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as an individual and on behalf of all other
similarly situated Class Members

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

NIA HUDSON, as an individual and on behalf of all other similarly situated Class Members,

Plaintiff,

v.

PLAY-WELL TEKNOLOGIES LLC; TIMOTHY D. BOWEN; and DOES 1-100, inclusive,

Defendants.

Case No.: 25CV113278

Assigned for All Purposes to:
Hon. Somnath Raj Chatterjee
Dept. 21

MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Date: December 1, 2026
Time: 2:30 p.m.
Dept.: 21
Reservation ID: 846446774468

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I. INTRODUCTION

Plaintiff Nia Hudson hereby moves the Court for an order granting preliminary approval to a proposed non-reversionary class action settlement to resolve wage and hour claims on behalf of approximately 661 individuals employed by Defendant Timothy Bowen dba Play-Well Teknologies ("Play-Well" or "Defendant") as current and former non-exempt employees employed in California at any time between February 25, 2021 through the date of preliminary approval. The proposed $362,500 settlement will provide at least $176,167 in cash payments to the settlement class, with an average award of about $267. The balance of approximately $185,833 will cover a modest enhancement award to Plaintiff, reasonable attorney's fees and actual litigation costs, settlement administration costs, and payment of civil penalties to the State and Aggrieved Employees. The settlement is the product of Plaintiff's pre- and post-filing investigation, formal and informal discovery, and arms-length and adversarial negotiations overseen by experienced and well-regarded mediator Jeff Owensby, Esq.

As demonstrated below, the settlement is within the "range of reasonableness" for preliminary approval. Plaintiff's counsel believe the settlement is a significant result for the class given the substantial risks inherent in this matter. Accordingly, Plaintiff requests the Court enter an order: (1) granting preliminary approval to the proposed class action settlement; (2) conditionally certifying the settlement class as defined below; (3) appointing Crosner Legal, PC as Class Counsel; (4) appointing plaintiff Nia Hudson as the Class Representative; (5) appointing Phoenix Settlement Administrators as the Settlement Administrator; (6) approving the form of notice to the class and the procedure for providing such notice; and (7) scheduling a final fairness hearing.

II. FACTUAL BACKGROUND AND PROCEDURAL POSTURE

Defendant Play-Well provides after school and summer-time Lego-based instruction classes in Northern California. Plaintiff was employed by Defendant as an instructor in the East Bay area from about March 2022 to March 2024, when she resigned to pursue other career options. [Declaration of Brandon Brouillette ("Brouillette Decl."), ¶ 4.]

Plaintiff alleges a number of wage and hour violations by Defendant. First, she alleges Play-

Well of failing to pay all wages due and in particular that Class Members regularly worked off the clock without compensation. Plaintiff also alleges Play-Well failed to provide timely and uninterrupted duty free meal and rest periods, and that in addition to maintaining non-compliant written meal and rest break policies, review of the time and payroll data provided by Defendant suggests significant de facto break violations for late, short, or missed meal breaks. Plaintiff also alleged she and the class members were required to use their personal cell phones for work purposes without any reimbursement. Finally, Plaintiff alleges derivative violations for failing to provide accurate itemized wage statements and failing to timely pay wages upon separation of employment. [Brouillette Decl., ¶ 5.]

On June 7, 2024, Plaintiff Hudson submitted a notice to the LWDA alleging Labor Code violations against Defendant based on the above allegations. On August 15, 2024, Plaintiff filed a PAGA-only complaint in this Court seeking civil penalties arising from Defendant's alleged Labor Code violations (Case No. 24CV087281). Plaintiff then filed this separate class action complaint against Defendant on February 25, 2025, also in Alameda County Superior Court. In the class action case, Plaintiff, on behalf of a putative class of non-exempt employees, alleged they were owed back wages, break premiums, penalties, business expenses, and other damages under the California Labor Code and Unfair Competition Law. [Brouillette Decl., ¶ 6; Exh. 3.]

Once the cases were at issue, the Parties initiated written discovery and Defendant took Plaintiff's deposition. The Parties eventually agreed to attempt mediation, and further agreed on a protocol for exchanging additional information and documents on an informal basis in order to prepare for mediation. Accordingly, Play-Well produced, and Plaintiff reviewed, extensive documents including Plaintiff's personnel file, Play-Well's employee handbooks, compensation policies, and meal and rest break policies, a sampling of time and payroll records for the putative class members, and information regarding the number of putative class members, rates of pay, number of weeks worked, etc. This additional informal discovery enabled Plaintiff to be fully prepared to engage in meaningful settlement negotiations. [Brouillette Decl., ¶ 7.]

The Parties engaged Jeff Owensby, a highly-regarded neutral with extensive wage and hour experience and, in April 2026, the Parties participated in a full-day mediation . At the mediation,

throughout the day the arms-length negotiations were hard-fought and adversarial as the Parties exchanged extensive information on their legal and factual positions, and made numerous offers and counter-offers. After a full day of negotiations, the Parties were able to reach agreement on all major issues. They then collaboratively drafted the Joint Stipulation of Class Action and PAGA Settlement and Release ("Settlement Agreement") setting forth the full and final settlement terms. A true and correct, fully-executed copy of the Settlement Agreement is attached to the Brouillette Declaration as Exhibit 1. [Brouillette Decl., ¶ 8.]

III. THE PROPOSED SETTLEMENT TERMS

Under the proposed settlement, Play-Well will pay $362,500.00 into a common fund, the Gross Settlement Amount ("GSA"), and will pay that amount in monthly installments over a period of seven months following final approval. Reasonable attorney's fees of up to one-third of the GSA, or $120,833.33, actual litigation costs of up to $20,000, a reasonable enhancement award to Plaintiff of up to $10,000, settlement administration costs of no more than $10,000, and $25,000 for alleged civil penalties under PAGA,[1] all will be paid from the GSA. The remainder of about $176,167 will be allocated among the Participating Class Members based on their total weeks worked during the Class Period ("Net Settlement Sum"). No portion of the GSA will revert to Defendant. [Brouillette Decl., ¶ 9.]

A. Certification of the Settlement Class

The settlement provides for conditional certification of a settlement class including all current and former non-exempt employees employed by Defendant in California at any time between February 25, 2021 through the date of preliminary approval. The Parties estimate the Settlement Class consists of approximately 661 individuals. [Brouillette Decl., ¶ 10.]

B. The Benefit Conferred on the Settlement Class

As noted, at least $176,167 from the GSA will be distributed to the Participating Class Members. This is a cash settlement that does not require Participating Class Members to submit a

[1] Consistent with PAGA, $18,750 of that amount will go the LWDA for the State's share of the civil penalties, and the remaining $6,250 will be distributed pro rata to the PAGA Group (defined as all individuals employed by Play-Well as non-exempt employees during the PAGA Period of June 7, 2023 to preliminary approval).

claim form to receive their settlement share. Participating Class Members will receive their settlement checks automatically via First Class U.S. Mail. Twenty-five percent of each settlement share will be allocated to wages and the remaining seventy-five percent will be allocated to penalties, unreimbursed expenses, and interest. Play-Well will pay any and all applicable employer-side payroll taxes separately and in addition to the GSA. Subject to the Court's approval, any amounts not claimed (because a class member does not cash his or her settlement check) will be forwarded to the California State Controller's Unclaimed Property Fund. [Brouillette Decl., ¶ 11.]

Each Participating Class Member will receive a share of the Net Settlement Sum based on total weeks worked for Play-Well during the Class Period while employed as a non-exempt employee ("Individual Settlement Payment"). Thus, each Class Member's Individual Settlement Payment will be calculated using criteria typically used in determining appropriate amounts of alleged unpaid wages, unpaid premium wages for missed meal breaks, and potential statutory penalties under applicable law. These methods are intended to ensure each Class Member receives a portion of the available settlement funds corresponding to the relative value of his or her potential claims. The proposed allocation provides a reasonable way to compensate Class Members based on the amount of time they worked for Defendant, and the number of instances they missed a break, were not provided compensation in lieu of such missed breaks, or lost wages due to Defendant's alleged improper payroll practices. The average class settlement award is estimated to be around $267. The Parties estimate there are approximately 439 Aggrieved Employees, and their average PAGA award will be about $14. [Brouillette Decl., ¶ 12.]

C. Settlement Administration

Subject to the Court's approval, the Parties have agreed on Phoenix Settlement Administrators as the Settlement Administrator. Phoenix is qualified and has significant experience administering class action settlements, including numerous wage and hour matters. Phoenix's fees will not exceed $10,000. [Brouillette Decl., ¶ 13; Declaration of Jodey Lawrence, ¶¶ 2-22, Exhs. A-B.]

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D. The Class Notice

The proposed Notice (Exhibit A to the Settlement Agreement) sets out information about this case and explains the basic settlement terms in plain language. The Notice also sets forth the individualized information used to calculate Class Members' Individual Settlement Payments and each Class Member's estimated settlement award. The Notice likewise details the procedures for Class Members to dispute their individual information, the procedure for submitting an objection to the Settlement, and the procedure to request exclusion. In sum, the Notice provides the Class Members with the information necessary to evaluate the Settlement, provides fair opportunity to participate in, opt out of, or object to the proposed Settlement, and otherwise complies with California Rules of Court 3.769(f) and 3.766(d). Coupled with the notice procedure, the proposed Notice provides the Class with the best notice practicable. [Brouillette Decl., ¶ 14.]

E. Right to Correct Information, Opt Out, or Object

Class Members will have forty-five (45) days to dispute the information in their Notice used to calculate their settlement award, and also have 45 days to submit any objections to the settlement or to request exclusion. In the event a Class Member disputes their individual information, the Settlement Administrator will review the Class Member's records as well as any additional information submitted, and make a final determination. [Brouillette Decl., ¶ 15.]

F. Release of Claims

All Participating Class Members will be deemed to release Defendant from all class claims alleged in the operative complaint, or that could have been brought based on the allegations in the operative complaint from February 25, 2021 to the date of preliminary approval, and the PAGA Members will release all claims under PAGA for the PAGA Period of June 7, 2023 through the date of preliminary approval. The releases are limited to the claims that were actually pleaded or could have been pleaded based on the alleged facts in the operative Complaints as filed in the above-captioned action and/or under Case No.: 24CV087281. [Brouillette Decl., ¶ 16.]

G. Attorney's Fees and Costs, and Plaintiff Medina's Enhancement Award

The settlement provides Defendant will not oppose a request for reasonable attorney's fees not to exceed one-third of the GSA, or $120,8333.33, nor will it oppose a request for reimbursement

of actual litigation costs and expenses of up to $20,000.00. Defendant also will not oppose a request for an enhancement award to Plaintiffof not more than $10,000.00 in recognition of her time spent on this matter, the risks she undertook on behalf of the class, and the benefit conferred to the class. Plaintiff's counsel will provide the Court with appropriate summaries and evidence of their efforts and time records in anticipation of the Final Approval Hearing, and Plaintiff has submitted her declaration herewith. If the Court approves less than the above amounts, the difference will remain in the Net Settlement Sum for distribution to the Participating Class Members. [Brouillette Decl., ¶ 17.]

H. PAGA Claims and Notice to the LWDA

The Parties allocated $25,000 to payment of civil penalties under PAGA for such claims against Play-Well as addressed in more detail below, and which amount Plaintiff submits is fair, reasonable and adequate, and consistent with PAGA's underlying purposes. As required by Labor Code section 2699(s)(2), Plaintiff gave notice of the settlement and preliminary approval hearing to the LWDA via its online portal. [Brouillette Decl., ¶ 18; Exh. 5.]

IV. ARGUMENT

A. Standard of Review for a Class Action Settlement

The law favors settlement, particularly in class actions where substantial resources can be conserved by avoiding the time, costs and rigors of formal litigation. H. Newberg & A. Conte, 4 Newberg on Class Actions (4th ed. 2002) § 11.41; Class Plaintiffs v. City of Seattle (9th Cir. 1992) 955 F.2d 1268, 1276, cert. denied, 506 U.S. 953; Potter v. Pacific Coast Lumber Co. (1951) 37 Cal.2d 592, 602. Nevertheless, to ensure the rights of absent class members are not unjustly compromised, settlement of a class action requires court approval. Cal. Rule of Court. 3.769; Wershba v. Apple Computer (2001) 91 Cal.App.4th 224, 245; Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1801. This judicial review protects against fraud or collusion and ensures fairness to the absent class members. Dunk, 48 Cal.App.4th at 1800-01. Judicial review occurs via a two-step process to determine, under all the circumstances, if the proposed settlement is fair, reasonable and adequate. Id. at 1801; Wershba, 91 Cal.App.4th at 245.

The first step is a motion for preliminary approval, through which the parties present the

court with the proposed settlement and seek a determination if it is sufficiently fair and reasonable to warrant notice to the class and further proceedings as to its fairness and adequacy. Cal. Rule of Court 3.769(c). This preliminary evaluation determines if the proposed settlement is within the "range of reasonableness" and if notice should be provided to the class regarding the settlement's proposed terms and conditions, and whether a final fairness hearing should be scheduled. Wershba, 91 Cal.App.4th at 234-35; North County Contractors Ass'n, Inc. v. TouchTWC Ins. Servs. (1994) 27 Cal.App.4th 1085, 1089-90. Considering the strong judicial policy favoring settlement of class actions, courts generally apply a presumption of fairness to class action settlements when (1) the settlement results from arms-length bargaining, (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently, (3) counsel is experienced in similar litigation, and (4) the percentage of objectors is small. Dunk, 48 Cal.App.4th at 1802; Wershba, 91 Cal.App.4th at 245.

If the court grants preliminary approval, it then orders the class be given notice in an appropriate manner, establishes a schedule and procedures for class members to request exclusion or object, and sets the matter for a final fairness hearing. Typically, any motion for attorney's fees and costs, and any enhancement for the class representative(s), is filed subsequent to preliminary approval and heard with the motion for final approval, as part of the second step of the two-step approval process. Dunk, 48 Cal.App.4th at 1800; Wershba, 91 Cal.App.4th at 232.

The proposed settlement in this matter warrants preliminary approval under the liberal standard discussed above, as it is fair, reasonable and adequate under all the circumstances, and represents a favorable result for the class.

B. The Proposed Settlement Class Should Be Conditionally Certified

The purpose of conditional class certification for purposes of settlement is to facilitate provision of notice of the proposed settlement's terms, and the date and time of the final fairness hearing. In this context, courts apply lesser scrutiny than they would otherwise in the context of certifying a class. Dunk, 48 Cal.App.4th at 1807, n.19; Global Minerals & Metals Corp. v. Superior Court (2003) 113 Cal.App.4th 836, 839 ("[I]t is well established that trial courts should use different standards to determine the propriety of a settlement class.")

In the present matter, conditional certification is proper since this matter satisfies all requirements for class certification under Code of Civil Procedure section 382. First, the class is both sufficiently numerous, consisting of approximately 661 individuals, and ascertainable by reference to Defendant's personnel and payroll records. [Brouillette Decl., ¶ 19.] Next, Plaintiff is an adequate class representative, as her claims do not conflict with and are not antagonistic to the claims of other class members. Further, her claims are typical given she is a member of the class and her respective claims arise from the same employment practices and course of conduct giving rise to the claims of the other class members. [Brouillette Decl., ¶ 20; Declaration of Nia Hudson, ¶¶ 2-9.] Lastly, Plaintiff's counsel are experienced and adequate class counsel. [Brouillette Decl., ¶¶ 35-45.]

Next, common questions of law and fact predominate – particularly for purposes of a settlement class – as the Class Members all were subject to the same meal and rest break policies and the same timekeeping and payroll policies, which allegedly failed to fully compensate them for all hours worked, etc. Since the focus of the claims against Play-Well concern the legality of common policies applied uniformly to the entire class, common issues predominate over individualized inquiries concerning liability. For example, Play-Well's alleged failure to properly pay for rest breaks for non-exempt hourly employees whose classes were less than three hours in length was a company-wide policy applied equally and consistently to all class members, and this policy is either compliant with California law or it is not. Regardless of that determination, it will decide liability for all class members one way or another. Similarly, whether Play-Well was required to reimburse employees for use of their personal phones presents another common issue. [Brouillette Decl., ¶ 21.]

It is now well-settled that a theory of recovery asserting the existence of a uniform policy violating California law is sufficient to satisfy the requirements for class certification. Jones v. Farmers Ins. Exch. (2013) 221 Cal.App.4th 986, 996 ("Claims alleging that a uniform policy consistently applied to a group of employees is in violation of the wage and hour laws are of the sort routinely, and properly, found suitable for class treatment"); Williams v. Superior Court (2013) 221 Cal.App.4th 1353 ("A company-wide practice can sustain a common question of fact or law

that supports commonality for class certification"). Lastly, a class action is superior to other means for the fair and efficient adjudication of this controversy. [Brouillette Decl., ¶ 22.]

C. The Proposed Settlement Meets the Dunk and Kullar Factors and is within the Range of Reasonableness

The proposed settlement resulted from serious, arms-length negotiations facilitated by respected mediator Jeff Owensby, Esq., who has extensive experience mediating wage and hour class actions. [Brouillette Decl., ¶ 8.] Plaintiff's counsel Brandon Brouillette and Zach Crosner both have years of litigation experience, including litigating wage and hour class actions. Plaintiff's counsel are well-qualified to evaluate the risks and benefits of pursuing further litigation or settling the matter. [Brouillette Decl., ¶¶ 35-45.]

California law recognizes several factors bearing on the fairness, adequacy, and reasonableness of a proposed class settlement. Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116, 128. In relevant part, these factors include: 1) the amount offered in settlement 2) the strength of plaintiff's case; 3) the risk, expense, complexity, and likely duration of further litigation; 4) the risk of maintaining class action status throughout trial; 5) the experience and views of counsel; and 6) the reaction of the class members to the proposed settlement. Id. As demonstrated below, the proposed settlement satisfies these requirements.

Prior to mediation, the Parties engaged in extensive informal discovery to facilitate settlement discussions, and further exchanged additional information and documents during the cure conference process. As a result, Plaintiff reviewed documents and information regarding Play-Well's payroll practices, pay stubs and time records for a sampling of class members, meal and rest break policies, etc., and information from Defendant regarding class size and breakdown of job positions, work weeks, rates of pay, and other information used to formulate a damages model. Plaintiff's counsel are confident they obtained sufficient information to enable them to understand the law and facts of this case and make an informed decision regarding the proposed settlement and whether it is in the best interests of the class. [Brouillette Decl., ¶¶ 7, 23.]

Next, the proposed settlement falls within the range of reasonableness warranting

preliminary approval. The proposed settlement involves a significant sum that, when distributed, will confer direct monetary benefits on the class members. As described above, each class member will be entitled to a monetary payment without having to file a claim and each payment will be relative to the value of his or her potential claims.

Plaintiff's analysis was supported by the pre-mediation production described above, which permitted Plaintiff's counsel to estimate potential damages on various theories of liability. Using that data, Plaintiff ran various calculations and estimated Play-Well's likely maximum exposure on the class claims at approximately $4,351,055 including $973,350 on the unpaid wage/off the clock claims, $157,215 on the meal break claims, $908,565 on the rest break claims, $105,000 on the expense reimbursement claim, $544,000 on the wage statement claims, and $1,662,925 on the waiting time penalty claims. [Brouillette Decl., ¶¶ 24-25.] Plaintiff and her counsel substantially discounted the value of these claims, however, in light of Defendant's multi-layered defenses on both class certification and on the merits, and the multiple and considerable risks posed by proceeding with the litigation.

The unpaid wage claims focus primarily on Plaintiff's practice of transporting three 50-pound boxes of Legos in her own personal vehicles, along with a pulley cart to wheel the boxes around, and a backpack. Per Plaintiff this prevented Class Members from using their own vehicles for their own purposes and created sufficient employer control to render the drive time compensable. Oliver v. Konica Minolta Business Solutions U.S.A., Inc. (2020) 51 Cal.App.5th 1, 25 (if a service technician was required during the commute to carry a volume of tools and parts that did "not allow [the service technician] to use 'the time effectively for [the service technician's] own purposes," then the technician would be "subject to the control of [defendant]" for purposes of determining "hours worked" and entitlement to wages.) Plaintiff also contends that Defendant only paid for an additional 15 minutes before and after each class they worked, which time was insufficient for employees to unload and wheel three 50 pound boxes of Legos and set up the Lego installations and/or clean up the Legos, pack them up, and load the boxes of Legos into their vehicles at the end of a class. Plaintiff contends it took an additional 15-20 minutes of work "off the clock" to unload/load and set up/clean up for each class. [Brouillette Decl., ¶ 26.]

In response, Play-Well argued its payroll policies are fully compliant, that it properly tracked and paid for all hours worked by the class members at the appropriate hourly wage, and that transporting the Legos used for the classes did not create any level of employer control necessary to render the commute time compensable. Specifically, that Plaintiff voluntarily chose to keep the Legos in her vehicle. Play-Well also emphasized it paid for ample time for employees to perform all necessary work to prepare for and clean up after each class, and that if any employees took additional time the claim would not be certifiable since it would require individualized inquiries whether any compensable "off the clock" work occurred. [Brouillette Decl., ¶ 27.]

On the meal and rest break claims, Plaintiff contends Defendant's written policies are not fully compliant, and Plaintiff's review of the time and payroll records provided suggested these deficiencies in the written policies affected employee breaks and resulted in substantial "de facto" violations. For example, Plaintiff argued that classes frequently ran long and cut into employee meal period time since there was exactly 30 minutes between classes where an employee could take a meal break. Plaintiff further alleges that Defendant's time records also show a number of "de facto" violations for missed, untimely, or short meal breaks, and that Defendant only paid the required premiums for a small fraction of those documented violations. Finally, Plaintiffs alleged that rest breaks were not always provided and frequently were missed or cut short due to work demands, and were difficult if not impossible to take when an employee was working alone and had to stay on duty teaching an ongoing class. [Brouillette Decl., ¶ 28.]

In response, Play-Well argued its written meal and rest break policies are fully compliant, that it provided employees with the opportunity to receive all required breaks, and that many class members waived their meal periods. Defendant further maintained that, in light of its compliant policies, whether a class member missed a meal period, received a late meal period, or missed a rest break would have been aberrational and against company policy. Thus, per Play-Well, these issues are not amenable to class or representative treatment since their resolution would require individualized inquiries as to why a break was missed or non-compliant. [Brouillette Decl., ¶ 29.]

On the expense reimbursement claim, Plaintiff alleges use of personal cellular phones was necessary and consequential to employment duties for purposes, as Defendant required Plaintiff

and class members to use an app called Paycom to submit hours worked and to view their wage statements. Plaintiff also contends employees had to use personal devices to work off of Defendant's website which maintained the lesson instructions and Lego diagrams for each class taught by Plaintiff and class members. Per Plaintiff, Play-Well was obligated to reimburse for such use of personal phones. Cochran v. Schwan's Home Services, Inc. (2014) 228 Cal.App.4th 1137, 1144. In response, Play-Well argued that use of personal phones was unnecessary for performing the job, and that any such use largely would have been for personal preference or convenience and not reimbursable as a "necessary" business expense. Lab. Code § 2802. [Brouillette Decl., ¶ 30.]

The claims under Labor Code sections 203 and 226 are derivative of the primary unpaid wage claims, and accordingly are subject to the same risks and uncertainties plus additional risks posed by the need to take into account the discretionary nature of such awards and the "good faith" and other defenses available to Defendant. Amaral v. Cintas Corp. No. 2 (2008) 163 Cal.App.4th 1157, 1203-4 (employer did not willfully fail to pay wages under Labor Code § 203 even though class prevailed on underlying claim for failure to pay living wages). Thus, while these claims largely are derivative of the unpaid wage claim, they also are subject to additional defenses. [Brouillette Decl., ¶ 31.]

As far as potential PAGA liability, the allegedly aggrieved employees theoretically are entitled to penalties totaling around $3 million in civil penalties should Plaintiff prevail on all claims and establish violations of the multiple Labor Code sections for every single pay period at issue. [Brouillette Decl., ¶ 32.] As with the class claims, Plaintiff discounted the potential PAGA penalties based on Defendant's various defenses on the merits and also accounted for the Court's wide discretion to reduce such penalties, or to decline to award penalties at all. Labor Code § 2699(e)(2); Carrington v. Starbucks Corp. (2018) 30 Cal.App.5th 504 (trial court awarded penalties of $5 per pay period after a bench trial, which decision was upheld on appeal); In re Taco Bell Wage and Hour Actions (E.D. Cal. Apr. 8, 2016) 2016 U.S. Dist. LEXIS 48557 (PAGA penalties denied after trial). Accordingly, the Parties allocated $25,000 to PAGA penalties, and Plaintiff submits this amount is reasonable under the circumstances and in line with comparable settlements in other wage and hour class actions in California. *E.g.*, Van Kempen v. Matheson Tri-

Gas, Inc. (N.D. Cal. Aug. 25, 2017) 2017 U.S. Dist. LEXIS 137182 (granting final approval of $5,000 PAGA penalty from $370,000 settlement, or 1.4 percent of total settlement); Slavkov v. First Water Heater Partners I (N.D. Cal. July 25, 2017) 2017 U.S. Dist. LEXIS 116303 (finding a $7,500 PAGA payment reasonable when measured against the overall settlement of $345,000 and the possible weaknesses in Plaintiffs' case, or 2.2 percent of total settlement). Additionally, the LWDA has been informed of the terms of the PAGA portion of the settlement, and will be able to weigh in as necessary. Jennings v. Open Door Mktg. Inc. (N.D. Cal. Oct. 3, 2018) 2018 U.S. Dist. LEXIS 171356, at *27 (approving settlement with PAGA penalties of 0.6% where "[p]laintiffs [have] submitted the settlement agreement to the LWDA, and the LWDA has not objected to the settlement.

The settlement obviates the significant risk that this Court may find any kind of class or representative resolution unachievable or deny certification of all or some of Plaintiff's claims. Furthermore, even if Plaintiff obtained certification of all or some of the claims, continued litigation would be lengthy and expensive as the parties pursued merits discovery, a probable motion to decertify, as well as trial and possible appeals, and would further and substantially delay any recovery by the class with no assurance of recovering significantly more than the proposed settlement. While Plaintiff is confident in the merits of these claims, legitimate controversies exist regarding each one of them. Plaintiff also recognizes proving the amount of wages and penalties due each Class Member would be an expensive, time-consuming, and uncertain proposition. [Brouillette Decl., ¶ 33.]

Plaintiff and her counsel discounted the value of the class claims consistent with the risks discussed above, and carefully weighed the likelihood of the class receiving substantially greater benefit if the litigation continued. Plaintiff and counsel concluded – in light of these very real and substantial risks – settlement on the proposed terms and without prolonged and costly litigation was in the best interests of the class, and the overall $362,500 recovery represents a significant percentage of Defendant's potential exposure. Given these risks, a total recovery for the class of $362,500, which will result in average award of some $267 per class member, plus additional amounts under PAGA, is a significant result well within the range of reasonableness considering

all potential outcomes, and it will provide direct monetary awards to all Class Members without further delay. [Brouillette Decl., ¶ 34.]

Importantly, the mere fact that a settlement does not provide the same recovery as might be achieved at trial is not a proper indicator of whether the settlement is fair, reasonable, and adequate. Wershba, 91 Cal.App.4th at 246, 250 ("Compromise is inherent and necessary in the settlement process…even if the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated, this is no bar to a class settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation"); Lane v. Facebook, Inc. (9th Cir. 2012) 696 F.3d 811, 819 ("[T]he question whether a settlement is fundamentally fair . . . is different from the question whether the settlement is perfect in the estimation of the reviewing court"); 7-Eleven Owners for Fair Franchising v. Southland Corp. (2000) 85 Cal.App.4th 1135, 1150 ("The fact that a proposed settlement may amount to only a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved"); White v. Experian Information Solutions, Inc. (C.D. Cal. 2011) 803 F.Supp.2d 1086, 1098 (rejecting contention settlement was not fair and reasonable even though it represented 99% discount off the maximum value of the claims). Importantly as well, the proposed settlement is non-reversionary and will provide timely benefits to the Class Members without a claims process. White, 803 F.Supp.2d at 1098; c.f., Federal Judicial Center, Managing Class Action Litigation: A Pocket Guide for Judges (3d ed. 2010) at 20, available at http:// www.fjc.gov/sites/default/files/2012/ClassGd3.pdf (reversionary provisions and/or cumbersome claims process may indicate lack of fairness). Plaintiffs and their counsel submit the settlement is within the "range of reasonableness," and is fair and adequate for the Class.

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V. CONCLUSION

For all the foregoing reasons, Plaintiff respectfully requests that the Court grant this motion, conditionally certify the settlement class, grant preliminary approval to the proposed class action settlement, and enter the [Proposed] Order filed herewith.

Dated: October 30, 2026

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