Karen I. Gold (SBN 258360)
kgold@blackstonepc.com
Sara Pezeshkpour (SBN 260240)
spezeshkpour@blackstonepc.com
Noam Y. Reiffman (SBN 299446)
nreiffman@blackstonepc.com
Marissa A. Mayhood (SBN 334376)
mmayhood@blackstonepc.com
BLACKSTONE LAW, APC
8383 Wilshire Boulevard, Suite 745
Beverly Hills, California 90211
Tel: (310) 622-4278 / Fax: (855) 786-6356

Attorneys for Plaintiffs
MAYRA CAMPOS MOLINA and
YANETH PORTILLO DE CIFUENTES

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

MAYRA CAMPOS MOLINA and YANETH PORTILLO DE CIFUENTES, individually, and on behalf of other members of the general public similarly situated,

Plaintiffs,

vs.

HARBOR HOTELS, LLC, a California Limited Liability Company; and DOES 1 through 25, inclusive,

Defendants.

Lead Case No.: 23STCV10683
Related Case No.: 23STCV16652

Hon. Stuart M. Rice, Department 1

NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Date: September 8, 2025
Time: 10:30 A.M.
Dept.: 1

[Filed Concurrently with Declarations of Plaintiff Yaneth Portillo De Cifuentes and Plaintiff Mayra Campos Molina; Declaration of Sean Hartranft; Declaration of Karen Gold and Proposed Order]

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on **September 8, 2025** at **10:30 a.m.** in Department 1 of the above-captioned Court located at 312 North Spring Street, Los Angeles, CA 90012, pursuant to California Code of Civil Procedure section 382 and Rule 3.769 of the California Rules of Court, Plaintiffs Mayra Campos Molina and Yaneth Portillo de Cifuentes ("Plaintiffs") will and hereby do move the Court for an Order granting preliminary approval of the proposed class action and PAGA settlement between Plaintiffs and Defendant Harbor Hotels, LLC. ("Defendant").

Plaintiffs request that the Court enter an Order:

1. Preliminarily approving the Joint Stipulation of Class Action and PAGA Settlement ("Settlement" or "Settlement Agreement") attached as <u>Exhibit 2</u> to the Declaration of Karen I. Gold in Support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement ("Gold Decl.");

2. Certifying the Class for Settlement purposes;

3. Appointing Plaintiffs Mayra Campos Molina and Yaneth Portillo de Cifuentes as the Class Representatives for settlement purposes;

4. Appointing Jonathan M. Genish, Karen I. Gold, Sara Pezeshkpour, Noam Reiffman and Marissa A. Mayhood of Blackstone Law, APC as Class Counsel for settlement purposes;

5. Approving the proposed Court Approved Notice of Class Action and PAGA Settlement ("Class Notice"), attached as <u>Exhibit A</u> to the Settlement Agreement, to be mailed to the Class;

6. Approving the opt-out and objection procedures provided in the Settlement Agreement and set forth in the Class Notice;

7. Directing Defendant to furnish, for each Class Member, their full name, last known mailing address, Social Security number, dates worked for Defendant during the Class Period, number of Workweeks during the Class Period, and such other information as is necessary for the Settlement Administrator to calculate Workweeks and PAGA Pay Periods within fourteen (14) calendar days after entry of the order granting preliminary approval of the Settlement;

8. Appointing APEX Class Action, LLC as the Settlement Administrator;

9. Approving the proposed deadlines for the settlement administration process; and

10. Setting a Final Approval Hearing.

Pursuant to California Labor Code section 2699(s)(2) and concurrently with the filing of this Motion, a copy of the Settlement was submitted to the California Labor and Workforce Development Agency ("LWDA") via online submission through the LWDA's website. Gold Decl., ¶ 62.

This Motion is based upon this Notice, the attached Memorandum of Points and Authorities, the Declaration of Karen I. Gold, the Declaration of Plaintiff Mayra Campos Molina, the Declaration of Plaintiff Yaneth Portillo de Cifuentes, the Declaration of Sean Hartranft, the pleadings and other records on file with the Court in this matter, and any other further evidence or argument that the Court may properly receive at or before the hearing.

Respectfully submitted,

Dated: April 22, 2025

BLACKSTONE LAW, APC

By: Karen Gold

Karen I. Gold
Sara Pezeshkpour
Noam Reiffman
Marissa A. Mayhood

Attorneys for Plaintiffs MAYRA CAMPOS MOLINA and YANETH PORTILLO DE CIFUENTES

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

Rules

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Mayra Campos Molina and Yaneth Portillo de Cifuentes ("Plaintiffs") seek preliminary approval of the Joint Stipulation of Class Action and PAGA Settlement ("Settlement" or "Settlement Agreement") entered into between Plaintiffs and Harbor Hotels, LLC ("Defendant") (together with Plaintiff, the "Parties"). *See* Declaration of Karen I. Gold in Support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement ("Gold Decl."), Ex. 2. The Settlement terms are outlined as follows:

- Class Size: Approximately 169 individuals (as of June 27, 2024).
- Gross Settlement Amount: Three Hundred and Fifty Thousand Dollars and Zero Cents ($350,000.00).
- Settlement Administration Costs: Eight Thousand Dollars and Zero Cents ($8,000.00), to be paid from the Gross Settlement Amount.
- Enhancement Payment: Five Thousand Dollars and Zero Cents ($5,000.00) to each Plaintiff, for a total of Ten Thousand Dollars and Zero Cents ($10,000.00), to be paid from the Gross Settlement Amount.
- PAGA Amount: Thirty-Five Thousand Dollars and Zero Cents ($35,000.00) from the Gross Settlement Amount, 75% of which will be paid to the Labor and Workforce Development Agency ("LWDA") and the remaining 25% to be paid to the PAGA Employees.
- Class Counsel Attorneys' Fees and Costs: Attorneys' fees of up to one-third (1/3) of the Gross Settlement Amount (i.e., $116,666.67 if the Gross Settlement Amount is $350,000.00) plus actual litigation costs and expenses not to exceed Twenty Thousand Dollars and Zero Cents ($20,000.00), to be paid from the Gross Settlement Amount.
- Estimated Net Settlement Amount: One Hundred and Sixty Thousand, Three Hundred Thirty-Three Dollars and Thirty-Three Cents ($160,333.33) to be distributed to Settlement Class Members.

As set forth herein, the Settlement is the product of informed discovery and arms-length negotiations, and provides a fair, adequate, and reasonable recovery for the Class. Plaintiffs therefore respectfully request that the Court grant preliminary approval of the Settlement, conditionally certify the

Class, approve the proposed Court Approved Notice of Class Action and PAGA Settlement and Hearing Date for Final Court Approval ("Class Notice"), and set a hearing date for final settlement approval, among other requested relief.

II. FACTUAL AND PROCEDURAL BACKGROUND

Defendant operates a hotel known as the Courtyard by Marriott, Long Beach Airport. Plaintiff Mayra Campos Molina was employed by Defendant as an hourly-paid, non-exempt housekeeper from May 20, 2022 to June 27, 2024. Declaration of Plaintiff Mayra Campos Molina in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement ("Molina Decl."), ¶ 2. Plaintiff Yaneth Portillo de Cifuentes was employed by Defendant as an hourly-paid, non-exempt housekeeper from May 7, 2022 to November 23, 2022. Declaration of Plaintiff Yaneth Portillo de Cifuentes in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement ("Portillo Decl."), ¶ 2.

On May 11, 2023, Plaintiffs filed a Class Action Complaint for Damages in the action entitled *Mayra Campos Molina and Yaneth Portillo de Cifuentes v. Harbor Hotels, LLC, et al.*, in the Los Angeles County Superior Court, case number 23STCV10683 (the "Class Action"), thereby commencing a putative class action lawsuit against Defendant. The Class Action alleges eight (8) causes of action for: (1) Unpaid Overtime; (2) Unpaid Minimum Wages; (3) Unpaid Meal Period Premiums; (4) Unpaid Rest Period Premiums; (5) Failure to Provide Accurate Wage Statements; (6) Final Wages Not Timely Paid; (7) Failure to Reimburse Necessary Business Expenses; and (8) Unfair and Unlawful Business Expenses in violation of California Business & Professions Code Section 17200, *et seq*. Gold Decl., ¶ 10.

On May 11, 2023, Plaintiffs provided written notice to the Labor and Workforce Development Agency ("LWDA") by online submission and to Defendant by U.S. Certified Mail, pursuant to California Labor Code Section 2699.3, of the specific provisions of the California Labor Code alleged to have been violated by Defendant ("PAGA Letter"). Gold Decl., ¶ 11 & Ex. 1.

On July 17, 2023, Plaintiffs filed a Complaint for Enforcement Action Under the Private Attorneys General Act, California Labor Code §§ 2698 *et seq.*, in the action entitled *Mayra Campos Molina and Yaneth Portillo de Cifuentes v. Harbor Hotels, LLC, et al.,* in the Los Angeles County Superior Court, case number 23STCV16652 (the "PAGA Action") based on the alleged California Labor Code violations described above, thereby commencing a representative PAGA action against Defendant.

Gold Decl., ¶ 12.

On September 13, 2023, the Court ordered the Class Action and the PAGA Action to be related and set the Class Action as the lead case. *Id.,* at ¶ 13. The Class Action and the PAGA Action are collectively referred to herein as the "Actions."

On June 27, 2024, the Parties participated in a formal mediation conducted by Brandon McKelvey ("Mediator"), a neutral and respected mediator with extensive experience in complex wage and hour matters. *Id*., ¶ 14. Although the Actions were not resolved at the June 27, 2024 mediation, with the ongoing assistance of the Mediator, the Parties reached a settlement of the Actions on September 6, 2024. *Ibid.*

On April 10, 2025, the Parties executed the Settlement Agreement. *Id*., ¶ 15 & Ex. 2.

III. THE SETTLEMENT TERMS

A. Class Definition

For purposes of settlement only, the Parties have agreed that the Class shall be defined as "all current and former hourly-paid and/or non-exempt employees who worked for Defendant in the State of California at any time during the Class Period" ("Class" or "Class Member(s)"). Gold Decl., ¶ 16; Settlement Agreement, ¶ 12b. The Class Period is from May 11, 2019 to November 5, 2024. Gold Decl., ¶ 16; Settlement Agreement, ¶ 12f. Based on information provided by Defendant, as of June 27, 2024, it is estimated that there are a total of one hundred and sixty-nine (169) Class Members. Gold Decl., ¶ 16; Settlement Agreement, ¶ 12mm.

B. Amount of Settlement

The Parties have agreed to settle the class and PAGA claims at issue in the Actions for a non-reversionary Gross Settlement Amount of Three Hundred and Fifty Thousand Dollars and Zero Cents ($350,000.00), exclusive of employer-side payroll taxes. Gold Decl., ¶ 17; Settlement Agreement, ¶ 12p.

C. Allocation and Funding of the Gross Settlement Amount

The Gross Settlement Amount is a common fund and therefore includes all requested costs, fees, and other allocations. Gold Decl., ¶ 17; Settlement Agreement, ¶ 12p. The Gross Settlement Amount includes: (1) Class Counsel's Attorneys' Fees, in the amount of one-third (1/3) of the Gross Settlement Amount (i.e., $116,666.67 if the Gross Settlement Amount is $350,000.00); (2) Class Counsel's actual litigation costs and expenses, not to exceed Twenty Thousand Dollars and Zero Cents ($20,000.00); (3) Settlement Administration Costs in the amount of Eight Thousand Dollars and Zero Cents ($8,000.00); (4) Enhancement Payments to Plaintiffs in the amount of Five Thousand Dollars and Zero Cents ($5,000.00) per Plaintiff, for a total of Ten Thousand Dollars and Zero Cents ($10,000.00); and (5) up to Thirty-Five Thousand Dollars and Zero Cents ($35,000.00) as the PAGA Amount. Gold Decl., ¶ 17; Settlement Agreement, ¶¶ 15-18. After the above-estimated amounts are deducted from the Gross Settlement Amount, the Net Settlement Amount that will be available for Class Members is currently estimated to be One Hundred and Sixty Thousand, Three Hundred Thirty-Three Dollars and Thirty-Three Cents ($160,333.33). Gold Decl., ¶ 17. Additionally, 25% of the PAGA Amount, which is $8,750 out of $35,000.00, will be fully distributed to all "PAGA Employees," defined as all current and former hourly-paid and/or non-exempt employees who worked for Defendant in the State of California at any time during the PAGA Period. Settlement Agreement, ¶ 12x. The "PAGA Period" is defined as the period from May 11, 2022, through November 5, 2024. *Id.* at ¶¶ 12z; *see also* Gold Decl., ¶ 17.

Based on information from Defendant, it is estimated that the Class Members worked a total of 11,000 Workweeks during the period from March 11, 2019, to June 27, 2024. Gold Decl., ¶ 18; Settlement Agreement, ¶ 19. If it is determined by the Settlement Administrator that the total number of Workweeks worked by the Class Members during the Class Period actually exceeds 11,000 by more than 10% (i.e., the total Workweek count during the Class Period is more than 12,100 Workweeks), then Defendant, at its sole discretion, has the option of either (i) increasing the GSA on a pro-rata basis equal to the percentage increase in the number of workweeks worked by the Class Members above 10% (for example, if the number of workweeks increases by 11%, the GSA will increase by 1%); or (ii) shorten the release period to an earlier date by which 11,000 workweeks plus an additional 1,100 workweeks are covered by the Class Period. Gold Decl., ¶ 18; Settlement Agreement, ¶ 19.

The Net Settlement Amount will be distributed and paid to all Class Members who do not submit a timely and valid Request for Exclusion ("Settlement Class Members") on a *pro rata* basis based on the number of weeks each Class Member worked for Defendant as an hourly-paid and/or non-exempt employee in California during the Class Period ("Workweeks"). Gold Decl., ¶ 20; Settlement Agreement, ¶¶ 12mm; 20a. The *pro rata* share of the Net Settlement Amount that a Class Member may be eligible to receive under the Class Settlement ("Individual Settlement Payment") will be calculated by the Settlement Administrator, in accordance with the Settlement Agreement. Gold Decl., ¶ 20; Settlement Agreement, ¶ 20.

The PAGA Employee Amount will be distributed and paid to all PAGA Employees on a *pro rata* basis based on the number of PAGA Pay Periods worked by each PAGA Employee for Defendant as an hourly-paid and/or non-exempt employee in California during the PAGA Period ("PAGA Pay Period"). Gold Decl., ¶ 21; Settlement Agreement, ¶¶ 12bb, 17. The *pro rata* share of the PAGA Employee Amount that an PAGA Employee may be eligible to receive under the PAGA Settlement ("Individual PAGA Payment") will be calculated by the Settlement Administrator, in accordance with the Settlement Agreement. Gold Decl., ¶ 21; Settlement Agreement, ¶ 17.

Each Individual Settlement Share will be allocated as twenty percent (20%) wages and eighty percent (80%) penalties. Gold Decl., ¶ 22; Settlement Agreement, ¶ 22. The portion allocated to wages will be reported on an IRS Form W-2 and the portions allocated to penalties, interest, and non-wage damages will be reported on an IRS Form 1099 (if applicable) by the Settlement Administrator. *Id.* The Settlement Administrator will withhold the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share, and issue checks to Settlement Class Members for their net payment of their Individual Settlement Payments (i.e., payment of their Individual Settlement Share net of these taxes and withholdings) ("Individual Settlement Payment"). Gold Decl., ¶ 22; Settlement Agreement, ¶¶ 12r; 22. The employer's share of taxes and contributions in connection with the wages portion of Individual Settlement Shares will be paid by Defendant separately and in addition to the Gross Settlement Amount. Settlement Agreement, ¶ 12k. Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties and will be reported on an IRS Form 1099. (if applicable) by the Settlement Administrator. Gold Decl., ¶ 22; Settlement Agreement, ¶¶ 22.

The Settlement Agreement is a non-reversionary and non-claims made settlement. Gold Decl., ¶ 23; Settlement Agreement, ¶ 12p. The Net Settlement Amount will be fully distributed to Settlement Class Members and the PAGA Amount will be fully distributed to the LWDA and PAGA Employees, in accordance with the Settlement Agreement. Gold Decl., ¶ 23; Settlement Agreement, ¶ 12w. No money will revert to Defendant. Gold Decl., ¶ 23; Settlement Agreement, ¶ 12p.

Each Individual Settlement Payment and Individual PAGA Payment check will be valid and negotiable for one hundred and eighty (180) calendar days from the date the checks are mailed, and thereafter, shall be canceled. Gold Decl., ¶ 24; Settlement Agreement, ¶ 38. Any funds associated with such canceled checks will be distributed by the Settlement Administrator to the State of California's Unclaimed Property Fund in the name of the Settlement Class Member and/or PAGA Employee. Gold Decl., ¶ 24; Settlement Agreement, ¶ 38. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out to Settlement Class Members, whether or not they cash their settlement checks. *Id.*

D. Released Claims

Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiffs and all Settlement Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims. Settlement Agreement, ¶ 39.

Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiffs, the State of California with respect to all PAGA Employees, and all PAGA Employees will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims. *Id.*, ¶ 40.

"Released Class Claims" means any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, or causes of action which were alleged or which could have been alleged based on the factual allegations in the Class Action, arising during the Class Period, under any federal, state, or local law, and shall specifically include claims for Defendant's alleged failure to pay overtime and minimum wages, provide meal and rest period premium payments, provide accurate wage statements, timely pay wages upon termination, and reimburse necessary business-related expenses in violation of California Labor Code Sections 510, 1198, 1194, 1197, 1197.1, 226.7, 512, 226(a), 201, 202, 203, 2800 and 2802, and applicable Industrial Welfare Commission Wage Orders, and all claims for attorneys' fees and costs and statutory interest in connection therewith, California Business and Professions Code sections 17200, et seq., and any other claims, including claims for statutory penalties, pertaining to the Class Members. *Id.*, ¶ 12ee.

"Released PAGA Claims" means any and all claims arising from any of the factual allegations in the PAGA Letter and PAGA Action, arising during the PAGA Period, for civil penalties under the Private Attorneys General Act of 2004, California Labor Code Sections 2698 et seq., including all claims for attorneys' fees and costs related thereto, for Defendant's alleged failure to pay overtime and minimum wages, provide meal and rest period premium payments, provide accurate wage statements, , timely pay wages upon termination, and reimburse necessary business-related expenses in violation of California Labor Code Sections 510, 1174(d), 1198, 1194, 1197, 1197.1, 226.7, 512, 226(a), 201, 202, 203, 204, 2800 and 2802, and applicable Industrial Welfare Commission Wage Orders. *Id*., ¶ 12ff.

"Released Parties" means Defendant Harbor Hotels, LLC and its current and former officers, directors, members, insurers, shareholders, owners, parents, subsidiaries, affiliates, predecessors, successors, assigns, employees, agents, attorneys, insurers, and any other person acting by, through, or under Defendant. *Id*., ¶ 12gg.

IV. STANDARD OF REVIEW FOR PRELIMINARY APPROVAL

The settlement of a class action requires court approval. *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794 (1996). "In general, questions whether a settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court's broad discretion." *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 234-35 (2001) (disapproved on other grounds).

The review and approval of a proposed class action settlement involves a two-step process. Cal. Rules of Court, Rule 3.769(c). First, counsel submits the proposed terms of the settlement and the Court makes a preliminary assessment of whether the settlement appears to be sufficiently within the range of a fair settlement to justify providing notice of the proposed settlement to class members. After notice is provided to the class, the Court must conduct a second inquiry into whether the proposed settlement is fair, reasonable, and adequate. *Id.*

The initial evaluation of the settlement at the preliminary approval step is not a fairness hearing. Rather, "in determining whether preliminary approval is appropriate, the settlement under review need only be *potentially* fair; the court makes a final adequacy determination at the final approval hearing, after *all* parties have a chance to object and/or opt out." *White v. Experian Info. Solutions, Inc.,* 803 F.Supp.2d 1086 (C.D. Cal. 2011) (overruled on other grounds), citing *Armstrong v. Board of School Directors of City of Milwaukee*, 616 F.2d 305, 314 (7th Cir. 1980). The limited purpose of this initial inquiry is to determine, at a threshold level, only whether the proposed settlement is within the range of possible approval and, as a result, "whether there is any reason to notify the class members of the proposed settlement and to proceed with a fairness hearing." 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. *In re Microsoft I-V Cases*, 135 Cal.App.4th 706, 723 (2006); *Dunk v. Ford Motor Co.,* 48 Cal.App.4th 1794, 1802 (1996).

Thus, preliminary approval does not require a court to make a final determination that the settlement is fair, reasonable, and adequate. Rather, that decision is made only at the final approval stage, after notice of the settlement has been given to the class members and they have had an opportunity to object or exclude themselves from the settlement. Cal. Rules of Court, Rule 3.769(g). In considering a potential class settlement, the court need not reach any ultimate conclusions on the issues of fact and law which underlie the merits of the dispute and need not engage in a trial on the merits. *Officers for Justice v. Civil Service Commission*, 688 F.2d 615, 625 (9th Cir. 1982).

V. THE SETTLEMENT IS PRESUMED FAIR

A. The Settlement Was Reached as a Result of Arm's-Length Bargaining

California courts recognize that "a presumption of fairness exists where . . . [a] settlement is reached through arm's-length bargaining." *Wershba*, 91 Cal.App.4th at 245; *see also Clark v. Am. Residential Servs. LLC*, 175 Cal.App.4th 785, 799 (2009). Here, the Parties' settlement negotiations were at all times made at arm's-length and were adversarial. Gold Decl., ¶ 25. The Settlement was reached after a full day of mediation and with the ongoing assistance of a highly respected mediator with substantial experience mediating wage and hour cases. *Id.* At all times, Plaintiffs were willing and prepared to litigate this matter through class certification and trial if the Parties had been unable to reach a favorable resolution. Molina Decl., ¶ 6; Portillo Decl., ¶ 6.

B. Sufficient Investigation and Discovery by Experienced Class Counsel

Courts typically assess the status of discovery in determining whether a class action settlement agreement is fair, reasonable, and adequate. *Dunk*, 48 Cal.App.4th at 1801. The goal is to ascertain whether investigation and discovery are "sufficient to allow counsel and the court to act intelligently." *Id.,* at 1802.

Prior to mediation, Defendant produced Plaintiffs' personnel, time, and payroll records; a statistically significant sample of time and payroll records for the putative class members; policy documents regarding Defendant's wage and hour practices (including, but not limited to, Defendant's Employee Handbook and Meal and Rest Break Policies); and information regarding the Class statistics. Gold Decl., ¶ 26. This allowed Class Counsel to conduct an informed assessment and analysis of the strengths and weaknesses of the claims and the potential class-wide damages. *Id.*, ¶ 27. Based on information exchanged, the Parties extensively briefed issues regarding class certification and liability and provided their analyses to the Mediator who helped the Parties debate the strengths and weakness of their respective positions. *Id.*, ¶ 28. Additionally, settlement negotiations were conducted by highly capable and experienced counsel. Gold Decl., ¶¶ 3-9; 57(a)-(d). Accordingly, Class Counsel had sufficient information and experience to act intelligently in negotiating the Settlement.

C. The Settlement is Fair and Reasonable in Light of the Parties' Respective Legal Positions and Recovery Risks

A settlement is not judged against what might have been recovered had a plaintiff prevailed at trial, nor does the settlement have to obtain 100% of the damages sought to be fair and reasonable. *Wershba*, 91 Cal.App.4th at 246, 250. In evaluating the reasonableness of a settlement, a trial court must consider "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement." *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008).

Here, the reasonableness of the Settlement is underscored by the fact that Defendant has legal and factual grounds for defending the Actions. Based upon Class Counsel's experience litigating similar complex matters, Plaintiffs reasonably expected a vigorous and lengthy defense to both class certification and the merits of the Actions absent a settlement. Gold Decl., ¶¶ 48-51.

1. Class Counsel's Analysis of the Maximum Available Liability and Damages

Class Counsel hired an expert consultant, who assisted Class Counsel in analyzing all available data. Gold Decl., ¶ 29. Using that expert's analysis, Class Counsel estimated Defendant's maximum potential exposure in the Class Action to be approximately $1,106,974, assuming the litigation was successful at trial on *all* claims at issue and every employee had a violation for each claim on every shift worked. *Id.*, ¶¶ 29-45. This estimate is based off an estimated liability for all claims at issue and the total aggregate workweeks during the relevant time period, less interest, and based on the analysis of the data which was extrapolated out for all Class Members across the entire putative class period, which included: $187,855.20 for unpaid wages; $1,286 for unpaid overtime wages at the regular rate of pay; $114,024.11 for meal period violations; $115,237.69 for rest period violations; $97,410 for unreimbursed reasonable business expenses, $224,500 wage statement violations and $366,661 for waiting time pay. *Ibid.* Plaintiffs further estimated that Defendant faced an additional exposure of $1,287,200.00 in potential, non-stacked (i.e., one penalty, per employee, per pay period during the PAGA statutory period) PAGA penalties. *Id.,* at ¶ 45. Together with the PAGA penalties, Defendant's maximum potential exposure totaled $2,394,174 in damages. *Id.*, ¶ 29.

2. Class Counsel's Risk-Based Analysis and Risk-Based Adjustments

While Plaintiffs believe that Defendant faced significant exposure, substantial barriers to a recovery existed. Defendant contended that Plaintiffs' claims are not suitable for class certification because individual issues and affirmative defenses would predominate should this case go to trial. Gold Decl., ¶ 49; *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012); *Duran v. U.S. Bank Nat. Assn.*, 59 Cal.4th 1, 35-36 (2014); *Wal-Mart Stores, Inc. v. Dukes*, 131 S.Ct. 2541, 2551 (2011). While Plaintiffs and Class Counsel disagree with Defendant's predictions, they also recognize that there is a significant risk that the Court may deny class certification. Gold Decl., ¶ 49; *see also*, *Findings of the Study of California Class Action Litigation*, 2000-2006, available at http://www.courts.ca.gov/documents/class-action-lit-study.pdf (finding that only 21.4% of all class actions were certified either as part of a settlement or as part of a contested certification motion)).

///

///

1. Plaintiffs' Claims for Unpaid Regular Wages and Improperly Compensated Overtime Hours

Plaintiffs' claims for unpaid wages and improperly compensated overtime assert that Defendant required Plaintiffs and other class members to spend at least fifteen minutes before each shift to gather and prepare cleaning supplies and to spend about thirty minutes in pre-shift meetings as often as three times per week. Gold Decl., ¶ 30. Plaintiffs also allege that they were required to work while clocked out for lunch, and that after clocking out, they were required to spend another ten to fifteen minutes on post-shift tasks. *Id.* However, Plaintiffs faced challenges certifying and proving liability for their unpaid off-the-clock and overtime claims. The individualized nature of why this work was performed and the individualized nature of damages presented substantial concerns regarding the manageability of the case. *Id.,* at ¶ 32. Thus, there was a substantial risk the Court would find these issues prevented certification. *Ibid.*

2. Plaintiffs' Claims for Meal Period Violations

Plaintiffs' meal period claims assert that Defendant failed to provide lawful meal periods. Plaintiffs' theory of liability for meal period violations was based on allegations that Defendant's practices failed to allow Class Members to take meal breaks in the manner required under California law. Gold Decl., ¶ 35; *Bradley v. Networkers Int'l, LLC,* 211 Cal.App.4th 1129, 1150 (2012) (holding that "the lack of a meal/rest break policy and uniform failure to authorize such breaks are matters of common proof."). Defendant contended that its meal break-related policies and practices at all times during the Class Period were lawful. *Id*., at ¶ 36. Defendant also contended that its employees signed lawful meal break waivers. *Id*. Additionally, Defendant argued that the rate of purported meal period violations reflected in the data would require individualized inquiry and that such inquiry would prohibit a class from being certified. *Ibid.* Class Counsel has also considered the risk that the Court would find validity in an individualized proof defense to certification of Plaintiffs' meal period claim. *Ibid*.

3. Plaintiffs' Claims for Rest Period Violations

As with the meal period allegations, Defendant contended that it had a lawful written rest period policy, provided compliant rest breaks, and relieved Class Members of all duties as required under California law. *Id*., at ¶ 38. Plaintiffs contended that their workload was far too heavy for them to take rest breaks to which they were entitled. *Id*. Plaintiffs contended that they were unable to take compliant rest breaks on a daily basis, which was particularly detrimental to them, given the physical demands of their housekeeping tasks. *Id.* Plaintiffs' damages analysis on this claim was based on an alleged 15% violation rate. *Id*. However, this claim is even more uncertain given the difficulties associated with proving the alleged rest period violations, as Defendant was not required to record these breaks. *Id*., ¶ 39. Given the lack of records demonstrating rest period violations, there were legitimate concerns Plaintiff would not be able to certify these claims or prove substantial damages with requisite certainty, which made the estimated value of this claim subject to change. *Ibid.*

4. <u>Plaintiffs' Claims for Unreimbursed Reasonable Business Expenses</u>

Plaintiffs contend that they and other Class Members regularly used their personal cell phones for work-related calls with supervisors and managers, for which they were not reimbursed. *Id*., at ¶ 41. Plaintiffs and other Class Members also contend that they were required to maintain work attire. *Id.* Plaintiffs attributed a modest $30 per month, per class member to this claim, resulting in $97,410 in unreimbursed business expenses for the putative class. *Ibid.* However, Defendant contended that use of a personal cell phone was unnecessary and also contended that whether employees used their personal cell phones would require individualized proof. *Ibid*. Class Counsel has also considered the risk that the Court would find validity in an individualized proof defense to certification of Plaintiffs' business expense reimbursement claim. *Ibid*.

5. <u>Plaintiffs' Claims for Waiting Time Penalties and Wage Statement Violations</u>

There are also substantial risks associated with Plaintiffs' waiting time penalties and wage statement claims. *Id*. at ¶¶ 42-44. First, these claims were derivative of Plaintiffs' claims for unpaid meal period premiums, unpaid rest period premiums, unpaid minimum wages, and unpaid overtime wages, and if certification was denied on those underlying claims, these derivative claims for penalties would also likely fail. *Id*. Further, even if Plaintiffs prevailed on their underlying claims, they would still be required to demonstrate that Defendant's violations of California Labor Code section 203 were *willful* violations. *Id*; *See, e.g.*, *Choate v. Celite Corp.*, 215 Cal App. 4th 1460, 1468 (2013) (holding that "an employer's reasonable, good faith belief that wages are not owed may negate a finding of willfulness")). Wage statement claims have also seen varying treatment at the appellate level because such claims have an element of discretion attached to them rather than a pure calculation of damages after liability is proven. *Ibid*; compare *Jaimez v. DAIOHS USA, Inc.*, 181 Cal.App.4th 1286 (2010) with *Price v. Starbucks Corp.*, 192 Cal.App.4th 1136 (2011)). Accordingly, these derivative claims, were therefore uncertain.

6. Class Counsel's Reasonable Adjustments

Class Counsel also recognized that, even if Plaintiffs prevailed at class certification, proving the amount of wages due to Class Members would be an expensive, time-consuming, and uncertain proposition. *Id*. at ¶ 50. In order to prove liability and damages, Class Counsel will need to request and analyze thousands of pages of documents, obtain the Class Members' contact information, contact them, and obtain their declarations at great expense. *Ibid.* Obtaining the cooperation of current employees would also be difficult, given the likely reluctance to aid prosecution of a lawsuit against a current employer. *Ibid.* On the other hand, Defendant would likely be able to obtain the cooperation of their employees. *Ibid.* Moreover, even if Plaintiffs prevailed at class certification and trial, possible appeals would substantially delay any recovery by the Class. *Ibid.*

Therefore, taking into account how each of the above risks potentially effected Plaintiffs' ability to first obtain class certification, and then prove the underlying violations, plus the cost and delay in recovering the alleged potential damages, Class Counsel discounted Defendant's estimated liability based on the challenges facing their ability to success on class certification by 50% to $1,098,839. *Id*. at ¶ 51. The merits-based risk factors further reduced Defendant's estimated liability by an additional 50%. *Ibid.* This resulted in an adjusted estimated liability of $549,419.50. *Id*. In light thereof, the settlement amount of $350,000.00 is a significant settlement. *Ibid.*

7. Risks Inherent to the PAGA Claim

Class Counsel also separately contemplated the risks of proceeding with the PAGA action and potential liability Defendant could face from this claim as part of the global resolution. *Id*. at ¶ 52. Existing case law makes PAGA claims subject to the same defenses and risks as Plaintiffs' underlying wage claims. *Id.*; see, *Elliot v. Spherion Pac. Work, LLC*, 572 F.Supp.2d 1169, 1181-82 (C.D. Cal. 2008) ("Plaintiff's claim under [PAGA] is wholly dependent upon her other claims. Because all of Plaintiffs' other claims fail as a matter of law, so does her PAGA claim"). Class Counsel also anticipated that even if successful on the merits at trial, the imposition of cumulative civil penalties based on the alleged wage and hour violations could be considered unjust, arbitrary and oppressive, or confiscatory, and that Defendant would argue that it made a good faith attempt to comply with its legal obligations warranting a discretionary reduction[1] in penalties. *Id*. Finally, Class Counsel was also mindful of the fact that PAGA is fundamentally not intended to be compensatory in nature, but is instead intended to facilitate enforcement of California's labor laws by financing state activities and educating and deterring non-compliance. *Id*.

Therefore, after considering this multitude of factors, Plaintiffs and Class Counsel concluded that it was in the best interest of the State of California and the PAGA Employees to enter into the Settlement, and to allocate Thirty-Five Thousand Dollars and Zero Cents ($35,000.00) of the Gross Settlement Amount towards the PAGA claim, which represents 10% of the Gross Settlement Amount. *Id*. at ¶ 53. This percentage of the settlement is well within the range of wage and hour settlements regularly approved in both state and federal court for cases that include both a class and PAGA action. *Id*. Typically, such hybrid cases allocate only 1% of the gross settlement value to resolve PAGA claims, and, indeed, settlements allocations as little as 0.22% of the gross settlement amount have been approved as reasonable by courts. *Id*. Moreover, the overall relief obtained by the Settlement is significant, not only from a monetary perspective, but also because it fulfills the public policy objectives of PAGA—to promote enforcement of California's labor laws, provide funds to the state, and deter future non-compliance by the employer. *Id*.

The Settlement is in the best interest of the Class Members, the PAGA Employees, and the State of California and is within the accepted range of recoveries for this type of litigation given the inherent

[1] See, e.g., *Thurman v. Bayshore Transit Management, Inc.*, 203 Cal.App.4th 1112, 1131 (2012) (imposition of both statutory and civil penalties for same conduct is impermissible double recovery) (disapproved on other grounds); *Aguirre v. Genesis Logistics*, 2013 WL 10936035, at *3 (C.D. Cal. 2013) ("duplicative effect" of penalties is a factor in favor of "reducing ...the PAGA penalty"); *Smith v. Lux Retail North America, Inc.*, 2013 WL 2932243, at *3 (N.D. Cal. June 13, 2013) (declining to stack penalties based on the same conduct); *Castillo v. ADT, LLC*, 2017 WL 363108, at *4 (E.D. Cal. Jan. 25, 2017); *Sanchez v. McDonalds Restaurants of California, Inc.*, 2017 WL 4620746 (LA Super. Ct. July 6, 2017) (declining to stack penalties arising out of the same conduct); *Fleming v. Covidien, Inc.*, 2011 WL 756304718, at *4 (C.D. Cal. Aug. 12, 2011) (reducing PAGA penalties by 80%); *Cotter v. Lyft, Inc.*, 193 F.Supp.3d 1030 (N.D. Cal. 2016) (indicating that a substantial reduction is warranted where good faith dispute exists in legal obligations); *Carrington v. Starbucks Corp.*, 30 Cal.App.5th 504, 529 (2018) (approving reduction in penalties from $50 per pay period to $5 per pay period based on good faith attempts to comply with obligations and minimal violations).

risk of litigation, the risk of obtaining and maintaining class certification, and the costs of further litigation. *Id*. at ¶ 54.

VI. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED

Three basic requirements must be met in order to sustain any class action: (1) there must be an ascertainable class; (2) there must be a well-defined community of interest in the question of law or fact affecting the parties to be represented; and (3) certification will provide substantial benefits to litigants and the courts, i.e., proceeding as a class action is superior to other methods. *Dunk*, 48 Cal.App.4th at 1806. Plaintiffs contend that the Class Action, which is based upon Defendant's wage and hour policies and practices, satisfies the class certification requirements under Code of Civil Procedure section 382. Defendant denies Plaintiffs' allegations, but for purposes of the Settlement only, Defendant has stipulated to certification of the Class.

A. An Ascertainable Class Exists Which is So Numerous That Joinder of All Members is Impracticable

Whether an ascertainable class exists turns on three factors: (1) the class definition, (2) the size of the class, and (3) the means of identifying the class members. *Miller v. Woods*, 148 Cal.App.3d 862, 873 (1983). In this case, all three considerations strongly favor class certification. Here, the Class is defined as "all current and former hourly-paid and/or non-exempt employees who worked for Defendant in the State of California at any time during the Class Period." Gold Decl., ¶ 16; Settlement Agreement, ¶ 12c. This provides a clear and definite scope for the proposed class.

Next, the Class is sufficiently numerous. There is no magic number that satisfies the numerosity requirement. Courts have certified classes with as few as ten or twenty-eight class members. *Rose v. City of Hayward*, 126 Cal.App.3d 926, 934 (1981); *Bowles v. Superior Court*, 44 Cal.2d 574 (1995); *Hebbard v. Colgrove*, 28 Cal.App.3d 1017, 1030 (1972). Here, the estimated Class size of one hundred sixty-nine (169) individuals (as of June 27, 2024) meets the numerosity requirement. Gold Decl., ¶ 16.

Finally, the question of whether class members are easily identifiable turns on whether a plaintiff can establish "the existence of an ascertainable class." *Daar v. Yellow Cab Co.*, 67 Cal.2d 695, 706 (1967). The existence of an ascertainable class in this case can be established through Defendant's payroll records, and the Class definition is sufficiently specific to enable the Parties, Class Members, and the

Court to determine the parameters of the Class. *Clothesrigger, Inc. v. GTE Corp.*, 191 Cal.App.3d 605, 617 (1987).

B. The Class Shares a Well-Defined Community of Interest

The community of interest requirement embodies three factors: (1) predominant questions of law and fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class. *Dunk*, 48 Cal.App.4th at 1806. Here, all three requirements are easily satisfied.

The commonality criterion requires the existence of common question of law or fact and is generally established with the issues of predominance and typicality. *Daar*, 67 Cal.2d at 706. What is required is that a common question of fact or law exists which predominates over issues unique to individual plaintiffs. The existence of individual issues or facts—generally present in any case arising from employment—is not a bar to class certification as long as they do not render class litigation unmanageable or predominate over the common issues. *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.*, 191 Cal.App.3d 1341, 1354 (1987).

Here, Plaintiffs' claims present common issues of law and fact that predominate and warrant class certification. Plaintiffs allege that Defendant, among other things, denied compliant meal and rest periods to employees, required employees to perform work off-the-clock, and failed to fully compensate employees for all time actually worked. These policies and practices meant that Defendant allegedly failed to pay minimum and overtime wages, and other related claims. Plaintiffs allege that Defendant's policies and practices were uniform as to all Class Members. Thus, class treatment is appropriate.

To satisfy the typicality requirement, California law does not require that plaintiffs' claims be identical to the other class members. Rather, the test of typicality for a class representative is whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiff, and whether other class members have been injured by the same course of conduct. *Seastrom v. Neways, Inc.*, 149 Cal.App.4th 1496, 1502 (2007). The typicality requirement for a class representative refers to the nature of the claim or defense of the representative, and not to the specific facts from which it arose or the relief sought. *Id*.

Here, Plaintiffs allege that their claims are similar to that of the other Class Members and that

Plaintiffs' claims arise out of the same alleged course of conduct giving rise to the claims of the other Class Members and thus, the typicality requirement has been satisfied.

Finally, the question of adequacy of representation "depends on whether the plaintiff's attorney qualifies to conduct the proposed litigation in the plaintiff's interest or not antagonistic to the interests of the class." *McGee v. Bank of America*, 60 Cal.App.3d 442, 450 (1976). Here, these considerations are satisfied. Class Counsel is well-regarded and is qualified and experienced in employment-related, class-action litigation. Gold Decl., ¶¶ 7; 57(a)-(d). Plaintiffs will vigorously, adequately, and fairly represent the interests of the Class. Molina Decl., ¶ 6; Portillo Decl., ¶ 6. Plaintiffs have, at all times, throughout the course of the litigation considered the interests of the Class and understood that they must take steps to adequately represent the Class and their interests. *Id.* Because Plaintiffs' claims are typical of other Class Members and are not based on unique circumstances, there is no antagonism between the interests of Plaintiffs and the Class.

C. A Class Action is Superior to a Multiplicity of Litigation

Under the circumstances, proceeding as a class action is a superior means of resolving this dispute, as the Class Members and the Court will derive substantial benefits. Class certification would serve as the only means to deter and redress the alleged violations. *Linder v. Thrifty Oil Co.*, 23 Cal.4th 429, 434 (2000) (relevant considerations include the probability that each class member will come forward to prove his or her separate claim and whether the class approach would actually serve to deter and redress the alleged wrongdoing). Further, individual actions arising out of the same operative facts would unduly burden the courts and could result in inconsistent results. Therefore, class action proceedings are superior to individual litigation.

VII. THE REQUESTED ENHANCEMENT PAYMENT IS REASONABLE

Plaintiffs in class action lawsuits are eligible for reasonable incentive payments as compensation "for the expense or risk they have incurred in conferring a benefit on other members of the class." *Munoz v. BCI Coca-Cola Bottling Co.*, 186 Cal.App.4th 399, 412 (2010). Courts routinely grant approval of class action settlement agreements containing enhancements for the class representative, which are necessary to provide incentive to represent the class and are appropriate given the benefit the class representatives help to bring about for the class. *In re Online DVD Rental*, 779 F.3d 934, 947-948 (9th

Cir. 2014) (approving incentive award 417 times larger than individual payments where incentive award made up a mere .17% of the settlement); *Gaudin v. Saxon Mortgage Servs., Inc.*, 2015 WL 7454183, at *10 (N.D. Cal. Nov. 23, 2015) (finding service award of $15,000 to be "fair and reasonable").

Plaintiffs initiated this litigation on behalf of their former co-workers who will now be entitled to receive payment from the Settlement. Plaintiffs invested substantial time and effort into litigation, including their own research, reviewing documents, and extensive discussions with Class Counsel. Molina Decl., ¶¶ 4-5, 9; Portillo Decl., ¶¶ 4-5, 9. Further, the requested amount for Plaintiffs is also reasonable given the average award and the benefit gained by other Class Members. Notice of the requested Enhancement Payment is disclosed to the Class Members in the Class Notice. Gold Decl., ¶ 55. For these reasons, Plaintiffs request that an Enhancement Payment of Five Thousand Dollars and Zero Cents ($5,000.00) to each named plaintiff be preliminarily approved by the Court. Gold Decl., ¶ 55; Molina Decl., ¶12; Portillo Decl., ¶ 12.

VIII. THE REQUESTED ATTORNEYS' FEES AND COSTS ARE REASONABLE

Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v. Beneficial Cal, Inc.*, 82 Cal.App.4th 19, 41 (2000). California law provides that attorney fee awards should be equivalent to fees paid in the legal marketplace to compensate for the result achieved and risk incurred. *Id.*, at 47. In cases where class members present claims against a common fund and the defendant agrees to a percentage of the fund as part of the settlement, use of the percentage method is appropriate. *Id.,* at 32.

Here, the requested Class Counsel Attorneys' Fees Payment is one-third (1/3%) of the Gross Settlement Amount (i.e., $116,666.67 if the Gross Settlement Amount is $350,000.00) which is disclosed to Class Members in the proposed Class Notice. Settlement Agreement, Ex. A. The requested Class Counsel Attorneys' Fees Payment was freely negotiated, is common in the legal marketplace, and is not opposed by Defendant. The Motion for Final Approval will elaborate on the nature of the legal services provided and will also support Class Counsel's request for the reimbursement of litigation costs and expenses not to exceed Twenty Thousand Dollars and Zero Cents ($20,000.00). Gold Decl., ¶ 56. The Class Counsel litigation expense payment that is not ultimately approved by the Court shall instead be included in the Net Settlement Amount to be distributed to Settlement Class Members. Settlement

Agreement, ¶ 15.

IX. THE CLASS NOTICE AND THE OPT-OUT AND OBJECTION PROCESS MEETS DUE PROCESS REQUIREMENTS

The Parties have jointly drafted the Class Notice, which will be mailed to the Class Members in English and Spanish. Gold Decl., ¶ 60; Settlement Agreement, Ex. A. The Class Notice will include information regarding the nature of the Actions, a summary of the terms of the Settlement, the Class definition, information on how to object to and/or opt-out of the Class Settlement and to dispute Class Member Workweeks and/or PAGA Pay Periods, and the date of the Final Approval Hearing. *Id.* The Class Notice will list each Class Member's total Workweeks and their estimated Individual Settlement Payment and each PAGA Employee's total PAGA Pay Periods and their estimated Individual PAGA Payment. *Id.*

No later than fourteen (14) days of entry of the order of Preliminary Approval, Defendant will provide a list in a formatted readable Microsoft Office Excel spreadsheet to the Settlement Administrator containing the following information for each Class Member: (1) full name; (2) last known mailing address; (3) Social Security number; (4) dates worked for Defendant during the Class Period; and (5) such other information as is necessary for the Settlement Administrator to calculate Workweeks and PAGA Pay Periods. Gold Decl., ¶ 19; Settlement Agreement, ¶12d. Using best efforts to perform as soon as possible, and in no event later than seven (7) days after receiving the Class List, the Settlement Administrator will perform a search based on the National Change of Address Database or any other similar services available, such as provided by Experian, for information to update and correct for any known or identifiable address changes, and will mail a Class Notice in English and Spanish (in the form attached as Exhibit A to the Settlement Agreement) to all Class Members via First-Class U.S. Mail, using the most current, known mailing addresses identified by the Settlement Administrator. *Id*., ¶ 30b. The Parties requested and obtained three (3) bids for settlement administration in this matter and have agreed to use APEX Class Action, LLC – the entity with the lowest bid – as the Settlement Administrator. Gold Decl., ¶ 19; Settlement Agreement, ¶ 12jj. APEX Class Action, LLC is an experienced and qualified Settlement Administrator with robust procedures in place to protect the security of class data, and it maintains adequate insurance in the event of a data breach or defalcation of funds. Hartranft Decl., ¶ 5.

In determining whether to approve a settlement of a class action, a trial court has virtually complete discretion as to the manner of giving notice to class members, and review on appeal is governed by the abuse of discretion standard. *In re Cellphone Fee Termination Cases*, 186 Cal.App.4th 1380 (2010). Here, Class Counsel is not aware of an alternative method of providing notice to the Class which would result in a higher likelihood of actual notice. Gold Decl., ¶ 61. The original source of the mailing addresses is from Class Members, who provided the information to Defendant. *Id.*

Class Members will have forty-five (45) calendar days after the initial mailing of the Class Notice by the Settlement Administrator to submit a Request for Exclusion, Notice of Objection, and/or Workweeks and/or PAGA Pay Period Dispute ("Response Deadline"). Settlement Agreement, ¶ 12ii.

Any Class Notice returned to the Settlement Administrator as undeliverable on or before the Response Deadline will be sent promptly via First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Class Notice. Settlement Agreement, ¶ 30b. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine a correct address using a skip-trace or other search, using the name, address, and/or Social Security number of the Class Member, and perform a single re-mailing within five (5) calendar days. *Id.* In the event that a Class Notice is re-mailed to a Class Member, the Response Deadline for that Class Member shall be extended fifteen (15) calendar days from the original Response Deadline. *Id*.

Class Members will have an opportunity to challenge the number of Workweeks and/or PAGA Pay Periods to which the Class Member has been credited, as reflected in their respective Class Notices, by submitting a timely and valid Workweek and/or PAGA Pay Period Dispute, by mail, on or before the Response Deadline. *Id*., ¶ 12nn. A Workweek and/or PAGA Pay Period Dispute must: a) contain the case name and number of the Action; (b) contain the Class Member's full name, signature, address, telephone number, and the last four (4) digits of the Class Member's Social Security number; (c) clearly state that the Class Member disputes the number of Workweeks and/or PAGA Pay Periods credited to the Class Member and what the Class Member contends is the correct number; and (d) be returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline. *Id*.

Any Class Member wishing to be excluded from the Class Settlement must submit a timely and valid letter to the Settlement Administrator, by mail, on or before the Response Deadline. *Id.*, ¶¶ 12hh, 32. A Request for Exclusion is a letter submitted by a Class Member indicating a request to be excluded from the Class Settlement, which must: (a) contain the case name and number of the Action; (b) contain the Class Member's full name, signature, address, telephone number, and last four (4) digits of the Class Member's Social Security number; and (c) clearly state that the Class Member does not wish to be included in the Class Settlement. *Id.,* at ¶12hh. To be valid, a Request for Exclusion must be timely returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline. *Id.* Notwithstanding the above, all PAGA Employees will be bound to the PAGA Settlement and will be issued their Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion. *Id.*, at ¶ 32.

To object to the Class Settlement, a Settlement Class Member must submit a timely and complete written objection ("Notice of Objection") to the Settlement Administrator, by mail, postmarked on or before the Response Deadline. *Id.*, ¶¶ 33. A Notice of Objection must include the Settlement Class Member's full name, signature, address, telephone number, and last four digits of Social Security number for verification purposes, as well as a written statement of all grounds for the objection accompanied by any legal support for such objection and copies of any papers, briefs, or other documents upon which the objection is based. *Id.*, ¶ 12v. A Settlement Class Member, individually or through counsel, may also present their objection orally at the Final Approval Hearing, regardless of whether they have submitted a Notice of Objection. *Id.*, ¶ 33.

X. SCHEDULING OF FINAL APPROVAL HEARING

If the Court enters the Order Granting Preliminary Approval of Class Action and PAGA Settlement on September 8, 2025, which is the date of the hearing on Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement, then Plaintiffs believe that a final approval hearing should be set on December 29, 2025 or a date thereafter that is convenient for the Court.

XI. CONCLUSION

For all of the foregoing reasons, Plaintiffs respectfully request that this Court grant Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement and the relief requested herein.

Respectfully submitted,

Dated: April 22, 2025

BLACKSTONE LAW, APC

By: Karen Gold

Karen I. Gold
Sara Pezeshkpour
Noam Reiffman
Marissa A. Mayhood

Attorneys for Plaintiffs MAYRA CAMPOS MOLINA and YANETH PORTILLO DE CIFUENTES