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on behalf of herself and all others similarly situated
and aggrieved

(Additional Counsel on the next page)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

GUADALUPE LOPEZ, DA'SHON
SIMMONS and JESUS CRUZ, individually,
and on behalf of other members of the general
public similarly situated and aggrieved,

Plaintiffs,

v.

ROLLING HILLS COUNTRY CLUB, a
California Limited Liability Company; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 20STCV22636

[Assigned for all purposes to the Hon.
Carolyn B. Kuhl in Dept. 12]

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT AND PROVISIONAL
CLASS CERTIFICATION FOR
SETTLEMENT PURPOSES ONLY;
DECLARATIONS OF VEDANG J.
PATEL, DAVID D. BIBIYAN, JAMES
M. TREGGIO, RYAN SLINGER, SEAN
HARTRANFT AND PLAINTIFFS
GUADALUPE LOPEZ, DA'SHON
SIMMONS, AND JESUS CRUZ IN
SUPPORT THEREOF**

HEARING INFORMATION:

DATE: January 20, 2027

TIME: 10:30 a.m.

DEPT: 12

1 Tara Zabehi
2 *tara@calljustice.com*
3 **LAWYERS FOR JUSTICE, PC**
4 450 North Brand Boulevard, Suite 900
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7 Attorney for Plaintiff DA'SHON SIMMONS,
8 on behalf of himself and all others similarly situated
9 and aggrieved
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15 **POTTER HANDY LLP**
16 100 Pine Street, Suite 1250
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19 Attorneys for Plaintiff JESUS CRUZ,
20 on behalf of himself and all others similarly situated
21 and aggrieved
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1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on January 20, 2027, at 10:30 a.m., or as soon thereafter as
3 they may be heard in Department 12 of the Superior Court of the State of California for the County
4 of Los Angeles, plaintiffs Guadalupe Lopez (“Plaintiffs”), individually, and on behalf all others
5 similarly situated and aggrieved, will and hereby does move for this Court for entry of an Order:

6 1. Preliminarily certifying the following Settlement Class Member (“Settlement Class
7 Members” or “Class Members”) for the purpose of settlement only: all current or former employees
8 of Defendant Rolling Hills Country Club (“Defendant”) as hourly, non-exempt employees in the
9 State of California at any time during the period from June 11, 2016, through February 2, 2026
10 (“Class Period”).

11 2. Preliminarily certifying an additional class comprised of Class Members who are part of
12 the certified regular rate claim based on holiday payments pursuant to the Court’s February 14, 2025
13 and March 7, 2025 certification orders (“Regular Rate Class” or “Regular Rate Class Members”).

14 3. Preliminarily approving Plaintiffs as Class Representatives.

15 4. Preliminarily approving Bibiyan Law Group, P.C.; Lawyers for Justice, PC; and Potter
16 Handy LLP as Class Counsel.

17 5. Preliminarily approving the settlement claims under the terms set forth in the Class and
18 PAGA Settlement Agreement.

19 6. Preliminarily approving payment of the Gross Settlement Amount of \$575,000.00, which
20 is subject to escalation pursuant to the Settlement Agreement.

21 7. Approving the form and content of the Notice of proposed Class Action Settlement and
22 Date for Final Approval Hearing (“Class Notice”) submitted herewith.

23 8. Appointing Apex Class Action Administration (“Apex”) to administer the Settlement,
24 including distribution of the Class Notice, as set forth in the Settlement Agreement.

25 9. Preliminarily approving the payment of not to exceed \$12,270.00 for settlement
26 administration to Apex from the Gross Settlement Amount.

27 10. Preliminarily approving service awards of up to \$15,000.00 to each Plaintiff, totaling
28 \$45,000 to Plaintiffs, in consideration for Plaintiffs’ extensive efforts in prosecuting this case.

1 11. Preliminarily approving a Regular Rate Settlement Amount of \$7,500.00.

2 12. Preliminarily approving payment of reasonable attorneys' fees to Class Counsel in the
3 amount of not more than thirty-five percent (35%) of the Gross Settlement Amount which, unless
4 escalated pursuant to the Settlement Agreement, amounts to \$191,666.66.

5 13. Preliminarily approving reimbursement of Class Counsel's costs in an amount, according
6 to proof, not to exceed \$165,000.00.

7 14. Preliminarily approving PAGA penalties in the amount of \$57,500.00, seventy-five percent
8 (75%), or \$43,125.00, of which will be paid to the Labor and Workforce Development Agency
9 ("LWDA") out of the Gross Settlement Amount, and twenty-five percent (25%), or \$14,375.00, of
10 which will be distributed to "Aggrieved Employees" or "PAGA Members," defined as all persons
11 who worked for Defendant as non-exempt, hourly employees in California at any time during the
12 period from June 8, 2019, through the Class Period ("PAGA Period").

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

15 Good cause exists for granting this Motion in that the proposed settlement is fair, reasonable and
16 adequate.

17 This Motion will be based on this Notice of Motion; the Memorandum of Points and
18 Authorities filed herewith; Declarations of Vedang J. Patel and David D. Bibiyan of Bibiyan Law
19 Group, P.C.; Ryan Slinger of Lawyers for Justice, PC; James M. Treglio of Potter Handy LLP;
20 Plaintiffs Guadalupe Lopez, Da'Shon Simmons, and Jesus Cruz; and Sean Hartranft, and exhibits
21 attached thereto, arguments of counsel and upon such other materials as contained in the file and
22 pleadings of this action.

23 Dated: September 8, 2026

BIBIYAN LAW GROUP, P.C.

24 /s/ Vedang Patel

25 VEDANG J. PATEL

26 TRIANA HENDERSON

27 Attorneys for Plaintiff GUADALUPE LOPEZ,
28 individually, and all others similarly situated and
aggrieved

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiffs Guadalupe Lopez, Da'Shon Simmons, and Jesus Cruz (collectively,
4 "Plaintiffs"), individually, and on behalf of all others similarly situated and aggrieved, hereby
5 apply for preliminary approval of the Class and PAGA Settlement Agreement ("Settlement,"
6 "Agreement" or "Settlement Agreement") upon the terms and conditions set forth in the
7 Settlement Agreement, attached to the Declaration of Vedang J. Patel as Exhibit "1."

8 On June 11, 2020, Plaintiff Guadalupe Lopez ("Plaintiff Lopez") commenced this Action by
9 filing a class action complaint against Defendant Rolling Hills Country Club ("Defendant") in the
10 Superior Court of California, County of Los Angeles, Case No. 20STCV22636, alleging wage and
11 hour violations including, without limitation, (1) failure to pay overtime wages; (2) failure to pay
12 minimum wages; (3) failure to provide meal periods; (4) failure to provide rest periods; (5) failure
13 to pay due wages at termination; (6) wage statement violations; (7) violation of Labor Code section
14 2802; and (8) violation of Business and Professions Code section 17200, *et seq.* (the "Lopez Class
15 Action").

16 On June 8, 2020, Plaintiff Lopez filed with the Labor and Workforce Development Agency
17 ("LWDA") and served on Defendant a notice under Labor Code section 2699.3, stating Plaintiff
18 Lopez intended to serve as a proxy of the LWDA to recover civil penalties on behalf of other non-
19 exempt employees for alleged Labor Code violations ("PAGA Notice"). A true and correct copy of
20 the PAGA Notice is attached to the Declaration of Vedang J. Patel as Exhibit "2."

21 On October 20, 2020, Plaintiff Lopez filed a First Amended Complaint that added claims
22 seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code section 2698,
23 *et seq.*

24 On January 25, 2021, Plaintiff Jesus Cruz ("Plaintiff Cruz") filed a PAGA Representative
25 Action Complaint against Defendant in Los Angeles County Superior Court, Case No.
26 21STCV02811, alleging PAGA claims based on alleged Labor Code violations regarding: (1) meal
27 periods; (2) rest periods; (3) wage statements; (4) timely payment of wages during employment; and
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1 (5) timely payment of wages upon termination of employment; and (6) timely payment of wages
2 upon termination of employment.

3 On October 27, 2020, Plaintiff Cruz provided written notice to Defendant and the LWDA
4 regarding his alleged Labor Code violations.

5 On February 23, 2021, Plaintiff Da'Shon Simmons ("Plaintiff Simmons") filed a Class
6 Action Complaint against Defendant in Los Angeles County Superior Court, Case No.
7 21STCV06983, alleging causes of action for: (1) overtime compensation; 2) meal period violations;
8 (3) rest period violations; (4) minimum wages; 5) waiting time penalties; (6) timely payment of
9 wages; (7) wage statement violations; (8) payroll record keeping violations; (9) unreimbursed
10 business expenses; and (10) unfair business practices under Business and Professions Code section
11 17200, *et seq.*

12 On January 20, 2022, the Court granted Defendant's motion for judgment on the pleadings
13 at to Plaintiff Simmons' causes of action for timely payment of wages during employment and
14 payroll record keeping violations.

15 Collectively, the aforementioned actions filed by Plaintiff Lopez, Plaintiff Cruz and Plaintiff
16 Simmons are referred to herein as "Actions". Defendant denied and continues to deny all allegations
17 pled by Plaintiffs in each of the Actions, denies any alleged failure to comply with the laws identified
18 in those pleadings and denies any purported liability for the causes of action and claims alleged in
19 each of the Actions.

20 On April 1, 2021, the Court found the Actions related pursuant to California Rules of Court,
21 rule 3.300(a). Subsequently, Bibiyan Law Group, P.C. was appointed by the Court as interim class
22 counsel on September 16, 2021.

23 Thereafter, Plaintiffs and Defendant (collectively, the "Parties") agreed to exchange informal
24 discovery and attend mediation. Prior to mediation, Plaintiffs obtained, through informal discovery:
25 (a) time and payroll records for twenty-five percent (25%) of the Class Members who worked
26 between June 11, 2016, and January 21, 2024; (b) a class list of hire dates, termination dates, and
27 rates of pay for all Class Members; (c) wage and hour policy documents; and (d) all documents
28 pertaining to Plaintiff available to Defendant.

1 The Parties also engaged in depositions prior to mediation. On January 11, 2023, and again
2 on March 20, 2023, Defendant's counsel deposed Plaintiff Simmons. On January 17, 2023, and
3 again on February 7, 2023, Defendant's counsel deposed Plaintiff Cruz. On February 1, 2023, Class
4 Counsel deposed Defendant's Person Most knowledgeable. Also, on February 27, 2023, and again
5 on March 27, 2023, Plaintiff Lopez was deposed by Defendant.

6 On January 22, 2024, the Parties participated in an all-day mediation presided over by Steven
7 J. Serratore, Esq. This initial mediation session was unsuccessful.

8 On November 25, 2024, the Court denied the Plaintiffs' Motion for Class Certification as to
9 all claims except the regular rate of pay claim and derivative wage statement and waiting-time
10 penalty claims. On February 14, 2025, the Court granted class certification as to the overtime
11 compensation and meal period premium claims for non-exempt employees of Defendant without
12 arbitration agreements who received a holiday bonus during the relevant period and order further
13 briefing as to whether a derivative wage statement claim could be maintained and the beginning
14 date of the class period

15 On March 7, 2025, the Court ruled that the class period started February 23, 2017, and
16 certified a waiting-time penalty subclass of formerly-employed class members. However, the Court
17 found a lack of standing for the Class Representatives to bring a wage statement claim on behalf of
18 the Regular Rate Class by the Settlement Administrator pursuant to the Court's approval of the form
19 and procedure for such notice.

20 On October 10, 2025, the Court granted Defendant's Motion for Summary Adjudication of
21 the waiting time penalty as to the Regular Rate Class.

22 The Parties re-engaged the mediator Steven J. Serratore, Esq., to continue settlement
23 discussions in December of 2025, resulting in this global Settlement of the Actions.

24 Prior to reaching this Settlement, Plaintiff obtained formal and informal discovery,
25 including, without limitation, documents and data including policy documents, deposition
26 testimony, declarations, arbitration agreements, and time and pay records. Plaintiffs' investigation
27 was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*
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1 (1996) 48 Cal. App. 4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal. App. 4th
2 116, 129-130 (*Dunk/Kullar*).

3 The Parties agree to stipulate to the filing of an amended complaint in the Lopez Class Action
4 to include Plaintiffs Cruz and Simmons and the claims asserted by their related Actions thereby
5 effectively consolidating the Actions (the “Operative Complaint”).

6 Class Counsel has conducted significant investigation of the law and facts relating to the
7 claims asserted in the Action and the PAGA Notice, and have concluded that the Settlement is fair,
8 reasonable, adequate, and in the best interests of the Settlement Class, taking into account the
9 sharply contested issues involved, the expense and time necessary to litigate the Actions through
10 trial and any appeals, the risks and costs of further litigation of the Actions, the risk of an adverse
11 outcome, the uncertainties of complex litigation, the information learned through informal and
12 formal discovery regarding Plaintiffs’ allegations, and the substantial benefits to be received by
13 Settlement Class Members.

14 **II. THE SETTLEMENT**

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

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

- 21 • Certification of a settlement class (“Settlement Class Members” or “Class Members”)
22 for the purpose of settlement only: all current or former employees of Defendant Rolling
23 Hills Country Club (“Defendant”) as hourly, non-exempt employees in the State of
24 California at any time during the period from June 11, 2026, through February 2, 2026
25 (“Class Period”). The Class contains a Regular Rate Class comprised of Class Members
26 who are part of the certified regular rate claim based on holiday payments pursuant to
27 the Court’s February 14, 2025 and March 7, 2025 certification orders.

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- 1 • Defendant will pay \$575,000.00 (“Gross Settlement Amount”) to resolve the matter.
- 2 • Based on a review of its records, Defendant estimates that Class Members collectively
- 3 worked a total of approximately 82,000 Workweeks worked during the Class Period and
- 4 estimates that PAGA Members collectively worked a total of approximately 34,000 Pay
- 5 Periods during the PAGA Period. The Parties agree that the Gross Settlement Amount
- 6 shall not be automatically increased if the final number of Workweeks and/or Pay
- 7 Periods is higher. Defendant represents there are no more than approximately 82,000
- 8 Workweeks worked during the Class Period. In the event the number of Workweeks
- 9 worked by Class Members during the Class Period increases by more than ten percent
- 10 (10%), 8,200 Workweeks, as confirmed by the Settlement Administrator, then the
- 11 Parties agree to meet and confer in good faith to attempt to resolve the issue. If the issue
- 12 is not resolved within twenty-one (21) calendar days, Plaintiffs have the option to
- 13 rescind the Agreement within fourteen (14) calendar days of expiration of the meet and
- 14 confer period. Under no other circumstances shall Defendant be required to pay more
- 15 than the GSA except as provided for in this section. Under no other circumstances shall
- 16 Defendant be required to pay more than the GSA except as provided for in this section.
- 17 • Defendant will pay the employer’s share of taxes separate and apart from the Gross
- 18 Settlement Amount.
- 19 • This is a non-reversionary settlement.
- 20 • Class Members will be paid their *pro rata* share of the class action settlement based
- 21 on the total number of Workweeks¹ worked during the Class Period.
- 22 • The Settlement Administration costs, estimated not to exceed \$12,270.00, will be paid
- 23 out of the Gross Settlement Amount.
- 24 • Class Counsel, comprised of Bibiyan Law Group, P.C., Lawyers for Justice, PC, and
- 25 Potter Handy LLP may apply for, and Defendant will not oppose, attorneys’ fees of
- 26 not more than thirty-five percent (35%) of the Gross Settlement Amount, which, unless

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28 ¹ “Workweek” means the number of workweeks that each Class Members worked for Defendant during the Class Period. Any Class Member who worked less than one (1) full workweek will be credited with one (1) workweek.

1 escalated pursuant to the Settlement Agreement, amounts to \$191,666.66, and actual
2 costs, not to exceed \$165,000.00, all of which will be paid out of the Gross Settlement
3 Amount.

- 4 • Class Counsel hereby applies for, and Defendant will not oppose, a service award of
5 up to \$7,500.00 to Plaintiff, which will be paid out of the Gross Settlement Amount.
- 6 • “Aggrieved Employees” means all persons currently or formerly employed by
7 Defendant as non-exempt, hourly-paid employees during the period from December 18,
8 2023, through the end of Class Period (“PAGA Period”) in the State of California.
- 9 • Defendant has agreed to pay \$57,500.00 as PAGA penalties, seventy-five percent
10 (75%), or \$43,125.00, of which will be paid to the LWDA out of the Gross Settlement
11 Amount, and twenty-five percent (25%), or \$14,375.00, of which will be distributed
12 to the Aggrieved Employees.
- 13 • For any Class Member whose Individual Class Payment check or Individual PAGA
14 Payment check is uncashed and cancelled after 180 calendar days after the date of their
15 issuance, the Administrator shall transmit the funds represented to the California
16 Controller's Unclaimed Property Fund in the name of the Class Member.

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

19 Any settlement of class litigation must be reviewed and approved by the Court. (*See* Cal.
20 Rules of Court, rule 3.769). This is done in two steps: (1) an early (preliminary) review by the
21 trial court; and (2) a final review after notice has been distributed to the class members for their
22 comment or objections. (*See id.*). Courts presume the absence of fraud or collusion in the
23 negotiation of a settlement unless evidence to the contrary is offered. In short, there is a
24 presumption that the negotiations were conducted in good faith. (Newberg on Class Actions, §
25 11.51; *In re Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability*
26 *Litigation* (N.D. Cal. May 17, 2017) No. 16-cv-00295, 2017 WL 2214655, quoting *United States*
27 *v. Oregon* (9th Cir. 1990) 913 F.2d 576, 580.)

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1 **IV. SETTLEMENT AGREEMENT AND ACCOMPANYING DOCUMENTS**

2 A notice of settlement of a class action “must contain an explanation of the proposed
3 settlement and procedures for class members to follow in filing written objections to it and in
4 arranging to appear at the settlement hearing and state any objections to the proposed settlement.”
5 (Cal. Rules of Court, rule 3.769, subd. (f).)

6 Attached to the Declaration of Vedang J. Patel as Exhibit “1” thereto is the Settlement
7 Agreement between the Parties. Attached to the Settlement Agreement as internal Exhibit “A” is the
8 proposed Class Notice to be distributed to Class Members in English and Spanish. The proposed
9 Class Notice satisfies these requirements.

10 The Parties respectfully request that this Court approve the above-referenced Class Notice
11 and dissemination of the Class Notice to the Class Members, consistent with the manner and timing
12 as set forth in the Settlement Agreement. The Parties have agreed to use Apex Class Action
13 Administration (“Apex”), an experienced Settlement Administrator, to administer the settlement.

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

16 **A. The Settlement Was Negotiated at Arm’s-Length and Is Not Collusive**

17 The Settlement that has been reached, subject to this Court’s approval, is a product of
18 substantial efforts by the Parties and their counsel. The Settlement was reached after extensive
19 factual and legal investigation and research; the exchange of formal and informal discovery;
20 substantial negotiation regarding the scope of discovery; exchange of documents and information
21 that included review of time and pay records and analysis thereof with the aid of Plaintiffs and expert
22 consultant; depositions of Plaintiffs and relevant witnesses; analysis of shifts and Workweeks
23 worked by Class Members in the Class Period, analysis of the number of pay periods and number of
24 Aggrieved Employees in the PAGA Period for calculating PAGA penalties, number of Class
25 Members eligible for wage statement penalties and waiting time penalties; an analysis of Plaintiffs’
26 employment records; extensive correspondence and communication between counsel; class
27 certification of regular rate of pay and derivative wage statement and waiting-time penalty claims;
28 review of pleadings, evidence, and rulings in similar actions litigated elsewhere in the state; a review

1 of similar cases in the same industry elsewhere in the country; and preparation for and attendance at
2 a full-day mediation, followed by further discussions and coordination to finalize the terms and
3 conditions of the general settlement parameters agreed to by the Parties.

4 While Class Counsel has successfully certified some of the relevant claims, Class Counsel
5 recognized the potential risk, expense and complexity posed by further litigation. Moreover,
6 litigating Plaintiffs' claims in this litigation—claims that involve approximately 800 Class Members
7 during the Class Period—would require substantial additional preparation and discovery and
8 ultimately would involve further depositions and presentation of numerous more witnesses
9 (including Class Members and expert witnesses), as well as the consideration, preparation and
10 analysis of expert reports. Therefore, should litigation have progressed any further, there would have
11 been significant expense incurred by each side (above and beyond the expense already incurred).

12 **B. The Settlement Amount Is Well Within Range of Reasonableness**

13 The settlement amount reached in this case provides significant recovery to Class Members
14 and Aggrieved Employees and easily falls within the range of reasonableness. Based on documents
15 and information provided by Defendant, Class Counsel understands there are no more than 82,000
16 Workweeks during the Class Period.

17 **1. Recovery of Damages for Failure to Pay Wages for All Time**
18 **Worked**

19 Class Counsel theorized, based on Plaintiffs' narrative evidence and documents produced
20 by Defendant, that Defendant failed to pay all wages due to Class Members because Defendant
21 required Class Members to work off-the-clock or Class Members spent time off-the-clock under
22 Defendant's control, including, without limitation, waiting in line for several minutes to clock in
23 and clock out, prepping food, and attending meetings with supervisors without pay routinely. Class
24 Counsel theorized based on documents produced by Defendant and Plaintiffs' narrative evidence
25 that Class Members have spent extensive amounts of uncompensated time under Defendant's
26 control. Class Counsel also theorized that Defendant's time records were synthetic, or in other words
27 false, and did not accurately track Class Members' time worked.

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1 One theory advanced by Class Counsel alleged, based on Plaintiffs' narrative evidence, that
2 Class Members worked off-the-clock for approximately three (3) minutes each shift throughout the
3 Class Period, without pay. Class Counsel understand, based on time and payroll records produced
4 by Defendant and analysis thereof by expert data consultants retained by Class Counsel, that there
5 were approximately 343,579 shifts during the Class Period, 67% of which were over eight (8) hours
6 in length, and Class Members had an average hourly rate of pay of \$17.15. Thus, one calculation
7 performed by Class Counsel at mediation, assuming a forty percent (40%) violation rate, resulted in
8 **Defendant's exposure for unpaid off-the-clock work in an approximate amount of \$196,216.25**
9 $[(343,579 \text{ shifts} \times 0.67 \text{ shifts over eight hours} \times 0.05 \text{ hours} \times \$17.15 \times 1.5 \text{ overtime rate}) + [343,579$
10 $\text{shifts} \times 0.33 \text{ shifts under eight hours} \times 0.05 \text{ hours} \times \$17.15 \times 2 \text{ in liquidated damages}] \times 0.4 \text{ violation}$
11 $\text{rate})$.

12 Class Counsel understand that Defendant denies these contentions and make the following
13 defenses in connection with this claim: Defendant contends that their policies specifically prohibit
14 off-the-clock work. Defendant contends that they did not require Class Members to work off-the-
15 clock, they were paid for all time suffered or permitted to work. Defendant asserts that they
16 provided a sufficient number of timeclocks at their facilities, and Class Members would not have
17 been required to wait in line for clocking in before their shifts. Defendant contends that any
18 allegations that Class Members were required to be under Defendant's control off-the-clock would
19 necessitate an individualized inquiry into when and why, making this claim not subject to class
20 treatment and any trial in this litigation unmanageable. Thus, Defendant contends that no damages
21 can be recovered here, and, even if, *arguendo*, they could, an estimate of three (3) minutes of
22 unpaid work off-the-clock of Class Members for *every single shift* during the Class Period is a
23 wild exaggeration of time spent working off-the-clock if *any* such time was spent.

24 2. Recovery of Damages for Non-Compliant Meal Periods

25 Class Counsel theorized that Defendant's meal period practices throughout the
26 Class Period were non-compliant. Class Counsel theorized that Defendant's meal period practices
27 were non-compliant because, based on Plaintiffs' narrative evidence and Defendant's records,
28 Class Members did not receive full thirty (30) minute meal periods, were late, or missed. Class

1 Counsel also theorized that many meal periods were synthetic, or fictional because they rounded
2 to exactly thirty (30) minutes. Class Counsel also theorized, based on Plaintiffs' narrative
3 evidence, that Defendant's supervisors routinely interrupted Class Members asking work related
4 questions after clocking out for their meal periods.. However, Class Counsel note that some meal
5 period premiums were paid.

6 Class Counsel theorized that there are approximately 289,914 unique meal period
7 violations (*i.e.* meal periods that were missed, short, or were exactly thirty (30) minutes in length).
8 Thus, one calculation performed by Class Counsel at mediation, assuming a twenty percent (20%)
9 violation rate, resulted in **Defendant's exposure for failure to provide compliant meal periods**
10 **in a conservative amount of \$1,025,275** [298,914 meal period violations x \$17.15/hour x 0.2
11 violation rate].

12 Class Counsel understands that Defendant makes the following defenses in connection
13 with this claim: Defendant argued that they had compliant meal period policies and practices.
14 Defendant argued that Settlement Class Members took timely and full meal periods, as they were
15 required to do. Defendant further contends that any instance of a Class Member failing to take a
16 compliant meal period was voluntary, in violation of their meal period policy, would necessitate
17 an individualized inquiry and would not lend itself to a manageable trial. Thus, Defendant
18 contends that *no* monies are owed for this account but, even if any amounts were due, the amount
19 calculated by Class Counsel is excessive.

20 3. Recovery of Damages for Non-Compliant Rest Periods

21 Class Counsel theorized, based on documents and information produced by Defendant and
22 Plaintiffs' narrative evidence, that Defendant's rest period policies and practices throughout the
23 Class Period were non-compliant. Class Counsel understand from Defendant's policy documents,
24 as well as for the reasons above regarding unpaid meal periods, that Defendant's practices were non-
25 compliant. Class Counsel theorized based on data produced by Defendant that non-payment of any
26 rest break premium to Class Members raises a rebuttable presumption that all rest periods
27 throughout the Class Period were non-compliant.

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1 Thus, one calculation performed by Class Counsel at mediation resulted in, assuming a
2 twenty percent (20%) violation rate, **Defendant's exposure for failure to provide compliant rest**
3 **periods in a conservative amount of \$1,131,334** (329,835 eligible shifts x 0.2 violation rate x
4 \$17.15/hour).

5 Class Counsel understand that Defendant makes the following defenses in connection with
6 this claim: Defendant argues that it had compliant rest period policies and practices. Defendant
7 argues that Class Members took timely and full rest periods. Defendant contends that its policy
8 requires their employees to take timely and full rest periods. Defendant further contends that any
9 instance of a Class Member failing to take a compliant rest period was voluntary, in violation of
10 their rest period policy, would necessitate an individualized inquiry and would not lend itself to a
11 manageable trial. Finally, Defendant contends that a twenty percent (20%) violation rate is an
12 exaggeration of non-compliant rest periods, if there were any. Thus, Defendant contends that *no*
13 monies are owed for this account but, even if any amounts were due, the amount calculated by
14 Class Counsel is excessive.

15 3. Regular Rate Violations

16 Class Counsel theorized from Plaintiff's narrative evidence, and documents and information
17 produced by Defendant, that Class Members received non-discretionary bonuses during the Class
18 Period. However, Class Counsel theorized, on the same bases, that these bonuses were not included
19 in the regular rate of pay for the purpose of calculating overtime pay. Class Counsel theorized, based
20 on documents produced by Defendant and analysis thereof by expert data consultants retained by
21 Class Counsel, that, because of Defendant's failure to include these bonuses in the regular rate of
22 pay for the purpose of calculating overtime pay, Defendant has a conservative exposure of **\$9,115**.

23 Class Counsel understand that Defendant argued the following in connection with this
24 claim: Defendant contends that any bonuses paid were discretionary, and thus, are not to be
25 included in the regular rate of pay for the purpose of calculating overtime pay under the applicable
26 Wage Order. Defendant further defends that it did properly include all bonuses under the
27 applicable Wage Order in Class Members' regular rate of pay for the purpose of calculating
28 overtime pay, and thus, no monies are owed in connection with this theory either.

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1 note that the calculation used does not take into account the fact that all Class Members did not
2 work all pay periods and, therefore, Class Counsels' calculation does not take into account the
3 maximum penalty of \$4,000 in Plaintiffs' exposure model used at mediation.

4 **5. Waiting Time Penalties**

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

13 Based on relevant documents provided by Defendant, there were approximately 439 Class
14 Members who were terminated or resigned during the relevant statutory period. Thus, one
15 calculation performed at mediation by Class Counsel, assuming a fifty percent (50%) violation rate,
16 resulted in **Defendant's exposure for waiting time penalties to be approximately \$903,462** (439
17 separated Class Members x \$17.15/hour x 8 hours x 30 days x 0.5 violation rate).

18 Class Counsel understand that Defendant contends that there is no credence to Plaintiffs'
19 off-the-clock theory and that, thus, no waiting time penalties are owed based on that theory.
20 Finally, Defendant contends that its actions were not "willful" and that, thus, waiting time
21 penalties cannot be awarded. Thus, Defendant argued that no waiting time penalties are owed.

22 **6. Failure to Reimburse Work Expenses**

23 Class Counsel theorized that Defendant failed to reimburse Plaintiffs and Class Members
24 for work-related expenses because Defendant required Plaintiffs and other Class Members to use
25 their personal cell phones for work-related purposes. Additionally, Class Counsel theorized, based
26 on Plaintiffs' narrative evidence, that Plaintiffs and Class Members were required to purchase
27 replacement uniforms and pay to launder their uniforms. However, after investigation and diligent
28 inquiry, Class Counsel discounted this theory of liability at the time of mediation to focus on

1 Plaintiffs' other wage-and-hour claims, among others.

2 Class Counsel understand that Defendant argued the following: Defendant argued that it
3 did not require Class Members to use their cell phones for work-related purposes. Defendant also
4 argued that the personal cell phones were used by Class Members solely for personal tasks and as
5 such Defendant was not required to compensate them for such use. Defendant also argued that
6 they reimbursed all employees for all expenses incurred in furtherance of work. Thus, Defendant
7 contends that no monies under this theory, either.

8 **7. PAGA Penalties**

9 Class Counsel understand from the time and payroll data provided by Defendant that there
10 are approximately 18,088 pay periods in the PAGA Period. Plaintiffs' claims in the Action under
11 PAGA are substantially similar to those described herein. PAGA penalties include penalties for
12 initial violations and subsequent violations. Defendant contends that only initial violation rates
13 may be used instead of the subsequent violation rates initially used by Class Counsel. With this in
14 mind and because Class Counsel through investigation and discovery did not come to the
15 conclusion that Defendant at any time was notified by any governmental entity that they violated
16 any Labor Code sections presented in the PAGA Notice and PAGA claims, Class Counsel adjusted
17 the exposure model for Defendant to include only initial violation rates.

18 While Class Counsel are informed and believe that reasonable minds differ with regard to
19 calculation of PAGA penalties, Class Counsel believe it is reasonable to calculate Defendant's
20 maximum exposure in PAGA penalties as follows:

21 a. Overtime Violations: Labor Code section 558 prescribes penalties of \$50 for an
22 initial violation and \$100 for each subsequent violation. Using the initial pay period rate for all
23 violations, and a violation every single pay period for every single non-exempt employee in the
24 PAGA Period, this amounts to a maximum exposure of \$904,400 (18,088 x \$50).

25 b. Minimum Wage Violations: Labor Code section 1197.1 prescribes penalties of
26 \$100 for an initial violation and \$250 for each subsequent violation. Using the initial pay period
27 rate for all violations and a violation every single pay period for every single Aggrieved Employee
28 in the PAGA Period, this amounts to a maximum exposure of \$1,808,800 (18,088 x \$100).

1 c. Meal Period Violations: Labor Code section 558 prescribes penalties of \$50 for an
2 initial violation and \$100 for each subsequent violation. Using the initial pay period rate for all
3 violations and a violation every single pay period for every single non-exempt employee in the
4 PAGA Period, this amounts to a maximum exposure of \$904,400 (18,088 x \$50).

5 d. Rest Period Violations: Labor Code section 558 prescribes penalties of \$50 for an
6 initial violation and \$100 for each subsequent violation. Using the initial pay period rate for all
7 violations and a violation every single pay period for every single non-exempt employee in the
8 PAGA Period, this amounts to a maximum exposure of \$904,400 (18,088 x \$50).

9 e. Wage Statement Violations: According to *Gunther v. Alaska Airlines, Inc.* (2021)
10 287 Cal.Rptr.3d 229, in this instance, Labor Code section 2699 would be the appropriate penalty
11 for wage statement violations that are inaccurate, which prescribes penalties of \$100 for an initial
12 violation and \$200 for each subsequent violation (*Id.* at 247-248). Using the initial pay period rate
13 for all violations and a violation every single pay period for every single Aggrieved Employee in
14 the PAGA Period, this amounts to a maximum exposure of \$1,808,800 (18,088 x \$100).

15 f. Waiting Time Penalties: Labor Code section 2699 prescribes penalties of \$100 for
16 an initial violation and \$200 for each subsequent violation. Because this violation is merited only
17 at separation of employment, a 100% violation rate would likely include just one violation per
18 employee. The data produced by Defendant indicate that there were 480 Aggrieved Employees
19 whose employment was separated during the PAGA Period. This amounts to a maximum exposure
20 of \$48,000 (480 Aggrieved Employees x \$100).

21 g. Failure to Reimburse Work Expenses: Labor Code section 2699 would be the
22 appropriate penalty for failure to reimburse work expenses, which prescribes penalties of \$100 for
23 an initial violation and \$200 for each subsequent violation. Using *only* the initial pay penalty of
24 \$100 for all violations, and a violation every pay period for each Aggrieved Employee in the
25 PAGA Period, this amounts to exposure of \$1,808,800 (18,088 x \$100).

26 h. Conclusion: In sum, Class Counsel calculated Defendant's total maximum
27 exposure for PAGA violations if the Court were to find a 100% violation rate for every Aggrieved
28 Employee every pay period and not exercise its discretion to reduce any of those penalties to be

1 **\$8,187,600.** Class Counsel understand from the mediator and the mediation process that
2 Defendant argued the following in connection with this claim: Defendant contends that no PAGA
3 penalties are likely to be awarded and, even if they were, the maximum exposure calculated by
4 Class Counsel is vastly overstated. First, Defendant defends that PAGA penalties cannot and
5 should not be stacked. Second, Defendant asserts that individualized issues predominate the
6 PAGA claims, making the claims unmanageable for trial. Third, Defendant denies that a violation
7 for each pay period can be established. Fourth, Defendant contends that a Court is unlikely to
8 exercise its discretion to award civil penalties under PAGA where, as here, there is no conduct
9 shown by Plaintiffs that would show any Labor Code violation by Defendant is knowing and
10 intentional. Defendant insists that this is especially true in this Action where class action damages
11 are available to Class Members, rendering an award of PAGA penalties in addition to class action
12 damages to be double recovery.

13 Class Counsel maintain that it is possible to recover the subsequent violation rate for
14 penalties, that stacking is permissible, and that there is no manageability requirement under PAGA
15 (citing *Estrada v. Royalty Carpet Mills, Inc.*). As such, Class Counsel believes a ninety-five percent
16 (95%) discount of this claim to be reasonable, resulting in a valuation of **\$409,380** as a reasonable
17 estimate of the likelihood of what Plaintiffs may recover at trial for PAGA penalties (\$8,187,600 x
18 0.05).

19 8. Conclusion

20 When including derivative penalties, such as waiting time penalties, wage statement
21 violations, and discretionary PAGA penalties, Class Counsel theorized Defendant's maximum
22 exposure to be approximately **\$4,403,382**. In all, Class Counsel obtained a Gross Settlement
23 Amount of **\$575,000.00**. Particularly in light of the risks involving obstacles to class certification,
24 all issues and risks related to liability, the issues with manageability at trial, the discretionary
25 nature of PAGA penalties, and considering the case law regarding fair, reasonable and adequate
26 settlements, Class Counsel strongly believe that the settlement reached is fair, reasonable and
27 adequate, and in the best interest of Class Members.

Moreover, \$57,500.00 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 Defendant unnecessarily punitive.

VII. THE PROPOSED ATTORNEYS' FEES AND COSTS ARE REASONABLE

Class Counsel seeks an attorneys' fees award of not more than thirty-five percent (35%) of the Gross Settlement Amount, which, unless escalated pursuant to this Agreement, would amount to \$191,666.66. Class Counsel also seek reimbursement of costs not to exceed \$165,000.00. 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 Defendant and are well within established guidelines.

VIII. THE REQUESTED ENHANCEMENT AWARD TO THE NAMED PLAINTIFFS AND CLASS REPRESENTATIVE IS REASONABLE

Plaintiffs are entitled to enhanced award for his service as class representative, for answering extensive questions by Class Counsel, for being subjected to extensive questioning during their depositions, for being available and answering questions during mediation, for risks assumed being the named plaintiffs and for providing Defendant with a more expansive release of claims, including a waiver based upon California Civil Code section 1542, in exchange for their enhancement awards. Defendant does not oppose the requested enhancement to Plaintiff. Plaintiffs risked intrusive discovery and the payment of employer costs. In the experience of Class Counsel, the typical

1 enhancement award in wage and hour class actions ranges from approximately \$10,000.00 to
2 \$25,000.00, although some awards are higher. In contrast, Class Counsel seeks a modest
3 enhancement of \$15,000.00 to Plaintiffs for their service.

4 **IX. CONDITIONAL CERTIFICATION FOR SETTLEMENT PURPOSES**

5 **A. The Class Should Be Preliminarily Certified**

6 In California, there are two certification prerequisites: (1) the existence of an “ascertainable
7 class;” and (2) “a well-defined community of interest in the questions of law and fact involved
8 affecting the parties to be represented.” (*Sotelo v. MediaNews Group, Inc.* (2012) 207 Cal.App.4th
9 639, 647.) To certify a class, the party advocating class treatment must demonstrate: (1) a numerous
10 class; (2) predominant common questions of law or fact; (3) class representatives with claims or
11 defenses typical of the class; and (4) class representatives who can adequately represent the class.”
12 (*Williams v. Sup. Ct.* (2013) 221 Cal.App.4th 1353, citing *Brinker Restaurant Corp. v. Sup. Ct.*
13 (2012) 53 Cal.4th 1004, 1021.) Each of the criteria for class certification is satisfied in this instance:

14 **1. Ascertainability** – “Ascertainability” is a due process requirement that
15 ensures it is possible to decide who will be bound by the judgment (*res judica* effect). The
16 determination is made by examining the class definition and the size of the class. Here, the Class
17 Members definition (*i.e.*, all persons currently or formerly employed by Defendant as non-exempt,
18 hourly-paid employees during the Class Period in the State of California) is derived from the
19 Operative Complaint, which complains of alleged violations of Labor Code sections that are chiefly
20 and, in some instances, solely applicable to non-exempt, hourly paid employees. There is no
21 difficulty ascertaining who is a Class Member based on the above-described definition as it is readily
22 apparent to all involved who is a non-exempt, hourly-paid employee who worked in California for
23 Defendant during the Class Period based solely from Defendant’s payroll records, which amounts
24 to approximately 800 persons.

25 **2. Numerosity** – According to the California Supreme Court, a putative class is
26 sufficiently numerous to achieve the numerosity requirement if their joinder is impracticable and
27 thus substantial benefits accrue both to litigants and the courts if the action proceeds as a class action.
28 (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435, 446.) Numerosity is presumed satisfied if

1 there are forty (40) putative class members. (*Miri v. Dillon* (E.D. MI 2013) 292 F.R.D. 454, 461.)
2 However, as few as 10 class members has been found sufficient. (*See, e.g., Bowles v. Sup. Ct.* (1955)
3 44 Cal.2d 574.) Class Counsel understand from documents provided that Defendant identified at
4 least 205 Class Members. That is sufficiently numerous to establish the numerosity requirement.

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

8 This litigation is brought to resolve common issues that include whether Defendant failed to
9 pay for all hours worked; whether Defendant provided full, timely and un-interrupted meal and rest
10 periods; whether Class Members are entitled to premium pay for incomplete, untimely or interrupted
11 meal or rest periods, among other claims as set forth above.

12 **4. Typicality** – Typicality requires only that the named plaintiff’s interests in
13 the action be significantly similar to those of other class members. (*Williams v. Sup. Ct.* (2013)
14 221 Cal.App.4th 1353, citing *Brinker Restaurant Corp. v. Sup. Ct.* (2012) 53 Cal.4th 1004, 1021.)
15 Plaintiffs’ claims are typical of those of other Class Members as Plaintiffs: (1) are non-exempt,
16 hourly-paid employee like other Class Members; (2) complain of not being paid for all time under
17 Defendant’s control or suffered and/or permitted to work for Defendant; (3) did not receive full
18 premium pay for meal periods that were not compliant with the Labor Code; and (4) did not
19 receive premium pay for rest periods that were not provided, among others as set forth above.

20 **5. Adequacy of Representation** – To maintain a class action, the representative
21 plaintiffs must adequately protect the interests of the class. (*Williams v. Sup. Ct.* (2013) 221
22 Cal.App.4th 1353, citing *Brinker Restaurant Corp. v. Sup. Ct.* (2012) 53 Cal.4th 1004, 1021.)
23 Adequacy of representation consists of two components. First, there must be no disabling conflicts
24 of interest between the class representatives and the class. Second, the class representative must be
25 represented by counsel who are competent and experienced in the kind of litigation to be undertaken.
26 (*See McGhee v. Bank of Am.* (1976) 60 Cal.App.3d 442, 450; accord *In re Juniper Networks, Inc.*
27 *Securities Litigation* (N.D. Cal. 2009) 264 F.R.D. 584, 590.) Both criteria are met in this instance:
28

1 (i) **No Disabling Conflict of Interest Exists Between the Class**
2 **Representative and the Class**

3 No conflicts, disabling or otherwise, exists between Plaintiffs and Class Members because
4 Plaintiffs alleges to have been damaged by the same alleged conduct of Defendant (*i.e.*, Plaintiffs
5 classified as non-exempt, hourly-paid employee, not paid premium pay, etc.) and thus have the
6 incentive to fairly represent all Class Members' claims to achieve the maximum possible recovery.

7 (ii) **Class Counsel are Experienced Class Action Attorneys**

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

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

14 It deals with common issues that are most efficiently adjudicated together, as indicated
15 above. Moreover, with at least 800 Class Members, presentation of all of them before this Court
16 may be problematic, impractical, and burdensome. On the contrary, a class action allows claims of
17 many individuals to be resolved at the same time, eliminates the possibility of repetitious litigation
18 and affords small claimants with a method of obtaining redress for claims which otherwise would
19 be too insufficient to warrant individual litigation.

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

23 **X. CONCLUSION**

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

26 ///

27 ///

1 Dated: September 8, 2026

BIBIYAN LAW GROUP, P.C.

2
3 /s/ Vedang Patel

VEDANG J. PATEL

4 TRIANA HENDERSON

5 Attorneys for Plaintiff GUADALUPE LOPEZ, on
6 behalf of herself and all others similarly situated
7 and aggrieved
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