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8 MCKENNA MCKENZIE, and all others similarly situated
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9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF CONTRA COSTA**
12 **(UNLIMITED JURISDICTION)**

13 MCKENNA MCKENZIE, on behalf of herself,
14 all others similarly situated, the general public,
and as an “aggrieved employee” on behalf of
15 other “aggrieved employees” under the Labor
Code Private Attorneys General Act of 2004,

16 *Plaintiff(s),*

17 vs.

18 RED DOOR ESCAPE ROOM, LLC, a
19 California limited liability company;
20 KINGSMEN ESCAPE ENTERTAINMENT
LLC, a California limited liability company;
21 KYLE MALOY, a natural person; and DOES 1–
50, inclusive,

22 *Defendant(s).*

Case No. CIVMSC21-01753

**PLAINTIFF MCKENNA
MCKENZIE’S NOTICE OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing Date: _____
Hearing Time: _____
Hearing Dept.: 39, The Honorable
Edward G. Weil

Action filed: August 27, 2021

**Submitted Herewith Under Separate
Cover:**

1. Memorandum of Points and Authorities;
2. Declaration(s) of David Spivak and Walter L. Haines; and
3. [Proposed] Order



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ADDITIONAL ATTORNEYS FOR PLAINTIFF(S)

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1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on a date to be determined by the Court in Department 39
3 of the Contra Costa County Superior Court, located at Wakefield Taylor Courthouse, 725 Court
4 Street, Martinez, CA 94553, Plaintiff McKenna McKenzie (“Plaintiff”) will and hereby does
5 move this Court for an order: (1) granting class certification of the Settlement Class solely for
6 settlement purposes pursuant to California Code of Civil Procedure section 382; (2) preliminarily
7 approving the Class Action and PAGA Settlement Agreement (the “Settlement”)¹ between
8 Plaintiff and Defendants Red Door Escape Room, LLC, Kingsmen Escape Entertainment LLC,
9 and Kyle Maloy (collectively “Defendants”) (Plaintiff and Defendants are collectively the
10 “Parties), (3) appointing David Spivak of The Spivak Law Firm and Walter L. Haines of United
11 Employees Law Group as Class Counsel; (5) appointing Plaintiff as Class Representative; (6)
12 approving the use of the proposed notice procedures and related forms; (7) directing that notice
13 be mailed to the proposed Settlement Class; and (8) scheduling a hearing date for motion for final
14 approval of class action settlement and awards of attorneys’ fees and costs.

15 The “Class” or “Settlement Class” or “Class Members” means all persons employed by
16 Defendants and/or Red Door Jet Fuel, L.P. in California and classified as hourly, non-exempt
17 employees who worked for Defendants and/or Red Door Jet Fuel, L.P. during the Class Period
18 except those who are immediate family members of anyone with an ownership interest in one or
19 more of the entities. “Class Period” means the period from August 27, 2018 through the date of
20 preliminary approval of this settlement.

21 This Motion is made on the following grounds: (1) the Settlement Class meets all the
22 requirements for class certification for settlement purposes only under California Code of Civil
23 Procedure section 382; (2) Plaintiff and her counsel are adequate to represent the Settlement
24 Class; (3) the Settlement reflects a fair, adequate, and reasonable compromise of all disputed
25 claims in view of Defendants’ potential liability exposure as compared against the risks of
26 continued litigation; (4) the proposed notice procedures and related forms adequately apprise the

27 ¹ The Settlement is attached as Exhibit 1 to the Declaration of David Spivak (“DS”), which is
28 submitted herewith under a separate cover.



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1 Class Members of their rights under the Settlement and fully comport with due process; and (5)
2 in view of the foregoing, notice should be disseminated to the Class Members and a hearing date
3 for motion for final approval of class action settlement, and awards of attorneys' fees and costs
4 should be set.

5 The Motion is based on this Notice of Motion and Motion, the attached Memorandum of
6 Points and Authorities, the Declaration of David Spivak, the Declaration of Walter L. Haines, all
7 papers and pleadings on file with the Court in this action, all matters judicially noticeable, and on
8 such oral and documentary evidence as may be presented in connection with the hearing on the
9 Motion.

10 Respectfully submitted,

11 THE SPIVAK LAW FIRM

12
13 Dated: February 23, 2023

By:



14 DAVID G. SPIVAK, Attorneys for
15 Plaintiff(s), MCKENNA MCKENZIE,
16 and all others similarly situated



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