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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

YULISSA MEDINA, on behalf of herself and "aggrieved" employees pursuant to Labor Code section 2698, et seq., Plaintiff, vs. 24 HOUR FITNESS USA, LLC., a California limited liability company; and DOES 1-10, inclusive. Defendant.	Case No. 24CV089740 Assigned to Hon. Mark Fickes, Dept. 518 **NOTICE OF MOTION AND UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT** **DATE: July 23, 2026** **TIME: 2:30 p.m.** **DEPT.: 518** **Reservation ID: 238179068951** *Action Filed: August 30, 2024*

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PLEASE TAKE NOTICE THAT on July 23, 2026 at 2:30 p.m., or as soon thereafter as the matter may be heard, in Department 518 of the above-entitled Court, located at 24405 Amador Street, Hayward, CA 94544, Plaintiffs Yulissa Medina, Bruno Cruz, Desiree Cumpian, and Evelyn Pasquel-Herrera will and hereby does move unopposed for an Order granting final approval of this class action and Private Attorneys General Act ("PAGA") representative action settlement.

This application is made pursuant to California Rules of Court Rule 3.769, which requires court approval of the settlement of class actions, and Labor Code section 2699(s)(2), which requires court approval of any settlement of a civil action filed pursuant to PAGA. This Motion, unopposed by Defendant 24 Hour Fitness USA, LLC, a California limited liability company, will be based on the Memorandum of Points and Authorities, the Settlement of Class Action and PAGA Representative Action, the Declarations of Evan S. Gaines, John G. Yslas, Roman Shkodnik, Kaylie O'Connor of CPT Group Inc., Yulissa Medina, Desiree Cumpian, and Evelyn Pasquel-Herrera, such evidence or oral argument as may be presented at the hearing, and on the complete records and file herein.[1]

DATED: June 29, 2026

Respectfully submitted,

GAINES LAW CORPORATION

By: ______________________________
EVAN S. GAINES
Attorneys for Plaintiff Yulissa Medina and Class Counsel

[1] This motion should not be construed as a waiver of any attorney-client or attorney work-product privileges.

TABLE OF CONTENTS

Page

TABLE OF CONTENTS
(continued)

Page

TABLE OF AUTHORITIES

Page

FEDERAL CASES

CALIFORNIA CASES

TABLE OF AUTHORITIES
(continued)

Page

TABLE OF AUTHORITIES
(continued)

Page

STATUTES

TABLE OF AUTHORITIES
(continued)

Page

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

By this unopposed motion, Plaintiffs Yulissa Medina, Bruno Cruz, Desiree Cumpian, and Evelyn Pasquel-Herrera ("Plaintiffs") and the settlement class (collectively "Class Members" or "Class") seek final approval of the class and Private Attorneys General Act ("PAGA") representative action settlement reached with Defendant 24 Hour Fitness USA, LLC ("Defendant") (all together, the "Parties"). Subject to Court approval, Plaintiffs have settled the Released Claims, as defined in the Parties' Settlement of Class Action and PAGA Representative Action, for a settlement package worth $3,026,000. *See* Declaration of Evan S. Gaines ("Gaines Decl."), Exhibit ("Ex.")[2] B (the "Settlement").

As discussed herein, the proposed Settlement satisfies all of the criteria for final settlement approval under California law because it is fair, adequate, and reasonable. Ex. B. *See also Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-30; *Dunk v. Ford Motor Company* (1996) 48 Cal.App.4th 1794, 1801. The response of the Settlement Class to the Settlement confirms that final settlement approval is appropriate. *There has been no workweek/pay period disputes and only one objection and four opt-outs* out of 15,181 total Class Members. Declaration of Kaylie O'Connor of CPT Group, Inc. ("CPT") ("O'Connor Decl.") ¶¶ 10-12.

The Parties have agreed upon a settlement class defined as: "all hourly or non-exempt current and former employees employed by Defendant in the State of California during the Class Period." The Class Period is defined as May 2, 2021 through and including July 1, 2025.

The Settlement is "direct distribution" – there is no claims process, and all Qualified Settlement Class Members who do not submit an opt-out request will automatically be mailed a settlement check when the Settlement is granted final approval.

The Settlement Administrator has calculated pro rata settlement payments to Class Members from the Net Settlement Amount based on the total number of Eligible Workweeks

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[2] Unless otherwise noted, all "Ex." references are to the exhibits attached to the Declaration of Evan S. Gaines in Support of the Motion for Final Approval of Class Settlement submitted herewith.

worked by each Class Member during the applicable class period. The average settlement share to be paid to the 15,181 Settlement Class Members is approximately $111.91 and the highest settlement share to be paid is approximately $468.08. O'Connor Decl. ¶ 15.

The Labor & Workforce Development Agency ("LWDA") shall be paid $113,250 (75%) of the $151,000 total allocated to settle the PAGA Member's claims brought pursuant to Labor Code § 2698 *et seq.*, the PAGA, and the remaining 25%, or $37,750, will be included in the Net Settlement Amount to be distributed among PAGA Members based on their total Eligible Pay Periods during the PAGA Period. Settlement at ¶ C(1)(d).

Because the Settlement achieves outstanding results for the Settlement Class and PAGA Members, Defendant's past and current employees, Plaintiffs respectfully request, on behalf of the Class and PAGA Members and without opposition from Defendant, that the Court approve the Settlement as fair, adequate, and reasonable, and enter judgment in accordance with the Settlement's terms.[3]

II. STATEMENT OF FACTS

A. Case Summary and Procedural History

On June 17, 2024, Plaintiff Medina served a PAGA notice letter to the LWDA and Defendant and thus exhausted the pre-filing requirements of the PAGA. Declaration of Evan S. Gaines ("Gaines Decl.") at ¶ 8. On or about August 30, 2024, Plaintiff Medina initiated the Action by filing a Representative Action Complaint for Penalties, pursuant to PAGA, on behalf of herself and all other aggrieved employees. Gaines Decl. at ¶ 9.

On October 23, 2024, Plaintiffs Desiree Cumpian and Evelyn Pasquel-Herrera (collectively, the *Cumpian* plaintiffs") filed a Class Action Complaint against Defendant 24 Hour Fitness USA, LLC in the California Superior Court, County of Los Angeles, captioned *Desiree Cumpian and Evelyn Pasquel-Herrera v. 24 Hour Fitness, USA, LLC*, Los Angeles County Superior Court, Case No. 24STCV27774 (the "*Cumpian* Action"). Declaration of John G. Yslas ("Yslas Decl.") at ¶ 4. The Class Action Complaint in *Cumpian* alleges class claims on behalf of all of Defendant's current

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[3] Plaintiffs are filing a separate application for the Court's approval of Class Counsel's attorneys' fees and costs, claims administration fees, and Plaintiffs' service payments.

and former non-exempt employees in California based on: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to pay final wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to indemnify employees for expenditures; (8) violation of California Equal Pay Act; and (9) unfair business practices.

On November 6, 2024, the *Cumpian* plaintiffs served a PAGA notice letter to the LWDA and Defendant and thus exhausted the pre-filing requirements of the PAGA. On January 21, 2025, the *Cumpian* plaintiffs filed a First Amended Class Action Complaint that adds a cause of action for civil penalties under PAGA on behalf of themselves, the state of California, and Defendant's non-exempt employees in California based on the same underlying alleged Labor Code violations. Yslas Decl. at ¶ 5.

On November 4, 2024, Plaintiff Bruno Cruz filed a Class Action Complaint against Defendant 24 Hour Fitness USA, LLC in the California Superior Court, County of San Bernardino, captioned *Bruno Cruz v. 24 Hour Fitness, USA, LLC, San Bernardino County Superior Court,* Case No. CIVSB2433321 (the "*Cruz* Action"). The Class Action Complaint in *Cruz* alleges class claims on behalf of all of Defendant's current and former non-exempt employees in California based on: (1) failure to pay minimum wages; (2) failure to pay wages and overtime; (3) non-compliant meal-breaks; (4) non-compliant rest-breaks; (5) failure to pay vacation wages; (6) failure to provide paid sick time; (7) failure to reimburse for necessary expenditures; (8) failure to provide accurate itemized wage statements; (9) failure to keep required payroll records; (10) failure to pay final wages at termination; (11) and violation of Business and Professions Code. Declaration of Roman Shkodnik ("Shkodnik Decl.") at ¶ 9. Also, on November 4, 2024, Cruz served a PAGA notice letter to the LWDA and Defendant and thus exhausted the pre-filing requirements of the PAGA. Shkodnik Decl. at ¶ 10. On January 8, 2025, the plaintiff in *Cruz* filed a First Amended Class Action Complaint adding a cause of action for civil penalties pursuant to the PAGA on behalf of himself, the state of California, and Defendant's non-exempt employees in California based on the same underlying alleged Labor Code violations. Shkodnik Decl. at ¶ 11.

On July 9, 2025, Plaintiff Medina served an Amended PAGA Notice that includes the factual allegations, causes of action, Labor Code violations, and applicable theories of liability alleged in the operative complaints and LWDA letters in the *Cumpian* Action and *Cruz* Action. Gaines Decl. at ¶ 10.

Thereafter, in conjunction with the Parties Settlement, on October 21, 2025, Plaintiffs collectively filed a First Amended Complaint, which added the *Cumpian* and *Cruz* plaintiffs as named plaintiffs and incorporated standalone class action and PAGA claims and allegations that had been alleged in *Cumpian* and *Cruz.* The First Amended Complaint alleges class and PAGA representative action claims against Defendant for (1) Failure To Pay All Minimum, Regular, And Overtime Wages Due (Labor Code §§ 204, 210, 218.5, 218.6, 226.7, 227.3, 245, 246, 246(1), 246(i), 510, 512, 1194, 1194.2, 1197.1, 1198 and 1199); (2) Failure To Provide Meal Periods Or Compensation In Lieu Thereof (Labor Code §§ 210, 226.7, and 512; IWC Wage Order 4-2001); (3) Failure To Provide Rest Periods Or Compensation In Lieu Thereof (Labor Code §§ 210 and 226.7; IWC Wage Order 4-2001); (4) Failure To Reimburse All Business-Related Expenses (Labor Code §§ 1198, 2802, 2802(a), 2802(b), and 2802(c)); (5) Failure to Pay Sick Pay Wages (Labor Code §§ 201-203, 233, 245, 246); (6) Failure to Pay Vacation Wages (Labor Code § 227.3); (7) Failure To Comply With Itemized Employee Wage Statement Provisions (Labor Code §§ 226, 226(s), 226(e)(1), 226(e)(2)(b)(iii), 226(h), 226.3, 1174, 1174.5, 1198, 1198.5, and 1199); (8) Failure To Timely Pay Wages Due At Separation Of Employment (Labor Code §§ 201-204, 210, 218.5, 218.6, 1194, 1197, 1197.5, 1198, 1199, 2926, and 2927); (9) Violation Of Business and Professions Code § 17200 *et seq*.; (10) Penalties Pursuant To Labor Code § 2699(f) Violations Of Labor Code §§ 201, 201.3, 202, 204, 218.5, 218.6, 226(a), 226(e)(1), 226(e)(2)(b)(iii), 226(h), 226.7, 227.3, 245, 246, 246(1), 246(i), 510, 512, 1174, 1174.5, 1194, 1194.5, 1197, 1197.1, 1197.5, 1198 , 1198.5, 1199, 2926, and 2927 and Pursuant To Labor Code § 2699(a) For Violations Of Labor Code §§ 210, 226.3, 558, and 558(a)(1)-(3); and (11) Violation of California Equal Pay Act (Labor Code § 1197.5(A)) (the "First Amended Complaint"). Gaines Decl. at ¶ 11.

Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Action, and further denies that the Action is appropriate for class treatment for any purpose other than this settlement. Defendant contends that it has complied at all times with the California Labor Code, Industrial Welfare Commission Wage Orders, and all other applicable federal, state, and local laws and regulations. Defendant contends that, if this matter were litigated, Plaintiffs' claims could be maintained in court, could not be maintained as a class action, and could not be maintained as a PAGA representative action. It is Defendant's position that, if this case were to be litigated, class certification would be inappropriate because Plaintiffs are not adequate class representatives, Plaintiffs' claims are not typical of putative class members, and individual issues predominate over class issues. The Action, the negotiation and execution of this Settlement Agreement, and all acts performed or documents executed pursuant to or in furtherance of the Settlement Agreement (i) shall not be used as an admission or evidence of wrongdoing on behalf of Defendant; (ii) shall not be an admission or evidence of fault on behalf of Defendant in any action before a civil, criminal, or administrative agency; and (iii) shall not be deemed to be, and may not be used as, an admission or evidence of the appropriateness of these or similar claims for class certification in the Action or with respect to any other proceeding. Gaines Decl. at ¶ 12.

The Class Representatives contend that Defendant violated the California Labor Code and Industrial Welfare Commission Wage Order(s), and that this case is appropriate for class certification. Gaines Decl. at ¶ 13.

B. Investigation and Settlement Discussions

Class Counsel represent that they have conducted a thorough investigation into the facts and law during the prosecution of this class action case, including the exchange of extensive informal discovery and the review and verification of statistical data and other facts and information provided by Defendant. Counsel for the Parties also represent that they have investigated the applicable law as applied to the facts discovered regarding the alleged claims of Plaintiffs and potential defenses thereto, and the damages and other losses claimed by Plaintiffs. Gaines Decl. at ¶ 14.

The Parties engaged in extensive discussions about the respective strengths and weaknesses of their claims and defenses. On May 2, 2025, following their exchange of information and documents regarding the Settlement Class and the claims and defenses asserted by the Parties, the Parties engaged in arm's-length negotiations with the assistance of mediator Michael Ludwig, Esq., through which they were able to reach the resolution of the Action set forth herein. The Parties agreed, subject to approval by the Court, to the Settlement of the lawsuit. The Parties further agreed to enter into their Settlement Agreement to memorialize their settlement of the lawsuit. Gaines Decl. at ¶ 15.

The settlement discussions were conducted at arm's-length. Based on their own independent investigation and evaluation, Class Counsel is of the opinion (and will so represent to the Court) that settlement for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Settlement Class in light of all known facts and circumstances, including the risk of significant delay, the risk the Settlement Class will not be certified by the Court, and the defenses asserted by Defendant. Defendant and its counsel also agree (and will so represent to the Court) that this settlement is fair and in the best interests of the Defendant and the Settlement Class. Gaines Decl. at ¶ 16; Yslas Decl. at ¶ 6; Shkodnik Decl. at ¶ 12. Plaintiff's claims and Defendant's defenses are summarized in more detail in Plaintiffs' Preliminary Approval Motion.

The Parties thereafter jointly prepared the Settlement. Gaines Decl. at ¶ 17; Ex. B.

C. <u>Summary of Settlement Terms</u>

1. Benefits to the Class and the Public

The Settlement provides that (a) the Court may certify the Settlement Class as described in the Settlement on a provisional, non-mandatory basis for the purposes of this settlement only, conditioned upon the Court granting final approval of the Settlement; and (b) Defendant shall pay the total, non-reversionary sum of $3,026,000 (the "Gross Settlement Amount"). The Gross Settlement Amount includes all attorneys' fees and costs/expenses petitioned by Class Counsel; service awards to Plaintiffs; costs of administration of the Settlement; payment for the PAGA claims asserted in their PAGA notice letters to the LWDA; and all individual settlement payments to the Settlement Class. Aside from the escalator clause in the Settlement, in no event shall Defendant be liable for the payment of any amounts exceeding the Gross Settlement Amount with the exception of the employer's share of payroll taxes due and payable as a result of the

Settlement, which shall be paid separately from the Gross Settlement Amount. Gaines Decl. at ¶ 18; Settlement at ¶ 7.2.1.

The Parties have agreed upon a settlement class: "all hourly or non-exempt current and former employees employed by Defendant in the State of California during the Class Period." Gaines Decl. at ¶ 19; Settlement at ¶ 2.2.2.

The $3,026,000 Gross Settlement Amount represents a substantial recovery when measured against the litigation risks presented by class certification, manageability, proof of liability, derivative penalties, and the possibility that Defendant would prevail on one or more threshold issues. The Settlement provides immediate, non-reversionary relief to nearly 15,181 employees and avoids years of additional litigation and appellate risk.

2. Preliminary Approval, Notice, and the Claims Process

By Order dated March 6, 2026, this Court granted Plaintiffs' unopposed motion for preliminary approval of the Settlement and provisionally certified the Settlement Class, finding that the Settlement appeared to be within the range of reasonableness of settlements that could ultimately be given final approval. *See* Gaines Decl. at ¶ 20; Ex. C. The Court approved the distribution of the Notice of Proposed Class Action Settlement and set the Final Fairness and Approval Hearing. *Id.*

1. Pursuant to the Court's Order, on April 10, 2026, CPT mailed Notice packets containing the notice of the terms of the Settlement — including the terms relating to attorneys' fees and costs — to 15,181 Class Members. Gaines Decl. at ¶ 21; O'Connor Decl. at ¶ 7; Exhibit A to the O'Connor Decl. Class Members were given 45 days after the Notice was mailed to submit their opt out form or objection to the Settlement. Gaines Decl. at ¶ 22. As of the date of this motion, the average Participating Class Members' settlement payment is approximately $111.91 each; the highest-paid Participating Class Member will be paid approximately $468.08. Gaines Decl. at ¶ 23; O'Connor Decl. at ¶ 15. Only one Class Member has objected to the Settlement, and only four Class Members have opted out. Gaines Decl. at ¶ 24; O'Connor Decl. at ¶¶ 10-11. No Class Members submitted a workweek/pay period dispute. Gaines Decl. at ¶ 25; O'Connor Decl. at ¶ 12.

D. Compliance with Procedural Requirements of PAGA

On February 9, 2026, in compliance with Labor Code § 2699(l)(2), Plaintiffs' counsel submitted copies of the Settlement, and preliminary approval papers, to the LWDA through its online submission interface. These final approval papers are also being submitted to the LWDA concurrently with their submission to the Court, as evidenced on the attached proof of service. The LWDA has not objected or otherwise responded to any of the submissions thus far. Gaines Decl. at ¶ 70; Ex. F.

3. ARGUMENT

A. The Class Members Received the Best Practicable Notice

California law vests the Court with broad discretion in fashioning an appropriate notice program. *See* California Civil Code § 1781; *Cartt v. Superior Court* (1975) 50 Cal.App.3d 960, 973-74. To protect the rights of absent class members, the parties must provide class members with the best notice practicable of a potential class action settlement. *Phillips Petroleum Co. v. Shutts* (1985) 472 U.S. 797, 811-12; *Eisen v. Carlisle & Jacquelin* (1974) 417 U.S. 156, 174-76 (individual notice must be sent to all class members who can be identified through reasonable efforts); *Mullane v. Central Hanover Bank & Garretson Company* (1950) 339 U.S. 306, 314 (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"). The content and method of the notice should be designed to apprise the class members of the terms of the proposed settlement and of the class members' rights regarding the settlement. *See Mullane*, *supra*, 339 U.S. at 314; *Philadelphia Housing Authority v. American Radiator & Standard Sanitary Corp.* (E.D. Pa. 1970) 323 F. Supp. 364, 378.

The Notice approved by the Court met these requirements: it was transmitted in English, it identified the Parties and described the lawsuit, the Class, the settlement amount, the proposed method for distribution of the Gross Settlement Amount, the amount proposed to be paid service payments to the named Plaintiffs, the amount of administrative costs, and the requested amount for attorneys' fees and costs. *See* Ex. A to the O'Connor Decl. The Notice described the proposed Settlement with enough specificity to allow each Class Member to make an informed choice whether to accept and participate in it. It also explained how and when Class Members may object to or opt out of the Settlement. Finally, the Notice provided the schedule for the hearing on final approval of the Settlement and informed Class Members how to obtain additional information about the Settlement.

The California Supreme Court has held that notice is appropriate if it has a "reasonable chance of reaching a substantial percentage of the class members . . ." *Cartt*, *supra*, 50 Cal.App.3d at 974. Notice was mailed to individual Class Members at their last known address. Seven hundred fifteen (715) Notices had been returned by the U.S. Postal Service. As a result of skip trace efforts or requests from Class Members, a total of five hundred eighty-nine (589) Notices were re-mailed to Class Members. In addition, four (4) Notices were forwarded directly by the USPS. One hundred thirty (130) Notices have been deemed undeliverable with no forwarding address and where no new address could be found through skip trace. *See* O'Connor Decl. at ¶¶ 5, 8-9. The Notice apprised the Class Members of all pertinent information regarding the Settlement, under California law, and thus the Notice given to Class Members was more than adequate.

B. Final Settlement Approval is Appropriate

The Settlement is fair, adequate, and reasonable because it provides substantial benefits to Class Members, PAGA Members, and the general public. The fairness, adequacy, and reasonableness of the Settlement are illustrated by the fact that only 1 of the 15,181 Class Members objected to the Settlement, only 4 Class Members requested exclusion from the Settlement, and 0 disputed the workweeks or pay periods. O'Connor Decl. at ¶¶ 10-12. Under the legal standards used by California courts to determine whether class action settlements should be approved, this Settlement warrants approval.

1. The Three-Step Settlement Approval Process

The law favors settlement, particularly in class actions and other complex cases where substantial resources can be conserved by avoiding the time, cost, and rigors of formal litigation. *See* 4 *Newberg on Class Actions* 4th (4th ed. 2002) § 11.41 (and cases cited therein); *Class Plaintiffs v. City of Seattle* (9th Cir. 1992) 955 F.2d 1268, 1276; *Van Bronkhorst v. Safeco Corp*. (9th Cir. 1976) 529 F.2d 943, 950; *see also*, *Potter v. Pacific Coast Lumber Co*. (1951) 37 Cal.2d 592, 602.

These concerns apply with particular force in a case such as this, where novel issues of law are at play (including California's complicated requirements for overtime pay).

A class action, however, may not be dismissed, compromised, or settled without the approval of the court. California Rules of Court Rule 3.769; Federal Rules of Civil Procedure, Rule 23(e).[4] Judicial proceedings under Federal Rule of Civil Procedure Rule 23 have led to a defined procedure and specific criteria for settlement approval in class action settlements, described in the Federal Judicial Center, *Manual for Complex Litigation*, Fourth (4th ed. 2004) ("*Manual*") § 21.632, *et seq*. The *Manual's* settlement approval procedure describes three distinct steps:

(1) Preliminary approval of the proposed settlement at an informal hearing;

(2) Dissemination of mailed and/or published notice of the settlement to all affected Class members; and

(3) A "formal fairness hearing," or final settlement approval hearing, at which Class members may be heard regarding the settlement, and at which evidence and argument concerning the fairness, adequacy, and reasonableness of the settlement may be presented.

Manual, § 21.632-34.

The first two steps of this process are now complete. The first step was completed on March 6, 2026, when this Court granted preliminary approval of the Settlement. See Ex. C. In doing so, the Court determined that the Settlement was within the range of possible final approval and that notice to the Class Members of the Settlement's terms and of the scheduling of the formal fairness hearing should be distributed. *See Wershba v. Apple Computer* (2001) 91 Cal.App.4th 224, 234-35; 4 *Newberg*, *supra*, § 11.25.

The second step in the class action settlement approval process, the dissemination of the Notice, is complete as well. In accordance with the Court's Preliminary Approval Order, the Parties worked with CPT to implement the Court-approved notice program, which employed the best

[4] 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* (1971) 4 Cal.3d 800, 821; *O'Connor v. Obledo* (1981) 29 Cal.3d 126, 145-146. Where appropriate, therefore, Plaintiffs cites Federal Rule 23 and federal case law in addition to California law.

practicable means to disseminate to all Class Members notices of the Settlement's terms and of the date and time of the final approval hearing. *C.C.P.* § 382; *see also*, Ex. A to O'Connor Decl.; *see generally*, O'Connor Declaration.

The third and last step in the class action settlement approval process is the final approval hearing at which the Court shall determine whether the Settlement is fair, adequate, and reasonable. At the final approval hearing, scheduled for July 23, 2026, Class Members will have the opportunity to be heard regarding the Settlement, and Class Counsel will present evidence and argument in support of the Settlement. *See Manual*, § 21.634. At the conclusion of the final approval hearing, this Court will decide whether to grant final approval of the Settlement and whether to enter a final order and enter judgment in the action.

2. The Terms of the Settlement Disclose No Grounds to Doubt Its Fairness

When faced with a motion for final approval of a class action settlement under Code of Civil Procedure § 382, a court inquires whether the settlement is "fair, adequate, and reasonable." *See Wershba*, *supra*, 91 Cal.App.4th at 244-45; *Dunk*, *supra*, 48 Cal.App.4th at 1801. A preliminary review of the terms of the proposed Settlement shows that it is fair. Indeed, this Court should begin its analysis with a presumption that the proposed Settlement is fair:

> [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 1802; *Wershba*, *supra*, 91 Cal.App.4th at 245.

During the course of this litigation, the Parties have engaged in significant investigation into the factual and legal claims presented in the complaint. Substantial discovery into the merits of Plaintiffs' claims and the nature of Defendant's practices took place between the Parties in which Defendant and Plaintiffs exchanged a considerable amount of information and documentation and further apprised each other of their respective factual contentions, legal theories, and defenses. In short, the Parties have engaged in extensive good faith, arms-length negotiations, telephone conferences, and substantial correspondence further aimed at settling their disputes. Gaines Decl.

at ¶¶ 14-17.

The Settlement reached by the Parties provides substantial payments to Class Members and PAGA Members, particularly in relation to the harm alleged. The presumption of fairness and adequacy is especially appropriate here because the reaction of Class Members has been uniformly positive – only one Class Member objected to, only four Class Members have requested exclusion from the Settlement, and there were no workweek/pay period disputes. O'Connor Decl. at ¶¶ 10-12. Accordingly, because the four circumstances identified in *Dunk* are present here, it is appropriate for the Court to presume that the Settlement is worthy of final approval. *See Dunk*, *supra*, 48 Cal.App.4th at 1802; *see also*, *Kullar*, *supra*, 168 Cal.App.4th at 129-30.

3. Each of the Relevant Criteria Supports Final Approval of the Settlement

In deciding whether to grant final approval to a class action settlement, California courts consider several factors, including the following: (1) the value of the settlement; (2) the risks inherent in continued litigation; (3) the extent of discovery completed and the stage of the proceedings when settlement was reached; (4) the complexity, expense, and likely duration of the litigation in the absence of settlement; (5) the experience and views of class counsel; and (6) the reaction of class members. *See Wershba*, *supra*, 91 Cal.App.4th at 244-45; *Dunk*, *supra*, 48 Cal.App.4th at 1801. As described below, each of these criteria supports final approval of the Settlement.

a. The Value of the Settlement Favors Final Approval

Under the Settlement, Defendant has agreed to a settlement package valued at $3,026,000 (including attorneys' fees and costs) to resolve this action. The entire Net Settlement Amount shall be paid to Class Members and PAGA Members. This Settlement provides for substantial benefits in terms of a cash settlement to be paid not long after the commencement of the litigation. The settlement amount is commensurate with the value of the claims adjusted for risk; the amounts to be paid are not nominal or symbolic. Based on the claims received to date, Qualified Settlement Class Members shall be paid, on average, about $111.91 each – comprised of compensation for alleged unpaid wages and penalties and interest for Defendant's alleged failure to pay all wages due, provide legally compliant meal and rest periods, pay all wages due upon separation of employment and provide compliant wage statements. This is an exceptional result.

Prior to settlement negotiations, Plaintiffs' counsel created a comprehensive damage analysis using information obtained through informal discovery. This damage analysis reveals that the negotiated settlement falls within a realistic range of recovery on Class Members and PAGA Members' claims. Gaines Decl. ¶ 32.

Plaintiffs allege that Defendant failed to authorize or permit Class Members to take timely, uninterrupted 30-minute meal periods on shifts greater than 5 hours in length in violation of Labor Code §§ 210, 226.7, and 512 and IWC Wage Order 4-2001. Labor Code § 512 provides that employers may not employ an employee for a work period of more than 5 hours without providing a 30-minute meal period starting no later than the end of the fifth hour. Plaintiffs and Class Members contend that they were routinely unable to take a lawful meal break when they worked shifts in excess of 5 hours in duration and a second meal break when they worked shifts in excess of 10 hours in duration. Plaintiffs and Class Members further contend that Defendant continued to assert control over Plaintiffs and Class Members by, among other things, requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, by requiring employees to keep their phones on to respond to emergencies and other situations, or by denying Plaintiffs and Class Members, or some of them, permission to take a meal period under the conditions required by law, and without properly compensating Plaintiffs and Class Members for meal periods that were not provided as required by law. Plaintiffs and Class Members also contend that Defendant did not inform Plaintiffs and Class Members of their right to, nor permitted Plaintiffs and Class Members to take, all of Plaintiffs' and Class Members' second meal periods when Plaintiffs and Class Members worked at least ten hours of work in a workday and otherwise unlawfully pressured Plaintiffs and Class Members to waive such breaks. Based on Plaintiffs' expert's analysis of a substantial sample of Defendant's time and payroll data for the entire PAGA Period and extrapolated over the Class Period, Defendant's meal period violation rate totals over 18.1% among all shifts worked in excess of 6 hours in duration (accounting for meal period waivers, which Defendant maintained statewide), which yields 153,654 unique meal break violations during the Class Period. and affects over 21.3% of all 211,580 PAGA pay periods worked during the PAGA Period. The potential classwide value of this claim exceeds $3,076,153, although it was not without its challenges. Defendant argued that this claim could not be certified because individual inquires would predominate over common ones. It proffered a host of defenses to the merits of the claim which could substantially reduce its value. Defendant contends it has fully compliant written policies and procedures, which allow employees opportunities to take meal breaks in compliance with California law. Defendant also pays meal period premium payments for non-compliant meal breaks. Based on these defenses, a compromise was required to resolve this claim at this juncture of the litigation. Gaines Decl. at ¶ 33.

Plaintiffs also allege that Defendant failed to provide Class Members with legally compliant rest periods, or premium wages of one hour's pay in lieu thereof, as required by Labor Code §§ 210 and 226.7 and Wage Order 4-2001. Plaintiffs and Class Members contend they were routinely unable to take a 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour's pay for each missed rest period. According to Plaintiffs, Defendant continued to assert control over Plaintiffs and Class Members by allegedly requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, by allegedly requiring Plaintiffs and Class Members to keep phones on to respond to emergencies and other situations, or by denying Plaintiffs and Class Members permission to take a rest period. While a 20% rest break violation rate would yield damages of nearly $7,265,458, Defendant adamantly opposed this claim on multiple bases, including both on the merits (because it implemented what it argued was a compliant policy together with proper rest break practices) and as to class certification (based on its argument that assessing its rest period liability to hundreds of employees would result in hundreds of mini-trials, rendering class certification unmanageable). Based on the risks of future litigation, the Parties agreed to the compromise documented in the Settlement. Gaines Decl. at ¶ 34.

Plaintiffs allege that Defendant failed to pay all minimum, regular, and overtime wages due, in violation of §§ 204, 210, 226.7, 227.3, 245, 246, 246(1), 246(i), 510, 512, 558, 558(a)(1)-(3),1194, 1194.2, 1197.1, 1198 and 1199. Plaintiffs and Class Members contend that they were required to work off-the-clock and without compensation because Defendant did not compensate them for all hours worked. For example, they allege they would be required to respond to texts or calls from Defendant outside of work hours, they were required to perform work during uncompensated meal periods, and otherwise perform work before clocking in and/or after clocking out. They also contend that Defendant pays its female employees less than its male employees, in violation of Labor Code § 1197.5(a). Plaintiffs and Class Members also contend that Defendant also engages in a practice of improper rounding. Plaintiffs further allege that Defendants had a uniform policy and practice of rounding all time entries to reflect scheduled start and end times and scheduled meal period start and end times rather than paying Plaintiffs and Class Members for all hours and minutes they actually worked. Further, Plaintiffs and Class Members contend that Defendant failed to properly compute bonuses, including but not limited to, TRN Rev Bonus ("BFC"), CCOP Bonus ("CBN"), Net Rev Bonus ("NRC"), and Quarterly Bonus ("BQC"), earned by Plaintiffs and Class Members into their regular rate of pay for purposes of paying them meal and rest period premiums, overtime wages, vacation wages, and sick pay wages at the correct rates. Based on Plaintiffs' expert's analysis of a substantial sample of Defendant's time and payroll data for the entire PAGA Period and extrapolated over the Class Period, these claims were simply not demonstrated. For example, the data did not show any failure to incorporate non-base hourly wages into the regular rate of pay—the pay items TRN Rev Bonus ("BFC"), CCOP Bonus ("CBN"), Net Rev Bonus ("NRC"), and Quarterly Bonus ("BQC") were all properly incorporated and blended into the regular rate of pay. The data also showed that Defendant did not utilize rounding in its time records, so this claim would similarly not be viable. The off-the-clock claim is simply not determinable in Plaintiffs' expert analysis because it would not be present in the time sampling given the nature of the violation. Plaintiffs believed it was unlikely that a jury would entertain an award of any substantial damages (these claims were only alleged in the *Cruz* and *Cumpian* actions—Medina did not experience these violations). Defendant adamantly denies any of these violations took place and, if they did, were strictly on an individualized basis and would necessitate a Class Member by Class Member inquiry and would bar class certification. Based on the risks of future litigation, the Parties agreed to the compromise documented in the Settlement. Gaines Decl.

at ¶ 35.

Plaintiffs further allege that Plaintiffs and Class Members were required to use their cell phone, work tools, and vacuums, and incur internet expenses and vehicle expenses (including the cost of mileage when Plaintiffs and Class Members drove personal vehicles while on the job), but were not fully reimbursed by Defendant for these expenses. Further, Plaintiffs contend that the wage statements produced by Defendant evidence no reimbursement for these expenses, which Plaintiffs contend violates Labor Code §§ 1198, 2802, 2802(a), 2802(b), and 2802(c). However, since not all Class Members incurred these expenses to perform their job for Defendant, Plaintiffs are unable to determine the amount of recoverable expense reimbursement. Only the *Cumpian* and *Cruz* Actions alleged this claim (Plaintiff Medina did not incur out of pocket expenses). Defendant adamantly opposes this claim, and argues that this claim is not proper for certification due to the individualized inquires which it will necessitate, argues that employees were not required to incur these expenses, and that even if they were, reimbursement could have been sought, and it would have been paid. Defendant contends it has fully compliant expense reimbursement policies that allow non-exempt employees to recover expense reimbursement for all reasonable and necessary expenses incurred in connection with work-related duties. Defendant also provides certain non-exempt employees with a company-issued mobile device or a monetary allowance to cover the cost of any necessary business-related expenses due to the use of their personal cell phone and/or mileage, if any. The specific allowance amount varies based on the employee's role, and Defendant allows employees to submit an expense report and receive reimbursement in the event that an employee's necessary business-related usage of their mobile device exceeds the allowance amount provided under the policy. Similarly, if a position is not eligible for the automatic allowance or a company-issued mobile device, the policy provides that other positions should use Defendant's manual expense reimbursement process, and by doing so, will receive reimbursement for such expense if "any business-related use of a personal mobile device becomes necessary. A compromise was thus necessary to resolve this claim at this juncture of the litigation. Gaines Decl. at ¶ 36.

Plaintiffs allege that Defendant failed to issue Plaintiffs and Class Members accurately itemized wage statements (Labor Code § 226), failed to pay waiting time penalties (Labor Code §§

201-203), and owes PAGA civil penalties, primarily derivative of the claims alleged above. These penalty claims would total up to approximately $21,158,000 (without stacking duplicative PAGA penalties), but required a substantial discount for settlement purposes because they are wholly derivative of the underlying unpaid wage, meal, and rest period claims (i.e., if Plaintiffs did not prevail on their underlying unpaid wage claims, they would likely not prevail on most or many of these penalty claims), they are subject to independent defenses of their own (including proof of injury and/or willfulness), and they are subject to reduction in the Court's discretion. As stated above, Plaintiffs believed it was unlikely that the Court would entertain an award of penalties which was substantial compared to the amount of the unpaid wages sought. As such, these claims required a compromise to resolve at this juncture of the litigation. Gaines Decl. at ¶ 37.

The discount negotiated for settlement here is a reasonable compromise, particularly considering that the risk of obtaining class certification on all or any of Plaintiffs' claims involves a very high hurdle. Class certification is a substantial risk in any class action case. Here, while Plaintiffs maintain that the requirements of class certification are met, Defendant proffers various arguments why class treatment is not appropriate, including but not limited to that individualized inquires among class members predominate over common ones. If Defendant were to defeat Plaintiffs' class certification motion, there would be no class wide relief whatsoever, and most class members would likely not file individual claims. Gaines Decl. ¶ 38.

Plaintiffs also faced the risk of a loss on the merits on their claims. It is very possible that the Court would agree with Defendant's position that its policies and practices complied with the requirements of California law or could not be certified. In such a case, the value of the majority of Plaintiffs' claims would be zero. Gaines Decl. ¶ 39.

Plaintiffs faced the risk that they would not obtain a maximum damage/penalty award on all (or any of) their claims. For example, Plaintiffs seeks wage statement penalties. Even if Plaintiffs did prevail on these claims, it is possible that the Court would not impose all penalties pursuant to its discretionary power to reduce them or consider defenses which could minimize their value. Gaines Decl. ¶ 40.

Defendant strongly contends that its policies and practices do not violate any laws. When the costs and risks of non-certification and loss on the merits are considered, Plaintiffs' counsel is of the opinion that the settlement reached is clearly a favorable one. Gaines Decl. ¶¶ 31-41.

The settlement for each Class Member and PAGA Members is fair, reasonable and adequate, given the inherent risk of litigation, the risk relative to class certification and the costs of pursuing such litigation. The settlement shall finally resolve all claims of the Class Members and PAGA Members as alleged in the Action. Gaines Decl. ¶ 42.

b. The Risks Inherent in Continued Litigation Are Substantial

Of particular relevance to the proposed Settlement's reasonableness is the fact that the Defendant has legal and factual grounds for defending this action. Defendant consistently asserted that, throughout the relevant time period, it adhered to the legal requirements embodied in California's labor laws at all times. Defendant also contended that a class action could not be properly maintained because Plaintiffs could not satisfy the criteria to certify a class under C.C.P. § 382.

The areas of law at issue in this lawsuit are dynamically changing. An adverse appellate court decision or change in law by the legislature may defeat certification of some or all of the claims alleged in Plaintiffs' complaint. *See Keller v. Tuesday Morning, Inc*. (2009) 179 Cal. App. 4th 1389 (affirming the decertification of a class two years after it was originally certified). Plaintiffs' counsel are familiar with many class action cases where certification and/or liability were immediately defeated as a result of an adverse appellate court ruling, or a change in law by the California legislature or Supreme Court of the United States. Gaines Decl. at ¶ 44. In short, the risks inherent in continued litigation here, including the risks of maintaining class certification in the event it was obtained, are substantial.

c. Plaintiffs Would Likely Have Succeeded in Proving Class Certification Was Proper Yet a Risk of Non-Certification Is Always Present

Class Counsel are confident that they could have proven that this case is appropriate for class certification; Defendant, in contrast, adamantly opposes certification.

C.C.P. § 382 sets forth the class certification criteria:

> [W]hen 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.

As interpreted by the California Supreme Court, *C.C.P.* § 382 requires the existence of an "ascertainable class" whose members share a "well-defined community of interest" in the basic issues of the suit. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435; *Richmond v. Dart Industries, Inc*. (1981) 29 Cal.3d 462, 470; *Vasquez*, *supra*, 4 Cal.3d at 808. The "community of interest" requirement embodies three factors: "(1) predominant common question 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." *Linder*, 23 Cal.4th at 435, quoting *Richmond*, 29 Cal.3d at 470. "Other relevant considerations include the probability that each class member will come forward to prove his or her separate claim to part of the total recovery and whether the class approach would actually serve to deter and redress alleged wrongdoing." *Id.* Lastly, as a general rule, if a Defendant's liability can be determined by facts common to the class members, a class will be certified even if such members must individually prove their damages. *Employment Development Dept. v. Superior Court* (1981) 30 Cal.3d 256, 266.

i. The Proposed Class is Ascertainable

The proposed Settlement Class is clearly ascertainable as it is defined by concrete factors – whether the class members were non-exempt employees of Defendant in California during a specified time frame. In this case, the Class Members are identifiable from Defendant's records. Gaines Decl. at ¶ 49. Further, the settlement class is sufficiently numerous to warrant certification. According to Defendant's records, the final Class is comprised of 15,181 individuals. Gaines Decl. at ¶ 50.

ii. Numerosity is Satisfied

A class will be certified when it is impracticable to join all class members in the case. "Impracticability means difficulty or inconvenience of joinder; the rule does not require impossibility of joinder." *German v. Federal Home Loan Mortgage Corp*. (S.D.N.Y. 1995) 885

F. Supp. 537, 552. The numerosity requirement has been liberally construed.[5] According to Defendant's records, the final Class is comprised of 15,181 individuals. Gaines Decl. ¶ 50.

iii. Common Issues of Law and Fact Predominate

In determining whether sufficient common questions of law and fact predominate, for the purposes of meeting the commonality criterion, the Court's inquiry is directed towards a review of "what type of questions - common or individual - are likely to arise in the action" in considering "whether the theory of recovery advanced by the proponents of certification is, as an analytical matter, likely to prove amenable to class treatment." *Sav-On Drug Stores v. Superior Court* (2004) 34 Cal.4th 319, 327. Here, the evidence overwhelmingly shows that common issues of law or fact predominate.

Plaintiffs allege, and discovery revealed, that Defendant applies the same policies and procedures pertaining to the payment of wages to all members of the Settlement Class. *See Sav-On*, *supra*, 34 Cal. 4th at 329-331 (finding trial court did not err in certifying the class where common employment practices and uniform policies were at issue). The Class Members' claims all stem from a common source: members of the Settlement Class allege that Defendant violated the same Labor Code provisions in connection with their employment. All members of the Class seek the same relief under the same California laws. Under these circumstances, the commonality requirement is satisfied for purposes of certifying the Settlement Class for settlement purposes. Gaines Decl. ¶ 51.

To the extent that a few individual issues exist, they do not predominate and, therefore, would not have defeated class certification. As the California Supreme Court has stated, "even if some individualized proof of such facts ultimately is required to parse class members' claims, that such will predominate in the action does not necessarily follow." *See Sav-On*, *supra*, 34 Cal.4th at 334. Individual issues do not render class certification inappropriate so long as such issues may

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[5] *Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 932 (42-member class "quantitatively sufficient for a class action"); *Lazar v. Hertz Corp.* (1983) 143 Cal.App.3d 128, 138 (class of 5 million).

effectively be managed. *Richmond*, *supra*, 29 Cal.3d at 473; *Occidental Land v. Superior Court* (1976) 18 Cal.3d 355, 363-64; *Washington Mutual Bank, FA v. Superior Court* (2001) 24 Cal.4th 906, 922.

iv. The Proposed Class Representatives' Claims are Typical of the Class's Claims

Plaintiffs allege that their claims are typical of the Class Members' claims. The class representatives' claims need not be identical to the claims of other class members and it is only required that the representative be 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 47. In this case, named Plaintiffs and proposed Class Representatives Yulissa Medina, Bruno Cruz, Desiree Cumpian, and Evelyn Pasquel-Herrera are former non-exempt employee who worked for Defendant in the State of California during the applicable Class Period. They contend that Defendant failed to pay all wages due, provide legally compliant meal and rest periods, pay all wages due upon separation of employment and provide compliant wage statements, in violation of Labor Code §§ 201, 201.3, 202, 204, 218.5, 218.6, 226(a), 226(e)(1), 226(e)(2)(b)(iii), 226(h), 226.7, 227.3, 245, 246, 246(1), 246(i), 510, 512, 1174, 1174.5, 1194, 1194.5, 1197, 1197.1, 1197.5, 1198 , 1198.5, 1199, 2698, *et seq*., 2926, and 2927, among other Labor Code provisions, and Business & Professions Code § 17200 *et seq*. They have the same claims as those that the members of the Settlement Class would reasonably be expected to bring based on the course of conduct alleged herein. Gaines Decl. ¶ 52.

Plaintiffs have also demonstrated that they will aggressively and competently assert the interests of the proposed Settlement Class; they have taken an active role in this litigation and have no apparent conflicts with other class members. Plaintiffs participated actively in the litigation and in the settlement thereof. They have taken significant risks in bringing this lawsuit – they face the very real risk that because of the stigma associated with this lawsuit, they may be unable to obtain employment in the future. The stigma and risk associated with filing a class action lawsuit against any employer is significant. Gaines Decl. at ¶ 55; *see generally* the Declarations of Yulissa Medina, Desiree Cumpian, and Evelyn Pasquel-Herrera.

Finally, Plaintiffs have retained competent counsel, experienced in litigating class action claims in the employment context. Gaines Decl. at ¶¶ 2-5.

v. Class Treatment is the Superior Method of Adjudicating the Claims Asserted in this Case

As outlined above, Plaintiffs contend that Defendant's common policies applicable to all Class Members are at the root of determining the merits – both factually and legally – of Class Members' claims. Accordingly, there arguably exist significant common questions of law and fact which may be tried by the Court in one proceeding. Judicial efficiency mandates that the class action procedure be utilized to resolve these common issues.

The only alternative to certifying a case like this as a class action would be to force 15,181 current and former employees to file individual actions. As the California Supreme Court has stated, "[t]he relevant comparison lies between the costs and benefits of adjudicating Plaintiffs' claims in a class action and the costs and benefits of proceeding by numerous separate actions – not between the complexity of a class suit that must accommodate some individualized inquiries and the absence of any remedial proceeding whatsoever." *Sav-On*, *supra*, 34 Cal.4th at 339, fn. 10.

Finally, California courts favor class certification in wage and hour cases. The California Supreme Court has expressly endorsed the use of the class action procedure in wage and hour cases. In *Sav-On,* the Court reasoned that, because there exists a "clear public policy . . . that is specifically directed at the enforcement of California's minimum wage and overtime laws for the benefit of workers" (*Sav-On*, *supra*, 34 Cal.4th at 340), the class action device should be used to enforce these laws wherever this device "would be the most efficient way of adjudicating the class members' overtime claims." *Sav-On*, *supra*, 34 Cal.4th at 330. In *Prince v. CLS Transp., Inc*. (2004) 118 Cal.App.4th 1320, 1328, the appellate court noted, "wage and hour disputes (and others in the same general class) routinely proceed as class actions."

Although Class Counsel believe the Class Members' claims are meritorious, that the Class would have been certified, and that substantial damages could have been proven at trial, they are experienced counsel who understand that liability, class certification, and damage issues — and the outcome of any appeals that would likely follow if the Class were successful at trial — present substantial risks for Class Members. Those risks must be considered in assessing the fairness of this Settlement, which guarantees a substantial recovery for Class Members and eliminates the risk that Class Members would be left without any recovery. Because the Settlement provides immediate and substantial relief without requiring the Class Members either to undergo the risks of losing at trial or to pay additional attorneys' fees and costs to continue to prosecute this action, it warrants this Court's approval. Gaines Decl. at ¶¶ 53.

d. Disclosure of Documents and Data Demonstrating the Strengths and Weaknesses of this Action Was Completed Prior to Entering into the Settlement

The extent of discovery that has been completed and the stage of the litigation are factors that courts consider in determining the fairness of a settlement. *See Dunk*, *supra*, 48 Cal.App.4th at 1801. Class Counsel conducted a thorough investigation into the claims alleged in the operative complaint prior to commencing settlement discussions. Discovery took place between the Parties in which Defendant and Plaintiffs exchanged information and documentation and further apprised each other of their respective factual contentions, legal theories, and defenses. *See* Gaines Decl. at ¶¶ 14-17. Thereafter, the Parties negotiated the proposed Settlement with knowledge of the strengths and weaknesses of this case and the amounts necessary to compensate Class Members for their estimated damages.

e. The Complexity, Expense, and Likely Duration of Continued Litigation Militate in Favor of Final Approval

A fourth factor considered by courts in determining whether a settlement warrants final approval is the complexity, expense, and likely duration of the litigation in the absence of settlement. *See Dunk*, *supra*, 48 Cal.App.4th at 1801; *Officers for Justice v. Civil Service Com'n of City and County of San Francisco* (9th Cir. 1982) 688 F.2d 615, 625. In applying this factor, a court should weigh the benefits of the settlement against the expense and delay involved in achieving an equivalent or more favorable result at trial. *See Young v. Katz* (5th Cir. 1971) 447 F.2d 431, 433.

Employment class action cases are expensive and time-consuming to prosecute. Continued litigation of this action against Defendant would likely be complex and expensive due to the nature of the claims. It is Class Counsel's opinion that, without settlement, this litigation could endure for at least three more years. Gaines Decl. at ¶ 43. Further, the Settlement avoids the need for a contested class certification motion that would be time consuming and costly for Plaintiffs to file, Defendant to oppose, and the Court to decide. In addition, if the Court were to deny such a motion for class certification, Class Members would be left without a group remedy for their claims. The issues presented here would need to be litigated individually in Superior Courts in a piecemeal, costly, and time-consuming fashion. The Settlement also avoids a lengthy trial or trials that likely would have involved testimony by numerous witnesses and experts.

The areas of law at issue in this case are novel, dynamic, and change frequently. Gaines Decl. at ¶ 44. Extended litigation equates to substantial risk for class members, many of whose individual claims do not have substantial value from the onset. *Id.*

f. The Experience and Views of Counsel Favor Final Approval

Class Counsel supports the Settlement as fair, adequate, reasonable, and in the best interests of the Class as a whole. The endorsement of qualified and well-informed counsel of the settlement as fair is entitled to significant weight. *See Dunk*, *supra*, 48 Cal.App.4th at 1802; *Ellis v. Naval Air Rework Facility* (N.D. Cal. 1980) 87 F.R.D. 15, 18. Class Counsel has over a decade of litigation experience, all of which has been devoted to wage and hour cases in the class and representative action context.

Furthermore, Class Counsel are particularly well-suited to gauge the value of the class members' claims here. Class Counsel have litigated many wage and hour class actions addressing the issues presented in this lawsuit. Class Counsel's experience provides a strong basis for their conclusion that the settlement terms here are fair and reasonable. Gaines Decl. at ¶¶ 6-7.

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g. ***Class Members' Positive Reaction to the Settlement Favors Final Approval***

Finally, courts look at the reaction of class members to determine if a settlement that directly affects their interests should be approved as fair, adequate, and reasonable. Of great importance is the fact that only one Class Member has objected to, only four Class Members have opted-out from the Settlement, and no Class Members disputed their workweek or pay period data. O'Connor Decl. at ¶¶ 10-12. Such an immensely positive reaction of the Class Members affected by the Settlement supports its approval. A court may properly infer that a class action settlement is fair, adequate, and reasonable even when class members object to it. Indeed, a court may approve a class action settlement as fair, adequate, and reasonable even over the objections of a significant percentage of class members. *See Reed v. General Motors* (5th Cir. 1983) 703 F.2d 170, 174; *In re Wash. Pub. Power Supply System Sec. Litig.* (D. Ariz. 1989) 720 F. Supp. 1379, 1394 ("settlement is not to be deemed unfair or unreasonable simply because a large number of class members oppose it"). In this action, the Court should construe the overwhelming non-opposition to the Settlement as a strong indication of Class Members' support for the Settlement as fair, adequate, and reasonable.

C. <u>The Court Should Overrule the Class Member's Objection to the Settlement</u>

The Court should overrule the Class Member's objection to the Settlement. The Class Member contends that every meal period premium owed should be paid to all employees and constitute the Gross Settlement Amount. However, this would defeat the purpose of the Settlement and the compromise reached. In order for Class Members to receive every entitled meal premium payment and owed wages, a trial would be required to determine such actual liability. A settlement is a compromise to avoid a trial and the risks inherent therein. Class Members may not be entitled to any meal period premiums based on Defendant's persuasive defenses, as discussed above. Accordingly, because this Settlement reflects a compromise of the claims alleged, the objection should be overruled and the Settlement be approved.

D. Court Approval of the PAGA Penalty Portion of the Settlement

Pursuant to Labor Code Section 2699(l), the Superior Court shall review and approve the settlement of penalties sought under that Labor Code Section. Lab. Code § 2699(l). For all of the reasons stated above, the Settlement is fair, reasonable and adequate, and should be approved. As part of the Settlement, Defendant has agreed to pay $151,000 to settle the claims of the Settlement Class brought pursuant to PAGA, of which the payment of $113,250 (or 75%) will be paid to the LWDA for education and enforcement purposes. Plaintiffs' counsel provided copies of the Settlement Agreement, the preliminary approval motion papers, and these final approval papers to the LWDA at the time they were submitted to the Court (*see Labor Code* § 2699(l)(2)) and they have received no objection (or other response) from the LWDA. Gaines Decl. at ¶ 70; Ex. F. As a result, this portion of the Settlement should be approved.

IV. CONCLUSION

For all of the foregoing reasons, Plaintiffs request that the Court grant final approval of this Settlement and approve distribution of the settlement funds to the Settlement Class as set forth in the Settlement.

DATED: June 29, 2026

Respectfully submitted,

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