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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

KOREY CURLEY and SCOTT RYAN, on behalf of themselves and other similarly-situated and aggrieved employees, Plaintiffs, vs. PAR WESTERN LINE CONTRACTORS, LLC, a Delaware corporation; PAR ELECTRICAL CONTRACTORS, INC., a Missouri corporation; QUANTA SERVICES, INC., a Delaware corporation; and DOES 1 through 100,	Case No. 37-2021-00019761-CU-OE-CTL [*Case assigned for all purposes to the Hon. Katherine Bacal, Dept. C-63*] **PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT** Date: November 21, 2025 Time: 1:30 p.m. Dept.: C-63 Action Filed: May 4, 2021 Trial Date: None Set

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PLEASE TAKE NOTICE that, pursuant to Rule 3.769 of the California Rules of Court, on November 21, 2025, at 1:30 p.m., in Department C-63 of the above-entitled Court, located at 330 W. Broadway, San Diego, CA 92101, Plaintiffs Korey Curley and Scott Ryan, individually and on behalf of a class of similarly situated individuals, will, and hereby do, move this Court for:

1. Preliminary approval of the proposed Stipulation of Settlement of this lawsuit;
2. Pursuant to California Code of Civil Procedure § 382, provisional certification of the Settlement Class defined as follows:

> **Settlement Class** – all employees employed by Defendants PAR Electrical Contractors, Inc., PAR Western Line Contractors, LLC, and Quanta Services, Inc. (collectively, "Defendants") in California as nonexempt hourly electrical installation employees, Linemen, Foremen, and/or any other similar job title or position from May 4, 2017 through March 10, 2025 ("Class Period").

3. Preliminary appointment of Plaintiffs Korey Curley and Scott Ryan as the Class Representatives;
4. Preliminary appointment of Fletcher W. Schmidt, Paul K. Haines, Andrew J. Rowbotham, and Susan J. Perez of Haines Law Group, APC; Michael D. Singer and Rosemary Khoury of Cohelan Khoury & Singer; and Brad Nakase of Nakase Law Firm, Inc. as Class Counsel;
5. The scheduling of a hearing to consider whether the Settlement should be finally approved and to award amounts for the Class Representative Service Awards, Settlement Administrator costs, payment to the California Labor and Workforce Development Agency for its 75% share of Private Attorneys General Act civil penalties, and attorneys' fees and costs to Class Counsel;
6. Appointment of Apex Class Action Administration ("Apex") as the third-party Settlement Administrator to mail notices; and
7. Approval of the proposed Notice of Class Action and PAGA Settlement, Notice of Individual Class Payment, Request for Exclusion Form, and Objection Form (collectively,

the "Class Notice"), and entry of the Proposed Order directing that the Class Notice be disseminated to the proposed Settlement Class as provided in the Settlement.

This Motion is based on this Notice of Motion, the attached Memorandum of Points and Authorities, the declarations of Paul K. Haines, Fletcher W. Schmidt, Andrew J. Rowbotham, Susan J. Perez, Michael D. Singer, Rosemary Khoury, Brad Nakase, Plaintiffs Korey Curley and Scott Ryan, and Sean Hartranft of Apex, together with the exhibits attached thereto, the pleadings and other papers filed in this action, and any further oral or documentary evidence or argument presented at the hearing.

Dated: October 29, 2025

Respectfully Submitted,
HAINES LAW GROUP, APC

By: ______________________________
Andrew J. Rowbotham
Attorneys for Plaintiffs

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Korey Curley ("Plaintiff Curley") and Scott Ryan ("Plaintiff Ryan") (collectively, "Plaintiffs") filed this putative class action (the "Action") on behalf all employees employed by Defendants PAR Electrical Contractors, Inc. ("Defendant PAR Electrical"), PAR Western Line Contractors, LLC ("Defendant PAR Western"), and Quanta Services, Inc. ("Defendant Quanta") (collectively, "Defendants") in California as nonexempt hourly electrical installation employees, Linemen, Foremen, and/or any other similar job title or position from May 4, 2017 through March 10, 2025 (the "Class Period"). Plaintiffs and Defendants are referred to collectively as the "Parties."

Through this Motion, Plaintiffs respectfully request that this Court preliminarily approve the non-reversionary class and PAGA action settlement (the "Settlement")[1], which will fully resolve the Action. Based on data produced by Defendants, there are approximately 5,885 potential Class Members who worked during the Class Period. Defendants will pay a Gross Settlement Amount ("GSA") of $8,400,000. After Court-approved deductions for Plaintiffs' Class Representative Service Awards, Settlement Administrator costs, Private Attorneys General Act ("PAGA") civil penalties, and attorneys' fees and costs to Class Counsel, the Net Settlement Amount ("NSA") of approximately $4,908,010 will be distributed to Class Members. The highest Individual Class Payment is estimated to be $3,394.38, and the average Individual Class Payment is estimated to be $833.99.

Additionally, all current and former nonexempt hourly employees employed by Defendants in California from May 4, 2020 through March 10, 2025 (the "PAGA Period") (collectively, the "PAGA Aggrieved Employees") will receive their share of $100,000, which represents 25% of the total PAGA allocation. According to Defendants' data, there are

[1] The Stipulation of Class and PAGA Settlement ("Settlement Agreement") is attached to the Declaration of Andrew J. Rowbotham as **Exhibit 1**. The proposed Notice of Class Action and PAGA Settlement, Notice of Estimated Settlement Award & Information Change Form, Request for Exclusion, and Objection Form (collectively, the "Class Notice") are attached as **Exhibit 2**.

approximately 2,700 PAGA Aggrieved Employees. The highest Individual PAGA Payment is estimated to be $87.24, and the average Individual PAGA Payment is estimated to be $37.04.

Class Members and PAGA Aggrieved Employees do not need to file a claim form to receive their share of the Settlement. All Class Members who do not opt out will automatically receive an Individual Class Payment. PAGA Aggrieved Employees cannot opt out and will automatically receive their share of the Individual PAGA Payment. This represents a fair and reasonable result for Class Members, who will release only those claims asserted, or that could have been asserted, based on the facts alleged in the operative First Amended Complaint ("FAC"). Likewise, PAGA Aggrieved Employees will release only PAGA claims alleged in the Plaintiffs' operative FAC and Plaintiffs' pre-filing letters to the California Labor and Workforce Development Agency ("LWDA").[2]

This proposed Settlement is well within the range of possible approval in light of the significant legal and factual obstacles that Plaintiffs faced, the risks and costs of further litigation, and the substantial monetary benefits to the Class Members. For the reasons discussed herein, Plaintiffs respectfully request that the Court grant preliminary approval of the Settlement.

II. SUMMARY OF THE LITIGATION

Defendants operate a nationwide electrical construction business specializing in the management, engineering, and construction of high-voltage transmission lines, distribution lines, and substations, as well as emergency restoration services. *See* Declaration of Andrew J. Rowbotham ("Rowbotham Decl."), ¶ 14. Defendants employed Plaintiff Curley as a non-exempt "Journeyman Lineman" and later as a "Quality Control Inspector," from approximately March 3, 2006 to approximately December 11, 2020. *Id*.; *See* Declaration of Korey Curley ("Curley Decl."), ¶ 2; *see* Rowbotham Decl., ¶ 14. Plaintiff Curley's job duties included completing electrical installations as a Journeyman Lineman and inspecting finished installations and writing reports on them as a Quality Control Inspector. *Id*. Defendants employed Plaintiff Ryan as a non-

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[2] Plaintiffs' pre-filing letters to the LWDA are attached to the Rowbotham Declaration as **Exhibit 3**. Concurrently with the filing of this Motion, Plaintiffs provided notice to the LWDA of the Settlement and submitted the approval paperwork. The LWDA submission confirmation is attached as **Exhibit 4**.

exempt "Lineman" at the time of his initial hire in approximately December 2019, then promoted him to "Foreman" in approximately November 2021 until he was laid off in March 2022. *See* Declaration of Scott Ryan ("Ryan Decl."), ¶ 2; *see* Rowbotham Decl., ¶ 14. Plaintiff Ryan's job duties included analyzing blueprints, clearing land for powerlines, erecting utility poles, and responding to electrical outages. *Id*. Like all Class Members, Plaintiffs were subject to Defendants' wage and hour policies and practices. *See* Rowbotham Decl., ¶ 14.

On May 4, 2021, Plaintiff Curley filed the initial complaint in this Action against Defendant PAR Electrical in the San Diego County Superior Court titled, *Korey Curley v. PAR Electrical Contractors, Inc.*, Case No. 37-2021-00019761-CU-OE-CTL. *See* Rowbotham Decl., ¶ 15. Plaintiff Curley alleged that Defendant PAR Electrical (1) failed to pay all minimum, regular, and overtime wages; (2) failed to provide all meal periods; (3) failed to authorize and permit all rest periods; (4) failed to provide accurate itemized wage statements; (5) failed to pay wages timely to employees upon termination; (6) failed to maintain accurate records; (7) violated California's Unfair Competition Law; and (8) was liable for civil penalties under California's Private Attorneys General Act ("PAGA"), Labor Code § 2698 *et seq*. *Id*.

On June 9, 2022, Plaintiff Ryan filed a class action complaint against Defendants in the San Bernardino County Superior Court titled, *Scott Ryan v. PAR Western Line Contractors, LLC, et al.*, Case No. CIVSB2211323 (the "Ryan Action"). *See* Rowbotham Decl., ¶ 16. The Ryan Action alleged that Defendants: (1) failed to provide all meal periods; (2) failed to authorize and permit all rest periods; (3) failed to reimburse necessary business expenses; (4) failed to issue accurate itemized wage statements; (5) failed to pay all final wages owed upon separation from employment; and (6) violated California's Unfair Competition Law. *Id*. That same day, Plaintiff Ryan notified Defendants and the LWDA of his intent to seek civil penalties under PAGA based on the Labor Code violations alleged in the Ryan Action. *Id*. On August 15, 2022, after exhausting his administrative remedies with the LWDA, Plaintiff Ryan filed the First Amended Complaint in the Ryan Action to add the PAGA cause of action. *Id*.

On May 25, 2023, Plaintiffs filed the operative First Amended Complaint ("FAC") in this Action to add Plaintiff Ryan as a named plaintiff and to consolidate the factual allegations and causes of action from the Ryan Action into the present Action. *See* Rowbotham Decl., ¶ 17. The operative FAC alleges that Defendants (1) failed to pay all minimum, regular, and overtime wages (Labor Code §§ 510, 1194); (2) failed to provide all meal periods (Labor Code §§ 226.7, 512, 558); (3) failed to authorize and permit all rest periods (Labor Code §§ 226.7, 516, 558); (4) failed to reimburse necessary business expenses (Labor Code §§ 2802, 2804); (5) failed to issue accurate itemized wage statements (Labor Code § 226 et seq.); (6) failed to pay all final wages owed upon separation from employment (Labor Code §§ 201-203); (7) failed to maintain accurate records (Labor Code § 1174); (8) engaged in unfair competition (Business and Professions Code § 17200 et seq.); and (9) were liable for civil penalties under the PAGA (Labor Code § 2698, et seq.) *Id*.

On November 22, 2022, the Parties attended their first mediation with Steve Rottman, Esq., but were unable to reach a resolution. *See* Rowbotham Decl., ¶ 18. In connection with that mediation, Defendants produced a representative sample of timekeeping and payroll records for employees who worked during the Class Period, classwide data points, and relevant policy documents, including the Collective Bargaining Agreements ("CBAs") in effect during the Class Period. *Id*. Following the initial mediation, the Parties engaged in extensive formal litigation, including class-certification-related written discovery and mailing a *Belaire-West* notice to putative class members. *Id.*

On January 9, 2025, the Parties participated in a second mediation, this time with Steve Mehta, Esq. *See* Rowbotham Decl., ¶ 19. In connection with that mediation, Defendants produced updated classwide data points. *Id*. Plaintiffs' counsel used this information to construct a comprehensive damages model to evaluate Defendants' potential exposure on each claim. *Id*. During the mediation, the Parties exchanged differing views regarding Defendants' liability, exposure valuations, legal positions, and the likelihood of class certification. *Id.* Although no settlement was reached at the conclusion of the session, the Parties continued discussions with Mr. Mehta's assistance. *Id.*

On June 30, 2025, Plaintiffs filed their Motion for Summary Adjudication pursuant to Code of Civil Procedure § 437c(t) (the "MSA") seeking a determination of whether Defendants' CBAs satisfy the exemptions under Labor Code § 512(e) and Wage Order No. 16, § 11(E), from compliance with meal- and rest-period requirements. *See* Rowbotham Decl., ¶ 20. On August 22, 2025, Defendants filed their opposition. *Id*. Before the Parties completed briefing on the MSA, Mr. Mehta issued a mediator's proposal that both Parties accepted. *Id*. That proposal was memorialized in the long-form Settlement Agreement now before the Court for preliminary approval. *Id.*

A. PLAINTIFFS' CLAIMS AND DEFENDANTS' DEFENSES

1. Meal Period Violations

Plaintiffs and Class Members regularly worked 12- to 16-hour shifts, sometimes up to 36 hours, and frequently worked at least one 24-hour shift per workweek. *See* Rowbotham Decl., ¶ 21. Despite these long shifts, Plaintiffs allege Defendants failed to provide uninterrupted, duty-free 30-minute first and second meal periods commencing before the end of the fifth and tenth hour of work. *Id*. Plaintiffs further allege they were expected to perform work duties during meal periods and to eat lunch on the job or while driving between job sites, which triggers liability for unpaid minimum and overtime wages in addition to meal period violations. *Id*.; *see Kaanaana v. Barrett Business Services, Inc*. (2018) 29 Cal.App.5th 778, 808 (holding that working through a purported meal period entitles employees to minimum wages and meal period premiums). Plaintiffs also allege that Defendants required Foremen (including Plaintiff Ryan) to record a meal period for shifts even when none was provided. *See* Rowbotham Decl., ¶ 21. Plaintiffs contend that no meal period exemption applies because the CBAs do not expressly provide for final and binding arbitration of disputes concerning the application of their meal period provisions, as required by Labor Code § 512(e)(2). *Id.* Additionally, Plaintiffs contend that the CBAs grievance procedures are only general in nature and do not clearly and unmistakably encompass statutory meal period rights. *Id.*

Defendants maintain that the Labor Code meal period requirements do not apply to Plaintiffs and Class Members because they are employees of an electrical corporation covered by valid CBAs that include final and binding grievance and arbitration procedures. Rowbotham Decl., ¶ 22; *see* Labor Code § 512(e) (holding that the Labor Code's meal period requirements do not apply if a valid CBA, among other things, "expressly provides for the ... final and binding arbitration of disputes concerning application of its meal period provisions"). Defendants further assert that their CBAs establish a referral procedure for disputed matters and include grievance processes culminating in adjudication by the Labor-Management Committee or the Council on Industrial Relations for the Electrical Contracting Industry, whose decisions are final and binding. *See* Rowbotham Decl., ¶ 22. Regardless of whether the CBAs satisfy the meal period exemption requirements, Defendants deny requiring employees to work off the clock during meal periods. *Id*. Finally, Defendants contend that this claim is not suitable for class treatment because it would require individualized inquiries into whether employees were required to work off the clock and for how long on any given day. *Id.* Defendants further argue that such inquiries are especially problematic because employees worked at different job sites, under different supervisors, and off-the-clock time is inherently unrecorded, making the claim unmanageable for class litigation. *Id.*

2. <u>Rest Period Violations</u>

Plaintiffs allege that Defendants regularly failed to authorize and permit Class Members to take the lawful rest periods to which they were entitled. *See* Rowbotham Decl., ¶ 23. Specifically, Plaintiffs allege Class Members were regularly required to delay, interrupt, or skip rest periods due to work demands. *Id*. Moreover, because Defendants' CBAs authorize only two rest periods per workday, and most Class Members worked shifts in excess of 10 hours, Plaintiffs contend the CBAs fail to satisfy the requirement to provide additional rest periods for each four hours worked or major fraction thereof. *Id*. Plaintiffs contend that Defendants' CBAs fail to satisfy the requirements for exemption under Wage Order 16, § 11(E), because they: (i) do not authorize and permit rest periods for every four hours worked or major fraction thereof; (ii) do not provide for make-up rest periods or compensatory pay when rest periods are missed; and (iii) do not guarantee the one-hour premium pay remedy. *Id.*

Defendants assert that the language in the CBAs provides equivalent protection necessary to shield Defendants from the Wage Order's rest period requirements. *See* Rowbotham Decl., ¶ 24. Additionally, Defendants claim that the CBAs do not limit Class Members to only two rest periods per shift and that this claim will fail on the merits. *Id.* Defendants further deny that they failed to authorize and permit rest periods and argue that Plaintiffs cannot substantiate this claim through common documentary evidence because rest periods are not recorded. *Id*. They contend that proving this claim would require individualized inquiries into whether employees were authorized and permitted to take lawful rest periods and on which days, rendering the claim unmanageable for class treatment. *Id*.

3. <u>Failure to Reimburse Necessary Business Expenses</u>

Plaintiffs allege that Defendants required Class Members to use their personal cell phones to communicate with Foremen, Linemen, and other coworkers for work-related purposes, but failed to reimburse them for this necessary business expense. *See* Rowbotham Decl., ¶ 25; *see* Labor Code § 2802; *see also Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137, 1144 (holding that an employer must reimburse a reasonable portion of an employee's cell phone bill when its use is necessary for the job).

Defendants respond that they provided radios to employees for workday communications, eliminating any need to use personal cell phones for work purposes. *See* Rowbotham Decl., ¶ 26. Defendants contend that any personal cellular phone use was a matter of employee choice and therefore not subject to reimbursement. *Id*. Defendants further maintain that this claim is unsuitable for class certification because individual issues would predominate in determining which employees, if any, used their personal cell phones instead of the radios provided by Defendants and for what reasons, rendering the claim unmanageable for class treatment. *Id.*

4. <u>Wage Statement Penalties, Waiting Time Penalties, and PAGA Penalties</u>

As a result of these alleged substantive violations, Plaintiffs contend that Defendants are liable for derivative wage statement penalties, waiting time penalties, and civil penalties under PAGA. *See* Rowbotham Decl., ¶ 27.

Defendants argue that the alleged wage statement violations were not "knowing and intentional," and that Plaintiffs cannot show they "suffer[ed] injury," as required by Labor Code § 226(e) for imposition of penalties. *See* Rowbotham Decl., ¶ 28; *see Amaral v. Cintas Corp.* (2008) 163 Cal.App.4th 1157, 1201. Defendants further contend that they possess strong good faith defenses to Plaintiffs' underlying claims, thereby precluding recovery of waiting time penalties, which are available only for the "willful" failure to pay wages. *See* Rowbotham Decl.,

¶ 28; *see* 8 Cal. Code Regs. § 13520. Defendants also maintain that, given their good faith defenses, this Court would exercise its discretion to substantially reduce any PAGA penalties if Defendants were found liable for Plaintiffs' underlying claims. *See* Rowbotham Decl., ¶ 28.

III. THE PROPOSED SETTLEMENT

A. ESSENTIAL TERMS OF THE SETTLEMENT

If the Court preliminarily approves the Settlement, Defendants will pay a Gross Settlement Amount of $8,400,000. *See* Settlement § 4. The Settlement is non-reversionary. *Id.*, § 4.C. Both Class Members and PAGA Aggrieved Employees will automatically receive their respective payments without submitting a claim form. *Id.*, 5. Defendants will fund the Gross Settlement Amount no later than 60 calendar days after the Court signs the order granting final approval. *Id.*, § 4.B.

The monetary terms of the Settlement are summarized as follows::

Gross Settlement Amount:	**$8,400,000**
Minus attorneys' fees (35%):	$2,940,000
Minus attorneys' costs (up to):	$100,000
Minus Class Representative Service Awards:	$20,000
Minus amount allocated to PAGA:	$400,000
Minus Settlement Administrator costs:	$31,990
Net Settlement Amount:	**$4,908,010**

1. The Settlement Provides for Reasonable Monetary Payments

After deducting court-approved attorneys' fees and costs, the Class Representative Service Awards, settlement administration costs, and the amount allocated as PAGA civil penalties, the remaining NSA of approximately $4,908,010 will be distributed to Class Members. *See* Settlement §§ 4.C.1-5, 5.A-B.i-ii. 20% of each Individual Class Payment will be classified as wages and 80% will be classified as interest and penalties. *Id.*, § 5.D. 100% of payments to PAGA Aggrieved Employees for PAGA civil penalties will be classified as penalties. *Id.*

Defendants' records indicate there are approximately 5,885 Class Members who worked during the Class Period. *See* Rowbotham Decl., ¶ 29. Based on the NSA allocations, Class Members will receive an average payment of $833.99. *Id.* Class Members will receive a Class Notice providing an opportunity to opt out, dispute, or object to the Settlement and will have at least 60 days to review the Notice. *Id.*, Exhibit 2; *see* Settlement §§ 10.E-10.G. Individuals who do not opt out of the Settlement will be bound by its terms and will release all claims that were asserted or could have been asserted based on the facts alleged in the Action or in Plaintiffs' respective letters to the LWDA. *See* Settlement §§ 3.A-B.

2. Attorneys' Fees, Costs, and Class Representative Service Awards

As part of the Settlement, Plaintiffs will apply for service awards of $10,000 each at the time of final approval for their service to the Settlement Class and for providing a general release of all claims, known or unknown, against Defendants. *See* Settlement §§ 3.C, 4.C.3, 7; *see In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1393-94("[I]ncentive awards…are intended to compensate class representatives for work done on behalf of the class [and] to make up for financial or reputational risk undertaken in bringing the action"). Plaintiffs' requested service awards recognize the significant benefits conferred on Class Members due to the time and effort they each expended on behalf of the Settlement Class. Specifically, Plaintiffs helped procure the Settlement by searching for and providing documents to their attorneys, discussing factual information regarding the claims and Defendants' policies and practices, assisting counsel in preparing for two mediations, making themselves available throughout both mediations to answer questions posed by the mediators, discussing the status of the case and the settlement agreement with their counsel, requesting updates on case progress, and otherwise helping move the case toward resolution. *See* Ryan Decl., ¶ 7; *see* Curley Decl., ¶ 6; *see* Rowbotham Decl., ¶ 30. Additionally, Plaintiffs undertook significant risks by agreeing to serve as the named plaintiffs (as potential employers can now search their names and see that they previously sued an employer) and by agreeing to a general release of all claims subject to a waiver of California Civil Code § 1542. *See* Rowbotham Decl., ¶ 30.

Class Counsel will also apply for an attorneys' fee award of $2,940,000 (35% of the GSA) and up to $100,000 in verified costs. *See* Settlement, §§ 4.C.4, 6. Plaintiffs submit that the requested fee is fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent fee basis. Class Counsel incurred substantial attorneys' fees by conducting pre-filing investigations, analyzing Plaintiffs' claims, performing legal research, reviewing documents and data produced by Defendants, building a damages model, preparing for and attending two mediations, overseeing a *Belaire-West* notice mailing to Class Members, interviewing and advising Class Members regarding the Action after they inquired about the *Belaire-West* notice, conducting extensive legal research and investigation into Defendants' CBAs before drafting and filing the MSA, negotiating and drafting the long-form Settlement Agreement, preparing this motion for preliminary approval, and otherwise litigating the case. *See* Rowbotham Decl., ¶ 31. Class Counsel will also expend future time attending the hearing on this Motion, overseeing the Notice process, drafting the final approval motion and supporting documents, and attending the final approval hearing, among other tasks. *Id*.

Both California and federal courts have recognized that an appropriate method for awarding attorneys' fees in class actions is to award a percentage of the "common fund" created as a result of the settlement. *See Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 506; *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 254. Historically, courts have awarded percentage fees in the range of 20% to 50%. *See* 4 Newberg on Class Actions § 14.6 (4th Ed. 2013). Class Counsel submits that the request for attorneys' fees is reasonable when viewed as a percentage of the Settlement in light of the risks and work undertaken, the positive results obtained for the class, and the efficiency with which the Parties conducted the litigation. Class Counsel will seek an award of attorneys' fees when seeking final approval.

IV. ARGUMENT

A. PRELIMINARY APPROVAL IS WARRANTED

California Rule of Court 3.769 conditions the settlement of a class action on court approval, which is generally evaluated under the federal standards applicable under Rule 23 of the Federal Rules of Civil Procedure. *See Reed v. United Teachers Los Angeles* (2012) 208 Cal.App.4th 322, 337; *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998) (stating that Rule 23(e) requires the trial court to determine "whether a proposed settlement is fundamentally fair, adequate, and reasonable"). Settlement is the preferred means of dispute resolution, particularly in complex class action litigation. *See In re Syncor ERISA Litigation*, 516 F.3d 1095, 1101(9th Cir. 2008). The Court's role in evaluating a proposed settlement is limited to ensuring that the agreement taken as a whole is fair and is not the product of fraud or collusion between the negotiating parties. *See e.g.*, *Hanlon*, *supra*, 150 F.3d at 1027. There is an initial presumption of fairness when the settlement agreement was negotiated at arm's length by class counsel. *See Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130.

1. Standard for Preliminary Approval

To make a fairness determination, the Court should consider several factors, including "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, [and] the experience and views of counsel." *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801. "The list of factors is not exclusive and the court is free to engage in a balancing and weighing of factors depending on the circumstances of each case." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224. As discussed below, the proposed Settlement is fair, adequate, and reasonable in light of the overall balance of factors in this case.

a. Strength of Plaintiffs' Case

Class Counsel carefully vetted the claims, reviewed extensive timekeeping and payroll records, examined relevant policy documents including the CBAs in effect during the class period, and analyzed that data to create a damages model for Defendants' potential liability. *See* Rowbotham Decl., ¶¶ 11-20, 32-34. While Plaintiffs believe their claims are meritorious, they acknowledge substantial risks and uncertainties associated with obtaining class certification, securing a favorable ruling on their MSA, and prevailing at trial. *Id*. As explained in Section II, Defendants raised numerous defenses on both the merits and certification. Although Plaintiffs were prepared to litigate through trial, success was not guaranteed. This factor supports preliminary approval.

b. Risk, Expense, Complexity, and Duration of Further Litigation

This Settlement was reached after an extensive informal exchange of classwide timekeeping and payroll records and other relevant information for mediation. *See* Rowbotham Decl., ¶ 32. Absent settlement, the Parties would have been required to expend substantial time and resources on additional written and deposition discovery, fully brief Plaintiffs' MSA, prepare for class certification, and proceed to trial. The Settlement therefore avoids the substantial risk, cost, and delay inherent in continued litigation, and this factor supports preliminary approval.

c. Risk of Maintaining Class Action Status

Before reaching the Settlement, Plaintiffs had not filed their motion for class certification. Given Defendants' arguments and defenses, there was a genuine risk that the Court could deny certification of one or more claims, preventing the case from proceeding on a classwide basis. Accordingly, this factor supports preliminary approval.

d. Amount Offered in Settlement Given Realistic Value of Claims

This proposed Settlement provides a fair and reasonable monetary recovery for the Class Members in the face of disputed claims. After analyzing the data provided by Defendants before mediation, Plaintiffs prepared a classwide exposure analysis and forecasted the Settlement Class's expected recovery for each claim as follows:

Meal Period Violations: **$3,696,000**

Based on the records produced for mediation, Plaintiffs' analysis shows that Class Members worked approximately 560,000 workweeks during the Class Period. See Rowbotham Decl., ¶ 33. Because Class Members regularly worked 12 to 16 hour shifts, it was extremely uncommon for any shift to be recorded at less than 5.0 hours. *Id*. Through numerous discussions with putative Class Members during the *Belaire-West* process regarding meal period practices at job sites, Plaintiffs determined a conservative estimate of three noncompliant meal periods per workweek, either late, short, or missed altogether. *Id*. Accordingly, Plaintiffs calculated Defendants' meal period exposure at $92,400,000 (560,000 workweeks x 3 meal violations per workweek x $55.00 average rate). *Id.*

Defendants assert that their CBAs satisfy the exemption from the meal period requirements under Labor Code § 512(e) and that they are not liable for any meal period violations. *See* Rowbotham Decl., ¶ 34. Even if the CBAs do not meet the exemption, Defendants maintain that they provided all required meal periods and that any facial violations in the records resulted from employee choice rather than company policy. *Id*. Defendants also argue that, in any event, the meal period claim is not suitable for class certification because individual inquiries would be required to determine whether each employee was provided a timely meal period, resulting in an unmanageable series of mini-trials. *Id*. Given these defenses, Plaintiffs discounted the maximum exposure by 80% for the risk of non-certification and by an additional 80% for the risk of losing on the merits, to arrive at a reasonable exposure of $3,696,000. *Id*.

<u>Rest Period Violations</u>: **$3,080,000**

Plaintiffs assert that Class Members were regularly required to interrupt, delay, or skip rest periods due to work demands on the job sites. *See* Rowbotham Decl., ¶ 35. Job assignments often required continuous physical labor on high-voltage installations, line construction, or substation projects where employees could not step away without halting crew progress or compromising safety. *Id*. Based on these conditions and discussions with putative Class Members during the *Belaire-West* process, Plaintiffs determined that Class Members suffered approximately four noncompliant rest periods per workweek. *Id.* Accordingly, Plaintiffs calculated Defendants' rest period exposure at $123,200,000 (560,000 workweeks x 4 rest violations per workweek x $55.00 average rate). *Id*.

Defendants maintain that the CBAs meet the requirements for exemption from statutory rest period rights. *See* Rowbotham Decl., ¶ 36. If the CBAs do not meet the exemption, Defendants argue they still authorized and permitted rest periods in accordance with California law. *Id*. Defendants also assert that this claim is unmanageable and not suitable for class certification because it requires individualized inquiries into whether each employee was authorized and permitted to take lawful rest periods and on which days. *Id.* Defendants further argue that because rest periods are not recorded, Plaintiffs will be unable to substantiate this claim with common proof, and it would instead turn on individualized accounts of rest period experiences, resulting in a series of mini-trials for each Class Member. *Id*. Given these defenses, Plaintiffs discounted the maximum exposure by 95% for the risk of non-certification and by 50% for the risk of losing on the merits, to arrive at a reasonable exposure of $3,080,000. *Id*.

<u>Failure to Reimburse Violations:</u> **$323,102**

Plaintiffs assert that Class Members were required to use their personal cell phones to communicate with supervisors and coworkers on job sites for work-related purposes, including coordinating tasks, reporting progress, and receiving daily assignments, without reimbursement. *See* Rowbotham Decl., ¶ 37. Based on discussions with numerous Class Members, Plaintiffs determined that employees routinely incurred work-related cellular usage each month and that a reasonable portion of a typical monthly cell phone bill attributable to business use was approximately $10.00. *Id*. Accordingly, Plaintiffs calculated Defendants' reimbursement exposure at $1,292,407 (560,000 workweeks ÷ 4.333 weeks per month x $10.00 monthly expense). *Id*.

Defendants maintain that no company policy required employees to use personal cell phones for work communications. *See* Rowbotham Decl., ¶ 38. Defendants assert that radios were provided on the job sites for all necessary communications and that any use of personal cell phones was a matter of employee choice rather than business necessity. *Id*. Defendants further argue that this claim is not suitable for class certification because individualized inquiries would be required to determine which employees used personal cell phones, when they were used, and for what purpose, resulting in an unmanageable series of mini-trials. *Id*. Given these defenses, Plaintiffs discounted the maximum exposure by 50% for the risk of non-certification and by 50% for the risk of losing on the merits, to arrive at a reasonable exposure of $323,102. *Id.*

<u>Wage Statement Violations</u>: **$675,000**

Based on the data produced by Defendants, 2,700 employees received approximately 290,000 wage statements during the one-year period relevant to wage statement penalties. *See* Rowbotham Decl., ¶ 39. Under Labor Code § 226(e), wage statement penalties are capped at $4,000 per employee. *Id*. Plaintiffs therefore calculated Defendants' maximum potential exposure at $10,800,000 (2,700 employees x $4,000 maximum penalty per employee). *Id*.

Defendants contend that employees cannot show they "suffer[ed] injury," as required by Labor Code § 226(e). *See* Rowbotham Decl., ¶ 40. Defendants argue that this claim is entirely derivative of Plaintiffs' underlying wage and hour theories and that employees were always paid all wages earned, with those amounts accurately listed on each wage statement. *Id*. Defendants further maintain that the wage statements accurately reflected employees' pay and hours worked, and therefore any alleged omission did not cause confusion, hinder wage verification, or result in any concrete harm. *Id*. Given these defenses, Plaintiffs discounted the value of this claim by 75% for the risk of non-certification of the underlying claims and by 75% for the risk of losing on the merits, arriving at an estimated exposure of $675,000. *Id*.

Waiting Time Penalties: **$3,712,500**

Based on the data produced by Defendants, 4,500 employees separated from their employment with Defendants during the three-year period relevant to waiting time penalties. *See* Rowbotham Decl., ¶ 41. Plaintiffs calculated Defendants' maximum potential waiting time penalty exposure at $59,400,000 (4,500 former employees x $55.00 average hourly rate x 8 hours per day x 30 days). *Id.*

Defendants contend they paid all final wages owed in good faith upon employees' separation, thereby precluding a finding of willfulness, which is required to recover waiting time penalties under 8 Cal. Code Regs. § 13520. *See* Rowbotham Decl., ¶ 42. Additionally, because this claim is derivative of Plaintiffs' underlying wage claims, Defendants argue that the waiting time penalty claim will fail if the underlying claims fail. *Id*. Given these defenses, Plaintiffs discounted the value of this claim by 75% for the risk of non-certification of the underlying claims and by 75% for the risk of losing on the merits, including the possibility of failing to establish willfulness, arriving at an estimated recovery of $3,712,500. *Id*.

PAGA Penalties: **$725,000**

Based on the data produced by Defendants, there were approximately 290,000 pay periods worked by PAGA Aggrieved Employees during the PAGA period. *See* Rowbotham Decl., ¶ 43. Given the recurring nature of the underlying Labor Code violations, Plaintiffs assumed they would be able to prove at least one PAGA violation for each applicable pay period, and therefore calculated Defendants' maximum PAGA exposure at $29,000,000 (290,000 pay periods x $100.00 per violation). *Id*.

However, these penalties derived from the underlying wage and hour violations which Defendants dispute. *See* Rowbotham Decl., ¶ 44; *see e.g.*, *Green v. Lawrence Service Co.* (C.D. Cal. 2013) 2013 WL 3907506, *5, n.5 (explaining that a PAGA claim's success was determined by the merits of its underlying claims). Plaintiffs also recognize that the Court has discretion to reduce any award of PAGA penalties where it views them as duplicative. *See* Rowbotham Decl., ¶ 44*; see Carrington v. Starbucks Corp*. (2018) 30 Cal.App.5th 504, 529 (affirming reduction of PAGA penalties to $5 per initial violation). Plaintiffs further acknowledge that the scope of the PAGA claim may be narrowed due to manageability concerns, such as extensive individualized jobsite and supervisor practices, thus warranting a discount in projected exposure. *See Estrada v. Royalty Carpet Mills, Inc*. (2024) 15 Cal.5th 582, 619 (confirming trial courts may limit the evidence presented at trial or otherwise limit the scope of a PAGA claim to ensure it can be effectively tried). Plaintiffs therefore discounted the maximum figure by 75% for the risk of the scope of the PAGA claim being narrowed and an additional 90% to account for the likelihood of this Court reducing penalties, to arrive at an estimated exposure of $725,000. *See* Rowbotham Decl., ¶ 44.

Using the estimated figures for each of the claims described above, Plaintiffs estimate that the potential recovery for the Settlement Class would be approximately $12,211,602. *See* Rowbotham Decl., ¶ 45. The Gross Settlement Amount of $8,400,000 represents approximately 68.79% of this figure, a strong result that provides substantial monetary relief to Class Members without the uncertainty, delay, or expense of further litigation. *Id*. Several of Plaintiffs' claims, including the exemption claims, present all-or-nothing outcomes that could substantially reduce or eliminate recovery if Plaintiffs do not prevail. *Id*. The Settlement therefore represents a fair and reasonable compromise that delivers meaningful relief for uncertain claims while eliminating the risk of a significant loss at trial. Considering these risks, along with the Court's authority to reduce civil penalties, the Settlement falls well within the range of being fair, reasonable, and adequate. *See e.g., Altamirano v. Shaw Industries, Inc*, (N.D. Cal. 2015) 2015 WL 4512372, at *9 (preliminarily approving a 15% "modest fraction of the hypothetical maximum recovery").

e. <u>Experience and Views of Counsel</u>

"Parties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation." *In re Pacific Enterprises Securities Litigation*, 47 F.3d 373, 378 (9th Cir. 1995). Here, Plaintiffs are represented by competent and experienced counsel who possess extensive experience litigating wage and hour class actions from both the plaintiff and defense side and have been appointed as class counsel in numerous cases alleging similar claims. *See* Rowbotham Decl., ¶¶ 2-8. Class Counsel conducted an extensive review of Defendants' records produced for two separate mediations as well as relevant policies in effect during the Class Period. *Id.*, ¶ 46. Class Counsel also drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiffs' case. *Id.*, ¶ 33-44, 46. The Settlement was also reached with the input and assistance of Steve Mehta, Esq., a wage and hour class action mediator. *Id.*, ¶ 46. This factor strongly supports preliminary approval of the Settlement. *See Kullar*, *supra*, 168 Cal.App.4th at 130.

2. <u>Preliminary Approval Standard is Met</u>

At this stage, the Court can grant preliminary approval of the Settlement and direct that the Class Notice be given if the proposed Settlement: (1) falls within the range of possible approval; (2) appears to be the product of serious, informed, and non-collusive negotiations; and (3) has no obvious deficiencies. *See* Manual for Complex Litigation § 30.41(3rd Ed. 1995); 4 Newberg on Class Actions § 11:24-25 (4th Ed. 2013).

a. <u>Settlement is Within the Range of Possible Approval</u>

The proposed Settlement reflects an excellent recovery for the Class Members in light of the significant risks of litigation. The proposed Settlement will provide substantial compensation for contested claims and derivative penalties, and the estimated average payment of $833.99 greatly exceeds the average payment achieved in other wage and hour class action settlements. *See e.g., Schiller v. David's Bridal, Inc.*, Case No. 1:10-cv-00616-AWI-SKO, 2012 WL 2117001, at *17 (E.D. Cal. June 11, 2012) ($198.70 gross recovery per class member considered substantial recovery). Plaintiffs submit that the proposed Settlement is within the range of possible approval, such that notice should be provided to the Class Members so they can consider the Settlement. The Court will have the opportunity to again assess the reasonableness of the Settlement after the Class Members have had the opportunity to opt-out or object.

b. <u>Settlement Resulted from Informed and Non-Collusive Negotiations</u>

This proposed Settlement is entitled to an initial presumption of fairness (*see Kullar*, *supra*, 168 Cal.App.4th at 130) as it is the result of the exchange of substantial information, including timekeeping and payroll data which was analyzed by Plaintiffs' counsel, arm's length negotiations by counsel; two mediations before an experienced wage and hour class action mediators; and additional months of negotiating and finalizing the terms of the long-form Settlement Agreement. *See* Rowbotham Decl., ¶¶ 18-20, 46. Thus, the proposed settlement is entitled to an initial presumption of fairness. *See Kullar*, *supra*, 168 Cal.App.4th at 130.

c. Settlement is Devoid of Obvious Deficiencies

The Settlement will provide substantial monetary relief to Class Members. Moreover, the amounts proposed for Plaintiffs' Service Awards, settlement administration costs, attorneys' fees and costs to Class Counsel, and the LWDA's share of PAGA penalties are all reasonable and appropriate. Because the Settlement is devoid of obvious deficiencies, this final factor supports preliminary approval.

B. COURT SHOULD CERTIFY THE PROPOSED SETTLEMENT CLASS

The proposed Settlement Class satisfies the criteria for certification of a settlement class under California law because: (1) the individuals in the Settlement Class are so numerous that joinder would be impractical; (2) common questions of law and fact predominate over individual questions such that class certification is the most efficient and desirable way to maintain this litigation; (3) Plaintiffs' claims are typical of the claims of the absent Class Members; and (4) Plaintiffs and their counsel will fairly and adequately represent the interests of the absent Class Members. *See* Cal. Code Civ. Proc. § 382.

1. Proposed Class is Ascertainable and Numerous

A class is "ascertainable" where the members "may be readily identified without unreasonable expense or time by reference to official [or business] records." *See Sevidal v. Target Corp.* (2010) 189 Cal.App.4th 905, 919 (alterations in original). Here, the proposed Settlement Class is defined as all employees employed by Defendants in California as nonexempt hourly electrical installation employees, Linemen, Foremen, and/or any other similar job title or position during the Class Period. According to Defendants' records, the Settlement Class consists of approximately 5,885 individuals, rendering it impracticable to gather all the Class Members and bring them before the Court. *See* Rowbotham Decl., ¶ 47. Thus, the proposed Settlement Class satisfies the numerosity requirement.

2. Common Issues of Law and Fact Predominate

The focus in a certification dispute is not on the merits of the case, but rather on what types of questions, "common or individual," are likely to arise in the action. *See Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 327. Here, Plaintiffs' claims are predicated on uniform company policies, principally revolving around Defendants' CBAs and policies and practices for their timekeeping, expense reimbursements, and meal and rest periods. These types of claims are commonly held to be proper for class certification. *See, e.g.*, *Brinker Restaurant Corp. v. Super. Ct.* (2012) 53 Cal. 4th 1004, 1040.

3. Claims of the Named Plaintiff Are Typical

The typicality requirement is satisfied where class representatives have claims that are typical of those of the rest of the class. *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1347. Here, Plaintiffs' claims are typical of those of the proposed Settlement Class. Like other Class Members, Plaintiffs were employed by Defendants in California during the Class Period and were impacted by the same wage and hour violations. *See* Ryan Decl., ¶ 2-5; *see* Curley Decl., ¶ 2-4. Plaintiffs were impacted by the same challenged policies that allegedly injured the Settlement Class as a whole and were subject to the same defenses raised by Defendants. Plaintiffs' claims are therefore typical.

4. Plaintiffs and Class Counsel Will Adequately Represent the Class

The adequacy of representation requirement examines conflicts of interest between named parties and the class(es) they seek to represent. *See Capitol People First v. Department of Developmental Services* (2007) 155 Cal.App.4th 676, 697. Here, Plaintiffs and Class Counsel will adequately represent the Settlement Class, as there are no conflicts between Plaintiffs and the Settlement Class they seek to represent, and Plaintiffs possess claims that are in line with those of the Class. *See McGhee v. Bank of America* (1976) 60 Cal.App.3d 442, 450 (finding adequacy satisfied where there was no indication that the plaintiff's counsel were not qualified and the named plaintiff had no interests antagonistic to those of the proposed class). Class Counsel also has extensive experience in wage and hour class action litigation. *See* Rowbotham Decl., ¶¶ 2-8; *see* Declaration of Paul K. Haines ("Haines Decl."), ¶¶ 2-11; *see* Declaration of Fletcher W. Schmidt ("Schmidt Decl."), ¶¶ 2-9; *see* Declaration of Susan J. Perez ("Perez Decl."), ¶¶ 2-5; *see* Declaration of Michael D. Singer ("Singer Decl."), ¶ 3-12; *see* Declaration of Rosemary C. Khoury ("Khoury Decl."), ¶ 3-7; and *see* Declaration of Brad Nakase ("Nakase Decl."), ¶ 2-3.

C. COURT SHOULD ORDER DISTRIBUTION OF THE CLASS NOTICE

The Court should order distribution of the proposed Class Notice to Class Members by first-class mail, postage prepaid, using the last known addresses provided by Defendants. This method is the "best notice practicable" because it provides "individual notice to all members who can be identified through reasonable effort." *See Eisen v. Carlisle and Jacquelin* 417 U.S. 156, 173 (1974). Plaintiffs propose that Apex Class Action Administration ("Apex"), an experienced settlement administrator, administer the Settlement. *See generally* Declaration of Sean Hartranft. Defendants will provide Apex with personnel and payroll records from which Class Members' addresses can be obtained, and Apex will update those addresses through the National Change of Address database before mailing. *See* Settlement, §§ 10.A–10.B.

The proposed Class Notice complies with California Rule of Court 3.766(d) because it informs Class Members of the nature of the claims, key Settlement terms, deadlines and procedures to opt out or object, the recovery formula and estimated recovery for each Class Member, and that they will be bound if they do not opt out. *See* Rowbotham Decl., Exhibit 2 (Class Notice). It also advises Class Members of the final approval hearing date, provides Class Counsel's contact information, and informs them they may appear through counsel. *Id.* This notice satisfies Rule 3.766(e) as the most reliable and cost-effective means of reaching Class Members.

D. COURT SHOULD SET A FINAL APPROVAL HEARING

Finally, this Court should set a hearing for final approval of the Settlement on a date appropriately scheduled to follow the deadline by which Class Members must file objections to the Settlement or opt-out. *See* California Rule of Court 3.769.

V. CONCLUSION

For these reasons, Plaintiffs respectfully request that the Court preliminarily approve the proposed Settlement, provisionally certify the Settlement Class, and enter the proposed order submitted concurrently herewith.

Dated: October 29, 2025

HAINES LAW GROUP, APC

By: ______________________

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