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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JEREMY MCARTHUR, individually and on
behalf of all others of the public similarly situated,

Plaintiff,

v.

PACIFIC DESIGN CENTER 1, LLC, an out-of-
state, limited liability company; PACIFIC RED,
LLC, an out-of-state limited liability company;
and COHEN PDC, LLC, an out-of-state limited
liability company, and DOES 1 to 50, inclusive,

Defendants.

CLASS ACTION

Case No: 24STCV03908
Hon. Timothy P. Dillon
Dept. 15

**PLAINTIFF JEREMY MCARTHUR'S
NOTICE OF MOTION AND MOTION FOR
CONDITIONAL CLASS CERTIFICATION
AND PRELIMINARY APPROVAL OF CLASS
ACTION AND PRIVATE ATTORNEY
GENERAL ACT SETTLEMENT**

Filed Concurrently with:

- Declaration of Rolando J. Gutierrez;
- Declaration of Albro L. Lundy III;
- Declaration of Jeremy McArthur;
- Declaration of Sumy Kim; and
- [Proposed] Order

Date: August 12, 2025
Time: 9:00 a.m.
Please: Dept. 15

Initial Complaint Filed: February 15, 2024
Initial Trial Date: Not Yest Set

TO THE COURT, ALL PARTIES, AND TO THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT on August 12, 2025, at 9:00 a.m., in Department 15 of the Superior Court of California for the County of Los Angeles, located at 312 North Spring Street, Los Angeles, California 90012, pursuant to section 382 of the Code of Civil Procedure and rule 3.769, *et seq.* of the California Rules of Court, Plaintiff Jeremy McArthur ("Plaintiff" or Mr. McArthur") will and hereby do move the Court for an Order granting preliminary approval of the proposed class action and

1 PAGA settlement between Plaintiff and Defendants Pacific Red, LLC, Pacific Design Center 1, LLC, and
2 Cohen PDC LLC (together “Defendants” and collectively with Plaintiff, the “Parties”).

3 Plaintiff will further move for an Order:

- 4 1. Granting preliminary approval of the Class Action and PAGA Settlement Agreement;
- 5 2. Certifying a Class for settlement purposes;
- 6 3. Approving the Notice of Class Action and PAGA Settlement and Hearing Date For Final
7 Court Approval (collectively, the “Class Notice”) and the plan for distribution of the Class Notice to Class
8 Members;
- 9 4. Appointing Plaintiff as Class Representatives for settlement purposes;
- 10 5. Appointing Plaintiff’s Counsel, Rolando J. Gutierrez, Esq. and Albro L. Lundy, III, of
11 BAKER, BURTON & LUNDY, P.C. as Class Counsel for settlement purposes;
- 12 6. Appointing CPT Group, Inc., as the Settlement Administrator; and
- 13 7. Scheduling a Final Approval Hearing.

14 This Motion is based on this Noticed Motion, the Memorandum of Points and Authorities
15 attached hereto, the Declarations of Rolando J. Gutierrez, Albro L. Lundy, Jeremy McArthur, and Sumy
16 Kim, filed concurrently herewith, as well as any relevant pleadings, papers, and records on file in this
17 action, any additional papers as may be submitted prior to or at the time of the hearing, and such oral
18 argument as the Court may permit or require.

19
20 Dated: July 11, 2025

BAKER, BURTON & LUNDY, P.C.

21
22 By: _____



ALBRO L. LUNDY, III
ROLANDO J. GUTIERREZ

Attorneys for Plaintiff and the Putative Class

TABLE OF CONTENTS

TABLE OF CONTENTS	i
TABLE OF AUTHORITIES.....	i
MEMORANDUM OF POINTS AND AUTHORITIES	1
I. INTRODUCTION	1
II. STATEMENT OF THE CASE AND PROCEDURAL HISTORY.....	1
III. INFORMAL DISCOVERY, INVESTIGATION, AND MEDIATION.....	2
IV. KEY TERMS OF THE SETTLEMENT	3
A. The Class and Aggrieved Employee Definitions.....	3
B. The Gross Settlement Amount.....	3
C. Calculation of the Net Settlement Amount.....	4
1. PAGA Allocation.	4
2. Class Counsel Fees Payment and Expenses Payment.....	4
3. Class Representative Service Award.....	4
4. Administration Expenses.	5
5. Total Net Settlement Amount Eligible for Participating Class Members.....	5
D. Distribution Formula to Participating Class Members.....	5
1. Individual Class Payments.....	5
2. The Individual PAGA Payments.	6
3. Tax Treatment of Payments to the Class Members.	6
E. Workweek and Pay Period Challenges.	6
F. The Releases.....	6
1. Participating Class Members' Release.	7
2. Aggrieved Employees' Release of PAGA Claims.	7
3. Plaintiff's Release and Section 1524 Waiver.	7
G. The Settlement is Non-Reversionary.	8
H. Notice of the Settlement.	8
V. Analysis.....	9

1	A. The Proposed Settlement is Fair, Reasonable, and Adequate.	9
2	1. The Settlement is Presumptively Fair.	9
3	a. Settlement Is a Product of Serious, Well-Informed, and Non-Collusive	
4	Negotiations.....	9
5	b. Class Counsel Are Experienced in Similar Litigation.....	10
6	2. The Settlement is a Reasonable Compromise Under the <i>Dunk/Kullar</i> Factors.	10
7	a. The Strengths and Weaknesses of Plaintiff’s Claims, and the Risks Associated	
8	with Continued Litigation.....	11
9	b. The Value of the Settlement is Reasonable Upon Balancing the Strengths of	
10	Plaintiff’s Case against its Weakness and Risks with Continued Litigation.....	13
11	B. Certification For Settlement Purposes is Warranted.....	16
12	1. The Class is Ascertainable and Numerous.	16
13	2. There Is a Well-Defined Community of Interest.	17
14	a. Common Questions of Law and Fact Predominate.	17
15	b. Plaintiff’s Claims are Typical.....	18
16	3. Plaintiff and his Counsel Meet the Adequacy Requirement.	18
17	4. This Class Action is Superior to Other Means of Resolution.	18
18	C. The Proposed Attorneys’ Fees Are Reasonable.	19
19	D. The Proposed Service Award is Fair and Reasonable.	19
20	E. The Class Notice is Adequate.	20
21	VI. CONCLUSION.....	21

TABLE OF AUTHORITIES

California Cases

<i>7-Eleven Owners for Fair Franchising v. Southland Corp.</i> (2000) 85 Cal.App.4th 1135.....	9, 20
<i>Bowles v. Sup. Ct.</i> (1955) 44 Cal.2d 574	17
<i>Bradley v. Networkers International, LLC</i> (2012) 211 Cal.App.4th 1129	11, 17
<i>Brinker Restaurant Corp. v. Sup. Ct.</i> (2012) 53 Cal.4th 1004	11
<i>Caro v. Proctor & Gamble Co.</i> (1993) 18 Cal.App.4th 644	16
<i>Cartt v. Sup. Ct.</i> (1975) 50 Cal.App.3d 960	20, 21
<i>Chavez v. Netflix, Inc.</i> (2008) 162 Cal.App.4th 43.....	19
<i>Cho v. Seagate Technology Holdings, Inc.</i> (2009) 177 Cal.App.4th 734.....	20
<i>Choate v. Celite Corp.</i> (2013) 215 Cal App.4th 1460	13
<i>Collins v. Rocha</i> (1972) 7 Cal.3d 232	17
<i>Daar v. Yellow Cab Co.</i> (1967) 67 Cal.2d 695.....	16
<i>Dunk v. Ford Motor Co.</i> (1996) 48 Cal.App.4th 1794	9
<i>Duran v. Obesity Research Institute, LLC</i> (2016) 1 Cal.App.5th 636	20, 21
<i>Global Minerals & Metals Corp. v. Sup. Ct.</i> (2003) 113 Cal.App.4th 836	16
<i>Hendershot v. Ready to Roll Transportation, Inc.</i> (2014) 228 Cal.App.4th 1213	13
<i>Hernandez v. Restoration Hardware, Inc.</i> (2018) 4 Cal.5th 260	10
<i>Koval v Pacific Bell Telephone Co.</i> (2015) 232 Cal.App.4th 1050	12
<i>Kullar v. Foot Locker Retail, Inc.</i> (2008) 168 Cal.App.4th 116.....	9, 10, 11, 13, 14
<i>Martinez v. Joe’s Crab Shack Holdings</i> (2014) 231 Cal.App.4th 362.....	18
<i>McGhee v. Bank of America</i> , (1976) 60 Cal.App.3d 442.....	18
<i>Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles</i> (2010) 186 Cal.App.4th 399	11, 13
<i>Naranjo v. Spectrum Security Systems, Inc.</i> (2023) 88 Cal.App.5th 937	13
<i>Naranjo v. Spectrum Security Systems, Inc.</i> (2024) 15 Cal.5th 1056.....	13
<i>Noel v. Thrifty Payless, Inc.</i> (2019) 7 Cal.5th 955	16
<i>Occidental Land, Inc. v. Sup. Ct.</i> (1976) 18 Cal.3d 355	17
<i>Richmond v. Dart Industries, Inc.</i> (1981) 29 Cal.3d 462	18

1	<i>Rose v. City of Hayward</i> (1981) 126 Cal.App.3d 926	16, 17
2	<i>Sav-On Drugs Stores, Inc. v. Sup. Ct.</i> (2004) 34 Cal.4th 319	18
3	California Statutes	
4	Cal. Code Civ. Proc. § 382	17
5	California Rules & Regulations	
6	CAL RULES OF COURT, 3.766(d)	21
7	CAL RULES OF COURT, 3.766(e).....	21
8	CAL. RULES OF CT, 3.776.....	20
9	CAL. RULES OF CT., 3.769(d).....	16
10	Federal Cases	
11	<i>Boyd v. Bechtel Corp.</i> (N.D. Cal., 1979) 485 F.Supp. 610.....	15
12	<i>Collins v. Cargill Meat Solutions Corp.</i> (E.D. Cal., Mar. 9, 2011) 274 F.R.D. 294	15
13	<i>Contreras v. Worldwide Flight Servers</i> (C.D. Cal., Apr. 1, 2020) 2020 WL2083017	15
14	<i>Cummings v. Starbucks Corp.</i> (C.D. Cal., Mar. 24, 2014) 2014 WL 1379119	13
15	<i>Deaver v. Compass Bank</i> (N.D. Cal. Dec. 11, 2015) 2015 WL 8526982	12
16	<i>Franco v. Ruiz Food Products, Inc.</i> (E.D. Cal., Nov. 27, 2012) 2012 WL 5941801	16
17	<i>Gardner v. GC Services, LP</i> (S.D. Cal., Apr. 2, 2012) 2012 WL 1119534	15
18	<i>Hopson v. Hanesbrands, Inc.</i> (N.D. Cal., Apr. 3, 2009) 2009 WL 928133.....	15
19	<i>In re Wells Fargo Loan Processor Overtime Pay Litig.</i> (N.D. Cal. Aug. 2, 2011) 2011	
20	WL3352460	12
21	<i>Linney v. Cellular Alaska P'ship</i> (9th Cir. 1998) 151 F.3d 1234.....	10
22	<i>Nelson v. Avon Products, Inc.</i> (N.D. Cal., Feb. 24, 2017) 2017 WL 733145	16
23	<i>Officers for Justice v. Civil Service Com'n of City and County of San Francisco</i> (9th Cir., 1982) 688	
24	F.2d 615	9, 13
25	<i>Ordonez v. Radio Shack, Inc.</i> (C.D. Cal., Aug. 15, 2014) 2014 WL 4180958	12
26	<i>Preddey v. Edelman</i> (6th Cir. 1989) 883 F.2d 438	15
27	<i>Singer v. Becton Dickinson & Co.</i> (S.D. Cal. June 1, 2010) 2010 WL 2196104.....	20
28	<i>Taylor v. Shippers Transport Express, Inc.</i> (C.D. Cal. May 14, 2015) 2015 WL 12658458	16

1	<i>Thieriot v. Celtic Inc. Co.</i> (N.D. Cal., April 21, 2011) 2011 WL 1522385	20
2	<i>Van Vranken v. Atlantic Richfield Company</i> (N.D. Cal. 1995) 901 F.Supp. 294	19
3	<i>Wershba v. Apple Computers, Inc.</i> (2001) 91 Cal.App.4th 224.....	10, 13, 21
4	Secondary Authority	
5	COHELAN ON CALIFORNIA CLASS ACTIONS, 2022-2023 ed. (The Expert Series)	9
6	Second Interim Report from the Study of California Class Action Litigation (Judicial Council of	
7	California, Feb. 2010) (https://www.courts.ca.gov/documents/classaction-certification.pdf)..	12

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **INTRODUCTION**

4 Plaintiff Jeremy McArthur (“Plaintiff”) seeks preliminary approval of a non-reversionary
5 settlement (the “Settlement”) on behalf of himself and approximately 81 other non-exempt current or
6 former employees who work or worked for Defendants Pacific Design Center 1, LLC, Pacific Red, LLC,
7 and Cohen PDC, LLC (collectively, “Defendants”) from February 15, 2020, to March 3, 2025 (the
8 “Class” or “Class Members”). The Settlement is valued at \$550,000.00. For the reasons stated herein, the
9 terms of the Settlement are fair, reasonable, and adequate, and provide the Class with an immediate
10 benefit for claims that may otherwise be extinguished by Defendants.

11 **II.**

12 **STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

13 On February 15, 2024, Plaintiff filed his initial Class Action Complaint against Defendants
14 Pacific Design Center 1, LLC, Pacific Red, LLC, and Cohen PDC, LLC, alleging causes of action for (1)
15 Failure to Pay Minimum Wages; (2) Failure to Pay Overtime and Double Time Compensation; (3) Failure
16 to Provide Meal Periods; (4) Failure to Provide Rest Periods; (5) Failure to Indemnify; (6) Failure to
17 Provide Accurate Itemized Wage Statements; (7) Waiting Time Penalties; and (8) Unfair Competition
18 and Unlawful Business Practices. (Concurrently Filed Declaration of Rolando J. Gutierrez (“Gutierrez
19 Decl.”), ¶ 3.)

20 On January 22, 2024, prior to filing the Complaint, Plaintiff submitted written notice to the
21 California Labor and Workforce Development Agency (“LWDA”) pursuant to the California Private
22 Attorney General Act of 2004 (“PAGA”), setting forth his claims on behalf of himself and all those
23 similarly situated. (*Id.*, ¶ 4.) Copies of this letter were also mailed to Defendants on January 22, 2024, via
24 certified mail. (*Id.*) On April 9, 2024, Plaintiff filed a First Amended Complaint as a matter of right,
25 adding a ninth cause of action for civil penalties pursuant to PAGA, after the LWDA failed to respond
26 within 65 days. (*Id.*) Subsequently, on January 8, 2025, Plaintiff filed a Second Amended Complaint
27 asserting the same causes of action but alleging additional facts. (*Id.*)

28 Plaintiff alleges that Defendants own and operate a 1.6 million square-foot, multi-use facility in

1 West Hollywood, California (which consists of the “Green Building,” the “Red Building,” and the “Blue
2 Building”) that serves as a hub for professionals in interior design and the architecture industry, which is a
3 key destination for the design community and the general public to view exhibitions, lectures, and
4 meetings related to the arts. (*Id.*, ¶ 5.) While job classifications and duties may vary among non-exempt
5 employees, such as “Chief Engineers,” “Chief Operating Engineers,” “Assistant Chief Engineers,”
6 “Certified One Man Plants,” “Non-Certified One Man Plants,” “Lead Engineers,” “Certified Engineers,”
7 “Non-Certified Engineers,” “Engineers,” “Maintenance Attendants,” “Security Personnel,” “Janitorial
8 Personnel” and in-house restaurant, café, and fitness center staff members, Plaintiff alleges that
9 Defendants’ policies, procedures, and/or practices were uniformly enforced against all non-exempt
10 employees. (*Id.*)

11 Plaintiff alleges that Defendants required all non-exempt employees, regardless of classification or
12 duties, to work through their designated meal and rest periods. (*Id.*, ¶ 6.) Plaintiff also alleges that
13 employees routinely worked shifts exceeding eight hours per day and/or forty hours per week, but
14 Defendants failed to compensate statutory overtime and double-time compensation for hours worked
15 beyond these thresholds. (*Id.*) Plaintiff also alleges that Defendants required employees to utilize their
16 personal tools and equipment in performing their duties while failing to provide reimbursement or
17 indemnification for the use of such personal property in furtherance of Defendants’ business operations.
18 (*Id.*) Due to Defendants’ failure to properly pay its employees for all hours worked, including overtime
19 compensation, double time compensation, and meal and rest break premiums, as a derivative result,
20 employees were not provided with accurate itemized wage statements, nor were they paid all wages due
21 upon termination. (*Id.*)

22 Defendants deny Plaintiff’s allegations, deny that they violated any law, and maintain that this
23 Action is not suitable for class-wide adjudication. (*Id.*, ¶ 7.)

24 **III.**

25 **INFORMAL DISCOVERY, INVESTIGATION, AND MEDIATION**

26 The Parties engaged in a full-day mediation with professional neutral, Mike D. Young, Esq., on
27 February 18, 2025. (*Id.*, ¶ 8.) Prior to mediation, Defendants informally produced employee handbooks,
28 collective bargaining agreements, and timekeeping and payroll data, including both paper data and

1 electronic comma separate value (“CSV”) data. (*Id.*) Plaintiff’s Counsel interviewed putative class
2 members to investigate the nature and extent of Plaintiff’s class claims. (*Id.*) Plaintiff retained an expert
3 who analyzed the data and created damage models detailing Defendants’ wage and hour violations and
4 maximum exposure. (*Id.*) Prior to mediation, Plaintiff’s Counsel spent significant time reviewing and
5 analyzing both the paper and electronic data, the handbooks and collective bargaining agreements, the
6 expert’s analysis, and prepared a comprehensive mediation brief in advance of mediation. (*Id.*)

7 Following productive negotiations, the Parties reached a settlement via a mediator’s proposal.
8 (*Id.*, ¶ 9.) The terms of the settlement are memorialized in the “Class Action and PAGA Settlement and
9 Release Agreement” (the “Agreement”).¹ (*Id.*, Ex. 1.)

10 IV.

11 KEY TERMS OF THE SETTLEMENT

12 A. The Class and Aggrieved Employee Definitions.

13 The “Class” is defined as:

14 [A]ll current and former non-exempt employees who worked for Pacific Red, LLC, Pacific
15 Design Center 1, LLC, and/or Cohen PDC LLC during the time-period of February 15,
2020, to March 3, 2025.

16 (Gutierrez Decl., ¶ 10, Ex. 1 [¶ 1.5]; *see also*, “Court Approved Notice of Class Action and PAGA
17 Settlement and Hearing Date for Final Court Approval” attached to the Settlement Agreement as “Exhibit
18 A” (the “Class Notice”), p. 1.)

19 “Aggrieved Employee” includes a current or former non-exempt employees who worked for
20 Pacific Red, LLC, Pacific Design Center 1, LLC, and/or Cohen PDC LLC from January 22, 2023, to
21 March 3, 2025 (the “PAGA Period”). (Gutierrez Decl., ¶ 11, Ex. 1 [¶¶ 1.4 and 1.31].)

22 B. The Gross Settlement Amount.

23 Except as otherwise provided in paragraphs 8 and 9 of the Settlement, Defendants agree to pay
24 \$550,000.00 to fund the Settlement (the “Gross Settlement Amount”), which represents the total amount
25 Defendants agree to pay under the Settlement.² (Gutierrez Decl., ¶ 12, Ex. 1 [¶¶ 1.22 and 3.1].) The Gross

27 ¹ A copy of the Agreement, along with copies of this Motion and supporting documents, is concurrently
submitted to the LWDA. (Gutierrez Decl., ¶ 50.)

28 ² Paragraph 8 of the Settlement Agreement provides a right of withdrawal by Defendants if opt-outs exceed
10% of total Class Members, while Paragraph 9 incorporates an escalator clause that proportionally increases

Settlement Amount does not include Defendants' share of applicable employer-side payroll taxes, which Defendants will separately pay in addition to the Gross Settlement Amount. (*Ibid.*)

C. Calculation of the Net Settlement Amount.

The Net Settlement Amount is the Gross Settlement Amount less the following deductions, subject to Court approval:

1. PAGA Allocation.

A PAGA allocation of \$27,500.00, of which 75% (i.e., \$20,625.00) shall be paid to the Labor and Workforce Development Agency (the "LWDA"), which represents the "LWDA PAGA Payment," and 25% (i.e., \$6,875.00) shall be paid to Aggrieved Employees. (Gutierrez Decl., ¶ 13(a), Ex. 1 [¶¶ 1.34 and 3.2.5].) Each Aggrieved Employee will receive his or her share of the amount allocated to Aggrieved Employees (i.e., \$6,875.00), which represents the "Individual PAGA Payment." (*Ibid.*) Each Individual PAGA Payment shall be calculated "by dividing \$6,875.00 by the total number of PAGA Pay Periods and multiplying the result by the number of PAGA Pay Periods each individual Aggrieved Employee worked within the PAGA Period." (Gutierrez Decl., ¶ 13(a), Ex. 1 [¶ 3.2.5.1].)

2. Class Counsel Fees Payment and Expenses Payment.

Defendants will not oppose Class Counsel's fee application of up to 35% of the Gross Settlement Amount in the amount of \$192,500 ("Class Counsel Fee Payment"), plus costs not to exceed \$32,000.00 ("Class Counsel Litigation Expenses Payment"). (Gutierrez Decl., ¶ 13(b), Ex. 1 [¶ 3.2.2].) As of the filing of this Motion, Class Counsel has incurred \$19,970.14 in Litigation Expenses. If the Court approves fees or expense payments less than the amount requested, the remainder will be allocated to the Net Settlement Amount for distribution to the Participating Class Members. (*Ibid.*)

3. Class Representative Service Award.

Plaintiff will request, and Defendants agree to not oppose, a "Service Award" of \$12,500.00 for Plaintiff, in exchange for initiating and providing services in support of the Action. (Gutierrez Decl., ¶ 13(c), Ex. 1 [¶ 3.2.1].) If the Court approves a lesser amount, the Administrator will allocate the unapproved portion to the Net Settlement Amount for distribution to Participating Class Members. (*Ibid.*)

the Gross Settlement Amount if actual workweeks exceed the estimated amount by more than 10%. (*Id.*, ¶ 12, n 2, Ex. 1 [¶¶ 8 and 9].)

1 **4. Administration Expenses.**

2 The Parties agree to appoint CPT Group, Inc. as the “Administrator.” (Gutierrez Decl., ¶ 13(d),
3 Ex. 1 [¶¶ 1.2 and 7.1].) The Administrator will establish a settlement fund that meets the requirements of
4 a Qualified Settlement Fund under US Treasury Regulation section 468B-1. (Gutierrez Decl., ¶ 13(d), Ex.
5 1 [¶ 7.3].) The Parties have allocated an amount not to exceed \$8,500.00 as the “Administrator Expenses
6 Payment,” based on the Administrator’s “not to exceed” bid submitted to the Court in connection with
7 Preliminary Approval. (Gutierrez Decl., ¶ 13(d), Ex. 1 [¶¶ 1.3 and 3.2.3]; *see also*, Gutierrez Decl., ¶ 47,
8 Ex. 3.) If the Court approves the Administrator Expenses Payment in an amount less than \$8,500.00, the
9 Administrator will allocate the remainder to the Net Settlement Amount for distribution to Participating
10 Class Members. (Gutierrez Decl., ¶ 13(d), Ex. 1 [¶ 3.2.3].)

11 The Parties and their Counsel represent they have no interest or relationship with the
12 Administrator other than a professional relationship arising out of prior experiences administering
13 settlements. (Gutierrez Decl., ¶ 47; Concurrently filed Declaration of Sumy Kim, ¶ 4; Concurrently filed
14 Declaration of Jeremy McArthur (“McArthur Decl.”), ¶ 18.)

15 **5. Total Net Settlement Amount Eligible for Participating Class Members.**

16 If the Court approves the amounts requested for the PAGA Allocation (\$27,500.00), Class
17 Counsel Fees Payment (\$192,500.00), Class Counsel Litigation Expenses Payment (\$32,000.00), Class
18 Representative Service Award (\$12,500.00), and the Administrator Expenses Payment (\$8,500.00), the
19 Net Settlement Amount eligible for distribution to “Participating Class Members” is \$277,000.00
20 (\$550,000.00 - \$273,000.00). (Gutierrez Decl., ¶ 13(e).)

21 **D. Distribution Formula to Participating Class Members.**

22 The Net Settlement Amount of at least \$277,000.00 will be distributed as follows:

23 **1. Individual Class Payments.**

24 The Administrator will calculate each “Individual Class Payment” by dividing the Net Settlement
25 Amount by the total number of workweeks worked by all Participating Class Members during the Class
26 Period and multiplying the result by the number of workweeks worked by each individual Participating
27 Class Member. (Gutierrez Decl., ¶ 14, Ex. 1 [¶ 3.2.4].)

1 **2. The Individual PAGA Payments.**

2 The Administrator will calculate each “Individual PAGA Payment” by dividing \$6,875.00 by the
3 total number of PAGA pay periods worked by all Aggrieved Employees and multiplying the result by the
4 number of PAGA Period pay periods worked by each individual Aggrieved Employee. (Gutierrez Decl., ¶
5 14, Ex. 1 [¶ 3.2.5.1].)

6 **3. Tax Treatment of Payments to the Class Members.**

7 Each Individual Class Payment shall be reported as 20% towards taxable wages (the “Wage
8 Portion”) and the remaining 80% towards penalties and interest (the “Non-Wage Portion”). (Gutierrez
9 Decl., ¶ 15, Ex. 1 [¶ 3.2.4.1].) The Wage Portion is subject to withholdings, as reported on IRS W-2
10 Forms. Defendants will separately pay employer payroll taxes on the Wage Portion. (*Ibid.*) The
11 Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual
12 Class Payments on IRS 1099 Forms. (Gutierrez Decl., ¶ 15, Ex. 1 [¶ 3.2.5.1].)

13 **E. Workweek and Pay Period Challenges.**

14 Class Members and Aggrieved Employees may challenge the number of workweeks during the
15 Class Period and/or PAGA pay periods worked during the PAGA Period. (Gutierrez Decl., ¶ 16, Ex. 1 [¶
16 7.6].) A dispute with documentary support must be received by the Administrator within 45 days of the
17 mailing of the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice
18 is re-mailed). (*Ibid.*) In the absence of contrary documentation, the Administrator is entitled to presume
19 that the workweeks and/or PAGA Pay Periods are correct. (*Ibid.*) The Administrator’s determination of
20 each Class Member’s allocation of Workweeks and/or Pay Periods shall be final and not appealable or
21 otherwise susceptible to challenge. (*Ibid.*) The Administrator shall promptly provide copies of all
22 challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel, along
23 with the Administrator’s determination of the challenges. (*Ibid.*)

24 **F. The Releases.**

25 The following releases shall become effective when Defendants fully fund the Gross Settlement
26 Amount and support full fund all employer payroll taxes owed on the Wage Portion of the Individual
27 Class Payments (Gutierrez Decl., ¶ 17, Ex. 1 [¶ 5.0]):
28

1 **1. Participating Class Members' Release.**

2 The class release is limited to:

3 All Participating Class Members, on behalf of themselves and their respective former and
4 present representatives, agents, attorneys, heirs, administrators, successors and assigns,
5 release Released Parties from (i) all claims that were alleged, or reasonably could have been
6 alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in
7 the course of the Action including Failure to Pay Minimum Wages (CAL. LAB. CODE §§
8 1182, 1182.12, 1194, 1194.2, 1197 and 1197.1, 8 CAL. CODE REGS. § 11040(4)); Failure to
9 Pay Overtime and Double Time Compensation (CAL. LAB. CODE §§ 510, 1194, 1198, 8
10 CAL. CODE REGS. § 11040(3)); Failure to Provide Meal Periods (CAL. LAB. CODE §§ 226.7,
11 512, 8 CAL. CODE REGS. § 11040(11)); Failure to Provide Rest Periods (CAL. LAB. CODE §
12 226.7, CAL. CODE REGS. § 11040(12)); Failure to Indemnify (CAL. LAB. CODE § 2802, 8
13 CAL. CODE REGS. § 11040(9)(B)); Failure to Provide Accurate Itemized Wage Statements
14 (CAL. LAB. CODE §§ 226, 226.3, 8 CAL. CODE REGS. § 11040(7)); Waiting Time Penalties
15 (CAL. LAB. CODE §§ 201, 202, and 203); and Unfair Competition and Unlawful Business
16 Practices (CAL. BUS. & PROF. CODE § 17200, *et seq.*). Except as set forth in Section 5.3 of
17 this Agreement, Participating Class Members do not release any other claims, including
18 claims for vested benefits, wrongful termination, violation of the Fair Employment and
19 Housing Act, unemployment insurance, disability, social security, workers' compensation or
20 claims based on facts occurring outside the Class Period.

21 (Gutierrez Decl., ¶ 17(a), Ex. 1 [¶ 5.2].)

22 **2. Aggrieved Employees' Release of PAGA Claims.**

23 The PAGA release is limited to:

24 All Participating and Non-Participating Class Members who are Aggrieved Employees are
25 deemed to release, on behalf of themselves and their respective former and present
26 representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released
27 Parties from all claims for PAGA penalties that were alleged, or reasonably could have been
28 alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA
29 Notice including Failure to Pay Minimum Wages (CAL. LAB. CODE §§ 1182, 1182.12,
30 1194, 1194.2, 1197 and 1197.1, 8 CAL. CODE REGS. § 11040(4)); Failure to Pay Overtime
31 and Double Time Compensation (CAL. LAB. CODE §§ 510, 1194, 1198, 8 CAL. CODE REGS.
32 § 11040(3)); Failure to Provide Meal Periods (CAL. LAB. CODE §§ 226.7, 512, 8 CAL. CODE
33 REGS. § 11040(11)); Failure to Provide Rest Periods (CAL. LAB. CODE § 226.7, CAL. CODE
34 REGS. § 11040(12)); Failure to Indemnify (CAL. LAB. CODE § 2802, 8 CAL. CODE REGS. §
35 11040(9)(B)); Failure to Provide Accurate Itemized Wage Statements (CAL. LAB. CODE §§
36 226, 226.3, 8 CAL. CODE REGS. § 11040(7)); Waiting Time Penalties (CAL. LAB. CODE §§
37 201, 202, and 203); and Penalties Pursuant to the Private Attorney General Act (CAL. LAB.
38 CODE §§ 2699, *et seq.*, 210, and 558).

39 (Gutierrez Decl., ¶ 17(b), Ex. 1 [¶ 5.3].)

40 **3. Plaintiff's Release and Section 1524 Waiver.**

41 In addition to the Participating Class Members' Release and the Aggrieve Employees' Release:

42 Plaintiff and his respective former and present spouses, representatives, agents, attorneys,
43 heirs, administrators, successors, and assigns generally release and discharge Released
44 Parties from all claims, transactions or occurrences that occurred during the Class Period,
45 including, but not limited to: (a) all claims that were, or reasonably could have been, alleged,

1 based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were,
2 or reasonably could have been, alleged based on facts contained in the Operative Complaint,
3 Plaintiff's PAGA Notice, or ascertained during the Action and released under Paragraph
4 5.2[. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to
5 enforce this Agreement, or to any claims for vested benefits, unemployment benefits,
6 disability benefits, social security benefits, workers' compensation benefits that arose at any
time, or based on occurrences outside the Class Period. Plaintiff acknowledges that he may
discover facts or law different from, or in addition to, the facts or law that Plaintiff now
knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and
remain effective in all respects, notwithstanding such different or additional facts or
Plaintiff's discovery of them.

7 (Gutierrez Decl., ¶ 17(c), Ex. 1 [¶ 5.1].) Plaintiff's release includes a waiver of rights under section 1542
8 of the California Civil Code. (*Id.* [¶ 5.1.1].)

9 **G. The Settlement is Non-Reversionary.**

10 Neither the Gross Settlement Amount nor the Net Settlement Amount shall revert to Defendants.
11 (Gutierrez Decl., ¶ 18, Ex. 1 [¶ 3.1].) Any unclaimed funds from any uncashed checks, plus any interest
12 thereon, shall escheat to the California State Controller's Unclaimed Property Fund pursuant to the
13 Unclaimed Property Law (California Civil Code § 1500, *et seq.*) in the names of the Class Members after
14 180 days from mailing. (Gutierrez Decl., ¶ 18, Ex. 1 [¶ 4.4.3].)

15 **H. Notice of the Settlement.**

16 The Class Notice sets forth in plain terms a statement of the case, the terms of the Settlement
17 Agreement, the approximate amounts of attorneys' fees and costs, Plaintiff's Class Representative
18 Payment, and an explanation of how the settlement allocations are calculated. (Gutierrez Decl., ¶ 19, Ex. 1
19 [Ex. A thereto].) The Class Notice will be issued to the Class in English, with a Spanish translation, in the
20 form to, without material variation from, Ex. A. (Gutierrez Decl., ¶¶ 19, Ex. 1 [¶¶ 1.11 and 7.4.2].)

21 The first page of the Class Notice sets forth the approximate amount the Class Member and/or
22 Aggrieved Employee receiving the Class Notice will receive from the Net Settlement Amount (assuming
23 that all Class Members participate in the settlement), as well as the number of workweeks and pay periods
24 calculated for that Class Member and/or Aggrieved Employee. (Gutierrez Decl., ¶ 20, Ex. 1 [¶ 7.5.6, Ex.
25 A thereto, p. 1].) Class Members will be notified of the settlement by first-class mail. (Gutierrez Decl., ¶
26 20, Ex. 1 [¶ 7.5.2].) The Administrator will undertake its best efforts to ensure that the Class Notice is
27 provided to the current addresses of Class Members, including using the National Change of Address
28 database to update any Class Member's information prior to mailing the Class Notice. (*Ibid.*)

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V.

Analysis

A. The Proposed Settlement is Fair, Reasonable, and Adequate.

A proposed settlement requires court approval to prevent fraud, collusion, or unfairness to absent class members. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800-01; CAL. RULES OF COURT, 3.769. The Court’s inquiry “‘must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud ..., or collusion’” and “‘the settlement, taken as a whole, is fair, reasonable, and adequate to all concerned.’” *Dunk*, 48 Cal.App.4th at 1801 (quoting *Officers for Justice v. Civil Service Com’n of City and County of San Francisco* (9th Cir., 1982) 688 F.2d 615, 625); *see Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133 (to approve a class action settlement, “the court must at least satisfy itself that the class settlement is within the ‘ballpark’ of reasonableness[]”). Importantly, the Court is not making a final fairness determination but instead is making a preliminary assessment to determine whether the settlement *appears* fair, adequate, and reasonable, and thus, whether notice should be sent to class members and scheduling a final approval hearing is warranted. COHELAN ON CALIFORNIA CLASS ACTIONS, 2022-2023 ed. (The Expert Series), § 9.10.

1. The Settlement is Presumptively Fair.

Fairness is presumed when: “(1) the settlement is reached through an arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.”³ *Dunk*, 48 Cal.App.4th at 1802.

a. Settlement Is a Product of Serious, Well-Informed, and Non-Collusive Negotiations.

The proposed settlement was reached as a result of arm’s-length negotiations facilitated by a highly experienced wage and hour class action mediator after thorough investigation, extensive formal and informal discovery, and after extensive review and analysis of the claims and potential defenses (Gutierrez Dec., ¶¶ 8-9 and 28-40); *see 7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1150 (“[I]n the context of class action settlements, ‘formal discovery is not a necessary ticket to the bargaining table’ where the parties had sufficient information to make an informed

³ In the preliminary approval stage, the percentage of objectors is not yet known.

1 decision about settlement.”) (quoting *Linney v. Cellular Alaska P’ship* (9th Cir. 1998) 151 F.3d 1234,
2 1239).

3 The Parties engaged in a full-day mediation with professional neutral, Mike D. Young, Esq., on
4 February 18, 2025, which resulted in a favorable settlement. Prior to mediation, Defendants informally
5 produced employee handbooks, collective bargaining agreements, and timekeeping and payroll data,
6 including both paper data and electronic comma separate value (“CSV”) data. (Gutierrez Decl., ¶ 8.)
7 Plaintiff’s Counsel interviewed putative class members to investigate the nature and extent of Plaintiff’s
8 class claims. (*Id.*) Plaintiff retained an expert who analyzed the data and created damage models detailing
9 Defendants’ wage and hour violations and maximum exposure. (*Id.*, ¶¶ 8 and 30-32.) Prior to mediation,
10 Plaintiff’s Counsel spent significant time reviewing and analyzing both the paper and electronic data, the
11 handbooks and collective bargaining agreements, the expert’s analysis, and prepared a comprehensive
12 mediation brief in advance of mediation. (*Ibid.*) Following productive negotiations, the Parties reached a
13 settlement via a mediator’s proposal. (*Id.*, ¶ 9.) Although the mediation was conducted in a professional
14 manner, the settlement “was the product of extensive and hard-fought adversarial negotiations between
15 the parties.” *Wershba v. Apple Computers, Inc.* (2001) 91 Cal.App.4th 224, 246, disapproved of on other
16 grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260. This Settlement is indeed the
17 product of well-informed and non-collusive negotiations. (*See id.*, ¶¶ 8 and 30-32.)

18 ***b. Class Counsel Are Experienced in Similar Litigation.***

19 Class Counsel are respected members of the bar with strong records of vigorous and effective
20 advocacy and are experienced in complex wage and hour class action litigation. (*Id.*, ¶¶ 21-27;
21 Declaration of Albro L. Lundy III (“Lundy Decl.”), ¶¶ 4-16.) Class Counsel’s experience and their
22 extensive investigation and discovery allowed Plaintiff to enter the Settlement aware of the strengths,
23 weaknesses, and uncertainties associated with the case, which permitted Class Counsel to negotiate a fair
24 and reasonable settlement for all Class Members. (*See generally*, Gutierrez Decl., and Lundy Decl.)

25 **2. The Settlement is a Reasonable Compromise Under the *Dunk/Kullar* Factors.**

26 “Th[e] initial presumption [of fairness] must then withstand the test of the plaintiffs’ likelihood of
27 success,” which turns on “the strength of the case for plaintiffs on the merits, balanced against the amount
28 offered in settlement.” *Kullar*, 168 Cal.App.4th at 130. In evaluating whether a proposed settlement in

1 reasonable, courts look to a non-exhaustive list of factors, including:

2 [1] the strength of plaintiffs' case, [2] the risk, expense, complexity and likely duration of
3 further litigation, [3] the risk of maintaining class action status through trial, [4] the
4 amount offered in settlement, [5] the extent of discovery completed and the stage of the
proceedings, [6] the experience and views of counsel, [7] the presence of a governmental
participant, and [8] the reaction of the Class Members to the proposed settlement.

5 *Dunk*, 48 Cal.App.4th at 1801; *see Kullar*, 168 Cal.App.4th at 128.

6 A reasonable compromise considers the "magnitude and apparent merit of the claims being
7 released, discounted by the risks and expenses of attempting to establish and collect on those claims by
8 pursuing litigation." *Kullar*, 168 Cal.App.4th at 129. "*Kullar* is clear that the most important factor is
9 'the strength of the case for plaintiffs on the merits, balanced against the amount offered in settlement.'" *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 409, n. 6 (internal
10 quotations omitted).

11
12 ***a. The Strengths and Weaknesses of Plaintiff's Claims, and the Risks Associated with***
13 ***Continued Litigation.***

14 Mr. McArthur initially sought legal help because he noticed that his paystubs would not
15 accurately reflect all hours worked and therefore suspected that he was not being paid all wages due,
16 including overtime. (Gutierrez Decl., ¶ 28.) Upon further investigation, it was discovered that Defendants
17 were requiring all non-exempt employees to work through both their meal and rest periods. (*Id.*) Thus, the
18 primary theory of liability in this case is Defendants' common and systematic meal and rest break
19 violations, in addition to unpaid wages and the derivative claims. (*Id.*)

20 Prior to mediation, Defendants informally produced employee handbooks that had not been
21 updated since December 2003. (*Id.*, ¶ 29.) In this instance, Plaintiff contends that Defendant's lack of
22 current or up-to-date policies or procedures requiring compliance with Labor Code or applicable Wage
23 Orders avails this case suitable for class treatment. *See Brinker Restaurant Corp. v. Sup. Ct.* (2012) 53
24 Cal.4th 1004, 1033 (an employer's policies and procedures measured against applicable wage order
25 requirements are, by their nature, common questions eminently suited for class treatment); *see also*,
26 *Bradley v. Networkers International, LLC* (2012) 211 Cal.App.4th 1129, 1150 (a common lack or
27 disregard of written policies and procedures is also amenable to class treatment because the relevant
28 inquiry is a uniform companywide conduct that allegedly violates state law).

1 The time and payroll data that Mr. McArthur’s expert analyzed in advance of mediation suggested
2 a 100% meal period violation rate for all meal-eligible shifts. (Gutierrez Decl., ¶ 31.) More specifically,
3 98.2% of all shifts during the applicable class period were meal break eligible shifts, of which 97.1% of
4 those shifts were missed breaks, with the remaining 2.9% accounting for late or short meal periods. (*Id.*) Of
5 the 98.2% of those meal eligible shifts, 13.6% were second meal break eligible, of which 100% of those
6 shifts accounted for missed second meal periods. (*Id.*) Given that 98.2% of the shifts for the class were
7 meal eligible shifts, Mr. McArthur’s expert extrapolated this figure to an average of 4.610 violations per
8 workweek per class member. (*Id.*)

9 Despite the strengths of Plaintiff’s case, he and Class Counsel recognize the challenges of proving
10 these class claims, along with the risks, complexity, expense, and duration of further litigation. (*Id.*, ¶ 33.)
11 As a preliminary matter, this action is not yet certified.⁴ (*Id.*, ¶ 34.) While Plaintiff has conducted
12 informal discovery and investigation (*e.g.*, review and analysis of policies and procedures and
13 Defendants’ payroll and timekeeping data), Plaintiff has not conducted formal discovery necessary for
14 certification, nor has he conducted discovery on the merits. (*Id.*, ¶ 35.) And even if Plaintiff is successful
15 in achieving certification (and potentially opposing motion for decertification), Plaintiff will still face the
16 challenge of proving the existence and nature of these claims. (*Id.*) Notably, Plaintiff will face the
17 challenge of having to prove off-the-clock work.⁵ (*Id.*) Given that lack of records to prove off-the-clock
18 work, individual proof may become necessary rendering trial unmanageable. (*Id.*) And, given that
19 records for rest breaks are not maintained (and are not required to be maintained), Plaintiff’s rest break
20 claims face a similar challenge.⁶ (*Id.*) If Plaintiff were to prevail on his underlying claims, he will also

22 ⁴ In the Second Interim Report from the Study of California Class Action Litigation, published by the
23 Judicial Council of California in February 2010, only 22% of class actions get certified. (Retrieved from
<https://www.courts.ca.gov/documents/classaction-certification.pdf>). (Gutierrez Decl., ¶ 34, n. 6.)

24 ⁵ See *Deaver v. Compass Bank* (N.D. Cal. Dec. 11, 2015) 2015 WL 8526982, at *7 (approving class
25 settlement in part because of the “difficulties [in] certifying the class and establish[ing] liability on the merits
26 of... [off-the-clock] claims[.]”); *In re Wells Fargo Loan Processor Overtime Pay Litig.* (N.D. Cal. Aug. 2,
2011) 2011 WL 3352460, at *6 (recognizing that the potential difficulty in proving off-the-clock hours is a
significant risk that supports approval of a class settlement).

27 ⁶ Courts have also recognized the “insurmountable manageability concerns” that have precluded class
28 certification of rest break claims even when an employer’s policy is facially flawed. *E.g.*, *Ordonez v. Radio
Shack, Inc.* (C.D. Cal., Aug. 15, 2014) 2014 WL 4180958, at *6; *Koval v Pacific Bell Telephone Co.* (2015)
232 Cal.App.4th 1050, 1063 (class adjudication would be “totally unmanageable” where plaintiff failed to

1 need to prove that Defendants’ violations of Labor Code sections 203 and 226 were *willful*, which is a
2 difficult prospect.⁷ (*Id.*)

3 Defendants also maintain that all non-exempt employees, including Plaintiff, signed valid and
4 enforceable arbitration agreements containing class waivers. (*Id.*, ¶ 36.) Had this case not been settled,
5 Defendants would have likely moved compel Plaintiff into arbitration. (*Id.*) And if this case were to be
6 certified, Defendants may still seek to enforce the arbitration agreements on a class wide basis.⁸ (*Id.*)

7 ***b. The Value of the Settlement is Reasonable Upon Balancing the Strengths of Plaintiff’s***
8 ***Case against its Weakness and Risks with Continued Litigation.***

9 A proposed settlement “is not to be judged against a hypothetical or speculative measure of what
10 might have been achieved had plaintiffs prevailed at trial.” *Wershba*, 91 Cal.App.4th at 246. And “[a]
11 settlement need not obtain 100 percent of the damages sought in order to be fair and reasonable.” *Id.* at
12 250; *see also, Officers for Justice*, 688 F.2d 615, 624, 628 (recognizing that “the very essence of a
13 settlement is compromise, a yielding of absolutes and an abandoning of highest hopes” and that “[i]t is
14 well-settled law that a cash settlement amounting to only a fraction of the potential recovery will not per se
15 render the settlement inadequate or unfair[.]”) (internal quotation omitted). Rather, a party must only
16 provide information that allows “an understanding of the amount that is in controversy and the realistic
17 range of outcomes of the litigation.” *Kullar*, 168 Cal.App.4th at 120; *see Munoz*, 186 Cal.App.4th at 409
18 (the moving party need not show maximum value of all claims; the Court of Appeal “had no doubt that the
19 trial court had ‘an understanding of the amount . . . in controversy,’ based on, *inter alia*, the number of
20 Class Members, payroll data, and experiences and treatment particularized to certain Class Members
21

22 show that the employer’s facially lawful policies had been consistently applied in an improper manner);
23 *Cummings v. Starbucks Corp.* (C.D. Cal., Mar. 24, 2014) 2014 WL 1379119, at *23 (to find that common
24 issues predominate, the court would have to rely on the defective rest period policy to the exclusion of other
25 evidence).

26 ⁷ Proof of an employer’s “good faith belief” that its actions were not violating sections 203 or 226 precludes a
27 finding of a “knowing and intentional violation.” *Naranjo v. Spectrum Security Systems, Inc.* (2023) 88
28 Cal.App.5th 937, 949 (*Naranjo IV*), *aff’d*, 15 Cal.5th 1056, 1065 (*Naranjo V*); *see also, Choate v. Celite Corp.*
(2013) 215 Cal App.4th 1460, 1468 (holding that “an employer’s reasonable, good faith belief that wages are not
owed may negate a finding of willfulness”).

⁸ *See Hendershot v. Ready to Roll Transportation, Inc.* (2014) 228 Cal.App.4th 1213, 1223 (arbitration
agreements and class waivers are affirmative defenses, the merits of which should not overlap with the numerosity
analysis.)

(quoting *Kullar*, 168 Cal.App.4th at 120)).

Based on the time and payroll data analyzed by Plaintiffs' expert, Defendants' maximum exposure for the Class is estimated at approximately \$3,429,656, which is broken down as follows:⁹

Meal Period Premiums	\$875,545
Rest Period Premiums ¹⁰	\$890,739
Unpaid Wages, Including Overtime ¹¹	\$757,826
Liquidated Damages ¹²	\$297,933
Unreimbursed Expenses ¹³	\$40,288
Wage Statement Penalties	\$386,163
Waiting Time Penalties	\$181,162
TOTAL	\$3,429,656

(Gutierrez Decl., ¶¶ 32.)

While Defendants' potential maximum class exposure is estimated at \$3,429,656, (*Id.*, ¶¶ 30-32), Plaintiff and Class Counsel are aware of the risks and the challenges of continued litigation. (*Id.*, ¶ 37.) In recognition of the fact that approximately only 22% of all class actions are successfully certified, Plaintiff discounts the rest period claim, the unpaid wage claims, and the derivative claims by 78%.¹⁴ (*Id.*) And given that only a select number of class members were required to use their tools in the performance of their duties, the reimbursement claim is also discounted entirely. Thus, Defendants' realistic exposure is approximately \$1,428,586. (*Id.*)

Upon balancing the strengths of Plaintiff's case against the risks associated with continued litigation, Plaintiff's Counsel is of the opinion that the Gross Settlement Amount of \$550,000.00 represents a substantial recovery for a class of 82 individuals. (*Id.*, ¶ 38); *Boyd v. Bechtel Corp.* (N.D.

⁹ Defendants' maximum exposure is based on an average hourly rate of \$25.08. (Gutierrez Decl., ¶ 30(d).)

¹⁰ Given that each shift within the class period was rest break eligible, this figure assumes a 100% violation rate. (*Id.*, ¶ 30(i).)

¹¹ For purposes of mediation, it is assumed that each class member who worked a meal eligible shift also worked off-the-clock for thirty minutes per shift, resulting in an extrapolation of 150 unpaid minutes per workweek per class member. These figures will be used to calculate liquidated damages and unpaid overtime. (*Id.*, ¶¶ 30(g) and 30(g), n. 5.)

¹² See note 11, *supra*.

¹³ Certain members of the class were required to use their own tools in the performance of their duties for Defendants' benefit. For purposes of mediation, a \$20 unpaid monthly stipend is assumed which extrapolates to \$5 per workweek per class member. (Gutierrez Decl., ¶¶ 30(h) and 30(h), n. 6.)

¹⁴ See notes 4-8, *supra*.

1 Cal., 1979) 485 F.Supp. 610, 622 (“The recommendations of plaintiffs’ counsel should be given a
2 presumption of reasonableness.”). The Gross Settlement Amount of \$550,000 is a reasonable and
3 adequate resolution, as it represents approximately 16.03% of Defendants’ maximum exposure, and
4 38.50% of Defendants’ realistic exposure. (*Id.*); see *Preddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447
5 (“The fact that a plaintiff might have received more if the case had been fully litigated is no reason to not
6 approve the settlement.”).)

7 Assuming the Court approves the full amount of Class Counsel Fees Payment, Class Counsel
8 Litigation Expenses Payment, the Class Representatives Service Awards, and the Administration
9 Expenses Payment, in theory the average recovery for 82 Participating Class Members will be
10 approximately \$3,462.50, with the highest being approximately \$8,780.98 and the lowest being
11 approximately \$67.03. (Gutierrez Decl., ¶ 39.) This recovery is fair, reasonable, and adequate. (*Cf.*,
12 *Gardner v. GC Services, LP* (S.D. Cal., Apr. 2, 2012) 2012 WL 1119534, *4 (a settlement that awarded
13 “an average of around several hundred dollars” to approximately 1,470 individuals for wage and hour
14 violations was reasonable); *Collins v. Cargill Meat Solutions Corp.* (E.D. Cal., Mar. 9, 2011) 274 F.R.D.
15 294, 302 (a settlement that awarded \$685 per class member for wage and hour violations to
16 approximately 219 class members was fair and appropriate).)

17 Moreover, the Parties negotiated a good faith amount for PAGA penalties, which is not the
18 product of self-interest at the expense of Class Members. (Gutierrez Decl., ¶ 40); *Hopson v.*
19 *Hanesbrands, Inc.* (N.D. Cal., Apr. 3, 2009) 2009 WL 928133, *9 (where PAGA penalties are negotiated
20 in good faith and “there is no indication that this amount was the result of self-interest at the expense of”
21 the class, such amount is reasonable).) The amount allocated to PAGA, \$27,500 (of which \$20,625 will
22 be paid to the LWDA and \$6,875 paid to Aggrieved Employees in addition to their respective share from
23 the Net Settlement Amount), is reasonable and appropriate as it represents a payment to the LWDA of
24 3.75% of the Gross Settlement Amount.¹⁵ (Gutierrez Decl., ¶ 40); *cf.*, *Contreras v. Worldwide Flight*
25 *Servers* (C.D. Cal., Apr. 1, 2020) 2020 WL 2083017, at *10 (a distribution of 2.14% to the LWDA does
26 not raise a concern that the plaintiff is using PAGA as a bargaining chip). Indeed, courts have approved
27 PAGA payments in lesser amounts. See e.g., *Nelson v. Avon Products, Inc.* (N.D. Cal., Feb. 24, 2017)

28 ¹⁵ See note 1, *supra*.

1 2017 WL 733145, at *2 and*8 (granting final approval of \$1,800,000 settlement with \$10,000 as the
2 PAGA payment, with \$7,500 going to the LWDA, which represented .42% of the settlement amount);
3 *Taylor v. Shippers Transport Express, Inc.* (C.D. Cal. May 14, 2015) 2015 WL 12658458, *19 and *19,
4 n. 15 (settlement reached for \$11,040,000 with a PAGA payment of \$50,000 representing an allocation of
5 .34% to the LWDA); *Franco v. Ruiz Food Products, Inc.* (E.D. Cal., Nov. 27, 2012) 2012 WL 5941801,
6 *14 (a settlement of \$2,500,000 with \$10,000 as the PAGA payment “comports with settlement approval
7 of PAGA awards in other cases”).

8 **B. Certification For Settlement Purposes is Warranted.**

9 The Court may make an order approving certification of a provisional settlement class at the
10 preliminary approval stage. CAL. RULES OF CT., 3.769(d). It is well-established that trial courts should
11 use a “lesser standard of scrutiny” for determining the propriety of certifying a settlement class, as
12 opposed to a litigation class. *Dunk*, 48 Cal.App.4th at 1807, n. 19. This is because “no trial is anticipated
13 in a settlement class case, so the case management issues inherent in the ascertainable class determination
14 need not be confronted.” *Global Minerals & Metals Corp. v. Sup. Ct.* (2003) 113 Cal.App.4th 836, 859.

15 Certification of a class is appropriate when the class is ascertainable and there is “a well defined
16 community of interest in the questions of law and fact involved affecting the parties to be represented[.]”
17 *Dunk*, 48 Cal.App.4th at 1806 (citing *Daar v. Yellow Cab Co.* (1967) 67 Cal.2d 695, 704). Additionally,
18 the court must determine that the class action mechanism is the superior method for the fair and efficient
19 adjudication of the claims. *Caro v. Proctor & Gamble Co.* (1993) 18 Cal.App.4th 644, 657-661.

20 **1. The Class is Ascertainable and Numerous.**

21 A class is ascertainable “when it is defined in terms of objective characteristics and common
22 transactional facts that make the ultimate identification of class members possible,” which “include[es]
23 class definitions that are sufficient to allow a member of [the class] to identify himself or herself as having
24 a right to recover[.]” *Noel v. Thrifty Payless, Inc.* (2019) 7 Cal.5th 955, 980 (internal quotations omitted)
25 (alteration in original). Here, the Class is defined by objective and precise criteria from which each Class
26 Member can self-identify. Moreover, the Class Members may be identified using Defendants’ regular
27 business records. *Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 932 (disapproved on other
28 grounds in *Noel*, 7 Cal.5th at 985-986, n. 15).

1 There is no minimum number of individuals required as a matter of law to satisfy numerosity
2 under section 382 of the California Code of Civil Procedure. *Rose*, 126 Cal.App.3d at 934 (disapproved
3 on other grounds by *Noel*, 7 Cal.5th at 986); *see also, e.g., Bowles v. Sup. Ct.* (1955) 44 Cal.2d 574, 587
4 (approving a class of 10 members); *Collins v. Rocha* (1972) 7 Cal.3d 232, 234 (approving a class of 35
5 members); *Occidental Land, Inc. v. Sup. Ct.* (1976) 18 Cal.3d 355, 364, n. 7 (finding that more than 150
6 individuals too numerous for joinder). According to Defendants’ own records, 82 individuals have been
7 identified within the Class, (Ex. 1 [¶ 8]), which is sufficiently numerous.

8 **2. There Is a Well-Defined Community of Interest.**

9 The community-of-interest requirement “embodies three factors: (1) predominate common
10 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class
11 representatives who can adequately represent the class.” *Brinker*, 53 Cal.4th at 1021, internal quotations
12 omitted; *see Dunk*, 48 Cal.App.4th at 1806.

13 **a. Common Questions of Law and Fact Predominate.**

14 “The ultimate question to the element of predominance is whether the issues which may be jointly
15 tried, when compared with those requiring separate adjudication, are so numerous or substantial that the
16 maintenance of a class action would be advantageous to the judicial process and to the litigants.” *Brinker*,
17 53 Cal.4th at 1021 (internal quotations omitted).

18 Plaintiff asserts that Defendants’ written policies were facially unlawful, specifically with respect
19 to meal and rest break policies. Indeed, Plaintiffs’ claims are of the type where “[t]he theory of liability
20 — that [the employer] has a uniform policy, and that the policy, measured against wage order
21 requirements, allegedly violates the law – is by its nature a common question eminently suited for class
22 treatment.” *Id.* at 1033. In addition, the data revealed a high rate of facially non-compliant meal breaks,
23 which Plaintiffs contend evidences that it was Defendants’ practice of not providing legally compliant
24 meal periods and failing to pay all wages due, including overtime. *See Bradley v. Networkers*
25 *International, LLC*, 211 Cal.App.4th at 1150 (a common lack or disregard of written policies and
26 procedures is also amenable to class treatment because the relevant inquiry is a uniform companywide
27 conduct that allegedly violates state law). The lawfulness of Defendants’ common policies and business
28 practices are suitable for class treatment, regardless of which side prevails on the merits. *See Sav-On*

1 *Drugs Stores, Inc. v. Sup. Ct.* (2004) 34 Cal.4th 319, 338 (the “logic of predominance” does not require a
2 plaintiff to prove the employer’s policy or practice is unlawful as to all members of the class).

3 ***b. Plaintiff’s Claims are Typical.***

4 “The test of typicality is whether other members have the same or similar injury, whether the
5 action is based on conduct which is not unique to the Plaintiffs, and whether other Class Members have
6 been injured by the same course of conduct.” *Martinez v. Joe’s Crab Shack Holdings* (2014) 231
7 Cal.App.4th 362, 375 (internal quotations omitted). This test is satisfied, here. Plaintiff is Defendants’
8 former employee who was subjected to the same policies, procedures, and practices that resulted in the
9 claims subject of this Action for which they seek redress on behalf of similarly situated individuals.

10 **3. Plaintiff and his Counsel Meet the Adequacy Requirement.**

11 Whether a named plaintiff and her counsel adequately represent a class “depends on whether the
12 plaintiff’s attorney is qualified to conduct the proposed litigation and the plaintiff’s interests are not
13 antagonistic to the interests of the class.” *McGhee v. Bank of America*, (1976) 60 Cal.App.3d 442, 451.
14 Both requirements are met. Class Counsel has extensive experience in prosecuting and defending class
15 actions dealing with the specific issues presented here. (Gutierrez Decl., ¶¶ 21-27; Lundy Decl., ¶¶ 4-16.)
16 And Plaintiff’s interests align with the putative Class Members’ interests, as he was employed by the
17 Defendants during the Class Period and experienced the same wage and hour policies and practices as
18 other employees. Plaintiff’s willingness to serve as a class representative and aid Class Counsel further
19 demonstrates his commitment to bringing the best possible result for the Class. (*See generally*, McArthur
20 Decl.)

21 **4. This Class Action is Superior to Other Means of Resolution.**

22 The superiority analysis turns on a comparison “between the costs and benefits of adjudicating
23 plaintiffs’ claims in a class action and the costs and benefits of proceeding by numerous separate
24 actions[.]” *Sav-On Drugs*, 34 Cal.4th at 339, n. 10. Through this Settlement, “th[is] class suit both
25 eliminates the possibility of repetitious litigation and provide small claimants with a method of obtaining
26 redress for claims which would otherwise be too small to warrant individual litigation.” *Richmond v.*
27 *Dart Industries, Inc.* (1981) 29 Cal.3d 462, 469. This is particularly true given that this is an action
28 involving wage and hour claims. *See Martinez*, 231 Cal.App.4th at 367.

1 **C. The Proposed Attorneys' Fees Are Reasonable.**

2 At Final Approval, Class Counsel will request a fee award of \$192,500, which represents 35% of
3 the Gross Settlement Amount. (Gutierrez Decl., ¶ 41) This percentage falls well within the accepted range
4 for class action settlements, as empirical studies demonstrate that fee awards in class actions average
5 approximately one-third of the recovery regardless of the calculation method employed. *Chavez v. Netflix,*
6 *Inc.* (2008) 162 Cal.App.4th 43, 66, n. 11; *see also Van Vranken v. Atlantic Richfield Company* (N.D. Cal.
7 1995) 901 F.Supp. 294, 298 (citing cases approving fee percentages of 30-50% in “smaller” settlements
8 under \$10 million).

9 Class Counsel has prosecuted this action entirely on a contingent basis, investing substantial time
10 and resources with no guarantee of recovery. (Gutierrez Decl., ¶ 42.) The contingent risks in these types
11 of cases are very real and occur regularly. (*Id.*) As of this motion’s filing, Class Counsel has incurred
12 \$19,970.14 in litigation costs and will require additional hours to monitor preliminary approval
13 proceedings up to final approval and overseeing settlement administration. (*Id.*) The contingent nature of
14 representation in wage and hour class actions presents significant financial risk, as counsel bears
15 responsibility for all necessary enforcement actions should Defendants fail to perform under the
16 settlement terms. (*Id.*) The contingent risks in these types of cases are very real and occur regularly. (*Id.*)

17 The Court need not resolve the reasonableness of Class Counsel’s fee request at the preliminary
18 approval stage, though the 35% request appears presumptively reasonable given prevailing market
19 standards and the substantial risks undertaken in contingent class action representation. In addition, Class
20 Counsel will request reimbursement of costs not to exceed \$32,000. (*Id.*, ¶ 43.)

21 **D. The Proposed Service Award is Fair and Reasonable.**

22 At Final Approval, Plaintiff will request a Service Award of \$12,500. (Gutierrez Decl., ¶ 44.)
23 This amount is to compensate Plaintiff for initiating and providing his services in this Action resulting in
24 this favorable Settlement, *for individually releasing all claims against Defendants, known or unknown,*
25 pursuant to Civil Code Section 1542, which is beyond the releases applicable to other class members, and
26 for delaying the resolution of his individual claims against Defendants. (*Id.*, ¶ 44; McArthur Decl., ¶ 14.).
27 The requested amount appears presumptively appropriate given Plaintiff’s substantial contributions to
28 achieving this Class-wide recovery. (*See* Gutierrez Decl., ¶¶ 45-46; McArthur Decl., ¶¶ 4-14.)

1 Throughout this litigation, Plaintiff has cooperated with Class Counsel and has taken many actions to
2 protect the interests of the Class. Mr. McArthur provided valuable information regarding missed meal and
3 rest periods, unpaid wages, coordinated witness interviews, and informed Class Counsel with
4 developments and information relevant to this Action. The information and documentation provided by
5 Plaintiff were instrumental in establishing the wage and hour violations alleged in this Action, and the
6 recovery provided for in the Settlement would not have been impossible without his participation. (*Ibid.*)

7 While the Court need not decide at the preliminary approval stage, the service awards are
8 presumptively fair and reasonable as it represents only 2.27% of the Gross Settlement Amount.
9 (*Gutierrez Decl.*, ¶ 46); *see Singer v. Becton Dickinson & Co.* (S.D. Cal. June 1, 2010) 2010 WL
10 2196104, at *9 (awarding \$25,000 to class representative from \$1 Million wage and hour case settlement
11 (2.5% of fund)); *Thieriot v. Celtic Inc. Co.* (N.D. Cal., April 21, 2011) 2011 WL 1522385 at *8 (awarding
12 \$25,000 service award from class settlement of \$1.375 Million (1.8% of fund)).)

13 **E. The Class Notice is Adequate.**

14 Trial courts are vested with broad discretion to fashion a notice that is constitutionally adequate.
15 *Cartt v. Sup. Ct.* (1975) 50 Cal.App.3d 960, 973-974; *7-Eleven Owners for Fair Franchising*, 85
16 Cal.App.4th at 1164; *see* CAL. RULES OF CT, 3.776. The “fundamental purpose” of the class notice is “to
17 apprise Class Members of the terms of the proposed settlement.” *Duran v. Obesity Research Institute,*
18 *LLC* (2016) 1 Cal.App.5th 636, 638. “The notice must fairly apprise the Class Members of the terms of
19 the proposed compromise and of the options open to dissenting Class Members.” *Id.* at 644 (quoting *Cho*
20 *v. Seagate Technology Holdings, Inc.* (2009) 177 Cal.App.4th 734, 745 (internal quotations omitted). The
21 language of the class notice should be neutral, simple, and understandable, as well as “describe the
22 formula or plan for computing individual settlement Class Member recoveries.” *Ibid.*

23 The Class Notice summarizes the proceedings, and terms and conditions of the Settlement
24 Agreement, in a neutral, informative, and cogent manner. It provides a background of the Action, a
25 breakdown of each Class Member’s estimated recovery under the Settlement (both Individual Class
26 Payments and Individual PAGA Payments), how that amount will be determined, the tax treatment of the
27 amount received, and the amounts of costs and fees requested by Class Counsel. The Class Notice further
28 enumerates Class Members’ rights and options under the Settlement, including the right to opt-out and the

1 procedure to do so,¹⁶ and that all members who do not opt-out will be bound by the releases contemplated
2 in the Settlement. The Class Notice confirms final approval of the settlement has yet to be made, and that
3 any member who does not opt-out may appear at the fairness hearing.

4 Due process also requires notice to Class Members to be “the best practicable, reasonably
5 calculated, under all the circumstances, to apprise interested parties of the pendency of the action and
6 afford them an opportunity to present their objections.” *Duran*, 1 Cal.App.5th at 648 (internal quotations
7 omitted) (citation omitted). Here, the Class Notice will be directly mailed to each Class Member, via
8 United States Postal Service First-Class mail, to addresses confirmed by the Administrator prior to the
9 mailing of the Class Notice. *Wershba*, 91 Cal.App.4th at 251 (quoting *Cartt*, 50 Cal.App.3d at 974) (the
10 standard for the determination of the manner that the class notice will be disseminated, is “whether the
11 notice has a ‘reasonable chance of reaching a substantial percentage of the Class Members.’”). And,
12 given the costs to mail the Class Notice represents approximately .11% of the Gross Settlement
13 Amount,¹⁷ the cost of notifying Class Members will not be excessive. CAL RULES OF COURT, 3.766(e) (in
14 evaluating a class notice, the court must also consider “[t]he cost of notifying Class Members”).

15 VI.

16 CONCLUSION

17 For the foregoing reasons, Plaintiff respectfully asks that the Court grant this Motion.

18
19 Dated: July 11, 2025

BAKER, BURTON & LUNDY, P.C.

20
21 By: 

ALBRO L. LUNDY, III
ROLANDO J. GUTIERREZ

Attorneys for Plaintiff and the Putative Class

22
23
24
25
26 _____
27 ¹⁶ Rule 3.766(d) of the California Rules of Court sets forth the minimum requirements to be contained in a
class notice where Class Members are permitted to opt-out of the settlement.

28 ¹⁷ Based on the estimates provided by CPT Group, Inc., the cost to mail notice to the Class, including a
second notice mailing, is approximately \$626.92. (Gutierrez Decl., ¶ 48, Ex. 3.)

1 **PROOF OF SERVICE**

2 **RE: *McArthur v. Pacific Design Center 1, LLC, et al.***
3 **Case No: 24STCV03908**
LWDA Case No: LWDA-CM-1006481-24

4 I am employed in the State of California, County of Los Angeles. I am over the age of 18 and
5 not a party to this action. My business address is 515 Pier Avenue, Hermosa Beach, CA 90071.

6 On **July 11, 2025**, I served the following document(s) described as:

7 **PLAINTIFF JEREMY MCARTHUR'S NOTICE OF MOTION AND MOTION FOR**
8 **CONDITIONAL CLASS CERTIFICATION AND PRELIMINARY APPROVAL OF CLASS**
9 **ACTION AND PRIVATE ATTORNEY GENERAL ACT SETTLEMENT**

10 on the interested parties as follows:

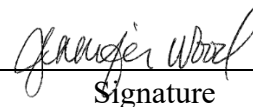
11 Labor and Workforce Development Agency
12 800 Capital Mall, Suite 500
13 Sacramento, California 95814

14 ☒ **BY ELECTRONIC SUBMISSION:** Complying with CAL. LAB. CODE §§ 2699(1)(4) and
15 2699.3, I caused true and correct copies of the documents to be served on the Labor and
16 Workforce Development Agency through its online platform at
17 <https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>.

18 I declare under penalty of perjury under the laws of the State of California that the foregoing is
19 true and correct.

20 Executed on **July 11, 2025** at Hermosa Beach, California.

21 Jenny Wood
22 Type or Print Name

23 
24 Signature

1 **PROOF OF SERVICE**

2 **RE: *McArthur v. Pacific Design Center 1, LLC, et al.***
3 **Case No: 24STCV03908**

4 I am employed in the State of California, County of Los Angeles. I am over the age of 18 and
not a party to this action. My business address is 515 Pier Avenue, Hermosa Beach, CA 90071.

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7 **CONDITIONAL CLASS CERTIFICATION AND PRELIMINARY APPROVAL OF CLASS**
8 **ACTION AND PRIVATE ATTORNEY GENERAL ACT SETTLEMENT**

on the interested parties as follows:

9 Summy Kim, *Esq.*

10 skim@ohaganmeyer.com

J. Cruz Zavala-Garcia, *Esq.*

11 czavala@ohaganmeyer.com

O'HAGAN MEYER

One Embarcadero, Ste. 2100

12 San Francisco, CA 94111

13 *Counsel for Defendants*

Pacific Red, LLC

14 Pacific Design Center 1, LLC

Cohen PDC, LLC

15 [] **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for
16 mailing in the ordinary course of business at Los Angeles, California. I am "readily familiar"
17 with this firm's practice of collection and processing correspondence for mailing. Under that
18 practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the
ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

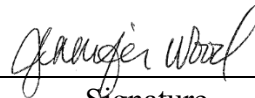
19 [✓] **BY CASE ANYWHERE:** On the above-mentioned date, from Los Angeles, California, I
20 caused each such document to be transmitted electronically to the party(ies) at the e-mail
21 address(es) indicated below via CASE ANYWHERE. To the best of my knowledge, the
transmission was reported as complete, and no error was reported that the electronic
transmission was not completed.

22 I declare under penalty of perjury under the laws of the State of California that the foregoing is
true and correct.

23 Executed on **July 11, 2025** at Hermosa Beach, California.

24 Jenny Wood

25 Type or Print Name



Signature