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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN JOAQUIN

STACY L. GRIMSON, on behalf of herself and all others similarly situated, Plaintiff, v. PROVIDENT CARE, INC., a California Corporation, and DOES 1-10, Inclusive, Defendant.	Case No. STK-CV-UOE-2025-0014893 ASSIGNED FOR ALL PURPOSES TO: The Honorable Blanca Bañuelos Department 10B **CLASS AND REPRESENTATIVE ACTION** **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT** Date: Time: Dept.: 10B Complaint filed: October 10, 2025 Trial date: Not Set

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I. INTRODUCTION

Plaintiff Stacey L. Grimson seeks preliminary approval,[1] under Rule 3.769(c) of the California Rules of Court, of a $150,000.00 non-reversionary Settlement on behalf of approximately 411 current and former non-exempt In-Home Health Workers employed by Defendant Provident Care, Inc. ("Provident Care") in California from October 1, 2023 through the date of Preliminary Approval. This is a cash settlement, and every Class Member who does not opt out will receive a payment without submitting a claim form. Decl. of Isam C. Khoury ("Khoury Decl."), ¶12.

On October 10, 2025, Plaintiff Stacy L. Grimson filed a Class Action Complaint alleging claims for failure to pay minimum and overtime wages, provide meal and rest periods, and reimburse business expenses, and along with derivative wage statement and waiting time penalty claims, as well as a claim for injunctive relief under the California Unfair Competition Law. Plaintiff amended her Complaint on December 22, 2025 to add penalty claims under PAGA. Plaintiff filed the operative Second Amended Complaint on March 5, 2026, limiting her suit the period on or after October 1, 2023.

The Parties reached this settlement after two sessions the Honorable Emily Vasquez (Ret.), an experienced neutral selected by the Parties to serve as evaluator. Plaintiff argues that Defendant's maximum realistic liability for Plaintiff's direct non-PAGA claims is $536,895.30, or $2,087,475.30 with derivative waiting time and wage statement penalties. Thus, the $150,000 Gross Settlement Amount represents **28%** of Defendant's maximum potential liability for Plaintiff's direct claims, and 7.2% of all Plaintiff's claims, including derivative claims. This is an excellent result given the risks of continued litigation, including the existence of arbitration agreements and the dispute over the personal attendant exemption, which could preclude any class-wide recovery. The settlement also falls within the typical range of class action settlement amounts.

II. PROCEDURAL HISTORY

Plaintiff filed a class action complaint on October 10, 2025, alleging claims for failure to pay minimum and overtime wages for all hours worked, provide meal and rest periods, reimburse

[1] This memorandum exceeds the 15-page limit set forth in Cal. Rule of Court 3.1113 because it seeks class certification as part of the settlement approval process, which has a 20-page limit.

business expenses, and derivative wage statement, waiting time penalty, and UCL claims. Plaintiff amended the complaint on December 22, 2025 to add a cause of action under PAGA. Khoury Decl., ¶13.

The same day, Defendant removed the action to bankruptcy court on the ground that the claims asserted included claims that were subject to an October 1, 2023 bankruptcy discharge. To avoid delays associated with the bankruptcy proceedings, Plaintiff amended the class period to begin on October 1, 2023, which is reflected in the operative Second Amended Complaint, filed on March 5, 2026. *Id.*, ¶14.

Defendant requested an Early Evaluation Conference regarding the PAGA claims, as provided for under the 2024 PAGA amendments. As this Court had no available judge to conduct the conference, the parties conducted the conference privately thorough an experienced retired judge. *Id.*, ¶15.

III. FACTUAL BACKGROUND

Defendant Provident Care, Inc. employs personal care attendants (herein, "In-Home Health Workers") to provide in-home care services to clients in California. Plaintiff alleges that these employees performed direct client care as well as non-caregiving work, including household chores, patient documentation, communications with supervisors and clients, and travel between client locations. Khoury Decl., ¶16. Defendant denies that those incidental tasks consume any significant amount of employee time.

Plaintiff worked for Defendant as an hourly, non-exempt In-Home Health Care Worker from approximately June 2024 through August 2025. Her duties included providing in-home care services to clients, assisting with activities of daily living, bathing, meal preparation, housekeeping, monitoring client well-being, maintaining required documentation and equipment, and on rare occasion traveling between client locations. Plaintiff typically worked 7.0 to 7.5 hours per shift, six days per week. On occasion, she worked more than eight hours in a workday, and on one day worked 10.5 hours. As a result, in some workweeks she worked more than 45 hours. *Id.*, ¶17.

Plaintiff alleges that Defendant required In-Home Health Care Workers to perform work for which they were not fully compensated, including during meal breaks. In addition to providing

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direct care, Plaintiff alleges she was required to complete paperwork and documentation related to patient care, communicate with supervisors and clients by phone, and perform other administrative tasks necessary to her job, which collectively accounted for more than 20% of her workweek. *Id.*, ¶18. Plaintiff alleges Defendant failed to accurately record and compensate all hours worked. Plaintiff further alleges that employees were routinely required to remain available to management during meal and rest periods and were not provided all meal and rest break premiums required by California law. *Id.*, ¶19. Plaintiff also alleges she was not reimbursed for using her vehicle and cell phone for business purposes. *Id.*, ¶20.

By answer dated April 7, 2026, Defendant generally denied all material allegations of the operative Second Amended Complaint. In particular but without limitation, Defendant asserts that Plaintiff and the putative class members are "personal care attendants" who fall under Wage Order 15, and further asserts that Plaintiff cannot show she is an "aggrieved employee" on all claims for which she seeks PAGA penalties. In addition, Defendant takes the position that the Domestic Worker Bill of Rights 20% rule (Lab. Code § 1451, subd. (d)) is directed to duties unrelated to client care (*e.g.*, general housekeeping, heavy cleaning, laundry, cooking meals for others, or running errands), disputes Plaintiff's "administrative" argument, and asserts that it consistently instructed caregivers to limit those non-core duties. In addition, Defendant states that it automatically paid Plaintiff overtime for days on which she worked more than eight hours or weeks in which she worked more than 40 hours, and that it both reimbursed travel expenses and provided Plaintiff with a phone stipend it believed in good faith to be sufficient to cover Plaintiff's work-related phone use.

IV. VIGOROUS PROSECUTION OF THIS ACTION

A. Summary of Investigation and Information Exchange

The Parties carefully investigated the claims and facts alleged in this action, and their respective counsel made a thorough study of the legal principles applicable to the claims asserted against Defendant. Before the early evaluation conference, Defendant provided information concerning the number of employees, workweeks and pay periods, a sample of time and pay records, arbitration agreements, Plaintiff's job description, and relevant policies and handbooks. Khoury Decl., ¶21.

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B. Settlement Reached with Assistance of Experienced Evaluator

Plaintiff retained counsel with extensive experience in prosecuting wage and hour class actions. Khoury Decl., ¶¶2-11, 22; Decl. of David R. Markham ("Markham Decl."), ¶¶3-9; Decl. of Walter L. Haines ("Haines Decl."), ¶3. The Parties participated in two evaluation sessions before the Honorable Emily Vasquez (Ret.), a retired judge and experienced neutral qualified to serve as a neutral evaluator under Labor Code section 2699.3(f)(12). The sessions took place on June 22, 2026 and July 16, 2026, and resulted in an agreed settlement of the entire Action, subject to Court approval. After additional weeks of arms'-length negotiations, the Parties finalized the terms of the settlement agreement. Khoury Decl., ¶23. The executed version of the Settlement Agreement is attached as **Exhibit 1** to Khoury Declaration.

C. Summary of the Risks to Further Litigation

Plaintiff recognizes several risks to certification and succeeding on the merits in this action. As a preliminary matter, Provident Care contends that it took reasonable steps to comply with California wage-and-hour laws before and after receiving Plaintiff's PAGA notice, including retaining employment counsel, conducting an audit, updating its handbook and policies, discontinuing rounding, implementing and increasing a cellphone stipend, and reviewing employee classifications and payroll practices. Khoury Decl., ¶25.

Second, Provident Care contends that most members of the putative Class signed arbitration agreements containing class and collective action waivers, which would prevent those employees from participating in this class action and substantially limit the scope of any potential class recovery. *Id.*, ¶26.

Third, Defendant contends that Plaintiff is a "personal attendant" under Wage Order 15. Plaintiff disputes that characterization and contends that she regularly performed non-caregiving duties exceeding 20% of her working time, including household chores, documentation, and driving. Were Defendant to prevail on this issue at trial, Plaintiff's claims for overtime and other wage-and-hour violations could be substantially limited or barred. *Id.*, ¶27.

Further, with respect to Plaintiff's off-the-clock/unpaid wages claim, Defendant would contend that where an employer provides a means to record work time, the employer is entitled to

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rely on those time records, and is not required to audit other available records to ascertain if any off-the-clock work is occurring. *Brinker Rest. Corp. v. Super. Ct.* (2012) 53 Cal.4th 1004, 1051 ("that employees are clocked out creates a presumption they are doing no work"); *Hertz v. Woodbury County* (8th Cir. 2009) 566 F.3d 775, 781-782 (no duty to audit other available records); *Jong v. Kaiser Found. Health Plan, Inc.* (2014) 226 Cal.App.4th 391, 398-399 (same). Khoury Decl., ¶28.

Fourth, with respect to meal and rest break claims, Defendant contends that, because Plaintiff was a "personal attendant" under Wage Order 15, she was not entitled to the meal and rest break requirements that otherwise apply to non-exempt employees. Additionally, damages calculations for rest breaks could present complicated issues, as employees did not have to clock out to take rest breaks, or otherwise record them. Khoury Decl., ¶29.

Fifth, with respect to Plaintiff's claim for unreimbursed expenses for use of personal cellphone and vehicle for work-related travel, Defendant disputes these claims and asserts that its policies provide for automatic cellphone reimbursement or a cellphone stipend, as well as mileage reimbursement at the prevailing IRS rate for employees who use their personal vehicles to transport clients. Khoury Decl., ¶30. Further, to the extent Plaintiff and other Class Members did not seek reimbursement of these expenses, this claim would be susceptible to summary judgment. *Hammit v. Lumber Liquidators* (S.D. Cal. 2014) 19 F. Supp. 3d 989, 1001 (granting summary judgment when employee failed to request reimbursement). Khoury Decl., ¶31.

With respect to wage statement and untimely wages claims, they are derivative of Plaintiff's unpaid time and meal and rest break claims, so if Plaintiff does not prevail on the underlying claims, their derivative claims would also fail. *See Gomez v. Lincare, Inc.* (2009) 173 Cal.App.4th 508, 524-25. Also, Defendant will likely assert that wages that were not paid cannot form the basis of these derivative claims based on *Maldonado v. Epsilon Plastics, Inc.* (2018) 22 Cal.App.5th 1308, 1336-37. Khoury Decl., ¶32.

Defendant further takes the position that the 2024 PAGA reforms limited penalty stacking and accorded courts substantial discretion in adjusting penalties in the interests of justice.

Finally, the Parties have candidly discussed Provident Care's financial condition since its emergency from bankruptcy, which was a significant factor in structuring the settlement payment

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structure.

V. SUMMARY OF SETTLEMENT TERMS

A. Settlement Relief

Gross Settlement Amount:	$150,000, non-reversionary and non-claims made. Settlement Agreement ("SA"), ¶21.
Deductions from the Gross Settlement Amount:	• Attorneys' fees not to exceed one-third of the Gross Settlement Amount ($50,000); • Out-of-pocket litigation costs not to exceed $15,000; • Service Payment to Plaintiff not to exceed $15,000; • PAGA penalties of $15,000 (of which 65% or $9,750 will be paid to the LWDA and 35% or $5,250 to Aggrieved Employees); • Administration costs of approximately $8,900; • Employer payroll taxes on the wage portion of Individual Class Payment, estimated at $859.33. *Id.*, ¶¶21, C.2(a)-(e).
Net Settlement Amount:	Approximately $45,240.67. *See id.*, ¶27.
Definition of the Settlement Class:	All current and former non-exempt In-Home Health Workers, including similar job duties and/or titles, of Defendant within California during the Class Period. *Id.*, ¶5.
Definition of Aggrieved Employees	All current and former non-exempt In-Home Health Workers, including similar job duties and/or titles, of Defendant within California during the PAGA Period. *Id.*, ¶4.
Class Period	From October 1, 2023, through the date the Court preliminarily approves the settlement. *Id.*, ¶12.
PAGA Period	From October 15, 2024, through the date the Court preliminarily approves the settlement. *Id.*, ¶32.
The number of Class Members and workweeks worked during the Class Period	411 Class Members; 17,700 workweeks. Khoury Decl., ¶¶12, 39; SA, ¶D.1.
The average individual settlement payment	$2.56 per workweek; or approximately $110 per Class Member (without accounting for the number of workweeks worked). Khoury Decl., ¶¶33, 41.

1. Settlement Formula and Distribution

Participating Class Members will receive their Settlement Payments from the NSA based on the number of workweeks they worked during the Class Period (SA, ¶¶21-27), calculated as follows:

$$\frac{\text{Workweeks Worked by Class Member}}{\text{Total Workweeks Worked by all Class Members}} \times \text{Net Settlement Amount} = \text{Class Member's Payment}$$

Id.

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The Settlement is non-reversionary: Defendant will fund the Gross Settlement Amount of $150,000, and none of the Gross Settlement Amount will revert to Defendant. The Settlement Agreement provides for payment in three installments, with the first $50,000 installment due on the later of ten calendar days after the Effective Date or January 4, 2027, the second $50,000 installment due on January 3, 2028 (or, if the Effective Date has not passed, within 14 days after the Effective Date), and the final installment is due on or before September 1, 2028. SA, ¶¶C.1, D.2.

Class Members who do not opt out of the Class Settlement will release Defendant from all claims that relate to the causes of action asserted in this action – or those that could have been asserted in this action based on the facts alleged in Plaintiff's operative complaint. *See id.*, ¶19; *Amaro v. Anaheim Arena Mgmt., LLC* (2021) 69 Cal.App.5th 521, 538-39.

Settlement checks will be valid and negotiable for 180 days. SA, ¶D.7(a). After that time, the Parties will seek the Court's approval to donate the funds represented by uncashed checks from the class action settlement fund, plus interest, to the California Controller's Unclaimed Property Fund in the name of the Class Member, leaving no "unpaid residue" subject to California Code of Civil Procedure section 384(b). *Id.*, ¶7(c).

All Settlement Payments are subject to taxation and will be reported to the IRS and state tax authorities. Twenty percent (20%) of each Individual Class Payment will be allocated to the settlement of wage claims and reported on IRS Form W-2, while forty percent (40%) will be allocated to interest and penalties and forty percent (40%) to expense reimbursement, with the latter portions reported on IRS Form 1099. SA, ¶C.2(d)(i). This allocation is based on the nature of the claims asserted, including claims for unreimbursed business expenses and the fact that this matter involves a PAGA cause of action. In allocating a portion of the recovery to penalties interest, the allocation also accounts for the statutory penalties available under Labor Code sections 226 and 203, as well as PAGA. Accordingly, the tax allocation is reasonable. Khoury Decl., ¶34. Class Members shall seek their own tax advice regarding the Agreement. *Id.*

2. Attorneys' Fees and Costs

Subject to Court approval, up to $50,000 or one-third of the Gross Settlement Amount, may be allocated to attorneys' fees, and up to $15,000 to litigation costs and expenses. SA, ¶C(2)(b).

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Courts in California wage and hour cases, where the common fund is under $10 million, tend to award attorneys' fees in the 30% - 40% range. *Vasquez v. Coast Valley Roofing, Inc.* (E.D. Cal. 2010) 266 F.R.D. 482, 491-92 (citing to five wage and hour class actions where courts approved fee awards ranging from 30 to 33%). The trial court has discretion to award attorneys' fees based on either the lodestar/multiplier calculation or the percentage-of-recovery method. *Laffitte v. Robert Half International Inc.* (2016) 1 Cal.5th 480, 503. Class Counsel will brief the fee application using both methodologies, as cross checks.[2] Any portion of the requested attorneys' fees and costs not awarded to Class Counsel shall be part of the Net Settlement Amount to be distributed to Class Members. SA, ¶ C(2)(b).

3. PAGA Payment to Labor Workforce Development Agency

The Parties have agreed that $15,000, or 10% of the Gross Settlement Amount, will be allocated to PAGA. Of this amount, 65% ($9,750) will be paid to the LWDA, and 35% ($5,250) to Aggrieved Employees. SA, ¶23. Plaintiff's counsel estimates the PAGA penalties under the Settlement represents nearly 2% (1.9%) of the total potential maximum PAGA penalties for Plaintiff's claims (8,009 pay periods within the applicable statute of limitations *$100 = $800,900 in total unstacked PAGA penalties). (See, *e.g.*, Lab. Code, §§ 2699, subd. (i); see *Naranjo v. Spectrum Security Services, Inc.* (2024) 15 Cal.5th 1056, 1073 ("[the wording of the penalty provision, which connects the employer's culpable state of mind to a violation of the law, is reasonably read to excuse intentional acts or omissions that are based on a reasonable, good faith mistake about what compliance with the law requires" (citation omitted), 1074 ([a]s a general rule, 'courts refuse to impose civil penalties against a party who acted with a good faith and reasonable belief in the legality of his or her actions'" (citation omitted).) Khoury Decl., ¶37.

This allocation of the PAGA penalties falls within the range of other approved PAGA settlements, as courts frequently approve PAGA awards between 0.2% to 2.2% of the total potential penalties. *Carrington v. Starbucks Corp.* (2018) 30 Cal. App. 5th 504, 528 (awarding PAGA penalties of

[2] 33.33% of the awarded attorneys' fees will be allocated to Cohelan, Khoury & Singer, 33.33% to The Markham Law Firm, and 33.33% to United Employees Law Group. Khoury Decl., ¶36. The client approved this split in writing. *Id.*

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0.2% of the maximum, or $5 per pay period); *Ruch v. AM Retail Grp., Inc.* (N.D. Cal. Sept. 28, 2016) 2016 WL 5462451, at *2, *7 (settlement allocating $10,000 to PAGA penalties where potential value was over $5.2 million, resulting in 0.2 percent PAGA recovery approved); *Van Kempen v. Matheson Tri-Gas, Inc.* (N.D. Cal. Aug. 25, 2017) 2017 WL 3670787, at *10 (granting final approval of $5,000 PAGA penalty from $370,000 settlement, or 1.4 percent); *Slavkov v. Fast Water Heater Partners I, LP* (N.D. Cal. July 25, 2017) 2017 WL 3834873, at *2 (finding that "$7,500 PAGA payment is reasonable when measured against the total overall settlement [of $345,000] and the possible weaknesses in Plaintiffs' case."); *Thurman v. Bayshore Transit Mgmt.* (2012) 203 Cal. App. 4th 1112, 1135-36 (affirming 30% reduction under specified PAGA claim where the employer produced evidence that it took its obligations seriously); *Aguirre v. Genesis Logistics* (C.D. Cal. Dec. 30, 2013) 2013 WL 10936035 at **2-3 (reducing penalty for past PAGA violations from $1.8 million to $500,000, after rejecting numerous other PAGA claims); *Merante*, 2022 U.S. Dist. Lexis 131833 at *19 (preliminarily approving a PAGA settlement amount representing between 0.27% and 2% of the maximum potential PAGA liability, noting that the adequacy of the PAGA recovery should be evaluated in the context of the accompanying class action settlement).

These PAGA penalties conform to the courts' reasoning that "[t]he remedy sought in a PAGA suit consists of civil penalties, not individual or class damages" [*Mendez v. Tween Brands, Inc.* (E.D. Cal. June 30, 2010) 2010 WL 2650571, at *4], and in PAGA "[u]nlike class actions, these civil penalties are not to compensate unnamed employees because the action is fundamentally a law enforcement action." *See Ochoa-Hernandez v. CJADERS Foods, Inc.* (N.D. Cal. Apr. 2, 2010) 2010 WL 1340777, at *4.

4. Settlement Administration Costs

The Parties selected ILYM Group, Inc. as the Settlement Administrator in this action. The Parties obtained bids from three settlement administrators, and ILYM's was a competitive bid. Khoury Decl., ¶38. The costs of the Administrator, estimated at $8,900, will be deducted from the Gross Settlement Amount. SA, ¶2-3, G. The attached declaration of Lisa Mullens of ILYM shows the qualifications and experience of the Administrator, procedures in place to protect the security of class data, the description of the notice procedure, and the anticipated costs of the notice. ILYM

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Decl., ¶¶2-10, Exhs. A-C.

5. Service Payment to Class Representative

Subject to Court approval, up to $15,000 from the Gross Settlement Amount will be paid as an incentive award to Plaintiff for her services as a class representative. SA, ¶C(2)(a). Any portion of the requested Service Payment not awarded to Plaintiff shall be part of the Net Settlement Amount to be distributed to Class Members. *Id.*

B. Settlement Administration

Within 14 calendar days after the preliminary approval, Defendant will provide the Administrator with Class Data containing Class Members' contact information and sufficient information to determine the total number of workweeks/pay periods worked within the relevant time period. SA, ¶8, G.4.a. Within 14 calendar days thereafter, ILYM will send Class Notice to each Class Member as provided in the Settlement Agreement, determine the eligibility for, and the amounts of, any Settlement Payments under the terms of the Agreement, process and distribute Class Members' payments, and process and mail tax payments to the appropriate state and federal taxing authorities. *Id.*, ¶ G.4.c. Further, Class Members will also be able to contact the Settlement Administrator by telephone or e-mail, or access the settlement website,[3] if they have any Settlement questions or need assistance. *See* Class Notice, **Ex. A** to the Settlement Agreement. Also, any objections to or opt outs from the Settlement must be delivered to the Settlement Administrator. SA, ¶¶ G.5, G.7.

VI. THE SETTLEMENT SATISFIES THE PRELIMINARY APPROVAL CRITERIA

There is a strong judicial preference for pre-trial settlement of complex class actions. *Officers for Justice v. Civil Serv. Comm'n of San Francisco* (9th Cir. 1982) 688 F.2d 615, 625. The trial judge exercises discretion in deciding whether to grant preliminary approval of a class action settlement and "great weight is accorded to [the] judge's views." *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1145. At this stage, a court limits its inquiry to the extent necessary to reach a reasoned judgment that "the agreement is not the product of fraud or overreaching by, or collusion

[3] The website will contain settlement-related documents, including notice of final judgment. Cal. Rule of Court, Rule 3.771(b).

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between, the negotiating parties." *In re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 723.

In approving a settlement where the class has not yet been certified, the court must first determine that a class exists. *Amchem Prods., Inc. v. Windsor* (1997) 521 U.S. 591, 613, 619-20 (commonality must be shown at a preliminary approval stage, although not necessarily manageability). Then, the Court should examine the settlement as a whole to determine if it is fair, adequate and reasonable. *Id.*

A. The Value of the Class Settlement is Reasonable (*Kullar* analysis)

Defendant's records indicate there are 17,700[4] workweeks worked by 411 Class Members during the Class Period. The average hourly rate for Class Members is $18.19. Based on the analysis of the produced data, Defendant's maximum potential exposure is as follows: Khoury Decl., ¶39.

Unpaid wages/overtime: **$120,714**. Based on her counsel's investigation, Plaintiff believes that class members worked about half an hour off-the-clock every week. Thus, Defendant's exposure for unpaid time is as follows: 17,700 workweeks *$27.28 overtime rate x 0.5 hours = $241,428. However, because Defendant has a strong personal attendant exemption argument, Plaintiff will discount this claim by 50%,[5] resulting in a realistic exposure of $120,714. *Id.*

Meal break premiums: **$160,981.50**. Based on her counsel's investigation, Plaintiff estimates that the net violation rate averages approximately one noncompliant meal periods per workweek, so the exposure is as follows: 17,700 workweeks *1 * $18.19 = $321,963. However, because Defendant's policies provide for meal breaks, and Defendant has a strong personal attendant exemption argument, Plaintiff will discount this claim by 50%, resulting in a realistic exposure of $160,981.50. *Id.*

[4] The agreement contains an escalator clause, which provides that if the number of workweeks exceeds 18,582, Defendant has an option to either increase the GSA proportionately or agree to cut off the Class Period as of the date the number of workweeks is no more than 18,582. SA, ¶H.

[5] Settlements are routinely approved as fair and reasonable when the maximum valuation is discounted by fifty percent, or more, to account for the class certification and merits risks. *See e.g., Milburn v. PetSmart, Inc.* (E.D. Cal. Oct. 29, 2019) 2019 WL 5566313 *4 (approving settlement as fair and reasonable where plaintiff applied forty to fifty percent discount each for class certification and risks on the merits); *see also Galvan v. Superior Tank Co Inc.* (C.D. Cal. July 19, 2016) 2016 WL 11502115 *7 (approving settlement as fair and reasonable where maximum valuation was discounted for the risk of non-certification, i.e. the rest period claim was discounted *by 85% for a risk of non-certification and by 65% on the merits).*

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Rest break premiums: **$160,981.50**. Plaintiff estimates that non-exempt employees were unable to take rest breaks once in a workweek, resulting in the following exposure: 17,700 workweeks *1 * $18.19 = $321,963. However, because rest breaks were not recorded, Defendant's policies permit and authorize them, and Defendant has a strong personal attendant exemption argument, Plaintiff will discount this claim by 50%, resulting in a realistic exposure of $160,981.50. *Id.*

Unreimbursed expenses: **$94,218.30.** Plaintiff estimates a reasonable reimbursement for cell phone is $20 per month, for the duration of 33.77 months during the Class Period * $20 * 279 employees= $188,436.60). Given the Defendant's position that the Company provided a cell phone stipend to class members, and paid mileage at the IRS rate, Plaintiff's counsel believes this claim should be reduced by 50%, resulting in a realistic exposure of $94,218.30. *Id.*

Wage statement penalties: **$786,600.** There are approximately 286 employees and 8,009 pay periods during the one-year statute of limitations for this claim. Thus, Defendant's exposure for this claim is as follows: $50 x 286 initial pay periods = $14,300; $100 x 7,723 subsequent pay periods (8,009-286) = $772,300, for a total of $786,600. This does not exceed the maximum $4,000 per employee ($786,600/286 = $2,750). *Id.*

Waiting time penalties: **$763,980**. There are approximately 175 former employees within the applicable limitations period. Thus, Plaintiff's counsel estimates Defendant's exposure for this claim is as follows: 8 hours worked daily x 30 days x $18.19 x 175 employees = $763,980. *Id.* Defendant disputes any liability on this claim. (See *Naranjo v. Spectrum Security Services, Inc.* (2024) 15 Cal.5th 1056, 1077 ("This penalty provision was enacted in 1937 [and in] the decades that have passed since, the authorities have uniformly recognized a good faith defense to section 203 'waiting time' penalties" (citations omitted).)

Thus, Plaintiff's counsel estimates that Defendant's maximum realistic liability for Plaintiff's direct claims is $536,895.30, and an additional $1,550,580 for Plaintiff's derivative wage statement and waiting time penalties claims, possible only if Plaintiff prevailed on their underlying claims, for a total of $2,087,475.30. Thus, Plaintiff's counsel estimates that the Gross Settlement Amount of $150,000 represents 28**%** of Defendant's maximum realistic liability for Plaintiff's direct claims, and 7.2% of Defendant's maximum realistic liability for all Plaintiff's claims (without discounting waiting time or wage statement penalties). Khoury Decl., ¶40. This result is well within the range of

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settlements commonly approved by California state and district courts. *Id. See also* Section IV(B)(2) below for a detailed explanation.

B. The Proposed Settlement is Fair, Adequate, and Reasonable

The court must determine whether the settlement is fair, adequate, and reasonable. *See Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801, *citing Officers for Justice*, 688 F.2d. at 625. The "fair, reasonable and adequate" test stems from Rule 23 of the Federal Rules of Civil Procedure. *Consumer Advocacy Group, Inc. v. Kintetsu Enters. of Am.* (2006) 141 Cal.App.4th 46, 61. In the absence of California law, the court might follow the federal authority. However, California courts have never adopted Rule 23 as "a procedural strait jacket;" to the contrary, trial courts have been urged to be flexible in dealing with class actions. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 240, *citing Cartt v. Super. Ct.* (1975) 50 Cal.App.3d 960, 970, n.16. Generally, the opinions of counsel should be given considerable weight because of counsel's familiarity with the litigation, and previous experience with cases such as this one. *Officers for Justice,* 688 F.2d at 625. "We note that… settlement [is] the preferred means of dispute resolution…especially in complex class action litigation." *7-Eleven Owners,* 85 Cal.App.4th at 1151.

At the preliminary approval stage, the Court considers if:

> (1) the proposed settlement appears to be the product of serious, informed, noncollusive negotiations, (2) has no obvious deficiencies, (3) does not improperly grant preferential treatment to class representatives or segments of the class, and (4) falls with the range of possible approval.

In re Tableware Antitrust Litig. (N.D. Cal. 2007) 484 F.Supp.2d 1078, 1079 (citing Manual for Complex Litigation, ¶ 30.44 (2d ed.1985)). The Settlement meets all of these criteria.

1. The Settlement is the Product of Serious, Informed and Noncollusive Negotiations

The Settlement is the result of extensive and hard-fought negotiations. Khoury Decl., ¶24. Class Counsel analyzed pre-evaluation conference data and diligently investigated Class Members' claims. *Id.*, ¶21; Section III(A), *supra.* Class Counsel reviewed Defendant's policies and other documents and prepared a damages model. *Id.*, ¶¶21, 23.

The rigorous data analysis and candid exchange of legal arguments during the evaluation conference process gave both parties a clear view of the strengths and weaknesses of their respective

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positions. *See Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 410 (approving settlement where "considerable information [exists] from which to assess the strength of the class claims" and litigation risks); *Kullar v. Footlocker* (2008) 168 Cal.App.4th 116, 129-130 (trial court should have sufficient information about the potential value of the case and litigation issues to independently review the reasonableness of the settlement.).

Before this action settled, the Parties participated in two early evaluation sessions before a private neutral with experience in adjudicating and mediating wage and hour class actions. Khoury Decl., ¶23; Section III(B), *supra*. That indicates the settlement was free of collusion. "The assistance of a well-respected mediator with substantial experience in employment litigation…supports approval of the settlement." *Murillo v. Pac. Gas & Elec. Co.* (E.D. Cal. 2010) 266 F.R.D. 468, 479; *Dunk,* 48 Cal.App.4th at 1802-03.

The Parties have been cooperative, yet aggressive, and displayed capable and experienced advocacy on both sides. Accordingly, "[t]here is … every reason to conclude that settlement negotiations were vigorously conducted at arms' length and without any suggestion of undue influence." *In re Wash. Public Power Supply Sys. Sec. Litig.* (D. Ariz. 1989) 720 F.Supp. 1379, 1392.

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2. The Settlement has no "Obvious Deficiencies" and Falls within the Approval Range

"[T]he very essence of a settlement is compromise, 'a yielding of absolutes and an abandoning of highest hopes.'" *Officers for Justice*, 688 F.2d at 624 (quoting *Cotton v. Hinton* (5th Cir. 1977) 559 F.2d 1326, 1330). Thus, when evaluating the amount offered in settlement, the Court should consider "the complete package taken as a whole," and the amount should "not be judged against a hypothetical or speculative measure of what might have been achieved by the negotiators." *Id.* at 625-28.

(i) The Class Recovery Compares Favorably with Similar Wage and Hour Class Action Settlements

Courts routinely approve class action settlements where the settlement amount is a lower percentage of the claimed amount of damages. *Thomas v. Cognizant Tech. Sols. U.S. Corp.* (C.D. Cal. June 24, 2013) 2013 WL 12371622, at *6 (granting final approval in wage and hour action for settlement between 4.4% and 5% of maximum liability); *In re MyFord Touch Consumer Litig.* (N.D. Cal. Mar. 28, 2019) 2019 WL 1411510, at *10 (6% of valuation); *Bellinghausen v. Tractor Supply Co.* (N.D.

Cal. 2014) 303 F.R.D. 611, 623-24 (settlement between 9% and 27% of total potential liability fair, adequate and reasonable given the uncertainty of continued litigation); *Stovall-Gusman v. W.W. Granger, Inc.* (N.D. Cal. June 17, 2015) 2015 WL 3776765, at *4 (approving settlement representing 10% of potential value). Simply put, "the fact that a proposed settlement may only amount to a fraction of the potential recovery does not mean that [it] should be disapproved." *7-Eleven Owners*, 85 Cal.App.4th at 1150, citing *Linney v. Cellular Alaska P'ship* (9th Cir. 1998)151 F.3d 1234, 1242.

Here, Plaintiff's counsel estimates the Settlement represents approximately 28% of Defendant's maximum realistic liability for Plaintiff's direct unpaid time, meal and rest break, and 2802 claims, and 7.2 % of Defendant's maximum realistic liability for all Plaintiff's claims, without any risks, costs, and uncertainty of prolonged litigation. Khoury Decl., ¶40. Without accounting for the length of each Class Member's employment with Provident Care, a Class Member will recover about $110 as a result of the settlement, or approximately $2.56 per workweek. *Id.*, ¶¶33, 41. Based on the average hourly rate of $18.19, this amounts to recovery of approximately 6 hours of wages per Class Member. *Id.* This is good result. *See e.g.*, *Villegas v. J.P. Morgan Chase $ Co.* (N.D. Cal. Nov. 20, 2012) 2012 U.S. Dist. Lexis 166704, at *7, *23.

(ii) The Formula of Allocation based on Workweeks is Fair and should be Approved

Class Members will receive a portion of the Gross Settlement Amount based on the number of workweeks they worked for Provident Care during the Class Period. This formula is realistic because Class Members' individual recovery is proportionate to the amount of time the Class Members were employed with Defendant. Khoury Decl., ¶42. As discussed in Section III(C), *supra*, considering lengthy litigation in the absence of a settlement, the risk that Plaintiff and the Class Members might not have been able to succeed at trial, and the risk that the court could award less than $150,000 in damages, the settlement amount is reasonable. *In re Mego Fin. Corp. Sec. Litig.* (9th Cir, 2000) 213 F.3d 454, 458; *Sandoval v. Tharaldson Employee Mgmt.* (C.D. Cal. June 15, 2010) 2010 WL 2486346, at *7.

3. The Settlement does not Improperly Grant Preferential Treatment to Class Representative or Segments of the Class

Class Representative Stacey Grimson will receive up to $15,000 for her time and efforts in representing the Class. SA, ¶12. "Incentive awards [for class representatives] are fairly typical in class

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actions." *Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1393, citing *Rodriguez v. West Publ'g* (9th Cir. 2009) 563 F.3d 948, 958. California courts agree that a class representative is entitled to such an award. *Cellphone Termination,* 186 Cal.App.4th at 1394. "Since without a named plaintiff there can be no class action, such compensation as may be necessary to induce him to participate in the suit could be thought the equivalent of the lawyers' nonlegal but essential case-specific expenses, such as long-distance phone calls, which are reimbursable." *Clark v. Am. Residential Servs.* (2009) 175 Cal.App.4th 785, 804, citing *Matter of Cont'l Ill. Sec. Litig.* (7th Cir. 1992) 962 F.2d 566, 571.

Here, the service payment to Plaintiff is based on the extent of her participation in this action and not conditioned upon Plaintiff's support of the settlement. *Cf. Radcliffe v. Experian Info. Solutions, Inc.* (2013) 715 F.3d 1157, 1165. Plaintiff assisted in investigation, participated in multiple conference calls with counsel, provided and reviewed documents and pleadings, and was on standby during the two evaluation sessions. *See* Grimson Decl., ¶¶8, 9, 10, 13.

Courts award incentive awards in this range. *Ross v. U.S. Bank Nat'l Ass'n* (N.D. Cal. Sept. 29, 2010) 2010 WL 3833922, at *3 (approving an award of $20,000 to each of four named plaintiffs based on their contributions to litigation and the risk that being a class representative would harm their reputation); *see also Ridgeway v. Wal-Mart Stores Inc.* (N.D. Cal., Sept. 14, 2017) 2017 WL 4071293, at *19 ($15,000 incentive awards for each of the named plaintiffs awarded); *Low v. Trump University, LLC* (S.D. Cal. 2017) 246 F.Supp.3d 1295, 1316 ($15,000 incentive award approved where plaintiffs "devoted significant amounts of time and energy" to the action); *Glass v. UBS Fin. Servs.* (N.D. Cal. 2007) 2007 WL 221862 at *17 ($25,000 for each class representative in wage and hour action). Thus, the proposed service payment is reasonable.

4. The Stage of the Proceedings is Sufficiently Advanced to Permit Preliminary Approval of the Settlement

Each party has fully availed itself of the opportunity for settlement that a PAGA early evaluation conference affords. Here, before settling this action, the Parties had a thorough understanding of their respective claims and defenses. *See* section III(A), *supra*; Khoury Decl., ¶21. Before the early evaluation conference, Class Counsel investigated Class Members' claims, examined documents and data, and performed damage calculations. *Id.* At the time the Parties met for the early evaluation conference, they knew and understood their respective positions. *Id.* As a result of the

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work performed in this case, each party had a reasoned position on the value of the class claims, and Class Counsel determined that the Settlement with Provident Care is fair, reasonable, adequate, and in the best interest of the Class. *Young v. Polo Retail, LLC* (N.D. Cal. Mar. 28, 2007) 2007 WL 951821, at *4.

VII. The Class Meets the Qualifications for Certification for Settlement Purposes[6]

To prevail on a motion for class certification, Plaintiff needs to show that "the question is one of a common or general interest, of many persons, or…the parties are numerous, and it is impracticable to bring them all before the court." Cal. Code of Civ. Proc. § 382. Plaintiff needs to prove that the class is both ascertainable and that there is a well-defined community of interest among class members. *See Sav-On Drug Stores, Inc. v. Super. Ct.* (2004) 34 Cal.4th 319, 326. In *Sav-On Drug Store*, the court adopted a test for "community of interest," which consists of the following prongs: (1) there are predominant common questions of law or fact; (2) class representatives have claims typical to those of the class; and (3) class representatives can adequately represent the interests of the class. *Id.*

A. Ascertainability and Numerosity Exist that can be Determined from Payroll Records

A class is generally considered ascertainable when: (i) under the class definition the members are clearly identifiable, and (ii) the members can be located and notified through a reasonable expenditure of time and money. *See Reyes v. San Diego County Board of Supervisors* (1987) 196 Cal.App.3d 1263, 1274-75; *Sevidal v. Target Corp.* (2010) 189 Cal.App.4th 905, 919-20. Typically, class members are ascertainable when they can be easily identified by reference to official or business records. *Archer v. United Rentals, Inc.* (2011) 195 Cal.App.4th 807, 828; *Sevidal*, 189 Cal.App.4th at 919.

Here, the Class is composed of approximately 411 current and former non-exempt In-Home Health Workers of Defendant in California, who can be identified and located from Defendant's personnel and payroll records. Khoury Decl., ¶¶12, 39, 43. In California, as few as ten (10) or twenty-

[6] Provident Care agrees to certify a class for settlement purposes only, and its agreement to do so shall not be construed as an admission of the propriety of class certification outside of the settlement context. SA, ¶M.1.

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eight (28) members satisfy numerosity. *Bowles v. Super. Ct.* (1955) 44 Cal.2d 574; *Hebbard v. Colgrove* (1972) 28 Cal.App.3d 1017, 1030. Thus, numerosity is satisfied, and the class is ascertainable.

B. Common Issues of Law and Fact Predominate over any Individual Issues

"As a general rule if the defendant's liability can be determined by facts common to all members of the class, a class will be certified even if the members must individually prove their damages." *Brinker,* 53 Cal.4th at 1022. The court only determines whether or not "the theory of recovery advanced by the proponents of certification is, as an analytical matter, likely to prove amenable to class treatment." *Sav-On Drug Stores*, 34 Cal.4th at 327.

Here, there are common questions of law and fact that apply to class members across the board, and they predominate over any individual inquiries, in that "determination of [their] truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." *Wal-Mart Stores, Inc. v. Dukes* (2011) 131 S.Ct. 2541, 2551. Those questions include whether or not Class Members: (i) were subject to the personal attendant exemption; (ii) were required to work off-the-clock; (iii) were not provided with meal and rest breaks; (iv) were reimbursed necessarily incurred business expenses; (v) were provided with all wages due upon separation under Labor Code section 203; (vi) were provided with accurate wage statements as required by Labor Code section 226; (vii) Whether or not Defendant engaged in unfair business practices in violation of the UCL. *See also* Grimson Decl., ¶5, 6, attesting that her claims are common to the claims of the absent Class Members.

Because several issues are common to all Class Members, a class action is superior to numerous individual actions, and the maintenance of this action as a class action will save judicial resources, and help avoid inconsistent judgments. *See Savon Drugs*, 34 Cal.4th at 326 Class Members' interests are relatively small, so they are unlikely to prosecute separate actions. Plaintiff's claims arise from her employment with Defendant in California.

C. Plaintiff's Claims are Typical of the Claims of Class Members

Typicality does not mean that the interests of representative plaintiffs must be identical to those of the absent class members. *Classen v. Weller* (1983) 145 Cal.App.3d 27, 46; *Staton v. Boeing Co.* (9th Cir. 2003) 327 F.3d 938, 957. They only need to be "reasonably co-extensive with those of

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absent class members." *Parsons v. Ryan* (9th Cir. 2014) 754 F.3d 657, 685. Further, the representative plaintiff must be a member of the class she seeks to represent. *La Sala v. American Sav. & Loan Assn.* (1971) 5 Cal.3d 864, 875.

Here, Plaintiff's claims arise from the same facts and legal theories as the Class Members' claims. Plaintiff was subject to the same wage and hour policies and practices of Defendant. Thus, typicality is met.

D. Plaintiff and Class Counsel will Adequately Protect the Interests of the Class

The adequacy of representation involves two conditions: the named plaintiff must be represented by counsel qualified to prosecute class actions of this type; and the named plaintiff's interests cannot be antagonistic to those of the class. *See McGhee v. Bank of America* (1976) 60 Cal.App.3d 442, 450.

Here, Plaintiff retained counsel with extensive experience in prosecuting wage and hour class actions. Khoury Decl., ¶¶2-11, 22; Markham Decl., ¶¶3-9; Haines Decl., ¶3. In addition, Plaintiff has the same interests as the rest of the Settlement Class, because she was allegedly injured in substantially the same manner. Grimson Decl., ¶¶5, 6. Thus, the Court should certify Plaintiff's class claims for Settlement purposes.

VIII. THE PROPOSED NOTICE TO THE CLASS SHOULD BE APPROVED

A. Proposed Notice Plan

Within 14 calendar days after receiving class data from Defendant, the Settlement Administrator will send Class Notice to Class Members via first class mail. SA, ¶ G.4.c. Before mailing the Notice, the Settlement Administrator will run a check of the Class Members' addresses against those contained in the USPS's National Change of Address database and take any other appropriate steps to validate the correctness of the addresses provided by Defendants. *Id.* If the Notice is returned with the forwarding address, the Settlement Administrator will use the forwarding addresses to locate the missing Class Members, and re-mail the Notice to the correct address with three (3) business days. *Id.*, ¶G(4)(d). If a Notice is returned as non-deliverable with no forwarding address, the Settlement Administrator shall conduct an advanced skip trace to locate the most current address of the person to whom the Notice was addressed and shall resend the Notice to any updated

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address. *Id.* Any responses from the Class Member (*i.e.*, a dispute regarding calculation of workweeks, a Request for Exclusion, or an objection) are due to the Administrator within 45 calendar days of the notice mailing, as defined in the Settlement Agreement, or within fourteen (14) calendar days from the date of re-mailing, whichever is later. *Id.*, ¶(A)41.

The Class Notice will summarize the terms of the Settlement Agreement, advise the Class Members of their estimated individual settlement payment, and inform Class Members of their right to object to or exclude themselves from the Settlement within 45 days after the Notice mailing. SA, **Ex. A**. Because this is the California-only class, and the mailing will occur only in California, 45 days to opt out from or object to the Settlement is sufficient. Khoury Decl., ¶44. Further, because Class Members communicated with co-workers and supervisors on a daily basis in English, English-only notice is sufficient. *Id.*, ¶45.

B. The Proposed Notice to the Class is Fair and Adequate

The Parties agreed on the language of the proposed class notice. Khoury Decl., ¶44. The threshold requirement regarding the sufficiency of class notice is whether the means proposed for distributing the notice are reasonably calculated to apprise the class of the pendency of the action, the proposed settlement, and the right to opt out of or object to the settlement. *Eisen v. Carlisle & Jacquelin* (1974) 417 U.S. 156, 173; *Mullane v. Cent. Hanover Bank & Trust Co.* (1950) 339 U.S. 306, 315; *see also* Cal. Rules of Court, Rule 3.766.

Here, the Notice is more than sufficient, because it gives Class Members, in an easy to understand and clear language: (1) basic information about this action and the Settlement; (2) an estimate of the workweeks Class Members worked during the Class Period, and an explanation how Class Members can dispute this calculation; (3) an explanation how the payout from the Settlement will be calculated for each Class Member, and an estimate of a Class Member's Settlement Payment; (4) an explanation how Class Members can exercise their right to opt out from, or object to, the Settlement; (5) an explanation that any claims against Defendant that could have been litigated will be released if the Class Member does not opt out; (6) name of Class Counsel and information regarding attorneys' fees and costs; (7) the date of the Fairness Hearing and an explanation of eligibility to appear at the Fairness Hearing; and (8) the telephone and e-mail number, as well as

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website address, where class members can obtain additional information. *See* Ex. A (proposed Class Notice).

Thus, the Notice plan proposed by the Settlement is fair and adequate, and complies with the California Rules of Court, Rules 3.766 and 3.769(f).

IX. CONCLUSION

Plaintiff's unopposed motion should, respectfully, be granted.

Respectfully submitted,

THE MARKHAM LAW FIRM
UNITED EMPLOYEES LAW GROUP, P.C.
COHELAN KHOURY & SINGER

Dated: October 15, 2026

By:_____
Maggie K. Realin
Attorneys for Plaintiff Stacey Grimson, on behalf of herself and all others similarly situated

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