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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

ERIK RODRIGUEZ HERNANDEZ, individually and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act,

Plaintiff,

v.

TERRACON CONSULTANTS, INC., a Delaware corporation; TSVC, INC., an unknown business entity; and DOES 1 through 100, inclusive,

Defendants.

Case No.: STK-CV-UOE-2024-0008820

Honorable John Soldati
Department 10D

<u>CLASS ACTION</u>

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

[Declaration of Proposed Class Counsel (Selena Matavosian); Declaration of Proposed Class Representative (Erik Rodriguez Hernandez); and [Proposed] Order filed concurrently herewith]

Date:	
Time:	9:00 a.m.
Department:	10D
Complaint Filed:	July 26, 2024
FAC Filed:	July 14, 2025
Trial Date:	None Set

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

PLEASE TAKE NOTICE that on ________________, 2026, at ________ a.m./p.m. or as soon thereafter as the matter may be heard before the Honorable John Soldati in Department 10D of the Superior Court of California for the County of San Joaquin, located at 180 E. Weber Avenue, Stockton, California 95202, Plaintiff Erik Rodriguez Hernandez ("Plaintiff" or "Class Representative") will, and hereby does, move for an order:

- Granting preliminary approval of the proposed class action settlement described herein and as set forth in the Joint Stipulation of Class Action and PAGA Settlement ("Settlement," "Agreement," or "Settlement Agreement"), attached as "**EXHIBIT 1**" to the Declaration of Selena Matavosian in Support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement;
- Certifying the proposed Settlement Class for settlement purposes;
- Appointing Plaintiff Erik Rodriguez Hernandez as Class Representative;
- Appointing Arby Aiwazian, Joanna Ghosh, Yasmin Hosseini, Selena Matavosian, and Erica Stepanian of Lawyers *for* Justice, PC as Class Counsel;
- Approving the Notice of Proposed Class Action and PAGA Settlement, and Hearing Date for Final Court Approval of Settlement ("Class Notice"), attached as "**EXHIBIT A**" to the [Proposed] Order Granting Preliminary Approval of Class Action and PAGA Settlement, and directing the mailing thereof in accordance with the Settlement Agreement;
- Approving Phoenix Settlement Administrators as the Settlement Administrator; and
- Scheduling a hearing to consider final approval of the Settlement, at which time the Court will also consider whether to grant final approval of the requests for the Attorneys' Fees and Litigation Costs to Class Counsel, Enhancement Award to Plaintiff, Settlement Administration Expenses to the Settlement Administrator, and PAGA Penalties.

This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which require approval by the Court of the settlement of a putative class action, and Rule 3.1113(e), which allows the Court to preliminarily certify a class for settlement purposes, and permits the Court to extend the page limit for memoranda.

This motion is based upon the following memorandum of points and authorities, the Settlement Agreement, the Declarations of Proposed Class Counsel (Selena Matavosian) and Proposed Class Representative (Erik Rodriguez Hernandez) in support thereof, as well as the pleadings and other records on file with the Court in this matter, and such evidence and oral argument as may be presented at the hearing on this motion.

Dated: June 11, 2026

LAWYERS *for* JUSTICE, PC

By: ______________________
Selena Matavosian
Erica Stepanian
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Erik Rodriguez Hernandez ("Plaintiff" or "Class Representative") seeks preliminary approval of the Joint Stipulation of Class Action and PAGA Settlement ("Settlement," "Agreement," or "Settlement Agreement") entered into by and between Plaintiff, individually and on behalf of all others similarly situated and other aggrieved employees, on the one hand, and Defendants Terracon Consultants, Inc. and TVSC, Inc. (together, "Defendants"), on the other hand. Subject to approval by the Court, Plaintiff and Defendants (together, the "Parties") have agreed to settle the lawsuit for a Maximum Settlement Amount of $795,000.00.[1]

Plaintiff also seeks to provisionally certify the following Settlement Class for settlement purposes, which Defendants do not oppose:

> All persons employed by Defendants in California as a non-exempt employee from July 26, 2020 through the date the Court preliminarily approves the Settlement.("Settlement Class" or "Class Members").[2]

Class Members who do not timely and validly opt-out of the Class Settlement ("Participating Class Member(s)") will receive a *pro rata* share of the Net Settlement Amount.[3] The net payment of each Class Member's Individual Settlement Share ("Individual Class Payment") will be distributed to Participating Class Members on a *pro rata* basis based upon the number of weeks worked by Class Members during the Class Period ("Workweeks").[4]

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[1] Settlement Agreement, attached as "**EXHIBIT 1**" to Declaration of Selena Matavosian ("Matavosian Decl."), ¶ 15(c). The Settlement is based on Defendants' representation, based on Class Member data available at the time of Settlement, that Class Members worked 26,290 workweeks from July 25, 2020 to March 17, 2025. The Parties further agree that if the final number of workweeks from July 25, 2020 to March 17, 2025, which formed the basis of the Settlement, increase by more than ten percent (10%) above 26,290 workweeks (e.g., to greater than 28,919 workweeks), the Maximum Settlement Amount will increase by the proportional amount for the percentage of workweeks above ten percent (10%) (i.e., by the percentage of workweeks above 28,919 workweeks) or Defendants will have the option to limit the Class Period and PAGA Period to a date when total Class Period workweeks reach 28,919. *See id.*, ¶ 15(c)(ix).

[2] *Id.*, ¶ 6. "Class Period" is defined as the period from July 26, 2020 through the date the Court preliminarily approves the Settlement. *See id.*, ¶ 5. "PAGA Period" is defined as the period from July 26, 2023 through the date the Court preliminarily approves the Settlement. *See id.*, ¶ 7.

[3] *Id.*, ¶ 15(c).

[4] *Id.*, ¶¶ 15(c) & 15(c)(i).

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PAGA Members will receive a proportionate share of the 35% of the PAGA Penalties ("Individual PAGA Award") based upon the number of weeks worked by a PAGA Member during the PAGA Period.[5]

The Settlement, upon the Effective Date and full funding of the Maximum Settlement Amount, will operate to resolve the Released Class Claims of Plaintiff and Participating Class Members and the Released PAGA Claims of the PAGA Members and the State of California.[6]

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendants operate a consulting engineering firm. Since 1965, Terracon has evolved into a multi-discipline firm specializing in environmental, facilities, geotechnical, and materials services. Plaintiff is a former employee of Defendants. At all relevant times, Defendants employed individuals in California, including Plaintiff.

On July 26, 2024, Plaintiff filed the Class Action Complaint for Damages ("Original Complaint") in the Superior Court for the County of San Joaquin, thereby commencing the above-captioned lawsuit ("Action").[7]

On August 28, 2024, Defendants Terracon Consultants, Inc. and TVSC, Inc. (together, "Defendants") filed an Answer to the Original Complaint.[8]

On April 16, 2025, Plaintiff provided written notice by certified mail to the California Labor and Workforce Development Agency ("LWDA") and Defendants of the specific provisions of the California Labor Code that were alleged to be violated ("PAGA Notice").[9]

On July 14, 2025, Plaintiff filed a First Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. against Defendants in the Action, thereby adding a cause of action for civil penalties pursuant to the Private Attorneys General Act ("PAGA"), California Labor Code sections 2689, *et seq*. ("Operative Complaint").[10]

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[5] Settlement Agreement, ¶¶ 15(c)(ii) & 15(c)(iii).
[6] Settlement Agreement, ¶ 24 for the full scope of the "Released Class Claims" *id*. at ¶ 25 for the full scope of the "Released PAGA Claims," and *id*. at p. 3 for the definition of the "Released Parties."
[7] Matavosian Decl., ¶ 2.
[8] *Id*., ¶ 3.
[9] *Id*., ¶ 4.
[10] *Id*., ¶ 5.

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On July 23, 2025, Defendants filed an Answer to the Operative Complaint.[11]

Plaintiff's core allegations are that Defendants have violated California wage and hour law, including but not limited to laws set forth in the California Labor Code, by engaging in a uniform practice and procedure, with respect to Plaintiff, Class Members, and PAGA Members of, *inter alia*, failing to pay all overtime and minimum wages, at all or at the correct rate of pay, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business expenses, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, *et seq*., and conduct giving rise to civil penalties pursuant to PAGA. Plaintiff contends that he, and the Class Members, are entitled to, *inter alia*, unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA), and attorneys' fees and costs.

The Parties have actively litigated the Action since it was commenced on July 26, 2024. The Parties engaged in extensive settlement negotiations, and were ultimately able to reach the Settlement as described herein to resolve the Action in its entirety.[12]

III. **SUMMARY OF THE SETTLEMENT TERMS**

Under the terms of the Settlement, Defendants will pay a Maximum Settlement Amount of $795,000.00 to resolve the Action.[13] Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Maximum Settlement Amount: (1) attorneys' fees in an amount up to 35% of the Maximum Settlement Amount (i.e., $278,250.00 if the Maximum Settlement Amount remains $795,000.00) and litigation costs and expenses in an amount not to exceed $25,000.00 (together, "Class Counsel's Attorneys' Fees and Litigation Costs") to Class Counsel; (2) Settlement Administration Expenses, which are currently estimated not to exceed $6,500.00 to the Settlement Administrator ("Settlement Administration Expenses"); (3) PAGA Penalties of $80,000.00 ("PAGA Penalties") allocated

[11] Matavosian Decl., ¶ 6.
[12] Matavosian Decl., ¶ 24.
[13] Settlement Agreement, ¶¶ 14 & 15(c).

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as sixty-five percent (65%) i.e., $52,000.00 to the LWDA and thirty-five percent (35%) i.e., $28,000.00 distributed *pro rata* to PAGA Members ("Net PAGA Settlement Amount"); and (4) payment in the amount of up to $7,500.00 to Plaintiff ("Enhancement Award").[14] The Parties have agreed to retain Phoenix Settlement Administrators ("Phoenix" or "Settlement Administrator") to handle the notice and settlement administration process.[15]

The Parties have agreed that the Settlement Administrator will determine each Class Member's share of the available Net Settlement Amount ("Individual Settlement Award"), in accordance with the Settlement Agreement on a *pro rata* per Workweek basis, which will be adjusted after Final Approval to reflect the total Workweeks worked by Participating Class Member.[16] The Parties have agreed that the Settlement Administrator will determine each PAGA Member's proportionate share of the 35% of the PAGA Penalties (i.e., Individual PAGA Award), in accordance with the Settlement Agreement on a *pro rata* per Pay Period basis.[17]

The Parties agree, for purposes of this Settlement, that Individual Settlement Awards will be allocated one-third (1/3) to wages, one-third (1/3) to interest, and one-third (1/3) to penalties.[18] The Settlement Administrator will withhold the share of any and all applicable federal, state, or local payroll taxes, including those collected under authority of the Federal Insurance Contributions Act ("FICA"), FUTA and/or SUTA on the portion of the Participating Class Member's Individual Settlement Awards that constitutes wages ("Employee's Taxes and Required Withholding"), and issue checks to Participating Class Members for their Individual Settlement Awards.[19] Individual PAGA Awards for the PAGA Members will be paid from the Net PAGA Settlement Amount, as alleged penalties for which IRS Form 1099 will issue.[20] Defendants' share of corporate, federal, state, and/or local payroll taxes that is owed on the portion of the Participating Class Member's Individual Settlement Award that constitutes wages

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[14] Settlement Agreement, ¶¶ 14, 15(c) & 15(c)(vii).
[15] *Id.*, ¶ 15(c)(vii).
[16] *Id.*, ¶ 15(c)(i).
[17] *Id.*, ¶ 15(c)(ii).
[18] *Id.*, ¶ 15(c)(iii).
[19] *Id.*, ¶ 21.
[20] *Id.*, ¶ 15(c)(iii).

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("Employer's Taxes") shall be separately paid by Defendants in addition to the Maximum Settlement Amount.[21]

Participating Class Members and PAGA Members shall have one hundred twenty days (120) to cash their Settlement Award and PAGA Award checks.[22] If a Participating Class Member or PAGA Member does not cash his or her check within 120 days, the uncashed funds, subject to Court approval, shall be distributed to the Controller of the State of California to be held in the name of Class Members pursuant to the Unclaimed Property Law, California Civil Code §1500, *et. seq*. for the benefit of those Participating Class Members and PAGA Members who did not cash their checks until such time that they claim their property.[23]

Any Class Member may request to be excluded from the Class Settlement by mailing a timely and valid request for exclusion from the Class Settlement ("Request for Exclusion"), postmarked no later than forty-five (45) calendar days following the date on which the Settlement Administrator first mails the Class Notice ("Response Deadline" or "Opt-Out Deadline")) (plus an additional 15 days for Class Members whose Class Notice is re-mailed).[24] PAGA Members will still receive an Individual PAGA Award and will still be bound by the PAGA Released Claims regardless of whether they submit a valid and timely Request for Exclusion from the Class Settlement.[25]

Only Class Members who have not submitted a Request for Exclusion (i.e., Participating Class Members) may object to the Class Settlement by submitting a timely and valid written objection ("Objection") to the Settlement Administrator prior to the Response Deadline or by presenting their objection orally at the Final Approval Hearing, regardless of whether they submitted a written objection.[26]

In order to dispute the number of Workweeks attributable to an individual Class Member and/or PAGA Member, that Class Member and/or PAGA Member must submit a written dispute

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[21] Settlement Agreement, ¶¶ 14 & 15(c).
[22] *Id.*, ¶ 21.
[23] Ibid.
[24] *Id.*, ¶¶ 19(b) & 22.
[25] *Id.*, ¶ 22.
[26] *Id.*, ¶¶ 6 & 23.

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to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline, and include copies of any supporting evidence they may have.[27]

IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENTS

The settlement of a class action requires approval by the court. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800; Cal. Code Civ. Proc. § 1781(f). Courts review class action settlements in a two-step process: (1) an earlier conditional review by the court; and (2) a later detailed review after the period during which notice is distributed to class members for their comments or objections. Conte & Newberg, *Newberg on Class Actions* § 11.24 (4th Ed. 2002). Preliminary approval of a settlement does not require a court to make a final determination that the settlement is fair, reasonable, and adequate. Rather, that decision is made only at the final approval stage. Cal. R. Ct. 3.769(g).

In considering a potential class settlement, a court need not reach any ultimate conclusions on the issues of fact and law which underlie the merits of the dispute and need not engage in a trial on the merits. See *City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495 F.2d 448, 456; *Officers for Justice v. Civil Service Commission of City and County of San Francisco* (9th Cir. 1982) 688 F.2d 615, 625. Neither formal notice nor a hearing is required for the trial court to grant provisional class certification and preliminary approval; the court may grant such relief upon an informal application by the settling parties and may conduct any necessary hearing in court or in chambers, at the court's discretion. *Newberg,* § 11.25.

V. THE COURT SHOULD PRELIMINARY APPROVE THE SETTLEMENT

The trial court has broad discretion to determine whether a proposed settlement is fair under the circumstances of the case. *Dunk,* 48 Cal.App.4th at 1800. To make this fairness determination, courts must consider several relevant factors, including "the strength of the Plaintiff's case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and view of counsel, the

[27] Settlement Agreement, ¶¶ 15(c)(I 15(c)(ii).

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presence of a governmental participant, and the reaction of the class members to the proposed settlement." *Dunk*, 48 Cal.App.4th at 1801. "The list of factors is not exclusive and the court is free to engage in a balancing and weighing of the factors depending on the circumstances of each case." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245. Furthermore, courts give "proper deference to the private consensual decision of the parties." *Hanlon*, 150 F.3d at 1027 (citation omitted).

The proponent of the settlement has the burden to show that it is fair and reasonable. *Wershba*, 91 Cal.App.4th at 245. "A presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small." *Id.*; *Dunk*, 48 Cal.App.4th at 1802; *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1151.

A. **The Settlement Resulted from Arm's-Length Negotiations Based Upon Extensive Investigation and Discovery.**

The Parties have actively litigated the Action since it was commenced on July 26, 2024. Both sides investigated the veracity, strength, and scope of the claims throughout the case, and Class Counsel was actively preparing the matter for class certification and trial.[28]

Class Counsel conducted significant investigation and formal and informal discovery regarding the facts of the case, including and not limited to, the exchange, review, and analysis of a volume of documents and data from Plaintiff, Defendants, and other sources.[29] Class Counsel served multiple sets of formal written discovery requests onto Defendants (specifically, Special Interrogatories (Sets One and Two), Form Interrogatories – General (Set One), and Requests for Production of Documents (Set One)), and noticed the depositions of Defendants' Person Most Knowledgeable designees, along with accompanying requests for production of documents.[30] The volume of data and documents that Class Counsel reviewed and analyzed included and was not limited to: Plaintiff's employment records, job description, employee offer

[28] Matavosian Decl., ¶¶ 24-28,
[29] *Id.*, ¶ 25.
[30] Ibid.

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letter, consumer report release and authorization form, New Employee Hire Form, Acknowledgment and Authorization for Background Check, and Plaintiff's time and pay data, among other information and documents.[31] Class Counsel had the opportunity to interview Plaintiff and others to gather facts and to identify potential witnesses.[32] In addition, Class Counsel has extensive experience in California wage-and-hour class actions.[33]

The Parties engaged in extensive, arm's-length settlement negotiations and the Parties were ultimately able to reach the Settlement.[34] Prior to and during the settlement negotiations, the Parties exchanged extensive information and engaged in discussions regarding their evaluations of the case and various aspects of the case, including but not limited to, the risks and delays of further litigation, including the risks of proceeding with class certification and/or representative adjudication, the law relating to off-the-clock theory, regular rate, meal and rest periods, PAGA representative claims, and wage-and-hour enforcement; the evidence produced and analyzed; and the possibility of appeals.[35] During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.[36] Arriving at a settlement that was acceptable to both Parties was not easy. Both sides felt strongly about their ability to prevail at certification and at trial.[37] After conducting investigations, formal and informal discovery, and extensive settlement negotiations, the Parties have agreed that the matter is well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to both sides that would attend further litigation.[38]

B. <u>The Settlement Is Fair, Reasonable, and Adequate.</u>

The Settlement represents a fair, adequate, and reasonable resolution of the matter.[39] The Settlement was calculated using the information and data uncovered during litigation, case

[31] Matavosian Decl., ¶ 25.
[32] Ibid.
[33] *Id.,* ¶¶ 17-22.
[34] *Id.*, ¶ 24.
[35] Ibid.
[36] Ibid.
[37] Ibid.
[38] Ibid.
[39] *Id.*, ¶¶ 24, 26 & 29.

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investigation, and the formal and informal exchange of information.[40] The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in the matter at issue.[41] Moreover, considering all of the facts and circumstances of the lawsuit, the Settlement represents a fair, reasonable, and adequate recovery for the Class.[42]

Assuming that the Class Counsel's Attorneys' Fees and Litigation Costs, Enhancement Award, PAGA Penalties, and Settlement Administration Expenses are approved by the Court and paid in the full amounts provided for by the Settlement, the Settlement provides for a Net Settlement Amount that is currently estimated to be $397,750.00.[43] Additionally, thirty-five percent (35%) of the PAGA Penalties, which is $28,000.00 out of $80,000.00, will be distributed to the PAGA Members.[44] The entire Net Settlement Amount will be fully paid out to the Participating Class Members, in accordance with the Settlement Agreement.

The amount of each Participating Class Member's Individual Class Award and each PAGA Members' Individual PAGA Award will be calculated based on their Workweeks during the Class Period and PAGA Period, respectively.[45] "An allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30. Here, the allocation is reasonably related to the number of Workweeks actually worked for Defendants during the relevant period and should be approved.

In light of the foregoing considerations, Class Counsel believes that the Settlement as a whole is fair, reasonable, and adequate, and is in the best interest of the Class Members, PAGA Members, and the State of California.[46] Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appear to be competent, and have experience with this type of litigation, and

[40] Matavosian Decl., ¶ 24.
[41] *Id.*, ¶ 27.
[42] *Id.*, ¶¶ 24, 26 & 29.
[43] *Id.*, ¶ 8.
[44] Ibid.
[45] Settlement Agreement, ¶¶ 15(c)(i) & 15(c)(ii).
[46] Matavosian Decl., ¶¶ 24, 26 & 29.

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investigation have been completed, as is the case here. *Newberg,* §11.47. Accordingly, the Court should grant preliminary approval of the Settlement.

VI. CERTIFICATION OF THE CLASS IS APPROPRIATE

The requisites for establishing class certification are met, and the Parties have stipulated to conditional certification of the Class for settlement purposes only.[47] California Code of Civil Procedure Section 382 "authorizes class actions when the question is one of a common or general interest, of many persons, or when the Parties are numerous, and it is impracticable to bring them all before the court." *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326. California courts certify class actions where the Plaintiff identifies "both [1] an ascertainable class and [2] a well-defined community of interest among class members." *Id.*

A. The Settlement Class Is Ascertainable and Sufficiently Numerous.

"Ascertainability is required in order to give notice to putative class members as to whom the judgment in the action will be *res judicata*." *Hicks v. Kaufman & Broad Home Corp.* (2001) 89 Cal.App.4th 908, 914. "A class is ascertainable if it identifies a group of unnamed Plaintiffs by describing a set of common characteristics sufficient to allow a member of that group to identify himself or herself as having a right to recover based on the description." *Bartold v. Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 828. The proposed Settlement Class must also be sufficiently numerous. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435; *see also Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 934-35 (indicating that a class of 30 to 40 individuals satisfies the numerosity requirement as joinder is not practical at that point). The Settlement Class here is estimated to be approximately 287 individuals, which is sufficiently numerous.[48] Further, all Class Members can and will be identified by Defendants to the Settlement Administrator through a review of Defendants' employment records regarding non-exempt employees in California during the Class Period. As such, the Settlement Class is ascertainable and sufficiently numerous.

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[47] Settlement Agreement, ¶ 12.

[48] Matavosian Decl., ¶ 14.

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B. **The Class Members Share a Well-Defined Community of Interest.**

The community of interest requirement "embodies three factors: (1) predominant common questions of law or fact; (2) Class Representative with claims or defenses typical of the class; and (3) Class Representative who can adequately represent the class." *Sav-On*, *supra*, 34 Cal.4th at 326. "[T]he community of interest requirement for certification *does not mandate that class members have uniform or identical claims*." *Capitol People First v. Dep't of Developmental Services* (2007) 155 Cal.App.4th 676, 692 (emphasis in original). Rather, courts focus on the Defendant's internal policies and "pattern and practice . . . in order to assess whether that common behavior toward similarly situated Plaintiff renders class certification appropriate." *Id.* (citing *Sav-On*, 34 Cal.4th at 333).

Here, common issues of law and fact predominate as to each of the claims alleged and asserted in the Action. Based on the documents and information obtained through formal and informal discovery and exchange of information in the case, Plaintiff contends that Class Members performed similar job duties and were subject to uniform operations and employment policies, practices, and procedures during the Class Period, including payroll and recordkeeping practices.[49] As a result, Plaintiff claims that all of the Class Members were uniformly not paid all compensation due to them from Defendants during the time period at issue. Plaintiff maintains that the outcome of this litigation would be determined by Defendants' alleged uniform operations and employment policies and procedures that applied across its hourly-paid employees who worked in California during the Class Period.

As a member of the Settlement Class who was subject to these same policies, practices, and procedures, Plaintiff's claims are typical of the Settlement Class. Moreover, Plaintiff has no interests adverse to the Settlement Class. Plaintiff has taken steps to initiate and maintain the action and to ensure that it comes to a fair and reasonable resolution.[50] Importantly, Plaintiff

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[49] Matavosian Decl., ¶ 15.

[50] Declaration of Erik Rodriguez Hernandez in Support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement ("Hernandez"), ¶¶ 2-4.

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has retained a law firm well-versed in wage and hour class actions, which has at all times represented the best interests of Plaintiff and the Settlement Class.[51]

Accordingly, the proposed Settlement Class shares a community of interest, and the Court should certify the Settlement Class for settlement purposes only.

VII. APPOINTMENT OF CLASS COUNSEL AND ALLOCATION FOR CLASS COUNSEL'S ATTORNEYS' FEES AND LITIGATION COSTS

Class Counsel litigated the matter for over one (1) year and was actively preparing the matter for class certification and trial.[52] The ongoing work has been extensive, demanding, and ultimately successful in achieving a substantial settlement resolution. Class Counsel reviewed a volume of documents and data[53] and also interviewed and obtained information from Plaintiff and other percipient witnesses, researched applicable law, undertook damages/valuation calculations, and met and conferred with Defendants' counsel regarding the pleadings, discovery, and the production of documents and data prior to settling.[54] Counsel for the Parties also undertook extensive settlement discussions.[55]

Class Counsel is well-experienced in wage-and-hour class action litigation and used that experience to obtain a great result for the Class.[56]

The Settlement establishes a Maximum Settlement Amount of $795,000.00 , and provides for Class Counsel to apply to the Court consisting of attorneys' fees in an amount up to 35% of the Maximum Settlement Amount (i.e., $278,250.00 if the Maximum Settlement Amount remains $795,000.00) and reimbursement of actual costs and litigation expenses in an amount up to $25,000.00.[57] The attorneys' fees provided for by the Settlement are commensurate with: (1) the risk that Class Counsel took in bringing and litigating the case, (2) the extensive time, effort and expense that Class Counsel dedicated to the case, (3) the skill and determination that Class Counsel has shown, (4) the results that Class Counsel has achieved throughout the

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[51] Matavosian Decl., ¶¶ 17-22.
[52] *Id.*, ¶ 24.
[53] *Id.*, ¶ 25 & 28.
[54] *Id.*, ¶¶ 25, 26 & 28..
[55] *Id.*, ¶ 24.
[56] *Id.*, ¶¶ 17-22.
[57] Settlement Agreement, ¶¶ 15(c) & 17.

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litigation, (5) the value of the Settlement that Class Counsel has achieved for the Class Members, PAGA Members, and the State of California, and (6) the other cases that Class Counsel had to turn down in order to devote its time and efforts to this matter. The proposed Class Notice provides Class Members that an award of the Class Counsel's Attorneys' Fees and Litigation Costs will be sought, and the amount allocated toward the Class Counsel's Attorneys' Fees and Litigation Costs by the Settlement.[58]

Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41. Indeed, it is long settled that the "experienced trial judge is the best judge of the value of professional services rendered in his court." *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132. California law provides that attorney fee awards should be equivalent to fees paid in the legal marketplace to compensate for the result achieved and risk incurred. *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 503 (citing *Lealao*, 82 Cal.App.4th at 48-49). In *Lealao*, the court held that when an action leads to a recovery that can be "monetized" with a reasonable degree of certainty, the trial court should "ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace in comparable litigation." *Id.* at 50.

The California Supreme Court has confirmed the propriety of calculating and awarding attorneys' fees as a percentage of a settlement that has, by litigation, been preserved or recovered for the benefit of others. *Laffitte*, *supra*, 1 Cal.5th 480 at 486 & 506. The Court has taken the position that while "[t]rial courts have discretion to conduct a lodestar cross-check on a percentage fee," "they also retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee[,]" and "[t]he percentage of fund method survives in California." *Id*. (internal quotation marks omitted).

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. *Newberg,* § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys' fees in the amount of 45%

[58] Settlement Agreement, Exh. 1.

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of the $7.3 million settlement); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys' fees). California courts routinely approve class action attorneys' fee awards "averag[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent range of contingency fee in marketplace was appropriate in class actions); see also *Estrada v. Dr. Pepper/Seven-Up*, Los Angeles County Superior Court Case No. BC262247 (May 2005) (wage and hour); *Moore v. IKEA*, Los Angeles County Superior Court Case No. BC263646 (Sept. 2006) (wage and hour).

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.[59]

Class Counsel will provide extensive evidence as to the time worked, litigation efforts, and further argument at the time of filing Plaintiff's Motion for Final Approval of the Settlement and application for the Class Counsel's Attorneys' Fees and Litigation Costs at the Final Approval Hearing. Considering the work performed and the risks incurred, the attorneys' fees provided for by the Settlement are well within the range of reasonableness for preliminary approval.

VIII. THE PROPOSED CLASS NOTICE IS ADEQUATE

California statutory authority and case law vests the Court with broad discretion in fashioning appropriate class notice. See Cal. Code Civ. Proc. § 1781; *Cartt v. Superior Court* (1975) 50 Cal.App.3d 960, 973-74. A class notice is adequate if it "present[s] a fair recital of the subject matter and proposed terms" of the Settlement. *Mendoza v. United States* (9th Cir. 1980) 623 F.2d 1338, 1351 (quoting *Marshall v. Holiday Magic* (9th Cir. 1977) 550 F.2d 1173, 1177).

"Sufficient information about the case should be provided to enable class members to make an informed decision about their participation." *Manual for Complex Litigation* § 21.311 at 413 (4th ed. 2004). The proposed Class Notice describes the Settlement, the deadlines and procedures to submit an Objection to the Class Settlement, submit a Request for Exclusion from

[59] Matavosian Decl., ¶ 9.

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the Class Settlement, and/or dispute regarding Workweeks, and the date and time set for the Final Approval Hearing.[60] The proposed Class Notice summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner.[61] The proposed Class Notice recognizes that the Court has not yet granted final approval of the settlement.[62] The proposed Class Notice also apprises the Class Members and PAGA Members of, *inter alia*, how their Individual Class Award and if applicable, their Individual PAGA Award is calculated and the number of Workweeks credited to them.[63] The proposed Class Notice fulfills the requirement of neutrality in notice procedure. *Newberg,* at § 8.39.

Thus, the proposed Class Notice satisfies all due process requirements and complies with the standards of fairness, completeness, and neutrality. Fed. R. Civ. P. 23(c)(2) and 23(e); *Newberg*, §§ 8.21, 8.39; *Manual*, §§ 21.311, 21.312; see also *Cartt*, *supra*, 50 Cal.App.3d at 960. Accordingly, the Court should approve the proposed Class Notice.

IX. APPOINTMENT OF THE SETTLEMENT ADMINISTRATOR

The Parties have selected Phoenix Settlement Administrators as the Settlement Administrator. Within forty-five (45) calendar days of preliminary approval of the Settlement and after the Settlement Administrator performs an NCOA search to update Class Members' addresses, the Settlement Administrator will mail the Class Notice by first-class U.S. Mail to all Class Members and PAGA Members.[64] If a Class Notice is returned to the Settlement Administrator with a forwarding address affixed to the front, the Settlement Administrator will resend the Class Notice to the forwarding address affixed thereto.[65] If a Class Notice is returned because of an incorrect mailing address, without a forwarding address affixed, the Settlement Administrator will promptly, and no later than three (3) business days of receipt of the returned Class Notice, search for a more current address by way of skip-trace using the Class Member's Social Security Number, and perform a single remailing of the Class Notice to the Class Member

[60] Settlement Agreement, Exh. 1.
[61] Ibid.
[62] Ibid.
[63] Ibid.
[64] *Id.*, ¶ 19(a).
[65] *Id.*, ¶ 19(b).

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if an updated address is located.[66] The Settlement Administrator will receive and process Requests for Exclusion, Objections, and any disputes to Workweeks.[67] In addition, the Settlement Administrator will be responsible for printing, distributing, and tracking the Class Notice and other documents for the Settlement, calculating and distributing payments due under the Settlement, issuing 1099 and W-2 IRS Forms and undertaking all required tax reporting, filings, withholdings, and remittances, providing necessary reports and declarations, and other duties and responsibilities set forth here to process the Settlement and as requested by the Parties.[68] The Settlement Administration Expenses are currently estimated to be $6,500.00 and will be paid out of the Maximum Settlement Amount, subject to approval by the Court.[69] Accordingly, Plaintiff respectfully requests that the Court appoint Phoenix Settlement Administrators as the Settlement Administrator and direct the mailing of the Class Notice to the Class Members and PAGA Members in the manner outlined and based on the proposed deadlines as described herein and set forth in the Settlement Agreement.

XI. CLASS REPRESENTATIVE ENHANCEMENT AWARD

Plaintiff respectfully requests that the Court appoint him as the Class Representative and preliminarily approve the Enhancement Award in an amount up to $7,500.00.[70] It is within the Court's discretion to award payment to a Class Representative for their efforts and work. *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299. The factors that courts may consider in determining whether to make an Enhancement Award include: (1) the risk to the Class Representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the Class Representative; (3) the amount of time and effort spent by the Class Representative; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the Class Representative as a result of the litigation. *Id*.

The Enhancement Award is fair and appropriate. Plaintiff spent a substantial amount of time and effort in producing relevant documents and past employment records and providing

[66] Settlement Agreement, ¶ 19(b).
[67] *Id.*, ¶¶ 21-23.
[68] *Id.*, ¶¶ 15(c)(i)-15(c)(iii), 15(c)(vi), 16 & 19(a)-19(b).
[69] *Id.*, ¶ 15(c)(vii).
[70] *Id.*, ¶ 15(c)(vi).

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the facts and evidence necessary to attempt to prove the allegations.[71] Plaintiff was available whenever Class Counsel needed him and actively tried to obtain and provide information that would facilitate the pursuit of the class and PAGA claims.[72] In addition, the Settlement includes a general release of claims for Plaintiff, which no other Class Member is providing with respect to the Settlement. Accordingly, it is appropriate and just for Plaintiff to receive $7,500.00 for his services on behalf of the Settlement Class, PAGA Members, and the State of California, in addition to his individual settlement payment.

XII. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant Preliminary Approval of the Settlement; conditionally certify the Settlement Class for settlement purposes; preliminary appoint and designate Lawyers *for* Justice, PC as Class Counsel; appoint Plaintiff Erik Rodriguez Hernandez as Class Representative; appoint Phoenix Settlement Administrators as the Settlement Administrator; preliminarily approve the allocations for Class Counsel's Attorneys' Fees and Litigation Costs, Enhancement Award, PAGA Penalties, and Settlement Administration Expenses; approve the proposed Class Notice; direct the Settlement Administrator to undertake the notice and settlement administration process in conformity with the deadlines and procedures provided by the Settlement Agreement; and to schedule a Final Approval Hearing to take place in approximately six (6) months.

Dated: June 11, 2026 **LAWYERS *for* JUSTICE, PC**

By: ______________________
Selena Matavosian
Erica Stepaninan
Attorneys for Plaintiff

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[71] Matavosian Decl., ¶ 10; Hernandez Decl., ¶¶ 3-4.
[72] Matavosian Decl., ¶ 10; Hernandez Decl., ¶¶ 3-5.

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