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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

MARC JOSEPH HIDALGO, on behalf of the State of California and other aggrieved persons,

Plaintiff,

vs.

ANDERSON ENTERPRISES, INC. DBA ROYAL AUTOMOTIVE GROUP/ROYAL MOTOR SALES, a California corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: CGC-21-596356

[Assigned to the Hon. Joseph M. Quinn, Dept. 302]

PLAINTIFF'S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

PRELIMINARY APPROVAL HEARING
Date: July 31, 2026
Time: 9:00 a.m.
Dept: 302

[Filed concurrently with the Parties' Stipulation Re Class Action Settlement]

Complaint filed: November 1, 2021
FAC filed: April 3, 2026
Trial date: None Set

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Plaintiff Marc Joseph Hidalgo ("Plaintiff") responds herein to the Court's May 22, 2026 Order regarding deficiencies in Plaintiff's Motion for Preliminary Approval of Settlement (the "Motion"). As discussed in detail below, in addition to the arguments made in the Motion, the proposed Settlement is the result of adversarial, arm's-length negotiations and satisfies all criteria for approval under California law.

I. CERTIFICATION IS APPROPRIATE

As discussed in the Motion, class certification requires proof (1) of a sufficiently numerous, ascertainable class, (2) of a well-defined community of interest, and (3) that certification will provide substantial benefits to litigants and the courts, i.e., that proceeding as a class is superior to other methods. (Motion at 16:7-17.)

A. <u>The Class is Ascertainable and Numerous</u>

Plaintiff's First Amended Complaint ("FAC") defines the putative class as "All persons who worked for any Defendant in California as an hourly-paid or non-exempt employee at any time during the period beginning four years before the filing of the initial complaint in this action and ending on the first day of trial in this matter" ("Class Members"). (FAC ¶ 28.) The parties' Class Action Settlement Agreement (the "Agreement") defines Class Members more specifically as all non-exempt employees who worked for Defendant or any Released Party in California during the Settlement Period "from January 1, 2019, through the date on which the Court grants Preliminary Approval of this Settlement." (Agreement §§ 1 ("Class"), 25 ("Settlement Period"), 26 ("Released Parties").) Either is sufficient to allow class members to identify themselves as having a right to recover. (*ABM Industries Overtime Cases*, (2017) 19 Cal.App.5th 277, 303.) Moreover, Defendant Anderson Enterprises, Inc. dba Royal Automotive Group/Royal Motor Sales ("Defendant") was able to identify 219 Class Members from its payroll records based on these descriptions. (Declaration of Conor J.D. Gomez In Support of the Motion ("Class Counsel Decl. Decl.") ¶ 15; Motion at 17:28-18:2.) The putative class is thus both ascertainable and numerous.

B. <u>A Well-Defined Community of Interest Exists</u>

A community of interest exists where 1) questions of law or fact predominate, 2) the class representative's claims or defenses are typical of the class, and 3) the class representatives can

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adequately represent the class. (Motion at 16:18-22 (citing *Richmond v. Dart Indus., Inc*. (1981) 29 Cal. 3d 462, 470).)

1. Common Questions Predominate

In advance of mediation with Lisa Klerman, Esq. ("Mediator"), Defendant produced "a sample of time and pay records for the Class," as well as "its wage and hour policies and practices [in effect] during the Settlement Period." (Class Counsel Decl. ¶ 5.) The FAC expressly alleges that common questions of law and fact exist regarding the violations alleged, (FAC ¶ 34), and Plaintiff contends not only that the factual and legal issues are the same for all the identified Class Members, including Plaintiff, but also that all Class Members suffered from, and seek redress for, the same alleged injuries. (Motion at 18:26-19:7.) In light of Plaintiff's allegations, given all available evidence and for purposes of settlement only, Plaintiff and his consultant considered Defendant's policies and practices to be uniform for the Class as a whole. (Class Counsel Decl. ¶¶ 6, 15-22.) For example, Plaintiff concluded that "Defendant had a [uniform] policy and practice of: requiring its employees to work 'off-the-clock' prior to clocking in for the workday, during meal periods, and after clocking out for the workday, time which it did not pay for; not providing its employees with California compliant meal and rest periods, which it did not pay appropriate premiums for." (*Id*. ¶ 16.) The same statutory remedies are available for the alleged class-wide injuries, and all are subject to the same defenses, rendering the Class "sufficiently cohesive to warrant adjudication by representation." (Motion at 18:23-24 (citing *Clothesrigger, Inc. v. GTE Corp*. (1987) 191 Cal.App.3d 605).)

Negotiations, facilitated by the Mediator, were thus based on claims subject to common proof, as reflected in Plaintiff's exposure analysis, and were settled accordingly. (Class Counsel Decl. ¶¶ 7, 17-22.)

2. Plaintiff's Claims are Typical

"Typicality" refers to "the proposed representative's claims as they relate to the defendant's conduct and activities." (Motion at 19:9-14 (citing *Classen v. Weller* (1983) 145 Cal.App.3d 27, 47).) Here, as described above, all Class claims, including Plaintiff's, arise from Defendant's uniform practices and course(s) of conduct and rest on the same legal theories regarding

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Defendant's liability for failing to comply with the Labor Code and relevant Wage Orders. (*See also* Declaration of Plaintiff Marc Joseph Hidalgo In Support of the Motion ("Hidalgo Decl.") ¶ 3.) Plaintiff's claims are thus typical of the Class.

3. Adequacy is Satisfied

In short, Plaintiff is represented by counsel qualified to conduct the pending litigation, and Plaintiff's interests are aligned with, rather than antagonistic to, those of the Class. (Motion at 19:22-25 (citing *McGhee v. Bank of America* (1976) 60 Cal.App.3d 442, 451).)

Class Counsel have demonstrably extensive experience in complex litigation, including wage and hour class actions. (Motion at 19:26-20:2 (citing Class Counsel Decl. ¶¶ 36-58; *Miller v. Woods* (1983) 148 Cal.App.3d 862, 875).) In addition, Plaintiff has acted consistently in the best interests of the Class to achieve the best result possible for all Class Members, not just himself. (Motion at 20:2-7 (citing *McGhee*, *supra,* 60 Cal.App.3d at 451); *see also* Hidalgo Decl. ¶¶ 12-17).)

C. Proceeding as a Class Is Superior

Finally, proceeding as a class is superior to any alternative method, including by litigating Class Members' claims individually. (Motion at 20:9-16 (citing *Gentry v. Super. Ct.* (2007) 42 Cal.4th 443, 457-62; *Leyva v. Medline Ind.* (9th Cir. 2013) 716 F.3d 510, 515).) In the interests of justice and judicial economy, given the risk of inconsistent outcomes and the potential expenditure of resources if 219 putative class members were required to file individual claims, class treatment of the claims at issue is superior.

II. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

Settlement is favored, and settlement agreements are realistically assessed, including based on the strength of plaintiff's case, the risk, expense, complexity, and likely duration of further litigation, the risk of maintaining class action status through trial, and the amount offered in settlement. (Motion at 8:23-9:2 (citing *Stamburgh v. Super. Ct.* (1976) 62 Cal.App.3d 231, 236; *Kullar v. Foot Locker Retail, Inc*. (2008) 168 Cal.App.4th 116, 128).)

While Plaintiff is confident in the merits of his claims, a legitimate controversy exists as to each cause of action. (Motion at 9:13-4 (citing Class Counsel Decl. ¶ 23).) Furthermore, Plaintiff

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recognizes that proving the amount of wages due to each Class Member would be expensive, time-consuming, and uncertain. (*Id*. at 9:14-16.) Continued litigation would mean a significant expenditure of time and resources by the Parties on formal discovery, class certification, evidentiary disputes, trial, and, potentially, appeals. This Settlement avoids the risks and expense of further litigation, including the expenditure of limited court resources, by providing certain relief to Class Members within a year (approximately) rather than in a few years or more, if at all. (*Id*. at 9:16-24.)

Plaintiff and Class Counsel believe the proposed Settlement is fair, reasonable, and adequate for the following reasons.

A. <u>A Presumption of Fairness Exists</u>

As explained in the Motion, a settlement is presumptively fair where 1) the settlement is reached through arm's-length bargaining, 2) investigation is sufficient to allow counsel and the court to act intelligently, 3) counsel is experienced in similar litigation, and 4) the percentage of objectors is small. (Motion at 7:11-13 (citing *Dunk*, 48 Cal.App.4th at 1800.) For the reasons discussed therein, fairness should be presumed. (*Id*. at 7:14-8:21.)

B. <u>Strength of Claims and Risks of Continued Litigation</u>

Based on Plaintiff's discovery and investigation, Class Counsel concluded that Defendant had the following unlawful uniform policies and practices: requiring employees to work before clocking in for the workday, during meal periods, and after clocking out for the workday, time which is "off-the-clock" and thus not compensated; failing to provide employees with legally compliant meal and rest periods or pay premium wages in lieu thereof; and failing to reimburse its employees for necessary business expenses. (Motion at 9:7-12 (citing Class Counsel Decl. ¶ 16).) However, a settlement does not have to provide 100% of the damages sought to be considered fair and reasonable. (*See Rebney v. Wells Fargo Bank* (1991) 220 Cal.App.3d 1117, 1139.) Thus, although the exposure Class Counsel calculated is substantial, the various risks inherent in class certification and through trial significantly affected the valuation of the claims for purposes of settlement. (Class Counsel Decl. ¶¶ 14, 15.)

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1. Class Claims

Minimum and Overtime Wages: Plaintiff alleges that Defendant required Class Members to perform work off the clock, without compensation. (Class Counsel Decl. ¶ 16.) For purposes of liability, Class Counsel estimated one (1) hour of unpaid worktime per workweek per Class Member paid at the overtime rate of pay. Defendant's potential exposure for this claim is approximately $724,342.50 (22,995 workweeks x $21.00 average hourly rate of pay x 1 hour/workweek x 1.5 overtime rate). Because this claim would have relied heavily on Class Member testimony, the risk of failing to meet the burden of proof at class certification and trial was substantial. Accordingly, Class Counsel discounted the exposure by 80% to account for the difficulty of certifying a class and/or prevailing at trial on the merits, yielding a realistic estimate of approximately $144,868.50 ($724,342.50 x .2). (*Id*. ¶ 17.)

Meal Periods: Plaintiff alleged that Defendant failed to provide Class Members with legally compliant meal periods or pay meal period premiums in lieu thereof. (Class Counsel Decl. ¶ 18.) Additionally, Plaintiff's consultant analyzed the sampling of Defendant's time and payroll records and estimated a 60% meal period violation rate. Therefore, potential liability for the meal period claim is approximately $1,361,763.90 ((22,995 weeks x .6) x $21.00 average hourly rate x 4.7 shifts over 5 hours). After taking into account the difficulty of certifying and proving meal period claims, as well as Defendant's contention that the claim lacks merit, particularly in light of a record of paid meal period premiums, Class Counsel discounted the exposure by 80% to account for the difficult of certifying a class and prevailing at trial, yielding a realistic estimate of approximately $272,352.78 ($1,361,763.90 x .2). (*Id*.)

Rest Periods: Plaintiff alleges that Defendant failed to provide Class Members with legally compliant rest periods or pay rest period premiums in lieu thereof. (Class Counsel Decl. ¶ 19.) Class Counsel applied a 50% violation rate to all qualifying shifts during the Class Period based on Plaintiff and other Class Members' experience working for Defendant. Therefore, Defendant's potential liability for the rest period claim is approximately $1,134,803.25 ((22,995 weeks x .5) x $21.00 average hourly rate x 4.7 shifts of 3.5 hours or longer). However, because rest periods do not have to be recorded, and Class Members may voluntarily forego them, this claim would have

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relied almost exclusively on Class Member testimony. Accordingly, Class Counsel discounted the exposure by 90% to account for the difficulty of certifying and proving rest period claims, yielding a realistic estimate of approximately $113,480.325 ($1,134,803.25 x .1). (*Id.*)

<u>Reimbursement</u>: Plaintiff alleges that Defendant failed to indemnify Class Members for expenses incurred in the performance of their duties, such as mandatory work-related use of personal cell phones. (Declaration of Karen L. Wallace ("Wallace Decl.") ¶ 6.) For purposes of liability, Class Counsel estimated $5.00 in unreimbursed expenses per workweek per Class Member, for a total of approximately $114,975.00 ($5 x 22,995 workweeks). Based on Defendant's contentions that such expenses were not mandatory and that Class Members could have requested reimbursement but didn't, Class Counsel discounted exposure by 80% based on the difficulty of certifying a class and prevailing at trial, yielding a realistic estimate of approximately $22,995 ($114,975 x .2). (*Id.*)

In sum, Class Counsel estimated that maximum recovery for the Class for off-the-clock work, meal periods, rest periods, and unreimbursed expenses is approximately $3,243,904.65. (Wallace Decl. ¶ 7.) However, after factoring in the risk and uncertainty of certifying a class and prevailing at trial, Class Counsel estimates that a realistic estimated recovery for the Class for these claims is approximately $553,696.61. (*Id.* ¶ 8.)

<u>Derivative Penalties</u>: Plaintiff alleges that Defendant owed waiting time penalties and wage statement penalties. (Class Counsel Decl. ¶ 21.) Plaintiff's analysis used the following benchmarks: approximately 110 terminated Class Members during the 3-year statute of limitations period; and approximately 171 class members who worked approximately 6,200 pay periods during the 1-year statute of limitations period. (*Id.* ¶¶ 15, 21; Wallace Decl. ¶ 9.) Class Counsel estimates that Defendant's maximum potential exposure for waiting time penalties is $554,400 (110 employees x $21 average hourly rate x 8.00 hours/day x 30 days). (Class Counsel Decl. ¶ 21.) Defendant's estimated maximum potential exposure for inaccurate wage statements is $611,450.00 (($50 initial violation x 171 employees) + ($100 subsequent violation x 6,029 pay periods)), making Defendant's estimated maximum exposure for statutory penalties approximately $1,165,850. (*Id.*; *see also* Wallace Decl. ¶ 10.) Considering that the underlying claims are

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realistically estimated to be $553,696.61, such a disproportionate award would raise due process concerns in addition to other risk factors, and Plaintiff applied a discount of 80%, making Defendant's realistic exposure for statutory penalties a total of $233,170 ($1,165,850 x .2). (Class Counsel Decl. ¶ 21; *see also* Wallace Decl. ¶¶ 10, 11.)

Excluding civil penalties under PAGA, Defendant's estimated realistic total exposure for the class claims is $786,866.61 ($553,696.61 + $233,170). (Wallace Decl. ¶ 12.) Accordingly, the Gross Settlement Amount, excluding the $20,000 allocation for PAGA Penalties, thus represents approximately 62% of the realistic maximum recovery of $786,866.61 (($510,000 – $20,000) / $786,866.61). (*Id*. ¶ 13.)

2. PAGA Penalties

The Parties allocated $20,000 from the Gross Settlement Amount to cover the PAGA claim for civil penalties, which represents approximately 4% of the Gross Settlement Amount. (Wallace Decl. ¶ 14.)

<u>Civil Penalties</u>: Using the same underlying benchmarks of 6,200 pay periods within the 1-year statute of limitations period and 171 PAGA Eligible Employees, Plaintiff estimated that Defendant's maximum potential exposure for civil penalties is $620,000.00 based on the default $100 penalty per pay period ($100 x 6,200). (*See* Class Counsel Decl. ¶ 21; Wallace Decl. ¶ 15.) Again, considering that the underlying claims are realistically estimated to be $553,696.61, such a disproportionate award would raise due process concerns in addition to other risk factors, and Plaintiff applied a discount of 80%, making Defendant's realistic exposure for civil penalties a total of $124,000. The agreed-upon PAGA Penalties thus represent approximately 16% of the estimated total realistic exposure. (Wallace Decl. ¶ 16.)

As noted above and in the Motion, the total PAGA Penalties represent approximately 4% of the Gross Settlement Amount, which far exceeds amounts that are routinely approved. (Motion at 13:24-14:18 (citing Class Counsel Decl. ¶ 21).)

C. <u>The Gross Settlement Fund Is Reasonable</u>

In order to approve a class action settlement, the Court must satisfy itself that the class settlement is within the "ballpark" of reasonableness. (*Kullar*, 168 Cal.App.4th at 133.) The fact

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that a plaintiff might have received more if the case had been fully litigated is no reason not to approve the settlement. (*Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447.)

The proposed Gross Settlement Amount of $510,000 represents a substantial recovery when compared to Plaintiff's reasonably forecasted recovery. (Class Counsel Decl. ¶¶ 14-26; Wallace Decl. ¶¶ 4-17.) Indeed, the Gross Settlement Amount allocated to class claims, excluding the PAGA Penalties, represents approximately 62% of the realistic maximum recovery of $786,866.61. (Wallace Decl. ¶ 12.) Furthermore, although Class Counsel estimated that Defendant's maximum potential liability for all claims, including PAGA Penalties, was approximately $4 million, weighed against the risk of certifying a class and prevailing at trial, Class Counsel believes that Defendant's realistic exposure was $910,866.61, meaning the Settlement achieves a significant recovery of approximately 56% of that amount. (*Id*. ¶ 17; *see also* Class Counsel Decl. ¶¶ 14-26.) This is an excellent result for the Class, and the average Individual Class Payment for each Class Member is approximately $1,306.16. (Class Counsel Decl. ¶¶ 22, 26.) Because of the proposed Settlement, Class Members will receive timely, guaranteed relief and avoid the risk of an unfavorable judgment. (Class Counsel Decl. ¶ 22)

Taken as a whole, considering the risks of further litigation, the burdens of proof necessary to establish liability, and the probability of appeal of a favorable judgment, it is clear that the Settlement is within the "ballpark" of reasonableness, and preliminary approval of the settlement is appropriate.

D. The PAGA Allocation is Reasonable

Where settlements negotiate a good faith amount for PAGA penalties and "there is no indication that this amount was the result of self-interest at the expense of other" class members, such amounts are generally considered reasonable. (Motion at 13:24-27 (citing *Hopson v. Hanesbrands Inc.* (N.D. Cal. Apr. 3, 2009) No. CV-08-0844 EDL, 2009 WL 928133 at *1, 9).) Courts have approved amounts for PAGA penalties in the range of zero to two percent of the total maximum amount of the Settlement. (Motion at 13:27-14:4 (citing *Hopson*, 2009 WL 928133 at *1, 9 [approving a PAGA payment of 0.3%, or $1,500]; *Jack v. Hartford Fire Ins. Co.* (S.D. Cal. Oct. 13, 2011) 2011 WL 4899942 at *6 [approving a PAGA payment of 0.25%]; *McKenzie v. Fed.*

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Express Corp. (C.D. Cal. Jan. 23, 2012) 2012 WL 12882124 at *5 [acknowledging that courts approve PAGA claim settlements in the range of zero to two percent of the total settlement]).)

Here, the Parties negotiated PAGA Penalties in the amount of $20,000.00, with 75% ($15,000.00) allocated to the LWDA and 25% ($5,000.00) allocated to Aggrieved Employees. (Motion at 14:11-13.) The amount is larger than many seemingly nominal PAGA settlement amounts approved by the courts. (Motion at 14:5-13 (citing *Zubia v. Shamrock Foods Co*. (C.D. Cal. Dec. 21, 2017) No. CV1603128ABAGRX, 2017 WL 10541431, at *14 [approving a PAGA settlement of 0.1%]; *Hopson*, 2009 WL 928133, at *9 [approving a PAGA settlement of $1,500, or 0.3% of estimated $406,118 GSA]; *Garcia v. Gordon Trucking, Inc*. (E.D. Cal. Oct. 31, 2012) No. 1:10-CV-0324 AWI SKO, 2012 WL 5364575, at *3 [approving a PAGA settlement of 0.27%]).) Furthermore, taking into consideration the estimated $553,696.61 realistic value of the underlying claims, the theoretical maximum exposure of approximately $620,000 is disproportionate and would raise due process concerns in addition to other risk factors. Accordingly, Plaintiff applied a discount of 80%, making Defendant's realistic exposure for civil penalties a total of $124,000. The agreed-upon PAGA Penalties thus represent approximately 16% of the estimated total realistic exposure. (Wallace Decl. ¶ 16.)

In short, the PAGA Penalties represent 4% of the Gross Settlement Amount, which is reasonable here. (*Id*. at 14:15-18 (citing Class Counsel Decl. ¶ 21).)

E. The Proposed Attorneys' Fees and Costs Are Reasonable

Under the Settlement, subject to the Court's approval, Defendant agrees to pay Class Counsel the Class Counsel Attorneys' Fees and Class Counsel Attorneys' Costs. These amounts are disclosed to all Class Members in the proposed Notice and are reasonable.

1. Common Fund Theory

Class Counsel seeks approval of the Class Counsel Attorneys' Fees based on the "percentage of recovery/common fund" theory. The purpose of this approach is to "spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." (Motion at 11:13-17 (citing *Vincent v. Hughes Air West, Inc*. (9th Cir. 1977) 557 F.2d 759, 769).) As noted previously, one-third (1/3) of the Gross Settlement

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Amount, which is in line with the prevailing guidelines established in California case law and academic literature and is consistent with awards in California. (Motion at 12:17-21 (citing *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11).)

2. Lodestar Method as Cross-Check

Where "percentage-of-recovery" or common fund method calculates the fee as a percentage of a common fund recovered on behalf of the class, the lodestar method calculates the fee by multiplying the number of hours reasonably expended by counsel by a reasonable hourly rate, which amount may be adjusted based on other factors. *Laffitte v. Robert Half Int'l, Inc.*, 1 Cal.5th 480, 489 (2016). In *Laffitte*, the California Supreme Court held that trial courts have discretion to blend the methods, using one to "cross-check" the reasonableness of the other, though a cross-check is not required. *Id*. at 506. Once calculated based on number of hours times a reasonable hourly rate, the lodestar may be adjusted, based on factors specific to the case, to fix the fee at fair market value for the legal services provided. *PLCM Group, Inc. v. Drexler*, 22 Cal.4th 1084, 1095 (2000). Such factors include "the nature of the litigation, its difficulty, the amount involved, the skill required in its handling, the skill employed, the attention given, the success or failure, and other circumstances in the case." *Melnyk v. Robledo*, 64 Cal.App.3d 618, 623-624 (1976) (citations omitted). Courts also use "multipliers" to account for the risk of taking on cases where there is no guarantee of recovery, uncertainty as to the amount that can be recovered, uncertainty as to the cost of litigating the case (both in effort and expenses), and uncertainty about how long before the recovery can be obtained. *Ketchum v. Moses*, 24 Cal.4th 1122, 1132-33 (2001); *see also Serrano v. Priest*, 20 Cal. 3d 25, 48-49 (1977) (approving the adjustment of the lodestar figure based on factors specific to the case to ensure fair market value for legal services provided on a contingency basis). Multipliers are particularly appropriate where the case is brought to redress important rights of vulnerable persons. *Ketchum*, 24 Cal.4th at 1133.

Here, Class Counsel's lodestar supports the reasonableness of the requested fees. The total hours expended on this action by Class Counsel were reasonable and in line with comparable cases. Class Counsel estimate they spent approximately 147.5 hours prosecuting

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the Action, which were divided among the attorneys at each firm working on this case according to skill level. (Wallace Decl. ¶¶ 18-20, Ex. A.) Multiplying the total hours expended by Class Counsel by their reasonable hourly rates yields a lodestar of $124,977.50, which does not include the time Class Counsel will spend at the Final Approval Hearing and assisting the Administrator following final approval. This amount results in a modest 1.36 multiplier. (*Id*. ¶¶ 21, 22.)

F. Plaintiff Submitted Notice of the Proposed Settlement to the LWDA

On April 9, 2026, Plaintiff submitted a copy of the proposed Class Action and PAGA Settlement Agreement and the Motion to the Labor and Workforce Development Agency ("LWDA"). (*Id*. ¶ 32, Ex. E.)

III. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant preliminary approval of the proposed Settlement and set a final approval hearing on or after November 30, 2026.

Respectfully submitted,

Dated: July 21, 2026 WILSHIRE LAW FIRM, PLC

By: ______________________
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Alan Wilcox
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Attorneys for Plaintiff

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