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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF VENTURA

JUAN FLORES-PAULET, as an individual and on behalf of all others similarly situated,

Plaintiff,

vs.

WESTERN PRECOOLING SYSTEMS, a California Corporation; and DOES 1 through 100,

Defendants.

Case No.: 2024CUOE025787

[*Case assigned for all purposes to the Hon. Dana K. Caudill, Dept. 21*]

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Date: August 15, 2025
Time: 8:30 a.m.
Dept.: 21

Complaint Filed: June 11, 2024
Trial Date: None Set

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that pursuant to Rule 3.769 of the California Rules of Court, on August 15, 2025, at 8:30 a.m. in Department 21 of the above-entitled Court, located at 800 South Victoria Avenue, Ventura, California 93009, Plaintiff Juan Flores-Paulet ("Plaintiff") individually and on behalf of a class of similarly situated individuals, will and hereby does move this Court for:

1. Preliminary approval of the proposed class settlement of this lawsuit;
2. Pursuant to section 382 of the California Code of Civil Procedure, provisional certification of the following Settlement Class defined as follows:

   > All current and former non-exempt, hourly employees of Defendant Western Precooling Systems who worked in California during the period from June 11, 2020 through the date of preliminary approval (the "Class Period").

3. Preliminary appointment of Plaintiff Juan Flores-Paulet as Class Representative;
4. Preliminary appointment of Paul K. Haines, Sean M. Blakely, and Joel M. Gordon of Haines Law Group, APC, as Class Counsel;
5. The scheduling of a hearing to consider whether the Settlement should be finally approved and to permit a Class Representative Service Payment to Plaintiff, civil penalties payable to the Labor and Workforce Development Agency ("LWDA"), settlement administration costs, and attorneys' fees and costs to Class Counsel;
6. Appointment of Apex Class Action LLC as the third-party Settlement Administrator for mailing notices; and
7. Approval of the proposed Class Notice and an order that it be disseminated to the proposed Settlement Class as provided in the Settlement Agreement.

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This Motion is based on this Notice of Motion, the attached Memorandum of Points and Authorities, the supporting declarations of Sean M. Blakely and the exhibits attached thereto; the declarations of Paul K. Haines, Joel M. Gordon, and Plaintiff Juan Flores-Paulet; the declaration of Sean Hartranft of Apex Class Action LLC, and the exhibits attached thereto; the pleadings, and other papers filed in this Action; and on any further oral or documentary evidence or argument presented at the time of the hearing.

Dated: July 9, 2025

Respectfully submitted,
HAINES LAW GROUP, APC

By: Sean Blakely

Paul K. Haines
Sean M. Blakely
Joel M. Gordon
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Juan Flores-Paulet (hereinafter "Plaintiff") brought this class and representative action on behalf of Defendant Western Precooling Systems' ("WPS") current and former non-exempt, hourly employees, alleging that WPS failed to pay all minimum and overtime wages, failed to provide all legally compliant meal and rest periods, as well as derivative claims for alleged failure to pay all final wages owed, failure to issue accurate and compliant wage statements, and for civil penalties under the Private Attorneys' General Act ("PAGA"). Plaintiff respectfully requests preliminary approval of this non-reversionary, common-fund class action settlement,[1] in which WPS will pay a Gross Settlement Amount of Three Hundred Seventy-Five Thousand Dollars and Zero Cents ($375,000.00) to the following Settlement Class:

> All current and former non-exempt, hourly employees of Defendant Western Precooling Systems who worked in California during the period from June 11, 2020 through the date of preliminary approval (the "Class Period").

After deducting administration costs, Plaintiff's requested Service Payment, the amount designated as PAGA civil penalties, and requested attorneys' fees and costs, the Net Settlement Amount of approximately $203,500.00 will be distributed to Class Members who do not opt-out based on their proportionate number of workweeks worked during the Class Period. Additionally, all current and former non-exempt, hourly-paid employees of WPS who worked in California from June 11, 2023 through the date of preliminary approval ("PAGA Period") will receive a portion of the $3,750.00 PAGA Penalties based on the proportionate number of pay periods worked during the PAGA Period.

Significantly, Class Members do not need to file a claim to reap the financial benefits of the Settlement, as all Class Members will automatically receive a payment unless they affirmatively opt-out. There are approximately 170 Class Members, and the average payment to participating Class Members is projected to be approximately $1,197.06. For the reasons

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[1] The Class Action and PAGA Settlement and Release Agreement ("Settlement") is attached to the Declaration of Sean M. Blakely as **Exhibit 1**. The proposed Class Notice is attached to the Settlement as **Exhibit A**. All defined terms in this motion have the same definition as that in the Settlement.

discussed herein, Plaintiff respectfully requests that this Court grant preliminary approval.

II. SUMMARY OF THE LITIGATION

A. THE PARTIES AND BRIEF PROCEDURAL HISTORY

In business for 70 years, WPS provides precooling processes and systems to the agricultural industry. *See* Declaration of Sean M. Blakely ("Blakely Decl."), ¶ 8. Plaintiff was employed by WPS as a non-exempt "Purchasing Administrator" at its Oxnard location from approximately January 2017 until approximately June 13, 2023. *See* Declaration of Plaintiff Juan Flores-Paulet ("Flores-Paulet Decl."), ¶ 2.

On June 11, 2024, Plaintiff filed his Complaint in Ventura County Superior Court, alleging several wage and hour violations. Blakely Decl., ¶ 9. On June 11, 2024, Plaintiff also sent his PAGA notice letter to the Labor and Workforce Development Agency ("LWDA"). *Id.,* Exhibit 2. On August 16, 2024, Plaintiff filed the operative First Amended Class and Representative Action Complaint ("FAC") alleging: (i) minimum wage violations; (ii) failure to pay all overtime wages; (iii) meal period violations; (iv) rest period violations; (v) failure to reimburse all necessary business expenditures; (vi) wage statement violations; (vii) waiting time penalties; (viii) unfair competition in violation of California Business & Professions Code § 17200 *et seq*.; and (ix) civil penalties under the PAGA. *Id*.

B. PLAINTIFF'S CLAIMS AND WPS' DEFENSES

1. Rest Period Claims

Plaintiff alleges that he and other Class Members were not authorized and permitted to take all off-duty rest periods, including second rest periods on shifts of 6.0 – 10.0 hours or third rest periods on shifts of 10.0 – 11.99 hours in duration. Blakely Decl., ¶ 14.

WPS counters that it has maintained compliant written rest period policies throughout the Class Period and has always authorized and permitted employees a 10-minute rest period for each four (4) hours worked, or major fraction thereof, as required under the Wage Order, and that any failure to take rest periods was a result of employee choice, rather than any WPS policy and/or practice. Blakely Decl., ¶ 14. WPS also argues that Plaintiff's rest period claim is not amenable to class treatment, since individual inquiries would be required as to why a rest period was not provided on a particular work day. *Id*.

2. <u>Unpaid Wages Due to Unlawful Timekeeping Policies/Practices</u>

Plaintiff alleges that WPS's timekeeping policies and/or practices resulted in Plaintiff and other non-exempt employees not being compensated for all hours actually worked. Blakely Decl., ¶ 15. Plaintiff alleges that some Class Members did not record their meal period and WPS automatically deducted thirty (30) minutes for a purported meal period even though employees did not always receive a compliant thirty (30) minute off-duty meal period, resulting in unpaid wages as these Class Members were working off the clock. *Id.*

However, WPS counters its timekeeping policies/practices complied with California law and that it has always properly compensated Class Members for all hours worked during the Class Period. Blakely Decl., ¶ 15. WPS further contends that Class Members did not work off-the-clock during meal periods and that its policies specifically disavow such off-the-clock work. *Id*. WPS further argues that Plaintiff's off-the-clock claim is not appropriate for class treatment. *Id*.

3. <u>Meal Period Claims</u>

Plaintiff alleges WPS failed to provide legally compliant first meal periods, as non-exempt employees were not always provided with timely, duty-free, and uninterrupted 30-minute meal periods commencing before the end of the fifth hour of work. Blakely Decl., ¶ 16. Plaintiff further alleges that Class Members were often not provided with second meal periods when they worked shifts in excess of 10.0 hours in a workday. *Id*., at ¶ 17.

WPS counters that it maintained compliant written meal period policies throughout the Class Period and has always provided compliant meal periods in line with those policies. Blakely Decl., ¶ 16. WPS further contends that it always *provides* employees the opportunity to take meal periods and is not required to *ensure* they are taken. *Id.* Thus, WPS argues that any missed, late or short meal periods resulted from lawful employee choice rather than any policy and/or practice of WPS. *Id*. Additionally, WPS maintains that employees voluntarily waived their second meal period when they worked shifts in excess of 10.0 hours (but less than 12.0 hours), as they are entitled to do under Labor Code § 512. *Id.,* at ¶ 17. Finally, WPS argues that these claims are not suited for class treatment, as individual inquiries would be needed. *Id.,* at ¶¶ 16-17.

4. **<u>Unreimbursed Business Expenses</u>**

Plaintiff alleges that WPS required Plaintiff and other non-exempt employees to use their personal cellular phones to perform essential job duties without reimbursement, in violation of Labor Code § 2802(a) ("An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties."). Blakely Decl., ¶ 18.

WPS maintains that Class Members were not required to use their personal cellular phones as part of their job. Blakely Decl., ¶ 18. WPS further argues that any expenses incurred by Class Members were extremely minimal. *Id*. WPS further contends that this claim would require individual inquiries into whether Class Members actually used their personal cellular phones for work purposes, how much expense they incurred, whether they submitted a request for reimbursement, and the reasonableness of that expense, thus precluding class certification. *Id*.; *see also*, *e.g., Gattuso v. Harte-Hanks Shoppers, Inc.*, 42 Cal.4th 554, 568 (2007) ("In calculating the reimbursement amount due under section 2802, the employer may consider not only the actual expenses that the employee incurred, but also whether each of those expenses was 'necessary,' which in turn depends on the reasonableness of the employee's choices").

5. **<u>Wage Statement Claims</u>**

As a result of the unpaid wages and unpaid meal and rest period premium wages described above, Plaintiff alleges that WPS is liable for wage statement penalties. Blakely Decl., ¶ 20.

However, WPS argues any alleged wage statement violations were not "knowing and intentional," and Plaintiff cannot show he or other employees "suffer[ed] injury" due to the alleged wage statement violations, as required by Labor Code § 226(e) for the imposition of penalties. Blakely Decl., ¶ 20. Further, WPS contends its wage statements always accurately reflected hours worked and amounts paid as well as all other required information, precluding liability for wage statement penalties under *Maldonado v. Epsilon Plastics, Inc.*, 22 Cal.App.5th 1308, 1336-37 (2018) (agreeing with employer's "commonsense position that the pay stubs were accurate in that they correctly reflected the hours worked and the pay received…The purpose of section 226 is to *document* the *paid wages* to ensure the employee is fully informed regarding the calculation of those wages.") (Italics in original). Blakely Decl., ¶ 20.

6. Waiting Time Penalties

As a further result of the unpaid wages and unpaid meal and rest period premium wages described above, Plaintiff alleges that WPS failed to comply with its final pay obligations set forth in Labor Code §§ 201-203. Blakely Decl., ¶ 21.

WPS argues that it possesses strong, good-faith defenses to the underlying claims, thus precluding recovery of waiting time penalties, which are only available for the "willful" failure to pay wages. Blakely Decl., ¶ 21; see *also* 8 Cal. Code Regs. § 13520 ("[A] good faith dispute that any wages are due will preclude imposition of waiting time penalties under Section 203 . . . A 'good faith' dispute that any wages are due occurs when an employer presents a defense, based in law or fact which, if successful, would preclude any recovery on the part of the employee"). WPS further asserts that Plaintiff's waiting time penalty exposure was grossly inflated as not every former employee experienced the alleged Labor Code violations. Blakely Decl., ¶ 21.

7. PAGA Civil Penalties

As a result of the foregoing Labor Code violations, Plaintiff alleges that WPS is liable for civil penalties under the PAGA. Blakely Decl., ¶ 22. Since Plaintiff's PAGA claim is derivative of Plaintiff's underlying wage claims, WPS asserts the PAGA claim would fail with those claims. *Id.*; *see Price v. Starbucks Corp*. 192 Cal.App.4th 1136, 1147 (2011) ("Because the underlying causes of action fail, the derivative UCL and PAGA claims also fail"). WPS further maintains that, given its good faith defenses, this Court would exercise its discretion to substantially reduce any PAGA penalties if it were to find WPS liable for any of Plaintiff's claims. Blakely Decl., ¶ 22; *see* Lab. Code § 2699(e)(2); *Thurman v. Bayshore Transit Mgmt., Inc*. 203 Cal.App.4th 1112, 1135 (2012) (affirming reduction of PAGA penalties); *Carrington v. Starbucks Corp.*, 30 Cal.App.5th 504, 529 (2018) (affirming PAGA civil penalty of just $5 per pay period where employer made "good faith attempts" to comply with the law).

C. DISCOVERY AND MEDIATION

In connection with mediation, WPS provided Plaintiff's counsel with time and pay records for *all* Class Members. Blakely Decl., ¶ 10. WPS also provided employee handbooks utilized during the Class Period, along with data points such as the total number of Class Members, number of aggregate workweeks worked by its Class Members, total number of Class Members who worked during the PAGA Period, and aggregate pay periods worked during the PAGA Period. *Id*. Plaintiff reviewed and conducted a comprehensive analysis of the payroll and timekeeping data produced by WPS to create a detailed exposure analysis for all claims at issue. *Id*. This discovery allowed the Parties to assess the merits and value of Plaintiff's claims, the chances of certification of Plaintiff's claims, and WPS' potential defenses. *Id*.

On February 27, 2025, the Parties participated in a full-day mediation with Henry J. Bongiovi, Esq., a respected wage and hour class action mediator. Blakely Decl., ¶ 11. The Parties vigorously debated their opposing legal positions, the likelihood of class certification, and the legal basis for the claims and defenses. *Id*. At the conclusion of mediation, Mr. Bongiovi issued a mediator's proposal, which was accepted by the Parties. *Id.* During the months that followed, the Parties finalized the terms of the Settlement and executed the long-form Settlement Agreement now before the court. *Id*.

III. THE PROPOSED SETTLEMENT

A. ESSENTIAL TERMS OF THE SETTLEMENT

If the Court preliminarily approves the Settlement, WPS will pay a Gross Settlement Amount of $375,000.00. *See* Settlement, ¶¶ 1.21, 4.1. Significantly, this Settlement is non-reversionary, and no Class Member will have to submit a claim form to receive an Individual Class Payment. *Id*., at ¶ 4.1. Each Class Member will automatically receive an Individual Class Payment unless they affirmatively opt out of the Settlement. *Id*. The monetary terms of the Settlement are summarized below:

• Gross Settlement Amount:	$375,000.00
• Minus Court-approved attorneys' fees:	$125,000.00
• Minus Court-approved verified costs (up to):	$20,000.00
• Minus Court-approved Service Payment:	$5,000.00
• Minus amount set aside as PAGA penalties:	$15,000.00
• Minus estimated settlement administration costs:	$6,500.00
Net Settlement Amount:	$203,500.00
• PLUS 25% "PAGA Payment" to Aggrieved Employees:	$3,750.00
Total Amount Paid:	**$207,250.00**

1. <u>The Settlement Provides for Reasonable Monetary Payments</u>

After deducting amounts for the Court-approved attorneys' fees and costs, Class Representative Service Payment to Plaintiff, the amount designated as PAGA civil penalties, and settlement administration costs, the Settlement requires WPS to pay a Net Settlement Amount of at least $203,500.00 to all Class Members who do not timely opt-out. *See* Settlement, ¶ 4.2.4. The Net Settlement Amount shall be distributed to each Participating Class Member based on their proportionate number of workweeks worked during the Class Period. Settlement, ¶ 4.2.4.1. Additionally, Three Thousand Seven Hundred Fifty Dollars and Zero Cents ($3,750.00) of the Gross Settlement Amount has been designated as the PAGA Penalties allocated to Individual PAGA Payments and shall be distributed to the Aggrieved Employees (including those who submit a valid and timely Request for Exclusion from the class action settlement) who were employed during the PAGA Period (i.e., June 11, 2023 through the date of preliminary approval) proportionally based on the number of pay periods worked during the PAGA Period. Settlement, ¶¶ 1.32, 1.35, 4.2.4.5.1.

According to WPS, there are approximately 170 Class Members. Blakely Decl., ¶ 13. Thus*,* average Individual Class Payments are projected to be approximately $1,197.06. *Id*. There are approximately 114 Aggrieved Employees who will receive an average of approximately $32.90 from the PAGA Amount. *Id*. Class Members will have forty-five (45) calendar days from the mailing of the Notice to opt-out or object to the Settlement, thereby providing ample time to review the Notice without unduly delaying the Settlement. *See* Settlement, ¶¶ 1.44, 8.4, 8.6. Those Class Members who do not opt-out of the Settlement will be bound by its terms and will release all claims against WPS included within the Settlement. *See Id*., at ¶ 6.2.

2. <u>Attorneys' Fees and Costs, Service Payment, and PAGA Payment</u>

Plaintiff will apply for a Service Payment at the time of seeking final approval of the class action settlement in the amount of $5,000.00 for his service to the Settlement Class. *See* Settlement, ¶¶ 1.14, 4.2.1; Blakely Decl., ¶ 26. As will be fully briefed at the time of final approval, Plaintiff's requested Service Payment is intended to recognize the time and effort Plaintiff expended on behalf of the Settlement Class, including providing substantial factual information and documents to Class Counsel, discussing the claims and theories at issue in the litigation, actively participating in the prosecution of his claims, as well as the significant risks Plaintiff undertook by agreeing to serve as the named plaintiff in this case, and the fact that Plaintiff agreed to a general release of all claims subject to a waiver of Civil Code § 1542. *See* Settlement, ¶¶ 6.1, 6.1.1; Blakely Decl., ¶ 26; *see also* Flores-Paulet Decl.

Class Counsel will also apply for an attorneys' fees award of one-third of the Gross Settlement Amount, which is currently estimated to be $125,000.00, and up to $20,000.00 in verified costs reimbursement. *See* Settlement, ¶¶ 1.6, 1.7, 4.2.2; Blakely Decl., ¶ 25. Plaintiff submits the requested fee is fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent fee basis. Blakely Decl., ¶ 25. Class Counsel has incurred substantial attorneys' fees conducting pre-filing investigation, analyzing Plaintiff's claims, conducting legal research, conducting extensive informal discovery, analyzing Class Members' timekeeping and payroll records, creating a comprehensive damages model, preparing for and attending mediation, negotiating and preparing the long-form Settlement Agreement, preparing this Motion, and otherwise litigating the case. *Id*. Class Counsel expects to expend additional attorney time in attending the hearing on this Motion, overseeing the Notice process and fielding questions from Class Members, preparing the final approval papers, and attending the Final Approval hearing. *Id*.

California courts recognize that an appropriate method for awarding attorneys' fees in class actions is to award a percentage of the "common fund" created as a result of a settlement. *See, e.g., Laffitte v. Robert Half Int'l, Inc.,* 1 Cal.5th 480, 506 (2016) (holding "the percentage of fund method survives in California class action cases"). Class Counsel's request for fees of one-third of the Gross Settlement Amount is well within the range of reasonableness and indeed is considered the typical rate for common fund settlements. Class Counsel submit their request for attorneys' fees is reasonable when viewed as an overall percentage of the Settlement and in light of the substantial risks and significant work undertaken, the results obtained, and the efficiency with which the litigation has been conducted. Should the Court grant preliminary approval, Class Counsel will seek an award of attorneys' fees and verified costs upon seeking final approval.

Additionally, the parties have agreed to designate $15,000.00 of the Gross Settlement Amount as PAGA civil penalties, of which $11,250.00 (75%) will be paid to the LWDA, with the remaining $3,750.00 (25%) for distribution to Aggrieved Employees, as PAGA requires such penalties to be allocated. Labor Code § 2699(i); *See* Settlement, ¶¶ 1.35, 4.2.4.5. Plaintiff submits this allocation to the LWDA for civil PAGA penalties is appropriate. *See, e.g., Chu v. Wells Fargo Investments, LLC*, Case No. C 05-4526 MHP, 2011 WL 672645 at *1 (N.D. Cal. 2011) (approving PAGA amount of $7,500 to LWDA out of $6.9 million common-fund settlement).

IV. ARGUMENT

A. PRELIMINARY APPROVAL IS WARRANTED

California Rule of Court 3.769 conditions settlement of a class action on court approval, which is generally evaluated under the federal standards applicable under Rule 23 of the Federal Rules of Civil Procedure. *See Reed v. United Teachers Los Angeles*, 208 Cal.App.4th 322, 337 (2012) (Rule 3.769 requires trial court to determine "that the settlement is fair, reasonable and adequate to all concerned"). Settlement is the preferred means of dispute resolution, particularly in complex class action litigation. *See In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101 (9th Cir. 2008). The Court's role in evaluating a proposed settlement is limited to ensuring that the agreement taken as a whole is fair. *See* e.g., *Hanlon*, supra, 150 F.3d at 1027. There is an initial presumption of fairness where, as here, the Settlement was negotiated at arm's-length by class counsel and with the assistance of an experienced wage and hour class action mediator. *See e.g.*, *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 130 (2008).

1. Standard for Preliminary Approval

To make a fairness determination, the Court should consider several factors, including: "the strength of Plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, [and] the experience and views of counsel." *Dunk v. Ford Motor Co.,* 48 Cal.App.4th 1794, 1801 (1996). "The list of factors is not exclusive, and the court is free to engage in a balancing and weighing of the factors depending on the circumstances of each case." *Wershba v. Apple Computer, Inc.,* 91 Cal.App.4th at 245 (2001). As discussed below, the proposed Settlement is fair, adequate, and reasonable in light of the overall balance of factors in this case.

a. The Strength of Plaintiff's Case

Although Plaintiff steadfastly maintains that his claims are meritorious, Plaintiff acknowledges that there were substantial risks and uncertainty in proceeding with litigation. As described above in section II.B., *supra*, WPS presented multiple defenses to Plaintiff's claims, both on the merits and with respect to class certification. Thus, while Plaintiff was prepared to litigate these claims through class certification and ultimately trial, success was far from certain.

b. Risk, Expense, Complexity, and Duration of Further Litigation

Although the Parties engaged in significant informal discovery prior to mediation, the Parties still had significant formal discovery to complete had the matter not been settled. Blakely Decl., ¶ 24. This would have required the expenditure of substantial time and resources by both Parties that would have very likely spanned several years. *Id*. Even if Plaintiff were to certify the proposed classes, the Parties would incur considerably more attorneys' fees and costs through a possible decertification motion, trial, and possible appeal. *Id*. The Settlement avoids those risks and the accompanying delay and expense, and thus this factor supports preliminary approval. *Id*

c. Risk of Maintaining Class Action Status

Plaintiff has not yet filed his motion for class certification, and as such, the extent to which Plaintiff's proposed classes were certifiable is somewhat speculative. Absent settlement, there was a risk that there would not be a certified class at the time of trial, or if there were, it would consist of a significantly smaller group of employees than the proposed Settlement Class (either due to a narrowing of the class definition in a Court order on a contested motion for class certification or through settlement agreements entered into by WPS with individual class members by way of *Pick-up-Stix* type settlement agreements), and the expected recovery could be significantly reduced, given the settlement amounts that are typically offered through the *Pick-up-Stix* process. *See Chindarah v. Pick Up Stix, Inc.*, 171 Cal.App.4th 796 (2009). Thus, this factor, too, supports preliminary approval of the settlement.

d. Amount Offered in Settlement Given Realistic Value of Claims

The Settlement provides a positive recovery for the Settlement Class in the face of disputed claims. Plaintiff conducted a detailed analysis of underpaid wages, potential meal and rest period premium payments owing, failure to reimburse employees for necessary business expenditures, wage statement penalties, waiting time penalties, and PAGA civil penalties. Using the estimated figures for each of the claims described in the accompanying Blakely Declaration, Plaintiff predicted that the potential recovery for the Settlement Class would be approximately $468,524. Blakely Decl., ¶¶ 14-23. The proposed Settlement of $375,000.00 represents approximately 80% of the reasonably forecasted recovery for the Settlement Class. *Id*. Preliminary approval is appropriate since the Settlement will provide significant monetary relief to the Settlement Class, which is consistent with what Plaintiff's counsel believes could have been recovered had the case proceeded through trial.

e. The Experience and Views of Counsel

"Parties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation." *In re Pacific Enterprises Securities Litigation* 47 F.3d 373, 378 (9th Cir. 1995). Here, Plaintiff is represented by competent, experienced counsel who possess extensive experience prosecuting and defending wage-and-hour class actions and who have been appointed as class counsel in numerous cases alleging similar claims. *See* Blakely Decl., ¶¶ 2-6. *see also* Declaration of Paul K. Haines ("Haines Decl."), ¶¶ 2-8; Declaration of Joel M. Gordon ("Gordon Decl.") ¶¶ 2-4; Class Counsel conducted an in-depth review of WPS' timekeeping and payroll records and drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiff's case. *See* Blakely Decl., ¶¶ 14-23. The Settlement was also reached with the assistance of an experienced and respected wage-and-hour class action mediator. This factor strongly supports preliminary approval of the Settlement. *See Kullar*, *supra*, 168 Cal.App.4th at 130.

2. The Preliminary Approval Standard Is Met

At this stage, the Court can grant preliminary approval of the Settlement and direct that notice be given if the proposed Settlement: (1) falls within the range of possible approval; (2)

appears to be the product of serious, informed, and non-collusive negotiations; and (3) has no obvious deficiencies. *See* Manual for Complex Litigation § 30.41(3rd Ed. 1995).

a. The Settlement Is Within the Range of Possible Approval

The proposed Settlement reflects approximately 80% of the estimated recovery the Settlement Class could reasonably expect in light of the significant litigation risks and will provide tangible, substantial monetary compensation for hotly disputed claims. Indeed, the percentage of the liability exposure recovered in this case far exceeds percentages routinely approved by courts. *See, e.g., Glass v. UBS Finan. Servs.*, Case No. C-06-4068 MMC, 2007 WL 221862, *4 (N.D. Cal. 2007) (approving settlement representing 25% to 35% of potential damages); Further, the average Individual Class Payment of approximately $1,197.06 is in line with average payments achieved in other wage and hour class action settlements. Thus, Plaintiff submits that the proposed settlement is within the range of possible approval, such that notice should be provided to the Class Members so that they can consider the Settlement. The Court will have the opportunity to again assess the reasonableness of the Settlement after the Settlement Class members have had the opportunity to opt-out or object.

b. The Settlement Resulted from Serious, Informed Negotiations

The Settlement resulted from an exchange of substantial information, arm's-length negotiations by counsel, a full-day mediation before an experienced wage and hour mediator, and additional months of negotiating the long-form settlement agreement. Thus, the Settlement is entitled to an initial presumption of fairness. *See Kullar*, *supra*, 168 Cal.App.4th at 130. As discussed above, Plaintiff carefully vetted the claims at issue, reviewed extensive timekeeping and payroll data, and conducted a detailed statistical analysis of the data to arrive at his estimated class-wide damages figures. *See* Blakely Decl., ¶¶ 14-23. Thus, this factor supports preliminary approval.

c. The Settlement Is Devoid of Obvious Deficiencies

Preliminary approval is also warranted because there are no obvious deficiencies. The Settlement will provide substantial monetary relief to Class Members. The amounts proposed for Class Counsel's attorneys' fees and costs, LWDA payment, and Plaintiff's class representative

Service Payment, are all reasonable and appropriate based on the facts of this case. Because the Settlement is devoid of obvious deficiencies, this factor supports preliminary approval.

B. THE COURT SHOULD CERTIFY THE SETTLEMENT CLASS

The Settlement Class satisfies the criteria for certification of a settlement class under California law because: (1) the Settlement Class is so numerous that joinder would be impractical; (2) common questions of law and fact predominate over individual questions such that class certification is the most efficient and desirable way to maintain this litigation; (3) Plaintiff's claims are typical of the claims of absent Class Members; and (4) Plaintiff and his counsel will fairly and adequately represent Class Members' interest. *See* Cal. Civ. Proc. § 382.

1. The Proposed Class Is Ascertainable and Numerous

A class is "ascertainable" where the members "may be readily identified without unreasonable expense or time by reference to official [or business] records." *See Sevidal v. Target Corp.* 189 Cal.App.4th 905, 916 (2010) (alterations in original). Here, the proposed class is defined as all current and former non-exempt, hourly employees of WPS who worked in California during the Class Period. *See* Settlement, at ¶¶ 1.9, 1.12. Therefore, Class Members can be identified from WPS' personnel and employment records. WPS represents that the Settlement Class consists of approximately 170 current and former non-exempt, hourly employees. *See* Blakely Decl., ¶ 13. It would therefore be impracticable to bring all Class Members before the Court or for each Class Member to bring an individual lawsuit. Thus, the proposed Settlement Class satisfies numerosity.

2. Common Issues of Law and Fact Predominate

The focus in a certification dispute is not on the merits but rather on what types of questions, "common or individual," are likely to arise in the Action. *See Sav-On Drug Store, Inc. v. Superior Court (Rocher)* 34 Cal.4th 319, 327 (2004). Plaintiff's claims are predicated on, among other issues, WPS' meal and rest period policies/practices. These types of claims are commonly held to be proper for class certification. *See e.g.*, *Benton v. Telecom Network Specialists, Inc.*, 220 Cal.App.4th 701, 726 (2013) (certifying meal and rest period claims).

3. **The Claims of the Named Plaintiff Are Typical**

The typicality requirement is satisfied where class representatives have claims that are typical of those of the rest of the class. Here, WPS employed Plaintiff as a non-exempt, hourly employee during the Class Period, and Plaintiff was subject to WPS' wage and hour policies at issue in this case. *See* Flores-Paulet Decl., ¶ 2. Plaintiff was also injured by the same challenged policies/practices that allegedly injured the Settlement Class as a whole. *See generally*, Flores-Paulet Decl. Because Plaintiff has suffered the same injuries as the other members of the Settlement Class, the typicality requirement is satisfied.

4. **Plaintiff and Class Counsel Will Fairly and Adequately Represent Class**

The adequacy requirement examines conflicts of interest between named parties and class(es) they seek to represent. *See Capital People First v. State Dept. of Developmental Services* 155 Cal.App.4th 676, 697 (2007). Plaintiff and his counsel will adequately represent Settlement Class, as there are no conflicts between Plaintiff and the proposed Settlement Class, and Plaintiff possesses claims that are in line with those of the Settlement Class. Class Counsel also have extensive experience in wage and hour class action litigation. *See* Blakely Decl., ¶¶ 2-6; Haines Decl., ¶¶ 2-8; Gordon Decl., ¶¶ 2-4.

C. **THE COURT SHOULD ORDER DISTRIBUTION OF THE NOTICE**

This Court should order distribution to the Settlement Class of the proposed Class Notice by U.S. Mail, postage prepaid, in English and Spanish, using the last known mailing address information provided by WPS. *See* Settlement, ¶ 8.3. This manner of giving notice is the "best notice practicable" under the circumstances because it provides "individual notice to all members who can be identified through reasonable effort." *See Eisen v. Carlisle & Jacquelin* 417 U.S. 156, 173 (1974). Here, the Parties have agreed that the Settlement be administered by Apex Class Action LLC ("Apex"), an experienced class action settlement administrator. *See generally* Declaration of Sean Hartranft ("Hartranft Decl.") and attached exhibits. Class Members' addresses will be ascertainable through WPS' personnel and payroll records, which WPS will provide to Apex within twenty (20) calendar days of preliminary approval of the Settlement. *See* Settlement, ¶ 5.2. Within fourteen (14) calendar days of receipt of the Class Data, Apex will run the names of all Class Members through the National Change of Address ("NCOA") database to determine any updated addresses, and mail the Class Notice in English and Spanish to all Class Members. *Id.*, at ¶ 8.3.2. To the extent that any notices are returned, Apex will perform a "skip trace" to track any Class Members' current mailing address. *Id.*, at ¶¶ 1.10, 8.3.3.

The content of the proposed Class Notice satisfies California Rule of Court 3.766(d) by advising Class Members of the nature of the claims, basic contentions and denials of the parties, and the key terms of the Settlement, the 45-day deadline to opt-out or object to the Settlement and the procedures by which to do so, explains the recovery formula and expected recovery amount for each Class Member, and advises them that they will be bound by the terms of the Settlement if they do not opt-out. *See* Blakely Decl., Exh. A to Exh. 1. The proposed Class Notice will also notify Class Members of the final approval hearing date and provides the Settlement Class contact information for Class Counsel and advises Class Members that they may enter an appearance through counsel if they wish to. *Id.* This manner of giving notice satisfies California Rule of Court 3.766(e) as the most reliable and cost-effective method of reaching Class Members.

D. <u>THE COURT SHOULD SET A FINAL APPROVAL HEARING</u>

Finally, this Court should set a hearing for Final Approval of the Settlement on a date appropriately scheduled to follow the deadline by which Class Members must file objections to the Settlement or opt-out. *See* California Rule of Court 3.769.

V. <u>CONCLUSION</u>

For the foregoing reasons, Plaintiff respectfully requests that the Court preliminarily approve the proposed Settlement, provisionally certify the Settlement Class, and enter the Proposed Order submitted concurrently herewith.

Dated: July 9, 2025

Respectfully submitted,
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