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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SISKIYOU

DEANNA RICKETTS, an individual, on behalf
of himself, and on behalf of all persons similarly
situated,

Plaintiff,

v.

MOUNTAIN SILVERADO, INC., a California
Corporation; DENNIS R ERICKSON, an
individual; and DOES 1 through 50, Inclusive,

Defendants.

Case No. 22CV00796

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR PRELIMINARY
APPROVAL OF CLASS AND PAGA
ACTION SETTLEMENT**

Date: September 26, 2024

Time: 9:30 AM

Judge: Hon. Karen L. Dixon

Dept.: 2

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I. INTRODUCTION

Plaintiff DEANNA RICKETTS (“Plaintiff”) seeks preliminary approval of the Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims (“Agreement”)¹, which if approved, would provide valuable monetary relief for approximately 108 Class Members. The basic terms of the Agreement provide for the following:

1. The “**Class Members**” and “**Class Period**” shall mean “all non-exempt employees who are or previously were employed by Defendant Mountain Silverado, Inc. and performed work in California during the period beginning December 9, 2018 to February 29, 2024 (“Class Period”). Agreement at §§ I(G), I(J). The Settlement Class Members exclude any Class Member that submitted a valid and timely request for exclusion. Agreement at § I(KK).

2. The “**Aggrieved Employees**” and “**PAGA Period**” shall mean “all non-exempt employees who are or previously were employed by Defendant Mountain Silverado, Inc. and performed work in California during the period beginning September 28, 2021 to February 29, 2024. Agreement at §§ I(C), I(Y). Aggrieved employees do not have the ability to opt-out of the PAGA portion of the settlement. Agreement at § III(L).

3. The “**Gross Settlement Amount**” is Six Hundred Thousand Dollars and Zero Cents (\$600,000.00). Agreement at § I(P). The Gross Settlement Amount is non-reversionary and includes the following:

a. A “**Service Award**” in the amount of \$10,000 to Plaintiff for her services on behalf of the Class Members. Agreement at §§ I(HH), and III(M)(9);

b. A payment of “**Attorneys’ Fees and Attorneys’ Expenses**” in the amount not to exceed one-third of the Gross Settlement Amount for Attorney’s Fees, currently estimated to be \$200,000.00 **and** Attorneys’ Expenses not to exceed \$20,000.00, to be paid to Class Counsel. Agreement at §§ I(D)(E), III(M)(10);

c. A “**PAGA Payment**” of \$30,000.00 shall be allocated from the Gross Settlement Amount for settlement of claims for civil penalties under the Private Attorneys General Act of 2004

¹ The Agreement is attached as Ex “A” to the Declaration of Jean-Claude Lapuyade (“JCL Dec.”) at ¶ 3. All citations to the Agreement incorporate by this reference a citation to the JCL Dec., ¶ 3. Further, unless indicated otherwise, capitalized terms used herein have the same meaning as those defined by the Agreement.

1 (“PAGA Amount”). The Settlement Administrator shall pay 75% of the PAGA Amount to the Labor
2 and Workforce Development Agency (“LWDA Payment”). The Settlement Administrator shall
3 distribute 25% of the PAGA Amount to the Aggrieved Employees (“Aggrieved Employee Payment”).
4 Agreement at §§ I(W), III(M)(11); and

5 d. “**Claims Administration Expenses**” not to exceed \$5,500.00 payable to the
6 Settlement Administrator, Apex Class Action LLC, for, *inter alia*, the administration of the Notice
7 Packet and Individual Settlement Payments. Agreement at §§ I(F), III(M)(12).

8 4. The “**Net Settlement Amount**” of approximately \$334,500.00 (Gross Settlement
9 Amount less the requested Service Award, Attorneys’ Fees and Attorneys’ Expenses, PAGA Payment
10 and Claims Administration Expenses) which will be allocated to all Settlement Class Members on a
11 pro-rata basis according to the number of Workweeks each Settlement Class Member worked during
12 the Class Period. The Net Settlement Amount will be paid to all Settlement Class Members who do
13 not opt out of the Settlement Class resulting in an average Individual Settlement Payment of **\$3,097.22**.
14 Agreement at § I(R); JCL Dec., ¶ 5.

15 An objective evaluation of the Settlement confirms that the relief negotiated on behalf of the
16 Class is fair, reasonable, and adequate. The Settlement was negotiated by the Parties at arm’s length.
17 The Settlement confers substantial benefits to the Settlement Class. The relief offered by the Settlement
18 is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage
19 and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, Class Members will
20 not have to wait (possibly years) for relief, nor will they have to bear the risk of class certification being
21 denied or of Defendants prevailing at trial. JCL Dec., ¶ 5.

22 As discussed below, the proposed Settlement satisfies all criteria for preliminary settlement
23 approval and falls within the range of reasonableness. The average Individual Settlement Payment to
24 the Settlement Class meets or exceeds awards in similar wage and hour class actions. Moreover, the
25 proposed Class is appropriate for provisional certification. Accordingly, Plaintiff respectfully requests
26 the Court grant preliminary approval of the Settlement. JCL Dec., ¶ 6.

27
28 ////

II. FACTS AND PROCEDURE

A. Overview of the Litigation

Defendants operate gas stations and associated convenience stores throughout the State of California, including in Siskiyou County where Plaintiff worked. This action asserts claims on behalf of all non-exempt employees who are or previously were employed by Defendant Mountain Silverado, Inc. and performed work in California during the period beginning December 9, 2018 to February 29, 2024. At all times during her employment, Plaintiff was classified by Defendants as a non-exempt employee, paid on an hourly basis, and was entitled to legally compliant meal and/or rest periods, and minimum, regular and overtime wages for all hours worked. Throughout her employment, Plaintiff was subject to Defendants' written policies and procedures contained in, among other documents, the "Company Rules and Policies." JCL Dec., ¶ 7; Declaration of Deanna Ricketts ("DR Dec.") at ¶¶ 4-5.

On September 28, 2022, Plaintiff served Defendants and the Labor and Workforce Development Agency ("LWDA") with a Notice of Violations ("PAGA Notice"). Plaintiff's PAGA Notice set forth the facts and theories supporting Defendants' alleged violations of various provisions of the California Labor Code and applicable Industrial Welfare Commissions ("IWC") Wage Order and of her intent to pursue claims under California Labor Code Private Attorneys General Act, Cal. Lab. Code Sections 2698 et seq ("PAGA"). JCL Dec., ¶ 8.

On December 9, 2022, Plaintiff filed a class action complaint in the Siskiyou Superior Court, Case Number 22CV00796 ("Class Action"). The Class Action alleged nine causes of action against Defendant for: (1) Unfair Competition in Violation of California Business and Professions Code §§ 17200; (2) Failure to Pay Minimum Wages in Violation of California Labor Code §§ 1194, 1197 and 1197.1; (3) Failure to Pay Overtime Wages in Violation of California Labor Code §§ 510 *et seq.*; (4) Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7 and 512; (5) Failure to Provide Required Rest Periods in Violation of Cal. Lab. Code §§ 226.7 and 512; (6) Failure to Provide Accurate Itemized Wage Statements in Violation of Cal. Lab. Code §226; (7) Failure to Provide Wages When Due in Violation of Cal. Lab. Code §§ 201, 202 and 203; (8) Failure to Reimburse Employees for Required Expenses; and (9) Violations of the Private Attorneys General Act pursuant

1 to Labor Code section 2698, *et seq.* JCL Dec., ¶ 9.

2 Generally, Plaintiff claims that Defendants failed to pay employees for all time worked,
3 including overtime, failed to provide them with proper meal and rest breaks, failed to reimburse for
4 required business expenses, and failed to issue accurate itemized wage statements. Defendants
5 forcefully deny liability for each of Plaintiff's claims. Further, Defendants assert that they fully
6 complied with all applicable employment laws and raised several other significant defenses to
7 Plaintiff's claims, including but not limited to, facially compliant meal and rest period policies, payment
8 of minimum wages and overtime, reimbursement to its employees for business expenses, compliant
9 wage statements, and timely payment of all wages due upon separation of employment. JCL Dec., ¶
10 10.

11 Plaintiff commenced written discovery on April 12, 2023. The Parties agreed to attend private
12 mediation with Jason Marsili, Esq. on December 28, 2023. The Parties engaged in arms-length
13 settlement negotiations with Mr. Marsili's assistance and the mediation ultimately concluded with a
14 settlement. JCL Dec., ¶ 11.

15 To facilitate settlement negotiations, Defendants agreed to informally produce documents and
16 data points subject to the mediation privilege, including but not limited to, a sampling of the Class
17 Members' time and payroll data, and pertinent written wage and hour policies. As discussed *infra*,
18 Plaintiff's counsel retained the forensic consultants at Berger Consulting Group ("BCG") to analyze
19 Defendants' time and payroll data. JCL Dec., ¶ 12.

20 On December 28, 2023, the Parties participated in a full day mediation with Jason Marsili, Esq.,
21 an experienced mediator of class and PAGA actions. The mediation concluded with a settlement, which
22 was subsequently memorialized in the form of a Memorandum of Understanding. After reaching an
23 agreement in principle, the Parties drafted and negotiated a long-form settlement agreement, which is
24 the subject of the instant motion. JCL Dec., ¶ 13.

25 **B. Class Counsel Thoroughly Investigated the Factual and Legal Issues**

26 Months before filing the Action, Class Counsel began its pre-filing investigation into Plaintiff's
27 complaints. Class Counsel's investigation started with several lengthy interviews with Plaintiff. As
28 part of the interview process, the Plaintiff produced documents related to her employment, including,

1 among other things, copies of her wage statements. At the conclusion of the interviews, Class Counsel
2 determined that each Plaintiff's complaints justified further inquiry. JCL Dec., ¶ 14.

3 Class Counsel subsequently requested Plaintiff's employee file from Defendants. In response,
4 Defendants produced documents, including but not limited to, Plaintiff's payroll and time records.
5 Class Counsel reviewed and analyzed the documents and determined the documents appeared to
6 substantiate Plaintiff's claim that Defendants failed to, among other things, pay for all time worked,
7 provide compliant meal and rest periods, and provide accurate wage statements. JCL Dec., ¶ 15.

8 Considering the many anticipated factual disputes, the Parties agreed that it would be in the best
9 interest of both Parties to mediate the matter. To prepare for mediation, Class Counsel requested
10 documents and data points to further evaluate Plaintiff's claims and Defendants' liability exposure to
11 the Class Members. In response to Class Counsel's request, Defendants produced a sampling of Class
12 Member time and payroll records, aggregate workweek and pay period data, and copies of applicable
13 policies, and agreements containing, *inter alia*, compensation, timekeeping and meal and rest period
14 policies. In total, Defendant produced thousands of pages of pertinent policy documents and payroll
15 data for Class Counsel to analyze. JCL Dec., ¶ 16.

16 Class Counsel then retained the statisticians and economists at BCG to evaluate the Class
17 Members' payroll and time data. BCG provides data analysis and damage modeling consulting services
18 specializing in wage and hour class actions. BCG's team of financial and data analysts are credentialed
19 and experienced experts in their fields and have provided their expertise on thousands of cases. Stated
20 differently, BCG is uniquely qualified to analyze Defendants' time and payroll data. JCL Dec., ¶ 17.

21 BCG analyzed Defendants' time and payroll data to assist in the development of various damage
22 models. Among other things, BCG determined the approximate number of work shifts, workweeks,
23 pay periods during the Class Period, and the average length of shift and average number of hours
24 worked per week and per pay period during the Class Period. BCG also estimated the amount of meal
25 period premiums paid during the Class Period, the amount of unreimbursed business expenses, the
26 amount of unpaid wages owed, and the amount of off-the-clock work performed by the Class Members
27 during the Class Period. JCL Dec., ¶ 18.

28 In advance of mediation, Class Counsel created several damage models predicated on the BCG

analysis. Class Counsel's models calculated Defendants' potential liability exposure while accounting for the uncertainties of continued litigation. These damage models informed and guided Class Counsel during the mediated settlement discussions. JCL Dec., ¶ 19.

Overall, Class Counsel thoroughly investigated the claims at issue, including: (1) determining Plaintiff's suitability as a putative class representative through interviews, background investigations, and analysis of her employment files; (2) evaluating all of Plaintiff's potential claims; (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions, and the type of employer; (4) analyzing the Class' time and payroll records; (5) analyzing Defendants' labor policies and practices; (6) researching settlements in similar cases as well as outstanding issues which could affect settlement approval; (7) evaluating Plaintiff's claims and estimating Defendants' liability for purposes of settlement; (8) drafting the mediation brief; and (9) participating in the mediation. This investigation allowed Class Counsel to fully assess the nature and magnitude of the claims being settled, as well as the impediments to recovery, such as to make an independent assessment of the reasonableness of the terms to which the Parties have agreed. JCL Dec., ¶ 20.

C. The Parties Settled after Serious, Informed and Arm's Length Negotiations

On December 28, 2023, the Parties conducted a full day of mediation with Jason Marsili, Esq., an experienced mediator of wage and hour class and PAGA actions. Mr. Marsili helped manage the Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides. The Parties made substantial progress with Mr. Marsili's assistance. Namely, the Parties exchanged information regarding their respective claims and defense, including their respective evaluation of the damages. The mediation ultimately concluded with a settlement, which was subsequently memorialized in the form of a Memorandum of Understanding. The complete and final terms of the Parties' settlement are now set forth in the Agreement. Class Counsel submits that the Settlement constitutes a fair, adequate, and reasonable compromise of the claims at issue. JCL Dec., ¶ 22.

D. The Proposed Settlement Fully Resolves Plaintiff's Claims

1. The Composition of the Class

The proposed Class consists of all non-exempt employees who are or previously were employed by Defendant Mountain Silverado, Inc. and performed work in California during the period beginning

December 9, 2018 to February 29, 2024. The Settlement Class excludes any person who submits a timely and valid request for exclusion. Agreement at §§ I(G), I(J), and I(KK). In the data exchanged for mediation, there were approximately 108 Class Members that worked an estimated 8,836 workweeks during the Class Period Agreement at § III(A)(2).

2. The Settlement Consideration

The Parties agreed to settle the underlying class claims in exchange for the Gross Settlement Amount of \$600,000.00. The Gross Settlement Amount includes: (1) Individual Settlement Payments to the Settlement Class; (2) a Service Award of \$10,000.00 to Plaintiff for her services on behalf of the Settlement Class; (3) a PAGA Payment in the amount of \$30,000.00; (4) Claims Administration Expenses estimated at \$5,500.00; (5) Attorneys' Fees and Attorneys' Expenses in the amount of \$220,000.00, comprised of attorneys' fees equal to one-third of the Gross Settlement Amount estimated to be \$200,000.00 and an estimated \$20,000.00 for actually incurred litigation expenses. *See generally* Agreement at § III(M).

Subject to the Court approving the Service Award, Attorneys' Fees and Attorneys' Expenses, PAGA Payment, and the Claims Administration Expenses, the Net Settlement Amount will be distributed to each participating member of the Settlement Class. Agreement at § III(M)(1). There is no reversion to Defendants and Defendants must separately pay for their share of the employer payroll taxes. Agreement at § III(A)(1).

3. Formula for Calculating Individual Settlement Payments

Each Settlement Class Member will receive an Individual Settlement Payment. The Individual Settlement Payment will be proportional to the number of Workweeks each Settlement Class Member worked for Defendants in California during the Class Period. Using the Class Data, the Settlement Administrator shall add up the total number of Workweeks for all Class Members. The respective Workweeks for each Class Member will be divided by the total Workweeks for all Class Members, resulting in the Payment Ratio for each Class Member. Each Class Member's Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Class Member's estimated Individual Settlement Payment. Agreement at § III(M)(1).

Each Individual Settlement Payment will be reduced by any legally mandated employee tax

withholdings (e.g., employee payroll taxes, etc.). Individual Settlement Payments allocated to Class Members who submit valid and timely requests for exclusion will be redistributed to Settlement Class Members who do not submit valid and timely requests for exclusion on a pro rata basis based on their respective Payment Ratios. Agreement at § III(M)(1).

Given that there are approximately 108 Settlement Class Members, the average gross recovery is approximately \$3,097.22 (Net Settlement Amount divided by Settlement Class Members). JCL Dec., ¶ 5. This average net recovery exceeds many wage and hour class action settlements approved by California state and federal courts. (See, e.g., *Shachno et al. v. KT Hotels, LLC*, et al., San Diego Superior Court Case No. 37-2018-00043601 (average net recovery of \$283.35); *Almanza v. The Express Group Inc.*, San Bernardino Superior Court Case No. CIVDS1722542 (average net recovery \$174.68); *Macaspac v. San Antonio Regional Hospital*, San Bernardino Superior Court Case No. CIVDS1512625 (average net recovery \$715.97) and *Crawford et al. v. Outlook Amusements, Inc.*, Los Angeles Superior Court Case No. BC617160 (average net recovery \$333.98).

4. Release by Participating Settlement Class Members

Generally, as of the Funding Date, Plaintiff and the Settlement Class Members will agree to release the Released Parties from all claims, rights, demands, liabilities, and causes of action, that were or could have reasonably been pleaded based upon, arising from, or reasonably related to, the factual allegations set forth in the operative complaint in the Action, all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint that occurred during the class period, including but not limited to, any and all claims for: (a) failure to pay all regular wages, minimum wages, and overtime wages due; (b) failure to provide meal periods or compensation in lieu thereof; (c) failure to provide rest periods or compensation in lieu thereof; (d) failure to reimburse necessary business expenses; (e) failure to provide complete, accurate wage statements; (f) failure to pay wages timely at time of termination or resignation; and (g) unfair business practices that could have been premised on the labor code violations alleged and released herein. Except as set forth above, Settlement Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class

Period. Agreement at §III(B). In addition to the above, as of the Funding Date, Plaintiff will issue a general release under Civil Code section 1542. Agreement at §III(D).

5. PAGA Release by the State of California on behalf of the Aggrieved Employees

Generally, upon the Funding Date, Plaintiff, acting as the representative of the State of California, on behalf of the Aggrieved Employees, will release the Released Parties from claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice, that occurred during the PAGA Period, including any and all claims for civil penalties for violations of Labor Code sections 201-204, 210, 226, 226.7, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1198, and 2699, regardless of whether the Aggrieved Employee opts out from the Settlement. Agreement at §III(C).

III. ARGUMENT

A. The Court Should Preliminarily Approve the Proposed Class Action Settlement

The proposed Settlement, including a Gross Settlement Amount of \$600,000.00 meets the standards for preliminary approval. Pre-trial settlement of complex class actions is a judicially favored remedy. (*Officers for Justice v. Civil Serv. Comm'n* (9th Cir. 1982) 688 F.2d 615, 625 (“Voluntary conciliation and settlement are the preferred means of dispute resolution.”).) Class action settlement approval requires an early “preliminary” review by the trial court and a subsequent “final” review after notice of the settlement has been distributed to class members for their comments and objections. (C.R.C. 3.769(c)-(g); *Cellphone Termination Fee Cases*, 180 Cal. App. 4th 1110, 1118 (2010) (the court first “preliminarily approves the settlement” and later “conducts a final approval hearing to inquire into the fairness of the proposed settlement”).)

Although Rule of Court Rule 3.769 does not provide detail as to the scope of review of the proposed settlement, preliminary approval is warranted if the settlement falls within a “reasonable range.” (*See North County Contractor’s Assn., Inc. v. Touchstone Ins. Services* (1994) 27 Cal.App.4th 1085, 1089-90; Conte & Newberg, *Newberg on Class Actions*, §§ 11.26 (4th ed. 2002).) Reasonableness and fairness are presumed where: (1) the settlement is reached through “arms-length bargaining;” (2) investigation and discovery are “sufficient to allow counsel and the court to act intelligently;” (3) counsel is “experienced in similar litigation. . . .” (*Dunk v. Ford Motor Co.* (1996)

48 Cal.App.4th 1794, 1802.) The presumption of fairness is consistent with California’s public policy goal of favoring settlements. (*Stambaugh v. Super. Ct* (1976) 62 Cal.App.3d 231, 236 (“the law wisely favors settlements”); *Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118 (“public policy generally favors the compromise of complex class action litigation”); *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1151 (“voluntary conciliation and settlement are the preferred means of dispute resolution ... [t]his is especially true in complex class action litigation”).)

Additionally, in reviewing the fairness of a class action settlement, due regard should be given to what is “otherwise a private consensual agreement between the parties.” (*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1389.) The inquiry “must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” (*Id.*)

1. The Parties Reached the Settlement Through Arm’s-Length Bargaining Led by Experienced Counsel.

“[W]hat transpires in settlement negotiations is highly relevant to the assessment of a proposed settlement’s fairness.” (*State v. Levi Strauss & Co.* (1986) 41 Cal.3d 460, 482.) Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless evidence to the contrary is offered; thus, there is a presumption that settlement negotiations are conducted in good faith. (Newberg, § 11.51.)

The Parties participated in mediation with Jason Marsili, Esq., an experienced mediator of wage and hour class and PAGA actions. Mediator Marsili managed the Parties’ expectations and provided a useful, neutral analysis of the issues and risks to both sides. (*In re Apple Computer, Inc. Derivative Litig.*, No. C 06-4128 JF (HRL), 2008 U.S. Dist. LEXIS 108195 (N.D. Cal. Nov. 5, 2008) (mediator’s participation weighs considerably against any inference of a collusive settlement); *D’Amato v. Deutsche Bank* (2d. Cir. 2001) 236 F.3d 78, 85 (a “mediator’s involvement in pre-certification settlement negotiations helps to ensure that the proceedings were free of collusion and undue pressure.”).) At all times, the Parties’ negotiations were at an arm’s length, adversarial and non-

1 collusive. The matter resolved only after Mediator Marsili heard arguments, reviewed evidence, and
2 evaluated the Parties' respective claims and defenses. JCL Dec., ¶ 22.

3 Once the Parties agreed to the settlement, the Parties engaged in protracted negotiations
4 regarding the written terms of the class action and PAGA settlement. The Parties maintained the arm's
5 length, non-collusive and adversarial negotiations while arriving at the final terms of the Settlement.
6 The Agreement is the final product of these mediated negotiations. Objectively, the Settlement terms
7 are fair, adequate and represent a reasonable compromise of the claims at issue. JCL Dec., ¶ 22.

8 2. Class Counsel's Thorough Investigation Provided an Objective Measurement of the
9 Settlement's Reasonableness.

10 As set forth in greater detail above, Class Counsel conducted a very thorough investigation into
11 the factual and legal issues in dispute. In addition to formal and informal discovery, document review,
12 data analysis and legal research, Class Counsel also researched similar wage and hour actions.
13 Although no two cases are identical, this research provided Class Counsel with a marker to inform
14 settlement discussions and, ultimately, to measure this settlement against. The investigation allowed
15 Class Counsel to realistically assess the value of the claims and intelligently engage defense counsel in
16 settlement discussions that culminated in the proposed settlement now before the Court. JCL Dec., ¶¶
17 14-21.

18 Class Counsel only agreed to enter the Settlement following this thorough investigation and
19 evaluation of Plaintiff's claims. Based on this investigation of the facts, applicable law, and
20 marketplace for similar settlements, and considering the risk of significant delay, uncertainty associated
21 with litigation, and the various defenses asserted by Defendants, Class Counsel firmly believes this
22 Agreement to be in the best interests of the Class Members. Because the Settlement's terms are fair,
23 reasonable, and adequate, the Court should preliminarily approve the Settlement. JCL Dec., ¶ 21.

24 3. The Settlement Falls Within the Recognized Range of Reasonableness.

25 The Gross Settlement Amount of \$600,000.00 is within the range of reasonable settlement for
26 preliminary approval. To determine whether a settlement is fair and reasonable, the court should
27 "consider enough information about the nature and magnitude of the claims being settled, as well as
28 the impediments to recovery, to make an independent assessment of the reasonableness of the terms to

1 which the parties have agreed.” (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.)
2 In making this determination, the court is “not to try the case” but rather “satisfy itself that the class
3 action settlement is within the ‘ballpark of reasonableness.’” (*Id.* (emphasis added).) For this analysis,
4 courts do “not require any such explicit statement of value; [they] require[] a record which allows an
5 understanding of the amount that is in controversy and the realistic range of outcomes of the litigation.
6 ” (*Munoz v. BCI Coca-Cola Bottling Co.* (2010) 186 Cal.App.4th 399, 409 (internal citation omitted).)
7 The reasonableness of a settlement is not dependent upon its actual value approaching the potential
8 recovery plaintiffs might have received if they had succeeded at trial. Indeed, “[t]he determination
9 whether a settlement is reasonable does not involve the use of a ‘mathematical equation yielding a
10 particularized sum.’” (*Frank v. Eastman Kodak Co.* (W.D.N.Y. 2005) 228 FRD. 174, 186 (*quoting In*
11 *re Michael Milken and Assoc. Sec. Litig.* (S.D.N.Y. 1993) 150 F.R.D. 57, 66).)

12 **a. The Gross Settlement Amount Meets the Recognized Range of**
13 **Reasonableness.**

14 The Gross Settlement Amount of \$600,000.00 is well within the range of reasonableness
15 considering the nature and magnitude of the claims being settled and the various potential impediments
16 to recovery. JCL Dec., ¶ 23. To determine whether a settlement is fair and reasonable, the court should
17 “consider enough information about the nature and magnitude of the claims being settled, as well as
18 the impediments to recovery, to make an independent assessment of the reasonableness of the terms to
19 which the parties have agreed.” (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.)
20 In making this determination, the court is “not to try the case” but rather “satisfy itself that the class
21 action settlement is within the ‘ballpark of reasonableness.’” (*Id.*) For this analysis, courts do “not
22 require any such explicit statement of value; [they] require[] a record which allows an understanding
23 of the amount that is in controversy and the realistic range of outcomes of the litigation.” (*Munoz v.*
24 *BCI Coca-Cola Bottling Co.* (2010) 186 Cal.App.4th 399, 409 (internal citation omitted).) The
25 reasonableness of a settlement is not dependent upon its actual value approaching the potential recovery
26 plaintiffs might have received if they had succeeded at trial.² Indeed, “[t]he determination whether a

27
28 ² Federal district courts recognize that there is an inherent “range of reasonableness” in determining whether to approve a settlement “which recognizes the uncertainties of law and fact in any particular case and the concomitant risks and costs necessarily inherent in taking any litigation to completion.” *Newman v. Stein* (2d. Cir. 2002) 464 F.2d 689, 693; *see In re*

1 settlement is reasonable does not involve the use of a ‘mathematical equation yielding a particularized
2 sum.’” (*Frank v. Eastman Kodak Co.* (W.D.N.Y. 2005) 228 FRD. 174, 186 (*quoting In re Michael*
3 *Milken and Assoc. Sec. Litig.* (S.D.N.Y. 1993) 150 F.R.D. 57, 66).)

4 Class Counsel retained BCG to develop economic damage models measuring Defendants’
5 potential liability exposure with respect to the Class and PAGA claims. The damage models were
6 informed by Class Counsel’s investigation, including the analysis of the time and payroll data
7 Defendants produced. Class Counsel projected Defendants’ liability exposure for *class claims*
8 (excluding penalties) at \$1,167,949.00 and Defendants’ *maximum* exposure (including waiting time
9 and wage statement penalties) at \$1,513,947.00. Thus, the Gross Settlement Amount of \$600,000.00
10 represents approximately 51.3% of Defendants’ *class-wide* liability exposure and 39.6% of
11 Defendants’ *maximum* exposure. The following summarizes Defendants’ estimated exposure. JCL
12 Dec., ¶ 23.

13 (1) Estimated Damages for Meal Period and Rest Period Violations

14 Plaintiff alleged that Defendants failed to provide compliant meal and rest periods. Specifically,
15 Plaintiff alleges that Defendants required employees to remain on-premises during meal and rest
16 periods, and failed to provide meal and rest premiums to employees in lieu thereof. Moreover, Plaintiff
17 alleges that Defendants failed to obtain a valid exemption from the Division of Labor Standards
18 Enforcement (“DLSE”). As a result, Plaintiff and the Class Members regularly suffered meal and rest
19 period violations. JCL Dec., ¶ 24.

20 Plaintiff alleged that Defendants’ rigorous work requirements caused Plaintiff and Class
21 Members to forego compliant meal and rest periods because Defendants primarily scheduled only one
22 employee per shift. Defendants contend that they fully complied with California meal period laws and
23 maintained compliant policies and practices. Similarly, Defendants argued that many Class Members
24

25 *Omnivision Tech, Inc.* (N.D. Cal. 2008) 559 F.Supp.2d 1036; *see also Nat’l Rural Telecomm. Coop. v. Directv. Inc.* (C.D.
26 Cal. 2004) 221 F.R.D. 523, 527 (“well settled law that a proposed settlement may be acceptable even though it amounts to
27 only a fraction of the potential recovery”); *In re Global Crossing Sec. and ERISA Litig.* (S.D.N.Y 2004) 225 F.R.D. 436,
28 460 (“settlement amount’s ratio to the maximum potential recovery need not be the sole, or even dominant, consideration
when assessing settlements fairness”); *In re IKON Office Solutions, Inc Sec Litig.* (E.D. Pa. 2000) 194 F.R.D. 166, 184 (“the
fact that a proposed settlement constitutes a relatively small percentage of the most optimistic estimate does not, in itself,
weigh against the settlement; rather the percentage should be considered in light of strength of the claims”); *Officers for*
Justice v. Civil Serv. Comm. (9th Cir. 1982) 688 F.2d 615, 628 (it is “the complete package, taken as a whole rather than the
individual component parts, that must be examined for overall fairness”).

1 did not work shifts long enough to entitle them to meal periods and, as such, argued any divergence
2 from its written policies were not systematic and, if they existed at all, were individualized. Courts
3 have found that where an employer's meal period policies are compliant, individualized issues exist as
4 to the reasons for missed, late, or truncated meal periods. *See e.g. Lampe v. Queen of the Valley Medical*
5 *Center*, 19 Cal.App.5th 832, 851 (2018) (holding that although only 11.1% of the employees' time
6 punches for meal periods were within the first 5 hours, the claim was not certifiable because
7 individualized issues existed as to the reasons for the late meal periods). In light of the foregoing, and
8 considering Defendant's defenses, Plaintiff estimated Defendants' potential exposure for this claim to
9 be \$1,043,942. JCL Dec., ¶ 25.

10 (2) Defendants' Exposure for Failure to Pay for All Hours Worked

11 One of Plaintiff's primary claims in the Action was that Defendants failed to pay for all hours
12 worked. Specifically, Plaintiff alleged that Defendant had an unlawful rounding policy, required
13 employees to work off-the-clock, and that it failed to pay Plaintiff and the Class Members all wages due
14 for purposes of straight pay, overtime pay, and double-time pay. Defendant denied liability and asserted
15 that its employees were paid for all time worked. Furthermore, Defendants argued that, even if
16 successful, this claim resulted in minimal actual damage to the Class Members. Thus, Plaintiff estimated
17 Defendant's exposure for this claim to be approximately \$124,007.00. JCL Dec., ¶ 26.

18 (3) Estimated Exposure for Wage Statement Violations and Waiting Time
19 Penalties

20 Plaintiff alleged that Defendants failed to provide accurate itemized statements of wages to their
21 employees. Specifically, Defendants issued wage statements to Plaintiff and Class Members that failed
22 to, among other things, accurately state the total hours worked and include the full address of the legal
23 entity that is the employer. Plaintiff also alleged that the Defendants' labor code violations resulted in
24 derivative liability for wage statement violations and waiting time penalties. Class Counsel considered
25 the arguable presence of various penalties and weighed the potential recoveries against probable
26 defenses. Specifically, Defendants argued that Plaintiff could not prove the "willful" prong needed to
27 obtain waiting time penalties under Labor Code section 203. Additionally, Defendants argued that
28 Plaintiff could not show that Class Members suffered an "injury" because of wage statement violations,

as required by Labor Code section 226. (*Naranjo v. Spectrum Security Services, Inc.* (2023) 88 Cal.App.5th 927.) Notwithstanding the uncertain nature of the claims, Plaintiff estimated Defendants' exposure for these penalties to be approximately \$345,998.00 (\$193,998.00 for Labor Code section 203 penalties and \$152,000.00 for Labor Code section 226 penalties. JCL Dec., ¶ 27.

(4) Defendants' PAGA Exposure

Class Counsel's damage models also estimate Defendants' exposure for PAGA penalties arising from the aforementioned violations. At the time of mediation, Plaintiff estimate Defendants' PAGA exposure at approximately \$944,300.00. JCL Dec., ¶ 28.

Here, the Parties negotiated a good faith PAGA Payment in the amount of \$30,000.00 which is 5% of the Gross Settlement Amount. This amount falls well within the range of approved PAGA penalties. Seventy-Five percent (75%) of the PAGA Payment (\$22,500.00) will be paid to the LWDA ("LWDA Payment") with the remaining twenty-five percent (25%) of the PAGA Payment (\$7,500.00) will be distributed to the Aggrieved Employees, which is within the range of PAGA penalties approved by courts and should be approved. JCL Dec., ¶ 29.

Under PAGA, Courts have considerable discretion to reduce the penalty award. In *Fleming v. Covidien*, 2011 U.S. Dist. LEXIS 154590 (C.D. Cal. 2011), a federal court reduced PAGA penalties from \$2,800,000 to \$500,000, a reduction of 82.2%, because the court found maximum penalties "unjust" because the employees had suffered no injuries. Some trial courts have actually awarded no civil penalties, even when Labor Code violations are established. See *In re Nordstrom Com. Cases*, 186 Cal.App.4th 576, 589 (2010) (affirming an award of \$0 in PAGA penalties in a wage and hour class action); *In re Taco Bell Wage & Hour Actions*, 2016 U.S. Dist. LEXIS 48557, *40-43 (E.D. Cal. Apr. 6, 2016) (PAGA penalties denied after trial).

Carrington v. Starbucks Corp., 30 Cal. App. 5th 504 (2018), illustrates the risk of PAGA claims. In *Carrington*, while the plaintiff prevailed on his PAGA claim upon trial, the trial court reduced the maximum PAGA penalty amount by 90%, citing the employer's good faith attempt at complying with the law. *Id.* at 517. Upon review, the Court of Appeal found such reduction to be proper. *Id.* at 539. Again, the *Carrington* decision was after Plaintiff actually prevailed at trial, and even then, the PAGA penalties were reduced by 90%.

1 For the aforementioned reasons, the PAGA allocation of the Gross Settlement Amount is fair,
2 just, and reasonable. JCL Dec., ¶ 30.

3 **b. Inherent Risks of Continued Litigation Support Preliminary Approval.**

4 “It can be difficult to ascertain with precision the likelihood of success at trial. The Court cannot
5 and need not determine the merits of the contested facts and legal issues at this stage, [Citation], and to
6 the extent courts assess this factor, it is to ‘determine whether the decision to settle is a good value for a
7 relatively weak case or a sell-out of an extraordinary strong case.’” (*Misra v. Decision One Mortg. Co.*
8 (C.D. Cal. 2009) 2009 WL 4581276, at *7.)

9 With respect to the most immediate challenge, i.e., class certification, the risks attendant to the
10 certification of similar wage and hour claims are demonstrated by *Magadia v. Walmart Associates, Inc.*
11 (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit, vacated reversed and remanded a \$110 million
12 judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed the trial court
13 to enter judgement in favor of the employer. *See also O’Conner v. Uber Technologies, Inc.* (9th Cir.
14 2018) 904 F.3d 1087 (decertification of wage and hour misclassification action); *see also Duran v. U.S.*
15 *Bank National Association* (2014) 59 Cal.4th 1, 31 (reversing a trial verdict in favor plaintiffs in a wage
16 and hour class action)); *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th 1077, 1088 (“[T]he
17 reason, if any, that employees might not take their breaks were predominantly individualized questions
18 of fact not susceptible to class treatment.”); *Ali v. U.S.A. Cab Ltd.* (2009) 176 Cal.App.4th 1333, 1341
19 (affirming denial of certification because employees’ declarations attesting to having taken meal and
20 rest breaks demonstrated that individualized inquiries were required to show harm); *Campbell v. Best*
21 *Buy Stores, L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following *Brinker* and denying
22 certification of proposed off-the-clock and rest and meal break classes due to lack of uniform policy);
23 *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying certification of driver
24 meal and rest period claims based on the predominance of individual issues). Collectively, the
25 examples cited above illustrate the uncertain nature of class litigation. Consequently, the uncertainty of
26 obtaining certification through a contested motion is a significant risk factor favoring settlement. JCL
27 Dec., ¶ 31.

28 “The Settlement eliminates these and other risks of continued litigation, including the very real

1 risk of no recovery after several years of litigation.” (*In re Nvidia Derivs. Litig.* (N.D. Cal. 2008) 2008
2 WL 5382544, at *3.) Indeed, potential appeals aside, litigating a complex case through trial is
3 inherently perilous regardless of the strengths of merits of the claims:

4 [N]othing is assured when litigating against commercial giants with vast
5 litigative resources, particular in such complex litigation as this, which
6 would strain the cognitive capacities of any jury. Defense judgments were
7 hardly beyond the realm of possibility. Accordingly, this factor weighs in
8 favor of preliminary approval.

9 (*Rebney v. Wells Fargo Bank* (1990) 220 Cal.App.3d 1117, 1140, *opinion modified* (June 18, 1990).)

10 Finally, continuing to litigate this action would require continued and extensive resources
11 coupled with significant Court time to proceed through trial and post-trial motions; which can often
12 take years. Furthermore, wage and hour litigation is complex and expensive, as it often necessitates
13 extensive expert testimony, particularly with regards to damages. But even if Plaintiff is successful at
14 trial, Plaintiff is acutely aware that a judgment does not end the litigation. Plaintiff fully expects that
15 Defendants would appeal any favorable judgment. As demonstrated by *Magadia, supra*, 999 F.3d 668,
16 the risk of an appeal and subsequent reversal is real. JCL Dec., ¶ 32. “Avoiding such a trial and the
17 subsequent appeals in this complex case strongly militates in favor of settlement rather than further
18 protracted and uncertain litigation.” (*Nat’l Rural Telecomms. Coop v. DirecTV* (C.D. Cal. 2004) 221
19 F.R.D. 523, 527.) Thus, “unless the settlement is clearly inadequate, its acceptance and approval are
20 preferable to lengthy and expensive litigation with uncertain results.” (*Id.* at 526.)

21 In this matter, Class Counsel negotiated a Gross Settlement Amount of \$600,000.00 that is
22 roughly 51.3% Defendants’ liability exposure for class damages. Given the amount of the settlement
23 here, as compared to potential value of the claims, offset by the various inherent risks to continued
24 litigation, the settlement is fair and reasonable. JCL Dec., ¶ 33.

25 **B. The Proposed Notice Informs the Class about the Case and Settlement**

26 The Settlement Class is entitled to the best practical notice under the circumstances. (*Kass v.*
27 *Young* (1977) 67 Cal.App.3d 100, 106.) The purpose of the notice is to give class members sufficient
28 information to decide whether they should accept the benefits offered, opt out and pursue their own

1 remedies, or object to the settlement. (*Trotsky v. Los Angeles Fed Savings & Loan Assn.* (1975) 48 Cal.
2 App. 3d 143, 151-52.) The notice must advise class members “that they may be excluded from the class
3 if they so request and that they will be bound by the judgment, whether favorable or not, if they do not
4 request exclusion.” (*Kass*, 67 Cal.App.3d at 106.) Authorities generally require service of the class
5 notice by mail or similar reliable means. (*Chance v. Super. Ct.* (1962) 58 Cal.2d 275, 290; *Cart v.*
6 *Super. Ct.* (1975) 50 Cal.App.3d 960, 972.)³

7 The Parties jointly drafted the Notice Packet which fairly and neutrally informs the Class
8 Members of their rights and remedies. The Settlement Administrator will first verify addresses, then
9 mail the proposed Notice Packet to all Class Members. The Notice Packet will include information
10 regarding the nature of the lawsuit, a summary of the substance of the Settlement’s terms, the class
11 definition, the procedure and time period within which to requests for exclusions or objections to the
12 Settlement, the date for the final approval hearing, the formula used to calculate settlement payments,
13 and the terms and scope of the Released Class Claims. Agreement at § III(L). This method was
14 negotiated by the Parties to ensure delivering the most reasonable method of notice to the Class
15 Members while ensuring cost effective administration of the Settlement. JCL Dec., ¶ 34.

16 Accordingly, both the method of disseminating the Notice Packet and content of the Notice
17 Packet satisfy due process and the requirements of California law. (See C.R.C. 3.776(e)-(f); *State of*
18 *Cal. v. Levi Strauss* (1986) 41 Cal.3d 460,485 (the class notice must “fairly apprise the class members
19 of the terms of the proposed compromise and of the options open to dissenting class members.”).) JCL
20 Dec., ¶ 35.

21 **C. The Court Should Preliminarily Approve the Service Award**

22 Enhancement payments “are fairly typical in class action cases.” (*Cellphone Termination Fee*
23 *Cases* (2010) 186 Cal.App.4th 1380, 1393 (affirming incentive awards of \$10,000); *Rodriguez v. West*
24 *Publishing Corp.* (9th Cir. 2009) 563 F.3d 948, 958, *citing* 4 Newberg on Class Actions (4th ed. 2002)
25 § 1 1:38, and Eisenberg & Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study*, 53

26
27 ³ Due process does not require that each class member actually receive a notice, but rather a procedure reasonably certain
28 to reach class members. Wright, A. Miller & M. Kane, *Federal Practice and Procedure* § 1789, at 253 (2d ed. 1986). If
appropriate notice is given, class members will be bound by the judgment even if they never actually receive the notice.
Fontana v. Elrod (7th Cir. 1987) 826 F.2d 729, 732.

UCLA L. Rev. 1303 (2006).) Enhancement payments “are intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general.” (*Rodriguez*, 563 F.3d at 958-59.) “[T]he rationale for making enhancement or incentive awards to named plaintiffs is that they should be compensated for the expense or risk they have incurred in conferring a benefit on other members of the class.” (*Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785.)

Approximately 108 Class Members will share in the Net Settlement Amount due entirely to the effort and commitment of Plaintiff. Subject to Court approval, therefore, the Settlement provides for a Service Award of \$10,000.00 for Plaintiff. The service award is fair and reasonable compensation for the Plaintiff’s efforts bringing the action, assisting Class Counsel with the litigation and settlement, regularly conferring with Class Counsel on the status of her case and the strategies for prosecuting the claims, reviewing the proposed Settlement to ensure that its terms are fair and provide adequate relief for the Settlement Class. JCL Dec., ¶ 36.

Class Counsel on behalf of Plaintiff will file a formal motion for the negotiated Service Award once preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above showing is sufficient for preliminary approval of the negotiated Service Award. JCL Dec., ¶ 37.

D. The Court Should Preliminarily Approve the Payment of Attorneys’ Fees and Attorneys’ Expenses

The purpose of a payment of Attorneys’ Fees and Attorneys’ Expenses in class action litigation is to reward counsel who took the risk of non-payment and invested in a case that achieved a substantial positive result for the class. California courts routinely award attorneys’ fees equaling one-third or more of the potential value of the common fund, the amount requested under this settlement. (*See Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (“Empirical studies show that regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery.”); Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, *J. of Empirical Legal Studies*, Vol. 1, Issue 1, 27-78, March 2004, at 35 (independent studies of class action litigation nationwide have come to a similar conclusion that a

one-third fee is consistent with market rates).)

Class Counsel took this matter on a contingency fee basis and invested significant time and expense successfully prosecuting Plaintiff's claims. As discussed *supra*, the estimated average Individual Settlement Payment illustrates the demonstrably positive outcome for the Class Members. The Agreement provides for a payment of Attorneys' Fees and Attorneys' Expenses and in the amount of one-third of the Gross Settlement Amount (\$200,000.00) and reimbursable litigations costs in an amount not to exceed \$20,000.00. Agreement § III(M)(10). Considering the positive outcome for the Class Members, and in light of the supporting authority, the proposed Attorneys' Fees and Attorneys' Expenses are fair and reasonable. Plaintiff will file a formal motion for the negotiated Attorneys' Fees and Attorneys' Expenses once preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above showing is sufficient for preliminary approval of the negotiated attorneys' fees. JCL Dec., ¶ 38.

E. Provisional Certification for Settlement Purposes Is Appropriate

For Settlement, Plaintiff contends, and Defendants do not dispute, that provisional certification of the Class is appropriate. JCL Dec., ¶ 39.

1. The Standard for Class Certification

Class actions are statutorily authorized "when the question is one of common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court" (*Cal.Civ.Proc. Code* § 382; *Lee v. Dynamex, Inc.* (2008) 166 Cal.App.4th 1325, 1332.) Class certification is appropriate when there is an "ascertainable class and a well-defined community of interest among class members." (*Sav-On Drug Stores, Inc.* (2014) 34 Cal.4th 319, 326.) Class treatment is appropriate even if class members at some point may be required to make an individual showing as to eligibility for recovery. (*Bufile v. Dollar Financial Group, Inc.* (2008) 162 Cal.App.4th 1193, 1207; *Sav-On*, 34 Cal.4th at 333.)

2. The Proposed Settlement Class is Ascertainable and there is a Well-Defined Community of Interest Among the Class Members.

Whether a class is "ascertainable" within the meaning of Code of Civil Procedure section 382 is "determined by examining (1) the class definition, (2) the size of the class, and (3) the means available

1 for identifying class members.” (*Lee*, 166 Cal.App.4th at 1334.) Class members are ascertainable where
2 they may be readily identified without unreasonable expense or time by reference to official records.
3 (*Id.*)

4 The community of interest requirement embodies three factors: (1) predominant common
5 questions of law or fact; (2) a class representative with claims or defenses typical of the class; and (3)
6 a class representative and counsel who can adequately represent the class. (*Cal. Civ. Proc. Code* § 382.)

7 In April 2012, the Supreme Court expounded on the element of predominance: The “ultimate
8 question” the element of predominance presents is whether “the issues which may be jointly tried, when
9 compared with those requiring separate adjudication, are so numerous or substantial that the
10 maintenance of a class action would be advantageous to the judicial process and to the litigants.”
11 (*Brinker*, 53 Cal. 4th at 1021-1022 (citations omitted).)

12 Because all Class Members are Defendants’ current and former employees, the class is readily
13 ascertainable from Defendants’ regular business records, i.e., payroll records. JCL Dec., ¶ 40.

14 The California statutes relating to each of Plaintiff’s claims apply with equal force and effect to
15 the entire Settlement Class. Factually, Defendants’ policies and practices apply class-wide and
16 Defendants’ liability can be determined by facts common to all members of the class. The wage and
17 hour issues are both numerous and substantial, and a class action is the most advantageous method of
18 dealing with the claims of the Settlement Class. JCL Dec., ¶ 41.

19 Plaintiff’s wage and hour claims are typical of the proposed Settlement Class because they arise
20 from the same factual basis and are based on the same legal theories applicable to the other Class
21 Members. Likewise, Plaintiff’s interests are entirely coextensive with the interests of the Settlement
22 Class. Plaintiff alleges that she was injured by the same company-wide practices to which the proposed
23 Class Members were subject to and seek the same relief. Plaintiff has already demonstrated her ability
24 to advocate for the interests of the Class Members by initiating this litigation, undertaking extensive
25 class discovery, and evaluating the proposed settlement to assure that it is fair. JCL Dec., ¶ 42.

26 A class action is superior to a multitude of individual lawsuits. Given the size and amount of
27 each individual claim, the Class Members likely have little incentive to litigate their claims on an
28 individual basis because the out-of-pocket expense and personal commitment necessary to litigate each

1 claim outweighs any potential recovery. In sum, class treatment is superior to individual, case-by-case
2 adjudication. JCL Dec., ¶ 43.

3 Additionally, Plaintiff is represented by competent Class Counsel who have extensive experience
4 in litigating wage and hour class action cases. Class Counsel successfully briefed, argued, certified, and
5 gained state court settlement approval of the same class-wide causes of action that are at issue in this
6 case. Class Counsel's wage and hour class action experience establishes that they are well qualified to
7 represent the interests of this Class. JCL Dec., ¶¶ 44-50; Declaration of Shani O. Zakay at ¶ 3.

8 IV. CONCLUSION

9 The Parties have negotiated a fair and reasonable settlement of claims. Having appropriately
10 presented the materials and information necessary for preliminary approval, the Parties request that
11 the Court preliminarily approve the settlement.

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13 Dated: August 19, 2024

JCL LAW FIRM, APC

14 By:  _____

15 Jean-Claude Lapuyade, Esq.
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