

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RAEF LAWSON,
Plaintiff,
v.
GRUBHUB, INC., et al.,
Defendants.

Case No. 3:15-cv-05128-JSC

**ORDER RE: MOTION FOR
PRELIMINARY APPROVAL OF
SETTLEMENT**

Re: Dkt. No. 422

Raef Lawson brings a representative California Private Attorneys General Act (PAGA) claim alleging Grubhub unlawfully classified its food delivery drivers as independent contractors and as a result failed to reimburse them for necessary expenses and pay the required minimum and overtime wages. Following extensive litigation, including a bench trial and appeal, the parties reached a class action settlement on Plaintiff’s remaining claim. The Court denied Plaintiff’s initial motion for preliminary approval. (Dkt. No. 430.) Plaintiff then filed an amended complaint adding Rejenna Marshall, who has worked as a driver for Grubhub since 2021, as a named Plaintiff. (Dkt. No. 435.¹) Plaintiffs Lawson and Marshall then filed the now pending renewed motion for preliminary approval based on an amended class action settlement agreement and release. (Dkt. No. 436.) Having considered the initial and supplemental briefing, and having had the benefit of oral argument on March 5, 2026, the Court GRANTS the motion for preliminary approval.

BACKGROUND

Lawson applied to deliver for Grubhub in August 2015 and performed deliveries between

¹ Record Citations are to material in the Electronic Case File (“ECF”); pinpoint citations are to the ECF-generated page numbers at the top of the document.

1 October 2015 and February 2016 in Southern California. (Dkt. No. 313 at 4.) On December 3,
2 2015, Lawson submitted written notice to the Labor and Workforce Development Agency
3 detailing Grubhub’s alleged violations of the California Labor Code. (Dkt. No. 41 ¶ 35.)

4 Lawson filed this action in the San Francisco Superior Court and it was removed to this
5 court under the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1332(d). (Dkt. No. 1.)
6 The Court granted Grubhub’s motion to deny class certification because Lawson was one of only
7 two employees who had opted out of Grubhub’s arbitration agreement and thus the requirements
8 of Rule 23 were not met. (Dkt. No. 65.)

9 The parties thereafter stipulated to bifurcate this case into two phases. (Dkt. No. 122.)
10 Phase I was limited to Lawson’s individual claims and the issue of whether Lawson qualifies as an
11 “aggrieved employee” under PAGA. (*Id.* at 3.) After the Phase I bench trial, the Court found
12 Lawson was properly classified as an independent contractor under the *Borello* standard and
13 entered judgment in Grubhub’s favor. (Dkt. Nos. 221 at 17-33, 222.) *See Lawson v. Grubhub, Inc.*
14 (*“Lawson I”*), 302 F. Supp. 3d 1071 (N.D. Cal. 2018), *vacated and remanded*, 13 F.4th 908 (9th
15 Cir. 2021); *S.G. Borello & Sons, Inc. v. Dep’t of Indus. Relations*, 769 P.2d 399 (Cal. 1989).
16 Lawson appealed the Court’s order and accompanying judgment to the Ninth Circuit. (Dkt. No.
17 226.)

18 After a series of intervening developments in the law, the Ninth Circuit remanded the case
19 to this Court for further proceedings on Lawson’s minimum wage, overtime, and expense
20 reimbursement claims. (Dkt. No. 250.) *See Lawson v. Grubhub, Inc.* (*“Lawson II”*), 13 F.4th 908,
21 912-13, 916 (9th Cir. 2021). Following remand, the Court found the ABC test, not *Borello*,
22 governed Lawson’s minimum wage and overtime claims, and Grubhub misclassified Lawson as
23 an independent contractor instead of an employee for purposes of those claims. (Dkt. No. 313 at
24 17, 34.) *See Cal. Lab. Code § 2775(b)* (codifying ABC test); *Vazquez v. Jan-Pro Franchising Int’l,*
25 *Inc.*, 478 P.3d 1207, 1215-16 (Cal. 2021); *Dynamex Operations W. v. Superior Court*, 416 P.3d 1,
26 40 (Cal. 2018).

27 The Court subsequently denied Grubhub’s motion for partial summary judgment on the
28 questions of whether Lawson had standing to pursue PAGA penalties for drivers who did not work

1 during the same time period he did and whether due process precluded Lawson from recovering
2 PAGA penalties for the period of time before the *Dynamex* decision. (Dkt. No. 344.) The parties
3 then submitted supplemental briefing on Lawson’s constitutional standing to pursue PAGA
4 penalties for overtime and expense reimbursement claims. (Dkt. Nos. 346, 348.) The Court found
5 he did not have standing to pursue PAGA penalties for overtime and expense reimbursement
6 violations suffered by other employees since he did not personally suffer such violations, but
7 rejected other arguments regarding his ability to pursue PAGA penalties. (Dkt. No. 367.)
8 Following additional briefing, the Court held Lawson did not have PAGA standing to seek
9 penalties after Proposition 22’s effective date, meaning the period for which Lawson could seek
10 penalties for minimum wage violations was December 3, 2014 through December 16, 2020. (Dkt.
11 No. 385.) The parties then submitted competing trial plans and the Court set trial for April 9 and
12 10, 2025. (Dkt. No. 410.) Following extensive further mediation sessions, the parties notified the
13 Court they had reached a settlement in principle as of April 4, 2025 and the Court vacated the trial.

14 Lawson filed a motion for preliminary approval of the settlement on August 13, 2025.
15 (Dkt. No. 422.) The Court requested supplemental briefing which Lawson submitted, along with a
16 revised notice. (Dkt. Nos. 426, 427, 328.) Lawson’s supplemental filing stated the Settlement
17 Agreement incorporated *Marshall v. GrubHub Inc.*, Case No. CVRI2504505 (Riverside Sup. Ct.),
18 which alleged overlapping claims seeking PAGA penalties for the period following Proposition
19 22’s effective date. (Dkt. No. 426 at 6; Dkt. No. 427-2.) At the preliminary approval hearing the
20 Court denied the motion based on several concerns, including the scope of the release and Mr.
21 Lawson’s standing to represent class members whose claims arose after the Proposition 22
22 effective date. (Dkt. Nos. 430, 433.)

23 Mr. Lawson thereafter filed an amended complaint adding Ms. Marshall, who has worked
24 for Grubhub since 2021, as a named Plaintiff. (Dkt. No. 425.) Ms. Marshall had separately filed a
25 class action against Grubhub in the California Superior Court for Riverside County on May 3,
26 2024. (Dkt. No. 436-2 at ¶ 3.) *See Marshall v. Grubhub Inc.*, No. CVRI2402427 (Cal. Super.
27 Ct.). Grubhub removed that case to federal court and the district court granted Grubhub’s motion
28 to compel arbitration. *See Marshall v. Grubhub Inc.*, Civ. Act. No. 5:24-cv-1218-JGB-DTB (C.D.

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1 Cal.) Ms. Marshall then filed the PAGA representative action referenced above. *See Marshall v.*
2 *Grubhub Inc.*, No. CVRI2504505 (Cal. Super. Ct.). Shortly after Ms. Marshall filed her PAGA
3 case in Superior Court, she became aware of this action and the parties all agreed to include Ms.
4 Marshall as part of this settlement. (Dkt. No. 436-2 at ¶ 7.) Ms. Marshall has now agreed to
5 become a named Plaintiff in this matter and represent a settlement class of drivers who worked for
6 Grubhub subsequent to December 16, 2020, when Proposition 22 became effective. (*Id.* at ¶ 9.)

7 Mr. Lawson and Ms. Marshall (collectively “Plaintiffs”) then filed the now pending
8 motion for preliminary approval which includes a revised settlement agreement and notice. (Dkt.
9 No. 436.) Following the preliminary approval hearing, Plaintiffs filed a further revised notice.
10 (Dkt. No. 448.)

11 **THE AMENDED SETTLEMENT AGREEMENT**

12 **A. The Settlement Class**

13 The Settlement Class consists of

14 any and all individuals who entered into an agreement with Grubhub
15 to use the Grubhub platform as an independent contractor to offer
16 delivery services to customers and who used the Grubhub platform as
17 an independent contractor service provider to accept or complete at
18 least one (1) delivery in California [from December 3, 2014 through
19 preliminary approval].

20 (Dkt. No. 436-1, Amended Settlement Agreement at ¶¶ 2.36, 2.41.)

21 **B. The Payment Terms**

22 Under the Settlement Agreement, Grubhub will pay \$24,750,000 to fully resolve all the
23 claims in this action. (*Id.* at ¶ 4.1 (discussing the “Total Settlement Amount”).) Prior to
24 distribution to the Settlement Class Members, the following amounts, subject to Court approval,
25 may be deducted from the Total Settlement Amount:

- 26 1. \$260,000 for settlement administration costs (*Id.* at ¶ 2.35);
- 27 2. \$8,250,000 for attorneys’ fees and costs (*Id.* at ¶ 2.37);
- 28 3. \$100,000 as a service award for Plaintiff Lawson (Dkt. No. 422 at 16), and \$5,000 as
service award for Plaintiff Marshall (Dkt. No. 426 at 6); and
4. \$2,000,000 for the PAGA released claims, with 75% paid to the California Labor and

1 Workforce Development Agency. (Dkt. No. 426 at 6-7.)

2 The remaining funds will be distributed to Settlement Class Members in pro rata shares based on
3 the number of miles they traversed while using Grubhub's platform with no class member
4 receiving less than \$25. (Dkt. No. 436-1 at ¶¶ 5.4, 5.7.) The settlement amount is non-
5 reversionary. (*Id.* at ¶ 5.7.)

6 **C. Scope of Release**

7 Under the Settlement Agreement, Settlement Class Members release

8 any and all past and present claims, actions, demands, causes of
9 action, suits, debts, guarantees, obligations, rights, or liabilities, of
10 any nature and description whatsoever, known or unknown, asserted
11 or unasserted, existing or potential, recognized now or hereafter,
12 contingent or accrued, expected or unexpected, disclosed or
13 undisclosed, apparent or unapparent, pursuant to any theory of
14 recovery (including, but not limited to, those based in tort or contract;
15 common law or equity; or federal, state, county, city, or local law,
16 statute, ordinance, rule, regulation, or interpretative guideline), and
17 for any type of relief that can be released as a matter of law (including,
18 without limitation, claims for compensatory, consequential,
19 liquidated, punitive, statutory, or exemplary damages; unpaid wages
20 or costs; penalties; sanctions; equitable remedies; interest; or
21 attorneys' fees, costs, or disbursements other than those expressly
22 awarded by the Court under this Agreement) that arise out of, relate
23 to, or are based on the facts alleged in the Amended Complaint for
24 Settlement, and all claims premised on, arising out of, or relating to
25 the allegation that Delivery Partners were misclassified as
26 independent contractors during the Settlement Period. For the
27 removal of doubt, the foregoing release includes all claims pertaining
28 to employment, misclassification, hours of work, wage-and-hour
violations, unpaid wages or costs, timely payment of wages, regular
wages, final wages, tips, minimum wages, overtime wages, working
more than six (6) days in seven (7), expense reimbursement, wage
statements, payroll recordkeeping, reporting time, improper
deduction of wages, failure to provide workers' compensation
insurance, meal periods, rest breaks, sick leave, final pay, waiting
time penalties, PAGA penalties, unfair business practices, and any
other perquisites of employment, including but not limited to the
California Labor Code, Industrial Welfare Commission Wage Orders,
and California Business and Professions Code § 17200 et seq. The
foregoing release also includes unknown claims covered by
California Civil Code section 1542.

25 (*Id.* at ¶ 2.39.)

26 **D. Notice**

27 Plaintiffs selected Simpluris as the Settlement Administrator. (Dkt. No. 428.) Upon
28

1 preliminary approval of the settlement, Grubhub will provide Simpluris with “Settlement Class
 2 Information,” which includes, where available, for each Settlement Class Member: full name, last
 3 known address, email address, and estimated miles. (Dkt. No. 436-1 at ¶¶ 2.38, 6.1.) Simpluris
 4 will then send notice to the class via email. (*Id.* at ¶ 6.2.) If any emails are undeliverable,
 5 Simpluris will mail notice to the class member after first making “good-faith attempt to obtain the
 6 most-current names and postal mail addresses for all Settlement Class Members to receive such
 7 postal mail, including cross-checking the names and/or postal mail addresses it received from
 8 Grubhub.” (*Id.* at ¶ 6.5.) If any of these are returned as undeliverable, Simpluris will make
 9 additional attempts through appropriate databases to locate forwarding addresses. (*Id.* at ¶ 6.6.)
 10 At least two reminders will be sent via email (or mail for those whose emails bounced). (*Id.* at ¶
 11 6.7.) Settlement Class Members have 60 days to submit a claim following distribution of notice.
 12 (*Id.* at ¶ 2.1.)

13 **E. Request for Exclusion and Objections**

14 Class members have 60 days from distribution of notice to request exclusion or object to
 15 the settlement. (*Id.* at ¶ 2.13.)

16 **DISCUSSION**

17 The approval of a settlement is a multi-step process. At the preliminary approval stage, the
 18 court should grant such approval only if it is justified by the parties’ showing that the court will
 19 likely be able to (1) “certify the class for purposes of judgment on the proposal” and (2) “approve
 20 the proposal under Rule 23(e)(2).” Fed. R. Civ P. 23(e)(B). If the court preliminarily certifies the
 21 class and finds the settlement appropriate after “a preliminary fairness evaluation,” then the class
 22 will be notified, and a final fairness hearing scheduled to determine if the settlement is fair,
 23 adequate, and reasonable pursuant to Rule 23. *Villegas v. J.P. Morgan Chase & Co.*, No. CV 09-
 24 00261 SBA (EMC), 2012 WL 5878390, at *5 (N.D. Cal. Nov. 21, 2012).

25 At the second stage, “after notice is given to putative class members, the Court entertains
 26 any of their objections to (1) the treatment of the litigation as a class action and/or (2) the terms of
 27 the settlement.” *Ontiveros v. Zamora*, 303 F.R.D. 356, 363 (E.D. Cal. Oct. 8, 2014) (citing *Diaz v.*
 28 *Tr. Territory of Pac. Islands*, 876 F.2d 1401, 1408 (9th Cir. 1989)). Following the final fairness

1 hearing, the Court must finally determine whether the parties should be allowed to settle the class
2 action pursuant to their agreed upon terms. *See Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*,
3 221 F.R.D. 523, 525 (C.D. Cal. 2004).

4 **I. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS**

5 Class actions must meet the following requirements for certification:

6 (1) the class is so numerous that joinder of all members is
7 impracticable; (2) there are questions of law or fact common to the
8 class; (3) the claims or defenses of the representative parties are
9 typical of the claims or defenses of the class; and (4) the
representative parties will fairly and adequately protect the interests
of the class.

10 Fed. R. Civ. P. 23(a). In addition to meeting the requirements of Rule 23(a), a putative class action
11 must also meet one of the conditions outlined in Rule 23(b)—as relevant here, the condition that
12 “questions of law or fact common to class members predominate over any questions affecting only
13 individual members, and that a class action is superior to other available methods for fairly and
14 efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3).

15 **A. Rule 23(a)**

16 The Rule 23(a) factors are satisfied.

17 First, the class is sufficiently numerous. Simpluris estimates a class size of approximately
18 62,000 members. (Dkt. No. 428 at ¶ 9.)

19 Second, the commonality requirement is satisfied as all Settlement Class Members share
20 the common question of whether they have been improperly classified as independent contractors
21 and also share common questions of law with respect to their substantive claims for minimum
22 wage, overtime, failure to reimburse expenses under the California Labor Code. “The
23 commonality requirement of Rule 23(a)(2) requires plaintiffs seeking class certification to show
24 that their claims depend upon a common contention that is capable of classwide resolution—
25 which means that determination of its truth or falsity will resolve an issue that is central to the
26 validity of each one of the claims in one stroke.” *A. B. v. Hawaii State Dep’t of Educ.*, 30 F.4th
27 828, 839 (9th Cir. 2022) (cleaned up).

28 Third, the typicality requirement is similarly satisfied. “The test of typicality is whether

1 other members have the same or similar injury, whether the action is based on conduct which is
2 not unique to the named plaintiffs, and whether other class members have been injured by the
3 same course of conduct.” *A. B.*, 30 F.4th at 839 (cleaned up). While Plaintiffs propose a settlement
4 class broader than the conduct alleged in the complaint, based on concerns the Court raised at the
5 prior hearing, they have filed an amended complaint to add Rejena Marshall as a Named
6 Plaintiff. As Ms. Marshall has worked for Grubhub since 2021, she has standing to represent—
7 and her claims are typical of—class members who drove for Grubhub after Proposition 22 was
8 enacted. Thus, Settlement Class Members all share common injuries based on their
9 misclassification as independent contractors.

10 Finally, the adequacy of representation requirement is met as to both Plaintiffs and Class
11 Counsel. Adequacy of representation requires “the representative parties will fairly and adequately
12 protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). “In making this determination, courts
13 must consider two questions: (1) do the named plaintiffs and their counsel have any conflicts of
14 interest with other class members and (2) will the named plaintiffs and their counsel prosecute the
15 action vigorously on behalf of the class?” *Evon v. L. Offs. of Sidney Mickell*, 688 F.3d 1015, 1031
16 (9th Cir. 2012) (cleaned up). There is no apparent conflict between Plaintiffs and Settlement Class
17 Members, and Plaintiffs and Class Counsel have vigorously pursued this action on behalf of the
18 class. Plaintiffs supplemented their initial showing with a declaration from the proposed
19 additional Class Counsel Todd M. Friedman attesting to his and Plaintiff Marshall’s adequacy to
20 represent a settlement class for the drivers who worked for Grubhub subsequent to December 16,
21 2020, when Proposition 22 became effective. (Dkt. No. 436-2.)

22 **B. Rule 23(b)(3)**

23 As previously discussed, Rule 23(b)(3) requires a plaintiff to establish the predominance of
24 common questions of law or fact and the superiority of a class action relative to other available
25 methods for the fair and efficient adjudication of the controversy. Rule 23(b)(3) includes the
26 following nonexhaustive list of factors pertinent to the predominance and superiority analysis:

27 (A) the class members’ interests in individually controlling the
28 prosecution or defense of separate actions; (B) the extent and nature
of any litigation concerning the controversy already begun by or

1 against class members; (C) the desirability or undesirability of
2 concentrating the litigation of the claims in the particular forum; and
3 (D) the likely difficulties in managing a class action.

4 Fed. R. Civ. P. 23(b).

5 **1. Predominance**

6 The “predominance inquiry tests whether proposed classes are sufficiently cohesive to
7 warrant adjudication by representation.” *Tyson Foods, Inc. v. Bouaphakeo*, 577 U.S. 442, 453
8 (2016) (quotation marks omitted). The Supreme Court has defined an individualized question as
9 one where “members of a proposed class will need to present evidence that varies from member to
10 member.” *Id.* (quotations omitted). A common question, on the other hand, is one where “the same
11 evidence will suffice for each member to make a prima facie showing [or] the issue is susceptible
12 to generalized, class-wide proof.” *Id.* (quotations omitted).

13 Here, the common questions raised by Plaintiffs’ claims predominate over any individual
14 questions both with respect to drivers’ status under the ABC test and *Borello*, as well as the
15 underlying Labor Code claims.

16 **2. Superiority**

17 The superiority requirement tests whether “a class action is superior to other available
18 methods for fairly and efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3). The
19 Court considers four non-exclusive factors: (1) the interest of each class member in individually
20 controlling the prosecution or defense of separate actions; (2) the extent and nature of any
21 litigation concerning the controversy already commenced by or against the class; (3) the
22 desirability of concentrating the litigation of the claims in the particular forum; and (4) the
23 difficulties likely to be encountered in the management of a class action. *Id.* A class action
24 enables the most efficient use of Court and attorney resources and reduces costs to the class
25 members by allocating costs among them. “It would be inefficient to try the misclassification issue
26 on an individual basis for the numerous putative class members here when common questions
27 predominate.” *See Roman v. Jan-Pro Franchising Int’l, Inc.*, 342 F.R.D. 274, 296 (N.D. Cal.
28 2022)) (citing Alan Wright & Arthur R. Miller, 7AA Fed. Prac. & Proc. Civ. § 1778 (3d ed. 2022)).

In sum, the Court finds the predominance and superiority requirements of Rule 23(b)(3)

1 are met.

2 ***

3 Accordingly, the Court concludes that conditional certification of the class for settlement
4 purposes is proper.

5 **II. CONDITIONAL CERTIFICATION OF FLSA COLLECTIVE ACTION**

6 Rule 23 class actions and FLSA collective actions are different proceedings that “impose
7 distinct requirements.” *Campbell v. City of Los Angeles*, 903 F.3d 1090, 1101 (9th Cir. 2018)
8 (noting that class actions and FLSA collective actions “are creatures of distinct texts—collective
9 actions of [29 U.S.C. § 216(b)] and class actions of Rule 23—that impose distinct requirements”).
10 Under the FLSA, an employee may bring a “collective action” on behalf of other “similarly
11 situated” employees. 29 U.S.C. § 216(b). Thus, a district court’s approval of preliminary
12 certification of an FLSA collective action is “conditioned on a preliminary determination that the
13 collective as defined in the complaint satisfies the ‘similarly situated’ requirement of section
14 216(b).” *Campbell*, 903 F.3d at 1109 (citing *Genesis Healthcare Corp. v. Symczyk*, 569 U.S. 66,
15 75 (2013)). A party plaintiff and putative collective members are “similarly situated, and may
16 proceed in a collective, to the extent they share a similar issue of law or fact material to the
17 disposition of their FLSA claims.” *Id.* at 1117.

18 “The limited statutory requirements of a collective action are independent of, and unrelated
19 to, the requirements for class action under Rule 23, and, by omitting most of the requirements in
20 Rule 23 for class certification, necessarily impose a lesser burden.” *Id.* at 1112 (internal quotation
21 marks and citations omitted). The court’s “level of consideration is lenient” and focuses on
22 whether the pleadings establish a “reasonable basis” for determining that the putative members are
23 similarly situated. *Id.* “A grant of preliminary certification results in the dissemination of a court-
24 approved notice to the putative collective action members, advising them that they must
25 affirmatively opt in to participate in the litigation.” *Id.*

26 Conditional certification for settlement purposes is appropriate here as all drivers are
27 similarly situated since there is no dispute Grubhub classified all its drivers as independent
28 contractors. Accordingly, the Court grants conditional certification of the FLSA collective action.

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III. PRELIMINARY APPROVAL OF THE SETTLEMENT AGREEMENT

Federal Rule of Civil Procedure 23(e) provides “[t]he claims, issues, or defenses of a certified class—or a class proposed to be certified for purposes of settlement—may be settled ... only with the court’s approval.” Fed. R. Civ. P. 23(e). “The purpose of Rule 23(e) is to protect the unnamed members of the class from unjust or unfair settlements affecting their rights.” *In re Syncor ERISA Litig.*, 516 F.3d 1095, 1100 (9th Cir. 2008). So, before a district court approves a class action settlement, it must conclude the settlement is “fundamentally fair, adequate and reasonable.” *In re Heritage Bond Litig.*, 546 F.3d 667, 674–75 (9th Cir. 2008).

In determining whether a class action settlement agreement meets this standard, the court may consider some or all of the following factors:

- (1) the strength of the plaintiff’s case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk of maintaining class action status throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery completed and the stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental participant; and (8) the reaction of the class members to the proposed settlement.

Roes, 1-2 v. SFBSC Mgmt., LLC, 944 F.3d 1035, 1048 (9th Cir. 2019) (cleaned up). Whether a settlement agreement has been negotiated before a class has been certified or after, the court must also undertake an additional search for more “subtle signs that class counsel have allowed pursuit of their own self-interests and that of certain class members to infect the negotiations.” *Briseño v. Henderson*, 998 F.3d 1014, 1023 (9th Cir. 2021). The Ninth Circuit has identified three such signs:

- 1) when counsel receive a disproportionate distribution of the settlement, or when the class receives no monetary distribution but class counsel are amply rewarded;
- 2) when the parties negotiate a “clear sailing” arrangement providing for the payment of attorneys’ fees separate and apart from class funds, which carries the potential of enabling a defendant to pay class counsel excessive fees and costs in exchange for counsel accepting an unfair settlement on behalf of the class; and
- 3) when the parties arrange for fees not awarded to revert to defendants rather than be added to the class fund.

In re Bluetooth Headset Prod. Liab. Litig., 654 F.3d 935, 947 (9th Cir. 2011) (internal quotation marks and citations omitted).

1 Courts may preliminarily approve a settlement and notice plan to the class if the proposed
 2 settlement: (1) appears to be the product of serious, informed, non-collusive negotiations; (2) does
 3 not grant improper preferential treatment to class representatives or other segments of the class;
 4 (3) falls within the range of possible approval; and (4) has no obvious deficiencies. *In re Lenovo*
 5 *Adware Litig.*, No. 15-MD-02624-HSG, 2018 WL 6099948, at *7 (N.D. Cal. Nov. 21, 2018)
 6 (citation omitted).

7 **A. Whether the Settlement is Fair, Adequate, and Reasonable**

8 **1. Settlement Process**

9 The first factor concerns “the means by which the parties arrived at settlement.” *Harris v.*
 10 *Vector Mktg. Corp.*, No. C-08-5198 EMC, 2011 WL 1627973, at *8 (N.D. Cal. Apr. 29, 2011). To
 11 approve a proposed settlement, a court must be satisfied the parties “have engaged in sufficient
 12 investigation of the facts to enable the court to intelligently make ... an appraisal of the
 13 settlement.” *Acosta v. Trans Union, LLC*, 243 F.R.D. 377, 396 (C.D. Cal. 2007). Courts thus have
 14 “an obligation to evaluate the scope and effectiveness of the investigation plaintiffs’ counsel
 15 conducted prior to reaching an agreement.” *Id.*

16 The settlement here was reached on a fully developed record. The parties have already
 17 litigated a full bench trial on Lawson’s individual California Labor Code claims. The Court has
 18 held Lawson was Grubhub’s employee and that he was an “aggrieved employee” for the purposes
 19 of PAGA. *See Lawson v. Grubhub, Inc.*, 665 F. Supp. 3d 1108, 1116-31 (N.D. Cal. 2023). The
 20 case settled right before a bench trial on the PAGA penalties. In preparation for trial, Grubhub
 21 had provided nearly 100 million rows of data through which the parties could assess Grubhub’s
 22 potential liability for PAGA penalties. (Dkt. No. 423, Liss-Riordan Decl. at ¶¶ 15, 37.)
 23 Additionally, over the last 10 years, the parties have participated in five mediations. (*Id.* at ¶¶ 14-
 24 20.) The case ultimately settled after Grubhub’s acquisition in November 2024 and Grubhub’s
 25 stipulated judgment with the Federal Trade Commission, when Plaintiffs became concerned about
 26 Grubhub’s financial stability.² (*Id.* at ¶¶ 17-20; Dkt. No. 426 at 9.) The settlement thus appears

27 _____
 28 ² According to Plaintiffs, between 2020 and late 2024, Grubhub’s value decreased to a fraction of
 its prior value - from \$7.3 billion to \$650 million. (Dkt. No. 426 at 8.)

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1 the product of serious, informed, non-collusive negotiations. This factor weighs in favor of
2 approval.

3 **2. Lack of Preferential Treatment**

4 The Court next considers whether the Amended Settlement Agreement provides
5 preferential treatment to any class member. The Ninth Circuit has instructed district courts to be
6 “particularly vigilant” for signs counsel have allowed the “self-interests” of “certain class
7 members to infect negotiations.” *In re Bluetooth*, 654 F.3d at 947.

8 The Amended Settlement Agreement directs the net settlement fund be distributed to be
9 distributed in pro rata shares between the Settlement Class Members based on the “Estimated
10 Miles traversed while using the Grubhub platform as a Delivery Partner, according to Grubhub’s
11 records (but with no Settlement Class Member who submits a claim receiving less than \$25).”
12 (Dkt. No. 436-1 at ¶ 5.7.) The Amended Settlement Agreement also provides Plaintiff Lawson can
13 apply for a service award of no more than \$100,000 and Plaintiff Marshall can seek a \$5,000
14 service award. (*Id.* at ¶¶ 1.10, 2.32.) The Court will defer ruling on the appropriateness of the
15 amount of the requested service awards until final approval. However, at this stage, there is no
16 indication the service award constitutes “preferential treatment” or should defeat preliminary
17 approval.

18 **3. Range of Possible Approval**

19 The third factor the Court considers is whether the settlement is within the range of
20 possible approval. To evaluate whether the settlement amount is adequate, “courts primarily
21 consider plaintiffs’ expected recovery balanced against the value of the settlement offer.” *Lenovo*,
22 2018 WL 6099948, at *8. This requires the Court to evaluate the strength of Plaintiffs’ case.

23 Here, the Total Settlement Amount is \$24,750,000. While Plaintiffs intended to seek
24 PAGA penalties of approximately \$890,000,000 (based on an estimated \$450,000,000 of
25 underlying minimum wage violations), Grubhub “credibly demonstrated to [Plaintiffs] that [it]
26 would not be able to pay more than” \$24,750,000. (Dkt. No. 427, Liss-Riordan Decl. at ¶ 6.) In
27 evaluating the reasonableness of this recovery, the Court considers the risks of continued
28 litigation. If the litigation continued, there was a chance the Court would award substantially less

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1 in PAGA penalties. Among other issues, Grubhub would have argued PAGA penalties could not
2 be “stacked” and that, instead, the Court could award only one \$100 penalty per “aggrieved
3 employee” per pay period, because to do otherwise would result in multiple penalties being
4 assessed for the same allegedly unlawful practice. (Dkt. No. 426 at 10 n.4.) Further, there was a
5 risk the Court would have reduced the PAGA penalties given Lawson only recovered \$65.11 in
6 minimum wage damages. (Dkt. No. 426 at 9.) Given all this, the Court agrees the risks and costs
7 of continued litigation balanced against the relief here warrant preliminary approval and comment
8 from class members.

9 **4. Obvious Deficiencies**

10 Finally, the Court considers whether there exist any obvious deficiencies in the settlement
11 agreement. *Harris*, 2011 WL 1627973, at *8. This factor weighs in Plaintiffs’ favor as no obvious
12 deficiencies exist on the face of the settlement agreement.

13 * * *

14 Having weighed the relevant factors, the Court preliminarily finds the settlement
15 agreement is fair, reasonable, and adequate, and GRANTS preliminary approval.

16 **IV. CLASS NOTICE PLAN**

17 For any class certified under Rule 23(b)(3), class members must be afforded “the best
18 notice that is practicable under the circumstances, including individual notice to all members who
19 can be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). Such notice must clearly
20 state the following:

- 21 (i) the nature of the action; (ii) the definition of the class certified; (iii)
- 22 the class claims, issues, or defenses; (iv) that a class member may
- 23 enter an appearance through an attorney if the member so desires; (v)
- 24 that the court will exclude from the class any member who requests
- exclusion; (vi) the time and manner for requesting exclusion; and (vii)
- the binding effect of a class judgment on members under Rule
- 23(c)(3).

25 Fed. R. Civ. P. 23(c)(2)(B). “Notice is satisfactory if it generally describes the terms of the
26 settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come
27 forward and be heard.” *Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004)
28 (cleaned up).

1 As discussed above, upon preliminary approval, Grubhub will provide Simpluris with class
2 member information and Simpluris will send notice to the class via email. (Dkt. No. 428 at ¶ 6.2.)
3 If any emails are undeliverable, Simpluris will provide notice via mail. (*Id.* at ¶ 6.5.) Settlement
4 Class Members have 60 days to submit a claim following distribution of notice. (*Id.* at ¶ 2.1.)
5 Simpluris will send two reminders to class members before the claims period ends. This notice
6 plan satisfies Rule 23(b)(3).

7 At the further preliminary approval hearing, the Court raised additional issues regarding
8 the notice and Plaintiffs filed a revised notice (Dkt. No. 448-1) that addresses the Court’s concerns
9 and complies with Rule 23(c). The revised notice describes the allegations and claims in plain
10 language, includes contact information for Class Counsel and the Settlement Administrator,
11 summarizes how the damages will be calculated, and directs class members to a website, email,
12 and toll-free number for additional information. It also adequately describes the options available
13 to class members, including instructions for filing a claim, requesting exclusion from the
14 settlement, filing an objection, and specifies that if Settlement Class Members do nothing, they
15 will still be bound by the settlement. Further, because this is an opt-out settlement that includes a
16 release of unasserted FLSA claims, the notice explains that Settlement Class Members who wish
17 to preserve their FLSA claims can do so by excluding themselves from the settlement. *See*
18 *Lundeen v. 10 W. Ferry St. Operations LLC*, No. 24-3375, --F.4th--, 2025 WL 2935340, at *7 (3d
19 Cir. Oct. 16, 2025) (“§ 216(b) does not forbid the release of unasserted FLSA claims in opt-out
20 settlements” but there must be “clear notice to class members of the release and a meaningful
21 opportunity to opt out.”). The notice also indicates how Settlement Class Members can review
22 Class Counsel’s motion for attorneys’ fees and costs prior to the final approval hearing. *See In re*
23 *Mercury Interactive Corp. Sec. Litig.*, 618 F.3d 988, 995 (9th Cir. 2010) (holding class members
24 must “have an opportunity to oppose class counsel’s fee motion”). Finally, it informs Settlement
25 Class Members they may appear at the final fairness hearing in person or through an attorney.
26 However, as the parties have requested the Court conduct the final approval hearing via Zoom,
27 Plaintiffs shall revise the notice to so indicate. (Dkt. No. 448-1 at 11.)
28

V. ATTORNEYS' FEES AND COSTS

1 Rule 23(h) provides for an award of attorneys' fees and costs in a certified class action
2 where it is "authorized by law or by the parties' agreement." Fed. R. Civ. P. 23(h). However,
3 "courts have an independent obligation to ensure that the award, like the settlement itself, is
4 reasonable, even if the parties have already agreed to an amount." *In re Bluetooth Headset Prods.*
5 *Liab. Litig.*, 654 F.3d 935, 941 (9th Cir. 2011). Where a settlement produces a common fund for
6 the benefit of the entire class, courts have discretion to employ either the lodestar method or the
7 percentage-of-recovery method to determine whether the requested fees are reasonable. *In re*
8 *Mercury*, 618 F.3d at 992. The Ninth Circuit has established a benchmark of 25 percent of the
9 common fund for attorneys' fees calculations under the latter method. *See Powers v. Eichen*, 229
10 F.3d 1249, 1256 (9th Cir. 2000) ("We have ... established twenty-five percent of the recovery as a
11 'benchmark' for attorneys' fees calculations under the percentage-of-recovery approach.").
12 Although "[a] district court may depart from the benchmark ..., it must be made clear by the
13 district court how it arrives at the figure ultimately awarded." *Id.* at 1256-57.

14 "The lodestar figure is calculated by multiplying the number of hours the prevailing party
15 reasonably expended on the litigation (as supported by adequate documentation) by a reasonable
16 hourly rate for the region and for the experience of the lawyer." *Bluetooth*, 654 F.3d at 941. The
17 resulting figure may be adjusted upward or downward to account for several factors, "including
18 the quality of representation, the benefit obtained for the class, the complexity and novelty of the
19 issues presented, and the risk of nonpayment." *Id.* at 941-42 (internal quotation marks and citation
20 omitted). The party requesting fees bears the burden "of submitting billing records to establish that
21 the number of hours it requested are reasonable," *Gonzalez v. City of Maywood*, 729 F.3d 1196,
22 1202 (9th Cir. 2013), as well as "produc[ing] satisfactory evidence—in addition to the attorneys'
23 own affidavits—that the requested rates are in line with those prevailing in the community for
24 similar services by lawyers of reasonably comparable skill, experience and reputation," *Camancho*
25 *v. Bridgeport Fin., Inc.*, 523 F.3d 973, 980 (9th Cir. 2008) (internal quotation marks and citation
26 omitted). The Ninth Circuit recommends that whether the lodestar or percentage-of-recovery
27 method is used, the district court perform a cross-check using the other method to confirm the
28

1 reasonably of the fee (e.g., if the percentage-of-recovery method is applied, a cross-check with
2 the lodestar method will reveal if the amount requested is unreasonable in light of the hours
3 reasonably expended). *See Bluetooth*, 654 F.3d at 944-45.

4 As previously discussed, the Amended Settlement Agreement provides Class Counsel may
5 seek an award of attorneys’ fees and costs of no more than \$8,250,000 or 33.3% of the Total
6 Settlement Amount. (Dkt. No. 436-1 at ¶ 2.37.) The Amended Settlement Agreement states
7 “Grubhub agrees to the amount of attorneys’ fees, costs, and expenses (if any) granted by the
8 Court.” (*Id.* at ¶ 4.4.) Neither the motion for preliminary approval nor Ms. Liss-Riordan’s
9 declaration contain information regarding counsel’s lodestar. Accordingly, Plaintiffs shall submit
10 a motion for attorneys’ fees including declarations and detailed billing summaries so that the
11 Court may determine an appropriate lodestar figure, and to allow class members the opportunity to
12 object to the requested fees. *See In re Mercury*, 618 F.3d at 995 (holding that class members must
13 “have an opportunity to oppose class counsel’s fee motion” before the deadline for filing
14 objections set forth in the class notice).

15 **CONCLUSION**

16 For the reasons stated above, the Court GRANTS preliminary approval of the class and
17 collective action settlement as follows:

- 18 1. This action is provisionally certified as a class action, for settlement purposes only,
19 pursuant to Federal Rule of Civil Procedure 23. The Court preliminarily certifies the
20 following Settlement Class:
21 any and all individuals who entered into an agreement with Grubhub
22 to use the Grubhub platform as an independent contractor to offer
23 delivery services to customers and who used the Grubhub platform as
an independent contractor service provider to accept or complete at
least one (1) delivery in California [from December 3, 2014 through
the date of this Order].
- 24 2. Raef Lawson and Rejenna Marshall are conditionally appointed as the Class
25 Representatives.
- 26 3. The Court conditionally appoints Lichten & Liss-Riordan P.C. and the Law Offices of
27 Todd M. Friedman, P.C. as Class Counsel for the Settlement Class.
- 28 4. The Court appoints Simpluris as the Settlement Administrator.

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- 5. Within 20 days of the date of this Order, the Settlement Administrator shall provide notice to the class in accordance with the notice plan.
- 6. Plaintiffs shall revise the notice to indicate the final approval hearing will be by Zoom only and file copies of the notice within 10 days of dissemination of notice.
- 7. Class Counsel shall file a motion for attorneys’ fees and costs by May 7 30, 2026.
- 8. The deadline for class members to submit a Claim Form, Request for Exclusion, or an objection to the settlement or motion for attorneys fees and costs is June 18, 2026.
- 9. Plaintiffs shall file their Motion for Final Approval by July 16, 2026. The motion for final approval shall address the final approval guidelines in the Northern District of California's Procedural Guidance for Class Action Settlements, available at <https://cand.uscourts.gov/forms/procedural-guidance-for-class-action-settlements/>, in the order the guidelines are presented on the website. As reflected in the Guidance, the Court will require a post-distribution accounting within 21 days after the distribution of settlement funds.
- 10. The parties shall appear before this Court for a final approval hearing on July 30, 2026 at 9:00 a.m. via Zoom video.

IT IS SO ORDERED.

Dated: March 13, 2026


 JACQUELINE SCOTT CORLEY
 United States District Judge