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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

ELISEO FUENTES, an individual, on behalf of
himself, and on behalf of all persons similarly
situated,

Plaintiff,

v.

KLINE AUTOMOTIVE, INC., a Minnesota
corporation; RK Automotive, INC., a Minnesota
corporation; and DOES 1-50, Inclusive,

Defendants.

Case No: 24STCV15011

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

Date: April 8, 2026

Time: 9:30 a.m.

Judge: Hon. David S. Cunningham III

Dept: 11

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5	<i>Ali v. U.S.A. Cab Ltd.</i>	
6	(2009) 176 Cal.App.4th 1333, 1341.....	17
7	<i>Alonzo v. Maximus, Inc.</i>	
8	(C.D. Cal. 2011) 832 F. Supp. 2d 1122, 1134-1137.....	15
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11	<i>Brown v. Fed Express Corp.</i>	
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13	<i>Bufile v. Dollar Financial Group, Inc.</i>	
14	(2008) 162 Cal.App.4th 1193, 1207.....	22
15	<i>Campbell v. Best Buy Stores, L.P.,</i>	
16	(C.D. Cal. 2013) 2013 WL 5302217 at *11-13.....	17
17	<i>Carrington v. Starbucks Corp.,</i>	
18	30 Cal. App. 5th 504, 517, 539 (2018).....	17
19	<i>Cart v. Super. Ct.</i>	
20	(1975) 50 Cal.App.3d 960, 972.....	19
21	<i>Cellphone Termination Fee Cases</i>	
22	180 Cal. App. 4th 1110, 1118, 1380, 1389, 1393 (2010)	9, 20
23	<i>Cellphone Termination Fee Cases</i>	
24	(2009) 180 Cal.App.4th 1110, 1118.....	9
25	<i>Chance v. Super. Ct.</i>	
26	(1962) 58 Cal.2d 275, 290.....	19
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28	(2008) 162 Cal.App.4th 43, 66 n.11.....	21
	<i>Clark v. American Residential Services LLC</i>	
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	<i>Hopson v. Hanesbrands Inc.</i>	
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3	<i>In re Michael Milken and Assoc. Sec. Litig.</i>	
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8	<i>Jack v. Hartford Fire Ins. Co.</i>	
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9	<i>Kass v. Young</i>	
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10	<i>Kullar v. Foot Locker Retail, Inc.</i>	
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11	<i>Lee v. Dynamex, Inc.</i>	
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12	<i>Magadia v. Wal-Mart Associates, Inc.</i>	
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17	<i>Nat'l Rural Telecomm. Coop. v. Directv. Inc.</i>	
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18	<i>Newman v. Stein</i>	
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19	<i>North County Contractor's Assn., Inc. v. Touchstone Ins. Services</i>	
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20	<i>O'Conner v. Uber Technologies, Inc.</i>	
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21	<i>Officers for Justice v. Civil Serv. Comm'n</i>	
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22	<i>Rebney v. Wells Fargo Bank</i>	
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23	<i>Rodriguez v. West Publishing Corp.</i>	
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24	<i>Sav-On Drug Stores, Inc.</i>	
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25	///	

1	<i>Stambaugh v. Super. Ct</i>	
2	(1976) 62 Cal.App.3d 231, 236.....	9
3	<i>State v. Levi Strauss & Co.</i>	
4	(1986) 41 Cal.3d 460, 482, 485.....	10, 20
5	<i>Tien v. Tenet Healthcare Corp.</i>	
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7	<i>Trotsky v. Los Angeles Fed Savings & Loan Assn.</i>	
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9	<i>Vaquero v. Stoneledge Furniture LLC,</i>	
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12	<i>Cal.Civ.Proc. Code § 382</i>	22
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27	<i>Cal. Lab. Code § 2802</i>	4
28	<i>Cal. Lab. Code § 2802(a)</i>	15
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30	<i>Cal. Rules of Court, Rule 3.776(e)-(f)</i>	20

SECONDARY SOURCES

31	Conte & Newberg, <i>Newberg on Class Actions</i> , § 1 1:38, §§ 11.26, 11.51 (4th ed. 2002)	
32		9-10, 20
33	Eisenberg & Miller, Incentive Awards to Class Action Plaintiffs: An Empirical Study,	
34	53 UCLA L. Rev. 1303 (2006)	
35		20
36	Eisenberg Eisenberg & Geoffrey P. Miller, <i>Attorney Fees in Class Action Settlements: An Empirical</i>	
37	<i>Study, J. of Empirical Legal Studies</i> , Vol. 1, Issue 1, 27-78, March 2004, at 35	
38		20-21
39	Wright, A. Miller & M. Kane, <i>Federal Practice and Procedure</i> § 1789, at 253 (2d ed. 1986)	
40		19

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I. INTRODUCTION

Plaintiff ELISEO FUENTES (“Plaintiff”) seeks preliminary approval of the Class Action and PAGA Settlement Agreement and Class Notice (“Agreement”)¹, which if approved, would provide valuable monetary relief for 183 Class Members and 154 Aggrieved Employees. The basic terms of the Agreement provide for the following:

1. The **“Class”** and **“Class Period”** shall mean “all persons who are or previously were employed by Defendant Kline Automotive, Inc., (“Defendant Kline Automotive”) and/or Defendant RK Automotive, Inc. (“Defendant RK Automotive”) (collectively, “Defendant” and/or “Defendants”) in California and classified as non-exempt, exempt, piece-rate based, and/or commission-based employees at any time between April 8, 2021, through August 14, 2025 (the “Class Period”).” Agreement at ¶¶ 1.5, 1.12. There are 183 Class Members who worked 12,911 Workweeks during the Class Period.

2. **“Participating Class Member”** means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement. Agreement at ¶ 1.36.

3. **“Aggrieved Employees”** and **“PAGA Period”** means all persons who are or previously were employed by Defendant in California and classified as non-exempt, exempt, piece-rate based, and/or commission-based employees at any time between June 14, 2023, through August 14, 2025 (the “PAGA Period”). Agreement at ¶¶ 1.4, 1.32. Aggrieved employees do not have the ability to opt-out of the PAGA portion of the settlement. Agreement at ¶ 7.5.4. There are 154 Aggrieved Employees who worked 9,449.14 pay periods during the PAGA Period. Agreement at ¶ 4.1.

4. The **“Gross Settlement Amount”** is Five Hundred Fifty-Thousand Three Hundred Forty-Two Dollars and Forty-Two Cents (\$550,342.42). Agreement at ¶¶ 1.23, 3.1. The Gross Settlement Amount is non-reversionary and includes the following:

a. A **“Class Representative Service Payment”** in the amount not more than Ten Thousand Dollars and Zero Cents (\$10,000.00) to Plaintiff for his services on behalf of the Class Members. Agreement at ¶ 3.2.1;

b. A **“Class Counsel Award”** consisting of attorneys’ fees of not more than 33% of

¹ The Agreement is attached as Ex “1” to the Declaration of Jean-Claude Lapuyade, Esq. (“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.

the Gross Settlement Amount, or One Hundred Eighty-One Thousand Six Hundred Thirteen Dollars and Zero Cents (\$181,613.00) and litigation costs of not more than Thirty Thousand Dollars and Zero Cents (\$30,000.00), to be paid to Class Counsel. Agreement at ¶¶ 1.7, 3.2.2. The attorneys’ fees shall be divided between Class Counsel as follows: 50% to JCL Law Firm, APC, and 50% to Zakay Law Group, APLC. Plaintiff has been informed as to this split in writing and has consented in writing. Declaration of Jean-Claude Lapuyade (“JCL Dec.”), ¶ 51.

c. **“PAGA Penalties”** in the amount of Twenty-Six Thousand Dollars and Zero Cents (\$26,000.00) shall be set aside from the Gross Settlement Amount for settlement of claims for civil penalties under the Private Attorneys General Act of 2004. Agreement at ¶¶ 1.35, 3.2.5. The Administrator, Apex Class Action, LLC (“Administrator”) shall pay Nineteen Thousand Five Hundred Dollars and Zero Cents (\$19,500.00) representing 75% of the PAGA Penalties to the Labor and Workforce Development Agency (“LWDA PAGA Payment”). Agreement at ¶¶ 1.27, 3.2.5. The Administrator shall distribute Six Thousand Five Hundred Dollars and Zero Cents (\$6,500.00) representing 25% of the PAGA Penalties to the Aggrieved Employees (“Individual PAGA Payments”). Agreement at ¶¶ 1.24, 3.2.5.

d. **“Administrator Expenses Payment”** not to exceed Five Thousand Two Hundred Fifty Dollars and Zero Cents (\$5,250.00) payable to the Administrator for, *inter alia*, the administration of the Class Notice and Individual Class and PAGA Payments. Agreement at ¶¶ 1.3, 3.2.3.

5. The **“Net Settlement Amount”** means the Gross Settlement Amount less the PAGA Penalties, Class Representative Service Payment, Class Counsel Award, and the Administration Expenses Payment. Agreement at ¶ 1.28. The Net Settlement Amount is approximately Two Hundred Ninety-Seven Thousand Four Hundred Seventy-Nine Dollars and Forty-Two Cents (\$297,479.42) which will be allocated to all Participating Class Members on a pro-rata basis according to the number of Workweeks each Participating Class Member worked during the Class Period. Agreement at ¶¶ 1.24, 3.2.4. The entire Net Settlement Amount will be paid to all Participating Class Members who do not opt out of the Settlement resulting in an average Individual Class Payment of approximately One Thousand Six Hundred Twenty-Five Dollars and Fifty-Seven Cents (\$1,625.57). JCL Dec, ¶ 6.

1 An objective evaluation of the Settlement confirms that the relief negotiated on behalf of the
2 Class is fair, reasonable, and adequate. The Settlement was negotiated by the Parties at arm's length.
3 The Settlement confers substantial benefits to the Class. The relief offered by the Settlement is
4 particularly impressive when viewed against the difficulties encountered by plaintiff pursuing wage
5 and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, Class Members will
6 not have to wait (possibly years) for relief, nor will they have to bear the risk of class certification being
7 denied or of Defendants prevailing at trial. JCL Dec., ¶ 6.

8 As discussed below, the proposed Settlement satisfies all criteria for preliminary settlement
9 approval and falls within the range of reasonableness. The average Individual Class Payment to the
10 Class Members meets or exceeds awards in similar wage and hour class actions. Moreover, the
11 proposed Class is appropriate for provisional certification. Accordingly, Plaintiff respectfully requests
12 the Court grant preliminary approval of the Settlement. JCL Dec., ¶ 7.

13 II. FACTS AND PROCEDURE

14 A. Overview of the Litigation

15 Defendants own and operate car dealerships in California, including in Los Angeles County,
16 where Plaintiff worked. Plaintiff worked for Defendants as a non-exempt service technician, paid on
17 an hourly basis and/or a piece-rate basis and/or commission basis, from January of 2023 to September
18 of 2023. Throughout his employment, Plaintiff was subject to Defendants' policies and procedures.
19 JCL Dec., ¶ 8; Declaration of Eliseo Fuentes ("Fuentes Dec.") at ¶ 4.

20 Generally, Plaintiff claims that Defendants failed to provide compliant meal and rest periods,
21 failed to pay for all time worked, failed to reimburse necessary business expenses, failed to furnish
22 accurate itemized wage statements, and failed to pay all wages upon separation. Fuentes Dec., ¶ 5.
23 Defendants deny liability for each of Plaintiff's claims. Further, Defendants assert they fully complied
24 with all applicable employment laws and raised several other significant defenses to Plaintiff's claims,
25 including but not limited to, asserting that it paid its employees for all hours worked, maintained
26 facially compliant meal and rest period policies, issued compliant wage statements, properly
27 reimbursed all necessary business expenses, and timely paid all wages due upon separation of
28 employment. JCL Dec., ¶ 9.

1 On June 14, 2024, Plaintiff filed a Notice of Violations with the LWDA and served the same
2 on Defendant Kline Automotive. Plaintiff's PAGA Notice set forth the facts and theories supporting
3 Defendants' alleged violations of various provisions of the California Labor Code and applicable
4 Industrial Welfare Commissions ("IWC") Wage Order and of his intent to pursue claims under
5 California Labor Code Private Attorneys General Act, Cal. Lab. Code Sections 2698, *et seq*
6 ("PAGA"). JCL Dec., ¶ 10.

7 That same day, Plaintiff filed a Class Action Complaint ("the Action") alleging 8 causes of
8 action against Defendant Kline Automotive for (1) Unfair Competition in Violation of Bus. & Prof.
9 Code sections 17200 *et seq*; (2) Failure to pay minimum wages in violation of California Labor Code
10 sections 1194, 1197 and 1197.1; (3) Failure to pay overtime wages in violation of California Labor
11 Code sections 510 *et seq*; (4) Failure to provide required meal periods in violation of California Labor
12 Code sections 226.7 and 512 and the applicable IWC wage order; (5) Failure to provide required rest
13 periods in violation of California Labor Code sections 226.7 and 512 and the applicable IWC wage
14 order; (6) Failure to provide accurate itemized wage statements in violation of California Labor Code
15 section 226; (7) Failure to provide wages when due in violation of California Labor Code sections
16 201, 202 and 203; and (8) Failure to reimburse employees for required expenses in violation of
17 California Labor Code section 2802. JCL Dec., ¶ 11.

18 On August 19, 2024, Plaintiff filed a First Amended Complaint in the Action to assert an
19 additional cause of action for violations of PAGA. JCL Dec., ¶ 12.

20 The Parties subsequently agreed to mediate the case. To prepare for mediation, the Parties agreed
21 to informally exchange additional documents and data points subject to the mediation privilege,
22 including but not limited to, the Class Members' time data and certain payroll data points. As discussed
23 *infra*, Plaintiff's counsel retained the forensic consultants at Berger Consulting Group ("BCG") to
24 analyze Defendants' time and payroll data. JCL Dec., ¶ 13.

25 On June 19, 2025, the Parties participated in mediation presided over by Gig Kyriacou, Esq., an
26 experienced mediator of wage and hour class and PAGA actions. The mediation concluded with a
27 settlement, which was subsequently memorialized in the form of a Memorandum of Understanding
28 ("MOU"). After reaching an agreement in principle, the Parties drafted and negotiated a long-form

1 settlement agreement, which is the subject of the instant motion. JCL Dec., ¶ 14.

2 On January 22, 2026, Plaintiff filed the Second Amended Complaint (“Operative Complaint”)
3 to add Defendant RK Automotive as an additional Defendant in the Action. JCL Dec., ¶ 15.

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

5 Months before filing the Action, Class Counsel began their pre-filing investigation into
6 Plaintiff’s complaint. Class Counsel’s investigation started with several lengthy interviews with
7 Plaintiff. As part of the interview process, Plaintiff produced documents related to his employment,
8 including wage statements and onboarding documents. At the conclusion of the interviews and review
9 of documents, Class Counsel determined that Plaintiff’s complaints justified further inquiry. JCL Dec.,
10 ¶ 16.

11 Class Counsel subsequently requested Plaintiff’s employee file from Defendants. In response,
12 Defendants produced various documents, including but not limited to, Defendants’ policies and copies
13 of Plaintiff’s time and payroll records. Class Counsel reviewed and analyzed the documents and
14 determined that the documents appeared to substantiate Plaintiff’s claims that Defendants failed to,
15 among other things, pay for all time worked, and provide compliant meal and rest periods, reimburse
16 Plaintiff for business expenses, and pay all wages upon separation. JCL Dec., ¶ 17.

17 Considering the many anticipated factual disputes, the Parties agreed that it would be in the best
18 interest of both Parties to mediate the matter. To prepare for mediation, Defendants agreed to produce
19 a 34% sample of time and payroll records for Class Members. Pursuant to the Parties agreement,
20 Defendants produced, among other things, more than 4,600 pages of Class Member data, including
21 wage statements, time records, applicable handbooks, policies and agreements for Class Counsel to
22 analyze. JCL Dec., ¶ 18.

23 Class Counsel then retained the statisticians and economists at Berger Consulting Group
24 (“BCG”) to evaluate the Class Members’ payroll and time data. BCG provides data analysis and
25 damage modeling consulting services, specializing in wage and hour class actions. BCG’s team of
26 financial and data analysts are credentialed and experienced experts in their fields and have provided
27 their expertise on thousands of cases. Stated differently, the BCG is well-qualified to analyze
28 Defendants’ time and payroll data. JCL Dec., ¶ 19.

1 BCG analyzed Defendants' time and payroll data to assist in the development of various damage
2 models. Among other things, BCG determined the approximate number of work shifts, workweeks,
3 pay periods, average length of shift, and average number of hours worked per workweek and pay
4 periods during the Class Period. BCG also estimated the number of meal and rest period violations, the
5 amounts of unpaid wages for Plaintiff's various theories, and the amount of off-the-clock work
6 performed by the Class Members during the Class Period. JCL Dec., ¶ 20.

7 In advance of mediation, Class Counsel created several damage models predicated on the BCG
8 analysis. Class Counsel's models calculated Defendants' potential liability exposure while accounting
9 for the uncertainties of continued litigation. These damage models informed and guided Class Counsel
10 during the mediated settlement discussions. JCL Dec., ¶ 21.

11 Overall, Class Counsel thoroughly investigated the claims at issue, including: (1) determining
12 Plaintiff's suitability as a putative class representative through interviews and analysis of his
13 employment file; (2) evaluating all of Plaintiff's potential claims; (3) researching similar wage and hour
14 class actions as to the claims brought, the nature of the positions, and the type of employer; (4)
15 analyzing the Class Members' time and payroll records; (5) analyzing Defendants' labor policies and
16 practices; (6) researching settlements in similar cases as well as outstanding issues which could affect
17 settlement approval; (7) evaluating Plaintiff's claims and estimating Defendants' liability for purposes
18 of settlement; (8) drafting the mediation brief; and (9) participating in the mediation. This investigation
19 allowed Class Counsel to fully assess the nature and magnitude of the claims being settled, as well as
20 the impediments to recovery, such as to make an independent assessment of the reasonableness of the
21 terms to which the Parties have agreed. JCL Dec., ¶ 22.

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

28 ///

1 **C. The Parties Settled at Mediation**

2 On July 21, 2025, the Parties conducted a full day of mediation with Gig Kyriacou, Esq., a
3 respected mediator of wage and hour class and representative actions. Mediator Kyriacou helped
4 manage the Parties' expectations and provided a useful, neutral analysis of the issues and risks to both
5 sides. The Parties made substantial progress with the mediator's assistance. Namely, the Parties
6 exchanged information regarding their respective claims and defenses, including their respective
7 evaluation of the damages. The mediation concluded with a settlement. The complete and final terms
8 of that settlement are now set forth in the Agreement. Class Counsel submits that the Settlement
9 constitutes a fair, adequate, and reasonable compromise of the claims at issue. JCL Dec., ¶ 24.

10 **D. The Proposed Settlement Fully Resolves Plaintiff's Claims**

11 1. The Composition of the Participating Class Members

12 The proposed Class consists of all persons who are or previously were employed by Defendant
13 Kline Automotive and/or Defendant RK Automotive in California and classified as non-exempt,
14 exempt, piece-rate based, and/or commission-based employees at any time between April 8, 2021,
15 through August 14, 2025, (the "Class Period"), and who do not submit a valid and timely Request for
16 Exclusion from the Settlement. Agreement at ¶¶ 1.5, 1.12, 1.36.

17 2. The Settlement Consideration

18 The Parties agreed to settle the underlying claims in exchange for the Gross Settlement Amount
19 of \$550,342.42. The Gross Settlement Amount includes: (1) Individual Class Payments to the
20 Participating Class Members; (2) a Class Representative Service Payment of up to \$10,000.00 to
21 Plaintiff for his services on behalf of the Class Members; (3) PAGA Penalties in the amount of
22 \$26,000.00; (4) Administration Expenses Payment estimated at \$5,250; (5) Class Counsel Award in
23 the amount of \$211,613.00, comprised of attorneys' fees equal to 33% of the Gross Settlement Amount,
24 or \$181,613.00 and an estimated \$30,000.00 for actually incurred litigation expenses. *See generally*
25 Agreement at ¶ 3.2.2.

26 Subject to the Court approving the Class Representative Payment, Class Counsel Award, PAGA
27 Penalties, and the Administration Expenses Payment, the Net Settlement Amount will be distributed to
28 each participating member of the Class. Agreement at ¶ 1.28. None of the Gross Settlement Amount

will revert to Defendants. Agreement at ¶ 3.1.

3. The Funding Date

Defendants shall fully fund the Gross Settlement Amount and Defendants' share of payroll taxes by transmitting the funds to the Administrator no later than thirty (30) calendar days after the Effective Date. Agreement at ¶ 4.3.

4. Formula for Calculating Individual Class Payments

Each Participating Class Member will receive an Individual Class Payment. The Class Data provided by Defendants to the Administrator included the number of eligible Workweeks for each Participating Class Member. The Individual Class Payments will be calculated by dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and multiplying the result by each Participating Class Member's Workweeks worked during the Class period. Agreement at ¶ 3.2.4. Each Individual Class Payment will be reduced by any legally mandated employee tax withholdings (*e.g.*, employee payroll taxes, etc.). ¶ 3.2.4.1

Given that there are approximately 183 Class Members, *the average gross recovery is approximately \$1,625.57* (Net Settlement Amount divided by Participating Class Members). JCL Dec., ¶ 6.

5. Release by Participating Class Members

Generally, upon final approval of the Settlement and funding of the Gross Settlement Amount, and except as to the right to enforce the terms and conditions of the Settlement, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, release Released Parties from the Released Class Claims for the Class Period. Agreement at ¶¶ 1.40; 5.2.

6. PAGA Release by the Aggrieved Employees

Generally, upon final approval of the Settlement and funding of the Gross Settlement Amount, Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the Released PAGA Claims for the PAGA Period. Agreement at ¶¶ 1.41; 5.3.

III. ARGUMENT

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

The proposed Settlement, including a Gross Settlement Amount of \$550,342.42, 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

1 to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or
2 collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable
3 and adequate to all concerned.” (*Id.*)

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

6 “[W]hat transpires in settlement negotiations is highly relevant to the assessment of a proposed
7 settlement’s fairness.” (*State v. Levi Strauss & Co.* (1986) 41 Cal.3d 460, 482.) Courts presume the
8 absence of fraud or collusion in the negotiation of a settlement, unless evidence to the contrary is
9 offered; thus, there is a presumption that settlement negotiations are conducted in good faith. (Newberg,
10 § 11.51.)

11 The Parties participated in mediation with the highly respected mediator Gig Kyriacou, Esq.,
12 who managed the Parties’ expectations and provided a useful, neutral analysis of the issues and risks
13 to both sides. (*In re Apple Computer, Inc. Derivative Litig.* No. C 06-4128 JF (HRL), 2008 U.S. Dist.
14 LEXIS 108195 (N.D. Cal. Nov. 5, 2008) (mediator’s participation weighs considerably against any
15 inference of a collusive settlement); *D’Amato v. Deutsche Bank* (2d. Cir. 2001) 236 F.3d 78, 85 (a
16 “mediator’s involvement in pre-certification settlement negotiations helps to ensure that the
17 proceedings were free of collusion and undue pressure.”).) At all times, the Parties’ negotiations were
18 at an arm’s length, adversarial, and non-collusive. The Parties subsequently executed a binding and
19 enforceable Memorandum of Understanding and thereafter drafted and negotiated a long-form
20 settlement which is the subject of the instant motion. The Agreement is the final product of these
21 mediated negotiations. Objectively, the Settlement terms are fair, adequate and represent a reasonable
22 compromise of the claims at issue. JCL Dec., ¶ 25.

23 2. Class Counsel’s Thorough Investigation Provided an Objective Measurement of the
24 Settlement’s Reasonableness.

25 As set forth in greater detail above, Class Counsel conducted a very thorough investigation into
26 the factual and legal issues in dispute. In addition to informal discovery, document review, data analysis
27 and legal research, Class Counsel also researched similar wage and hour actions. Although no two cases
28 are identical, this research provided Class Counsel with a marker to inform settlement discussions. The

1 investigation allowed Class Counsel to realistically assess the value of the claims and intelligently
2 engage defense counsel in settlement discussions that culminated in the proposed settlement now before
3 the Court. JCL Dec., ¶ 26.

4 Class Counsel only agreed to enter the Settlement following their thorough investigation and
5 evaluation of Plaintiff's claims. Based on an investigation of the facts, applicable law, and marketplace
6 for similar settlements, and considering the risk of significant delay, uncertainty associated with
7 litigation, and the various defenses asserted by Defendants, Class Counsel firmly believes this
8 Agreement to be in the best interests of the Class Members. Because the Settlement's terms are fair,
9 reasonable, and adequate, the Court should preliminarily approve the Settlement. JCL Dec., ¶ 27.

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

11 The Gross Settlement Amount of \$550,342.42 is within the range of reasonableness. To
12 determine whether a settlement is fair and reasonable, the court should "consider enough information
13 about the nature and magnitude of the claims being settled, as well as the impediments to recovery, to
14 make an independent assessment of the reasonableness of the terms to which the parties have agreed."
15 (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.) In making this determination,
16 the court is "not to try the case" but rather "satisfy itself that the class action settlement is within the
17 'ballpark of reasonableness.'" (*Id.* (emphasis added).) For this analysis, courts do "not require any such
18 explicit statement of value; [they] require[] a record which allows an understanding of the amount that
19 is in controversy and the realistic range of outcomes of the litigation." (*Munoz v. BCI Coca-Cola*
20 *Bottling Co.* (2010) 186 Cal.App.4th 399, 409 (internal citation omitted).) The reasonableness of a
21 settlement is not dependent upon its actual value approaching the potential recovery plaintiffs might
22 have received if they had succeeded at trial.² Indeed, "[t]he determination whether a settlement is

23
24 ² Federal district courts recognize that there is an inherent "range of reasonableness" in determining whether to approve a
25 settlement "which recognizes the uncertainties of law and fact in any particular case and the concomitant risks and costs
26 necessarily inherent in taking any litigation to completion." *Newman v. Stein* (2d. Cir. 2002) 464 F.2d 689, 693; *see In re*
27 *Omnivision Tech, Inc.* (N.D. Cal. 2008) 559 F.Supp.2d 1036; *see also Nat'l Rural Telecomm. Coop. v. Directv. Inc.* (C.D.
28 Cal. 2004) 221 F.R.D. 523, 527 ("well settled law that a proposed settlement may be acceptable even though it amounts to
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,
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

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

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

The Gross Settlement Amount of \$550,342.42 is fair and reasonable considering the nature and magnitude of the claims being settled and the various potential impediments to recovery. Prior to the mediation, Class Counsel retained Berger Consulting Group to develop economic damage models measuring Defendants’ 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. Class Counsel projected Defendants’ liability exposure for *class claims* (excluding PAGA Penalties) ranged between \$2,606,966.15 (“Realistic Damages”) and \$3,357,789.00 (“Maximum Damages”) if successful at trial. This range reflects the uncertainty regarding several of the claims. Thus, the Gross Settlement Amount represents a recovery of between 21.11% (“Realistic Damages”) and 16.39% (“Maximum Damages”) of Defendants’ class-wide exposure – well within the recognized range of reasonableness. The following summarizes Defendants’ liability exposure. JCL Dec., ¶ 28.

(1) Estimated Exposure for Meal Period Violations

Plaintiff alleged that Defendants failed to provide compliant meal periods. Specifically, Plaintiff alleged that because of rigorous work schedules, Defendants’ understaffing, and Defendants’ written customer relations policy, Plaintiff and Class Members were unable to take timely and duty-free meal periods. Plaintiff alleged that Defendants frequently required Class Members to miss, delay, or shorten their meal periods to attend to customers and/or complete repair jobs as quickly as possible. An analysis of the Class Members’ time and payroll data revealed a 66% meal period violation rate. Further, Plaintiff alleged that when Class Members did receive meal breaks, Defendants required them to remain “on call” so that they could be contacted on their personal cell phones by Defendants to assist customers or complete repair jobs. JCL Dec., ¶ 29.

individual component parts, that must be examined for overall fairness”).

1 Conversely, Defendants argued that it provided all Class Members with the opportunity to take
2 compliant meal periods. Defendants also argued that they maintained facially compliant meal period
3 policies. Further, Defendants argued that employees were not required to remain on call during their
4 meal periods. Thus, Defendants argued that there was no potential liability for Plaintiff's alleged meal
5 period violations, and any claimed violations required a highly individualized inquiry not suitable to
6 class treatment. Consequently, Plaintiff applied a 10% discount to this claim and estimated Defendants'
7 exposure for this claim ranged from \$764,082.00 to approximately \$848,980.00. JCL Dec., ¶ 30.

8 (2) Estimated Exposure for Rest Period Violations

9 Plaintiff also alleged that Defendants failed to provide compliant rest periods. Plaintiff's rest
10 period claim is based on two theories of liability. First, Plaintiff alleged that because of rigorous work
11 schedules, Defendants' understaffing, and Defendants' written customer relations policy, Plaintiff and
12 Class Members were rarely able to take full, uninterrupted, and compliant rest breaks. On the rare
13 occasion that Plaintiff and Class Members were able to take a compliant rest break, Plaintiff alleged
14 that Defendants required them to remain on call. Second, Plaintiff alleged that Defendants failed to
15 provide separate compensation for rest and recovery periods to commission and/or piece-rate based
16 Class Members. Defendants must provide separate compensation for rest periods, as required by
17 California law. See *Vaquero v. Stoneledge Furniture LLC*, 9 Cal. App. 5th 98, 103 (2017), *as modified*
18 (Mar. 20, 2017). The California Court of Appeals in *Vaquero* made clear that employers must
19 separately compensate employees for rest periods if an employer's compensation plan does not already
20 include a minimum hourly wage for such time. *Id.* at 110. This is particularly important because, as the
21 court *Vaquero* court explained, commission-based compensation plans discourage employees from
22 taking rest breaks. *Id.* at 113; see also Labor Code Section 226.2(a)(3) (piece rate employees must be
23 separately compensated for rest and recovery periods.) JCL Dec., ¶ 31.

24 Again, Defendants denied liability and asserted that they maintained legally compliant rest
25 period practices throughout the Class Period. Moreover, Plaintiff recognizes the evidentiary burdens
26 establishing this claim. Establishing Plaintiff's rest period claim would rely, in part, on Class Member
27 testimony, making it a riskier claim at class certification and liability stages. Certification likely would
28 have required depositions of Class Members who provided declarations, and Defendants surely would

1 have obtained opposing declarations stating either rest breaks were taken, or rest breaks were
2 voluntarily waived. Further, Defendants argued that only a portion of the Class Members were paid on
3 a commission and/or piece-rate basis and thus, any violations under *Vaquero* and Cal. Labor Code
4 Section 226.2(a)(3) required a highly individualized inquiry not suitable to class treatment. Plaintiff
5 applied a 15% discount to this claim and estimated Defendants' exposure for this claim ranged from
6 \$1,049,664.15 to approximately \$1,234,890.00. JCL Dec., ¶ 32.

7 (3) Defendants' Exposure for Failure to Pay for All Hours Worked

8 Plaintiff alleged that Defendants failed to pay its employees for all hours worked. Specifically,
9 Plaintiff alleged that Defendants required Class Members to continue working while still clocked out
10 during what was supposed to be their uninterrupted, duty-free meal breaks. Further, Plaintiff alleged
11 that when Class Members were paid on a piece-rate basis, Defendants failed to separately compensate
12 these Class Members for other non-productive time in violation of California Labor Code Section
13 226.2. As a result, Plaintiff and Class Members forfeited compensation, including overtime wages, for
14 all the time they spent working under Defendants' control. Based on Plaintiff's testimony and Class
15 Counsel's investigation, Plaintiff assumed 20 minutes of unpaid compensable time per workweek by
16 the Class Members during the Class Period. JCL Dec., ¶ 33.

17 Defendants vigorously denied liability for this claim. Defendants asserted that they had in place
18 written policies and procedures requiring employees to accurately record all their time worked daily
19 and argued that such written policies and procedures directed its employees not to work while off the
20 clock. Further, Defendants argued that the off-the-clock claim was not suitable to class treatment
21 because individualized issues predominated. For example, even assuming Plaintiff performed work
22 while off-the-clock, which Defendants dispute, Defendants argued that the time spent would vary
23 drastically from class member to class member that it could not be established by common proof. JCL
24 Dec., ¶ 34.

25 Considering Defendants' defenses, Plaintiff applied a 50% discount to this claim. Plaintiff
26 estimated Defendants' exposure for this claim ranged between approximately \$301,433.00 and \$
27 \$602,866.00. JCL Dec., ¶ 35.

28 ///

1 (4) Estimated Exposure for Wage Statement Violations and Waiting Time
2 Penalties

3 Plaintiff alleged that Defendants' violations resulted in *derivative* violations of Labor Code
4 sections 203 and 226(a). Class Counsel weighed the potential recoveries against the strength and
5 defenses of the underlying claims as outlined above. JCL Dec., ¶ 36.

6 Defendants denied that it violated California law regarding wage statements or waiting time
7 penalties. Defendants argued that Plaintiff could not prove the required "willful" prong under Labor
8 Code section 203 and that Plaintiff could not establish the necessary "injury" element to successfully
9 recover derivative wage statement penalties, as required by Labor Code section 226. See, e.g., *Howard*
10 *v. CVS Caremark Corp.*, 2014 U.S. Dist. LEXIS 172406 (C.D. Cal. Dec. 9, 2014) (denying class
11 certification for the same penalty claims); *Alonzo v. Maximus, Inc.* (C.D. Cal. 2011) 832 F. Supp. 2d
12 1122, 1134-1137 (finding insufficient evidence of bad faith or actual injury). Plaintiff could not give
13 the penalty claims great weight given that they depended on proving the underlying claims, which had
14 their own risks. Consequently, Plaintiff applied a 25% discount to the waiting time penalties claim and
15 estimated that Defendants' exposure for this claim ranged from \$338,013.00 and \$450,684.00. Further,
16 Plaintiff applied a 25% discount to the wage statement penalties claim and estimated that Defendants'
17 exposure for this claim ranged from \$150,900.00 to \$201,200.00. JCL Dec., ¶ 37.

18 (5) Exposure for Unreimbursed Business Expenses

19 Plaintiff further alleged that Defendants failed to reimburse Class Members for use of their
20 personal cell phones and for the purchase of personal protective equipment such as specialized boots
21 that prevent injury from coolant and oil spills. California employers who require employees to incur
22 personal business expenses for work purposes must reimburse the employee for the cost incurred. (See
23 Cal. Lab. Code § 2802(a), providing that "[a]n employer shall indemnify his or her employee for all
24 necessary expenditures or losses incurred by the employee in direct consequence of the discharge of
25 his or her duties, or of his or her obedience to the directions of the employer...."). JCL Dec., ¶ 38.

26 Again, Defendants vigorously denied any liability for this claim, arguing that Class Members
27 were not required to use their personal cell phones or purchase personal protective equipment, and in
28 any event, Defendants provided avenues for reimbursement of legitimate business expenses.

1 Considering Defendants' defenses, Plaintiff applied an 85% discount to this claim. Plaintiff estimated
2 Defendants' exposure for this claim ranged between approximately \$2,874.00 and \$19,160.00. JCL
3 Dec., ¶ 39.

4 **b. Defendants' PAGA Exposure**

5 Class Counsel's damage models also estimated Defendants' exposure for PAGA penalties. At the
6 time of mediation, Plaintiff estimated Defendants' PAGA exposure ranged between \$10,230.00 and
7 \$513,400.00. JCL Dec., ¶ 40. The proposed PAGA allocation of the Gross Settlement Amount is fair,
8 just, and reasonable. *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77. Where settlements
9 "negotiate a good faith amount" for PAGA penalties and "there is no indication that this amount was
10 the result of self-interest at the expense of class members," such amounts are generally considered
11 reasonable. *Hopson v. Hanesbrands Inc.*, No. CV-08-0844 EDL, 2009 WL 928133, at *9 (N.D. Cal.
12 Apr. 3, 2009). Courts routinely approve of amounts for PAGA penalties in the range of zero to two
13 percent of the settlement. *See id.* at *1, 9 (approving a PAGA payment of 0.3%); *Jack v. Hartford Fire*
14 *Ins. Co.*, No. 09cv1683 MMA (JMA), 2011 WL 4899942, at *6 (S.D. Cal. Oct. 13, 2011) (approving a
15 PAGA payment of 0.25%); *McKenzie v. Fed. Express Corp.*, No. CV 10-02420 GAF (PLAx), 2012 WL
16 12882124, at *5 (C.D. Cal. Jan. 23, 2012) (acknowledging that courts approve PAGA claim settlements
17 in the range of zero to two percent of the total settlement).

18 Here, the Parties negotiated a good faith PAGA Penalties payment in the amount of \$26,000.00
19 which is 4.73% of the Gross Settlement Amount. This amount falls well within the range of approved
20 PAGA Penalties. Seventy-Five percent (75%) of the PAGA Payment (\$19,500.00) will be paid to the
21 LWDA ("LWDA PAGA Payment") with the remaining twenty-five percent (25%) of the PAGA
22 Payment (\$6,500.00) will be distributed to the Aggrieved Employees ("Individual PAGA Payments")
23 which is within the range of PAGA Payment approved by courts and should be approved. JCL Dec., ¶
24 41.

25 Under PAGA, Courts have considerable discretion to reduce the penalty award. In *Fleming v.*
26 *Covidien*, 2011 U.S. Dist. LEXIS 154590 (C.D. Cal. 2011), a federal court reduced PAGA penalties
27 from \$2,800,000 to \$500,000, a reduction of 82.2%, because the court found maximum penalties
28 "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%.

For the aforementioned reasons, the PAGA allocation of the Gross Settlement Amount is fair, just, and reasonable.

c. Inherent Risks of Continued Litigation Support Preliminary Approval.

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

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). JCL Dec., ¶ 42.

Further, even if a class is certified, liability remains uncertain. The risks attendant to the issue of

Defendants' 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."). JCL Dec., ¶ 43.

Finally, even if a class is certified and Defendants are 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 judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed the trial court to enter judgement 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). JCL Dec., ¶ 44.

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. JCL Dec., ¶ 45.

"The Settlement eliminates these and other risks of continued litigation, including the very real risk of no recovery after several years of litigation." (*In re Nvidia Derivs. Litig.* (N.D. Cal. 2008) 2008 WL 5382544, at *3.) Indeed, potential appeals aside, litigating a complex case through trial is inherently perilous regardless of the strengths of merits of the claims:

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

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

Finally, continuing to litigate this action would require continued and extensive resources coupled with significant Court time to proceed through trial and post-trial motions; which can often

1 take years. Furthermore, wage and hour litigation is complex and expensive, as it often necessitates
2 extensive expert testimony, particularly with regards to damages. But even if Plaintiff is successful at
3 trial, Plaintiff is acutely aware that a judgment does not end the litigation. Plaintiff fully expects that
4 Defendants would appeal any favorable judgment. As demonstrated by *Magadia, supra*, 999 F.3d 668,
5 the risk of an appeal and subsequent reversal is real. JCL Dec., ¶ 46. “Avoiding such a trial and the
6 subsequent appeals in this complex case strongly militates in favor of settlement rather than further
7 protracted and uncertain litigation.” (*Nat’l Rural Telecomms. Coop v. DirecTV* (C.D. Cal. 2004) 221
8 F.R.D. 523, 527.) Thus, “unless the settlement is clearly inadequate, its acceptance and approval are
9 preferable to lengthy and expensive litigation with uncertain results.” (*Id.* at 526.)

10 In this matter, Class Counsel negotiated a Gross Settlement Amount of \$550,342.42 that is
11 between 21.11% and 16.39% of Defendants’ liability exposure for class damages. Given the amount of
12 the settlement here, as compared to potential value of the claims, offset by the various inherent risks to
13 continued litigation, the settlement is fair and reasonable. JCL Dec., ¶ 47.

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

15 The Class Members are entitled to the best practical notice under the circumstances. (*Kass v.*
16 *Young* (1977) 67 Cal.App.3d 100, 106.) The purpose of the notice is to give class members sufficient
17 information to decide whether they should accept the benefits offered, opt out and pursue their own
18 remedies, or object to the settlement. (*Trotsky v. Los Angeles Fed Savings & Loan Assn.* (1975) 48
19 Cal.App.3d 143, 151-52.) The notice must advise class members “that they may be excluded from the
20 class if they so request and that they will be bound by the judgment, whether favorable or not, if they
21 do not request exclusion.” (*Kass*, 67 Cal.App.3d at 106.) Authorities generally require service of the
22 class notice by mail or similar reliable means. (*Chance v. Super. Ct.* (1962) 58 Cal.2d 275, 290; *Cart*
23 *v. Super. Ct.* (1975) 50 Cal.App.3d 960, 972.)³

24 The Parties jointly drafted the Class Notice which fairly and neutrally informs the Class
25 Members of their rights and remedies. The Administrator will first verify addresses, then mail the

26 ³ Due process does not require that each class member actually receive a notice, but rather a procedure reasonably certain to
27 reach class members. Wright, A. Miller & M. Kane, *Federal Practice and Procedure* § 1789, at 253 (2d ed. 1986). If
28 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.

1 proposed Class Notice in English and Spanish to all Class Members. The Notice will include
2 information regarding the nature of the lawsuit, a summary of the substance of the Settlement’s terms,
3 the procedure, and time period within which to submit requests for exclusions or objections to the
4 Settlement, the date for the final approval hearing, the formula used to calculate settlement payments,
5 and the terms and scope of the Released Class Claims and Released PAGA Claims. Agreement at ¶
6 7.4. The Parties negotiated this method to ensure delivering the most reasonable method of notice to
7 the Class Members while ensuring cost effective administration of the Settlement. JCL Dec., ¶ 48.

8 Accordingly, both the method of disseminating the Class Notice and content of the Class Notice
9 satisfy due process. (*See* C.R.C. 3.776(e)-(f); *State of Cal. v. Levi Strauss* (1986) 41 Cal.3d 460,485
10 (the class notice must “fairly apprise the class members of the terms of the proposed compromise and
11 of the options open to dissenting class members.”).)

12 **C. The Court Should Preliminarily Approve the Class Representative Service Payment**

13 Class Representative Service Payments “are fairly typical in class action cases.” (*Cellphone*
14 *Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1393 (affirming incentive awards of \$10,000);
15 *Rodriguez v. West Publishing Corp.* (9th Cir. 2009) 563 F.3d 948, 958, *citing* 4 Newberg on Class
16 Actions (4th ed. 2002) § 1 1:38, and Eisenberg & Miller, *Incentive Awards to Class Action Plaintiffs:*
17 *An Empirical Study*, 53 UCLA L. Rev. 1303 (2006).) Class Representative Service Payments “are
18 intended to compensate class representatives for work done on behalf of the class, to make up for
19 financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their
20 willingness to act as a private attorney general.” (*Rodriguez*, 563 F.3d at 958-59.) “[T]he rationale for
21 making enhancement or incentive awards to named plaintiffs is that they should be compensated for
22 the expense or risk they have incurred in conferring a benefit on other members of the class.” (*Clark v.*
23 *American Residential Services LLC* (2009) 175 Cal.App.4th 785.)

24 The Settlement provides for a Class Representative Service Payment of up to \$10,000.00.
25 Approximately 183 members of the Class will share in the estimated \$297,479.42 Net Settlement
26 Amount due entirely to the effort and commitment of the Plaintiff. Subject to Court approval, therefore,
27 the Settlement provides for a Class Representative Service Award of \$10,000. The Class Representative
28 Service Payment is fair and reasonable compensation for the Plaintiff’s efforts bringing the action,

1 assisting Class Counsel with the litigation and settlement, regularly conferring with Class Counsel on
2 the status of his case, facts surrounding his employment as it relates to wage and hour practices and
3 claims and the strategies for prosecuting the claims, and reviewing the proposed Settlement to ensure
4 that its terms are fair and provide adequate relief for the Class Members. JCL Dec., ¶ 49; Fuentes Dec.,
5 ¶¶ 6-9.

6 Class Counsel on behalf of Plaintiff will file a formal motion for the negotiated Class
7 Representative Service Payment once preliminary approval of the Settlement is granted. Plaintiff
8 respectfully submits that the above showing is sufficient for preliminary approval of the negotiated
9 Class Representative Service Payment. JCL Dec., ¶ 50.

10 **D. The Court Should Preliminarily Approve the Class Counsel Award**

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

21 Class Counsel took this matter on a contingency fee basis and invested significant time and
22 expense successfully prosecuting Plaintiff's claims. As discussed *supra*, the estimated average
23 Individual Settlement Payment illustrates the demonstrably positive outcome for the Participating Class
24 Members. Considering the positive outcome for the Class Members, and in light of the supporting
25 authority, the proposed Class Counsel Award is fair and reasonable. JCL Dec., ¶ 51.

26 Plaintiff will file a formal motion for the negotiated Class Counsel Award once preliminary
27 approval of the Settlement is granted. Plaintiff respectfully submits that the above showing is sufficient
28 for preliminary approval of the negotiated attorneys' fees. JCL Dec., ¶ 52.

1 **E. Provisional Certification for Settlement Purposes Is Appropriate**

2 For Settlement purposes, Plaintiff contends, and Defendants do not dispute, that provisional
3 certification of the Class is appropriate. JCL Dec., ¶ 53.

4 1. The Standard for Class Certification

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

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

15 Whether a class is “ascertainable” within the meaning of Code of Civil Procedure section 382 is
16 “determined by examining (1) the class definition, (2) the size of the class, and (3) the means available
17 for identifying class members.” (*Lee*, 166 Cal.App.4th at 1334.) Class members are ascertainable
18 where they may be readily identified without unreasonable expense or time by reference to official
19 records. (*Id.*)

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

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

28 Because all Class Members are Defendants’ current and former employees, the class is readily

ascertainable from Defendants' regular business records, i.e., payroll records. JCL Dec., ¶ 54.

The statutes relating to each of Plaintiff's claims apply with equal force and effect to the entire Class. Factually, Defendants' policies and practices apply class-wide and Defendants' liability can be determined by facts common to all members of the class. The wage and hour issues are both numerous and substantial, and a class action is the most advantageous method of dealing with the claims of the Settlement Class Members. JCL Dec., ¶ 55.

Plaintiff's wage and hour claims are typical of the proposed Class because they arise from the same factual basis and are based on the same legal theories applicable to the other Class Members. Likewise, Plaintiff's interests are entirely coextensive with the interests of the Class. Plaintiff alleges that he was injured by the same company-wide practices to which the proposed Class Members were subject to and seek the same relief. Plaintiff has already demonstrated their ability to advocate for the interests of the Class Member by initiating this litigation, undertaking extensive class discovery, and evaluating the proposed settlement to assure that it is fair. JCL Dec., ¶ 56.

Additionally, Plaintiff is represented by competent Class Counsel who have extensive experience in litigating wage and hour class action cases. Class Counsel successfully briefed, argued, certified, and gained state court settlement approval of the same class-wide causes of action that are at issue in this case. Class Counsel's wage and hour class action experience establishes that they are well qualified to represent the interests of this Class. JCL Dec, ¶¶ 58-64; Declaration of Shani Zakay ("SOZ Dec."), ¶¶ 1-3.

A class action is superior to a multitude of individual lawsuits. Given the size and amount of each individual claim, the Class Members likely have little incentive to litigate their claims on an individual basis because the out-of-pocket expense and personal commitment necessary to litigate each claim outweighs any potential recovery. In sum, class treatment is superior to individual, case-by-case adjudication. JCL Dec., ¶ 57.

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Dated: March 11, 2026

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