UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES—GENERAL

Case No. CV 22-1425-MWF (Ex) **Date: May 20, 2024**
Title: Mark Cohen v. Peloton Interactive, Inc., et al.

Present: The Honorable MICHAEL W. FITZGERALD, U.S. District Judge

Deputy Clerk:	Court Reporter:
Rita Sanchez	Not Reported
Attorneys Present for Plaintiffs:	**Attorneys Present for Defendant:**
None Present	None Present

Proceedings (In Chambers): ORDER GRANTING PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AGREEMENT [58]

Before the Court is Plaintiffs' Motion for Preliminary Approval of Settlement Agreement, filed on February 23, 2024 (the "Motion"). (Docket No. 58). No opposition was filed.

The Motion was noticed to be heard on **March 25, 2024**. The Court read and considered the papers on the Motion and deemed the matter appropriate for decision without oral argument. *See* Fed. R. Civ. P. 78(b); Local Rule 7-15. The hearing was therefore **VACATED** and removed from the Court's calendar.

For the reasons discussed below, the Motion is **GRANTED**. The Court is skeptical of Class Counsel's contemplated 33% fee award request and is unlikely to approve a fee award of much more than 25% absent further justification. Otherwise, however, the proposed settlement is procedurally and substantively fair and is not contingent upon approval of the requested award. The proposed class also meets the requirements of Federal Rules of Civil Procedure 23(a) and 23(b)(3). Finally, the proposed notice and dissemination procedures appear effective and meet the requirements of Rule 23(c).

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I. BACKGROUND

A. Factual and Procedural Background

This is a wage and hour class action against Defendant Peloton Interactive, Inc. on behalf of all non-exempt hourly employees in the state of California from November 18, 2020, through the date of this Order.

Plaintiff Mark Cohen initiated this action against Defendant in Los Angeles Superior Court on January 3, 2022. (Notice of Removal (Docket No. 1) ¶ 1). Defendant subsequently removed the action to this Court. (*See generally id.*). Shortly after removal, the Court stayed this action pending the outcome of the final settlement approval hearing in the state court action, *Hernandez, et al. v. Peloton Interactive, Inc*., Case Nos. RG20053333 and RG20061729. (Docket No. 32).

On July 5, 2022, the Court lifted the stay and granted Plaintiff leave to file a Second Amended Complaint to add a cause of action under the Private Attorneys General Act ("PAGA"). (Docket No. 36).

On December 20, 2023, Plaintiffs filed a Consolidated Third Amended Class Action Complaint for settlement purposes. (the "Operative Complaint" (Docket No. 51)). The Operative Complaint consolidates three separate wage and hour class actions against Defendant: (1) this action; (2) *McKinnon, et al. v. Peloton Interactive, Inc.*, Case No. 2:22-cv-03368-MWF-E, filed in this Court; and (3) *Reyes, et al. v. Peloton Interactive, Inc.*, Case No. 22STCV35186, filed in Los Angeles County Superior Court.

The Operative Complaint asserts the following thirteen claims for relief on behalf of Plaintiffs and the putative class:

(1) failure to authorize or permit meal periods or timely meal periods in violation of California Labor Code sections 226.7 and 512;

(2) failure to authorize or permit rest periods in violation of California Labor Code section 226.7;

(3) failure to provide complete and accurate wage statements in violation of California Labor Code section 226;

(4) failure to pay all overtime and minimum wages in violation of California Labor Code sections 510, 558, and 1194;

(5) failure to pay all wages in violation of California Labor Code sections 204, 218, 1194, 1197, and 1198;

(6) failure to pay all accrued and vested vacation and PTO wages in violation of California Labor Code section 227.3;

(7) failure to adequately indemnify employees for employment-related losses and expenditures in violation of California Labor Code section 2802;

(8) failure to timely pay all earned wages and final paychecks due at the time of separation of employment in violation of California Labor Code sections 201, 202, and 203;

(9) failure to maintain accurate records in violation of California Labor Code section 1174(d);

(10) failure to pay all wages earned when due in violation of California Labor Code section 204;

(11) unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*;

(12) violation of PAGA, California Labor Code section 2698, *et seq.*; and

(13) violation of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 201, *et seq.*

(Operative Complaint ¶¶ 55–159).

B. The Settlement

The proposed settlement agreement (the "Settlement") is attached to the Declaration of Carolyn H. Cottrell ("Cottrell Decl.") as Exhibit A. (Docket No. 58-3). The Settlement contains the following key class definition, monetary relief, notice, and release provisions:

- "Class Members" or "Settlement Class" is defined as "all current and former non-exempt employees of Defendant in California at any time during the Class Period who have not executed a general release with Defendant before the date on which the Court grants preliminary approval." Individuals who participated in the final approved class and PAGA action settlement in *Hernandez* may only participate in this Settlement as Class Members and/or PAGA Employees if they worked beyond December 2, 2021 (the end of the *Hernandez* release), in which case they will only receive credit for Workweeks from December 2, 2021 through the end of the Class Period, as applicable. (Settlement ¶ 35);

- "Class Period" is defined as the period from November 18, 2020, through the date of this Order. (*Id.* ¶ 6);

- "PAGA Employees" refers to members of the Settlement Class who were employed by Peloton in California any time during the PAGA Period, defined as the period between July 27, 2021, and the date of this Order. PAGA Employees cannot opt-out of the Settlement. (*Id.* ¶¶ 19–20);

- "Workweek" or "Workweeks" refers to the number of weeks each Class Member and/or PAGA Employee worked for Defendant as an hourly or

non-exempt employee within California during the Class Period and/or PAGA Period. (*Id.* ¶ 36);

- "Gross Settlement Funds" refers to a non-reversionary payment of $1,600,000.00 (the "Gross Settlement Fund") to be paid by Defendant, which will be used to pay up to (i) $10,000.00 in an enhancement award to each named Plaintiff; (ii) $528,000.00 in attorneys' fees (33% of the Gross Settlement Fund) and $35,000.00 in costs; (iii) $15,000.00 in settlement administration costs; and (iv) $100,000.00 for the PAGA Settlement Amount, 75% of which ($75,000.00) will be made payable to the State of California via the Labor Workforce and Development Agency ("LWDA"), and 25% of which ($25,000.00) will be distributed to PAGA Employees. (*Id.* ¶¶ 13, 16, 27, 41–45).

- "Net Settlement Amount" refers to the portion of the Gross Settlement Fund remaining after deducting the enhancement award, attorneys' fees and costs, the settlement administration costs, and the PAGA Settlement Amount. (*Id.* ¶ 16);

- "Individual Settlement Payments" refers to each Class Member's respective share of the Net Settlement Amount. Individual Settlement Payments will be calculated and apportioned from the Net Settlement Amount on a pro rata basis depending on the number of Workweeks during the Class Period. Class Members will receive a check for their individual settlement payment without the need to submit a claim form. (*Id.* ¶¶ 14, 46);

- "Individual PAGA Payments" refers to each PAGA Employee's respective share of the 25% of the PAGA Settlement Amount allocated to PAGA Employees. Individual PAGA Payments are also calculated based on the number of Workweeks during the PAGA Period. (*Id.* ¶¶ 15, 47);

- Within 30 days of preliminary approval by the Court, Defendant will provide to the Settlement Administrator a complete list of all Settlement Class Members and PAGA Employees, including their names, most recent mailing address and telephone number, Social Security number, dates of employment, and information sufficient to calculate the number of Workweeks. (*Id.* ¶¶ 5, 52);

- Within 15 days of receiving this data from Defendant, the settlement administrator will mail each Class Member a Notice Packet by first-class U.S. mail. Each Notice Packet will provide: (i) information regarding the nature of this action; (ii) a summary of the Settlement's principal terms; (iii) the Settlement Class definition; (iv) the total number of Workweeks each respective Class Member worked for Defendant during the Class Period; (v) each Class Member's estimated Individual Settlement Payment and the formula for calculating Individual Settlement Payments; (vi) each PAGA Employee's estimated Individual PAGA Payment and the formula for calculating Individual PAGA Payments; (vii) the dates which comprise the Class Period and PAGA Period; (viii) instructions on how to submit Requests for Exclusion or Notices of Objection or Workweeks disputes; (ix) the deadlines by which the Class Members must postmark or fax Requests for Exclusions, Notices of Objection, and Workweeks disputes; (x) the claims to be released; and (xi) the settlement administrator's contact information. (*Id.* ¶¶ 53, 55).

- Any Class Member wishing to opt-out from the portion of the Settlement Agreement providing for payment of Individual Settlement Payments in exchange for a release of the non-PAGA claims must sign and postmark or fax a written Request for Exclusion to the Settlement Administrator within the Response Deadline. (*Id*. ¶ 62; Motion at 11 n.7).

- Under the Settlement, Class Members release all claims, actions, demands, causes of actions, suits, debts, obligations, demands, rights, liabilities, or legal theories of relief, that are based on the facts and legal

theories asserted in the Operative Complaint, including the "Released Class Claims," the "Released PAGA Claims," and the "Released FLSA Claims." (Agreement ¶¶ 27–29, 60).

II. PRELIMINARY APPROVAL OF SETTLEMENT

"Approval of a class action settlement requires a two-step process — a preliminary approval followed by a later final approval." *Spann v. J.C. Penney Corp.*, 314 F.R.D. 312, 319 (C.D. Cal. 2016). The standard of review differs at each stage. At the preliminary approval stage, the Court need only "evaluate the terms of the settlement to determine whether they are within a range of possible judicial approval." *Wright v. Linkus Enters., Inc.*, 259 F.R.D. 468, 472 (E.D. Cal. 2009).

"[P]reliminary approval of a settlement has both a procedural and a substantive component." *In re Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1080 (N.D. Cal. 2007). Procedurally, the Ninth Circuit emphasizes that the parties should have engaged in an adversarial process to arrive at the settlement. *See Rodriguez v. W. Publ'g Corp.*, 563 F.3d 948, 965 (9th Cir. 2009) ("We put a good deal of stock in the product of an arms-length, non-collusive, negotiated resolution, and have never prescribed a particular formula by which that outcome must be tested." (citations omitted)). "A presumption of correctness is said to attach to a class settlement reached in arm's-length negotiations between experienced capable counsel after meaningful discovery." *Spann*, 314 F.R.D. at 324 (citation omitted).

Substantively, the Court should look to "whether the proposed settlement discloses grounds to doubt its fairness or other obvious deficiencies such as unduly preferential treatment of class representatives or segments of the class, or excessive compensation of attorneys." *Alberto v. GMRI, Inc.*, 252 F.R.D. 652, 666 (E.D. Cal. 2008) (citing *West v. Circle K Stores, Inc.*, No. 04-cv-0438-WBS, 2006 WL 1652598, at *11 (E.D. Cal. June 13, 2006)).

A. Procedural Component

The proposed settlement appears to be procedurally fair to Class Members.

Class Counsel have many years of experience litigating wage and hour and employment law actions. (Cottrell Decl. ¶ 6). Class Counsel have represented plaintiffs in class, collective, and PAGA litigation in both state and federal court and have been appointed class counsel in numerous cases. (*Id.* ¶¶ 2, 7).

The parties also conducted extensive informal discovery and investigations prior to reaching the Settlement. (Motion at 6–7, 20–21). For example, Defendant produced "policy documents, time and pay records for a random 10% sample of Class Members, and extensive and detailed information on the class, including the estimated class size, total workweeks, total workweeks qualifying for overtime pay, shifts over five hours, shifts over 3.5 hours, average shifts per Class Member per week, numbers of employees employed during the relevant periods, number of pay periods, and number of terminated employees." (Cottrell Decl. ¶ 32). Class Counsel completed "an exhaustive review and analysis" of these documents, in addition to completing interviews with Class Members. (*Id.* ¶¶ 34–35).

In addition, the parties attended a full-day mediation session on August 9, 2023, with Hon. Daniel Buckley (Ret.). (*Id.* ¶ 30; Motion at 24). The fact that the parties utilized an experienced mediator to reach the Settlement supports the notion that it was the product of arms-length negotiation. *See Alberto*, 252 F.R.D. at 666–67 (noting the parties' enlistment of "a prominent mediator with a specialty in [the subject of the litigation] to assist the negotiation of their settlement agreement" as an indicator of non-collusiveness) (citing *Parker v. Foster*, No. 05-cv-0748-AWI, 2006 WL 2085152, at *1 (E.D. Cal. July 26, 2006)); *Glass v. UBS Fin. Servs., Inc.*, No. 06-cv-4068-MMC, 2007 WL 221862, at *5 (N.D. Cal. Jan. 26, 2007)).

The Court therefore concludes that the proposed class is represented by experienced counsel who engaged in meaningful discovery while pursuing arms-length settlement negotiations. The procedural component of the inquiry is met.

B. Substantive Component

The Court also determines that the Agreement appears to be reasonable and fair to Class Members.

As discussed above, Defendant has agreed to pay $1,600,000.00 to Class Members. (Motion at 1). There are approximately 686 potential Class Members. (*Id.* at n.2). If the Court were to ultimately approve Class Counsel's 33% fee request, which it is unlikely to do, *see infra*, after deduction of fees ($528,000.00), costs ($35,000.00), administrative expenses ($15,000.00), payment to the LWDA ($75,000.00), and an enhancement payment ($10,000.00) to each of the name Plaintiff, the overall average net recovery for each Class Member is approximately $1,198.25.00. (*Id.* at 10).

These amounts, of course, are less than the $9,629,647.00 estimate that Class Counsel calculated as Defendant's potential exposure. (*Id.* at 20). However, continued litigation would be costly and would carry the risk of denial of class certification. (*Id.* at 21–22). Considering the potential pitfalls posed by continued litigation and ultimately trial, a recovery of approximately $1,198.25.00 per Class Member is a reasonable level of compensation. *See, e.g.*, *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 526 (C.D. Cal. 2004) (emphasizing the requirement that courts "consider the vagaries of litigation and compare the significance of immediate recovery by way of the compromise to the mere possibility of relief in the future, after protracted and expensive litigation" (citation omitted)).

The Court now turns to whether the Agreement's provisions on attorneys' fees and costs and Plaintiffs' enhancement payments are substantively fair.

1. Attorneys' Fees and Costs

In the Ninth Circuit, there are two primary methods to calculate attorneys' fees: the lodestar method and the percentage-of-recovery method. *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d at 949 (citation omitted).

"The lodestar method requires 'multiplying the number of hours the prevailing party reasonably expended on the litigation (as supported by adequate documentation) by a reasonable hourly rate for the region and for the experience of the lawyer.'" *Id.* (citation omitted). "Under the percentage-of-recovery method, the attorneys' fees equal some percentage of the common settlement fund; in this circuit, the benchmark percentage is 25%." *Id.* (citation omitted). However, the "benchmark percentage should be adjusted, or replaced by a lodestar calculation, when special circumstances indicate that the percentage recovery would be either too small or too large in light of the hours devoted to the case or other relevant factors." *Six Mexican Workers v. Ariz. Citrus Growers*, 904 F.2d 1301, 1311 (9th Cir. 1990).

"The Ninth Circuit has identified a number of factors that may be relevant in determining if the award is reasonable: (1) the results achieved; (2) the risks of litigation; (3) the skill required and the quality of work; (4) the contingent nature of the fee; (5) the burdens carried by class counsel; and (6) the awards made in similar cases." *Martin v. Ameripride Services, Inc*., No. 08-cv-440–MMA, 2011 WL 2313604, at *8 (S.D. Cal. June 9, 2011) (citing *Vizcaino v. Microsoft Corp*., 290 F.3d 1043, 1048–50 (9th Cir. 2002)). The choice of "the benchmark or any other rate must be supported by findings that take into account all of the circumstances of the case." *Vizcaino*, 290 F.3d at 1048.

The Motion indicates that Class Counsel intend to apply for a fee award of $528,000.00, which represents 33% of the Gross Settlement Amount. (*Id.* at 25). Class Counsel contends that their request is reasonable "given the excellent results achieved, the effort expended litigating the Actions, and the significant risks involved" in a contingency fee case. (*Id.* at 26). While the Court may entertain some upward departure from the presumptively reasonable 25%, ***Class Counsel should be prepared to provide further justification as to why a 33% award is appropriate under the particular facts and circumstances of this case.***

2. Service Award

Named Plaintiffs also intend to apply for enhancement awards of no more than $10,000.00 per person. (*Id.* at 25). This amount does not appear to be unreasonable, as incentive awards typically range between $2,000 and $10,000. *See Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 267 (N.D. Cal. 2015) (collecting cases); *Roberts v. Marshalls of CA, LLC*, No. 13-CV-04731-MEJ, 2018 WL 510286, at *19 (N.D. Cal. Jan. 23, 2018) ("[N]amed plaintiffs in employment class actions regularly receive the awards that fall within the $5,000 and $10,000 range[.]")*;*

Because the Court finds the Agreement to be procedurally and substantively fair, the Motion is therefore **GRANTED** insofar as the Agreement is preliminarily **APPROVED**.

III. CLASS CERTIFICATION

Plaintiffs seek certification of a class for settlement purposes only pursuant to Federal Rule of Civil Procedure 23(b)(3). A court may certify a class for settlement purposes only. *See In re Online DVD-Rental Antitrust Litig.*, 779 F.3d at 942. In *Amchem Products, Inc. v. Windsor*, 521 U.S. 591 (1997), the Supreme Court explained the differences between approving a class for settlement and for litigation purposes:

> Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems, *see* Fed. Rule Civ. Proc. 23(b)(3)(D), for the proposal is that there be no trial. But other specifications of the Rule — those designed to protect absentees by blocking unwarranted or overbroad class definitions — demand undiluted, even heightened, attention in the settlement context. Such attention is of vital importance, for a court asked to certify a settlement class will lack the opportunity, present when a case is litigated, to adjust the class, informed by the proceedings as they unfold.

Id. at 620.

As discussed above, the "Settlement Class" is defined as "all current and former non-exempt employees of Defendant in California at any time during the Class Period who have not executed a general release with Defendant before the date on which the Court grants preliminary approval." (Settlement ¶ 35).

Rule 23(a) requires the putative class to meet four threshold requirements: numerosity, commonality, typicality, and adequacy of representation. *Id.*; *see also Leyva v. Medline Indus. Inc.*, 716 F.3d 510, 512 (9th Cir. 2013). In addition, the proposed class must satisfy Rule 23(b)(3), which requires that "questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." Fed. R. Civ. P. 23(b)(3). Considering these requirements, the Court concludes that class certification is appropriate.

A. Rule 23(a)

1. Numerosity

Under Rule 23(a)(1), a class must be "so numerous that joinder of all members is impracticable . . . ." *Id.* The Settlement Class encompasses approximately 686 people. (Cottrell Decl. ¶ 78). This is more than enough to satisfy Rule 23(a)(1)'s numerosity requirement.

2. Commonality

Rule 23(a)(2) requires that the case present "questions of law or fact common to the class." *Id.* The Supreme Court's decision in *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011), clarified that to demonstrate commonality, the putative class must show that their claims "depend upon a common contention . . . that it is capable of classwide resolution — which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." *Id.* at 350.

That requirement is met here, as each Class Member seek resolution of the same legal and factual issues, such as (1) whether Defendant maintains uniform policies applicable to all employees; (2) whether Defendant had a legally compliant meal and rest break policy; (3) whether Defendant provided accurate wage statements; and (4) whether Defendant failed to reimburse business expenses. (*See* Motion at 15). The commonality requirement is therefore satisfied.

3. Typicality

Rule 23(a)(3) requires the putative class to show that "the claims or defenses of the representative parties are typical of the claims or defenses of the class." *Id.* The claims of the representative parties need not be identical to those of the other putative class members; "[i]t is enough if their situations share a 'common issue of law or fact,' and are 'sufficiently parallel to insure a vigorous and full presentation of all claims for relief.'" *Cal. Rural Legal Assistance, Inc. v. Legal Servs. Corp.*, 917 F.2d 1171, 1175 (9th Cir. 1990) (citations omitted). Here, Plaintiffs' claims are premised on the same policies and practices that apply to all Class Members. (*Id.* at 16). Accordingly, the typicality requirement is satisfied.

4. Adequacy

Finally, Rule 23(a)(4) requires the representative parties to "fairly and adequately protect the interests of the class." *Id.* "In making this determination, courts must consider two questions: '(1) do the named plaintiffs and their counsel have any conflicts of interest with other class members and (2) will the named plaintiffs and their counsel prosecute the action vigorously on behalf of the class?'" *Evon v. Law Offices of Sidney Mickell*, 688 F.3d 1015, 1031 (9th Cir. 2012) (quoting *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998)). Additionally, "the honesty and credibility of a class representative is a relevant consideration when performing the adequacy inquiry because an untrustworthy plaintiff could reduce the likelihood of

prevailing on the class claims." *Harris v. Vector Mktg. Corp.*, 753 F. Supp. 2d 996, 1015 (N.D. Cal. 2010) (citation omitted).

As to the first prong, the Court perceives no obvious conflicts between Plaintiffs and their counsel on the one hand and the absent Class Members on the other. As to the second prong, as already discussed, Plaintiffs and Class Counsel have vigorously prosecuted this action, Class Counsel have substantial experience litigating similar types of class actions, and there is no reason to believe that Plaintiffs and Class Counsel would not vigorously pursue this action on behalf of the Settlement Class. The adequacy requirement is satisfied.

The requirements imposed by Rule 23(a) are thus satisfied. The Court next considers whether the additional requirements of Rule 23(b)(3) are met.

B. Rule 23(b)(3)

Rule 23(b)(3) allows the Court to certify a class seeking class-wide monetary relief but only if the additional requirements of predominance and superiority are satisfied. *See* Fed. R. Civ. P. 23(b)(3); *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 615 (1997) (discussing relevance of "predominance" and "superiority" requirements of Rule 23(b)(3)).

1. Predominance

"The Rule 23(b)(3) predominance inquiry tests whether proposed classes are sufficiently cohesive to warrant adjudication by representation." *Amchem Prods*, 521 U.S. at 623. It involves similar questions as the commonality analysis, but it "is even more demanding than Rule 23(a)." *Comcast Corp. v. Behrend*, 569 U.S. 27, 34 (2013). Predominance should be found when "common questions present a significant aspect of the case and they can be resolved for all members of the class in a single adjudication." *Hanlon v. Chrysler Corp*., 150 F.3d 1011, 1022 (9th Cir. 1998) (internal citation omitted).

Here, the claims underlying this action hinges on Defendant's policies regarding, among other things, meal and rest periods, overtime wages, and reimbursements. While the amount of payments to each Class Members may differ, such a difference does not defeat class action treatment. *See Yokoyama v. Midland Nat. Life Ins. Co.*, 594 F.3d 1087, 1089 (9th Cir. 2010) (noting that the "amount of damages is invariably an individual question and does not defeat class action treatment"). Accordingly, the predominance requirement is also satisfied.

C. Superiority

Rule 23(b)(3)'s superiority requirement is also met. Rule 23(b)(3) sets out the following four factors that together indicate that a class action is "superior to other available methods for the fair and efficient adjudication of the controversy":

> (A) the class members' interests in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already begun by or against class members; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and (D) the likely difficulties in managing a class action.

Fed. R. Civ. P. 23(b)(3). "The purpose of the superiority requirement is to assure that the class action is the most efficient and effective means of resolving the controversy." *Wolin v. Jaguar Land Rover N. Am., LLC*, 617 F.3d 1168, 1175 (9th Cir. 2010) (citation omitted).

When deciding whether to certify a settlement class, the fourth superiority factor need not be considered. *See Amchem*, 521 U.S. at 620 ("Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems[.]"). Here, the three relevant factors favor certifying the proposed Settlement Class:

Under the first factor, individual Class Members do not have a strong interest in prosecuting their individual claims. Each putative Class Member's claim is likely too

small to justify the cost or risk of litigation. (Cottrell Decl. ¶ 87). Thus, a class action is a more efficient means for each individual Class Member to pursue his or her claims. *See Wolin*, 617 F.3d at 1175 ("Where recovery on an individual basis would be dwarfed by the cost of litigating on an individual basis, this factor weighs in favor of class certification."). Moreover, because the claims of all putative Class Members are virtually identical, individual suits would require duplicative efforts. *See Westways World Travel, Inc. v. AMR Corp.*, 218 F.R.D. 223, 240 (C.D. Cal. 2003) ("Here, no one member of the Class has an interest in controlling the prosecution of the action because the claims of all members of the Class are virtually identical.").

With respect to the second factor, there does not appear to be any other litigation currently or previously pending concerning similar claims to those at issue in this action. In fact, this action represents the consolidation of three similar wage and hour actions in both federal and state court.

Finally, as to the third factor, it is desirable to concentrate litigation before this Court. Plaintiffs are all residents of California, most of whom worked for Defendant in this District during the alleged wage and hour violations under California and federal law. (Operative Complaint ¶¶ 11–20). Therefore, this Court is a proper forum for resolution of the action. *Negrete v. Allianz Life Ins. Co. of N. Am.*, 238 F.R.D. 482, 495 (C.D. Cal. 2006) ("[B]ecause plaintiffs have alleged an overarching fraudulent scheme and include a California sub-class, it is desirable to consolidate the claims in this forum.").

Accordingly, the Motion is **GRANTED** insofar as the proposed class is **CERTIFIED** for purposes of settlement.

IV. NOTICE AND SETTLEMENT ADMINISTRATION

After the Court certifies a class under Rule 23(b)(3), it must direct to class members the best notice practicable under the circumstances. Fed. R. Civ. P. 23(c)(2)(B).

> The notice must clearly and concisely state in plain, easily understood language: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance though an attorney if the member so desires; (v) 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).

Id. Class notice must be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Central Hanover Trust*, 339 U.S. 306, 314 (1950).

The Settlement sets forth a detailed notice and opt-out regime involving, in short, the settlement administrator mailing a Notice Packet to all Class Members. (Settlement ¶¶ 53, 55). As discussed above, the Notice Packet will inform Class Members of the nature of the action and provide information about, among other things, and the formula for calculating the settlement amount. (*Id.*). The Court has reviewed the proposed notice regime and the form and substance of the proposed Class Notice and concludes that the proposed class notice satisfies the requirements set forth in Rule 23(c)(2)(B).

Accordingly, the proposed notice and plan of dissemination are **APPROVED**.

V. CONCLUSION

For the reasons discussed above, the Motion is **GRANTED** insofar as the proposed settlement agreement is preliminarily **APPROVED**; the class is provisionally **CERTIFIED** for purposes of settlement only; and the notice and plan of dissemination are **APPROVED**. The Proposed Order Granting Motion for Preliminary Approval of Class Action Settlement (Docket No. 58-6) is adopted and incorporated into this Order by reference.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES—GENERAL

Case No. CV 22-1425-MWF (Ex) **Date: May 20, 2024**
Title: Mark Cohen v. Peloton Interactive, Inc., et al.

The Final Approval Hearing is scheduled for **September 16, 2024, at 10:00 a.m.**

IT IS SO ORDERED.