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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

CURTIS LEHMAN WILLIAMS JR., individually and on behalf of all others similarly situated, Plaintiff, v. AVIS BUDGET GROUP, INC.; AB CAR RENTAL SERVICES, INC.; and DOES 1 through 20, inclusive, Defendant.	Case No. 23CV000043 *Assigned for all purposes to:* *Hon. Lauri Damrell* *Dept. 22* **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** Date: January 16, 2026 Time: 9:00 a.m. Dept: 22

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I. INTRODUCTION

Pursuant to California Rules of Court 3.769 (d) and (e), Plaintiff Curtis Lehman Williams Jr., ("Plaintiff") requests that the Court grant preliminary approval of a class action settlement of wage and hour claims, including a claim under the California Private Attorneys General Act of 2004, codified at Labor Code §§ 2698, *et seq.* ("PAGA"), against Defendant Avis Budget Group, Inc. (which has no California employees) and AB Car Rental Services, Inc. (jointly "Defendant"), (collectively, Plaintiff and Defendant referred to as the "Parties"). The putative class consists of approximately 3,553 non-exempt employees who worked for Defendant in California (individually, "Class Member"; collectively, the "Class") from April 18, 2019 through July 21, 2025 (the "Class Period"). The basic terms of the Class Action and PAGA Settlement Agreement and Class Notice ("Settlement Agreement" or "Settlement")[1] provide for the following:

(1) A non-reversionary Gross Settlement Amount of $5,500,000.00 allocated to approximately 3,553 Class Members on a pro rata basis according to the number of weeks each Class Member worked during the Class Period;

(2) An award of up to one-third of the Gross Settlement Amount (currently $1,833,333.33) and up to $40,000.00 in reimbursement of costs to Plaintiff's Counsel for services rendered as counsel on this matter;

(3) Service Payment of up to $15,000.00 to the Named Plaintiff;

(4) Settlement Administration fees and costs of up to $23,750.00; and

(5) Allocation of $200,000 for resolution of civil penalties under PAGA. Seventy-five percent (75%) of this payment will be paid to the California Labor and Workforce Development Agency ("LWDA Payment"), and twenty-five percent (25%) will be paid to Class Members who worked for Defendant during the PAGA Period (the "Aggrieved Employees").

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[1] A true and correct copy of the fully-executed "Class Action and PAGA Settlement Agreement and Class Notice" is attached as **Exhibit 1** to the Declaration of Julia M. Toscano in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Toscano Decl."), filed concurrently herewith. Unless otherwise defined herein, all capitalized terms in this Motion will be used as such terms are defined and used in the Settlement.

With each Class Member allocated an average recovery of approximately $953.00 from the Net Settlement Amount, the Settlement satisfies the criteria for preliminary approval and falls well within the range of reasonableness given the risks and costs of continued litigation. The Settlement was reached through informed, arms-length bargaining at and after mediation between experienced attorneys. As such, Plaintiff requests that the Court grant preliminary approval of the Settlement, conditionally certify the Class for settlement purposes only, appoint Plaintiff as the Class Representative, appoint Plaintiff's Counsel as Class Counsel, appoint CPT Group, Inc. as the Settlement Administrator, authorize the Settlement Administrator to send notice of the Settlement, and set a final approval hearing date.

II. SUMMARY OF THE LITIGATION

On April 18, 2023, Plaintiff filed a putative class action on behalf of Defendant's non-exempt employees alleging the following causes of action: for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to properly authorize and permit rest breaks or pay a premium in lieu thereof; (5) failure timely pay wages at termination or during employment; (6) failure to provide accurate itemized wage statements; (7) failure to pay reimburse business expenses; (8) failure to pay provide uniforms; and (9) violation of Business and Professions Code §§ 17200, *et seq* for the preceding claims. Toscano Decl., ¶ 3. On April 18, 2023, Plaintiff's counsel provided written notice to the LWDA and Defendant regarding Defendant's alleged Labor Code violations, as required by Labor Code section 2699.3(a). *Id.*, Ex. 3. The LWDA did not respond to this notice, indicating it did not intend to investigate, thus allowing Plaintiff to bring a PAGA claim against Defendant. *Id*. On July 26, 2023, Plaintiff filed a First Amended the Complaint adding a PAGA claim. *Id.* On February 13, 2025, Plaintiff submitted an amended notice letter to the LWDA. *Id*.

The Parties proceeded with formal discovery. Plaintiff served a first set of written discovery, seeking, inter alia, his personnel files, policy documents, the class members' contact information, and class members' timekeeping and pay records. *Id.* at ¶ 4. After extensive meet and confer efforts and multiple sets of further responses, Defendant produced a significant number of documents and information, including Plaintiff's personnel files, policy documents, the class members' contact information, and a 20% sample of class members' timekeeping and pay records. *Id.* Plaintiff also responded to Defendant's formal discovery and was deposed by Defendant. *Id.* After completing formal discovery and engaging in numerous discussions between the Parties' attorneys, the Parties agreed to attend a private mediation session. *Id.*

On April 15, 2025, the Parties attended a mediation session with Steve Serratore, a respected mediator. *Id*. at ¶ 5. The Parties did not settle at mediation, but continued settlement negotiations in the ensuing months with the assistance of the mediator. *Id*. In June of 2025, the Parties accepted a mediator's proposal. *Id*. The Parties spent the next several months negotiating the terms of the Settlement, which included an agreement for Plaintiff to file a Second Amended Complaint. *Id*. On August 14, 2025, Plaintiff filed a Second Amended Complaint that includes all claims raised in the First Amended Complaint, and the April 18, 2023 and February 13, 2025 notice letters to the LWDA. *Id*. The Parties finalized the Settlement in October of 2025. *Id.* The negotiations were adversarial, conducted at arm's length and tempered by the efforts of both sides to serve the interests of their clients. *Id.*

On December 19, 2025, Plaintiff submitted the Settlement to the LWDA pursuant to Labor Code section 2699(l)(2). *Id.* at ¶ 6, Ex. 2.

III. <u>SUMMARY OF THE SETTLEMENT</u>

A. Terms of Settlement

Plaintiff and Defendant agreed to settle the class claims in exchange for a Gross Settlement Amount of $5,500,000.00. Settlement Agreement, § III.A. The Gross Settlement Amount will be used to make payments for the following: (1) Individual Settlement Payments to Participating Class Members; (2) attorneys' fees to Class Counsel of up to one-third of the Gross Settlement Amount; (3) reimbursement of Class Counsel's litigation costs of up to $40,000; (4) a Service Payment to Plaintiff of up to $15,000; (5) Settlement Administration fees and costs of $23,750.00; and (6) a payment to the LWDA of $200,000 pursuant to PAGA. *Id.* at §§ III.B.-III.C-III.D. III.E.

Class Members do not need to submit a claim form to participate in the Settlement. Settlement Agreement, § III.L. Pursuant to the Settlement Agreement, Defendant will fully fund the Gross Settlement Amount within 30 days of the date the Court grants final approval of the settlement and enters judgment, or a later date if the judgment is appealed. *Id.* at § III.G.1. Class Members' Individual Settlement Payments will be distributed within 10 days after Defendant fully funds the Gross Settlement Amount. *Id.* at § III.G.2. Individual Settlement Payments will be calculated by comparing the total number of Workweeks for the Class to each individual Class Member's number of Workweeks. *Id.* at § III.F.3. The Settlement Administrator will calculate the actual estimated recovery to include in the Class Notice and provide the estimated low and high ranges of possible recovery at final approval. *Id.* at § III.F.1.; Settlement Agreement, Ex. A (Notice of Class Action Settlement). The class notice will be provided in English; with Spanish translation. *See* Settlement Agreement, § III.J.1.

The Individual Settlement Payments to Class Members will be allocated for tax purposes as follows: 10% as wages (the "Wage Component") and 45% as penalties and 45% interest (the "Non-Wage Component"). Settlement Agreement, § III.F.2. The employer-side payroll taxes on the portion allocated to wages will be paid by Defendant separately from, and in addition to the Gross Settlement Amount. *Id.* at § III.A. No portion of the Gross Settlement Amount will revert to Defendant. *Id.* at § III.A. Funds from uncashed or undeliverable checks will be tendered by the Settlement Administrator to the State Controller Unclaimed Property Fund in the name of the Class Member for whom the funds are designated. *Id*. at § III.G.3.

B. Proposed Opt-Out and Objection Process

Once the Court grants preliminary approval, Defendant will have ten business court days to deliver the Class Data to the Settlement Administrator. Settlement Agreement, § III.K.1. The Settlement Administrator will then have fourteen calendar days to send Class Members the Notice of Class Action Settlement ("Class Notice") by first-class mail after checking for updated addresses through the National Change of Address database. *Id.* at § III.K.2. The Class Notice provides information regarding the nature of the lawsuit, a summary of the substance of the settlement terms, the formula for calculating Individual Settlement Payments, the individual's estimated payout, a statement that Class Members who take no action will release their claims and receive settlement checks, instructions regarding how to dispute the calculations, instructions regarding how to request exclusion or object to the Settlement, the date for the final approval hearing, the amounts sought for attorneys' fees and costs, the Settlement Administration Costs, the Class Representative's Service Payment, and the PAGA allocation. *See* Settlement Agreement, Ex. A (Class Notice).

The Class Notice provides instructions for Class Members who choose to exclude themselves from the Settlement. *See* Settlement Agreement § III.I.1.- III.I.5. To opt out, Class Members are instructed to submit a Request for Exclusion to the Settlement Administrator by a specified date (60 days after the date of mailing of the Class Notice). *See* Settlement Agreement, Ex. A (Class Notice), § III.L.1. Class Members do not need to submit a claim form to participate in the Settlement. *Id.* at III.L. Class Members are informed of how they can object to the Settlement, and the Class Notice informs Class Members of the date, time, and location of the final fairness and approval hearing so that they can appear in person. *Id.* at § III.L.2. The Class Notice also informs Class Members to check the Administrator's website or contact Class Counsel to verify the date and time of the Final Approval Hearing. *Id.* at III.L.2. Accordingly, the content of the Class Notice complies with the requirements of California Rules of Court Rule 3.766(d).

If Class Notice packets are returned as undeliverable, the Settlement Administrator will perform a skip-trace or other search, and re-mail the Class Notice with an extended deadline, to opt out or object, of 14 days from the date of mailing or the original deadline, whichever is later. Settlement Agreement, § III.K.3. The initial 60-day notice period and extension process ensures the notice program provides due process by giving Class Members enough time to determine whether they want to participate in the Settlement. This means of notice is reasonably calculated to apprise Class Members of the pendency of the action. *See* California Rules of Court Rule 3.766 (d)-(f).

C. Proposed Release

The release to be given by Class Members is limited to AB Car Rental Services, Inc and Avis Budget Group, Inc., as well as its and their parent, affiliated organizations, subsidiaries, predecessors, successors, assigns, divisions, owners, officers, directors, members, management employees, fiduciaries, insurers, administrators, representatives, agents, and attorneys. (the "Released Parties"). Settlement Agreement, § I.W. Under the proposed release, Class Members who do not exclude themselves from the Settlement will be deemed to have released the following:

> all claims, both potential and actual, that may have been raised in the pending action with respect to the matter in controversy by, or on behalf of, the Class Members for the entire Class Period, arising at any time during the Class Period for the Class Members, including: (a) failure to pay all wages owed (minimum wage and overtime), whether due to alleged off the clock work, alleged failure to correctly calculate the regular rate of pay or any other theory of !ability for the underpayment of the minimum wage or overtime (b) failure to provide duty-free meal periods or pay premiums at the regular rate of pay in lieu thereof; (c) failure to provide duty-free rest breaks or failure to pay premiums at the regular rate of

> pay in lieu thereof; (d) failure to reimburse expenses/unlawful deductions/provide uniforms: (e) waiting time penalties; (f) failure to timely pay wages during employment; (g) failure to provide accurate wage statements; (h) failure to pay out vacation at termination: (i) failure to pay sick pay at the regular rate of pay: (j) unfair business practices; (k) claims for violation of the provisions of the applicable Wage Orders regarding minimum wage, overtime, meal periods and rest periods, as well as allegations regarding the late payment of wages during employment and of final wages, inaccurate wage statements, and failure to reimburse business expenses; (I) claims for the attorney's fees and costs incurred in the prosecution of the Actions on behalf of the Class Members; (m) any other claims, remedies, penalties, or interest that could have been pleaded based on the facts alleged in the Operative Complaint; and (n) all claims that Plaintiff, the Class Members may have against the Released Parties relating to: (i) the payment, taxation, and allocation of attorney 's fees and costs to Plaintiff's Counsel pursuant to this Settlement Agreement: and (ii) the payment, taxation, and allocation of Plaintiffs Payment pursuant to this Settlement Agreement. The release of the Released Class Claims shall be effective as to the entire Class Period defined above.

Id. at § III.I.1.

Aggrieved Employees will release the Released Parties from all claims in Plaintiff's notices sent to the LWDA and alleged in the operative complaint, which arose during the PAGA Period, regardless of whether the Aggrieved Employee opts out of the Class Settlement, as follows:

> all claims, both potential or actual, that may have been raised in the pending Action for violations of the following Labor Code sections, as well as civil penalties under PAGA, that were actually alleged or that could have been alleged in the PAGA Action based on the matter in controversy alleged in Plaintiffs Operative Complaint in the PAGA Action, brought by Plaintiff, on behalf of the State of California, himself and the PAGA Employees for the entire PAGA Period, as well as any and all PAGA claims that were asserted or could have been asserted based allegations alleged in Plaintiffs April 18, 2023 PAGA Letter, and the Amended PAGA letter dated February 12, 2025 and the PAGA claims in the Action, including but not limited to (a) PAGA penalties for alleged violations of Labor Code sections 201-203, 204, 204b, 210,218,218.5, 221,223,224,225.5, 226, 226.3, 226.7, 227.3, 245 et. seq., 450, 510,512,516, 558, 1174, 1174.5, 1182.12, 1194-1198, 2800, 2802, and 2699 et. seq., claims for violation of the provisions of the applicable Wage Order(s) regarding minimum wage, overtime, meal periods and rest periods, as well as allegations regarding the late payment of wages during employment and of final wages, inaccurate wage statements, and failure to reimburse business expenses, suitable seating and uniforms; (b) claims for the attorney's fees and costs incurred in the prosecution of the Actions on behalf of the PAGA Employees; (c) all claims that Plaintiff, the State of California and PAGA Employees may have against the Released Parties relating to the payment, and allocation of attorney's fees and costs to Plaintiffs Counsel pursuant to this Settlement Agreement. The release of the Released PAGA Claims shall be effective as to the entire PAGA Period defined above.

Id. at § III.I.4

Only Plaintiff will agree to a general release of any and all claims, whether known or unknown, which exist or may exist on Plaintiff's behalf as of the date of the Settlement, and a waiver of Civil Code section 1542. Settlement Agreement, § III.I.2.

IV. LEGAL ARGUMENTS SUPPORTING PRELIMINARY APPROVAL

A. Provisional Certification of the Class is Appropriate

Class certification is appropriate when there exists (1) an ascertainable and sufficiently numerous class, (2) a well-defined community of interest among class members, and (3) when certification would be a fair and efficient means of adjudicating the action, rendering class litigation superior to alternative means. *See Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th 1004, 1021 (2012).

1. The Proposed Class is Numerous and Ascertainable

Whether a class is "ascertainable" is "determined by examining (1) the class definition, (2) the size of the class, and (3) the means available for identifying class members." *Reyes v. Bd. of Supervisors*, 196 Cal. App. 3d 1263, 1271 (1987). Here, the Class consists of all current and former non-exempt employees who are or were employed by Defendant in California at any time from April 18, 2019 to December 20, 2024. Settlement Agreement, § I.D. Defendant's records show the Class consists of approximately 3,553 individuals, making joinder of all Class Members impracticable. Toscano Decl., ¶ 7. Further, the Class is readily ascertainable from Defendant's business records because all Class Members are current or former employees of Defendant. *Id.*

2. A Well-Defined Community of Interest Exists Among Class Members

"[T]he 'community of interest requirement embodies three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class.'" *Fireside Bank v. Superior Court*, 40 Cal. 4th 1069, 1089 (2007) (quoting *Richmond v. Dart Industries, Inc.*, 29 Cal. 3d 462, 470 (1981)).

a. <u>Common Questions Predominate</u>

To assess whether common questions predominate, courts focus on whether the theories of recovery advanced are likely to prove amenable to class treatment. *See Sav-On Drug Stores, Inc. v. Superior Court*, 34 Cal. 4th 319, 327 (2004). In other words, courts determine whether the elements necessary to establish liability are susceptible of common proof, even if the class members must individually prove their damages. *Brinker*, *supra*, 53 Cal. 4th at 1021-1022, 1024.

Plaintiff alleged that Defendant maintained uniform employment policies and/or practices that illegally deprived Class Members of lawful wages, meal periods, rest breaks, accurate wage statements, and waiting time pay. Toscano Decl., ¶ 8. Plaintiff's allegations present common legal and factual questions of, *inter alia*, whether Defendant applied the same scheduling, timekeeping, minimum and overtime pay, meal period, and rest break policies to all Class Members; whether these policies and practices resulted in Labor Code violations; whether Defendant's conduct was intentional; and whether Class Members are entitled to penalties. *Id*. These common questions could be resolved using Class Members' schedules, time punches, and payroll records, Defendant's corporate representative's testimony, written communications between Defendant and Class Members, and Class Member declarations. *Id.* Thus, the Court can and should exercise its discretion to grant conditional class certification for settlement purposes.

b. *Plaintiff's Claims are Typical of the Class Claims*

The typicality requirement is satisfied when the legal theories and facts supporting Plaintiff's claims are substantially similar to other class members. *See Classen v. Weller*, 145 Cal. App. 3d 27, 46 (1983). Here, Plaintiff alleges that he and other Class Members were employed by Defendant and injured by Defendant's common wage and hour policies and practices, including Defendant's scheduling, timekeeping, minimum wage pay, overtime pay, meal period, and rest break practices and policies. Toscano Decl., ¶ 9. Through documents and information exchanged in discovery, including production of policy documents by Defendant, Plaintiff confirmed that these common policies and practices similarly affected Plaintiff and the Class. *Id.* Thus, Plaintiff's claims arise from the same employment practices and are based on the same legal theories as those applicable to other Class Members, as further explained in Plaintiff's exposure analysis below.

c. *Plaintiff and Plaintiff's Counsel Will Adequately Represent the Interests of the Proposed Class*

Certification requires adequacy of both the proposed class representative(s) and proposed class counsel. With respect to the class representative, a plaintiff must adequately represent and protect the interests of other members of the class and demonstrate that his or her claim is not inconsistent with the claims of other members of the class. *See Capitol People First v. State Dep't of Developmental Servs.*, 155 Cal. App. 4th 676, 696-697 (2007). Here, Plaintiff's interests are coextensive with the interests of the Class. Plaintiff demonstrated an ability to advocate for the interests of the Class by litigating this action, gathering documents and information, responding to written discovery, preparing for and attending his deposition, being available on the day of mediation to answer questions, meeting with his attorneys on several occasions to understand the claims and theories of liability at issue, assisting attorneys in preparing for mediation, reviewing the proposed settlement agreement to understand its legal effect, and obtaining a fair settlement on behalf of Class Members who stand to recover a substantial amount under the Settlement. Toscano Decl., ¶ 20.

Likewise, Aegis Law Firm, PC has expended considerable time and effort on this case and will continue to do so through final approval. *See generally,* Toscano Decl. Accordingly, Plaintiff should be appointed Class Representative, and Plaintiff's Counsel should be appointed Class Counsel

3. A Class Action is Superior to a Multitude of Individual Lawsuits

Class treatment is superior to other methods of adjudication when the probability is small that each class member will come forward to prove his or her claim and when the class approach would deter and redress the alleged wrongdoing. *See Linder v. Thrifty Oil Co.*, 23 Cal. 4th 429, 435, 446 (2000); *Ghazaryan v. Diva Limousine, Ltd.*, 169 Cal. App. 4th 1524, 1537-1538 (2008). Here, none of the other 3,553 Class Members had shown any interest in bearing the expense and burden of litigating their own claims. Toscano Decl. ¶ 20. Thus, a class action is the superior method for seeking relief.

B. The Settlement Meets the Standards for Preliminary Approval

Preliminary approval is warranted if the settlement falls within a "reasonable range." *See North County Contractor's Ass'n., Inc. v. Touchstone Ins. Servs.*, 27 Cal. App. 4th 1085, 1089-90 (1994); Conte & Newberg, *Newberg on Class Actions*, § 11.26 (4th ed. 2002). In reviewing the fairness of a class action settlement, due regard should be given to what is "'otherwise a private consensual agreement between the parties.'" *Cellphone Termination Fee Cases*, 186 Cal. App. 4th 1380, 1389 (2010). The inquiry "must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." *Id.*

Reasonableness and fairness are presumed where (1) the settlement is reached through "arms-length bargaining"; (2) investigation and discovery are "sufficient to allow counsel and the court to act intelligently"; (3) counsel is "experienced in similar litigation"; and (4) the percentage of objectors "is small." *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1802 (1996). The Settlement satisfies the first three factors. Plaintiff will analyze the fourth factor at the final approval stage.

1. The Settlement is Entitled to a Presumption of Fairness

a. The Settlement is the Result of Arm's-Length Negotiations

Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless evidence to the contrary is offered. Thus, there is a presumption that settlement negotiations are conducted in good faith. Here, the Settlement was the product of a full-day mediation session with a respected mediator following extensive investigation and discover, including the deposition of Plaintiff. Toscano Decl. ¶¶ 4 - 5. The negotiations were adversarial, conducted at arm's length and tempered by the efforts of both sides to serve the interests of their clients. *Id*. The amount of Plaintiff's requested Service Award was not negotiated until after the Parties agreed to the Gross Settlement Amount and many other terms. *Id.* at ¶ 21.

b. Plaintiff's Counsel Conducted Sufficient Investigation and Discovery

Plaintiff's Counsel thoroughly investigated the class claims, applicable law, and potential defenses. *See generally,* Toscano Decl. Plaintiff's Counsel assessed the value of the class claims using Defendant's data and documents produced through discovery. Toscano Decl., ¶ 9. Plaintiff's counsel interviewed Class Members and extensively reviewed policy documents and Class Members' time and pay records to perform a thorough analysis. *Id*. Further, Plaintiff's Counsel engaged an expert to quantify the potential exposure using the time and payroll records, and then assessed the risks associated with each of the claims meriting reductions in the likely recovery at trial. *Id.* Accordingly, Plaintiff's Counsel fully understood the strengths and weaknesses of the claims before the Parties reached a settlement. *Id*.

c. Plaintiff's Counsel is Experienced in Similar Litigation

Plaintiff is represented by Aegis Law Firm, PC ("Class Counsel"). Class Counsel prosecute wage and hour class actions on behalf of employees and others who have had their rights violated. Toscano Decl. ¶¶ 23 - 35. The attorneys working on this case have been appointed class counsel in many cases, through both contested motions and settlement approval motions. *Id.* Thus, Plaintiff's Counsel has extensive experience in similar litigation and should be appointed as Class Counsel.

2. The Settlement is Reasonable Given the Strengths of Plaintiff's Claims and the Risks and Expense of Litigation

Courts have discretion to approve class settlements by assessing several factors, including the "strength of plaintiffs' case, risk, expense, complexity and likely duration of further litigation and risk of maintaining the class action through trial." *Munoz v. BCI Coca-Cola Bottling Co. of L.A.*, 186 Cal. App. 4th 399, 407 (2010); *see Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129 (2008).

While Plaintiff and his counsel believed and continue to believe this is a strong case for certification, the significant risks and expenses associated with class certification and liability proceedings were considered. Toscano Decl., ¶ 11. To determine if the amount offered at mediation was reasonable, Plaintiff's Counsel weighed that figure against many risk factors. If Plaintiff continued to prosecute the claims rather than accept a settlement, Plaintiff would have had to prepare and file a motion for class certification, engage in further formal written discovery, take depositions, expend time and resources to resolve disputes, prepare and file potentially dispositive motions and/or discovery motions, and engage in extensive trial preparation. An adverse ruling at any one of these stages could have prevented the Class from obtaining any recovery. *Id.* at ¶ 12.

a. Exposure Analysis

A settlement does not have to provide 100% of the damages sought to be considered a fair and reasonable settlement. *See Rebney v. Wells Fargo Bank*, 220 Cal. App. 3d 1117, 1139 (1991). Rather, compromise is expected:

> Compromise is inherent and necessary in the settlement process . . . even if "the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated," this is no bar to a class settlement because "the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation."

Wershba v. Apple Computer, Inc., 91 Cal. App. 4th 224, 250 (2001) (citation omitted). Here, Plaintiff contends that his claims are based on Defendant's common, class-wide policies and procedures, and that liability could be determined on a class-wide basis without dependence on individual assessments of liability. Toscano Decl., ¶ 10. Although the amount of Defendant's potential exposure – if proven – is substantial, the legitimate and serious risks of succeeding at class certification and trial compelled a serious consideration of the benefit of a settlement. *Id.* at ¶ 12.

As a preliminary matter, the damages Plaintiff's expert calculated were extrapolated from the records produced to cover the entire Class Period. *Id.* at ¶ 13. Plaintiff's expert extrapolated from the sample group to the entire class, which Defendant estimated to consists of 3,553 Class Members who collectively worked at total of 294,445 Workweeks as of the date of the April 15, 2025 mediation. *Id.* Ultimately, the damages estimates were extremely liberal and assumed the best-case scenario for every Class Member in this large class. *Id*. However, given the risks of continued litigation, reaching a compromise at this stage will allow Class Members to obtain compensation for their claims without having to file and litigate their own cases. *Id.*

<u>Minimum Wage and Overtime Claims</u>: Plaintiff's minimum wage and overtime claims were premised on the theories that Defendant failed to compensate class members for all time and improperly edited the time of some class member. Specifically, Plaintiff argued that Defendant failed to pay wages owed to class members for undergoing security and Covid-19 screening surveys, completing mandatory online training courses and exams, and receiving and responding to communications from Defendant on their personal cell phones. Based on an average regular rate of pay of $23.02, and assuming unpaid wages of 12 minutes per shift and 15 minutes per Workweek for off-the-clock work, and an additional 2 minutes across 10% of shifts for improperly edited time, Plaintiff's expert calculated a maximum exposure of approximately $8 million. However, Defendant argued that it maintained policies of paying for all recorded work, and that Plaintiff had no evidence, other than Plaintiff's testimony, that it required over 3,000 class members across its many locations to work before or after their shifts completing the duties alleged by Plaintiff. As such, Plaintiff recognized that this claim could become highly individualized and testimony-dependent, and therefore, difficult to certify. Furthermore, Defendant argued that the evidence shows that it paid class members an additional 2 minutes for time spent undergoing COVID screenings. As such, Plaintiff assumed there was a 20% chance of success at class certification and 10% chance of success on the merits at trial, rendering the claim worth approximately $800,00.00. Toscano Decl., ¶ 14.

<u>Unpaid Meal Break Premiums and Sick Pay at Regular Rate</u>: Plaintiff's unpaid meal break premiums and sick pay claims were based on the theory that Defendant failed to properly calculate the

meal break premium and sick pay rates to include nondiscretionary bonuses and commissions. Plaintiff's expert calculated that this claim was worth approximately $128,00.00. However, Defendant argued that the bonuses identified by Plaintiff were discretionary, and under the pertinent section of the DLSE, Defendant was not required to incorporate them in the regular rate of pay. Given the disputed nature of the bonuses at issue, Plaintiff recognized that this claim could be difficult to certify. As such, Plaintiff assumed there was a 50% chance of success at class certification and 40% chance of success on the merits at trial, rendering the claim worth approximately $51,200.00. Toscano Decl., ¶ 15.

Meal Period Claims: Plaintiff's theory of liability for his meal period claim was based on Defendant's failure to provide timely, uninterrupted meal periods or compensation in lieu thereof. Based on the violations shown in the sampling of time and pay records, Plaintiff's expert calculated that the maximum exposure for Plaintiff's meal period claim could reach approximately $17.5 million. However, Defendant argued that it maintained compliant written policies, that class members properly waived their meal periods, and that it maintained a practice of auto-paying meal period premiums. Defendant further argued that it implemented and maintained an attestation system, by which class members were required to electronically attest to whether they had been provided with a meal period. Considering Defendant's compliant policies, premium auto-pay procedure, attestation procedure, and the likelihood that proof of this claim may become reliant upon testimony, Plaintiff discounted this claim for the risk that the damages could be significantly reduced. As such, Plaintiff's counsel believed there was a 50% chance succeeding at class certification and a 30% chance at trial, resulting in a value of $5.25 million. Toscano Decl., ¶ 16.

Rest Break Claim: Plaintiff's theory of liability for his rest break claim was based on short, late, or missed rest breaks recorded in class members' time records, and Defendant's failure to pay premiums for recorded violations. Based on the violations shown in the sampling of time and pay records, Plaintiff's expert calculated that the maximum exposure for Plaintiff's rest break claim could reach approximately $30 million. However, Defendant argued that it maintained compliant written rest break policies, that it complied with its obligations to "authorize" rest breaks, and any short, late, or missed rest breaks were voluntary. As such, certification would likely have required declarations or depositions of Class Members, and Defendant surely would have obtained opposing declarations stating either rest breaks were taken or rest breaks were voluntarily waived. *See, e.g., Ordonez v. Radio Shack, Inc.*, 2013 WL 210223, at *11 (C.D. Cal. Jan. 17, 2013) ("Because of the competing testimony before the Court, plaintiff's evidence that defendant may have an illegal, written rest break policy is insufficient for this Court to find that common issues predominate."); *Villa v. United Site Servs. of California, Inc.*, 2012 WL 5503550, at *8 (N.D. Cal. Nov. 13, 2012) ("Indeed, Plaintiff's own evidence confirms that the written policy does not generate uniform practices."). As such, Plaintiff's counsel estimated there was a 20% chance succeeding at class certification and a 10% chance at trial, resulting in a value of $3 million. Toscano Decl., ¶ 17.

<u>Waiting Time and Wage Statement Penalties</u>: Plaintiff's Counsel also considered the arguable presence of various derivative penalties, and weighed the potential recoveries against probable defenses. Specifically, Defendant could argue that Plaintiff could not prove the "willful" prong needed to obtain waiting time penalties under Labor Code § 203. Additionally, Defendant could argue that Plaintiff could not show that Class Members suffered an "injury" as a result of wage statement violations, as required by Labor Code § 226, or that the wage statements correctly reflected the wages paid and owed. Moreover, Plaintiff would not recover any of these derivative penalties if he failed to prove the underlying claims. Although the Class arguably could have seen a payout of approximately $7.3 million for waiting time penalties and $8.6 million for wage statement penalties, Plaintiff would not recover any of these derivative penalties if he failed to prove the underlying claims. Thus, Plaintiff discounted these claims assuming a 20% chance of class certification and 10% chance at the merits for both claims, resulting in a realistic value of $730,000.00 for the waiting time claim and $860,000.00 for the wage statement claim. Toscano Decl. ¶ 18.

<u>PAGA Claim</u>: The PAGA claim presented even higher hurdles. Although Plaintiff's Counsel found Defendant's exposure could potentially reach approximately $34 million under Lab. Code § 2699(f), assuming the initial penalty rate of $100 for each pay period, Plaintiff would have to prove a violation in every pay period. Most importantly, the Court would have discretion to reduce the PAGA award based on whether the amount of the award would be "unjust, arbitrary and oppressive, or confiscatory." Lab. Code § 2699(e)(2). In theory, the Court could reduce the award by 99% if it so wished. Plaintiff was doubtful he could recover any PAGA penalties, especially if a large class judgment

was entered for the same violations. Accordingly, Plaintiff could not place a high value on the PAGA penalties, and therefore allocated $200,000.00 of the Gross Settlement Amount to settle these claims. Toscano Decl. ¶ 19.

C. The Requested Service Award for Plaintiff

Plaintiff seeks a Service Award of up to $15,000 for accepting the responsibilities of representing the interests of the Class and assuming risks and potential costs that were not borne by any other Class Members. A named plaintiff is eligible for payment that reasonably compensates him or her for undertaking and fulfilling a fiduciary duty to represent absent class members. *See Cellphone Termination Fee Cases*, *supra,* 186 Cal. App. 4th at 1393; *Bell v. Farmers Ins. Exch.*, 115 Cal. App. 4th 715, 726 (2004).

Here, Plaintiff had the option to pursue his claims individually, but instead chose to pursue this class action, delaying individual recovery until approval of a class action settlement. Toscano Decl., ¶ 20; Declaration of Curtis Lemann Williams Jr. in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Williams Decl."), ¶ 3. Throughout the case, Plaintiff assisted counsel in gathering the evidence necessary to prosecute the class claims, assisted counsel in responding to written discovery, prepared for and attended his deposition, maintained regular contact with counsel, was available on the day of mediation and communicated with his attorneys during the day of mediation to answer critical questions, and reviewed the Settlement to make sure it was fair to the Class. Toscano Decl., ¶ 20; Williams Decl., ¶ 7. No action would likely have been taken by Class Members individually, and no compensation would have been recovered for them, but for Plaintiff's services on behalf of the Class. Toscano Decl., ¶ 20.

By actively pursuing this action, Plaintiff furthered the California public policy goal of enforcing the State's wage and hour laws. *See Sav-On Drug Stores, Inc.*, *supra*, 34 Cal. 4th at 340. The requested Service Award for Plaintiff's service as the class representative and for a general release of all employment claims is reasonable and should be preliminarily approved. At the final approval stage, Plaintiff will further support the request for the Service Award by an additional declaration addressing the factors for the award. Toscano Decl., ¶ 23.

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D. The Requested Attorneys' Fees and Costs

The purpose of an attorneys' fee award in class action litigation is to reward counsel who invested in a case despite the risk of non-payment and achieved a substantial positive result for the class. Attorneys' fees are awarded as a matter of equity. California courts routinely award attorneys' fees equaling one-third or more of the potential value of the common fund. *See Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, n.11 (2008) ("Empirical studies show that, regardless of whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery").

Plaintiff seeks appointment of Aegis Law Firm, PC as Class Counsel. The attorneys performed significant work and expended litigation costs in prosecuting the matter with no guarantee of any payment. Toscano Decl., ¶ 36. Plaintiff's Counsel seeks preliminary approval for $1,833,333.33 in attorneys' fees, which is up to one-third of the Gross Settlement Amount, and up to $40,000.00 in reimbursement of litigation costs. Given the work performed in this matter, the extensive information exchange, and substantial recovery obtained on behalf of Plaintiff and the Class, Plaintiff's Counsel achieved a settlement through efficient and diligent work. *See generally,* Toscano Decl. At final approval, Plaintiff's Counsel will fully brief the merits of its request for the award of attorneys' fees and litigation costs. *Id.* at ¶ 37.

V. CONCLUSION

The Parties have negotiated a fair and reasonable Settlement of the class claims in light of the risks present in this case. Plaintiff has appropriately presented the materials and information necessary for preliminary approval, and therefore, respectfully requests that the Court preliminarily approve the Settlement and schedule a date to conduct the final approval hearing.

Dated: December 19, 2025

AEGIS LAW FIRM, PC

By: *__/s/ Julia M. Toscano*__________________
Julia M. Toscano
Attorneys for Plaintiff