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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DANIEL ALVAREZ JR., an individual, on behalf of himself and others similarly situated, Plaintiff, vs. CULINARY SERVICES OF AMERICA, INC., a California corporation; FOX STUDIO LOT LLC, a Delaware limited liability, Defendants.	Case No.: 24STCV12720 CLASS ACTION *Assigned for All Purposes To*: Hon. Theresa M. Traber Dept.: 1 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT** *[filed concurrently with Plaintiff's Notice of Motion and Motion; Declaration of Alvin B. Lindsay; Declaration of Daniel Alvarez; Declaration of Jodey Lawrence; and [Proposed] Order]* Date: February 04, 2026 Time: 08:30 a.m. Original Complaint Filed: May 17, 2024 First Amended Complaint Filed: July 24, 2024 Trial Date: None Set

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff DANIEL ALVAREZ JR (hereinafter "Plaintiff" or "Class Representative") filed the operative First Amended Class Action Complaint in this Court ("Action") against Defendants CULINARY SERVICES OF AMERICA, INC. ("CSS"), and FOX STUDIO LOT LLC ("Fox") ("Defendants"). Plaintiff has alleged the following causes of action: (1) Failure to Pay Minimum Wages and for All Hours Worked; (2) Failure to Pay Wages and Overtime under Labor Code § 510; (3) Meal Period Liability, Labor Code § 226.7; (4) Rest-Break Liability, Labor Code § 226.7; (5) Failure to Pay Sick Pay, Labor Code § 246; (6) Violation of Labor Code § 226(a); 7 Violation of Labor Code § 221; (8) Violation of Labor Code § 204; (9) Violation of Labor Code § 203; (10) Failure to Maintain Records Required Under Labor Code §§ 1174, 1174.5; (11) Failure to Produce Requested Employment Records under Labor Code §§ 226, 1198.5; (12) Failure to Reimburse Expenses Under Labor Code § 2802; and (12) Violation of Business & Professions Code § 17200 *et seq.*, and (13) Penalties under Private Attorney General Act ("PAGA") (the "Action").

After engaging in substantial investigation and extensive negotiations with the assistance of a respected mediator, the parties agreed to settle all claims alleged in the Action on a class-wide, non-reversionary basis for $240,000.00 (Two Hundred Forty Thousand Dollars and Zero Cents), inclusive of all fees and costs. The parties' Class and PAGA Action Settlement Agreement ("Settlement" or "Settlement Agreement") defines the class as "all non-exempt culinary services workers hired directly by Fox who worked for Fox in California, as well as all non-exempt employees of CSS who provided culinary services to Fox in California, during the during the Class Period," which is May 17, 2020 to June 16, 2025 ("Class"). All 547 Class Members (as estimated at the time of the mediation) will receive a settlement payment unless they opt out of the Settlement.

The proposed settlement reflected in the Settlement Agreement is fair, reasonable, and adequate, and in the best interests of the Class. Consequently, Plaintiff, with the consent of Defendants, hereby move this Court for an order: (1) granting preliminary approval of the proposed class action settlement, as embodied in the Settlement Agreement filed concurrently herewith; (2)

approving the Notice of Class Action Settlement and Hearing Date for Final Court Approval ("Class Notice") to be sent to Class Members; and (3) setting a hearing for final approval of the class action settlement.

II. STATUS OF THE LITIGATION

A. Procedural History

On May 17, 2024, Plaintiff Daniel Alvarez Jr filed a Class Action Complaint alleging twelve causes of action against Defendants for: (1) Failure to Pay Minimum Wages and for All Hours Worked; (2) Failure to Pay Wages and Overtime under Labor Code § 510; (3) Meal Period Liability, Labor Code § 226.7; (4) Rest-Break Liability, Labor Code § 226.7; (5) Failure to Pay Sick Pay, Labor Code § 246; (6) Violation of Labor Code § 226(a); 7 Violation of Labor Code § 221; (8) Violation of Labor Code § 204; (9) Violation of Labor Code § 203; (10) Failure to Maintain Records Required Under Labor Code §§ 1174, 1174.5; (11) Failure to Produce Requested Employment Records under Labor Code §§ 226, 1198.5; (12) Failure to Reimburse Expenses Under Labor Code § 2802; and (12) Violation of Business & Professions Code § 17200 *et seq.* (Declaration of Alvin B. Lindsay ("Lindsay Decl."), filed concurrently herewith, ¶ 4).

Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff Alvarez gave timely written notice to Defendants and California's Labor and Workforce Development Agency ("LWDA") by sending her PAGA Notice on May 17, 2024 (LWDA-CM-1029080-24 (*Id*. at ¶ 5). The LWDA did not express an interest in investigating Plaintiff claims within the 65 day period. (*Id*). Therefore, on July 24, 2024, Plaintiff filed a First Amended Complaint adding a cause of action for penalties under PAGA ("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. (Lindsay Decl., ¶ 7.) 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 same; (2) reviewing and analyzing time and pay records and data, as well as employment-related policies; (3) reviewing Plaintiff's personnel file and other documentation; (4) interviewing Plaintiff regarding potential Class Members; (5) researching the applicable law and potential defenses; (6) constructing damage models based on interpretations of California law and the facts and numbers provided by Defendants; and (7) reviewing information provided by Defendants in response to informal discovery and in advance of the mediation, including time, shift, and pay data, applicable policies, arbitration agreements, and collective bargaining agreements. (Lindsay Decl., ¶ 7.) The Class enumerated in this action is ascertainable because Class Members may be readily identified by reference to Defendants' records. (*Id.*) Defendants have agreed to share the information from these records with the Settlement Administrator in order to identify and contact Class Members. (*Id.*) There are approximately 547 total Class Members as of the time of the mediation. (*Id.*)

Defendants, for their part, vigorously contested liability, the amount of claimed damages, and the propriety of class certification. (Lindsay Decl., ¶ 8.) 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 April 10, 2025, the Parties participated in an all-day mediation with Steve Serratore, Esq. (Lindsay Decl., ¶ 9.) During mediation, counsel for Plaintiff and Defendants discussed all aspects of the case, including the risks of litigation and the risks to both parties of proceeding with a class certification motion, as well as the law with respect to unpaid wages, meal periods, rest periods, wage statements, and final pay. (*Id.*) As a result of the mediation, the parties agreed to settle the lawsuit according to the terms set forth in the Settlement Agreement. (Lindsay Decl. ¶ 9, Exhibit 1.)

From Class Counsel's review of the facts, strengths, and weaknesses of the case, the risks and delays posed by further litigation, and Class Counsel's own prior litigation experience, Class Counsel believes that the recovery for each Class Member is fair and reasonable taking into consideration the amounts received in other wage and hour class actions, the risks inherent in litigation of this genre, and the reasonable tailoring of each Class Member's claim to the settlement award he or she will receive. (Lindsay Decl., ¶ 10.) Further, and based on the settlement negotiations, which were extensive, and conducted in good faith and at arm's length between attorneys with substantial experience litigating class actions and wage and hour cases, the Settlement Agreement was the product of a non-collusive settlement process in which the parties were forced to make significant compromises in the interest of reaching a full and complete settlement of the lawsuit. (*Id.*)

III. SETTLEMENT AGREEMENT AND ACCOMPANYING DOCUMENTS

Under the terms of the proposed Settlement Agreement, Defendants have agreed to pay $240,000.00 (Two Hundred Forty Thousand Dollars and Zero Cents) ("Gross Settlement Amount" or "GSA") on a non-reversionary basis to settle and release all claims asserted by Plaintiff in the Class and PAGA Action on behalf of the proposed Class. (Lindsay Decl., ¶ 11; Exhibit 1, Settlement Agreement, ¶ 1.22). The Settlement Agreement defines the "Class" as "all non-exempt culinary services workers hired directly by Fox who worked for Fox in California, as well as all non-exempt employees of CSS who provided culinary services to Fox in California, during the during the Class Period" which is May 17, 2020 to June 16, 2025. (Lindsay Decl., ¶ 11; Exh 1, Settlement Agreement, ¶¶ 1.5, 1.12). The Settlement Agreement also defines "Aggrieved Employees" as "all non-exempt culinary services workers hired directly by Fox who worked for Fox in California, as well as all non-exempt employees of CSS who provided culinary services to Fox in California, during the PAGA Period," which is May 17, 2023 to June 16, 2025 (*Id.*). The "Net Settlement Amount," available for distribution to Class Members, is the Gross Settlement Amount less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses

Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments (Lindsay Decl., ¶ 11; Exh. 1, ¶ 1.28.) These amounts are detailed as follows:

- Class Counsel Fees and Litigation Expenses Payment*:* A Class Counsel Fees Payment of not more than Eighty Thousand Dollars (**$80,000.00)**, which is one-third of the Gross Settlement Amount, and a Class Counsel Litigation Expenses Payment of Class Counsel's actual and reasonable litigation costs as approved by the Court through final approval; (Lindsay Decl., ¶ 11; Exh. 1, ¶ 3.2.2);
- Class Representative Service Payment: Class Representative Service Payment to the Class Representative of not more than Five Thousand Dollars (**$5,000.00**) (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member) (Lindsay Decl., ¶ 11; Exh. 1, ¶ 3.2.1);
- Settlement Administration Costs: An Administrator Expenses Payment not to exceed Ten Thousand Dollars (**$10,000.00**) except for a showing of good cause and as approved by the Court; (Lindsay Decl., ¶ 11; Exh. 1, ¶ 3.2.3);
- PAGA Penalties: PAGA Penalties in the amount of Fifteen Thousand Dollars (**$15,000.00**) to be paid from the Gross Settlement Amount for settlement of claims for civil penalties under PAGA, with 75% ($11,250.00) allocated to the LWDA PAGA Payment and 25% ($3,750.00) allocated to the Individual PAGA Payments to be paid on a pro-rata basis to the Aggrieved Employees. (Lindsay Decl., ¶ 11; Exh. 1, ¶ 3.2.5).

The "Individual Class Payment" is each Class Member's pro-rata 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. (Lindsay Decl., ¶ 12; Exh. 1, ¶ 3.2.4.1.) Using a straight average and assuming they worked throughout the Class Period, Plaintiff estimates after estimating $20,000 in costs, that each Class Member will receive an average of **$201.10** for their Individual Class Payment. (Lindsay Decl., ¶ 12). Defendants will pay its employer-side payroll tax obligations on the Wage Portion of the Individual Class Payments in addition to the Gross Settlement Amount. (Lindsay Decl., ¶ 11; Exh. 1, ¶ 3.1)

Class Members will receive the Class Notice via first class mail (after the Settlement Administrator conducts a national change of address search). (Lindsay Decl., ¶ 13; Exh. 1, ¶ 7.4.2.) Class Members will have an opportunity to dispute the Workweeks and Pay Period information provided in their Class Notice and produce evidence to support their contentions. (Lindsay Decl., ¶ 13; Exh. 1, ¶ 7.4.4; 7.5.1). The Settlement Administrator will make the final determination as to any disputes involving Class Members' allocation of Workweeks and Pay Periods. (*Id.*)

Class Members wishing to opt out from the Settlement Agreement must send a signed written request for exclusion to the Settlement Administrator within sixty (60) days from the mailing of the Class Notice (plus an additional fourteen (14) calendar days if they receive a re-mailed Notice) (Lindsay Decl., ¶ 13; Exh. 1, ¶ 7.5.1). Participating Class Members will also have the opportunity to object to the Settlement Agreement by serving a copy of the objection to the Settlement Administrator within sixty (60) days from the mailing of the Class Notice (plus fourteen (14) calendar days if they receive a re-mailed Notice) (*Id.*; Exh. 1, ¶ 7.4.4, 7.5.1.)

The parties have also selected Phoenix Class Action Administration Solutions ("Phoenix") to handle the notice and administration of the Settlement. (Lindsay Decl., Exh. 1, § 1.2.) Phoenix will establish a case website for Class Members to review and reference for details regarding the Final Approval Hearing and any Final Approval Order and Judgment (Lindsay Decl., ¶ 13, Exh. 1, ¶ 7.8.1). Phoenix has procedures in place to protect the security of class data, adequate insurance in the event of a data breach or defalcation of funds, and is qualified to administer the Settlement. (Lawrence Decl., Exh. 3) The procedures for mailing notice and processing exclusions and objections as well as distribution of the Net Settlement fund are detailed in the Settlement Agreement. (Lindsay Decl., Exh. 1, § 7.4 to 7.8).

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. *See Rose v. City of Hayward*, 126 Cal. App. 3d 926, 932 (1981) (finding that "class members are 'ascertainable' where they may be readily identified without unreasonable expense or time by reference to official records).

Plaintiff contends, and Defendants does not dispute for settlement purposes only, this requirement and the requirement of numerosity is met. Class Members are "all non-exempt culinary services workers hired directly by Fox who worked for Fox in California, as well as all non-exempt employees of CSS who provided culinary services to Fox in California, during the during the Class Period," which is May 17, 2020 to June 16, 2025. (Lindsay Decl., ¶ 15.) Documents and information exchanged between the parties reflect a class of approximately 547 Class Members. (Lindsay Decl., ¶ 15). The Class Members have already been identified by reference to Defendants' payroll and personnel records. (Lindsay Decl., ¶ 15). 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 plaintiff' 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. (Lindsay Decl., ¶ 16) 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*, 191 Cal. App. 3d at 1350.) 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 provide meal period and rest periods, failure to pay wages and overtime due to allegedly common and unlawful policies, failure to pay final wages when required, failure to provide accurate paystubs, and largely derivative claims under the Business & Professions Code and PAGA. Plaintiff contends these practices affected Class Members in the same way. Plaintiff contends these practices resulted in a failure to compensate employees at termination, and incomplete wages displayed on wage statements. The outcome of litigation on this matter depends upon questions that are common to Class Members. (Lindsay Decl., ¶ 16)

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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.* (1987) 191 Cal.App.3d 1341, 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. (Lindsay Decl., ¶ 17) 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. (*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 Class. (*Id.*) Thus, Plaintiff's claims are typical of the claims of the 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. (Lindsay Decl., ¶¶ 18; 73-79.; *see also* Declaration of Daniel Alvarez). The Class Representative's interests is aligned with those of Class Members, he has suffered the same injuries as Class Members, and has no conflicts of interest. (*Id.*) Therefore, Class Counsel and the Class Representative are adequate.

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E. Predominance and Superiority

Individual issues do not predominate over those common to the class. (Lindsay Decl., ¶ 19) The class action mechanism is superior to individualized actions because Class Members have little incentive to bring claims that are small. (*Id.*)

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 representative 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(l)(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 final settlement approval 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.* (2000) 23 Cal. 4th 429, 434 ("Courts have long acknowledged the importance of class actions as a means to prevent a failure of justice in our judicial system."); *Class Plaintiff 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 116, 128 (2008), 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 entering into meaningful settlement negotiations in this matter, including a detailed analysis of Defendants' policies and a considerable sample of Defendants' time and pay records. (Lindsay Decl., ¶¶ 7-8; 23) This discovery permitted Class Counsel to fairly evaluate the strengths 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. (Lindsay Decl., ¶¶ 73-79).

A. The Strength of Plaintiff's Case.

Plaintiff alleges that Defendants failed to pay minimum wages and overtime, failed to provide proper meal breaks or provide premium pay in lieu thereof, failed to provide proper rest breaks or provide premium pay in lieu thereof, failed to provide accurate wage statements, failed to timely pay all wages upon termination, and failed to reimburse necessary business expenses in violation of California law. (Lindsay Decl., ¶ 24).

Class Counsel felt confident that the claims in this case would be certified given that Defendants' policies were applicable to all Class Members and unlawful on their face. (Lindsay Decl., ¶¶ 24-64) Defendants contended, however, that its policies complied with California law and denied Plaintiff's allegations.

B. The Risks Associated with the Merits.

As with all litigation, there are risks that a party will not prevail on the merits. In this case, Plaintiff contended that Defendants required Plaintiff and Class Members to utilize Defendants' time keeping program, on their personal mobile phones, as well as perform pre-shift and post-shift off the clock work for which they were not paid. For instance, Plaintiff alleges that Class Members were generally required to begin working or otherwise be under Defendants' control at least fifteen to twenty minutes before the scheduled shift start time to wait for the security staff to provide credentials and parking passes to the employees before they were required to begin work promptly, and work through lunch and rest periods. Plaintiff and Class Members' meal periods were often interrupted or cut short due to the heavy workload. Furthermore, Plaintiff and Class Members were also cautioned by Defendants' not to clock in more than ten minutes early to avoid overtime (Lindsay Decl., ¶ 25). Defendants contended they did not require off the clock work, paid for all reported hours worked, that any alleged off the clock work was performed without Defendants' knowledge, that for the majority of Plaintiff's employment, Defendants did not impede Plaintiff and other Class Members to take meal and rest breaks, and that it paid wages at the proper rates. Defendants also argue that given its written policies and practices, and the fact tht class members worked at numerous different locations under different conditions, any unrecorded hours are likely subject to individualized inquiry and unlikely to be certified (Lindsay Decl., ¶ 26). Furthermore, approximately 66% of the employees that worked for Fox through CSS signed arbitration agreements, which arguably would otherwise prevent them from recovering in any class action. The class members who were employed directly by Fox were unionized and employed under collective bargaining agreements ("CBAs") with specific rules on overtime and meal breaks, so many of their claims would be preempted as arising under the applicable CBA or requiring its interpretation. Labor Code §§ 512(d), 514; *Curtis v. Irwin Indus., Inc.*, 913 F.3d 1146, 1153 (9th Cir. 2019). If Defendants' contentions are proven true and prevail in trial, the likely outcome of this claim would be no recovery for Class Members. (*Id.*)

Plaintiff also contended that Defendants failed to provide proper meal breaks to Plaintiff and Class Members. For example, Plaintiff alleges that Defendants' policy required Class Members to clock out for their scheduled meal periods but continue working, due to understaffing and the heavy volume of work, and Class Members were not paid for this time that they remained under Defendants' control and were not provided with the opportunity to take timely and complete meal periods and rest breaks. This resulted in Plaintiff and Class Members working during their meal periods or missing their meal periods entirely. Moreover, on days where Plaintiff and other Class members worked ten hours or more, Plaintiff alleges that they did not receive a second meal period (Lindsay Decl., ¶ 27). Defendants maintained that Class Members were given a reasonable opportunity to take their meal periods. Defendants further contend that the meal break claim requires individualized inquiries which would preclude class certification. Defendants made the same arguments regarding arbitration and preemption. If Defendants' contentions are proven true and prevail in trial, the likely outcome of this claim would be no recovery for Class Members (Lindsay Decl., ¶ 28).

Plaintiff also contended that Defendants did not provide Class Members with paid 10-minute rest breaks for every four hours or major fraction thereof. Plaintiff contended that Class

Members consistently worked in excess of consecutive three and a half-hour shifts and were entitled to paid rest breaks of not less than ten minutes for each consecutive three and a half-hour shift but were required to work through their rest breaks during their shifts. Plaintiff also alleged that Plaintiff and Class Members would have to abruptly stop their rest breaks to tend to work demands (Lindsay Decl., ¶ 29). Defendants maintains that it did provide a reasonable opportunity for Class Members to take duty-free rest breaks during their shifts and dispute all allegations that rest breaks were not provided. As with the meal break violation claim, Defendants contends that Class Members were given a reasonable opportunity to take their rest periods. Defendants also pointed out that, unlike meal periods, rest breaks need not be recorded, so any rest break violations would likely be difficult to prove at trial (Lindsay Decl., ¶ 30). As with the other issues, Defendants argued arbitration agreements and preemption would defeat these claims. As these considerations would likely depress the damages *vel non* ultimately awarded, Class Counsel applied appropriate discounts to the rest-break claim (*Id.*).

Plaintiff alleged that Defendants required Plaintiff and Class Members to use their cellular phones for work, for which they were not reimbursed. (Lindsay Decl., ¶ 31). Defendants maintained that Plaintiff and Class Members were not required to use their personal cell phones to perform their job duties and that individualized issues relating to this claim would preclude class certification (*Id.*).

C. The Risks Associated with Paystub Violations and Waiting Time Penalties.

In order to establish liability for these penalties, Plaintiff would first have to establish liability for the underlying claims. Plaintiff would then have to establish that Defendants' conduct was willful and knowing. (Labor Code §§ 203, 226(e).)

With waiting time penalties, there is always the risk that the trier of fact would not have held that Defendants' actions were done "willfully." A good faith belief in a legal defense can preclude a finding of willfulness. (*Gonzalez v. Downtown LA Motors* (2013) 215 Cal.App.4th 36, 54; 8 C.C.R. § 13520.) As discussed above, Plaintiff alleges that Defendants failed to pay for all hours worked and premiums for non-compliant meal breaks due to the underreporting of hours and off the clock work. Plaintiff contends the Class Members are entitled to these wages and premiums, which they allege were not paid at the time of their termination or resignation. If Plaintiff is successful on their claims, the penalties pursuant to Labor Code § 203 shall attach. Defendants, however, contend they provided employees with the reasonable opportunity to take meal breaks, asked Class Members to confirm the accuracy of their time records, and therefore had good-faith defenses. Defendants likewise contended that they properly paid all hours worked by their employees. Based upon Defendants' potential success in establishing both that a good faith dispute existed with regard to unpaid wages, and Defendants endeavored in good faith to supply accurate wage statements, Defendants argued the claims for paystub violations and waiting time penalties have little or no value. *See Maldonado v. Epsilon Plastics, Inc.*, 22 Cal. App. 5th 1308, 1336-1337 (2018) (wage statements that accurately report wages paid to employees do not violate Labor Code § 226, even if it is later determined that employer did not properly pay all wages due). They also argue these claims would be preempted and/or largely subject to arbitration. As such, there was risk associated with wage statement and waiting time penalties that Class Counsel had to consider. (Lindsay Decl., ¶¶ 41-58.)

D. The Risks Associated with the PAGA Penalties.

Labor Code § 2699.3 gives aggrieved employees the right to recover civil penalties for specific Labor Code violations by way of a civil action. The PAGA provides a penalty amount of one hundred dollars ($100) for each aggrieved employee per pay period for the initial violation and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation. Labor Code § 2699(e)(2). However, if a civil penalty is provided in a specified amount by the Labor Code section relating to the underlying alleged Labor Code violation, that amount shall apply. (*Id.*) The PAGA also gives the Court discretion to award any lesser amount than the maximum civil penalty. (*Id.* ["…a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory."]); *See, e.g., Lopez v. Friant & Assocs., LLC*, 15 Cal. App. 5th 773, 788 (2017), *rev. denied* (2018), (recognizing court's ability to reduce PAGA penalties). Courts have held that situations similar to the current one (e.g. injuryless violations, technical errors, and substantial compliance) should lead to reductions in penalties. *See Thurman v. Bayshore Transit Management, Inc.*, 203 Cal. App. 4th 1112, 1134-1135 (2012) (holding that reduction was justified when employer "attempted to comply with the law"); *Fleming v. Covdien, Inc.*, No. ED CV10-01487 RGK (OPx), 2011 U.S. Dist. LEXIS 154590 at *8-9 (C.D. Cal. August 12, 2011) (reducing PAGA penalties more than 80% – from $2.8 million to $500,000 – when "employees suffered no injury" employers were "not aware" of the violation and "took prompt steps to correct all violations once notified").

Plaintiff discounted potential penalties under this claim given this authority, and for reasons already discussed. The PAGA claims are premised on the same underlying unpaid wages, meal and rest break, wage statement, and waiting time claims, and thus subject to the same disputes and defenses. There is also a dispute as to whether violations in later pay periods trigger the $200 penalty under PAGA as a "subsequent violation." (*Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157, 1203 (2008).) As such, there is a fair amount of risk associated with the PAGA claims that makes the settlement's proposed PAGA payment of $15,000 appropriate (Lindsay Decl., ¶¶ 60-63).

E. 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 Class Members associated with this litigation was significant (Lindsay Decl., ¶¶ 24-64). 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 litigating this matter. (*Id.*)

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 Class Members who will have already waited considerable time for resolution in this matter.

F. 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. (Lindsay Decl., ¶ 36-37.) Given cases like *Duran v. U.S. Bank Nat. Assn.*, 59 Cal. 4th 1, 34 (2014) that deal with the complexity of using statistical samples in class actions, decertification is a real risk that Class Counsel must take into account.

G. The Amount Offered in Settlement.

There can be no doubt that this Settlement is the result of vigorous, adversarial, non-collusive, and arms-length negotiations between the parties with an experienced mediator. In order to determine the approximate potential damages which would be owed to each of the Class Members, Class Counsel analyzed the time records for Plaintiff and Defendants provided Class Counsel with records for a sampling of Class Members. By analyzing this information, Class Counsel was able to estimate the full value of the case if Plaintiff were to prevail at trial. (Lindsay Decl., ¶¶ 7-10.)

There are approximately 547 total Class Members. Based on the data provided, Class Counsel estimated the following maximum exposures: unpaid wage claim at **$539,053.00**, meal period claim at **$245,503.00**, rest period claim at **$954,029.00**, wage statement claim at **$149,700.00**, waiting time penalties at **$1,149,230.00**, reimbursement of business expenses claim at **$834,175.00**, and on PAGA at **$570,100.00**, for a total possible maximum exposure exceeding $4 million. (Lindsay Decl., ¶¶ 43-63). However, after considering Defendants' arguments against liability and applying appropriate discounts accounting for the litigation realities facing the parties, Plaintiff estimated the maximum realistic potential recovery amounted to **$886,461.35**. (Lindsay Decl., ¶¶ 65-66). The Gross Settlement Amount of $240,000.00 therefore represents a recovery for the Class Members of approximately **27%** of the total realistic exposure Plaintiff estimated Defendants could face on these class-wide claims.

Therefore, after taking into account the difficulties of proof, the Defendants' defenses, and other attendant risks, Plaintiff estimated that the total amount of damages, monetary penalties, or other relief that the class could reasonably expect to be awarded at trial is significantly less than the maximum exposure estimated above (Lindsay Decl., ¶ 37).

Once Class Counsel was able to determine the maximum potential damages, it was able to determine a fair and reasonable settlement for the Class. (Lindsay Decl., at ¶¶ 21-66). Class Counsel analyzed the likelihood of success on the merits and believed that the Class had a reasonable likelihood of success on the core claims. (*Id.*) However, Defendants dispute this contention, deny all wrongdoing in this matter and are confident they have strong legal and factual defenses to Plaintiff's claims. After taking into account the likelihood of success on each claim and the challenges faced with certifying these claims, Class Counsel determined that the settlement amount of $240,000.00 was fair and reasonable.

Class Counsel has devoted a considerable amount of time to the prosecution of this case, including but not limited to, interviewing Plaintiff on repeated occasions, drafting pleadings, conducting discovery, and meeting and conferring with defense counsel about same; reviewing and analyzing time records and various policies, Plaintiff's personnel files, and other documentation; researching California law; preparing for and attending mediation; and negotiating and finalizing the Settlement Agreement and related documents. (Lindsay Decl., ¶¶ 3-8.)

Among those matters considered during the course of settlement negotiations were the strength of Plaintiff's case versus the amounts offered in settlement; the risks, expenses, and length of further litigation, including class certification and the appeals process; the present state of the law as it applies to wage and hour class actions, particularly in light of *Brinker*; the present value of a settlement versus the long wait necessitated by any potential judgment in class members' favor; the burdens of proof necessary to establish liability against Defendants; and Defendants' defenses to the action. (Lindsay Decl., *passim*.).

Class Counsel believes that the settlement is fair and reasonable and serves the best interests of Class Members. Although the recommendations of counsel proposing the class settlement are not conclusive, the Court can properly take the recommendations into account, particularly if counsel has been involved in litigation for some period of time, appear to be competent, and have experience with this type of litigation, and significant discovery has been completed. *See Newberg,* §11.47.

VII. THE CLASS REPRESENTATIVE ENHANCEMENT 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. 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 the case and the law. (Lindsay Decl., ¶ 68; Alvarez Decl. ¶ 7.) In the end, Plaintiff decided to vindicate not only his own rights but also those of his co-workers by filing a class action lawsuit. (*Id.*)

The courage it took to do this should not be underestimated. (Lindsay Decl., ¶ 69) By suing Defendants and serving as the class representative in this case, Plaintiff contends he increased his risk of retaliation by prospective employers and put his own future employment prospects at risk. (Lindsay Decl., ¶ 69; Alvarez Decl. ¶ 10.) But Plaintiff did not allow his fear of the potential repercussions of being a class representative deter him from acting for the benefit of Class Members. (*Id.*) To the contrary, Plaintiff has been intimately involved in this case since its inception. (*Id.*) He has devoted a substantial amount of time to helping Class Counsel effectively develop and prosecute this action at every stage of the litigation. (*Id.*) Both before and after the filing of this lawsuit, Plaintiff conferred with Class Counsel to discuss every aspect of this case; Plaintiff has provided Class Counsel with information about Defendants and about the industry generally, reviewed documents, identified witnesses, consulted Class Counsel throughout the litigation, participated in the mediation process, monitored the progress of the litigation with Class Counsel, and reviewed and signed the Settlement Agreement. (Lindsay Decl., ¶ 68-70; Alvarez Decl. ¶ 7-10.)

In sum, Plaintiff has diligently, adequately, and fairly represented Class Members, and has not placed his interests above any member of the putative class. (Lindsay Decl., ¶ 70; Alvarez Decl., ¶ 9). This sort of payment to a class representative has been a common feature of settlements negotiated by Class Counsel and has been routinely approved by trial courts. (*Id.*)

The Settlement allocates an incentive award in the amount of $5,000.00 to the Class Representative. (Lindsay Decl., ¶ 11; Exh 1, Settlement Agreement, ¶ 3.2.1) This amount is a far cry from the $50,000 of enhancement awards to the two named plaintiffs approved by the trial court in *Clark. See Clark Clark v. American Residential Services, LLC* (2009) 175 Cal.App.4th at

807. Although Class Counsel appreciate that the Court has a duty to ensure that class representatives are not overcompensated at the expense of the class, modest incentive awards in employment class actions, such as the one here, are necessary not only to compensate class representatives for the time they spend in the case, but also, and more importantly, to encourage aggrieved employees to challenge questionable employment practices notwithstanding the very real consequences they may face.

In light of the foregoing, Class Counsel believes that the incentive award in the amount of $5,000.00 to the Class Representative is fair and reasonable. (Lindsay Decl., ¶ 70).

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. (Lindsay Decl., ¶¶ 71-72.) Moreover, the Class Notice will specifically direct any class members who have questions or concerns to contact the Settlement 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. (Lindsay Decl., ¶¶ 13, 71). If any Class Notices are returned undeliverable without a forwarding address, the Administrator will conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. (Lindsay Decl., ¶ 13) 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 herein.

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, subject to approval by this Court, Class Counsel will seek an award of fees of no more than Eighty Thousand Dollars **($80,000.00)**, one-third of the Gross Settlement Amount, and actual reasonable litigation costs expenses incurred to prosecute the Action. (Lindsay Decl. ¶ 67.) The requested fees are fair compensation for a law firm involved in undertaking complex, risky, expensive, and time-consuming litigation solely on a contingent basis. (*Id.*) Defendants will not oppose Class Counsel’s above fees and cost request. (*Id.*)

California courts routinely look to the federal courts on class action approvals. The Ninth Circuit has recognized that an appropriate method for awarding attorneys' fees in class actions is to award a percentage of the "common fund" created as a result of the settlement. (*Vincent v. Hughes Air West, Inc*. (9th Cir. 1977) 557 F.2d 759, 769.) The purpose of the common fund/percentage approach is to "spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." (*Id*.) Accordingly, courts have discretion to choose either the percentage-of-the-fund method or the lodestar method. (*In re Wash. Pub.Power Supply Sys. Sec. Litigation* (9th Cir. 1994) 19 F.3d 1291, 1295-96.)

Several courts have, however, expressed frustration with the "lodestar" approach for deciding fee awards, which usually involves wading through voluminous time records. Thus, the percentage approach can be preferable to the lodestar in certain situations because: (1) it aligns the interests of class counsel and absent class members; (2) it encourages efficient resolution of the litigation by providing an incentive for early, yet reasonable, settlement; and (3) it reduces the demands on judicial resources. (*In re Activision Securities Litigation*, (N.D. Cal. 1989) 723 F.Supp. 1373, 1378-79.) The Ninth Circuit has used the percentage of the common fund approach to determine the award of attorneys' fees. (*In re Pacific Enterprises Securities Litigation* (9th Cir. 1994) 47 F.3d 373, 378-79 (approving attorneys' fee of 33 1/3% of settlement fund).)

Class Counsel's application for attorneys' fees in light of the facts and circumstances surrounding this case is well within the range of reasonableness. Historically, courts have awarded percentage fees in the range of 20% to 50% of the common fund, depending on the circumstances of the case. (*Newberg*, at §14.03; *see also In re Activision Securities Litigation*, 723 F. Supp. at 1378.) *Newberg* further notes: "[A]chievement of a substantial recovery with modest hours expended should not be penalized but should be rewarded for considerations of time saved by superior services performed." (*Id.* at §§ 14-10:14-11.)

The attorneys' fees request provided for in the Settlement Agreement is commensurate with judicial precedent. Both state and federal courts regularly approve fee awards equal to or greater than the percentage requested in this case. (*See, e.g., In re Pacific Enterprises Securities Litigation* (9th Cir. 1995) 47 F.3d 373, 379 (affirming an award equal to 33% of the common fund); *In re Activision Securities Litigation* (N.D. Cal. 1989) 723 F.Supp. 1373, 1375 (awarding plaintiff' counsel 32.8% of the common fund created to settle the litigation); *In re Ampicillin Antitrust Litigation* (D. D.C. 1981) 526 F.Supp. 494 (awarding 45% of $7.3 million settlement fund); *Parker v. City of Los Angeles* (1974) 44 Cal.App.3d 556, 557-568 (affirming fee award to counsel of one-third (1/3) of recovery achieved).)

In wage and hour class actions in particular, California trial courts have customarily approved attorney's fees consistent with or greater than the percentage of the common fund requested in this case. (*See Evans v. Coca-Cola*, Los Angeles County Super. Ct. Case No. BC 220525 (Hon. Richard C. Hubbell) (Dec. 2001) (approving an award of attorneys' fees of at least 33-1/3% of the settlement); *see also Estrada v. Dr. Pepper/Seven-Up*, Los Angeles County Super. Ct. Case No. BC 262247 (May 2005) (Hon. Anthony J. Mohr); *Moreno v. Miller Brewing,* Los Angeles County Super.Ct. Case No.BC 278170 (April 2004) (Hon. David M. Minning); *Josiah Eaton v. Adolph Coors Company* (2003) Orange County Super. Ct. Case No. 01CC00140 (Hon. Stephen J. Sundvold); *Lindsaybell v. Abercrombie & Fitch Stores, Inc.*, Los Angeles County Super.Ct. Case No.BC 277359 (Sept. 2006) (Hon. Kenneth R. Freeman); *Daum v. Claim Jumper Restaurants,* Orange County Super.Ct. Case No.02CC10201 (2006) (Hon. Ronald L. Bauer).)

Here, Class Counsel has borne the entire risk and costs of litigation and will not receive any compensation until recovery is obtained. (Lindsay Decl., ¶¶ 67.) The Court should also consider the benefit obtained by Class Counsel on behalf of Class Members. Thus, the requested award for Class Counsel is 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. 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. Approve and appoint Emil Davtyan, David Yeremian, and Alvin B. Lindsay of D.Law, Inc., to serve as Class Counsel for settlement purposes;

6. Approve and appoint Phoenix Class Action Administrators as the Settlement 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. Order Defendants to disclose to Phoenix Class Action Administrators the names, last-known addresses, telephone numbers, Social Security numbers, start and end dates of active employment as a non-exempt employee of Defendants in the State of California, and any other information required by the Settlement Administrator to effectuate the terms of the Settlement.

9. Order that Phoenix Class Action Administrators mail the Class Notices to Class Members; and

10. Set a date for the Final Approval Hearing.

Dated: January 5, 2026

D.LAW, INC.

By: ______________________

David Yeremian
Alvin B. Lindsay
Attorneys for Plaintiff Daniel Alvarez Jr. on behalf of himself and others similarly situated