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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

ELIJAH WOLDEMARIAM, individually, and
on behalf of other members of the general public
similarly situated;

Plaintiff,

v.

ALL NIPPON AIRWAYS CO., LTD., a
Japanese corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: 23STCV29685

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: September 18, 2026
Time: 10:30 a.m.

Judge: Hon. Theresa M. Traber
Dept.: 1

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SECONDARY SOURCES

Newberg & Conte, *Newberg on Class Actions*, (3d ed. 1992) §11.41, pp. 11-91

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I. INTRODUCTION

Plaintiff Elijah Woldemariam (hereinafter “Plaintiff”) seeks final approval of the Second Amended Class Action and PAGA Settlement Agreement (“Agreement”)¹, which if approved, would provide valuable monetary relief for 244 Participating Class Members² employed by Defendant All Nippon Airways Co., Ltd. (hereinafter “Defendant”) during the Class Period.

In an order dated June 24, 2026, this Court preliminarily approved the Agreement and preliminarily certified the Class. On July 14, 2026, the Court-approved Class Notice was mailed to each Class Member via U.S. First Class Mail. Declaration of Norma Ayala (“Apex Dec.”), ¶ 7. ***The Class greeted news of the Settlement with unanimous approval as, at the time of the filing of this motion, all 244 Class Members chose to participate in the Settlement.***³ At the time of the filing of this motion, there are zero opt-outs and zero objections to the Settlement. Apex Dec., ¶¶ 10-14. The unanimous approval by the Settlement Class evidences the clear fairness and reasonableness of the Settlement.

An objective evaluation of the proposed settlement of Six Hundred Fifty Thousand Dollars and Zero Cents (\$650,000.00) (“Gross Settlement Amount”) confirms that the relief negotiated on behalf of the Settlement Class is fair, reasonable, and valuable. The Settlement is a product of informed, adversarial, and non-collusive negotiations, between experienced counsel, and presided over by Steve Rottman, Esq. a respected wage and hour class action mediator. After deducting any Court-approved attorneys’ fees and costs, class representative incentive payments, administration costs, and the payments to the Labor & Workforce Development Agency (“LWDA”), the net settlement fund shall be distributed to the Settlement Class based on the number of Workweeks they worked while employed by Defendant during the Class Period. Declaration of Selena Matavosian (“LFJ Dec.”), ¶ 5.

This Settlement provides substantial recovery to Participating Class Members. Plaintiff estimates that the Settlement, if approved, would result in a Net Settlement Amount of approximately \$309,010.00. This will result in an average Individual Class Payment of \$1,266.43, a high payment of

¹ The Agreement is attached as Ex “A” to the Declaration of Shani O. Zakay, Esq. (“SOZ Dec.”) at ¶ 3. All citations to the Agreement incorporate by this reference a citation to the SOZ Dec., ¶ 3. Further, unless indicated otherwise, capitalized terms used herein have the same meaning as those defined by the Agreement.

² At the time of filing this motion, there were 244 Participating Class Members. The re-mailed Response Deadline falls on September 14, after the filing deadline of this motion. The Administrator will provide a supplemental declaration confirming the final number of Participating Class Members after the Response Deadline expires, and prior to this motion being heard.

³ Three (3) Notices were deemed undeliverable at the time this motion was filed. Apex Dec. at ¶ 9.

\$2,551.42, and a low payment of \$9.59. Apex Dec. at ¶ 16. Aggrieved Employees will receive an estimated average gross payment of \$104.17, and a high payment of \$142.40. Apex Dec. at ¶ 18.

The relief offered by the Settlement is immediate and is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing similar wage and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, the Settlement Class will not have to wait (possibly years) for relief, nor will they have to bear the risks associated with prolonged and uncertain litigation. Declaration of Shani O. Zakay, Esq. (“SOZ Dec.”), ¶ 8.

As discussed below, the proposed Settlement satisfies all criteria for final settlement approval under California law and falls well within the range of reasonableness. Accordingly, the Class Representative and Class Counsel respectfully request this Court grant final approval of the Agreement and enter the proposed Final Approval Order and Judgment. SOZ Dec., ¶ 9.

II. OVERVIEW OF THE LITIGATION

Defendant is an airline company which offers daily passenger flights to/from the county of Los Angeles, where Plaintiff worked. This action asserts claims on behalf of all of Defendant’s current and former hourly-paid or non-exempt employees employed in California at any time during the Class Period. Plaintiff worked for Defendant as an hourly-paid, non-exempt employee in California from approximately October 2022 to December 2022. At all times during his employment, Plaintiff earned an hourly wage and was entitled to legally compliant meal and rest periods, and minimum, regular and overtime wages for all hours worked. Throughout his employment, Plaintiff was subject to Defendant’s policies and procedures. LFJ Dec., ¶ 6.

Generally, Plaintiff claims that Defendant failed to pay for all hours worked, failed to provide legally compliant meal and rest periods, failed to pay all wages when due at the time of separation, and failed to furnish complete and accurate wage statements. Defendant denies liability for Plaintiff’s claims. Further, Defendant asserts that it fully complied with all applicable employment laws and raised several other significant defenses to Plaintiff’s claims, including but not limited to, asserting that it has made substantial good faith efforts to comply with the California Labor Code and Industrial Welfare Commission Wage Orders, paid employees for all hours worked, and maintained facially compliant meal and rest period policies at all times during the Class Period. LFJ Dec., ¶ 7.

1 On September 28, 2023, Plaintiff initiated this action by serving Defendant and the California
2 Labor and Workforce Development Agency (“LWDA”) with a Notice of Alleged Labor Code
3 Violations (“PAGA Notice”). Plaintiff’s PAGA Notice alleged that Defendant violated a number of
4 California Labor Code provisions by, inter alia, failing to pay Plaintiff and those similarly situated for
5 all hours worked, failing to provide legally compliant meal and rest periods, and failing to provide
6 accurate itemized wage statements, among other alleged violations. LFJ Dec., ¶ 8.

7 On December 5, 2023, Plaintiff filed a class action complaint in the Los Angeles Superior Court,
8 Case No. 23STCV29685 (“Class Action”). Agreement at § 1.1. The Action alleged ten causes of action
9 against Defendant for: (1) Failure to Pay Overtime Wages in Violation Of Cal. Lab. Code §§ 510 and
10 1198; (2) Failure to Provide Required Meal Periods in Violation Of Cal. Lab. Code §§ 226.7 & 512(a)
11 and the Applicable IWC Wage Order; (3) Failure to Provide Required Rest Periods in Violation Of Cal.
12 Lab Code § 226.7 and the Applicable IWC Wage Order; (4) Failure to Pay Minimum Wages in
13 Violation Of Cal. Lab. Code §§ 1194, 1197 & 1197.1; (5) Failure to Provide Final Wages When Due
14 in Violation Of Cal. Labor Code §§ 201 and 202; (6) Failure to Provide Wages During Employment
15 When Due in Violation Of Cal. Labor Code § 204; (7) Failure to Provide Accurate Itemized Statements
16 in Violation Of Cal. Lab. Code § 226(a); (8) Failure to Maintain Requisite Payroll Records in Violation
17 of Cal. Lab. Code § 1174(d); (9) Failure to Reimburse Employees for Required Expenses in Violation
18 of Cal. Lab. Code §§ 2800 and 2802; and (10) Unfair Competition in Violation of Cal. Bus. & Prof.
19 Code §§ 17200, *et seq.* LFJ Dec., ¶ 9.

20 On December 5, 2023, Plaintiff filed a separate representative PAGA complaint in the Los
21 Angeles Superior Court, Case No. 23TRCV04045, alleging a single cause of action for violations of
22 the California Labor Code § 2698, *et seq.* (“PAGA Action”). LFJ Dec., ¶ 10.

23 On April 7, 2026, Plaintiff filed a First Amended Complaint to incorporate the claims alleged in
24 the PAGA Action into the Class Action. On April 9, 2026, the Court entered a dismissal of the PAGA
25 Action. LFJ Dec., ¶ 11.

26 The Parties agreed to mediate the Action on a Class and PAGA basis. On September 24, 2024,
27 the Parties participated in a full day mediation presided over by Steven Rottman, Esq. The Parties did
28 not settle at mediation. After continued arms-length negotiations and bargaining, the Parties reached an

1 agreement to settle the matter and signed a Memorandum of Understanding on March 31, 2025. After
2 reaching an agreement in principle, the Parties drafted and negotiated a long-form settlement
3 agreement, which is the subject of the instant motion. LFJ Dec., ¶ 12.

4 On June 24, 2026, this Court granted preliminary approval of the Settlement. SOZ Dec., ¶ 4. On
5 July 14, 2026, the Administrator mailed Notice Packets to all 244 Class Members. Apex Dec., ¶ 7. The
6 mailing of the Notice Packets triggered a forty-five (45) day Response Deadline for the Settlement
7 Class to submit requests for exclusion or objections to the Settlement. The response from the
8 Settlement Class to the Settlement was outstanding—100% of the Class Members are participating in
9 the Settlement. Apex Dec., ¶ 14.

10 **III. THE SETTLEMENT BEFORE THE COURT**

11 The Court preliminarily approved an initial Gross Settlement Amount of Six Hundred Fifty
12 Thousand Dollars and Zero Cents (\$650,000.00) based on a total of an estimated 32,300 Workweeks
13 worked by the Class during the Class Period. The Gross Settlement Amount shall be used: (1) to satisfy
14 Individual Class Payments; (2) to satisfy the Class Representative Enhancement Award; (3) to satisfy
15 the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (4) to satisfy the
16 PAGA Penalties; and (5) to satisfy the Administration Expenses incurred in this action. SOZ Dec., ¶ 10.

17 Assuming there are no objectors, and no appeal is filed, Defendant will fund the \$650,000 Gross
18 Settlement Amount plus the employer payroll taxes and contributions owed within thirty (30) calendar
19 days after the Effective Date. Within 14 days after Defendant funds the Gross Settlement Amount, the
20 Administrator will mail checks for all Individual Settlement Payments, all Individual PAGA Penalties,
21 the LWDA PAGA Penalties, the Class Representative Enhancement Award, the Class Counsel
22 Litigation Expenses Payment, and the Class Counsel Fees Payment. Agreement at § 4.4.1.

23 The Administrator will calculate Individual Class Payments by dividing the Net Settlement
24 Amount by the total number of Workweeks worked by all Participating Class Members during the Class
25 Period and multiplying the result by each Participating Class Member's Workweeks. Agreement at §
26 3.2.4. The estimated average Individual Class Payment is approximately \$1,266.43. Apex Dec., ¶ 16.

27 In exchange for the valuable consideration, as of the full funding of the Gross Settlement Amount,
28 Plaintiff and the Participating Class Members will agree to release the Released Parties from the

Released Class Claims that accrued during the Class Period. Agreement at §§ 1.48; 5.4. Plaintiff, acting as the representative of the State of California, on behalf of the Aggrieved Employees, will release the Released Parties from the Released PAGA Claims that accrued during the PAGA Period. Agreement at §§ 1.49; 5.5.

Apex Class Action, LLC was appointed as the Administrator for the Class. Administration Expenses include those expenses of effectuating and administering the Settlement, *i.e.*, the costs incurred to the Administrator, the costs of giving notice to the Class, the costs of administering and disbursing the Individual Class Payments, and the fees of the Administrator (“Administration Expenses”) approved for reimbursement by the court. The Administration Expenses are \$5,990.00. Apex Dec., ¶ 19. These expenses shall be paid from the Gross Settlement Amount. Agreement, § 1.3.

Subject to Court approval, Class Counsel shall seek a Class Counsel Fees Payment and Class Counsel Litigation Expenses in the amount of up to \$257,500.00, comprised of attorneys’ fees equal to 35% of the Gross Settlement Amount estimated to be Two Hundred Twenty-Seven Thousand Five Hundred Dollars and Zero Cents (\$227,500.00) and up to Thirty Thousand Dollars and Zero Cents (\$30,000.00) for actually incurred litigation expenses. Plaintiff’s counsel is to split the fees as follows: 85% to Lawyers for Justice, PC, 7.5% to the JCL Law Firm, APC, and 7.5% the Zakay Law Group, APLC. Plaintiff has consented to the fee sharing in writing. The Preliminary Approval Order also provides for a Class Representative Enhancement Award in the amount of \$7,500 for Plaintiff, in consideration of his time, risk, and efforts as the Class Representative on behalf of the Class, and executing a general release. SOZ Dec., ¶ 11.

As explained in further detail below, the Settlement is fair, adequate, and reasonable to the class and should be granted final approval. This is evidenced by the unanimous approval of the Settlement by the Settlement Class, the absence of any objections to the Settlement and the average Individual Class Payment of \$1,266.43. Apex Dec., ¶ 16.

IV. GENERAL STANDARDS APPLICABLE TO JUDICIAL REVIEW AND APPROVAL OF CLASS ACTION SETTLEMENTS

Settlements of disputed claims are favored by the courts. *Huens v. Tatum* (1997) 52 Cal.App.4th 259, 265. In evaluating settlements, the courts have long recognized that compromise is particularly

appropriate since such litigation is difficult and notoriously uncertain. *7-Eleven Owners for Fair Fran. v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1151 (“voluntary conciliation and settlement are the preferred means of dispute resolution. This is especially true in complex class action litigation”).

“[T]o prevent fraud, collusion or unfairness to the class, the settlement or dismissal of a class action requires court approval.” *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801 *citing Malibu Outrigger Bd. Of Governors v. Superior Court* (1980) 103 Cal.App.3d 573, 578-579. The court must decide whether the proposed settlement falls within the range of reasonable settlements, considering that settlements are compromises between the parties reflecting subjective, unquantifiable judgments concerning the risks and possible outcomes of litigation. *See also Wershba v. Apple Computer* (2001) 91 Cal.App.4th 224, 246 (The proposed settlement is not to be judged against a hypothetical or speculative measure of what might have been achieved had plaintiffs prevailed at trial.”). In *Wershba*, appellants argued that the settlement was too low given the “clear” liability, however, the Court rejected this argument and held that “the merits of the underlying class claims are not a basis for upsetting the settlement of a class action.” *Wershba, supra*, at 246; *see also 7-Eleven, supra*, at 1150.

In these cases, courts have repeatedly emphasized that there is a strong initial presumption that the compromise is fair and reasonable. *Wershba*, 91 Cal.App.4th at 245. Courts should not substitute their judgment for that of the parties who negotiated the settlement. *Id.* At 246. The presumption of fairness exists where: (1) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (2) the settlement is reached through arm’s-length bargaining; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. *Dunk*, 48 Cal.App.4th at 1801, *citing Newberg & Conte, Newberg on Class Actions*, (3d ed. 1992) §11.41, pp. 11-91. Here, all of these factors support a presumption of fairness.

The essential evaluation is whether, given the risks of litigation and the range of probable results, the settlement, taken as a whole, is fair, reasonable, and adequate to all concerned. Here, the facts and circumstances compel the conclusion that the proposed settlement satisfies that standard.

V. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

The Court must determine whether the settlement is fair, adequate, and reasonable. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801; *see also Officers for Justice v. Civil Service Com'n* (9th

1 Cir. 1982) 688 F. 2d 615, 625. The purpose of the requirement is "the protection of those class members,
2 including the named plaintiffs, whose rights may not have been given due regard by the negotiating
3 parties." *Dunk, supra*, at 1801.

4 The trial court has broad discretion to determine whether the settlement is fair. *Rebney v. Wells*
5 *Fargo Bank* (1990) 220 Cal.App.3d 1117, 1138. "The well-recognized factors that the trial court should
6 consider in evaluating the reasonableness of a class action settlement agreement include 'the strength of
7 plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of
8 maintaining class action status through trial, the amount offered in settlement, the extent of discovery
9 completed and the stage of the proceedings, the experience and views of counsel, the presence of a
10 governmental participant, and the reaction of the class members to the proposed settlement.' [Citations.]"
11 *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128; *see also Munoz v. BCI Coca-Cola*
12 *Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 408.

13 The list of factors is not exhaustive and should be tailored to each case. *Dunk, supra*, at 1801.
14 Due regard should be given to what is otherwise a private consensual agreement between the parties.
15 *Id.* The inquiry "must be limited to the extent necessary to reach a reasoned judgment that the agreement
16 is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the
17 settlement, taken as a whole, is fair, reasonable and adequate to all concerned." *Id.* "Ultimately, the
18 [trial] court's determination is nothing more than 'an amalgam of delicate balancing, gross
19 approximations and rough justice.' [Citation omitted.]" *Id.*

20 These factors are analyzed seriatim below and all support final approval of the class action
21 settlement before this Court.

22 **A. Class Counsel Conducted a Thorough Investigation.**

23 As detailed in the motion for preliminary approval, Class Counsel thoroughly investigated the
24 proposed Class Members' claims, applicable law, and potential defenses. This matter involved
25 extensive investigations and research into legal and factual issues, and extensive discovery. Class
26 Counsel reviewed and analyzed a volume of information, documents, and data obtained from Plaintiff,
27 Defendant, and other sources, researched applicable law, and undertook analyses and calculations of
28 the value of claims, damages, and penalties exposure. Other work that Class Counsel has performed

and/or will perform include, *inter alia*, case strategy and analysis; drafting, reviewing, and revising the pleadings, motion-related papers, and settlement-related papers; case management; and preparing for, participating in, and/or attending court proceedings. LFJ Dec., ¶ 13. Class Counsel’s investigation, research, experience, and damage models informed and guided the mediated negotiations that resulted in this settlement. Accordingly, Plaintiff’s Counsel fully understood the strengths and weaknesses of the class claims before the parties reached a settlement.

B. The Parties Settled After Mediation and Extensive Post-Mediation Settlement Negotiations.

On September 24, 2024, the Parties participated in an all-day mediation presided over by Steve Rottman, Esq., however the Parties did not reach a settlement at that time. After continued arms-length negotiations, the Parties ultimately reached a settlement and executed a Memorandum of Understanding on March 31, 2025. After reaching an agreement in principle, the Parties drafted and negotiated a long-form settlement agreement, which is the subject of the instant motion. LFJ Dec. ¶ 14.

C. Class Counsel is Experienced in Similar Litigation.

Class Counsel in this matter has extensive class action experience in multiple fields and has represented tens-of-thousands of persons in class actions. Counsel has previously litigated similar wage and hour class actions involving similar claims. Class Counsel has been approved as class counsel in similar wage and hour class actions throughout the State of California. As such, courts throughout California have deemed Class Counsel experienced and knowledgeable in this area of law. Class Counsel has participated in every aspect of the settlement discussions and has concluded the settlement is fair, adequate, and reasonable and in the best interests of the Class. LFJ Dec., ¶¶ 39-45; Declaration of Jean-Claude Lapuyade (“JCL Dec.”) ¶¶ 3-9; SOZ Dec., ¶ 7, 12, 13-14.

D. The Settlement Class Responded Positively to the Settlement.

The reaction of the Settlement Class unequivocally supports approval of the Settlement. As of the filing of this motion, none of the 244 members of the Settlement Class opted-out of the Settlement. Moreover, there are zero objections. Stated differently, 100% of the Settlement Class chose to participate in the Settlement. Apex Dec., ¶¶ 10-14.

The unanimous approval by the Settlement Class strongly supports a finding that the Settlement

1 is fair, reasonable, and adequate. *See In re Austrian & German Bank Holocaust Litigation* (S.D.N.Y.
2 2000)80 F.Supp.2d 164, 175 ("If only a small number of objections are received, that fact can be viewed
3 as indicative of the adequacy of the settlement."); *Stoetznner v. U.S. Steel Corp.* (3d. Cir. 1990) 897 F.2d
4 115, 118-119 (29 objections out of 281 member class "strongly favors settlement"); *Laskey v. Int'l*
5 *Union* (6th Cir. 1981) 638 F.2d 954 (The fact that 7 out of 109 class members objected to the proposed
6 settlement should be considered when determining fairness of settlement.). Consequently, Class
7 Counsel respectfully requests the Court to follow the unanimous approval of the Settlement Class and
8 grant final approval of the Settlement.

9 **E. The Gross Settlement Amount is Fair and Reasonable.**

10 The Gross Settlement Amount of Six Hundred Fifty Thousand Dollars and Zero Cents
11 (\$650,000.00) in this case is fair and well within the range of recognized reasonableness. The *Kullar*
12 court acknowledged that "as the court does when it approves a settlement as in good faith under Code
13 of Civil Procedure section 877.6, the court must at least satisfy itself that the class settlement is within
14 the 'ballpark' of reasonableness." *Kullar, supra*, at 129; *See Tech-Bilt, Inc. v. Woodward-Clyde &*
15 *Associates*, 38 Cal.3d 488, 499-500 (1985).)

16 Here, the Settlement is clearly within the "ballpark" of reasonableness because the Settlement
17 provides a sizeable recovery to the Settlement Class and need not necessarily obtain 100 percent of the
18 damages sought to be fair, reasonable, and ultimately, meaningful. *Wershba*, 91 Cal.App.4th at 250.
19 While the Gross Settlement Amount represents a discount on Defendant's potential exposure if Plaintiff
20 established liability on all claims and was awarded the full amount of the estimated damages at trial, this
21 compromise is reasonable because (1) the formidable defenses raised by Defendant presented a risk that
22 could award significantly less in damages than Plaintiff's estimate and (2) any theoretical post-trial
23 recovery may require many more years of litigation, resulting in added fees and costs without any
24 guarantee of recovery for the Class. LFJ Dec., ¶ 15.

25 As detailed at the time of preliminary approval, the Gross Settlement Amount is fair and
26 reasonable considering the nature and magnitude of the claims being settled and the various potential
27 impediments to recovery. Class Counsel developed varied economic damages models measuring
28 Defendant's liability exposure while accounting for the uncertainties of continued litigation. The various

1 models were informed by Class Counsel’s investigation, including the analysis of a significant sample
2 of time and payroll data. The calculation methodology used to compensate the Settlement Class for the
3 alleged damages was negotiated at the time of the Settlement. More importantly, the methodology is
4 fair, objective, and impartial. The calculation methodology is based on the number of Workweeks each
5 Participating Class Member worked for Defendant during the Class Period. The number of Workweeks
6 for the Participating Class Members is established through Defendant’s data and documented
7 compensation records. The Administrator is responsible for calculating the Individual Class Payments
8 by dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating
9 Class Members during the Class Period and then multiplying the result by each Participating Class
10 Member's Workweeks worked during the Class Period. Agreement, § 3.2.4. This process establishes an
11 objectively fair and reasonable procedure to compensate the Settlement Class.

12 The settlement also provides significant relief to the Participating Class Members. After
13 deductions for the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment,
14 Administration Expenses, the PAGA Penalties, and the Class Representative Enhancement Award, the
15 Net Settlement Amount is currently estimated to be \$309,010.00. Apex Dec., ¶15. The average
16 Individual Class Payment is approximately \$1,266.43, the highest is approximately \$2,551.42, and the
17 lowest payment is approximately \$9.59. Apex Dec., ¶ 16. This average net recovery exceeds many
18 wage and hour class action settlements approved by California state and federal courts. *See, e.g.,*
19 *Palencia v. 99 Cents Only Stores*, No. 34-2010-00079619 (Sacramento County Super. Ct) (average net
20 recovery of approximately \$80); *Fukuchi v. Pizza Hut*, Case No. BC302589 (L.A. County Super. Ct.)
21 (average net recovery of approximately \$120); *Contreras v. United Food Group, LLC*, Case No.
22 BC389253 (L.A. County Super. Ct.) (average net recovery of approximately \$120); *Ressler v. Federated*
23 *Department Stores, Inc.*, Case No. BC335018 (L.A. County Super. Ct.) (average net recovery of
24 approximately \$90); *Doty v. Costco Wholesale Corp.*, Case No. CV05-3241 FMC-JWJx (C.D. Cal. May
25 14, 2007) (average net recovery of approximately \$65); *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-
26 02674-JAM-DAD (ED. Cal.) (average net recovery of approximately \$60); *Lim v. Victoria’s Secret*
27 *Stores, Inc.*, Case No. 04CC00213 (Orange County Super. Ct.) (average net recovery of approximately
28 \$35); and *Gomez v. Amadeus Salon, Inc.*, Case No. BC392297 (L.A. Super. Ct.) (average net recovery

of approximately \$20). Additionally, Defendant must separately fund its share of any employer side payroll taxes. Agreement, ¶ 3.1.

Clearly the goal of this litigation to obtain redress for the class has been met by this Settlement. Given the amount of the Settlement, the risks of litigation and the arm's length negotiations between experienced counsel, the settlement is fair and reasonable, and is therefore entitled to final approval. LFJ Dec., ¶ 16.

F. The Strength of Plaintiff's Case and Risks of Continued Litigation

Although Class Counsel believes strongly in Plaintiff's claims, it would be misguided to ignore the asserted defenses. If successful on any one of its defenses, Defendant could defend the action or, at least, drastically undercut Plaintiffs' claims. As the federal court in *Glass v. UBS Fin. Servs.*, 2007 WL221862 held, where the parties faced uncertainties similar to those in this litigation:

In light of the above-referenced uncertainty in the law, the risk, expense, complexity, and likely duration of further litigation likewise favors the settlement. Regardless of how this Court might have ruled on the merits of the legal issues, the losing party likely would have appealed, and the parties would have faced the expense and uncertainty of litigating an appeal. The expense and possible duration of the litigation should be considered in evaluating the reasonableness of [a] settlement.

With respect to the most immediate challenge, i.e., class certification, the risks attendant to the certification of similar wage and hour claims are demonstrated by *Ali v. U.S.A. Cab Ltd.* (2009) 176 Cal.App.4th 1333, 1341. There, the Court of Appeal affirmed the Trial Court's denial of class certification because employees' declarations attesting to having taken meal and rest breaks demonstrated that individualized inquiries were required to show harm. *See also Campbell v. Best Buy Stores, L.P.* (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack of uniform policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying certification of driver meal and rest period claims based on the predominance of individual issues).

Further, even if a class is certified, liability remains uncertain. The risks attendant to the issue of Defendant's liability in similar wage and hour actions are demonstrated by *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31. There, the Court reversed a trial verdict in favor plaintiffs in a

1 wage and hour class action. *See also Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th 1077,
2 1088 (“[T]he reason, if any, that employees might not take their breaks were predominantly
3 individualized questions of fact not susceptible to class treatment.”).

4 Finally, even if a class is certified and Defendant is found liable for the class claims alleged,
5 post-certification risks remain, including a reversal of a favorable judgment for Plaintiff and
6 decertification of the class. These post-certification risks are demonstrated by *Magadia v. Wal-Mart*
7 *Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit vacated reversed and remanded
8 a \$110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and
9 directed the trial court to enter judgement in favor of the employer. *See also O’Conner v. Uber*
10 *Technologies, Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification
11 action).

12 Collectively, the examples cited above illustrate the uncertain nature of class litigation.
13 Consequently, the uncertainty of obtaining certification through a contested motion is a significant risk
14 factor favoring settlement.

15 Although Plaintiff is confident about the strength of his claims, Plaintiff nevertheless recognizes
16 that Defendant has factual and legal defenses that, if successful, would potentially defeat or impair the
17 value of the lawsuit. Legally, the fast-changing landscape of wage and hour litigation can drastically
18 affect the value of Plaintiff’s claims and, in fact, already has.

19 In a similar wage and hour case, the federal district court in *Hopson v. Hanesbrands Inc.*, 2009
20 U.S. Dist. LEXIS 33900 at * 19-20 (N.D. Cal. 2009), granted approval of an overtime class action
21 settlement and explained:

22
23 **Plaintiffs may have a strong case, but the risks inherent in continued**
24 **litigation are great.** Defendants strongly deny liability for Plaintiffs'
25 principal claim that full-time Service Associates were misclassified as
26 exempt. In addition to the uncertainties raised by Defendants at the
27 preliminary stage regarding Plaintiffs' chance of success in this case,
28 Defendants notes that the question of an employer's duty to provide rest and
meal periods is an open one, signaling even less certainty for
Plaintiffs.....[T]he **Total Settlement amount and the Class Members'**
expected net recovery, after fees and other costs are deducted, appear
to be a reasonable compromise, in light of the risks of litigation.

1 *See also Browning v. Yahoo!, Inc.*, 2007 U.S. Dist. LEXIS 86266, at *30 (N.D. Cal. 2007) (“In
2 considering the strength of Plaintiffs’ case, legal uncertainties at the time of settlement - particularly
3 those which go to fundamental legal issues - favor approval.”).

4 As recognized in a federal decision approving settlement of an overtime wage class action:

5 **The potential complexity and possible duration of trial also weigh in**
6 **favor of granting final approval.** Plaintiffs acknowledge the difficulties
7 of proving damages, recognize the uncertainty of outcome, and believe
8 defendant would appeal in the event of adverse judgment. A post-judgment
9 appeal would require many years to resolve and delay payment to class
10 members. Plaintiffs believe the benefits of a guaranteed recovery today
outweigh an uncertain future result. Accordingly, plaintiffs argue, and the
Court agrees, the actual recovery confers substantial benefits on the class
that outweigh the potential recovery through full adjudication.

11 *Barcia v. Contain-A-Way, Inc.*, 2009 U.S. Dist. LEXIS 17118, *9 (S.D. Cal. 2009); see also *Louie v.*
12 *Kaiser Foundation Health Plan, Inc.*, 2008 U.S. Dist. LEXIS 78314, *14 (S.D. Cal. 2008).

13 In sum, while other cases have approved class certification in wage and hour claims, class
14 certification in this action would have been hotly disputed and was by no means a foregone conclusion.
15 Where both sides face significant uncertainty, as here, the attendant risks favor settlement. *Hanlon v.*
16 *Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1026.)

17 As demonstrated by the decisions in *Magadia, supra*, 999 F.3d 668, *O’Conner v. Uber*
18 *Technologies* (N.D. Cal. 2018) 82 F.Supp.3d 1133 and *Duran v. U.S. Bank National Assn.* (2014) 59
19 Cal.4th 1, the complexities and duration of further litigation cannot be overstated. Plaintiff fully expects
20 that Defendant would appeal any favorable judgment. A post-judgment appeal by Defendant would
21 have required many more years to resolve, assuming the judgment was affirmed. If the judgment was
22 not affirmed in total, then the case could have dragged on for years after the appeal. The benefits of a
23 guaranteed recovery today outweigh an uncertain result three or more years in the future. LFJ Dec., ¶
24 17.

25 Class Representative and Class Counsel believe that the Settlement confers substantial monetary
26 and non-monetary benefits upon the Class. Based upon their evaluation, Class Representative and
27 Class Counsel have determined that the Settlement set forth in the Agreement is in the best interest of
28 the Class, is fair, reasonable, and adequate, and should be granted final approval. LFJ Dec., ¶ 18.

1 **VI. THE PENALTIES UNDER THE PRIVATE ATTORNEY GENERAL ACT OF 2004 ARE**
2 **REASONABLE**

3 Where settlements “negotiate a good faith amount” for PAGA penalties and “there is no
4 indication that this amount was the result of self-interest at the expense of class members,” such
5 amounts are generally considered reasonable. *Hopson v. Hanesbrands Inc.*, No. CV-08-0844 EDL,
6 2009 WL 928133, at *9 (N.D. Cal. Apr. 3, 2009). Courts routinely approve of amounts for PAGA
7 penalties in the range of zero to two percent of the settlement. *See id.* at *1, 9 (approving a PAGA
8 payment of 0.3%); *Jack v. Hartford Fire Ins. Co.*, No. 09cv1683 MMA (JMA), 2011 WL 4899942, at
9 *6 (S.D. Cal. Oct. 13, 2011) (approving a PAGA Penalties of 0.25%); *McKenzie v. Fed. Express Corp.*,
10 No. CV 10-02420 GAF (PLAx), 2012 WL 12882124, at *5 (C.D. Cal. Jan. 23, 2012) (acknowledging
11 that courts approve PAGA claim settlements in the range of zero to two percent of the total settlement).

12 Here, Plaintiff and Defendant negotiated a good faith PAGA Penalties in the amount of \$70,000
13 which is 10.77% of the Gross Settlement Amount. As illustrated above, this amount falls well within
14 the range of approved PAGA Penalties. Seventy-five percent (75%) of the PAGA Penalties
15 (\$52,500.00) will be paid to the LWDA (“LWDA Payment”) with the remaining twenty-five percent
16 (25%) of the PAGA Penalties (\$17,500.00) to be distributed to the Aggrieved Employees (“Individual
17 PAGA Penalties”), which is within the range of PAGA penalties approved by courts and should be
18 approved. SOZ Dec., ¶ 15.

19 Class Counsel gave the LWDA notice of this Settlement and proposed allocation by filing a
20 copy of the Settlement, the Motion for Preliminary Approval, and this motion seeking final approval
21 with the LWDA. SOZ Dec., ¶ 16. By not registering an objection with either Class Counsel or the
22 Court, the LWDA has accepted and approved of the proposed PAGA Penalties.

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1 **VII. CONCLUSION**

2 Plaintiff respectfully submits that the proposed settlement satisfies the standard of fairness
3 established in California law and should therefore be finally approved as fair, reasonable, and adequate
4 and requests entry of the Final Approval Order and Judgment submitted herewith.
5

6 Dated: August 24, 2026

ZAKAY LAW GROUP, APLC

7
8 By: /s/ Nicole Noursamadi

9 Nicole Noursamadi, Esq.

10 Attorney for PLAINTIFF
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