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

ADRIANA CRUZ, an individual, on behalf
of herself and on behalf of all persons
similarly situated,

Plaintiff,

vs.

NIKE RETAIL SERVICES, INC., a
Corporation; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO.: **37-2023-00012353-CU-OE-CTL**

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

Hearing Date: July 24, 2026
Hearing Time: 10:30 a.m.

Judge: Hon. Carolyn M. Caietti
Dept.: 70

Date Action Filed: March 24, 2023
Trial Date: Not set

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administration of the settlement, (b) Class Counsel's attorneys' fees and costs requests, (c) Class Representative Service Payment, and (d) the PAGA Penalties to the LWDA and to Aggrieved Employees. (Agreement at ¶ 1.22.) Decl. Nordrehaug at ¶3. The following is a table of the key Settlement terms and the proposed deductions:

\$1,350,000 (Gross Settlement Amount)

- \$15,000 (Plaintiff's proposed service award - not to exceed amount)
- \$135,000 (Class Counsel Litigation Expenses Payment - not to exceed amount)
- \$450,000 (Class Counsel Fees Payment - not to exceed 1/3 of settlement)
- \$30,000 (PAGA Payment - 65% to LWDA / 35% to Aggrieved Employees)
- \$66,000 (Administration Expenses Payment - not to exceed amount)

\$654,000 (Net Settlement Amount)

Based upon 10,010 Class Members who worked an estimated 823,094 work weeks (Agreement at ¶ 4.1), the Gross Settlement Amount provides an average value of \$134 per Class Member and \$1.64 per workweek and after deductions the Net Settlement Amount provides an average recovery of \$65.33 per Class Member and a recovery of \$0.79 per workweek. Decl. Nordrehaug at ¶6.

On April 10, 2025, the Parties participated in an all-day mediation with Steve Cerveris, a respected and experienced mediator of wage and hour class and representative actions. The Parties did not settle the matter at mediation. Subsequently to the mediation, the Parties agreed on the basic terms of a settlement pursuant to a mediator's proposal, memorialized in the form of a Memorandum of Understanding. Decl. Nordrehaug at ¶5. The Settlement is fair, reasonable and adequate, and should be preliminarily approved, because there is a fair monetary payment, and there are significant litigation risks. Plaintiff respectfully requests that this Court grant preliminary approval of the Agreement and enter the proposed order submitted herewith.

II. DESCRIPTION OF THE SETTLEMENT

The Gross Settlement Amount is One Million Three Hundred Fifty Thousand Dollars (\$1,350,000). (Agreement at ¶ 1.22.) Under the Settlement, the Gross Settlement Amount consists of the following 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, which is to be allocated 25% to the Aggrieved Employees and 75% to the LWDA. (Agreement at ¶ 1.22.) The Gross Settlement Amount does not include Defendant's

1 share of employer-side payroll taxes which will be paid separately and not out of the Gross Settlement
2 Amount. (Agreement at ¶ 3.1.) The Gross Settlement Amount shall not revert to Defendant.
3 (Agreement at ¶ 3.1.) Decl. Nordrehaug at ¶15.

4 The Agreement contains appropriate terms which have been previously approved by this Court
5 and Courts throughout California. (See Agreement at ¶¶ 1.28, 3.2, 4.3, 5.1, 6.2.) The proposed Class
6 Notice also provides the required protections for the Class to opt out, object or dispute their weeks
7 worked. (See Agreement at ¶¶ 8.5, 8.6, 8.7, and Exhibit A.) The additional details of the Settlement
8 are addressed in the Decl. Nordrehaug at ¶¶ 16-22. As set forth in the accompanying proof of service,
9 the LWDA has been served with this motion and the Agreement.

10 **III. CASE BACKGROUND**

11 The description of the case and claims, along with the procedural history is set forth in the
12 Declaration of Kyle Nordrehaug at ¶¶ 7-14. The Parties engaged in thorough investigation and the
13 exchange of documents and information in connection with the Action for more than three years which
14 permitted Class Counsel to perform a thorough analysis of the claims. Decl. Nordrehaug, ¶¶ 10, 14.
15 The Parties participated in a mediation on April 10, 2025 with Steve Cerveris, which after arms' length
16 negotiations during and after the mediation, resulted in this Settlement. Decl. Nordrehaug, ¶12.

17 **IV. THE SETTLEMENT MEETS THE CRITERIA NECESSARY FOR THIS COURT TO 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
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1 members may be heard regarding the settlement. *See Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794,
2 1801 (1996); *Manual for Complex Litigation, Second* §30.44 (1993); Cal. Rules of Court, rule 3.769.

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

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

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

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 *Justice*, 688 F.2d at 624. Thus, when analyzing the settlement, the amount is “not to be judged against
2 a hypothetical or speculative measure of what might have been achieved by the negotiators.” *Officers*
3 *for Justice*, 688 F.2d at 625, 628.

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

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

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

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

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

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

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

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

28 Here, there can be no dispute that the litigation has been hard-fought with aggressive and

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

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

7 The proposed Settlement herein has no “obvious deficiencies” and is well within the range of
8 possible approval. All Class Members will receive an opportunity to participate in the Settlement and
9 receive payment according to the same formula. (Agreement at ¶ 3.2(e).) Based upon 10,010 Class
10 Members who worked an estimated 823,094 work weeks (Agreement at ¶ 4.1), the Gross Settlement
11 Amount provides an average value of \$134 per Class Member and \$1.64 per workweek and after
12 deductions the Net Settlement Amount provides an average recovery of \$65.33 per Class Member and
13 a recovery of \$0.79 per workweek. 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 this expert to analyze the data and determine the potential unpaid
17 wages for the employees. The maximum potential damages were calculated to be \$2,407,550 for the
18 alleged unpaid wages for off-the-clock work at 10 minutes per week, \$12,424 for the alleged unpaid
19 overtime due to the miscalculation of the regular rate, \$279,689 for the alleged underpaid meal
20 premiums, Covid sick pay and PTO wages due to the miscalculation of the regular rate, \$693,398 for
21 alleged missed meal period damages based upon a 1.7% violation rate observed in the time records and
22 after deduction of meal premiums already paid by Defendant, \$1,825,406 for alleged rest period
23 damages based upon 1 violation every other month, \$520,059 for alleged unreimbursed cell-phone
24 expenses at \$5 per month. Decl. Nordrehaug, ¶6. As a result, the total damage valuation was
25 calculated such that Defendant was subject to a maximum damage claim in the amount of \$5,738,526.
26 As to potential penalties, Plaintiffs calculated that potential waiting time penalties were a maximum
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1 of \$3,800,160, and potential maximum wage statement penalties were \$440,700.³ Defendant
2 vigorously disputed Plaintiff's calculations and exposure theories. Decl. Nordrehaug, ¶6.

3 Consequently, the Gross Settlement Amount of \$1,350,000 represents more than 23.5% of the
4 maximum value of the alleged damages at issue in this case at the time this Settlement was negotiated.⁴
5 Importantly, the recent decision that good faith belief of compliance by the employer in *Naranjo v.*
6 *Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024), could completely negate the claims for
7 waiting time and wage statement penalties, even if wages were owed to the Class. The above
8 maximum calculations should then be realistically risk-adjusted in consideration for both the risk of
9 class certification and class-wide liability on all claims. Given the amount of the settlement as
10 compared to the potential value of claims in this case and the defenses asserted by Defendant, this
11 settlement is fair and reasonable.⁵ 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 Plaintiffs alleged claims for statutory penalties pursuant to Labor Code Sections 203 and
18 226, at mediation Plaintiffs 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 Plaintiff and Class
21 Members were properly compensated. *See Nordstrom Commission Cases*, 186 Cal. App. 4th 576, 584
22 (2010) ("There is no willful failure to pay wages if the employer and employee have a good faith
23 dispute as to whether and when the wages were due.").

24 ⁴ Because the PAGA claim is not a class claim and primarily is paid to the State of California,
25 Plaintiffs has not included the PAGA claim in her discussion of the value of the class claims. The
26 PAGA claim is addressed in the Decl. Nordrehaug at ¶33.

27 ⁵ See *Glass v. UBS Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476 (N.D. Cal. 2007) (approving a
28 settlement where the settlement amount constituted approximately 25% of the estimated overtime
damages for the class); *Stovall-Gusman v. W.W. Granger, Inc.*, 2015 U.S. Dist. LEXIS 78671, at *12
(N.D. Cal. 2015) (granting final approval where the settlement "represents approximately 10% of what
class might have been awarded had they succeeded at trial."); *Viceral v. Mistras Grp., Inc.*, 2016 WL
5907869 (N.D. Cal. 2016) (approving wage and hour class action 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 and
2 compensation for that time was correctly compensated. Defendant contends that its meal and rest
3 period policies fully complied with California law and Defendant did not fail to provide the opportunity
4 for legally required meal and rest breaks. Defendant could argue that their payment of meal premiums
5 is evidence of its lawful practices and good faith. Defendant contends that there was no failure to pay
6 for business expenses and any cell phone usage was merely convenient and voluntary such that
7 reimbursement was not legally required. Finally, Defendant could argue that the Supreme Court
8 decision in *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012), weakened Plaintiff's claims, on
9 liability, value, and class certifiability as to the meal and rest period claims. Defendant also argues that
10 based on their facially lawful practices, Defendant acted in good faith and without willfulness, which
11 if accepted would negate the claims for waiting time penalties and/or inaccurate wage statements. See
12 e.g. *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (May 6, 2024) ("if an employer
13 reasonably and in good faith believed it was providing a complete and accurate wage statement in
14 compliance with the requirements of section 226, then it has not knowingly and intentionally failed to
15 comply with the wage statement law.") Defendant's defenses could eliminate or substantially reduce
16 any recovery to the Class. While Plaintiff believes that these defenses could be overcome, Defendant
17 maintain these defenses have merit and therefore present a serious risk to recovery by the Class. Decl.
18 Nordrehaug, ¶ 24.

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

28 After arm's length negotiations between experienced and informed counsel, the Parties

1 recognized the potential risks and agreed on the Settlement with a Gross Settlement Amount of
2 \$1,350,000. As the Court held in *Glass*, where the parties faced uncertainties similar to those here:

3 In light of the above-referenced uncertainty in the law, the risk, expense, complexity,
4 and likely duration of further litigation likewise favors the settlement. Regardless of
5 how this Court might have ruled on the merits of the legal issues, the losing party likely
would have appealed, and the parties would have faced the expense and uncertainty of
litigating an appeal.

6 2007 WL 221862, at *4.

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

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

14 Plaintiff will apply to the Court for a Class Representative Service Payment in consideration
15 for her service and for the risks undertaken on behalf of the Class. (Agreement at ¶ 3.2(a).) Plaintiff
16 performed her duties admirably by working with Class Counsel over the course of litigation, sitting for
17 deposition, and undertook the risks of litigation for the Class. The Declaration on behalf of the Plaintiff
18 is submitted herewith in support. Decl. Nordrehaug at ¶27. At this stage, the requested service award
19 is within the range of reasonableness for purposes of preliminary approval. *See e.g. Andrews v. Plains*
20 *All Am. Pipeline L.P.*, 2022 U.S. Dist. LEXIS 172183, at *11 (C.D. Cal. 2022) (service awards of
21 \$15,000 each are appropriate); *Louie v. Kaiser Foundation Health Plan, Inc.*, 2008 WL 4473183, *7
22 (S.D. Cal. 2008) (awarding \$25,000 service award); *Reynolds v. Direct Flow Med., Inc.*, 2019 U.S. Dist.
23 LEXIS 149865, at *19 (N.D. Cal. 2019) (granting request for \$12,500 service award); *Mathein v. Pier*
24 *1 Imps. (U.S.), Inc.*, 2018 U.S. Dist. LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500). As explained
25 in *Glass*, service awards are routinely awarded to compensate for the time and effort expended on the
26 case, for the risk of litigation, for the fear of suing an employer and retaliation there from, and to serve
27 as an incentive to vindicate the statutory rights of all employees. 2007 WL 221862 at *16-17.

1 **4. The Stage Of The Proceedings Are Sufficiently Advanced To Permit**
2 **Preliminary Approval Of The Settlement**

3 The stage of the proceedings at which this Settlement was reached also militates in favor of
4 preliminary approval and ultimately, final approval of the Settlement. Class Counsel has conducted
5 a thorough investigation into the facts of the class action. Class Counsel engaged in informal discovery
6 to obtain necessary information. Class Counsel conducted a review and analysis of the relevant
7 documents and data with the assistance of an expert. Class Counsel was also experienced with these
8 claims. Accordingly, the agreement to settle did not occur until Class Counsel possessed sufficient
9 information to make an informed judgment regarding the likelihood of success on the merits and the
10 results that could be obtained through further litigation. Decl. Nordrehaug at ¶28.

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

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

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

21 All individuals who are or previously were employed by Defendant who were classified
22 as non-exempt, employees in the State of California at any time during the Class Period.

23 (Agreement at ¶ 1.5.)

24 The Class Period is from March 24, 2019, through July 22, 2025. (Agreement at ¶ 1.13).

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

26 Plaintiff seeks certification of this Class for settlement purposes under California Code of Civil
27 Procedure § 382. The California Supreme Court explained the standard for determining whether class
28 certification is appropriate as follows:

 Code of Civil Procedure Section 382 authorizes class actions “when the question is one

1 of a common or general interest, of many persons, or when the parties are numerous,
2 and it is impracticable to bring them all before the court....” The “community of
3 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.

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

5 While Defendant reserves all rights to dispute that the Plaintiff can satisfy these requirements,
6 the Parties agree that Defendant will not dispute that these requirements may be satisfied in this case
7 for purposes of settlement only and therefore, the proposed Class should be certified for purposes of
8 settlement only. (Agreement at ¶ 2.14.)

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

10 Plaintiff brings this Action on behalf of a Class of non-exempt employees of the Defendant
11 during the Class Period. Plaintiff asserts that all of these individuals are ascertainable because the
12 Class Members can readily be determined through examination of Defendant’s files. Given that the
13 Class consists of approximately 10,010 individuals, Plaintiff maintains that numerosity is clearly
14 satisfied. *See Bowles v. Superior Court*, 44 Cal.2d 574 (1955) (class with 10 members); *Rose v. City*
15 *of Hayward*, 126 Cal.App.3d 926, 934 (1981) (class of 48 members satisfies numerosity requirement.)
16 Here, Plaintiff asserts that the 10,010 current and former employees that comprise the Class can be
17 identified based on Defendant’s records and are sufficiently numerous for class certification. Decl.
18 Nordrehaug at ¶30.

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

20 Predominance of common issues of law or fact does not require that the common issues be
21 dispositive of the entire controversy or even that they be dispositive of all liability issues. 1 *Newberg*
22 *on Class Actions*, Section 4.25 at 4-82, 4-83 (1992). “Predominance is a comparative concept, and ‘the
23 necessity for class members to individually establish eligibility and damages does not mean individual
24 fact questions predominate.’” *Sav-On*, 34 Cal. 4th at 334.

25 Commonality exists if there is a predominant common legal question regarding how an
26 employer’s policies impact its employees. *Ghazaryan v. Diva Limousine, Ltd.*, 169 Cal. App. 4th 1524,
27 1536 (2008) (“[T]he common legal question remains the overall impact of Diva's policies on its
28 drivers.”) Whether the plaintiff is likely to prevail on their theory of recovery is irrelevant at the

1 certification stage since the question is “essentially a procedural one that does not ask whether an action
2 is legally or factually meritorious.” *Linder v. Thrifty Oil Co.*, 23 Cal. 4th 429, 439-440 (2003).

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

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

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

20 In this Action, Plaintiff contends that the typicality requirement is fully satisfied. Plaintiff, like
21 every other member of the Class, was employed by Defendant as a non-exempt employee, and, like
22 every other member of the Class, was subject to the same employment policies and practices. Plaintiff,
23 like every other member of the Class, also claims owed compensation as a result of the Defendant’s
24 allegedly uniform company policies and practices. Thus, the claims of Plaintiff and the members of
25 the Class arise from the same course of conduct by Defendant, involve the same issues, and are based
26 on the same legal theories. Decl. Nordrehaug at ¶30. Plaintiff asserts that the typicality requirement
27 is met as to the common issues presented in this case. Defendant disputes that the typicality
28 requirement is satisfied but do not oppose a finding of typicality for purposes of this Settlement only.

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

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

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

17 To certify a class, the Court must also determine that a class action is superior to other available
18 methods for the fair and efficient adjudication of the controversy. As the Supreme Court has explained:

19 Absent class treatment, each individual plaintiff would present in separate, duplicative
20 proceedings the same or essentially the same arguments and evidence, including expert
21 testimony. The result would be a multiplicity of trials conducted at enormous expense
22 to both the judicial system and the litigants.

23 *Sav-On*, 34 Cal. 4th at 340.

24 Here, Plaintiff contends that a class action is the superior mechanism for resolution of the
25 claims as pled by the Plaintiff. While Defendant disputes that the superiority requirement is satisfied,
26 Defendant do not dispute a finding of superiority for purposes of this Settlement only.

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

28 The Court has broad discretion in approving a practical notice program. *7- Eleven Owners for
Fair Franchising v. Southland Corp.*, 85 Cal. App. 4th 1135, 1164 (2000). The Parties have agreed

1 upon procedures by which the Class Members will be provided with written notice of the Settlement
2 similar to that approved and utilized in hundreds of class action settlements and the Class Notice
3 includes all relevant information. (See Exhibit “A” to the Agreement.) Decl. Nordrehaug at ¶32. The
4 Class Notice will explain that the Class Members shall have sixty (60) days from the date that the Class
5 Notice is mailed to them (the “Response Deadline”) to request exclusion (opt-out) or to submit a
6 written objection. (Agreement at ¶¶ 1.42, 8.5, 8.7.) Class Members shall be given the opportunity to
7 object to the Settlement and/or the attorneys’ fees and expenses, and to appear at the Final Approval
8 Hearing. (Agreement at ¶ 8.7.) This notice program was designed to meaningfully reach the Class
9 Members providing notice of all pertinent information concerning the Settlement, and is the best notice
10 practicable in compliance with Rules of Court 3.766 and 3.769(f).. Decl. Nordrehaug at ¶32.

11 **VII. CONCLUSION**

12 Plaintiff respectfully requests that the Court preliminarily approve the proposed settlement and
13 sign the proposed Preliminary Approval Order, which is submitted herewith, and schedule the final
14 approval hearing for the proposed date of December 4, 2026.

15 Dated: June 29, 2026

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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