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[Additional Counsel on Next Page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KINGS

ADALBERTO PEREZ, JOSEPH MITCHELL, JULIO A. VASQUEZ, ALFREDO RIVERA, as Individuals and on behalf of all others similarly situated and aggrieved, Plaintiffs, v. HOLLANDIA FARMS, INC., a California corporation; HOLLANDIA FARMS NORTH, INC., a California corporation; HOLLANDIA DAIRY, INC., a California corporation; and DOES 1 through 100, inclusive, Defendants.	Case No.: 22C-0302 [Assigned for all purposes to the Hon. Robert S. Burns in Dept. 2] **PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND REPRESENTATIVE ACTION SETTLEMENT AND PROVISIONAL CLASS CERTIFICATION FOR SETTLEMENT PURPOSES ONLY; DECLARATIONS OF VEDANG J. PATEL, DAVID D. BIBIYAN, JASMIN K. GILL, ASHLIE E. FOX, ENOCH KIM, DAVID YEREMIAN AND PLAINTIFFS, AND JODEY LAWRENCE IN SUPPORT THEREOF** <u>HEARING INFORMATION</u>: DATE: April 16, 2026 TIME: 8:15a.m. DEPT: 2

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on April 16, 2026 at 8:15a.m., or as soon thereafter as they may be heard in Department 2 of the Superior Court of the State of California for the County of Kings, Plaintiffs Adalberto Perez, Joseph Mitchell, Julio A. Vasquez, Alfredo Rivera ("Plaintiffs"), on behalf of themselves and all others similarly situated and aggrieved, will and hereby does move for this Court for entry of an Order:

1. Preliminarily certifying the following settlement class ("Settlement Class," "Settlement Class Members" or "Class Members"): all persons employed by any of the defendants Hollandia Farms, Inc., Hollandia Farms North, Inc., and Hollandia Dairy, Inc (collectively, "Defendants") in California and classified as a non-exempt, hourly-paid employee who worked for any of the Defendants during the period the period from October 20, 2017, through the date the Court grants preliminary, unless modified pursuant to Paragraph 8.2 of the Agreement ("Class Period").[1]

2. Preliminarily approving Plaintiffs Adalberto Perez, Joseph Mitchell, Julio A. Vasquez, Alfredo Rivera as the Class Representative.

3. Preliminary approving David D. Bibiyan and Vedang J. Patel of Bibiyan Law Group, P.C., Jasmin K. Gill and Ashlie E. Fox of J. Gill Law Group, P.C., David Yeremian of David Yeremian & Associates, Inc., and Roman Shkodnik, Enoch J. Kim, Emma Geesaman, and Norayr Zakaryan of D.Law, Inc., as Class Counsel.

4. Preliminarily approving the settlement claims under the terms set forth in the Class and PAGA Action Settlement Agreement ("Settlement Agreement").

5. Preliminarily approving payment of the Gross Settlement Amount of $2,450,000.00, which is subject to escalation pursuant to the Settlement Agreement.

6. Approving the form and content of the Class Notice submitted herewith.

[1] A true and correct copy of the Settlement Agreement is attached with its exhibit(s) as Exhibit 1 to the Declaration of Vedang J. Patel ("Patel Decl.") for the Court's convenience.

7. Appointing Phoenix Settlement Administrators ("Settlement Administrator" or "Phoenix") to administer the Settlement, including distribution of the Class Notice, as set forth in the Settlement Agreement.

8. Preliminarily approving the payment of not to exceed $15,000.00 for settlement administration to the Settlement Administrator from the Gross Settlement Amount.

9. Preliminarily approving a service award of not more than $7,500.00 each, for a total of $30,000.00 to Plaintiffs, in consideration for the Plaintiffs' extensive efforts in prosecuting this case.

10. Preliminarily approving payment of reasonable attorneys' fees to Class Counsel in the amount of up to thirty-five (35%) of the Gross Settlement Amount which, unless escalated pursuant to the Settlement Agreement, amounts to $857,500.00.

11. Preliminarily approving reimbursement of Class Counsel's costs in an amount, according to proof, not to exceed $100,000.00.

12. Preliminarily approving PAGA penalties in the amount of $50,000.00, seventy-five percent (75%) or $37,500.00 of which will be paid to the Labor and Workforce Development Agency ("LWDA") out of the Gross Settlement Amount, and twenty-five percent (25%) or $12,500.00 of which will be distributed to Aggrieved Employees, defined as all persons employed by any of the Defendants in California and classified as a non-exempt, hourly-paid employee who worked for any of the Defendants during the period from October 20, 2020 through the end of the Class Period ("PAGA Period"); and

13. Entering an Order preliminarily approving the Settlement consistent with the terms of the Settlement Agreement.

Good cause exists for granting this Motion in that the proposed settlement is fair, reasonable, and adequate. This Motion will be based on this Notice of Motion, the Memorandum of Points and Authorities filed herewith, the declarations filed in support, exhibits attached thereto, arguments of counsel and upon such other materials contained in the file and pleadings of this action.

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Dated: March 11, 2026

BIBIYAN LAW GROUP, P.C.

/s/ Vedang J. Patel

VEDANG J. PATEL

Attorneys for Plaintiffs, on behalf of themselves and all others similarly situated and aggrieved

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On September 30, 2021, Plaintiff Adalberto Perez ("Plaintiff Perez") filed with the Labor and Workforce Development Agency ("LWDA") and served on defendants Hollandia Dairy, Inc., Hollandia Farms North, Inc., and Hollandia Farms, Inc. (collectively, "Defendants") a notice under Labor Code section 2699.3, stating that Plaintiff Perez intended to serve as a proxy of the Labor and Workforce Development Agency ("LWDA") to recover civil penalties under the Private Attorneys' General Act ("PAGA") on behalf of other employees for alleged Labor Code violations (the "Perez PAGA Notice"). On February 27, 2024, Plaintiff Perez amended the Perez PAGA Notice to clarify his allegations against Defendants (the "Amended Perez PAGA Notice"). True and correct copies of the Perez PAGA Notice and the Amended Perez PAGA Notice are attached to the declaration of Vedang J. Patel as Exhibit 2 ("Patel Decl.").

October 20, 2021, Plaintiff Perez filed an action in Riverside County Superior Court, Case No. CVRI2104791 against Defendants for: (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods; (4) failure to provide rest periods; (5) waiting time penalties; (6) wage statement violations; (7) violation of Labor Code § 227.3, and (8) unfair competition ("Riverside Action").

On December 8, 2021, Plaintiff Perez filed a First Amended Complaint in the Riverside Action adding a cause of action for civil penalties under PAGA for the Labor Code violations alleged in the Perez PAGA Notice. Thereafter, Plaintiff Perez also filed a Second Amended Complaint and Third Amended Complaint in the Riverside Action adding plaintiffs Joseph Mitchell and Julio Vasquez as class representatives, as well as clarifying Plaintiffs' allegations.

On August 12, 2022, Plaintiff Alfredo Rivera ("Plaintiff Rivera") filed this action in Kings County Superior Court against Defendants. alleging the following causes of action: (1) Failure to Pay Minimum Wages; (2) Failure to Pay Wages and Overtime Under Labor Code § 510; (3) Meal-Period Liability Under Labor Code § 226.7; (4) Rest-Break Liability Under Labor Code § 226.7; (5) Failure to Pay Vacation Wages; (6) Failure to Comply with Labor Code §§ 245 et seq. and 246;

(7) Violation of Labor Code § 226(a); (8) Failure to Keep Required Payroll Records Under Labor Code §§ 1174 and 1174.5; (9) Penalties Pursuant to Labor Code § 203; and (10) Violation of Business & Professions Code § 17200 et seq. Also on August 12, 2022, Plaintiff Rivera filed a notice with the LWDA stating he also wished to represent other employees for alleged Labor Code violations substantially similar to those alleged by Plaintiff Perez against Defendants ("Rivera PAGA Notice"). On November 1, 2022, Plaintiff Rivera filed a first amended complaint adding eleventh cause of action for penalties pursuant to PAGA.

After initially engaging in formal discovery and document production exchanges, the Parties ultimately agreed to exchange informal discovery and attend mediation. Prior to mediation Plaintiffs obtained, through informal discovery: (a) a sampling of time and payroll records Class Members through mediation; (b) a class list of hire dates, termination dates (as applicable), and rates of pay for all Class Members; (c) class contact information for Class Members pursuant to a *Belaire-West* opt-out notice administration; (d) wage and hour policy documents; (e) a list of job titles and job descriptions; and (f) all documents pertaining to Plaintiffs available to Defendants.

On March 5, 2024, the Parties participated in an all-day mediation presided over by the Hon. Howard R. Broadman (Ret.). The mediation was successful, and in the months thereafter after extensive negotiations, the Parties agreed to globally resolve all class and PAGA claims in the various case filed by Plaintiffs, or some of them, including those alleged in this matter as well as in the Riverside County Superior Court, Case No. CVRI2104791. As part of this Agreement, the Parties agreed to stipulate to the filing of a Second Amended Complaint in this Action to include all Plaintiffs as class representatives, as well as all claims and allegations asserted in the Riverside Action. The Second Amended Complaint has since been filed and is the "Operative Complaint."

II. <u>THE SETTLEMENT</u>

Subject to Court approval pursuant to Code of Civil Procedure section 382 and California Rules of Court, rule 3.679, *et seq*., the Parties have agreed to settle the Action by agreement upon the terms and conditions and for the consideration set forth in the Settlement Agreement, a copy of which is attached to the Declaration of Vedang J. Patel as Exhibit "1" thereto. A summary of the terms of the settlement are as follows:

Defendants will stipulate, for purpose of this settlement only, as follows:

- Defendants will pay $ 2,450,000.00 ("Gross Settlement Amount") to resolve the matter.
- The "Settlement Class," "Settlement Class Members" or "Class Members" are all persons employed by any of the defendants Hollandia Farms, Inc., Hollandia Farms North, Inc., and Hollandia Dairy, Inc (collectively, "Defendants") in California and classified as a non-exempt, hourly-paid employee who worked for any of the Defendants during the period the period from October 20, 2017, through the date the Court grants preliminary approval, unless modified pursuant to Paragraph 8.2 of the Agreement ("Class Period")
- The settlement is based on Defendants' representation that there are no more than 95,000 Workweeks worked during the Class Period. If the number of Workweeks worked by Class Members exceeds 95,000 by 10% by Preliminary Approval (i.e., 104,500), ("the Pro Rata Increase Threshold"), the Gross Settlement Amount will increase pro rata per additional Workweek above 104,500 (e.g., 95,000 + [.1 * 95,000]), but only to the extent Defendants do not choose a date earlier than Preliminary Approval as the end of the Class Period to avoid any pro rata increase. If the Pro Rata Increase Threshold is triggered, Defendants shall have the exclusive right to end the Class Period on the date the number of Workweeks reaches 104,500. The PAGA Period shall end on the same date as the Class Period, regardless of whether Defendants choose to end the Class Period or pay the pro rata increase. Thus, for example, should the number of Workweeks during the Class Period increase by 11% (i.e., 10,450 Workweeks), and Defendants elect to increase the Gross Settlement Amount, then the Gross Settlement Amount shall be increased by 1% (i.e., $24,500 for an increased Gross Settlement Amount of $2,474,500).
- Defendants will pay the employer's share of taxes separately and apart from the Gross Settlement Amount.
- This is a non-reversionary settlement.
- Class Members will be paid their *pro rata* share of the class action settlement based

on the total number of Workweeks[2] worked during the Class Period.

- The Settlement Administration Costs, estimated not to exceed $15,000.00 will be paid out of the Gross Settlement Amount.
- Class Counsel, comprised David D. Bibiyan, Brandon Chang and Vedang J. Patel of Bibiyan Law Group, P.C., as Class Counsel, will apply for, and Defendants will not oppose, attorneys' fees of up to thirty five (35%) of the Gross Settlement Amount, which, unless escalated pursuant to the Settlement Agreement, amounts to $857,500.00, and actual costs, not to exceed $100,000.00, all of which will be paid out of the Gross Settlement Amount.
- Class Counsel will apply for, and Defendants will not oppose, a service award of up to up to a service award of not more than $7,500.00 each, for a total of $30,000.00 to Plaintiffs, in consideration for the Plaintiffs' extensive efforts in prosecuting this case, which will be paid out of the Gross Settlement Amount.
- The "Aggrieved Employees" are all persons employed by any of the Defendants in California and classified as a non-exempt, hourly-paid employee who worked for any of the Defendants during the period from October 20, 2020 through the end of the Class Period ("PAGA Period").
- Defendants have agreed to pay $50,000.00 as PAGA penalties, seventy-five percent (75%) or $37,500.00 of which will be paid to the LWDA out of the Gross Settlement Amount, and twenty-five percent (25%) or $12,500.00 of which will be distributed to Aggrieved Employees.
- For any Class Member or Aggrieved Employee whose check remains uncashed after 180 days of issue shall be cancelled and the Administrator shall transmit the funds represented by such checks to the *cy pres* recipients as follows: 15-percent to the Visalia Rescue Mission and 85-percent to the San Diego Rescue Mission, in equal

[2] "Workweeks" means any week during which a Class Member worked for any of the Defendants for at least one day during the Class Period, based on the Class Data.

amounts.

III. THE TWO-STEP APPROVAL PROCESS AND THE PRESUMPTION OF FAIRNESS

Any settlement of class litigation must be reviewed and approved by the Court. (*See* Cal. Rules of Court, rule 3.769). This is done in two steps: (1) an early (preliminary) review by the trial court; and (2) a final review after notice has been distributed to the class members for their comment or objections. (*See id.*). Courts presume the absence of fraud or collusion in the negotiation of a settlement unless evidence to the contrary is offered. In short, there is a presumption that the negotiations were conducted in good faith. (Newberg on Class Actions, § 11.51; *In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation* (N.D. Cal. May 17, 2017) No. 16-cv-00295, 2017 WL 2214655, quoting *United States v. Oregon* (9th Cir. 1990) 913 F.2d 576, 580.)

IV. SETTLEMENT AGREEMENT AND ACCOMPANYING DOCUMENTS

A notice of settlement of a class action "must contain an explanation of the proposed settlement and procedures for class members to follow in filing written objections to it and in arranging to appear at the settlement hearing and state any objections to the proposed settlement." (Cal. Rules of Court, rule 3.769, subd. (f).) Attached to the Declaration of Vedang J. Patel as Exhibit "1" thereto is the Settlement Agreement between the Parties. Attached to the Settlement Agreement as internal Exhibit "A" is the proposed "Class Notice" to be distributed to Class Members in English and Spanish. The proposed Class Notice satisfies these requirements.

The Parties respectfully request that this Court approve the above-referenced Class Notice and dissemination of the Class Notice to the Class Members, consistent with the manner and timing as set forth in the Settlement Agreement. The Parties have agreed to use Phoenix Settlement Administrators ("Settlement Administrator" or "Phoenix"), an experienced Settlement Administrator, to administer the settlement.

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V. THE SETTLEMENT IS FAIR AND REASONABLE BASED UPON OBJECTIVE EVIDENCE

A. The Settlement was Negotiated at Arm's-Length and is not Collusive

The Settlement that has been reached, subject to this Court's approval, is a product of substantial efforts by Class Counsel. The Settlement was reached after extensive factual and legal investigation and research; review of time and pay records and analysis thereof with the aid of Plaintiffs and expert consultants; an analysis of shifts and Workweeks worked by Class Members in the Class Period, analysis of the number of pay periods and number of Aggrieved Employees in the PAGA Period for calculating PAGA penalties, number of Class Members eligible for wage statement penalties and waiting time penalties; an analysis of Plaintiffs' employment records; extensive correspondence and communication between counsel; a review of pleadings, evidence and rulings in similar actions litigated elsewhere in the state; a review of similar cases in the same industry elsewhere in the country; preparation for and attendance at a full-day session of mediation; and coordination to finalize the terms and conditions of the general settlement parameters agreed to by the Parties.

While Class Counsel believe in the chance of success of certifying the claims, Class Counsel recognized the potential risk, expense and complexity posed by further litigation. Moreover, litigating Plaintiffs' claims in this Litigation—claims that involve approximately 1,100 Class Members during the Class Period—would require enormous preparation and discovery, and ultimately would involve the deposition and presentation of numerous more witnesses (including Class Members and expert witnesses), as well as the consideration, preparation, and analysis of expert reports. Therefore, should litigation have progressed any further, there would have been significant expense incurred by each side (above and beyond the expense already incurred).

B. The Settlement Amount is Well Within Range of Reasonableness

The settlement amount reached in this case provides significant recovery to Class Members and Aggrieved Employees, and easily falls within the range of reasonableness. Based on documents and information provided by Defendants, Class Counsel understand there are 95,000 Workweeks in the Class Period.

1. Recovery of Damages for Failure to Pay for All Time Worked

Class Counsel theorized at mediation that Defendants failed to pay wages to Class Members for all hours worked because Defendants practices resulted in off-the-clock work. Class Counsel theorized, based on Plaintiffs' narrative evidence, that Defendants: (1) required Class Members to wait in line before clocking in; (2) required Class Members to undergo temperature checks off-the-clock; and (3) requiring overtime and double time hours without receiving overtime wages.

Based on documents provided by the Defendants and analyzed by expert data consultants, Class Counsel understand that: (1) the average rate of pay for Class Members was $23.65 per hour; (2) approximately 82.3% of shifts worked were over eight (8) hours in length; and there were (3) approximately 476,614 shifts worked during the Class Period. Class Counsel theorized, based on the foregoing, that Class Members worked approximately three (3) minutes off-the-clock every single shift. Thus, one calculation made by Class Counsel resulted in Defendants' exposure for off-the-clock work at approximately **$895,272** (((.05 hrs x $23.65/hr x 1.5 OT rate x 476,614 shifts x .823 shifts over eight hours = $695,759)) + (.05 hrs x $23.65/hr x 476,614 shifts x .177 shifts under eight hours x 2 in liquidated damages = $199,513).

Class Counsel understand from the mediator and the mediation process that Defendants makes the following defenses in connection with this claim: Defendants argued that they properly paid Class Members for all time worked and that they did not require Class Members to work off-the-clock and, rather, they were paid for all time suffered or permitted to work. Defendants contend that its policies prohibit off-the-clock work. Defendants contended that they provided sufficient timeclocks to check in and thus Class Members would not have to wait in line to clock in. Furthermore, Defendants also contend that temperature checks as part of the Covid-19 procedures were for the benefit of Class Members, and thus not compensable. Defendants defend any allegations that Class Members worked off-the-clock are purely speculative, such off-the-clock work was voluntary if it occurred, and certainly not indicative of a pattern or practice, thus necessitating an individual inquiry into which employees on what days worked off-the-clock. For the same reason, Defendants contends this claim not subject to class treatment and would make a trial in this litigation unmanageable. Finally, Defendants contend, *arguendo*, that three (3) minutes off the clock for every single shift is an exaggeration of time spent off the clock, if any. Thus, Defendants argued that no monies are owed under this claim.

2. Recovery of Damages for Meal Period Violations

Class Counsel theorized that Defendants' meal period policies and practices throughout the Class Period were non-compliant. Class Counsel theorized that Defendants' policies were non-compliant because they did not specify that meal periods were to be taken and failed to accurately provide them with meal periods. Class Counsel also theorized that Defendants' meal period practices were non-compliant because, based on Plaintiffs' narrative evidence Class Members' meal periods were missed, interrupted, short, or auto-deducted. However, Defendants records showed some meal period premiums were provided. One theory advanced by Class Counsel, assuming a 40% violation rate, resulted in Defendants' maximum exposure for non-compliant meal periods in an amount of **$3,725,374.** [(404,923 meal period eligible shifts x .40 violation rate x $23.65/hour) - $105,197 paid as meal period premiums].

Class Counsel understand from the mediator and the mediation process that Defendants makes the following defenses in connection with this claim: Defendants argued that Class Members took timely and full meal periods or received the required meal period premium for each instance of meal period violations. Defendants further contend that any instance of a Class Member failing to take a compliant meal period was voluntary, in violation of its meal period policy, would necessitate an individualized inquiry and would not lend itself to a manageable trial. Finally, Defendants point to meal period premiums paid during the Class Period as evidence of compliance. Thus, Defendants contend that *no* monies are owed for this account but, even if any amounts were due, the amount calculated by Class Counsel is excessive.

3. Recovery of Damages for Non-Compliant Rest Periods

Class Counsel theorized at mediation that Defendants' rest period policies practices throughout the Class Period were non-compliant. Class Counsel theorized that Defendants' rest period policies were non-compliant because, based on Plaintiffs' narrative evidence, Class Members were required to carry cell phones and answer calls from supervisors during their rest periods. Class Counsel also theorized, for the same reasons as indicated for meal period violations, that Class

Members did not receive rest periods, rest periods were cut short, or not provided. Notably, based on Defendants' records, no rest periods were paid during the Class Period. Thus, one theory performed by Class Counsel was a 40% violation rate, resulting in an exposure for failure to pay rest period premiums of **$4,463,682** [(471,848 rest period eligible shifts x $23.65/hour x .40 violation rate).

Class Counsel understand from the mediator and the mediation process that Defendants make the following defenses in connection with this claim: Defendants argued that they had compliant rest period policies. Defendants argued that their policies requires their employees to take timely and full rest breaks. Defendants argued that Class Members took timely and full rest periods. Defendants further contend that any instance of a Class Member failing to take a compliant rest break was voluntary and therefore would necessitate an individualized inquiry and would not lend itself to a manageable trial. Defendants also argued that Class Members were provided a reasonable opportunity to take uninterrupted rest breaks and the employer is not required to "police" such rest breaks. Thus, Defendants contends that *no* monies are owed for this account but, even if any amounts were due, the amount calculated by Class Counsel is excessive.

4. Wage Statement Violations

Class Counsel theorized that Class Members are entitled to recover penalties for Defendants' alleged failure to issue compliant wage statements under Labor Code section 226, subdivision (e) for the derivative impact of the failure to pay all wages owed on providing accurate information on wage statements. Specifically, Class Counsel theorized that penalties are owed under Labor Code section 226 due to, at minimum, Defendants' failure to pay wages for off-the-clock work and premiums for meal periods and rest periods. A non-exempt employee suffering injury as a result of a knowing and intentional failure by an employer to comply with Labor Code section 226, subdivision (a), is entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) per employee for each violation in a subsequent pay period. Class Counsel understand from the data provided by Defendants that there were approximately 47,500 pay periods in the wage statement liability period. Thus, Defendants' maximum exposure for wage statement violations, assuming a

40% violation rate, would be **$930,400** (24,260 pay periods x $100/pay period x .4 violation rate).

Class Counsel understand that Defendants make the following defenses in connection with this claim: Defendants contend that the wage statements issued to the employees fully complied with Labor Code section 226. Defendants contends that because they believe no wages are unpaid that, thus, there can be no derivative penalties. However, Class Counsel also understand the risks inherent in this claim if the above claims were not certified. Class Counsel also had to factor in, and did factor in, the risk that a Court would find there was no injury to Class Members even if the wage statements were inaccurate or that Defendants; conduct was not intentional, both of which are requirements of Labor Code section 226 before penalties can issue. Class Counsel also note that the calculation used does not take into account the first pay period violation only being $50 and the fact that all Class Members did not work all pay periods.

5. Waiting Time Penalties

Pursuant to Labor Code sections 201, 202 and 203, each employee in the relevant statutory period (*i.e.*, three years before the filing of the initial Complaint) is entitled to 30 days' worth of wages as waiting time penalty for not being paid all wages due upon separation of employment. Class Counsel theorized at mediation, based on relevant documents provided by Defendants, that, under Labor Code section 203, Defendants are liable to pay each Class Member, who was terminated during the relevant statutory period a full 30-day worth of wages as waiting time penalty for failure to pay failure to pay compensation in lieu of compliant meal and rest periods.

Based on relevant documents provided by Defendants, there were approximately 3,078 separated Class Members during the relevant statutory period. Thus, one calculation performed by Class Counsel, assuming a 40% violation rate, resulted in Defendants' maximum exposure for waiting time penalties to be **$2,971,953.** (1,309 separated employees x $23.65/hour x 8 hours x 30 days x .4 violation rate).

Class Counsel understand from the mediator and the mediation process that Defendants contend that there is no credence to Plaintiffs' off-the-clock theory and that, thus, no waiting time penalties are owed based on that theory. Additionally, Defendants contend that their actions were not "willful" and that, thus, waiting time penalties cannot be awarded. Finally, Defendants contend that many Class Members signed enforceable arbitration agreements and thus no class action is even tenable here. Thus, Defendants argued that no waiting time penalties are owed.

6. Failure to Reimburse Business Expenses

Class Counsel theorized that Defendants failed to reimburse Class Members for all expenses incurred in furtherance of work. Class Counsel, based upon Plaintiffs' narrative evidence, theorized that Defendants required Class Members to purchase and maintain their own uniforms, steel-toed boots, tools, as well as use their personal cell phones for work related purposes, all without reimbursement. One theory advanced by Class Counsel was that Class Members are owed at least $100 in reimbursement per Class Member, thus resulting in Defendants' exposure for this claim of **$110,000** (1,100 Class Members x $100 per Class Member).

Class Counsel understand from the mediator and the mediation process that Defendants contend the following: Defendants argued that they provided Class Members with all tools necessary to complete their duties and thus they would not have to use their own personal equipment for work purposes. Furthermore, to the extent any Class Member claims they are owed reimbursement, Defendants contend that they reimbursed Class Members for all expenses incurred in furtherance of work. Thus, Defendants contend that no monies are owed under this theory, either.

7. PAGA Penalties

Plaintiffs' claims in the Action under PAGA are substantially similar to those described herein. Class Counsel understand there are approximately 47,500 pay periods during the PAGA Period. Class Counsel through investigation and discovery did not conclude that Defendants at any time were notified by any governmental entity that they violated any Labor Code sections presented in the PAGA Notice and PAGA claims and, as such, Class Counsel calculated the exposure model for Defendants to include only initial violation rates. While Class Counsel are informed and believe that reasonable minds differ with regard to calculation of PAGA penalties, Class Counsel believe it is reasonable to calculate Defendants' maximum exposure in PAGA penalties as follows:

a. Overtime Violations: Labor Code section 558 prescribes penalties of $50 for an initial violation and $100 for each subsequent violation. Using the initial pay period rate for all violations, and a violation every single pay period for every single non-exempt employee in the Settlement Period, this amounts to a maximum exposure of $ 2,375,000 (47,500 pay periods x $50 in penalties.)

b. Minimum Wage Violations: Labor Code section 1197.1 prescribes penalties of $100 for an initial violation and $250 for each subsequent violation. Using the initial pay period rate for all violations, and a violation every single pay period for every single Aggrieved Employee in the PAGA Period, this amounts to a maximum exposure of $4,750,000 (47,500 pay periods x $100 penalty.)

c. Meal Period Violations: Labor Code section 558 prescribes penalties of $50 for an initial violation and $100 for each subsequent violation. Using *only* the initial violation penalty of $50 for all violations and a violation in every pay period for each single non-exempt employee in the Settlement Period, this amounts to exposure of $2,375,000. (47,500 pay periods x $50 in penalties.)

d. Rest Period Violations: Labor Code section 558 prescribes penalties of $50 for an initial violation and $100 for each subsequent violation. Using *only* the initial violation penalty of $50 for all violations and a violation every single pay period for every single non-exempt employee in the Settlement Period, this amounts to exposure of $2,375,000. (47,500 pay periods x $50 in penalties.)

e. Waiting Time Penalties: Labor Code section 2699 prescribes penalties of $100 for an initial violation and $200 for each subsequent violation. Because this violation is merited only at separation of employment, a 100% violation rate would likely include just one violation per employee. The data produced by Defendants indicate that there are 3,078 employees whose employment was separated during the PAGA Period. Using the initial violation penalty of $100, this amounts to exposure for Defendants of $80,500 (805 Aggrieved Employees x 100).

f. Wage Statement Violations: According to *Gunther v. Alaska Airlines, Inc.* (2021) 287 Cal.Rptr.3d 229, in this instance, Labor Code section 2699 would be the appropriate penalty for wage statement violations that are inaccurate, which prescribes penalties of $100 for an initial violation and $200 for each subsequent violation (*Id.* at 247-248). Using *only* the initial violation penalty of $100 for all violations and a violation in every pay period for each Aggrieved Employee in the PAGA Period, this amounts to exposure of $4,750,000. (47,500 pay periods x $100 penalty.).

g. Failure to Reimburse Work Expenses: Labor Code section 2699 would be the appropriate penalty for failure to reimburse work expenses, which prescribes penalties of $100 for an initial violation and $200 for each subsequent violation. Using *only* the initial pay penalty of $100 for all violations, and a violation every pay period for each non-exempt employee in the PAGA Period, this amounts to exposure of $4,750,000 (47,500 pay periods x $100).

h. Conclusion: In sum, Class Counsel calculated Defendants' total maximum exposure for PAGA violations if the Court were to find a 100% violation rate for every Aggrieved Employee in every pay period and chose to exercise its discretion to reduce those penalties to *only* the initial violation rate, the total would be $21,455,500. Class Counsel understand from the mediator and the mediation process that Defendants argued the following in connection with this claim: Defendants contend that no PAGA penalties are likely to be awarded and, even if they were, the maximum exposure calculated by Class Counsel is vastly overstated. First, Defendants defend that PAGA penalties cannot and should not be stacked. Second, Defendants assert that individualized issues predominate the PAGA claims, making the claims unmanageable for trial. Third, Defendants deny that a violation for each pay period can be established. Fourth, Defendants contend that a Court is unlikely to exercise its discretion to award civil penalties under PAGA where, as here, there is no conduct shown by Plaintiffs that would show any Labor Code violation by Defendants is knowing and intentional. Defendants insist that this is especially true in this Action where class action damages are available to Class Members, rendering an award of PAGA penalties in addition to class action damages to be double recovery.

Class Counsel maintain that it is possible to recover the subsequent violation rate for penalties, that stacking is permissible, and that there is no manageability requirement under PAGA (citing *Estrada v. Royalty Carpet Mills, Inc.*). As such, Class Counsel believe a 95% discount of this claim to be reasonable, resulting in a valuation of **$1,072,775** as a reasonable estimate of the likelihood of what Plaintiffs may recover at trial for PAGA penalties ($21,455,500 x .05).

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10. Conclusion

When including derivative penalties, such as waiting time penalties, wage statement violations, and discretionary PAGA penalties, Class Counsel theorized Defendants' reasonable exposure to be approximately **$14,169,456**. In all, Class Counsel obtained a Gross Settlement Amount of **$2,450,000**. Particularly in light of the risks involving obstacles to class certification, all issues and risks related to liability, the issues with manageability at trial, the discretionary nature of PAGA penalties, and considering the case law regarding fair, reasonable and adequate settlements, Class Counsel strongly believe that the settlement reached is fair, reasonable and adequate, and in the best interest of Class Members.

Moreover, $50,000.00 of the Gross Settlement Amount was attributed to PAGA penalties. This allocation was decided mutually by the Parties and the mutual decision was based on: (1) the fact that damages are available for the failure to pay wage claims while only penalties are available for the PAGA claims; (2) the risk that the Court may exercise its discretion to decline to stack PAGA penalties; (3) the risk that the Court may exercise its discretion to not award the full amount of PAGA penalties available; and (4) the risk that the Court may decline to award any PAGA penalties at all in light of the fact that damages are available for Class Members and it may find any further liability against Defendants unnecessarily punitive.

VII. THE PROPOSED ATTORNEYS' FEES AND COSTS ARE REASONABLE

Class Counsel seek an attorneys' fees award of up to thirty-five (35%) of the Gross Settlement Amount, which, unless escalated pursuant to this Agreement, would amount to $857,500.00 Class Counsel also seek reimbursement of costs not to exceed $100,000. The requested fees fall well within the historical range of attorney's fees awards under the common fund theory, which is generally from 25% to 50%. The requested fee is fair compensation for undertaking complex, risky, expensive and time-consuming litigation on a contingent fee basis. Thus, the Court should preliminarily approve the requested attorneys' fees and costs, which are justified by the results achieved, the complexity of the issues, the difficulty of the case and the great risks undertaken by Class Counsel. The requested attorneys' fees will not be opposed by Defendants and are well within established guidelines.

VIII. THE REQUESTED ENHANCEMENT AWARDS TO THE NAMED PLAINTIFFS AND CLASS REPRESENTATIVES ARE REASONABLE

Plaintiffs are entitled to the enhanced award for their service as class representatives, for answering extensive questions by Class Counsel, for being available and answering questions during the full-day mediation in this matter, for the risks in being the named Plaintiffs and for providing Defendants with a more expansive release of claims, including a waiver based upon California Civil Code section 1542, in exchange for the enhancement award. Defendants does not oppose the requested enhancements to the Plaintiffs. Plaintiffs risked intrusive discovery and the payment of employer costs. In the experience of Class Counsel, the typical enhancement award in wage and hour class actions ranges from approximately $10,000.00 to $25,000.00, although some awards are higher. In contrast, Class Counsel seek enhancement payments of up to $7,500.00 to each of the four Plaintiffs for their extensive work as Class Representatives, for a total of $30,000 to Plaintiffs, which will be paid out of the Gross Settlement Amount.

IX. CONDITIONAL CERTIFICATION FOR SETTLEMENT PURPOSES

A. The Class should be Preliminarily Certified

In California, there are two certification prerequisites: (1) the existence of an "ascertainable class;" and (2) "a well-defined community of interest in the questions of law and fact involved affecting the parties to be represented." (*Sotelo v. MediaNews Group, Inc.* (2012) 207 Cal.App.4th 639, 647.) To certify a class, the party advocating class treatment must demonstrate: (1) a numerous class; (2) predominant common questions of law or fact; (3) class representatives with claims or defenses typical of the class; and (4) class representatives who can adequately represent the class." (*Williams v. Sup. Ct.* (2013) 221 Cal.App.4th 1353, citing *Brinker Restaurant Corp. v. Sup. Ct.* (2012) 53 Cal.4th 1004, 1021.) Each of the criteria for class certification is satisfied in this instance:

1. Ascertainability – "Ascertainability" is a due process requirement that ensures it is possible to decide who will be bound by the judgment (*res judica* effect). The determination is made by examining the class definition and the size of the class. Here, the Class Members definition is derived from the operative complaint, which complains of alleged violations of Labor Code sections that are chiefly and, in some instances, solely applicable to non-exempt and hourly-paid employees. There is no difficulty ascertaining who is a Class Member based on the above-described definition as it is readily apparent to all involved who is a non-exempt and hourly employee who worked in California for Defendants during the Class Period based solely from Defendants; payroll records, which amounts to approximately 1,100 persons.

2. Numerosity – According to the California Supreme Court, a putative class is sufficiently numerous to achieve the numerosity requirement if their joinder is impracticable and thus substantial benefits accrue both to litigants and the courts if the action proceeds as a class action. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435, 446.) Numerosity is presumed satisfied if there are forty (40) putative class members. (*Miri v. Dillon* (E.D. MI 2013) 292 F.R.D. 454, 461.) However, as few as 10 class members has been found sufficient. (*See, e.g., Bowles v. Sup. Ct.* (1955) 44 Cal.2d 574.) Class Counsel understand from documents provided that Defendants identified at least 1,100 Class Members. That is sufficiently numerous to establish the numerosity requirement.

3. Commonality – California law also requires that "questions of law or fact common to the class [be] substantially similar and predominate over the questions affecting the individual members." (*In re Steroid Hormone Product Cases* (2010) 181 Cal.App.4th 145, 153.)

This litigation is brought to resolve common issues that include whether Defendants provided full, timely and un-interrupted meal and rest periods, whether Class Members are entitled to premium pay for incomplete, untimely, or interrupted meal or rest periods, among other clams as set forth above.

4. Typicality – Typicality requires only that the named Plaintiffs' interests in the action be significantly similar to those of other class members. (*Williams v. Sup. Ct.* (2013) 221 Cal.App.4th 1353, citing *Brinker Restaurant Corp. v. Sup. Ct.* (2012) 53 Cal.4th 1004, 1021.) Plaintiffs' claims are typical of those of other Class Members as Plaintiffs: (1) was a non-exempt employees like other Class Members; (2) complained of not being paid for all time under Defendants; control or suffered and/or permitted to work for Defendants; (3) did not receive full premium pay for meal periods that were not compliant with the Labor Code; (4) did not receive premium pay for rest periods that were not provided, among others as set forth above.

5. Adequacy of Representation - To maintain a class action, the representative

Plaintiffs must adequately protect the interests of the class. (*Williams v. Sup. Ct.* (2013) 221 Cal.App.4th 1353, citing *Brinker Restaurant Corp. v. Sup. Ct.* (2012) 53 Cal.4th 1004, 1021.) Adequacy of representation consists of two components. First, there must be no disabling conflicts of interest between the class representatives and the class. Second, the class representative must be represented by counsel who are competent and experienced in the kind of litigation to be undertaken. (*See McGhee v. Bank of Am.* (1976) 60 Cal.App.3d 442, 450; *accord In re Juniper Networks, Inc. Securities Litigation* (N.D. Cal. 2009) 264 F.R.D. 584, 590.) Both criteria are met in this instance:

(i) <u>No Disabling Conflict of Interest Exists Between the Class Representative and the Class</u>

No conflicts, disabling or otherwise, exists between the Plaintiffs and Class Members because the Plaintiffs allege to have been damaged by the same alleged conduct of Defendants (i.e., Plaintiffs classified as non-exempt employees, not paid premium pay, etc.) and have the incentive to fairly represent all Class Members' claims to achieve the maximum possible recovery.

(ii) <u>Class Counsel are Experienced Class Action Attorneys</u>

As set forth in the Declarations of Class Counsel, Class Counsel in this matter consist of experienced class action attorneys, have been appointed as class counsel in other class actions and have a successful "track record" in litigating class actions.

6. Superiority of Class Action - Also relevant to the Court's certification decision is whether a class action is the superior method of adjudication. (*Brinker Restaurant Corp. v. Sup. Ct.* (2012) 53 Cal.4th 1004, 1021.)

53. Class Counsel believe this wage and hour class action is a superior vehicle for resolution of the issues it seeks to resolve. It deals with common issues that are most efficiently adjudicated together, as indicated above. Moreover, with at least 1,100 Class Members, presentation of all of them before this Court may be problematic, impractical, and burdensome. On the contrary, a class action allows claims of many individuals to be resolved at the same time, eliminates the possibility of repetitious litigation, and affords small claimants with a method of obtaining redress for claims which otherwise would be too insufficient to warrant individual litigation.

7. Conclusion – Thus, because this class action meets all criteria for certification and a lesser standard of scrutiny applies when evaluating these criteria for settlement purposes, it should be certified for purposes of effectuating this settlement.

X. CONCLUSION

Therefore, the Parties request the Court grant preliminary approval of the proposed settlement.

Dated: March 11, 2026

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/s/ Vedang J. Patel

VEDANG J. PATEL
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