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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

ALEXIS BARTRAM and LOURDES
CONTRERAS, individuals, on behalf of
themselves and on behalf of all persons similarly
situated,

Plaintiffs,

v.

LAKESHORE LEARNING MATERIALS,
LLC, a California limited liability company; and
DOES 1-50, Inclusive,

Defendants.

Case No. 23STCV21174

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

Date: July 3, 2025

Time: 9:00 a.m.

Judge: Hon. Lauren A. Seigle

Dept.: 17

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	OVERVIEW OF THE LITIGATION	2
III.	THE SETTLEMENT BEFORE THE COURT	5
IV.	GENERAL STANDARDS APPLICABLE TO JUDICIAL REVIEW AND APPROVAL OF CLASS ACTION SETTLEMENTS	6
V.	THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE	7
	A. Class Counsel Conducted a Thorough Investigation.	8
	B. Class Counsel is Experienced in Similar Litigation.	9
	C. The Class Responded Positively to the Settlement.	9
	D. The Gross Settlement Amount is Fair and Reasonable.	9
	E. The Strength of Plaintiffs' Case and Risks of Continued Litigation	12
VI.	THE PENALTIES UNDER THE PRIVATE ATTORNEY GENERAL ACT OF 2004 ARE REASONABLE	15
VII.	CONCLUSION	16

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TABLE OF AUTHORITIES
CASES

1		
2	<i>7-Eleven Owners for Fair Franchising v. Southland Corp.</i>	
3	(2000) 85 Cal.App.4th 1135, 1150-1151.....	6-7
4	<i>Ali v. U.S.A. Cab Ltd.</i>	
5	(2009) 176 Cal.App.4th 1333, 1341.....	12
6	<i>Barcia v. Contain-A-Way, Inc.</i>	
7	2009 U.S. Dist. LEXIS 17118, *9 (S.D. Cal. 2009).....	14
8	<i>Brinker</i>	
9		12
10	<i>Brown v. Fed Express Corp.</i>	
11	(C.D. Cal. 2008) 249 F.R.D. 580, 587-88.....	13
12	<i>Browning v. Yahoo!, Inc.</i>	
13	2007 U.S. Dist. LEXIS 86266, at *30 (N.D. Cal. 2007).....	14
14	<i>Campbell v. Best Buy Stores, L.P.,</i>	
15	(C.D. Cal. 2013) 2013 WL 5302217 at *11-13.....	12
16	<i>Contreras v. United Food Group, LLC</i>	
17	Case No. BC389253 (L.A. County Super. Ct.).....	11
18	<i>Doty v. Costco Wholesale Corp.</i>	
19	Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007).....	12
20	<i>Dunk v. Ford Motor Co.</i>	
21	(1996) 48 Cal.App.4th 1794, 1801.....	7-8
22	<i>Dunleavy v. Nadler (In re Mego Fin. Corp. Sec. Litig.)</i>	
23	(9th Cir. 2000) 213 F.3d 454, 459.....	10
24	<i>Duran v. U.S. Bank National Association</i>	
25	(2014) 59 Cal.4th 1, 31.....	13-14
26	<i>Fukuchi v. Pizza Hut</i>	
27	Case No. BC302589 (L.A. County Super. Ct.).....	11
28	<i>Glass v. UBS Fin. Servs.</i>	
	2007 WL221862.....	12
	<i>Gomez v. Amadeus Salon, Inc.</i>	
	Case No. BC392297 (L.A. Super. Ct.).....	12
	<i>Hanlon v. Chrysler Corp.</i>	
	(9th Cir. 1998) 150 F.3d 1011, 1026.....	14
	<i>Hopson v. Hanesbrands Inc.</i>	
	2009 U.S. Dist. LEXIS 33900 at *1, 9, 19-20 (N.D. Cal. 2009).....	13, 15
	<i>Huens v. Tatum</i>	
	(1997) 52 Cal.App.4th 259, 265.....	6
	<i>In re Austrian & German Bank Holocaust Litigation</i>	
	(S.D.N.Y. 2000)80 F.Supp.2d 164, 175.....	9
	<i>In re Newbridge Networks Sec. Litig.</i>	
	(D.D.C. Oct. 23, 1998) 1998 WL 765724, at *2.....	11
	<i>Jack v. Hartford Fire Ins. Co.</i>	
	No. 09cv1683 MMA (JMA), 2011 WL 4899942, at *6 (S.D. Cal. Oct. 13, 2011).....	15
	<i>Kullar v. Foot Locker Retail, Inc.</i>	
	(2008) 168 Cal.App.4th 116, 128-129.....	8-10
	<i>Laskey v. Int'l Union</i>	
	(6th Cir. 1981) 638 F.2d 954.....	9

1	<i>Lim v. Victoria's Secret Stores, Inc.</i>	
2	Case No. 04CC00213 (Orange County Super. Ct.).....	12
3	<i>Leverage v. Traeger Pellet Grills, LLC</i>	
4	(N.D. Cal. June 28, 2017, No. 16-CV-00784) 2017 WL 2797811, at *7.....	11
5	<i>Louie v. Kaiser Foundation Health Plan, Inc.</i>	
6	2008 U.S. Dist. LEXIS 78314, *14 (S.D. Cal. 2008).....	14
7	<i>Magadia v. Wal-Mart Associates, Inc.</i>	
8	(9 th Cir. 2021) 999 F.3d 668.....	13-14
9	<i>Malibu Outrigger Bd. Of Governors v. Superior Court</i>	
10	(1980) 103 Cal.App.3d 573, 578-579.....	7
11	<i>McKenzie v. Fed. Express Corp.</i>	
12	No. CV 10-02420 GAF (PLAx), 2012 WL 12882124, at *5 (C.D. Cal. Jan. 23, 2012).....	15
13	<i>Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles</i>	
14	(2010) 186 Cal.App.4th 399, 408.....	8
15	<i>O'Conner v. Uber Technologies, Inc.</i>	
16	(9 th Cir. 2018) 904 F.3d 1087, 1133.....	13
17	<i>Officers for Justice v. Civil Serv. Comm'n</i>	
18	(9 th Cir. 1982) 688 F. 2d 615, 625.....	7
19	<i>Palencia v. 99 Cents Only Stores</i>	
20	No. 34-2010-00079619 (Sacramento County Super. Ct.).....	11
21	<i>Rebney v. Wells Fargo Bank</i>	
22	(1990) 220 Cal.App.3d 1117, 1138.....	7-8
23	<i>Ressler v. Federated Department Stores, Inc.</i>	
24	Case No. BC335018 (L.A. County Super. Ct.).....	11
25	<i>Sorenson v. PetSmart, Inc.</i>	
26	Case No. 2:06-CV-02674-JAM-DAD (ED. Cal.).....	12
27	<i>Stoetzner v. U.S. Steel Corp.</i>	
28	(3d. Cir. 1990) 897 F.2d 115, 118-119.....	9
29	<i>Stovall-Gusman v. W.W. Granger, Inc.</i>	
30	2015 U.S. Dist. LEXIS 78671, at * 12.....	10
31	<i>Tech-Bilt, Inc. v. Woodward-Clyde & Associates</i>	
32	38 Cal.3d 488, 499-500 (1985).....	10
33	<i>Tien v. Tenet Healthcare Corp.</i>	
34	(2012) 209 Cal.App.4th 1077, 1088.....	13
35	<i>Viceral v. Mistras Grp., Inc.</i>	
36	(N.D. Cal. Oct. 11, 2016, No. 15-CV-02198) 2016 WL 5907869, at *3, 7.....	11
37	<i>Wershba v. Apple Computer</i>	
38	(2001) 91 Cal.App.4th 224, 245-46, 250, 2246.....	7, 10

RULES, CODES, AND STATUTES

39	<i>Cal. Bus. and Prof. Code</i> §§ 17200.....	3-4
40	<i>Cal. Lab. Code</i> § 201.....	3-4
41	<i>Cal. Lab. Code</i> § 202.....	3-4
42	<i>Cal. Lab. Code</i> § 203.....	3-4
43	<i>Cal. Lab. Code</i> § 204.....	4
44	<i>Cal. Lab. Code</i> § 226.....	3
45	<i>Cal. Lab. Code</i> § 226.7.....	3-4
46	<i>Cal. Lab. Code</i> §§ 510 et seq.....	3-4

1	<i>Cal. Lab. Code</i> § 512.....	3-4
2	<i>Cal. Lab. Code</i> § 558.....	4
3	<i>Cal. Lab. Code</i> § 1182.12.....	4
4	<i>Cal. Lab. Code</i> § 1194.....	3-4
5	<i>Cal. Lab. Code</i> § 1194.2.....	4
6	<i>Cal. Lab. Code</i> § 1197.....	3-4
7	<i>Cal. Lab. Code</i> § 1197.1.....	3
8	<i>Cal. Lab. Code</i> § 1198.....	4
9	<i>Cal. Lab. Code</i> §§ 2698 et seq.....	3
10	<i>Cal. Lab. Code</i> § 2802.....	4
11	<i>Code of Civ. Proc.</i> § 877.6.....	10

SECONDARY SOURCES

12	Newberg & Conte, <i>Newberg on Class Actions</i> , (3d ed. 1992) §11.41, pp. 11-91	7
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1 I. INTRODUCTION

2 Plaintiffs ALEXIS BARTRAM and LOURDES CONTRERAS (hereinafter “Plaintiffs”) seek
3 final approval of the Class Action and PAGA Settlement Agreement (“Agreement”)¹, which if approved,
4 would provide valuable monetary relief for 3,759 Participating Class Members employed by Defendant
5 Lakeshore Learning Materials, LLC (hereinafter “Defendant”) during the period from September 1,
6 2019, to January 19, 2025 (“Class Period”).

7 In an order dated March 5, 2025, this Court preliminarily approved the Agreement and
8 preliminarily certified the Class. Declaration of Jean-Claude Lapuyade (“JCL Dec.”), ¶ 4. On March
9 24, 2025, the Court-approved Class Notice was mailed to each Class Member via U.S. First Class Mail.
10 Declaration of Madely Nava (“Apex Dec.”), ¶ 7. *The Class greeted news of the Settlement with 99.79%*
11 *approval.*² There are eight opt-outs and zero objections to the Settlement. Apex Dec., ¶¶ 11-13. The
12 high approval rate by the Class evidences the fairness and reasonableness of the Settlement. JCL Dec.,
13 ¶ 26.

14 An objective evaluation of the proposed settlement of Two Million Six Hundred Thousand
15 Dollars and Zero Cents (\$2,600,000.00) (“Gross Settlement Amount”) confirms that the relief
16 negotiated on behalf of the Participating Class Members is fair, reasonable, and valuable. The
17 Settlement is a product of informed, adversarial, and non-collusive negotiations, between experienced
18 counsel, and presided over by Monique Ngo-Bonnici, Esq., a mediator of wage and hour class and
19 PAGA actions. After deducting any Court-approved PAGA Payment, Class Representative Payments,
20 Class Counsel Award, and the Administration Expenses Payment, the Net Settlement Amount shall be
21 distributed to the Participating Class Members based on the number of Workweeks they worked while
22 employed by Defendant during the Class Period. JCL Dec., ¶ 8.

23 This Settlement provides substantial recovery for Defendant’s alleged wage and hour violations.
24 Plaintiffs estimate that the Settlement, if approved, would result in a Net Settlement Amount of
25 approximately \$1,535,833.33. This will result in an average Individual Class Payment of **\$408.47**, a
26

27 ¹ The Agreement is attached as Ex “1” to the Declaration of Jean-Claude Lapuyade (“JCL Dec.”) at ¶ 3. All citations to the
28 Agreement incorporate by this reference a citation to the JCL Dec., ¶ 3. Further, unless indicated otherwise, capitalized terms
used herein have the same meaning as those defined by the Agreement.

² Thirty-eight (38) Notices were deemed undeliverable. Apex Dec. at ¶ 10.

high payment of **\$1,627.01**, and low payment of **\$5.85**. JCL Dec., ¶ 9; Apex Dec., ¶ 16. Additionally, the settlement results in an average Individual PAGA Payment of **\$8.65**, a high payment of **\$21.87**, and low payment of **\$0.17**. Apex Dec. ¶ 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 Class will not have to wait (possibly years) for relief, nor will they have to bear the risks associated with prolonged and uncertain litigation. JCL Dec., ¶ 10.

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 Representatives and Class Counsel respectfully request this Court grant final approval of the Agreement and entry of the proposed Final Approval Order and Judgment. JCL Dec., ¶ 11.

II. OVERVIEW OF THE LITIGATION

Defendant is a developer and retailer of educational materials in the state of California, including Los Angeles County, where Plaintiffs worked. Plaintiff Alexis Bartram was employed by Defendant from May 2022 to June 2023, as a non-exempt employee. Plaintiff Lourdes Contreras has been employed by Defendant as a non-exempt employee since approximately September 6, 2022. Declaration of Lourdes Contreras (“Contreras Dec.”) at ¶ 3. This action asserts claims on behalf of Defendant’s current and former non-exempt employees employed in California. At all times during their employment, Plaintiffs were paid an hourly wage and were entitled to legally compliant meal and rest periods. Throughout their employment, Plaintiffs were subject to Defendant’s written policies and procedures. JCL Dec., ¶ 12; Declaration of Alexis Bartram (“Bartram Dec.”) at ¶ 3; Contreras Dec., ¶ 3.

Generally, Plaintiffs claim that Defendant failed to pay for all time worked, failed to furnish accurate itemized wage statements, failed pay for all time worked, failed to pay overtime and meal period premiums at the correct regular rate of pay, failed to timely pay wages due, failed to accurately record and pay for the actual time worked, and unlawfully deducted wages. Contreras Dec., ¶ 4. Defendant denies liability for each of Plaintiffs’ claims. Further Defendant asserts that it fully complied

1 with all applicable employment laws and raised several other significant defenses to Plaintiffs’ claims,
2 including but not limited to, facially complaint meal and rest period policies, and compliant wages JCL
3 Dec., ¶ 13.

4 On June 28, 2023, Plaintiff Alexis Bartram served Defendant and the Labor and Workforce
5 Development Agency (“LWDA”) with a Notice of Violations (“PAGA Notice”). Plaintiff’s PAGA
6 Notice set forth the facts and theories supporting Defendant’s alleged violations of various provisions
7 of the California Labor Code and applicable Industrial Welfare Commissions (“IWC”) Wage Order
8 and of her intent to pursue claims under California Labor Code Private Attorneys General Act, Cal.
9 Lab. Code Sections 2698 *et seq* (“PAGA”). JCL Dec., ¶ 14.

10 On September 1, 2023, Plaintiff Alexis Bartram filed a Class Action Complaint against
11 Defendant in the Los Angeles County Superior Court, Case No. 23STCV21174 (“Bartram Action”).
12 The Action alleged seven causes of action against Defendant for: (1) Unfair Competition in violation
13 of Cal. Bus. & Prof. Code §§ 17200, *et. seq.*; (2) Failure to Pay Minimum Wages in violation of Cal.
14 Lab. Code §§ 1194, 1197, 1197.1; (3) Failure to Pay Overtime Wages in violation of Cal. Lab. Code
15 §§ 510, *et seq.*; (4) Failure to Provide Required Meal Periods in violation of Cal. Lab. Code §§ 226.7
16 & 512 and the Applicable IWC Wage Order; (5) Failure to Provide Required Rest Periods in violation
17 of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (6) Failure to Provide Accurate
18 Itemized Wage Statements in violation of Cal. Lab Code §226; and (7) Failure to Pay Wages When
19 Due in violation of Cal. Lab. Code §§ 201, 202, and 203. JCL Dec., ¶ 15.

20 On September 11, 2023, Plaintiff Lourdes Contreras served Defendant and the Labor and
21 Workforce Development Agency (“LWDA”) with a Notice of Violations (“PAGA Notice”). Plaintiff
22 Contreras’s PAGA Notice set forth the facts and theories supporting Defendant’s alleged violations of
23 various provisions of the California Labor Code and applicable Industrial Welfare Commissions
24 (“IWC”) Wage Order and of her intent to pursue claims under California Labor Code Private Attorneys
25 General Act, Cal. Lab. Code Sections 2698 *et seq.* (“PAGA”). JCL Dec., ¶ 16.

26 On October 16, 2023, Plaintiff Lourdes Contreras filed a Class Action Complaint against
27 Defendant in the Los Angeles County Superior Court, Case No. 23STCV25226 (“Contreras Action”).
28 The Action alleged eight causes of action against Defendant for: (1) Minimum Wage Violations (Labor

Code §§ 1182.12, 1194, 1194.2, 1197); (2) Overtime Wage Violations (Labor Code §§ 204, 510, 1194, 1198); (3) Meal Period Violations (Labor Code §§ 226.7, 512, 558); (4) Rest Period Violations (Labor Code §§ 226.7, 516, 558); (5) Wage Statement Penalties (Labor Code § 226); (6) Waiting Time Penalties (Labor Code §§ 201-203; (7) Failure to Reimburse Necessary Business Expenses (Labor Code § 2802); and (8) Unfair Competition (Bus & Prof Code §§ 17200, *et seq.*). JCL Dec., ¶ 17.

On November 15, 2023, Plaintiff Lourdes Contreras filed a First Amended Complaint alleging an additional cause of action for violations of the Private Attorney General Act (“PAGA”). JCL Dec., ¶ 18.

On December 27, 2023, Plaintiff Alexis Bartram filed a First Amended Complaint alleging an additional cause of action for violations of the Private Attorney General Act (“PAGA”). JCL Dec., ¶ 19.

After engaging in written discovery, the Parties agreed to mediate this action. To prepare for mediation, the Parties agreed to informally exchange documents and data points subject to the mediation privilege, including but not limited to, the Class Members’ time data and certain payroll data points. As discussed *infra*, Plaintiffs’ counsel retained the forensic consultants at Berger Consulting Group (“BCG”) to analyze Defendant’s time and payroll data. JCL Dec., ¶ 20.

On June 6, 2025, the Parties participated in a mediation presided over by Jeffrey Fuchsman, Esq., a mediator of wage and hour class and PAGA actions. The mediation concluded without a settlement. Following the unsuccessful mediation, Plaintiff propounded formal discovery. On June 14, 2024, Plaintiff propounded Special Interrogatories (Set One) and Request for Production (Set One) on Defendant. JCL Dec., ¶ 21-22.

Before responding to discovery, the Parties agreed to attend a second mediation. On October 10, 2024, the Parties participated in mediation presided over by Monique Ngo-Bonnici, Esq., an experienced mediator of wage and hour class and PAGA actions. The mediation concluded without a settlement. However, Mediator Ngo-Bonnici made a mediator’s proposal, which was subsequently accepted by both Parties and memorialized in the form of a Memorandum of Understanding. Subsequently, the Parties drafted and negotiated a long-form settlement agreement, which is the subject of the instant motion. The Parties now seek approval of the entire Agreement. JCL Dec., ¶ 23.

1 On January 10, 2025, Plaintiff Alexis Bartram and Plaintiff Lourdes Contreras filed a Second
2 Amended Complaint to add Plaintiff Lourdes Contreras as an additional named Plaintiff in the Bartram
3 Action. On January 27, 2025, Plaintiff Lourdes Contreras dismissed the Contreras Action without
4 prejudice. JCL Dec., ¶ 24.

5 On March 5, 2025, this Court granted preliminary approval of the Settlement. JCL Dec., ¶ 4.
6 On March 24, 2025, the Administrator mailed Notice Packets to all 3,767 Class Members. Apex Dec.,
7 ¶ 7. The mailing of the Notice Packets triggered a forty-five (45) day Response Deadline for the Class
8 to submit requests for exclusion or objections to the Settlement. The response from the Class to the
9 Settlement was outstanding – 99.79% of the Class Members are participating in the Settlement. Apex
10 Dec., ¶ 14.

11 **III. THE SETTLEMENT BEFORE THE COURT**

12 The Court preliminarily approved an initial Gross Settlement Amount of Two Million Six
13 Hundred Thousand Dollars and Zero Cents (\$2,600,000.00) based on a total of an estimated 245,000
14 Workweeks worked by the Class during the Class Period. The Gross Settlement Amount shall be used
15 to satisfy: (1) the Individual Class Payments to Participating Class Members; (2) the Class
16 Representative Payments; (3) the PAGA Payment; (4) the Administration Expenses Payment; and (5)
17 Class Counsel Award. JCL Dec., ¶ 25.

18 Defendant will fund the Settlement by transferring the Gross Settlement Amount into a Qualified
19 Settlement Fund within sixty-five (65) days after the Effective Date. Agreement, ¶ 4.3. The
20 Administrator shall mail checks for all of the Individual Class Payments to the Participating Class
21 Members no later than fifteen (14) days after Defendant funds the Gross Settlement Amount.
22 Agreement, ¶ 4.4. The Administrator will calculate Individual Class Payments by dividing the Net
23 Settlement Amount by the total number of Workweeks worked by Participating Class Members. The
24 result will then be multiplied by the number of workweeks worked by each individual Participating
25 Class Member to calculate each Participating Class Member's estimated Individual Class Payments.
26 Agreement, ¶ 3.2.4. The estimated average Individual Class Payment is approximately **\$408.47**. Apex
27 Dec., ¶ 16.

28 In exchange for the valuable consideration, as of the funding of the Gross Settlement Amount,

the Participating Class Members will release the Released Parties from the Released Class Claims as defined in the Agreement. Agreement, ¶ 5.2.

Apex Class Action LLC was appointed as the Administrator for the Class. The Administration Expenses Payment includes 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 approved for reimbursement by the court. The Administrator expenses are \$27,500.00. Apex Dec., ¶ 19. These expenses shall be paid from the Gross Settlement Amount. Agreement, ¶ 4.4.

Subject to Court approval, Class Counsel shall seek a payment of Class Counsel Award in the amount of \$905,247.13, comprised of attorneys' fees of up to one-third of the Gross Settlement Amount estimated to be at least \$866,666.67 and up to \$38,580.46 for actually incurred litigation expenses. Agreement, ¶ 3.2.2. Class Counsel is to split the fees one-third to JCL Law Firm, APC, one-third to Zakay Law Group, APLC, and one-third to Justice for Workers P.C. Agreement, ¶ 1.5. Plaintiffs have consented in writing to the fee split. Bartram Dec., ¶ 17; Contreras Dec. ¶ 16. The Agreement also provides for Class Representative Payments in the amount of \$10,000 each to Plaintiff, in consideration of their time, risk, and efforts as the Class Representatives on behalf of the Class. Agreement, ¶ 3.2.1.

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 high approval of the Settlement by the Class, the absence of any objections to the Settlement and the average Individual Class Payment of \$408.47. Apex Dec., ¶ 16; JCL Dec., ¶ 26.

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

1 action requires court approval.” *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801 *citing*
2 *Malibu Outrigger Bd. Of Governors v. Superior Court* (1980) 103 Cal.App.3d 573, 578-579. The court
3 must decide whether the proposed settlement falls within the range of reasonable settlements,
4 considering that settlements are compromises between the parties reflecting subjective, unquantifiable
5 judgments concerning the risks and possible outcomes of litigation. See also *Wershba v. Apple*
6 *Computer* (2001) 91 Cal.App.4th 224, 2246 (The proposed settlement is not to be judged against a
7 hypothetical or speculative measure of what might have been achieved had plaintiffs prevailed at trial.”).
8 In *Wershba*, appellants argued that the settlement was too low given the “clear” liability, however, the
9 Court rejected this argument and held that “the merits of the underlying class claims are not a basis for
10 upsetting the settlement of a class action.” *Wershba, supra*, at 246; *see also 7-Eleven, supra*, at 1150.

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

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

22 V. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

23 The court must determine whether the settlement is fair, adequate, and reasonable. *Dunk v. Ford*
24 *Motor Co.* (1996) 48 Cal.App.4th 1794, 1801; *see also Officers for Justice v. Civil Service Com'n* (9th
25 Cir. 1982) 688 F. 2d 615, 625. The purpose of the requirement is "the protection of those class members,
26 including the named plaintiffs, whose rights may not have been given due regard by the negotiating
27 parties." *Dunk, supra*, at 1801.

28 The trial court has broad discretion to determine whether the settlement is fair. *Rebney v. Wells*

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

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

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

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

19 As detailed in the motion for preliminary approval, Class Counsel thoroughly investigated the
20 proposed Class Members’ claims, applicable law, and potential defenses. Specifically, Class Counsel
21 assessed the value of the class claims using data and documents provided by Defendant through
22 informal discovery. Class Counsel obtained time, payroll, and policy records, as well as data regarding
23 the number of Class Members, workweeks, and average rate of pay to assess damages before mediation.
24 Class Counsel retained BCG to analyze Defendant’s time and payroll data to formulate damage models
25 estimating Defendant’s liability exposure. Class Counsel’s investigation, research, experience, and
26 damage models informed and guided the mediated negotiations that resulted in this settlement.
27 Accordingly, Class Counsel fully understood the strengths and weaknesses of the class claims before
28 the parties reached a settlement. JCL Dec., ¶ 27-33.

1 **B. Class Counsel is Experienced in Similar Litigation.**

2 Class Counsel in this matter has extensive class action experience in multiple fields and has
3 represented tens-of-thousands of persons in class actions. Counsel has previously litigated similar wage
4 and hour class actions involving similar claims. Class Counsel has been approved as class counsel in
5 similar wage and hour class actions throughout the State of California. As such, courts throughout
6 California have deemed Class Counsel experienced and knowledgeable in this area of law. Class
7 Counsel has participated in every aspect of the settlement discussions and has concluded the settlement
8 is fair, adequate, and reasonable and in the best interests of the Class. JCL Dec., ¶¶ 34-40; Declaration
9 of Shani Zakay (“Zakay Dec.”), ¶¶ 1-3; Declaration of William Sung (“Sung Dec.”) ¶¶ 1-3.

10 **C. The Class Responded Positively to the Settlement.**

11 The reaction of the Class unequivocally supports approval of the Settlement. Significantly, after
12 dissemination of the notice to the Class, which provided each Class Member with the terms of the
13 Settlement, including the specific estimated Individual Class Payments. To date, only eight of the 3,767
14 Class Members opted out of the Settlement. Moreover, there are zero objections. Stated differently,
15 99.79% of the Class chose to participate in the Settlement. JCL Dec., ¶ 26; Apex Dec., ¶¶ 11-14.

16 The high approval rate by the Class strongly supports a finding that the Settlement is fair,
17 reasonable, and adequate. *See In re Austrian & German Bank Holocaust Litigation* (S.D.N.Y. 2000)
18 80 F.Supp.2d 164, 175 (“If only a small number of objections are received, that fact can be viewed as
19 indicative of the adequacy of the settlement.”); *Stoetznner v. U.S. Steel Corp.* (3d. Cir. 1990) 897 F.2d
20 115, 118-119 (29 objections out of 281 member class “strongly favors settlement”); *Laskey v. Int’l*
21 *Union* (6th Cir. 1981) 638 F.2d 954 (The fact that 7 out of 109 class members objected to the proposed
22 settlement should be considered when determining fairness of settlement.). Consequently, Class
23 Counsel respectfully requests the Court to follow the high participation rate of the Class and grant final
24 approval of the Settlement.

25 **D. The Gross Settlement Amount is Fair and Reasonable.**

26 The Gross Settlement Amount of Two Million Six Hundred Thousand Dollars and Zero Cents
27 (\$2,600,000.00) in this case is fair and well within the range of recognized reasonableness. The *Kullar*
28 court acknowledged that “as the court does when it approves a settlement as in good faith under Code

1 of Civil Procedure section 877.6, the court must at least satisfy itself that the class settlement is within
2 the ‘ballpark’ of reasonableness.” *Kullar, supra*, at 129; *See Tech-Bilt, Inc. v. Woodward-Clyde &*
3 *Associates*, 38 Cal.3d 488, 499-500 (1985).)

4 Here, the Settlement is clearly within the “ballpark” of reasonableness because the Settlement
5 provides a sizeable recovery to the Participating Class Member and need not necessarily obtain 100
6 percent of the damages sought to be fair, reasonable, and ultimately, meaningful. *Wershba*, 91
7 Cal.App.4th at 250. While the Gross Settlement Amount of Two Million Six Hundred Thousand Dollars
8 and Zero Cents (\$2,600,000.00) represents a discount on Defendant’s potential exposure if Plaintiffs
9 established liability on all claims and was awarded the full amount of the estimated damages at trial, this
10 compromise is reasonable because (1) the formidable defenses raised by Defendant presented a risk that
11 could award significantly less in damages than Plaintiffs’ estimate and (2) any theoretical post-trial
12 recovery may require many more years of litigation, resulting in added fees and costs without any
13 guarantee of recovery for the Class. JCL Dec., ¶ 41.

14 As detailed at the time of preliminary approval, the Gross Settlement Amount is fair and
15 reasonable considering the nature and magnitude of the claims being settled and the various potential
16 impediments to recovery. Class Counsel developed varied economic damages models measuring
17 Defendant’s liability exposure while accounting for the uncertainties of continued litigation. The various
18 models were informed by Class Counsel’s investigation, including the analysis of a significant sample
19 of time and payroll data. Detailed in greater depth during the preliminary approval process, Class
20 Counsel projected a range of Defendant’s liability exposure for the claims asserted on behalf of the
21 Class. The Gross Settlement Amount represents between 15.01% and 57.32% of Defendant’s *class-wide*
22 liability exposure as estimated by Class Counsel at the time of mediation. JCL Dec., ¶ 42.

23 In *Stovall-Gusman v. W.W. Granger, Inc.*, 2015 U.S. Dist. LEXIS 78671, at * 12, the District
24 Court for the Northern District of California granted final approval in a wage and hour misclassification
25 action and found that the Total Settlement Amount representing 10% of the estimated trial award was
26 within the “range of reasonableness.” In *Dunleavy v. Nadler (In re Mego Fin. Corp. Sec. Litig.)* (9th Cir.
27 2000) 213 F.3d 454, 459, the Ninth Circuit approved a settlement representing “roughly one-sixth of the
28 potential recovery.” Given the amount of the settlement here as compared to potential value of the

claims, particularly the strength of Plaintiffs' action, the settlement is clearly fair and reasonable.³

The calculation methodology used to compensate the Participating Class Members for the alleged damages was negotiated at the time of the Settlement. More importantly, the methodology is fair, objective, and impartial. The calculation methodology is based on the number of Workweeks each Participating Class Member worked for Defendant during the Class Period. The number of Workweeks for the Participating Class Member is established through Defendant's data and documented compensation records. The Administrator is responsible for calculating the Individual Class Payments by dividing the Net Settlement Amount by the total number of workweeks worked by all Participating Class members, and multiplying the result by the number of Workweeks worked by each individual Participating Class Member to calculate each Participating Class Member's estimated Individual Class Payment. Agreement, ¶ 3.2.4. This process establishes an objectively fair and reasonable procedure to compensate the Class. JCL Dec., ¶ 43.

The settlement also provides significant relief to the Participating Class Members. After deductions for the Class Counsel Award, Administration Expenses Payment, the PAGA Payment, and the Class Representative Payments, the Net Settlement Amount is currently estimated to be \$1,535,833.33. Apex Dec., ¶ 15. The average settlement payment is approximately \$408.47, and the highest is approximately \$1,627.01. Apex Dec., ¶ 16. This average net recovery is on par with many wage and hour class action settlements approved by California state and federal courts. *See, e.g., Palencia v. 99 Cents Only Stores*, No. 34-2010-00079619 (Sacramento County Super. Ct) (average net recovery of approximately \$80); *Fukuchi v. Pizza Hut*, Case No. BC302589 (LA. County Super. Ct.) (average net recovery of approximately \$120); *Contreras v. United Food Group, LLC*, Case No. BC389253 (L.A. County Super. Ct.) (average net recovery of approximately \$120); *Ressler v. Federated Department Stores, Inc.*, Case No. BC335018 (L.A. County Super. Ct.) (average net recovery of

³ *See also Vicer v. Mistras Grp., Inc.* (N.D. Cal. Oct. 11, 2016, No. 15-CV-02198) 2016 WL 5907869, at *3, 7 (approving a California wage and hour settlement where the class received 11.6% of the estimated total liability, or approximately \$29 per work week); *Leverage v. Traeger Pellet Grills, LLC* (N.D. Cal. June 28, 2017, No. 16-CV-00784) 2017 WL 2797811, at *7 (Approving a California wage and hour settlement where the class received 18% of the estimated total liability); *see also In re Newbridge Networks Sec. Litig.* (D.D.C. Oct. 23, 1998) 1998 WL 765724, at *2 ("Courts have not identified a precise numerical range within which a settlement must fall in order to be deemed reasonable; but an agreement that secures roughly six to twelve percent of a potential trial recovery, while preventing further expenditures and delays and eliminating the risk that no recovery at all will be won, seems to be within the targeted range of reasonableness.").

approximately \$90); *Doty v. Costco Wholesale Corp.*, Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007) (average net recovery of approximately \$65); *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (ED. Cal.) (average net recovery of approximately \$60); *Lim v. Victoria's Secret Stores, Inc.*, Case No. 04CC00213 (Orange County Super. Ct.) (average net recovery of approximately \$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, ¶ 4.3.

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. JCL Dec., ¶ 44.

E. The Strength of Plaintiffs' Case and Risks of Continued Litigation

Although Class Counsel believes strongly in Plaintiffs' 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. JCL Dec., ¶ 45. 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

1 certification of proposed off-the-clock and rest and meal break classes due to lack of uniform
2 policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying certification
3 of driver meal and rest period claims based on the predominance of individual issues). JCL Dec., ¶ 46.

4 Further, even if a class is certified, liability remains uncertain. The risks attendant to the issue of
5 Defendant's liability in similar wage and hour actions are demonstrated by *Duran v. U.S. Bank National*
6 *Association* (2014) 59 Cal.4th 1, 31. There, the Court reversed a trial verdict in favor plaintiffs in a
7 wage and hour class action. *See also Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th 1077,
8 1088 ("[T]he reason, if any, that employees might not take their breaks were predominantly
9 individualized questions of fact not susceptible to class treatment."). JCL Dec., ¶ 47.

10 Finally, even if a class is certified and Defendant is found liable for the class claims alleged,
11 post-certification risks remain, including a reversal of a favorable judgment for Plaintiff and
12 decertification of the class. These post-certification risks are demonstrated by *Magadia v. Wal-Mart*
13 *Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit vacated reversed and remanded
14 a \$110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and
15 directed the trial court to enter judgement in favor of the employer. *See also O'Conner v. Uber*
16 *Technologies, Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification
17 action). JCL Dec., ¶ 48.

18 Collectively, the examples cited above illustrate the uncertain nature of class litigation.
19 Consequently, the uncertainty of obtaining certification through a contested motion is a significant risk
20 factor favoring settlement. JCL Dec., ¶ 49.

21 Although Plaintiffs are confident about the strength of their claims, Plaintiffs nevertheless
22 recognize that Defendant has factual and legal defenses that, if successful, would potentially defeat or
23 impair the value of the lawsuit. Legally, the fast-changing landscape of wage and hour litigation can
24 drastically affect the value of Plaintiffs' claims and, in fact, already has. JCL Dec., ¶ 50.

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

28 **Plaintiffs may have a strong case, but the risks inherent in continued**

1 **litigation are great.** Defendants strongly deny liability for Plaintiffs'
2 principal claim that full-time Service Associates were misclassified as
3 exempt. In addition to the uncertainties raised by Defendants at the
4 preliminary stage regarding Plaintiffs' chance of success in this case,
5 Defendants notes that the question of an employer's duty to provide rest and
6 meal periods is an open one, signaling even less certainty for
7 Plaintiffs.....[T]he **Total Settlement amount and the Class Members'**
8 **expected net recovery, after fees and other costs are deducted, appear**
9 **to be a reasonable compromise, in light of the risks of litigation.**

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

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

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

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

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

As demonstrated by the decisions in *Magadia, supra*, 999 F.3d 668, *O’Conner v. Uber*
Technologies (N.D. Cal. 2018) 82 F.Supp.3d 1133 and *Duran v. U.S. Bank National Assn.* (2014) 59
Cal.4th 1, the complexities and duration of further litigation cannot be overstated. There is little doubt
that if Defendant faced a large adverse judgement, Defendant undoubtedly has the resources to post a
bond and appeal. A post-judgment appeal by Defendant would have required many more years to
resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total, then the case

1 could have dragged on for years after the appeal. The benefits of a guaranteed recovery today outweigh
2 an uncertain result three or more years in the future. JCL Dec., ¶ 51.

3 Class Representatives and Class Counsel recognize the expense and length of a trial against
4 Defendant through possible appeals which could take another three years. In arriving at their informed
5 belief that the present settlement is fair and adequate, Class Counsel accounted for the uncertain outcome
6 and risk inherent in complex actions such as this one. Class Counsel is also mindful of and recognizes
7 the inherent problems of proof under, and alleged defenses to, the claims asserted in the litigation.
8 Moreover, post-trial motions and appeals would have been inevitable. Costs would have increased, and
9 recovery would have been delayed if not denied, thereby reducing the benefits of an ultimate victory.
10 Class Representatives and Class Counsel believe that the Settlement confers substantial monetary and
11 non-monetary benefits upon the Class. Based upon their evaluation, Class Representatives and Class
12 Counsel have determined that the Settlement set forth in the Agreement is in the best interest of the
13 Class, is fair, reasonable, and adequate, and should be granted final approval. JCL Dec., ¶ 52.

14 **VI. THE PENALTIES UNDER THE PRIVATE ATTORNEY GENERAL ACT OF 2004 ARE**
15 **REASONABLE**

16 Where settlements “negotiate a good faith amount” for PAGA penalties and “there is no
17 indication that this amount was the result of self-interest at the expense of class members,” such
18 amounts are generally considered reasonable. *Hopson v. Hanesbrands Inc.*, No. CV-08-0844 EDL,
19 2009 WL 928133, at *9 (N.D. Cal. Apr. 3, 2009). Courts routinely approve of amounts for PAGA
20 penalties in the range of zero to two percent of the settlement. *See id.* at *1, 9 (approving a PAGA
21 payment of 0.3%); *Jack v. Hartford Fire Ins. Co.*, No. 09cv1683 MMA (JMA), 2011 WL 4899942, at
22 *6 (S.D. Cal. Oct. 13, 2011) (approving a PAGA payment of 0.25%); *McKenzie v. Fed. Express Corp.*,
23 No. CV 10-02420 GAF (PLAx), 2012 WL 12882124, at *5 (C.D. Cal. Jan. 23, 2012) (acknowledging
24 that courts approve PAGA claim settlements in the range of zero to two percent of the total settlement).

25 Here, Plaintiffs and Defendant negotiated a good faith PAGA Payment in the amount of
26 \$100,000.00 which is 3.85% of the Gross Settlement Amount. As illustrated above, this amount falls
27 well within the range of approved PAGA settlements. Seventy-Five percent (75%) of the PAGA
28 Payment (\$75,000.00) will be paid to the LWDA (“LWDA Payment”) with the remaining twenty-five

1 percent (25%) of the PAGA Payment (\$25,000.00) to be distributed to the Aggrieved Employees
2 (“Individual PAGA Payment”), which is within the range of PAGA Payment approved by courts and
3 should be approved. JCL Dec., ¶ 53.

4 Class Counsel gave the LWDA notice of this Settlement and proposed allocation by filing a
5 copy of the Settlement, the Motion for Preliminary Approval, and this motion seeking final approval
6 with the LWDA. JCL Dec., ¶ 54. By not registering an objection with either Class Counsel or the
7 Court, the LWDA has accepted and approved of the proposed PAGA Payment.

8 **VII. CONCLUSION**

9 Plaintiffs respectfully submit that the proposed settlement satisfies the standard of fairness
10 established in California law and should therefore be finally approved as fair, reasonable, and adequate
11 and requests entry of the Final Approval Order and Judgment submitted herewith.

12
13 Dated: June 10, 2025

JCL LAW FIRM, APC

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15 By: 
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17 Attorneys for PLAINTIFF
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