

1 **AEGIS LAW FIRM, PC**

2 KASHIF HAQUE, State Bar No. 218672

3 SAMUEL A. WONG, State Bar No. 217104

4 JESSICA L. CAMPBELL, State Bar No. 280626

CAROLYN M. BELL, State Bar No. 313435

9811 Irvine Center Drive, Suite 100

Irvine, California 92618

Telephone: (949) 379-6250

Facsimile: (949) 379-6251

Email: cbell@aegislawfirm.com

Attorneys for Plaintiff David Standring, individually,
and on behalf of all others similarly situated.

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF SONOMA**

12 DAVID STANDRING, individually and on
13 behalf of all others similarly situated,

14 Plaintiff,

15 vs.

16 WORKRITE ERGONOMICS, LLC AND
17 GARY D. NELSON ASSOCIATES, INC.;
and DOES 1 through 20, inclusive,

18 Defendants.
19
20
21
22
23
24
25
26
27
28

Case No. SCV-273510

*Assigned for all purposes to:
Hon. Bradford Demeo
Department: 17*

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

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	SUMMARY OF THE LITIGATION	2
III.	SUMMARY OF THE SETTLEMENT.....	3
A.	Terms of Settlement.....	3
B.	Proposed Opt-Out and Objection Process	3
C.	Proposed Release	5
IV.	LEGAL ARGUMENTS SUPPORTING PRELIMINARY APPROVAL	6
A.	Provisional Certification of the Class is Appropriate	6
1.	The Proposed Class is Numerous and Ascertainable	6
2.	A Well-Defined Community of Interest Exists Among Class Members	6
3.	A Class Action is Superior to a Multitude of Individual Lawsuits	8
B.	The Settlement Meets the Standards for Preliminary Approval	8
1.	The Settlement is Entitled to a Presumption of Fairness	9
2.	The Settlement is Reasonable Given the Strengths of Plaintiffs’ Claims and the Risks and Expense of Further Litigation	10
C.	The Requested Service Awards for Plaintiffs	13
D.	The Requested Attorneys’ Fees and Costs	13
V.	CONCLUSION.....	14

TABLE OF AUTHORITIES

Page(s)

Cases

<i>Bell v. Farmers Ins. Exch.</i> , (2004) 115 Cal. App. 4th 715	13
<i>Brinker Restaurant Corp. v. Super. Ct.</i> , (2012) 53 Cal. 4th 1004	5, 6
<i>Capitol People First v. State Dep't of Developmental Servs.</i> , (2007) 155 Cal. App. 4th 676	7
<i>Cellphone Termination Fee Cases</i> (2010) 186 Cal. App. 4th 1380, 1389	8, 13
<i>Chavez v. Netflix, Inc.</i> , (2008) 162 Cal. App. 4th 43	14
<i>Classen v. Weller</i> , (1983) 145 Cal. App. 3d 27	7
<i>Dunk v. Ford Motor Co.</i> , (1996) 48 Cal. App. 4th 1794	8
<i>Fireside Bank v. Super. Ct.</i> , (2007) 40 Cal. 4th 1069	6
<i>Ghazaryan v. Diva Limousine, Ltd.</i> , (2008) 169 Cal. App. 4th 1524	8
<i>Hopson v. Hanesbrands Inc.</i> (N.D. Cal. Apr. 3, 2009) 2009 U.S. Dist. LEXIS 33900 at *24	12
<i>Kullar v. Foot Locker Retail, Inc.</i> , (2008) 168 Cal. App. 4th 116	9
<i>Linder v. Thrifty Oil Co.</i> , (2000) 23 Cal. 4th 429	8
<i>Munoz v. BCI Coca-Cola Bottling Co. of L.A.</i> , (2010) 186 Cal. App. 4th 399	9
<i>Nordstrom Comm'n Cases</i> , (2010) 186 Cal. App. 4th 576, 579	12
<i>North County Contractor's Ass'n, Inc. v. Touchstone Ins. Servs.</i> , (1994) 27 Cal. App. 4th 1085	8

1	<i>Rebney v. Wells Fargo Bank,</i>	
2	(1991) 220 Cal. App. 3d 1117.....	10
3	<i>Reyes v. Bd. of Supervisors,</i>	
4	(1987) 196 Cal. App. 3d 1263	6
5	<i>Sav-On Drug Stores, Inc. v. Super. Ct.,</i>	
6	(2004) 34 Cal. 4th 319	6, 14
7	<i>Staton v. Boeing Co.</i>	
8	(9th Cir. 2003) 327 F.3d 938, 977	13
9	<i>Van Vranken v. Atlantic Richfield Co.</i>	
10	(N.D. Cal. 1995) 301 F.Supp. 294, 299.....	13
11	<i>Wershba v. Apple Computer, Inc.,</i>	
12	(2001) 91 Cal. App. 4th 224	10
13	Statutes	
14	Business and Professions Code § 17200, <i>et seq</i>	2
15	Lab. Code § 203	12
16	Lab. Code § 226	12
17	Lab. Code § 2698, <i>et seq</i>	
18	(California Private Attorneys General Act of 2004-PAGA).....	1, 2
19	Lab. Code § 2699(e)(2)	12
20	Lab. Code § 2699(f)	12
21	Lab. Code § 2699(l)(2).....	3
22	Lab. Code § 2699.3(a).....	2
23	Other Authorities	
24	Cal. R. Ct. 3.766, subd. (d).....	4
25	Cal. R. Ct. 3.766, subds. (d)-(f).....	5
26	Treatises	
27	Conte & Newberg, <i>Newberg on Class Actions</i> , § 11.26 (4th ed. 2002)	8

1 **I. INTRODUCTION**

2 Pursuant to California Rules of Court 3.769 (d) and (e), Plaintiff David Standring (“Plaintiff”)
3 requests that the Court grant preliminary approval of a class action settlement of wage and hour claims,
4 including a claim under the California Private Attorneys General Act of 2004, codified at Cal. Lab.
5 Code § 2698, *et seq.* (“PAGA”), against Defendant Workrite Ergonomics, LLC and Gary D. Nelson
6 Associates, Inc. (collectively, “Defendants”) (Plaintiff and Defendants are collectively referred to as the
7 “Parties” or individually as “Party”). The putative class includes all non-exempt employees employed
8 by Workrite Ergonomics, LLC in California at any time from December 20, 2018 through Preliminary
9 Approval (the “Class Period”) and all non-exempt employees employed by Gary D. Nelson Associates,
10 Inc and assigned to work at Workrite in California during the Class Period. The basic terms of the Class
11 Action and PAGA Settlement Agreement (“Settlement Agreement” or “Settlement”)¹ provide for the
12 following:

- 13 (1) A non-reversionary Gross Settlement Amount of \$500,000.00 allocated to
14 approximately 188 Class Members on a pro rata basis according to the number of
15 weeks each Class Member worked during the Class Period;
16 (2) An award of up to one-third of the Gross Settlement Amount (currently
17 \$166,666.67) and up to \$20,000.00 in reimbursement of litigation costs to
18 Plaintiff’s Counsel for services rendered as counsel on this matter;
19 (3) A Class Representative Service Payment of up to \$10,000.00 to Plaintiff David
20 Standring;
21 (4) An Administration Expenses Payment of up to \$9,980.00; and
22 (5) An allocation of \$20,000.00 for civil penalties pursuant to PAGA. Seventy-five
23 percent (75%) of this payment will be paid to the California Labor and Workforce
24 Development Agency, and twenty-five percent (25%) will be distributed to

25
26 ¹ A true and correct copy of the fully-executed “Class Action and PAGA Settlement Agreement” is
27 attached as **Exhibit 1** to the Declaration of Carolyn M. Bell in Support of Plaintiff’s Motion for
28 Preliminary Approval of Class Action and PAGA Settlement (“Bell 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.

Aggrieved Employees on a pro rata basis according to the number of pay periods each Aggrieved Employee worked during the PAGA Period.

The Settlement satisfies the criteria for preliminary approval and falls well within the range of reasonableness given the risks and costs of continued litigation. The Settlement was reached through informed, arm's-length bargaining at and after a mediation between experienced attorneys. As such, Plaintiff requests that the Court grant preliminary approval of the Settlement, conditionally certify the Class for settlement purposes, appoint Plaintiff as the Class Representative, appoint Plaintiff's Counsel as Class Counsel, appoint Apex Class Action Administration ("Apex") as the Administrator, authorize the Administrator to send notice of the Settlement, and set a final approval hearing date.

II. SUMMARY OF THE LITIGATION

On June 16, 2023, Plaintiff's counsel provided written notice to the Labor Development and Workforce Agency ("LWDA") and Defendants regarding Defendants' alleged Labor Code violations, as required by Labor Code § 2699.3(a). Bell Decl., ¶ 3, Ex. 2. The LWDA did not respond to this notice, indicating it did not intend to investigate. On June 16, 2023, Plaintiff commenced this Action by filing a putative class action on behalf of Defendants' 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; and (9) violation of Business and Professions Code §§ 17200, *et seq.* Bell Decl., ¶ 4.

On June 14, 2024, the Parties participated in a mediation session with Hon. Ann I. Jones (Ret.), a respected mediator experienced in wage and hour representative actions. Bell Decl., ¶ 5.

Prior to mediation, Defendants informally produced documents and data including Plaintiff's personnel file, timekeeping records and payroll data for the Class, documents containing Defendant's policies in effect during the Class Period, and a sampling of wage statements. *Id.* ¶ 6.

Plaintiff's counsel analyzed the documents and information produced by Defendants to assess the strength of Plaintiff's claims and Defendants' potential exposure in preparation for mediation. *Id.* ¶ 7.

After a full day of negotiating, the Parties accepted a mediator's proposal and executed a

Memorandum of Understanding memorializing the material terms of their agreement. The Parties spent the next few months negotiating the full terms of the Settlement. 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.* ¶ 8.. On June 20, 2025, Plaintiff submitted the Settlement to the LWDA pursuant to Lab. Code § 2699(1)(2). Bell Decl., ¶ 9. Ex. 2.

III. SUMMARY OF THE SETTLEMENT

A. Terms of Settlement

The Parties agreed to settle this Action in exchange for a Gross Settlement Amount of \$500,000.00. Settlement Agreement, § 3.1. The Gross Settlement Amount will be used to make the following payments: (1) Individual Class Payments to Participating Class Members; (2) attorneys' fees to Class Counsel of up to one-third of the Gross Settlement Amount; (3) reimbursement of Class Counsel's litigation costs of up to \$20,000.00; (4) a Service Payment to Plaintiff of up to \$10,000.00; (5) an Administrator Expenses Payment not to exceed \$9,980.00; and (6) PAGA penalties of \$20,000.00 (75% of which shall be paid to the LWDA and 25% of which shall be paid to the Aggrieved Employees). *Id.* §§ 3.2.1–3.2.5. Participating Class Members' Individual Class Payments and Aggrieved Employees' Individual PAGA Payments will be distributed after the Court grants final approval of the Settlement and Defendants fund the Gross Settlement Amount. (*Id.* at §§ 4.3–4.4. Individual Class Payments will be calculated by dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members and multiplying the result by each Participating Class Member's Workweeks. *Id.* § 3.2.4. Similarly, the Individual PAGA Payments will be calculated by dividing 25% of the PAGA Penalties by the total number of PAGA Pay Periods worked by all Aggrieved Employees and multiplying the result by each Aggrieved Employee's PAGA Pay Periods. *Id.* § 3.2.5.1. The Settlement Administrator will calculate the actual estimated recovery to include in the Class Notice. (*Id.* § 7.4.2 & Ex. A (Class Notice).) The Settlement Administrator will create a website informing Class Members of the Final Approval Hearing, including copies of the Settlement Agreement and other pleadings filed in this case. *Id.* § 7.8.1.

For tax purposes, the Individual Class Payments will be allocated 20% to wages and 80% to interest and penalties. (*Id.* § 3.2.4.1.) The Individual PAGA Payments are considered 100% penalties. *Id.* at § 3.2.5.2. The employer-side payroll taxes on the amounts allocated to wages will be paid by

Defendants separately from, and in addition to, the Gross Settlement Amount. *Id.* § 3.1. No portion of the Gross Settlement Amount will revert to Defendants. *Id.* Checks for Individual Settlement Payments and Individual PAGA Payments will be valid and negotiable for one hundred eighty (180) days. *Id.*, § 4.4.1. Funds from uncashed checks will be tendered by the Settlement Administrator to the State Controller Unclaimed Property Fund in the name of the Participating Class Member and/or Aggrieved Employee 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 fifteen days to deliver the Class Data to the Settlement Administrator. Settlement Agreement, § 4.2. The Settlement Administrator will then have fourteen days to send the Class Notice, in English and a Spanish translation, by first-class mail after checking for updated addresses through the National Change of Address database. *Id.* § 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 release their claims and receive settlement checks, instructions regarding how to dispute the calculations, instructions regarding how to request exclusion or object to the Settlement, the date for the final approval hearing, the amounts sought for attorneys' fees and costs, the Settlement Administration Costs, the Class Representative's Service Payment, and the PAGA allocation. *See* Settlement Agreement, Ex. A.

The Class Notice provides instructions for Class Members who choose to exclude themselves from the Settlement. Settlement Agreement, §7.5.1 To opt out, Class Members are instructed to submit a Request for Exclusion to the Settlement Administrator by a specified date (60 days after the date of mailing of the Class Notice). Settlement Agreement, § 8.5.1. Ex. A, pp 1, 6. Class Members do not need to submit a claim form to participate in the Settlement. Settlement Agreement, Ex. A., p. 2. The Class Notice informs Class Members of how they can object to the Settlement, and of the date, time, and location of the final fairness and approval hearing so that they can appear at the hearing in person. *Id.*, pp. 2, 8. The Class Notice also informs Class Members to check the Administrator's website or contact Class Counsel to verify the date and time of the Final Approval Hearing. *Id.*, p. 8. Accordingly, the content of the Class Notice complies with the requirements of Cal. R. Ct. 3.766(d).

1 If Class Notice packets are returned as undeliverable, the Settlement Administrator will perform a
2 skip-trace or other search, and re-mail the Class Notice with an extended deadline to opt out or object, of
3 14 days from the date of mailing or the original deadline, whichever is later. Settlement Agreement, §§
4 7.4.3–7.4.4. The initial 60-day notice period and extension process ensures the notice program provides
5 due process by giving Class Members enough time to determine whether they want to participate in the
6 Settlement. This means of notice is reasonably calculated to apprise Class Members of the pendency of
7 the action. *See* Cal. R. Ct. 3.766 (d)–(f).

8 C. Proposed Release

9 The release to be given by Class Members is limited to Defendant and each of its former and
10 present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors,
11 successors, assigns, subsidiaries, staffing agents/partners, alleged joint employers, and affiliates. (the
12 “Released Parties”). Settlement Agreement, § 1.43. Under the proposed release, Class Members who do
13 not exclude themselves from the Settlement will be deemed to have released the following:

14 All claims that were alleged, or reasonably could have been alleged, based on the facts stated in the
15 Operative Complaint, and which arose during the Class Period, including but not limited to: (1) Failure to
16 Pay Minimum Wages (Labor Code, §§ 1182.12, 1194, 1194.2, and 1197; Industrial Welfare Commission
17 [“IWC”] Wage Order § 3-4); (2) Failure to Pay Overtime Wages (Labor Code, §§ 510, 1194, and 1198,
18 IWC Wage Order, § 3); (3) Failure to Provide Meal Periods (Labor Code, §§ 226.7, 512; IWC Wage
19 Order, § 11); (4) Failure to Permit Rest Breaks (Labor Code, § 226.7; IWC Wage Order, § 12); (5) Failure
20 to Reimburse Business Expenses (Labor Code, §§ 2800, 2802); (6) Failure to Provide Accurate Itemized
21 Wage Statements (Labor Code, § 226); (7) Failure to Pay Wages Timely During Employment (Labor
22 Code, §§ 204, 210); (8) Failure to Pay All Wages Due Upon Separation of Employment (Labor Code, §§
23 201, 202, 203); and (9) Unfair Competition (Business and Professions Code, §§ 17200, *et seq.*). Except
24 as set forth in Section 5.3 of the Settlement Agreement, Participating Class Members do not release any
25 other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment
26 and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims
27 based on facts occurring outside the Class Period. *Id.* § 5.2.

1 PAGA Group Members (regardless of whether they exclude themselves from the Settlement) will
2 release the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could
3 have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice, and
4 which arose during the PAGA period, including but not limited to claims under Labor Code §§ 201,
5 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197,
6 1197.1, 1198, 2800, and 2802, and IWC Wage Order, §§ 3, 11, 12. *Id.* §5.3.

7 Only Plaintiff will agree to a general release of all known or unknown claims under Civil Code §
8 1542. *Id.* § 5.1.1.

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

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

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

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

16 Whether a class is “ascertainable” is “determined by examining (1) the class definition, (2) the
17 size of the class, and (3) the means available for identifying class members.” *Reyes v. Bd. of Supervisors*
18 196 Cal. App. 3d 1263, 1271 (1987). Here, the Class consists of all non-exempt employees employed
19 by Workrite Ergonomics, LLC in California during the Class Period and all non-exempt employees
20 employed by Gary D. Nelson Associates, Inc and assigned to work at Workrite in California during the
21 Class Period. Settlement Agreement, § 1.5. Defendants’ records show the Class consists of
22 approximately 188 individuals, making joinder of all Class Members impracticable. Bell Decl., ¶ 9.
23 Further, the Class is readily ascertainable from Defendants’ business records because all Class Members
24 are current or former employees of Defendants. *Id.*

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

26 “[T]he ‘community of interest requirement embodies three factors: (1) predominant common
27 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3)
28 class representatives who can adequately represent the class.’” *Fireside Bank v. Superior Court*, 40 Cal.

1 4th 1069, 1089 (2007) (quoting *Richmond v. Dart Industries, Inc.*, 29 Cal. 3d 462, 470 (1981).

2 a. Common Questions Predominate

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

8 Plaintiff alleged that Defendants maintained uniform employment policies and/or practices that
9 illegally deprived Class Members of lawful wages, meal periods, rest breaks, reimbursement of business
10 expenses, accurate wage statements, and waiting time pay. Bell Decl., ¶ 11. Plaintiff's allegations present
11 common legal and factual questions of, *inter alia*, whether Defendants applied the same scheduling,
12 timekeeping, minimum and overtime pay, reimbursement, meal period, and rest break policies to all Class
13 Members; whether these policies and practices resulted in Labor Code violations; whether Defendants'
14 conduct was intentional; and whether Class Members are entitled to penalties. *Id.* These common
15 questions could be resolved using Class Members' schedules, time punches, and payroll records,
16 Defendants' corporate representative's testimony, written communications between Defendants and Class
17 Members, and Class Member declarations. *Id.* Thus, the Court can and should exercise its discretion to
18 grant conditional class certification for settlement purposes.

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

20 The typicality requirement is satisfied when the legal theories and facts supporting Plaintiff's
21 claims are substantially similar to other class members. *See Classen v. Weller* 145 Cal. App. 3d 27, 46
22 (1983). Here, Plaintiff alleges that he and other Class Members were employed by Defendants and
23 injured by Defendants' common wage and hour policies and practices, including Defendant's
24 scheduling, timekeeping, minimum wage pay, overtime pay, reimbursement, meal period, and rest break
25 policies and practices. Bell Decl., ¶ 12. Using documents and information exchanged through informal
26 discovery, Plaintiff confirmed that these common policies and practices similarly affected Plaintiff and
27 the Class. *Id.* Thus, Plaintiff's claims arise from the same employment practices and are based on the
28 same legal theories as those applicable to other Class Members, as further explained in Plaintiff's

1 exposure analysis below.

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

4 Certification requires adequacy of both the proposed class representative(s) and proposed class
5 counsel. With respect to the class representative, a plaintiff must adequately represent and protect the
6 interests of other members of the class and demonstrate that his or her claim is not inconsistent with the
7 claims of other members of the class. *See Capitol People First v. State Dep't. of Developmental Servs.*
8 155 Cal. App. 4th 676, 696-697 (2007). Here, Plaintiff's interests are coextensive with the interests of
9 the Class. Plaintiff demonstrated an ability to advocate for the interests of the Class by initiating this
10 Action, gathering documents and information, maintaining regular contact with counsel, being available
11 on the day of mediation to answer questions, reviewing the Settlement to make sure it was fair to the
12 Class, and ultimately obtaining a favorable settlement on behalf of the Class. Declaration of David
13 Standring ("Standring Decl.") ¶¶ 4-8.

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

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

18 Class treatment is superior to other methods of adjudication when the probability is small that
19 each class member will come forward to prove his or her claim and when the class approach would deter
20 and redress the alleged wrongdoing. *Linder v. Thrifty Oil Co.* 23 Cal. 4th 429, 435, 446 (2000);
21 *Ghazaryan v. Diva Limousine, Ltd.*, 169 Cal. App. 4th 1524, 1537-1538 (2008). Here, none of the other
22 Class Members had shown any interest in bearing the expense and burden of litigating their own claims.
23 Bell Decl., ¶ 22. Thus, a class action is the superior method for seeking relief.

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

25 Preliminary approval is warranted if the settlement falls within a "reasonable range." *See North*
26 *County Contractor's Ass'n., Inc. v. Touchstone Ins. Servs.*, 27 Cal. App. 4th 1085, 1089-90 (1994);
27 Conte & Newberg, *Newberg on Class Actions*, § 11.26 (4th ed. 2002). In reviewing the fairness of a
28 class action settlement, due regard should be given to what is "otherwise a private consensual

1 agreement between the parties.” *Cellphone Termination Fee Cases*, 186 Cal. App. 4th 1380, 1389
2 (2010). The inquiry “must be limited to the extent necessary to reach a reasoned judgment that the
3 agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties,
4 and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” *Id.*

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

10 **1. The Settlement is Entitled to a Presumption of Fairness**

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

12 Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless
13 evidence to the contrary is offered. Thus, there is a presumption that settlement negotiations are
14 conducted in good faith. Here, the Settlement was the product of a full-day mediation with a respected
15 mediator after an extensive investigation. Bell Decl., ¶¶ 5-8. The negotiations were adversarial,
16 conducted at arm’s-length, and tempered by the efforts of both sides to serve the interests of their clients.
17 *Id.* ¶ 8. The amount of Plaintiff’s requested Service Payment was not negotiated until after the Parties
18 agreed to the Gross Settlement Amount and many other terms. *Id.* at ¶ 23.

19 *b. Plaintiff’s Counsel Conducted Sufficient Investigation and Discovery*

20 Plaintiff’s Counsel thoroughly investigated the class claims, applicable law, and potential
21 defenses. *See generally*, Bell Decl. Plaintiff’s Counsel reviewed policy documents and Class Members’
22 time and pay records to perform a thorough investigation and analysis. *Id.* at ¶ 6-7. Further, Plaintiff’s
23 Counsel engaged an expert to quantify the potential exposure using time and payroll records produced
24 by Defendants, and then assessed the risks associated with each of the claims meriting reductions in the
25 likely recovery at trial. *Id.* Accordingly, Plaintiff’s Counsel fully understood the strengths and
26 weaknesses of the claims before the Parties reached a settlement. *Id.*

27 *c. Plaintiff’s Counsel is Experienced in Similar Litigation*

1 Plaintiff is represented by Aegis Law Firm, PC. Plaintiff's Counsel prosecute wage and hour class
2 actions on behalf of employees and others who have had their rights violated. Bell Decl., ¶¶ 25–37. The
3 attorneys working on this case have been appointed class counsel in many cases, through both contested
4 motions and settlement approval motions. *Id.* Thus, Aegis Law Firm, PC has extensive experience in
5 similar litigation and should be appointed as Class Counsel.

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

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

12 While Plaintiff and his counsel believed and continue to believe this is a strong case for
13 certification, the significant risks and expenses associated with class certification and liability
14 proceedings were taken into account. To determine if the settlement amount was reasonable, Plaintiff's
15 Counsel weighed that figure against many risk factors. *Id.* ¶ 14. If Plaintiff continued to prosecute the
16 claims rather than accept a settlement, Plaintiff would have faced deadlines to file a motion for class
17 certification, engaged in formal written discovery and taken depositions, expended time and resources
18 to 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.*

21 *a. Exposure Analysis*

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

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

1 *Wershba v. Apple Computer, Inc.* 91 Cal. App. 4th 224, 250 (2001) (citation omitted). Here, 8887. *Id.*
2 at ¶ 14.

3 Minimum Wage Claim: Plaintiff's minimum wage claim is premised on the theory that Defendant
4 failed to provide Class Members with sufficient timeclocks to clock in and out for their shifts. As a
5 result, Class Members were required to wait off-the-clock in a line before clocking in for their shift.
6 Plaintiff estimated that employees typically waited 1-3 minutes to clock in. Plaintiff's expert calculated
7 a potential exposure of approximately \$81,971 for this claim. However, Defendants argued that it had
8 sufficient timeclocks for its employees and in practice, employees were not required to wait in a line to
9 clock in. As such, this claim could become highly individualized and difficult to certify. Accordingly,
10 Plaintiff's counsel believed there was a 30% chance of success at class certification and 50% chance of
11 success on the merits at trial, rendering the claim worth approximately \$12,295. Bell Decl., ¶ 15.

12 Overtime Wage Claim: Plaintiff's Overtime claim was premised on the theory that Defendants
13 failed to properly calculate the overtime rate to include nondiscretionary bonuses. Using Defendant's
14 timekeeping and payroll data, Plaintiff's expert calculated that this claim was worth approximately
15 \$3,249. Defendant argued that the bonuses were discretionary and only paid to employees in 2019 and
16 2020. Plaintiff did not discount the value of this claim. Bell Decl., ¶ 16.

17 Meal and Rest Period Claims: Plaintiff's meal and rest period claims were premised on the theory
18 that Defendants failed to provide sufficient coverage to allow Class Members to take complaint meal
19 and rest periods. Plaintiff's expert analyzed the employment data received from Defendant, and
20 calculated that the meal period claim was potentially worth approximately \$733,127. Plaintiff estimated
21 that rest break violations occurred at a similar rate to meal period violations and as a result, Plaintiff
22 estimated the rest period claim was worth approximately \$733,127. However, Defendant argued that it
23 maintained compliant meal and rest period policies, that it paid some meal period premiums, and the
24 rest period claim would be highly individualized because it would require class member testimony to
25 prove. Accordingly, Plaintiff's counsel believed there was a 30% change of success for the meal period
26 claim and a 20% change of success for the rest period claim at class certification and a 50% change of
27 success on the merits at trial for both claims. As a result, Plaintiff's counsel estimated the meal period
28

claim was worth approximately \$109,969 and the rest period claim was worth approximately \$73,312. Bell Decl., ¶ 17.

Reimbursement Claim: Plaintiff's reimbursement claim was premised on the theory that Defendants required Plaintiff and class members to use their personal cell phones for business purposes, included sending images of damages products to Defendants. However, Defendant argued that it maintained a compliant reimbursement policy, employees were not permitted to use their personal cell phones for work purposes. As such, Plaintiff assigned nominal value to this claim. Bell Decl., ¶ 18.

Waiting Time and Wage Statement Penalties: Plaintiff's Counsel considered the arguable presence of various derivative penalties, and weighed the potential recoveries against probable defenses. Specifically, Defendants could argue that Plaintiff could not prove the "willful" prong needed to obtain waiting time penalties under Labor Code § 203; Plaintiff could not show that Class Members suffered an "injury" as a result of wage statement violations, as required by Labor Code § 226; or that the wage statements correctly reflected the wages paid and owed. Although the Class could have seen a potential payout of approximately \$635,391 for waiting time penalties and approximately \$1,120,000 for wage statement penalties, Plaintiff would not recover any of these derivative penalties if they failed to prove the underlying claims. Thus, Plaintiff discounted these claims assuming a 40% chance of class certification and 40% chance at the merits for both claims, resulting in a realistic value of approximately \$101,662 for the waiting time claim and around \$179,200 for the wage statement claim. Bell Decl., ¶ 19.

PAGA Claim: The PAGA claim presented even higher hurdles. Plaintiff's expert analyzed the employment data provided by Defendants and found that Defendants' exposure could potentially reach approximately \$448,000 under Lab. Code § 2699(f), assuming the initial penalty rate of \$100 for each pay period. However, to recover that amount, Plaintiff would have to prove a violation in every pay period. Most importantly, the Court would have discretion to reduce the PAGA award based on whether the amount of the award would be "unjust, arbitrary and oppressive, or confiscatory." Lab. Code § 2699(e)(2). In theory, the Court could reduce the award by 99% if it so wished. Plaintiff was doubtful they could recover any PAGA penalties, especially if a large class judgment was entered for the same violations. Bell Decl., ¶ 20. Accordingly, Plaintiff could not place a high value on the PAGA penalties, and therefore allocated \$20,000 of the Gross Settlement Amount to settle these claims. (*See Hopson v.*

1 *Hanesbrands Inc.* (N.D. Cal. Apr. 3, 2009) 2009 U.S. Dist. LEXIS 33900 at *24 (finding amount of
2 PAGA penalties reasonable where the amounts are negotiated in good faith and “there is no indication
3 that [the] amount was the result of self-interest at the expense of other Class Members”); *Nordstrom*
4 *Comm’n Cases* (2010) 186 Cal.App.4th 576, 579 (“trial court did not abuse its discretion in approving
5 a settlement which does not allocate any damages to the PAGA claims”).)

6 **C. The Requested Service Payment for Plaintiff**

7 Plaintiff seeks a Class Representative Service Payment of \$10,000 for accepting the
8 responsibilities of representing the interests of the Class and assuming the risks and potential costs that
9 were not borne by any other Class Member. Settlement Agreement, § 3.2.1. A named plaintiff is eligible
10 for payment that reasonably compensates him or her for undertaking and fulfilling a fiduciary duty to
11 represent absent class members. *See Cellphone Termination Fee Cases, supra*, 186 Cal. App. 4th at
12 1393; *Bell v. Farmers Ins. Exch.*, 115 Cal. App. 4th 715, 726 (2004).

13 Here, Plaintiff had the option to pursue his claims individually, but instead chose to pursue this
14 class action, delaying individual recovery until approval of a class action settlement. Bell Decl., ¶ 21.
15 Throughout the case, Plaintiff assisted counsel in gathering evidence necessary to prosecute the class
16 and PAGA claims, maintained regular contact with counsel, was available on the day of mediation to
17 answer critical questions, and reviewed the Settlement to make sure it was fair to the Class. *Id.*;
18 Standing Decl., ¶¶ 4–8. No action would likely have been taken by Class Members individually, and
19 no compensation would have been recovered for them, but for Plaintiff’s services on behalf of the Class.
20 Bell Decl., ¶ 22.

21 By actively pursuing this action, Plaintiff furthered the California public policy goal of enforcing
22 the State’s wage and hour laws. *See Sav-On Drug Stores, Inc., supra*, 34 Cal. 4th at 340. The requested
23 Service Payment for Plaintiff’s service as the Class Representative and for a general release of all claims
24 is reasonable and should be preliminarily approved. At the final approval stage, Plaintiff will further
25 support the request for the Service Payment with a declaration addressing the factors for the award. Bell
26 Decl., ¶ 24.

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

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

8 Plaintiff seeks appointment of Aegis Law Firm, PC as Class Counsel. The attorneys performed
9 significant work and expended litigation costs in prosecuting the matter with no guarantee of any
10 payment. Bell Decl., ¶ 38. Plaintiff's Counsel seeks preliminary approval for attorneys' fees of up to
11 one-third of the Gross Settlement Amount, currently estimated to be \$166,666.67 and up to \$20,000.00
12 in reimbursement of litigation costs. Settlement Agreement § 3.2.2. Given the work performed in this
13 matter, the extensive information exchanged, and the substantial recovery obtained on behalf of Plaintiff
14 and the Class, Plaintiff's Counsel achieved a settlement through efficient and diligent work. *See*
15 *generally*, Bell Decl. At final approval, Plaintiff's Counsel will fully brief the merits of the request for
16 an award of attorneys' fees and litigation costs. *Id.* at ¶ 39.

17 **V. CONCLUSION**

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

22
23 Dated: June 20, 2025

AEGIS LAW FIRM, PC

24
25 By: Carolyn Bell
26 Carolyn M. Bell
27 Attorneys for Plaintiff
28