Adam Rose (210880)
adam@frontierlawcenter.com
Manny Starr (319778)
manny@frontierlawcenter.com
Frontier Law Center
23901 Calabasas Road, #2074
Calabasas, CA 91302
Telephone: (818) 914-3433
Facsimile: (818) 914-3433

Attorney for Plaintiff
Danielle Burlile

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

MICHELLE VELASQUEZ, individually and on behalf of all similarly situated individuals, Plaintiff, v. THE TOX CORPORATION, THE TOX HOLDINGS, LLC, THE TOX LA MELROSE PLACE, LLC, and DOES 1 to 100, Defendants.	NO. 23STCV05507 PLAINTIFF DANIELLE BURLILE'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF ADAM ROSE; PROPOSED ORDER Date: May 22, 2025 Time: 10:00 a.m. Dept: SSC7

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on May 22, 2025 at 11:00 a.m. in Department 7 of the Los Angeles Superior Court, 312 N. Spring St., Los Angeles, CA 90012, plaintiff Danielle Burlile will move the court pursuant to Rule of Court 3.769(c) and Code of Civil Procedure section 382 for an order for the following: (1) preliminarily approving the settlement, (2) provisionally certifying the class for settlement purposes, (3) approving the class notice and dissemination plan, (4) appointing the class representative and class counsel, (5) appointing a settlement administrator, and (6) scheduling a final approval hearing.

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The motion will be unopposed and is based on the memorandum of points and authorities and the declaration of Adam Rose with exhibits including the settlement agreement and proposed notice to class members.

Date: March 19, 2025

FRONTIER LAW CENTER

/s/ Adam Rose
Attorney for Plaintiff
Michelle Velasquez

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Danielle Burlile seeks preliminary approval of a $201,000 settlement involving work at The Tox massage studios, which provide upscale body sculpting services in Studio City, West Hollywood, and Walnut Creek. The settlement will provide a recovery to the employees who comprise the 72 class members who worked at Tox's locations within the class period, which is from March 13, 2019 through preliminary approval ("the class period").

The class includes all individuals who worked for any of the Tox locations as nonexempt employees during the class period. Similarly, the PAGA aggrieved employees are all nonexempt individuals employed at The Tox locations anytime from May 13, 2022 through preliminary approval ("the PAGA period"). Defendants represented there are 47 aggrieved employees.

The settlement was reached after an all-day mediation with experienced employment law mediator Deborah Saxe on October 30, 2023. The case did not settle at the mediation, however pending further settlement discussions, the settlement was reached in principle. The original plaintiff, Michelle Velasquez, entered into a discrete individual settlement with Defendants. Thus, the first motion for preliminary approval was denied without prejudice on adequacy grounds.

Subsequently, Danielle Burlile was substituted as the class representative in a second amended complaint. The settlement agreement was revised over the past few months and is now finalized and signed.

As explained further below, the settlement was reached after an informal exchange of data described more fully below. The settlement is strongly supported by experienced counsel, who considered the strengths of the claims and potential defenses, as well as the risks of continued litigation. Thus, the settlement satisfies all the criteria for preliminary approval.

II. BACKGROUND

On February 27, 2023, Michelle Velasquez filed an initial notice with the LWDA that explained the basis for PAGA penalties and sent the letter by certified mail to The Tox Corporation, The Tox Holdings, LLC, and The Tox LA Melrose Place, LLC ("The Tox").

A first amended complaint to include PAGA allegations was filed on July 17, 2023, and was thereafter uploaded to the LWDA website. As explained above, a second amended complaint was filed to substitute Danielle Burlile as the class representative.

The Tox produced the following for the mediation: 1) a sampling of wage statements, 2) a sampling of time sheets, and 3) the employee handbook. Plaintiff's expert analyzed the data to help perform a damages analysis to determine the maximum liability.

The allegations are that Plaintiff and the similarly situated employees were prevented from taking meal and rest breaks and could even be penalized for taking breaks, there was off-the-clock work, and that derivative wage statement, waiting time, and PAGA penalties applied.

Although the substance of what was discussed during the mediation is privileged, there was a forthright discussion of the strengths and risks of proceeding further, and key topical points related to the strengths and risks is described below. Plaintiff's counsel strongly believes the settlement is in the best interests of the class and aggrieved employees, given the risks that might have arisen down the line.

III. THE SETTLEMENT TERMS

For the class/PAGA settlement, The Tox will pay a total of $201,000 on a non-reversionary basis. The payment schedule is the following: a) $45,000 within 30 days of the effective date, b) $33,000 within 60 days of the first payment, c) $33,000 within the subsequent 30 days, d) $33,000 within the subsequent 30 days, e) $28,000 within the subsequent 30 days, and f) $28,000 within the subsequent 30 days. Thus, from the effective date, the entire settlement of $201,000 will be funded within 210 days. Likewise, Ms. Velasquez's discrete individual settlement is payable within 15 days of the effective date of the class settlement.

From the gross amount of $201,000, the distributions are the following: 1) $3,000 to class representative Danielle Burlile as a service enhancement, 2) $10,000 as the PAGA allocation, 3) $66,330 for attorney fees, 4) $18,000 for costs, 5) and $5,750 for settlement administration. This leaves a net settlement amount of $107,920 to share among the 72 class members with an average recovery of approximately $1,500.

The net settlement amount will be distributed on a pro rata basis, with those who already signed releases with The Tox receiving approximately one-fifth of the amount to be received from those who did not signed releases. This is because The Tox circulated Pick Up Stix settlement agreements with 27 class members with an average payout was $606.

Although the average class member payout is $1,500, but roughly 37.5% of the class members signed Pick Up Stix settlements, the average payout would be less for those class members. During mediation, the proposal to address the Pick Up Stix settlement agreements was to state that those class members would receive 1/5 of their proportionate class share of the net settlement amount to ensure no double recovery.

Nonetheless, 30% of each class members' payment will be allocated to wages (W-2) and 70% of each payment will be allocated to interest, penalties, and other non-wages (Form 1099).

The Tox's records, including pay period data, are presumed accurate as they are regularly kept business records. Also, if any class member disputes the accuracy of The Tox's records, they will have the burden to establish otherwise with documentary evidence. All workweek disputes will be resolved and decided by the settlement administrator.

If any Class Members do not cash or otherwise negotiate their Settlement Award checks after the 180-day expiration date and their checks are not returned, their checks will be void and a stop-payment will be placed. In such event, the amounts associated with unclaimed Settlement Award checks will be sent to the Unclaimed Property Fund.

A. <u>Scope of the Class Release</u>

As stated in paragraph 29 of the settlement agreement, "Released Class Claims" means all claims and/or causes of action occurring during the Class Period under any federal, state or local law or administrative order that were or could have been plead based on the facts alleged in the operative class action and PAGA Complaint and amendments, PAGA notice letters and amendments, and administrative claims, whether known or unknown, including the failure to pay overtime wages at the correct regular rate of pay, provide meal and rest breaks, failure to provide accurate wage statements, the failure to pay meal and rest period premiums at the appropriate rate of pay, failure to pay for time performed off the clock, work expenditure reimbursement violations, waiting time violations and any other claims whatsoever that were or could have been alleged in this case, including claims for restitution and other equitable relief under Business and Professions Code section 17200, conversion, liquidated damages, punitive damages, waiting-time penalties, penalties under the Labor Code Private Attorneys General Act of 2004, and claims and/or penalties of any nature whatsoever based on the facts alleged in the operative class action and PAGA complaint under California Business and Professions Code sections 17200, et seq., 17203; Labor Code sections 200-204, 206.5, 210, 218.5, 226-226.5, 226.7, 351-356, 510, et seq., 512, 515, 558, 1194, 1197, 1197.1, 1198, 2802, and 2698, et seq.; Code of Civil Procedure sections 382, 474, 1021.5; IWC Wage Orders No. 4; Fair Labor Standards Act, 29 U.S.C. sections 201, et seq., as well as any damages, restitution, disgorgement, civil penalties, statutory penalties, taxes, interest or attorneys' fees or costs resulting therefrom.

IV. PRELIMINARY APPROVAL OF THE SETTLEMENT IS APPROPRIATE

The purpose of preliminary evaluation of class action settlements is to determine whether the proposed settlement is within the range of possible approval, whether notice to the class of the settlement terms and conditions should be sent, and to the schedule a fairness hearing. (*Wershba v. Apple Computer, Inc*. (2001) 91 Cal. App. 4th 224, 234-35.)

For determining whether a class settlement is fair, adequate and reasonable, a court must be provided with "basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise." (*Clark v. American Residential Services LLC* (2009) 175 Cal. App. 4th 785, 799.) Thus, the court exercises discretion through applying several well-recognized factors when deciding whether a class action settlement is fair. (*Id*. at 799.)

The list of factors, which is not exhaustive and should be tailored to each case, includes the strength of plaintiff's case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement. (*Kullar v. Foot Locker Retail, Inc*. (2008) 168 Cal. App. 4th 116, 128.)

The most important factor in determining whether to approve a class action settlement is the strength of the case for plaintiff on the merits, balanced against the amount offered in settlement. (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, 186 Cal. App. 4th (2010) 399, 407-408; *Kullar, supra*, 168 Cal. App. 4th at 130.) This is analyzed below.

A. <u>A Settlement Resulting from Informed, Arms' Length Negotiations Is Presumptively Fair</u>

Courts recognize that a presumption of fairness exists where (1) the settlement is reached through arm's-length bargaining; (2) sufficient investigation allows counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. (*Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1802.) "[W]hat transpires in settlement negotiations [including mediation] is highly relevant to the assessment of a proposed settlement's fairness." (*State v. Levi Strauss & Co*. (1986) 41 Cal. 3d 460, 482.) It follows that there is a presumption that the settlement negotiations were conducted in good faith. (*Newberg on Class Actions* § 13:45 (5th ed. 2011-2017).)

The parties participated in an all-day mediation with Deborah Saxe of JAMS on October 30, 2023. Although the case did not settle at mediation, it subsequently settled in principle based on a mediator's proposal on November 16, 2023. The settlement encompasses an individual portion based a retaliation claim, and the class/PAGA settlement which is the subject of this motion as the negotiations were thorough and conducted at arm's length between attorneys with substantial wage and hour class action experience.

B. <u>The Parties Settled After Factual Investigation and Informal Discovery</u>

There is a presumption that a proposed settlement is fair and reasonable when there was an investigation and discovery to permit counsel and the court to act intelligently, and counsel are experienced in similar litigation. (*Dunk, supra*, 48 Cal. App. 4th at p. 1802.)

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Pursuant to the Parties' agreement to an informal exchange of information prior to mediation, Defendants produced the following data: 1) a sampling of time sheets, 2) a sampling of wage statements, 3) the relevant excerpts from employee handbook. Plaintiff used this data to create a damages model regarding the maximum liability, and the maximum was contrasted with the risks of proceeding further which are explained below.

C. <u>Class Counsel is Highly Experienced and Support Preliminary Approval</u>

Plaintiff and the class are represented by well-qualified counsel with experience in wage and hour class action litigation. Class counsel's recommendations receive a presumption of reasonableness when there is familiarity with the lawsuit, are competent, have ample experience with the type of litigation, and discovery has been completed. (*Boyd v. Bechtel Corp*. (N.D. Cal. 1979) 485 F.Supp.610; *Newberg on Class Actions* § 13:53 (5th ed. 2011-2017).)

D. <u>The Settlement Provides Significant Monetary Relief to the Class</u>

The party seeking approval provides information about the nature of the claims and the asserted basis for concluding that the settlement is fair. (*Kullar*, *supra*, 168 Cal. App. 4th at p. 133.) A settlement is not judged against what might have been recovered at trial and does not have to provide 100% of the damages sought. (*Wershba*, *supra*, 91 Cal.App.4th at p. 250.)

1. <u>The Risks of Proceeding Further</u>

There were four primary components to the case: 1) unpaid off the clock work, 2) missed meal breaks, 3) missed rest breaks, and 4) derivate penalties.

a. <u>Off the Clock Claim</u>

The risk faced for unpaid off the work is that is it mostly hearsay. Although Plaintiff maintained she and others would have to stay beyond their scheduled shifts, there are no documents to show off the clock work. Plaintiff's position is that Defendant did not utilize a proper timekeeping system to track hours, but there is no evidence to contradict the timekeeping records.

Plaintiff's position is also that there were occasions where she and others worked over eight hours a day without receiving overtime, but the allegation is based on appointment calendars rather than timekeeping systems. Using an assumption of 30 minutes of off the clock work per shift with an FTE (full time equivalent) count of 30 (as many class members worked staggered schedules), Plaintiff theorized that the maximum liability was $385,532.26. Yet given the risks above, a more realistic maximum liability is 30% of this amount, or <u>$115,659.85</u>. The reason to reduce to 30% is the alleged off the clock work occurred roughly a third of the time, and some of the class members already signed releases with Defendants.

The above pose risks and complexity if the settlement is not approved, since it will require a rather in-depth survey of the class members to determine they had similar experiences from what Plaintiff stated.

b. <u>Missed Meal Breaks</u>

Plaintiff claimed that workers were required to work through any alleged meal breaks, and even if time records showed clocking out for meal breaks they were instructed to keep working for service appointments. Like the off-the-clock claim, the risk with the missed breaks is that a survey would be necessary to determine if the class members had similar experiences with working through breaks when the timekeeping showed they were clocked out.

Plaintiff valued the maximum liability for the missed meal breaks claim at $187,648.98 assuming a meal break violation rate of 43%. Even with this violation rate, Defendants still had a meal break policy within the employee handbook, and time records generally showed meal periods when employees worked more than six hours a day. Thus, a more realistic meal break violation rate is half of the above number or <u>$93,824.49</u>, since some of the class members may not have experienced the violations, and some of the class members signed releases with Defendants.

c. <u>Missed Rest Breaks</u>

Plaintiff claimed workers could not take ten-minute rest periods during their shifts, as appointments were back-to-back.

Again, the risk is that Plaintiff's experience might not comport with other class members' work experiences. Plaintiff valued the maximum liability for the rest breaks claim at $643,788.55. Plaintiff places perhaps the strongest value on the rest break claim, since the service appointments were actually scheduled back-to-back, although that did not occur every day. Assuming the back-to-back appointments occurred 75% of the time (about 3.5 days a week), the adjusted maximum liability is <u>$482,841.41</u>.

d. <u>Waiting Time Penalties</u>

Waiting time penalties relate to willfully not paying the unpaid off the clock wages, and the premium pay for missed meal and rest breaks. The risk with the waiting time penalty cause of action is that some degree of willfulness must be shown, and there is a possibility of no willfulness if there were no off the clock work or missed breaks.

Plaintiff valued the maximum liability for the waiting time penalties at $80,985.60 given the relatively low amount of former employees (. Further, with the risk that there was no willful nonpayment of wages, this amount would decrease by approximately a third to <u>$53,994.40</u> since there is a possibility that one-third of the former employees did not experience the same type of off the clock work or missed meal and rest breaks.

e. <u>Wage Statement Penalties</u>

Plaintiff claimed that the wage statements were inaccurate since they did not list the off the clock work or missed meal and rest breaks. Plaintiff valued the maximum liability for wage statement violations at $140,350.

Similar to the waiting time penalties, for wage statement penalties there must be a knowing and intentional violation. Plaintiff would need to show that Defendants consciously chose not to include off-the-clock work and missed breaks, in addition to proving there actually was off the clock work and missed breaks.

Given the risk that roughly half of the class members would not echo Plaintiff's experience, coupled with the fact that some of the class members already signed individual releases with

Defendants, leads to the ineluctable conclusion that the maximum liability should be reduced by roughly half the amount to account for the risks. The adjusted maximum is $70,175.

f. PAGA Penalties

Succeeding on the PAGA penalties cause of action would be dependent in proving the underlying claims. The valuation of PAGA penalties is by nature quite high. Plaintiff valued the maximum PAGA penalties at $840,560.40.

Given the risks above, namely that some of the employees would not corroborate the off the clock work and missed meal and rest breaks, coupled with the fact that some of the employees signed individual releases with Defendants, the maximum PAGA penalties should be correspondingly reduced by half to $480,280.20.

The PAGA allocation in the settlement agreement is $10,000. This represents 6.8% of the gross settlement. The PAGA allocation is fair since the amount of PAGA aggrieved employees comprise 60% of the class, and the class is already receiving an arguably excellent recovery of approximately $1,085 each. Thus, Plaintiff submits the PAGA allocation is fair.

Also, the number of people who signed Pick Up Stix settlements with The Tox was 27, and their average payout was $606. Given that roughly 37.5% of the class members signed Pick Up Stix settlements, the average payout would be less for those class members. As stated above, the proposal to address the Pick Up Stix settlement class members was to apportion that those people would receive 1/5 of their proportionate share of the net settlement agreement.

2. Discussion of *Kullar* Factors

For determining the fairness of a class action settlement, courts evaluate the following factors: a) strength of the case, b) the risk, expenses, complexity and likely duration of further litigation, c) risk of maintaining class action status through trial, d) the amount offered in settlement, e) the extent of discovery completed and the stage of the proceedings, f) the experience and views of counsel, g) the presence of a governmental participant, and h) the reaction of the class members to the proposed settlement.

a. Strengths of the Case

The strengths are discussed above; namely that the service appointments are apparently scheduled in a back-to-back manner which seems to imply that that breaks, if any, were on-duty meaning the employees were not relieved of all duties.

b. Risks of Further Litigation

As explained above, a survey would be required to determine if other employees experienced similar off-the-clock and missed break episodes. This could be both costly and risky, since it is possible a portion of the employees may not have similar accounts. Even if some of the employees did not have similar experiences, the off-the-clock work might be hard to gauge without corroborating time records.

c. Risk of Maintaining Class Action Status Through Trial

There could be an issue with typicality, consistent with the risks above. Typicality relates to each class member's claim arising from the same course of events. If some of the class members did not have the same experiences as Plaintiff, there is could be a typicality issue.

d. Extent of Discovery Contemplated and the Stage of Proceedings

After the first amended complaint was filed, the parties discussed attending mediation. The mediation was ultimately scheduled, and the case is waiting for preliminary approval.

e. Experience and Views of Counsel

As explained in the attached declaration of Adam Rose, the settlement is strongly supported by class counsel.

f. Presence of a Governmental Participant

The Labor and Workforce Development Agency did not choose to investigate the PAGA allegations, so there is no governmental participant.

g. Reaction of the Class Members to the Proposed Settlement

No class member has commented on the proposed settlement.

3. The Settlement is Within the Range of Reasonableness

The total unadjusted maximum liability, including PAGA penalties, is $2,278,865.79. The total adjusted maximum liability is $1,296,775.35. The gross settlement of $145,000 is 6.3% of the unadjusted maximum liability, and 11.1% of the adjusted maximum liability. Both figures are within the range of reasonableness; the inquiry evaluates the relative strengths and weaknesses of the case; it may be reasonable to settle a weak claim for relatively little, while it is not reasonable to settle a strong claim for the same amount." (*Cotter v. Lyft, Inc.* (N.D. Cal. 2016) 176 F.Supp.3d 930, 935.) Given the risks set forth above, the settlement is in the range of reasonableness.

4. The Settlement is the Result of Serious Negotiations, Has No Obvious Deficiencies, and Does Not Grant Preferential Treatment

The settlement follows an all-day mediation with esteemed employment law mediator Deborah Saxe. Further, there are no obvious deficiencies with the settlement. Finally, based on the pro rata distribution to the class members based on their number of workweeks, the settlement does not grant preferential treatment to any class member. The settlement administrator will calculate the number of qualifying workweeks each class member worked. These are further factors weighing in favor of preliminary approval.

V. PROVISIONAL CERTIFICATION OF THE CLASS IS APPROPRIATE

Provisional certification is appropriate with preliminary approval where the class has not been certified yet. (Rules of Court, rule 3.769(d), see also *Newberg on Class Actions* §§ 13:16-13:18 (5th ed. 2011-2017). To certify a settlement class, there should be an ascertainable class and a well-defined community of interest in the questions of law and fact. (*Vasquez v. Superior Court* (1971) 4 Cal. 3d 800, 809-811.)

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A. <u>There is an Ascertainable and Sufficiently Numerous Class</u>

The class members are easily identifiable from Defendants' records. The information exchanged shows a class size of 72 class members which meets the numerosity requirement.

B. <u>There is a Well-Defined Community of Interest / Commonality</u>

The community of interest requirement involves three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.) The predominance factor tests whether a proposed class is sufficiently cohesive to warrant adjudication by representation. (See, e.g., *Clothesrigger, Inc. v. GTE Corp.* (1987) 191 Cal. App. 3d 605.)

Common issues of fact and law predominate because the action concerns the same violations, namely not providing compliant meal and rest periods, not paying all wages owed, and derivative waiting time, wage statement, and PAGA penalties. To the extent any individual questions exist about unpaid wages, these issues go to damages and not liability, which does not preclude the maintenance of the suit as a class action. (*Vasquez, supra,* 4 Cal.3d at p. 815.)

C. <u>Plaintiff's Claims are Typical, and the Adequacy Requirement is Met</u>

Plaintiff's claims at this stage are typical of the class because she was subject to the same alleged non-compliant policies and procedures as they worked at the studio locations. Also, adequacy of representation is met with two conditions: first, the plaintiff must be represented by counsel qualified to conduct the pending litigation; second, named plaintiff's interests cannot be antagonistic to those of the class. (*Classen v. Weller* (1983) 145 Cal. App. 3d 27, 46-47.)

Frontier Law Center has significant experience prosecuting wage and hour class actions as explained in the attached declaration. Second, Plaintiff is not aware of any conflicts of interest with the class. Thus, the typicality and adequacy requirements are met.

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VI. THE PROPOSED CLASS NOTICE IS ACCEPTABLE

Rules of Court, rule 3.769(f) requires that class members be provided with notice of the final approval hearing, as well as an explanation of the proposed settlement and objection procedures. Procedural due process requires notice reasonably calculated to apprise interested parties of the pendency of the action affecting their interests and an opportunity to present their objections. (*Ryan v. Cal. Interscholastic Fed'n – San Diego Section* (2001) 94 Cal. App. 4th 1048, 1072.) A notice that meets this standard and is neutrally worded satisfies due process. (*Phillips Petroleum Co. v. Shutts* (1985) 472 U.S. 797, 812.)

A. The Notice is Accurate, and Informative, and Appropriate

The proposed notice, which is derived from the Los Angeles model, provides all the information needed to make a fully informed decision about the settlement. Also, all the class members spoke English, so Spanish translations are not necessary.

The notice also explains the terms and conditions of the settlement in plain language and in an informative and coherent manner. The notice explains the process class members should follow if want to exclude themselves.

The notice provides that class members may also at the fairness hearing to object, and it provides that class members who do not object or exclude themselves will have waived all objections to the settlement. Finally, the notice will include an estimated calculation of the class member's estimated share of the net settlement amount based on his or her number of qualifying workweeks, and it explains the process for disputing the number of qualifying workweeks.

B. The Notice Plan Satisfies Due Process

The proposed notice plan is consistent with Rule of Court 3.769(f), is the best notice practicable, and is the method to give the best actual notice to the class members. After preliminary approval, Defendants will provide the class list to the settlement administrator, who will then send the notice within fifteen days of receiving the class list.

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If any notice is returned as undeliverable without a forwarding address the administrator will perform a skip trace to locate a better mailing address. If the administrator obtains a more current address from the skip trace, it will resend the notice to that address. Procedural due process is satisfied with the proposed notice plan.

VII. THE REQUESTED ATTORNEY FEES AND COSTS ARE REASONABLE

Although the request for attorney fees and costs will be filed in conjunction with the motion for final approval, in general an award of attorney's fees in common fund wage and hour class action settlements should start with the percentage method. (See *Laffitte v. Robert Half Int'l*. (2016) 1 Cal. 5th 480, 503.) An award of 33% of the common fund for attorneys' fees is supported by the fact that typical attorney fee contingency agreements provide that attorneys will recover 33% if the case is resolved before trial and 40% if the case is tried." (*Fernandez v. Victoria Secret Stores LLC*, 2008 WL 8150856 at *16 n. 59 (C.D. Cal. July 21, 2008).

VIII. CONCLUSION

Plaintiff respectfully requests the court to grant preliminary approval, provisionally certify the class, direct that notice is sent to the class members, appoint Plaintiff as the class representative and Frontier Law Center as class counsel, appoint Phoenix Class Action Administration Solutions as the settlement administrator, and set a fairness hearing in approximately three to four months.

Date: March 19, 2024

FRONTIER LAW CENTER

/s/ Adam Rose
Attorney for Plaintiff
Danielle Burlile