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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF CONTRA COSTA**

RENATO FARIAS, individually and on behalf
of all others similarly situated,

Plaintiff,

vs.

JOHN MUIR HEALTH, a Corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No. C20-02454

*Assigned for All Purposes to Honorable
Edward G. Weil in Department 39*

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

Date:
Time:
Dept.: 39

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

2 **PLEASE TAKE NOTICE** that on _____, 2022 at _____ a.m., or as
3 soon thereafter as the matter may be heard, before the Honorable Edward G. Weil, judge
4 presiding, in Department 39 of the above referenced Court located at 725 Court Street, Martinez,
5 CA 94553, Plaintiff RENATO FARIAS (“Plaintiff”) will seek an Order: (1) preliminarily
6 approving the Class and Representative Action Settlement Agreement (“Agreement” or
7 “Settlement”) (2) conditionally certifying the following Class for settlement purposes only: “all
8 current and former non-exempt California employees of John Muir Health and related entities
9 John Muir Behavioral Health, John Muir Physician Network, John Muir Health Foundation and
10 John Muir Health Community Benefit Fund (collectively “JMH”) who: (a) were employed by
11 JMH during the PAGA Period; and/or (b) received paid sick leave pay (PSL) or PTO-Sick pay
12 during the Class Period”; (3) appointing Plaintiff as the Class Representative and Larry W. Lee of
13 Diversity Law Group, P.C., Edward W. Choi of Law Offices of Choi & Associates, APLC, and
14 Dennis S. Hyun of Hyun Legal, APC as Class Counsel; (4) preliminarily approving the Settlement
15 and the Gross Settlement Amount of \$3,250,000.00; (5) finding on a preliminary basis that the
16 Settlement Agreement appears to be within the range of reasonableness of a settlement, including
17 the amount of the PAGA penalties, Class Representative Service Award, Class Counsel’s fees and
18 costs, the settlement administration fees, and the allocation of payments to Settlement Class
19 Members, that could ultimately be given final approval by this Court; (6) approving the Notice of
20 Proposed Class Action Settlement and Fairness Hearing (“Class Notice” or “Notice of
21 Settlement”) to be sent to Class Members, which is attached as Exhibit A to the Settlement
22 Agreement; (7) approving the distribution of the Class Notice to Class Members substantially in
23 the manner and form set forth in the Settlement Agreement; (8) appointing Phoenix Settlement
24 Administrators as the Settlement Administrator; and (9) setting the matter for a Final Fairness and
25 Final Approval hearing.

26 This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which
27 provides for court approval of the settlement of a purported class action and allows the Court to
28

1 preliminarily certify a class for settlement purposes.

2 The basis for this Motion, filed without any opposition from Defendant JOHN MUIR
3 HEALTH (“Defendant”), is that the proposed settlement is fair, adequate, and reasonable and the
4 procedures proposed by the Parties are adequate to ensure the opportunity of class members to
5 participate in, opt-out of, or object to the settlement.

6 This Motion will be based on the attached Memorandum of Points and Authorities, the
7 Settlement Agreement, the proposed Notice to Class Members, and the supporting Declarations of
8 Larry W. Lee, Edward W. Choi, Dennis S. Hyun and Plaintiff, and upon the oral arguments of
9 counsel (should there be any) and on the complete records and file herein.

10
11 DATED: March 29, 2022

LAW OFFICES OF CHOI AND ASSOCIATES

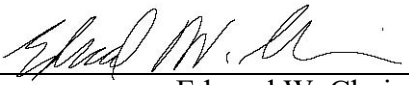
12 By: 
13 Edward W. Choi
14 Attorneys for Plaintiff and the Class
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TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	DISCUSSION	2
A.	PROPOSED CLASS DEFINITION	4
B.	NUMEROSITY	4
C.	ASCERTAINABILITY	4
D.	TYPICALITY AND ADEQUACY OF REPRESENTATION	5
1.	Class Representative's Claims are Typical of the Class	5
2.	Class Counsel Have Adequately Represented the Class and Has Experience with Wage and Hour Class Actions	5
E.	SUPERIORITY	6
F.	SUMMARY OF THE CASE, INVESTIGATION AND DISCOVERY AND REASONABLE ESTIMATE OF THE NATURE AND AMOUNT OF RECOVERY	7
G.	SETTLEMENT WAS NEGOTIATED AT ARMS-LENGTH AND IS NOT COLLUSIVE.....	9
H.	SETTLEMENT TERMS AND EVALUATION	11
1.	Proposed Terms of the Settlement	11
2.	Nature of Any Injunctive Relief	11
3.	Amount and Manner of Distribution of the Compensation to be Provided to Class Members Including the Amount, or an Estimate, of What Each Class Member Will Receive	11
4.	Whether, and Under What Circumstances, Amounts May Revert to Defendant	13
5.	Scope of the Release of Class Members' Claims	13
6.	Tax Treatment of Settlement Amounts	14
7.	Affirmative Obligations to be Undertaken by Class Members or Class Counsel and the Reasons for Any Such Obligations.....	144
I.	SUBMISSION OF CLAIMS/EXCLUSIONS/OBJECTIONS	15

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

J. NOTICE TO CLASS MEMBERS..... 15

K. COSTS AND FEES 16

1. Attorneys’ Fees and Costs 16

2. Proposed Payment to Class Representative..... 18

3. Class Administration Fees 19

III. LWDA HAS BEEN PROVIDED WITH NOTICE OF THIS MOTION..... 19

**IV. PROPOSED SCHEDULE FOR CLASS NOTICE, OBJECTION, OPT OUT
AND MOTION FOR APPROVAL, ATTORNEY’S FEES AND FINAL
ACCOUNTING 19**

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

TABLE OF AUTHORITIES

Cases

<i>Accord Dunk v. Ford Motor Co.</i> , 48 Cal. App. 4th 1794, 1803 (1996)	4
<i>Bellinghausen v. Tractor Supply Co.</i> , No. 13-CV-02377-JSC, 2015 WL 1289342, at *6 (N.D. Cal. Mar. 20, 2015)	11
<i>Brotherton v. Cleveland</i> , 141 F. Supp. 2d 907, 913-14 (S.D. Ohio 2001)	22
<i>Chavez v. Netflix, Inc.</i> , 162 Cal. App. 4th 43, 66 n.11 (2008)	19
<i>City of San Jose v. Superior Court</i> , 12 Cal. 3d 447, 460 (1974)	6
<i>Cook v. Niedert</i> , 142 F.3d 1004, 1016 (7th Cir. 1998)	22
<i>Enter. Energy Corp. v. Columbia Gas Transmission Corp.</i> , 137 F.R.D. 240, 251-52 (S.D. Ohio 1991)	22
<i>Faulkinbury v. Boyd & Assocs., Inc.</i> (2013) 216 Cal. App. 4th 220, 240	5
<i>Fernandez v. Victoria Secret Stores LLC</i> , 2008 WL 8150856, *16 n. 59 (C.D. Cal. July 21, 2008)	19
<i>Gaskill v. Gordon</i> , 160 F.3d 361, 363 (7th Cir. 1998)	19
<i>Gentry v. Sup. Ct.</i> , 42 Cal. 4th 443, 462 (2007)	8
<i>Glass v. UBS Fin. Servs.</i> , No. C-06-4068, 2007 U.S. Dist. LEXIS 8476, at *51-52 (N.D. Cal. Jan. 27, 2007)	22
<i>Hammon v. Barry</i> , 752 F. Supp. 1087 (D.D.C. 1990)	11
<i>Hanlon v. Chrysler Corp.</i> , 150 F.3d 1011, 1019 (1998)	5
<i>In re Baldwin-United Corp.</i> , 105 F.R.D. 475, 478 (S.D.N.Y. 1984)	4
<i>In re Chicken Antitrust Litig.</i> , 560 F. Supp. 957, 962 (N.D. Ga. 1980)	11
<i>In re Dun & Bradstreet Credit Servs. Customer Litig.</i> , 130 F.R.D. 366, 374 (S.D. Ohio 1990)	22
<i>In re Mego Fin. Corp. Secs. Litig.</i> , 213 F.3d 454, 459 (9th Cir.2000)	11
<i>In re Paine Webber Ltd. P'ships Litig.</i> , 171 F.R.D. 104, 125 (S.D.N.Y. 1997)	12
<i>Jaimez v. DAIOHS USA, Inc.</i> , 181 Cal. App. 4th 1286, 1308 (2010)	7
<i>Jordan v. L.A. County</i> (9th Cir. 1982) 669 F.2d 1311, 1320	5

1	<i>Kullar v. Foot Locker Retail, Inc.</i> , 168 Cal. App. 4th 116, 130, 133 (2008)	9
2	<i>Laffitte v. Robert Half Int’l</i> , 1 Cal. 5th 480, 503 (Aug. 11, 2016).....	19, 20
3	<i>Laffitte v. Robert Half Int’l</i> , 231 Cal. App. 4th 860, 871 (2014)	20
4	<i>Lee v. Dynamex, Inc.</i> (2008) 166 Cal. App. 4th 1325, 1334.....	5
5	<i>Local Joint Exec. Bd. of Culinary/Bartender Trust Fund</i> , 244 F.3d 1152, 1163 (9th Cir. 2001).....	7
6	<i>Maldonado v. Epsilon Plastics, Inc.</i> , 22 Cal. App. 5th 1308, 1337 (2018)	10
7	<i>Mars Steel Corp. v. Continental Illinois Nat’l Bank & Trust Co.</i> , 834 F.2d 677, 682 (7th Cir. 1987)	
8		11
9	<i>Naranjo v. Spectrum Security Services</i> (California Supreme Court Case No. S258966)	10
10	<i>Nat’l Rural Telecomms. Coop. v. DIRECTV, Inc.</i> , 221 F.R.D. 523, 528 (C.D. Cal. 2004).....	11, 12
11	<i>Priddy v. Edelman</i> , 883 F.2d 438, 447 (6th Cir. 1989).....	11
12	<i>Richmond v. Dart Industries, Inc.</i> , 29 Cal. 3d 462, 473 (1981).....	6
13	<i>Ruelas v. Costco Wholesale Corp.</i> , 67 F. Supp. 3d 1137, 1141-42 (N.D. Cal. 2014)	9
14	<i>Steinberg v. Carey</i> , 470 F. Supp. 471 (S.D.N.Y. 1979).....	12
15	<i>Stephens v. Montgomery Ward & Co.</i> , 193 Cal. App. 3d 411, 421 (1987).....	6
16	<i>Van Ba Ma v. Covidien Holding Inc.</i> , U.S. Dist. Ct. Case No. 8:12-cv-02161 (C.D. Cal. 2014)...	11
17	<i>Van Vranken v. Atlantic Richfield Co.</i> , 901 F. Supp. 294, 299-300 (N.D. Cal. 1995).....	21
18	<i>Vasquez v. Superior Court</i> , 4 Cal. 3d 800, 812-13 (1971).....	6
19	<i>Villalpando v. Excel Direct Inc.</i> (N.D. Cal. 2014) 303 F.R.D. 588, 605-606.....	5
20	<i>Wershba v. Apple Computer, Inc.</i> , 91 Cal. App. 4th 224, 240 (2001)	4
21	<u>Statutes</u>	
22	Labor Code § 201-204.....	13
23	Labor Code § 210.....	13
24	Labor Code § 218.....	13
25	Labor Code § 218.5.....	13
26	Labor Code § 218.6.....	14
27	Labor Code § 226.....	1, 7, 8, 13

1	Labor Code § 226(a)	8
2	Labor Code § 226.3	13
3	Labor Code § 233	14
4	Labor Code § 246	13
5	Labor Code § 246.5	13
6	Labor Code § 248.5	13
7	Labor Code § 2698, <i>et seq</i>	1
8	Labor Code § 2698, <i>et seq</i>	7
9	Labor Code § 2698-2699.5	13
10	Labor Code § 2802	1, 7, 13
11	Labor Code §§ 201-204	1, 7
12	<u>Other Authorities</u>	
13	4 Alba Conte & Herbert B. Newberg, <i>Newberg on Class Actions</i> , § 11.26 (4th ed. 2002)	3, 4
14	Brickman, <i>Effective Hourly Rates of Contingency-Fee Lawyers: Competing Data and Non-</i>	
15	<i>Competitive Fees</i> (Fall 2003) 81 Wash U. L. Q. 653, 659 n. 11	16
16	Business and Professions Code §17200, <i>et seq</i>	1, 7, 13
17	California Civil Code § 1500, <i>et. seq.</i>	13
18	California Civil Code § 1542	18
19	California Rules of Court Rule 3.766 (d) & (e)	15
20	Eisenberg & Miller, <i>Attorney Fees in Class Action Settlements: An Empirical Study: 1993-2008</i> , 7	
21	J. of Empirical Leg. Stud. 248, 262, fn.16 (2010)	17
22	Fitzpatrick, <i>An Empirical Study of Class Action Settlements and Their Fee Award</i> , 7 J. Empirical	
23	Leg. Stud. 811, 833 (2010)	17
24	Manual for Complex Litigation (Third) § 30.41	2
25	<i>Newberg on Class Actions, supra</i> , at § 11.47	10

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 On December 3, 2020, Plaintiff RENATO FARIAS (“Plaintiff”), on behalf of himself and
4 others similarly situated, filed his Class Action Complaint against Defendant JOHN MUIR
5 HEALTH (“Defendant”) in the Superior Court of California for the County of Contra Costa.
6 (Declaration of Edward W. Choi (“Choi Decl.”) ¶2). The Complaint alleges (1) Violation of Labor
7 Code §§ 201-204; (2) Violation of Labor Code § 226 regarding record keeping; (3) Violation of
8 Labor Code § 2802; (4) Violation of Business and Professions Code §17200, *et seq.* and (5)
9 Violation of the Private Attorneys General Act (the “PAGA”), Labor Code § 2698, *et seq*
10 (“Operative Complaint” or “Action”). (*Id.* at ¶3)

11 The Complaint alleges that whenever employees were paid sick pay, said wages were paid
12 at the base rate of pay, as opposed to the regular rate of pay. (*Id.* at ¶4) Plaintiff further alleges that
13 Defendant failed to issue wage statements that failed to identify most of the wages being paid as
14 “Details Not Displayed” and thus did not identify the hourly rates of pay and hours worked used to
15 calculate such wages. (*Id.*) Plaintiff further alleged that Defendant failed to reimburse business
16 expenses, but as detailed below, Plaintiff is withdrawing his claim for the same and any class
17 and/or PAGA violations for Labor Code § 2802 are not being released by the class and aggrieved
18 employees. (*Id.*) Defendant denies the allegations in the Action and is prepared to continue to
19 defend the action vigorously. (*Id.*)

20 Since the filing of this case, the Parties conducted informal discovery, engaging in an
21 extensive meet and confer process, the production of documents and class payroll data. (Choi
22 Decl. at ¶ 5). Thereafter, the parties engaged in mediation with well-respected mediator, Michael
23 Dickstein, Esq. on November 8, 2021, where the Parties discussed settlement terms at length with
24 the mediator and continued discussions directly with the mediator for some time after, before
25 agreeing to the terms of this arm’s-length Settlement. (*Id.*) The Total Settlement Amount of Three
26 Million and Two Hundred Fifty Thousand Dollars and Zero Cents (\$3,250,000.00) will be paid by
27 Defendant on a **non-reversionary** basis without the need to submit claim forms. (Class and
28 Representative Action Settlement Agreement (“Settlement Agreement”) ¶¶2.40, 4.1). Thus, the

1 entire settlement amount will be distributed and no remaining amounts, i.e. unclaimed funds, will
2 revert back to Defendant. (*Id.* at ¶ 5.5). Further, the class members will not need to do anything to
3 participate in the settlement, but have the opportunity to object or opt out of the settlement. (*Id.* at
4 ¶ 3.1).

5 Although Plaintiff and his counsel have always believed that they can prevail on class
6 certification, as well as on the merits, they recognize the inherent risk in further drawn-out
7 litigation and the specific risks that a class might not be certified. Further, even if successful, there
8 is a potential for appeals and further delay. Moreover, this Court may find that Defendant did not
9 act willfully or intentionally to support waiting-time and wage statement penalties and this Court
10 retains discretion to reduce penalties under the PAGA. Based on their own independent
11 investigation and evaluation, the Parties and their respective counsel are of the opinion that
12 settlement for the consideration and on the terms set forth in the Settlement Agreement is fair,
13 reasonable, and adequate and is in the best interests of the Settlement Class Members and
14 Defendant in light of all known facts and circumstances and the expenses and risks inherent in
15 litigation.

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

18 **II. DISCUSSION**

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

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

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

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

10 When the parties to an action reach a monetary settlement, they will usually prepare
11 and execute a joint stipulation of settlement, which is submitted to the court for
12 preliminary approval. The stipulation should set forth the central terms of the
13 agreement, including but not limited to, the amount of settlement, form of payment,
14 manner of determining the effective date of settlement and any recapture clause.

13 *Id.* at § 11.24.

14 Here, the Parties have reached such an agreement and have submitted to this Court in
15 connection with this Motion a copy of the Settlement Agreement fully setting forth the agreement
16 reached among the Parties. The Settlement Agreement sets forth all terms of the agreement
17 reached by the Parties, which include, among other things, the method for calculating the Class
18 Members’ Individual Class Settlement Payments.

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

28 The strength of the findings made by a judge at a preliminary hearing or conference

1 concerning a tentative settlement proposal. . . . may be set out in conditional orders
2 granting tentative approval to the various items submitted to the court. Three basic
3 rulings are often conditionally entered at this preliminary hearing. These
conditional rulings may approve a temporary settlement class, the proposed
settlement, and the class counsel's application for fees and expenses.

4 4 Newberg on Class Actions, at §11.26

5 In addition to such terms as class identification, settlement amount and payment
6 procedures, the Settlement Agreement reached among the Parties contains a provision pursuant to
7 which the Parties stipulate to the Court's provisional certification of the Class, but do so for the
8 purposes of this settlement only.

9 **A. PROPOSED CLASS DEFINITION**

10 The current settlement is being settled on behalf of "all current and former non-exempt
11 California employees of John Muir Health and related entities John Muir Behavioral Health, John
12 Muir Physician Network, John Muir Health Foundation and John Muir Health Community Benefit
13 Fund (collectively "JMH") who: (a) were employed by JMH during the PAGA Period (May 23,
14 2019 through and including November 8, 2021); and/or (b) received paid sick leave pay (PSL) or
15 PTO-Sick pay during the Class Period (June 8, 2016 through and including November 8, 2021"
16 (Settlement Agreement ¶¶2.6, 2.25, & 2.37).

17 **B. NUMEROSITY**

18 Courts generally find that numerosity is satisfied if the class includes forty or more
19 members. (*See Villalpando v. Excel Direct Inc.* (N.D. Cal. 2014) 303 F.R.D. 588, 605-606; *see*
20 *also Jordan v. L.A. County* (9th Cir. 1982) 669 F.2d 1311, 1320 (noting, in dicta, that the court
21 "would be inclined to find the numerosity requirement...satisfied solely on the basis of [39]
22 ascertained class members"), *vacated on other grounds*, 459 U.S. 810 (1982).

23 In this case, prior to the mediation, Defendant provided payroll data for approximately
24 9,280 Settlement Class members, therefore, numerosity is satisfied. (Choi Decl. ¶6).

25 **C. ASCERTAINABILITY**

26 Class members are ascertainable where they may be "readily identified without
27 unreasonable expense or time by reference to official records." (*Lee v. Dynamex, Inc.* (2008) 166
28 Cal. App. 4th 1325, 1334; *see also Faulkinbury v. Boyd & Assocs., Inc.* (2013) 216 Cal. App. 4th

1 220, 240.)

2 Here, the identity of class members is clearly ascertainable from Defendant's payroll
3 records and have already been identified.

4 **D. TYPICALITY AND ADEQUACY OF REPRESENTATION**

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

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

17 Plaintiff alleges that Defendant, as a matter of corporate policy, practice or procedure
18 violated the Labor Code by failing to pay sick pay wages based on the regular rate of pay and for
19 failing to identify wages being paid as "Details Not Displayed". Plaintiff alleges that he did not
20 receive pay sick wages based on his regular rate of pay did not receive compliant wage statements.
21 (Declaration of Renato Farias ("Farias Decl.") ¶ 4).

22 Moreover, Plaintiff does not have any interests adverse to the class, nor has any such issues
23 been raised or presented. (Farias Decl. ¶ 5). Plaintiff has taken all necessary steps to represent the
24 interests of the Class, by providing information and documents. (Farias Decl. ¶¶ 6-7). For such
25 reasons, Plaintiff has adequately represented the class members and will continue to do so.

26 **2. Class Counsel Have Adequately Represented the Class and Has**
27 **Experience with Wage and Hour Class Actions**

28 From the inception of the case, Class Counsel have solely represented the interest of the

1 class. For example, the informal discovery exchanged by the parties was directed towards class
2 issues. (Choi Decl. ¶5). Class counsel also obtained sufficient class data in order to evaluate that
3 class claims at issue. (*Id.* at ¶6). Class counsel also retained the services of an expert witness to
4 perform a detailed damage analysis. (*Id.*). The mediation and settlement were also obtained for
5 the benefit of the class, not for the individual Plaintiff. (*Id.*). Finally, Class counsel have been
6 approved as class counsel on a number of prior cases and are competent to represent the class.
7 (Choi Decl. ¶13); (Declaration of Larry W. Lee (“Lee Decl.”) ¶4-6); (Declaration of Dennis Hyun
8 (“Hyun Decl.”) ¶¶ 3-6).

9 E. SUPERIORITY

10 Class treatment is clearly superior to any other method of resolving Plaintiff’s claims. *Sav-*
11 *on Drug Stores*, 34 Cal. 4th at 326. In employment actions, class actions are in fact encouraged.
12 *Jaimez v. DAIOHS USA, Inc.*, 181 Cal. App. 4th 1286, 1308 (2010) (“In light of the numerous
13 common issues of fact and law that predominate in this lawsuit, we conclude that proceeding by
14 way of class action is the superior method of adjudication. Doing so would further judicial
15 economy by avoiding repetitious suits, would unify what would otherwise be a series of small
16 claims so as to enhance the class members' access to redress...”).

17 Here, Plaintiff’s claims are based on system-wide policies, procedures, and practices that
18 apply to all class members and can be most efficiently litigated on a class-wide basis, *i.e.*,
19 Defendant’s alleged calculation of the rate of pay for sick pay wages and providing wage
20 statements. The alternative would be the unrealistic filing of numerous individual claims. Since
21 the putative class members are employees with relatively modest individual claims and limited
22 resources, there is a strong likelihood that individual claims would never be brought. *See Local*
23 *Joint Exec. Bd. of Culinary/Bartender Trust Fund*, 244 F.3d 1152, 1163 (9th Cir. 2001)
24 (superiority requirement met where class members would recover, at most, about \$1,330); *see also*
25 *Gentry v. Sup. Ct.*, 42 Cal. 4th 443, 462 (2007).

26 ///

27 ///

28 ///

1 **F. SUMMARY OF THE CASE, INVESTIGATION AND DISCOVERY AND**
2 **REASONABLE ESTIMATE OF THE NATURE AND AMOUNT OF**
3 **RECOVERY**

4 As discussed above, the Action alleges the following causes of action: (1) Violation of
5 Labor Code §§ 201-204; (2) Violation of Labor Code § 226 regarding record keeping; (3)
6 Violation of Labor Code § 2802; (4) Violation of Business and Professions Code §17200, et seq.
7 and (5) Violation of Labor Code § 2698, et seq. (Choi Decl. ¶4).

8 Specifically, whenever Defendant paid sick pay wages in the same workweek where class
9 members earned shift differential wages, Defendant failed to pay sick pay wages at the regular rate
10 of pay. (*Id.* at ¶4). Further, Defendant failed to identify wages being paid as “Details Not
11 Displayed” on wage statements provided to class members. (*Id.*). Defendant denies the
12 allegations in the Action and is prepared to continue to defend the action vigorously. (*Id.*).

13 After the filing of the lawsuit, the Parties conducted informal discovery. In connection
14 therewith, Defendant provided the putative class members’ payroll data, which allowed Plaintiff to
15 complete a damage analysis for the class/PAGA claims. (Choi Decl. ¶6). Plaintiff also retained
16 the services of an expert witness to perform a detailed damage analysis. (*Id.*). Thereafter, the
17 Parties engaged in a full day mediation with mediator Michael Dickstein, Esq. on November 8,
18 2021, which did not result in a settlement. Nevertheless, through continued discussions through
19 the mediator for several months after the unsuccessful mediation, to the Parties were able to reach
20 this arm’s-length Settlement. (Choi Decl. ¶ 5).

21 Based on their own independent investigations and evaluations, the Parties and their
22 respective counsel are of the opinion that settlement for the consideration and on the terms set
23 forth in the Settlement Agreement is fair, reasonable, and adequate and is in the best interests of
24 the Class and Defendants in light of all known facts and circumstances and the expenses and risks
25 inherent in litigation. (Choi Decl. ¶ 9).

26 As explained by the Court of Appeal in *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App.
27 4th 116, 130, 133 (2008), a class action settlement should be approved when the plaintiff has
28 conducted sufficient discovery and the settlement is reasonable in light of the strengths of the

1 plaintiff's claims. As discussed herein, Plaintiff's counsel has conducted extensive discovery and
2 investigation and, in light of the strength and weaknesses of Plaintiff's claims, Plaintiff's attorneys
3 submit that this settlement is fair pursuant to *Kullar*.

4 In the present case, the gross settlement of \$3,250,000.00 is for approximately (a) 326,540
5 actual pay periods worked by the Settlement Class Members during the PAGA Period of which
6 9,615 pay periods include paid sick leave or PTO-Sick paid at below the regular rate of pay and (b)
7 18,476 pay periods prior to the PAGA Period in which sick leave or PTO-Sick were paid at below
8 the regular rate of pay (totaling 345,016). (Settlement Agreement ¶2.40).

9 With respect to Plaintiff's Labor Code § 226 claim, it arises from Plaintiff's allegations that
10 Defendant's wage statements failed to list the hours worked and hourly rates for an item of wages
11 called "Details Not Displayed." (Choi Decl. ¶8). In connection with the mediation, however,
12 Defendant produced documents, including wage statement exemplars, showing that Defendant's
13 wage statements actually listed the hourly rates and hours worked for "Details Not Displayed"
14 wages on a separate document. (*Id.*). Therefore, there is a potential that the Court could have
15 awarded nothing for this claim. *See Ruelas v. Costco Wholesale Corp.*, 67 F. Supp. 3d 1137, 1141-
16 42 (N.D. Cal. 2014) (finding no violation of Labor Code section 226(a) where employer included
17 required information in separate document provided with paystub but not on detachable portion of
18 the paystub itself concluding that, "[t]he Labor Commissioner has confirmed that Section 226(a)'s
19 purpose is to allow the continued use of detachable pay stubs but not require them"). (*Id.*). As for
20 Plaintiff's derivative claim for violation of Labor Code § 226(a) arising from the sick pay violation,
21 this Court could have found no liability based on *Maldonado v. Epsilon Plastics, Inc.*, 22 Cal. App.
22 5th 1308, 1337 (2018). In *Maldonado*, the Court of Appeal held that wage statement penalties could
23 not be recovered for unpaid wages based on incorrect rates of pay. While Plaintiff disagrees with
24 *Maldonado* and believes that it could be reversed by the California Supreme Court in *Naranjo v.*
25 *Spectrum Security Services* (California Supreme Court Case No. S258966), *Maldonado* nevertheless
26 shows that there are risks with Plaintiff's derivative claim.

27 Plaintiff's expert calculated maximum exposure for Labor Code §226 penalties at
28 \$24,583,600.00 and derivative PAGA penalties of \$34,501,600 for a total of \$59,085,200.

1 Plaintiff's counsel assigned a 90% discount based on the risks and potential for no liability discussed
2 above, which amounts to \$2,458,360 in Labor Code § 226 penalties and \$3,450,160 in PAGA
3 penalties. (*Id.*).

4 With respect to Plaintiff's sick pay claim, the actual principal damages equate to only
5 \$1,368,373.00. This means that the settlement actually provides approximately 2.37x more than the
6 actual principal damages, such that class members should be made more than whole from this
7 settlement. (Choi Decl. ¶9). As the Court can see, the vast majority of recovery would arise from
8 waiting time and PAGA penalties. (*Id.*). There is a possibility that this Court may refuse to award
9 waiting time penalties and significantly reduce the PAGA penalties. (*Id.*). This is especially the
10 case, given that Defendant acted in good faith in paying overtime wages based on the correct, regular
11 rate of pay, and only failed to factor in the non-discretionary income into the regular rate of pay for
12 purposes of paying out sick pay benefits. (*Id.*). Nevertheless, for purposes of exposure analysis,
13 Plaintiff assigns a 75% discount for the risks for the Section 203 and PAGA penalties, for a total of
14 \$9.577 million in 203 penalties and \$717,225.00 in PAGA penalties. (*Id.*).

15 Based on the above, the \$3.25 settlement comprises approximately 20% of the realistic
16 exposure, which is consistent with settlements approved by numerous courts. *See, e.g., In re Mego*
17 *Fin. Corp. Secs. Litig.*, 213 F.3d 454, 459 (9th Cir.2000); *Bellinghausen v. Tractor Supply Co.*, No.
18 13-CV-02377-JSC, 2015 WL 1289342, at *6 (N.D. Cal. Mar. 20, 2015); *Van Ba Ma v. Covidien*
19 *Holding Inc.*, U.S. Dist. Ct. Case No. 8:12-cv-02161 (C.D. Cal. 2014).

20 **G. SETTLEMENT WAS NEGOTIATED AT ARMS-LENGTH AND IS NOT**
21 **COLLUSIVE**

22 Courts presume the absence of fraud or collusion in the negotiation of settlement unless
23 evidence to the contrary is offered. *Priddy v. Edelman*, 883 F.2d 438, 447 (6th Cir. 1989); *Mars*
24 *Steel Corp. v. Continental Illinois Nat'l Bank & Trust Co.*, 834 F.2d 677, 682 (7th Cir. 1987); *In*
25 *re Chicken Antitrust Litig.*, 560 F. Supp. 957, 962 (N.D. Ga. 1980). Courts do not substitute their
26 judgment for that of the proponents, particularly where, as here, settlement has been reached with
27 the participation of experienced counsel familiar with the litigation. *Nat'l Rural Telecomms.*
28 *Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 528 (C.D. Cal. 2004); *Hammon v. Barry*, 752 F. Supp.

1 1087 (D.D.C. 1990); *Steinberg v. Carey*, 470 F. Supp. 471 (S.D.N.Y. 1979); *In re Armored Car*
2 *Antitrust Litig.*, 472 F. Supp. 1357 (N.D. Ga. 1979); *Sommers v. Abraham Lincoln Federal Sav. &*
3 *Loan Ass'n*, 79 F.R.D. 571 (E.D. Pa. 1978).

4 While the recommendations of counsel proposing the settlement are not conclusive, the
5 Court can properly take them into account, particularly where, as here, they have been involved in
6 formal and informal discovery and negotiations for some period of time, appear to be competent,
7 have experience with this type of litigation, and have exchanged substantial evidence from the
8 opposing party. *See Newberg on Class Actions, supra*, at § 11.47; *Nat'l Rural Telecomms. Coop.*,
9 221 F.R.D. at 528 (quoting *In re Paine Webber Ltd. P'ships Litig.*, 171 F.R.D. 104, 125 (S.D.N.Y.
10 1997)) (van ("[s]o long as the integrity of the arm's length negotiation process is preserved,
11 however, a strong initial presumption of fairness attaches to the proposed settlement . . . [citations]
12 and 'great weight' is accorded to the recommendations of counsel, who are most closely
13 acquainted with the facts of the underlying litigation")).

14 Here, both Plaintiff's and Defendant's counsel have a great deal of experience in wage and
15 hour class action litigation. Plaintiff's counsel has been approved as class counsel in a number of
16 wage and hour class actions and have extensive litigation experience. (Choi Decl. at ¶13; Lee
17 Decl. at ¶¶4-6; Hyun Decl. at ¶¶ 3-6). As discussed above, Plaintiff's counsel conducted a
18 thorough investigation of the allegations involved in this case since the inception. Each side has
19 apprised the other of their respective factual contentions, legal theories and defenses, resulting in
20 extensive arms' length negotiations taking place among the Parties.

21 The settlement for each participating Class Member is fair, reasonable and adequate, given
22 the inherent risks of litigation, including the substantial risks relative to class certification, and the
23 costs of pursuing such litigation. The settlement is the result of extensive arms' length
24 negotiations between the Parties and their counsel, which was achieved after a full day of
25 mediation before a highly regarded mediator.

26 Although Plaintiff believes that a class can be certified, Plaintiff also believes in the
27 fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiff
28 involved in not prevailing on one or more of the causes of action or theories alleged in the

operative Complaint, the possibility of non-certification and potential for appeals. (Choi Decl. at ¶¶10-11).

Despite the asserted fairness of the settlement terms, as set forth in the Class Notice, should any Class Member wish to pursue his or her own case for the claims being released herein, each Class Member has the right to submit a request for exclusion (*i.e.*, Opt-Out) from the settlement. Moreover, as set forth in the Class Notice, Class Members are advised of their right to attend the final approval hearing and object to any of the terms contained in the proposed Settlement Agreement, provided that they give proper notice to the Parties and the Court.

H. SETTLEMENT TERMS AND EVALUATION

1. Proposed Terms of the Settlement

This is a non-reversionary settlement wherein Class Members will be automatically paid out of the settlement if he/she does not opt-out of the settlement. The key terms of the settlement are as follows.

The Settlement Agreement provides for a gross settlement amount of Three Million Two Hundred Fifty Thousand Dollars and Zero Cents (\$3,250,000.00). (Settlement Agreement ¶2.40). Attorney's fees of up to one-third (1/3) of the Total Settlement Amount (\$1,083,333.33) will be paid to Class Counsel along with costs of up to \$30,000.00. (Settlement Agreement ¶ 2.2). The Service Award will be up to \$10,000.00. (Settlement Agreement ¶ 2.33). The Settlement Administrator will be paid up to \$43,000.00 for costs of administering this settlement. (Settlement Agreement ¶ 2.36). The PAGA Allocation is One Hundred Sixty-Two Thousand Five Hundred Dollars (\$162,500.00) of which 75% (\$121,875.00) shall be paid to the LWDA and 25% shall be paid to the PAGA Employee Allocation. (Settlement Agreement ¶2.21).

2. Nature of Any Injunctive Relief

The Settlement Agreement does not provide for any injunctive relief.

3. Amount and Manner of Distribution of the Compensation to be Provided to Class Members Including the Amount, or an Estimate, of What Each Class Member Will Receive

Each Settlement Class Member who does not request exclusion (“**Remaining Settlement**

1 **Class Members**”) shall have their Individual Class Settlement Payment calculated based on two
2 parts: (i) the Individual Settlement Base Payment, and (ii) the Individual Settlement Sick Payment.
3 The sum of the Individual Settlement Base Payment and the Individual Settlement Sick Payment
4 shall be each Remaining Settlement Class Member’s Individual Class Settlement Payment. With
5 the exception of the Individual PAGA Payment(s) for Remaining Settlement Class Members who
6 are also PAGA Members, Remaining Settlement Class Members are not eligible to receive any
7 compensation from the Settlement other than the Individual Class Settlement Payment(s).
8 (Settlement Agreement ¶ 5.3). All Remaining Settlement Class Members shall be entitled to an
9 Individual Settlement Base Payment. (*Id.* at ¶ 5.3.1). The Individual Settlement Base Payment
10 shall be \$100.00 for each Remaining Settlement Class Member. (*Id.*). All Remaining Settlement
11 Class Members with PTO-Sick and/or PSL hours paid at below the regular rate of pay during the
12 Class Period shall be entitled to an Individual Settlement Sick Payment. (*Id.* at ¶ 5.3.2). The
13 Individual Settlement Sick Payment(s) shall be calculated based on a pro-rata share of the
14 remainder of the Class Member Allocation following calculation of each Remaining Settlement
15 Class Members’ Individual Settlement Base Payment, as determined by the Remaining Settlement
16 Class Member’s number of pay periods where PTO-Sick and PSL hours were paid at below the
17 regular rate of pay during the Class Period according to Defendant’s records, as a fraction of all
18 pay periods where PTO-Sick and PSL hours were paid at below the regular rate of pay to all
19 Remaining Settlement Class Members during the Class Period. (*Id.* at ¶ 5.3.2).

20 Each PAGA Member will receive an “Individual PAGA Payment,” which shall be paid
21 from the PAGA Employee Allocation. (Settlement Agreement ¶ 5.4). The Individual PAGA
22 Payment will be calculated by adding the number of pay periods, rounded up to the nearest whole
23 number, in which the PAGA Members were employed by Defendant during the PAGA Period, to
24 calculate the total number of pay periods of employment by all PAGA Members. (*Id.*). The
25 respective pay periods employed for each individual PAGA Member during the PAGA Period will
26 be divided by the total pay periods of employment by PAGA Members, resulting in the payment
27 ratio for each PAGA Member. (*Id.*). Each PAGA Member’s payment ratio will then be
28 multiplied by the PAGA Employee Allocation to determine the Individual PAGA Payment for

1 each PAGA Member. (*Id.*). PAGA Members shall receive this Individual PAGA Payment
2 regardless of their decision to request exclusion from the Settlement Class. (*Id.*).

3 Based on the Net Settlement Amount, on a pure raw average, each class member will
4 receive approximately \$211.40. (Choi Decl. ¶ 6). Such amounts for each person could increase or
5 decrease depending on a number of factors, including the number of weeks worked by each
6 Settlement Class Member where they received sick pay wages. The approximate amount each
7 person will be entitled to will not be known until the class data is transferred to the Settlement
8 Administrator for processing.

9 **4. Whether, and Under What Circumstances, Amounts May Revert to**
10 **Defendant**

11 This is a non-reversionary settlement as the entirety of the settlement amount will be fully
12 paid out. Funds represented by Individual Settlement Payment checks returned as undeliverable
13 and Individual Settlement Payment checks remaining un-cashed for more than 180 days after
14 issuance will be tendered to the Controller of the State of California to be held pursuant to the
15 Unclaimed Property Law, California Civil Code § 1500, et. seq. for the benefit of those Settlement
16 Class Members and PAGA Members who did not cash their checks until such time that they claim
17 their property. (Settlement Agreement ¶ 10.5).

18 **5. Scope of the Release of Class Members' Claims**

19 For Settlement Class Members, the released claims are set forth in the Settlement
20 Agreement ¶ 2.39 and in the Class Notice as follows:

21 **"Settlement Class Members' Released Claims"** include, for the entire Release
22 Period, any and all claims that were alleged or reasonably related to the facts
23 pleaded in the Lawsuit, except claims under Labor Code Section 2802. Released
24 Claims also include all claims under the pleaded sections of the California Labor
25 Code, Business and Professions Code and/or IWC Wage Orders, namely: Labor
26 Code Sections 201, 202, 203, 204, 210, 218, 218.6, 226, 226.3, 233, 246, 246.5,
27 248.5, and 2698-2699.5 (PAGA); and the Unfair Competition Law (B&PC Section
28 17200, *et seq.*). To the extent not already covered by the foregoing, Released
Claims also include all claims brought in the Lawsuit (or that could have been
brought in the Lawsuit based on the facts pleaded in the Lawsuit, and except for
claims under Labor Code Section 2802) for civil penalties, statutory penalties,
wages, interest, restitution, injunctive relief and attorneys' fees and costs (including
fees and costs per Labor Code Section 218.5 and Code of Civil Procedure Section

1021.5). The “Settlement Class Members’ Released Claims” are released from June 8, 2016 through and including November 8, 2021 (the “Release Period”).

For PAGA Members, the released claims are set forth in the Settlement Agreement ¶ 2.24 and in the Class Notice as follows:

“PAGA Members' Released Claims" means a release, for the entire PAGA Period, of any and all claims, rights, demands, liabilities, and causes of action for the recovery of civil penalties, attorneys' fees and costs permissible under the California Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698 et seq., which Plaintiff and/or the PAGA Members had, or may claim to have, against Released Parties, for any and all claims that were alleged or reasonably related to the facts pleaded in the Lawsuit or the PAGA Letter, except claims under Labor Code Section 2802, including civil penalties, attorneys' fees, and costs arising under the PAGA for violations of California Labor Code Sections 201, 202, 203, 204, 210, 218, 218.6, 226, 226.3, 233, 246, 246.5, and 248.5.”

As shown above, Settlement Class Members and PAGA Members will only be releasing claims and causes of action pled in the Lawsuit (except for Labor Code §2802, which is excluded from the releases) and nothing more.

6. Tax Treatment of Settlement Amounts

Plaintiff and all Settlement Class Members who do not request exclusion and receive an Individual Class Settlement Payment from the Total Settlement Amount expressly acknowledge that ten percent (10%) shall be issued as wages, less applicable withholdings and for which an IRS Form W-2 shall issue if required, ten percent (10%) shall be issued as interest, and eighty percent (80%) of which shall be issued as penalties, for both of which an appropriate IRS Form 1099 shall issue if required. (Settlement Agreement ¶ 4.2). In the case of Plaintiff, the Service Award shall be considered entirely non-wages, and shall be included in Plaintiffs IRS Form 1099. (*Id.*).

Plaintiff and all PAGA Members who receive an Individual PAGA Payment from the Total Settlement Amount expressly acknowledge that one hundred percent (100%) of the Individual PAGA Payment shall be issued as penalties, for which an appropriate IRS Form 1099 shall issue if required. (Settlement Agreement ¶ 4.3).

7. Affirmative Obligations to be Undertaken by Class Members or Class Counsel and the Reasons for Any Such Obligations

As stated above, Settlement Class Members do not need to do anything should they wish to

1 receive their share of the settlement funds. Thus, this substantially decreases the amount of
2 burden each Settlement Class Member must bear in order to receive their settlement share. If a
3 Settlement Class Member does not wish to take part in this settlement and be bound by the release,
4 he/she must submit an exclusion request. Such obligations are thoroughly identified in the Class
5 Notice. (Settlement Agreement Exhibit A).

6 **I. SUBMISSION OF CLAIMS/EXCLUSIONS/OBJECTIONS**

7 Class Members will not be required to submit a claim form to receive compensation.
8 Instead, this is a non-reversionary Settlement Agreement. (Settlement Agreement Exhibit A).
9 Settlement Class Members will be provided 45 calendar days to opt out or object to the settlement.
10 (Settlement Agreement ¶ 2.10). Any Class Member who does not opt-out of the settlement will be
11 automatically issued his/her share of the settlement proceeds. Given that this is a non-reversionary
12 settlement, the parties believe that 45 calendar days is sufficient time for class members to object
13 or opt-out of the settlement. Further, Settlement Class Members will be notified of the
14 Fairness/Final Approval hearing and will have an opportunity to appear at the Fairness hearing.

15 **J. NOTICE TO CLASS MEMBERS**

16 The Notice will be sent in English. (Choi Decl. ¶14). Within fourteen (14) calendar days
17 after entry of the Preliminary Approval Order, Defendant shall provide the Settlement
18 Administrator with the Class Information for purposes of sending the Class Notice to Settlement
19 Class Members. (Settlement Agreement ¶ 6.1). Within thirty (30) calendar days of the entry of the
20 Preliminary Approval Order, the Settlement Administrator will send a copy of the Class Notice to
21 each Settlement Class Member. (*Id.* at ¶ 6.4). Before the initial mailing of the Class Notice, the
22 Settlement Administrator shall make a good-faith attempt to obtain the most-current names and postal mail
23 addresses for all Settlement Class Members to receive such postal mail, including (1) cross-checking the
24 names and/or postal mail addresses it received from Defendant, and (2) reviewing the addresses with the
25 National Change of Address Database. (*Id.*). If any Class Notice sent via U.S. mail to any Settlement
26 Class Member is returned to the Settlement Administrator with a forwarding address, the Settlement
27 Administrator shall forward the postal mailing to that address. (*Id.* at ¶ 6.5). If the Settlement
28 Administrator is not provided a forwarding address, the Settlement Administrator shall attempt to locate a

1 current mailing address for the Class Member by skip tracing using the Class Member's social security
2 number and will mail the Class Notice to the updated address identified. (*Id.*). In the event that any Class
3 Notice is returned as undeliverable a second time, no further efforts shall be required. (*Id.*). The Settlement
4 Administrator shall maintain a log detailing the instances Class Notices are returned as undeliverable. (*Id.*).

5 The Class Notice will include a statement to each Settlement Class Member containing the
6 number of pay periods where PTO-Sick and PSL hours were paid at below the regular rate of pay
7 during the Class Period, according to Defendant's records, that is being used to calculate the
8 amount of their Settlement Payment. (*Id.* at ¶ 6.2). Based on the foregoing, the notice procedures
9 fully comply with California Rules of Court Rule 3.766 (d) & (e).

10 **K. COSTS AND FEES**

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

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

20 Under California law, the award of attorneys' fees in common fund wage and hour class
21 action settlements should start with the percentage method. *See Laffitte v. Robert Half Int'l*, 1 Cal.
22 5th 480, 503 (Aug. 11, 2016) ("We join the overwhelming majority of federal and state courts in
23 holding that when class action litigation establishes a monetary fund for the benefit of the class
24 members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the
25 court may determine the amount of a reasonable fee by choosing an appropriate percentage of the
26 fund created."). Under the percentage of the fund method, the Court's objective remains to "mimic
27 the market" in fixing a reasonable fee. *See Gaskill v. Gordon*, 160 F.3d 361, 363 (7th Cir. 1998)
28 (J. Posner) ("When a fee is set by a court rather than by contract, the object is to set it at a level

1 that will approximate what the market will set... The judge, in other words, is trying to mimic the
2 market in legal services.”).

3 An award of 33% of the fund in attorneys’ fees mimics the marketplace as it “is supported
4 by the fact that typical contingency fee agreements provide that class counsel will recover 33% if
5 the case is resolved before trial and 40% if the case is tried.” *Fernandez v. Victoria Secret Stores*
6 *LLC*, 2008 WL 8150856, *16 n. 59 (C.D. Cal. July 21, 2008) (citing Brickman, *Effective Hourly*
7 *Rates of Contingency-Fee Lawyers: Competing Data and Non-Competitive Fees* (Fall 2003) 81
8 Wash U. L. Q. 653, 659 n. 11). Indeed, “empirical studies [that] show that . . . fee awards in class
9 actions average around one-third of the recovery.” *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66
10 n.11 (2008).

11 The California Supreme Court in *Laffitte* affirmed a fee award representing 33 1/3 percent
12 of the fund. *Laffitte*, 1 Cal. 5th at 506. And this was based on a lodestar amount that required a
13 multiplier of 2.13. *Id.* at 487. As the Court held, only when the multiplier is “extraordinarily high
14 or low [should] the trial court [] consider whether the percentage method should be adjusted so as
15 to bring the imputed multiplier within a justifiable range.” *Id.* at 505.

16 Moreover, in the *Laffitte* intermediate court decision, the court observed that “33 1/3
17 percent of the common fund is consistent with, and in the range of, awards in other class action
18 lawsuits.” *Laffitte v. Robert Half Int’l*, 231 Cal. App. 4th 860, 871 (2014). Here, the fee award
19 representing 33 1/3% of the fund clearly falls within that range, and is consistent with other
20 comprehensive surveys of class action settlements and fee awards. See Fitzpatrick, *An Empirical*
21 *Study of Class Action Settlements and Their Fee Award*, 7 J. Empirical Leg. Stud. 811, 833 (2010)
22 (analyzing 444 cases between 2006-2007 and concluding that “[m]ost fee awards were between 25
23 percent and 35 percent, with almost no awards more than 35 percent.”); Eisenberg & Miller,
24 *Attorney Fees in Class Action Settlements: An Empirical Study: 1993-2008*, 7 J. of Empirical Leg.
25 Stud. 248, 262, fn.16 (2010) (independent studies of class action litigation nationwide conclude
26 that fees representing one-third of the total recovery is consistent with market rates).

27 The results delivered by Plaintiff’s Counsel also support the requested percentage of the
28 fund. Here, the Parties have agreed to a payment of a maximum of 33 1/3% of the settlement

1 (\$1,083,333.33) for payment to Class Counsel as attorneys' fees. (Settlement Agreement ¶ 2.2).
2 The Parties have agreed to a payment of the foregoing attorney's fees and, thus, this payment
3 should be presumed to be fair. Class Counsel will be splitting the approved fees which has been
4 authorized by the Plaintiff equally between the firms. (Choi Decl. ¶16; Lee Decl. ¶7; Hyun Decl.
5 ¶10; Farias Decl. ¶9).

6 Further, the parties have agreed to reimbursement of class counsel's litigation costs of up
7 to \$30,000.00. (Settlement Agreement ¶2.2). Class counsel have, at their own risk, expended costs,
8 for example, to file this instant action, service of process, payment of mediation fees, expert
9 witness fees and other litigation related costs and will be submitting detailed cost sheets for the
10 respective costs incurred prior to the Motion for Final Approval. Based on the foregoing, the
11 court should preliminarily approve the attorney's fees and costs being requested by the parties.

12 **2. Proposed Payment to Class Representative**

13 Plaintiff requests a modest enhancement of \$10,000.00. (Settlement Agreement ¶2.33).
14 Plaintiff provide documents and information to Class Counsel, reviewed the Settlement
15 Agreement and declaration. (Farias Decl. ¶7). Moreover, as part of his duties as the
16 representative, Plaintiff provided invaluable information, evidence, and documents that resulted in
17 this settlement. (Farias Decl. ¶6)

18 Given that future employers are much less likely to hire individuals who have filed suit
19 against their prior employer, particularly cases of this nature, Plaintiff may face prejudice in the
20 future from other potential employers. Plaintiff also faced the risk of being subjected to
21 Defendant's costs had Plaintiff lost this case. Plaintiff assumed these risks and the whole class
22 benefited from these risks taken by Plaintiff. Class members did not have to file individual
23 lawsuits and bear the risks of payment of fees and costs if they did not prevail, nor did they have
24 to face the potential for retaliation and not getting future employment had they filed a public
25 lawsuit. Plaintiff is also executing a waiver of all known and unknown claims, including any
26 rights under Civil Code § 1542, which was not required of class members.

27 Notably, courts have routinely granted approval of representative enhancements for far
28 greater amounts than the \$10,000.00 sought by Plaintiff in this case. *See, e.g., Van Vranken v.*

1 *Atlantic Richfield Co.*, 901 F. Supp. 294, 299-300 (N.D. Cal. 1995) (incentive award of \$50,000);
2 *In re Dun & Bradstreet Credit Servs. Customer Litig.*, 130 F.R.D. 366, 374 (S.D. Ohio 1990) (two
3 incentive awards of \$ 55,000, and three incentive awards of \$ 35,000); *Brotherton v. Cleveland*,
4 141 F. Supp. 2d 907, 913-14 (S.D. Ohio 2001) (granting a \$50,000 incentive award); *Enter.*
5 *Energy Corp. v. Columbia Gas Transmission Corp.*, 137 F.R.D. 240, 251-52 (S.D. Ohio 1991)
6 (\$50,000 awarded to each class representative); *Glass v. UBS Fin. Servs.*, No. C-06-4068, 2007
7 U.S. Dist. LEXIS 8476, at *51-52 (N.D. Cal. Jan. 27, 2007) (awarding \$25,000 incentive award in
8 FLSA overtime wages class action); *Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998)
9 (affirming \$25,000 Incentive award to class representative in ERISA case). Here, Plaintiff
10 requests a modest enhancement of \$10,000.00, which is “presumptively reasonable” and
11 consistent with case law.

12 3. Class Administration Fees

13 The parties have agreed to payment of a maximum of \$43,000.00 to the Settlement
14 Administrator, Phoenix Settlement Administrators, for administering this Settlement, including,
15 but not limited to, printing, distributing, and tracking documents for this Settlement, tax reporting,
16 distributing the Total Settlement Amount, and providing necessary reports and declarations, as
17 requested by the Parties. (Settlement Agreement ¶2.36). Phoenix Settlement Administrators is a
18 well-recognized class action settlement administrator. (Declaration of Jodey Lawrence ¶¶5-10,
19 Ex. A). The parties believe that the administration fee is reasonable and should be approved.

20 III. LWDA HAS BEEN PROVIDED WITH NOTICE OF THIS MOTION

21 On March 30, 2022, Plaintiff provided notice of this Motion to the LWDA. (Choi Decl.
22 ¶15).

23 IV. PROPOSED SCHEDULE FOR CLASS NOTICE, OBJECTION, OPT OUT AND 24 MOTION FOR APPROVAL, ATTORNEY’S FEES AND FINAL ACCOUNTING

25 Plaintiff requests that a final fairness/approval hearing be set for approximately 5 months
26 after the hearing on Plaintiff’s Motion for Preliminary Approval.

27 ///

28 ///

1 **V. CONCLUSION AND ACTION REQUESTED AS PART OF THE MOTION FOR**
2 **PRELIMINARY APPROVAL**

3 Here, the proposed settlement is fair, adequate, and reasonable. It will result in both
4 substantial monetary benefits to class members; it is non-collusive; and it was achieved as the
5 result of informed, extensive, and arms' length negotiations conducted by counsel for respective
6 parties who are experienced in wage and hour class action litigation. For the foregoing reasons,
7 Plaintiff respectfully request that the Court grant preliminary approval of the proposed settlement,
8 sign the proposed Order, approve and authorize mailing of the proposed Class Notice, and set a
9 date for a final approval hearing 5 months after the hearing on Plaintiff's Motion for Preliminary
10 Approval.

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12 DATED: March 29, 2022

LAW OFFICES OF CHOI AND ASSOCIATES

13 By: 
14 Edward W. Choi
15 Attorneys for PLAINTIFF and the CLASS
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