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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CRUZ**

SALVADOR VILLANUEVA and MARCO
PEREZ, individually, and on behalf of all
others similarly situated,

Plaintiffs,

v.

LA ROSA TORTILLA FACTORY, INC., a
California corporation; and DOES 1 through
10, inclusive,

Defendants.

Case No.: 22CV00226

**CLASS AND REPRESENTATIVE
ACTION**

*[Assigned for all purposes to: Hon. Syda
Kosofsky Cogliati, Dept. 5]*

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT; MEMORANDUM OF
POINTS AND AUTHORITIES**

*[Filed with the Declaration of Justin F.
Marquez, Declaration of Kane Moon, and
Proposed Order]*

PRELIMINARY APPROVAL HEARING

Date: July 25, 2024

Time: 8:30 a.m.

Dept: 5

Complaint filed: January 28, 2022

FAC filed: May 18, 2022

SAC filed: May 16, 2024

Trial date: Not set

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TO THE COURT AND TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on July 25, 2024 at 8:30 a.m., in Department 5 of the Santa Cruz Superior Court, located at 701 Ocean Street, Santa Cruz, California 95060, pursuant to Code of Civil Procedure § 382 and California Rules of Court 3.769 *et seq.*, Plaintiffs Salvador Villanueva and Marco Perez (collectively, “Plaintiffs”) will move the Court for an Order granting preliminary approval of the proposed class action settlement between Plaintiffs and Defendant La Rosa Tortilla Factory, Inc. (“Defendant”). Plaintiffs further moves the Court for an Order:

1. Granting preliminary approval of the Joint Stipulation Of Class Action And PAGA Settlement;
2. Certifying a Class for settlement purposes;
3. Approving the Notice and the plan for distribution of the Notice;
4. Appointing Plaintiffs Salvador Villanueva and Marco Perez as Class Representatives for settlement purposes;
5. Appointing Plaintiffs’ Counsel, Justin F. Marquez and Benjamin H. Haber of Wilshire Law Firm, PLC and Kane Moon and Allen Feghali of Moon Law Group, PC as Class Counsel for settlement purposes;
6. Appointing CPT Group, Inc. as the Settlement Administrator; and
7. Scheduling a final approval hearing.

The motion will be based upon this notice, the attached memorandum of points and authorities, the Declarations of Justin F. Marquez and Kane Moon filed concurrently herewith, the records and files in this action, and any other further evidence or argument that the Court may properly receive at or before the hearing.

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Respectfully submitted,

Dated: July 2, 2024

By: _____

WILSHIRE LAW FIRM

Justin F. Marquez

Benjamin H. Haber

Maxim Gorbunov

MOON LAW GROUP, PC

Kane Moon

Allen Feghali

Attorneys for Plaintiffs

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiffs Salvador Villanueva and Marco Perez (collectively, “Plaintiffs”) seek preliminary
4 approval of a proposed \$500,000.00 non-reversionary, wage and hour class action settlement with
5 Defendant La Rosa Tortilla Factory, Inc. (“Defendant”). The Settlement will provide substantial
6 monetary payments to approximately 482 class members. And, as set forth more fully below, the
7 proposed Settlement satisfies all the criteria for settlement approval under California law. The
8 Settlement was reached after extensive investigation, discovery, and negotiations. The negotiations
9 were at arms-length and were facilitated by an experienced class action mediator, Jeffrey Krivis,
10 Esq., over the course of a full day of mediation that was conducted via Zoom. After extensive
11 negotiations and discussions regarding the strengths and weaknesses of Plaintiffs’ claims and
12 Defendant’s defenses, the Parties reached a settlement on December 7, 2022. Accordingly, Plaintiffs
13 request that the Court preliminarily approve the proposed Settlement, certify the proposed settlement
14 class, approve the proposed notice, and set a final approval hearing.

15 **II. SUMMARY OF THE LITIGATION AND SETTLEMENT**

16 **A. Plaintiffs’ Claims**

17 This is a wage and hour class action and Private Attorneys General Act (“PAGA”) (Cal. Lab.
18 Code §§ 2699, *et seq.*) representative action. Plaintiffs and putative class members worked in
19 California as hourly-paid or non-exempt employees for Defendant during the class period.
20 Defendant is based in Madera, California and specializes in manufacturing tortillas, chips, tostadas,
21 and Mexican pastries. (Declaration of Justin F. Marquez in Support of Plaintiffs’ Motion for
22 Preliminary Approval of Class Action Settlement [“Marquez Decl.”], ¶ 2.)

23 Plaintiffs allege that Defendant’s payroll, timekeeping, and wage and hour practices resulted
24 in Labor Code violations. Plaintiffs allege that Defendant failed to pay for all hours worked.
25 Plaintiffs further allege that Defendant failed to provide employees with legally compliant meal and
26 rest periods, and Defendant failed to reimburse business expenses. Based on these allegations,
27 Plaintiffs assert related claims for failure to provide accurate wage statements, failure to pay all final
28 wages at termination, unfair business practices, and civil penalties under PAGA. (*Id.* at ¶ 3.)

On January 28, 2022, Plaintiff Villanueva filed a putative wage-and-hour class action complaint against Defendant for: (1) failure to pay minimum and straight time wages (Labor Code §§ 204, 1194, 1194.2, and 1197); (2) failure to pay overtime wages (Labor Code §§ 1194 and 1198); (3) failure to provide meal periods (Labor Code §§ 226.7 and 512); (4) failure to authorize and permit rest periods (Labor Code §§ 226.7 and 512); (5) failure to timely pay final wages at termination (Labor Code §§ 201-203); (6) failure to provide accurate itemized wage statements (Labor Code § 226); (7) failure to indemnify employees for expenditures (Labor Code § 2802); and (8) unfair business practices (Business and Professions Code 17200 et seq.). On January 28, 2022, Plaintiff Villanueva sent a notice to Defendant and the California Labor & Workforce Development Agency (“LWDA”) alleging wage and hour violations pursuant to the Private Attorneys General Act “PAGA” (Labor Code §§ 2698, *et seq.*). On April 12, 2022, Plaintiff Villanueva filed a separate action seeking civil penalties under PAGA. On May 16, 2022, Plaintiff Villanueva filed a joint stipulation for leave to file a First Amended Complaint (“FAC”) incorporating the PAGA into the Class Action. (Marquez Decl., ¶ 4.) On May 18, 2022, Plaintiff Villanueva’s FAC was deemed filed, per the order of the Court.

On December 6, 2022, Plaintiff Perez filed a putative wage and hour Class Action Complaint against Defendant for (1) failure to pay minimum wages; (2) failure to pay overtime compensation; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to indemnify necessary business expenses; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements; and (8) unfair business practices. On January 10, 2023, the Parties filed a Joint Stipulation to Consolidate Related Actions, thereby consolidating the Perez Class Action with the Villanueva Class Action, with the Villanueva Class Action being the lead case. On February 16, 2024, Plaintiffs filed a Second Amended Complaint to add Plaintiff Perez to the operative Villanueva Class Action as a named plaintiff and adding causes of action against Defendant for Unlawful Deductions (Labor Code § 221) and Paid Sick Leave and Paid COVID Supplemental Sick Leave Violations (Labor Code §§ 246, 248.2, and 248.6). (Marquez Decl., ¶ 5.)

B. Discovery and Investigation

Following the filing of the Complaint, the parties exchanged documents and information

1 before mediating this action. Defendant produced a sample of time and pay records for class
2 members. Defendant also provided documents of its wage and hour policies and practices during
3 the class period, and information regarding the total number of current and former employees in its
4 informal discovery responses. (*Id.* at ¶ 6.)

5 After reviewing documents regarding Defendant’s wage and hour policies and practices,
6 analyzing Defendant’s timekeeping and payroll records, and interviewing Class Members, Class
7 Counsel was able to evaluate the probability of class certification, success on the merits, and
8 Defendant’s maximum monetary exposure for all claims. (*Id.* at ¶ 7.) Class Counsel also
9 investigated the applicable law regarding the claims and defenses asserted in the litigation. (*Id.*)
10 Class Counsel reviewed these records and prepared a damage analysis prior to mediation. (*Id.*)

11 C. Settlement Negotiations

12 On December 7, 2022, the parties participated in private mediation with experienced class
13 action mediator Jeffrey Krivis, Esq. (*Id.* at ¶ 8.) The mediation was conducted via Zoom. The
14 settlement negotiations were at arm’s length and, although conducted in a professional manner, were
15 adversarial. The parties went into the mediation willing to explore the potential for a settlement of
16 the dispute, but each side was also prepared to litigate their position through trial and appeal if a
17 settlement had not been reached. (*Id.*) After extensive negotiations and discussions regarding the
18 strengths and weaknesses of Plaintiffs’ claims and Defendant’s defenses, the Parties reached a
19 settlement the material terms of which are encompassed within the Settlement. (*Id.* at ¶ 9, Ex. 1
20 [Joint Stipulation Of Class Action And PAGA Settlement].)

21 Class Counsel has conducted a thorough investigation into the facts of this case. Based on
22 the foregoing discovery and their own independent investigation and evaluation, Class Counsel is of
23 the opinion that the Settlement is fair, reasonable, and adequate and is in the best interests of the
24 Settlement Class Members in light of all known facts and circumstances, the risk of significant delay,
25 the defenses that could be asserted by Defendant both to certification and on the merits, trial risk,
26 and appellate risk. (*Id.* at ¶ 16.)

27 Indeed, the \$500,000.00 Settlement represents **53% of the realistic maximum recovery of**
28 **\$939,040.88.** (*Id.* at ¶ 25.) Although Class Counsel estimated that Defendant’s maximum potential

liability for all claims was approximately \$6.8 million, when the risk of prevailing at certification and trial are factored into the equation, Class Counsel believes that Defendant’s realistic exposure was \$939,040.88, meaning the Settlement achieves a significant recovery. (*Id.* at ¶¶ 16-29.) Considering the risk and uncertainty of prevailing at class certification and at trial, this is an excellent result for the Class. (*Id.* at ¶ 25.) Indeed, because of the proposed Settlement, class members will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment.

D. Key Terms of the Proposed Settlement

A true and correct copy of the Joint Stipulation of Joint Stipulation Of Class Action And PAGA Settlement is attached to the Declaration of Justin F. Marquez as Exhibit 1. The Settlement’s key terms include:

1. Class Definition: For settlement purposes only, the Parties agree to the certification of a class pursuant to California Code of Civil Procedure § 382 defined as: “all persons currently or formerly employed as non-exempt employees in California by Defendant at any time during the class period (defined below) who do not timely and validly exclude themselves from the Class in compliance with the exclusion procedures set forth in this Settlement.” (Settlement, § I(C).)

2. Class Period: “means January 28, 2018 through the Preliminary Approval Date of the Settlement or an earlier date at Defendant’s discretion per Section III(D)(5) of the settlement. (Settlement, § I(G).)

3. Participating Class Members: “is defined as a Class Member who does not timely exclude himself or herself from the Settlement and will therefore receive his or her share of the Settlement proceeds automatically without the need to return a claim form. Each Participating Class Member will be paid his/her Individual Settlement Payment.” (Settlement, § I(Y).)

4. Aggrieved Employees: “means all persons currently or formerly employed as non-exempt employees in California by Defendant at any time during the PAGA Period (defined below).” (Settlement, § I(B).)

5. PAGA Period: “means January 28, 2021 through the Preliminary Approval.” (Settlement, § I(X).)

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1 6. Gross Settlement Amount: “means Five Hundred Thousand dollars (\$500,000.00),
2 unless increased on a pro rata basis pursuant to Section III(D)(5) to be paid by Defendant pursuant
3 to the terms of this Settlement to settle the Action. All claims of the Class, including all wages,
4 damages, interest, penalties, and all administration costs, attorney’s fees and costs, Enhancement
5 Awards, Individual Settlement Payments, Individual PAGA Payments, and LWDA Payment
6 pursuant to Section III(D)(7) below, and all applicable employee-side payroll taxes shall be paid out
7 of the Gross Settlement Amount.” (Settlement, § I(P).)

8 7. Uncashed Checks: If a settlement check is returned to the Settlement Administrator
9 as undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing
10 address by performing a skip trace search or LexisNexis database mass search and, if another address
11 is identified, shall mail the check to the newly identified address. Any settlement checks remaining
12 uncashed after one hundred eighty (180) days shall be disbursed to the cy pres recipient chosen by
13 the parties, Pajaro Valley Loaves and Fishes, thereby leaving no "unpaid residue" subject to the
14 requirements of California Code of Civil Procedure Section 384, subd. (b). (Settlement, §
15 III(D)(7)(f).)

16 8. Release: “Participating Class Members and Aggrieved Employees release the
17 Released Parties from all Released Claims during the Class Period, as applicable. The Parties intend
18 that this release be construed as broadly as possible to encompass all claims listed above in addition
19 to claims alleged by Plaintiffs, or those which could have been alleged by Plaintiffs based on the
20 factual allegations in the operative complaint(s). The Released Claims exclude the release of claims
21 not permitted by law. This Settlement is the compromise of all possible disputed claims related to
22 wages and fully and finally settles all possible claims between the Parties regarding Participating
23 Class Members’ wages during the Class Period and PAGA Period, respectively. The Parties warrant
24 and represent that this release resolves, pursuant to Labor Code sections 206 and 206.5, and
25 applicable case law (including but not limited to *Chindarah v. Pick Up Stix, Inc.* (2009) 171
26 Cal.App.4th 796) a good faith dispute regarding any and all wages, if any, owed to Class Members
27 through their last day of employment with Released Parties within the Class Period and PAGA
28 Period, respectively.

Any Class Member who validly excludes himself or herself from the Settlement will not release Class claims during the Class Period. However, any Class Member who validly excludes himself or herself from the Settlement will still receive a PAGA Settlement Payment, and will be deemed to have released claims against the Released Parties for Released Claims that arise under the PAGA (“PAGA Released Claims”). Plaintiff, the State of California, and Aggrieved Employees will release these PAGA Released Claims from January 28, 2021, through the Preliminary Approval Date of the Settlement, which period shall not be subject to change.

This release shall apply without regard to Class Members’ actual receipt of the Class Notice, and without regard to Participating Class Members and Aggrieved Employees’ actual receipt of their Individual Settlement Payment or Individual PAGA Payment.” (Settlement, § V(A)(b).)

9. Effective Date: “means the later of the following: (1) the date the Final Approval Order is signed if no objections are filed to the Settlement, (2) if objections are filed and overruled, and no appeal is taken of the Final Approval Order, sixty (60) days after the Final Approval Order is signed; or (3) if an appeal is taken from the Court’s overruling of objections to the Settlement, ten (10) days after the appeal is withdrawn or after an appellate decision affirming the final approval decision becomes final.” (Settlement, § I(L).)

10. No Reversion: “No part of the Gross Settlement Amount shall revert to Defendant.” (Settlement, § I(P).)

11. PAGA Allocation: The settlement includes \$20,000.00 allocated to Plaintiffs’ claims under PAGA, with 75% of which (\$15,000.00) being paid to the LWDA and 25% (\$5,000.00) being paid to the Aggrieved Employees. (Settlement, § III(D)(7)(e).) Class Counsel submitted the proposed settlement to the LWDA before filing this Motion for Preliminary Approval. (Marquez Decl., ¶ 10.)

12. Net Settlement Amount: The “Net Settlement Amount” is the amount that remains and that shall be paid to Settlement Class Members after the following amounts are subtracted: the Court-approved settlement administration costs, attorney’s fees and costs, Enhancement Awards, Individual PAGA Payments, and LWDA Payment. (Settlement, § I(U).)

13. Distribution Formula: “To calculate the amount each Aggrieved Employee will

1 receive based on their individual Qualifying Pay Periods, the \$5,000.00 distributable to Aggrieved
2 Employees under the amount in the Settlement allocated to resolution of the Released Claims arising
3 under PAGA will be divided by the total number of Qualifying Pay Periods by all Aggrieved
4 Employees during the PAGA Period and then allocated on a pro rata basis (i.e., according to the
5 Qualifying Pay Periods worked by each of the individual Aggrieved Employees during the PAGA
6 Period).” (Settlement, § III(D)(7)(f).) “To calculate the amount each Class Member will receive
7 based on their Qualifying Workweeks, the Net Settlement Amount will be divided by the number of
8 Qualifying Workweeks by all Class Members during the Class Period and then allocated on a pro
9 rata bases (i.e., according to the Qualifying Workweeks worked by each of the individual Class
10 Members during the Class Period.) (Settlement, § III(D)(7)(f).)

11 14. Tax Allocation: “Each Individual Settlement Payment will represent wages and
12 penalties allocated using the following formula: 10% allocated to wages, 80% allocated to penalties
13 and interest, and 10% reimbursement.” (Settlement, § III(D)(7)(f).)

14 15. Class Representative Enhancement Awards: Subject to Court approval, Plaintiff
15 Villanueva shall receive an Enhancement Award of up to Five Thousand Dollars (\$5,000.00), and
16 Plaintiff Perez shall receive an Enhancement Award of up to Five Thousand Dollars (\$5,000.00).
17 (Settlement, § III(D)(7)(d).) This amount is for Plaintiffs’ time and effort in bringing and presenting
18 the action, and in exchange for a general release of all claims, known or unknown, pursuant to Civil
19 Code Section 1542. (Settlement, § V(B).) If the Court approves a lesser enhancement, then the
20 unapproved portion or portions shall revert into the Net Settlement Amount to be distributed between
21 the participating Settlement Class Members on a pro-rata basis. (Settlement, § III(D)(7)(d).)

22 16. Attorneys’ Fees and Costs: The Settlement provides that Defendant will not oppose a
23 fee application of up to one-third (\$166,666.67) of the Gross Settlement Amount, plus out-of-pocket
24 costs not to exceed \$15,000.00. (Settlement, § III(D)(7)(b).)

25 17. Notice of Proposed Class Action Settlement: The Notice sets forth in plain terms, a
26 statement of the case, the terms of the Settlement Agreement, the approximate amount of attorneys’
27 fees, costs, and service award being sought, and an explanation of how the settlement allocations are
28 calculated. (Settlement, Ex. 1, Class Notice.) Class Members will be notified by first-class mail of

1 the settlement. (Settlement, § III(C).) CPT Group, Inc., the proposed Settlement Administrator, will
2 undertake its best efforts to ensure that the notice is provided to the current addresses of class
3 members, including conducting a national change of address search and re-mailing the notice to
4 updated addresses. (*Id.*; Marquez Decl., ¶ 10, Ex. 3 [Settlement Administrator Bid].)

5 **III. DISCUSSION**

6 To prevent fraud, collusion, or unfairness to the class, the settlement of a class action requires
7 court approval. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800-01.) This Court has
8 wide discretion to determine whether the proposed settlement is fair. (*Mallick v. Super. Ct.* (1979)
9 89 Cal.App.3d 434, 438.) Fairness is presumed when: (1) the settlement is reached through arm's-
10 length bargaining; (2) investigation is sufficient to allow counsel and the court to act intelligently;
11 (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. (*Dunk*,
12 48 Cal.App.4th at p. 1800.)

13 In considering whether a settlement is reasonable, the trial court should consider relevant
14 factors, which may include the strength of plaintiff's case, the risk, expense, complexity and likely
15 duration of further litigation, the risk of maintaining class action status through trial, the amount
16 offered in settlement, the extent of discovery completed and the stage of the proceedings, the
17 experience and views of counsel, the presence of a governmental participant, and the reaction of the
18 class members to the proposed settlement. (*Kullar v. Foot Locker Retail, Inc.*, (2008) 168
19 Cal.App.4th 116, 128.) In order to approve a class action settlement, the court must satisfy itself that
20 the class settlement is within the "ballpark" of reasonableness. (*Id.* at p. 133.) The record need not
21 contain an explicit statement of the maximum theoretical recovery. (*Munoz v. BCI Coca-Cola*
22 *Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 408-9 [holding that *Kullar* does not require
23 "an explicit statement of the maximum amount the plaintiff class could recover if it prevailed on all
24 its claims", but instead, only an "understanding of the amount that is in controversy and the realistic
25 range of outcomes of the litigation."].)

26 As discussed below, Class Counsel has provided information exceeding the threshold
27 required to provide this Court with materials and information necessary to determine that the
28 proposed settlement is fair, adequate, and reasonable.

1 **A. The Settlement Is Fair, Reasonable, Adequate, and the Product of Investigation,**
2 **Litigation, and Negotiation**

3 **1. The Settlement Is the Product of Discovery, Investigation, and Informed**
4 **and Non-Collusive Arm’s-Length Negotiations**

5 Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless
6 evidence to the contrary is offered; thus, there is a presumption here that the negotiations were
7 conducted in good faith. (Conte & Newberg, *Newberg on Class Actions* (3rd Ed.) § 11.51.)
8 Settlement is favored, and settlement agreements are realistically assessed. (*Stamburgh v. Super. Ct.*
9 (1976) 62 Cal.App.3d 231, 236; *Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447 [“The fact that
10 a plaintiff might have received more if the case had been fully litigated is no reason not to approve
11 the settlement.”].)

12 The Settlement was reached following extensive negotiations following one day of mediation
13 with experienced employment mediator, Jeffrey Krivis, Esq. (Marquez Decl. ¶ 8.) The settlement
14 negotiations were at arm’s length and, although conducted in a professional manner, were
15 adversarial. (*Id.*) The parties went into the mediation willing to explore the potential for a settlement
16 of the dispute, but each side was also prepared to litigate their or its position through trial and appeal
17 if a settlement had not been reached. (*Id.*) After extensive negotiations and discussions regarding
18 the strengths and weaknesses of Plaintiffs’ claims and Defendant’s defenses, the Parties reached an
19 agreement. (Marquez Decl. ¶ 9.)

20 Prior to reaching this settlement, Class Counsel conducted informal discovery concerning the
21 claims set forth in the Litigation, such as a sample of class member timekeeping and payroll records,
22 Defendant’s policies and procedures concerning the payment of wages, the provision of meal and
23 rest breaks, issuance of wage statements, and providing all wages at separation, as well as
24 information regarding the number of putative class members and the mix of current versus former
25 employees, the wage rates in effect, and the amount of meal and rest period premium wages paid to
26 class members. (*Id.* at ¶¶ 6-7.) In conjunction with their extensive factual investigation, Class
27 Counsel investigated the applicable law regarding the claims and defenses asserted in the litigation.
28 (*Id.*) Thus, Plaintiffs and their counsel were able to act intelligently and effectively in negotiating

1 the proposed Settlement. (*Id.*)

2 Class Counsel also has considerable experience and has demonstrated competence with
3 litigating wage and hour class actions. (*Id.* at ¶¶ 40-51; Declaration of Kane Moon in Support of
4 Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement [“Moon Decl.”], ¶¶ 10-20.)
5 Again, this supports the position that the terms of the Settlement are premised on objective evidence
6 that has been considered and weighed in light of the risks, expenses, and time consumption to both
7 sides of continued litigation of this action.

8 **2. The Settlement Is Fair and Reasonable in Light of the Parties’ Respective**
9 **Legal Positions**

10 A settlement is not judged against what might plaintiff recover had he prevailed at trial, nor
11 does the settlement have to provide 100% of the damages sought to be fair and reasonable. (*Wershba*
12 *v. Apple Computers, Inc.* (2001) 91 Cal.App.4th 224, 246, 250 [“Compromise is inherent and
13 necessary in the settlement process . . . even if the relief afforded by the proposed settlement is
14 substantially narrower than it would be if the suits were to be successfully litigated, this is no bar to
15 a class settlement because the public interest may indeed be served by a voluntary settlement in
16 which each side gives ground in the interest of avoiding litigation.”].)

17 This settlement avoids the risks and the accompanying expense of further litigation.
18 (Marquez Decl., ¶ 27.) While Plaintiffs are confident in the merits of their claims, a legitimate
19 controversy exists as to each cause of action. (*Id.* at ¶ 26.) Plaintiffs also recognize that proving the
20 amount of wages due to each class member would be an expensive, time-consuming, and uncertain
21 proposition. (*Id.*)

22 The proposed settlement of \$500,000.00 therefore represents a substantial recovery when
23 compared to Plaintiffs’ reasonably forecasted recovery. (*Id.* at ¶¶ 16-29.) Because of the proposed
24 Settlement, class members will receive timely, guaranteed relief and will avoid the risk of an
25 unfavorable judgment. When considering the risks of litigation, the uncertainties involved in
26 achieving class certification, the burdens of proof necessary to establish liability, the probability of
27 appeal of a favorable judgment, it is clear that the settlement amount of \$500,000.00 is within the
28 “ballpark” of reasonableness, and preliminary settlement approval is appropriate. (*Id.*) **Indeed, each**

1 *Settlement Class Member is eligible to receive an average net benefit of approximately \$567.08.*
2 (*Id.* at ¶ 28.)

3 **3. Class Counsel Has Extensive Experience in Class Action Litigation**

4 The settlement negotiations were conducted by highly capable and experienced counsel.
5 Class Counsel have a strong record of vigorous and effective advocacy for their clients and are
6 experienced in handling complex wage and hour class action litigation. (Marquez Decl., ¶¶ 40-51;
7 Moon Decl., ¶¶ 10-20.) Although Plaintiffs and their counsel were prepared to litigate the claims
8 alleged in the litigation, they support the proposed Settlement as being in the best interests of the
9 class.

10 **B. The Proposed Class Notice of Settlement Should Be Approved**

11 The proposed Notice, in the form attached to the Settlement Agreement, should be approved
12 for dissemination to the class. The Notice informs the class of the terms of the settlement and of
13 their rights to be excluded from the settlement. And if there are class members who wish to object
14 to this proposed class action settlement, they will have the opportunity to file their objections and be
15 heard at the Final Approval Hearing. Accordingly, the proposed Notice meets all the requirements
16 of Rule 3.769(f) of the California Rules of Court.

17 **C. The Proposed Attorneys' Fees and Costs Are Reasonable**

18 Under the Settlement, subject to the Court's approval, Defendant agrees to pay Class Counsel
19 reasonable attorneys' fees in amount of \$166,666.67, which is 33 1/3% of the gross Settlement
20 Amount, and up to \$15,000.00 in costs. These amounts are disclosed to all class members in the
21 proposed Notice and are reasonable.

22 **1. Class Counsel Request an Award of Fees Based on the "Common Fund"**
23 **Method**

24 California courts have long awarded attorneys' fees as a percentage of the benefit created by
25 counsel in creating a common fund. The California Supreme Court held that "when a number of
26 persons is entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs for
27 the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs may
28 be awarded attorneys' fees out of the fund." (*Serrano v. Priest* (1977) 20 Cal.3d 25, 34, quoting

1 *D'Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1.)

2 Class Counsel seeks an award of attorneys' fees on the "percentage of recovery/ common
3 fund" theory. The purpose of this approach is to "spread litigation costs proportionally among all
4 the beneficiaries so that the active beneficiary does not bear the entire burden alone." (*Vincent v.*
5 *Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769.) In *Quinn v. State of California* (1995) 15
6 Cal.3d 162, the California Supreme Court stated: "[O]ne who expends attorneys' fees in winning a
7 suit which creates a fund from which others derive benefits may require those passive beneficiaries
8 to bear a fair share of the litigation costs." (*Id.* at p. 167.) Similarly, in *City and County of San*
9 *Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court recognized that the common
10 fund doctrine has been applied "consistently in California when an action brought by one party
11 creates a fund in which other persons are entitled to share." (*Id.* at p. 110.)

12 The California Supreme Court affirmed in *Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal.5th
13 480 that, "when class action litigation establishes a monetary fund for the benefit of the class
14 members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the
15 court may determine the amount of a reasonable fee by choosing an appropriate percentage of the
16 fund created." (*Id.* at p. 503.) The court explained: "The recognized advantages of the percentage
17 method—including relative ease of calculation, alignment of incentives between counsel and the
18 class, a better approximation of market conditions in a contingency case, and the encouragement it
19 provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation—
20 convince us the percentage method is a valuable tool that should not be denied our trial courts." (*Id.*
21 [internal citations omitted].)

22 **2. The Requested Fee Award Is in Line with Typical Cases**

23 According to a leading treatise on class actions, "No general rule can be articulated on what
24 is a reasonable percentage of a common fund. Usually 50% of the fund is the upper limit on a
25 reasonable fee award from a common fund in order to assure that the fees do not consume a
26 disproportionate part of the recovery obtained for the class, although somewhat larger percentages
27 are not unprecedented." (*See Conte & Newberg, Newberg on Class Actions* (3rd Ed.) § 14.03.)
28 Attorneys' fees that are fifty percent of the fund are typically considered the upper limit, with thirty

1 to forty percent commonly awarded in cases where the settlement is relatively small. (*Id.*; see also
2 *Van Vranken v. Atlantic Richfield Company* (N.D. Cal. 1995) 901 F. Supp. 294 [stating that most
3 cases where 30-50 percent was awarded involved “smaller” settlement funds of under \$10 million].)

4 Here, Plaintiffs request attorneys’ fees equal to 33 1/3% of the Settlement Amount, which is
5 in line with the prevailing guidelines established in California case law and academic literature and
6 is consistent with awards in California. (*See Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66,
7 n.11 [“Empirical studies show that, regardless whether the percentage method or the lodestar method
8 is used, fee awards in class actions average around one-third of the recovery.”].) Accordingly,
9 Plaintiffs respectfully request that the Court approve the attorneys’ fees as negotiated by the parties
10 and requested herein.

11 **3. This Matter Involves A “Fee-Shifting” Provision of the Labor Code**

12 Labor Code § 1194 (a) provides for the recovery of “minimum wage or overtime
13 compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” Under this
14 section, Plaintiffs would be permitted to recover their actual attorneys’ fees, even if those fees were
15 larger than the total class recovery at the conclusion of this case. This settlement is beneficial in that
16 it limits the risk of continued expenses and consumption of time, energy, and resources facing
17 Defendant while at the same time rewarding Class Counsel for their decision to assume risk by taking
18 on this matter. In fact, prosecution of this action involved significant financial risk for Class Counsel.
19 (Marquez Decl., ¶¶ 38-39.) Class Counsel undertook this matter solely on a contingent basis, with
20 no guarantee of recovery. (*Id.*) Once counsel undertook this litigation on behalf of the Class, Class
21 Counsel committed to pursue it to its conclusion, placing its fiduciary duty to the Class ahead of all
22 other concerns.

23 **4. The Experience, Reputation and Ability of Class Counsel Support the** 24 **Requested Fee Award**

25 As demonstrated by their past experience in pursuing class actions on behalf of consumers
26 and employees, Class Counsel possess considerable expertise in litigating class actions. (Marquez
27 Decl., ¶¶ 40-51; Moon Decl., ¶¶ 10-20.) Class Counsel has been involved as lead counsel or co-
28 counsel in several class actions that resulted in millions in recovery. (*Id.*) Because it is reasonable

1 to compensate class counsel commensurate with their skill, reputation and experience, Class
2 Counsel's requested fee award is supported here.

3 Class Counsel's experience in wage and hour class actions was integral in evaluating the
4 strengths and weaknesses of the case against Defendant and the reasonableness of the settlement.
5 Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning the
6 rapidly evolving substantive law (state and federal), as well as the procedural law of class action
7 litigation. Based on these and other factors, Class Counsel has frequently received fee awards of this
8 percentage from the gross recovery for the class. Therefore, the requested fee award is reasonable
9 and fair.

10 **D. The PAGA Allocation is Reasonable**

11 Where settlements negotiate a good faith amount for PAGA penalties and "there is no
12 indication that this amount was the result of self-interest at the expense of other" class members,
13 such amounts are generally considered reasonable. (*Hopson v. Hanesbrands Inc.* (N.D. Cal. Apr. 3,
14 2009) No. CV-08-0844 EDL, 2009 WL 928133 at *1, 9.) Courts have approved amounts for PAGA
15 penalties in the range of zero to two percent of the total maximum amount of the Settlement. (*Id.*
16 [approving a PAGA payment of 0.3%, or \$1,500]; see also *Jack v. Hartford Fire Ins. Co.* (S.D. Cal.
17 Oct. 13, 2011) 2011 WL 4899942 at *6 [approving a PAGA payment of 0.25%]; *McKenzie v. Fed.*
18 *Express Corp.* (C.D. Cal. Jan. 23, 2012) 2012 WL 12882124 at *5 [acknowledging that courts
19 approve PAGA claim settlements in the range of zero to two percent of the total settlement].) Here,
20 the amount to be paid to the LWDA is larger than many other PAGA settlement amounts approved
21 by the courts where seemingly nominal amounts were allocated for such claims. (See, e.g. *Zubia v.*
22 *Shamrock Foods Co.* (C.D. Cal. Dec. 21, 2017) No. CV1603128ABAGRX, 2017 WL 10541431, at
23 *14 [approving a PAGA settlement of 0.1%]; *Hopson, supra*, (N.D. Cal. Aug. 8, 2008) 2008 WL
24 3385452, at *1 [approving a PAGA settlement of 0.3% or \$1,500]; *Garcia v. Gordon Trucking, Inc.*
25 (E.D. Cal. Oct. 31, 2012) No. 1:10-CV-0324 AWI SKO, 2012 WL 5364575, at *3 [approving a
26 PAGA settlement of 0.27%].) Here, the Parties negotiated a good faith amount of \$20,000.00, 75%
27 percent of which (\$15,000.00) will be paid to the LWDA, with 25% (\$5,000.00) to be distributed to
28 the Aggrieved Employees. (Settlement at III(7)(e).) The \$20,000.00 settlement amount equates to

1 approximately 4% of the Gross Settlement Amount, which far exceeds amounts that are routinely
2 approved. The parties negotiated to allocate 4% of the Settlement to PAGA penalties in good faith
3 and this amount is reasonable considering that the maximum PAGA penalties were estimated at
4 \$1,432,800.00 (which assumed \$100 per pay period). (Marquez Decl. ¶ 24.)

5 **E. The Service Awards to Named Plaintiffs are Reasonable**

6 Named plaintiffs in class action lawsuits “are eligible for reasonable incentive payments to
7 compensate them for the expense or risk they have incurred in conferring a benefit on other members
8 of the class.” (*Munoz, supra*, 86 Cal.App.4th at p. 412.) Courts routinely grant approval of class
9 action settlement agreements containing enhancements for the class representatives, which are
10 necessary to provide incentive to represent the class, and are appropriate given the benefit the class
11 representatives help to bring about for the class. (*See Rodriguez v. W. Publ'g Corp.* (9th Cir. 2009)
12 563 F.3d 948, 958-59.)

13 Service awards are particularly important to plaintiffs in wage and hour cases because they
14 promote the important public policies underlying the wage and hour laws. This strong policy is
15 codified in California Labor Code § 90.5, which provides, “it is the policy of this state to vigorously
16 enforce minimum labor standards in order to ensure employees are not required or permitted to work
17 under substandard unlawful conditions”). Nonetheless, the California Supreme Court has noted
18 that “retaliation against employees for asserting statutory rights under the Labor Code is
19 widespread,” despite anti-retaliation statutes designed to protect employees. (*Gentry v. Super. Ct.*
20 (2007) 42 Cal.4th 443, 460-61.) In this context, class representatives should be rewarded for
21 assuming the risk of retaliation for the sake of class members. (*See Frank v. Eastman Kodak Co.*
22 (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

23 Under the settlement agreement, subject to the Court’s approval, Defendant agreed to pay
24 Enhancement Awards in the amount of \$5,000.000 to Plaintiff Villanueva and \$5,000.00 to Plaintiff
25 Perez. This amount is also in exchange for Plaintiffs’ general release of all claims against Defendant.
26 Courts routinely approve a \$10,000 enhancement award for plaintiffs represented by Class
27 Counsel. (*See, e.g., Moreno v. Pretium Packaging, L.L.C.* (C.D. Cal. Aug. 6, 2021) 2021 WL
28 3673845, *3 [“The Court concludes a \$10,000 incentive award is appropriate.”]; *Suarez v. Bank of*

1 *America, National Association* (N.D. Cal. Jan. 11, 2024) 2024 WL 150721 at p. *4 [“The court
2 approves awards of \$10,000 for each class representative.”].) Class Counsel represent that Plaintiffs
3 devoted a great deal of time and work assisting counsel in the case, communicated with counsel very
4 frequently for litigation and to prepare for mediation, and was frequently in contact with Class
5 Counsel during the mediation. (Marquez Decl., ¶¶ 30-34; Moon Decl., ¶¶ 5-9.) This amount is
6 reasonable particularly in light of the substantial benefits Plaintiffs generated for all class members.
7 (*Id.*) Indeed, in *Karl Adams, III, et al. v. MarketStar Corporation, et al.*, No. 2:14-cv-02509-TLN-
8 DB, Class Counsel Justin F. Marquez helped negotiate a \$2.5 million class action settlement for 339
9 class members, and the court approved a \$25,000 class representative incentive award for each
10 named plaintiff. (Marquez Decl., ¶ 34.)

11 When compared with the amounts awarded in typical class action cases, the amount requested
12 here is particularly reasonable. Indeed, a 2006 study examining the average incentive award given
13 to class action plaintiffs from 1993 to 2002 found that the “average award per class representative
14 was \$15,992 and the median award per class representative was \$4,357.” (Eisenberg & Miller,
15 *Incentive Awards to Class Action Plaintiffs: An Empirical Study* (2006) 53 UCLA L.Rev. 1303,
16 1308.) That same study found that named plaintiffs in employment discrimination class actions
17 received an average award of \$69,850 and a median award of \$31,081, while named plaintiffs in
18 other employment class actions received an average award of \$12,121 and a median award of
19 \$13,059. (*Id.* at p. 1334.) The authors of the study found that higher awards in employment cases
20 reflected the “courts’ wish to make representative plaintiffs whole by compensating them for the
21 high costs of their service to the class, including risks of stigmatization or retaliation on the job.”
22 (*Id.* at p. 1308.)

23 **IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED**

24 **A. Legal Standard**

25 The proposed Settlement Class is well suited for class certification. All of the claims derive
26 from a core set of alleged violations of California’s wage and hour laws and regulations. For the
27 reasons set forth more fully below, for purposes of settlement only, the Class satisfies the
28 prerequisites for certification under Code of Civil Procedure § 382. Section 382 provides: “when

1 the question is one of a common or general interest, of many persons, or when the parties are
2 numerous, and it is impracticable to bring them all before the court, one or more may sue or defend
3 for the benefit of all.” (Code Civ. Proc., § 382.) There are two requirements to section 382: “(1)
4 There must be an ascertainable class; and (2) there must be a well-defined community of interest in
5 the questions of law and fact involved affecting the parties to be represented.” (*Daar v. Yellow Cab*
6 *Co.* (1967) 67 Cal. 2d 695, 704 [citations omitted].) To clarify these requirements, the California
7 Supreme Court has looked to Federal Rule of Civil Procedure 23 to explain that the community-of-
8 interest requirement itself embodies three factors: “(1) predominant questions of law or fact; (2) class
9 representatives with claims or defenses typical of the class; and (3) class representatives who can
10 adequately represent the class.” (*Richmond v. Dart Indus., Inc.* (1981) 29 Cal. 3d 462, 470.)

11 California law and policy favor the fullest and most flexible use of the class action device.
12 (*Id.* at pp. 469-73.) Indeed, “Courts long have acknowledged the importance of class actions as a
13 means to prevent a failure of justice in our judicial system” particularly where the rights of consumers
14 are at issue. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal. 4th 429, 434.) Any doubt as to the
15 appropriateness of class treatment should be resolved in favor of certification. (*Richmond, supra*, 29
16 Cal.3d at pp. 473-75.)

17 **B. Plaintiffs Maintain That the Criteria for Class Certification Are Satisfied for**
18 **Settlement Purposes.**

19 **1. The Classes Are Ascertainable and Numerous**

20 The proposed class that Plaintiffs seek to represent is easily ascertainable and includes
21 approximately 482 employees of Defendant.

22 Plaintiffs maintain that there is an easily ascertainable class, defined by objective and precise
23 criteria. Because class members are identified using specific criteria in the regular business records
24 of Defendant, i.e., job position, the class is ascertainable. (*Wilner v. Sunset Life Ins. Co.* (2000) 78
25 Cal.App.4th 952, 959-60 [class membership defined by ownership of product that is the subject of
26 the lawsuit is sufficient to make the class ascertainable].)

27 “The requirement of Code of Civil Procedure section 382 that there be ‘many’ parties to a
28 class action suit is indefinite and has been construed liberally.” (*Rose v. City of Hayward* (1981) 126

1 Cal.App.3d 926, 934.) “Where a question is of common interest to ‘many’ persons, an action may
2 be maintained as a class action even where the parties are numerous and it is in fact practicable to
3 join them all.” (*Id.*) “No set number is required as a matter of law for the maintenance of a class
4 action.” (*Id.*) “Thus, our Supreme Court has upheld a class representing the 10 beneficiaries of a
5 trust in an action for removal of the trustees.” (*Id.*, citing *Bowles v. Super. Ct.* (1955) 44 Cal.2d 574;
6 see also, *Collins v. Rocha* (1972) 7 Cal.3d 232 [upholding a 35 member class.]) Therefore, Plaintiffs
7 contend that numerosity is plainly satisfied.

8 **2. There are Many Common Issues of Law and Fact Which Predominate**

9 The Court should grant conditional class certification for settlement purposes here on the
10 grounds that questions of law and fact common to all class and subclass predominate over any
11 individual questions. This inquiry tests whether proposed classes are sufficiently cohesive to warrant
12 adjudication by representation. (*See, e.g., Clothesrigger, Inc. v. GTE Corp.* (1987) 191 Cal.App.3d
13 605.)

14 Here, the employment practices at issue are: whether Defendant had legally compliant
15 policies and practices to provide employees with meal periods; whether Defendant had legally
16 compliant policies and practices authorizing and permitting its employees to take rest periods;
17 whether Defendant had legally compliant policies and practices for all hours worked, including
18 overtime wages; whether Defendant reimbursed employees for business expenses; whether final
19 payment of wages was untimely and excluded unpaid wages, including meal period premium wages,
20 and rest period premium wages; and whether the wage statements were consequently non-compliant.
21 Plaintiffs contend that the factual and legal issues are the same for all of the identified class members,
22 including Plaintiffs. Further, all class members suffered from, and seek redress for, the same alleged
23 injuries.

24 **3. Plaintiffs’ Claims Are Typical of the Claims of the Class**

25 The typicality requirement does not focus on the individual characteristics or circumstances
26 of the representative plaintiff compared to those of the remainder of the class, but rather upon the
27 typicality of the proposed representative’s claims as they relate to the defendant’s conduct and
28 activities. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 47 “[t]he only requirements are that

1 common questions of law and fact predominate and that the class representative be similarly situated”
2 vis-à-vis the class.].) A representative plaintiff’s claims are typical of the class if they arise from the
3 same event, practice or course of conduct, and if the claims rest on the same legal theories. (*Id.*)
4 That is precisely the case here. Plaintiffs are former employees of Defendant; as such, they allege
5 that they were subject to the same policies and practices as other similarly situated employees.

6 **4. Plaintiffs and Their Counsel Meet the Adequacy Requirement**

7 The adequacy of representation requirements is met by fulfilling two conditions: first, a
8 named plaintiff must be represented by counsel qualified to conduct the pending litigation; second,
9 a named plaintiff’s interests cannot be antagonistic to those of the class. (*McGhee v. Bank of America*
10 (1976) 60 Cal.App.3d 442, 451.)

11 All of these requirements are met here for settlement purposes. Plaintiffs retained counsel
12 with extensive experience in prosecuting complex class actions, including similar class actions that
13 previously settled. (Marquez Decl., ¶¶ 40-51; Moon Decl., ¶¶ 10-20.) Class Counsel unquestionably
14 is “qualified, experienced and generally able to conduct the proposed litigation.” (*Miller v. Woods*
15 (1983) 148 Cal.App.3d 862, 875.) In addition, Plaintiffs have no conflicts, and Plaintiffs have, with
16 counsel, litigated this case and diligently reviewed the settlement terms, showing her dedication.
17 Plaintiffs’ willingness to serve as a representative demonstrate their serious commitment to bringing
18 about the best results possible for the class. (*McGhee, supra*, 60 Cal.App.3d at p. 451.)

19 **5. A Class Action is Superior to a Multiplicity of Litigation**

20 Finally, in making its class certification decision, the Court must determine that a class action
21 would be superior to alternative means for the fair and efficient adjudication of the litigation. By
22 consolidating many potential individual actions into a single proceeding, this Court’s use of the class
23 action device enables it to manage this litigation in a manner that serves the economics of time, effort
24 and expense for the litigants and the judicial system. Absent class treatment, similarly-situated
25 employees with small but nevertheless meritorious claims for damages would, as a practical matter,
26 have no means of redress because of the time, effort and expense required to prosecute individual
27 actions. (*Gentry v. Super. Ct.* (2007) 42 Cal. 4th 443, 457-62; *Leyva v. Medline Ind.* (9th Cir. 2013)
28 716 F.3d 510, 515.) Moreover, in the context of settlement, the superiority concerns are essentially

1 non-existent.

2 **V. THE PROPOSED NOTICE IS CONSTITUTIONALLY SOUND**

3 **A. The Proposed Notice Plan Satisfies Due Process**

4 Notice requirements are set forth in the California Rules of Court. Cal. Rules of Court, Rule
5 3.766 (e) and (f). California law vests the Court with broad discretion in fashioning an appropriate
6 notice program. (*Cartt v. Super Ct.* (1975) 50 Cal.App.3d 960, 973-74.) There is no statutory or due
7 process requirement that all class members receive actual notice, but in this matter, the class members
8 will receive direct mailed notice. As the Court of Appeals has explained, “[t]he notice given should
9 have a reasonable chance of reaching a substantial percentage of the Class Members” (*Id.* at
10 p. 974.) In this case, notice of the proposed settlement will be provided by direct mailing, the best
11 possible form of notice.

12 **B. The Notice is Accurate and Informative**

13 The proposed Notice should be approved. It will be disseminated through direct U.S. first
14 class mail to the last known address for each Class Member. It informs the Class Members of the
15 terms of the settlement and their right to be excluded from the Settlement. And if there are Class
16 Members who wish to object to this proposed class action settlement, they will have the opportunity
17 to file their objections and be heard at the Final Approval Hearing.

18 The Notice also fulfills the requirement of neutrality in class notices. (Conte & Newberg,
19 *Newberg on Class Actions* (3rd Ed.) § 8.39.) It summarizes the proceedings to date and the terms
20 and conditions of the settlement agreement, in an informative and coherent manner. It makes clear
21 that the settlement agreement does not constitute an admission of liability by the Defendant, who
22 denies all liability, and it recognizes that this Court has not ruled on the merits of the action. It also
23 states that the final settlement approval decision has yet to be made. The Notice thus complies with
24 the standards of fairness, completeness, and neutrality required of a combined settlement-
25 certification class notice.

26 **VI. CONCLUSION**

27 For the foregoing reasons, Plaintiffs respectfully request that the Court grant preliminary
28 approval of the proposed settlement and set a Final Approval Hearing in December 2024.

Dated: July 2, 2024

Respectfully submitted,

WILSHIRE LAW FIRM

By:

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Attorneys for Plaintiffs

Villanueva, et al. v. La Rosa Tortilla Factory, Inc., et al.
22CV00226

I, Rebecca Padilla, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is rpadilla@wilshirelawfirm.com.

On July 2, 2024, I served the foregoing **PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Kane Moon (SBN 249857)
kmoon@moonyanglaw.com
 Allen Feghali (SBN 301080)
afeghali@moonyanglaw.com
MOON LAW GROUP, PC
 1055 West Seventh Street, Suite 1880
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Attorneys for Plaintiff Marco Perez

Attorneys for Defendant La Rosa Tortilla

(X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

I declare under the penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on July 2, 2024, at Los Angeles, California.

Rebecca Padilla