

FILED
Superior Court of California
County of Los Angeles

JAN 18 2024

David W. Slayton, Executive Officer/Clerk of Court
By: P. Herrera, Deputy

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

ROBERT NAVARRO, and ANDWELE
ARRINGTON, on behalf of themselves, all
similarly situated individuals, and all
aggrieved employees,

Plaintiff,

v.

SQUAD SECURITY CA, INC., and DOES
1 to 100,

Defendants.

Case No.: 22STCV24108

~~[TENTATIVE]~~ ORDER GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT ON CONDITIONS

Date: January 18, 2024

Time: 9:30 AM

Dept.: SSC-17

I. BACKGROUND

On July 26, 2022, Plaintiff Navarro filed a complaint alleging claims against Defendant for: “(1) failure to pay all minimum and overtime wages (Labor Code §§ 204, 510, 558, 1182.12, 1197.1), (2) meal period violations (Labor Code §§ 226.7, 512), (3) rest period violations (Labor Code § 226.7), (4)

1 wage statement penalties (Labor Code § 226), (5) waiting time penalties (Labor
2 Code §§ 201, 202, 203), (6) unfair competition (Business & Professions Code §§
3 17200, et seq.), and (7) penalties under the Private Attorneys General Act of
4 2004, codified at Lab. Code § 2698, et seq. (“PAGA”) On September 22, 2022,
5 Plaintiff Arrington filed a complaint alleging claims for “(1) Failure to Pay
6 Minimum Wage (Labor Code §§ 1194, 1194.2, 1197); (2) Failure to Pay
7 Overtime Wages (Labor Code §§ 510, 1194, 1198); (3) Failure to Provide Meal
8 Periods (Labor Code §§ 226.7, 512); (4) Failure to Permit Rest Breaks (Labor
9 Code § 226.7); (5) Failure to Reimburse Business Expenses (Labor Code §
10 2802); (6) Failure to Provide Accurate Itemized Wages Statements (Labor Code
11 § 226); (7) Failure to Pay Wages Timely During Employment (Labor Code §§
12 204, 210); (8) Failure to Pay all Wages Due Upon Separation of Employment
13 (Labor Code §§ 201, 202, 203) and (9) Violation of Business and Professions
14 Code Sections 17200 et seq.

15 On May 22, 2023, Plaintiff Navarro filed a First Amended Complaint adding
16 Arrington as a plaintiff. The First Amended Complaint is the operative complaint in the
17 Action (the “Operative Complaint.”)

18 Counsel represent that in preparation for the mediation, through informal
19 discovery, Defendant produced Defendant's policy documents which included: the
20 Squad Security Employee Policy and Procedure Manual, specific policies relevant to
21 the claims in this lawsuit, as well as the on-duty meal period agreement that class
22 members signed. Defendant also produced all time and payroll records for all the Class
23 Members for the class period, as well as data pertaining to the class such as hours, shift
24 lengths, hours worked and pay rates. The parties pursued early mediation and did not
25 engage in deposition practice. Counsel further represent that, using this data, an

1 economics expert was able to prepare a damages model that was used in formulating
2 the maximum potential liability.

3 On March 10, 2023, the Parties attended a mediation session with mediator
4 Barbara Reeves. After a full day of negotiations, the Parties agreed to a settlement
5 amount and executed a Memorandum of Understanding with the material terms the
6 parties had agreed to. The Parties spent the next few months negotiating the terms of
7 the Settlement, which was finalized and signed in May 2023. A copy of the Settlement
8 Agreement was filed with the Court on June 2, 2023, attached to the Declaration of
9 Namrata Kaur (“Kaur Decl.”) at Exhibit 1.

10 On August 7, 2023, the court continued preliminary approval for Counsel to
11 provide supplemental briefing and revise the Settlement. On October 23, 2023, Counsel
12 filed supplemental briefing and a fully-executed Amended Settlement Agreement
13 attached to the Supplemental Declaration of Namrata Kaur (“Kaur Supp. Decl.”) as
14 Exhibit 1.

15 Now before the Court is Plaintiffs’ motion for preliminary approval of the
16 settlement. For the reasons set forth below, the Court preliminarily grants approval for
17 the settlement on condition that the Notice is amended to delete the term “an
18 experienced neutral” at Section 2.

19
20 **II. THE TERMS OF THE SETTLEMENT**

21 **A. SETTLEMENT CLASS AND RELATED DEFINITIONS**

22 “Class Members” and “Class” mean all non-exempt employees employed by
23 Defendant in California at any time during the period March 28, 2018, through the date
24 of Preliminary Approval, either as a Participating Class Member or Non-Participating
25

1 Class Member (including a Non-Participating Class Member who qualifies as an
2 Aggrieved Employee). (Settlement, ¶1.3.1.a.)

3 “Class Settlement Period” means the period from March 28, 2018 through the
4 date that the Court grants preliminary approval of the settlement for all claims. During
5 the Class Settlement Period, the Class is barred from making any claims released
6 herein. The parties will request that the Court, in its preliminary approval of this
7 settlement, enjoin Class Members from initiating or prosecuting any proceeding on any
8 claim to be released pursuant to this Agreement, unless and until the Class Members
9 have opted out of the class in the manner described below. (¶1.10.a)

10 “FLSA Collective Members” means all Class Members employed Defendant in
11 a non-exempt position in California at any time during the period July 26, 2019 through
12 the date of Preliminary Approval. (¶1.3.1.b.)

13 “Aggrieved Employees” or “PAGA Group Members” are individuals who have
14 been employed by Defendant in a non-exempt position in California at any time during
15 the period May 19, 2021 through the date of Preliminary Approval. (¶1.3.1.c.)

16 “PAGA Settlement Period” is from May 19, 2021 through the date of
17 preliminary approval of the settlement. (¶1.10.b)

18 Based on a review of its records, Defendant estimates there are 573 Class
19 Members who collectively will have worked a total of 425,000 hours through June 16,
20 2023, and 430 Aggrieved Employees who worked a total of 10,255 PAGA Pay Periods
21 through June 16, 2023. (¶4.1).

22 Defendant represents that Class Members cumulatively will have worked
23 approximately 425,000 hours from March 28, 2018 through June 16, 2023. If the
24 number of cumulative hours increases by more than 10% at the time Defendant
25 provides the Class List to the Administrator (i.e., which will include date through

1 preliminary approval), the amount of the gross settlement fund shall increase by an
2 amount proportionate to the overage. For example, if the number of cumulative hours
3 increases by 11%, The Gross Fund Value shall grow by 1%. However, if the number of
4 cumulative hours increases by only 10%, the Gross Fund Value will remain unchanged
5 (¶8).

7 **B. THE MONETARY TERMS OF SETTLEMENT**

8 The essential monetary terms are as follows:

- 9 • The Gross Settlement Amount (“GSA”) is **\$575,000** (Settlement Agreement,
10 ¶3.1). This includes payment of a PAGA penalty of **\$28,750** to be paid 75% to
11 the LWDA (\$21,562.50) and 25% to the Aggrieved Employees (\$7,187.50)
12 (¶3.2.6).
- 13 • The Net Settlement Amount (“Net”) (**\$314,270.84**) is the GSA less:
 - 14 ○ Up to **\$191,666.66** (33.33%) for attorney fees (¶3.2.2);
 - 15 ■ Fee split: There is a fee-splitting agreement between Frontier Law
16 Center and Aegis Law Firm to split the fees 50%-50% to which the
17 clients have given written approval. (Rose Supp. Decl., ¶4; *See*
18 *also* Joint Prosecution Agreement, Exhibit 4 to Kaur Supp. Decl.)
 - 19 ○ Up to **\$17,500** for attorney costs (Settlement Agreement, ¶3.2.2)
 - 20 ○ Up to **\$10,000 (\$5,000 each)** for service awards to the proposed class
21 representatives (¶3.2.1); and
 - 22 ○ Estimated **\$10,000** for settlement administration costs (¶3.2.3).
- 23 • Employer-side payroll taxes will be paid from the Gross Settlement Amount.
24 (¶3.2)

- 1 • Assuming the Court approves all maximum requested deductions, approximately
2 \$314,270.84 will be available for automatic distribution to participating class
3 members. Assuming full participation, the average settlement share will be
4 approximately \$548.47. ($\$314,270.84 \text{ Net} \div 573 \text{ class members} = \548.47). In
5 addition, each PAGA member will receive a portion of the PAGA penalty,
6 estimated to be \$16.72 per PAGA member. ($\$7,187.50 \text{ or } 25\% \text{ of } \$28,750$
7 $\text{PAGA penalty} \div 430 \text{ PAGA members} = \16.72).
- 8 • There is no Claim Requirement (§3.1).
- 9 • The settlement is not reversionary (§3.1).
- 10 • Individual Settlement Share Calculation: An Individual Class Payment
11 calculated by (a) dividing 90% of the Net Settlement Amount by the total
12 number of Hours worked by all Participating Class Members during the Class
13 Period and (b) multiplying the result by each Participating Class Member's
14 Hours. Secondly, an FLSA Settlement Payment calculated by (a) dividing 10%
15 of the Net Settlement Amount by the total number of Hours worked by all
16 Participating FLSA Collective Members during the period July 26, 2019 through
17 the date of Preliminary Approval (FLSA Settlement Period) and (b) multiplying
18 the result by each Participating FLSA Collective Member's Hours. (§3.2.4).
- 19 • Those who are both Participating Settlement Class Members and Participating
20 FLSA Collective Members will receive two checks; one for the settlement of
21 California released claims, and one for the release of FLSA claims (§3.2.5).
- 22 • Tax Withholdings: 50% of each Participating Class Member's Individual Class
23 Payment and 50% of each Individual FLSA Payment will be allocated as wages,
24 and the other 50% of each check will be allocated as penalties and interest
25 (§3.2.5.1).

- 1 • Funding of Settlement: Defendant shall fully fund the Gross Settlement Amount
2 by transmitting the funds to the Administrator no later than fourteen (14) days
3 after the Effective Date. (§4.3).
- 4 • Distribution: Within fourteen (14) days after Defendant funds the Gross
5 Settlement Amount. (§4.4).
- 6 • Uncashed Settlement Payment Checks: For any Class Member whose Individual
7 Class Payment check or Individual PAGA Payment check or Individual FLSA
8 Payment is uncashed and cancelled after the void date, the Administrator shall
9 transmit the funds represented by such checks to the California Controller's
10 Unclaimed Property Fund in the name of the Class Member thereby leaving no
11 "unpaid residue" subject to the requirements of California Code of Civil
12 Procedure Section 384, subd. (b). (§4.4.3)

13
14 **C. TERMS OF RELEASES**

- 15 • Class Release: Upon payment of the Gross Settlement Amount by Defendant, all
16 Participating Class Members on behalf of themselves and their respective former
17 and present representatives, agents, spouses, attorneys, heirs, administrators,
18 successors, and assigns, release Released Parties, which are Defendant, Squad
19 Security, Inc., and all of their present and former parent companies, subsidiaries,
20 affiliates and joint ventures, and all of their officers, directors, exempt
21 employees who are not Class Members or PAGA Group Members, agents,
22 servants, registered representatives, attorneys, insurers, successors and assigns,
23 and any other persons acting by through, under or in concert with any of them,
24 from any and all claims, debts, liabilities, demands, obligations, penalties,
25 premium pay, guarantees, costs, expenses, attorney's fees, damages, actions or

1 causes of action of whatever kind or nature, whether known or unknown,
2 contingent or accrued, under any legal theory under federal and state law, that
3 were alleged or that could have been alleged or which arise out of the facts
4 alleged in the Action, the Navarro and Arrington complaints, and the letters of
5 violation dated May 19, 2022, September 22, 2022, and November 3, 2022 to the
6 LWDA during the Class Settlement Period. This includes claims arising under
7 California Labor Code sections 201-204, 210, 226, 226.3, 226.7, 510, 512,
8 558,1174, 1182.12, 1194, 1194.2,1197, 1197.1, 1198, 2699 et seq., 2800, 2802,
9 2810.5, the applicable IWC Wage Orders, California Code of Civil Procedure
10 1021.5, the California Unfair Competition Law, Business and Professions Code
11 section 17200 et seq, (“Released Class Claims.”) The release shall be effective
12 from March 28, 2018 through the date of Preliminary Approval. Participating
13 Class Members do not release the right to enforce the terms of this Agreement or
14 other claims, including claims for vested benefits, wrongful termination,
15 violation of the Fair Employment and Housing Act, unemployment insurance,
16 disability, social security, workers’ compensation, or claims based on facts
17 occurring outside the Class Settlement Period. (¶5.3).

- 18 • FLSA Release: Upon the payment of the Gross Settlement Amount by
19 Defendant, all Participating Class Members who cash their check for their
20 Individual FLSA Payment hereby fully release Released Parties from any and all
21 claims, debts, liabilities, demands, obligations, penalties, guarantees, costs,
22 expenses, attorney’s fees, damages, actions or causes of action of whatever kind
23 or nature, whether known or unknown, contingent or accrued, alleged in the
24 Action under the Fair Labor Standards Act, 29 U.S.C. section 201, et
25 seq.(Released Collective Action Claims.) (¶5.4).

- 1 • PAGA Release: All Participating and all Non-Participating Class Members who
2 are Aggrieved Employees, on behalf of themselves and their respective former
3 and present representatives, agents, spouses, attorneys, heirs, administrators,
4 successors, and assigns, are deemed to release the Released Parties from all
5 claims for PAGA penalties that were alleged, or reasonably could have been
6 alleged based on the facts stated in the Action, the Plaintiffs' letters of violation
7 dated May 19, 2022, September 22, 2022, and November 3, 2022 to the LWDA.
8 This includes, but is not limited to PAGA claims based on California Labor
9 Code sections 201-204, 210, 226, 226.3, 226.6, 226.7, 510, 512, 558, 1174,
10 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2699 et seq., 2800, 2802, 2810.5, and
11 the applicable IWC Wage Orders. (§5.5).
- 12 • Released Parties: "Released Parties" means: Defendant, Squad Security, Inc.,
13 and all of their present and former parent companies, subsidiaries, affiliates and
14 joint ventures, and all of their officers, directors, exempt employees who are not
15 Class Members or PAGA Group Members, agents, servants, registered
16 representatives, attorneys, insurers, successors and assigns, and any other
17 persons acting by through, under or in concert with any of them. (§1.43.)
- 18 • The named Plaintiffs will also provide a general release and a waiver of the
19 protections of Cal. Civ. Code §1542. (§§5.1-5.3)
- 20 • The releases are effective on the date when Defendant fully funds the entire
21 Gross Settlement Amount (§5).

22 23 **D. SETTLEMENT ADMINISTRATION**

- 24 • The proposed Settlement Administrator is CPT Group, Inc., which has provided
25 evidence that no counsel are affiliated with it and that it has adequate procedures

1 in place to safeguard the data and funds to be entrusted to it. (Declaration of Julie
2 Green, ¶¶ 7, 10.).

- 3 • Settlement administration costs are estimated to be \$10,000.00 (¶3.2.3).
- 4 • Notice: The manner of giving notice is described below.
- 5 • Response Deadline: "Response Deadline" means forty-five (45) days after the
6 Administrator mails Notice to Class Members and Aggrieved Employees, and
7 shall be the last date on which Class Members may: (a) fax, email, or mail
8 Requests for Exclusion from the Settlement, or (b) fax, email, or mail an
9 Objection(s) to the Settlement. Class Members to whom Notice is resent after
10 having been returned undeliverable to the Administrator shall have an additional
11 fourteen (14) days beyond the Response Deadline has expired. (¶1.45). This
12 deadline also applies to challenges to work hour and/or pay periods (¶7.6).
 - 13 ○ If the number of valid Requests for Exclusion identified in the Exclusion
14 List exceeds 20 of the total of all Class Members, Defendant may, but is not
15 obligated, elect to withdraw from the Settlement (¶9).
- 16 • Notice of Final Judgment will be posted on the Settlement Administrator's website
17 (¶7.8.1).

18 19 **III. SETTLEMENT STANDARDS AND PROCEDURE**

20 California Rules of Court, rule 3.769(a) provides: "A settlement or compromise
21 of an entire class action, or of a cause of action in a class action, or as to a party,
22 requires the approval of the court after hearing." "Any party to a settlement agreement
23 may serve and file a written notice of motion for preliminary approval of the settlement.
24 The settlement agreement and proposed notice to class members must be filed with the
25

1 motion, and the proposed order must be lodged with the motion.” See Cal. Rules of
2 Court, rule 3.769(c).

3 “In a class action lawsuit, the court undertakes the responsibility to assess
4 fairness in order to prevent fraud, collusion or unfairness to the class, the settlement or
5 dismissal of a class action. The purpose of the requirement [of court review] is the
6 protection of those class members, including the named plaintiffs, whose rights may not
7 have been given due regard by the negotiating parties.” *Consumer Advocacy Group,*
8 *Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal. App.4th 46, 60 [internal
9 quotation marks omitted]; *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224,
10 245, disapproved on another ground in *Hernandez v. Restoration Hardware, Inc.* (2018)
11 4 Cal. 5th 260 (“*Wershba*”), [Court needs to “scrutinize the proposed settlement
12 agreement to the extent necessary to reach a reasoned judgment that the agreement is
13 not the product of fraud or overreaching by, or collusion between, the negotiating
14 parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all
15 concerned.”] [internal quotation marks omitted].

16 “The burden is on the proponent of the settlement to show that it is fair and
17 reasonable. However, “a presumption of fairness exists where: (1) the settlement is
18 reached through arm's-length bargaining; (2) investigation and discovery are sufficient
19 to allow counsel and the court to act intelligently; (3) counsel is experienced in similar
20 litigation; and (4) the percentage of objectors is small.” *Wershba*, 91 Cal. App. 4th at
21 245 [citing *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802].

22 Notwithstanding an initial presumption of fairness, “the court should not give
23 rubber-stamp approval.” *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th
24 116, 130 (“*Kullar*”). “[W]hen class certification is deferred to the settlement stage, a
25 more careful scrutiny of the fairness of the settlement is required.” *Carter v. City of*

1 *Los Angeles* (2014) 224 Cal.App.4th 808, 819. “To protect the interests of absent class
2 members, the court must independently and objectively analyze the evidence and
3 circumstances before it in order to determine whether the settlement is in the best
4 interests of those whose claims will be extinguished.” *Kullar*, 168 Cal. App. 4th at 130.
5 In that determination, the court should consider factors such as “the strength of
6 plaintiffs’ case, the risk, expense, complexity and likely duration of further litigation,
7 the risk of maintaining class action status through trial, the amount offered in
8 settlement, the extent of discovery completed and stage of the proceedings, the
9 experience and views of counsel, the presence of a governmental participant, and the
10 reaction of the class members to the proposed settlement.” *Id.* at 128. “Th[is] list of
11 factors is not exclusive and the court is free to engage in a balancing and weighing of
12 factors depending on the circumstances of each case.” *Wershba*, 91 Cal. App. 4th at
13 245.

14 At the same time, “[a] settlement need not obtain 100 percent of the damages
15 sought in order to be fair and reasonable. Compromise is inherent and necessary in the
16 settlement process. Thus, even if ‘the relief afforded by the proposed settlement is
17 substantially narrower than it would be if the suits were to be successfully litigated,’
18 this is no bar to a class settlement because ‘the public interest may indeed be served by
19 a voluntary settlement in which each side gives ground in the interest of avoiding
20 litigation.’” *Id.* at 250.

21 **IV. ANALYSIS OF SETTLEMENT AGREEMENT**

22 **A. THERE IS A PRESUMPTION OF FAIRNESS**

23
24
25 The settlement is entitled to a presumption of fairness for the following reasons:

1
2 **1. The settlement was reached through arm’s-length bargaining**

3 On March 10, 2023, the Parties attended a mediation session with mediator
4 Barbara Reeves. After a full day of negotiations, the Parties agreed to a settlement
5 amount and executed a Memorandum of Understanding with the material terms the
6 parties had agreed to. The Parties spent the next few months negotiating the terms of
7 the Settlement, which was finalized and signed in May 2023. (Declaration of Namrata
8 Kaur, ¶4.) (“Kaur Decl.”)

9
10 **2. The investigation and discovery were sufficient**

11 Counsel represent that in preparation for the mediation, through informal
12 discovery, Defendant produced Defendant's policy documents which included: the
13 Squad Security Employee Policy and Procedure Manual, specific policies relevant to
14 the claims in this lawsuit, as well as the on-duty meal period agreement that class
15 members signed. (Kaur Supp. Decl., ¶3.) Defendant also produced all time and payroll
16 records for all the Class Members for the class period, as well as data pertaining to the
17 class such as hours, shift lengths, hours worked and pay rates. (*Ibid.*) The parties
18 pursued early mediation and did not engage in deposition practice. (*Ibid.*) Counsel
19 further represent that, using this data, an economics expert was able to prepare a
20 damages model that was used in formulating the maximum potential liability.
21 (Declaration of Adam Rose, ¶4.)

22 This is sufficient to value the case for settlement purposes.

23 //

24 //

25 //

1
2 **3. Counsel is experienced in similar litigation**

3 Class Counsel represent that they are experienced in class action litigation,
4 including wage and hour class actions. (Kaur Decl., at ¶¶ 22-34; Rose Decl., ¶¶ 15-20.)
5

6 **4. Percentage of the class objecting**

7 This cannot be determined until the final fairness hearing. Weil & Brown et al.,
8 Cal. Prac. Guide: Civ. Pro. Before Trial (The Rutter Group 2019) ¶ 14:139.18 [“Should
9 the court receive objections to the proposed settlement, it will consider and either sustain
10 or overrule them at the fairness hearing.”].
11

12 **B. THE SETTLEMENT MAY PRELIMINARILY BE CONSIDERED**
13 **FAIR, ADEQUATE, AND REASONABLE**
14

15 Notwithstanding a presumption of fairness, the settlement must be evaluated in its
16 entirety. The evaluation of any settlement requires factoring unknowns. “As the court
17 does when it approves a settlement as in good faith under Code of Civil Procedure
18 section 877.6, the court must at least satisfy itself that the class settlement is within the
19 ‘ballpark’ of reasonableness. See *Tech-Bilt, Inc. v. Woodward-Clyde & Associates* (1985)
20 38 Cal.3d 488, 499–500. While the court is not to try the case, it is ‘called upon to
21 consider and weigh the nature of the claim, the possible defenses, the situation of the
22 parties, and *the exercise of business judgment* in determining whether the proposed
23 settlement is reasonable.’ (*City of Detroit v. Grinnell Corporation, supra*, 495 F.2d at p.
24 462, italics added.)” *Kullar*, 168 Cal.App.4th at 133 (emphasis in original).
25

1 **1. Amount Offered in Settlement**

2 The most important factor is the strength of the case for plaintiffs on the merits,
3 balanced against the amount offered in settlement.” (*Id.* at 130.)

4 Class Counsel estimated Defendant’s maximum exposure at \$11,941,948.49 based
5 on the following analysis:

6

7 Violation	Maximum Exposure	Realistic Exposure
8 Meal Period Claims	\$843,275.27	\$42,163.76
9 Rest Break Claim	\$1,700,000.00	\$85,000.00
10 Minimum Wage and Overtime	\$150,981.29	\$75,490.65
11 FLSA Liquidated Damages	\$114,102.05	\$57,051.03
12 Expense Reimbursement	\$247,691.93	\$12,384.60
13 Waiting Time and Wage	\$4,000,000.00	\$200,000.00
14 Statement Penalties		
15 PAGA	\$5,000,000.00	\$28,750.00
TOTAL	\$12,056,050.54	\$500,840.04

16 (Kaur Decl., ¶¶ 11-19.)

17 Class Counsel obtained a gross settlement valued at \$575,000. This is
18 approximately 4.81% of Defendant’s maximum exposure and in excess of the estimated
19 realistic exposure, taking into account the difficulties anticipated to be faced in certifying
20 a class based on the facts of this matter, i.e. that there were facially compliant meal and
21 rest period policies, many class members signed on duty meal period agreements, the rest
22 period claims would be difficult to prove due to an absence of records, and premiums
23 were in fact paid at times.

24 //

25 //

2. The Risks of Future Litigation

1
2 The case is likely to be expensive and lengthy to try. Procedural hurdles (e.g.,
3 motion practice and appeals) are also likely to prolong the litigation as well as any
4 recovery by the class members. Even if a class is certified, there is always a risk of
5 decertification. *Weinstat v. Dentsply Intern., Inc.* (2010) 180 Cal.App.4th 1213, 1226
6 [“Our Supreme Court has recognized that trial courts should retain some flexibility in
7 conducting class actions, which means, under suitable circumstances, entertaining
8 successive motions on certification if the court subsequently discovers that the propriety
9 of a class action is not appropriate.”].) Further, the settlement was negotiated and
10 endorsed by Class Counsel who, as indicated above, are experienced in class action
11 litigation. Based upon their investigation and analysis, the attorneys representing
12 Plaintiff and the class are of the opinion that this settlement is fair, reasonable, and
13 adequate. (Settlement, ¶2.4.)

14 The Court also notes that Plaintiff brings a PAGA claim on behalf of the LWDA,
15 which was sent a copy of the Settlement Agreement on June 2, 2023 and a copy of the
16 Amended Settlement Agreement on October 23, 2023, and has not yet objected. (Kaur
17 Decl., Exhibit 2 thereto; Kaur Supp. Decl., Exhibit 5 thereto.) Any objection by it will be
18 considered at the final fairness hearing.

3. The Releases Are Limited

19
20
21 The Court has reviewed the Releases to be given by the absent class members and
22 the named plaintiffs. The releases, described above, are tailored to the pleadings and
23 release only those claims in the pleadings. There is no general release by the absent
24 class. The named plaintiffs’ general releases are appropriate given that each was
25 represented by counsel in its negotiation.

1 **4. Conclusion**

2 Class Counsel estimated Defendant’s maximum exposure at \$11,941,948.49. Class
3 Counsel obtained a gross settlement valued at \$575,000. This is approximately 4.81% of
4 Defendant’s maximum exposure, which, given the uncertain outcomes, including the
5 potential that the class might not be certified, that the PAGA estimate is about 40% of
6 the total estimated recovery and PAGA recovery are notoriously discretionary, that
7 liability is a contested issue, and that the full amount of penalties would not necessarily
8 be assessed even if the class is certified and liability found, the settlement is within the
9 “ballpark of reasonableness.”

10 **C. CONDITIONAL CLASS CERTIFICATION MAY BE GRANTED**

11 A detailed analysis of the elements required for class certification is not required,
12 but it is advisable to review each element when a class is being conditionally certified.
13 *Amchem Products, Inc. v. Winsor* (1997) 521 U.S. 591, 620, 622-627. The party
14 advocating class treatment must demonstrate the existence of an ascertainable and
15 sufficiently numerous class, a well-defined community of interest, and substantial
16 benefits from certification that render proceeding as a class superior to the alternatives.”
17 *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1021.

18 **1. The Proposed Class is Numerous**

19 There are 573 putative Class Members. (Kaur Decl., 7.) Numerosity is
20 established. *Franchise Tax Bd. Limited Liability Corp. Tax Refund Cases* (2018) 25
21 Cal.App.5th 369, 393: stating that the “*requirement that there be many parties to a*
22 *class action is liberally construed,*” and citing examples wherein classes of as little as
23 10, *Bowles v. Superior Court* (1955) 44 Cal.2d 574, and 28, *Hebbard v. Colgrove*
24 (1972) 28 Cal.App.3d 1017, were upheld).
25

1 **2. The Proposed Class Is Ascertainable**

2 “A class is ascertainable, as would support certification under statute
3 governing class actions generally, when it is defined in terms of objective
4 characteristics and common transactional facts that make the ultimate identification
5 of class members possible when that identification becomes necessary.” *Noel v. Thrifty*
6 *Payless, Inc.* (2019) 7 Cal.5th 955, 961 (*Noel*).

7 The class is defined above. Class Members are ascertainable through
8 Defendant’s records. (Kaur Decl., 7.)

9 **3. There Is A Community of Interest**

10 “The community of interest requirement involves three factors: ‘(1) predominant
11 common questions of law or fact; (2) class representatives with claims or defenses typical
12 of the class; and (3) class representatives who can adequately represent the class.’”
13 *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.

14 As to predominant questions of law or fact, Counsel contend that Defendant
15 maintained uniform employment policies and/or practices that illegally deprived Class
16 Members of lawful wages, meal periods, rest breaks, reimbursement of business
17 expenses, accurate wage statements, and waiting time pay. (Kaur Decl., ¶ 8.) Counsel’s
18 allegations present common legal and factual questions of, inter alia, whether Defendant
19 applied the same scheduling, timekeeping, minimum and overtime pay, meal period, and
20 rest break policies to all Class Members; whether these policies and practices resulted in
21 Labor Code violations; whether Defendant’s conduct was intentional; and whether Class
22 Members are entitled to penalties. (*Ibid.*) Counsel further contend that these common
23 questions could be resolved using Class Members’ schedules, time records, and payroll
24 records, Defendant’s corporate representative’s testimony, written communications
25 between Defendant and Class Members, and Class Member declarations. (*Ibid.*)

1 As to typicality, Counsel contend that they and other Class Members were
2 employed by Defendant and injured by Defendant's common wage and hour policies and
3 practices, including Defendant's scheduling, timekeeping a, overtime pay, meal period,
4 and rest break practices and policies. (*Id.* at ¶ 9.)

5 As to adequacy, Plaintiffs represent that their interests are coextensive with the
6 interests of the Class. Plaintiffs represent that they demonstrated an ability to advocate for
7 the interests of the Class by initiating this litigation, gathering documents and
8 information, being available on the day of mediation to answer questions, meeting with
9 their attorneys on several occasions to understand the claims and theories of liability at
10 issue, assisting attorneys in preparing for mediation, reviewing the proposed settlement
11 agreement to understand its legal effect, and obtaining a fair settlement on behalf of Class
12 Members who stand to recover under the Settlement. (Motion for Preliminary Approval
13 at 9:5-11; Declaration of Plaintiff Andewele Arrington, ¶¶ 5-9; Declaration of Plaintiff
14 Navarro, ¶¶ 3-7) As previously stated, Class Counsel have experience in class action
15 litigation.

16 **4. Substantial Benefits Exist**

17
18 Given the relatively small size of the individual claims, a class action is superior to
19 separate actions by the class members.

20 21 **D. THE PROPOSED NOTICE PLAN MEETS THE REQUIREMENTS 22 OF DUE PROCESS**

23 The purpose of notice is to provide due process to absent class members. A practical
24 approach is required, in which the circumstances of the case determine what forms of
25 notice will adequately address due process concerns. *Noel*, 7 Cal.5th at 982. California

1 Rules of Court, rule 3.766 (e) provides that in determining the manner of the notice, the
2 court must consider: (1) the interests of the class; (2) the type of relief requested; (3) the
3 stake of the individual class members; (4) the cost of notifying class members; (5) the
4 resources of the parties; (6) the possible prejudice to class members who do not receive
5 notice; and (7) the res judicata effect on class members.

6 7 **1. Method of class notice**

8 Not later than fifteen (15) days after the Court grants Preliminary Approval of
9 the Settlement, Defendant will deliver the Class Data to the Administrator, in the form
10 of a Microsoft Excel spreadsheet (§4.2).

11 Using best efforts to perform as soon as possible, and in no event later than
12 fourteen (14) days after receiving the Class Data, the Administrator will send to all
13 Class Members identified in the Class Data, via first-class United States Postal Service
14 (“USPS”) mail, the Class Notice. The first page of the Class Notice shall prominently
15 estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA
16 Payment and/or Individual FLSA Payment payable to the Class Member, and the
17 number of Hours and PAGA Pay Periods (if applicable) used to calculate these
18 amounts. Before mailing Class Notices, the Administrator shall update Class Member
19 addresses using the National Change of Address database (§7.4.2).

20 Not later than three (3) business days after the Administrator’s receipt of any
21 Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the
22 Class Notice using any forwarding address provided by the USPS. If the USPS does not
23 provide a forwarding address, the Administrator shall conduct a Class Member Address
24 Search, and re-mail the Class Notice to the most current address obtained. The
25

1 Administrator has no obligation to make further attempts to locate or send Class Notice
2 to Class Members whose Class Notice is returned by the USPS a second time (§7.4.3).

3 **2. Content of class notice.**

4 A copy of the proposed class notice is attached to the Settlement Agreement as
5 Exhibit A. The notice includes information such as: a summary of the litigation; the
6 nature of the settlement; the terms of the settlement agreement; the maximum
7 deductions to be made from the gross settlement amount (i.e., attorney fees and costs,
8 the enhancement award, and claims administration costs); the procedures and deadlines
9 for participating in, opting out of, or objecting to, the settlement; the consequences of
10 participating in, opting out of, or objecting to, the settlement; and the date, time, and
11 place of the final approval hearing. See Cal Rules of Court, rule 3.766(d). It is to be
12 given in English only, because all of the putative class members read and speak English
13 as former and current off-duty law enforcement officers and trained security personnel.
14 (Saprocione Supp. Decl. ¶6.)

15 The Notice is adequate but shall delete the terms “an experienced neutral” at
16 Section 2. The Court makes no findings in this regard.

17 **3. Settlement Administration Costs**

18 Settlement administration costs are estimated at \$10,000, including the cost of
19 notice (§3.2.3). Prior to the time of the final fairness hearing, the settlement
20 administrator must submit a declaration attesting to the total costs incurred and
21 anticipated to be incurred to finalize the settlement for approval by the Court.

22 23 **E. ATTORNEY FEES AND COSTS**

24 California Rule of Court, rule 3.769(b) states: “Any agreement, express or
25 implied, that has been entered into with respect to the payment of attorney fees or the

1 submission of an application for the approval of attorney fees must be set forth in full in
2 any application for approval of the dismissal or settlement of an action that has been
3 certified as a class action.”

4 Ultimately, the award of attorney fees is made by the court at the fairness
5 hearing, using the lodestar method with a multiplier, if appropriate. *PLCM Group, Inc.*
6 *v. Drexler* (2000) 22 Cal.4th 1084, 1095-1096; *Ramos v. Countrywide Home Loans, Inc.*
7 (2000) 82 Cal.App.4th 615, 625-626; *Ketchum III v. Moses* (2000) 24 Cal.4th 1122,
8 1132-1136. In common fund cases, the court may use the percentage method. If
9 sufficient information is provided a cross-check against the lodestar may be conducted.
10 *Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480, 503. Despite any
11 agreement by the parties to the contrary, “the court ha[s] an independent right and
12 responsibility to review the attorney fee provision of the settlement agreement and
13 award only so much as it determined reasonable.” *Garabedian v. Los Angeles Cellular*
14 *Telephone Company* (2004) 118 Cal.App.4th 123, 128.

15 The question of class counsel’s entitlement to **\$191,666.66** (33.33%) in attorney
16 fees will be addressed at the final fairness hearing when class counsel brings a noticed
17 motion for attorney fees. If a lodestar analysis is requested class counsel must provide
18 the court with current market tested hourly rate information and billing information so
19 that it can properly apply the lodestar method and must indicate what multiplier (if
20 applicable) is being sought. Counsel shall also brief why the fees are fair given the
21 delay in presenting settlement documents to the Court.

22 Fee Split: There is a fee-splitting agreement between Frontier Law Center and
23 Aegis Law Firm to split the fees 50%-50% to which the clients have given written
24 approval. (Rose Supp. Decl., ¶4; See also Joint Prosecution Agreement, Exhibit 4 to
25 Kaur Supp. Decl.)

1 Class counsel should also be prepared to justify the costs sought (capped at
2 \$17,500) by detailing how they were incurred.

3 4 **F. SERVICE AWARDS**

5 The Settlement Agreement provides for a service award of up to **\$5,000** for the
6 class representatives. (Settlement, ¶3.2.1) Trial courts should not sanction enhancement
7 awards of thousands of dollars with “nothing more than *pro forma* claims as to
8 ‘countless’ hours expended, ‘potential stigma’ and ‘potential risk.’ Significantly more
9 specificity, in the form of quantification of time and effort expended on the litigation,
10 and in the form of reasoned explanation of financial or other risks incurred by the
11 named plaintiffs, is required in order for the trial court to conclude that an enhancement
12 was ‘necessary to induce [the named plaintiff] to participate in the suit’” *Clark v.*
13 *American Residential Services LLC* (2009) 175 Cal.App.4th 785, 806-807, italics and
14 ellipsis in original.

15 In connection with the final fairness hearing, named Plaintiffs must submit a
16 declaration attesting to why they should be compensated for the expense or risk they
17 have incurred in conferring a benefit on other members of the class. *Id.* at 806.

18 The Court will decide the issue of the enhancement award at the time of final
19 approval.

20 21 **V. CONCLUSION AND ORDER**

22 Conditioned upon amending the notice to delete “an experienced neutral” at
23 Section 2, the Court hereby:

- 24 (1) Grants preliminary approval of the settlement as fair, adequate, and
25 reasonable;

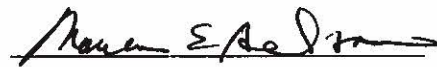
- 1 (2) Grants conditional class certification;
- 2 (3) Appoints Robert Navarro and Andwele Arrington as Class Representatives;
- 3 (4) Appoints Frontier Law Center and Aegis Law Firm, PC as Class Counsel;
- 4 (5) Appoints CPT Group, Inc. as Settlement Administrator;
- 5 (6) Approves the proposed notice plan; and
- 6 (7) Approves the proposed schedule of settlement proceedings as follows:

- 7 • Preliminary approval hearing: January 18, 2024
- 8 • Deadline for Defendant to provide class list to settlement administrator:
- 9 February 2, 2024 (within 15 calendar days from preliminary approval)
- 10 • Deadline for settlement administrator to mail notices: February 16, 2024 (within
- 11 29 calendar days from preliminary approval)
- 12 • Deadline for class members to opt out: April 1, 2024 (45 calendar days from the
- 13 initial mailing of the Notice Packets)
- 14 • Deadline for class members to object: April 1, 2024 (45 calendar days from the
- 15 initial mailing of the Notice Packets)
- 16 • Deadline for class counsel to file motion for final approval:
- 17 4/17 ²⁰²⁴ ~~2023~~ (16 court days prior to final fairness hearing)
- 18 • Final fairness hearing: 5/9 ²⁰²⁴ ~~2023~~, at 9:00 am

19 Failure to comply with the condition may result in denial of final approval.

20

21 Dated: 1/18/24



22 MAREN E. NELSON

23 Judge of the Superior Court

24

25