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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

ERICKA NATALY ESCOBAR URRUTIA,
REBECCA DAWN STEWART, MICHAEL
NGO, and KADY HOPPER, individuals and
class representatives on behalf of themselves
and all other similarly situated non-exempt
former and current employees,

Plaintiffs,

vs.

LAZER SPOT, INC., a Georgia
Corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No: CIVSB2228377

CLASS ACTION

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES**

*[Filed Concurrently with Declaration of Shoham J.
Solouki, Esq.; Declaration of Brandon Brouillette;
Declarations of Plaintiffs; Declaration of Settlement
Administrator; and [Proposed] Order]*

Hearing Date: November 5, 2025

Hearing Time: 8:30 AM

Hearing Dept.: S26

Complaint Filed: December 16, 2022

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

2 **PLEASE TAKE NOTICE** that, on November 5, 2025, at 8:30 AM , or as soon thereafter as this
3 matter may be heard, in Department S26 of the San Bernardino County Superior Court, located at 247
4 West Third Street San Bernardino CA 92415-0210 Plaintiffs Ericka Nataly Escobar Urrutia, Rebecca
5 Dawn Stewart, Michael Ngo, and Kady Hopper (“Plaintiffs”), will, and hereby do, move this Court for
6 preliminary approval of the CLASS ACTION AND PAGA SETTLEMENT AGREEMENT
7 (“Settlement” and/or “Agreement”) reached by the parties in the above-captioned litigation.

8 The motion will be based upon this Notice, the attached Memorandum of Points and Authorities,
9 the accompanying Declarations of Shoham J. Solouki, Brandon Brouillette, Ericka Nataly Escobar
10 Urrutia, Rebecca Dawn Stewart, Michael Ngo, Kady Hopper, and Phoenix Settlement Administrator, the
11 CLASS ACTION AND PAGA SETTLEMENT AGREEMENT, the complete files and records of this
12 case, and any other evidence or oral argument which may be considered by the Court at the time of the
13 hearing.

14 **SOLOUKI | SAVOY, LLP**

15 Dated: October 14, 2025

16 /s/ Shoham J. Solouki .
17 Shoham J. Solouki, Esq.
18 Grant Joseph Savoy, Esq.
19 *Attorneys for Plaintiffs, And Those Similarly*
20 *Situated Current and Former Employees*

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This motion is brought by Plaintiffs Ericka Nataly Escobar Urrutia, Rebecca Dan Stewart, Kady
4 Hopper, and Michael Ngo, (“Plaintiffs”), on behalf of themselves and all others similarly situated, seeking
5 approval of the CLASS ACTION AND PAGA SETTLEMENT AGREEMENT (“Settlement” and/or
6 “Agreement”) entered into by Plaintiffs, on the one hand, and Defendant Lazer Spot, Inc. (“Defendant” or
7 “Lazer Spot”) (Defendant and Plaintiffs referred to collectively as the “Parties”), seeking to settle all class
8 and representative claims brought by Plaintiffs on behalf of themselves and all current and former hourly
9 employees of Defendant in the above-captioned Action.

10 The instant action “*Ericka Nataly Escobar Urrutia, et al. v. Lazer Spot, et al.* San Bernardino
11 County Superior Court Case No. CIVSB2228377 (the “Action”) is a wage and hour class action and
12 representative action under the Private Attorneys’ General Act of 2004 (“PAGA”) brought on behalf of:

13 “All current or former employees who are or were previously employed by Defendant
14 Lazer Spot during the period of December 16, 2018, through January 14, 2024” (“Class,”
15 “Settlement Class,” or “Class Members”) (See *Settlement Agreement* (“Settlement”),
16 para. 1.5)).

17 The “Class Period” is defined as “the period of December 16, 2018, through January 14, 2024”
18 (*Settlement*, at para. 1.6). The Action primarily alleges that Defendant failed to provide Plaintiffs and the
19 class they seek to represent with legally required meal and rest periods, failed to compensate employees for
20 overtime and paid time off at the regular rate of pay, failed to accurately compensate employees for off-the-
21 clock wages, failed to maintain required employment records, provided inaccurate wage statements, failed
22 to indemnify employees for necessary business expenditures, failed to timely compensate former
23 employees for all wages owed upon separation of employment, unfair competition, and violations of the
24 PAGA. As mentioned above, the Parties have entered into the Settlement Agreement, which provides for a
25 Gross Settlement Amount of One Million, Five Hundred Thousand Dollars and Zero Cents
26 (\$1,500,000.00). Pursuant to the Settlement, Plaintiffs now move for (1) preliminary approval of the
27 Settlement, and (2) conditional certification of the Settlement Class.
28

1 The Settlement Class is composed of approximately 2,538 current and former employees of
2 Defendant that fall within the class definition, as set forth above, in the Settlement Agreement, and the
3 operative complaint in the Action. The proposed settlement is fair, adequate, and reasonable, and
4 conditional certification of the Settlement Class is appropriate because the requirements of California Code
5 of Civil Procedure § 382 are satisfied. Plaintiffs respectfully request that the Court preliminarily approve
6 this Settlement and set a hearing date to consider whether to grant final approval of the Settlement, at
7 which time the Court will consider the request for attorney fees and costs, and any potential objections to
8 the Settlement.

9 **II. FACTUAL AND PROCEDURAL BACKGROUND**

10 On December 16, 2022, Ericka Urrutia and Rebecca Stewart commenced a class action lawsuit
11 against Defendant in San Bernardino Superior Court, (SBSC Case No. CIVSB2228377, “*Urrutia Class*
12 *Action*”) which was later removed to the U.S. District Court for the Central District of California, alleging
13 causes of action against Defendant for (1) Unpaid Minimum Wages and Liquidated Damages, (2) Unpaid
14 Overtime, (3) Failure to Provide Meal Breaks, (4) Failure to Provide Rest Breaks, (5) Failure to Provide
15 Accurate, Itemized Wage Statements, (6) Failure to Timely Pay All Wages Due Upon Separation of
16 Employment, (7) Failure to Reimburse for Business Expenses, and (8) Unfair Business Practices. On
17 February 3, 2023, Plaintiff Michael Ngo filed a Class Action Complaint against Defendant in Riverside
18 Superior Court, (RSC Case No. CVRI2302136, “*Ngo Class Action*”) which was later removed to the U.S.
19 District Court for the Central District of California, alleging causes of action against Lazer Spot for (1)
20 Unpaid Minimum Wages and Liquidated Damages, (2) Failure to Provide Accurate, Itemized Wage
21 Statements, (3) Failure to Timely Pay All Wages Due Upon Separation of Employment, (4) Failure to
22 Reimburse for Business Expenses, and (5) Unfair Business Practices. On June 2, 2023, Plaintiffs Ericka
23 Urrutia and Rebecca Stewart commenced their PAGA (Labor Code §§ 2698 et seq.) action in San
24 Bernardino Superior Court against Defendant (Case No. CIVSB2312528, “*Urrutia PAGA Action*”). On
25 April 21, 2023, Plaintiff Michael Ngo commenced his PAGA action in Riverside Superior Court (“*Ngo*
26 *PAGA Action*”). On August 26, 2025, named Plaintiffs filed a first amended consolidated class action and
27 PAGA representative complaint (SBSC Case No. CIVSB2228377, “FAC” or “Consolidated Complaint”)
28

1 with the approving Court which shall be the operative Complaint. (*Declaration of Shoham J. Solouki,*
2 *Esq. (“Solouki Decl.”)*, at ¶¶ 5-9).

3 Plaintiff Ericka Nataly Escobar Urrutia (“Plaintiff Urrutia”) worked for Lazer Spot from
4 approximately May 2021 to November 2022 as a yard driver in Ontario, California. Plaintiff Rebecca
5 Dawn Stewart (“Plaintiff Stewart”) worked for Lazer Spot from approximately November 2020 to
6 December 2022 as a yard driver in Ontario, Mira Loma, and Redlands, California. Plaintiff Michael Ngo
7 (“Plaintiff Ngo”) worked for Lazer Spot from January 11, 2022 to September 20, 2022 as a yard driver or
8 other similar title. Plaintiff Kady Hopper worked for Lazer Spot from approximately April 2022 to May
9 2023 as a yard driver or other similar title. During their employment with Defendant, Plaintiffs allege that
10 they experienced the same treatment as others working for Defendant as far as wage violations go. (*Solouki*
11 *Decl.*, at ¶ 4).

12 Defendant is in the business of providing yard logistics for large retailers and distributors across
13 all industries and employed Plaintiffs and putative class members in California. (*Solouki Decl.*, at ¶ 3).

14 **III. SUMMARY OF THE SETTLEMENT**

15 **A. Settlement Negotiations**

16 On April 11, 2024, the Parties participated in a full-day mediation before Steve Serratore, Esq. of
17 Serratore Law Mediation Services which led to the Agreement of this Action. In anticipation of the
18 mediation, the Parties represent that they conducted significant investigation and discovery of the facts and
19 law. Defendant informally produced, among other things, hundreds of pages relevant written policies and
20 procedures, Plaintiffs’ personnel file (inclusive of Plaintiffs’ time and payroll records), and an approximate
21 20% sampling of class payroll and timekeeping data. Plaintiffs’ Counsel’s review of the time records,
22 payroll records, and information relating to the size and scope of the Class, was sufficient data to permit
23 Plaintiffs’ Counsel and their retained expert to understand the number of workweeks and pay periods at
24 issue in the Class Period. The Parties agreed that the above-described investigation and evaluation, as well
25 as the information exchanged during the settlement negotiations, were more than sufficient to assess the
26 merits of the respective Parties’ positions and to compromise the issues on a fair and equitable basis
27 (*Solouki Decl.*, at ¶ 10).

At this mediation, the Parties discussed Plaintiffs' claims, theories for class certification and Defendant's defenses thereto. The Parties also analyzed the potential exposure of Defendant on Plaintiffs' claims, Defendant's potential liability for penalties and interest, as well as the potential risks associated with litigating this Action through a contested class certification proceeding, trial, and potential appeal(s). The mediation lasted the entire day and allowed the Parties to better understand each other's respective positions as to the claims, defenses, and Defendant's potential exposure to liability. With the aid of the mediator's evaluation the Parties reached an agreement to resolve the Action on a class basis based on the terms set forth herein for the Gross Settlement Amount ("Gross Settlement Amount") of One Million Five Hundred Thousand Dollars and Zero Cents (\$1,500,000.00) (*Solouki Decl.*, at ¶ 10). A true and accurate copy of the Settlement Agreement is attached to the *Declaration of Shoham J. Solouki, Esq.* as **Exhibit "A"** thereto.

B. Definition of Settlement Class

As set forth above the settlement class is composed of "All current or former employees who are or were previously employed by Defendant Lazer Spot ("Defendant") during the period of December 16, 2018, through January 14, 2024" ("Class," "Settlement Class," or "Class Members") (*Settlement*, para. 1.5).

C. Settlement Terms

In exchange for a release of claims against Defendant, as set forth in the Settlement, the payment terms of the Settlement are as follows:

1. "Gross Settlement Amount" or "GSA" means One Million Five Hundred Thousand Dollars and Zero Cents (\$1,500,000.00) which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 of the Agreement. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment and the Administrator's Expenses. The Gross Settlement Amount expressly excludes Employer Taxes, which shall be paid by Defendant separately (*Settlement*, para. 1.22). Subject to Court approval, this amount shall be allocated as follows:

1 2. The “Net Settlement Amount” “Net Settlement Fund,” or “NSA” means the Gross
2 Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA
3 Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees
4 Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The Net
5 Settlement Amount is the amount to be paid to Participating Class Members as Individual Class Payments
6 (*Settlement*, para. 1.28)

7 3. The Parties agree, subject to Court approval, that the GSA will be apportioned as
8 follows:

9 1. Class Counsel’s Attorneys’ Fees and Costs: A Class Counsel Fees Payment of
10 not more than 33.33%, which is currently estimated to be Five Hundred Thousand
11 Dollars (\$500,000.00), and a Class Counsel Litigation Expenses Payment of not
12 more than Thirty Thousand Dollars (\$30,000). Lazer Spot will not oppose requests
13 for these payments provided that such requests for payment do not exceed these
14 amounts. (*Settlement*, para. 3.2.2)

15 2. Class Representative Service Award: Class Representative Service Payments to
16 the Class Representatives of not more than Ten Thousand Dollars and Zero Cents
17 (\$10,000) each (in addition to any Individual Class Payment and any Individual
18 PAGA Payment the Class Representatives is entitled to receive as a Participating
19 Class Member) (*Settlement*, para. 3.2.1)

20 3. Settlement Administration Costs: An Administrator Expenses Payment not to
21 exceed Twenty Thousand Dollars (\$24,000.00) except for a showing of good cause
22 and as approved by the Court. To the extent the Administration Expenses are less or
23 the Court approves payment less than \$24,000.00, the Administrator will retain the
24 remainder in the Net Settlement Amount (*Settlement*, para. 3.2.4). PHOENIX
25 SETTLEMENT ADMINISTRATORS has provided a flat rate invoice for
26 administration of \$6,000.00. See *DECLARATION OF PHOENIX SETTLEMENT*
27 *ADMINISTRATOR IN SUPPORT OF PLAINTIFF’S MOTION FOR PRELIMINARY*
28

1 *APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT AND RELEASE OF*
2 *CLAIMS (“SA Decl.”), para. 8)*

3 4. PAGA Civil Penalties: PAGA Penalties in the amount of \$80,000 to be paid from
4 the Gross Settlement Amount, with 75% (\$60,000.00) allocated to the LWDA
5 PAGA Payment and 25% (\$20,000.00) allocated to the Individual PAGA Payments
6 (*Settlement*, para. 3.2.5).

7 4. From the Net Settlement Amount, the Settlement Administrator will calculate each
8 Settlement Class member’s Settlement Award based on the following formula:

9 1. PAGA Amount: The Administrator will calculate each Individual PAGA
10 Payment by (a) dividing the amount of the Aggrieved Employees’ 25% share of
11 PAGA Penalties (\$20,000) by the total number of PAGA Period Pay Periods
12 worked by all Aggrieved Employees during the PAGA Period and (b) multiplying
13 the result by each Aggrieved Employee’s PAGA Period Pay Periods. Aggrieved
14 Employees assume full responsibility and liability for any taxes owed on their
15 Individual PAGA Payment. (*Settlement*, para. 3.2.5.1).

16 2. An Individual Class Payment calculated by (a) dividing the Net Settlement
17 Amount by the total number of Workweeks worked by all Participating Class
18 Members during the Class Period and (b) multiplying the result by each
19 Participating Class Member’s Workweeks. (*Settlement*, para. 3.2.4)

20 5. This is a non-reversionary Settlement in which Defendant is required to pay the entire Gross
21 Settlement Fund, which includes, the Class Counsel Award, Class Representative Service Awards,
22 Individual Settlement Payments, PAGA Payment, and Settlement Administrator Costs. No portion of the
23 Gross Settlement Fund will revert to Defendant. The face of each check shall prominently state the date
24 (not less than 180 days after the date of mailing) when the check will be voided. For any Participating
25 Class Member and/or Aggrieved Employee whose Individual Class Payment check or Individual PAGA
26 Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds
27 represented by such checks to the California Controller's Unclaimed Property Fund in the name of the
28

Class Member thereby leaving no “unpaid residue” subject to the requirements of California Code of Civil Procedure Section 384, subd. (b). (*Settlement*, paras. 3.1, 4.4.1, and 4.4.3).

D. Settlement Administrator Notice to Class Members, Objections, Opt-Out Rights

1. Settlement Administrator

“Settlement Administrator” Phoenix Settlement Administrators, the neutral entity the Parties have agreed to appoint to administer the Settlement. (*Settlement*, para. 1.2).

Subsequent to entering into the Settlement Agreement, Class Counsel received quotes for class settlement administration and determined the quote and services provided by Phoenix to be the most reasonable, as they would provide the services and pricing (lowest bid submitted) most beneficial to the class (*Solouki Decl.* ¶ 11). A true and accurate copy of the Phoenix Settlement Administrators quote and associated services is attached to the *SA Decl.*, as Exhibit “B”, as well as the *Solouki Decl.*, as Exhibit “B.”

2. Notice to the Settlement Class Members

Class Data. Not later than 30 days after the Court grants Preliminary Approval of the Settlement, Lazer Spot will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data. (*Settlement*, paras. 4.2 and 7.4.1).

Notice Packet. Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish translation, substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database. A true and correct copy of the agreed upon Notice Packet is attached to the Settlement as Exhibit “A” (*Settlement*, para 7.4.2)

1 Returned Notice Packets. The Administrator must conduct a Class Member Address Search for all
2 other Participating Class Members and Aggrieved Employees whose checks are returned undelivered
3 without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-
4 mail checks to the USPS forwarding address provided or to an address ascertained through the Class
5 Member Address Search. The Administrator need not take further steps to deliver checks to Participating
6 Class Members and Aggrieved Employees whose re-mailed checks are returned as undelivered. The
7 Administrator shall promptly send a replacement check to any Participating Class Member and/or
8 Aggrieved Employee whose original check was lost or misplaced, requested by the Participating Class
9 Member and/or Aggrieved Employee prior to the void date. (*Settlement*, para. 4.4.2).

10 **3. Responses to Notice, Opt-Outs, and Objections**

- 11 • Notice Response Deadline - Requests for Exclusion from Settlement Class.

12 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must
13 send the Administrator, by fax, email, or mail, a signed written Request for Exclusion
14 not later than 45 days after the Administrator mails the Class Notice (plus an additional
15 7 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is
16 a letter from a Class Member or his/her representative that reasonably communicates the
17 Class Member's election to be excluded from the Settlement and includes the Class
18 Member's name, address and email address or telephone number. To be valid, a Request
19 for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
20 (*Settlement*, para. 7.5.1)

- 21 • Objections to Settlement. Participating Class Members may send written objections to
22 the Administrator, by fax, email, or mail. In the alternative, Participating Class Members
23 may appear in Court (or hire an attorney to appear in Court) to present verbal objections
24 at the Final Approval Hearing. A Participating Class Member who elects to send a
25 written objection to the Administrator must do so not later than 45 days after the
26 Administrator's mailing of the Class Notice (plus an additional 7 days for Class
27 Members whose Class Notice was re-mailed) (*Settlement*, para. 7.7.2).

- Binding Effect on Final Settlement Class Members. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Release and Aggrieved Employee Release under Paragraphs 5.2 and 5.3 of the Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement. (*Settlement*, para. 7.5.3)

4. Funding and Distribution of Settlement

Lazer Spot shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Lazer Spot's share of payroll taxes by transmitting the funds to the Administrator no later than 30 days after the Effective Date. (*Settlement*, para. 4.3)

Within 14 days after Lazer Spot funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments. (*Settlement*, para. 4.4)

5. Duties of the Parties Prior to and Following Court's Approval of the Settlement

Duties of the Parties Prior to the Court's Approval

Promptly upon execution of the Agreement, Plaintiffs will move the Court to grant preliminary approval of this Settlement, certifying the Class for settlement purposes only and setting a date for the Final Approval Hearing. All Parties agree to work diligently and cooperatively to have the Settlement presented to the Court for preliminary approval. The proposed preliminary approval order shall provide for the Notice of Class Action Settlement to be sent to Settlement Class Members as specified herein. Plaintiffs now apply to the Court for the entry of an Order:

- Conditionally certifying the Settlement Class for purposes of this Settlement Agreement only;

- 1 B. Appointing Class Counsel as counsel for the Settlement Class;
2 C. Appointing Plaintiffs as Class Representatives for the Settlement Class;
3 D. Approving Phoenix as Settlement Administrator;
4 E. Preliminarily approving the Settlement Agreement and its terms as fair, reasonable,
5 and adequate;
6 F. Approving the form and content of the Notice Packet and directing the mailing of
7 same; and
8 G. Scheduling a Final Approval hearing
9 (*Settlement*, paras. 6 and 9)

10 Duties of the Parties Prior to the Court's Final Approval

11 Following the close of the Response Deadline, and upon a date set by the Court as set forth in the
12 Order Granting Preliminary Approval, Plaintiffs shall move the Court for the entry of the final order:

- 13 A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair,
14 reasonable, and adequate;
15 B. Certifying the Class for settlement purposes only
16 C. Approving Plaintiffs' and Class Counsel's application for attorneys' fees and costs, Settlement
17 Administrator's costs, and payment to the LWDA for its share of the PAGA Award; and
18 D. Entering judgment pursuant to California Rule of Court 3.769, including the Court's retention of
19 jurisdiction pursuant to Code of Civil Procedure section 664.6 to enforce the Settlement Agreement until it
20 has been fully performed. (*Settlement*, paras. 9 and 10)
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1 **6. Released Parties and Released Claims**

2 Released Parties.

3 “Released Parties” means Defendant and any of its past, present and future direct or indirect
4 parents, subsidiaries, predecessors, successors and affiliates, as well as each of its past, present and future
5 officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers, reinsurers,
6 and any individual or entity which could be jointly liable with Defendant, including Lazer Spot, Inc. and
7 Lazer Logistics (*Settlement*, para. 1.42).

8 Released Claims.

9 All Participating Class Members, on behalf of themselves and their respective former and present
10 representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released
11 Parties All Participating Class Members, on behalf of themselves and their respective former and present
12 representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties
13 from (i) all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the
14 Operative Complaints including, (1) all claims for alleged failure to pay straight time, overtime, or double
15 time wages, failure to pay wages for off-the-clock work, the alleged rounding of hours worked, and failure
16 to pay other wages of any kind during employment under the California Labor Code, IWC Wage Orders,
17 the Federal Labor Standards Act, or common law; (2) failure to provide meal periods or properly pay meal
18 period premiums; (3) failure to authorize and permit rest periods or properly pay rest period premiums; (4)
19 failure to pay minimum wages; (5) failure to pay final wages due at separation; (6) failure to provide
20 accurate and itemized wage statements; (7) failure to reimburse for necessary business expenditures,
21 including, but not limited to, cell phone expenses, vehicle expenses, and uniform expenses; (8) failure to
22 provide reporting time pay; (9) claims arising from the failure to pay at the regular rate of pay; (10)
23 requiring employees to perform seven consecutive days of work; (11) untimely payment of wages during
24 employment; (12) claims arising from paid time off, including vacation, paid sick leave, and COVID-19
25 supplemental paid sick leave; (13) claims brought under Business & Professions Code Section 17200 et
26 seq. including, but not limited to, all claims for unfair, unlawful, and harmful conduct to Class Members,
27 the general public, and Defendant’s competitors, and claims of unlawfully gaining an unfair advantage over
28 other businesses; (14) claims brought under the Investigative Consumer Reporting Agencies Act (ICRAA;
Cal. Civ. Code § 1786 et seq.) and the Fair Credit Reporting Act (FCRA; 15 U.S.C. § 1681 et seq.); (15)

any known and unknown claims arising under Labor Code Sections 201, 202, 203, 204, 210, 218, 218.5, 222, 223, 224, 226, 226.3, 226.7, 226.8, 227.3, 245-248.6, 432, 432.5, 432.7, 510, 512, 551, 552, 558, 558.1, 1024.5, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 1199, 2800, 2802, and 2810.5, and the applicable IWC Wage Orders; (16) penalties of any nature, including waiting time penalties and wage statement penalties; (17) interest; (18) attorneys' fees and costs; and (19) any other claims arising out of or related to the respective Complaints filed in the Actions through approval of the Settlement. : The State of California and LWDA are deemed to release PAGA claims for civil penalties due to any Labor Code violations by Defendant arising out of or related to events alleged in any Complaint or PAGA Notice Letter in the Actions, including any known and unknown claims arising under Labor Code Sections 201, 202, 203, 204, 210, 218, 218.5, 222, 223, 224, 226, 226.3, 226.7, 226.8, 227.3, 245-248.6, 432, 432.5, 432.7, 510, 512, 551, 552, 558, 558.1, 1024.5, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 1199, 2800, 2802, and 2810.5, and the applicable IWC Wage Orders. (*Settlement*, paras. 5.2 and 5.3)

IV. LEGAL ARGUMENT

Any settlement of class litigation must be reviewed and approved by the Court. (Cal. R. Ct. 3.769; Fed. R. Civ. P. 23(e).)¹ This is done in two steps: (1) an early (preliminary) review by the trial court, and (2) a final review after notice has been distributed to the Class Members informing them of the terms of the settlement and allowing them to exclude themselves from, participate in and/or object to the settlement. The Manual for Complex Litigation (Third) § 30.41 states:

If the preliminary evaluation of the proposed settlement does not disclose grounds to doubt its fairness or other obvious deficiencies, such as unduly preferential treatment of class representatives or of segments of the class, or excessive compensation for attorneys, and appears to fall within the range of possible approval, the court should direct that notice ... be given to the class members of a formal fairness hearing, at which arguments and evidence may be presented in support of and in opposition to the settlement.

Thus, the preliminary approval by the trial court is simply a conditional finding that the settlement appears to be within the range of acceptable settlements. (*See Wershba v. Apple Computer* (2001) 91

¹ The California Supreme Court has authorized California's trial courts to use Federal Rule 23 and cases applying it for guidance in considering class issues. (*See Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821; *Green v. Obledo* (1981) 29 Cal.3d 126, 145-146.) Where appropriate, therefore, Plaintiff cites Federal Rule 23 and federal case law in addition to California law.

1 Cal.App.4th 224, 234-35.) “The strength of the findings made by a judge at a preliminary hearing or
2 conference concerning a tentative settlement proposal may vary. The court may find that the settlement
3 proposal contains some merit, is within the range of reasonableness required for a settlement offer, or is
4 presumptively valid subject only to any objections that may be raised at a final hearing.” (4 Alba Conte &
5 Herbert B. Newberg, *Newberg on Class Actions*, § 11.26 (4th ed. 2002).)

6 The law favors settlement, particularly in class actions and other complex cases in which substantial
7 resources can be conserved by avoiding the time, cost and rigors of formal litigation. (*City of Seattle*, 955
8 F.2d at 1276; *Potter v Pacific Coast Lumber Company* (1951) 37 Cal. 2d. 592, 602-603.; 4 *Newberg on*
9 *Class Actions* § 11.41.) To grant preliminary approval of this Class Action Settlement, the Court need find
10 only that the settlement falls within the “range of reasonableness.” (*North County Contractor’s Ass. Inc. v.*
11 *Touchstone Ins. Svcs.* (1994) 27 Cal. App. 4th 1085, 1089-1090.)

12 In determining whether a class settlement is fair, adequate and reasonable, courts must consider the
13 following relevant factors: the strength of the Plaintiffs’ case; the risk, expense, complexity and likely
14 duration of further litigation; the risk of maintaining class action status through trial; the amount of offered
15 settlement; the extent of discovery completed and the range of the proceedings; and the experience and
16 views of counsel. (*Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801; *Clark v. American*
17 *Residential Services, LLC* (2009) 175 Cal. App. 4th. 785,799.) The list of factors is not exclusive and the
18 court is free to engage in a balancing and weighing of the factors depending on the circumstances of each
19 case. (*Clark*, 175 Cal. App. 4th at 799; *Wershba*, 91 Cal. App. 4th at 245.)

20 Furthermore, courts must give “proper deference to the private consensual decision of the parties,”
21 since “the court’s intrusion upon what is otherwise a private consensual agreement negotiated between the
22 parties to a lawsuit must be limited to the extent necessary to reach a reasoned judgment that the agreement
23 is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the
24 settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” (*Hanlon v. Chrysler Corp.*
25 (9th Cir. 1998), 150 F.3d 1011, 1027.)

26 ///

27 ///

1 **A. The Terms Of The Proposed Settlement Are Fair**

2 A preliminary review of the terms of the Settlement provides no reason to doubt its fairness. Indeed,
3 this Court should begin its analysis with a presumption that the proposed settlement is fair. A presumption
4 of fairness exists where: “1) the settlement is reached through arms-length negotiations; 2) investigation
5 and discovery are sufficient to allow counsel and the court to act intelligently; 3) counsel is experienced in
6 similar litigation; and 4) the percentage of objectors is small.” (*Dunk v. Ford Motor Co., supra*, at 1802.)
7 The first three of these factors apply at the preliminary approval stage; the percentage of objectors is
8 determinable only at the final approval stage.

9 **1. The Settlement Was Reached Through Arm’s-Length Bargaining, Not Through Fraud**
10 **or Collusion**

11 The Settlement was reached following extensive negotiations during and after a private mediation
12 with professional mediator Steve Serratore, Esq. The settlement negotiations were at arm’s length and,
13 although conducted in a professional manner, were adversarial. The parties went into the mediation session
14 willing to explore the potential for a settlement of the dispute, but each side was also prepared to litigate its
15 position through trial and appeal if a settlement had not been reached. (*Solouki Decl.* ¶¶ 10, 28.)

16 During mediation, Plaintiffs and their counsel strongly asserted the validity of their arguments and
17 their assessment that this case could be worth a substantial amount of money. However, as the mediation
18 progressed, Defendant presented its arguments as to various issues, and it became apparent that many
19 issues would be highly disputed and could pose a risk to both parties in going forward with litigation. As a
20 result, the parties agreed, based on Mr. Serratore’s recommendation, to resolve this matter for a total of
21 \$1,500,000.00. (*Solouki Decl.* ¶ 19.)

22 Moreover, Mr. Serratore presided over the back-and-forth exchange of information, and helped
23 guide the parties towards what he believed, based on his extensive professional experience, was a
24 reasonable resolution given the disputed issues of liability. (*Solouki Decl.* ¶ 20.)

25 Courts presume the absence of fraud or collusion in the negotiation of a settlement unless evidence
26 to the contrary is offered. (*Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447; *Mars Steel Corp. v.*
27 *Continental Illinois Nat’l Bank & Trust Co.* (7th Cir. 1987) 834 F.2d 677, 682; *In re Chicken Antitrust*
28 *Litig.* (N.D. Ga. 1980) 560 F. Supp. 957, 962.) Courts do not substitute their judgment for that of the

proponents, particularly where, as here, settlement has been reached with the participation of experienced counsel familiar with the litigation. (*Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.* (C.D. Cal. 2004) 221 F.R.D. 523, 528; *Hammon v. Barry* (D.D.C. 1990) 752 F. Supp. 1087, 1093; *Steinberg v. Carey* (S.D.N.Y. 1979) 470 F. Supp. 471, 478; *In re Armored Car Antitrust Litig.* (N.D. Ga. 1979) 472 F. Supp. 1357, 1368; *Sommers v. Abraham Lincoln Federal Sav. & Loan Ass'n* (E.D. Pa. 1978) 79 F.R.D. 571, 580.)

**2. Investigation and Discovery Were Sufficient For The Parties To Evaluate The Risks
Intelligently**

Prior to the Settlement, Plaintiffs' counsel conducted an investigation into the claims alleged by Plaintiffs, conducted legal research, and engaged in extensive informal discovery. Prior to mediation, the Parties met and conferred regarding the scope of discovery necessary for the Parties to engage in a productive mediation. It was agreed that the Parties would exchange agreed upon documents and class records/data prior to mediation. (*Solouki Decl.*, at ¶ 29.)

In anticipation of the mediation, the Parties represent that they conducted significant investigation and discovery of the facts and law. Defendant informally produced, among other things, hundreds of pages relevant written policies and procedures, Plaintiffs' personnel file (inclusive of Plaintiffs' time and payroll records), and an approximate 20% sampling of class payroll and timekeeping data. Plaintiffs' Counsel's review of the time records, payroll records, and information relating to the size and scope of the Class, was sufficient data to permit Plaintiffs' Counsel and their retained expert to understand the number of workweeks and pay periods at issue in the Class Period. The Parties agreed that the above-described investigation and evaluation, as well as the information exchanged during the settlement negotiations, were more than sufficient to assess the merits of the respective Parties' positions and to compromise the issues on a fair and equitable basis. (*Solouki Decl.*, at ¶ 10, 29.)

Through discovery and investigation, my office was able to identify several former employees of Defendants that provided valuable information that allowed my office and our expert to clarify any apparent discrepancies in the data provided by Defendants, as well as provide information regarding subjective information such as uncompensated off-the-clock work and rest break violations. (*Solouki Decl.*, at ¶ 31.)

1 Plaintiffs' statistical expert analyzed this information, including data for thousands of shifts, and
2 Plaintiffs' counsel evaluated the potential liability and damages for the Class Members. Based upon this
3 information, Plaintiffs' counsel was able to act intelligently and effectively in negotiating the proposed
4 Settlement. (*Solouki Decl.*, at ¶ 32.)

5 **3. Counsel Is Experienced In Similar Litigation**

6 Furthermore, the settlement negotiations were conducted by highly capable and experienced
7 counsel. Plaintiffs' counsel are respected members of the bar with a strong record of vigorous and
8 effective advocacy for their clients, and they are experienced in handling complex wage and hour class
9 action litigation. (*Solouki Decl.*, at ¶¶ 41-48; Declaration of Brandon Brouillette ("Brouillette Decl.") at ¶¶
10 3-13.) The parties went into the mediation session willing to explore the potential for a settlement of the
11 dispute, but each side was also prepared to litigate its position through trial and appeal if a settlement had
12 not been reached. The Settlement was not reached until after a full day of mediation. Plaintiffs, Plaintiffs'
13 Counsel, Defendant, and Defendant's Counsel support the proposed Settlement as being in the best
14 interests of the Class Members and Aggrieved Employees (*Solouki Decl.*, at ¶ 28; *Brouillette Decl.*, at ¶
15 17.)

16 **B. The Settlement Falls Well Within The "Ballpark" of Reasonableness**

17 The Court must make an "independent assessment of the reasonableness of the terms of the
18 settlement" prior to granting preliminary and final approval. (*Clark v. American Residential Services LLC*
19 (2009) 175 Cal.App.4th 785, 799; *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 127-28,
20 130, 133.) To do so requires the Parties to submit "basic information about the nature and magnitude of the
21 claims in question and the basis for concluding that the consideration being paid for the release of those
22 claims represents a reasonable compromise." (*Clark, supra*, 175 Cal.App.4th at 800.) However, the Court
23 should *not* "attempt to decide the merits of the case or to substitute its evaluation of the most appropriate
24 settlement for that of the attorneys." (*Kullar, supra*, 168 Cal.App.4th at 133.) Courts have deemed
25 proposed settlements as reasonable where the gross settlement fund is anywhere from 5-8% of the potential
26 maximum recovery; see *Cavazos v. Salas Concrete, Inc.*, 2022 WL 2918361, at *6 (E.D. Cal. July 25,
27 2022) (granting final approval of proposed settlement despite the "the gross settlement fund ... is only an
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approximately 5.8% recovery of plaintiff’s maximum potential damages”); *Harvey v. Morgan Stanley Smith Barney LLC*, 2019 WL 4462653, at *3 (N.D. Cal. Sept. 5, 2019) (approving class action and representative action settlement “represent[ing] 6.6% of [defendant’s] total exposure”); *Stovall-Gusman v. W.W. Granger, Inc.*, 2015 WL 3776765, at *4 (N.D. Cal. June 17, 2015) (granting final approval to settlement with net recovery to Plaintiffs valued at 7.3% of potential maximum recovery); *Cruz v. Sky Chefs, Inc.*, 2014 WL 7247065, at *5 (N.D. Cal. Dec. 19, 2014) (granting final approval where gross settlement amount represented 8.6% of the maximum potential recovery from the class claims and estimated amount distributable to class after accounting for attorneys’ fees and other deductions represented approximately 6.1% of maximum potential recovery); *Thomas v. Cognizant Tech. Sols. U.S. Corp.*, 2013 WL 12371622, at *6 (C.D. Cal. June 24, 2013) (granting final approval in wage and hour action where settlement encompassed between 4.4% and 5% of the maximum liability); *Balderas v. Massage Envy Franchising, LLC*, 2014 WL 3610945, at *5 (N.D. Cal. July 21, 2014) (preliminarily approving net settlement representing 5% of plaintiff’s estimated maximum possible recovery at trial); *In re LDK Solar Sec. Litig.*, 2010 WL 3001384, at *2 (N.D. Cal. July 29, 2010) (granting final approving where “[t]he proposed settlement amount is [. . .] only about five percent of the estimated damages before fee and costs—even before any reduction thereof for attorney’s fees and costs.”); *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1042 (N.D. Cal. 2008) (approving settlement of 6% to 8% of estimated damages).

1. Settlement Amount Is Fair, Just, and Reasonable

Plaintiffs and Plaintiffs’ counsel remain confident of the merits of Plaintiffs’ claims. Plaintiffs and Plaintiffs’ counsel considered several factors in reaching the decision to settle at this point in the litigation. Plaintiffs’ expert statistician and analyst has calculated the maximum damages of the Class Members, based on the aforementioned claims likely to survive through judgment, to be approximately \$11,171,519.00 without penalties (*Solouki Decl.*, at ¶ 14.)

Based on Plaintiffs’ law firm’s near decade and a half of litigating wage and hour class action lawsuits solely on the side of employees, Plaintiffs’ counsel estimates a fifty percent (50%) likelihood of obtaining and maintaining certification of all of Plaintiffs’ claims, with a likelihood of only being able to

1 certify the claims based on the actual written policies and four corners of the paystubs and timesheets, as
2 claims based on solely subjective evidence, such as off-the-clock work and rest break violation are
3 extremely difficult to certify. This alone greatly reduces the value of these claims. Additionally, Plaintiffs'
4 counsel asserts that there is a fifty percent (50%) likelihood of the claims that get certified surviving a
5 dispositive motion such as a Motion for Summary Judgment/Adjudication once merits-based discovery is
6 opened. Lastly, but definitely the highest hurdle to get over is the fifty percent (50%) chance that Plaintiffs
7 will prevail at trial on remaining claims, if any, further reducing the value of the case. The significant risk
8 that this Court may deny class certification, partially/fully grant a Motion for Summary
9 Judgment/Adjudication is obviated by the Settlement. Moreover, continued litigation would very likely
10 reduce and substantially delay recovery by Class Members. In contrast, because of the proposed
11 Settlement, Class Members will receive timely relief and avoid the risk of an unfavorable judgment. Given
12 the maximum, non-PAGA stacked, potential damages and penalties, the settlement sum of \$1,500,000.00 is
13 reasonable considering the substantial risks entailed by this case. (*Solouki Decl.*, at ¶ 16.)

14 Defendant, on the other hand, strongly contends that its policies and practices do not violate any
15 laws and that it complied with all applicable laws. Specifically, Defendant maintains that Plaintiffs' claims
16 that they and class members were not paid for all hours worked is factually incorrect. It is Defendant's
17 position that there would be no liability for unpaid wages and overtime, and therefore, the derivative claims
18 of waiting time penalties, untimely wage payments and inaccurate wage statements therefore also fail.
19 Defendant further contends that it provided meal and rest breaks as required by law and is not required to
20 ensure that employees took every meal and rest period made available to them. (*Brinker Restaurant Corp.*
21 *v. Superior Court*, 53 Cal. 4th 1004 (2012).) Even if the data were to show that meal periods were not
22 taken, time records alone cannot establish a meal break violation under California law. (*See Donohue v.*
23 *AMN Servs., LLC*, 29 Cal. App. 5th 1068, 1088 n. 25, as modified (Dec. 28, 2018), review granted, 2019
24 WL 1388808, at *1 (Cal. Mar. 27, 2019) (finding that "an employer's time records may . . . [only] reflect a
25 section 226.7 violation" in the class certification context, and not on the merits either at trial or on
26 summary judgment); *Brown v. Federal Express Corp.*, 249 F.R.D. 580, 587 (C.D. Cal. 2008) (time records
27 could not prove break claims as they would not provide reason for missed breaks).)

1 Additionally, Defendant contends that Plaintiffs would not obtain class certification on their claims,
2 particularly because the claims would require an individualized inquiry. (*See Koval v. Pacific Bell*
3 *Telephone Co.*, 232 Cal. App. 4th 1050, 1062 (2014) (denying certification and holding that Plaintiffs’
4 failure to demonstrate that allegedly unlawful policies were consistently applied “create[d] a shifting
5 kaleidoscope of liability determinations that render this case unsuitable for class action treatment”); *Dailey*
6 *v. Sears, Roebuck & Co.*, 214 Cal. App. 4th 974, 1002 (2013) (denying class certification of meal period
7 and rest break claims of employees alleging that they did not regularly take uninterrupted meal and rest
8 breaks where there was no evidence of a uniform policy showing that the Company required the employees
9 to forego breaks).) In such an event, there would be no recovery for Class Members at all. A discount was
10 required at this stage of the litigation for settlement purposes based on these risk factors.

11 The significant risk that this Court may deny class certification, partially/fully grant a Motion for
12 Summary Judgment/Adjudication is obviated by the Settlement. Moreover, continued litigation would very
13 likely reduce and substantially delay recovery by Class Members. In contrast, because of the proposed
14 Settlement, Class Members will receive timely relief and avoid the risk of an unfavorable judgment.
15 (*Solouki Decl.*, at ¶ 16.)

16 While Plaintiffs are confident in the merits of the case, a legitimate controversy exists as to each
17 cause of action and proving the amount of wages due to each individual Class Member would be an
18 expensive, time-consuming, and extremely uncertain proposition. (*Solouki Decl.*, at ¶ 17.)

19 After deducting attorney’s fees and costs, settlement administrative fees and costs, and PAGA
20 allocation, the remaining Net Settlement Amount (“NSA”) is estimated to be \$826,000.00. The Class is
21 estimated to consist of approximately 2,538 individuals who qualify as Class Members. Assuming full
22 participation of all 2,538 employees in the settlement, we estimate that each class member will recover on
23 average approximately \$325.45 ($\$826,000.00/2,538 = \$325.45$). On average, this amount is far from
24 insignificant, especially because most class members will never pursue their individual claims. On average,
25 this amount is far from insignificant, especially because most class members will never pursue their
26 individual claims. (*Solouki Decl.*, at ¶ 23.)

27 In sum, when the risks of litigation, the uncertainties involved in achieving class certification, the
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1 burdens of proof necessary to establish liability, and the probability of appeal of a favorable judgment are
2 balanced against the merits of Plaintiffs' claims, it is clear that the Gross Settlement Amount is fair,
3 adequate, and reasonable. (*Solouki Decl.*, at ¶ 18.)

4 **C. The Court Should Issue an Order Conditionally Certifying the Settlement Class**

5 **1. *The Criteria for Conditional Certification of a Settlement Class Are Met***

6 California Code of Civil Procedure § 382 provides that three basic requirements must be met in
7 order to sustain any class action: (1) there must be an ascertainable class; (2) there must be a well-defined
8 community of interest in the question of law or fact affecting the parties to be represented; and (3)
9 certification will provide substantial benefits to litigants and the courts, i.e., proceeding as a class is
10 superior to other methods. (*Fireside Bank v. Superior Court* (2007) 40 Cal.4th 1069, 1089; *see also*, *Sav-*
11 *On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326; *Dunk v. Ford Motor Co.* (1996) 48
12 Cal.App.4th 1794, 1806; *Daar v. Yellow Cab Co.* (1967) 67 Cal.2d 695, 704.) Any doubts as to the
13 appropriateness of class treatment must be resolved in favor of certification, subject to later modification.
14 (*Richmond v. Dart Indus. Inc.* (1981) 29 Cal.3d 462, 473-475.) For purposes of this Settlement only,
15 Defendant has stipulated to conditional certification of the proposed class action. (*Settlement*, para. II(1)).

16 **2. *There Is an Ascertainable Class***

17 Whether an ascertainable class exists turns on three factors: (1) the class definition, (2) the size of
18 the class, and (3) the means of identifying the class members. (*See Miller v. Woods* (1983) 148 Cal.App.3d
19 862, 873.) In this case, Plaintiffs contends that all three considerations strongly favor class certification.

20 **a. *The Settlement Class Is Precisely Defined***

21 The proposed class consists of "All current or former employees who are or were previously
22 employed by Defendant Lazer Spot ("Defendant") during the period of December 16, 2018, through
23 January 14, 2024" (*Settlement*, para. 1.5).

24 The Class is estimated to consist of approximately 2,538 individuals who qualify as Class
25 Members. (*Solouki Decl.*, at ¶ 23.) The class definition is sufficiently specific to enable the parties,
26 potential class members, and the Court to readily determine the parameters of the class. (*See*
27 *Clothesrigger, Inc. v. GTE Corp.* (1987) 191 Cal.App.3d 605, 617 (proposed class defined as all persons
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1 nationwide subscribing to telephone service since January 1, 1981, who were charged for one or more
2 unanswered long distance calls, deemed “plainly” ascertainable).) Indeed, the Class Members are readily
3 ascertainable from Defendant’s records. (*Solouki Decl.*, at ¶ 33.)

4 **b. Class Members Are Numerous Enough that Individual Litigation Is Not**
5 **Preferable**

6 Class size is in favor of class certification in this case. There are approximately Two Thousand,
7 Five Hundred Thirty-Eight (2,538) Class Members. (*Solouki Decl.*, ¶ 23.) It would be impractical to bring
8 each of these persons before the Court or to resolve their claims individually. There is no magic number
9 that satisfies the numerosity requirement. (*See, e.g., Rose v. City of Haywood* (1981) 126 Cal.App.3d 926,
10 934 (holding that forty-two class members are quantitatively sufficient to satisfy the numerosity
11 requirement).) Here, Plaintiffs asserts that the class of 2,538 Class Members is sufficient to satisfy the
12 numerosity requirement.

13 **c. Members of the Class Are Easily Identifiable**

14 The question of whether class members are easily identifiable turns on whether a Plaintiff can
15 establish “the existence of an ascertainable class,” not whether the Plaintiff can “identify the individual
16 members of such class as prerequisite to the class suit.” (*Daar*, 67 Cal.2d at 706; *see also, Reyes v. San*
17 *Diego County Bd. of Supervisors* (1987) 196 Cal.App.3d 1263, 1275.) Here, the existence of an
18 ascertainable class can be established through Defendant’s records. (*Solouki Decl.*, ¶ 32.)

19 **3. The Proposed Class Shares a Well-Defined Community of Interest**

20 The community of interest requirement embodies three factors: (1) predominant questions of law
21 and fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives
22 who can adequately represent the class. (*Dunk*, 48 Cal.App.4th at 1806; *Richmond*, 29 Cal.3d at 473-75.)
23 In this case, Plaintiffs’ claims satisfy all three factors.

24 **a. Common Issues of Law and Fact Predominate Over Individual Issues**

25 The commonality criterion requires the existence of common questions of law or fact and is
26 generally established with the issues of predominance and typicality. (*See Daar*, 67 Cal.2d at 695; *In re*
27 *United Energy Corp. Solar Power Modules Tax Shelter Investment Securities Lit.* (C.D. Cal. 1988) 122
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1 F.R.D. 251, 254.) All that is required is that a common question of fact or law exists which predominates
2 over issues unique to the Plaintiffs. The existence of individual issues or facts is not a bar to class
3 certification as long as they do not render class litigation unmanageable or predominate over the common
4 issues. (See *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1354 (“presence
5 of individual damages issues cannot bar certification”).)

6 In the Action, Plaintiffs’ claims present sufficient common issues of law and fact that predominate
7 over individual issues and warrant class certification. Plaintiffs allege that Defendant failed to provide
8 timely, uninterrupted and full meal and rest periods to all Class Members as a regular practice. Plaintiffs
9 allege that Defendant failed to properly compensate Class Members for all hours worked, including
10 overtime hours worked, as well as for necessary business expenditures. Plaintiffs further assert that
11 Defendant failed to adequately compensate its former employees for all wages owed at the time of their
12 separation from employment. Plaintiffs allege that Defendant’s policies and practices were uniform as to
13 all Class Members, and that all class members were indeed subjected to the same workplace experiences as
14 them. Thus, class treatment is appropriate.

15 **b. *Plaintiffs’ Claims Are Typical of the Claims of the Settlement Class***

16 To satisfy the typicality requirement, California law does not require that a Plaintiff have claims
17 identical to the other class members. Rather, the test of typicality for a class representative is whether other
18 members have the same or similar injury, whether the action is based on conduct which is not unique to the
19 named Plaintiff, and whether other class members have been injured by the same course of conduct.
20 (*Seastrom v. Neways, Inc.* (2007) 149 Cal.App.4th 1496, 1502.) The typicality requirement for a class
21 representative refers to the nature of the claim or defense of the representative, and not to the specific facts
22 from which it arose or the relief sought. (*Id.*)

23 Here, Plaintiffs allege that their claims are similar to those of the other Class Members. All of
24 Plaintiffs’ claims arise out of the same alleged facts and course of conduct giving rise to the claims of the
25 other Class Members, as they all worked together for Defendant and were subjected to identical workplace
26 policies and practices. Finally, Plaintiffs’ claims are typical of the other class members because they seek
27 the exact same relief for alleged Labor Code violations. Because Plaintiffs’ claims are based upon the
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1 same alleged conduct and business practices as those of the potential Class Members, the typicality
2 requirement has been satisfied.

3 **c. *Plaintiffs and Counsel Will Fairly and Adequately Represent the Class***

4 The question of adequacy of representation “depends on whether the Plaintiff’s attorney is qualified
5 to conduct the proposed litigation in the Plaintiffs’ interest or not antagonistic to the interests of the class.”
6 *McGee v. Bank of America* (1976) 60 Cal.App.3d 422, 450. Here, these considerations are satisfied. Class
7 Counsel includes well-regarded and accomplished trial lawyers who are qualified and experienced in
8 employment-related, class action litigation (*Solouki Decl.*, at ¶¶ 41-48; *Brouillette Decl.*, ¶¶ 3-13). Further,
9 because Plaintiffs’ claims are typical of other Class Members and are not based on unique circumstances
10 that might jeopardize the claims of the Class, there is no antagonism between the interest of the
11 representative Plaintiffs and those of the Class.

12 Additionally, Plaintiffs understand the obligations of being adequate class representatives, the
13 details of what they have done to demonstrate the adequacy of their representation, and the substantial
14 burden they will and have undertaken in order to represent the putative class. (See *Declarations of:*
15 *Plaintiff Ericka Nataly Escobar Urrutia, Plaintiff Rebecca Dawn Stewart, Plaintiff Kady Hopper, and*
16 *Plaintiff Michael Ngo* filed concurrently herewith.)

17 **4. *Proceeding As a Class Action Is Superior to Individual Action***

18 Under the circumstances, proceeding as a class action is a superior means of resolving this dispute,
19 as the Class Members and the Court will derive substantial benefits. Class certification would serve as the
20 only means to deter and redress the alleged Labor Code violations. (See *Linder v. Thrifty Oil Co.* (2000) 23
21 Cal.4th 429, 434 (relevant considerations include the probability that each class member will come forward
22 ultimately to prove his or her separate claim to a portion of the total recovery and whether the class
23 approach would actually serve to deter and redress the alleged wrongdoing).)

24 Furthermore, individual actions arising out of the same operative facts would unduly burden the
25 courts and could result in inconsistent results, which may be avoided by class certification.

26 **V. CONCLUSION**

27 For the reasons set forth above, Plaintiffs respectfully request that the Court: (1) certify a
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1 provisional settlement class; (2) grant preliminary approval of the proposed Settlement; (3) approve the
2 Class Notice; (4) appoint Solouki | Savoy, LLP and Crosner Legal, P.C. as Class Counsel; (5) appoint
3 Plaintiffs Ericka Nataly Escobar Urrutia, Rebecca Dawn Stewart, Kady Hopper, and Michael Ngo as the
4 Class Representatives; (6) approve Phoenix Settlement Administrators as the Settlement Administrator;
5 and (7) schedule a hearing on final approval of the Settlement.

6 Dated: October 14, 2025

SOLOUKI | SAVOY, LLP

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8 /s/ Shoham J. Solouki
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12 *Situated Current and Former Employees*
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