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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

REMBER GUILLEN and JUAN SALAS, as individuals and on behalf of all others similarly situated, Plaintiff, vs. MOBILE CLEAR SHIELD, LLC, a California limited liability company; and DOES 1 through 100, inclusive, Defendants.	Lead Case No.: 22STCV31784 Related to Case No.: 22STCV31788 [*Assigned for all purposes to the Hon. David S. Cunningham III, Dept. SSC-11*] **PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** Date: May 22, 2024 Time: 10:00 a.m. Dept.: SSC-11

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that pursuant to Rule 3.769 of the California Rules of Court, on May 22, 2024, at 10:00 a.m. in Department SSC-11 of the above-entitled Court, located at 312 North Spring Street, Los Angeles, California, 90012, Plaintiffs Rember Guillen and Juan Salas ("Plaintiffs"), jointly and on behalf of a class of similarly situated individuals, will and hereby do move this Court for:

1. Preliminary approval of the proposed class settlement of this lawsuit;
2. Pursuant to section 382 of the California Code of Civil Procedure, and for settlement purposes only, provisional certification of the following Settlement Class defined as follows:

   > All individuals whom Defendant Mobile Clear Shield, LLC classified as independent contractors and who worked for Defendant in California at any time from September 28, 2018 through January 31, 2020.

3. Preliminary appointment of Plaintiff Rember Guillen and Juan Salas as Class Representatives;
4. Preliminary appointment of Scott M. Lidman, and Milan Moore of Lidman Law, APC and Paul K. Haines of Haines Law Group, APC as Class Counsel;
5. The scheduling of a hearing to consider whether the Settlement should be finally approved and to permit a service award to Plaintiff, Settlement Administration costs, civil penalties payable to the California Labor Workforce Development Agency, and attorneys' fees and costs to Class Counsel;
6. Appointment of Phoenix Class Action Administration Solutions as the third-party Settlement Administrator for mailing notices; and
7. Approval of the proposed Notice of Class Action Settlement and Hearing Date for Final Court Approval ("Class Notice") which is attached to the Settlement as Exhibit A, and an order that it be disseminated to the proposed Settlement Class Members as provided in the Settlement Agreement.

This Motion is based on this notice of motion, the memorandum of points and authorities, the declarations of Scott M. Lidman, Milan Moore, Paul K. Haines, Plaintiffs Rember Guillen and Juan Salas, and Jodey Lawrence of Phoenix Class Action Administration Solutions, and the exhibits attached thereto, the pleadings and other papers filed in this action, and on any further oral or documentary evidence or argument presented at the time of hearing.

Dated: February 20, 2024

Respectfully submitted,
LIDMAN LAW, APC

By: ______________________
Scott M. Lidman
Attorney for Plaintiffs
REMBER GUILLEN and JUAN SALAS

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Rember Guillen and Juan Salas ("Plaintiffs") brought this class and representative action against Defendant Mobile Clear Shield, LLC (hereinafter "Mobile Clear Shield" or "Defendant") alleging various wage and hour and related violations. Plaintiffs' primary claims/allegations are that Mobile Clear Shield misclassified them and the class members as independent contractors and, as a result: (1) failed to pay all minimum wages owed; (2) failed to pay all overtime wages owed; (3) failed to provide all legally required meal periods; (4) failed to authorize and permit all legally required rest periods; (5) made unlawful deductions from wages; (6) failed to provide accurate, itemized wage statements; (7) failed to reimburse necessary business expenses; (8) failed to timely pay all wages upon termination; (9) engaged in unlawful business practices; and (10) is liable for civil penalties under the Labor Code Private Attorneys General Act of 2004 ("PAGA").

Plaintiffs now respectfully request that this Court preliminarily approve this non-reversionary, class action settlement,[1] in which Mobile Clear Shield has agreed to pay $350,000.00 on behalf of the following Settlement Class:

> All individuals whom Defendant Mobile Clear Shield, LLC classified as independent contractors and who worked for Defendant in California at any time from September 28, 2018 through January 31, 2020.

Significantly, Class Members do not need to file a claim to benefit from the Settlement because all Class Members will automatically receive a payment unless they affirmatively opt-out. After deducting administration costs, Plaintiffs' service awards, attorneys' fees and costs, and the PAGA Payment to the LWDA, the remaining Net Settlement Amount ("NSA") of approximately $177,583.33 will be distributed to all Class Members who do not opt-out of the Settlement. There were approximately 55 Class Members through date of mediation (June 15, 2023), and ***not*** including the $5,000 in civil penalties to be distributed to approximately 55 Aggrieved Employees, the average payment to participating Class Members is estimated to be approximately $**3,228.79.**

This proposed Settlement is well-within the range of possible approval in light of the significant

[1] The Settlement is attached to the Declaration of Scott M. Lidman as Exhibit 2. The proposed Class Notice is attached to the Settlement as Exhibit A.

legal and factual obstacles that Plaintiffs faced, the risks and costs of further litigation, and the tangible monetary benefits to be received by the Settlement Class. For the reasons discussed herein, Plaintiffs respectfully request that the Court grant preliminary approval of the Settlement.

II. SUMMARY OF THE LITIGATION

A. THE PARTIES

Mobile Clear Shield is a company that engages in automobile paint protection, including, installation of scratch protectors on vehicles. Plaintiff Guillen provided services to Mobile Clear Shield from approximately 2017 through approximately February 2022 as an Installer and was classified as an Independent Contractor. *See* Declaration of Rember Guillen ("Guillen Decl."), ¶ 2. Plaintiff Salas provided services to Mobile Clear Shield from approximately 2016 through approximately July 2021 as an Installer and was classified as an Independent Contractor. *See* Declaration of Juan Salas ("Salas Decl."), ¶ 2. Plaintiffs contend Mobile Clear Shield unlawfully classified them as independent contractors and were in fact employees.

B. BRIEF PROCEDURAL HISTORY

On September 28, 2022, Plaintiffs filed the instant putative class action complaint. *See* Declaration of Scott M. Lidman ("Lidman Decl."), ¶ 10. On September 28, 2022, Plaintiffs submitted a letter to the California Labor & Workforce Development Agency ("LWDA") and Mobile Clear Shield of his intention of filing a PAGA claim based on the labor code violations alleged in their complaint. *Id.*, **Exhibit 1**. On November 21, 2023, pursuant to a stipulation between the Parties and with approval by the Court, Plaintiffs filed a Second Amended Class and Representative Action Complaint adding causes of action under Labor Code § 203 for failure to pay all wages upon termination of employment and for civil penalties under the PAGA.

Further, Plaintiffs will serve the instant Motion and proposed Settlement Agreement on the LWDA on the same date they file this Motion and will submit a supplemental declaration showing the submission. Lidman Decl., ¶ 36.

III. DUNK/KULLAR ANALYSIS

Settlement is the preferred means of dispute resolution, particularly in complex class action litigation. *See In re Syncor ERISA Litig.* (9th Cir. 2008) 516 F.3d 1095, 1101. The Court's role in evaluating a proposed settlement is limited to ensuring that the agreement taken as a whole is fair. *See* *e.g.*, *Hanlon*, *supra*, 150 F.3d at 1027. There is an initial presumption of fairness where, as here, the Settlement agreement was negotiated at arm's-length by class counsel and with the assistance of a mediator. *See e.g. Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130.

A. INVESTIGATION AND DISCOVERY

In advance of mediation, Mobile Clear Shield produced timekeeping and payroll data for the putative class, as well as its wage and hour policies and other relevant documents and information relevant to the claims alleged. Lidman Decl., ¶ 11.

Plaintiffs contend that the records produced were representative of the entire Settlement Class and is statistically significant and reliable for purposes of evaluating a potential settlement. *See e.g., Tyson Foods, Inc. v. Bouaphakeo*, 136 S. Ct. 1036 (2016). Indeed, from the time and payroll data, Plaintiffs were able to determine that the class members were indeed classified as independent contractors and paid solely on a piece-rate basis through December 2019. Additionally, Plaintiffs were able to assess meal period violations because the class members were not required to record them. Further, if all Settlement Class members brought lawsuits for unpaid wages and other wage and hour violations due to being misclassified as independent contractors, they would rely on timekeeping records similar to the ones in the mediation production which also supports a finding that it is statistically reliable. *Id*.

Mobile Clear Shield also provided a class list for Plaintiffs to calculate the necessary metrics, including without limitation, class size, total number of workweeks and pay periods for the relevant time periods. The key data points coupled with the representative data sampling, enabled Plaintiffs to extrapolate to the entire class and aided in Plaintiffs' creation of a class-wide exposure model for all the claims at issue, including unpaid wages and penalties potentially owed for alleged minimum and overtime wages, and meal and rest and unpaid wages violations for the former individuals classified as independent contractors. *Id*.

After the detailed review of the documents and data produced by Mobile Clear Shield, Class Counsel drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiffs' case. *Id*. This discovery allowed the parties to assess the merits and value of Plaintiffs' claims and Mobile Clear Shield's defenses.

B. ARMS-LENGTH NEGOTIATIONS

On July 14, 2023, a mediation was held with Steve Pearl, Esq., a well-respected wage and hour class action mediator. Lidman Decl., ¶ 12. During mediation, the parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiffs' claims, and the legal basis for the claims and defenses. Ultimately, through acceptance of a mediator's proposal, the Parties agreed on a class-wide resolution. *Id*.

C. THE EXPERIENCE AND VIEWS OF COUNSEL

"Parties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation." *In re Pacific Enterprises Securities Litigation* (9th Cir. 1995) 47 F.3d 373, 378. Here, Plaintiffs are represented by competent, experienced counsel who possess extensive experience prosecuting and defending wage-and-hour class actions, and who have been appointed as class counsel in numerous cases alleging similar claims. *See* Lidman Decl., ¶¶¶ 2-8; Haines Decl., ¶¶ 2-8. Class Counsel conducted an in-depth review of Mobile Clear Shield's policies and timekeeping and payroll records, and drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiffs' case. *See* Lidman Decl., ¶¶ 10-28. The Settlement was also reached with the assistance of a mediator. *Id*. This factor strongly supports preliminary approval of the Settlement. *See Kullar*, *supra*, 168 Cal.App.4th at 130.

D. AMOUNT OFFERED IN SETTLEMENT GIVEN REALISTIC VALUE OF CLAIMS

The Settlement provides a fair and reasonable monetary recovery for the Settlement Class in the face of disputed claims. Plaintiffs' analysis of the maximum and realistic expected recoveries for each of the theories of liability pled is set forth below:

<u>Mobile Clear Shield Failed to Pay for All Hours Worked</u>: Plaintiffs allege that they and other the Class Members were not fully compensated for all of their time worked because Mobile Clear Shield misclassified them as independent contractors and paid them solely on a piece-rate basis. Lidman Decl., ¶ 16. Additionally, Plaintiffs allege that Mobile Clear Shield failed to pay them overtime and failed to include bonuses in the regular rate for purposes of overtime, resulting in an underpayment of overtime wages. As a result of being paid solely by piece-rate, Plaintiffs allege that they and other Class Members were underpaid 1 hour of pay for tasks including, waiting for work and/or customers,

driving between jobs, fueling their vehicles, performing administrative tasks such as completing paperwork, and taking rest periods. *Id*. Accordingly, Plaintiffs calculated a total wage underpayment of approximately $108,330 (1,884 workweeks x 5 hours of NPT/week x $11.50 average minimum wage[2]). *Id*.

Mobile Clear Shield contends that it compensated Class Members for all of their time worked. Lidman Decl., ¶ 17. Moreover, Mobile Clear Shield contends that it properly calculated and paid Class Members all overtime wages owed. Mobile Clear Shield further asserts that, given that a number of the Class Members signed arbitration agreements, Plaintiffs would be unable to certify given the individualized inquiries that would be required, and also that Mobile Clear Shield's rounding policy/mechanism was, according to it, neutral on its face and in its application. *Id*. In light of these defenses, Plaintiffs discounted the maximum exposure by 5% for the risk of non-certification, and an additional 5% to account for Mobile Clear Shield's defenses on the merits, to arrive at an estimated exposure of $97,767.83. *Id*.

<u>Mobile Clear Shield Failed to Provide All Legally Required Meal Periods</u>: Plaintiffs allege that because they and the Class Members were misclassified as independent contractors, Mobile Clear Shield did not have any meal period policies applying to them and, thus, failed to provide all legally-compliant first meal periods beginning before the end of the fifth hour of work. Lidman Decl., ¶ 18. Specifically, Plaintiffs allege that due to the work demands imposed by Mobile Clear Shield, his meal period was often late, short, or missed in violation of California law. *Id*. Additionally, Plaintiffs allege Mobile Clear Shield failed to record the start and stop times of meal periods. *Id*. As such, Plaintiffs calculated Mobile Clear Shield's maximum exposure the meal period claim at: $108,330 (1,884 workweeks x 5 hours of NPT/week x $11.50 average minimum wage). *Id*.

Mobile Clear Shield counters that it has always maintained a lawful meal period policy and the independent contractors made their own schedules such that they had an opportunity to take legally compliant meal periods. Lidman Decl., ¶ 19. Mobile Clear Shield points out that under *Brinker*

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[2] Minimum wage in 2018 it was $11.00 and in 2019 it was $12.00. Therefore, the average minimum wage is $11.50. Further, Plaintiffs cannot based on the information and data provided to date determine if the average hourly rate was higher than minimum wage. If it was, the liability will be higher because for purposes of mediation, Plaintiffs have evaluated exposure at minimum wage.

Restaurant Corp. v. Superior Court (2012) 53 Cal. 4th 1004, it is only required to "provide" the opportunity to take meal periods, not "ensure" meal periods are taken, and that they have always done so. *Brinker*, *supra*, 53 Cal.4th at 1038 (rejecting "ensure" standard). Finally, Mobile Clear Shield contends Plaintiffs' meal period claim is not suited for class certification, given that a number of the Class Members signed arbitration agreements, and given that since individual inquiries would be required to assess which employees took non-compliant meal periods, how many meal periods were non-compliant or missed, and the reasons why a particular employee took a non-compliant meal period or missed a meal period during a particular shift. *Id*. Accordingly, Plaintiffs discounted the maximum exposure by 15% for the risk of non-certification, and an additional 10% to account for Mobile Clear Shield's defenses on the merits to arrive at an estimated exposure of $82,872.45. *Id*.

<u>Mobile Clear Shield Failed to Authorize and Permit All Rest Periods</u>: Plaintiffs allege that because they and Class Members were misclassified as independent contractors, they were not authorized and permitted to take all required paid rest periods due to a lack of Mobile Clear Shield's rest period policies and practices. Lidman Decl., ¶ 20. Specifically, Plaintiffs allege that due to work demands, non-exempt employees were not authorized and permitted to take duty-free net 10 minute rest periods. Additionally, Plaintiffs allege that as a result of being paid on a piece-rate basis, they did not receive paid rest breaks. Thus, Plaintiffs allege that they and other independent contractors experienced at least one rest period violation on every shift worked in excess of 3.5 hours. *Id*. Thus, Plaintiffs calculated Mobile Clear Shield's exposure at $108,330 (1,884 workweeks x 5 hours of NPT/week x $11.50 average minimum wage). *Id*.

Mobile Clear Shield contends it has always maintained and enforced lawful rest period policies and practices, and that Class Members were authorized and permitted to take all off-duty rest periods in compliance with California law. Lidman Decl., ¶ 21. Mobile Clear Shield also argues that Plaintiffs' rest period claim is inherently unsuited for class treatment as it requires an individualized inquiry into whether each Class Member was in fact authorized and permitted to take a compliant rest period, which would devolve into an unmanageable series of mini-trials. *Id*. Accordingly, Plaintiffs discounted the maximum exposure by 10% for the risk of non-certification, and an additional 10% to account for Mobile Clear Shield's defenses on the merits to arrive at an estimated exposure of $87,747.30. *Id*.

<u>Mobile Clear Shield Failed to Reimbursed Business Expenses</u>: Plaintiffs allege that Mobile Clear Shield failed to reimburse they and Class Members for necessary business expenditures, including the use of their personal vehicle, phone, and tools for work purposes, as required under Labor Code section 2802. Lidman Decl., ¶ 22. Accordingly, Plaintiffs estimates that the independent contractors should have been reimbursed approximately $30.00/month for reasonable cellular phone expenses, 50 miles each workweek, and supplies of $100/month per installer for the time period. As such, Plaintiffs calculated Mobile Clear Shield's maximum exposure for this claim at approximately $124,894 ((Approx. 15 months x $30/month x 55 employees = $24,750) + (1,884 workweeks x 50 miles/week x .5625 average mileage rate[3] = 53,044) + (1,884 workweeks/4 = 471 months x $100 = $47,100)). *Id.*

Mobile Clear Shield contends that any purportedly necessary expenses incurred by employees were minimal. Lidman Decl., ¶ 23. Mobile Clear Shield also argues that this claim is not suitable for class treatment, it maintained a lawful expense reimbursement policy, and individualized determinations would be required as to how often each independent contractor used their personal vehicle and how many miles driven, how often they used their personal cellular phone and for how long, and the price of the individual tools used. *Id*. Accordingly, Plaintiffs discounted the maximum exposure by 25% for the risk of non-certification, and an additional 20% to account for Mobile Clear Shield's defenses on the merits and financial condition, to arrive at an estimated exposure of $74,936.40. *Id*.

<u>Mobile Clear Shield Issued Inaccurate Itemized Wage Statements</u>: Plaintiffs further allege that Mobile Clear Shield failed to issue accurate wage statements due to the misclassification as independent contractors in violation of Labor Code § 226, and also as a result of the alleged unpaid minimum wages and overtime wages, and meal and rest period premium wages described above. Lidman Decl., ¶ 24. Additionally, Plaintiffs contend that the wage statements issued by Mobile Shield independently violated Labor Code sections 226 and 226.2 in that they fail to show: (i) total hours worked during the pay period; (ii) the number of piece-rate units earned and any applicable piece rate; (iii) the total hours of compensable rest periods, the rate of compensation, and the gross wages paid for those periods during the pay period; (iv) list of deductions; and (v) the total hours of other nonproductive time, the rate of

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[3] In 2018 it was 54.5 cents and 2019 it was 58 cents. Average is 56.25 cents.

compensation, and the gross wages paid for that time during the pay period. *Id*. The data analysis reflected that there were approximately 1,884 pay periods during the relevant time period. *Id*. Therefore, Plaintiffs calculated Mobile Clear Shield's exposure at $115,650 ($50.00 x 55 current employees + $100 x 1,129 subsequent wage statements). *Id*.

Mobile Clear Shield argues that its alleged wage statement violations could not be shown to be "knowing and intentional," and that Plaintiffs cannot show that they or any other former Independent Contractor "suffer[ed] injury" as a result of the alleged wage statement violations, as required by Lab. Code § 226(e) for imposition of penalties. Lidman Decl., ¶ 25. Additionally, Mobile Clear Shield contends Plaintiffs are outside the statute of limitations for this claim. As such, and given that a number of the Class Members signed arbitration agreements, Plaintiffs discounted the calculated exposure by 40% for a risk of non-certification and an additional 35% for a risk of being unsuccessful on the merits, to arrive at an estimated total of $45,103.50. *Id*.

<u>Mobile Clear Shield is Liable for Waiting Time Penalties</u>: Plaintiffs allege that Mobile Clear Shield is also liable for waiting time penalties under Labor Code section 203 as a result of its failure to timely pay all wages upon separation. Lidman Decl., ¶ 26. There are approximately 51 Class Members who have separated their employment with Mobile Clear Shield during the relevant time period who could be entitled to waiting time penalties. *Id*. Therefore, Plaintiffs calculated Mobile Clear Shield's maximum exposure for waiting time penalties at approximately $140,760 (8 hours/day x $11.50/hour x 30 days x 51 formers). *Id*.

Mobile Clear Shield asserts it has strong defenses to the waiting time claim because there exist good-faith disputes as to Plaintiffs' underlying claims, precluding imposition of penalties. Lidman Decl., ¶ 27. *See also* 8 Cal. Code Regs. § 13520 (a "good faith dispute that any wages are due will preclude imposition of waiting time penalties"); *Kao v. Joy Holiday*, 12 Cal.App.5th 947, 963 (2017) (holding that "good faith dispute" over whether employee was exempt precluded imposition of waiting time penalties over contested wages owed). Moreover, Mobile Clear Shield contends that a number of the independent contractors were reclassified to employees and are employed by the company currently, such that there was never a separation of employment. Accordingly, and given that a number of the Class Members signed arbitration agreements, Plaintiffs discounted the maximum exposure by

25% for the risk of non-certification, and an additional 25% to account for Mobile Clear Shield's defenses on the merits, to arrive at an estimated exposure of $79,177.50. *Id*.

Mobile Clear Shield is Liable for PAGA Civil Penalties: Plaintiffs also seek civil penalties under the PAGA as a result of the foregoing alleged Labor Code violations. Lidman Decl., ¶ 28. Plaintiffs calculated Mobile Clear Shield's maximum exposure at $188,400 (1,884 pay periods x $100 initial violation rate). *Id*.; *see Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1207 (finding "initial" violation rate applies until employer is notified that it is violating a Labor Code provision).

Mobile Clear Shield argues that Plaintiffs' PAGA claim will fail for the same reasons that their underlying claims will fail. Lidman Decl., ¶ 29; *see Price v. Starbucks Corp*. (2011) 192 Cal.App.4th 1136, 1147 ("Because the underlying causes of action fail, the derivative UCL and PAGA claims also fail."). Mobile Clear Shield also maintains that, given its good faith defenses, this Court would exercise its discretion to substantially reduce any PAGA penalties if it were to find Mobile Clear Shield liable for any of Plaintiff's claims. *See* Lab. Code § 2699(e)(2); *Thurman v. Bayshore Transit Mgmt., Inc*. (2012) 203 Cal.App.4th 1112, 1135 (affirming reduction of PAGA penalties); *Fleming v. Covidien Inc*. (C.D. Cal. 2011) Case No. ED CV10-01487 RGK (OPx), 2011 WL 7563047, at *4 (reducing PAGA penalties from $2.8 million to $500,000). *Id*. Additionally, Mobile Clear Shield contends Plaintiffs are outside the statute of limitations for the imposition of PAGA penalties. Therefore, Plaintiffs discounted the maximum exposure figure by 35% for a risk of being unsuccessful on the merits, and an additional 35% to account for the possibility of this Court reducing penalties, to arrive at an estimated exposure of $79,599.00. *Id*.

E. THE SETTLEMENT IS WITHIN THE RANGE OF POSSIBLE APPROVAL

Using these estimated figures for each of the claims described above, Plaintiffs predicted the realistic total recovery for the Settlement Class would be approximately $547,203.98. Lidman Decl., ¶ 30. The proposed settlement of $350,000.00 therefore represents approximately 50.4% of the reasonably forecasted recovery for the Class. *Id*. Preliminary approval is appropriate as the settlement will provide tangible monetary relief to Class Members, and will still provide an average recovery to Class Members of ***<u>over $3,200.00.</u>***

The proposed settlement reflects approximately 50.4% of the estimated recovery the Settlement

Class could reasonably expect in light of the significant litigation risks, and will provide tangible monetary compensation for hotly disputed claims. Indeed, the percentage of the liability exposure recovered in this case exceeds percentages routinely approved by courts. *See, e.g., Dunleavy v. Nadler* (9th Cir. 2000) 213 F.3d 454, 459 (approving settlement representing about one-sixth of potential recovery); *Nat'l Rural Telecomm. Coop. v. DirecTV, Inc.* (C.D. Cal. 2004) 221 F.R.D. 523, 527. Thus, Plaintiffs submit that the proposed settlement is within the range of approval, such that notice should be provided to the Settlement Class so that they can consider the Settlement. The Court will have the opportunity to again assess the reasonableness of the Settlement after the time to opt-out or object has expired.

F. RISK, EXPENSES, COMPLEXITY, AND DURATION OF FURTHER LITIGATION, AND RISK OF MARINATING CLASS ACTION STATUS

Although the parties engaged in informal discovery throughout this action, the parties still had significant discovery to complete in formal litigation had the matter not settled. Lidman Decl., ¶ 34. Moreover, Plaintiffs still had to file for class certification, and faced the prospect of appeals in the wake of a disputed class certification ruling for Plaintiffs and/or an adverse summary judgment ruling. *Id*. This is especially true given the existence of a purported arbitration agreement. Even if the classes were certified, the parties would incur considerably more attorneys' fees and costs through a possible decertification motion, trial, and possible appeal. *Id*. This Settlement avoids those risks and the accompanying expense. Thus, this factor supports preliminary approval.

IV. CLASS CERTIFICATION FOR SETTLEMENT PURPOSES

California Rule of Court 3.769 conditions settlement of a class action on court approval, which is generally evaluated under the federal standards applicable under Rule 23 of the Federal Rules of Civil Procedure. *See Reed v. United Teachers Los Angeles* (2012) 208 Cal.App.4th 322.

As further explained below, the Settlement Class satisfies the criteria for certification of a settlement class under California law because: (1) the Settlement Class is so numerous that joinder would be impractical; (2) common questions of law/fact predominate over individual questions such that class certification is the most efficient way to maintain this litigation; (3) Plaintiffs' claims are typical of the claims of absent Class Members; and (4) Plaintiffs and their counsel will fairly and adequately represent Class Members' interest. *See* Cal. Civ. Proc. § 382.

A. NUMEROSITY IS SATISFIED.

Here, the proposed Class consists of at least 55 members, and is therefore sufficiently numerous as to make joinder impracticable. *See* Lidman Decl., ¶ 14; *See, e.g., Bowles v. Sup. Ct.* (1955) 44 Cal.2d 574 (holding a class representing 10 beneficiaries of a trust sufficiently numerous). Thus, numerosity is satisfied.

Further, the class is "ascertainable" because it is defined as "all individuals whom Defendant Mobile Clear Shield, LLC classified as independent contractors and who worked for Defendant in California at any time from September 28, 2018 through January 31, 2020" and such members can be identified from Defendant's personnel/business records. Lidman Decl., ¶ 14.

B. COMMONALITY IS SATISFIED.

The focus in a certification dispute is not the merits, but rather on what types of questions, "common or individual," are likely to arise in the action. *See Sav-On Drug Store, Inc. v. Superior Court (Rocher)* (2004) 34 Cal.4th 319, 327.

Here, Plaintiffs allege Class Members' claims arise from Mobile Clear Shield's common, uniform policies and practices that applied to Class Members during the class period when they were classified as independent contractors. Lidman Decl., ¶ 15. Specifically, Plaintiffs allege that Mobile Clear Shield's common and uniform policies and practices of misclassifying them as independent contractors resulted in the following violations: (1) failure to pay all minimum wages owed; (2) failure to pay all overtime wages owed; (3) failure to provide all legally required meal periods; (4) failure to authorize and permit all legally required rest periods; (5) unlawful deduction from wages; (6) failure to provide accurate, itemized wage statements; (7) failure to reimburse necessary business expenses; (8) failure to pay all final wages upon separation of employment; (9) engagement in unlawful business practices; and (10) liability for civil penalties under the PAGA. As a result of the common and uniform policies and practices that applied to all Class Members, their claims involve common questions of law and fact as to whether in fact Mobile Clear Shield committed these alleged violations.

These alleged practices result in common questions as to the affected Class Members. *See e.g.*, *Benton v. Telecom Network Specialists, Inc.* (2013) 220 Cal.App.4th 701, 726.

C. TYPICALITY IS SATISFIED.

The typicality requirement is satisfied where class representatives have claims that are typical of those of the rest of the class. *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1347. Here, Plaintiffs' claims are typical of those held by the members of the proposed Class. Plaintiffs were classified by Mobile Clear Shield during the Class Period as independent contractors and were subject to Mobile Clear Shield's wage and hour policies at issue in this case. *See* Guillen Decl., ¶ 2; Salas Decl., ¶ 2. Further, Plaintiffs were allegedly injured by the same challenged policies that allegedly injured the Class as a whole. *Id*. Given that Mobile Clear Shield's policies and practices applied to all individuals they classified as independent contractors, Class Members possess a similar interest and have suffered similar alleged injuries as Plaintiffs. Accordingly, typicality is satisfied.

D. ADEQUACY IS SATISFIED.

The adequacy requirement examines conflicts of interest between named parties and the class(es) they seek to represent. *Capital People First v. State Dept. of Developmental Services* 155 (2007) Cal.App.4th 676, 697. Here, there are no apparent conflicts of interest between Plaintiffs and the Class they seek to represent. Guillen Decl., ¶ 11; Salas Decl., ¶ 11. Indeed, Plaintiffs' interests are aligned with those of the Class Members, as they all seek monetary relief under the same facts and legal theories. Additionally, Class Counsel does not have any conflict of interest with the Class. *See McGhee v. Bank of America* (1976) 60 Cal.App.3d 442, 450-51.

Further, Class Counsel have extensive experience in wage and hour class action litigation and have vigorously litigated this case. *See* Lidman Decl., ¶¶ 2-8; Declaration of Paul K. Haines ("Haines Decl."), ¶¶ 2-8; Declaration of Milan Moore ("Moore Decl."), ¶¶ 2-4.

V. SETTLEMENT AGREEMENT

A. THE BASICS

1. Class Definition and Release Period

The proposed Settlement Class is defined as all "individuals whom Defendant Mobile Clear Shield, LLC classified as independent contractors and who worked for Defendant in California at any time from September 28, 2018 through January 31, 2020." Lidman Decl., ¶ 14. For purposes of the Settlement Agreement, the "Class Period" shall mean the time period of September 28, 2018 through January 31, 2020." *Id*.

2. Aggrieved Employees and PAGA Period

The proposed Aggrieved Employees are defined as all "individuals whom Defendant Mobile Clear Shield, LLC classified as independent contractors and who worked for Defendant in California at any time from September 28, 2018 through January 31, 2020." Lidman Decl., ¶ 14. For purposes of the Settlement Agreement, the "PAGA Period" shall mean the time period of September 28, 2018 through January 31, 2020." *Id*.

B. RELEASE OF CLAIMS

1. Scope of Participating Class Members' Release

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and ascertained in the course of the Action and which occurred during the Class Period including, (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods or provide premium wages in lieu thereof; (4) failure to provide rest periods or provide premium wages in lieu thereof; (5) unlawful deductions from wages; (6) failure to provide accurate, itemized wage statements; (7) failure to timely way all wages upon separation of employment; (8) failure to reimburse necessary business expenses; and (9) unfair business practices in violation of Business and Professions Code section 17200, *et seq*. premised on the above claims; and violation of or liability under California Labor Code under sections 201, 202, 203, 204, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 516, 558, 1194, 1197, 1198, 2802 and the relevant Wage Orders issued by the Industrial Welfare Commission, and any and all related claims for attorneys' fees and costs. Except as set forth in Section 5.3 of this 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 facts occurring outside the Class Period. Settlement, ¶ 5.2.

2. Scope of Aggrieved Employees' Release

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, 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 PAGA Period facts stated in the Operative Complaint and the PAGA Notice including the (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods or provide premium wages in lieu thereof; (4) failure to provide rest periods or provide premium wages in lieu thereof; (5) unlawful deductions from wages; (6) failure to provide accurate, itemized wage statements; (7) failure to timely way all wages upon separation of employment, (8) failure to reimburse necessary business expenses under Labor Code section 2802, and the relevant Wage Orders issued by the Industrial Welfare Commission, and any and all related claims for attorneys' fees and costs. Settlement, ¶ 5.3.

3. Releases Effective Date

The releases described above are effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all required employer-side payroll taxes owed. Settlement, ¶ 5.

C. MONETARY TERMS OF SETTLEMENT

1. Gross Settlement Amount and Timing of Payment

If the Court approves this Settlement, Mobile Clear Shield will pay a Gross Settlement Amount ("GSA") of $350,000.00.[4] Lidman Decl., ¶¶ 12, Exh. 2 (Settlement, ¶ 3.1) and ¶ 13. Significantly, this Settlement is **non-reversionary**, and no Settlement Class member will have to submit a claim form to receive a Settlement Award. *Id*. Each Settlement Class member will automatically receive a Settlement Award unless he or she affirmatively opts out of the Settlement. *Id*.

Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than sixty (60) days after the Effective Date. *See* Settlement, ¶ 4.3.

2. Deductions from Gross Settlement Amount

The monetary terms of the Settlement are summarized below:

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[4] Based on its records, Defendant estimates that there were 55 Class Members who worked a total of 1,884 Workweeks during the Class period. If the number of workweeks during the Class Period increases by more than 10% above 1,884 (*i.e.*, if there are 2,073 or more workweeks during the Class Period), Defendants agree to increase the Gross Settlement Amount on a proportional percentage basis (*i.e.*, if there was a 11% increase in the number workweeks during the Class Period, Defendants would agree to increase the Gross Settlement Amount by 11%). Settlement, ¶ 8.

Gross Settlement Amount ("GSA"):	**$350,000.00**
Minus Court-approved attorneys' fees (update to 1/3 of GSA):	$116,666.67
Minus Court-approved, verified costs (up to $20,000.00):	$20,000.00
Minus Court-approved Class Representative Service Awards ($7,500 each):	$15,000.00
Minus Settlement Administration Costs:	$5,750.00
Minus PAGA payment to the LWDA:	$15,000.00
Net Settlement Amount ("NSA"):	**$177,583.33**

Settlement Class Members	55
Average Individual Payment: NSA/Settlement Class	**$3,228.79**

After deducting amounts for the Court-approved attorneys' fees and verified costs, Service Awards to Plaintiffs, Settlement Administrator costs, and the PAGA payment to the LWDA, the Settlement results in a Net Settlement Amount ("NSA") of at least $177,583.33 to be paid out to all Settlement Class Members who do not timely opt out. Lidman Decl*.*, ¶ 13, Exh. 2.

Therefore, this calculation of $177,583.33/55 = $3,228.79, assumes the Court approves the requested attorneys' fees, maximum attorneys' costs, enhancement awards, settlement administration costs, and payment to the LWDA. *Id*. This calculation also assumes that all 55 putative class members participate in the settlement and do not submit timely requests for exclusions. *Id*.

3. Class Representatives' Service Payments

Incentive awards are typical in class action cases and are intended to compensate class representatives for work done on behalf of the class and to make up for reputational risk undertaken in bringing the action." *In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1393-94.

Plaintiffs will separately apply for a service payment at the time of seeking final approval in the amount of $7,500.00/each or a total of $15,000.00. Lidman Decl., ¶ 33, Exh. 2 (Settlement, ¶ 3.2.1.); Guillen Decl., ¶¶ 3-12; Salas Decl., ¶¶ 3-12. As will be fully briefed at the time of final approval, Plaintiffs' requested service awards are intended to recognize the excellent results achieved, the time and effort Plaintiffs expended on behalf of the Settlement Class, including providing substantial factual information and documents to Class Counsel, attending multiple meetings with

Class Counsel to discuss the claims and theories at issue in the litigation, as well as the significant risks Plaintiffs undertook by agreeing to serve as the named plaintiffs in this case, and the fact that Plaintiffs, each individually, have agreed to a general release of all claims subject to a waiver of Civil Code § 1542. *See* Lidman Decl., ¶33; Guillen Decl., ¶¶ 3-12; Salas Decl., ¶¶ 3-12; Settlement ¶ 3.2.1.

The Class Representative Service Payments awarded by the Court shall be paid by the Settlement Administrator to Plaintiffs from the Gross Settlement Amount within 14 days after Defendant funds the Gross Settlement Amount. Settlement, ¶ 4.4.

4. <u>Attorneys' Fees and Costs</u>

California courts recognize an appropriate method for awarding attorneys' fees in class actions is to award a percentage of the "common fund" created as a result of a settlement. *See e.g., Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 506. Class Counsel's request for fees of one-third of the GSA is well within the range of reasonableness, and indeed is considered the typical rate for common fund settlements.

Here, Class Counsel will also apply for an attorneys' fees award of one-third of the GSA, which is currently estimated to be $116,666.67, and up to $20,000.00 in verified costs reimbursement. *See* Settlement, ¶ 3.2.2.; Lidman Decl., ¶ 31. Plaintiffs submit that the requested fee is fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent fee basis. *Id*. Further, Plaintiffs have provided written approval of the split of attorneys' fees in this action. Lidman Decl., ¶ 32. Class Counsel has incurred substantial attorney fees conducting pre-filing investigation, analyzing Plaintiffs' claims, conducting legal research, analyzing timekeeping data and payroll records, preparing for and attending mediation, negotiating and revising the long-form Settlement, preparing this Motion, and otherwise litigating the case. Lidman Decl., ¶ 31. Class Counsel expect to expend additional attorney time in attending the hearing on this Motion, overseeing the Notice process and fielding questions from Class Members, preparing the final approval papers and attending the Final Approval hearing. *Id*.

Should the Court grant preliminary approval, Class Counsel will seek an award of attorneys' fees and verified litigation costs at the time of seeking final approval of the Settlement, which will include a lodestar analysis. Class Counsel's fees and costs awarded by the Court shall be paid by the

Settlement Administrator to Class Counsel from the Gross Settlement Amount 14 days after Defendant funds the Gross Settlement Amount. Settlement, ¶ 4.4.

5. Payroll Taxes

The Settlement provides that Mobile Clear Shield's payroll taxes shall be paid separately from, and in addition to, and the Class Settlement Amount. Settlement ¶ 4.3. The employer-side taxes shall be deposited when it funds the Gross Settlement Amount. *Id*.

6. Payment Formula

There were approximately 55 total Class Members as of the date of mediation. Lidman Decl., ¶ 14. An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. Settlement, ¶ 3.2.4. Thus, the average Individual Class Payment is **$3,228.79**.

Additionally, there were approximately 55 Aggrieved Employees. Lidman Decl., ¶ 14. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties $5,000.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. Settlement, ¶ 3.2.7.1.

Thus, the average Individual PAGA Payment is projected to be approximately **$90.91.** *Id*.

7. Tax Allocation

Twenty Percent (20%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. Eighty Percent (80%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion").[vi] The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Settlement, ¶ 3.2.5.

8. PAGA Penalty

The parties have agreed to a PAGA award of $20,000.00 and in accordance with California Labor Code section 2699(i), the LWDA will receive 75% of the amount attributable to PAGA penalties

– or $15,000.00. Settlement ¶ 3.2.7. This $15,000.00 represents roughly 4.29% of the $350,000.00 Gross Settlement Amount and is in line with the zero to two percent range for PAGA claims approved by Courts. *See, e.g., In re M.L. Stern Overtime Litig.*, No. CV 07-0118 BTM (JMAx), 2009 WL 995864, at *1 (S.D. Cal. Apr. 13, 2009) (approving PAGA settlement of 2 percent, or $20,000); *Nordstrom Comm'n Cases*, 186 Cal. App. 4th 576, 589 (2010) (approving settlement of wage and hour class action claims and PAGA claims under which no money was allocated to the PAGA claims).

VI. NOTICE ADMINISTRATION

A. SETTLEMENT ADMINISTRATOR

Phoenix Class Action Administration Solutions ("Phoenix") costs are estimated not to exceed $5,750.00. *See* Declaration of Jodey Lawrence in support of Plaintiff's Motion for Preliminary Approval filed concurrently herewith ("Lawrence Decl."). This request is reasonable in light of the proposed class size of approximately 55 Settlement Class Members and the costs and expenses associated with administering the notices and distributing the awards. Additionally, Phoenix will translate the Class Notice and mail the Class Notice in both English and Spanish to Settlement Class Members.

Phoenix has extensive experience administering class action matters. Phoenix has administered complex wage and hour, labor and employment, consumer/ product liability, TCPA, FLSA, FACTA, ERISA and PAGA class action matters, though final approval and distribution. Phoenix has developed a system of quality assurance measures, to ensure the highest quality service is provided in our cases and to class members. Lawrence Decl., ¶ 5. Class Counsel does not have any conflict of interest. Class Counsel also confirmed that Defendant nor its counsel has any conflicts of interests with Phoenix as the proposed settlement administrator.

B. CLASS LIST FROM DEFENDANT

No later than 20 calendar days after entry of an order preliminarily approving the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. Settlement, ¶ 4.2.

To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. *Id.*

C. CLASS LIST UPDATED PRIOR TO INITIAL MAILING AND MAILING

Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database. Settlement, ¶ 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice with Spanish translation. *Id*.

D. NOTICE COMPLIES WITH CAL. RULES OF COURT, RULE 3.766(D)

The content of the proposed Class Notice satisfies California Rule of Court 3.766(d) because it advises Class Members of the nature of the claims, basic contentions and denials of the parties, and the key terms of the Settlement, the 60-day deadline to opt-out or object to the Settlement and the procedures by which to do so, explains the recovery formula and expected recovery amount for each Class Member, provides them the opportunity to contest their total workweeks included in the notice, and advises them that they will be bound by the terms of the Settlement if they do not opt-out. *See* Settlement, Exh. A. The proposed Class Notice will also notify Class Members of the final approval hearing date and provides Class Members the contact information for Class Counsel, and advises Class Members that they may enter an appearance through counsel if they wish to. This manner of giving notice satisfies California Rule of Court 3.766(e) as the most reliable and cost-effective method of reaching Settlement Class Members.

E. PROCESSING OF PAYMENTS

Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments. Settlement, ¶ 4.4.

Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database. Settlement, ¶ 4.4.1.

F. UNDELIVERABLE SETTLEMENT NOTICES

Not later than 3 business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time. Settlement, ¶ 7.4.3.

The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). Settlement, ¶ 4.4.1.

VII. RESPONSES TO SETTLEMENT NOTICE

A. REQUESTS FOR EXCLUSION

Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline. Settlement, ¶ 7.5.1.

B. RE-MAILED NOTICES

The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The

Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice. Settlement, ¶ 7.4.4.

C. OBJECTION PROCEDURES

Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment. Settlement, ¶ 7.7.1.

Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed). Settlement, ¶ 7.7.2.

VIII. DISTRIBUTION OF UNCASHED FUNDS

The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Settlement ¶ 4.4.1.

For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b). Settlement ¶ 4.4.3.

IX. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court preliminarily approve the proposed Settlement, provisionally certify the Settlement Class, and enter the Proposed Order Granting Preliminary Approval of Class Action Settlement submitted concurrently herewith.

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Dated: February 20, 2024

Respectfully submitted,
LIDMAN LAW, APC

By: ______________________________
Scott M. Lidman
Attorney for Plaintiffs
REMBER GUILLEN and JUAN SALAS