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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE – CIVIL COMPLEX CENTER**

KALVYN ESCOBAR, individually and on behalf
of all current and former similarly situated
employees in the State of California,

Plaintiff,

v.

PRIME FINANCE CONSULTING, INC., a
California Corporation; HANIEH JODAT, an
individual; SHAHIN JOUDAT, an individual, and
DOES 1 to 50, inclusive,

Defendants.

CASE NO.: 30-2020-01134584-CU-OE-CXC

ASSIGNED FOR ALL PURPOSES TO: HON.
RANDALL J. SHERMAN

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF JOINT
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Reservation Number: 73458601
Date: February 26, 2021
Time: 10:00 a.m.
Courtroom: CX-105

Complaint Filed: February 26, 2020
FAC Filed: June 18, 2020

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1 **I. INTRODUCTION**

2 Plaintiff Kalvyn Escobar (“Plaintiff” or “Class Representative”), on behalf of himself and all
3 others similarly situated, and defendants Prime Finance Consulting (“PFC”), Hanieh Jodat¹ (“Jodat”), and
4 Shahin Joudat² (“Joudat”) (collectively “Defendants”), seek preliminary approval of their settlement of a
5 wage and hour class action lawsuit alleging violations of the California Labor Code, California Private
6 Attorneys General Act, the California Unfair Competition Law (Cal. Bus. & Prof. Code § 17200, *et seq.*),
7 and California Industrial Welfare Commission Wage Order. The Parties negotiated a One Hundred Ninety
8 Thousand Dollars (\$190,000.00) settlement of this litigation on behalf of approximately 32 current and
9 former employees of Defendants, which were classified as independent contractors, in California at any
10 time between February 26, 2016 through the date of Preliminary Approval.

11 The Parties have stipulated that for the sole purpose of settlement, class certification requirements
12 have been met and are met in this matter. The terms of the Agreement³ are the product of an arm’s-length
13 negotiation between the Parties, who were independently represented by experienced counsel—Natalie
14 Mirzayan of the Law Offices of Natalie Mirzayan for Plaintiff and the proposed class (“Class Counsel”),
15 and Ali Mirhosseini and Tina Starr of Mirhosseini Law Group for Defendants. The Parties have diligently
16 investigated the facts relating to the claims and thoroughly studied the legal principles applicable to the
17 claims asserted against Defendants.

18 Based on the information produced pursuant to both formal and informal discovery, and Class
19 Counsel’s own independent investigation and evaluation, Class Counsel believes that the proposed
20 Settlement is fair, reasonable, and adequate under the circumstances, and it is in the best interest of the
21 proposed class. In the light of all known facts and circumstances, including the risk of significant delay
22 and uncertainty associated with litigation, various defenses asserted by Defendants, the likely difficulties
23 with class certification, and numerous potential appellate issues, Plaintiff and Defendants chose to settle
24 their dispute. Class Counsel believes that, in light of the risks of continued litigation of the claims, the
25

26 _____
27 ¹ Chief Financial Officer and Director.

28 ² Owner and the Chief Executive Officer.

³ The terms of the proposed settlement are set forth in the concurrently-filed Joint Stipulation of Class
Action Settlement (“Agreement”) attached as Exhibit “1” to the Declaration of Natalie Mirzayan.
Capitalized terms in this Memorandum have the same meaning as in the Agreement.

terms of the settlement set forth in the Agreement are fair, adequate, reasonable, and in the best interests of the proposed class, including Plaintiff. (Mirzayan Decl., ¶ 3.)

Accordingly, pursuant to Rule 3.769 of the California Rules of Court, the Parties respectfully request that this Court: (1) grant preliminary approval of the Agreement and the terms contained therein; (2) conditionally certify the proposed Class for settlement purposes only; (3) appoint the Law Offices of Natalie Mirzayan as Class Counsel; (4) approve the form and manner of distribution of the Class Notice; (5) appoint Phoenix Class Action Administration Solutions to administer the settlement of the class action, and (6) schedule a hearing for final approval of the Settlement consistent with the time frame set forth in this Motion.

II. FACTUAL BACKGROUND

A. Plaintiff's Complaint

On February 26, 2020, Plaintiff filed a Class Action Complaint against Defendants. Plaintiff's Complaint asserts alleges 17 causes of action against all Defendants for: (1) Misclassification As Independent Contractor (Violation Of California Labor Code §§ 2750.3, 226.8); Failure To Pay All Wages (Violation Of California Labor Code §§ 510, 1194, 1198; IWC Wage Order No.4); Failure To Provide Meal Periods Or Compensation In Lieu Thereof (Violation Of IWC Wage Order 4-2001, Cal. Lab. Code §§ 226.7, 512); Failure To Authorize And Permit Rest Breaks (Violation Of IWC Wage Order 4-2001, Cal. Lab. Code § 226.7); Failure To Indemnify For Expenditures Incurred In Discharge Of Duties (Cal. Lab. Code §§ 450, 2802, 2804); Unlawful Collection Or Receipt Of Wages Due (Violation Of California Labor Code §§ 221, 224, 225); Failure To Provide Paid Sick Days (Violation Of California Labor Code §§ 245.5-249); Failure To Maintain Records In Violation Of (Violation Of California Labor Code §§ 558, 1174, 1174.5, 274.5(A)); Waiting Time Penalties (Violation Of California Labor Code §§ 201, 202, 203); Failure To Pay Minimum Wage (Violation Of California Labor Code §§ 1197, 1194, 1194.2, 1197.1); Illegal Terms Of Employment (Violation Of California Labor Code § 432.5); Failure To Comply With Wage Theft Prevention Act (Violation Of California Labor Code § 2810.5); Failure To Issue Accurate Itemized Wage Statements (Violation Of California Labor Code § 226(A)); Conversion; Violation Of Business & Professions Code § 17200; Injunctive Relief.

On June 18, 2020, Plaintiff filed a First Amended Class Action Complaint, (“FAC”) alleging the same claims and adding a claim for violation of California Private Attorney General Act (“PAGA”), Labor Code § 2699, *et seq.*, the FAC is the operative complaint. The initial Class Action Complaint, and FAC will be collectively referred to as the “Action” or “Litigation.” (Mirzayan Decl. ¶¶ 4-5.)

B. The Parties Have Engaged In Sufficient Discovery And Litigation

During the litigation of this Action, the Parties engaged in sufficient discovery necessary for a complete and thorough evaluation of Plaintiff’s claims. The Parties have engaged in written discovery and informal discovery. Plaintiff propounded Requests for Production of Documents, Special Interrogatories, and received responses from Defendants. Defendants provided responses to the Special Interrogatories regarding the operating procedures applicable to the claims in this action, and job descriptions for the positions in the Class. Defendants agreed to supplement their responses to written discovery, and the Parties engaged in good faith meet and confer efforts to resolve discovery disputes. Ultimately, Defendants produced available records for Plaintiff and that of the putative class. Plaintiff retained an economic expert and analyzed these records. (Mirzayan Decl. ¶ 6.)

C. Extensive Settlement Negotiations

Throughout this exchange of information and discovery, the Parties in good faith discussed the potential for settlement. Defendants’ counsel also informed Class Counsel of Defendants’ financial hardship, the closure of their business (Prime Finance Consulting, Inc.), and Joudat’s intent to file for bankruptcy. Through a lengthy, arms-length, non-collusive negotiations, the Parties were able to reach an agreement to settle. In short, this Settlement was the product of extensive arm’s length discussions, and represents a compromise and settlement of disputed claims. (Mirzayan Decl. ¶ 7.)

III. THE PROPOSED SETTLEMENT

Subject to Court approval pursuant to Cal. Civ. Pro. Code § 382 and California Rules of Court 3.769, *et seq.*, Plaintiff and Defendants have agreed to settle this matter upon the terms and conditions and for the consideration set forth in the Agreement. A summary of the terms of the Agreement are as follows:

1. Defendants will stipulate, for purposes of this settlement only, to certification of a class defined as: “All current and former employees, who were employed by Defendants in the State of

California between February 26, 2016 through the Preliminary Approval in the position of Student Loan Advisors, Student Loan Processors, or similar positions.”

2. Defendants will make a non-revisionary settlement payment in the sum of One Hundred and Ninety Thousand Dollars \$190,000.00 to resolve all claims, fees and costs relating to the Settlement (the “Gross Settlement Amount”). The Gross Settlement Amount will be allocated as follows: (1) up to forty (40%) or Seventy-Six Thousand Dollars (\$76,000.00) in attorneys' fees to Class Counsel, and Class Counsel's reasonable litigation costs, which is estimated not to exceed Eight-Thousand Dollars \$8,000; (2) up to Ten-Thousand Dollars \$10,000.00 as the Enhancement Award payment to Plaintiff, (3) up to Three-Thousand \$3,000.00 in reasonable costs incurred by the Settlement Administrator to administer the Settlement; (4) Fifteen-Thousand Dollars \$15,000.00 as payment of PAGA penalties, of which 75% or \$11,250.00 will be paid to the Labor Workforce Development Agency (“LWDA”) of the State of California; (5) all Employer Taxes due on the wage portion of Net Settlement Amount(s) to be paid to the Participating Class Members, which are estimated to be approximately \$5,436.38 in Employer Taxes; and the Net Settlement Amount, including Net Settlement Payments to Participating Class Members.

3. Defendants shall pay the Gross Settlement Amount to the Settlement Administrator within five (5) business days of the Settlement Effective Date.

4. Class Members will be paid their proportionate share based on the total number of Compensable Workweeks worked during the Class Period. (Mirzayan Decl. ¶ 8.)

IV. THE CLASS ACTION SETTLEMENT APPROVAL PROCEDURE

No action brought on behalf of a class may be settled, compromised, or dismissed without the approval of the Court. See Cal. Rule of Court 3.769(a). There are three steps to the Court’s settlement approval process:

- (1) Preliminary Approval of the proposed Settlement at an informal hearing;
- (2) Dissemination of Notice of the Settlement to all affected Class Members; and,
- (3) a “Formal Fairness Hearing,” or Final Settlement Approval Hearing, at which Class Members may be heard regarding the Settlement, and at which evidence and argument concerning the fairness, adequacy, and reasonableness of the Settlement is presented.

This three-step settlement approval process is prescribed by the *Manual for Complex Litigation* prepared by the Federal Judicial Center, is widely followed in the federal circuits, and has also been adopted by California courts. See *Manual for Complex Litigation*, Fourth § 21.63 (2004); see also *Bell v.*

1 *American Title Ins. Co.*, 226 Cal. App. 3d 1589, 1599-1602 (1991) (outlining the class action settlement-
2 approval process). Specifically, the *Manual for Complex Litigation* provides:

3 Review of a proposed class action settlement generally involves two hearings. First,
4 counsel submits the proposed terms of settlement and the judge makes a preliminary
5 fairness evaluation. In some cases, this initial evaluation can be made on the basis of
6 information already known, supplemented as necessary by briefs, motions, or informal
7 presentations by parties. If the case is presented for both class certification and settlement
8 approval, the certification hearing and preliminary fairness evaluation can usually be
9 combined.

10 ****

11 Once the judge is satisfied as to the certifiability of the class and the results of the initial
12 inquiry into the fairness, reasonableness, and adequacy of the settlement, notice of a formal
13 Rule 23(e) fairness hearing is given to the class members.

14 *Manual for Complex Litigation*, Fourth §§ 21.632-21.633. Under this standard, a trial court's preliminary
15 approval of a class action settlement is simply a conditional finding that, on its face, the compromise
16 appears to be within a range of acceptable agreements. As *Newberg on Class Actions* comments:

17 The 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
20 settlement offer, or is presumptively valid subject only to any objections that may be raised
21 at a final hearing.

22 *Newberg on Class Actions*, Settlement of Class Actions, § 11:26, p. 39 (4th Ed., 2002).

23 This Court will also ultimately determine the reasonableness of any attorneys' fees, the repayment
24 of costs advanced by Class Counsel, the Enhancement Award, and the costs of the Settlement
25 Administrator. These matters are solely within the discretion of the Court, who must issue its
26 determination after reviewing the appropriate applications made by Class Counsel. The Court must also
27 factor objections raised by Class Members (the criteria for approval of final settlement are set forth at
28 *Newberg* commencing at § 11.41).

 Lastly, in addition to the distribution of notice, if the Court has not yet certified the action as a
class action when a settlement or compromise is reached, the court must certify the class, according to the
standards set forth in Cal. Rule of Court 3.769(d). The Parties request that this Court take the initial steps
of certifying the Class for Settlement purposes and making a judicial determination that the Class satisfies
all prerequisites for certification.

V. THE SETTLEMENT IS FAIR AND REASONABLE

Courts have broad discretion to determine the fairness of a proposed class action settlement. *Reed v. United Teachers Los Angeles*, 208 Cal. App. 4th 322, 336 (2012) (“The trial court has broad discretion to determine whether a class action settlement is fair.”). However, “[a] trial court must approve a class action settlement agreement and may do so only after determining it is fair, adequate, and reasonable.” *In re Microsoft I-V Cases*, 135 Cal. App. 4th 706, 723 (2006).

To determine whether a class settlement is fair, adequate and reasonable, courts consider relevant factors, such as “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, ... and the reaction of the class members to the proposed settlement.” *Wershba*, 91 Cal. App. 4th at 244-245.

At the same time, courts “should give due regard . . . to what is otherwise a private consensual agreement between the parties” and limit “its inquiry to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” *In re Microsoft*, 135 Cal. App. 4th at 723. Accordingly, courts operate under the presumption of fairness where: “(1) the settlement is reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” *In re Sutter Health Uninsured Pricing Cases*, 171 Cal. App. 4th 495, 505 (2009). *Accord 7-Eleven Owners For Fair Franchising v. The Southland Corp.*, 85 Cal. App. 4th 1135, 1146 (2000); *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1802 (1996).

Here, the Settlement is entitled to a presumption of fairness because: (1) it is the product of arm’s length bargaining between the Parties’ respective counsel; (2) the Parties have investigated the claims, defenses, and potential damages in this case; and (3) Class Counsel is experienced in complex and class action litigation, including matters involving violations of California wage and hour laws. Therefore, there is an entitlement to a presumption of fairness. (Mirzayan Decl. ¶ 9.)

In this case, the settlement was reached after significant factual and legal research, sufficient discovery, preparation of damages analyses, and good faith negotiation. The settlement that has been

1 reached, subject to this Court’s approval, is the product of tremendous effort, and expense, by the Parties
2 and their counsel. The settlement amount is, of course, a compromise figure. However, counsel for
3 Plaintiffs and Defendants are satisfied that this figure is reasonable in light of the risks and expense of
4 continued litigation and the financial condition of the employer. (Mirzayan Decl. ¶ 10.)

5 **A. The Settlement Was Negotiated at Arm’s Length and Not Collusive**

6 There is “usually an initial presumption of fairness when a proposed class settlement . . . was
7 negotiated at arm’s length by counsel for the class.” *See Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App.
8 4th 116, 130 (2008). To determine whether a settlement is the product of legitimate, arms-length
9 negotiations, courts look to the procedural posture of the case at settlement. *See, e.g.*, Rubenstein, 4
10 *Newberg on Class Actions* § 13:14 (“Courts look to the procedural posture of the case at settlement for
11 indications that the agreement is the product of legitimate, arms-length negotiations.”).

12 The settlement that has been reached, subject to this Court’s approval, is the product of substantial
13 effort by the parties and their counsel. The settlement was reached after extensive factual and legal
14 investigation and research, numerous discussions, exchanges of documents, correspondence, review of
15 pleadings, evidence and rulings in similar actions litigated elsewhere in the state, and review of similar
16 cases in the same industry. The settlement amount is, of course, a compromise figure. It considered, risks
17 related to liability, damages, and all the defenses asserted by Defendants.

18 Plaintiff asserts that Defendants misclassified employees as independent contractors. Class
19 Counsel reviewed documents produced by Defendants, including time records and payroll records. Based
20 thereon, Class Counsel reasonably believed that Plaintiff would have a significant chance of certifying the
21 class. (Mirzayan Decl. ¶ 11.)

22 On the other hand, Defendants have argued that Plaintiffs cannot meet the requirements of class
23 certification. Defendants strongly believe that Defendants’ policies and procedures are fully compliant
24 with the law. While Plaintiff believed in his chance of success of certifying the claims, Plaintiff recognizes
25 the potential risk, expense and complexity posed by further litigation. Litigating Plaintiff’s claims in this
26 Litigation, claims that involve numerous Class Members during the Class Period, would require
27 substantial additional preparation and discovery and ultimately would involve the deposition and
28 presentation of numerous witnesses (including expert witnesses), as well as the consideration, preparation

1 and analysis of expert reports. Therefore, should litigation have progressed any further there would have
2 been significant expense incurred by each side.

3 Plaintiff and Defendants have very strong—yet different—positions on liability in this case.
4 Defendants deny any liability or wrongdoing of any kind associated with the claims alleged in Plaintiff’s
5 operative FAC, and further deny that, for any purpose other than that of settling this lawsuit, this Action
6 is appropriate for class or representative treatment. In light of the sharply contested legal and factual
7 issues, the risks of continued litigation, and substantial benefits to Class Members under the Settlement,
8 the terms and conditions of this class settlement are fair and reasonable to all sides.

9 **B. The Settlement Is Well Within Range of Reasonableness**

10 Prior to the Settlement, Class Counsel investigated the claims alleged by Plaintiff, conducted legal
11 research, and engaged in sufficient discovery. Based on Class Counsel’s investigation and evaluation,
12 Class Counsel is of the opinion that the terms set forth in this Agreement are fair, reasonable, adequate,
13 and in the best interest of the Class Members. Class Counsel diligently and effectively investigated
14 Plaintiff’s claims, drafted the Complaint, interviewed witnesses, reviewed and analyzed documents
15 produced, prepared to take the deposition of Joudat, conferred with Defendants’ Counsel regarding
16 Defendants’ arguments in support of an Opposition to the Motion for Class Certification. In evaluating
17 the risk and benefits of further litigation, and the possibility that Plaintiff may not recover anything,
18 especially as a result of the closure of PFC and the anticipated bankruptcy filing by Joudat, the settlement
19 is fair and reasonable. (Mirzayan Decl. ¶ 12.)

20 Moreover, Defendants produced payroll records for the putative class. Plaintiff retained an expert
21 and analyzed these payroll records. Plaintiff’s statistical expert, Berger Consulting Group, analyzed this
22 information, and Class Counsel evaluated the potential liability and damages for the Class Members.
23 Based upon this information, Class Counsel was able to act intelligently and effectively in negotiating the
24 proposed Settlement. (Mirzayan Decl. ¶ 13.)

25 Class Counsel has calculated the total damages and interest of the Class Members should the case
26 proceed to trial, which is set forth below:

1 **Claims Related To Unpaid Overtime Wages:** Plaintiff contends that Defendants misclassified
2 Plaintiff and the Class Members as independent contractors and deprived them proper protections and
3 benefits of the laws governing the payment of wages for all hours worked and overtime wages.
4 FAC, ¶ 69. Based on available records provided by the Defendants, Plaintiff's economic expert estimates
5 the value for the unpaid overtime wages to be \$51,178.00 (\$48,394.00 unpaid overtime + \$2,784.00
6 interest). (Mirzayan Decl. ¶ 14.)

7 However, Defendants contend that Plaintiff and the Class members were properly classified as
8 independent contractors and not entitled to overtime wages. Specifically, Defendants support their
9 contention that Plaintiff and the Members of the Class were properly classified as independent contractors
10 because: 1) Plaintiff and the Class Members kept their own hours and were not required to keep a set
11 schedule; 2) Plaintiff and the Class were paid based upon the sales they made, (i.e. were free to make as
12 many calls or as few calls as they wanted); 3) Plaintiff and Class Members chose how to interact with
13 potential customers; 4) Plaintiff and the Class Members were free to come and go as they pleased and
14 worked as many, or as few hours, as they chose; 5) Plaintiff and the Class Members increased their
15 earnings by making more calls -- the more call they made, the more commission they could earn; and 6)
16 Plaintiff and the Class Members were free to make business decisions.

17 **Claims Related to Meal and Rest Breaks:**

18 Plaintiff contends that Defendants misclassified Plaintiff and the Class Members as independent
19 contractors and failed to provide them with meal and rest breaks. Specifically, Plaintiff contends that he
20 and the Class Members regularly and consistently worked eight (8) hours or more per day but were not
21 provided an uninterrupted, thirty-minute meal period within the first five hours of work each day. By
22 failing to consistently provide Plaintiff and each member of the Class an uninterrupted thirty-minute meal
23 period within the first five hours of work each day, Defendants violated the California Labor Code and
24 applicable IWC Wage Order provisions. FAC, ¶102.

25 Additionally, Plaintiff contends that Defendants required Plaintiff and the Class Members to
26 work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four
27 (4) hours period worked. FAC, ¶116.
28

1 Plaintiff's economic expert estimates the value for the meal break violations to be \$32,413.00
2 (\$30,650.00 + \$1,763.00) and the value for the rest break violations to be \$33,775.00 (\$31,939.00
3 +\$1,838.00 interest). (Mirzayan Decl. ¶ 15.)

4 **Loss Wages Due to Self-Employment Taxes:**

5 Plaintiff contends that Defendants misclassified Plaintiff and the Class Members as independent
6 contractors, which was unlawful and creates an entitlement to recovery by the Plaintiff and the Class
7 Members for reimbursement of the appropriate withholding of federal, state, and local income taxes based
8 upon a flat withholding rate for supplemental wage payments in accordance with Treas. Reg. §
9 31.3402(g)-1(a)(2) as amended or supplemented, and any corresponding state or local law, and the Class
10 Members' share of FICA, Medicare, and state and local employment taxes that were improperly not paid
11 by Defendants as a result of the independent contractor classification. FAC, ¶ 71.

12 Plaintiff's economic experts estimates the value of loss of income due to self-employment taxes
13 to be \$28,189.00 (\$26,655.00 + \$1,534.00). (Mirzayan Decl. ¶ 16.)

14 Defendants contend that Plaintiff and the Class Members were properly classified as independent
15 contractors and they were paid on commission basis; thus, there was no requirement to pay employment
16 taxes.

17 **Loss of Unemployment Benefits:** Plaintiff contends that Defendants misclassified Plaintiff and
18 the Class Members as independent contractors, and thereby, Plaintiff and Class Members were unable to
19 obtain unemployment benefits following the closure of the business PFC, and/or following the
20 termination of their employment. Plaintiff's economic expert estimates the value of loss of
21 unemployment benefits is \$1,342,487.00 (\$1,269,450.00 + \$73,037.00 interest). (Mirzayan Decl. ¶ 17.)

22 Defendants contend that Plaintiff and the Class Members were properly classified as independent
23 contractors and they were paid on commission basis, thus, there was no requirement to pay for
24 unemployment insurance.

25 **Wage Statement Penalties:** Plaintiff alleges that he would have been entitled to recover penalties
26 for Defendants' failure to issue compliant wage statements under California Labor Code §226(e). As a
27 result, each aggrieved employee could recover up to a maximum of a \$4,000.00 aggregate penalty pursuant
28 to Labor Code §226(e), depending on the number of pay periods she or he was issued a non-compliant

1 wage statement. Plaintiff's expert calculated wage statement penalties to be approximately \$29,000.00.
2 (Mirzayan Decl. ¶ 18.)

3 Defendants contend that Plaintiff and the Class Members were properly classified as independent
4 contractors and Defendants are not required to provide Plaintiff and the Class with wage statements
5 pursuant to California Labor Code § 226.

6 **Waiting Time Penalties:** Plaintiff contends that pursuant to Labor Code section 203, Defendants
7 are obligated to pay Plaintiff and Member of the Class that are former employees of the Defendants
8 waiting-time penalties equivalent to thirty (30) full working days' worth of wages because certain wages
9 were not paid within 30 days. FAC, ¶ 182.

10 Plaintiff's experts calculated waiting time penalties to be approximately \$93,000.00. (Mirzayan
11 Decl. ¶ 19.) Defendants contend that the Plaintiff and the Class Members were properly classified as
12 independent contractors and not entitled to waiting time penalties.

13 **PAGA Penalties:** If Plaintiff proceeds to trial and proves Defendants' violation the Labor Codes
14 as alleged in the FAC, then Plaintiff's expert estimates PAGA penalties to be approximately \$232,000.00.
15 (Mirzayan Decl. ¶ 20.) However, the Court is authorized to exercise discretion to assess civil penalties
16 and may award a lesser amount than the maximum civil penalty amount if, based on the facts and
17 circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and
18 oppressive, or confiscatory. See Cal. Lab. Code § 2699(e).

19 Defendants, of course, contend that they complied with any legal requirements under the Labor
20 Code such that there is no underlying liability, and thus no basis to award PAGA penalties.

21 In evaluating the proposed settlement, courts should "not evaluate a proposed settlement 'against
22 a hypothetical or speculative measure of what might have been achieved had plaintiffs prevailed at trial.'" *In re Sutter Health Uninsured Pricing Cases*, 171 Cal. App. 4th at 511. Instead, the question presented
23 on a motion for preliminary approval of a proposed class action settlement is whether the proposed
24 settlement is within the range of possible approval. See *Wershba*, 91 Cal. App. 4th at 250 (holding that a
25 settlement need not obtain 100% of the damages sought).
26

27 Considering all of these legal hurdles, Plaintiffs' Counsel obtained a non-reversionary settlement
28 of \$190,000.00. Class Counsel considers this to be an excellent settlement for class members, when

1 considering all issues and risks related to liability and class certification, and also considering the case law
2 regarding fair, reasonable, and adequate settlements. *Rebney v. Wells Fargo Bank*, 220 Cal. App. 3d 1117,
3 1139 (1990) (“Compromise is inherent and necessary in the settlement process... even if the relief afforded
4 by the proposed settlement is substantially narrower than it would be if the suits were to be successfully
5 litigated, this is no bar to a class settlement because the public interest may indeed be served by a voluntary
6 settlement in which each side gives ground in the interest in avoiding litigation.”); *Officers for Justice v.*
7 *Civil Service Comm’n*, 688 F.2d 615, 628 (9th Cir. 1982) (“It is well-settled law that a cash settlement
8 amounting to only a fraction of the potential recovery does not ... render the settlement inadequate or
9 unfair.”).

10 **C. The Requested Enhancement Award to Plaintiff Is Reasonable and Routinely**
11 **Awarded**

12 Class Representative seeks Incentive Payment of \$10,000. Class Representative is entitled to an
13 enhanced award for his service as a class representative. Defendants do not oppose the requested
14 enhancement to the Plaintiff. (Mirzayan Decl. ¶ 21.) The typical enhancement award in wage and hour
15 class actions ranges from approximately \$10,000 to \$40,000, although some awards are higher. Courts
16 have long acknowledged that active litigants are entitled to be compensated for bearing the risk and time
17 to represent others. *Bell v Farmers Ins. Exch.*, 115 Cal. App. 4th 715, 725 (2004) (upholding enhancement
18 award to named plaintiffs of their efforts in bringing class case).

19 The Class Representative Incentive Payment sought here is justified by the Class Representative’s
20 level of participation in this lawsuit. The Class Representative assisted in the investigation while the
21 Action was pending, gathered wage information for himself, and helped analyze documents, and was a
22 very valuable participant which led to successful settlement. The Class Representative was also prepared
23 for his deposition, risked intrusive discovery, and the payment of employer costs. In short, Plaintiff was
24 active and motivated who risked quite a bit for the benefit of potential class members. As such, the Class
25 Representative Incentive Payment of \$10,000 is fair and reasonable in light of the circumstances.

26 **D. The Proposed Attorneys’ Fees and Costs Are Reasonable and Routinely Awarded**

27 Class Counsel seeks an attorneys’ fees award of Seventy-Six Thousand Dollars (\$76,000.00),
28 which is approximately 40% of the Gross Settlement Amount, and actual costs not to exceed \$8,000.00.

1 The requested fee falls well within the historical range of attorney’s fee awards under the common fund
2 theory, which is generally from 20% to 50%. The requested fee is fair compensation for undertaking
3 complex, risky, expensive, and time-consuming litigation on a contingent fee basis. (Mirzayan Decl. ¶
4 22.)

5 This case was initiated on February 26, 2020. Since then, Class Counsel spent significant amount
6 of time and resources investigating the claims, interviewing putative class members, conducting extensive
7 research, propounding formal written discovery, reviewing Defendants’ responses to Plaintiff’s Special
8 Interrogatories, and Requests for Production of Documents, preparing to take the deposition of Joudat,
9 reviewing and analyzing documents produced by Defendants’ in response to Plaintiff’s requests for
10 production of documents, retaining an expert, assessing the potential damages claimed by Plaintiff and
11 the putative class, and engaging in good faith extensive settlement negotiation and correspondence.
12 (Mirzayan Decl. ¶ 23.)

13 Specifically, Class Counsel propounded Requests for Production of Documents, and Special
14 Interrogatories, and received deficient responses from Defendants. Parties engaged in significant meet
15 and confer efforts to resolve discovery disputes to avoid filing of discovery motions, thereafter,
16 Defendants agreed to supplement their responses to written discovery. (Mirzayan Decl. ¶ 24.) Following
17 several months of negotiation to settle the action, the Parties were finally able to settle the action and
18 memorialize their agreement and sign the Settlement Agreement. (Mirzayan Decl. ¶ 25.)

19 Both California and federal courts have recognized that an appropriate method for awarding
20 attorney’s fees in class actions is to award a percentage of the “common fund” created as a result of the
21 settlement. *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 254 (2001) (recognizing both the
22 “percentage of recovery” and “lodestar/multiplier” methods); *Vincent v. Hughes Air West, Inc.*, 557 F.2d
23 759, 769 (9th Cir. 1977).

24 The purpose of the common fund/percentage approach is to “spread litigation costs proportionally
25 among all the beneficiaries so that the active beneficiary does not bear the entire burden alone.” *Vincent*,
26 557 F.2d at 769. In *Quinn v. State of California*, 15 Cal. 3d 162, 167 (1995), the California Supreme
27 Court stated: “[O]ne who expends attorneys’ fees in winning a suit which creates a fund from which others
28 derive benefits may require those passive beneficiaries to bear a fair share of the litigation costs.”

1 Similarly, in *City and County of San Francisco v. Sweet*, 12 Cal. 4th 105, 110 (1995), the California
2 Supreme Court recognized that the common fund doctrine has been applied “consistently in California
3 when an action brought by one party creates a fund in which other persons are entitled to share.” The
4 reasons for applying the common fund doctrine include: “ ... fairness to the successful litigant, who might
5 otherwise receive no benefit because his recovery might be consumed by the expenses; correlative
6 prevention of an unfair advantage to the others who are entitled to share in the fund and who should bear
7 their share of the burden of its recovery; encouragement of the attorney for the successful litigant, who
8 will be more willing to undertake and diligently prosecute proper litigation for the protection or recovery
9 of the fund if he is assured that he will be properly and directly compensated should his efforts be
10 successful.” *Id.*

11 The percentage approach is preferable to a lodestar method because it: (1) aligns the interests of
12 class counsel and absent class members; (2) encourages efficient resolution of the litigation by providing
13 an incentive for early, yet reasonable, settlement; and (3) reduces the demands on judicial resources. *In re*
14 *Activision Securities Litigation*, 723 F. Supp. 1373, 1378-79 (N.D. Cal. 1989). The Ninth Circuit now
15 routinely uses the percentage of the common fund approach to determine the award of attorney’s fees.
16 *See, e.g., In re Pacific Enterprises Securities City and County of San Francisco Litigation*, 47 F.3d 373,
17 378-379 (9th Cir. 1994) (approving attorney’s fee of 33 1/3%).

18 Class Counsel’s request for fees of approximately 40% of the Gross Settlement Amount is within
19 the range of reasonableness. Historically, courts have awarded percentage fees in the range of 20% to
20 50%, depending on the circumstances of the case. *Newberg on Class Actions, supra*, §14.03; *In re*
21 *Activision Securities Litigation*, 723 F. Supp. 1373, 1378 (N.D. Cal. 1989).

22 According to *Newberg on Class Actions*: “No general rule can be articulated on what is a
23 reasonable percentage of a common fund. Usually 50% of the fund is the upper limit on a reasonable fee
24 award from a common fund in order to assure that the fees do not consume a disproportionate part of the
25 recovery obtained for the class, although somewhat larger percentages are not unprecedented.” *Newberg*
26 *on Class Actions*, §14.03. *Newberg on Class Actions* further notes: “[A]chievement of a substantial
27 recovery with modest hours expended should not be penalized but should be rewarded for considerations
28 of time saved by superior services performed.” *Newberg on Class Actions*, §14.01, p. 14-10:14-11.

1 Class Counsel has borne, and continues to bear, the entire risk and cost of litigation associated
2 with this class action on a pure contingency basis. The factual and legal issues posed in this case were
3 evolving, and heavily contested. Based on past experience in wage and hour class action litigation, it is
4 safe to state that Class Counsel is highly likely to be called upon, after the Notice Packet has been sent, to
5 expend substantial amounts of additional time to help Class Members understand the terms of the proposed
6 settlement, and to assist Class Members in the preparation and documentation of their claims. It is also
7 likely that, even after final approval of the settlement has been granted, Class Counsel will be called upon
8 to a expend additional amounts of time in the presentation and resolution of contests and disputes relating
9 to Class Members' claims under the terms of the proposed settlement, as to the amounts of individual
10 claims and perhaps other individual issues.

11 The Court should preliminarily approve the requested attorneys' fees and costs, which are justified
12 by the outstanding results achieved, the complexity of the issues, the difficulty of the case, and the great
13 risk undertaken by Class Counsel. The requested attorneys' fees is well within established guidelines and
14 not opposed by Defendants.

15 **E. The Proposed Class Notice is Adequate and Includes All Required Components**

16 Attached to the Settlement Agreement as Exhibits "1" and "2" are the proposed Notice of Class
17 Action Settlement ("Class Notice") and the Request for Exclusion From Settlement and Exclusion from
18 Individual Settlement Payment, collectively referred to as the "Notice Packet" to be distributed to the class
19 members. (Mirzayan Decl. ¶ 26.) A notice of settlement of a class action "must contain an explanation
20 of the proposed settlement and procedures for class members to follow in filing written objections to it
21 and in arranging to appear at the settlement hearing and state any objections to the proposed settlement."
22 Cal. Rule of Court 3.769(f).

23 Under Cal. Rule of Court 3.766, the notice must include the following: (1) A brief explanation of
24 the case, including the basic contentions or denials of the parties; (2) A statement that the court will
25 exclude the member from the class if the member so requests by a specified date; (3) A procedure for the
26 member to follow in requesting exclusion from the class; (4) A statement that the judgment, whether
27 favorable or not, will bind all members who do not request exclusion; and (5) A statement that any member
28 who does not request exclusion may, if the member so desires, enter an appearance through counsel. The

1 court has broad discretion in deciding whether to approve the proposed class notice. *Wershba*, 91 Cal.
2 App. 4th at 252.

3 Here, the Class Notice, contains all the required components. Further, the method of notice, is
4 more than adequate, in that the Class Notice will be mailed to Class Members at their last known address
5 and there are procedures in place to make reasonable efforts to locate Class Members who no longer live
6 at their last known address. The parties have agreed to use Phoenix Class Action Administration Solutions,
7 is an experienced Settlement Administrator to administer the settlement. The Administration Costs will
8 be paid out of the Gross Settlement Amount.

9 The Parties respectfully request that this Court approve the above-referenced documents and
10 dissemination of the Notice Packet to the Class Members, consistent with the manner and timing as set
11 forth in the Settlement Agreement, and appoint Phoenix Class Action Administration Solutions.

12 **VI. THE PROPOSED CLASS MEETS THE REQUIREMENTS FOR PROVISIONAL** 13 **CERTIFICATION**

14 In California, there are two certification prerequisites: (1) the existence of an “ascertainable class,”
15 and (2) “a well-defined community of interest” in the questions of law and fact involved affecting the
16 parties to be represented. *See Sav-On Drug Stores, Inc. v. Super. Ct.*, 34 Cal. 4th 319, 326 (2004); *Daar*
17 *v. Yellow Cab Co.*, 67 Cal. 2d 695, 704, 811 (1967). In *Sav-On Drug Stores*, 34 Cal. 4th at 326, the court
18 adopted a test for “community of interest,” with the following prongs: “(1) there are predominant common
19 questions of law or fact; (2) class representatives have claims typical to those of the class; and (3) class
20 representatives can adequately represent the interests of the class.” *Id.*

21 Each of the criteria for class certification is clearly satisfied herein.⁴

22 **A. Ascertainable And Numerous Class**

23 California law requires the class to be so numerous that utilization of the class action procedure
24 will inure to the benefit of the judicial system. *Richmond v. Dart Indust., Inc.*, 29 Cal. 3d 462, 470 (1981).
25 The proposed class is ascertainable because the class definition is “precise and objective.” *Marler v. E.M.*
26 *Johansing, LLC*, 199 Cal. App. 4th 1450, 1459 (2011). Typically, “[c]lass members are ‘ascertainable’
27 where they may be identified readily without unreasonable expense or time by reference to official or

28 ⁴ Although Defendants dispute Plaintiff’s ability to satisfy § 382’s certification requirements, Defendants do not
oppose class certification for settlement purposes only.

1 business records. *Archer v. United Rentals, Inc.*, 195 Cal. App. 4th 807, 828 (2011). The purpose of this
2 requirement is to provide “adequate notice to class members,” or to determine the scope of the
3 preclusionary effects after the litigation has concluded. *Id.* Defendants identified approximately 32
4 potential Class Members from its payroll records and upon final preliminary approval has agreed to
5 provide the class list to the Claims Administrator. (Mirzayan Decl. ¶ 27.) This number exceeds the
6 minimum number of individuals required to meet the numerosity requirement.

7 **B. Commonality**

8 When deciding if class certification is warranted for purposes of continuing litigation courts
9 analyze “whether the proponent’s ‘theory of recovery’ is likely to prove compatible with class treatment.”
10 *Capitol People First v. Dep’t of Developmental Servs.*, 155 Cal. App. 4th 676, 690 (2007) (citing *Sav-On*
11 *Drug Stores*, 34 Cal. 4th at 327). “As a general rule if the defendant’s liability can be determined by facts
12 common to all members of the class, a class will be certified even if the members must individually prove
13 their damages.” *Brinker Rest. Corp. v. Super. Ct.*, 53 Cal. 4th 1004, 1022 (2012). The court only
14 determines whether or not “the theory of recovery advanced by the proponents of certification is, as an
15 analytical matter, likely to prove amenable to class treatment.” *Sav-On Drug Stores*, 34 Cal. 4th at 327.

16 For purposes of approving a class action settlement, the standards are different because a
17 negotiated settlement necessarily takes into account the significant risk that class certification will not be
18 granted. Indeed, “it is well established that trial courts should use different standards to determine the
19 propriety of a settlement class, as opposed to a litigation class certification. Specifically, a lesser standard
20 of scrutiny is used for settlement cases.” *Global Minerals & Metals Corp. v. Sup. Ct.*, 113 Cal. App. 4th
21 836, 859 (2003) (citing *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1807 n. 19 (1996))

22 The standard for approving class certification solely for purposes of settlement has been met in
23 this case. Here, common issues, without limitation, include whether Defendants violated California law
24 based on: improper classification of employees as independent contractors; failure to provide meal and
25 rest breaks or payment of compensation in lieu thereof; waiting time penalties for failure to timely pay
26 wages of terminated or resigned employees; failure to furnish and maintain accurate payroll records;
27 failure to provide paid sick leave and/or written notices; and failure to provide compliant wage statement.
28 Importantly, these issues are “common” because they applied to all employees—i.e., all employees were

1 misclassified as independent contractors, all employees were denied meal and rest break periods, all
2 employees did not receive wage statements, etc. Because there are common issues, this requirement is
3 satisfied for purposes of settlement.

4 **C. Typicality**

5 The purpose for the typicality requirement “is to assure that the interest of the named representative
6 aligns with the interests of the class.” *Johnson v. GlaxoSmithKline, Inc.*, 166 Cal. App. 4th 1497, 1509
7 (2008). Thus, “[t]ypicality refers to the nature of the claim or defense of the class representative, and not
8 to the specific facts from which it arose or the relief sought.” *Id.*

9 A representative plaintiff’s claims are typical if they arise from the same event, practice, or course
10 of conduct that gives rise to the claims of other class members, and if his or her claims are based on the
11 same legal theories. *Miller v. Woods*, 16 Cal. App. 3d 862, 874 (1983). Indeed, when the same underlying
12 conduct affects the named plaintiffs and the class sought to be represented, the typicality requirement is
13 met irrespective of any varying fact patterns that may underlie individual claims. *See Daniels v.*
14 *Centennial Group, Inc.*, 16 Cal. App. 4th 467,473 (1993).

15 In this case, the Plaintiff’s claims are precisely the same as those of the class he seeks to represent:
16 like other members of the Class, he was employed by Defendants during the relevant time period,
17 performed similar duties for Defendants, was subject to Defendants’ policy of misclassifying employees
18 as independent contractors. (Mirzayan Decl. ¶ 28). As the court in *B.W.I. Custom Kitchen v. Owens-*
19 *Illinois Inc.*, 191 Cal. App. 3d 1341 (1987), explained:

20 [I]t has never been the law in California that the class representative must have **identical**
21 interests with the class members. The only requirements are that common questions of law
22 and fact **predominate** and that the class representative be **similarly** situated. *Id.* at 1347
(citation omitted, emphasis in original).

23 Accordingly, Plaintiff’s claims are typical of those of the Class Members.

24 **D. Adequacy Of Representation By Plaintiff And Class Counsel**

25 To maintain a class action, the representative plaintiff must adequately protect the interests of the
26 class. Cal. Civ. Code § 1781(b)(4). Adequacy of representation consists of two components. First, there
27 must be no disabling conflicts of interest between the class representatives and the class. Second, the class
28

representative must be represented by counsel who are competent and experienced in the kind of litigation to be undertaken. *McGhee v. Bank of Am.*, 60 Cal. App. 3d 442, 450 (1976).

No conflicts, disabling or otherwise, exist between the Class Representative and Class Members because the Plaintiff has allegedly been damaged by the same alleged conduct and have the incentive to fairly represent all Class Members' claims to achieve the maximum possible recovery. (Mirzayan Decl. ¶ 29). Indeed, the Class Representative stands in the same shoes as the Class Members with the same incentive to maximize the overall recovery. *Richmond* 29 Cal. 3d at 473; *Harrison v. Bd. of Supervisors*, 44 Cal. App. 3d 852, 863 (1975).

In addition, Class Counsel is an experienced class action attorney and achieved a favorable settlement benefiting the entire Class. After a thorough investigation and numerous settlement discussions, the Parties arrived at terms that Class Counsel views as favorable to the Class Members. (Mirzayan Decl. ¶ 30).

E. Superiority Of Class Action

Also relevant to the Court's certification decision is whether a class action is the superior method of adjudication. *Schneider*, 183 Cal. App. 3d at 1347. The California Supreme Court has "repeatedly emphasized the importance of the class action device for vindicating the rights of asserted by large groups of persons." *Keating v. Sup. Ct.*, 31 Cal. 3d at 469 (1982) (recognizing that class actions are useful for fashioning effective and inclusive group remedy). The class device is even more appropriate to adjudicate the rights of large numbers of similarly situated victims who lack the sophistication, financial wherewithal, or individual incentive to sue on their own. For example, in *Vasquez v. Sup. Ct.*, the California Supreme Court emphasized that "[i]ndividual actions by each of the defrauded consumers is often impracticable because the amount of individual recovery would be insufficient to justify bringing a separate action; thus an unscrupulous seller retains the benefits of its wrongful conduct." *Vasquez*, 4 Cal. 3d at 808. The Court in *Vasquez* also recognized several other benefits of class action treatment:

A class action by consumers produces several salutary byproducts, including a therapeutic effect upon those sellers who indulge in fraudulent practices, aid to legitimate business enterprises by curtailing illegitimate competition, and avoidance to the judicial process of the burden of multiple litigation involving identical claims.

1 This case is no exception. Given the size of the potential individual recovery, it would be
2 impracticable to bring each Class Member's claim as an individual claim. Accordingly, the proposed
3 Class meets all criteria for certification and should be certified for purposes of effectuating this settlement.
4 *See Hogya v. Sup. Ct.*, 75 Cal. App. 3d 122 (1977) (if the action satisfies the statutory criteria, the court
5 must certify the class); *Dunk*, 48 Cal. App. 4th at 1807 n.19 (a lesser standard of scrutiny applies when
6 evaluating these criteria for settlement purposes and courts should take settlement into account in
7 evaluating class certification); *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 620 (1977) (because the
8 Court is certifying this action for settlement purposes only, it need not determine whether the class would
9 be manageable for litigation purposes).

10 **VII. CLASS MEMBERS' ESTIMATED INDIVIDUAL RECOVERY**

11 The average payment to Class Members, based on the estimated Net Settlement Amount of
12 \$76,313.63, is estimated to be \$2,384.80 (\$76.313.63/32). (Mirzayan Decl. ¶ 31). Class Members'
13 estimated individual recovery, including maximum and minimum workweeks, and estimated high and low
14 payments based on workweeks will be provided to the Court in the Motion for Final Approval.

15 **VIII. NOTICE TO LABOR AND WORKFORCE DEVELOPMENT AGENCY**

16 On January 27, 2021, I notified the Labor and Workforce Development Agency ("LWDA") of the
17 Preliminary Approval Hearing set for February 26, 2021 by electronically submitting the following
18 documents:

- 19 (1) JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE OF CLAIMS
WITH EXHIBITS 1-2;
- 20 (2) NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT;
- 21 (3) MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF JOINT MOTION
FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT;
- 22 (4) DECLARATION OF NATALIE MIRZAYAN, ESQ. ISO MOTION FOR PRELIMINARY
23 APPROVAL OF CLASS ACTION SETTLEMENT.

24 A true and correct copy of the online submission form titled "Proposed Settlement of PAGA Case"
25 reflects, in the "Proposed Settlement and Other Documents" section, the documents uploaded with the
26 online submission form (i.e. documents 1-4 above). Mirzayan Decl., ¶ 32, Exhibit "2".
27
28

1 Following the online submission, I received an auto-reply e-mail from the LWDA's DIR PAGA
2 Unit confirming receipt of the online submission, which included the documents uploaded (1-4 above).
3 Mirzayan Decl., ¶ 33, Exhibit "3".

4 **IX. PROPOSED SCHEDULE OF SETTLEMENT PROCEEDINGS**

5 Plaintiff and Defendants propose the following schedule for the settlement proceedings:

- 6 a. Defendants to produce the Class List to the Settlement Administrator within fourteen (14)
7 calendar days of the Court's preliminary approval of the Settlement. The Settlement
8 Administrator shall mail, by U.S. first class mail, the Notice Packet to Class Members
9 within fourteen (14) calendar days of receipt of the Class List from Defendant.
- 10 b. Deadline for submitting Request for Exclusion and written objection to settlement shall be
11 forty-five (45) calendar days from the date on which Notice Packet are mailed to Class
12 Members.
- 13 c. Sixteen (16) calendar days prior to the Final Approval Hearing, the Settlement
14 Administrator to provide Class Counsel and Counsel for Defendants with a declaration
15 attesting to completion of the notice process set forth in the Settlement Agreement,
16 including an explanation of efforts to resend any Notice Packet returned as undeliverable
17 and the total number of opt-outs and objections received before and after the deadline.
- 18 d. Last day to file responses to objections to the class settlement: seven (7) calendar days
19 before the Final Fairness and Approval Hearing.
- 20 e. The Parties propose that Fairness and Final Approval Hearing be scheduled for
21 approximately 90 days following the Court's granting of preliminary approval of the class
22 settlement.
- 23 f. Defendants shall fund the settlement with the Settlement Administrator within five (5)
24 business days of the Settlement Effective Date.
- 25 g. Within fourteen (14) calendar days after receipt of the Gross Settlement Amount, the
26 Settlement Administrator will pay the PAGA penalties to the LWDA, the approved
27 attorneys' fees and costs to Class Counsel, and the enhancement award to Plaintiff.
28

h. Within fourteen (14) calendar days after receipt of the Gross Settlement Amount, the Settlement Administrator shall mail the applicable Net Settlement Payments to the Participating Class Members.

X. CONCLUSION

The proposed Class Settlement is fair, adequate, and reasonable. It will result in substantial payments to Class Members; it is non-collusive; and it was achieved as the result of informed, extensive, and arms' length negotiations conducted by counsel for respective parties who are experienced in wage and hour class action litigation.

For the foregoing reasons, the Parties respectfully request that the Court grant preliminary approval of the proposed settlement, sign the proposed Order, approve and authorize mailing of the proposed Notice Packet submitted herewith, and set a date for final approval hearing.

Dated: January 27, 2021

MIRHOSSEINI LAW GROUP

Ali R. Mirhosseini

Ali Mirhosseini, Esq.

Tina Starr, Esq.

Attorney for PRIME FINANCE
CONSULTING, INC., HANIEH JODAT,
and SHAHIN JOUDAT

Dated: January 27, 2021

LAW OFFICES OF NATALIE MIRZAYAN

Natalie Mirzayan

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KALVYN ESCOBAR