

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Benny Hamilton, Anthony Killion, Kristopher Kaczanowski, Leroy Coker, and Darrel Brown v. Knight Transportation Inc. dba Arizona Knight Transportation Inc.; Knight Port Services, LLC; and Does 1 through 25, inclusive

Case No. 5:21-cv-01859-MEMF-SP (C.D. Cal. June 3, 2025) · No. 5:21-cv-01859-MEMF-SP · Decided June 3, 2025

SUMMARY

The United States District Court for the Central District of California partially granted Plaintiffs’ motion for class certification and granted their request for judicial notice in a wage-and-hour action against Knight Transportation Inc. and Knight Port Services, LLC. The court certified the proposed class and Subclass A concerning unpaid wages, while addressing Rule 23 requirements, choice-of-law issues, and evidentiary objections. The excerpt does not include the complete disposition of all proposed subclasses.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Maame Ewusi-Mensah Frimpong
JURISDICTION	United States District Court for the Central District of California
DECIDED	June 3, 2025
DOCKET	5:21-cv-01859-MEMF-SP
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved for class certification under Federal Rule of Civil Procedure 23 and requested judicial notice of two documents concerning electronic wage statements. The district court granted the request for judicial notice and granted class certification in part.
STANDARD OF REVIEW	The district court has broad discretion in class-certification decisions, but must exercise that discretion within the framework of Rule 23. The party seeking certification bears the burden of establishing Rule 23’s requirements by a preponderance of the evidence, and the court must

	conduct a rigorous analysis, considering merits issues only to the extent relevant to Rule 23.
PRECEDENTIAL VALUE	Nonprecedential district-court order; persuasive only
PARTIES	Benny Hamilton, Anthony Killion, Kristopher Kaczanowski, Leroy Coker, Darrel Brown v. Knight Transportation Inc. dba Arizona Knight Transportation Inc., Knight Port Services, LLC, Does 1 through 25, inclusive

TOPICS

class actions wage and hour evidence civil procedure

PRACTICE AREAS

class actions employment law wage and hour evidence civil procedure

QUESTIONS PRESENTED

1. Whether the court should take judicial notice of the existence and contents of two public documents concerning electronic wage statements.
2. Whether the proposed class of California drivers satisfied the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of Federal Rule of Civil Procedure 23.
3. Whether California choice-of-law principles prevented certification of a class containing drivers with varying work locations and residences.
4. Whether Subclass A, concerning drivers allegedly not paid for all hours worked, satisfied Rule 23.
5. Whether Subclass B, concerning drivers reimbursed no more than \$5 per month for cell-phone expenses, satisfied Rule 23.
6. Whether Subclass C, concerning inaccurate or unavailable written wage statements, satisfied Rule 23, and whether certification should be limited to inaccurate wage statements.

HOLDINGS

1. The court may take judicial notice of the existence and authenticity of the two Boise-DLSE letters and their contents, but not of disputed factual assertions contained in them.
2. The proposed class of current and former California drivers satisfied Rule 23(a)'s numerosity, commonality, typicality, and adequacy requirements and satisfied Rule 23(b)(3)'s predominance and superiority requirements.
3. Choice-of-law issues did not defeat certification because plaintiffs showed significant California contacts and defendants failed to establish that foreign law should apply.
4. Subclass A was certifiable because plaintiffs established Rule 23(a) and Rule 23(b)(3) requirements for claims that California drivers were not paid for all hours worked.

5. Subclass B was not certifiable because plaintiffs failed to show a common unlawful reimbursement policy and individualized questions about necessity, usage, sufficiency of the \$5 payment, and individual reimbursement requests would predominate.
6. Subclass C was certifiable only as to alleged inaccurate wage statements; certification was not warranted for the separate theory that defendants failed to provide paper wage statements upon request.

KEY QUOTATIONS

“Rule 23 does not set forth a mere pleading standard.” (at 5)

“Moreover, the predominance test does not require that there be no individual issues—rather, the Court must weigh the prevalence and importance of these questions compared to the common questions identified previously.” (at 15)

“A court may judicially notice facts that: “(1) [are] generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.”” (at 5)

FACTUAL BACKGROUND

Plaintiffs are current or former California drivers employed by Knight Transportation or Knight Port who allege California wage-and-hour violations involving unpaid work time, expense reimbursement, wage deductions, rest and meal periods, and inaccurate wage statements. Plaintiffs proposed a class of California drivers and three subclasses concerning unpaid wages, cell-phone reimbursement, and wage statements. The evidence concerned defendants' compensation system, production pay, pay adjustments, driver qualification work, cell-phone use, and the form and accuracy of wage statements.

PROCEDURAL HISTORY

Hamilton filed the class action on November 2, 2021, and plaintiffs subsequently filed four amended complaints, with the other named plaintiffs joining in the Fourth Amended Complaint. The action was stayed while a related class settlement was considered in the Martinez action; after final approval of that settlement was denied, the stay was lifted. Plaintiffs then moved for class certification, which defendants opposed.

DISPOSITION

other

CASES CITED

- Raul Martinez et al. v. Knight Transportation, Inc. et al., Case No. 5:21-cv-00572 (C.D. Cal.)
- Lee v. City of Los Angeles, 250 F.3d 668, 690 (9th Cir. 2001)
- Galbraith v. County of Santa Clara, 307 F.3d 1119, 1125-26 (9th Cir. 2002)
- Navellier v. Sletten, 262 F.3d 923, 941 (9th Cir. 2001)
- Reiter v. Sonotone Corp., 442 U.S. 330, 345 (1979)

- Wal-Mart Stores, Inc. v. Dukes, 564 U.S. 338, 349-51, 359 (2011)
- Olean Wholesale Grocery Cooperative, Inc. v. Bumble Bee Foods LLC, 31 F.4th 651, 664-69 (9th Cir. 2022)
- Consolidated Rail Corp. v. Town of Hyde Park, 47 F.3d 473, 483 (2d Cir. 1995)
- Hanon v. Dataproducts Corp., 976 F.2d 497, 508 (9th Cir. 1992)
- Ellis v. Costco Wholesale Corporation, 657 F.3d 970, 985 (9th Cir. 2011)
- Mazza v. American Honda Motor Co., 666 F.3d 581, 589 (9th Cir. 2012)
- Olean Wholesale Grocery Cooperative, Inc. v. Bumble Bee Foods LLC, 31 F.4th 651 (9th Cir. 2022)
- Ward v. United Airlines, Inc., 986 F.3d 1234, 1240 (9th Cir. 2021)
- Felicia Vidrio et al. v. United Airlines, Inc., 2017 WL 1034200 (C.D. Cal. 2017)
- Loaiza v. Kinkisharyo International, L.L.C., 2022 U.S. Dist. LEXIS 198116, at *14-15
- Oman v. Delta Air Lines, Inc., 9 Cal. 5th 762, 781-83 (2020)
- Edwards v. First American Corp., 798 F.3d 1172, 1177 (9th Cir. 2015)
- Stockwell v. City & County of San Francisco, 749 F.3d 1107, 1111 (9th Cir. 2014)
- Amgen Inc. v. Connecticut Retirement Plans & Trust Funds, 568 U.S. 455, 466 (2013)

OPINION

1 O 2 UNITED STATES DISTRICT COURT 3 CENTRAL DISTRICT OF CALIFORNIA 4 Case
No.: 5:21-cv-01859-MEMF-SP 5 BENNY HAMILTON, ANTHONY KILLION, KRISTOPHER
KACZANOWSKI, LEROY ORDER GRANTING IN PART MOTION 6 COKER, DARREL
BROWN, on behalf of FOR CLASS CERTIFICATION AND themselves and all other similarly
situated 7 GRANTING REQUEST FOR JUDICIAL employees, NOTICE [ECF NO. 93, 93-13] 8
Plaintiffs, 9 v. 10 11 KNIGHT TRANSPORTATION INC. dba Arizona Knight Transportation Inc.;
KNIGHT 12 PORT SERVICES, LLC; and DOES 1 through 13 25, inclusive, Defendants.

14 15 16 Before the Court are a Motion for Class Certification (ECF No. 93) and a Request for 17
Judicial Notice (ECF No. 93-13) filed by Plaintiffs Darrell Brown, Leroy Coker, Bennie Hamilton,
18 Kristopher Kaczanowski, and Anthony Killion.

For the reasons stated herein, the Court hereby 19 GRANTS IN PART the Motion for Class
Certification and GRANTS the Request for Judicial 20 Notice. 21 22 23 24 / / / 25 / / / 26 / / / 27
28 1 I. Background 2 A. Background as to this Litigation 3 Plaintiff Bennie Hamilton
("Hamilton") filed a class action complaint in this Court on 4 November 2, 2021. ECF No. 1.

He has since filed a First Amended Complaint, a Second Amended 5 Complaint, a Third Amended
Complaint, and a Fourth Amended Complaint. See ECF Nos. 10, 42, 6 66, 74. In the Fourth
Amended Complaint ("FAC"), Hamilton is joined by Plaintiffs Anthony 7 Killion ("Killion"),
Kristopher Kaczanowski ("Kaczanowski"), Leroy Coker ("Coker"), and Darrell 8 Brown
("Brown," or collectively with Hamilton, Killion, Kaczanowski, and Coker, "Plaintiffs").

See 9 ECF No. 74. Plaintiffs bring suit in the FAC against Defendants Knight Transportation Inc. (“Knight 10 Transportation”) and Knight Port Services, LLC (“Knight Port,” or collectively with Knight 11 Transportation, “Defendants”).¹ See *id.* Plaintiffs allege various wage and hour violations against 12 Knight Transportation and Knight Port. 13 B. The Martinez Action and Stay of this Action 14 In an action distinct from this one and filed before this action, Plaintiffs Raul Martinez 15 (“Martinez”) and Philippe Vieux (“Vieux”) filed a class action (the “Martinez Action”) in San 16 Bernardino County Superior Court on July 7, 2020, which was removed to this Court on April 1, 17 2021.

See *Raul Martinez et al v. Knight Transportation, Inc. et al*, Case No. 5:21-cv-00572, ECF No. 18 1 (C.D. Cal. Apr. 1, 2021). Martinez and Vieux brought the Martinez Action against Knight 19 Transportation, and alleged various wage and hour violations on behalf of themselves and a 20 purported class. See *id.* 21 The parties to the Martinez Action participated in a mediation on December 13, 2023, and 22 later reached a settlement.

See *Raul Martinez et al v. Knight Transportation, Inc. et al*, Case No. 23 5:21-cv-00572, ECF No. 37-2 ¶ 20 (C.D. Cal. July 20, 2023). Martinez filed a Motion for 24 25 26 27 1 Defendant Kold Trans, LLC—referenced in the caption of this action on the Court’s CM/ECF system, *Bennie 28 Hamilton v. Kold Trans, LLC et al*—was dismissed as a Defendant in the Third Amended Complaint.

See ECF No. 66; 1 Preliminary Approval of Class and Representative Action Settlement on July 20, 2023. See *Raul 2 Martinez et al v. Knight Transportation, Inc. et al*, Case No. 5:21-cv-00572, ECF No. 37 (C.D. Cal. 3 July 20, 2023).

The Court preliminarily approved the class settlement on December 5, 2023, finding 4 that the Rule 23 requirements were met; the class was defined as “all persons who are or have been 5 employed by [Knight] as employee over-the-road drivers who were California residents or assigned 6 to work out of a location in California from April 6, 2016 through the date of Preliminary Approval 7 (the ‘Class Period’).” See *Raul Martinez et al v. Knight Transportation, Inc. et al*, Case No. 5:21-cv- 8 00572, ECF No. 53 at 3, 10 (C.D.

Cal. Dec. 5, 2023). Pursuant to that preliminary approval, Class 9 Notice was sent to the putative class members. See *id.*, ECF No. 62-4 at 8–23. 10 While final approval of the settlement in the Martinez Action was pending, Plaintiffs in this 11 action became aware of the Martinez settlement and objected to it. See *Raul Martinez et al v. Knight 12 Transportation, Inc. et al*, Case No. 5:21-cv-00572, ECF No. 61 (C.D.

Cal. Apr. 8, 2023). Pursuant 13 to Plaintiffs’ Motion, the Court stayed this action pending the determination of whether to approve 14 the final settlement in Martinez. See ECF No. 91. 15 On June 11, 2024, the Court issued an Order denying final approval of the Martinez 16 settlement.²

See Raul Martinez et al v. Knight Transportation, Inc. et al, Case No. 5:21-cv-00572, 17 ECF No. 74 (C.D.

Cal. Apr. 8, 2023). The Court lifted the stay in this action as a result. See ECF No. 18 99. The Martinez Action is now stayed. See Raul Martinez et al v. Knight Transportation, Inc. et al, 19 Case No. 5:21-cv-00572, ECF No. 74 (C.D. Cal. Apr. 8, 2023). 20 C. The Instant Motion and Related Filings 21 On November 2, 2021, Hamilton filed the instant action on behalf of himself and others 22 similarly situated alleging causes of action for violations under the Rest Break laws, Cal. Labor 23 Code § 226.7(a); Improper Meal Periods laws, Cal. Labor Code §§ 226.7(a) and 512(a); 24 25 26 27 28 2 The Court later denied Knight's Motion to Modify this Order, finding that the Court had accurately described Knight's 1 Reimbursement for Business Expenses laws, Cal. Labor Code §§ 2800 and 2802; Unlawful Wage 2 Deduction laws, Cal. Labor Code §§ 221 and 224; Inaccurate Wage Statement laws, Cal. Labor 3 Code § 226(a); and Unfair and Unlawful Business Practices law, Cal. Bus. & Prof.

Code § 17200. 4 Plaintiffs filed a Motion for Class Certification on July 11, 2024. See ECF No. 93 ("Motion" 5 or "Mot."). Defendants filed its opposition on September 23, 2024. See ECF No. 100 ("Opposition" 6 or "Opp."). Plaintiffs filed their reply on December 5, 2024. See ECF No. 114 ("Reply").

On July 7 11, 2024, Plaintiffs filed a Request for Judicial Notice. See ECF No. 93-13 ("RJN"). 8 In connection with the Motion, the parties also filed evidentiary objections.³ Defendants filed 9 a Defendants' Evidentiary Objections in Opposition to Plaintiffs' Motion for Class Certification. 10 ECF No. 107 ("Evidentiary Objections"). Plaintiffs filed a Plaintiffs' Response to Defendants' 11 Evidentiary Objections in Opposition to Plaintiffs' Motion for Class Certification, ECF No. 122 12 ("Response"); an Objection to Declaration of Robert Crandall In Support of Reply to Opposition to 13 Re: Notice of Motion and Motion to Certify Class, ECF No. 123 ("Objection to Crandall Decl."); an 14 Objection to Evidence (Witness Declarations) in Support of Defendants' Opposition to re: Notice of 15 Motion and Motion to Certify Class, ECF No. 124 ("Objection to Opp.

Evidence 1"); an Evidentiary 16 Objections to Defendants' Evidence in Support of Opposition to Re: Notice of Motion and Motion to 17 Certify Class, ECF No. 125 ("Objection to Opp. Evidence 2"); and an Evidentiary Objections to 18 Defendants' Evidence in Support of Opposition to re: Notice of Motion and Motion to Certify Class, 19 ECF No. 127 ("Objection to Opp.

Evidence 3"). 20 / / / 21 / / / 22 23 24 25 3 In preparing this Order, the Court considered the parties' evidentiary objections. ECF No. 107, 122, 123, 124, 125, 127. 26 The Court did not find any evidence that either party objected to essential to finding stated herein, except where explicitly stated otherwise.

The Court need not reach any objection except those addressed in this Order. Similarly, given 27 that the Court grants class certification despite the assertions by Crandall (and denies class certification for one subclass without reliance on the Crandall declaration), the Court need not reach the Plaintiffs' Objection or request to strike 28 Crandall's declaration.

Reply at 6 ("Crandall's declaration should be struck for the reasons set forth in Plaintiffs' 1 REQUEST FOR JUDICIAL NOTICE (ECF NO. 93-13) 2 I. Applicable Law 3 A court may judicially notice facts that: "(1) [are] generally known within the trial court's 4 territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy 5 cannot reasonably be questioned." Fed.

R. Evid. 201(b). Under this standard, courts may judicially 6 notice "undisputed matters of public record," but generally may not notice "disputed facts stated in 7 public records." *Lee v. City of Los Angeles*, 250 F.3d 668, 690 (9th Cir. 2001), overruled on other 8 grounds by *Galbraith v. County of Santa Clara*, 307 F.3d 1119, 1125–26 (9th Cir. 2002). Once a 9 fact is judicially noticed, the court "must instruct the jury to accept the noticed fact as conclusive." 10 Fed.

R. Evid. 201(f). 11 II. Discussion 12 The Plaintiffs request that the Court take judicial notice of two documents. See RJN, Ex. 1 13 (the documents). The documents are: (1) a letter from Boise Cascade LLC Legal Department 14 ("Boise") to the Division of Labor Standard Enforcement ("DLSE") requesting DLSE to advise 15 whether Boise's proposed program of electronic delivery of wage statements is approved; and (2) a 16 letter from the DLSE responding to Boise's inquiry regarding electronic itemized wage statements 17 and explaining California Labor Code § 226(a), which requires employers to include accurate 18 information on their employees' wage statements.

Id. 19 The Court finds it appropriate to take judicial notice of both documents. Their existence and 20 authenticity can be "readily determined from sources whose accuracy cannot reasonably be 21 questioned." See Fed. R. Evid. 201(b).

The Court will take judicial notice of the fact that these 22 documents exist and their contents, but not of any disputed issues of fact contained within the 23 documents. See *Lee*, 250 F.3d at 690. 24 The Request for Judicial Notice (ECF No. 93-13) is GRANTED. 25 MOTION FOR CLASS CERTIFICATION (ECF NO. 93) 26 I. Applicable Law 27 A district court has broad discretion in making a class certification determination under 28 Federal Rule of Civil Procedure 23.

Navellier v. Sletten, 262 F.3d 923, 941 (9th Cir. 2001); see also 1 *Reiter v. Sonotone Corp.*, 442 U.S. 330, 345 (1979) (noting that district courts "have broad power 2 and discretion vested in them by Fed. Rule Civ. Proc. 23").

However, a court must exercise this 3 discretion "within the framework" of the Rule. *Navellier*, 262 F.3d at 941. Under Rule 23, a court 4 may only certify a class if the following prerequisites are met: (1) Numerosity: The class must be so numerous that joinder of all members individually

is 5 “impracticable”; 6 (2) Commonality: There must be questions of law or fact common to the class; (3) Typicality: The claims or defenses of the class representative must be typical of the 7 claims or defenses of the class; and (4) Adequacy of Representation: The class representative must be able fairly and adequately 8 to protect the interests of all members of the class.

9 Fed. R. Civ. Proc. 23(a). “Rule 23 does not set forth a mere pleading standard.” Wal-Mart Stores, 10 Inc. v. Dukes, 564 U.S. 338, 350 (2011). Rather, a plaintiff “must be prepared to prove that there are 11 in fact sufficiently numerous parties, common questions of law or fact, etc.” Id. In evaluating 12 whether the Rule 23(a) prerequisites have been met, a district court should consider whether the 13 claims are supported by a preponderance of the evidence.

Olean Wholesale Grocery Cooperative, 14 Inc. v. Bumble Bee Foods LLC, 31 F.4th 651, 665 (9th Cir. 2022). 15 A. Numerosity 16 Numerosity is typically presumed at a level of a few dozen members. See Consolidated Rail 17 Corp. v. Town of Hyde Park, 47 F.3d 473, 483 (2d Cir. 1995) (noting that “numerosity is presumed 18 at a level of 40 members”). 19 B. Commonality 20 “Commonality requires the plaintiff to demonstrate that the class members ‘have suffered the 21 same injury.’” Wal-Mart Stores, Inc., 564 U.S. at 349–50.

The claims of the proposed class members 22 “must depend upon a common contention,” which “must be of such a nature that is capable of class 23 wide resolution—which means that determination of its truth or falsity will resolve an issue that is 24 central to the validity of each one of the claims in one stroke.” Id. at 350 (emphasis added).

As the 25 Supreme Court reiterated in Dukes, to establish commonality, “even a single common question will 26 do.” Id. at 359 (internal quotations omitted). 27 C. Typicality 28 1 “The test of typicality ‘is whether other members have the same or similar injury, whether 2 the action is based on conduct, which is not unique to the named plaintiffs, and whether other class 3 members have been injured by the same course of conduct.’” Hanon v. Dataproducts Corp., 976 F.2d 4 497, 508 (9th Cir.

1992). “Typicality refers to the nature of the claim or defense of the class 5 representative, and not to the specific facts from which it arose or the relief sought.” Id. 6 D. Adequacy of Representation 7 “To determine whether named plaintiffs will adequately represent a class, courts must 8 resolve two questions: (1) do the named plaintiffs and their counsel have any conflicts of interest 9 with other class members and (2) will the named plaintiffs and their counsel prosecute the action 10 vigorously on behalf of the class?” Ellis v. Costco Wholesale Corporation, 657 F.3d 970, 985 (9th 11 Cir.

2011). 12 The Supreme Court has noted that the requirements of Rule 23(a) “also tend to merge with 13 the adequacy-of-representation requirement, although the latter requirement also raises concerns 14 about the competency of class counsel...” Dukes, 564 U.S. at 349 n.5.

In appointing class counsel, 15 a court must consider: (1) “the work counsel has done in identifying or investigating potential claims 16 in the action”; (2) “counsel’s experience in handling class actions, other complex litigation, and the 17 types of claims asserted in the action”; (3) “counsel’s knowledge of the applicable law”; and (4) “the 18 resources that counsel will commit to representing the class.” Fed.

R. Civ. Proc. 23(g)(1)(A). 19 Moreover, class counsel “must fairly and adequately represent the interests of the class.” Fed. R. 20 Civ. Proc. 23(g)(4). 21 E. Rule 23(b) Requirements, Including Predominance 22 In addition to demonstrating that the Rule 23(a) prerequisites have been met, a party moving 23 for class certification must establish that the action falls within one of the three categories of class 24 suits provided for in Rule 23(b).

25 Plaintiffs seek to establish that the requirements of Rule 23(b) are satisfied through Rule 26 23(b)(3), which requires the Court to find that “the questions of law or fact common to class 27 members predominate over any questions affecting only individual members, and that a class action 28 1 is superior to other available methods for fairly and efficiently adjudicating the controversy.” Fed.

R. 2 Civ. Proc. 23(b)(3). 3 “The matters pertinent to these findings include: (A) the class members’ interests in 4 individually controlling the prosecution or defense of separate actions; (B) the extent and nature of 5 any litigation concerning the controversy already begun by or against class members; (C) the 6 desirability of undesirability of concentrating the litigation of the claims in the particular forum; and 7 (D) the likely difficulties in managing a class action.” Id. “The predominance inquiry asks whether 8 the common, aggregation-enabling, issues in the case are more prevalent or important than the non- 9 common, aggregation-defeating, individual issues.” *Olean Wholesale Grocery Cooperative, Inc. v. 10 Bumble Bee Foods LLC*, 31 F.4th 651, 664 (9th Cir.

2022). “In order for the plaintiffs to carry their 11 burden of proving that a common question predominates, they must show that the common question 12 relates to the central issue in the plaintiffs’ claim.” Id. at 665. 13 F. The Burden of Establishing Class Certification Requirements 14 The moving party “bears the burden of establishing that the proposed class meets the 15 requirements of Rule 23.” *Edwards v. First Am.*

Corp., 798 F.3d 1172, 1177 (9th Cir. 2015). In 16 carrying this burden, a plaintiff “may use any admissible evidence.” *Olean Wholesale Grocery 17 Cooperative, Inc.*, 31 F.4th at 665. Resolution of a motion for class certification requires a “rigorous 18 analysis” as to whether Rule 23’s requirements have been met. Id. at 350–51. During this analysis, 19 “[m]erits questions may be considered... only to the extent... that they are relevant to determining 20 whether Rule 23 prerequisites for class certification are satisfied.” *Stockwell v. City & Cnty. of San 21 Francisco*, 749 F.3d 1107, 1111 (9th Cir.

2014) (quoting *Amgen Inc. v. Conn. Ret. Plans & Trust 22 Funds*, 568 U.S. 455, 466 (2013)). 23
II. Discussion 24 Pursuant to Federal Rule of Civil Procedure 23(a) and (b), Plaintiffs move to
certify a 25 proposed class and subclasses, which are defined as follows: Class: All former and
current Drivers employed by Defendants within the State of California, 26 at any time within four
years prior to the filing of this lawsuit (i.e.

November 2, 2017) until 27 the present date. 28 1 Subclass A: All former and current Drivers employed by Defendants within the State of California who were not furnished with written wage statements and not provided the 2 election to receive paper wage statements, at any time within four years prior to the filing of this lawsuit until the present date. 3 Subclass B: All former and current Drivers employed by Defendants within the State of California who were reimbursed no more than \$5.00 per month for cell phone 4 reimbursement, at any time within four years prior to the filing of this lawsuit until the present date.

5 6 Subclass C: All former and current Drivers employed by Defendants within the State of California who were not furnished with written wage statements and not provided the 7 election to receive paper wage statements, at any time within four years prior to the filing of this lawsuit until the present date. 8 Mot. at 1–2. 9 This Court preliminarily approved a similar class in the *Martinez* case, which included “all 10 persons who are or have been employed by [Knight] as employee over-the-road drivers who were 11 California residents or assigned to work out of a location in California from April 6, 2016, through 12 the date of Preliminary Approval.” See *Raul Martinez et al v. Knight Transportation, Inc. et al*, Case 13 No. 5:21-cv-00572, ECF No. 53 (C.D.

Cal. Apr. 10, 2024). 14 In their Motion, the Plaintiffs identify for each subclass certain questions of law or fact that 15 are common to the subclass and further argue for each subclass that these questions predominate 16 over any questions only affecting individuals.

The Court will first address the numerosity, typicality, 17 and adequacy of representation requirements for the class as those appear to be largely uncontested. 18 Because the Court understands that the subclasses are merely subsets of the proposed class, the Rule 19 23 requirements must be met for each subclass, and the parties do not make separate arguments with 20 respect to the class on one hand and the subclasses on the other, the Court will address the remaining 21 Rule 23 requirements with respect to each subclass separately—with the exception of Knight’s 22 choice of law argument that appears to apply equally to all subclasses.

23 24 /// 25 /// 26 /// 27 28 1 A. The Numerosity, Typicality, and Adequacy of Representation Requirements for 2 Certification of the Class Under Rule 23(a) Are Met 3 i. Rule 23(a) 4 1. Numerosity 5 The Court finds that Plaintiff’s proposed class of 1969 members 4 satisfies the numerosity 6 requirement. Mot. at 24. 7 2. Typicality 8 The Court finds that the nature of Hamilton’s claim is typical to those of the proposed 9 class—Hamilton and the proposed class members would be bringing the same California Labor 10 Code §§ 1194, 2802, and 226 claims.

Defendants have not articulated any defenses Hamilton would have to overcome that are completely unique to him and would overwhelm the case such that “absent class members will suffer.” *Id.* at 508. And to the extent that Knight’s position is that typicality fails for the same reasons that predominance fails, the Court finds below that the predominance requirement has been met.

Accordingly, the Court finds typicality met. 3. Adequacy of Representation The Court does not find any issues with the adequacy of representation in this action. First, the Court finds Hamilton to be an adequate class representative as there is no indication that this interest does not align with potential class members. The Court further finds Hamilton’s counsel, Righetti Glugoski, P.C, adequate to appoint as class counsel for the certified class under the requirements of Rule 23(g).⁵ Counsel has clearly 21 22 23 24 4 Declaration of John Glugoski in Support of Plaintiff’s Motion for Class Certification, ECF No. 93-2 (“Glugoski Decl.”) 25 ¶ 8; Declaration of Reuben D Nathan in Support of Plaintiff’s Motion for Class Certification, ECF No. 93-11 (“Nathan Decl.”) ¶ 3, Ex. A only shows 26 putative class members not 1969 but there are two declarations asserting that there are 26 potentially 1969 class members and Defendants do not object to the satisfaction of the numerosity element or otherwise address it.

Declaration of Brian J. Kowalski in Support of Plaintiff’s Motion for Class Certification, ECF No. 93-12 27 (“Kowalski Decl.”) ¶ 3. 28 5 “Unless a statute provides otherwise, a court that certifies a class must appoint class counsel.” Fed. R. Civ. Proc. 1 dedicated significant time and resources to developing the claims in this case. See ECF No. 93-2 2 (“Glugoski Cert.

Decl.”) ¶ 9–60.6 This includes conducting significant written discovery, 3 depositions, and retention of an expert, as well as the bringing of the instant class certification 4 motion. *Id.* Hamilton’s counsel is experienced in class actions relating to employment law, privacy 5 law, FCRA and CCCRA claims, and have litigated many consumer class action cases. *Id.* ¶ 4.

The 6 Court finds no reason to question counsel’s dedication to the class, given their prior work on this 7 case and their experience in wage and hour class actions. The Court also does not find, nor do the 8 Defendants raise, any other conflicts such that Hamilton’s counsel would not be able to fairly and 9 adequately represent the proposed class. 10 Accordingly, the Court finds adequacy of representation satisfied both under Rule 23(a)(4) as 11 well as Rule 23(g)(1) and (4).

12 B. Choice of Law Does Not Defeat Certification of This Proposed Class 13 Defendants argue that individual choice of law questions defeat class certification for the 14 proposed class because they preclude this Court from finding that common questions of law. *Opp.* at 15 24–25.

Under California’s choice of law rules, the class action proponent bears the initial burden to 16 show that California has significant contact or significant aggregation of contacts to the claims of 17 each proposed class member. *Mazza v. Am. Honda Motor Co.*, 666 F.3d 581, 589 (9th Cir.

2012), 18 overruled in part by *Olean Wholesale Grocery Coop., Inc. v. Bumble Bee Foods LLC*, 31 F.4th 651 19 (9th Cir.

2022) (overruled in part regarding standing issue). If Plaintiffs meet their burden, 20 Defendants must show that foreign law, rather than California law, should apply to class claims. *Id.* 21 If the interests of other states are not found to outweigh California’s interest in having its law 22 applied, California law will be applied on a class-wide basis. *Id.* To determine whether other states’ 23 24 25 26 27 6 Defendants object to Plaintiffs’ introduction of Glugoski Decl. ¶¶ 25, 32, 33, 35–37, 39, 41 on the grounds that it contains “inadmissible argument of counsel”, “is not properly authenticated”, and “not based on personal knowledge.” 28 See ECF No. 107 ¶¶ 1–13.

The Court finds these objections baseless and overrules them. The Court will consider the 1 interests outweigh California’s interest, courts consider “(1) whether the law of the other states is 2 materially different from California law; (2) if there are differences, whether the other state has an 3 interest in having its law applied to decide whether a true conflict exists; and (3) if another state has 4 an interest, the court determines which state’s interest would be most impaired if its policy were 5 subordinated to the law of another state.” *Id.* 6 Plaintiffs argue that California has significant contact or significant aggregation of contacts 7 to the claims of each proposed class member because Knight maintains California wage statements 8 and withheld California employment taxes for the Driver Qualification Process (“DQP”) work 9 performed by drivers.

Reply at 8 n.8. Plaintiffs point to a wage statement showing California taxes 10 being withheld. ECF No. 93-3, Ex. 17 at 223.7 Because Plaintiffs have met their initial burden, the 11 burden shifts to Defendants to show that foreign law, rather than California law, should apply to its 12 claims. 13 Defendants contend that foreign law should apply to the class claims because there are 14 putative class members like Anthony Quillan who was assigned to a California terminal and was a 15 California resident, but spending less than 20% of work time in California.

Opp. at 25. Courts look 16 to the Ward test to determine “whether California’s ties to the employment relationship are 17 sufficiently strong to justify its assertion of regulatory authority over the contents of an employee’s 18 wage statements.” *Ward v. United Airlines, Inc.*, 986 F.3d 1234, 1240 (9th Cir. 2021) (explaining 19 that employees covered by Ward test must be based for work purposes in California and perform at 20 least some work in California).

Because Anthony Quillan is a California resident and performed 21 some work in California, California’s ties to Plaintiffs and Defendants’ employee relationship are 22 23 24 25 26 27 28 7 1 strong enough to justify its assertion of California law under Ward.⁸ Defendant fails to meet its 2 burden in showing that foreign law should apply, so the Court need not undergo the three-part 3 analysis.

4 C. The Requirements for Certification of Subclass A (Unpaid Wage Subclass) Are 5 Met 6 The Court finds the requirements of both Rule 23(a) and (b) have been met as to the 7 proposed Subclass A, “[a]ll former and current Drivers employed by Defendants within the State of 8 California who were not paid for all hours worked, at any time within four years prior to the filing of 9 this lawsuit until the present date.”⁹ 10 i. Rule 23(a) 11 1.

Numerosity 12 The numerosity requirement is relaxed for subclasses. See 1 Newberg and Rubenstein on 13 Class Actions § 3:16 (6th ed.) (“When a party or a court seeks to create subclasses, it is generally 14 settled that each subclass must independently satisfy each of the Rule 23 criteria.

However, if the 15 subclass members are also members of the larger, already certified class, courts have held that the 16 subclass may not be required to satisfy independently the numerosity requirement.”) (footnotes 17 omitted). *Loaiza v. Kinkisharyo Int’l, L.L.C.*, 2022 U.S. Dist. LEXIS 198116, *14–15.

The Court 18 finds that subclass A members are part of the larger, already certified proposed class; therefore, 19 subclass A is not required to satisfy independently the numerosity requirement. 20 / / / 21 22 23 24 8 Defendants rely on *Felicia Vidrio, et al. v. United Airlines, Inc.*, 2017 WL 1034200 (C.D. Cal. 2017) for the 25 proposition that foreign law should apply to class members like Quillan, but the district court opinion *Vidrio* was reversed and remanded by *Ward*.

See *Vidrio* at 6 (finding that California law does not apply to California residents who 26 “performed less than 18 percent of their work in California”); see also *Ward* at 1240 (explaining that tests cited in *Vidrio*, such as job situs test and multi-factor approach, are replaced by new test: “whether California’s ties to the employment 27 relationship are sufficiently strong to justify its assertion of regulatory authority over the contents of an employee’s wage statements.”) 28 1 2.

Commonality 2 Defendants do not appear to dispute that the commonality requirement has been met with 3 respect to the questions identified by Plaintiffs. Instead, they appear to primarily dispute that these 4 questions constitute valid theories of liability and that they predominate as required by Rule 5 23(b)(3).

The Court will therefore discuss the parties’ arguments on the validity of the theories in 6 this section and discuss the remaining arguments when discussing the regarding predominance 7 requirement. 8 Defendants challenge one of Plaintiffs’ theories of liability by asserting that the Defendants’ 9 policy on waiting time is perfectly legal. This, however, appears to be a question better addressed at 10 the merits stage, given the showing that Plaintiffs have made that even the Defendants’ written 11 policy may not be legal.

12 The Defendants also challenge Plaintiffs’ theory with respect to DQP, but this appears to be a 13 question better addressed at the merits stage, given the showing that Plaintiffs have made that

even 14 the Defendants’ acknowledged policy of not compensating for DQP may not be legal. 15 The Court finds that Plaintiffs have established common questions of law and fact exist for 16 subclass A. Accordingly, Plaintiffs have met their burden as to the commonality element for 17 subclass A. 18 3.

Typicality 19 The Court finds that the nature of Hamilton’s claim is typical to those of the proposed 20 subclass A—Hamilton and the proposed subclass A members would be bringing the same Cal. Lab. 21 Code §§ 226.2 and 1194 claims. Defendants have not articulated any defenses Hamilton would have 22 to overcome that are completely unique to him and would overwhelm the case such that “absent 23 class members will suffer.” *Id.* at 508.

Accordingly, the Court finds typicality met for subclass A. 24 4. Adequacy of Representation 25 The Court does not find any issues with the adequacy of representation in this action for the 26 reasons stated above. See *supra* Section A(i)(4).

Accordingly, the Court finds adequacy of 27 representation satisfied both under Rule 23(a)(4) as well as Rule 23(g)(1) and (4) for subclass A. 28 ii. Rule 23 (b) 1 Defendants’ first argument regarding predominance is that there is substantial evidence that 2 the unwritten policies the Plaintiffs allege with respect to piece work and various forms of 3 uncompensated time were not uniform and therefore individual questions predominate, precluding 4 certification of this subclass.

Opp. at 11. In particular, Defendants insist that “Plaintiffs’ claims for 5 unpaid wages are premised on the incorrect notion that PCMs are paid piece-rate compensation 6 without any hourly component (except detention/congestion pay).” Opp. at 9 (emphasis added). 7 Therefore, according to the Defendants, Plaintiffs cannot prevail for two reasons: (1) their claims 8 have no merit which precludes class certification; and (2) to the extent that Plaintiffs can point to 9 isolated examples which appear to show that some drivers were not paid their full hourly wages, 10 these are rare and based upon individual factors regarding how individual drivers recorded their 11 time—not based upon a policy or practice—thus defeating predominance.

12 However, the Defendants have not demonstrated to this Court that their pay system indeed 13 operates as an hourly wage system which properly compensates drivers for all hours worked under 14 California law as opposed to a piece rate system, which fails to compensate drivers for all hours 15 worked under California law.

Although the Defendants emphasize that Production Pay is paid in 16 addition to a direct hourly wage, and, at the hearing, even described it as a “production bonus,” their 17 own declarations belie this. See DeJong Decl. and Yeast Decl. ¶¶ 19–21 (describing the pay system). 18 As the evidence and arguments reveal, the Hourly Pay is based only on the FMCSA categories of 19 “driving” and “on-duty (not driving).” But if those FMCSA categories do not neatly map on all of 20 the hours that California law requires to be compensated, or if the Defendants instruct their

drivers to 21 use the categories in a way that does not neatly map on all of the hours that California law requires 22 23 24 25 26 27 28 1 to be compensated, then Hourly Pay would not compensate drivers for all hours worked.¹⁰ Frankly, 2 it is only in light of this that the Production Pay category of pay and the various “pay adjustments” 3 under the Trip Calculations makes sense: because the Hourly Pay does not compensate for all hours 4 worked, Production Pay is sometimes paid.¹¹ The Court notes that although Defendants point to 5 wage statements showing that Hamilton’s pay (“gross wages”) matched his Hourly Pay¹², there are 6 numerous other wage statements presented by the Plaintiffs where that is not the case.¹³ If that is 7 indeed the case, and if the Production Pay plus Hourly Pay plus Rest Period Pay does not 8 compensate drivers for all hours worked under California law, the system is impermissible.

9 Moreover, the predominance test does not require that there be no individual issues—rather, 10 the Court must weigh the prevalence and importance of these questions compared to the common 11 questions identified previously. This is true even if the individualized questions relate to injury or 12 13 14 15 10 The Woolsey deposition suggests that this may indeed be the case.

ECF 93-3, Ex. 20. In particular, Woolsey appeared 16 unable to confirm that certain tasks—such as breakdown—which Plaintiffs assert are required to be compensated under California law are indeed to be coded by drivers according to Defendants’ policy as “driving” or “on duty (not driving)” 17 which is the only way they would be compensated under Hourly Pay. See *id.* at 111, 116.

And the evidence regarding pay adjustments, ECF No. 93-7, Ex. 47 at 336 (a pleading from the related Martinez case to 18 show that \$40.97 was added to a driver’s February 18, 2023 wage statement and later deducted in their February 25, 2023 wage statement); ECF No. 93-7, Ex. 43 (showing multiple wage statements containing an adjustment entry where 19 compensation is deducted); Young Decl. ¶¶12–13 (explaining that Defendants have not paid Plaintiffs minimum wage after taking into account the adjustment deductions); ECF No. 93-6, Ex. 32 (Kaczanowski’s wage statement shows that 20 Kaczanowski was paid an hourly rate of \$14.34, which is less than the \$15.50 minimum wage); Crandell Decl. ¶ 35, 43 (acknowledging that the wage statements show the adjustment issue), also provide strong evidence of a policy that either 21 amounted to an impermissible piece work system or to unlawful “borrowing” under California law.

Oman, 9 Cal. 5th at 782-783 (finding that California law does not permit “wage borrowing”) 22 For this reason, the Court finds the Defendants’ arguments about waiting time and training time unavailing; Plaintiffs have adduced sufficient evidence that is not simply a matter of some drivers working “off-the-clock” which might 23 preclude class certification. 24 11 This is consistent with the Woolsey testimony heavily relied upon by the Plaintiffs suggesting that the Defendants do a “minimum wage cross check” because pay is primarily based upon the piece rate trip calculations.

See Woolsey 25 testimony discussed at Motion at 14. 12 ECF No. 103-5 at 3 (both “GROSS” in the bottom left of the page and “CURRENT GROSS WAGES” at the bottom right under “California resident Company Driving Associates” equal \$916.60). Id. at 2 (both “GROSS” in the bottom left of the page and “CURRENT GROSS WAGES” at the bottom right under “California resident Company Driving 27 Associates” equal \$688.47).

28 13 ECF No. 93-7 at KT002248 (The “TOTAL” figure for “TRIP CALCULATIONS” is \$1,485.47, the “Current” under 1 damages. Olean Wholesale Grocery Cooperative, Inc., 31 F.4th at 669 (rejecting argument that 2 “Rule 23 does not permit the certification of a class that potentially includes more than a de minimis 3 number of uninjured class members,” and explaining that a district court should determine whether 4 the common question predominates over individual questions “about injury or entitlement to 5 damages”).

Plaintiffs have presented substantial evidence suggesting that the policies they allege did 6 exist, and this is sufficient. For instance, even if it is the case that some drivers were not paid on a 7 piece rate system, the question of whether such a system requires the additional compensation 8 predominates over the question of whether any given driver was paid on such a piece rate system, 9 which appears to be a question that will be susceptible of fairly simple individual resolution at a later 10 stage.¹⁴ 11 Defendants’ next argument with respect to predominance is that under *Oman v. Delta Air 12 Lines, Inc.*, 9 Cal. 5th 762, 781 (2020).

California law permits drivers to agree to a certain form of 13 compensation as a matter of contract, that some drivers in fact did agree that their Production Pay 14 would cover certain services, and this would mean that individual questions about what each driver 15 agreed to would predominate over any common question of what they were entitled to under the 16 wage and hour laws.

According to Defendants, “Under *Oman*, California’s wage and hour laws are 17 not violated when an employee is paid on a piece-rate basis so long as the piece-rate pay is not 18 ‘borrowed’ to compensate for time worked that is outside of the work that the employer and 19 employee contractually agreed is covered by the piece rate.” Opp. at 18.

The Defendants misread 20 *Oman*, it does not endorse the idea that employees can contractually agree to be paid less than 21 minimum wage. To the contrary, the California Supreme Court held as follows in *Oman*: 22 Synthesizing the authorities, we summarize the principles this way.

The compensation 23 owed employees is a matter determined primarily by contract. Compensation may be calculated on a variety of bases: Although nonexempt employee pay is often by the 24 25 26 27 28 14 And frankly, the individual proof that the Plaintiffs intend to adduce would appear to assist in determining the answer 1 hour upri,e cseta, they 1 athwe esxapler,e ossrl byy a aunthyo oritzheesr ecmonpvleonyieernst tsot acnadlcaurdla. t.e. c. o.

compensation by the task 2 Whatever the task or period promised as a basis for compensation, however, an 3 employer must pay no less than the minimum wage for all hours worked.

The employer must satisfy this obligation while still keeping any promises it has made to provide 4 particular amounts of compensation for particular tasks or periods of work. 5 *Oman*, 9 Cal. 5th at 781–82, (2020) (internal citations omitted). In fact, it appears that the Plaintiffs’ 6 claims trigger similar questions to those posed in *Oman*: 7 Whether a particular compensation scheme complies with these obligations may be 8 thought of as involving two separate inquiries.

First, for each task or period covered by the contract, is the employee paid at or above the minimum wage? Second, are there 9 other tasks or periods not covered by the contract, but within the definition of hours worked, for which at least the minimum wage should have been paid? 10 *Oman*, 9 Cal. 5th at 782. 11 With respect to these Plaintiffs, the questions that Defendants pose appear to be a merits 12 question, and frankly, the common question of whether drivers could bargain away their entitlement 13 to be paid an hourly wage and whether they did would predominate and guide the individual 14 questions.

15 Accordingly, the predominance requirements under Rule 23(b) are satisfied for subclass A. 16 Because all requirements are met, the Court GRANTS certification as to subclass A. 17 D. The Requirements for Certification of Subclass B (Cell Phone Subclass) Are Not 18 Met 19 As explained next, the Court finds not all of the requirements of Rule 23(a) and (b) have been 20 met as to the proposed subclass B—“[a]ll former and current Drivers employed by Defendants 21 within the State of California who were reimbursed no more than \$5.00 per month for cell phone 22 reimbursement, at any time within four years prior to the filing of this lawsuit until the present date.” 23 Mot. at 2.

24 i. Rule 23(a) 25 1. Numerosity 26 The Court finds that subclass B members are part of the larger, already certified proposed 27 class; therefore, subclass B is not required to satisfy independently the numerosity requirement. 28 1 2. Commonality 2 As with Subclass A, Defendants do not appear to dispute that the commonality requirement 3 has been met with respect to the question identified by Plaintiffs.

Instead, they appear to primarily 4 dispute that this question predominates as required by Rule 23(b)(3). The Court finds that the 5 commonality requirement has otherwise been met. 6 3. Typicality 7 The Court finds that the nature of Hamilton’s claim is typical to those of the proposed 8 subclass B—Hamilton and the proposed subclass B members would be bringing the same Cal. Lab.

9 Code § 2802 claim. Defendants have not articulated any defenses Hamilton would have to overcome 10 that are completely unique to him and would overwhelm the case such that “absent class members 11 will suffer.” Id. at 508.

Accordingly, the Court finds typicality met for subclass B. 12 4. Adequacy of Representation 13 The Court does not find any issues with the adequacy of representation in this action for the 14 reasons stated above. See supra Section A(i)(4).

Accordingly, the Court finds adequacy of 15 representation satisfied both under Rule 23(a)(4) as well as Rule 23(g)(1) and (4) for subclass B. 16 ii. Rule 23 (b) 17 Defendants' primary argument against the predominance requirement is that whether (1) 18 personal phone use was necessary for each class member, (2) \$5 was sufficient reimbursement for 19 each subclass B member based on time and data usage, and (3) a subclass B member who exceeded 20 the \$5 monthly cap on cell phone reimbursement submitted a claim for the additional amount 21 requires individualized inquiries that would predominate over the common questions of whether 22 Defendants are liable for unreimbursed business expenses.

Opp. at 23–34. 23 Plaintiffs claim with respect to cell phones is based upon the premise that there were at least 24 some occasions where cell phone use was required by drivers to accomplish their required duties and 25 therefore cell phone use constituted an expense the Defendants were required to reimburse for and, 26 importantly, that “[t]he accurate measure [of this reimbursement] should be the cost which an 27 employer would incur to provide employees the necessary functionality to perform their duties.” 28 Reply at 5.

But Defendants contend—and Plaintiffs do not reasonably dispute that cell phones were 1 not required by drivers to accomplish their required duties. In fact, it appears undisputed that drivers 2 could use their Zonar tablets to accomplish all of their required communications.

The only time they 3 could not use their Zonar tablets for communicating was when a vehicle was in motion as the Zonar 4 tablets are disabled when a vehicle is in motion. Plaintiffs do not explain the circumstances under 5 which a driver would be required to communicate when a vehicle was in motion. (Common sense 6 would suggest that Defendants discourage their drivers from using cell phones when their vehicles 7 are in motion, for safety reasons.)

8 For this reason, Plaintiffs are unable to show that the policy—be it \$0 with the possibility of 9 making an individualized request for a higher amount or \$5 with the possibility of making an 10 individualized request for a higher amount—violates California law. Plaintiffs did not point to any 11 drivers who made an individualized request that was denied, but even if this occurred, the 12 individualized questions about a given driver's reimbursement request would predominate.

13 Accordingly, the predominance requirements under Rule 23(b) are not satisfied as to subclass 14 B. The Court finds that this precludes certification of subclass B. The Court therefore DENIES 15 certification as to subclass B. 16 E. The Requirements for Certification of Subclass C (Wage Statement Subclass) 17 Are Met in Part 18 As explained next, the Court finds the requirements of both Rule 23(a) and (b) have been met 19 in part as to the proposed subclass C—“[a]ll former and

current Drivers employed by Defendants 20 within the State of California who were not furnished with written wage statements and not provided 21 the election to receive paper wage statements, at any time within four years prior to the filing of this 22 lawsuit until the present date.” Mot. at 2.

23 i. Rule 23(a) 24 1. Numerosity 25 The Court finds that subclass C members are part of the larger, already certified proposed 26 class; therefore, subclass C is not required to satisfy independently the numerosity requirement. 27 /// 28 /// 1 2. Commonality 2 Plaintiffs argue that subclass C has suffered the same injury due to Defendants’ failure to 3 provide written or accurate wage statements.

Mot. at 2. Under California Labor Code § 226(a), an 4 employer must provide employees with wage statements in writing showing gross wages earned, 5 total hours worked by the employee, the number of piece-rate units earned, all deductions, net wages 6 earned, the dates for which the employee was paid, the name of the employee and their social 7 security number, and the name and address of the employer.

Cal. Lab. Code § 226(a). 8 In response, the Defendants argue that Plaintiffs’ accurate wage statement claims fail as they 9 are derivative of their unpaid wage claims. Mot. at 19. Because the Court finds that Plaintiffs raised 10 common questions regarding its unpaid wage claims, the Court also finds that Plaintiffs present 11 common questions of law as to whether Defendants violated section 226 by providing inaccurate 12 statements.

Mot. at 2. 13 Thus, even if Plaintiffs have not shown that common question of law or fact apply to 14 subclass C as to Defendants’ alleged failure to furnish printed wage statement, they have shown a 15 common question of fact as to whether Defendants violated accurate wage statement requirements 16 under Cal. Lab. Code § 226 by providing inaccurate wage statements.

Because Plaintiffs have met 17 their burden as to the inaccurate wage statements, the commonality element is satisfied for subclass 18 C. 19 3. Typicality 20 The Court finds that the nature of Hamilton’s claim is typical to those of the proposed 21 subclass C—Hamilton and the proposed subclass C members would be bringing the same Cal. Lab. 22 Code § 226 claims.

Defendants have not articulated any defenses Hamilton would have to overcome 23 that are completely unique to him and would overwhelm the case such that “absent class members 24 will suffer.” Id. at 508. Accordingly, the Court finds typicality met for subclass C. 25 4. Adequacy of Representation 26 The Court does not find any issues with the adequacy of representation in this action for the 27 reasons stated above.

See supra Section A(i)(4). Accordingly, the Court finds adequacy of 28 representation satisfied both under Rule 23(a)(4) as well as Rule 23(g)(1) and (4) for subclass C. 1 ii. Rule 23 (b) 2 Defendants’ primary argument against the predominance requirement is that whether any of 3 the wage statements cited by Plaintiffs are actionable requires individualized inquiries that would 4

predominate over the common questions of whether Defendants are liable for wages statement 5 violations.

Opp. at 20. Given the derivative nature of these claims, the Court finds that the 6 predominance requirement is met in light of its findings above with respect to Subclass A. 7 It does appear, however, that Plaintiffs' evidence in support of the idea that there was a 8 policy or practice to not provide paper wage statements is primarily based on evidence that some 9 drivers had difficulty obtaining paper wage statements and/or did not understand that they could 10 request paper wage statements.

ECF No. 101 ("Defendants' Compendium of Evidence" or "COE") ¶ 11 27. Compare ECF No. 93-8 ("Killion Declaration" or "Killion Decl.") ¶ 39 (stating "Knight never 12 provided me with a written wage statement. The only way I could access my wage statements was 13 on-line or ask my supervisor or driver manager. My supervisor or driver manager were not interested 14 in my questions and essentially discarded any comments I made regarding not receiving paper wage 15 statements.") (emphasis added) with ECF No. 105-9 ("Killion Deposition" or "Killion Depo.") at 16 119:2124 (stating "I never asked directly if I could get my wage statements in paper form because it 17 was my understanding that Knight's policy was they would only be available in electronic form.").

It 18 does not appear that common questions predominate with respect to this issue of receiving paper 19 wage statements upon request. Therefore, the Court only finds predominance met with respect to the 20 accuracy of the wage statements (the derivative claim) for subclass C. 21 Because all requirements are met, the Court GRANTS certification as to subclass C with 22 respect to accurate wage statements only.

23 III. Conclusion 24 For the foregoing reasons, the Court hereby ORDERS as follows: 25 1. The Request for Judicial Notice of (1) a letter from Boise to the DLSE requesting DLSE to 26 advise whether Boise's proposed program of electronic delivery of wage statements is 27 approved; and (2) a letter from the DLSE to Boise responding to Boise's inquiry regarding 28 electronic itemized wage statements and explaining California Labor Code § 226(a), which 1 requires employers to include accurate information on their employees' wage statements 2 (ECF No. 93-13) is GRANTED.

3 2. The Motion for Class Certification (ECF No. 93) is GRANTED IN PART: 4 a. The Court CERTIFIES the following classes: 5 i. The Proposed Class: All former and current Drivers employed by Defendants 6 within the State of California, at any time within four years prior to the filing 7 of this lawsuit (i.e., November 2, 2017) until the present date; 8 ul. Subclass A: All former and current Drivers employed by Defendants within 9 the State of California who were not paid for all hours worked, at any time 10 within four years prior to the filing of this lawsuit until the present date; and 1] ui.

Subclass C: All former and current Drivers employed by Defendants within 12 the State of California who were not furnished with accurate wage statements, 13 at any time within four years prior to the filing of this lawsuit until the present 14 date. 15 b. The Court DENIES certification of Subclass B. 16 IT IS SO ORDERED. 18 Dated: June 3, 2025 19 MAAME EWUSI-MENSAH FRIMPONG 20 United States District Judge 21 22 23 24 25 26 27 28 23