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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

NATASHA TAYLOR, individually, and on behalf of other members of the general public similarly situated, Plaintiff, v. THE WEST OAKLAND HEALTH COUNCIL, a California corporation; and DOES 1 through 100, inclusive, Defendants.	Case No. RG20049604 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT** Date: October 14, 2025 Time: 02:30P.M. Reservation ID: A-20049604-001 Judge: Hon. Somnath R. Chatterjee Dept.: 21

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I. INTRODUCTION

Plaintiff NATASHA TAYLOR (hereinafter "Plaintiff") seeks final approval of the First Amended Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims ("Agreement")[1], which if approved, would provide valuable monetary relief for 406 Settlement Class Members employed by Defendant THE WEST OAKLAND HEALTH COUNCIL (hereinafter "Defendant") during the period from January 7, 2016, and April 14, 2025 ("Class Period").

In an order dated April 14, 2025, this Court preliminarily approved the Agreement and preliminarily certified the Class. (Declaration of Sydney Castillo-Johnson ("SCJ Dec")., ¶ 4.). On June 2, 2025, the Court-approved Class Notice was mailed to each Class Member via U.S. First Class Mail. (Declaration of Stacey Shim ("Apex Dec."), ¶ 7.). On May 15, 2025, Apex was contacted by an individual who believed she was eligible, and it was later confirmed that she should be included as a class member, increasing the class size from 407 to 408. (Apex Dec., ¶ 15; SCJ Dec., ¶17). ***The Class greeted news of the Settlement with 99.75% approval.*** (*Id*. ¶ 14.). There was one opt-out and zero objections to the Settlement. (*Id*. ¶¶ 11-15.). The high participation rate by the Class evidences the clear fairness and reasonableness of the Settlement. (SCJ Dec., ¶ 17.).

An objective evaluation of the proposed settlement of Seven Hundred Ninety-Five Thousand Dollars and Zero Cents ($795,000.00) ("Gross Settlement Amount") confirms that the relief negotiated on behalf of the Settlement Class Members is fair, reasonable, and valuable. The Settlement is a product of informed, adversarial, and non-collusive negotiations, between experienced counsel, and presided over by Henry Bongiovi, Esq., and Steven J. Rottman, Esq., respected and experienced mediators of wage and hour class actions. After deducting any Court-approved Class Counsel Award, Service Award, and Claims Administration Expenses, the Net Settlement Amount shall be distributed to Settlement Class Members based on the number of Workweeks they worked while employed by Defendant during the Class Period. (SCJ Dec., ¶ 7.).

This Settlement provides substantial recovery for Defendant's alleged wage and hour violations. Plaintiff estimates that the Settlement, if approved, would result in a Net Settlement Amount of

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

approximately $455,010.00. (Apex Dec., ¶ 16.). This will result in an average Individual Settlement Payment of **$1,118.82,** a high payment of **$4,909.94**, and low payment of **$1.45**. (Apex Dec., ¶ 17.).

The relief offered by the Settlement is immediate and is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing similar wage and hour cases (*see infra).* Indeed, by settling now rather than proceeding to trial, the Class will not have to wait (possibly years) for relief, nor will they have to bear the risks associated with prolonged and uncertain litigation. (SCJ Dec., ¶ 8.).

As discussed below, the proposed Settlement satisfies all criteria for final settlement approval under California law and falls well within the range of reasonableness. Accordingly, the Class Representative and Class Counsel respectfully request this Court grant final approval of the Agreement and, entry of the proposed Final Approval Order and Judgment. (SCJ Dec., ¶ 9.).

II. OVERVIEW OF THE LITIGATION

Defendant operates a health center that provides primary and preventative care throughout California, including the County of Alameda where Plaintiff worked. (SCJ Dec., ¶ 10.). This action asserts claims on behalf of Defendant's current and former non-exempt employees employed in California during the Class Period. Plaintiff worked for Defendant as a non-exempt employee in California between approximately June 2017 to approximately September 2017. (Declaration of Natasha Taylor ("Taylor Dec.") ¶ 3.). At all times during her employment, Plaintiff was paid an hourly wage and was entitled to legally compliant meal and rest periods. Throughout her employment, Plaintiff was subject to Defendant's written policies and procedures contained in, among other documents, the "West Oakland Health Council Employee Handbook.". (SCJ Dec., ¶ 10; Taylor Dec., ¶ 3.).

Generally, Plaintiff claims that Defendant failed to provide compliant meal and rest periods, failed to pay for all time worked, failed to pay overtime, meal premiums, and sick pay at the correct regular rate of pay, failed to reimburse for mandatory business expenses, failed to furnish accurate itemized wage statements, and failed to pay all wages when due. (SCJ Dec., ¶ 11; Taylor Dec., ¶ 4.). Defendant forcefully denies liability for each of Plaintiff's claims. Further, Defendant asserts that it fully complied with all applicable employment laws and raised several other significant defenses to Plaintiff's claims, including but not limited to, facially compliant meal and rest period policies, compliant wage statements, and timely payment all wages due upon separation of employment. (SCJ Dec., ¶ 11.).

On January 7, 2020, Plaintiff filed a Class and Representative Action Complaint in the Alameda Superior Court, Case No. RG20049604 ("Action"). The Action alleged ten causes of action for: (1) Violation of California Labor Code *§§* 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code *§§* 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) Violation of California Labor Code § 226. 7 (Unpaid Rest Period Premiums); (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment); (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements); (8) Violation of California Labor Code § 1174(d) (Failure To Keep Requisite Payroll Records); (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses); (10) Violation of California Business & Professions Code §§ 17200, *et seq*. (SCJ Dec., ¶ 12.).

On December 2, 2022, the Parties attended mediation with Henry Bongiovi, Esq., a mediator of wage and hour class actions. The mediation did not result in a settlement. Plaintiff subsequently propounded formal written discovery. Before Defendant's responses were due, the Parties agreed to attend a second mediation. To prepare for the second mediation, the Parties agreed to informally exchange documents and data points subject to the mediation privilege, including but not limited to, the Class Members' time data and certain payroll data points. As discussed *infra,* Plaintiff's counsel retained the forensic consultants at Berger Consulting Group ("BCG") to analyze Defendants' time and payroll data. (SCJ Dec., ¶ 13.).

On May 8, 2024, Plaintiff served Defendant and the Labor and Workforce Development Agency ("LWDA") with a Notice of Violations ("PAGA Notice"). Plaintiff's PAGA Notice set forth the facts and theories supporting Defendant's alleged violations of various provisions of the California Labor Code and applicable Industrial Welfare Commissions ("IWC") Wage Order and of her intent to pursue claims under PAGA. (SCJ Dec., ¶ 14.).

On May 9, 2024, the Parties participated in a second mediation session presided over by Steven

J. Rottman, Esq., an experienced mediator of wage and hour class and PAGA actions. The mediation concluded with a settlement, which was subsequently memorialized in the form of a Memorandum of Understanding. The Parties drafted and negotiated a long-form settlement agreement, which is the subject of the instant motion. (SCJ Dec., ¶ 15). The Parties now seek approval of the entire Agreement.

On July 29, 2024, Plaintiff filed her First Amended Complaint alleging an additional cause of action for violations of PAGA. (SCJ Dec., ¶ 16.).

On April 8, 2025, this Court granted preliminary approval of the Settlement and on April 14, 2025, executed the Preliminary Approval Order. On June 2, 2025, the Settlement Administrator mailed Notice Packets to all 407 Class Members. (SCJ Dec., ¶ 17; Apex Dec.., ¶ 7.). The mailing of the Notice Packets triggered a forty-five (45) day Response Deadline for the Class to submit requests for exclusion or objections to the Settlement. On May 15, 2025, Apex was contacted by an individual who believed she was eligible, and it was later confirmed that she should be included as a class member, increasing the class size from 407 to 408. (Apex Dec., ¶ 15.; SCJ Dec., ¶ 17). The response from the Class to the Settlement was outstanding – 99.75% of the Class Members are participating in the Settlement. There was one opt-out and zero objections to the Settlement. (SCJ Dec., ¶ 17; Apex Dec., ¶¶ 11-15.). The high participation rate by the Class evidences the clear fairness and reasonableness of the Settlement.

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

The Court preliminarily approved an initial Gross Settlement Amount of Seven Hundred Ninety-Five Thousand Dollars and Zero Cents ($795,000.00) based on a total of an estimated 66,000 Workweeks worked by the Class during the Class Period. The Gross Settlement Amount shall be used to satisfy: (1) the Individual Settlement Payments; (2) a Service Award; (3) Claims Administration Expenses; (4) PAGA Payment; and (5) Class Counsel Award. (SCJ Dec., ¶ 18.).

Defendant shall deposit the Gross Settlement Amount into the Qualified Settlement Fund, within (30) calendar days after the Effective Date by transferring the Gross Settlement Amount via wire transfer to the Settlement Administrator. (Agreement, ¶ I(N).). Individual Settlement Payments shall be mailed by regular First-Class U.S. Mail to Settlement Class Members' last known mailing address no later than fifteen (15) days after the Funding Date. (*Id*., III(M)(7).). The Administrator will calculate Individual Settlement Payments by adding up the total number of Workweeks for all Class Members. (*Id*. ¶

III(M)(1).). The respective Workweeks for each Class Member will then be divided by the total Workweeks for all Class Members, resulting in the Payment Ratio for each Class Member. *(Ibid*.). Each Class Member's Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Class Member's estimated Individual Settlement Payments. *(Ibid*.). The estimated average Individual Settlement Payment is approximately **$1,118.82**. (Apex Dec., ¶ 17.).

In exchange for valuable consideration, as of the funding of the Gross Settlement Amount, the Settlement Class Members will release the Released Parties from the Released Class Claims as defined in the Agreement. (Agreement, ¶ III(B).).

Apex Class Action LLC was appointed as the Administrator for the Class. (Preliminary Approval Order ¶ 10.).[2] The Claims Administration Expenses include those expenses of effectuating and administering the Settlement, i.e., the costs incurred to the Administrator, the costs of giving notice to the Class, the costs of administering and disbursing the Individual Settlement Payments, and the fees of the Administrator approved for reimbursement by the court. The Administrator expenses are $7,990.00. (Apex Dec., ¶ 20.). These expenses shall be paid from the Gross Settlement Amount. (Agreement, ¶ III(M)(12).).

Subject to Court approval, Class Counsel shall seek a Class Counsel Award payment in the amount of $265,000.00, comprised of attorneys' fees equal to one-third of the Gross Settlement Amount and up to $25,000.00 for actually incurred litigation expenses. (Agreement, ¶ III(M)(10).). Attorneys' fees will be divided between Class Counsel in the following percentages (32.5% to JCL Law Firm, APC; 32.5% to Zakay Law Group, APLC; and 35% to Lawyers for Justice, PC). (*Id*, ¶ I(G).). The Agreement also provides for a Service Award in the amount of $10,000.00 to Plaintiff, in consideration of her time, risk, and efforts as the Class Representative on behalf of the Class and a general release. (*Id*. ¶ III(M)(9).).

As explained in further detail below, the Settlement is fair, adequate, and reasonable to the class and should be granted final approval. This is evidenced by the unanimous approval of the Settlement by the Class, the absence of any objections to the Settlement and the average Individual Settlement Payment

[2] The Order Granting Plaintiff's Motion for Preliminary Approval of Class Action and Paga Settlement ("Preliminary Approval Order") is attached as Ex "2" to the Declaration of Sydney Castillo-Johnson ("SCJ Dec.") at ¶ 4. All citations to the Agreement incorporate by this reference a citation to the SCJ Dec., ¶ 4.

of **$1,118.82**. (Apex Dec., ¶ 17; SCJ Dec., ¶ 19.).

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

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

"[T]o prevent fraud, collusion or unfairness to the class, the settlement or dismissal of a class action requires court approval." (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801 *citing Malibu Outrigger Bd. Of Governors v. Superior Court* (1980) 103 Cal.App.3d 573, 578-579.). The court must decide whether the proposed settlement falls within the range of reasonable settlements, considering that settlements are compromises between the parties reflecting subjective, unquantifiable judgments concerning the risks and possible outcomes of litigation. (See also *Wershba v. Apple Computer* (2001) 91 Cal.App.4th 224, 2246 ["The proposed settlement is not to be judged against a hypothetical or speculative measure of what might have been achieved had plaintiffs prevailed at trial."].). In *Wershba*, appellants argued that the settlement was too low given the "clear" liability, however, the Court rejected this argument and held that "the merits of the underlying class claims are not a basis for upsetting the settlement of a class action." (*Wershba*, *supra*, at p. 246; see also *7-Eleven*, *supra*, at 1150.).

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

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

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

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

"The trial court has broad discretion to determine whether the settlement is fair." (*Dunk*, *supra*, at p. 1801; see also *Rebney v. Wells Fargo Bank* (1990) 220 Cal.App.3d 1117, 1138.). "The well-recognized factors that the trial court should consider in evaluating the reasonableness of a class action settlement agreement include 'the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.' [Citations.]" (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128; see also *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 408.).

"The list of factors is not exhaustive and should be tailored to each case. Due regard should be given to what is otherwise a private consensual agreement between the parties." (*Dunk*, *supra*, at 1801.). 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." (*Ibid.*) "Ultimately, the [trial] court's determination is nothing more than 'an amalgam of delicate balancing, gross approximations and rough justice.' [Citation omitted.]" (*Ibid.*)

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

/ / /

A. Class Counsel Conducted a Thorough Investigation.

As detailed in the motion for preliminary approval, Class Counsel thoroughly investigated the proposed Class Members' claims, applicable law, and potential defenses. Specifically, Class Counsel assessed the value of the class claims using data and documents provided by Defendant through informal discovery. Class Counsel obtained time, payroll, and policy records, as well as data regarding the number of Class Members, workweeks, and average rate of pay to assess damages before mediation. Class Counsel retained BCG to analyze Defendant's time and payroll data to formulate damage models estimating Defendant's liability exposure. Class Counsel's investigation, research, experience, and damage models informed and guided the mediated negotiations that resulted in this settlement. Accordingly, Class Counsel fully understood the strengths and weaknesses of the class claims before the parties reached a settlement. (SCJ Dec., ¶¶ 20-26.).

B. The Parties Settled Following Mediation.

On December 2, 2022, the Parties conducted a full day mediation with Henry Bongiovi, Esq., an experienced wage and hour mediator. Mediator Bongiovi helped to manage the Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides. The Parties made substantial progress with Mediator Bongiovi's assistance. Namely, the Parties exchanged information regarding their respective claims and defenses, including their respective evaluations of the damages. The mediation did not result in a settlement. Plaintiff subsequently propounded formal written discovery. Before Defendant's responses were due, the Parties agreed to attend a second mediation. On May 9, 2024, the Parties participated in a second mediation session presided over by Steven J. Rottman, Esq. The mediation concluded with a settlement, which was subsequently memorialized in the form of a Memorandum of Understanding. The Parties drafted and negotiated a long-form settlement agreement, and the complete and final terms of the Parties' settlement are now set forth in the Settlement Agreement.

C. Class Counsel is Experienced in Similar Litigation.

Class Counsel in this matter has extensive class action experience in multiple fields and has represented tens-of-thousands of persons in class actions. Counsel has previously litigated similar wage and hour class actions involving similar claims. Class Counsel has been approved as class counsel in similar wage and hour class actions throughout the State of California. As such, courts throughout California have deemed Class Counsel experienced and knowledgeable in this area of law. Class Counsel has participated in every aspect of the settlement discussions and has concluded the settlement is fair, adequate, and reasonable and in the best interests of the Class. (SCJ Dec., ¶¶ 28-32; Declaration of Jean-Claude Lapuyade ("JCL Dec."), ¶¶ 5-10; Declaration of Shani Zakay ("Zakay Dec."), ¶¶ 1-3; Declaration of Ryan Slinger ("LFJ Dec."), ¶¶ 9-13.).

D. <u>The Class Responded Positively to the Settlement.</u>

The reaction of the Class unequivocally supports approval of the Settlement. Significantly, after dissemination of the notice to the Class, which provided each Class Member with the terms of the Settlement, including the specific estimated Individual Settlement Payments. To date, only one of the 408 Class Members opted out of the Settlement. Moreover, there are ***<u>zero</u>*** objections. Stated differently, **<u>99.75%</u>** of the Class chose to participate in the Settlement. (SCJ Dec., ¶ 17; Apex Dec., ¶¶ 11-15.).

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

E. <u>The Gross Settlement Amount is Fair and Reasonable.</u>

The Gross Settlement Amount of Seven Hundred Ninety-Five Thousand Dollars and Zero Cents ($795,000.00) in this case is fair and well within the range of recognized reasonableness. The *Kullar* court acknowledged that "as the court does when it approves a settlement as in good faith under Code of Civil Procedure section 877.6, the court must at least satisfy itself that the class settlement is within the 'ballpark' of reasonableness." (*Kullar, supra,* at p. 129; see *Tech-Bilt, Inc. v. Woodward-Clyde & Associates*, 38 Cal.3d 488, 499-500 (1985).).

Here, the Settlement is clearly within the "ballpark" of reasonableness because the Settlement provides a sizeable recovery to the Settlement Class Member and need not necessarily obtain 100 percent of the damages sought to be fair, reasonable, and ultimately, meaningful. (*Wershba*, *supra,* at p. 250.). While the Gross Settlement Amount of Seven Hundred Ninety-Five Thousand Dollars and Zero Cents ($795,000.00) represents a discount on Defendant's potential exposure if Plaintiff established liability on all claims and was awarded the full amount of the estimated damages at trial, this compromise is reasonable because (1) the formidable defenses raised by Defendant presented a risk that could award significantly less in damages than Plaintiff's estimate and (2) any theoretical post-trial recovery may require many more years of litigation, resulting in added fees and costs without any guarantee of recovery for the Class. (SCJ Dec., ¶ 33.).

As detailed at the time of preliminary approval, the Gross Settlement Amount is fair and reasonable considering the nature and magnitude of the claims being settled and the various potential impediments to recovery. Class Counsel developed varied economic damages models measuring Defendant's liability exposure while accounting for the uncertainties of continued litigation. The various models were informed by Class Counsel's investigation, including the analysis of a significant sample of time and payroll data. Detailed in greater depth during the preliminary approval process, Class Counsel projected a range of Defendant's liability exposure for the claims asserted on behalf of the Class. (SCJ Dec., ¶ 34.). The Gross Settlement Amount represents between 10.38% and 56.95% of Defendant's *class-wide* liability exposure as estimated by Class Counsel at the time of mediation. (*Id*.).

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

[3] *See also Viceral v. Mistras Grp., Inc*. (N.D. Cal. Oct. 11, 2016, No. 15-CV-02198) 2016 WL 5907869, at *3, 7 (approving a California wage and hour settlement where the class received 11.6% of the estimated total liability, or approximately $29

The calculation methodology used to compensate the Settlement Class Members for the alleged damages was negotiated at the time of the Settlement. More importantly, the methodology is fair, objective, and impartial. The calculation methodology is based on the number of Workweeks each Settlement Class Member worked for Defendant during the Class Period. The number of Workweeks for the Settlement Class Member is established through Defendant's data and documented compensation records. The Administrator is responsible for calculating the Individual Settlement Payments by adding up the total number of Workweeks for all Class Members. The respective Workweeks for each Class Member will then 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 Payments. (Agreement, ¶ III(M)(1).). This process establishes an objectively fair and reasonable procedure to compensate the Class. (SCJ Dec., ¶ 35.).

The settlement also provides significant relief to the Settlement Class Members. After deductions for the Class Counsel Award, Administration Costs, and the Service Award, the Net Settlement Amount is currently estimated to be $455,010.00. (Apex Dec., ¶ 16.). The average settlement payment is approximately $1,118.82, and the highest is approximately $4,909.94. (*Id*., ¶ 17.). This average net recovery is on par with many wage and hour class action settlements approved by California state and federal courts. (See*, e.g., Palencia v. 99 Cents Only Stores,* No. 34-2010-00079619 (Sacramento County Super. Ct) [average net recovery of approximately $80]; *Fukuchi v. Pizza Hut,* Case No. BC302589 (LA. County Super. Ct.) [average net recovery of approximately $120]; *Contreras v. United Food Group, LLC,* Case No. BC389253 (L.A. County Super. Ct.) [average net recovery of approximately $120]; *Ressler v. Federated Department Stores, Inc.,* Case No. BC335018 (L.A. County Super. Ct.) [average net recovery of approximately $90]; *Doty v. Costco Wholesale Corp.,* Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007) [average net recovery of approximately $65]; *Sorenson v.*

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per work week); *Leverage v. Traeger Pellet Grills, LLC* (N.D. Cal. June 28, 2017, No. 16-CV-00784) 2017 WL 2797811, at *7 (Approving a California wage and hour settlement where the class received 18% of the estimated total liability); *see also In re Newbridge Networks Sec. Litig.* (D.D.C. Oct. 23, 1998) 1998 WL 765724, at *2 ("Courts have not identified a precise numerical range within which a settlement must fall in order to be deemed reasonable; but an agreement that secures roughly six to twelve percent of a potential trial recovery, while preventing further expenditures and delays and eliminating the risk that no recovery at all will be won, seems to be within the targeted range of reasonableness.").

PetSmart, Inc., Case No. 2:06-CV-02674-JAM-DAD (ED. Cal.) [average net recovery of approximately $60]; *Lim v. Victoria's Secret Stores, Inc.,* Case No. 04CC00213 (Orange County Super. Ct.) [average net recovery of approximately $35]; and *Gomez v. Amadeus Salon, Inc.,* Case No. BC392297 (L.A. Super. Ct.) [average net recovery of approximately $20].). Additionally, Defendant must separately fund its share of any employer side payroll taxes. (Agreement, ¶ III(A)(4).).

Clearly the goal of this litigation to obtain redress for the class has been met by this Settlement. Given the amount of the Settlement, the risks of litigation and the arm's length negotiations between experienced counsel, the settlement is fair and reasonable and, is therefore entitled to final approval. (SCJ Dec., ¶ 36.).

F. <u>The Strength of Plaintiff's Case and Risks of Continued Litigation</u>

Although Class Counsel believes strongly in Plaintiff's claims, it would be misguided to ignore the asserted defenses. If successful on any one of its defenses, Defendant could defend the action or, at least, drastically undercut Plaintiff's claims. (SCJ Dec., ¶ 37.). As the federal court in *Glass v. UBS Fin. Servs.*, 2007 WL221862 held, where the parties faced uncertainties similar to those in this litigation:

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

With respect to the most immediate challenge, i.e., class certification, the risks attendant to the certification of similar wage and hour claims are demonstrated by *Ali v. U.S.A. Cab Ltd.* (2009) 176 Cal.App.4th 1333, 1341. There, the Court of Appeal affirmed the Trial Court's denial of class certification because employees' declarations attesting to having taken meal and rest breaks demonstrated that individualized inquiries were required to show harm. (See also *Campbell v. Best Buy Stores, L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 [following *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack of uniform policy]; *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 [denying certification of driver meal and rest period claims based on the predominance of individual issues].). (SCJ Dec., ¶ 38.).

Further, even if a class is certified, liability remains uncertain. The risks attendant to the issue of Defendant's liability in similar wage and hour actions are demonstrated by *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31. There, the Court reversed a trial verdict in favor plaintiffs in a wage and hour class action. (See also *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th 1077, 1088 ["[T]he reason, if any, that employees might not take their breaks were predominantly individualized questions of fact not susceptible to class treatment."].). (SCJ Dec., ¶ 39.).

Finally, even if a class is certified and Defendant is found liable for the class claims alleged, post-certification risks remain, including a reversal of a favorable judgment for Plaintiff and decertification of the class. These post-certification risks are demonstrated by *Magadia v. Wal-Mart Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit vacated reversed and remanded a $110 million judgment against an employer for, *inter alia*, inaccurately paying overtime, and directed the trial court to enter judgment in favor of the employer. (See also *O'Conner v. Uber Technologies, Inc.* (9th Cir. 2018) 904 F.3d 1087 [decertification of wage and hour misclassification action].). (SCJ Dec., ¶ 40.).

Collectively, the examples cited above illustrate the uncertain nature of class litigation. Consequently, the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring settlement. (SCJ Dec., ¶ 41.).

Although Plaintiff is confident about the strength of their claims, Plaintiff nevertheless recognize that Defendant have factual and legal defenses that, if successful, would potentially defeat or impair the value of the lawsuit. Legally, the fast-changing landscape of wage and hour litigation can drastically affect the value of Plaintiff's claims and, in fact, already has. (SCJ Dec., ¶ 42.).

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

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

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

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

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

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

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

As demonstrated by the decisions in *Magadia, supra,* 999 F.3d 668, *O'Conner v. Uber Technologies* (N.D. Cal. 2018) 82 F.Supp.3d 1133 and *Duran v. U.S. Bank National Assn.* (2014) 59

Cal.4th 1, the complexities and duration of further litigation cannot be overstated. There is little doubt that if Defendant faced a large adverse judgement, Defendant undoubtedly has the resources to post a bond and appeal. A post-judgment appeal by Defendant would have required many more years to resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total, then the case could have dragged on for years after the appeal. The benefits of a guaranteed recovery today outweigh an uncertain result three or more years in the future. (SCJ Dec., ¶ 43.).

Class Representative and Class Counsel recognize the expense and length of a trial against Defendant through possible appeals which could take another three years. In arriving at their informed belief that the present settlement is fair and adequate, Class Counsel accounted for the uncertain outcome and risk inherent in complex actions such as this one. Class Counsel is also mindful of and recognizes the inherent problems of proof under, and alleged defenses to, the claims asserted in the litigation. Moreover, post-trial motions and appeals would have been inevitable. Costs would have increased, and recovery would have been delayed if not denied, thereby reducing the benefits of an ultimate victory. Class Representative and Class Counsel believe that the Settlement confers substantial monetary and non-monetary benefits upon the Class. Based upon their evaluation, Class Representative and Class Counsel have determined that the Settlement set forth in the Agreement is in the best interest of the Class, is fair, reasonable, and adequate, and should be granted final approval. (SCJ Dec., ¶ 44.).

VII. CONCLUSION

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

Dated: September 18, 2025

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