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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

MATTHEW SAVATTIERI, on behalf of  
himself and all others similarly situated;

Plaintiff,

vs.

AMI EXPEDITIONARY HEALTHCARE,  
LLC, a Delaware limited liability company;  
AMI EXPEDITIONARY HEALTHCARE  
(USA), LLC, a Wyoming limited liability  
company; and DOES 1 through 25,  
inclusive.

Defendants

SHORNIKAY CALLUM, an Individual,  
on behalf of herself and all others similarly  
situated

Plaintiffs,

vs.

**Lead Case No.: 21STCV33372**

[Consolidated with Case Nos.  
21STCV45611 and 21STCV46752]

*Assigned to the Hon. Kenneth R. Freeman  
Department 14*

**NOTICE OF MOTION AND MOTION  
FOR PRELIMINARY APPROVAL OF  
CLASS ACTION AND PAGA  
SETTLEMENT; MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT THEREOF**

Date: March 16, 2023  
Time: 10:00 a.m.  
Department: 14

Complaint Filed: September 10, 2021  
Trial Date: None Set

1 AMI EXPEDITIONARY HEALTHCARE  
2 (USA), LLC, a Wyoming Limited Liability  
3 Company; AMI EXPEDITIONARY  
4 HEALTHCARE, LLC, a Delaware Limited  
5 Liability Company and DOES 1 through  
6 100, Inclusive

Defendants

7 ASHLEY CHARLEMAGNE, BRIANA  
8 HUGUELY, MARLA LEWIS, and  
9 SHARON LEWIS, on behalf of themselves  
10 and others similarly situated

Plaintiffs,

11 vs.

12 AMI EXPEDITIONARY HEALTHCARE  
13 (USA), LLC, a Wyoming limited liability  
14 company; AMI EXPEDITIONARY  
15 HEALTHCARE, LLC, a Delaware limited  
16 liability company; AMI HEALTH, a  
17 business entity of unknown form; AMI  
18 EXPEDITIONARY HEALTHCARE, a  
19 business entity of unknown form; and DOES  
20 1 through 50, Inclusive

Defendants.

21 Bruce Kokozyan, Esq. (SBN 195723)

22 Alex DiBona, Esq. (SBN 265744)

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27 SHORNIKAY CALLUM, individually and on behalf of all others  
28 similarly situated

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Attorneys for Plaintiffs  
ASHLEY CHARLEMAGNE,  
BRIANNA HUGUELY, MARIA LEWIS,  
and SHARON LEWIS on behalf of themselves and others similarly situated

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE THAT** on March 16, 2023 at 10:00 a.m. in Department 14  
3 of the above-captioned Court located at 312 N. Spring St., Los Angeles, California 90012,  
4 pursuant to California Code of Civil Procedure section 382, Rule 3.769 of the California Rules  
5 of Court, and California Labor Code section 2699(l), Plaintiffs Matthew Savattieri, Shorniakay  
6 Callum, Ashley Charlemagne, Brianna Huguely, Sharon Lewis, and Marla Lewis (“Plaintiffs”)  
7 will and hereby does move the Court for an Order granting preliminary approval of the proposed  
8 class action and Labor Code Private Attorneys General Act of 2004, California Labor Code  
9 sections 2698, et seq. (“PAGA”) settlement between Plaintiffs and Defendants AMI  
10 Expeditionary Healthcare, LLC and AMI Expeditionary Healthcare (USA), LLC  
11 (“Defendants”).

12 Plaintiffs request that the Court enter an Order:

13 1. Preliminarily approving the Class Action and PAGA Settlement Agreement and  
14 Class Notice (“Settlement” or “Settlement Agreement”) attached as **Exhibit 1** to the Declaration  
15 of Jonathan M. Genish in Support of Plaintiffs’ Motion for Preliminary Approval of Class  
16 Action and PAGA Settlement;

17 2. Certifying the Class for Settlement purposes;

18 3. Appointing Plaintiffs Matthew Savattieri, Shorniakay Callum, Ashley  
19 Charlemagne, Brianna Huguely, Sharon Lewis, and Marla Lewis as the Class Representatives  
20 for Settlement purposes;

21 4. Appointing Blackstone Law, APC, Kokozian Law Firm, APC, and David  
22 Yeremian & Associates, Inc. as Class Counsel for Settlement purposes;

23 5. Approving the proposed Court Approved Notice of Class Action Settlement and  
24 Hearing Date for Final Court Approval, attached as **Exhibit A** to the Settlement Agreement  
25 (“Class Notice”) to be mailed to the Class;

26 6. Approving the opt-out and objection procedures provided in the Settlement  
27 Agreement and set forth in the Class Notice;

28 7. For each Class Member, directing Defendants to furnish their full names, last

1 known-home addresses, last known telephone numbers, Social Security numbers, start and end  
2 dates of active employment as a non-exempt employee of Defendants in the state of California  
3 working on the LAUSD project, total number of workweeks during the Class Period, total  
4 number of workweeks during the PAGA Period, and any other information the Settlement  
5 Administrator may reasonably need to administer this Settlement, to the Settlement  
6 Administrator, no later than fourteen (14) calendar days after the Court grants preliminary  
7 approval of the Settlement;

8 8. Approving the proposed deadlines for the settlement administration process; and

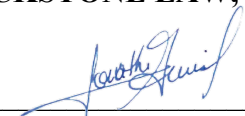
9 9. Setting a Final Approval Hearing.

10 Pursuant to California Labor Code section 2699(1)(2), a copy of the proposed Settlement,  
11 as well as information regarding the preliminary approval hearing on this matter, were submitted  
12 to the California Labor and Workforce Development Agency via online submission  
13 concurrently with the filing of this motion. (Genish Decl. ¶ 48).

14 This motion is based upon this notice, the attached memorandum of points and  
15 authorities, the Declarations of Jonathan M. Genish, Bruce Kokozian, and David Yeremian in  
16 Support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement,  
17 the Declarations of Matthew Savattieri, Shorniakay Callum, Ashley Charlemagne, Brianna  
18 Huguely, Sharon Lewis, and Marla Lewis in Support of Plaintiffs' Motion for Preliminary  
19 Approval of Class Action and PAGA Settlement, the pleadings and other records on file with  
20 the Court in this matter, and any other further evidence or argument that the Court may properly  
21 receive at or before the hearing.

22  
23 Dated: February 17, 2023

**BLACKSTONE LAW, APC**

24  
25 By: 

Jonathan M. Genish

Attorneys for Plaintiff Matthew Savattieri

26  
27 [SIGNATURES CONTINUE ON NEXT PAGE]  
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Dated: February 17, 2023

**DAVID YEREMIAN &ASSOCIATES,  
INC.**

By: /s/ David Yeremian  
David Yeremian, Esq.  
Attorneys for Plaintiffs ASHLEY  
CHARLEMAGNE, BRIANNA  
HUGUELY, MARIA LEWIS, and  
SHARON LEWIS

Dated: February 17, 2023

**KOKOZIAN LAW FIRM, APC**

By: /s/ Bruce Kokozyan  
Bruce Kokozyan, Esq.  
Attorneys for Plaintiff Shorniakay Callum

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## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. INTRODUCTION**

Plaintiffs Matthew Savattieri, Shorniakay Callum, Ashley Charlemagne, Brianna Huguely, Sharon Lewis, and Marla Lewis (“Plaintiffs”) seek preliminary approval of a Class Action and PAGA Settlement Agreement and Class Notice (“Settlement” or “Settlement Agreement”) on behalf of all current and former non-exempt employees of Defendants AMI Expeditionary Healthcare, LLC and AMI Expeditionary Healthcare (USA), LLC (“Defendants”) employed by Defendants in the state of California working on the Los Angeles Unified School District (LAUSD) project at any time during the Class Period, excluding any such employees who separately entered into a release of claims with Defendants prior to final approval of the settlement (Declaration of Jonathan M. Genish in Support of Plaintiffs’ Motion for Preliminary Approval of Class Action and PAGA Settlement [“Genish Decl.”], ¶ 14, **Exh. 1** thereto). The Settlement terms are outlined as follows:

- Class Size: Approximately 3,112 individuals.
- Gross Settlement Payment: Three Million Eight Hundred Thousand Dollars and Zero Cents (\$3,800,000.00), exclusive of employer-side payroll taxes.
- Settlement Administration Costs: Not to exceed Forty Thousand Dollars (\$40,000.00).
- Class Representative Enhancement Award: Ten Thousand Dollars and Zero Cents (\$10,000.00) to Plaintiff Savattieri, and Five Thousand Dollars and Zero cents (\$5,000.00) each to Plaintiffs Callum, Charlemagne, Huguely, M. Lewis and S. Lewis.
- PAGA Penalties: One Hundred Thousand Dollars and Zero Cents (\$100,000.00), 75% of which, Seventy-Five Thousand Dollars and Zero Cents (\$75,000.00), will be paid to the California Labor and Workforce Development Agency (“LWDA”) and the remaining 25%, Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) to be paid to the PAGA Members.
- Requested Attorneys’ Fees and Costs: Attorneys’ fees of One Million Two Hundred Sixty-Six Thousand, Six Hundred Sixty-Six Dollars and Sixty-Seven Cents

1 (\$1,266,666.67) (one-third of the Gross Settlement Amount) plus actual litigation  
2 costs and expenses not to exceed Fifty Thousand Dollars and Zero Cents  
3 (\$50,000.00).

- 4 • Estimated Net Settlement Fund: Net Settlement Amount of Two Million Three  
5 Hundred Eight Thousand, Three Hundred Thirty-Three Dollars and 33/100 cents  
6 (\$2,308,333.33) to be distributed to Participating Class Members.
- 7 • Average Estimated Individual Settlement Payment, including the 25% of the PAGA  
8 Penalties allocated for PAGA Members: Seven Hundred Fifty Dollars (\$750.00).

9 As set forth herein, the Settlement is the product of informed discovery, arms-length  
10 negotiations, and provides a fair, adequate, and reasonable recovery for the Class. Plaintiffs  
11 therefore respectfully request that the Court grant preliminary approval of the proposed  
12 Settlement, conditionally certify the Class, approve the proposed Class Notice, and set a hearing  
13 date for final settlement approval, among other requested relief.

## 14 **II. FACTUAL AND PROCEDURAL BACKGROUND**

15 On September 8, 2021, Plaintiff Savattieri provided notice to the LWDA and to  
16 Defendants of his intent to seek civil penalties pursuant to the Private Attorneys General Act,  
17 Labor Code section 2698, et seq. (“PAGA”). Plaintiff Savattieri subsequently sent two amended  
18 notices to the LWDA on September 9, 2021 and April 29, 2022. (Genish Decl., ¶ 9, **Exh. 2**  
19 thereto). On September 10, 2021, Plaintiff Savattieri filed a class and representative PAGA  
20 action Complaint against Defendants entitled *Savattieri v. AMI Expeditionary Healthcare, LLC*,  
21 et al (Los Angeles County Superior Court Case No. 21STCV33372, “*Savattieri Action*”). On  
22 December 14, 2021, Plaintiff Shorniakay Callum filed a class action complaint against  
23 Defendants (Los Angeles County Superior Court Case No. Case No. 21STCV45611, “*Callum*  
24 *Action*”). On December 22, 2021, Plaintiffs Ashley Charlemagne, Briana Huguely, Marla Lewis  
25 and Sharon Lewis provided notice to the LWDA and to Defendants of their intent to seek civil  
26 penalties pursuant to PAGA. On the same day, these Plaintiffs filed their class action complaint  
27 against Defendants (Los Angeles County Superior Court Case No. 21STCV46752,  
28 “*Charlemagne Action*”). On June 14, 2022, the Court ordered all three cases consolidated with  
the *Savattieri* action designated as the lead case. Pursuant to Labor Code section 2699.3,

1 subd.(a), Plaintiffs gave timely written notice to Defendants and the LWDA by sending the  
2 PAGA Notices. (Genish Decl., ¶ 9).

3 The consolidated matter encompassed all named Plaintiffs and claims alleged in each  
4 action consisting of claims for (1) failure to pay minimum wages (Labor Code §§ 1194, 1197,  
5 1197.1); (2) failure to pay overtime wages (Labor Code §§ 510, 1198); (3) failure to provide  
6 meal periods or compensation in lieu thereof (Labor Code §§ 226.7; 512); (4) failure to provide  
7 rest periods or compensation in lieu thereof (Labor Code § 226.7); (5) failure to timely pay  
8 wages during employment (Labor Code §§ 203, 204); (6) failure to keep accurate payroll records  
9 (Labor Code § 1174); (7) failure to issue accurate wage statements (Labor Code § 226(a)); (8)  
10 failure to reimburse necessary business expenses (Labor Code § 2802); (9) unfair business  
11 practices (Business & Professions Code § 17200); (10) enforcement action pursuant to Labor  
12 Code § 2698, et seq. (“Consolidated Action”). Defendants denied the allegations, denied any  
13 failure to comply with the laws identified in the complaints and denied any and all liability for  
14 the causes of action alleged. (Genish Decl., ¶ 9.)

15 On October 27, 2021, AMI removed this action to the Central District of California,  
16 claiming that there is at least \$7,460,405.35 in controversy in this case. On November 17, 2021,  
17 after meeting and conferring, counsel for the Parties stipulated to remand this case to the Los  
18 Angeles Superior Court and engage in private mediation. As a precondition for engaging in  
19 early mediation, the Parties entered into a formal stipulation and order in which Defendants  
20 agreed that a *Belaire-West* Notice would be mailed to all putative class members within seven  
21 (7) days should the mediation fail. A copy of the class list was provided to a third-party  
22 administrator to hold in trust on April 19, 2022. (Genish Decl., ¶ 10.)

23 On May 3, 2022, the Parties participated in an all-day mediation presided over by Paul  
24 Grossman, Esq., a neutral and respected mediator with extensive experience in complex wage  
25 and hour matters, which led to this Agreement to settle the Consolidated Action. (Genish Decl.,  
26 ¶ 11.)

27 Prior to mediation, Plaintiffs obtained, through informal discovery, a sampling of time  
28 and payroll data for the putative class, and figures and information regarding the class size and

1 composition. Plaintiffs’ investigation was sufficient to satisfy the criteria for court approval set  
2 forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot*  
3 *Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“Dunk/Kullar”). (Genish Decl., ¶ 12.)

4 At the mediation, the Parties engaged in intensive settlement discussions during which  
5 they debated their respective positions and exchanged views regarding the strengths and  
6 weaknesses of the alleged claims. After a full day of mediation, and with the help of the  
7 mediator, the Parties were able to reach an agreement to resolve this dispute on a class and  
8 representative basis, and shortly thereafter executed a memorandum of understanding  
9 memorializing the key settlement terms. Following mediation, the parties worked diligently to  
10 negotiate and memorialize the terms in a long form settlement agreement. (Genish Decl., ¶ 13).  
11 On December 28, 2022, after additional discussions and revisions to the agreement, the  
12 Settlement Agreement was fully executed. (Genish Decl., ¶ 14, **Exh. 1**).

13 Now, following substantial investigation and extensive settlement negotiations,  
14 Plaintiffs seek preliminary approval of the proposed settlement, which will resolve all class and  
15 representative claims alleged in the Consolidated Action. (Genish Decl., ¶ 15).

16 In accordance with Labor Code sections 2699 et. seq., and concurrently with the filing  
17 of this motion, Plaintiffs’ counsel is providing notice of the proposed settlement to the LWDA  
18 by uploading the Motion and all supporting documents via the LWDA’s online portal. (Genish  
19 Decl., ¶ 16).

### 20 **III. THE SETTLEMENT TERMS**

#### 21 **A. Class Definition**

22 For purposes of settlement only, the Parties have agreed that the Class shall be defined as  
23 “all current and former non-exempt employees of Defendants employed by Defendants in the  
24 state of California working on the Los Angeles Unified School District (LAUSD) project at any  
25 time during the Class Period, excluding any such employees who separately entered into a  
26 release of claims with Defendants prior to final approval of the settlement (“Class Members” or  
27 “Class”). The Class Period and release of claims begins on September 10, 2017 and ends on July  
28 2, 2022. It is estimated that there are 3,112 Class Members. (Genish Decl., ¶ 14; Settlement

Agreement, ¶ 1.5, 1.12, 4.1).

## **B. Amount of Settlement**

The parties have agreed to settle the Class and PAGA claims at issue in the consolidated matter for a non-reversionary Gross Settlement Payment of Three Million Eight Hundred Thousand Dollars and Zero Cents (\$3,800,000.00), exclusive of any employer-side payroll taxes. (Genish Decl., ¶ 18; Settlement Agreement ¶3.1).

## **C. Allocation and Funding of the Gross Settlement Payment**

The Gross Settlement Payment is a common fund and therefore includes all requested costs, fees, and other allocations. As stated above, the Gross Settlement Payment includes: (1) Class Counsel's fees in the amount of one-third of the Gross Settlement Payment, equaling One Million Two Hundred Sixty-Six Thousand, Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$1,266,666.67); (2) Class Counsel's actual litigation costs, not to exceed Fifty Thousand Dollars and Zero Cents (\$50,000.00); (3) Settlement Administration Costs, capped at Fifty Thousand Dollars and Zero Cents (\$50,000.00); (4) Class Representative Enhancement Award in the amount of Ten Thousand Dollars and Zero Cents (\$10,000.00) to Plaintiff Savattieri, and Five Thousand Dollars and Zero cents (\$5,000.00) each to Plaintiffs Callum, Charlemagne, Huguely, M. Lewis and S. Lewis; and (5) PAGA Penalties of One Hundred Thousand Dollars and Zero Cents (\$100,000.00). After the above-estimated amounts are deducted from the Gross Settlement Payment, approximately 3,112 Class Members will share in a Net Settlement Amount of Two Million Three Hundred Eight Thousand, Three Hundred Thirty-Three Dollars and 33/100 cents (\$2,308,333.33) (Genish Decl., ¶ 18; Settlement Agreement, ¶3.2).

The Net Settlement Fund will be distributed and paid to Participating Class Members on a pro-rata basis based on the number of workweeks worked during the Class Period. This will provide Participating Class Members with an average estimated payment of Seven Hundred Fifty Dollars (\$750.00). The actual payments to Participating Class Members will vary based on the actual weeks worked by Participating Class Members and shall be confirmed by the Settlement Administrator in advance of the final approval hearing. Employees who worked during the PAGA Period shall receive a share of the 25% portion of the PAGA Penalties designated for distribution to PAGA Members. These payments will be distributed on a pro rata

1 basis based on the number of workweeks worked during the PAGA Period. Payments to  
2 Participating Class Members will be allocated as 20% wages, 40% interest, and 40% penalties.  
3 The employee share of any applicable payroll taxes on wages will be deducted from the wage  
4 portion of each Participating Class Member's Individual Settlement Payment. Employer-side  
5 payroll taxes shall be paid by Defendants separately from and in addition to the Gross Settlement  
6 Payment. (Genish Decl., ¶ 19; Settlement Agreement ¶3.1).

7 The Settlement Agreement is a non-reversionary and a non-claims made settlement. All  
8 money from the Net Settlement Fund will be distributed to Participating Class Members. No  
9 money will revert to Defendants. (Genish Decl., ¶ 20; Settlement Agreement ¶3.1).

10 Any Individual Settlement Payment checks remaining uncashed after 180 days will be  
11 transferred to the California State Controller's Office and held in a trust for such Participating  
12 Class Members and PAGA Members. As such, no "unpaid residue" under California Code of  
13 Civil Procedure section 384 will result from the Settlement. (Genish Decl., ¶ 21; Settlement  
14 Agreement ¶4.4.1).

#### 15 **D. Release of Plaintiffs' Claims**

16 In exchange for participating in the Settlement, Plaintiffs and their respective former and  
17 present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns  
18 generally, shall release and discharge Released Parties from all claims related to their  
19 employment with Defendants, including all claims alleged in the Action, and be bound by a  
20 Civil Code Section 1542 release and waiver of all claims known and unknown, without  
21 exception, except as may be prohibited by law. This specifically excludes claims for  
22 unemployment insurance, disability, social security, and workers' compensation (except for  
23 claims pursuant to Labor Code Sections 132a and 4553) ("Plaintiffs' Release"). Plaintiffs'  
24 Release does not extend to any claims or actions to enforce this Agreement, or to any claims for  
25 vested benefits, unemployment benefits, disability benefits, social security benefits, workers'  
26 compensation benefits that arose at any time, or based on occurrences outside the Class Period.  
27 Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to,  
28 the facts or law that Plaintiffs now know or believe to be true but agrees, nonetheless, that  
Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different

1 or additional facts or Plaintiffs' discovery of them. (Settlement Agreement ¶5.1).

2 **E. Release of Claims by Participating Class Members**

3 Upon remittance of the Gross Settlement Amount by Defendants to the Settlement  
4 Administrator, Participating Class Members will fully and finally release and discharge  
5 Defendants from all claims, rights, demands, liabilities and causes of action that are alleged, or  
6 reasonably could have been alleged based on the facts and claims asserted in the operative  
7 complaints in the Savattieri, Callum, and Charlemagne Actions including, but not limited to, the  
8 following claims: (i) failure to pay all regular wages, minimum wages and overtime wages due;  
9 (ii) failure to provide meal periods or compensation in lieu thereof; (iii) failure to provide rest  
10 periods or compensation in lieu thereof; (iv) failure to reimburse necessary business expenses;  
11 (v) failure to provide complete, accurate wage statements; (vi) failure to pay wages timely at  
12 time of termination or resignation; (vii) failure to provide timely pay wages during employment;  
13 (viii) failure to maintain required payroll records; (ix) unfair business practices that could have  
14 been premised on the claims, causes of action or legal theories of relief described above or any  
15 of the claims, causes of action or legal theories of relief pleaded in the operative complaints, and  
16 (x) all claims under the California Labor Code Private Attorneys General Act of 2004 or for  
17 civil penalties that could have been premised on the claims, causes of action or legal theories  
18 described above or any of the claims, causes of action or legal theories of relief pleaded in the  
19 operative complaints, including but not limited to, Labor Code sections 203, 210, 226(a), 226.3,  
20 226.7, 1197.1, 510, 512, 558, 2802, and 2699 (collectively, the "Released Claims"). This release  
21 shall apply to claims arising during the Class Period. (Settlement Agreement ¶5.2).

22 **F. Release of PAGA Claims**

23 All Non-Participating Class Members who are Aggrieved Employees are deemed to  
24 release, on behalf of themselves and their respective former and present representatives, agents,  
25 attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for  
26 PAGA penalties that were alleged, or reasonably could have been alleged, based on the period  
27 commencing on September 8, 2020 and ending on July 2, 2022 ("PAGA Period"), facts stated  
28 in the Consolidated Action, the PAGA Notices (the letters sent to Defendants and the LWDA

1 by Plaintiffs Matthew Savattieri dated September 8, 2021 and April 29, 2022, Shorniakay  
2 Callum dated February 2, 2022, Ashley Charlemagne dated December 22, 2021, Brianna  
3 Huguely dated December 22, 2021, Sharon Lewis dated December 22, 2021, and Marla Lewis  
4 dated December 22, 2021, providing notice pursuant to Labor Code section 2699.3, subd.(a)),  
5 and ascertained in the course of the Actions. (Settlement Agreement ¶5.3).

#### 6 **IV. STANDARD OF REVIEW FOR PRELIMINARY APPROVAL**

7 The settlement of a class action requires court approval. *See Dunk v. Ford Motor Co.*,  
8 48 Cal. App. 4th 1794 (1996). “In general, questions whether a settlement was fair and  
9 reasonable, whether notice to the class was adequate, whether certification of the class was  
10 proper, and whether the attorney fee award was proper are matters addressed to the trial court’s  
11 broad discretion.” *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 234-35 (2001)  
12 (disapproved on other grounds).

13 The review and approval of a proposed class action settlement involves a two-step  
14 process. *See* Cal. Rules of Court, Rule 3.769(c). First, counsel submit the proposed terms of  
15 the settlement and the Court makes a preliminary assessment of whether the settlement appears  
16 to be sufficiently within the range of a fair settlement to justify providing notice of the proposed  
17 settlement to class members. After notice is provided to the class, the Court must conduct a  
18 second inquiry into whether the proposed settlement is fair, reasonable, and adequate. *Id.*

19 The initial evaluation of the settlement at the preliminary approval step “is not a fairness  
20 hearing.” *Armstrong v. Board of School Directors of City of Milwaukee*, 616 F.2d 305, 314 (7th  
21 Cir. 1980). Rather, the limited purpose of this initial inquiry is to determine, at a threshold level,  
22 only whether the proposed settlement is within the range of possible approval and, as a result,  
23 “whether there is any reason to notify the class members of the proposed settlement and to  
24 proceed with a fairness hearing.” A presumption of fairness exists where: (1) the settlement is  
25 reached through arm’s length bargaining; (2) investigation and discovery are sufficient to allow  
26 counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4)  
27 the percentage of objectors is small. *See In re Microsoft I-V Cases*, 135 Cal. App. 4th 706, 723  
28 (2006).

1 Preliminary approval does not require a court to make a final determination that the  
2 settlement is fair, reasonable, and adequate. Rather, that decision is made only at the final  
3 approval stage, after notice of the settlement has been given to the class members and they have  
4 had an opportunity to object or exclude themselves from the settlement. *See* Cal. Rules of Court,  
5 Rule 3.769(g). In considering a potential class settlement, the court need not reach any ultimate  
6 conclusions on the issues of fact and law which underlie the merits of the dispute, and need not  
7 engage in a trial on the merits. *See Officers for Justice v. Civil Service Commission*, 688 F.2d  
8 615, 625 (9th Cir. 1982).

## 9 **V. THE SETTLEMENT IS PRESUMED FAIR**

### 10 **A. The Settlement Was Reached as a Result of Arm's-Length Bargaining**

11 California courts recognize that “a presumption of fairness exists where . . . [a] settlement  
12 is reached through arm's-length bargaining.” *Wershba*, 91 Cal.App.4th at 245; *see also Clark*  
13 *v. Am. Residential Servs. LLC*, 175 Cal.App.4th 785, 799 (2009). Here, the Parties' settlement  
14 negotiations were at all times made at arm's-length and were adversarial. (Genish Decl., ¶¶ 24-  
15 26). The Settlement was reached following a full day of mediation with a highly respected  
16 mediator with substantial experience mediating wage and hour cases. (Genish Decl., ¶¶ 11).  
17 Moreover, Plaintiffs engaged in additional negotiations in order to finalize the long-form  
18 agreement presently before the Court. At all times, Plaintiffs were willing and prepared to  
19 litigate this matter through class certification and trial if the parties had been unable to reach a  
20 favorable resolution. (Genish Decl., ¶26).

### 21 **B. Sufficient Investigation and Discovery by Experienced Class Counsel**

22 Prior to mediation, Plaintiffs obtained, through informal discovery, plaintiffs' personnel  
23 records, wage statements, hard copy time records, meal and rest trackers, company policies,  
24 expense reimbursement information and related information, as well as a sampling of time and  
25 payroll data for the putative class, and figures and information regarding the class size and  
26 composition. (Genish Decl., ¶ 12). Plaintiffs' investigation was sufficient to satisfy the criteria  
27 for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794,  
28 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130

1 (“Dunk/Kullar”).

2 At the mediation, the Parties engaged in intensive settlement discussions during which  
3 they debated their respective positions and exchanged views regarding the strengths and  
4 weaknesses of the alleged claims. After a full day of mediation, and with the help of the  
5 mediator, the Parties were able to reach an agreement to resolve this dispute on a class and  
6 representative basis, and shortly thereafter executed a memorandum of understanding  
7 memorializing the key settlement terms. Following mediation, the parties worked diligently to  
8 negotiate and memorialize the terms in a long form settlement agreement. (Genish Decl., ¶25).

9 The Parties extensively briefed issues regarding class certification and liability and  
10 provided their analyses to the mediator who helped the parties debate the strengths and weakness  
11 of their respective positions. (Genish Decl., ¶ 25). Additionally, settlement negotiations were  
12 conducted by highly capable and experienced counsel. Class Counsel are respected members of  
13 the California State Bar with strong records of vigorous and effective advocacy and are  
14 experienced in handling complex wage and hour class action litigation. (Genish Decl., ¶¶ 2-8,  
15 43-44; Declaration of Bruce Kokozyan [“Kokozyan Decl.”], ¶¶ 2-6; Declaration of David  
16 Yeremian [“Yeremian Decl.”], ¶¶ 2-8). Accordingly, Class Counsel had sufficient information  
17 and experience to act intelligently in negotiating the Settlement.

18 **C. The Settlement is Fair and Reasonable in Light of the Parties’ Respective Legal**  
19 **Positions and Recovery Risks**

20 A settlement is not judged against what might have been recovered had a plaintiff  
21 prevailed at trial, nor does the settlement have to obtain 100% of the damages sought to be fair  
22 and reasonable. *Wershba*, 91 Cal.App.4th at 246, 250. In evaluating the reasonableness of a  
23 settlement, a trial court must consider “the strength of plaintiffs’ case, the risk, expense,  
24 complexity and likely duration of further litigation, the risk of maintaining class action status  
25 through trial, the amount offered in settlement, the extent of discovery completed and the stage  
26 of the proceedings, the experience and views of counsel, the presence of a governmental  
27 participant, and the reaction of the class members to the proposed settlement.” *Kullar v. Foot*  
28 *Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008).

1 Here, the reasonableness of the Settlement is underscored by the fact that Defendants  
2 have legal and factual grounds for defending the action. Based upon Class Counsel's experience  
3 litigating similar complex matters, Plaintiffs reasonably expected a vigorous and lengthy  
4 defense to both class certification and the merits of the action absent a settlement. (Genish Decl.,  
5 ¶¶ 2-8, 43-44).

### 6 **1. Class Counsel's Analysis of the Maximum Available Liability and** 7 **Damages**

8 Prior to mediation, Class Counsel analyzed a sampling of time and payroll records  
9 provided by Defendants and other relevant documents and discovery. Based on the discovery  
10 provided, Class Counsel estimated with respect to the class claims, with all claims adjudicated  
11 in favor of the Class, that Defendants faced a maximum potential liability of \$49,176,075.79.  
12 This estimate is based off an estimated maximum liability for the primary claims at issue as  
13 follows: \$19,459,856.68 for meal period violations, \$4,857,906.37 for rest period violations,  
14 \$6,375,596.74 for unpaid reimbursable business expenses, \$457,556.00 for waiting time  
15 penalties, and \$15,411,060.00 in wage statement penalties. These maximum potential damages  
16 were calculated using information provided by Defendants regarding total aggregate workweeks  
17 and average rates of pay for the Class. Plaintiffs further estimated that Defendants faced an  
18 additional exposure of \$2,614,100.00 in potential PAGA penalties. (Genish Decl., ¶ 27).

### 19 **2. Class Counsel's Risk-Based Analysis and Risk-Based Adjustments**

20 While Plaintiffs believe that Defendants faced significant exposure, substantial barriers  
21 to a recovery existed. Defendants strongly contended that Plaintiffs' claims are not suitable for  
22 class certification because individual issues and affirmative defenses would predominate should  
23 this case go to trial. *See Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012);  
24 *Duran v. U.S. Bank Nat. Assn.*, 59 Cal.4th 1, 35-36 (2014); *Wal-Mart Stores, Inc. v. Dukes*, 131  
25 S.Ct. 2541, 2551(2011). While Plaintiffs and Class Counsel disagree with Defendants'  
26 predictions, they also recognize that there is a significant risk that the Court may deny class  
27 certification. (Genish Decl., ¶¶ 27-39); *see also, Findings of the Study of California Class Action*  
28 *Litigation*, 2000-2006, available at <http://www.courts.ca.gov/documents/class-action-lit-study.pdf> (finding that only 21.4% of all class actions were certified either as part of a settlement or as part of a contested certification motion).

1 For example, a large portion of Defendants' overall liability lies in Plaintiffs' meal  
2 period claims. These claims have been increasingly difficult to certify in recent years and  
3 Defendants contended their practices were lawful. *See Brinker*, 53 Cal. 4th at 1034-35.  
4 Plaintiffs' theory of liability for meal period violations was based on allegations that Defendants  
5 implemented a facially deficient policy which failed to ensure that Plaintiffs and the Class  
6 received all timely and duty-free meal periods to which they were entitled. *See Bradley v.*  
7 *Networkers Int'l, LLC*, 211 Cal.App.4th 1129 (2012) (holding that "the lack of a meal/rest break  
8 policy and uniform failure to authorize such breaks are matters of common proof."). In contrast,  
9 Defendants argued that their practices at all times during the class period were lawful.  
10 Defendants argued that the rate of purported meal period violations reflected in the data would  
11 require individualized inquiry and that such inquiry would prohibit a class from being certified.  
12 Class Counsel disagreed with this assessment but had to consider the risk that the Court would  
13 find validity in an individualized proof defense to certification of Plaintiffs' meal period claim.  
14 (Genish Decl., ¶ 31).

15 Plaintiffs' rest period allegations were based on a facially deficient policy that failed to  
16 provide employees with timely, full, and uninterrupted rest periods. As with the meal period  
17 allegations, Defendants contended that they provided rest breaks and relieved Class Members  
18 of all duties as required under California law. Additionally, this claim was even more uncertain  
19 given the difficulties associated with proving the alleged rest period violations, as Defendants  
20 were not required to record these breaks. Given the lack of records demonstrating rest period  
21 violations, there were legitimate concerns Plaintiffs would not be able to certify these claims or  
22 prove substantial damages with requisite certainty. (Genish Decl., ¶ 32).

23 Plaintiffs also faced challenges certifying and proving liability for their minimum wage  
24 and overtime claims. These claims were largely based on unrecorded, off-the-clock work  
25 performed by the Class Members both before and after their shifts and during purported meal  
26 periods. As such, the individualized nature of why this work was performed and the  
27 individualized nature of damages presented substantial concerns regarding the manageability of  
28 the case and the risk the Court could find these issues prevented certification. (Genish Decl., ¶

1 33).

2 Class Counsel also recognized that, even if Plaintiffs prevailed at class certification,  
3 proving the amount of wages due to Class Members would be an expensive, time-consuming,  
4 and uncertain proposition. In order to prove liability and damages, Class Counsel will need to  
5 request and analyze thousands of pages of documents, obtain the Class Members' contact  
6 information, contact them and obtain their declarations at great expense. Obtaining the  
7 cooperation of current employees would also be difficult, given the likely reluctance to aid  
8 prosecution of a lawsuit against a current employer. On the other hand, Defendants would likely  
9 be able to obtain the cooperation of their employees. Moreover, even if Plaintiffs prevailed at  
10 class certification and trial, possible appeals would substantially delay any recovery by the  
11 Class. (Genish Decl., ¶ 35).

12 Therefore, taking into account the risk of not obtaining class certification, Class Counsel  
13 discounted Defendants' estimated liability by 50%. The merits-based risk factors also reduced  
14 Defendants' estimated liability by an additional 40%. This resulted in an adjusted estimated  
15 liability of \$4,917,607.58. (Genish Decl., ¶ 38).

16 Class Counsel also separately contemplated the risks of proceeding with the PAGA action  
17 and potential liability Defendants could face from this claim. First, Class Counsel recognized  
18 that the PAGA claims would be subject to the same defenses and risks as Plaintiffs' underlying  
19 wage claims. (Genish Decl., ¶ 36); *see, Elliot v. Spherion Pac. Work, LLC*, 572 F.Supp.2d 1169,  
20 1181-82 (C.D. Cal. 2008) ("Plaintiff's claim under [PAGA] is wholly dependent upon her other  
21 claims. Because Plaintiff's other claims fail as a matter of law, so does her PAGA claim").  
22 Moreover, although California case law clearly states that PAGA actions need not satisfy class  
23 action requirements, Class Counsel remained mindful of the fact that some courts have  
24 nevertheless held that PAGA claims must meet a threshold "manageability" requirement. *See,*  
25 *e.g., Wesson v. Staples the Office Superstore, LLC*, 68 Cal.App.5th 746 (2021). Class Counsel  
26 also anticipated that even if successful on the merits at trial, the imposition of cumulative civil  
27 penalties based on the alleged wage and hour violations could be considered unjust, arbitrary  
28 and oppressive, or confiscatory, and that Defendants would argue that it made a good faith

1 attempt to comply with its legal obligations warranting a reduction in penalties.<sup>1</sup> Class Counsel  
2 also anticipate Defendants would argue that they made a good faith attempt to comply with their  
3 legal obligations, and that the violations per pay period were low, warranting an additional  
4 reduction in civil penalties. Finally, Class Counsel was also mindful of the fact that PAGA is  
5 fundamentally not intended to be compensatory in nature but is instead intended to facilitate  
6 enforcement of California's labor laws by financing state activities and educating and deterring  
7 non-compliance. (Genish Decl., ¶ 37).

8 Therefore, after considering this multitude of factors, Plaintiffs and Class Counsel  
9 concluded that it was in the best interest of the State of California and the Aggrieved Employees  
10 to enter into the Settlement, and to allocate One Hundred Thousand Dollars (\$100,000.00) of  
11 the Settlement towards the PAGA claims, which represents approximately 2.6% of the Gross  
12 Settlement Payment. This percentage of the settlement is well-within the range of wage and hour  
13 settlements regularly approved in both state and federal court for cases that include both a class  
14 and PAGA action. Typically, such hybrid cases allocate only 1% of the gross settlement value  
15 to resolve PAGA claims, and, indeed, settlements allocations as little as 0.22% of the gross  
16 settlement amount have been approved as reasonable by courts. *See, e.g., Bararsani v. Coldwell*  
17 *Banker Residential Brokerage Company*, Los Angeles Superior Court Case No. BC495767  
18 (2016) (\$10,000 allotted as PAGA penalties or 0.22% of \$4,500,000 settlement amount); *Davis*  
19 *v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015) (PAGA Payment of \$5,000  
20 in a \$1.5 million class settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637 (N.D.  
21 Cal. 2015) (PAGA Payment of \$5,000 in a \$500,000 class settlement); *Martinov. Ecolab Inc.*,  
22 No. 3: 14CV04358 (N.D. Cal. 201 7) (\$100,000 allotted as PAGA penalties or 0.48% of

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23  
24 <sup>1</sup> *See, e.g., Thurman v. Bayshore Transit Management, Inc.*, 203 Cal.App.4th 1112, 1131 (2012) (imposition of  
25 both statutory and civil penalties for same conduct is impermissible double recovery) (disapproved on other  
26 grounds); *Aguirre v. Genesis Logistics*, 2013 WL 10936035, at \*3 (C.D. Cal. 2013) ("duplicative effect" of  
27 penalties is a factor in favor of "reducing ...the PAGA penalty"); *Smith v. Lux Retail North America, Inc.*, 2013  
28 WL 2932243, at \*3 (N.D. Cal. June 13, 2013) (declining to stack penalties based on the same conduct); *Castillo*  
*v. ADT, LLC*, 2017 WL 363108, at \*4 (E.D. Cal. Jan. 25, 2017); *Sanchez v. McDonalds Restaurants of California,*  
*Inc.*, 2017 WL 4620746 (LA Super. Ct. July 6, 2017) (declining to stack penalties arising out of the same conduct);  
*Fleming v. Covidien, Inc.*, 2011 WL 756304718, at \*4 (C.D. Cal. Aug. 12, 2011) (reducing PAGA penalties by  
80%); *Cotter v. Lyft, Inc.*, 193 F.Supp.3d 1030 (N.D. Cal. 2016) (indicating that a substantial reduction is  
warranted where good faith dispute exists in legal obligations); *Carrington v. Starbucks Corp.*, 30 Cal.App.5th  
504, 529 (2018) (approving reduction in penalties from \$50 per pay period to \$5 per pay period based on good  
faith attempts to comply with obligations and minimal violations).

1 \$21,000,000 settlement amount); *Zamora v. Ryder Integrated Logistics, Inc.*, 2014 U.S. Dist.  
2 LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for PAGA on a \$1.5 million class  
3 settlement). (Genish Decl., ¶ 36). Moreover, the overall relief obtained by the Settlement is  
4 significant, not only from a monetary perspective, but also because it fulfills the public policy  
5 objectives of PAGA—to promote enforcement of California’s labor laws, provide funds to the  
6 state, and deter future non-compliance by the employer.

7 In light of the parties’ respective legal positions and the risks of continued litigation, the  
8 Gross Settlement Payment for resolution of the class and PAGA claims, is fair, adequate, and  
9 reasonable. (Genish Decl., ¶ 39).

## 10 VI. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED

11 Code of Civil Procedure Section 382 provides that three basic requirements must be met  
12 in order to sustain any class action: (1) there must be an ascertainable class; (2) there must be a  
13 well-defined community of interest in the question of law or fact affecting the parties to be  
14 represented; and (3) certification will provide substantial benefits to litigants and the courts, i.e.,  
15 proceeding as a class action is superior to other methods. *See Dunk*, 48 Cal.App.4th at 1806.  
16 Plaintiffs contend that this action, which is based upon Defendants’ wage and hour policies and  
17 practices, satisfies the class certification requirements under California Code of Civil Procedure  
18 section 382. Defendants deny Plaintiffs’ allegations, but for purposes of this Settlement only,  
19 Defendants have stipulated to certification of the proposed class action.

### 20 A. An Ascertainable Class Exists Which is So Numerous That Joinder of All 21 Members is Impracticable

22 Whether an ascertainable class exists turns on three factors: (1) the class definition, (2)  
23 the size of the class, and (3) the means of identifying the class members. *See Miller v. Woods*,  
24 148 Cal.App.3d 862, 873 (1983). In this case, all three considerations strongly favor class  
25 certification. Here, the Class is defined as “all current and former non-exempt employees of  
26 Defendants employed by Defendants in the state of California working on the Los Angeles  
27 Unified School District (LAUSD) project at any time during the Class Period, excluding any  
28 such employees who separately entered into a release of claims with Defendants prior to final

1 approval of the settlement.” (Genish Decl., ¶ 14; Settlement Agreement, ¶1.5). This provides a  
2 clear and definite scope for the proposed class.

3 Next, the class is sufficiently numerous. There is no magic number that satisfies the  
4 numerosity requirement. Courts have certified classes with as few as ten or twenty-eight class  
5 members. *Rose v. City of Hayward*, 126 Cal.App.3d 926, 934 (1981); *Bowles v. Superior Court*,  
6 44 Cal. 2d 574 (1995); *Hebbard v. Colgrove*, 28 Cal.App.3d 1017, 1030 (1972). Here, the  
7 estimated Class size of 3,112 individuals meets the numerosity requirement. (Genish Decl., ¶  
8 18).

9 Finally, the question of whether class members are easily identifiable turns on whether  
10 a plaintiff can establish “the existence of an ascertainable class.” *Daar v. Yellow Cab Co.*, 67  
11 Cal.2d 695 at 706 (1967). The existence of an ascertainable class in this case can be established  
12 through Defendants’ payroll records, and the class definition is sufficiently specific to enable  
13 the parties, potential Class Members and the Court to determine the parameters of the Class.  
14 *See Clothesrigger, Inc. v. GTE Corp.*, 191 Cal.App.3d 605, 617 (1987).

### 15 **B. The Class Shares a Well-Defined Community of Interest**

16 The community of interest requirement embodies three factors: (1) predominant  
17 questions of law and fact; (2) class representatives with claims or defenses typical of the class;  
18 and (3) class representatives who can adequately represent the class. *Dunk*, 48 Cal.App.4th at  
19 1806. Here, all three requirements are easily satisfied.

20 The commonality criterion requires the existence of common question of law or fact and  
21 is generally established with the issues of predominance and typicality. *See Daar*, 67 Cal.2d  
22 695, 706. What is required is that a common question of fact or law exist which predominates  
23 over issues unique to individual plaintiffs. The existence of individual issues or facts—generally  
24 present in any case arising from employment—is not a bar to class certification if they do not  
25 render class litigation unmanageable or predominate over the common issues. *See B.W.I.*  
26 *Custom Kitchen v. Owens-Illinois, Inc.*, 191 Cal.App.3d 1341, 1354 (1987).

27 Here, Plaintiffs’ claims present common issues of law and fact that predominate and  
28 warrant class certification. Plaintiffs allege that Defendants denied compliant meal and rest

1 periods to employees, required employees to perform work off-the-clock, and failed to fully  
2 compensate employees for all time actually worked. These policies and practices meant that  
3 Defendants allegedly failed to pay minimum and overtime wages, and other related claims.  
4 Plaintiffs allege that Defendants' policies and practices were uniform as to all Class Members.  
5 Thus, class treatment is appropriate.

6 To satisfy the typicality requirement, California law does not require that Plaintiffs'  
7 claims be identical to the other class members. Rather, the test of typicality for a class  
8 representative is whether other members have the same or similar injury, whether the action is  
9 based on conduct which is not unique to the named plaintiff, and whether other class members  
10 have been injured by the same course of conduct. *See Seastrom v. Neways, Inc.*, 149 Cal.App.4th  
11 1496, 1502 (2007). The typicality requirement for a class representative refers to the nature of  
12 the claim or defense of the representative, and not to the specific facts from which it arose or  
13 the relief sought. *See id.*

14 Here, Plaintiffs allege that their claims are similar to that of the other Class Members  
15 and that Plaintiffs' claims arise out of the same alleged course of conduct giving rise to the  
16 claims of the other Class Members. Because Plaintiffs' claims are based upon the same alleged  
17 conduct and business practices as those of Class Members, the typicality requirement has been  
18 satisfied.

19 Finally, the question of adequacy of representation "depends on whether the plaintiff's  
20 attorney qualifies to conduct the proposed litigation in the plaintiff's interest or not antagonistic  
21 to the interests of the class." *McGee v. Bank of America*, 60 Cal.App.3d 442, 450 (1976). Here,  
22 these considerations are satisfied. Class Counsel are well-regarded and accomplished lawyers  
23 who are qualified and experienced in employment-related, class-action litigation. (Genish Decl.,  
24 ¶¶ 2-8; Kokozian Decl., ¶¶ 2-6; Yeremian Decl., ¶¶ 2-8). Plaintiffs will vigorously, adequately,  
25 and fairly represent the interests of the class. Plaintiffs always have throughout the course of the  
26 litigation considered the interests of the class and understood that they must take steps to  
27 adequately represent the class and their interests. (Savattieri Decl. ¶¶ 3-9; Declaration of  
28 Shorniakay Callum ["Callum Decl."], ¶¶ 3-5; Declaration of Ashley Charlemagne

1 ["Charlemagne Decl."], ¶¶ 4-7; Declaration of Brianna Huguely, ["Huguely Decl."], ¶¶ 4-7;  
2 Declaration of Sharon Lewis ["S. Lewis Decl."], ¶¶ 4-7; and Declaration of Marla Lewis ["M.  
3 Lewis Decl."], ¶¶ 4-7). Because Plaintiffs' claims are typical of other Class Members and are  
4 not based on unique circumstances, there is no antagonism between the interests of Plaintiffs  
5 and the Class.

### 6 **C. A Class Action is Superior to a Multiplicity of Litigation**

7 Under the circumstances, proceeding as a class action is a superior means of resolving  
8 this dispute, as the class members and the court will derive substantial benefits. Class  
9 certification would serve as the only means to deter and redress the alleged violations. *See*  
10 *Linder v. Thrifty Oil Co.*, 23 Cal.4th 429, 434 (2000) (relevant considerations include the  
11 probability that each class member will come forward to prove his or her separate claim and  
12 whether the class approach would actually serve to deter and redress the alleged wrongdoing).  
13 Further, individual actions arising out of the same operative facts would unduly burden the  
14 courts and could result in inconsistent results. Therefore, class action proceedings are superior  
15 to individual litigation.

## 16 **VII. THE REQUESTED ENHANCEMENT AWARDS ARE REASONABLE**

17 Plaintiffs in class action lawsuits are eligible for reasonable enhancement awards as  
18 compensation "for the expense or risk they have incurred in conferring a benefit on other  
19 members of the class." *Munoz v. BCI Coca-Cola Bottling Co.*, 186 Cal.App.4th 399, 412 (2010).  
20 Courts routinely grant approval of class action settlement agreements containing enhancements  
21 for the class representative, which are necessary to provide incentive to represent the class and  
22 are appropriate given the benefit the class representatives help to bring about for the class. *See*  
23 *In re Online DVD Rental*, 779 F.3d 934, 947-948 (9th Cir. 2014) (approving enhancement award  
24 417 times larger than individual payments where enhancement award made up a mere .17% of  
25 the settlement); *Gaudin v. Saxon Mortgage Servs., Inc.*, 2015 WL 7454183, at \*10 (N.D. Cal.  
26 Nov. 23, 2015) (finding service award of \$15,000 to be "fair and reasonable").

27 Plaintiffs initiated this litigation on behalf of former co-workers who will now be entitled  
28 to receive payment from the Settlement. Plaintiffs invested substantial time and effort into

1 litigation including their own research, reviewing documents, contacting other putative class  
2 members to obtain their participation in the action, and extensive discussions with Class  
3 Counsel. (Savattieri Decl. ¶¶ 3-9; Callum Decl., ¶¶ 3-5; Charlemagne Decl., ¶¶ 4-7; Huguely  
4 Decl., ¶¶ 4-7; S. Lewis Decl., ¶¶ 4-7; and M. Lewis Decl., ¶¶ 4-7). Further, the requested  
5 amounts are also reasonable given the average award and the benefit gained by other Class  
6 Members. For these reasons, Plaintiffs request that an enhancement award of \$10,000.00 to  
7 Plaintiff Matthew Savattieri and enhancement awards of \$5,000.00 each to Plaintiffs Shorniakay  
8 Callum, Ashley Charlemagne, Brianna Huguely, Sharon Lewis, and Marla Lewis, be  
9 preliminarily approved by the Court. (Genish Decl., ¶ 40; Savattieri Decl., ¶ 10-11; Callum  
10 Decl., ¶¶ 8-9; Charlemagne Decl., ¶¶ 8-9; Huguely Decl., ¶¶ 8-9; S. Lewis Decl., ¶¶ 8-9; and M.  
11 Lewis Decl., ¶¶ 8-9).

12 **VIII. THE REQUESTED ATTORNEYS' FEES AND COSTS ARE**  
13 **REASONABLE**

14 Trial courts have “wide latitude” in assessing the value of attorneys’ fees and their  
15 decisions will “not be disturbed on appeal absent a manifest abuse of discretion.” *Lealao v.*  
16 *Beneficial Cal, Inc.*, 82 Cal.App.4th 19, 41 (2000). California law provides that attorney fee  
17 awards should be equivalent to fees paid in the legal marketplace to compensate for the result  
18 achieved and risk incurred. *Id.* at 47. In cases where class members present claims against a  
19 common fund and the defendant agrees to a percentage of the fund as part of the settlement, use  
20 of the percentage method is appropriate. *Id.* at 32.

21 Here, the requested attorneys’ fees of One Million Two Hundred Sixty-Six Thousand,  
22 Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$1,266,666.67), which is one-third of  
23 the common fund, are disclosed to Class Members in the proposed Class Notice. (Settlement  
24 Agreement, **Exh. A**). The requested fee was freely negotiated, is common in the legal  
25 marketplace, and is not opposed by Defendants. The Motion for Final Approval will elaborate  
26 on the nature of the legal services provided and will also support Class Counsel’s request for the  
27 reimbursement of litigation costs not to exceed \$50,000.00. (Genish Decl., ¶¶ 24-26).

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1           **IX.     THE CLASS NOTICE AND THE OPT-OUT AND OBJECTION PROCESS**  
2                       **MEETS DUE PROCESS REQUIREMENTS**

3           The parties have jointly drafted a Class Notice which will be delivered to the Class  
4 Members. (Settlement Agreement, **Exh. A**). The Class Notice will include information  
5 regarding the nature of the lawsuit, a summary of the terms of the Settlement, the Class  
6 definition, information on how to object and opt-out, and the date of the Final Approval Hearing.  
7 (Settlement Agreement, **Exh. A**). It will list each Class Members' total Workweeks and the  
8 estimated Individual Settlement Payment to be paid to the Class Members. (Settlement  
9 Agreement, **Exh. A**). The Class Notice shall be provided to Class Members in both English and  
10 Spanish. (Settlement Agreement, ¶1.11).

11           No later than 14 calendar days after the Court grants preliminary approval of the  
12 Settlement, Defendants will simultaneously deliver the Class Data to the Settlement  
13 Administrator containing the following information for each Class Member: their full names,  
14 last known-home addresses, last known telephone numbers, Social Security numbers, start and  
15 end dates of active employment as a non-exempt employee of Defendants in the state of  
16 California working on the LAUSD project, total number of workweeks during the Class Period,  
17 total number of workweeks during the PAGA Period, and any other information the Settlement  
18 Administrator may reasonably need to administer this Settlement, to the Settlement  
19 Administrator (Settlement Agreement, ¶4.2). The Settlement Administrator shall perform any  
20 searches necessary to confirm Class Members' addresses, and within 7 calendar days of  
21 receiving the Class Data from Defendants, the Settlement Administrator shall mail the Class  
22 Notice to all Class Members via first class mail. (Settlement Agreement, ¶7.4.2). The parties  
23 have agreed to use ILYM Group, Inc. as the Settlement Administrator. (Genish Decl., ¶45;  
24 Settlement Agreement, ¶7.1).

25           In determining whether to approve a settlement of a class action, a trial court has virtually  
26 complete discretion as to the manner of giving notice to class members, and review on appeal is  
27 governed by the abuse of discretion standard. *See In re Cellphone Fee Termination Cases*, 186  
28 Cal.App.4th 1380 (2010). Here, Class Counsel is not aware of an alternative method of

1 providing notice to the Class which would result in a higher likelihood of actual notice. (Genish  
2 Decl., ¶ 46). The original source of the mailing addresses is from Class Members, who provided  
3 the information to Defendants. (Genish Decl., ¶46). As a fail-safe, additional searches will be  
4 performed on any notice returned as non-deliverable. (Genish Decl., ¶ 46, Settlement  
5 Agreement, ¶4.4.2, 7.4.3). The Settlement Administrator will report any and all opt outs,  
6 objections and disputes. (Settlement Agreement, ¶7.8).

7 Participating Class Members may send written objections to the Administrator, by fax,  
8 email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an  
9 attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A  
10 Participating Class Member who elects to send a written objection to the Administrator must do  
11 so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional  
12 14 days for Class Members whose Class Notice was re-mailed). (Settlement Agreement, ¶7.7.2).

13 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must  
14 send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later  
15 than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class  
16 Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class  
17 Member or his/her representative that reasonably communicates the Class Member's election to  
18 be excluded from the Settlement and includes the Class Member's name, address and email  
19 address or telephone number. To be valid, a Request for Exclusion must be timely faxed,  
20 emailed, or postmarked by the Response Deadline. (Settlement Agreement, ¶¶7.8.2).

## 21 **X. NOTICE TO LWDA**

22 In accordance with Labor Code sections 2699 et. seq., and simultaneously with the filing  
23 of Plaintiffs' Motion, Plaintiffs' counsel provided notice of the proposed settlement, including  
24 the Settlement Agreement and this Motion, to the LWDA via online submission to the LWDA.  
25 (Genish Decl., ¶ 48).

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Respectfully submitted,

**BLACKSTONE LAW, APC**

By:   
Jonathan M. Genish  
Attorneys for Plaintiff Matthew Savattieri

DATED: February 17, 2023

Respectfully submitted,

**BLACKSTONE LAW, APC**

  
Jonathan M. Genish  
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**DAVID YEREMIAN & ASSOCIATES,  
INC.**

Dated: February 17, 2023

**KOKOZIAN LAW FIRM, APC**

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