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Clerk of the Court
Superior Court of CA
County of Santa Clara
23CV412578
By: tduarte

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SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

STEVEN R. REGALADO, et al., individually,) Case No.: 23CV412578
and on behalf of all others similarly situated,)
Plaintiffs,) ORDER GRANTING PLAINTIFF’S
v.) MOTION FOR PRELIMINARY APPROVAL
KELLOGG COMPANY, et al.,) OF CLASS ACTION AND PAGA
Defendants.) SETTLEMENT
Dept. 7

This is a putative class and Private Attorneys General Act (“PAGA”) action. Plaintiff Edwin Faulkner alleges that Defendant Kellogg Company committed various wage and hour violations. Before the Court is Plaintiff’s motion for preliminary approval of settlement, which is unopposed. As discussed below, assuming the requested changes to the notice are made, the Court GRANTS the motion.

I. BACKGROUND

According to the allegations of operative Second Amended Class and Representative Action Complaint (“SAC”), Plaintiff was formerly employed by Defendant as an Industrial Mechanic and Operations Specialist, respectively, both non-exempt, hourly-paid positions. Plaintiffs allege that Defendant failed to: pay employees for all hours worked, including all

1 minimum and overtime wages; provide employees with meal periods or compensation in lieu
2 thereof; to provide rest periods or compensation in lieu thereof; maintain accurate records of all
3 hours worked; reimburse necessary business expenses; and provide accurate, itemized wage
4 statements.

5 Based on the foregoing, former plaintiff Steven R. Regalado initiated this action on
6 March 16, 2023. The First Amended Complaint was filed on March 22, 2023, with Enrique
7 Martin added as a plaintiff. The operative SAC was filed on March 28, 2024, with Mr. Regalado
8 no longer a named plaintiff and Mr. Faulkner added in that capacity. The SAC asserts the
9 following causes of action: (1) failure to pay minimum wages; (2) failure to pay overtime
10 compensation; (3) failure to provide meal periods; (4) failure to authorize and permit rest breaks;
11 (5) failure to indemnify necessary business expenses; (6) failure to timely pay wages at
12 termination; (7) failure to provide accurate itemized wage statements; (8) unfair business
13 practices; and (9) civil penalties under PAGA.

14 Mr. Faulkner now seeks an order: preliminarily approving the parties' class action
15 settlement; certifying the Class for settlement purposes; ordering the proposed Class Notice be
16 sent to the settlement Class; appointing APEX Class Action Administration as the settlement
17 administrator; conditionally appointing himself as Class representative; appointing Moon Law
18 Group, P.C. as Class counsel; and scheduling a final approval hearing.

19 **II. LEGAL STANDARDS FOR SETTLEMENT APPROVAL**

20 **A. Class Action**

21 Generally, “questions whether a [class action] settlement was fair and reasonable,
22 whether notice to the class was adequate, whether certification of the class was proper, and
23 whether the attorney fee award was proper are matters addressed to the trial court’s broad
24 discretion.” (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234–235 (*Wershba*),
25

1 disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th
2 260.)

3 “In determining whether a class settlement is fair, adequate and reasonable, the trial court
4 should consider relevant factors, such as the strength of plaintiffs’ case, the risk, expense,
5 complexity and likely duration of further litigation, the risk of maintaining class action status
6 through trial, the amount offered in settlement, the extent of discovery completed and the stage
7 of the proceedings, the experience and views of counsel, the presence of a governmental
8 participant, and the reaction of the class members to the proposed settlement.” (*Wershba, supra*,
9 91 Cal.App.4th at pp. 244–245, internal citations and quotations omitted.)

10 In general, the most important factor is the strength of the plaintiffs’ case on the merits,
11 balanced against the amount offered in settlement. (See *Kullar v. Foot Locker Retail, Inc.* (2008)
12 168 Cal.App.4th 116, 130 (*Kullar*).) But the trial court is free to engage in a balancing and
13 weighing of relevant factors, depending on the circumstances of each case. (*Wershba, supra*, 91
14 Cal.App.4th at p. 245.) The trial court must examine the “proposed settlement agreement to the
15 extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or
16 overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a
17 whole, is fair, reasonable and adequate to all concerned.” (*Ibid.*, citation and internal quotation
18 marks omitted.) The trial court also must independently confirm that “the consideration being
19 received for the release of the class members’ claims is reasonable in light of the strengths and
20 weaknesses of the claims and the risks of the particular litigation.” (*Kullar, supra*, 168
21 Cal.App.4th at p. 129.) Of course, before performing its analysis the trial court must be
22 “provided with basic information about the nature and magnitude of the claims in question and
23 the basis for concluding that the consideration being paid for the release of those claims
24 represents a reasonable compromise.” (*Id.* at pp. 130, 133.)

1 **B. PAGA**

2 Labor Code section 2699, subdivision (1)(2) provides that “[t]he superior court shall
3 review and approve any settlement of any civil action filed pursuant to” PAGA. The court’s
4 review “ensur[es] that any negotiated resolution is fair to those affected.” (*Williams v. Superior*
5 *Court* (2017) 3 Cal.5th 531, 549.) Seventy-five percent of any penalties recovered under PAGA
6 go to the Labor and Workforce Development Agency (LWDA), leaving the remaining twenty-
7 five percent for the aggrieved employees. (*Iskanian v. CLS Transportation Los Angeles, LLC*
8 (2014) 59 Cal.4th 348, 380, overruled on other grounds by *Viking River Cruises, Inc. v.*
9 *Moriana* (2022) 596 U.S. 639, 2022 U.S. LEXIS 2940.)

10 Similar to its review of class action settlements, the Court must “determine independently
11 whether a PAGA settlement is fair and reasonable,” to protect “the interests of the public and the
12 LWDA in the enforcement of state labor laws.” (*Moniz v. Adecco USA, Inc.* (2021) 72
13 Cal.App.5th 56, 76–77.) It must make this assessment “in view of PAGA’s purposes to
14 remediate present labor law violations, deter future ones, and to maximize enforcement of state
15 labor laws.” (*Id.* at p. 77; see also *Haralson v. U.S. Aviation Servs. Corp.* (N.D. Cal. 2019) 383
16 F. Supp. 3d 959, 971 [“when a PAGA claim is settled, the relief provided for under the PAGA
17 [should] be genuine and meaningful, consistent with the underlying purpose of the statute to
18 benefit the public”], quoting LWDA guidance discussed in *O’Connor v. Uber Technologies,*
19 *Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110 (*O’Connor*).

20 The settlement must be reasonable in light of the potential verdict value. (See *O’Connor,*
21 *supra*, 201 F.Supp.3d at p. 1135 [rejecting settlement of less than one percent of the potential
22 verdict].) But a permissible settlement may be substantially discounted, given that courts often
23 exercise their discretion to award PAGA penalties below the statutory maximum even where a
24 claim succeeds at trial. (See *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-
25 CV-02198-EMC) 2016 WL 5907869, at *8–9.)

1 **III. SETTLEMENT PROCESS**

2 On June 27, 2023, Mr. Regalado filed a Request for Dismissal of Class and Individual
3 Allegations without Prejudice, which requested the Court dismiss all of his pending allegations
4 and to allow Mr. Martin to pursue his remaining causes of action; the motion was granted on
5 June 29, 2023.

6 From May 2023 to January 2024, the parties agreed to engage in private mediation and
7 engaged in an informal exchange of data and documents in preparation for it; this included, but
8 was not limited to, the total number of putative Class Members and Aggrieved Employees during
9 the Class and PAGA Periods, the total number of workweeks and pay periods worked by all
10 putative Class Members and Aggrieved Employees during the Class and PAGA Periods, a fifteen
11 percent sample of time and corresponding payroll records of all putative Class Members from
12 March 16, 2019, to December 29, 2023 and the employee handbooks in effect during the Class
13 Period. On February 13, 2023, the parties participated in a mediation session with mediator
14 Mark Rudy, Esq., and reached the settlement that is now before the Court.

15 On February 14, 2024, Class counsel was retained by Mr. Faulkner, who submitted notice
16 of Labor Code violations to the LWDA on February 29, 2024. On March 27, 2023, Messrs.
17 Martin and Faulkner filed the SAC, which added Mr. Faulkner as an additional Class and PAGA
18 representative and alleged a ninth cause of action for civil penalties under PAGA. On April 30,
19 2024, Class counsel filed a motion to be relieved as Mr. Martin’s counsel; that motion was
20 granted on June 27, 2024. Mr. Martin’s individual claims remain active.¹

21 **IV. SETTLEMENT PROVISIONS**

22 The non-reversionary gross settlement is \$1,357,000. Attorney’s fees of up to
23 \$452,333.33 (or one-third of the gross settlement), litigation costs of up to \$30,000 and
24

25 ¹ Mr. Martin has not moved for approval of the settlement or to be appointed class
representative for settlement purposes.

1 administration costs not to exceed \$10,000 will be paid from the gross settlement. \$100,000 will
2 be allocated to PAGA penalties, 75% of which (\$75,000) will be paid to the LWDA, with the
3 remaining 25% (\$25,000) dispensed, on a pro rata basis, to “Aggrieved Employees,” which are
4 defined as “all persons who are employed or have been employed by Defendant in California as
5 hourly non-exempt employees from March 22, 2022, [through July 20, 2024].”² Mr. Faulkner
6 will seek a service award of \$7,500.

7 The net settlement will be allocated to “Class Members,” who are defined as “all persons
8 who are employed or have been employed by Defendant in California as hourly non-exempt
9 employees from March 16, 2019, [through July 20, 2024],” on a pro rata basis based on the
10 number of weeks worked during the Class period. For tax purposes, settlement payments will be
11 allocated 20% to wages and 80% to penalties and interest. The employer-side payroll taxes on
12 the portion allocated to wages will be paid by Defendant separate from, and in addition to, the
13 gross settlement amount. 100% of the payment to Aggrieved Employees will be allocated to
14 penalties. Funds associated with checks uncashed after 180 days will be transmitted to
15 Controller of the State of California to be held in trust for such class members pursuant to
16 California unclaimed property law.

17 In exchange for settlement, Class Members who do not opt out will release:

18 [T]he claims stated in the Operative Complaint or that reasonably could have been stated
19 based upon the facts in the Operative Complaint, including: (i) all claims based on violation of
20 California Labor Code sections 200, 201, 202, 203, 204, 208, 210, 218.5, 218.6, 221, 222, 223,
21 226, 226.2, 226.3, 226.7, 227.3, 246, 256, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2,
22 1197, 1197.1, 1198, and 1199, California Industrial Commission Wage Orders, Cal. Code Regs.,

23
24 ² “Aggrieved Employees” are fully defined as “all persons who are employed or have
25 been employed by Defendant in California as hourly non-exempt employees from March 22,
2022, through preliminary approval of the Settlement or sixty (60) days from the date this
Agreement is fully executed, whichever is earlier.” The settlement was fully executed on May
21, 2024, and sixty days from this date is July 20, 2024.

1 Title. 8, section 11040, et seq., Business and Professions Code sections 17200, et seq., California
2 Code of Civil Procedure section 1021.5; and (ii) all claims for or related to alleged unpaid wages,
3 under federal, state, or municipal law, concerning minimum wages, regular rate of pay, hours
4 worked, overtime or double time wages, regular rate of pay, shift differentials, alternate
5 workweeks, bonus and incentive pay, sick pay, timely payment of wages at separation, wage
6 statements, meal periods and meal period premiums, rest breaks and rest break premiums, unfair
7 competition, unfair business practices, unlawful business practices, and claims for statutory
8 penalties based on the facts or claims alleged in the operative Complaint at any time during the
9 Class Period (collectively, “Released Class Claims”).

10 Aggrieved employees, who consistent with the statute will not be able to opt out of the
11 PAGA portion of the settlement, will release:

12 [T]he PAGA claims that Plaintiff alleges, or reasonably could have alleged, against the
13 Released Parties based on the facts stated in the operative Complaint and in Plaintiff’s amended
14 LWDA notice letter, including: (i) all PAGA claims seeking civil penalties premised upon
15 California Labor Code sections 200, 201, 202, 203, 204, 208, 210, 218.5, 218.6, 221, 222, 223,
16 226, 226.2, 226.3, 226.7, 227.3, 246, 256, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2,
17 1197, 1197.1, 1198, and 1199et seq., California Industrial Commission Wage Orders; and (ii) all
18 other claims for civil penalties recoverable under the Private Attorneys General Act, California
19 Labor Code sections 2698 et seq., based on the facts or claims alleged in the operative Complaint
20 at any time during the PAGA Period

21 The foregoing releases are appropriately tailored to the allegations at issue.
22 (See *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 537.)

23 **V. FAIRNESS OF SETTLEMENT**

24 Based on the available data provided by Defendants, including class member timekeeping
25 and payroll records, as well as class member demographics (i.e., the number of class members,

1 workweeks, and average total compensation of the class), Plaintiff's counsel estimated
2 Defendant's maximum exposure for each claim to be as follows: \$1,465,914 (unpaid wages due
3 to invalid alternative workweek schedule); \$85,673 (unpaid wages due to improperly calculated
4 regular rate); \$347,930.06 (unpaid wages due to unpaid off-the-clock work); \$2,720,559.24
5 (meal period violations); \$2,901,984.01 (rest break violations); \$134,220 (unreimbursed business
6 expenses); \$1,009,100 (inaccurate wage statements); \$1,014,700 (PAGA civil penalties); and
7 \$840,946 (waiting time penalties).

8 Plaintiff's counsel then discounted the foregoing amounts by 5% to 50% to reach
9 Defendant's *realistic* exposure for Plaintiff's claims (which total \$1,529,500.13) as follows:
10 \$732,957 (unpaid wages due to invalid alternative work schedule; \$42,836.50 (unpaid wages due
11 to improperly calculated regular rate); \$34,793.01 (unpaid wage violations due to unpaid off-the-
12 clock work); \$272,055.92 (meal period violations); \$290,198.40 (rest break violations); \$13,422
13 (unreimbursed business expenses); and \$143,237.30 (derivative and PAGA penalties). The
14 reduction to the maximum recovery amount for each claim accounted for, but is not limited to,
15 the following: the difficulty of certifying each claim; Defendant's actual payment of additional
16 overtime throughout the Class Period; the difficulty of proving certain violations; the execution
17 of valid meal period waivers by Class Members; Class Members voluntarily foregoing rest
18 breaks; Defendant having not required or encouraged Class Members to incur claimed business
19 expenses; the strong likelihood that PAGA penalties would be substantially reduced by the Court
20 in its discretion; and the risk of not prevailing at trial or on appeal. The gross settlement amount
21 of \$1,357,500 represents 88.75% of the realistic maximum recovery.

22 Considering the portion of the case's value attributable to uncertain penalties, claims that
23 could be difficult to certify for class treatment, and the multiple, dependent contingencies that
24 Plaintiff would have had to overcome to prevail on his claims, the settlement achieves a good
25 result for the class. For purposes of preliminary approval, the Court finds that the settlement is

1 fair and reasonable to the class, and the PAGA allocation is genuine, meaningful, and reasonable
2 in light of the statute’s purposes.

3 Of course, the Court retains an independent right and responsibility to review the
4 requested attorney fees and award only so much as it determines to be reasonable. (See
5 *Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127–128.)
6 Counsel shall submit lodestar information prior to the final approval hearing in this matter so the
7 Court can compare the lodestar information with the requested fees. (See *Laffitte v. Robert Half*
8 *Intern. Inc.* (2016) 1 Cal.5th 480, 504 [trial courts have discretion to double-check the
9 reasonableness of a percentage fee through a lodestar calculation].)

10 **VI. PROPOSED SETTLEMENT CLASS**

11 Plaintiff requests that the following settlement class be provisionally certified:

12 [A]ll persons who are employed or have been employed by Defendant in California as
13 hourly non-exempt employees from March 16, 2019, through July 20, 2024.

14 **A. Legal Standard for Certifying a Class for Settlement Purposes**

15 Rule 3.769(d) of the California Rules of Court states that “[t]he court may make an order
16 approving or denying certification of a provisional settlement class after [a] preliminary
17 settlement hearing.” California Code of Civil Procedure Section 382 authorizes certification of a
18 class “when the question is one of a common or general interest, of many persons, or when the
19 parties are numerous, and it is impracticable to bring them all before the court”

20 Section 382 requires the plaintiff to demonstrate by a preponderance of the evidence:
21 (1) an ascertainable class and (2) a well-defined community of interest among the class
22 members. (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326, 332 (*Sav-On*
23 *Drug Stores*).) “Other relevant considerations include the probability that each class member
24 will come forward ultimately to prove his or her separate claim to a portion of the total recovery
25 and whether the class approach would actually serve to deter and redress alleged wrongdoing.”

1 (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.) The plaintiff has the burden of
2 establishing that class treatment will yield “substantial benefits” to both “the litigants and to the
3 court.” (*Blue Chip Stamps v. Superior Court* (1976) 18 Cal.3d 381, 385.)

4 In the settlement context, “the court’s evaluation of the certification issues is somewhat
5 different from its consideration of certification issues when the class action has not yet settled.”

6 (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 93.) As no trial is anticipated in the
7 settlement-only context, the case management issues inherent in the ascertainable class
8 determination need not be confronted, and the court’s review is more lenient in this respect. (*Id.*
9 at pp. 93–94.) But considerations designed to protect absentees by blocking unwarranted or
10 overbroad class definitions require heightened scrutiny in the settlement-only class context, since
11 the court will lack the usual opportunity to adjust the class as proceedings unfold. (*Id.* at p. 94.)

12 **B. Ascertainable Class**

13 A class is ascertainable “when it is defined in terms of objective characteristics and
14 common transactional facts that make the ultimate identification of class members possible when
15 that identification becomes necessary.” (*Noel v. Thrifty Payless, Inc.* (2019) 7 Cal.5th 955, 980
16 (*Noel*.) A class definition satisfying these requirements “puts members of the class on notice
17 that their rights may be adjudicated in the proceeding, so they must decide whether to intervene,
18 opt out, or do nothing and live with the consequences. This kind of class definition also
19 advances due process by supplying a concrete basis for determining who will and will not be
20 bound by (or benefit from) any judgment.” (*Noel, supra*, 7 Cal.5th at p. 980, citation omitted.)

21 “As a rule, a representative plaintiff in a class action need not introduce evidence
22 establishing how notice of the action will be communicated to individual class members in order
23 to show an ascertainable class.” (*Noel, supra*, 7 Cal.5th at p. 984.) Still, it has long been held
24 that “[c]lass members are ‘ascertainable’ where they may be readily identified ... by reference to
25 official records.” (*Rose v. City of Hayward* (1981) 126 Cal. App. 3d 926, 932, disapproved of on

1 another ground by *Noel, supra*, 7 Cal.5th 955; see also *Cohen v. DIRECTV, Inc.* (2009) 178
2 Cal.App.4th 966, 975-976 [“The defined class of all HD Package subscribers is precise, with
3 objective characteristics and transactional parameters, and can be determined by DIRECTV’s
4 own account records. No more is needed.”].)

5 Here, the estimated 356 Class Members are readily identifiable based on Defendant’s
6 records, and the settlement class is appropriately defined based on objective characteristics. The
7 Court finds that the settlement class is numerous, ascertainable, and appropriately defined.

8 **C. Community of Interest**

9 The “community-of-interest” requirement encompasses three factors: (1) predominant
10 questions of law or fact, (2) class representatives with claims or defenses typical of the class, and
11 (3) class representatives who can adequately represent the class. (*Sav-On Drug Stores, supra*, 34
12 Cal.4th at pp. 326, 332.)

13 For the first community of interest factor, “[i]n order to determine whether common
14 questions of fact predominate the trial court must examine the issues framed by the pleadings
15 and the law applicable to the causes of action alleged.” (*Hicks v. Kaufman & Broad Home Corp.*
16 (2001) 89 Cal.App.4th 908, 916 (*Hicks*)). The court must also examine evidence of any conflict
17 of interest among the proposed class members. (See *J.P. Morgan & Co., Inc. v. Superior Court*
18 (2003) 113 Cal.App.4th 195, 215.) The ultimate question is whether the issues which may be
19 jointly tried, when compared with those requiring separate adjudication, are so numerous or
20 substantial that the maintenance of a class action would be good for the judicial process and to
21 the litigants. (*Lockheed Martin Corp. v. Superior Court* (2003) 29 Cal.4th 1096, 1104–1105
22 (*Lockheed Martin*)). “As a general rule if the defendant’s liability can be determined by facts
23 common to all members of the class, a class will be certified even if the members must
24 individually prove their damages.” (*Hicks, supra*, 89 Cal.App.4th at p. 916.)
25

1 Here, common legal and factual issues predominate. Plaintiff's claims all arise from
2 Defendant's wage and hour practices (and others) applied to the similarly-situated class
3 members.

4 As for the second factor, "[t]he typicality requirement is meant to ensure that the class
5 representative is able to adequately represent the class and focus on common issues. It is only
6 when a defense unique to the class representative will be a major focus of the litigation, or when
7 the class representative's interests are antagonistic to or in conflict with the objectives of those
8 she purports to represent that denial of class certification is appropriate. But even then, the court
9 should determine if it would be feasible to divide the class into subclasses to eliminate the
10 conflict and allow the class action to be maintained." (*Medrazo v. Honda of North Hollywood*
11 (2008) 166 Cal. App. 4th 89, 99, internal citations, brackets, and quotation marks omitted.)

12 Like other members of the class, Plaintiff was employed by Defendant as a non-exempt,
13 hourly-paid employee and alleges that he experienced the violations at issue. The anticipated
14 defenses are not unique to Plaintiff, and there is no indication that Plaintiff's interests are
15 otherwise in conflict with those of the class.

16 Finally, adequacy of representation "depends on whether the plaintiff's attorney is
17 qualified to conduct the proposed litigation and the plaintiff's interests are not antagonistic to the
18 interests of the class." (*McGhee v. Bank of America* (1976) 60 Cal.App.3d 442, 450.) The class
19 representative does not necessarily have to incur all of the damages suffered by each different
20 class member in order to provide adequate representation to the class. (*Wershba, supra*, 91
21 Cal.App.4th at p. 238.) "Differences in individual class members' proof of damages [are] not
22 fatal to class certification. Only a conflict that goes to the very subject matter of the litigation
23 will defeat a party's claim of representative status." (*Ibid.*, internal citations and quotation marks
24 omitted.)

1 Plaintiff has the same interest in maintaining this action as any class member would have.
2 Further, he has hired experienced counsel. Plaintiff has sufficiently demonstrated adequacy of
3 representation.

4 **D. Substantial Benefits of Class Certification**

5 “[A] class action should not be certified unless substantial benefits accrue both to
6 litigants and the courts. . . .” (*Basurco v. 21st Century Ins.* (2003) 108 Cal.App.4th 110, 120,
7 internal quotation marks omitted.) The question is whether a class action would be superior to
8 individual lawsuits. (*Ibid.*) “Thus, even if questions of law or fact predominate, the lack of
9 superiority provides an alternative ground to deny class certification.” (*Ibid.*) Generally, “a
10 class action is proper where it provides small claimants with a method of obtaining redress and
11 when numerous parties suffer injury of insufficient size to warrant individual action.” (*Id.* at pp.
12 120–121, internal quotation marks omitted.)

13 Here, there are an estimated 356 class members. It would be inefficient for the Court to
14 hear and decide the same issues separately and repeatedly for each class member. Further, it
15 would be cost prohibitive for each class member to file suit individually, as each member would
16 have the potential for little to no monetary recovery. It is clear that a class action provides
17 substantial benefits to both the litigants and the Court in this case.

18 **VII. NOTICE**

19 The content of a class notice is subject to court approval. (Cal. Rules of Court, rule
20 3.769(f).) “The notice must contain an explanation of the proposed settlement and procedures
21 for class members to follow in filing written objections to it and in arranging to appear at the
22 settlement hearing and state any objections to the proposed settlement.” (*Ibid.*) In determining
23 the manner of the notice, the court must consider: “(1) The interests of the class; (2) The type of
24 relief requested; (3) The stake of the individual class members; (4) The cost of notifying class
25 members; (5) The resources of the parties; (6) The possible prejudice to class members who do

1 not receive notice; and (7) The res judicata effect on class members.” (Cal. Rules of Court, rule
2 3.766(e).)

3 Here, the notice describes the lawsuit, explains the settlement, and instructs class
4 members that they may opt out of the settlement (except for the PAGA component) or object.
5 The gross settlement amount and estimated deductions are provided, and Class Members are
6 informed of their qualifying workweeks as reflected in Defendant’s records and are instructed
7 how to dispute this information. Class members are given 60 days to request exclusion from the
8 class or submit a written objection to the settlement.

9 The notice is generally adequate, but must be modified to instruct class members that
10 they may opt out of or object to the settlement simply by providing their name, without the need
11 to provide their address or other personal information. Regarding appearances at the final
12 fairness hearing, the notice shall be further modified to instruct class members as follows:

13 Although class members may appear in person, the judge overseeing this case encourages
14 remote appearances. (As of August 15, 2022, the Court’s remote platform is Microsoft Teams.)
15 Class members who wish to appear remotely should contact class counsel at least three days
16 before the hearing if possible. Instructions for appearing remotely are provided at
17 https://www.scscourt.org/general_info/ra_teams/video_hearings_teams.shtml
18 and should be reviewed in advance. Class members may appear remotely using the Microsoft
19 Teams link for Department 7 (Afternoon Session) or by calling the toll free conference call
20 number for Department 7.

21 Turning to the notice procedure, as articulated above, the parties have selected APEX
22 Class Action Administration as the settlement administrator. The administrator will mail the
23 notice packet within 51 days of preliminary approval of the settlement, after updating Class
24 Members’ addresses using the National Change of Address Database. Any returned notices will
25 be re-mailed to any forwarding address provided or a better address located through a skip trace

1 or other search. Class Members who receive a re-mailed notice will have an additional 14 days
2 to respond. These notice procedures are appropriate and are approved.


3 **VIII. CONCLUSION**

4 Plaintiff's motion for preliminary approval is GRANTED.

5 The final approval hearing shall take place on May 1, 2025 at 1:30 in Dept. 7. The
6 following class is preliminarily certified for settlement purposes:

7 [A]ll persons who are employed or have been employed by Defendant in California as
8 hourly non-exempt employees from March 16, 2019, through July 20, 2024.

9
10 DATED: November 1, 2024

11 
12 CHARLES F. ADAMS
13 Judge of the Superior Court
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