ZAKAY LAW GROUP, APLC
Shani O. Zakay (State Bar #277924)
shani@zakaylaw.com
Eden Zakay (State Bar #339536)
eden@zakaylaw.com
Jennifer Gerstenzang (State Bar #279810)
jenny@zakaylaw.com
Jaclyn Joyce (State Bar #285124)
jaclyn@zakaylaw.com
3110 Camino Del Rio South, Suite 308
San Diego, CA 92108
Telephone: (619) 255-9047

JCL LAW FIRM, APC
Jean-Claude Lapuyade (State Bar #248676)
jlapuyade@jcl-lawfirm.com
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 599-8292

Attorneys for PLAINTIFF

(Additional Counsel listed on next page)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

GEORGE AUSTIN THOMAS, individually, and on behalf of other members of the general public similarly situated; Plaintiff, v. REISS (RETAIL) LIMITED, a United Kingdom corporation; and DOES 1 through 100, Inclusive, Defendants.	Case No. 24STCV27146 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT** Date: July 6, 2026 Time: 10:00 a.m. Judge: Hon. Samantha Jessner Dept.: 7

LAWYERS *for* JUSTICE, P.C.
Maria Halwadjian, Esq.
maria@calljustice.com
Brian St. John, Esq.
brian@calljustice.com
Suzana Solis
ss@calljustice.com
Selena Matavosian
selena@calljustice.com
450 N Brand Blvd #900,
Glendale, CA 91203

Attorneys for PLAINTIFF

TABLE OF CONTENTS

/ / /

TABLE OF AUTHORITIES

CASES

RULES, CODES, AND STATUTES

SECONDARY SOURCES

I. INTRODUCTION

Plaintiff GEORGE AUSTIN THOMAS ("Plaintiff") seeks final approval of the Class Action and PAGA Settlement Agreement ("Agreement")[1], which if approved, would provide valuable monetary relief for approximately 260 Participating Class Members employed by Defendant Reiss (Retail) Limited ("Defendant") during the period from October 16, 2020, to October 1, 2025 ("Class Period").

In an order dated March 4, 2026, this Court preliminarily approved the Agreement and preliminarily certified the Class. Declaration of Shano O. Zakay, Esq. ("SOZ Dec."), ¶ 4. On April 2, 2026, the Court-approved Class Notice was mailed to each Class Member via U.S. First Class Mail. Declaration of Madely Nava ("Apex Dec."), ¶ 7. ***The Class greeted news of the Settlement with 100% approval.*** There are zero opt-outs and zero objections to the Settlement. Apex Dec., ¶¶ 11-14. The high approval rate by the Class evidences the fairness and reasonableness of the Settlement.

An objective evaluation of the proposed settlement of Three Hundred Forty-Two Thousand Five Hundred Dollars and Zero Cents ($342,500.00) ("Gross Settlement Amount") confirms that the relief negotiated on behalf of the Participating Class Members is fair, reasonable, and valuable. The Settlement is a product of informed, adversarial, and non-collusive negotiations, between experienced counsel, and presided over by Christopher E. Panetta, Esq., a mediator of wage and hour class and PAGA actions. After deducting any Court-approved PAGA Payment, Class Representative Service Award, Attorneys' Fees and Attorneys' Expenses, and the Administration Expenses Payment, the Net Settlement Amount shall be distributed to the Participating Class Members based on the number of Workweeks they worked while employed by Defendant during the Class Period. Agreement at § 1.25; SOZ Dec., ¶ 8.

This Settlement provides substantial recovery for Defendant's alleged wage and hour violations. Plaintiff estimates that the Settlement, if approved, would result in a Net Settlement Amount of approximately $156,575.00. This will result in an average Individual Class Payment of $595.34, a high payment of $3,398.90, and low payment of $16.25. Apex Dec., ¶ 16. Additionally, the settlement results

[1] [1] The Agreement is attached as Ex "A" to the Declaration of Shani O. Zakay ("SOZ Dec.") at ¶ 3. All citations to the Agreement incorporate by this reference a citation to the SOZ Dec., ¶ 3. Further, unless indicated otherwise, capitalized terms used herein have the same meaning as those defined by the Agreement.

in an average Individual PAGA Payment of $41.67, a high payment of $146.43, and low payment of $2.61. Apex Dec. ¶ 18.

The relief offered by the Settlement is immediate and is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing similar wage and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, the Class will not have to wait (possibly years) for relief, nor will they have to bear the risks associated with prolonged and uncertain litigation. SOZ Dec., ¶ 9.

As discussed below, the proposed Settlement satisfies all criteria for final settlement approval under California law and falls well within the range of reasonableness. Accordingly, the Class Representative and Class Counsel respectfully request this Court grant final approval of the Agreement and entry of the proposed Final Approval Order and Judgment.

II. OVERVIEW OF THE LITIGATION

Defendant is a global fashion brand that operates a chain of retail stores in the state of California, including in Los Angeles County, where Plaintiff worked. This action asserts claims on behalf of all of Defendant's current and former non-exempt hourly employees employed in California at any time during the Class Period. Plaintiff worked for Defendant as a non-exempt employee in California from approximately November 2023 to April 2024. At all times during his employment, Plaintiff earned an hourly wage and was entitled to legally compliant meal and rest periods, and minimum, regular and overtime wages for all hours worked. Throughout his employment, Plaintiff was subject to Defendant's policies and procedures. SOZ Dec., ¶ 10; Declaration of George Austin Thomas ("Thomas Dec.") at ¶ 3.

Generally, Plaintiff claims that Defendant failed to properly calculate the regular rate of pay for purposes of overtime, sick pay, and meal period premiums, failed to pay for all hours worked, failed to provide legally compliant meal and rest periods, failed to reimburse necessary expenditures, failed to furnish complete and accurate wage statements, and failed to timely pay wages when due. Defendant denies liability for Plaintiff's claims. Further, Defendant asserts that it fully complied with all applicable employment laws and raised several other significant defenses to Plaintiff's claims, including but not limited to, asserting that it has made substantial good faith efforts to comply with the California Labor

Code and Industrial Welfare Commission Wage Orders, paid employees for all hours worked, and maintained facially compliant meal and rest period policies at all times during the Class Period. SOZ Dec., ¶ 11. Defendant denies any and all alleged wrongdoing, and denies any liability to the Plaintiff or to members of the putative class.

On August 12, 2024, Plaintiff served Defendant and the Labor and Workforce Development Agency ("LWDA") with a Notice of Violations ("PAGA Notice"). Plaintiff's PAGA Notice set forth the facts and theories supporting Defendant's alleged violations of various provisions of the California Labor Code and applicable Industrial Welfare Commissions Wage Orders and of his intent to pursue claims under California Labor Code Private Attorneys General Act, Cal. Lab. Code Sections 2698 et seq. ("PAGA"). The PAGA Notice was assigned LWDA Case Number LWDA-CM-1044914-24. SOZ Dec., ¶ 12.

On October 16, 2024, Plaintiff filed a Class Action complaint in the Los Angeles Superior Court, Case No. 24STCV27146 ("Class Action"). The Class Action alleged ten causes of action against Defendant for: (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums); (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment); (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements); (8) Violation of California Labor Code § 1174(d) (Failure To Keep Requisite Payroll Records); (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses); and (10) Violation of California Business & Professions Code § 17200, *et seq*. SOZ Dec., ¶ 13.

On the same day, October 16, 2024, Plaintiff commenced a representative PAGA Action by filing a complaint in Los Angeles Superior Court, Case No. 24SMCV05097, alleging a single cause of action for violations of the Private Attorneys General Act, California Labor Code § 2698 *et seq*. SOZ Dec., ¶ 14.

Prior to mediation, the Parties engaged in informal discovery to facilitate early resolution. To prepare for mediation, Defendant produced nearly 100% of the time and payroll records for the Class

Members, aggregate workweek and pay period data for the Class Members, average hourly rates for the Class Members, and copies of applicable handbooks, policies, and agreements. In total, Class Counsel reviewed hundreds of pages of documents and hundred os thousands of unique cells of time and payroll data. SOZ Dec., ¶ 15.

Class Counsel then retained the statisticians and economists at Berger Consulting Group ("BCG") to evaluate the Class Members' payroll and time data. BCG provides data analysis and damage modeling consulting services, specializing in wage and hour class actions. BCG analyzed Defendant's time and payroll data to assist in the development of various damage models. Among other things, BCG estimated the number of missed, late, or truncated meal and rest periods, the amount of unpaid and underpaid overtime due to regular rate violations, and the potential liability for off-the-clock work and derivative claims. These damage models informed and guided Class Counsel during the mediated settlement discussions. SOZ Dec., ¶ 16.

On July 30, 2025, the Parties participated in a full day mediation with Christopher E. Panetta, Esq., a skilled and respected mediator specializing in wage and hour class and representative actions. After arms-length negotiations and bargaining, the Parties reached an agreement to settle the Action and signed a Memorandum of Understanding. After reaching an agreement in principle, the Parties drafted and negotiated a long-form settlement agreement, which is the subject of the instant motion. SOZ Dec., ¶ 17.

On September 4, 2025, for purposes of effectuating the settlement, Plaintiff filed a First Amended Complaint in the Class Action to add in the claims and allegations included in the separately filed PAGA claim ("First Amended Complaint") and subsequently dismissed without prejudice the PAGA Action on September 18, 2025. The First Amended Complaint is the "Operative Complaint" in this Action and adds an eleventh cause of action for Violation of the Private Attorneys General Act (Labor Code §§ 2698 *et seq*.). SOZ Dec., ¶ 18.

III. <u>THE SETTLEMENT BEFORE THE COURT</u>

The Court preliminarily approved an initial Gross Settlement Amount of Three Hundred Forty-Two Thousand Five Hundred Dollars and Zero Cents ($342,500.00) based on an estimated 9,000 Workweeks worked by the Class during the Class Period. The Gross Settlement Amount shall be used to satisfy: (1) Individual Class Payments to Participating Class Members; (2) the Class Representative Service Award; (3) the PAGA Payment; (4) the Class Counsel Award and Class Counsel Attorneys' Expenses; and (5) the Settlement Administration Costs. Agreement at § 1.24.

Defendant will fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than sixty (60) days after the final approval order is entered. Agreement at § 4.3. Defendant will also separately fund the amounts necessary to fully pay Defendant's share of employer-side payroll taxes. Agreement at § 3.1. Within twenty-one (21) days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Settlement Administration Costs, the Class Counsel Award, the Class Counsel Attorneys' Expenses, and the Class Representative Service Award. Agreement at § 4.4. Disbursement of the Class Counsel Award, the Class Counsel Attorneys' Expenses, and the Class Representative Service Award shall not precede disbursement of Individual Class Payments and Individual PAGA Payments. Agreement at § 4.4.

The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks worked during the Class Period. Agreement at § 3.2.4. The entire Net Settlement Amount will be paid to all Participating Class Members who do not opt out of the Settlement, resulting in an average Individual Class Payment of $601.54. Apex Dec., ¶ 16.

In exchange for the valuable consideration, as of the funding of the Gross Settlement Amount, the Participating Class Members will release the Released Parties from the Released Class Claims as defined in the Agreement. Agreement at § 5.2. Additionally, the State of California and all Aggrieved Employees will release the Released Parties from the Released PAGA Claims as defined in the Agreement. Agreement at § 5.3.

Apex Class Action LLC was appointed as the Administrator for the Class. The Settlement Administration Costs include those expenses of effectuating and administering the Settlement, including the costs incurred to the Administrator, the costs of giving notice to the Class, the costs of administering and disbursing the Individual Class Payments, and the fees of the Administrator approved for reimbursement by the Court. The Administrator expenses are $6,225.00. Apex Dec., ¶ 19. These expenses shall be paid from the Gross Settlement Amount. Agreement at § 3.2.3.

Subject to Court approval, Class Counsel shall seek a payment of Class Counsel Award and Class Counsel Attorneys' Expenses in the amount of up to $149,700.00, comprised of attorneys' fees equal to thirty-five percent (35%) of the Gross Settlement Amount, estimated to be $119,700.00, and up to $30,000.00 for actually incurred litigation expenses. Agreement at § 3.2.2. Class Counsel is to split the fees as follows: 30% to JCL Law Firm, APC; 30% to Zakay Law Group, APLC; and 40% to Lawyers for Justice, PC. Agreement at § 1.7. Plaintiff has consented in writing to the fee split. Thomas Dec., ¶ 17. The Agreement also provides for a Class Representative Service Award in the amount of $10,000.00 to Plaintiff, in consideration for his time, risk, and efforts as the Class Representative on behalf of the Class. Agreement at § 3.2.1.

As explained in further detail below, the Settlement is fair, adequate, and reasonable to the Class and should be granted final approval. This is evidenced by the 100% approval rate of the Settlement by the Class, zero objections to the Settlement, and the average Individual Class Payment of $595.34. Apex Dec., ¶¶ 11-14.

IV. GENERAL STANDARDS APPLICABLE TO JUDICIAL REVIEW AND APPROVAL OF CLASS ACTION SETTLEMENTS

Settlements of disputed claims are favored by the courts. *Huens v. Tatum* (1997) 52 Cal.App.4th 259, 265. In evaluating settlements, the courts have long recognized that compromise is particularly appropriate since such litigation is difficult and notoriously uncertain. *7-Eleven Owners for Fair Fran. v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1151 ("voluntary conciliation and settlement are the preferred means of dispute resolution. This is especially true in complex class action litigation").

"[T]o prevent fraud, collusion or unfairness to the class, the settlement or dismissal of a class action requires court approval." *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801 *citing Malibu Outrigger Bd. Of Governors v. Superior Court* (1980) 103 Cal.App.3d 573, 578-579. The court must decide whether the proposed settlement falls within the range of reasonable settlements, considering that settlements are compromises between the parties reflecting subjective, unquantifiable judgments concerning the risks and possible outcomes of litigation. *See also Wershba v. Apple*

Computer (2001) 91 Cal.App.4th 224, 246 ("The proposed settlement is not to be judged against a hypothetical or speculative measure of what might have been achieved had plaintiffs prevailed at trial."). In *Wershba*, appellants argued that the settlement was too low given the "clear" liability, however, the Court rejected this argument and held that "the merits of the underlying class claims are not a basis for upsetting the settlement of a class action." *Wershba*, *supra*, at 246; *see also 7-Eleven*, *supra*, at 1150.

In these cases, Courts have repeatedly emphasized that there is a strong initial presumption that the compromise is fair and reasonable. *Wershba*, 91 Cal.App.4th at 245. Courts should not substitute their judgment for that of the parties who negotiated the settlement. *Id.* at 246. The presumption of fairness exists where: (1) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (2) the settlement is reached through arm's-length bargaining; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. *Dunk*, 48 Cal.App.4th at 1801, citing Newberg & Conte, *Newberg on Class Actions*, (3d ed. 1992) §11.41, pp. 11-91. Here, all of these factors support a presumption of fairness.

The essential evaluation is whether, given the risks of litigation and the range of probable results, the settlement, taken as a whole, is fair, reasonable, and adequate to all concerned. Here, the facts and circumstances compel the conclusion that the proposed settlement satisfies that standard.

V. <u>THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE</u>

The court must determine whether the settlement is fair, adequate, and reasonable. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801; *see also Officers for Justice v. Civil Service Com'n* (9th Cir. 1982) 688 F.2d 615, 625. The purpose of the requirement is "the protection of those class members, including the named plaintiffs, whose rights may not have been given due regard by the negotiating parties." *Dunk*, *supra*, at 1801.

The trial court has broad discretion to determine whether the settlement is fair. *Rebney v. Wells Fargo Bank* (1990) 220 Cal.App.3d 1117, 1138. "The well-recognized factors that the trial court should consider in evaluating the reasonableness of a class action settlement agreement include '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, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.' [Citations.]" *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128; see also *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 408.

The list of factors is not exhaustive and should be tailored to each case. *Dunk*, *supra*, at 1801. Due regard should be given to what is otherwise a private consensual agreement between the parties. *Id.* The inquiry "must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." *Id.* "Ultimately, the [trial] court's determination is nothing more than 'an amalgam of delicate balancing, gross approximations and rough justice.' [Citation omitted.]" *Id.*

These factors are analyzed seriatim below and all support final approval of the class action settlement before this Court.

A. <u>Class Counsel Conducted A Thorough Investigation.</u>

As detailed in the motion for preliminary approval, Class Counsel thoroughly investigated the proposed Class Members' claims, applicable law, and potential defenses. Specifically, Class Counsel assessed the value of the class claims using data and documents provided by Defendant through informal discovery. Class Counsel obtained time, payroll, and policy records, as well as data regarding the number of Class Members, workweeks, and average rate of pay to assess damages before mediation. Class Counsel retained Berger Consulting Group ("BCG") to analyze Defendant's time and payroll data and formulate damage models estimating Defendant's liability exposure. Class Counsel's investigation, research, experience, and damage models informed and guided the mediated negotiations that resulted in this settlement. Accordingly, Class Counsel fully understood the strengths and weaknesses of the class claims before the parties reached a settlement. SOZ Dec., ¶ 19.

B. <u>Class Counsel is Experienced in Similar Litigation.</u>

Class Counsel in this matter has extensive class action experience in multiple fields and has represented tens-of-thousands of persons in class actions. Counsel has previously litigated similar wage and hour class actions involving similar claims. Class Counsel has been approved as class counsel in similar wage and hour class actions throughout the State of California. As such, courts throughout

California have deemed Class Counsel experienced and knowledgeable in this area of law. Class Counsel has participated in every aspect of the settlement discussions and has concluded the settlement is fair, adequate, and reasonable and in the best interests of the Class. SOZ Dec., ¶ 7, 20-21; Declaration of Jean-Claude Lapuyade, Esq. at ¶¶ 3-9; Declaration of Selena Matavosian, Esq. at ¶¶ 16-22.

C. The Class Responded Positively to the Settlement.

The reaction of the Class unequivocally supports approval of the Settlement. Significantly, after dissemination of the notice to the Class, which provided each Class Member with the terms of the Settlement, including the specific estimated Individual Class Payments, zero of the 263 Class Members opted out of the Settlement. Moreover, there are **zero** objections to the Settlement. Stated differently, 100% of the Class have chosen to participate in the Settlement. Apex Dec., ¶¶ 11-14.

The 100% approval rate by the Class strongly supports a finding that the Settlement is fair, reasonable, and adequate. *See In re Austrian & German Bank Holocaust Litigation* (S.D.N.Y. 2000) 80 F.Supp.2d 164, 175 ("If only a small number of objections are received, that fact can be viewed as indicative of the adequacy of the settlement."); *Stoetzner v. U.S. Steel Corp.* (3d. Cir. 1990) 897 F.2d 115, 118-119 (29 objections out of 281 member class "strongly favors settlement"); *Laskey v. Int'l Union* (6th Cir. 1981) 638 F.2d 954 (The fact that 7 out of 109 class members objected to the proposed settlement should be considered when determining fairness of settlement.). Consequently, Class Counsel respectfully requests the Court to follow the [INSERT] approval rate of the Class and grant final approval of the Settlement.

D. The Gross Settlement Amount is Fair and Reasonable.

The Gross Settlement Amount of Three Hundred Forty-Two Thousand Five Hundred Dollars and Zero Cents ($342,500.00) in this case is fair and well within the range of recognized reasonableness. The *Kullar* court acknowledged that "as the court does when it approves a settlement as in good faith under Code of Civil Procedure section 877.6, the court must at least satisfy itself that the class settlement is within the 'ballpark' of reasonableness." *Kullar*, *supra,* at 129; *See Tech-Bilt, Inc. v. Woodward-Clyde & Associates*, 38 Cal.3d 488, 499-500 (1985).)

Here, the Settlement is clearly within the "ballpark" of reasonableness because the Settlement provides a sizeable recovery to the Participating Class Members and need not necessarily obtain 100 percent of the damages sought to be fair, reasonable, and ultimately, meaningful. *Wershba*, 91 Cal.App.4th at 250. While the Gross Settlement Amount of Three Hundred Forty-Two Thousand Five Hundred Dollars and Zero Cents ($342,500.00) represents a discount on Defendant's potential exposure if Plaintiff established liability on all claims and was awarded the full amount of the estimated damages at trial, this compromise is reasonable because (1) the formidable defenses raised by Defendant presented a risk that could award significantly less in damages than Plaintiff's estimate and (2) any theoretical post-trial recovery may require many more years of litigation, resulting in added fees and costs without any guarantee of recovery for the Class. SOZ Dec., ¶ 22.

As detailed at the time of preliminary approval, the Gross Settlement Amount is fair and reasonable considering the nature and magnitude of the claims being settled and the various potential impediments to recovery. Class Counsel developed varied economic damages models measuring Defendant's liability exposure while accounting for the uncertainties of continued litigation. The various models were informed by Class Counsel's investigation, including the analysis of a significant sample of time and payroll data. Detailed in greater depth during the preliminary approval process, Class Counsel projected a range of Defendant's liability exposure for the claims asserted on behalf of the Class. The Gross Settlement Amount represents between 27.8% and 55.2% of Defendant's class-wide liability exposure as estimated by Class Counsel at the time of mediation. SOZ Dec., ¶ 23.

In *Stovall-Gusman v. W.W. Granger, Inc.,* 2015 U.S. Dist. LEXIS 78671, at * 12, the District Court for the Northern District of California granted final approval in a wage and hour misclassification action and found that the Total Settlement Amount representing 10% of the estimated trial award was within the "range of reasonableness." In *Dunleavy v. Nadler (In re Mego Fin. Corp. Sec. Litig.)* (9th Cir. 2000) 213 F.3d 454, 459, the Ninth Circuit approved a settlement representing "roughly one-sixth of the potential recovery." Given the amount of the settlement here as compared to potential value of the claims, particularly the strength of Plaintiff's action, the settlement is clearly fair and reasonable.

The calculation methodology used to compensate the Participating Class Members for the alleged damages was negotiated at the time of the Settlement. More importantly, the methodology is fair, objective, and impartial. The calculation methodology is based on the number of Workweeks each Participating Class Member worked for Defendant during the Class Period. The number of Workweeks for the Participating Class Member is established through Defendant's data and documented compensation records. The Administrator is responsible for calculating the Individual Class Payments by dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and multiplying the result by the number of Workweeks worked by each individual Participating Class Member to calculate each Participating Class Member's estimated Individual Class Payment. Agreement at § 3.2.4. This process establishes an objectively fair and reasonable procedure to compensate the Class. SOZ Dec., ¶ 24.

The settlement also provides significant relief to the Participating Class Members. After deductions for the Class Counsel Award, Class Counsel Attorneys' Expenses, Settlement Administration Costs, the PAGA Payment, and the Class Representative Service Award, the Net Settlement Amount is currently estimated to be $156,575.00. Apex Dec., ¶ 15. The average settlement payment is approximately $595.34, and the highest is approximately $3,398.90. Apex Dec., ¶ 16. This average net recovery is on par with many wage and hour class action settlements approved by California state and federal courts. *See, e.g., Palencia v. 99 Cents Only Stores,* No. 34-2010-00079619 (Sacramento County Super. Ct) (average net recovery of approximately $80); *Fukuchi v. Pizza Hut,* Case No. BC302589 (LA. County Super. Ct.) (average net recovery of approximately $120); *Contreras v. United Food Group, LLC,* Case No. BC389253 (L.A. County Super. Ct.) (average net recovery of approximately $120); *Ressler v. Federated Department Stores, Inc.,* Case No. BC335018 (L.A. County Super. Ct.) (average net recovery of approximately $90); *Doty v. Costco Wholesale Corp.,* Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007) (average net recovery of approximately $65); *Sorenson v. PetSmart, Inc.,* Case No. 2:06-CV-02674-JAM-DAD (ED. Cal.) (average net recovery of approximately $60); *Lim v. Victoria's Secret Stores, Inc.,* Case No. 04CC00213 (Orange County Super. Ct.) (average net recovery of approximately $35); and *Gomez v. Amadeus Salon, Inc.,* Case No. BC392297 (L.A. Super. Ct.) (average net recovery of approximately $20). Additionally, Defendant must separately fund its share of any employer side payroll taxes. Agreement, § 3.1.

Clearly the goal of this litigation to obtain redress for the Class has been met by this Settlement. Given the amount of the Settlement, the risks of litigation, and the arm's length negotiations between experienced counsel, the settlement is fair and reasonable, and is therefore entitled to final approval.

SOZ Dec., ¶ 25.

E. The Strength of Plaintiff's Case and Risks of Continued Litigation

Although Class Counsel believes strongly in Plaintiff's claims, it would be misguided to ignore the asserted defenses. If successful on any one of its defenses, Defendant could defend the action or, at least, drastically undercut Plaintiff's claims. SOZ Dec., ¶ 26. As the federal court in *Glass v. UBS Fin. Servs.*, 2007 WL221862 held, where the parties faced uncertainties similar to those in this litigation:

> ***In light of the above-referenced uncertainty in the law, the risk, expense, complexity, and likely duration of further litigation likewise favors the settlement.*** Regardless of how this Court might have ruled on the merits of the legal issues, the losing party likely would have appealed, and the parties would have faced the expense and uncertainty of litigating an appeal. The expense and possible duration of the litigation should be considered in evaluating the reasonableness of [a] settlement.

With respect to the most immediate challenge, i.e., class certification, the risks attendant to the certification of similar wage and hour claims are demonstrated by *Ali v. U.S.A. Cab Ltd.* (2009) 176 Cal.App.4th 1333, 1341. There, the Court of Appeal affirmed the Trial Court's denial of class certification because employees' declarations attesting to having taken meal and rest breaks demonstrated that individualized inquiries were required to show harm. Here, Defendant maintained facially compliant meal and rest period policies and asserted that employees regularly took breaks, which would require individualized inquiries as to whether breaks were actually taken or voluntarily waived. *See also Campbell v. Best Buy Stores, L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack of uniform policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying certification of driver meal and rest period claims based on the predominance of individual issues).

Further, even if a class is certified, liability remains uncertain. The risks attendant to the issue of Defendant's liability in similar wage and hour actions are demonstrated by *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31. There, the Court reversed a trial verdict in favor plaintiffs in a wage and hour class action. *See also Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th 1077, 1088 ("[T]he reason, if any, that employees might not take their breaks were predominantly individualized questions of fact not susceptible to class treatment.").

Finally, even if a class is certified and Defendant is found liable for the class claims alleged, post-certification risks remain, including a reversal of a favorable judgment for Plaintiff and decertification of the class. These post-certification risks are demonstrated by *Magadia v. Wal-Mart Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit vacated, reversed and remanded a $110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed the trial court to enter judgement in favor of the employer. *See also O'Conner v. Uber Technologies, Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification action).

Collectively, the examples cited above illustrate the uncertain nature of class litigation. Consequently, the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring settlement. SOZ Dec., ¶ 27.

Although Plaintiff is confident about the strength of his claims, Plaintiff nevertheless recognizes that Defendant has factual and legal defenses that, if successful, would potentially defeat or impair the value of the lawsuit. Legally, the fast-changing landscape of wage and hour litigation can drastically affect the value of Plaintiff's claims and, in fact, already has. SOZ Dec., ¶ 28.

In a similar wage and hour case, the federal district court in *Hopson v. Hanesbrands Inc.*, 2009 U.S. Dist. LEXIS 33900 at * 19-20 (N.D. Cal. 2009), granted approval of an overtime class action settlement and explained:

> **Plaintiffs may have a strong case, but the risks inherent in continued litigation are great**. Defendants strongly deny liability for Plaintiffs' principal claim that full-time Service Associates were misclassified as exempt. In addition to the uncertainties raised by Defendants at the preliminary stage regarding Plaintiffs' chance of success in this case, Defendants notes that the question of an employer's duty to provide rest and meal periods is an open one, signaling even less certainty for Plaintiffs.....[**T]he Total Settlement amount and the Class Members' expected net recovery, after fees and other costs are deducted, appear to be a reasonable compromise, in light of the risks of litigation**.

See also Browning v. Yahoo!, Inc., 2007 U.S. Dist. LEXIS 86266, at *30 (N.D. Cal. 2007) ("In considering the strength of Plaintiffs' case, legal uncertainties at the time of settlement - particularly those which go to fundamental legal issues - favor approval.").

As recognized in a federal decision approving settlement of an overtime wage class action:

> **The potential complexity and possible duration of trial also weigh in favor of granting final approval**. Plaintiffs acknowledge the difficulties of proving damages, recognize the uncertainty of outcome, and believe defendant would appeal in the event of adverse judgment. A post-judgment appeal would require many years to resolve and delay payment to class members. Plaintiffs believe the benefits of a guaranteed recovery today outweigh an uncertain future result. Accordingly, plaintiffs argue, and the Court agrees, the actual recovery confers substantial benefits on the class that outweigh the potential recovery through full adjudication.

Barcia v. Contain-A-Way, Inc., 2009 U.S. Dist. LEXIS 17118, *9 (S.D. Cal. 2009); see also *Louie v. Kaiser Foundation Health Plan, Inc*., 2008 U.S. Dist. LEXIS 78314, *14 (S.D. Cal. 2008).

In sum, while other cases have approved class certification in wage and hour claims, class certification in this action would have been hotly disputed and was by no means a foregone conclusion. Where both sides face significant uncertainty, as here, the attendant risks favor settlement. *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1026.)

In arriving at their informed belief that the present settlement is fair and adequate, Class Counsel accounted for the uncertain outcome and risk inherent in complex actions such as this one. Class Counsel is also mindful of and recognizes the inherent problems of proof under, and alleged defenses to, the claims asserted in the litigation. Costs would have increased, and recovery would have been delayed if not denied, thereby reducing the benefits of an ultimate victory. Class Representative and Class Counsel believe that the Settlement confers substantial monetary and non-monetary benefits upon the Class. Based upon their evaluation, Class Representative and Class Counsel have determined that the Settlement set forth in the Agreement is in the best interest of the Class, is fair, reasonable, and adequate, and should be granted final approval. SOZ Dec., ¶ 29.

VI. THE PENALTIES UNDER THE PRIVATE ATTORNEY GENERAL ACT OF 2004 ARE REASONABLE

Where settlements "negotiate a good faith amount" for PAGA penalties and "there is no indication that this amount was the result of self-interest at the expense of class members," such amounts are generally considered reasonable. *Hopson v. Hanesbrands Inc.,* No. CV-08-0844 EDL, 2009 WL 928133, at *9 (N.D. Cal. Apr. 3, 2009). Courts routinely approve of amounts for PAGA penalties in the range of zero to two percent of the settlement. *See id.* at *1, 9 (approving a PAGA payment of 0.3%); *Jack v. Hartford Fire Ins. Co.*, No. 09cv1683 MMA (JMA), 2011 WL 4899942, at *6 (S.D. Cal. Oct. 13, 2011) (approving a PAGA payment of 0.25%); *Mckenzie v. Fed. Express Corp.*, No. CV 10-02420 GAF (PLAx), 2012 WL 12882124, at *5 (C.D. Cal. Jan. 23, 2012) (acknowledging that courts approve PAGA claim settlements in the range of zero to two percent of the total settlement).

Here, Plaintiff and Defendant negotiated a good faith PAGA Payment in the amount of $20,000.00 which is 5.8% of the Gross Settlement Amount. As illustrated above, this amount falls well within the range of approved PAGA settlements. Sixty-five percent (65%) of the PAGA Payment ($13,000.00) will be paid to the LWDA with the remaining thirty-five percent (35%) of the PAGA Payment ($7,000.00) to be distributed to the Aggrieved Employees, which is within the range of PAGA Payment approved by courts and should be approved. SOZ Dec., ¶ 30.

Class Counsel gave the LWDA notice of this Settlement and proposed allocation by filing a copy of the Settlement, the Motion for Preliminary Approval, and this motion seeking final approval with the LWDA. SOZ Dec., ¶ 31. By not registering an objection with either Class Counsel or the Court, the LWDA has accepted and approved of the proposed PAGA Payment.

VII. CONCLUSION

Plaintiff respectfully submits that the proposed settlement satisfies the standard of fairness established in California law and should therefore be finally approved as fair, reasonable, and adequate and requests entry of the Final Approval Order and Judgment submitted herewith.

Dated: June 10, 2026

ZAKAY LAW GROUP, APLC

By: Jaclyn Joyce
Jaclyn Joyce, Esq.
Attorneys for PLAINTIFF