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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO

CENTRAL DIVISION

DAVID MEJIA, an individual, on behalf of himself and on behalf of all persons similarly situated, Plaintiff, vs. SCRAM OF CALIFORNIA, INC., a corporation; and DOES 1-50, Inclusive, Defendants.	CASE NO.: 23-CIV-03702 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT** Date: June 18, 2026 Time: 3:00 p.m. Dept.: 2 Judge: Hon. Mark McCannon

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I.

INTRODUCTION

Plaintiff DAVID MEJIA ("Plaintiff") seeks preliminary approval of the Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims ("Agreement")[1], which if approved, would provide valuable monetary relief for approximately 636 pay periods. The basic terms of the Agreement provide the following:

1) The **"Class Members" and "Class Period"** shall mean all persons who are employed or have been employed by SCRAM of California ("Defendant") in the state of California as hourly, non-exempt SCRAM Agents at any time within the period beginning August 7, 2019, and ending on the date the Court grants preliminary approval. Agreement at ¶¶ I. (G, I.)

2) The **"Aggrieved Employees" and "PAGA Period"** shall mean all current and former non-exempt employees who worked for Defendant in California and paid in whole or in part as "SCRAM Agents" during the period beginning January 3, 2022, through the date the Court grants preliminary approval. Agreement ¶ I.(B).

3) The "**Gross Settlement Amount"** is One Hundred Thousand Dollars and Zero Cents ($100,000.00). Agreement at ¶ O. The Gross Settlement Amount includes the following:

a. A **"Service Award"** in the amount of $5,000, or in an amount that the Court authorizes to be paid to the Class Representative, in addition to his individual Settlement Payment, in recognition of his efforts in and risks in assisting with the prosecution of the Action. Agreement ¶AA.

b. A payment of **"Class Counsel Award"** consisting of attorneys' fees and not to exceed thirty-three (33%) of the Gross Settlement Amount currently estimated to be $35,000 plus costs up to $45,000, to be divided equally to Class Counsel. Agreement ¶ I.(D).

c. "**Dismissed PAGA Claims"** shall mean any and all PAGA claims alleged in the Representative Complaint and Plaintiff's PAGA Notice to the LWDA, which occurred during the PAGA Period. Agreement ¶ I.(L). The PAGA claim shall be dismissed without prejudice.

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[1] The Agreement is attached as Exhibit "1" to the Declaration of Lenden F. Webb ("LFW Dec.") at ¶ 3. All citations to the Agreement incorporate by reference a citation to the LFW Dec., ¶3. Further, unless indicated otherwise, capitalized terms used herein have the same meaning as those defined by the Agreement.

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d. **"Settlement Administration Costs"** shall not exceed $7,500 payable to the Settlement Administrator, Apex Class Action LLC, for *inter alia*, the administration of the Notice Packet and Individual Settlement Payments. Agreement ¶ I.(BB).

4) "**Net Settlement Amount**" is approximately $7,500 (Gross Settlement Amount less Class Counsel Award, Service Award, and Settlement Administration Costs) which will be allocated to all Settlement Class Members based on the respective Workweeks for each Class Member divided by the total Workweeks for all Class Members. Agreement ¶¶ I. (Q, D, O, AA, BB). The entire Net Settlement Amount will be paid to all Participating Class Members who do not opt out of the Settlement.

An objective evaluation of the Settlement confirms that the relief negotiated on behalf of the Class is fair, reasonable, and adequate. The Settlement was negotiated by the Parties at arm's length. The Settlement confers substantial benefits to the Settlement Class. The relief offered by the Settlement is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing a wage and hour class case (see infra). Indeed, by settling now rather than proceeding to trial, Class Members will not have to wait for relief, nor will they have to bear the risk of class certification being denied or of Defendant prevailing at trial. LFW Dec., ¶ 6.

As discussed below, the proposed Settlement satisfies all criteria for preliminary settlement approval and falls within the range of reasonableness. The average Individual Settlement Share to the Settlement Class meets awards in similar wage and hour class action actions. Moreover, the proposed Settlement Class is appropriate for provisional certification. Accordingly, Plaintiffs and Defendant respectfully request that the Court grant preliminary approval of the Settlement. LFW Dec., ¶ 8

II.

FACTS AND PROCEDURE

A. Background

Defendant SCRAM of California is an alcoholism monitoring Company, where Plaintiff worked as an Agent. Plaintiff DAVID MEJIA worked for Defendant as an hourly, non-exempt employee. Through this action, Plaintiff seeks to represent the interests of approximately 101

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hourly, non-exempt employees of Defendants from August 7, 2019, through the date this Court grants preliminary approval. LFW Dec., ¶ 9

Plaintiff filed his PAGA notice letter on January 3, 2023, and his punitive class and representative action Complaint on August 7, 2023. In this case, Plaintiff alleges Defendant is liable for: (1) unfair competition; (2) failure to pay minimum wage; (3) failure to pay overtime; (4) failure to provide required meal periods; (5) failure to provide required rest breaks; (6) failure to provide accurate itemized statements; (7) failure to reimburse employees for required expenses; and (8) failure to pay sick wages. LFW Dec., ¶¶ 11, 12. Defendant denies the allegations in Plaintiff's complaints.

B. Discovery and Investigation

The Parties agreed to attend mediation only after extensive formal discovery. Defendant produced time and payroll records for the affected employees. Class Counsel conducted significant research concerning the documents, and with the assistance of a retained expert, analyzed the representative sample of time records and payroll data to determine Defendant's potential damage exposure. LFW Dec., ¶13. Class Counsel then used this analysis in conjunction with the anecdotal evidence provided by Plaintiff to obtain detailed discovery on both liability and damages. LFW Dec., ¶ 14.

C. The Parties Settled with the Assistance of the Mediator

On November 19, 2025, the Parties participated in a full day mediation with mediator Judge William C. Pate, a respected mediator of wage and hour class and representative actions. Judge Pate helped manage the Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides. The Parties made substantial progress with Judge Pate's assistance. The mediation, however, concluded without a settlement. Following months of continued settlement negotiations, the parties ultimately arrived at a settlement, the complete and final terms of which are now set forth in the Agreement. Class Counsel submit that the Settlement constitutes a fair, adequate, and reasonable compromise of the claims at issue. LFW Dec., ¶ 15.

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D. The Proposed Settlement Fully Resolves Plaintiffs' Claims

1. Composition of the Participating Class Members

The proposed Participating Class Members consist of all persons who are employed or have been employed by Defendant in the state of California as hourly, non-exempt SCRAM Agents at any time within the period beginning August 7, 2019, and ending on the date the Court grants preliminary approval. Agreement at ¶ I.(I).

2. The Settlement Consideration

The Parties agreed to settle the underlying class claims in exchange for the Gross Settlement Amount of $100,000. The Gross Settlement Amount includes (1) Individual Class Payments to the Participating Class Members; (2) Class Service Award of $5,000 to the named Plaintiff for his service on behalf of the Settlement Class; (3) Administrative Costs estimated to not exceed $7,500; (4) Class Counsel Award estimated to be $35,000 ***and*** attorneys' expenses not to exceed $45,000; and (5) Dismissal, without prejudice, of Plaintiffs' PAGA case, Case No. 30-2023-01341670-CU-OE-CXC. Agreement ¶ I. (O).

Subject to the Court approving the Class Representative Payment, Attorneys' Fees and Litigation Costs, and the Administrative Costs, the Net Settlement Amount will be distributed to each participating member of the Participating Class. Agreement ¶ I.(R). There is no reversion to Defendants and Defendants must separately pay for its share of the employer payroll taxes. Agreement ¶¶ I.(O), III.(A.1).

3. The Funding Date

Assuming there are no objectors, and no appeal is filed, Defendants will transfer to the Administrator their respective shares of Gross Settlement Amount no later than fifteen (15) of the Effective Date. Agreement ¶ I. (N).

4. Formula for Calculating Individual Class Payments

Each Participating Class Member will receive an Individual Settlement Payment. Using the Class Data, the Settlement Administrator shall distribute the Net Settlement Amount based on the total number of weeks worked by each Class Member during the Class Period, according to Defendants' records. Agreement ¶ III.(L.1). Each Individual Settlement Payment will be reduced by any legally mandated employee tax withholdings (e.g., employee payroll taxes, etc.), which for purposes of this settlement, 20% is allocated as wages and 80% is allocated as penalties. Agreement ¶ III. (L)(2).

5. Release by Participating Class Members

Generally, as of the Funding date, Plaintiffs and the Participating Class Members, will agree to release the Released Parties from all claims that were alleged, or reasonable could have been alleged, based on the facts stated in the Operative Complaint, including but not limited to, all claims for unfair competition, failure to pay minimum wage, failure to pay overtime wages, failure to provide meal periods, failure to provide rest periods, failure to provide accurate itemized statements, failure to reimburse employees for required expenses, and failure to pay sick wages. Agreement ¶ III.(B).

6. Processing of Payments

Within fifteen (15) calendar days after the Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, the Service Award, the Administration Expense Payment, and Attorneys' Fees and Litigations. Disbursement of the Attorneys' Fees and Litigation Costs and the Service Award shall not precede disbursement of Individual Class Payments. Agreement ¶ III.(A.2).

7. Distribution of Uncashed Funds

The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Agreement ¶ III.(L)(6).

For any Class Member whose Individual Class Payment check or Individual Class Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property fund in the name of the Class Member who did not claim the funds. Agreement ¶ III.(L)(6).

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III.

ARGUMENT

A. The Court Should Preliminary Approve the Proposed Class Action Amount

The proposed Settlement, including a Gross Settlement Amount of $100,000 meets the standards for preliminary approval. Pre-trial settlement of complex class actions is a judicially favored remedy. (*Officers for Justice v. Civil Serv. Comm'n* (9th Cir. 1982) 688 F.2d 615, 625 ("Voluntary conciliation and settlement are the preferred means of dispute resolution.").) Class action settlement approval requires an early "preliminary" review by the trial court and subsequent "final" review after notice of the settlement has been distributed to class members for their comments and objections. (C.R.C.3.769(c)-(g); *Cellphone Termination Fee Cases (2009)* 180 Cal. App.4th 1110, 1118 (the court first "preliminary approves the settlement" and later "conducts a final approval hearing to inquire into the fairness of the proposed settlement").)

Although the California Rule of Court Rule 3.769 does not provide detail as to the scope of review of the proposed settlement, preliminary approval is warranted if the settlement falls within a "reasonable range." (*See North County Contractor's Assn., Inc. v. Touchstone Ins. Services* (1994) 27 Cal.App.4th 1085, 1089-90; Conte & Newberg, *Newberg on Class Actions* §§11.26 (4th ed. 2002).) Reasonableness and fairness are presumed where (1) settlement is reached through "arms-length bargaining;" (2) investigation and discovery are "sufficient to allow counsel and the court to act intelligently;" (3) counsel is "experienced in similar litigation…" (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802.). The presumption of fairness is consistent with California's public policy goal of favoring settlements. (*Stambaugh v. Super. Ct.* (1976) 62 Cal.App.3d 231, 236 ("the law wisely favors settlement"); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118 ("public policy generally favors the compromise of complex class action litigation"); *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1151 ("voluntary conciliation and settlement are the preferred means of dispute resolution … [t]his is especially true in complex class action litigation").)

Additionally in reviewing the fairness of a class action settlement, due regard should be given to what is "otherwise a private consensual agreement between the parties." (*Cellphone*

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Termination Fee Cases (2010) 186 Cal.App.4th 1380, 1389.). The inquiry "must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concern." (*Id.)*

1. <u>The Parties Reached the Settlement Through Arm's Length Bargaining Led by Experienced Counsel.</u>

"[W]hat transpires in settlement negotiations is highly relevant to the assessment of a proposed settlement's fairness." (*State v. Levi Strauss & Co.* (1986) 41 Cal.3d 460, 482.). Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless evidence to the contrary is offered; thus, there is a presumption that settlement negotiations are conducted in good faith. (Newberg, §11.51.).

The Parties participated in mediation with Judge William C. Pate, a respected wage and hour class and representative action mediator. Judge Pate managed the Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides. (*In re Apple Computer, Inc. Derivative Litig.* No. C 06-41128 JF (HRL), 2008 U.S. Dist. LEXIS 108195 (N.D. Cal. Nov. 5, 2008) (mediator's participation weighs considerable against any inference of a collusive settlement); *D'Amato v. Deutsche Bank* (2d. Cir. 2001) 236 F.3d 78, 85 (a "mediator's involvement in pre-certification settlement negotiations helps to ensure that the proceedings were free of collusion and undue pressure.").). At all times, the Parties' negotiations were at an arm's length, adversarial, and non-collusive. The parties were able to reach a resolution after the mediation that was founded on the help of Judge Pate hearing arguments, reviewing evidence, and evaluation the Parties' respective claims and defenses. LFW Dec., ¶15-21. The Agreement is the final product of these mediated negotiations. Objectively the Settlement terms are fair, adequate and represent a reasonable compromise of the claims at issue. LFW Dec., ¶21.

2. <u>Class Counsel's Thorough Investigation Provided an Objective Measurement of the Settlement's Reasonableness</u>

As set forth in greater detail above, Class Counsel conducted a very thorough investigation into the factual and legal issues in dispute. In addition to informal discovery, document review,

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data analysis and legal research, Class Counsel also researched similar wage and hour actions. Although no two cases are identical, this research provided Class Counsel with a marker to inform settlement discussions and, ultimately, to measure this settlement against. The investigation allowed Class Counsel to realistically assess the value of the claims and intelligently engage defense counsel in settlement discussions that culminated in the proposed settlement now before the Court. LFW Dec., ¶ 19.

Class Counsel only agreed to enter the Settlement following this thorough investigation and evaluation of Plaintiffs' claims. Based on this investigation of the facts, applicable law, and marketplace for similar settlements, and considering the risk of significant delay, uncertainty associated with litigation, and the various defenses asserted by Defendant, Class Counsel firmly believe this Agreement to be in the best interests of the Class Members. Because the Settlement's terms are fair, reasonable, and adequate, the Court should preliminarily approve the Settlement. LFW Dec., ¶ 20.

3. <u>The Settlement Falls Within the Recognized Range of Reasonableness for this Small Class</u>

The Gross Settlement Amount of $100,000 is within the range of reasonableness. To determine whether a settlement is fair and reasonable, the court should "consider enough information about the nature and magnitude of the claims being settled, as well as the impediments to recovery, to make an independent assessment of the reasonableness of the terms to which the parties have agreed." (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.) In making this determination, the court is "not to try the case" but rather "satisfy itself that the class action settlement is within the 'ballpark of reasonableness.'" (*Id.* (emphasis added).) For this analysis, courts do not require any such explicit statement of value; they require a record which allows "an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation." (*Munoz v. BCI Coca-Cola Bottling Co.* (2010) 186 Cal.App.4th 399, 409 (internal citation omitted).). The reasonableness of a settlement is not dependent upon its actual value approaching the potential recovery plaintiffs might have received if they had succeeded at trial.[2]

a. The Gross Settlement Amount Meets the Recognized Range of Reasonableness.

The Gross Settlement Amount of $100,000.00 is fair and reasonable considering the nature and magnitude of the claims being settled and the various potential impediments to recovery. Prior to mediation, Class Counsel retained an expert to develop economic damage models measuring Defendant's liability exposure while accounting for the uncertainties of continued litigation. The various models were informed by Class Counsel's investigation, including the analysis of a significant sample of time and payroll data. Regarding Defendant's liability for class claims, Class Counsel performed a detailed analysis of this case. At inception, Class Counsel assumed that the class was substantially larger due to the large number of offices Defendant's offices in the State of California. However, through discovery, Class Counsel learned that many of SCRAM's offices are staffed with a single employee. Class Counsel also learned that SCRAM engaged in substantial *Pickup Stix* releases, which drastically reduced class exposure. Thus, the Gross Settlement Amount of $100,000 is fair and reasonable.

4. Estimated Exposure for Unpaid Wages

Plaintiffs' primary claim in this Action alleges that Defendant failed to pay their employees for all hours worked. Specifically, Defendant failed to pay Plaintiff his correct regular rates for all time worked and failed to pay for reporting time pay.

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[2] Federal district courts recognize that there is an inherent "range of reasonableness" in determining whether to approve a settlement "which recognizes the uncertainties of law and fact in any particular case and the concomitant risks and costs necessarily inherent in taking any litigation to completion." *Newman v. Stein* (2d. Cir. 2002) 464 F. 2d 689, 693; *see In re Omnivision Tech, Inc.* (N.D. Cal. 2008) 559 F. Supp.2d 1036, *see also Nat'l Rural Telecomm. Coop. v . Directv, Inc.* (C.D. Cal. 2004) 221 F.R.D. 523, 527 ("well settled law that a proposed settlement may be acceptable even though it amounts to only a fraction of the potential recovery"); *In re Global Crossing Sec. and ERISA Litig.* (S.D.N.Y. 2004) 225 F.R.D. 436, 460 ("settlement amount's ratio to the maximum potential recovery need not be the sole, or even dominant, consideration when assessing settlements fairness"); *In re IKON Office Solutions, Inc. Sec Litig.* (E.D. Pa. 2000) 194 F.R.D. 166, 184 ("the fact that a proposed settlement constitutes a relatively small percentage of the most optimistic estimate does not, in itself, weigh against the settlement; rather the percentage should be considered in light of the strength of the claims"); *Officers for Justice v. Civil Serv. Comm.* (9th Cir. 1982) 688 F. 2d 615, 628 (it is "the complete package, taken as a whole rather than the individual component parts, that must be examined for overall fairness").

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Defendant denies liability for these claims. Further, Defendant argued that this claim was not suitable for class treatment because individualized issues predominated. Liability cannot, according to Defendant, be established by common proof. Plaintiffs' counsel acknowledges these challenges. LFW Dec., ¶ 10.

5. Estimated Exposure for Defendant's Meal Period Violations

Plaintiff also alleges that Defendant failed to provide compliant meal periods. Specifically, Plaintiff claims that as a result of their work schedules, Class Members were not able to take timely and duty-free meal periods. Defendant argued that it provided legally complaint meal periods throughout the Class Period. Defendant argued, among other things, that their policies and procedures required Plaintiff and Class Members to take uninterrupted, statutorily compliant meal periods. Similarly, Defendant argued that any divergence from these written policies was not systematic. Thus, Defendant argued that there was no potential liability for Plaintiff's alleged meal period violations.

6. Exposure for Rest Period Violations

Plaintiff alleges that Defendant failed to provide compliant rest periods. Specifically, Defendant's written policy failed to inform their employees that they are entitled to a rest premium if they do not take a rest break or if their rest break is non-complaint.

Defendant denied liability and asserted that the workload is not such that it prevented employees from taking a break. Defendant argued that they maintained legally compliant written policies and actual practices concerning rest periods throughout the Class Period. Moreover, Plaintiff recognizes the evidentiary burdens establishing this claim. Establishing Plaintiff's rest period claim would rely, almost entirely, on Class Member testimony, making it a riskier claim at class certification and liability stages. Certification likely would have required depositions of Class Members who provided declarations, and Defendant obtained opposing declarations stating either rest breaks were taken, or rest breaks were voluntary waived. See, e.g., *Ordonez v. Radio Shack, Inc*. (C.D. Cal. Jan. 17, 2013) 2013 WL 210223, at 11 ("Because of the competing testimony before the Court, plaintiff's evidence that defendant may have an illegal, written rest break policy is insufficient for this Court to find that common issue predominate.");

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Villa v. United Site Servs. of California, Inc. (N.D. Cal. Nov. 13, 2012) 2012 WL 5503550, at 8 ("Indeed, Plaintiff's own evidence confirms that the written policy does not generate uniform practices"). Through discovery, Class Counsel learned that the class is often the sole employee at a single office. That employee schedules all appointments. Defendant contends rest breaks are built into the calendaring system. Defendant argued this led to a drastic reduction in Defendant's rest break exposure.

7. Estimated Damages for Unreimbursed Business Expenses

Plaintiff alleged that Defendants required Class Members to incur personal expenses for the use of their own personal cell phones without any reimbursement. California employers who require employees to incur personal business expenses for work purposes must reimburse the employee for the cost incurred. (*See* Cal. Lab. Code §2802(a), providing that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer….") Through discovery, Class Counsel learned that the class is not required to purchase any equipment. Each office has an office phone line, and the class is not required to use cell phones. Defendant argued this led to a drastic reduction in Defendant's exposure.

8. Exposure for Wage Statement Violations

Generally, Plaintiff alleged that Defendant's aforementioned violations resulted in derivative violations of California Labor Code sections 203 and 226(a). Class Counsel considered the arguable presence of various penalties and weighed the potential recoveries against probable defenses, including potential obstacles in proving the "willful" prong needed to obtain waiting time penalties under Labor Code section 203, showing that Class member suffered an "injury" because of wage statement violations, as required by Labor Code 226, or that meal and rest period violations may not entitle employees like Plaintiff and Class Members to pursue the derivative waiting time and itemized wage statement penalties. *Naranjo v. Spectrum Security Services, Inc.* (2024) 15 Cal.App.5th 1056. Because Defendant contended the other violations did not exist, or existed minimally, Defendant argued this led to a drastic reduction in the corresponding wage statement claim.

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b. Inherent Risks of Continued Litigation Support Preliminary Approval

"It can be difficult to ascertain with precision the likelihood of success at trial. The Court cannot and need not determine the merits of the contested facts and legal issues at this stage, *See Officers for Justice v. Civil Service Com.,* 688 F.2d 615, 625 (9th Cir.1982), and to the extent courts assess this factor, it is to 'determine whether the decision to settle is a good value for a relatively weak case or a sell-out of an extraordinary strong case.'" (*Misra v. Decision One Mortg. Co.*(C.D. Cal. 2009) 2009 WL 4581276, at *7.)

With respect to the most immediate challenge, i.e., class certification, the risks attendant to the certification of similar wage and hour claims are demonstrated by *Magadia v. Wal-Mart Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit, vacated, reversed, and remanded a $110 million judgement against an employer for, *inter alia,* inaccurately paying overtime, and directed the trial court to enter judgement in favor of the employer. Consequently, the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring settlement. LFW Dec., ¶ 40.

"The Settlement eliminates these and other risks of continued litigation, including the very real risk of no recovery after several years of litigation." (*In re Nvidia Corp. Derivative Litig*. (N.D. Cal. 2008) 2008 WL 5382544, at *3.) Indeed, potential appeals aside, litigating a complex case through trial is inherently perilous regardless of the strengths of merits of the claims:

> [N]othing is assured when litigating against commercial giants with vast litigative resources, particular in such complex litigation as this, which would strain the cognitive capacities of any jury. Defense judgments were hardly beyond the realm of possibility.

Accordingly, this factor weights in favor of preliminary approval. (*Rebney v. Wells Fargo Bank* (1990) 220 Cal.App.3d 1117, 1140, *opinion modified* (June 18, 1990).)

Finally, continuing to litigate this action would require continued and extensive resources coupled with significant Court time to proceed through trial and post-trial motions; which can often take years. Furthermore, wage and hour litigation is complex and expensive, as it often necessitates extensive expert testimony, particularly with regards to damages. But even if Plaintiff is successful at trial, Plaintiff is acutely aware that a judgment does not end the litigation. Plaintiff fully expects

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that Defendant would appeal any favorable judgment. As demonstrated by *Magadia, supra,* 999 F.3d 668, the risk of an appeal and subsequent reversal is real. LFW Dec., ¶ 40.

In this matter, Class Counsel negotiated a Gross Settlement Amount of $100,0000. Given the amount of settlement here, as compared to the potential value of the claims, offset by the various inherent risks to continued litigation, the settlement is fair and reasonable. LFW Dec., ¶ 42.

B. The Proposed Notice Informs the Class about the Case and Settlement

The Settlement Class is entitled to the best practical notice under the circumstances. (*Kass v. Young* (1977) 67 Cal.App.3d 100, 106.). The purpose of the notice is to give class members sufficient information to decide whether they should accept the benefits offered, opt out and pursue their own remedies, or object to the settlement. (*Trotsky v. Los Angeles Fed Savings & Loan Assn*. (1975) 48 Cal.App.3d 134, 151-52.) The notice must advise class members "that they may be excluded from the class if they so request and that they will be bound by the judgment, whether favorable or not, if they do not request exclusion." (*Kass*, 67 Cal.App.3d at 106.) Authorities generally require service of the class notice by mail or similar reliable means. (*Chance v. Super. Ct.* (1962) 58 Cal.2d 275, 290; *Cartt v. Super. Ct.* (1975) 50 Cal.App.3d 960, 972.)[3]

The Parties jointly drafted the Notice Packet which fairly and neutrally informs the Class Members of their rights and remedies. The Settlement Administrator will first verify addresses, then mail the proposed Notice Packet to all Class Members. The Notice Packet will include information regarding the nature of the lawsuit, a summary of the substance of the Settlement's terms, the procedure and time period within which to requests for exclusions or objections to the Settlement, the date for the final approval hearing, the formula used to calculate settlement payments, and the terms and scope of the Released Class Claims. This method was negotiated by the Parties to ensure delivering the most reasonable method of notice to the Class Members while ensuring cost effective administration of the Settlement. LFW Dec., ¶ 28.

[3] Due process does not require that each member actually receive a notice, but rather a procedure reasonably certain to reach class members. Wright A. Miller & M. Kane, *Federal Practice and Procedure* § 1789, at 253 (2d ed. 1986). If appropriate notice is given, class members will be bound by the judgement even if they never actually receive the notice. *Fontana v. Elrod* (7th Cir. 1987) 826 F.2d 729, 732/

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Accordingly, both the method of disseminating the Notice Packet and content of the Notice Packet satisfy due process and the requirements of California law. (*See* C.R.C. 3.776(e)-(f); *State of Cal. v. Levi Strauss* (1986) 41 Cal.3d 460,485 (the class notice must "fairly apprise the class members of the terms of the proposed compromise and of the options open to dissenting class members.").)

1. Undeliverable Class Notices

Not later than seven (7) business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. IF the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time. Agreement § III, ¶ K(3).

2. Remailed Class Notices

The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Period, and Requests for Exclusion will be extended an additional fifteen (15) calendar days beyond the forty-five (45) calendar days otherwise provided in the class Notice for all Class Members whose notice is remailed. The Administrator will inform the Class Member of the extended deadline with the remailed Class Notice. Agreement § III, ¶ K(3).

C. The Court Should Preliminary Approve the Class Representative Award

Enhancement payments "are fairly typical in class action cases." (*Cellphone Termination Fee* Cases (2010) 186 Cal.App.4th 1380, 1393 (affirming incentive awards of $10,000); *Rodriguez v. West Publishing Corp.* (9th Cir. 2009) 563 F.3d 948, 958, *citing* 4 Newberg on Class Actions (4th ed. 2002) § 1 1:38, and Eisenberg & Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study*, 53 UCLA L. Rev. 1303 (2006).) Enhancement payments "are intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general." (*Rodriguez*, 563 F.3d at 958-59.) "[T]he rationale for making

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enhancement or incentive awards to named plaintiffs is that he or she should be compensated for the expense or risk they have incurred in conferring a benefit on other members of the class." (*Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785.)

The Settlement provides for a Service Award of $5,000.00 for Plaintiff. The service award is fair and reasonable compensation for the Plaintiff's efforts bringing the action, assisting Class Counsel with the litigation and settlement, regularly conferring with Class Counsel on the status of his case and the strategies for prosecuting the claims, reviewing the proposed Settlement to ensure that its terms are fair and provide adequate relief for the Settlement Class, and Plaintiff Mejia's general release of all claims arising out of his employment. LFW Dec., ¶ 29, Declaration of David Mejia.

Class Counsel on behalf of Plaintiff will file a formal motion for the negotiated Service Award once preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above showing is sufficient for preliminary approval of the negotiated Service Award. LFW Dec., ¶ 30.

D. The Court Should Preliminarily Approve Class Counsel Payment

The purpose of a payment of the Class Counsel Award in class action litigation is to reward counsel who took the risk of non-payment and invested in a case that achieved a substantial positive result for the class. California courts routinely award attorneys' fees equaling one-third or more of the potential value of the common fund, the amount requested under this settlement. (*See Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 ("Empirical studies show that regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery."); Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees in Class Action Settlements: An Empirical Study, J. of Empirical Legal Studies*, Vol. 1, Issue 1, 27-78, March 2004, at 35 (independent studies of class action litigation nationwide have come to a similar conclusion that a one-third fee is consistent with market rates).)

Class Counsel took this matter on a contingency fee basis and invested significant time and expense successfully prosecuting Plaintiff's claims. As discussed *supra*, the estimated average Individual Settlement Payment illustrates the demonstrably positive outcome for the Class

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Members. Considering the positive outcome for the Class Members, and in light of the supporting authority, the proposed Class Counsel Payment is fair and reasonable. LFW Dec., ¶ 22.

E. Provisional Certification for Settlement Purposes is Appropriate

For Settlement, Plaintiff contends, and Defendant does not dispute, that provisional certification of the Class is appropriate. LFW Dec., ¶ 32.

1. <u>The Standard for Class Certification</u>

Class actions are statutorily authorized "when the question is one of common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court" (*Cal.Civ.Proc. Code* § 382; *Lee v. Dynamex, Inc*. (2008) 166 Cal.App.4th 1325, 1332.) Class certification is appropriate when there is an "ascertainable class and a well-defined community of interest among class members." (*Sav-On Drug Stores, Inc.* (2004) 34 Cal.4th 319, 326.) Class treatment is appropriate even if class members at some point may be required to make an individual showing as to eligibility for recovery. (*Bufil v. Dollar Financial Group, Inc.* (2008) 162 Cal.App.4th 1193, 1207; Sav-On, 34 Cal.4th at 333.)

2. <u>The Proposed Settlement Class Is Ascertainable and there is a Well-Defined Community of Interest Among the Participating Class Members</u>

Whether a class is "ascertainable" within the meaning of Code of Civil Procedure section 382 is "determined by examining (1) the class definition, (2) the size of the class, and (3) the means available for identifying class members." (*Lee v. Dynamex, Inc*. (2008) 166 Cal.App.4th 1325, 1334.) Class members are ascertainable where they may be readily identified without unreasonable expense or time by reference to official records. (*Id.*)

The community of interest requirements embodies three factors: (1) predominant common questions of law or fact; (2) a class representative with claims or defenses typical of the class; and (3) a class representative and counsel who can adequately represent the class. (*Cal. Civ. Proc. Code* § 382.)

In April 2012, the Supreme Court expounded on the element of predominance: The "ultimate question" the element of predominance presents is whether "the issues which may be jointly tried, when compared with those requiring separate adjudication, are so numerous or

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substantial that the maintenance of a class action would be advantageous to the judicial process and to the litigants." (*Brinker Rest. Corp. v. Superior Ct.* (2012) 53 Cal.4th 1004, 1021-1022 (citations omitted).)

Because all Class Members are Defendant's current and former employees, the class is readily ascertainable from Defendant's regular business records, i.e., payroll records. LFW Dec., ¶ 33.

The California statutes relating to each of Plaintiff's claims apply with equal force and effect to the entire Settlement Class. Factually, Defendant's policies and practices apply class-wide and Defendant's liability can be determined by facts common to all members of the class. The wage and hour issues are both numerous and substantial, and a class action is the most advantageous method of dealing with the claims of the Settlement Class. LFW Dec., ¶ 34.

Plaintiff's wage and hour claims are typical of the proposed Class because they arise from the same factual basis and are based on the same legal theories applicable to the other Class Members. Likewise, Plaintiff's interests are entirely coextensive with the interests of the Class. Plaintiff alleges that he was injured by the same company-wide practices to which the proposed Class Members were subject to and seek the same relief. Plaintiff has already demonstrated his ability to advocate for the interests of the Class Members by initiating this litigation, undertaking extensive class discovery, and evaluating the proposed settlement to assure that it is fair. LFW Dec., ¶35.

Additionally, Plaintiff is represented by competent Class Counsel who have extensive experience in litigating wage and hour class action cases. Class Counsel successfully briefed, argued, certified, and gained state court settlement approval of the same class-wide causes of action that are at issue in this case. Class Counsel has litigated multiple class action cases to verdict. Class Counsel's wage and hour class action experience establishes that they are well qualified to represent the interests of this Class. LFW Dec., ¶¶ 37-38; Declaration of Kyle R. Nordrehaug ("KRN Dec.").

A class action is superior to a multitude of individual lawsuits. Given the size and amount of each individual claim, the Class Members likely have little incentive to litigate their claims on an individual bases because of the out-of-pocket expense and personal commitment necessary to

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litigate each claim outweighs any potential recovery. In sum, class treatment is superior to individual, case-by-case adjudication. LFW Dec., ¶ 36.

IV.

CONCLUSION

The Parties have negotiated a fair and reasonable settlement of claims. Having appropriately presented the materials and information necessary for preliminary approval, the Parties request that the Court preliminarily approve the Settlement.

DATED: May 26, 2026

TENCERSHERMAN LLP

DocuSigned by:

By: Sam G. Sherman
SAM G. SHERMAN, ESQ.
Attorneys for Defendant
SCRAM OF CALIFORNIA, INC.

DATED: May 26, 2026

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By:
LENDEN F. WEBB, ESQ.
Attorneys for Plaintiff
DAVID MEJIA, on behalf of himself, and on behalf of all persons similarly situated

DATED: May 26, 2026

BLUMENTAL NORDREHAUG BHOWMIK DE BLOUW LLP

Signed by:

By: Kyle Nordrehaug
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KYLE R. NORDREHAUG, ESQ.
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action; my business address is: 10509 Vista Sorrento Parkway, Suite 450, San Diego, CA 92121. My email address is **Service@WebbLawGroup.com**.

On **May 27, 2026**, I served the document(s) described as:

1. **NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**
2. **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**
3. **DECLARATION OF KYLE R. NORDREHAUG IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**
4. **DECLARATION OF LENDEN F. WEBB IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**
5. **DECLARATION OF DAVID MEJIA IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**
6. **PROPOSED ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT**

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope at: San Diego, California, addressed as follows:

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Co-Counsel for Plaintiff, David Mejia

<u>XX</u> (BY PERSONAL SERVICE) I caused the above-referenced document(s) to be delivered by hand to the offices of the addressee(s).

Executed on **May 27, 2026**, at San Diego, California

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XX (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

[signature]

ERIC RODRIGUEZ

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