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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO COURTHOUSE

ANTONIO LOERA, JR. and CHARLOTTE DANIELS, on behalf of themselves and all others similarly situated, Plaintiff, vs. COUNTY OF ALAMEDA, a political subdivision of the State of California, Defendant.	Case No. 3:23-cv-00792-LB **PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS AND COLLECTIVE ACTION SETTLEMENT AND CERTIFICATION OF SETTLEMENT CLASS; MEMORANDUM OR POINTS AND AUTHORITIES IN SUPPORT** Date: April 30, 2026 Time: 09:30 a.m. Courtroom: B, 15th Floor Judge: Hon. Laurel Beeler Complaint Filed: February 22, 2023 FAC Filed: December 4, 2023 SAC Filed: Trial Date: NA

NOTICE OF MOTION

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

PLEASE TAKE NOTICE that on April 30, 2026 at 09:30 a.m., or as soon thereafter as the matter may be heard, in the Courtroom of the Honorable Laurel Beeler, located at Courtroom B of the United States District Court for the Northern District of California, 450 Golden Gate Ave., 15th Floor, San Francisco, California 94102, Plaintiff Antonio Loera, Jr. and Plaintiff Charlotte Daniels ("Plaintiffs") on behalf of themselves and others similarly situated, will and hereby do move for the Court to: (1) preliminarily approve the Stipulation of Class And Collective Action Settlement ("Settlement Agreement") between Plaintiffs and Defendant County of Alameda ("Defendant" or "County") settling the class and collective claims under California law and the federal Fair Labor Standards Act ("FLSA") alleged in this case, certify for settlement purposes only the Federal Rule of Civil Procedure ("FRCP") Rule 23 class described therein, and authorize the notice, (2) approve the settlement of the FLSA collective, (3) approve ILYM as the Settlement Administrator, (4) provisionally appoint Plaintiffs Charlotte Daniels and Antonio Loera, Jr. as class representatives and provisionally appoint Rachel Terp of Terp Law P.C. and Sharon Vinick of Vinick Hyams LLP as Class Counsel, (5) appoint Plaintiffs Charlotte Daniels and Antonio Loera, Jr. as the FLSA collective representatives and Rachel Terp of Terp Law P.C. and Sharon Vinick of Vinick Hyams LLP as counsel for the FLSA collective, and (6) order the Parties and the Settlement Administrator to carry out the obligations set forth in the Settlement Agreement, and (7) set a date for the final approval hearing.

This Motion is based upon: this Notice of Motion and Motion for Preliminary Approval of Class and Collective Action Settlement; the accompanying Memorandum of Points and Authorities; the supporting Declaration of Attorney Rachel M. Terp ("Terp Prelim. Decl.") and accompanying exhibits, including the Settlement Agreement attached as Exhibit 1; the supporting Declaration of Attorney Sharon Vinick ("Vinick Prelim. Decl."); the supporting Declaration of Plaintiff Loera ("Loera Prelim. Decl."); the supporting Declaration of Plaintiff Daniels ("Daniels Prelim. Decl.); and the Declaration of Gregory Perkins ("Perkins Decl."); as well as arguments of counsel, papers, records, and pleadings in this matter, and such additional matters as the Court may consider. A Proposed Order is submitted herewith.

Dated: March 23, 2026

TERP LAW P.C.

By: ______________________

Rachel Terp, Attorneys for Plaintiffs Antonio Loera, Jr. and Charlotte Daniels, the FLSA Collective, and the Putative Class

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Antonio Loera, Jr. and Plaintiff Charlotte Daniels move for preliminary approval of a class settlement of California minimum wage claims for Class Members and approval of a collective action settlement of federal overtime claims for FLSA Class Members, on behalf of Sheriff's Safety Aides ("SSAs") against Defendant County of Alameda. *See* Settlement Agreement, attached as Exhibit 1 ("Ex. 1") to Terp Prelim. Decl., filed herewith.

The Settlement is a strong result for the SSAs, providing substantial monetary relief: the County will pay $650,000 into a non-reversionary settlement fund; separately cover the employer's share of payroll taxes for the portion allocated to wages; and cover the cost of settlement administration. Ex. 1 ¶¶ 20, 35. Plaintiffs estimate that there are 85 Class Members. Terp Prelim Decl. ¶ 2. The $650,000, equates to $7,647.05 on average, per SSA; and $4,958.82 on average, after requested attorney fees, costs, and service awards are subtracted. Terp Prelim. Decl., ¶¶ 15, 16; *see* Ex. 1 ¶ 49.

This case was a catalyst for change. During the litigation, Defendant stopped requiring SSAs to attend an uncompensated, pre-shift muster meeting, then travel by van from an off-site location to the airport, before their compensable day began. Now Defendant provides SSAs with parking near the airport entrance, ensuring SSAs are compensated for their full workday. Terp Prelim. Decl. ¶ 40.

The details regarding the proposed settlement are set forth in the following table:

	Settlement Facts	
Maximum Settlement Amount	$650,000	Ex. 1 ¶ 20.
Net Settlement Amount	$421,500	Terp Prelim. Decl. ¶ 11; *see* Ex. 1 ¶ 23.
Net Settlement split between Class Members and FLSA Class Member Pools	$210,750, each	Terp Prelim. Decl. ¶12; *see* Ex. 1 ¶ 23.
Class Size	85	Terp Prelim. Decl.¶ 13.
Class Avg. Distribution (net before taxes)	$2,479.41	*Id*. ¶ 16.
Class Release	Participating Class Members release: "[A]ny and all claims . . . arising out of the claims expressly pleaded in the Action and all other claims . . . , that could have been pleaded based on the facts pleaded in the Action against the Released Parties, ..."	Ex. 1 ¶ 30.
FLSA Opt-Ins	56	Terp Prelim. Decl. ¶ 14.
Avg. FLSA Settlement Award (net, before taxes)	$3,763.39	*Id*. ¶ 16.

FLSA Release	Applies to FLSA Class Members who sign their FLSA Settlement Award checks (Ex. 1 ¶¶ 17, 19, 26) release: "[A]ny and all claims under the FLSA related to the claims that were made or arising out of the facts asserted in the Action" *Id*. ¶ 30.
Service Award	$15,000 to each named Plaintiff *Id*. ¶ 8.
Attorneys' Fees and Costs	$162,500 in fees and $36,000 in costs *Id*. ¶ 3.

If this case had not settled, Plaintiffs would have had to take and defend numerous depositions, win class certification, maintain class and collective action certification through trial, survive Defendant's likely motions for summary judgment and decertification, and then prevail at trial and on any appeals—risky propositions that would have, at a minimum, greatly delayed and potentially diluted recovery for the class and collective action members. Ex. 1 ¶ 39; Terp Prelim. Decl. ¶ 37, 38.

The proposed Settlement was reached after substantial investigation and formal discovery. Terp Prelim. Decl. ¶ 33. The Settlement is the product of arms'-length negotiations, which included a day-long mediation with Hon. Amy Hogue (Ret.), which resulted in a short-form settlement on January 14, 2025. *Id*. ¶ 32. There were subsequent lengthy negotiations focusing on the terms of the long-form settlement agreement, which the Parties signed on March 3, 2026. *Id*.

FLSA Class Members who deposit their settlement checks release FLSA claims arising out of the claims and facts asserted in the Action. Ex. 1 ¶¶ 26, 30. Participating Class Members release claims that arise out of or could have been pleaded based on the facts alleged and causes of action pleaded in the Second Amended Complaint ("SAC"). *Id.* Any undeposited sums will issue to an agreed upon *cy pres* recipient: the East Bay Community Law Center ("EBCLC"). *Id*. ¶ 49(a)(iv).

Claims under the California Private Attorneys General Act ("PAGA") are valued at $0 due to the recent decision *Stone v. Alameda Health System*, 16 Cal.5th 1040 (2024), which held that PAGA claims do not apply to public entities. Ex. 1 ¶ 37. Plaintiffs will dismiss the PAGA claims with prejudice following final approval of the Settlement by this Court. *Id.*

Plaintiffs, hereby, request the Court grant Plaintiff's motion.

II. BACKGROUND

A. Factual Allegations and Declarations

SSAs were employed within the County of Alameda government by the Alameda County Sheriff's Office ("ACSO"). SAC ¶¶ 6-8, ECF No. 96. SSAs perform security work at Oakland International Airport ("OAK"). *Id*. ¶ 12. Plaintiffs allege that, for roughly 15 years, Defendant maintained a policy, plan, and/or practice of requiring SSAs to work uncompensated time off-the-clock before and after their shifts. *Id*. ¶ 14. Plaintiffs allege that Defendant maintained policies, plans, and/or practices that caused SSAs to work time off-the-clock without compensation, in violation of federal overtime and state minimum wage laws. *Id*. ¶¶ 12-22, 28.

More specifically, Defendant required SSAs to report to work at the Airport Police Services ("APS") Station, in uniform, at least 15 minutes before their shift to attend a muster meeting where SSAs were briefed on the workday ahead, then they boarded a van that shuttled them from the APS Station to posts inside OAK. SAC ¶ 14, ECF No. 96. Further, Defendant maintained a one-for-one drop-off system that typically resulted in SSAs being shuttled back to the APS approximately 15 minutes late. *Id*. ¶¶ 15-16. Plaintiffs were not compensated for the time at the muster meeting, nor were they compensated for the subsequent time traveling to/from their posts. *Id*. ¶ 14-20.

Plaintiffs allege that SSAs performed other work before and after their scheduled shifts, which was not recorded. SAC ¶¶ 14-20, ECF No. 96. Plaintiffs allege that Defendant maintained a policy and practice of discouraging SSAs from reporting the time they worked off the clock accurately. Declarations of SSAs ("SSA Decls.") ¶¶ 10-13, ECF Nos. 16-3 to 16-13; Perkins Decl. ¶ 10.

By mid-2024, more than a year after this case was filed, Defendant ended its pre- and post- shift practices of requiring SSAs to attend a mandatory pre-shift muster meeting outside of OAK and shuttling SSAs to and from OAK in a van. Terp Prelim. Decl. ¶ 40. Instead, ACSO secured free parking for the SSAs close to their OAK posts so that now most SSAs can park and walk directly to their shifts. *Id*.; *see* Daniels Prelim. Decl. ¶ 13.

B. <u>Relevant Procedural Background</u>

On February 22, 2023, Plaintiffs filed the lawsuit. Class Action Complaint, ECF No. 1. On July 13, 2023, the Court granted conditional certification of the FLSA overtime action. Preliminary Certification Order, ECF No. 30. On December 4, 2023, the notice period ended for eligible SSAs to opt in to the FLSA collective. *See* Joint Case Management Statement p. 4, § V, ECF No. 88. By that deadline, sixty (60) individuals submitted FLSA opt in forms, ECF Nos. 1-1, 17, 9, 15, 24, 27, 29, 33-35, 40, 43-46, 49, 55, 59, 60, 62, 67, 69, 71, 72, 76, 78, 79, 82-84; of those 60 individuals, Plaintiffs estimate that fifty-six (56) had work dates that fall within the applicable statute of limitations. Terp Prelim. Decl. ¶ 14. Later, the Court granted Plaintiff's motion for equitable tolling for all opt-ins, pegged to the date of conditional certification. Tolling Order, ECF No. 73. The Court subsequently granted leave to amend the complaint to add state law minimum wage claims, which cover an estimated eighty-five (85) individuals. Order Granting Motion to Amend/Correct, ECF No. 80; First Amended Class and Collective Action Complaint, ECF No. 81; Terp Prelim. Decl. ¶ 13.

The operative SAC, filed February 22, 2024, alleges willful FLSA overtime violations, willful minimum wage violations under the California Labor Code including PAGA penalties. SAC, ECF No. 96.

Defendant produced roughly nineteen thousand (19,000) pages of records, including collective bargaining agreements ("CBAs"), policies and procedures, personnel files, paystubs, pay data in PDF and Excel formats, audit trails, rover van logs, and radio logs. Terp Decl. ¶ 33. The documentation was reviewed by Class Counsel, and in relevant part by an expert retained by counsel. *Id*. ¶ 33-35.

The Settlement Agreement was fully signed on March 3, 2026. Ex. 1. Plaintiffs' counsel sent California's Labor and Workforce Development Agency ("LWDA") a copy of the settlement on March 23, 2026. Terp Decl. ¶ 12.

III. CLASS AND COLLECTIVE DEFINITIONS

A. Class Definition

The California Class definition is found at Paragraph 5 of the Settlement Agreement (Ex. 1):

> "Class Members" means all Sheriff's Safety Aides who worked uncompensated time off-the-clock for the Alameda County Sheriff's Office in and around the Oakland International Airport at any time during the "Class Period."

B. FLSA Collective

The FLSA Collective definition is found at Paragraph 17 of the Settlement Agreement (Ex. 1):

> "FLSA Class Members" means all Sheriff's Safety Aides who worked for the Alameda

County Sheriff's Office in and around the Oakland International Airport at any time during the "FLSA Class Period," and who timely submitted a signed Consent Form and Declaration.

IV. THE PROPOSED SETTLEMENT TERMS AND ALLOCATION AMONG SETTLEMENT CLASS MEMBERS.[1]

The Settlement requires Defendant to pay a non-reversionary sum of $650,000 (Ex. 1 ¶ 20), plus the employer's share of payroll taxes (Ex. 1 ¶ 13), and to cover the settlement administration costs (Ex. 1 ¶ 35). From the $650,000 common fund, the Settlement provides:

- A Net Settlement Amount of at least $421,500 (Terp Prelim Decl. ¶ 11, *see* Ex. 1 ¶ 23), to be used to pay individual settlement awards to Participating Class Members (*see* Ex. 1 ¶ 26), under the following formula:
  - For the FLSA overtime claim:
    - Fifty percent (50%) of the Net Settlement Fund ($210,750) shall be allocated to the FLSA overtime claim (Ex. 1, ¶¶ 23, 48(a)(iv); Terp Prelim Decl. ¶ 12);
    - Each FLSA Class Member will receive a proportionate share of the amount allocated to the FLSA Class Member based on the number of Compensable Workweeks worked during the FLSA Class Period in relation to the number of Compensable Workweeks worked by all FLSA Class Members during the FLSA Class Period. (Ex. 1 ¶ 48(a)(iv));
    - FLSA Settlement Awards shall be allocated as twenty-five percent (25%) wages subject to applicable tax withholdings, and seventy-five percent (75%) alleged unpaid interest and alleged civil and statutory penalties (Ex. 1 ¶ 49(a)(ii)).
  - For the California minimum wage claims:
    - Fifty percent (50%) of the Net Settlement Fund ($210,750) shall be allocated to the California minimum wage claim (Ex. 1 ¶¶ 23, 37, 48(a)(v));

[1] Plaintiffs' counsel followed N.D. Cal's *Procedural Guidance for Class Action Settlements, Preliminary Approval*, Sept. 5, 2024 ("*N.D. Cal. Class Settlement Guidance, Preliminary Approval*") in preparing this section (available at: https://cand.uscourts.gov/rules-forms-fees/northern-district-guidelines/procedural-guidance-class-action-settlements). Terp Decl. ¶ 44.

      - Each Participating Class Member will receive a proportionate share of the amount allocated to Class Members based on the Participating Class Member's number of Compensable Workweeks worked during the Class Period in relation to the number of Compensable Workweeks worked by all Participating Class Members during the Class Period (Ex. 1 ¶ 48(a)(v));
      - Each Individual Settlement Award related to California Claims shall be allocated as twenty-five percent (25%) wages subject to all applicable tax withholdings, and Seventy-Five Percent (75%) alleged unpaid interest and alleged civil and statutory penalties (Ex. 1 ¶ 49(a)(ii)).
  - Any Class Member who does not timely request exclusion from the Settlement will be considered a Participating Class Member. Ex. 1 ¶ 26. FLSA claims are only released, however, if an FLSA Class Member signs their settlement award check consenting to join the FLSA class. *Id.*
  - Any checks that are uncashed One-Hundred Eighty (180) calendar days after issuance, will be voided and the funds shall be distributed to EBCLC or another approved *cy pres* recipient. Ex. 1 ¶ 49(a)(iv).
- No funds will be allocated to PAGA for the LWDA and aggrieved employees. Ex. 1 ¶ 37.
- Class Representative Service Awards will not exceed $15,000 each. Ex. 1 ¶ 49(b).
- Settlement Administration Costs will be covered by Defendant. Ex. 1 ¶¶ 49(d).
- Payment of Twenty-Five Percent (25%) of the Maximum Settlement Amount, or $162,500, as attorney's fees. Ex. 1 ¶ 49(c).
- Reimbursement of actual litigation costs will not exceed $36,000. *Id.*

In exchange for participating in the settlement, SSAs will be subject to the following releases:

- Participating Class Members (SSAs who do not opt out of the settlement) will release legal claims arising out of the claims expressly pleaded in the Action and all other claims that could have been pleaded based on the facts alleged therein. Ex. 1 ¶ 30.
- FLSA Class Members (who do not opt out of the settlement) shall release legal claims under the

FLSA related to claims that were made or arise out of the facts asserted in the Action. Ex. 1 ¶ 30.

- Plaintiff Daniels will sign a general release of claims in exchange for her service award. Plaintiff Loera will sign a general release of claims with a narrow carve out for any claims arising from an unsolved crime that occurred shortly after the lawsuit was filed. Ex. 1 ¶ 31.

V. THE COURT SHOULD GRANT PRELIMINARY APPROVAL

The Settlement is fair, adequate, and reasonable, justifying this Court's preliminary approval. Rule 23 certification for settlement purposes is appropriate.

A. Class Action Settlements Are Encouraged.

A "strong judicial policy [] favors settlements, particularly where complex class action litigation is concerned." *Espinosa v. Ahearn*, 926 F.3d 539, 556 (9th Cir. 2019) (*en banc*). The Court should grant preliminary approval because the settlement for Class Members "falls within the range of possible approval or within the range of reasonableness" for final approval. *Curley v. Google LLC,* No. 4:22-cv-01735-KAW, at *18 (N.D. Cal. Dec. 7, 2025); *Gautreaux v. Pierce*, 690 F.2d 616, 621 n.3 (7th Cir. 1982).

B. The California Class Satisfies the FRCP Rule 23 Requirements.

The "Class Members" definition satisfies the criteria of FRCP Rules 23(a) and (b)(3). The SAC and Settlement provide substantively identical definitions, with the Settlement Agreement specifying a cut-off date. Ex. 1, ¶¶ 5, 7; SAC ¶ 23, ECF No. 96; Terp Prelim. Decl. ¶ 9; *N.D. Cal. Class Settlement Guidance, Preliminary Approval* ¶ 1.1.

Numerosity is met with roughly 85 Class Members. *See* Terp Prelim. Decl. ¶ 2; *Hernandez v. Cnty. of Monterey*, 305 F.R.D. 132, 152-53 (N.D. Cal. 2015) ("A class or subclass with more than 40 members 'raises a presumption of impracticability based on numbers alone'"); *Ward v. United Airlines, Inc.*, No. 19-cv-03423-LB, at *9 (N.D. Cal. Feb. 12, 2021) ("40 satisf[ies] the numerosity requirement"); *Roe v. Jose Torres L.D. Latin Club Bar, Inc.*, No. 19-cv-06088-LB, at *9 (N.D. Cal. May 14, 2020) (finding numerosity and granting preliminary approval to approximately 90 class members).

The Class is ascertainable. *See James v. Uber Techs. Inc.*, 338 F.R.D. 123, 130 (N.D. Cal. 2021) (ascertainable means "'definite enough so that it is administratively feasible for the court to ascertain whether an individual is a member' before trial, and by reference to 'objective criteria'"). The allegations cover a single job title, SSA, and Defendant produced an SSA list for FLSA notice purposes. Terp Prelim. Decl. ¶ 3. The claims pertain to work performed by SSAs assigned to work shifts at a single location – OAK. *Id.*

The claims and defenses of Plaintiffs are typical of the Class Members. The "'test of typicality is whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiffs, and whether other class members have been injured by the same course of conduct.'" *James*, 338 F.R.D. at 132 (quoting *Hanon v. Dataproducts Corp*., 976 F.2d 497, 508 (9th Cir. 1992)). Typicality is satisfied because Plaintiffs and Class Members share the same injuries: uncompensated pre-shift muster meetings and van rides, and post-shift waiting for replacements and return to APS. ECF No. 16-3; ECF No. 4; Terp Prelim. Decl. ¶ 4. Plaintiffs were figuratively in the same boat as the Class Members and literally in the same vans.

Plaintiffs are adequate representatives of Class Members, as they have no conflict of interest and are represented by experienced counsel. *See Ellis v. Costco Wholesale Corp.*, 285 F.R.D. 492, 535 (N.D. Cal. 2012); Fed. R. Civ. P. 23(a)(4) & (g); Ex. 1 ¶¶ 8, 28, 49(b); Terp Prelim. Decl. ¶ 5; *see generally* Loera Prelim Decl. and Daniels Prelim. Decl.

Common questions predominate over individual issues for Class Members, including whether Defendant's policies requiring uncompensated pre- and post-shift routines resulted in off-the-clock work. Terp Prelim. Decl. ¶ 6. Courts regularly certify such claims. *See, e.g*., *Jimenez v. Allstate Ins. Co.*, 765 F.3d 1161, 1164 (9th Cir. 2014) (common questions existed where workers alleged employer had an "unofficial policy" of discouraging reporting of overtime, employer knew or should have known that class was working unpaid overtime); *Fodera v. Equinox Holdings, Inc.,* 341 F.R.D. 616, 629-630 (N.D. Cal. 2022) (certifying off-the-clock claims); *Frausto v. Bank of Am.*, 334 F.R.D. 192, 204 (N.D. Cal. 2019) ("alleged practice of requiring work before and after shifts is a common contention capable of class-wide resolution"); *Rai v. Santa Clara Valley Tranps. Auth.,* 308 F.R.D.

245, 250–57 (N.D. Cal. 2015) (certifying claims involving uncompensated pre-departure, turn-in time, bulletin review, and meeting time policies for drivers); *Stitt v. San Francisco Mun. Transp. Agency*, No. 13-CV-3704 YGR (N.D. Cal. May 2, 2014) (common questions existed as to whether start-end travel time, turn-in time, and meeting time were compensable).

Plaintiffs submitted eleven (11) SSA declarations to support conditional certification, which would also support class certification, and collected five (5) more in support of class certification. SSA Decls., ECF Nos. 16-3 to 16-13; Terp Prelim Decl. ¶ 7. In *Campbell v. Vitran Express, Inc.*, No. CV-11-5029, at *22 (C.D. Cal. Nov. 12, 2015), the court found that fifteen (15) employee declarations at four work sites was sufficient evidence of a uniform policy. Here, Plaintiffs collected more for one site. Terp Prelim Decl. ¶ 7.

Accordingly, the Court should certify the proposed California settlement class, appoint Plaintiffs Daniels and Loera as Class Representatives, and Rachel Terp of Terp Law P.C. and Sharon Vinick of Vinick Hyams LLP as Class Counsel for the California Class for the purposes of settlement.

C. <u>The California Class Settlement Is Fair, Adequate and Reasonable.</u>

Preliminary approval is appropriate if the proposed settlement is "fair, adequate and reasonable." *Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 625 (9th Cir. 1982); *see also* Fed. R. Civ. P. 23(e)(2). A court need not ask whether the proposed settlement is ideal or the best possible; it determines only whether the settlement is fair, free of collusion, and consistent with the named plaintiffs' fiduciary obligations to the class. *Nucci v. Rite Aid Corp. Thrifty Payless, Inc.*, No. 19-CV-01434-LB, at *10 (N.D. Cal. Feb. 3, 2022) (*citing Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998)). "Where a settlement is the product of arms-length negotiations conducted by capable and experienced counsel, the court begins its analysis with a presumption that the settlement is fair and reasonable." *Id.* at *11 (*citing, e.g.*, *In re Hyundai and Kia Fuel Econ. Litig.*, 926 F.3d 539, 570 (9th Cir. 2019)).

The settlement merits preliminary approval under FRCP Rule 23 and the *Hanlon* factors: "(1) the strength of the plaintiffs' case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk of maintaining class action status throughout trial; (4) the amount offered in settlement; (5) the extent of discovery completed and the stage of the proceeding; (6) the experience and views of counsel; (7) the presence of a governmental participant; and (8) the reaction of the class members of the proposed settlement." *Lopez v. Eurofins Sci., Inc.*, No. 21-CV-08652-LB, at *11 (N.D. Cal. Oct. 9, 2023); *Jones v. GN Netcom, Inc.* (*In re Bluetooth Headset Prods Liab. Litig.)*., 654 F.3d 935, 946 (9th Cir. 2011) [hereinafter *Bluetooth*].

1. <u>The Settlement Is Presumed Reasonable and Fair Because It Resulted from Arms-Length Mediation Between Experienced Counsel.</u>

The settlement was the product of serious, non-collusive, arm's-length negotiations and was reached after mediation with Hon. Amy Hogue (Ret.). Terp Prelim. Decl. ¶ 32. The strength of the claims combined with the reduced exposure resulting from Defendant's policy change made settlement possible. *Id*.

As discussed *infra*, Plaintiffs' Counsel believes the Settlement of up to $650,000, plus the employer covering its share of payroll taxes and the cost of settlement administration, plus achieving remedial changes to employer practices, is an excellent result for the value of the claims. Terp Prelim. Decl. ¶ 36. Plaintiffs and the Class have been represented by experienced counsel, who have worked on numerous wage and hour class action settlements which were approved by federal and state courts and who have repeatedly been approved as Class Counsel. Terp Prelim. Decl. ¶ 46; Vinick Prelim. Decl. ¶ 4.

Furthermore, none of the "*Bluetooth* factors" that could indicate collusion are present: The Settlement provides attorneys' fees equal to twenty-five percent (25%) of the settlement, an amount that is considered the "benchmark" for a fair apportionment of fees in the Ninth Circuit. *Nucci*, No. 19-cv-01434-LB, at *17; *Bluetooth*, 654 F.3d at 942. No unawarded fees, costs, or service awards will revert to Defendant. Ex. 1 ¶ 49; *Briseño v. Henderson*, 998 F.3d 1014, 1025–28 (9th Cir. 2021). This settlement does not "shortchange[] the class." *See id.* at 1024.

2. <u>The Strength of Plaintiffs' Claims.</u>

The settlement thus alleviates significant uncertainty for both sides and balances the parties' respective positions about the merits of Plaintiffs' case.

(a) Off-the-Clock Claims Can Be Challenging and Costly to Prove.

Compulsory travel time is compensable under California law. *Morillion v. Royal Packing Co.*, 22 Cal.4th 575, 587–88 (2000) (holding that employees must be compensated for travel time when their employer *requires* them to travel to a work site on employer-provided buses). Courts interpreting *Morillion* have ruled for defendants on summary judgment where other options existed. *See, e.g.*, *Hernandez v. Pacific Bell Telephone Co*., 29 Cal.App.5th 131 (2018) (affirming summary judgment in favor of defendant, finding travel time spent in company-provided vehicle to be optional); *Overton v. Walt Disney Co.*, 136 Cal.App.4th 263, 271 (2006) (affirming summary judgment in favor of defendant, finding that time spent waiting for and riding employer-provided shuttle bus was not compensable because shuttle was optional and alternatives existed). While Plaintiffs contend that muster meetings and van time were *compulsory*, Defendant maintains they were *optional*, and this dispute creates risk on liability. *See* Defendant's Opposition to Plaintiffs' Motion for Conditional Certification, ECF No. 25, p. 6:2-9 of 11 ("Defendant *permitted* SSAs to attend 'muster meeting,' [] and board a van to be driven to their posts []") (emphasis added). Settlement avoids risk and provides certainty of retrospective compensation for SSAs.

If Plaintiffs prevailed on liability, the damages phase would likely require substantial costs, beyond those already expended. Terp Prelim. Decl. ¶ 37. SSAs did not clock in. *Id*. No single electronic time-stamped dataset comprehensively captured off-the-clock work. *Id.* The Settlement allocates money to any SSA who worked off-the-clock hours, without requiring additional extensive expert costs, or necessitating each claimant to undergo a difficult process of attempting to document the nature and extent of off-the-clock work. *Id.*; *see, e.g.*, *Richardson v. Interstate Hotels & Resorts, Inc.*, No. C 16-06772 WHA, at *7 (N.D. Cal., Feb. 21, 2019) (final approval observing off-the-clock damages can be "expensive, time-consuming, and arduous process"); *In re Wells Fargo Loan Processor Overtime Pay Litig.*, MDL Docket No. C-07-1841 (EMC), at **15–16 (N.D. Cal. Aug. 2, 2011) (risks of calculating off-the-clock damages supported settlement approval).

(b) Plaintiffs' Minimum Wage Damages Are Limited.

Under California's Labor Code, Plaintiffs only seek damages directly related to minimum wage violations for the putative California Class. The California Labor Code and the Wage Orders of the Industrial Welfare Commission (IWC) set the minimum wage in California for public and private employees. Cal. Lab. Code § 1182.12(b)(3); Cal. Code Regs. tit. 8, § 11040; Cal. IWC Wage Order Nos. MW-2024, 4-2001.

California courts uphold the principle that workers must be paid for all hours worked at the statutory or agreed rate and that no part of this rate may be used as a credit against a minimum wage violation. *Armenta v. Osmose, Inc.*, 135 Cal.App.4th 314 (2005). This includes small, *de minimis*, but measurable time increments. *Rodriguez v. Nike Retail Servs.*, 928 F.3d 810, 811 (9th Cir. 2019); *Troester v. Starbucks Corp.*, 5 Cal.5th 829 (2018). This applies to local government entities. *Marquez v. City of Long Beach,* 32 Cal.App.5th 552, 562 n. 5, 572–73 (2019). It also applies to unionized workers. *Armenta*, 135 Cal. App. 4th 314.

Liability on Plaintiffs' state minimum wage claim, however, is not a forgone conclusion, presenting risk to the class, and a basis to discount those claims. *See, e.g.*, *Stoetzl v. Dep't of Hum. Res.*, 7 Cal.5th 718, 718–19 (2019) (represented state correctional employees who agreed, through the collective bargaining process, to receive specific compensation for entry-exit walk time, were not entitled to additional minimum wage compensation).

(c) <u>Other State Law Claims are Unavailable to Class Members.</u>

As public employees, many derivative claims available to private sector employees are unavailable to SSAs. California Labor Code section 220(b) provides that county employees may not bring Section 203 waiting time penalty claims. Wage statement penalties under Labor Code section 226 are similarly unavailable. Cal. Lab. Code § 226(i). IWC Wage Order No. 4-2001(1)(B) excludes county employees from many of its provisions, including overtime, straight time, meal break, rest break, and record keeping requirements. Courts have held that California Business and Professions Code section 17200 does not apply to public employers in California Labor Code disputes. *E.g.*, *Kajberouni v. Bea Valley Cmty. Servs. Dist.*, 599 F.Supp.3d 961, 972 (E.D. Cal. 2022); *City of Oakland v. Hassey*, 163 Cal.App.4th 1477, 1490 (2008). Recent case law clarified that public employers are not subject to PAGA penalties. *Stone*, 16 Cal. 5th 1040.

(d) Plaintiff's FLSA Damages Are Limited.

Damages sought are limited – Plaintiffs only seek damages related to overtime violations under the FLSA for the FLSA Collective opt ins. *See* SAC. No federal minimum wage violation exists if each SSAs' average pay, which is calculated by overall compensation divided by hours worked per period, far exceeds the federal minimum wage of $7.25. 29 USCS § 206; *Adair v. City of Kirkland*, 185 F.3d 1055, 1063 (9th Cir. 1999) (district court properly rejected minimum wage claim where workers' salary, "when averaged across their total time worked, still payed [*sic*] them above minimum wage."). That is true here where data produced by Defendant shows SSA salaries ranging from $24.03 per hour to $47.96 per hour. Terp Prelim. Decl. ¶ 35.

(e) Defendant May Have Raised the Portal-To-Portal Act Successfully.

Defendant pled as an affirmative defense that the Portal-to-Portal Act, 29 U.S.C. § 254, limits damages. Answer to SAC, ECF No. 100. Under the Act, employes are not compensated for: (1) "travelling to and from the actual place of performance of the principal activity;" (2) "activities which are preliminary to or postliminary to said principal activity . . . which occur either prior to the time on any particular workday at which such employee commences, or subsequent to the time on any particular workday at which he ceases, such principal activity." *Id.* Defendants could have sought to characterize the SSA's pre- and post- shift work as non-compensable pre-and post-liminary work including optional, rather than mandatory, travel time to and from the work site provided as a courtesy to the SSA by Defendant.

(f) The De Minimis Doctrine Could Have Decimated FLSA Recovery.

Defendant would have argued that pre- and post- shift work was subject to the *de minimis* doctrine, which turns on: "(1) the practical administrative difficulty of recording the additional time; (2) the aggregate amount of compensable time; and (3) the regularity of the additional work." *Lindow v. United States*, 738 F.2d 1057, 1063 (9th Cir. 1984). As recently as 2024, the Ninth Circuit upheld the applicability of *Lindow*'s three-part test to FLSA overtime claims, and remained a risk to Plaintiffs' claims and the size of potential damages. *Cadena v. Customer Connexx LLC*, 107 F. 4th 902 (9th Cir. 2024).

(g) Defendant May Have Succeeded on Good Faith Defenses to FLSA and State Claims.

Plaintiffs argue that the three (3)-year statute of limitations and liquidated damages would apply to FLSA overtime claims and California minimum wage claims because Defendant's violations were willful. 29 U.S.C. § 255(a); *see Alvarez v. IBP, Inc.*, 339 F.3d 894, 909 (9th Cir. 2003) (defining FLSA standard for willfulness); *cf*. Cal. Code Civ. P. § 338. However, Defendant argues the violations were unintentional so a two-year statute of limitations would apply. Defendant may have succeeded in a good faith defense to liquidated damages as well. *See* 29 U.S.C. § 260; Cal. Lab. Code §§ 1194, 1194.2.

3. The Risk of Continued Litigation.

The uncertain outcome of trial and appeals is a strong incentive for the Parties to settle. The Ninth Circuit has explained, "a strong judicial policy [] favors settlements, particularly where complex class action litigation is concerned." *In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101 (9th Cir. 2008) (citing *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992)). "'[V]oluntary conciliation and settlement are the preferred means of dispute resolution [] especially [] in complex class action litigation . . . .'" *Id.* (quoting *Officers for Justice*, 688 F.2d at 625).

Without this early settlement, Plaintiffs could spend years litigating this case in further discovery including depositions, a motion for class certification, motions for summary judgment, and ultimately appearing at trial. Terp Prelim Decl. ¶ 37. While Plaintiffs' Counsel remain confident that Defendant failed to pay SSAs for off-the-clock work, they recognize that a fact finder could find for Defendant on one or more of the issues in dispute. *Id*. Litigating class certification, establishing class-wide liability, overcoming Defendant's defenses, and demonstrating damages for claims could take years, necessitate expert witness testimony, and include other costs, risks, and potential delays. *Id.* Here, there are significant risks associated with continued litigation.

While courts grant off-the-clock cases of this nature FRCP Rule 23 certification—*see, e.g.*, *Jimenez*, 765 F.3d at 1163 (affirming class certification of off-the-clock claims); *Richardson*, No. C-16-06772-WHA, at *6 (N.D. Cal., Mar. 12, 2018) (certifying off-the-clock overtime claims under Rule

23)—courts also deny certification of off-the-clock claims—*see, e.g.*, *Miles v. Kirkland's Stores Inc.*, 89 F.4th 1217 (9th Cir. 2024) (affirming district court's denial of class certification for subclasses relying on an off-the-clock bag check claim due to individualized questions). The settlement avoids uncertainty around Rule 23 certification.

A successful class certification motion may have drawn a FRCP Rule 23(f) appeal. A decertification motion and resulting appeal could cause further delay and jeopardize recovery. *See Miles*, 89 F.4th 1217 (denying Rule 23 certification of subclass); *Campbell v. City of L.A.*, 903 F.3d 1090, 1120–21 (9th 2018) (decertifying 14-year old FLSA collective action based on off-the-clock claims). Motion and appellate practice would expend time and resources. *See Rodriguez v. West Publ'g Corp.*, 563 F.3d 948, 966 (9th Cir. 2009). If Plaintiffs maintained a class and prevailed at trial, post-judgment appeals could follow. The settlement avoids delays caused by appeals.

The County is a government entity that must have decisions approved by a board of supervisors. Even in this case, it has moved slowly to produce documents and approve the long form settlement in this case. Plaintiffs could expect further delays in litigation associated with a government entity defendant. Terp Prelim Decl. ¶ 38.

The Settlement Agreement, with a maximum Total Settlement Amount of $650,000, ensures timely relief and substantial recovery of the wages, damages, and other amounts that Plaintiff and other SSAs claims they are owed. This strongly favors settlement.

4. <u>The Amount Offered in Settlement Weighs in Favor of Preliminary Approval.</u>

The Settlement's monetary relief compares favorably with the estimated full relief for the Class Members' and FLSA Class Members' claims. As explained in further detail in Plaintiffs' counsel's declaration, the best-day damages could have been as follows:

FLSA Overtime for FLSA Class Members (Op Ins)	$437,676
Total FLSA Overtime + Liquidated Damages	**$875,351**
California Minimum Wages for Class Members	$344,064
Total California Minimum Wages + Liquidated Damages	**$688,128**

FLSA Overtime + California Minimum Wages	$781,740
TOTAL EXPOSURE INCLUDING LIQUIDATED DAMAGES	**$1,563,479**

Terp Prelim Decl. ¶¶ 34, 35. The $650,000 Maximum Settlement Amount recovered is thus approximately eighty-three percent (83%) of the potential unpaid wages and forty-one percent (41.5%) of potential damages where liquidated damages are factored in – a strong result. *Id.* ¶ 36.

The Settlement's monetary relief is well within the range of possible approval based on recovery as a percent of maximum exposure. *Id.*; *see also N.D. Cal. Class Settlement Guidance, Preliminary Approval* ¶ (1)3. In the opinion of Plaintiffs' Counsel, a likely recovery in this action could be lower, given the litigation risks discussed above. Terp Prelim. Decl. ¶ 36.

The Settlement will provide Class Members and FLSA Class Members with significant up-front cash payments. Terp Prelim. Decl. ¶¶ 26, 36. If all eligible SSAs participate, the average gross payment per SSA will be $7,647.05 gross and $4,958.82 net. *Id*. ¶¶ 15, 16. Class Members' average share equates to $2,479.41 based on the $210,750 allocation divided by the number of Class Members – 85. *Id*. FLSA Class Members average share equates to $3,763.39 based on the $210,750 allocation divided by the number of Class Members – 56. *Id.* The average share for an FLSA Class Member who is also a Class Member equates to $6,242.80 (or $2,479.41 plus $3,763.39). *Id.*

Balancing out the value and risks of each claim, the 50:50 division of the Net Settlement Amount between the Class Members and FLSA Class Members was also fair, adequate, and reasonable. Terp Prelim. Decl. ¶ 39. Each FLSA overtime hour was worth much more than the California minimum wage rate. *Id.* The range of hourly pay used for calculating SSA overtime damages ranged from $24.03/hour to $47/hour before applying the overtime premium (x1.5) to each estimated unpaid hour. *Id.* In contrast, the 2024 minimum wage of $16/hour was used for calculating minimum wages. *Id.* There was more certainty regarding the status of the FSLA overtime claims succeeding, where the FLSA Collective had already received preliminary approval from the Court, and 56 SSAs had already affirmatively opted to participate in the collective action portion of the case. *Id.* The minimum wage claims had yet to be certified. *Id.* While Plaintiff's allegations support California minimum wage claims for each shift, FLSA overtime claims only accrued after an SSA worked 40 hours in a week. *Id.* With sick leave, vacation, and holidays factored in, this meant that there were fewer estimated workweeks / shifts in which FLSA overtime violations occurred – but they were still worth substantially more. *Id.*

This result also compares favorably with numerous other off-the-clock wage-and-hour class action settlements approved by this and other Ninth Circuit Courts. *Grady v. RCM Techs., Inc.*, No. 5:22-cv-00842 JLS-SHK (C.D. Cal. Apr. 1, 2025) (final approval of settlement involving average award of $899.67 per settlement class member); *Roe v. Jose Torres L.D. Latin Club Bar, Inc.,* No. 19-cv-06088-LB, **6, 12-13 (N.D. Cal. Aug. 27, 2020) (approving average settlement award of $811.83); *Cuzick v. Zodiac U.S. Seat Shells, LLC*, Case No. 16-cv-03793-HSG **3-4 (N.D. Cal. Oct. 11, 2017) (granting preliminary approval for $952,000 gross settlement of off-the clock, and meal and rest break claims, for 1,168 individuals for a gross average recovery of approximately $800 per person); *Viceral v. Mistra Grp., Inc.*, No. 15-cv-02198-EMC, 2016 WL 5907869, at *7 (N.D. Cal. Oct. 11, 2016) (approving gross settlement fund representing 11.6% of total verdict value for the California class).

While not a term of the Settlement, Defendant has ended its practice of pre-shift muster meetings, and pick-up and drop off van service to deliver SSAs to their shifts. Terp Prelim. Decl. ¶ 40. Defendant started supplying SSAs with complementary parking close to the airport so that they were no longer, for all practical purposes, required to start and end their shifts outside of scheduled hours at APS. *Id*. These changes benefit SSAs prospectively.

5. Dismissal of PAGA Penalties is Reasonable.

In 2024, the California Supreme Court held that PAGA penalties do not apply to public employers. *Stone*, 16 Cal. 5th at 1054, *abrogating Sargent v. Bd. of Trustees of Cal. State Univ.*, 61 Cal.App.5th 658 (2021) ("the statutory language, context and history provide 'positive indicia' of legislative intent to exclude public employers").

Therefore, the total PAGA allocation of the settlement is $0.00, reflecting legal developments during the pendency of the litigation. Terp Prelim. Decl. ¶ 12; Ex. 1 ¶ 37. As part of the settlement, the Parties will file a Stipulation of Dismissal with Prejudice regarding the PAGA claims, pursuant to

FRCP Rule 41(a)(1)(A)(ii), with Defendant waiving any claim for fees associated with those claims, following the entry of the Final Approval Order approving the Settlement Agreement by this Court. *See* Ex. 1 ¶ 37; *see* Cal. Lab. Code § 2699(e)(2).

The LWDA will have the opportunity to weigh in on the PAGA portion of the settlement, as Plaintiffs submitted the settlement to the LWDA for review. *See* Terp Prelim. Decl. ¶ 12.

D. <u>The Court Should Grant Approval of the FLSA Collective Settlement.</u>

Because FLSA rights generally cannot be waived, settlement of private actions for back wages pursuant to 29 U.S.C. § 216(b) must be approved by the district court. *See Lynn's Food Stores, Inc. v. U.S.*, 679 F.2d 1350, 1353 (11th Cir. 1982); *Thio v. Genji, LLC*, 14 F. Supp. 3d 1324, 1333 (N.D. Cal. 2014). If a district court evaluating the settlement must determine the settlement is a "fair and reasonable resolution of a bona fide dispute" it may approve the settlement "to promote the policy of encouraging settlement of litigation." *Thio*, 14 F. Supp. 3d at 1333.

FLSA Class Members are similarly situated. Early on, the Court conditionally certified an FLSA collective and approved dissemination of an FLSA notice. Preliminary Certification Order, ECF No. 30; Order Granting FLSA Conditional Certification and Distribution of Judicial Notice, ECF No. 32. The certified collective covers "All Sheriff's Safety Aides *and individuals in similar or related positions* who worked for the Alameda County Sheriff's Office in and around the Oakland International *Airport at any time three years prior to the filing of the Complaint through the present*." (Italics added). Preliminary Certification Order, ECF No. 30; Order Granting Motion to Amend/Correct, ECF No. 80 ¶ 11. Only SSAs opted in and discovery confirmed no "individual[s] in similar or related positions" experienced the wage violations. Terp Prelim. Decl. ¶ 10. The Settlement therefore limits FLSA Class Members to a narrower group of those SSAs who successfully opted in. *Id*. ¶¶ 14, 17, 18.

For the reasons stated in the briefing regarding conditional certification, Motion to Certify Class, ECF No. 16, and *supra*, Section V.B., the SSAs continue to meet the requirements for conditional certification, and the Settlement of the FLSA claims reflects a compromise on disputed issues of "law or fact material to the disposition of their FLSA claims. *Campbell*, 903 F.3d at 1117.

As explained above in Section V.C.4, the 50:50 split of the net settlement between the FLSA Class Members and California Class Members is reasonable. Terp Prelim. Decl. ¶ 39. The settlement of the FLSA claims provides significant relief to members of the collective. Opt-ins will receive an average pre-tax award of $3,763.39. Terp Prelim. Decl. ¶ 16. This amount is in addition to the average compensation of $2,479.41 for their California Claims. *Id*. Combined, FLSA Class Members can expect to receive on average $6,242.80. *Id*.

The FLSA Collective Members are not required to submit a claim form to receive payment. A Notice Packet will advise FLSA Collective Members of their estimated allocation. Ex. 1 ¶¶ 22, 25. After final approval, they will receive a check with release language printed thereon. Only if the FLSA Class Member negotiates the check, will they release claims. Ex. 1 ¶ 48.

The FLSA Class Members shall release a narrow set of legal claims under the FLSA related to claims that were made or arise out of the facts asserted in the Action. Ex. 1 ¶ 30.

The Court should approve the settlement the FLSA portion of the settlement because it presents a fair and reasonable resolution of *bona fide* dispute over wages.

VI. ENHANCEMENT PAYMENTS TO THE NAMED PLAINTIFFS AND ATTORNEYS' FEES AND COSTS FOR INCLUSION IN CLASS NOTICES.

A. The Proposed Enhancement Payments Are Fair.

Plaintiffs seeks approval of Class Action Service Awards of up to $15,000 for each Plaintiff to reflect of the effort and commitment Plaintiffs have put into developing, litigating, and resolving the lawsuit. Each Class Action Service Award constitutes 2.3% of the Maximum Settlement Amount ($15,000/$650,000). The factors this Court uses in determining service awards include: (1) the actions the plaintiffs have taken to protect the interests of the class, (2) degree to which the class has benefitted from those actions, (3) the time and effort that representatives put into the litigation, and (4) their reasonable fears of workplace retaliation. *See Staton v. Boeing Co.*, 327 F.3d 938, 977 (9th Cir. 2003)).[2]

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[2] *See Carter v. XPO Logistics, Inc.,* No. 16-cv-01231-WHO, at *11–12 (N.D. Cal. Oct. 18, 2019) (approving awards of $20,000 each for five named plaintiffs who showed atypical commitment); *Tsyn v. Wells Fargo Advisors, LLC,* No. 14-CV-02552-LB, at *31–32 (N.D. Cal. Nov. 1, 2018) (approving a $15,000 enhancement payment); *Taylor v. FedEx Freight, Inc.,* No. 1:13-cv-01137-DAD-BAM at *23 (E.D. Cal. Oct. 12, 2016) (approving a $15,000 service payment for a settlement, with an average award

SSAs benefit to a high degree from Plaintiff's efforts. Plaintiffs secured significant financial recovery for current and former SSAs. Additionally, the lawsuit brought an end to the major practices in dispute in the litigation, which had been in place *for approximately 15 years*. Perkins Decl. ¶ 6; Terp Prelim. Decl. ¶ 40. By this litigation and resulting settlement, SSAs will receive money, *and* will have reclaimed their pre- and post-shift time. *Id*.

Plaintiff Daniels and Plaintiff Loera actively represented the class and collective. Plaintiffs relayed and honed the facts with counsel, identified witnesses, reviewed pleadings, helped counsel understand items to request in discovery, reviewed discovery request drafts to Defendant, helped attorneys understand items produced in discovery, assisted counsel in preparing initial disclosures, prepared signed declarations, and reviewed the mediation materials. Daniels Prelim. Decl. ¶¶ 3-6; Loera Prelim. Decl. ¶¶ 3-6. Both Plaintiffs fielded calls from SSAs. Plaintiffs helped current and former SSAs become informed about the case substance and procedures and answered their questions. Daniels Prelim. Decl. ¶¶ 4, 5; Loera Prelim. Decl. ¶¶ 4, 5 They acted as liaisons to SSAs. *Id*. Loera made regular trips to the office counsel to drop off opt-in forms and signed declarations passed along by co-workers during their shifts, or to review important documentation. Loera Prelim. Decl. ¶ 7; Terp Prelim. Decl. ¶ 26. Both Plaintiffs also attended an in-person pre-mediation preparation session, and came to counsel's office to attend the day-long Zoom mediation. Daniels Prelim. Decl. ¶¶ 9, 10; Loera Prelim. Decl. ¶¶ 8, 9.

Plaintiff Daniels did all the above, despite having significant care responsibilities during that time for her now-late spouse. Daniels Prelim. Decl. ¶ 11.

Plaintiff Loera also has major family obligations including care for his five children and aging mother, as well as relocating his home. Loera Prelim. Decl. ¶¶ 10, 13. Indeed, on several occasions he brought one or two of his children along with him to meetings with Plaintiff's Counsel. *Id*. ¶ 10. Despite

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of $2,616, in part because class representative's broader release of liability); *Brawner v. Bank of Am. N.A.*, No. 3:14-cv-02702-LB, at *15–16 (N.D. Cal. Jan. 14, 2016) (approving service award of $15,000 for single plaintiff who actively supported litigation); *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 267–68 (N.D. Cal. 2015) (awarding a $15,000 incentive payment, which was 2% of the gross settlement fund, where the plaintiff invested 73 hours in the case and jeopardized job opportunities to discharge his role as class representative); *Garibaldi v. Bank of Am., Nat'l Ass'n,* No. 3:13-CV-02223-SI, at *11 (N.D. Cal. Aug. 28, 2015) (approving a $15,000 enhancement payment).

challenging personal circumstances, Plaintiff Loera never waivered in his representation of the class. *Id.* ¶ 14.

Plaintiff Loera had reasonable fear of workplace retaliation. Loera. Decl. ¶ 11. First, the SSA role is often considered a career stepping-stone to advancement within ACSO. Loera Prelim. Decl. ¶ 11. SSAs often stay in the position briefly before moving to a Sheriff Technician position at the Alameda County Santa Rita Jail. *Id.* Plaintiff Loera fears this path may be foreclosed by the lawsuit. *Id.* By signing a broad release, Plaintiff Loera is waiving retaliations claims based on this concern. Ex. 1 ¶. Plaintiff Daniels will sign a general release. *Id.*

While Plaintiffs' proposed enhancement payments will be decided at the final approval hearing, Plaintiffs ask that the Court include the maximum request in the Notice so the Class can be informed of it. Terp Prelim Decl. ¶ 26; *see N.D. Cal. Class Settlement Guidance, Preliminary Approval* ¶ (7).

B. <u>Attorneys' Fees of One-Quarter of the Common Fund Are Justified.</u>

In the instant motion, Plaintiffs do not seek approval of the fees and costs but only ask that the Court include the maximum potential fee and cost request in the Notice so that Class Members can be informed of it. Plaintiffs will file a separate motion for the requested attorneys' fees and costs thirty-five (35) days prior to the opt-out/objection deadline so that Class Members will have an opportunity to inspect Plaintiffs' Counsel's fee application prior to the deadline for submitting objections or requests for exclusion. *See N.D. Cal. Class Settlement Guidance, Preliminary Approval* ¶ (9).

Plaintiffs request no more than the "benchmark" for a reasonable percentage-of-the-fund award, which in the Ninth Circuit is twenty-five percent (25%). *Bluetooth*, 654 F.3d at 942. Here, twenty-five percent (25%) of the Maximum Settlement Amount of $650,000 is $162,500. Plaintiffs will request out-of-pocket expenses, including expert fees, of approximately $36,000. Ex. 1 ¶ 3.

Plaintiffs are entitled to recover their attorneys' fees and costs for prevailing on their claims (*see* Cal. Lab. Code § 1194(a); Cal. Code Civ. P. § 1021.5; 29 U.S.C. § 216(b)); including where they have obtained a successful settlement. *See Farrar v. Hobby*, 506 U.S. 103, 111 (1992); *La Asociacion de Trabajadores de Lake Forest v. City of Lake Forest*, 624 F.3d 1083, 1089 (9th Cir. 2010) ("Litigation that results in an enforceable settlement agreement can confer 'prevailing party' status on a plaintiff.").

"Because the benefit to the class is easily quantified in common-fund settlements, we have allowed courts to award attorneys a percentage of the common fund in lieu of the often more time-consuming task of calculating the lodestar." *Bluetooth,* 654 F.3d at 942.

The requested fee is reasonable where Plaintiffs' Counsel achieved significant monetary and non-monetary results for the class, took on the risk of non-payment by prosecuting the case on a contingency basis, and litigated efficiently because of their expertise in litigating complex wage and hour cases. Terp Prelim. Decl. ¶ 29; *see Bluetooth,* 654 F.3d 935; *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048–50 (9th Cir. 2002); *Deaver v. Compass Bank*, No. 13-cv-00222-JSC, at *37 (N.D. Cal. Dec. 11, 2015) (above-market-value fee awards are appropriate in contingency-fee cases where class counsel has significant experience in the type of litigation at issue). Before settlement, Plaintiffs' Counsel obtained FLSA conditional certification and equitable tolling over Defendant's opposition (ECF 16, 25, 26, 30-32, 50, 58, 61, 73), and SSAs and fought hard to obtain basic discovery, despite repeated representations by the County about the non-availability of documentation (Terp Prelim. Decl. ¶ 30; *see, e.g.,* ECF 88 p. 5:18-23 of 8, 114 pp. 2:5-4:4, 116 pp. 2:5-4:4, 118 pp. 2:5-4:3). Counsel achieved significant results for the Class. *See supra*, Section III and Section IV.

The requested fee is also appropriate under the lodestar cross check. *See Brawner*, No. 3:14-cv-02702-LB, at *12 ("After applying the percentage method, courts typically roughly calculate the lodestar as a 'cross-check to assess the reasonableness of the percentage award.'"); *Taylor v. Meadowbrook Meat Co.*, No. 3:15-cv-00132-LB, at *15 (N.D. Cal. Sept. 15, 2016) (same). Plaintiffs' Counsel has a lodestar that exceeds the benchmark and expect to incur an additional 80 hours of time to bring this case to a close, including: preparing for and appearing at the preliminary approval hearing; overseeing the notice process, addressing class member inquires and responding to any objections; preparing a final approval motion with supporting declarations from counsel, plaintiffs, and the claims administrator; preparing a motion for fees, costs and enhancements with supporting declarations from counsel and the two class representatives; appearing at the final approval hearing; and ensuring that the settlement funds are timely and correctly disbursed. Terp Prelim. Decl. ¶¶ 27, 28; Vinick Prelim. Decl. ¶¶ 15, 16.

In addition, Plaintiffs' Counsel collectively have already incurred over $30,000 in actual out-of-pocket litigation costs, and will incur additional expenses to complete this process. Terp Prelim. Decl. ¶ 31. These expenses include the types of litigation costs that courts routinely approve, including filing fees, research expenses, document processing costs, and others. *Id*. They also include expert costs for calculating damages which involved converting data from the form provided by Defendant. Terp Prelim. Decl. ¶ 31.

Accordingly, the Court should preliminarily approve Plaintiffs' ability to seek their requested attorneys' fees and costs award for purposes of inclusion in the class notice materials.

VII. THE COURT SHOULD APPROVE THE SETTLEMENT ADMINISTRATOR, NOTICE PROCESS, AND NOTICES.

The Parties have agreed on ILYM to serve as the Settlement Administrator. Ex. 1 ¶ 36. Plaintiffs' counsel observed ILYM perform professionally in administering the FLSA notice. Terp Prelim. Decl. ¶ 23. Defendant, for its part, has agreed to cover the full cost of paying for ILYM. Ex. 1 ¶¶ 20, 35; *see N.D. Cal. Class Settlement Guidance, Preliminary Approval* ¶ (2).

The Notice by mail to SSAs is appropriate as SSAs have been active in the case and have already been reached, by and large through the FLSA Notice process. Terp Prelim. Decl. ¶ 22. Each Notice will contain the dates the employee worked during the applicable time periods, workweeks, and the estimated Individual Settlement Award, and FLSA Settlement Award, if applicable. Ex. 1 ¶¶ 22, 25. The Notices describe the litigation, the terms of the Settlement, and the options available according to the employee receiving the notice with respect to participating in or excluding themselves from the Settlement, and as adapted from a Impact Fund Notice Project Template ©Impact Fund 2024, and utilizing *N.D. Cal. Class Settlement Guidance, Preliminary Approval* ¶¶ (3), (4) (5). *See* Terp Prelim. Decl. Ex. 2 ("Class Notice"); Terp Prelim. Decl. ¶ 21. Class members who affirmatively opt out will not receive a settlement payment, but also will not be subject to any release of claims. Ex. 1 ¶ 48(b). FLSA Class Members may decline to participate in the Settlement by declining to negotiate the checks for their FLSA Settlement Awards on which a release of claims shall be printed. Ex. 1 ¶ 26, 48(a)(iii).

The language of the notices is easily understandable and is in English because SSAs are required to speak English for their jobs. Terp Prelim. Decl. ¶ 21; *see* Class Notice. The notices contain contact information for Class Counsel, a link to a website with more information about the settlement, and instructions on how to access case documents. *Id.* The notices will also list the date of the final approval hearing and that it may be subject to change without further notice. *Id.*; *N.D. Cal. Class Settlement Guidance, Preliminary Approval* ¶ (3).

VIII. CONCLUSION

For the reasons set forth above, Plaintiffs ask the Court to grant Plaintiffs' motion.

Respectfully submitted,

DATED: March 23, 2026

TERP LAW P.C.

Rachel Terp

By:________________________________
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