

1 DAVID G. SPIVAK (SBN 179684)
david@spivaklaw.com
2 MAYA CHEAITANI (SBN 335777)
maya@spivaklaw.com
3 CHRISTINA J. PREJEAN (SBN 314772)
christina@spivaklaw.com
4 THE SPIVAK LAW FIRM
5 8605 Santa Monica Bl
PMB 42554
6 West Hollywood, CA 90069
7 Telephone: (213) 725-9094
Facsimile: (213) 634-2485

8 Attorneys for Plaintiff(s),
9 FELIS A. PEREZ, and all others similarly situated
10 (Additional attorneys for Plaintiff(s) on following page)

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SANTA CLARA**
13 **(UNLIMITED JURISDICTION)**

14 FELIS A. PEREZ, on behalf of himself, all others
15 similarly situated, the general public, and as an
16 “aggrieved employee” on behalf of other
“aggrieved employees” under the Labor Code
Private Attorneys General Act of 2004,

17 *Plaintiff(s),*

18 vs.
19

20 NXEDGE MH LLC, a Delaware limited liability
21 company; NXEDGE SAN CARLOS, LLC, a
Delaware limited liability company; NXEDGE
22 CSL, LLC, a Nevada limited liability company;
and DOES 3–50, inclusive,

23 *Defendant(s).*
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Case No. 21CV387173

**PLAINTIFF FELIS A. PEREZ’S
NOTICE OF MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing Date: February 8, 2023
Hearing Time: 1:30 p.m.
Hearing Dept.: 3, The Honorable
Patricia M. Lucas
Action filed: September 29, 2021

**Submitted Herewith Under Separate
Cover:**

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



SPIVAK LAW
EMPLOYEE RIGHTS

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
15303 Ventura Bl
Ste 900
Sherman Oaks, CA 91403

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ADDITIONAL ATTORNEYS FOR PLAINTIFF(S)

WALTER L. HAINES (SBN 71075)
walter@uelglaw.com
UNITED EMPLOYEES LAW GROUP
4276 Katella Ave
Suite 301
Los Alamitos, CA 90720
Telephone: (562) 256-1047
Facsimile: (562) 256-1006

Attorneys for Plaintiff(s),
FELIS A. PEREZ, and all others similarly situated



SPIVAK LAW
EMPLOYEE RIGHTS

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

2 PLEASE TAKE NOTICE that on February 8, 2023 at 1:30 p.m., or as soon thereafter as
3 the matter may be heard, in Department 3 of the Santa Clara County Superior Court, located at
4 Downtown Superior Court, 191 North First Street, San Jose, CA 95113, Plaintiff Felis A. Perez
5 (“Plaintiff”) will and hereby does move this Court for an order: (1) granting class certification of
6 the Settlement Class solely for settlement purposes pursuant to California Code of Civil Procedure
7 section 382; (2) preliminarily approving the Joint Stipulation of Class Action Settlement and
8 Release of Claims (the “Settlement”)¹ between Plaintiff and Defendants NxEdge MH LLC,
9 NxEdge San Carlos, LLC, and NxEdge CSL, LLC (collectively “NxEdge” or “Defendants”)
10 (Plaintiff and Defendants are collectively the “Parties”), (3) appointing David Spivak of The
11 Spivak Law Firm and Walter L. Haines of United Employees Law Group as Class Counsel; (4)
12 appointing Plaintiff as Class Representative (“Class Representative”); (5) approving the use of
13 the proposed notice procedures and related forms; (6) directing that notice be mailed to the
14 proposed Settlement Class; and (7) scheduling a hearing date for motion for final approval of
15 class action settlement and awards of attorneys’ fees and costs.

16 The “Settlement Class” or “Class Members” consists of all persons Defendants employed
17 in California as regular full-time or part-time hourly, non-exempt employees (current and former)
18 who have not executed releases of claims under the California Labor Code and/or applicable
19 Wage Orders/regulations during the Class Period. “Class Period” means the period from
20 September 29, 2017 through the earlier of the date of the Court’s preliminary approval order and
21 the latest date before the Class exceeds 22,604 pay periods worked.

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

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



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

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

11 Respectfully submitted,

12 THE SPIVAK LAW FIRM

13
14 Dated: November 4, 2022

By: 

DAVID G. SPIVAK
MAYA CHEAITANI
CHRISTINA J. PREJEAN, Attorneys
for Plaintiff(s), FELIS A. PEREZ, and
all others similarly situated



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