D.LAW, INC.
Gregg Lander (SBN 194018)
g.lander@d.law
Vanessa M. Ruggles (SBN 254031)
v.ruggles@d.law
Enoch J. Kim (SBN 261146)
e.kim@d.law
Marta Manus (SBN 260132)
m.manus@d.law
450 N Brand Blvd., Suite 840
Glendale, CA 91203
Telephone: (818) 962-6465
Fax: (818) 962-6469

Attorneys for Plaintiff JOSELITO PILLOS,
on behalf of himself and all others similarly situated,

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

JOSELITO PILLOS, on behalf of himself and all others similarly situated, Plaintiff, vs. WEST VALLEY ENGINEERING, INC. dba "WEST VALLEY STAFFING GROUP", a California corporation; CELLINK ENTERPRISES dba "CELLINK CORPORATION", a Delaware Corporation; and Does 1 to 10, inclusive, Defendants.	CLASS ACTION Case No. 24-CIV-01938 Honorable Mark A. McCannon Department 2 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF THE CLASS ACTION SETTLEMENT** *[filed concurrently with Plaintiff's Notice of Motion and Motion; Declaration of Marta Manus; Declaration of Joselito Pillos; and [Proposed] Order]* Date: June 11, 2026 Time: 2:00 p.m. Dept.: 2 Complaint filed: March 29, 2024 FAC filed: June 3, 2024 Trial date: None set

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Joselito Pillos ("Plaintiff") seeks preliminary approval of a class and representative action settlement with West Valley Engineering, Inc. *dba* West Valley Staffing Group ("WVSG") and CelLink Corporation, *fka* CelLink Corporation *dba* CelLink Enterprises ("CelLink") (WVSG and CelLink are referred to collectively as "Defendants") (Plaintiff and Defendants are collectively referred to herein as the "Parties"). The Parties' proposed settlement is memorialized in their Class Action and PAGA Settlement Agreement ("Settlement Agreement" or "Settlement").[1]

After engaging in substantial investigation and extensive negotiations with the assistance of a respected mediator, the Parties agreed to settle all claims alleged in this action on a class-wide, non-reversionary basis for a Gross Settlement Amount of $325,000.00, inclusive of all fees and costs. The Settlement Agreement defines the class as all persons employed by WVSG in California as hourly, non-exempt employees who performed work at CelLink's worksite in San Carlos, California during the Class Period (defined as October 2, 2019, through December 19, 2024) ("Class" or "Class Member"). All of the approximately 153 Class Members will receive a settlement payment unless they opt out of the Settlement.

The Settlement Agreement defines Aggrieved Employees as persons employed by WVSG in California as an hourly, non-exempt employee, who performed work at CelLink's worksite in San Carlos, California during the PAGA Period ("Aggrieved Employees"). All of the Aggrieved Employees will receive a settlement payment provided the PAGA allocation of the Settlement is approved by the Court and cannot opt out of the PAGA portion of the Settlement.

The proposed Settlement is fair, reasonable, and adequate, and in the best interests of the Class. Consequently, Plaintiff, with the consent of Defendants, hereby moves this Court for an order: (1) granting preliminary approval of the proposed class action settlement, as embodied in the Settlement Agreement; (2) approving the Notice of Class Action Settlement to be sent to Class Members, and the notification schedule as set forth in the Settlement Agreement and the Proposed

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[1] All capitalized words are defined in the Settlement Agreement (Exhibit 1 to the Declaration of Marta Manus, ("Manus Decl."), filed herewith), and those definitions are incorporated by reference herein.

Order, filed concurrently herewith; (3) preliminarily appointing the attorneys representing Plaintiff as Class Counsel; (4) preliminarily appointing Plaintiff as the Class Representative; and (5) setting a hearing for final approval of the class action settlement.

II. STATUS OF THE LITIGATION

A. Procedural History

On March 29, 2024, Plaintiff commenced this Action by filing a Complaint alleging causes of action against WVSG for: (1) Failure to Pay All Wages Due to Illegal Rounding; (2) Failure to Pay All Wages; (3) Failure to Pay All Overtime Wages; (4) Failure To Provide All Meal Periods; (5) Failure to Authorize and Permit All Paid Rest Periods; (6) Derivative Failure To Timely Furnish Accurate Itemized Wage Statements; (7) Independent Failure To Timely Furnish Accurate Itemized Wage Statements; (8) Derivative Violations of Labor Code §§ 201-202; (9) Independent Violations of Labor Code §§ 201-202; and (10) Unfair Business Practices. (Manus Decl., ¶ 11.) On March 28, 2024, pursuant to Labor Code § 2699.3(a), Plaintiff gave timely notice to the LWDA and Defendants that Plaintiff intended to proceed with a representative action under the Private Attorneys General Act ("PAGA") (LWDA Case No. LWDA-CM-1019233-24). (*Id.*) On June 3, 2024, Plaintiff filed a First Amended Complaint adding a claim under PAGA pursuant to the PAGA, Labor Code § 2699, *et seq*. and Defendant CelLink Enterprises d/b/a "CelLink Corporation." The First Amended Complaint is the operative complaint in the Action (the "Operative Complaint"). (*Id.*)

B. Investigation

Before filing the lawsuit, Class Counsel investigated and researched the facts and circumstances underlying the pertinent issues and the law applicable thereto. (Manus Decl., ¶ 12.) This required thorough discussions and interviews between Class Counsel and Plaintiff, as well as preliminary research into the various legal issues involved in the case. (*Id.*) After conducting their initial investigation, Class Counsel determined that Plaintiff's claims were well-suited for class and representative action adjudication owing to what appeared to be a common course of conduct affecting a similarly situated group of employees. (*Id.*)

After filing the lawsuit, Class Counsel conducted a thorough investigation of the facts and claims giving rise to the action, including: (1) conducting informal discovery, and meeting and conferring with defense counsel about the same; (2) reviewing and analyzing a sampling of time and pay records for the Class as well as an employment handbook, Plaintiff's personnel files, relevant policies and other documentation, including meal and rest break policies, compensation policies and timekeeping policies; (3) researching the applicable law and potential defenses; (4) constructing damage models based on interpretations of California law; and (5) reviewing information provided by Defendants in advance of the mediation (Manus Decl., ¶ 12.) The Class enumerated in this action is ascertainable because the Class Members may be readily identified by reference to Defendants' records. (*Id.*) Defendants have agreed to share information from these records with the Administrator in order to identify and contact the Class Members. (*Id.*) There are approximately 153 total Class Members. (*Id.* at ¶ 13.)

Defendants, for their part, vigorously contested liability, the amount of claimed damages, and the propriety of class certification. (Manus Decl., ¶ 14.) After Class Counsel analyzed the relevant documents and other gathered data, Class Counsel believed that this case was appropriate for resolution via mediation. (*Id.*) Given the high level of risk present for both sides, the Parties elected to mediate Plaintiff's claims and explore the possibility of settlement. (*Id.*)

C. Settlement Efforts

On December 19, 2024, the Parties participated in an all-day mediation presided over by a professional and neutral mediator, Steve G. Pearl, Esq., which ultimately led to this Agreement to settle the Action (Manus Decl., ¶ 14.) To prepare for the mediation, the Parties engaged in informal discovery with Defendants providing documentation to Plaintiff, including time and pay records for 153 Class Members, data points including total workweeks and pay periods, and relevant employment policies. Plaintiff hired an expert, Berger Consulting Group – Economic Data Analysts, to prepare damage calculations and an exposure analysis for the mediation. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*"). (*Id.*)

During mediation, Plaintiff's and Defendants' counsel discussed all aspects of the case, including the risks of litigation and the risks to both parties of proceeding with a motion for class certification, as well as the law relating to unpaid wages, meal periods, rest periods, wage statements, and final pay. As a result of the mediation, the Parties agreed to settle the lawsuit according to the terms set forth in the Settlement Agreement. (*Id.* at ¶ 16.)

III. SETTLEMENT AGREEMENT AND ACCOMPANYING DOCUMENTS

Under the terms of the proposed Settlement Agreement, Defendants have agreed to pay $325,000.00 ("Gross Settlement Amount") on a non-reversionary basis and WVSG to separately pay all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. (Manus Decl., ¶ 17; Ex. 1 ¶¶ 1.22, 3.1.)

The "Net Settlement Amount," available for distribution to Class Members, shall be the Gross Settlement Amount, less the Individual PAGA Payments, the LWDA PAGA Payment, the Class Representative Service Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. (Manus Decl., ¶ 19; Ex. 1, ¶ 1.28.) These amounts are detailed as follows:

- Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be $108,333.33, for attorneys' fees, and Class Counsel Litigation Expenses Payment of not more than $25,000.00 for litigation costs; (Manus Decl., ¶ 19; Ex. 1, ¶¶ 1.7, 3.2.2);
- Class Representative Service Payment of not more than $15,000.00 to Plaintiff for his service as the Class Representative; (Manus Decl., ¶ 19; Ex. 1, ¶¶ 1.14, 3.2.1);
- Administration Expenses Payment of up to $11,214.00 to the Administrator for settlement administration costs; (Manus Decl., ¶ 19; Ex. 1, ¶ 3.2.3);
- PAGA Penalties in the amount of $15,000.00 for civil penalties under PAGA, with 75% ($11,250.00) paid to the LWDA ("LWDA PAGA Payment") and 25% ($3,750.00) paid to Aggrieved Employees based on the number of pay periods each Aggrieved Employee worked during the PAGA Period ("Individual PAGA Payment"); (Manus Decl., ¶ 19; Ex. 1, ¶ 3.2.5.)

The Individual Class Payment is each Class Member's share of the Net Settlement Amount and will be calculated and apportioned from the Net Settlement Amount based on the number of

Workweeks a Class Member worked during the Class Period. (Manus Decl., ¶ 19; Ex. 1, ¶ 3.2.4.)

The Notice of Class Action Settlement ("Class Notice") is attached to the Settlement Agreement as **Exhibit A**. The Parties have selected Rust Consulting, Inc. ("Rust") to handle the Class Notice and administration of the Settlement. (Manus Decl., Ex. 1, ¶ 1.2l; Ex. 3 [Declaration of Eric Bishop of Rust].) The procedures for mailing the Class Notice and processing exclusions and objections as well as distribution of the Net Settlement Amount are detailed in the Settlement Agreement. (Manus Decl., ¶¶ 22-25; Ex. 1, § 7.)

IV. CERTIFICATION FOR SETTLEMENT PURPOSES ONLY IS APPROPRIATE

Express judicial policy favors maintaining wage and hour actions as class actions. (*Prince v. CLS Transp., Inc.* (2004) 118 Cal. App. 4th 1320, 1328; *Richmond v. Dart Industries, Inc.* (1981) 29 Cal. 3d 462.) Any doubt as to the appropriateness of class treatment should be resolved in favor of class certification, subject to later modification if necessary. (*Richmond*, 29 Cal. 3d at 473-75.) The decision to certify a class is a procedural one and should be based on the allegations in the operative complaint, and not in the perceived factual or legal merit of the class claims. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal. 4th 429, 439-41.)

To certify a settlement class, the Court must find the two primary requirements for maintaining a class action: (1) there must be an ascertainable class, and (2) there must be a well-defined community of interest in the questions of law and fact involving the parties to be represented. (*See Vasquez v. Superior Court* (1971) 4 Cal. 3d 800, 805-09; *Daar v. Yellow Cab Company* (1967) 67 Cal. 2d 695, 704.) These criteria are met here for the reasons set forth below.

A. There Is a Numerous and Ascertainable Class

Whether a class is ascertainable is determined by examining the class definition, the size of the class and the means available for identifying class members. (*See Vasquez, supra,* 4 Cal. 3d at 821-22; *Reyes v. Board of Supervisors of San Diego County* (1987) 196 Cal. App. 3d 1263, 1271.) Class members are "ascertainable" where they may be readily identified without unreasonable expense or time.

Plaintiff contends, and Defendants do not dispute for settlement purposes only, this requirement and the requirement of numerosity are met. Class Members are all persons employed by WVSG in California as hourly, non-exempt employees who performed work at CelLink's worksite in San Carlos, California during the Class Period (defined as October 2, 2019, through December 19, 2024). (Manus Decl., ¶ 18.) Documents and information exchanged between the Parties reflect a class of approximately 153 Class Members. (Manus Decl., ¶ 72(a), Ex. 1, ¶ 4.1.) The Class Members have already been identified by reference to Defendants' payroll and personnel records. (Manus Decl., ¶ 72(b).)

Therefore, and notwithstanding the foregoing, there is a numerous and ascertainable class.

B. There Is a Well-Defined Community of Interest

A community of interest is established by the predominance of common issues of law and fact. *See Vasquez*, 4 Cal. 3d at 811. The requirement of a community of interest:

> [D]oes not depend upon an identical recovery, and the fact that each member of the class must prove his separate claim to a portion of any recovery by the class is only one factor to be considered ... The mere fact that separate transactions are involved does not of itself preclude a finding of the requisite community of interest so long as every member of the alleged class would not be required to litigate numerous and substantial questions to determine his individual right to recover subsequent to the rendering of any class judgment which determined in plaintiffs' favor whatever questions were common to the class.

Id. at 809.

Plaintiff contends, and Defendants do not dispute for settlement purposes only, that common issues of fact and law predominate as to each of the claims alleged by Plaintiff, and the Class is united in its proof. (Manus Decl., ¶ 72(e).) Because Plaintiff has alleged a single scheme, "the relevant proof [does] not vary among class members" and "clearly presents a common question fundamental to all class members." (*See In Re NASDAQ Market-Makers Antitrust Litigation* (SDNY 1997) 172 F.R.D. 119, 123 (citing In Re NASDAQ Market-Makers Antitrust Litigation, (SDNY 1997) 169 F.R.D. 493, 518).) California courts show "no hesitancy" in inferring class-wide causation, class-wide injury, and class-wide damages when a common course of action has been shown. (*B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987) 191 Cal. App. 3d 1341, 1350f.) This inference "'eliminates the need for each class member to prove individually the consequences of the defendants' actions to him or her.'" (*Id.* at 1351 (quoting *Rosack v. Volvo of America Corp*

(1982) 131 Cal. App. 3d 741, 753 [emphasis added]).)

This action involves, *inter alia*, a determination about Defendants' alleged failure to pay all minimum and overtime wages due to unlawful rounding practices, failure to provide all meal periods, failure to authorize and permit all paid rest periods, failure to pay all wages due upon termination of employment, the failure to provide accurate itemized wage statements, violations of the Business & Professions Code, and civil penalties under the PAGA. (Manus Decl., ¶ 72(e).) Plaintiff contends these practices affected Class Members in the same way. (*Id.*) The outcome of litigation on this matter depends upon questions that are common to Class Members. (Manus Decl., ¶ 72(f).)

C. The Named Plaintiff's Claims Are Typical

A class representative's claims are typical when they arise from the same event, practice, or course of conduct that gives rise to the claims of other putative class members, and if their claims rest on the same legal theories. The class representative's claims must be "typical" but not necessarily identical to the claims of other class members. It is sufficient that the representative is similarly situated so that he or she will have the motive to litigate on behalf of all class members. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 47; *B.W.I. Custom Kitchens v. Owens-Illinois, Inc.,* 191 Cal.App.3d at 1347 ("[I]t has never been the law in California that the class representative must have identical interests with the class members.") Thus, it is not necessary that the class representative should have personally incurred all of the damages suffered by each of the other class members. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 228.)

Plaintiff contends, and Defendants do not dispute for settlement purposes only, that Plaintiff's claims are typical of Class Members' claims because they arose from the same factual basis and are based on the same legal theories. (Manus Decl., ¶ 72(c).) Plaintiff was employed by Defendants during the Class Period and was subject to the allegedly unlawful meal and rest policies and pay practices at issue in this litigation. (*Id.*) Accordingly, Plaintiff is a member of the Class he seeks to represent. (*Id.*) The central issues of this litigation (whether Defendants failed to pay all wages, whether Defendants failed to provide meal and rest periods, etc.) apply to the other Class Members as well. The answer to these questions would determine Defendants' liability to the putative class. (*Id.*) Thus, the claims of Plaintiff are typical of the claims of the putative Class. (*Id.*) Accordingly, the typicality requirement is satisfied.

D. Adequacy of Class Counsel and Class Representatives

Class Counsel are experienced in class actions, have represented their clients zealously and have no conflicts of interest. (Manus Decl., ¶¶ 3-9, 72(d)) The Class Representative's interests are aligned with those of the Class Members, he has suffered the alleged same injuries as the Class Members and has no conflicts of interest. (*Id.*) Therefore Class Counsel and the Class Representative are adequate.

E. Predominance and Superiority

Individual issues do not predominate over those common to the class. (Manus Decl., ¶ 72(f).) The class action mechanism is superior to individualized actions because Class Members have little incentive to bring claims that are small. (Manus Decl., ¶ 72(g).)

V. THE TWO-STEP APPROVAL PROCESS

Any settlement of class action litigation must be reviewed and approved by the Court. This is accomplished in two steps: (1) An early (preliminary) review by the trial court, and (2) a detailed review after the notice has been distributed to the class members for their comments or objections. In this regard, the Manual for Complex Litigation (Second) explains:

> A two-step process is followed when considering class settlements… If the proposed settlement appears to be the product of serious, informed, non-collusive negotiations, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments of the class, and falls within the range of possible approval, then the court should direct that notice be given to the class members of a formal fairness hearing, at which evidence may be presented in support of and in opposition to the settlement.

(*Manual for Complex Litigation (Second)* (1985) at § 30.44.) The preliminary approval of the class action settlement by the trial court is simply a conditional finding that the settlement appears to be within the range of acceptable settlements. (*See, e.g., Newberg*, § 11.25; *North County Contractor's Assn., Inc. v. Touchstone Ins. Services* (1994) 27 Cal. App. 4th 1085, 1094-95.) Thus, the preliminary approval of the class action settlement by the trial court is simply a conditional finding that the settlement appears to be within the range of acceptable settlements.

Settlements to resolve PAGA claims also require court approval. (Labor Code § 2699(s)(2).) There is no articulated standard for approving PAGA settlements. PAGA settlements for as little as $0 have been approved. (*See Nordstrom Com'n Cases* (2010) 186 Cal.App.4th 576, 589 (approving PAGA settlement and release that allocated $0 to PAGA claim).) Courts have also approved settlements for $20,000 or less. (*See, e.g., Hicks v. Toys 'R' Us–Delaware, Inc.,* (C.D. Cal. Sept. 2, 2014) 2014 WL 4703915, at *1 (approving $5,000 PAGA payment in $4 million settlement); *Chu v. Wells Fargo Invest. LLC* (N.D. Cal. Feb. 16, 2011) 2011 WL 672645, at *1 (approving PAGA payment of $7,500 in $6.9 million settlement); *Williams v. Brinderson Constructors* (C.D. Cal. Feb. 6, 2017) 2017 WL 490901, at *5 ($10,000 PAGA settlement in $300,000 settlement).)

A review of the preliminary approval criteria demonstrates a substantial basis for granting the instant Motion and proceeding to a full settlement hearing.

VI. THE SETTLEMENT IS FAIR AND ADEQUATE

As a matter of public policy, courts both encourage the use of the class action device and favor settlement over continued litigation. (*See, e.g., Linder v. Thrifty Oil Co.*, 23 Cal. 4th at 434 ("Courts have long acknowledged the importance of class actions as a means to prevent a failure of justice in our judicial system."); *Class Plaintiffs v. City of Seattle* (1992) 955 F.2d 1268, 1276 ("[S]trong judicial policy . . . favors settlements, particularly where complex class action litigation is concerned.").)

Moreover, courts presume the absence of fraud or collusion in the negotiation of a settlement unless evidence to the contrary is offered. In short, there is a presumption that the negotiations were conducted in good faith. (*Newberg*, §11.51; *Rodriguez v. West Publ. Corp.* (C.D. Cal. August 10, 2007) 2007 U.S. Dist. LEXIS 74767, 24-25 ; *Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447.) Courts do not substitute their judgment for that of the proponents, particularly when settlement has been reached by experienced counsel familiar with the litigation. (*Rodriguez*, 2007 U.S. Dist. LEXIS 74767 at 24; *Hammon v. Barry* (D.D.C. 1990) 752 F. Supp. 1087.)

In *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th at 128, the court laid out several factors that should be analyzed in determining if a class action settlement should be approved.

These factors include: (1) the strength of plaintiff's case; (2) the risk, expense, complexity and likely duration of further litigation; (3) the risk of maintaining class action status through trial; (4) the amount offered in settlement; (5) the extent of discovery completed and 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.

The Settlement here satisfies each of these factors. Class Counsel conducted extensive informal discovery before engaging in meaningful settlement negotiations in this matter. Prior to mediation, Defendants provided documentation to Plaintiff, including time and pay records for 153 Class Members, data points including total workweeks and pay periods, relevant policies, for Class Members including a (Manus Decl., ¶¶ 11-13.) This discovery conducted permitted Class Counsel to fairly evaluate the strengths and weaknesses of the case and the risks associated with ongoing litigation. Class Counsel is very experienced in the handling of wage and hour class actions and supports this Settlement. (Manus Decl., ¶¶ 3-9.)

A. The Strength of Plaintiff's Case

The claims in this action include failure to pay all wages, including overtime wages, failure to provide all meal and rest periods, failure to provide accurate itemized wage statements, failure to pay final wages when due, and related claims for violations of California's Business & Professions Code and for civil penalties under PAGA. (Manus Decl., ¶ 11.)

1. Failure to Pay All Overtime Wages

Plaintiff alleged that Defendants failed to pay Plaintiff and other Class Members minimum wages and overtime for all hours worked. Specifically, Plaintiff contended that although Defendants utilized a time keeping system that recorded the actual punch times of Plaintiff and Class Members, Defendants' time rounding policy rounded the actual punch times and Plaintiff and Class Members were paid on rounded, instead of actual, hours worked, resulting in a failure to compensate for all hours worked. Additionally, Plaintiff contended that Defendants failed to pay for hours worked by Plaintiff and Class Members off-the-clock completing mandatory security sign-in and sign-out procedures. Lastly, Plaintiff alleged that Plaintiff and Class Members worked an alternative workweek schedule (AWS). However, Defendants allegedly failed to properly implement an AWS. Plaintiff also contended that Defendants paid incentive and other nondiscretionary bonuses to Class Members but did not include that compensation when determining the regular rate of pay for payment of overtime and sick pay. (*Id.* at ¶ 30.)

Defendants denied all allegations and contended that Plaintiff and Class Members were always paid for all reported hours worked, that Class Members were trained to record all hours worked accurately, and that they paid proper minimum wages. Defendants also claimed that it did not engage in unlawful rounding of time entries. Defendants argued that it did not have an improperly adopted AWS. Lastly, Defendants argued that it did not have a regular non-discretionary bonus structure and that any bonuses paid were discretionary. (*Id* at ¶ 31.)

2. Failure to Provide Meal Periods and Rest Periods

Plaintiff argued that Defendants have a common practice and policy of denying compliant meal periods. (Manus Decl., ¶ 32-33.) These alleged violations resulted from lack of coverage, a break rotation schedule that did not account for delays in breaks, and demanding performance metrics. Furthermore, Plaintiff alleged that Defendants did not provide second meal breaks on eligible shifts (over ten hours). (*Id*.)

Defendants argued that in practice all employees were authorized, encouraged, and did in fact take timely uninterrupted meal breaks. Defendants also argued that their written policies were valid and disseminated to all Class Members. Defendants contended that Class Members were given a reasonable opportunity to take their meal periods, and in fact received their meal periods most of the time. Defendants contended that meal periods were scheduled, and employees took their meal periods at their scheduled times. Defendants also contended that on the occasions when compliant meal periods were not provided, Class Members were paid premium pay in accordance with the law. (*Id* at ¶ 35.)

The arguments applied to rest breaks. Plaintiff contended that Defendants did not provide Class Members with paid 10-minute rest breaks for every four hours or major fraction thereof. Specifically, Plaintiff alleged that due to the excessive workload, Plaintiff and Class Members were often required to work through their rest breaks or had breaks provided on an untimely basis but were not compensated with premium pay for missed or untimely rest breaks. (*Id* at ¶ 37.)

Defendants maintained that they did provide Class Members with a reasonable opportunity for them to take duty-free rest breaks, in accordance with the applicable laws. Defendants also pointed out that, unlike meal periods, rest breaks need not be recorded. (*Id* at ¶ 38.)

3. Wage Statement and Waiting Time Penalties

As for the wage statement and waiting time penalties claims, Defendants contend that these claims are merely derivative of the underlying claims and that Plaintiff and Class Members would be unable to first establish liability for the underlying claims for the reasons described above. (Manus Decl., ¶¶ 40, 44.) Defendants further contend that even if they could first establish liability for the underlying claims, Plaintiff and Class Members would be unable to establish that Defendants' conduct was willful and knowing as required by the relevant statutes since Defendants contend they acted in good faith to provide accurate wage statements and to pay all wages due to Plaintiff and Class Members. (*Id*.)

4. PAGA Penalties

Similarly, Defendants contend that the PAGA claim is also derivative of the underlying claims in the Action and ultimately fails because the underlying claims have no merit. (Manus Decl., ¶ 48.) Defendants also contend that even if Plaintiff and Class Members could establish Labor Code violations, the Court has the discretion to award less than the maximum civil penalty amount and would award substantially less civil penalties here because Defendants acted in good faith to comply with the relevant wage and hour laws, and that even if there were violations established, they would be minor and technical in nature. (*Id*.)

Defendants generally deny all claims alleged in the Action and further deny class and/or representative treatment is appropriate for any purpose other than this Settlement and that it complied with all applicable laws. (Manus Decl.,¶ 53.) However, after careful consideration, Defendants have concluded that further litigation would be protracted and expensive and that it is desirable that the Action be fully and finally settled in the manner and upon the terms and conditions herein. (*Id*.)

As stated above, while Plaintiff and Class Counsel contend the claims asserted in the Action have merit, they also acknowledge the expense, delay, and risks of continued litigation. (Manus

Decl.,¶ 54.) Although the Parties engaged in significant informal discovery in advance of mediation, the Parties still had significant discovery to complete had the matter not settled. (*Id.*) This would have required the expenditure of substantial time and resources by both Parties that would have very likely spanned several years. (*Id.*) Even if Plaintiff were to certify the classes, the Parties would incur considerably more attorney fees and costs through a possible decertification motion, trial, and possible appeal. (*Id.*) This Settlement avoids those risks and the accompanying expense. (*Id.*)

B. The Risk, Expense, Complexity and Likely Duration of Any Litigation.

Given the risks outlined above, the issues in this case were complex and the risk for Plaintiff and the Class Members associated with this litigation was high. (Manus Decl., ¶¶ 56-59.) A class trial would have required the retention of expensive expert witnesses, the accrual of extensive litigation costs, and the parties would have had to spend a substantial amount of time.

Finally, given the complexity and unsettled nature of the issues, it is likely that any outcome at trial would have resulted in a lengthy and costly appeal. An appeal would result in further delay for the Class Members who have already waited years for resolution in this matter.

C. The Risk of Maintaining Class Action Status Through Trial.

In class actions, decertification is always a possibility. There is always a risk that a trial of this magnitude can become unmanageable. (*Id.*) Given cases like *Duran v. U.S. Bank Nat. Assn.* (2014) 59 Cal. 4th 1, 34, that deal with the complexity of using statistical samples in class actions, decertification is a real risk that Class Counsel must take into account.

D. The Amount Offered in Settlement.

In deciding whether to approve the settlement, the Court must balance these risk factors against an "understanding of the amount in controversy and the realistic range of outcomes of the litigation." *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th at 130, 133; *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 408-09. The court "must stop short of the detailed and thorough investigation that it would undertake if it were actually trying the case …." *Munoz*, at 408.

Based on an analysis of the data provided for mediation, Plaintiff's expert damages consultant estimated the potential estimated realistic exposure for the claims as follows: unpaid wage claim at **$24,664.75**, the meal period claim at $**87,462.50**, the rest period claim at **$82,820.75**, the wage statement claim at **$10,537.50**, the waiting time penalties at **$289,893.00**, and PAGA at **$87,600.00,** for a total maximum exposure of **$582,978.50** ($495,378.50 for Labor Code violations + $87,600.00 PAGA penalties). (Manus Decl., at ¶¶ 28, 31, 36, 38, 41, 45, 49, 52.)

The Gross Settlement Amount of $325,000.00 represents a recovery for the Class of approximately 56% of the total realistic exposure Plaintiff estimated that Defendants could face on the primary claims in this case. The estimated Net Settlement Amount of $150,452.67[2] is approximately 26% of the total estimated realistic exposure. Plaintiff and Class Counsel submit that this is an excellent result in the face of uncertainty and the prospects of protracted and contested litigation through class certification, summary judgment, and trial, and particularly in light of all of the factors described above. (*Id*. at ¶ 52.)

If the Court approves the requested allocations from the Gross Settlement Amount of $325,000.00 as addressed above, the Net Settlement Amount is estimated to be $150,452.67. (Manus Decl., ¶ 19.) There are approximately 153 total Class Members. (*Id*.) If there are no exclusions from the Class and using a straight average for reference, each Class Member will receive an average of $983.35 (estimated Net Settlement Amount of $150,452.67 divided by 153 Class Members). The Settlement yields a per Workweek amount of $59.85 (estimated Net Settlement Amount of $150,452.67 divided by 2,514 Workweeks worked by Class Members). The estimated *highest* Individual Class Payment will be $16,339.05 (total number of workweeks in the Class Period (273) times $59.85). The estimated *lowest* Individual Class Payment will be approximately $59.85 (assuming only 1 workweek worked during the Class Period). (*Id*. at ¶ 53.)

There was a very real prospect that nothing would be recovered by the Class if litigation continued and class certification were ultimately denied and/or if Defendants prevailed on the underlying merits of the claims. At the same time, further litigation would require the expenditure

[2] The Net Settlement Amount is equal to the Gross Settlement Amount of $325,000 minus the following requested payments per the terms of the Settlement Agreement: 1) Class Counsel Fees Payment of $108,333.33; 2) Class Litigation Expenses of $25,000; 3) Class Representative Service Payment of $15,000; 4) Administrator Expenses Payment of $11,214; and 5) PAGA Penalties of $15,000. (Manus Decl., Ex. 1, pp. 6-7).

of significant time and financial resources, and there is always the possibility of adverse developments in the law and the likelihood of extended battles in both the trial court and courts of appeal. Settlement is a prudent compromise that benefits the Class Members promptly.

Experienced counsel, operating at arm's length, have weighed the strengths of the case, examined all the issues and risks of litigation, and endorsed the proposed Settlement. Class Counsel are experienced in class actions, have represented Plaintiff and the Class zealously, and have no conflicts of interest. (Manus Decl., ¶¶ 3-10.) Class Counsel submits the Settlement is fair, adequate, and reasonable in view of the risks and other considerations addressed and is well-suited for final approval upon completion of the administration process. (Manus Decl., ¶ 16.)

VII. THE CLASS REPRESENTATIVE SERVICE PAYMENT IS FAIR AND REASONABLE

It is appropriate to provide a relatively modest additional incentive payment to the class representative. See *Newberg*, § 12.1; *Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294.

Plaintiff is entitled to a reasonable service payment for his efforts and initiative in bringing and helping to prosecute this class action. (Manus Decl., ¶ 67.) Plaintiff spent significant time better apprising himself of his rights, deciding whether remedial action should be taken, how it should be taken, searching for attorneys, and contacting Class Counsel, who spent many hours with Plaintiff discussing his case and the law. (*Id.*)

Plaintiff has devoted a substantial amount of time to helping Class Counsel effectively develop and prosecute this action at every stage of the litigation. (Manus Decl., ¶ 70.) Both before and after the filing of this lawsuit, Plaintiff conferred with Class Counsel to discuss every aspect of his case. (*Id.*) Plaintiff provided Class Counsel with information about Defendants and about the industry generally, reviewed documents, identified witnesses, consulted Class Counsel throughout the litigation repeatedly and at length, participated in the mediation process, monitored the progress of the litigation with Class Counsel, and reviewed and signed the Settlement Agreement. (*Id.*)

In light of the foregoing, Class Counsel believes that the Class Representative Service Payment in the amount of $15,000.00 to Plaintiff is fair and reasonable. (Manus Decl., ¶ 71.)

VIII. THE PROPOSED CLASS NOTICE PROVIDES ADEQUATE NOTICE TO THE CLASS MEMBERS.

Constitutional due process requires that class members be provided with notice sufficient to give them an opportunity to be heard in the proceedings. *Mullane v. Central Hanover Bank & Trust Co.* (1950) 339 U.S. 306. Proper notice must provide the class members with sufficient information to make an informed decision as to whether to accept or object to the settlement. (*Id.* at 314.) The notice must apprise the class members of the pendency of the action; reasonably convey information regarding the settlement and the class members' rights, entitlements, and obligations; and afford class members the opportunity to present their objections. (*Id.*)

The Class Notice meets constitutional standards because it provides all the information a reasonable person would need to make a fully informed decision about the settlement. It will notify all Class Members of the terms of the Settlement, of its effect on their rights, of their options as Class Members (i.e., participate, object, opt out, do nothing), and of the consequences of exercising those options. (Manus Decl., ¶¶ 60-62.) Moreover, the Class Notice will specifically direct any Class Members who have questions or concerns to contact the Administrator or Class Counsel. (*Id.*)

The standard for determining the adequacy of notice is whether the notice has "a reasonable chance of reaching a substantial percentage of the class members." (*Cartt v. Superior Court* (1975) 50 Cal.App.3d 960, 974.) The Judicial Council of California's Deskbook on the Management of Complex Civil Litigation (Matthew Bender 2003), § 3.74 notes that individual notice by mail is preferred when possible and dissemination of combined certification/settlement notice is a common and accepted practice. (*In re Vitamin Cases* (2003) 107 Cal.App.4th 820, 828.)

Here, the Class Notice will be sent via first-class mail to each Class Member. (Manus Decl., ¶ 60.) If any Class Notices are returned undeliverable without a forwarding address, the Settlement Administrator will use the national change of address database and perform a skip trace to locate the Class Member and mail a new Class Notice to him or her at the correct address. (*Id.*) Thus, most, if not all, Class Members will likely receive the Class Notice.

Pursuant to controlling authority, the proposed Class Notice and method of distribution fully comport with due process requirements. Therefore, the Court should approve the Class Notice and direct that it be distributed as proposed in the Settlement Agreement.

IX. STANDING TO OBJECT TO PROPOSED SETTLEMENT

Non-settling parties and third parties periodically may attempt to object to proposed class action settlements, but the right of non-settling parties to object at the final settlement approval hearing, let alone the preliminary approval hearing, is quite limited. As a general rule, only class members have standing to object to a proposed settlement. "Beginning from the unassailable premise that settlements are to be encouraged, it follows that to routinely allow non-class members to inject their concerns via objection at the settlement stage would tend to frustrate this goal." (*Gould v. Alleco, Inc.* (4th Cir. 1998) 883 F.2d 281, 284.) Since an application is being filed to obtain a good faith determination, no persons other than class members have standing to object to the proposed settlement. (*In re School Asbestos Litigation* (3rd Cir. 1990) 921 F.2d 1330.)

X. THE STIPULATED AWARD OF ATTORNEYS' FEES AND COSTS IS REASONABLE AND SHOULD BE APPROVED.

Under the Settlement Agreement, Class Counsel will seek a Class Counsel Fees Payment of no more than $108,333.33 (up to one-third of the Gross Settlement Amount) and a reasonable Class Counsel Litigation Expenses Payment not to exceed $25,000.00, subject to approval by the Court. Defendants will not oppose Class Counsel's fees and cost request. (Manus Decl., ¶ 64.)

Class Counsel submits it has the requisite experience, knowledge, and resources to serve as Class Counsel and to zealously represent the Class. (*Id*. at ¶¶ 3-10.) Class Counsel has incurred substantial hours in prosecuting this action on a contingency basis and will not receive any compensation for their efforts until recovery is obtained for the Class. (Manus Decl. ¶ 65.) In addition, Class Counsel's efforts in reaching the Settlement on behalf of the Class will confer a significant benefit to the Class. (*Id*.) As such, the requested Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment are reasonable.

XI. ACTION REQUESTED AS A PART OF THE MOTION FOR PRELIMINARY APPROVAL

The Parties respectfully request this Court, as part of the preliminary approval process, to grant the following relief and make the following orders:

1. Preliminarily approve the Settlement Agreement;

2. Approve the Class Notice, attached to the Settlement Agreement as Exhibit A;

3. Consider and determine that the proposed class action Settlement as set forth in the Settlement Agreement preliminarily appears fair, reasonable, and adequate;

4. Enter an order conditionally certifying the action as a class action for settlement purposes only and preliminarily approving the proposed class action settlement and the Settlement Agreement;

5. Appoint Emil Davtyan, Gregg Lander, Vanessa M. Ruggles, Enoch J. Kim, and Marta Manus of D.Law, Inc. to serve as Class Counsel for settlement purposes;

6. Appoint Rust Consulting, Inc. as the Administrator to handle the notice and claims procedures as set forth in the Settlement Agreement;

7. Approve the proposed Settlement's allocation of funds to claims made under PAGA;

8. Set a date for the Final Approval Hearing.

Dated: December 15, 2025

Respectfully submitted,

D.LAW, INC.

By ______________________

Enoch J. Manus
Attorneys for Plaintiff
Joselito Pillos, on behalf
of himself and others similarly situated