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individually and on behalf of all others similarly situated.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN**

DYLON W. CRONON, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

FFE TRANSPORTATION SERVICES, INC. dba
FROZEN FOOD EXPRESS, a Delaware
Corporation and DOES 1-50, inclusive,

Defendants.

CASE NO.: STK-CV-UOE-2022-0006572

DEPT: 10C

JUDGE: HON. JAYNE LEE

**PLAINTIFF'S UNOPPOSED NOTICE
OF MOTION AND MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT;
DECLARAITON IN SUPPORT
THEREOF; [PROPOSED] ORDER**

Date:
Time:
Dept.: 10C

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on _____, 2023, at ____:00 a.m. or as soon thereafter as
the matter may be heard by the Honorable Jaynee Lee in Department 10C of the San Joaquin
County Superior Court, located at 180 e. Weber Ave., 2nd Floor, Stockton, CA 95202, Plaintiff
Dylon Cronon, individually and on behalf of all others similarly situated, will and hereby does
move the Court for entry of an Order preliminarily approving the Parties' class action settlement,
including:

1. Certifying the class for purposes of settlement only;
2. Preliminarily appointing Plaintiff Dylan Cronon as class representative for settlement purposes;
3. Appointing Plaintiff's counsel James Hawkins APLC as class counsel for purposes of settlement only;
4. Preliminarily approving the class action settlement as fair, adequate, and reasonable, based upon the terms set forth in the Settlement Agreement;
5. Approving Apex Class Action Administrators as the administrator and directing distribution of the Class Notice, including notice of the opportunity to exclude oneself from, or object to, the settlement;
6. Setting a date for a final fairness hearing to determine, following dissemination of the Class Notice, whether to grant final approval of the Settlement.

This motion is based upon this Memorandum of Points and Authorities in Support thereof; the Declaration of Plaintiff's counsel James Hawkins APLC in support thereof; the Class Action Settlement Agreement and Release of Claims (the "Settlement Agreement"); the proposed Order granting Preliminary Approval of the Settlement; all other records, pleadings, and papers filed in this action; and upon such other evidence or argument as may be presented to the Court at the hearing of this motion.

Dated: August 1, 2023

JAMES HAWKINS APLC

BY:

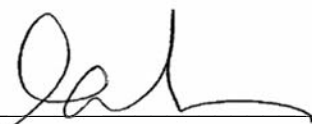

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Dylon Cronon seeks preliminary approval of a \$475,000 wage-and-hour class
4 action settlement (the “Settlement Amount”) on behalf of approximately 266 putative class
5 members, which includes all current and former non-exempt, non-driver employees who were
6 employed by Defendant in California at any time between July 29, 2018 and the Preliminary
7 Approval Date or August 10, 2023, whichever is earlier (the “Class Period”). (S.A. (A) (1)).

8 The payment to each Class Member under the Settlement Agreement is based on the
9 number of Pay Periods that each Class Member worked for Defendant during the Class Period.
10 The Class Action Settlement Agreement and Release of Claims is attached as Exhibit “A” to the
11 Declaration of James Hawkins (“Hawkins Decl.”), and is hereinafter referred to as the
12 “Settlement Agreement” or “S.A.” The proposed Notice of Settlement of Class Action (“Class
13 Notice”) is attached to the Hawkins Declaration as Exhibit “B.”

14 Under the terms of the Settlement Agreement, Defendant FFE Transportation Services,
15 Inc. dba Frozen Food Express, a Delaware corporation (“Defendant” or “FFE”) will not oppose
16 Plaintiff Counsel’s application for a reasonable award of attorney’s fees not to exceed the total
17 amount of \$158,333.33 which is 1/3 of the Gross Settlement Amount (hereinafter, the
18 “Settlement Amount”), Plaintiff Counsel’s litigation expenses not to exceed \$20,000, Settlement
19 Administrator Costs of \$6,500, PAGA penalties of \$50,000 (of which \$37,500 or 75% will be
20 paid to the LWDA and the remaining \$12,500 or 25% will be paid to the Aggrieved Employees
21 on a pro rata basis), and a Service Payment of \$7,500 to Plaintiff Dylon Cronon (“Class
22 Representative”). (S.A. ¶ 49(a-h)).

23 After all Court-approved deductions from the Settlement Amount, it is estimated that
24 \$232,666.67 will be available to pay approximately the Class Members, as follows:

25

	Total Amount
<i>Gross Settlement Amount</i>	\$ 475,000.00
Attorneys’ Fees (1/3)	\$ 158,333.33
Litigation Costs	\$ 20,000.00
Administrator Costs	\$ 6,500.00
PAGA Penalties	\$ 50,000
Class Representative’s Service Award	\$ 7,500.00

26
27
28

<i>Net Settlement Amount</i>	\$ 232,666.67
------------------------------	----------------------

Assuming 266 Class Members, the average payment to each class member will be approximately \$874.68 (\$232,666.67 / 266). Of course, the actual payment will be calculated on a pro-rata basis according to the number of weekly Pay Periods Worked by each Class Member. Assuming an estimated 13,000 Pay Periods worked, each weekly Pay Period will have a value of approximately \$17.89 on average. In addition, approximately 79 Aggrieved Employees (*i.e.*, individuals who worked during the PAGA Period starting on October 5, 2021), will receive a pro rata share of the \$12,500 PAGA Penalties (accounting for 25% of the total \$50,000 allocation). Moreover, the Aggrieved Employees will each receive on average approximately \$158.22 for PAGA recovery. (Hawkins Decl., ¶¶ 27-36).

The settlement is non-reversionary and Class Members will not be required to submit claim forms to receive payment, but each Class Member will receive the Class Notice containing information about his/her share, the opportunity to dispute the number of Pay Periods Worked, and the opportunity to opt-out or object to the settlement. All Class Members who do not affirmatively opt-out will receive a settlement check upon the Court granting final approval. Likewise, all Aggrieved Employees will receive a share of the PAGA Penalties once the settlement receives final approval.

Because the settlement is fair and reasonable and was negotiated at arm's length by experienced counsel and an experienced mediator following a sufficient exchange of information and documents prior to mediation, it should be preliminarily approved. Plaintiff respectfully request that the Court enter an order preliminarily approving the settlement, conditionally certifying the Class under Code of Civil Procedure § 382 for settlement purposes, approving the proposed Class Notice, appointing Plaintiff's counsel as class counsel, appointing Apex Class Action Administrators as the Settlement Administrator, and scheduling a hearing for final approval of the Settlement.

II. BACKGROUND

A. THE SETTLEMENT CLASS

The Class is defined as follows:

1 All current and former non-exempt, non-driver employees who
2 were employed by Defendant FFE at any time between July 29,
3 2018 and the Preliminary Approval Date, or August 10, 2023,
4 whichever is earlier. (S.A. ¶ 37). There are approximately 266
5 Settlement Class Members.

6 **B. PROCEDURAL HISTORY**

7 On July 29, 2022, Plaintiff submitted a letter to the California Labor Workforce
8 Development Agency (the “LWDA”) for civil penalties under the Private Attorney General Act
9 of 2004 (the “PAGA”), and also sent a letter to Defendant requesting the production of his
10 personnel and timekeeping records in order to further evaluate his wage and hour claims.
11 (Hawkins Decl., ¶ 3).

12 Plaintiff filed two actions against Defendant FFE and Does 1 through 50: a class action
13 filed on July 29, 2022, and a representative PAGA lawsuit filed on October 5, 2022. The two
14 actions allege class and representative PAGA claims, including: (1) failure to pay overtime
15 wages, (2) failure to provide meal periods, (3) failure to provide rest breaks, (4) failure to pay
16 final wages, (5) failure to pay timely wages, (6) failure to provide accurate wage statements, (7)
17 failure to reimburse for business expenses, (8) failure to pay vested vacation pay, (9) failure to
18 pay reporting time pay, and (10) unfair and unlawful competition pursuant to Business and
19 Professions Code §17200 et seq. Plaintiff also alleges related claims under PAGA in a separate
20 lawsuit. (Hawkins Decl., ¶ 4).

21 Defendant retained counsel and, on October 19, 2022, Defendant removed the Class
22 Action to the United States District Court for the Eastern District of California. Defendant then
23 filed a motion to compel arbitration and to dismiss the class claims, but the Parties stayed all
24 motion practice pending the completion of mediation and agreed that any settlement reached at
25 mediation would include a stipulation to remand the Class Action to state court. Defendants filed
26 an answer to the PAGA lawsuit, and the parties stipulated to stay proceedings pending mediation
27 of the Class and PAGA Action. In preparation for the mediation, the Parties informally
28 exchanged documents and information that allowed both sides to calculate the potential damages
and evaluate potential risk, including policies and procedures pertaining to each claim alleged,
and statistics relating to the number of current and former employees, number of shifts, pay

1 periods worked and other things. In this regard, Defendant provided a random 10% sampling of
2 timekeeping and payroll records of the 266 Class Members. This sampling of 27 employees’
3 records enabled both parties to take a deep dive into the claims. Additionally, during this
4 process, Plaintiff and his counsel analyzed, researched, and investigated the potential issues,
5 including matters related to the calculation of damages, trial, and appellate issues and risks.
6 (Hawkins Decl., ¶ 5).

7 On May 11, 2023, Plaintiff and Defendant FFE participated in mediation before
8 Honorable William Pate, a retired Judge who served in the San Diego Superior Court Civil
9 Department and now serves as mediator on wage and hour class action cases among other
10 matters. The matter resolved pursuant to a mediator’s proposal. The Parties accepted the
11 mediator’s proposal and memorialized the terms of the settlement in a long-form Settlement
12 Agreement. (Hawkins Decl., ¶ 6). The Parties now seek the Court’s preliminary approval of the
13 Settlement.

14 **C. SUMMARY OF THE CLAIMS AND DEFENSES**

15 Plaintiff alleged numerous wage and hour violations on behalf of the Class Members.
16 However, Defendant vigorously contested and denied Plaintiff’s material allegations on the
17 merits and as to the propriety of a class action or PAGA representative action.

18 One of the primary claims in this action is for wage statement violations under Labor
19 Code § 226. During the statutory period, Plaintiff alleges that Defendant provided the Class with
20 wage statements that failed to contain multiple items required under § 226(a), including the total
21 hours worked during the pay period, the applicable rates of pay and reimbursement expenses,
22 among other things. However, Defendant raised a variety of defenses to this claim, including that
23 Plaintiff would be unable to prove the required “knowing and intentional” and “injury” elements
24 under § 226(e) and, thus, no liability would attach. (Hawkins Decl., 16.)

25 Plaintiff also alleged that he and the Class Members were subjected to overtime
26 violations due to a variety of allegedly illegal practices. For instance, Plaintiff alleged that he and
27 the others non-exempt employees received non-discretionary bonus and shift differential pay
28 which was not included in the regular rate of pay for overtime. However, Defendants presented

evidence that it had compliant policies and practices regarding payment of overtime, and that employees received proper compensation for overtime which factored in shift differential pay and were in many instances overpaid based on the calculations used by Defendant. Plaintiff also challenges the propriety of Defendant's pay practices, arguing that Defendant failed to account for off-the-clock work performed by Plaintiff and the Class Members. Plaintiff claimed that he and the putative class were denied proper meal and rest breaks and were not paid break premium pay when owed. Most importantly, Plaintiff alleged that these unpaid wage claims triggered waiting time penalties for each *former* Class Member. (Hawkins Decl. ¶ 17).

However, Defendant vehemently opposed these unpaid wage claims both on the merits and as to the propriety of pursuing them on a class and representative PAGA basis. For example, Defendant argued that it maintained lawful policies to compensate employees for all time worked and that any ruling on these unpaid wage claims would require unwieldy individualized assessments that were not proper for class and representative treatment. Defendant also argued that it had compliant meal and rest break policies and practices, and that issues related to any denial of proper breaks would have to be resolved on an individualized basis. As for the waiting time penalty claims, Defendant argued that these would fail along with the underlying wage claims – and, even if the wage claims succeeded, Defendant argued it was entitled to the “good faith” defense and that Plaintiff would be unable to show these violations were “willful.” (Hawkins Decl. ¶ 18)

Plaintiff also alleged various PAGA claims arising out of the claimed violations mentioned above. However, Defendant argued that these types of “derivative” claims have no merit. (Hawkins Decl. ¶ 19).

Despite the disputed nature of the claims, the Parties concluded that further litigation of the Action would be protracted and expensive, and that it is desirable that the Action be fully and finally settled to limit further risk, expense, and protracted litigation.

III. SUMMARY OF THE PROPOSED SETTLEMENT

The following is a summary of the principal terms of the Settlement Agreement.

A. SETTLEMENT CONSIDERATION AND ALLOCATION

1 The \$475,000 Settlement Amount is non-reversionary and will be paid out to Class
2 Members without the need to submit a claim form or take any affirmative action. It includes (1)
3 Plaintiff's attorneys' fees and costs, as approved by the Court; (2) a service award of \$7,500 to
4 Plaintiff, subject to approval by the Court; (3) settlement administrator expenses, not to exceed
5 \$6,500; (4) a \$50,000 PAGA award, 75 percent of which is to be paid to the LWDA pursuant to
6 California Labor Code § 2699(i) and 25 percent to the Aggrieved Employees; and (5) the
7 aggregate of all Individual Settlement Amounts of the Participating Class Members. (S.A. ¶
8 49(a-h)). Defendant will separately pay its share of employer's payroll taxes and withholdings.

9 After all Court-approved deductions from the Settlement Amount, it is estimated that
10 \$232,666.67 will be available to pay the Individual Settlement Amounts to approximately 266
11 Class Members. Thus, the average settlement payment is approximately \$874.68.

12 **B. NOTICE PROCEDURES**

13 The proposed Class Notice will be provided to the Class Members showing the estimated
14 amount that each Class Member will receive and the number of workweeks he/she is credited
15 (Exhibit B to the Hawkins Decl.). Within 14 days after entry by the Court of its Order of
16 Preliminary Approval, Defendant shall provide the Settlement Administrator with a list of Class
17 Members containing names, addresses, Social Security Numbers, and the dates of employment
18 and total Pay Periods Worked in the Class and PAGA Periods (the "Class Data"). (S.A. ¶¶ 5, 67).

19 Within 10 days of receipt of the Class Data, the Settlement Administrator shall calculate
20 the number of weeks worked for each Class Member, populate the Class Notice for each, and
21 send each Class Member the Class Notice via first-class, United States mail. (S.A. ¶ 68).

22 In the event that any Class Notice mailed to a Class Member is returned as having been
23 undelivered by the U.S. Postal Service, the Settlement Administrator shall perform a skip trace
24 search and seek an address correction for such Class Member(s), and a second Class Notice will
25 be sent to any new or different address obtained. (S.A. ¶ 69).

26 **C. EXCLUSION AND OBJECTION PROCEDURES**

27 Class Members who do not timely Opt-Out of the Settlement will be deemed to
28 participate in the Settlement and shall become a Participating Class Member without having to

1 submit a claim form or take any other action. In order to Opt-Out of the Settlement, the Class
2 Member must submit a written request to the Settlement Administrator no later than 30 days
3 after being mailed by the Settlement Administrator (“Notice Response Deadline”). (S.A. ¶¶ 20,
4 72). Any Opt-Out request that is not postmarked by the Notice Response Deadline will be
5 invalid. (S.A. ¶ 72(a)).

6 The Class Notice shall inform the Class Members of their right to object to the
7 Settlement. Any Class Member who wishes to object to the Settlement must submit a written
8 objection to the Settlement Administrator no later than the Notice Response Deadline. The
9 objection must include the case name and number and must set forth, in clear and concise terms,
10 a statement of the reasons why the objector believes that the Court should find that the proposed
11 Settlement is not in the best interest of the Class and the reasons why the Settlement should not
12 be approved, including the legal and factual arguments supporting the objection. (S.A. ¶ 72(c)).

13 **D. SETTLEMENT ALLOCATION FORMULA FOR SETTLEMENT SHARES**

14 The amount of each Settlement Class Member’s Individual Settlement Amount is tied to
15 the number of Pay Periods Worked that a Settlement Class Member worked for Defendant in
16 California during the Class Period. Individual Settlement Payments will be made as follows:

17 • Defendant will calculate the total number of Pay Periods Worked by each
18 Settlement Class Member during the Class Period and the aggregate total number of Pay Periods
19 Worked by all Settlement Class Members during the Class Period.

20 • To determine each Settlement Class Member’s estimated Individual Settlement
21 Payment, the Settlement Administrator will use the following formula: The Net Settlement
22 Amount will be divided by the aggregate total number of Pay Periods Worked, resulting in the
23 “Pay Period Value.” Each Settlement Class Member’s Individual Settlement Payment will be
24 calculated by multiplying his or her total number of Pay Periods Worked during the Class Period
25 by the Pay Period Value.

26 • Individual Settlement Payments will be reduced by any required deductions for
27 each Participating Class Member as specifically set forth herein, including employee-side tax
28 withholdings and deductions.

1 • The entire Net Settlement Amount will be disbursed to all Participating Class
2 Members. If there are any valid and timely Requests for Exclusion, the Settlement Administrator
3 shall proportionally increase the Individual Settlement Payment for each Participating Class
4 Member according to the number of Pay Periods Worked, so that the amount actually distributed
5 to the Settlement Class equals 100% of the Net Settlement Amount.(S.A. ¶ 49(c)).

6 Additionally, each “Aggrieved Employee” will receive a share of the PAGA Penalties
7 based on a pro-rata basis. Thus, the \$12,500 PAGA Penalties allocated to the Aggrieved
8 Employees will be divided and paid on a Pay Period basis. (S.A. ¶ 49(h)).

9 The Class Notice will inform Class Members of the estimated share and the number of
10 Pay Periods he/she worked during the Class Period. Class Members may dispute their Pay
11 Periods Worked if they feel they worked more in the Class or PAGA Periods than Defendant’s
12 records show by timely submitting evidence to the Settlement Administrator. (S.A. ¶ 70).

13 As noted, assuming a class size of 266 Class Members, the average payment to
14 each class member will be approximately \$874.68 each, although the actual payment will be
15 calculated on a pro-rata basis as shown above. Each Pay Period will have a value of
16 approximately \$17.89 on average. The highest amount a Settlement Class Member will receive
17 is approximately **\$4,472** based upon \$17.89 per workweek multiplied by approximately 250
18 maximum workweeks in the during the Class Period. The lowest payment is estimated to be
19 approximately **\$17.89** for someone who worked only one workweek. Indeed, this is a good result
20 for the Class Members. (Hawkins Decl. ¶¶ 36, 37).

21 Moreover, it is estimated that there are approximately 79 Aggrieved Employees who will
22 share in the \$12,500 PAGA award on a pro rata basis resulting in approximately Moreover, the
23 Aggrieved Employees will each receive on average approximately \$158.22 for PAGA recovery.

24 **E. TIMING OF SETTLEMENT DISBURSEMENTS**

25 Defendant is required to deposit the Settlement Amount, along with the employers’ share
26 of payroll taxes owed, with the Settlement Administrator, within 15 calendar days after the
27 “Effective Date” and these funds will be used to pay: (1) the class attorney fees and expenses, as
28 approved by the Court; (2) the service awards, as approved by the Court; (3) administrative

1 expenses, as approved by the Court; (4) a \$50,000 PAGA award; and (5) the aggregate of all
2 Individual Settlement Amounts of participating Class Members. (S.A. ¶ 73). Within 10 days
3 after the Court's approval of the Settlement, the Settlement Administrator shall issue payments to
4 cover all court-approved payments. (S.A. ¶ 74).

5 Class Members will have 180 days to cash his/her settlement check. If a Class Member
6 fails to cash a check by the deadline, then the Settlement Administrator shall issue the unclaimed
7 funds to the California State Controller in the name of the Class Member. (S.A. ¶ 75).

8 **F. TAX TREATMENT**

9 The Parties agree that one-third (33.33%) will be allocated as wages subject to
10 withholding of all applicable local, state and federal taxes; and two-thirds (66.67%) will be
11 allocated for interest and penalties (pursuant to, e.g., California Labor Code sections 203, 210,
12 226, etc.) from which no taxes will be withheld. (S.A. ¶ 49(d)). Additionally, the PAGA
13 Penalties payable to the Aggrieved Employees will be classified entirely as civil penalties and
14 shall be reported as required on an IRS Form 1099. (S.A. ¶ 49(h)).

15 Defendant will separately pay its share of employer payroll taxes on the sum allocated to
16 wages. (S.A. ¶ 49(a)).

17 **G. PARTICIPATING CLASS MEMBERS' RELEASE OF CLAIMS**

18 In exchange for these payments, the Settlement Agreement ¶ 30 provides that the
19 Participating Class Members will release the Released Parties of the claims alleged or could have
20 been alleged based on the facts stated in the operative complaint, as follows:

21 (a) any and all claims, wages, penalties, interest, debts, demands,
22 rights, liabilities, costs, compensation, damages, injunctive and/or
23 declaratory relief, attorneys' fees, actions, and/or causes of action
24 that were pleaded or could have been pleaded based upon the factual
25 allegations set forth by Plaintiff in the Complaint filed in this Action
26 and arising at any time during the Class Period, including but not
27 limited to all claims under the California Labor Code for unpaid
28 minimum wages, off-the-clock work violations, failure to provide
meal periods, failure to provide rest periods, unreimbursed business
expenses, wage statement violations, interest, penalties, and
attorneys' fees, waiting time penalties, withholding from wages and
the related provisions of the Labor Code including Labor Code §§
200-204, 208, 210, 216, 218.6, 226, 226.3, 226.7, 227.3, 510, 512,

1 512.5, 558, 558.1, 1174, 1174.5, 1175, 1194, 1194.2, 1197, 1197.1,
2 1198, 1199, 2802, 2804, derivative claims under California Business
3 & Professions Code §§ 17200 et seq., and all claims under the
4 governing Industrial Welfare Commission Occupational Wage
Orders, California Code of Regulations, and Fair Labor Standards
Act; and

5 (b) as to any Class Member who cashes their Settlement
6 Payment, the Settlement Administrator shall include language on
7 the Settlement Payments that informs the Class Members that the
8 signing and negotiation of that check shall serve as the Class
9 Member's consent to join the Action for purposes of releasing all
claims arising under the Fair Labor Standards Act that are alleged in
the Action or related to the claims stated or that could have been
stated in the Action, implicitly or explicitly.

10 The time governing the release shall be the same as the Class Period. (S.A. ¶ 30).

11 It is understood and agreed that the Settlement Agreement will not release any person,
12 party or entity from claims, if any, by Class Members for workers compensation, unemployment,
13 or disability benefits of any nature, nor does it release any claims, actions, or causes of action
14 which may be possessed by Settlement Class Members under state or federal discrimination
15 statutes including, without limitation, the Cal. Fair Employment and Housing Act, the Cal.
16 Government Code § 12940, et seq.; the Unruh Civil Rights Act, the Cal. Civil Code § 51, et seq.;
17 the California Constitution; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000, et seq.;
18 the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101, et seq.; the Employee
19 Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 et seq.; and all of their
20 implementing regulations and interpretive guidelines.

21 **H. AGGRIEVED EMPLOYEES' RELEASE OF CLAIMS**

22 The Settlement Agreement ¶ 23 also defines the "PAGA Released Claims" as follows:

23 [A]ll PAGA claims that Plaintiff alleged or could have alleged
24 against the Released Parties, on behalf of the Aggrieved Employees
25 and the State of California, based on the facts and/or theories stated
26 in the operative complaint and/or in Plaintiff's notice letter to the
27 LWDA, including all PAGA claims seeking civil penalties premised
28 upon: a) failure to pay overtime wages, (b) failure to provide meal
periods, (c) failure to provide rest periods, (d) failure to pay all
wages earned and owed upon separation, (e) failure to pay all wages
earned and owed during employment, (f) failure to provide accurate
itemized wage statements, (g) failure to reimburse necessary

business expenses, (h) failure to pay vesting vacation pay, (i) failure to pay reporting time pay, and (j) all other claims for civil penalties recoverable under the Private Attorneys General Act, Labor Code §§ 2698 et seq. based on the facts or claims alleged in the operative complaint.

The time governing the PAGA Released Claims is July 29, 2018 through the Preliminary Approval Date or August 10, 2023, whichever is earlier (the “PAGA Period”; see S.A. ¶ 22). Moreover, even if an Aggrieved Employee requests exclusion from the Class settlement, that individual will still be subject to the PAGA Released Claims to the fullest extent permitted by law and will receive a pro-rata share of PAGA Penalties. (S.A. ¶ 72(a)).

IV. PROVISIONAL CERTIFICATION OF THE SETTLEMENT CLASS UNDER THE LESSER STANDARD OF SCRUTINY FOR SETTLEMENT-ONLY CERTIFICATION IS APPROPRIATE FOR PURPOSES OF SETTLEMENT

California Rule of Court 3.769(d) provides that the Court may make an order approving certification of a provisional settlement class at the preliminary approval stage. It is well-established that trial courts should use a “lesser standard of scrutiny” for determining the propriety of certifying a settlement class, as opposed to a litigation class. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1807 at n.19.) The reasons include that no trial is anticipated in a settlement class, so the case management issues inherent in determining if the class should be certified need not be confronted; and the trial court’s fairness review of the settlement protects the interests of the non-representative class members. (*Id.*; see also *Officers for Justice v. Civil Service Com.* (9th Cir. 19150) 688 F.2d 615, 633 (“Th[e] relationship between the certification determination and the merits of the case is further attenuated within the context of the settlement evaluation process . . . [C]ertification issues raised by class action litigation that is resolved short of a decision on the merits must be viewed in a different light.”); *Amchem Prods., Inc. v. Windsor* (1997) 521 U.S. 591, 620 (“Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems . . . for the proposal is that there be no trial.”). As discussed below, for the purposes of this settlement only, Plaintiff request that this Court provisionally certify the Class, as defined above, under Code of Civil Procedure § 3150.

1 **A. NUMEROSITY AND ASCERTAINABILITY**

2 Numerosity is met if a proposed class is so large that joinder of all members would be
3 impracticable. *See* Cal. Code Civ. Proc. § 3150. A proposed settlement class is ascertainable if
4 the class members can be objectively identified and given notice of the litigation without
5 unreasonable time or expense. (*See Medrazo v. Honda of N. Hollywood* (2008) 166 Cal.App.4th
6 89, 101.) Here, according to Defendant’s records, there are approximately 266 Class Members.
7 This figure satisfies the numerosity requirement.

8 **B. WELL-DEFINED COMMUNITY OF INTEREST**

9 1. Commonality

10 To justify certification, the class proponent must show that questions of law or fact
11 common to the class predominate over the questions affecting the individual members. (*See*
12 *Arenas v. El Torito Rests., Inc.* (2010) 183 Cal.App.4th 723, 732 (citing *Washington Mut. Bank*
13 *v. Superior Court* (2001) 24 Cal.4th 906, 913).) Plaintiff contends that the Class was subject to
14 common policies and practices relating to the payment of wages, meal and rest breaks, among
15 other things. While the Parties dispute whether a class would be appropriate if the litigation were
16 to continue, they agree to class certification for the purposes of this settlement only. (Hawkins
17 Decl. ¶¶ 39-41).

18 2. Typicality

19 Typicality “focuses on whether there exists a relationship between the Plaintiff’s claims
20 and the claims alleged on behalf of the class.” (*See* Herbert B. Newberg & Alba Conte, *Newberg*
21 *on Class Actions* (“*Newberg*”) § 3:13 (4th ed. 2002).) Again, the Parties dispute whether
22 Plaintiff’s claims are typical of the Class for the purposes of any continued litigation of the
23 Action, but agree for the purposes of this settlement only, that Plaintiff asserts claims regarding
24 Defendant’s meal and rest break practices, wage statements, and the provisions governing the
25 timely and complete payment of wages, which are at the core of the lawsuit.

26 3. Adequacy of Representation

27 The proposed class representative must establish that he or she will adequately represent
28 the proposed class. (*See Barboza v. West Coast Digital GSM, Inc.* (2009) 179 Cal.App.4th 540,

546.) Specifically, Plaintiff is adequate to represent the class because he was employed by Defendant as a truck driver during the Class Period, experienced the same wage and hour practices as the rest of the Class, understood his duties as a Class Representative, has been willing to undergo the risks of litigation, and has no conflict of interest.

Adequacy may be established by the fact that counsel are experienced practitioners. (See *Local Joint Exec. Bd. of Culinary/Bartender Trust Fund v. Las Vegas Sands, Inc.* (9th Cir. 2001) 244 F.3d 1152, 1162.) Here, Plaintiff is represented by Class Counsel with extensive experience in wage and hour class actions like the instant matter. (Hawkins Decl. ¶¶ 39-40).

4. Superiority

Certification of the Class for settlement purposes is superior here because there will be a global resolution of all claims at once, which fosters judicial economy. Class certification for settlement purposes is also vastly superior to litigation of numerous individual claims because most of the claims are too small to litigate outside of the class context.

V. THE COURT SHOULD PRELIMINARILY APPROVE THE SETTLEMENT, WHICH IS FAIR, ADEQUATE, AND REASONABLE

A. CLASS ACTION SETTLEMENTS ARE SUBJECT TO JUDICIAL REVIEW AND APPROVAL UNDER THE CALIFORNIA RULES OF COURT

The law favors settlements. (*Bush v. Superior Court* (1992) 10 Cal.App.4th 1374.) This is particularly true in class actions where substantial resources can be conserved by avoiding the time, cost, and rigors of formal litigation. However, a class action may not be dismissed, compromised, or settled without the Court's approval. Cal. R. Ct. 3.769(a). The California Rules of Court set forth the procedures for court approval of a class action settlement: (1) the Court preliminarily approves the settlement; (2) class members receive notice as directed by the Court; and (3) the Court conducts a final approval hearing to inquire into the fairness of the proposed settlement. (See Cal. R. Ct. 3.769(c), (e-g).)

The decision to approve or reject a proposed settlement lies within the Court's sound discretion. (See *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-35.)

1 Nevertheless, in considering a potential settlement for approval, a court is not to turn the
2 approval hearing “into a trial or rehearsal for trial on the merits . . . [or] to reach any ultimate
3 conclusions on the contested issues of fact and law which underlie the merits of the dispute.”
4 (*Officers for Justice*, 688 F.2d at 625.)

5 The Court’s ultimate duty is to determine whether the settlement is fair, adequate, and
6 reasonable. (See *Dunk*, 48 Cal.App.4th at 1801 (setting forth the “fair, adequate, and reasonable”
7 standard) (citing *Officers for Justice*, *supra*); *Cho v. Seagate Tech. Holdings, Inc.* (2009) 177
8 Cal.App.4th 734, 742-43 (a trial court must approve a class action settlement agreement, but only
9 after determining that it is ““fair, adequate and reasonable,”” considering factors such as the
10 ““risk, expense, [and] complexity”” of continued litigation) (citations omitted).) The Court
11 enjoys broad discretion in making its fairness determination, and should consider factors
12 including, but not limited to:

13 [T]he strength of Plaintiff’s case, the risk, expense, complexity and likely duration
14 of further litigation, the risk of maintaining class action status through trial, the
15 amount offered in settlement, the extent of discovery completed and the stage of
16 the proceedings, the experience and views of counsel . . . and the reaction of the
class members to the proposed settlement.

17 *Dunk*, *supra* (detailing non-exhaustive list of factors for court’s consideration at final approval).

18 The above factors are not exclusive “and the court is free to engage in a balancing and
19 weighing of factors depending on the circumstances of each case.” (*Wershba*, 91 Cal.App.4th at
20 245.) However, in doing so, the Court must give “[due] regard to what is otherwise a private
21 consensual agreement between the parties.” (*Id.*) The inquiry must be limited “to the extent
22 necessary to reach a reasoned judgment that the agreement is not the product of fraud or
23 overreaching by, or collusion between, the negotiating parties.” (*Id.* (citation and internal
24 quotation marks omitted).)

25 At the preliminary approval stage, the Court need only determine that the settlement falls
26 within the “range of possible judicial approval,” so that notice to the class and the scheduling of
27 the fairness hearing are worthwhile. See *Newberg* § 11:25. Indeed, the Court should grant
28 preliminary approval if there are no “grounds to doubt its fairness or other obvious deficiencies .

1 . . and [the settlement] appears to fall within the range of possible approval.” (*Manual For*
2 *Complex Litigation* (Third) § 30.41 (1995); *see Dunk*, 48 Cal.App.4th at 1802.) A “presumption
3 of fairness exists where: (1) the settlement is reached through arm’s-length bargaining; (2)
4 investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3)
5 counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” (*Dunk*,
6 *supra* (citing *Newberg* § 11:41).) As shown below, the settlement falls well within the range of
7 approval because there are no grounds to doubt its fairness.

8 **B. THE SETTLEMENT IS THE RESULT OF SERIOUS, INFORMED, NON-COLLUSIVE**
9 **NEGOTIATIONS**

10 The settlement was the product of extensive arm’s length negotiations between counsel
11 and was facilitated by an experienced wage-and-hour class action mediator. Though cordial and
12 professional, the settlement negotiations were adversarial and non-collusive in nature. The
13 settlement reached is the product of substantial effort by the parties and their counsel. Although
14 Plaintiff and his counsel believed that there was a possibility of certifying the claims, they
15 recognized the potential risk, expense, and complexity posed by litigation, such as unfavorable
16 decisions on class certification, summary judgment, at trial and/or on the damages awarded,
17 and/or on an appeal that can take several more years to litigate. In addition, if Defendant
18 prevailed on any of its defenses, the employees may not have received any monetary recovery.

19 **C. THE EXTENT OF THE INVESTIGATION WAS MORE THAN SUFFICIENT TO PERMIT**
20 **PRELIMINARY APPROVAL OF THE SETTLEMENT**

21 Plaintiff thoroughly investigated and evaluated the factual and legal strengths and
22 weaknesses of this case before reaching the settlement. As described above, the settlement was
23 reached after extensive investigation and research, thorough calculations and risk evaluation, and
24 a substantial exchange of information relating to the Class Members prior to mediation.

25 **D. THE SETTLEMENT IS A REASONABLE COMPROMISE OF CLAIMS**

26 To evaluate a settlement, the parties must provide the trial court with “basic information
27 about the nature and magnitude of the claims in question and the basis for concluding that the
28 consideration being paid for the release of those claims represents a reasonable compromise.”

1 (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.) The *Kullar* requirement
2 was further explained in *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186
3 Cal.App.4th 399, which held that an explicit statement of the maximum theoretical amount that
4 the class could recover was not necessary:

5 Greenwell misunderstands *Kullar*, apparently interpreting it to
6 require the record in all cases to contain evidence in the form of an
7 explicit statement of the maximum amount the plaintiff class could
8 recover if it prevailed on all its claims – a number which appears
9 nowhere in the record of the case. But *Kullar* does not, as Greenwell
10 claims, require any such explicit statement of value; it requires a
11 record which allows “an understanding of the amount that is in
12 controversy and the realistic range of outcomes of the litigation.

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

21 Of a particular relevance to the reasonableness of the proposed Settlement here is the fact
22 that significant legal and factual grounds for defending the action exist. As a threshold matter,
23 Defendant has shown that the putative class pled by Plaintiff would have a difficult time
24 satisfying the prerequisites for class actions under CCP section 382 because all employees,
25 including Plaintiff, are subject to FFE’s Arbitration Policy, and who cannot participate in this
26 case and must arbitrate all their claims individually. (*O’Connor v. Uber Technologies, Inc.*, (9th
27 Cir. 2018) 904 F.3d 1087, 1094-1095.) FFE had a binding arbitration policy in place during the
28 entire class period with a class action participation waiver. It requires all current and new
employees to arbitrate employment-related disputes and precludes participation in class or
collective actions. This Arbitration Policy applies to all Class Members. In *O’Connor*, the Ninth
Circuit held a class cannot be certified where it includes individuals who are required to arbitrate

1 their claims and cannot participate in a class or representative action and with others not subject
2 to arbitration. (*Id.* at 1094–1095.) The court reversed a district court’s order denying a motion to
3 compel arbitration and granting class certification, finding the arbitration policy was an
4 insurmountable barrier to class certification, because the “gateway” question of whether the
5 arbitration agreements were enforceable was not for the district court to answer,” but “designated
6 to the arbitrator.” (*Id.*) Here, as in *O’Connor*, Defendant argues that the Arbitration Policy
7 delegates gateway questions of arbitrability and enforceability of the policy “exclusively to
8 arbitrator” and accordingly the case has to be referred to arbitration. Thus, it is Defendant’s
9 position that the arbitration policy in effect during the class period appears to be a significant
10 barrier for class certification.

11 In addition to disputing the merits of Plaintiff’s claims, Defendant strongly disputed that
12 Plaintiff could obtain class certification, arguing a lack of commonality of the legal claims and
13 injuries. Defendant further argued that it complied with the applicable law and that any purported
14 deviations therefrom were individualized in nature, thereby limiting Plaintiff’s ability to certify
15 the class. While Plaintiff asserts that this is a suitable case for certification, she realizes that there
16 is always a significant risk associated with class certification proceedings, which could
17 significantly limit the claims that she could pursue on a class basis.

18 In light of the uncertainties of protracted litigation, this negotiated settlement reflects the
19 best practicable recovery for the Class. While the total settlement amount is, of course, a
20 compromise figure, the potential risks and opportunities of both parties were effectively weighed
21 and considered by the parties, resulting in a fair and equitable settlement.

22 As discussed in detail in the Hawkins declaration, the GSA of \$475,000.00 represents a
23 reasonable recovery and accounts for approximately 50% of the overall potential value. This
24 recovery could easily be much higher if at trial PAGA penalties were reduced or damages for
25 certain pay periods or workweeks could not be proven for certain individuals. The proposed
26 GSA is within the “ballpark of reasonableness” and should be approved. (Hawkins Decl., ¶¶ 27-
27 36).

1 **E. PLAINTIFF’S COUNSEL IS EXPERIENCED IN SIMILAR WAGE-AND-HOUR**
2 **LITIGATION**

3 The view of the attorneys actively conducting the litigation is entitled to significant
4 weight in deciding whether to approve the settlement. (*Ellis v. Naval Air Rework Facility* (N.D.
5 Cal. 1980) 87 F.R.D. 15, 18, *aff’d* (9th Cir. 1981) 661 F.2d 939; *Kullar v. Foot Locker Retail,*
6 *Inc.* (2008) 168 Cal.App.4th 116, 128 (court must take into account “the experience and view of
7 counsel”) (internal quotation and citation omitted).)

8 Plaintiff’s counsel have a great deal of experience in wage and hour class action litigation
9 over the last 25 years and have obtained certification of several classes, and been approved as
10 class counsel in many other wage/hour class actions. (Hawkins Decl., ¶ 45).

11 **F. THE CLASS NOTICE CONFORMS TO ALL APPLICABLE STATUTES AND RULES**

12 The proposed Class Notice should be approved, as it fully informs the Class Members of
13 the nature of the lawsuit and each Class Member’s rights under terms of the Settlement
14 Agreement and applicable law. The manner in which the Class Notice shall be disseminated, as
15 outlined above, shall ensure that all or nearly all of the Class Members shall be properly notified
16 of the proposed settlement.

17 The proposed Class Notice and proposed plan for the Settlement Administrator to mail
18 the Class Notice to the last known address of all class members complies with all the
19 requirements of California Rule of Court 3.79(f) and 3.766(b). The contents of the proposed
20 Class Notice includes (1) the material terms of the settlement; (2) the proposed attorneys’ fees,
21 litigation expenses, and the costs of administration; (3) details about the final fairness hearing
22 and how class members may elect to exclude themselves or make an objection; and (4) how class
23 members can obtain additional information. See Class Notice (Exhibit B to Hawkins Decl.). In
24 addition, it will inform Class Members of their estimated settlement share.

25 The Court has wide discretion in approving the means of providing notice, so long as the
26 class representative “provide(s) meaningful notice in a form that should have a reasonable
27 chance of reaching a substantial percentage of class members.” (*Archibald v. Cinerama Hotels,*
28 (1976) 15 Cal.3d 853, 861.) Here, the parties’ notice plan is that notice of the Settlement will be

1 disseminated directly to the class members by first class mail by the settlement administrator,
2 since Defendant has the last known addresses of all class members, and the Settlement
3 Administrator will perform a skip trace and update those addresses for any class notices that are
4 returned and re-send the notice.

5 The Class Notice satisfies the requirements of Rule of Court 3.766 and afford Settlement
6 Class Members with all due process protections required by the United States Constitution.
7 Moreover, the contents of the Class Notice are in compliance with Cal. R. Ct. 3.766(d), because
8 the Notice includes, without limitation (1) a detailed explanation of the case, including the basic
9 contentions or denials of the parties; (2) a statement that the court will exclude the member from
10 the class if the member so requests by a specified date; (3) a procedure for the member to follow
11 in requesting exclusion from the class; (4) a statement that the judgment, whether favorable or
12 not, will bind all members who do not request exclusion; and (5) a statement that any member
13 who does not request exclusion may, if the member so desires, enter an appearance through
14 counsel. The 30-day deadline for Class Members to exclude themselves is reasonable, as it
15 provides Class Members with sufficient time to do so and, if they so choose, to seek independent
16 legal advice in the interim. If a Class Member does not opt-out, then he or she will automatically
17 be sent a settlement check.

18 **G. THE NON-REVERSIONARY “CHECKS CASHED” DISTRIBUTION ENSURES**
19 **MAXIMAL RECOVERY FOR CLASS MEMBERS**

20 The fact that each member who does not opt out of the Settlement shall be mailed a check
21 ensures that every Class Member will be paid unless he or she affirmatively acts to exclude
22 himself or herself. Moreover, the Settlement Amount is non-reversionary, which means that no
23 settlement funds will revert to Defendant; instead, if any checks are not cashed before the
24 objection deadline, the funds will be transferred to the State Controller’s Office subject to
25 approval of the Court. Such terms are favored by Courts and demonstrate that there was no
26 collusion between counsel for the parties and that the Settlement is fair and favorable to the Class
27 Members.
28

1 **H. THE ATTORNEY’S FEES AND COSTS ALLOCATION UNDER THE SETTLEMENT**
2 **AGREEMENT IS FAIR**

3 Under the terms of the Settlement Agreement, Class Counsel is requesting \$158,333.33
4 in attorneys’ fees, which is equal to one-third of the Settlement Amount. (*See, e.g. Laffitte v.*
5 *Robert Half Int’l Inc.* (2016) 1 Cal.5th. 480 (approving 1/3 fee in the amount of \$6.33 million at
6 a 2.13 lodestar multiplier, when class action litigation establishes a monetary fund for the
7 benefit of the class members, the trial court may determine the amount of a reasonable fee by
8 choosing an appropriate percentage of the fund created); *see also Stuart v. RadioShack Corp.*
9 (N.D. Cal. Aug. 9, 2010) No. C-07-4499 EMC, 2010 WL 3155645 (approving fee award of 1/3
10 of the total maximum settlement amount of \$4.5 million) (the court noted that the fee award of
11 1/3 of the total settlement was “well within the range of percentages which courts have upheld
12 as reasonable in other class action lawsuits”); *Singer v. Becton Dickinson and Co.* (S.D. Cal.
13 June 1, 2010) No. 08-cv-1501-IEG (BLM), 2010 WL 2196104, at *8 (approving fee award of
14 33.33% of the common fund); *Romero v. Producers Dairy Foods, Inc.* (E.D. Cal. Nov. 14,
15 2007) No. 1:05cv0484 DLB, 2007 WL 3492841, at *4 (awarding fees of 1/3 of common fund
16 in a wage and hour class action, noting: “[f]ee awards in class actions average around one-third
17 of the recovery.”); *Martin v. FedEx Ground Package System, Inc.* (N.D. Cal. Dec. 31, 2008)
18 No. C 06-6883 VRW, 2008 WL 5478576, at *8 (approving fees of 1/3 of common fund).)

19 Additionally, Plaintiff is seeking up to \$20,000 in litigation costs, pursuant to the
20 Settlement Agreement.

21 Once the Court grants preliminary approval of the Settlement Agreement and Class
22 Notice is disseminated, Plaintiff’s counsel will submit a comprehensive request for attorneys’
23 fees and costs with its final approval motion.

24 **I. THE CLASS REPRESENTATIVE’S SERVICE AWARD REQUEST IS FAIR AND**
25 **APPROPRIATE**

26 The Settlement Agreement provides an incentive award payment of \$7,500 to the Class
27 Representative, which is reasonable given large recovery that Class Members will receive on
28 average, as well as the time and effort he devoted to this case. His efforts included providing

1 factual background for the Class and PAGA complaint; providing documents and information
2 about Defendant’s compensation plan; participating in phone calls to discuss litigation and
3 settlement strategy; making himself available throughout the litigation to assist with analyzing
4 the claims and defenses; helping Class Counsel prepare for the mediation; and reviewing the
5 settlement documents. The Class Representative also assumed significant risk in bringing this
6 litigation—namely, had he lost, he could have been ordered to pay Defendant’s costs.

7 The requested service award falls within the range of incentive payments typically
8 awarded to Class Representatives in similar class actions. (*See e.g. Bond v. Ferguson*
9 *Enterprises, Inc.* (E.D. Cal. June 30, 2011) No. 1:09-cv-1662 OWW MJS, 2011 WL 2648879
10 (approving \$11,250 service award to each of the two class representatives in a trucker meal break
11 class action; *Ross v. US Bank National Association* (N.D. Cal. Sept. 29, 2010) No. C 07-02951
12 SI, 2010 WL 3833922, at *2 (approving \$20,000 enhancement award to Class Representative in
13 California wage-and-hour class action settlement); *Vasquez v. Coast Valley Roofing, Inc.* (E.D.
14 Cal. 2010) 266 F.R.D. 4150, 493 (approving service awards in the amount of \$15,000 each from
15 a \$300,000 settlement fund in a wage/hour class action); *West v. Circle K Stores, Inc.* (E.D. Cal.
16 Oct. 19, 2006) NO. CIV. S-04-0438 WBS GGH, 2006 U.S. Dist. LEXIS 76558, at *28 (“the
17 court finds Plaintiff’s enhancement payments of \$ 15,000 each to be reasonable.”); *Glass v. UBS*
18 *Fin. Servs.* (N.D. Cal. Jan. 26, 2007) No. C-06-4068 MMC, 2007 U.S. Dist. LEXIS 8476, at *52
19 (finding “requested payment of \$ 25,000 to each of the named Plaintiff is appropriate” in wage
20 and hour settlement); *Louie v. Kaiser Found. Health Plan, Inc.* (S.D. Cal. Oct. 6, 2008) Case No.
21 08cv0795 IEG RBB, 2008 U.S. Dist. LEXIS 78314, at *18 (approving “\$25,000 incentive award
22 for each Class Representative” in wage an hour settlement).)

23 **VI. THE COURT SHOULD APPOINT APEX CLASS ACTION ADMINISTRATORS**
24 **AS SETTLEMENT ADMINISTRATOR**

25 Subject to the Court’s approval, the parties stipulated to APEX Class Action
26 Administrators serving as the Settlement Administrator. APEX is experienced in administering
27 class action settlements and has provided a flat-fee proposal to administer this settlement for
28 \$6,500. (Hawkins Decl. ¶ 43).

VII. TIMELINE AND SCHEDULING A FINAL APPROVAL HEARING

The last step in the approval process is the formal hearing, whereby proponents of the settlement may explain and describe its terms and conditions and offer argument in support of approval, and Class Members or their counsel may be heard in support of or in opposition to the settlement. Subject to the Court's approval, the Parties propose that the Court schedule a hearing for final approval approximately 100 days after the Preliminary Approval Date, as follows:

	Preliminary Approval (PA) hearing
<i>(24 days after PA)</i>	Deadline for Settlement Administrator to complete first mailing of the Notice Packet to all Settlement Class Members.
<i>(30 days after mailing Class Notice)</i>	Deadline for Settlement Class Members to submit Requests for Exclusion and Objections to the settlement.
16 court days before Final Approval hearing	Deadline for Plaintiff to file and serve Motion for Final Approval of Settlement and application for award of attorneys' fees, costs and service payments.
9 court days before Final Approval hearing	Deadline for filing of any written opposition to Plaintiff's Motion for Final Approval of Settlement, or filing any response to an objection to the settlement.
5 court days before final approval hearing	Deadline for filing of any written reply to opposition Motion for Final Approval of Settlement.
TBD (Approximately January 25, 2024 - 100 days after Preliminary Approval is granted)	Final Approval Hearing.

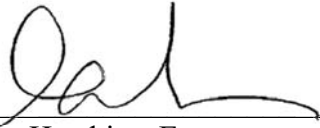
VIII. CONCLUSION

For all of the foregoing reasons, Plaintiff respectfully requests that the Court grant the motion for preliminary approval of the settlement.

1 Dated: August 1, 2023

JAMES HAWKINS APLC

2
3 BY:


James Hawkins, Esq.
Gregory Mauro, Esq.
Michael Calvo, Esq.
Attorneys for Plaintiff and the Proposed
Class