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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

ADA MENDOZA, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

DESERT VALLEY DATE, LLC, a
California company; JOOLIES, LLC, a
Delaware Limited Liability Company; DVD
FARMING, LLC, a California Limited
Liability Company; DVD FACILITY, LLC
a California Limited Liability Company;
and DOES 4 through 100,
Defendants.

Case No. CVRI2301048

*[Assigned to Hon. Harold W. Hopp
Department I]*

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

Date: August 25, 2025
Time: 8:30 a.m.
Dept.: 1

Action Filed: March 1, 2023
Trial Date: None Set

PLEASE TAKE NOTICE that, pursuant to Rule 3.769 of the California Rules of Court, on August 25, 2025 at 8:30 a.m., or as soon thereafter as the matter may be heard, in Department 1 of the Riverside County Superior Court, located at 4050 Main Street Riverside, CA 92501, Plaintiff Ada Mendoza (“Plaintiff”), as an individual and on behalf of a class of similarly situated individuals, will and hereby does move this Court for:

1. Preliminary approval of the proposed Joint Stipulation of Class & Representative PAGA Action Settlement and Release of Claims (“Settlement Agreement”) in this lawsuit between Plaintiff and Defendants Desert Valley Date LLC, Joolies LLC, DVD Farming LLC, and DVD Facility LLC (collectively, the “Defendants”);
2. Pursuant to California Code of Civil Procedure § 382, and for settlement purposes only, provisional certification of the Settlement Class, defined as follows:

All current and former non-exempt employees who worked for Defendants in California from July 27, 2020, through April 4, 2025 (the “Class Period”). “Class Member” shall mean an individual who is a member of the Class (or if any such person is incompetent, deceased, or unavailable due to military service, the person’s legal representative or successor in interest evidenced by reasonable verification). “Class Member” shall not include any person who submits a timely and valid request for exclusion.

3. Preliminary appointment of Ada Mendoza as the Class Representative;
4. Preliminary appointment of Paul K. Haines, Fletcher W. Schmidt, Andrew J. Rowbotham, and Susan J. Perez of Haines Law Group, APC as Class Counsel;
5. The scheduling of a hearing to consider whether the Settlement Agreement should be finally approved and to award amounts for the Class Representative Payment, costs to the Settlement Administrator, payment to the Labor and Workforce Development Agency for its share of Private Attorneys General Act civil penalties, and Class Counsel’s attorneys’ fees and costs;
6. Appointment of Phoenix Settlement Administrators as the third-party settlement administrator (“Settlement Administrator”); and
7. Approval of the proposed Notice of Class Action Settlement (“Class Notice”), which also includes the Request for Exclusion Form, and Objection Form (collectively, the “Notice Packet”), and entry of the proposed Order directing that the Notice Packet be

1 disseminated to the proposed Settlement Class in English and Spanish, as provided in
2 the Settlement Agreement.

3 This motion is based on this notice of motion, the attached memorandum of points and
4 authorities, the declarations of Andrew J. Rowbotham, Paul K. Haines, Fletcher W. Schmidt, and
5 Susan J. Perez of Haines Law Group, APC, Plaintiff Ada Mendoza, Kevin Lee of Phoenix
6 Settlement Administrators, Pedro S.G. Rodriguez of Coachella Valley Housing Coalition, and
7 Gregory Willsey and Andrea Rosenkranz on behalf of Defendants, and the exhibits attached
8 thereto, the pleadings and other papers filed in this action, and on any further oral or documentary
9 evidence or argument presented at the time of hearing.

10
11 Dated: August 1, 2025

Respectfully Submitted,
HAINES LAW GROUP, APC

12 By: 
13 Andrew J. Rowbotham
14 Attorneys for Plaintiff
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Ada Mendoza (“Plaintiff”) respectfully requests that this Court preliminarily
4 approve the proposed Joint Stipulation of Class & Representative PAGA Action Settlement and
5 Release of Claims (“Settlement Agreement” or “Settlement”),¹ entered into by Plaintiff and
6 Defendants Desert Valley Date LLC, Joolies LLC, DVD Farming LLC, and DVD Facility LLC
7 (collectively, the “Defendants”), on behalf of the following Settlement Class: “All current and
8 former non-exempt employees who worked for Defendants in California from July 27, 2020,
9 through April 4, 2025 (the “Class Period”).”

10 Based on data provided by Defendants, approximately 332 Class Members will share in
11 the \$430,000.00 Maximum Settlement Amount (“MSA”). After Court-approved deductions for
12 the Class Representative Payment, settlement administration costs, payment to the Labor and
13 Workforce Development Agency (“LWDA”) for its share of civil penalties under the Private
14 Attorneys General Act, Labor Code § 2698 *et seq.* (“PAGA”), the PAGA payment to Aggrieved
15 Employees, and Class Counsel’s attorneys’ fees and costs, the remaining Net Settlement Amount
16 (“NSA”) is estimated to be no less than \$199,766.67. This will result in an average Settlement
17 Share of approximately \$601.71, with the lowest estimated award of \$4.96 (for Class Members
18 who worked only one workweek during the Class Period) and the highest estimated award of
19 \$1,577.18 (for those who worked every workweek during the Class Period).

20 In addition to the NSA, all current and former non-exempt employees who worked for
21 Defendants in California between March 1, 2022, through April 4, 2025 (the “PAGA
22 Period”) (the “Aggrieved Employees”), will receive \$7,500.00 (25%) of the \$30,000.00 set aside
23 for PAGA civil penalties. According to Defendants’ data, there are approximately 168 Aggrieved
24 Employees, resulting in an average individual PAGA Payment of approximately \$44.64, with
25 estimated payments ranging from \$0.29 (for Aggrieved Employees who worked only one
26

27 ¹ The Settlement Agreement is attached as **Exhibit 1** to the Declaration of Andrew J. Rowbotham
28 (“Rowbotham Decl.”), filed concurrently herewith. The Notice of Class Action Settlement
 (“Class Notice”) which also includes a Request for Exclusion Form and Objection Form
 (collectively, the “Notice Packet”) are attached to the Rowbotham Decl. as **Exhibit 2**.

workweek during the PAGA Period) to \$47.05 (for those who worked every workweek during the PAGA Period).

Class Members and Aggrieved Employees will not be required to file a claim form to receive a Settlement Share. All individuals who do not opt out will automatically receive their share of the Settlement. This represents a fair and reasonable result for Class Members, who will release only those claims asserted, or that could have been asserted, based on the facts alleged in the operative complaint. Aggrieved Employees will not release any claims for wages or damages. Only Plaintiff and the State will release statutory penalty claims under PAGA that could have been brought by the Labor Commissioner based on the alleged violations identified in Plaintiff's pre-filing letter dated March 1, 2023 (the "PAGA Release").²

The proposed Settlement is well within the range of possible approval, given the significant legal and factual obstacles Plaintiff faced, the risks and costs of further litigation, and the monetary benefit to Class Members. For these reasons, Plaintiff respectfully requests that the Court grant preliminary approval of the Settlement.

II. SUMMARY OF THE LITIGATION

A. Factual and Procedural Background

Defendants operate a warehouse factory that packages dates from local growers and then ships the packaged dates throughout California. Declaration of Andrew J. Rowbotham ("Rowbotham Decl."), ¶ 17. Plaintiff was employed by Defendants as a non-exempt "Packager" from approximately August 2020 to January 2023 in Coachella, California. *Id.*; Declaration of Ada Mendoza ("Mendoza Decl."), ¶ 2. Plaintiff's primary job duties consisted of cleaning and packaging dates as they flowed down a conveyor belt on an assembly line. *Id.* Like all Class Members, Plaintiff was employed by Defendants during the Class Period and subject to Defendants' alleged unlawful wage and hour policies and practices. Rowbotham Decl., ¶ 17.

On March 1, 2023, Plaintiff initiated this wage and hour class action against Defendant

² Plaintiff's pre-filing letter to the LWDA is attached to the Rowbotham Decl. as **Exhibit 3**. Concurrently with the filing of this Motion, Plaintiff also provided notice to the LWDA of the Settlement along with the approval paperwork. The LWDA submission confirmation is attached to the Rowbotham Decl. as **Exhibit 4**.

Desert Valley Date, LLC (“Defendant DVD”), asserting various violations of the Labor Code. Rowbotham Decl., ¶ 18. On May 8, 2023, Plaintiff filed the operative First Amended Complaint (“FAC”), adding a cause of action for civil penalties under the PAGA. *Id.*

The Parties initially scheduled private mediation with Todd Smith, Esq. for November 1, 2023. Rowbotham Decl., ¶ 19. In preparation, Defendants produced an approximately one-third sample of timekeeping records (handwritten and electronic), payroll data, classwide data points, and the operative employee handbook. *Id.* Plaintiff retained an expert to conduct a comprehensive exposure analysis. *Id.* Shortly before mediation, Defendants disclosed financial concerns and an inability to fund a classwide settlement. *Id.* Mediation was then cancelled. *Id.* Defendants produced confidential financial documents, which Plaintiff’s forensic accountant reviewed to assess Defendants’ claimed financial condition. *Id.*

Mediation was rescheduled for April 8, 2025, with retired bankruptcy judge Mitchel R. Goldberg. Rowbotham Decl., ¶ 20. During mediation, Judge Goldberg reviewed Defendants’ financial documentation and history from 2023 to the present and questioned both Plaintiff’s forensic accountant and Defendants’ owner Gregory Willsey.³ *Id.* At the conclusion of mediation, Judge Goldberg issued a mediator’s proposal that would require payment of the MSA in nine quarterly installments, with the final payment due on or before June 30, 2028. *Id.* The Parties accepted the proposal, and on July 21, 2025, Plaintiff amended the Action through DOE amendments to substitute Joolies, LLC as “DOE 1,” DVD Farming, LLC as “DOE 2,” and DVD Facility, LLC as “DOE 3.” *Id.*

B. Plaintiff’s Claims and Defendants’ Defenses

1. Unlawful Time Rounding Violations

Plaintiff asserts that, for a portion of the Class Period, Defendants maintained an unlawful rounding practice that resulted in Defendants systematically underpaying employees all earned wages. Rowbotham Decl., ¶ 21; *see also Camp v. Home Depot U.S.A., Inc.* (2022) 84 Cal.App.5th 638, 660 (“[I]f an employer ... can capture and has captured the exact amount of time an employee

³ A detailed explanation of Defendants’ financial condition is contained in the Declaration of Gregory Willsey filed in support of this motion.

1 has worked during a shift, the employer must pay the employee for “all the time”
2 worked.”) Specifically, Plaintiff claims Defendants record employee clock in and clock out
3 timeclock punches to the minute, but rounded timekeeping entries in an uneven manner to the
4 employees’ detriment, resulting in unpaid minimum and overtime wages. Rowbotham Decl., ¶
5 21; see Labor Code §§ 510(a), 1197, and 1182.12.

6 In response, Defendants contend that their timekeeping practices are lawful and that its
7 timekeeping practice is neutral and operates in an even-handed way, as approved by the Court of
8 Appeal in *See’s Candy*. Rowbotham Decl., ¶ 22; *see also See’s Candy Shops, Inc. v. Superior*
9 *Court* (2012) 210 Cal.App.4th 889, 907 (holding that an employer may lawfully use a rounding
10 policy if it is “fair and neutral on its face” and “used in such a manner that it will not result, over
11 a period of time, in failure to compensate the employees properly for all the time they have
12 actually worked.”) Moreover, Defendants argue that certification is improper because
13 determining whether employees were underpaid would require individualized inquiries into
14 whether time before shifts was spent working or engaged in non-compensable activities.
15 Rowbotham Decl., ¶ 22.

16 **2. Regular Rate Miscalculation**

17 Plaintiff asserts that Defendants paid employees non-discretionary incentive pay tied to
18 productivity and performance benchmarks, but failed to properly include this compensation when
19 calculating employees’ regular rates of pay for overtime purposes. Rowbotham Decl., ¶ 23; *see*
20 Labor Code § 510(a) (requiring overtime to be paid at one and one-half times the regular rate of
21 pay); 29 C.F.R. § 778.211(c) (“Bonuses which are announced to employees to induce them to
22 work more steadily or more rapidly ... are regarded as part of the regular rate of pay.”)

23 Defendants contend that all bonus payments were discretionary, based on varying criteria,
24 and therefore properly excluded from the regular rate of pay. Rowbotham Decl., ¶ 24. Defendants
25 further assert that the claim is unmanageable, as it requires individualized inquiries into each
26 payment to determine the terms for earning the bonus, whether those terms were met, whether the
27 bonus was communicated in a manner that renders it non-discretionary, and whether any overtime
28

1 was actually underpaid. *Id.* Each of these steps would result in an unmanageable series of mini-
2 trials. *Id.*

3 **3. Meal Period Violations**

4 Plaintiff contends that Defendants regularly failed to provide employees with timely,
5 duty-free, and uninterrupted 30-minute meal periods as required by law. *See* Labor Code § 512(a);
6 *see also Brinker v. Superior Court* (2012) 53 Cal.4th 1004, 1041 (“We conclude that, absent
7 waiver, section 512 requires a first meal period no later than the end of an employee’s fifth hour
8 of work...”.) Specifically, Defendants frequently failed to provide employees with timely meal
9 periods commencing before the end of the fifth hour of work, and regularly interrupted, impeded,
10 or discouraged them from taking duty-free, 30-minute meal periods, despite Defendants’ practice
11 of deducting 30 minutes from employees’ time during part of the Class Period. Rowbotham Decl.,
12 ¶ 25. Defendants also failed to provide second meal periods when employees worked shifts in
13 excess of 10 hours. *Id.* Plaintiff further alleges that Defendants failed to provide a full 30-minute
14 “net” meal period because supervisors dismissed employees only after they had cleaned their
15 workstations, as dishes could not be left on the conveyor belt during breaks for sanitation reasons.
16 *Id.* Defendants also failed to account for travel time between the timeclocks and breakrooms,
17 resulting in meal periods shorter than 30 minutes of net rest in a designated break area separate
18 from the workstation. *Id.*

19 Defendants argue that they maintain a legally compliant written meal period policy and
20 have always provided meal periods consistent with that policy, and that employers are only
21 required to provide the opportunity to take meal periods, not to “ensure” they are taken.
22 Rowbotham Decl., ¶ 26; *see also Brinker, supra*, (2012) 53 Cal.4th at 1040-1041 (“[T]he
23 employer is not obligated to police meal breaks and ensure no work thereafter is performed. Bona
24 fide relief from duty and the relinquishing of control satisfies the employer's
25 obligations...”.) Defendants also assert that all employees took their meal periods simultaneously
26 each day, ensuring timely 30-minute breaks, and that their auto-deduction practice accurately
27 reflected those breaks. Rowbotham Decl., ¶ 26. Defendants further argue that individualized
28 inquiries will be required to determine the reason for each late, short, or missed meal period,

whether a valid waiver existed, and whether a premium was paid, thereby precluding class certification.

4. Rest Period Violations

Plaintiff contends that Defendants failed to authorize and permit employees to take all rest periods required by law. Rowbotham Decl., ¶ 27. As with meal periods, Plaintiff asserts that Defendants failed to authorize and permit a 10-minute “net” rest period beginning when the employee reached a designated rest area away from the workstation, without accounting for the time required for supervisors to dismiss employees and for employees to walk to and from the breakroom. *Id.*; see DLSE Manual § 45.3.3; *Vaquero v. Stoneledge Furniture LLC* (2017) 9 Cal.App.5th 98, 112 (citing DLSE Manual § 45.3.3 for the proposition that “the rest period begins when the employee reaches an area away from the work station that is appropriate for rest”); *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 260 (“[E]mployers must relieve their employees of all duties and relinquish any control over how employees spend their break time.”). Plaintiff further alleges that Defendants failed to authorize and permit third rest periods for shifts lasting more than 10 hours. Rowbotham Decl., ¶ 27.

Defendants dispute these allegations, asserting that they have always maintained a facially lawful written rest period policy and authorized and permitted rest periods consistent with California law. Rowbotham Decl., ¶ 28. Defendants argue that employees are not required to use the breakrooms for rest periods and are permitted to take longer than 10 minutes to account for dismissal time and walking to and from the breakroom. *Id.* Defendants also assert that questions such as whether rest periods were authorized and permitted, or voluntarily skipped, would overwhelm any common issues and raise serious manageability concerns, particularly since rest periods are not recorded. *Id.*

5. Wage Statement, Waiting Time, PAGA Civil Penalties

As a result of Defendants’ alleged failure to pay all overtime wages, minimum wages, and meal and rest period premiums, Plaintiff contends that Defendants also failed to issue accurate, itemized wage statements and failed to timely pay all final wages upon separation of employment. Rowbotham Decl., ¶ 29; see also Labor Code §§ 203(a), 226(a). Plaintiff also seeks PAGA civil

penalties on behalf of all aggrieved employees for these alleged violations. *Id.*; *see also Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1213 (“As we have explained, they [civil penalties under PAGA] are mandatory, not discretionary.”)

Defendants argue that because Plaintiff’s underlying claims will fail, the derivative wage statement, waiting time, and PAGA claims must also fail. Rowbotham Decl., ¶ 30; *see Price v. Starbucks Corp.* (2011) 192 Cal.App.4th 1136, 1147 (“Because the underlying causes of action fail, the derivative UCL and PAGA claims also fail.”). Defendants further argue that Plaintiff cannot show any wage statement violations were “knowing and intentional,” or that employees “suffered injury” as required by Labor Code § 226(e). Rowbotham Decl., ¶ 30; *see* Labor Code § 226(e)(1). Defendants also contend that their good faith defenses to the underlying claims preclude recovery of waiting time penalties, which require a “willful” failure to pay wages. Rowbotham Decl., ¶ 30. Defendants also assert that this Court should exercise its discretion to substantially reduce any PAGA penalties awarded. *Id.*; *see also* 8 Cal. Code Regs. § 13520 (“[A] good faith dispute that any wages are due will preclude imposition of waiting time penalties under Section 203.”); Labor Code § 2699(e)(2) (court may reduce civil penalties to avoid an award that is “unjust, arbitrary and oppressive, or confiscatory”).

III. THE PROPOSED SETTLEMENT

A. Essential Terms of the Settlement

If the Court preliminarily approves this Settlement, Defendants will pay an MSA of \$430,000.00. Settlement, ¶ 17. This Settlement is non-reversionary, and Class Members will automatically receive their individual Settlement Shares unless they affirmatively opt-out. *Id.*, ¶¶ 2, 49(b), 50, 63. The monetary terms of the Settlement are as follows:

Maximum Settlement Amount:	\$430,000.00
Minus Court-approved attorneys’ fees (1/3):	\$143,333.33
Minus Court-approved attorneys’ costs (up to):	\$40,000.00
Minus Court-approved Class Representative Payment:	\$10,000.00
Minus Settlement Administrator costs (up to):	\$6,900.00
Minus PAGA Penalties:	\$30,000.00
Net Settlement Amount:	\$199,766.67

1. The Settlement Provides for Reasonable Monetary Payments

After deducting Court-approved amounts for attorneys’ fees and costs, the Class

Representative Payment, settlement administration costs, and the amount allocated to PAGA civil penalties, the Settlement provides an estimated NSA of no less than \$199,766.67. *See* Settlement, ¶ 19. Settlement Shares will be calculated based on the proportionate number of workweeks worked by each participating Class Member during the Class Period. *Id.*, ¶ 66(b)-(c). Separately, the \$7,500.00 allocated to Aggrieved Employees as their share of the \$30,000.00 in PAGA civil penalties will be distributed based on the proportionate number of pay periods worked during the PAGA Period. *Id.*, ¶ 67(b)-(c).

For tax purposes, each Settlement Share will be allocated as thirty-three percent (33%) wages (subject to applicable withholdings) and sixty-seven percent (67%) penalties and interest (not subject to withholdings). *See* Settlement, ¶ 68. Amounts paid as PAGA civil penalties will be treated as 100% penalties. *Id.*, ¶ 69. Defendants will pay the employer's share of payroll taxes separately and in addition to the MSA. *Id.*, ¶ 70.

Based on records produced prior to mediation, there are approximately 332 Class Members, each of whom is expected to receive an average Settlement Share of approximately \$601.71.⁴ Rowbotham Decl., ¶ 31. Class Members will have forty-five (45) calendar days from the initial mailing of the Notice Packet to opt out of or object to the Settlement, providing ample time to review the Class Notice. *See* Settlement, ¶ 49(b). Class Members who do not opt out will be bound by the Settlement and will release all claims against Defendants as detailed therein. *Id.*, ¶ 49(b), 75. Settlement Share checks must be cashed within 180 days of mailing. *Id.*, ¶ 62.

Any uncashed funds will be distributed to the Coachella Valley Housing Coalition, a nonprofit community development corporation serving farmworkers, their families, and other low-income residents, including seniors, veterans, and individuals with chronic illnesses, in rural and desert communities from Riverside to Imperial Counties. Declaration of Pedro S.G. Rodriguez ("Rodriguez Decl.") ¶ 3. Because the Settlement provides for the distribution of all uncashed funds to a designated nonprofit organization approved by the Court, the Parties submit that the distribution method complies with Code of Civil Procedure § 384(b), which permits

⁴ There are approximately 168 PAGA Aggrieved Employees who will receive an average of approximately \$44.64 for their share of PAGA civil penalties. Rowbotham Decl., ¶ 31.

1 unclaimed or abandoned class member funds to be distributed to nonprofits that benefit the class
2 or similarly situated persons.

3 **2. Class Counsel Fees, Costs, and Plaintiff's Representative Payment**

4 At the time of final approval, Plaintiff will request a Class Representative Payment of
5 \$10,000.00 in recognition of the significant time and effort she dedicated to this litigation.
6 Rowbotham Decl., ¶ 32; *see also* Settlement, ¶¶ 8, 71(a). Throughout the litigation, Plaintiff
7 searched for and provided relevant documents for use in the lawsuit, provided factual information
8 to Class Counsel, participated in multiple calls to discuss the claims and company policies,
9 reviewed documents and filings related to the case, assisted with mediation preparation, made
10 herself available throughout mediation to respond to factual inquiries from opposing counsel and
11 the mediator, and discussed the settlement terms with Class Counsel, providing input on whether
12 she believed the settlement was fair. Mendoza Decl., ¶ 7. Plaintiff estimates she devoted at least
13 20-30 hours to tasks that contributed directly to the resolution of this matter. *Id.* She also assumed
14 meaningful risk by serving as the named plaintiff, as her name is now associated with a wage and
15 hour class action against a current and/or former employer. Rowbotham Decl., ¶ 32.

16 Class Counsel will also seek an attorneys' fee award of up to one-third of the MSA
17 (currently estimated at \$143,333.00) and reimbursement of actual litigation costs up to
18 \$40,000.00. Rowbotham Decl., ¶ 33; *see* Settlement, ¶¶ 4, 71(b). The requested fee reflects fair
19 compensation for undertaking complex, high-risk, time-intensive litigation on a purely contingent
20 basis. Class Counsel's work to date has included pre-filing investigation, legal research,
21 reviewing Defendants' confidential financial information, extensively reviewing and evaluating
22 the produced timekeeping and payroll records with the assistance of a retained expert to build a
23 comprehensive damages model, retaining and working with a forensic accountant to analyze
24 Defendants' confidential financial information, participated in mediation and settlement
25 negotiations, drafting the Memorandum of Understanding, long-form Settlement Agreement, and
26 Notice documents, preparing this motion for preliminary approval, and otherwise litigating the
27 case. *Id.* Class Counsel will also devote additional time to overseeing the notice process, preparing
28 the Motion for Final Approval and related filings, attending the Final Approval Hearing, and

1 responding to Class Member inquiries. *Id.*

2 Both California and federal courts recognize the percentage-of-the-common-fund method
3 as an appropriate way to award attorneys' fees in class actions. *See Laffitte v. Robert Half Int'l,*
4 *Inc.* (2016) 1 Cal.5th 480, 506; *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 254.
5 Courts commonly approve fees in the range of 20% to 50%. *See* 4 Newberg on Class Actions
6 § 14.6 (4th ed. 2002). Class Counsel submits that the requested fee is reasonable in light of the
7 risks, the quality of the work performed, the results achieved, and the efficiency with which the
8 case was resolved. A formal fee request will be submitted in connection with the Motion for Final
9 Approval.

10 Class Counsel utilized the expert services of Dr. J. Michael DuMond, Ph.D., of Berkeley
11 Research Group and his staff to perform all expert analyses in this case, and is submitting a copy
12 of Dr. DuMond's invoices in support of this motion. Rowbotham Decl., ¶ 34, Exhibit 5.

13 **IV. ARGUMENT**

14 **A. Preliminary Approval Is Warranted**

15 California Rule of Court 3.769 conditions the settlement of a class action on court
16 approval, which is generally evaluated under the federal standards applicable under Rule 23 of
17 the Federal Rules of Civil Procedure. *See Reed v. United Teachers Los Angeles* (2012) 208
18 Cal.App.4th 322, 337 (stating that Rule 3.769 requires the trial court to determine "that the
19 settlement is fair, reasonable and adequate to all concerned"); *In re California Pizza Kitchen Data*
20 *Breach Litigation* 129 F.4th 667, 674–675 (9th Cir. 2025) (noting that under Rule 23(e), a district
21 court must ensure a class settlement is "fair, reasonable, and adequate"). Settlement is the
22 preferred means of dispute resolution, particularly in complex class action litigation. *In re Syncor*
23 *ERISA Litigation* 516 F.3d 1095, 1101 (9th Cir. 2008).

24 The Court's responsibility is not to evaluate the merits of the parties' negotiating positions
25 or insist on a perfect outcome, but rather to confirm that the settlement is fundamentally sound
26 and the result of informed, non-collusive bargaining. *California Pizza Kitchen, supra*, 129 F.4th
27 at 674. There is an initial presumption of fairness when the settlement has been reached through
28 arm's-length negotiations by experienced class counsel. *See Kullar v. Foot Locker Retail, Inc.*

(2008) 168 Cal.App.4th 116, 130.

1. Standard for Preliminary Approval

When determining whether a proposed class action settlement is fair, the Court considers the following factors: “the strength of [the] case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, [and] the experience and views of counsel.” *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801. The Court may engage in a balancing and weighing of these factors based on the specific circumstances of the case. *See Wershba, supra*, 91 Cal.App.4th at 245.

a. Strength of Plaintiff’s Case

Class Counsel carefully vetted the claims at issue, reviewed timekeeping and payroll records spanning the entire Class Period, examined relevant policy documents, developed a comprehensive damages model addressing Defendants’ classwide liability, and worked with a forensic accountant to evaluate Defendants’ financial condition prior to mediation. Rowbotham Decl., ¶ 36. While Plaintiff continues to believe her claims are meritorious, she acknowledges that there were substantial risks and uncertainties associated with obtaining class certification and prevailing at trial, especially considering Defendants’ precarious financial condition. *Id.* As explained in Section II.B, *supra*, Defendants raised numerous defenses on both the merits and certification. Although Plaintiff was prepared to litigate these claims through trial, success was not guaranteed. This factor therefore supports preliminary approval.

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

Although the Parties participated in an informal exchange prior to mediation, full discovery had not yet been completed. Rowbotham Decl., ¶ 36. Absent settlement, the Parties would have faced extensive discovery obligations and further pretrial motions, including class certification, summary adjudication, and potential appeals. Even if Plaintiff succeeded in certifying one or more classes, continued litigation would involve significant costs, including trial preparation, trial, and post-trial proceedings. The Settlement avoids these burdens and provides prompt, meaningful relief to the Settlement Class. Moreover, Defendants’ precarious financial

condition could leave the Settlement Class without *any* recourse, should Defendants' file bankruptcy as a result of extensive litigation costs. This factor supports preliminary approval.

c. Risk of Maintaining Class Action Status

No class has been certified in this case. Had the Court granted certification, Plaintiff anticipated that Defendants would seek decertification. Defendants also could have attempted to reduce the size of the putative class through a *Pick-Up-Stix* campaign, thereby undermining Plaintiff's ability to maintain numerosity or obtain meaningful classwide relief. *See Chindarah v. Pick Up Stix, Inc.* (2009) 171 Cal.App.4th 796, 803 (upholding individual settlement agreements that released wage claims and barred participation in a putative class action where there was a bona fide dispute over liability and no wages were concededly due). Accordingly, the risk that Plaintiff would not be able to proceed on a classwide basis, absent settlement, supports preliminary approval.

d. Amount Offered in Settlement Given Realistic Value of Claims

The proposed Settlement provides a fair and reasonable recovery for the Settlement Class in light of the disputed nature of the claims and the risks of continued litigation. Based on a detailed review of the timekeeping and payroll records produced for mediation, Class Counsel developed a damages model forecasting the expected recovery, including the following:

Unlawful Time Rounding Violations: \$76,384

Plaintiff's expert analysis of Defendants' timekeeping and payroll data revealed that, between March 1, 2019 and September 25, 2023, Defendants' rounding practice resulted in an aggregate underpayment of 7,192 recorded hours during the Class Period. Rowbotham Decl., ¶ 37. Plaintiff calculated Defendants' maximum potential exposure on this claim to be \$105,722 (7,192 unpaid hours * \$14.70 average hourly rate). *Id.*

Defendants argue that they paid employees for all hours actually worked, that their timekeeping practice was neutral both facially and in practice, and that the policy is lawful under *See's Candy*. Rowbotham Decl., ¶ 38. Because *Camp v. Home Depot* is under review by the California Supreme Court, there is a tangible risk it will be overturned, potentially rendering Plaintiff's damages analysis overstated. *Id.* Plaintiff accordingly applied a 15% discount for the

1 risk of non-certification and another 15% for the risk of prevailing on the merits, resulting in an
2 estimated exposure of \$76,384. *Id.*⁵

3 **Meal Period Violations: \$365,680**

4 a. **Auto-Deduct Theory (March 1, 2019 to April 30, 2023): \$234,359**

5 Plaintiff's analysis determined that, between March 1, 2019 and April 30, 2023,
6 Defendants automatically deducted 30 minutes from each employee's daily hours for a meal
7 period, regardless of whether a compliant, duty-free 30-minute break was actually provided.
8 Rowbotham Decl., ¶ 39. Plaintiff's expert determined that during this period, there were 130,910
9 shifts over six hours with a 30-minute automatic meal deduction. *Id.* Because Defendants paid
10 703 meal period premiums totaling \$11,244 as of December 31, 2024, Plaintiff subtracted that
11 amount from the total exposure. *Id.* Based on an average regular rate of \$14.70, Plaintiff
12 calculated maximum liability at \$1,913,133 (130,910 auto deduct shifts * \$14.70 average
13 premium - \$11,244 in meal period premiums). *Id.*

14 Defendants contend they maintained a lawful meal period policy and that any non-
15 compliant meal periods were the result of employee choice, not employer practice. Rowbotham
16 Decl., ¶ 40. Defendants also contend that damages are overstated because employees take their
17 meal periods together at scheduled times, and the auto-deduct policy reflects the actual meal
18 period provided. *Id.* Defendants argue that determining whether a waiver applied or why a meal
19 period was missed would require individualized inquiries, posing substantial certification
20 challenges. *Id.* Plaintiff applied a 65% discount for the risk of non-certification and an additional
21 65% for litigation risk and potential overstatement, resulting in a projected recovery of \$234,359.
22 *Id.*

23 b. **Post Auto-Deduction Meal Period Violations (May 1, 2023 to Present): \$131,321**

24 Plaintiff's expert reviewed Defendants' electronic timekeeping data following the end of
25 the automatic meal deduction policy on May 1, 2023, and identified additional meal period
26

27 ⁵ Plaintiff's complaint also includes an allegation that Defendants failed to include certain bonuses in the regular rate
28 of pay for overtime purposes. However, after a review of the payroll records Plaintiff concedes that these bonuses
were both sporadic and minimal. As a result, any resulting underpayment would be negligible. Plaintiff accordingly
assigned nominal value to the claim for settlement purposes. Rowbotham Decl., ¶ 41.

1 violations. Rowbotham Decl., ¶ 42. Defendants’ records revealed a 35.96% first meal period
2 violation rate (21,060 shifts) and a 100% second meal period violation rate (3,755 shifts). *Id.*
3 These violations represent meal periods that were missed, short, late, or exactly 30 minutes in
4 duration. *Id.* Plaintiff calculated potential liability at \$364,781 (24,815 additional meal violations
5 * 14.70 average premium). *Id.*

6 Defendants contend they maintained a lawful meal period policy and that any non-
7 compliant breaks resulted from employee choice, not employer practice. Rowbotham Decl., ¶ 43.
8 Defendants further argue that damages are overstated because employees were dismissed before
9 the meal period began and that any time spent walking between the timeclock and breakroom was
10 minimal, if any. *Id.* Defendants assert that individualized inquiries would be needed to determine
11 whether a waiver applied or why a break was missed or delayed, posing substantial certification
12 challenges. *Id.* Plaintiff applied a 40% discount for the risk of non-certification and another 40%
13 for the risk of losing on the merits or overstating damages, resulting in a projected recovery of
14 \$131,321. *Id.*

15 Rest Period Violations: \$130,970

16 Plaintiff’s analysis determined that Class Members worked 197,016 shifts exceeding 3.5
17 hours and 25,722 shifts over 10 hours during the Class Period. Rowbotham Decl., ¶ 44. Because
18 Plaintiff contends that she and other non-exempt employees were not authorized or permitted to
19 take required rest periods on shifts over 3.5 hours, or third rest periods on shifts over 10 hours,
20 she calculated Defendants’ maximum exposure at \$3,274,248 (197,016 first and second rest
21 period violations + 25,722 third rest period violations * \$14.70 average premium). *Id.*

22 Defendants contend they maintained a facially lawful rest period policy, consistently
23 authorized and permitted rest breaks in accordance with California law, and dispute Plaintiff’s
24 claim that employees were not provided at least 10 minutes of “net” rest in the breakroom.
25 Rowbotham Decl., ¶ 45. They argue that employees were routinely given rest periods exceeding
26 10 minutes. *Id.* Defendants further argue that the claim is not suitable for class certification due
27 to the individualized inquiries required to determine whether and why each employee missed a
28 rest break, and how long each break lasted, particularly given that rest periods were not recorded.

1 *Id.* Given these defenses, Plaintiff applied an 80% discount for the risk of non-certification and
2 80% for the risk of losing on the merits, resulting in an estimated exposure of \$130,970. *Id.*

3 **Wage Statement Penalties: \$107,520**

4 Based on Defendants' data, approximately 168 Class Members received wage statements
5 during the statutory period, covering 25,662 pay periods. Rowbotham Decl., ¶ 46. Plaintiff
6 calculated maximum potential exposure at \$672,000 (168 employees * \$4,000 maximum
7 statutory penalty). *Id.*

8 Defendants argue that any violations were not "knowing and intentional," as required by
9 Labor Code § 226(e). Rowbotham Decl., ¶ 47. Defendants also assert that Plaintiff cannot show
10 Class Members "suffered injury" from any alleged inaccuracies. *Id.*; *see also Naranjo v. Spectrum*
11 *Security Services, Inc.* (2024) 15 Cal.5th 1056, 1065 (holding that a reasonable, good faith belief
12 that employer complied with wage and hour laws precludes imposition of wage statement
13 penalties). Defendants further contend the wage statement claim is derivative and fails if the
14 underlying claims are unsuccessful. Rowbotham Decl., ¶ 47. Plaintiff applied a 60% discount for
15 the risk of non-certification of the underlying claims and another 60% for the risk of losing on the
16 merits or failing to prove the statutory elements for penalties, resulting in a projected recovery of
17 \$107,520. *Id.*

18 **Waiting Time Penalties: \$92,575**

19 Plaintiff's analysis determined that 164 Class Members separated their employment
20 during the statutory period. Rowbotham Decl., ¶ 48. Based on an average hourly rate of \$14.70
21 and the statutory maximum of 30 days' pay (at 8 hours per day), Plaintiff calculated Defendants'
22 maximum waiting time exposure at \$578,592 (164 employees * 8 hours * 30 days * \$14.70
23 average hourly rate). *Id.*

24 Defendants argue that waiting time penalties are unwarranted because Plaintiff's
25 underlying claims lack merit and any alleged failure to pay final wages was not willful.
26 Rowbotham Decl., ¶ 49. Defendants also assert a good-faith dispute over the alleged violations,
27 which would preclude the imposition of penalties. *Id.*; *see also Naranjo, supra*, 15 Cal.5th at 1065
28 (recognizing that good faith dispute over whether any wages are due will preclude imposition of

1 waiting time penalties). Defendants further argue that Plaintiff’s damages are overstated because
2 they assume every separated employee is entitled to the maximum penalty, regardless of
3 circumstances or whether final wages were timely paid. Rowbotham Decl., ¶ 49. Plaintiff applied
4 a 60% discount for the risk of non-certification and another 60% for the risk of losing on the
5 merits, overstating damages, or failing to establish willfulness, resulting in a projected recovery
6 of \$92,575. *Id.*

7 PAGA Penalties: \$89,817

8 Plaintiff alleges that PAGA civil penalties are recoverable for each pay period in which a
9 Labor Code violation occurred. Rowbotham Decl., ¶ 50. Plaintiff’s analysis determined that Class
10 Members worked 25,662 weekly pay periods during the PAGA period in which at least one
11 alleged violation occurred. *Id.* Applying the \$100 “initial violation” rate under Labor Code
12 § 2699(f), Plaintiff calculated Defendants’ maximum PAGA exposure as \$2,566,200 (25,662 pay
13 periods * \$100 violation rate). *Id.*; *see Amaral, supra*, 163 Cal.App.4th at 1207 (finding “initial”
14 violation rate applies until employer is notified that it is violating a Labor Code provision).

15 However, the PAGA penalties are entirely derivative of the underlying claims, which
16 Defendants vigorously dispute on both certification and merits grounds. Rowbotham Decl., ¶ 51;
17 *see also Green v. Lawrence Service Co.*, 2013 WL 3907506, *5 n.5 (C.D. Cal. 2013) (holding
18 that PAGA claims rise and fall with the underlying Labor Code violations). Plaintiff also
19 acknowledges that the Court retains broad discretion to reduce any PAGA award under Labor
20 Code § 2699(e)(2). Rowbotham Decl., ¶ 51; *see also Thurman v. Bayshore Transit Management,*
21 *Inc.* (2012) 203 Cal.App.4th 1112, 1135. Plaintiff applied a 65% discount for the risk of not
22 prevailing on the underlying claims or overstating penalty exposure, and an additional 90%
23 discount for the likelihood that the Court would reduce penalties, resulting in a projected recovery
24 of \$89,817. Rowbotham Decl., ¶ 51.

25 Plaintiff estimates the potential reasonable recovery across all class claims at
26 approximately \$862,946. Rowbotham Decl., ¶ 52. The maximum theoretical exposure was
27 calculated at \$9,474,676. *Id.* The proposed non-reversionary settlement of \$430,000 therefore
28 represents about 49.83% of the forecasted reasonable recovery. *Id.* This outcome is exceptionally

1 fair and reasonable given Defendants' precarious financial condition and falls well within the
2 range that courts routinely deem fair, adequate, and reasonable in class action settlements. *Id.*

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

4 "Parties represented by competent counsel are better positioned than courts to produce a
5 settlement that fairly reflects each party's expected outcome in litigation." *In re Pacific*
6 *Enterprises Securities Litigation* 47 F.3d 373, 378 (9th Cir. 1995). Here, Plaintiff is represented
7 by experienced counsel with an extensive background litigating wage and hour class actions from
8 both the plaintiff and defense perspective. Class Counsel has been appointed in numerous cases
9 involving similar claims. Rowbotham Decl., ¶¶ 2-8; Declaration of Paul K. Haines ("Haines
10 Decl."), ¶¶ 2-11; Declaration of Fletcher W. Schmidt ("Schmidt Decl."), ¶¶ 2-9; and Declaration
11 of Susan J. Perez ("Perez Decl."), ¶¶ 2-6. Class Counsel thoroughly reviewed Defendants'
12 timekeeping and payroll data and applied their experience in comparable cases to assess the
13 strengths and weaknesses of Plaintiff's claims. Rowbotham Decl., ¶ 20. Only after completing
14 this due diligence did the Parties attend mediation and ultimately accept the mediator's proposal
15 for a classwide resolution. *Id.* This factor supports preliminary approval.

16 **2. Preliminary Approval Standard Is Met**

17 At this stage, the Court may grant preliminary approval and direct that the Class Notice
18 be disseminated if the proposed Settlement: (1) falls within the range of possible approval;
19 (2) appears to be the product of serious, informed, and non-collusive negotiations; and
20 (3) contains no obvious deficiencies. *See* Manual for Complex Litigation § 30.41 (3d ed. 1995);
21 4 Newberg on Class Actions §§ 11:24-25 (4th ed. 2002).

22 **a. Settlement Is Within the Range of Possible Approval**

23 The proposed Settlement represents a fair and reasonable resolution in light of the
24 significant risks of continued litigation. It provides monetary relief for contested claims while
25 releasing only those claims asserted, or that could have been asserted, based on the facts alleged
26 in the operative complaint. The average payment of \$601.71 exceeds amounts typically approved
27 in comparable wage and hour settlements. The Settlement is thus within the range of possible
28 approval and warrants notice to the Settlement Class. The Court will have another opportunity to

1 evaluate the Settlement at final approval, after Class Members have had the opportunity to opt
2 out or object.

3 **b. Settlement Resulted from Serious and Non-Collusive Negotiations**

4 The Settlement is entitled to a presumption of fairness, as it was reached after the exchange
5 of relevant policies, timekeeping and payroll records, comprehensive analysis, and arm's-length
6 negotiations by experienced counsel. Mediation was conducted before Hon. Mitchel R. Goldberg
7 (Ret.), a former bankruptcy judge and experienced mediator with expertise in evaluating financial
8 records of companies in precarious financial condition. Judge Goldberg issued a mediator's
9 proposal that both sides accepted. Additional negotiations continued until the long-form
10 Settlement Agreement was finalized. Rowbotham Decl., ¶ 20. This factor supports preliminary
11 approval.

12 **c. Settlement Is Devoid of Obvious Deficiencies**

13 The Settlement provides meaningful relief to Class Members. The proposed allocations
14 for the Class Representative Payment, attorneys' fees and costs, settlement administration
15 expenses, and PAGA penalties are reasonable and appropriate. Because the Settlement contains
16 no apparent deficiencies, this factor supports preliminary approval.

17 **B. The Court Should Certify the Settlement Class for Settlement Purposes**

18 The proposed Settlement Class satisfies the criteria for certification under California law:
19 (1) the class is so numerous that joinder is impracticable; (2) common issues of law and fact
20 predominate; (3) Plaintiff's claims are typical of those of the Settlement Class; and (4) Plaintiff
21 and Class Counsel will fairly and adequately represent the Class. *See* Code Civ. Proc. § 382.

22 **1. The Class Is Ascertainable and Numerous**

23 A class is ascertainable when its members can be identified without unreasonable effort
24 using official or business records. *See Sevidal v. Target Corp.* (2010) 189 Cal.App.4th 905, 919.
25 Here, the Settlement Class includes all current and former non-exempt employees who worked
26 for Defendants in California between July 27, 2020, and April 4, 2025. *See* Settlement, ¶¶ 2, 7.
27 Defendants' payroll and personnel records can be used to identify Class Members. Rowbotham
28 Decl., ¶ 31. With approximately 332 members, the Class satisfies numerosity. *Id.*; *see Collins v.*

1 *Rocha* (1972) 7 Cal.3d 232, 234-236 (recognizing class certification as proper where the class
2 was ascertainable and joinder of 44 individuals would be impracticable).

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

4 The predominance inquiry focuses on whether common legal or factual issues are likely
5 to arise. *See Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 327. Here,
6 Plaintiffs' claims center on Defendant's alleged uniform policies regarding wage payments, meal
7 and rest periods, and expense reimbursements. These claims routinely support class certification.
8 *See Brinker, supra*, 53 Cal.4th at 1032-34 ("The theory of liability, that Brinker has a uniform
9 policy, and that that policy... allegedly violates the law, is by its nature a common question
10 eminently suited for class treatment.").

11 **3. Claims of the Named Plaintiffs Are Typical**

12 Typicality exists where the class representative's claims arise from the same course of
13 conduct and are based on the same legal theories as those of the class. *See B.W.I. Custom Kitchen*
14 *v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1347. Plaintiff, like other Class Members,
15 was a non-exempt employee subject to the same allegedly unlawful policies. *See Mendoza Decl.*,
16 ¶¶ 2-5. Plaintiff was denied compliant meal and rest periods and not paid for all hours worked.
17 *Id.* Plaintiff's claims are therefore typical of the Class.

18 **4. Plaintiff and Class Counsel Are Adequate to Represent the Class**

19 Adequacy turns on whether there are conflicts of interest and whether counsel is qualified
20 to represent the class. *See Capitol People First v. Department of Developmental Services*
21 (2007) 155 Cal.App.4th 676, 697. Plaintiff's interests are aligned with those of the Class, and
22 Class Counsel is experienced in wage and hour litigation. *See McGhee v. Bank of America*
23 (1976) 60 Cal.App.3d 442, 450 (finding adequacy satisfied where there was no indication that the
24 Plaintiff's counsel were not qualified and the Plaintiff had no interests antagonistic to those of the
25 class). Class Counsel also has extensive experience in wage and hour class action litigation. *See*
26 *Rowbotham Decl.*, ¶¶ 2-8; *Haines Decl.*, ¶¶ 2-11; *Schmidt Decl.*, ¶¶ 2-9; and *Perez Decl.*, ¶¶ 2-6.

27 **C. The Court Should Order Distribution of the Proposed Class Notice**

28 Plaintiff requests that the Court order distribution of the Class Notice in English and

1 Spanish via first-class mail to Class Members using the last known addresses provided by
2 Defendants. This is the “best notice practicable” under the circumstances, as it provides individual
3 notice to those who can be identified through reasonable effort. *See Eisen v. Carlisle & Jacquelin*
4 417 U.S. 156, 173 (1974).

5 Phoenix Settlement Administrators (“Phoenix”), a qualified settlement administrator, will
6 handle notice and administration. *See* Declaration of Kevin Lee. Defendants will provide Phoenix
7 with Class Members’ names, Social Security numbers or tax ID, workweek and pay period
8 information, and last known address within twenty-one (21) days after preliminary approval. *See*
9 Settlement, ¶ 48(a). Phoenix will perform National Change of Address checks and skip traces as
10 needed. *Id.*, ¶ 48(b). The Class Notice will include the date of the Final Approval Hearing, contact
11 information for Class Counsel, and instructions for entering an appearance through counsel. This
12 process satisfies California Rule of Court 3.766(e).

13 **D. The Court Should Set a Final Approval Hearing**

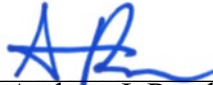
14 Plaintiff requests that the Court schedule a hearing on final approval for a date that follows
15 the close of the objection and opt-out period. *See* Cal. Rules of Court, Rule 3.769.

16 **V. CONCLUSION**

17 For the foregoing reasons, Plaintiff respectfully requests that the Court preliminarily
18 approve the proposed Settlement, provisionally certify the Settlement Class for settlement
19 purposes, and enter the [Proposed] Order submitted concurrently herewith.

20 DATED: August 1, 2025

Respectfully Submitted,
HAINES LAW GROUP, APC

21 By: 
22 _____
23 Andrew J. Rowbotham
24 Attorneys for Plaintiff
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