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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

JOSE CARRANZA RODRIGUEZ, as an individual and on behalf of all others similarly situated, Plaintiff, vs. EKEDAL CONCRETE, INC., a California corporation; and DOES 1 through 100, Defendants.	Case No. 30-2024-01423908-CU-OE-CXC *[Assigned for all purposes to the Hon. David A. Hoffer, Dept. CX103]* **PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** Date: May 4, 2026 Time: 1:30 p.m. Dept.: CX103 Reservation Number: 74775986 Complaint Filed: September 6, 2024 Trial Date: None Set

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

PLEASE TAKE NOTICE that pursuant to Rule 3.769 of the California Rules of Court, on May 4, 2026, at 1:30 p.m. in Department CX103 of the above-entitled Court, located at 751 W. Santa Ana Blvd., Santa Ana, California 92701, Plaintiff Jose Carranza Rodriguez ("Plaintiff"), individually and on behalf of a class of similarly situated individuals, will and hereby does move this Court for:

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

   > All current and former non-exempt employees who worked for Defendant Ekedal Concrete, Inc. in California from September 6, 2020 through August 4, 2025 ("Class Period").

3. Preliminary appointment of Plaintiff Jose Carranza Rodriguez as Class Representative;
4. Preliminary appointment of Paul K. Haines and Sean M. Blakely of Haines Law Group, APC as Class Counsel;
5. The scheduling of a hearing to consider whether the Settlement should be finally approved and to permit a Class Representative Enhancement Payment to Plaintiff, civil penalties payable to the Labor & Workforce Development Agency ("LWDA"), settlement administration costs, and attorneys' fees and costs to Class Counsel;
6. Appointment of ILYM Group, Inc. as the third-party Settlement Administrator for mailing notices; and
7. Approval of the proposed Class Notice and an order that is to be disseminated to the Settlement Class as provided in the Stipulation of Settlement.

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This Motion is based on this Notice of Motion; the attached Memorandum of Points and Authorities; the supporting declarations of Paul K. Haines, Sean M. Blakely, Plaintiff Jose Carranza Rodriguez, and Anthony Rogers of ILYM Group, Inc., and the exhibits attached thereto; the pleadings, and other papers filed in this Action; and on any further oral or documentary evidence or argument presented at the time of the hearing.

Dated: February 13, 2026

Respectfully submitted,
HAINES LAW GROUP, APC

By: ______________________

Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Jose Carranza Rodriguez (hereinafter "Plaintiff") brought this class and representative action for various wage and hour violations on behalf of current and former non-exempt employees who worked for Defendant Ekedal Concrete, Inc. ("Ekedal") in California from September 6, 2020 until August 4, 2025 (the "Class Period"). Plaintiff's primary allegations are that Ekedal failed to pay all minimum and overtime wages due to its allegedly unlawful timekeeping policies/practices, failed to provide all legally compliant meal periods, and failed to authorize and permit all required rest periods. As a result of these alleged violations, Plaintiff also brought derivative claims for Ekedal's alleged failure to issue accurate and compliant wage statements, its failure to pay all final wages owed, and for civil penalties under the Private Attorneys' General Act ("PAGA").[1]

Plaintiff now respectfully requests that this Court preliminarily approve this non-reversionary, common-fund class action settlement,[2] in which Ekedal has agreed to pay Five Hundred Twenty-Five Thousand Dollars and Zero Cents ($525,000.00) to the following Settlement Class:

> All current and former non-exempt employees who worked for Defendant Ekedal Concrete, Inc. in California from September 6, 2020 until August 4, 2025 (**"**Class Period**"**).

If the Settlement is approved, Ekedal will pay a non-reversionary Gross Settlement Amount of $525,000.00. After deducting administration costs, Plaintiff's requested Class

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[1] The operative First Amended Class and Representative Action Complaint ("FAC") pleads the following causes of action: (1) minimum wage violations; (2) failure to pay all overtime wages; (3) meal period violations; (4) rest period violations; (5) failure to reimburse for all necessary business expenditures; (6) waiting time penalties; (7) wage statement violations; (8) unfair competition in violation of Cal. Business & Professions Code § 17200, *et seq*.; and (9) civil penalties under the Private Attorneys General Act, Cal. Labor Code § 2698 *et seq*. ("PAGA").

[2] The Stipulation of Settlement ("Settlement") is attached to the Declaration of Sean M. Blakely as **Exhibit A**. The proposed Class Notice, Notice of Estimated Settlement Award, Request for Exclusion Form, and Objection Form are attached to the Settlement as **Exhibits 1-4**, respectively. All defined terms in this motion have the same definition as that in the Settlement.

Representative Enhancement Payment, the amount set aside as PAGA civil penalties, and requested attorneys' fees and costs, the Net Settlement Amount of approximately $293,000.00 will be distributed to all Settlement Class members who do not opt out of the Settlement based on the proportionate number of workweeks worked by each Settlement Class member during the Class Period. Additionally, all non-exempt employees who worked for Ekedal in California from September 6, 2023 until August 4, 2025 (the "PAGA Period") will also receive a portion of the $7,000.00 PAGA Amount based on the proportionate number of pay periods worked during the PAGA Period.

Significantly, Settlement Class members do not need to file a claim to reap the financial benefits of the Settlement, as all Settlement Class members will automatically receive a payment unless they affirmatively opt out. There are approximately 285 Settlement Class members, and **the average payment to participating Settlement Class members is projected to be approximately $1,028.08**, an excellent result for the Settlement Class.

The proposed Settlement is well within the range of possible approval in light of the significant legal and factual obstacles that Plaintiff faced, the risks and costs of further litigation, and the tangible monetary benefits to be received by Plaintiff and the Settlement Class. For the reasons discussed herein, Plaintiff respectfully requests that this Court grant preliminary approval of the Settlement.

II. SUMMARY OF THE LITIGATION

A. THE PARTIES AND BRIEF PROCEDURAL HISTORY

Founded more than 40 years ago, Ekedal is a family-owned, multi-generational concrete contractor based in Orange County that specializes in complex high-end residential projects. *See* Declaration of Sean M. Blakely ("Blakely Decl."), ¶ 8. Plaintiff was initially hired by Ekedal in approximately 1987 and worked there for over 35 years until October 2023. *See* Declaration of Plaintiff Jose Carranza Rodriguez ("Rodriguez Decl."), ¶ 2. For the past 15 years of his employment with Ekedal, Plaintiff was a non-exempt "chauffeur" in which he would transport materials to job sites from Ekedal's yard and building suppliers. *Id*.

On September 6, 2024, Plaintiff filed this class action asserting causes of action for: (1)

minimum wage violations; (2) failure to pay all overtime wages; (3) meal period violations; (4) rest period violations; (5) failure to reimburse for all necessary business expenditures; (6) wage statement penalties; (7) waiting time penalties; and (8) unfair competition in violation of California Business & Professions Code § 17200 *et seq*. Blakely Decl., ¶ 9. On September 6, 2024, Plaintiff Rodriguez also sent his PAGA notification letter to the LWDA. *Id.*; Exhibit B (Rodriguez LWDA Letter). Subsequently, on November 12, 2024, Plaintiff filed his First Amended Class and Representative Action Complaint ("FAC") adding a cause of action for civil penalties under the PAGA. Blakely Decl., ¶ 9.

B. PLAINTIFF'S CLAIMS AND EKEDAL'S DEFENSES

1. Unpaid Wages Due to Unlawful Timekeeping Policies/Practices

Plaintiff contends that Ekedal utilized a timekeeping system that systematically underpaid wages to Settlement Class members. Blakely Decl., ¶ 14. Specifically, Plaintiff contends that throughout the Class Period, Plaintiff and other non-exempt employees did not clock in or out for their shifts as employees were compensated based on their scheduled shift, rather than the actual hours they worked, resulting in an underpayment of wages to Settlement Class members. *Id.* Plaintiff also contends that he and other non-exempt employees were required to report to Ekedal's yard or other job sites before the start of their scheduled shifts to prepare the job site and load up work trucks with various materials, but Ekedal did not pay them for this off-the-clock time. *Id*.

Ekedal counters that its timekeeping policies/practices complied with California law and that it has always properly compensated Settlement Class members for all hours worked throughout the Class Period. Blakely Decl., ¶ 14. Ekedal argues that employees were required to accurately record their hours worked through written time sheets, and that Ekedal paid putative class members for all hours recorded. *Id*. Ekedal further contends that no off-the-clock work was actually being performed prior to the scheduled start or end of shifts. *Id*. Finally, Ekedal asserts that Plaintiff would be unable to certify this claim since its timekeeping policies/practices are facially neutral and individualized inquiries would be necessary as to whether employees were in fact underpaid for each workday in question (including whether they were actually working when they were clocked in), resulting in an unmanageable series of mini-trials. *Id*

2. Meal Period Claims

Plaintiff alleges Ekedal failed to provide legally compliant first meal periods such that first meal periods were regularly late and/or less than 30-minutes. Blakely Decl., ¶ 15. Plaintiff alleges that Ekedal required employees to input a meal period from 12:00 p.m. – 12:30 p.m. into their time sheets for each shift during the Class Period, whether or not a compliant first meal period was in fact provided. *Id.*

Ekedal counters that it always maintained compliant written meal period policies/practices throughout the Class Period and provided compliant meal periods in line with those policies. Blakely Decl., ¶ 15. Ekedal further argues that it provided employees the opportunity to take meal periods and is not required to ensure they are taken. *Id.*; *see Brinker Rest. Corp. v. Sup. Ct.*, 53 Cal.4th 1004, 1034 (2012) (rejecting "ensure" standard). Thus, Ekedal argues that any missed, late or short meal periods resulted from lawful employee waiver or choice rather than any policy and/or practice of Ekedal. Blakely Decl., ¶ 15. Finally, Ekedal argues that these claims are not suited for class treatment, as individual inquiries would be needed to assess which employees took non-compliant meal periods or missed meal periods, how many meal periods were non-compliant or missed, whether there was a valid waiver, and the reasons why a particular employee did not take a compliant meal period on a particular shift. *Id*.

3. Rest Period Claims

Plaintiff alleges that Ekedal's policies/practices failed to provide for legally compliant off-duty rest periods. Blakely Decl., ¶ 16. Specifically, Plaintiff alleges that Plaintiff and other non-exempt employees were not authorized and permitted to take all legally compliant rest periods, due to the work demands imposed upon them by Ekedal and the nature of its operations. *Id*. Plaintiff reports that supervisors regularly forced employees to work through their rest periods when employees were pouring cement or when cement was delivered to the job sites. *Id*.

Ekedal counters that it maintained and enforced lawful rest period policies/practices throughout the Class Period, and has, in fact, authorized and permitted all required rest periods to Settlement Class members. Blakely Decl., ¶ 16. Furthermore, Ekedal argues that Plaintiff's rest period claim is not amenable to class treatment, since individual inquiries would be required to determine which employees failed to take rest periods, how many rest periods they failed to take, and the reasons why each employee failed to take rest period(s) on a particular shift. *Id.* These manageability concerns are especially pertinent with respect to rest period claims, Ekedal argues, given that rest periods are not recorded. *Id.*

4. Failure to Reimburse For Necessary Business Expenses

Plaintiff alleges that he and other employees were required to purchase tools such as hammers, saw, drills, and levelers, but was not reimbursed for these necessary business expenses in violation of California Labor Code §§ 2802 and 2804. Blakely Decl., ¶ 17. In response, Ekedal argues that employees were not required to use their personal tools in the performance of their job duties and that Ekedal provided its employees with all tools needed to perform their duties. *Id.* Ekedal further contends that this claim would require individual inquiries into whether Class Members actually used their personal tools for work purposes, how much expense they incurred, whether they submitted a request for reimbursement, and the reasonableness of that expense, thus precluding class certification. *Id.*; *see also*, *e.g., Gattuso v. Harte-Hanks Shoppers, Inc.*, 42 Cal.4th 554, 568 (2007) ("In calculating the reimbursement amount due under section 2802, the employer may consider not only the actual expenses that the employee incurred, but also whether each of those expenses was 'necessary,' which in turn depends on the reasonableness of the employee's choices").

5. Wage Statement Claims

As a result of the unpaid wages and unpaid meal and rest period premium wages described above, Plaintiff alleges that Ekedal is liable for wage statement penalties pursuant to Labor Code § 226. Blakely Decl., ¶ 18. Ekedal argues any alleged wage statement violations were not "knowing and intentional," and Plaintiff cannot show that he or other employees "suffer[ed] injury" due to the alleged wage statement violations, as required by Labor Code § 226(e) for the imposition of penalties. Blakely Decl., ¶ 18. Further, Ekedal contends its wage statements always accurately reflected hours worked and amounts paid as well as all other required information, precluding liability for wage statement penalties under *Maldonado v. Epsilon Plastics, Inc.*, 22

Cal.App.5th 1308, 1336-37 (2018) (agreeing with employer's "commonsense position that the pay stubs were accurate in that they correctly reflected the hours worked and the pay received…The purpose of section 226 is to *document* the *paid wages* to ensure the employee is fully informed regarding the calculation of those wages.") (Italics in original). Blakely Decl., ¶ 18.

6. Waiting Time Penalties

As a further result of the unpaid wages and unpaid meal and rest period premium wages described above, Plaintiff alleges that Ekedal failed to comply with its final pay obligations set forth in Labor Code §§ 201-203. Blakely Decl., ¶ 19.

Ekedal argues that it possesses strong, good-faith defenses to Plaintiff's underlying claims, thus precluding recovery of waiting time penalties, which are only available for the "willful" failure to pay wages. Blakely Decl., ¶ 19; see *also* 8 Cal. Code Regs. § 13520 ("[A] good faith dispute that any wages are due will preclude imposition of waiting time penalties under Section 203 . . . A 'good faith' dispute that any wages are due occurs when an employer presents a defense, based in law or fact which, if successful, would preclude any recovery on the part of the employee"). Ekedal further asserts that Plaintiff's waiting time penalty exposure was grossly inflated as not every former employee experienced the alleged Labor Code violations. Blakely Decl., ¶ 19.

7. PAGA Civil Penalties

As a result of the foregoing Labor Code violations, Plaintiff alleges that Ekedal is liable for civil penalties under the PAGA. Blakely Decl., ¶ 20. Since Plaintiff's PAGA claim is derivative of Plaintiff's underlying wage claims, Ekedal asserts the PAGA claim would fail with those claims. *Id.*; *see Price v. Starbucks Corp*. 192 Cal.App.4th 1136, 1147 (2011) ("Because the underlying causes of action fail, the derivative UCL and PAGA claims also fail."). Ekedal further maintains that, given its good-faith defenses, this Court would exercise its discretion to substantially reduce any PAGA penalties if it were to find Ekedal liable for any of Plaintiff's claims. Blakely Decl., ¶ 20; *see* Lab. Code § 2699(e)(2); *Thurman v. Bayshore Transit Mgmt., Inc*. 203 Cal.App.4th 1112, 1135 (2012) (affirming reduction of PAGA penalties); *Fleming v.*

Covidien Inc., Case No. ED CV10-01487 RGK (OPx), 2011 WL 7563047, at *4 (C.D. Cal. 2011) (reducing PAGA penalties by over 82% in part because employer "not aware" of violations); *Carrington v. Starbucks Corp*., 30 Cal.App.5th 504, 529 (2018) (affirming PAGA civil penalty of just $5 per pay period where employer made "good faith attempts" to comply with the law).

C. DISCOVERY AND MEDIATION

In connection with mediation, the Parties engaged in extensive informal discovery. Blakely Decl., ¶ 10. Ekedal provided Plaintiff with timekeeping and payroll records for approximately 10% of the non-exempt employees during the Class Period. *Id*. Ekedal also provided a number of relevant data points, including the total number of putative class members (as well as the size of the putative waiting time and wage statement classes), the putative class members' average hourly rate of pay, the number of aggregate workweeks worked by putative class members during the Class Period, the size of the putative PAGA group, and the number of aggregate pay periods worked during the PAGA/wage statement period. *Id.* Ekedal also provided its relevant written policies and employee handbooks used during the Class Period. *Id*. Plaintiff conducted a comprehensive analysis and extrapolation of the data produced by Ekedal to calculate Ekedal's potential classwide exposure for each of Plaintiff's claims. *Id*. This discovery allowed the Parties to assess the merits and value of Plaintiff's claims, the chances of certification of Plaintiff's claims, and Ekedal's potential defenses. *Id*.

On June 5, 2025, the Parties participated in a full-day mediation with Steven G. Mehta, Esq., a well-respected wage and hour class action mediator. Blakely Decl., ¶ 11. During mediation, the Parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiff's claims, and the legal basis for the claims and defenses. *Id*. At the conclusion of mediation, Mr. Mehta issued a mediator's proposal for a class-wide settlement, which was ultimately accepted by both sides. *Id*. During the months that followed, the Parties finalized the terms of the Settlement and executed the long-form Stipulation of Settlement now before the court. *Id*.

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III. THE PROPOSED SETTLEMENT

A. ESSENTIAL TERMS OF THE SETTLEMENT

If the Court preliminarily approves the Settlement, Ekedal will pay a Gross Settlement Amount of $525,000.00. *See* Settlement, § 3. Significantly, this Settlement is non-reversionary, and no Settlement Class member will have to submit a claim form to receive a Settlement Award. *Id.*, at §§ 3-4. Each Settlement Class member will automatically receive a Settlement Award unless they affirmatively opt out of the Settlement. *Id*. The monetary terms of the Settlement are summarized below:

• Gross Settlement Amount:	$525,000.00
• Minus Court-approved attorneys' fees:	$175,000.00
• Minus Court-approved verified costs (up to):	$25,000.00
• Minus Court-approved Enhancement Payment:	$5,000.00
• Minus amount set aside as PAGA penalties:	$20,000.00
• Minus estimated settlement administration costs:	$7,000.00
Net Settlement Amount:	$293,000.00
• Plus 35% "PAGA Amount" to Settlement Class:	$7,000.00
Total Amount Paid to Settlement Class members:	**$300,000.00**

1. The Settlement Provides for Reasonable Monetary Payments

After deducting amounts for the Court-approved attorneys' fees and costs, Class Representative Enhancement Payment to Plaintiff, the amount set aside as PAGA civil penalties, and settlement administration costs, the Settlement requires Ekedal to pay a Net Settlement Amount of at least $293,000.00 to all Settlement Class members who do not timely opt-out. *See* Settlement, § 4(A). The Net Settlement Amount shall be distributed to participating Settlement Class members based on each participating Settlement Class member's proportionate workweeks worked during the Class Period, which will be calculated by multiplying the Net Settlement Amount by a fraction, the numerator of which is the participating Settlement Class member's workweeks worked during the Class Period, and the denominator of which is the total workweeks worked by all participating Class Members during the Class Period. *See* Settlement, § 4(B)(i). In addition to the Net Settlement Amount, each Aggrieved Employee who was employed by Ekedal at any time during the PAGA Period (including those who submit a valid and timely Request for Exclusion from the class action settlement) shall receive a portion of the Gross Settlement

Amount that has been designated as the "PAGA Amount" (i.e., $7,000.00) proportionate to the number of pay periods worked during the PAGA Period. *Id*., at § 4(B)(ii).

According to Ekedal, there are approximately 285 Settlement Class members. Blakely Decl., ¶ 13. Therefore, the average Individual Settlement Payment from the Net Settlement Amount is projected to be approximately $1,028.08. *Id*. There are also approximately 141 Aggrieved Employees employed during the PAGA Period who will each receive an average of approximately $49.64 from the PAGA Amount. *Id*.

Settlement Class members will have sixty (60) calendar days from the mailing of the Class Notice to opt out or object to the Settlement, thereby providing ample time to review the Class Notice without unduly delaying the Settlement. *See* Settlement, §§ 9(D)-(E). Those Settlement Class members who do not opt out of the Settlement will be bound by its terms and will release all claims against Ekedal included within the Settlement. *See Id*., at § 2(A).

2. Attorneys' Fees and Costs, Enhancement Payment, and PAGA Payment

Plaintiff will apply for a Class Representative Enhancement Payment at the time of seeking final approval of the proposed class action settlement in the amount of $5,000.00 for his service to the Settlement Class. *See* Settlement, §§ 3(C)(3), 6; Blakely Decl., ¶ 24. "[I]ncentive Payments are fairly typical in class action cases . . . and are intended to compensate class representatives for work done on behalf of the class [and] to make up for financial or reputational risk undertaken in bringing the action." *In re Cellphone Fee Termination Cases,* 186 Cal.App.4th 1380, 1393-94 (2010). As will be fully briefed at the time of final approval, Plaintiff's requested Enhancement Payment is intended to recognize the time and effort Plaintiff expended on behalf of the Settlement Class, including providing substantial factual information and documents to Class Counsel, discussing the claims and theories at issue in the litigation, actively participating in the prosecution of his claims, as well as the significant risks Plaintiff undertook by agreeing to serve as the named plaintiff in this case. *See* Blakely Decl., ¶ 24; *see also* Rodriguez Decl., ¶¶ 5-6.

Class Counsel will also apply for an attorneys' fees award of one-third of the Gross Settlement Amount, which is currently estimated to be $175,000.00, and up to $25,000.00 in verified costs reimbursement. *See* Settlement, §§ 3(C)(4), 5; Blakely Decl., ¶ 23. Plaintiff submits that the requested fee is fair compensation for undertaking a complex, risky, expensive, and time-consuming litigation on a purely contingent fee basis. Blakely Decl., ¶ 23. Class Counsel has incurred substantial attorneys' fees conducting pre-filing investigation, analyzing Plaintiff's claims, conducting legal research, conducting extensive informal discovery, analyzing Settlement Class members' timekeeping and payroll records, creating a comprehensive damages model, preparing for and attending mediation, negotiating and preparing the long-form Stipulation of Settlement, preparing this Motion, and otherwise litigating the case. *Id*. Class Counsel expects to expend additional attorney time in attending the hearing on this Motion, overseeing the Notice process and fielding questions from Settlement Class members, preparing the Final Approval papers, and attending the Final Approval hearing. *Id*.

California courts recognize that an appropriate method for awarding attorneys' fees in class actions is to award a percentage of the "common fund" created as a result of a settlement. *See, e.g., Laffitte v. Robert Half Int'l, Inc.,* 1 Cal.5th 480, 506 (2016) (holding "the percentage of fund method survives in California class action cases"). Class Counsel's request for fees of one-third of the Gross Settlement Amount is well within the range of reasonableness and indeed is considered the typical rate for common fund settlements. Historically, courts have awarded percentage fees in the range of 20% to 50%, depending on the circumstances of the case. *See* 4 Newberg on Class Actions § 14.6 (4th Ed. 2013).

Class Counsel submit that their request for attorneys' fees is reasonable when viewed as an overall percentage of the Settlement and in light of the substantial risks and significant work undertaken, the results obtained, and the efficiency with which the litigation has been conducted. Should the Court grant preliminary approval, Class Counsel will seek an award of attorneys' fees and verified costs upon seeking final approval.

Additionally, the parties have agreed to designate $20,000.00 of the Gross Settlement Amount as PAGA civil penalties, of which $13,000.00 (65%) will be paid to the LWDA, with the remaining $7,000.00 (35%) for distribution to the Aggrieved Employees, as the PAGA requires such penalties to be allocated per Labor Code § 2699(i). *See* Settlement, § 3(C)(5).

Plaintiff submits this allocation to the LWDA for civil PAGA penalties is appropriate. *See, e.g., Chu v. Wells Fargo Investments, LLC*, Case No. C 05-4526 MHP, 2011 WL 672645 at *1 (N.D. Cal. 2011) (approving PAGA payment of $7,500 to LWDA out of $6.9 million common-fund settlement); *Lazarin v. Pro Unlimited, Inc.*, Case No. C11-03609 HRL, 2013 WL 3541217 (N.D. Cal. 2013) (approving PAGA payment of $7,500 to LWDA out of $1.25 million common-fund settlement).

IV. ARGUMENT

A. PRELIMINARY APPROVAL IS WARRANTED

California Rule of Court 3.769 conditions settlement of a class action on court approval, which is generally evaluated under the federal standards applicable under Rule 23 of the Federal Rules of Civil Procedure. *See Reed v. United Teachers Los Angeles*, 208 Cal.App.4th 322, 337 (2012) (Rule 3.769 requires trial court to determine "that the settlement is fair, reasonable and adequate to all concerned"); *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998) (Rule 23(e) requires the trial court to determine "whether a proposed settlement is fundamentally fair, adequate, and reasonable"). Settlement is the preferred means of dispute resolution, particularly in complex class action litigation. *See In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101 (9th Cir. 2008). The Court's role in evaluating a proposed settlement is limited to ensuring that the agreement taken as a whole is fair. *See* e.g., *Hanlon*, *supra*, 150 F.3d at 1027. There is an initial presumption of fairness where, as here, the Settlement was negotiated at arm's-length by class counsel and with the assistance of an experienced wage and hour class action mediator. *See e.g.*, *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 130 (2008).

1. Standard for Preliminary Approval

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

a. The Strength of Plaintiff's Case

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

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

Although the Parties engaged in significant informal discovery prior to mediation, the Parties still had significant formal discovery to complete had the matter not been settled. Blakely Decl., ¶ 22. This would have required the expenditure of substantial time and resources by both Parties that would have very likely spanned several years. *Id*. Even if Plaintiff were to certify the proposed classes, the Parties would incur considerably more attorneys' fees and costs through a possible decertification motion, trial, and possible appeal. *Id.* This Settlement avoids those risks and the accompanying expense. *Id.*

c. Risk of Maintaining Class Action Status

Plaintiff has not yet filed his motion for class certification, and as such, the extent to which Plaintiff's proposed classes were certifiable is somewhat speculative. Absent settlement, there was a risk that there would not be a certified class at the time of trial, or if there were, it would consist of a significantly smaller group of employees than the proposed Settlement Class (either due to a narrowing of the class definition in a Court order on a contested motion for class certification, or through individual settlements entered into by Ekedal with class members by way of *Pick Up Stix* type settlement agreements[3]), and the expected recovery could be significantly

[3] In *Chindarah v. Pick Up Stix, Inc.*, 171 Cal.App.4th 796 (2009), the Court of Appeal held an employer may enter into pre-certification settlement agreements with individual putative class members in which the putative class members release claims for past unpaid wages and penalties

reduced, given the settlement amounts that are typically offered through the *Pick Up Stix* process. Thus, this factor, too, supports preliminary approval of the settlement.

d. <u>Amount Offered in Settlement Given Realistic Value of Claims</u>

The Settlement provides a positive recovery for the Settlement Class in the face of disputed claims. Plaintiff conducted a detailed analysis of alleged unpaid wages, meal and rest period premium payments owing, unreimbursed business expenses, wage statement penalties, waiting time penalties, and PAGA civil penalties. A summary of the results of Plaintiff's exposure analysis is discussed below:

<u>Unpaid Wages Due to Unlawful Timekeeping Policies/Practices</u>: **$137,375**

Plaintiff alleges Ekedal underpaid Settlement Class members due to timekeeping policies/practices that compensate employees for scheduled hours, as opposed to all hours actually worked. Blakely Decl., ¶ 14. Based on Plaintiff's analysis of Ekedal's timekeeping and payroll data, Plaintiff estimates that Settlement Class members were underpaid by approximately 15 minutes per shift, or 20,260 hours during the Class Period. *Id*. Because employees generally worked shifts of at least 8.0 hours, Plaintiff contends these unpaid wages should be paid at an overtime rate of pay. *Id*. Based on an average overtime rate of $37.67, Plaintiff calculated Ekedal's maximum exposure on this claim at approximately $763,194 (15 unpaid minutes per shift * $37.67 average overtime rate of pay * 81,040 shifts). *Id*.

As noted above, however, Ekedal contends that it maintained lawful timekeeping policies and/or practices and compensated Settlement Class members for all hours actually worked. Blakely Decl., ¶ 14. Ekedal also asserts that this claim is not amenable to class certification as individualized inquiries would be required to determine whether each Settlement Class member performed pre-shift and post-shift work on a particular shift, and whether Ekedal was aware that such work was being performed. *Id*. In light of Ekedal's arguments and defenses, Plaintiff discounted the maximum recovery on this claim by 55% to account for the risk of non-

in exchange for consideration. The Court further held that such settlements could preclude those individual employees from recovery in class action litigation against the employer for the same wage claims.

certification and an additional 60% to account for being unsuccessful on the merits or failure to recover the full amount sought, for a projected total of approximately $137,375. *Id*.

<u>Meal Period Violations</u>: **$142,444**

Plaintiff estimated that he and other non-exempt employees were provided with non-compliant first meal periods on approximately 50% of all shifts over 6.0 hours during the Class Period. Blakely Decl., ¶ 15. Therefore, Plaintiff calculated Ekedal's maximum exposure for meal period violations at approximately $1,017,457 (40,520 non-compliant first meal periods * $25.11 average meal period premium). *Id*.

However, as noted above, Ekedal contends that it maintained compliant meal period policies throughout the Class Period, and that under *Brinker* it is only required to "provide" the opportunity to take meal periods, not "ensure" meal periods are taken, and that, as described above, it has always done so, and any non-complaint meal periods in the timekeeping records were the result of lawful employee waiver or choice. Blakely Decl., ¶ 15. Ekedal also maintains that the meal period claim is not suited for class certification, since individual inquiries would be needed to assess which employees took non-compliant meal periods or missed meal periods, how many meal periods were non-compliant or missed, and the reasons why a particular employee did not take a compliant meal period on a particular shift. *Id.* In light of these defenses and arguments, Plaintiff discounted Ekedal's maximum exposure by 60% for the risk of non-certification, and an additional 65% to account for Ekedal's defenses on the merits or failing to recover the full amount sought, to arrive at an estimated total of approximately $142,444. *Id.*

<u>Rest Period Violations</u>: **$106,833**

Plaintiff estimates that employees were not authorized and permitted to take all legally compliant rest periods on approximately 50% of all shifts during the Class Period. Blakely Decl., ¶ 16. As such, Plaintiff calculates Ekedal's maximum exposure for rest period violations at $1,017,457 (40,520 shifts * $25.11 average rest period premium). *Id*.

However, Ekedal contends it has maintained and enforced compliant written rest period policies/practices and has always authorized and permitted employees a 10-minute rest period for every four hours worked, or major fraction thereof, and that any failure to take rest periods was as a result of employee choice, rather than any Ekedal policy and/or practice. Blakely Decl., ¶ 16. Ekedal further argues that Plaintiff's rest period claim is not amenable to class treatment, since individual inquiries would be required to determine which employees failed to take rest periods, how many rest periods they failed to take, and the reasons why each employee failed to take rest period(s) on a particular shift. *Id.* These manageability concerns are especially present with respect to rest period claims, Ekedal argues, given that rest periods are not recorded. *Id*. Given these defenses, Plaintiff discounted this maximum amount by 70% for risk of non-certification, and an additional 65% for the risk of being unsuccessful on the merits or of failing to recover the full amount sought, to arrive at an estimated realistic exposure of approximately $106,833. *Id*.

<u>Unreimbursed Business Expenses</u>: **$23,394**

Plaintiff alleges that Ekedal failed to reimburse him and other putative class members for all reasonable and necessary work expenditures, including the use of personal tools. Blakely Decl., ¶ 17. Plaintiff estimates Ekedal's maximum liability for its failure to reimburse employees for usage of their personal tools at approximately $93,575 (3,743 aggregate months in Class Period * $25.00 per month in expenditures). *Id*.

As noted above, Ekedal maintains that Settlement Class members were not required to use their personal tools as part of their job. Blakely Decl., ¶ 17. Ekedal further argues that this claim would require individual inquiries into whether Settlement Class members actually used their personal tools for work purposes, how much expense they incurred, whether they submitted a request for reimbursement, and the reasonableness of that expense, thus precluding class certification. *Id*. Based on these defenses, Plaintiff discounted the estimated maximum amount by 50% for risk of non-certification and potential inability to proceed on a classwide basis due to the arbitration agreements, and by an additional 50% to account for risk of losing on the merits or failure to recover the maximal amount sought, to arrive at an estimated exposure of approximately $23,394. *Id*.

<u>Wage Statement Penalties</u>: **$78,960**

Plaintiff alleges that Ekedal is liable for wage statement penalties as a result of the unpaid wages and unpaid meal and rest period premiums. Blakely Decl., ¶ 18. Those penalties are calculated as $50 for each "initial" violation and $100 for each "subsequent" violation, with a maximum of $4,000 per employee. *Id.; see* Labor Code § 226(e). Plaintiff's analysis reflected that there were approximately 141 unique employees and approximately 6,630 pay periods worked during the liability period applicable to Plaintiff's wage statement claim. *Id*. Plaintiff, therefore, assumed the maximum $4,000 penalty for each employee and calculated Ekedal's maximum potential wage statement exposure at approximately $564,000 (141 employees * $4,000 maximum penalty). *Id*.; *see also* Labor Code § 226(e).

In light of Ekedal's arguments that no violations occurred, that employees suffered no "injury," that any alleged violations were not "knowing and intentional," that wage statements always accurately reflected hours worked and amounts paid, as well as risks associated with Plaintiff's underlying claims discussed above, Plaintiff discounted the maximum exposure by 60% for risk of non-certification, and by an additional 65% for risk of being unsuccessful on the merits, for an estimated realistic exposure of approximately $78,960. Blakely Decl., ¶ 18.

Waiting Time Penalties: **$67,491**

Ekedal's records show approximately 128 Settlement Class members who are eligible for waiting time penalties. Blakely Decl., ¶ 19. Based on an hourly rate of $25.11, Plaintiff estimated the average waiting time penalty per former employee to be approximately $6,026 ($25.11 * 8 hours per day * 30 days). *Id*. Therefore, Plaintiff calculated Ekedal's maximum exposure for potential waiting time penalties to be approximately $771,328 (128 former employees * $6,026 average penalty). *Id*.

However, Ekedal presented several defenses to this claim, most notably their assertion that because they possessed good-faith defenses to the underlying claims, any failure to pay wages was not "willful" as a matter of law. Blakely Decl., ¶ 19. Ekedal further asserts that Plaintiff's waiting time penalty exposure was grossly inflated as not every former employee experienced the alleged Labor Code violations. *Id*. Moreover, because the waiting time claim is derivative of Plaintiff's underlying wage claims, Plaintiff would need to overcome Ekedal's defenses, both as to class certification and on the merits, as to his underlying claims. *Id*. To account for Ekedal's defenses, Plaintiff discounted the maximum exposure by 65% for the risk of non-certification and an additional 75% for the risk of losing on the merits and/or not receiving the maximum penalties sought, to arrive at an estimated exposure of approximately $67,491. *Id*.

<u>PAGA Penalties</u>: **$24,862**

Plaintiff estimated a maximum total PAGA exposure of approximately $663,000 (6,630 pay periods * $100 "initial" penalty). Blakely Decl., ¶ 20; *Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1207 (2008) (finding "initial" violation rate applies until employer is notified that it is violating a Labor Code provision). However, these penalties derive from the underlying wage and hour violations discussed above, which Ekedal disputes vigorously. Blakely Decl., ¶ 20; *see e.g.*, *Green v. Lawrence Service Co.* 2013 WL 3907506, *5, n.5 (C.D. Cal. 2013) (explaining that a PAGA claim's success was determined by the merits of its underlying claims). Ekedal also asserts that the Court would drastically reduce any award of PAGA penalties as "confiscatory." Blakely Decl., ¶ 20; *see also Thurman v. Bayshore Transit Mgmt., Inc*., 203 Cal.App.4th 1112, 1135 (2012) (affirming reduction of PAGA penalties); *Fleming v. Covidien Inc*. (C.D. Cal. 2011) Case No. ED CV10-01487 RGK (OPx), 2011 WL 7563047, at *4 (reducing PAGA penalties from $2.8 million to $500,000). Therefore, Plaintiff discounted the maximum figure by 75% for the risk of losing on the merits and/or not recovering a PAGA penalty for each and every pay period, and an additional 85% to account for the possibility of this Court reducing penalties, to arrive at an estimated exposure of approximately $24,862. Blakely Decl., ¶ 20.

Using these estimated figures for each of the claims described above, Plaintiff predicted that the potential realistic recovery for the Settlement Class would be approximately $581,359. Blakely Decl., ¶ 21. The proposed Settlement of $525,000.00 represents approximately 90.3% of the reasonably forecasted recovery for the Settlement Class. *Id*. Preliminary approval is appropriate since the Settlement will provide significant monetary relief to the Settlement Class, which is consistent with what Plaintiff's counsel believes could have been recovered had the case proceeded through trial.

e. <u>The Experience and Views of Counsel</u>

"Parties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation." *In re Pacific*

Enterprises Securities Litigation 47 F.3d 373, 378 (9th Cir. 1995). Here, Plaintiff is represented by competent, experienced counsel who possess extensive experience prosecuting and defending wage-and-hour class actions and who have been appointed as class counsel in numerous cases alleging similar claims. *See* Blakely Decl., ¶¶ 2-6; *see also* Declaration of Paul K. Haines ("Haines Decl."), ¶¶ 2-8. Class Counsel conducted an in-depth review of Ekedal's timekeeping and payroll records and drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiff's case. *See* Blakely Decl., ¶¶ 14-21. The Settlement was also reached with the assistance of an experienced and respected wage-and-hour class action mediator. *Id.,* at ¶ 11. This factor strongly supports preliminary approval of the Settlement. *See Kullar*, *supra*, 168 Cal.App.4th at 130.

2. <u>The Preliminary Approval Standard Is Met</u>

At this stage, the Court can grant preliminary approval of the Settlement and direct that notice be given if the proposed Settlement: (1) falls within the range of possible approval; (2) appears to be the product of serious, informed, and non-collusive negotiations; and (3) has no obvious deficiencies. *See* Manual for Complex Litigation § 30.41(3rd Ed. 1995); 4 Newberg on Class Actions § 11:24-25 (4th Ed. 2013).

a. <u>The Settlement Is Within the Range of Possible Approval</u>

The proposed Settlement reflects approximately 90.3% of the estimated recovery the Settlement Class could reasonably expect in light of the significant litigation risks and will provide tangible, substantial monetary compensation for hotly disputed claims. Indeed, the percentage of the liability exposure recovered in this case far exceeds percentages routinely approved by courts. *See, e.g., Glass v. UBS Finan. Servs.*, Case No. C-06-4068 MMC, 2007 WL 221862, *4 (N.D. Cal. 2007) (approving settlement representing 25% to 35% of potential damages); *Dunleavy v. Nadler*, 213 F.3d 454, 459 (9th Cir. 2000) (approving settlement representing about one-sixth of potential recovery); *Nat'l Rural Telecomm. Coop. v. DirecTV, Inc.*, 221 F.R.D. 523, 527 (C.D. Cal. 2004) ("it is well-settled law that a proposed settlement may be acceptable even though it amounts to only a fraction of the potential recovery that might be available to the Settlement Class members at trial"). Further, the average Individual Settlement

Payment of approximately $1,028.08 exceeds average payments achieved in other wage and hour class action settlements.[4] Thus, Plaintiff submits that the proposed settlement is within the range of possible approval, such that notice should be provided to the Settlement Class members so that they can consider the Settlement. The Court will have the opportunity to again assess the reasonableness of the Settlement after the Settlement Class members have had the opportunity to opt-out or object.

b. The Settlement Resulted from Serious, Informed Negotiations

The Settlement resulted from extensive informal discovery and a full-day mediation. Thus, it is entitled to a presumption of fairness *See Kullar*, *supra*, 168 Cal.App.4th at 130. As discussed above, Plaintiff carefully vetted the claims at issue, reviewed extensive timekeeping and payroll data, and conducted a detailed statistical analysis of the data to arrive at his estimated class-wide damages figures. *See* Blakely Decl., ¶¶ 14-21. Thus, this factor supports preliminary approval.

c. The Settlement Is Devoid of Obvious Deficiencies

Preliminary approval of the Settlement is also warranted because there are no obvious deficiencies. The Settlement will provide substantial monetary relief to Settlement Class

[4] *See e.g.*, *Bercea v. AE Retail West*, Case No. 34-2012-00123947 (Sacramento County Super. Ct. May 9, 2012) (average net recovery of approximately $105); *Ressler v. Federated Department Stores, Inc.*, Case No. BC335018 (Los Angeles County Super. Ct. Jan. 2, 2009) (average net recovery of approximately $90); *Palencia v. 99 Cents Only Stores*, Case No. 34-2010-00079619 (Sacramento County Super. Ct.) (average net recovery of approximately $80); *Doty v. Costco Wholesale Corp.*, Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007) (average recovery of approximately $65); *Lim v. Victoria's Secret Stores, Inc.*, Case No. 04CC00213 (Orange County Super. Ct. Jan. 20, 2006) (average net recovery of approximately $35); *Gomez v. Amadeus Salon, Inc.*, Case No. BC392297 (Los Angeles County Super. Ct. July 23, 2010) (average net recovery of approximately $20); *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (E.D. Cal. Dec. 17, 2008) (wage and hour class action settlement approved where average recovery was approximately $60); *Schiller v. David's Bridal, Inc.*, Case No. 1:10-cv-00616-AWI-SKO, 2012 WL 2117001 at *17 (E.D. Cal. June 11, 2012) ("Class Members will receive an average of approximately $198.70…[T]his is a substantial recovery where Defendants asserted compelling defenses to liability; Plaintiff also notes several similar actions where the gross recoveries per class member were less than $90…[T]he Court finds that the results achieved are good"); and *Williams v. Centerplate, Inc.*, Case Nos. 11-CV-2159-H-KSC, 12-CV-0008-H-KSC, 2013 WL 4525428 (S.D. Cal. Aug. 26, 2013) (average recovery of approximately $108).

members. The amounts proposed for Class Counsel's attorneys' fees and costs, LWDA payment, Plaintiff's Class Representative Enhancement Payment, and settlement administration costs are all reasonable and appropriate based on the facts of this case. Because the Settlement is devoid of obvious deficiencies, this factor supports preliminary approval.

B. THE COURT SHOULD CERTIFY THE SETTLEMENT CLASS

The Settlement Class satisfies the criteria for certification because: (1) it is sufficiently numerous; (2) common questions of law and fact predominate; (3) Plaintiff's claims are typical; and (4) Plaintiff and his counsel will adequately represent them. Cal. Code Civ. Proc. § 382.

1. The Proposed Class Is Ascertainable and Numerous

A class is "ascertainable" where the members "may be readily identified without unreasonable expense or time by reference to official [or business] records." *See Sevidal v. Target Corp.* 189 Cal.App.4th 905, 916 (2010) (alterations in original). Here, the proposed class is defined as all current and former non-exempt employees who worked for Ekedal in California during the Class Period. *See* Settlement, § 1. Therefore, Settlement Class members can be identified from Ekedal's personnel and employment records. Ekedal represents that the Settlement Class consists of approximately 285 current and former non-exempt employees. *See* Blakely Decl., ¶ 13. It would therefore be impracticable to bring all Settlement Class members before the Court or for each Settlement Class member to bring an individual lawsuit. Thus, the proposed Settlement Class satisfies numerosity. *See, e.g., Bowles v. Sup. Ct.*, 44 Cal.2d 574 (1955) (holding a class representing 10 beneficiaries of a trust sufficiently numerous).

2. Common Issues of Law and Fact Predominate

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

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

The typicality requirement is satisfied where class representatives have claims that are typical of those of the rest of the class. *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* 191 Cal.App.3d 1341, 1347 (1987) (finding typicality satisfied where named plaintiff purchased the same goods as the putative class in a consumer class action). Here, Plaintiff's claims are typical of those held by the Settlement Class members. First, Ekedal employed Plaintiff as a non-exempt employee during the Class Period, and Plaintiff was subject to Ekedal's wage and hour policies at issue in this case. *See* Rodriguez Decl., ¶ 2. Second, Plaintiff was injured by the same challenged policies/practices that allegedly injured the Settlement Class as a whole. For example, Plaintiff asserts that he was deprived of wages and contends that he was deprived of all legally compliant meal and rest periods. *Id.*, at ¶ 3. Plaintiff further asserts that he was not reimbursed for all necessary business expenses, did not receive accurate and compliant wage statements and did not receive all wages at the time of separation of employment. *Id.*, at ¶ 4. Because Plaintiff suffered the same injuries as the other members of the Settlement Class, the typicality requirement is satisfied.

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

The adequacy requirement examines conflicts of interest between named parties and the class(es) they seek to represent. *See Capital People First v. State Dept. of Developmental Services* 155 Cal.App.4th 676, 697 (2007). Plaintiff and his counsel will adequately represent the Settlement Class, as there are no conflicts between Plaintiff and the proposed Settlement Class, and Plaintiff possess claims that are in line with those of the Settlement Class. *See McGhee v. Bank of America* 60 Cal.App.3d 442, 450-51 (1976) (adequacy satisfied where there was no indication that Class Counsel were not qualified and the named plaintiff had no interests antagonistic to those of the proposed class). Class Counsel also have extensive experience in wage and hour class action litigation. *See* Haines Decl., ¶¶ 2-8; Blakely Decl., ¶¶ 2-6.

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

This Court should order distribution to the Settlement Class of the proposed Class Notice by U.S. Mail, postage prepaid, in English and Spanish, using the last known mailing address information provided by Ekedal *See* Settlement, § 9. This manner of giving notice is the "best notice practicable" under the circumstances because it provides "individual notice to all members who can be identified through reasonable effort." *See Eisen v. Carlisle & Jacquelin* 417 U.S. 156, 173 (1974). Here, Plaintiff proposes the settlement be administered by ILYM Group, Inc. ("ILYM"), an experienced class action settlement administrator. *See* Declaration of Anthony Rogers ("Rogers Decl.") and attached exhibits. Settlement Class members' addresses will be ascertainable through Ekedal's personnel and payroll records, which Ekedal will provide to ILYM within ten (10) business days of preliminary approval of the Settlement. *See* Settlement, § 9(A). Within ten (10) business days of receipt of the Settlement Class members' addresses, ILYM will run the names of all Settlement Class members through the National Change of Address database to update addresses and mail the Class Notice to all Settlement Class members via First Class U.S. mail. *Id.*, at § 9(C). To the extent that any notices are returned, ILYM will perform a "skip trace" to track any Settlement Class member's current mailing address. *Id*., at § 9(G).

The proposed Class Notice satisfies Cal. Rule of Court 3.766(d) because it advises Settlement Class members of the nature of the claims, basic contentions and denials of the parties, and the key terms of the Settlement, the 60-day deadline to opt out or object to the Settlement and the procedures by which to do so, explains the recovery formula and expected recovery amount for each Settlement Class member, and advises them that they will be bound by the terms of the Settlement if they do not opt-out. *See* Blakely Decl., Exhs. 1-4 to Exh. A. The proposed Class Notice will also notify Settlement Class members of the final approval hearing date and provides the Settlement Class contact information for Class Counsel and advises Settlement Class members that they may enter an appearance through counsel if they wish to. *Id.* This manner of giving notice satisfies California Rule of Court 3.766(e) as the most reliable and cost-effective method of reaching Settlement Class members.

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

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

V. CONCLUSION

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

Dated: February 13, 2026

Respectfully submitted,
HAINES LAW GROUP, APC

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