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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF PLACER**

ADIL ELAMRANI JOUTEY, individually, and
on behalf of all others similarly situated,

Plaintiff,

vs.

GHIRARDELLI ASSOCIATES, INC., a
California corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: S-CV-0055468

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 Adil Elamrani Joutey,
the Declaration of Jodey Lawrence, and
[Proposed] Preliminary Approval Order]*

PRELIMINARY APPROVAL HEARING:

Date: October 2, 2026

Time: 8:25 a.m.

Dept.: 1

Commissioner Christine Dehr

Complaint Filed: June 4, 2025

FAC Filed: August 12, 2025

Trial Date: Not Set

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

2 PLEASE TAKE NOTICE that on October 2, 2026 at 8:25 a.m. in Department 1 of this Court
3 located at 101 Maple Street, Auburn, California, 95603 pursuant to Code of Civil Procedure section
4 382 and California Rules of Court, rule 3.769 *et seq.*, Plaintiff Adil Elamrani Joutey (“Plaintiff”) will,
5 and hereby does, move the Court for an order granting preliminary approval of the proposed class action
6 settlement between Plaintiff and Defendant Ghirardelli Associates, Inc.. Specifically, Plaintiff moves
7 the Court for an order:

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

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

21 As this Motion is unopposed, the Parties respectfully request relief from the page limit
22 requirement set by California Rules of Court, Rule 3.1113(d).

23 Respectfully submitted,

24 Dated: September 9, 2026

MOON LAW GROUP, PC

25 By: _____

26 Kane Moon
27 Allen Feghali
28 Mariam Ghazaryan
Mitchell H. Millet
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Adil Elamrani Joutey (“Plaintiff”) seeks preliminary approval of a proposed \$525,000.00 non-reversionary, wage-and-hour class action settlement (the “Settlement”) with Defendant Ghirardelli Associates, Inc. (“Defendant”) (together with Plaintiff, the “Parties”). The Settlement will provide substantial monetary payments to an estimated 275 Class Members who worked an estimated aggregate of 25,089 Workweeks, of which an estimated 197 are Aggrieved Employees who worked an estimated aggregate of 6,405 PAGA Pay Periods. As set forth more fully below, the proposed Settlement satisfies all the criteria for settlement approval under California law. The Settlement was reached after extensive investigation, informal discovery, and negotiations between the Parties. The negotiations were at arm’s-length and were facilitated through private mediation by an experienced and neutral class action mediator, Jason Marsili, Esq. Accordingly, Plaintiff requests the Court preliminarily approve the Settlement, certify the proposed Class, approve the proposed Class Notice to Class Members, and set a final approval hearing no earlier than 120 days from the date of preliminary approval.

II. SUMMARY OF THE LITIGATION AND SETTLEMENT

A. Plaintiff’s Claims and Procedural History

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

Defendant is a California-based consulting and construction management firm that specializes in infrastructure and public works for state and local government agencies and provides program management and construction management services. (*Id.* at ¶ 3.) Defendant employed Plaintiff and other non-exempt, hourly-paid employees during the Class Period. (*Id.*) Plaintiff worked for Defendant

1 in a non-exempt position from approximately October 2022 to May 2025. (Declaration of Adil
2 Elamrani Joutey in Support of Class Action and PAGA Representative Action Settlement [“Plaintiff
3 Decl.”], ¶ 2.) Plaintiff contends he and his coworkers were subjected to the same unlawful labor
4 practices, including failure to pay wages for all hours worked. (*Id.* at ¶ 6; Moon Decl., ¶ 3.)

5 Plaintiff's claim for unpaid wages stems from allegations that Defendant failed to compensate
6 Plaintiff and other employees for off-the-clock work performed before and after their scheduled shifts
7 and during meal breaks, and that Defendant failed to incorporate all non-discretionary bonuses into
8 employees' regular rate of pay for purposes of calculating overtime, meal period premiums, and sick
9 pay. (Moon Decl., ¶ 4.) Plaintiff's meal and rest period claims are based on allegations that, due to the
10 nature of their work, Class Members were frequently required to take late meal periods and were not
11 authorized or permitted to take compliant rest periods, and that Defendant did not pay all premium
12 wages owed for non-compliant breaks. (*Id.*) Plaintiff further brings a claim for unreimbursed necessary
13 business expenses based on allegations that Class Members were required to incur work-related
14 expenses, including for the use of personal cellphones and home office expenses, without
15 reimbursement from Defendant. (*Id.*) Finally, Plaintiff also brings derivative claims for waiting time
16 penalties, wage statement violations, unfair business practices, and civil penalties under PAGA. (*Id.*)

17 Because of the foregoing alleged violations of various provisions of the Labor Code, Plaintiff
18 filed a Class Action Complaint against Defendant on June 4, 2025, which alleges that Defendant
19 systematically: (1) failed to pay minimum wages; (2) failed to pay overtime compensation; (3) failed
20 to provide meal periods; (4) failed to authorize and permit rest breaks; (5) failed to indemnify necessary
21 business expenses; (6) failed to timely pay final wages at termination; (7) failed to provide accurate
22 itemized wage statements; and (8) engaged in unfair business practices. (*Id.* at ¶ 5.)

23 Pursuant to PAGA, on May 26, 2025, Plaintiff provided written notice to the California Labor
24 and Workforce Development Agency (the "LWDA") of the alleged Labor Code violations, with service
25 on Defendant. (*Id.* at ¶ 6, Ex. 2.) On August 12, 2025, Plaintiff filed a First Amended Class and
26 Representative Action Complaint ("First Amended Complaint" or "Operative Complaint") to add a
27 ninth cause of action for civil penalties under PAGA. (*Id.*) Plaintiff's administrative exhaustion period
28 under PAGA has since expired without the LWDA indicating its intent to investigate the alleged

1 violations or intervene in this Action. (*Id.*)

2 Defendant ardently opposes the merits of this case and denies Plaintiff’s factual allegations. (*Id.*
3 at ¶ 7.) Defendant asserts it complied with all its compensation obligations, including compensating
4 Class Members for any and all off-the-clock work and overtime work, and therefore, Plaintiff and other
5 Class Members were paid all wages owed. (*Id.*) Defendant argues it did not fail to incorporate any non-
6 discretionary bonuses into the regular rate of pay for purposes of paying overtime, meal premium, or
7 sick pay, and that all bonuses were discretionary. (*Id.*) Defendant maintains compliance with all its
8 meal and rest period obligations. (*Id.*) Defendant asserts it complied with all its reimbursement
9 obligations, and that Plaintiff and other employees were compensated for any and all business expenses
10 necessarily incurred. (*Id.*) To the extent employees received wage statements that were allegedly
11 inaccurate, Defendant asserts employees suffered no actual damage or harm as a result. (*Id.*; *see, e.g.,*
12 *Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013, No. C 12–05860 CRB) 2013 WL 622032, at
13 *10 [“A plaintiff must adequately plead an injury arising from an employer’s failure to provide full and
14 accurate wage statements, and the omission of the required information alone is not sufficient.”].) With
15 respect to Plaintiff’s claim for waiting time penalties, Defendant alleges its good-faith belief that it paid
16 all wages precludes the imposition of waiting time penalties since Plaintiff cannot prove Defendant’s
17 alleged failure to pay all final wages at the time of separation was “willful.” (Moon Decl., ¶ 7; *see, e.g.,*
18 *Pedroza v. PetSmart, Inc.* (C.D. Cal. June 14, 2012, No. ED CV 11–298 GHK (DTBx)) 2012 WL
19 9506073, *5.) For these reasons, among others, Defendant denies all of Plaintiff’s claims and
20 allegations, and further claims it did not engage in any unfair business practices and denies liability
21 under PAGA. (Moon Decl., ¶ 7.) Defendant also maintains the claims are improper for class treatment,
22 in part, due to the individualized and testimony-intensive nature of the wage claims that could bar class
23 certification or significantly reduce Defendant’s overall liability. (*Id.*)

24 **B. Discovery and Investigation**

25 The Parties agreed to mediate this action with Jason Marsili, Esq., an experienced wage-and-
26 hour class and PAGA action mediator. (*Id.* at ¶ 8.) In preparation for mediation, the Parties agreed to a
27 protocol for an informal production of documents and information before mediation. (*Id.*) Prior to
28 mediation, Plaintiff obtained from Defendant, through informal discovery, information sufficient to

1 meaningfully evaluate the claims at issue in this Action, including time and pay data, records related to
2 Defendant's wage-and-hour policies and practices in effect during the Class Period. (*Id.*)

3 In preparation for mediation, Class Counsel reviewed and analyzed the information Defendant
4 provided. (*Id.*) Class Counsel evaluated the claims based on the records produced, on the information
5 Plaintiff provided regarding his own experience and observations of Defendant's practices, and on Class
6 Counsel's investigation of the applicable law regarding the claims and defenses asserted in the
7 litigation. (*Id.*) This review allowed Class Counsel to evaluate the probability of class certification, the
8 likelihood of success on the merits, and the risks and costs of continued litigation. (*Id.*) Thus, Plaintiff's
9 and his Counsel's familiarity with the facts of the case and the legal issues raised by the pleadings
10 allowed them to act intelligently in negotiating the Settlement. (*Id.*)

11 **C. Settlement Negotiations and Notice of Settlement to the LWDA**

12 On May 26, 2026, the Parties participated in a full day of private mediation with Jason Marsili,
13 Esq. (*Id.* at ¶ 10.) The negotiations were at arm's length and, although conducted in a professional
14 manner, were adversarial. (*Id.*) The Parties went into the mediation willing to explore the potential for
15 a settlement of the dispute, but each side was also prepared to litigate its position through trial and
16 appeal if a settlement had not been reached. (*Id.*) After a full discussion regarding the strengths and
17 weaknesses of Plaintiff's claims and Defendant's defenses, and with the assistance of the mediator, the
18 Parties reached a resolution, the material terms of which are set out in the Settlement. (*Id.*, Ex. 1.)

19 In compliance with Labor Code section 2699(s)(2), a copy of the Settlement Agreement has
20 been submitted to the LWDA. (*Id.* at ¶ 11, Ex. 3.) To date, the LWDA has not indicated any objection
21 to the Settlement. (*Id.* at ¶ 11.)

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

23 Under the Settlement, Defendant will pay a non-reversionary amount of *no less than*
24 **\$525,000.00** ("GSA"), subject to potential increase under an Escalator Clause, to resolve this action.
25 (Settlement, ¶ 3.1.) Separate and apart from the GSA, Defendant will pay its employer-share of payroll
26 taxes owed on the Wage Portion of the Individual Class Payments. (*Id.*) Other key terms of the
27 Settlement are outlined in the counsel declaration submitted concurrently herewith. (Moon Decl., ¶¶
28 13–29.) The proposed Settlement Administrator— Phoenix Class Action Administration Solutions —

1 was jointly selected by the Parties based on its bid of \$8,250.00. (*Id.* at ¶ 16, Ex. 5; Settlement, ¶ 1.2.)

2 The “Class” is defined as all current and former non-exempt employees who worked for
3 Defendant in California at any time during the Class Period. (*Id.* at ¶ 1.5.) The “Class Period” is June
4 4, 2021, through May 31, 2026. (*Id.* at ¶ 1.12.) The Class does not include any person who previously
5 settled or released all of the claims covered by the Settlement, including those covered by the prior
6 settlement in *Raymond Tunkel v. Ghirardelli Associates, Inc.*; specifically, the Class excludes all
7 workweeks for hourly field staff employed by Defendant in California from June 4, 2021, to April 30,
8 2023, who were represented in the Tunkel action. (*Id.*)

9 The Administrator will deduct the following payments from the GSA, in the amounts approved
10 by the Court: the Individual PAGA Payments, the LWDA PAGA Payment, the Class Representative
11 Enhancement Award, the Class Counsel Fees Payment, the Class Counsel Litigation Costs Payment,
12 and the Administration Expenses Payment. (*Id.* at ¶¶ 1.27, 3.2.) The remainder, the Net Settlement
13 Amount, is paid to Participating Class Members as Individual Class Payments. (*Id.* at ¶ 1.27.)
14 Accordingly, based on the maximum requested deductions, the Net Settlement Amount will be no less
15 than approximately \$243,000.00¹ for an estimated Class of 275 individuals. (Moon Decl., ¶ 19.) To the
16 extent the Court approves lesser amounts for the discretionary payments, the Net Settlement Amount
17 available to Participating Class Members will be greater. (*Id.*) Each Individual Class Payment is a
18 Participating Class Member's pro rata share of the Net Settlement Amount, calculated by dividing the
19 Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members
20 during the Class Period, and multiplying the result by the number of Workweeks worked by each
21 individual Participating Class Member. (Settlement, ¶¶ 1.22, 3.2.4.) No Class Member is required to
22 submit a claim form as a condition of receiving an Individual Class Payment. (*Id.* at ¶ 3.1.) Based on
23 an estimated \$243,000.00 Net Settlement Amount, the average Individual Class Payment is estimated
24 to be \$883.64 (\$243,000 / 275). (Moon Decl., ¶ 20.)

25
26 ¹ The Net Settlement Amount was calculated by deducting the following from the \$525,000.00
27 GSA: \$10,000.00 for the Class Representative Enhancement Payment, up to \$8,250.00 for the
28 Administration Expenses Payment, \$50,000.00 for the PAGA Penalties to the LWDA and
Aggrieved Employees, \$183,750.00 for the Class Counsel Fees Payment, and up to \$30,000.00 for
the Class Counsel Expenses Payment. (Settlement, ¶¶ 3.2.1–3.2.5.)

1 "Aggrieved Employees" is defined as all current and former hourly-paid or non-exempt
2 employees of Defendant who worked for Defendant in California at any time during the PAGA Period.
3 (*Id.* at ¶ 1.4.) The "PAGA Period" is May 26, 2024, through May 31, 2026. (*Id.* at ¶ 1.33.) The
4 Settlement allocates \$50,000.00 from the GSA for PAGA Penalties, which will be distributed sixty-
5 five percent (\$32,500.00) to the LWDA and thirty-five percent (\$17,500.00) to Aggrieved Employees
6 pursuant to PAGA. (*Id.* at ¶ 3.2.5.) The Administrator will calculate each Individual PAGA Payment
7 by dividing the Aggrieved Employees' thirty-five percent share of the PAGA Penalties by the total
8 number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and
9 multiplying the result by each Aggrieved Employee's number of PAGA Pay Periods. (*Id.* at ¶ 3.2.5.1.)
10 Individual PAGA Payments are treated as one hundred percent penalties for tax purposes and are
11 reported on IRS Form 1099. (*Id.*) There are an estimated 197 Aggrieved Employees. (Moon Decl., ¶
12 17.) As such, the estimated average Individual PAGA Payment is \$88.83 (\$17,500 / 197 Aggrieved
13 Employees). (*Id.*)

14 The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other
15 pending matter or action asserting claims that will be extinguished or affected by the Settlement, other
16 than the separate individual action *Joutey v. Ghirardelli Associates, Inc.*, Case No. S-CV-0056316,
17 which is being resolved separately and independently from the Settlement. (Settlement, ¶ 2.8.)

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

19 The law favors the settlement of lawsuits, particularly in class actions and other complex cases.
20 (*See, e.g., Neary v. Regents of Univ. of Cal.* (1992) 3 Cal.4th 272, 277–81.) To prevent fraud, collusion,
21 or unfairness to the class, the settlement of a class action requires court approval. (*Dunk v. Ford Motor*
22 *Co.* (1996) 48 Cal.App.4th 1794, 1800–01 [citing authority omitted].) To approve a settlement, the
23 Court must find “the settlement is fair, adequate, and reasonable.” (*Id.*) This Court has wide discretion
24 in making this determination. (*Mallick v. Super. Ct.* (1979) 89 Cal.App.3d 434, 438.) Fairness,
25 adequacy, and reasonableness are presumed, as here, when: “(1) the settlement is reached through
26 arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court
27 to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors
28

1 is small.” (*Dunk*, 48 Cal.App.4th at p. 1802 [citing Newberg, Newberg on Class Actions (3rd ed. 1992)
2 § 11.41].)

3 In evaluating a settlement, the trial court considers the following factors: (1) the strength of
4 plaintiff’s case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk
5 of maintaining class action status through trial; (4) the settlement amount offered; (5) the extent of
6 discovery completed and the stage of the proceedings; (6) counsel’s experience and views; (7) the
7 presence of a governmental participant; and (8) the class members’ reaction to the proposed settlement.
8 (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128.) To approve a class action
9 settlement, “the court must satisfy itself that the class settlement is within the ‘ballpark’ of
10 reasonableness.” (*Id.* at p. 133.) The record need not contain an explicit statement of the maximum
11 theoretical recovery. (*Munoz v. BCI Coca-Cola Bottling Co. of L.A.* (2010) 186 Cal.App.4th 399, 408–
12 09 [holding that *Kullar* does not require “an explicit statement of the maximum amount the plaintiff
13 class could recover if it prevailed on all its claims,” but instead, only an “understanding of the amount
14 that is in controversy and the realistic range of outcomes of the litigation”].)

15 As discussed below, Class Counsel have provided materials and information exceeding the
16 threshold required for this Court to conclude the Settlement is fair, reasonable, and adequate.

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

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

21 Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless
22 evidence to the contrary is offered. (Newberg, Newberg on Class Actions (3rd ed. 1992) § 11.51.)
23 Settlement is favored, and settlement agreements are realistically assessed. (*Stamburgh v. Super. Ct.*
24 (1976) 62 Cal.App.3d 231, 236; *Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447 [“The fact that
25 the plaintiff might have received more if the case had been fully litigated is no reason not to approve
26 the settlement.”].) Thus, there is a presumption here that negotiations were conducted in good faith.

27 Here, Class Counsel have conducted a thorough investigation into the facts of this case. (Moon
28 Decl., ¶ 29.) As previously noted, the Settlement at issue was reached through arms’-length negotiations

1 and private mediation. (*Id.*) Based on Defendant’s informal class-wide discovery production, on Class
2 Counsel’s independent investigation and evaluation, and on counsel’s extensive experience in wage-
3 and-hour litigation, Class Counsel are of the opinion that the proposed Settlement is fair, reasonable,
4 and adequate. (*Id.*)

5 Based on Class Counsel’s review of the time, payroll, and additional data provided by
6 Defendant, and on information from Plaintiff, Class Counsel evaluated the estimated maximum and
7 risk-adjusted exposure that Defendant faced. (*Id.* at ¶ 30.) Specifically, the total estimated **realistic**
8 **recovery** (adjusted for risks at certification and proof on the merits) for the alleged claims, including
9 penalties, is estimated to be **\$831,238.37**. (Moon Decl., ¶¶ 30, 37.) This amount was calculated as
10 follows: **\$148,317.17** (90% discount) for the off-the-clock work claim; **negligible, if any value**, for the
11 regular rate claim; **\$317,819.13** (75% discount) for the meal period claim; **\$211,874.92** (90% discount)
12 for the rest period claim; **\$9,408.38** (90% discount) for the unreimbursed business expenses claim;
13 **\$80,261.28** (95% discount) for the waiting time penalties claim; **\$31,532.50** (95% discount) for the
14 wage statement claim; and **\$32,025.00** (95% discount) for the PAGA penalties claim. (*Id.* at ¶¶ 32–38.)
15 The foregoing discounts were based on the evidence presented for mediation and arguments made
16 during arm’s-length settlement negotiations. (*Id.*)

17 **The \$525,000.00 gross settlement figure represents approximately 63% of the total**
18 **realistic recovery estimated to be \$831,238.37.** (*Id.* at ¶ 37.) This is an excellent result for the Class,
19 particularly because, under the Settlement, Class Members will receive timely and guaranteed relief,
20 avoiding the risk of not being able to recover anything. (*Id.*)

21 **2. The Class Settlement Is Fair Considering the Parties’ Respective Positions and** 22 **Significant Risks to Certification and Proof on the Merits**

23 A settlement is not judged against what a plaintiff might recover had he prevailed at trial, nor
24 does the settlement have to provide 100% of the damages sought to be fair and reasonable. (*Wershba*
25 *v. Apple Comp., Inc.* (2001) 91 Cal.App.4th 224, 246, 250 [“Compromise is inherent and necessary in
26 the settlement process . . . even if ‘the relief afforded by the proposed settlement is substantially
27 narrower than it would be if the suits were to be successfully litigated,’ this is no bar to a class settlement
28 because ‘the public interest may indeed be served by a voluntary settlement in which each side gives

1 ground in the interest of avoiding litigation.”] [quoting *Air Line Stewards v. Am. Airlines, Inc.* (7th
2 Cir. 1972) 455 F.2d 101, 109].)

3 Here, considering all known facts and circumstances, the risk of significant delay, trial risk,
4 appellate risk, and the defenses Defendant may assert both to certification and on the merits, the
5 Settlement is in the best interest of the Class and LWDA. (Moon Decl., ¶ 29.) While Plaintiff is
6 confident in the merits of his claims, a legitimate controversy exists as to each cause of action. (*Id.* at
7 ¶ 39.) Plaintiff also recognizes that proving the amount owed to each Class Member would be an
8 expensive, time-consuming, and uncertain proposition. (*Id.*)

9 The Settlement obviates the significant risk that this Court may deny certification of all or some
10 of Plaintiff’s claims. (*Id.* at ¶ 39.) Class Counsel took into account the risk of not prevailing at trial due
11 to low or no participation by Class Members. (*Id.*) Indeed, the individualized and testimony-intensive
12 nature of the claims could bar manageability of the representative claims or otherwise significantly
13 reduce any recovery whatsoever. (*Id.*) For example, the rest period, off-the-clock, and unreimbursed
14 business expense claims are testimony-driven claims, and even assuming employees would be willing
15 to participate, obtaining declarations could reveal that each individual employee had a different
16 experience. (*Id.*)

17 Furthermore, even if Plaintiff were able to pursue his claims on a class-wide basis and obtain
18 certification of all or some of the claims, continued litigation would be expensive, involving a trial and
19 possible appeals, and would substantially delay and reduce any recovery by the Class. (*Id.* at ¶ 40.)
20 Although the Parties have engaged in a significant amount of investigation, informal discovery, and
21 class-wide data analysis, they have not conducted extensive formal discovery. (*Id.*) Moreover,
22 preparation for class certification and a trial would remain for the Parties as well as the prospect of
23 appeals in the wake of a disputed class certification ruling for Plaintiff and/or any summary judgment
24 ruling. (*Id.*) As a result, the Parties would incur considerably more attorneys’ fees and costs through
25 trial. (*Id.*) In sum, this Settlement avoids the risks, burdens, and the accompanying expense of further
26 litigation. (*Id.*)

27 The proposed \$525,000.00 Settlement therefore represents a substantial recovery when
28 compared to the reasonably forecasted recovery for the Class. (*Id.* at ¶ 41.) When considering the risks

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

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

7 With regards to the PAGA claims, the Settlement is a fair and reasonable resolution that satisfies
8 PAGA’s dual statutory purposes of deterrence and punishment, on the one hand, and providing
9 Aggrieved Employees with genuine and meaningful relief, on the other. (Moon Decl., ¶ 38; Lab. Code
10 §§ 2698, *et seq.*) As a result of this litigation, Defendant has had to hire legal counsel, engage in informal
11 class-wide discovery, and participate in mediation. (Moon Decl., ¶ 39.) Defendant will also have to pay
12 civil penalties to the LWDA under the Settlement, assuming final settlement approval is granted. (*Id.*;
13 Settlement, ¶ 3.2.5.) Of the \$525,000.00 GSA, \$50,000.00 is allocated toward the PAGA claims and
14 will be distributed, in compliance with Labor Code section 2699, as sixty-five percent (\$32,500.00) to
15 the LWDA and thirty-five percent (\$17,500.00) to Aggrieved Employees, and the release obtained
16 under the Settlement does not preclude Aggrieved Employees from pursuing any individual claims they
17 may have against Defendant or the other Released Parties. (Moon Decl., ¶ 39.)

18 Moreover, Class Counsel are also of the opinion that, because the issues here are fairly contested,
19 there is a possibility of the Court not awarding the full PAGA penalties even if Plaintiff prevailed on
20 the merits, given the largely discretionary nature of awarding PAGA penalties. (*Id.*) Indeed, under
21 PAGA, a Court can reduce penalties “if, based on the facts and circumstances of the particular case, to
22 do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” (Lab.
23 Code § 2699(e)(2).) In other words, were this matter to go to trial, any award granted would be at the
24 discretion of the Court and subject to a substantial reduction. (Moon Decl., ¶ 39.) Further, Class Counsel
25 took into account the risk of not being able to proceed on a representative basis due to the potential
26 manageability issues and that even if Plaintiff prevailed at trial, penalties would likely be limited due to
27 the largely discretionary nature of awarding PAGA penalties and in light of other defenses available to
28 Defendant. (*Id.* at ¶ 38.) Thus, it is entirely possible that even if Plaintiff would be successful at trial,

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

3 In sum, the \$50,000 PAGA Penalties allocation under the Settlement constitutes “genuine and
4 meaningful” relief that is “consistent with the underlying purpose of the statute to benefit the public.”
5 (*See O’Connor v. Uber Tech., Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1133–35 [denying settlement
6 approval where allocation for PAGA claims was 0.1% of the estimated full worth].)

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

9 The Settlement negotiations were conducted by highly capable counsel with considerable
10 experience and demonstrated competence with litigating wage-and-hour class actions. (Moon Decl., ¶¶
11 46–65.) Class Counsel have a strong record of vigorous and effective advocacy for their clients and are
12 experienced in handling complex wage-and-hour class action litigation. (*Id.*) Their experience was
13 helpful in assessing the reasonableness of the Settlement at issue here, and from this experience they
14 concluded that this litigation could not have been settled on better terms than provided under the
15 Settlement. (*Id.* at ¶ 67.) Although Plaintiff and his counsel were prepared to try the claims alleged in
16 the litigation, they support the proposed Settlement as being in the best interest of the Class based on
17 objective evidence that has been considered and weighed against the risks, expenses, and time
18 consumption to both sides of continued litigation. (*Id.* at ¶ 29.)

19 **B. The Proposed Attorneys’ Fees and Costs Are Reasonable**

20 Subject to the Court’s approval, the Settlement provides for attorneys’ fees payable to Class
21 Counsel in an amount of not more than thirty-five percent (35%) of the Gross Settlement Amount
22 (currently estimated to be \$183,750.00), plus reimbursement for actual litigation costs incurred and
23 approved by the Court, not to exceed \$30,000.00.² (Settlement, ¶ 3.2.2.) These amounts are disclosed
24 to Class Members in the proposed Class Notice and are reasonable. (*Id.* at Ex. A.)

25
26
27
28 ² Class Counsel’s current litigation costs are \$11,101.96, and they anticipate incurring additional costs up to final approval. (Moon Decl., ¶¶ 16, 74, Ex. 4.)

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

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

8 Class Counsel seek an award of attorneys’ fees on the “percentage of recovery/common fund”
9 theory. (Moon Decl., ¶ 69.) The purpose of this approach is to “spread litigation costs proportionately
10 among all the beneficiaries so that the active beneficiary does not bear the entire burden alone.”
11 (*Vincent v. Hughes Air W., Inc.* (9th Cir. 1977) 557 F.2d 759, 769.) In *Quinn v. State of California*
12 (1975) 15 Cal.3d 162, the California Supreme Court stated, “one who expends attorneys’ fees in
13 winning a suit which creates a fund from which others derive benefits, may require those passive
14 beneficiaries to bear a fair share of the litigation costs.” (*Id.* at p. 167.) Similarly, in *City and County of*
15 *San Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court recognized that the
16 common fund doctrine has been applied “consistently in California when an action brought by one
17 party creates a fund in which other persons[] are entitled to share.” (*Id.* at pp. 110–11 [pincite omitted].)

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

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

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

Here, Class Counsel’s fees request for 35% of the GSA, is in line with the prevailing guidelines established in California case law and academic literature and is consistent with awards in California. (*Compare* Settlement, ¶ 3.1.2, with *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11 [“Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery.”].) Accordingly, Plaintiff requests the Court preliminarily approve the attorneys’ fees as negotiated by the Parties.

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

Labor Code sections 218.5, 226, 1194, 2699, and 2802 provide for the recovery of reasonable fees and costs of suit, for the claims made in this action. (Lab. Code §§ 218.5, 226, 1194, 2699(k)(1), 2802(d).) Under these sections, Plaintiff would be permitted to recover his actual attorneys’ fees, even if those fees were larger than the total class recovery at the conclusion of this case. (*Id.*) This Settlement is beneficial in that it limits the risk of continued expenses and consumption of time, energy, and resources facing Defendant while at the same time rewarding Class Counsel for their decision to assume risk by taking on this matter on a contingent basis with no guarantee of recovery. (Moon Decl., ¶¶ 70, 72, 75.) In fact, prosecution of this action involved significant financial risk for Class Counsel. (*Id.*) Once Class Counsel undertook this litigation, they committed to pursue it to its conclusion, placing their fiduciary duty to the Class ahead of all other concerns. (*Id.* at ¶ 72.)

1 **4. Counsel’s Experience, Reputation, and Ability Support the Fees Request**

2 As demonstrated by their past experience in pursuing class actions on behalf of consumers and
3 employees, Class Counsel possess considerable expertise in litigating class actions. (*Id.* at ¶¶ 47–66.)
4 Class Counsel have been involved as lead counsel or co-counsel in numerous class actions that resulted
5 in millions in recovery. (*Id.*) As noted above, their experience in wage-and-hour litigation was integral
6 in evaluating the strengths and weaknesses of the case against Defendant and the reasonableness of the
7 Settlement. (*Id.* at ¶ 67.) Practice in the narrow field of wage-and-hour litigation requires skill and
8 knowledge concerning the rapidly evolving substantive law (state and federal) as well as the procedural
9 law of class action litigation. (*Id.* at ¶ 65.) Based on these and other factors, Class Counsel have
10 frequently received fee awards of this percentage from the gross recovery for the class. (*See id.* at ¶¶
11 50, 55, 61.) Because it is reasonable to compensate counsel commensurate with their skill, reputation,
12 and experience, the requested fee award is supported here.

13 **C. The Enhancement Award to Plaintiff Is Reasonable**

14 Named plaintiffs in class action lawsuits “are eligible for reasonable incentive payments to
15 compensate them for the expense or risk they have incurred in conferring a benefit on other members
16 of the class.” (*Munoz, supra*, 186 Cal.App.4th at p. 412.) Courts routinely grant approval of class action
17 settlement agreements containing enhancements for the class representatives, which are necessary to
18 provide incentive to represent the class and are appropriate given the benefit the class representatives
19 help to bring about for the class. (*See Rodriguez v. W. Publ’g Corp.* (9th Cir. 2009) 563 F.3d 948, 958–
20 59.) Service awards are particularly important to plaintiffs in wage-and-hour cases because they
21 promote the important public policies underlying the wage-and-hour laws. This strong policy is
22 codified in California Labor Code section 90.5, which provides, “[i]t is the policy of this state to
23 vigorously enforce minimum labor standards in order to ensure employees are not required or permitted
24 to work under substandard unlawful conditions . . .” (Lab. Code § 90.5.) Nonetheless, the California
25 Supreme Court has noted that “retaliation against employees for asserting statutory rights under the
26 Labor Code is widespread,” despite anti-retaliation statutes designed to protect employees. (*Gentry v.*
27 *Super. Ct.* (2007) 42 Cal.4th 443, 460–61.) In this context, class representatives should be rewarded for
28

1 assuming the risk of retaliation for the sake of class members. (*See Frank v. Eastman Kodak Co.*
2 (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

3 Under the Settlement here, subject to the Court’s approval, a Class Representative Enhancement
4 Award of \$10,000.00 will go to Plaintiff, in addition to his amount as a Class Member. (Settlement, ¶
5 3.2.1.) This award is in exchange for Plaintiff’s general release and in recognition of having initiated the
6 Action, provided services in support thereof, and incurred the risks inherent in the role of named
7 Plaintiff. (*Id.* at ¶¶ 1.14, 3.2.1.) Plaintiff has devoted a great deal of time and work, approximately 25
8 hours, assisting counsel in the case and communicated with counsel frequently for litigation and to
9 prepare for mediation. (Moon Decl., ¶¶ 42–45; Plaintiff Decl., ¶¶ 11–22.) The requested award is fair
10 and reasonable, particularly considering the substantial benefits Plaintiff generated for all Class
11 Members. (Moon Decl., ¶ 42–45.)

12 When compared with the amounts awarded in typical class action cases, the amount requested
13 here is particularly reasonable. A 2006 study examining the average incentive award given to class
14 action plaintiffs from 1993 to 2002 found that the “average award per class representative was \$15,992
15 and the median award per class representative was \$4357.” (Eisenberg & Miller, *Incentive Awards to*
16 *Class Action Plaintiffs: An Empirical Study* (2006) 53 UCLA L. Rev. 1303, 1307–08.) The same study
17 found that named plaintiffs in employment discrimination class actions received an average award of
18 \$69,850 and a median award of \$31,081, while named plaintiffs in other employment class actions
19 received an average award of \$12,121 and a median award of \$13,059. (*Id.* at p. 1333.) The authors of
20 the study found that higher awards in employment cases reflected the “courts’ wish to make
21 representative plaintiffs whole by compensating them for the high costs of their service to the class,
22 including risks of stigmatization or retaliation on the job.” (*Id.* at p. 1308.)

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

24 **A. Legal Standard**

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

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

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

17 **B. The Criteria for Class Certification Are Satisfied**

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

19 When determining whether a class is ascertainable, California courts focus on the following
20 three factors: “(1) the class definition, (2) the size of the class and (3) the means of identifying class
21 members.” (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 873.) Here, Plaintiff maintains there is an
22 easily ascertainable Class, defined by objective and precise criteria. (Settlement, ¶¶ 1.5, 1.12.) The
23 proposed Class that Plaintiff seeks to represent is ascertainable because (1) the Class definition is
24 sufficiently precise, (2) the Class consists of about 275 individuals, and (3) Class Members can be
25 readily identified by Defendant’s records. (*Id.* at ¶¶ 1.5, 1.8.) Because Class Members are identified
26 using specific criteria in the regular business records of Defendant—their employment by Defendant
27 in California, non-exempt classification, and actual work during the Class Period—the Class is
28 ascertainable. (*See Wilner v. Sunset Life Ins. Co.* (2000) 78 Cal.App.4th 952, 959–60 [class membership

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

2. There Are Many Common Issues of Law and Fact Which Predominate

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

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

1 force each Class Member to litigate their own individual claims. Thus, the Court should grant
2 conditional class certification for settlement purposes because common questions of law and fact
3 predominate over any individual questions within the Class.

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

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

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

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

20 Here, all requirements are met. Plaintiff retained counsel with extensive experience in
21 prosecuting complex class actions, including similar class actions that previously settled. (Moon Decl.,
22 ¶¶ 46–694) Based on their experience, Class Counsel unquestionably are "qualified, experienced and
23 generally able to conduct the proposed litigation." (*Miller, supra*, 148 Cal.App.3d at p. 874.) Plaintiff
24 has, with counsel, litigated this case and diligently reviewed the settlement terms, showing dedication,
25 and with full knowledge and acceptance of duties, he has committed to his role as Class Representative.
26 (Plaintiff Decl., ¶¶ 11–21.) In addition, Plaintiff and his Counsel have no conflicts with one another,
27 other Class Members, or the proposed Administrator. (*Id.* at ¶¶ 8–10; Moon Decl., ¶ 68.)
28

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

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

12 **V. THE PROPOSED CLASS NOTICE IS CONSTITUTIONALLY SOUND AND**
13 **SATISFIES RULES OF COURT**

14 Class Notice requirements are set forth in the California Rules of Court. (Cal. Rules of Court,
15 rule 3.766(e)–(f), rule 3.769(f).) Here, the proposed Class Notice, in the form attached to the Settlement
16 as **Exhibit A**, meets all the requirements of California Rules of Court. The Class Notice summarizes
17 the proceedings to date and the terms and conditions of the proposed Settlement in an informative and
18 coherent manner. (Settlement, ¶ 6.4.2, Ex. A.) It also states that the final approval decision has yet to
19 be made, and provides the date, time, and location of the Final Approval Hearing. (*Id.*) It explains the
20 right and procedures to opt-out or submit any written objections and/or arrange to appear at the Final
21 Approval Hearing and verbally state any objections. (Settlement, ¶ 6.5.) It makes clear the Settlement
22 does not constitute an admission of liability by Defendant, who denies all liability, and it recognizes
23 that this Court has not ruled on the merits of the action. (Settlement, Ex. A.) Thus, the proposed Class
24 Notice meets all the requirements of California Rule of Court 3.769(f). (Cal. Rules of Court, rule
25 3.769(f).)

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

1 California law vests the Court with broad discretion in fashioning an appropriate notice
2 program. (*Cartt v. Super. Ct.* (1975) 50 Cal.App.3d 960, 970, 973–74.) There is no statutory or due
3 process requirement that all class members receive actual notice, but in this matter, Class Members will
4 receive direct mailed notice, which is the best possible form of notice under the circumstances.
5 (Settlement, ¶ 6.4.2.) As the Court of Appeals has explained, “[t]he notice given should have a
6 reasonable chance of reaching a substantial percentage of the Class Members . . .” (*Cartt*, 50
7 Cal.App.3d at p. 974.)

8 **VI. CONCLUSION**

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

12 Respectfully submitted,

13 Dated: September 9, 2026

MOON LAW GROUP, PC

14
15 By: _____

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