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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

VANESSA HERNANDEZ, LAVONTRA BREAUX, NARON TRIPLETT, and NATALIE FLORES Individually, and on behalf of other members of the general public similarly situated; Plaintiffs, vs. PANDORA JEWELRY LLC, a Maryland Limited Liability Company; PANDORA VENTURES, LLC, a Maryland Limited Liability Company; and DOES 1-10, inclusive, Defendants.	CASE NO. 24STCV04554 [Related Case Nos.: 23SMCV04825; 24SMCV00844; 24STCV04697; and 24STCV15396] **MEMORANDUM OF POINTS AND AUTHORITIES OF PLAINTIFF'S *UNOPPOSED* MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** Date: October 29, 2025 Time: 10:30 a.m. Dept.: 12 Judge: Hon. Carolyn B. Kuhl

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I. SUMMARY OF MOTION

This matter is a "Wage and Hour" representative (*i.e.*, "PAGA") and proposed class action. Plaintiffs LAVONTRA BREAUX, VANESSA HERNANDEZ, NARON TRIPLETT, and NATALIE FLORES, individually and on behalf of other members of the general public similarly situated, brings Labor Code claims against Defendants PANDORA JEWELRY, LLC, and PANDORA VENTURES, LLC. (hereinafter, "PANDORA" or "Defendants"). This global settlement includes the pending matters: *Lavontra Breaux v. Pandora Jewelry LLC,* Case No. 23SMCV04825, initiated on October 13, 2023, and pending in the County of Los Angeles Superior Court; *Natalie Flores v. Pandora Ventures, LLC*, Case No. 30-2024-01377405-CU-OE-CXC., initiated on February 2, 2024, and pending in the Orange County Superior Court; *Naron Triplett v. Pandora Ventures, LLC et al.*, Case No. 24STCV04697 initiated on February 23, 2024 and pending in the County of Los Angeles Superior Court; *Naron Triplett v. Pandora Ventures, LLC et al.*, Case No. 24SMCV00844 initiated on February 23, 2024 and pending in the County of Los Angeles Superior Court; and *Vanessa Hernandez v. Pandora Ventures, LLC*, Case No. 24STCV04554 initiated on February 23, 2024 and pending in the County of Los Angeles Superior Court. As this is the "Lead Action" matter, the parties have filed the instant Motion in this matter. As a preliminary note, the parties are stipulating to the filing of a First Amended Complaint which adds *Flores*, *Triplett,* and *Breaux* as additional named Plaintiffs in this action.

Following approximately **22 months** of formal litigation, exchanges of informal discovery, a full-day of Mediation, and extensive arm's-length negotiations, the parties agreed to the terms of a class and PAGA action settlement. The parties have drafted and executed the "Class Action and PAGA Settlement and Release Agreement" (the "Agreement"), lodged as **Exhibit A**[1] to the declaration of Eric K. Yaeckel. Briefly, the parties' settlement figures are estimated as follows:

Approximate size of class:	**2,800 individuals**
Notice Period:	**60 days from the Mailing of Notice**

[1] This Memorandum incorporates by reference the definitions in the Agreement and the terms used herein are intended to have the same meaning as set forth in the Agreement.

Gross Settlement Fund ("GSA"):	**$2,850,000.00**
Settlement Administration Costs:	**$19,950.00** (or less)
Class Representative Service Awards:	**$40,000.00** ($10,000.00 each)
LWDA Payment:	**$213,750.00** (75 % Share of $285,000 allocation)
Attorney's Fees:	**$949,905.00** (1/3 of total)
Litigation Costs:	**$75,000.00** (not to exceed)

The estimated average payment (before taxes) to each Class Member based on the above figures will be **$554.06**. These estimates are an "average" only, and do not account for the fact that Class Members will receive more or less than an "average" share, as the amounts owed are calculated based on the number of shifts each individual worked for Defendants during the class period. Additionally, some but not all of the Class Member will also be Aggrieved Employees and thus may receive a higher or lower payment for that reason. This is a **non-reversionary** settlement, in that the entire Net Settlement Amount, after the awarded costs, taxes and fees are deducted, will be automatically disbursed to all Class Members who do not file a request to "opt-out" of participation in the lawsuit. (**Ex. A** at ¶ 2.2.5).

Plaintiffs now move the Court for an order: **(1)** preliminarily approving the proposed class action settlement; **(2)** directing that Notice (defined below) of the settlement be provided to Class Members; and **(3)** scheduling a hearing for final approval of the proposed settlement and entry of the parties' proposed Final Approval Order and Judgment. Defendants do not oppose Plaintiffs' motion.

II. FACTUAL AND PROCEDURAL HISTORY

The class is comprised of all non-exempt, hourly paid, employees who performed work for Defendants in California at any time between February 2, 2020, and June 1, 2025.

1. The Operative Claims, Investigation and Informal Discovery Conducted

On **October 13, 2023**, Plaintiff *Breaux* filed a Complaint alleging representative PAGA claims only, under the California Labor code, in Los Angeles Superior Court, Case No. 23SMCV04825 involving, *inter alia*, (1) failure to pay minimum wages; (2) failure to pay proper overtime compensation; (3) failure to provide meal breaks; (4) failure to provide rest breaks; (5) failure to reimburse employees for necessary business expenses; (6) failure to provide accurate itemized wage statements; and (7) failure to pay all wages to upon termination. (Yaeckel Decl. ¶ 3; ROA # 7).

On **February 2, 2024**, *Flores* filed a putative wage and hour Class Action Complaint in the Superior Court of California, County of Orange, Case No. 30-2024-01377405-CU-OE-CXC, alleging meal and rest period violations, minimum wage and overtime violations, wage statement and final pay violations, failure to reimburse business expenses violations, failure to pay all accrued sick pay and vacation time, and an unfair competition violation. (Yaeckel Decl. ¶4).

On **February 23, 2024**, *Triplett* filed a putative wage and hour Class Action Complaint for Damages in the Superior Court of California, County of Los Angeles, Case No. 24STCV04697. On February 23, 2024, Triplett also filed a Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code §2698, et seq., in the Superior Court of California, County of Los Angeles, Case No. 24SMCV00844, asserting a PAGA claim for civil penalties. (Yaeckel Decl. ¶5).

On **February 23, 2024**, *Hernandez* filed the instant putative wage and hour class action Complaint in the Superior Court of California, County of Los Angeles, Case No. 24STCV04554, alleging minimum wage and overtime violations, meal and rest period violations, wage statement violations, failure to timely pay wages during employment and after separation, and an unfair competition violation. (Yaeckel Decl. ¶6).

On **June 21, 2024**, the Superior Court of California, County of Los Angeles, found that Case Nos. 24STCV04554, 24STCV04697, 24SMCV00844, and 23SMCV04825 are related within the meaning of California Rules of Court, Rule 3.300(a), and designated Case No. 24STCV04554 as the lead case. (ROA #28).

On **December 2, 2024**, the Superior Court of California, County of Los Angeles, found that Case Nos. 24STCV04554 and 24STCV151396 are related within the meaning of California Rules of Court, Rule 3.300(a), and designated Case No. 24STCV04554 as the lead case. (ROA #46).

Please Note: As part of this settlement, and prior to preliminary approval, Plaintiff Hernandez will file a First Amended Complaint (the "Operative Complaint") in this action, (1) adding Plaintiff

Flores, Plaintiff Triplett, and Plaintiff Breaux as plaintiffs, and (2) combining all the claims from all Complaints into one Class Action and PAGA complaint. (**Ex. A** at Recitals)

The Parties conducted significant investigation of the relevant facts and law while the Actions have been pending, both prior to and after mediation, including the exchange of substantial amount of informal discovery between the Parties. This informal discovery included the production of documents by Defendants, such as employment policies and procedures, and a representative sampling of pay and time data for the putative Class Members and Aggrieved Employees. Plaintiffs' counsel retained experts to review such records and to assist in the preparation of damages and penalties analyses for this litigation. As described more fully below, the Parties subsequently accepted a mediator's proposal for resolution of this dispute. (Yaeckel Decl. ¶8).

2. Settlement Discussions

On **April 2, 2025**, the Parties attended a full day mediation before the experienced "Wage and Hour" mediator, Steve Serratore. (Yaeckel decl. ¶7). Prior to mediation, counsel for both parties agreed to the informal exchange of information, and case theories and defenses pertinent to a class-wide settlement. Prior to mediation, plaintiff prepared and provided a detailed mediation brief. (Yaeckel decl. ¶8). The case did <u>not</u> settle on this date. (*Id*).

Subsequent to the April 2, 2025 Mediation, the parties continued to litigate the case. However, the parties also continued settlement discussions directly between counsel, and at times, facilitated through the Mediator. (Yaeckel decl. ¶9). The Parties subsequently accepted a mediator's proposal for resolution of this dispute. The Parties agreed on key terms of a settlement that would globally resolve all class and representative "Wage and Hour" claims asserted in the operative complaint in this Action and the related Actions. (*Id.*).

As of **September 30, 2025**, the parties agreed on all final terms of the settlement which was memorialized in the Agreement, which is attached to the declaration of Eric K. Yaeckel as **Exhibit A**. (Yaeckel Decl. ¶10). Plaintiff now seeks the Court's preliminary approval of the Agreement. (*Id*).

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III. SETTLEMENT TERMS

The Agreement includes the following key terms:

1. Contingent Nature of the Settlement

This Agreement is contingent upon preliminary and final approval by the Court. If for any reason the Settlement does not become final, the Parties will be returned to their positions with respect to the Action as if the Agreement had not been entered into. (**Ex. A** at ¶6.7).

2. Description of the Settlement Class

Solely for the purposes of the Agreement, the parties have agreed that the term "Class Member" is defined as:

> all persons who worked for Defendants as non-exempt, hourly paid employees in California during the Class Period. (**Ex. A** at ¶1.7).

The Class Period is defined as "between February 2, 2020 and either (i) June 1, 2025, or (ii) an earlier date as set forth in Paragraph 2.1.1." (**Ex. A** at ¶1.10). The parties estimate that as of June 1, 2025, the Settlement Class consisted of approximately Two Thousand Eight Hundred (2,800) individuals, as determined by Defendants' employment records. (Yaeckel Decl. ¶11).

3. Appointment of Settlement Administrator

The parties agreed to use ILYM Group, Inc. ("ILYM"), as the "Settlement Administrator" for purposes of providing the Notice of Class Action Settlement, issuing payments pursuant to the Agreement, and carrying out all duties pursuant to the Agreement. (**Ex. A** at ¶5.1). ILYM's sole business is the administration of class action settlements and class action notices. (Yaeckel decl.¶12).

4. Scope of the Release

For purposes of the Agreement, Class Members release all claims that are either or both: (1) alleged in the forthcoming First Amended Complaint ("FAC"); or (2) which relate to or arise out of the allegations and claims asserted in the FAC and could have been alleged in the FAC relating in any way to violations of the wage and hour provisions of the California Labor Code or the California Wage Orders, or any wage and hour provisions of California law. The precise release language is reflected in **Exhibit A** at ¶3.1.

5. Cash Payment and Allocation

The Agreement provides for an automatic Individual Settlement Payment to the members of the Class. No claims need to be submitted. Class Members will be entitled to an average share of approximately **$554.06**. (Yaeckel Decl. ¶13). The actual share will be calculated by the Settlement Administrator, by multiplying the Class Members' Total Shifts by the amount allocated to each Shift. (**Ex. A** at ¶5.4.2). The Individual Settlement will be allocated as follows: twenty percent (20%) constitutes wages (subject to withholdings and deductions and reported as wage income on a Form W-2) and eighty percent (80%) constitutes non-wage damages, interest, and penalties. (**Ex. A** at ¶2.2.5).

6. Proposed Settlement and Notice Program

Subject to Court approval, the Parties agree that, within thirty (30) days after the Court enters any Order granting preliminary approval of the Settlement, Defendants shall deliver the Class and PAGA Member Data to the Settlement Administrator. (*See* **Exhibit A** at ¶5.2). The Settlement Administrator will perform a search based on the National Change of Address Database information to update and correct for any known or identifiable address changes, prior to the first mailing. (*See* **Exhibit A** at ¶5.5.1).Within fourteen (14) days after receiving the Class and PAGA Member Data, the Settlement Administrator Shall mail the Court-approved Class Notice ("Notice") to each Class Member, by first class regular U.S. mail. (*See* **Exhibit A**, at ¶5.5.1). The parties' agreed upon Class Notice is attached to the Declaration of Eric K. Yaeckel, as **Exhibit B**. (Yaeckel Decl. ¶14).

The Notice is designed to provide Class Members with detailed information about the lawsuit, the Agreement, their rights and settlement benefits, and how to participate, exclude themselves, or object. (**Exhibit B**). The Class Members will have sixty (60) calendar days (from the mailing of the Notice) to request to be excluded, or file objections. This deadline will be extended an additional 15 days if notice is re-mailed. (**Exhibit A**, at ¶5.5.3).

The Class Members will be given notice of the release, and information about the expected settlement amount based on the shifts worked for Defendants during the Class Period. If they wish to receive a share of the Settlement, Class Members do not need to take any additional action. Class Members are also given instructions on how to exclude themselves, object to the Settlement, or appear at the final approval hearing to state objections. (*See* **Exhibit A**, at ¶¶5.6.1, 5.6.2, 5.6.3; **Exhibit B** at § VI(A-C)).

The Notice process also has additional safeguards. For instance, for Notices returned as non-deliverable, the Settlement Administrator will perform a skip-trace and mail or re-mail Notice to an updated address (if any), upon receipt of the returned mail. (*See* **Exhibit A** at ¶5.5.4). It is the intent of the parties that all reasonable means be used to locate Class Members. (Yaeckel Decl. ¶15).

The Notice will inform Class Members of the number of Total Shifts worked during the Class Period (according to Defendants' records) and their estimated settlement amounts. Class Members will have the opportunity to dispute the calculation by submitting written documentation to the Settlement Administrator. (*See* **Exhibit A** at ¶5.6.3 and **Exhibit B** at IV).

PAGA Members do **not** require notice prior to a settlement, nor may they opt out of the PAGA penalty portion of the settlement. *Robinson v. S. Ctys. Oil*, (2020) 53 Cal. App. 5th 476, 482–83, 2020). PAGA members are nonetheless informed of the Settlement and estimated payments. PAGA members can opt-out of the Class Settlement to retain all non-PAGA claims in their individual capacities. These rights are explained in the Class Notice. (**Exhibit B** at § VI(B)).

7. Contingent Costs

The Agreement provides for Nine Hundred Forty-Nine Thousand Nine Hundred Five Dollars (**$949,905.00**) in Attorneys' Fees, which is Thirty-Three and One-Third Percent (33.33%) of the total Settlement, and up to Seventy-Five Thousand Dollars (**$75,000.00**) in litigation costs. (**Ex. A** at ¶2.2.1). For costs incurred in administrating the Settlement, the Agreement provides for an estimated Nineteen Thousand Nine Hundred Fifty Dollars (**$19,950.00**), or less. (**Ex. A** at ¶2.2.3).

The Agreement also provides for Two Hundred Eighty-Five Thousand Dollars ($285,000.00) to be allocated for Plaintiff's PAGA claims with 75% of the amount, or Two Hundred Thirteen Thousand Seven Hundred Fifty Dollars ($213,750.00) being paid to the LWDA, and 25%, or $71,250.00, being distributed amongst the PAGA Members. (*See* **Ex. A** at ¶2.2.4).

The Agreement also provides payments to Plaintiffs Breaux, Flores, Triplett and Hernandez of Ten Thousand Dollars (**$10,000.00**) each, which represents a Class Representative Service Payment in consideration for their services as Class Representatives. (*See* **Exhibit A** at ¶2.2.2). The class is being notified of the payments to Plaintiffs. (See **Ex. B** at § IV).

The Class Representative Service Awards were part of good faith negotiations and are intended to recognize that it was the Class Representatives (Ms. Breaux, Ms. Flores, Ms. Triplett, and Ms. Hernandez) who initiated the lawsuits, initiated the PAGA claims, provided critical documents and witnesses to their attorneys, and worked with their attorneys to propound and prepare written discovery, all in an effort to obtain money allegedly owed not only to themselves, but to thousands of other employees. (Yaeckel Decl. ¶16).

IV. SUMMARY OF CLAIMS AND ESTIMATES OF POTENTIAL DAMAGES

Counsel hereby submits estimates and calculations for the total potential value of all claims so this Court may evaluate if the amount to be paid to the class ultimately could be determined to be fair and reasonable when balanced against the probable outcome of the future litigation. *Kullar v. Foot Locker Retail, Inc.*, (2008) 168 Cal. App. 4th 116, 133.

Concerning the strength of the plaintiff's case, the California Court of Appeal has said that the "merits of the underlying class claims are not a basis for upsetting the settlement of a class action; the operative word is 'settlement.'" *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal. App. 4th 1135, 1150 [citing, *inter alia, City of Detroit v. Grinnell Corp.* (2d Cir. 1974) 495 F.2d 448,455 ("The fact that a proposed settlement may only amount to a fraction the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved"); see also *Linney v. Cellular Alaska P'ship.* (9th Cir. 1998) 151 F.3d 1234, 1242 ("This court has aptly held that 'it is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements'").

Each of the primary claims also had risks to obtaining both class certification and a finding of liability. If Defendants' defenses were successful, the class would not receive anything. As set forth below, Plaintiffs submit that the most realistic "best case" scenario would be an average recovery per class member of approximately **$1,583.74**, and a worst case scenario would be a recovery of $0, by way of denial of class certification, decertification, or defense verdict. (Yaeckel decl. ¶17). Given all the risks on each claim, the estimated **$554.06** average recovery secured via this settlement is a reasonable compromise and is in the best interests of the class given all the risks and cost of continued litigation. (Yaeckel decl. ¶18).

A. FAILURE TO PAY ALL COMPENSATION CLAIMS

Plaintiffs' unpaid wages (and overtime) claims were primarily based on the allegation that employees were performing unpaid work. Plaintiffs alleged this resulted in regular time and overtime pay being owed where Defendants were on notice of work being performed without pay. Additionally, Plaintiffs alleged the workload often required employees to continue working during their "purported" lunch breaks and after hours. (Yaeckel decl. ¶26).

Defendants denied that any unpaid work occurred, and even if some did occur, Defendants claimed it was not on notice of these alleged Labor Code violations and had a strict written prohibition against off-the-clock work and a mandate that all time worked must be accurately recorded. Defendants asserted proof of these alleged violations would require individualized inquiries, which could preclude class certification and make any PAGA claims unmanageable. (Yaeckel decl. ¶27).

Based on Class Counsels' analysis, this claim was worth as little as $0 (a defense verdict) or as much as **$385,812** (as determined by expert). (Yaeckel decl. ¶19).

B. MEAL AND REST PERIOD CLAIMS

Plaintiffs were able to identify many examples of missing or late Meal Periods without the provision of a Meal Period penalty payment. Defendants argued that these records do not conclusively show whether (1) Defendants actually failed to provide the Meal Period, (2) there was a voluntary waiver, (3) employees forgot to clock out, (4) employees voluntarily chose to skip or take them late even though they were provided, or (5) whether the individual was working on a federal enclave and therefore lacked standing to bring a Meal and Rest period claim. Defendants further argued that evidence existed that rebutted any presumption that the same records could be used as a basis for determining liability. Additionally, in light of the written Meal and Rest Period policy, Pandora contended there was no uniform policy or practice of denying Meal and Rest Periods, requiring individualized inquiries that would make any PAGA claims unmanageable. (Yaeckel decl. ¶28).

Plaintiffs allege that the Rest Period policy (1) contained patently illegal language restricting employees to the work premises, and (2) lacks additional required statutory language. Plaintiffs also alleged the Defendants' written policies improperly restricted class members from leaving the premises during their Rest Periods, among other deficiencies. Pandora pointed out that it provided for adequate breaks and argued that witness testimony would demonstrate that in practice, no restriction on Rest Periods was ever enforced. Pandora also contended individualized inquiries abound as to why individual employees may have failed to take appropriate Meal or Rest Periods. (Yaeckel decl. ¶29).

While there are time records to support the existence of alleged Meal Period violations, there are no corresponding rest period records, making this aspect of the claim much harder to prove. Some Courts have been disinclined to accept survey evidence that may have been needed to help establish rest period violations. See e.g. *Duran v. U.S. Bank National Assn*. (2018) 19 Cal.App.5th 630.

Based on Class Counsels' analysis, these claims were worth as little as $0 (a defense verdict) or as much as **$3,120,828** (as determined by expert). (Yaeckel decl. ¶19).

C. PLAINTIFFS' WAGE STATEMENT CLAIMS

Plaintiffs acknowledge that these claims are largely derivative, in that both the gross and net wages could be found to be inaccurate, due to the above-referenced claims.

Pandora argued that the failure to list gross and net wages are derivative of other claims that may ultimately fail and as a result there is no "knowing and intentional failure" to list information, which triggers liability under Labor Code §226(e). (Yaeckel decl. ¶30).

The California Supreme Court has recently held that the failure to pay meal and rest period premiums ***may*** give rise to a claim for inaccurate wage statements (or waiting time penalties). However, such derivative liability is not automatic and the Plaintiff still must show *a* "knowing and intentional" or "wilful" failure to comply with the Labor Code. See *Naranjo v. Spectrum Security Services, Inc.* (2022) 13 Cal.5th 93,109. Defendants (as with the underlying Meal and Rest Period claims) maintained individualized inquires would abound as to why breaks were missed and whether meal and rest period premiums should have been paid, requiring individualized inquiries that would make any PAGA claims unmanageable. (Yaeckel decl. ¶31).

Based on Class Counsels' analysis, this claim was worth as little as $0 (a defense verdict) or as much as **$4,104,200** (as determined by expert). (Yaeckel decl. ¶ 19).

D. PLAINTIFFS' REIMBURSEMENT CLAIMS

Plaintiffs contended that Pandora violated Labor Code section 2802 by failing to reimburse its employees for certain costs. Pandora contended that Plaintiffs' (and others') position did not require the use of a personal cell phone. (Yaeckel decl. ¶32). Based on Class Counsels' analysis, this claim was worth as little as $0 (a defense verdict or as much as $730,672 (as determined by expert). (Yaeckel decl. ¶19).

E. OTHER "DERIVATIVE" AND SUBSIDIARY CLAIMS

Plaintiffs also assert other various claims not fully briefed and analyzed here, as well as claims that are derivative in that PAGA and Labor Code § 203 penalties would only be permissible if the above claims are proven.

Additionally, Defendant failed to timely pay Plaintiffs and members of the Class all wages. Plaintiffs received compensation in addition to hourly wages, but those additional amounts were not included when calculating the regular rate of pay, leading to underpayment.

The parties agreed to allocate $285,000.00 to the PAGA claims, which is 10% of the total settlement. This PAGA allocation is in the range routinely approved by California Courts. *See Garcia v. Gordon Trucking, Inc.* (E.D. Cal., Oct. 31, 2012, No. 1:10-CV-0324 AWI SKO) 2012 WL 5364575, at *7 (approving $10,000 PAGA penalty for a California class with a $3.7 million gross settlement payment); *Syed v. M-I, L.L.C.* (E.D. Cal., Feb. 22, 2017, No. 112CV01718DADMJS) 2017 WL 714367, at *13 (approving 2.53% of the estimated $3.95 million Net Settlement Amount allocated to the California class); *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-CV-02198-EMC) 2016 WL 5907869 (approving allocation of $20,000 to the PAGA claim (**0.15%** of its total value of $12,952,000) as reasonable in the context of the settlement as a whole); *In re Uber FCRA Litigation* (N.D. Cal., June 29, 2017, No. 14-CV-05200-EMC) 2017 WL 2806698 (approving a settlement agreement of $7.5 million, where the amount allocated to the PAGA claims was only $7,500.00 – .01% of the total settlement amount).

Based on Class Counsel's analysis, the PAGA and Labor Code § 203 claims were worth as little as $0 (a PAGA defense verdict or denial of certification of the § 203 claim) or as much as $15,774,100 and $5,996,189.00 respectively (as determined by expert). (Yaeckel decl. ¶19).

F. CASE LAW SUPPORTS A FURTHER REDUCTION ON ANY RECOVERY

Plaintiffs concede they would be highly unlikely to ever be awarded an amount approaching the maximum damages set forth above. To wit, the majority of the recovery would be "derivative" penalties under PAGA, Labor Code § 203 and Labor Code § 226. The Court would have great discretion to mitigate any penalties awarded. *Thurman v. Bayshore Transit Management, Inc.* (2012) 203 Cal.App.4th 1112, 1135 (disapproved on other grounds).

In a recent trial involving Class Counsel in this case, the Court found liability, but then reduced the PAGA penalties by 90%, from $50 per violation down to $5 a violation. See *Carrington v. Starbucks Corp*. (2018) 30 Cal.App.5th 504; See accord *Fleming v. Covidien, Inc.*, No. ED-CV-10-1487-RGK(OPx), 2011 WL 7563047 at *4 (C.D. Cal. Aug. 12, 2011) (reducing PAGA penalties by over 82%, in part because employer was "not aware" of violations). And in *Carrington*, the Trial Court declined to award penalties under Labor Code §§ 203 and 226, noting that other trial courts have declined to "stack" (impose multiple) penalties based on the same underlying Labor Code violation. See *Ruelas v. Costco Wholesale Corporation* (N.D. Cal. 2014) 67 F.Supp.3d 1137.

Class Counsel believes a mitigation of the damages and potential PAGA penalties would be warranted here. As in the *Carrington* case, there was evidence that Pandora attempted to provide meal and rest periods in practice, and the written policies contained no facially non-compliant terms. Given this, it is likely that some of the violations by Pandora were not "willful." Finally, given the defenses raised by Defendants, there was a significant risk that many of the certified claims would not have been maintained through trial and appeal.

Based on the above, it is possible that PAGA penalties could be reduced to approximately $5 per violation and the Court would find no basis for imposing Labor Code §§ 203 or 226 penalties. Given those risks, the penalties were discounted by 75 %. If this occurred, the average class member's pre-tax share of a realistic best case recovery would be **$1,583.74**. (Yaeckel decl. ¶25).

Class Counsel submits the **$554.06** average recovery secured via this Settlement, is a reasonable compromise and in the best interests of the Class. (Yaeckel decl. ¶25).

V. PROVISIONAL CERTIFICATION OF THE CLASS IS APPROPRIATE

Under California law, 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. Code Civ. Proc. § 382; *Sav-on Drug Stores, Inc. v. Superior Court* (2004) 34 Cal. 4th 319, 341. State law requirements under California Code of Civil Procedure § 382 for class certification mirror those of federal law under Rule 23 of the Federal Rules of Civil Procedure: numerosity, typicality of the class representatives' claims, adequacy of representation, predominance of common issues, and superiority. See Fed. R. Civ. P. 23(a); see also *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1019. Thus, for settlement purposes, each of these elements must be present. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal. App. 4th 224, 237-38.

A. THE PROPOSED SETTLEMENT CLASS IS ASCERTAINABLE

The proposed class is ascertainable because all Class Members currently or formerly worked for Defendant as a nonexempt employee and will be identified through Defendant's employment records. See *Rose v. City of Hayward*, 126 Cal.App.3d 926 (1981) (finding that "Class Members are 'ascertainable' where they may be readily identified without unreasonable expense or time by reference to official records"). Thus, the ascertainability requirement is met. (Yaeckel Decl. ¶35).

B. THE PROPOSED SETTLEMENT CLASS IS SUFFICIENTLY NUMEROUS

The numerosity requirement is met if the class is so large that joinder of all members would be impracticable. *In re Tobacco II Cases* (2009) 46 Cal. 4th 298, 318. Here, Defendant's records show that approximately **2,800 class members** worked for the company during the limitations period. (Yaeckel Decl. ¶34). Thus, joinder of all members of the class would be impracticable.

C. THE COMMONALITY REQUIREMENT WAS MET

The commonality requirement is met if there are questions of law and fact common to the class. *See Hanlon*, *supra*, 150 F.3d at 1019. Here, for purposes of the Settlement, the parties agree the claims of Class Members all involve the same questions of law and fact. Namely, all class members were subject to the same employment policies and practices of Defendant. (Yaeckel decl. ¶36). The common question exists as to whether the policies and practices Class Members were subjected to are illegal. Therefore, the commonality requirement is satisfied. See *Hanlon*, *supra*, 150 F.3d at 1019-20.

D. THE TYPICALITY REQUIREMENT IS MET

The typicality requirement is met if the class representatives and class counsel have no interests adverse to the interests of the proposed Class Members and are committed to vigorously prosecuting the case on behalf of the class. See *Wehner v. Syntex Corp.,* 117 F.R.D. 641, 644 (N.D. Cal. 1987).

Here, there are no such adverse interests. Plaintiffs have claims substantially the same as all the other Class Members. (Yaeckel decl. ¶37). Factual differences may exist between the class representatives and the Class Members so long as the claims arise from the same events or course of conduct and are based on the same legal theories. See *Hanlon,* 150 F.3d at 1020; see also 1 *Newberg* § 53.13 at 3-76-77 ("When it is alleged that the same unlawful conduct was directed at or affected both the named plaintiff and the class sought to be represented, the typicality requirement is usually met irrespective of varying fact patterns which under lie individual claims.")

E. THE ADEQUACY REQUIREMENT IS MET

The adequacy of representation component of the community of interest requirement for class certification "comes into play when the party opposing certification brings forth evidence indicating widespread antagonism to the class suit." *Capitol People First v. Dep't of Develop. Servs.* (2007) 155 Cal. App. 4th 676, 696-97. The adequacy inquiry "serves to uncover conflicts of interest between named parties and the class they seek to represent." *Id*. To assure "adequate" representation, the "class representative's [...] claim must not be inconsistent with the claims of other members of the class." *Id*. Here, no such "inconsistencies" exist. Each Plaintiff will be compensated based on the same "pay period" formula as all other members of the Class. (Yaeckel decl. ¶37)

Additionally, any Class Member who wishes to "opt out" of the Settlement may do so and retain all of their individual rights. (Yaeckel decl. ¶38). There is therefore no conflict of interest between the Class Representatives and the Class Members. (*Id*.)

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F. COMMON ISSUES PREDOMINATE AND CLASS-WIDE SETTLEMENT IS SUPERIOR TO OTHER AVAILABLE METHODS OF RESOLUTION

Class certification is authorized where common questions of law and fact predominate over individual questions, and where class-wide treatment of a dispute is superior to individual litigation. See *Richmond v. Dart Indus., Inc.,* 29 Cal.3d 462, 469 (1981).

The proposed class in this case is sufficiently cohesive because, for purposes of the Settlement only, the parties have stipulated that all class certification elements are met. (Yaeckel Decl. ¶40). All members of the Class worked under the same conditions and experienced the same policies and practices of Defendant. (See section IV, *supra*). Thus, the class is sufficiently cohesive.

Further, it is preferable to resolve all of the Class Members' claims by means of a classwide settlement than to require each Class Member to litigate individual claims. (Yaeckel decl. ¶39).

VI. PRELIMINARY APPROVAL OF THE CLASS ACTION SETTLEMENT IS PROPER

The trial court has broad discretion to determine whether a class action settlement is fair and reasonable. *In re Microsoft I-V* Cases (2006) 135 Cal.App.4th 706, 723. Fairness is presumed where (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. *Chaves v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 52; *Dunk v. Ford Motor Co.*(1996) 48 Cal.App.4th 1794, 1802. But, even where it appears the settlement is fair, the court must still determine on the record before it whether the settlement should be approved after considering "the strengths and weaknesses of the claims and risks of the particular litigation." *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129. The courts will consider: (i) the strength of the plaintiff's case; (ii) the risks, expense, complexity and likely duration of further litigation; (iii) the risk of maintaining class action status throughout the trial; (iv) the amount offered in settlement; (v) the extent of discovery completed; (vi) the stage of the proceedings; (vii) the experience and views of counsel; (viii) the presence of a governmental participant; and (ix) any reaction of putative class members to the proposed settlement. *Dunk*, 48 Cal.App.4th, at 1800-1801; *In re Microsoft I-V Cases*, 135 Cal.App.4th, at 723.

When evaluating factors, the court "must stop short of the detailed and thorough investigation that it would undertake if it were actually trying the case," but nonetheless it "must eschew any rubber stamp approval in favor of an independent evaluation." *Kullar*, 168 Cal.App.4th, at 130. Ultimately, the court approves the proposed class action settlement when the settlement is fair and falls "within the range of reasonableness."*Hernandez v. Vitamin* (2009) 174 Cal.App.4th 1441, 1446.

A. FAIRNESS OF THE SETTLEMENT

For preliminary approval purposes, a proposed class action settlement is *presumed* to be fair where, as here, (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; and (3) counsel is experienced in similar litigation. *Chaves*, *supra*, 162 Cal.App.4th at 52.

The proposed settlement here meets these criteria, and merits preliminary approval. As discussed above, the parties only entered into the Agreement after engaging in a full day of mediation with an experienced mediator who routinely handles "wage and hour" class action litigation. (Yaeckel Decl. ¶7). The mediation was preceded by discovery, investigation of claims at issue, interviews of putative Class Members, disclosure and review of documents detailing company-wide policies and practices, informal information exchanges for mediation purposes, and ongoing discussions about the merits between the parties' counsel during the span of the litigation. (Yaeckel Decl. ¶¶8-9). Thereafter, the parties memorialized the details of this Settlement via the Agreement. (**Ex. A**).

When negotiating the Settlement, both sides took into account the strengths and weaknesses of their opponent's positions as pointed out by mediator Steve Serratore, the data available to evaluate liability and damages, the lack of data or evidence on certain issues, and the substantial and evolving law applicable to the merits of the claims. The Agreement was only agreed to after extensive arms-length negotiations resulting in a unique compromise that permits all parties to move forward and bring this action to close. Despite a mutual desire to resolve this action, the negotiations remained at all times adversarial. (Yaeckel Decl. ¶41).

As set forth below in section H, *infra.*, counsel for both parties have extensive experience in litigating wage and hour class action lawsuits. Based on this experience, Class Counsel has determined that the settlement is fair, adequate, and reasonable. (Yaeckel decl. ¶33).

B. STRENGTH OF PLAINTIFFS' CASE

The most important factor courts consider when evaluating the fairness of the class action settlement is the strength of the plaintiffs' case balanced against the amount offered in settlement. *Kullar*, 168 Cal.App.4th, at 130.

All of Plaintiffs' claims – individual, PAGA, and class– presented hurdles including a substantial risk of a defense verdict by way of summary judgment, or at trial. (Yaeckel Decl. ¶¶26-33).

The exchange of a mediation brief, the assistance of an experienced "wage and hour" mediator, and the parties' ongoing negotiations all helped the parties realize the strengths and weaknesses of their case, as well as the risks and expenses of continuing litigation.

Additionally, as trial approaches, each party's monetary risk increases significantly as substantial additional attorney hours and expert witness hours would have to be devoted to this case by each party. Each party bears a real risk at trial, and considering the balance of the strengths of Plaintiff's claims versus the risks inherent in trial and the consideration given to settle now, the settlement reflects a fair and adequate resolution to this action.

C. THE RISK, EXPENSE, COMPLEXITY, AND DURATION OF LITIGATION

The effectiveness of Class Counsel in prosecuting this case has translated into tangible monetary and non-monetary benefits for the Settlement Class Members in the following respects: **(1)** a guaranteed favorable result; **(2)** guaranteed monetary recovery over a reasonably short period of time, as opposed to possibly waiting additional years for a potentially worse result; and **(3)** significant savings in attorneys' fees and costs, which would have increased had the case progressed through trial and possible appeals. (Yaeckel decl. ¶42).

Without entering into the Agreement, there existed a significant chance that Defendants would prevail on the merits of some or all claims and that Class Members would receive nothing. Through the Agreement, participating Class Members receive guaranteed cash, and this action has also been the catalyst for programmatic relief. (Yaeckel decl. ¶43).

If the litigation were to proceed in lieu of settlement, additional and substantial attorneys fees and costs, expert witnesses fees would quickly accumulate. Given the numerous claims being litigated, the parties may be required to hire multiple experts each (as many as 6 total). This would result in not only the production of six expert reports, but six depositions as well. And, based on previous discussions between counsel regarding the remaining claims (including the PAGA claims), Plaintiff anticipated at least one motion to compel, and two dueling motions for summary judgment / adjudication (one from each side). (Yaeckel decl. ¶44).

Importantly, even after engaging in all of the potential continued and protracted litigation set forth above, the putative class would continue to have no guarantee of success on any of the claims advanced in this case. Thus, the parties and their counsel believe in good faith that the proposed resolution is a fair, reasonable, and adequate compromise. (Yaeckel decl. ¶45).

D. THE RISK OF MAINTAINING CLASS ACTION STATUS THROUGH THE TRIAL

At the time of the settlement, a Motion for Class Certification had not been filed. (Yaeckel decl. ¶46). As the Court never ruled on any such motion, neither side had a decided advantage in the litigation. Even if Plaintiff did obtain class certification of the claims, each claim is subject to substantial risk of a Defense verdict at trial. (*Id*.)

Regarding the representative (PAGA) claims, there is also a substantial risk that, at trial, Plaintiffs will either fail to obtain a favorable judgment on some of these claims, or that a favorable award on one or more PAGA claims may be greatly reduced, as these claims are subject to mitigation by the Court. *See Thurman v. Bayshore Transit Mgmt., Inc.* (2012) 203 Cal.App.4th 1112, 1135.

E. THE AMOUNT OFFERED IN THE SETTLEMENT

After deduction from the total "Settlement Amount" of the projected costs of administration, proposed class representative service awards, potential attorney fees and costs, the "Net Settlement Amount ("NSA") will be distributed to all Class Members who do not file a request for exclusion. Participating Class Members will receive their share of the NSA based on the total amount of time they worked during the Class and PAGA Period. (**Ex. A**, ¶¶5.4.1-5.4.2).

Based on the current proposed figures, each Class Member will receive an average of **$554.06** although the actual amount will vary based on the amount of Total Shifts employed. The Class Notice will list that individual class member's actual share. (See **Ex. B**.) Plaintiff's counsel maintains this recovery was significant in light of the circumstances of the case. (Yaeckel Decl. ¶25).

F. THE EXTENT OF DISCOVERY COMPLETED

Plaintiffs propounded written discovery devices on Defendant, including, special interrogatories, requests for production of documents, and general and employment form interrogatories. (Yaeckel Decl. ¶8). Through these requests, Plaintiffs sought, among other information and documents, the identities of putative class members, Defendants' compensation policies, meal and rest period policies, employee handbooks, wage statements, time records, job descriptions, and reimbursement policies. (*Id*.) Plaintiffs also noticed a corporate representative deposition of Defendants, but agreed not to proceed with the deposition while the parties attended mediation.

Through informal exchanges of documents and information prior to mediation, Defendants provided detailed substantive responses detailing all relevant employment policies, in addition to producing hundreds of pages of documents. The document production also included a large sampling of other putative class members time and wage records. (Yaeckel Decl. ¶8). Plaintiff's counsel has also interviewed several Class Members in the course of investigating and litigating this matter. (Yaeckel decl. ¶ 47). Counsel has also reviewed hundreds of pages of documents produced by Defendants, Plaintiffs, and Class Members. (*Id*.)

This information, along with documents and information obtained through informal discovery and from Class Members, allowed Plaintiff's counsel to prepare a detailed Mediation Brief. (*Id*.) The Brief was provided to opposing counsel and contained a breakdown of potential damages based on all of the information obtained from all Parties. (*Id*.)

Thus, sufficient discovery, both formal and informal, has been conducted to allow the parties to participate in an informed, arms-length negotiation process.

G. THE STAGE OF THE PROCEEDINGS

Plaintiffs had already obtained the data needed to evaluate the merits of the claims and the parties were familiar with Plaintiffs' central allegations and Defendants' defenses thereto. The next phase of this litigation would have been to complete class discovery, prepare expert reports and then prepare for Trial.

H. THE EXPERIENCE AND VIEWS OF COUNSEL

Class Counsel has considerable experience in wage and hour and class action litigation. William Sullivan has over 30 years of experience, 29 years of which has been devoted to both prosecuting and defending class action litigation. Mr. Yaeckel has over 14 years of experience in "class litigation." Mr. Kuhn has over 6 years of experience in class action litigation. (Yaeckel Decl. ¶48).

Plaintiffs *Flores*, *Hernandez*, and *Triplett*'s counsel are also well qualified to act on behalf of a class, based on the firm's extensive class action experience. (Bibiyan Decl. ¶¶2-15; Matavosian Decl. ¶¶ 2-7).

Plaintiffs' counsel considers the Agreement to represent a fair, adequate and reasonable settlement that is well within the accepted range of recoveries for similar cases. Counsel further believes the Agreement is in the best interests of the Settlement Class Members. (Yaeckel Decl. ¶49).

I. PRESENCE OF A GOVERNMENTAL ACTOR

Although the State is not directly involved in this action, Plaintiffs "stand in the shoes" of the Labor and Workforce Development Agency ("LWDA") by bringing his PAGA action. Consideration has been made to compensate to Labor Workforce Development Agency ("LWDA") in the amount of $285,000.00, even though the LWDA declined to prosecute the claims itself. (*See* Exhibit "A," at ¶3.2.5). To confirm, 75% of the total allocation of $285,000.00 amount, or **$213,750.00**, is being paid to the LWDA, and 25%, or **$71,250.00**, being distributed amongst the class members. (*Id*). Counsel for the parties believe this is a fair, reasonable, and adequate allocation. (Yaeckel Decl. ¶50).

J. REACTION OF THE CLASS MEMBERS TO THE PROPOSED SETTLEMENT

Prior to preliminary approval, what can be said of the reaction the class members is limited. However, Plaintiff's counsel has spoken to some Class Members since the parties reached a proposed settlement agreement, and <u>all</u> were in favor of the Settlement. (Yaeckel Decl.¶51). As explained in the Agreement, the Settlement Claims Administrator will send a Notice to the Settlement Class Members. (*See* **Ex. A** at ¶5.5). The Class Notice form is attached to the declaration of Eric K. Yaeckel as **Ex. B**.

The proposed Notice advises the Settlement Class Members of their anticipated recovery under the Agreement, how to object, how to exclude themselves, the amount of fees and costs sought by Class Counsel, the amount of enhancement payment sought on behalf of the Class Representative, and the date of the final approval hearing. (*See* **Ex. B**). Thus, the proposed Notice complies with the notice requirements set forth in CRC Rule 3.766(d) and Rule 3.769(f).

VII. PROPOSED TIMELINE OF EVENTS AND FINAL APPROVAL

Should the Court grant Preliminary Approval, Plaintiffs request that the Court set a Final Approval Hearing in accordance with the chronology of events set forth below:

1. Within thirty (30) calendar days of Preliminary Approval, Defendant will provide to the Settlement Administrator the Class List including Class Members' names, last known addresses, social security numbers, and the dates of employment;
2. Within 14 calendar days of receiving the Class List, the Settlement Administrator will perform an NCOA check for information to update and correct for any known or identifiable address changes and shall mail a Notice Packet to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List;
3. 60 calendar days after Settlement Administrator has mailed the Notice Packets to Class Members: Deadline for Class Members to postmark and submit all disputes of pay period information, request exclusion, or file written objection to the Settlement;
4. At least 30 days after expiration of the foregoing deadline, setting a Final Approval hearing pursuant to the Court's availability.

Dated: October 1, 2025

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Attorneys for Plaintiff LAVONTRA BREAUX, in a Representative capacity only, and on behalf of other members of the general public similarly situated