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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

LILIAN SANCHEZ and MARISOL LOPEZ,  
individually, and on behalf of all others similarly  
situated,

Plaintiffs,

vs.

FLYING FOOD GROUP, LLC; and DOES 1  
through 10, inclusive,

Defendants.

Case No.: 26STCV02771

CLASS AND REPRESENTATIVE ACTION

**PLAINTIFFS' 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 Lilian Sanchez, the Declaration  
of Marisol Lopez, the Declaration of Jodey  
Lawrence, and [Proposed] Preliminary  
Approval Order]*

PRELIMINARY APPROVAL HEARING:

Date: October 21, 2026

Time: 9:15 a.m.

Dept.: 307

Judge: Hon. Richard L. Fruin

Reservation ID: 140907624545

Action Filed: January 27, 2026

Trial Date: Not set

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

2 PLEASE TAKE NOTICE that on October 21, 2026 at 9:15 a.m. in Department 307 of this  
3 Court located at 111 North Hill Street, Los Angeles, California, 90012 pursuant to Code of Civil  
4 Procedure section 382 and California Rules of Court, rule 3.769 *et seq.*, Plaintiff Lilian Sanchez  
5 (“Plaintiff Sanchez”) and Plaintiff Marisol Lopez (“Plaintiff Lopez”, together with Plaintiff Sanchez,  
6 the “Plaintiffs”) will, and hereby do, move the Court for an order granting preliminary approval of the  
7 proposed class action settlement between Plaintiffs and Defendant Flying Food Group, LLC.  
8 Specifically, Plaintiffs move the Court for an order:

- 9 1. Granting preliminary approval of the Joint Stipulation of Class and Representative Action  
10 Settlement Agreement;
- 11 2. Certifying a Class for settlement purposes only;
- 12 3. Approving the Class Notice and plan for its distribution;
- 13 4. Appointing Plaintiffs as the Class Representatives for settlement purposes only;
- 14 5. Appointing 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. Setting a Final Approval Hearing at least 120 days from the date of preliminary approval.

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

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

22 Respectfully submitted,

23 Dated: September 28, 2026

**MOON LAW GROUP, PC**

24 By: \_\_\_\_\_

25 Kane Moon  
26 Allen Feghali  
27 Chancellor D. Nobles  
28 Kaleb G. Oliver  
*Attorneys for Plaintiffs*

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1 position from approximately 2023 through July 2025. (Declaration of Plaintiff Lilian Sanchez in  
2 Support of Class and Representative Action Settlement [“Sanchez Decl.”], ¶ 2.) Plaintiff Lopez worked  
3 for Defendant in a non-exempt, hourly-paid position from approximately June 2018 through October  
4 2025. (Declaration of Plaintiff Marisol Lopez in Support of Class and Representative Action Settlement  
5 [“Lopez Decl.”], ¶ 2.) Plaintiffs contend that they and their coworkers were subjected to the same  
6 unlawful labor practices, including failure to pay wages for all hours worked. (*Id.* at ¶ 6; Sanchez Decl.,  
7 ¶ 6; Moon Decl., ¶ 3.)

8 Plaintiffs’ claim for unpaid minimum and overtime wages stem from allegations that Defendant  
9 failed to compensate Plaintiffs and others for off-the-clock work and failed to incorporate all  
10 remuneration into employees’ regular rate of pay for purposes of paying overtime, meal premium, and  
11 sick pay. (Moon Decl., ¶ 4.) Plaintiffs’ meal and rest period claims are based on allegations that due to  
12 the nature of their work, and Defendant’s practices, Class Members’ breaks were often short, late,  
13 interrupted, and sometimes missed altogether, and that Defendant did not pay all premium wages for  
14 non-compliant breaks. (*Id.*) Plaintiffs further bring a claim for unreimbursed necessary business  
15 expenses based on allegations that Class Members were required to purchase non-slip shoes, maintain  
16 their uniforms, and use their personal cellphone for work purposes without reimbursement from  
17 Defendant. (*Id.*) Finally, Plaintiffs also bring derivative claims for waiting time penalties, wage  
18 statement violations, unfair business practices, and civil penalties under PAGA. (*Id.*)

19 On August 27, 2025, Plaintiff Sanchez initiated a putative class action against Defendant  
20 alleging wage-and-hour violations in the Superior Court of the State of California, County of Los  
21 Angeles, *Case No. 25STCV25258*. (*Id.* at ¶ 5.) On October 10, 2025, Defendant removed that action to  
22 the United States District Court for the Central District of California, where it was assigned *Case No.*  
23 *2:25cv-09739-MWC-AJR* (the “Federal Court Action”). (*Id.*) On January 12, 2026, Plaintiffs filed a  
24 First Amended Complaint adding Plaintiff Lopez as a named plaintiff. (*Id.*)

25 On January 27, 2026, Plaintiffs initiated this Action against Defendant entitled *Lilian Sanchez*  
26 *v. Flying Food Group, LLC*, a Los Angeles County Superior Court Case No. 26STCV02771, alleging  
27 a single cause of action for civil penalties pursuant to California Labor Code section 2699, *et seq.* (*Id.*  
28 at ¶ 6.)

1 Pursuant to PAGA, on December 26, 2025, Plaintiff Lopez gave written notice to the California  
2 Labor and Workforce Development Agency (the “LWDA”) of the alleged Labor Code violations, with  
3 certified mail service on Defendant, and paid the required filing fee. (*Id.* at ¶ 7, Ex. 2.) On January 27,  
4 2026, each Plaintiff submitted an Amended Notice of Labor Code Violations and PAGA Penalties to  
5 the LWDA and served the same on Defendant via certified mail. (*Id.*) To date, the LWDA has not  
6 indicated its intent to investigate the alleged violations or intervene in this Action. (*Id.* at ¶ 7.)

7 For purposes of Settlement, Plaintiffs filed a First Amended Complaint in this Action on August  
8 3, 2026 to add the following class action allegations against Defendant: (1) Failure to Pay Minimum  
9 Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197]; (2) Failure to Pay Overtime Compensation  
10 [Cal. Lab. Code §§ 1194 and 1198]; (3) Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7 and  
11 512]; (4) Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code § 226.7]; (5) Failure to  
12 Indemnify Necessary Business Expenses [Cal. Lab. Code § 2802]; (6) Failure to Timely Pay Final  
13 Wages at Termination [Cal. Lab. Code §§ 201-203]; (7) Failure to Provide Accurate Itemized Wage  
14 Statements [Cal. Lab. Code § 226]; (8) Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et  
15 seq.]; and (9) Civil Penalties under PAGA [Cal. Lab. Code §§ 2699, et seq.]. (Moon Decl. at ¶ 8.) The  
16 First Amended Complaint is the Operative Complaint. (*Id.*)

17 Defendant ardently opposes the merits of this case and denies Plaintiffs’ factual allegations. (*Id.*  
18 at ¶ 9.) Defendant asserts it complied with all its compensation obligations, including compensating  
19 Class Members for any and all off-the-clock work and overtime work, and therefore, Plaintiffs and  
20 other Class Members were paid all wages owed. (*Id.*) Defendant argues it did not fail to incorporate  
21 any non-discretionary bonuses into the regular rate of pay for purposes of paying overtime, meal  
22 premium, or sick pay. (*Id.*) Defendant maintains compliance with all its meal and rest period  
23 obligations. (*Id.*) Defendant asserts it complied with all its reimbursement obligations, and that  
24 Plaintiffs and other employees were compensated for any and all business expenses necessarily  
25 incurred. (*Id.*) To the extent employees received wage statements that were allegedly inaccurate,  
26 Defendant asserts employees suffered no actual damage or harm as a result. (*Id.*; *See, e.g., Angeles v.*  
27 *U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013, No. C 12–05860 CRB) 2013 WL 622032, at \*10 [“A  
28 plaintiff must adequately plead an injury arising from an employer’s failure to provide full and accurate

1 wage statements, and the omission of the required information alone is not sufficient.”].) With respect  
2 to Plaintiffs’ claim for waiting time penalties, Defendant alleges its good-faith belief that it paid all  
3 wages precludes the imposition of waiting time penalties since Plaintiffs cannot prove Defendant’s  
4 alleged failure to pay all final wages at the time of separation was “willful.” (Moon Decl., ¶ 9; *See, e.g.,*  
5 *Pedroza v. PetSmart, Inc.* (C.D. Cal. June 14, 2012, No. ED CV 11–298 GHK (DTBx)) 2012 WL  
6 9506073, \*5.) For these reasons, among others, Defendant denies all of Plaintiffs’ claims and  
7 allegations, and further claims it did not engage in any unfair business practices and denies liability  
8 under PAGA. (Moon Decl., ¶ 9.) Defendant also maintains the claims are improper for class treatment,  
9 in part, due to the individualized and testimony-intensive nature of the wage claims that could bar class  
10 certification or significantly reduce Defendant’s overall liability. (*Id.*) Defendant further denies that  
11 Plaintiffs are adequate class representatives. (*Id.*)

#### 12 **B. Discovery and Investigation**

13 The Parties agreed to mediate Plaintiffs’ claims in the Federal Court Action and this Action  
14 with Steven Rottman, Esq., an experienced class and PAGA action mediator. (*Id.* at ¶ 10.) In  
15 preparation for mediation, the Parties agreed to a protocol for an informal production of documents and  
16 information before mediation. (*Id.*) Prior to mediation, Plaintiffs obtained from Defendant, through  
17 informal discovery, documents and data that were necessary and helpful to evaluate the claims asserted  
18 in this action. (*Id.*) Defendant produced a statistically sound sample of time and pay records for  
19 approximately 28.6% of the putative Class, Plaintiffs’ personnel file and time and pay records, and  
20 Defendant’s written employment policies in effect during the Class Period. (*Id.*) Defendant also  
21 provided information regarding the estimated number of current and formerly employed Class  
22 Members, Aggrieved Employees, and PAGA Pay Periods. (*Id.*)

23 In preparation for mediation, Plaintiffs’ Counsel reviewed and analyzed all the information  
24 Defendant provided, including the sample records and documents regarding Defendant’s wage-and-  
25 hour policies. (*Id.* at ¶ 11.) Plaintiffs’ Counsel retained a statistics expert to analyze the sample records  
26 and prepare a damage analysis prior to the mediation. (*Id.*) The sample time and pay records analyzed  
27 contained 68,565 actual shifts worked (representing about 24.82% of total shifts worked in the Class  
28 Period), which allowed Plaintiffs’ expert to prepare an analysis with a reasonable degree of certainty.

(*Id.*) In conjunction with their extensive factual investigation, Plaintiffs’ Counsel also investigated the applicable law regarding the claims and defenses asserted in the litigation. (*Id.*) Accordingly, Plaintiffs’ Counsel was able to evaluate the probability of class certification, success on the merits, and Defendant’s maximum and realistic monetary exposure for all claims. (*Id.*) Thus, Plaintiffs’ and their Counsel’s familiarity with the facts of the case and the legal issues raised by the pleadings allowed them to act intelligently in negotiating the Settlement. (*Id.*)

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

On June 9, 2026, the Parties participated in a full day of private mediation with Steven Rottman, Esq. (*Id.* at ¶ 12.) The negotiations were at arm’s-length and, although conducted in a professional manner, were adversarial. (*Id.*) The Parties went into the mediation willing to explore the potential for a settlement of the dispute, but each side was also prepared to litigate their position through trial and appeal if a settlement had not been reached. (*Id.*) After a full discussion regarding the strengths and weaknesses of Plaintiffs’ claims and Defendant’s defenses and with the assistance of the mediator, the Parties reached a resolution, the material terms of which are set out in the Settlement. (*Id.*, Ex. 1.)

In compliance with Labor Code section 2699(s)(2), notice of settlement and a copy of the proposed Settlement has been submitted to the LWDA along with a copy of Plaintiffs’ preliminary approval motion and the hearing date. (*Id.* at ¶ 13, Ex. 3.) To date, the LWDA has not indicated any objection to the Settlement. (*Id.* at ¶ 11.)

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

Under the Settlement, Defendant will pay a non-reversionary amount of **\$500,000.00** (“GSA”), subject to potential increase under an Escalator Clause, to resolve this action. (Settlement, ¶ 3.1.) Defendant will separately pay its employer-side payroll taxes owed on the Wage Portion of Individual Class Payments. (*Id.*) Other key terms of the Settlement are outlined in the counsel declaration submitted concurrently herewith. (Moon Decl., ¶¶ 14–32.) The proposed Settlement Administrator—Phoenix Class Action Administration Solutions—was jointly selected by the Parties based on its bid of \$11,500.00. (*Id.* at ¶ 18, Ex. 5; Settlement, ¶¶ 1.2, 7.1.)

The Class is defined as all current and former non-exempt employees of Defendant who worked for Defendant at its facility located at 901 West Hillcrest Boulevard, Inglewood, California 90301, at

any time during the Class Period from October 8, 2024, through the date of this Preliminary Approval. (Settlement, ¶ 1.5, 1.12.) “Aggrieved Employees” is defined as all current and former non-exempt employees of Defendant who worked for Defendant at its facility located at 901 West Hillcrest Boulevard, Inglewood, California 90301, at any time during the PAGA Period from October 8, 2024, through the Class Period end date. (*Id.* at ¶¶ 1.4, 1.32, 1.41.) The Settlement provides for PAGA Penalties in the total amount of \$15,000.00 to be paid from the Gross Settlement Amount, which shall be distributed as 65% (\$9,750.00) to the LWDA and 35% (\$5,250.00) to Aggrieved Employees. (*Id.* at ¶¶ 1.35, 3.2.5.) Each Aggrieved Employee will be entitled to a pro rata share of the 35% share of the PAGA Penalties directly proportional to their number of PAGA Pay Periods worked during the PAGA Period. (*Id.* at ¶ 3.2.5.1.) This results in an average Individual PAGA Payment of roughly **\$5.50** for each of the estimated 954 Aggrieved Employees (\$5,250.00 / 954). (Moon Decl., ¶ 20.)

“Released Parties” means Defendant, its parent company Flying Food Fare, Inc., subsidiaries and affiliate corporations, including any staffing agencies, temporary employment agencies, labor contractors, professional employer organizations, or other entities that placed, supplied, or provided workers to Company, and each of their respective past, present, and future officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers, reinsurers, lawyers, successors, assigns, subsidiaries, affiliates, and related entities, including but not limited to any and all supervisors, managers, and human resources personnel employed by FFG during the Class Period. (Settlement, ¶ 1.41.)

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from all claims that were alleged in Plaintiffs’ Operative Complaint or that reasonably could have been alleged based solely on the facts asserted therein, including but not limited to (1) failure to pay minimum wages; (2) failure to pay overtime compensation; (3) failure to provide meal periods; (4) failure to authorize and permit rest breaks; (5) failure to indemnify necessary business expenses; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements; (8) misclassification (9) unfair business practices; (10) statutory penalties of any nature; (11) interest; (12) attorneys’ fees and costs; and (13) any other claims arising out of or related

1 to the facts alleged in the Operative Complaint during the Class Period (“Released Class Claims”). (*Id.*  
2 at ¶ 5.2.) The Released Class Claims exclude any claims for vested benefits, unemployment benefits,  
3 disability benefits, social security benefits or workers’ compensation benefits that arose at any time,  
4 any claims that are not releasable as a matter of law or public policy, and any claims arising outside the  
5 Class Period. (*Id.*)

6 Plaintiffs and the LWDA are deemed to release, on behalf of themselves and their respective  
7 former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the  
8 Released Parties from all claims for PAGA penalties, which were alleged, or reasonably could have  
9 been alleged, in Plaintiffs’ respective PAGA Notices to the LWDA and in Plaintiffs’ Operative  
10 Complaint, including for failure to pay minimum wages, failure to pay overtime compensation, failure  
11 to provide meal periods, failure to authorize and permit rest breaks, failure to indemnify necessary  
12 business expenses, failure to timely pay final wages at termination, and failure to provide accurate  
13 itemized wage statements (“Released PAGA Claims”). (*Id.* at ¶ 5.3.) The Released PAGA Claims  
14 include only claims for penalties under PAGA that arose during the PAGA Period. (*Id.*)

15 The Net Settlement Amount is the Gross Settlement Amount, less the following payments in  
16 amounts as approved by the Court: Individual PAGA Payments, LWDA PAGA Payment, Class  
17 Representative Service Awards, Class Counsel Fees Payment, Class Counsel Litigation Costs Payment,  
18 and Administration Expenses Payment. (*Id.* at ¶ 1.27.) The remainder is to be paid to Participating  
19 Class Members through Individual Class Payments. (*Id.*) Accordingly, the Net Settlement Amount will  
20 be *no less than* **\$256,833.34** for an estimated Class of **954 individuals**.<sup>1</sup> (Moon Decl., ¶ 21.) Each Class  
21 Member who does not opt-out will be entitled to a pro-rata share of the Net Settlement Amount that is  
22 directly proportional to the number of Workweeks worked during the Class Period. (Settlement, ¶  
23 3.2.4.) The estimated **\$256,833.34** Net Settlement Amount results in an average Individual Class  
24  
25

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26 <sup>1</sup> The Net Settlement Amount was calculated by deducting the following from the \$500,000.00  
27 GSA: \$7,500.00 each for the Class Representative Service Awards, up to \$11,500.00 for the  
28 Administration Expenses Payment, \$15,000.00 for the PAGA Penalties to the LWDA and Aggrieved  
Employees, \$166,666.66 for the Class Counsel Fees Payment, and up to \$35,000.00 for the Class  
Counsel Litigation Costs Payment. (Moon Decl., ¶ 21, n.1; Settlement, ¶¶ 3.1–3.2.5.)

1 Payment of roughly **\$269.22** for each of the estimated 954 Class Members (\$256,833.34 / 954),<sup>2</sup> and a  
2 Workweek value of roughly **\$4.43** for each of the 58,000 estimated Workweeks in the Class Period  
3 (\$256,833.34 / 58,000). (Moon Decl., ¶ 23.)

### 4 **III. THE COURT SHOULD GRANT PRELIMINARY APPROVAL**

5 The law favors the settlement of lawsuits, particularly in class actions and other complex cases.  
6 (*See, e.g., Neary v. Regents of Univ. of Cal.* (1992) 3 Cal.4th 272, 277–81.) To prevent fraud, collusion,  
7 or unfairness to the class, the settlement of a class action requires court approval. (*Dunk v. Ford Motor*  
8 *Co.* (1996) 48 Cal.App.4th 1794, 1800–01 [citing authority omitted].) To approve a settlement, the  
9 Court must find “the settlement is fair, adequate, and reasonable.” (*Id.*) This Court has wide discretion  
10 in making this determination. (*Mallick v. Super. Ct.* (1979) 89 Cal.App.3d 434, 438.) Fairness,  
11 adequacy, and reasonableness are presumed, as here, when: “(1) the settlement is reached through  
12 arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court  
13 to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors  
14 is small.” (*Dunk*, 48 Cal.App.4th at p. 1802 [citing Newberg, Newberg on Class Actions (3rd ed. 1992)  
15 § 11.41].)

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

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26  
27 <sup>2</sup> At this time, the actual amounts to Class Members and/or Aggrieved Employees are unknown  
28 and will be calculated by the Administrator following preliminary approval and receipt and processing  
of the Class Data. (Moon Decl., ¶ 23, n.2; Settlement, ¶ 4.1.) The high and low range of payments  
will be provided to the Court in a motion for final approval. (Moon Decl., ¶ 23, n.2.)

09 [holding that *Kullar* does not require “an explicit statement of the maximum amount the plaintiff class could recover if it prevailed on all its claims,” but instead, only an “understanding of the amount that is in controversy and the realistic range of outcomes of the litigation”].)

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

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

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

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

Here, Plaintiffs’ Counsel have conducted a thorough investigation into the facts of this case. (Moon Decl., ¶ 32.) As previously noted, the Settlement at issue was reached through arms’-length negotiations, private mediation, and the assistance of a statistics expert. (*Id.*) Based on Defendant’s class-wide discovery production, on Plaintiffs’ Counsel independent investigation and evaluation, and on their extensive experience in wage-and-hour litigation, Plaintiffs’ Counsel are of the opinion that the proposed Settlement is fair, reasonable, and adequate. (*Id.*)

Based on Plaintiffs’ Counsel’s review of the time, payroll, and additional data provided by Defendant, on Plaintiffs’ expert’s analysis of the sample records provided by Defendant, and on information from Plaintiffs, Plaintiffs’ Counsel evaluated the estimated maximum and risk-adjusted exposure that Defendant faced. (*Id.* at ¶ 33.) Specifically, based on the information provided for mediation, the total estimated **realistic recovery** (adjusted for risks at certification and proof on the merits) for the alleged claims, including penalties, is estimated to be **\$879,833.96**. (Moon Decl., ¶¶ 33, 40.) This amount was calculated as follows: **\$14,247.75** (75% discount) for the regular rate claim;

1 **\$79,007.63** (90% discount) for the off-the-clock work claim; **\$125,947.99** (75% discount) for the meal  
2 period claim; **\$161,134.59** (90% discount) for the rest period claim; **\$36,250.00** (90% discount) for the  
3 unreimbursed business expenses claim; **\$188,471.01** (95% discount) for the waiting time penalties  
4 claim; **\$136,196.00** (95% discount) for the wage statement claim; and **\$138,580.00** (95% discount) for  
5 the PAGA penalties claim. (*Id.* at ¶¶ 33–39.) The foregoing discounts were based on the evidence  
6 presented for mediation and arguments made during arm’s-length settlement negotiations. (*Id.*)

7 **The \$500,000.00 gross settlement figure represents about 57% of the total realistic**  
8 **recovery.** (*Id.* at ¶ 40.) This is an excellent result for the Class, particularly because, under the  
9 Settlement, Class Members will receive timely and guaranteed relief, avoiding the risk of not being  
10 able to recover anything. (*Id.*)

## 11 **2. The Class Settlement Is Fair Considering the Parties’ Respective Positions and** 12 **Significant Risks to Certification and Proof on the Merits**

13 A settlement is not judged against what a plaintiff might recover had they prevailed at trial, nor  
14 does the settlement have to provide 100% of the damages sought to be fair and reasonable. (*Wershba*  
15 *v. Apple Comp., Inc.* (2001) 91 Cal.App.4th 224, 246, 250 [“Compromise is inherent and necessary in  
16 the settlement process . . . even if ‘the relief afforded by the proposed settlement is substantially  
17 narrower than it would be if the suits were to be successfully litigated,’ this is no bar to a class settlement  
18 because ‘the public interest may indeed be served by a voluntary settlement in which each side gives  
19 ground in the interest of avoiding litigation.’”] [quoting *Air Line Stewards v. Am. Airlines, Inc.* (7th  
20 Cir. 1972) 455 F.2d 101, 109].)

21 Here, considering all known facts and circumstances, the risk of significant delay, trial risk,  
22 appellate risk, and the defenses Defendant may assert both to certification and on the merits, the  
23 Settlement is in the best interest of the Class and LWDA. (Moon Decl., ¶ 32.) While Plaintiffs are  
24 confident in the merits of their claims, a legitimate controversy exists as to each cause of action. (*Id.* at  
25 ¶ 43.) Plaintiffs also recognize that proving the amount owed to each Class Member would be an  
26 expensive, time-consuming, and uncertain proposition. (*Id.*)

27 The Settlement obviates the significant risk that this Court may deny certification of all or some  
28 of Plaintiffs’ claims. (*Id.* at ¶ 44.) Plaintiffs’ Counsel took into account the risk of not prevailing at trial

1 due to low or no participation by Class Members. (*Id.*) Indeed, the individualized and testimony-  
2 intensive nature of the claims could bar manageability of the representative claims or otherwise  
3 significantly reduce any recovery whatsoever. (*Id.*) For example, the rest period and unreimbursed  
4 expense claims are testimony-driven claims and assume a 25% and 100% violation rate, respectively,  
5 which would not likely be demonstrated at trial, as it assumes either the participation of a significant  
6 number of employees (which would be difficult here given the huge number of Class Members), or  
7 alternatively, the use of surveys or statistical data as a surrogate (which would still require the  
8 participation of a majority of employees to establish a sound representation of all non-exempts). (*Id.*)  
9 Even assuming employees would be willing to participate, obtaining declarations would potentially  
10 reveal that each individual employee had a different experience. (*Id.*)

11 Furthermore, even if Plaintiffs were able to pursue their claims on a class-wide basis and obtain  
12 certification of all or some of the claims, continued litigation would be expensive, involving a trial and  
13 possible appeals, and would substantially delay and reduce any recovery by the Class. (*Id.* at ¶ 45.)  
14 Although the Parties have engaged in a significant amount of investigation, discovery, and class-wide  
15 data analysis, they have not conducted extensive formal discovery. (*Id.*) Moreover, preparation for class  
16 certification and a trial would remain for the Parties as well as the prospect of appeals in the wake of a  
17 disputed class certification ruling for Plaintiffs and/or any summary judgment ruling. (*Id.*) As a result,  
18 the Parties would incur considerably more attorneys' fees and costs through trial. (*Id.*) In sum, this  
19 Settlement avoids the risks, burdens, and the accompanying expense of further litigation. (*Id.*)

20 The proposed \$500,000.00 Settlement represents a substantial recovery when compared to the  
21 reasonably forecasted recovery for the Class. (*Id.* at ¶ 46.) When considering the risks of litigation, the  
22 uncertainties involved in continued litigation, the burdens of proof necessary to establish liability, and  
23 the probability of appeal, it is clear the Settlement amount is within the "ballpark" of reasonableness,  
24 and that preliminary settlement approval is appropriate. (*Id.*; *Kullar, supra*, 168 Cal.App.4th at p. 133;  
25 *see Munoz, supra*, 186 Cal.App.4th at pp. 408–09.)

### 26 **3. The PAGA Settlement Is Fair Considering the Parties' Respective Positions** 27 **and Significant Risks**

28 With regard to the PAGA claims, the Settlement is a fair and reasonable resolution that satisfies

1 PAGA’s dual statutory purposes of deterrence and punishment, on the one hand, and providing  
2 Aggrieved Employees with genuine and meaningful relief, on the other. (Moon Decl., ¶ 41; Lab. Code  
3 §§ 2698, *et seq.*) As a result of this litigation, Defendant has had to hire legal counsel, engage in informal  
4 class-wide discovery, and participate in mediation. (Moon Decl., ¶ 41.) Defendant will also have to pay  
5 civil penalties to the LWDA under the Settlement, assuming final settlement approval is granted.  
6 (Settlement, ¶ 3.2.5.) Not including its own attorneys’ fees and costs as well as the employer’s share of  
7 payroll taxes, Defendant will pay no less than \$500,000.00 to resolve this matter—of which \$15,000.00  
8 is allocated toward the PAGA claims and will be distributed, in compliance with Labor Code section  
9 2699 as 65% (\$9,750.00) to the LWDA and 35% (\$5,250.00) to Aggrieved Employees. (Moon Decl., ¶  
10 41.)

11 Moreover, Plaintiffs’ Counsel are of the opinion that because the issues here are fairly contested,  
12 there is a possibility of the Court not awarding the PAGA penalties even if Plaintiffs prevailed on the  
13 merits due to the largely discretionary nature of awarding PAGA penalties. (*Id.*) Indeed, under PAGA,  
14 a Court can reduce penalties “if, based on the facts and circumstances of the particular case, to do  
15 otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” (Lab. Code  
16 § 2699(e)(2).) In other words, were this matter to go to trial, any award granted would be at the discretion  
17 of the Court and subject to a substantial reduction. (Moon Decl., ¶ 41.) Further, Plaintiffs’ Counsel took  
18 into account the risk of not being able to proceed on a representative basis due to the potential  
19 manageability issues and that even if Plaintiffs prevailed at trial, penalties would likely be limited due  
20 to the largely discretionary nature of awarding PAGA penalties and in light of other defenses available  
21 to Defendant. (*Id.* at ¶ 42.) Thus, it is entirely possible that even if Plaintiffs would be successful at trial,  
22 assuming they are first able to certify the claims and defeat the manageability issues presented at  
23 litigation, Plaintiffs could be awarded substantially less than what was obtained through the Settlement.  
24 (*Id.*)

25 In sum, the \$15,000.00 PAGA Penalties allocation under the Settlement constitutes “genuine  
26 and meaningful” relief that is “consistent with the underlying purpose of the statute to benefit the  
27 public.”  
28

1                   **4. Plaintiffs’ Counsel Have Extensive Experience in Class and PAGA Action**  
2                   **Litigation, Which Was Integral to Negotiating the Settlement**

3           The Settlement negotiations were conducted by highly capable counsel with considerable  
4 experience and demonstrated competence with litigating wage-and-hour class actions. (Moon Decl., ¶¶  
5 51–66.) Plaintiffs’ Counsel have a strong record of vigorous and effective advocacy for their clients  
6 and are experienced in handling complex wage-and-hour class action litigation. (*Id.*) Their experience  
7 was helpful in assessing the reasonableness of the Settlement at issue here, and from this experience  
8 they concluded that this litigation could not have been settled on better terms than provided under the  
9 Settlement. (*Id.* at ¶ 67.) Although Plaintiffs and their counsel were prepared to try the claims alleged  
10 in the litigation, they support the proposed Settlement as being in the best interest of the Class based  
11 on objective evidence that has been considered and weighed against the risks, expenses, and time  
12 consumption to both sides of continued litigation. (*Id.* at ¶¶ 12, 32.)

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

14           Subject to the Court’s approval, the Settlement provides for attorneys’ fees payable to Class  
15 Counsel in an amount up to 1/3 of the Gross Settlement Amount, currently estimated to be \$166,666.66,  
16 and litigation costs up to \$35,000.00.<sup>3</sup> (Settlement, ¶ 3.2.2.) These amounts are disclosed to Class  
17 Members in the proposed Class Notice and are reasonable. (*Id.* at Ex. A.)

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

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

25  
26  
27  
28           <sup>3</sup> Plaintiffs’ Counsel’s current litigation costs are \$23,802.36, and they anticipate incurring  
additional costs up to final approval. (Moon Decl., ¶¶ 17, 74, Ex. 4.)

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

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

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

23 According to a leading treatise on class actions: "No general rule can be articulated on what is  
24 a reasonable percentage of a common fund. Usually, 50% of the fund is the upper limit on a reasonable  
25 fee award from a common fund in order to assure that the fees do not consume a disproportionate part  
26 of the recovery obtained for the class, although somewhat larger percentages are not unprecedented."  
27 (Newberg, *Newberg on Class Actions* (3rd ed. 1992) § 14.03.) Attorneys' fees that are fifty percent of  
28 the fund are typically considered the upper limit, with thirty to forty percent commonly awarded in

1 cases where the settlement is relatively small. (*Id.*; see also *Van Vranken v. Atlantic Richfield Co.* (N.D.  
2 Cal. 1995) 901 F.Supp. 294, 297 [stating that most cases where 30–50% was awarded involved  
3 “smaller” settlement funds of under \$10 million].)

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

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

11 Labor Code sections 218.5, 226, 1194, 2699, and 2802 provide for the recovery of reasonable  
12 fees and costs of suit, for the claims made in this action. (Lab. Code §§ 218.5, 226, 1194, 2699(k)(1),  
13 2802(d).) Under these sections, Plaintiffs would be permitted to recover their actual attorneys’ fees,  
14 even if those fees were larger than the total class recovery at the conclusion of this case. (*Id.*) This  
15 Settlement is beneficial in that it limits the risk of continued expenses and consumption of time, energy,  
16 and resources facing Defendant while at the same time rewarding Plaintiffs’ Counsel for their decision  
17 to assume risk by taking on this matter on a contingent basis with no guarantee of recovery. (Moon  
18 Decl., ¶¶ 70–73.) In fact, prosecution of this action involved significant financial risk for Plaintiffs’  
19 Counsel. (*Id.*) Once Plaintiffs’ Counsel undertook this litigation, they committed to pursue it to its  
20 conclusion, placing their fiduciary duty to the Class ahead of all other concerns. (*Id.* at ¶ 72.)

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

22 As demonstrated by their past experience in pursuing class actions on behalf of consumers and  
23 employees, Plaintiffs’ Counsel possess considerable expertise in litigating class actions. (*Id.* at ¶¶ 51–  
24 66.) Plaintiffs’ Counsel have been involved as lead counsel or co-counsel in numerous class actions  
25 that resulted in millions in recovery. (*Id.*) As noted above, their experience in wage-and-hour litigation  
26 was integral in evaluating the strengths and weaknesses of the case against Defendant and the  
27 reasonableness of the Settlement. (*Id.* at ¶ 67.) Practice in the narrow field of wage-and-hour litigation  
28 requires skill and knowledge concerning the rapidly evolving substantive law (state and federal) as well

1 as the procedural law of class action litigation. (*Id.* at ¶ 65.) Based on these and other factors, Plaintiffs’  
2 Counsel have frequently received fee awards of this percentage from the gross recovery for the class.  
3 (*See id.* at ¶¶ 55 60, 61.) Because it is reasonable to compensate counsel commensurate with their skill,  
4 reputation, and experience, the requested fee award is supported here.

5 **C. The Service Awards to Plaintiffs Are Reasonable**

6 Named plaintiffs in class action lawsuits “are eligible for reasonable incentive payments to  
7 compensate them for the expense or risk they have incurred in conferring a benefit on other members  
8 of the class.” (*Munoz, supra*, 186 Cal.App.4th at p. 412.) Courts routinely grant approval of class action  
9 settlement agreements containing enhancements for the class representatives, which are necessary to  
10 provide incentive to represent the class and are appropriate given the benefit the class representatives  
11 help to bring about for the class. (*See Rodriguez v. W. Publ’g Corp.* (9th Cir. 2009) 563 F.3d 948, 958–  
12 59.) Service awards are particularly important to plaintiffs in wage-and-hour cases because they  
13 promote the important public policies underlying the wage-and-hour laws. This strong policy is  
14 codified in California Labor Code section 90.5, which provides, “[i]t is the policy of this state to  
15 vigorously enforce minimum labor standards in order to ensure employees are not required or permitted  
16 to work under substandard unlawful conditions . . .” (Lab. Code § 90.5.) Nonetheless, the California  
17 Supreme Court has noted that “retaliation against employees for asserting statutory rights under the  
18 Labor Code is widespread,” despite anti-retaliation statutes designed to protect employees. (*Gentry v.*  
19 *Super. Ct.* (2007) 42 Cal.4th 443, 460–61.) In this context, class representatives should be rewarded for  
20 assuming the risk of retaliation for the sake of class members. (*See Frank v. Eastman Kodak Co.*  
21 (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

22 Under the Settlement here, subject to the Court’s approval, a Class Representative Service  
23 Awards to both of the Named Plaintiffs as Class Representatives of not more than \$7,500.00 each  
24 (\$15,000.00 in total), in addition to the Individual Class and PAGA Payments that Plaintiffs are eligible  
25 to receive. (Settlement, ¶¶ 1.14, 3.2.1.) This award is in exchange for their general releases, and in  
26 recognition of having initiated the Action, provided services in support thereof, and incurring risks  
27 inherent in the role of named Plaintiffs. (*Id.* at ¶ 1.14.) Plaintiffs devoted a great deal of time and work  
28 assisting counsel in the case and communicated with counsel frequently for litigation and to prepare for

1 mediation. (Moon Decl., ¶¶ 47–50; Sanchez Decl., ¶¶ 11–21; Lopez Decl., ¶¶ 11–21.) The requested  
2 award is fair and reasonable, particularly considering the substantial benefits Plaintiffs generated for all  
3 Class Members. (Moon Decl., ¶ 47–50.)

4 When compared with the amounts awarded in typical class action cases, the amounts requested  
5 here are particularly reasonable. A 2006 study examining the average incentive award given to class  
6 action plaintiffs from 1993 to 2002 found that the “average award per class representative was \$15,992  
7 and the median award per class representative was \$4357.” (Eisenberg & Miller, *Incentive Awards to*  
8 *Class Action Plaintiffs: An Empirical Study* (2006) 53 UCLA L. Rev. 1303, 1307–08.) The same study  
9 found that named plaintiffs in employment discrimination class actions received an average award of  
10 \$69,850 and a median award of \$31,081, while named plaintiffs in other employment class actions  
11 received an average award of \$12,121 and a median award of \$13,059. (*Id.* at p. 1333.) The authors of  
12 the study found that higher awards in employment cases reflected the “courts’ wish to make  
13 representative plaintiffs whole by compensating them for the high costs of their service to the class,  
14 including risks of stigmatization or retaliation on the job.” (*Id.* at p. 1308.)

#### 15 **IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED**

##### 16 **A. Legal Standard**

17 The proposed Settlement Class is well suited for class certification. The claims all derive from  
18 a core set of alleged violations of California’s wage and hour laws and regulations. (Moon Decl., ¶¶ 4–  
19 5.) For the reasons set forth more fully below, the Class, for purposes of Settlement, satisfies the  
20 prerequisites for certification under Code of Civil Procedure section 382. (Code Civ. Proc. § 382.)  
21 Section 382 provides that “when the question is one of a common or general interest, of many persons,  
22 or when the parties are numerous, and it is impracticable to bring them all before the court, one or more  
23 may sue or defend for the benefit of all.” (*Id.*) There are two requirements to section 382: “(1) there  
24 must be an ascertainable class[ ]; and (2) there must be a well-defined community of interest in the  
25 questions of law and fact involved affecting the parties to be represented.” (*Daar v. Yellow Cab Co.*  
26 (1967) 67 Cal. 2d 695, 704 [internal citations omitted].) To clarify these requirements, the California  
27 Supreme Court has looked to Federal Rule of Civil Procedure 23 to explain that the community-of-  
28 interest requirement itself embodies three factors: “(1) predominant common questions of law or fact;

1 (2) class representatives with claims or defenses typical of the class; and (3) class representatives who  
2 can adequately represent the class.” (*Richmond v. Dart Indus., Inc.* (1981) 29 Cal. 3d 462, 470.)

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

## 9 **B. The Criteria for Class Certification Are Satisfied**

### 10 **1. The Class Is Ascertainable and Numerous**

11 When determining whether a class is ascertainable, California courts focus on the following  
12 three factors: “(1) the class definition, (2) the size of the class and (3) the means of identifying class  
13 members.” (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 873.) Here, Plaintiffs maintain that there is  
14 an easily ascertainable Class, defined by objective and precise criteria. (Settlement, ¶¶ 1.5, 1.12.) The  
15 proposed Class that Plaintiffs seek to represent is ascertainable because (1) the Class definition is  
16 sufficiently precise, (2) the Class consists of about 954 individuals, and (3) Class Members can be  
17 readily identified by Defendant’s records. (*Id.*) Because Class Members are identified using specific  
18 criteria in the regular business records of Defendant—their employment by Defendant in California,  
19 non-exempt classification, hourly wage, and actual work during the Class Period—the Class is  
20 ascertainable. (*See Wilner v. Sunset Life Ins. Co.* (2000) 78 Cal.App.4th 952, 959–60 [class membership  
21 defined by ownership of product that is the subject of the lawsuit is sufficient to make the class  
22 ascertainable].) “The requirement of Code of Civil Procedure section 382 that there be ‘many’ parties  
23 to a class action suit is indefinite and has been construed liberally.” (*Rose v. City of Hayward* (1981)  
24 126 Cal.App.3d 926, 934.) “Where a question is of common interest to ‘many’ persons, an action may  
25 be maintained as a class action even where the parties are numerous and it is in fact practicable to join  
26 them all.” (*Id.*) “No set number is required as a matter of law for the maintenance of a class action.”  
27 (*Id.*) “Thus, our Supreme Court has upheld a class representing the 10 beneficiaries of a trust in an  
28 action for removal of the trustees.” (*Id.* [citing *Bowles v. Super. Ct.* (1955) 44 Cal.2d 574]; *see also*

1 *Collins v. Rocha* (1972) 7 Cal.3d 232 [upholding a class of 9 plaintiffs and 35 members].) Therefore,  
2 numerosity is plainly satisfied.

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

4 To satisfy the community of interest requirement, a proponent must show (1) common questions  
5 of law and fact that predominate over individual issues, (2) class representatives have claims or  
6 defenses typical of the class, and (3) class representatives adequately represent the class. (*Dunk, supra*,  
7 48 Cal.App.4th at p. 1806.) This inquiry tests whether proposed classes are sufficiently cohesive to  
8 rationally warrant adjudication by representation. (*See, e.g., Clothesrigger, Inc. v. GTE Corp.* (1987)  
9 191 Cal.App.3d 605, 611–12.)

10 Here, Plaintiffs’ claims satisfy all three requirements. The employment practices at issue  
11 include whether Defendant: paid employees all minimum, overtime, meal premium, and sick pay wages  
12 owed; reimbursed employees for necessary business expenses; provided employees with and authorize  
13 meal and rest periods or paid premiums for non-compliant breaks; paid all final wages to employees at  
14 the time of termination; intentionally failed to pay all final wages; provided inaccurate itemized wage  
15 statements and whether Class Members were harmed; engaged in unfair business practices; and  
16 violated civil penalty provisions under PAGA. (Moon Decl., ¶¶ 4–5.) Plaintiffs contend the factual and  
17 legal issues are the same for all Class Members, and further that all Class Members suffered from and  
18 seek redress for the same alleged injuries. (Sanchez Decl., ¶¶ 5–6; Lopez Decl., ¶¶ 5–6.) Considering  
19 Class Members would need to prove the same issues of law and fact to prevail, and their legal remedies  
20 are identical, it would be preferable to resolve all claims through a settlement than to force each Class  
21 Member to litigate their own individual claims. Thus, the Court should grant conditional class  
22 certification for settlement purposes only because common questions of law and fact predominate over  
23 any individual questions within the Class.

### 24 **3. Plaintiffs’ Claims Are Typical of the Claims of the Class**

25 The typicality requirement does not focus on the individual characteristics or circumstances of  
26 the representative plaintiff compared to those of the remainder of the class, but rather, upon the  
27 typicality of the proposed representative’s claims as they relate to the defendant’s conduct and  
28 activities. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 47 [“The only requirements are [sic] that

1 common questions of law and fact *predominate* and that the class representative be *similarly* situated”  
2 vis-à-vis the class.] [emphasis in original].) A representative plaintiff’s claims are typical of the class  
3 if they arise from the same event, practice, or course of conduct, and if the claims rest on the same legal  
4 theories. (*Id.*) That is precisely the case here. Plaintiffs are former employees of Defendant and allege  
5 they were subjected to the same policies and practices as other similarly situated employees. (Sanchez  
6 Decl., ¶¶ 2–6; Lopez Decl., ¶¶ 2–6.)

#### 7 **4. Plaintiffs and Their Counsel Meet the Adequacy Requirement**

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

12 Here, all requirements are met. Plaintiffs retained counsel with extensive experience in  
13 prosecuting complex class actions, including similar class actions that previously settled. (Moon Decl.,  
14 ¶¶ 51–66.) Based on their experience, Plaintiffs’ Counsel unquestionably are “qualified, experienced  
15 and generally able to conduct the proposed litigation.” (*Miller, supra*, 148 Cal.App.3d at p. 874.)  
16 Plaintiffs have, with counsel, litigated this case and diligently reviewed the settlement terms, showing  
17 dedication, and with full knowledge and acceptance of duties, they have committed to their role as  
18 Class Representatives. (Sanchez Decl., ¶¶ 11–21; Lopez Decl., ¶¶ 11–21.) In addition, Plaintiffs and  
19 their Counsel have no conflicts with one another, other Class Members, the proposed Administrator,  
20 or proposed *cy pres* recipient. (Sanchez Decl., ¶¶ 8–10; Lopez Decl., ¶¶ 8–10; Moon Decl., ¶ 68.)

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

22 Finally, in making its class certification decision, the Court must determine that a class action  
23 would be superior to alternative means for the fair and efficient adjudication of the litigation. (*See*  
24 *Leyva v. Medline Indus. Inc.* (9th Cir. 2013) 716 F.3d 510, 514–15.) By consolidating many potential  
25 individual actions into a single proceeding, this Court’s use of the class action device enables it to  
26 manage this litigation in a manner that serves the economics of time, effort, and expense for the litigants  
27 and the judicial system. (*Id.*) Absent class treatment, similarly situated employees with small, but  
28 nevertheless meritorious, claims for damages would, as a practical matter, have no means of redress

1 because of the time, effort, and expense required to prosecute individual actions. (*Id.* at p. 515; *Gentry*,  
2 *supra*, 42 Cal.4th at pp. 457–62.) Moreover, in the context of settlement, the superiority concerns are  
3 essentially non-existent. (*See generally, e.g., Stamburgh, supra*, 62 Cal.App.3d.)

4 **V. THE PROPOSED CLASS NOTICE IS CONSTITUTIONALLY SOUND AND**  
5 **SATISFIES RULES OF COURT**

6 Class Notice requirements are set forth in the California Rules of Court. (Cal. Rules of Court,  
7 rule 3.766 (e)–(f), rule 3.769(f).) Here, the proposed Class Notice, in the form attached to the Settlement  
8 as **Exhibit A**, meets all the requirements of California Rules of Court. The Class Notice summarizes  
9 the proceedings to date and the terms and conditions of the proposed Settlement in an informative and  
10 coherent manner. (Settlement, ¶ 7.4.2, Ex. A.) It also states that the final approval decision has yet to  
11 be made, and provides the date, time, and location of the Final Approval Hearing. (*Id.*) It explains the  
12 right and procedures to opt-out or submit any written objections and/or arrange to appear at the Final  
13 Approval Hearing and verbally state any objections. (Settlement, ¶ 7.5.) It makes clear the Settlement  
14 does not constitute an admission of liability by Defendant, who denies all liability, and it recognizes  
15 that this Court has not ruled on the merits of the action. (Settlement, Ex. A.) Thus, the proposed Class  
16 Notice meets all the requirements of California Rule of Court 3.769(f). (Cal. Rules of Court, rule  
17 3.769(f).)

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

21 California law vests the Court with broad discretion in fashioning an appropriate notice  
22 program. (*Cartt v. Super. Ct.* (1975) 50 Cal.App.3d 960, 970, 973–74.) There is no statutory or due  
23 process requirement that all class members receive actual notice, but in this matter, Class Members will  
24 receive direct mailed notice, which is the best possible form of notice under the circumstances.  
25 (Settlement, ¶ 7.4.2.) As the Court of Appeals has explained, “[t]he notice given should have a  
26 reasonable chance of reaching a substantial percentage of the Class Members . . .” (*Cartt*, 50  
27 Cal.App.3d at p. 974.)

## VI. CONCLUSION

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

Respectfully submitted,

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