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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

ISIAIAH BECERRIL, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

v.

WATERSAVERS IRRIGATION, INC., a
California corporation; and DOES 1 through
100, inclusive;

Defendants.

Case No.: 23CV410334

Assigned for All Purposes to:
Honorable Theodore C. Zayner
Department 19

CLASS ACTION

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT, CONDITIONAL
CERTIFICATION, APPROVAL OF
CLASS NOTICE, SETTING OF FINAL
APPROVAL HEARING DATE;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

[Declaration of Proposed Class Counsel
(Douglas Han); Declaration of Lisa Mullins;
Declaration of Joan Graff; and [Proposed]
Order filed concurrently herewith]

Hearing Date: August 7, 2024
Hearing Time: 1:30 p.m.
Hearing Place: Department 19

Complaint Filed: January 25, 2023
FAC Filed: June 29, 2023
SAC Filed: January 9, 2024
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on August 7, 2024 at 1:30 p.m., or as soon as the matter
2 may be heard, before the Honorable Theodore C. Zayner in Department 19 of the Santa Clara
3 Superior Court located at 161 North First Street, San Jose, California 95113, Plaintiffs Isaiah
4 Becerril and Brian Cruz (“Plaintiffs,” “Plaintiff Becerril,” and “Plaintiff Cruz”) move for an
5 order:

- 6 • Granting Preliminary Approval of the proposed class action settlement described
7 herein and as set forth in the Class Action and PAGA Settlement Agreement and
8 Release of Claims (“Settlement Agreement,” “Settlement,” or “Agreement”),
9 attached as **Exhibit 2** to the declaration of Douglas Han, including, and not limited
10 to, the means of allocation and distribution of funds, the allocations for payments
11 under the Private Attorneys General Act of 2004 (“PAGA”), Class Counsel Fees
12 Payment, Class Counsel Litigation Expenses Payment, Class Representative
13 Service Payments, and Settlement Administration Expenses;
- 14 • Conditionally certifying the proposed Class for settlement purposes only;
- 15 • Appointing Plaintiffs as the class representatives;
- 16 • Appointing Justice Law Corporation as Class Counsel;
- 17 • Approving the proposed Notice of Proposed Settlement of Class Action and
18 Hearing Date (“Class Notice”) attached as **Exhibit A** to the Settlement Agreement
19 and [Proposed] Order Preliminarily Approving Class Action Settlement;
- 20 • Directing the mailing of the proposed Class Notice with a postage-paid return
21 envelope to the proposed Class;
- 22 • Approving the proposed deadlines for the notice and settlement administration
23 process;
- 24 • Approving ILYM Group, Inc. as the Administrator;
- 25 • Approving the settlement of the PAGA claims; and

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- Scheduling a hearing to consider whether to grant Final Approval of the Settlement Agreement, at which time the Court will also consider whether to grant Final Approval of the requests for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, Settlement Administration Expenses, and allocation of the PAGA Payment.

This motion is based upon the following memorandum of points and authorities; Declaration of Proposed Class Counsel (Douglas Han); Declaration of the Proposed Administrator (Lisa Mullins); Declaration of Joan Graff; [Proposed] Order filed concurrently with this motion; pleadings and other records on file with the Court in this matter; and such documentary evidence and oral argument as may be presented at the hearing on this motion.

Dated: March 12, 2024

JUSTICE LAW CORPORATION

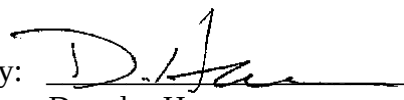
By: 
Douglas Han
Attorneys for Plaintiffs

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1 **I. INTRODUCTION**

2 This motion seeks preliminary approval of a non-reversionary wage-and-hour class action
3 settlement by Plaintiffs on behalf of themselves and all current and former hourly-paid or non-
4 exempt employees of Defendant Watersavers Irrigation, Inc. (“Defendant”) within the State of
5 California at any time during the period of time from January 25, 2019, to January 11, 2024
6 (“Class,” “Class Members,” and “Class Period”). At the time of this filing, the number of Class
7 Members confirmed by Defendant is estimated to be two hundred six (206). (Declaration of
8 Douglas Han In Support of Plaintiffs’ Motion For Preliminary Approval of Class Action
9 Settlement (“Han Decl.”), ¶¶ 8-9.)

10 **II. BACKGROUND**

11 On January 25, 2023, Plaintiff Becerril filed a wage-and-hour class action lawsuit in the
12 Superior Court of California, County of Santa Clara, alleging eight (8) causes of action. (Han
13 Decl., *supra*, at ¶ 10.)

14 On June 29, 2023, Plaintiff Becerril filed a First Amended Complaint removing seven (7)
15 causes of action and only alleging violation of Business & Professions Code section 17200, *et*
16 *seq.* (Han Decl., *supra*, at ¶ 11.)

17 After engaging in discovery, investigations, and negotiation, the Parties remotely attended
18 mediation with the mediator David Phillips on October 13, 2023, eventually resulting in the
19 Parties reaching a tentative settlement. (Han Decl., *supra*, at ¶ 12.)

20 In line with the settlement, on October 13, 2023, Plaintiff Cruz provided written notice to
21 the California Labor and Workforce Development Agency and Defendant. (Han Decl., *supra*, at
22 ¶ 13; Exhibit 3.)

23 On January 9, 2024, Plaintiff Becerril filed a Second Amended Complaint adjusting the
24 “class” definition, adding Plaintiff Cruz as a named plaintiff, readding the seven (7) causes of
25 action removed, and adding a cause of action for Labor Code section 2698, *et seq.* (Han Decl.,
26 *supra*, at ¶ 14; Exhibit 4.)

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1 **III. INVESTIGATION/ LITIGATION HISTORY**

2 **a. Discovery, Investigation, and the Parties' Staunchly Conflicting Positions**

3 After initiating this lawsuit, the Parties engaged in discovery. (Han Decl., *supra*, at ¶ 16.)
4 Specifically, the Parties met and conferred and agreed to engage in an informal exchange of
5 information and then eventually remotely attended mediation. (*Ibid.*)

6 Prior to mediation, the Parties conducted significant investigation and discovery of the
7 facts and law. (Han Decl., *supra*, at ¶ 17.) Defendant produced several documents relating to its
8 policies, practices, and procedures. (*Ibid.*) As part of Defendant's production, Plaintiffs also
9 reviewed time records, wage statements, and information relating to the size and scope of the
10 Class. (*Ibid.*) Plaintiffs even located and interviewed putative class members. (*Ibid.*)

11 Based upon the information provided by Defendant and interviews with non-exempt
12 employees, Plaintiffs contend – and Defendant denies – Defendant: (1) failed to provide
13 employees with legally mandated meal and rest breaks; (2) failed to pay employees for all hours
14 worked; (3) failed to factor non-discretionary bonuses into employees' regular rate; (4) failed to
15 reimburse employees for necessary business expenses; (5) issued noncompliant wage statements;
16 and (6) is liable for waiting time penalties. (Han Decl., *supra*, at ¶¶ 19-26.)

17 **b. The Parties Were Able to Reach an Agreement on Settlement of the Action**

18 **i. The Parties Attended Mediation Which Ultimately Led to the**
19 **Settlement Agreement**

20 The Parties remotely attended mediation with an experienced wage-and-hour mediator.
21 (Han Decl., *supra*, at ¶ 27.) During the mediation, the Parties discussed the risks of continued
22 litigation, the likelihood of certification, and the merits of the claims and defenses versus the
23 benefits of settlement. (*Ibid.*) With the assistance of the mediator, the Parties reached a settlement,
24 the terms of which were memorialized in the Agreement. (*Id.* at ¶ 27; Exhibits 2, 5.)

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1 **ii. The Settlement Was Reached as a Result of Arm’s-length Negotiations**

2 The Agreement was reached because of arm’s-length negotiations. (Han Decl., *supra*, at
3 ¶ 30.) Though cordial and professional, the settlement negotiations have always been adversarial
4 and non-collusive in nature. (*Ibid.*) At the mediation, the Parties’ counsel conducted extensive
5 arm’s-length settlement negotiations until an agreement was reached after mediation. (*Ibid.*)

6 Plaintiffs and Class Counsel believe in the merits of the case but recognize the expense
7 and length of additional proceedings necessary to continue the litigation. (Han Decl., *supra*, at
8 ¶ 31.) Plaintiffs and Class Counsel considered the uncertainty and risk of further litigation,
9 potential outcome, and difficulties and delays inherent in such litigation. (*Ibid.*) Plaintiffs and
10 Class Counsel believe the settlement set forth in the Settlement Agreement is fair, adequate, and
11 reasonable and is in the Class’s best interests. (*Ibid.*)

12 **iii. The Settlement Is the Result of Thorough Investigation**

13 The Parties thoroughly investigated and evaluated the factual strengths and weaknesses
14 of the claims and defenses and engaged in sufficient investigation, research, and discovery. (Han
15 Decl., *supra*, at ¶ 32.) The Settlement was only possible following significant investigation and
16 evaluation of the relevant policies and procedures. (*Ibid.*) This information permitted Class
17 Counsel to engage in a comprehensive analysis of liability and potential damages. This case has
18 reached the stage the Parties understand “the strength of the case; the reasonableness of the
19 settlement in light of the attendant risks of litigation, and in light of the best possible recovery”
20 sufficient to support the Settlement’s reasonableness, adequacy, and fairness. (Han Decl., *supra*,
21 at ¶ 32; *Boyd v. Bechtel Corp.* (N.D.Cal. 1979) 485 F.Supp. 610, 617.)

22 **c. Terms of the Proposed Settlement**

23 **i. Deductions from the Settlement**

24 The Parties agreed (subject to the Court’s approval) this action be settled and
25 compromised for the non-reversionary total sum of \$395,000 (“Gross Settlement Amount”)
26 which includes the: (1) Class Counsel Fees Payment of up to \$150,100; (2) Class Counsel
27 Litigation Expenses Payment of up to \$20,000; (3) Class Representative Service Payments
28 totaling \$10,000; (4) Settlement Administration Expenses of up to \$10,000; and (5) PAGA

1 Payment of \$30,000. (Han Decl., *supra*, at ¶ 28.)

2 **ii. Calculation of the Class Members' Settlement Shares**

3 If the Court approves the proposed deductions from the Gross Settlement Amount, it is
4 estimated \$174,900 ("Net Settlement Amount") will be distributed to all Class Members who do
5 not submit valid and timely Requests for Exclusion ("Participating Class Members"), resulting in
6 a gross *average* Settlement Share of \$849.03. (Han Decl., *supra*, at ¶ 29.)

7 The Administrator will calculate and pay Settlement Shares for Participating Class
8 Members from the Net Settlement Amount using the formula set forth in the Settlement
9 Agreement. (Han Decl., *supra*, at ¶ 27; Exhibit 2, *supra*, at § III(C)(2).) In addition, the
10 Administrator shall also calculate and pay PAGA Shares to Aggrieved Employees using the
11 formula set forth in the Settlement Agreement. (*Id.* at § III(B)(4).)

12 **iii. The Allocation of 10% to Wages and 90% to Penalties Is Justified**
13 **Under the Claims of this Action**

14 Settlement Shares will be apportioned ten percent (10%) in the settlement of wage claims
15 and ninety percent (90%) in the settlement of claims for interest and penalties. (Han Decl., *supra*,
16 at ¶ 27; Exhibit 2, *supra*, at § III(C)(3).)

17 The allocation of wages and penalties indicated above was based on the realistic exposure
18 Plaintiffs could expect to receive for meal and rest break premiums and unpaid wages. (Han
19 Decl., *supra*, at ¶ 51.) First, Plaintiffs added the realistic exposure for rest break premiums and
20 meal break premiums (\$18,391.39 + \$47,467.73 = \$65,859.12). (*Ibid.*) Plaintiffs then added the
21 \$65,859.12 to the low end realistic exposure for unpaid wages due to off-the-clock work and
22 underpaid overtime wages and sick leave (\$65,859.12 + \$26,738.46 + \$8,258.98 = \$100,856.56).
23 (*Ibid.*) The realistic exposure of \$100,856.56 Plaintiffs can expect to receive if they were to
24 prevail at trial for meal and rest break premiums, low end unpaid wages due to off-the-clock work,
25 and underpaid overtime wages and sick leave represents about 12.81% of the low end total
26 realistic exposure and PAGA penalties (\$100,856.56 ÷ \$787,137.36 = 0.12813 x 100 = 12.81%).
27 (*Ibid.*) Because this represents nearly ten percent (10%) of wages, it means allocating ten percent
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(10%) as wages and ninety percent (90%) as interest and penalties pursuant to the Settlement Agreement is appropriate. (Han Decl., *supra*, at ¶ 50.)

iv. Notice to the Class

No later than twenty-one (21) calendar days after the Court enters an Order Granting Preliminary Approval of the Settlement, Defendant will provide the Class Data to the Administrator. (Han Decl., *supra*, at ¶ 27; Exhibit 2, *supra*, at § III(E)(2)(a).) No later than fourteen (14) calendar days after receiving the Class Data, the Administrator will mail the Class Notices to all Class Members via first-class regular U.S. Mail. (*Id.* at § III(E)(2)(b).)

v. Distribution of Funds

The Gross Settlement Amount will be funded and distributed pursuant to the timeline and manner set forth in the Settlement. (Han Decl., *supra*, at ¶ 27; Exhibit 2, *supra*, at § III(E)(8).)

Uncashed settlement checks will be paid to the *cy pres* recipient Legal Aid At Work (“LAAW”). (Han Decl., *supra*, at ¶ 27; Exhibit 2, *supra*, at § III(E)(9).) LAAW directly satisfies the legislature’s purpose and goal under Code of Civil Procedure section 384. To the best of their knowledge, the Parties have no affiliation with or have any interest pertaining to LAAW.

vi. Release of Claims

Upon final approval, Participating Class Members will waive and release the Released Parties from the Released Claims as defined in the Settlement Agreement. (Han Decl., *supra*, at ¶ 27; Exhibit 2, *supra*, at §§ I(CC), III(F)(1).)

Upon final approval and in exchange for payment of the PAGA Payment, Plaintiff Cruz, State of California, and all Aggrieved Employees will waive and release the Released Parties from the PAGA Released Claims as defined in the Settlement Agreement. (Han Decl., *supra*, at ¶ 27; Exhibit 2, *supra*, at §§ I(Z), III(F)(2).)

Plaintiffs and their former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally release and discharge the Released Parties. (Han Decl., *supra*, at ¶ 27; Exhibit 2, *supra*, at § III(F)(3).) Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the Civil Code. (*Ibid.*)

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1 With regards to class action releases, “[A] court may release not only those claims
2 alleged in the complaint and before the court, but also claims which ‘could have been alleged by
3 reason of or in connection with any matter or fact set forth or referred to in’ the complaint.”
4 (*Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 537.) The scope of the
5 releases in this case are acceptable because they are limited to the scope of the allegations in the
6 operative complaints. The released claims are “based on the identical factual predicate as that
7 underlying the claims in the settled class action.” (*Ibid.*) In other words, the released claims do
8 not “go beyond the scope of the allegations in the operative complaint” (*Ibid.*)

9 **d. Counsel for Both Parties Are Experienced in Similar Litigation**

10 Counsel for the Parties are experienced in wage-and-hour employment law and class
11 actions. (Han Decl., *supra*, at ¶¶ 2-7; Exhibit 1.) Class Counsel have prosecuted numerous cases
12 on behalf of employees for Labor Code violations. (*Ibid.*) Thus, Class Counsel are experienced
13 and qualified to evaluate the class claims, advantages, and disadvantages of settlement versus
14 trial, and viability of the defenses. (*Ibid.*) Class Counsel’s experience guided their determination
15 to endorse the Settlement.¹ (*Ibid.*)

16 **IV. ARGUMENT**

17 **a. Class Action Settlements Are Subject to Court Review**

18 California Rules of Court, rule 3.769 requires court approval for class action settlements.²
19 “Before final approval, the court must conduct an inquiry into the fairness of the proposed
20 settlement.” (Rules of Court, rule 3.769(g).) Rule 3.769 further requires a noticed motion for
21 preliminary approval of class settlements:

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24 ¹ The final factor mentioned in *Dunk* – the number of objectors – is not determinable until
25 the Class Notice has been provided to the Class Members, and they have had an opportunity to
26 respond. This information will be provided to the Court in conjunction with the Motion for Final
Approval of Class Action Settlement.

27 ² The California Supreme Court has also authorized California’s trial courts to use Federal
28 Rule 23 and cases applying it for guidance in considering class issues. (See *Vasquez v. Superior
Court* (1971) 4 Cal.3d 800, 821; see *Green v. Obledo* (1981) 29 Cal.3d 126, 145-146.) Where
appropriate, the Parties cite Federal Rule 23 and federal case law in addition to California law.

1 (a) A settlement or compromise of an entire class action, or a cause of action in
2 a class action, or as to a party, requires the approval of the court after
3 hearing.

4 (b) Any party to a settlement agreement may serve and file a written notice of
5 motion for preliminary approval of the settlement. The settlement
6 agreement and proposed notice to class members must be filed with the
7 motion, and the proposed order must be lodged with the motion.

8 Courts have discretion to approve settlements that are fair, not collusive, and consider “all
9 the normal perils of litigation as well as the additional uncertainties inherent in complex class
10 actions.” (*In re Beef Industry Antitrust Litigation* (5th Cir. 1979) 607 F.2d 167, 179, cert. den.
11 *sub nom. Iowa Beef Processors, Inc. v. Meat Price Investigators Ass’n* (1981) 452 U.S. 905.)

12 **b. The Proposed Settlement Is a Reasonable Compromise of Claims**

13 An understanding of the amount in controversy is an important factor in whether the
14 settlement “of the class members’ claims is reasonable in light of the strengths and weaknesses
15 of the claims and the risks of the particular litigation.” (*Kullar v. Foot Locker Retail, Inc.* (2008)
16 168 Cal.App.4th 116, 129; see also *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010)
17 186 Cal.App.4th 399, 409.) The most important factor in this regard is ““the strength of the case
18 for Plaintiff on the merits, balanced against the amount offered in settlement.”” (*Kullar*, at p.
19 130; see also *Munoz*, at p. 409.)

20 *Kullar* instructs the court is not to “decide the merits of the case or to substitute its
21 evaluation of the most appropriate settlement for that of the attorneys.” (*Kullar v. Foot Locker*
22 *Retail, Inc.*, *supra*, 168 Cal.App.4th at p. 133.) *Kullar* does not require an explicit statement of
23 the maximum amount the class could recover if the plaintiff prevailed on all his claims, provided
24 there is a record that allows “an understanding of the amount that is in controversy and the
25 realistic range of outcomes of the litigation.” (*Munoz v. BCI Coca-Cola Bottling Co. of Los*
26 *Angeles, supra*, 186 Cal.App.4th at p. 409.) Put differently, “as the court does when it approves a
27 settlement as in good faith under Code of Civil Procedure § 877.6, the court must at least satisfy
28 itself that the class settlement is within the ‘ballpark’ of reasonableness.” (*Kullar*, at p. 133.)

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1 **i. The Gross Settlement Amount of \$395,000 Is Fair and Reasonable**

2 The Settlement was only possible following significant investigation and evaluation of the
3 relevant policies and procedures in place and the data provided for the putative class, as referenced
4 in Section III(b)(iii) above, permitting Class Counsel to engage in a comprehensive analysis of
5 liability and potential damages. (Han Decl., *supra*, at ¶ 32.)

6 The claims are predicated on the purported: (1) failure to properly calculate and pay
7 overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal and rest breaks
8 and pay applicable premium wages; (4) failure to timely pay wages; (5) failure to issue compliant
9 wage statements; (6) failure to reimburse business expenses; (7) violation of PAGA; and (8)
10 violation of Business & Professions Code section 17200, *et seq.* (Han Decl., *supra*, at ¶ 33.)
11 Defendant vehemently denies the theories of liability. (*Id.* at ¶ 34.)

12 While Plaintiffs believe the case is suitable for certification, uncertainties with respect to
13 certification are always present. (Han Decl., *supra*, at ¶ 35.) As the California Supreme Court
14 ruled in *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, class certification is
15 a matter of the trial court's sound discretion. (*Ibid.*) Decisions following *Sav-On Drug Stores,*
16 *Inc.* have reached different conclusions concerning certification of wage-and-hour claims.³ (*Ibid.*)
17 These factors led to the discounting of the calculations for the potential damages.

18 **ii. The PAGA Payment of \$30,000 Is Reasonable**

19 The provisions of the Labor Code potentially triggering PAGA penalties in this case
20 include, but are not limited to, Labor Code sections 201, 202, 203, 204, 210, 218.5, 221, 226(a),
21 226.3, 226.7, 246, 432.5, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800,
22 and 2802. (Han Decl., *supra*, at ¶ 44.) Defendant asserts, regardless of the results of the
23 underlying causes of action, PAGA penalties are not mandatory but permissive and discretionary.
24 (*Ibid.*) Defendant maintains it had a strong argument it would be unjust to award maximum PAGA

25 ³ (See e.g. *Harris v. Superior Court* (2007) 154 Cal.App.4th 164 [reversing decertification
26 of class claiming misclassification and ordering summary adjudication in favor of employees],
27 review granted Nov. 28, 2007, (2007) 171 P.3d 545 [not cited as precedent, but rather for
28 illustrative purposes only]; *Walsh v. IKON Office Solutions, Inc.* (2007) 148 Cal.App.4th 1440
[affirming decertification of class claiming misclassification]; *Aguilar v. Cintas Corp. No. 2*
(2006) 144 Cal.App.4th 121 [reversing denial of certification]; *Dunbar v. Albertson's Inc.* (2006)
141 Cal.App.4th 1422 [affirming denial of certification].)

penalties given the law’s unsettled state. (Han Decl., *supra*, at ¶ 44; *Thurman v. Bayshore Transit Mgmt.* (2012) 203 Cal.App.4th 1112 [reducing penalties by 30% under this authority].) Defendant argued without stacking and limited to the initial violation, the PAGA penalties would be limited to **\$8,400** (84 employees x \$100 initial violation) on the low end and **\$58,800** (84 employees x \$100 initial violation x 7 theories of recovery) on the high end. (Han Decl., *supra*, at ¶¶ 45-48.)

Plaintiffs also recognized the risk any PAGA award could be reduced. (Han Decl., *supra*, at ¶ 49.) Many of the causes of action brought were duplicative of the statutory claims, such as Labor Code sections 201, 202, 203, 226.7, 510, 512, 1194, 1197, 1198, 2800, and 2802. (*Ibid.*) Allocating \$30,000 as the PAGA Payment was reasonable given that Defendant is paying an additional \$365,000 in the class settlement. (*Ibid.*) When PAGA payments are negotiated in good faith and “there is no indication that [the] amount was the result of self-interest at the expense of other Class Members,” such amounts are generally considered reasonable.⁴ (*Ibid.*)

Considering the defenses, supporting evidence, and position that the case is not suitable for class treatment, the settlement is reasonable, adequate, and fair.

c. Discount Analysis Justifies the Settlement

Excluding the civil penalties, which could be completely discretionary, the total estimated potential exposure, assuming certification and prevailing at trial, would be about **\$1,720,661.77** on the low end and **\$1,829,844.70** on the high end. (Han Decl., *supra*, at ¶ 50.)

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⁴ (*Hopson v. Hanesbrands Inc.* (N.D. Cal. Apr. 3, 2009) No. 08-00844, 2009 U.S. Dist. LEXIS 33900 at *24; see e.g. *Nordstrom Com. Cases* (2010) 186 Cal.App.4th 576, 579, “[T]rial court did not abuse its discretion in approving a settlement which does not allocate any damages to the PAGA claims”).

Category	Potential Exposure	Certification Risk	Merits Risk	Realistic Exposure
Rest Break Premiums	\$210,187.28	75%	65%	\$18,391.39
Meal Break Premiums	\$387,491.70	65%	65%	\$47,467.73
Overtime/Minimum Wage: Off-the-Clock Work	\$218,273.18 to \$327,456.11	65%	65%	\$26,738.46 to \$40,113.37
Regular Rate	\$33,369.61	45%	55%	\$8,258.98
Unreimbursed Business Expenses	\$130,880	15%	45%	\$61,186.40
Wage Statement Penalty	\$147,000	20%	20%	\$94,080
Waiting Time Penalty	\$593,460	20%	20%	\$379,814.40
MAXIMUM TOTAL EXPOSURE	\$1,720,661.77 to \$1,829,844.70⁵			\$635,937.36 to \$649,312.27⁶

Based on this analysis, the realistic recovery is **\$635,937.36** on the low end and **\$649,312.27** on the high end. (Han Decl., *supra*, at ¶ 59.) The Gross Settlement Amount is about twenty-one percent (21.59%) of the maximum potential exposure and sixty-one percent (60.83%) of the maximum realistic exposure at trial, which is a reasonable settlement. (*Ibid.*)

The only question at preliminary approval is whether the settlement is within the range of possible approval. (*In re General Motors Corp. Engine Interchange Litigation* (7th Cir. 1979) 594 F.2d 1106, 1124; *Acosta v. TransUnion, LLC* (C.D. Cal. 2007) 240 F.R.D. 564, 575.) “The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.” (*Detroit v. Grinnell Corp.* (2d Cir. 1974) 495 F.2d 448, 455; see also *Linney v. Cellular Alaska Partnership* (9th Cir. 1998) 151 F.3d 1234, 1242, “[I]t is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements. The proposed settlement is not to be judged against a hypothetical or speculative measure of what might have been achieved by the negotiators.”) The Settlement is in line with the realistic exposure if Plaintiffs prevailed at trial and provides significant recovery for the Class.

⁵ (Han Decl., *supra*, at ¶¶ 36-43.)

⁶ (*Id.* at ¶¶ 52-58.)

1 **d. Conditional Certification of the Class Is Appropriate**

2 Code of Civil Procedure section 382 “authorizes class actions ‘when the question is one
3 of a common or general interest, of many persons, or when the parties are numerous, and it is
4 impracticable to bring them all before the court.’” (*Sav-On Drug Stores, Inc. v. Superior Court*,
5 *supra*, 34 Cal.4th at p. 326.) California courts certify class actions if the plaintiff can identify
6 “both [1] an ascertainable class and [2] a well-defined community of interest among class
7 members.” (*Ibid.*)

8 The Class is ascertainable and numerous as to make it impracticable to join all Class
9 Members, and there are common questions of law and fact amongst the Class. (Han Decl., *supra*,
10 at ¶ 60.) Plaintiffs contend that, as former hourly-paid, non-exempt employees of Defendant, their
11 claims are typical of the claims of the Class, and Class Counsel will fairly and adequately protect
12 the interests of the Class. (*Ibid.*) Plaintiffs assert the prosecution of separate actions by individual
13 Class Members would create the risk of inconsistent or varying adjudications. (*Ibid.*)

14 **i. The Proposed Class Is Ascertainable and Sufficiently Numerous**

15 “Ascertainability is required in order to give notice to putative class members as to whom
16 the judgment in the action will be res judicata.” (*Hicks v. Kaufman & Broad Home Corp.* (2001)
17 89 Cal.App.4th 908, 914.) “A class is ascertainable if it identifies a group of unnamed Plaintiff
18 by describing a set of common characteristics sufficient to allow a member of that group to
19 identify himself or herself as having a right to recover based on the description.” (*Bartold v.*
20 *Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 828.) The proposed class must also be
21 sufficiently numerous. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.)

22 This case involves about two hundred six (206) Class Members, meaning the Class is
23 sufficiently numerous. (Han Decl., *supra*, at ¶ 61; *Ghazaryan v. Diva Limousine, Ltd.* (2008) 169
24 Cal.App.4th 1524, 1531, n.5 [finding a proposed class of “as many as 190 current and former
25 employees” is sufficiently numerous].)

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1 **ii. The Class Members Share a Well-defined Community of Interest**

2 The community of interest requirement “embodies three factors: (1) predominant common
3 questions of law or fact; (2) Class Representative with claims or defenses typical of the class; and
4 (3) Class Representative who can adequately represent the class.” (*Sav-On Drug Stores, Inc. v.*
5 *Superior Court, supra*, 34 Cal.4th at p. 326.) “[T]he community of interest requirement for
6 certification *does not mandate that class members have uniform or identical claims.*” (*Capitol*
7 *People First v. Department of Developmental Services* (2007) 155 Cal.App.4th 676, 692
8 (emphasis in original).) Rather, courts focus on the defendant’s internal policies and “pattern and
9 practice . . . in order to assess whether that common behavior toward similarly situated Plaintiff
10 renders class certification appropriate.” (*Ibid.*)

11 **1. Common Issues Predominate**

12 The “common issues” requirement “involves analysis of whether the proponent’s ‘theory
13 of recovery’ is likely to prove compatible with class treatment.” (*Capitol People First v.*
14 *Department of Developmental Services, supra*, 155 Cal.App.4th at p. 690.) Courts determine
15 whether the elements necessary to establish liability are susceptible to common proof, even if the
16 class members must individually prove their damages. (*Brinker Restaurant Corp. v. Superior*
17 *Court* (2012) 53 Cal.4th 1004, 1024). These types of claims are regularly granted class
18 certification when the plaintiff can present evidence of common policies. (See e.g. *Jones v. JGC*
19 *Dallas LLC* (N.D.Tex. Nov. 29, 2012, Civil Action No. 3:11-CV-2743-O) 2012 U.S.Dist.LEXIS
20 185042 [certified collective action involving 190 dancers]; *Espinoza v. Galardi South Enters.*
21 (S.D.Fla. Jan. 11, 2016, No. 14-21244-CIV-GOODMAN) 2016 U.S.Dist.LEXIS 2904 [court
22 certified class of dancers on state law claims].)

23 Plaintiffs assert common issues of fact and law predominate as to each of the claims
24 alleged. (Han Decl., *supra*, at ¶ 62.) Plaintiffs contend all Class Members were subject to the
25 same or similar employment practices, policies, and procedures described in detail above. (*Ibid.*)

26 **2. Plaintiffs’ Claims Are Typical of the Class Claims**

27 Typical claims rely on legal theories and facts that are substantially like those of other
28 class members. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 46.)

1 Plaintiffs are former employees of Defendant and allege they and the Class Members were
2 employed by the same company and injured by the common policies and practices related to the
3 claims described above. (Han Decl., *supra*, at ¶ 63.) Plaintiffs seek relief for these claims and
4 derivative claims on behalf of the Class. (*Ibid.*) Plaintiffs' claims arise from the same
5 employment practices and are based on the same legal theories applicable to the Class. (*Ibid.*)

6 **3. Plaintiffs Are Adequate to Represent the Class**

7 Plaintiffs have proven to be adequate representatives. (Han Decl., *supra*, at ¶ 64.)
8 Plaintiffs have conducted themselves diligently and responsibly in representing the Class in this
9 litigation, understand the fiduciary obligations, and have actively participated in the prosecution
10 of this case. (*Ibid.*) Plaintiffs have no adverse interest to that of the Class. (*Ibid.*)

11 **4. Class Action Is Superior for the Fair and Efficient** 12 **Adjudication of this Controversy**

13 A class action is superior to other available means for the fair and efficient adjudication
14 of this controversy. Plaintiffs contend the joinder of all Class Members is impractical and that
15 class treatment will permit many similarly situated persons to prosecute their common claims for
16 settlement purposes simultaneously in a single forum without the duplication of effort and
17 expense. Because several Class Members are current employees, Plaintiffs believe fear of
18 retaliation further supports the superiority of class-wide relief as this fear deters legal redress.

19 **e. The Settlement Is Fair, Reasonable, and Adequate**

20 In deciding whether to approve a proposed class action settlement under Code of Civil
21 Procedure section 382, the Court must find a proposed settlement is "fair, adequate and
22 reasonable." (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) A proposed class
23 action settlement is presumed fair under the following circumstances: (1) the parties reached
24 settlement after arm's-length negotiations; (2) investigation and discovery were sufficient to
25 allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation;
26 and (4) the percentage of objectors is small. (*Id.* at p. 1802.) All these elements are present here.

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California Rules of Court, rule 3.769(f), provides:

The Class Notice meets all these requirements. The proposed Class Notice advises the Class Members of their right to participate in the Settlement; how and when to object to or request exclusion from the Settlement; and date, time, and location of the Final Approval Hearing.

Plaintiffs submit the Settlement is in the best interests of the Class, as it is fair, adequate, and reasonable. Under the applicable class action criteria and guidelines, the Settlement should be preliminarily approved by the Court, Class should be conditionally certified for purposes of settlement only, and Class Notice should be approved.

JUSTICE LAW CORPORATION

By: D. Han
Douglas Han
Attorneys for Plaintiffs

**PROOF OF SERVICE
1013A(3) CCP**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Ave., Ste. 101 Pasadena, California 91103. My electronic service address is manderson@justicelawcorp.com

On March 12, 2024, I served the foregoing document described as

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, CONDITIONAL CERTIFICATION, APPROVAL OF CLASS NOTICE, SETTING OF FINAL APPROVAL HEARING DATE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

for the following case: **Becerril, et al. v. Watersavers Irrigation, Inc.**
LWDA/Court Case No.: **LWDA Case No.: CM-987682-23**
Court Case No.: 23CV410334
Santa Clara County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 12, 2024, at Pasadena, California.



Mariah Anderson