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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

EDUARDO CASTELLANOS, individually
and on behalf of all others similarly situated,

Plaintiff,

v.

TRIMAC TRANSPORTATION SERVICES
(WESTERN), INC., and DOES 1 to 100,

Defendants

Case No. 23STCV27749

**PLAINTIFF EDUARDO
CASTELLANOS'S NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
APPROVAL; MEMORANDUM OF
POINTS AND AUTHORITIES;
DECLARATION OF ADAM ROSE;
DECLARATION OF EDUARDO
CASTELLANOS; DECLARATION OF
NISHA VERMA; DECLARATION OF
ANNELISA SHAW; DECLARATION OF
JULIE GREEN; PROPOSED ORDER**

Date: December 4, 2024

Time: 10:00 a.m.

Dept: SSC7

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on December 4, 2024 at 10:00 a.m. or as soon thereafter
as the matter may be heard in Department 7 of the Los Angeles Superior Court located at 312 N.
Spring St., Los Angeles, CA 90012, Plaintiff Edwardo Castellanos will move the court pursuant to
Rule of Court 3.769(c) and seek an order for the following:

(1) preliminarily approving the Class Action and PAGA settlement;

(2) provisionally certifying the following class for settlement purposes only: all current and
former non-exempt drivers employed by Defendant in California at any time during the Class

1 Period [November 9, 2019 through the period ending 60 days after Class Action and PAGA
2 Settlement Agreement is signed or the order on preliminary approval, whichever occurs first];
3 (3) appointing Edwardo Castellanos as the Class Representative and Frontier Law Center
4 as Class Counsel;
5 (4) finding on a preliminary basis that the settlement is within the range of reasonableness;
6 (5) approving the Notice of Proposed Class Action Settlement (“Notice Packet”) for the
7 Class Members and its concomitant distribution;
8 (6) appointing CPT Group, Inc. as the Administrator; and
9 (7) setting the matter for a Final Approval hearing.

10 The Motion will be based on this notice, the Memorandum of Points and Authorities, the
11 declaration of Adam Rose which contains the Settlement Agreement and the proposed Notice
12 Packet, the declaration of Edwardo Castellanos, pleadings on file, and arguments at the hearing.

13
14 Date: October 23, 2024

FRONTIER LAW CENTER

15
16 /s/ Adam Rose
17 Attorney for Plaintiff
18 Edwardo Castellanos
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This is a wage and hour class and PAGA action. Plaintiff Edwardo Castellanos
4 (“Plaintiff”) worked as a non-exempt employee for Defendant Trimac Transportation Services
5 (Western), Inc. (“Defendant”) as a driver. Plaintiff alleges that Defendant violated the Labor Code
6 by the following: minimum wage violations, wage statement penalties, waiting time penalties, and
7 work expenditure violations. Plaintiff brought claims under the Unfair Competition Law and
8 Private Attorney General Act for the above violations.

9 Prior to the mediation, the Parties engaged in the exchange of both informal data and
10 formal discovery and a study of the legal principles applicable to the claims asserted. Defendant
11 produced Plaintiffs’ time and pay records, including Plaintiff’s logbooks, drive time, wage
12 statements, as well as the same information for a sample of the putative class, as well as data
13 around the total number of class members and pay periods involved.

14 The case was mediated with experienced mediator, Steve Pearl. With the mediator’s help
15 the parties were able to reach a settlement in the case. The total Gross Settlement Amount is
16 \$525,000.00.

17 This is a non-reversionary settlement, and class members do not need to submit claims.

18 **II. BACKGROUND OF THE SETTLEMENT**

19 **A. Procedural History and Summary of the Allegations**

20 On November 9, 2023, Plaintiff uploaded a PAGA letter to the LWDA website and sent
21 the letter by certified mail to Defendant, alleging that Defendant violated the Labor Code with
22 regard to minimum wage violations, overtime violations, meal break violations, rest break
23 violations, unreimbursed work expenses, wage statement violations, and waiting time penalties.
24 On November 9, 2023, Plaintiff filed the original complaint against Defendant, alleging minimum
25 wage violations, overtime violations, meal period violations, rest period violations, wage
26 statement penalties, waiting time penalties, work expenditure violations, and violation of unfair
27 competition law. On January 26, 2024, Plaintiff filed a first amended complaint alleging minimum
28 wage violations, wage statement penalties, waiting time penalties, work expenditure violations,
violation of unfair competition law, and PAGA penalties.

1 **B. The Parties Agree to Private Mediation**

2 After the initial pleadings were filed and after multiple sets of written discovery, the
3 Parties began a dialog about settlement and agreed to go to mediation. The Parties selected
4 mediator Steve Pearl. In advance of the August 12, 2024, mediation, Defendant produced
5 Plaintiff's time and pay records, including Plaintiff's logbooks, drive time, wage statements, and
6 related information and pay records for a sampling of the class and relevant company policies.
7 With the help of the mediator, the Parties were able to reach the current settlement.

8 **C. The Terms of the Settlement.**

9 **1. Settlement and Allocation of the Claims**

10 The Class consists of the following: "all current and former non-exempt drivers employed
11 by Defendant in California at any time during the Class Period [November 9, 2019 through the
12 period ending 60 days after the Class Action and PAGA Settlement Agreement is signed or the
13 order on preliminary approval, whichever occurs first]." Aggrieved Employees means all current
14 and former non-exempt drivers employed by Defendant in California at any time during the
15 PAGA Period [November 9, 2022 through the period ending 60 days after the Class Action and
16 PAGA Settlement Agreement is signed or the order on the preliminary approval, whichever occurs
17 first]. Based upon Defendants' records, the number of Class Members is approximately 359, and
18 the number of Aggrieved Employees is 256.

19 The Gross Settlement amount is \$525,000.00. The payments to each Class Member will
20 depend on the number of workweeks worked by each Class Member during the Class Period.
21 Additionally, \$78,750.00 is allocated to settle PAGA claims. In addition, \$183,750.00 (35% of the
22 gross settlement) is attributed to attorney fees, \$12,500.00 is attributed to costs, \$10,000.00 for
23 settlement administration, and \$10,000.00 is the requested class representative enhancement.

24 This means that of the \$525,000.00 gross settlement, after the deductions above, the net
25 settlement amount is \$230,000.00.

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1 **III. OVERVIEW OF THE APPROVAL PROCESS**

2 **A. Two-Step Approval Process**

3 A settlement of a class action lawsuit must be reviewed and approved by the Court. This is
4 done in two steps: (1) an early (preliminary) review by the trial court, and (2) a final review after
5 notice has been distributed to the class members for their comment or objections. The Manual for
6 Complex Litigation (Third) § 30.41 states:

7
8 If the preliminary evaluation of the proposed settlement does not disclose grounds
9 to doubt its fairness or other obvious deficiencies, such as unduly preferential
10 treatment of class representatives or of segments of the class, or excessive
11 compensation for attorneys, and appears to fall within the range of possible
12 approval, the court should direct that notice ... be given to the class members of a
13 formal fairness hearing, at which arguments and evidence may be presented in
14 support of and in opposition to the settlement.

15 Thus, the preliminary approval by the trial court is simply a conditional finding that the
16 settlement appears to be within the range of acceptable settlements. As Professor Newberg
17 commented, “The strength of the findings made by a judge at a preliminary hearing or conference
18 concerning a tentative settlement proposal may vary. The court may find that the settlement
19 proposal contains some merit, is within the range of reasonableness required for a settlement offer,
20 or is presumptively valid subject only to any objections that may be raised at a final hearing.” 4
21 Alba Conte & Herbert B. Newberg, *Newberg on Class Actions*, § 11.26 (4th ed. 2002).

22 **B. Conditional Certification is Appropriate**

23 The parties also may, at the preliminary approval stage, request that the court provisionally
24 certify class—conditional upon final approval of the settlement. “Pre-certification settlements are
25 routinely approved if found to be fair and reasonable.” (*Wershba v. Apple Computer, Inc.* (2001)
26 91 Cal. App. 4th 224, 240; accord *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1803
27 (although the settlement was reached before any adversary certification, the court was satisfied
28 that it was fair, adequate and reasonable).

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1 **IV. THE COURT SHOULD GRANT PRELIMINARY APPROVAL**

2 **A. The Settlement is Fair, Reasonable, and Adequate**

3 Courts presume the absence of fraud or collusion in the negotiation of settlement unless
4 evidence to the contrary is offered. (*Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447; *Mars*
5 *Steel Corp. v. Continental Illinois Nat'l Bank & Trust Co.* (7th Cir. 1987) 834 F.2d 677, 682.
6 Courts do not substitute their judgment for that of the proponents, particularly where a settlement
7 was reached with the participation of experienced counsel familiar with the litigation. (*Nat'l Rural*
8 *Telecomms. Coop. v. DIRECTV, Inc.* (C.D. Cal. 2004) 221 F.R.D. 523, 528).

9 While the recommendations of counsel proposing the settlement are not conclusive, the
10 Court can take them into account, particularly where they were involved in discovery and
11 negotiations for some period of time, appear to be competent, have experience with this type of
12 litigation, and have exchanged evidence from the opposing party. *See Newberg on Class Actions*,
13 *supra*, at § 11.47; *Nat'l Rural Telecomms. Coop.*, *supra*, 221 F.R.D. at p. 528 (quoting *In re Paine*
14 *Webber Ltd. P'ships Litig.* (S.D.N.Y. 1997) 171 F.R.D. 104, 125 ("So long as the integrity of the
15 arm's length negotiation process is preserved [] a strong initial presumption of fairness attaches to
16 the proposed settlement...[citations] and great weight is accorded to the recommendations of
17 counsel, who are most closely acquainted with the facts of the underlying litigation"))).

18 Here, both Plaintiffs' counsel and Defendants' counsel have a great deal of experience in
19 wage and hour class action litigation, as demonstrated in the attached declaration.

20 The settlement for each Class Member is fair, reasonable, and adequate, given the inherent
21 risks of litigation, including the substantial risks relative to class certification, and the costs of
22 pursuing such litigation, discussed further below. Of course, class members may still opt out of the
23 settlement, and the class members will be apprised of their right to attend the fairness hearing and
24 submit objections to the proposed settlement.

25 **B. The Proposed Settlement Meets the Kullar Factors.**

26 As explained in *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal. App. 4th 116, 130, 133,
27 a class action settlement should be approved when the plaintiff has conducted discovery and the
28 settlement is reasonable in light of the strengths and weaknesses of the claims.

1 **1. Strengths and Weaknesses of the Claims.**

2 Although Plaintiff's counsel believes the claims are meritorious, they are experienced and
3 realistic, and understand the possibility of non-certification on one or more of the theories alleged.
4 Plaintiffs' counsel further recognizes that the outcome of a trial, and any appeal that could follow,
5 are inherently uncertain. These risks are compounded by the Supreme Court's holding in *Duran v.*
6 *U.S. Bank Nat'l Ass'n* (2014) 59 Cal.4th 1 (use of statistical evidence regarding certification).

7 **a. Minimum Wage Violations**

8 Plaintiff alleges that Defendants instructed Class Members to either record their time
9 improperly or artificially limit their timecards to only reflect hours of service based on time spent
10 in their trucks. Plaintiff claims this practice deliberately excludes compensable work time,
11 resulting in significant underpayment of wages. According to Plaintiff, by directing Class
12 Members to misrepresent their actual hours worked, Defendants are effectively stealing wages and
13 violating minimum wage laws. Further, Plaintiff alleges each time a Class Member drove a truck,
14 they were required to perform pre-trip and post-trip inspections, as well as additional milestone
15 inspections, all while off the clock. These inspections are integral and indispensable to the
16 principal activities of the job and are therefore compensable work time under the law. According
17 to Plaintiff, by failing to pay for this required work, Defendants are again violating minimum
18 wage laws. These practices are particularly egregious in the context of commercial driving, where
19 safety inspections are crucial and mandated by law. Defendants are not only shortchanging
20 workers but potentially compromising safety by incentivizing rushed or skipped inspections.

21 Defendants contend that there were no violations. Defendants pay Class Members based on
22 Meal/Rest Break Acknowledgement Forms rather than drive time from logbooks. Defendants
23 allege that this practice benefits employees, as it results in higher compensation. Defendants
24 further assert drivers routinely pad their time on these forms, and Defendants do not challenge this
25 practice. Further, Defendants allege that except for a simple oil check, pre-trip and post-trip
26 inspections can be conducted once the truck's engine is on, which means these activities are
27 performed while on the clock.

28 Assuming an estimate of 5 hours per workweek across 24,579 workweeks at an average
rate of \$18.58 per hour, Defendant would face a maximum of \$2,283,389 in liability. Given the

1 risks of Defendant being able to prove that most of the work was done one the clock and Class
2 Members were overpaid, Plaintiff estimates the RAV (reasonable actual value) of this claim is
3 10% of the maximum, or \$228,338.90.

4 **b. Wage Statement Violations**

5 The wage statement violations are derivative of the unpaid time violations. Assuming a
6 violation on every single wage statement over the 24,579 pay periods at issue, the maximum
7 theoretical value of this claim is (24,579 x \$50 per initial violation) \$1,228,950.

8 However, because this claim is purely derivative, defeating liability on the underlying
9 claim also defeats liability on the Wage Statement claim. Even if the underlying claim prevails,
10 Defendants could counter that any alleged omission of information from the wage statements was
11 not knowing and intentional, which could negate wage statement penalties. (*Harris v. Vector*
12 *Mktg. Corp.* (N.D. Cal. 2009) 656 F. Supp. 2d 1128, 1145-46 (summary adjudication warranted on
13 Section 226(e) claim where dispute existed as to whether plaintiff was independent contractor, and
14 record lacked evidence that conduct was knowing or willful). Plaintiff estimates that the RAV on
15 this claim is only 25% of its maximum value, or \$307,237.50.

16 **c. Waiting Time Penalties**

17 Similarly, the waiting time penalties are derivative from the off the clock allegations,
18 which are theoretically recoverable consistent with *Naranjo v. Spectrum Sec. Servs., Inc.* (2022)
19 13 Cal.5th 93. Based on the data regarding the number of Class Members who are no longer
20 employed by Defendant, and the employees' average rates of pay, Plaintiff estimates the
21 maximum liability for the 359 former employees to be \$775,900.

22 On the other hand, Defendants can defeat these claims if they defeat the underlying
23 predicate claims. In addition, much like the wage statement claims, Defendants will likely argue
24 that the failure to pay was not willful, and that it disputes that any wages were due. Given this
25 double risk of losing on liability, Plaintiff evaluates the RAV of this claim to be 25% or \$193,975.

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1 **d. Work Expenditure Violations**

2 Finally, Plaintiff alleges that he incurred \$2,000 in work-related out of pocket expenses.
3 Based on the data regarding the number of Class Members who likely had similar unreimbursed
4 expenses, Plaintiff estimates the maximum liability for the 359 former employees to be \$718,000.

5 However, Defendants can either show that Plaintiff's expenses were not representative of
6 the class or that Defendants reimbursed the other Class Members for their expenses. Assuming
7 only 25% of employees incurred similar expenses without Defendants' reimbursement,
8 Defendants owe approximately \$179,500 in expense reimbursements.

9 **e. PAGA Penalties.**

10 The PAGA claims in this case are based on all of the claims above. The Maximum PAGA
11 Penalties for the other violations are as follows:

- 12 • **Minimum Wage Violations:** 14,058 pay periods x \$100 per pay period (Labor
13 Code section 1197.1) = \$1,405,800.
- 14 • **Wage Statement Penalties:** 14,058 pay periods x \$100 per pay period =
15 \$1,405,800 (Labor Code section 226.3) (or \$702,900 if Labor Code Section 226.3
16 is inapplicable).

17 The total maximum theoretical PAGA Penalty amount is therefore \$2,811,600.

18 Since there is a split of authority over whether the penalties under Labor Code Section
19 226.3 or section 2699(f) would be applicable in this situation though, the court could find that the
20 appropriate penalty is \$50 per violation, rather than \$100. This would reduce the maximum
21 penalty by 25%, from \$2,811,600 to \$2,108,800.

22 The trial court has the discretion to reduce PAGA penalties if, based on the facts and
23 circumstances of the case, to do otherwise would result in an award that is unjust, arbitrary and
24 oppressive, or confiscatory. (Lab. Code, § 2699(e)(2); see also *Delgado v. New Albertson's, Inc.*,
25 2010 WL 11507599 at *7 (C.D. Cal. March 15, 2010) (explaining that court's discretion to reduce
26 penalties under PAGA protects defendants from unconstitutionally excessive penalties).
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1 PAGA penalties could potentially be reduced based on the above. The following are some
2 examples of PAGA awards which were awarded after an actual trial - in the matter of *Magadia v.*
3 *Wal-Mart Assocs.* (N.D. Cal. 2019) 384 F.Supp.3d 1058, while the trial court imposed substantial
4 PAGA penalties, it still represented reductions of 67% and 80% of the potential PAGA penalties.

5 Likewise, in the matter of *Parr v. Golden State Overnight*, Judge Carville of the Alameda
6 Superior Court assessed PAGA penalties upon the defendant of approximately 7% of the total
7 maximum penalties—again, this was only after plaintiff had prevailed at trial. (*Parr v. Golden*
8 *State Overnight Delivery Service, Inc.*, No. RG12-618103, 2014 WL 1199453 (July 10, 2014).)

9 **2.Maximum Damages and Penalties at Issue**

10 Based on the data provided, Plaintiffs’ counsel’s expert estimated maximum total damages
11 and penalties (including PAGA) to be approximately \$ 7,279,339.00 based on the number of class
12 members, shifts, and workweeks involved. As stated above however, this theoretical maximum
13 based on the pleadings and the number of class members does not reflect the maximum amount
14 that Plaintiff could reasonably expect to achieve at trial.

15 Numerous courts have held that gross settlements approximating between only 8 and 25%
16 of the defendant’s potential exposure are fair and reasonable. (*See, e.g., In re Mego Fin. Corp.*
17 *Secs. Litig.* (9th Cir. 2000) 213 F.3d 454, 459 holding that class action settlement recovering 16%
18 of potential exposure was fair and reasonable; “It is well-settled law that a cash settlement
19 amounting to only a fraction of the potential recovery does not per se render the settlement
20 inadequate or unfair.)

21 Rather, the fairness and the adequacy of the settlement should be assessed relative to risks
22 of pursuing the litigation to judgment”; *Bellinghausen v. Tractor Supply Co.*, (N.D. Cal. Mar. 20,
23 2015) No. 13-CV-02377-JSC, 2015 WL 1289342, at *6 (holding that class action settlement
24 recovering between 8.5% and 25% of the defendant’s potential exposure was fair); *Van Ba Ma v.*
25 *Covidien Holding Inc.*, (C.D. Cal. 2014) U.S. Dist. Ct. Case No. 8:12-cv-02161 (court granted
26 preliminary approval of wage and hour class settlement which obtained 9.1% of projected
27 damages, given the risks of continued litigation).
28

1 **C. An Analysis of the Terms of the Settlement**

2 **1. Estimate of Class Members' Recovery**

3 The amount allocated to each Class Member is based on the number of workweeks worked
4 during the Class Period. Based on the Net Settlement Amount of \$230,000 the average payment
5 for the class members is \$640.66, an excellent result.¹

6 **2. Cy Pres Recipient**

7 Any individual settlement payments that remain uncashed within 180 days of the mailing
8 of settlement payment checks by the settlement administrator will be paid to the *cy pres* recipient
9 Legal Aid Foundation of Los Angeles pursuant to Code of Civil Procedure section 384.

10 **3. Scope of the Release**

11 The scope of the release, as listed below, is identified in the Settlement at section 6, as well
12 as in the Notice Packet that will be sent to Class Members and is limited to the claims in the
13 complaint:

14 6.1 Plaintiff's Release. Plaintiff and his or her respective former and present
15 spouses, representatives, agents, attorneys, heirs, administrators, successors, and
16 assigns generally, release and discharge Released Parties from all claims,
17 transactions, or occurrences that occurred during the Class Period, including, but
18 not limited to: (a) all claims that were, or reasonably could have been, alleged,
19 based on the facts contained, in the Operative Complaint and (b) all PAGA claims
20 that were, or reasonably could have been, alleged based on facts contained in the
21 Operative Complaint, Plaintiff's PAGA Notice, or ascertained during the Action
22 and released under 6.2, below. ("Plaintiff's Release.") Plaintiff's Release does not
23 extend to any claims or actions to enforce the agreement, or to any claims for
24 vested benefits, unemployment benefits, disability benefits, social security benefits,
workers' compensation benefits that arose at any time, or based on occurrences
outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or
law different from, or in addition to, the facts or law that Plaintiff now knows or
believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and
remain effective in all respects, notwithstanding such different or additional facts or
Plaintiff's discovery of them.

25 6.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section
26 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and
relinquishes the provisions, rights, and benefits, if any, of section 1542 of the Civil

27
28 ¹ Calculated by dividing the Net Settlement Amount by the number of class members. Actual
average recovery will vary based on each Class Members workweeks worked, as well as the
number of Class Members who opt out.

Code, which reads :

“A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”

6.2 Release by Participating Class Members Who Are Not Aggrieved Employees: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Action. Except as set forth in Section 6.3 of the agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

6.3 Release by Non-Participating Class Members Who Are Aggrieved Employees: All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice, specifically claims relating to Labor Code sections 203, 226, 226.7(c), 510, 512, 1194, and 2802.

4. Notice to Class Members

Within 15 days of preliminary approval, Defendants will transmit to the Settlement Administrator the following: each Class Member’s full name; last known mailing address; social security number; the number of Class Workweeks and PAGA Workweeks. (See Settlement, at §§ 1.8, 4.2.)

Within 14 days after receiving the Class List and Data, the Settlement Administrator shall mail Notice Packets to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses. (See Settlement, at § 1.10, 8.4.2.) With respect to any returned envelopes, the Settlement Administrator shall re-mail to the forwarding address affixed thereto

1 within 3 business days. If no forwarding address is provided, the Settlement Administrator shall
2 promptly attempt to determine a correct address by use of skip-tracing, the National Change of
3 Address database, or other search using the name, address and/or social security number of the
4 respective Class Member, and shall then perform a re-mailing, if another mailing address is
5 identified by the Settlement Administrator.

6 Class Members will be provided 60 days to opt out, challenge the number of workweeks,
7 or object to the settlement. (See Settlement, at §§8.5.1, 8.6.) This period will be extended by 14
8 days for Class Members whose notice is remailed. Further, Class Members will be notified of the
9 time, date, and place of the final approval hearing and of their right to appear at the fairness
10 hearing.

11 **5. Tax Treatment of Settlement Amounts**

12 The Settlement provides that 33% of each Individual Settlement Payment shall be
13 allocated as payment for alleged unpaid wages, and 66% shall be allocated as alleged penalties
14 and interest. The Settlement Administrator will issue distribute appropriate IRS tax forms.

15 **6. Proposed Payment to Class Representative**

16 Plaintiff requests an individual enhancement payment of \$10,000, which will be discussed
17 in detail in the motion for final approval.

18 **7. Attorneys' Fees and Costs**

19 The attorney fees and costs will be discussed in detail in the motion for final approval.

20 **8. Class Administration Costs**

21 Similarly, reimbursement of the settlement administrator's costs will be discussed in the
22 final approval motion. Currently, the Administration costs are estimated at \$10,000.

23 **V. THE PROPOSED CLASS MEETS ALL CERTIFICATION REQUIREMENTS**

24 **A. The Class is Ascertainable and Sufficiently Numerous.**

25 The Class that Plaintiff seeks to conditionally certify is ascertainable. "Class members are
26 ascertainable where they may be readily identified without unreasonable expense or time by
27 reference to official records." (*Lee v. Dynamex, Inc.* (2008) 166 Cal. App. 4th 1325, 1334.)
28 Defendants determined that there are 359 class members. (See Settlement, sections 4.1, 9.)

1 Furthermore, the Class is sufficiently numerous. Courts generally find that numerosity is
2 satisfied if the class includes forty or more members. (*See Villalpando v. Excel Direct Inc.* (N.D.
3 Cal. 2014) 303 F.R.D. 588, 605-606.)

4 **B. There Are Common Questions of Law and the Claims Are Typical**

5 The commonality requirement is met when there are questions of law and fact common to
6 the class. (*Hanlon v. Chrysler Corp.* (1998) 150 F.3d 1011, 1019 (“The existence of shared legal
7 issues with divergent legal factual predicates is sufficient, as is a common core of salient facts
8 couple with disparate legal remedies within the class”). Commonality requires only that some
9 common legal or factual questions exist; the plaintiff need not show that all issues in the litigation
10 are identical. (*See Richmond v. Dart Industries, Inc.* (1981) 29 Cal. 3d 462, 473 (1981) Where the
11 employer’s conduct is uniformly directed at a class of employees, as it is here, the class-wide
12 impact of the policies satisfies the commonality requirement. (*See Stephens v. Montgomery Ward*
13 *& Co.* (1987) 193 Cal. App. 3d 411, 421.)

14 The claims outlined above were arguably common to all class members, and Plaintiff was
15 subjected to the violations, satisfying the typicality requirement.

16 **C. Plaintiff and Plaintiff’s Counsel Adequately Represent the Class**

17 The adequacy requirement is also met. “Adequacy of representation depends on whether
18 the plaintiff’s attorney is qualified to conduct the proposed litigation and the plaintiff’s interests
19 are not antagonistic to the interests of the class.” (*McGhee v. Bank of Am.* (1976) 60 Cal.App.3d
20 442, 450.) Correspondingly, Plaintiff does not have any interests adverse to the class.

21 As detailed in the attached declaration, Plaintiff’s counsel are experienced and well-
22 qualified class action attorneys who have settled a variety wage and hour matters. The work done
23 to prepare for the mediation was fastidious and methodical, which yielded the successful result.

24 **VI. LWDA WAS PROVIDED WITH THE PAPERWORK**

25 The settlement will be uploaded to the LWDA website on the same day the motion is filed.

26 **VII. CONCLUSION**

27 Plaintiff submits that the proposed settlement is fair, adequate, and reasonable.
28

1 The settlement was reached after informed, extensive, and arms' length negotiations
2 conducted by counsel for respective parties who are experienced in wage and hour class action
3 litigation, who were able to research the issues and develop a convincing damages model. Out of
4 the gross settlement of \$525,000.00, after the deductions for attorney fees, costs, settlement
5 administration, the PAGA allocation, and Plaintiff's enhancement payment, a net settlement
6 amount of \$230,000.00 will be provided for the class members, a definite benefit. Plaintiff
7 respectfully requests the Court to grant the motion for preliminary approval, approve and authorize
8 mailing of the Notice Packet, set a date for the final approval hearing.

9
10 Date: October 21, 2024

FRONTIER LAW CENTER

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12
13 /s/ Adam Rose
14 Attorney for Plaintiff
15 Edwardo Castellanos
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