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County of Santa Clara
21CV392049
By: tduarte

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SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

ANA CANTU,) Case No.: 21CV392049
Plaintiff,)
v.) ORDER GRANTING PLAINTIFF’S
GOOGLE, LLC, et al.,) MOTION FOR PRELIMINARY APPROVAL
Defendants.) OF CLASS ACTION AND PAGA
) SETTLEMENT
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Plaintiff Ana Cantu brings this action for employment discrimination, harassment, and retaliation, Violation of the California Equal Pay Act, and related claims against her former employer, Defendant Google LLC. Plaintiff also brings a claim under the Private Attorneys General Act (“PAGA”) against Google, seeking penalties for California Equal Pay Act Violations and derivative Labor Code Violations committed against herself and other aggrieved employees who self-identified to Google as Hispanic, Latinx, Indigenous, Native American, American Indian, Native Hawaiian, Pacific Islanders, and/or Alaska Native employees, but not employees who also self-identified as Black.

Before the Court is Plaintiff’s motion for preliminary approval of settlement, which is unopposed. As discussed below, the Court GRANTS the motion.

ORDER GRANTING PLAINTIFF’S MOTION FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA SETTLEMENT

1 **I. BACKGROUND**

2 According to the allegations of the operative fourth amended complaint (“FAC”),
3 Plaintiff, who identifies as ethnically Mexican and racially Indigenous, was hired by Google in
4 September or October of 2014 and performed exemplary work, receiving consistently positive
5 performance reviews and accolades. (FAC, ¶¶ 25-26.) Her department at Google was made up of
6 almost all White employees, and while Plaintiff continually asked what she needed to do to be
7 promoted and/or receive a raise like her White colleagues, no one at Google could provide an
8 answer. (FAC, ¶ 29.) Rather, her supervisor intentionally deviated from protocol by
9 “withholding” Plaintiff’s contributions and awards in her performance evaluations, instead
10 taking credit for Plaintiff’s work herself. (FAC, ¶ 30.) Plaintiff’s supervisor admitted to Plaintiff
11 that had her awards and contributions been considered, Plaintiff would have received higher
12 ratings. (*Ibid.*) Plaintiff alleges that due to discrimination, harassment, and retaliation by
13 Plaintiff’s supervisor and others, Plaintiff languished at a job level of L5 while her White (non-
14 Hispanic) and/or Asian/Asian American peers were promoted to job levels L6 and L7, receiving
15 significant additional compensation including bonuses and stock options. (FAC, ¶ 31.)

16 Plaintiff alleges that she complained to Google about her failure to be promoted and
17 receive meaningful raises despite her excellent performance evaluations, and specifically
18 complained that the discriminatory bias and retaliation prevented her from being promoted and
19 paid equitably compared to her similarly situated, and in some cases, less qualified, White (non-
20 Hispanic) and/or Asian/Asian American coworkers. (FAC, ¶¶ 33-34.) She also complained about
21 marginalization and discrimination in regard to the material terms and conditions of her
22 employment, including her supervisor’s refusal to hold one-on-one meetings with Plaintiff,
23 which she regularly conducted with all of Plaintiff’s White (non-Hispanic) and/or Asian/Asian
24 American peers. (FAC, ¶ 35.) Plaintiff also complained about the toxic hostile work environment
25 at Google, telling a Human Resources manager that she cried on the Google bus each day during

1 the trip to work. (FAC, ¶ 36.) Plaintiff’s supervisor used racist terms including “pow wow” in
2 front of Plaintiff and others, and continued to do so even after Plaintiff asked her to stop,
3 informing her that the terms were offensive to Plaintiff as an Indigenous woman. (FAC, ¶ 37.)

4 Plaintiff claims that she sought an emergency transfer away from her supervisor, but
5 Google failed to protect Plaintiff and allowed her supervisor to continue preventing Plaintiff
6 from being promoted or paid equitably. (FAC, ¶ 38.) While Plaintiff had been flagged internally
7 by Google for “calibration issues” because she “has been performing above her level” for years,
8 she did not undergo the usual calibration process for promotion due to her supervisor’s continued
9 sabotage by citing vague and unsubstantiated “performance gaps” and regularly insulting
10 Plaintiff’s ability to complete basic work tasks. (*Ibid.*) Plaintiff’s second-level supervisor Jane
11 Hynes, Google’s Vice President, Global Communications for Google Cloud, continued to rely on
12 Plaintiff’s supervisor’s evaluations even after Plaintiff complained about her supervisor and
13 stopped reporting to her directly. (*Ibid.*) Ms. Hynes refused to consider Plaintiff’s subsequent
14 supervisors’ positive assessment in favor of Plaintiff’s supervisor’s discriminatory, harassing,
15 and retaliatory assessment. (*Ibid.*) Google did nothing to address Plaintiff’s multiple complaints,
16 which Google Human Resources eventually conceded, admitting to Plaintiff that her complaints
17 went into a “Black Hole.” (FAC, ¶ 39.)

18 Plaintiff claims that she was so distressed that she could no longer do her job as usual,
19 which necessitated a leave of absence. (FAC, ¶ 40.) She returned to work and continued to be
20 demoralized by the ongoing discrimination, harassment and retaliation-which, by September
21 2021, she could no longer tolerate. (*Ibid.*) Plaintiff was thus forced to resign and her last day of
22 work was September 10, 2021. (*Ibid.*)

23 With regard to her PAGA claim, Plaintiff alleges that Google uses a common
24 organizational and pay structure establishing compensation ranges based on employees’ “job
25 levels” or “job ladders.” (FAC, ¶ 42.) At the same time, it assigns all positions to a “job family,”

1 within which employees perform similar job duties and responsibilities. (FAC, ¶ 45.) According
2 to this structure, all employees in the same job level and job position are performing a like level
3 of duties and responsibilities. (*Ibid.*) Google requires jobs in different job families to have
4 standardized transferable skills so that an employee in one job level can transfer to a different job
5 family with known standard skills required for the job level. (*Ibid.*) But several job levels contain
6 overlapping job duties and responsibilities, creating a subjective element that enables
7 decisionmakers to place employees with the same job duties and responsibilities into one of
8 multiple job levels. (FAC, ¶ 46.)

9 When Plaintiff was hired, Plaintiff claims that it was Google’s standard practice to
10 request each job candidate’s salary history from his or her prior three jobs, and Google
11 considered this information in determining the new employee’s compensation and in what job
12 level the new hire would be placed. (FAC, ¶ 47.) Plaintiff alleges on information and belief that
13 this practice continued during the time period at issue in her representative claim. (*Ibid.*) At the
14 same time, Google calculates annual merit raises as a percentage of an employee’s current
15 compensation, with the specific percentage raise based in part on each employee’s performance
16 ratings. (FAC, ¶ 48.) And when employees are promoted, their new salary is typically limited to
17 a percentage of their prior salary. (FAC, ¶ 49.) Thus, employees’ original job level and
18 compensation affect the amounts they earn on a continuing basis. (FAC, ¶¶ 48-49.) As a result of
19 these pay practices, employees were placed in job levels not based on skill, effort, or
20 responsibility, but based on their prior salaries at other jobs. (FAC, ¶ 50.) Employees’
21 compensation was inextricably linked to their prior salaries and therefore derived from pre-
22 existing race- and/or ethnicity-based differentials in compensation, since diverse employees like
23 Google’s non-White employees and/or non-Asian/Asian American employees have historically
24 been paid disproportionately low salaries. (FAC, ¶ 51.)

1 Based on these circumstances, Plaintiff alleges that Google “has paid and continues to
2 pay its non-White and/or non-Asian/Asian American employees systematically lower total
3 compensation (including salary, stock and bonuses) than White (non-Hispanic) and/or
4 Asian/Asian American employees performing substantially similar work when viewed as a
5 composite of skill, effort, and responsibility, and performed under similar working conditions.”
6 (FAC, ¶ 54.) Specifically, Plaintiff alleges that Google has paid and continues to pay employees
7 who self-identified to Google as Hispanic, Latinx, Indigenous, Native American, American
8 Indian, Native Hawaiian, Pacific Islanders, and/or Alaska Native (but not employees who also
9 self-identified as Black)—including Plaintiff—less than White (non-Hispanic) and/or
10 Asian/Asian American employees in the same job position and job level, even though Google
11 acknowledges that employees in the same job position and level perform substantially similar
12 work. (FAC, ¶¶ 54-56.) Further, Plaintiff alleges that employees who self-identified to Google as
13 Hispanic, Latinx, Indigenous, Native American, American Indian, Native Hawaiian, Pacific
14 Islanders, and/or Alaska Native (but not employees who also self-identified as Black) are placed
15 in lower job levels than White (non-Hispanic) and/or Asian/Asian American employees based
16 on prior compensation, since Google “levels up” new employees into the job level that is
17 commensurate with the salary range of a new hire’s starting salary. (FAC, ¶ 57.) And in a
18 separate violation allegedly experienced by Plaintiff, Google otherwise places White and/or
19 Asian/Asian American employees in higher job levels than employees who self-identified to
20 Google as Hispanic, Latinx, Indigenous, Native American, American Indian, Native Hawaiian,
21 Pacific Islanders, and/or Alaska Native (but not employees who also self-identified as Black),
22 even though non-White and/or non-Asian/Asian American and White and Asian/Asian American
23 employees in the same job title but different job levels perform substantially similar work when
24 viewed as a composite of skill, effort, and responsibility, and performed under similar working
25 conditions. (FAC, ¶ 58.)

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2 Plaintiff alleges that Google knows of these pay disparities through its own internal
3 processes and data, including its calibration/pay equalization processes and reporting data, but
4 has ratified the ongoing disparity by failing to take any action to equalize employees' pay. (FAC,
5 ¶ 61.) Plaintiff herself complained of the pay disparity she claims to have experienced, and is
6 further aware of an internal study by a non-White affinity group at Google evidencing pay
7 disparities on the basis of race/ethnicity. (FAC, ¶¶ 62-63.) And it "is believed" that data Google
8 reports to the California Department of Fair Employment and Housing also reflects pay
9 disparities between non-White and/or non-Asian/Asian American and White (non-Hispanic)
10 and/or Asian/Asian American employees who perform substantially similar work when viewed
11 as a composite of skill, effort, and responsibility, and performed under similar working
12 conditions. (FAC, ¶ 66.)

13 Finally, Plaintiff alleges on information and belief that, like herself, other non-White non-
14 Asian/Asian-American employees who complained about pay disparities between themselves
15 and White (non-Hispanic) and Asian/Asian-American employees were retaliated against and
16 were not given raises or promotions consistent with their skills, effort and responsibilities and
17 were otherwise adversely affected in the terms and conditions of their employment. (FAC, ¶ 69.)
18 Not only does Plaintiff make this allegation on information and belief, Plaintiff makes it on
19 behalf of "her own personal experiences, her communications with colleagues, and publicly-
20 available information regarding other non-White employees who have alleged discrimination and
21 race- and ethnicity- based pay inequality against GOOGLE." (FAC, ¶ 70.)

22 Based on the foregoing, Plaintiff initiated this action on December 8, 2021, and filed her
23 first amended complaint on February 15, 2022, which asserted the following causes of action: (1)
24 discrimination based on race/national origin/ancestry in violation of the Fair Employment and
25 Housing Act ("FEHA"); (2) harassment based on race/national origin/ancestry in violation of

1 FEHA; (3) retaliation for opposing practices forbidden by FEHA; (4) failure to prevent,
2 investigate, and remedy discrimination, harassment, or retaliation in violation of FEHA; (5)
3 whistleblower retaliation in violation of Labor Code section 1102.5; (6) intentional infliction of
4 emotional distress; (7) negligent infliction of emotional distress; (8) violation of the California
5 Equal Pay Act; (9) wrongful termination in violation of public policy; (10) unfair and unlawful
6 business practices in violation of Business & Professions Code § 17200 et seq.; and (11) civil
7 penalties under PAGA. On August 22, 2022, the Court issued its order which sustained Google's
8 demurrer with leave to amend. On September 20, 2023, Plaintiff filed her second amended
9 complaint, which asserted the same causes of action. On January 18, 2024, the Court issued its
10 order which granted Plaintiff's motion for leave to amend the complaint.

11 On January 22, 2024, Plaintiff filed the Third Amended Complaint, adding class claims
12 under the California Equal Pay Act, as well as for derivative penalties under Labor Code section
13 203, for the alleged failure to pay all wages due to discharged employees. On February 23,
14 2024, Google demurred to Plaintiff's Third Amended Complaint with the hearing on the
15 demurrer originally set for July 25, 2024, and subsequently continued while the Parties focused
16 on resolving this matter.

17 Throughout the litigation, Google has denied all of Plaintiff's claims and has denied that
18 this case is appropriate to proceed on a class or representative basis.

19 On March 3, 2025, the Parties filed a Stipulation to File Fourth Amended Complaint that
20 would make certain issues in the pending demurrer moot, including (a) dismissing Lisa Chen as a
21 named individual defendant; (b) altering the putative class definition to exclude employees who
22 self-identify as Black/African descent as sought in Google's pending demurrer; and (c) clarifying
23 the group of aggrieved employees Plaintiff sought to represent in her PAGA claim to be
24 consistent with the putative class definition.

1 Plaintiff now seeks an order: preliminarily approving the proposed settlement; deeming
2 the Fourth Amended Complaint filed; conditionally certifying the class for settlement purposes;
3 provisionally appointing Plaintiff as class representative; provisionally appointing Beth Gunn
4 and Catherine Coble of Gunn Coble LLP and Jennifer Kramer of Kramer Brown Hui LLP as
5 class counsel; approving the form and method for class notice; directing that notice of the
6 proposed settlement be given to the settlement class; appointing Atticus Administration LLC
7 (“Atticus”) as the settlement administrator; and scheduling a final approval hearing.

8 **II.LEGAL STANDARDS FOR SETTLEMENT APPROVAL**

9 **A. Class Action**

10 Generally, “questions whether a [class action] settlement was fair and reasonable,
11 whether notice to the class was adequate, whether certification of the class was proper, and
12 whether the attorney fee award was proper are matters addressed to the trial court’s broad
13 discretion.” (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234–235 (*Wershba*),
14 disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th
15 260.)

16 “In determining whether a class settlement is fair, adequate and reasonable, the trial court
17 should consider relevant factors, such as the strength of plaintiffs’ case, the risk, expense,
18 complexity and likely duration of further litigation, the risk of maintaining class action status
19 through trial, the amount offered in settlement, the extent of discovery completed and the stage
20 of the proceedings, the experience and views of counsel, the presence of a governmental
21 participant, and the reaction of the class members to the proposed settlement.” (*Wershba, supra*,
22 91 Cal.App.4th at pp. 244–245, internal citations and quotations omitted.) In general, the most
23 important factor is the strength of the plaintiffs’ case on the merits, balanced against the amount
24 offered in settlement. (See *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130
25 (*Kullar*.) But the trial court is free to engage in a balancing and weighing of relevant factors,

1 depending on the circumstances of each case. (*Wershba, supra*, 91 Cal.App.4th at p. 245.) The
2 trial court must examine the “proposed settlement agreement to the extent necessary to reach a
3 reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion
4 between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and
5 adequate to all concerned.” (*Ibid.*, citation and internal quotation marks omitted.) The trial court
6 also must independently confirm that “the consideration being received for the release of the
7 class members’ claims is reasonable in light of the strengths and weaknesses of the claims and
8 the risks of the particular litigation.” (*Kullar, supra*, 168 Cal.App.4th at p. 129.) Of course,
9 before performing its analysis the trial court must be “provided with basic information about the
10 nature and magnitude of the claims in question and the basis for concluding that the
11 consideration being paid for the release of those claims represents a reasonable compromise.”
12 (*Id.* at pp. 130, 133.)

13 **B. PAGA**

14 Labor Code section 2699, subdivision (1)(2) provides that “[t]he superior court shall
15 review and approve any settlement of any civil action filed pursuant to” PAGA. The court’s
16 review “ensur[es] that any negotiated resolution is fair to those affected.” (*Williams v. Superior*
17 *Court* (2017) 3 Cal.5th 531, 549.) Seventy-five percent of any penalties recovered under PAGA
18 go to the Labor and Workforce Development Agency (LWDA), leaving the remaining twenty-
19 five percent for the aggrieved employees. (*Iskanian v. CLS Transportation Los Angeles, LLC*
20 (2014) 59 Cal.4th 348, 380, overruled on other grounds by *Viking River Cruises, Inc. v. Moriana*
21 (2022) 596 U.S. 639 , 2022 U.S. LEXIS 2940.)

22 Similar to its review of class action settlements, the Court must “determine independently
23 whether a PAGA settlement is fair and reasonable,” to protect “the interests of the public and the
24 LWDA in the enforcement of state labor laws.” (*Moniz v. Adecco USA, Inc.* (2021) 72
25 Cal.App.5th 56, 76–77.) It must make this assessment “in view of PAGA’s purposes to

1 remediate present labor law violations, deter future ones, and to maximize enforcement of state
2 labor laws.” (*Id.* at p. 77; see also *Haralson v. U.S. Aviation Servs. Corp.* (N.D. Cal. 2019) 383 F.
3 Supp. 3d 959, 971 [“when a PAGA claim is settled, the relief provided for under the PAGA
4 [should] be genuine and meaningful, consistent with the underlying purpose of the statute to
5 benefit the public”], quoting LWDA guidance discussed in *O’Connor v. Uber Technologies,*
6 *Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110 (*O’Connor*).

7 The settlement must be reasonable in light of the potential verdict value. (See *O’Connor,*
8 *supra*, 201 F.Supp.3d at p. 1135 [rejecting settlement of less than one percent of the potential
9 verdict].) But a permissible settlement may be substantially discounted, given that courts often
10 exercise their discretion to award PAGA penalties below the statutory maximum even where a
11 claim succeeds at trial. (See *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-
12 CV-02198-EMC) 2016 WL 5907869, at *8–9.)

13 III. SETTLEMENT PROCESS

14 Plaintiff initiated this action on December 8, 2021, with the filing of the complaint. On
15 February 15, 2022, she filed her first amended complaint to add the PAGA claim and derivative
16 labor claims. On January 22, 2024, Plaintiff amended her complaint again to add the class
17 claims. Over the course of three years, the parties engaged in extensive formal and informal
18 discovery.

19 On August 29, 2024, the parties engaged in mediation with Stephanie Chow, an
20 experienced mediator in this area of law. At the end of a full day of mediation, the parties each
21 accepted a mediator’s proposal by Ms. Chow and signed a term sheet, which memorialized the
22 key material terms of this settlement. After the mediation, the parties refined the principal terms
23 of the settlement through the preparation of a detailed long form settlement agreement, which is
24 now before the Court. As part of the settlement, the parties stipulated to file a fourth amended
25 complaint, which amended the class definition to exclude individuals who self-identify to

1 Google as Black/of African descent, to address Google’s concerns raised in its pending demurrer
2 and to focus the settlement on the group of Google’s employees who most closely align to
3 Plaintiff’s race/ethnicity.

4 **IV. SETTLEMENT PROVISIONS**

5 The non-reversionary gross settlement is \$28,000,000.00. Attorney’s fees of up to
6 \$7,000,000; litigation costs of up to \$300,000; and administrative costs of up to \$36,000 will be
7 paid from the gross settlement. \$240,000 will be allocated to PAGA penalties, 75% of which
8 (\$180,000) will be paid to the LWDA, with the remaining 25% (\$60,000) dispensed on a pro rata
9 basis to “Aggrieved Employees”, who are defined as “all current and former employees who
10 self-identified to Google as Hispanic, Latinx, Indigenous, Native American, American Indian,
11 Native Hawaiian, Pacific Islanders, and/or Alaska Native employees, but not employees who
12 also self-identified as Black, who worked for Google in California any time during the PAGA
13 Period.”¹ Plaintiff will seek an incentive award of \$50,000.

14 The net settlement amount—estimated to be \$20,434,000—will be allocated to members
15 of the settlement “Class”, who are defined as “all current and former employees who self-
16 identified to Google as Hispanic, Latinx, Indigenous, Native American, American Indian, Native
17 Hawaiian, Pacific Islanders, and/or Alaska Native employees, but not employees who also self-
18 identified as Black, who worked for Google in California any time during the Class Period.”² For
19 tax purposes, settlement payments will be allocated 50% to wages and 50% to non-wages (i.e.,
20 interest and penalties). The employer-side payroll taxes will be paid by Defendant separate from,
21 and in addition to, the gross settlement amount. Funds associated with checks uncashed after 180
22 days will be transmitted to the Controller of the State of California to be held in trust for such

23 ¹ The PAGA Period is defined as “the period of time from December 8, 2020, until
24 December 31, 2024.

25 ² The Class Period is defined as “the period of time from February 15, 2018, until
December 31, 2024.

1 settlement class members pursuant to California unclaimed property law. It is estimated that
2 there were approximately 6,632 settlement Class Members through July 23, 2024. Based on the
3 estimated number of settlement class members through July 2024 and net class settlement
4 amount of \$20,434,000, the estimated average class settlement payment will be approximately
5 \$3,000 per person.

6 In exchange for settlement, settlement Class Members who do not opt out will release:

7 Any and all known and unknown class claims asserted against Google and any present
8 and former parents, subsidiaries and affiliated companies or entities, and their respective officers,
9 directors, employees, partners, shareholders, insurance carriers and agents, and any other
10 successors, assigns and legal representatives and its related persons and entities (“Released
11 Parties”) that arise out of or relate to the class allegations in the operative complaint for the time
12 period of February 15, 2018 through the date upon which the Class Settlement is preliminarily
13 approved, including but not limited to the allegations that Google paid Class Members less than
14 it paid White and Asian employees for substantially similar work, or that Google otherwise
15 discriminated against Class Members on the basis of race with respect to pay. The released
16 claims include but are not limited to claims brought under California Labor Code section 201-
17 203, 1194.5, 1197.5, 2698, *et seq.* and California Business and Professions Code section 17200,
18 *et seq.* Such claims include claims for wages, statutory penalties, civil penalties, or other relief
19 under the California Labor Code, PAGA, relief from unfair competition under California
20 Business and Professions Code section 17200, *et seq.*, attorneys’ fees and costs and interest.

21 Aggrieved Employees, who consistent with the statute will not be able to opt out of the
22 PAGA portion of the settlement, will release:

23 Any and all claims under PAGA for civil penalties against Google and the Released
24 Parties that were pled or could have been pled based on the factual allegations contained in the
25 notice submitted by Plaintiff to the LWDA pursuant to PAGA that occurred from December 8,

1 2020, until the date upon which the Class Settlement is preliminarily approved, including but not
2 limited to claims under California Labor Code sections 201-204, 210, 226, 1194.5, 1197.5 and
3 2698, *et seq.*

4 The foregoing releases are appropriately tailored to the allegations at issue. (See *Amaro v.*
5 *Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 537.)

6 **V. FAIRNESS OF SETTLEMENT**

7 Based on available data provided by Defendant, Plaintiff's counsel estimated Google's
8 maximum exposure was \$99 million for claims under Labor Code section 1197.5 and \$29.5
9 million for the derivative waiting time penalty claims, totaling \$128.5 million in total liability for
10 the class claims. Class Counsel relied upon its expert damages estimates to determine that
11 Google's maximum exposure on the Labor Code section 1197.5 claim was approximately 32%
12 wage underpayment, 8% interest, 41% liquidated damages, and 19% derivative penalties and
13 interest for Labor Code section 203 violations.

14 Class Counsel then determined an appropriate range of recovery for settlement purposes
15 by offsetting Google's maximum exposure by: the novelty of the legal issues; high risk of delay
16 arising from future rulings that could be appealed by either party; Google's defenses; the costs of
17 further litigation; the fact that the proof of the claims relies heavily on expert analysis of various
18 issues, the testimony of multiple persons most qualified, review of additional documents and
19 witness testimony; costs of conducting depositions, additional briefing, and expert work for class
20 certification, summary judgement and/or other pre-trial or trial work; and the risk that the
21 derivative claims would not survive a dispositive motion. Taking the foregoing into account, the
22 gross settlement amount represents 22% of the maximum possible recovery. Class Counsel notes
23 that the waiting time penalty claims could be dismissed via a dispositive motion and in that
24 event, the \$28 million gross settlement amount represents 28.3% of the maximum recovery.

1 Considering the portion of the case’s value attributable to uncertain penalties, claims that
2 could be difficult to certify for class treatment, and the multiple, dependent contingencies that
3 Plaintiff would have had to overcome to prevail on her claims, the settlement achieves a good
4 result for the class. For purposes of preliminary approval, the Court finds that the settlement is
5 fair and reasonable to the class, and the PAGA allocation is genuine, meaningful, and reasonable
6 in light of the statute’s purposes.

7 **VI. PROPOSED SETTLEMENT CLASS**

8 Plaintiff requests that the following settlement class be provisionally certified:

9 All current and former employees who self-identified to Google as Hispanic, Latinx,
10 Indigenous, Native American, American Indian, Native Hawaiian, Pacific Islander, and/or
11 Alaska Native employees, but not employees who also self-identified as Black, who worked for
12 Google in California any time from February 15, 2018 through December 31, 2024.

13 **A. Legal Standard for Certifying a Class for Settlement Purposes**

14 Rule 3.769(d) of the California Rules of Court states that “[t]he court may make an order
15 approving or denying certification of a provisional settlement class after [a] preliminary
16 settlement hearing.” California Code of Civil Procedure Section 382 authorizes certification of a
17 class “when the question is one of a common or general interest, of many persons, or when the
18 parties are numerous, and it is impracticable to bring them all before the court ...”

19 Section 382 requires the plaintiff to demonstrate by a preponderance of the evidence: (1)
20 an ascertainable class and (2) a well-defined community of interest among the class members.
21 (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326, 332 (*Sav-On Drug*
22 *Stores*)). “Other relevant considerations include the probability that each class member will come
23 forward ultimately to prove his or her separate claim to a portion of the total recovery and
24 whether the class approach would actually serve to deter and redress alleged wrongdoing.”
25 (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.) The plaintiff has the burden of

1 establishing that class treatment will yield “substantial benefits” to both “the litigants and to the
2 court.” (*Blue Chip Stamps v. Superior Court* (1976) 18 Cal.3d 381, 385.)

3 In the settlement context, “the court’s evaluation of the certification issues is somewhat
4 different from its consideration of certification issues when the class action has not yet settled.”
5 (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 93.) As no trial is anticipated in the
6 settlement-only context, the case management issues inherent in the ascertainable class
7 determination need not be confronted, and the court’s review is more lenient in this respect. (*Id.*
8 at pp. 93–94.) But considerations designed to protect absentees by blocking unwarranted or
9 overbroad class definitions require heightened scrutiny in the settlement-only class context, since
10 the court will lack the usual opportunity to adjust the class as proceedings unfold. (*Id.* at p. 94.)

11 **B. Ascertainable Class**

12 A class is ascertainable “when it is defined in terms of objective characteristics and
13 common transactional facts that make the ultimate identification of class members possible when
14 that identification becomes necessary.” (*Noel v. Thrifty Payless, Inc.* (2019) 7 Cal.5th 955, 980
15 (*Noel*.) A class definition satisfying these requirements “puts members of the class on notice
16 that their rights may be adjudicated in the proceeding, so they must decide whether to intervene,
17 opt out, or do nothing and live with the consequences. This kind of class definition also advances
18 due process by supplying a concrete basis for determining who will and will not be bound by (or
19 benefit from) any judgment.” (*Noel, supra*, 7 Cal.5th at p. 980, citation omitted.)

20 “As a rule, a representative plaintiff in a class action need not introduce evidence
21 establishing how notice of the action will be communicated to individual class members in order
22 to show an ascertainable class.” (*Noel, supra*, 7 Cal.5th at p. 984.) Still, it has long been held that
23 “[c]lass members are ‘ascertainable’ where they may be readily identified ... by reference to
24 official records.” (*Rose v. City of Hayward* (1981) 126 Cal. App. 3d 926, 932, disapproved of on
25 another ground by *Noel, supra*, 7 Cal.5th 955; see also *Cohen v. DIRECTV, Inc.* (2009) 178

1 Cal.App.4th 966, 975-976 [“The defined class of all HD Package subscribers is precise, with
2 objective characteristics and transactional parameters, and can be determined by DIRECTV’s
3 own account records. No more is needed.”].)

4 Here, the estimated 6,632 settlement Class Members through July 2024 who self-
5 identified to Google as Hispanic, Latinx, Indigenous, Native American, American Indian, Native
6 Hawaiian, Pacific Islander, and/or Alaska Native, but did not also self-identify as Black, are
7 readily identifiable based on Defendant’s records, and the settlement class is appropriately
8 defined based on objective characteristics. The Court finds that the settlement class is numerous,
9 ascertainable, and appropriately defined.

10 **C. Community of Interest**

11 The “community-of-interest” requirement encompasses three factors: (1) predominant
12 questions of law or fact, (2) class representatives with claims or defenses typical of the class, and
13 (3) class representatives who can adequately represent the class. (*Sav-On Drug Stores, supra*, 34
14 Cal.4th at pp. 326, 332.)

15 For the first community of interest factor, “[i]n order to determine whether common
16 questions of fact predominate the trial court must examine the issues framed by the pleadings
17 and the law applicable to the causes of action alleged.” (*Hicks v. Kaufman & Broad Home Corp.*
18 (2001) 89 Cal.App.4th 908, 916 (*Hicks*)). The court must also examine evidence of any conflict
19 of interest among the proposed class members. (See *J.P. Morgan & Co., Inc. v. Superior Court*
20 (2003) 113 Cal.App.4th 195, 215.) The ultimate question is whether the issues which may be
21 jointly tried, when compared with those requiring separate adjudication, are so numerous or
22 substantial that the maintenance of a class action would be good for the judicial process and to
23 the litigants. (*Lockheed Martin Corp. v. Superior Court* (2003) 29 Cal.4th 1096, 1104–1105
24 (*Lockheed Martin*)). “As a general rule if the defendant’s liability can be determined by facts
25

1 common to all members of the class, a class will be certified even if the members must
2 individually prove their damages.” (*Hicks, supra*, 89 Cal.App.4th at p. 916.)

3 Here, common legal and factual issues predominate. Plaintiff’s claims all arise from
4 Google’s policies and practices regarding compensation to settlement Class Members as
5 compared to White and/or Asian/Asian American employees who performed substantially
6 similar work.

7 As for the second factor, “[t]he typicality requirement is meant to ensure that the class
8 representative is able to adequately represent the class and focus on common issues. It is only
9 when a defense unique to the class representative will be a major focus of the litigation, or when
10 the class representative’s interests are antagonistic to or in conflict with the objectives of those
11 she purports to represent that denial of class certification is appropriate. But even then, the court
12 should determine if it would be feasible to divide the class into subclasses to eliminate the
13 conflict and allow the class action to be maintained.” (*Medraza v. Honda of North Hollywood*
14 (2008) 166 Cal. App. 4th 89, 99, internal citations, brackets, and quotation marks omitted.)

15 Like other members of the settlement class, Plaintiff was employed by Google and she
16 alleges she was subject to the same practices and Labor Code violations at issue. The anticipated
17 defenses are not unique to Plaintiff, and there is no indication that Plaintiff’s interests are
18 otherwise in conflict with those of the settlement class.

19 Finally, adequacy of representation “depends on whether the plaintiff’s attorney is
20 qualified to conduct the proposed litigation and the plaintiff’s interests are not antagonistic to the
21 interests of the class.” (*McGhee v. Bank of America* (1976) 60 Cal.App.3d 442, 450.) The class
22 representative does not necessarily have to incur all of the damages suffered by each different
23 class member in order to provide adequate representation to the class. (*Wershba, supra*, 91
24 Cal.App.4th at p. 238.) “Differences in individual class members’ proof of damages [are] not
25 fatal to class certification. Only a conflict that goes to the very subject matter of the litigation

1 will defeat a party’s claim of representative status.” (*Ibid.*, internal citations and quotation marks
2 omitted.)

3 Plaintiff has the same interest in maintaining this action as any settlement class member
4 would have. Further, she has hired experienced counsel. Plaintiff has sufficiently demonstrated
5 adequacy of representation.

6 **D. Substantial Benefits of Class Certification for Settlement Purposes**

7 “[A] class action should not be certified unless substantial benefits accrue both to
8 litigants and the courts. . . .” (*Basurco v. 21st Century Ins.* (2003) 108 Cal.App.4th 110, 120,
9 internal quotation marks omitted.) The question is whether a class action would be superior to
10 individual lawsuits. (*Ibid.*) “Thus, even if questions of law or fact predominate, the lack of
11 superiority provides an alternative ground to deny class certification.” (*Ibid.*) Generally, “a class
12 action is proper where it provides small claimants with a method of obtaining redress and when
13 numerous parties suffer injury of insufficient size to warrant individual action.” (*Id.* at pp. 120–
14 121, internal quotation marks omitted.)

15 Here, there are an estimated 6,632 settlement Class Members through July 2024. It would
16 be inefficient for the Court to hear and decide the same issues separately and repeatedly for each
17 settlement Class Member. Further, it would be cost prohibitive for each settlement Class
18 Member to file suit individually, as each member would have the potential for little to no
19 monetary recovery. It is clear that a class settlement provides substantial benefits to both the
20 litigants and the Court in this case.

21 **VII. SERVICE AWARD, FEES, AND COSTS**

22 Plaintiff requests an incentive award of \$50,000.

23 “The rationale for making enhancement or incentive awards to named plaintiffs is that
24 they should be compensated for the expense or risk they have incurred in conferring a benefit on
25 other members of the class. An incentive award is appropriate if it is necessary to induce an

1 individual to participate in the suit. Criteria courts may consider in determining whether to make
2 an incentive award include: 1) the risk to the class representative in commencing suit, both
3 financial and otherwise; 2) the notoriety and personal difficulties encountered by the class
4 representative; 3) the amount of time and effort spent by the class representative; 4) the duration
5 of the litigation and; 5) the personal benefit (or lack thereof) enjoyed by the class representative
6 as a result of the litigation. These “incentive awards” to class representatives must not be
7 disproportionate to the amount of time and energy expended in pursuit of the lawsuit.”
8 (*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1394-1395, internal
9 punctuation and citations omitted; see also *Covillo v. Specialty’s Café* (N.D. Cal. 2014) 2014
10 U.S.Dist.LEXIS 29837, at *29 [incentive awards are particularly appropriate where a plaintiff
11 undertakes a significant “reputational risk” in bringing an action against an employer].)

12 Plaintiff states Class Counsel will file a motion seeking to finalize the incentive award
13 but at this time, she simply seeks a determination that the award, which is provided for in the
14 Settlement, does not render the overall Settlement inherently unfair. Based on Plaintiff’s
15 declaration, the Court agrees that the incentive award dose not render the Settlement inherently
16 unfair nor is it an obstacle for preliminary approval.

17 The court also has an independent right and responsibility to review the requested
18 attorney fees and only award so much as it determines reasonable. (See *Garabedian v. Los*
19 *Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) Plaintiffs’ counsel will
20 seek attorney fees of up to one-fourth of the gross settlement amount (currently estimated to be
21 \$7,000,000.00), litigation costs for up to \$300,000, and up to \$36,000 in administration costs.
22 Prior to any final approval hearing, Plaintiff’s counsel shall submit lodestar information
23 (including hourly rate and hours worked) as well as evidence of actual litigation costs incurred
24 and settlement administration costs.

1 **VIII. NOTICE**

2 The content of a class notice is subject to court approval. (Cal. Rules of Court, rule
3 3.769(f).) “The notice must contain an explanation of the proposed settlement and procedures for
4 class members to follow in filing written objections to it and in arranging to appear at the
5 settlement hearing and state any objections to the proposed settlement.” (*Ibid.*) In determining
6 the manner of the notice, the court must consider: “(1) The interests of the class; (2) The type of
7 relief requested; (3) The stake of the individual class members; (4) The cost of notifying class
8 members; (5) The resources of the parties; (6) The possible prejudice to class members who do
9 not receive notice; and (7) The res judicata effect on class members.” (Cal. Rules of Court, rule
10 3.766(e).)

11 Here, the notice, which will be provided English includes a description of: the claims to
12 be settled; the total amount of the settlement; the amounts to be deducted for attorneys’ fees,
13 costs, and other payments; the method of calculating payments to settlement Class Members;
14 information regarding settlement Class Members’ right to opt out or object; a description of the
15 method for opting out or objecting; identification of Class Counsel and their contact information;
16 the court in which the action is pending; the date set for the final approval hearing; the location
17 of where to find additional information regarding the action; and a method and time for disputing
18 the amount of the settlement Class Member’s compensation during the Class Period as calculated
19 by the Settlement Administrator. Settlement Class Members are given 60 days to dispute their
20 total compensation, opt-out, or object to the settlement.

21 Regarding appearances at the final fairness hearing, the notice shall be modified to
22 instruct settlement class members as follows:

23 Although class members may appear in person, the judge overseeing this case encourages
24 remote appearances. (As of August 15, 2022, the Court’s remote platform is Microsoft Teams.)
25 Class members who wish to appear remotely should contact class counsel at least three days

1 before the hearing if possible. Instructions for appearing remotely are provided at
2 https://www.scscourt.org/general_info/ra_teams/video_hearings_teams.shtml and should be
3 reviewed in advance. Class members may appear remotely using the Microsoft Teams link for
4 Department 7 (Afternoon Session) or by calling the toll free conference call number for
5 Department 7.

6 Turning to the notice procedure, as articulated above, the parties have selected Atticus as
7 the settlement administrator. No later than sixty (60) days after preliminary approval, Google
8 will deliver the settlement Class data (i.e., settlement Class list and related qualifying workweeks
9 and contact information) to Atticus. Atticus, in turn, will mail the notice packet within fifteen
10 (15) days after receiving the settlement Class data, subsequent to updating settlement Class
11 members' addresses using the National Change of Address Database. Any returned notices will
12 be re-mailed to any forwarding address provided or a better address located through a skip trace
13 or other search. settlement Class members who receive a re-mailed notice will have an additional
14 10 days to respond, if the re-mailed notice was sent more than 30 days after the initial mailing
15 date or orally at the Fairness Hearing. These notice procedures are appropriate and are approved.

16 IX. CONCLUSION

17 Plaintiffs' motion for preliminary approval is GRANTED with the following ORDERS:.

18 The final approval hearing shall take place on **September 11, 2025** at 1:30 in Dept. 7.

19 The following class is preliminarily certified for settlement purposes:

20 All current and former employees who self-identified to Google as Hispanic, Latinx,
21 Indigenous, Native American, American Indian, Native Hawaiian, Pacific Islander, and/or
22 Alaska Native employees, but not employees who also self-identified as Black, who worked for
23 Google in California any time from February 15, 2018 through December 31, 2024.

24 The Fourth Amended Complaint is deemed filed as of March 6, 2025;

25
ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA SETTLEMENT

1 Plaintiff Ana Cantu is provisionally appointed as class representative;

2 Beth Gunn and Catherine Coble of Gunn Coble LLP and Jennifer Kramer of Kramer
3 Brown Hui LLP are provisionally appointed as class counsel;

4 The form and method for settlement class notice is approved and notice of the proposed
5 settlement is to be given to the settlement class; and

6 Atticus Administration LLC (“Atticus”) is provisionally appointed as the settlement
7 administrator.

8 The hearing scheduled for March 13, 2025 is VACATED.

9
10
11 DATED: March 12, 2025



12 CHARLES F. ADAMS
13 Judge of the Superior Court