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on behalf of himself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

LOUIS C BERREYES, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

SOUTHERN CALIFORNIA GAS COMPANY, a California Corporation and DOES 1-5- inclusive,

Defendants.

Case No. CIVSB2207291

Assigned for all purposes to
Hon. Joseph T. Ortiz
Dept. S-17

MEMORANDUM IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Date: September 25, 2025
Time: 1:30 p.m.
Dept.: S-17

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I. INTRODUCTION

Plaintiff Louis Berreyes ("Plaintiff") seeks preliminary approval of a Stipulation of Class Action Settlement ("Settlement")[1] on behalf of a proposed Settlement Class (defined below) during the Class Period from January 28, 2018 to the later of: (1) preliminary approval of Settlement; or (2) the date upon which the total number of workweeks from January 28, 2018, forward equals 536,484 workweeks. This Settlement will provide certain, significant relief to the Settlement Class and should be granted preliminary approval. The Settlement is strongly supported by experienced counsel, who carefully considered the strength of the claims and Defendant's potential defenses, as well as the expense, complexity, risks, and likely duration of continued litigation.

After engaging in substantial independent investigation, a full-day mediation session before experienced class action mediator Lisa Klerman, and hard-fought negotiations, the Parties agreed to a non-reversionary Gross Settlement Amount of $4,880,000, exclusive of employer-side payroll taxes. Subject to Court-approval, and after deductions for the PAGA Payment, Class Representative's Enhancement Award, the Class Counsel Attorneys' Fees and Costs, and the Settlement Administrator Costs, the Net Settlement Amount to be distributed to Participating Class Members in Individual Settlement Payments is estimated to be:

Gross Settlement Amount	$4,880,000.00
PAGA Payment	$244,000.00
Settlement Administrator Costs	$22,950.00
Class Representative's Enhancement Award	$10,000.00
Class Counsel Attorneys' Fees	$1,626,666.67
Class Counsel Costs	$35,000.00
Net Settlement Amount	$2,941,383.33

Through this motion, Plaintiff respectfully requests that the Court enter an order: (1) provisionally certifying the Class under Code of Civil Procedure section 382 and California Rule of Court 3.769(c) for settlement purposes; (2) preliminarily approving the Settlement; (3) approving as to form the Court Approved Notice of Class Action Settlement and Hearing Date for

[1] Referred to as the "Settlement Agreement" or "Settlement." Unless indicated otherwise, capitalized terms used in this Motion have the same meaning as those defined by the Settlement Agreement.

Final Approval ("Class Notice") and ordering that the Class Notice be distributed to all Class Members; (4) appointing Louis Berreyes as the Class Representative; (5) appointing ILYM Group, Inc. ("ILYM") as the Settlement Administrator; (6) appointing James R. Hawkins and Christina M. Lucio of James Hawkins APLC as Class Counsel; and (7) setting this matter for a hearing on the issues of final approval of the proposed Settlement, approval of the Class Representative's Enhancement Award, approval of Class Counsel's attorneys' fees and costs, and approval of the Settlement Administrator costs.

II. SUMMARY OF THE LITIGATION

A. Procedural History

On January 28, 2022, Plaintiff filed a putative class action complaint in Stanislaus County Superior Court alleging various Labor Code violations on behalf of hourly-paid, non-exempt customer service field employees ("Class Members"): (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide lawful meal periods, (4) failure to authorize and permit rest periods, (5) failure to timely pay wages during employment, (6) failure to timely pay wages owed upon separation from employment, (7) failure to reimburse necessary business expenses, (8) failure to pay reporting time wages, (9) failure to provide accurate itemized wage statements, and (10) unfair business practices based on the same foregoing causes of action. (Declaration of James R. Hawkins ("Hawkins Decl."), ¶ 5.) On April 19, 2022, Defendant removed the Action to the Central District of California. (Id. ¶ 7.) On May 19, 2022, Plaintiff filed a remand of the Class Action complaint. (Id. ¶ 8.)

On April 6, 2022, Plaintiff filed a PAGA representative action against Defendant in the Superior Court for the County of San Bernardino based on the same purported Labor Code violations as the Class Action. (Hawkins Decl. ¶ 6.) On July 22, 2022, Defendant removed the PAGA action to the Central District of California. (Id. ¶ 9.) On August 24, 2022, the District Court granted the Parties' stipulation to consolidate the Class and PAGA Actions. On March 16, 2023, the District Court remanded the consolidated action back to the California Superior Court for the County of San Bernardino. (Id. ¶ 10.)

B. Investigation and Mediation

During the litigation of this Action, the Parties engaged in extensive investigation, discovery, and research regarding the claims and defenses at issue. (Hawkins Decl. ¶ 11.) Plaintiff propounded written discovery on Defendant So Cal Gas, including Requests for Production of Documents, Form Interrogatories, Requests for Admissions and Special Interrogatories. (Id. ¶ 12.) In lieu of formal responses by Defendant, the Parties agreed to mediation and informal discovery. Defendant produced updated class and PAGA size information, and a sampling of time and wage records. Defendant also produced relevant company policies, including applicable job descriptions, policies and practices regarding reimbursement of business expenses, and sample wage statements. Defendant also produced applicable Wages and Hours Working Agreements and the collective bargaining agreement, that applied to putative class members and training materials related to relevant company policies which were provided to putative class members. The Parties were then able to engage their own experts to independently review and analyze the data, and create their own exposure models. (Id. ¶ 12-13.)

After these formal and informal discovery efforts, the Parties agreed to explore whether a resolution of Plaintiff's claims could be achieved and participated in a full-day mediation before experienced mediator Lisa Klerman on September 11, 2024. (Hawkins Decl. ¶ 14.) The Parties exchanged valuable information regarding their respective claims and defenses; however, they were not able to resolve the action at the mediation. (*Id.*). The Parties continued settlement discussions through Ms. Klerman. After such continued negotiations, Ms. Klerman submitted a Mediator's Proposal to the Parties, which the Parties ultimately accepted, subject to completion of the Parties' long-form Settlement Agreement and approval by the Court. (*Id.*)

The Parties also conducted significant investigation of the facts and law, including, review of publicly available information, numerous conferences between counsel for the Parties, witness interviews, substantial document production and review, and review of policies, time and pay records to calculate damages. Counsel for the Parties researched the law as applied to the facts regarding Plaintiff's claims and potential defenses thereto, and the damages and penalties claimed. From the documentation provided, the Parties conducted their own evaluations of the potential recoveries based on the alleged claims and defenses. (Hawkins Decl. ¶ 13.) Through a review of the documentation provided, Plaintiff's counsel created a comprehensive damages analysis with the assistance of an expert. (Hawkins Decl. ¶ 11-13.)

After this extensive review, Plaintiff and Class Counsel have concluded that the terms of the Settlement are fair, reasonable, adequate, and in the best interests of the Class Members, considering the sharply contested issues involved, the expense and time necessary to litigate the Action through trial and any appeals, the risk of an adverse outcome, the uncertainty of complex litigation, and the substantial benefits to be received by Class Members. (Id. at 16.)

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Class Definition

The proposed Class is defined as all persons currently or formerly employed by Defendant Southern California Gas Company in California in hourly-paid, non-exempt customer service field positions at any time between January 28, 2018 to the later of (1) preliminary approval of the Settlement, or (2) the date upon which the total number of workweeks equals 536,484 from January 28, 2018. (Ex. 1, Settlement at 1.34).

B. Gross Settlement Amount and Net Settlement Amount

Defendant has agreed to pay the Gross Settlement Amount of $4,880,000 to resolve the Action, and to separately pay all employer-side payroll taxes owed on the wage portion of the Individual Settlement Payments. (*Id*. at 3.1.1). The Gross Settlement Amount will be used to pay the Individual Settlement Payments, Individual PAGA Payments, LWDA PAGA Payment, Class Counsel Attorneys' Fees, Class Counsel Attorneys' Costs, Class Representatives' Enhancement Awards and the Settlement Administrator Costs. (*Id*. at 3.2)

The Net Settlement Amount is the amount to be paid to Participating Class Members as Individual Settlement Payments after subtracting the following payments from the Gross Settlement Amount, subject to Court approval: (1) a Class Representative Enhancement payment of $10,000 to Plaintiff Berreyes (*Id*. at 3.2.1); (2) Settlement Administrator Costs up to $22,950 (*Id*. at 3.2.3); (3) Class Counsel Fees of up to $1,626,666.67 (*Id*. at 3.2.2); (4) Class Counsel Costs of up to $35,000 (*Id*.); and (5) PAGA Payment of $244,000, of which 75% will be paid to the LWDA and 25% will be distributed to Aggrieved Employees that worked during the PAGA Period. (*Id.* at 3.2.5).

C. Individual Class Payments and Individual PAGA Payments

Each Participating Class Member will receive an Individual Settlement Payment, disbursed from the Net Settlement Amount. The amount of the payment will be calculated on a pro-rata basis determined by dividing each Participating Class Member's Eligible Workweeks by all Participating Class Members' Eligible Workweeks, multiplied by the Net Settlement Amount (Ex. 1, Settlement at 3.2.4). Individual Settlement Payments shall be allocated as 33% wages (to be reported on an IRS Form W2); and 67% interest and penalties (to be reported on an IRS Form 1099). (*Id.* at 3.3.1).

A total of $244,000 will be allocated as the PAGA payment to be paid as penalties under PAGA. The LWDA will receive seventy-five (75%) of this amount ($183,000) as its statutory share of the penalties. Each PAGA Member will receive an Individual PAGA payment calculated on a pro-rata basis determined by dividing each PAGA Member's Eligible Pay Periods by the total Eligible PAGA Pay Periods worked by all PAGA Members, multiplied by the PAGA Members' 25% share of the PAGA Payment ($61,000). (*Id.* at 3.2.5).

D. Notice Procedures

The proposed Class Notice provides information regarding the nature of the Action, a summary of the Settlement's terms, the Class and Class Period definitions, the Class Member's Eligible Workweeks worked during the Class Period, the estimated Individual Settlement Payment and formula for calculating the payment, instructions to submit Requests for Exclusion or Objections and the deadlines, and Released Class claims and Released PAGA claims. (Ex. A to the Settlement Agreement).

Within twenty-one (21) days after receiving the Class Data, the Administrator will mail the Class Notice to the Settlement Class Members via First-Class USPS. (Settlement at 4.2.2). If any Class Notice is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall attempt to ascertain the current address of the Settlement Class Member by running a skip-trace using that Settlement Class Member's social security number. (*Id.*) If an address is ascertained, the Settlement Administrator shall re-mail the Class Notice within ten (10) calendar days. (*Id.*) The Response Deadline for Settlement Class Members is forty-five (45) days after the Settlement Administrator mails the Notice of Settlement to Settlement Class Members. It shall be the last date on which Settlement Class Members may: (a) postmark any Opt Out Request; (b) postmark any written objection to the Settlement, and (c) postmark any Eligible Workweek or Eligible Pay Period Dispute. (*Id.* at 1.31.) The Response Deadline for Settlement Class Members to whom the Notice of Settlement is remailed after having been returned as undeliverable to the Settlement Administrator shall be fifty-five (55) calendar days after the Settlement Administrator's initial mailing of the Notice of Settlement to Settlement Class Members, or fourteen (14) days after the re-mailing, whichever is later. (*Id.*)

Participating Class Members and PAGA Members may dispute the accuracy of their credited Eligible Workweeks and Eligible Pay Periods on their Class Notice. Participating Class Members and PAGA Members may do this by submitting evidence to the Settlement Administrator in writing no later than the Response Deadline. (*Id.* at 4.5). The Settlement Administrator will jointly work with Class Counsel and Defendant's Counsel to resolve the dispute in good faith. Any dispute unable to be resolved by the parties will be referred to the Court for a final decision. (*Id.*).

Settlement Class Members who want to opt out must timely submit a signed and dated written request to be excluded from the class portion of the Settlement to the Settlement Administrator. The request must be post-marked on or before the Response Deadline and contain the required information (*Id*. at 4.3.1). If more than five percent (5%) of the Class Members opt out, Defendant may, at its election, withdraw from the Settlement. (*Id*. at 4.7).

Participating Class Members, except for the Class Representative, may object to the Settlement in person at the Final Approval Hearing and/or in writing. Participating Class Members, except for the Class Representative, will have until the Response Deadline to file a written objection to the Court. (*Id*. at 4.4). If a Settlement Class Member submits both an Opt-Out Request and an Objection within the Response Deadline, then the Opt-Out Request will be deemed valid and the Objection invalid and the individual will not be deemed a Participating

Class Member. (*Id.* at 4.3.3)

E. Processing of Payments

Within fifteen (15) calendar days of Defendant funding the Gross Settlement Amount, the Administrator will issue payments as provided for in the Settlement. (*Id.* at 4.9.2). For any Class Member whose Individual Settlement Payment check or Individual PAGA Payment check is uncashed after one-hundred eighty (180) calendar days, the Settlement Administrator shall void any uncashed checks, and, subject to the Court's approval, the total amount of any uncashed settlement checks will be paid to the State Controller's Unclaimed Property Fund for the benefit of Participating Class Members and PAGA Members who did not cash their settlements. (*Id.* at 4.10.) Even if a Participating Class Member or PAGA Member does not cash or deposit their settlement payment check(s) within 180 calendar days of issuance, the Stipulation of Settlement, including its release, will be binding on that Participating Class Member or PAGA Member. (*Id.*)

F. Releases of Claims

As of the date Defendant fully funds the Settlement (including the employer-side payroll taxes), all Participating Class Members fully and finally release the Released Parties from the Released Class Claims that arose during the Class Settlement Period. (Settlement, at 3.5.2.). The "Released Class Claims" are any and all federal, state and local law claims, rights, demands, liabilities, penalties and causes of action, asserted or that could have been asserted arising from the same alleged facts in the complaints in this Action, including causes of action for or based on (1) failure to pay minimum wages, (2) failure to accurately pay all wages, including overtime wages, (3) failure to provide lawful meal periods, (4) failure to authorize and permit rest periods, (5) failure to timely pay wages during employment, (6) failure to timely pay wages owed upon separation from employment, (7) failure to reimburse necessary business expenses, (8) failure to pay reporting time wages, (9) failure to provide accurate itemized wage statements, (10) unfair business practices; and (11) all claims for attorneys' fees and costs based on the foregoing. (Id. at 1.28.)

Similarly, as of the same above mentioned date, Plaintiff, as a representative of the State of California and on behalf of the LWDA and as a representative of the PAGA Members, fully and finally releases the Released Parties from the Released PAGA Claims for the PAGA Settlement Period. (*Id.* at 1.29) The "Released PAGA Claims" are all claims for civil penalties under PAGA based on the factual allegations in any of the complaints filed in the Action, including claims for civil penalties based on (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide lawful meal periods, (4) failure to authorize and permit rest periods, (5) failure to timely pay wages during employment, (6) failure to timely pay wages owed upon separation from employment, (7) failure to reimburse necessary business expenses, (8) failure to pay reporting time wages, and (9) failure to provide accurate itemized wage statements. (*Id.* at 1.29.)

In addition to the above releases, the Class Representative will enter into a general release with a Civil Code 1542 waiver. (*Id.* at 1.6.)

IV. THE COURT SHOULD PRELIMINARILY APPROVE THE SETTLEMENT

A. Class Action Settlements Are Subject to Court Review and Approval Under the California Rules of Court.

The law favors settlements. *Bush v. Superior Court* (1992) 10 Cal. App. 4th 1374, 1382. This is particularly true in class actions. However, a class action may not be dismissed, compromised or settled without Court approval. *See* Cal. Civ. Code § 1781(f); Cal. R. Ct. 3.769 (a). The procedures for approval of a class action are (1) preliminary approval of the settlement by the Court; (2) notice to Class Members as directed by the Court; and (3) a final approval hearing to inquire into the fairness of the settlement. *See* Cal. R. Ct. 3.769(c), (e)-(f).

The decision to approve a proposed settlement lies within the Court's discretion. *See Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 128 (2008); *Wershba v. Apple Computer, Inc.,* 91 Cal. App. 4th 224, 234-25 (2001). Nevertheless, in considering a settlement for approval, a court is not to turn the approval hearing "into a trial or rehearsal for trial on the merits…[or] to reach any ultimate conclusions on the contested issues of fact and law which underlie the merits of the dispute." *Officers for Justice v. Civil Serv. Comm'n,* 688 F.2d 615, 625 (9^{th} Cir. 1982). The Court's duty is to determine whether the settlement is fair, adequate, and reasonable. *See Dunk v.*

Ford Motor Co., 48 Cal. App. 4th 1794, 1801 (1996) (citing *Officers for Justice,* 688 F.2d. at 625). The Court should consider factors including:

> [T]he 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, the experience and views of counsel…and the reaction of the class members to the proposed settlement.

Dunk at 1801. Furthermore, the Court must give "[due] regard to what is otherwise a private consensual agreement between the parties." *Wershba*, 91 Cal. App. 4th at 245. 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." *Id.* (citation and internal quotation marks omitted).

A "presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small." *Dunk*, 48 Cal. App. 4th at 1802 (citing Herbert B. Newberg & Alba Conte, *Newberg on Class Actions* ("*Newberg*") § 11.41). As shown below, the settlement falls well within the range of approval because there are no grounds to doubt its fairness.

B. The Settlement is Fair, Reasonable, and Adequate

1. The Settlement is the Result of Arm's-length Negotiations.

The Settlement was the product of extensive arm's length bargaining by the Parties and a full day of mediation conducted by experienced wage and hour mediator Lisa Klerman. (Hawkins Decl. at ¶ 14). At all times, the negotiations were adversarial and non-collusive and aided by the mediator. The negotiations were informed by the extensive review and investigation conducted. The information exchanged between the Parties allowed them to assess the merits of the claims and defenses and reach a compromise. (*Id*. at 15). Plaintiff and Class Counsel have considered the uncertainty and risk of further litigation and the potential outcome. Informed by this process, Plaintiff and Class Counsel believe the Settlement is fair, adequate, and reasonable, and it is in the best interests of the Class Members. (Id. at ¶ 15-19.)

2. The Extent of Discovery and the Stage of the Proceedings Support Settlement.

The Parties thoroughly investigated and evaluated the factual strengths and weaknesses of their respective claims and defenses before reaching the Settlement. (Hawkins Decl. ¶ 11-19.) The Settlement was reached after extensive investigation and research, substantial exchanges of documents, and a thorough evaluation of class-wide data produced to Class Counsel. (*Id.*). As such, this litigation has reached the stage where "the Parties certainly have a clear view of the strengths and weaknesses of their cases" sufficient to support the settlement. *In re Warner Commc'ns Sec. Litig.,* 618 F. Supp. 735, 745 (S.D.N.Y. 1985).

3. The Settlement is a Reasonable Compromise of Claims

The Settlement compares favorably to other class settlements in terms of potential recovery. *In re MyFord Touch Consumer Litig.,* No. 13-CV-03072-EMC, 2019 WL 1411510 at *10 (N.D. Cal. Mar. 28, 2019) (citing cases where settlement ranges from 5% to 10% of potential recovery).

In this case, among other things, Plaintiff alleged that Defendant failed to pay minimum wage and overtime for all hours worked, failed to reimburse necessary expenses, failed to pay reporting time wages as required by law, failed to provide compliant meal breaks or rest breaks as a matter of policy and practice, and failed to pay meal or rest period premiums for those breaks that were not lawfully provided. Defendant raised a litany of defenses to the claims raised as more fully discussed in the Hawkins Declaration. (See, Hawkins Decl. ¶¶ 39-53.) Defendant contends that all of its policies, procedures, and practices were lawful, and that its written policies including its handbook and collective bargaining agreement were compliant with the applicable laws.

As to the meal and rest period claims, Plaintiff argued that Class Members were unable to take meal or rest breaks because of work demands, lack of coverage and scheduling. Plaintiff argued that Defendant's efficiency standard requirements discouraged employees from taking lawful meal and rest breaks, functionally prevented employees from taking duty-free breaks and resulted in short and late breaks. On the other hand, Defendant contends the Class Members were always provided lawful meal and rest periods in accordance with their written policies including their handbook and collective bargaining agreement. Defendant also argued that because the Class Members subject to a Collective Bargaining Agreement, certain exemptions applied to, among other claims, overtime, meal and rest periods. Defendant contends that its policies were compliant with the applicable laws and any skipped or shortened breaks were a result of that employee's willful and individualized conduct not any unlawful policy or procedure of Defendant. Defendant also contended that if Plaintiff had proceeded with the lawsuit, it would have defeated the class and representative action allegations.

While Plaintiff believes in the strength of his allegations and that the claims are appropriate for class certification, certification was far from certain given Defendant's defenses and the state of the law regarding certification. (Hawkins Decl. at ¶ 18-19, 39-53). The risk that Defendant could defeat certification, defeat the representative claims, and/or prevail on their defenses, warranted a compromise. (*Id.*). After arms-length negotiations between experienced and informed counsel and with the assistance of a mediator, the Parties agreed to the Gross Settlement Amount of $4,880,000, which is approximately 34% of the realistic liability of $14.4 million. (*Id.* at 19). As the *Glass* court held:

> In light of the above-referenced uncertainty in the law, the risk, expense, complexity, and likely duration of further litigation likewise favors the settlement. Regardless of how this Court might have rules 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 litigation an appeal. "The expense and possible duration of the litigation should be considered in evaluating the reasonableness of [a] settlement." *See In re Mego Financial Corp. Securities Litigation,* 213 F.3d 454, 458. (9th Cir. 2000).

Glass v. UBS Fin. Servs., Inc., No. C-06-4068 MMC, 2007 WL 221862, at *9 (N.D. Cal. Jan. 26, 2007). "Generally, unless the settlement is clearly inadequate, its acceptable and approval are preferable to lengthy and expensive litigation with uncertain results," *Ching v. Siemens Indus.*, Inc., No. 11-CV-04838-MEJ, 2014 WL 2926210, at *9 (N.D. Cal. June 27, 2014) (quotation omitted). This factor weighs in favor of approval.

4. The Risks Inherent in Continued Litigation Are Great.

To assess a class action settlement, the Court should consider "[t]he strength of plaintiff's case, the risk, expense, complexity, and likely duration of further litigation, [and] the risk of maintaining class action status." *See Dunk* at 1801.

Defendant asserted strong defenses to Plaintiff's claims that create a possibility that the claims might not be certified or might fail on the merits. Counsel recognized the expense and length of proceedings necessary to continue the litigation through trial and any appeals. Counsel also considered the uncertainty and risk of further litigation, and the difficulties and delays inherent in such litigation. While Plaintiff believes in the strength of the allegations and that the claims are certifiable, Plaintiff and Class Counsel balanced their evaluation of the validity and merit of the asserted claims against potential problems of proof, the legal standards governing litigation of class claims, uncertainty of obtaining and maintaining class certification, the potential for appeals, and the expense and burden of prolonged litigation. (Hawkins Decl. ¶18.) Based on Class Counsel's evaluation, the Settlement is fair, adequate, and reasonable and in the best interest of the Class, including Plaintiff. (*Id.* at 19, 53.)

5. The Fairness of the Distribution to Class Members Also Supports Approval.

The Settlement treats all Class Members equally, providing no preferential treatment for the named Plaintiffs or any segment of the Class. The Parties have allocated Individual Settlement Payments to the Class Members according to the number of Eligible Workweeks that each Settlement Class Member worked during the Class Period versus all of the Eligible Workweeks worked by all Settlement Class Members during the Class Period. (Ex. 1, Settlement at 3.2.4.)

6. Class Counsel Are Experienced in Similar Litigation.

The view of the attorneys actively conducting the litigation "is entitled to significant weight" in deciding whether to approve the settlement. *Fisher Bros. v. Cambridge-Lee Indus, Inc.,* 630 F. Supp. 482, 488 (E.D. Pa. 1985); *Ellis v. Naval Air Rework Facility,* 87 F.R.D. 15, 18 (N.D. Cal. 1980), aff'd, 661 F. 2d. 939 (9th Cir. 1981); *Boyd v. Bechtel Corp.,* 485 F. Supp. 610, 616-17 (N.D. Cal. 1979). Class Counsel are experienced in wage-and-hour class actions and have litigated, and currently are litigating, similar class action matters. (Hawkins Decl. at ¶¶ 64-68).

Counsel negotiated this Settlement at arm's length and believe this is a fair and reasonable settlement in light of the complexities of the case, the state of the law, and uncertainties of class certification and litigation. Given the risk inherent in litigation and the defenses asserted, this settlement is fair, adequate, and reasonable and in the best interests of the Class Members, and should be preliminarily approved. (*Id*. at 15-19, 53).

V. CONDITIONAL CERTIFICATION OF THE CLASSES IS APPROPRIATE

California Rule of Court 3.769(d) provides that the Court may make an order approving certification of a provisional class at preliminary approval. Trial courts should use a "lesser standard of scrutiny" for determining the propriety of certifying a settlement class, as opposed to a litigation class. *Dunk*, 48 Cal. App. 4th at 1807. Because no trial is anticipated in a settlement, case management issues need not be confronted, and the trial court's fairness review of the settlement protects the interests of the class members. Here, for the purposes of this settlement, the Parties ask this Court to provisionally certify the Class.

A. Numerosity and Ascertainability

Numerosity is met if a proposed class is so large that joinder of all members would be impracticable. *See* Cal. Code Civ. Proc. § 382. A proposed class is ascertainable if the class members can be objectively identified and given notice of the litigation without unreasonable time or expense. *See Medrazo v. Honda of N. Hollywood*, 166 Cal. App. 4th 89, 101 (2008). The class size of approximately 2,786 Class Members is sufficiently numerous to warrant conditional class certification, and the proposed Class is ascertainable as all of the Class Members worked for Defendant and can be identified through employee files and payroll records. (Hawkins Decl. ¶ 61).

B. Well-Defined Community of Interest

1. Commonality.

To justify certification, the class proponent must show that questions of law or fact common to the class predominate over the questions affecting the individual members. *See Arenas v. El Torito Rests, Inc.,* 183 Cal. App. 4th 723, 732 (2010) (citing *Washington Mut. Bank v. Superior Court,* 24 Cal. 4th 906, 913 (2001)). The claims of Plaintiff and the Class Members all flow from the same facts and legal claims, i.e., that Defendant's alleged policies, practices, and procedures resulted in Defendant's failure to pay minimum wages and overtime wages, failure to provide lawful meal periods, failure to authorize and permit lawful rest periods, failure to timely pay wages during employment, failure to timely pay all wages due at the time of separation from employment, failure to reimburse necessary expenses, failure to pay reporting time pay, failure to provide accurate wage statements, and engaging in unfair competition. Under these circumstances, the commonality requirement is satisfied. (Hawkins Decl. at ¶56).

2. Typicality

Typicality "focuses on whether there exists a relationship between the plaintiffs' claims and the claims alleged on behalf of the class." *Newberg,* §3.13. The typicality requirement is met, as the proposed Class Representative and Class Members all claim Defendant committed similar violations based upon similar conduct, policies and practices and seek the same remedies. Plaintiff contends that his claims are typical of the Class because they arise from the same factual basis and legal theories as those of the Class Members. (Hawkins Decl. at ¶ 58).

3. Adequacy of Representation

Class Representatives must establish that they will adequately represent the proposed class. *See Barboza v. West Coast Digital GSM, Inc.,* 179 Cal. App. 4th 540, 546 (2009). Class Counsel is not aware of any interests of the Class Representatives which are adverse to the interests of the Class. (Hawkins Decl. at ¶ 59, Declaration of Louis Berreyes at ¶ 13). Adequacy of counsel may be established by the fact that counsel are experienced practitioners. *See Local Joint Exec. Bd. Of Culinary/Bartender Trust Fund v. Las Vegas Sands, Inc.,* 244 F.3d 1152, 1162 (9th Cir. 2001). Class Counsel are experienced in wage-and-hour litigation. (Hawkins Decl. at ¶¶ 64-68.).

VI. THE COURT SHOULD APPOINT ILYM GROUP AS THE ADMINISTRATOR

The parties propose that the Court appoint ILYM Group, Inc ("ILYM Group") to serve as the Administrator. (Ex. 1, Settlement at 1.33). ILYM Group has estimated its fees and costs for this settlement not to exceed $22,950. (Hawkins Decl. ¶ 75, Exhibit 3.)

A. The Notice to be Provided to Class Members Is Sufficient.

California statutory and case law vests the Court with broad discretion in fashioning an appropriate notice program. What constitutes adequate notice will depend on the circumstances of each case, and such efforts and their costs must be proportional to the magnitude of the claims. The notice plans here satisfy all due process requirements.

B. The Content of The Notice Provided to Class Members Is Sufficient.

The Notice of Class Settlement identifies the Parties, describes the action and class, summarizes the proceedings and terms of the Settlement in an informative and coherent manner, and is accurate, objective, and understandable to Class Members. (See, Ex. A to the Settlement). It clearly states the Settlement is not an admission of liability by Defendant, the Court has not ruled on the merits, and the final settlement approval decision has yet to be made (*Id*.). The Class Notice meets the applicable legal standards since it apprises the Class Members of the terms of the proposed settlement and of the options open to objecting class members. (*Wershba v. Apple Computers, Inc.* (2001) 91 Cal.App.4th 224, 251 [citation omitted]; see Cal. R. Ct., Rule 3.766, subd. (d).)

C. The Manner of Supplying Notice to Class Members Is Sufficient.

There is no statutory or due process requirement that all class members actually receive notice of the settlement. Rather, "[t]he notice given should have a reasonable chance of reaching a substantial percentage of the class members…." *Cartt v. Super. Ct.*, 50 Cal.App.3d 960, 973 (1975). This is satisfied by mailing the Class Notice by First-Class USPS to all Class Members on the Class list. (Ex. 1, Settlement at 4.2.2.)

VII. CONCLUSION

Plaintiff requests that the Court preliminarily approve the Settlement and enter an order: (1) provisionally certifying the Class under Code of Civil Procedure section 382 and California Rule of Court 3.769(c) for settlement purposes; (2) preliminarily approving the Settlement; (3) approving as to form the Class Notice and ordering that the Class Notice be distributed to all Class Members; (4) appointing Plaintiff Berreyes as the Class Representative; (5) appointing ILYM Group, Inc. as the Settlement Administrator; (6) appointing James R. Hawkins and Christina M. Lucio of James Hawkins APLC as Class Counsel; and (7) setting this matter for a hearing on the issues of final approval of the proposed Settlement, approval of the Class Representatives' Enhancement Awards, approval of Class Counsel's attorneys' fees and costs, and approval of the Settlement Administrator costs.

Dated: July 9, 2025 **JAMES HAWKINS APLC**

James R. Hawkins
Christina M. Lucio

Attorneys for Plaintiff