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

LEONARD KEITH JR. ALFONSO,
individually, and on behalf of all others similarly
situated,

Plaintiff,

vs.

SCP PROPERTY MANAGEMENT, LLC, a
limited liability company; and DOES 1 through
10, inclusive,

Defendants.

Case No. CGC-25-624023

CLASS AND REPRESENTATIVE ACTION

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

*[Filed with the Declaration of Kane Moon,
the Declaration of Plaintiff Alfonso, the
Declaration of Sean Hartranft, and
[Proposed] Preliminary Approval Order]*

PRELIMINARY APPROVAL HEARING

Date: September 23, 2026

Time: 9:00 a.m.

Dept. 301

Judge: Hon. Christine Van Aken

Action Filed: April 4, 2025

FAC Filed: June 25, 2025

Trial Date: Not Set

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Leonard Keith Jr. Alfonso (“Plaintiff”) seeks preliminary approval of a proposed \$200,000.00 non-reversionary, non-claims-made wage-and-hour class and PAGA settlement with Defendant SCP Property Management, LLC (“Defendant”) (Plaintiff and Defendant, collectively, the “Parties”). The Settlement will provide substantial monetary payments to approximately 54 Class Members. As set forth more fully below, the proposed Settlement satisfies all the criteria for settlement approval under California law. The Settlement was reached after substantial investigation, informal discovery, expert analysis of Defendant’s timekeeping and payroll records, and arm’s-length negotiations. The negotiations were facilitated by experienced wage-and-hour mediator Hon. Carl West (Ret.) during a mediation session conducted on April 20, 2026. Accordingly, Plaintiff requests that the Court preliminarily approve the proposed Settlement, certify the proposed settlement Class, approve the proposed Class Notice, and set a Final Approval Hearing.

II. SUMMARY OF THE LITIGATION AND SETTLEMENT

A. Plaintiff’s Claims

Defendant is a Delaware limited liability company that provides property management services for multifamily properties in California and the Pacific Northwest. (Declaration of Kane Moon in Support of Preliminary Approval [“Moon Decl.”], ¶ 3.) Plaintiff worked for Defendant in a non-exempt, hourly-paid position from approximately September 2022 through March 2025. (Declaration of Plaintiff Leonard Keith Jr. Alfonso in Support of Approval of Class and Representative Action Settlement [“Plaintiff Decl.”], ¶ 2.) Plaintiff was classified as non-exempt during the entirety of his employment and was allegedly subjected to the same unlawful labor practices as his coworkers. (Moon Decl., ¶ 3.)

Plaintiff’s claim for unpaid wages stems from Defendant’s alleged failure to compensate employees for on-call, standby, and off-the-clock work, and Defendant’s alleged failure to incorporate all remuneration for purposes of calculating the regular rate of pay. (*Id.*) Moreover, Plaintiff alleges that Defendant systematically failed to provide meal periods and rest breaks.

1 (*Id.*) In addition to the foregoing claims, Plaintiff brings claims for reimbursement of necessary
2 business expenses, and derivative claims against Defendant for waiting time penalties, wage
3 statement violations, unfair business practices, and civil penalties under the California Private
4 Attorneys General Act, Labor Code sections 2698, et seq. (“PAGA”). (*Id.*)

5 Because of Defendant’s alleged violations of various provisions of the Labor Code,
6 Plaintiff commenced this Action on April 4, 2025, by filing a Class Action Complaint alleging
7 that Defendant systematically: (1) failed to pay minimum wages, (2) failed to pay overtime
8 compensation, (3) failed to provide meal periods, (4) failed to authorize and permit rest breaks,
9 (5) failed to indemnify necessary business expenses, (6) failed to timely pay final wages at
10 termination, (7) failed to provide accurate itemized wage statements, and (8) engaged in unfair
11 business practices. (*Id.* at ¶ 5.) On June 25, 2025, Plaintiff filed a First Amended Class Action
12 and Representative Action Complaint against Defendant, adding a cause of action for civil
13 penalties under PAGA (the “Operative Complaint”). (*Id.*)

14 Defendant ardently opposes the merits of this case and denies Plaintiff’s factual
15 allegations. (*Id.* at ¶ 6.) Defendant contends, among other things, that Plaintiff and the putative
16 Class Members were paid for all hours worked, including any on-call or off-the-clock work.
17 (*Id.*) Defendant further contends that it did not fail to incorporate any additional remuneration
18 into the regular rate of pay because the bonuses at issue were discretionary. (*Id.*) Moreover,
19 Defendant argues that it satisfied its meal and rest period obligations, provided employees with
20 the opportunity to take all meal and rest periods to which they were entitled, and paid any
21 premiums owed for noncompliant meal or rest periods. (*Id.*) Defendant also contends that it
22 reimbursed its employees for all necessary and reasonable business expenses incurred. (*Id.*)
23 Furthermore, to the extent Plaintiff received wage statements that were allegedly inaccurate,
24 Defendant asserts that the wage statements were legally compliant and that Plaintiff suffered no
25 actual damage or harm as a result. (*Id.*; see, e.g., *Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb.
26 19, 2013) No. C 12-05860 CRB, 2013 WL 622032, at *10 [“A plaintiff must adequately plead
27 an injury arising from an employer’s failure to provide full and accurate wage statements, and
28 the omission of the required information alone is not sufficient.”].)

1 With respect to Plaintiff's claim for waiting time penalties, Defendant alleges that its
2 good-faith belief that it paid all wages precluded the imposition of waiting time penalties since
3 Plaintiff could not prove that Defendant's alleged failure to pay all final wages at the time of
4 separation was "willful." (Moon Decl., ¶ 7; *see, e.g., Pedroza v. PetSmart, Inc.* (C.D. Cal. June
5 14, 2012) No. ED CV 11-298 GHK (DTBx), 2012 WL 9506073, *5.) For these reasons,
6 Defendant claims it did not engage in any unfair business practices and denies liability under
7 PAGA. (Moon Decl., ¶ 7.) Finally, Defendant disputes the certifiability of the class, due to the
8 individualized and testimony-intensive nature of the wage claims that could bar class
9 certification or significantly reduce Defendant's overall liability. (*Id.*)

10 **B. Discovery and Investigation**

11 Following the filing of Plaintiff's complaints, the Parties met and conferred regarding an
12 agreement to mediate the claims. (*Id.* at ¶ 8.) Thereafter, the Parties agreed to a protocol for
13 exchanging documents and information before the mediation. (*Id.*) Plaintiff obtained from
14 Defendant, through informal but extensive discovery, information sufficient to meaningfully
15 evaluate the claims at issue in the action, including applicable written policies, the employee
16 handbook in effect during the Class Period, Plaintiff's complete personnel file, a sample of time
17 and corresponding payroll records for Class Members, and information regarding the estimated
18 number of current and former Class Members, Workweeks, Aggrieved Employees, PAGA Pay
19 Periods, and average hourly pay. (*Id.*)

20 In preparation for mediation, Class Counsel reviewed and analyzed all the information
21 Defendant provided, including the sample time/pay records and documents regarding Defendant's
22 wage and hour policies. (*Id.* at ¶ 9.) Class Counsel retained a statistics expert to analyze the sample
23 records and prepare a damage analysis prior to mediation. (*Id.*) The sample of time and pay records
24 contained the records of 13,812 shifts worked during the Class Period (representing approximately
25 65% of the estimated class wide shifts), which allowed Plaintiff's expert to prepare an analysis
26 with a high degree of certainty. (*Id.*) In conjunction with their extensive factual investigation, Class
27 Counsel also investigated the applicable law regarding the claims and defenses asserted in the
28 litigation. (*Id.*) Accordingly, Class Counsel were able to evaluate the probability of class

1 certification, success on the merits, and Defendant’s maximum and realistic monetary exposure for
2 all claims. (*Id.*) Thus, Plaintiff’s and his counsel’s familiarity with the facts of the case and the
3 legal issues raised by the pleadings allowed them to act intelligently in negotiating the Settlement.
4 (*Id.*)

5 After a reasonable inquiry, Class Counsel is not aware of any individual, representative, or
6 class action in this or any other jurisdiction asserting claims similar to those asserted in this Action
7 on behalf of a class or group of individuals who would also be members of the putative Class.
8 Accordingly, Class Counsel is not aware of any case, claims, or class definition that would overlap
9 with the putative Class, as defined in this matter, or otherwise be extinguished or adversely affected
10 by approval of the Settlement. (*Id.* at ¶ 10.)

11 C. Settlement Negotiations

12 On April 20, 2026, the Parties participated in a full-day mediation with Hon. Carl West
13 (Ret.), a professional and neutral class and PAGA action mediator. (Moon Decl., ¶ 11.) The
14 settlement negotiations were at arm’s length and, although conducted in a professional manner,
15 were adversarial. (*Id.*) The Parties entered the mediation willing to explore a potential resolution
16 of the dispute, but each side was also prepared to litigate its position through trial and appeal if
17 a settlement was not reached. (*Id.*) After extensive discussions regarding the merits and
18 certifiability of Plaintiff’s claims and Defendant’s defenses, the Parties reached a settlement,
19 the material terms of which are encompassed within the Joint Stipulation of Class and
20 Representative Action Settlement Agreement, including the Class Notice attached thereto.
21 (Moon Decl., ¶ 3, Ex. 1 [“Settlement” or “Settlement Agreement”].)

22 Class Counsel have conducted a thorough investigation into the facts of this case. (*Id.*
23 at ¶ 20.) Based on the foregoing discovery and their own independent investigation and
24 evaluation, Class Counsel is of the opinion that the Settlement is fair, reasonable, and adequate.
25 (*Id.*) Furthermore, in light of all known facts and circumstances, the risk of significant delay,
26 trial risk, appellate risk, the defenses that could be asserted by Defendant both to certification
27 and on the merits, the settlement is in the best interests of the Class Members. (*Id.*) **Indeed, the**
28 **\$200,000.00 Settlement represents approximately 12.3% of Plaintiff’s *maximum* potential**

1 recovery estimated to be \$1,625,103.59 and approximately 61.5% of Plaintiff's *realistic*
2 recovery estimated to be \$325,020.72. (Moon Decl., ¶¶ 28, 30.)

3 **D. Key Terms of the Proposed Settlement**

4 Under the Settlement, Defendant will pay a non-reversionary, Gross Settlement Amount
5 of \$200,000.00 and any employer payroll taxes owed, to resolve this litigation. (Settlement, ¶
6 3.1.) The Settlement's key terms include:

7 1. Class and Class Period: The proposed Class for purposes of the Settlement contains
8 approximately 54 members and is defined as all current and former hourly-paid, non-exempt
9 employees of Defendant who worked for Defendant in California at any time during the Class
10 Period. (Settlement, ¶ 1.5; Moon Decl., ¶ 21.) "Class Period" means the period from April 4, 2021,
11 through June 19, 2026. (Settlement, ¶ 1.12.)

12 2. Workweek: means any workweek during which a Class Member worked for Defendant
13 in California at least one day during the Class Period. (*Id.* at ¶ 1.44.)

14 3. Plaintiff's General Release. Plaintiff will release any and all known and unknown claims
15 that Plaintiff has or may have against the Released Parties as of the date Plaintiff executes the separate
16 general release, including, without limitation, any and all claims related to or arising from Plaintiff's
17 employment or separation of employment with Defendant whether sounding in tort, contract, statute,
18 or otherwise, including but not limited to claims under the Fair Employment and Housing Act, the
19 California Equal Pay Act, Title VII of the Civil Rights Act, the Americans with Disabilities Act, and
20 any other state or federal law ("Plaintiff's General Release"). (*Id.* at ¶ 5.1.) Notwithstanding the
21 foregoing, Plaintiff's General Release excludes any claims or actions to enforce the Settlement, any
22 claims for vested benefits, unemployment benefits, disability benefits, social security benefits or
23 workers' compensation benefits that arose at any time, and any claims that are not releasable as a
24 matter of law or public policy. The payment to Plaintiff of his court-approved Class Representative
25 Enhancement Award is contingent upon execution of this individual general release. (*Id.*)

26 For purposes of Plaintiff's General Release, Plaintiff expressly waives and relinquishes the
27 provisions, rights, and benefits, if any, of California Civil Code section 1542, which reads:

28 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR

1 OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
2 FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY
3 HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER
4 SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY. (*Id.* at ¶ 5.1.1.)

5 4. Release Class Claims: All Participating Class Members, on behalf of themselves and
6 their respective former and present representatives, agents, attorneys, heirs, administrators,
7 successors, and assigns, release the Released Parties from all claims that were alleged in Plaintiff’s
8 First Amended Class Action and Representative Action Complaint, or that reasonably could have
9 been alleged based solely on the facts asserted therein, including but not limited to: (1) failure to
10 pay minimum wages; (2) failure to pay overtime compensation; (3) failure to provide meal periods;
11 (4) failure to authorize and permit rest breaks; (5) failure to timely pay final wages at termination;
12 (6) failure to provide accurate itemized wage statements; (7) failure to indemnify necessary
13 business expenses; and (8) unfair business practices and any other claims arising out of or related
14 to the Operative Complaint during the Class Period (collectively, the “Released Class Claims”).
15 (*Id.* at ¶ 5.2.) The Released Class Claims exclude any claims for vested benefits, unemployment
16 benefits, disability benefits, social security benefits or workers’ compensation benefits that arose
17 at any time, any claims that are not releasable as a matter of law or public policy, and any claims
18 arising outside the Class Period. (*Id.*)

19 5. Release PAGA Claims: Plaintiff, the LWDA, and all Aggrieved Employees are deemed
20 to release, on behalf of themselves and their respective former and present representatives, agents,
21 attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for
22 PAGA penalties which were alleged, or reasonably could have been alleged, in Plaintiff’s PAGA
23 Notice to the LWDA filed on or about April 3, 2025, and in Plaintiff’s First Amended Class Action
24 and Representative Action Complaint, based on the specific Labor Code provisions identified in
25 the operative PAGA Notice, for the duration of the PAGA Period (the “Released PAGA Claims”).
26 (*Id.* at ¶ 5.3.) The Released PAGA Claims include only claims for penalties under PAGA that arose
27 during the PAGA Period. (*Id.*)
28

1 6. Date Releases Become Effective. The released claims described in Paragraphs 5.1
2 through 5.3 of the Settlement shall become effective upon the Effective Date and Defendant's full
3 funding of the Gross Settlement Amount and its employer-share of payroll taxes. (*Id.* at ¶ 5.4.)

4 7. PAGA Penalties: means the total amount of \$20,000.00 in PAGA civil penalties to be
5 paid from the Gross Settlement Amount, allocated 35% (\$7,000.00) to the Aggrieved Employees
6 and 65% (\$13,000.00) to the LWDA in settlement of the Released PAGA Claims. (Settlement, ¶
7 1.34.) The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount
8 of the Aggrieved Employees' 35% share of the PAGA Penalties (\$7,000.00) by the total number
9 of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b)
10 multiplying the result by the number of PAGA Pay Periods worked by each individual Aggrieved
11 Employee. (*Id.* at ¶ 3.2.5.1.) Class Counsel submitted the proposed Settlement to the LWDA and
12 received an email confirming the submission. (Moon Decl., ¶ 12, Ex. 2.)

13 8. Net Settlement Amount: means the Gross Settlement Amount, less the following
14 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
15 Payment, the Class Representative Enhancement Award, the Class Counsel Fees Payment, the
16 Class Counsel Litigation Costs Payment, and the Administration Expenses Payment. (Settlement,
17 ¶ 1.27.) The remainder is to be paid to Participating Class Members through Individual Class
18 Payments. (*Id.*)

19 9. Individual Class Payment: means a Participating Class Member's pro rata share of the
20 Net Settlement Amount, as calculated by the Administrator according to the number of Workweeks
21 worked by Participating Class Members during the Class Period. (*Id.* at ¶ 1.22.)

22 10. Unclaimed Funds: The face of each Individual Class Payment and/or Individual PAGA
23 Payment check shall prominently state the date, not less than 180 days after the date of mailing, when
24 the check will be voided. (*Id.* at ¶ 4.4.1.) Before mailing any checks, the Administrator must update
25 the recipients' mailing addresses using the National Change of Address Database. (*Id.*) For any Class
26 Member whose Individual Class Payment and/or Individual PAGA Payment remains uncashed after
27 the void date, the Administrator shall cancel the check and transmit the funds represented by the
28 check in accordance with the requirements of Code of Civil Procedure section 384. (*Id.* at ¶ 4.4.3.)

1 A Participating Class Member's and/or Aggrieved Employee's failure to negotiate or receive the
2 check shall not affect the binding effect of the Settlement or the releases contained therein. (*Id.*)

3 11. Tax Treatment: Twenty percent (20%) of each Participating Class Member's Individual
4 Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). (*Id.* at ¶
5 3.2.4.1.) The Wage Portion will be subject to tax withholding and reported on IRS W-2 Forms by
6 the Administrator. (*Id.*) The remaining eighty percent (80%) of each Participating Class Member's
7 Individual Class Payment will be allocated to settlement of claims for interest and penalties (the
8 "Non-Wage Portion"). (*Id.*) The Non-Wage Portion will not be subject to withholding and will be
9 reported on IRS 1099 Forms by the Administrator. (*Id.*) Individual PAGA Payments will be treated
10 as 100% penalties for tax purposes, will not be subject to withholding, and will be reported on IRS
11 1099 Forms by the Administrator. (*Id.* at ¶ 3.2.5.1.)

12 12. Attorneys' Fees and Costs: The Settlement Agreement provides for a Class Counsel
13 Fees Payment of not more than one-third of the Gross Settlement Amount, currently estimated to
14 be \$66,666.67, for Class Counsel's attorneys' fees, plus a Class Counsel Litigation Costs Payment
15 in the amount of actual reasonable litigation costs incurred to prosecute the Action, not to exceed
16 \$25,000.00. (*Id.* at ¶ 3.2.2.) If the Court approves payments less than the amounts requested, the
17 Administrator shall allocate the remainder to the Net Settlement Amount. (*Id.*) At this time, Class
18 Counsel's costs total \$18,135.35. (Moon Decl., ¶ 15, Ex. 4.)

19 13. Class Representative Enhancement Award: The Settlement Agreement includes a Class
20 Representative Enhancement Award to Plaintiff in an amount of not more than \$7,500.00 from the
21 Gross Settlement Amount, subject to the Court's approval, in addition to the Individual Class and
22 PAGA Payments that Plaintiff is eligible to receive. (Settlement, ¶ 3.2.1.) This award is in
23 exchange for a general release of all known and unknown claims and in recognition of Plaintiff
24 having initiated the Action, provided services in support thereof, and incurred risks inherent in the
25 role of named Plaintiff. (*Id.* at ¶ 1.14; Moon Decl., ¶ 16.)

26 14. Notice of Proposed Settlement: The Class Notice sets forth, in plain terms, a statement
27 of the case, the terms of the Settlement Agreement, the approximate amounts of attorneys' fees,
28 costs, and the enhancement award being sought, and an explanation of how the settlement

1 allocations are calculated. (Settlement, Ex. A.) Using best efforts to perform as soon as possible,
2 and in no event later than fourteen (14) calendar days after receiving the Class Data, the
3 Administrator will send the Class Notice, together with an accurate Spanish translation, to all Class
4 Members identified in the Class Data via first-class USPS mail. (*Id.* at ¶ 7.4.2.) Before mailing the
5 Class Notices, the Administrator shall update Class Member addresses using the National Change
6 of Address database. (*Id.*) Not later than three (3) business days after the Administrator's receipt
7 of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class
8 Notice using any forwarding address provided by the USPS. (*Id.* at ¶ 7.4.3.) If the USPS does not
9 provide a forwarding address, the Administrator shall conduct a Class Member Address Search
10 and re-mail the Class Notice to the most current address obtained. (*Id.*) Settlement administration
11 costs are estimated to be \$5,490.00. (Moon Decl., ¶ 18, Ex. 5.) The Settlement Agreement provides
12 that the Administrator will be paid an Administration Expenses Payment of \$5,490.00 from the
13 Gross Settlement Amount for its fees and expenses in administering the Settlement. (Settlement, ¶
14 3.2.3.) To the extent actual expenses are less and/or the Court approves payment less than the
15 requested amount, the Administrator shall allocate the remainder to the Net Settlement Amount.
16 (*Id.*)

17 15. Response Deadline and Procedure for Challenging Workweeks and/or Pay Periods,
18 Opting Out, or Objecting: Class Members will have forty-five (45) calendar days from the date the
19 Administrator mails the Class Notice to submit any Request for Exclusion, written Objection, or
20 dispute regarding the calculation of Workweeks and/or PAGA Pay Periods. (*Id.* at ¶ 1.42.) Class
21 Members whose initial Class Notice is re-mailed after having been returned as undeliverable will
22 have an additional fourteen (14) calendar days beyond the Response Deadline. (*Id.*; see *id.* at ¶ 7.4.4.)
23 The Class Notice explains the procedure under which a Class Member may challenge the number of
24 Workweeks and/or PAGA Pay Periods stated in the Class Notice. (*Id.* at ¶ 7.6, Ex. A.) The Class
25 Notice also explains how Class Members may request exclusion from the Class portion of the
26 Settlement or submit a written objection to the class action components of the Settlement. (*Id.* at ¶¶
27 7.5, 7.7, Ex. A.) Class Members and Aggrieved Employees cannot request exclusion from the PAGA
28 portion of the Settlement. (*Id.* at ¶ 1.41.) Participating Class Members may also appear, personally

1 or through counsel, to present verbal objections at the Final Approval Hearing, but an objecting party
2 is not required to appear for a written Objection to be considered. (*Id.* at ¶ 7.7.3.)

3 16. Funding: Within seven (7) calendar days after the Effective Date, the Administrator shall
4 provide Defendant with the total amount of Defendant’s employer-share of payroll taxes owed and
5 the wiring and/or mailing instructions. (*Id.* at ¶ 4.3.) Within thirty (30) calendar days after the
6 Effective Date, Defendant shall fund the Gross Settlement Amount and its employer-share of payroll
7 taxes by transmitting the funds into the Qualified Settlement Fund established and maintained by the
8 Administrator. (*Id.*)

9 **III. THE COURT SHOULD GRANT PRELIMINARY APPROVAL**

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

17 In evaluating a settlement, the trial court considers the following factors: 1) the strength of
18 plaintiff’s case; 2) the risk, expense, complexity, and likely duration of further litigation; 3) the
19 risk of maintaining class action status through trial; 4) the amount offered in settlement; 5) the
20 extent of discovery completed and the stage of the proceedings; 6) the experience and views of
21 counsel; 7) the presence of a governmental participant; and 8) the reaction of the class members to
22 the proposed settlement. (*Kullar v. Foot Locker Retail, Inc.*, (2008) 168 Cal.App.4th 116, 128.) In
23 order to approve a class action settlement, the court must satisfy itself that the class settlement
24 is within the “ballpark” of reasonableness. (*Id.* at p. 133.) The record need not contain an
25 explicit statement of the maximum theoretical recovery. (*Munoz v. BCI Coca-Cola Bottling Co.*
26 *of Los Angeles* (2010) 186 Cal.App.4th 399, 408-9 [holding that *Kullar* does not require “an
27 explicit statement of the maximum amount the plaintiff class could recover if it prevailed on all
28

its claims”, but instead, only an “understanding of the amount that is in controversy and the realistic range of outcomes of the litigation.”].)

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

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

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

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

The Settlement was reached following extensive negotiations following an in-person mediation session with experienced employment mediator Hon. Carl West (Ret.). (Moon Decl. ¶ 11.) The settlement negotiations were at arm’s length and, although conducted in a professional manner, were adversarial. (*Id.*) The Parties went into the mediation willing to explore the potential for a settlement of the dispute, but each side was also prepared to litigate their respective positions through trial and appeal if a settlement had not been reached. (*Id.*)

Prior to reaching this Settlement, Class Counsel conducted informal discovery and investigation into the claims alleged by Plaintiff, including, among other things, reviewing and analyzing internal memoranda, policy manuals, and preparing a damage analysis. (Moon Decl., ¶¶ 8-9, 20-21.) Significantly, Class Counsel’s calculations are based on the analysis of a statistics expert retained by Class Counsel to analyze the records produced by Defendant. (*Id.* at ¶¶ 9, 21.) In conjunction with their extensive factual investigation, Class Counsel investigated the applicable

1 law regarding the claims and defenses asserted in the litigation. (*Id.* at ¶¶ 9, 21.) Thus, Plaintiff
2 and his counsel were able to act intelligently and effectively in negotiating the proposed settlement.
3 (*Id.* at ¶ 9.)

4 Class Counsel also have considerable experience and have demonstrated competence with
5 litigating wage and hour class actions. (Moon Decl., ¶¶ 46-65.) Again, this supports that the terms
6 of the Settlement are based on objective evidence that has been considered and weighed against
7 the risks, expenses, and time consumption to both sides of continued litigation of this action.

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

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

17 The settlement obviates the significant risk that this Court may deny certification of all or
18 some of Plaintiff’s claims. (Moon Decl., ¶ 33.) While Plaintiff is confident in the merits of his
19 claims, a legitimate controversy exists as to each cause of action. (*Id.* at ¶ 31.) Plaintiff also
20 recognizes that proving the amount of wages due to each class member would be an expensive,
21 time-consuming, and uncertain proposition. (*Id.*) Furthermore, even if Plaintiff was able to pursue
22 his claims on a class-wide basis and thereafter obtained certification of all or some of the claims,
23 continued litigation would be expensive, involving a trial and possible appeals, and would
24 substantially delay and reduce any recovery by the Class Members. (*Id.* at ¶ 33.)

25 The proposed settlement of \$200,000.00 therefore represents a substantial recovery when
26 compared to Plaintiff’s reasonably forecasted recovery. (*Id.* at ¶ 36.) Because of the proposed
27 Settlement, class members will receive timely, guaranteed relief and will avoid the risk of an
28 unfavorable judgment. (*Id.* at ¶ 30.) When considering the risks of litigation, including the

1 uncertainties involved in achieving class certification, the burdens of proof necessary to establish
2 liability, the probability of appeal of a favorable judgment, it is clear that the settlement amount is
3 within the “ballpark” of reasonableness, and preliminary settlement approval is appropriate. (*Id.* at
4 ¶ 36.)

5 The Net Settlement Amount available for settlement payments is no less than **\$75,343.33**
6 for an estimated Class size of **54 individuals**.¹ (*Id.* at ¶ 35.) As a result, it is estimated that each
7 Participating Class Member is eligible to receive an average benefit of approximately **\$1,395.25**
8 prior to tax withholdings on the wage portion of payments. Considering Class Members’ average
9 hourly rate is \$35.89, the average benefit is approximately **38.9 hours of work**. (*Id.*) Additionally,
10 there are an estimated **47 Aggrieved Employees** who are each expected to receive an average of
11 **\$148.94** from the \$7,000.00 in Individual PAGA Payments, or 35% of the \$20,000.00 allocated to
12 PAGA Penalties, representing a pay period value of approximately **\$5.57** based on the estimated
13 **1,256 PAGA Pay Periods**. (*Id.*) The actual amounts to Participating Class Members and
14 Aggrieved Employees will vary based on each individual’s duration of work during the Class
15 Period or PAGA Period, respectively; thus, those who worked longer for Defendant during the
16 relevant period will receive a benefit greater than the average estimated amount. (*Id.*) The high and
17 low range of payments to Class Members will be calculated by the Administrator following
18 preliminary approval and receipt and processing of the Class Data and will be provided to the Court
19 in a motion for final approval. (*Id.*)

20 3. Class Counsel Have Extensive Experience in Class Action Litigation

21 The settlement negotiations were conducted by highly capable and experienced counsel.
22 Class Counsel have a strong record of vigorous and effective advocacy for their clients and are
23 experienced in handling complex wage and hour class action litigation. (*Id.* at ¶¶ 46-65.) Although
24
25

26 ¹ The Net Settlement Amount is at least \$75,343.33, representing the \$200,000.00 Gross
27 Settlement Amount less the following: up to \$7,500.00 for the Class Representative Enhancement
28 Award, \$5,490.00 for the Administration Expenses Payment, \$20,000.00 for PAGA Penalties, up to
\$66,666.67 for the Class Counsel Fees Payment, and up to \$25,000.00 for the Class Counsel
Litigation Costs Payment. (Settlement, ¶¶ 1.21, 1.27, 3.2.)

1 Plaintiff and his counsel were prepared to litigate the claims alleged in the litigation, they support
2 the proposed Settlement as being in the best interest of the class. (Moon Decl., ¶ 20.)

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

4 The proposed Class Notice, in the form attached to the Settlement as Exhibit A, should be
5 approved for dissemination to the class. The Class Notice informs the class of the terms of the
6 Settlement and of their rights to be excluded from the Settlement. Additionally, if there are Class
7 Members who wish to object to this proposed Settlement, they will have the opportunity to file
8 their objections and be heard at the Final Approval Hearing. Accordingly, the proposed Class
9 Notice meets all the requirements of Rule 3.769(f) of the California Rules of Court.

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

11 The Settlement provides a payment for attorneys' fees of not more than one-third of the
12 \$200,000.00 Gross Settlement Amount, which is currently estimated to be \$66,666.67 and a
13 payment for litigation costs according to proof. (Settlement, ¶ 3.2.2.) These amounts are subject to
14 Court approval. (*Id.*) These amounts will be disclosed to all class members in the proposed Notice
15 and are reasonable.

16 **1. Class Counsel Will Request an Award Of Fees Based On The**
17 **"Common Fund" Method**

18 California courts have long awarded attorneys' fees as a percentage of the benefit created
19 by counsel in pursuing claims on behalf of a class. The California Supreme Court held that "when
20 a number of persons is entitled in common to a specific fund, and an action brought by a plaintiff
21 or plaintiffs for the benefit of all results in the creation or preservation of that fund, such plaintiff
22 or plaintiffs may be awarded attorneys' fees out of the fund." (*Serrano v. Priest* (1977) 20 Cal.3d
23 25, 34, quoting *D'Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1.)

24 Class Counsel seek an award of attorneys' fees on the "percentage of recovery/common
25 fund" theory. (Moon Decl., ¶ 42.) The purpose of this approach is to "spread litigation costs
26 proportionally among all the beneficiaries so that the active beneficiary does not bear the entire
27 burden alone." (*Vincent v. Hughes Air West, Inc.* (1977) 557 F.2d 759, 769.) In *Quinn v. State of*
28 *California* (1995) 15 Cal.3d 162, the California Supreme Court stated: "[O]ne who expends

1 attorneys' fees in winning a suit which creates a fund from which others derive benefits may require
2 those passive beneficiaries to bear a fair share of the litigation costs.” (*Id.* at p. 167.) Similarly,
3 in *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court
4 recognized that the common fund doctrine has been applied “consistently in California when an
5 action brought by one party creates a fund in which other persons are entitled to share.” (*Id.* at p.
6 110.)

7 The California Supreme Court recently affirmed in *Laffitte v. Robert Half Int’l Inc.* (2016)
8 1 Cal.5th 480 that, “when class action litigation establishes a monetary fund for the benefit of the
9 class members, and the trial court in its equitable powers awards class counsel a fee out of that
10 fund, the court may determine the amount of a reasonable fee by choosing an appropriate
11 percentage of the fund created.” (*Id.* at p. 503.) The court explained: “The recognized advantages
12 of the percentage method—including relative ease of calculation, alignment of incentives between
13 counsel and the class, a better approximation of market conditions in a contingency case, and the
14 encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging
15 the litigation—convince us the percentage method is a valuable tool that should not be denied our
16 trial courts.” (*Id.* [internal citations omitted].)

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

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

1 Here, Plaintiff requests attorneys’ fees equal to one-third of the Gross Settlement Amount,
2 which is in line with the prevailing guidelines established in California case law and academic
3 literature and is consistent with awards in California. (*Compare* Settlement, ¶ 3.2.2 with *Chavez v.*
4 *Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11 [“Empirical studies show that, regardless whether
5 the percentage method or the lodestar method is used, fee awards in class actions average around
6 one-third of the recovery.”].) Accordingly, Plaintiff respectfully requests that the Court approve
7 the attorneys’ fees as negotiated by the Parties and requested herein.

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

9 Labor Code §§ 218.5, 226, 1194 and 2699, *et seq.* provide for the recovery of reasonable
10 attorney’s fees, and costs of suit, for the claims made in this action. Under these sections, Plaintiff
11 would be permitted to recover his actual attorneys’ fees, even if those fees were larger than the
12 total class recovery at the conclusion of this case. This Settlement is beneficial in that it limits the
13 risk of continued expenses and consumption of time, energy, and resources facing Defendant while
14 at the same time rewarding Class Counsel for their decision to assume risk by taking on this matter.
15 In fact, prosecution of this action involved significant financial risk for Class Counsel. (Moon
16 Decl., ¶¶ 42, 67.) Class Counsel undertook this matter solely on a contingent basis, with no
17 guarantee of recovery. (*Id.* at ¶¶ 42, 67.) Once Class Counsel undertook this litigation on behalf of
18 the Class, Class Counsel committed to pursue it to its conclusion, placing its fiduciary duty to the
19 Class ahead of all other concerns. (*Id.* at ¶ 43.)

20 **4. The Experience, Reputation and Ability of Class Counsel Support the** 21 **Requested Fee Award**

22 As demonstrated by their past experience in pursuing class actions on behalf of consumers
23 and employees, Class Counsel possess considerable expertise in litigating class actions. (*Id.* at ¶¶
24 46-65.) Class Counsel have been involved as lead counsel or co-counsel in several class actions
25 that resulted in millions in recovery. (Moon Decl., ¶¶ 50, 56, 61, 65.) Because it is reasonable to
26 compensate class counsel commensurate with their skill, reputation and experience, Class
27 Counsel’s requested fee award is supported here.

1 Class Counsel’s experience in wage and hour class actions was integral in evaluating the
2 strengths and weaknesses of the case against Defendant and the reasonableness of the settlement.
3 (Moon Decl., ¶ 51.) Practice in the narrow field of wage and hour litigation requires skill and
4 knowledge concerning the rapidly evolving substantive law (state and federal), as well as the
5 procedural law of class action litigation. (*See id.* at ¶ 66.) Based on these and other factors, Class
6 Counsel have frequently received fee awards of this percentage from the gross recovery for the
7 class. (*Id.* at ¶¶ 50, 56, 61, 65.) Therefore, the requested fee award is reasonable and fair.

8 **D. The Class Representative Enhancement Award Is Reasonable**

9 Named plaintiffs in class action lawsuits “are eligible for reasonable incentive payments to
10 compensate them for the expense or risk they have incurred in conferring a benefit on other
11 members of the class.” (*Munoz, supra*, 86 Cal.App.4th at p. 412.) Courts routinely grant approval
12 of class action settlement agreements containing enhancements for the class representatives, which
13 are necessary to provide incentive to represent the class and are appropriate given the benefit the
14 class representatives help to bring about for the class. (*See Rodriguez v. W. Publ'g Corp.* (9th Cir.
15 2009) 563 F.3d 948, 958-59.)

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

26 The Settlement provides a Class Representative Enhancement Award in an amount up to
27 \$7,500.00 to Plaintiff subject to Court approval. (Settlement, ¶ 3.2.1.) Class Counsel represents
28 that Plaintiff devoted a great deal of time and work assisting counsel in the case and communicated

1 with counsel very frequently for litigation and to prepare for mediation. (Moon Decl., ¶¶ 37-40.)
2 This amount is reasonable particularly in light of the substantial benefits Plaintiff generated for all
3 class members. (*Id.*)

4 When compared with the amounts awarded in typical class action cases, the amount
5 requested here is particularly reasonable. Indeed, a 2006 study examining the average incentive
6 award given to class action plaintiffs from 1993 to 2002 found that the “average award per class
7 representative was \$15,992 and the median award per class representative was \$4,357.” (Theodore
8 Eisenberg & Jeffrey P. Miller, “Incentive Awards to Class Action Plaintiffs: An Empirical Study”,
9 53 UCLA L. Rev. 1303, 1308 (2006).) That same study found that named plaintiffs in employment
10 discrimination class actions received an average award of \$69,850 and a median award of \$31,081,
11 while named plaintiffs in other employment class actions received an average award of \$12,121
12 and a median award of \$13,059. (*Id.* at p. 1334.) The authors of the study found that higher awards
13 in employment cases reflected the “courts” wish to make representative plaintiffs whole by
14 compensating them for the high costs of their service to the class, including risks of stigmatization
15 or retaliation on the job.” (*Id.* at p. 1308.)

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

17 **A. Legal Standard**

18 The proposed Settlement Class is well suited for class certification. All of the claims derive
19 from a core set of alleged violations of California’s wage and hour laws and regulations. For the
20 reasons set forth more fully below, for purposes of settlement the Class satisfies the prerequisites
21 for certification under Code of Civil Procedure § 382. Section 382 provides: “when the question is
22 one of a common or general interest, of many persons, or when the parties are numerous, and it is
23 impracticable to bring them all before the court, one or more may sue or defend for the benefit of
24 all.” (Code Civ. Proc., § 382.) There are two requirements to section 382: “(1) There must be an
25 ascertainable class; and (2) there must be a well-defined community of interest in the questions of
26 law and fact involved affecting the parties to be represented.” (*Daar v. Yellow Cab Co.* (1967) 67
27 Cal. 2d 695, 704 [citations omitted].) To clarify these requirements, the California Supreme Court
28 has looked to Federal Rule of Civil Procedure 23 to explain that the community-of-interest

1 requirement itself embodies three factors: “(1) predominant questions of law or fact; (2) class
2 representatives with claims or defenses typical of the class; and (3) class representatives who can
3 adequately represent the class.” (*Richmond v. Dart Indus., Inc.* (1981) 29 Cal. 3d 462, 470.)

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

10 **B. Plaintiff Maintains That The Criteria For Class Certification Are Satisfied**

11 **1. The Class Is Ascertainable and Numerous**

12 When determining whether a class is ascertainable, California courts focus on the following
13 three factors: (1) the class definition, (2) the size of the class, and (3) the means of identifying class
14 members. *See Miller v. Woods*, 148 Cal. App. 3d 862, 873 (1983). Here, the proposed class that
15 Plaintiff seeks to represent is ascertainable because (1) the Class definition is sufficiently precise,
16 (2) consists of approximately 54 Class Members, and (3) Class Members can be readily identified
17 by looking at Defendant’s records.

18 Plaintiff maintains that there is an easily ascertainable class, defined by objective and
19 precise criteria. Because class members are identified using specific criteria in the regular business
20 records of Defendant, the class is ascertainable. (*Wilner v. Sunset Life Ins. Co.* (2000) 78
21 Cal.App.4th 952, 959-60 [class membership defined by ownership of product that is the subject of
22 the lawsuit is sufficient to make the class ascertainable].)

23 “The requirement of Code of Civil Procedure section 382 that there be ‘many’ parties to a
24 class action suit is indefinite and has been construed liberally.” (*Rose v. City of Hayward* (1981)
25 126 Cal.App.3d 926, 934.) “Where a question is of common interest to ‘many’ persons, an action
26 may be maintained as a class action even where the parties are numerous and it is in fact practicable
27 to join them all.” (*Id.*) “No set number is required as a matter of law for the maintenance of a class
28 action.” (*Id.*) “Thus, our Supreme Court has upheld a class representing the 10 beneficiaries of a

1 trust in an action for removal of the trustees.” (*Id.*, citing *Bowles v. Super. Ct.* (1955) 44 Cal.2d
2 574; *see also, Collins v. Rocha* (1972) 7 Cal.3d 232 [upholding a 35 member class.]) Therefore,
3 Plaintiff contends that numerosity is plainly satisfied.

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

5 To satisfy the community of interest requirement, Parties must show: (1) common questions
6 of law and fact that predominate over individual issues; (2) class representatives must have claims
7 or defenses typical of the class; and (3) class representatives must adequately represent the class.
8 *Dunk*, 48 Cal. App. 4th at 1806. This inquiry tests whether proposed classes are sufficiently
9 cohesive to warrant adjudication by representation. (*See, e.g., Clothesrigger, Inc. v. GTE Corp.*
10 (1987) 191 Cal.App.3d 605.) Plaintiff’s claims satisfy all three requirements.

11 In this case, the employment practices at issue are: whether Defendant had legally
12 compliant policies and practices to pay employees all wages owed; whether Defendant had legally
13 compliant policies and practices to provide employees with meal periods; whether Defendant had
14 legally compliant policies and practices authorizing and permitting its employees to take rest
15 periods; whether final payment of wages was untimely and excluded unpaid wages, including meal
16 period premium wages, and rest period premium wages; whether all wages were paid to employees
17 at the time of termination of the employment relationship; and whether the wage statements were
18 consequently non-compliant. Plaintiff contends that the factual and legal issues are the same for
19 all identified class members, including Plaintiff. Further, all class members suffered from and seek
20 redress for the same alleged injuries. Considering that Class Members would need to prove the
21 same issues of law and fact to prevail and their legal remedies are identical, it would be preferable
22 to resolve all claims through a settlement agreement than to force each Class Member to litigate
23 their own individual claims. Thus, the Court should grant conditional class certification for
24 settlement because common questions of law and fact predominate over any individual questions
25 within the class.

26 **3. Plaintiff’s Claims Are Typical of the Claims of the Class**

27 The typicality requirement does not focus on the individual characteristics or circumstances
28 of the representative plaintiff compared to those of the remainder of the class, but rather upon the

1 typicality of the proposed representative’s claims as they relate to the defendant’s conduct and
2 activities. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 47 [“[t]he only requirements are that
3 common questions of law and fact predominate and that the class representative be similarly
4 situated” vis-à-vis the class.].) A representative plaintiff’s claims are typical of the class if they
5 arise from the same event, practice or course of conduct, and if the claims rest on the same legal
6 theories. (*Id.*) That is precisely the case here. Plaintiff is a former employee of Defendant; as such,
7 he alleges that he was subject to the same policies and practices as other similarly situated
8 employees. (Plaintiff Decl., ¶ 6.)

9 **4. Plaintiff and His Counsel Meet the Adequacy Requirement**

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

14 Here, all requirements are met. Plaintiff retained counsel with extensive experience in
15 prosecuting complex class actions, including similar class actions that previously settled. (Moon
16 Decl., ¶¶ 46-65.) With their combined experience, Class Counsel unquestionably are “qualified,
17 experienced and generally able to conduct the proposed litigation.” (*Miller, supra*, 148 Cal.App.3d
18 at 875.) In addition, Plaintiff has no conflicts, and Plaintiff has, with counsel, litigated this case
19 and diligently reviewed the settlement terms, showing his dedication. (Plaintiff Decl., ¶¶ 7-12.)
20 Plaintiff’s willingness to serve as representatives demonstrates their serious commitment to
21 bringing about the best results possible for the class. (*Id.* at ¶¶ 9-12; *McGhee, supra*, 60 Cal.App.3d
22 at p. 451.)

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

24 Finally, in making its class certification decision, the Court must determine that a class
25 action would be superior to alternative means for the fair and efficient adjudication of the litigation.
26 By consolidating many potential individual actions into a single proceeding, this Court’s use of the
27 class action device enables it to manage this litigation in a manner that serves the economics of
28 time, effort and expense for the litigants and the judicial system. Absent class treatment, similarly

1 situated employees with small but nevertheless meritorious claims for damages would, as a
2 practical matter, have no means of redress because of the time, effort and expense required to
3 prosecute individual actions. (*Gentry, supra*, 42 Cal.4th at 57-62; *Leyva v. Medline Ind.* (9th Cir.
4 2013) 716 F.3d 510, 515.) Moreover, in the context of settlement, the superiority concerns are
5 essentially non-existent.

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

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

8 Notice requirements are set forth in the California Rules of Court. Cal. Rules of Court, Rule
9 3.766 (e) and (f). California law vests the Court with broad discretion in fashioning an appropriate
10 notice program. (*Cartt v. Super Ct.* (1975) 50 Cal.App.3d 960, 973-74.) There is no statutory or
11 due process requirement that all class members receive actual notice, but in this matter, the class
12 members will receive direct mailed notice. (Settlement, ¶ 7.4.2.) As the Court of Appeals has
13 explained, “[t]he notice given should have a reasonable chance of reaching a substantial percentage
14 of the Class Members” (*Id.* at p. 974.) In this case, notice of the proposed Settlement will be
15 provided by direct mailing, the best possible form of notice under the circumstances.

16 **B. The Notice Is Accurate and Informative**

17 The proposed Notice should be approved. It will be disseminated through direct U.S. first
18 class mail to the last known address for each Class Member. (Settlement, ¶ 7.4.2.) It informs the
19 Class Members of the terms of the settlement and their right to be excluded from the Settlement.
20 (*Id.* at Ex. A.) If there are Class Members who wish to object to this proposed class action
21 settlement, they will have the opportunity to file their objections and be heard at the Final Approval
22 Hearing. (*Id.*)

23 The Notice also fulfills the requirement of neutrality in class notices. (Conte & Newberg,
24 Newberg on Class Actions (3rd Ed.) § 8.39.) It summarizes the proceedings to date and the
25 terms and conditions of the settlement agreement, in an informative and coherent manner.
26 (Settlement, Ex. A.) It makes clear that the settlement agreement does not constitute an
27 admission of liability by the Defendant, who denies all liability, and it recognizes that this Court
28 has not ruled on the merits of the action. (*Id.*) It also states that the final settlement approval

1 decision has yet to be made. (*Id.*) Accordingly, the Notice complies with the standards of
2 fairness, completeness, and neutrality required of a combined settlement-certification class
3 notice.

4 **VI. CONCLUSION**

5 For the foregoing reasons, Plaintiff respectfully requests that the Court grant preliminary
6 approval of the proposed settlement and set a Final Approval Hearing no earlier than 120 days
7 from preliminary approval.

8
9 Respectfully submitted,

10 Dated: August 24, 2026

MOON LAW GROUP, PC

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