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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Herman Pappoe, Jesse Perez, Fatoumata Barry, and Amelia Myers, individually and on behalf of all others similarly situated, the Collective and as private attorney generals under the Private Attorneys General Act, Plaintiffs, vs. Kite Pharma, Inc., Gilead Sciences, Inc., and Does 1 through 10, Defendants.	**Case No. 24STCV02259** **CLASS ACTION** (*Assigned to the Hon. Samantha P. Jessner – Dept. 7*) **Memorandum of Points and Authorities in Support of Motion for Preliminary Approval of Class, Collective, and PAGA Action Settlement** Date: September 28, 2026 Time: 11:00 a.m. Dept.: 7

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I. INTRODUCTION

Plaintiffs Herman Pappoe, Jesse Perez, Amelia Myers, and Fatoumata Barry Yapo (the "Named Plaintiffs"), respectfully submit for the Court's preliminary approval a proposed class and collective action settlement reached with Defendant Gilead Sciences, Inc. ("Gilead") and Kite Pharma, Inc. ("Kite") (jointly, "Defendants") (collectively, "the Parties"). The proposed settlement provides a non-reversionary Maximum Settlement Amount of $8,000,000 to resolve claims of the Settlement Class and Settlement Collective members, as defined below.[1] The Settlement Agreement for this proposed settlement is attached to the Blanchard Decl. as Exhibit 1. This settlement resolves the claims of approximately 1,800 class members in California and approximately 350 collective members outside California, and provides a net average recovery of approximately $2,292 per Class Member and approximately $280 per Collective Member.

This proposed settlement is the product of extensive arm's-length negotiation between the Parties following over a year of litigation in two separate cases and a full-day mediation with the Honorable Suzanne H. Segal (Ret.), an experienced mediator, and warrants approval because the terms are fair, reasonable, and adequate. Accordingly, Plaintiffs respectfully request that the Court: (1) grant preliminary approval of the settlement; (2) conditionally certify the Class, as defined herein, for settlement purposes only and appoint The Blanchard Law group, APC, Outten & Golden LLP ("O&G"), and Jeff Holmes of Holmes Law Group, APC as Class Counsel; (3) conditionally certify the collective for settlement purposes only; (4) appoint Apex Class Action LLC ("Apex") as the Settlement Administrator; (5) approve the Parties' agreed Notice of Proposed Class Action Settlement and direct its distributions; and (6) set a date for the final fairness hearing for the Class, Collective and PAGA settlements of the cases.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Factual Background

Gilead is a biopharmaceutical company headquartered in Foster City, CA. Its wholly owned subsidiary, Kite, is also a biopharmaceutical company and is based in Santa Monica, CA. Plaintiffs worked for Gilead and were classified as non-exempt, hourly employees and are alleged to have worked overtime at various points during their tenure at Gilead.

Plaintiffs allege that Defendants violated numerous wage and hour laws. *First*, on behalf of California employees, Plaintiffs allege that Defendants required employees to perform uncompensated off-the-clock work. Specifically, Plaintiffs allege that Defendants required Plaintiffs to undergo COVID

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[1] For ease, Plaintiffs refer to the class and collective members jointly, unless otherwise specified.

testing but did not compensate them for the time they spent being tested. *Second*, Plaintiffs allege that Defendants did not provide certain California employees the mandatory, unencumbered meal and rest periods. Plaintiffs allege that Defendants prevented Class Members from leaving the facility they were working at during meal and rest periods and from taking off their personal protective equipment ("PPE") and using their personal devices during meal and rest periods. *Third*, Plaintiffs allege that Defendants failed to pay California employees for the use of cellular phones for work purposes. *Fourth*, Plaintiffs allege that Defendants failed to furnish California employees with accurate wage statements and failed to pay all wages earned upon termination. And, *Fifth*, Plaintiffs allege that Defendants failed to pay certain Class and Collective members all overtime earned because it improperly calculated their regular rate of pay. Specifically, Plaintiffs allege that Defendants did not include the value of restricted stock units ("RSUs") and non-discretionary incentive awards in employees' regular rate of pay. By excluding the value of RSUs and other incentive awards from the regular rate, Plaintiffs allege that Defendants did not pay non-exempt employees all of the overtime owed.

B. Procedural Background

On January 29, 2024, Plaintiff Herman Pappoe filed a California State Court complaint containing the above allegations. (*See* Blanchard Decl. ¶¶ 8-10.)[2]

On May 3, 2024, in a separate matter, Plaintiffs Fatoumata Barry and Amelia Myers filed a Federal Court Complaint containing allegations about the RSU regular-rate violations and bringing claims under the FLSA and California Labor Law in the Northern District of California. *Barry and Myers v. Gilead*, No. 24 Civ. 2668, (N.D. Cal. 2024). Shortly thereafter, the *Barry and Myers* Plaintiffs moved for an order authorizing conditional collective action "stage one" certification, in order to permit the distribution of notice to the proposed Collective Members pursuant to the FLSA. Defendants opposed the motion and simultaneously moved to dismiss, or alternatively, stay Plaintiffs' action. On January 1, 2025, the Court denied Defendants' motion to dismiss and its motion to stay the FLSA claims. *Barry and Myers*, No. 24 Civ. 2668, ECF No. 58. However, the Court granted a partial stay as to Plaintiffs' California claims pending final resolution of the *Pappoe* matter. On March 20, 2025, the Court granted conditional certification of Plaintiffs claims and ordered notice to be shared with the collective. *Barry and Myers*, No. 24 Civ. 2668, ECF No 69. The Court authorized Plaintiffs to distribute their proposed notice and consent to join form by mail, email, and text. *Id.* at 10-11.

[2] In order to comply with the statutory page limitation, the Declarations submitted in support of this motion contain a more detailed description of the Cases.

In April 2025, counsel for the *Pappoe* matter and counsel for the *Barry and Myers* matter entered a joint prosecution agreement, which the Plaintiffs each reviewed and approved, and subsequently entered appearances in each other's cases. Blanchard Decl. ¶ 11. On April 8, 2025, the Parties agreed to set a private mediation and attempt a global resolution of both matters. *Id.* ¶ 12. To that end, the Parties entered into an agreement tolling the claims of those individuals who were authorized to receive notice and opt in to the *Barry and Myers* case. *Barry and Myers*, ECF No. 74-01. The court in *Barry and Myers* thereafter on April 16, 2025, stayed all deadlines in this matter, including as to the distribution of the FLSA notice, until after mediation. *Id.* ECF No. 75. The Parties similarly agreed to continue the upcoming deadlines in *Pappoe* pending mediation. Blanchard Decl. ¶ 12.

Prior to mediation, Plaintiffs requested that Defendants provide certain documents and extensive data so that Plaintiffs could evaluate the strength of their claims, litigation risks, and the extent of available damages and penalties. For the *Myers* claims, Defendants produced relevant personnel data, as well as a representative sample of collective-wide data including earnings for all hours worked, overtime hourly rate of pay, overtime premium paid, and copies of relevant RSU documents and Incentive Pay Awards. Swartz Decl. ¶ 14. For the *Pappoe* case, Defendants supplemented previously-produced class-wide data and documents with information including data reflecting which employees were required to wear PPE and which were subject to COVID screening requirements; data related to meal and rest breaks, job titles, and PPE Operating Procedures. Blanchard Decl. ¶ 13. With the assistance of an outside expert, Justin Regus of Agility Economics, as well as O&G's internal data analysts, Plaintiffs carefully and robustly analyzed Defendants' data and potential exposure, which they shared with Defendants in advance of mediation. Blanchard Decl. ¶ 14; Swartz Decl. ¶ 15.

Following the exchange of data and documents, the Parties attended a full-day mediation on December 11, 2025 before the Honorable Suzanne H. Segal (who is a former California Superior Court judge, the former Chief Magistrate Judge for the U.S. District Court of the Central District of California and an experienced and respected private mediator). The Parties reached a settlement in principle with the assistance of the mediator (based upon a mediator's proposal and negotiated further for approximately 5 months to execute a memorandum of understanding on April 29, 2026), and finalized and executed a settlement agreement thereafter. The final Settlement Agreement was not finalized and executed until June 8, 2026. Blanchard Decl. ¶ 20.

On June 5, 2026, as part of the terms and conditions of the settlement (and for settlement purposes only), by agreement, the Parties Stipulated to consolidate the claims of both the *Barry and Myers* and *Pappoe* cases and to add Plaintiffs Barry and Myers into the *Pappoe* matter, which is currently before this Court. As stated earlier, the *Meyers* case is currently stayed pending resolution of this motion.

III. SETTLEMENT TERMS

A. The Settlement Fund

The Settlement Agreement establishes a non-reversionary Total Settlement Amount of $8,000,000.00. Ex. 1 ("Settlement Agreement") at Section 3, ¶ 45. The Maximum Settlement Amount covers: (a) all settlement payments to the Class and Collective members eligible for settlement payments; (b) Plaintiffs' Class Representative Enhancement Payments; (c) Class Counsels' attorneys' fees of not more than one-third (1/3) of the Gross Settlement Fund, plus reasonable costs and expenses incurred to date and to be incurred related to the Action and/or Settlement; (d) the payment to the LWDA for a share of the settlement of claims for civil penalties; (e) the PAGA Payment to the PAGA Employees; and (f) the Settlement Administrator's fees and costs. The Gross Settlement Amount Fund does not include Employer Payroll Taxes, which Defendants shall pay separately from the Gross Settlement Amount.

The following table lists the key financial terms:

Total Settlement Amount	**$8,000,000.00**
Total Class Representative Enhancement Payments to Four Named Plaintiffs	*($48,000.00)*
Class Counsel's Attorneys' Fees	*($2,666,666.67)*
Class Counsel's Estimated Costs, including costs expected to be incurred after preliminary approval (not to exceed)	*($80,000.00)*
Settlement Administrator's Fees and Costs (not to exceed)	*($21,000.00)*
PAGA Fund (75% of the PAGA Fund is payable to the LWDA and 25% of the remain fund is payable to the Aggrieved Employees)	*($600,000.00)*
Net Fund (preliminarily calculated)	= **$**4,584,333.33

B. Eligible Employees and Definition of Class

The proposed Settlement provides recovery for three different groups of current and former employees:

First, Settlement Class members are all persons who worked for Gilead or Kite as non-exempt, overtime-eligible employees in California between January 29, 2020, and June 8, 2026 (the "Class Period").

Second, Collective Members are all persons who worked for Defendants as non-exempt, overtime eligible employees in the United States between May 3, 2021 and June 8, 2026 (the "FLSA Period"), who during that time: (1) were granted a Restricted Stock Unit ("RSU") award that vested after May 3, 2021, and recorded more than 40 hours in a week in at least one workweek between the date that RSU award was granted and the date that RSU award vested; or (2) received an incentive award pursuant to

Gilead's Corporate Annual Incentive Plan after May 3, 2021, and recorded more than 40 hours in at least one workweek during the relevant performance year for that incentive award.

Third, PAGA Employees are all members of the Settlement Class who were employed by Defendants in California at any time between January 26, 2023, and June 8, 2026 (the "PAGA Period").

Based on the data produced at mediation, there are approximately 1,800 Class Members, 350 Settlement Collective Members outside of California, and 1,300 PAGA Members.

C. Release of Claims

The Settlement Agreement provides for a release tailored to each proposed group. In each release, the Released Parties are Defendants and each of their past, present, and/or future, direct, and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint ventures. Each release runs through June 8, 2026. Participating Settlement Class Members (i.e. those who do not opt out) will release all California state wage and hour claims pled in the operative Complaint that accrued during the Class Period, from January 29, 2020 until June 8, 2026, as well as any claims under the California Labor Code, California Industrial Welfare Commission's Wage Orders, or the California Code of Regulations, that were alleged or which could have been alleged under the same or similar facts, allegations, or claims in the operative Complaint, as defined more fully in the Settlement Agreement. Settlement Agreement § 2(31); § 3(66)(a).

Pursuant to the Settlement Agreement, by cashing their settlement check and thereby opting into the Settlement, Participating Settlement Collective Members will release all wage and hour claims under the Fair Labor Standards Act ("FLSA") (29 U.S.C. § 201 *et seq*.) pled in the operative Complaint, that accrued during the Collective Class Period, from May 3, 2021 until June 8, 2026, including without limitations, any and all state and federal claims for unpaid overtime wages, and all related claims for penalties, interest, liquidated damages, attorneys' fees, costs, and expenses that were alleged or which could have been alleged under the same or similar facts, allegations, or claims in the operative Complaint, as defined more fully in the Settlement Agreement. Settlement Agreement § 2(34); § 3(66)(c).

By operation of the judgment in this action, PAGA Employees will release all claims under PAGA pled in the PAGA Letters and/or the operative Complaint, that accrued during the PAGA Period, including without limitations, all claims for penalties (including but not limited to claims deriving from unpaid wages, unpaid overtime, alleged meal and rest break violations, waiting time penalties, wage statement penalties), interest, attorneys' fees, costs and expenses, and other remedies available under PAGA. Settlement Agreement § 2(33); § 3(66)(b).

D. Allocation Formula

Individual Settlement Payments will be calculated and apportioned from Ninety Percent (90%) of the Net Settlement Amount to Participating Settlement Class Members on a pro rata basis depending on the number of Workweeks worked during the Class Period. Settlement Class Members do not need to submit a claim to participate and receive their Individual Settlement Payment.

Individual Collective Payments will be calculated and apportioned from Ten Percent (10%) of the Net Settlement Amount to Settlement Collective Members on a pro rata basis depending on the number of Workweeks worked during the FLSA Period. Settlement Collective Members do not need to submit a claim to participate and receive their Individual Collective Payment.

Individual PAGA Payments will be calculated and apportioned from the Twenty-Five Percent (25%) portion of the PAGA Settlement Amount allocated to PAGA Employees on a pro rata basis depending on the number of Workweeks worked during the PAGA Period. PAGA Employees do not need to submit a claim to participate in the PAGA portion of the Settlement and also may not opt out or object to the resolution of the PAGA claim.

None of the Total Settlement Amount will revert to Defendants. Any uncashed checks or unclaimed funds will be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code Section 1500 *et seq*.

E. Tax Characterization of Settlement Payments.

For Participating Settlement Class and Collective Members, the Settlement Administrator shall allocate 50% of the payment as W-2 wage payments and 50% of the payment as 1099 non-wage compensation as liquidated damages, statutory penalties, and interest. For PAGA Employees, the Settlement Administrator shall allocate 100% of the payment as 1099 non-wage compensation as statutory penalties. Blanchard Decl. ¶ 62. Defendants will pay the Employer Payroll Taxes separately from and in addition to the Maximum Settlement Amount. Settlement Agreement § 2(15).

F. Notice and Settlement Administrator

The Parties have selected Apex as the Settlement Administrator. Blanchard Decl. ¶ 74. Apex has agreed to administer the settlement for an amount not to exceed $21,000.00, based on the Parties' estimated class size, which includes all service fees, costs, and expenses. Sutherland Decl. Exhibit B. Apex is a qualified Settlement Administrator, and collectively their team has decades of experience administering class action settlements. *See* Sutherland Decl. ¶¶ 2-6.

Apex will disseminate the Court-approved Notice to Class Members and Collective Members via mail and email using contact information obtained from Defendant. If a Notice is returned as undeliverable, the Settlement Administrator shall attempt to obtain a correct address, including a skip trace, and shall attempt to re-send the Notice. Blanchard Decl. ¶¶ 78-81. The proposed Notice is attached as Exhibits A to the Settlement Agreement which is attached to the Blanchard Decl. as Exhibit 1.

G. Opt-Out and Objection Procedure

The Settlement allows for Settlement Class Members to request exclusion from the class by opting out. Class Members who choose to opt-out of the Settlement must sign and fax or mail a written Request for Exclusion to the Settlement Administrator by the Response Deadline. Opt-Out Statements must be mailed no later than forty-five (45) calendar days from the date the Settlement Administrator mails the notice. The Settlement also allows Class Members to object to the Settlement and appear at the Motion for Final Approval. To do so, Class Members must submit an Objection in writing, which includes the reasons for the objection, as well as the name, address, and telephone number of the Objector. Blanchard Decl. ¶¶ 82-84.

Settlement Collective Members will only be bound by the Settlement if they choose to affirmatively opt in by cashing, depositing, or otherwise negotiating their Settlement Check. Blanchard Decl. ¶ 71.

IV. ARGUMENT

Among other things, Plaintiffs respectfully request the Court (1) preliminarily certify the Settlement Class; (2) preliminarily certify the Collective; (3) make a preliminary finding that the settlement is fair, reasonable, and adequate; and (4) authorize dissemination of the Notice to Class and Collective Members. In this motion, Plaintiffs also provide preliminary arguments on the reasonableness of the request for attorneys' fees and costs as well as service awards to the Named Plaintiffs.

A. Certification of the Settlement Class Is Appropriate

The Court should provisionally certify the Settlement Class for purposes of this settlement because it is ascertainable and sufficiently numerous, there exists a well-defined community of interest, and a class is superior to alternative proceedings. *See Brinker Rest. Corp. v. Super. Ct.*, 53 Cal. 4th 1004, 1021 (2012); *see also* Code Civ. Proc. § 382. A well-defined community of interest exists when there are "(1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class." *Brinker Rest. Corp.*, 53 Cal. 4th at 1021 (quoting *Fireside Bank v. Super. Ct.*, 40 Cal. 4th 1069, 1089 (2006)).

1. The Settlement Class Is Ascertainable.

A class is ascertainable when its members may be identified by reference to official records. *Rose v. City of Hayward*, 126 Cal. App. 3d 926, 934 (Cal. Ct. App. 1981). Here, the Settlement Class is ascertainable because Class Members are current and former employees of Gilead and/or Kite, whose identities can be (and already have been) identified from its employment records. Blanchard Decl. ¶ 71.

2. The Settlement Class Is Sufficiently Numerous.

The numerosity requirement is satisfied because the Settlement Class is of such a size that is "it is impracticable to bring them all before the court." Code Civ. Proc. § 382. Here, the Settlement Class meets this requirement because it is understood to include approximately 1,800 members. Blanchard Decl. 16.; *see also Rose*, 126 Cal. App. 3d at 934 (numerosity requirement satisfied with class of 42).

3. Common Questions of Law and Fact Predominate.

Common questions predominate where the legal theory is "likely to prove amenable to class treatment," such that the resolution of claims "in a single class proceeding would be both desirable and feasible." *Brinker*, 53 Cal. 4th at 1021-22 (quoting *Sav-On Drug Stores, Inc. v. Super. Ct.*, 34 Cal. 4th 319, 327 (2004)). The test for determining predominance of common issues is whether the proposed class is sufficiently cohesive to warrant adjudication on a class wide basis. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1022 (9th Cir. 1998).

Here, common questions predominate because Plaintiffs have alleged common policies and practices that cause the underlying violations. Common legal and factual questions about Defendants' pay practices accordingly predominate over individual questions. *See* Blanchard Decl. ¶ 17.

4. The Typicality Requirement Is Met.

Where plaintiffs' injuries are of the same nature as those of other class members and arise from the same general course of conduct, the typicality requirement is satisfied. *See, e.g.*, *Seastrom v. Neways, Inc.*, 149 Cal. App. 4th 1496, 1502 (Cal. App. 2007). Here, Plaintiffs' claims are typical of the Settlement Class's claims because they each worked as non-exempt overtime-eligible employees during the Class Period in California and were subject to Defendants' common policies. Plaintiffs all worked in Gilead's Los Angeles County facilities, including in Santa Monica and El Segundo. Plaintiffs further allege that each plaintiff received RSU grants which vested during their tenure and incentive awards; worked overtime; were required to wear PPE which encumbered their meal and rest breaks; and were subject to COVID screening requirements. Pappoe Decl. ¶ 2; Perez Decl. ¶ 2; Myers Decl. ¶ 2; Barry Decl. ¶ 2. Plaintiffs' claims, therefore, arise from the same set of facts and legal theories as do those of the Class Members, satisfying the typicality requirement.

5. The Adequacy Requirement Is Met.

The adequacy requirement is met if the named plaintiffs and their counsel have no interests adverse to the proposed class and are committed to vigorously prosecuting the case on behalf of the class. *McGhee v. Bank of Am.*, 60 Cal. App. 3d 442, 450-51 (Cal. App. 1976). Here, Plaintiffs are adequate representatives because they have no known conflicts of interest with the Settlement Class, and their claims are consistent with the claims of other Class Members. Blanchard Decl. ¶ 18; Pappoe Decl. ¶ 6; Perez Decl. ¶ 6; Myers Decl. ¶ 6; Yapo Decl. ¶ 6. Plaintiffs' Counsel are adequate because they are skilled and experienced in employment class action litigation and have prosecuted the case vigorously on behalf of the Settlement Class. Blanchard Decl. ¶¶ 5-14; Swartz Decl. ¶¶ 2-15.

6. A Class Action Is Superior to Other Available Methods.

Class treatment is superior to individual adjudication of class members' claims when it would prevent repetitious litigation and provide "'a method of obtaining redress for claims which would otherwise be too small to warrant individual litigation.'" *Richmond v. Dart Indus., Inc.*, 29 Cal. 3d 462, 469 (1981) (quoting *Eisen v. Carlisle & Jacquelin*, 391 F.2d 555, 560 (2d Cir. 1968)). Here, each Class Member's claim is relatively small, each would consume substantial judicial resources if litigated individually to trial. It would therefore be inefficient to resolve claims of approximately 1,800 employees in separate trials. *See Bufil v. Dollar Fin. Grp., Inc.*, 162 Cal. App. 4th 1193, 1208 (2008), disapproved of on another grounds by *Noel*, 445 P.3d 626. Because the class mechanism will achieve economies of scale, conserve judicial resources, and avoid repetitive proceedings, superiority is met. Blanchard Decl. ¶ 19.

B. Conditional Certification of the Settlement Collective Is Appropriate

Employees alleging violation of their rights under the FLSA may bring a claim seeking relief on their own behalf and on behalf of "other employees similarly situated." 29 U.S.C. § 216(b). At the conditional certification stage, courts determine whether the proposed collective should be given notice. *Campbell v. City of Los Angeles*, 903 F.3d 1090, 1109 (9th Cir. 2018). This stage is lenient; loosely akin to a plausibility standard. *Hernandez v. Dutton Ranch Corp.*, No. 19 Civ. 817, 2020 U.S. Dist. LEXIS 47106, at *3 (N.D. Cal. Mar. 17, 2020) (quoting *Campbell,* 903 F.3d at 1109). Plaintiffs are similarly situated when they share "a similar issue of law or fact material to the disposition of their FLSA claims." *Campbell*, 903 F.3d at 1117.

In the *Barry and Myers* Case, the court therein granted Plaintiffs' request for Conditional Certification and authorized the distribution of notice. *Barry and Myers*, No. 24 Civ. 2668, ECF No. 69. In so doing, the Federal Court concurred that Plaintiffs' proposed collective members were similarly situated, given the evidence Plaintiffs provided via their accompanying declarations, Defendants' compensation plan, job postings, incentive plan summaries, and earnings statement which "together demonstrate [Gilead's] uniform policy of failing to include supplemental renumeration paid to Collective Members in the regular rate of calculation for overtime wages." *Id.* at 3.

Here as well, which alleges the same claims already found suitable to conditional certification, Plaintiffs have demonstrated that conditional certification is appropriate because they meet the low threshold for establishing that they are similarly situated. Plaintiffs sufficiently allege that the Collective Members were subject to common policies that deprived them of proper overtime pay under the FLSA. *See Darling v. Dignity Health*, 2021 U.S. Dist. LEXIS 135262, at *11 (N.D. Cal. July 20, 2021) (granting conditional certification to collective of employees who had to work off the clock).

C. The Settlement Meets the Requirements for Preliminary Approval.

Settlement of class actions is favored by public policy. *See Ferguson v. Lieff, Cabraser, Heimann & Bernstein*, 30 Cal. 4th 1037, 1054 (2003) ("Settlement of class actions is encouraged . . . because they consume substantial judicial resources and present unusually large risks for the litigants.") (citation and quotation marks omitted). A class settlement is reviewed and approved by a court in two steps: (1) an early (preliminary) review, and (2) a final review at a fairness hearing after notice has been distributed to the class members. Cal. Rules of Court, rule 3.769(c)-(g).

At the preliminary approval stage, the court "need only determine whether the proposed settlement is within the range of possible approval such that there is a reason to notify the class members of the proposed settlement and to proceed with a fairness hearing." *Palacios v. Penny Newman Grain, Inc.*, No. 14 Civ. 01804, 2015 U.S. Dist. LEXIS 87457, at *17-18 (E.D. Cal. July 6, 2015) (citation and quotation marks omitted).[3] "The well-recognized factors that the trial court should consider in evaluating the reasonableness of a class action settlement agreement include [1] 'the strength of plaintiffs' 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 the stage of the proceedings, [and 5] the experience and views of counsel.'"[4] *Kullar v. Foot Locker*

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[3] The California Supreme Court has authorized California's trial courts to use Rule 23 of the Federal Rules of Civil Procedure and cases applying it for guidance in considering class issues. *See Vasquez v. Super. Ct.*, 4 Cal. 3d 800, 821 (1971).

[4] *Kullar* also lists as factors "the presence of a governmental participant, and the reaction of the class members to the proposed settlement." 168 Cal. App. 4th at 128. Here, the proposed settlement did not involve the presence of a governmental participant; therefore, this factor is neutral and does not weigh in favor of or against preliminary approval. Class Members have not yet been notified of the proposed Settlement so the Court cannot evaluate Class Members' reaction. The Court can evaluate this factor at the final approval stage, after notice has issued to Class Members, and after the Court has had an opportunity to review any objections and the number of exclusion requests.

Retail, Inc., 168 Cal. App. 4th 116, 128 (2008) (quoting *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996)).

In the class settlement context, "a presumption of fairness exists where: (1) the settlement is reached through 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." *Dunk*, 48 Cal. App. 4th at 1802.

1. The Settlement is the Product of Arm's Length Negotiations by Experienced Counsel After Sufficient Information Exchange.

"The court . . . should give considerable weight to the competency and integrity of counsel and the involvement of a neutral mediator in assuring itself that a settlement agreement represents an arm's length transaction entered without self-dealing or other potential misconduct." *Kullar*, 168 Cal. App. 4th at 129. Here, the proposed Settlement was reached through vigorous, hard-fought, arm's-length negotiation between lawyers with significant experience. Plaintiffs' counsel are experienced in the litigation, certification, settlement, and trial of wage and hour class actions cases similar to this case. Blanchard Decl. ¶¶ 5-7; Swartz Decl. ¶¶ 2-8. On the defense side, defense counsel in both cases are formidable lawyers from Gibson, Dunn & Crutcher LLP (one of the most experienced and most important law firms in the employment related class, collective and PAGA cases in the US and the world). The Parties reached this settlement after an intense private mediation before the Hon. Suzane H. Segal (Ret.) (an experienced and respected mediator with years of complex class, collective and PAGA employment litigation and experience as a private mediator, a former California Superior Court Judge and as the former Chief Magistrate Judge in the US Districts Court of the Central District of California) and further intense subsequent negotiation related to the drafting of the final Settlement Agreement. It should be noted that the negotiation and drafting of the final Settlement Agreement in this matter took approximately 6 months. Blanchard Decl. ¶ 20.

The Parties also engaged in sufficient discovery to strongly recommend this settlement. In *Pappoe*, both in the course of discovery and in advance of mediation, Defendants produced robust timekeeping, payroll, and other relevant class-wide data, including information about rest and meal breaks, employees subject to COVID screenings, employees required to wear PPE and RSU grants and incentive compensation. Blanchard Decl. ¶ 21. Similarly, in *Myers*, Defendants provided robust pre-mediation data for the Class Members, including class-wide data reflecting the number of employees who received RSU grants that vested during the relevant time period or who received incentive awards; the total covered workweeks; the total number of RSUs granted and their average value; and the total overtime hours worked. Swartz Decl. ¶ 14. Defendants also produced complete and detailed payroll and

RSU data for a representative sample of the class. *Id.* This substantial information exchanged was more than sufficient to create "an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation." *Kullar*, 168 Cal. App. 4th at 120.

Additionally, the *Barry and Myers* and *Pappoe* cases were both filed in early 2024, then vigorously litigated since then, including multiple contested motions in *Myers*. After being made aware of each other's overlapping class actions, the Plaintiffs resolved to work together and consolidate their efforts to maximize the best possible outcome for the class, collective and PAGA claims. Given that the settlement is the product of good faith arm's-length negotiations involving the participation of very experienced plaintiffs and defense counsel and a very experienced and respected private mediator who was both a former California State Court Judge and Chief Federal Magistrate Judge after meaningful document exchange and was negotiated by experienced counsel, this settlement is entitled to a presumption of fairness and preliminary approval is warranted.

2. The Settlement Provides Substantial Relief for Class Members.

The Court should approve the proposed Settlement because it provides substantial relief to the Classes relative to the theoretical maximum recovery. The maximum average gross award is approximately $4,444, and the average net award (after deduction for attorneys' fees, costs, service award, and administration) is approximately $2,292 per person. This is a substantial portion of the unpaid wages and other damages Class and Collective Members could have recovered at trial, as described below.

3. Anticipated Recovery.

The settlement provides an excellent recovery relative to the potential recovery and the risks that these claims presented. The details of the exposure and risk analysis for the claims of these cases is set forth in the Blanchard Decl. Based upon defenses raised by Defendants and their defense counsel, this settlement recovery is particularly reasonable in light of the significant litigation risks that Plaintiffs faced. Blanchard Decl. ¶ 22. Although Plaintiffs and their counsel both strongly believe in the strength of their claims, they recognize that class, collective and PAGA action litigation inherently involves significant risk and delay (*see Ferguson*, 30 Cal. 4th at 1054 (class actions "present unusually large risks for litigants")), and that they faced particular risks here based upon the defenses raised by Defendant and their defense counsel. Blanchard Decl. ¶ 23. The details of just some of the defenses raised by Defendants and their defense counsel are set forth in the Blanchard Decl. ¶¶ 24-31.

In sum, although Plaintiffs would dispute each of Defendants' arguments and defenses, a class and collective trial (if Plaintiffs could defeat Defendants' arbitration agreements for all of the class and the collective) would be long, arduous, and risky; and even if Plaintiffs prevailed on each of their claims, they might face a lengthy appeals process. In light of the myriad risks and delay that litigation would entail, and based on Plaintiffs' counsel's experience litigating class actions and employment lawsuits, it is the opinion of Plaintiffs' counsel that the proposed Settlement is in the best interests of the Class Members. Blanchard Decl. ¶ 32.

D. Fairness, Adequacy and Reasonableness.

Because all of the considerations cited above indicate that the Settlement is fair, adequate, and reasonable, the Court should grant preliminary approval of the Settlement.

E. The Proposed Notice and Administration Procedure Are Appropriate.

Constitutional due process requires that notice to class members provides sufficient information to make an informed decision to accept or object to a proposed settlement and an opportunity to be heard in the proceedings. See *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950); *Wershba v. Apple Comp., Inc.*, 91 Cal. App. 4th 224, 251-52 (2001). The proposed Notice is set forth in Exhibit A of the Settlement Agreement attached as Exhibit 1 to the Blanchard Decl. and, for the reasons set forth in that declaration, satisfies these requirements. See a detailed breakdown of the notice process in Blanchard Decl. ¶¶ 36-41; 78-84 .

The proposed Settlement Administrator, Apex, is experienced in the field and was chosen only after comparing bids from a number of other well-known administrators. Blanchard Decl. ¶ 42; Ex. 2 Sutherland Decl. ¶¶ 2-6. The Court should approve Apex, which has estimated that its fees for administering the settlement are not to exceed $21,000. Sutherland Decl. ¶ 7; Exhibit B.

F. Plaintiffs' Forthcoming Request for Attorneys' Fees and Costs is Appropriate.

With this motion, Plaintiffs and their counsel submit argument in support of their forthcoming request for one-third (33 1/3%) of the Maximum Settlement Amount as attorneys' fees ($2,666,666.67). At the Final Approval stage, Plaintiffs' counsel will file an application to approve attorney's fees and memorandum of points and authorities in support. The details of Plaintiffs request for these attorneys are discussed in the Blanchard Decl. ¶¶ 43-55.

"California has long recognized, as an exception to the general American rule that parties bear the costs of their own attorneys, the propriety of awarding an attorney fee to a party who has recovered or preserved a monetary fund for the benefit of himself or herself and others." *Laffitte v. Robert Half Int'l Inc.*, 376 P.3d 672, 676 (Cal. 2016). In awarding fees in a class action, courts generally use either the percentage of the recovery or the lodestar approach. *See generally id.* at 677-82. "The choice of a fee calculation method is generally one within the discretion of the trial court, the goal under either the percentage or lodestar approach being the award of a reasonable fee to compensate counsel for their efforts." *Id.* at 687. In this case, the proposed attorneys' fee award is reasonable and supported by the percentage-of-recovery method.

The California Supreme Court confirmed that the percentage method is appropriate, fair, and efficient. *See id.* at 688. The Court noted that "most courts and commentators now believe that the percentage method is superior." *Id.* at 680. It explained that there are numerous "recognized advantages of the percentage method – including relative ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation." *Id.* at 686.

Plaintiffs' counsel's request for one-third of the Maximum Settlement Amount is reasonable because it is consistent with the percentages awarded in other class action settlements. In California, "[e]mpirical studies show that, regardless [of] whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery." *Chavez v. Netflix, Inc.*, 75 Cal. Rptr. 3d 413, 433 n.11 (Cal. Ct. App. 2008).

Employing the percentage method in this case rewards the extreme efficiency with which Plaintiffs' counsel obtained a resolution in this case. *See Laffitte*, 376 P.3d at 686 (benefit of the percentage method is "the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation."). Plaintiffs' counsel's efforts to master the relevant facts and legal questions, including through promptly exchanging discovery in *Pappoe* and litigating multiple critical motions in *Myers*, made the resolution of this case possible prior to court rulings that could have significantly weakened Plaintiffs' claims. Blanchard Decl. ¶¶ 33-35; Swartz Decl. ¶ 30. Plaintiffs' counsel made an informed judgment that this Settlement, as opposed to protracted litigation, is in the best interests of Class, Collective, and PAGA Members and secures substantial benefits now. *Id.*

Plaintiffs also seek reimbursement of reasonably expended litigation costs, which shall not exceed are $80,000.00. These litigation costs, which include filing fees, mediators' fees, travel costs for multiple in-person hearings in *Myers*, travel costs for in-person mediation, and research costs, were incidental and necessary to the effective representation of the Class and are appropriately reimbursed. *See* Cal. Civ. Proc. Code § 1032(a)(4), (b). Costs will continue to accrue somewhat as Plaintiffs' counsel seeks preliminary and final approval.

G. The Proposed Service Award Is Appropriate.

In evaluating the reasonableness of a proposed service award, courts consider, inter alia, (1) the amount of time and effort spent by the class representative, the duration of the litigation, and the actions they took to protect the interests of the class; (2) the degree to which the class has benefitted from those actions; (3) the personal benefit received by the class representative as a result of the litigation; (4) the risk, both financial and otherwise, the class representative faced in bringing the suit; and (5) the notoriety and personal difficulties encountered by the representative. *Golba v. Dick's Sporting Goods, Inc*., 238 Cal. App. 4th 1251, 1272 (2015); *see also Clark v. Am. Residential Servs. LLC*, 175 Cal. App. 4th 803 (2018). In this regard, Plaintiffs and Plaintiffs' counsel propose and believe that class and collective representative service award of $12,000 each for the Plaintiffs in both cases are appropriate for this settlement. The preliminary argument and facts related to these proposed service awards are set forth in the Decls. of Blanchard ¶¶ 56-59, Pappoe ¶¶ 7-10, Perez ¶¶ 7-10, Myers ¶¶ 7-10and Yapo ¶¶ 7-10 which are filed with this motion.

V. A FINAL APPROVAL HEARING SHOULD BE SCHEDULED.

The last step in the settlement approval process is the Final Approval hearing, at which the Court will hear evidence and argument necessary to evaluate the proposed Settlement and rule upon final approval. Cal. Rule of Ct. 3.769(e). A proposed order is submitted contemporaneously with this motion which setting forth the proposed briefing schedule for final approval of the settlement and other matters related to preliminary approval.

VI. CONCLUSION.

For the reasons set forth above, Plaintiffs respectfully request that the Court preliminarily approve this settlement based upon the terms and conditions as set forth in the Settlement Agreement.

Respectfully,

Dated: June 8, 2026

Lonnie C. Blanchard III (SBN 93530)
THE BLANCHARD LAW GROUP, APC

Justin Swartz and Jennifer Davidson
OUTTEN & GOLDEN LLP

Attorneys for Plaintiffs and Proposed Class and Collective Members and PAGA Aggrieved Employees

PROOF OF SERVICE

I am over the age of 18 and not a party to the within action. My business address is 177 East Colorado Blvd., Suite 200, Pasadena, California 91105. On June 8, 2026, I served the following document(s) described as:

Memorandum of Points and Authorities in Support of Motion for Preliminary Approval of Class, Collective, and PAGA Action Settlement

on interested parties in this action addressed as follows:

***See below service list*.**

(By Mail) I deposited such envelope with postage thereon fully prepaid in the United States mail at a facility regularly maintained by the United States Postal Service at Los Angeles, California.

(By Email) Based on a court order, Rules of Court, or an agreement of the parties to accept electronic service, I caused the documents to be sent to the person(s) at the email addresses set forth above.

(By Overnight Delivery) I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the address(es) identified above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

xxx (**By Case Anywhere**) A true and correct copy was electronically served on counsel of record by transmission to Case Anywhere.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 8, 2026.

Kale Morita

Kale Morita

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