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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES**

ENYLLEL RUGAMA-HERNANDEZ and
EDGAR SANTIAGO, as individuals, and on
behalf of themselves and on behalf of all
persons similarly situated,

Plaintiffs,

vs.

P & B INTERMODAL SERVICES LIMITED
LIABILITY COMPANY, a Limited Liability
Company; and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: **24STCV07771**

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS SETTLEMENT**

Hearing Date: September 25, 2025
Hearing Time: 11:00 a.m.

Judge: Hon. Timothy Patrick Dillon
Dept: SS-15

Date Filed: March 29, 2024
Trial Date: Not set

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1 **I. INTRODUCTION**

2 Plaintiffs Enyllel Rugama-Hernandez and Edgar Santiago (“Plaintiffs”) respectfully submit this
3 memorandum in support of the unopposed motion for preliminary approval of the proposed class action
4 settlement with Defendant P & B Intermodal Services Limited Liability Company (“Defendant”) which
5 seeks entry of an order: (1) preliminarily approving the proposed settlement of this class action with
6 Defendant; (2) for settlement purposes only, conditionally certifying the Class, which is
7 comprised of “all individuals who were employed by Defendant in California and classified as
8 a non-exempt employee at any time during the Class Period”, which is March 29, 2020 through
9 March 27, 2025; (3) provisionally appointing Plaintiffs as the representatives of the Class; (4)
10 provisionally appointing Blumenthal Nordrehaug Bhowmik De Blouw LLP and Lavi &
11 Ebrahimian, LLP as Class Counsel; (5) approving the form and method for providing class-wide
12 notice; (6) directing that notice of the proposed settlement be given to the class; (7) appointing
13 Apex Class Action LLC as the Administrator, and (8) scheduling a final approval hearing date
14 that is 120 days from preliminary approval, to consider Plaintiffs’ motion for final approval of
15 the settlement and for approval of attorneys’ fees, expenses and service awards. Plaintiffs and
16 Defendant (collectively the “Parties”) have reached a full and final settlement of the above-captioned
17 action, which is embodied in the Class Action and PAGA Settlement Agreement (“Agreement”) filed
18 concurrently with the Court.¹ A copy of the fully executed Agreement is attached as Exhibit #1 to the
19 Declaration of Kyle Nordrehaug (“Decl. Nordrehaug”), served and filed herewith. The Agreement is
20 based on the Los Angeles model form, and a redline comparison is attached as Exhibit #2 to the Decl.
21 Nordrehaug.

22 As consideration for this Settlement, the non-reversionary Gross Settlement Amount of Nine
23 Hundred Seventy-Five Thousand Dollars (\$975,000) (the “Gross Settlement Amount”) is to be paid by
24 Defendant, as set forth in the Agreement. The Gross Settlement Amount will settle all issues pending
25 in the Action between the Parties and will be made in full and final settlement of the Released Class
26 Claims in exchange for the payments to Participating Class Members from the Net Settlement Amount,
27

28 ¹ Capitalized terms shall have the same meaning as defined in the Agreement.

1 and includes (a) the costs of administration of the settlement, (b) all attorneys' fees and costs, (c) the
2 Class Representative Service Payments, and (d) the PAGA Penalties payment allocated 75% to the
3 LWDA and 25% to the Aggrieved Employees. (Agreement at ¶ 1.22.) Decl. Nordrehaug at ¶3. The
4 following is a table of the key financial terms of the Settlement and the proposed deductions:

5 **\$975,000** (Gross Settlement Amount)

- 6 - \$30,000 (Plaintiffs' proposed service awards - not to exceed \$15,000 each)
- 7 - \$30,000 (Class Counsel Litigation Expenses Payment - not to exceed amount)
- 8 - \$325,000 (Class Counsel Fees Payment - not to exceed 1/3 of settlement)
- 9 - \$20,000 (PAGA Payment - 75% to LWDA / 25% to Aggrieved Employees)
- 10 - \$9,900 (Administration Expenses Payment - not to exceed amount)

11 **\$560,100** (Net Settlement Amount)

12 Based upon 541 Class Members who collectively worked 39,643 workweeks (Agreement at ¶ 4.1), the
13 Gross Settlement Amount provides an average value of \$1,802 per Class Member and \$24 per
14 workweek and after deductions, the Net Settlement Amount provides an average recovery of \$1,035.30
15 per Class Member and a recovery of \$14.12 per workweek. Decl. Nordrehaug at ¶6.

16 On January 24, 2025, the Parties participated in an all-day mediation session presided over by
17 Tagore Subramaniam, Esq., a respected and experienced mediator of wage and hour class actions.
18 Following this mediation, the Parties agreed on the basic terms of a settlement pursuant to a mediator's
19 proposal which was memorialized in the form of a Memorandum of Understanding. Decl. Nordrehaug
20 at ¶5. The Settlement is fair, reasonable, and adequate, and should be preliminarily approved because
21 there is a substantial monetary payment, and there are significant litigation and class-certification risks.
22 Therefore, Plaintiffs respectfully request that this Court grant preliminary approval of the Agreement
23 and enter the proposed order submitted herewith.

24 **II. DESCRIPTION OF THE SETTLEMENT**

25 The Gross Settlement Amount is Nine Hundred Seventy-Five Thousand Dollars (\$975,000).
26 (Agreement at ¶ 1.22.) Under the Settlement, the Gross Settlement Amount consists of the following
27 elements: (1) payment of the Individual Class Payments to the Participating Class Members; (2) Class
28 Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (3) Administration Expenses
Payment; (4) the Class Representative Service Payments to the Plaintiffs; and (5) the PAGA Penalties
payment allocated 75% to the LWDA PAGA Payment and 25% to the Individual PAGA Payments.
(Agreement at ¶ 1.22.) The Gross Settlement Amount does not include Defendant's share of payroll

1 taxes. (Agreement at ¶ 3.1.) The Gross Settlement Amount shall be all-in with no reversion to
2 Defendant. (Agreement at ¶ 3.1.) Decl. Nordrehaug at ¶15.

3 Defendant shall fund the Gross Settlement Amount and the amount necessary to pay payroll
4 taxes thereon no later than 14 days after the Effective Date. (Agreement at ¶ 4.3.) The distribution of
5 Individual Class Payments to Participating Class Members will be made within 14 days after Defendant
6 funds the Gross Settlement Amount. (Agreement at ¶ 5.1.) Decl. Nordrehaug at ¶16.

7 The amount remaining in the Gross Settlement Amount after the deduction of Court-approved
8 amounts for Individual PAGA Payments, the LWDA PAGA Payment, the Class Representative Service
9 Payments, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the
10 Administration Expenses Payment (called the “Net Settlement Amount”) shall be allocated to Class
11 Members as their Individual Class Payments. (Agreement at ¶¶ 1.28 and 3.2.) The Administrator will
12 calculate each Individual Class Payment by (a) dividing the Net Settlement Amount by the total number
13 of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying
14 the result by each Participating Class Member's Workweeks. (Agreement at ¶ 3.2(e).) Workweeks will
15 initially be based on Defendant’s records, however, Class Members will have the right to challenge the
16 number of Workweeks. Decl. Nordrehaug at ¶17.

17 Class Members may choose to opt-out of the Settlement by following the directions in the Class
18 Notice. (Agreement at ¶ 8.5, Ex. A.) All Class Members who do not “opt out” will be deemed
19 Participating Class Members who will be bound by the Settlement and will be entitled to receive an
20 Individual Class Payment. (Agreement at ¶ 8.5(c).) All Aggrieved Employees, including those who
21 submit an opt-out request, will be paid their allocation of the PAGA Penalties and will remain subject
22 to the release of the Released PAGA Claims regardless of their request for exclusion from the Class.
23 (Agreement at ¶¶ 6.3 and 8.5(d).) Finally, the Class Notice will advise the Class Members of their right
24 to object to the Settlement and/or dispute their Workweeks. (Agreement at ¶¶ 8.6 and 8.7, and Ex. A.)
25 Decl. Nordrehaug at ¶18.

26 Participating Class Members must cash their Individual Class Payment check within 180 days
27 after it is mailed. (Agreement at ¶ 5.2.) Any settlement checks not cashed within 180 days will be
28 voided and any funds represented by such checks sent to the California Controller’s Unclaimed

1 Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the
2 requirements of California Code of Civil Procedure Section 384, subd. (b). (Agreement at ¶ 5.4.) Decl.
3 Nordrehaug at ¶19.

4 Subject to Court approval, the Parties have agreed on Apex Class Action LLC to administer the
5 settlement in this action ("Administrator"). (Agreement at ¶ 1.2.) The Administrator will be paid for
6 settlement administration in an amount not to exceed \$9,900. (Agreement at ¶ 3.2(c).) Apex Class
7 Action provided an estimate of \$8,990 for administration expenses. Decl. Nordrehaug at ¶20.

8 Subject to Court approval, the Agreement provides for Class Counsel to be awarded a sum not
9 to exceed one-third of the Gross Settlement Amount, as the Class Counsel Fees Payment. (Agreement
10 at ¶ 3.2(b).) Class Counsel will also be allowed to apply separately for an award of Class Counsel
11 Litigation Expenses Payment in an amount not to exceed \$30,000. (Agreement at ¶ 3.2(b).) Subject
12 to Court approval, the Agreement provides for a payment of no more than \$15,000 to each Plaintiff as
13 their Class Representative Service Payments. (Agreement at ¶ 3.2(a).) Decl. Nordrehaug at ¶21.

14 Subject to Court approval, the PAGA Penalties will be paid from the Gross Settlement Amount
15 for PAGA penalties under the California Private Attorneys General Act, Cal. Labor Code Section 2698,
16 *et seq.* ("PAGA"). The PAGA Penalties are \$20,000. (Agreement at ¶¶ 1.34 and 3.2(d).) Pursuant to
17 the express requirements of Labor Code § 2699(i), the PAGA Payment shall be allocated as follows:
18 75% shall be allocated to the Labor Workforce Development Agency ("LWDA") as its share of the
19 civil penalties and 25% allocated to the Individual PAGA Payments to be distributed to the Aggrieved
20 Employees based on the number of their respective PAGA Pay Periods.² (Agreement at ¶ 3.2(d).) As
21 set forth in the accompanying proof of service, the LWDA has been served with this motion and the
22 Agreement. Decl. Nordrehaug at ¶22.

23 **III. CASE BACKGROUND**

24 The description of the case and claims, along with the procedural history is set forth in the
25 Declaration of Kyle Nordrehaug at ¶¶ 7-14. The Parties engaged in thorough investigation and the
26

27
28 ² The PAGA claim in this Action was initiated prior to June 2024, and therefore the prior version
of Labor Code ¶2699 applies to the 75/25 allocation.

1 exchange of documents and information in connection with the Action over more than one year which
2 permitted Class Counsel to perform a thorough analysis of the claims. Decl. Nordrehaug, ¶¶ 10 and
3 14. The Parties participated in mediation on January 24, 2025 with Tagore Subramaniam, Esq., which
4 after arms' length negotiations during the mediation, resulted in this Settlement. Decl. Nordrehaug, ¶12.

5
6 **IV. THE SETTLEMENT MEETS THE CRITERIA NECESSARY FOR THIS COURT TO**
7 **GRANT PRELIMINARY APPROVAL**

8 California "[p]ublic policy generally favors the compromise of complex class action litigation."
9 *Nordstrom Comm'n Cases*, 186 Cal. App. 4th 576, 581 (2010) quoting *Cellphone Termination Fee*
10 *Cases*, 180 Cal.App.4th 1110, 1117-18 (2009). Class action settlements are approved where the
11 proposed settlement is "fair, adequate and reasonable." *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794,
12 1801 (1996) (citing *Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 625 (9th Cir. 1982), cert.
13 denied, 459 U.S. 1217 (1983)).

14 Preliminary approval is the first of three steps that comprise the approval procedure for
15 settlements of class actions. The second step is the dissemination of notice of the settlement to all class
16 members. The third step is a final settlement approval hearing, at which evidence and argument
17 concerning the fairness, adequacy, and reasonableness of the settlement may be presented, and class
18 members may be heard regarding the settlement. *See Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794,
19 1801 (1996); *Manual for Complex Litigation, Second* §30.44 (1993); Cal. Rules of Court, rule 3.769.

20 The primary question presented on an application for preliminary approval of a proposed class
21 action settlement is whether the proposed settlement is "within the range of possible approval."
22 *Manual for Complex Litigation, Second* §30.44 at 229; *Gautreaux v. Pierce*, 690 F.2d 616, 621 n.3 (7th
23 Cir. 1982).³ Preliminary approval is merely the prerequisite to giving notice so that "the proposed
24 settlement... may be submitted to members of the prospective Class for their acceptance or rejection."

25
26 ³ California courts look to federal authority on class actions. *Vasquez v. Superior Court*, 4 Cal.3d
27 800, 821 (1971). "It is well established that in the absence of relevant state precedents trial courts are
28 urged to follow the procedures prescribed in Rule 23 of the Federal Rules of Civil Procedure for
conducting class actions." *Frazier v. City of Richmond*, 184 Cal. App.3d 1491, 1499 (1986), citing
Green v. Obledo, 29 Cal.3d 126, 145-146 (1981).

1 *Sayaman v. Baxter Healthcare Corp.*, 2010 U.S. Dist. LEXIS 151997, *3 (C.D. Cal. 2010). There is
2 "a presumption of fairness . . . where . . . [a] settlement is reached through arms-length bargaining."
3 *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 245 (2001) (citation omitted); see also *Cho v.*
4 *Seagate Tech. Holdings, Inc.*, 177 Cal. App. 4th 734, 742-45 (2009) (upholding trial court's
5 determination that settlement was "fair, reasonable and adequate" where the settlement "provided
6 valuable benefits to the class . . . that were 'particularly valuable in light of the risks plaintiff would have
7 faced if she proceeded to litigate her case.'"); *Newberg*, 3d Ed., §11.41, p.11-88. However, the ultimate
8 question of whether the proposed settlement is fair, reasonable, and adequate is made after notice of
9 the settlement is given to the class members and a final settlement hearing is held by the Court.

10 **A. The Role Of The Court In Preliminary Approval Of A Class Action Settlement**

11 The approval of a proposed settlement of a class action suit is a matter within the broad
12 discretion of the trial court. *Wershba, supra*, 91 Cal.App.4th at 234-235; *Dunk*, 48 Cal.App.4th 1794.
13 In considering a potential settlement for preliminary approval purposes, the trial court does not have
14 to reach any ultimate conclusions on the issues of fact and law which underlie the merits of the dispute,
15 and need not engage in a trial on the merits. *Wershba, supra*, 91 Cal.App.4th at 239-40; *Dunk, supra*,
16 48 Cal.App. 4th at 1807. The Ninth Circuit explains, "the very essence of a settlement is compromise,
17 'a yielding of absolutes and an abandoning of highest hopes.'" *Officers for Justice*, 688 F.2d at 624.
18 Thus, when analyzing the settlement, the amount is "not to be judged against a hypothetical or
19 speculative measure of what might have been achieved by the negotiators." *Officers for Justice*, 688
20 F.2d at 625, 628.

21 With regard to class action settlements, the opinions of counsel should be given considerable
22 weight both because of counsel's familiarity with this litigation and previous experience with cases
23 such as these. *Officers for Justice*, 688 F.2d at 625. As a result, courts hold that the recommendation
24 of counsel is entitled to significant weight. *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221
25 F.R.D. 523, 528 (C.D. Cal. 2004).

26 **B. Factors To Be Considered In Granting Preliminary Approval**

27 A number of factors are to be considered in evaluating a settlement for purposes of preliminary
28 approval. In determining whether to grant preliminary approval, the court considers whether the "(1)

1 the proposed settlement appears to be the product of serious, informed, non-collusive negotiations, (2)
2 has no obvious deficiencies, (3) does not improperly grant preferential treatment to class representatives
3 or segments of the class, and (4) falls within the range of possible approval.” *In re Tableware Antitrust*
4 *Litig.*, 484 F.Supp. 2d 1078, 1079 (N.D. Cal. 2007). Courts hold that “a presumption of fairness exists
5 where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery
6 are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar
7 litigation; and (4) the percentage of objectors is small.” *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.
8 App. 4th 116, 128 (2008). Here, the Settlement meets all of these criteria for preliminary approval and
9 therefore the presumption applies.

10 **1. The Settlement is the Product of Serious, Informed and**
11 **Arm’s Length Negotiations by Experienced Counsel**

12 This settlement is the result of extensive and hard-fought litigation as well as negotiations
13 before an experienced and well-respected mediator. Defendant has expressly denied and continues to
14 deny any wrongdoing or legal liability arising out of the conduct alleged in the Action. Plaintiffs and
15 Class Counsel have determined that it is desirable and beneficial to the Class to resolve the Released
16 Class Claims of the Class in accordance with this Settlement. The release applicable to the Class is
17 appropriately tethered to allegations in the Action. (Agreement at ¶ 6.2.)

18 Class Counsel are experienced and qualified to evaluate the class claims, the defenses asserted,
19 and the risks and benefits of trial and settlement, and Class Counsel are particularly experienced in
20 wage and hour employment class actions, as Class Counsel has previously litigated and certified similar
21 claims against other employers. Decl. Nordrehaug at ¶31; Declaration of Eric J. Naessig at ¶¶ 10-11.
22 The view of qualified and well-informed counsel that a class action settlement is fair, adequate, and
23 reasonable is entitled to significant weight. *See Kullar v. Foot Locker*, 168 Cal. App. 4th 116, 133
24 (2008) (the trial court “undoubtedly should continue to place reliance on the competence and integrity
25 of counsel, the involvement of a qualified mediator, and the paucity of objectors to the settlement.”);
26 *Dunk*, 48 Cal. App. 4th at 1802.

27 The Parties attended an arms-length mediation session with Tagore Subramaniam, Esq., a
28 respected and experienced mediator of wage and hour class actions, in order to reach this Settlement.

1 In preparation for the mediation, Defendant provided Class Counsel with timekeeping and employment
2 data and other information regarding the Class Members, various internal documents, and other
3 compensation and employment-related materials. Class Counsel analyzed the data with the assistance
4 of damages expert Berger Consulting and prepared and submitted a mediation brief to the mediator. The
5 final settlement terms were negotiated and set forth in the Agreement now presented for this Court's
6 approval. Decl. Nordrehaug at ¶ 5. Importantly, Plaintiffs and Class Counsel believe that this
7 Settlement is fair, reasonable, and adequate.

8 As consideration for this Settlement, the Gross Settlement Amount to be paid by Defendant is
9 Nine Hundred Seventy-Five Thousand Dollars (\$975,000). The Settlement is all-in with no reversion
10 to Defendant and no need to submit a claim form. Decl. Nordrehaug at ¶ 3.

11 Class Counsel has conducted an investigation into the facts of the class action. Informal
12 discovery was obtained, which included the production of hundreds of pages documents and data.
13 Class Counsel engaged in a thorough review and analysis of the relevant documents and data with the
14 assistance of an expert. Accordingly, the agreement to settle did not occur until Class Counsel
15 possessed sufficient information to make an informed judgment regarding the likelihood of success on
16 the merits and the results that could be obtained through further litigation. In addition, Class Counsel
17 previously negotiated settlements with other employers in actions involving nearly identical issues and
18 analogous defenses. Based on the foregoing data and their own independent investigation, evaluation
19 and experience, Class Counsel believes that the settlement with Defendant on the terms set forth in the
20 Agreement is fair, reasonable, and adequate and is in the best interest of the Class in light of all known
21 facts and circumstances, including the risk of significant delay, defenses asserted by Defendant, and
22 potential appellate issues. Decl. Nordrehaug at ¶ 14.

23 Plaintiffs and Class Counsel recognize the expense and length of continuing to litigate and
24 trying this Action against Defendant through possible appeals which could take several years. Class
25 Counsel has also taken into account the uncertain outcome and risk of litigation, especially in complex
26 class actions such as this Action. Class Counsel is also mindful of and recognize the inherent problems
27 of proof under, and alleged defenses to, the claims asserted in the Action. Based upon their evaluation,
28 Plaintiffs and Class Counsel have determined that the Settlement set forth in the Agreement is in the

1 best interest of the Class Members. Decl. Nordrehaug, ¶ 23.

2 Here, there can be no dispute that the litigation has been hard-fought with aggressive and
3 capable advocacy on both sides. The Parties were represented by experienced and capable counsel who
4 zealously advocated their positions. Accordingly, “[t]here is likewise every reason to conclude that
5 settlement negotiations were vigorously conducted at arms’ length and without any suggestion of undue
6 influence.” *In re Wash. Public Power Supply System Sec. Litig.*, 720 F. Supp. at 1392.

7 **2. The Settlement Has No "Obvious Deficiencies" and Falls Well Within**
8 **the Range for Approval**

9 The proposed Settlement herein has no "obvious deficiencies" and is well within the range of
10 possible approval. All Class Members will receive an opportunity to participate in the Settlement and
11 receive payment according to the same formula. (Agreement at ¶ 3.2(e).) Based upon 541 Class
12 Members who collectively worked 39,643 workweeks (Agreement at ¶ 4.1), the Gross Settlement
13 Amount provides an average value of \$1,802 per Class Member and \$24 per workweek and after
14 deductions, the Net Settlement Amount provides an average recovery of \$1,035.30 per Class Member
15 and a recovery of \$14.12 per workweek. Decl. Nordrehaug, ¶6.

16 The calculations to compensate for the amount due for the Class at the time of the mediation
17 were calculated by Berger Consulting, Plaintiffs’ damage expert. As to the Class whose claims are at
18 issue in this Action, Plaintiffs used this expert to analyze the data and determine the potential unpaid
19 wages for the employees. The maximum potential damages were calculated to be \$1,330,418 for the
20 alleged unpaid wages due to off-the-clock work at 1 hour per week, \$5,039 for the alleged underpaid
21 overtime due to the alleged miscalculation of the regular rate, \$1,410 for the alleged underpaid sick pay
22 due to the alleged miscalculation of the regular rate, \$3,500,630 for alleged meal period damages based
23 upon a 54% potential violation rate for shifts observed in the time records and after deduction of meal
24 premiums paid by Defendant, and \$3,504,302 for alleged rest period damages based upon the same
25 23.1% potential violation rate observed for meal breaks, \$247,318 for alleged unreimbursed business
26 expenses for personal cell phone usage at \$5 per month. Decl. Nordrehaug, ¶6. As a result, the total
27 damage valuation was calculated that Defendant was subject to a maximum damage claim in the
28 amount of \$8,589,119. As to potential penalties, Plaintiffs calculated that potential waiting time

1 penalties were a maximum of \$3,563,715, and potential maximum wage statement penalties were
2 \$1,740,000.⁴ Defendant vigorously disputed Plaintiffs' calculations and exposure theories. See Decl.
3 Nordrehaug, at ¶6 for additional details as to the valuation of the claims.

4 Consequently, the Gross Settlement Amount of \$975,000 represents more than 11% of the
5 maximum value of the alleged damages at issue in this case at the time this Settlement was negotiated.⁵
6 The mediation valuation set forth above likely overvalued the claims by at least 20% because the
7 valuation used 49,761 workweeks, when in fact the actual workweeks were more than 20% less.
8 Importantly, the recent decision that good faith belief of compliance by the employer in *Naranjo v.*
9 *Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024), could completely negate the claims for
10 waiting time and wage statement penalties, even if wages were owed to the Class. The above maximum
11 calculations should then be adjusted in consideration for both the risk of class certification and the risk
12 of establishing class-wide liability on all claims. Given the amount of the settlement as compared to
13 the potential value of claims in this case and the defenses asserted by Defendant, this settlement is fair
14 and reasonable.⁶ Clearly, the goal of this litigation has been met. Decl. Nordrehaug, ¶6.

15
16 ⁴ While Plaintiffs alleged claims for statutory penalties pursuant to Labor Code Sections 203 and
17 226, at mediation Plaintiffs recognized that these claims were subject to additional, separate defenses
18 asserted by Defendant, including, a good faith dispute defense as to whether any premium wages for
19 meal or rest periods or other wages were owed given Defendant's position that Plaintiffs and Class
20 Members were properly compensated. See *Nordstrom Commission Cases*, 186 Cal. App. 4th 576, 584
(2010) ("There is no willful failure to pay wages if the employer and employee have a good faith
dispute as to whether and when the wages were due.").

21 ⁵ Because the PAGA claim is not a class claim and primarily is paid to the State of California,
22 Plaintiffs have not included the PAGA claim in this discussion of the value of the class claims. The
PAGA claim is addressed in the Decl. Nordrehaug at ¶33.

23 ⁶ See *Glass v. UBS Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476 (N.D. Cal. 2007) (approving a
24 settlement where the settlement amount constituted approximately 25% of the estimated overtime
25 damages for the class); *Stovall-Gusman v. W.W. Granger, Inc.*, 2015 U.S. Dist. LEXIS 78671, at *12
26 (N.D. Cal. 2015) (granting final approval where "the proposed Total Settlement Amount represents
approximately 10% of what class might have been awarded had they succeeded at trial."); *Dunleavy*
27 *v. Nadler (In re Mego Fin. Corp. Sec. Litig.)*, 213 F.3d 454, 459 (9th Cir. 2000) (affirming approval
of a class settlement which represented "roughly one-sixth of the potential recovery".) See also *Viceral*
28 *v. Mistras Grp., Inc.*, 2016 WL 5907869 (N.D. Cal. 2016) (approving wage and hour class action
settlement amounting to 8.1% of full value); *Ma v. Covidien Holding, Inc.*, 2014 WL 2472316, (C.D.
Cal. 2014) (approving wage and hour class action settlement worth "somewhere between 9% and 18%")

1 Where both sides face significant uncertainty, the attendant risks favor settlement. *Hanlon v.*
2 *Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998). Here, a number of defenses asserted by
3 Defendant present serious threats to the claims of the Plaintiffs and the other Class Members.
4 Defendant asserted that Defendant's practices complied with all applicable Labor laws. Defendant
5 argued that Class Members were paid for all time worked and that all work time was properly recorded
6 and compensation for that time was correctly compensated. Defendant contends that its meal and rest
7 period policies fully complied with California law and Defendant did not fail to provide the opportunity
8 for legally required meal and rest breaks. Defendant could argue that the payment of meal period
9 premiums is evidence of its lawful practices. Defendant contends that there was no failure to pay for
10 business expenses and any cell phone usage was merely convenient and voluntary such that
11 reimbursement was not legally required. Finally, Defendant could argue that the Supreme Court
12 decision in *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012), weakened Plaintiffs' claims, on
13 liability, value, and class certifiability as to the meal and rest period claims. Defendant also argues that
14 based on their facially lawful practices, Defendant acted in good faith and without willfulness, which
15 if accepted would negate the claims for waiting time penalties and/or inaccurate wage statements. See
16 e.g. *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (May 6, 2024) ("if an employer
17 reasonably and in good faith believed it was providing a complete and accurate wage statement in
18 compliance with the requirements of section 226, then it has not knowingly and intentionally failed to
19 comply with the wage statement law.") Defendant's defenses could eliminate or substantially reduce
20 any recovery to the Class. While Plaintiffs believe that these defenses could be overcome, Defendant
21 maintains these defenses have merit and therefore present a serious risk to recovery by the Class. Decl.
22 Nordrehaug, ¶ 24.

23 There was also a significant risk that, if the Action was not settled, Plaintiffs would be unable
24 to obtain a certified class and maintain the certified class through trial, and thereby not recover on
25 behalf of any employees other than themselves. At the time of the mediation, Defendant forcefully
26 opposed the propriety of class certification, arguing that individual issues precluded class certification.

27 _____
28 of maximum valuation).

1 Further, as demonstrated by the California Supreme Court decision in *Duran v. U.S. Bank National*
2 *Assn.*, 59 Cal. 4th 1 (2014), there are significant hurdles to overcome for a class-wide recovery even
3 where the class has been certified. While other cases have approved class certification in wage and
4 hour claims, class certification in this action was hotly disputed and the maintenance of a certified class
5 through trial was by no means a foregone conclusion. Decl. Nordrehaug, ¶ 25.

6 After arm's length negotiations between experienced and informed counsel, the Parties
7 recognized the potential risks and agreed on the Settlement with a Gross Settlement Amount of
8 \$975,000. As the Court held in *Glass*, where the parties faced uncertainties similar to those here:

9 In light of the above-referenced uncertainty in the law, the risk, expense, complexity,
10 and likely duration of further litigation likewise favors the settlement. Regardless of
11 how this Court might have ruled on the merits of the legal issues, the losing party likely
12 would have appealed, and the parties would have faced the expense and uncertainty of
13 litigating an appeal. 'The expense and possible duration of the litigation should be
14 considered in evaluating the reasonableness of [a] settlement.'"

15 2007 WL 221862, at *4 (quoting *In re Mego Financial Corp. Securities Litigation*, 213 F.3d 454, 458
16 (9th Cir. 2000)).

17 **3. The Settlement Does Not Improperly Grant Preferential Treatment To** 18 **Class Representatives or Segments Of The Class**

19 The relief provided in the Settlement will benefit all members of the Class. The Settlement does
20 not grant preferential treatment to Plaintiffs or segments of the Class in any way. Payments to the Class
21 Members are all determined under a neutral methodology. Each Participating Class Member will
22 receive the same opportunity to participate in and receive payment through a neutral formula that is
23 based upon the weeks worked by that individual. Decl. Nordrehaug, ¶4.

24 Plaintiffs will apply to the Court for Class Representative Service Payments in consideration
25 for their service and for the risks undertaken on behalf of the Class. (Agreement at ¶ 3.2(a).) Plaintiffs
26 performed their duties admirably by working with Class Counsel over the course of litigation. The
27 Declarations of the Plaintiffs are submitted herewith in support. Decl. Nordrehaug at ¶27. At this
28 stage, the not to exceed amount for the requested service award is within the accepted range of awards
for purposes of preliminary approval, subject to the Court's determination at final approval. See e.g.
Andrews v. Plains All Am. Pipeline L.P., 2022 U.S. Dist. LEXIS 172183, at *11 (C.D. Cal. 2022)
(finding that the requested service awards of \$15,000 each are appropriate); *Reynolds v. Direct Flow*

1 *Med., Inc.*, 2019 U.S. Dist. LEXIS 149865, at *19 (N.D. Cal. 2019) (granting request for \$12,500
2 service award); *Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018 U.S. Dist. LEXIS 71386 (E.D. Cal. 2018)
3 (awarding \$12,500 where average class member payment was \$351); *Louie v. Kaiser Foundation*
4 *Health Plan, Inc.*, 2008 WL 4473183, *7 (S.D.Cal. Oct. 06, 2008) (awarding \$25,000 service award
5 to each of six plaintiffs in overtime class action); *Glass v. UBS Fin. Servs.*, 2007 WL 221862, *16-17
6 (N.D. Cal. 2007) (awarding \$25,000 service award in overtime class action and a pool of \$100,000 in
7 enhancements). As explained in *Glass*, service awards are routinely awarded to class representatives
8 to compensate the employees for the time and effort expended on the case, for the risk of litigation, for
9 the fear of suing an employer and retaliation there from, and to serve as an incentive to vindicate the
10 statutory rights of all employees. 2007 WL 221862 at *16-17.

11 **4. The Stage Of The Proceedings Are Sufficiently Advanced To Permit**
12 **Preliminary Approval Of The Settlement**

13 The stage of the proceedings at which this Settlement was reached also militates in favor of
14 preliminary approval and ultimately, final approval of the Settlement. Class Counsel has conducted
15 a thorough investigation into the facts of the class action. Class Counsel began investigating the Class
16 Members' claims before the Action was filed, and during the course of litigation, Class Counsel
17 engaged in informal discovery to obtain necessary information. Class Counsel conducted a review and
18 analysis of the relevant documents and data. Class Counsel was also experienced with the claims at
19 issue here, as Class Counsel previously litigated and settled similar claims in other actions.
20 Accordingly, the agreement to settle did not occur until Class Counsel possessed sufficient information
21 to make an informed judgment regarding the likelihood of success on the merits and the results that
22 could be obtained through further litigation. Decl. Nordrehaug at ¶28.

23 Based on the foregoing data and their own independent investigation and evaluation, Class
24 Counsel is of the opinion that the Settlement with Defendant for the consideration and on the terms set
25 forth in the Agreement is fair, reasonable, and adequate and is in the best interest of the Class in light
26 of all known facts and circumstances, including the risk of significant delay, defenses asserted by
27 Defendant, and numerous potential appellate issues. There can be no doubt that Counsel possessed
28 sufficient information to make an informed judgment regarding the likelihood of success on the merits

1 and the results that could be obtained through further litigation. Decl. Nordrehaug at ¶29.

2 **V. THE CLASS IS PROPERLY CERTIFIED FOR SETTLEMENT PURPOSES ONLY**

3 Plaintiffs contend that the proposed settlement meets all of the requirements for class
4 certification under California Code of Civil Procedure § 382 as demonstrated below, and therefore, the
5 Court may appropriately approve the Class as defined in the Agreement. This Court should
6 conditionally certify the Class for settlement purposes only, defined as follows:

7 All individuals who were employed by Defendant in California and classified as a
8 non-exempt employee at any time during the Class Period.

9 (Agreement at ¶ 1.5.)

10 The Class Period is from March 29, 2020 through March 27, 2025. (Agreement at ¶ 1.13.)

11 **A. California Code of Civil Procedure § 382**

12 Plaintiffs seek certification of this Class for settlement purposes under California Code of Civil
13 Procedure § 382. The California Supreme Court has summarized the standard for determining whether
14 class certification is appropriate as follows:

15 Code of Civil Procedure Section 382 authorizes class actions “when the question is one
16 of a common or general interest, of many persons, or when the parties are numerous,
17 and it is impracticable to bring them all before the court....” The party seeking
18 certification has the burden to establish the existence of both an ascertainable class and
a well-defined community of interest among class members. (*citations omitted*). The
“community of interest” requirement embodies three factors: (1) predominant common
questions of law or fact; (2) class representatives with claims or defenses typical of the
class; and (3) class representatives who can adequately represent the class.

19 *Sav-On Drug Stores, Inc. v. Superior Court*, 34 Cal. 4th 319, 326 (2004).

20 While Defendant reserves all rights to dispute that the Plaintiffs can satisfy these requirements,
21 the Parties agree that Defendant will not dispute that these requirements may be satisfied in this case
22 for purposes of settlement only and therefore, the proposed Class should be certified for purposes of
23 settlement only. (Agreement at ¶ 2.8.)

24 **B. The Proposed Class Is Ascertainable and Numerous**

25 Plaintiffs bring this action on behalf of a Class of non-exempt employees of Defendant during
26 the Class Period. Plaintiffs assert that all of these individuals are ascertainable because the class
27 members can readily be determined through examination of Defendant’s files. Given that the Class
28 consists of 541 individuals, Plaintiffs maintain that numerosity is clearly satisfied. *See Bowles v.*

1 *Superior Court*, 44 Cal.2d 574 (1955) (class with 10 members sufficiently numerous); *Rose v. City of*
2 *Hayward*, 126 Cal.App.3d 926, 934 (1981) (class of 48 members satisfies numerosity requirement.)
3 Here, Plaintiffs assert that the 541 current and former employees that comprise the Class can be
4 identified based on Defendant's records and are sufficiently numerous for class certification. Decl.
5 Nordrehaug at ¶30.

6 **C. Common Issues of Law and Fact Predominate**

7 Predominance of common issues of law or fact does not require that the common issues be
8 dispositive of the entire controversy or even that they be dispositive of all liability issues. 1 *Newberg*
9 *on Class Actions*, Section 4.25 at 4-82, 4-83 (1992). "Predominance is a comparative concept, and 'the
10 necessity for class members to individually establish eligibility and damages does not mean individual
11 fact questions predominate.'" *Sav-On*, 34 Cal. 4th at 334.

12 Commonality exists if there is a predominant common legal question regarding how an
13 employer's policies impact its employees. *Ghazaryan v. Diva Limousine, Ltd.*, 169 Cal. App. 4th 1524,
14 1536 (2008) ("[T]he common legal question remains the overall impact of Diva's policies on its
15 drivers.") Whether the plaintiff is likely to prevail on their theory of recovery is irrelevant at the
16 certification stage since the question is "essentially a procedural one that does not ask whether an action
17 is legally or factually meritorious." *Linder v. Thrifty Oil Co.*, 23 Cal. 4th 429, 439-440 (2003).

18 Here, Plaintiffs contend that common questions of law and fact are present, specifically the
19 common questions of whether Defendant's employment practices were lawful, whether Defendant
20 failed to provide meal and rest periods to Class Members, whether Class Members were lawfully
21 compensated for all hours worked, whether Defendant failed to provide required expense
22 reimbursement, and whether Class Members are entitled to damages and penalties as a result of these
23 practices. Plaintiffs contend that certification of this Class is appropriate because Defendant allegedly
24 engaged in uniform practices with respect to the Class Members. As a result, these common questions
25 of liability could be answered on a class wide basis. Decl. Nordrehaug, ¶30. Defendant disputes that
26 common questions predominate but will not oppose such a finding for purposes of this Settlement only.
27
28

1 **D. The Claims of the Plaintiffs Are Typical of the Class Claims**

2 The typicality requirement requires the Plaintiffs to demonstrate that the members of the Class
3 have the same or similar claims as the Plaintiffs. “The typicality requirement is met when the claims
4 of the [p]laintiff arise from the same event or are based on the same legal theories.” *Tate v.*
5 *Weyerhaeuser Co.*, 723 F.2d 598, 608 (8th Cir. 1983). In *Hanlon, supra*, 150 F.3d at 1020, the Ninth
6 Circuit held that “[u]nder the rule’s permissive standards, representative claims are ‘typical’ if they are
7 reasonably coextensive with those of absent class members; they need not be substantially identical.”

8 In this Action, Plaintiffs contend that the typicality requirement is fully satisfied. Plaintiffs, like
9 every other member of the Class, were employed by Defendant as non-exempt employees, and, like
10 every other member of the Class, were subject to the same employment practices. Plaintiffs, like every
11 other member of the Class, also claim owed compensation as a result of the Defendant’s uniform
12 company policies and practices. Thus, the claims of Plaintiffs and the members of the Class arise from
13 the same course of conduct by Defendant, involve the same issues, and are based on the same legal
14 theories. Decl. Nordrehaug at ¶30. For purposes of settlement, Plaintiffs assert that the typicality
15 requirement is met as to the common issues presented in this case. Defendant does not oppose a finding
16 of typicality for purposes of this Settlement only.

17 **E. The Class Representation Fairly and Adequately Protected the Class**

18 Plaintiffs contend that the Class Members are adequately represented here because Plaintiffs
19 and representing counsel (a) do not have any conflicts of interest with other class members, and (b) will
20 prosecute the case vigorously on behalf of the class. *Hanlon*, 150 F.3d at 1020. This requirement is
21 met here. First, Plaintiffs are well aware of their duties as the representatives of the Class and have
22 actively participated in the prosecution of this case to date. Plaintiffs effectively communicated with
23 Class Counsel, provided documents and information to Class Counsel, and participated in the
24 investigation and resolution of the Action. The personal involvement of the Plaintiffs was essential to
25 the prosecution of the Action and the monetary settlement reached. Second, Plaintiffs retained
26 competent counsel who are experienced in employment class actions and who have no conflicts. Decl.
27 Nordrehaug at ¶ 31; Declaration of Eric J. Naessig. Third, there is no antagonism between the interests
28 of the Plaintiffs and those of the Class. Both the Plaintiffs and the Class Members seek monetary relief

1 under the same set of facts and legal theories. Under such circumstances, there can be no conflicts of
2 interest, and adequacy of representation is satisfied. *Reaves v. Ketoro, Inc.*, 2020 U.S. Dist. Lexis
3 167926, *23 (C.D. Cal. 2020). Defendant disputes that the adequacy requirement is satisfied but will
4 not oppose such a finding for purposes of this Settlement only.

5 **F. The Superiority Requirement Is Met**

6 To certify a class, the Court must also determine that a class action is superior to other available
7 methods for the fair and efficient adjudication of the controversy. “Where classwide litigation of
8 common issues will reduce litigation costs and promote greater efficiency, a class action may be
9 superior to other methods of litigation.” *Valentino v. Carter-Wallace, Inc.*, 97 F.3d 1227, 1234 (9th Cir.
10 1996). As courts have previously observed:

11 Absent class treatment, each individual plaintiff would present in separate, duplicative
12 proceedings the same or essentially the same arguments and evidence, including expert
13 testimony. The result would be a multiplicity of trials conducted at enormous expense
14 to both the judicial system and the litigants. “It would be neither efficient nor fair to
15 anyone, including defendants, to force multiple trials to hear the same evidence and
16 decide the same issues.”

17 *Sav-On*, 34 Cal. 4th at 340, citing *Boggs v. Divested Atomic Corp.*, 141 F.R.D. 58, 67 (S.D. Ohio 1991).

18 Here, Plaintiffs contend that a class action is the superior mechanism for resolution of the claims
19 as pled by the Plaintiffs. While Defendant disputes that class treatment is superior, Defendant does not
20 dispute a finding of superiority in this action for purposes of this Settlement only.

21 **VI. THE PROPOSED METHOD OF CLASS NOTICE IS APPROPRIATE**

22 The Court has broad discretion in approving a practical notice program. The Parties have
23 agreed upon procedures by which the Class Members will be provided with written notice of the
24 Settlement similar to that approved and utilized in hundreds of class action settlements. In accordance
25 with the Agreement, Defendant will provide to the Administrator a confidential electronic spreadsheet
26 containing the Class Data not later than fifteen (15) days after the Court grants Preliminary Approval
27 of the Settlement. (Agreement at ¶ 4.2.) Within 14 days after receiving the Class Data, the
28 Administrator will mail the Class Notice to all Class Members via first-class U.S. Mail using the most
current mailing address information available. (Agreement at ¶ 8.4(b).)

The Class Notice, drafted jointly and agreed upon by the Parties through their respective counsel

1 and to be approved by the Court, is based on the Los Angeles model form and includes all relevant
2 information. (*See Exhibit “A”* to the Agreement.) The Parties agree that the Class Notice need only be
3 in English as all Class Members were able to read and understand English as a condition of their
4 employment. The Class Notice will include, among other information: (i) information regarding the
5 Action; (ii) the impact on the rights of the Class Members if they do not opt out, including a description
6 of the applicable release; (iii) information to the Class Members regarding how to opt out and how to
7 object to the Settlement; (iv) the estimated Individual Class Payment for each of the Class Members;
8 (iii) the amount of attorneys’ fees and expenses to be sought; (v) the amount of the Plaintiffs’ service
9 award request; and (vi) the anticipated expenses of the Administrator. Decl. Nordrehaug at ¶32.

10 The Class Notice will state that the Class Members shall have sixty (60) days from the date that
11 the Class Notice is mailed to them (the “Response Deadline”) to request exclusion (opt-out) or to
12 submit a written objection. (Agreement at ¶¶ 1.42, 8.5, 8.7.) Class Members shall be given the
13 opportunity to object to the Settlement and/or requests for attorneys’ fees and expenses and to appear
14 at the Final Approval Hearing. (Agreement at ¶ 8.7.) Class Members who do not submit a timely and
15 proper request to opt-out will automatically receive a payment of their Individual Class Payment. This
16 notice program was designed to meaningfully reach the Class Members and it advises them of all
17 pertinent information concerning the Settlement. Decl. Nordrehaug at ¶32. The mailing and
18 distribution of the Class Notice satisfies the requirements of due process and is the best notice
19 practicable under the circumstances and complies with Rules of Court 3.766 and 3.769(f).

21 **VII. CONCLUSION**

22 Plaintiffs respectfully request that the Court preliminarily approve the proposed settlement, sign
23 the proposed Preliminary Approval Order, which is submitted herewith, and schedule the final approval
24 hearing a date that is at least one hundred twenty (120) days from the date of Preliminary Approval.

25 Dated: July 23, 2025

**BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP**

26 By: /s/ Kyle Nordrehaug
27 Kyle R. Nordrehaug, Esq.
28 Attorney for Plaintiffs