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Attorneys for Plaintiffs OSCAR BENITEZ,
individually, and on behalf of other similarly
situated employees, and MEGAN ELLIS,
individually, and on behalf of other similarly
situated employees and aggrieved employees
pursuant to the California Private Attorneys
General Act

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

OSCAR BENITEZ, individually, and on behalf
of other similarly situated employees; MEGAN
ELLIS, individually, and on behalf of other
similarly situated employees and aggrieved
employees pursuant to the California Private
Attorneys General Act,

Plaintiffs,

vs.

RAPID MANUFACTURING, LCR; and DOES
1 through 25, inclusive,

Defendants.

Case No. 30-2025-01462691-CU-OE-CXC

Honorable Melissa R. McCormick
Department CX105

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

Reservation No.: 74970466
Date: February 4, 2027
Time: 2:00 p.m.
Dept.: CX105

Complaint Filed: February 25, 2025
FAC Filed: April 9, 2025
SAC Filed: July 8, 2026
Trial Date: Not Set

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

2 **PLEASE TAKE NOTICE THAT on February 4, 2027 at 2:00 p.m.** in Department CX105 of
3 the above-captioned Court located at Civil Complex Center, 751 West Santa Ana Boulevard, Santa Ana,
4 California, 92701, pursuant to California Code of Civil Procedure section 382 and Rule 3.769 of the
5 California Rules of Court, Plaintiffs Oscar Benitez and Megan Ellis (together, “Plaintiffs”) will and
6 hereby do move the Court for an Order granting preliminary approval of the proposed class action and
7 PAGA settlement between Plaintiffs and Defendant Rapid Manufacturing, LCR (“Defendant”).

8 Plaintiffs request that the Court enter an Order:

9 1. Preliminarily approving the Class Action and PAGA Settlement Agreement (“Settlement”
10 or “Settlement Agreement”) attached as Exhibit 3 to the Declaration of Jasmine Y. Kianfard in Support
11 of Plaintiffs’ Motion for Preliminary Approval of Class Action and PAGA Settlement (“Kianfard Decl.”);

12 2. Certifying the Class for Settlement purposes;

13 3. Appointing Plaintiffs Oscar Benitez and Megan Ellis as the Class Representatives for
14 Settlement purposes;

15 4. Appointing Jonathan M. Genish, Ryan A. Quadrel, Joseph O. Marshall, Alexandra Rose,
16 and Jasmine Y. Kianfard of Blackstone Law, APC as Class Counsel for Settlement purposes;

17 5. Approving the proposed Court Approved Notice of Class Action and PAGA Settlement
18 and Hearing Date for Final Court Approval (“Class and PAGA Notice”), Request for Exclusion Form,
19 Challenge to Workweeks and/or PAGA Pay Periods Form, and Objection Form (attached as Exhibit A,
20 Exhibit B, Exhibit C, and Exhibit D, respectively, to the Settlement Agreement), to be mailed to the
21 Class;

22 6. Approving the opt-out and objection procedures provided in the Settlement Agreement
23 and set forth in the Class and PAGA Notice;

24 7. For each Class Member, directing Defendant to furnish their full name, last-known
25 mailing address, Social Security number, and number of Workweeks and PAGA Pay Periods to the
26 Administrator within fifteen (15) calendar days after the Court grants preliminary approval of the
27 Settlement;

28 ///

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

9. Setting a Final Approval Hearing.

Pursuant to California Labor Code section 2699(s)(2), on September 30, 2026, a copy of the Settlement was submitted to the California Labor and Workforce Development Agency (“LWDA”) via online submission through the LWDA’s website. (Kianfard Decl., ¶ 52 and Exh. 5).

This Motion is based upon this Notice, the attached Memorandum of Points and Authorities, the Declaration of Jasmine Y. Kianfard, the Declaration of Plaintiff Oscar Benitez, the Declaration of Plaintiff Megan Ellis, the Declaration of William B. Richards, Jr., the Declaration of the Administrator (Michael Sutherland of Apex Class Action LLC), the pleadings and other records on file with the Court in this matter, and any other further evidence or argument that the Court may properly receive at or before the hearing.

Respectfully submitted,

Dated: September 30, 2026

BLACKSTONE LAW, APC

By: /s/ Jasmine Y. Kianfard
Jasmine Y. Kianfard
 Attorneys for Plaintiffs Oscar Benitez and Megan
 Ellis

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	FACTUAL AND PROCEDURAL BACKGROUND.....	2
III.	THE SETTLEMENT TERMS	4
	A. Class Definition	4
	B. Amount of Settlement.....	4
	C. Allocation and Funding of the Gross Settlement Amount	4
	D. Released Claims	6
IV.	STANDARD OF REVIEW FOR PRELIMINARY APPROVAL	7
V.	THE SETTLEMENT IS PRESUMED FAIR.....	8
	A. The Settlement Was Reached as a Result of Arm’s-Length Bargaining	8
	B. Sufficient Investigation and Discovery by Experienced Class Counsel	9
	C. The Settlement is Fair and Reasonable in Light of the Parties’ Respective Legal Positions and Recovery Risks.....	9
	1. Class Counsel’s Analysis of the Maximum Available Liability and Damages	10
VI.	CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED	15
	A. An Ascertainable Class Exists Which is So Numerous That Joinder of All Members is Impracticable.....	15
	B. The Class Shares a Well-Defined Community of Interest	16
	C. A Class Action is Superior to a Multiplicity of Litigation.....	17
VII.	THE REQUESTED CLASS REPRESENTATIVE SERVICE PAYMENTS ARE REASONABLE	18
VIII.	THE REQUESTED ATTORNEYS’ FEES AND COSTS ARE REASONABLE	18
IX.	THE CLASS AND PAGA NOTICE AND THE OPT-OUT AND OBJECTION PROCESS MEETS DUE PROCESS REQUIREMENTS	19
X.	CONCLUSION	21

TABLE OF AUTHORITIES

Cases

<i>Aguirre v. Genesis Logistics</i> , 2013 WL 10936035 (C.D. Cal. 2013)	14
<i>Armstrong v. Board of School Directors of City of Milwaukee</i> , 616 F.2d 305 (7th Cir. 1980).....	8
<i>B.W.I. Custom Kitchen v. Owens-Illinois, Inc.</i> , 191 Cal.App.3d 1341 (1987)	16
<i>Bradley v. Networkers Int’l, LLC</i> , 211 Cal.App.4th 1129 (2012)	11
<i>Brinker Restaurant Corp. v. Superior Court</i> , 53 Cal.4th 1051 (2012);	11
<i>Carrington v. Starbucks Corp.</i> 30 Cal.App.5th 504, 529 (2018)	14
<i>Castillo v. ADT, LLC</i> , 2017 WL 363108 (E.D. Cal. Jan. 25, 2017)	14
<i>Choate v. Celite Corp.</i> , 215 Cal App. 4th 1460, 1468 (2013)	13
<i>Clark v. Am. Residential Servs. LLC</i> , 175 Cal. App. 4th 785 (2009)	9
<i>Clothesrigger, Inc. v. GTE Corp.</i> , 191 Cal.App.3d 605 (1987)	16
<i>Cotter v. Lyft, Inc.</i> , 193 F.Supp.3d 1030 (N.D. Cal. 2016).....	14
<i>Daar v. Yellow Cab Co.</i> , 67 Cal. 2d 695 (1967).....	16
<i>Duran v. U.S. Bank Nat. Assn.</i> , 59 Cal.4th 1 (2014).....	11
<i>Elliot v. Spherion Pac. Work, LLC</i> , 572 F.Supp.2d 1169, 1181-82 (C.D. Cal. 2008).....	13
<i>Gaudin v. Saxon Mortgage Servs., Inc.</i> , 2015 WL 7454183 (N.D. Cal. Nov. 23, 2015)	18
<i>Hebbard v. Colgrove</i> , 28 Cal.App.3d 1017, 1030 (1972).....	15
<i>In re Cellphone Fee Termination Cases</i> , 186 Cal.App.4th 1380 (2010).....	20
<i>In re Online DVD Rental</i> , 779 F.3d 934 (9th Cir. 2014)	18
<i>Jaimez v. DAIOHS USA, Inc.</i> , 181 Cal.App.4th 1286 (2010).....	13
<i>Kullar v. Foot Locker Retail, Inc.</i> (2008) 168 Cal.App.4th 116.....	10
<i>Lealao v. Beneficial Cal, Inc.</i> , 82 Cal.App.4th 19 (2000)	18
<i>Linder v. Thrifty Oil Co.</i> , 23 Cal.4th 429 (2000)	17
<i>McGee v. Bank of America</i> , 60 Cal.App.3d 442 (1976)	17
<i>Miller v. Woods</i> , 148 Cal.App.3d 862 (1983).....	15
<i>Munoz v. BCI Coca-Cola Bottling Co.</i> , 186 Cal.App.4th 399 (2010)	18
<i>Naranjo v. Specturm Security Services, Inc.</i> , 40 Cal.App.5th 444 (2019).....	12

1	<i>Officers for Justice v. Civil Service Commission of City and County of San Francisco</i> , 688 F.2d 615 (1982).....	8
2	<i>Price v. Starbucks Corp.</i> , 192 Cal.App.4th 1136 (2011).....	13
3	<i>Rose v. City of Hayward</i> , 126 Cal.App.3d 926, 934 (1981)	15
4	<i>Sanchez v. McDonalds Restaurants of California, Inc.</i> , 2017 WL 4620746 (LA Super. Ct. July 6, 2017)	14
5		
6	<i>Seastrom v. Neways, Inc.</i> , 149 Cal.App. 4th 1496 (2007)	17
7	<i>See In re Microsoft I-V Cases</i> , 135 Cal.App.4th706 (2006).....	8
8	<i>Smith v. Lux Retail North America, Inc.</i> , 2013 WL 2932243 at *3 (N.D. Cal. June 13, 2013).....	14
9	<i>Thurman v. Bayshore Transit Management, Inc.</i> , 203 Cal.App.4th 1112,1131 (2012)	14
10	<i>Wershba v. Apple Computer, Inc.</i> , 91 Cal.App.4th 224 (2001).....	8, 9
11	<i>Wesson v. Staples the Office Superstore, LLC</i> , 68 Cal.App.5th 746 (2021).....	13
12	Statutes	
13	Code of Civil Procedure Section 382.....	15
14	Labor Code section 203	13
15	Other Authorities	
16	<i>Findings of the Study of California Class Action Litigation</i> , 2000-2006, available at http://www.courts.ca.gov/documents/class-action-lit-study.pdf	11
17	Rules	
18	Cal. Rules of Court, Rule 3.769(c)	8
19	Cal. Rules of Court, Rule3.769(g)	8
20		
21		
22		
23		
24		
25		
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiffs Oscar Benitez (“Plaintiff Benitez”) and Megan Ellis (“Plaintiff Ellis”) (together,
4 “Plaintiffs”) seek preliminary approval of the Class Action and PAGA Settlement Agreement
5 (“Settlement” or “Settlement Agreement”) entered into between Plaintiffs and Defendant Rapid
6 Manufacturing, LCR (“Defendant”) (collectively, with Plaintiffs, the “Parties”). (Declaration of Jasmine
7 Y. Kianfard in Support of Plaintiffs’ Motion for Preliminary Approval of Class Action and PAGA
8 Settlement [“Kianfard Decl.”], Exh. 3). The Settlement terms are outlined as follows:

- 9
- 10 • Class Size: Approximately seven hundred and seventy-one (771) individuals (as of February
23, 2026).
 - 11 • Gross Settlement Amount: One Million Three Hundred Forty-Two Thousand Five Hundred
12 Twenty-Four Dollars and Fifty Cents (\$1,342,524.50).
 - 13 • Class Counsel Fees Payment: Attorneys’ fees of thirty-five percent (35%) of the Gross
14 Settlement Amount (\$469,883.57 if the Gross Settlement Amount is \$1,342,524.50), to be
15 paid from the Gross Settlement Amount.
 - 16 • Class Counsel Litigation Expenses Payment: Actual litigation costs and expenses not to
17 exceed Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00), to be paid from the Gross
18 Settlement Amount.
 - 19 • Class Representative Service Payments: Ten Thousand Dollars and Zero Cents (\$10,000.00)
20 each (total, \$20,000.00), to be paid from the Gross Settlement Amount.
 - 21 • Administration Expenses Payment: Not to exceed Eleven Thousand One Hundred Ninety
22 Dollars and Zero Cents (\$11,190.00), to be paid from the Gross Settlement Amount.
 - 23 • PAGA Penalties: Seventy Thousand Dollars and Zero Cents (\$70,000.00) from the Gross
24 Settlement Amount, 65% of which will be paid to the Labor and Workforce Development
25 Agency (“LWDA”) and the remaining 35% to be paid to the PAGA Group Members.
 - 26 • Estimated Net Settlement Amount: Seven Hundred Thirty-Six Thousand Four Hundred Fifty
27 Dollars and Ninety-Three Cents (\$736,450.93) to be distributed to Participating Class
28 Members.

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As set forth herein, the Settlement are the product of informed discovery and arms-length negotiations, and provides a fair, adequate, and reasonable recovery for the Class. Plaintiffs therefore respectfully request that the Court grant preliminarily approval of the Settlement, conditionally certify the Class, approve the proposed Court Approved Notice of Class Action and PAGA Settlement and Hearing Date for Final Court Approval (“Class and PAGA Notice”), Request for Exclusion Form (“Exclusion Form”), Challenge to Workweeks and/or PAGA Pay Periods Form (“Dispute Form”), and Objection Form (“Objection Form”), and set a hearing date for final settlement approval, among other requested relief.

II. FACTUAL AND PROCEDURAL BACKGROUND

Defendant is a global electronics manufacturing company specializing in electronic custom-designed wire and cable harnesses, electro-mechanical, and box build assemblies for original equipment manufacturers. Plaintiff Benitez was employed by Defendant as an hourly-paid, non-exempt Warehouse Clerk from approximately December 2019 to approximately July 2022. (Declaration of Plaintiff Oscar Benitez in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement [“Benitez Decl.”], ¶ 2). Plaintiff Ellis was employed by Defendant as an hourly-paid, non-exempt Warehouse Clerk from approximately March 2024 to approximately April 2024. (Declaration of Plaintiff Megan Ellis in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement [“Ellis Decl.”], ¶ 2).

On February 25, 2025, Plaintiff Benitez filed a Class Action Complaint in the action entitled *Oscar Benitez v. Rapid Manufacturing, LCR*, Orange County Superior Court Case No. 30-2025-01462691-CU-OE-CXC (“Action”), thereby commencing a putative class action against Defendant. (Kianfard Decl., ¶ 9).

On March 28, 2025, Plaintiff Benitez propounded written formal discovery onto Defendant (specifically, Form Interrogatories – General (Set One), Form Interrogatories – Employment Law (Set One), Special Interrogatories (Set One), Requests for Admission (Set One), and Requests for Production of Documents (Set One)), and served a proposed Belaire-West notice. (*Id.*, ¶ 10).

On April 3, 2025, Plaintiff Ellis provided written notice to the LWDA by online submission and to Defendant by U.S. Certified Mail, pursuant to California Labor Code Section 2699.3, of the specified provisions of the California Labor Code alleged to have been violated by Defendant (“PAGA Notice”).

1 (*Id.*, ¶ 11 and Exh. 2).

2 On April 9, 2025, Plaintiffs filed a First Amended Class Action Complaint in the Action, which
3 added Plaintiff Ellis as a named plaintiff. (*Id.*, ¶ 12).

4 On June 9, 2025, Plaintiff Ellis filed a Complaint for Enforcement Action Under the Private
5 Attorneys General Act, Cal. Labor Code §§ 2698 *Et Seq.* in the action entitled *Megan Ellis v. Rapid*
6 *Manufacturing, LCR*, Orange County Superior Court Case No. 30-2025-01488619-CU-OE-CXC
7 (“PAGA Action”) thereby commencing a representative action under the Private Attorneys General Act
8 of 2004 pursuant to California Labor Code Section 2698 *et seq.* (“PAGA”) against Defendant. (*Id.*, ¶
9 13).

10 On February 23, 2026, the Parties participated in a formal mediation conducted by Monique Ngo-
11 Bonnici, Esq. (“Mediator”), a neutral and respected mediator with extensive experience in complex wage
12 and hour matters, and with the assistance of the Mediator’s evaluations, the Parties were able to reach an
13 agreement to resolve this dispute on a class and representative basis. (*Id.*, ¶ 14). The Parties then worked
14 diligently to negotiate and memorialize the terms in a long form settlement agreement. (*Ibid*).

15 On July 8, 2026, Plaintiffs filed a Second Amended Class and Representative Action Complaint
16 (“Operative Complaint”) in the Action, which added the PAGA claims from the PAGA Action. (*Id.*, ¶
17 15). The Operative Complaint alleges ten (10) causes of action for violations of the California Labor
18 Code for failure to pay minimum wages, failure to pay overtime wages, failure to provide compliant meal
19 periods and premium payments in lieu thereof, failure to provide compliant rest periods and premium
20 payments in lieu thereof, failure to timely pay wages during employment, failure to provide accurate
21 wage statements, failure to timely pay wages upon termination, and failure to reimburse necessary
22 business expenses, for violations of California Business & Professions Code Section 17200, *et seq.* based
23 on the aforementioned California Labor Code violations, and for civil penalties under PAGA based on
24 the aforementioned California Labor Code violations. (*Ibid*).

25 On July 20, 2026, pursuant to Plaintiff Ellis’ request, the PAGA Action was dismissed without
26 prejudice. (*Id.*, ¶ 16).

27 On August 11, 2026, the Parties executed the Settlement Agreement. (*Id.*, ¶ 17 and Exh. 3).

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III. THE SETTLEMENT TERMS

A. Class Definition

For purposes of settlement only, the Parties have agreed that the Class shall be defined as “all current and former hourly, non-exempt employees who worked for Defendant in California at any time during the Class Period” (“Class” or “Class Member(s)”). (Kianfard Decl., ¶ 18; Settlement Agreement, ¶ 1.5). The Class Period is defined as the period from February 25, 2021 through April 23, 2026. (Kianfard Decl., ¶ 18; Settlement Agreement, ¶ 1.11). Based on information provided by Defendant, as of February 23, 2026, it is estimated that there are a total of seven hundred and seventy-one (771) Class Members. (Kianfard Decl., ¶ 18).

B. Amount of Settlement

The Parties have agreed to settle the class and PAGA claims at issue in the Operative Complaint for a non-reversionary Gross Settlement Amount of One Million Three Hundred Forty-Two Thousand Five Hundred Twenty-Four Dollars and Fifty Cents (\$1,342,524.50), exclusive of employer-side payroll taxes. (Kianfard Decl., ¶ 19; Settlement Agreement, ¶ 1.21).

C. Allocation and Funding of the Gross Settlement Amount

The Gross Settlement Amount is a common fund and therefore includes all requested costs, fees, and other allocations. (Kianfard Decl., ¶ 19; Settlement Agreement, ¶ 1.21). The Gross Settlement Amount includes: (1) Class Counsel’s fees in the amount of thirty-five percent (35%) of the Gross Settlement Amount (i.e., \$469,883.57 if the Gross Settlement Amount is \$1,342,524.50); (2) Class Counsel’s actual litigation costs and expenses, not to exceed Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00); (3) Administration Expenses Payment, not to exceed Eleven Thousand One Hundred Ninety Dollars and Zero Cents (\$11,190.00); (4) Class Representative Service Payments in the aggregate amount of Twenty Thousand Dollars and Zero Cents (\$20,000.00); and (5) PAGA Penalties in the amount of Seventy Thousand Dollars and Zero Cents (\$70,000.00). (Kianfard Decl., ¶ 19; Settlement Agreement, ¶¶ 3.1, 3.2.1, 3.2.2, 3.2.3, and 3.2.5). After the above-estimated amounts are deducted from the Gross Settlement Amount, the Net Settlement Amount that will be available for Class Members is currently estimated to be Seven Hundred Thirty-Six Thousand Four Hundred Fifty Dollars and Ninety-Three Cents (\$736,450.93). (Kianfard Decl., ¶ 19). Additionally, 35% of the PAGA Penalties, which is \$24,500.00

1 out of \$70,000.00, will be fully distributed to “all current and former hourly, non-exempt employees who
2 worked for Defendant in California at any time during the PAGA Period” (“PAGA Group Member(s)”).
3 (Kianfard Decl., ¶ 19; Settlement Agreement, ¶¶ 1.32, 1.35, and 3.2.5). The “PAGA Period” is defined
4 as the period from April 3, 2024 through April 23, 2026. (Kianfard Decl., ¶ 19; Settlement Agreement,
5 ¶ 1.36).

6 The Net Settlement Amount will be distributed and paid to all Class Members who do not submit
7 a timely and valid Request for Exclusion (“Participating Class Member(s)”) on a *pro rata* basis based on
8 the number of weeks each Class Member worked for Defendant in California as an hourly, non-exempt
9 employee during the Class Period (“Workweeks”). (Kianfard Decl., ¶ 20; Settlement Agreement, ¶¶ 1.37
10 and 1.47). The *pro rata* share of the Net Settlement Amount that a Class Member may be eligible to
11 receive under the Class Settlement (“Individual Class Payment”) will be calculated by the Administrator,
12 in accordance with the Settlement Agreement. (Kianfard Decl., ¶ 20; Settlement Agreement, ¶¶ 1.22 and
13 3.2.4). The highest Individual Class Payment is estimated to be \$3,008.48, the average estimated
14 Individual Class Payment is estimated to be \$955.19, and the lowest estimated Individual Class Payment
15 is estimated to be \$11.18. (Kianfard Decl., ¶ 20).

16 Thirty-five percent (35%) of the PAGA Penalties will be distributed and paid to all PAGA Group
17 Members on a *pro rata* basis based on the number of pay periods each PAGA Group Member worked
18 for Defendant in California as an hourly, non-exempt employee during the PAGA Period (“PAGA Pay
19 Periods”). (Kianfard Decl., ¶ 21; Settlement Agreement, ¶ 1.34). The *pro rata* share of thirty-five percent
20 (35%) of the PAGA Penalties that a PAGA Group Member may be eligible to receive under the PAGA
21 Settlement (“Individual PAGA Payment”) will be calculated by the Administrator, in accordance with
22 the Settlement Agreement. (Kianfard Decl., ¶ 21; Settlement Agreement, ¶¶ 1.23 and 3.2.5).

23 Each Individual Class Payment will be allocated as twenty percent (20%) wages (the “Wage
24 Portion”) and eighty percent (80%) interest and penalties (the “Non-Wage Portion”). (Kianfard Decl., ¶
25 22; Settlement Agreement, ¶ 3.2.4.1). The Wage Portion will be reported on an IRS Form W-2 and the
26 Non-Wage Portion will be reported on an IRS Form 1099 (if applicable) by the Administrator. (Kianfard
27 Decl., ¶ 22; Settlement Agreement, ¶ 3.2.4.1). The Administrator will withhold the employee’s share of
28 taxes and withholdings with respect to the Wage Portion of the Individual Class Payment, and issue

1 checks to Participating Class Members for their net payment of their Individual Class Payment. (Kianfard
2 Decl., ¶ 23; Settlement Agreement, ¶¶ 1.22 and 3.2.4.1). The employer's share of taxes and contributions
3 in connection with the Wage Portion of Individual Class Payments will be paid by Defendant separately
4 and in addition to the Gross Settlement Amount. (Kianfard Decl., ¶ 22; Settlement Agreement, ¶¶ 1.21
5 and 3.2.4.1). Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties
6 and will be reported on an IRS Form 1099 (if applicable) by the Administrator. (Kianfard Decl., ¶ 22;
7 Settlement Agreement, ¶ 3.2.4.1).

8 The Settlement Agreement is a non-reversionary and non-claims made settlement. (Kianfard
9 Decl., ¶ 23; Settlement Agreement, ¶¶ 1.21 and 3.1). The Net Settlement Amount will be fully distributed
10 to Participating Class Members and the PAGA Penalties will be fully distributed to the LWDA and PAGA
11 Group Members, in accordance with the Settlement Agreement. (Kianfard Decl., ¶ 23; Settlement
12 Agreement, ¶¶ 3.2.4 and 3.2.5). No money will revert to Defendant. (Kianfard Decl., ¶ 23; Settlement
13 Agreement, ¶ 3.1).

14 Each Individual Class Payment and Individual PAGA Payment check will be valid and negotiable
15 for one hundred and eighty (180) calendar days from the date the checks are issued, and thereafter, shall
16 be canceled. (Kianfard Decl., ¶ 24; Settlement Agreement, ¶ 4.3.4). Any funds associated with such
17 canceled checks will be distributed by the Administrator to the State of California's Unclaimed Property
18 Fund in the name of the Participating Class Member and/or PAGA Group Member. (Kianfard Decl., ¶
19 24; Settlement Agreement, ¶ 4.3.6).

20 **D. Released Claims**

21 Effective on the Effective Date and the date when Defendant fully funds the entire Gross
22 Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual
23 Class Payments, all Participating Class Members on behalf of themselves and their respective former and
24 present representatives, agents, attorneys, administrators, successors, and assigns, release Released
25 Parties all claims that were alleged, or reasonably could have been alleged, based on the facts and
26 allegations in the Operative Complaint that are alleged to have occurred during the Class Period,
27 including, e.g., any and all claims involving: (1) any alleged failure to pay minimum wage; (2) any alleged
28 failure to pay overtime wages; (3) any alleged failure to provide meal periods and/or premium pay in lieu

thereof; (4) any alleged failure to provide rest periods and/or premium pay in lieu thereof; (5) any alleged failure to timely pay wages during employment; (6) any alleged failure to furnish complete and accurate itemized wage statements; (7) any alleged failure to timely pay final wages upon separation of employment; (8) any alleged failure to reimburse necessary expenditures incurred; and (9) any alleged fraudulent, unlawful, and/or unfair business practices arising out of the Labor Code and Industrial Welfare Commission (“IWC”) Wage Order violations referenced in the Operative Complaint (collectively, “Released Class Claims”). (Settlement Agreement, ¶ 1.40, 5, and 5.2). Except as set forth in Paragraph 5.3 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on events occurring outside the Class Period. (*Id.*, ¶ 5.2).

Effective on the Effective Date and the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, all PAGA Group Members, including Non-Participating Class Members¹, are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts and allegations in the Operative Complaint and the PAGA Notice, for the duration of the PAGA Period (collectively, “Released PAGA Claims”). (*Id.*, ¶¶ 1.41, 5, and 5.3).

“Released Parties” means Defendant, and its former, present, and future owners, parents, subsidiaries, officers, directors, members, employees, shareholders, predecessors, successors, and assigns. (*Id.*, ¶ 1.42).

IV. STANDARD OF REVIEW FOR PRELIMINARY APPROVAL

The settlement of a class action requires court approval. (*See Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794 (1996)). “In general, questions whether a settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney

¹ A “Non-Participating Class Member” is defined as any Class Member who opts out of the Class portion of the Settlement by sending the Administrator a valid and timely Request for Exclusion. (Settlement Agreement, ¶ 1.28).

1 fee award was proper are matters addressed to the trial court’s broad discretion.” (*Wershba v. Apple*
2 *Computer, Inc.*, 91 Cal.App.4th 224, 234-35 (2001) (disapproved on other grounds)).

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

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

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

25 V. THE SETTLEMENT IS PRESUMED FAIR

26 A. The Settlement Was Reached as a Result of Arm’s-Length Bargaining

27 California courts recognize that “a presumption of fairness exists where . . . [a] settlement is
28 reached through arm’s-length bargaining.” (*Wershba*, 91 Cal.App.4th at 245; *see also Clark v. Am.*

1 *Residential Servs. LLC*, 175 Cal.App.4th 785, 799 (2009)). Here, the Parties' settlement negotiations
2 were at all times made at arm's-length and were adversarial. (Kianfard Decl., ¶ 25). The Settlement was
3 reached following a full day of mediation with a highly respected mediator with substantial experience
4 mediating wage and hour cases. (Ibid).

5 **B. Sufficient Investigation and Discovery by Experienced Class Counsel**

6 Courts typically assess the status of discovery in determining whether a class action settlement
7 agreement is fair, reasonable, and adequate. (*Dunk*, 48 Cal.App.4th at 1801). Prior to mediation,
8 Defendant produced a random thirty percent (30%) sampling of putative class members' time and pay
9 records as well as Defendant's relevant wage and hour policies, and information regarding the total
10 number of putative class members, the number of current versus former employees, the total workweeks
11 worked by the putative class members, and the average rate of pay for the putative class members.
12 (Kianfard Decl., ¶ 26).

13 This allowed Class Counsel to conduct an informed assessment and analysis of the strengths and
14 weaknesses of the claims and the potential class-wide damages. (*Id.*, ¶ 27). Based on information
15 exchanged, the Parties extensively briefed issues regarding class certification and liability and provided
16 their analyses to the Mediator who helped the Parties debate the strengths and weakness of their respective
17 positions. (*Id.*, ¶ 28). At all times, Plaintiffs were willing and prepared to litigate this matter through
18 class certification and trial if the Parties had been unable to reach a favorable resolution. (Ibid).
19 Additionally, settlement negotiations were conducted by highly capable and experienced counsel. (*Id.*,
20 ¶¶ 1-8). Accordingly, Class Counsel had sufficient information and experience to act intelligently in
21 negotiating the Settlement.

22 **C. The Settlement is Fair and Reasonable in Light of the Parties' Respective Legal Positions** 23 **and Recovery Risks**

24 A settlement is not judged against what might have been recovered had a plaintiff prevailed at
25 trial, nor does the settlement have to obtain 100% of the damages sought to be fair and reasonable.
26 (*Wershba*, 91 Cal.App.4th at 246, 250). In evaluating the reasonableness of a settlement, a trial court
27 must consider "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further
28 litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the

1 extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the
2 presence of a governmental participant, and the reaction of the class members to the proposed settlement.”
3 (*Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008)).

4 Here, the reasonableness of the Settlement is underscored by the fact that Defendant has legal and
5 factual grounds for defending the Action. Based upon Class Counsel’s experience litigating similar
6 complex matters, Plaintiffs reasonably expected a vigorous and lengthy defense to both class certification
7 and the merits of the Action absent a settlement.

8 **1. Class Counsel’s Analysis of the Maximum Available Liability and Damages**

9 Class Counsel analyzed all available data and estimated Defendant’s maximum potential exposure
10 for the class claims to be approximately \$12,153,782, assuming the litigation was successful at trial on
11 all claims at issue and every employee had a violation for each claim on every shift worked. (Kianfard
12 Decl., ¶ 29). This maximum potential analysis was then reduced based on the challenges facing the
13 likelihood of obtaining class certification, prevailing at trial, and other attendant risks. (Ibid). This
14 estimate is based off an estimated maximum liability for all claims at issue and the total aggregate
15 workweeks during the relevant time period, less interest, and based on the analysis of the data which was
16 extrapolated out for all class members across the entire putative class period, which included: \$289,383
17 for meal period violations (less meal period premiums paid); \$6,084,131 for rest period violations at a
18 100% violation rate; \$1,347,890 for unpaid off-the-clock work for 1 hour per workweek of off-the-clock
19 work; \$2,518 for unpaid overtime wages at the required regular rate of pay; \$478,740 for unreimbursed
20 business expenses; \$2,179,120 for waiting time penalties; and \$1,772,000 for wage statement penalties.
21 (Ibid). Plaintiffs further estimated that Defendant faced an additional exposure of \$2,718,300 in potential,
22 non-stacked (i.e., one penalty, per employee, per pay period during the PAGA statutory period) PAGA
23 penalties. (Ibid). Together with the PAGA penalties, Defendant’s maximum potential exposure totaled
24 \$14,872,082 in damages. (Ibid).

25 **2. Class Counsel’s Risk-Based Analysis and Risk-Based Adjustments**

26 While Plaintiffs believe that Defendant faced significant exposure, substantial barriers to a
27 recovery existed. First and foremost, Defendant contended that more than five hundred (500) of the Class
28 Members signed enforceable arbitration agreements with class action waivers. (Kianfard Decl., ¶ 30).

1 Accordingly, this significantly affected the potential size of the putative class. (Ibid). Defendant also
2 contended that Plaintiffs' claims are not suitable for class certification because individual issues and
3 affirmative defenses would predominate should this case go to trial. (Kianfard Decl., ¶ 32; *See Brinker*
4 *Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012); *Duran v. U.S. Bank Nat. Assn.*, 59 Cal.4th
5 1, 35-36 (2014); *Wal-Mart Stores, Inc. v. Dukes*, 131 S.Ct. 2541, 2551 (2011)). While Plaintiffs and
6 Class Counsel disagree with Defendant's predictions, they also recognize that there is a significant risk
7 that the Court may deny class certification. (Kianfard Decl., ¶ 32; *see also, Findings of the Study of*
8 *California Class Action Litigation*, 2000-2006, available at [http://www.courts.ca.gov/documents/class-](http://www.courts.ca.gov/documents/class-action-lit-study.pdf)
9 [action-lit-study.pdf](http://www.courts.ca.gov/documents/class-action-lit-study.pdf) (finding that only 21.4% of all class actions were certified either as part of a
10 settlement or as part of a contested certification motion)).

11 For example, Plaintiffs' meal period claims, which were based on Defendant's alleged failure to
12 provide lawful meal periods, have been increasingly difficult to certify in recent years. (Kianfard Decl.,
13 ¶ 33; *See Brinker*, 53 Cal. 4th at 1034-35). Plaintiffs' theory of liability for meal period violations was
14 based on allegations that Defendant had failed to implement its policies and that its practices failed to
15 allow Class Members to take meal breaks in the manner required under California law. (Kianfard Decl.,
16 ¶ 33; *See Bradley v. Networkers Int'l, LLC*, 211 Cal.App.4th 1129, 1150 (2012) (holding that "the lack
17 of a meal/rest break policy and the uniform failure to authorize such breaks are matters of common
18 proof.")). Defendant contended that its policies and practices at all times during the Class Period were
19 lawful. (Kianfard Decl., ¶ 33). Indeed, Plaintiffs' analysis revealed only a 2.8% violation rate for
20 purported unique meal period violations after offsetting for meal break premiums paid and enforceable
21 meal break waivers. (Ibid). Defendant further argued that the rate of purported meal period violations
22 reflected in the data would require individualized inquiry and that such inquiry would prohibit a class
23 from being certified. (Ibid). Class Counsel also had to consider the risk that the Court would find validity
24 in an individualized proof defense to certification of Plaintiffs' meal period claim. (Ibid).

25 Additionally, a large portion of Defendant's overall liability lies in Plaintiffs' rest period
26 allegations. (*Id.*, ¶ 34). As with the meal period allegations, Defendant contended that it had a lawful
27 written rest period policy, provided compliant rest breaks, and relieved Class Members of all duties as
28 required under California law. (Ibid). Additionally, this claim was even more uncertain given the

difficulties associated with proving the alleged rest period violations, as Defendant was not required to record these breaks. (*Ibid*). Given the lack of records demonstrating rest period violations, there were legitimate concerns Plaintiffs would not be able to certify these claims or prove substantial damages with requisite certainty, which made the estimated value of this claim subject to much challenge. (*Ibid*).

Plaintiffs also faced challenges certifying and proving liability for their minimum wage and overtime claims. (*Id.*, ¶ 35). These claims were largely based on Defendant's unrecorded, off-the-clock work performed by the Class Members both before and after their shifts and during purported meal periods. (*Ibid*). For example, Class Members reported that they were required to perform pre-shift work, don and doff PPE prior to clocking in, and spend up to 10 minutes waiting in line to clock in at the timeclock. (*Ibid*). However, the individualized nature of why this work was performed and the individualized nature of damages presented substantial concerns regarding the manageability of the case and the risk the Court could find these issues prevented certification, and the estimated damages for this claim were based on an assumption that all Class Members worked off the clock for at least one hour per week. (*Ibid*).

Plaintiffs also contended that Defendant failed to reimburse Plaintiffs and the other Class Members for necessary business-related expenses, such as the usage of personal cell phones for work-related purposes. (*Id.*, ¶ 36). Defendant contended that it had a policy and practice of reimbursing employees for necessary business-related expenses. (*Ibid*). Defendant further contended that, with respect to the alleged expenses for which Plaintiffs and the other Class Members never requested reimbursement from Defendant, it did not know and had no reason to know that alleged business-related expenses had been incurred. (*Ibid*). Defendant further contended that the reason for why a Class Member undertook certain expenses, while not others, and failed to receive reimbursement for certain expenses while not others, would raise individual issues that could not be certified. (*Ibid*).

There are also substantial risks associated with Plaintiffs' waiting time penalties and wage statement claims. (*Id.*, ¶ 37). First, these claims were derivative of Plaintiffs' claims for unpaid meal period premiums, unpaid rest period premiums, unpaid minimum wages, and unpaid overtime wages, and if certification was denied on those underlying claims, these derivative claims for penalties would also likely fail. (*Ibid*). Further, even if Plaintiffs prevailed on their underlying claims, they would still

1 be required to demonstrate that Defendant's violations of California Labor Code section 203 were *willful*
2 violations. (Kianfard Decl., ¶ 37; *See, e.g., Choate v. Celite Corp.*, 215 Cal App. 4th 1460, 1468 (2013)
3 (holding that "an employer's reasonable, good faith belief that wages are not owed may negate a finding
4 of willfulness")). Wage statement claims have also seen varying treatment at the appellate level because
5 such claims have an element of discretion attached to them rather than a pure calculation of damages after
6 liability is proven. (Kianfard Decl. ¶ 37; *Jaimez v. DAIOWS USA, Inc.*, 181 Cal.App.4th 1286 (2010)
7 *with Price v. Starbucks Corp.*, 192 Cal.App.4th 1136 (2011)). Accordingly, these derivative claims,
8 which comprised a substantial portion of Defendant's estimated liability, were therefore uncertain.
9 (Kianfard Decl., ¶ 37).

10 Class Counsel also recognized that, even if Plaintiffs prevailed at class certification, proving the
11 amount of wages due to Class Members would be an expensive, time-consuming, and uncertain
12 proposition. (*Id.*, ¶ 38). In order to prove liability and damages, Class Counsel will need to request and
13 analyze thousands of pages of documents, obtain all of the Class Members' contact information, contact
14 additional Class Members, and obtain their declarations at great expense. (*Ibid.*). Obtaining the
15 cooperation of current employees would also be difficult, given the likely reluctance to aid prosecution
16 of a lawsuit against a current employer. (*Ibid.*). On the other hand, Defendant would likely be able to
17 obtain the cooperation of its employees. (*Ibid.*). Moreover, even if Plaintiffs prevailed at class
18 certification and trial, possible appeals would substantially delay any recovery by the Class. (*Ibid.*).

19 Class Counsel also contemplated the risks of proceeding with the PAGA claims and potential
20 liability Defendant could face from these claims as part of the global resolution. (*Id.*, ¶ 39). Existing
21 case law makes PAGA claims subject to the same defenses and risks as Plaintiffs' underlying wage
22 claims. (Kianfard Decl., ¶ 39; *see, Elliot v. Spherion Pac. Work, LLC*, 572 F.Supp.2d 1169, 1181-82
23 (C.D. Cal. 2008) ("Plaintiff's claim under [PAGA] is wholly dependent upon her other claims. Because
24 all of Plaintiff's other claims fail as a matter of law, so does her PAGA claim")). Class Counsel also
25 anticipated that even if successful on the merits at trial, the imposition of cumulative civil penalties based
26 on the alleged wage and hour violations could be considered unjust, arbitrary and oppressive, or
27 confiscatory, and that Defendant would argue that it made a good faith attempt to comply with its legal
28

obligations warranting a reduction in penalties. (Kianfard Decl., ¶ 39).² Class Counsel also anticipated Defendant would argue that the violations per pay period were low, warranting an additional reduction in civil penalties. (Ibid). Finally, Class Counsel was also mindful of the fact that PAGA is fundamentally not intended to be compensatory in nature but is instead intended to facilitate enforcement of California’s labor laws by financing state activities and educating and deterring non-compliance. (Ibid).

Accordingly, after considering this multitude of factors, Plaintiffs and Class Counsel concluded that it was in the best interest of the State of California and the PAGA Group Members to enter into the Settlement, and to allocate Seventy Thousand Dollars and Zero Cents (\$70,000.00) of the Gross Settlement Amount towards the PAGA claims, which represents approximately 5.21% of the Gross Settlement Amount. (*Id.*, ¶ 40). This percentage of the settlement is well within the range of wage and hour settlements regularly approved in both state and federal court for cases that include both a class and PAGA action. (Ibid). Typically, such hybrid cases allocate only 1% of the gross settlement value to resolve PAGA claims, and, indeed, settlement allocations as little as 0.22% of the gross settlement amount have been approved as reasonable by courts. (Ibid). Moreover, the overall relief obtained by the Settlement is significant, not only from a monetary perspective, but also because it fulfills the public policy objectives of PAGA—to promote enforcement of California’s labor laws, provide funds to the state, and deter future non-compliance by the employer. (Ibid).

Therefore, taking into account how each of the above risks potentially effected Plaintiffs’ ability to first obtain class certification, and then prove the underlying violations, the Court’s broad discretion in civil penalties, plus the cost and delay in recovering the alleged potential damages, Class Counsel discounted Defendant’s estimated liability based on the challenges facing their ability to succeed on class certification by 70% to \$4,461,625. (*Id.*, ¶ 41). The merits-based risk factors further reduced Defendant’s

² See, e.g., *Thurman v. Bayshore Transit Management, Inc.*, 203 Cal.App.4th 1112, 1131 (2012) (imposition of both statutory and civil penalties for same conduct is impermissible double recovery) (disapproved on other grounds); *Aguirre v. Genesis Logistics*, 2013 WL 10936035, at *3 (C.D. Cal. 2013) (“duplicative effect” of penalties is a factor in favor of “reducing ...the PAGA penalty”); *Smith v. Lux Retail North America, Inc.*, 2013 WL 2932243, at *3 (N.D. Cal. June 13, 2013) (declining to stack penalties based on the same conduct); *Castillo v. ADT, LLC*, 2017 WL 363108, at *4 (E.D. Cal. Jan. 25, 2017); *Sanchez v. McDonalds Restaurants of California, Inc.*, 2017 WL 4620746 (LA Super. Ct. July 6, 2017) (declining to stack penalties arising out of the same conduct); *Fleming v. Covidien, Inc.*, 2011 WL 756304718, at *4 (C.D. Cal. Aug. 12, 2011) (reducing PAGA penalties by 80%); *Cotter v. Lyft, Inc.*, 193 F.Supp.3d 1030 (N.D. Cal. 2016) (indicating that a substantial reduction is warranted where good faith dispute exists in legal obligations); *Carrington v. Starbucks Corp.*, 30 Cal.App.5th 504, 529 (2018) (approving reduction in penalties from \$50 per pay period to \$5 per pay period based on good faith attempts to comply with obligations and minimal violations).

1 estimated liability by an additional 65%. (Ibid). This resulted in an adjusted estimated liability of
2 \$1,561,569. (Ibid). In light thereof, the settlement amount of \$1,342,524.50 is a significant settlement.
3 (Ibid).

4 Class Counsel therefore submits that the Settlement is in the best interest of the Class Members,
5 the PAGA Group Members, and the State of California and is within the accepted range of recoveries for
6 this type of litigation given the inherent risk of litigation, the risk of obtaining and maintaining class
7 certification, and the costs of further litigation. (*Id.*, ¶ 42).

8 VI. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED

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

17 A. An Ascertainable Class Exists Which is So Numerous That Joinder of All Members is 18 Impracticable

19 Whether an ascertainable class exists turns on three factors: (1) the class definition, (2) the size of
20 the class, and (3) the means of identifying the class members. (*See Miller v. Woods*, 148 Cal.App.3d 862,
21 873 (1983)). In this case, all three considerations strongly favor class certification. Here, the Class is
22 defined as "all current and former hourly, non-exempt employees who worked for Defendant in California
23 at any time during the Class Period." (Kianfard Decl., ¶ 18; Settlement Agreement, ¶ 1.9). This provides
24 a clear and definite scope for the proposed class.

25 Next, the Class is sufficiently numerous. There is no magic number that satisfies the numerosity
26 requirement. Courts have certified classes with as few as ten or twenty-eight class members. (*Rose v.*
27 *City of Hayward*, 126 Cal.App.3d 926, 934 (1981); *Bowles v. Superior Court*, 44 Cal. 2d 574 (1995);
28 *Hebbard v. Colgrove*, 28 Cal.App.3d 1017, 1030 (1972)). Here, the estimated Class size of seven hundred

1 and seventy-one (771) (as of February 23, 2026) individuals meets the numerosity requirement.

2 Finally, the question of whether class members are easily identifiable turns on whether a plaintiff
3 can establish “the existence of an ascertainable class.” (*Daar v. Yellow Cab Co.*, 67 Cal.2d 695 at 706
4 (1967)). The existence of an ascertainable class in this case can be established through Defendant’s
5 payroll records, and the Class definition is sufficiently specific to enable the Parties, Class Members, and
6 the Court to determine the parameters of the Class. (*See Clothesrigger, Inc. v. GTE Corp.*, 191
7 Cal.App.3d 605, 617 (1987)).

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

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

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

20 Here, Plaintiffs’ claims present common issues of law and fact that predominate and warrant class
21 certification. Plaintiffs allege that Defendant denied compliant meal and rest periods to employees,
22 required employees to perform work off-the-clock, and failed to fully compensate employees for all time
23 actually worked. These policies and practices meant that Defendant allegedly failed to pay minimum and
24 overtime wages, and other related claims. Plaintiffs allege that Defendant’s policies and practices were
25 uniform as to all Class Members. Thus, class treatment is appropriate.

26 To satisfy the typicality requirement, California law does not require that plaintiffs’ claims be
27 identical to the other class members. Rather, the test of typicality for a class representative is whether
28 other members have the same or similar injury, whether the action is based on conduct which is not

1 unique to the named plaintiff, and whether other class members have been injured by the same course of
2 conduct. (*See Seastrom v. Neways, Inc.*, 149 Cal.App.4th 1496, 1502 (2007)). The typicality requirement
3 for a class representative refers to the nature of the claim or defense of the representative, and not to the
4 specific facts from which it arose or the relief sought. (*See Ibid*).

5 Here, Plaintiffs allege that their claims are similar to that of the other Class Members and that
6 Plaintiffs' claims arise out of the same alleged course of conduct giving rise to the claims of the other
7 Class Members. Because Plaintiffs' claims are based upon the same alleged conduct and business
8 practices as those of Class Members, the typicality requirement have been satisfied.

9 Finally, the question of adequacy of representation "depends on whether the plaintiff's attorney
10 is qualified to conduct the proposed litigation and the plaintiff's interests are not antagonistic to the
11 interests of the class." (*McGee v. Bank of America*, 60 Cal.App.3d 442, 450 (1976)). Here, these
12 considerations are satisfied. Class Counsel is well-regarded and is qualified and experienced in
13 employment-related, class-action litigation. (Kianfard Decl., ¶¶ 1-8). Plaintiffs will vigorously,
14 adequately, and fairly represent the interests of the Class. Plaintiffs have, at all times, throughout the
15 course of the litigation considered the interests of the Class and understood that they must take steps to
16 adequately represent the Class and their interests. (Benitez Decl., ¶ 10; Ellis Decl., ¶ 10). Because
17 Plaintiffs' claims are typical of other Class Members and are not based on unique circumstances, there is
18 no antagonism between the interests of Plaintiffs and the Class.

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

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

28 ///

1 **VII. THE REQUESTED CLASS REPRESENTATIVE SERVICE PAYMENTS ARE**
2 **REASONABLE**

3 Plaintiffs in class action lawsuits are eligible for reasonable incentive payments as compensation
4 “for the expense or risk they have incurred in conferring a benefit on other members of the class.” (*Munoz*
5 *v. BCI Coca-Cola Bottling Co.*, 186 Cal.App.4th 399, 412 (2010)). Courts routinely grant approval of
6 class action settlement agreements containing enhancements for the class representative, which are
7 necessary to provide incentive to represent the class and are appropriate given the benefit the class
8 representatives help to bring about for the class. (*See In re Online DVD Rental*, 779 F.3d 934, 947-948
9 (9th Cir. 2014) (approving incentive award 417 times larger than individual payments where incentive
10 award made up a mere .17% of the settlement); *Gaudin v. Saxon Mortgage Servs., Inc.*, 2015 WL
11 7454183, at *10 (N.D. Cal. Nov. 23, 2015) (finding service award of \$15,000 to be “fair and
12 reasonable”)).

13 Plaintiffs initiated this litigation on behalf of their former co-workers who will now be entitled to
14 receive payment from the Settlement. Plaintiffs invested substantial time and effort into litigation,
15 including their own research, reviewing documents, and extensive discussions with Class Counsel.
16 (Benitez Decl., ¶¶ 3-5; Ellis Decl., ¶¶ 3-5). Further, the requested amounts for Plaintiffs are also
17 reasonable given the average award and the benefit gained by other Class Members. For these reasons,
18 Plaintiffs request that Class Representative Service Payments of Ten Thousand Dollars and Zero Cents
19 (\$10,000.00) each to Plaintiffs (total, \$20,000.00) be preliminarily approved by the Court. (Kianfard
20 Decl., ¶ 43; Benitez Decl., ¶ 12; Ellis Decl., ¶ 12).

21 **VIII. THE REQUESTED ATTORNEYS’ FEES AND COSTS ARE REASONABLE**

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

28 ///

1 Here, the requested attorneys' fees of thirty-five percent (35%) of the Gross Settlement Amount
2 (i.e., \$469,883.57 if the Gross Settlement Amount is \$1,342,524.50) is disclosed to Class Members in the
3 proposed Class and PAGA Notice. (Settlement Agreement, Exh. A). The requested fee was freely
4 negotiated, is common in the legal marketplace, and is not opposed by Defendant. The Motion for Final
5 Approval will elaborate on the nature of the legal services provided and will also support Class Counsel's
6 request for the reimbursement of litigation costs and expenses not to exceed Thirty-Five Thousand
7 Dollars and Zero Cents (\$35,000.00). (Kianfard Decl., ¶¶ 46 and 48). The Attorneys' Fees and Costs
8 that are not ultimately approved by the Court shall instead be included in the Net Settlement Amount to
9 be distributed to Participating Class Members. (Settlement Agreement, ¶ 3.2.2).

10 **IX. THE CLASS AND PAGA NOTICE AND THE OPT-OUT AND OBJECTION**
11 **PROCESS MEETS DUE PROCESS REQUIREMENTS**

12 The Parties have jointly drafted the Class and PAGA Notice, Request for Exclusion Form, Dispute
13 Form, and Objection Form (collectively, the "Notice Packet") which will be mailed to the Class Members.
14 (*Id.*, Exh. A-D). The Class and PAGA Notice will include information regarding the nature of the Action,
15 a summary of the terms of the Settlement, the Class definition, information on how to object to and/or
16 opt-out of the Class Settlement and to dispute Workweeks and/or PAGA Pay Periods, and the date of the
17 Final Approval Hearing. (*Ibid.*). The Class and PAGA Notice will list each Class Member's total
18 Workweeks and their estimated Individual Class Payment and each PAGA Group Members's total PAGA
19 Pay Periods and their estimated Individual PAGA Payment. (*Ibid.*).

20 After obtaining competing bids from multiple potential settlement administrators, which included
21 CPT Group, Inc. (\$13,500.00), ILYM Group, Inc. (\$11,950.00), and Apex Class Action LLC
22 (\$11,190.00), the Parties agreed to use Apex Class Action LLC ("Administrator"). (Kianfard Decl., ¶
23 50; Settlement Agreement, ¶¶ 1.4 and 7.1).

24 Within fifteen (15) calendar days after the Court grants preliminary approval, Defendant will
25 provide a list in a formatted readable Microsoft Office Excel spreadsheet to the Administrator containing
26 the following information for each Class Member: full name; last known mailing address; Social Security
27 number; and number of Workweeks and PAGA Pay Periods (collectively referred to as the "Class Data").
28 (*Id.*, ¶¶ 1.8 and 7.4.1). Within fourteen (14) calendar days after receiving the Class Data from Defendant,

1 the Administrator will perform a search based on the National Change of Address Database or other
2 similar services available, for information to update and correct for any known or identifiable address
3 changes, and will mail a Notice Packet in English and Spanish to all Class Members and PAGA Group
4 Members via First-Class U.S. Mail, using the most current, known mailing addresses identified by the
5 Administrator. (*Id.*, ¶ 7.4.2).

6 In determining whether to approve a settlement of a class action, a trial court has virtually
7 complete discretion as to the manner of giving notice to class members, and review on appeal is governed
8 by the abuse of discretion standard. (*See In re Cellphone Fee Termination Cases*, 186 Cal.App.4th 1380
9 (2010)). Here, Class Counsel is not aware of an alternative method of providing notice to the Class which
10 would result in a higher likelihood of actual notice. (Kianfard Decl., ¶ 51). The original source of the
11 mailing addresses is from Class Members, who provided the information to Defendant. (*Ibid.*).

12 Class Members will have sixty (60) calendar days from the initial mailing of the Notice Packet
13 by the Administrator to submit a request for exclusion, written objection, and/or challenges to Workweeks
14 and PAGA Pay Periods (“Response Deadline”). (Settlement Agreement, ¶ 7.5.1).

15 No later than three (3) business days after the Administrator’s receipt of any Notice Packet
16 returned by the USPS as undeliverable, the Administrator shall re-mail the Notice Packet using any
17 forwarding address provided by the USPS. (*Id.*, ¶ 7.4.3). If the USPS does not provide a forwarding
18 address, the Administrator will promptly attempt to determine a correct address using the National
19 Change of Address database, skip-trace, or direct contact with the Class Members or PAGA Group
20 Members, and re-mail the Notice Packet to the most current address obtained. (*Ibid.*). In the event that a
21 Notice Packet is re-mailed to a Class Member, the Response Deadline for that Class Member shall be
22 extended fourteen (14) calendar days from the original Response Deadline. (*Id.*, ¶ 1.45).

23 Class Members will have an opportunity to challenge the number of Workweeks and/or PAGA
24 Pay Periods to which they have been credited, as reflected in their respective Notice Packets, by
25 communicating with the Administrator via fax, email, or mail by a letter or the Dispute Form by the
26 Response Deadline. (*Id.*, ¶ 7.6).

27 ///

28 ///

1 Class Members who wish to exclude themselves (opt-out of) the Class portion of the Settlement
2 must send the Administrator, by fax, email, or mail, a signed written letter or Request for Exclusion Form
3 by the Response Deadline. (*Id.*, ¶ 7.5.1). Because future PAGA claims are subject to claim preclusion
4 upon entry of the Judgment, Non-Participating Class Members who are PAGA Group Members are
5 deemed to release the Released PAGA Claims and are eligible for an Individual PAGA Payment. (*Id.*, ¶
6 7.5.4).

7 Only Participating Class Members may object to the class action components of the Settlement
8 by sending written objections by letter or by the Objection Form to the Administrator, by fax, email, or
9 mail by the Response Deadline. (*Id.*, ¶ 7.7.2). Participating Class Members, individually or through
10 counsel, may also present their objection orally at the Final Approval Hearing, regardless of whether they
11 have submitted a written objection. (*Id.*, ¶ 7.7.2).

12 X. CONCLUSION

13 For all of the foregoing reasons, Plaintiffs respectfully request that this Court grant Plaintiffs'
14 Motion for Preliminary Approval of Class Action and PAGA Settlement and the relief requested herein.

15 Respectfully submitted,

16 Dated: September 30, 2026

BLACKSTONE LAW, APC

17 By: /s/ Jasmine Y. Kianfard
18 Jasmine Y. Kianfard
19 Attorneys for Plaintiffs Oscar Benitez and
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