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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ERIC MERCADO, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

CHA HOLLYWOOD MEDICAL CENTER,
a California limited partnership; and DOES 1
through 10, inclusive

Defendants.

Case No. 23STCV10505 [*Related to:*
23STCV12035]

Assigned for all purposes to:
Judge David S. Cunningham, III, Dept. 11

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: May 6, 2025
Time: 9:00 a.m.
Dept: 11

AIDA AKOPYAN, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

CHA HOLLYWOOD MEDICAL
CENTER, L.P.; and DOES 1 through 20,
inclusive,

Defendants.

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1 **I. INTRODUCTION**

2 Pursuant to California Rules of Court 3.769 (d) and (e), Plaintiffs Eric Mercado and Aida Akopyan
3 (together, “Plaintiffs”) request that the Court grant preliminary approval of a class action settlement of
4 wage and hour claims, including a claim under the California Private Attorneys General Act of 2004,
5 codified at Lab. Code § 2698, *et seq.* (“PAGA”), against Defendant CHA Hollywood Medical Center,
6 L.P. (“Defendant”) (collectively, Plaintiffs and Defendant referred to as the “Parties”). The putative
7 class consists of approximately 1,638 individuals employed by Defendant as non-exempt employees in
8 California (individually, “Class Member”; collectively, the “Class”) from from December 4, 2021 to
9 March 3, 2025 (60 days after the Agreement was signed by all Parties) (the “Class Period”).¹ The basic
10 terms of the Class Action and PAGA Settlement Agreement and Class Notice (“Settlement Agreement”
11 or “Settlement”)² provide for the following:

- 12 (1) A non-reversionary Gross Settlement Amount of \$720,000.00 allocated to approximately 1,638
13 Class Members on a pro rata basis according to the number of weeks each Class Member worked
14 during the Class Period;
- 15 (2) An award of up to one-third of the Gross Settlement Amount (currently \$240,000) and up to
16 \$27,000 in reimbursement of costs to Plaintiffs’ Counsel for services rendered on this matter;
- 17 (3) Service Payment of not more than \$10,000.00 to each Named Plaintiff;
- 18 (4) Settlement Administration fees and costs of up to \$24,550.00; and
- 19 (5) Allocations of \$60,000 for resolution of civil penalties under PAGA. Seventy-five percent (75%)
20 of this payment will be paid to the California Labor and Workforce Development Agency
21 (“LWDA Payment”), and twenty-five percent (25%) will be paid to Class Members who worked
22 for Defendant during the PAGA Period.

23
24 ¹ The Class Period began on December 4, 2021 due to the settlement in *Chatman v. CHA Hollywood*
25 *Medical Center, L.P.*, Los Angeles County, Case No. 20STCV27591 (to which the cases are also related),
26 which released claims through December 3, 2021. The Declaration of Alex J. Valle in Support of
27 Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement (“Valle Decl.”), ¶ 24.

28 ² A true and correct copy of the fully-executed “Class Action and PAGA Settlement Agreement and
Class Notice” is attached as **Exhibit 1** to the Valle Decl., filed concurrently herewith. Unless otherwise
defined herein, all capitalized terms in this Motion will be used as such terms are defined and used in the
Settlement.

1 With each Class Member allocated an average recovery of approximately \$215.00 from the Net
2 Settlement Amount, the Settlement satisfies the criteria for preliminary approval and falls well within
3 the range of reasonableness given the risks and costs of continued litigation. The Settlement was reached
4 through informed, arms-length bargaining at and after mediation between experienced attorneys. As
5 such, Plaintiffs request that the Court grant preliminary approval of the Settlement, conditionally certify
6 the Class for settlement purposes only, appoint Plaintiffs as the Class Representative, appoint Plaintiffs'
7 Counsel as Class Counsel, appoint ILYM Group as the Settlement Administrator, authorize the
8 Settlement Administrator to send notice of the Settlement, and set a final approval hearing date.

9 **II. SUMMARY OF THE LITIGATION**

10 On May 10, 2023, Plaintiff Mercado's counsel filed a putative class action on behalf of Defendant's
11 non-exempt employees alleging the following causes of action: (1) Failure to Pay All Wages; (2) Failure
12 to Provide Meal Breaks in Violation of California Labor Code §§ 200, 226.7, 512; (3) Failure to Provide
13 Rest Breaks in Violation of California Labor Code §§ 200, 226.7, 512; (4) Failure to Furnish an Accurate
14 Itemized Wage Statement Upon Payment of Wages in Violation of California Labor Code § 226; (5)
15 Failure to Pay All Wages Owed at Termination in Violation of California Labor Code § 203; (6) Failure
16 to Reimburse Expenses in Violation of California Labor Code § 2802; (7) Failure to Provide Employee's
17 Personnel File and Record Keeping Violations; (8) Violations of California Business & Professions Code
18 §§ 17200, et seq.; and (9) PAGA Penalties. On May 11, 2023, Plaintiff Mercado's counsel provided
19 written notice to the LWDA and Defendant regarding Defendant's alleged Labor Code violations, as
20 required by Lab. Code § 2699.3(a). The LWDA did not respond to this notice, indicating it did not intend
21 to investigate, thus allowing him to bring a PAGA claim against Defendant. On August 16, 2023, Plaintiff
22 Mercado filed his First Amended Complaint adding a cause of action for Enforcement of Labor Code §
23 2698 *et seq.* ("PAGA"). Declaration of Marcus J. Bradley ("Bradley Decl."), ¶ 7. That same day, Plaintiff
24 Mercado submitted a PAGA notice to the LWDA alleging violations of the California Labor Code and
25 Industrial Welfare Commission Wage Order. *Id.* at ¶ 6. The LWDA did not respond, indicating it did not
26 intend to investigate, and allowing Plaintiff Bradley to bring his PAGA claim against Defendant. *Id.*

27 On May 26, 2023, Plaintiff Akopyan's counsel provided written notice to the LWDA and Defendant
28 regarding Defendant's alleged Labor Code violations, as required by Lab. Code § 2699.3(a). Valle Decl.,

¶ 3, Ex. 3. The LWDA did not respond to this notice, indicating it did not intend to investigate, thus allowing her to bring a PAGA claim against Defendant. *Id.* That same day, Plaintiff Akopyan filed a putative class action on behalf of Defendant’s non-exempt employees alleging the following causes of action: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to permit rest breaks; (5) failure to reimburse business expenses; (6) failure to provide accurate itemized wage statements; (7) failure to pay wages timely during employment; (8) failure to pay all wages due upon separation of employment; (9) violation of Business and Professions Code § 17200, *et seq.*; for the preceding claims. *Id.* at ¶ 4. On August 25, 2023, Plaintiff Akopyan filed her First Amended Complaint adding a cause of action for PAGA. Valle Decl., ¶ 5. The Court related Plaintiff Mercado and Plaintiff Akopyan’s cases on August 31, 2023. *Id.*

On August 25, 2023, Defendant filed its Motion to Compel Arbitration of Plaintiff Akopyan’s action. Valle Decl., ¶ 6. Defendant and Plaintiff Akopyan fully briefed the Motion to Compel Arbitration in Plaintiff Akopyan’s case. *Id.* On October 2, 2023, Defendant filed its Motion to Compel Arbitration against Plaintiff Mercado. Bradley Decl., ¶ 8. While Defendant’s Motions to Compel Arbitration was pending, the Parties agreed to attend private mediation. Valle Decl., ¶ 6; Bradley Decl., ¶ 9. Prior to mediation, Defendant informally produced policy documents, and Class Members’ timekeeping and payroll records. Valle Decl., ¶ 7; Bradley Decl., ¶ 10.

On April 19, 2024, the Parties attended a mediation session with Brandon McKelvey, a respected mediator. Valle Decl., ¶ 8; Bradley Decl., ¶ 11. After a full day of negotiating and continued negotiations in the months following the mediation, the Parties agreed to a settlement amount in November 2024. *Id.* The Parties spent the next month negotiating the terms of the Settlement, which was finalized in December 2024. *Id.* Plaintiff Akopyan submitted the Settlement to the LWDA pursuant to Lab. Code § 2699(1)(2). Valle Decl., ¶ 9, Ex. 4.

III. SUMMARY OF THE SETTLEMENT

A. Terms of Settlement

Plaintiffs and Defendant agreed to settle the class claims in exchange for a Gross Settlement Amount of \$720,000.00. Settlement Agreement, § 3.1. The Gross Settlement Amount will be used to make payments for the following: (1) Individual Settlement Payments to Participating Class Members;

(2) attorneys' fees to Class Counsel of up to one-third of the Gross Settlement Amount; (3) reimbursement of Class Counsel's litigation costs of not more than \$20,000.00; (4) a Service Payment to the Class Representatives of up to \$10,000.00 each; (5) Settlement Administration fees and costs of \$24,550.00; and (6) a payment to the LWDA of \$45,000.00 pursuant to PAGA. *Id.* at § 3.2.1 – 3.2.5. Class Members' Individual Settlement Payments will be distributed after final approval of the Settlement and Defendant funds the Gross Settlement Amount. *Id.* at § 4.3. Individual Settlement Payments will be calculated by comparing the total Qualifying Workweeks for the Class to each individual Class Member's Qualifying Workweeks. *Id.* at § 3.2.4. The Settlement Administrator will calculate the actual estimated recovery to include in the Class Notice and provide the estimated low and high range of possible recovery at final approval. *Id.* at § 7.4.2; Settlement Agreement, Ex. A (Notice of Class Action Settlement). The class notice will only be provided in English. Settlement Agreement, §1.10. Once the Court grants final approval and enters judgment, Plaintiffs will provide Notice of Entry of Final Judgment and the Settlement Administrator will post the Notice on its website.

The Individual Settlement Payments to Class Members will be allocated for tax purposes as follows: 10% to wages; 90% to penalties and interest. Settlement Agreement, § 3.2.4.1. The employer-side payroll taxes on the portion allocated to wages will be paid by Defendant separately from, and in addition to the Gross Settlement Amount. *Id.* at § 4.3. No portion of the Gross Settlement Amount will revert to Defendant. *Id.* at § 3.1. Funds from uncashed or undeliverable checks will be tendered by the Settlement Administrator to the State Controller Unclaimed Property Fund in the name of the Class Member for whom the funds are designated. *Id.* at § 4.4.3.

B. Proposed Opt-Out and Objection Process

Once the Court grants preliminary approval, Defendant will have thirty court days to deliver the Class Data to the Settlement Administrator. Settlement Agreement, § 4.2. The Settlement Administrator will then have fourteen days to send Class Members the Notice of Class Action Settlement ("Class Notice") by first-class mail after checking for updated addresses through the National Change of Address database. *Id.* at § 7.4.2. The Class Notice provides information regarding the nature of the lawsuit, a summary of the substance of the settlement terms, the formula for calculating Individual Settlement Payments, the individual's estimated payout, a statement that Class Members who take no action will

1 release their claims and receive settlement checks, instructions regarding how to dispute the
2 calculations, instructions regarding how to request exclusion or object to the Settlement, the date for the
3 final approval hearing, the amounts sought for attorneys' fees and costs, the Settlement Administration
4 Costs, the Class Representative's Service Payment, and the PAGA allocation. *See* Settlement
5 Agreement, Ex. A (Class Notice).

6 The Class Notice provides instructions for Class Members who choose to exclude themselves
7 from the Settlement. *See* Settlement Agreement § 7.5.1. To opt out, Class Members are instructed to
8 submit a Request for Exclusion to the Settlement Administrator by a specified date (60 days after the date
9 of mailing of the Class Notice). *See* Settlement Agreement, Ex. A (Class Notice). Class Members do not
10 need to submit a claim form to participate in the Settlement. *Id.* Class Members are informed of how they
11 can object to the Settlement, and the Class Notice informs Class Members of the date, time, and location
12 of the final fairness and approval hearing so that they can appear in person. *Id.* The Class Notice also
13 informs Class Members to check the Administrator's website or contact Class Counsel to verify the date
14 and time of the Final Approval Hearing. *Id.* Accordingly, the content of the Class Notice complies with
15 the requirements of Cal. R. Ct. 3.766(d).

16 If Class Notice packets are returned as undeliverable, the Settlement Administrator will perform a
17 skip-trace or other search, and re-mail the Class Notice with an extended deadline, to opt out or object, of
18 14 days from the date of mailing or the original deadline, whichever is later. Settlement Agreement, §§
19 7.4.3-7.4.4. The initial 60-day notice period and extension process ensures the notice program provides
20 due process by giving Class Members enough time to determine whether they want to participate in the
21 Settlement. This means of notice is reasonably calculated to apprise Class Members of the pendency of
22 the action. *See* Cal. R. Ct. 3.766 (d)-(f).

23 **C. Proposed Release**

24 The release to be given by Class Members is limited to Defendant and each of its former and
25 present directors, officers, shareholders, owners, members, partners, parents, subsidiaries, affiliates,
26 agents, representatives, attorneys, insurers, predecessors, successors, and assigns (the "Released
27 Parties"). Settlement Agreement, § 1.41. Only Plaintiffs will agree to a general release of any and all
28 claims, whether known or unknown, which exist or may exist on Plaintiffs' behalf as of the date of the

1 Settlement, and a waiver of Civ. Code § 1542. Settlement Agreement, § 5.1.1. All Participating Class
2 Members (regardless of whether they are PAGA Group Members), will release Released Parties from
3 the following:

4 all claims that were alleged, or reasonably could have been alleged, based on the Class Period
5 facts stated in the Operative Complaint or ascertained in the course of the Action including, e.g.,
6 any and all claims involving any alleged failure to pay all wages owed, failure to pay minimum
7 wage, failure to pay overtime, failure to provide meal periods, failure to authorize and permit rest
8 breaks, failure to provide accurate itemized wage statements, failure to timely pay all wages owed
9 at termination, failure to timely pay all wages owed during employment, failure to reimburse
10 expenses, failure to provide employee personnel file, failure to keep accurate records, and unfair
11 competition under Business and Professions Code §§ 17200 et seq. Except as set forth in Section
12 5.3 of this Agreement, Participating Class Members do not release any other claims, including
13 claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing
14 Act, unemployment insurance, disability, social security, workers' compensation or claims based
15 on facts occurring outside the Class Period.

16 *Id* at § 5.2.

17 PAGA Group Members release the Released Parties from the following:

18 all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on
19 the PAGA Period facts stated in the Operative Complaint, the PAGA Notices, or ascertained in
20 the course of the Action including, e.g., any and all claims involving any alleged failure to pay
21 all wages owed, failure to pay minimum wage, failure to pay overtime, failure to provide meal
22 periods, failure to authorize and permit rest breaks, failure to provide accurate itemized wage
23 statements, failure to timely pay all wages owed at termination, failure to timely pay all wages
24 owed during employment, failure to reimburse expenses, failure to provide employee personnel
25 file, failure to keep accurate records, and unfair competition under Business and Professions Code
26 §§ 17200 et seq.

27 *Id* at § 5.3.

28 //

1 **IV. LEGAL ARGUMENTS SUPPORTING PRELIMINARY APPROVAL**

2 **A. Provisional Certification of the Class is Appropriate**

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

7 **1. The Proposed Class is Numerous and Ascertainable**

8 Whether a class is “ascertainable” is “determined by examining (1) the class definition, (2) the
9 size of the class, and (3) the means available for identifying class members.” *Reyes v. Bd. of Supervisors*,
10 196 Cal. App. 3d 1263, 1271 (1987). Here, the Class consists of all individuals employed by Defendant
11 as non-exempt employees in California at any time from December 4, 2021 to March 3, 2025 (60 days
12 after the execution of the agreement). Settlement Agreement, §1.11. Defendant’s records show the Class
13 consists of approximately 1,638 individuals, making joinder of all Class Members impracticable. Valle
14 Decl., ¶ 10. Further, the Class is readily ascertainable from Defendant’s business records because all
15 Class Members are non-exempt employees of Defendant. *Id.*

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

17 “[T]he ‘community of interest requirement embodies three factors: (1) predominant common
18 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3)
19 class representatives who can adequately represent the class.’” *Fireside Bank v. Superior Court*, 40 Cal.
20 4th 1069, 1089 (2007) (quoting *Richmond v. Dart Industries, Inc.*, 29 Cal. 3d 462, 470 (1981)).

21 **a. Common Questions Predominate**

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

27 Plaintiffs alleged that Defendant maintained uniform employment policies and/or practices that
28 illegally deprived Class Members of lawful wages, meal periods, rest breaks, accurate wage statements,

1 and waiting time pay. Valle Decl., ¶ 11. Plaintiffs' allegations present common legal and factual questions
2 of, *inter alia*, whether Defendant applied the same scheduling, timekeeping, minimum and overtime pay,
3 meal period, and rest break policies to all Class Members; whether these policies and practices resulted in
4 Labor Code violations; whether Defendant's conduct was intentional; and whether Class Members are
5 entitled to penalties. *Id.* These common questions could be resolved using Class Members' schedules,
6 time punches, and payroll records, Defendant's corporate representative's testimony, written
7 communications between Defendant and Class Members, and Class Member declarations. *Id.* Thus, the
8 Court can and should exercise its discretion to grant conditional class certification for settlement purposes.

9 **b. Plaintiffs' Claims are Typical of the Class Claims**

10 The typicality requirement is satisfied when the legal theories and facts supporting Plaintiffs'
11 claims are substantially similar to other class members. *See Classen v. Weller*, 145 Cal. App. 3d 27, 46
12 (1983). Here, Plaintiffs allege that they and other Class Members were employed by Defendant and
13 injured by Defendant's common wage and hour policies and practices, including Defendant's
14 scheduling, timekeeping, minimum wage pay, overtime pay, meal period, and rest break practices and
15 policies. Valle Decl., ¶ 12. Through documents and information exchanged in informal discovery,
16 Plaintiffs confirmed that these common policies and practices similarly affected Plaintiffs and the Class.
17 *Id.* Thus, Plaintiffs' claims arise from the same employment practices and are based on the same legal
18 theories as those applicable to other Class Members, as further explained in Plaintiffs' exposure analysis
19 below.

20 **c. Plaintiffs and Plaintiffs' Counsel Will Adequately Represent the Interests**
21 **of the Proposed Class**

22 Certification requires adequacy of both the proposed class representative(s) and proposed class
23 counsel. With respect to the class representative, a plaintiff must adequately represent and protect the
24 interests of other members of the class and demonstrate that his or her claim is not inconsistent with the
25 claims of other members of the class. *See Capitol People First v. State Dept of Developmental Servs.*,
26 155 Cal. App. 4th 676, 696-697 (2007). Here, Plaintiffs' interests are coextensive with the interests of
27 the Class. Plaintiffs demonstrated an ability to advocate for the interests of the Class by litigating this
28 action, gathering documents and information, being available on the day of mediation to answer

1 questions, meeting with their attorneys on several occasions to understand the claims and theories of
2 liability at issue, assisting attorneys in preparing for mediation, reviewing the proposed settlement
3 agreement to understand its legal effect, and obtaining a fair settlement on behalf of Class Members
4 who stand to recover a substantial amount under the Settlement. Valle Decl., ¶ 25. Moreover, Plaintiff
5 Akopyan assisted counsel in opposing Defendant’s Motion to Compel Arbitration. *Id.*

6 Likewise, Aegis Law Firm, PC and Bradley/Grombacher, LLP have expended considerable time
7 and effort on this case and will continue to do so through final approval. *See generally*, Valle Decl.
8 Accordingly, Plaintiffs should be appointed Class Representative, and Plaintiffs’ Counsel should be
9 appointed Class Counsel.

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

11 Class treatment is superior to other methods of adjudication when the probability is small that
12 each class member will come forward to prove his or her claim and when the class approach would deter
13 and redress the alleged wrongdoing. *See Linder v. Thrifty Oil Co.*, 23 Cal. 4th 429, 435, 446 (2000);
14 *Ghazaryan v. Diva Limousine, Ltd.*, 169 Cal. App. 4th 1524, 1537-1538 (2008). Here, none of the other
15 1,638 Class Members had shown any interest in bearing the expense and burden of litigating their own
16 claims. Valle Decl. ¶ 25. Thus, a class action is the superior method for seeking relief.

17 **B. The Settlement Meets the Standards for Preliminary Approval**

18 Preliminary approval is warranted if the settlement falls within a “reasonable range.” *See North*
19 *County Contractor’s Ass’n., Inc. v. Touchstone Ins. Servs.*, 27 Cal. App. 4th 1085, 1089-90 (1994);
20 *Conte & Newberg, Newberg on Class Actions*, § 11.26 (4th ed. 2002). In reviewing the fairness of a
21 class action settlement, due regard should be given to what is “‘otherwise a private consensual
22 agreement between the parties.’” *Cellphone Termination Fee Cases*, 186 Cal. App. 4th 1380, 1389
23 (2010). The inquiry “must be limited to the extent necessary to reach a reasoned judgment that the
24 agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties,
25 and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” *Id.*

26 Reasonableness and fairness are presumed where (1) the settlement is reached through “arms-
27 length bargaining”; (2) investigation and discovery are “sufficient to allow counsel and the court to act
28 intelligently”; (3) counsel is “experienced in similar litigation”; and (4) the percentage of objectors “is

small.” *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1802 (1996). The Settlement satisfies the first three factors. Plaintiffs will analyze the fourth factor at the final approval stage.

1. The Settlement is Entitled to a Presumption of Fairness

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

Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless evidence to the contrary is offered. Thus, there is a presumption that settlement negotiations are conducted in good faith. Here, the Settlement was the product of extensive investigation and a full day mediation session with a respected mediator after informal discovery. Valle Decl. ¶¶ 7-8; Bradley Decl., ¶ 10-11. The negotiations were adversarial, conducted at arm’s length and tempered by the efforts of both sides to serve the interests of their clients. *Id.* The amounts of Plaintiffs’ requested Service Awards were not negotiated until after the Parties agreed to the Gross Settlement Amount and many other terms. *Id.* at ¶ 26.

b. Plaintiffs’ Counsel Conducted Sufficient Investigation and Discovery

Plaintiffs’ Counsel thoroughly investigated the class claims, applicable law, and potential defenses. *See generally*, Valle Decl. In particular, Plaintiffs’ Counsel assessed the value of the class claims using Defendant’s data and documents produced through informal discovery. Valle Decl., ¶ 12; Bradley Decl., ¶ 10. Plaintiffs’ counsel extensively reviewed policy documents and Class Members’ time and pay records to perform a thorough analysis. *Id.* Further, Plaintiffs’ Counsel engaged an expert to quantify the potential exposure using the time and payroll records, and then assessed the risks associated with each of the claims meriting reductions in the likely recovery at trial. Valle Decl., ¶ 12. Accordingly, Plaintiffs’ Counsel fully understood the strengths and weaknesses of the claims before the Parties reached a settlement. *Id.*

c. Plaintiffs’ Counsel is Experienced in Similar Litigation

Plaintiffs are represented by Aegis Law Firm, PC and Bradley/Grombacher, LLP (“Class Counsel”). Class Counsel prosecute wage and hour class actions on behalf of employees and others who have had their rights violated. Valle Decl. ¶¶ 28-40; Bradley Decl., ¶¶ 10-17. The attorneys working on this case have been appointed class counsel in many cases, through both contested motions and

1 settlement approval motions. *Id.* Thus, Plaintiffs’ Counsel has extensive experience in similar litigation
2 and should be appointed as Class Counsel.

3 **2. The Settlement is Reasonable Given the Strengths of Plaintiffs’ Claims and**
4 **the Risks and Expense of Litigation**

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

9 While Plaintiffs and their counsel sought to certify this case, the significant risks and expenses
10 associated with class certification and liability proceedings were taken into account. Valle Decl., ¶ 14;
11 Bradley Decl., ¶ 19. To determine if the amount offered at mediation was reasonable, Plaintiffs’ Counsel
12 weighed that figure against many risk factors. Valle Decl., ¶ 15; Bradley Decl., ¶ 19. If Plaintiffs
13 continued to prosecute the claims rather than accept a settlement, Plaintiffs would have had to continue
14 opposing Defendant’s Motion to Compel Arbitration, which could have defeated their ability to recover
15 unpaid wages, premiums, reimbursements, and derivative penalties in their entirety. Valle Decl., ¶ 15.
16 Even if Plaintiffs prevailed, they would have faced deadlines to file a motion for class certification, had
17 to have engaged in formal written discovery and taken depositions, expended time and resources to
18 resolve disputes, prepared and filed potential dispositive motions and/or discovery motions, and
19 engaged in extensive trial preparation. *Id.* An adverse ruling at any one of these stages could have
20 prevented the Class from obtaining any recovery. *Id.* If Plaintiffs did not prevail in opposing the motions,
21 Plaintiffs could have had to prove their individual claims in arbitration first, then if successful, seek to
22 recover only civil penalties under PAGA on behalf of the other Class Members. *Id.*

23 a. Exposure Analysis

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

27 Compromise is inherent and necessary in the settlement process . . . even if “the relief afforded
28 by the proposed settlement is substantially narrower than it would be if the suits were to be
successfully litigated,” this is no bar to a class settlement because “the public interest may indeed

1 be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation.”

2 *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 250 (2001) (citation omitted). Here, Plaintiffs
3 contend that their claims are based on Defendant’s common, class-wide policies and procedures, and
4 that liability could be determined on a class-wide basis without dependence on individual assessments
5 of liability. Valle Decl., ¶ 13. Although the amount of Defendant’s potential exposure—if proven—is
6 substantial, the legitimate and serious risks of succeeding at class certification and trial compelled a
7 serious consideration of the benefit of a settlement. *Id.* at ¶ 15.

8 Minimum Wage and Overtime Claims: Plaintiffs alleged minimum wage and overtime claims
9 that were premised on the theories: (1) Defendant required employees to undergo COVID-19 health
10 screenings but were not compensated for the time; (2) Defendant failed to pay reporting time to
11 employees when dismissing employees early before they had worked at least 2 hours; (3) and Defendant
12 illegally rounded employees’ time punches at the start and end of their shifts. Valle Decl., ¶ 16.
13 Plaintiffs’ expert calculated a maximum potential exposure of \$1,800,000 for this claim. *Id.* However,
14 Defendant argued that it had already settled any alleged violations relating to COVID-19 health
15 screenings in *Jonetta Chatman v. CHA Hollywood Medical Center, L.P.*, Case No. 20STCV27591 filed
16 in Los Angeles County, which alone would have reduced the value of this claim by \$500,000; any
17 standby time would have affected at most 90 employees, making this claim hard to certify on a classwide
18 basis; any rounding was merely bankers’ rounding where the payment amount were rounded to the
19 nearest hundredth and rarely resulted in an underpayment to the employee; and employees were subject
20 to a collective bargaining agreement that could defeat these claims. *Id.* Given the strong defenses
21 asserted by Defendant that would significantly reduce recovery, Plaintiffs assumed there was a 10%
22 chance of success at class certification and 10% chance of success on the merits at trial, rendering the
23 claim worth approximately \$18,000. *Id.*

24 Regular Rate of Pay Claim: Plaintiffs alleged regular rate of pay claims based on the theory that
25 Defendant failed to properly calculate the regular rate of pay for sick time to include shift differentials,
26 bonuses, and other incentive payments. Valle Decl., ¶ 15. Plaintiffs calculated that this claim was worth
27 approximately \$130,000. *Id.* However, Defendant argued that its employees were subject to collective
28 bargaining agreements that provided for paid leave and exempted employees under Labor Code §

1 245.5(a)(1). *Id.* As such, Plaintiffs assumed there was a 10% chance of success at class certification
2 and 10% chance of success on the merits at trial, rendering the claim worth approximately \$1,300. *Id.*

3 Meal Period Claims: Plaintiffs alleged meal period claims based on the theories that meals were
4 interrupted by medical providers; Defendant failed to provide meal periods to employees who worked
5 at least 5 hours; Defendant failed to provide second meal periods; and failed to pay all meal period
6 premiums. Valle Decl., ¶ 18. Plaintiffs' expert found that this claim was potentially worth as much as
7 \$13,000,000. *Id.* However, Defendant argued that it substantially complied with the law by
8 implementing compliant policies, implementing an attestation policy that required employees to attest
9 daily whether they receive their meal periods; paying meal period premiums for any violations that
10 occurred based on the employee attestations; and training employees at orientation regarding taking
11 compliant meal periods and the attestation system. *Id.* These arguments were bolstered by the records
12 which showed Defendant had paid numerous meal period premiums throughout the Class Period. *Id.*
13 Moreover, Defendant argued that employees often waived their meal periods, and were subject to
14 collective bargaining agreements that would defeat this claim. *Id.* Thus, Plaintiffs discounted this claim
15 given it would be hard to certify with a compliant policy and if it was certified, the risk that the damages
16 would be dramatically reduced. *Id.* As such, Plaintiffs' counsel believed there was a 20% chance
17 succeeding at class certification and a 20% chance at trial, resulting in a value of \$520,000. *Id.*

18 Rest Break Claim: Plaintiffs alleged that Defendant failed to authorize timely rest breaks due to
19 understaffing and work demands that did not allow employees to take breaks. Valle Decl., ¶ 19. If
20 Plaintiffs could prove a 50% violation rate for each shift over 3.5 hours, then damages could reach up
21 to \$11,000,000. *Id.* However, Defendant argued that its employees were subject to collective bargaining
22 agreements that would defeat this claim entirely; Defendant had compliant rest break policies;
23 Defendant had an attestation policy that required employees to attest daily whether they received their
24 rest breaks, and paid rest break premiums if violations did occur; Defendant trained employees at
25 orientation regarding compliant rest breaks and the attestation system; and the records showed that
26 Defendant paid rest break premiums throughout the class period. *Id.* Furthermore, proving this claim
27 would have relied on Class Member testimony, making it a riskier claim at class certification and
28 liability stages. *Id.*; see also, e.g., *Rai v. CVS Caremark Corp.* (C.D. Cal. Oct. 11, 2013) 2013 U.S. Dist.

1 LEXIS 177730 (denying certification of rest break claims where competing testimony regarding actual
2 practice meant adjudication would involve predominantly individual issues); *Gonzalez v. OfficeMax North*
3 *Am.* (C.D. Cal. Nov. 5, 2012) 2012 U.S. Dist. LEXIS 163853, at *9–12 (denying certification on
4 predominance grounds where plaintiff offered no evidence that a uniform rest break policy was
5 implemented uniformly). Given the strength of Defendant’s multiple defenses, Plaintiffs’ counsel
6 believed there was a 10% chance succeeding at class certification and a 10% chance at trial, resulting
7 in a value of \$110,000. Valle Decl., ¶ 19.

8 Reimbursement of Business Expenses: Plaintiffs alleged that Defendant failed to reimburse
9 employees for cellphone usage that was necessary to carry out job related duties as to on-call time and
10 scheduling; and for failing to reimburse the cost of purchasing gloves, facemasks, and other personal
11 protective equipment during the COVID-19 Pandemic. Valle Decl. ¶ 20. Plaintiffs’ expert calculated
12 that this claim was potentially worth as much as \$680,000. *Id.* However, Defendant argued that claims
13 arising during the COVID-19 Pandemic were already released in *Jonetta Chatman v. CHA Hollywood*
14 *Medical Center, L.P.*, Case No. 20STCV27591 filed in Los Angeles County; cellphone usage was not
15 mandatory; and the reimbursement claim would apply to at most 90 employees. *Id.* Thus, Plaintiffs
16 discounted this claim for the risk that the damages could at least be reduced, and that the claim would
17 be hard to certify. *Id.* As such, Plaintiffs’ counsel believed there was a 20% chance succeeding at class
18 certification and a 20% chance at trial, resulting in a value of \$27,200. *Id.*

19 Waiting Time and Wage Statement Penalties: Plaintiffs’ Counsel also considered the arguable
20 presence of various derivative penalties, and weighed the potential recoveries against probable defenses.
21 Valle Decl. ¶ 21. Moreover, Plaintiffs alleged that Defendant provided inaccurate wage statements that
22 included incorrect rates of pay, leading to incorrect amounts of wages earned when calculating wages
23 based on the amounts listed on the face of the wage statement. *Id.* However, Defendant could argue that
24 Plaintiffs could not prove the “willful” prong needed to obtain waiting time penalties under Labor Code
25 § 203. *Id.* Additionally, Defendant could argue that Plaintiffs could not show that Class Members suffered
26 an “injury” as a result of wage statement violations, as required by Labor Code § 226, or that the wage
27 statements correctly reflected the wages paid and owed. *Id.* These defenses were bolstered by the
28 California Supreme Court’s then-recent decision in *Naranjo v. Spectrum Security Services, Inc.*, 15

1 Cal.5th 1056 (2024), which was decided shortly after the Parties’ mediation, while the Parties were still
2 negotiating with the assistance of the mediator. *Id.* Although the Class arguably could have seen a payout
3 of approximately \$7,500,000 for waiting time penalties and \$5,600,000 for wage statement penalties,
4 Plaintiffs would not recover any of these derivative penalties if they failed to prove the underlying claims.
5 *Id.* Thus, Plaintiffs discounted these claims, assuming a 20% chance of class certification and 10% chance
6 on the merits for the derivative waiting time claim, resulting in a realistic value of \$150,000. *Id.* Plaintiffs
7 also assumed a 30% chance of certifying the wage statement claim and a 30% chance on the merits,
8 resulting in a realistic valuation of \$504,000 for the wage statement claim after the *Naranjo* decision. *Id.*

9 Arbitration Agreements: Plaintiffs also assessed the risks involved with the pending Motion to
10 Compel Arbitration, which if granted, would defeat Plaintiffs’ class claims, and potentially, compel
11 Plaintiffs to adjudicate their PAGA standing in arbitration before being able to litigate any representative
12 claim of other employees. Valle Decl. ¶ 23. Plaintiffs’ counsel believed that they had a 50% chance of
13 defeating the motion and preventing the class claims from being stricken. *Id.* As such, Plaintiffs’ counsel
14 reduced the value of the aforementioned claims by another 50% to account for the risks of defending this
15 motion, resulting in a collective valuation of \$665,250 for these claims. *Id.*

16 PAGA Claim: The PAGA claim presented even higher hurdles. Valle Decl. ¶ 23. Although
17 Plaintiffs’ Counsel found Defendant’s exposure could potentially reach up to \$10,720,000 under Lab.
18 Code § 2699, assuming the subsequent penalty rate of \$200 for each pay period due to the *Chatman*
19 case, Plaintiffs would have to prove a violation in every pay period. *Id.* Most importantly, the Court
20 would have discretion to reduce the PAGA award based on whether the amount of the award would be
21 “unjust, arbitrary and oppressive, or confiscatory.” Lab. Code § 2699(e)(2). In theory, the Court could
22 reduce the award by 99% if it so wished. Plaintiffs were doubtful they could recover substantial PAGA
23 penalties. Valle Decl. ¶ 23. Here, there was a significant risk that the Court would use its discretion to
24 reduce PAGA penalties where employees were part of a union and there was a collective bargaining
25 agreement covering their employment, Defendant had compliant policies, Defendant paid premiums,
26 Defendant had meal period waivers, and Defendant operated a hospital. *Id.* Accordingly, Plaintiffs could
27 not place a high value on the PAGA penalties, and therefore allocated \$60,000 of the Gross Settlement
28 Amount to settle these claims. *Id.*

1 **C. The Requested Service Awards for Plaintiffs**

2 Plaintiffs seek Service Awards of up to \$10,000.00 each for accepting the responsibilities of
3 representing the interests of the Class and assuming risks and potential costs that were not borne by any
4 other Class Members. Settlement Agreement, § 3.2.1. A named plaintiff is eligible for payment that
5 reasonably compensates him or her for undertaking and fulfilling a fiduciary duty to represent absent
6 class members. *See Cellphone Termination Fee Cases, supra*, 186 Cal. App. 4th at 1393; *Bell v. Farmers*
7 *Ins. Exch.*, 115 Cal. App. 4th 715, 726 (2004).

8 Here, Plaintiffs had the option to pursue their claims individually, but instead chose to pursue this
9 class action, delaying individual recovery until approval of a class action settlement. Valle Decl., ¶ 25;
10 Declaration of Aida Akopyan (“Akopyan Decl.”), ¶¶ 4; Declaration of Eric Mercado (“Mercado Decl.”),
11 ¶ 7. Throughout the case, Plaintiffs assisted counsel in gathering the evidence necessary to prosecute
12 the class claims, maintained regular contact with counsel, were available on the day of mediation and
13 communicated with their attorneys during the day of mediation to answer critical questions, signed a
14 general release of claims, and reviewed the Settlement to make sure it was fair to the Class. Mercado
15 Decl., ¶¶ 8-9, 15-19; Akopyan Decl., ¶ 7. Moreover, Plaintiff Akopyan assisted counsel in their attempts
16 to defeat the Motion to Compel Arbitration, and forfeited her individual claim in order to settle this
17 case. Akopyan Decl., ¶¶ 8, 11-13. No action would likely have been taken by Class Members
18 individually, and no compensation would have been recovered for them, but for Plaintiffs’ services on
19 behalf of the Class. Valle Decl., ¶ 25.

20 By actively pursuing this action, Plaintiffs furthered the California public policy goal of enforcing
21 the State’s wage and hour laws. *See Sav-On Drug Stores, Inc., supra*, 34 Cal. 4th at 340. The requested
22 Service Award for Plaintiffs’ service as the class representative and for a general release of all
23 employment claims is reasonable and should be preliminarily approved.

24 **D. The Requested Attorneys’ Fees and Costs**

25 The purpose of an attorneys’ fee award in class action litigation is to reward counsel who invested
26 in a case despite the risk of non-payment and achieved a substantial positive result for the class.
27 Attorneys’ fees are awarded as a matter of equity. California courts routinely award attorneys’ fees
28 equaling one-third or more of the potential value of the common fund. *See Chavez v. Netflix, Inc.*, 162

1 Cal. App. 4th 43, 66, n.11 (2008) (“Empirical studies show that, regardless of whether the percentage
2 method or the lodestar method is used, fee awards in class actions average around one-third of the
3 recovery”).

4 Plaintiffs seek appointment of Aegis Law Firm, PC and Bradley/Grombacher, LLP as Class
5 Counsel. The attorneys performed significant work and expended litigation costs in prosecuting the
6 matter with no guarantee of any payment. Valle Decl., ¶ 41. Plaintiffs’ Counsel seeks preliminary
7 approval for \$240,000.00 in attorneys’ fees, which is up to one-third of the Gross Settlement Amount,
8 and up to \$27,000.00 in reimbursement of litigation costs. Given the work performed in this matter, the
9 extensive information exchange, and substantial recovery obtained on behalf of Plaintiffs and the Class,
10 Plaintiffs’ Counsel achieved a settlement through efficient and diligent work. *See generally*, Valle Decl.,
11 Bradley Decl. At final approval, Plaintiffs’ Counsel will fully brief the merits of its request for the award
12 of attorneys’ fees and litigation costs. Valle Decl., ¶ 42.

13 **V. CONCLUSION**

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

18
19 Dated: January 10, 2025

AEGIS LAW FIRM, PC

20
21 By: 

22 Alex J. Valle
23 Attorneys for Plaintiff
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