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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA**

ROBIN KONG, an individual, on
behalf of herself and on behalf of all
persons similarly situated,

Plaintiff,

vs.

MANOS HOME CARE, INC., a
California Corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. 24CV091691

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS
SETTLEMENT AND AWARD OF
ATTORNEYS' FEES, COSTS AND SERVICE
AWARD**

Hearing Date: September 29, 2026
Hearing Time: 2:30 p.m.
[Hearing scheduled by Order dated May 27, 2026]
Reservation ID: 517511586867

Judge: Hon. Somnath Raj Chatterjee
Dept.: 21

Action Filed: September 17, 2024
Trial Date: Not set

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1 **I. INTRODUCTION**

2 The parties to this action have reached a Settlement and the Court preliminarily approved the
3 Class Action and PAGA Settlement Agreement (the “Agreement”), a true and correct copy of which
4 is attached as Exhibit #2 to the Declaration of Kyle R. Nordrehaug (“Nordrehaug Decl.”).¹ In
5 accordance with the Preliminary Approval Order dated May 27, 2026 (“Preliminary Approval Order”),
6 the approved Class Notice has been disseminated to the Class.²

7 The purpose of this hearing is to determine whether the proposed settlement of the litigation
8 should be finally approved. Plaintiff Robin Kong (“Plaintiff”) respectfully moves for final approval,
9 including attorneys’ fees, costs and the service award, and the proposed entry of the Final Approval
10 Order and Judgment, submitted herewith. The settlement represents an excellent result for the Class
11 and avoids the delays, risks, and costs of further litigation. After disseminating the Class Notice to the
12 3,747 members of the Class, **to date there have been no objections and requests for exclusion** from
13 the Class, which means that the entire Class (100%) has elected to participate in the Settlement.
14 Nordrehaug Decl. ¶4. This is a positive response from the Class evidencing their collective approval
15 of the settlement. As a result, Plaintiff respectfully submits that the settlement should be finally
16 approved for the same reasons that the Court preliminarily approved the settlement as fair, reasonable,
17 and adequate.

18 **II. THE SETTLEMENT BEFORE THE COURT**

19 As consideration for this Settlement, the Gross Settlement Amount to be paid by Manos Home
20 Care, Inc. (“Defendant”) is One Million Nine Hundred Ninety-Nine Thousand Nine Hundred
21 Ninety-Nine Dollars (\$1,999,999). (Agreement at ¶ 1.22.) Under the Settlement, the Gross Settlement
22 Amount consists of the following elements: (1) payment of the Individual Class Payments to the
23 Participating Class Members; (2) Class Counsel Fees Payment and Class Counsel Litigation Expenses
24

25 ¹ Capitalized terms are defined in the Agreement.

26 ² The “Class” is defined as “all individuals who are or previously were employed by Defendant in
27 California and classified as non-exempt and/or exempt pursuant to the Personal Attendant Exemption
28 at any time during the Class Period.” The Class Period is September 17, 2020 through December 31,
2025. (Preliminary Approval Order, at ¶6).

1 Payment; (3) Administration Expenses Payment; (4) the Class Representative Service Payment to the
2 Plaintiff; and (5) the PAGA Penalties payment which is allocated between the LWDA PAGA Payment
3 and the Individual PAGA Payments. (Agreement at ¶ 1.22.) The Gross Settlement Amount does not
4 include Defendant's share of employer-side payroll taxes. (Agreement at ¶ 3.1.) The Gross Settlement
5 Amount shall be all-in with no reversion to Defendant. (Agreement at ¶ 3.1.) Nordrehaug Decl. ¶3(b).
6 The following is a table of the key financial terms of the Settlement and the proposed deductions:

7 **\$1,999,999** (Gross Settlement Amount)
8 - \$15,000 (Plaintiff's proposed Class Representative Service Payment)
9 - \$30,000 (Class Counsel Litigation Expenses Payment - not to exceed amount)
10 - \$599,999 (Class Counsel Fees Payment - 30% of settlement)
 - \$50,000 (PAGA Payment - 65% to LWDA / 35% to Aggrieved Employees)
 - \$25,750 (Administration Expenses Payment)³
11 **\$1,279,250** (Net Settlement Amount)

12 The specific details of the Settlement were discussed in the Motion for Preliminary Approval and are
13 set forth again in the Declaration of Nordrehaug at ¶¶ 3(c)-3(i).

14 The Settlement is fair, adequate and reasonable to the class and should be finally approved for
15 the same reasons the Court granted preliminary approval of the Settlement, agreeing that the settlement
16 is "fair, adequate and reasonable" (Preliminary Approval Order at ¶3.) In sum, the Settlement valued
17 at \$1,999,999 is an excellent result for the Class. This result is particularly favorable in light of the fact
18 that liability and class certification in this case were far from certain in light of the defenses asserted
19 by Defendant. Given the complexities of this case, the defenses asserted, the uncertainty of class
20 certification, along with the uncertainties of proof at trial and appeal, the proposed settlement is fair,
reasonable and adequate, and should be finally approved. Nordrehaug Decl. ¶3(j).

21 **III. GENERAL STANDARDS APPLICABLE TO JUDICIAL REVIEW AND APPROVAL**
22 **OF CLASS ACTION SETTLEMENTS**

23 Settlements of disputed claims are favored by the courts. *Huens v. Tatum*, 52 Cal.App.4th 259,
24 265 (1997). In evaluating settlements, the courts have long recognized that compromise is particularly
25 appropriate since such litigation is difficult and notoriously uncertain. *7-Eleven Owners for Fair Fran.*
26 *v. Southland Corp.*, 85 Cal.App.4th 1135, 1151 (2000) ("[V]oluntary conciliation and settlement are

27
28 ³ The Administration Expenses Payment was increased to \$25,750 by Stipulation and Order dated
June 12, 2026.

1 the preferred means of dispute resolution. This is especially true in complex class action litigation.")

2 The court must decide whether the proposed settlement falls within the range of reasonable
3 settlements, taking into account that settlements are compromises between the parties reflecting
4 subjective, unquantifiable judgments concerning the risks and possible outcomes of litigation. *See*
5 *Wershba v. Apple Computer*, 91 Cal.App.4th 224, 246 (2001) ("The proposed settlement is not to be
6 judged against a hypothetical or speculative measure of what might have been achieved had plaintiffs
7 prevailed at trial.") In *Wershba*, the Court explained that "the merits of the underlying class claims are
8 not a basis for upsetting the settlement of a class action." *Id.*; *see also 7-Eleven, supra*, at 1150.

9 In these cases, courts have repeatedly emphasized that there is a strong initial presumption that
10 the compromise is fair and reasonable. *Wershba*, 91 Cal.App.4th at 245. Courts should not substitute
11 their judgment for that of the parties who negotiated the settlement. *Id.* at 246. The presumption of
12 fairness exists where: (1) investigation and discovery are sufficient to allow counsel and the court to
13 act intelligently; (2) the settlement is reached through arm's-length bargaining; (3) counsel is
14 experienced in similar litigation; and (4) the percentage of objectors is small. *Dunk v. Ford Motor Co.*,
15 48 Cal.App.4th 1794, 1801 (1996). Here, the facts and circumstances compel the conclusion that the
16 proposed settlement satisfies that standard and the presumption applies.

17 **IV. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE**

18 The Court must determine whether the settlement is fair, adequate, and reasonable. *Dunk v.*
19 *Ford Motor Co.*, 48 Cal.App.4th 1794, 1801 (1996); *see also Officers for Justice v. Civil Service*
20 *Com'n*, 688 F.2d 615, 625 (9th Cir. 1982). The trial court has broad discretion to determine whether the
21 settlement is fair. *Cellphone Termination Fee Cases*, 180 Cal.App.4th 1110, 1117 (2009). "The
22 well-recognized factors that the trial court should consider in evaluating the reasonableness of a class
23 action settlement agreement include 'the strength of plaintiffs' case, the risk, expense, complexity and
24 likely duration of further litigation, the risk of maintaining class action status through trial, the amount
25 offered in settlement, the extent of discovery completed and the stage of the proceedings, the
26 experience and views of counsel, the presence of a governmental participant, and the reaction of the
27 class members to the proposed settlement.'" *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116,
28 128 (2008) (internal citations omitted); *see also Munoz v. BCI Coca-Cola Bottling Co. of L. A.*, 186

1 Cal.App.4th 399, 408 (2010).

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

9 These factors are analyzed seriatim below, and all support final approval of the class action
10 settlement before this Court, consistent with this Court’s Preliminary Approval Order.

11 **A. The Settlement Satisfies the California Test for Fairness**

12 1. The Investigation and Analysis of Documents are Sufficient to Allow Counsel
13 and the Court to Act Intelligently

14 Over the course of two years of litigation, the Parties engaged in the investigation of the claims,
15 including the production of documents, class data, and other information, allowing for the full and
16 complete analysis of liabilities and defenses to the claims in this Action. The procedural history and
17 investigation performed was detailed at length in support of the motion for preliminary approval. The
18 Settlement was the product of one arms-length mediation and contentious negotiations through an
19 all-day mediation presided over by Brandon McKelvey. The details of the litigation are set forth in the
20 Nordrehaug Decl. at ¶¶ 6(a)-6(g).

21 2. The Settlement was Reached Through Arm’s Length Bargaining

22 This settlement is the result of extensive and hard-fought litigation as well as negotiations
23 before an experienced and well-respected mediator. Defendant has expressly denied and continues to
24 deny any wrongdoing or legal liability arising out of the conduct alleged in the Action. Plaintiff and
25 Class Counsel have determined that it is desirable and beneficial to the Class to resolve the Released
26 Class Claims of the Class in accordance with this Settlement, based upon the experience of Class
27 Counsel who has previously litigated similar claims against other employers. Nordrehaug Decl. ¶7(a).

28 The Parties attended an arms-length mediation session with Brandon McKelvey, a respected

1 and experienced mediator of wage and hour class actions, in order to reach this Settlement. In
2 preparation for the mediation, Defendant provided Class Counsel with payroll and employment data
3 and other information regarding the Class Members, various internal documents, and other
4 compensation and employment-related materials. Class Counsel analyzed the data with the assistance
5 of damages expert Berger Consulting and prepared and submitted a mediation brief to the mediator.
6 Following the all-day mediation, the Parties agreed to the Settlement, which was memorialized in the
7 form of a Memorandum of Understanding. Nordrehaug Decl. ¶7(b).

8 The fact that the settlement was negotiated with the assistance of an experienced mediator
9 supports approval. *Alberto v. GMRI, Inc.*, 252 F.R.D. 652, 666 (E.D. Cal. Jun 24, 2008); *Glass v. UBS*
10 *Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476 at *15 (N.D. Cal. 2007) (where settlement was “negotiated
11 and approved by experienced counsel on both sides of the litigation, with the assistance of a
12 well-respected mediator” this factor supports approval of the settlement).

13 From November of 2025 to January of 2026, the settlement agreement and exhibits thereto
14 were finalized and executed. On May 27, 2026, the Court granted the Motion for Preliminary Approval,
15 and entered the Order granting preliminary approval of the settlement as fair and reasonable to the
16 Class. Nordrehaug Decl. ¶7(c).

17 3. Class Counsel Is Experienced in Similar Litigation

18 Class Counsel in this matter has extensive class action experience and has represented thousands
19 of persons in class actions including employment litigation, wage and hour class actions, and complex
20 litigation. Class Counsel has previously litigated wage and hour class actions involving employees and
21 claims similar to this case and have been approved as experienced class counsel during contested
22 motions in state and federal courts throughout California. The experience of counsel and class action
23 cases managed and settled by the Class Counsel in this action is provided to the Court in the
24 Nordrehaug Decl. at Exhibit #1. Class Counsel have participated in every aspect of the settlement
25 discussions and have concluded the settlement is fair, adequate, and reasonable and in the best interests
26 of the Class. Nordrehaug Decl. ¶ 3(j).

27 4. There Are No Objections and No Requests for Exclusion

28 The reaction of the Class unequivocally supports approval of the Settlement. On June 22, 2026,

1 the Administrator mailed the Court-approved Class Notice to the Class Members, which provided each
2 class member with the terms of the Settlement, including notice of the claims at issue and the financial
3 terms of the settlement, including the attorneys' fees, costs, and service award that were being sought,
4 how individual settlement awards would be calculated, and the specific, estimated payment amount to
5 that individual. See Declaration of Amanda Howard ("Howard Decl.") at ¶ 7, Exh. A. In disseminating
6 the notice, the Administrator followed the notice procedures authorized by the Court in its Preliminary
7 Approval Order. The Administrator received no written objections and no requests from exclusion
8 from the Class. Howard Decl. at ¶¶ 11, 12. As such, 100% of the Class will participate in the
9 Settlement and will be sent a settlement check. Howard Decl. at ¶ 15; Nordrehaug Decl. ¶4.

10 The absence of any objector strongly supports the fairness, reasonableness and adequacy of the
11 Settlement. See *In re Austrian & German Bank Holocaust Litigation*, 80 F.Supp.2d 164, 175 (S.D.N.Y.
12 2000) ("If only a small number of objections are received, that fact can be viewed as indicative of the
13 adequacy of the settlement."); *Stoetznner v. U.S. Steel Corp.*, 897 F.2d 115, 118-119 (3d. Cir. 1990) (29
14 objections out of 281 member class "strongly favors settlement"); *Laskey v. Int'l Union*, 638 F.2d 954
15 (6th Cir. 1981) (The fact that 7 out of 109 class members objected to the proposed settlement should
16 be considered when determining fairness of settlement). Here, where there are no objections, the
17 approval of the class is evident.

18 5. The Strength of Plaintiff's Case

19 The Action generally alleges that Plaintiff and other Class Members were not properly paid all
20 overtime wages for hours worked and at the correct rate, were not provided meal and rest periods, were
21 not timely paid earned wages, were not provided reimbursement for required expenses, were not
22 provided accurate itemized wage statements, were not paid all accrued and used sick pay at the correct
23 rate of pay, and were not paid all wages at the time of termination. The Action seeks unpaid wages,
24 penalties, attorney fees, litigation costs, and any other equitable or legal relief allegedly due and owing
25 to Plaintiff and the other Class Members by virtue of the foregoing claims. Nordrehaug Decl. ¶5.

26 Where both sides face significant uncertainty, the attendant risks favor settlement. *Hanlon v.*
27 *Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998). Here, a number of defenses asserted by Defendant
28 present serious threats to the claims of the Plaintiff and the other Class Members. Defendant asserted

1 that Defendant's practices complied with all applicable Labor laws. Defendant argued that Class
2 Members were paid for all time worked and that all work time was properly recorded and compensation
3 for that time was correctly compensated. Defendant contends that its meal and rest period policies fully
4 complied with California law and Defendant did not fail to provide the opportunity for legally required
5 meal and rest breaks. Defendant contends that there was no failure to pay for business expenses and
6 any cell phone usage was merely convenient and voluntary such that reimbursement was not legally
7 required. Finally, Defendant could argue that the Supreme Court decision in *Brinker v. Superior Court*,
8 53 Cal. 4th 1004 (2012), weakened Plaintiff's claims, on liability, value, and class certifiability as to
9 the meal and rest period claims. Defendant also argues that based on their facially lawful practices,
10 Defendant acted in good faith and without willfulness, which if accepted would negate the claims for
11 waiting time penalties and/or inaccurate wage statements. See e.g. *Naranjo v. Spectrum Sec. Servs.,*
12 *Inc.*, 15 Cal. 5th 1056, 1065 (May 6, 2024) ("if an employer reasonably and in good faith believed it
13 was providing a complete and accurate wage statement in compliance with the requirements of section
14 226, then it has not knowingly and intentionally failed to comply with the wage statement law.")
15 Defendant's defenses could eliminate or substantially reduce any recovery to the Class. While Plaintiff
16 believes that these defenses could be overcome, Defendant maintains these defenses have merit and
17 therefore present a serious risk to recovery by the Class. Nordrehaug Decl. ¶8(a).

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

20 Plaintiffs may have a strong case, but the risks inherent in continued litigation are great.
21 Defendants strongly deny liability for Plaintiffs' principal claim... [...T]he gross
22 settlement amount and the Class Members' expected net recovery, after fees and other
costs are deducted, appear to be a reasonable compromise, in light of the risks of
litigation.

23 2009 U.S. Dist. LEXIS 33900 at *19-20 (N.D. Cal. 2009); see also *Browning v. Yahoo!, Inc.*, 2007
24 U.S. Dist. LEXIS 86266, at *30 (N.D. Cal. 2007) ("In considering the strength of Plaintiff's case, legal
25 uncertainties at the time of settlement - particularly those which go to fundamental legal issues - favor
26 approval."). As recognized in a federal decision approving settlement of an overtime wage class action:

27 The potential complexity and possible duration of trial also weigh in favor of granting
28 final approval. Plaintiffs acknowledge the difficulties of proving damages, recognize the
uncertainty of outcome, and believe defendant would appeal in the event of adverse

1 judgment. A post-judgment appeal would require many years to resolve and delay
2 payment to class members. Plaintiffs believe the benefits of a guaranteed recovery today
3 outweigh an uncertain future result. Accordingly, plaintiffs argue, and the Court agrees,
the actual recovery confers substantial benefits on the class that outweigh the potential
recovery through full adjudication.

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

6 There was also a significant risk that, if the Action was not settled, Plaintiff would be unable
7 to obtain a certified class and maintain the certified class through trial, and thereby not recover on
8 behalf of any other employees. At the time of the mediation, Defendant forcefully opposed the
9 propriety of class certification, arguing that individual issues precluded class certification. Further,
10 as demonstrated by the California Supreme Court decision in *Duran v. U.S. Bank National Assn.*, 59
11 Cal. 4th 1 (2014), there are significant hurdles to overcome for a class-wide recovery even where the
12 class has been certified. While other cases have approved class certification in wage and hour claims,
13 class certification in this action was hotly disputed and the maintenance of a certified class through trial
14 was by no means a foregone conclusion. Nordrehaug Decl. ¶8(b).

15 In sum, the Settlement is a fair and reasonable result, and provides the Class with a significant
16 recovery, particularly when viewed in light of the fact that the Defendant asserted serious and
17 substantial defenses both to liability and to class certification. Currently, the maximum and average
18 class member allocation are \$1,311.29 and \$341.41, respectively. *See* Howard Decl. ¶16. Given the
19 complexities of this case, the defenses, along with the uncertainties of proof and appeal, the proposed
20 Settlement is fair, reasonable and adequate, and should be finally approved. Nordrehaug Decl. at ¶8(e).

21 6. The Risk, Expense, Complexity, and Likely Duration of Further Litigation

22 As demonstrated by the decision in *Duran*, the complexities and duration of further litigation
23 cannot be overstated. There is little doubt that Defendant would post a bond and appeal in the event
24 of an adverse judgment. A post-judgment appeal by Defendant would have required many more years
25 to resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total, then the
26 case could have dragged on for years after the appeal. The benefits of a guaranteed recovery today
27 outweigh an uncertain result three or more years in the future. Nordrehaug Decl. ¶8(c).

28 Plaintiff and Class Counsel recognize the expense and length of a trial against Defendant

1 through possible appeals which could take at least another two or three years. Class Counsel also have
2 taken into account the uncertain outcome, the risk of litigation, especially in complex actions such as
3 this one. Class Counsel are also mindful of and recognize the inherent problems of proof under, and
4 alleged defenses to, the claims asserted in the Action. Moreover, post-trial motions and appeals would
5 have been inevitable. Costs would have mounted and recovery would have been delayed if not denied,
6 thereby reducing the benefits of an ultimate victory. The Settlement confers substantial benefits upon
7 the Class. Based upon their evaluation, Plaintiffs and Class Counsel have determined that the
8 Settlement set forth in the Agreement is in the best interest of the Class. Nordrehaug Decl. ¶8(c).

9 Although Plaintiff and Class Counsel believe that their case has merit, which Defendant
10 continues to vigorously deny, they recognized the potential risks both sides would face if litigation of
11 the Action continued. As the federal court held in *Glass*, where the parties faced uncertainties similar
12 to those in this litigation:

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

17 *Id.* at *12.

18 7. The Amount Offered in Settlement

19 The Settlement in this case is fair, reasonable and adequate considering Defendant's defenses
20 to Plaintiff's claims. As set forth in the Declaration of Nordrehaug in support of preliminary approval
21 which discussed the value of the class claims in detail, the Gross Settlement Amount compares
22 favorably to the value of the claims. Based upon 3,747 Class Members who collectively worked
23 207,796 Workweeks, the Gross Settlement Amount provides an average value of \$533.76 per Class
24 Member and \$9.62 per Workweek and after deductions the Net Settlement Amount provides an average
25 recovery of \$341.41 per Class Member and a recovery of \$6.15 per Workweek. Nordrehaug Decl. at
26 ¶8(d).

27 The calculations to compensate for the amount due for the Class at the time of the mediation
28 were calculated by Berger Consulting, Plaintiff's damage expert. As to the Class whose claims are at

1 issue in this Action, Plaintiff used this expert to analyze the data and determine the potential unpaid
2 wages for the employees. The maximum potential damages were calculated to be \$1,663,024 for the
3 alleged unpaid overtime wages for shifts over 8 hours, \$3,961,527 for the alleged unpaid wages due
4 to off-the-clock work at 1 hour per week, \$39,749 for the alleged underpaid overtime due to the
5 miscalculation of the regular rate, \$21,110 for the alleged unpaid sick pay due to the miscalculation of
6 the regular rate, \$3,835,079 for alleged meal period damages based upon a 97.4% potential violation
7 rate for shifts observed in the time records and after deduction for meal premiums already paid by
8 Defendant, \$3,835,079 for alleged rest period damages based upon the same 97.4% potential violation
9 rate observed for meal breaks, \$287,905 for alleged unreimbursed business expenses for personal cell
10 phone usage at \$5 per month. As a result, the total damage valuation was calculated that Defendant was
11 subject to a maximum damage claim in the amount of \$13,643,473. As to potential penalties, Plaintiff
12 calculated that potential waiting time penalties were a maximum of \$4,681,947, and potential maximum
13 wage statement penalties were \$10,240,000.⁴ Defendant vigorously disputed Plaintiff's calculations
14 and exposure theories. Nordrehaug Decl. at ¶ 8(d).

15 Consequently, the Gross Settlement Amount of \$1,999,999 represents more than 14.6% of the
16 maximum value of the alleged damages at issue in this case at the time this Settlement was negotiated.⁵
17 Importantly, the recent decision that good faith belief of compliance by the employer in *Naranjo v.*
18 *Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024), could completely negate the claims for
19 waiting time and wage statement penalties, even if wages were owed to the Class. In addition the
20 97.4% violation rate used for meal and rest period damages overstates the damages because Class

21
22 ⁴ While Plaintiff alleged claims for statutory penalties pursuant to Labor Code Sections 203 and
23 226, at mediation Plaintiff recognized that these claims were subject to additional, separate defenses
24 asserted by Defendant, including, a good faith dispute defense as to whether any premium wages for
25 meal or rest periods or other wages were owed given Defendant's position that Plaintiff and Class
26 Members were properly compensated. *See Nordstrom Commission Cases*, 186 Cal. App. 4th 576, 584
27 (2010) ("There is no willful failure to pay wages if the employer and employee have a good faith
28 dispute as to whether and when the wages were due.").

⁵ Because the PAGA claim is not a class claim and primarily is paid to the State of California,
Plaintiff has not included the PAGA claim in this discussion of the value of the class claims. The
PAGA claim was addressed in the Motion for Preliminary Approval in the Declaration of Nordrehaug
at ¶33.

Members likely received some of their breaks. The above maximum calculations should then be adjusted in consideration for both the risk of class certification and the risk of establishing class-wide liability on all claims. Given the amount of the settlement as compared to the potential value of claims in this case and the defenses asserted by Defendant, this settlement is fair and reasonable.⁶ Clearly, the goal of this litigation has been met.

V. THE REQUESTED ATTORNEYS' FEES, COSTS AND SERVICE AWARD SHOULD BE APPROVED

A. The Attorneys' Fees are Reasonable and Supported by the Percentage of the Fund Method

In light of the Court's prior ruling, Class Counsel requests a reduce fee award calculated at 30% of the total value of the settlement for the successful prosecution and resolution of this action. California state and federal courts have recognized that an appropriate method for determining award of attorneys' fees is based on a percentage of the total value of benefits to class members by the settlement. *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 254 (2001); *Serrano v. Priest*, 20 Cal.3d 25, 34 (1977); *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *Vincent v. Hughes Air West, Inc.*, 557 F.2d 759, 769 (9th Cir. 1997). The purpose of this equitable doctrine is to avoid unjust enrichment to the Class and to "spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." *Vincent*, 557 F.2d at 769.

The California Supreme Court has provided guidance regarding the award of attorneys' fees in wage and hour class action settlements. Under California law, the award of attorneys' fees in common fund wage and hour class action settlements should start with the percentage method. See *Laffitte v.*

⁶ See *Glass v. UBS Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476 (N.D. Cal. 2007) (approving a settlement where the settlement amount constituted approximately 25% of the estimated overtime damages for the class); *Stovall-Gusman v. W.W. Granger, Inc.*, 2015 U.S. Dist. LEXIS 78671, at *12 (N.D. Cal. 2015) (granting final approval where "the proposed Total Settlement Amount represents approximately 10% of what class might have been awarded had they succeeded at trial."); *Dunleavy v. Nadler (In re Mego Fin. Corp. Sec. Litig.)*, 213 F.3d 454, 459 (9th Cir. 2000) (affirming approval of a class settlement which represented "roughly one-sixth of the potential recovery".) See also *Viceral v. Mistras Grp., Inc.*, 2016 WL 5907869 (N.D. Cal. 2016) (approving wage and hour class action settlement amounting to 8.1% of full value); *Ma v. Covidien Holding, Inc.*, 2014 WL 2472316, (C.D. Cal. 2014) (approving wage and hour class action settlement worth "somewhere between 9% and 18%" of maximum valuation).

1 *Robert Half Int'l*, 1 Cal. 5th 480, 503 (2016) (“We join the overwhelming majority of federal and state
2 courts in holding that when class action litigation establishes a monetary fund for the benefit of the
3 class members, and the trial court in its equitable powers awards class counsel a fee out of that fund,
4 the court may determine the amount of a reasonable fee by choosing an appropriate percentage of the
5 fund created”). Under the percentage of the fund method, a court’s objective remains to “mimic the
6 market” in fixing a reasonable fee. See *Gaskill v. Gordon*, 160 F.3d 361, 363 (7th Cir. 1998).

7 First, the fee award representing 30% of the fund clearly falls within that range and is consistent
8 with other rulings of other courts and comprehensive surveys of class action settlements and fee awards.
9 Attorneys’ fees awards of 30% of the fund are within (and even below) the expected range in the
10 market in legal services. In *Laffitte v. Robert Half Int'l*, 1 Cal.5th 480, 503 (2016), the California
11 Supreme Court both endorsed the award of a fee as a percentage of that fund, and expressly approved
12 one-third (1/3) as a reasonable percentage in a contingent common fund class settlement. Such similar
13 awards by other Courts are set forth in the Nordrehaug Decl. ¶11.

14 Second, the results delivered by Class Counsel also support the requested percentage of the
15 fund. Here, Plaintiff and their counsel secured a \$1,999,999 settlement for the benefit of the Class and
16 only one (1) of the Class Members elected to opt out. Similarly, not one Class Member objected. The
17 Settlement was possible only because Class Counsel was able to convince Defendant that Plaintiff
18 could potentially prevail on the contested issues regarding liability, maintain class certification,
19 overcome difficulties in proof as to monetary relief and take the case to trial if need be. Nordrehaug
20 Decl. ¶10(f). In successfully navigating these hurdles Class Counsel displayed the necessary skills in
21 both wage and hour and class action litigation. Moreover, as discussed above, there were significant
22 risks to the contingent litigation. See *Barbosa v. Cargill Meat Solutions Corp.*, 297 F.R.D. 431, 449
23 (E.D. Cal. 2013) (“**Like this case, where recovery is uncertain, an award of one-third of the
24 common fund as attorneys' fees has been found to be appropriate.**”)

25 Third, “the response of the class members to attorneys’ fee notice, though not decisive, is
26 relevant to the...reasonable determination” regarding fees. *Swedish Hospital v. Shalala*, 1 F.3d 1261,
27 1272 (D.C. Cir. 1993). A positive response rate tends to suggest that the court’s “approximation of the
28 market” for fees is well supported. *Id.* at 1269. Here, the Class Notice specifically notified the Class

1 that Class Counsel would be seeking up to a one-third fee award. Again, there were no objections.

2 Fourth, it is recognized that one of the primary factors justifying an enhanced attorney's fees
3 reward is the attendant risks inherent in the litigation. For Class Counsel, the fees here were wholly
4 contingent in nature and the case presented far more risk than the usual contingent fee case. Among the
5 risks was the cost inherent in class action litigation, as well as a long battle with a corporate Defendant
6 who had retained a premier and highly experienced defense firm. **Counsel retained on a contingency
7 fee basis, whether in private matters or in class action litigation, is entitled to a premium above
8 their hourly rate in order to compensate for both the risks and the delay in payment.** *See e.g.*
9 *Stanger v. China Elec. Motor, Inc.*, 812 F.3d 734, 741 (9th Cir. 2016) (courts "must" apply a risk
10 enhancement); *Stetson v. Grissom*, 821 F.3d 1157, 1166 (9th Cir. 2016) (abuse of discretion not to
11 apply risk multiplier).

12 Fifth, the requested fee award is supported by the lodestar cross-check. The reasonableness of
13 the requested attorneys' fee of 30% equal to \$599,999 is also established by reference to Class
14 Counsel's lodestar in this matter. **The contemporaneous billing records for Class Counsel evidence
15 that through September 1, 2026, Class Counsel's total lodestar is \$232,132.50, with significant
16 additional fees still to be incurred to complete final approval and the settlement process.** (*See*
17 *Nordrehaug Decl.* at ¶12 and Exhibit #3.) The requested fee award is therefore currently equivalent
18 to Class Counsel's total lodestar with a reasonable multiplier cross-check of less than 2.6, and there will
19 be additional lodestar incurred by Class Counsel to complete the settlement process and manage the
20 settlement distribution and reports. (*Nordrehaug Decl.* at ¶12.) Such a lodestar cross-check is within
21 the range of multiplier cross-checks approved in other cases such as *Laffitte* and *Vizcaino v. Microsoft*
22 *Corp.*, 290 F.3d 1043, 1051 (9th Cir. 2002).⁷ Because the multiplier cross-check is within this accepted
23 range it is not "extraordinarily high" so as to justify an adjustment of the percentage under *Laffitte*,

24
25 ⁷ *See Laffitte, supra*, 1 Cal. 5th at 487 (approving 1/3 fee award with multiplier of 2.13); *Vizcaino*
26 *supra*, at 1051 (3.65 multiplier approved); *Pellegrino v. Robert Half Intern., Inc.*, 182 Cal.App.4th 278
27 (2010) (in class actions reasonable multipliers of 2.0 to 4.0 are often applied); *Wershba*, 91 Cal. App.
28 4th at 255 ("multipliers can range from 2 to 4 or even higher."); *In re Sutter Health Uninsured Pricing*
Cases, 171 Cal.App.4th 495, 512 (2009) (affirming multiplier of 2.52 as "fair and reasonable"); *Chavez*
v. Netflix, Inc., 162 Cal.App.4th 43, 66 (2008) (affirming multiplier of 2.53); *Taylor v. Fedex Freight,*
Inc., 2016 U.S. Dist. LEXIS 142202 (E.D. Cal. 2016) (2.26 multiplier).

1 *supra*, 1 Cal. 5th at 505. For such reasons, Class Counsel’s request for attorneys’ fees in the amount
2 of one-third of the common fund is reasonable and should be approved.

3 **B. The Reimbursement of Litigation Expenses**

4 The Agreement provides at paragraph 3.2(b), that Class Counsel may seek a “Class Counsel
5 Litigation Expenses Payment of not more than \$30,000.” Class Counsel requests reimbursement for
6 incurred litigation expenses and costs in the amount of \$25,600.95. Class Counsel have incurred
7 expenses of \$25,600.95 based upon counsel’s billing records; therefore, this requested amount is less
8 than the allocation in the Agreement. These litigation expenses include the expenses incurred for filing
9 fees, mediation expenses, expert expenses (Berger Consulting), docket document downloading charges,
10 and attorney service charges (OneLegal and Knox), all of which are costs normally billed to and paid
11 by the client. The details of the litigation expenses incurred are set forth the Nordrehaug Decl. at ¶13
12 and Exhibit #3. These costs were reasonably incurred in the prosecution of the Action. (Nordrehaug
13 Decl. at ¶13.) Because these costs were reasonable and necessary to the successful prosecution of these
14 claims, the request is reasonable and should be granted.

15 **C. The Service Award Is Reasonable and Should be Approved**

16 Plaintiff respectfully submits that for her service as the only class representative, Plaintiff
17 should be awarded the agreed service award of \$15,000 each in accordance with the Agreement for her
18 time, risk and effort expended on behalf of the Class as the class representative. (Agreement at ¶
19 3.2(a).) Defendant has agreed to this payment and there have been no objections to the requested
20 service award. The Nordrehaug Decl., at ¶14, provides a long list of equivalent service awards
21 approved in California in similar cases, which further supports the request in this case. The Plaintiff’s
22 Declaration in support of the request is attached as Exhibit #5 to the Nordrehaug Decl.

23 As the sole representative of the Class, Plaintiff performed her duties to the Class admirably and
24 without exception. Plaintiff worked extensively with Class Counsel during the course of the litigation,
25 responding to numerous requests, searching for documents, working with counsel, and reviewing the
26 settlement documentation. (Nordrehaug Decl. at ¶ 14.) As set forth in the Agreement, Plaintiff is also
27 providing a comprehensive release as part of the Settlement, far beyond the class release. The Plaintiff’s
28 Declaration detail the involvement, stress and risks she undertook as a result of this Action. Plaintiff

1 also assumed the serious risk that she might possibly be liable for costs and fees to Defendant, as well
2 as the reputational risk of being “blacklisted” by other future employers for having filed a class action
3 on behalf of employees. (Nordrehaug Decl. at ¶15.) Without the Plaintiff’s participation, cooperation
4 and information, no other employees would be receiving any benefit. (Nordrehaug Decl. at ¶¶ 15-16).

5 The payment of service awards to successful class representatives is appropriate and the amount
6 is within the currently awarded range for similar settlements. *See, e.g., Andrews v. Plains All Am.*
7 *Pipeline L.P.*, 2022 U.S. Dist. LEXIS 172183, at *11 (C.D. Cal. 2022) (service awards of \$15,000 each
8 are appropriate); *Reynolds v. Direct Flow Med., Inc.*, 2019 U.S. Dist. LEXIS 149865, at *19 (N.D. Cal.
9 2019) (granting request for \$12,500 service award); *Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018 U.S.
10 Dist. LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500 where average class member payment was
11 \$351); *Louie, supra*, 2008 WL 4473183 at *7 (awarding \$25,000 service award to each of six plaintiffs
12 in overtime class action); *Glass, supra*, 2007 WL 221862 at *16-17 (awarding \$25,000 service award).
13 Accordingly, Class Counsel respectfully requests approval of the Class Representative Service Payment
14 in accordance with the Agreement.

15 **VI. CONCLUSION**

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

19 Respectfully submitted,

20 Dated: September 1, 2026

**BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW
LLP**

21 By: /s/ Kyle Nordrehaug
22 Kyle R. Nordrehaug
23 Attorneys for Plaintiff
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