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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

15 EDUARDO MORALES, JOSE OLIVA,
16 individually and on behalf of other
17 persons similarly situated and similarly
18 aggrieved employees,

19 Plaintiffs,

20 v.

21 PHENIX ENTERPRISES, INC.;
22 SATELLITE BODY, INC.; VEHICLE
23 SYSTEMS, INC.; and DOES 1 through
24 25,

25 Defendants.

Case No.: 23STCV06594
(related to 24STCV05558)

CLASS AND REPRESENTATIVE
ACTION

*[Assigned to Hon. Laura A. Seigle
in Dept. SS-17]*

**NOTICE OF MOTION AND
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

[FILED CONCURRENTLY WITH
THE COMPENDIUM OF
DECLARATIONS BY: (1) HAIK
HACOPIAN, (2) ZORIK
MOORADIAN, (3) MEHRDAD
BOKHOUR, (4) JOSHUA S.
FALAKASSA, (5) EDUARDO
MORALES, (6) JOSE OLIVA; AND
[PROPOSED] ORDER]

Date: September 16, 2025

Time: 9:00 a.m.

Dept.: SS-17

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16 situated and similarly aggrieved employees

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1 **PLEASE TAKE NOTICE** that, pursuant to Cal. Rules of Court, rule 3.769, on
2 September 16, 2025 at 9:00 a.m. or as soon thereafter as the matter may be heard in
3 Department SS-17 of the above-entitled Court, located at 312 North Spring Street, Los
4 Angeles, California 90012, Plaintiffs Eduardo Morales and Jose Oliva ("Plaintiffs"),
5 individually and on behalf of a similarly-situated class of individuals, will and hereby do move
6 this Court for an order:

7 1. Preliminarily approving the proposed class settlement of this lawsuit;

8 2. Provisionally certifying the Settlement Class, defined as follows:

9 All persons who worked for Defendants and/or Phenix Truck
10 Body Management as a non-exempt, hourly employee in
11 California at any time from March 24, 2019 through February
12 23, 2025 ("Class Period");

13 3. Preliminarily appointing Plaintiff Eduardo Morales and Plaintiff Jose Oliva as
14 Class Representatives;

15 4. Preliminarily appointing Zorik Mooradian and Haik Hacopian of Mooradian
16 Law, APC, Mehrdad Bokhour of Bokhour Law Group, P.C., and Joshua S. Falakassa of
17 Falakassa Law, P.C. as Class Counsel;

18 5. Preliminarily approving the proposed settlement of Plaintiffs' Private
19 Attorneys General Act ("PAGA") claims;

20 6. Appointing Phoenix Settlement Administrators as the third-party settlement
21 administrator;

22 7. Scheduling a hearing to consider whether the class settlement should be finally
23 approved, and whether to award amounts for Service Awards to the Class Representatives,
24 attorneys' fees and costs to Class Counsel, and settlement administration costs; and

25 8. Approving the proposed Class Notice, and ordering that it shall be
26 disseminated to the proposed Settlement Class as provided in the Joint Stipulation of
27 Settlement.

28 This Motion is based on this Notice of Motion, the accompanying Memorandum of
Points and Authorities, the Declaration of Haik Hacopian with Exhibits, the Declaration of

1 Zorik Mooradian, the Declaration of Mehrdad Bokhour, the Declaration of Joshua S.
2 Falakassa, the Declaration of Eduardo Morales, the Declaration of Jose Oliva, the pleadings
3 and other papers filed in this action, and on any further oral or documentary evidence or
4 argument presented at the time of hearing.

5 The Joint Stipulation of Settlement is attached as **Exhibit “1”** to the Declaration of
6 Haik Hacopian. The proposed Class Notice is attached as **Exhibit “A”** to the Joint Stipulation
7 of Settlement. See HH Decl. ¶10, Ex. A.

8
9 Dated: August 12, 2025

MOORADIAN LAW, APC
FALAKSSA LAW, P.C.
BOKHOUR LAW GROUP, P.C.

11 By: /s/Haik Hacopian
12 Zorik Mooradian, Esq.,
13 Haik Hacopian, Esq.,
14 Joshua Falakassa, Esq.
15 Mehrdad Bokhour, Esq.
16 Attorneys for Plaintiffs, individually and on
17 behalf of other persons similarly situated
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiffs, Eduardo Morales and Jose Oliva (“Class Representatives” or “Plaintiffs”),
4 and Defendants Phenix Enterprises, Inc., Satellite Body, Inc., and Safe Vehicle Systems, Inc.
5 (“Defendants”) have reached a proposed class settlement with a non-reversionary Settlement
6 Amount of \$1,221,480 on behalf of non-exempt employees who worked for Defendants
7 and/or Phenix Truck Body Management (a related entity) in California from March 24, 2019
8 through February 23, 2025 (“Class Period”). The Settlement anticipates coverage for 303
9 Settlement Class Members and their 44,788 workweeks through February 23, 2025, with a
10 proportional increase of the Settlement Amount if the workweek total ultimately exceeds
11 110% of that amount or, alternatively, shortening of the end date of release/class period to the
12 date when workweeks equal 110%. The settlement allows for an average settlement payment
13 in excess of \$2,275, which represents an excellent recovery taking into consideration the risks
14 and costs of continued litigation.

15 This Settlement resolves this class action lawsuit (which incorporates a separate class
16 action filed by Plaintiff Oliva) and settles the wage and hour claims for all Settlement Class
17 Members who do not request exclusion. Payments will be made on an opt-out non-
18 reversionary basis.

19 The proposed settlement is memorialized in the “Joint Stipulation of Settlement”
20 hereinafter referred to as “Settlement,” “Settlement Agreement,” or “S.A.” A true and correct
21 copy of which is attached to the accompanying Declaration of Haik Hacopian (hereinafter
22 “HH Decl.”) as **Exhibit “1”**.

23 The Parties have conducted an investigation concerning the facts and law during the
24 pendency of this action and which included production of class records and data and expert
25 analysis of same, conferences, and two mediation sessions before experienced mediators,
26 Hon. Amy D. Hogue (ret.) and Mr. Jeffrey P. Fuchsman.

This proposed settlement is well within the range of what constitutes a fair, reasonable,
and adequate settlement to all concerned especially in light of the legal and factual obstacles

1 that Plaintiffs faced, the sharply contested issues involved, the risks and costs of further
2 litigation, and the tangible monetary benefits to be received by Plaintiffs and the Class. The
3 proposed notice procedure comports with Cal. Rules of Court, rule 3.769, and due process
4 requirements. The notice procedure should be approved and a final fairness hearing set.

5 6 **II. SUMMARY OF THE LITIGATION**

7 **A. Defendants, Class Members, and Plaintiffs**

8 Defendants are engaged in the business of custom vehicle fabrication for commercial
9 fleets which include trucks, vans, and vehicle bodies for utility companies. Plaintiffs and Class
10 Members were employed at Defendants' fabrication facility in Pomona. Declaration of Haik
Hacopian (hereinafter "HH Decl."), ¶7.

11 There are approximately 303 class members who worked approximately 40,716
12 workweeks during the Class Period. Plaintiffs count 111 former employees. The average
13 hourly rate of pay during the Class Period is \$26.76. Plaintiff Morales was employed from
14 July 27, 2021 through July 18, 2022. Plaintiff Oliva was employed from April 29, 2014
15 through September 28, 2022. HH Decl., ¶8.

16 **B. Plaintiffs' Lawsuits**

17 On March 24, 2023, Plaintiff Eduardo Morales filed the instant class action lawsuit
18 against Defendants. S.A. ¶1. On March 27, 2023, Plaintiff Morales sent a notice letter
19 pursuant to the Private Attorneys General Act ("PAGA"), to Defendants and to the Labor and
20 Workforce Development Agency ("LWDA"). Plaintiff Morales's PAGA claim was assigned
21 Case No. LWDA-CM-944716-23 upon electronic submission to the LWDA. HH Decl., ¶14,
22 **Exhibit "2"** (Copy of Plaintiff Morales' PAGA Notice). On July 7, 2023, Morales filed a First
23 Amended Complaint to add an additional representative cause of action for civil penalties
under PAGA. S.A. ¶5.

24 On April 28, 2023, Oliva filed a Class Action Complaint in Los Angeles County
25 Superior Court (23STCV09529). S.A. ¶4. On August 21, 2023, Plaintiff Oliva filed a First
26 Amended Complaint adding an additional representative cause of action for civil penalties

1 under PAGA pursuant to the written notice provided notice to the LWDA and Defendants on
2 April 26, 2023 (LWDA-CM-951101-23). S.A. ¶¶3&5.

3 On June 17, 2024, Plaintiffs filed the operative Consolidated Complaint – Class and
4 Representative Action asserting causes of action for (1) Failure to Provide Meal Periods; (2)
5 Failure to Provide Rest Periods; (3) Failure to Pay Wages; (4) Failure to Timely Pay Wages
6 at Termination/Separation; (5) Failure to Timely Pay Vacation Wages at Termination; (6)
7 Failure to Provide Accurate Wage Statements; (7) Failure to Reimburse Business Expenses;
8 (8) Violation of Unfair Business Practices Act – Bus. & Prof. Code §§ 17200, et seq.; and (9)
9 Penalties Pursuant to Private Attorneys General Act (the "Action"). S.A. ¶7. Plaintiff Oliva's
10 separate lawsuit was also dismissed.

11 **C. Discovery and Mediation**

12 The Parties have conducted investigation of the operative facts and applicable law
13 during the pendency of the case through formal and informal discovery. Plaintiffs have
14 reviewed and examined class data and has retained the services of an expert who has analyzed
15 the damages and evaluated the potential class wide exposure. Prior to the first mediation,
16 Defendants produced a random sample time and payroll records for 59 of 289 class members
(the total at the time), approximately 20%, as well as relevant policies. HH Decl. ¶9.

17 On April 12, 2024, Plaintiffs and Defendants participated in a full-day mediation
18 before Hon. Amy D. Hogue (ret.) but were unable to reach a resolution. Thereafter, the Parties
19 resumed litigation and agreed to a second mediation session. Prior to this session, as additional
20 information was unraveled as to the asserted claims, Plaintiffs' exposure analysis was refined
21 with expert assistance. At their second mediation session on November 25, 2024 with Mr.
22 Jeffrey P. Fuchsman, the Parties were able to reach a resolution through a mediator's proposal.
23 They subsequently entered into their Joint Stipulation of Settlement, a true and correct copy
24 of which is attached as **Exhibit "1"** to the Declaration of Haik Hacopian. HH Decl. ¶10, Exh.

25 1.

26 //

//

1 **III. THE PROPOSED SETTLEMENT**

2 **A. The Essential Terms of the Settlement**

3 If the Court approves this settlement, Defendants will pay the gross sum of \$1,221,480
4 ("Maximum Settlement Amount") which will be used to fund this Settlement and make
5 payments to Class Members, who will be paid on an all-in non-reversionary opt-out basis. The
6 Settlement Amount excludes the employer share of taxes on the wage component of the
7 Settlement which will be separately funded by Defendants. HH Decl. ¶11.

8 The monetary terms of the class action settlement are summarized below:

- 9 • Maximum Settlement Amount. S.A. ¶¶32, 50: \$1,221,480
10 • Court-approved Attorneys' Fees (33 1/3%). S.A. ¶56: (\$407,160)
11 • Court-approved Cost Award. S.A. ¶56: (\$40,000)
12 • Court-approved Service Payments. S.A. ¶55: (\$20,000)
13 • Maximum settlement administration costs. S.A. ¶51: (\$10,000)
14 • 75% PAGA Payment to LWDA. S.A. ¶¶31, 51: (\$37,500)
15 • 25% PAGA Share to aggrieved employees. S.A. ¶¶31, 51: (\$12,500)

16 Total Deductions from Settlement Amount: (\$527,160)

17 Net Settlement Amount. S.A. ¶33, 51: \$694,320

18 The approximate estimated simple average class settlement payment, assuming
19 maximum awards and participation by 305 individuals, calculates to \$2,276.46 (\$694,320 ÷
20 305). Assuming maximum awards under the settlement and 42,500 total workweeks, the
21 workweek value calculates to approximately \$16.34 (\$694,320 ÷ 42,500). HH Decl. ¶12. As
22 far as other claims or lawsuits that would be impacted by this settlement, there is the later filed
23 related class and representative action of *Jose Manuel Martinez v. Phenix Truck Body*
24 *Management, et al.* (24STCV05558), whose claims fully overlap with this Settlement. HH
Decl. ¶13.

25 **B. Settlement Class Members and the PAGA Group**

26 "Settlement Class Members" are defined as follows:

1 All persons who worked for Defendants and/or Phenix Truck Body
2 Management as a non-exempt, hourly employee in California at any time
3 from March 24, 2019 through February 23, 2025 (“Class Period”). S.A.
4 ¶¶15 and 20.

5 “PAGA Group” is defined as follows:

6 All persons who, during the PAGA Period (from March 27, 2022 through
7 February 23, 2025), have previously been or currently are employed in
8 California by Defendants as an hourly-paid, non-exempt employee. S.A.
9 ¶¶35 and 37.

10 “PAGA Group Member” shall mean an individual who is a member of the
11 PAGA Group (or if any such person is incompetent, deceased, or
12 unavailable due to military service, the person’s legal representative or
13 successor in interest evidenced by reasonable verification). S.A. ¶35.

14 **C. Settlement Payments to Class Members and PAGA Members**

15 “Settlement Share” refers to the value of the Net Settlement Amount which an
16 individual Class Member is entitled to receive. S.A. ¶47. The Individual Class Workweeks
17 worked during the Class Period by each Participating Class Member will be divided by the
18 total Workweeks worked by all Participating Class Members during the Class Period,
19 resulting in a payment ratio for each Participating Class Member. Each Participating Class
20 Member’s payment ratio is then multiplied by the portion of the Net Settlement Amount
21 allocated to the Class to determine his or her individual Participating Class Member
22 Settlement Share. S.A. ¶64(i).

23 “PAGA Payment Share” shall mean the value of each PAGA Group Member’s share
24 of the PAGA Payment. S.A. ¶36. The Individual PAGA Pay Periods worked during the PAGA
25 Period by each PAGA Group Member will be divided by the total PAGA Pay Periods worked
26 by all PAGA Group Members during the PAGA Period, resulting in a payment ratio for each
PAGA Group Member. Each PAGA Group Member’s payment ratio is then multiplied by the
\$12,500 allocated to the PAGA Group Members to determine his or her PAGA Payment
Share. Each PAGA Group Member's PAGA Payment Share shall be paid in addition to any
Participating Class Member payment to which the PAGA Group Member may be entitled.
64(ii).

//

1 **D. Settlement Allocation to Class Members**

2 For the purpose of taxes and required withholdings, (i) Settlement Share payments to
3 Class Members shall be considered 20% wages (for which an IRS Form W-2 shall be issued)
4 and 80% interest and penalties (for which an IRS Form 1099 shall be issued); and (ii) PAGA
5 Payment Share payments to PAGA Group Members shall be considered 100% penalties (for
6 which an IRS Form 1099 with be issued). S.A. ¶57.

7 **E. Opt-Outs and Objections**

8 Class Members will have forty-five (45) days from the mailing of the Class Notice to
9 opt out or object to the Settlement. S.A. ¶¶66 & 67.

10 The Class Notice will advise each Class Member of their right exclude themselves or
11 opt-out of the Settlement. To be effective, requests for exclusion must (a) be submitted in
12 writing to the Settlement Administrator, postmarked before the Response Deadline, (b)
13 contain the individual's first and last name, current home (or mailing address), and the last
14 four digits of his or her social security number, and (c) include written affirmation of his or
her desire to exclude themselves. S.A. ¶66.

15 Any Class Member who timely requests exclusion from this Settlement shall not have
16 any rights under the Settlement, shall not be entitled to receive a Settlement Share, shall not
17 be bound by the Settlement or the Order of Final Approval, and shall not have the right to file
18 an objection to the Settlement. Notwithstanding the foregoing, to the extent any Class
19 Member who timely requests exclusion from this Settlement is also a PAGA Group Member,
20 the Class Member will receive his or her PAGA Payment Share and will be bound by the
21 release of the Released PAGA Claims. S.A. ¶66.

22 The Class Notice will advise each Class Member of their right to object to the
23 Settlement. To be effective, objections must (a) be mailed to the Settlement Administrator,
24 postmarked before the Response Deadline, (b) clearly identify the case name and number, (c)
25 contain the objector's full name, current home (or mailing address), and the last four digits of
26 his or her social security number, (d) clearly and concisely state all grounds for the objection,
(e) indicate whether the objector is represented by counsel and, if so, identify such counsel,

1 (f) indicate whether the objector and/or his or her counsel intend to appear at the Final
2 Approval Hearing, and (g) be signed by the objector or his or her counsel. S.A. ¶67.

3 The Settlement Administrator shall have the initial responsibility for resolving any
4 disputes that arise during the administration of the Settlement including, without limitation,
5 disputes regarding whether a Class Member is entitled to a Settlement Share and, if so, the
6 amount thereof. In resolving such disputes, Defendants' employment records shall be
7 presumed accurate and correct, and shall be final and binding unless the information submitted
8 by the individual (e.g., time records, wage statements, employment records, etc.) proves
9 otherwise. In the event that the Settlement Administrator cannot resolve a dispute based upon
10 a review of Defendants' records, the Settlement Administrator will schedule a call with Class
11 Counsel and Defense Counsel to discuss and resolve the dispute. After such call, the
12 Settlement Administrator shall attempt to resolve the dispute and any such resolution will be
13 final and binding on the disputing Class Member. In the event the Settlement Administrator
14 is unable to resolve the dispute to the satisfaction of the disputing Class Member, then the
15 Parties will submit the dispute to the Court for resolution at Final Approval. S.A. ¶61.

15 **F. Releases**

16 Released Claims. As of the date the Effective Date and upon full funding of the
17 Settlement by Defendants, each Participating Class Member, and without the need to manually
18 sign a release document, in exchange for the consideration recited in this Settlement
19 Agreement, on behalf of himself or herself and on behalf of his/her current, former, and future
20 heirs, executors, administrators, attorneys, agents, and assigns, shall and does hereby fully and
21 finally release the Released Parties from any and all claims, demands, rights, liabilities, and
22 causes of action that were or could have been brought against the Released Parties in the Class
23 Action based on the facts and allegations set forth in the Class Action (the "Released Claims").
24 The Released Claims includes all causes of action and claims that were alleged in the Class
25 Action or reasonably could have been alleged at any time through the end of the Class Period
26 based on the facts and legal theories contained in the operative complaint, including, but not
limited to, all of the following claims for relief:

1 (i) All causes of action and claims that were alleged in the Class Action or
2 reasonably could have been alleged based on the facts and legal theories contained in
3 the operative complaint, including, but not limited to, all of the following claims for
4 relief: Failure to Pay Minimum Wages (Labor Code §§ 204, 1194, 1194.2, 1197),
5 Failure to Pay Overtime Compensation (Labor Code §§ 510, 1194, 1198), Failure to
6 Provide Meal Breaks (Labor Code §§ 226.7, 512), Failure to Authorize and Permit
7 Rest Breaks (Labor Code § 226.7), Failure to Provide Cool-Down Rest Periods (Labor
8 Code §§ 226, 226.7, 512, 518, 558, 1198), Failure to Indemnify Necessary Business
9 Expenses (Labor Code § 2802), Failure to Timely Pay Final Wages at Termination
10 (Labor Code §§ 201-203), Failure to Provide Accurate Itemized Wage Statements
11 (Labor Code § 226), Unfair Business Practices (Bus. & Prof. Code § 17200 et seq.),
12 Civil Penalties Under Private Attorneys General Act of 2004 (Labor Code § 2698 et
13 seq.), claims for restitution and other equitable relief, liquidated damages, civil
14 penalties, statutory penalties, punitive damages, waiting time penalties, interest, as
15 well as all similar provisions under the Fair Labor Standards Act, including 29 U.S.C.
16 sections 206, 207, and 216, and the National Labor Relations Act. Additionally, to
17 effectuate a release of all claims under the Fair Labor Standards Act, each Settlement
18 check issued to Participating Class Members shall state on its back, "By accepting this
19 payment I agree I have chosen to participate in the Settlement of the Action and waive
20 and release all claims under the Fair Labor Standards Act." Participating Class
21 Members who cash their Settlement checks are deemed to have waived all Released
22 Claims inclusive of claims under the Fair Labor Standards Act during the Class Period.
23 Participating Class Members who do not cash their Settlement checks shall be deemed
24 to have waived all Released Claims except for claims under the Fair Labor Standards
25 Act.

26 (ii) Participating Class Members who are former employees of Defendants and/or
Phenix Truck Body Management and who participate in the Settlement and receive a
payment thereunder shall, by virtue of the same, release any Labor Code section 203

1 claims for failure to pay wages due and owing at the end of employment based upon
2 the claims set forth above in Paragraph 69. S.A. ¶69.

3 Released PAGA Claims. As of the date the Effective Date and upon full funding of
4 the Settlement by Defendants, Plaintiffs, acting as agents and proxies of the Labor and
5 Workforce Development Agency, on behalf of themselves and on behalf of their current,
6 former, and future heirs, executors, administrators, attorneys, agents, and assigns, and each
7 PAGA Group Member, without the need to manually sign a release document and in exchange
8 for the consideration received in this Settlement Agreement, on behalf of himself or herself
9 and on behalf of his/her current, former, and future heirs, executors, administrators, attorneys,
10 agents, and assigns, shall and does hereby fully and finally release Released Parties from any
11 and all claims, demands, rights, liabilities, and causes of action that were or could have been
12 brought against the Released Parties in the Class Action for civil penalties pursuant to the
13 PAGA that were alleged or could have been alleged at any time through the end of the PAGA
14 Period under the Labor Code, state or local wage and hour laws and Wage Orders, whether
15 known or unknown, based on the facts and legal theories contained in the Class Action,
16 including but not limited to (a) failure to pay minimum wages; (b) failure to pay overtime
17 compensation; (c) failure to provide meal periods or compensation in lieu thereof; (d) failure
18 to provide rest periods or compensation in lieu thereof; (e) failure to pay timely pay wages
19 upon termination or resignation; (f) failure to reimburse necessary business expenses; (g)
20 failure to provide complete, accurate wage statements; (h) failure to timely pay all wages that
21 could have been premised on the claims, causes of action or legal theories of relief described
22 above or any of the claims, causes of action or legal theories of relief pleaded in the operative
23 complaint (the “PAGA Released Claims”). PAGA Group Members cannot opt out of or object
24 to the foregoing release of PAGA Released Claims. S.A. ¶70.

25 “Released Parties” means Defendants and each of their former and present directors,
26 officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns,
subsidiaries, and affiliates, including, without limitation, Phenix Truck Body Management.
S.A. ¶44.

1 “Effective Date” as defined below is a condition of performance of the obligations
2 under this Settlement. If no timely objections are filed or if all objections are withdrawn,
3 funding of the settlement shall be within sixty (60) calendar days after the date upon which
4 the Court enters an Order granting Final Approval of the Settlement. If an objection is filed
5 and not withdrawn, funding of the settlement shall be within sixty (60) calendar days after the
6 date for filing an appeal and no such appeal being filed. If any timely appeals are filed, funding
7 of the settlement shall be within sixty (60) calendar days after the date of the resolution (or
8 withdrawal) of any such appeal in a way that does not alter the terms of the settlement. S.A.
9 ¶24.

10 Only Plaintiffs will be providing a general release and waiver of Civil Code §1542.
11 S.A. ¶71.

12 **G. Service Awards to Named Class Representatives**

13 As part of the settlement, at the time of seeking final approval of the proposed class
14 action settlement, Plaintiffs will separately apply for Service Payments in the amount of Ten
15 Thousand Dollars (\$10,000) each for their services to the Settlement Class. S.A. ¶55.
16 "[I]ncentive awards are fairly typical in class action cases ... and are intended to compensate
17 class representatives for work done on behalf of the class [and] to make up for financial or
18 reputational risk undertaken in bringing the action." *In re Cellphone Fee Termination Cases*
19 (2010) 186 Cal.App.4th 1380, 1393-94. Plaintiffs' requested incentive payments are intended
20 to recognize Plaintiffs' contributions on behalf of the Class and are fair in relation to the total
21 settlement, their efforts, and standing alone. HH Decl. ¶15. Plaintiffs have put a significant
22 amount and time and effort participating in this case and understand their role and obligations
23 as class representatives. Declaration of Eduardo Morales, ¶¶3-8. Declaration of Jose Oliva,
24 ¶¶4, 6-7, 9, 15.

25 **H. Attorneys' Fees & Costs**

26 Defendants agree not to oppose Plaintiff's counsel's application for an attorneys' fees
award of \$407,160, which is one-third (33 1/3%) of the Maximum Settlement Amount of
\$1,221,480, and payment of documented litigation costs and expenses up to \$40,000. S.A.

¶56. Plaintiffs will submit detailed support for their request for the fee award along with their motion for final approval of the settlement. For now, counsel submits that the requested fee is fair compensation for undertaking a complex, risky, expensive, and potentially time-consuming litigation involving this case (initially two cases) on a purely contingent fee basis. Here, counsel has incurred substantial attorneys' fees independently conducting pre-filing investigations, analyzing the claims, litigating the case including successfully opposing motions to compel arbitration, conducting legal research and analysis, reviewing significant documentary and electronic records produced by Defendants, performing data analysis of employee timekeeping data and payroll records, preparing for and attending two full-day mediations, negotiating the settlement, working on the long-form Joint Stipulation of Settlement, Class Notice, and preparing this Motion for Preliminary Approval, and otherwise aggressively pursuing the interests of the putative class. HH Decl. ¶16.

Both California and federal courts have recognized that an appropriate method for awarding attorneys' fees in class actions is to award a percentage of the "common fund" created as a result of the settlement. *See Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 254 (recognizing both the "percentage of recovery" and "lodestar/multiplier" methods). Plaintiffs' counsel's request for fees of one-third (33 1/3%) of the Settlement Amount is within the range of reasonableness. Historically, courts have awarded percentage fees in the one-third range. *See, e.g., Laffitte v. Robert Half Int'l, Inc.* (2014) 231 Cal.App.4th 860, 878 ("[S]tudies show that . . . fee awards in class actions average around one-third of the recovery."); *Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 66 n.11 (2008) (accord); Eisenberg & Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, J. of Empirical Legal Studies, Vol. 1, Issue 1, 27-78, March 2004, at 35 (independent studies of class action litigation nationwide conclude that a one-third fee is consistent with market rates).

In conclusion, counsel submits that its request for attorneys' fees is reasonable when viewed as an overall percentage of the settlement as well as with reference to counsel's lodestar. In light of the risks and significant work undertaken by counsel, the results obtained

1 for the class, and the efficiency with which the Parties collaborated to conduct the litigation,
2 the fee and cost request is fair and reasonable. HH Decl. ¶17.

3 **IV. PRELIMINARY APPROVAL IS WARRANTED**

4 Rules of Court, rule 3.769 conditions the settlement of a class action on court approval,
5 which is generally evaluated under the federal standards applicable under Rule 23 of the Fed.
6 R. Civ. P. 23. *See Reed v. United Teachers Los Angeles* (2012) 208 Cal.App.4th 322, 337
7 (2012) (stating that Rule 3.769 requires the trial court to determine "that the settlement is fair,
8 reasonable and adequate to all concerned"); *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150
9 F.3d 1011, 1026 (stating that Rule 23(e) requires the trial court to determine "whether a
10 proposed settlement is fundamentally fair, adequate, and reasonable"). To be approved, a
11 settlement must be "fair, reasonable and adequate to all concerned." *Reed*, 208 Cal.App.4th at
12 337. Settlement is the preferred means of dispute resolution, particularly in complex class
13 action litigation. *See In re Syncor ERISA Litig.* (9th Cir. 2008) 516 F.3d 1095, 1101. The
14 Court's role in evaluating a proposed settlement is limited to ensuring that the agreement taken
15 as a whole is fair, and is not the product of fraud or collusion between the negotiating parties.
16 *See, e.g., Hanlon*, 150 F.3d at 1027. There is an initial presumption of fairness when the
17 settlement agreement was negotiated at arms' length by experienced counsel. *See, e.g., Kullar*
18 *v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130. A trial court's decision to approve
19 a class action settlement is within the sound discretion for the trial judge and may be reversed
20 only if the trial court acted outside of its broad discretion. *See Munoz v. BCI Coca-Cola*
Bottling Co. of L.A. (2010) 186 Cal.App.4th 399, 407.

21 **A. Standard for Preliminary Approval**

22 To make a fairness determination, the Court should consider several factors, including:
23 "The strength of Plaintiff's case, the risk, expense, complexity and likely duration of further
24 litigation, the risk of maintaining class action status through trial, the amount offered in
25 settlement, the extent of discovery completed and the stage of the proceedings, [and] the
26 experience and views of counsel." *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.
"The list of factors is not exclusive and the Court is free to engage in a balancing and weighing

1 of the factors depending on the circumstances of each case." *Wershba v. Apple Computer,*
2 *Inc., supra*, 91 Cal.App.4th at 245. It should be noted that the reasonableness of a settlement
3 is not dependent upon its actual value approaching the potential recovery plaintiff might have
4 received if he had succeeded at trial, *Sutter Health Unins. Pricing Cases* (2009) 171 Cal. App.
5 4th 495, 511 (emphasizing that the court must be mindful that "[t]he ... class case could have
6 gone to an incredibly lengthy and expensive jury trial, and the class could have lost the case"
7 and must account for that likelihood in discounting the value of the claims for settlement
8 purposes [emphasis in original]). As discussed below, the proposed settlement is fair, adequate
9 and reasonable in light of the overall balance of factors in this case.

10 **B. The Strength of Plaintiffs' Case**

11 1. Failure to Pay Wages

12 Plaintiffs contended that Defendants underpaid employee wages due to rounding and
13 failing to properly calculate the regular rate of compensation. HH Decl. ¶18.

14 Plaintiffs' review of the time and payroll data revealed rounding up at shift start and
15 rounding down at shift end. Plaintiffs calculated an average of 15.6 minutes underpaid per
16 shift. This resulted in \$1,488,823 in underpaid wages through the date of the second
17 mediation. Defendants countered that employees recorded their own time to the minute and
18 that they were not required to work prior to their scheduled shifts. Defendants further
19 contended that the inquiry necessary to determine whether an employee performed work prior
20 to the start of, and after the end of, a scheduled shift would readily bar certification on this
21 issue. Based on these defenses to the merits, Plaintiffs do not value a rounding claim at more
22 than 25% of the assessed exposure, or \$372,205.75. HH Decl. ¶19.

23 Plaintiffs alleged that Defendants failed to account for non-discretionary bonuses and
24 other incentive pay when calculating the "regular rate of pay" when paying overtime and sick
25 pay wages. More specifically, Defendants paid an "incentive attendance bonus" on an hourly
26 basis to the extent an employee worked more than 76 hours during a pay period. About 86%
of pay periods in the sample reflected payment of this bonus, most of which reflected an
additional \$1.00 per hour, and the rest ranged from an additional \$1.25 to \$3.50 per hour. Any

1 potential regular rate damages would be mooted, however, by payment of the bonus at 1.5x
2 times for any overtime hours worked. Thus, no exposure would be attributable for the regular
3 rate claim. HH Decl. ¶20.

4 2. Failure to Provide Meal Periods

5 Plaintiffs' review of the time data revealed 178,212 shifts greater than 5 hours
6 necessitating a meal break. Plaintiffs calculate maximum damages at \$4,814,332 for unique
7 meal break violations which are shifts with at least a short meal break, no meal break, a meal
8 break of insufficient duration, and/or no second meal break for shifts greater than 10 hours.
9 Notably, Plaintiffs' review of the payroll data did not reveal payment of any meal premiums.
10 Plaintiffs further claimed that Defendants implemented an automatic 30-minute deduction that
did not reflect meal break timing. HH Decl. ¶21.

11 Defendants countered that they maintained legally compliant meal period policies and
12 practices throughout the class period. Specifically, that they implemented legally compliant
13 bell schedules for breaks that would defeat Plaintiffs' position that meal breaks were not
14 properly tracked due to automatic deduction. Further, Defendant represented the need for
15 significant individualized inquiry to determine whether any alleged meal violation was due to
16 some fault of Defendants or whether an employee voluntarily elected to take a late, short, or
17 no meal break. HH Decl. ¶22.

18 In light of the above defenses and arguments, Plaintiffs do not value a meal period
19 claim at more than 25% of the assessed exposure, or \$1,203,583, which reflects a 50% chance
20 of certification and a 50% chance of prevailing on the merits. HH Decl. ¶23.

21 3. Failure to Provide Rest Breaks

22 Defendants represented that they maintained a legally compliant bell schedule for
23 breaks that reminded employees of the need to take rest breaks at the correct intervals.
24 Moreover that, as with meal breaks, Defendants represented that they maintained compliant
25 rest period policies and practices throughout the Class Period. As rest breaks are not required
26 to be tracked and Defendants did not do as such, Plaintiffs were not able to analyze the data
for a rest period exposure. The time data reveals 179,507 shifts greater than or equal to 3.5

1 hours necessitating a rest break. Assuming a generous 50% violation rate, the exposure
2 calculates to \$2,513,278. Further, as with meal breaks, the issues of individualized inquiry
3 will create major hurdles to certification. As such, Plaintiffs do not value a rest break claim at
4 more than 15% of the assessed exposure, or \$376,991.70. HH Decl. ¶24.

5 4. Unreimbursed Business Expenses

6 Defendants required that employees wear uniforms but instead of reimbursing
7 employees, they charged employees \$28.00 per pay period for their uniforms. The practice
8 appears to have ceased in mid-2023, ostensibly in response to this litigation. Out of the 2,786
9 wage statements in the sample analyzed by Plaintiffs, there are 998 instances of the uniform
10 deduction, for a total of \$27,944. Plaintiffs extrapolated these losses to \$193,704, through the
11 date of the second mediation, which is based on \$28 per pay period for 35% of the total pay
12 periods (6,918). As employees also maintained their uniforms, an additional \$92,830 may be
13 attributed to laundering expenses (assuming \$10 per month). Total exposure would add up to
14 \$286,534. To account for general litigation risk, Plaintiffs value the expense reimbursement
claim at 80% of assessed exposure, or \$229,227.20. HH Decl. ¶25.

15 5. Wage Statement Violations and Waiting Time Penalties

16 The wage statements issued to employees were substantively problematic because they
17 bundled regular hours in excess of scheduled hours, overtime hours, and the sum of the hourly
18 attendance bonus during a pay period under an “Ince” pay code. Accordingly, employees had
19 no means by which to determine the discrete amounts of these payments directly from the
20 paystub. Plaintiffs tally 11,046 wage statements issued during the limitations period from
21 March 24, 2022 through the date of the second mediation for an exposure sum of \$736,100.
22 About 86% of the wage statements included incentive bonuses and reflected the above issue
23 which brings exposure down to \$633,046 and is the value of claim according to Plaintiffs. HH
Decl. ¶26.

24 The claim for waiting time penalties would be derivative of the claims for unpaid
25 wages and meal and rest premiums and the weaknesses described there would directly impact
26 the viability of this claim. *See Naranjo v. Spectrum Sec. Srvcs.* (2022) 13 Cal.5th 93. At 111

1 terminated employees, maximum waiting time penalties calculate to \$712,886.40 (111
2 employees x 30 days x 8 hours per shift x \$26.76 average hourly rate). But given weaknesses
3 of the underlying claims, Plaintiff does not believe the value of this claim exceeds 30% of the
4 assessed maximum, or \$213,865.92. HH Decl. ¶27.

5 6. Unpaid Vacation

6 Defendants maintained a compliant PTO policy that allowed the accrual of PTO hours
7 to full-time employees. The benefit accrued based on an employee's length of employment
8 and not on hours worked. Thus, additional vacation wages would not be owed on a derivative
9 basis to the extent Plaintiffs claimed that any work hours are unpaid due to rounding or
10 otherwise. The policy did not permit forfeiture of accrued PTO and required that all earned
11 and unused vacation time be paid upon an employee's separation. Accordingly, Plaintiffs do
12 not attribute any value to this claim. HH Decl. ¶28.

13 7. PAGA Claims

14 The intention of PAGA penalties is not to serve a punitive or compensatory purpose
15 but to sufficiently act as a deterrent to future Labor Code violations. Notably, Defendants
16 ceased the uniform deduction and committed to addressing the wage statement issue. As such,
17 to the extent PAGA penalties are assessed, Plaintiffs expect for a court to impose substantial
18 discretionary reductions and provide for a nominal award as these Defendants are smaller
19 employers that made certain beneficial changes. At 10,925 PAGA pay periods and \$100
20 penalty per pay period, maximum potential penalties would come to \$1,092,500. Applying an
21 80% reduction, consistent with reported cases, results in a potential exposure of \$218,500.
22 HH Decl. ¶29. *See e.g., Fleming v. Covidien* (C.D. Cal. Aug. 12, 2011) 2011 WL 7563047 at
23 *4 (reduction of PAGA civil penalties for wage statement violations from \$2,800,000 to
24 \$500,000, because employees suffered no injury, defendants were not aware that their wage
25 statements violated the law, and that they took prompt steps to correct violations.) In light of
26 this, and also because of potential defenses to the substantive claims that would bear on PAGA

1 liability, the Parties' allocation of \$50,000 for settlement of the PAGA claim is extremely
2 reasonable. HH Decl. ¶29.

3 **C. Risks and Uncertainty**

4 Although Plaintiffs steadfastly maintain that their claims are meritorious, they
5 acknowledge that their position includes real risks and uncertainty. In deciding whether to
6 approve the settlement, the Court must balance the risk factors against an "understanding of
7 the amount in controversy and the realistic range of outcomes of the litigation." *Kullar*, 168
8 Cal.App.4th at 130, 133; *Munoz*, 186 Cal.App.4th at 408-09. In this case, the settlement is fair
9 and adequate when compared to the total potential exposure and the risks inherent in
10 Plaintiffs' claims. HH Decl. ¶30.

11 As courts have observed, "simply because a settlement may amount to only a fraction
12 of the potential recovery does not in itself render it unfair or inadequate. Compromise is the
13 very nature of settlement." *Boyd v. Bechtel Corp.* (C.D. Cal. 1979) 485 F. Supp. 610, 618. In
14 this case, Plaintiffs consider the settlement to be significantly more than a "fraction,"
15 particularly considering the various potential complications, dangers and pitfalls that
16 proceeding would entail. HH Decl. ¶30.

17 In addition to considering the value of immediate payment for Settlement Class
18 Members, Plaintiffs' counsel discounted the value of the class claims based on a variety of
19 factors, including the California Supreme Court's decision in *Brinker Restaurant Corp. v.*
20 *Superior Court* (2012) 53 Cal.4th 1004. In addition to the arguments that Defendants set forth
21 above, Defendants further contended that, to the extent they were required to provide breaks,
22 they sufficiently provided their employees with breaks without "policing" them. Moreover,
23 Plaintiffs' theory of liability for rest break violations was weaker since employers have no
24 obligation to record rest breaks (as rest breaks are paid breaks). The relative lack of written
25 proof, except for potential testimony from Settlement Class Members, diminished the prospect
26 of certifying the claim. Thus, a significant discount on those claims was warranted. HH Decl.
¶¶21-24.

The potential penalties were deemed to be substantial claims. In response, Defendants

1 raised the good-faith dispute defense to the waiting time penalty claims, thereby precluding
2 their imposition¹. Success on the penalty claims would require proving that the Defendant's
3 conduct was "willful." As to PAGA claims, there existed a high likelihood of a nominal award
4 especially since Defendants made certain beneficial changes. HH Decl. ¶¶26, 27, and 29.

5 In short, Plaintiffs' ability to prevail on certification and merits was far from certain.
6 There is the risk that prolonged litigation would likely have produced a worse result for
7 Settlement Class Members. Thus, this factor supports preliminary approval.

8 **D. Risk, Expense, Complexity, and Duration of Further Litigation**

9 This factor also weighs in favor of settlement approval. The parties had engaged in
10 significant review and assessment of the asserted claims which included expert assistance.
11 Defendants could have moved for summary adjudication on all or some of the claims.
12 Moreover, preparation for class certification and trial remained for the Parties as well as the
13 prospect of appeals in the wake of a disputed class certification ruling for Plaintiffs and/or
14 summary judgment ruling. As a result, the parties would incur considerably more attorneys'
15 fees and costs through trial. This settlement avoids those risks and the accompanying expense.
HH Decl. ¶31. Hence, an additional support for a preliminary approval.

16 **E. Risk of Maintaining Class Action Status**

17 To the extent any claims were certified, Defendants would certainly seek to decertify
18 them. Absent settlement, there was a risk that there would never be a certified class. HH Decl.
19 ¶32. Thus, this factor, too, supports preliminary approval of the settlement.

20 **F. Amount Offered in Settlement Given Realistic Value of Claims**

21 This proposed settlement provides a fair and reasonable monetary recovery for the
22 Class in the face of disputed claims and significant hurdles. HH Decl. ¶30. Courts recognize
23 that the reasonableness of a settlement is not dependent upon it approaching the potential

24
25 ¹ See, e.g., Cal. Code Regs. § 13520 (a good-faith dispute exists to a claim for waiting time penalties "when an
26 employer presents a defense, based in law or fact which, if successful, would preclude any recovery on the part
of the employee. The fact that a defense is ultimately unsuccessful will not preclude a finding that a good faith
dispute did exist.").

1 recovery plaintiffs might receive if successful at trial. *See In re Omnivision Tech., Inc.* (N.D.
2 Cal. Jan. 9, 2008) 2008 WL 123936; *see also Nat'l Rural Telecomm. Coop. v. Directv, Inc.*
3 (C.D. Cal. 2004) 221 F.R.D. 523, 527 ("well settled law that a proposed settlement may be
4 acceptable even though it amounts to only a fraction of the potential recovery"); *Officers for*
5 *Justice v. Civil Serv. Comm* (9th Cir. 1982) 688 F. 2d 615, 628 (it is "the complete package,
6 taken as a whole rather than the individual component parts, that must be examined for overall
7 fairness"). The \$1,221,480 Settlement Amount captures about 40% of the \$3,028,919.57
8 assessed case value on viable class claims, which is extremely favorable given the significant
9 risk factors described above. At a net settlement amount of \$694,320, class members will be
10 recovering 23% of the assessed case value, which represents an excellent recovery. HH Decl.
11 ¶30.

12 **G. Discovery Completed and the Status of Proceedings**

13 The lawsuit involved formal and informal discovery which included the production of
14 a random sample of payroll and timekeeping records. It was only after the completion of this
15 process and expert analysis that the parties participated in the first mediation. The analysis
16 was refined and updated prior to the second mediation whereafter the proposed settlement was
17 reached. HH Decl. ¶¶9 & 10. Here is an additional factor germane to the preliminary approval.

18 **H. The Experience and Views of Counsel**

19 "Parties represented by competent counsel are better positioned than courts to produce
20 a settlement that fairly reflects each party's expected outcome in litigation." *In re Pacific*
21 *Enterprises Securities Litigation* (9th Cir. 1995) 47 F.3d 373, 378. Here, Plaintiffs are
22 represented by competent and experienced counsel who pressed Plaintiffs' claims forward
23 against reputable defense firms. Class Counsel possesses extensive experience litigating wage
24 and hour class actions from the plaintiff side and has been appointed as class counsel in
25 numerous cases alleging similar claims. HH Decl. ¶¶2-3, Declaration of Zorik Mooradian
26 (hereinafter "ZM Decl.") ¶¶2-5, Declaration of Mehrdad Bokhour (hereinafter "MB Decl."),
¶¶4-7, Declaration of Joshua Falakassa (hereinafter "JF Decl."), ¶¶4-8. Class Counsel
conducted review and analysis of Defendants' practices and timekeeping and payroll records

1 and drew on its extensive experience in similar cases to effectively assess the strengths and
2 weaknesses of Plaintiffs' claims. The settlement was also reached with the input and
3 assistance of experienced and respected neutral mediators. HH Decl. ¶¶9 & 10. This factor
4 strongly supports preliminary approval. *See, Kullar, supra*, 168 Cal.App.4th at 130 ("The
5 court undoubtedly should give considerable weight to the competency and integrity of counsel
6 and the involvement of a neutral mediator in assuring itself that a settlement agreement
7 represents an arm's length transaction entered without self-dealing or other potential
8 misconduct.").

9 **V. THE PRELIMINARY APPROVAL STANDARD HAS BEEN MET**

10 The Court should grant preliminary approval of the settlement and direct that notice
11 be given if the proposed settlement when it: (1) falls within the range of possible approval;
12 (2) appears to be the product of serious, informed and non-collusive negotiations; and (3) has
13 no obvious deficiencies. *See Manual for Complex Litigation* § 30.41 (3rd Ed. 1995); 4
Newberg on Class Actions § 11:24-25 (4th Ed. 2013).

14 The proposed settlement reflects a substantial portion of the estimated recovery that
15 the Settlement Class could reasonably expect in light of the potential litigation risks. As well,
16 the proposed settlement is for a sizable sum in light of the strong defenses and provides for
17 significant individual recovery. In accordance, the proposed settlement is within the range of
18 possible approval for communication of a notice in conformity and consideration thereof by
19 the Settlement Class. The Court will have the opportunity to again assess the reasonableness
20 of the settlement after the Class has had the opportunity to opt-out or object. HH Decl. ¶33.

21 **A. The Settlement Resulted From Serious, Informed, and Non-Collusive**
22 **Negotiations**

23 This proposed class-wide settlement is the result of arm's-length negotiations by
24 counsel, punctuated by full-day mediation sessions before experienced mediators and is,
25 therefore, entitled to an initial presumption of fairness. *See Kullar*, 168 Cal.App.4th at 130.
26 Plaintiffs reviewed data for the class and conducted analysis of the data and records, with the
participation of an expert, to arrive at their estimated damage figures. HH Decl. ¶¶9-10, 19-

1 30.

2 The parties reached an agreement to initially mediate before Hon. Amy D. Hogue
3 (ret.), a respected neutral mediator but could not reach a settlement. They then participated in
4 a second mediation session with Jeffrey P. Fuchsman, reached the Settlement and then
5 finalized the Joint Stipulation of Settlement. HH Decl. ¶10. Therefore, this factor also supports
6 preliminary approval.

7 **B. Provisional Class Certification is Appropriate Here**

8 “Litigation by class action has long been recognized as a superior method of resolving
9 wage and hour claims in California.” *Martinez v. Joe’s Crab Shack Holdings* (2013) 221
10 Cal.App.4th 1148, 1152. Class certification is appropriate when there exists “an ascertainable
11 and sufficiently numerous class, a well-defined community of interest, and substantial benefits
12 from certification that render proceeding as a class superior to alternatives.” *Brinker*, 53
13 Cal.4th 1004 at 1021. As the Supreme Court has noted, “[c]laims alleging a uniform policy
14 consistently applied to a group of employees in violation of the wage and hour laws are of the
15 sort routinely, and properly, found suitable for class treatment.” *Id.* at 1033. This is exactly
16 such a case.

17 **1. The Proposed Class Is Ascertainable and Numerous**

18 A class is "ascertainable" where the members "may be readily identified without
19 unreasonable expense or time by reference to official [or business] records." *See Sevidal v.*
20 *Target Corp.* (2010) 189 Cal.App.4th 905, 919 (alterations in original). Here, the proposed
21 Class is defined by reference to two objective characteristics: (1) individuals who worked as
22 non-exempt employees for Defendants and/or Phenix Truck Body Management in California,
23 and (2) who worked for Defendants and/or Phenix Truck Body Management at some time
24 during the putative class period. Therefore, Class Members can be identified from Defendants’
25 personnel and other employment records. As to numerosity, the Class consists of at least 303
26 individuals, making it highly impracticable to bring all class members before the Court. HH
Decl. ¶8.

//

1 **2. The Community of Interest Requirements for Class Treatment are**
2 **Met**

3 “[T]he community of interest requirement embodies three factors: (1) predominant
4 common questions of law or fact; (2) class representatives with claims or defenses typical of
5 the class; and (3) class representatives who can adequately represent the class.” *Brinker*, 53
6 Cal.4th at 1021.

7 **a. Common Issues of Law and Fact Predominate**

8 The focus in a certification dispute is not on the merits of the case, but rather on what
9 types of questions, "common or individual," are likely to arise in the action. *See Sav-On Drug*
10 *Store, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 327. "Common questions of law and fact
11 are required in order to assure the interests of the litigants and the Court are furthered by
12 permitting the suit to proceed as a class action rather than in a multiplicity of separate suits."
13 *Cohen v. DIRECTV, Inc.* (2009) 178 Cal.App.4th 966, 975. Where the defendant
14 systematically engages in policies and practices that allegedly violate the Labor Code and
15 subject all of its employees to the same unlawful conduct, common questions of law and fact
16 will predominate over individualized issues. *See, e.g., Ghazaryan v. Diva Limousine, Ltd.*
17 (2008) 169 Cal.App.4th 1524, 1538 (holding that a class of limousine drivers challenging their
18 compensation plan was proper for class treatment). Here, the predominance factor is met
19 because each claim challenges an alleged common policy or practice that Plaintiffs contend is
20 illegal. Plaintiffs' claims under the Labor Code are predicated on: a failure to pay for all hours
21 worked; meal, rest period policies and practices. These sorts of claims are commonly held to
22 be proper for class certification. *See, e.g., Williams v. Superior Court* (2013) 221 Cal.App.4th
23 1353, 1371 (certifying class based on uncompensated work time).

24 **b. The Claims of Named Plaintiffs Are Typical**

25 The typicality requirement is satisfied where class representatives have claims that are
26 typical of those of the rest of the class. *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987)
191 Cal.App.3d 1341, 1347 (finding typicality satisfied where named plaintiff purchased the
same goods as the putative class in a consumer class action). Here, Plaintiffs contend that their

1 claims are typical of those held by the members of the proposed Class. First, Plaintiffs were
2 employed by Defendants during the proposed Class Period and were subject to their wage and
3 hour practices. Second, Plaintiffs claim they were injured by the same challenged practices
4 they claim injured the Settlement Class as a whole. Therefore, Plaintiffs have suffered the
5 same alleged injuries as the other members of the Settlement Class and satisfy the typicality
6 requirement.

7 **c. Plaintiffs & Class Counsel Will Fairly & Adequately**
8 **Represent the Class**

9 The adequacy of representation requirement examines conflicts of interest between
10 named parties and the class they seek to represent. *See Capital People First v. State Dept. of*
11 *Developmental Services* (2007) 155 Cal.App.4th 676, 697. A party's claim of representative
12 status will only be defeated by a conflict that "goes to the very subject matter of the litigation."
13 *Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 470. Here, Plaintiffs and their counsel
14 will adequately represent the class as there are no conflicts between the named Plaintiffs and
15 the Class they seek to represent, and Plaintiffs have claims that are in line with those of the
16 class. Declaration of Eduardo Morales, ¶¶3&4, Declaration of Jose Oliva, ¶¶4&11, HH Decl.
17 ¶5, ZM Decl. ¶7. Plaintiffs' counsel also has extensive experience in wage and hour class
18 action litigation. HH Decl. ¶¶2-6, ZM Decl. ¶¶2-5, MB Decl., ¶¶4-7, JF Decl., ¶¶4-8. For these
19 reasons, the Court should provisionally certify the proposed Class.

20 **3. Class-Wide Settlement is Superior to Other Available Methods of**
21 **Resolution**

22 Here, the alternative method of resolution would be multiple individual lawsuits,
23 challenging the same alleged wage and hour policies and practices of Defendants, and each
24 seeking a small amount of damages. Such duplicative litigation would be extremely inefficient
25 and costly for the courts and wasteful for judicial forums that would otherwise devote
26 resources to other matters. HH Decl. ¶34. In light of these concerns, a class action is the
superior method of resolving these wage and hour claims. *Martinez*, 221 Cal.App.4th at 152
("Litigation by class action has long been recognized as a superior method of resolving wage

1 and hour claims in California.”)

2
3 **VI. THE COURT SHOULD ORDER DISTRIBUTION OF THE PROPOSED**
4 **NOTICE**

5 This Court should order distribution to the Class Members of the proposed Class
6 Notice by first-class mail. S.A. ¶¶19, 60, & 63. This manner of giving notice is the "best notice
7 practicable" under the circumstances because it provides "individual notice to all members
8 who can be identified through reasonable effort." *See Eisen v. Carlisle & Jacquelin* (1974)
9 417 U.S. 156, 173. As a general rule, class notice must strike a balance between thoroughness
10 and the need to avoid unduly complicating the content of the notice and confusing class
11 members. *Wershba*, 911 Cal.4th at 252. The proposed Notice of Settlement is attached as
12 Exhibit A to the Joint Stipulation of Settlement. S.A. ¶19, Ex. A.

13 Here, the Parties propose that the settlement be administered by Phoenix Settlement
14 Administrators (“Phoenix” or “Settlement Administrator”), an experienced class action
15 settlement administrator. S.A. ¶46. The Settlement Administrator’s duties are detailed in the
16 Joint Stipulation of Settlement. S.A. ¶60. Settlement Class Members' addresses are
17 ascertainable through Defendants’ personnel and payroll records. To the extent that the
18 addresses of former employees have changed, Phoenix will run all the addresses provided
19 through the United States Postal Service Notice of Change Of Address database (which
20 provides updated addresses for any individual who has moved in the previous four years and
21 has notified the U.S. Postal Service of a forwarding address) and perform skip traces to obtain
22 current address information. *Id.* The Settlement Agreement allocates a maximum of \$10,000
23 for administration expenses, which is appropriate in light of the number of class members and
24 the size of the settlement and the extent of work to be performed in administering the
25 settlement of the class. S.A. ¶51(i). Plaintiff has obtained a \$9,250 administration quote from
26 Phoenix, which includes a provision for a Spanish translation of the Class Notice, a copy of
which is included as **Exhibit “3”** to the Declaration of Haik Hacopian. HH Decl., ¶35, Exh.
3.

1 The content of the proposed Class Notice satisfies Cal. Rules of Court, rule 3.769(d)
2 because it advises class members of the nature of the claims, basic contentions and denials of
3 the parties and the key terms of the settlement, the deadline to opt-out, or object to the
4 settlement and the procedure by which to do so, explains the recovery formula and expected
5 recovery amount for each class member, and advises them that they will be bound by the terms
6 of the settlement if they do not request exclusion. S.A. ¶19, Exh. "A". The proposed Class
7 Notice will also notify Settlement Class Members of the final approval hearing date and
8 provides the contact information for Class Counsel, and advises Settlement Class Members
9 that they may enter an appearance through counsel if they wish to. This manner of giving
10 notice satisfies Cal. Rules of Court, rule 3.769(e) as the most reliable and cost-effective
11 method of reaching Settlement Class Members.

12 **VII. THE PAGA ALLOCATION AND PAYMENTS SHOULD BE APPROVED**

13 The Settlement allocates \$50,000 for resolution of Plaintiffs' PAGA claim with
14 \$37,500 (75%) payable to the LWDA and \$12,500 (25%) payable to the PAGA Group. S.A.
15 ¶3.9. "PAGA Group" is defined as all persons who, during the PAGA Period (from March 27,
16 2022 through February 23, 2025), have previously been or currently are employed in
17 California by Defendants as an hourly-paid, non-exempt employee. S.A. ¶¶35 and 37. "PAGA
18 Group Member" means an individual who is a member of the PAGA Group (or if any such
19 person is incompetent, deceased, or unavailable due to military service, the person's legal
20 representative or successor in interest evidenced by reasonable verification). S.A. ¶35.

21 To the extent a PAGA Group Member is also a Settlement Class Member, they will
22 receive their PAGA Payment Share (S.A. ¶36) even if they submit an exclusion request. S.A.
23 ¶66. "PAGA Payment Share" shall mean the value of each PAGA Group Member's share of
24 the PAGA Payment which will be calculated based on an individual PAGA Group Member's
25 PAGA Pay Periods relative to the total PAGA Pay Periods. S.A. ¶¶36, 64(ii). As required, this
26 Motion and all supporting papers will be concurrently submitted to the LWDA.

1 **VIII. THE COURT SHOULD SET A FINAL APPROVAL HEARING**

2 The Parties request that this Court set a hearing for final approval of the settlement on
3 a date appropriately scheduled to follow the deadline by which Settlement Class Members
4 must file objections to the settlement or opt-out. *See* Cal. Rule of Court, rule 3.769. The parties
5 propose that the final papers in support of the settlement be filed and served no later than 14
6 days prior to the hearing on final approval, and that the hearing on final approval of the
7 settlement be set 125 days after the date of the preliminary approval hearing, to allow a
8 reasonable period for notice and administration, and an opportunity to object to the settlement,
9 without excessive delay to the Class as to the receipt of their settlement shares.

10 **IX. CONCLUSION**

11 For the foregoing reasons, Plaintiffs respectfully request that the Court preliminarily
12 approve the proposed settlement, provisionally certify the Settlement Class, and enter the
13 Proposed Order submitted concurrently herewith.

14
15 Dated: August 12, 2025

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21 behalf of other persons similarly situated
22
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