David Mara, Esq. (SBN 230498)
Carter Cordura, Esq. (SBN 359252)
MARA LAW FIRM, PC
3160 Camino Del Rio South, Suite 207
San Diego, California 92108
Telephone: (619) 234-2833
Facsimile: (619) 234-4048

LIDMAN LAW, APC
Scott M. Lidman (SBN 199433)
Milan Moore (SBN 308095)
Tiara Gose-Hardy (SBN 323823)
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiffs

[additional counsel on the following page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BERNARDINO

DEANDRE PIERCE, on behalf of himself, all others similarly situated, and on behalf of the general public,

Plaintiffs,

v.

QUALITY DRIVE AWAY, INC.; and DOES 1-100,

Defendants.

DEON GENTRY and DEON GENTRY, JR., as individuals and on behalf of all other Aggrieved Employees,

Plaintiffs,

v.

QUALITY DRIVE AWAY, INC., an Indiana corporation; and DOES 1 through 100, inclusive,

Defendants.

Case No. CIVSB2313410

[Consolidated with Case No. CIVSB2322025]

[Assigned for all purposes to Hon. Joseph T. Ortiz, Dept. S17]

PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT, CONDITIONAL CERTIFICATION, APPROVAL OF CLASS NOTICE, SETTING OF FINAL APPROVAL HEARING DATE

Judge: Honorable Joseph T. Ortiz
Dept: S17
Date: August 11, 2026
Time: 1:30 p.m.

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiffs

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

I. INTRODUCTION

Plaintiffs Deandre Pierce and Deon Gentry Jr. ("Plaintiffs"), on behalf of themselves and the approximately 213 -member putative class,[1] respectfully request that this Court preliminarily approve the Joint Stipulation and Settlement Agreement (hereinafter "Agreement"[2]) entered into between Plaintiffs and Defendant Quality Drive Away, Inc. ("Defendant") (collectively, Plaintiffs and Defendant are the "Parties"). The Agreement seeks to resolve claims against Defendant in this matter in exchange for a non-reversionary $2,000,000 Gross Settlement Amount. The proposed Class is comprised of all drivers who contracted with Defendant, were assigned a home terminal in the State of California, and were classified as independent contractors at any time from June 12, 2019, to May 11, 2026. (**Ex. 1** at ¶ 1).

It is requested that the Court grant preliminary approval as, when analyzing the strengths and vulnerabilities of the claims and Defendant's potential liability exposure, this proposed settlement of $2,000,000 is within the range of reasonableness. This settlement is estimated to pay Class Members an average payment of $5,229.23.

The proposed Agreement satisfies all the criteria for preliminary approval. Accordingly, Plaintiffs seek: (1) preliminary approval of the terms of the Agreement; (2) provisional certification of the Class; (3) appointment of Plaintiffs as Class Representatives; (4) appointment of Mara Law Firm, PC, Lidman Law, APC, and Haines Law Group, APC, as Class Counsel; (5) approval of the Parties' Notice of Class Action Settlement[3] (referred to herein as the "Class Notice" or "Notice") and method of notifying the Class about the settlement; and (6) a hearing date for final approval.

II. BACKGROUND

Defendant is a vehicle delivery company that delivers utility trucks, buses, recreational vehicles and other vehicles from manufacturers to dealers and customers throughout the USA. Defendant hires drivers like Plaintiffs as independent contractors to perform the delivery services.

On June 12, 2023, Plaintiff Deandre Pierce filed a wage and hour class action against Defendant in San Bernardino County Superior Court, Case No. CIVSB2313410 (the "Pierce

---

[1] There are approximately 128 PAGA aggrieved employees.
[2] The Parties' Agreement is attached to the Declaration of David Mara, Esq. ("Mara Dec.") as **Exhibit 1**. "**Ex. 1**" herein refers to the Parties' Agreement.
[3] The Class Notice is attached to the Agreement as **Exhibit B**.

Action”). In the Pierce Action, Pierce alleged the following causes of action: failure to pay all straight time wages at statutory minimum wage; knowing an intentional failure to comply with itemized employee wage statement provisions; failure to pay all wages due at the time of termination of employment; failure to reimburse/illegal deductions; and violation of unfair competition law. Mara Dec. at ¶ 13;

On June 22, 2023, Deon Gentry, Jr. gave written notice to the Labor Workforce and Development Agency (“LWDA”) and filed a wage and hour class action against Defendant in San Bernardino County Superior Court, Case No. CIVSB2314287 (the “Gentry Class Action”). Declaration of Scott M. (“Lidman Dec.”) at ¶ 10, Exh. 1. On August 28, 2023, Deon Gentry, Jr. filed a separate action against Defendant in San Bernardino County Superior Court, Case No. CIVSB2322025 asserting a single claim for civil penalties under the Labor Code Private Attorneys General Act (“PAGA”) (the “Gentry PAGA Action”). Lidman Dec. at ¶ 11 .

On March 11, 2025, pursuant to a Stipulation between the Parties, the Court consolidated the Pierce Action with the Gentry PAGA Action (Case No. CIVSB2313410) being the lead action. On March 29, 2024, a First Amended Complaint was filed in the Pierce Action which added Plaintiff Deon Gentry, Jr. and his claims to the case. On April 4, 2024, the Court in the Gentry Class Action dismissed the action without prejudice because the parties and claims were included in the Pierce Action. Lidman Dec. at ¶ 12.

III. INVESTIGATION AND LITIGATION HISTORY

a. Discovery and Investigation

The Parties have engaged in significant discovery. Both Parties propounded and responded to formal written discovery. Notably, both Parties conducted sufficient discovery such that they were prepared and fully able to brief the issues for class certification. Defendant produced thousands of documents including driver contracts, time and activity records, hours of service log books, driver payroll and wage records, driver handbooks, driver training and onboarding materials, and other policies relating to drivers. Moreover, Defendant produced a class list after completing a Belaire West notice procedure. Plaintiffs engaged in substantial communications with class members after receiving this list. In addition, Plaintiffs took the depositions of Defendant’s Person Most Qualified witnesses, William James Martin and retained an expert in this matter as part of its filing of a Motion for Class Certification. Likewise, Defendant took the

Depositions of Plaintiff Deandre Pierce and Plaintiff Deon Gentry Jr. Mara Dec. at ¶ 17; Lidman Dec. at ¶ 13. The discovery, investigation, and litigation process has been adequate to give Class Counsel a sound understanding of the value, strength, and vulnerabilities of the Class claims. From this discovery and data, Plaintiffs and their Counsel were able to analyze Defendant's liability and prepare a realistic damage model, and file a Motion for Class Certification on September 30, 2025. Dec. at ¶ 18; Lidman Dec. at ¶ 14.

b. Settlement Negotiations

The Parties attended two full-day mediations. The Parties held the first mediation with respected wage and hour mediator Kelly Knight on February 11, 2025, which was unsuccessful. The Parties proceeded with litigation and preparing for class certification. After Defendant filed its Opposition to Class Certification, but prior to Plaintiffs filing their Reply, the Parties agreed to attend a second mediation with respected wage and hour mediator Stephanie Chow on March 12, 2026, which ultimately resulted in the present settlement. Mara Dec. at ¶ 19; Lidman Dec. at ¶ 14.

c. The Parties' Conflicting Positions

i. Classification of Drivers as Independent Contractors

The central issue in this matter is Plaintiffs' contention that Defendant misclassified Plaintiffs and similarly situated drivers as independent contractors. In order to recover anything in this matter, Plaintiffs would have to prove that the contracted drivers are actually employees. The ABC test governs whether a worker is to be considered an independent contractor or an employee. An independent contractor classification is only proper if all of the following conditions of the ABC Test are satisfied:

> A) The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.
> (B) The person performs work that is outside the usual course of the hiring entity's business.
> (C) The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

Cal. Lab. Code. § 2775; *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* (2018) 4 Cal. 5th 903, 955-56. Mara Dec. at ¶ 20.

Plaintiffs lean heavily on the argument that Defendant cannot satisfy Prong B because drivers preform work within Defendant's usual course of business. Notably, Defendant displays on its website that its business is "delivering and transporting commercial trucks, busses, and recreational vehicles." Plaintiffs and class members are the ones who deliver and transport said trucks, buses, and vehicles. As such, Plaintiffs contend they work within Defendant's usual course of business and were misclassified. Plaintiffs also assert that Prong A could not be satisfied because Defendant controlled nearly every aspect of the delivery details. Namely, Defendant told drivers when they needed to pick up deliveries, Defendant told drivers when they needed to complete deliveries by, and Defendant provided numerous instructions that drivers had to follow during deliveries. Mara Dec. at ¶ 21.

Defendant raises two primary defenses to the misclassification claim. First, Defendant argues that Indiana law, as opposed to California law, applies to whether an employment relationship has formed. Defendant relies on its driver contract agreements which include an Indiana choice-of-law provision. Defendant notes that this choice-of-law issue would render class certification completely improper because, in order to determine what law applies, the Court would have to inquire into where class members primarily reside and work, which Defendant argues can only be done on an individualized basis. Defendant notes that this would render any trial completely unmanageable, particularly considering drivers preform work all throughout the country. Plaintiffs counter that the choice-of-law issue would pose no threat to certification given the provision merely suggests that Indiana law will apply to contract interpretation disputes. Plaintiffs contend that this is not a dispute over what the driver contracts say, but rather whether Defendant violated employee protections under California law. Nevertheless, if Defendant's defense here were successful, all of Plaintiffs' claims would fail. Mara Dec. at ¶ 22.

Second Defendant argues that it does properly classify drivers as independent contractors, and that Plaintiffs attempt to oversimplify the analysis of the ABC test. Defendant notes that Indiana has a substantively identical ABC test, and that the Indiana Supreme Court in *Q.D.A., Inc. v. Indiana Dep't of Workforce Dev.* (Ind. Sup. Ct. 2019) 114, N.E. 3d 840, 845-848, already determined that Defendant has properly classified its drivers as independent contractors. Specifically, the Indiana Supreme Court found that Defendant was effectively a brokerage that simply connected drivers with customers who needed hauling services. Thus, the court ruled that Defendant's business is distinct from the drivers and that Defendant did not control the work of drivers. While this is not a California Supreme Court decision, it involves the same Defendant and addresses the very issue that is at the heart of this case. Again, Plaintiffs would recover nothing if this Court sided with the Indiana Supreme Court, and thus considerable weight had to be given to this argument in evaluating settlement. Mara Dec. at ¶ 23.

ii. Unpaid Minimum Wages Claims

Plaintiffs contend that Defendants failed to pay class members minimum wage for all hours worked. Plaintiffs assert that Defendant only pays drivers by the mile or by the trip, which exclusively compensates drivers for hauling tasks and fails to compensate drivers for other required work. Mara Dec. at ¶ 24. However, these underlying claims are entirely contingent on Plaintiffs prevailing on the misclassification claim. Should the misclassification claim fail, all of Plaintiffs underlying claims would also fail. Moreover, relying on the California Supreme Court's decision in *Oman v. Delta Air Lines, Inc.*, 9 Cal. 5th 762, 781 (2020), wherein the Court ruled that "compensation owed to employees is a matter determined primarily by contract;" Defendant argues that its contracts are not so limited in their compensation. Rather, Defendant argues, its contracts specify that it pays drivers for all tasks, including driving and non-driving tasks. Mara Dec. at ¶ 25.

iii. Unlawful Deductions/Failure to Reimburse Business Expenses

Plaintiffs contend, that Defendants unlawfully deducted business expenses from class members.[4] Plaintiffs claim that Defendant extracted money from Plaintiffs and class members to pay for expenses encountered during their runs, such as for lodging or fuel. Notably, Defendant would give drivers an "advance" which Plaintiffs claim was strictly meant to pay for fuel for trips. Defendant would then inevitably claw back and deduct these advances, and thus force drivers to incur costs for fuel for every trip. Mara Dec. at ¶ 26. Defendant reiterates that this underlying claim is worthless considering Plaintiffs and drivers are not employees but independent contractors. Defendant also argues that Plaintiffs are incorrect and that there is no mandate that the advanced funds could only be used for fuel. Instead, Defendant claims that advances could be used as the drivers saw fit. Moreover, Defendant claims that it could provide declarations from drivers

[4] Under Labor Code section 2802, the employer must "indemnify its employees for expenses they necessarily incur in the discharge of their duties[.]" The California Supreme Court in *Gattuso v. Harte-Hanks Shoppers, Inc.*, makes clear that the goal of section 2802 is "to prevent employers from passing on their operating expenses to their employees." *Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal. 4th 554, 569-71.

proving that drivers regularly used advanced funds for non-work related purposes. Thus, Defendant maintains that whether, and the extent to which, business expenses were incurred could not be adjudicated on a class-wide basis and would be riddled with individualized inquiries. Mara Dec. at ¶ 27.

iv. Wage Statements and Waiting Time Penalties

Plaintiffs also bring derivative claims for failure to provide accurate itemized wage statements and timely pay final wages by virtue of Defendant's failure to pay for all hours worked and unlawful business expense deductions. Not only are these claims dependent on the success of Plaintiffs' underlying claims, but they are dependent on drivers being misclassified as independent contractors. Should Plaintiffs' misclassification claim or the underlying unpaid wages and unlawful deduction claims fail, these claims would also follow suit. Mara Dec. at ¶ 28. In addition, Defendant contends that even if Plaintiffs were successful in their underlying claims, they would have to prove Defendant "willfully" failed to pay employees the appropriate wages and premiums due upon separation of employment. Defendant contends that any failure to pay wages due at the separate of employment was not willful and that it would not be liable for waiting time penalties because a "good faith dispute" exists over the payment of those wages.[5] Defendant also argues that Plaintiffs' underlying claims cannot form the basis of their wage statement claim.[6] Mara Dec. ¶ 28.

v. PAGA

Plaintiffs' main PAGA claim arises under Labor Code section 226.8, for the willful misclassification of drivers as independent contractors.[7] Plaintiffs claim that Defendant's misclassification was willful considering California's ABC test has been in effect throughout the entirety of the class period. Moreover, that Defendant had no legitimate basis to believe in the lawfulness of its classification, particularly considering drivers preform work that is central to Defendant's business. Mara Dec. at ¶ 29. However, Defendant maintains confident that Plaintiffs'

[5] *See* Cal. Code Regs. Tit. 8 § 13520; *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1201.

[6] *Maldonado v. Epsilon Plastics, Inc.* (2018) 22 Cal.App.5th 1308, (noting employees do not suffer injury under California Labor Code § 226(a) so long as the wage statements correctly reflected the hours worked and the pay received even if the pay is later determined to be inaccurate).

[7] Under Labor Code, section 226.8, a person or entity that willfully misclassifies an employee as an independent contractor "shall be subject to a civil penalty of not less than ten thousand dollars ($10,000) and not more than twenty-five thousand dollars ($25,000) for each violation."

misclassification claim could be defeated both at certification and on the merits for the reasons discussed previously. Defendant notes, at the very least, that its classification could not be considered willful. Specifically, Defendant points out that Indiana has a nearly identical ABC test and the Indiana Supreme Court, as discussed above, sided with Defendant when facing the same issues Plaintiffs present here. Thus, the question on the willfulness here would come down to whether Defendant reasonably relied on that ruling or should have known California would rule differently. Under these circumstances, Plaintiffs had to factor this defense in their evaluation of willful misclassification for settlement purposes. Mara Dec. at ¶ 30.

IV. TERMS OF THE PROPOSED SETTLEMENT

Under the terms of the settlement, Defendant will create a non-revisionary settlement fund of $2,000,000. Defendant will also be responsible for its portion of the payroll taxes.

a. Deductions from the Settlement

The Parties have agreed that this action be settled and compromised for the non-reversionary total sum of $2,000,000 ("Gross Settlement Amount" or "GSA"), which includes, subject to Court approval: (a) attorneys' fees of up to $700,000 (35% of the GSA)[8] to compensate Class Counsel for work already performed and all work remaining to be performed in documenting the settlement, administrating the settlement, and securing Court approval; (b) litigation costs estimated at approximately, and not to exceed, $60,000;[9] (c) a Class Representative Service Payments to the named class representatives, Deandre Pierce and Deon Gentry Jr., in an amount not to exceed $20,000 each ($40,000 total) in consideration for prosecuting this class action, serving as Class Representatives, work performed including responding to discovery and preparing for and sitting for depositions, and risks undertaken for the payment of attorneys' fees and costs in the event he had been unsuccessful in the matter; (d) settlement administration fees and expenses to Phoenix Settlement Administrators (hereinafter "Phoenix"), estimated not to exceed approximately $11,175;[10] and (e) $75,000 allocated to Plaintiff's claims under the PAGA. Of this

[8] Although Plaintiffs' Counsel seeks attorneys' fees under the percentage method, Plaintiffs' Counsel will also provide the Court with their lodestar information at final approval.

[9] These will be tabulated and presented to the Court at final approval. Plaintiffs will only seek the amount of actual costs incurred during the litigation of this case. Should the actual costs exceed $60,000, Plaintiffs will only seek reimbursement of costs up to $60,000. Should the actual costs be lower than $60,000, the difference will be added to the Net Settlement Amount for disbursement to Participating Class Members.

[10] Phoenix will present to the Court a declaration in conjunction with the final approval motion outlining the costs of the settlement administration process. If the settlement administration costs are lower than the amount allocated in the

payment, 75%, or $56,250 will be provided to the LWDA, and 25%, or $18,750, will be available for distribution to Aggrieved Employees.[11]

b. Calculation of Settlement Payments to Class Members

After all Court-approved deductions from the GSA, it is estimated that $1,113,825 ("Net Settlement Amount" or "NSA"), will be distributed to Participating Class Members. Participating Class Members will receive a proportionate share of the NSA, less applicable withholdings, based on the number of trips worked as an independent contractor driver during the Class Period. *See* **Ex. 1** at ¶ 5(D)(i). In addition, PAGA Class Members will receive a pro-rated share of the Net PAGA Settlement Amount, less applicable withholdings, based on the number of trips worked as an independent contractor driver during the during the PAGA Period. **Ex. 1** at ¶ 5(E).

c. Notice to the Class

Within 10 business days after entry of the Preliminary Approval Order, Defendant shall send an electronic database with the Class and PAGA Data to the Settlement Administrator. **Ex. 1** at ¶ 10(A). Within 10 business days after receipt of the database, the Settlement Administrator will perform a NCOA database search and mail the Class Notice to Class Members. **Ex. 1** at ¶ 10(B). After notices are mailed, Class Members have 60 days to respond. **Ex. 1** at ¶ 10(C). Class Members may respond to the settlement by requesting to be excluded from it or objecting to it. **Ex. 1** at ¶ 10(C)-(D). Class Members can also submit a dispute as to the number of trips attributed to them. **Ex. 1** at ¶ 10(E).

d. Distribution of Funds

Pursuant to the Agreement, the GSA shall be funded by Defendant in three installments and distributed through two distributions.

Defendant shall deposit the First Installment payment of $1,000,000 to the Settlement Administrator by the later of December 12, 2026, or 30 calendar days after the Effective Date. **Ex. 1** at ¶ 4(B)(1). Within ten (10) calendar days following Defendant's deposit of the First Installment, the Settlement Administrator shall calculate the amounts owed for the First Distribution. The First Distribution will be paid by the Settlement Administrator as follows: (1) Plaintiffs' full Class

---

Agreement, the difference will be added to the Net Settlement Amount for distribution to Participating Class Members.

[11] Aggrieved Employees are all drivers who contracted with Defendant, were assigned a home terminal in the State of California and were classified as independent contractors at any time from June 22, 2022, to May 11, 2026. Exhibit 1at ¶ 2.

Representative Service Awards awarded by the Court; (2) Fifty Percent (50%) of Class Counsel's attorneys' fees awarded by the Court; (3) the full costs/expenses to Class Counsel awarded by the Court; (4) the full Settlement Administrator expenses; (5) the full PAGA civil penalties approved by the Court to both the LWDA and Aggrieved Employees; and (6) after the amounts described above are deducted from the First Installment, the remaining partial sum of the Net Settlement Amount will be paid as partial Settlement Awards to the Class Members who do not opt out of the Settlement. Within seven (7) calendar days of approval by counsel for the Parties of the First Distribution amounts, the Settlement Administrator will prepare and send the amounts described above and as approved by the Court. **Ex. 1** at ¶ 5(B).

For the Second Installment, Defendant shall deposit with the Settlement Administrator $500,000, which shall be paid in four (4) quarterly installments commencing three (3) months after the First Installment is paid by Defendant (where each quarterly installment shall be paid before the last date of the applicable calendar month). **Ex. 1** at ¶ 4(B)(2). Similarly, for the Third Installment, Defendant shall deposit the with the Settlement Administrator $500,000, which shall be paid in four (4) quarterly installments commencing three (3) months after the Second Installment is paid by Defendant. **Ex. 1** at ¶ 4(B)(3). Within ten (10) calendar days following Defendant's deposit of the final payment of the Third Installment of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate amounts owed as part of what is defined as the "Second Distribution" and provide the same to counsel for the Parties for review and approval. The Second Distribution will be paid by the Settlement Administrator as follows: (1) the remaining Fifty Percent (50%) of Class Counsel's attorneys' fees awarded by the Court; and (2) the remaining partial sum of the Net Settlement Amount will be paid as the remaining portions of the Settlement Awards to the Class Members who do not opt out of the Settlement. Within seven (7) calendar days of approval by counsel for the Parties of the Second Distribution amounts, the Settlement Administrator will prepare and send the amounts described above and as approved by the Court. **Ex. 1** at ¶ 5C)

e. Release of Claims

In exchange for a portion of the Net Settlement Amount, All Participating Class Members shall release and discharge the Released Parties from any and all causes of action, claims, rights, damages, liquidated damages, punitive or statutory damages, penalties, interest, attorneys' fees, costs, liabilities, expenses, and losses based on or arising from the factual predicates alleged, or that reasonably could have been alleged, in the operative First Amended Complaint in the Pierce Action, or which could have been pled in the operative First Amended Complaint in the Pierce Action during the Class Period, including, but not limited to: (a) any alleged failure to pay all minimum wages due; (b) any alleged failure to timely pay wages at separation of employment; (c) any alleged failure to provide compliant and accurate wage statements; (d) any alleged failure to reimburse business expenses; (e) any alleged unlawful deductions from wages; and (f) any right or claim for unfair business practices in violation of California Business & Professions Code § 17200 *et seq.* based on the foregoing alleged claims; (collectively, "Released Class Claims"). This release is limited to the Class Period from June 12, 2019, to May 11, 2026. Mara Dec., **Ex. 1** at ¶3(A)-(B).

Additionally, in his capacity as a private attorney general "aggrieved employee" acting on behalf of himself, the State of California and the PAGA Employees (collectively, "PAGA Releasors"), and in consideration of the PAGA Amount (defined below), Plaintiff Deon Gentry Jr., on behalf of the PAGA Releasors, releases and discharges the Released Parties from any and all Released PAGA Claims (defined below) that arose during the PAGA Period. All Aggrieved Employees, whether they submit a Request for Exclusion or not, are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all individual and representative claims for civil penalties under PAGA that were alleged, or reasonably could have been alleged, in the operative Gentry PAGA Action Complaint or the PAGA Notice, including, but not limited to, claims for the following: (a) any alleged failure to pay all minimum wages due; (b) any alleged failure to timely pay wages at separation of employment, (c) any alleged failure to provide compliant and accurate wage statements; (d) any alleged failure to reimburse business expenses; (e) any alleged unlawful deductions from wages; (f) any right or claim for unfair business practices in violation of California Business $: Professions Code $ 17200 et seg. based on the foregoing alleged claims; (g) any alleged failure to properly classify them as employees; and (h) any right or claim for civil penalties pursuant to the California Labor Code, the California Industrial Welfare Commission Wage Orders, the California Private Attorneys General Act of 2004 (Cal. Lab. Code

*§ 2698, et seg.) based on the foregoing alleged claims, during the PAGA Period (collectively, "Released PAGA Claims"). The time period for the release of the PAGA Released Claims shall be limited to the PAGA Period from June 22, 2022, to May 11, 2026. **Ex. 1** at ¶3(C)-(D).

Moreover, Plaintiffs have also agreed to a general release of their claims. **Ex. 1** at ¶3(E).

V. ARGUMENT

a. Class Action Settlements are Subject to Court Review and Approval Under the California Rules of Court

California Rules of Court, rule 3.769 requires court approval for class action settlements.[12] "Before final approval, the court must conduct an inquiry into the fairness of the proposed settlement." (California Rules of Court, Rule 3.769(g)). Rule 3.769 further requires a noticed motion for preliminary approval of class settlements. Courts act within their discretion in approving settlements that are fair, not collusive, and take into account "all the normal perils of litigation as well as the additional uncertainties inherent in complex class actions." *In re Beef Industry Antitrust Litigation* (5th Cir. 1979) 607 F.2d 167, 179, cert. den. sub nom. *Iowa Beef Processors, Inc. v. Meat Price Investigators Ass'n* (1981) 452 U.S. 905.

b. The Settlement is Fair, Reasonable, and Adequate

In deciding whether to approve a proposed class action settlement under Code of Civil Procedure § 382, the Court must find that a proposed settlement is "fair, adequate and reasonable." *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801. A proposed class action settlement is **presumed** fair under the following circumstances: (1) the parties reached settlement after arms-length negotiations; (2) investigation and discovery were sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. *Dunk v. Ford Motor Co.*, *supra*, at 1802. As the following shows, all of these elements – with the exception of the percentage of objectors, which cannot be anticipated at this stage of the litigation – bearing on the fairness of the proposed settlement are present here and the Court's grant of preliminary approval is therefore requested.

i. The Settlement was Reached as a Result of Arm's-Length Negotiations

The settlement was reached as a result of arm's-length negotiations. Though cordial and

[12] The California Supreme Court also has authorized California's trial courts to use Federal Rule 23 and cases applying it for guidance in considering class issues. *See Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821; *Green v. Obledo* (1981) 29 Cal.3d 126, 145-146. Where appropriate, therefore, the Parties cite Federal Rule 23 and federal case law in addition to California law.

professional, the settlement negotiations have been, at all times, adversarial and non-collusive in nature. Prior to, at, and after the mediation, Counsel for the Parties conducted extensive arm's length settlement negotiations until the settlement was reached. The terms of the settlement are memorialized in the Agreement which is attached to the Declaration of David Mara, Esq. as Exhibit 1. While Plaintiffs believe in the merits of their case, they also recognize the inherent risks of litigation and understand the benefit of the class receiving settlement funds immediately as opposed to risking continued litigation, achieving and maintaining class certification, preparing for and conducting a trial, and/or an appeal that may take several more years to litigate.

ii. The Settlement is the Result of Thorough Investigation and Discovery

The Parties thoroughly investigated and evaluated the factual strengths and weaknesses before reaching the proposed settlement, and engaged in sufficient investigation, research and discovery to support the settlement. The settlement was only possible following investigation, discovery, and evaluation of Defendants' policies and procedures, as well as the data produced for the class, which permitted Class Counsel to engage in a comprehensive analysis of liability and potential damages. This litigation has reached the stage where "the Parties certainly have a clear view of the strengths and weaknesses of their cases" sufficient to support the settlement. *Boyd v. Bechtel Corp.* (N.D.Cal. 1979) 485 F.Supp. 610, 617.

iii. Counsel for Both Parties are Experienced in Similar Litigation

Both Plaintiffs' Counsel and Defendant's Counsel are particularly experienced in wage and hour employment law and class actions. Plaintiffs' Counsel has significant experience in litigating unpaid wages, unprovided meal and rest periods, and wage statement claims. (Mara Dec. ¶¶ 2-12; Lidman Dec. ¶¶2-8.; Declaration of Paul K. Haines ("Haines Dec.")_¶¶2-8; Declaration of Milan Moore, ¶¶2-5; Declaration of Tiara Gose-Hardy, ¶¶2-4. Indeed, Plaintiffs' Counsel at Mara Law Firm, PC, was class counsel in *Hohnbaum et al. v. Brinker Restaurant Corp et al.,* which is the subject case in the landmark decision of *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. (Mara Dec. ¶ 4). Plaintiffs' Counsel has prosecuted numerous wage and hour class action cases on behalf of employees for California Labor Code violations and thus are experienced and qualified to evaluate the class claims and to evaluate settlement versus trial on a fully informed basis, and to evaluate the viability of the defenses. This experience instructed Plaintiffs' Counsel on the risks and uncertainties of further litigation and guided their determination to endorse the proposed settlement.[13] Defendant's Counsel practices labor and employment law and have represented numerous employers in similar types of claims. Accordingly, both Parties' Counsel are experienced in wage and hour employment law and class actions.

iv. The Proposed Settlement is a Reasonable Compromise of Claims

An understanding of the amount in controversy is an important factor in determining whether the settlement "of the class members' claims is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation." *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129; *see also Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 409. The most important factor in this regard is "the strength of the case for plaintiffs on the merits, balanced against the amount offered in settlement." *Id.*

In weighing the strength of the plaintiff's case, *Kullar* instructs that the court is not to "decide the merits of the case or to substitute its evaluation of the most appropriate settlement for that of the attorneys." *Kullar, supra,* 168 Cal.App.4th at 133. *Kullar* does not require an explicit statement of the maximum amount the plaintiff class could recover if it prevailed on all its claims, provided there is a record which allows "an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation." *Munoz*, *supra,* 186 Cal.App.4th at 409. Put differently, "as the court does when it approves a settlement as in good faith under Code of Civil Procedure § 877.6, the court must at least satisfy itself that the class settlement is within the 'ballpark' of reasonableness." *Kullar*, *supra*, 168 Cal.App.4th at 133, citing *Tech-Bilt v. Woodward-Clyde & Associates* (1985) 38 Cal.3d 488, 499-500. As the following subsections show, the Parties' investigation and discovery revealed many reasons to discount claims and agree to this settlement.

1. The Settlement is Fair and Reasonable Based on the Strengths of Plaintiff's Case and the Risks and Costs of Further Litigation

The proposed settlement was only possible following significant discovery and an evaluation of Defendant's relevant policies and procedures, as well as the data that Defendant

[13] The final factor mentioned in *Dunk* – the number of objectors – is not determinable until the Class Notice has been provided to the class and they have had an opportunity to respond. This information will be provided to the Court in conjunction with the final approval motion.

produced for the putative class as referenced above. This permitted Class Counsel to engage in a comprehensive analysis of liability and potential damages. The discovery conducted allowed Plaintiffs to evaluate the strengths and weaknesses of their theories of liability. As explained herein, Defendant maintains that the discovery produced demonstrates that it would succeed at both in denying class certification and on the merits.

Although, Plaintiffs believe this case is suitable for certification on the claimed bases that there are company-wide policies and practices that Plaintiffs contends violate California law and uniformly affect the Class Members, Defendant's counterarguments raise uncertainties with respect to both class certification and success on the merits. As the California Supreme Court ruled in *Sav-On v. Superior Court* (2004) 34 Cal.4th 319, class certification is always a matter of the trial court's sound discretion. Decisions following *Sav-On* have reached different conclusions, with respect to certification of wage and hour claims. While remaining confident in the strengths of their claims, all of these factors led Plaintiffs to discount the following potential damage exposure.

2. Potential Exposure on Plaintiffs' Claims Notwithstanding Defendant's Defenses

Below is the potential exposure on Plaintiffs' claims notwithstanding any of Defendant's defenses. The claims and defenses which led to the settlement in this action are laid out in Section III(c) "The Parties' Conflicting Position."

As discussed, Plaintiffs allege that Defendant fails to pay class members minimum wage for all time worked and all non-driving tasks considering Defendant only pays by the mile or by the trip. Plaintiffs estimate 15 minutes of non-productive time per trip, plus an additional 3 hours per employee for orientation time. Thus, the maximum potential exposure under this claim is $564,908.60. ((73,783 trips x $14.80 average minimum wage x 0.25 hours x 2 liquidated damages) + (3 hours x 213 class members x $14.80 average minimum wage x 2 liquidated damages) = $564,908.60). Mara Dec. ¶ 31.

Plaintiffs also assert that Defendants unlawfully deducted wages from employees and forced them to bear necessary business expenses. From the data points and pay records produced, Plaintiffs calculated the total amount of deductions and maximum exposure as $3,541,020.54.

Mara Dec. ¶ 32.

Plaintiffs allege that Defendant fails to provide accurate itemized wage statements and waiting time penalties. These claims are derivative of Plaintiffs' unpaid wages and unlawful deductions claims. Assuming all current drivers were entitled to the maximum penalty for noncompliant wage statements, the maximum potential exposure would be $252,000 ($4,000 x 63 current employees = $252,000). Mara Dec. ¶ 33. Plaintiffs calculate the potential maximum exposure for the waiting time penalties as $2,700,000 (150 former employees x 30 days x 8 hours x $75 average hourly rate = $2,700,000). Mara Dec. ¶ 34.

Plaintiffs also seek PAGA penalties deriving from Labor Code section 226.8 for the alleged willful misclassification of drivers as independent contractors. Plaintiffs estimate that all drivers in the PAGA period could be entitled to $10,000 for the misclassification alone, setting the exposure for the initial misclassification as $1,280,000 (128 aggrieved employees x $10,000 = $1,128,000). Moreover, Plaintiffs contend that Defendant illegally deducted wages from drivers as a result of the misclassification in every pay period, creating an additional exposure of $44,740,000 (4,474 pay period x $10,000 = $44,740,000). Mara Dec. ¶ 35.

Thus, not taking into account any of Defendant's defenses or arguments, Plaintiffs estimated that if they were successful in the central misclassification issue and proved that it was willful that Defendant's potential PAGA exposure would be approximately $45,868,000 ($1,128,000 (misclassification) + $44,740,000 (deductions)). Additionally, if Plaintiffs were able to get over the initial misclassification hurdle, Defendant's potential total exposure for the underlying class claims would be $4,205,929.14 ($564,908.60 (unpaid wages) + $3,541,020.54 (unlawful deductions)). If Plaintiffs were successful their underlying claims, and are able to prove that Defendant's wage statement and waiting time penalties were "knowing and intentional" and "willful," they may also be entitled to damages for wage statement penalties and waiting time penalties in the amounts of $252,000 and $2,700,000 respectively. Mara Dec. ¶ 36.

3. The Settlement Amount of $2,000,000 is Fair and Reasonable in Light of Defendant's Defenses and the Uncertainty of Further Litigation

Although remaining confident in their positions, Plaintiffs had no way of knowing how the factfinder would rule on these issues, and a substantial discount had to be given to make settlement possible. Plaintiffs had to discount the maximum exposure for all of their claims to account for the viability of Defendant's counter arguments and the significant and real possibility that they could take nothing on any of their claims. Mara Dec. ¶ 37.

Notably, the misclassification issue is central to this case. If Plaintiffs failed to prove that they were misclassified as independent contractors, Plaintiffs would take nothing on any of their claims. As discussed, Defendant presented serious challenges to the misclassification claims both at certification and on the merits. Defendant's note that certification would be entirely improper given the choice-of-law provision in their contracts would force the Court to individually determine for each driver where they primarily resided would work. Further, Defendant's assert even if Plaintiffs could get past certification, that they could not prevail on the merits considering the Indiana Supreme Court in *Q.D.A., Inc. v. Indiana Dep't of Workforce Dev.* (Ind. Sup. Ct. 2019) 114, N.E. 3d 840, already determined that Defendant's drivers were not employees under Indiana's substantially similar ABC test. Although not California authority, given this case involves Defendant directly and revolves around the same misclassification issue, Plaintiffs had to give this argument considerable weight when evaluating settlement. Mara Dec. ¶ 38.

Again, if Defendant were successful in its defense against misclassification, all of Plaintiffs' claims would fail. Even if, Plaintiffs were to prevail on misclassification, Defendant presented additional challenges to the underlying claims for unpaid wages and unlawful deductions. Defendant argued that Plaintiffs' unpaid wages claim is meritless given its contracts specify that the compensation drivers received included all driving and non-driving tasks. Moreover, Defendant argued that it did not unlawfully deduct wages from drivers and did not require drivers to use advances strictly for fuel. Defendant notes that it could provide numerous declarations from drivers wherein drivers used advances for non-work-related purposes. Defendant notes that this claim could not only be defeated on the merits but that it would be uncertifiable considering it would require considerable individualized inquiry. Plaintiffs remaining wage statement and waiting time claims are derivative of these underling claims. Meaning, if the underlying claims failed, so to would the wage statement and waiting time claims. Mara Dec. ¶ 39.

With respect to the PAGA penalties under Labor Code section 226.8 relating to misclassification, Defendant maintains that its drivers are properly classified as independent contractors for the reasons discussed previously. Defendant's further note that, even if Plaintiff's could show that they were misclassified, they would have the added hurdle of proving this misclassification was willful to recover any penalties. Defendant's note that it was entirely reasonable for them to rely on the Indiana Supreme Court case wherein the court sided with Defendant and ruled, under a similar ABC test, that Defendant was not an employer. Under these circumstances, Plaintiffs had to factor this defense in their evaluation of willful misclassification for settlement purposes. Mara Dec. ¶ 40.

In light of the risks Plaintiffs' claims faced and the possibility that Plaintiffs recovered nothing, Plaintiffs reduced the realistic potential exposure in order to gain a definite monetary recovery for the class. Plaintiffs and their Counsel believe that the settlement amount of $2,000,000 – with an average settlement share amount estimated at $5,229.23[14] – is a reasonable and fair settlement amount. Mara Dec. ¶¶ 37-41. It should be noted that a settlement is not judged solely against what might have been recovered, had the plaintiff prevailed at trial, nor does the settlement have to provide 100% of the damages sought to be fair and reasonable. *E.g. Wershba v. Apple Computers, Inc.* (2001) 91 Cal.App.4th 224, 246, 250 ("[c]ompromise is inherent and necessary in the settlement process…even if the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated, this is no bar to a class settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation").

c. Provisional Certification Should be Granted

A class action is appropriate when the class is ascertainable and there is "a well defined community of interest in the questions of law and fact involved affecting the parties to be represented." Cal. Civ. P. Code § 382. State law requirements under California Code of Civil

[14] $1,113,825 Net Settlement Amount / 213 estimated class members = $5,229.23

Procedure section 382 for class certification follow federal law according to Rule 23 of the Federal Rule of Civil Procedure: numerosity, typicality of the class representatives' claims, adequacy of representation, predominance of common issues, and superiority. Fed. R. Civ. P. 23(a); *see also Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1019. It should be noted that while a court must certify a class for settlement purposes if a class has not already been certified, "it is well established that trial courts should use different standards to determine the propriety of a settlement class, as opposed to a litigation class certification. Specifically, a lesser standard of scrutiny is used for settlement cases." *Glob. Minerals & Metals Corp. v. Superior Court* (2013) 113 Cal.App.4th 836, 859. Plaintiffs contend, and Defendant does not dispute for settlement purposes only, each of these elements is present and that provisional certification should be granted. *See Wershba v. Apple Computer* (2001) 91 Cal. App. 4th 224, 237-38.

d. Notice to the Class Complies with California Rule of Court 3.769(f)

The proposed Class Notice meets all of the requirements of California Rule of Court 3.769(f). The proposed Class Notice advises the class of their rights to participate in the settlement, how to and when to object to or request exclusion from the settlement, and the date, time, and location of the final approval hearing.

VI. CONCLUSION

Plaintiffs respectfully submit that that proposed settlement should be preliminarily approved, the class should be conditionally certified for settlement purposes only, and the Class Notice should be approved. Plaintiffs also respectfully request a final approval hearing date for December 8, 2026.

DATED: July 15, 2026

MARA LAW FIRM, PC

By: /s/ Carter Cordura

David Mara, Esq.
Carter Cordura, Esq.
Attorneys for Plaintiff