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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN**

VALERIA RODRIGUEZ, as an individual
and on behalf of all others similarly
situated,

Plaintiff,

vs.

JOHN BEAN TECHNOLOGIES
CORPORATION, a Delaware corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: BCV-20-101913-JEB

[Assigned for all purposes to the Hon. J. Eric
Bradshaw, Dept. J]

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

Date: January 27, 2022

Time: 8:30 a.m.

Dept.: J

Complaint Filed: August 17, 2020

FAC Filed: August 18, 2021

Trial Date: None

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

2 PLEASE TAKE NOTICE THAT, on January 27, 2022 at 8:30 a.m. before the Honorable J.
3 Eric Bradshaw, judge presiding in Department J of the above-referenced Court, Plaintiff Valeria
4 Rodriguez (“Plaintiff”) will and hereby does move the Court for the following relief with respect to
5 the Joint Stipulation of Class Action and PAGA Settlement and Release (“Stipulation” or
6 “Settlement Agreement”) entered into by Plaintiff and Defendant John Bean Technologies
7 Corporation (“Defendant”) (together with Plaintiff, the “Parties”):

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

9 2. That the Court conditionally certify the following class for settlement purposes only:
10 All current and former non-exempt hourly employees who performed work in California for the
11 FoodTech division of John Bean Technologies Corporation during the period from April 6, 2016
12 through August 18, 2021 (the “Class Period”).

13 3. That Plaintiff Valeria Rodriguez by appointed as the Class Representative, and Larry
14 W. Lee and Mai Tulyathan of Diversity Law Group, P.C., William L. Marder of Polaris Law
15 Group, be appointed as Class Counsel;

16 4. That the Court preliminary approve the Stipulation and the total Gross Settlement
17 Amount in the amount of Four Hundred Thousand Dollars and Zero Cents (\$400,000.00);

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

23 6. That the Court approve the mailing of the proposed Notice of Class Action
24 Settlement (“Class Notice”) to be sent to Class Members;

25 7. That the Court appoint Phoenix Settlement Administrators as the Settlement
26 Administrator; and

27 8. That the Court schedule the matter for a final approval hearing.

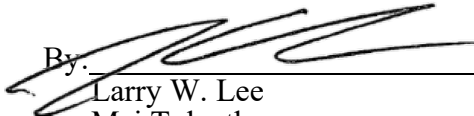
28 This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which

1 provides for court approval of the settlement of a purported class action and allows the Court to
2 preliminarily certify a class for settlement purposes.

3 The basis for this unopposed Motion is that the proposed settlement is fair, adequate, and
4 reasonable, and the procedures proposed by the Parties are adequate to ensure the opportunity of
5 Class Members to participate in, opt out of, or object to the settlement. This Motion is based on the
6 Memorandum of Points and Authorities included herein, the Stipulation and the proposed Class
7 Notice, and the supporting Declarations of Larry W. Lee, Mai Tulyathan, William L. Marder, and
8 Plaintiff Valeria Rodriguez, and upon the oral arguments of counsel (should there be any), and on
9 the complete records and file herein.

10
11 DATED: December 20, 2021

DIVERSITY LAW GROUP

12
13 By: 

Larry W. Lee

Mai Tulyathan

Attorneys for Plaintiff Valeria Rodriguez

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1 **I. INTRODUCTION**

2 This is a wage and hour class and representative Private Attorneys General Act (“PAGA”)
3 action under the California Labor Code. Plaintiff Valeria Rodriguez (“Plaintiff”) alleges that
4 Defendant John Bean Technologies Corporation (“Defendant”) failed to pay overtime wages at
5 the correct regular rate of pay in violation of Labor Code §§ 510, 558, and 1194, failed to pay sick
6 pay at the correct regular rate of pay in violation of Labor Code §§ 201-203 and 246, failed to
7 provide compliant meal periods and/or pay meal period premiums in lieu thereof in violation of
8 Labor Code §§ 226.7, 512, and 558, and failed to provide accurate itemized wage statements to its
9 employees in violation of Labor Code § 226(a). Based on these violations, Plaintiff asserts class
10 and PAGA claims for violation of Labor Code §§ 201-203, 226, 226.7, 246, 510, 512, 558, and
11 1194. Defendant denied all material allegations. The Parties have reached a class and PAGA
12 action settlement, the terms of which are reflected in the Parties’ Joint Stipulation of Class Action
13 and PAGA Settlement and Release (“Stipulation” or “Settlement Agreement”).¹

14 Prior to the settlement of this action, the Parties thoroughly investigated the facts relating
15 to the class and PAGA claims alleged in this lawsuit and engaged in a thorough study of the legal
16 principles applicable to the claims asserted against Defendant. Through the exchange of
17 informal discovery in connection with mediation, Defendant provided necessary data pertaining
18 to the number of putative class members, the hourly rates of pay, number of workweeks, payroll
19 data for the putative class, sample wage statements and timekeeping records for putative class
20 members, and pertinent policies regarding overtime, bonus payments, shift differentials, sick
21 leave, and meal periods. The information provided by Defendant allowed Plaintiff to review
22 and analyze the liability and potential exposure. Thereafter, the Parties attended a full day of
23 mediation with experienced mediator Michael J. Loeb, Esq., after which the Parties were able to
24 reach the current settlement.

25 The terms of the Settlement Agreement provide that Defendant pay a Gross Settlement
26 Amount of Four Hundred Thousand Dollars and Zero Cents (\$400,000.00) to resolve the class
27

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**.

1 and PAGA claims. Significantly, the entire Gross Settlement Amount will be distributed to the
2 class on a **non-reversionary** basis, such that no remaining monies will revert to Defendant.

3 Further, no claim forms are required. The following represents the key terms of the Settlement:

- 4 • Gross Settlement Amount of \$400,000.00;
- 5 • Estimated class size of 217 individuals;
- 6 • Service payment to the Class Representative of up to \$10,000.00;
- 7 • Class Counsel's attorneys' fees of one-third of the Gross Settlement Amount, up
8 to \$133,333.34;
- 9 • Class Counsel's costs of up to \$20,000.00;
- 10 • Settlement Administration costs of up to \$5,000.00;
- 11 • PAGA Payment of \$40,000.00, of which 75%, or \$30,000.00, will be paid to the
12 Labor & Workforce Development Agency (LWDA), and the remaining 25%, or
13 \$10,000.00, will be distributed to Class Members who worked during the PAGA
14 Period on a pro rata basis;
- 15 • Net class settlement amount of approximately \$191,666.66 to be distributed to
16 Class Members on a pro rata basis, based on the number of workweeks worked by
17 Class Members during the Class Period; and
- 18 • Raw average of at least **\$883.26** from the net class settlement amount to be paid to
19 each Participating Class Member.

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

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

28 ///

1 **II. PROCEDURAL HISTORY**

2 On June 24, 2020, Plaintiff submitted her written notice to the LWDA, alleging violations
3 of Labor Code §§ 201-203, 226, 246, 510, 558, and 1194, pursuant to the PAGA, Labor Code §
4 2699. (Declaration of Mai Tulyathan (“Tulyathan Decl.”) at ¶ 2.) Thereafter, on August 17,
5 2020, Plaintiff filed her class and PAGA complaint against Defendant in the Kern County
6 Superior Court, alleging five causes of action for: (1) Violation of Labor Code §§ 510, 558, and
7 1194; (2) Violation of Labor Code §§ 201-203; (3) Violation of Labor Code § 226(a); (4)
8 Violation of Business & Professions Code § 17200, *et seq.*; and (5) Violation of the Private
9 Attorneys General Act (the “PAGA”), Labor Code § 2698, *et seq.* (*Id.* at ¶ 3.) Defendant filed
10 its Answer on or about December 23, 2020. (*Id.* at ¶ 4.)

11 On August 3, 2021, Plaintiff submitted a supplemental PAGA Notice to the LWDA
12 alleging additional violations of Labor Code §§ 226.7, 512, and 558. (*Id.* at ¶ 5.) On August 17,
13 2021, the Parties submitted a joint stipulation granting Plaintiff leave to file the First Amended
14 Complaint (“FAC”) to add a sixth cause of action for violation of Labor Code §§ 226.7, 512, and
15 558. (*Id.* at ¶ 6.) The operative FAC was filed with the Court on August 18, 2021. (*Id.*)

16 Plaintiff’s class and PAGA claims as pled in the Complaint are predicated upon the
17 following allegations. With respect to Plaintiff’s overtime and sick pay regular rate claims,
18 Plaintiff contends that Defendant failed to pay overtime wages and sick pay wages at the correct
19 regular rate of pay. In this regard, Plaintiff contends that Defendant failed to factor non-
20 discretionary remuneration, including shift premiums, shift differentials, and annual bonuses,
21 into the calculation of the regular rate for purposes of paying overtime and sick pay wages, and
22 thus Plaintiff and employees were underpaid overtime and sick pay wages. (Tulyathan Decl. at ¶
23 7.)

24 With respect to Plaintiff’s claims under Labor Code §§ 226.7, 512, and 558, Plaintiff
25 alleges that Defendant failed to provide compliant meal periods to Plaintiff and employees,
26 and/or failed to pay additional meal premium compensation in lieu of the missed and/or
27 noncompliant meal periods. (*Id.*)

28 Additionally, Plaintiff also alleges derivative and independent wage statement claims

1 under Labor Code § 226(a). Specifically, as a result of the regular rate claims, Plaintiff asserts
2 that the corresponding wage statements issued to Plaintiff and other employees failed to identify
3 the required information under Labor Code § 226(a). With respect to the independent 226(a)
4 claim, Plaintiff asserts that Defendant issued inaccurate wage statements whenever shift
5 premium wages were paid. In this regard, whenever shift premium wages were paid, Defendant
6 allegedly failed to list the hourly rates of pay and corresponding hours worked on wage
7 statements in violation of Labor Code § 226(a). As a result of these alleged violations, Plaintiff
8 seeks unpaid wages, waiting time penalties, statutory penalties, and civil penalties under the
9 California Labor Code and PAGA, as well as attorneys' fees and costs. (*Id.*)

10 After Plaintiff initiated the Action, the Parties agreed to participate in private mediation. In
11 connection with mediation, the Parties agreed to conduct informal discovery to allow Plaintiff to
12 assess the claims and liability, as well as analyze the maximum exposure of damages and
13 penalties. (Tulyathan Decl. at ¶ 8.) Defendant produced class data, including the number of
14 putative class members, the hourly rates of pay, number of workweeks, payroll data for the
15 putative class, sample wage statements and timekeeping records for putative class members, and
16 pertinent policies regarding overtime, bonus payments, shift differentials, sick leave, and meal
17 periods. (*Id.*) Plaintiff subsequently engaged the services of an expert, Econ One Research, Inc.,
18 to evaluate and calculate the maximum class and PAGA penalties available in this case. (*Id.*)

19 On March 29, 2021, the Parties engaged in a full-day mediation with mediator Michael J.
20 Loeb, Esq. (Tulyathan Decl. at ¶ 9.) While the Parties did not resolve the claims at mediation,
21 the Parties continued settlement negotiations for several months facilitated by Mr. Loeb. (*Id.*)
22 After thorough investigation and evaluation of the facts and claims, and further negotiations with
23 the assistance of Mr. Loeb, the Parties and their counsel ultimately reached the current
24 settlement. (*Id.*) In resolution of Plaintiff's class and PAGA claims, the Parties entered into
25 Settlement Agreement, a true and correct copy of which is attached as **Exhibit A** to the
26 Declaration of Mai Tulyathan. (*Id.*)

27 The Parties recognize the risk, expense, and delay in continuing litigation with the class
28 and PAGA claims, and believe the Settlement to be fair, reasonable, and adequate. (*Id.* at ¶ 10.)

1 Accordingly, the Parties desire to settle, compromise, and discharge all disputes and claims
2 arising from or relating to the class and PAGA claims as set forth in the Settlement Agreement.

3 **III. DISCUSSION**

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

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

15 Thus, the preliminary approval by the trial court is simply a conditional finding that the
16 settlement appears to be within the range of acceptable settlements. As Professor Newberg
17 comments, “[t]he strength of the findings made by a judge at a preliminary hearing or conference
18 concerning a tentative settlement proposal may vary. The court may find that the settlement
19 proposal contains some merit, is within the range of reasonableness required for a settlement
20 offer, or is presumptively valid subject only to any objections that may be raised at a final
21 hearing.” (4 Alba Conte & Herbert B. Newberg, *Newberg on Class Actions*, § 11.26 (4th ed.
22 2002).)

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

25 When the parties to an action reach a monetary settlement, they
26 will usually prepare and execute a joint stipulation of settlement,
27 which is submitted to the court for preliminary approval. The
28 stipulation should set forth the central terms of the agreement,
including but not limited to, the amount of settlement, form of
payment, manner of determining the effective date of settlement

1 and any recapture clause.

2 (*Id.* at § 11.24.)

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

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

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

24 (4 *Newberg on Class Actions*, at § 11.26.)

25 In addition to such terms as class identification, settlement amount, and payment
26 procedures, the Settlement Agreement reached by the Parties contains a provision pursuant to
27 which the Parties stipulate to the Court's provisional certification of the Class for the purposes of
28 this settlement only. (*See* Stipulation at ¶ 93.)

///

1 **A. Proposed Class Definition**

2 The current settlement is being settled on behalf of the following Class: All current and
3 former non-exempt hourly employees who performed work in California for the FoodTech
4 division of John Bean Technologies Corporation during the Class Period (the “Class” or
5 “Settlement Class”). (Stipulation at ¶ 3.) The Class Period means the time period from April 6,
6 2016, through August 18, 202. (Stipulation at ¶ 7.)

7 Pursuant to the Stipulation, Defendant has represented that there are approximately 217
8 individuals that comprise the Class. (Stipulation at ¶ 3.)

9 **B. Settlement Terms and Evaluation**

10 Courts presume the absence of fraud or collusion in the negotiation of settlement unless
11 evidence to the contrary is offered. (*Priddy v. Edelman*, 883 F.2d 438, 447 (6th Cir. 1989); *Mars*
12 *Steel Corp. v. Continental Illinois Nat’l Bank & Trust Co.*, 834 F.2d 677, 682 (7th Cir. 1987); *In*
13 *re Chicken Antitrust Litig.*, 560 F.Supp. 957, 962 (N.D. Ga. 1980).) Courts do not substitute
14 their judgment for that of the proponents, particularly where, as here, settlement has been
15 reached with the participation of experienced counsel familiar with the litigation. (*Nat’l Rural*
16 *Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 528 (C.D. Cal. 2004); *Hammon v. Barry*,
17 752 F.Supp. 1087 (D.D.C. 1990); *Steinberg v. Carey*, 470 F.Supp. 471 (S.D.N.Y. 1979); *In re*
18 *Armored Car Antitrust Litig.*, 472 F.Supp. 1357 (N.D. Ga. 1979); *Sommers v. Abraham Lincoln*
19 *Federal Sav. & Loan Ass’n*, 79 F.R.D. 571 (E.D. Pa. 1978).)

20 While the recommendations of counsel proposing the settlement are not conclusive, the
21 Court can properly take them into account, particularly where, as here, they have been involved
22 in informal discovery and negotiations for some period of time, appear to be competent, have
23 experience with this type of litigation, and have exchanged substantial evidence from the
24 opposing party. (*See Newberg on Class Actions, supra*, at § 11.47; *Nat’l Rural Telecomms.*
25 *Coop.*, 221 F.R.D. at p. 528 (“[s]o long as the integrity of the arm’s length negotiation process is
26 preserved, however, a strong initial presumption of fairness attaches to the proposed
27 settlement...[citations] and ‘great weight’ is accorded to the recommendations of counsel, who
28 are most closely acquainted with the facts of the underlying litigation”).)

1 Here, both Plaintiff's and Defendant's counsel have a great deal of experience in wage
2 and hour class action litigation. Plaintiff's counsel has been approved as class counsel in a
3 number of wage and hour class actions and have extensive litigation experience. (Declaration of
4 Larry W. Lee ("Lee Decl.") at ¶¶ 7-8; Tulyathan Decl. at ¶¶ 29-31; Declaration of William L.
5 Marder ("Marder Decl.") at ¶¶ 8-9.) Each side has apprised the other of their respective factual
6 contentions, legal theories and defenses, resulting in negotiations taking place between the
7 Parties. (Tulyathan Decl. at ¶ 11.)

8 Based on the class data provided by Defendant, Plaintiff estimated that Defendant would
9 face potential liability of up to approximately \$376,456.00 for Plaintiff's class claims if Plaintiff
10 succeeded at trial. (Tulyathan Decl. at ¶ 12.) Plaintiff was able to estimate the potential class
11 penalties based on class data provided by Defendant, including the sample time and pay records
12 of class members. (*Id.*) Specifically, for Plaintiff's overtime regular rate claim, Plaintiff's expert
13 calculated the amount of unpaid wages at approximately \$133,297.00, based on approximately
14 121 employees who were underpaid overtime wages during the Class Period. With respect to
15 Plaintiff's sick pay regular rate claim, Plaintiff's expert calculated the waiting time penalties
16 under Labor Code § 203 at \$167,909.00, based on 27 former employees and their average hourly
17 rates of pay. Plaintiff's expert calculated standalone Labor Code § 226(e) penalties at
18 \$55,250.00, based on 449 deficient wage statements with payment for shift premium wages
19 during the Class Period. For Plaintiff's meal period violations, Plaintiff's expert analyzed a
20 sample of meal period time punches and payroll records provided by Defendant, and calculated
21 the meal period underpayment to be no more than \$20,000.00. (*Id.*)

22 With respect to potential liability of Plaintiff's PAGA claims, Plaintiff estimated that
23 Defendant could face civil penalties of up to a maximum \$721,350.00 if Plaintiff were successful
24 at trial on all claims. (Tulyathan Decl. at ¶ 13.) However, even assuming Plaintiff ultimately
25 prevails on her PAGA claims, the Court still has discretion to reduce any PAGA penalties.
26 Pursuant to Labor Code § 2699(e)(2), the Court can decline to award PAGA penalties where "if,
27 based on the facts and circumstances of the particular case, to do otherwise, would result in an
28 award that is unjust, arbitrary and oppressive, or confiscatory." Indeed, as shown in the Court of

1 Appeal's decision in *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, while the
2 plaintiff prevailed on his PAGA claim upon trial, the trial court reduced the maximum PAGA
3 penalty amount by 90%, citing the employer's good faith attempt at complying with the law. (*Id.*
4 at p. 517.) Upon review, the Court of Appeal found such reduction to be proper. (*Id.* at p. 539.)

5 Although Plaintiff believes in the merits of the alleged claims and maintains that there is
6 no reason for reducing PAGA penalties, Plaintiff is aware that Defendant may raise defenses to
7 the claims and further with respect to the reduction of PAGA penalties and that it could be
8 persuasive to the Court. (Tulyathan Decl. at ¶ 15.) Thus, even if Plaintiff were to successfully
9 prove her claims at trial, there is a possibility that the Court may only award a small percentage
10 of PAGA penalties, as the Court has discretion to do so. The Gross Settlement Amount was
11 premised with this risk in mind, associated with the possibility of the Court significantly
12 reducing Plaintiff's PAGA penalties, along with other attendant risks, even if Plaintiff was to
13 prevail at trial. (*Id.*)

14 Further, Defendant raised several defenses that presented risk as to liability on the claims.
15 With respect to the overtime regular rate claim, Defendant argues that it correctly pays overtime
16 wages on shift premium wages. It is Defendant's position that there is no liability on this claim
17 as it contends that it separately pays overtime at the shift premium rate, rather than incorporating
18 shift premiums directly into the regular rate of pay. With respect to the sick pay regular rate
19 claim, Defendant contends that its sick pay policy is compliant with the law. Moreover,
20 Defendant has indicated that it has changed its sick pay policy in late 2020 to pay sick pay based
21 on the 90-day rule, and thus, any liability, if any, would be limited. With respect to the wage
22 statement claim, it is Defendant's position that its wage statements complied with the law, and
23 that employees did not suffer any injury as defined by Labor Code § 226(e). Defendant has also
24 indicated that it has revised its wage statement practices to identify the shift premium rate and
25 hours as of the pay period beginning June 22, 2020. As to the meal period violations, Defendant
26 contends that it has already paid a substantial amount of meal period premiums, and that
27 furthermore, employees have signed purported meal period waivers. Based on this, it is
28 Defendant's position that Plaintiff will not prevail on class certification as to the meal period

1 claims as individualized inquiries would be required. As another risk to prevailing on class
2 certification, there is essentially no precedent from any California courts granting class
3 certification of a sick pay regular rate claim. Thus, while Plaintiff believes that a class can be
4 certified, there is a possibility that the Court will not grant class certification on Plaintiff's sick
5 pay regular rate claim here. (Tulyathan Decl. at ¶ 16.)

6 In light of the above, the Settlement for each Class Member is fair, reasonable, and
7 adequate, given the inherent risks of litigation, including the substantial risks relative to class
8 certification and the merits of the claims, the costs of pursuing such litigation, and the risks
9 associated with the Court's discretion to reduce PAGA penalties. The Settlement is the result of
10 extensive arm's-length negotiations between the Parties and their counsel and was facilitated by
11 an experienced and neutral mediator.

12 Although Plaintiff believes that the class can be certified, Plaintiff also believes in the
13 fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiff
14 involved in not prevailing on one or more of the causes of action or theories alleged in the
15 operative Complaint, the possibility of non-certification, and the potential for appeals.
16 (Tulyathan Decl. at ¶ 17.) These risks on class certification are compounded by the California
17 Supreme Court's holding in *Duran v. U.S. Bank Nat'l Ass'n*, 59 Cal.4th 1 (2014). There, the
18 plaintiffs obtained class certification and subsequently prevailed at trial after eight years of
19 litigation, but the judgment and the certification ruling were reversed by the California Supreme
20 Court after an additional five years of litigation. The case was remanded back to superior court
21 where class certification was denied and plaintiffs' subsequent appeal also was denied.

22 Indeed, numerous courts have held that gross settlements approximating between only 8
23 and 25% of the defendant's potential exposure are fair and reasonable. (See, e.g., *In re Mego*
24 *Fin. Corp. Secs. Litig.*, 213 F.3d 454, 459 (9th Cir. 2000) (holding that class action settlement
25 recovering 16% of potential exposure was fair and reasonable; "[i]t is well-settled law that a cash
26 settlement amounting to only a fraction of the potential recovery does not per se render the
27 settlement inadequate or unfair. Rather, the fairness and the adequacy of the settlement should
28 be assessed relative to risks of pursuing the litigation to judgment"; noting that whether the

1 settlement is fair and adequate depends on the “the difficulties in proving the case”);
2 *Bellinghausen v. Tractor Supply Co.*, No. 13-CV-02377-JSC, 2015 WL 1289342, at p.*6 (N.D.
3 Cal. Mar. 20, 2015) (holding that class action settlement recovering between **8.5% and 25%** of
4 the defendant’s potential exposure was fair); *Van Ba Ma v. Covidien Holding Inc.*, U.S. Dist. Ct.
5 Case No. 8:12-cv-02161 (C.D. Cal. 2014) (granting preliminary approval of wage and hour class
6 settlement which obtained **only 9.1%** of projected damages, given the risks of continued
7 litigation); *Villegas v. J.P. Morgan Chase & Co.*, No. CV 09-00261 SBA EMC, 2012 WL
8 5878390, at p.*6 (N.D. Cal. Nov. 21, 2012) (holding that gross class action settlement of
9 approximately 15% of the potential recovery was fair and reasonable).)

10 Here, the total amount of class and PAGA penalties amount to approximately
11 \$1,097,806.00, without discounting for potentially losing on any of the causes of action.
12 (Tulyathan Decl. at ¶ 14.) The Gross Settlement Amount is \$400,000, which is approximately
13 **36.44%** of the maximum class and PAGA penalties. (*Id.*) Thus, the settlement was negotiated
14 at arms’ length and the significantly high settlement percentage-to-recovery further supports that
15 the settlement is fair and reasonable.

16 Despite the asserted fairness of the settlement terms, as set forth in the Notice of Class
17 Action Settlement (“Class Notice”), should any Class Member wish to pursue his or her own
18 case for the claims being released herein, each Class Member has the right to submit a request
19 for exclusion (*i.e.*, opt-out) from the settlement, with the exception of the PAGA claims. (*See*
20 Class Notice, attached as **Exhibit B** to Tulyathan Decl.) Moreover, as set forth in the Notice,
21 Class Members are advised of their right to object to any of the terms contained in the
22 Stipulation and attend the final approval hearing. (*Id.*)

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

26 The Stipulation provides for Four Hundred Thousand Dollars and Zero Cents
27 (\$400,000.00) as the Gross Settlement Amount. (*See* Stipulation at ¶ 16.) The Net Settlement
28 Amount, calculated after deduction of attorneys’ fees (up to \$133,333.34), litigation costs (up to
\$20,000.00), the service payment to the Class Representative (up to \$10,000.00), the PAGA

1 Payment (\$40,000.00), and Settlement Administration costs (up to \$5,000.00), is estimated to be
2 approximately **\$191,666.66**. (*Id.* at ¶ 18.)

3 Pursuant to the Stipulation, the Net Settlement Amount will be apportioned among the
4 Class Members on a pro rata basis, based on the number of workweeks worked by each
5 respective Participating Class Member during the Class Period, as compared to the total number
6 of workweeks worked by all Participating Class Members during the Class Period. (*See*
7 Stipulation at ¶ 49.) Based thereon, on a raw average, each Class Member may potentially
8 recover approximately \$883.26. (Tulyathan Decl. at ¶ 18.) The amount actually paid to each
9 Class Member may increase or decrease depending on the actual number of workweeks worked
10 during the Class Period and the number of opt-outs received. (*Id.*)

11 Additionally, as part of the PAGA Payment, 25% of the PAGA Payment, or \$10,000.00,
12 shall be paid to Class Members who worked during the PAGA Period April 6, 2019 to August
13 18, 2021), on a pro rata basis, based on the number of pay periods worked by each Class
14 Member during the PAGA Period as compared to the total number of pay periods during the
15 PAGA Period. (Stipulation at ¶ 48.)

16 Finally, the terms of the Settlement provide that uncashed checks (upon the expiration
17 date) shall be distributed to Asian Americans Advancing Justice – Los Angeles (AAJC), a legal
18 and civil rights non-profit organization that provides free legal aid to low-income communities
19 with a focus on Asian Americans, Native Hawaiians, and Pacific Islanders, in accordance with
20 California Civil Procedure § 384. (*See* Stipulation at ¶ 67; *see* Tulyathan Decl. at ¶ 21, Ex. C.)

21 **2. Whether, and Under What Circumstances, Amounts Available for**
22 **Payment in Settlement Might Not Be Paid to Class Members or Might**
23 **Revert to the Defendant.**

24 This Settlement is non-reversionary, meaning that none of the settlement funds will revert
25 back to Defendant. (*See* Stipulation at ¶¶ 16, 43.)

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

27 As a condition of participating in this Settlement, Class Members who do not opt out of
28 the Settlement ("Participating Class Members") will provide a limited release of the following
claims against the Released Parties ("Released Claims"):

1 [A]ny and all federal, state, local, and common law claims for
2 unpaid overtime compensation, unpaid sick time, meal periods and
3 meal period premiums, calculation of the regular rate and/or rate of
4 pay with respect to any of the asserted claims, wage statement
5 and/or payroll record keeping requirements and any related
6 statutory penalties, waiting time penalties, unfair business practices
7 relating to the asserted claims, any and all related civil penalties
8 under PAGA based on any claims asserted in the Action, including
9 Labor Code §§ 201-203, 226, 226.7, 246, 510, 512, 558, 1194, and
10 2698, *et seq.*, and any other wage-related statutes, laws or
11 regulations that are or could be asserted by Plaintiff or any member
12 of the Class arising out of the facts alleged in the Complaint or
arising out of the facts, matters, transactions or occurrences set
forth in the Complaint that accrued during the Class Period. The
Released Claims includes any and all claims for attorneys' fees,
costs, expenses, interest, penalties, liquidated damages, and
punitive damages, that are or could be asserted by Plaintiff or any
Class Member relating to the claims alleged in the Action that
accrued during the Class Period.

13 (See Stipulation at ¶¶ 26, 71.) Any Participating Class Members who cash their Settlement
14 Payment Checks will also provide a release of FLSA claims as it pertains to overtime claims that
15 accrued during the Class Period only, as follows ("Released FLSA Claims"):

16 [A]ll claims for overtime under the federal Fair Labor Standards
17 Act ("FLSA") arising out of or with respect to the overtime claims
18 alleged in the Action that accrued during the Class Period.

19 (See Stipulation at ¶¶ 27, 73.)

20 In consideration of the PAGA Payment, Class Members who worked during the PAGA
21 Period will also provide the following release of PAGA claims ("Released PAGA Claims") as of
22 the Effective Date:

23 [A]ny and all claims for civil penalties under PAGA that accrued
24 during the PAGA Period predicated on violation of unpaid
25 overtime compensation, unpaid sick time, meal periods and meal
26 period premiums, calculation of the regular rate and/or rate of pay
27 with respect to any of the asserted claims, wage statement and/or
28 payroll record keeping requirements and any related statutory
penalties, waiting time penalties and civil penalties under PAGA
based on any claims asserted in the Action, including Labor Code
§§ 201-203, 226, 226.7, 246, 510, 512, 558, 1194, and 2698, *et
seq.*, that are or could be asserted by Plaintiff arising out of the
facts alleged in the Complaint or arising out of the facts, matters,

1 transactions or occurrences set forth in the Complaint that accrued
2 during the PAGA Period.

3 (*See* Stipulation at ¶¶ 28, 72.)

4 Given that the releases above are tailored to only claims pled in the Complaint, that arise
5 out of the facts alleged in the Complaint, and that accrued during the Class and/or PAGA Period,
6 the releases are appropriately limited.

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

8 The Parties have agreed that the individual settlement payment to Class Members shall be
9 allocated as follows: Twenty-five percent (25%) as payment for wages, less withholdings and
10 deductions, of which an IRS Form W-2 shall issue, and seventy-five percent (75%) as payment of
11 non-wage compensation, including interest and penalties of which an IRS Form 1099 shall issue.
12 With respect to PAGA payments distributed to Class Members who worked during the PAGA
13 Period, 100 percent of those payments shall be allocated as penalties and shall be deemed IRS
14 Form 1099 income. (*See* Stipulation at ¶ 50.)

15 Pursuant to the Stipulation, the Settlement Administrator will calculate and pay from the
16 Gross Settlement Amount the amount of employer-side payroll taxes on the wage portion of the
17 individual settlement payments paid to Class Members, which the Parties have estimated to be a
18 small amount of approximately \$8,600.00. (*See id.*; Tulyathan Decl. at ¶ 22.)

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

21 As stated above, Class Members do **not** need to do anything should they wish to receive
22 their share of the settlement funds. In other words, because this is not a claims-made settlement,
23 Class Members will not be required to make a submission to participate in the settlement. No
24 claim forms are required. Thus, this substantially decreases the amount of burden each Class
25 Member must bear in order to receive their share of the settlement funds. If a Class Member
26 does not wish to take part in this Settlement or be bound by the releases (with the exception of
27 the Released PAGA Claims for Class Members who worked during the PAGA Period), the Class
28 Member must submit a request for exclusion. (*See* Stipulation at ¶¶ 59, 61.)

1 **C. Notice to Class Members**

2 Should the Court grant the instant motion, Defendant will provide the Settlement
3 Administrator with a list containing all Class Members' full names, most recent mailing
4 addresses, employee numbers, Social Security Numbers, the number of workweeks each
5 respective Class Member worked during the Class Period, and the number of pay periods each
6 Class Member worked during the PAGA Period (if applicable) ("Class List and Data"). (*See*
7 Stipulation at ¶¶ 6, 57.) Pursuant to the Stipulation, Defendant will provide said Class List and
8 Data within fourteen (14) calendar days of preliminary approval. (*Id.*) Upon receipt of the
9 information and prior to mailing the Class Notice to Class Members, the Settlement
10 Administrator shall perform a search based on the National Change of Address Database for
11 information to update and correct for any known or identifiable address changes. (*Id.* at ¶ 58.)

12 Within five (5) business days of receipt of the Class List and Data from Defendant, the
13 Settlement Administrator will mail the Class Notice out to Class Members using the most
14 current, known mailing address, via First-Class U.S. mail. (*See* Stipulation at ¶ 57.) Any Class
15 Notices returned to the Settlement Administrator as non-deliverable on or before the response
16 deadline shall be re-sent via regular First-Class U.S. mail to the forwarding address affixed
17 thereto. (*Id.* at ¶ 60.) If no forwarding address is provided, the Settlement Administrator will
18 attempt to find the correct address using a skip-trace or other comparable search to locate the
19 most current address to re-mail the Notice. (*Id.*)

20 The Class Notice will advise Class Members of what the litigation is about, their rights
21 under the settlement, a summary of the principal terms and the monetary terms of the Settlement,
22 their expected settlement payment share, including their share of the PAGA Payment (if
23 applicable), their opportunity to and procedures to opt out or to object to the settlement, and the
24 release of claims. (*See* Class Notice.) As set forth in the Class Notice, Class Members will be
25 allowed to opt out of or object to the Settlement by a certain deadline, which is 45 calendar days
26 after the initial mailing of the Class Notice. (*See* Stipulation at ¶ 60.) Class Members who
27 received a re-mailed Class Notice will have that deadline extended by 15 calendar days from the
28 original response deadline. (*Id.*) With respect to objections, Class Members are also informed in

1 the Class Notice that they may object in writing or appear at the final approval hearing to present
2 their oral objections to the Court. (*Id.* at ¶ 63; *see* Class Notice.)

3 If Class Members need further information about the settlement and/or the lawsuit, Class
4 Counsel's contact information and the Settlement Administrator's contact information are
5 provided in the Class Notice. (*See* Class Notice, at p.8.)

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

7 **1. Class Representative's Claims are Typical of the Class.**

8 The commonality requirement is met when there are questions of law and fact common to
9 the class. (*See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1019 (1998) ("The existence of shared
10 legal issues with divergent legal factual predicates is sufficient, as is a common core of salient
11 facts couple with disparate legal remedies within the class").) Commonality requires only that
12 some common legal or factual questions exist; the plaintiffs need not show that all issues in the
13 litigation are identical. (*See Richmond v. Dart Industries, Inc.*, 29 Cal.3d 462, 473 (1981).)
14 Defendant's conduct is central to the commonality inquiry. (*See City of San Jose v. Superior*
15 *Court*, 12 Cal.3d 447, 460 (1974); *Vasquez v. Superior Court*, 4 Cal.3d 800, 812-13 (1971).)
16 Where the employer's conduct is uniformly directed at a class of employees, as Plaintiff alleges
17 here, the classwide impact of the Defendant's policies satisfies the commonality requirement.
18 (*See Stephens v. Montgomery Ward & Co.*, 193 Cal.App.3d 411, 421 (1987).)

19 In the present case, Plaintiff alleges that Defendant is liable to the Class for (i) failure to
20 pay overtime wages at the correct regular rate of pay in violation of Labor Code §§ 510, 558, and
21 1194, (ii) failure to pay sick pay at the correct regular rate of pay in violation of Labor Code §§
22 201-203 and 246, (iii) failure to provide compliant meal periods and/or pay meal period
23 premiums in lieu thereof in violation of Labor Code §§ 226.7, 512, and 558, and (iv) failure to
24 provide accurate itemized wage statements to its employees in violation of Labor Code § 226(a).
25 Like all Class Members, Plaintiff was subjected to these same policies and practices.
26 (Declaration of Valeria Rodriguez ("Rodriguez Decl.") at ¶¶ 3-5.) In particular, Plaintiff alleges
27 that Defendant miscalculated the regular rate of pay when paying overtime and sick pay wages to
28 Plaintiff whenever non-discretionary remuneration, such as shift premiums, shift differentials,

1 and annual bonuses, were paid to Plaintiff. (*Id.* at ¶ 3.) Plaintiff also alleges she did not receive
2 compliant meal periods, or meal period premiums in lieu of those missed/non-compliant meal
3 periods. (*Id.* at ¶ 4.) Plaintiff also claims she was issued inaccurate wage statements that did not
4 comply with Labor Code § 226(a). (*Id.* at ¶ 5.) In other words, Plaintiff contends that she was
5 subjected to the same policies and practices as other Class Members and thus, the typicality
6 requirement is met.

7 Moreover, Plaintiff does not have any interests adverse to the Class, nor have any such
8 issues been raised or presented. (*Id.* at ¶ 6.) Plaintiff has taken all necessary steps to represent
9 the interests of the Class, including by providing information and documents to Plaintiff's
10 counsel. (*Id.* at ¶¶ 7-8.) For such reasons, Plaintiff has adequately represented the Class
11 Members and will continue to do so.

12 **2. Class Counsel Has Adequately Represented the Class and Has Experience**
13 **with Wage and Hour Class Action.**

14 From the inception of the case, Class Counsel has zealously represented the interests of
15 the Class. Class Counsel has engaged in significant meet and confer discussions with opposing
16 counsel to obtain informal data and documents and to discuss the merits of the claims on behalf
17 of the Class. (Tulyathan Decl. at ¶ 24.) The Settlement was obtained for the benefit of the Class,
18 as opposed to the individual Class Representative. Further, Class Counsel has been approved as
19 class counsel on a number of prior cases, have litigated numerous other class action cases, and
20 are competent to represent the class. (Lee Decl. at ¶¶ 7-8; Tulyathan Decl. at ¶¶ 29-31; Marder
21 Decl. at ¶¶ 8-9.)

22 **E. Costs and Fees**

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

24 California state and federal courts have recognized that an appropriate method for
25 determining award of attorneys' fees is based on a percentage of the total value of benefits to
26 class members by the settlement. (*Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 254
27 (2001); *Serrano v. Priest*, 20 Cal.3d 25, 34 (1977); *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478
28 (1980); *Vincent v. Hughes Air West, Inc.*, 557 F.2d 759, 769 (9th Cir. 1997).) The purpose of

1 this equitable doctrine is to avoid unjust enrichment of counsel and to “spread litigation costs
2 proportionally among all the beneficiaries so that the active beneficiary does not bear the entire
3 burden alone.” (*Vincent*, 557 F.2d at p. 769.)

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

13 Fairness to the successful litigant, who might otherwise receive no
14 benefit because his recovery might be consumed by the expenses;
15 correlative prevention of an unfair advantage to the others who are
16 entitled to share in the fund and who should bear their share of the
17 burden of its recovery; encouragement of the attorney for the
18 successful litigant who will be more willing to undertake and
diligently prosecute proper litigation for the protection or recovery
of the fund if he is assured that he will be properly and directly
compensated should his efforts be successful.

19 (*Id.*)

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

27 The California Supreme Court in *Laffitte* affirmed a fee award representing 33 1/3
28 percent of the fund. (*Laffitte*, 1 Cal.5th at p. 506.) And this was based on a lodestar amount

1 that required a multiplier of 2.13. (*Id.* at p. 487.) As the Court held, only when the multiplier is
2 “extraordinarily high or low [should] the trial court [] consider whether the percentage method
3 should be adjusted so as to bring the imputed multiplier within a justifiable range.” (*Id.* at p.
4 505.)

5 The Parties have agreed to a payment of a maximum of one-third of the Maximum
6 Settlement Amount, or \$133,333.34, for payment to Class Counsel as attorneys’ fees. (*See*
7 Stipulation at ¶¶ 5, 45.) The Parties have agreed to a payment of the foregoing attorneys’ fees
8 and, thus, this payment should be presumed to be fair. Further, the Parties have agreed to
9 reimbursement of Class Counsel’s litigation costs up to \$20,000.00. (*Id.*) Class Counsel have,
10 at their own risk, expended costs, for example, to file this instant action and other pleadings in
11 the case, effect service of process, participate in mediation, and advance other litigation-related
12 costs. If Class Counsel’s actual costs are less than \$20,000.00, the remainder will go to the
13 Class for distribution.

14 Based on the foregoing, the Court should preliminarily approve the attorney’s fees and
15 costs as requested by the Parties.

16 **2. Proposed Payment to the Class Representative.**

17 Class Representative Valeria Rodriguez requests a modest enhancement of \$10,000.00.
18 (*See* Stipulation at ¶ 46.) The Class Representative met and conferred with her counsel on a
19 number of occasions to discuss the case, provided documents and information to her counsel, and
20 reviewed pleadings and documents, including the Settlement Agreement. (Rodriguez Decl. at ¶¶
21 7-8.) As part of her duties as the Class Representative, Plaintiff provided invaluable information,
22 evidence, and documents that resulted in this Settlement. Furthermore, in consideration for her
23 service payment, Plaintiff also executed an individual general release of all claims including a
24 California Civil Code § 1542 waiver, which other members of the Class did not have to do. (*See*
25 Stipulation at ¶¶ 46, 74; Rodriguez Decl. at ¶ 10.)

26 In addition to the invaluable services that Plaintiff provided, she also took a significant
27 risk, both professionally and monetarily, in acting as the Class Representative and seeking
28 benefits on behalf of the Class. Because the claims alleged by the Class Representative involved

1 the payment of costs to the prevailing party, Plaintiff could have possibly faced paying the costs
2 of Defendant, had she not prevailed in this action.

3 Furthermore, given that future employers are much less likely to hire individuals who
4 have filed suit against their prior employer, particularly cases of this nature, Plaintiff may face
5 prejudice in the future from other potential employers. Plaintiff took this risk upon herself and
6 the whole Class benefited from these risks taken by Plaintiff. Class Members did not have to file
7 individual lawsuits and bear the risks of payment of costs if they did not prevail, nor did they
8 have to face the potential for retaliation and not getting future employment had they filed a
9 public lawsuit.

10 **3. Class Administration Fees**

11 The Parties have agreed to an estimated payment of no more than \$5,000.00 to the
12 Settlement Administrator, Phoenix Settlement Administrators, to send notices and to administer
13 this settlement. (*See* Stipulation ¶¶ 34, 47.) Plaintiff's counsel obtained several quotes from
14 highly respected class action administrators. (Tulyathan Decl. at ¶ 20.) The lowest quote
15 received was from Phoenix Settlement Administrators for a capped fee of \$5,000.00 to
16 administer the settlement. (*Id.*) Phoenix Settlement Administrators is a well-recognized class
17 action settlement administrator. The Parties believe that the administration fee is reasonable and
18 should be approved.

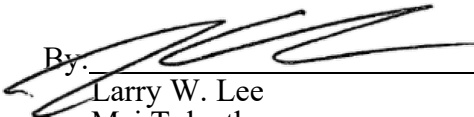
19 **IV. CONCLUSION AND ACTION REQUESTED AS PART OF THE MOTION FOR** 20 **PRELIMINARY APPROVAL**

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

26 For the foregoing reasons, Plaintiff respectfully requests that the Court grant preliminary
27 approval of the proposed Settlement, sign the proposed Order, approve and authorize mailing of
28 the proposed Class Notice, and set a date for a final approval hearing.

1 DATED: December 20, 2021

DIVERSITY LAW GROUP

2
3 By. 

Larry W. Lee

Mai Tulyathan

Attorneys for Plaintiff Valeria Rodriguez, the
Class, and Aggrieved Employees