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

ZACHARY SCHENK, individually, on behalf of
all others similarly situated, the State of
California, and other aggrieved persons,

Plaintiff,

v.

SMITH'S GTS, INC., a California corporation;
and DOES 1 through 10, inclusive,

Defendants.

Case No. 23CV424953

CLASS & REPRESENTATIVE ACTION

[Assigned for all purposes to: Hon. Beth McGowen, Dept. 22]

**NOTICE OF RULING RE: ORDER
GRANTING PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

Complaint filed: October 26, 2023

FAC filed: April 15, 2024

Trial date: Not Set

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on May 22, 2026, the Court issued an Order Granting
3 Plaintiff's Motion for Preliminary Approval of the Class Action and PAGA Settlement. A true
4 and correct copy of that judgment and order are attached as Exhibit 1.

5 Respectfully submitted,

6 Dated: May 27, 2026

WILSHIRE LAW FIRM, PLC

7
8 By:  _____

Alan A. Wilcox

EXHIBIT 1

Filed
May 22, 2026
Clerk of the Court
Superior Court of CA
County of Santa Clara
23CV424953
By: fbryant

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

ZACHARY SCHENK, individually, on behalf of
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**ORDER GRANTING PLAINTIFF'S
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

This is a putative class and Private Attorneys General Act ("PAGA") action. Plaintiff Zachary Schenk alleges defendant Smith's GTS, Inc. committed various wage and hour violations.

Before the Court is Plaintiff's motion for preliminary approval of settlement, which is unopposed. As discussed below, the Court GRANTS the motion.

I. BACKGROUND

According to the allegations of the operative first amended complaint ("FAC"), Plaintiff worked for Defendant in Santa Clara as an hourly-paid, non-exempt employee from approximately December 2022 to approximately September 2023. (FAC, ¶ 8.) Defendant failed to: pay for all hours worked; provide compliant meal periods or compensation in lieu thereof; provide compliant rest periods or compensation in lieu thereof; pay full wages; furnish accurate

1 wage statements; timely pay wages; and reimburse necessary business expenses. (FAC, ¶¶ 5, 14-
2 23.)

3 On October 26, 2023, Plaintiff initiated this action with the filing of the Complaint and
4 on April 15, 2024, he filed the operative FAC, which asserts the following causes of action: (1)
5 failure to pay minimum and straight time wages (Lab. Code §§ 204, 1194, 1194.2, and 1197);
6 (2). failure to pay overtime wages (Lab. Code §§ 1194 and 1198); (3) failure to provide meal
7 periods (Cal. Lab. Code §§ 226.7, 512); (4) failure to authorize and permit rest periods (Lab.
8 Code §§ 226.7); (5) failure to timely pay final wages at termination (Lab. Code §§ 201-203); (6)
9 failure to provide accurate itemized wage statements (Lab. Code § 226); (7) failure to indemnify
10 employees for expenditures (Lab. Code § 2802); (8) unfair business practices (Bus. & Prof. Code
11 §§ 17200, et seq.); and (9) civil penalties under PAGA (Lab. Code § 2699, et seq.).

12 Plaintiff now seeks an order preliminarily: approving the settlement agreement (the
13 “Settlement”); certifying the settlement class (the “Class”) for settlement purposes; approving
14 the Class notice; approving Plaintiff as Class Representative; approving Benjamin H. Haber,
15 Daniel J. Kramer, Chase M. Stern, Alan A. Wilcox, and Conor J.D. Gomez of Wilshire Law
16 Firm, PLC (“WLF”) as Class Counsel; appointing Apex Class Action Administration (“Apex”) as the Settlement Administration; and setting a final approval hearing.

18 **II. LEGAL STANDARDS FOR SETTLEMENT APPROVAL**

19 **A. Class Action**

20 Generally, “questions whether a [class action] settlement was fair and reasonable,
21 whether notice to the class was adequate, whether certification of the class was proper, and
22 whether the attorney fee award was proper are matters addressed to the trial court’s broad
23 discretion.” (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234–235 (*Wershba*),
24 disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th
25 260.)

26 In determining whether a class settlement is fair, adequate and reasonable, the
27 trial court should consider relevant factors, such as the strength of plaintiffs’ case,
28 the risk, expense, complexity and likely duration of further litigation, the risk of

1 maintaining class action status through trial, the amount offered in settlement, the
2 extent of discovery completed and the stage of the proceedings, the experience
3 and views of counsel, the presence of a governmental participant, and the reaction
4 of the class members to the proposed settlement.

5 (*Wershba, supra*, 91 Cal.App.4th at pp. 244–245, internal citations and quotations omitted.)

6 In general, the most important factor is the strength of the plaintiffs’ case on the merits,
7 balanced against the amount offered in settlement. (See *Kullar v. Foot Locker Retail, Inc.* (2008)
8 168 Cal.App.4th 116, 130 (*Kullar*).) But the trial court is free to engage in a balancing and
9 weighing of relevant factors, depending on the circumstances of each case. (*Wershba, supra*, 91
10 Cal.App.4th at p. 245.) The trial court must examine the “proposed settlement agreement to the
11 extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or
12 overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a
13 whole, is fair, reasonable and adequate to all concerned.” (*Ibid.*, citation and internal quotation
14 marks omitted.) The trial court also must independently confirm that “the consideration being
15 received for the release of the class members’ claims is reasonable in light of the strengths and
16 weaknesses of the claims and the risks of the particular litigation.” (*Kullar, supra*, 168
17 Cal.App.4th at p. 129.) Of course, before performing its analysis the trial court must be
18 “provided with basic information about the nature and magnitude of the claims in question and
19 the basis for concluding that the consideration being paid for the release of those claims
20 represents a reasonable compromise.” (*Id.* at pp. 130, 133.)

21 B. PAGA

22 Labor Code section 2699, subdivision (1)(2) provides that “[t]he superior court shall
23 review and approve any settlement of any civil action filed pursuant to” PAGA. The court’s
24 review “ensur[es] that any negotiated resolution is fair to those affected.” (*Williams v. Superior*
25 *Court* (2017) 3 Cal.5th 531, 549.) Seventy-five percent of any penalties recovered under PAGA
26 go to the Labor and Workforce Development Agency (LWDA), leaving the remaining twenty-
27 five percent for the aggrieved employees. (*Iskanian v. CLS Transportation Los Angeles, LLC*
28

1 (2014) 59 Cal.4th 348, 380, overruled on other grounds by *Viking River Cruises, Inc. v.*
2 *Moriana* (2022) 596 U.S. 639 , 2022 U.S. LEXIS 2940.)

3 Similar to its review of class action settlements, the Court must “determine independently
4 whether a PAGA settlement is fair and reasonable,” to protect “the interests of the public and the
5 LWDA in the enforcement of state labor laws.” (*Moniz v. Adecco USA, Inc.* (2021) 72
6 Cal.App.5th 56, 76–77.) It must make this assessment “in view of PAGA’s purposes to
7 remediate present labor law violations, deter future ones, and to maximize enforcement of state
8 labor laws.” (*Id.* at p. 77; see also *Haralson v. U.S. Aviation Servs. Corp.* (N.D. Cal. 2019) 383
9 F. Supp. 3d 959, 971 [“when a PAGA claim is settled, the relief provided for under the PAGA
10 [should] be genuine and meaningful, consistent with the underlying purpose of the statute to
11 benefit the public”], quoting LWDA guidance discussed in *O’Connor v. Uber Technologies,*
12 *Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110 (*O’Connor*).)

13 The settlement must be reasonable in light of the potential verdict value. (See *O’Connor,*
14 *supra*, 201 F.Supp.3d at p. 1135 [rejecting settlement of less than one percent of the potential
15 verdict].) But a permissible settlement may be substantially discounted, given that courts often
16 exercise their discretion to award PAGA penalties below the statutory maximum even where a
17 claim succeeds at trial. (See *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-
18 CV-02198-EMC) 2016 WL 5907869, at *8–9.)

19 **III. SETTLEMENT PROCESS**

20 Plaintiff initiated this action on October 26, 2023. On December 12, 2023, Plaintiff sent
21 notice to Defendant and the Labor & Workforce Development Agency (“LWDA”) and on April
22 15, 2024, he filed the operative FAC. The parties exchanged informal discovery and Defendant
23 produced a sample of time and pay records for Class Members as well as documents of its wage
24 and hour practices during the Class period.

25 On May 24, 2024, the parties participated in mediation with Philip K. Cha, Esq., an
26 experienced class action mediator. After extensive negotiations and discussion, the parties
27 reached the Settlement currently before the Court.

1 **IV. SETTLEMENT PROVISIONS**

2 The non-reversionary gross settlement amount is \$220,000. Attorneys' fees of up to 35%
3 of the gross settlement amount (\$77,000), litigation costs of up to \$20,000, and settlement
4 administration costs of up to \$7,500.¹ \$5,000 will be allocated to PAGA penalties, 75% of which
5 (\$3,750) will be paid to the LWDA, with the remaining 25% (\$1,250) will be dispensed to
6 "Aggrieved Employees," who are defined as "a person employed by Defendant in California and
7 classified as an hourly-paid or non-exempt employee who worked for Defendant during the
8 PAGA Period [December 12, 2022 to August 23, 2024]." Plaintiff will seek a Class
9 representative service award of up to \$5,000.

10 The net settlement amount—estimated to be \$106,410—will be allocated to members of
11 the "Class," who are defined as "all past and present non-exempt employee in the state of
12 California who worked for Defendant at any time during the Class Period [October 26, 2019 to
13 August 23, 2024]." The average individual settlement payment will be approximately \$728.84.
14 For tax purposes, 20% of each Class Member's settlement payment will be allocated to wages
15 and 80% will be allocated to interests and penalties. Funds associated with checks uncashed
16 after 180 days will be transmitted to Legal Aid at Work.

17 In exchange for settlement, Class Members who do not opt out will release:

18 All Participating Class Members, on behalf of themselves and their respective
19 former and present representatives, agents, attorneys, heirs, administrators,
20 successors, and assigns, release Released Parties from any and all claims asserted
21 or that could have been asserted based on the facts pled in the operative
22 complaints, including but not limited to, state wage and hour claims for any and
23 all violations of California's Labor Code and Unfair Competition Law based on
24 Defendant's failure to pay for all hours worked (including minimum, straight time,
25 and overtime wages), failure to provide meal periods, failure to authorize and
26 permit rest periods, failure to timely pay final wages at termination, failure to
27

28 ¹ In its bid, Apex agreed to cap its costs at \$6,590.

1 furnish accurate itemized wage statements, failure to produce requested
2 employment records, and failure to indemnify employees for expenditures based
3 on the alleged Labor Code violations, and all damages, interest, penalties,
4 attorneys' fees, costs, and other amounts recoverable under said causes of action
5 under California law, to the extent permissible, including, but not limited to, the
6 California Labor Code and the applicable Wage Orders. Except as set forth in
7 Section 5.3 of this Agreement, Participating Class Members do not release any
8 other claims, including claims for vested benefits, wrongful termination, violation
9 of the Fair Employment and Housing Act, unemployment insurance, disability,
10 social security, workers' compensation, or claims based on facts occurring outside
11 of the Class Period.

12 Aggrieved Employees, who consistent with the statute will not be able to opt out of the
13 PAGA portion of the settlement, will release:

14 [A]ll claims for PAGA penalties that were alleged, or reasonably could have been
15 alleged, based on the PAGA Period facts stated in the Operative Complaint and
16 the PAGA Notice, including any and all claims involving any alleged failure to
17 pay minimum wages or overtime, failure to provide meal and rest periods, failure
18 to provide accurate wage statements, failure to pay all wages due at separation,
19 failure to produce requested employment records, and failure to reimburse
20 business expenses, including Labor Code sections 201, 202, 203, 210, 216, 223,
21 225.5, 226, 226.3, 226.7, 245-248.5, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1,
22 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2699.3, 2802,
23 2810.5 during the PAGA Period. Aggrieved Employees only release these claims
24 for the duration of the PAGA Period.

25 The foregoing releases are appropriately tailored to the allegations at issue.

26 (See *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 537.)

27 **V. FAIRNESS OF SETTLEMENT**
28

1 Based on available data provided by Defendant, Class counsel calculated that
2 Defendant's maximum exposure is as follows: \$370,311.48 (unpaid wages); \$194,931.96 (meal
3 period claim); \$296,249.18 (rest break claim); \$267,209.28 (waiting time penalties); \$97,800
4 (inaccurate wage statements); and \$100,400 (PAGA violations)—totaling \$1,326,901.90.

5 Class counsel then considered the potential risk, expense, and complexity posed by
6 litigation, such as unfavorable decisions on the pleadings, class certification, summary judgment,
7 at trial, and/or on the damages awarded, and/or on an appeal that can take several more years to
8 litigate.

9 Class counsel then estimated Defendant's realistic exposure as follows: \$74,062.30
10 (unpaid wages); \$38,986.36 (meal period claims); \$266,624.27 (rest break claim); and
11 \$93,081.86 (statutory and civil penalties)—totaling \$472,754.79.

12 The gross settlement amount is 16.5% of the maximum exposure, which is within the
13 range of recoveries typically approved by California courts. (See *Cavazos v. Salas Concrete,*
14 *Inc.* (E.D. Cal., Feb 18, 2022, No. 1:19-cv-00062-DAD-EPG) 2022 U.S. Dist. LEXIS 30201, at
15 *41-42 [citing cases approving settlements in the range of 5 to 35 percent of the maximum
16 potential exposure].) Moreover, it is 46.5% of the realistic exposure, which is above the range of
17 recoveries typically approved.

18 Considering the portion of the case's value attributable to uncertain penalties, claims that
19 could be difficult to certify for class treatment, and the multiple, dependent contingencies that
20 Plaintiff would have had to overcome to prevail on their claims, the settlement achieves a good
21 result for the class. For purposes of preliminary approval, the Court finds that the settlement is
22 fair and reasonable to the class, and the PAGA allocation is genuine, meaningful, and reasonable
23 in light of the statute's purposes.

24 VI. PROPOSED SETTLEMENT CLASS

25 Plaintiff requests that the following settlement class be provisionally certified:

26 All past and present non-exempt employee in the state of California who worked
27 for Defendant at any time during the Class Period.
28

1 **A. Legal Standard for Certifying a Class for Settlement Purposes**

2 Rule 3.769(d) of the California Rules of Court states that “[t]he court may make an order
3 approving or denying certification of a provisional settlement class after [a] preliminary
4 settlement hearing.” California Code of Civil Procedure Section 382 authorizes certification of a
5 class “when the question is one of a common or general interest, of many persons, or when the
6 parties are numerous, and it is impracticable to bring them all before the court”

7 Section 382 requires the plaintiff to demonstrate by a preponderance of the evidence:
8 (1) an ascertainable class and (2) a well-defined community of interest among the class
9 members. (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326, 332 (*Sav-On*
10 *Drug Stores*).) “Other relevant considerations include the probability that each class member
11 will come forward ultimately to prove his or her separate claim to a portion of the total recovery
12 and whether the class approach would actually serve to deter and redress alleged wrongdoing.”
13 (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.) The plaintiff has the burden of
14 establishing that class treatment will yield “substantial benefits” to both “the litigants and to the
15 court.” (*Blue Chip Stamps v. Superior Court* (1976) 18 Cal.3d 381, 385.)

16 In the settlement context, “the court’s evaluation of the certification issues is somewhat
17 different from its consideration of certification issues when the class action has not yet settled.”
18 (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 93.) As no trial is anticipated in the
19 settlement-only context, the case management issues inherent in the ascertainable class
20 determination need not be confronted, and the court’s review is more lenient in this respect. (*Id.*
21 at pp. 93–94.) But considerations designed to protect absentees by blocking unwarranted or
22 overbroad class definitions require heightened scrutiny in the settlement-only class context, since
23 the court will lack the usual opportunity to adjust the class as proceedings unfold. (*Id.* at p. 94.)

24 **B. Ascertainable Class**

25 A class is ascertainable “when it is defined in terms of objective characteristics and
26 common transactional facts that make the ultimate identification of class members possible when
27 that identification becomes necessary.” (*Noel v. Thrifty Payless, Inc.* (2019) 7 Cal.5th 955, 980
28 (*Noel*).) A class definition satisfying these requirements

1 puts members of the class on notice that their rights may be adjudicated in the
2 proceeding, so they must decide whether to intervene, opt out, or do nothing and
3 live with the consequences. This kind of class definition also advances due
4 process by supplying a concrete basis for determining who will and will not be
5 bound by (or benefit from) any judgment.

6 (*Noel, supra*, 7 Cal.5th at p. 980, citation omitted.)

7 “As a rule, a representative plaintiff in a class action need not introduce evidence
8 establishing how notice of the action will be communicated to individual class members in order
9 to show an ascertainable class.” (*Noel, supra*, 7 Cal.5th at p. 984.) Still, it has long been held
10 that “[c]lass members are ‘ascertainable’ where they may be readily identified ... by reference to
11 official records.” (*Rose v. City of Hayward* (1981) 126 Cal. App. 3d 926, 932, disapproved of on
12 another ground by *Noel, supra*, 7 Cal.5th 955; see also *Cohen v. DIRECTV, Inc.* (2009) 178
13 Cal.App.4th 966, 975-976 [“The defined class of all HD Package subscribers is precise, with
14 objective characteristics and transactional parameters, and can be determined by DIRECTV’s
15 own account records. No more is needed.”].)

16 Here, the estimated 146 Class members are readily identifiable based on Defendant’s
17 records, and the settlement class is appropriately defined based on objective characteristics. The
18 Court finds that the settlement class is numerous, ascertainable, and appropriately defined.

19 C. Community of Interest

20 The “community-of-interest” requirement encompasses three factors: (1) predominant
21 questions of law or fact, (2) class representatives with claims or defenses typical of the class, and
22 (3) class representatives who can adequately represent the class. (*Sav-On Drug Stores, supra*, 34
23 Cal.4th at pp. 326, 332.)

24 For the first community of interest factor, “[i]n order to determine whether common
25 questions of fact predominate the trial court must examine the issues framed by the pleadings
26 and the law applicable to the causes of action alleged.” (*Hicks v. Kaufman & Broad Home Corp.*
27 (2001) 89 Cal.App.4th 908, 916 (*Hicks*).) The court must also examine evidence of any conflict
28 of interest among the proposed class members. (See *J.P. Morgan & Co., Inc. v. Superior Court*

1 (2003) 113 Cal.App.4th 195, 215.) The ultimate question is whether the issues which may be
2 jointly tried, when compared with those requiring separate adjudication, are so numerous or
3 substantial that the maintenance of a class action would be good for the judicial process and to
4 the litigants. (*Lockheed Martin Corp. v. Superior Court* (2003) 29 Cal.4th 1096, 1104–1105
5 (*Lockheed Martin*).) “As a general rule if the defendant’s liability can be determined by facts
6 common to all members of the class, a class will be certified even if the members must
7 individually prove their damages.” (*Hicks, supra*, 89 Cal.App.4th at p. 916.)

8 Here, common legal and factual issues predominate. Plaintiff’s claims all arise from
9 Defendant’s wage and hour practices and policies regarding reimbursement for business related
10 expenses.

11 As for the second factor,

12 The typicality requirement is meant to ensure that the class representative is able
13 to adequately represent the class and focus on common issues. It is only when a
14 defense unique to the class representative will be a major focus of the litigation,
15 or when the class representative’s interests are antagonistic to or in conflict with
16 the objectives of those she purports to represent that denial of class certification is
17 appropriate. But even then, the court should determine if it would be feasible to
18 divide the class into subclasses to eliminate the conflict and allow the class action
19 to be maintained.

20 (*Medraza v. Honda of North Hollywood* (2008) 166 Cal. App. 4th 89, 99, internal citations,
21 brackets, and quotation marks omitted.)

22 Like the other members of the proposed class, Plaintiff was employed by Defendant as a
23 nonexempt, hourly paid employee and alleges that he experienced the violations at issue. The
24 anticipated defenses are not unique to Plaintiff, and there is no indication that Plaintiff’s interests
25 are otherwise in conflict with those of the proposed class.

26 Finally, adequacy of representation “depends on whether the plaintiff’s attorney is
27 qualified to conduct the proposed litigation and the plaintiff’s interests are not antagonistic to the
28 interests of the class.” (*McGhee v. Bank of America* (1976) 60 Cal.App.3d 442, 450.) The class

1 representative does not necessarily have to incur all of the damages suffered by each different
2 class member in order to provide adequate representation to the class. (*Wershba, supra*, 91
3 Cal.App.4th at p. 238.) “Differences in individual class members’ proof of damages [are] not
4 fatal to class certification. Only a conflict that goes to the very subject matter of the litigation
5 will defeat a party’s claim of representative status.” (*Ibid.*, internal citations and quotation marks
6 omitted.)

7 Plaintiff has the same interest in maintaining this action as any class member would have.
8 Further, he has hired experienced counsel. Plaintiff has sufficiently demonstrated adequacy of
9 representation.

10 **D. Substantial Benefits of Class Certification**

11 “[A] class action should not be certified unless substantial benefits accrue both to
12 litigants and the courts. . . .” (*Basurco v. 21st Century Ins.* (2003) 108 Cal.App.4th 110, 120,
13 internal quotation marks omitted.) The question is whether a class action would be superior to
14 individual lawsuits. (*Ibid.*) “Thus, even if questions of law or fact predominate, the lack of
15 superiority provides an alternative ground to deny class certification.” (*Ibid.*) Generally, “a
16 class action is proper where it provides small claimants with a method of obtaining redress and
17 when numerous parties suffer injury of insufficient size to warrant individual action.” (*Id.* at pp.
18 120–121, internal quotation marks omitted.)

19 Here, there are an estimated 146 Class Members. It would be inefficient for the Court to
20 hear and decide the same issues separately and repeatedly for each class member. Further, it
21 would be cost prohibitive for each class member to file suit individually, as each member would
22 have the potential for little to no monetary recovery. It is clear that a class action provides
23 substantial benefits to both the litigants and the Court in this case.

24 **VII. NOTICE**

25 The content of a class notice is subject to court approval. (Cal. Rules of Court, rule
26 3.769(f).) “The notice must contain an explanation of the proposed settlement and procedures
27 for class members to follow in filing written objections to it and in arranging to appear at the
28 settlement hearing and state any objections to the proposed settlement.” (*Ibid.*) In determining

1 the manner of the notice, the court must consider: “(1) The interests of the class; (2) The type of
2 relief requested; (3) The stake of the individual class members; (4) The cost of notifying class
3 members; (5) The resources of the parties; (6) The possible prejudice to class members who do
4 not receive notice; and (7) The res judicata effect on class members.” (Cal. Rules of Court, rule
5 3.766(e).)

6 Here, the notice, which will be provided in English, informs the Class Members of the
7 nature of the lawsuit and their rights under the terms of the Settlement and applicable law. It
8 includes: a detailed explanation of the case, including the basic contentions or denials of the
9 Parties and the basic terms of the Settlement; a statement that the court will exclude the member
10 from the class if they request so by a specified date; a procedure for the member to follow in
11 requesting exclusions from the class; an explanation that members of the Class can participate in
12 the Settlement by doing nothing; a statement that the judgment, whether favorable or not, will
13 bind all members who do not request exclusion; and a statement that any member who does not
14 request exclusion may, if the member so desires, enter an appearance through counsel. Class
15 Members are given 60 days to exclude themselves or object.

16 The form of notice is generally adequate, but must be modified to instruct Class members
17 that they may opt out of or object to the settlement simply by providing their name, *address*
18 , phone number or other personal information.

19 Regarding appearances at the final fairness hearing, the notice shall be modified to
20 instruct class members as follows:

21 Although class members may appear in person, the judge overseeing this case
22 encourages remote appearances. Class members who wish to appear remotely
23 should contact class counsel at least three days before the hearing if possible.
24 Remote appearances must be made through UDC, unless otherwise arranged with
25 the Court. Please go to [https://santaclara.courts.ca.gov/online-services/remote-](https://santaclara.courts.ca.gov/online-services/remote-hearings)
26 [hearings](https://santaclara.courts.ca.gov/online-services/remote-hearings) to find the appropriate link. Also, please note that that you must register
27 in advance to appear remotely..
28

1 Turning to the notice procedure, as articulated above, the parties have selected Apex as
2 the settlement administrator. No later than 15 days after preliminary approval, Defendant will
3 deliver the Class data (i.e., Class list and related qualifying workweeks and contact information)
4 to Apex. Apex, in turn, will mail the notice packet within 14 days of Defendant funding the
5 gross settlement amount, subsequent to updating Class members' addresses using the National
6 Change of Address Database. Any returned notices will be re-mailed within 7 days to any
7 forwarding address provided or a better address located through a skip trace or other search.
8 Class members who receive a re-mailed notice will have an additional 14 days to respond. These
9 notice procedures are appropriate and are approved.

10 **VIII. SERVICE AWARD, FEES, AND COSTS**

11 Plaintiff requests an enhancement payment of \$5,000.

12 The rationale for making enhancement or incentive awards to named plaintiffs is
13 that they should be compensated for the expense or risk they have incurred in
14 conferring a benefit on other members of the class. An incentive award is
15 appropriate if it is necessary to induce an individual to participate in the suit.

16 Criteria courts may consider in determining whether to make an incentive award
17 include: 1) the risk to the class representative in commencing suit, both financial
18 and otherwise; 2) the notoriety and personal difficulties encountered by the class
19 representative; 3) the amount of time and effort spent by the class representative;
20 4) the duration of the litigation and; 5) the personal benefit (or lack thereof)
21 enjoyed by the class representative as a result of the litigation. These "incentive
22 awards" to class representatives must not be disproportionate to the amount of
23 time and energy expended in pursuit of the lawsuit.

24 (*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1394-1395, internal
25 punctuation and citations omitted; see also *Covillo v. Specialty's Café* (N.D. Cal. 2014) 2014
26 U.S.Dist.LEXIS 29837, at *29 [incentive awards are particularly appropriate where a plaintiff
27 undertakes a significant "reputational risk" in bringing an action against an employer].)

1 Plaintiff submitted a declaration in support of his request. He states that he spent
2 approximately 100 hours on this matter, including talking with counsel on the phone; providing
3 counsel with information; reviewing documents; making himself available on the day of
4 mediation; and interviewing other employees about their experiences and relaying that
5 information to counsel. (Plaintiff's Declaration ("Decl."), ¶¶ 6-10.) Plaintiff further states he
6 considered the personal, professional, and financial risks of bringing this lawsuit. (Plaintiff's
7 Decl., ¶¶ 12-13.) The Court finds Plaintiff is entitled to a service award and the amount requested
8 is reasonable. Thus, the request is preliminarily approved.

9 The administrative costs in the amount of \$6,590 is supported by Class counsel's
10 declaration and thus, it is approved.

11 The court also has an independent right and responsibility to review the requested
12 attorney fees and only award so much as it determines reasonable. (See *Garabedian v. Los*
13 *Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) Class counsel will seek
14 attorneys' fees of up to 35% of the gross settlement amount (currently estimated to be \$77,000),
15 and litigation costs for up to \$20,000. Prior to any final approval hearing, Class counsel shall
16 submit lodestar information (including hourly rate and hours worked) as well as evidence of
17 actual litigation costs incurred.

18 **IX. CONCLUSION**

19 Plaintiff's motion for preliminary approval is GRANTED.

20 The final approval hearing shall take place on **November 19, 2026** at 1:30 in Department
21 22. The following class is preliminarily certified for settlement purposes:

22 All past and present non-exempt employee in the state of California who worked
23 for Defendant at any time during the Class Period.

24 **IT IS SO ORDERED.**

25 Date: 5-21-26

26 
27 BETH MCGOWEN
28 Judge of the Superior Court

Case No. 23CV424953

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PROOF OF SERVICE