TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, April 22, 2026 3:00 pm
Courtroom 19 –Hon. Oscar A. Pardo
3055 Cleveland Avenue, Santa Rosa

The tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument, **YOU MUST NOTIFY** the Judge's Judicial Assistant by telephone at **(707) 521-6602**, and all other opposing parties of your intent to appear, **and whether that appearance is in person or via Zoom**, no later 4:00 p.m. the court day immediately preceding the day of the hearing.

If the tentative ruling is accepted, no appearance is necessary unless otherwise indicated.

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1. 24CV01125, Citibank N.A. v. Rodriguez

Appearances required.

2-4. 25CV06504, Vistajet US, Inc. v. Malvesta

Plaintiff Vistajet US, Inc. ("Plaintiff") filed the complaint against defendant Stephen Malvesta ("Defendant") and Does 1-50 for causes of action arising out of alleged contractual breach (the "Complaint"). This matter is on calendar for Plaintiff's motion to compel production of documents under subpoenas served upon non-parties Bridgepoint Air Advisors, LLC ("Bridgepoint"), Bond Aviation Holdings, LLC ("Aviation Holdings"), and Bond Opco, LLC ("Opco", all together "Nonparties") under California Code of Civil Procedure ("CCP") §§ 1987.1, and 2025.480.

The Motion is **GRANTED in part and DENIED in part.**

I. Procedural and Evidentiary Issues

The Court notes that Plaintiff has filed their reply which purports to provide significantly more facts related to the probability that Nonparties have the requested documents. The Court does not consider these untimely assertions. Given that Plaintiff's failures below derive from the insufficiency of their presentation of their *moving* burden, they cannot justly remedy these deficiencies on reply, when they have deprived Nonparties of the opportunity to substantively oppose them. *Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537. The Court does not consider Plaintiff's evidence on Reply as a result.

II. Governing Law

Parties have a right to serve position notices to nonparties, for both appearance at deposition and production of records. CCP § 2020.510. CCP § 2025.450 states that if a party fails to attend a deposition and produce documents without serving valid objections, the party seeking the deposition may request a court order compelling attendance. This applies where a party, "without having served a valid objection under subdivision (g), fails to appear for examination, or to proceed with it, or to produce... any document or tangible thing described in the deposition notice...." *Id*. The party moving to compel deposition attendance need only inquire as to what happened, not attempt to meet and confer. CCP §2025.450. CCP § 2025.450 expressly apply to motions to compel attendance where the party fails to appear "without having served a valid objection." An objection to defects or errors in a deposition notice must be served at least 3 days before the deposition date. CCP § 2025.410(a), (b). If a party serves a timely objection, no deposition shall be used against the objecting party if that party does not attend the deposition and the objection was valid. CCP § 2025.410(b). If a nonparty disobeys a deposition subpoena, the subpoenaing party may seek a court order compelling the nonparty to comply with the subpoena within 60 days after completion of the deposition record. (CCP §2025.480(b).) The objections or other responses to a business records subpoena are the "deposition record" for purposes of measuring the 60-day period for a motion to compel. *Unzipped Apparel, LLC v. Bader* (2007)156 Cal.App.4th 123, at 132-133; *Rutledge v. Hewlett-Packard Co.* (2015) 238 Cal.App.4th 1164, 1192. A nonparty opposing such motion without substantial justification may be subject to sanctions per CCP §§1987.2(a), 2020.030, 2025.480; see *Person v. Farmers Ins. Group of Cos.* (1997) 52 Cal.App.4th 813, 818.

Code of Civil Procedure Section 1987.1 states in relevant part that "[w]hen a subpoena requires the…production of books, documents or other things ... the court, upon motion reasonably made…may make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon such terms or conditions as the court shall declare, including protective orders..." CCP §1987.1; see also, *Monarch Healthcare v. Superior Court* (2000) 78 Cal.App.4th 1282, 1287-1288. "In addition, the court may make any other order as may be appropriate to protect the person from unreasonable or oppressive demands, including unreasonable violations of the right of privacy of the person." *Ibid*.

Although Code of Civil Procedure section 1985(b) states in part that "an affidavit shall be served with a subpoena duces tecum issued before trial, showing good cause for the production of the matters and things described in the subpoena," Code of Civil Procedure section specifically states that "[a] deposition subpoena that commands only the production of business records for copying need not be accompanied by an affidavit or declaration showing good cause for the

production of the business records designated in it." See CCP §§1985(b) and 2020.410(c); see also, *City of Woodlake v. Tulare County Grand Jury* (2011) 197 Cal.App.4th 1293, 1301 ["good cause affidavits are not always required…[f]or example, under the statutes providing for pretrial discovery in civil proceedings, a party may seek the production of business records for copying…" and "[a] deposition subpoena that commands only the production of business records for copying need not be accompanied by an affidavit or declaration showing good cause for the production of the business records designated in it."], quoting Code Civ. Proc. §2020.410(c); Cal. Prac. Guide Civ. Pro. Before Trial Ch. 8E-6, §8:547.5 ["A subpoena for the production of business records need not be accompanied by an affidavit or declaration showing good cause for production of the records."].

"California law provides parties with expansive discovery rights." *Lopez v. Watchtower Bible & Tract Society of N.Y., Inc.* (2016) 246 Cal.App.4th 566, 590-591. Specifically, the Code provides that "any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence." CCP § 2017.010; see also, *Garamendi v. Golden Eagle Ins. Co*. (2004) 116 Cal.App.4th 694, 712, fn. 8. "For discovery purposes, information is relevant if it 'might reasonably assist a party in evaluating the case, preparing for trial, or facilitating settlement…" See *Lopez, supra,* 246 Cal.App.4th at 590-591, citing *Garamendi, supra,* 116 Cal.App.4th at 712, fn. 8. "Admissibility is not the test and information[,] unless privileged, is discoverable if it might reasonably lead to admissible evidence." *Ibid*. "These rules are applied liberally in favor of discovery, and (contrary to popular belief), fishing expeditions are permissible in some cases." *Ibid.* The scope of discovery is one of reason, logic and common sense. *Lipton v. Superior Court* (1996) 48 Cal.App.4th 1599, 1612. The right to discovery is generally liberally construed. *Williams v. Superior Court* (2017) 3 Cal.5th 531, 540.

Compelling need is not always the test to apply in determining whether discovery is permissible, as "Courts must instead place the burden on the party asserting a privacy interest to establish its extent and the seriousness of the prospective invasion, and against that showing must weigh the countervailing interests the opposing party identifies". *Williams v. Superior Court* (2017) 3 Cal.5th 531, 557. Good cause should be shown on requests for production from non-parties as well as parties. *Calcor Space Facility, Inc. v. Superior Court* (1997) 53 Cal.App.4th 216, 223–224 ("*Calcor Space Facility*"). Good cause can be met through showing specific facts of the case and the relevance of the requested information. *Associated Brewers Distributing Co. v. Superior Court of Los Angeles County* (1967) 65 Cal.2d 583, 586–587. "(T)he good cause which must be shown should be such that will satisfy an impartial tribunal that the request may be granted without abuse of the inherent rights of the adversary. There is no requirement, or necessity, for a further showing." *Greyhound Corp. v. Superior Court In and For Merced County* (1961) 56 Cal.2d 355, 388. As the right to discovery is liberally construed, so too is good cause. *Id.* at 377-378. "(A) party seeking to compel production of records from a nonparty must articulate specific facts justifying the discovery sought; it may not rely on mere generalities. (Citation). In assessing the party's proffered justification, courts must keep in mind the more limited scope of discovery available from nonparties." *Board of Registered Nursing v. Superior Court of Orange County* (2021) 59 Cal.App.5th 1011, 1039; citing *Calcor Space Facility* at 567; *see also Catholic Mutual Relief Society v. Superior Court* (2007) 42 Cal.4th 358, 366.

III. Analysis

Plaintiff moves to compel production of records from three nonparties. Each motion asks to compel further responses to their respective subpoenas, each placing four requests at issue. The three motions put at issue identical discovery requests as to each Nonparty, and Plaintiff's showing between the three motions is not reflective of any distinguishing factual showing which would indicate any different result between the three motions. Nonparties have filed three nearly identical oppositions. Therefore, the Court examines the language of each request, and the showing by Plaintiff as to each, as opposed to attempting to distinguish Plaintiff's identical motions by party.

A. Request ¶ 1

As to each of the Nonparties, they have been served with an identical requests as the first category for production, which reads as follows:

> All WRITINGS, including but not limited to COMMUNICATIONS, referring to MALVESTA, directly or indirectly, during the TIME PERIOD.

Plaintiff opines that Defendant's interaction with Nonparties is clearly material to their claims against him in this case, and that discovery is broadly construed in California. Nonparties oppose, opining that discovery from non-parties is substantially narrower than that available from parties to the litigation.

The most illustrative case, which is cited by Nonparties, is *Calcor Space Facility, Inc. v. Superior Court* (1997) 53 Cal.App.4th 216. That case involved a commercial litigation between a supplier and purchaser for gun mounts. *Id*. at 219. Buyer refused delivery, claiming the product did not meet specifications, and in turn contracted for the mounts to instead be provided by the eponymous Calcor. *Ibid*. Supplier and buyer became embroiled in resulting litigation, eventually resulting in a subpoena by supplier for production of records from non-party Calcor. *Ibid.* Calcor refused to produce in response to the subpoena, filed for a protective order, and supplier moved to compel. *Id.* at 220. The trial court granted the motion to compel and denied the protective order, but was reversed on appeal. *Id*. at 221. The court of appeal noted the burdensome nature of the discovery requests, amounting to an overly broad demand tendered to a nonparty. "Although facially detailed and particularized, the demand, in effect, is very simple. It orders Calcor to produce everything in its possession which has anything to do with gun mounts (including the gun mount assemblies themselves)." *Id*. at 220. "Although facially Thiem's detailed description of categories, combined with the three pages of 'definitions' and another three pages of 'instructions' would seem to satisfy a requirement of 'particularity,' it is, in effect, a blanket demand and hardly constitutes 'reasonable' particularity." *Id*. at 222. It also noted that nonparties are not properly the target of fishing expeditions. *Id*. at 225. "As between parties to litigation and nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered. An exception to this may exist where a showing is made the material obtained from the party is unreliable and may be subject to impeachment by

material in possession of the nonparty." *Calcor Space Facility, Inc. v. Superior Court* (1997) 53 Cal.App.4th 216, 225.

The Court need not reach Nonparties' scattershot of objections. Plaintiff cannot display the necessary good cause to compel responses here. Request ¶ 1 is, as clearly indicated by *Calcor*, impermissibly broad attempts at discovery targeted to third parties. While discovery is broadly construed, the language of Request ¶ 1 is what amounts to "all documents" about Defendant, which may include internalized communications unrelated to the instant case. That it may result in production of some percentage of possibly admissible material is not sufficient when referring to non-party discovery with such broad categories. Plaintiff in essence asks for the contents of *any* conversation within the nonparty entities in which *someone* may have mentioned Defendant. Plaintiff fails to express both *specific* facts which support such a broad request, and why the requests at issue here are in any way distinguishable from *Calcor*. Here, Plaintiff asks that we "order() (Nonparties) to produce everything in (their) possession which has anything to do with (Defendant) ..." *Calcor Space Facility, Inc. v. Superior Court* (1997) 53 Cal.App.4th 216, 220. Nonparties are not the proper target of Plaintiff's fishing expedition. Plaintiff's argument on reply that fishing expeditions are sometimes proper again impermissibly ignores substantive law as related to non-parties. *Greyhound Corp. v. Superior Court* (1961) 56 Cal.2d 355, 384, the case Plaintiff cites and from whence the concept of permissible fishing expeditions is often cited, specifically deals with discovery between parties. While Plaintiff cites appropriate authority (*Calcor*) on reply, they elect not to engage with the substance of the defect, that discovery from nonparties is by its nature narrower than would allow their requests.

While Plaintiff's motions opine possible wrongdoing on the part of Nonparties, notably they have not been named as defendants. Request ¶ 1 is a hyper-fishing expedition, seeking to drive out various internal impressions held by Nonparties as to Defendant, without any clear direct association to the case, cognizable admissibility or evidentiary value. Plaintiff has failed to show good cause. As such, compelling further responses to Request ¶ 1 is improper for all three motions.

B. Request ¶ 2

Again, the Request is identical as to all three Nonparties. Plaintiff's Request ¶ 2 is somehow *more* broad than its predecessor. It demands:

> All WRITINGS, including but not limited to COMMUNICATIONS, relating to MALVESTA, directly or indirectly, during the TIME PERIOD.

Clearly, if Request ¶ 1 was overbroad in requesting all communications *referring* to Defendant, requests *related* to him are an even broader category. It fails for the same reason without further analysis. Compelling further responses to Request ¶ 2 is improper for all three motions.

C. Request ¶ 3

All three requests are again identical, wherein Plaintiff demands:

> All COMMUNICATIONS with MALVESTA during the TIME PERIOD.

While the categories continue to narrow, this again overstates the discovery admissible from non-parties. Plaintiff seeks any communication between Nonparties and Defendant, whether it relates to their purported causes of action or not. Plaintiff seeks every interaction Defendant has had from his (as alleged by Plaintiff) current employers, in an effort to determine whether Defendant has appropriated their trade secrets. While the burden of such production (and possible articulation of any purported trade secret objection for Nonparties' information that will obviously accompany it) clearly could fall on Defendant, asking the same of Nonparties exceeds the scope of what is articulable. Again, "(a)s between parties to litigation and nonparties, the burden of discovery should be placed on the latter only if the former do not possess the material sought to be discovered." Plaintiff provides no explanation for why these materials are not appropriately sought from Defendant. Moreover, Plaintiff's contention that Defendant has failed to produce code compliant responses does not justify shifting that burden to non-parties when Plaintiff has not pursued that matter with Defendant to its terminus. Compelling further responses to Request ¶ 3 is improper for all three motions.

D. Request ¶ 4 or 7

The final request at issue is again identical in substance, though it is posed as Request ¶ 4 to Opco and Aviation Holdings, and Request ¶ 7 to Bridgepoint. It demands:

> All WRITINGS, including but not limited to COMMUNICATIONS, reflecting employment offers, employment negotiations, employment agreements and/or contractor arrangements with MALVESTA during the TIME PERIOD.

This is the only request at issue which appears adequately narrow for the purpose of nonparty discovery. It requests a narrow category of documents, directly related to Defendant's possible overlapping employment as alleged in the Complaint. The time period at issue covered approximately a year at the time the discovery was propounded. This is precisely the narrow, specific facts required to support an appropriately tailored nonparty discovery request. Plaintiff has shown good cause as to this request.

Turning to Nonparties' objections, no genuine support is tendered for the objections raised. Nonparties' objections are the same panoply of meretricious assertions offered without genuine evidence to support them as to this specific request. Touching on the matters which might genuinely have been raised, none are sufficient to sustain the objection. The request here particularly requests Defendant's offers of employment, the privacy rights of third parties are not at issue. Defendant's privacy rights are outweighed by the salient nature of the information requested. While Nonparties assert "confidential information", they do not expound in a way that would allow the Court to determine the propriety of the objection. The claim of attorney client privilege fails for the same reason.

Given that the Court has found production is proper, Defendant's objection to production thereon is also overruled.

Therefore, as to Opco and Aviation Holdings' Request ¶ 4, and Bridgepoint Request ¶ 7, the motions to compel are GRANTED.

E. Sanctions

First, the Court notes that sanctions related to subpoenas to nonparties are generally distinguishable from other forms of sanctions falling under the Civil Discovery Act. Sanctions against parties or nonparties on motions to compel under CCP § 1987.1 are discretionary. CCP § 1987.2 (a). "(T)he court may in its discretion award the amount of the reasonable expenses incurred in making or opposing the motion, including reasonable attorney's fees, if the court finds the motion was made or opposed in bad faith or without substantial justification or that one or more of the requirements of the subpoena was oppressive." *Ibid*. The Court may only grant "reasonable expenses" for sanctions under the discovery act. CCP § 2023.030(a). For sanctions to be granted, the notice of motion must "identify every person, party, and attorney against whom the sanction is sought". CCP § 2023.040. The request must be accompanied by a declaration setting for facts supporting the amount of any monetary sanction sought. *Ibid*.

The Court generally finds the conduct of Plaintiff as those which would be subject to sanctions here. The Court at this juncture notes that it is possible that Plaintiff should have been aware that these categories were obviously impermissible, given that each can fit within the next most expansive. The Court fails to see how every document starting from employment offers to Defendant, expanding outward until finally ending with all documents which might "relate" to Defendant, would not fit within another. That the Court had to step in to rule on obviously overbroad requests in the form of Requests ¶ 1 and 2 is sufficient cause for sanctions. Given that Plaintiff fails to even acknowledge the substantial discrepancy between party discovery (which is the caselaw they primarily cite) and nonparty discovery. There is no possible substantial justification for three out of the four requests at issue.

However, while Nonparties have opined that they should be granted appropriate costs for opposing the overbroad subpoena, they provide no evidence of those costs such that the Court could grant them. Nonparties neither provide an amount of sanctions to grant, nor evidence that the requested amount of sanctions are appropriate. The Court has no basis on which to determine whether the sanctions are "reasonable" as a result (CCP § 1987.2(a)), and the request for sanctions is therefore DENIED.

IV. Conclusion

The Motion to Compel is **GRANTED as to Opco and Aviation Holdings' Request ¶ 4, and Bridgepoint Request ¶ 7, and otherwise DENIED**. Nonparties will produce all responsive documents to the compelled categories within 45 days of notice of this order. Nonparties' request for sanctions are DENIED.

Plaintiffs' counsel shall submit a written order to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

5. 26CV00495, Santa Rosa City School District v. Ainsworth

Petitioner Santa Rosa City School District ("Petitioner") filed the petition for workplace violence restraining order (the "Petition") on behalf of Sara Strathatos ("Strathatos" or "Protected Employee") in this action against respondent Laura Ainsworth ("Respondent"). This matter is on calendar for Respondent's Anti-SLAPP motion under CCP § 425.16.

There is no proof of service in the Court's file, and as such there is no proof that the Petitioner has notice of the contents of Respondent's motion.[1] Proof of service was due five court days prior to the hearing. Cal. Rule of Court, Rule 3.1300(c). The matter is properly **DROPPED** from calendar.

6. SCV-273124, Gomez v. Pahal Food Service Inc.

Plaintiff Nohemi Gomez ("Plaintiff"), individually and on behalf of other all other similarly situated, including employees pursuant to the California Private Attorney General Act, filed the currently operative first amended complaint against defendant Pahal Food Service Inc., F.H. Berry Enterprises, Inc. (together "Defendants"), and Does 1-50 for causes of action arising out of Defendants' alleged Labor Code violations, and civil penalties thereon (the "FAC"). This matter is on calendar for Plaintiff's unopposed motion for certification of the class and final approval of the class action settlement (the "Motion"). The Motion is **GRANTED**. Plaintiff has also brought her motion for attorney's fees, and class representative enhancement. Those are **GRANTED in part**.

I. The Complaint

The presently operative First Amended Complaint ("Complaint") alleges that Defendants failed to comply with California Labor Code ("LC") provisions during the course of Plaintiff's employment with Defendants and alleges on information and belief that these policies were also enforced on other employees.

The First Amended Complaint contains causes of action for: (1) Failure to Pay Wages For All Hours Worked at Correct Rates of Pay; (2) Vacation Pay Forfeiture; (3) Failure to Provide Meal Periods; (4) Failure to Provide Rest Breaks; (5) Failure to Indemnify; (6) Wage Statement Penalties; (7) Waiting Time Penalties; (8) Unfair Business Practices, in Violation of Business and Professions Code Sections 17200, et *seq*.; and (9) Civil Penalties. Plaintiff seeks to collect on a representative basis PAGA civil penalties for themselves and other employees and collect on a class-wide basis missed break wages, unpaid wages, waiting time penalties, and wage statement damages.

II. The Settlement and Preliminary Approval

According to the Motion, Plaintiff asserted multiple causes of action for various Labor Code and Business and Professions Code violations centered around Labor Code violations. Defendant

[1] Petitioner's opposition to Respondent's motion to quash does make mention of the *existence* of Respondent's Anti-SLAPP motion, but Petitioner's counsel made oral representations to the Court at that hearing reflecting that no copy was in their possession, nor has one been served.

contends that Plaintiff is unlikely to obtain class certification and the claims presented were based on individualized damages not easily proven in representative claims. *See generally* Spivak Decl. ¶¶ 39-59.

The Spivak Declaration in support of Preliminary Approval established that Plaintiff's counsel engaged in informal discovery and investigation. Spivak Decl. ¶¶ 16-17. On November 21, 2024, the parties mediated the matter before Russ Wunderli, a mediator with extensive wage and hour class action experience. Spivak Decl. ¶ 20. Prior to the mediation, Defendant had provided documents responsive to the informal discovery requests, including a sampling of payroll information covering the applicable statutory period. Spivak Decl. ¶¶ 16, 17, and 20. The class is defined in the Settlement Agreement and Release of Class Action [attached to Spivak Decl., Exhibit 1, hereinafter "Settlement Agreement"] as all persons employed by Defendants in California as a non-exempt employee during the Class Period from April 21, 2019, through February 19, 2025. Settlement Agreement §§ 1.5, 1.12. Aggrieved Employees under PAGA are defined as all individuals who are or were employed by Defendant as non-exempt employees in California between February 22, 2022, through February 19, 2025. Settlement Agreement §§ 1.4 and 1.32.

Plaintiff undertook an expert analysis of the data provided by Defendants. Spivak Decl. ¶ 18. Based on that data, Plaintiff's counsel was able to perform a thorough analysis of potential damages for the claims alleged in the FAC, including the number of instances and the corresponding monetary claim for each late or missed meal break, each missed rest break, and each resulting wage statement violation. Plaintiff's counsel was able to then extrapolate that information to the entire class. Plaintiff estimates that the maximum amount of potential damages across the class for the alleged underlying violations equals $3,227,953.24. Spivak Decl. ¶¶ 40. However, on the Court's review, it noted this estimate does not reflect the itemized amounts provided, which come to a sum of $3,327,518.07 ($77,039.23 in unpaid wages, and the same amount in liquidated damages, $199,013.61 in missed meal period premium wages, $215,960.03 in missed rest break premium wages, $215,960.03 in unreimbursed expenses, $543,900.00 for wage statement penalties, and $1,444,745.17 for waiting time penalties) with $630,900.00 for civil penalties under PAGA. Spivak Decl. ¶¶ 40. This is a difference of $99,564.83. Given that the subsequent math provided appears correct, it appeared that the total is inaccurately reflected. Plaintiff was required to provide corrected allocation or total numbers at final approval. The estimated maximum damage per class member for the core class claims at time of preliminary approval was therefore $4,524.53 per class member ($ 3,327,518.07 / 596 class members). Maximum recovery of PAGA penalties are $466.64 per aggrieved employee ([$630,900/338] x.25), with the other $473,175 going to the LWDA. At the mediation, the parties came to an agreement based on the assistance of the mediator. Spivak Decl. ¶ 20.

Pursuant to the Settlement Agreement, Defendants will pay $700,000 as the Gross Settlement Fund. Settlement Agreement § 1.22. From that amount, the following will be deducted: 1) attorneys' fees of $233,333.33 (which is 1/3 of the Gross Settlement Fund) and up to $12,500 of costs and expenses; 2) an incentive award to the Plaintiff of $15,000; 3) settlement administration costs, not to exceed $13,000; and 4) $10,000 in penalties under PAGA, 75% of which is paid to the California Labor and Workforce Development Agency ($2,500 of which is payable to the Aggrieved Employees). See Settlement Agreement §§ 3.2, *et seq*. If these sums

are all approved by the Court, this results in a Net Settlement Fund of $416,166,67 to be distributed to the members of the class. The Net Settlement Fund will be distributed pro rata to the members of the class who do not opt out, based on the number of workweeks worked by such individual as compared to the total number of aggregate number of workweeks by all such individuals during the Class Period. Settlement Agreement § 3.2.4. This results in an average Class settlement payment of approximately $698.27 ($416,166,67 / 596). This also leaves a PAGA settlement for distribution of $2,500. Defendant will pay its share of payroll taxes for settlement funds classified as wages separate from the Gross Settlement Fund. Settlement Agreement §§ 3.2.4.1, 4.3. The settlement is non-reversionary. Settlement Agreement § 3.1. For tax purposes, 20% is allocated to unpaid wages, and 80% is allocated to interest and penalties classified as miscellaneous income. Settlement Agreement § 3.2.4.1. Net settlement payments will be automatically sent to members of the class unless they opt out. See generally, Settlement Agreement §§ 4.4.1, 7.5.3.

The Settlement Agreement and proposed notice to the Class (the "Proposed Notice") (Settlement Agreement, Ex. A) also set forth the procedure and timeline for providing notice to the class members (which will be sent by the administrator via first class mail), which includes a detailed explanation of the claims and defenses, terms of the settlement, opt out and objection procedures, an estimate of the individual class member's settlement payment and a description of how it was calculated, and that all participating members of the class will be paid without the need to submit a claim. The Class Members who do not opt-out of the settlement releases Defendant from "all claims under state, federal and local law that were or could have been asserted based on the facts and allegations made in the Action, and any amendments thereto, as to the Class Members, including without limitation, California Labor Code sections 201, 202, 203, 226, 226.7, 227.3, 510, 512, 1194, 1197, 1198, and 2802, California Industrial Commission Wage Orders, Business and Professions Code sections 17200 *et seq*., California Code of Civil Procedure sections 382 and 1021.5, and including all claims for or related to alleged unpaid wages, minimum wages, hours worked, overtime or double time wages, regular rate of pay, bonus and incentive pay, unreimbursed business expenses, timely payment of wages during employment, timely payment of wages at separation, wage statements, payroll records and recordkeeping, meal periods and meal period premiums, rest breaks and rest break premiums, unfair competition, unfair business practices, unlawful business practices, fraudulent business practices, class actions, representative actions, aggrieved party claims, declaratory relief, penalties of any nature (including but not limited to civil penalties, waiting-time penalties, and PAGA penalties), interest, fees, costs, as well as all other claims and allegations alleged in the Action." " Settlement Agreement § 6.3. Additionally, Plaintiff agrees to release "all claims for civil penalties that could have been sought by the Labor Commissioner for the violations identified in Plaintiff's pre-filing letter to the LWDA. Plaintiff does not release the claim for wages or damages of any Aggrieved Employee unless such Aggrieved Employee is a Participating Class Member." Settlement Agreement § 6.4. The Court preliminarily approved the settlement on October 15, 2025, and set the instant date for Final Approval.

III. Final Approval

After preliminary approval, the Court determines whether a class action settlement is fair, adequate and reasonable in a final hearing, often referred to as a "fairness hearing." Cal. R. Ct.

3.769(g); *see also Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801. The purpose of this requirement is "the protection of those class members, including the named plaintiffs, whose rights may not have been given due regard by the negotiating parties" and to "prevent fraud, collusion or unfairness to the class…" *Dunk,* 48 Cal.App.4th at 1800-01, citing *Malibu Outrigger Bd. of Governors v. Superior Court* (1980) 103 Cal.App.3d 573, 578-79; *see also Marcarelli v. Cabell* (1976) 58 Cal.App.3d 51, 55.

"The trial court has broad discretion to determine whether a class action settlement is fair and reasonable." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 52. "Due regard should be given to what is otherwise a private consensual agreement between the parties" and "the court's 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." *Dunk,* 48 Cal.App.4th at 1801 (internal citations omitted). "When the following facts are established in the record, a class action settlement is presumed to be fair: '(1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.'" *Chavez*, 162 Cal.App.4th at 52 *quoting Dunk*, 48 Cal.App.4th at 1802. Between preliminary and final approval, the class appears to have reduced from 596 class members to 505. See Declaration of Bentley Conn ("Administrator Declaration"), ¶ 5. There were 309 Aggrieved Employees. *Id.* at ¶ 8. Workweeks came to a total of 22,225.48, which was a change insufficient to trigger the escalator clause. *Id*. at ¶ 6. A telephone line was available for objection. No notices were returned or unserved, no objections were received, and there was no requests for exclusion or workweek adjustments.

There are 505 eligible class members. Based on a calculation that assumes that the requested attorneys' fees, costs, and incentive fee awards are approved (*i.e.* a $417,760.46 net settlement fund) the highest individual settlement payment to be paid is approximately $5,720.92 and an average of approximately $2,918.51 Administrator Declaration, ¶ 18. PAGA payments will average $8.09 per claimant ($2,500/309 Aggrieved Employees).

There are several adjustments to these initial figures presented in the Preliminary Approval, each of which appear to increase the amount available for the settlement fund. Counsel's litigation expenses did not reach the $12,500 amount estimated, instead coming to $11,625.54, adding $3,139.13 to the settlement fund. Already included above is the adjustment of the class administrator reflecting that their actual fees were $12,281.00, not the $13,000 which received preliminary approval. This adds $1,593.46 to the settlement fund available for distribution to class members.

In examining the total settlement amount, and whether it is reasonable, the Court notes that there were no objectors or requests for exclusion. The supplemental declarations provided by Administrator providing small upward adjustments to the workweeks (and therefore possible damages) have minimally decreased the percentage recovery compared to preliminary approval. Therefore, the settlement appears to be the result of arm's length bargaining. Substantial discovery appears to have occurred, and to the degree that there was any deficit in those disclosures, it appears to have not been of sufficient scale to prejudice the class members.

Based on the foregoing, because the factors articulated in *Dunk* are met; because there is no indication of fraud, collusion or unfairness; and because the terms of the settlement appear to be fair and reasonable; and based on the lack of opposition or objection, Plaintiffs' motion for final approval of the terms of the settlement is approved.

IV. Attorney's Fees and Class Representative Incentive

In this case, the underlying Settlement Agreement established a gross settlement fund fixed at $700,000, without any reversion to Defendants and with all settlement proceeds, net of specified fees and costs and $10,000 in PAGA penalties, going to pay claims for class members who did not opt out of the settlement (and none did). Plaintiffs' counsel requests an award of $233,333.00 which is one third (33.33%) of the common fund.

Class Counsel Spivak has provided most of the information regarding the time billed in this case and the relative rates of each individual who performed work for Plaintiff. The exception is Class Counsel Benowitz, who has provided a separate declaration. Class Counsel advances that the Court should adopt a percentage fee approach, arguing that there are several public policy reasons why percentage recovery is the modern and appropriate method of calculation here. Percentage recovery focuses on results achieved whereas the lodestar focuses on time spent.

Counsel is correct that the percentage approach offers substantive benefits in encouraging counsel to maximize recovery, rather than wasting time attempting to bill in order to justify lodestar amounts. However, that does not mean that Class Counsel's recovery should remain unfettered by the hours actually expended. This Court maintains the capability to "double check the reasonableness of the percentage fee through a lodestar calculation." *Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 504. Moreover, the common fund method is burdened by its own potential infirmities, encouraging counsel to settle otherwise meritorious cases quickly in order to make themselves available for the next case. The incentive to counsel, incongruous with that of their client and the class, is to settle the case for the maximum amount *relative to their time expended*. Accordingly, our high court has stated that California trial courts maintain the discretion to use lodestar amounts to ensure that the percentage figure reached is reasonable. *Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 505. This is representative of the Court's obligations to the class as a whole, where the interests of Defendant and Plaintiff are no longer at odds.

Class Counsel asserts that fees of one third of the settlement amount is the appropriate figure. As an initial matter, the Court finds Plaintiff's recovery reasonable but unexceptional based on the total calculable damages. Plaintiff's evidence at preliminary approval indicated that the total possible class damages were $3,327,518.07, including $630,900 of PAGA penalties. The claims presented in the FAC are generally of the type where Plaintiff would be entitled to recovery of attorney's fees. See, e.g., Labor Code § 2699(k)(1); Labor Code § 218.5; Labor Code § 1194; FAC. Even if the matter were fully litigated, should Plaintiff prevail, the cost of fully litigating the matter would not be borne by Plaintiff or the class. This means that against maximum calculable damages as presented at preliminary approval, the distributable settlement amount represents 12.55%. This is before accounting for the increase in workweeks likely increasing the

maximum damages. Counsel touts their exceptional quality legal of work, but this does not appear sufficiently reflected in attention to detail. See, Court's 10/15/2025 Preliminary Approval Order (Court noted totals of maximum damages were not accurate and required Class Counsel to correct the total). It is not clear to the Court that the settlement is sufficiently reflective of probable recovery that the relatively "standardized" one third settlement is appropriate. Class counsel fails to display the propriety of a one third fee under such circumstances. The Court finds twenty-eight percent (28%) to be the appropriate amount under these circumstances. This results in allowable fees of $196,000.

This is properly checked against the lodestar analysis provided. The "lodestar" is the number of hours reasonably expended multiplied by the reasonable hourly rate prevailing in the community for similar services by an attorney with similar skill and experience. *See, e.g. PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132. The trial court may adjust the lodestar amount based on various factors specific to the case to fix the attorney fees at fair market value for the services provided, including: "(1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, [and] (4) the contingent nature of the fee award." *Ketchum*, 24 Cal.4th at 1132. *See also Gorman v. Tassajara Dev. Corp.* (2009) 178 Cal.App.4th 44, 92 ("The first step involves the lodestar figure—a calculation based on the number of hours reasonably expended multiplied by the lawyer's hourly rate. 'The lodestar figure may then be adjusted, based on consideration of factors specific to the case, in order to fix the fee at the fair market value for the legal services provided.'…The factors to be considered include the nature and difficulty of the litigation, the amount involved, the skill required and employed to handle the case, the attention given, the success or failure, and other circumstances in the case." (internal citations omitted).

The Court finds that the 287.34 hours expended is likely mostly reasonable, but notes that there is a request for .99 hours at $150 per hour for "Henry Michael", labeled as an intern. This is far from sufficient information for the Court to consider such fees, even on a cross check, as there is no barometer for what such an individual's knowledge or ability may have been, or whether the internship was paid. Class Counsel offers in camera review of further records if required. However, given the relaxed standards for such hours expended in a cross-check context where the time expended appears in the range of reasonableness, the Court turns to the hourly rates requested with the .99 hours deducted.

What is apparent is that the hourly rate requested for multiple attorneys exceeds the expected rates for counsel in the county of Sonoma. "The reasonable hourly rate is that prevailing *in the community* for similar work." *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095 (emphasis added). Plaintiff has cited the reasonableness of their fees based on various cases. This case was filed and is based on Plaintiff's employment within the county of Sonoma, and that is the appropriate locale to consider when determining fees within this venue. The court may consider various other factors when determining a reasonable hourly rate, including the attorney's skill and experience, the nature of the work performed, the relevant area of expertise and the attorney's customary billing rates. *See, e.g. Flannery v. California Highway Patrol* (1998) 61 Cal.App.4th 629, 632-633; *Stratton v. Beck* (2017) 9 Cal.App.5th 483, 496. The Court does not, however, find that these factors justify paying Plaintiff's counsel market rate fees

for the Southern California area. It is only where a plaintiff has made a good faith but unsuccessful effort to find local counsel that out-of-town counsel is not limited to fees determined at local hourly rates. *See, e.g. Horsford v. Board of Trustees of Calif. State Univ.* (2005) 132 Cal.App.4th 359, 398-399 (hiring local counsel was attempted numerous times and deemed to be impracticable); *Center For Biological Diversity v. County of San Bernardino* (2010) 188 Cal.App.4th 603, 608, 614-615 (trial court erred in setting lodestar based on local hourly rates, rather than rates of competent attorneys outside local market, where evidence showed local counsel was unavailable for appellate work). There is no such evidence here. Rather, Plaintiff chose to retain a lawyer from outside the community; that is their right, but it does not make the fees incurred "reasonable" for purposes of the fee award. The fees are resultingly far beyond what is expected in the local legal market.

The Court finds that with the qualifications and experience set forth in the Spivak and Benowitz Declarations, fees in line with similarly qualified attorneys in the Sonoma County community are $700 as to Mr. Spivak, and $625 as to Mr. Benowitz. The requests for $495 for Ms. Davis, $350 for Ms. Leonard, and rates of between $300 and $150 per hour for various paralegal staff appear within the range of reasonableness.

The Court is not persuaded by Class Counsel's offered evidence to exceed these amounts. First, what other courts do is not dispositive as to what is appropriate for this locality, or in this particular case. Second, even if it were persuasive for this purpose, none of the cases provided appear to be in Sonoma or comparable counties. The Court notes that Counsel Spivak cites a case only three years ago in Los Angeles superior court where his approved rate was $650. Such a brief period afterward, in a localized market with significantly lower average fees, an approval of $700 appears appropriate.

Plaintiff also argues for a multiplier of ~2.126. In a pure lodestar analysis, the Court would only find a multiplier of 1.8 as appropriate here. The obvious factor which merits application is the contingent nature of the case. Class Counsel's qualifications neither fall short of nor exceed the counsel which normally appear in these types of cases. Counsel's work as filed with the Court does not contain indicia that would cause the Court to find exceptional skill in the litigation. Counsel offers no evidence that the case precluded them from taking other work. As is covered above, the Court does not find the recovery exceptional, but it is sufficiently reasonable that the Court applies some multiplier. However, given that the question is whether the lodestar may reasonably be multiplied to reach the amount in the percentage recovery method, the required multiplier would be ~1.95.

Based on these adjustments, the Court comes to base fees of $99,754.80, which after application of a 1.8 multiplier, comes to a lodestar of $179,558.64. To reach the percentage recovery the Court found appropriate, application of a ~1.95 multiplier must be used. While this is not the Court's first inclination, when compared to the calculated shared fund amount it is reasonable and therefore merits approval.

The Court approves Class Counsel Fees in the amount of $196,000.
Plaintiff's counsel also seeks $11,625.54 litigation-related costs and attaches a cost report and declarations substantiating most of that sum. Spivak Decl. Ex. J. This is below the amounts

preliminarily approved and appears appropriate. The Court approves costs in the amount of $11,625.54.

Based on the foregoing, Plaintiffs' request for attorneys' fees and costs is granted in the amount of $196,000 for fees and $11,625.54 in costs. The amounts of the attorney's fees not approved will revert to the gross settlement fund, per the terms of the settlement agreement. Settlement Agreement, Section 3.1.

Plaintiff also seeks a service award in the amount of $15,000 for Plaintiff's participation in the case. "'[C]riteria courts may consider in determining whether to make an incentive award include: 1) the risk to the class representative in commencing suit, both financial and otherwise; 2) the notoriety and personal difficulties encountered by the class representative; 3) the amount of time and effort spent by the class representative; 4) the duration of the litigation and; 5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation.' [citation] These 'incentive awards' to class representatives must not be disproportionate to the amount of time and energy expended in pursuit of the lawsuit." *See Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1394-95. *See also Ridgeway v. Wal-Mart Stores Inc*. (N.D. Cal. 2017) 269 F. Supp. 3d 975, 1003 (citing *Bellinghausen v. Tractor Supply Co*. (N.D. Cal. 2015) 306 F.R.D. 245, 266-67, which in turn collected cases and explained that a $5,000 incentive award is presumptively reasonable in that district and that awards typically range from $2,000–$10,000).

Plaintiff argues that this award is reasonable in light of her role as representative of the class. In particular, Plaintiff cites her role in providing substantive information and documents to counsel and reviewing documents and the Settlement Agreement, and the risk of possibly bearing Defendant's costs if she did not prevail. See Declaration of Nohemi Gomez. Plaintiff filed a declaration generally describing her participation and establishing that she participated as the class representative. *Ibid.* She avers that she has spent more than 49 hours working on the case, and that her involvement is a matter of public record potentially affecting future employment prospects.

Based on the time expended, the exposure and risk, and the duration of the litigation, the request is for the reasonable award of $15,000 under the factors described in *Cellphone Termination*, 186 Cal.App.4th at 1394-95. The Court finds the award, despite being on the high end of the normal range, reasonable.

Plaintiff's request for a personal representative enhancement award is approved in the amount of $15,000 to Plaintiff.

Therefore, the Court calculates the total gross settlement fund for the class action as $455,093.46. Payments to class members should be adjusted accordingly.

V. Conclusion

Based on the foregoing:

1. The Court, for purposes of this Order, adopts all defined terms and conditions as set forth in the Settlement Agreement filed in this case.

2. The Court has jurisdiction over the subject matter of this litigation and the Class Representatives, the other members of the Class, and Defendants.

3. The Court finds that the dissemination of the Class Notice as disseminated to the Class Members, constituted the best notice practicable under the circumstances to all persons within the definition of the Class, and fully met the requirements of California law and due process under the United States Constitution.

4. The Court approves the Settlement of the above-captioned action, as set forth in the Settlement Agreement, as fair, just, reasonable, and adequate as to the Settling Parties. The Settling Parties are directed to perform in accordance with the terms set forth in the Settlement Agreement.

5. Except as otherwise provided in the Settlement Agreement, the Settling Parties are to bear their own costs and attorneys' fees.

6. The Court hereby certifies the following Class for settlement purposes only: all persons employed by Defendants in California as a non-exempt employee during the Class Period from April 21, 2019 through February 19, 2025. The Court approves the class of Aggrieved Employees under the PAGA claims as all individuals who are or were employed by Defendant as non-exempt employees in California between February 22, 2022, through February 19, 2025.

7. With respect to the Class and for purposes of approving the settlement only and for no other purpose, this Court finds and concludes that: (a) the members of the Class are ascertainable and so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to the Class, and there is a well-defined community of interest among members of the Class with respect to the subject matter of the claims in this litigation; (c) the claims of Class Representative is typical of the claims of the members of the Class; (d) the Class Representative has fairly and adequately protected the interests of the members of the Class; (e) a class action is superior to other available methods for an efficient adjudication of this controversy; and (f) the counsel of record for the Class Representative, i.e., Class Counsel, are qualified to serve as counsel for the Plaintiff in his individual and representative capacity and for the Class.

8. Defendant shall fund **$700,000** of the total Gross Settlement Fund pursuant to the terms of the Settlement Agreement. This amount includes all costs in ¶ 10 below.

9. The Court approves the Individual Settlement Payment amounts, which shall be distributed pursuant to the terms of the Settlement Agreement.

10. Defendant shall pay (a) to Class Counsel attorneys' fees in the amount of **$196,000** and reimbursement of litigation costs in the amount of **$11,625.54**; (b) enhancement payment

to the Class Representative Deborah Martin in the amount of **$15,000.00**; (c) the sum of **$10,000.00** to be paid to the LWDA for PAGA Penalties; and (d) **$12,281.00** to the Claims Administrator, Simpluris, Inc., for the costs relating to the claims administration process in this matter. The Court finds that these amounts are fair and reasonable. Defendant is directed to make such payments from the Gross Settlement Amount and in accordance with the terms of the Settlement Agreement.

11. The Court will enter final judgment in this case in accordance with the terms of the Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of the Settlement or judgment, this Court shall retain exclusive and continuing jurisdiction over the action and the Parties, including all Class Members, for purposes of enforcing and interpreting this Order and the Settlement.

Plaintiff's counsel shall submit a written order to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312.

****This is the end of the Tentative Rulings.*****