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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

CLARENCE SMITH, as an individual and
on behalf of all others similarly situated,

Plaintiffs,

v.

WATLOW ELECTRIC
MANUFACTURING COMPANY, a
Missouri corporation; and DOES 1 through
50, inclusive,

Defendants.

CASE NO. 20CV365250
Consolidated with Case No. 20CV362069

[Assigned for all purposes to the Hon. Sunil R.
Kulkarni, Dept. 1]

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT**

Date: September 9, 2021
Time: 1:30 P.M.
Dept.: 1

PHUOC TRUONG, on behalf of himself
and all "aggrieved employees" pursuant to
Labor Code § 2698 et seq.,

Plaintiff,

v.

WATLOW ELECTRIC
MANUFACTURING COMPANY, a
Missouri corporation, and DOES 1 through
10, inclusive,

Defendants.

Complaint filed: March 18, 2020
Trial Date: None

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Attorneys for Plaintiff Truong and Aggrieved Employees

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on September 9, 2021, at 1:30 p.m., or as soon thereafter
3 as the matter may be heard, before the Honorable Sunil R. Kulkarni, judge presiding, in
4 Department 1 of the above referenced Court, located at 191 North First Street, San Jose,
5 California 95113, Plaintiffs Clarence Smith and Phuoc Truong (“Plaintiffs”) will and hereby do
6 move this Court for the following relief with respect to the Joint Stipulation of Class Action and
7 PAGA Settlement and Release (“Stipulation” or “Settlement Agreement”) entered into by
8 Plaintiffs and Defendant Watlow Electric Manufacturing Company (“Defendant”) (together with
9 Plaintiffs, the “Parties”):

10 1. That the Court approve the Stipulation referenced above;

11 2. That the Court conditionally certify the following class for settlement purposes
12 only: All current and former hourly-paid or non-exempt employees, who worked for Defendant in
13 California at any time from November 15, 2018, through the date of Preliminary Approval (the
14 “Class Period”), and who received at least one paycheck during the Class Period from Defendant;

15 3. That Plaintiffs Clarence Smith and Phuoc Truong be appointed as the Class
16 Representatives and Larry W. Lee and Mai Tulyathan of Diversity Law Group, P.C., William L.
17 Marder of Polaris Law Group, and Daniel F. Gaines of Gaines & Gaines, APLC, be appointed as
18 Class Counsel;

19 4. That the Court preliminarily approve the Stipulation and the Total Settlement
20 Amount in the amount of Five Hundred Thousand Dollars (\$500,000.00);

21 5. That the Court finds on a preliminary basis that the Stipulation appears to be
22 within the range of reasonableness of a settlement, including the amount of the PAGA penalties,
23 the enhancement payments to the Class Representatives, the award of attorneys’ fees and costs to
24 Class Counsel, the proposed settlement administration costs, and the allocation of individual
25 payments to Class Members, that could ultimately be given final approval by this Court;

26 6. That the Court approve the mailing of the proposed Notice of Pendency of Class
27 Action Settlement and Final Hearing (“Class Notice”) to be sent to Class Members;

28 7. That the Court appoint Phoenix Settlement Administrators as the Settlement

1 Administrator; and

2 8. That the Court schedule the matter for a Final Approval Hearing.

3 This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which
4 provides for court approval of the settlement of a purported class action and allows the Court to
5 preliminarily certify a class for settlement purposes.

6 The basis for this unopposed Motion is that the proposed settlement is fair, adequate, and
7 reasonable, and the procedures proposed by the Parties are adequate to ensure the opportunity of
8 Class Members to participate in, opt-out of, or object to the settlement. This Motion is based on
9 the attached Memorandum of Points and Authorities, the Stipulation and the proposed Class
10 Notice, and the supporting Declarations of Larry W. Lee, Mai Tulyathan, William L. Marder,
11 Daniel F. Gaines, and Plaintiffs Clarence Smith and Phuoc Truong, upon the oral arguments of
12 counsel (should there be any), and on the complete records and file herein.

13 DATED: August 17, 2021

DIVERSITY LAW GROUP, P.C.

14
15 By: /s/ Larry W. Lee

Larry W. Lee
Mai Tulyathan

16 Attorneys for Plaintiff Smith, the Class, and
17 Aggrieved Employees

18 DATED: August 17, 2021

GAINES & GAINES, APLC

19
20 By: /s/ Daniel F. Gaines

Daniel F. Gaines

21 Attorneys for Plaintiff Truong, the Class, and
22 Aggrieved Employees

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1 **I. INTRODUCTION**

2 These are two consolidated wage and hour class and representative Private Attorneys
3 General Act (“PAGA”) actions seeking wages, statutory and civil penalties under the California
4 Labor Code, and restitution under the California Business & Professions Code’s Unfair
5 Competition Law. Plaintiffs Clarence Smith and Phuoc Truong (“Plaintiffs”) allege that
6 Defendant Watlow Electric Manufacturing Company (“Defendant”) failed to provide compliant
7 meal and rest periods and associated premium payments, failed to timely pay wages upon
8 separation of employment, failed to issue proper paychecks, and failed to provide compliant wage
9 statements, in violation of California law. Based on these violations, Plaintiffs assert class and
10 PAGA claims for violations of Labor Code §§ 201-203, 212, 226(a), 226.7, 512, and 2698, *et*
11 *seq.*, and California Business & Professions Code § 17200, *et seq.* The Parties have reached a
12 class and PAGA action settlement, the terms of which are reflected in the Parties’ Joint
13 Stipulation of Class Action and PAGA Settlement and Release (“Stipulation” or “Settlement
14 Agreement”).¹

15 Prior to the settlement of this action, the Parties thoroughly investigated the facts relating
16 to the class and PAGA claims alleged in this lawsuit and engaged in a thorough study of the legal
17 principles applicable to the claims asserted against Defendant. Through the exchange of informal
18 discovery in connection with mediation, Defendant provided necessary data pertaining to the
19 number of putative class members, the number of shifts at issue, the number of pay periods at
20 issue, the number of wage statements and paychecks at issue, the hourly rates of pay for class
21 members, as well as information pertaining to Defendant’s various wage and hour policies and
22 practices. The information provided by Defendant allowed Plaintiffs to review and analyze the
23 liability and potential exposure. Thereafter, the Parties attended a full day of mediation with
24 experienced mediator Steven Rottman, Esq., with whose assistance the Parties were able to reach
25 the current settlement.

26 The terms of the Settlement Agreement provide that Defendant pay a Total Settlement
27 Amount of Five Hundred Dollars (\$500,000.00) to resolve the class and PAGA claims alleged in

28 ¹ The Parties’ Joint Stipulation of Class Action and PAGA Settlement and Release is attached to the
Declaration of Mai Tulyathan as **Exhibit A**.

the actions. Significantly, the entire Total Settlement Amount will be distributed to the class on a **non-reversionary** basis, such that no remaining monies will revert to Defendant. Further, no claim forms are required. The following represents the key terms of the Settlement:

- Total Settlement Amount of \$500,000.00;
- The Class will not exceed 130 individuals;
- Service payments paid to the Class Representatives of up to \$10,000.00 each, subject to Court approval;
- Class Counsel will be paid attorneys' fees of up to 35% of the Total Settlement Amount (\$175,000.00), subject to Court approval;
- Class Counsel will be reimbursed their actual costs in connection with litigation and settlement, of up to \$25,000.00, subject to Court approval;
- Settlement administration costs will not exceed \$6,500.00;
- Payment to the Labor & Workforce Development Agency ("LWDA") of \$60,000.00, representing 75% of the total PAGA allocation of \$80,000.00;
- Net Settlement Amount of approximately \$213,500.00 (assuming that the Court approves the amounts above in full);
- Net average payments of at least **\$1,642.31** to each participating Class Member.

Plaintiffs and their respective counsel believe that the Settlement for the consideration and on the terms set forth in the Settlement Agreement is fair, reasonable, and adequate, in light of all known circumstances and the expenses and risks inherent in litigation. Although Plaintiffs and their counsel are confident that they can prevail on class certification, as well as on the merits, they recognize the inherent risks in drawn-out litigation and the specific risks that the class might not be certified and/or that Plaintiffs could fail to establish liability.

Therefore, Plaintiffs respectfully request that the Court grant this Motion for Preliminary Approval of Class Action Settlement.

II. PROCEDURAL HISTORY

A. The *Smith* and *Truong* Actions.

On February 24, 2020, Plaintiff Smith filed his written notice with the LWDA, alleging violations of Labor Code § 226(a) and pursuant to the PAGA, Labor Code § 2699. (Declaration

1 of Mai Tulyathan (“Tulyathan Decl.”) at ¶ 2.) Thereafter, on March 18, 2020, Plaintiff Smith
2 filed his class and representative PAGA complaint against Defendant in Santa Clara County
3 Superior Court. (*Id.* at ¶ 3.) The *Smith* complaint alleges causes of action for: (1) violation of
4 Labor Code § 226(a), and (2) violation of the PAGA, Labor Code § 2698, *et seq.* (*Id.*)

5 On October 31, 2019, Plaintiff Truong filed his written PAGA notice with the LWDA,
6 alleging violations of Labor Code §§ 212, 225.5, 226(a), 226.3, 226.7, and 512. (Declaration of
7 Daniel F. Gaines (“Gaines Decl.”) at ¶ 6.) Plaintiff Truong filed his complaint against Defendant
8 in the Santa Clara County Superior Court on January 17, 2020. The *Truong* complaint was filed
9 as a representative PAGA complaint seeking penalties for violations of Labor Code §§ 225.5,
10 226(a), 226.3, 212, 226.7, and 512. (*Id.*)

11 The *Smith* and *Truong* actions have since been consolidated in the Santa Clara County
12 Superior Court pursuant to a joint stipulation between the Parties. (Tulyathan Decl. at ¶ 4.) On
13 June 8, 2021, Plaintiffs filed the operative First Amended Consolidated Class and Representative
14 Action Complaint (“FAC”) in this Court. (*Id.*)

15 **B. The Underlying Allegations.**

16 Plaintiffs’ class and PAGA claims as pled in this consolidated lawsuit are predicated upon
17 the following allegations. With respect to Plaintiffs’ meal and rest period claims, Plaintiffs allege
18 that Defendant failed to provide proper off-duty meal and rest breaks to Plaintiffs and other non-
19 exempt employees. (Tulyathan Decl. at ¶ 5.) Plaintiffs also allege that Defendant failed to pay
20 premium compensation to Plaintiffs and other employees in lieu of the noncompliant meal and
21 rest breaks. (*Id.*)

22 With respect Plaintiffs’ Labor Code § 212 claim, Plaintiffs allege that Defendant failed to
23 pay wages to Plaintiffs and employees in a form that was negotiable and payable in cash, without
24 discount, at an established place of business in California. (*Id.* at ¶ 6.) In this regard, Plaintiffs
25 and employees received paychecks drawn from a bank without California locations and could not
26 be cashed in California without incurring fees. As a result, Plaintiffs and employees were
27 allegedly forced to incur various fees to access their wages and therefore were not provided with
28 all earned wages upon separation of employment. (*Id.*)

With respect to Plaintiffs’ wage statement claims, Plaintiffs contend that Defendant issued

1 deficient wage statements that failed to identify the gross wages earned, net wages earned, and
2 premium pay for missed meal and rest breaks. (*Id.* at ¶ 7.) Additionally, Plaintiffs also allege that
3 whenever overtime wages were paid, the wage statements issued to Plaintiffs and other
4 employees failed to accurately state the overtime rates of pay, in violation of Labor Code §
5 226(a)(9), and failed to accurately state the correct total hours worked during the pay period, in
6 violation of Labor Code § 226(a)(2). (*Id.*)

7 As to Plaintiffs' claim pursuant to Labor Code §§ 201-203, Plaintiffs allege on a
8 derivative basis that Plaintiffs and other employees were denied the timely payment of wages at
9 the separation of their employment, based on the failures to pay all wages as detailed above.
10 (Tulyathan Decl. at ¶ 8.)

11 As a result of the alleged violations, Plaintiffs seek wages, statutory penalties, and civil
12 penalties under the California Labor Code and the PAGA, restitution under California's Unfair
13 Competition Law, as well as attorneys' fees and costs and other forms of relief. (*Id.* at ¶ 9.)

14 **C. The Parties Mediated the Case and Reached the Current Settlement.**

15 After the initial Case Management Conference held on July 24, 2020, the Parties agreed to
16 participate in private mediation. (Tulyathan Decl. at ¶ 10.) In connection with mediation, the
17 Parties engaged in informal discovery to allow Plaintiffs to assess the claims and liability, as well
18 as analyze the maximum exposure of damages and penalties. (*Id.*) Defendant provided Plaintiffs'
19 counsel with informal data and information pertaining to the number of putative class members,
20 the number of shifts at issue, the number of pay periods at issue, the number of wage statements
21 and paychecks at issue, the hourly rates of pay for class members, as well as information
22 pertaining to Defendant's various wage and hour policies and practices. (*Id.*) The information
23 provided by Defendant allowed Plaintiffs to review and analyze the liability and potential
24 exposure. (*Id.*)

25 On January 19, 2021, the Parties engaged in a full-day mediation with mediator Steven
26 Rottman, Esq. (Tulyathan Decl. at ¶ 11.) After thorough investigation and evaluation of the facts
27 and claims, and as a result of the arm's-length negotiations facilitated by Mr. Rottman, the Parties
28 and their counsel ultimately reached the current settlement. (*Id.*) In resolution of Plaintiffs' class
and PAGA claims, the Parties entered into the Settlement Agreement, which is attached as

1 **Exhibit A** to the Declaration of Mai Tulyathan. (*Id.*)

2 Plaintiffs recognize the risk, expense, and delay in continuing litigation with the class and
3 PAGA claims, and believe the Settlement to be fair, reasonable, and adequate. (Gaines Decl. at ¶
4 7; Tulyathan Decl. at ¶ 12.) Accordingly, Plaintiffs desire to settle, compromise, and discharge
5 all disputes and claims arising from or relating to the class and PAGA claims as set forth in the
6 Settlement Agreement.

7 **III. DISCUSSION**

8 Any settlement of a class action lawsuit must be reviewed and approved by the Court.
9 This is done in two steps: (1) an early (preliminary) review by the trial court, and (2) a final
10 review after notice has been distributed to the class members for their comment or objections. The
11 Manual for Complex Litigation (Third) § 30.41 states:

12 Approval of class action settlements involves a two-step process.
13 First, counsel submits the proposed terms of settlement and the
14 court makes a preliminary fairness evaluation. If the preliminary
15 evaluation of the proposed settlement does not disclose grounds to
16 doubt its fairness or other obvious deficiencies, such as unduly
17 preferential treatment of class representatives or of segments of the
18 class, or excessive compensation for attorneys, and appears to fall
19 within the range of possible approval, the court should direct that
20 notice...be given to the class members of a formal fairness hearing,
21 at which arguments and evidence may be presented in support of
22 and in opposition to the settlement.

23 Thus, the preliminary approval by the trial court is simply a conditional finding that the
24 settlement appears to be within the range of acceptable settlements. As Professor Newberg
25 comments, “[t]he strength of the findings made by a judge at a preliminary hearing or conference
26 concerning a tentative settlement proposal may vary. The court may find that the settlement
27 proposal contains some merit, is within the range of reasonableness required for a settlement
28 offer, or is presumptively valid subject only to any objections that may be raised at a final
hearing.” (4 Alba Conte & Herbert B. Newberg, *Newberg on Class Actions*, § 11.26 (4th ed.
2002).)

26 The procedures for the parties’ submission of a proposed settlement for preliminary
27 approval by the court also are discussed in 4 *Newberg on Class Actions*:

28 When the parties to an action reach a monetary settlement, they will

1 usually prepare and execute a joint stipulation of settlement, which
2 is submitted to the court for preliminary approval. The stipulation
3 should set forth the central terms of the agreement, including but
4 not limited to, the amount of settlement, form of payment, manner
of determining the effective date of settlement and any recapture
clause.

5 (*Id.* at § 11.24.)

6 Here, the Parties have reached such an agreement and Plaintiffs are submitting to this
7 Court in connection with this Motion a copy of the Stipulation fully setting forth the agreement
8 reached by the Parties. The Stipulation sets forth all terms of the agreement reached by the
9 Parties as to settlement of the class and PAGA claims. Said terms in the Stipulation include,
10 among other things, the method for calculating the Class Members' individual portions of the
11 settlement payment.

12 The parties also may, at the preliminary approval stage, request that the court
13 provisionally approve certification of the class for settlement purposes—conditional upon final
14 approval of the settlement. “[P]re-certification settlements are routinely approved if found to be
15 fair and reasonable.” (*Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 240 (2001); *accord*
16 *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1803 (1996) (although the settlement was reached
17 before any “adversary certification,” the court was satisfied that it was “fair, adequate and
18 reasonable”); *In re Baldwin-United Corp.*, 105 F.R.D. 475, 478 (S.D.N.Y. 1984) (“many courts
19 have employed this practice in the name of judicial efficiency in order to facilitate apparently
20 beneficial settlement proposals”).) As further explained by Professor Newberg:

21 The strength of the findings made by a judge at a preliminary
22 hearing or conference concerning a tentative settlement
23 proposal...may be set out in conditional orders granting tentative
24 approval to the various items submitted to the court. Three basic
25 rulings are often conditionally entered at this preliminary hearing.
26 These conditional rulings may approve a temporary settlement
27 class, the proposed settlement, and the class counsel's application
28 for fees and expenses.

(4 *Newberg on Class Actions*, at § 11.26.)

26 In addition to such terms as class identification, settlement amount, and payment
27 procedures, the Settlement Agreement reached by the Parties contains a provision pursuant to
28

1 which the Parties stipulate to the Court's provisional certification of the Class for the purposes of
2 this settlement only. (See Stipulation at ¶ 7.)

3 **A. Proposed Class Definition**

4 The current settlement is being settled on behalf of the following Class: All current and
5 former hourly-paid or non-exempt employees, who worked for Defendant in California at any
6 time during the Class Period, and who received at least one paycheck during the Class Period
7 from Defendant. (See Stipulation at ¶ 6.d.) The Class Period is defined as the time period from
8 November 15, 2018, through the date of Preliminary Approval. (*Id.* at ¶ 6.f.)

9 All Class Members who cash their settlement checks will be deemed members of the
10 FLSA Settlement Class, which is a class formed for the purpose of effectuating a release of FLSA
11 claims which derive from those claims and allegations in the operative complaint. (*Id.* at ¶¶ 6.m,
12 6.y). Those Class Members who do not cash their settlement checks will not be bound by any
13 release of FLSA claims. (*Id.*)

14 Pursuant to the Settlement Agreement, Defendant has represented that there are no more
15 than 130 individuals that comprise the Class; should the final number of Class members exceed
16 130, Defendant may alter the Class Period end date so the Class is limited to 130 members, and if
17 it declines to do so, Plaintiffs may terminate the Settlement. (See Stipulation at ¶ 34.c.)

18 **B. Settlement Terms and Evaluation**

19 Courts presume the absence of fraud or collusion in the negotiation of settlement unless
20 evidence to the contrary is offered. (*Priddy v. Edelman*, 883 F.2d 438, 447 (6th Cir. 1989); *Mars*
21 *Steel Corp. v. Continental Illinois Nat'l Bank & Trust Co.*, 834 F.2d 677, 682 (7th Cir. 1987); *In*
22 *re Chicken Antitrust Litig.*, 560 F.Supp. 957, 962 (N.D. Ga. 1980).) Courts do not substitute their
23 judgment for that of the proponents, particularly where, as here, settlement has been reached with
24 the participation of experienced counsel familiar with the litigation. (*Nat'l Rural Telecomms.*
25 *Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 528 (C.D. Cal. 2004); *Hammon v. Barry*, 752 F.Supp.
26 1087 (D.D.C. 1990); *Steinberg v. Carey*, 470 F.Supp. 471 (S.D.N.Y. 1979); *In re Armored Car*
27 *Antitrust Litig.*, 472 F.Supp. 1357 (N.D. Ga. 1979); *Sommers v. Abraham Lincoln Federal Sav. &*
28 *Loan Ass'n*, 79 F.R.D. 571 (E.D. Pa. 1978).)

While the recommendations of counsel proposing the settlement are not conclusive, the

1 Court can properly take them into account, particularly where, as here, they have been involved in
2 informal discovery and negotiations for some period of time, appear to be competent, have
3 experience with this type of litigation, and have exchanged substantial evidence from the
4 opposing party. (*See Newberg on Class Actions, supra*, at § 11.47; *Nat’l Rural Telecomms.*
5 *Coop.*, 221 F.R.D. at p. 528 (“[s]o long as the integrity of the arm’s length negotiation process is
6 preserved, however, a strong initial presumption of fairness attaches to the proposed
7 settlement...[citations] and ‘great weight’ is accorded to the recommendations of counsel, who
8 are most closely acquainted with the facts of the underlying litigation”).)

9 Here, both Plaintiffs’ and Defendant’s counsel have a great deal of experience in wage and
10 hour class action litigation. Plaintiffs’ counsel have been approved as class counsel in a number
11 of wage and hour class actions and have extensive litigation experience. (Declaration of Larry W.
12 Lee (“Lee Decl.”) at ¶¶ 8-9; Tulyathan Decl. at ¶¶ 29-31; Declaration of William L. Marder
13 (“Marder Decl.”) at ¶¶ 9-12; Gaines Decl. at ¶¶ 5, Ex. A.) Each side has apprised the other of
14 their respective factual contentions, legal theories and defenses, resulting in negotiations taking
15 place between the Parties. (Tulyathan Decl. at ¶ 13.)

16 Based on the data provided by Defendant, Plaintiffs estimated that Defendant would face
17 potential liability of up to approximately \$2,860,418.56 for Plaintiffs’ class claims if Plaintiffs
18 succeeded at trial. (Tulyathan Decl. at ¶ 14.) This amount represents the maximum class
19 exposure for Plaintiffs’ meal and rest claims, wage statement claims, and includes waiting time
20 penalties. (*Id.*) Plaintiffs estimated the potential class damages/penalties based on data provided
21 by Defendant, including the number of employees in the putative class, the number of wage
22 statements at issue, the number of shifts at issue, and the hourly rates of pay applicable to the
23 putative class members. (*Id.*)

24 With respect to potential liability of Plaintiffs’ PAGA claims, Plaintiffs estimated that
25 Defendant could face civil penalties of up to a maximum \$2,971,000.00 if Plaintiffs were
26 successful at trial. This analysis “stacks” PAGA penalties, although Plaintiffs would expect a
27 more modest maximum civil penalty recovery of \$457,000 if these civil penalties were not
28 assessed at a rate of multiple violations per employee pay period. (Tulyathan Decl. at ¶ 15.)
However, even assuming Plaintiffs ultimately prevails on their PAGA claims, the Court still has

1 discretion to reduce any PAGA penalties. Pursuant to Labor Code § 2699(e)(2), the Court can
2 decline to award PAGA penalties where “if, based on the facts and circumstances of the particular
3 case, to do otherwise, would result in an award that is unjust, arbitrary and oppressive, or
4 confiscatory.” Indeed, as shown in the Court of Appeal’s decision in *Carrington v. Starbucks*
5 *Corp.* (2018) 30 Cal.App.5th 504, while the plaintiff there prevailed on his PAGA claim at trial,
6 the trial court reduced the maximum PAGA penalty amount by 90%, citing the employer’s good
7 faith attempt at complying with the law. (*Id.* at p. 517.) Upon review, the Court of Appeal found
8 such reduction to be proper. (*Id.* at p. 539.)

9 Although Plaintiffs believe in the merits of their alleged claims and maintain that there is
10 no reason for reducing PAGA penalties, Plaintiffs are aware that Defendant may raise defenses to
11 the claims and further with respect to the reduction of PAGA penalties and that these arguments
12 could be persuasive to the Court. (Tulyathan Decl. at ¶ 17.) Thus, even if Plaintiffs were to
13 successfully prove their claims at trial, there is a possibility that the Court may only award a small
14 percentage of PAGA penalties, as the Court has discretion to do. The Total Settlement Amount
15 was premised with this substantial risk in mind. (*Id.*)

16 Further, Defendant raised several defenses that presented risk on the various theories of
17 liability alleged by Plaintiffs. Defendant adamantly maintained that its meal and rest period
18 policies were facially compliant and that any missed meal and rest breaks were affirmatively
19 waived by employees, such that it faced no liability on these claims. It also argued that, even if
20 Plaintiffs prevailed even partially on their meal and rest period claims, California law does not
21 authorize the recovery of waiting time penalties (available pursuant to Labor Code § 203)
22 premised on unpaid meal and rest period premium wages. Its arguments in this regard were
23 persuasive and compelling. (Tulyathan Decl. at ¶ 18.)

24 With respect to the wage statement claim, it is Defendant’s position that its wage
25 statements complied with the law, and that employees did not suffer any injury as defined by
26 Labor Code § 226(e). Moreover, Defendant has indicated that it has revised its wage statement
27 practices as of May 28, 2020. With respect to Plaintiffs’ claims under Labor Code § 212, it is
28 Defendant’s position that it only issued 27 live paychecks among all Class members that could
potentially be subject to liability and their maximum value under PAGA is \$2,700. (Tulyathan

Decl. at ¶ 18.)

Thus, the Settlement for each Class Member is fair, reasonable, and adequate, given the inherent risks of litigation, including the substantial risks relative to class certification and the merits of the claims, the costs of pursuing such litigation, and the risks associated with the Court's discretion to reduce PAGA penalties. The Settlement is the result of extensive arm's-length negotiations between the Parties and their counsel and was facilitated by an experienced and neutral mediator. (Tulyathan Decl. at ¶ 11.)

Although Plaintiffs believe that the class can be certified, Plaintiffs and their counsel also believe in the fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiffs involved in not prevailing on one or more of the causes of action or theories alleged in the operative Complaint, the possibility of non-certification, and the potential for appeals. (Tulyathan Decl. at ¶ 19.) These risks on class certification are compounded by the California Supreme Court's holding in *Duran v. U.S. Bank Nat'l Ass'n* (2014) 59 Cal.4th 1. There, the plaintiffs obtained class certification and subsequently prevailed at trial after eight years of litigation, but the judgment and the certification ruling were reversed by the California Supreme Court after an additional five years of litigation. The case was remanded back to superior court where class certification was denied and plaintiffs' subsequent appeal also was denied.

Indeed, numerous courts have held that **gross** settlements approximating between only 8 and 25% of the defendant's potential exposure are fair and reasonable. (*See, e.g., In re Mego Fin. Corp. Secs. Litig.* (9th Cir. 2000) 213 F.3d 454, 459 (holding that class action settlement recovering 16% of potential exposure was fair and reasonable; "[i]t is well-settled law that a cash settlement amounting to only a fraction of the potential recovery does not per se render the settlement inadequate or unfair. Rather, the fairness and the adequacy of the settlement should be assessed relative to risks of pursuing the litigation to judgment"; noting that whether the settlement is fair and adequate depends on the "the difficulties in proving the case"); *Bellinghausen v. Tractor Supply Co.* (N.D. Cal. Mar. 20, 2015) 2015 WL 1289342, at p.*6 (holding that class action settlement recovering between **8.5% and 25%** of the defendant's potential exposure was fair); *Van Ba Ma v. Covidien Holding Inc.* (C.D. Cal. 2014) U.S. Dist. Ct. Case No. 8:12-cv-02161 (granting preliminary approval of wage and hour class settlement which

1 obtained **only 9.1%** of projected damages, given the risks of continued litigation); *Villegas v. J.P.*
2 *Morgan Chase & Co.*, (N.D. Cal. 2012) 2012 WL 5878390, at p.*6 (holding that gross class
3 action settlement of approximately 15% of the potential recovery was fair and reasonable).)

4 Here, the total maximum amount of class and PAGA penalties amount to approximately
5 \$5,831,418.56, without discounting for potentially losing on any of the causes of action.
6 (Tulyathan Decl. at ¶ 16.) The Total Settlement Amount is \$500,000, which is approximately
7 **8.6%** of the maximum class and PAGA penalties. (*Id.*) Without stacking potentially oppressive
8 PAGA penalties, this number skyrockets to more than 15%. (*Id.*) Thus, the settlement was
9 negotiated at arms' length and the high settlement percentage-to-recovery further supports that the
10 settlement as fair and reasonable.

11 Despite the asserted fairness of the settlement terms, as set forth in the Notice of Pendency
12 of Class Action Settlement and Final Hearing ("Class Notice"), should any Class Member wish to
13 pursue his or her own case for the claims being released herein, he or she has the right to submit a
14 request for exclusion (*i.e.*, opt-out) from the settlement. (*See* Class Notice, attached as **Exhibit B**
15 to Tulyathan Decl.) Moreover, as set forth in the Notice, Class Members are advised of their right
16 to object to any of the terms contained in the Stipulation and attend the final approval hearing.
17 (*Id.*)

18 **1. Amount and Manner of Distribution of the Compensation to be**
19 **Provided to Class Members Including the Amount, or an Estimate, of**
20 **What Each Class Member Will Receive.**

21 The Stipulation provides for Five Hundred Thousand Dollars (\$500,000.00) as the Total
22 Settlement Amount. (*See* Stipulation at ¶ 6.ff.) The Net Settlement Amount, calculated after
23 deduction of attorneys' fees (up to \$175,000.00), litigation costs (up to \$25,000.00), the
24 enhancement payments to Class Representatives of up to \$10,000.00 each (\$20,000.00 total),
25 payment to the LWDA pursuant to the PAGA (\$60,000.00), and Settlement Administration costs
26 (up to \$6,500.00), is estimated to be approximately **\$213,500.00**. (*Id.* at ¶¶ 10-13.)

27 Based thereon, the net average payment to each Class Member is approximately
28 **\$1,642.31**. (Tulyathan Decl. at ¶ 20.) The amount actually paid to each participating Class
Member may increase or decrease depending on the individual number of workweeks each Class
Member worked during the Class Period. (*Id.*; Stipulation at ¶ 14.)

1 Finally, the terms of the Settlement provide that uncashed checks (following the 180-day
2 check cashing deadline) shall be distributed to Legal Aid at Work, an organization that provides
3 free legal services and education to low-wage workers, in accordance with California Civil
4 Procedure § 384. (*See* Stipulation at ¶ 19; *see* Tulyathan Decl. at ¶ 21.)

5 **2. Whether, and Under What Circumstances, Amounts Available for**
6 **Payment in Settlement Might Not Be Paid to Class Members or Might**
7 **Revert to the Defendants.**

8 This Settlement is **non-reversionary**, meaning that none of the settlement funds will
9 revert back to Defendant. (*See* Stipulation at ¶¶ 6.ff.)

10 **3. Scope of the Release of Class Members' Claims.**

11 As a condition of participating in this Settlement, Class Members who do not opt out of
12 the Settlement will provide a limited release releasing the following Released Claims:

13 [A]ll claims under state, federal, or local law, whether statutory law,
14 common law, or administrative law, arising out of or assertable
15 based upon the allegations set forth in the Operative Complaint.
16 These claims include, but are not limited to: claims for rest period
17 violations, meal period violations, unpaid wages, failure to keep
18 proper records, itemized wage statement violations, waiting time
19 penalties, unfair competition, declaratory relief, claims for violation
20 of the Private Attorneys General Act, California Labor Code section
21 2698, *et seq.* ("PAGA"), penalties of any nature premised on Labor
22 Code §§ 201-203, 212, 225.5, 226, 226.3, 226.7, 512, and 558,
23 interest, fees, costs, and all other claims and allegations made or
24 which could have been made in the Actions arising during the Class
25 Period.

26 (*See* Stipulation at ¶ 6.x.) Class Members who do not opt out of the Settlement and who further
27 cash their individual settlement checks will also provide a release of claims under the Federal
28 Fair Labor Standards Act ("FLSA") claims as follows:

[A]ll claims under the FLSA arising out of or related to allegations
set forth in the Operative Complaint which arose during the Class
Period, including but not limited to: claims for failure to pay
overtime wages, injunctive relief, punitive damages, liquidated
damages, penalties of any nature, interest, fees, costs.

(*See* Stipulation at ¶¶ 6.m. & y.; 30.) This additional FLSA release is provided to ensure that
Defendant is not later sued for the same claims alleged in the operative Complaint under the
FLSA.

1 Given that the releases above are tailored to claims or allegations made in this lawsuit, the
2 releases are appropriately limited.

3 **4. Tax Treatment of Settlement Amounts.**

4 The Parties have agreed to the following tax allocation of individual settlement payments.
5 Each individual settlement payment will be allocated 25 percent as wages, to be reported on an
6 IRS Form W-2, and 75 percent as penalties, interest, and non-wage damages, to be reported on an
7 IRS Form 1099. (*See* Stipulation at ¶ 25.) This is fair as the lawsuit seeks both unpaid wages and
8 penalties.

9 **5. Affirmative Obligations to be Undertaken by Class Members or Class**
10 **Counsel and the Reasons for Any Such Obligations.**

11 As stated above, Class Members do **not** need to do anything should they wish to receive
12 their share of the settlement funds. In other words, because this is not a claims-made settlement,
13 Class Members will not be required to make any submission to participate in the settlement. No
14 claim forms are required. Thus, this eliminates any burden for Class Members to obtain their
15 recovery.

16 If a Class Member does not wish to take part in this Settlement or be bound by the
17 releases, the Class Member must submit a request for exclusion. (*See* Stipulation at ¶¶ 6.aa, 20.)

18 **C. Notice to Class Members**

19 Should the Court grant the instant motion, Defendant will provide the Settlement
20 Administrator with a list containing all Class Members' full names, last known mailing addresses,
21 Social Security numbers, dates worked by the Class Member or the number of workweeks worked
22 for Defendant as an hourly-paid or non-exempt employee during the Class Period, and any other
23 information that is necessary for the Settlement Administrator to calculate the number of
24 workweeks worked ("Class Data and List"). (*See* Stipulation at ¶ 6.c.) Pursuant to the
25 Stipulation, Defendant will provide said Class Data and List within fifteen (15) calendar days of
26 preliminary approval. (*Id.*)

27 Within ten (10) calendar days of receipt of the Class Data and List from Defendant, the
28 Settlement Administrator will mail the Class Notice out to Class Members using the most current,
known mailing address, via U.S. First-Class mail. (*See* Stipulation at ¶ 17.a.) Prior to doing so,

1 the Settlement Administrator shall perform a search based on the National Change of Address
2 Database for information to update and correct for any known or identifiable address changes.
3 (*Id.*) For any Class Notices returned to the Settlement Administrator as non-deliverable on or
4 before the response deadline, the Settlement Administrator will attempt to find the correct address
5 for remailing using a skip-trace or other comparable search to locate the most current address.
6 (*Id.*) The Class Notices shall be remailed within five (5) calendar days. (*Id.*)

7 The Class Notice will be sent in both English and Spanish. (*See* Stipulation at ¶¶ 17.a.)
8 Significantly, the Class Notice will advise Class Members of what the litigation is about, their
9 rights under the settlement, the total settlement amount and other terms of the settlement, their
10 expected settlement payment share, their opportunity to and procedures to opt out or to object to
11 the settlement, the release of claims, and information about the final approval hearing. (*See* Class
12 Notice.) As set forth in the Class Notice, Class Members will be allowed to opt out of or object to
13 the Settlement by a certain deadline, which is 45 calendar days after the initial mailing of the
14 Class Notice. (*See* Stipulation at ¶¶ 6.bb.) Class Members who received a re-mailed Class Notice
15 will have that deadline extended by 15 calendar days from the original response deadline. (*Id.*)
16 With respect to objections, Class Members are also informed in the Class Notice that they may
17 object in writing *or* appear at the final approval hearing to present their objections to the Court.
18 (*Id.* at ¶ 22; *see* Class Notice.)

19 If Class Members need further information about the settlement and/or the lawsuit, the
20 Settlement Administrator's and Class Counsel's contact information is provided in the Class
21 Notice. (*See* Class Notice, at p.3.) Class Members are also provided with the URL to the Court's
22 website to look for the Settlement Agreement and other pleadings in this case. (*Id.*)

23 **D. Typicality and Adequacy of Representation**

24 **1. Class Representatives' Claims are Typical of the Class.**

25 The commonality requirement is met when there are questions of law and fact common to
26 the class. (*See Hanlon v. Chrysler Corp.* (1998) 150 F.3d 1011, 1019 ("The existence of shared
27 legal issues with divergent legal factual predicates is sufficient, as is a common core of salient
28 facts couple with disparate legal remedies within the class").) Commonality requires only that
some common legal or factual questions exist; the plaintiffs need not show that all issues in the

1 litigation are identical. (*See Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 473.)

2 Defendant's conduct is central to the commonality inquiry. (*See City of San Jose v. Superior*
3 *Court* (1974) 12 Cal.3d 447, 460; *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 812-13.)

4 Where the employer's conduct is uniformly directed at a class of employees, as Plaintiff alleges
5 here, the classwide impact of the Defendant's policies satisfies the commonality requirement.
6 (*See Stephens v. Montgomery Ward & Co.* (1987) 193 Cal.App.3d 411, 421.)

7 In the present case, Plaintiffs allege that Defendant is liable to the Class for failure to
8 provide complaint off-duty meal periods, failure to provide compliant off-duty rest periods,
9 failure to timely pay wages upon separation of employment, and failure to provide proper
10 paychecks and accurate itemized wage statements. Like all Class Members, Plaintiffs were
11 subjected to these same policies and practices. (Declaration of Clarence Smith ("Smith Decl.") at
12 ¶¶ 2-4; Declaration of Phuoc Truong ("Truong Decl.") at ¶¶ 5-6.) In particular, Defendant did not
13 provide off-duty meal and rest breaks to Plaintiffs, and did not pay any premium compensation in
14 lieu thereof. (Truong Decl. at ¶ 5; Smith Decl. at ¶ 3.) Further, Plaintiffs did not receive accurate
15 wage statements whenever overtime wages were paid, in violation of Labor Code § 226(a).
16 (Truong Decl. at ¶ 5; Smith Decl. at ¶ 4.) In addition, Plaintiff Truong received paychecks from
17 Defendant that were drawn from Harris Bank, which does not have California locations and could
18 not be cashed in California without incurring fees. (Truong Decl. at ¶ 6.) As a result, Plaintiff
19 Truong incurred additional fees upon check cashing to access his wages. (*Id.*) In other words,
20 Plaintiffs contend that they were subjected to the same policies and practices as other Class
21 Members and thus, the typicality requirement is met.

22 Moreover, Plaintiffs do not have any interests adverse to the Class, nor have any such
23 issues been raised or presented. (Truong Decl. at ¶ 11; Smith Decl. at ¶ 5.) Plaintiffs have taken
24 all necessary steps to represent the interests of the Class, including by providing information and
25 documents to Plaintiffs' counsel. (Truong Decl. at ¶¶ 7-9; Smith Decl. at ¶¶ 6-7.) For such
26 reasons, Plaintiffs have adequately represented the Class Members and will continue to do so.

27 **2. Class Counsel Has Adequately Represented the Class and Has**
28 **Experience with Wage and Hour Class Action.**

From the inception of the case, Class Counsel has zealously represented the interests of

1 the Class. Class Counsel has engaged in significant meet and confer discussions with opposing
2 counsel to obtain informal data and documents on behalf of the Class. (Tulyathan Decl. at ¶ 24.)
3 The Settlement was obtained for the benefit of the Class, as opposed to the individual Class
4 Representative. Further, Class Counsel has been approved as class counsel on a number of prior
5 cases, have litigated numerous other class action cases, and are competent to represent the class.
6 (Lee Decl. at ¶¶ 8-9; Tulyathan Decl. at ¶¶ 28-31; Marder Decl. at ¶¶ 9-12; Gaines Decl. at ¶¶ 4-5,
7 Ex. A.)

8 **E. Costs and Fees**

9 **1. Attorneys' Fees and Costs.**

10 California state and federal courts have recognized that an appropriate method for
11 determining award of attorneys' fees is based on a percentage of the total value of benefits to
12 class members by the settlement. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224,
13 254; *Serrano v. Priest* (1977) 20 Cal.3d 25, 34; *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472,
14 478; *Vincent v. Hughes Air West, Inc.* (9th Cir. 1997) 557 F.2d 759, 769.) The purpose of this
15 equitable doctrine is to avoid unjust enrichment of counsel and to "spread litigation costs
16 proportionally among all the beneficiaries so that the active beneficiary does not bear the entire
17 burden alone." (*Vincent*, 557 F.2d at p. 769.)

18 The Common Fund doctrine is predicated on the principle of preventing unjust
19 enrichment. When a litigant's efforts create or preserve a fund from which others derive benefits,
20 she may require the passive beneficiaries to compensate those who created the fund. Both
21 California state and federal courts have embraced this doctrine. (*Serrano III*, 20 Cal.3d at p. 35;
22 *Vincent*, 557 F.2d at p. 769.) Similarly, in *City and County of San Francisco v. Sweet* (1995) 12
23 Cal.4th 105, 110, the California Supreme Court recognized that the common fund doctrine has
24 been applied "consistently in California when an action brought by one party creates a fund in
25 which other persons are entitled to share." The reasons for applying the common fund doctrine
include:

26 Fairness to the successful litigant, who might otherwise receive no
27 benefit because his recovery might be consumed by the expenses;
28 correlative prevention of an unfair advantage to the others who are
entitled to share in the fund and who should bear their share of the
burden of its recovery; encouragement of the attorney for the

1 successful litigant who will be more willing to undertake and
2 diligently prosecute proper litigation for the protection or recovery
3 of the fund if he is assured that he will be properly and directly
compensated should his efforts be successful.

4 (*Id.*)

5 Indeed, in 2016, the California Supreme Court has also now held that the award of
6 attorneys' fees in common fund wage and hour class action settlements should start with the
7 percentage method. (*See Laffitte v. Robert Half Int'l* (2016) 1 Cal.5th 480, 503 ("We join the
8 overwhelming majority of federal and state courts in holding that when class action litigation
9 establishes a monetary fund for the benefit of the class members, and the trial court in its
10 equitable powers awards class counsel a fee out of that fund, the court may determine the amount
11 of a reasonable fee by choosing an appropriate percentage of the fund created").)

12 The Parties have agreed to a payment of a maximum of 35% of the Total Settlement
13 Amount, or \$175,000.00, for payment to Class Counsel as attorneys' fees. (*See* Stipulation at ¶
14 10.) The Parties have agreed to a payment of the foregoing attorneys' fees and, thus, this
15 payment should be presumed to be fair. Further, the Parties have agreed to reimbursement of
16 Class Counsel's litigation costs up to \$25,000.00. (*Id.*) Class Counsel have, at their own risk,
17 expended costs, for example, to file this instant action and other pleadings in the case, effect
18 service of process, participate in mediation, and advance other litigation-related costs. If Class
19 Counsel's actual costs are less than \$25,000.00, the remainder will become part of the Net
20 Settlement Amount for distribution to Class Members. (*Id.*)

21 Based on the foregoing, the Court should preliminarily approve the attorney's fees and
22 costs as requested by Plaintiffs.

23 **2. Proposed Payments to the Class Representatives.**

24 Class Representatives Clarence Smith and Phuoc Truong requests modest enhancement of
25 \$10,000.00 each. (*See* Stipulation at ¶ 11.) The Class Representatives both met and conferred
26 with their counsel on a number of occasions to discuss the case, provided documents and
27 information to their counsel, and reviewed pleadings and documents, including the Settlement
28 Agreement. (Truong Decl. at ¶¶ 8-9; Smith Decl. at ¶¶ 6-7.) As part of their duties as the Class

1 Representatives, Plaintiffs provided invaluable information, evidence, and documents that
2 resulted in this Settlement. Furthermore, in consideration for their enhancement payments,
3 Plaintiffs also executed an individual general release of all claims under California Civil Code §
4 1542, which other members of the Class did not have to do. (See Stipulation at ¶ 31.)

5 In addition to the invaluable services that Plaintiffs provided, they also took significant
6 risks, both professionally and monetarily, in acting as the Class Representatives and seeking
7 benefits on behalf of the Class. Because the claims alleged by the Class Representatives involved
8 the payment of costs to the prevailing party, Plaintiffs could have possibly faced paying the costs
9 of Defendant, had they not prevailed in this action.

10 Furthermore, given that future employers are much less likely to hire individuals who
11 have filed suit against their prior employer, particularly cases of this nature, Plaintiffs may face
12 prejudice in the future from other potential employers. Plaintiffs took this risk upon themselves
13 and the whole Class benefited from these risks taken by Plaintiffs. Class Members did not have
14 to file individual lawsuits and bear the risks of payment of costs if they did not prevail, nor did
15 they have to face the potential for retaliation and not getting future employment had they filed a
16 public lawsuit.

17 3. Settlement Administration Fees

18 The Parties have agreed to an estimated payment of no more than \$6,500.00 to the
19 Settlement Administrator, Phoenix Settlement Administrators, to send notices and to administer
20 this settlement. (See Stipulation ¶ 12; Tulyathan Decl. at ¶ 23.) Phoenix Settlement
21 Administrators is a well-recognized class action settlement administrator. Plaintiffs believe that
22 the administration fee is reasonable and should be approved.

23 IV. CONCLUSION AND ACTION REQUESTED AS PART OF THE MOTION FOR 24 PRELIMINARY APPROVAL

25 The Settlement presented here is fair, adequate, and reasonable. The Settlement will result
26 in both substantial monetary benefits to Class Members; it is non-collusive; and it was achieved
27 as the result of informed, extensive, and arm's-length negotiations conducted by counsel for the
28 respective Parties who are experienced in wage and hour class action litigation and facilitated by
an experienced and neutral mediator.

1 For the foregoing reasons, Plaintiffs respectfully request that the Court grant preliminary
2 approval of the proposed Settlement, sign the proposed Order, approve and authorize mailing of
3 the proposed Class Notice, and set a date for a final approval hearing.

4
5 DATED: August 17, 2021

DIVERSITY LAW GROUP, P.C.

6
7 By: /s/ Larry W. Lee

Larry W. Lee

Mai Tulyathan

8 Attorneys for Plaintiff Smith, the Class, and
9 Aggrieved Employees

10 DATED: August 17, 2021

GAINES & GAINES, APLC

11
12 By: /s/ Daniel F. Gaines

Daniel F. Gaines

13 Attorneys for Plaintiff Truong, the Class, and
14 Aggrieved Employees
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1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3
4 STATE OF CALIFORNIA]
5 COUNTY OF LOS ANGELES]ss.
6]

7 I am employed in the County of Los Angeles, State of California. I am over the age of
8 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite
9 1250, Los Angeles, California 90071.

10 On August 17, 2021, I served the following document(s) described as:

- 11 **1. PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PRELIMINARY**
12 **APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF**
13 **POINTS AND AUTHORITIES IN SUPPORT**
- 14 **2. DECLARATION OF MAI TULYATHAN IN SUPPORT OF PLAINTIFFS'**
15 **MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION**
16 **SETTLEMENT**
- 17 **3. DECLARATION OF WILLIAM L. MARDER IN SUPPORT OF PLAINTIFFS'**
18 **MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION**
19 **SETTLEMENT**
- 20 **4. DECLARATION OF LARRY W. LEE IN SUPPORT OF PLAINTIFFS' MOTION**
21 **FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**
- 22 **5. DECLARATION OF CLARENCE SMITH IN SUPPORT OF PLAINTIFFS'**
23 **MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION**
24 **SETTLEMENT**
- 25 **6. DECLARATION OF DANIEL F. GAINES IN SUPPORT OF NOTICE OF**
26 **MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS**
27 **ACTION SETTLEMENT**
- 28 **7. DECLARATION OF PHUOC TRUONG IN SUPPORT OF NOTICE OF MOTION**
AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT
- 8. [PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR**
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

on the interested parties in this action as follows:

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 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-entitled document(s) to be served through the Odyssey eFileCA E-Filing System at the website www.california.tylerhost.net, addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the filing receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this office.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 17, 2021, at Los Angeles, California.


Erika Mejia