It also produced sample wage statements in connection with its PAGA cure dispute, which demonstrated that employee wage statements contained ALI’s full address since ALI received Plaintiff’s PAGA notice letter in or about late January 2023. *Id.* ALI also produced a sample of the arbitration agreement that it contends was signed by approximately two-thirds of the putative class members. *Id.*

The Parties attended a mediation with Judge Denton on July 31, 2023, at which they vigorously debated Plaintiff’s claims and ALI’s defenses, the potential value of Plaintiff’s claims, and the chances of certification. Korobkin Decl., ¶ 16. At the conclusion of the mediation session, the Parties agreed to accept a mediator’s proposal. *Id.* Over the following months, the Parties negotiated the finer terms of the settlement, ultimately resulting in the Settlement. *Id.*

III. THE PROPOSED SETTLEMENT

A. ESSENTIAL TERMS OF THE SETTLEMENT

Under the Settlement, WLI will pay a non-reversionary Gross Settlement Amount (“GSA”) of \$120,000.00. The monetary terms of the Settlement are summarized below:

• Gross Settlement Amount (“GSA”):	\$120,000.00
• Minus Court-approved attorneys’ fees (one-third):	\$40,000.00
• Minus Court-approved costs (up to):	\$7,500.00
• Minus Court-approved Service Payment:	\$7,500.00
• Minus Amount Set Aside as PAGA penalties:	\$30,000.00
• <u>Minus estimated settlement administration costs:</u>	<u>\$4,500.00</u>
Net Settlement Amount (“NSA”):	\$30,500.00
PLUS 25% of PAGA penalties (“PAGA Amount”):	\$7,500.00
Total Amount Paid to Settlement Class:	\$38,000.00

1. The Settlement Provides for Reasonable Monetary Payments

As illustrated above, after deducting amounts for a court-approved incentive award, administration costs, attorneys’ fees and costs, and PAGA payment to the LWDA, ALI will pay

1 at least \$38,000.00 to Settlement Class members. *See* Settlement, § 4(C). ALI represents that there
2 are approximately 32 Settlement Class members. *Id.*, § 1. Thus, **the average Settlement Award**
3 **is estimated to be \$1,187.50**. Korobkin Decl., ¶ 18.

4 The NSA shall be distributed to Participating Class Members (i.e., those Settlement Class
5 members who do not opt out of the Settlement) proportionately, based on each Participating Class
6 Member's number of workweeks worked for ALI during the Class Period. *See* Settlement, § 5(B).
7 In addition, all Settlement Class members (regardless whether they opt out) will receive a portion
8 of the \$7,500.00 PAGA Amount, based on their proportionate number of pay periods worked
9 during the Class Period. *See* Settlement, § 5(C).

10 Settlement payments will be treated as penalties and reported on a Form 1099, as all of the
11 alleged damages in this case are either PAGA civil penalties or statutory penalties pursuant to
12 Labor Code § 226(e). *See* Settlement, § 5(E). Settlement Class members will have 60 days from
13 the Notice mailing to opt out of or object to the Settlement, or submit disputes, thereby providing
14 ample time to review the Notice without unduly delaying the Settlement. *See id.*, § 10(C)-(E).

15 Participating Class Members shall release all wage and hour claims that were pled in the
16 Action, or that could have been pled based on the facts alleged in the Action, during the Class
17 Period, including all claims for failure to issue inaccurate wage statements under Labor Code §
18 226 ("California Released Claims"). *See* Settlement, § 2. In addition, all Settlement Class
19 members (regardless whether they opt out) will release all claims against ALI for PAGA penalties
20 based on the facts alleged in the Action, the PAGA notice letter, or the parties' PAGA cure dispute,
21 that arose during the PAGA Period, including any claims for failure to timely pay wages pursuant
22 to Labor Code §§ 204 or 204b ("PAGA Released Claims"). *Id.*

23 **2. Attorneys' Fees and Costs, Enhancement Award, and PAGA Payment**

24 At final approval, Plaintiff will apply for a Class Representative Enhancement Award in
25 the amount of \$7,500. *See* Settlement, § 4(C)(iii). "[I]ncentive awards are fairly typical in class
26 action cases...and are intended to compensate class representatives for work done on behalf of
27 the class [and] to make up for financial or reputational risk undertaken in bringing the action." *In*
28 *re Cellphone Fee Termination Cases*, 186 Cal.App.4th 1380, 1393-94 (2010). As will be fully

1 briefed at final approval, Plaintiff's requested payment is in recognition of the time and effort he
2 expended on behalf of the Settlement Class, including providing factual information and
3 documents to counsel, discussing with counsel the claims and theories at issue in the litigation,
4 reviewing the settlement agreement, and otherwise actively participating in the prosecution of
5 this case. Korobkin Decl., ¶ 24. Plaintiff respectfully submits that the requested payment is well
6 within the range of permissible approval. *See, e.g., Alvarado v. Nederend*, No. 1:08-cv-01099-
7 OWW-DLB, 2011 WL 1883188 at *10 (E.D. Cal. May 17, 2011) (approving \$7,500 award to
8 each of five named plaintiffs from \$505,058.60 settlement).

9 The parties have also designated \$30,000 of the GSA as PAGA penalties, of which
10 \$22,500 (75%) will be paid to the LWDA, with the remaining \$7,500 (25%) distributed to
11 Settlement Class members (*see* Settlement, § 4(C)(v)), consistent with the requirements of Labor
12 Code § 2699(i)). Plaintiff submits this allocation to the LWDA is appropriate and reasonable as
13 a percentage of the overall settlement. *See, e.g., Chu v. Wells Fargo Inv., LLC*, No. C-05-4526-
14 MHP, 2011 WL 672645 at *1 (N.D. Cal. Feb. 16, 2011) (approving PAGA payment of \$7,500 to
15 LWDA from \$6.9 million settlement).

16 At final approval, Plaintiff's counsel will request attorneys' fees of one-third of the GSA
17 (currently estimated at \$40,000), and up to \$7,500 in litigation costs. *See* Settlement, § 4(C)(iv).
18 The requested fee is fair compensation for undertaking complex, risky, expensive, and time-
19 consuming litigation on a contingent basis. Plaintiff's counsel have incurred substantial attorneys'
20 fees conducting pre-filing investigation and legal research; analyzing timekeeping, payroll, and
21 other data with Plaintiff's data expert to create a comprehensive damages model; preparing for
22 and attending mediation; negotiating and preparing the Settlement; preparing this Motion; and
23 otherwise prosecuting this case. Korobkin Decl., ¶ 23. Counsel will also incur future attorney fees
24 in overseeing the Notice process, fielding phone calls from Settlement Class members, preparing
25 the Final Approval Motion, and appearing at the Final Approval Hearing. *Id.*

26 It is appropriate to award attorneys' fees as a percentage of the "common fund" created
27 by the settlement. *Laffitte v. Robert Half Int'l, Inc.*, 1 Cal.5th 480 (2016) (holding "the percentage
28 of fund method survives in California class action cases"). Counsel's fee request is well within

the range of reasonableness and is typical for common fund settlements. *See, e.g., Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, n.11 (2008) (“regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery”). As will be briefed at final approval, the fee request is reasonable in light of the risks and the work undertaken, the results obtained, and the efficiency with which counsel conducted the litigation.

IV. ARGUMENT

A. PRELIMINARY APPROVAL IS WARRANTED

California Rule of Court 3.769 conditions class action settlements on court approval, which is generally evaluated under the same standards as Fed. R. Civ. Proc. 23. *See Reed v. United Teachers Los Angeles*, 208 Cal.App.4th 322, 337 (2012) (Rule 3.769 requires court to determine “that the settlement is fair, reasonable and adequate to all concerned”); *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998) (Rule 23(e) requires court to determine “whether a proposed settlement is fundamentally fair, adequate, and reasonable”). Settlement is the preferred means of dispute resolution, particularly in complex class action litigation. *See In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101 (9th Cir. 2008). The Court’s role is to ensure the settlement agreement taken as a whole is fair and within the range of reasonableness. *Hanlon*, 150 F.3d at 1027. There is a presumption of fairness when a settlement is negotiated at arm’s length by counsel. *See, e.g., Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 130 (2008).

1. Standard for Preliminary Approval

To make a fairness determination, the Court should consider several factors, including: “the strength of Plaintiff’s case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, [and] the experience and views of counsel.” *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996). “The list of factors is not exclusive and the Court is free to engage in a balancing and weighing of the factors depending on the circumstances of each case.” *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 245 (2001). As discussed below, the proposed Settlement is fair, adequate, and reasonable in light of the overall balance of factors in this case.

1 **a. The Strength of Plaintiff's Case**

2 Although he maintains his claims are meritorious, Plaintiff acknowledges there were
3 substantial risks and uncertainty in proceeding with class certification and eventual trial on the
4 merits. As described in section II.B., *supra*, ALI presented multiple defenses to Plaintiff's claims,
5 both on the merits and to class certification, rendering success far from certain.

6 **b. Risk, Expense, Complexity, and Duration of Further Litigation**

7 Although the Parties engaged in significant informal discovery, they had not completed
8 formal written and deposition discovery, which would have required expenditure of substantial
9 time and resources. Korobkin Decl., ¶ 25. Plaintiff also still had to file for class certification. *Id.*
10 Even if Plaintiff obtained certification, the Parties would incur considerable attorneys' fees and
11 costs through a possible decertification motion, motions for summary judgment, trial, and
12 potential appeals. *Id.* The Settlement avoids those risks and the accompanying expense. *Id.* Thus,
13 this factor supports preliminary approval.

14 **c. Risk of Maintaining Class Action Status**

15 Plaintiff had not yet filed his class certification motion, and as such, the extent to which
16 Plaintiff's proposed classes were certifiable is somewhat speculative. Absent settlement, there
17 was a risk there would not be a certified class at trial, or if there were, that it would consist of a
18 significantly smaller group of employees than the proposed Settlement Class (due to, *inter alia*,
19 the arbitration agreements mentioned above), and the expected recovery would be significantly
20 reduced. Thus, this factor supports preliminary approval.

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

22 The Settlement provides a fair and reasonable monetary recovery for the Settlement Class
23 for disputed claims. As detailed in the concurrently-filed Korobkin Declaration, Plaintiff
24 conducted an analysis of potential damages due to ALI's allegedly unlawful policies and
25 practices. After applying reasonable discounts for risks of not obtaining class certification and
26 risks of losing on the merits, Plaintiff estimated his claims had a realistic potential value of
27 approximately \$141,913. Korobkin Decl., ¶¶ 20-22. The proposed settlement of \$120,000.00
28 therefore represents about 85% of Plaintiff's reasonably forecasted classwide recovery. *Id.* As

1 noted above, Settlement payments are projected to average nearly \$1,200. Preliminary approval
2 is appropriate as the Settlement will provide significant monetary relief to the Settlement Class.

3 **e. The Experience and Views of Counsel**

4 “Parties represented by competent counsel are better positioned than courts to produce a
5 settlement that fairly reflects each party’s expected outcome in litigation.” *In re Pac. Enter.*
6 *Securities Litig.*, 47 F.3d 373, 378 (9th Cir. 1995). Here, Plaintiff’s counsel have extensive
7 experience litigating wage and hour class actions, and have been appointed class counsel in
8 numerous cases alleging similar claims. *See* Korobkin Decl., ¶¶ 2-7. Counsel conducted an in-
9 depth review of ALI’s payroll practices, payroll records, and other relevant data, and drew on
10 their extensive experience to assess Plaintiff’s claims. Korobkin Decl., ¶¶ 8, 13-16, 20-21. The
11 Settlement was also reached after a mediation session with Judge Denton, an experienced and
12 well-respected wage and hour class action mediator who is a former judge in this Court. *Id.*, ¶ 16.
13 This strongly supports preliminary approval. *Kullar*, 168 Cal.App.4th at 130.

14 **2. The Preliminary Approval Standard Is Met**

15 The Court can grant preliminary approval of a proposed settlement and direct that notice
16 be given if the settlement: (1) falls within the range of possible approval; (2) appears to be the
17 product of serious, informed negotiations; and (3) has no obvious deficiencies. *See Manual for*
18 *Complex Litig.*, § 30.41 (3rd Ed. 1995); *Newberg on Class Actions*, §§ 11:24-25 (4th Ed. 2013).

19 **a. The Settlement Is Within the Range of Possible Approval**

20 As noted, the Settlement reflects about 85% of the realistic estimated recovery on
21 Plaintiff’s claims, and will provide tangible, monetary compensation for hotly disputed wage
22 claims. Accordingly, Plaintiff submits the Settlement is within the range of possible approval.

23 **b. The Settlement Resulted from Serious, Informed Negotiations**

24 The Settlement resulted from an exchange of substantial information, arm’s-length
25 negotiations, mediation with an experienced mediator, and months of additional negotiations.
26 Plaintiff carefully vetted the claims at issue and conducted a detailed analysis of the relevant data
27 and information. Korobkin Decl., ¶¶ 20-22. The Settlement is thus entitled to a presumption of
28 fairness. *Kullar*, 168 Cal.App.4th at 130.

1 **c. The Settlement Is Devoid of Obvious Deficiencies**

2 The Settlement provides tangible monetary relief to the Settlement Class, and the amounts
3 proposed for attorneys’ fees, costs, Plaintiff’s incentive award, and PAGA penalties are all
4 reasonable and appropriate based on the facts of this case. Because the Settlement is devoid of
5 obvious deficiencies, this supports preliminary approval.

6 **B. THE COURT SHOULD CERTIFY THE PROPOSED CLASS**

7 The proposed Settlement Class satisfies the criteria for certification because: 1) the
8 Settlement Class is ascertainable and numerous; 2) common questions of law and fact
9 predominate; 3) Plaintiff’s claims are typical of the Settlement Class; and 4) Plaintiff and his
10 counsel will fairly and adequately represent the Settlement Class. Cal. Code Civ. Proc. § 382.

11 **1. The Proposed Class Is Ascertainable and Numerous**

12 A class is “ascertainable” where members “may be readily identified without unreason-
13 able expense or time by reference to official [or business] records.” *Sevidal v. Target Corp.*, 189
14 Cal.App.4th 905, 919 (2010). The Settlement Class includes employees who worked for ALI in
15 California during the Class Period, and thus can be readily identified from ALI’s records. ALI
16 represents there are about 32 Settlement Class members, rendering it impracticable to bring them
17 all before the Court. Numerosity is satisfied. *See, e.g., Rose v. City of Hayward*, 126 Cal.App.3d
18 926, 934 (1981) (recognizing that “our Supreme Court has upheld a class” with just 10 members).

19 **2. Common Issues of Law and Fact Predominate**

20 The focus on certification is not on the merits of the case, but rather on what types of
21 questions, “common or individual,” are likely to arise in the action. *Sav-On Drug Store, Inc. v.*
22 *Sup. Ct.*, 34 Cal.4th 319, 327 (2004). Plaintiff’s class claim is predicated on ALI’s allegedly
23 unlawful failure to include its full address on employee wage statements, a theory that applies
24 equally to all employees and thus is proper for class certification.

25 **3. The Named Plaintiff’s Claims Are Typical**

26 The typicality requirement is satisfied where class representatives have claims that are
27 typical of the class. *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.*, 191 Cal.App.3d 1341, 1347
28 (1987). Here, Plaintiff’s claims are typical of those held by Settlement Class members. Plaintiff

1 was employed by ALI in California during the Class Period, and was injured by the same
2 challenged policies that allegedly injured the Settlement Class as a whole. *See* Declaration of
3 Ernest Rabelas, ¶¶ 2-3. Thus, typicality is satisfied.

4 **4. Plaintiff and Class Counsel Will Adequately Represent the Class**

5 The adequacy requirement examines conflicts of interest between named parties and the
6 class(es) they seek to represent. *Capital People First v. State Dept. of Developmental Svcs.*, 155
7 Cal.App.4th 676, 697 (2007). Plaintiff and his counsel will adequately represent the Settlement
8 Class, as there are no known conflicts between Plaintiff or his counsel and the Settlement Class.
9 *See McGhee v. Bank of Am.*, 60 Cal.App.3d 442, 450 (1976) (finding adequacy satisfied where
10 there was no indication that plaintiff’s counsel was not qualified and the named plaintiff had no
11 interests antagonistic to those of the proposed class). Class Counsel also have extensive
12 experience in wage and hour class action litigation, as noted above.

13 **C. THE COURT SHOULD ORDER DISTRIBUTION OF THE NOTICE**

14 The Court should order distribution of the proposed Notice by U.S. Mail, using last known
15 mailing addresses provided by ALI. *See* Settlement, § 11. This is the “best notice practicable”
16 under the circumstances, as it provides “individual notice to all members who can be identified
17 through reasonable effort.” *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 173 (1974). Plaintiff
18 proposes the Settlement be administered by ILYM Group, Inc., an experienced class action
19 settlement administrator. *See* Kimberly Sutherland Declaration and exhibits. Settlement Class
20 members’ addresses will be ascertainable through ALI’s records. ILYM will also run all addresses
21 through the U.S. Postal Service National Change of Address database and/or perform “skip
22 traces” to obtain current addresses. *See* Settlement, § 10(B) & (F).

23 The proposed Notice satisfies Cal. Rule of Court 3.766(d) because it advises Settlement
24 Class members of the nature of the claims; the basic contentions of the parties; the key terms of
25 the Settlement; the 60-day deadline to opt out, object, or submit a dispute and how to do so;
26 explains the recovery formula and expected recovery amount for each Settlement Class member;
27 and explains the releases of claims included in the Settlement. *See* Korobkin Decl., Exh. A to Exh.
28 1. The proposed Notice also includes the final approval hearing date and time, and it provides

1 contact information for Class Counsel and ILYM in the event Settlement Class members have
2 any questions about the Settlement. *Id.* This Notice satisfies Cal. Rule of Court 3.766(e) as the
3 most reliable and cost-effective method of reaching the Settlement Class.

4 **D. THE COURT SHOULD SET A FINAL APPROVAL HEARING**

5 Finally, the Court should set a hearing for final approval on a date appropriately scheduled
6 to follow Settlement Class members' response deadline. *See* Cal. Rule of Court 3.769.

7 **V. CONCLUSION**

8 For the foregoing reasons, Plaintiff respectfully requests that the Court preliminarily
9 approve the proposed Settlement, provisionally certify the Settlement Class, and enter the
10 Proposed Order submitted concurrently herewith.

11
12 Dated: November 28, 2023

Respectfully submitted,
ABRAMSON LABOR GROUP

13
14 By:


Tuvia Korobkin
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