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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF SANTA CLARA**

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| VALERY DO on behalf of herself and all others similarly situated, and the general public,<br><br>*Plaintiff*,<br><br>v.<br><br>RECOR MEDICAL, INC., a Delaware Corporation; and DOES 1 through 50, inclusive,<br><br>*Defendants*. | Case No.: 24CV441617<br><br><u>CLASS ACTION</u><br><br>[*Assigned for all purposes to the Hon. Theodore C. Zayner, Dept. 19*]<br><br>**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**<br><br>*[Filed concurrently with Notice of Motion and Motion; Memorandum of Points and Authorities; and [Proposed] Order Granting Plaintiff's Motion for Final Approval]*<br><br>Date: December 17, 2025<br>Time: 1:30 PM<br>Dept.: 19<br><br>Original Complaint Filed: June 21, 2024<br>First Amended Complaint Filed: August 23, 2024<br>Trial Date: None Set |

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## I. INTRODUCTION

On August 4, 2025, this Court entered an order preliminarily approving the parties' Joint Stipulation of Class Action and PAGA Settlement and Release ("Settlement Agreement") entered into by Plaintiff Valery Do ("Plaintiff"), on behalf of herself and other similarly situated persons employed by Defendant Recor Medical, Inc. ("Defendant") (hereinafter Plaintiff and Defendant are collectively referred to as the "Parties") in California as non-exempt employee during the Class Period, which is from June 21, 2020, through January 21, 2025 ("Class Members" or "the Class"). Under the Settlement, the wage and hour claims of 60 Class Members who did not opt out ("Participating Class Members") will be resolved for $150,000.00.

Notice of the Settlement was distributed in accordance with the Court's preliminary approval order, and the response was excellent. Zero Class Members objected to the Settlement, zero contested the workweeks, and zero opted out of the Settlement. (Declaration of David Keledjian ("Keledjian Decl."), ¶ 11; Declaration of Lluvia Islas ("Islas Decl."), ¶¶ 7 – 9.) The fact that there was a 100% participation rate indicates that the persons most affected by Defendant's alleged practices and who stand to benefit most from the Settlement agree that this is an outstanding result and a strong indication that the Settlement is fair and adequate. (Keledjian Decl., ¶ 12.) The Individual Class Payment will average $1,164.27 per Participating Class Member, the highest payment is $4,040.84, and the lowest payment is $16.84 (Keledjian Decl., ¶ 9; Islas Decl., ¶ 13.) In the opinion and experience of Class Counsel, the Settlement is fair, adequate, and reasonable and will convey a substantial benefit to all Class Members. (Keledjian Decl., ¶ 12.)

The proposed Settlement satisfies the criteria for final settlement approval under California law. Consequently, Plaintiff moves this Court for an order: (1) certifying this lawsuit as a class action for settlement purposes only; (2) approving the class action Settlement embodied in the Parties' Joint Stipulation of Class Action and PAGA Settlement and Release ("Settlement Agreement"); (3) confirming Plaintiff as a Class Representative; (4) confirming the appointment of Emil Davtyan, David Yeremian, David Keledjian, and David Arakelyan of D.Law, Inc., as Class Counsel; (5) approving Class Counsel's application for attorneys' fees of $50,000.00 ("Class

Counsel Fees Payment") and reasonably incurred litigation costs of $10,143.95 ("Class Counsel Litigation Expenses Payment"); (6) approving the enhancement award to Plaintiff ("Class Representative Service Payment" or "Enhancement Award"); (7) approving the payment of the Settlement Administrator's invoice for costs of administration in the amount of $6,000.00 ("Administration Costs"); and (8) approving the "PAGA Penalties" payment consisting of $10,000.00, with 65% or $6,500.00 to the Labor and Workforce Development Agency ("LWDA PAGA Payment"), and 25% or $3,500.00 to be allocated to the Aggrieved Employees on a pro-rata basis according to the number of PAGA Pay Periods worked during the PAGA Period ("Individual PAGA Payment"). (Keledjian Decl., Exhibit 1, ¶¶ 1.21, 1.34, 3.1, 3.2, 3.2.1 – 3.2.5.)

## II. STATUS OF THE LITIGATION

### A. Procedural History

On June 21, 2024, Plaintiff Valery Do commenced a Class Action by filing a Complaint alleging causes of action against Defendant for 1) Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198); 2) Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198); 3) Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1997.1 and 1198); 4) Failure to Pay Proper Vacation Wages (Lab. Code § 227.3); 5) Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a)); 6) Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203); 7) Unfair Competition (Bus. & Prof. Code §§ 17200 et seq.) ("Action"). (Keledjian Decl., ¶ 3.)

On June 21, 2024, pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and California's Labor and Workforce Development Agency ("LWDA") by sending his PAGA Notice (LWDA-CM-1035804-24). (Keledjian Decl., ¶ 4.)

On August 23, 2024, Plaintiff filed her First Amended Complaint adding a cause of action for Civil Penalties under PAGA. (Keledjian Decl., ¶ 5.)

After initiating the Action, the Parties agreed to explore resolution via mediation and engage in informal discovery in preparation for mediation. (Keledjian Decl., ¶ 6.)

On January 21, 2025, the Parties participated in an all-day mediation with Michael Mandel, a respected and highly experienced mediator in wage and hour class actions. The Parties were able to reach a settlement, which was preliminarily approved by this Court on August 4, 2025. (Keledjian Decl., ¶ 7.)

### B. Investigation

Before filing the lawsuit, Class Counsel conducted a thorough investigation and researched the facts and circumstances underlying the pertinent issues and applicable law. (Declaration of David Arakelyan filed in support of Plaintiff's Unopposed Motion for Motion for Preliminary Approval of Class Action and PAGA Settlement ("Arakelyan PA Decl.,") ¶ 10.) This required thorough discussions and interviews between Class Counsel and Plaintiff, in addition to the above-described research into the various legal issues involved in the case. (*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 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. (Arakelyan PA Decl., ¶ 21.) The Parties conducted their own evaluations of the potential recoveries based on the claims alleged in the Action, including consulting experts. (Arakelyan PA Decl., ¶ 10.)

### C. Settlement Efforts

On January 21, 2025, the Parties participated in an all-day mediation with Michael Mandel, a respected and highly experienced mediator in wage and hour class actions. (Arakelyan PA Decl., ¶ 12.) During mediation, counsel for Plaintiff and Defendant discussed all aspects of the case, including the risks associated with continued litigation and class certification issues, as well as the law and how it applied to the claims in this case. (Arakelyan PA Decl., ¶ 12) Following a full day of mediation, the Parties agreed to general settlement terms to resolve the lawsuit. (Arakelyan PA Decl., PA ¶ 12)

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## III. SETTLEMENT AGREEMENT AND ACCOMPANYING DOCUMENTS

Under the terms of the proposed Settlement Agreement, Defendants have agreed to pay a non-reversionary settlement amount of $150,000.00 (“Gross Settlement Amount” or “GSA”) and to separately pay any and all employer payroll taxes owed on the Wage Portions of the individual Settlement Awards. (Keledjian Decl., Ex. 1, ¶ 3.1.)

The Settlement Agreement defines “Class Members” or “Settlement Class Member” as all persons employed by Defendant in California and classified as hourly, non-exempt employees who worked for Defendant from June 21, 2020, through January 21, 2025 (“Class Period”). (*Id.*, Ex. 1, ¶ 1.5 and 1.12.) The Settlement Agreement defines “PAGA Employees,” or aggrieved employees with respect to PAGA, as all person employed by Defendant, in California and classified as hourly, non-exempt employees and who worked for Defendant from January 21, 2023, through January 21, 2025 (“PAGA Period”). (*Id*, Ex. 1, ¶¶ 1.4 and 1.31)

The “Net Settlement Amount,” available for distribution to Class Members, is the Gross Settlement Amount, less all Class Counsel’s attorneys’ fees and litigation costs, the Enhancement Award to the Class Representatives the PAGA penalty payment to the Labor and Workplace Development Agency (“LWDA”), the individual PAGA payments, and Settlement administration expenses. (*Id.*, Ex. 1, ¶ 1.28.) Settlement Awards to the Class Members, and PAGA Awards to the PAGA Members, will be calculated by the Settlement Administrator according to the number of workweeks/pay periods worked during the Class/PAGA Period and paid out of the Net Settlement Amount. (*Id.*, Ex. 1, ¶¶ 1.23 – 1.24, 3.2.4, and 3.2.5.1.) The entire Net Settlement Amount will be paid out *pro rata* to Class Members who do not opt out, and to PAGA Members. (*Id*., Ex. 1, ¶ 3.2.4.2.) These amounts are detailed as follows:

- Up to one-third of the GSA, or $50,000.00, to Class Counsel for Attorneys’ Fees, and up to $15,000,00 to Class Counsel for reimbursement of reasonable expenses incurred to prosecute the Action (the actual litigation costs were at $10,143.95 (*Id*., ¶¶ 8, 30; Ex. 1, ¶ 3.22; Exh. 3.);
- Up to $5,000.00 to Plaintiff as an Enhancement Award for service as the class representative (Keledjian Decl., Ex. 1, ¶ 3.2.1);

- Up to $6,000.00 to the Settlement Administrator for its fees and costs to administer the Settlement (*Id.*, Ex. 1, 3.2.3);
- $6,500.00 to the LWDA of the State of California for settlement of claims for civil penalties under PAGA, which will be paid out of the GSA, leaving $3,500.00 as the Net PAGA Settlement Amount to be paid to PAGA Members. (*Id.*, Ex. 1, ¶ 3.2.5.)

After preliminary approval of Phoenix Class Action Administration Solutions ("Phoenix" or "Administrator"), on August 7, 2025, the Administrator sent the Notice of Proposed Class Action Settlement and Hearing Date for Final Approval of Settlement ("Class Notice") to the Class Members' last-known addresses and made significant efforts to locate Class Members, including performing skip traces on those Class Members who could not be located. (Keledjian Decl., ¶ 10; Islas Decl., ¶ 5.) The notice process occurred according to the Court's order granting preliminary approval of the settlement. Phoenix sent the Class Notices to the last-known address of each Class Member. Of the 60 Class Members who were sent notices, 0 Class Notices were returned to Phoenix by the Post Office, and 0 Class Notices were re-mailed, with 0 Class Notices deemed undeliverable. (Keledjian Decl., ¶ 11; Islas Decl., ¶¶ 5 and 6.) Here, the deadline for submitting a Request for Exclusion from Settlement, disputing workweeks, and objecting to the Settlement was October 6, 2025. The deadline for objecting to the Settlement was September 10, 2025. (Islas Decl., ¶¶ 7 – 9; Keledjian Decl. ¶ 11.) As of the deadline, **zero Class Members objected to the Settlement, zero Class Members submitted a workweek dispute and zero Class Members opted out of the Settlement**. (*Id.*)

## IV. THE COURT SHOULD GRANT FINAL APPROVAL OF THE CLASS ACTION SETTLEMENT

Plaintiff respectfully submits that the Court should grant final approval not only because the settlement is fair but also because public policy favors settlement over continued class-action 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."); *State v. Levi Strauss & Co.* (1986) 41 Cal. 3d 460, 471 ("[T]he consumer class action is an essential tool for the protection of consumers against exploitative business practices.");

*Class Plaintiffs v. City Of Seattle* (9th Cir. 1992) 955 F.2d 1268, 1276 ("[S]trong judicial policy . . . favors settlements, particularly where complex class action litigation is concerned."); Conte & Newberg, *Newberg on Class Actions* (4th ed. 2002) § 11.41.

### A. CRITERIA FOR SETTLEMENT APPROVAL

California Rule of Court 3.769 requires court approval of the settlement of class action lawsuits. Preliminary approval is merely the first of three steps that comprise the approval procedure for settlements of class actions. See Manual for Complex Litigation, Second §30.44 (1993); *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801. The second approval step is the dissemination of notice of the settlement to all Class Members. *Id.* The third step is a final settlement approval hearing, at which evidence and argument concerning the fairness, adequacy, and reasonableness of the settlement may be presented and Class Members may be heard. *Id.*

The first two stages have been completed here. Now, at the final approval stage, the decision facing the Court is whether the settlement is fair, adequate, and reasonable. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal. App 4th 224, 235. Among the relevant considerations in reaching this final determination are (1) the strength of plaintiff's case balanced against the benefits of the settlement, and (2) the complexity, expected duration, and expense of further litigation. Id.; see also *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802. In evaluating the fairness of a settlement proposal, courts must give "proper deference to the private consensual decision of the parties," because "the Court's intrusion upon what is otherwise a private consensual agreement negotiated between the parties to a lawsuit must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties." *Hanlon v. Chrysler Inc.* (9th Cir. 1998) 150 F. 3d 1011, 1027; *Dunk*, 48 Cal.App.4th, at 1801("Due regard should be given to what is otherwise a private consensual agreement between the parties.") Accordingly, the Court should take into account the informed recommendations of counsel and the parties. See *Kirkorian v. Borelli*, (N.D. Cal.1988)695 F. Supp. 446, 451 (the recommendation of experienced counsel carries significant weight in the court's determination of the reasonableness of the settlement); *Vulcan So. of Westchester County, Inc. v. Fire Department of White Plains* (S.D.N.Y. 1981) 505 F.Supp.955, 967 (same). 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, supra, 48 Cal.App.4th at 1794.

Applying this final approval criterion evidence substantial grounds for granting this Motion.

## B. THE SETTLEMENT AGREEMENT FULFILLS ALL FINAL APPROVAL CRITERIA

### 1. The Settlement Follows Substantial Investigation and Discovery and Is the Product of Serious, Informed, Non-Collusive Negotiations in Which Parties Were Represented By Experienced Counsel.

The proposed Settlement was reached as a result of arm's length negotiations after the completion of pertinent discovery and the exchange of necessary class data. (Arakelyan PA Decl. ¶ 27.) Throughout this case, Plaintiff and Class Members have been represented by experienced counsel (*Id.* at ¶¶ 27, 71 – 81.)

Class Counsel have devoted a substantial amount of time to this case, including but not limited to researching various legal issues prior to and after filing this action; drafting and reviewing pleadings; conducting informal discovery; reviewing and analyzing the documents produced by Defendant, including the reviewing and analyzing records and data, as well as employment-related policies, and other documentation; regularly communicating with the Plaintiff; preparing for and attending mediation; negotiating and finalizing the Settlement, including several revisions thereof; drafting documents for preliminary and final approval, including documents for the administration of the settlement; briefing for the hearing on the motion for preliminary approval of the class action settlement; and coordinating and overseeing the administration of the settlement. (Arakelyan PA Decl., ¶ 10.)

Among those matters considered during the course of settlement negotiations were the risks, expenses, and length of further litigation, including the appeals process; the present state of the law as it applies to wage and hour class actions; the present value of a settlement versus the long wait occasioned by any potential judgment in favor of the class; and the burdens of proof necessary to

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establish liability against Defendant's defenses to the action. These factors each indicated that the interests of Class Members are best served by a settlement of this action as set forth in the Settlement. Moreover, as experienced litigators in employment class action cases, Class Counsel believes that the Settlement is fair and reasonable and serves the best interests of the Class Members. (Arakelyan PA Decl., at ¶¶ 12 – 13, 27, 29 – 31.)

2. <u>The Settlement Follows Substantial Investigation and Discovery and Is the Product of Serious, Informed, Non-Collusive Negotiations in Which Parties Were Represented By Experienced Counsel</u>

Significant in evaluating the foregoing $150,000.00 settlement are the risks at trial (or an appeal), as well as the costs of continuing the litigation. Defendant contends that the Class would not be able to establish its entitlement to relief it is seeking and promised to mount a vigorous defense. (Arakelyan PA Decl., ¶¶ 40, 44, 46, 49, 53, 56.) On the other hand, Plaintiff believes that there is ample evidence to support the class allegations. (*Id.* ¶¶ 38 – 39, 41 – 43, 45, 47 – 48, 50 – 52, 54 – 55, 57 – 62) Under these circumstances, and in light of the risks inherent in further litigation, it was reasonable for Plaintiff and Class Counsel to elect to settle the action. (*Id.* ¶¶ 81) Plaintiff appreciates that, in addition to the litigation risks of continued proceedings, the proceeding itself would be potentially complicated and expensive, and even if ultimately successful absent the settlement, Class Members might see no recovery until the lengthy appellate process is complete. (*Id.* at ¶¶ 9, 13, 27, 29.) In contrast, the Settlement provides immediate benefits to the Class.

From the evaluation of the benefits offered to the Class by the Settlement, as well as the expense, delay, and risk of going forward to trial, with subsequent appellate proceedings, the Settlement fairly, adequately, and reasonably achieves the goals of Plaintiff and advances the interests of the Class. In short, the settlement falls within the "the range of reasonableness" necessary for final approval. (*Id.* at ¶ 81.)

3. <u>Class Members Received The Best Practicable Notice</u>

California law vests the Court with broad discretion in fashioning an appropriate program to provide the best notice practicable.[1] See *Cartt v. Superior Court*, 50 Cal. App. 3d 960, 973-74

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[1] The California Supreme Court has authorized California's trial courts to use Federal Rule 23 and cases applying it for guidance in considering class issues. See *Vasquez v. Superior Court*, 4 Cal. 3d 800, 821 (1971); *Green v. Obledo*,

(1975); *In re Cellphone Fee Termination Cases*, 186 Cal.App.4th 1380, 1392 (2010); *Cho v. Seagate Tech. Holdings, Inc.*, 177 Cal.App.4th 734, 745-746 (2009); *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 811-12 (1985).[2] The content and method of notice should be designed to apprise the class members of the terms of the proposed settlement and of their rights to participate in, object to, or opt out of the settlement. See *Mullane*, 339 U.S. at 314; *In re Vitamin Cases*, 107 Cal. App. 4th 820, 828 (2003).

The Notice preliminarily approved by the Court met these requirements: it explained the nature of the litigation; the material terms of the Settlement; the amount of the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service Payment sought; how a Class Member could participate in, object to, or be excluded from the Settlement; and to whom to direct inquiries.

4. Zero Class Members Have Objected to the Settlement and Zero Class Members Have Opted out of the Settlement.

A presumption of fairness exists where the percentage of objectors and opt-outs is small. *7-Eleven Owners for Franchising v. Southland Corp.* (2000) 85 Cal. App.4th 224, 244; *Hanlon v. Chrysler Corporation* (9th Cir. 1998) 150 F.3d 1011, 1025-1026. Here, the deadline for submitting a Request for Exclusion from Settlement and challenging the number of Workweeks and/or PAGA Pay Periods was October 6, 2025. The deadline objecting to the Settlement was September 21, 2025 (Islas Decl., ¶¶ 7 – 9; Keledjian Decl. ¶ 11.) As of the deadline, zero Class Members objected to the Settlement, zero Class Members submitted workweek disputes, and zero Class Members opted out of the Settlement. (*Id.*)

5. The Enhancement Award to Plaintiff Is Reasonable and Fair.

Class action settlements typically provide for an incentive or enhancement payment to the named plaintiff for bringing and helping to prosecute the action. Courts routinely approve these supplemental payments. See *Newberg on Class Actions* at § 12.46; *Van Vranken v. Atlantic*

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29 Cal. 3d 126, 145-46 (1981). Where appropriate, therefore, the parties cite Federal Rule 23 and federal case law in addition to California law.

[2] See also Eisen v. Carlisle & Jacquelin, 417 U.S. 156, 175-75 (1974) (individual notice must be sent to all class members who can be identified through reasonable efforts); Mullane v. Central Hanover Bank & Trust Company, 339 U.S. 306, 314 (1950) (best practicable notice is that which is "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections").

*Richfield Co.* (N.D. Cal. 1995) 901 F. Supp. 294; *Bogosian v. Gulf Oil Corp.* (E.D. Pa. 1985) 621 F. Supp. 27 (award of $20,000.00 each to two class representatives in antitrust case); *Bryan v. Pittsburgh Plate Glass Co.* (PPG Industries, Inc.) (W.D. Pa. 1973) 59 F.R.D. 616, 617, aff'd 494 F.2d 799 (3d Cir.), *cert. denied in Abate v. Pittsburgh Plate Glass Co.* (1974) 419 U.S. 900. As the *Staton* court noted:

> [N]amed plaintiffs . . . are eligible for reasonable incentive payments. The district court must evaluate their awards individually, using relevant factors includ[ing] the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefited from those actions, . . . the amount of time and effort the plaintiff expended in pursuing the litigation . . . and reasonabl[e] fear[s] of workplace retaliation.

*Staton v. Boeing* (9th Cir. 2003) 327 F.3d 938, 977 (citation omitted).

The retaliation issue identified in *Staton v. Boeing* extends outside the immediate workplace. It is common knowledge that the modern-day workforce is quite mobile, with employees holding several jobs in a career during their lifetime. Few people want to confront their employers, let alone sue them. (Keledjian Decl., ¶ 31 – 33.) By suing her former employer, Plaintiff contends that she increased the risk of retaliation by prospective employers to which he may apply in the future. (*Id.* ¶ 32.)

But Plaintiff did not allow her fear of the potential repercussions of being a class representative to deter them from acting for the benefit of Class Members. (Keledjian Decl., ¶ 33.) She has devoted a substantial amount of time to helping Class Counsel effectively develop and prosecute this Action at every stage of the litigation. (*Id.*, also Declarations of Plaintiff Do filed in support of Plaintiff's Unopposed Motion for Motion for Preliminary Approval of Class Action and PAGA Settlement.) Plaintiff conferred with Class Counsel on numerous occasions to discuss every aspect of this case; provided information about Defendant; reviewed documents; produced documents; identified witnesses; monitored the progress of the litigation; took the time to apprise herself of the facts, issues, and law regarding the claims at issue, spent time with Class Counsel discussing the terms of the settlement and reviewing and executing the Settlement Agreement. (Keledjian Decl., ¶ 33.) In all, Plaintiff estimates that she have devoted numerous hours in preparing the Action and seeing it through to settlement. (*Id.*)

Plaintiff spent a significant amount of time with Class Counsel detailing her knowledge of

Defendant's practices and assisting in the prosecution of this Action. (Keledjian Decl, ¶ 34.) She has diligently, adequately, and fairly represented Class Members and has not placed his interests above any member of the putative class. (*Id.*; See also Plaintiff's Declarations on file.) Class Counsel believes that Plaintiff is entitled to an enhancement award for the time and effort they have devoted to this case. (Keledjian Decl., ¶ 34.) Defendant has agreed not to oppose it. (*Id.*) Such payments to class representatives are a common feature of settlements negotiated by Class Counsel, and trial courts routinely approve them. (*Id.*)

Not only have Plaintiff's efforts been instrumental in generating a substantial benefit for Class Members, but—significantly— not a single Class Member has objected to the requested enhancement award. (Islas Decl., ¶ 9.) Plaintiff therefore respectfully requests the Class Representative Service Payment sought in the amount of $5,000.00 for her efforts and initiative in bringing and helping prosecute this action. (Keledjian Decl., ¶ 34; Do Decl., ¶¶ 1-18.)

6. <u>The Payment of Attorneys' Fees Is reasonable and Therefore Falls within the Range of Approval by the Court.</u>

(i) <u>The Requested Award of Attorneys' Fees Is Justified Based on the Percentage-of-the-Benefit Method.</u>

The California Supreme Court held that "when class action litigation establishes a monetary fund for the benefit of the class members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the court may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created." *Laffitte v. Robert Half Intern. Inc.* (Aug. 11, 2016) 205 Cal.Rptr.3d 555, 573. Indeed, courts may use the "percentage method for its primary calculation of the fee award. 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.*

The requested Class Counsel Fees Payment in this case consists of 33 1/3% of the Gross Settlement Amount.[3] This percentage is consistent with both the Settlement and Plaintiff's

[3] The award of attorneys' fees and costs in this case is intended to reimburse Class Counsel for all of the uncompensated work that they have already performed and for all of the work they will continue to perform in

contingency fee agreement. The requested Class Counsel Fees Payment is fair and reasonable under California's fee-shifting jurisprudence.[4] And it is consistent with the percentage of the common fund awarded to counsel in cases similar in character and geographical location to this one. (*See* Keledjian Decl., ¶ 28-32.)

An award of attorneys' fees equivalent to 33 1/3% percent of the common fund is commensurate with judicial precedent. See *Crandall v. U-Haul* (Los Angeles County Sup.Ct., Case No. BC178775), the Honorable Steven Czuleger awarded a 40% attorney fee request in an overtime-exemption class action; in *Bushnell v. Cremar, Inc.* (Orange County Sup.Ct., Case No. 657778), the Honorable Donald E. Smallwood awarded attorneys' fees in the amount of 38%; in *Abzug v. Kerkorian* CA000981 (Los Angeles County Sup.Ct., November 1990), the Honorable R. William Schoettler awarded a 45% fee; in *Haitz v. Meyer, et al.*, Alameda County Sup. Court, 8-20-1990 No. 572968-3, the court awarded a 40% fee; in *Elliott v. Clothestime* (Orange County Sup. Ct., Case No. 01-CC00333) the Honorable Jonathan Cannon awarded a 40% fee in a wage-and-hour class action which had not yet proceeded to the class certification stage; in both *Rippee v. Boston Market Corporation*, Case No.: 05 CV 1359 BTM (JMA) and *Barile v. Boston Market Corporation*, Case No.: 05 CV 1360 BTM (JMA), the Honorable Judge Barry T. Moskowitz awarded a 40% fee to plaintiff's counsel in wage-and-hour class actions that had not proceeded to the class-certification stage. (Keledjian Decl., ¶ 28.)

The amount requested here will fairly compensate Class Counsel for their successful prosecution of this case, taking into account the quality, nature, and extent of counsel's efforts, the outstanding results achieved, the fact that no one objected to the fee amount and the fact that the amount of fees for which approval is sought is consonant with legal precedent. Class Counsel has litigated numerous class actions and submits that this settlement was possible owing to Class Counsel's experience with such cases. (Arakelyan PA Decl., ¶¶ 71 – 81.) Class Counsel's diligent,

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carrying out and overseeing the administration of the settlement. Plaintiff in this action signed a contingency-fee agreement stating that Class Counsel could receive a fee under certain scenarios that exceeds one-third of the recovery. (Keledjian Decl., ¶¶ 25-29.)

[4] Moreover, the Labor Code specifically provides for an award of attorneys' fees and costs for some of employees' claims. See, e.g., Lab. Code § 226. Plaintiffs are also entitled to an award of attorneys' fees pursuant to Code of Civil Procedure § 1021.5.

efficient, and creative pursuit of this matter positioned Plaintiff to settle this action successfully, affording redress to the entire class and avoiding the inevitable expense and risk attendant to protracted litigation. In sum, it was through the efforts of Plaintiff and Class Counsel that the considerable benefits of the settlement were obtained.

In light of the foregoing, the fee request in an amount equal to 33 1/3% of the Gross Settlement Amount, as agreed upon in the Settlement, is well within the bounds that have been established by the above-cited authority.

(ii) The Requested Award of Attorneys' Fees Is Also Justified Based on the Lodestar Method.

Although *Laffitte* makes it clear that a lodestar cross-check is not necessary, Class Counsel's lodestar calculation nevertheless also supports the requested attorneys' fees. The lodestar calculation typically proceeds in three steps. First, a trial court must determine a baseline guide or "lodestar" figure based on the time spent and reasonable hourly compensation for each attorney involved in the case. *Serrano v. Priest* (1975) 20 Cal.3d 25, 48. The court then sets a reasonable hourly fee to apply to the time expended, with reference to the prevailing rates in the geographical area in which the action is pending. *Bihun v. AT&T Information System* (1993) 13 Cal.App.4th 976, 997. Finally, a "multiplier" is selected with reference to the following factors: (1) the novelty and difficulty of issues involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, and (4) the contingent nature of the fee award owing to the uncertainty of prevailing on the merits and of establishing eligibility for the award. *Serrano, supra*, 20 Cal.App.3d at 49.

Class Counsel charges rates commensurate with the prevailing market rates in the Los Angeles area for attorneys of comparable experience and skill handling complex litigation. (Keledjian Decl., ¶ 16.) The reasonableness of Class Counsel's hourly rates has been cited and approved by judges in recent actions. The rates approved in these orders, while being approved for Los Angeles County, are also commensurate with the prevailing market rates in these counties. (*Id.*; Exh. 2 (the "Laffey Matrix"). Moreover, the Laffey Matrix rates have been held to be reasonable market rates when locally adjusted for inflation. *Syers Properties III, Inc. v. Rankin* (2014) 226

Cal.App.4th 691. For this reason, the Court should approve the rates of Class Counsel as reasonable in conjunction with awarding the requested fees and any lodestar calculations it makes when evaluating the request.

Moreover, the *Serrano* factors all militate in favor of the requested fee award. (Keledjian Decl., ¶ 17.) This case raised a number of complex and contested issues, and Class Counsel exhibited skill and creativity in prosecuting and presenting them. (*Id.*) This case was not straightforward. (*Id.*, ¶ 18.) Class Counsel had to spend time researching and analyzing each of these claims and issues in order to adequately assess the liability of Defendant. (*Id.*) Class Counsel then had to develop the evidence necessary through informal discovery to establish Defendant's potential liability. (*Id.*) This was done through carefully sifting through hundreds of pages of documents. (*Id.*)

In sum, Class Counsel had to come up with creative approaches to these issues in litigating the case and, ultimately, negotiating and crafting the settlement. (Keledjian Decl., ¶ 19.) To this end, Class Counsel has devoted a tremendous amount of time and energy. (*Id.*) This time commitment was necessary in order to research, construct, and prosecute viable legal claims in the face of stiff opposition, but it has come at a cost. (*Id.*) Class Counsel zealously represented Plaintiff and the Class and has obtained a favorable result. (*Id.*)

Such is not always the case. Indeed, Class Counsel has invested time and money into numerous other cases, including class actions, which have fizzled out for one reason or another, leaving Class Counsel completely without any compensation for their effort. (Keledjian Decl., ¶ 20.) Here, Class Counsel has achieved a beneficial settlement for the class, but this was by no means a foregone conclusion; indeed, their efforts might well have been frustrated by any number of obstacles with which they were presented along the way. (*Id.*) Nor could class certification be guaranteed. (*Id.*) However, Class Counsel was able to navigate the shoals of unpredictability to achieve a desirable result and have done so without receiving any compensation to speak of thus far because they took this case on a contingency-fee-basis. (*Id.*)

From the foregoing analysis, Class Counsel's requested attorneys' fees are fair and reasonable. Class Counsel conservatively estimates that they have invested over 98 hours of attorney time in this matter. Senior Attorney David Keledjian's current billing rate is $925.00 (9 years out of law school, Laffey Matrix rate of $943.00), and he spent approximately 26.7 hours in this matter with a lodestar amount of $24,697.50. Associate Attorney David Arakelyan's current billing rate is $585.00 (4 years out of law school, Laffey Matrix rate of $653.00), and he spent approximately 58.3 hours in this matter with a lodestar amount of $28,275.50. Associate Attorney Svetlana Hovhannisyan spent approximately 12 hours on this matter, and her current billing rate is $475.00 (1 year out of law school), with a lodestar amount of $5,700.00. Former Associate Attorney Pola Bernabe spent approximately 1.1 hours on this matter, and her current billing rate is $475.00 (1 year out of law school, Laffey matrix rate of $473), with a lodestar amount of $522.50. Therefore, Class Counsel has collectively incurred 98.1 hours and $59,195.50 in fees. (Keledjian Decl., ¶¶ 22 – 23.)

Class Multipliers routinely range from 3 to 5, and it is not uncommon that multipliers of between 5 and 10, or higher, are applied. See, e.g., *Wilson v. Bank of Am. Natl. Trust & Savs. Assn.*, No. 643872 (Cal. Sup. Ct., Aug. 16, 1982) (multiplier of 10); *Glendora Comm. Redev. Agency v. Demeter* (1984) 155 Cal.App.3d 456, 465 (affirming multiplier of 12, and expressly rejecting the argument that fee was either exorbitant or unconscionable). The fee request of $50,000.00 results in a modest multiplier of approximately 0.84, which further evidences the reasonableness of the request. (Keledjian Decl., ¶ 24.)

(iii) <u>The Requested Costs Award Is Reasonable</u>

The preliminarily approved settlement provided for the reimbursement of up to $15,000.00 for Class Counsel's costs. (Keledjian Decl., ¶ 30.) As of the date of the filing of this motion, the actual total costs incurred in litigating this Action for Class Counsel are $10,143.95. (*Id.*) Class Counsel incurred costs including, but not limited to, filing fees (e.g. complaint, stipulation, motions), service of process, mediation fees, expert analysis fees, attorney-service costs for court filings, copy charges for documents, and postage charges, all of which were necessarily and reasonably incurred to prosecute this Action and achieve a settlement that significantly benefits the Class. (*Id.*) Thus, Class Counsel requests a reimbursement of their incurred costs in the amount of $10,143.95. (*Id.*)

## V. CERTIFICATION OF THE CLASS FOR SETTLEMENT PURPOSES IS APPROPRIATE

Class Members are all current and former non-exempt employees of Defendants employed in California during the Class Period (June 21, 2020, through January 21, 2025) (Arakelyan PA Decl., ¶ 20; Keledjian Decl., Exh. 1, ¶ 1.5, 1.9, 1.12, 1.35.)

### A. THE LEGAL STANDARD

Section 382 of the Code of Civil Procedure provides that "when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all. Code Civ. Proc. § 382. Class certification under § 382 is appropriate when "(1) [t]here [is] . . . an ascertainable class; and (2) there [is] . . . a well-defined community of interest in the questions of law and fact involved affecting the parties to be represented." *Daar v. Yellow Cab Co*. (1967) 67 Cal. 2d 695, 704 (citations omitted). The community-of-interest requirement itself embodies three factors: "(1) predominant 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." *Richmond v. Dart Industries, Inc*. (1981) 29 Cal.3d 462, 470.

Any doubt as to the appropriateness of class treatment should be resolved in favor of class certification, subject to later modification if necessary. Id. at 473-475. The decision to certify a class is a purely 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, 439-441.

### B. ALL OF THE CRITERIA FOR CERTIFICATION OF THE SETTLEMENT CLASS ARE SATISFIED

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.

**C. There Is a Numerous and Ascertainable Class**

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

Plaintiff contends, and Defendant does not dispute for settlement purposes only, that the numerosity and ascertainability elements are satisfied here. Class Members are all current and former non-exempt employees of Defendants employed in California during the Class Period (June 21, 2020, through January 21, 2025) (Arakelyan PA Decl., ¶ 20; Keledjian Decl., Exh. 1, ¶ 1.5, 1.9, 1.12, 1.35.) Defendant has identified 60 Class Members based on review of its payroll and personnel records. (Islas Decl., ¶ 10.)

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

**D. There Is a Well-Defined Community of Interest**

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

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

the class.

*Id.* at 809.

Plaintiff contends, and Defendant does 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. (Arakelyan PA Decl., ¶ 21.) 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 Defendant's alleged failure to pay wages (including minimum and overtime wages), failure to provide meal and rest periods, failure to pay proper vacation wages, the resulting failure to pay final wages when required and provide accurate wage statements, and largely derivative claims under the UCL and PAGA. (Arakelyan PA Decl., ¶¶ 6 – 8.) Plaintiff contends Defendant's practices affected Class Members in the same way and present questions that are suitable for common adjudication because all Class Members were subject to the same employment policies and practices. (*Id.* ¶ 24.) The outcome of litigation in this matter depends upon questions that are common to Class Members. (*Id.*)

### E. 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 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 Defendant does 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. (Arakelyan PA Decl., ¶ 22.) Plaintiff and Class Members were employed by Defendant during the Class Period and subject to allegedly unlawful meal and rest policies and pay practices at issue in this litigation. (*Id.*) Thus, Plaintiff's claims are typical of the claims of the putative Class. (*Id.*)

### F. Adequacy of Class Counsel and Class Representative

As detailed below, Class Counsel are experienced in class actions, have represented their clients zealously and have no conflicts of interest. (Arakelyan PA Decl., ¶¶ 71 – 81.) The Class Representatives' interests are aligned with those of the Class Members, as she has suffered the same injuries as the Class Members and has no conflicts of interest. (Arakelyan PA Decl., ¶ 23.) Plaintiff has not shrunk from this responsibility. (*Id.*) Indeed, Plaintiff has devoted a substantial amount of time and energy to litigating this Action and effectuating a settlement. (*Id*.) Therefore, Class Counsel and the Class Representative are adequate.

### G. Predominance and Superiority

Individual issues do not predominate over those common to the class. (Arakelyan PA Decl., ¶ 24.) As explained, *supra*, Plaintiff alleges there are common issues of law and fact given that Plaintiff and all Class Members were subjected to the same policies and pay practices during the relevant time period. (*Id*.) Plaintiff and Class Members seek meal and rest premiums, unpaid wages and overtime, final wages, vacation peay, and penalties for wage statement violations and work performed as non-exempt employees for Defendants. (*Id*.) Plaintiff alleges that these issues are suitable for common adjudication because all Class Members were subject to the same employment policies, and Plaintiff contends the practices applied uniformly to all Class Members. (*Id*.)

Plaintiff contends that class resolution is superior to other available methods for the fair and efficient adjudication of the controversy as there is little interest or incentive for Class Members to individually control the prosecution of separate actions. (Arakelyan PA Decl., ¶ 25.) Although the alleged injury resulting from Defendant's policies and practices are real and significant, the cost of individually litigating each such case against Defendant would easily exceed the value of any relief that could be obtained by any one Class Member individually. (*Id.*) If Class Members are forced to litigate their claims individually, it would potentially result in 60 individual actions against Defendant each for relatively small amounts. (*Id.*) Hence, an individual suit would prove uneconomical for potential plaintiffs because litigation costs would dwarf a potential recovery. (*Id.*)

## VI. CONCLUSION

For the reasons set forth herein, Plaintiff respectfully requests that this Court grant final approval of this Settlement and enter the companion order.

Dated: November 21, 2025

D.LAW, INC.

By: ______________________________
David Keledjian
David Arakelyan
Attorneys for Plaintiff VALERY DO and the Settlement Class