

Kane Moon (SBN 249834)  
Allen Feghali (SBN 301080)  
Mariam Ghazaryan (SBN 341119)  
**MOON LAW GROUP, PC**  
725 S. Figueroa St., 31st Floor  
Los Angeles, California 90017  
Telephone: (213) 232-3128  
Facsimile: (213) 232-3125  
E-mail: kmoon@moonlawgroup.com  
E-mail: afeghali@moonlawgroup.com  
E-mail: mghazaryan@moonlawgroup.com

*Attorneys for Plaintiff* Diego Casillas

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

DIEGO CASILLAS, individually, and on behalf  
of all others similarly situated,

Plaintiff,

vs.

WALKER FOODS, INC., a California  
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 25STCV07211

[Assigned to the Hon. Elihu M. Berle, Dept. 6]

CLASS AND REPRESENTATIVE ACTION

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

*[Filed with the Declaration of Kane Moon,  
the Declaration of Plaintiff, Declaration of  
Jodey Lawrence Regarding Settlement  
Administration, and [Proposed] Preliminary  
Approval Order]*

PRELIMINARY APPROVAL HEARING:

Date: February 18, 2026

Time: 10:00 a.m.

Dept.: 6

Judge: Hon. Elihu M. Berle

Action Filed: March 12, 2025

FAC Filed: November 21, 2025

Trial Date: Not set

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

2 PLEASE TAKE NOTICE that on February 18, 2026 at 10:00 a.m. in Department 6 of this  
3 Court located at Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012 pursuant  
4 to Code of Civil Procedure section 382 and California Rules of Court, rule 3.769 *et seq.*, Plaintiff  
5 Diego Casillas (“Plaintiff”) will, and hereby does, move the Court for an order granting preliminary  
6 approval of the proposed the Class Action and PAGA Settlement Agreement (the “Settlement”)  
7 between Plaintiff and Defendant Walker Foods, Inc. Specifically, Plaintiff moves the Court for an  
8 order:

- 9 1. Granting preliminary approval of the Class Action and PAGA Settlement Agreement;  
10 2. Certifying a Class, for settlement purposes only;  
11 3. Approving the Class Notice and plan for its distribution;  
12 4. Appointing Plaintiff as the Class Representative, for settlement purposes only;  
13 5. Appointing Kane Moon, Allen Feghali, and Mariam Ghazaryan of Moon Law Group, PC  
14 as Class Counsel, for settlement purposes only;  
15 6. Appointing Phoenix Class Action Administration Solutions as the Administrator; and  
16 7. Scheduling a Final Approval Hearing no earlier than 120 days from the date of  
17 preliminary approval.

18 The motion will be based upon this notice, the attached memorandum of points and  
19 authorities, the supporting declarations and attachments thereto, the record and files in this action,  
20 and any other further evidence or argument that the Court may properly receive at or before the  
21 hearing.

22 Respectfully submitted,

23 Dated: January 14, 2026

**MOON LAW GROUP, PC**

24 By: \_\_\_\_\_  
25 Kane Moon  
26 Allen Feghali  
27 Mariam Ghazaryan

*Attorneys for Plaintiff Diego Casillas*

**TABLE OF CONTENTS**

|    |                                                                                    |    |
|----|------------------------------------------------------------------------------------|----|
| 1  |                                                                                    |    |
| 2  | TABLE OF CONTENTS .....                                                            | ii |
| 3  | TABLE OF AUTHORITIES.....                                                          | iv |
| 4  | I. INTRODUCTION.....                                                               | 1  |
| 5  | II. SUMMARY OF THE LITIGATION AND SETTLEMENT .....                                 | 1  |
| 6  | A. Plaintiff’s Claims and Procedural History .....                                 | 1  |
| 7  | B. Discovery and Investigation .....                                               | 4  |
| 8  | C. Settlement Negotiations and Notice of Settlement to the LWDA .....              | 5  |
| 9  | D. Key Terms of the Proposed Settlement .....                                      | 5  |
| 10 | III. THE COURT SHOULD GRANT PRELIMINARY APPROVAL.....                              | 7  |
| 11 | A. The Settlement Is Fair, Reasonable, Adequate, and the Product of Investigation, |    |
| 12 | Litigation, and Negotiation.....                                                   | 8  |
| 13 | 1. The Settlement Is the Product of Discovery, Investigation, Informed and Non-    |    |
| 14 | Collusive Arm’s-Length Negotiations, and Realistic Claims Analysis .....           | 8  |
| 15 | 2. The Class Settlement Is Fair Considering the Parties’ Respective Positions and  |    |
| 16 | Significant Risks to Certification and Proof on the Merits .....                   | 9  |
| 17 | 3. The PAGA Settlement is Fair Considering the Parties’ Respective Positions       |    |
| 18 | and Significant Risks .....                                                        | 11 |
| 19 | 4. Plaintiff’s Counsel Have Extensive Experience in Class and PAGA Action          |    |
| 20 | Litigation, Which Was Integral to Negotiating the Settlement .....                 | 12 |
| 21 | B. The Proposed Attorneys’ Fees and Costs Are Reasonable.....                      | 12 |
| 22 | 1. Counsel Request a Fees Award Based On the “Common Fund” Method.....             | 13 |
| 23 | 2. The Requested Fee Award Is in Line with Typical Cases.....                      | 14 |
| 24 | 3. This Matter Involves a “Fee-Shifting” Provision of the Labor Code .....         | 14 |
| 25 | 4. Counsel’s Experience, Reputation, and Ability Support the Fees Request.....     | 15 |
| 26 | C. The Service Payment to Plaintiff Is Reasonable.....                             | 15 |
| 27 | IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED .....                       | 16 |
| 28 | A. Legal Standard .....                                                            | 16 |

|   |                                                                         |    |
|---|-------------------------------------------------------------------------|----|
| 1 | B. The Criteria for Class Certification Are Satisfied .....             | 17 |
| 2 | 1. The Class Is Ascertainable and Numerous .....                        | 17 |
| 3 | 2. There Are Many Common Issues of Law and Fact Which Predominate ..... | 18 |
| 4 | 3. Plaintiff’s Claims Are Typical of the Claims of the Class .....      | 19 |
| 5 | 4. Plaintiff and His Counsel Meet the Adequacy Requirement.....         | 19 |
| 6 | 5. A Class Action Is Superior to a Multiplicity of Litigation .....     | 20 |
| 7 | V. THE PROPOSED CLASS NOTICE IS CONSTITUTIONALLY SOUND AND              |    |
| 8 | SATISFIES RULES OF COURT.....                                           | 20 |
| 9 | VI. CONCLUSION .....                                                    | 21 |

**TABLE OF AUTHORITIES**

**FEDERAL CASES**

|                                                                                                                    |    |
|--------------------------------------------------------------------------------------------------------------------|----|
| <i>Angeles v. United States Airways, Inc.</i> (N.D. Cal. Feb. 19, 2013,<br>No. C 12-05860 CRB) 2013 WL 622032..... | 3  |
| <i>Frank v. Eastman Kodak Co.</i> (W.D.N.Y. 2005) 228 F.R.D. 174 .....                                             | 18 |
| <i>Leyva v. Medline Industries Inc.</i> (9th Cir. 2013) 716 F.3d 510.....                                          | 22 |
| <i>Pedroza v. PetSmart, Inc.</i> (C.D. Cal. June 14, 2012,<br>No. ED CV 11–298 GHK (DTBx)) 2012 WL 9506073 .....   | 3  |
| <i>Priddy v. Edelman</i> (6th Cir. 1989) 883 F.2d 438 .....                                                        | 10 |
| <i>Rodriguez v. West Publishing Corp.</i> (9th Cir. 2009) 563 F.3d. 948.....                                       | 17 |
| <i>Van Vranken v. Atlantic Richfield Co.</i> (N.D. Cal. 1995) 901 F.Supp. 294.....                                 | 16 |
| <i>Vincent v. Hughes Air West, Inc.</i> (9th Cir. 1977) 557 F.2d 759 .....                                         | 15 |

**OTHER AUTHORITIES**

|                                                                                                                                |    |
|--------------------------------------------------------------------------------------------------------------------------------|----|
| Eisenberg & Miller, <i>Incentive Awards to Class Action Plaintiffs: An Empirical Study</i><br>(2006) 53 UCLA L. Rev. 1303..... | 18 |
|--------------------------------------------------------------------------------------------------------------------------------|----|

**COURT RULES**

|                                                    |    |
|----------------------------------------------------|----|
| California Rules of Court, rule 3.766(e), (f)..... | 23 |
| California Rules of Court, rule 3.769(f).....      | 14 |

**TREATISES**

|                                                                |    |
|----------------------------------------------------------------|----|
| Newberg, Newberg on Class Actions (3rd ed. 1992) § 8.39 .....  | 23 |
| Newberg, Newberg on Class Actions (3rd ed. 1992) § 11.51 ..... | 10 |
| Newberg, Newberg on Class Actions (3rd ed. 1992) § 14.03 ..... | 16 |

**STATE CASES**

|                                                                             |    |
|-----------------------------------------------------------------------------|----|
| <i>Cartt v. Superior Court</i> (1975) 50 Cal.App.3d 960.....                | 23 |
| <i>Chavez v. Netflix, Inc.</i> (2008) 162 Cal.App.4th 43.....               | 16 |
| <i>City and County of San Francisco v. Sweet</i> (1995) 12 Cal.4th 105..... | 15 |
| <i>Classen v. Weller</i> (1983) 145 Cal.App.3d 27 .....                     | 21 |
| <i>Clothesrigger, Inc. v. GTE Corp.</i> (1987) 191 Cal.App.3d 605 .....     | 21 |

|    |                                                                                            |        |
|----|--------------------------------------------------------------------------------------------|--------|
| 1  | <i>Collins v. Rocha</i> (1972) 7 Cal.3d 232 .....                                          | 20     |
| 2  | <i>Daar v. Yellow Cab Co.</i> (1967) 67 Cal. 2d 695.....                                   | 19     |
| 3  | <i>Dunk v. Ford Motor Co.</i> (1996) 48 Cal.App.4th 1794 .....                             | 9, 20  |
| 4  | <i>Gentry v. Superior Court</i> (2007) 42 Cal.4th 443.....                                 | 18, 22 |
| 5  | <i>Kullar v. Foot Locker Retail, Inc.</i> (2008) 168 Cal.App.4th 116.....                  | 9      |
| 6  | <i>Laffitte v. Robert Half International Inc.</i> (2016) 1 Cal.5th 480 .....               | 15     |
| 7  | <i>Linder v. Thrifty Oil Co.</i> (2000) 23 Cal.4th 429.....                                | 19     |
| 8  | <i>Mallick v. Superior Court</i> (1979) 89 Cal.App.3d 434.....                             | 9      |
| 9  | <i>McGhee v. Bank of America</i> (1976) 60 Cal.App.3d 442 .....                            | 22     |
| 10 | <i>Miller v. Woods</i> (1983) 148 Cal.App.3d 862 .....                                     | 20, 22 |
| 11 | <i>Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles</i> (2010) 186 Cal.App.4th 399 ..... | 10, 17 |
| 12 | <i>Neary v. Regents of University of California</i> (1992) 3 Cal.4th 272 .....             | 9      |
| 13 | <i>Quinn v. State of California</i> (1975) 15 Cal.3d 162 .....                             | 15     |
| 14 | <i>Richmond v. Dart Industries, Inc.</i> (1981) 29 Cal. 3d 462 .....                       | 19     |
| 15 | <i>Rose v. City of Hayward</i> (1981) 126 Cal.App.3d 926 .....                             | 20     |
| 16 | <i>Serrano v. Priest</i> (1977) 20 Cal.3d 25.....                                          | 15     |
| 17 | <i>Stamburgh v. Superior Court</i> (1976) 62 Cal.App.3d 231.....                           | 10, 22 |
| 18 | <i>Wershba v. Apple Computer, Inc.</i> (2001) 91 Cal.App.4th 224.....                      | 11     |
| 19 | <i>Wilner v. Sunset Life Insurance Co.</i> (2000) 78 Cal.App.4th 952 .....                 | 20     |
| 20 | <b>STATE STATUTES</b>                                                                      |        |
| 21 | California Code of Civil Procedure § 382.....                                              | 19     |
| 22 | California Labor Code § 90.5.....                                                          | 18     |
| 23 | California Labor Code § 218.5.....                                                         | 16     |
| 24 | California Labor Code § 226.....                                                           | 16     |
| 25 | California Labor Code § 1194.....                                                          | 16     |
| 26 | California Labor Code §§ 2698, <i>et seq.</i> .....                                        | 12     |
| 27 | California Labor Code § 2699(e)(2).....                                                    | 12     |
| 28 | California Labor Code § 2699(g)(1) .....                                                   | 16     |

|   |                                       |    |
|---|---------------------------------------|----|
| 1 | California Labor Code § 2802(d) ..... | 16 |
|---|---------------------------------------|----|

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## MEMORANDUM OF POINTS AND AUTHORITIES

### **I. INTRODUCTION**

Plaintiff Diego Casillas (“Plaintiff”) seeks preliminary approval of a proposed \$230,000.00 non-reversionary, wage-and-hour Class Action and PAGA Settlement Agreement (the “Settlement”) with Defendant Walker Foods, Inc. (“Defendant”) (together with Plaintiff, the “Parties”). The Settlement will provide substantial monetary payments to an estimated 21 Class Members who worked an estimated aggregate of 3,271 Workweeks, with roughly 65 Aggrieved Employees who worked an estimated aggregate of 4,748 PAGA Pay Periods. As set forth more fully below, the proposed Settlement satisfies all the criteria for settlement approval under California law. The Settlement was reached after extensive investigation, informal discovery, and negotiations between the Parties. The negotiations were at arm’s-length and were facilitated through private mediation by an experienced and neutral class action mediator, Michael Ludwig, Esq. Accordingly, Plaintiff requests the Court preliminarily approve the Settlement, certify the proposed Class, approve the proposed Class Notice to Class Members, and set a final approval hearing no earlier than 120 days from the date of preliminary approval.

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

#### **A. Plaintiff’s Claims and Procedural History**

This is a wage-and-hour class action and representative action for alleged Labor Code violations and claims for civil penalties pursuant to the California Private Attorneys General Act, Labor Code sections 2698, *et seq.* (“PAGA”). (Declaration of Kane Moon in Support of Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Representative Action Settlement [“Moon Decl.”], ¶ 2.) Plaintiff seeks to represent a class of all current and former non-exempt, hourly-paid employees who were employed by Defendant and worked for Defendant in California at any time during the Class Period, as set forth in the Class Action and PAGA Settlement Agreement and Class Notice (the “Settlement”). (*Id.*; Ex. 1)

Defendant is a leading manufacturer of salsa and hot sauce. It offers tomato sauce, vinegars, mustard, and salsa for retail and food service trade. (*Id.* at ¶ 3.) Defendant employed Plaintiff and other non-exempt, hourly-paid employees during the Class Period. (*Id.*) Plaintiff contends that he

1 and his coworkers were subjected to the same unlawful labor practices, including failure to pay  
2 wages for all hours worked. (*Id.*)

3 Plaintiff worked for Defendant in a non-exempt, hourly-paid position from approximately  
4 September 7, 2022, through February 2025 as a Staker/General Laborer. (Declaration of Plaintiff  
5 Diego Casillas in Support of Class Action and PAGA Representative Action Settlement [“Plaintiff  
6 Decl.”], ¶ 2.) Plaintiff contends he and his coworkers were subjected to the same unlawful labor  
7 practices, including failure to pay wages for all hours worked. (*Id.* at ¶¶ 3-6; Moon Decl., ¶ 3.)

8 Plaintiff’s claim for unpaid minimum and overtime wages stem from allegations that  
9 Defendant failed to compensate Plaintiff and others for off-the-clock work, failed to incorporate all  
10 remuneration into employees’ regular rate of pay for purposes of paying overtime, meal break  
11 premiums, and sick pay, and that Defendant rounded employees’ time to their detriment. (Moon Decl.,  
12 ¶ 4.) Plaintiff’s meal and rest period claims are based on allegations that due to the nature of their  
13 work, Class Members’ breaks were often short, late, interrupted, and sometimes missed altogether,  
14 and that Defendant did not pay all premium wages for non-compliant breaks. (*Id.*) Plaintiff further  
15 brings a claim for unreimbursed necessary business expenses based on allegations that due to the  
16 nature of their work, Plaintiff and Class Members purchased back-support, but were not  
17 reimbursed for their purchase despite Defendant being aware of it. (*Id.*) Finally, Plaintiff also  
18 brings derivative claims for waiting time penalties, wage statement violations, unfair business  
19 practices, and civil penalties under PAGA. (*Id.*)

20 Because of the foregoing alleged violations of various provisions of the Labor Code,  
21 Plaintiff filed a class action on March 12, 2025, which alleges Defendant systematically: (1) failed  
22 to pay minimum wages, (2) failed to pay overtime compensation, (3) failed to provide meal  
23 periods, (4) failed to authorize and permit rest periods, (5) failed to indemnify necessary business  
24 expenses, (6) failed to timely pay final wages at termination, (7) failed to provide accurate  
25 itemized wage statements, and (8) engaged in unfair business practices. (*Id.* at ¶ 5.)

26 Pursuant to PAGA, on March 9, 2025, Plaintiff gave written notice to the California Labor  
27 and Workforce Development Agency (the “LWDA”) of the alleged Labor Code violations, with  
28 certified mail service on Defendant, and paid the required filing fee. (*Id.* at ¶ 6, Ex. 3.) On

1 November 21, 2025, Plaintiff timely filed a First Amended Class and Representative Action  
2 Complaint to add a ninth cause of action for civil penalties under PAGA (the “Operative  
3 Complaint”). (*Id.* at ¶ 6.) In compliance with Labor Code section 2699(s)(1), Plaintiff  
4 subsequently submitted to the LWDA a file-stamped copy of the Operative Complaint containing the  
5 Court-assigned case number. (*Id.*) To date, the LWDA has not indicated its intent to further  
6 investigate the alleged violations or intervene in this Action other than its investigation as part of  
7 the May 23, 2025, Cure Conference initiated by Defendant.<sup>1</sup>

8 Defendant ardently opposes the merits of this case and denies Plaintiff’s factual allegations.  
9 (*Id.* at ¶ 7.) Defendant asserts it complied with all its compensation obligations, including  
10 compensating Class Members for any and all off-the-clock work and overtime work, and therefore,  
11 Plaintiff and other Class Members were paid all wages owed. (*Id.*) Defendant argues it did not fail  
12 to incorporate any non-discretionary bonuses, shift differentials, or commissions into the regular  
13 rate of pay for purposes of paying overtime, meal break premiums, or sick pay, and that all bonuses  
14 were discretionary. (*Id.*) Defendant argues its time-rounding practice is neutral on its face and in  
15 compliance with California law, and that it actually tracks employees time to the minute. (*Id.*)  
16 Defendant maintains compliance with all its meal and rest period obligations, and any perceived  
17 violation of rest period obligations was cured already. (*Id.*) Defendant asserts it complied with all  
18 its reimbursement obligations, and that Plaintiff and other employees were compensated for any  
19 and all business expenses necessarily incurred. (*Id.*) To the extent employees received wage  
20 statements that were allegedly inaccurate, Defendant asserts employees suffered no actual damage  
21 or harm as a result. (*Id.*; *see, e.g., Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013, No. C

---

23  
24 <sup>1</sup> Following the Cure Conference, the LWDA allowed Defendant to attempt to cure  
25 violations that were contained in Plaintiff’s PAGA notice letter. (Moon Decl., ¶ 6, n.1.) The LWDA  
26 later found that Defendant cured the following violations: unpaid wages for time spend completing  
27 Covid-19 screening prior to clocking in, failure to provide rest periods, failure to include non-  
28 discretionary bonuses into wage raga calculations, failure to pay all accrued and unused vacation  
at termination, and failure to reimburse employees for personal cell phone use and uniform  
purchases, and any violations derivative thereof. (*Id.*) Plaintiff’s claim for rounding, meal period  
violations, and off-the-clock work for work not including screening for Covid-19 was not cured.  
Additionally, the claims in Plaintiff’s PAGA notice letter were for unpaid wages owed under the  
relevant statutes for three years preceding the notice date. (*Id.*)

1 12–05860 CRB) 2013 WL 622032, at \*10 [“A plaintiff must adequately plead an injury arising  
2 from an employer’s failure to provide full and accurate wage statements, and the omission of the  
3 required information alone is not sufficient.”].) With respect to Plaintiff’s claim for waiting time  
4 penalties, Defendant alleges its good-faith belief that it paid all wages precludes the imposition of  
5 waiting time penalties since Plaintiff cannot prove Defendant’s alleged failure to pay all final  
6 wages at the time of separation was “willful.” (Moon Decl., ¶ 7; *see, e.g., Pedroza v. PetSmart,*  
7 *Inc.* (C.D. Cal. June 14, 2012, No. ED CV 11–298 GHK (DTBx)) 2012 WL 9506073, \*5.) For  
8 these reasons, among others, Defendant denies all of Plaintiff’s claims and allegations, and further  
9 claims it did not engage in any unfair business practices and denies liability under PAGA. (Moon  
10 Decl., ¶ 7.) Defendant also maintains the claims are improper for class treatment, in part, due to  
11 the individualized and testimony-intensive nature of the wage claims, that a majority of Class  
12 Members have signed individual settlement agreements, and that the LWDA found that Defendant  
13 cured many of the violations as alleged in Plaintiff’s PAGA notice letter, which could bar class  
14 certification or significantly reduce Defendant’s overall liability. (*Id.*)

15 **B. Discovery and Investigation**

16 The Parties agreed to mediate this action with Michael Ludwig, Esq., an experienced class  
17 and PAGA action mediator. (*Id.* at ¶ 8.) In preparation for mediation, the Parties agreed to a protocol  
18 for an informal production of documents and information before mediation. (*Id.*) Prior to mediation,  
19 Plaintiff obtained from Defendant, through informal discovery, documents and data that were  
20 necessary and helpful to evaluate the claims asserted in this action. (*Id.*) Defendant produced a  
21 statistically sound sample of time and pay records for 76 employees (representing approximately  
22 97% of the Class), Plaintiff’s personnel file and time and pay records, and Defendant’s written  
23 employment policies in effect during the Class Period. (*Id.*) Defendant also provided information  
24 regarding the estimated number of current and formerly employed Class Members, Aggrieved  
25 Employees, and PAGA Pay Periods. (*Id.*)

26 In preparation for mediation, Plaintiff’s Counsel reviewed and analyzed all the information  
27 Defendant provided, including the sample records and documents regarding Defendant’s wage-and-  
28 hour policies. (*Id.* at ¶ 9.) Plaintiff’s Counsel retained a statistics expert to analyze the sample records

1 and prepare a damage analysis prior to the mediation. The sample time and pay records analyzed  
2 contained 46,210 actual shifts worked (representing roughly 75% of total shifts worked in the Class  
3 Period), which allowed Plaintiff's expert to prepare an analysis with a reasonable degree of certainty.  
4 (*Id.*) In conjunction with their extensive factual investigation, Plaintiff's Counsel also investigated  
5 the applicable law regarding the claims and defenses asserted in the litigation. (*Id.*) Accordingly,  
6 Plaintiff's Counsel was able to evaluate the probability of class certification, success on the merits,  
7 and Defendant's maximum and realistic monetary exposure for all claims. (*Id.*) Thus, Plaintiff's and  
8 his Counsel's familiarity with the facts of the case and the legal issues raised by the pleadings allowed  
9 them to act intelligently in negotiating the Settlement. (*Id.*)

#### 10 **C. Settlement Negotiations and Notice of Settlement to the LWDA**

11 On October 21, 2025, the Parties participated in a full day of private mediation with Michael  
12 Ludwig, Esq. (*Id.* at ¶ 10.) The negotiations were at arm's length and, although conducted in a  
13 professional manner, were adversarial. (*Id.*) The Parties went into the mediation willing to explore  
14 the potential for a settlement of the dispute, but each side was also prepared to litigate their  
15 position through trial and appeal if a settlement had not been reached. (*Id.*) After a full discussion  
16 regarding the strengths and weaknesses of Plaintiff's claims and Defendant's defenses and with  
17 the assistance of the mediator, the Parties reached a resolution. (*Id.*) The material terms of the  
18 settlement are set out in the Settlement. (*Id.* at ¶¶ 2, 10, Ex. 1.)

19 In compliance with Labor Code section 2699(s)(2), notice of settlement and a copy of the  
20 proposed Settlement has been submitted to the LWDA along with a copy of Plaintiff's preliminary  
21 approval motion and the hearing date. (*Id.* at ¶ 11.; Ex. 4) To date, the LWDA has not indicated  
22 any objection to the Settlement. (*Id.*)

#### 23 **D. Key Terms of the Proposed Settlement**

24 Under the Settlement, Defendant will pay a non-reversionary, all-inclusive amount of *no*  
25 *less than* **\$230,000.00** ("GSA") to resolve this action. (Settlement, ¶ 3.1.) Other key terms of the  
26 Settlement are outlined in the counsel's declaration submitted concurrently herewith. (Moon  
27 Decl., ¶¶ 12–29.) The proposed Settlement Administrator— Phoenix Class Action Administration  
28 Solutions ("Phoenix")—was jointly selected by the Parties based on its bid of \$4,175.00. (*Id.* at ¶

16, Ex. 6; Settlement, ¶ 1.2.)

The Settlement allocates \$23,000.00 from the GSA for settlement of the Released PAGA Claims, which will be distributed 65% (\$14,950.00) to the LWDA and 35% (\$8,050.00) to Aggrieved Employees pursuant to PAGA law governing Plaintiff's claims.<sup>2</sup> (Settlement, ¶ 1.33, 3.2.5.) Each Aggrieved Employee will be entitled to a pro rata share of the 35% share of the PAGA Penalties directly proportional to their number of PAGA Pay Periods. (*Id.* at ¶ 3.2.5.1.) This results in an average Individual PAGA Payment of roughly **\$123.85** for each of the estimated 65 Aggrieved Employees (\$8,050.00 / 65), and a PAGA Pay Period value of roughly **\$1.70** for each of the 4,748 estimated Pay Periods in the PAGA Period (\$8,050.00 / 4,748). (Moon Decl., ¶ 17.)

After deducting the Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment from the GSA, in the amounts specifically approved by the Court, any difference in the amounts requested and the amounts awarded will be allocated to the Net Settlement Amount for distribution to Participating Class Members. (Settlement, ¶¶ 1.27, 3.2.) Accordingly, the Net Settlement Amount will be *no less than* **\$96,833.33**<sup>3</sup> for an estimated Class of **21 individuals**.<sup>4</sup> (Moon Decl., ¶ 18.) Each Class Member who does not opt-out will be entitled to a pro rata share of the Net Settlement Amount that is directly proportional to the number of Workweeks worked during the Class Period. (Settlement, ¶ 3.2.4.) The estimated **\$96,833.33** Net Settlement Amount results in an average Individual Class

---

<sup>2</sup> On July 1, 2024, new legislation was enacted to amend PAGA in several respects, including as to the recovery split for civil penalties. (Stats. 2024, ch. 44 (Assem. Bill No. 2288), § 1, eff. Jul. 1, 2024.) As amended, PAGA now provides for a 65%-LWDA/45%-aggrieved employee split. (Lab. Code § 2699(m).) However, PAGA reform only applies to PAGA actions initiated on or after June 19, 2024. (*Id.* at § 2699(v)(1).)

<sup>3</sup> The Net Settlement Amount was calculated by deducting the following from the \$230,000.00 GSA: \$7,500.00 for the Class Representative Service Payment, up to \$10,000.00 for the Administration Expenses Payment, \$23,000.00 for the PAGA Penalties to the LWDA and Aggrieved Employees, \$76,666.66 for the Class Counsel Fees Payment, and up to \$16,000.00 for the Class Counsel Litigation Costs Payment. (Settlement, ¶¶ 3.1–3.2.5.)

<sup>4</sup> There are 78 Class Members; however, as of the date of mediation, 57 of these Class Members signed individual settlement agreements with Defendant. (*Id.* at ¶ 8.) Thus, there are an estimated 21 Participating Class members. (*Id.*)

1 Payment of roughly **\$4,611.11** for each of the estimated 21 Class Members  $\$96,833.33 / 21$ ),<sup>5</sup> and a Class  
2 Workweek value of roughly **\$29.60** for each of the 3,271<sup>6</sup> estimated Workweeks in the Class Period  
3 ( $\$96,833.33 / 3,271$ ). (Moon Decl., ¶ 20.)

4 To the best of my knowledge, there is no other pending litigation involving similar claims  
5 against Defendant that may be impacted by approval of the Settlement at issue, nor has Defendant  
6 pointed to any. (Moon Decl., ¶ 29.)

### 7 **III. THE COURT SHOULD GRANT PRELIMINARY APPROVAL**

8 The law favors the settlement of lawsuits, particularly in class actions and other complex  
9 cases. (*See, e.g., Neary v. Regents of Univ. of Cal.* (1992) 3 Cal.4th 272, 277–81.) To prevent fraud,  
10 collusion, or unfairness to the class, the settlement of a class action requires court approval. (*Dunk v.*  
11 *Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800–01 [citing authority omitted].) To approve a  
12 settlement, the Court must find “the settlement is fair, adequate, and reasonable.” (*Id.*) This Court  
13 has wide discretion in making this determination. (*Mallick v. Super. Ct.* (1979) 89 Cal.App.3d 434,  
14 438.) Fairness, adequacy, and reasonableness are presumed, as here, when: “(1) the settlement is  
15 reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow  
16 counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the  
17 percentage of objectors is small.” (*Dunk*, 48 Cal.App.4th at p. 1802 [citing Newberg, Newberg on  
18 Class Actions (3rd ed. 1992) § 11.41].)

19 In evaluating a settlement, the trial court considers the following factors: (1) the strength of  
20 plaintiff’s case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk  
21 of maintaining class action status through trial; (4) the settlement amount offered; (5) the extent of  
22 discovery completed and the stage of the proceedings; (6) counsel’s experience and views; (7) the  
23 presence of a governmental participant; and (8) the class members’ reaction to the proposed

---

24  
25 <sup>5</sup> At this time, the actual amounts to Class Members and/or Aggrieved Employees is unknown  
26 and will be calculated by the Administrator following preliminary approval and receipt and  
27 processing of the Class Data. (Settlement, ¶ 7.4.) The high and low range of payments will be  
provided to the Court in a motion for final approval. (Moon Decl., ¶ 20, n.4.)

28 <sup>6</sup> This estimate excludes the Workweeks worked by the individuals who entered into  
individual settlement agreements with Defendant. (Settlement, ¶ 8.)

1 settlement. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128.) To approve a class  
2 action settlement, “the court must satisfy itself that the class settlement is within the ‘ballpark’ of  
3 reasonableness.” (*Id.* at p. 133.) The record need not contain an explicit statement of the maximum  
4 theoretical recovery. (*Munoz v. BCI Coca-Cola Bottling Co. of L.A.* (2010) 186 Cal.App.4th 399,  
5 408–09 [holding that *Kullar* does not require “an explicit statement of the maximum amount the  
6 plaintiff class could recover if it prevailed on all its claims,” but instead, only an “understanding  
7 of the amount that is in controversy and the realistic range of outcomes of the litigation”].)

8 As discussed below, Plaintiff’s Counsel have provided materials and information exceeding  
9 the threshold required for this Court to conclude the Settlement is fair, reasonable, and adequate.

10 **A. The Settlement is Fair, Reasonable, Adequate, and the Product of Investigation,**  
11 **Litigation, and Negotiation**

12 **1. The Settlement is the Product of Discovery, Investigation, Informed and Non-**  
13 **Collusive Arm’s-Length Negotiations, and Realistic Claims Analysis**

14 Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless  
15 evidence to the contrary is offered. (Newberg, *Newberg on Class Actions* (3rd ed. 1992) § 11.51.)  
16 Settlement is favored, and settlement agreements are realistically assessed. (*Stamburgh v. Super. Ct.*  
17 (1976) 62 Cal.App.3d 231, 236; *Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447 [“The fact that  
18 the plaintiff might have received more if the case had been fully litigated is no reason not to approve  
19 the settlement.”].) Thus, there is a presumption here that negotiations were conducted in good faith.

20 Here, Plaintiff’s Counsel have conducted a thorough investigation into the facts of this case.  
21 (Moon Decl., ¶ 30.) As previously noted, the Settlement at issue was reached through arms’-length  
22 negotiations, private mediation, and the assistance of a statistics expert. (*Id.*) Based on Defendant’s  
23 informal class-wide discovery production, on Plaintiff’s Counsel independent investigation and  
24 evaluation, and on counsel’s extensive experience in wage-and-hour litigation, Plaintiff’s Counsel are  
25 of the opinion that the proposed Settlement is fair, reasonable, and adequate. (*Id.*)

26 Based on Plaintiff’s Counsel’s review of the time, payroll, and additional data provided by  
27 Defendant, on Plaintiff’s expert’s analysis of the sample records provided by Defendant, and on  
28 information from Plaintiff, Plaintiff’s Counsel evaluated the estimated maximum and risk-adjusted

1 exposure that Defendant faced. (*Id.* at ¶ 31.) Specifically, based on the information provided for  
2 mediation and Defendant’s own estimate, the total estimated **realistic recovery** (adjusted for risks at  
3 certification and proof on the merits) for the alleged claims, including penalties, is estimated to be  
4 **\$268,883.48**. (Moon Decl., ¶¶ 31, 39.) This amount was calculated as follows: **\$22,727.25** (50%  
5 discount) for the rounding claim; **\$2,021.16** (90% discount) for the off-the-clock work claim;  
6 **\$12,834.35** (50% discount) for the regular rate claim; **\$144,799.20** (50% discount) for the meal period  
7 claim; **\$44,114.07** (90% discount) for the rest break claim; **\$52.50** (90% discount) for the  
8 unreimbursed business expenses claim; **\$5,964.95** (95% discount) for the waiting time penalties  
9 claim; **\$12,630.00** (95% discount) for the wage statement claim; and **\$23,740.00** (95% discount) for  
10 PAGA Penalties. (*Id.* at ¶¶ 32–38.) The foregoing discounts were based on the evidence presented  
11 for mediation and arguments made during arm’s-length settlement negotiations. (*Id.*)

12       **The \$230,000.00 gross settlement figure represents roughly 86% of the total realistic**  
13 **recovery.** (*Id.* at ¶ 39.) This is an excellent result for the Class, particularly because, under the  
14 Settlement, Class Members will receive timely and guaranteed relief, avoiding the risk of not being  
15 able to recover anything. (*Id.*)

16               **2. The Class Settlement is Fair Considering the Parties’ Respective Positions**  
17               **and Significant Risks to Certification and Proof on the Merits**

18       A settlement is not judged against what a plaintiff might recover had he prevailed at trial, nor  
19 does the settlement have to provide 100% of the damages sought to be fair and reasonable. (*Wershba*  
20 *v. Apple Comp., Inc.* (2001) 91 Cal.App.4th 224, 246, 250 [“Compromise is inherent and necessary  
21 in the settlement process . . . even if ‘the relief afforded by the proposed settlement is substantially  
22 narrower than it would be if the suits were to be successfully litigated,’ this is no bar to a class  
23 settlement because ‘the public interest may indeed be served by a voluntary settlement in which each  
24 side gives ground in the interest of avoiding litigation.’”] [quoting *Air Line Stewards v. Am. Airlines,*  
25 *Inc.* (7th Cir. 1972) 455 F.2d 101, 109].)

26       Here, considering all known facts and circumstances, the risk of significant delay, trial risk,  
27 appellate risk, and the defenses Defendant may assert both to certification and on the merits, the  
28 Settlement is in the best interest of the Class and LWDA. (Moon Decl., ¶ 30.) While Plaintiff is

1 confident in the merits of his claims, a legitimate controversy exists as to each cause of action. (*Id.*  
2 at ¶ 42.) Plaintiff also recognizes that proving the amount owed to each Class Member would be an  
3 expensive, time-consuming, and uncertain proposition. (*Id.*)

4 The Settlement obviates the significant risk that this Court may deny certification of all or  
5 some of Plaintiff's claims. (*Id.* at ¶ 43.) Plaintiff's Counsel took into account the risk of not prevailing  
6 at trial due to low or no participation by Class Members. (*Id.*) Indeed, the individualized and testimony-  
7 intensive nature of the claims could bar manageability of the representative claims or otherwise  
8 significantly reduce any recovery whatsoever. (*Id.*) For example, the meal period and unreimbursed  
9 expense claims are testimony-driven claims and assume a 100% violation rate, which would not  
10 likely be demonstrated at trial, as it assumes either the participation of all employees (which would  
11 be difficult given the reality that many, if not all, employees would be unwilling to participate due to  
12 fear of retaliation), or alternatively, the use of surveys or statistical data as a surrogate (which would  
13 still require the participation of a majority of employees to establish a sound representation of all  
14 non-exempts). (*Id.*) Even assuming employees would be willing to participate, obtaining declarations  
15 would potentially reveal that each individual employee had a different experience. (*Id.*)

16 Furthermore, even if Plaintiff was able to pursue his claims on a class-wide basis and obtain  
17 certification of all or some of the claims, continued litigation would be expensive, involving a trial  
18 and possible appeals, and would substantially delay and reduce any recovery by the Class. (*Id.* at ¶  
19 44.) Although the Parties have engaged in a significant amount of investigation, informal discovery,  
20 and class-wide data analysis, they have not conducted depositions. (*Id.*) Moreover, preparation for  
21 class certification and a trial would remain for the Parties as well as the prospect of appeals in the  
22 wake of a disputed class certification ruling for Plaintiff and/or any summary judgment ruling. (*Id.*)  
23 As a result, the Parties would incur considerably more attorneys' fees and costs through trial. (*Id.*) In  
24 sum, this Settlement avoids the risks, burdens, and the accompanying expense of further litigation.  
25 (*Id.*)

26 The proposed \$230,000.00 Settlement represents a substantial recovery when compared to the  
27 reasonably forecasted recovery for the Class. (*Id.* at ¶ 45) When considering the risks of litigation,  
28 the uncertainties involved in continued litigation, the burdens of proof necessary to establish liability,

1 and the probability of appeal, it is clear the Settlement amount is within the “ballpark” of  
2 reasonableness, and that preliminary settlement approval is appropriate. (*Id.*; (*Kullar, supra*, 168  
3 Cal.App.4th at p. 133; *see Munoz, supra*, 186 Cal.App.4th at pp. 408–09.)

4 **3. The PAGA Settlement is Fair Considering the Parties’ Respective Positions**  
5 **and Significant Risks**

6 With regard to the PAGA claims, the Settlement is a fair and reasonable resolution that  
7 satisfies PAGA’s dual statutory purposes of deterrence and punishment, on the one hand, and  
8 providing Aggrieved Employees with genuine and meaningful relief, on the other. (Moon Decl., ¶ 40;  
9 Lab. Code §§ 2698, *et seq.*) As a result of this litigation, Defendant has had to hire legal counsel, engage  
10 in informal class-wide discovery, and participate in mediation. (Moon Decl., ¶ 40.) Defendant will also  
11 have to pay civil penalties to the LWDA under the Settlement, assuming final settlement approval is  
12 granted. (*Id.*) Not including its own attorneys’ fees and costs as well as the employer’s share of payroll  
13 taxes, Defendant will pay no less than \$230,000.00 to resolve this matter—of which \$23,000.00 is  
14 allocated toward the PAGA claims and will be distributed, in compliance with Labor Code section 2699  
15 as 65% (\$14,950.00) to the LWDA and 35% (\$8,050.00) to Aggrieved Employees—and the release  
16 obtained under the Settlement does not preclude Aggrieved Employees from pursuing any individual  
17 claims they may have against Defendant or the other Released Parties. (*Id.*)

18 Moreover, Plaintiff’s Counsel are of the opinion that because the issues here are fairly  
19 contested, there is a possibility of the Court not awarding the PAGA penalties even if Plaintiff  
20 prevailed on the merits due to the largely discretionary nature of awarding PAGA penalties. (*Id.*)  
21 Indeed, under PAGA, a Court can reduce penalties “if, based on the facts and circumstances of the  
22 particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or  
23 confiscatory.” (Lab. Code § 2699(e)(2).) In other words, were this matter to go to trial, any award  
24 granted would be at the discretion of the Court and subject to a substantial reduction. (Moon Decl., ¶  
25 40.) Further, Plaintiff’s Counsel took into account the risk of not being able to proceed on a representative  
26 basis due to the potential manageability issues and that even if Plaintiff prevailed at trial, penalties would  
27 likely be limited due to the largely discretionary nature of awarding PAGA penalties and in light of other  
28 defenses available to Defendant. (*Id.* at ¶ 41.) Thus, it is entirely possible that even if Plaintiff would be

1 successful at trial, assuming he is first able to certify the claims and defeat the manageability issues  
2 presented at litigation, Plaintiff could be awarded substantially less than what was obtained through the  
3 Settlement. (*Id.*)

4 In sum, the \$23,000 PAGA Penalties allocation under the Settlement constitutes “genuine and  
5 meaningful” that is “consistent with the underlying purpose of the statute to benefit the public.” (*See*  
6 *O’Connor v. Uber Tech., Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1133–35 [denying settlement  
7 approval where allocation for PAGA claims was 0.1% of the estimated full worth].)

8 **4. Plaintiff’s Counsel Have Extensive Experience in Class and PAGA Action**  
9 **Litigation, Which Was Integral to Negotiating the Settlement**

10 The Settlement negotiations were conducted by highly capable counsel with considerable  
11 experience and demonstrated competence with litigating wage-and-hour class actions. (Moon Decl.,  
12 ¶¶ 50–67.) Plaintiff’s Counsel have a strong record of vigorous and effective advocacy for their  
13 clients and are experienced in handling complex wage-and-hour class action litigation. (*Id.*) Their  
14 experience was helpful in assessing the reasonableness of the Settlement at issue here, and from this  
15 experience they concluded that this litigation could not have been settled on better terms than  
16 provided under the Settlement. (*Id.* at ¶ 68.) Although Plaintiff and his counsel were prepared to try  
17 the claims alleged in the litigation, they support the proposed Settlement as being in the best interest  
18 of the Class based on objective evidence that has been considered and weighed against the risks,  
19 expenses, and time consumption to both sides of continued litigation. (*Id.* at ¶¶ 10, 30.)

20 **B. The Proposed Attorneys’ Fees and Costs are Reasonable**

21 Subject to the Court’s approval, the Settlement provides a fee application of one-third of the  
22 GSA for Class Counsel’s attorneys’ fees (currently estimated at \$76,666.66), plus reimbursement for  
23 out-of-pocket litigation costs not to exceed \$16,000.00.<sup>7</sup> (Settlement, ¶ 3.2.2.) These amounts are  
24 disclosed to Class Members in the proposed Class Notice and are reasonable. (*Id.* at Ex. A.)

25  
26  
27  
28 <sup>7</sup> Plaintiff’s Counsel’s current litigation costs are \$15,774.92, and they anticipate incurring  
additional costs up to final approval. (Moon Decl., ¶ 75, Ex. 5.)

1                   **1. Counsel Request a Fees Award Based On the “Common Fund” Method**

2                   California courts have long awarded attorneys’ fees as a percentage of the benefit created by  
3 counsel in pursuing claims on behalf of a class. (*See, e.g., Serrano v. Priest* (1977) 20 Cal.3d 25.)  
4 The California Supreme Court has held, “when a number of persons are entitled in common to a  
5 specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the  
6 creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney’s fees out  
7 of the fund.” (*Id.* at p. 34.)

8                   Plaintiff’s Counsel seek an award of attorneys’ fees on the “percentage of recovery/common  
9 fund” theory. (Moon Decl., ¶ 68.) The purpose of this approach is to “spread litigation costs  
10 proportionately among all the beneficiaries so that the active beneficiary does not bear the entire  
11 burden alone.” (*Vincent v. Hughes Air W., Inc.* (9th Cir. 1977) 557 F.2d 759, 769.) In *Quinn v. State*  
12 *of California* (1975) 15 Cal.3d 162, the California Supreme Court stated, “one who expends  
13 attorneys’ fees in winning a suit which creates a fund from which others derive benefits, may require  
14 those passive beneficiaries to bear a fair share of the litigation costs.” (*Id.* at p. 167.) Similarly, in  
15 *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court  
16 recognized that the common fund doctrine has been applied “consistently in California when an  
17 action brought by one party creates a fund in which other persons[ ] are entitled to share.” (*Id.* at pp.  
18 110–11 [pincite omitted].)

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

[internal citations omitted].) This line of legal authority supports a request for attorneys’ fees based on the percentage of recovery/common fund method.

## **2. The Requested Fee Award is in Line with Typical Cases**

According to a leading treatise on class actions: “No general rule can be articulated on what is a reasonable percentage of a common fund. Usually 50% of the fund is the upper limit on a reasonable fee award from a common fund in order to assure that the fees do not consume a disproportionate part of the recovery obtained for the class, although somewhat larger percentages are not unprecedented.” (Newberg, *Newberg on Class Actions* (3rd ed. 1992) § 14.03.) Attorneys’ fees that are fifty percent of the fund are typically considered the upper limit, with thirty to forty percent commonly awarded in cases where the settlement is relatively small. (*Id.*; *see also Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 297 [stating that most cases where 30–50% was awarded involved “smaller” settlement funds of under \$10 million].)

Here, Plaintiff’s Counsel’s fees request for one-third of the GSA is in line with the prevailing guidelines established in California case law and academic literature and is consistent with awards in California. (*Compare* Settlement, ¶ 3.2.2, *with Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11 [“Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery.”].) Accordingly, Plaintiff requests the Court preliminarily approve the attorneys’ fees as negotiated by the Parties.

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

Labor Code sections 218.5, 226, 1194, 2699, and 2802 provide for the recovery of reasonable fees and costs of suit, for the claims made in this action. (Lab. Code §§ 218.5, 226, 1194, 2699(k)(1), 2802(d).) Under these sections, Plaintiff would be permitted to recover his actual attorneys’ fees, even if those fees were larger than the total class recovery at the conclusion of this case. (*Id.*) This Settlement is beneficial in that it limits the risk of continued expenses and consumption of time, energy, and resources facing Defendant while at the same time rewarding Plaintiff’s Counsel for their decision to assume risk by taking on this matter on a contingent basis with no guarantee of recovery. (Moon Decl., ¶¶ 71–74.) In fact, prosecution of this action involved significant financial risk for

1 Plaintiff's Counsel. (*Id.*) Once Plaintiff's Counsel undertook this litigation, they committed to pursue  
2 it to its conclusion, placing their fiduciary duty to the Class ahead of all other concerns. (*Id.* at ¶ 73.)

#### 3 **4. Counsel's Experience, Reputation, and Ability Support the Fees Request**

4 As demonstrated by their past experience in pursuing class actions on behalf of consumers  
5 and employees, Plaintiff's Counsel possess considerable expertise in litigating class actions. (*Id.* at  
6 ¶¶ 50–67.) Plaintiff's Counsel have been involved as lead counsel or co-counsel in numerous class  
7 actions that resulted in millions in recovery. (*Id.*) As noted above, their experience in wage-and-hour  
8 litigation was integral in evaluating the strengths and weaknesses of the case against Defendant and  
9 the reasonableness of the Settlement. (*Id.* at ¶ 68.) Practice in the narrow field of wage-and-hour  
10 litigation requires skill and knowledge concerning the rapidly evolving substantive law (state and  
11 federal) as well as the procedural law of class action litigation. (*Id.* at ¶ 66.) Based on these and other  
12 factors, Plaintiff's Counsel have frequently received fee awards of this percentage from the gross  
13 recovery for the class. (*See id.* at ¶¶ 54, 58, 64.) Because it is reasonable to compensate counsel  
14 commensurate with their skill, reputation, and experience, the requested fee award is supported here.

#### 15 **C. The Service Payment to Plaintiff is Reasonable**

16 Named plaintiffs in class action lawsuits “are eligible for reasonable incentive payments to  
17 compensate them for the expense or risk they have incurred in conferring a benefit on other members  
18 of the class.” (*Munoz, supra*, 186 Cal.App.4th at p. 412.) Courts routinely grant approval of class  
19 action settlement agreements containing enhancements for the class representatives, which are  
20 necessary to provide incentive to represent the class and are appropriate given the benefit the class  
21 representatives help to bring about for the class. (*See Rodriguez v. W. Publ'g Corp.* (9th Cir. 2009)  
22 563 F.3d 948, 958–59.) Service awards are particularly important to plaintiffs in wage-and-hour cases  
23 because they promote the important public policies underlying the wage-and-hour laws. This strong  
24 policy is codified in California Labor Code section 90.5, which provides, “[i]t is the policy of this  
25 state to vigorously enforce minimum labor standards in order to ensure employees are not required  
26 or permitted to work under substandard unlawful conditions . . .” (Lab. Code § 90.5.) Nonetheless,  
27 the California Supreme Court has noted that “retaliation against employees for asserting statutory  
28 rights under the Labor Code is widespread,” despite anti-retaliation statutes designed to protect

employees. (*Gentry v. Super. Ct.* (2007) 42 Cal.4th 443, 460–61.) In this context, class representatives should be rewarded for assuming the risk of retaliation for the sake of class members. (*See Frank v. Eastman Kodak Co.* (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

Under the Settlement here, subject to the Court’s approval, a Class Representative Service Payment of \$7,500.00 will go to Plaintiff, in addition to his amount as a Class Member. (Settlement, ¶ 3.2.1.) This award is for having initiated and provided services in support of the Action and in recognition of the risks attendant to the role as the named Plaintiff and Class Representative. (*Id.* at ¶ 1.14.) Plaintiff has devoted a great deal of time and work assisting counsel in the case and communicated with counsel frequently for litigation and to prepare for mediation. (Moon Decl., ¶¶ 46–48; Plaintiff Decl., ¶¶ 19–22.) The requested award is fair and reasonable, particularly considering the substantial benefits Plaintiff generated for all Class Members. (Moon Decl., ¶ 49.)

When compared with the amounts awarded in typical class action cases, the amount requested here is particularly reasonable. A 2006 study examining the average incentive award given to class action plaintiffs from 1993 to 2002 found that the “average award per class representative was \$15,992 and the median award per class representative was \$4357.” (Eisenberg & Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study* (2006) 53 UCLA L. Rev. 1303, 1307–08.) The same study found that named plaintiffs in employment discrimination class actions received an average award of \$69,850 and a median award of \$31,081, while named plaintiffs in other employment class actions received an average award of \$12,121 and a median award of \$13,059. (*Id.* at p. 1333.) The authors of the study found that higher awards in employment cases reflected the “courts’ wish to make representative plaintiffs whole by compensating them for the high costs of their service to the class, including risks of stigmatization or retaliation on the job.” (*Id.* at p. 1308.)

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

##### **A. Legal Standard**

The proposed Settlement Class is well suited for class certification. The claims all derive from a core set of alleged violations of California’s wage and hour laws and regulations. (Moon Decl., ¶¶ 4–5.) For the reasons set forth more fully below, the Class, for purposes of Settlement, satisfies the prerequisites for certification under Code of Civil Procedure section 382. (Code Civ. Proc. § 382.)

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

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

## 18 **B. The Criteria for Class Certification Are Satisfied**

### 19 **1. The Class is Ascertainable and Numerous**

20 When determining whether a class is ascertainable, California courts focus on the following  
21 three factors: “(1) the class definition, (2) the size of the class and (3) the means of identifying class  
22 members.” (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 873.) Here, Plaintiff maintains there is an  
23 easily ascertainable Class, defined by objective and precise criteria. (Settlement, ¶¶ 1.5, 1.12.) The  
24 proposed Class that Plaintiff seeks to represent is ascertainable because (1) the Class definition is  
25 sufficiently precise, (2) the Class consists of about 21 individuals, and (3) Class Members can be  
26 readily identified by Defendant’s records. (*Id.* at ¶¶ 1.5, 1.8, 1.12, 8.) Because Class Members are  
27 identified using specific criteria in the regular business records of Defendant—their employment by  
28 Defendant in California, non-exempt classification, hourly wage, and actual work during the Class

1 Period—the Class is ascertainable. (*See Wilner v. Sunset Life Ins. Co.* (2000) 78 Cal.App.4th 952,  
2 959–60 [class membership defined by ownership of product that is the subject of the lawsuit is  
3 sufficient to make the class ascertainable].) “The requirement of Code of Civil Procedure section 382  
4 that there be ‘many’ parties to a class action suit is indefinite and has been construed liberally.” (*Rose*  
5 *v. City of Hayward* (1981) 126 Cal.App.3d 926, 934.) “Where a question is of common interest to  
6 ‘many’ persons, an action may be maintained as a class action even where the parties are numerous  
7 and it is in fact practicable to join them all.” (*Id.*) “No set number is required as a matter of law for  
8 the maintenance of a class action.” (*Id.*) “Thus, our Supreme Court has upheld a class representing  
9 the 10 beneficiaries of a trust in an action for removal of the trustees.” (*Id.* [citing *Bowles v. Super.*  
10 *Ct.* (1955) 44 Cal.2d 574]; *see also Collins v. Rocha* (1972) 7 Cal.3d 232 [upholding a class of 9  
11 plaintiffs and 35 members].) Therefore, numerosity is plainly satisfied.

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

13 To satisfy the community of interest requirement, a proponent must show (1) common  
14 questions of law and fact that predominate over individual issues, (2) class representatives have  
15 claims or defenses typical of the class, and (3) class representatives adequately represent the class.  
16 (*Dunk, supra*, 48 Cal.App.4th at p. 1806.) This inquiry tests whether proposed classes are sufficiently  
17 cohesive to rationally warrant adjudication by representation. (*See, e.g., Clothesrigger, Inc. v. GTE*  
18 *Corp.* (1987) 191 Cal.App.3d 605, 611–12.)

19 Here, Plaintiff’s claims satisfy all three requirements. The employment practices at issue  
20 include whether Defendant: paid employees all minimum, overtime, double time, and sick pay wages  
21 owed; reimbursed employees for necessary business expenses; provided employees with and  
22 authorize meal and rest periods or paid premiums for non-compliant breaks; paid all final wages to  
23 employees at the time of termination; intentionally failed to pay all final wages; provided inaccurate  
24 itemized wage statements and whether Class Members were harmed; engaged in unfair business  
25 practices; and violated civil penalty provisions under PAGA. (Moon Decl., ¶¶ 4–5.) Plaintiff contends  
26 the factual and legal issues are the same for all Class Members, and further that all Class Members  
27 suffered from and seek redress for the same alleged injuries. (Plaintiff Decl., ¶¶ 3–6.) Considering  
28 Class Members would need to prove the same issues of law and fact to prevail, and their legal

1 remedies are identical, it would be preferable to resolve all claims through a settlement than to force  
2 each Class Member to litigate their own individual claims. Thus, the Court should grant conditional  
3 class certification for settlement purposes because common questions of law and fact predominate  
4 over any individual questions within the Class.

### 5 **3. Plaintiff's Claims Are Typical of the Claims of the Class**

6 The typicality requirement does not focus on the individual characteristics or circumstances  
7 of the representative plaintiff compared to those of the remainder of the class, but rather, upon the  
8 typicality of the proposed representative's claims as they relate to the defendant's conduct and  
9 activities. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 47 ["The only requirements a re [sic] that  
10 common questions of law and fact *predominate* and that the class representative be *similarly* situated"  
11 vis-à-vis the class.] [emphasis in original].) A representative plaintiff's claims are typical of the class  
12 if they arise from the same event, practice, or course of conduct, and if the claims rest on the same  
13 legal theories. (*Id.*) That is precisely the case here. Plaintiff is a former employee of Defendant and  
14 alleges he was subject to the same policies and practices as other similarly situated employees.  
15 (Plaintiff Decl., ¶¶ 2–7.)

### 16 **4. Plaintiff and His Counsel Meet the Adequacy Requirement**

17 The adequacy of representation requirements is met by fulfilling two conditions: (1) a named  
18 plaintiff must be represented by counsel qualified to conduct the pending litigation, and (2) a named  
19 plaintiff's interests cannot be antagonistic to those of the class. (*McGhee v. Bank of Am.* (1976) 60  
20 Cal.App.3d 442, 450.)

21 Here, all requirements are met. Plaintiff retained counsel with extensive experience in  
22 prosecuting complex class actions, including similar class actions that previously settled. (Moon  
23 Decl., ¶¶ 50–67.) Based on their experience, Plaintiff's Counsel unquestionably are "qualified,  
24 experienced and generally able to conduct the proposed litigation." (*Miller, supra*, 148 Cal.App.3d  
25 at p. 874.) Plaintiff has, with counsel, litigated this case and diligently reviewed the settlement terms,  
26 showing dedication, and with full knowledge and acceptance of duties, he has committed to his role  
27 as Class Representative. (Plaintiff Decl., ¶¶ 11–22.) In addition, Plaintiff and his Counsel have no  
28

1 conflicts with one another, other Class Members, or the proposed Administrator. (*Id.* at ¶¶ 8–10;  
2 Moon Decl., ¶ 68.)

### 3 **5. A Class Action Is Superior to a Multiplicity of Litigation**

4 Finally, in making its class certification decision, the Court must determine that a class action  
5 would be superior to alternative means for the fair and efficient adjudication of the litigation. (*See*  
6 *Leyva v. Medline Indus. Inc.* (9th Cir. 2013) 716 F.3d 510, 514–15.) By consolidating many potential  
7 individual actions into a single proceeding, this Court’s use of the class action device enables it to  
8 manage this litigation in a manner that serves the economics of time, effort, and expense for the  
9 litigants and the judicial system. (*Id.*) Absent class treatment, similarly situated employees with  
10 small, but nevertheless meritorious, claims for damages would, as a practical matter, have no means  
11 of redress because of the time, effort, and expense required to prosecute individual actions. (*Id.* at p.  
12 515; *Gentry, supra*, 42 Cal.4th at pp. 457–62.) Moreover, in the context of settlement, the superiority  
13 concerns are essentially non-existent. (*See generally, e.g., Stamburgh, supra*, 62 Cal.App.3d.)

### 14 **V. THE PROPOSED CLASS NOTICE IS CONSTITUTIONALLY SOUND AND** 15 **SATISFIES RULES OF COURT**

16 Class Notice requirements are set forth in the California Rules of Court. (Cal. Rules of Court,  
17 rule 3.766(e)–(f), rule 3.769(f).) Here, the proposed Class Notice, in the form attached to the  
18 Settlement as **Exhibit A**, meets all the requirements of California Rules of Court. The Class Notice,  
19 with Spanish translation, summarizes the proceedings to date and the terms and conditions of the  
20 proposed Settlement in an informative and coherent manner. (Settlement, ¶ 7.5.2., Ex. A.) It also  
21 states that the final approval decision has yet to be made, and provides the date, time, and location of  
22 the Final Approval Hearing. (*Id.*) It explains the right and procedures to opt-out or submit any written  
23 objections and/or arrange to appear at the Final Approval Hearing and verbally state any objections.  
24 (*Id.*) It makes clear the Settlement does not constitute an admission of liability by Defendant, who  
25 denies all liability, and it recognizes that this Court has not ruled on the merits of the action. (*Id.*)  
26 Thus, the proposed Class Notice meets all the requirements of California Rule of Court 3.769(f).  
27 (Cal. Rules of Court, rule 3.769(f).)  
28

1 The Class Notice also fulfills the requirement of neutrality in class notices. (Newberg,  
2 Newberg on Class Actions (3rd ed. 1992) § 8.39.) Accordingly, the Notice complies with the  
3 standards of fairness, completeness, and neutrality required of a combined settlement-certification  
4 class notice.

5 California law vests the Court with broad discretion in fashioning an appropriate notice  
6 program. (*Cartt v. Super. Ct.* (1975) 50 Cal.App.3d 960, 970, 973–74.) There is no statutory or due  
7 process requirement that all class members receive actual notice, but in this matter, Class Members  
8 will receive direct mailed notice, which is the best possible form of notice under the circumstances.  
9 (Settlement, ¶ 7.5.2.) As the Court of Appeals has explained, “[t]he notice given should have a  
10 reasonable chance of reaching a substantial percentage of the Class Members . . .” (*Cartt*, 50  
11 Cal.App.3d at p. 974.)

12 **VI. CONCLUSION**

13 For the foregoing reasons, Plaintiff respectfully requests the Court grant this motion, enter the  
14 proposed order submitted herewith regarding preliminary approval, and set a final approval hearing  
15 no earlier than 120 days from the preliminary approval order.

16 Respectfully submitted,

17 Dated: January 14, 2026

**MOON LAW GROUP, PC**

18  
19 By: \_\_\_\_\_  
20 Kane Moon  
21 Allen Feghali  
22 Mariam Ghazaryan

*Attorneys for Plaintiff Diego Casillas*