Nicholson v. Primus Group 24CV03043 `
Hearing Date: June 30, 2026
Motion for Preliminary Approval of Class Action/PAGA Settlement

PROPOSED TENTATIVE

The lawsuit was initiated on May 30, 2024. On December 12, 2025, plaintiff Cameron Nicholson (plaintiff) filed a first amended class representative action complaint against defendants[1] Primus Group, Inc; Luttrell Staffing, Inc., and Luttrell Staffing California, Inc. (defendants), raising ten (10) causes of action for wage and hour violations, as follows: 1) failure to pay minimum and straight time wages; 2) failure to pay overtime wages; 3) failure to pay minimum wages; 4) failure to provide required meals periods; 5) failure to provide required rest periods; 6) failure to pay final wages at termination; 6) failure to provide accurate itemized wage statements; 7) failure to indemnify employees for expenditures; 8) failure to produce requested employment records; 9) unfair business practices per Business and Professions Code section 17200, et seq.; and 10) civil penalties under the Private Attorney General Act (the PAGA). Plaintiff was employed by defendant as an hourly paid, nonexempt employee, between September 2023 and approximately December 2023. Defendants were joint employers of all plaintiffs. The class consists of all persons who worked for any defendant in California as an hourly-paid or non-exempt employee at any time during the period beginning four years before the filing of the initial complaint in this action and ending when notice to the Class is sent." Defendants have not answered.

On April 8, 2026, plaintiffs filed a motion for preliminary approval of settlements reached in the class and PAGA representative actions. Settlement for the class and PAGA actions occurred after a full-day mediation session on September 24, 2025, with mediator Katherine Edward, during which the parties reached a global settlement. There are approximately 182 members of the putative class as part of the class action settlement and apparently the same number of aggrieved employees under the PAGA settlement. The defined class is defined as all persons who worked for defendants in California on an hourly-paid or nonexempt employee at any time during the class period of May 30, 2020, through November 23, 2025. The gross settlement amount consists of a non-reversionary amount of $625,000, reduced by the following: 1) $208,333.33 for attorney's fees (amounting to 33.3333333% of the gross settlement); 2) up to $25,000 for litigation costs; 3) $31,250 for the PAGA settlement, of which 75% ($23,437.5 will be paid the Labor and Workplace Development Agency (LWDA) and 25% ($7,812.50) will be paid to all aggrieved employees who worked for defendants in California as an hourly-paid or non-exempt employee at any time during the PAGA period of June 11, 2023, through November 23, 2025,[2] split (so it appears) between 182 aggrieved employees; 4) appointment of a third-party

[1] There were two related cases initially filed, both assigned to this court. Initially, plaintiff filed this matter. On August 15, 2024 in *Nicholson v. Luttrell Staffing, Inc., et al.,* Case No. 24CV04587, plaintiff filed a PAGA representative action. Following the September 24, 2025 mediation, on December 12, 2025, plaintiff filed the first amended complaint in this matter (which included the PAGA cause of action). Plaintiff dismissed Case No. 24CV04587 on December 31, 2025.

[2] Effective July 1, 2024, section 2699, subdivision (m) changed the division to 65% to LWDA and 35% to the aggrieved employees. As the lawsuit was initiated before July 1, 2024, the old percentages apply.

administrator ILYM Group, Inc. for expenses up to $6 650; and 5) a class enhancement of $10,000 for plaintiff. This leaves a net settlement amount of $343,766.67, split between the 182 putative class members, with an average payout of $1,888.82. The actual amount to be dispersed will be calculated for each class member by dividing the net settlement amount by the total number of workweeks worked by each class member during the class period and multiplying the result by each class member's workweeks.

Attached to the noticed motion are the following documents: 1) a memorandum of points and authorities; 2) a declaration from attorney John G. Yslas, class counsel, which includes the June 11, 2024, letter to the LWDA detailing notice of the violations and the lawsuit; 2) the settlement agreement, to which is attached the notice to be sent to the class and aggrieved employees; and 3) the proof of filing the proposed notice of settlement with the LWDA in compliance with Labor Code section 2699, subdivision (s)(2); and 4) a copy of document entitled "2025 Real Rate Report powered by LegalView DynamicInsights." Also attached is plaintiff's declaration.

The court will detail the legal standards that govern and frame the court's inquiry; address some preliminary documents that should be filed before the final approval hearing; and then assess the merits of the requests made. The court will conclude with a summary of its conclusions.

A) What are the General Standards for Approvals of a Class Action Settlement?

The general rules for class action precertification settlements are governed by California Rules of Court, rule 3.769. "Rule 3.769 of the California Rules of Court [hereafter, CRC] sets forth the procedures for settlement of class actions in California. (See also Code Civ. Proc., § 581, subd. (k).) A two-step process is required. First, the court preliminarily approves the settlement and the class members are notified as directed by the court. [CRC 3.769(c)-(f).] 'The notice must contain an explanation of the proposed settlement and procedures for class members to follow in filing written objections to it and in arranging to appear at the settlement hearing and state any objections to the proposed settlement.' [CRC 3.769(f).] Second, the court conducts a final approval hearing to inquire into the fairness of the proposed settlement. [CRC 3.769(g).] If the court approves the settlement, a judgment is entered with provision for continued jurisdiction for the enforcement of the judgment. [CRC, rule 3.769(h).]" (*Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118.)

A party to the settlement must move for "preliminary approval of the settlement." (CRC 3.769(c).) After the hearing, the court makes an order approving or denying "certification of a provisional settlement class." (CRC 3.769(d).) If the court grants preliminary approval, it must set a final approval hearing, and provide for notice to be given to the class. (CRC 3.769(e).) "The notice must contain an explanation of the proposed settlement and procedures for class members to follow in filing written objections to it and in arranging to appear at the settlement hearing and state any objections to the proposed settlement." (CRC 3.769(f).) At the final approval hearing, "the court must conduct an inquiry into the fairness of the proposed settlement." (CRC 3.769(g).) If the court approves the settlement agreement, it enters judgment accordingly. (CRC 3.769(h).) (See *Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 93.)

This is of course is a _preliminary approval_, not a final approval. Nevertheless, precertification settlements in class actions should be scrutinized. (*Cho v. Seagate Technology Holdings, Inc*. (2009) 177 Cal.App.4th 734, 743.) This is accomplished through careful review by the trial court; precertification settlements are routinely approved where they are found fair, adequate and reasonable. (*Ibid;* see also *Wershba v. Apple Computer, Inc*. (2001) 91 Cal.App.4th 224, 240 [precertification settlements in class action suits should be scrutinized more carefully].) "'Due regard,' . . . 'should be given to what is otherwise a private consensual agreement between the parties. The inquiry "must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." [Citation.] . . . .' " (*7–Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1145, quoting from *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802; see *Roos v. Honeywell Internat., Inc.* (2015) 141 Cal.App.4th 1472, 1481- 1482, overruled on another ground in *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260, 269.) The test is not whether the maximum amount is secured, but whether the settlement is reasonable under all circumstances. For example, a trial court does not abuse its discretion in approving a settlement when it finds that the settlement was achieved at an arm's length negotiation; the fact the case was vigorously litigated; plaintiff was represented by experienced counsel; the number of class members who objected or opted out was very small; and plaintiff faced considerable risk in proceeding to trial. (*Cho, supra*, at p. 745.)

The proponents have the burden to show the settlement is fair, although a presumption of fairness exists where the settlement is reached through arm's length bargaining; investigation and discovery are sufficient to allow counsel and the court to act intelligently; and counsel is experienced in similar litigation; and the percentage of objectors is small. (*Dunk, supra, at p.* 1802.) This is only an initial presumption; a trial court's ultimate approval of a class action settlement will be vacated if the court "is not provided with basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise." In short, the trial court may not determine the adequacy of a class-action settlement "without independently satisfying itself that the consideration being received for the release of the class members' claims is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation." (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 408.)

The court undoubtedly gives considerable weight to the competency and integrity of counsel and the involvement of a neutral mediator in assuring itself that a settlement agreement represents an arm's-length transaction entered without self-dealing or other potential misconduct. While an agreement reached under these circumstances presumably will be fair to all concerned, particularly when few of the affected class members express objections, in the final analysis it is the court that bears the responsibility to ensure that the recovery represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing the litigation. The court has a fiduciary responsibility as guardians of the rights of the absentee class members when deciding whether to approve a settlement agreement. (*Munoz, supra,* 186 Cal.App.4th at p. 408, fn. 6.)

The court's gatekeeping function in the class action context differs from its role in reviewing PAGA settlements. In class actions, courts have a fiduciary duty to protect the interests of absent class members, whose individual claims for wrongfulness will be discharged. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129 [court acts as guardian of rights of absentee class members].) A PAGA representative action, however, is "not akin to a class action"; it "is a species of *qui tam* action." As our high court has reiterated, PAGA suits exhibit virtually none of the procedural characteristics of class actions. (*Estrada v. Royalty Carpet Mills, Inc*. (2024) 15 Cal.5th 582, 599.) In that regard, when reviewing a PAGA settlement, courts do not consider the value of individuals' claims for damages because a PAGA settlement does not release those claims. (*Kim v. Reins International California, Inc.* (2020) 9 Cal.5th 73 87 [PAGA claims have no individual component]; *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th 175, 197-198 [PAGA damages limited to civil penalties].) "The state's interest in such an action is to enforce its laws, not to recover damages on behalf of a particular individual." (*Huff, supra*, 23 Cal.App.5th at p. 760.) Instead of focusing on fair recovery for individual claims, the goal of PAGA enforcement is to achieve "maximum compliance with state labor laws." (*Huff*, at p. 756.)

That being said, section 2699, subdivisions (s)(1) to (4) require the court to follow certain requirements for PAGA settlements. First, for cases filed on or after July 1, 2016, the aggrieved employee or representative shall, within 10 days following commencement of a civil action pursuant to this part, provide the LWDA with a file-stamped copy of the complaint that includes the case number assigned by the court. (Subd. (s)(1)). Second, "the superior court shall review and approve any settlement of any civil action filed pursuant to this part. *The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court*." (Subd. (s)(2), italics added.) Third, "a copy of the superior court's judgment in any civil action filed pursuant to this part and any other order in that action that either provides for or denies an award of civil penalties under this code shall be submitted to the agency within 10 days after entry of the judgment or order." (Subd. (s)(3.) And fourth, " [it]ems required to be submitted to the [LDWA] under this subdivision or to the Division of Occupational Safety and Health pursuant to paragraph (4) of subdivision (b) of Section 2699.3, shall be transmitted online through the same system established for the filing of notices and requests under subdivisions (a) and (c) of Section 2699.3." (Subd. (s)(4).) Courts under this scheme consider (1) whether the statutory requirements of notice to the LDWA have been satisfied, and (2) whether the settlement agreement is fair, reasonable, and adequate, as well as meaningful and consistent with PAGA's public policy goals, which include "augmenting the state's enforcement capabilities, encouraging compliance with Labor Code provisions, and deterring noncompliance." (*Kang v. Wells Fargo Bank, N.A.*, 2021 WL 5826230, *15 (N.D. Cal. Dec. 8, 2021); see *Gilmore v. McMillan-Hendryx Incorporated* (E.D. Cal., Jan. 20, 2022, No. 1:20-CV-00483-HBK) 2022 WL 184004, at *2.)

Prior to 2021 no published California appellate case had explored the standard a trial court should employ in evaluating the reasonableness of a PAGA settlement. That changed in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56 overruled in part on other grounds in *Turrieta v. Lyft, Inc.* (2024) 16 Cal.5th 664, 708-710. (See also *Flores v. Starwood Hotels & Resorts Worldwide* (C.D. Cal. 2017) 253 F.Supp.3d 1074, 1075.) In *Moniz*, despite the differences between class and PAGA actions, the appellate court determined that "a trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." (*Moniz*, *supra,* 72 Cal.App.5th at 76.) The *Moniz* court also indicated: "Because many of the factors used to evaluate class action settlements bear on a settlement's fairness—including the strength of the plaintiff's case, the risk, the stage of the proceeding, the complexity and likely duration of further litigation, and the settlement amount—these factors can be useful in evaluating the fairness of a PAGA settlement." (*Ibid*.) "Given PAGA's purpose to protect the public interest, we also agree with the LWDA and federal district courts that have found it appropriate to review a PAGA settlement to ascertain whether a settlement is fair *in view of PAGA's purposes and policies*." (*Ibid.,* italics added.) "We therefore hold that a trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable and adequate in view of the PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." (*Ibid.*) Put another way: "We emphasize that in any case involving a proposed PAGA settlement, the trial court must review the settlement for fairness and 'scrutinize whether, in resolving the action, a PAGA plaintiff has adequately represented the state's interests, and hence the public interest.'" (*Shaw v. Superior Court of Contra Costa County* (2022) 78 Cal.App.5th 245, 263, citing *Moniz*; see also *LaCour v. Marshalls of California, LLC* (2023) 94 Cal.App.5th 1172, 1195 [same].) Once approved, under the newly enacted rules, for out purposes, 75% of civil penalties recovered go to the state, while 25% go to the PAGA class. (See fn. 2, *ante*.)

B) Preliminary Matters

Plaintiff should file a "Notice of Settlement" of the entire case, as contemplated by CRC 3.1385(a), at least before final approval.

Plaintiff should also submit, also before final approval*,* a copy of (or its verbatim contents) of the attorney-fee agreement with plaintiffs as mandated by CRC 3.769(b) ["any agreement, express or implied, that has been entered into with respect to the payment of attorney's fees or the submission for the approval of attorney's fees must be set forth in full in any application for approval of the dismissal or settlement of an action that has been certified as a class action"].) This provision requires that any attorney-fee agreement, express or implied, that has been entered into with respect to payment of attorney's fees or the submission of an application for the approval of attorney's fees must be set forth in full in any application for approval of the settlement that has been certified as a class action. That has not been done.

Plaintiffs have complied with section 2699, subdivision (s)(2), which requires that the proposed settlement with regard to PAGA shall be submitted to the LWDA at the same time it is submitted to the court. The court will want to confirm with counsel that it will comply with section 2699, subdivision (s)(3), which requires that a copy of the superior court's judgment as to civil penalties "shall be submitted to the [LWDA] within 10 days after entry of judgment."

C) Are the Class Action and PAGA Settlements Fair, Adequate and Reasonable?

As noted, the amount of the gross settlement is $625,000. Subtracted from this are 1) requested attorney's fees of $208,333.33; 2) requested litigation costs of up to $25,000 in litigation costs; 3) settlement administration costs of $6,650; 4) an enhancement payment of $10,000; and 5) the PAGA settlement amount of $31,250, with $23,437.50 going to the LWDA and $$7,812.50 going to the aggrieved employees, leaving a net settlement amount of $343,766.67. In determining whether the class settlement is fair, adequate and reasonable a trial court's broad discretion is exercised through several well-recognized factors, as discussed above. The list, which is not exhaustive and should be tailored to each case, includes the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement. (*Roos, supra*, at 241 Cal.App.4th at pp. 1481-1482.) The most important factor is the strength of the case for plaintiffs on the merits, balanced against the amount offered in settlement. While the court "must stop short of the detailed and thorough investigation that it would undertake if it were actually trying the case," it must eschew any rubber stamp approval in favor of an independent evaluation. (*Munoz, v. BCI Coca-Cola Bottling Co. of Los Angeles, supra,* 186 Cal.App.4th at pp. 407–08.)

The settlement amount is nonreversionary, and the evidence shows that both sides engaged in a rigorous arms-length negotiation, culminating in a settlement following an independent mediation. Class counsel appear experienced wage and hour attorneys. There is no evidence of collusion, particularly as the settlement was the result of a neutral mediation, with the mediator seemingly also experienced in wage and hour class action settlements. Plaintiffs' counsel has been involved in a number of class action suits, as detailed in the briefing and the individual declarations. There have been no objections to the settlement either by class members, aggrieved employees, or the LWDA.

Counsel John G. Yslas declares that prior to attending the mediation on September 24, 2025, counsel "thoroughly investigated the claims, applicable law, and potential defenses. Plaintiff's Counsel assessed the value of the class claims using the documents and data Defendants produced during discovery, including thousands of documents such as class data providing the number of Class Members, the number of workweeks in the Class Period, and the number of pay periods in the PAGA period, Plaintiff's personnel file, employment handbook and policies, job descriptions, and time and payroll records. Plaintiff's Counsel engaged in an expert to quantify the potential exposure using the time and payroll records, and then assessed the risks associated with each claim meriting reductions in the likely success at class certification and likely recovery at trial." Counsel details his wage and hour litigation experience, which amounts to 26 years.

As for any issues involving minimum and overtime wages, counsel estimated defendant's maximum exposure to be $728,700.90, which was reduced by 40% because in counsel's view there was this only 40% change of succeeding with class certification, reduced further because there was only a 40% chance of success on the merits, for a reduced value of $116,592.14 ($728,700.9 times 40% times 40%).

As for issues involving meal period, Mr. Yslas estimated defendants' maximum exposure was $446,302.91. However, because it could be argued "that Class Members signed meal period waives and/or on-duty meal period agreements," counsel applied a reduced amount risk discount based on 50% chance of succeeding at class certification and a 40% change of succeeding at trial, yielding a discounted value of $89,260.58 ($446,302.91 times 50% times 40%).

As for issues involving rest periods, Mr. Yslas estimated defendants' maximum exposure to be $2, 265,497; however, according to counsel, "it could be argued that a 100% violation rate was unrealistic, and that [defendants'] handbook provided a rest period policy. Because this claim would have relied exclusively on Class Member's testimony, Plaintiff's Counsel applied a risk discount" based on a 40% chance of succeeding at class certification and a 30% chance of succeeding at trial on the merits, yielding a realistic damage estimate of approximately $271,859.64 ($2,265,497 times 40% times 30%).

As for issues involving reimbursements, Mr. Yslas estimated that defendants' maximum potential liability was $159,105. "However," he opined, "it could be argued that Plaintiff and Class Members were not required to use their personal cell phones for work and that Defendant could not have known that these expenses were being incurred. Accordingly, Plaintiff's Counsel applied a risk discount of $30% chance of succeeding at class certification and 20% chance of succeeding at trial on the merits, yielding a realistic damage estimate of approximately $9,546.30" ($159,105 times 30% times 20%).

As for derivative penalties, based on defendants' alleged failure to pay all wages and meal and rest period premiums, waiting time and wage statement penalties indicated defendants' maximum exposure for waiting time penalties was $450,672 and $536,000 for wage statement penalty claims. Each claims was reduced by 40% chance of succeeding at class certification and 30% chance of succeeding at trial, leaving an adjusted damage estimate of $54,080.64 for waiting time penalties and $64,320 for wage statement penalties.

As for PAGA, Mr. Mr. Yslas estimated that defendants' maximum liability was $478,100, based on $100 penalty and 4,781 pay periods. "However, even assuming success on the merits of each claim, PAGA gives the court discretion to reduce penalties for a variety of reasons, including where to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." In counsel's view, it was reasonable to negotiate a settlement amount of 31,250, which is 5% of the gross settlement amount of $625,000 (or 6.5 of the maximum liability estimated).

With these figures in mind, the maximum liability for wage and hour violations (along with civil penalties) was estimated to be $728,700.90 plus $446,302.91, plus $2,265,497, plus $159,105, plus $450,672, plus $536,000, plus $478,100 for a total of $5,064,377.81. The discounted value totaled $636,909.30. " 'The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.' [Citation.]" (*7–Eleven Owners for Fair Franchising, supra,* 85 Cal.App.4th at p. 1150.) "The proposed settlement is not to be judged against a hypothetical or speculative measure of what might have been achieved had plaintiffs prevailed at trial." (*Wershba, supra,* 91 Cal.App.4th at p. 246.) Class counsel is experienced, and she details the inherent risks of any continued litigation, expended and the documents reviewed, the assessments appear reasonable. (*Clark v. American Residential Services, LLC* (2009) 175 Cal.App.4th 785, 801) The court finds the amount the gross settlement $625,000 to be reasonable, fail and adequate, in light counsel's attestations, ruminations, and assessments, given the arm's length negotiations, the evidence presented ,and counsel's extensive experience.

That being said, the court must separately address the fairness of the PAGA settlement, which is $31,250 (separate and apart from its inclusion into the *overall fairness* of the $625,000) with 75% to the state ($23,250) and 35% ($7,812.50) to the aggrieved employees on a proportionate basis, based on the number of payroll periods, during the "PAGA period." As an initial matter, the court directs counsel at the hearing ***to confirm that the number of aggrieved employees matches the number of putative class members – 182.*** Counsel should inform the court if the two numbers are different.

Plaintiffs' figures indicate that defendants' maximum exposure for PAGA penalties was $478,100; $31,250 is 6.5% if that amount, or 5% of the settlement amount of $625,000. It is not entirely clear under existing precedent whether this amount satisfies the standards enunciated under *Moniz,* ***as*** there is a paucity of published California appellate case law discussing the reasonableness of PAGA settlements when reached in conjunction with a class action settlement. That is not true with California federal case authority, however, which expressly indicates that "courts have raised concerns of about settlements ***of less than 1%*** of the total value of a PAGA claim" when made in conjunction with class action settlement. (*Cole v. Lane Bryant, Inc.* (N.D. Cal., Feb. 10, 2025) 2025 WL 823268, at p. 3, citing *Haralson v. U.S. Aviation Services Corp.*

(N.D. Cal. 2019) 383 F.Supp.3d 959, 972, emphasis added.) And was observed in *Vasquez v. Leprino Foods Company* (E.D. Cal., June 17, 2024), 2024 WL 3026131 at page 23, “federal district courts have approved a broad range of PAGA penalties. *See Magadia v. Wal-Mart Assocs., Inc.*, 384 F. Supp. 3d 1058, 1101 (N.D. Cal. 2019) [collecting cases in which settlements providing for $10,000 in PAGA penalties were preliminarily or finally approved despite total settlement amounts of $900,000 and $6.9 million]; see *also Alcala v. Meyer Logistics, Inc.* (C.D. Cal. June 17, 2019), 2019 WL 4452961, at p. 9 [collecting cases in which PAGA penalties within the zero to two percent range were approved by courts].)” The settlement amount here is clearly not less than 1% and falls within in the range approved by federal courts, under the authorities noted above. As the LWDA has not objected to the PAGA settlement amount (and there are no objections by any class members), and as the $625,000 overall settlement seems sufficiently robust to further the remedial purposes of PAGA per *Moniz,* the court will approve the $31,250 PAGA settlement as reasonable, fair and adequate.

D) Is Preliminary Certification Appropriate for the Class Action?

Class action certification questions are essentially procedural and involve an assessment of whether there is a common or general interest between numerous people. The burden is on the proponent to show an ascertainable class with a well-defined community interest, meaning predominant common questions of law or fact, class representatives with claims or defenses typical of class, and class representatives who can adequately represent the class. (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326.)

There has been a sufficient preliminary showing of numerosity, ascertainability, and predominance or commonality. The class, while somewhat large -- 182 members during a defined class period, with names obtained through existing employment records, as well as 182 aggrieved employees for PAGA purposes (assuming this is conferred by counsel at the hearing) -- is not cumbersome. It appears the claims are sufficiently similar, subject to the same policies or practices, with similar job duties and universal formula. It also appears the class representatives have typical claims of the class/aggrieved employees as a whole. A class action appears the superior way to a fair and efficient adjudication of the lawsuit. Certification of the class seems appropriate.

E) Are the Procedures for the Claim Forms and Opt-Out Adequate?

Attached to Ms. Yslas’ declaration is the settlement agreement consummated by the parties; attached to the settlement agreement is Exhibit A, which in turn contains the notice to be sent to the putative class members and aggrieved employees. It consists of a 9-page document entitled “Court Approved Notice of Calls Action and PAGA Settlement And Hearing for Final Court Approval.” It describes the nature of the lawsuit, as well as the recipients’ legal rights and options. There is a place on the form which describes the two-part settlement – a class settlement and PAGA settlement. Each is described and the amounts for each class member and aggrieved employee are calculated separately. The Notice describes the legal rights and options of each recipient (i.e., what happens if nothing is done, the option to opt-out, the response deadline, the ability to object, participation in final approval hearing, and challenges to the calculations). The Notice then takes the recipient step-by-step through 22 subheadings, as follows: 1) Why Am I Receiving This Notice; 2) What is This Lawsuit About; 3) Why Is This a Class Action?; 4) What Is There a Settlement; 5) What is Included in the Settlement?; 6) Are There Exceptions to Being Included; 7) What Does the Settlement Provide?; 8) How Much Will My Payment Be?; 9) How Do I Received A Payment?; 10) When Would I Get My Payment?; 11) What Am I Giving Up to Get a Payment?; 12) How Do I Exclude Myself From The Settlement?; 13) If I Don't Exclude Myself, Can I Sue Defendants for the Same Thing Later?; 14) If I Exclude Myself, Can I Get Money From This Settlement? 15) Do I Have Lawyers In This Case?; 16) How Will The Lawyers Be Paid?; 17) How Do I Tell the Court That I Object To the Settlement?; 18) What's the Difference Between Objecting and Requesting Exclusion?; 19) What and Where Will the Court Decide Whether To Approve the Settlement?; 20) Do I have to Come to the Hearing? 21: What If I Do Nothing At All?; and 22) How Do I Get More Information?.

These descriptions outline the nature of the class claims; who may be eligible; the gross and net settlement amounts minus the amounts for attorney's fees, costs, settlement administration expenses, enhancements, and PAGA disbursement (and formula). They explain how an individual class member's award will be calculated (excluding those who opt out), and how the PAGA formula will be distributed to aggrieved employees. The Notice makes it clear that a form need not be submitted for payment, and indicates how the distribution will be calculated if no form is submitted. It indicates that plaintiffs are bound by the settlement agreement unless the class member affirmatively excludes himself or herself from the settlement (making it clear that the recipient will not be able to opt out of PAGA settlement distribution). The Notice informs the recipient of he or she can be part of the settlement group, how he or she can be part of the settlement but object, and how he or she can opt-out; advises of the preliminary and final approval hearings and their possible dates, and who to contact for more information. The notice adequately explains the options before the putative class member, including disputes and opt out procedures, under the heading. It explains the nature of the release given to defendants from all causes of action; and where to contact counsel for more information.

The Notice seems adequate.

F) <u>Should the Court Grant Preliminary Appointment/Approval of the Settlement Administrator, Its Costs' Request, and Class Counsels' Requests for Attorney's Fees and Litigation Costs</u>?

Plaintiffs ask the court to appoint IYLM Group, Inc. as the third-party settlement/claims administrator, and asks the court to approve up to $6,650. The evidentiary showing for IYLM

Group is threadbare to say the least. In the court's experience, counsel usually submits a declaration from a representative of the third-party settlement administrator and/or an invoice detailing the costs. Neither has been submitted. The court directs counsel at the hearing to address this deficiency, and to explain whether the invoice includes Spanish translations that will be sent to the putative class and aggrieved employees. If the explanations are satisfactory, the court will appointment of IYLM Group, Inc. as the third-party administrator and authorize costs of up to $6,650..

Plaintiffs also ask the court to appoint Wilshire Law Firm, PLC, and specifically, John Yslas, Eugne Zinovyev, John Brown, Emily Borman, Lisa Iturriaga, and Gabriella Solé as counsel. The court appoints Wilshire Law Firm, PLC, and these attorneys as class counsel.

In addition, plaintiff asks the court to award fees of $208,333.33 in attorney's fees and up to $25,000 in litigation costs. As noted above, plaintiffs are directed to provide a copy of the attorney-fee agreement before the final approval hearing.

The attorney fee amount of $208,333.33 seems reasonable. (See, e.g., *Graham v. DaimlerChrysler Corp*. (2004) 34 Cal.4th 553, 578 [it is well settled that attorney fees under Code Civ. Proc., § 1021.5 may be awarded for class action suits benefiting a large number of people]; see also *Clark, supra,* 175 Cal.App.4th at p. 791.) The court has a duty to review and approve attorney's fees, even where the parties agree on the amount. (*Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) Use of the percentage method in class action matters is permissible, and there is evidence the parties intended the attorney fees would be paid out of any common fund that had been created. That appears to be the case here. Although counsel does not offer any evidence to support the lodestar method, that is not dispositive. " 'Fee awards in class action average around one-third of the recovery' regardless of 'whether the percentage method or the lodestar method is used.'" (*Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 545.) The amount requested is standard in these matters and is preliminarily approved.

The court also preliminarily approves litigation costs of up to $25,000, but will expect clear evidentiary support to be submitted at the final approval hearing before costs are awarded.

G) Should the Court Preliminarily Grant an Enhancement for the Class Representatives?

The court provisionally appoints plaintiff Cameron Nicholson as class representative (and as representative of all aggrieved employees), as he appears to have satisfied the requirements for such appointments.

Plaintiff also asks the court preliminarily to approve a class enhancement award of $10,000. It is established that a named plaintiff is eligible for a reasonable incentive payment to compensate him for the expense or risk he has incurred in conferring benefit on other members of the class. (*Munoz, supra*, 186 Cal.App.4th at p. 412.) Relevant factors include actions the plaintiff has taken to protect the interests of the class, the degree to which the class had benefited from those actions, the amount of time and effort the plaintiff has expended, the risk to the class representative of commencing suit, the notoriety and personal difficulties encountered by the class representative, the duration of the litigation, and the personal benefit enjoyed by the class representative. (*Clark* v. *American Residential Services, LLC* (2009) 175 Cal.App.4th 785, 804.) The rationale in the end is to compensate class representatives for the expense or risk they have incurred in conferring a benefit on other members of the class. (*Id*. at p. 806.) Specificity, however, is required; further, there is no presumption of fairness in review of an incentive fee award. (*Id*. at p. 807; *Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1395 [these “incentive awards” to class representatives must not be disproportionate to the amount of time and energy expended in pursuit of the lawsuit].)

Plaintiff has submitted a declaration in support of the enhancement request. Mr. Nicholson declares in relevant part that by becoming a class representative, he exposed himself to “publicity,” and this created “a risk for my future career prospects, since current and former employees of Defendants may move to different companies within the industry or may know people at other companies within the industry who may not wish to hire someone who sued his employer”; there is now “a permanent public record of this lawsuit available to the general public,” creating “further risk to my future career prospects.” He also declares that he has “been committed throughout the course of this case to vigorously prosecuting this case on behalf of myself and the other employees. . . . My work in this case has specifically included, among other things, searching/gathering and providing payroll records and other documents and information to my attorneys, discussing potential witnesses, keeping in regular contact with my attorneys regarding the status of this case, assisting my attorneys [to] oppose Defendants’ motion to compel arbitration, assisting my attorneys prepare for mediation (i.e., reviewing discovery information and data (if needed) and discussing my claims and experience), being on-call for my attorneys on the date of mediation in case questions or concerns arose during mediation, and participating in settlement discussions. After mediation, I remained actively involved by reviewing the settlement papers and contacting my counsel for updates., I estimate that since I retained my counsel in December 2013, I haye spent approximately 30-35 hours on the activities described above. And I estimate that I will spend an additional 1 -5 hours assisting my attorneys through the approval process and staying up to date with the case through disbursement of the settlement checks.”

The court finds the $10,000 enhancement is reasonable based on this evidentiary showing. First, it appears the average payout to the class, given the number of 182 putative class members and the net settlement amount of $343,766.67 will be $1,888.82. $10,000 represents an approximate multiplier of 5.3 over this average payout, which is well within the sphere of reasonableness adopted by courts. (*Clark v. American Residential Services, LLC, supra,* 175 Cal.App.4th at p. 806, fn. 14, citing *Alberto v. GMRI, Inc*. (2008) 252 F.R.D. 652, 669 [given a proposed $5,000 incentive award and an average $24.17 recovery (multiple of just over 20), when there was no evidence demonstrating the quality of plaintiff's representative service; plaintiff should be prepared to present evidence of the named plaintiff's "substantial efforts" as class representative to justify the discrepancy between the award and those of the unnamed plaintiffs"]; see also *Staton v. Boeing Co*. (9th Cir, 2003) 327 F.3d 938, 975 [condemning a class enhancement of $30,000 when average payout was $1,000, a multiplier of 30]; compare with *Munoz, supra*, 186 Cal.App.4th at p. 412 [noting there that class representatives would receive more than twice as much as the average payment to class members, in contrast to the multipliers of 30 and 44 in *Stanton* and *Clark*, respectively]; see also *Pauley v. CF Entertainment* (C.D. Cal., July 23, 2020, No. 2:13-CV-08011-RGK-CW) 2020 WL 5809953, at *3 [plaintiffs request of $10,000 each in class representative awards, is over 35 times greater than the average recovery per unnamed class member, and provide little justification for this].) Further, Mr. Nicholson's declaration contains sufficient specificity to justify the enhancement request. He claims to have spent in aggregate almost 40 hours in this matter; given the amount of the settlement, coupled with the risk claimed, the enhancement is not unreasonable. The court will preliminarily approve the enhancement request of $10,000.

In Summary:

- Plaintiff is directed to file a Notice of Settlement as required by CRC 3.1385 (at least before final approval);
- Plaintiff is directed to provide the attorney-fee agreement or its substance as required by CRC 3.796(b) (at least before final approval).
- The court preliminarily approves the gross settlement of $625,000, as fair, adequate, reasonable, and preliminarily certifies the class of 182 as appropriate for class action treatment, as it has a well-defined community of interest, meaning there are predominant common questions of law and fact, and that plaintiffs as class representatives can adequately represent the class. The court approves the representative PAGA settlement of $31,250, although counsel at the hearing should confirm that the number of aggrieved employees are also 182 (the same number as the putative class). The court approves of the Notice to be sent to the putative class and aggrieved employees, and finds generally that the procedures and releases are adequately explained.
- The court preliminarily approves the appointment of ILYM Group, Inc., as the third-party settlement administrator; counsel at the hearing; however, should address the requested amount of $6,650, which is not justified with either a declaration or an invoice from ILYM Group, Inc. The court wants to confirm that the translation of the Notice into Spanish is included within the

amount requested. If counsel remedies these deficiencies at the hearing, the court will approve the $6,650 as requested.

- The court preliminarily approves the appointment of Wilshire Law Firm, PLC, and all named attorneys associated with the firm, as class counsel. The court preliminarily approves an award of attorney fees of $208,333.33, along with a maximum of $25,000 in litigation costs (assuming sufficient documentation is offered at the final approval hearing to justify the final amount).
- The court preliminarily approves the appointment of plaintiff Cameron Nicholson as a representative for the class and representative action., and preliminarily approves the $10,000 enhancement as requested.
- If the court is satisfied with counsel's explanations at the hearing, the court will sign the proposed order submitted on April 8, 2026.