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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

FARZAD AZIMA, individually and on behalf of other persons similarly situated; ADAM DE LEON, individually, on behalf of other persons similarly situated, and in his representative capacity, Plaintiffs, v. NETFLIX PRODUCTIONS, LLC, a foreign limited liability company; and DOES 1 through 50, inclusive, Defendants.	**Case No.: 23STCV03337** (Related Case No: 23STCV03378) [Hon. David S. Cunningham III, Dept. SS-11] **NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** Date: October 9, 2025 Time: 10:00 AM Dept.: SS-11 Complaint Filed: February 15, 2023 FAC Filed: July 27, 2023 SAC Filed: May 22, 2025 Trial Date: None Set

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on October 9, 2025, at 10:00 AM in Department 11 of the above-entitled court, Plaintiffs Farzad Azima and Adam De Leon ("Plaintiffs") will, and hereby do, move the Court for an Order of Final Approval of the Class Settlement in this case. Plaintiffs move the Court for an order:

1. Granting final approval of the settlement in the case pursuant to the Amended Class Action and PAGA Settlement Agreement ("Amended Settlement"), a copy of which is attached to the concurrently-filed Declaration of Frank H. Kim as Exhibit "1";

2. Affirming Kim Legal APC as Class Counsel;

3. Affirming Farzad Azima and Adam De Leon as Class Representatives and awarding each of them an enhancement award of $5,000.00;

4. Awarding Phoenix Settlement Administrators, claims administration fees of $26,500.00 for its services as Administrator; and,

5. Entering judgment.

This Motion will be made pursuant to Code of Civil Procedure section 382 and California Rule of Court, rule 3.769 on the grounds that the proposed Agreement is fair, adequate, reasonable, and in the best interest of the Class Members and the parties.

The Motion will be based on this Notice of Motion, the attached Memorandum of Points and Authorities, the Declarations of Frank H. Kim, Adam De Leon, Farzad Azima, Kevin Lee of Phoenix Settlement Administrators., all other papers and records on file in this action, and on such oral and documentary evidence as may be presented at the hearing on this Motion.

DATED: September 16, 2025 KIM LEGAL, APC

By: */s/ Frank H. Kim*
Frank H. Kim
Attorneys for Plaintiffs Farzad Azima, Adam De Leon and the Proposed Class

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I. INTRODUCTION

Plaintiffs Farzad Azima ("Plaintiff Azima") and Adam De Leon ("Plaintiff De Leon," and together, "Plaintiffs") submit this Motion for Final Approval of Class Settlement and requests that the Court:

1. Grant final approval of the settlement in this case pursuant to the Amended Class Action and PAGA Settlement Agreement ("Amended Settlement"), a copy of which is attached to the concurrently-filed Declaration of Frank H. Kim as Exhibit "1";

2. Award attorneys' fees and costs as detailed in the concurrently-filed Motion for Attorneys' Fees and Costs;

3. Award Phoenix Settlement Administrators claims administration fees of $26,500.00 for its services as Administrator;

4. Affirm named Plaintiffs Farzad Azima and Adam De Leon as Class Representatives and award a cumulative Class Representative payment of 10,000.00 ($5,000 each, as reduced in the Amended Settlement); and

5. Enter judgment.

II. FACTUAL BACKGROUND

A. Litigation Overview and Procedural History

Plaintiffs were employed by Defendant as non-exempt background extras in different productions. On or about February 8, 2020, Defendant hired Plaintiff Azima as a background extra for the show *The Prom*. (Declaration of Frank Kim ("Kim Decl.") ¶ 4.) On or about June 28, 2022, Defendant hired Plaintiff De Leon as a background extra for the movie *Yes Day*. Plaintiffs allege that, in addition to their hourly pay. (*Id.*) Defendant paid them an additional "bump" payment for working in conditions with smoke or water. Plaintiffs allege that these bump payments were non-discretionary and therefore should have been included in the regular rate of pay for purposes of calculating overtime and premium wages. Because they were not, Plaintiffs allege they were underpaid. (*Id.*)

On February 15, 2023, Plaintiff Azima filed this lawsuit against Netflix Productions, LLC on behalf of all non-union background extras who were paid overtime or premium wages on the same day they received a bump payment. (Kim Decl. ¶ 5.) On the same day, Plaintiff De Leon filed a separate class action against Bckors, LLC, LASC Case No. 23STCV03378, arising from his work on a different production. Although the class definition pled in both actions was the same, the defendants and productions were different. The parties later agreed to substitute Netflix for Bckors and to toll claims against Bckors. (*Id.*)

On July 27, 2023, Plaintiff Azima filed a First Amended Complaint adding Adam De Leon as a plaintiff and asserting a PAGA claim on his behalf. (Kim Decl. ¶ 6.)

On October 11, 2023, the Court deemed this case and the Bckors case related, designating this case as the lead case. On December 7, 2023, the Court granted Plaintiffs' request to dismiss the Bckors case without prejudice pursuant to CRC 3.770. (Kim Decl. ¶ 7.)

B. Mediation and Settlement

Shortly after the case was at issue, the Parties agreed to early mediation with the Hon. Margaret Nagle (Ret.). (Kim Decl. ¶ 8.)

In advance of mediation, Defendant provided Plaintiffs' counsel with pertinent data for the Class Members so that the Parties could fully investigate the claims at issue and understand their strengths and weaknesses. Defendant provided the number of class members and PAGA members and all relevant pay information. Plaintiffs' counsel had the mediation data analyzed by an expert to prepare a damage model for mediation. (Kim Decl. ¶ 9.)

On February 21, 2024, the Parties participated in an all-day mediation presided over by the Hon. Margaret Nagle (Ret.), which resulted in a Memorandum of Understanding settling the Action. (Kim Decl. ¶10.)

Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Action, dispute the damages and penalties claimed by Plaintiffs, and further contend that, for any purpose other than settlement, Plaintiffs' claims are not appropriate for class or representative action treatment. Defendant contends, among other things, that, at all times, they have complied with the California Labor Code, and the Industrial Wage Commission Orders. (Kim Decl. ¶ 11.)

Based on their own independent investigation and evaluation, Class Counsel is of the opinion that the settlement with Defendant is fair, reasonable and adequate, and in the best interest of the settlement classes in light of all known facts and circumstances, including the risk of significant delay, defenses asserted by Defendant, uncertainties regarding a class and representative action trial on the merits, and numerous potential appellate issues. (Kim Decl. ¶ 12.)

Although Defendant denies any liability, Defendant is agreeing to this settlement solely to avoid the cost of litigation. Accordingly, the Parties and their counsel desire to settle, compromise and discharge all disputes and claims arising from or relating to the Action on the terms set forth here fully, finally, and forever. (Kim Decl. ¶ 13.)

C. Preliminary Approval of the Amended Settlement

On September 19, 2024, Plaintiffs filed their Motion for Preliminary Approval of Class Action and PAGA Settlement ("MPA"). A hearing was initially held on January 14, 2025, at which the Court raised issues with the proposed settlement and continued the matter to May 19, 2025. (Kim Decl. ¶ 14.) On March 21, 2025, the Parties executed an Amended Class Action and PAGA Settlement Agreement and Class Notice ("Amended Settlement") addressing the Court's concerns, including reducing the Class Representative Service Awards to $5,000 each, clarifying that Defendant will separately pay employer-side payroll taxes, and obtaining signatures from all counsel of record. (Kim Decl. ¶ 15.) On May 14, 2025, the Parties filed a stipulation and proposed order permitting Plaintiffs to file a Second Amended Complaint adding a claim for unreimbursed business expenses, which the Court granted that day. (Kim Decl. ¶ 16.)

On May 19, 2025, the Court granted the MPA, issued an Order preliminarily approving the Amended Settlement, approved the proposed Class Notice, directed the Administrator to provide notice to the Class, and set the Final Approval and Fairness Hearing. (Kim Decl. ¶ 17.)

III. THE PRELIMINARILY APPROVED SETTLEMENT

A. The Settlement Class

For purposes of the Amended Settlement Agreement, the settlement class is divided into three subclasses: (1) the 203 Class; (2) the Central Casting Class; and (3) the Wage Only Class. (Kim Decl. ¶ 18; Amended Settlement, Ex. 1 at ¶ 1.12.) The subclasses are defined based on two key factors: (1) the applicable statute of limitations, and (2) whether the class members were subject to arbitration agreements, both of which significantly limit the claims available to each group. (Kim Decl. ¶ 19.)

203 Class. The 203 Class consists of about 2,863 individuals with the strongest claims because they were not subject to arbitration agreements and worked within the limitations period for waiting time penalties. These individuals received a "bump" payment on the same day they were paid overtime or a meal or rest premium within the applicable three-year statute of limitations. (Kim Decl. ¶ 20.) Because these individuals are not subject to arbitration and their claims are timely, they retain access to the full range of Labor Code violations, including waiting time penalties, wage statement penalties, and PAGA penalties. As a result, they face the highest potential recovery, justifying the largest share of the settlement. (Kim Decl. ¶ 21.)Plaintiff Azima, who worked on The Prom within the three-year statute of limitations period, is an appropriate class representative for this group. (Kim Decl. ¶ 22.)

Central Casting Class. Member of this subclass were booked and paid through Central Casting and are subject to arbitration agreements. As a result, they may be excluded from class certification and limited to pursuing PAGA penalties only, which represent a fraction of the potential recovery and are discretionary in nature. (Kim Decl. ¶ 23.) To reflect this arbitration risk and reduced claim value, the Central Casting Class received a proportionately smaller share of the settlement. (Kim Decl. ¶ 24.) Plaintiff De Leon, who worked on *Brothers Sun* during the PAGA period and is subject to Central Casting's arbitration agreement, is a suitable representative for this group. (Kim Decl. ¶ 25.)

The 203 Class consists of about 2,863 background actors who worked for Defendant "nonunion" (meaning they were not covered by the SAG-AFTRA Basic Agreement when they worked) and were paid additional wages (a "bump") for beard, hair and makeup, prosthetic, night work, off camera dialogue, snow work, working in smoke, or working in wet conditions on the same day they were paid for overtime or a meal or rest premium from August 19, 2019 through the date of Preliminary Approval. (Kim Decl. ¶ 26; Amended Settlement, Ex. 1 at ¶ 1.1.)

The Central Casting Class consists of about 816 background actors who worked for Defendant "non-union" (meaning they were not covered by the SAG-AFTRA Basic Agreement when they worked), were booked and paid through Central Casting, and were paid additional wages (a "bump") for beard, hair and makeup, prosthetic, night work, off camera dialogue, snow work, working in smoke, or working in wet conditions on the same day they were paid for overtime or a meal or rest premium from August 19, 2019 through the date of Preliminary Approval without such bump being factored into their regular rate of pay (Kim Decl. ¶ 27; Amended Settlement, Ex. 1 at ¶ 1.7.)

The Wage Only Class. This subclass consists of individuals whose claims fall outside the statutory period for penalties and who may only seek unpaid wages. Accordingly, their recoverable damages are minimal. This subclass represents about 10% of the overall class (439 out of approximately 4,100 members) but receives approximately 61% of the total estimated unpaid wages ($7,954 out of $12,971), ensuring they are compensated more than they could likely recover on an individual basis. (Kim Decl. ¶ 28.) Additionally, most members of this subclass worked only one or two days and would be eligible for less than $20 in unpaid wages, making the $20 per-person cap fair and reasonable. (Kim Decl. ¶ 29.) Plaintiff Azima, who worked on *Yes Day!*, which falls outside the three-year limitations period, is appropriately positioned to represent this subclass. (Kim Decl. ¶ 30.)

B. The Aggrieved Employees

For purposes of the Amended Settlement, the definition of the Aggrieved Employee is defined as: "all background actors who worked for Defendant "non-union" (meaning they were not covered by the SAG-AFTRA Basic Agreement when they worked) and were paid additional wages (a "bump") for beard, hair and makeup, prosthetic, night work, off camera dialogue, snow work, working in smoke, or working in wet conditions on the same day they were paid for overtime or a meal or rest premium during the PAGA Period without such bump being factored into their regular rate of pay." ("Aggrieved Employee") (Kim Decl. ¶ 31; Amended Settlement, Ex. 1 at ¶ 1.6.)

C. Gross Settlement Amount

As detailed fully in the Amended Settlement, the settlement provides for Defendants to pay a Gross Settlement Amount of $ $950,000, which includes the sum of the Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Litigation Expenses Payment, Class Representative Service Payments and the Administrator's Expenses. (Kim Decl. ¶ 32; Amended Settlement, Ex. 1 at ¶ 1.25.)

The Net Settlement Amount is the Gross Settlement Amount, less the Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. (Kim Decl. ¶ 33; Amended Settlement, Ex. 1 ¶ 1.31.)

Plaintiff now requests final approval of the allocation of the Gross Settlement Amount to determine the Net Settlement Amount for distribution to the Class as follows:

Gross Settlement Amount	$950,000.00
Less Class Representative Enhancement for Plaintiff Azima	$5,000.00
Less PAGA and Class Representative Enhancement for Plaintiff De Leon	$5,000.00
Less Class Counsel Fees	$316,635.00
Less Class Counsel's Litigation Expenses	$25,000.00
Less PAGA Payment	$28,500.00 *($21,375 to the LWDA and $7,125 to remain in the Net Settlement Fund for PAGA Settlement Group)*
Less Administrator Costs	$26,500.00
Net Settlement Amount	**$533,365.00**

D. Individual Settlement Payments

Under the settlement, Class Members receive more settlement shares for each qualifying *project* than for each qualifying *day* of work because each project can trigger separate waiting time penalties, whereas individual days within a single project do not. (Kim Decl. ¶ 34, Amended Settlement, Ex. 1 at ¶ 3.2.4.1(a)].) Labor Code § 203 imposes waiting time penalties when an employer fails to pay all wages due at the end of employment. In the context of background actors working on short-term assignments, each project is treated as a separate employment period. (Kim Decl. ¶ 35.) That means if wages (including overtime or premiums based on an improperly calculated regular rate) weren't correctly paid at the end of a project, the employee may be entitled to waiting time penalties for that project — up to 30 days' worth of pay per violation. (Kim Decl. ¶ 36.) Thus, the settlement gives greater weight to projects because they represent distinct employment opportunities for purposes of Labor Code § 203 with higher potential damages**,** making them more valuable for purposes of allocating the settlement fund. (Kim Decl. ¶ 37.)

In addition to the project/day formula, the settlement allocates the Net Settlement Amount among the three subclasses based on a risk-adjusted per-member value, taking into account legal defenses, exposure, and procedural posture:

- **203 Class**: $300.54 per member — reflects the strongest claims and highest potential exposure, including full Labor Code penalties.
- **Central Casting Class**: $100.00 per member — discounted to reflect the presence of binding arbitration agreements, which limit the ability to pursue classwide recovery.
- **Wage Only Class**: $18.11 per member — reflects the limited recovery available, primarily unpaid wages, with most statutory penalties time-barred. The vast majority of class members worked just one or two days and could claim less than $20, so setting $20 as the maximum allocation was fair and reasonable.

(Kim Decl. ¶ 38.)

These values were then multiplied by the approximate number of members in each subclass to derive the percentage allocation of the overall Net Settlement Amount. (Kim Decl. ¶ 39.)

Class	**Members**	**Value per Member**	**Total Value**
203 Class	2,863	$300.54	$860,444.02
Central Casting	816	$100.00	$81.600.00
Wage Only	439	$18.11	$7,953.20
Total			**$950,000.00**

This risk-weighted approach ensures that each class and each individual member receives compensation commensurate with the strength and value of their claims, making the allocation both equitable and reasonable under the circumstances. (Kim Decl. ¶ 40.)

The Individual PAGA Payment will be calculated by dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties ($7,125.00) based on the number of projects they worked on for Defendant, where they were paid a bump on the same day they were paid overtime and/or a meal or rest premium during the PAGA Period. (Kim Decl. ¶ 41; Amended Settlement, Ex. 1 at ¶ 3.2.4.2)

E. Class Notice

The Court approved the proposed Class Notice and directed the mailing of the Notice by first-class mail to Class Members in accordance with the proposed implementation schedule. (Kim Decl. ¶ 42.) The procedures for giving notice to the Class Members, as set forth in the Amended Settlement and Plaintiffs' Motion for Preliminary Approval and approved by the Court, have been fully and properly carried out. (Lee Decl. ¶¶ 2-11.)

To date, Phoenix Settlement Administrators received zero (0) requests to be excluded ("opt-outs") from the Amended Settlement and zero (0) objections. (Lee Decl. ¶¶ 8-9.)

F. Check Mailed Settlement – No Reversion

The Parties agreed to, and the Court preliminary approved, a checks-mailed settlement without the possibility of reversion of settlement funds to Defendants. (Kim Decl. ¶ 43.) Under the Amended Settlement, every Class Member will receive a settlement check and Class Members do not need to submit a claim in order to receive a settlement check. Any funds that remain uncashed after the void date shall be turned over by the Administrator, with information for each Class Member who failed to timely cash his/her settlement check, to the Motion Picture & Television Fund or other Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384, subd. (b). (Amended Settlement, Ex. 1 at ¶ 4.3.3.)

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IV. THE COURT SHOULD ORDER FINAL APPROVAL OF THE SETTLEMENT

Pursuant to California Code of Civil Procedure § 1781(f), "a class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the Class in such manner as the court directs . . . ." In deciding whether to grant final approval to a proposed class action settlement under Code of Civil Procedure § 382, the court's overriding concern is whether the proposed settlement is "fair, adequate, and reasonable." (*Dunk v. Ford Motor Co*. (1996) 48 Cal.App.4th 1794, 1801.)

1. The Settlement is Entitled to a Presumption of Fairness

"A presumption of fairness exists where: (1) the settlement is reached through arm's length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small." (*Dunk*, *supra*, 48 Cal.App.4th at p. 1802.) The proposed Settlement in the present case meets all of the *Dunk* factors and is therefore entitled to a presumption of fairness.

As to the first *Dunk* factor, this settlement is the result of adversarial, non-collusive, and arm's-length negotiations overseen by an experienced mediator. (Kim Decl. ¶ 45.) All settlement discussions were made by experienced and informed counsel, who believe that this settlement represents a favorable resolution for the Class Members. (Kim Decl. ¶ 44.) The settlement negotiations have been, at all times, adversarial and non-collusive, with the aid of a mediator, and no self-dealing or other type of misconduct by either side has taken place. (Kim Decl. ¶ 45.)

Second, the Parties engaged in formal discovery that permitted Class Counsel to fairly evaluate the strength of the case and the risks associated with ongoing litigation. Specifically, Defendants produced all the relevant pay and time records for the class members prior to mediation, and all applicable policy documents. (Kim Decl. ¶ 46.) Receipt of appropriate discovery allowed Class Counsel to fairly evaluate the exposure and risks associated with each claim alleged in the lawsuit. (Kim Decl. ¶ 47.)

Third, Class Counsel have significant experience in cases of this type, including several years prosecuting wage, hour, and working condition violations. Class Counsel is thus qualified to evaluate the class claims and viability of the defenses. Class Counsel believes that the settlement is fair, reasonable, adequate, and in the best interests of the class. (Kim Decl. ¶ 48.) The highest Individual Class Payment is approximately $974.53, the lowest Individual Class Payment is approximately $58.32, the average Individual Class Payment is approximately $150.39, and the average PAGA Payment is approximately $6.29. (Lee Decl. ¶¶ 13-14.)

Finally, the fourth *Dunk* factor considers the percentage of objectors. To date, there were zero (0) request to be excluded and no objectors. (Lee Decl. ¶¶ 8-10). As all of the *Dunk* factors are satisfied, this settlement is entitled to a presumption of fairness.

2. The Court Should Approve This Class Action Settlement Because it Satisfies Each of the *Kullar* Factors

The case of *Kullar v. Foot Locker Retail, Inc*. (2008) 168 Cal.App.4th 116, 128, set forth several factors that the Court should analyze in determining whether to approve a class action settlement. These factors include: (1) the strength of plaintiff's case; (2) the risk, expense, complexity and likely duration of further litigation; (3) the risk of maintaining class action status through trial; (4) the amount offered in settlement; (5) the extent of discovery completed and stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental participant; and (8) the reaction of the class members to the proposed settlement.

In *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal. App. 4th 399, 409, the court clarified that a Kullar showing does not require the parties to submit the outer reaches of maximum possible recovery without taking into account the actual risks of certification, decertification, dispositive motions, and trial, so long as there is a record which allows "an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation." *Munoz*, 186 Cal. App. 4th at 409.

Here, the gross settlement amount of $950,000 represents a fair and reasonable compromise when compared against the maximum potential damages. While Plaintiffs estimated total theoretical exposure of $20,914,590, roughly 99% of that amount—over $20 million—is attributable to waiting time penalties under Labor Code § 203. Those penalties are only available if Plaintiffs proved willfulness, a highly contested issue in light of Defendant's arguments regarding discretion and FLSA "talent fee" exclusions. (Kim Decl. ¶ 49.)

In contrast, the actual unpaid wages and expenses at issue total only $21,207, including:

- $12,971 in allegedly unpaid overtime and meal/rest premiums; and
- $8,236 in unreimbursed business expenses.

(Kim Decl. ¶ 50.)

The settlement thus represents a recovery approximately 45 times greater than the underlying wage and expense losses, a strong result in light of the litigation risks and the potential for no recovery at all.

The remaining exposure includes:

- $53,200 in wage statement penalties;
- $143,600 in PAGA penalties; and
- $20 million in Labor Code § 203 waiting time penalties.

(Kim Decl. ¶ 51.)

Both wage statement and waiting time penalties require a showing that the violations were knowing, intentional, or willful. Defendant raised facially credible good faith defenses—particularly regarding the treatment of "bump" pay and its impact on the regular rate—which, if accepted, could preclude recovery of either penalty entirely. (*See Naranjo v. Spectrum Security Services, Inc*., 15 Cal. 5th 1056 (2022) (confirming that willfulness and knowledge are threshold requirements for waiting time and wage statement penalties).)

Similarly, PAGA penalties are discretionary and courts routinely reduce them in light of proportionality and fairness considerations. Given the nature of the alleged violations, Defendant's defenses, and the relatively low economic harm, a court could significantly reduce the PAGA recovery—or deny it altogether. (See Labor Code § 2699(e)(2) ["a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory"]; *Carrington v. Starbucks Corporation* (2018) 30 Cal.App.5th 504, 529 [affirming award of 10% of maximum PAGA penalty].)

Moreover, Plaintiffs may face constitutional challenges if they pursued stacked statutory penalties far exceeding the actual wage harm. In *Wakefield v. ViSalus, Inc.*, 51 F.4th 1109, 1120–24 (9th Cir. 2022), the Ninth Circuit recognized that excessive statutory penalties, especially those disproportionate to actual damages (e.g., exceeding 10 times the harm), may violate due process.

Considering these risks, a recovery that is more than 40 times the actual damages is not only reasonable—it is exceptional. It reflects a prudent compromise that avoids the risk of decertification, arbitration, or zero recovery and ensures meaningful compensation to class members in proportion to the harm they actually suffered.

3. The Strength of Plaintiff's Case

a. The Risks Associated with the Overtime Claim

Plaintiffs' central allegation is that Defendant paid them non-discretionary bump payments but failed to factor the bump payments into the regular rate of pay for purposes of calculating overtime pay and premium pay. Defendant advanced two arguments against this allegation. (Kim Decl. ¶ 52.)

First, Defendant will argue that the bump payments were non-discretionary. (Kim Decl. ¶ 53.) A nondiscretionary payment is one that is "owed 'pursuant to [a] prior contract, agreement, or promise,' not 'determined at the sole discretion of the employer.'" (Ferra, 11 Cal. 5th at 863; see also 29 U.S.C.A. § 207(e)(3); (DLSE Enforcement Manual 49.1.2.4(3)(a) (stating discretionary payments not included).) Conversely, a discretionary payment is one that is "paid without prior contract, promise or announcement and the decision as to the fact and amount of payment lay in the employer's sole discretion." 29 C.F.R. § 778.211 (b); see *Brown v. Nipper Auto Parts & Supplies, Inc.*, No. CIV.A. 7:08CV00521, 2009 WL 1437836, at *7 (W.D. Va. May 21, 2009) (holding bonuses were discretionary because they were not promised beforehand, although bonuses had been paid previously); *Vire v. Entergy Operations, Inc.,* No. 4:15-CV-00214 BSM, 2016 WL 10575139, at *5 (E.D. Ark. Oct. 31, 2016) (holding bonuses were discretionary although employees expected them, because employer never promised bonus).

Second, Defendant will argue that under the FLSA, "talent fees" paid to performers, such as the bump payments to Plaintiffs, are excluded from the regular rate. (Kim Decl. ¶ 54.) 29 U.S.C.A. § 207(e)(3)(c) (excluding from the regular rate, "[s]ums paid in recognition of services performed during a given period if … (c) the payments are talent fees (as such talent fees are defined and delimited by regulations of the Administrator) paid to performers, including announcers, on radio and television programs"); see also DLSE Enforcement Manual 49.1.2.4(3)(c) (stating talent fees are not included in the regular rate).

According to the Department of Labor, "talent fee" are "extra payments made to performers … where the payment is made: (a) "to an employee having regular duties as a staff performer (including announcers), as an extra payment for services as a performer on a particular commercial program," (b) [i]n pursuance of an applicable employment agreement or understanding … in a specific amount agreed upon in advance of the performance of the services or special services for which the extra payment is made." 29 C.F.R. § 550.1. Each of those requirements are met. Defendant will argue that Plaintiffs were "performers" because they were hired as background actors. (29 C.F.R. § 550.2 (b) (defining performer as "a person who performs a distinctive, personalized service as a part of an actual broadcast or telecast including an actor … or any person who entertains, affords amusement to, or occupies the interest of a radio or television audience by acting.").) Defendants will also argue the bump payments were "extra payments" because it was "in addition to the straight-time and overtime compensation." (29 C.F.R. § 550.2 (a) (defining "extra payment").) Finally, Defendant will argue that part b is met (if the Plaintiff's allegations are correct) because the "non-discretionary" payment was made in accordance with an advance agreement or understanding.

Plaintiffs have counterarguments to Defendant's arguments. However, because Plaintiffs' overtime claim is entirely based on this issue, they understood that the court could find no liability if it agreed with either of the arguments above. (Kim Decl. ¶ 55.)

b. The Risks Associated with the Unpaid Premium Wages Claim

Employers must pay one hour at the employee's "regular rate of compensation" as a penalty when they fail to provide a thirty-minute uninterrupted meal period as required by Labor

Code section 512. (See Labor Code § 226.7(b).) They must also authorize and permit non-exempt employees covered by the wage orders to take a 10-minute rest break every four hours of work or major fraction thereof. (Id.; see also 8 Cal. Code Regs. § 11120.)

Plaintiffs' claim for unpaid premium wages is based on Defendant's failure to factor the bump payments. Therefore, for the reasons explained above, Plaintiffs understood that the court could find no liability to their claim for premium wages. (Kim Decl. ¶ 56.)

c. The Risks Associated with the Reimbursement Claim

Under California Labor Code§ 2802(a) an employer "shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer."

Plaintiffs allege that Defendant required employees to incur business expenditures for which they were never reimbursed, including the costs of using their personal device to communicate with Defendant. (Kim Decl. ¶ 57.) Plaintiffs perceived this as a high-risk claim because the communications were performed before the day of the shoot and therefore were preemployment activities that did not require reimbursement. (Cochran v. Schwan's Home Services, Inc. (2014) 228 Cal.App.4th 1137.) There is a risk that the Court would find no liability. (Kim Decl. ¶ 58.)

d. The Risks Associated with the Wage Statement Claim

Labor Code § 226(a)(2) requires that every employer shall furnish each of his or her employees an accurate itemized statement in writing showing total hours worked by the employee. Labor Code § 226(a)(9) requires the wage statement to display all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Labor Code § 226 requires employers to furnish accurate itemized wage statements, including total hours worked and applicable hourly rates. Plaintiffs' claim is derivative of their regular rate theory. If the Court accepted Defendant's arguments that bump payments were discretionary or "talent fees" excluded from the regular rate, there would be no wage statement inaccuracy and the claim would fail. (Kim Decl. ¶ 59.)

Even if liability were established, Plaintiffs faced the additional burden of proving a "knowing and intentional" violation, which Defendant contested based on its asserted good-faith reliance on industry practice. (See Naranjo v. Spectrum Security Services, Inc. (2022) 13 Cal.5th 93, 113 [employer's good faith belief can negate willfulness].) Defendant has consistently maintained that it relied in good faith on industry practice and regulatory guidance concerning bump payments, which creates a substantial risk the Court would find no "knowing and intentional" violation. (Kim Decl. ¶ 60.) Moreover, Courts also retain discretion to reduce or deny § 226 penalties where actual injury is minimal or penalties would be disproportionate. Here, because the alleged defect concerned only blended overtime rates, there was a substantial risk that penalties would be reduced or denied altogether.

e. The Risks Associated with the Waiting Time Penalty Claim

Under Labor Code § 201.5, an employee engaged in the production of motion pictures whose employment terminates is entitled to receive payment of the wages earned and unpaid at the time of termination by the next regular payday. Labor Code § 203 provides that an employer's non-compliance results in a penalty for up to 30 days. (See *Barnhill v. Robert Saunders & Co.* (1981) 125 Cal.App.3d 1, 7; *Mamika v. Barca* (1998) 68 Cal.App.4th 487, 492.)

Here, Plaintiff contends that they and the Class are entitled to 30 days of additional wages because Defendant failed to blend the bump payment into their overtime and/or premium pay. (Kim Decl. ¶61.) However, Defendant's argument that the bump payments are entirely discretionary and/or fall under the definition of "talent fees" under the FLSA and therefore excluded from the regular rate, creates uncertainty. Moreover, even though the bump payments technically should have been calculated into the regular rate, the court could find that Defendant's actions were not "willful" and that penalties are unavailable. Since the waiting time penalties consists of 99% of class damages, Plaintiffs believed that a significant discount on this claim was reasonable given the attendant risks. (*Id.*)

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f. The Risks Associated with the PAGA Claim

Plaintiff De Leon is cognizant of risks associated with his PAGA claim and has therefore agreed to discount this claim for multiple reasons. First, the aggrieved employees' PAGA claims arise from the same violations as the foregoing class claims and bear the same risks on the merits. (Kim Decl. ¶63.) Second, the Court has discretion to award less than the maximum penalty, which Defendant argued would be appropriate considering the low amount of direct wage damages, even if Plaintiff De Leon prevails. (See Labor Code § 2699(e)(2) ["a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory"]; Carrington v. Starbucks Corporation (2018) 30 Cal.App.5th 504, 529 [affirming award of 10% of maximum PAGA penalty].) Finally, the Settlement Class is compensated for these violations in the proposed Amended Settlement, and thus any PAGA recovery for these same violations would be duplicative. Thus, PAGA did not make up a significant percentage of the overall potential liability compared to other claims. (Kim Decl. ¶ 63.) As such, the Amended Settlement's contemplated PAGA payment of $28,500.00 is appropriate. (*Id*.)

g. The Risk, Expense, Complexity, and Likely Duration of Further Litigation

There is significant expense associated with the class certification process, which the Parties can avoid by entering into the contemplated Amended Settlement now. (Kim Decl. ¶ 64.) If the Court did eventually certify a class, trial of a case involving approximately 4,118 Settlement Class Members would require the retention of expensive expert witnesses, the accrual of extensive litigation costs, and a significant time overlay by the parties. (Kim Decl. ¶ 65.) Moreover, given the complexity and unsettled nature of the issues in this case it is likely that any outcome at trial would have resulted in a lengthy and costly appeal. (Kim Decl. ¶ 66.) An appeal would result in further delay for the Settlement Class Members who are waiting for a resolution in this matter. (*Id*.)

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h. The Risk Associated With a Potential *Pick-Up Stix* Campaign

There is also a risk that Defendants could engage in an individual settlement campaign pursuant to *Chindarah v. Pick Up Stix, Inc.* (2009), 171 Cal.App.4th 796. Given the financial strain that Defendants' workers are no doubt experiencing due to the COVID-19 pandemic, there is a significant risk that, if Defendants were to engage in such a campaign, many if not all of the performers would choose to accept Defendants' individual settlement offers. If this were to occur, Plaintiff could be left without a sufficiently numerous class to represent a class action. (Kim Decl. ¶ 67)

i. The Risk of Maintaining Class Action Status through Trial

This case has not been certified to be tried as a class action. (Kim Decl. ¶ 68.) While Plaintiffs believe there is strong evidence to support certification of several possible subclasses, certification is always hard fought and subject to judicial discretion. Moreover, in class actions, decertification is always a possibility. (*Id.)* In attempting to certify a class, the parties would need to conduct multiple depositions, including of the Named Plaintiffs and of several person(s) most knowledgeable regarding Defendants' policies. (*Id.*) There is a risk for both sides as to what these depositions will reveal and whether they will support class certification to the extent expected. (*Id.*)

j. The Amount Offered in Settlement

It was very difficult for the Parties to reach this Settlement of $950,000.00. (Kim Decl. ¶ 69.) This Settlement is the result of adversarial, non-collusive, and arms-length negotiations. (Kim Decl. ¶ 70.) The Parties arrived at it after extensive investigation and discovery, careful evaluation of the law, risks, and all information substantiating the amount of penalties reasonably likely to be awarded to the class were the trier of fact to find Defendant liable, and the assistance of an experienced mediator, Honorable Margaret Nagle (Ret.) (Kim Decl. ¶ 71.)

k. Plaintiff's Assessment of Defendants' Maximum Exposure

Plaintiffs assessed full value of the Overtime claim, without any discount, at approximately

$10,377.36. (F. Kim Decl. ¶ 72.) Plaintiffs used an hourly average rate of $15.00, and assumed that the 4,118 individuals who make up the 203 Class, the Central Casting Class, and the Wage Class each received a $5 bump payment, and was paid two (2) hours of overtime wages (or $45) and one (1) break violation ($15) based on an unblended regular rate[1]. (Kim Decl. ¶ 73.)

Based on the same assumptions, the full value of the Meal Period and Rest Period claim, assuming a 100% violation rate, was $2,594.34.[2] (Kim Decl. ¶ 74.)

With regard to the Reimbursement Claim analysis, Plaintiffs believed that it was reasonable to value the potential reimbursement at $2 per Class Member, for reimbursement of the cost of using one's personal device for communicating with Defendants' casting agents. This brought the damages for this claim to $8,236.00 ($5 x 599 Class Members). (Kim Decl. ¶ 75.)

Plaintiffs valued the Wage Statement Claim, without discount, at approximately $53,200 (Kim Decl. ¶ 76.) This is based on 883 workweeks for 702 Class Members who worked from February 15, 2022 through the date of Preliminary Approval. (*Id.*)

Plaintiffs valued the Waiting Time Claim, tied to the claims for unpaid wages, at $20,696,582.40[3]. (Kim Decl. ¶ 77.) This was based on the full amount of waiting time penalties for 3,679 individuals who comprise of the 203 Class and the Central Casting Class. (*Id.*) Considering the derivate nature of Labor Code section 203 and the disputes over willfulness, Plaintiffs determined that accepting a steep discount on this claim was appropriate. (Kim Decl. ¶ 78.)

Finally, Plaintiffs calculated the value of the PAGA claim at $143,600 for the PAGA Period, which consists of 1194 workweeks for 952 Aggrieved Employees during the PAGA Period. (Kim Decl. ¶ 79.) The main risk taken into account with PAGA is the discretionary nature of the penalty award. (Kim Decl. ¶ 80.) The court could award the statutory maximum of one hundred ($100) dollars for the initial violation and two hundred ($200) dollars thereafter or – in

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[1] The blended rate is $15.63 per hour [$15 + ($5/8 hours)]. Thus, each Class Member was underpaid $1.89 in overtime wages ($46.89 - $45).

[2] Plaintiff contends that the average underpayment for meal premiums is $0.63. Thus, the total underpayment for all the Class Members is $2,594.34 ($0.63 * 4,118).

[3] Daily wage of $187.52 * 30 * 3,679 = 20,696,582.40.

theory – one cent per wage statement. (Kim Decl. ¶ 81.) While there is a dearth of available authority, in Plaintiffs' view, were they to succeed on any of the underlying Labor Code violations (especially waiting time penalties), it is not likely that the Court would also award a large amount of PAGA penalties on top of damages. (Kim Decl. ¶ 82.)

Per Plaintiffs' assessment, the maximum potential value of all of Plaintiffs' and the Settlement Class Members' claims was approximately $20,914,590.10 (Kim Decl. ¶ 83) However, as a result of the forgoing risks on the merits, including the fact that 99% of the total exposure is based on waiting time penalties, Class Counsel believes the Gross Settlement Fund of $950,000.00 is fair and reasonable. (Kim Decl. ¶ 84.)

4. The Experience and Views of Counsel

Finally, counsel's experience and success in similar class actions also weigh in favor of preliminary approval. (*See Wershba*, *supra*, 91 Cal.App.4th at 245.) Class counsel is very experienced in prosecuting complex employment litigation, and on complex wage, hour, and working condition violations. (Kim Decl. ¶¶ 85-90.) Class counsel is well versed in class action litigation and has diligently and aggressively pursued this action. (*Id*.) Kim Legal, APC currently serves as Class Counsel for dozens of pending class action lawsuits in Northern, Central, and Southern California. (*Id*.) A list of representative cases that Kim Legal, APC has handled is included in the accompanying declaration of Frank H. Kim. (*Id*.) After factoring in the risks explained above, Class Counsel believes that the proposed settlement is fair and reasonable. (Kim Decl. ¶ 84.)

5. The PAGA Allocation is Reasonable

The "trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." (*Moniz v. Adecco USA, Inc*. (2021) 72 Cal.App.5th 56, 76.) A PAGA allocation, even if a small portion of the gross settlement, could be reasonable if the settlement of the underlying wage and hour claims is robust and serves the deterrent purpose of the PAGA statute. (*O'Connor v. Uber Technologies, Inc*. (N.D. Cal. 2016)

201 F.Supp.3d 1110, 1135.)

Here, the Amended Settlement allocates $28,500.00 to PAGA penalties (¶ 3.2.7). Of that amount, 75% ($21,375.00) will be paid to the LWDA, and 25% ($7,125.00) will be distributed pro rata to Aggrieved Employees as Individual PAGA Payments (*Id*.). According to the Administrator, there are 1,133 Aggrieved Employees who worked 1,297 qualifying projects during the PAGA Period, resulting in an average PAGA payment of $6.29, with a maximum payment of $21.97. (Lee Decl. ¶ 14.)

This allocation is fair and adequate in light of the overall $950,000 Gross Settlement Amount (¶ 1.25). The combined class and PAGA settlement is a substantial disincentive for Defendant to engage in similar conduct in the future. Additionally, every Class Member received Court-approved Notice containing Class Counsel's contact information, ensuring that employees are aware of their rights and can seek counsel if similar practices occur again. These factors maximize PAGA's enforcement purpose by pairing meaningful monetary relief with notice and deterrence.(Lee Decl. ¶¶ 2, 5.)

Unlike the disproportional allocation criticized in *Moniz*, this PAGA distribution is uniform: each Aggrieved Employee receives a *pro rata* share based on the number of projects worked (¶ 3.2.4.2), ensuring equitable treatment across the group. The settlement therefore appropriately balances the statutory objectives of remediation and deterrence with the litigation risks, and the PAGA allocation should be approved as fair, reasonable, and adequate.

6. The Class Payment Allocation Is Fair and Reasonable

Plans of allocation are subject to the same standard of review as class action settlements; they must be "fair, adequate and reasonable." (See, e.g., *Officers for Justice v. Civil Service Comm'n* (9th Cir. 1982) 688 F.2d 615, 624–625, 629–630.) Here, the plan weights both days and projects because, under California Labor Code section 203, each short-term project can constitute a separate employment period that may trigger up to 30 days of waiting time penalties. Projects therefore present greater potential damages than individual days worked, justifying heavier allocation.

The Amended Settlement implements this principle by providing that each Participating Class Member receives a pro rata share of the Net Settlement Amount based on a formula that reflects both the number of days worked and the number of projects completed. Specifically, each Class Member is credited with one (1) net settlement share for each day they were paid overtime and/or a meal or rest premium and were also paid a bump during the applicable Class Period, plus ten (10) net settlement shares for each project meeting those same criteria. Each Participating Class Member's Individual Class Payment is then determined by dividing their total net settlement shares by the total shares for their subclass, and multiplying that fraction by the subclass's allocation of the Net Settlement Amount. (Amended Settlement, Ex. 1 at ¶ 3.2.4.1.)

The subclass allocations are as follows: 90.57% to the 203 Class, 8.59% to the Central Casting Class, and 0.84% to the Wage Only Class. (Amended Settlement, Ex. 1 at ¶ 3.2.4.1.) This allocation methodology recognizes the relative litigation risks and potential recovery associated with each subclass, ensures that those who worked on more projects or days are compensated more, and distributes funds proportionally to the actual strength and value of each group's claims. Accordingly, the plan of allocation is fair, adequate, and reasonable and should be approved.

V. THE SERVICE AWARD TO THE NAMED PLAINTIFF

Plaintiffs' Counsel request an enhancement of $5,000 each ($10,000 total) for Class Representatives Farzad Azima and Adam De Leon. This amount reflects the Court-directed reduction incorporated into the Amended Settlement Agreement and accounts for the time, effort, and risks assumed by Plaintiffs in prosecuting this action on behalf of the Class. (Kim Decl. ¶ 118.) "Courts routinely approve incentive awards to compensate named plaintiffs for the services they provide and the risks they incurred during the course of the class action litigation." (*Ingram v. The Coca-Cola Company*, 200 F.R.D. 685, 694 (N.D. Ga 2001) (internal quotations and citations omitted); *see also Van Vranken v. Atlantic Richfiled Co.*, 901 F. Supp. 294, 299 (N.D. Cal. 1995).) In *Coca-Cola*, the Court approved service awards of $30,000 to each named plaintiff in recognition of the services they provided to the class by responding to discovery, participating in the mediation process, and taking the risk of stepping forward on behalf of the class. *Coca-Cola*, 200 F.R.D. at

694; *see also*, *e.g. Van Vranken*, 901 F. Supp. at 299 (approving $50,000 participation award to plaintiffs); *Glass v. UBS Financial Services, Inc.*, Case No. C-06-4068 MMC, 2007 WL 227862, at *17 (N.D. Cal. Jan. 26, 2007) (approving $25,00 enhancement to each named plaintiff).

Mr. Azima and Mr. De Leon are adequate class representatives because they have diligently, adequately and fairly represented the Class and have not placed their interests above any member of the Class. (Declaration of Farzad Azima ["Azima Decl."] ¶¶5-16; Declaration of Adam De Leon ["De Leon Decl."] ¶¶5-15; Kim Decl. ¶ 119.) Class Counsel requests an enhancement for Plaintiffs valiant effort and time expended in this matter.

Mr. Azima dedicated approximately 25 hours in this litigation, which includes researching and retaining competent counsel; providing information to Class Counsel regarding the nature of the work for Defendants; compiling relevant documents; working closely with Class Counsel to develop the theories of liability and martial relevant evidence; regularly discussing the status of the case with Class Counsel; attending the mediation; and responding promptly to Class Counsel's communications regarding settlement. (Kim Decl. ¶ 120; Azima Decl. ¶¶ 5-16.)

Mr. De Leon dedicated approximately 20 hours in this litigation which includes researching and retaining competent counsel; providing information to Class Counsel regarding the nature of the work for Defendants; compiling relevant documents; working closely with Class Counsel to develop the theories of liability and martial relevant evidence; regularly discussing the status of the case with Class Counsel; attending the February 21, 2024 mediation; and responding promptly to Class Counsel's communications regarding settlement. (Kim Decl. ¶ 121; De Leon Decl. ¶¶ 5-15.)

Class Counsel considers this to be a fair and reasonable enhancement. (Kim Decl. ¶ 122.) The enhancement takes into consideration the time, effort, and expense incurred by Plaintiffs in coming forward to litigate this matter on behalf of all Class Members. (Kim Decl. ¶ 123.) Additionally, the Class Representatives were at risk for paying for Defendants' legal fees and costs in the event that Defendants prevailed at trial. (Kim Decl. ¶ 124.)

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VI. SUBMISSION TO THE LABOR AND WORKFORCE DEVELOPMENT AGENCY

As indicated on the Proof of Service, Plaintiffs transmitted the Amended Settlement Agreement, the Second Amended Complaint, and Plaintiff De Leon's PAGA notice letter to the LWDA, and received confirmation of receipt. This ensures compliance with Labor Code § 2699(l)(2). (Kim Decl. ¶ 125.)

VII. CONCLUSION

Plaintiffs respectfully submit that the proposed Settlement Agreement is fair, adequate, reasonable, and in the best interest of the Settlement Class Members. Therefore, the Parties respectfully request that the Court (1) grant final approval of the Amended Settlement, and all of its terms; (2) award attorneys' fees and costs; (3) award Phoenix Settlement Administrators claims administration fees of $26,500.00; (4) award the Class Representative a combined enhancement of $10,000.00; and (5) enter judgment.

DATED: September 16, 2025

KIM LEGAL, APC

By: /s/ Frank H. Kim
Frank H. Kim
Attorneys for Plaintiffs Farzad Azima, Adam De Leon, and the Proposed Class

(PROOF OF SERVICE)
[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 3435 Wilshire Blvd., Suite 2700, Los Angeles, CA 90010.

On September 16, 2025, I served all interested parties in this action the following documents described as: **NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT; AMENDED SETTLEMENT AGREEMENT; SECOND AMENDED COMPALINT** as follows:

[XX] **BY ELECTRONIC SERVICE**: I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (https://dir.tfaforms.net/315) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

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

Executed on September 16, 2025, at Los Angeles, California.

/s/ Kimberly Bentley
Kimberly Bentley