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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

AUDIE MUNOZ, as an individual and on behalf of all others similarly situated,

Plaintiff,

vs.

RALPHS GROCERY COMPANY, an Ohio Corporation; and DOES 1 through 100,

Defendants.

Case No. 23STCV28212

[*Assigned for all purposes to the Hon. Laura A. Seigle, Dept. SSC-17*]

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Date: June 11, 2026
Time: 9:00 a.m.
Dept.: SSC-17

Action Filed: November 16, 2023
Trial Date: None Set

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that pursuant to Rule 3.769 of the California Rules of Court, on June 11, 2026, at 9:00 a.m. in in Department SSC-17 of the above-entitled Court, located at 312 North Spring Street, Los Angeles, California 90012, Plaintiff Audie Munoz ("Plaintiff") individually and on behalf of a class of similarly situated individuals, will and hereby does move this Court for:

1. Preliminary approval of the proposed class settlement of this lawsuit;
2. Pursuant to section 382 of the California Code of Civil Procedure, provisional certification of the following Settlement Class defined as follows:

   All current and former non-exempt distribution center associates who were employed by Defendant Ralphs Grocery Company in California at any time between November 16, 2019 to December 10, 2022 (the "Class Period").
3. Preliminary appointment of Plaintiff as Class Representative;
4. Preliminary appointment of Paul K. Haines and Sean M. Blakely of Haines Law Group, APC, as Class Counsel;
5. The scheduling of a hearing to consider whether the Settlement should be finally approved and to permit a Class Representative Service Payment to Plaintiff, civil penalties payable to the Labor & Workforce Development Agency ("LWDA"), settlement administration costs, and attorneys' fees and costs to Class Counsel;
6. Appointment of ILYM Group, Inc. as the third-party Settlement Administrator for mailing notices; and
7. Approval of the proposed Class Notice and an order that it be disseminated to the proposed Settlement Class as provided in the Settlement Agreement.

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This Motion is based on this Notice of Motion; the attached Memorandum of Points and Authorities; the declarations of Paul K. Haines, Sean M. Blakely, Plaintiff Audie Munoz, and Anthony Rogers of ILYM Group, Inc., and the exhibits attached thereto; the Settlement Agreement; the pleadings and other papers filed in this action; and on any further oral or documentary evidence or argument presented at the time of hearing.

Respectfully submitted,

Dated: May 15, 2026

HAINES LAW GROUP, APC

By: Sean Blakely

Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Audie Munoz (hereinafter "Plaintiff") brought this class and representative action for various wage and hour violations on behalf of current and former non-exempt distribution center associates who were employed by Defendant Ralphs Grocery Company ("Ralphs") in California at any time from November 16, 2019 to December 10, 2022 (the "Class Period"). On November 16, 2023, Plaintiff filed a Class Action Complaint against Ralphs in Los Angeles Superior Court alleging the following causes of action: (1) minimum wage violations; (2) wage statement violations; and (3) unfair competition. On February 20, 2024, Plaintiff filed the operative First Amended Class and Representative Action Complaint ("FAC"), adding a cause of action for civil penalties under the Private Attorneys General Act ("PAGA").

Plaintiff now respectfully requests that this Court preliminarily approve this non-reversionary, common-fund class action settlement,[1] in which Ralphs has agreed to pay Three Hundred Eighty-Seven Thousand Five Hundred Dollars and Zero Cents ($387,500.00) to the following Settlement Class:

> All current and former non-exempt distribution center associates who were employed by Defendant Ralphs Grocery Company in California at any time from November 16, 2019 to December 10, 2022 (the "Class Period").

If the Settlement is approved, Ralphs will pay a non-reversionary Gross Settlement Amount of $387,500.00. After deducting administration costs, Plaintiff's requested Class Representative Service Payment, the amount designated as PAGA civil penalties, and requested attorneys' fees and costs, the Net Settlement Amount ("NSA") of approximately $180,333.34 will be distributed to all participating Class Members who do not opt-out of the Settlement based on the proportionate number of workweeks worked by each participating Class Member during the Class Period.

Significantly, Class Members do not need to file a claim to reap the financial benefits of

[1] The Class Action and PAGA Settlement Agreement ("Settlement") is attached to the Declaration of Sean M. Blakely as **Exhibit 1**. The proposed Class Notice is attached to the Settlement as **Exhibit A**. All defined terms in this motion have the same definition as that in the Settlement.

the Settlement, as all Class Members will automatically receive an Individual Class Payment unless they affirmatively opt-out. There are approximately 3,350 Class Members, and the average Individual Class Payment to Participating Class Members is projected to be approximately $53.83. This is a favorable result especially in light of the narrow issues presented in this case, and the significant risks of continued litigation.

The proposed Settlement is within the range of possible approval in light of the significant legal and factual obstacles that Plaintiff faced, the risks and costs of further litigation, and the tangible monetary benefits to be received by Plaintiff and the Settlement Class. For the reasons discussed herein, Plaintiff respectfully requests that this Court grant preliminary approval of the Settlement.

II. SUMMARY OF THE LITIGATION

A. THE PARTIES AND BRIEF PROCEDURAL HISTORY

Ralphs is a Southern California supermarket chain founded in 1873 offering a wide range of groceries, household goods, and pharmacy services. *See* Declaration of Sean M. Blakely ("Blakely Decl."), ¶ 8. Plaintiff worked for Ralphs as a non-exempt employee in the position of "Truck Driver" since approximately June 2013. *See* Declaration of Plaintiff Audie Munoz In Support of Approval of Class Action Settlement ("Munoz Decl."), ¶ 2.

On November 16, 2023, Plaintiff filed a Class Action Complaint in Los Angeles County Superior Court, alleging causes of actions for: (1) failure to pay minimum wages; (2) failure to provide accurate, itemized wage statements; and (3) unfair competition in violation of California Business & Professions Code § 17200 *et seq*. Blakely Decl., ¶ 9. On that same day, Plaintiff sent his PAGA notice letter to Ralphs and the Labor & Workforce Development Agency ("LWDA"). *Id*., ¶ 9, Exhibit 2 (LWDA Letter). On February 20, 2024, Plaintiff filed the operative First Amended Class and Representative Action Complaint ("FAC"), adding a cause of action for civil penalties under the Private Attorneys General Act ("PAGA"). *Id*, ¶ 9.

B. PLAINTIFF'S CLAIMS AND RALPHS' DEFENSES

1. Unpaid Wages Due to Rounding Policies/Practices

Plaintiff contends that Ralphs underpaid Class Members due to its allegedly unlawful rounding policies/practices. Blakely Decl., ¶ 14. Plaintiff contends that although Ralphs' timekeeping system recorded hours worked to the minute, Ralphs rounded all time-punch entries to the nearest tenth of an hour, resulting in an underpayment of wages to Class Members. *Id*.

However, Ralphs argues that its timekeeping policies/practices complied with California law and have always compensated Class Members for all hours worked throughout the Class Period. Blakely Decl., ¶ 14. Ralphs further argues that its rounding policies/practices were lawful, since it was both neutral on its face and resulted, over time, in employees being paid for all hours worked. *Id*. Ralphs also argues that it stopped its rounding policies/practices in December 2022, thereby cutting off liability for this claim. *Id*. Additionally, Ralphs asserts Plaintiff would be unable to certify a rounding class given the individualized inquiries as to whether Class Members were in fact underpaid, or potentially overpaid, for each workday in question, including whether each Class Member was performing compensable worked while clocked in. *Id*.

2. <u>Violations Under Labor Code § 226 and the PAGA</u>

As a result of the alleged unpaid wages due to Ralphs' rounding policies/practices, Plaintiff asserts that Ralphs failed to comply with its wage statement obligations, in violation of Labor Code § 226. Blakely Decl., ¶ 15. In addition, Plaintiff seeks civil penalties under the PAGA, based on the aforementioned claims. *Id*., at ¶ 16.

Ralphs contends that any alleged wage statement violations could not be shown to be "knowing and intentional," particularly given its good-faith defenses, that Plaintiff cannot show he or other employees "suffer[ed] injury" due to alleged wage statement violations, as required by Lab. Code § 226(e) for the imposition of penalties, and that the wage statements always accurately reflected amounts *paid* to employees. Blakely Decl., ¶ 15; *see also*, *Maldonado v. Epsilon Plastics, Inc.*, 22 Cal.App.5th 1308, 1337 (2018) ("The purpose of section 226 is to 'document the paid wages to ensure the employee is fully informed regarding the calculation of those wages'").

Finally, Ralphs contends that since Plaintiff's PAGA claim is derivative of his underlying wage claims, Plaintiff's PAGA claim would fail with those claims. Blakely Decl., ¶ 16; *see Price* *v. Starbucks Corp.*, 192 Cal.App.4th 1136, 1147 (2011) ("Because the underlying causes of action fail, the derivative UCL and PAGA claims also fail"). Ralphs further maintains that given its good-faith defenses, the Court would substantially reduce any PAGA penalties awarded. Blakely Decl., ¶ 16; Lab. Code § 2699(e)(2) (authorizing reduction in PAGA penalties in court's discretion); *Thurman v. Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, 1135 (2012) (affirming reduction of PAGA penalties); *Fleming v. Covidien, Inc.*, No. ED-CV-10-1487-RGK (OPx), 2011 WL 7563047 at *4 (C.D. Cal. 2011) (reducing PAGA penalties by over 82%); *Carrington v. Starbucks Corp.*, 30 Cal.App.5th 504, 529 (2018) (affirming PAGA penalty of just $5 per pay period where employer made "good faith attempts" to comply with the law).

C. <u>DISCOVERY AND MEDIATION</u>

Prior to reaching the proposed Settlement, the Parties engaged in extensive formal and informal discovery. Blakely Decl., ¶ 10. In response to Plaintiff's written discovery requests, Ralphs produced timekeeping and payroll records for the *entire* putative class, as well as its relevant policies utilized during the putative class period. *Id*. In connection with mediation, Ralphs produced relevant data points such as the number of putative class members, the number of aggregate workweeks during the Class Period, and the total number of pay periods worked during the PAGA Period. *Id*. Plaintiff's counsel retained an expert to assist Plaintiff in conducting a comprehensive analysis of the timekeeping and payroll records produced by Ralphs in order to calculate damages for each of Plaintiff's claims. *Id*. This discovery allowed the Parties to assess the merits and value of Plaintiff's claims, the chances of certification of Plaintiff's claims, and Ralphs' potential defenses. *Id*.

On June 13, 2025, the Parties participated in a full-day mediation with Steven Mehta, Esq., a well-respected wage and hour class action mediator. Blakely Decl., ¶ 11. During mediation, the Parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiff's claims, and the legal basis for the claims and defenses. *Id*. At the conclusion of the mediation, the Parties were unable to come to a resolution. *Id*. Following mediation, the Parties resumed class certification discovery. *Id*. While the Parties were conducting class certification discovery, the Parties also continued engaging in settlement negotiations, ultimately leading to a class-wide settlement. *Id*. During the months that followed, the Parties finalized the terms of the Settlement and executed the long-form Settlement Agreement now before the Court. *Id*.

III. THE PROPOSED SETTLEMENT

A. ESSENTIAL TERMS OF THE SETTLEMENT

If the Court preliminarily approves the Settlement, Ralphs will pay a Gross Settlement Amount of $387,500.00. *See* Settlement, §§ 1.21, 3.1. Significantly, this Settlement is non-reversionary, and no Class Member will have to submit a claim form to receive an Individual Class Payment. *Id*., at §§ 1.22, 3.1. Each Class Member who does not request exclusion is deemed to be a Participating Class Member and will automatically receive an Individual Class Payment. *Id*., at § 7.5.3. The monetary terms of the Settlement are summarized below:

• Gross Settlement Amount:	$387,500.00
• Minus Court-approved attorneys' fees:	$129,166.66
• Minus Court-approved verified costs (up to):	$40,000.00
• Minus Court-approved Service Payment:	$7,500.00
• Minus amount set aside as PAGA civil penalties:	$7,500.00
• Minus estimated Settlement Administration costs:	$23,000.00
Net Settlement Amount ("NSA"):	$180,333.34
• PLUS 25% "PAGA Payment" to PAGA Group Members:	$1,875.00
Total Amount Paid to Class Members:	**$182,208.34**

1. The Settlement Provides for Reasonable Monetary Payments

After deducting amounts for the Court-approved attorneys' fees and costs, the Class Representative Service Payment to Plaintiff, the amount designated as PAGA civil penalties, and Settlement Administrator's fees and expenses, the Settlement requires Ralphs to pay a Net Settlement Amount ("NSA") of at least $180,333.34 to all Class Members who do not timely opt out. *See* Settlement, §§ 1.27, 7.5.3. The Net Settlement Amount shall be allocated to Participating Class Members who worked during the Class Period based upon the number of workweeks worked as a non-exempt employee during the Class Period. *Id*., at §§ 1.22, 3.2.4. In addition to the NSA, Seven Thousand Five Hundred Dollars and Zero Cents ($7,500.00) of the Gross Settlement Amount has been designated as the PAGA Settlement Amount, allocated as 25% to the PAGA Group ($1,875.00) and 75% to the LWDA ($5,625.00). *Id*., at §§ 1.31, 3.2.5. Each PAGA Group Member shall receive a portion of the PAGA Settlement Amount proportionate to the number of pay periods that he or she worked between November 16, 2022 to December 10, 2022 (the "PAGA Period"). *Id*., at §§ 1.23, 1.32, 3.2.5.1.

Based on information from Ralphs, Plaintiff understands that there are approximately 3,350 Class Members. Blakely Decl., ¶ 13. Therefore, the average Individual Class Payment is projected to be approximately $53.83. *Id*. There are approximately 2,000 PAGA Group Members who worked during the PAGA Period. *Id*. Therefore, the average Individual PAGA Payment is estimated to be approximately $0.94. *Id*.

Class Members who wish to opt out of the Settlement must complete and mail, e-mail, or fax a Request for Exclusion to the Settlement Administrator within forty-five (45) calendar days of the date of the initial mailing of the Class Notice (the "Response Deadline"). *See* Settlement, §§ 1.42, 7.5.1. Class Members who do not opt-out of the Settlement will be bound by its terms and will release all claims against Ralphs included within the Settlement. *See* Settlement, § 7.5.3.

2. Attorneys' Fees and Costs, Service Payment, and PAGA Payment

Plaintiff will apply for a Class Representative Service Payment at the time of seeking final approval of the proposed class action settlement in the amount of $7,500, for his service to the Settlement Class. Blakely Decl., ¶ 20; *see* also Settlement, §§ 1.13, 3.2.1. "[I]ncentive awards are fairly typical in class action cases . . . and are intended to compensate class representatives for work done on behalf of the class [and] to make up for financial or reputational risk undertaken in bringing the action." *In re Cellphone Fee Termination Cases,* 186 Cal.App.4th 1380, 1393-94 (2010). As will be fully briefed at the time of final approval, Plaintiff's requested Service Payment is intended to recognize the time and effort Plaintiff expended on behalf of the Settlement Class, including providing substantial factual information and documents to Class Counsel, attending multiple meetings with Class Counsel to discuss the claims and theories at issue in the litigation, actively participating in the prosecution of his claims, searching for responsive documents and responding to formal document requests, as well as the significant risks Plaintiff undertook by agreeing to serve as the named Plaintiff in this case and the fact that Plaintiff agreed to a general release of all claims subject to a waiver of California Civil Code section 1542. Blakely Decl., ¶ 20; *see generally*, Munoz Decl.

Class Counsel will also apply for an attorneys' fees award of one-third of the Gross Settlement Amount, which is currently estimated to be $129,166.66, and up to $40,000.00 in verified costs reimbursement. *See* Settlement, §§ 1.6, 3.2.2; Blakely Decl., ¶ 19. Plaintiff submits the requested fee is fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent fee basis. Blakely Decl., ¶ 19. Class Counsel has incurred substantial attorneys' fees conducting pre-filing investigation, analyzing Plaintiff's claims, conducting legal research, conducting extensive formal and informal discovery, analyzing Class Members' timekeeping and payroll records and other data and documents, creating a comprehensive damages model, preparing for and attending mediation, negotiating and preparing the long-form Settlement Agreement, preparing this Motion, and otherwise litigating the case. *Id*. Class Counsel expect to expend additional attorney time in attending the hearing on this Motion, overseeing the Notice process and fielding questions from Class Members, preparing the final approval papers, and attending the Final Approval hearing. *Id*.

California courts recognize an appropriate method for awarding attorneys' fees in class actions is to award a percentage of the "common fund" created as a result of a settlement. *See e.g., Laffitte v. Robert Half Int'l, Inc.,* 1 Cal.5th 480, 506 (2016) (holding "the percentage of fund method survives in California class action cases"). Class Counsel's request for fees of one-third of the Gross Settlement Amount is well within the range of reasonableness, and indeed is considered the typical rate for common fund settlements. Historically, courts have awarded percentage fees in the range of 20% to 50%, depending on the circumstances of the case. *See* 4 Newberg on Class Actions § 14.6 (4th Ed. 2013).

Class Counsel submit their request for attorneys' fees is reasonable when viewed as an overall percentage of the Settlement and in light of the substantial risks and significant work undertaken, the results obtained, and the efficiency with which the litigation has been conducted. Should the Court grant preliminary approval, Class Counsel will seek an award of attorneys' fees and verified costs upon seeking final approval.

Additionally, the Parties have agreed to designate $7,500.00 of the Gross Settlement Amount as the "PAGA Settlement Amount," allocated as 25% to the PAGA Group ($1,875.00) and 75% to the LWDA ($5,625.00). *See* Settlement, at §§ 1.31, 3.2.5. Plaintiff submits this allocation to the LWDA for civil PAGA penalties is appropriate. *See, e.g., Chu v. Wells Fargo Investments, LLC*, Case No. C 05-4526 MHP, 2011 WL 672645 at *1 (N.D. Cal. 2011) (approving PAGA payment of $7,500 to LWDA out of $6.9 million common-fund settlement); *Lazarin v. Pro Unlimited, Inc.*, Case No. C11-03609 HRL, 2013 WL 3541217 (N.D. Cal. 2013) (approving PAGA payment of $7,500 to LWDA out of $1.25 million common-fund settlement).

IV. ARGUMENT

A. PRELIMINARY APPROVAL IS WARRANTED

California Rule of Court 3.769 conditions settlement of a class action on court approval, which is generally evaluated under the federal standards applicable under Rule 23 of the Federal Rules of Civil Procedure. *See Reed v. United Teachers Los Angeles*, 208 Cal.App.4th 322, 337 (2012) (Rule 3.769 requires trial court to determine "that the settlement is fair, reasonable and adequate to all concerned"); *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998) (Rule 23(e) requires the trial court to determine "whether a proposed settlement is fundamentally fair, adequate, and reasonable"). Settlement is the preferred means of dispute resolution, particularly in complex class action litigation. *See In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101 (9th Cir. 2008). The Court's role in evaluating a proposed settlement is limited to ensuring that the agreement taken as a whole is fair. See e.g., *Hanlon*, supra, 150 F.3d at 1027. There is an initial presumption of fairness where, as here, the Settlement was negotiated at arm's-length by class counsel and with the assistance of an experienced wage and hour class action mediator. *See e.g.*, *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 130 (2008).

1. Standard for Preliminary Approval

To make a fairness determination, the Court should consider several factors, including: "the strength of Plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, [and] the experience and views of counsel." *Dunk v. Ford Motor Co.,* 48 Cal.App.4th 1794, 1801 (1996). "The list of factors is not exclusive, and the court is free to engage in a balancing and weighing of the factors depending on the circumstances of each case." *Wershba v. Apple Computer, Inc.,* 91 Cal.App.4th at 245 (2001). As discussed below, the proposed Settlement is fair, adequate, and reasonable in light of the overall balance of factors in this case.

a. <u>The Strength of Plaintiff's Case</u>

Although Plaintiff steadfastly maintains that his claims are meritorious, Plaintiff acknowledges that there were substantial risks and uncertainty in proceeding with litigation. As described above in section II.B., *supra*, Ralphs presented multiple defenses to Plaintiff's claims, both on the merits and with respect to class certification. Thus, while Plaintiff was prepared to litigate these claims through class certification, and ultimately trial, success was far from certain.

b. <u>Risk, Expense, Complexity, and Duration of Further Litigation</u>

Although the Parties engaged in significant formal and informal discovery prior to mediation, the Parties still had significant formal discovery to complete had the matter not settled. Blakely Decl., ¶ 18. This would have required expenditure of substantial time and resources by both Parties that would have very likely spanned several years. *Id*. Even if Plaintiff was to certify the classes, the Parties would incur considerably more attorneys' fees and costs through a possible decertification motion, trial, and possible appeal. *Id.* This Settlement avoids those risks and the accompanying expense. *Id.*

c. <u>Risk of Maintaining Class Action Status</u>

Plaintiff has not yet filed his motion for class certification, and as such, the extent to which Plaintiff's proposed classes were certifiable is somewhat speculative. Absent settlement, there was a risk that there would not be a certified class at the time of trial, or if there were, it would consist of a significantly smaller group of employees than the proposed Settlement Class (either due to a narrowing of the class definition in a Court order on a contested motion for class certification, or through settlement agreements entered into by Ralphs with individual class members by way of *Pick-up-Stix* type settlement agreements[2]), and the expected recovery could

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[2] In *Chindarah v. Pick Up Stix, Inc.*, 171 Cal.App.4th 796 (2009), the Court of Appeal held an employer may enter into pre-certification settlement agreements with individual putative class members in which the putative class members release claims for past unpaid wages and penalties

be significantly reduced, given the settlement amounts that are typically offered through the *Pick-up-Stix* process. Thus, this factor, too, supports preliminary approval of the settlement.

d. <u>Amount Offered in Settlement Given Realistic Value of Claims</u>

The Settlement provides a positive recovery for the Settlement Class in the face of hotly disputed claims. Plaintiff conducted an analysis of alleged unpaid wages due to unlawful timekeeping policies/practices, wage statement penalties, and PAGA civil penalties. A summary of the results of Plaintiff's exposure analysis are discussed below:

<u>Unpaid Wages Due to Unlawful Rounding Policies/Practices</u>: $146,509

Based on Plaintiff's analysis of Ralphs' timekeeping and payroll records, there was an underpayment of wages due to rounding in approximately 47.43% of all pay periods in the Class Period, an *overpayment* of wages in approximately 48.14% of all pay periods, and approximately 4.43% of all pay periods were neutral. Blakely Decl., ¶ 14. Taking into account only those pay periods where there was an underpayment, Plaintiff estimated that Ralphs underpaid Class Members by approximately 10,419 hours, resulting in approximately $261,622 in unpaid wages (10,419 underpaid hours * $25.11 average hourly rate of pay). *Id*.

However, as stated above, Ralphs counters that its timekeeping policies/practice complied with California law and that it has always properly compensated Class Members for all hours worked throughout the Class Period. Blakely Decl., ¶ 14. In addition, Ralphs ended its rounding policies/practices in approximately December 2022, thereby cutting off liability for this claim. *Id*. Finally, Ralphs asserts that Plaintiff would be unable to certify this claim since its timekeeping policies/practices are facially neutral and individualized inquiries would be necessary as to whether employees were in fact underpaid for each workday in question, resulting in an unmanageable series of mini-trials. *Id*. In light of these defenses, Plaintiff discounted this maximum amount by 20% for risk of non-certification and an additional 30% for a risk of being unsuccessful on the merits or of failing to recover the full amount sought, to arrive at an estimated

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in exchange for consideration. The Court further held that such settlements could preclude those individual employees from recovery in class action litigation against the employer for the same wage claims.

realistic exposure of approximately $146,509. *Id*.

<u>Wage Statement Penalties</u>: $203,125

Plaintiff's analysis reflected that there were approximately 2,000 putative class members and approximately 7,250 pay periods worked during the liability period applicable to Plaintiff's wage statement claim. Blakely Decl., ¶ 15. Those penalties are calculated as $50 for each "initial" violation and $100 for each "subsequent" violation, with a maximum of $4,000 per employee. Blakely Decl., ¶ 15; *see* also Labor Code § 226(e). Accordingly, Plaintiff calculated Ralphs' potential wage statement exposure at approximately $625,000 ([2,000 "initial" violations * $50] + [5,250 "subsequent" violations * $100]). Blakely Decl., ¶ 15.

In light of Ralphs' arguments that no violations occurred, that employees suffered no "injury," that any alleged violations were not "knowing and intentional," that the wage statements always accurately reflected hours worked and amounts paid to employees, as well as risks associated with Plaintiff's underlying claims discussed above, Plaintiff discounted the maximum exposure by 35% for risk of non-certification, and by an additional 50% for risk of being unsuccessful on the merits, for an estimated realistic exposure of approximately $203,125. Blakely Decl., ¶ 15.

<u>PAGA Penalties</u>: $43,500

Plaintiff estimated a maximum total PAGA exposure at approximately $725,000 (7,250 pay periods * $100 "initial" penalty). Blakely Decl., ¶ 16; *Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1207 (2008) (finding "initial" violation rate applies until employer is notified that it is violating a Labor Code provision). However, these penalties derive from the underlying wage and hour violations discussed above, which Ralphs vigorously disputes. Blakely Decl., ¶ 16; *see e.g.*, *Green v. Lawrence Service Co.* 2013 WL 3907506, *5, n.5 (C.D. Cal. 2013) (explaining that a PAGA claim's success was determined by the merits of its underlying claims). Ralphs also asserts the Court would drastically reduce any award of PAGA penalties as "confiscatory." Blakely Decl., ¶ 16; *see also Thurman v. Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, 1135 (2012) (affirming reduction of PAGA penalties); *Fleming v. Covidien Inc*. (C.D. Cal. 2011) Case No. ED CV10-01487 RGK (OPx), 2011 WL 7563047, at *4 (reducing

PAGA penalties from $2.8 million to $500,000). Therefore, Plaintiff discounted the maximum figure by 60% for risk of losing on the merits and/or not recovering a PAGA penalty for each and every pay period, and an additional 85% to account for the possibility of this Court reducing penalties, to arrive at an estimated exposure of approximately $43,500. Blakely Decl., ¶ 16.

Using these estimated figures for each of the claims described above, Plaintiff predicted that the potential recovery for the Settlement Class would be approximately $393,134. Blakely Decl., ¶ 17. The proposed Settlement of $387,500 therefore represents approximately 98.5% of the reasonably forecasted recovery for the Settlement Class. *Id*. Preliminary approval is appropriate since the Settlement will provide significant monetary relief to the Settlement Class, which is consistent with what Plaintiff's counsel believes could have been recovered had the case proceeded through trial.

e. <u>The Experience and Views of Counsel</u>

"Parties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation." *In re Pacific Enterprises Securities Litigation* 47 F.3d 373, 378 (9th Cir. 1995). Here, Plaintiff is represented by competent, experienced counsel who possess extensive experience prosecuting and defending wage-and-hour class actions, and who have been appointed as class counsel in numerous cases alleging similar claims. *See* Blakely Decl., ¶¶ 2-6; *see also* Declaration of Paul K. Haines ("Haines Decl."), ¶¶ 3-8. Class Counsel conducted an in-depth review of Ralphs' timekeeping and payroll records and drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiff's case. *See* Blakely Decl., ¶ 10. The Settlement was also reached with the assistance of an experienced and respected wage-and-hour class action mediator. This factor strongly supports preliminary approval of the Settlement. *See Kullar*, *supra*, 168 Cal.App.4th at 130.

2. <u>The Preliminary Approval Standard Is Met</u>

At this stage, the Court can grant preliminary approval of the settlement and direct that notice be given if the proposed settlement: (1) falls within the range of possible approval; (2) appears to be the product of serious, informed and non-collusive negotiations; and (3) has no obvious deficiencies. *See* Manual for Complex Litigation § 30.41(3rd Ed. 1995); 4 Newberg on Class Actions § 11:24-25 (4th Ed. 2013).

a. <u>The Settlement Is Within the Range of Possible Approval</u>

The proposed settlement reflects approximately 98.5% of the estimated recovery the Settlement Class could reasonably expect in light of the significant litigation risks, and will provide tangible, substantial monetary compensation for hotly disputed claims. Indeed, the percentage of the liability exposure recovered in this case far exceeds percentages routinely approved by courts. *See, e.g., Glass v. UBS Finan. Servs.*, Case No. C-06-4068 MMC, 2007 WL 221862, *4 (N.D. Cal. 2007) (approving settlement representing 25% to 35% of potential damages); *Dunleavy v. Nadler*, 213 F.3d 454, 459 (9th Cir. 2000) (approving settlement representing about one-sixth of potential recovery); *Nat'l Rural Telecomm. Coop. v. DirecTV, Inc.*, 221 F.R.D. 523, 527 (C.D. Cal. 2004) ("it is well-settled law that a proposed settlement may be acceptable even though it amounts to only a fraction of the potential recovery that might be available to the Settlement Class members at trial"). Further, the average Individual Class Payment of approximately $53.83 is in line with payments achieved in other wage and hour class action settlements.[3] Thus, Plaintiff submits that the proposed settlement is within the range of

[3] *See e.g.*, *Bercea v. AE Retail West*, Case No. 34-2012-00123947 (Sacramento County Super. Ct. May 9, 2012) (average net recovery of approximately $105); *Ressler v. Federated Department Stores, Inc.*, Case No. BC335018 (Los Angeles County Super. Ct. Jan. 2, 2009) (average net recovery of approximately $90); *Palencia v. 99 Cents Only Stores*, Case No. 34-2010-00079619 (Sacramento County Super. Ct.) (average net recovery of approximately $80); *Doty v. Costco Wholesale Corp.*, Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007) (average recovery of approximately $65); *Lim v. Victoria's Secret Stores, Inc.*, Case No. 04CC00213 (Orange County Super. Ct. Jan. 20, 2006) (average net recovery of approximately $35); *Gomez v. Amadeus Salon, Inc.*, Case No. BC392297 (Los Angeles County Super. Ct. July 23, 2010) (average net recovery of approximately $20); *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (E.D. Cal. Dec. 17, 2008) (wage and hour class action settlement approved where average recovery was approximately $60); *Schiller v. David's Bridal, Inc.*, Case No. 1:10-cv-00616-AWI-SKO, 2012 WL 2117001 at *17 (E.D. Cal. June 11, 2012) ("Class Members will receive an average of approximately $198.70…[T]his is a substantial recovery where Defendants asserted compelling defenses to liability; Plaintiff also notes several similar actions where the gross recoveries per class member were less than $90…[T]he Court finds that the results achieved are good"); and *Williams v. Centerplate, Inc.*, Case Nos. 11-CV-2159-H-KSC, 12-CV-0008-H-KSC, 2013 WL 4525428 (S.D. Cal. Aug. 26, 2013) (average recovery of approximately $108).

possible approval, such that notice should be provided to the Class Members so that they can consider the Settlement. The Court will have the opportunity to again assess the reasonableness of the Settlement after the Class Members have had the opportunity to opt-out or object.

b. The Settlement Resulted from Serious, Informed Negotiations

The Settlement resulted from an exchange of substantial information, arm's-length negotiations by counsel, a full-day mediation before an experienced wage and hour mediator, and additional months of negotiating the long-form settlement agreement. Thus, the Settlement is entitled to an initial presumption of fairness. *See Kullar*, *supra*, 168 Cal.App.4th at 130. As discussed above, Plaintiff carefully vetted the claims at issue and reviewed extensive timekeeping and payroll data and conducted a detailed statistical analysis of the data to arrive at his estimated classwide damages figures. *See* Blakely Decl., ¶¶ 14-17. Thus, this factor supports preliminary approval.

c. The Settlement Is Devoid of Obvious Deficiencies

Preliminary approval of the Settlement is also warranted because there are no obvious deficiencies. The Settlement will provide substantial monetary relief to Class Members. The amounts proposed for Class Counsel's attorneys' fees and costs, PAGA Settlement Amount, settlement administration costs, and Plaintiff's Class Representative Service Payment, are all reasonable and appropriate based on the facts of this case. Because the Settlement is devoid of obvious deficiencies, this factor supports preliminary approval.

B. THE COURT SHOULD CERTIFY THE SETTLEMENT CLASS

The Settlement Class satisfies the criteria for certification of a settlement class under California law because: (1) the Settlement Class is so numerous that joinder would be impractical; (2) common questions of law and fact predominate over individual questions such that class certification is the most efficient and desirable way to maintain this litigation; (3) Plaintiff's claims are typical of the claims of absent Class Members; and (4) Plaintiff and his counsel will fairly and adequately represent Class Members' interest. *See* Cal. Civ. Proc. § 382.

1. The Proposed Class Is Ascertainable and Numerous

A class is "ascertainable" where the members "may be readily identified without unreasonable expense or time by reference to official [or business] records." *See Sevidal v. Target Corp.* 189 Cal.App.4th 905, 916 (2010) (alterations in original). Here, the proposed class is defined as all current and former non-exempt distribution center associates who were employed by Ralphs in California at any time during the Class Period. *See* Settlement, § 1.4. Therefore, Class Members can be identified from Ralphs' personnel and employment records. Based on information provided by Ralphs, Plaintiff understands that the Settlement Class consists of approximately 3,350 current and former non-exempt employees. *See* Blakely Decl., ¶ 13. It would therefore be impracticable to bring all Class Members before the Court, or for each Class Member to bring an individual lawsuit. The proposed Settlement Class therefore satisfies numerosity. *See, e.g., Bowles v. Sup. Ct.*, 44 Cal.2d 574 (1955) (holding a class representing 10 beneficiaries of a trust sufficiently numerous).

2. Common Issues of Law and Fact Predominate

The focus in a certification dispute is not the merits, but rather on what types of questions, "common or individual," are likely to arise in the action. *See Sav-On Drug Store, Inc. v. Superior Court (Rocher)* 34 Cal.4th 319, 327 (2004). Plaintiff's claims are predicated on Ralphs' uniform timekeeping policies and/or practices. These types of claims are commonly held to be proper for class certification. *See e.g., Faulkinbury v. Boyd & Associates, Inc.*, 216 Cal.App.4th 220 (2013) (certifying unpaid wage claims).

3. The Claims of the Named Plaintiff Are Typical

The typicality requirement is satisfied where class representatives have claims that are typical of those of the rest of the class. *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* 191 Cal.App.3d 1341, 1347 (1987) (finding typicality satisfied where named Plaintiff purchased the same goods as the putative class in a consumer class action). Here, Plaintiff's claims are typical of those held by the Class Members. First, Ralphs employed Plaintiff as a non-exempt employee in the California during the Class Period, and Plaintiff was subject to Ralphs' wage and hour policies at issue in this case. *See* Munoz Decl., ¶ 2. Second, Plaintiff was injured by the same challenged policies/practices that allegedly injured the Settlement Class as a whole. For example, Plaintiff asserts that he was deprived of all wages due to Ralphs' timekeeping policies. *Id.*, at ¶ 3.

Plaintiff further asserts that he did not receive accurate and compliant wage statements *Id*. Because Plaintiff has suffered the same injuries as the other members of the Settlement Class, the typicality requirement is satisfied.

4. **<u>Plaintiff and Class Counsel Will Fairly and Adequately Represent the Class</u>**

The adequacy requirement examines conflicts of interest between named parties and the class(es) they seek to represent. *See Capital People First v. State Dept. of Developmental Services* 155 Cal.App.4th 676, 697 (2007). Plaintiff and his counsel will adequately represent the Settlement Class, as there are no conflicts between Plaintiff and the proposed Settlement Class, and Plaintiff possesses claims that are in line with those of the Settlement Class. *See McGhee v. Bank of America* 60 Cal.App.3d 442, 450-51 (1976) (adequacy satisfied where there was no indication that Class Counsel were not qualified and the named plaintiff had no interests antagonistic to those of the proposed class). Class Counsel also have extensive experience in wage and hour class action litigation. *See* Blakely Decl., ¶¶ 2-6; Haines Decl., ¶¶ 3-8.

C. **<u>THE COURT SHOULD ORDER DISTRIBUTION OF THE NOTICE</u>**

This Court should order distribution to the Settlement Class of the proposed Class Notice, in English and Spanish, by First Class U.S. Mail, postage prepaid, using last known mailing address information provided by Ralphs Grocery. *See* Settlement, §§ 1.10, 7.4.2. This manner of giving notice is the "best notice practicable" under the circumstances because it provides "individual notice to all members who can be identified through reasonable effort." *See Eisen v. Carlisle & Jacquelin* 417 U.S. 156, 173 (1974). Here, the Parties have agreed that the Settlement be administered by ILYM Group, Inc. ("ILYM"), an experienced class action settlement administrator. *See generally* Declaration of Anthony Rogers ("Rogers Decl.") and attached exhibits. Class Members' addresses will be ascertainable through Ralphs' Class Data, which Ralphs will provide to ILYM within twenty (20) business days after entry of order preliminarily approving the Settlement. *See* Settlement, §§ 1.7, 4.1. Within ten (10) business days from receipt of the Class Data, the Settlement Administrator will run the names of all Class Members through the National Change of Address ("NCOA") database to determine any updated addresses for Class

Members and mail a Class Notice to each Class Member at his or her last known address. *Id*., at §§ 1.9, 7.4.2. To the extent that any notices are returned, ILYM will perform a "skip trace" to track any Settlement Class Member's current mailing address. *Id*., at §§ 1.9, 7.4.3.

The content of the proposed Class Notice satisfies California Rule of Court 3.766(d) because it advises Class Members of the nature of the claims, basic contentions and denials of the parties and the key terms of the Settlement, the 45-day deadline to opt-out or object to the Settlement and the procedures by which to do so, explains the recovery formula and expected recovery amount for each Class Member, and advises them that they will be bound by the terms of the Settlement if they do not opt-out. *See* Blakely Decl., Exh. A to Exh. 1. The proposed Class Notice will also notify Class Members of the final approval hearing date and provides the Settlement Class contact information for Class Counsel and advises Class Members that they may enter an appearance through counsel if they wish to. *Id.* This manner of giving notice satisfies California Rule of Court 3.766(e) as the most reliable and cost-effective method of reaching Class Members.

D. <u>THE COURT SHOULD SET A FINAL APPROVAL HEARING</u>

Finally, this Court should set a hearing for Final Approval of the Settlement on a date appropriately scheduled to follow the deadline by which Class Members must file objections to the Settlement or opt-out. *See* California Rule of Court 3.769.

V. <u>CONCLUSION</u>

For the foregoing reasons, Plaintiff respectfully requests that the Court preliminarily approve the proposed Settlement, provisionally certify the Settlement Class, and enter the Proposed Order submitted concurrently herewith.

Dated: May 15, 2026

Respectfully submitted,
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