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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN LUIS OBISPO

DAWN ZIMMERLE, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

CENTRAL COAST HOME HEALTH,
INC., a California Corporation; and DOES
1 through 20, inclusive;

Defendants.

Case No.: 26CVP-0012
*[Assigned to Hon. Tana L. Coates, Dept. S37,
for all purposes]*

**PLAINTIFF'S UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

*Filed Concurrently with Declarations in
Support Thereof and [Proposed] Order*

Hearing
Date: TBD
Time: TBD
Dept.: 4

Complaint filed: January 7, 2026

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on a date and time to be determined, or as may be heard
3 by the Honorable Tana L. Coates, presiding in Department 4 of the San Luis Obispo County
4 Superior Court, located at 1050 Monterey Street, San Luis Obispo, CA 93408, Plaintiff Dawn
5 Zimmerle, individually and on behalf of all others similarly situated, will and hereby does move
6 the Court for entry of an Order preliminarily approving the Parties' Class Action and Private
7 Attorneys General Act ("PAGA") settlement with Defendant Central Coast Home Health, Inc.,
8 including:

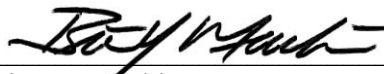
- 9 1. Certifying the class for purposes of settlement only;
- 10 2. Preliminarily appointing Plaintiff as class representative for settlement purposes;
- 11 3. Appointing Plaintiff's counsel as class counsel for purposes of settlement only;
- 12 4. Preliminarily approving the class action and PAGA settlement as fair, adequate,
13 and reasonable, based upon the terms set forth in the Settlement Agreement;
- 14 5. Directing distribution of the Class Notice, including notice of the opportunity to
15 exclude oneself from, or object to, the settlement;
- 16 6. Setting a date for a final fairness hearing to determine, following dissemination of
17 the Class Notice, whether to grant final approval of the Settlement.

18 This motion is based upon this Memorandum of Points and Authorities in Support
19 thereof; the Declaration of Plaintiff's counsel (Brian Mankin and Peter Carlson); the Declaration
20 of Plaintiff; the Class Action and PAGA Settlement Agreement (the "Settlement Agreement");
21 the proposed Order granting Preliminary Approval of the Settlement; all other records, pleadings,
22 and papers filed in this action; and upon such other evidence or argument as may be presented to
23 the Court at the hearing of this motion.

24 Dated: September 15, 2026

LAUBY, MANKIN & LAUBY LLP

25
26 BY:



27 Brian J. Mankin, Esq.
28 Attorneys for Plaintiff and the Class

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Dawn Zimmerle seeks preliminary approval of a \$1,675,000 class action
4 settlement on behalf of approximately 900 Class Members, defined as “all current and former
5 nonexempt employees employed by Defendant Central Coast Home Health, Inc., in California
6 during the Class Period of January 7, 2022, through October 31, 2026.”

7 By way of background, Defendant provides skilled in-home health care services,
8 employing Class Members who worked as registered nurses, licensed vocational nurses, social
9 workers, speech therapists, registered dietitians, home health aides, among others. The Class
10 Members fall into two subclasses: (1) the “PPV Subclass” include employees paid on a piece-
11 rate (“pay-per-visit”) basis, where they earned a set amount of compensation for each patient
12 visit, regardless of the actual time spent, and (2) the “Hourly Subclass” who were paid hourly
13 and often earned additional compensation, such as bonus or on-call pay.

14 Under the terms of the Settlement Agreement,¹ Defendant will not oppose Plaintiff
15 Counsel’s application for a reasonable award of attorneys’ fees not to exceed one-third of the
16 Settlement Amount, litigation expenses not to exceed \$30,000, Settlement Administrator Costs
17 of \$10,100, PAGA penalties of \$50,000 (65% to LWDA and 35% to Aggrieved Employees), and
18 a Service Payment of \$10,000 to Plaintiff Dawn Zimmerle (the “Class Representative”). (S.A. ¶
19 49).

20 After all Court-approved deductions from the Settlement Amount, it is estimated that
21 \$1,016,566.67 will be available to pay the Class Members, as follows:

22

<i>Settlement Amount</i>	\$ 1,675,000.00
Attorneys’ Fees (1/3)	\$ 558,333.33
Litigation Costs (not to exceed)	\$ 30,000.00
Administrator Costs	\$ 10,100.00
PAGA Penalties	\$ 50,000.00
Class Representative Service Award	\$ 10,000.00
<i>Net Settlement Amount</i>	\$ 1,016,566.67

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28 ¹ The Class Action and PAGA Settlement Agreement (the “Settlement Agreement” or “S.A.”) is
attached as Exhibit A to the Decl. of Brian Mankin (“Mankin Decl.”).

1 Assuming 900 total Class Members, the average payment will be approximately
2 \$1,129.51 to each Class Member (\$1,016,566.67 / 900). However, because the PPV Subclass
3 (i.e., piece rate employees) were subjected to additional violations, the Parties agreed that 65% of
4 the Net Settlement Amount will be allocated to the PPV Subclass, and 35% will be allocated to
5 the Hourly Subclass. Class Members will receive a pro rata share of the amount allocated to
6 each subclass according to the number of Weeks Worked in each subclass during the Class
7 Period. (S.A. ¶ 49(c)). In addition, approximately 550 Aggrieved Employees will receive a share
8 of the \$17,500 PAGA Penalties (35% of the \$50,000 allocation), calculated pro-rata based on
9 Weeks Worked during the PAGA Period. (S.A. ¶ 49(h)).

10 Indeed, this is a fair and reasonable settlement, negotiated at arm's length by experienced
11 counsel and an experienced mediator following a robust exchange of information and documents
12 prior to mediation. Accordingly, it should be preliminarily approved. Plaintiff also respectfully
13 requests that the Court enter an order preliminarily approving the settlement, conditionally
14 certifying the Class under Code of Civil Procedure § 382 for settlement purposes, approving the
15 proposed Class Notice, appointing Plaintiff's counsel as class counsel, appointing Phoenix
16 Settlement Administrators as the Administrator, and scheduling a hearing for final approval.

17 **II. BACKGROUND**

18 **A. THE CLASS**

19 The Class is defined as follows:

20 All current and former nonexempt employees employed by
21 Defendant in California during the Class Period (January 7, 2022,
22 through October 31, 2026). (S.A. ¶¶ 4, 8).

22 **B. PROCEDURAL HISTORY**

23 Prior to litigation, Plaintiff submitted letters to Defendant requesting the production of
24 personnel and timekeeping records to further evaluate her wage and hour claims, along with
25 demands to preserve evidence. (Mankin Decl. ¶ 14).

26 On January 7, 2026, Plaintiff filed a class action complaint in this Court, alleging that
27 Defendant violated various sections of the Labor Code, including (1) failure to pay minimum
28 wages, (2) failure to pay overtime wages, (3) failure to pay for rest and recovery periods under

1 Labor Code § 226.2, (4) failure to provide meal periods, (5) failure to provide rest breaks, (6)
2 failure to reimburse business expenses, (7) failure to pay vested vacation, (8) failure to timely pay
3 final wages, (9) failure to provide accurate itemized wage statements, and (10) unfair and
4 unlawful competition. (Mankin Decl. ¶ 15).

5 Defendant retained counsel and immediately began to defend the case. Then, after early
6 discussions among counsel, the Parties agreed to attend private mediation. In preparation for
7 mediation, the Parties informally exchanged documents and information that allowed both sides
8 to calculate the potential damages and evaluate potential risk, including policies and procedures
9 pertaining to the claims, statistics relating to the number of current and former employees,
10 number of shifts, workweeks and pay periods worked and other things, and an extensive
11 sampling of payroll and timekeeping records for Class Members. This information enabled both
12 parties to take a deep dive into the claims. Additionally, during this process, Plaintiff and her
13 counsel analyzed, researched, and investigated the potential issues, including matters related to
14 the calculation of damages, trial, and appellate issues and risks. (Mankin Decl. ¶ 16).

15 On June 17, 2026, Plaintiff and Defendant participated in a full-day mediation with Mark
16 LeHocky, Esq., a well-respected wage-and-hour mediator. Ultimately, the mediator issued a
17 mediator's proposal that was accepted by the Parties. In accordance with the mediator's
18 proposal, Plaintiff filed a first amended complaint on September 8, 2026, incorporating all claims
19 that were alleged and negotiated at mediation, including PAGA claims. The Parties now seek
20 the Court's preliminary approval of the Settlement. (Mankin Decl. ¶ 17).

21 **C. BRIEF OVERVIEW OF CLAIMS AND DEFENSES**

22 Plaintiff alleged numerous wage and hour violations on behalf of the Class Members.
23 However, Defendant vigorously contested and denied Plaintiff's material allegations on the
24 merits and as to the propriety of a class action or PAGA representative action. Still, Plaintiff
25 believed there were several strong claims. (Mankin Decl. ¶ 18).

26 For instance, Plaintiff raised four distinct unpaid wage claims. First, Plaintiff alleged that
27 the Class Members were paid on an hourly basis plus other forms of compensation, such as shift
28 differentials, yet those amounts were not included in the calculations for overtime and various

1 other payments. Second, Plaintiff alleged that Defendant failed to properly all piece-rate
2 employees for mandated rest breaks as required by Labor Code § 226.2. Third, Plaintiff raised
3 claims that Defendant paid vested vacation to departing employees at the base rate instead of the
4 “final rate” required by Labor Code § 227.3 (incorporating piece-rate pay and other
5 compensation). Fourth, Plaintiff alleged that Defendant required employees to perform off-the-
6 clock work on tasks such as paperwork/charting and sending emails, as well as when Class
7 Members had a “missed patient visit”. Plaintiff argued these violations resulted in significant
8 unpaid wages, waiting time penalties under Labor Code § 203 and other derivative penalties.
9 However, Defendant opposed each unpaid wage claim on the merits and as to the propriety of
10 class certification. (Mankin Decl. ¶ 19).

11 Plaintiff also alleged that the Class Members were often denied compliant meal and rest
12 breaks due to the nature of the work. However, Defendant argued that it provided and made all
13 mandated meal and rest breaks available to the Class. Thus, Defendant argued these claims were
14 without merit because, for each violation, a fact-finder would have to determine why a break was
15 noncompliant; if it was the employee’s choice, no liability attaches. (Mankin Decl. ¶ 20).

16 Finally, Plaintiff alleged a variety of other claims (all of which Defendant disputed), such
17 as the failure to reimburse business expenses, failure to timely pay all wages upon separation of
18 employment, and failure to provide accurate itemized wage statements. (Mankin Decl. ¶ 21).

19 Despite the disputed nature of the claims, the Parties concluded that further litigation of
20 the Action would be protracted and expensive, and that it is desirable that the Action be fully and
21 finally settled to limit further risk, expense, and protracted litigation. (Mankin Decl. ¶ 22).

22 **III. SUMMARY OF THE PROPOSED SETTLEMENT**

23 The following is a summary of the principal terms of the Settlement Agreement.

24 **A. SETTLEMENT CONSIDERATION AND ALLOCATION**

25 The \$1,675,000 Settlement Amount ² is non-reversionary and will be paid out to Class
26 Members without the need to submit a claim form or take any affirmative action. It includes (1)

27 ² If the “Escalator Clause” is triggered, Defendant must either increase the Settlement Amount
28 for any workweeks above 78,100, or shorten the release period until the Workweeks are no more

1 Plaintiff's attorneys' fees and costs, as approved by the Court; (2) a service award of \$10,000 to
2 Plaintiff, subject to approval by the Court; (3) Administration Costs, not to exceed \$10,100; (4) a
3 \$50,000 PAGA award, with 65% paid to the LWDA and 35% to the Aggrieved Employees; and
4 (5) the aggregate of all Individual Settlement Amounts of the Participating Class Members. (S.A.
5 ¶ 49). Defendant will separately pay its share of employer payroll taxes and withholdings. (*Id.*).

6 **B. NOTICE PROCEDURES**

7 The proposed Notice will be provided to the Class showing the estimated amounts that
8 each Class Member will receive, the number of Work Weeks credited as a Class Member and as
9 an Aggrieved Employee (*See* Exhibit B to Mankin Decl.). Within 21 calendar days after
10 Preliminary Approval, Defendant shall provide the Administrator with the "Class Data"
11 consisting of Class Member names, addresses, Social Security Numbers, Weeks Worked during
12 the Class/PAGA Period(s). Then, within 10 calendar days of receipt of the Class Data, the
13 Administrator shall calculate the numbers for each Class Member, populate the Notice, and send
14 each Class Member the Notice via first-class, United States mail.

15 If a Notice is returned as undelivered by the U.S. Postal Service, the Administrator shall
16 perform a skip trace search and seek an address correction for the Class Member(s), and a second
17 Notice will be sent to any new or different address obtained.

18 **C. EXCLUSION AND OBJECTION PROCEDURES**

19 Class Members who do not timely Opt-Out of the Settlement will be deemed to
20 participate in the Settlement and shall become a Participating Class Member without having to
21 submit a claim form or take any other action. To Opt-Out of the Settlement, the Class Member
22 must submit a written request to the Administrator no later than 45 days after being mailed by
23 the Settlement Administrator ("Response Deadline"). (S.A. ¶ 35). Any Opt-Out request that is
24 not postmarked by the Response Deadline will be invalid, unless a Notice was remailed in which
25 case the Class Member's exclusion or objection must be returned by the later of the original
26 Response Deadline or 15 calendar days after the remailing of the notice. (S.A. ¶¶ 64, 68).

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than 78,100. S.A. ¶¶ 15, 49(a). If the Settlement Amount increases, other figures will also shift
upward along with the Settlement Amount, such as attorneys' fees, along with increased
Settlement Administration Costs (*see* S.A. ¶ 49(g)).

1 The Class Notice shall inform Class Members of their right to object to the Settlement.
2 Any Participating Class Member who wishes to object to the Settlement must provide their
3 objection no later than the Response Deadline. (S.A. ¶ 68(c)).

4 **D. SETTLEMENT ALLOCATION FORMULA FOR SETTLEMENT SHARES**

5 The amount of each Class Member's Individual Class Payment is tied to the number of
6 Weeks Worked by each Class Member in each subclass for Defendant during the Class Period.
7 Therefore, Individual Class Payments will be calculated and apportioned from the Net
8 Settlement Amount under the following formula (S.A. ¶ 49(c)):

- 9 i. 65% of the Net Settlement Amount shall be allocated to PPV Subclass Members
10 on a pro rata basis calculated according to each PPV Subclass Member's total
11 number of Workweeks worked during the Class Period, and
12 ii. 35% of the Net Settlement Amount shall be allocated to Hourly Subclass
13 Members on a pro rata basis calculated according to each Hourly Subclass
14 Member's total number of Workweeks worked during the Class Period;
15 iii. The amount actually distributed to Participating Class Members shall equal one
16 hundred percent (100%) of the Net Settlement Amount, without a claims process.

17 Additionally, each "Aggrieved Employee" will receive an Individual PAGA Payment,
18 calculated by dividing and distributing the \$17,500 on a pro-rata Weeks Worked basis. (S.A. ¶
19 49(h)).

20 The Class Notice will inform Class Members of the number of Weeks Worked during the
21 relevant periods and the estimated Individual Class and PAGA Payments. Class Members may
22 dispute their Weeks Worked by timely submitting evidence to the Settlement Administrator.
23 (S.A. ¶ 66).

24 **E. TIMING OF SETTLEMENT DISBURSEMENTS**

25 Pursuant to the terms of the Settlement Agreement, Defendant is required to fund the
26 Settlement Amount, plus its share of payroll taxes owed on the Individual Class Payments,
27 within 45 days of the Effective Date. (S.A. ¶ 69). Within 10 days after receiving the funds, the
28 Administrator shall issue payments to cover all court-approved payments. (S.A. ¶ 70).

1 Class Members will have 180 days to cash the settlement check. (S.A. ¶ 71). If a Class
2 Member fails to cash a check by the deadline, the Administrator shall issue unclaimed funds to
3 the California State Controller in the name of the Class Member/Aggrieved Employee. (*Id.*).

4 **F. TAX TREATMENT**

5 The Parties agree that one-third (33.333%) of the Individual Class Payments will be
6 allocated as wages subject to withholding of all applicable local, state and federal taxes and the
7 remaining two-thirds (66.667%) will be allocated for interest and penalties (pursuant to, *e.g.*,
8 California Labor Code §§ 203, 210, 226, 2699 etc.) from which no taxes will be withheld. (S.A.
9 ¶ 49(d)). The Individual PAGA Payments will be classified entirely as civil penalties and shall
10 be reported as required on an IRS Form 1099. (S.A. ¶ 49(h)).

11 **G. PARTICIPATING CLASS MEMBERS' RELEASE OF CLAIMS**

12 In exchange for these payments, the Settlement Agreement at ¶ 31 defines the “Released
13 Class Claims” as follows:

14 all claims alleged in the Complaint, or those that reasonably could
15 have been alleged based upon the facts stated in the Complaint,
16 including: (1) failure to pay minimum wages, (2) failure to pay
17 overtime wages, (3) failure to pay for rest and recovery periods
18 under Labor Code § 226.2, (4) failure to provide meal periods, (5)
19 failure to provide rest breaks, (6) failure to reimburse business
20 expenses, (7) failure to pay vested vacation, (8) failure to timely pay
21 final wages, (9) failure to provide accurate itemized wage
22 statements, and (10) unfair and unlawful competition. The time
23 period governing the Released Class Claims shall be the Class
24 Period.

25 **H. AGGRIEVED EMPLOYEES' RELEASE OF CLAIMS**

26 The Settlement Agreement at ¶ 32 also defines the “Released PAGA Claims” as follows:

27 all PAGA claims alleged in the Complaint, or that reasonably could
28 have been alleged based on the facts stated in the Complaint and in
the relevant LWDA notice letters, including all PAGA claims
seeking civil penalties premised upon: (1) failure to pay minimum
wages, (2) failure to pay overtime wages, (3) failure to pay for rest
and recovery periods under Labor Code § 226.2, (4) failure to
provide meal periods, (5) failure to provide rest breaks, (6) failure
to reimburse business expenses, (7) failure to pay vested vacation,
(8) failure to timely pay final wages, (9) failure to provide accurate

1 itemized wage statements, and (10) all other claims for civil
2 penalties recoverable under the Private Attorneys General Act,
3 Labor Code §§ 2698 et seq. based on the facts or claims alleged in
4 the LWDA notice letters and Complaint. The time period governing
5 the PAGA Released Claims shall be the PAGA Period. The
6 Released PAGA Claims do not release any Aggrieved Employees’
7 claims for wages or statutory penalties.

8 Moreover, even if an Aggrieved Employee requests exclusion from the Class settlement,
9 that individual will still be subject to the Released PAGA Claims and will receive a pro-rata share
10 of PAGA Penalties. (S.A. ¶ 54).

11 **IV. PROVISIONAL CERTIFICATION OF THE CLASS IS APPROPRIATE FOR**
12 **PURPOSES OF SETTLEMENT**

13 California Rule of Court 3.769(d) provides that the Court may make an order approving
14 certification of a provisional settlement class at the preliminary approval stage. It is well-
15 established that trial courts should use a “lesser standard of scrutiny” for determining the
16 propriety of certifying a settlement class, as opposed to a litigation class. *Dunk v. Ford Motor*
17 *Co.* (1996) 48 Cal.App.4th 1794, 1807 at n.19; *Officers for Justice v. Civil Service Com.* (9th Cir.
18 1982) 688 F.2d 615, 633 (“[C]ertification issues raised by class action litigation that is resolved
19 short of a decision on the merits must be viewed in a different light.”); *Amchem Prods., Inc. v.*
20 *Windsor* (1997) 521 U.S. 591, 620 (“Confronted with a request for settlement-only class
21 certification, a district court need not inquire whether the case, if tried, would present intractable
22 management problems . . . for the proposal is that there be no trial.”). As discussed below, for the
23 purposes of this settlement only, Plaintiff requests that this Court provisionally certify the Class,
24 as defined above, under Code of Civil Procedure § 382.

25 **A. ASCERTAINABILITY AND NUMEROSITY**

26 In determining whether a class is ascertainable, the court considers “(1) the class
27 definition, (2) the size of the class, and (3) the means available for identifying the class
28 members.” *Reyes v. San Diego County Board of Supervisors* (1987) 196 Cal.App.3d 1263,
1271; *Medraza v. Honda of N. Hollywood* (2008) 166 Cal.App.4th 89, 101 (proposed settlement
class is ascertainable if the class members can be objectively identified and given notice of the

1 litigation without unreasonable time or expense). Here, according to Defendant's records, there
2 are approximately 900 Class Members that are easily identifiable and fall within the defined
3 Class. Thus, Plaintiff's proposed Class meets the ascertainability and numerosity requirements.

4 **B. WELL-DEFINED COMMUNITY OF INTEREST**

5 *1. Commonality*

6 To justify certification, the class proponent must show that questions of law or fact
7 common to the class predominate over the questions affecting the individual members. *Arenas v.*
8 *El Torito Rests., Inc.* (2010) 183 Cal.App.4th 723, 732. Here, Plaintiff contends that the Class
9 was subjected to common policies and practices relating to payment of wages, meal/rest breaks,
10 and so on. While the Parties dispute whether a class would be appropriate if the litigation were to
11 continue, they agree to class certification for the purposes of this settlement only.

12 *2. Typicality*

13 Typicality "focuses on whether there exists a relationship between the Plaintiff's claims
14 and the claims alleged on behalf of the class." *See* Herbert B. Newberg & Alba Conte, *Newberg*
15 *on Class Actions* § 3:13 (4th ed. 2002). Again, the Parties dispute whether Plaintiff's claims are
16 typical of the Class for the purposes of any continued litigation of the Action, but agree for the
17 purposes of this settlement only, that Plaintiff asserts claims regarding Defendant's pay policies,
18 meal and rest break practices, wage statements, and the provisions governing the timely and
19 complete payment of wages, which are at the core of the lawsuit.

20 *3. Adequacy of Representation*

21 The proposed class representative must establish that he or she will adequately represent
22 the proposed class. *Barboza v. West Coast Digital GSM, Inc.* (2009) 179 Cal.App.4th 540, 546.
23 Specifically, Plaintiff is adequate to represent the class because she was employed by Defendant
24 during the Class Period, experienced the same wage and hour practices as the rest of the Class,
25 understood her duties as a Class Representative, has been willing to undergo the risks of
26 litigation, and has no conflict of interest. (*See* Zimmerle Decl.).

27 Adequacy may be established by the fact that counsel are experienced practitioners. *See*
28 *Local Joint Exec. Bd. v. Las Vegas Sands, Inc.* (9th Cir. 2001) 244 F.3d 1152, 1162. Here,

1 Plaintiff is represented by Class Counsel with extensive experience in wage and hour class
2 actions like this matter. (Mankin Decl. ¶¶ 2-6; Carlson Decl. ¶¶ 3-9).

3 4. Superiority

4 Certification of the Class for settlement purposes is superior here because there will be a
5 global resolution of all claims at once, which fosters judicial economy. Class certification for
6 settlement purposes is also vastly superior to litigation of numerous individual claims because
7 most of the claims are too small to litigate outside of the class context.

8 **V. THE COURT SHOULD PRELIMINARILY APPROVE THE SETTLEMENT,**
9 **WHICH IS FAIR, ADEQUATE, AND REASONABLE**

10 **A. CLASS ACTION SETTLEMENTS ARE SUBJECT TO JUDICIAL REVIEW AND**
11 **APPROVAL UNDER THE CALIFORNIA RULES OF COURT**

12 The law favors settlements. *Bush v. Superior Court* (1992) 10 Cal.App.4th 1374. This is
13 particularly true in class actions where substantial resources can be conserved by avoiding the
14 time, cost, and rigors of formal litigation. However, a class action may not be dismissed,
15 compromised, or settled without the Court's approval. Cal. R. Ct. 3.769(a). The California Rules
16 of Court set forth the procedures for court approval of a class action settlement: (1) the Court
17 preliminarily approves the settlement; (2) class members receive notice as directed by the Court;
18 and (3) the Court conducts a final approval hearing to inquire into the fairness of the proposed
19 settlement. *See* Cal. R. Ct. 3.769(c), (e-g).

20 The decision to approve or reject a proposed settlement lies within the Court's sound
21 discretion. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-35. And the
22 Court's ultimate duty is to determine whether the settlement is fair, adequate, and reasonable.
23 *Dunk*, 48 Cal.App.4th at 1801 (setting forth the "fair, adequate, and reasonable" standard).

24 Thus, at the preliminary approval stage, the Court need only determine that the settlement
25 falls within the "range of possible judicial approval," so that notice to the class and the
26 scheduling of the fairness hearing are worthwhile. *See Newberg* § 11:25. Indeed, the Court
27 should grant preliminary approval if there are no "grounds to doubt its fairness or other obvious
28 deficiencies . . . and [the settlement] appears to fall within the range of possible approval."

1 *Manual For Complex Litigation* (Third) § 30.41 (1995); see *Dunk*, 48 Cal.App.4th at 1802. A
2 “presumption of fairness exists where: (1) the settlement is reached through arm’s-length
3 bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act
4 intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors
5 is small.” *Dunk, supra* (citing *Newberg* § 11:41). As shown below, the settlement falls well
6 within the range of approval because there are no grounds to doubt its fairness.

7 **B. THE SETTLEMENT IS THE RESULT OF SERIOUS, INFORMED, NON-COLLUSIVE**
8 **NEGOTIATIONS**

9 The settlement was the product of extensive arm’s length negotiations between counsel
10 and was facilitated by an experienced wage-and-hour class action mediator. Though cordial and
11 professional, the settlement negotiations were adversarial and non-collusive in nature. The
12 settlement reached is the product of substantial effort by the parties and their counsel. Although
13 Plaintiff and her counsel believed that there was a possibility of certifying the claims, they
14 recognized the potential risk, expense, and complexity posed by litigation, such as unfavorable
15 decisions on class certification, summary judgment, at trial and/or on the damages awarded,
16 and/or on an appeal that can take several more years to litigate. In addition, if Defendant
17 prevailed on any of the defenses, the employees may not have received any monetary recovery.

18 **C. THE EXTENT OF THE INVESTIGATION WAS MORE THAN SUFFICIENT TO PERMIT**
19 **PRELIMINARY APPROVAL OF THE SETTLEMENT**

20 Plaintiff thoroughly investigated and evaluated the factual and legal strengths and
21 weaknesses of this case before reaching the settlement. As described above, the settlement was
22 reached after extensive investigation and research, thorough calculations and risk evaluation, and
23 a substantial exchange of information prior to mediation. See *Munoz v. BCI Coca-Cola Bottling*
24 *Co.* (2010) 186 Cal.App.4th 399, 410 (approving settlement where “considerable information
25 [exists] from which to assess the strength of the class claims” and litigation risks).

26 **D. THE SETTLEMENT IS A REASONABLE COMPROMISE OF CLAIMS**

27 To evaluate a settlement, the parties must provide the trial court with “basic information
28 about the nature and magnitude of the claims in question and the basis for concluding that the

1 consideration being paid for the release of those claims represents a reasonable compromise.”

2 *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.

3 However, *Kullar* does not require review of the outer reaches of possible exposure
4 without considering actual risks of certification, decertification, dispositive motions, and trial,
5 rather only a record which allows “an understanding of the amount that is in controversy and the
6 realistic range of outcomes of the litigation.” *Munoz*, 186 Cal.App.4th at 408-9. Thus, a
7 settlement is not judged against what might have been recovered had a plaintiff prevailed at trial,
8 nor does the settlement have to provide 100% of the damages sought to be fair and reasonable.
9 *Wershba*, 91 Cal.App.4th at 250 (“Compromise is inherent and necessary in [settlement] ... even
10 if the relief afforded by the proposed settlement is substantially narrower than it would be if the
11 suits were to be successfully litigated, this is no bar to a class settlement because the public
12 interest may indeed be served by a voluntary settlement in which each side gives ground in the
13 interest of avoiding litigation.”)

14 Here, Defendant raised significant legal and factual defenses that weigh in favor of the
15 reasonableness of the proposed Settlement. In addition to disputing the merits of Plaintiff’s
16 claims, Defendant strongly disputed that Plaintiff could obtain class certification, arguing a lack
17 of commonality of the legal claims and injuries. Defendant further argued that it complied with
18 the applicable law and that any purported deviations therefrom were individualized in nature,
19 thereby limiting Plaintiff’s ability to certify the class. Thus, while Plaintiff asserts that this is a
20 suitable case for certification, she realizes that there is always a significant risk associated with
21 class certification proceedings, which could limit the claims she could pursue on a class basis.

22 Considering the uncertainties of protracted litigation, this negotiated settlement reflects
23 the best practicable recovery for the Class. While the total Settlement Amount is, of course, a
24 compromise figure, the potential risks and opportunities of both parties were effectively weighed
25 and considered by the parties, resulting in a fair and equitable settlement.

26 Based upon data obtained through formal and informal discovery, Plaintiff’s counsel
27 estimated the following through mediation: (1) 750 Class Members, (2) 275 *former* Class
28 Members for Labor Code § 203, (3) 71,000 workweeks, (4) 317,275 shifts worked, and (4)

1 approximately 14,300 wage statements during the PAGA Period. (Mankin Decl. ¶ 25).

2 From these numbers, and by applying violations rates derived from analysis of extensive
3 documents and data from Defendant, Plaintiff created damage models estimating the maximum
4 possible class damages and penalties. However, this failed to incorporate or acknowledge many
5 risks at class certification and on the merits, defenses, and other issues (such as violation rates
6 and evidentiary burdens of proof). Thus, when applying risks at class certification and on the
7 merits, and when considering other factors (such as evidentiary burdens of proof), Plaintiff
8 calculated the risk-adjusted award at trial for the class claims to be \$3,419,261. The full analysis
9 of the maximum and risk-adjusted values is contained in the Mankin Decl. at ¶¶ 24-33 (and, for
10 the sake of brevity, that information is not duplicated in this Motion).

11 Thus, the reasonableness of the settlement is apparent from the fact that the proposed
12 settlement is 48.98% of the risk-adjusted class damages and penalties. And, for that reason and
13 the others discussed in this Motion, the Parties submit that this settlement is fair and reasonable.

14 **E. PLAINTIFF’S COUNSEL IS EXPERIENCED IN WAGE-AND-HOUR LITIGATION**

15 The view of attorneys conducting the litigation is entitled to significant weight deciding
16 whether to approve a settlement. *Ellis v. Naval Air Rework Facility* (N.D. Cal. 1980) 87 F.R.D.
17 15, 18; *Kullar*, 168 Cal.App.4th at 128 (court must consider “the experience and view of
18 counsel”). Here, Plaintiff’s Counsel are highly experienced in Class/PAGA litigation, having
19 repeatedly been named “Super Lawyer” in employment litigation (a distinction awarded to only
20 5% of litigators), having achieved large settlements and verdicts, including one of the largest
21 PAGA awards in California’s history, collecting over \$300 million for its clients, having tried
22 class and PAGA cases against Fortune 100 companies, among other things. (Mankin Decl. ¶¶ 2-
23 6; Carlson Decl. ¶¶ 3-9). Plaintiff’s counsel, operating at arm’s length, weighed the strengths and
24 risks of this case, and are of the view that this is a fair and reasonable settlement considering the
25 nature of the claims, realistic risk adjusted value, the complexities of the case, state of the law,
26 and uncertainties of class certification and litigation.

27 ///

28 ///

1 **F. THE CLASS NOTICE CONFORMS TO ALL APPLICABLE STATUTES AND RULES**

2 The proposed Notice should be approved, as it fully informs the Class Members of the
3 nature of the lawsuit and each Class Member's rights under terms of the Settlement Agreement
4 and applicable law. The way the Class Notice shall be disseminated ensures that all or nearly all
5 of the Class Members shall be properly notified of the proposed settlement.

6 The proposed Notice and proposed plan for the Administrator to mail the Notice to the
7 last known address of all class members complies with all the requirements of Cal. Rule of Court
8 3.769(f) and 3.766(b). The proposed Notice includes: (1) the material terms of the settlement; (2)
9 the proposed attorneys' fees, litigation expenses, and the costs of administration; (3) details
10 about the final fairness hearing and how class members may elect to exclude themselves or make
11 an objection; (4) how class members can obtain additional information; and (5) each Class
12 Members' Individual Class and PAGA Payments. *See* Class Notice (Exhibit B to Mankin Decl.).

13 The Court has wide discretion in approving the means of providing notice, so long as the
14 class representative "provide(s) meaningful notice in a form that should have a reasonable
15 chance of reaching a substantial percentage of class members." *Archibald v. Cinerama Hotels*,
16 (1976) 15 Cal.3d 853, 861. Here, the Notice will be disseminated directly to the Class Members
17 by first class mail by the Settlement Administrator, since Defendant have the last known
18 addresses of all class members and the Settlement Administrator will perform a skip trace and
19 update those addresses for any Notices that are returned and re-send the same.

20 The Notice satisfies the requirements of Rule of Court 3.766 and affords Class Members
21 with all due process protections required by the U.S. Constitution. Moreover, the contents of the
22 Notice comply with Cal. R. Ct. 3.766(d), because the Notice includes, without limitation (1) a
23 detailed explanation of the case, including the basic contentions or denials of the parties; (2) a
24 statement that the court will exclude the member from the class if the member so requests by a
25 specified date; (3) a procedure for the member to follow in requesting exclusion from the class;
26 (4) a statement that the judgment, whether favorable or not, will bind all members who do not
27 request exclusion; and (5) a statement that any member who does not request exclusion may, if
28 the member so desires, enter an appearance through counsel. The 30-day deadline to opt-out or

object is also reasonable, as it provides Class Members sufficient time to do so and, if they so choose, to seek independent legal advice in the interim. If a Class Member does not opt-out, he or she will automatically be sent a settlement check.

G. THE NON-REVERSIONARY “CHECKS CASHED” DISTRIBUTION ENSURES MAXIMAL RECOVERY FOR CLASS MEMBERS

The fact that each member who does not opt out of the Settlement shall be mailed a check ensures that every Class Member will be paid unless they affirmatively act to exclude themselves. Moreover, the Settlement Amount is non-reversionary, which means that no settlement funds will revert to Defendant; instead, if any checks are uncashed by the deadline, the funds will be transferred to the State Controller’s Office subject to approval of the Court. Such terms are favored by Courts and demonstrate that there was no collusion between counsel for the parties and that the Settlement is fair and favorable to the Class Members.

H. THE ATTORNEY’S FEES AND COSTS ALLOCATION IS FAIR

Under the terms of the Settlement Agreement, Class Counsel is seeking reimbursement of up to \$30,000 in litigation costs, along with attorneys’ fees equal to one-third of the Settlement Amount. See, e.g., *Laffitte v. Robert Half Int’l Inc.* (2016) 1 Cal.5th. 480 (approving 1/3 fee in the amount of \$6.33 million at a 2.13 lodestar multiplier, and holding that when class action litigation establishes a monetary fund for the benefit of the class members, the trial court may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created); *Stuart v. RadioShack Corp.* (N.D. Cal. Aug. 9, 2010) 2010 WL 3155645 (approving fee 1/3 from settlement amount of \$4.5 million since 1/3 was “well within the range of percentages which courts have upheld as reasonable in other class action lawsuits”).

Once the Court grants preliminary approval and Notice is disseminated, Plaintiff’s counsel will submit a comprehensive request for attorneys’ fees and costs with final approval.

I. THE REQUESTED SERVICE AWARD IS FAIR AND APPROPRIATE

The Settlement Agreement provides an incentive award payment of \$10,000 to the Class Representative, which is reasonable given the recovery Class Members will receive on average, as well as the time and effort she devoted to this case. Her efforts included providing factual

1 background for the litigation; providing documents and information about Defendant's
2 compensation plan; participating in phone calls to discuss litigation and settlement strategy;
3 making herself available throughout the litigation to assist with analyzing the claims and
4 defenses; helping Class Counsel prepare for the mediation; and reviewing the settlement
5 documents. The Class Representative also assumed significant risk in bringing this litigation —
6 namely, had she lost, she could have been ordered to pay Defendant's costs.

7 The requested service award falls within the range of incentive payments typically
8 awarded to Class Representatives in similar class actions. See, e.g., *Bond v. Ferguson*
9 *Enterprises, Inc.* (E.D. Cal. 2011) 2011 WL 2648879 (approving \$11,250 service awards in class
10 action); *Ross v. US Bank National Association* (N.D. Cal. 2010) 2010 WL 3833922, at *2
11 (approving \$20,000 enhancement award in California wage-and-hour class settlement); *Vasquez*
12 *v. Coast Valley Roofing, Inc.* (E.D. Cal. 2010) 266 F.R.D. 415, 493 (approving service awards of
13 \$15,000 from a \$300,000 settlement fund in a wage/hour class action); *West v. Circle K Stores,*
14 *Inc.* (E.D. Cal. 2006) 2006 U.S. Dist. LEXIS 76558, at *28 (finding service awards “of \$ 15,000
15 each to be reasonable.”); *Glass v. UBS Fin. Servs.* (N.D. Cal. 2007) 2007 U.S. Dist. LEXIS
16 8476, at *52 (finding “requested payment of \$25,000 to each of the named Plaintiff is
17 appropriate” in wage and hour settlement).

18 **VI. THE COURT SHOULD APPOINT PHOENIX AS ADMINISTRATOR**

19 Subject to the Court's approval, the parties agreed to Phoenix Settlement Administrators
20 serving as the Settlement Administrator. Phoenix is experienced in administering class action
21 settlements and has provided a flat-fee proposal to administer this settlement for \$10,100.
22 (Mankin Decl. ¶ 46; Exhibit D [Phoenix's bid]).

23 **VII. TIMELINE AND SCHEDULING A FINAL APPROVAL HEARING**

24 The last step in the approval process is the formal hearing, whereby proponents of the
25 Settlement may explain and describe its terms and conditions and offer argument in support of
26 approval, and Class Members or their counsel may be heard in support of or in opposition to the
27 settlement. Subject to the Court's approval, the Parties propose that the Court schedule a hearing
28 for final approval approximately 130 days after the Preliminary Approval Date, as follows:

TBD	Preliminary Approval (PA) hearing
31 days after PA	Deadline for Administrator to complete first mailing of the Class Notice to all Class Members.
45 days after mailing	Deadline for Class Members to submit Requests for Exclusion and Objections to the settlement.
16 court days before Final Approval hearing	Deadline for Plaintiff to file and serve Motion for Final Approval and application for award of fees, costs and service payments.
9 court days before Final Approval hearing	Deadline for filing of any written opposition to Plaintiff's Motion for Final Approval, or filing response to an objection.
5 court days before final approval hearing	Deadline for filing of any written reply to opposition Motion for Final Approval
Approx. 130 days after PA	Final Approval Hearing

VIII. CONCLUSION

For all the foregoing reasons, Plaintiff respectfully requests that the Court grant the motion for preliminary approval of the settlement.

Dated: September 15, 2026

LAUBY, MANKIN & LAUBY LLP

BY:



Brian J. Mankin, Esq.
Attorneys for Plaintiff and the Class

PROOF OF SERVICE
(Pursuant to CCP §§ 1013(a)(1) and 2015.5)

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

I am employed in the County of Riverside, State of California. I am over the age of 18 and not a party to the within action; my business address is 5198 Arlington Avenue, PMB 513, Riverside, CA 92504.

On September 15, 2026, I caused to be served the foregoing document(s) described as follows:

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

I declare that I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **By Mail** I deposited such envelope in the mail at Riverside, California. The envelope was mailed with postage thereon fully prepaid.

☐ **By Facsimile** I sent this document via fax to all parties as listed on attached service list, on

☐ **By Overnight Service** I deposited such envelope in a facility regularly maintained by the United Parcel Service for receipt of items for overnight delivery, with overnight delivery expenses prepaid, addressed to the person to be served.

☒ **By Email or Electronic Transmission:** Pursuant to CCP § 1010.6 or an agreement of the parties to accept service by email or electronic transmission, I caused the document(s) to be sent from email address tracie@lmlfirm.com to the persons at the electronic notification address listed in the service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was not successful.

☐ **By Certified Mail-Return Receipt Requested** I caused such envelope with postage fully prepaid thereon, to be placed in the United States mail at Riverside, California

☐ **By Personal Service** I caused said document(s) to be personally served by hand on the parties listed on the attached service list.

☒ **State** I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 15, 2026, Riverside, California.

☐ **Federal** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.


Tracie Chiarito, Declarant

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