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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

EUGENE DELA PENA, an individual; on behalf of himself and all others similarly situated and the general public,

Plaintiffs,

v.

RENAL ADVANTAGE, INC., a Delaware corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No. 3:24-cv-8649-JD

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Date:	June 11, 2026
Time:	11:00 a.m.
Location:	Courtroom 11, 19th Floor
Removal Filed:	December 2, 2024
Trial Date:	January 25, 2027
Judge:	Hon. James Donato

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

PLEASE TAKE NOTICE that on June 11, 2026, at 11:00 a.m., or as soon thereafter as the matter may be heard in Courtroom 11, 19th Floor of the above-entitled court, located at 450 Golden Gate Avenue, San Francisco, California 94102, Plaintiff Eugene Dela Pena ("Plaintiff") will hereby move the Court for an order granting Plaintiff's Motion for Preliminary Approval of Class Action Settlement. In this unopposed motion, Plaintiff seeks the entry of an order to: (1) preliminarily approve the proposed settlement of this class action; (2) certify a class for settlement purposes only and appoint Bartz Law Group, APC and United Employees Law Group, P.C. as class counsel for settlement purposes only (hereinafter "Class Counsel"); (3) approve the substance, form, and method to provide class-wide notice; (4) direct that notice of the proposed settlement be given to all Class Members; and (5) schedule a hearing at which time the following will be considered: (i) the request for final approval of the proposed settlement; (ii) the entry of the Final Judgment; and (iii) approval of Class Counsel's motion for attorneys' fees and costs, and Plaintiff's enhancement award.

This Motion is based upon this Notice, the attached Memorandum of Points and Authorities, the Declarations of Aaron Bartz, Walter Haines, Peggy Reali, Eugene Dela Pena, and Sean Hartranft, all documents and records on file in this action, and on such other further oral and documentary evidence as may be given at the hearing on this Motion.

Dated: April 30, 2026

BARTZ LAW GROUP, APC
UNITED EMPLOYEES LAW GROUP, P.C.

/s/Aaron A. Bartz
AARON A. BARTZ
Attorneys for Plaintiff EUGENE DELA PENA and all others similarly situated

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I. INTRODUCTION

This class action and PAGA settlement is sought on behalf of approximately 1,963 non-exempt employees who worked in California for Defendant Renal Advantage, Inc. ("Defendant"), between October 15, 2020 and the date of preliminary approval.

Plaintiff's action alleges that Defendant violated California's wage and hour laws, including failing to pay all wages owed and overtime, failing to authorize and permit meal and rest periods, failing to reimburse class members for necessary business expenses, and failing to properly maintain and submit wage statements. Defendant denies the allegations and contends that it complied with all applicable laws.

After conducting formal and informal discovery, and attending an all-day Mediation, the parties have agreed to a non-reversionary, all-in common fund settlement of **Two Million Four Hundred Fifteen Thousand Dollar**s (**$2,415,000.00**). (See Declaration of Aaron A. Bartz ("Bartz Decl."), **Exhibit A**.) The net amount to be paid to class members (after payment of class counsel fees and expenses, settlement administration costs, Private Attorneys General Act ("PAGA") penalties to the LWDA, and Plaintiff's enhancement award), is approximately **$1,703,300**. Each class member's share of the settlement is based on each of their eligible number of workweeks, and each shall receive, on average, approximately $867. So long as the class members do not opt out of the settlement, they will receive a settlement payment. For purposes of this settlement only, the parties agree that the proposed Settlement Class satisfies each of the requirements of Fed. R. Civ. P. 23. The settlement is fair, reasonable, and confers a substantial monetary benefit to the entire class. Accordingly, Plaintiff requests that the court grant preliminary approval of the Settlement Agreement submitted herewith (see Bartz Decl., Ex. A) conditionally certify the Settlement Class, approve the proposed Notice of Class Action Settlement and Hearing Date for Final Court Approval ("Class Notice", **Exhibit D** to Bartz Decl.), and set a hearing date for final settlement approval.

II. PRE-TRIAL PROCEEDINGS AND SETTLEMENT

A. Procedural History

Plaintiff Eugene Dela Pena ("Plaintiff") worked for Defendant as a patient care technician between 2014 and 2024. Defendant owns and operates kidney dialysis centers in California and elsewhere.

On August 7, 2024, Plaintiff, on behalf of himself and all other aggrieved employees of Defendant, served a Private Attorneys General Act (PAGA) letter, alleging various Labor Code violations. (See Bartz Decl., **Exhibit B,** true and correct copy of Plaintiff's PAGA Notice). Thereafter, on October 15, 2024, Plaintiff filed his class action and PAGA Complaint in the San Francisco Superior Court.

On December 2, 2024, Defendant timely removed the action to this Court and on December 16, 2024 filed a Motion to Dismiss Plaintiff's Complaint. On December 27, 2024, Plaintiff filed his operative First Amended Class and PAGA Complaint, alleging claims for: (1) failure to pay all wages, including minimum wages, straight time wages, and overtime compensation; (2) failure to provide meal periods; (3) failure to authorize and permit rest periods or provide compensation in lieu thereof; (4) failure to timely pay all wages owed; (5) waiting time penalties; (6) failure to reimburse expenses; (7) failure to properly maintain and submit accurate itemized wage statements; and (8) violation of the PAGA. (See Bartz Decl., **Exhibit C**, true and correct copy of Plaintiff's First Amended Complaint (FAC).)

B. Research, Investigation and Discovery

Before filing this case, Class Counsel undertook extensive investigation and researched the claims to be asserted in this case. Bartz Decl. ¶ 6. Class Counsel met and interviewed Plaintiff on numerous occasions, and reviewed employment documents that he provided, including policy documents, and related pay and timekeeping materials. Bartz Decl. ¶ 6.

Class counsel also conducted substantial research into several novel issues presented in this case, including claims for compensation arising from Covid-19 temperature screening and

the viability of certifying wage statement claims in light of recent authority. For example, in *Boone v. Amazon.com Services, LLC*, 562 F.Supp.3d 1103, 1115 (E.D. Cal. 2022), the trial court denied defendant's motion to dismiss based on plaintiff's allegations that Covid-19 health screenings constituted "hours worked." However, significant questions remained as to whether such claims could be viable where the screenings were government-mandated, and whether class certification could be sustained given that such practices may have impacted only a limited subset of the class period. Bartz Decl. ¶ 7.

Class Counsel also considered the impact of the California Supreme Court's recent decisions in *Naranjo v. Spectrum Security Services, Inc.*, 15 Cal.5th 1056 (2024) and *Naranjo v. Spectrum Security Services, Inc.*, 13 Cal.5th 93 (2022). In those decisions, the Court clarified that meal and rest period premium payments constitute wages that must be reported on wage statements, while also recognizing that employers may assert a good faith defense to wage statement penalties where the law was previously unsettled. Prior to the 2022 decision, the legal landscape was uncertain on this issue, thereby calling into question the viability of recovering wage statement penalties for earlier periods. Bartz Decl. ¶ 8.

Notwithstanding this uncertainty and the evolving wage and hour case law, Plaintiff proceeded to file this case. After filing, the parties engaged in formal and informal discovery with respect to the claims alleged in Plaintiff's operative Complaint. The parties exchanged written discovery, including Interrogatories and Document Requests, drafted and negotiated a *Belaire-West* notice, and retained an administrator to send out the notice to obtain witness information for the putative class members. Bartz Decl. ¶ 11. Thereafter, Class Counsel interviewed witnesses and engaged in witness outreach in order to evaluate and assess the asserted class claims. Bartz Decl. ¶ 12.

Moreover, the parties engaged in informal discovery, with Defendant producing a twenty percent representative sampling of time and payroll records, along with substantial employment policy documents, for Plaintiff's review and analysis. Bartz Decl. ¶ 12.

Class Counsel thereafter thoroughly reviewed, investigated, and analyzed this information, and hired damages expert James Toney to assist with a damages exposure analysis. This informal discovery process occurred over a period of many months and involved extensive meet and confer efforts between counsel for the parties. Bartz Decl. ¶ 14.

Prior to attending Mediation, Class Counsel also became aware of two decisions that could severely impact the value of this case. In *Allison v. Dignity Health*, 112 Cal.App.5th 192, 333 Cal. Rptr. 524 (2025),[1] for example, the court decertified plaintiff's meal and rest period claims, despite evidence that there was a 70% meal period violation rate shown on defendant's time records, and despite evidence that class members' rest periods were interrupted based on defendant's alleged requirement that class members carry communication devices on their breaks. Further, in early 2025, *Hale v. Brinker Int'l, Inc.*, 765 F.Supp.3d 904, 913 (N.D. Cal. 2025) found that federal procedural law could "make it very difficult . . . to get a California meal break claim certified for class treatment," despite the California Supreme Court's *Donohue v. AMN Services, LLC*, 11 Cal.5th 58, 78 (2021) decision holding that when time records show short, missed, and late meal periods, there is a presumption that an employer violated California's meal period requirements.

Against the above legal backdrop, on September 9, 2025, the parties attended a full-day Mediation before experienced wage and hour mediator Glenn Lerman, Esq. Bartz Decl. ¶ 15. After extensive research regarding the claims, and the robust exchange of formal and informal discovery, Class Counsel was in the best position to evaluate and settle the claims, if Defendant was willing to pay fair value for the alleged claims. This case did not settle until the parties engaged in many hours of tense and hard-fought negotiations, with many disputes about the value and merit of the claims. At the conclusion of a full-day of arms-length negotiations, the

[1] *Allison* was ordered to be published on June 4, 2025 by the First District, Division 4, California Court of Appeal. It was later depublished by the California Supreme Court on October 15, 2025, after the parties' scheduled Mediation.

mediator issued a settlement proposal, which all parties accepted. Bartz Decl. ¶ 15. The parties thereafter engaged in several additional months of negotiations to finalize the long-form Settlement Agreement (SA), which was executed in March 2026. (*see* **Exhibit A** to Bartz Decl.).

C. The Operative Settlement Terms And Plan of Allocation

1. The class to be certified

The parties seek certification of the following Class for settlement purposes[2]:

All non-exempt employees working for Defendant in California within the Class Period, i.e., between October 15, 2020 through the date of preliminary approval. SA § 1.5, 1.12.

This is the same class sought to be certified in Plaintiff's operative First Amended Complaint. *See* FAC, pp. 3-4. Similar classes have been certified for settlement purposes in the Northern District and other federal courts within California. *See Massey v. Star Nursing, Inc.*, 2022 WL 14151758, * 3 (N.D. Cal. Oct. 24, 2022) ("all non-exempt employees" in California from "March 2, 2017 through the date the Court enters an Order granting preliminary approval of the Settlement"); *Gong-Chun v. Aetna Inc.*, 2012 WL 2872788, *3 (E.D. Cal. July 12, 2012) ("all non-exempt or hourly paid employees who worked for Defendants" certified for settlement purposes, and settlement approved).

All such employees are subject to the same wage and hour policies as Plaintiff, including Defendant's wage policies, meal and rest period policies, reimbursement policy, and related policies at issue in this case.

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[2] A court may certify a class solely for settlement purposes. *Keirsey v. eBay, Inc.*, 2013 WL 5755047, at *2 (N.D. Cal. Oct. 23, 2013) (certifying class for settlement purposes); *In re Wireless Facilities, Inc. Sec. Litig. II*, 253 F.R.D. 607, 610 (S.D. Cal. 2008) ("Parties may settle a class action before class certification and stipulate that a defined class be conditionally certified for settlement purposes.").

2. The settlement fund

The settlement fund is all-in (except for the employer's share of payroll taxes, which Defendant shall pay in addition to the $2,415,000 settlement), there is no claim form requirement, and no residual will revert to Defendant. Class members will be paid as long as they do not opt out of the settlement. If a Class Member opts out, their share of the Net Settlement Amount will be allocated to other members of the Settlement Class. In the event a class member does not negotiate his or her settlement check, the claims administrator will forward the monies to the California State Controller's Office, Unclaimed Property Division, in the name of the Class Member. SA § 4.3.3.

The payment to the Class Members is characterized as sixty percent (60%) interest and penalties, and forty percent (40%) wages. The class administrator will issue W-2 statements for the wage portion of the settlement, and a form 1099 for all amounts paid as penalties and interest. SA § 3.2.4.1.

The Settlement Class will be compensated based on each member's respective number of workweeks during the Class Period. SA § 3.2.4.

The net settlement fund will be approximately **$1,703,300**, after deducting administration costs (estimated at $17,950); the proposed Class Representative enhancement payment ($5,000); the proposed award of attorney's fees (not to exceed $603,750); the proposed award of costs and litigation expenses (not to exceed $20,000); and the LWDA portion of PAGA penalties ($65,000).

3. The releases

In exchange for their payment, the Participating Class Members will release Defendant and the Released Parties from:

> [A]ny and all claims that have been or reasonably could have been alleged or asserted in the Operative Complaint in the Action and in any notices sent to the LWDA, based on facts alleged in the Action, that accrued during the Class Period. This release includes, without limitation, release of all claims for (i) alleged failure to pay or properly calculate wages of any form, including failure to pay or properly calculate minimum wage, claims for failure to pay all wages due to

> Covid-19 temperature checks and other off-the-clock activities, claims for failure to pay or properly calculate overtime, claims for failure to pay or properly calculate sick pay, and claims for failure to pay or properly calculate any other wage, including timely paying wages, in violation of Cal. Lab. Code §§ 204, 510, 1194, and 1198; (ii) alleged failure to timely pay wages due at end of employment in violation of Cal. Labor Code §§ 200 *et seq.;* (iii) alleged failure to provide accurate itemized wage statements under Cal. Lab. Code § 226 and maintain accurate employment records; (iv) alleged failure to pay, properly calculate or provide meal periods or meal period premiums in violation of Cal. Lab. Code§§ 226.7 and 512; (v) alleged failure to pay, properly calculate or provide rest periods or rest period premiums in violation of Cal. Lab. Code§ 226.7; (vi) alleged failure to reimburse expenses in violation of Cal. Lab. Code § 2802; and (vii) unfair competition based upon any of the foregoing, and claims under California Business and Professions Code section 17200 et seq.

SA § 5.1.

In addition, the PAGA Group Members will Release Defendant and the Released Parties from:

> [A]ny and all claims for PAGA penalties that have been or reasonably could have been alleged or asserted in the Operative Complaint in the Action and in any notices sent to the LWDA, based on the facts and claims alleged in the Action that accrued during the PAGA Period (the "PAGA Release"). This includes, without limitation, a release of PAGA penalties for all claims listed in Paragraph 5.1 of this Agreement. It is understood and acknowledged that Aggrieved Employees entitled to a share of the PAGA Penalties will be issued payment for their share of the PAGA Penalties and will not have the opportunity to opt out of, or object to, the PAGA Release as set forth in this Paragraph. The PAGA Release is binding upon all Aggrieved Employees upon Court approval and payment of the PAGA Penalties. Further, the Aggrieved Employees are bound by the PAGA Release regardless of whether they cash the check with their PAGA Payment

SA § 5.2.

4. Notice and settlement administration

Class notice must be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Central Hanover Trust,* 339 U.S. 306, 314 (1950). Notice must clearly and concisely state the following, in plain, easily understood language: (i) the nature of the action; (ii) the class definition; (iii) the class claims; (iv) that a class member may enter an

appearance through an attorney; (v) that the court will exclude from the class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members. Fed. R. Civ. P. 23(c)(2)(B).

Here, the parties agree to appoint an experienced claims administrator, Apex Class Action Administration ("Apex"), to disseminate the Class Notice and receive and tally objections and requests for exclusion. SA § 7. Defendant will provide the Class Data to the Administrator, "including Class Member/PAGA Group Member names, last-known mailing addresses and telephone numbers, Social Security numbers, dates of employment, and the numbers of qualifying Workweeks during the Class Period and/or Pay Periods during the PAGA Period, and any other relevant information needed to calculate settlement payments." SA § 1.8. The Administrator will prepare and mail the settlement checks to the participating Class Members within 10 calendar days after Defendant fully funds the settlement. SA § 4.3.

The Class Notice will advise the Class Members of the nature of the Settlement, including the minimum amount they stand to receive, their rights to opt-out or object. *See* Class Notice, **Exhibit D** to Bartz Decl. The Class Notice will also refer the Class Members to the Administrator's website, which will make available the Class Notice, the Class Action Settlement, and other relevant Court documents. *See* Class Notice, at 8. Finally, while the Settlement does not implicate any substantive portions of CAFA, such as those related to coupon settlements, the Settlement contemplates that Defendant will comply with the procedural notice requirements under 28 U.S.C. § 1715. SA § 6.3.

5. Attorneys' fees

The all-in settlement fund will also include all of the attorneys' fees and costs allowed by this Court. The attorneys' fees shall not exceed twenty-five percent of the $2.415 million settlement fund, or $603,750. Defendant will also pay class counsel's costs, not to exceed $20,000, as well as settlement administration costs not to exceed $17,500, out of the common fund.

Class Counsel will apply for the award of fees, costs, and expenses no later than 35 days prior to the final approval hearing, and will not seek fees in excess of 25% of the Gross Settlement Amount. *See, e.g. In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011). SA § 3.2.2. This maximum amount is set forth in the Class Notice. *See* Class Notice at 4. Should the Court award less than the amount ultimately sought, the balance will remain in the Settlement Fund and be applied toward the calculation of the Settlement shares for the settling Class Members. SA § 3.2.2.

The fees sought here are reasonable under the circumstances. To date, Class Counsel has expended over 454 hours and incurred over $404,941 in lodestar fees. The legal services provided include, but are not limited to, research and investigation of the claims; formal and informal discovery, witness outreach, preparation for and participation in Mediation; negotiation and preparation of the Settlement Agreement and Class Notice; and preparation of the filings necessary to obtain Court approval. As such, if 25% of the common fund is awarded, it will result in a 1.49 multiplier. A multiplier is appropriate when "(1) attorneys take a case with the expectation they will receive a risk enhancement if they prevail, (2) their hourly rate does not reflect that risk, and (3) there is evidence the case was risky." *Stetson v. Grissom*, 821 F.3d 1157, 1166 (9th Cir. 2016).

Here, Class Counsel took this case on a contingency basis, and their hourly rates do not reflect that contingent risk. Further, given the factual and legal landscape described herein, this case involved many risks, including certification and merits-based risks, as further described herein. The current multiplier of 1.49 is well within the Ninth Circuit's awarded multipliers for complex class action litigation. *See Vizcaino v. Microsoft Corp.*, 290 F.3d 1093 (9th Cir. 2002) (finding 3.65 multiplier appropriate in class action litigation). Class Counsel further expect to provide many additional hours of legal services, to include working with the settlement administrator to ensure a fair notice process, communicating with class members, responding to any objections, preparing for and attending the settlement approval hearings, and related

activities. Thus, when this settlement is finally approved and administered, the multiplier will be further reduced.

6. PAGA allocation

The PAGA allocation of the settlement is $100,000, of which $65,000 (65%) will be distributed to the Labor Workforce and Development Agency (LWDA), with the remaining portion -- $35,000 (35%) -- going to PAGA Members (all allegedly aggrieved persons who worked for Defendant as non-exempt employees in California, at any time from May 26, 2022 through the date of preliminary approval).

This case was filed under the revised PAGA statute effective for cases filed after June 19, 2024. As such, the amended PAGA substantially reduces Plaintiff's ability to recover all PAGA penalties, including capping a plaintiff's recovery at 15% of the penalty sought when an employer has taken "all reasonable steps to be in compliance with all provisions identified in the [PAGA] notice." Cal. Labor Code § 2699 (g)(1). Defendant contends that it did so here, by adopting compliant wage and hour policies and practices.

While PAGA provides for a $100 per employee per pay period penalty for the "initial" violation and $200 per employee per pay period for "subsequent" violations (see Cal. Lab. Code § 2699(f)(2)), the amended PAGA allows a $200 penalty only if there has been a previous finding by the LWDA or a court that the employer's practice or policy was unlawful, or if a court determines that the employer's conduct giving rise to the violation was "malicious, fraudulent, or oppressive." *Id*. at 2699(f)(2)(B)(i), (ii).

Thus, Plaintiff estimates the total verdict value of PAGA penalties in this case as approximately $7 million ($100 x 70,000 [PAGA pay periods]). Because of the substantial discretion that courts have in awarding such penalties, Plaintiff estimates the reasonable settlement value of the PAGA penalties at 5% of the verdict value, or approximately $350,000. Bartz Decl., ¶ 31.g. The PAGA allocation is therefore approximately 28% of what the realistic PAGA exposure is in this case (or 1.4% of the verdict value).

Plaintiff submits that this allocation is fair and reasonable under applicable authority, including cases interpreting the prior, more employee-favorable PAGA framework. In particular, the recovery obtained on the underlying wage-and-hour claims meaningfully advances PAGA's deterrent purposes. *See O'Connor v. Uber Technologies, Inc.*, 201 F.Supp.3d 1110, 1135 (N.D. Cal. 2016) ("By providing fair compensation to the class members as employees and substantial monetary relief, a settlement not only vindicates the rights of class members as employees but may have a deterrent effect upon the defendant employer and other employers, an objective of PAGA"); *see also Viceral v. Mistras Group, Inc.*, 2016 WL5907869, *8-9 (N.D. Cal. 2016) (preliminarily approving PAGA allocation amounting to 0.15% of the total exposure); *Saechao v. Landrys, Inc.*, 2016 WL 3227180, *3 (N.D. Cal. June 11, 2016) (approving settlement of PAGA claim for $12,000, or 1.3% of the estimated total PAGA value of $921,000, according to the plaintiff's expert).

7. Class representative enhancement

The settlement provides for an enhancement award to Plaintiff in the amount of $5,000. This request reflects Plaintiff's efforts in assisting Class Counsel, including communicating regarding the facts and claims at issue, participating in the development of the case, and attending Mediation, as well as the potential reputational considerations associated with bringing this action against a former employer.

In wage and hour cases, courts within the Northern District have held that a $5,000 enhancement award is "presumptively reasonable." *See, e.g., Harris v. Vector Mktg. Corp.*, 2012 WL 381202, at *7 (N.D. Cal. Feb. 6, 2012); *Smith v. Am. Greetings Corp.*, 2016 WL 362395, at *11 (N.D. Cal. Jan. 29, 2016) (awarding $5,000). Enhancement awards may also be especially appropriate in wage and hour class actions, where a named plaintiff undertakes "a significant 'reputational risk' in bringing [an] action against [plaintiff's] former employer." *Covillo v. Specialty's Café*, 2014 WL 954516, at *8 (N.D. Cal. Mar. 6, 2014).

The amount requested here is less than six times the average amount each class member will receive and less than .21% of the total settlement. This is well within the range in other federal cases. *See Patel v. Trans Union, LLC*, 2018 WL 1258194, *3, 7-8 (N.D. Cal. March 11, 2018) (awarding enhancement payment of $10,000, which was 25 times the average award and 0.125 % of the gross settlement); *Emmons v. Quest Diagnostics Clinical Labs, Inc.*, 2017 WL 749018 at *9 (E.D. Cal. Feb. 27, 2017) (awarding class representative payments of $8,000, 14.5 times the average award and 0.3% of the gross settlement of $2.35 million)

III. THE CLASS ACTION SETTLEMENT MEETS THE REQUIREMENTS FOR PRELIMINARY APPROVAL

When a proposed class action settlement is reached, the settlement must be submitted to the court for approval. H. Newberg & A. Conte, *Newberg on Class Actions* at § 11.41, p. 11-87 (3d ed. 1992). Review of a proposed class action settlement involves two hearings. First, the settlement must be preliminarily approved by the court. Second, a final settlement approval hearing is set, where evidence and argument are submitted concerning the fairness, adequacy, and reasonableness of the settlement, and class members may be heard regarding the settlement. *See* Manual for Complex Litigation, Fourth §§ 21.632-21.633 (2004).

There is an "overriding public interest in settling and quieting litigation," *Van Bronkhorst v. Safeco Corp.*, 529 F.2d 943, 950 (9th Cir. 1976), and the Ninth Circuit "has long deferred to the private consensual decision of the parties" to settle, *Rodriguez v. W. Publ'g Corp.*, 563 F.3d 948, 965 (9th Cir. 2009), *vacated on other grounds* 688 F.3d 645. Settlements of complex class actions prior to trial are strongly favored. *Linney v. Cellular Alaska Partnership*, 151 F.3d 1234, 1238 (9th Cir. 1998) (quoting *Class Plaintiffs v. City of Seattle*, 995 F.2d 1268, 1276 (9th Cir. 1992)).

The court must determine whether the settlement is fair, adequate, and reasonable. *See Officers for Justice v. Civil Service Com'n*, 688 F.2d 615, 625 (9th Cir. 1982) and Fed. R. Civ. Proc. 23(e). With regard to class action settlements, the opinions of counsel should be given

considerable weight both because of counsel's familiarity with the litigation and previous experience with cases such as these. *See Officers for Justice, supra*, 688 F.2d at 625.

To grant preliminary approval of the proposed Settlement, the Court need only find that it falls within "the range of reasonableness." *In re: TFT-LCD (Flat Panel) Antitrust Litig.*, 2012 WL 12369590, at *3 (N.D. Cal. Oct. 15, 2012) (quoting *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1079 (N.D. Cal. 2007)). A settlement falls within the range of reasonableness if: "[1] the proposed settlement appears to be the product of serious, informed, non-collusive negotiations, [2] has no obvious deficiencies, [3] does not improperly grant preferential treatment to class representatives or segments of the class, and [4] falls within the range of possible approval." *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d at 1079 (quoting Manual for Complex Litigation § 30.44 (2d ed. 1985)); *see also Smith v. Am. Greetings Corp.*, 2015 WL 4498571 (N.D. Cal. July 23, 2015); *Dyer v. Wells Fargo Bank, N.A.*, 2014 WL 1900682 (N.D. Cal. May 12, 2014). Here, each of these four factors weighs in favor of preliminary approval.

A. The Settlement Is The Product of Serious, Informed, and Non-Collusive Negotiations

A proposed settlement is presumed to be fair and reasonable when it is the result of arms' length negotiations. *City of Seattle*, 955 F.2d at 1276; *In re Lorazepam & Clorazepate Antitrust Litig.*, 205 F.R.D. 369, 375-76 (D.D.C. 2002) ("A 'presumption of fairness, adequacy, and reasonableness may attach to a class settlement reached in arm's-length negotiations'") [internal citations omitted]; *In re Holocaust Victim Assets Litig.*, 105 F. Supp. 2d 139, 145-46 (E.D.N.Y. 2000) (determining fairness, the "consideration focuses on the negotiating process by which the settlement was reached").

This settlement is the result of extensive and hard-fought negotiations. Bartz Decl., ¶ 5; Declaration of Peggy J. Reali ("Reali Decl."), at ¶ 4. The parties participated in an all-day Mediation, along with numerous other settlement discussions about the terms of the settlement.

See Chun–Hoon v. McKee Foods Corp., 716 F. Supp. 2d 848, 852 (N.D. Cal. 2010) ("[A]rms-length negotiations including a day-long mediation before [experienced private mediator] indicate[s] that the settlement was reached in a procedurally sound manner"); *see also Satchell v. Fed. Express Corp.*, 2007 WL 1114010, at *4 (N.D. Cal. Apr. 13, 2007) ("The assistance of an experienced mediator in the settlement process confirms that the settlement is non-collusive.").

Moreover, the proposed Settlement does not contain any of the "warning signs" of collusion delineated by the Ninth Circuit, such as class counsel receiving a disproportionate portion of the settlement or reversions of funds to Defendant. *See In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 946-47 (9th Cir. 2011).

B. The Settlement Has No "Obvious Deficiencies"

The proposed settlement herein also has "no obvious deficiencies" and is well within the range of permissible compromise. This settlement represents approximately 51% of the reasonable settlement exposure faced by Defendant. Bartz Decl. ¶ 31.h. As such, it is entitled to preliminary approval. *See, e.g., Glass v. UBS Fin. Servs.*, 2007 WL 221862, *4 (N.D. Cal. Jan. 26, 2007) (approving settlement of unpaid overtime wages where the settlement amount constituted approximately 25- 35% of the estimated actual loss to the class). Each Settlement Class Member will receive the same opportunity to participate in and receive payment. Clearly, the goal of this litigation, to seek redress for the Class, has been met.

Where both sides face significant uncertainty, the attendant risks favor settlement. *Hanlon v. Chrysler Com.*, 150 F.3d 1011, 1026 (9th Cir. 1998). Here, Defendant has maintained that its wage and hour policies comply with California law. Notwithstanding the risk of continuing to litigate this case, the parties reached a proposed settlement of $2,415,000, where each member of the Class will receive payment unless the class member opts out of the settlement.

C. No Preferential Treatment Is Given To The Class Representative Or Other Members of the Class

Under this factor, "the Court examines whether the Settlement provides preferential treatment to any class member." *Villegas v. J.P. Morgan Chase & Co*., 2012 WL 5878390, at *7 (N.D. Cal. Nov. 21, 2012). Here, all of the class members will share in the settlement according to the number of workweeks worked during their employment with Defendant. The compensation formula is objective, justified, and reasonable in this case, and does not improperly grant preferential treatment to any class member.

D. The Settlement Falls Within The Range of Possible Approval

To determine whether a settlement "falls within the range of possible approval," "courts primarily consider plaintiffs' expected recovery balanced against the value of the settlement offer," taking into account the risks of continuing litigation. *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d at 1080; *see also In re: TFT-LCD (Flat Panel) Antitrust Litig.*, 2012 WL 12369590, at *3 (N.D. Cal. Oct. 15, 2012). The Court has discretion to preview the factors that ultimately inform final approval: (1) strength of the plaintiffs' case; (2) risk, expense, complexity, and likely duration of further litigation; (3) risk of maintaining class action status throughout the trial; (4) amount offered in settlement; (5) extent of discovery completed and the stage of the proceedings; (6) experience and views of counsel; (7) presence of a governmental participant; and (8) reaction of class members to the proposed settlement. *Churchill Village, LLC v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004) (citing *Hanlon*, 150 F.3d at 1026).

1. The strength of plaintiff's case and the risk, expense, complexity, and likely duration of further litigation

Class Counsel evaluates each claim, and based on the factual and legal landscape of this case, has determined that the settlement amount is fair, adequate and reasonable. Bartz Decl. ¶¶ 31.a-h. Both prior to filing this case and during the pendency of this action, Class Counsel confronted case law that could very well undermine the very claims asserted in this case. In

Hale, supra, the trial court denied certification of wage claims very similar to those brought in this case. *Hale,* 765 F.Supp.3d 904 (denying motion for class certification of meal, rest, and reimbursement claim for restaurant workers). Another California published decision in June 2025, *Allison v. Dignity Health*, 112 Cal.App.5th 192, 333 Cal. Rptr. 524 (2025) heavily influenced Class Counsel's belief that a fair settlement earlier in this case would benefit the class members.

The probability of success analysis is not subject to any "particular formula," nor is the Court expected to "reach any ultimate conclusions of the contested issues of fact and law which underlie the merits of the dispute, for it is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements." *Garner v. State Farm Mut. Auto. Ins. Co.*, 2010 WL 1687832, at *9 (N.D. Cal. Apr. 22, 2010) (quoting *Rodriguez*, 563 F.3d at 965, and *Officers for Justice,* 688 F.2d at 625); *see also Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 255 (N.D. Cal. 2015). "Rather, the Court's assessment of the likelihood of success is nothing more than an amalgam of delicate balancing, gross approximations and rough justice." *Garner*, 2010 WL 1687832, at *9 (citing *Officers for Justice*, 688 F.2d at 625) (internal quotations omitted). Given the subjective components inherent in evaluating the potential range of recovery, "the Court may presume that through negotiation, the Parties, counsel, and mediator arrived at a reasonable range of settlement by considering Plaintiff's likelihood of recovery." *Garner*, 2010 WL 1687832, at *9 (citing *Rodriguez*, 563 F.3d at 965).

Approval of a class settlement is particularly appropriate when plaintiffs must overcome significant barriers to make their case. *Chun–Hoon*, 716 F. Supp. 2d at 851; *see also Moore v. Verizon Comms. Inc.*, 2013 WL 4610764, at *5 (N.D. Cal. Aug. 28, 2013) (strength of defendant's case favored settlement because plaintiffs admitted they would face hurdles in establishing class certification, liability, and damages); *Custom LED, LLC v. eBay, Inc,* 2014 WL 2916871, at *4 (N.D. Cal. June 24, 2014) (approving settlement where plaintiff faced

"significant obstacles in establishing its claims in light of the uncertainties surrounding class certification, proof of damages, and [defendant's] numerous affirmative defenses"). While Plaintiff believed in the strength of his claims, he also recognized that recent legal decisions made it more difficult to certify wage and hour class actions. *See* Bartz Decl., ¶¶ 8, 13.

In evaluating the Settlement, the Court should consider "the risk of continued litigation balanced against the certainty and immediacy of recovery from the Settlement." *In re OmniVision Techs, Inc.*, 559 F. Supp. 2d 1036, 1041 (N.D. Cal. 2008) (citing *In re Mego Financial Corp. Sec. Litig.*, 213 F.3d 454, 458 (9th Cir. 2000)). This is particularly true in cases, like this one, which involve significant uncertainty and the potential for years of litigation and costly appeals. *See, e.g.*, *Rodriguez*, 563 F.3d at 966 (favoring settlement where "[i]nevitable appeals would likely prolong the litigation, and any recovery by class members, for years"); *Ching v. Siemens Indus., Inc.*, 2014 WL 2926210, at *4 (N.D. Cal. June 27, 2014) ("Generally, unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with uncertain results.") (citation omitted).

If the Settlement is not approved, this action will proceed to intense litigation and possibly trial and appeal. Plaintiff and Defendant disagree about the merits of Plaintiff's claims. However, regardless of each Party's respective position, there is uncertainty about the ultimate outcome of this action and proceeding with this litigation poses various risks such as no certification, decertification, loss on the merits, and loss on appeal, all of which would be extremely costly and time-consuming to fully litigate.

2. Defendant's payment of $2,415,000 is significant compared to the maximum potential recovery

"[C]ompar[ing] the settlement amount to the parties' 'estimates of the maximum amount of damages recoverable in a successful litigation'" suggests the Settlement merits approval. *Glass v. UBS Fin. Servs., Inc.*, No. C-06-4068 MMC, 2007 WL 221862, at *4 (N.D. Cal. Jan. 26, 2007) *aff'd*, 331 F.App'x 452 (9th Cir. 2009) (quoting, *In re Mego*, 213 F.3d at 459).

When accounting for the significant risks of continued litigation, including class certification and Defendants' defenses on the merits, Plaintiff estimates the maximum potential recovery available is $4.7 million, with a maximum verdict value of $64 million.[3]

The settlement of $2,415,000 is fair, especially given the substantial risks that Plaintiff would face prior to and at trial. Indeed, many courts have approved settlement values well below this range. *See, e.g., Custom LED*, 2014 WL 2916871, at *4 ("[C]ourts have held that a recovery of only 3% of the maximum potential recovery is fair and reasonable when the plaintiffs face a real possibility of recovering nothing absent the settlement."); *In re OmniVision Techs., Inc.*, 559 F. Supp. 2d at 1042 (6% of potential damages); *In re Heritage Bond Litig.*, 2005 WL 1594389, at *8–9 (C.D. Cal. June 10, 2005) (median amount recovered in securities class action settlements was 2.7% in 2002, 2.8% in 2003, 2.3% in 2004).

Accordingly, the monetary component of the Settlement is significant compared to the maximum potential recovery available, suggesting the Settlement merits approval.

3. Class counsel performed sufficient discovery, research and investigation to adequately assess the settlement and the strengths and weaknesses of the class claims

"This factor evaluates whether the parties have sufficient information to make an informed decision about settlement." *Larsen v. Trader Joe's Co.*, 2014 WL 3404531, at *5 (N.D. Cal. July 11, 2014) (internal quotations omitted). "In the context of class action settlements, as long as the parties have sufficient information to make an informed decision about settlement, formal discovery is not a necessary ticket to the bargaining table." *Bellinghausen*, 306 F.R.D. at 257 (internal quotations omitted). "Rather, the court's focus is on whether the parties carefully investigated the claims before reaching a resolution." *Id.* (internal quotations omitted).

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[3] A complete analysis of the claims is set forth in paragraphs 31.a-h in the Bartz Decl., filed concurrently herewith.

Here, Plaintiff has requested, received, and reviewed extensive documents and information from Defendant through the litigation of this matter. *See* Bartz Decl., ¶¶ 6-15. Plaintiff thus fully understands the merits of this case, and this factor weighs in favor of approval of the proposed settlement.

4. The recommendations of experienced class counsel favor approval

"Where a settlement is the product of arms-length negotiations conducted by capable and experienced counsel, the court begins its analysis with a presumption that the settlement is fair and reasonable." *Garner*, 2010 WL 1687832, at *13; *see also Nat'l Rural Telecomm. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 528 (C.D. Cal. 2004) (great weight given to the recommendation of counsel who are the most closely acquainted with the facts of the litigation). Class Counsel has broad experience litigating and trying employment and class action cases. In Class Counsel's view, the Settlement provides substantial benefits to the Class, especially when one considers the attendant expense, risks, delays, and uncertainties of litigation, trial and post-trial proceedings. *See* Bartz Decl., ¶¶ 31.a-h; Reali Decl., ¶ 4.

IV. CONDITIONAL CERTIFICATION OF THE CLASS

A. Class Certification Is Appropriate in this Case

Parties seeking class certification for settlement purposes must still generally satisfy the requirements of Federal Rule of Civil Procedure 23. *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997). To maintain a class action under Rule 23(a), a plaintiff must demonstrate: (1) numerosity: the class is so numerous that joinder of all members is impracticable, (2) adequacy of representation: the representative parties will fairly and adequately protect the interests of the class, (3) typicality: the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) commonality: there are questions of law or fact common to the class. In addition to these requirements, a plaintiff must satisfy one of the Rule 23(b) prongs to maintain a class action. Under Rule 23(b)(3), the plaintiff must prove: "the questions of law or fact common to class members

predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." However, in the context of settlement, the Court "need not inquire whether the case, if tried, would present intractable management problems . . . for the proposal is that there be no trial." *Amchem,* 521 U.S. at 620.

The proposed settlement seeks conditional certification of the Class. The Class is defined as follows: All current and former non-exempt employees who worked in California for Defendant during the Class Period (October 15, 2020 through the date of preliminary approval).

B. The Proposed Class Is Numerous

To satisfy the numerosity requirement under Rule 23(a)(1), the class must be "so numerous that joinder of all members is impracticable". *Parkinson v. Hyundai Motor Am.*, 258 F.R.D. 580, 588 (C.D. Cal. 2008).

Here, there are approximately 1,963 Class Members, all of whom have been identified by Defendant's employment and payroll records. Bartz Decl., ¶ 12. The Ninth Circuit has not offered a precise numerical standard; other District Courts have, however, presumed that the numerosity requirement is satisfied by a showing of 25-30 members. *See, e.g., In re Kirschner Med. Corp. Sec. Litig.*, 139 F.R.D. 74, 78 (D. Md. 1991); *EEOC v. Printing Indus., Inc.*, 92 F.R.D. 51, 53 (D.D.C. 1981), *Slaven v. BP America, Inc.*, 190 F.R.D. 649, 654 (C.D. Cal. 2000). Numerosity is satisfied here.

C. Adequacy of Representation

Rule 23(a)(4) requires that "the representative parties will fairly and adequately protect the interests of the class." Adequacy of representation depends on whether Plaintiff class representative and Plaintiff's attorneys are qualified to conduct the proposed litigation and whether the representative Plaintiff's interests are antagonistic to those of the Class. In this case, the representative Plaintiff has the same injuries and damages similar to those of the Class he

seeks to represent, he has agreed to act as a class representative and in the best interests of the class, and Plaintiff has no claims that are antagonistic to the Class. (*See* generally Dela Pena Decl.). Plaintiff's counsel are also very experienced and qualified, and have been approved to act as class counsel in numerous class and representative actions. Bartz Decl., ¶¶ 38-40; Declaration of Walter Haines ("Haines Decl."), ¶¶ 3-4; Reali Decl., ¶¶ 5-8.

D. Plaintiff's Claims Are Typical of the Class Claims

Rule 23(a) likewise requires that "the claims or defenses of the representative parties are typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). Typicality simply means that the representative's claims be similar to those of Class Members. The interests of the class representatives need not be identical to those of other Class Members; the class representatives must simply be similarly situated.

Here, Plaintiff class representative worked for Defendant in California as an hourly, non-exempt employee who worked during the Class Period and worked pursuant to Defendant's uniform pay, meal, and rest policies applicable to all hourly employees working within California. Bartz Decl., ¶ 29.

E. Common Issues of Law or Fact Predominate

The final requirement under Rule 23(a) is that "there are questions of law or fact common to the class." Fed. R. Civ. P. 23(a)(2). Common questions of law and fact predominate here for purposes of settlement, as the main issues involve the legality of Defendant's policies regarding the failure to pay all wages, failure to provide all legally compliant off duty and uninterrupted meal periods, the failure to provide all legally compliant off duty and uninterrupted paid rest periods, failure to timely furnish accurate itemized wage statements, and failure to timely pay all former employees all wages owed. Bartz Decl., ¶¶ 27-28. Plaintiff contends that these are all pay policy questions that are uniform and can be proven by common objective evidence. The evidence to support these claims consists of pay policies, payroll records, time records and pay stubs given to all Class Members. (*See* Bartz Decl., ¶ 25).

V. THE NORTHERN DISTRICT'S PROCEDURAL GUIDANCE

A. Information About the Settlement.

1. Differences between the settlement class and the class proposed in the operative Complaint.

Plaintiff's operative FAC alleges claims on behalf of all non-exempt employees during the statutory periods covered by Plaintiff's claims. FAC, pp. 3-4. There are no material differences between that class and the settlement class herein.

2. Differences in the released claims and claims in the operative Complaint.

The class release tracks Plaintiff's allegations in the operative FAC, and "claims that have been or reasonably could have been alleged or asserted in the FAC and Plaintiff's PAGA Notice, based on facts alleged in the case, and that accrued during the class period." SA § 5.1.

3. The class recovery under the settlement.

The class recovery under the Settlement is discussed in detail in the Declaration of Aaron Bartz, ¶¶ 31.a-h, filed concurrently herewith.

4. Other cases affected by the settlement.

There are no other cases affected by the settlement.

5. The proposed allocation for the settlement fund.

All class members will share in the settlement according to the number of workweeks they worked for Defendant during the class period.

6. Claim form.

Not applicable. The settlement contemplates mailing checks to settlement class members without the necessity of a claim form.

7. Reversion to Defendant.

Not applicable. The settlement is non-reversionary. Uncashed checks will be sent to the State Controller's Office to be held in the class member's name. SA § 4.3.3.

B. Settlement Administration.

Plaintiff obtained several quotes from well known wage and hour administrators, including ILYM Group, Inc. ("ILYM"), Phoenix Class Action Administration ("Phoenix"), and Apex Class Action Administrators ("Apex"). Bartz Decl.¶ 32. The quotes were all within approximately $1,500 of each other, and provide comparable services. The parties therefore chose the lowest bid of $17,500 from Apex.

C. Class Notice.

The Class Notice is attached to the Declaration of Aaron Bartz as Exhibit D. Consistent with section 3 of the Procedural Guidance, the Class Notice provides contact information for Class Counsel (Exhibit D p. 9); a website address for settlement class members to obtain further information and instructions on how to obtain further information on PACER (*Id.*); the date and time of the final approval hearing (*Id*. at 8); and instructs class members to check the website or PACER to ensure the date and time of the final approval hearing have not changed. (*Id*. at 9). The Class Notice also uses the proposed language suggested in the Procedural Guidance. *Id*. at 9.

D. Opt Outs.

The Class Notice advises class members that they can opt out by sending a written request to the administrator. It also advises them of the consequences of opting out, and sets forth information required for identification purposes including name, address, the last four digits of the social security number or full employee ID, and a signature. *Id.* at 8.

E. Objections.

The Class Notice advises class members of the deadline to submit objections and provides that objections are to be sent to the Court. *Id*. at 8. The Class Notice contains the language suggested in the Procedural Guidance. *Id*. It also instructs class members to include their name, address, last four digits of social security number, a statement of the reasons for objecting and to sign and date the objection. *Id.*

F. Attorney Fees and Costs.

See discussion in section II.C.5, *supra.*

G. Cy Pres.

Pursuant to the Settlement Agreement, uncashed checks are to be sent to the State of California unclaimed property fund to be held in the class member's name.

H. Timeline.

A proposed timeline for the Settlement is included in the Proposed Order filed concurrently herewith.

I. Class Action Fairness Act (CAFA) and Similar Requirements.

Defendant will comply with CAFA—under the parties' Settlement Agreement, Defendant shall submit the required notice within 10 days of filing of this motion. S A § 6 . 3 . On the date of filing this motion, Class Counsel uploaded a copy of this motion and exhibits including the Settlement Agreement to the LWDA website. Bartz Decl. ¶ 45.

J. Comparable Settlements.

Although there are no close comparable cases, perhaps the closest wage and hour settlement against a dialysis company similar to Defendant is *Walters et al. v. Total Renal Care, Inc.*, Case No. 34-2022-00319163-CU-OE-GDS, venued in the Sacramento Superior Court. That case was filed on behalf of all non-exempt employees, and was settled for $7.4 million, on behalf of 18,713 class members. After deductions from the settlement, each class member would be due to receive approximately $240. Bartz Decl., **Exhibit E** (Final Approval Order and Judgment in *Walters*).

In the Northern District, Plaintiff has identified *Ellis v. Harder Mechanical Contractors, Inc.*, 2023 WL 2620145, *4-5 (N.D. Cal. March 22, 2023). That settlement was a wage and hour lawsuit filed on behalf of 2,200 class members, and the gross settlement

amount was approximately $1.633 million, with an average payout of approximately $465 per class member. *Id*.

Plaintiff believes that the settlement reached herein is far superior to either of the settlements in *Walters* or *Ellis*, *supra*. The average estimated payout per class member in this case is over 3.5 times that in *Walters*, and nearly double the amount per class member in *Ellis*.

K. Electronic Versions.

Upon the filing of this motion, Class Counsel will submit Word versions of the Proposed Order and Settlement Notice.

L. Overlapping Cases.

None.

VI. CONCLUSION

Based on the foregoing, Plaintiff respectfully requests that this Court preliminarily approve the Settlement, approve the Class Notice, and set the date and time for the Final Approval Hearing.

Dated: May 6, 2026

BARTZ LAW GROUP, APC
UNITED EMPLOYEES LAW GROUP, P.C.

/s/Aaron A. Bartz
AARON A. BARTZ
Attorneys for Plaintiff EUGENE DELA PENA and all others similarly situated