ZORIK MOORADIAN, Bar No. 136636
zorik@mooradianlaw.com
HAIK HACOPIAN, Bar No. 282361
haik@mooradianlaw.com
MOORADIAN LAW, APC
24007 Ventura Blvd., Suite 210
Calabasas, CA 91302
Telephone: (818) 487-1998
Facsimile: (888) 783-1030

Attorneys for Plaintiff Ene C. Hernandez, individually and on behalf of other persons similarly situated and similarly aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE – CIVIL COMPLEX CENTER

ENE C. HERNANDEZ, individually and on behalf of other persons similarly situated and similarly aggrieved employees, Plaintiffs, v. NORTHWEST HOTEL CORPORATION, an active California Corporation; and DOES 1 through 10, Defendants.	Case No.: 30-2023-01310267-CU-OE-CXC CLASS AND REPRESENTATIVE ACTION [*Assigned to Hon. Lon F. Hurwitz in Dept. CX-103*] **NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** [FILED CONCURRENTLY WITH THE DECLARATION OF HAIK HACOPIAN WITH EXHIBITS; DECLARATION OF ZORIK MOORADIAN; DECLARATION OF ENE C. HERNANDEZ; AND [PROPOSED] ORDER] Date: February 1, 2024 Time: 2:00 p.m. Dept.: CX-103

PLEASE TAKE NOTICE that, pursuant to Cal. Rules of Court, rule 3.769, on February 1, 2024 at 2:00 p.m. or as soon thereafter as the matter may be heard in Department CX-103 of the above-entitled Court, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701, Plaintiff Ene C. Hernandez ("Plaintiff"), individually and on behalf of a similarly-situated class of individuals, will and hereby does move this Court for an order:

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

2. Provisionally certifying the Class, defined as follows:

All current and former hourly-paid and/or non-exempt employees of Defendant Northwest Hotel Corporation in California, including those at Howard Johnson Hotel and Water Playground, Courtyard Anaheim Theme Park Entrance, Courtyard by Marriot Fisherman's Wharf, and its corporate staff, employed during the Class Period (the period from March 3, 2019, through preliminary approval or February 5, 2024, whichever is sooner.);

3. Preliminarily appointing Plaintiff Ene C. Hernandez as Class Representative;

4. Preliminarily appointing Zorik Mooradian and Haik Hacopian of Mooradian Law, APC as Class Counsel;

5. Preliminarily approving the proposed settlement of Plaintiff's Private Attorneys General Act ("PAGA") claims;

6. Appointing CPT Group, Inc. as the third-party settlement administrator;

7. Scheduling a hearing to consider whether the class settlement should be finally approved, and whether to award an amount for the Service Award to the Class Representative, attorneys' fees and costs to Class Counsel, and settlement administration costs; and

8. Approving the proposed Class Notice, and ordering that it shall be disseminated to the proposed Settlement Class as provided in the Class Action and PAGA Settlement Agreement.

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 Zorik Mooradian, the Declaration of Ene C. Hernandez, the pleadings and other papers filed in this action, and on any further oral or documentary evidence or argument presented at the time of hearing.

The Class Action and PAGA Settlement Agreement is attached as **Exhibit "1"** to the Declaration of Haik Hacopian. The proposed Class Notice is attached as **Exhibit "A"** to the Class Action and PAGA Settlement Agreement. See HH Decl. ¶11, Ex. 1.

Dated: Dec. 29, 2023

MOORADIAN LAW, APC

By: */s/Haik Hacopian*______________________
Zorik Mooradian, Esq.,
Haik Hacopian, Esq.,
Attorneys for Plaintiff Ene C. Hernandez, individually and on behalf of other persons similarly situated and similarly aggrieved employees

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes, Regulations, and Rules

Other Authorities

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff, Ene C. Hernandez ("Class Representative" or "Plaintiff") and Defendant Northwest Hotel Corporation ("NWH" or "Defendant") have reached a proposed class settlement with a non-reversionary Gross Settlement Amount of $400,000 for a Class consisting of approximately 450 non-exempt employees who worked for NWH at three hotel locations in California from March 3, 2019 through February 5, 2024 ("Class Period"). The Settlement anticipates coverage for approximately 32,438 workweeks which results in a fair, reasonable and adequate recovery for largely defensible claims consisting of a workweek value of $6.09, and an average settlement payment in excess of $430.00.

This Settlement resolves this class action lawsuit and settles the wage and hour claims for all Settlement Class Members who do not request exclusion. Payments will be made on an opt-out non-reversionary basis.

The proposed settlement is memorialized in the "Class Action and PAGA Settlement Agreement" hereinafter referred to as "Settlement Agreement" or "S.A." A true and correct copy of which is attached to the accompanying Declaration of Haik Hacopian (hereinafter "HH Decl.") as **Exhibit "1"**.

The Parties have conducted an investigation concerning the facts and law during the pendency of this action and which included informal discovery, production of class records and data and expert analysis of same, conferences, and a mediation session before a respected mediator, Hon. Amy D. Hogue (ret.).

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

II. SUMMARY OF THE LITIGATION

A. Defendant, Class Members, and Plaintiff

Defendant NWH owned and operated three franchised hotel locations during the Class Period where Plaintiff and the putative class were employed. In Anaheim, NWH operated the Howard Johnson Hotel and Water Playground and Courtyard Anaheim Theme Park Entrance. In San Francisco, NWH maintained its corporate office and operated the Courtyard by Marriot Fisherman's Wharf. Declaration of Haik Hacopian (hereinafter "HH Decl.") ¶7.

Plaintiff was employed at NWH's Anaheim locations as a housekeeping employee from 1996 through March of 2020, when the COVID-19 pandemic resulted in the closure of these locations. Plaintiff went on leave around then and was later terminated. A main point made by NWH during the litigation was that Plaintiff was employed during the earlier part of the Class Period and her experience is not representative of NWH's operations during the vast majority of the Class Period. Namely, that upon reopening of the hotels later in 2020, NWH implemented changes that all but limited the potential issues alleged by Plaintiff including the placement of additional time clocks, a new time tracking system (that eliminated rounding), and staggered scheduling of meal breaks such that there was no large of group of employees taking breaks at the same time. Moreover, that Plaintiff's experience was limited to the housekeeping group and would not be relevant to the experiences of kitchen, front staff employees, and office personnel. HH Decl., ¶8.

Four-Hundred Forty (440) Class Members worked 29,507 workweeks through October 5, 2023. For the PAGA period from March 7, 2022, through October 5, 2023, 296 aggrieved employees worked 6,562 semi-monthly pay periods. The average rate of pay is $19.60. The average shift is 7.6 hours in length. HH Decl., ¶9.

B. Plaintiff's Lawsuit

On March 3, 2023, Plaintiff Ene Hernandez filed her original Complaint, asserting causes of action against NWH for (1) Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code sections 226.7 & 512 and the Applicable IWC Wage Order; (2) Failure to Provide Required Rest Periods in Violation of Cal. Lab. Code sections 226.7 & 512 and the

Applicable IWC Wage Order; (3) Failure to Pay Wages in Violation of Cal. Labor Code sections 204, 210, 510, 1194 and 1194.2; (4) Failure to Provide Wages at Termination/Separation in Violation of Cal. Lab. Code sections 201, 202, and 203; (5) Failure to Timely Pay Vacation Wages at Termination in Violation of Cal. Labor Code section 227.3; (6) Failure to Provide Itemized Wage Statements in Violation of Cal. Labor Code section 226; (7) Failure to Reimburse All Business Expenses in Violation of Cal. Labor Code sections 2800 and 2802; and (8) Violation of Unfair Business Practices Act (Bus. & Prof. Code §§ 17200, et seq.) S.A. ¶2.1.

On May 8, 2023, Plaintiff filed an amended complaint ("FAC") adding a single cause of action under the Private Attorney's General Act. The FAC is the operative complaint in the Action (the "Operative Complaint"). NWH denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint, and denies any and all liability for the causes of action alleged. *Id*.

C. Discovery and Mediation

The Parties have conducted investigation of the operative facts and applicable law during the pendency of the case through informal discovery. Specifically, Plaintiff received complete pay data (13,536 lines of data) and time data (280,999 lines of data) in electronic format for the class from the start of the Class Period through mediation. No class data was sampled. Also, prior to mediation, Plaintiff had the benefit of both variations of Defendant's Employee Handbook in effect during the Class Period as well as Plaintiff's personnel file. Plaintiff assessed and analyzed the data with expert assistance prior to mediation to inform potential exposure on asserted claims. HH Decl. ¶10.

On October 5, 2023, Plaintiff and Defendant participated in a full-day mediation before Hon. Amy D. Hogue (ret.). The Parties were able to reach a resolution at the mediation and executed a Memorandum of Understanding ("MOU"). The Parties ultimately entered into their Class Action and PAGA Settlement Agreement, a true and correct copy of which is attached as **Exhibit "1"** to the Declaration of Haik Hacopian, which incorporated the terms of the MOU. HH Decl. ¶11, Ex. 1.

III. THE PROPOSED SETTLEMENT

A. The Essential Terms of the Settlement

If the Court approves this settlement, Defendant will pay the gross sum of $400,000 ("Gross Settlement Amount" or "GSA") which will be used to fund this Settlement and make payments to Class Members, who will be paid on an all-in non-reversionary opt-out basis. The Gross Settlement Amount excludes the employer share of taxes on the wage component of the Settlement which will be separately funded by Defendant. HH Decl. ¶12.

The principal terms of the class action settlement are summarized below:

•	Gross Settlement Amount. S.A. ¶1.22:	$400,000
•	Minus Court-approved Attorneys' Fees (35%). S.A. ¶3.2.2:	($140,000)
•	Minus Court-approved Cost Award. S.A. ¶3.2.2:	($15,000)
•	Minus Court-approved Service Award and general release by Plaintiff. S.A. ¶3.2.1:	($7,500)
•	Minus estimated settlement administration costs. S.A. ¶3.2.3:	($10,000)
•	Minus 75% PAGA Payment to LWDA. S.A. ¶3.2.5:	($22,500)
•	Minus 25% PAGA Share to Aggrieved Employees. S.A. ¶3.2.5:	($7,500)
	Total Deductions from Gross Settlement Amount:	($202,500)
	Net Settlement Amount ("NSA"). S.A. ¶1.28:	$197,500

The approximate estimated simple average class settlement payment, assuming maximum awards and participation by approximately 450 individuals, calculates to $438.88. HH Decl. ¶13. There are presently no other claims or lawsuits that would be impacted by this settlement. HH Decl. ¶14.

B. Class Members and Aggrieved Employees

Class Members are defined as follows:

> All current and former hourly-paid and/or non-exempt employees of Defendant Northwest Hotel Corporation in California, including those at Howard Johnson Hotel and Water Playground, Courtyard Anaheim Theme Park Entrance, Courtyard by Marriot Fisherman's Wharf, and its corporate staff, employed during the Class Period (the period from March 3, 2019,

> through preliminary approval or February 5, 2024, whichever is sooner.). S.A. ¶¶1.5 & 1.12.
>
> Aggrieved Employees are defined as follows:
>
> All current and former hourly-paid and/or non-exempt employees of NWH in California, including those at Howard Johnson Hotel and Water Playground, Courtyard Anaheim Theme Park Entrance, Courtyard by Marriot Fisherman's Wharf, and its corporate staff, employed during the PAGA period ("the period from March 3, 2022, through preliminary approval, or February 5, 2024, whichever is sooner). S.A. ¶¶1.4 & 1.31.

C. Settlement Payments to Class Members and Aggrieved Employees

Each Participating Class Member's pro rata share of the Net Settlement Amount ("Individual Class Payment") will be calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. S.A. ¶¶1.23 & 3.2.4.

Each Aggrieved Employee's pro rata share of PAGA Penalties ("Individual PAGA Payment") shall be calculated by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties at $7,500.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. ¶¶1.24 & 3.2.5.1.

D. Settlement Allocation to Class Members

Thirty-three percent (33%) of Individual Class Payments will be allocated to wages for which W-2s shall be issued, and sixty-seven percent (67%) will be allocated to interest and penalties, and liquidated damages to be reported on an IRS Form 1099. The PAGA Payments to PAGA Members will be reported on IRS Form 1009s. S.A. ¶¶3.4.2.1 & 3.2.5.2.

E. Opt-Outs, Disputes, and Objections

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

Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator will also consult with Class Counsel and Defense Counsel in an attempt to address any such challenges. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's recommendation as to the challenges. The Parties shall present any disputes, along with the Administrator's recommendation, to the Court for resolution at final approval. S.A. ¶7.6.

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

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

F. Release

<u>Release by Participating Class Members</u>: All Participating Class Members (including Plaintiff), on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from:

The Claims set forth in the Action, including, but not limited to: (1) Failure to pay minimum and regular rate wages; (2) Failure to pay overtime compensation; (3) Failure to provide meal periods or provide premiums in lieu thereof; (4) Failure to provide rest periods or provide premiums in lieu thereof; (5) Failure to pay timely wages at termination; (6) Failure to provide accurate itemized wage statements; (7) Violation of Business and Professions Code § 17200, et seq.; (8) Failure to reimburse for necessary business expenses; (9) Failure to Pay Vacation Wages Due at Termination, and those claims predicated on the same or similar facts and/or claims alleged in the Action; as well as any claims that could have been pled which arise from the same or similar facts concerning the Plaintiff or the putative class, and claims for interest, penalties (including but not limited to waiting time penalties); as well as any claims under the California Labor Code and California Industrial Welfare Commission Wage Orders (specifically for violations of California Labor Code sections 201, 202, 203, 204, 210, 225.5, 226, 226.3, 226.7, 227.3, 510, 512, 1194, 1194.2, 2800, and 2802, and applicable IWC Wage Orders, and California Code of Regulations, Title 8, section 11000 et seq.; or which could have been alleged under the same or similar facts, allegations and/or claims pleaded in the Action. S.A., ¶5.2.1.

Any claims for injunctive relief, declaratory relief, restitution, alleged or which could have been alleged under the facts, allegations and/or claims pleaded in the complaints filed as part of the Action. S.A., ¶5.2.2.

Any and all other claims under California common law, the federal law, and the California Business and Professions Code alleged in or that could have been alleged under the same or similar facts, allegations and/or claims pleaded in the Action and based on the alleged Labor Code violations. S.A., ¶5.2.3.

<u>PAGA Release by Aggrieved Employees and Labor Workforce Development Agency</u>:

The Labor Workforce Development Agency, State of California, in addition to all Aggrieved Employees, and Plaintiff Hernandez as a proxy for the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the claims for civil penalties under the California Private Attorneys General Act of 2004 (Labor Code §§ 2698, et seq.) that are set forth in the Action or which could have been asserted predicated on the same or similar facts alleged in the Action and/or any PAGA letter sent to the LWDA by Plaintiff in or prior to the Action for violations of California Labor Code sections 201, 203, 204, 226, 226.3, 226.7, 227.3, 510, 512, 1194, 1197, 1197.1, and 2802, and applicable IWC Wage Orders. S.A., ¶5.3.

"Released Parties" means: Northwest Hotel Corporation, and any of its past, present and future direct or indirect parents, subsidiaries, predecessors, successors and affiliates, as well as each of their past, present and future officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Defendant, including but not limited to Raymond J. Powers Executor F/T Estate of James P. Edmondson dba Courtyard by Marriot at Fisherman's Wharf. S.A., ¶1.41.

Only Named Plaintiff will be providing a general release and waiver of Civil Code §1542. S.A. ¶5.1.

G. Service Award to Named Class Representative

As part of the settlement, at the time of seeking final approval of the proposed class action settlement, Plaintiff will separately apply for a Service Award in the amount of Seven Thousand Five Hundred Dollars ($7,500) for her services to the Class and for a general release of all claims. S.A. ¶3.2.1. "[I]ncentive awards are fairly typical in class action cases … and are intended to compensate class representatives for work done on behalf of the class [and] to make up for financial or reputational risk undertaken in bringing the action." *In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1393-94. Plaintiff's requested incentive payment is intended to recognize Plaintiff's contributions on behalf of the Class and is fair in relation to the total settlement, her efforts, and standing alone. HH Decl. ¶15. Plaintiff has put a significant amount and time and effort participating in this case and understands her role and obligations as class representative. Declaration of Ene C. Hernandez, ¶¶3-8.

H. Attorneys' Fees & Costs

Defendant agrees not to oppose Plaintiff's counsel's application for an attorneys' fees award of $140,000.00, which is thirty five percent (35%) of the Gross Settlement Amount of $400,000, and payment of documented litigation costs and expenses up to $15,000. S.A. ¶3.2.2. Plaintiff will submit detailed support for her request for a fee award along with her 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 on a purely contingent fee basis. Here, counsel has incurred substantial attorneys' fees independently conducting pre-filing investigations, analyzing the claims, litigating the case, conducting legal research and analysis, reviewing significant documentary and electronic records produced by Defendant, performing data analysis of employee timekeeping data and payroll records, preparing for and attending a full-day mediation, negotiating the settlement, reviewing and amending the long-form Class Action and PAGA Settlement Agreement, 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). Plaintiff counsel's request for fees of thirty five percent (35%) of the Gross 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 loadstar. In light of the risks and significant work undertaken by counsel, the results obtained for the class, and the efficiency with which the Parties collaborated to conduct the litigation, the fee and cost request is fair and reasonable. HH Decl. ¶17.

IV. PRELIMINARY APPROVAL IS WARRANTED

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

A. Standard for Preliminary Approval

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

B. The Strength of Plaintiff's Case

1. Unpaid Wage Claims

Plaintiff's unpaid wage claim is predicated on the allegation that there was a shortage of time clocks and employees had to line up to use them. That, to clock in on time and avoid reprimand, employees had to arrive to work prior to their scheduled shifts to account for the 5 to 7 minutes it took to wait and clock in. Also, due to the high incidence of meal periods that were exactly 30 minutes in duration (47.1%) coupled with the shortage of time clocks, employees would have to cut their meal breaks short to be able to clock back in at the 30th minute such that meal breaks were not net 30-minutes in duration and off-the-clock wages would be owed. Per Plaintiff's analysis, at 7 minutes of unpaid time per shift (55% of which would be overtime), unpaid wages would tally to $364,915. Also, Plaintiff identified rounding loss occurring in the early part of the Class Period totaling $4,908 and overtime miscalculations during the class period that reflect $6,173 in unpaid wages. HH Decl. ¶18.

Defendant contended that it maintained sufficient and conveniently located time clocks for employee use. Notably, that Plaintiff had not worked since March of 2020, when COVID started, and biometric time clocks were added after the hotels reopened. Also, that shifts were also staggered such that there would be no large group of employees using any specific time clock at the same time. That to the extent there was any backup in using a time clock, they would be one off situations likely caused by time clock malfunctions and that employees would be able to log their time manually if a time clock was not functional. HH Decl. ¶19.

As Defendant maintained compliant written time tracking and wage payment policies, a potential claim for unpaid wages will not emanate from there and as such, will be extremely individualized and difficult to prove. The extent to which an employee worked off the clock and was not compensated will depend circumstances that will not translate to certification. Any assessment will rely on a morass of individual inquiries that will require a determination as to whether Defendant is liable for specific instance of work off-the-clock. Based on the foregoing, Plaintiff does not value an unpaid wage claim at more than 20% of the assessed exposure of $364,915, or $72,983, plus 100% of the undisputed $11,081 owed for rounding loss and overtime miscalculations, or $84,064 total. HH Decl. ¶20.

2. Meal Breaks

In Plaintiff's experience, meal breaks were extremely rare. Plaintiff recalls that the typical practice was for management to have employees clock out and continue working and clock back in around scheduled meal breaks to show compliance in the records. Plaintiff understands that such was the practice at least as to housekeeping employees who were under constant pressure to churn rooms and compliant meal breaks would otherwise occur during guest check out/check in periods. HH Decl. ¶21.

Plaintiff's analysis identifies 117,111 of the 122,736 total shifts that exceed five hours necessitating meal breaks. A notable issue with meal breaks is that 47.1% of the 104,074 recorded meal breaks are exactly 30 minutes in length. This suggests time clock manipulation with strict managerial oversight, including potential rounding of meal punches in line with the practice as to housekeeping employees as identified above. HH Decl. ¶22.

If a meal break violation is assumed for all recorded meal breaks that are 30 minutes or less in duration, there would be 51,698 unique meal break violations (offset by the 7,593 in premiums paid) which at a $19.60 average pay rate, calculates to $864,458 exposure. HH Decl. ¶23.

Defendant contended that the high incidence of meal break precision was not the result of any manipulation and reflects a one-to-one representation of the meal punches by employees. Defendant also represented that employees had company devices that enabled them to track breaks with precision and set alarms for when a break ended. Moreover, that most employees chose to take their lunch in the employee break room and accessed the time clock located there as they entered and existed the space. Significantly, Defendant maintained compliant written meal break policies and posted the pertinent wage orders that articulated the relevant standards. That to the extent Plaintiff encountered any issues, she was employed during the early part of the class period through March 2020 and Plaintiff would not be privy to the higher compliance period after the hotels reopened for business later in 2020 when meal breaks were more carefully scheduled to avoid having too many employees in one place. HH Decl. ¶24.

The foregoing readily suggests that the claim will be extremely individualized and difficult to certify, let alone prove. Individual inquiry will be necessary to establish whether a non-compliant meal break in the time record was due to employee choice (for which Defendant would not be liable) or Defendant's fault. There will be notable variations between employee groups, e.g. housekeeping, restaurant, and front desk. Notably, Defendant maintained the practice of paying meal premiums and the record reflects 7,593 instances of paid premiums. Based on the foregoing, meal break exposure should not include meal breaks that are exactly thirty minutes in length, which account for 43,962 of the 51,698 unique meal period violations noted above, and a realistic exposure for a meal break claim may be assessed at $151,625.60. The value of the claim is not expected to exceed $80,000 for settlement purposes. HH Decl. ¶25.

3. Rest Breaks

Defendant maintained a compliant written rest break policy. Despite this, Plaintiff contended that employees were denied rest breaks due to the volume and nature of work. That although there were no express directives for employees to forego rest breaks, rest breaks would affect workflow such that daily quotas would not be met and employees would face reprimand and termination. HH Decl. ¶26.

Defendant countered that employees regularly took rest breaks and were encouraged and regularly reminded to do so by management. Also, that there was no strict quota, management was careful to not overburden employees, that housekeeping employees were paid extra for cleaning additional rooms, and received a room cleaned credit to the extent a room had a "do no disturb" sign placed. That such practices do not create an environment where employees are coerced into skipping rest breaks and to the extent any employee did so, it would be entirely of their own volition. HH Decl. ¶27.

Plaintiff identifies 120,652 shifts exceeding 3.5 hours that would require a rest break. It is difficult to place a value on a rest break claim in light of a compliant written rest break policy and lack of evidence in the time record as there is no requirement that rest beaks, unlike meal breaks, be recorded. Moreover, the high degree of factual variations and necessity of individualized inquiries to both identify missed rest breaks and reasons therefor make it extremely remote that a rest break claim can be certified. Based on the foregoing, assessing the claim at 10% of rest break eligible shifts would result in exposure of $243,214 and a realistic value of the claim may not be assessed at more than $50,000. HH Decl. ¶28.

4. Waiting Time Penalties

Plaintiff's analysis identified 212 terminated employees beginning on March 3, 2020. A comparison of the time data (last day worked) and payroll data (last paycheck date) reveals that the average waiting period was 10 days. Plaintiff argued that such would be period for which penalties may be assessed for a substantive waiting time claim. Defendant countered that this gap can be explained by their practice of placing employees on paid suspension before termination such that an employee's last day worked is rarely their termination date. Also, that employees were promptly tendered their final paycheck and benefits upon termination. HH Decl. ¶29.

The claim for waiting time penalties could also be derivative of the claims for unpaid wages and meal and rest premiums but the weaknesses described there would directly impact the viability of this claim. See Naranjo v. Spectrum Sec. Srvcs. (2022) 13 Cal.5th 93. The most likely avenue for recovery of waiting time penalties would be on a derivative basis to 33 former employees identified as being owed some unpaid wages due to regular rate miscalculations, which amounts to $150,123 in potential exposure for this claim at the maximum of 30 days penalties to these 33 employees. Even here, Defendant may attempt to avail itself of the "good faith dispute" defense under Cal. Code. Regs. §13520. Ultimately, the value of waiting time claim is not expected to exceed for $100,000 for settlement purposes. HH Decl. ¶30.

5. Wage Statement Penalties

The regular wage statements issued to employees were facially compliant with the requirements of Labor Code Section 226. As with waiting time penalties, this claim is derivative of unpaid wage, meal, and rest break violations. *See Naranjo*, *supra*. Although maximum exposure calculates to $643,050 for the 263 employees during the wage statement penalty period for 6,562 wage statements from March 3, 2022 to October 5, 2023, value may be assessed at not more than $60,000, due to this claim's reliance on the underlying claims and subject to weaknesses described therein. HH Decl. ¶31.

6. PAGA Claims

The intention of PAGA penalties is not to serve a punitive or compensatory purpose but to sufficiently act as a deterrent to future Labor Code violations. Any penalty evaluations are subject to significant discretionary reductions per Labor Code Sec. 2699(e)(2). The most likely avenue for recovery of PAGA penalties would be for $6,173 underpayment of overtime due to regular rate miscalculations, which would implicate 3,131 of the 6,562 total PAGA pay periods. Maximum PAGA penalties for this issue would calculate to $607,100. Applying an 80% reduction, consistent with reported cases, results in a potential exposure of $121,420. HH Decl. ¶30. See e.g., Fleming v. Covidien (C.D. Cal. Aug. 12, 2011) 2011 WL 7563047 at *4 (reduction of PAGA civil penalties for wage statement violations from $2,800,000 to $500,000, because employees suffered no injury, defendants were not aware that their wage statements violated the law, and that they took prompt steps to correct violations.) Moreover, a Court may readily conclude that a lower penalty assessment will more than suffice to deter violations by this particular employer and in consideration of the minimal amount of total wage loss. There is also the risk that all or part of the PAGA claim may be rejected on trial manageability grounds. Based on the foregoing, the Parties' $30,000 allocation for release of the PAGA claims reflects a very fair compromise and is extremely reasonable. HH Decl. ¶32.

C. Risks and Uncertainty

Although Plaintiff steadfastly maintains that her claims are meritorious, she acknowledges that her position includes real risks and uncertainty. In deciding whether to approve the settlement, the Court must balance the risk factors against an "understanding of the amount in controversy and the realistic range of outcomes of the litigation." *Kullar*, 168 Cal.App.4th at 130, 133; *Munoz*, 186 Cal.App.4th at 408-09. In this case, the settlement is fair and adequate when compared to the total potential exposure and the risks inherent in Plaintiff's claims. HH Decl. ¶33.

As courts have observed, "simply because a settlement may amount to only a fraction of the potential recovery does not in itself render it unfair or inadequate. Compromise is the very nature of settlement." *Boyd v. Bechtel Corp.* (C.D. Cal. 1979) 485 F. Supp. 610, 618. In this case, Plaintiff considers the settlement to be significantly more than a "fraction," particularly considering the various potential complications, dangers and pitfalls that proceeding would entail. HH Decl. ¶33.

In addition to considering the value of immediate payment for Settlement Class Members, Plaintiff's counsel discounted the value of the class claims based on a variety of factors, including the California Supreme Court's decision in *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. Defendant could have argued that it sufficiently provided breaks without "policing" them. Moreover, Plaintiff's theory of liability for rest break violations was weaker since employers have no obligation to record rest breaks (as rest breaks are paid breaks). The relative lack of written proof, except for potential testimony from Class Members, diminished the prospect of certifying the claim. Thus, a significant discount on those claims was warranted. HH Decl. ¶¶20-28.

The potential penalties were deemed to be substantial claims. Success on the penalty claims would require proving that the Defendants' conduct was "willful." As to PAGA claims, there existed a high likelihood of a marginal award due to the potential for discretionary reduction of maximum penalties by the Court assuming liability was established. HH Decl. ¶¶29-32.

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

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

This factor also weighs in favor of settlement approval. The parties had engaged in informal discovery with significant review and assessment of the asserted claims which included expert assistance. Defendant could have moved for summary adjudication on all or some of the claims. Moreover, preparation for class certification and trial remained for the Parties as well as the prospect of appeals in the wake of a disputed class certification ruling for Plaintiff and/or summary judgment ruling. As a result, the parties would incur considerably more attorneys' fees and costs through trial. This settlement avoids those risks and the accompanying expense. HH Decl. ¶34. Hence, an additional support for a preliminary approval.

E. Risk of Maintaining Class Action Status

To the extent any claims were certified, Defendant would certainly seek to decertify them. Absent settlement, there was a risk that there would never be a certified class. HH Decl.

¶35. Thus, this factor, too, supports preliminary approval of the settlement.

F. Amount Offered in Settlement Given Realistic Value of Claims

This proposed settlement provides a fair and reasonable monetary recovery for the Class in the face of disputed claims and significant hurdles. HH Decl. ¶33. Courts recognize that the reasonableness of a settlement is not dependent upon it approaching the potential recovery plaintiffs might receive if successful at trial. *See In re Omnivision Tech., Inc.* (N.D. Cal. Jan. 9, 2008) 2008 WL 123936; *see also Nat'l Rural Telecomm. Coop. v. Directv, Inc.* (C.D. Cal. 2004) 221 F.R.D. 523, 527 ("well settled law that a proposed settlement may be acceptable even though it amounts to only a fraction of the potential recovery"); *Officers for Justice v. Civil Serv. Comm* (9th Cir. 1982) 688 F. 2d 615, 628 (it is "the complete package, taken as a whole rather than the individual component parts, that must be examined for overall fairness"). The $197,500 Net Settlement Amount captures 52.8% of the $374,064 assessed case value on viable class claims, as summarized herein, which is extremely favorable given the significant risk factors described above. HH Decl. ¶33.

G. Discovery Completed and the Status of Proceedings

The lawsuit involved informal discovery which included the production of complete payroll and timekeeping records for the putative class. It was only after the completion of this process and expert analysis that the parties participated in mediation and thereafter reached the proposed settlement. HH Decl. ¶¶10 & 11. Here is an additional factor germane to the preliminary approval.

H. The Experience and Views of Counsel

"Parties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation." *In re Pacific Enterprises Securities Litigation* (9th Cir. 1995) 47 F.3d 373, 378. Here, Plaintiff is represented by competent and experienced counsel who pressed Plaintiff's claims forward against a reputable employment defense firm. Class Counsel possesses extensive experience litigating wage and hour class actions from the plaintiff side and has been appointed as class counsel in numerous cases alleging similar claims. HH Decl. ¶¶2-3, Declaration of Zorik

Mooradian (hereinafter "ZM Decl.") ¶¶2-5. Class Counsel conducted review and analysis of Defendant's policies and timekeeping and payroll records and drew on its extensive experience in similar cases to effectively assess the strengths and weaknesses of Plaintiff's claims. The settlement was also reached with the input and assistance of an experienced and respected neutral mediator. HH Decl. ¶¶10 & 11. This factor strongly supports preliminary approval. *See, Kullar, supra*, 168 Cal.App.4th at 130 ("The court undoubtedly should give considerable weight to the competency and integrity of counsel and the involvement of a neutral mediator in assuring itself that a settlement agreement represents an arm's length transaction entered without self-dealing or other potential misconduct.").

V. THE PRELIMINARY APPROVAL STANDARD HAS BEEN MET

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

The proposed settlement reflects a substantial portion of the estimated recovery that the Settlement Class could reasonably expect in light of the potential litigation risks. As well, the proposed settlement is for a sizable sum in light of the strong defenses and provides for significant individual recovery. In accordance, the proposed settlement is within the range of possible approval for communication of a notice in conformity and consideration thereof by the Settlement Class. The Court will have the opportunity to again assess the reasonableness of the settlement after the Class has had the opportunity to opt-out or object. HH Decl. ¶36.

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

This proposed class-wide settlement is the result of arm's-length negotiations by counsel, punctuated by a full-day mediation session before an experienced mediator and is, therefore, entitled to an initial presumption of fairness. *See Kullar*, 168 Cal.App.4th at 130. Plaintiff reviewed complete and unsampled data for the class and conducted analysis of the data and records, with the participation of an expert, to arrive at her estimated damage figures. HH Decl. ¶¶10-11, 18-32.

The parties reached an agreement to mediate before Hon. Amy D. Hogue (ret.), a respected neutral mediator. Both sides agreed to a settlement and executed an MOU. They then finalized the Class Action and PAGA Settlement Agreement. HH Decl. ¶11. Therefore, this factor also supports preliminary approval.

B. Provisional Class Certification is Appropriate Here

"Litigation by class action has long been recognized as a superior method of resolving wage and hour claims in California." *Martinez v. Joe's Crab Shack Holdings* (2014) 231 Cal.App.4th 362, 367. Class certification is appropriate when there exists "an ascertainable and sufficiently numerous class, a well-defined community of interest, and substantial benefits from certification that render proceeding as a class superior to alternatives." *Brinker*, 53 Cal.4th 1004 at 1021. As the Supreme Court has noted, "[c]laims alleging a uniform policy consistently applied to a group of employees in violation of the wage and hour laws are of the sort routinely, and properly, found suitable for class treatment." *Id*. at 1033. This is exactly such a case.

1. The Proposed Class Is Ascertainable and Numerous

A class is "ascertainable" where the members "may be readily identified without unreasonable expense or time by reference to official [or business] records." *See Sevidal v. Target Corp.* (2010) 189 Cal.App.4th 905, 919 (alterations in original). Here, the proposed Class is defined by reference to two objective characteristics: (1) individuals who worked as non-exempt employees for Defendant NWH in California, and (2) were employed by Defendant NWH at some time during the Class Period. Therefore, Class Members can be identified from Defendant's personnel and other employment records. As to numerosity, the Class consists of at least 440 individuals, making it highly impracticable to bring all class members before the Court. HH Decl. ¶12.

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

"[T]he community of interest requirement embodies 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." *Brinker,* 53 Cal.4th at 1021.

a. Common Issues of Law and Fact Predominate

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

b. The Claims of Named Plaintiff are Typical

The typicality requirement is satisfied where class representatives have claims that are typical of those of the rest of the class. *B.WI. 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, the claims of Plaintiff are typical of those held by the members of the proposed Class. First, Plaintiff was employed by NWH during the proposed Class Period and was subject to its wage and hour practices.

Second, Plaintiff claims she was injured by the same challenged practices she claims injured the Class as a whole. Therefore, Plaintiff has suffered the same alleged injuries as the other members of the Class and satisfies the typicality requirement.

c. Plaintiff & Class Counsel Will Fairly & Adequately Represent the Class

The adequacy of representation requirement examines conflicts of interest between named parties and the class they seek to represent. *See Capital People First v. State Dept. of Developmental Services* (2007) 155 Cal.App.4th 676, 697. A party's claim of representative status will only be defeated by a conflict that "goes to the very subject matter of the litigation." *Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 470. Here, Plaintiff and her counsel will adequately represent the class as there are no conflicts between the named Plaintiff and the Class she seeks to represent, and Plaintiff has claims that are in line with those of the class. Declaration of Ene C. Hernandez, ¶¶3&4, HH Decl. ¶5, ZM Decl. ¶6. Plaintiff's counsel also has extensive experience in wage and hour class action litigation. HH Decl. ¶¶2-6, ZM Decl. ¶¶2-5. For these reasons, the Court should provisionally certify the proposed Class.

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

Here, the alternative method of resolution would be multiple individual lawsuits, challenging the same alleged wage and hour policies and practices of NWH, and each seeking a small amount of damages. Such duplicative litigation would be extremely inefficient and costly for the courts and wasteful for judicial forums that would otherwise devote resources to other matters. HH Decl. ¶37. In light of these concerns, a class action is the superior method of resolving these wage and hour claims. *Martinez*, 231 Cal.App.4th at 367 ("Litigation by class action has long been recognized as a superior method of resolving wage and hour claims in California.")

//

//

//

VI. THE COURT SHOULD ORDER DISTRIBUTION OF THE PROPOSED NOTICE

This Court should order distribution to the Class Members of the proposed Class Notice in both English and Spanish by first-class mail. S.A. ¶7.4.2, Exh. “A”. This manner of giving notice is the "best notice practicable" under the circumstances because it provides "individual notice to all members who can be identified through reasonable effort." *See Eisen v. Carlisle & Jacquelin* (1974) 417 U.S. 156, 173. As a general rule, class notice must strike a balance between thoroughness and the need to avoid unduly complicating the content of the notice and confusing class members. *Wershba*, 911 Cal.4th at 252. The proposed Notice of Settlement is attached as Exhibit A to the Class Action and PAGA Settlement Agreement. S.A. ¶7.4.2, Ex. A.

Here, the Parties propose that the settlement be administered by CPT Group, Inc. (“CPT” or “Settlement Administrator”), an experienced class action settlement administrator. S.A. §7. The Settlement Administrator’s duties are detailed in the Class Action and PAGA Settlement Agreement. *Id*. Class Members' addresses are ascertainable through Defendant’s personnel and payroll records. To the extent that the addresses of former employees have changed, CPT will run all the addresses provided through the United States Postal Service Notice of Change Of Address database (which provides updated addresses for any individual who has moved in the previous four years and has notified the U.S. Postal Service of a forwarding address) and perform skip traces to obtain current address information. *Id*. The Settlement Agreement allocates a maximum of $10,000 for administration expenses, which is appropriate in light of the number of class members and the size of the settlement and the extent of work to be performed in administrating the settlement of the class. S.A. ¶3.2.3. Plaintiff has secured a bid from CPT to administer the settlement for $10,000. HH Decl., ¶38, Ex. 3.

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

VII. THE PAGA ALLOCATION AND PAYMENTS SHOULD BE APPROVED

The Settlement allocates $30,000 for resolution of Plaintiff's PAGA claim with $22,500 (75%) payable to the LWDA and $7,500 (25%) payable to Aggrieved Employees Members. S.A. ¶3.2.5. To the extent an Aggrieved Employee is also a Class Member, they will receive their Individual PAGA Settlement Payment even if they submit an exclusion request. As required, this Motion and all supporting papers will be concurrently submitted to the LWDA.

VIII. THE COURT SHOULD SET A FINAL APPROVAL HEARING

The Parties request that this Court set a hearing for final approval of the settlement on a date appropriately scheduled to follow the deadline by which Settlement Class Members must file objections to the settlement or opt-out. *See* Cal. Rule of Court, rule 3.769. The parties propose that the final papers in support of the settlement be filed and served no later than 14 days prior to the hearing on final approval, and that the hearing on final approval of the settlement be set 120 days after the date of the preliminary approval hearing, to allow a reasonable period for notice and administration, and an opportunity to object to the settlement, without excessive delay to the Class as to the receipt of their settlement shares.

IX. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court preliminarily approve the proposed settlement, provisionally certify the Settlement Class, and enter the Proposed Order submitted concurrently herewith.

Dated: December 29, 2023

MOORADIAN LAW, APC

By:*/s/Haik Hacopian*______________________
Zorik Mooradian, Esq.,
Haik Hacopian, Esq.,
Attorneys for Plaintiffs Ene C. Hernandez, individually and on behalf of other persons similarly situated and similarly aggrieved employees