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ISRAEL FLORES

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

ISRAEL FLORES, an individual, on behalf of himself and all others similarly situated, Plaintiff, vs. KML SERVICES, INC., a California Corporation; and DOES 1 through 100, Defendants.	**CASE NO.: 30-2024-01375907-CU-OE-CXC** *[Assigned for ALL Purposes to the Honorable Judge Melissa R. McCormick – Department CX104]* **PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** Date: March 5, 2026 Time: 2:00 p.m. Dept.: CX104 Complaint filed: January 24, 2024 FAC filed: April 2, 2024 Trial Date: Not set

PLEASE TAKE NOTICE that pursuant to Rule 3.769 of the California Rules of Court, on March 5, 2026 at 2:00 p.m. in Department CX104 of the above-entitled Court, located at 751 W. Santa Ana Blvd. Santa Ana, California 92701, Plaintiff Israel Flores (hereinafter "Plaintiff"), individually and on behalf of a class of similarly situated individuals, will and hereby does move this Court for:

1. Preliminary approval of the proposed class settlement of this lawsuit;
2. Pursuant to California Code of Civil Procedure § 382, provisional certification of the Settlement Class defined as follows:

> All persons employed by Defendant KML Services, Inc. in California and classified as a nonexempt employee during the period from January 24, 2020, through September 11, 2025 ("Class Period").

3. Preliminary appointment of Plaintiff Israel Flores as Class Representative;
4. Preliminary appointment of Sam Sani of Sani Law, APC and Paul K. Haines of Haines Law Group, APC as Class Counsel;
5. The scheduling of a hearing to consider whether the proposed class settlement should be finally approved and the amounts to award for attorneys' fees and costs to Class Counsel, enhancement payment to the Class Representative, claims administration costs to the Claims Administrator, and the PAGA payment to the LWDA;
6. Appointment of Phoenix Class Action Administration Solutions as the third-party Claims Administrator; and
7. Approval of the proposed Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval, and an order that it be disseminated to the proposed Settlement Class as provided in the Settlement Agreement.

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This Motion is based on this Notice of Motion and Motion; the attached Memorandum of Points and Authorities; the declarations of Sam Sani and Paul K. Haines, and exhibits attached thereto; the declaration of Israel Flores; the declaration of Jodey Lawrence of Phoenix Class Action Administration Solutions and exhibits attached thereto; the pleadings and other papers filed in this action, and on any further oral or documentary evidence or argument presented at the time of hearing.

Respectfully submitted

Dated: December 23, 2025, **SANI LAW, APC**

By: ______________________
Sam Sani
Attorneys for Plaintiff
ISRAEL FLORES

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Israel Flores ("Plaintiff") brought this action on behalf of all current and former non-exempt employees of Defendant KML Services, Inc. ("Defendant") for various wage and hour violations. Plaintiff's operative First Amended Class and Representative Action Complaint ("FAC") alleges that Defendant: (1) failed to pay minimum wages, (2) failed to pay overtime wages, (3) filed to provide legally compliant meal periods, (4) failed to authorize and permit legally complaint rest periods, (5) failed to reimburse necessary business expenses, (6) failed to timely pay all wages owed to employees at the end of their employments, (7) engaged in unfair competition, and (8) seeks civil penalties under the Private Attorneys General Act of 2004 ("PAGA") based on the aforementioned Labor Code violations.

Plaintiff respectfully requests that this Court preliminarily approve this non-reversionary, class action settlement,[1] in which Defendant will pay a total of $485,000.00 on behalf of the following Settlement Class:

> All persons employed by Defendant KML Services, Inc. in California and classified as a nonexempt employee during the period from January 24, 2020, through September 11, 2025 ("Class Period").

In connection with mediation, Defendant produced a representative 25% sampling of putative class members' corresponding timekeeping and payroll records, an employee list with start and end dates of employment for putative class members from which key data points could be extrapolated including the total number of class members and workweeks/pay periods worked during the relevant statutory periods. Plaintiff analyzed the data and extrapolated his analysis to cover the entire putative Class Period.

On September 11, 2025, the Parties attended a mediation with Kevin T. Barnes of Kevin T. Barnes Mediation, an experienced wage and hour class action mediator. At the conclusion of

1 The Class Action and PAGA Settlement Agreement ("Settlement" or "Settlement Agreement") is attached as **Exhibit A** to the Declaration of Sam Sani filed concurrently herewith. The proposed Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval is attached as **Exhibit B** to the Declaration of Sam Sani filed concurrently herewith.

the mediation, Mr. Barnes provided a Mediator's Proposal to the Parties, which the Parties accepted. In the months that followed, the Parties finalized and executed the Settlement Agreement before the Court.

Plaintiff respectfully requests that this Court preliminarily approve this non-reversionary class action settlement, in which Defendant will pay a maximum amount of $485,000.00 ("Gross Settlement Amount") on behalf of the Settlement Class of approximately 698 employees. The Settlement Agreement does not require putative class members to file a claim to reap the financial benefits of the Settlement, and Individual Class Payments will be distributed to all putative class members who do not opt out of the Settlement. After deductions for proposed claims administration costs, attorneys' fees and verified costs, Plaintiff's enhancement payment, and the amount paid to the Labor and Workforce Development Agency ("LWDA") for its share of PAGA penalties, the average estimated payment to each Settlement Class Member is projected to be **$345.21**.

Accordingly, and for the reasons stated herein, Plaintiff respectfully requests that the Court grant preliminary approval of the Settlement.

II. SUMMARY OF THE LITIGATION

A. FACTUAL AND PROCEDURAL BACKGROUND

Defendant did (and does) business by providing demolition and construction services in Southern California counties. Declaration of Sam Sani filed concurrently herewith ("Sani Decl."), ¶ 10. Plaintiff and Settlement Class Members are current and former non-exempt employees who worked for Defendant in California during the Class Period. Sani Decl., ¶ 20, Exh. A (Settlement Agreement, at §§ 1.5, 1.9).[2]

On January 24, 2024, Plaintiff filed the instant action in Orange County Superior Court alleging class claims for minimum wage violations, overtime wage violations, meal period violations, rest period violations, failure to reimbursement violations, waiting time penalties, and unfair competition. Sani Decl., ¶ 11. On April 2, 2024, Plaintiff filed the operative First Amended

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[2] All citations to the Settlement or Settlement Agreement hereinafter shall refer to the Settlement Agreement attached as Exhibit A to the Declaration of Sam Sani filed concurrently herewith.

Class and Representative Action Complaint, which added a representative claim for civil penalties pursuant to the PAGA. *Id.*

B. PLAINTIFF'S CLAIMS AND DEFENDANT'S DEFENSES

1. <u>Minimum Wage & Overtime Wage Claim</u>

Plaintiff alleges that Defendant failed to pay Plaintiff and putative class members at least the California minimum wage and overtime wages for all hours worked during the Class Period because Defendant's policy and/or practice required employees to perform Pre & Post Project Duties[3] off-the-clock virtually each workday before and/or after their scheduled start and stop times without compensation. Sani Decl., ¶ 12. This resulted in Plaintiff and, on information and belief, other non-exempt employees not being compensated for all hours, including overtime hours, that they actually worked. *Id.* Plaintiff alleges that Pre & Post Project Duties generally took 30-60 minutes each workday. Plaintiff is therefore owed unpaid minimum wages, and unpaid overtime wages for the hours during which he actually worked but received no compensation. Sani Decl., ¶ 12. Defendant alleges that they did not suffer or permit employees to perform any work off-the-clock, and that Defendant provided employees sufficient time on-the-clock during their shifts to perform all Pre & Post Project Duties. *Martinez v. Combs*, 49 Cal. 4th 35, 58 (2010); Sani Decl., 12. Plaintiff's allegations are also susceptible to the contention that his minimum wage and overtime wage claims are inherently unsuited for class treatment, as they requires individualized inquiries as to whether, why, and for how long a particular employee performed a particular Pre & Post Project Duties, which would devolve into an unmanageable series of mini-trials, devoid of common evidence. *Id.*

[3] Plaintiff alleges that these Pre & Post Project Duties included: (1) to report to Defendant's yard and/or to the assigned project location approximately 30 minutes before their scheduled work start time to, among other things, sign-in, attend pre-job meetings, gather and prepare necessary materials and equipment, and perform other preparation work so that they would be ready to begin working at the project site at the scheduled work start time, and (2) to continue working at Defendant's central yard and/or the assigned project location to, among other things, clean up and/or organize their work area and equipment/material including to prevent accidents after their scheduled work end time ("Pre & Post Project Duties").

2. **Meal Period Claim**

Plaintiff alleges that Defendant's meal period practices during the Class Period failed to provide Plaintiff and other non-exempt employees an uninterrupted duty-free 30-minute meal period before the end of their fifth hour of work, and a second uninterrupted duty-free 30-minute meal period before the end of their tenth hour of work. Sani Decl., ¶ 13. Plaintiff specifically alleges that Defendant's timekeeping practice was that Defendant's management employees recorded rote meal periods of exactly 30 minutes (or 60 minutes in some cases) beginning at or around the end of the fifth hour after the employees' scheduled start time. *Id.* In addition, Plaintiff alleges that notwithstanding Defendant's synthetic meal periods, Defendant's meal period practice provided meal periods starting at or around the 5th hour of employees' scheduled work hours, and thus Defendant did not in fact provide timely first meal periods because, as set forth above, Defendant regularly required employees to perform Pre Project Duties before their scheduled start time. *Id.* Plaintiff further contends that Defendant did not have a legally compliant meal period policy and did not pay any meal period premium wages to Plaintiff or any putative class member during the putative class period. *Id.* Defendant contends that it provided non-exempt employees with an opportunity to take legally compliant meal periods, that employees were free to take meal periods when they saw fit and that they generally did so in work groups, and that any missed or non-compliant meal periods were the result of employee waiver or choice, which would preclude liability. *See Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th 1004, 1040 (2012) (holding that where employees were "provided" the opportunity to take compliant breaks, whether they actually took a break or not is immaterial); Sani Decl., ¶ 13. Defendant also contends that Plaintiff's meal period claim is unsuited for class treatment because it requires individualized inquiries as to why a particular employee did not take a meal period during the first five hours of their shift, which would devolve into an unmanageable series of mini-trials, devoid of common evidence. *Id.*

3. **Rest Period Claim**

Plaintiff alleges that Defendant also failed to authorize and permit Plaintiff and other non-exempt employees to take legally compliant rest periods because Defendant, as a policy and/or practice, required employees to combine their rest periods with their meal period for a one-hour break. Sani Decl., ¶ 14. Plaintiff alleges that there was no practical reason why they could not take their rest periods in the middle of each work period, and that Defendant cannot present evidence that the "preferred schedule" of employees' rest periods as set forth in *Brinker* would have imposed a "material burden" on Defendant's business operation. *Id.* Defendant contends that it provided putative class members with all required rest periods and that any missed or non-compliant rest periods were the result of employee waiver or choice, which would preclude liability. *See Brinker*, 53 Cal. 4th at 1040 (holding that where employees were "provided" the opportunity to take compliant breaks, whether they actually took a break or not is immaterial); Sani Decl., ¶ 14. Defendant also contends that it was entitled to combine employees' meal period with their afternoon rest period under the rest period requirements of Wage Order No. 16, which provides, "nothing in this provision shall prevent an employer from staggering rest periods to avoid interruption in the flow of work and to maintain continuous operations, or from scheduling rest periods to coincide with breaks in the flow of work that occur in the course of the workday," and based on September 17, 2001 Opinion Letter from the California Division of Labor Standards Enforcement allegedly interpreting the rest period requirements of Wage Order No. 16 in support of Defendant's contention. Sani Decl., ¶ 14. Plaintiff's allegations are also susceptible to the contention that his rest period claim is inherently unsuited for class treatment, as it requires an inquiry into which rest periods each employee failed to take and why the rest period was not taken, which would devolve into an unmanageable series of mini-trials, devoid of common evidence, particularly so given that rest periods were not recorded. *Id.*

4. <u>Reimbursement Claim</u>

Plaintiff alleges that Defendant's policy and/or practice required Plaintiff and non-exempt employees (1) to use their personal vehicles to travel to and from multiple worksites within a single shift, (2) to use their personal cell phones to receive work assignments from Defendant, and (3) to use their own tools to perform their job duties, all without reimbursement. Sani Decl., ¶ 15. As to the use of their personal vehicles, Plaintiff alleges that foreman would direct employees to leave a particular jobsite and to travel to and work at another worksite, on average about once per month without reimbursement. *Id.* As to the use of his personal cell phone, Plaintiff alleges that employees received work assignments/instructions on average 2-3 times per day (during work hours while working at job site) via phone calls and text messages to their personal phone without reimbursement. *Id.* Defendant contends that it provided Plaintiff and putative class members with all tools required to perform their job duties and that employees are not required to travel to more than one worksite in a single shift, or to use their cell phones to perform their job duties. *Id.* Defendant further contends that to the extent Plaintiff travelled to more than one worksite in a shift, or used their cell phones to perform their duties, he was an exceptional case and was one of a few employees to do so, and thus Plaintiffs' reimbursement claim is inherently unsuited for class treatment for lack of numerosity, typicality, and superiority. *Id.*

5. <u>Claims Under Labor Code § 203</u>

As a result of the alleged wage and hour violations discussed above, Plaintiff alleges that Defendant failed to comply with its obligation to pay all final wages at the end of employment in violation of California Labor Code sections 201-202. Sani Decl., ¶ 16. Plaintiff's waiting time penalties claim faces substantive legal hurdles. *See Naranjo v. Spectrum Security Systems*, 15 Cal.4th 1056 (2024); *Maldonado v. Epsilon Plastics, Inc.*, 22 Cal. App. 5th 1308, 1336-37 (2018); *See Amaral v. Cintas Corp. Co. 2*, 163 Cal. App. 4th 1157, 1201 (2008); Sani Decl., ¶ 16.

6. <u>Claims Under PAGA</u>

Plaintiff also seeks civil penalties under the PAGA based on the aforementioned alleged Labor Code violations. Sani Decl., ¶ 17. Plaintiff's PAGA claim is susceptible to the contention that Plaintiff's underlying claims are without merit. *See*, *e.g.*, *Price v. Starbucks Corp.*, 192 Cal. App. 4th 1136, 1147 (2011) ("Because the underlying causes of action fail, the derivative UCL and PAGA claims also fail."); Sani Decl., ¶ 17. Additionally, Defendant's good faith defenses to Plaintiff's claims may lead the Court to utilize its discretion to substantially reduce any penalties. *See* California Labor Code § 2699 (authorizing reduction in PAGA penalties in trial court's discretion); *Thurman v. Bayshore Transit Management, Inc.*, 203 Cal. App. 4th 1112, 1135 (2012) (affirming reduction of PAGA penalties); *Fleming v. Covidien Inc.* (C.D. Cal. Aug. 12, 2011)

Case No. ED CV 10-01487 RGK (OPx), 2011 WL 7563047, at *4 (reducing PAGA penalties from $2.8 million to $500,000); Sani Decl., ¶ 17.

C. DISCOVERY AND MEDIATION

In light of the risks associated with liability and the ability to proceed as a class action, the Parties agreed to mediate the matter on September 11, 2025, with Kevin T. Barnes of Kevin T. Barnes Mediation., an experienced wage and hour class action mediator. Sani Decl., ¶ 19. Defendant produced a representative 25% sampling of putative class members' corresponding timekeeping and payroll records, an employee list with start and end dates of employment for putative class members from which key data points could be extrapolated including the total number of class members and workweeks/pay periods worked during the relevant statutory periods. *Id.* Plaintiff analyzed the data and extrapolated his analysis to cover the entire putative Class Period. *Id.* This discovery allowed the Parties to assess the merits and value of Plaintiff's claims, the likelihood of class certification of Plaintiff's claims, and Defendant's potential defenses. *Id.*

During mediation, the Parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiff's claims, and the legal bases for their claims and defenses. Sani Decl., ¶ 20. At the conclusion of the mediation, Mr. Barnes provided a Mediator's Proposal to the Parties, which the Parties accepted. *Id.* Thereafter, the Parties finalized and executed the Settlement Agreement before the Court. Sani Decl., ¶ 20, Exhs. A, B.

The Settlement Agreement does not require putative class members to file a claim to reap the financial benefits of the Settlement, and Individual Class Payments will be distributed to all putative class members who do not opt out of the Settlement. Settlement, at § 3.1. After deductions for proposed claims administration costs, attorneys' fees and verified costs, Plaintiff's enhancement payment, and the amount paid to the LWDA for its share of PAGA penalties, the remainder of the Net Settlement Amount will be distributed to each Settlement Class Member by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. Settlement, at §§ 1.28, 3.2.4.

III. THE PROPOSED SETTLEMENT

A. ESSENTIAL TERMS OF THE SETTLEMENT

The Settlement Agreement calls for Defendant to pay a "Gross Settlement Amount" of $485,000.00 in full settlement of the lawsuit. Settlement, § 1.22, 3.1. Defendant will deposit the Gross Settlement Amount with the Claims Administrator within 14 days of the date the Court enters a Judgment on its Order Granting Final Approval of the Settlement, and the Judgment is final. *See* Settlement, §§ 1.18, 4.3.

This settlement is non-reversionary, and Settlement Class Members will not be required to file a claim form in order to reap financial benefit from the Settlement. Settlement, § 3.1. All Participating Class Members will automatically receive an Individual Class Payment unless they affirmatively opt out of the Settlement. The monetary terms of the Settlement are summarized below:

Gross Settlement Amount	**$485,000.00**
Court-approved attorneys' fees (33.33%)	$161,666.66
Court-approved verified costs (up to)	$25,000.00
Court-approved enhancement payment	$10,000.00
Court-approved claims administration costs (up to)	$11,000.00
Amount to LWDA for PAGA penalties	$36,375.00
Net Settlement Amount	**$240,958.34**

1. The Settlement Provides for Reasonable Monetary Payments

After deducting the Court-approved amounts above, the Settlement Agreement requires Defendant to pay a Net Settlement Amount of approximately $485,000.00 to all members of the Settlement Class. *See* Settlement Agreement, §§ 1.28, 3.2. According to Defendant's mediation production, there are approximately 698 total Settlement Class Members. The average Individual Class Payment is therefore projected to be **$345.21**. Settlement Class Members (1) will have 60 days from the mailing of the Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to opt out of the Settlement or to object in writing to the Settlement, or (2) they may also object by offering oral comments at the Final Approval Hearing. *See* Settlement Agreement, §§ 7.5, 7.7.

Settlement Class Members who do not opt out of the Settlement will be bound by its terms and will be releasing against Released Parties all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and ascertained in the course of the Action. *See* Settlement, §§ 1.1, 1.41, 2.1, 5.2. In addition, Plaintiff has agreed to a separate general release of all claims, known or unknown. *See* Settlement, § 5.1.

2. <u>Attorneys' Fees and Costs, Enhancement Payment, and PAGA Payment to the LWDA</u>

As part of the Settlement Agreement, Plaintiff will separately apply for an enhancement payment at final approval in the amount of $10,000.00 for his services to the Settlement Class. Sani Decl., ¶ 24; *See* Settlement Agreement, § 3.2.1. As will be fully briefed at the time of final approval, Plaintiff's requested enhancement payment is intended to recognize the critical effort that Plaintiff expended in providing essential evidence on behalf of the Settlement Class, including providing factual information to Plaintiff's counsel, identifying potential witnesses, attending meetings with Plaintiff's counsel to discuss the claims and theories at issue in the litigation, and otherwise actively participating in the prosecution of their claims. Sani Decl., ¶ 24. Plaintiff respectfully submits that his requested enhancement payment is well within the range of permissible approval and in line with incentive payments approved in similar class action settlements. *See, e.g., Alvarado v. Nederend* (E.D. Cal. Jan. 11, 2011) Case No. 1:08-cv-01099 OWW DLB, 2011 WL 90228 (approving $7,500 incentive award to each of five named plaintiffs out of $505,058.60 settlement).

In addition, the Parties have agreed to designate $48,500.00 of the Gross Settlement Amount as PAGA penalties, of which $36,375.00 will be paid to the LWDA, with the remaining $12,125.00 distributed as Individual PAGA Payments to Aggrieved Employees.[4] *See* Settlement, § 3.2.5. This is consistent with the then-applicable PAGA's requirement that 75% of such

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[4] Plaintiff submitted a copy of the Settlement Agreement to the Labor and Workforce Development Agency. Sani Decl., ¶ 25, Exh. C.

penalties be allocated to the LWDA, with the remaining 25% of penalties allocated to aggrieved employees. Each Aggrieved Employee will receive their share of the PAGA Amount regardless of whether they opt-out of the Settlement. Settlement, §§ 1.4, 1.24, 3.2.5, 4.4.1, 7.5.4.

Should the Court grant preliminary approval of this Settlement Agreement, Plaintiff's counsel will, at the time of seeking final approval, request an attorneys' fees award of one-third (33.33%) of the Gross Settlement Amount, currently estimated at $161,666.66, and up to $25,000.00 in verified cost reimbursement. Settlement, § 3.2.2; Sani Decl., ¶ 23. Plaintiff submits that the requested fee, calculated as one-third (33.33%) of the total Gross Settlement Amount, is fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent basis. Plaintiff's counsel has incurred substantial attorneys' fees conducting pre-filing investigation, analyzing Plaintiff's claims, gathering critical evidence in support of Plaintiff's claims including documents and interviewing third-party witnesses, conducting legal research, reviewing documents and data produced by Defendant, conducting an analysis of employee timekeeping data and payroll records, preparing for and attending mediation, negotiating and preparing the long-form Settlement Agreement, preparing this Motion for Preliminary Approval, and otherwise prosecuting the case. Sani Decl., ¶¶ 22-23. Plaintiff's counsel anticipates additional attorneys' fees will be incurred appearing at the hearing on this Motion for Preliminary Approval, supervising the Notice process, fielding calls from Settlement Class Members, preparing the Motion for Final Approval, and appearing at the Final Approval Hearing. Sani Decl., ¶ 23.

IV. <u>ARGUMENT</u>

A. PRELIMINARY APPROVAL IS WARRANTED

California Rule of Court 3.769 conditions the settlement of a class action on court approval, which is generally evaluated under the federal standards applicable under Rule 23 of the Federal Rules of Civil Procedure. *See Reed v. United Teachers Los Angeles*, 208 Cal. App. 4th 322, 337 (2012) (stating that Rule 3.769 requires the trial court to determine "that the settlement is fair, reasonable and adequate to all concerned"); *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1026 (stating that Rule 23(e) requires the trial court to determine "whether a proposed settlement is fundamentally fair, adequate, and reasonable"). To be approved, a settlement must be "fair, reasonable and adequate to all concerned." *Reed*, *supra*, 208 Cal.App.4th at 337. Settlement is the preferred means of dispute resolution, particularly in complex class action litigation. *See In re Syncor ERISA Litigation* 516 F.3d 1095, 1101 (9th Cir. 2008). The Court's role in evaluating a proposed settlement is limited to ensuring that the agreement taken as a whole is fair and is within the range of reasonableness. *See*, *e.g.*, *Hanlon*, *supra*, 150 F.3d at 1027. There is an initial presumption of fairness when the settlement agreement was negotiated at arm's length by class counsel. *See*, *e.g.*, *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 130 (2008).

1. <u>Standard for Preliminary Approval</u>

To make a fairness determination, the Court should consider several factors, including: "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, [and] the experience and views of counsel." *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801. "The list of factors is not exclusive, and the court is free to engage in a balancing and weighing of factors depending on the circumstances of each case." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245. As discussed below, the proposed settlement is fair, adequate, and reasonable in light of the overall balance of factors in this case.

2. <u>The Strength of Plaintiff's Case</u>

Although Plaintiff maintains her claims are meritorious, Plaintiff acknowledges that she faces substantial risks and uncertainty in the absence of this Settlement Agreement. As described above, Plaintiff's claims and allegations are susceptible to multiple defenses, both on the merits and as to class certification. Thus, success on a class-wide basis was far from certain and would likely be impossible absent settlement.

3. <u>Risk, Expense, Complexity, and Duration of Further Litigation</u>

Although the Parties engaged in substantive informal discovery in advance of the mediation, Plaintiff had not yet received formal written discovery responses or taken any deposition discovery, which would have required the expenditure of substantial time and resources by all parties. *See* Sani Decl., ¶¶ 12-17, 19-20. Moreover, Plaintiff still needed to file for class certification and faced the prospect of appeals in the wake of a disputed class certification ruling for Plaintiff and/or an adverse summary judgment ruling. Even if the classes sought to be certified by Plaintiff were in fact certified, the Parties would incur considerably more attorneys' fees and costs through a possible decertification motion, trial, and possible appeal. The Settlement Agreement avoids those risks and the accompanying expenses. Thus, this factor supports preliminary approval.

4. <u>Risk of Maintaining Class Action Status</u>

Prior to a class certification order, the extent to which Plaintiff's proposed classes are certifiable is somewhat speculative. Absent settlement, there was at least a moderate likelihood that there would not be a certified class at the time of trial because, as described above, Plaintiff's claims for unpaid wages and meal period and rest period violations may be found to require individualized inquiries that would devolve into an unmanageable series of mini-trials, devoid of common evidence.

5. <u>Amount Offered in Settlement Given Realistic Value of Claims</u>

This proposed settlement provides a fair and reasonable monetary recovery for the Settlement Class in the face of disputed claims. Plaintiff's analysis of the realistic expected recoveries for each of the theories of liability pled is set forth below:

<u>Minimum Wage Claim</u>: $96,167.87

Based on an analysis of the records produced in connection with mediation, Plaintiff calculated Defendant's exposure for unpaid minimum wages as $1,282,238.30. Sani Decl., ¶ 12. However, in light of Defendant's defenses set forth above, Plaintiff discounted Defendant's calculated exposure by 75% for risk of non-certification, including the lack of common evidence, and an additional 70% for risk of being unsuccessful on the merits, to arrive at an estimated exposure of $96,167.87. *Id.*

<u>Overtime Wage Claim</u>: $167,999.39

Based on an analysis of the timekeeping records produced in connection with mediation, Plaintiff calculated Defendant's potential exposure for unpaid overtime wages as $2,239,991.90. *Id.* In light of Defendant's defenses set forth above, Plaintiff discounted Defendant's calculated exposure by 75% for risk of non-certification, including the lack of common evidence, and an additional 70% for risk of being unsuccessful on the merits, to arrive at an estimated exposure of $167,999.39. *Id.*

Meal Period Claim: $106,449.63

Based on an analysis of the timekeeping and payroll records produced in connection with mediation, Plaintiff calculated Defendant's potential exposure for unpaid meal premium wages as $532,248.13. Sani Decl., ¶ 13. In light of Defendant's defenses set forth above, Plaintiff discounted Defendant's calculated exposure by 60% for risk of non-certification, including the lack of common evidence, and an additional 50% for risk of being unsuccessful on the merits, to arrive at an estimated exposure of $106,449.63. *Id.*

Rest Period Premiums: $156,543.57

Based on an analysis of the timekeeping records produced in connection with mediation, Plaintiff calculated Defendant's potential exposure for unpaid rest premium wages as $3,130,871.30. Sani Decl., ¶ 14. In light of Defendant's defenses set forth above, Plaintiff discounted Defendant's calculated exposure by 80% for risk of non-certification, including the lack of common evidence, and an additional 75% for risk of being unsuccessful on the merits, to arrive at an estimated exposure of $156,543.57. *Id.*

Reimbursement Claim: $23,543.08

Based on an analysis of the payroll records produced for mediation, and Plaintiff's conservative estimate of an unpaid reimbursement rate of $20.00/month, Plaintiff calculated Defendant's potential exposure for failure to reimburse employees as $117,715.38. Sani Decl., ¶ 15. In light of Defendant's defenses set forth above, Plaintiff discounted Defendant's calculated exposure by 60% for risk of non-certification, including the lack of common evidence, and an additional 50% for risk of being unsuccessful on the merits, to arrive at an estimated exposure of $23,543.08. *Id.*

Waiting Time Penalties: $86,574.72

Based on the figures provided by Defendant in connection with mediation, Plaintiff calculated Defendant's maximum exposure for this claim as $2,164,369.00. Sani Decl., ¶ 16. In light of Defendant's defenses set forth above, Plaintiff discounted Defendant's calculated exposure by 60% for the risk of non-certification, and an additional 90% for a risk of being unsuccessful on the merits, for an estimated exposure of $86,574.72. *Id*.

PAGA Penalties: $49,532.00

Plaintiff estimated Defendant's total maximum PAGA exposure as $1,238,300.00. Sani Decl., ¶ 17. However, these penalties derived from the underlying violations discussed herein, each of which Defendant vigorously disputes.[5] Moreover, the PAGA grants courts the discretion to reduce penalties, and Defendant will argue that the Court should reduce penalties significantly given Defendant's good faith defenses. *See* Labor Code § 2699(e)(2). Accordingly, Plaintiff discounted that maximum figure by 60% for the risk that Plaintiff may be unable to proceed on a representative basis, and by an additional 90% for the risk of defeat on the merits and/or this Court reducing penalties, to arrive at an estimated total of $49,532.00. Sani Decl., ¶ 17; *see also Thurman*, *supra*, 203 Cal.App.4th at 1135-36 (affirming reduction of PAGA penalties).

Using these estimated figures for each of the claims described above, Plaintiff predicted the realistic total recovery for the Settlement Class would be approximately $686,810.25. The proposed settlement of $485,000.00 therefore represents approximately 71% of Plaintiff's reasonably forecasted recovery. Thus, preliminary approval is appropriate as the settlement will provide reasonably significant monetary relief to the Settlement Class.

6. The Experience and Views of Counsel

"Parties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation." *In re Pacific Enterprises Securities Litigation* (9th Cir. 1995) 47 F.3d 373, 378. Here, Plaintiff is represented

[5] Defendant will assert a similar argument with respect to Plaintiff's unfair competition claim. *See*, *e.g.*, *Lazar v. Hertz Corp.* (1999) 69 Cal.App.4th 1494, 1505-06 (underlying misconduct must be unlawful in order to state a valid claim for relief under the UCL).

by competent and experienced counsel who possess extensive experience litigating wage and hour class actions from both the plaintiff and defense side, and who have been appointed as class counsel in numerous cases alleging similar claims. *See* Declaration of Sani Decl., ¶¶ 2-8; Declaration of Paul K. Haines ("Haines Decl."), ¶¶ 2-9. Plaintiff's counsel conducted an in-depth review of Defendant's sample timekeeping and payroll records and drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiff's case. *See* Sani Decl., ¶¶ 12-20. The Settlement was also reached with the assistance of a mediator's proposal. Sani Decl., ¶¶ 19-20. This factor strongly supports preliminary approval. *See Kullar*, *supra*, 168 Cal.App.4th at 130.

B. THE PRELIMINARY APPROVAL STANDARD IS MET

The Court can grant preliminary approval of a proposed settlement and direct that notice be given if the settlement: (1) falls within the range of possible approval; (2) appears to be the product of serious, informed negotiations; and (3) has no obvious deficiencies. *See Manual for Complex Litig.*, § 30.41 (3rd Ed. 1995); *Newberg on Class Actions*, §§ 11:24-25 (4th Ed. 2013).

1. <u>The Settlement is Within the Range of Possible Approval</u>

The proposed settlement reflects approximately 71% of the estimated recovery that the Settlement Class could reasonably expect in light of the risks of proceeding through class certification and trial, and will provide tangible, monetary compensation for hotly disputed wage claims. Plaintiff submits that the Settlement is within the range of possible approval, such that notice should be provided to the Settlement Class so that they can consider the Settlement. The Court will again have the opportunity to assess the reasonableness of the Settlement after Settlement Class Members have had the opportunity to opt out and/or object.

2. <u>The Settlement Resulted from Serious, Informed Negotiations</u>

This proposed class-wide settlement is the result of the exchange of substantial information, arm's length negotiations by counsel, and a full-day mediation before an experienced wage and hour class action mediator. *See* Sani Decl., ¶¶ 12-20. Thus, the proposed settlement is entitled to an initial presumption of fairness. *See Kullar*, *supra*, 168 Cal.App.4th at 130. Plaintiff carefully vetted the claims at issue, reviewed extensive evidence including timekeeping and payroll data, and conducted an analysis of the data to arrive at his estimated class-wide damages figures. *See* Sani Decl., ¶¶ 12-22. Thus, this factor also supports preliminary approval.

3. The Settlement is Devoid of Obvious Deficiencies

Preliminary approval of the proposed settlement is also warranted because there are no obvious deficiencies. This Settlement will provide tangible monetary relief to Settlement Class Members, and the amounts proposed for attorneys' fees and costs, the enhancement payment to Plaintiff, and the amount set aside for PAGA penalties are all reasonable and appropriate based on the particular facts of this case. Because the proposed settlement is devoid of obvious deficiencies, this final factor supports preliminary approval.

C. THE COURT SHOULD CERTIFY THE SETTLEMENT CLASS

The proposed Settlement Class satisfies the criteria for certification of a settlement class under California law because: (1) the individuals in the Settlement Class are ascertainable and numerous; (2) common questions of law and fact predominate; (3) Plaintiff's claims are typical of the claims of absent Settlement Class Members; and (4) Plaintiff and his counsel will fairly and adequately represent the interests of the Settlement Class. *See* California. Code of Civil Procedures § 382.

1. The Proposed Class is Ascertainable and Numerous

A class is "ascertainable" where members "may be readily identified without unreasonable expense or time by reference to official [or business] records." *See Sevidal v. Target Corp.* (2010) 189 Cal.App.4th 905, 919 (alterations in original). Here, the Settlement Class is defined as all current and former non-exempt employees who worked for Defendant in California from January 24, 2020 through September 11, 2025. Thus, Settlement Class Members can be identified from Defendant's employment records, including payroll records. As stated, Defendant represents that there are approximately 698 Settlement Class Members, rendering it impracticable to bring all class members before the Court. Thus, the proposed Settlement Class satisfies the numerosity requirement. *See*, *e.g.*, *Collins v. Rocha* (1972) 7 Cal.3d 232, 234 (finding class of 44 farm workers sufficiently numerous).

2. Common Issues of Law and Fact Predominate

The focus on certification is not on the merits of the case, but rather on what types of questions, "common or individual," are likely to arise in the action. *See Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 327. Here, Plaintiff's claims are predicated on Defendant's allegedly unlawful timekeeping, payroll, meal period, rest period, and reimbursement policies and/or practices. These sorts of claims are commonly held proper for class certification. *See*, *e.g.*, *Benton v. Telecom Network Specialists, Inc.*, 220 Cal.App.4th 701, 726 (2013) (certifying meal and rest period claims); *Ontiveros v. Safelite Fulfillment, Inc., et al,* Case No. CV 15-7118-DMG (RAOx), United States District Court, Central District of California, Honorable Dolly M. Gee presiding (certifying six classes of employees for rest period violations, wage statement violations, meal period violations, and overtime and double-time violations).

3. The Claims of Plaintiff Are Typical

The typicality requirement is satisfied where class representatives have claims that are typical of those of the rest of the class. *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1347. Here, Plaintiff's claims are typical of those held by Settlement Class Members. Plaintiff alleges that he was employed by Defendant as non-exempt employee in California during the proposed Class Period and was subject to Defendant's wage and hour policies at issue in this lawsuit. Declaration of Israel Flores filed concurrently herewith ("Flores Decl."), ¶¶ 1-10. Plaintiff also alleges she was injured by the same challenged policies that injured the Settlement Class as a whole, including allegedly not receiving minimum wages and overtime wages, working shifts in excess of 5.0 hours without a timely first meal periods, not receiving legally compliant rest periods, and not being reimbursed for using his personal cell phone and vehicle to perform job duties. *Id.* Typicality is satisfied because Plaintiff has suffered the same injuries as other Settlement Class Members.

4. Plaintiff and Class Counsel Will Adequately Represent the Class

The adequacy of representation requirement examines conflicts of interest between named parties and the class(es) they seek to represent. *See Capitol People First v. Department of*

Developmental Services, 155 Cal.App.4th 676, 697 (2007). Plaintiff and his counsel will adequately represent the class, as there are no conflicts between Plaintiff and the class he seeks to represent. *See McGhee v. Bank of America*, 60 Cal. App. 3d 442, 450 (1976) (finding adequacy satisfied where there was no indication that plaintiff's counsel was not qualified and the named plaintiff had no interests antagonistic to those of the proposed class). Class Counsel also have extensive experience in wage and hour class action litigation. *See* Sani Decl., ¶¶ 2-8; Haines Decl., ¶¶ 2-9.

D. THE COURT SHOULD ORDER DISTRIBUTION OF THE PROPOSED CLASS NOTICE

The Court should order distribution to the Settlement Class of the proposed Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval ("Class Notice") by U.S. Mail, postage prepaid, using last known mailing address information provided by Defendant. *See* Settlement, §§ 1.11, 7.4.2; Sani Decl. ¶ 20, Exh. B; Declaration of Jodey Lawrence on behalf of Phoenix Class Action Administration Solutions filed concurrently therewith ("Phoenix Decl."), ¶¶ 12-16, Exh. B. This manner of giving notice is the "best notice practicable" under the circumstances, as it provides "individual notice to all members who can be identified through reasonable effort." *See Eisen v. Carlisle and Jacquelin*, 417 U.S. 156, 173 (1974). Plaintiff proposes that the Settlement be administered by Phoenix Class Action Administration ("Phoenix"), an experienced class action settlement administrator. Phoenix Decl., ¶¶ 5-11, Exh. A. To the extent the addresses of former employees have changed, Phoenix will run the addresses provided through the U.S. Postal Service National Change of Address database and/or perform "skip traces" to obtain current address information. *See* Settlement, §§ 1.10, 4.4.2, 7.4.2, 7.4.3.

The content of the proposed Class Notice satisfies California Rule of Court 3.766(d) because it advises class members of the nature of the claims, the basic contentions and denials of the parties and the key terms of the settlement, the uniform 60-day deadline to opt out or object to the settlement and the procedures by which to do so, explains the recovery formula and expected recovery amount for each class member, and advises them that they will be bound by the terms of the settlement if they do not request exclusion. Sani Decl., ¶ 20, Exh. B. The proposed Notice also notifies Settlement Class Members of the Final Approval Hearing date and time, provides a website to access the Settlement Agreement, provides contact information for Class Counsel, and advises Settlement Class Members that they may enter an appearance through counsel if they wish. *Id.* This Notice satisfies California Rule of Court 3.766(e) as the most reliable and cost-effective method of reaching Settlement Class Members.

E. THE COURT SHOULD SET A FINAL APPROVAL HEARING

Finally, the Court should set a hearing for final approval of the Settlement on a date appropriately scheduled to follow the deadline by which Settlement Class Members must file objections to the Settlement or opt out. *See* California Rule of Court 3.769.

V. PENDING ACTIONS IMPACTED BY THE SETTLEMENT

Plaintiff is unaware of any other pending court action that this Settlement may impact and thus there are no parties that must be provided notice of the Settlement. Sani Decl., ¶ 26.

VI. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court preliminarily approve the proposed Settlement Agreement, provisionally certify the Settlement Class, and enter the [Proposed] Order submitted concurrently herewith.

Respectfully submitted,

Dated: December 23, 2025

SANI LAW, APC

By: *Sam Sani*

Sam Sani
Attorney for Plaintiff
ISRAEL FLORES