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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

RONALD FIGUEROA, as an individual
and on behalf of all others similarly
situated,

Plaintiff,

vs.

SOLAR TURBINES INCORPORATED, a
Delaware corporation; and DOES 1
through 100,

Defendants.

CASE NO. 37-2023-00016512-CU-OE-CTL

*[Case assigned for all purposes to the Hon.
Gregory W. Pollack, Department C-71]*

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT,
ATTORNEYS' FEES AND COSTS, AND
CLASS REPRESENTATIVE SERVICE
AWARD**

Date: May 30, 2025

Time: 9:30 a.m.

Dept.: C-71

Action Filed: April 20, 2023

Trial Date: None Set

PLEASE TAKE NOTICE that on May 30, 2025, at 9:30 a.m., or as soon thereafter as the matter may be heard in Department C-71 of the San Diego County Superior Court, located at 330 W. Broadway, San Diego, CA 92101, Plaintiff Ronald Figueroa (“Plaintiff”), individually and on behalf of a class of similarly situated individuals, will and hereby does move this Court for entry of an Order pursuant to California Code of Civil Procedure § 382 and Rule 3.769 of the California Rules of Court:

1. Confirming the certification of the Settlement Class for settlement purposes under California Code of Civil Procedure § 382;
2. Confirming the appointment of Plaintiff Ronald Figueroa as the Class Representative for settlement purposes;
3. Confirming the appointment of Fletcher W. Schmidt and Andrew J. Rowbotham of Haines Law Group, APC as Class Counsel for settlement purposes;
4. Granting final approval of the proposed Joint Stipulation of Class Action and Private Attorney General Act Settlement and Release;
5. Approving an award of \$933,333.33 in attorneys’ fees to Class Counsel;
6. Approving an award of \$46,704.29 in actual litigation cost reimbursement to Class Counsel;
7. Approving an award of \$16,990.00 in costs to Apex Class Action, LLC for its settlement administration services;
8. Approving a Class Representative Service Award of \$7,500.00 to Plaintiff for his service as Class Representative; and
9. Entering final judgment in the form of the [Proposed] Judgment and Order Granting Plaintiff’s Motion for Final Approval of Class Action Settlement, Attorneys’ Fees and Costs, and Class Representative Service Award (the “[Proposed] Judgment and Order”) submitted herewith.

This Motion is made on the following grounds: (1) the Settlement Class continues to meet the requirements for class certification for settlement purposes only under Code of Civil Procedure § 382; (2) Plaintiff and Class Counsel continue to be adequate representatives of the

1 Settlement Class; (3) the Settlement is a fair, adequate, and reasonable compromise of disputed
2 wage and hour claims; (4) the requested awards of attorneys' fees and costs, the Class
3 Representative Service Award, and settlement administration costs are all fair, adequate, and
4 reasonable; and (5) in light of the foregoing, the [Proposed] Judgment and Order submitted
5 concurrently herewith should be entered so as to give finality to, and allow for disbursements
6 from, the Settlement.

7 This Motion is based on this Notice of Motion; the attached Memorandum of Points and
8 Authorities; the supporting declarations of Andrew J. Rowbotham, Fletcher W. Schmidt, Ronald
9 Figueroa,¹ and Madely Nava of Apex Class Action, LLC, and the exhibits attached thereto; the
10 Settlement Agreement; all other pleadings and papers on file in this action; and any further oral
11 or documentary evidence or argument presented at the time of hearing.

12 Dated: May 7, 2025

Respectfully submitted,
HAINES LAW GROUP, APC

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14 By:



Andrew J. Rowbotham
Attorneys for Plaintiff

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28 ¹ Plaintiff Ronald Figueroa previously submitted his declaration in support of preliminary
approval on December 30, 2024. For the Court's convenience, Plaintiff re-submits the same
declaration in connection with this Motion.

TABLE OF CONTENTS

I. INTRODUCTION,	
II. FACTUAL AND PROCEDURAL BACKGROUND.....	1
III. SUMMARY OF THE SETTLEMENT AND NOTICE PROCESS.....	3
A. Settlement Class Definition	3
B. Monetary Terms	3
C. Summary of Notice Process	4
D. Timing of Payments	4
IV. ARGUMENT	5
A. The Court Should Confirm Certification of the Settlement Class Under § 382	5
B. Settlement Merits Final Approval as Fair and Reasonable	5
1. The Settlement Was Reached Through Arm’s-Length Negotiations	6
2. Settlement Compensation Is Fair, Adequate, and Proportional	9
3. The 100% Participation Rate Supports Final Approval.....	10
C. The Requested Fee Award Is Reasonable Under the Percentage Method	10
D. The Requested Cost Reimbursement Warrants Final Approval	12
E. The Court Should Finally Approve the Settlement Administration Costs	13
F. The Court Should Approve the Requested Service Award	14
V. CONCLUSION	15

TABLE OF AUTHORITIES

Federal Cases

<i>Air Lines Stewards, etc., Local 550 v. American Airlines, Inc.</i> 455 F.2d 101 (7th Cir. 1972)	6
<i>Harris v. Marhoefer</i> (9th Cir. 1994) 24 F.3d 16	13
<i>In re Immune Response Securities Litig.</i> 497 F.Supp.2d 1166 (S.D. Cal. 2007)	13
<i>In re Pacific Enterprises Securities Litig.</i> 47 F.3d 373, 379 (9th Cir. 1995)	11
<i>In re Rite Aid Corp. Securities Litig.</i> 396 F.3d 294, 300 (3d Cir. 2005)	11
<i>Rawlings v. Prudential-Bache Properties, Inc.</i> 9 F.3d 513, 516 (6th Cir. 1993)	11
<i>Trustees of Const. Industry & Laborers Health & Welfare Trust v. Redland Ins. Co.</i> 460 F.3d 1253 (9th Cir. 2006)	13
<i>Van Vranken v. Atlantic Richfield Co.</i> 901 F.Supp. 294 (N.D. Cal. 1995)	14

State Cases

<i>7-Eleven Owners for Fair Franchising v. Southland Corp.</i> (2000) 85 Cal.App.4th 1135	10
<i>AHMC Healthcare, Inc. v. Superior Court</i> (2018) 24 Cal.App.5th 1014	7
<i>Anthony Controulis, et al. v. Anheuser-Busch, LLC</i> Los Angeles County Superior Court Case No. BC518518	14
<i>Bell v. Farmers Ins. Exchange</i> (2004) 115 Cal.App.4th 715	14
<i>Brinker Restaurant Corp. v. Superior Court</i> (2012) 54 Cal.4th 1004	7
<i>Carrington v. Starbucks Corp.</i> (2018) 30 Cal.App.5th 504	9
<i>Chavez v. Netflix, Inc.</i> (2008) 162 Cal.App.4th 43	10
<i>Damontae Levinston, et al. v. Commerce Distribution Company LLC, et al.</i> Los Angeles County Superior Court Case No. 22STCV05730	14

1	<i>Dunk v. Ford Motor Co.</i>	
2	(1996) 48 Cal.App.4th 1794	6, 10
3	<i>Ehret v. WinCo Foods, LLC</i>	
4	(2018) 26 Cal.App.5th 1	7
5	<i>Fidelina Rangel v. Forest River, Inc.,</i>	
6	Case No. CIVD1706616	14
7	<i>Koreisz v. On Q Financial Inc.</i>	
8	Ventura County Superior Court, Case No. 56-2018-00517126-CU-OE-VTA.....	14
9	<i>Laffitte v. Robert Half Int’l, Inc.</i>	
10	(2016) 1 Cal.5th 480	11
11	<i>Mallick v. Superior Court</i>	
12	(1979) 89 Cal.App.3d 434	6
13	<i>Maria P. v. Riles</i>	
14	(1987) 43 Cal.3d 1281	10
15	<i>Naranjo v. Spectrum Sec. Servs., Inc.</i>	
16	2023) 88 Cal.App.5th 937.....	9
17	<i>Price v. Starbucks Corp.</i>	
18	(2011) 192 Cal.App.4th 1136	8
19	<i>Richmond v. Dart Industries, Inc.</i>	
20	(1981) 29 Cal.3d 462	5
21	<i>See’s Candy Shops, Inc. v. Superior Court</i>	
22	(2012) 210 Cal.App.4th 889	7
23	<i>Serrano v. Priest</i>	
24	(1977) 20 Cal.3d 25	10
25	<i>Stambaugh v. Superior Court</i>	
26	(1976) 62 Cal.App.3d 231	5
27	<i>Thurman v. Bayshore Transit Mgmt., Inc.</i>	
28	(2012) 203 Cal.App.4th 1112	9
	<i>Torres Dawson, et al. v. Wonderful Pistachios and Almonds, LLC</i>	
	Kern County Superior Court, Case No. BCV-17-100848	14
	<i>Wershba v. Apple Computer, Inc.</i>	
	(2001) 91 Cal.App.4th 224	6, 10-11
	<i>Westside Community for Independent Living, Inc. v. Obledo</i>	
	(1983) 33 Cal.3d 348	10

State Statues and Rules

8 Cal. Code Regs. § 13520.....	9
Labor Code § 1194.....	10
Labor Code § 226(e)(1)	9
Labor Code § 226(e)	10
Labor Code § 2699(e)(2)	9
Labor Code § 2699(g).....	10

Unpublished Cases

Ashker v. Sayre

No. 05-03759 CW

2011 WL 825713 (N.D. Cal. 2011) 13

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Ronald Figueroa (“Plaintiff”) submits this Memorandum of Points and
4 Authorities in support of his Motion for Final Approval of Class Action Settlement
5 (“Settlement”) on behalf of all current and former non-exempt employees of Defendant Solar
6 Turbines Incorporated (“Defendant”) in California who worked at any time between February 3,
7 2022, and June 2, 2024 (the “Class Period”). Plaintiff and Defendant are collectively referred to
8 as “the Parties.”

9 The non-reversionary \$2,800,000.00 Settlement provides for Individual Settlement
10 Payments to all 1,792 participating Class Members. The average Individual Settlement Payment
11 is approximately \$945.61, with the highest estimated payment being \$1,530.56. The Settlement
12 also resolves Plaintiff’s representative claim under the Private Attorneys General Act, Labor Code
13 § 2698 *et seq.* (“PAGA”), providing compensation to the State of California and 1,776 Aggrieved
14 Employees. Average PAGA payments are approximately \$14.08, with the highest estimated
15 PAGA payment being \$23.98. This Settlement represents an excellent result in light of the
16 significant litigation risks and defenses raised by Defendant. Following the mailing of the Court-
17 approved notice, no Class Member objected or opted out, resulting in a 100% participation rate.

18 As discussed below, the Court should grant Plaintiff’s Motion in its entirety because:
19 (1) the Settlement Class continues to satisfy the requirements for certification under Code of Civil
20 Procedure § 382; (2) the Settlement is fair, adequate, and reasonable in light of the Parties’
21 disputes and litigation risks; and (3) the requested awards for attorneys’ fees and costs, the Class
22 Representative Service Award, the California Labor and Workforce Development Agency
23 (“LWDA”) payment, and settlement administration expenses are all reasonable and supported.
24 Accordingly, the Court should enter the [Proposed] Judgment and Order submitted herewith.

25 **II. FACTUAL AND PROCEDURAL BACKGROUND**

26 Defendant designs and manufactures industrial gas turbines for onshore and offshore
27 electrical power generation. Declaration of Andrew J. Rowbotham (“Rowbotham Decl.”), ¶ 10.
28 Defendant’s union employees are members of the International Association of Machinists and

1 Aerospace Workers. *Id.* Plaintiff was employed by Defendant as a non-union “Welder” off and
2 on beginning in approximately 2014. Declaration of Ronald Figueroa (“Figueroa Decl.”), ¶ 2.
3 Plaintiff was most recently rehired on August 7, 2017, and his last day of work was approximately
4 January 18, 2023. *Id.* Like all Class Members, Plaintiff was subject to Defendant’s wage and hour
5 policies and practices. *Id.*

6 On April 20, 2023, Plaintiff filed the initial Complaint in this action, alleging that
7 Defendant: (i) failed to pay all overtime wages; (ii) failed to pay all minimum wages; (iii) failed
8 to provide all meal periods; (iv) failed to issue accurate, itemized wage statements; (v) failed to
9 pay all wages owed upon separation of employment; and (vi) violated California’s Unfair
10 Competition Law. Rowbotham Decl., ¶ 11. On June 27, 2023, Plaintiff filed the operative First
11 Amended Complaint, adding a cause of action for civil penalties under PAGA. *Id.*

12 Prior to reaching this proposed Settlement, Defendant provided Plaintiff with an
13 approximate 25% sample of electronic timekeeping records and payroll records for both union
14 and non-union employees, along with the relevant collective bargaining agreement (“CBA”) and
15 various meal and rest period policies in effect during the Class Period. Rowbotham Decl., ¶ 12.
16 With the assistance of his retained expert, who holds a Ph.D. in labor economics, Plaintiff
17 analyzed the data and created a class-wide exposure model. *Id.*

18 On March 15, 2024, the Parties participated in mediation with respected wage and hour
19 class action mediator Tripper Ortman, Esq. Rowbotham Decl., ¶ 13. During mediation, the
20 Parties exchanged divergent views on Defendant’s liability, exposure, and underlying legal
21 positions. *Id.* With the help of a mediator’s proposal from Mr. Ortman, the Parties were able to
22 reach a class-wide resolution of all claims. *Id.* Over the following months, the Parties finalized
23 the Settlement terms that were memorialized in the Joint Stipulation of Class Action and Private
24 Attorney General Act Settlement and Release (“Settlement Agreement”), which the Court
25 preliminarily approved on January 24, 2025. Rowbotham Decl., Exhibit 1 (Preliminary Approval
26 Order). Plaintiff provided the LWDA with the Settlement Agreement along with all moving
27 papers associated with the Motion for Preliminary Approval. Rowbotham Decl., ¶ 13, Exhibit 3
28 (LWDA Submission Confirmation).

On March 6, 2025, Apex Class Action, LLC (“Apex”), the Court-appointed Settlement Administrator, mailed the Court-approved Notice Packet via U.S. First Class Mail to all 1,792 individuals on the Class List. Declaration of Madely Nava (“Nava Decl.”), ¶¶ 6-7, Exhibit A (Notice Packet). Class Members had until May 5, 2025, to submit any disputes, objections, or requests for exclusion (the “Response Deadline”). *Id.*, ¶¶ 11-13. As of the Response Deadline, Apex received no objections, no requests for exclusion, and no disputes, resulting in 100% participation. *Id.*, ¶ 14.

III. SUMMARY OF THE SETTLEMENT AND NOTICE PROCESS

A. Settlement Class Definition

The Settlement Class includes: “All current and former non-exempt employees of Solar Turbines Incorporated in California who worked at any time between February 3, 2022, and June 2, 2024.” *See* Rowbotham Decl., Exhibit 1.

B. Monetary Terms

Defendant will pay a non-reversionary Maximum Settlement Amount (“MSA”) of \$2,800,000.00. *See* Settlement Agreement §§ I.O, III.A. The Net Settlement Amount (“NSA”) is the remainder after deducting Court-approved amounts for attorneys’ fees (\$933,333.33), verified cost reimbursement (\$46,704.29)², the Class Representative Service Award (\$7,500.00), settlement administration costs (\$16,990.00), and the entire amount designated as PAGA penalties (\$100,000.00). *See id.*, §§ I.P, III.A-E; Rowbotham Decl., ¶ 14, Exhibit 2 (Cost Records). Based on these requested amounts, the NSA is \$1,695,472.38. *See* Nava Decl., ¶ 15.

For tax purposes, each Individual Settlement Payment will be allocated as follows: 20% will be classified as wages (subject to applicable withholdings) and 80% will be classified as

² Class Counsel’s cost records reflect \$46,469.81 in out-of-pocket litigation expenses incurred to date. Rowbotham Decl., ¶ 15, Exhibit 2 (Cost Records). Plaintiff seeks reimbursement of a total of \$46,704.29, which includes an additional \$234.48 in reasonably anticipated future costs. These projected costs are associated with the filing and service of the Motion for Final Approval, which will be incurred following submission of this motion, as well as the cost of the Settlement Administrator’s final accounting declaration, which will be prepared after disbursement of the Settlement proceeds and expiration of the check cashing deadline. These costs are both foreseeable and necessary to fully implement the terms of the Settlement and to complete the final approval process.

1 interest and penalties (not subject to withholdings). *See* Settlement Agreement § III.F.2. The
2 PAGA penalties payable to Aggrieved Employees will be allocated 100% to penalties (not subject
3 to withholdings). *Id.* at § III.F.3. Further, Defendant will separately pay the employer’s share of
4 payroll taxes in addition to the MSA. *Id.* at § III.A.

5 **C. Summary of Notice Process**

6 On February 7, 2025, Defendant provided Apex with a class list containing the names,
7 last known mailing addresses, Social Security numbers, telephone numbers, employment dates,
8 and relevant workweek information for each potential Class Member during the Class Period.
9 Nava Decl., ¶ 5. After verifying and updating addresses using the National Change of Address
10 database, Apex mailed the Court-approved Notice Packet to all 1,792 Class Members on March
11 6, 2025. *Id.* ¶¶ 6-7. Following the initial mailing, 75 Notice Packets were returned as
12 undeliverable. *Id.*, ¶ 8. Apex performed a skip trace to locate updated addresses, resulting in the
13 successful re-mailing of 61 Notice Packets. *Id.*, ¶¶ 8-9. Ultimately, 14 Notice Packets remain
14 undeliverable. *Id.*, ¶ 10.

15 Class Members had until May 5, 2025, to submit objections, disputes, or requests for
16 exclusion. Nava Decl., ¶¶ 11-13. As of that date, Apex received no objections, no requests for
17 exclusion, and no disputes, resulting in a 100% participation rate. *Id.*, ¶ 14.

18 **D. Timing of Payments**

19 Defendant will deposit the MSA with the Settlement Administrator within 10 calendar
20 days of the Effective Date, which is defined as the date when both: (a) the Court has entered final
21 approval and judgment under California Rules of Court 3.769(h); and (b) the judgment becomes
22 “Final,” meaning the time for appeal has passed without challenge, or any appeal has been
23 resolved without material modification. *See* Settlement Agreement §§ I.K-L, III.G.1.

24 Within 10 business days of funding, the Settlement Administrator will calculate and
25 distribute Individual Settlement Payments to participating Class Members. Settlement Agreement
26 § III.G.2. Settlement Class Members will have 180 calendar days from the mailing date to cash
27 their checks. *Id.*, § III.G.3. Any uncashed checks remaining after that period will be submitted to
28 the California State Controller’s Unclaimed Property Fund in the name of the intended recipient.

1 *Id.*

2 The Parties submit that the distribution method outlined in the Settlement is reasonable
3 and consistent with a party-selected distribution under California law. Because all uncashed funds
4 will be remitted to the State, no portion of the MSA will remain “unpaid, unclaimed, or
5 abandoned,” and California Code of Civil Procedure § 384 does not apply.

6 **IV. ARGUMENT**

7 **A. The Court Should Confirm Certification of the Settlement Class Under § 382**

8 Under Code of Civil Procedure § 382, a class may be certified if: (1) it is ascertainable,
9 and its members are too numerous for joinder to be practical; (2) the representative and absent
10 class members share a community of interest, and common questions of law and fact predominate
11 over individual issues; (3) the representative’s claims are typical of the class’s claims; and (4) the
12 representative will fairly and adequately represent the class’s interests. *See Richmond v. Dart*
13 *Industries, Inc.* (1981) 29 Cal.3d 462, 470.

14 Here, the Court determined that the Settlement Class satisfies all requirements for class
15 certification for settlement purposes when it granted preliminary approval on January 24, 2025.
16 *See Rowbotham Decl.*, Exhibit 1. Since then, no events have undermined this determination. To
17 the contrary, the Settlement Class has overwhelmingly supported the Settlement, with no
18 objections and 100% participation. *See Nava Decl.*, ¶ 14. Accordingly, the Court should confirm
19 its conditional certification of the Settlement Class.

20 **B. Settlement Merits Final Approval as Fair and Reasonable**

21 California courts strongly favor settlement. *See Stambaugh v. Superior Court* (1976) 62
22 Cal.App.3d 231, 236. Unlike individual settlements, class action settlements require court
23 approval to prevent fraud, collusion, and unfairness to class members. *See Malibu Outrigger Bd.*
24 *of Governors v. Superior Court* (1980) 103 Cal.App.3d 573, 578-79. This process includes
25 preliminary approval, notice to class members, and a final fairness and approval hearing, where
26 class members may be heard regarding the settlement.

1 Now that the Settlement Administrator has provided notice to the Settlement Class,
2 Plaintiff respectfully requests that the Court grant final approval of the Settlement as fair,
3 adequate, and reasonable.

4 ***1. The Settlement Was Reached Through Arm's-Length Negotiations***

5 A settlement is presumptively fair when it is reached through arm's-length bargaining,
6 based on sufficient discovery and investigation to allow counsel and the Court to act intelligently,
7 involves experienced counsel, and faces minimal objections. *Dunk v. Ford Motor Co.* (1996) 48
8 Cal.App.4th 1794, 1802. A trial court has broad discretion in determining whether a proposed
9 settlement is fair under the circumstances. *Mallick v. Superior Court* (1979) 89 Cal.App.3d 434,
10 438. The primary concern in exercising this discretion is ensuring that the settlement is "fair,
11 adequate, and reasonable." *Dunk, supra*, 48 Cal.App.4th at 1801 (internal quotations omitted).

12 Relevant factors include:

13 [T]he strength of plaintiff's case, the risk, expense, complexity, and likely duration
14 of further litigation, the risk of maintaining class action status through trial, the
15 amount offered in settlement, the extent of discovery completed and the stage of
16 the proceedings, the experience and views of counsel, the presence of a
governmental participant, and the reaction of the class members to the proposed
settlement.

17 These factors require balancing, are non-exhaustive, and should be tailored to each case, giving
18 due regard to "what is otherwise a private consensual agreement between the parties." *Id.*

19 "In the context of a settlement agreement, the test is not the maximum amount Plaintiff
20 might have obtained at trial on the complaint, but rather whether the settlement is reasonable
21 under all of the circumstances." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224,
22 250. Settlements inherently involve compromise, and even those providing substantially narrower
23 relief than might be obtained at trial can be reasonable because "the public interest may indeed
24 be served by a voluntary settlement in which each side gives ground in the interest of avoiding
25 litigation." *Id.* (quoting *Air Lines Stewards, etc., Local 550 v. American Airlines, Inc.*, 455 F.2d
26 101, 109 (7th Cir. 1972)).

27 Here, the Settlement resulted from extensive arm's-length negotiations between
28 experienced counsel with the assistance of a respected neutral mediator. The Settlement is fair,

adequate, and reasonable for all Class Members. While Plaintiff maintains that the claims are meritorious, Plaintiff acknowledges the substantial risks and uncertainty in proceeding with class certification and eventually trial, which justify a downward departure from the maximum exposure that Plaintiff calculated each claim carried.

As detailed in Plaintiff's Motion for Preliminary Approval, Defendant contends that its timekeeping and rounding practices are neutral and operate in an even-handed way, which Defendant asserts is lawful under the ruling in *See's Candy Shops, Inc. v. Superior Court* (2012) 210 Cal.App.4th 889. Rowbotham Decl., ¶ 16; *see also AHMC Healthcare, Inc. v. Superior Court* (2018) 24 Cal.App.5th 1014, 1027-29 (finding employer's time-rounding policy lawful where it was neutral "on its face" and "in practice"). Further, Defendant argues that it maintains explicit policies that prohibit employees from working outside of scheduled hours without prior authorization and that its records support this policy. As a result, Defendant contends this claim is unmanageable, as it requires individualized inquiries into each employee's payroll records to determine whether the application of its rounding policy was facially neutral. *Id.* Each of these inquiries would result in an unmanageable series of mini-trials. *Id.* Additionally, Defendant argues that this claim (as it relates to overtime violations) on behalf of union employees is completely preempted due to the applicable CBA and Labor Code § 514 (certain overtime provisions "do not apply to an employee covered by a valid collective bargaining agreement if the agreement expressly provides for the [1] wages, [2] hours of work, and [3] working conditions of the employees, and if the agreement provides [4] premium wage rates for all overtime hours worked and a [5] regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage." (numbering not in original)). *Id.*

Defendant argues it maintains a legally-compliant written meal period policy, that it has always provided meal periods consistent with that policy, and that it is only required to "provide" the opportunity to take meal periods, not "ensure" meal periods are taken. Rowbotham Decl., ¶ 17; *Brinker Restaurant Corp. v. Superior Court*, 54 Cal.4th 1004, 1038 (2012) (rejecting "ensure" standard and holding employers only have to "provide" employees the opportunity to take meal periods). Defendant further maintains that any meal period violations reflected in

1 timekeeping records were the result of employee choice, not Defendant’s policies, thereby
2 precluding liability. Rowbotham Decl., ¶ 17. Defendant further contends that employees validly
3 waived second meal periods on shifts over 10 hours. *Id.* Defendant also argues individualized
4 inquiries will be required to determine why meal periods are late, short, or missed, whether there
5 was a valid waiver, and whether a premium was paid on each such shift, thereby precluding class
6 certification of this claim. *Id.* Additionally, as to union employees, Defendant argues that the
7 applicable CBA included a clear and unmistakable waiver of Labor Code § 512’s meal period
8 protections, thereby precluding liability for this claim. *Id.*; see *Ehret v. WinCo Foods, LLC*
9 (2018) 26 Cal.App.5th 1, 6 (holding that meal period protections may be waived through CBA
10 when the waiver is clear and unmistakable).

11 In response to Plaintiff’s claim that Defendant failed to correctly include the value of non-
12 discretionary shift differentials for working the second and third shift as well as weekly
13 “recognition bonuses” for working 7 days a week when calculating the employees’ respective
14 regular rates of pay for sick pay purposes, Defendant contends that this additional compensation
15 was completely discretionary and based on various and changing criteria. Rowbotham Decl., ¶ 18.
16 As a result, Defendant asserts that this claim is unmanageable, as it requires individualized
17 inquiries into each payment to determine the terms by which each bonus could be earned, whether
18 each employee met those terms, whether the communication of the bonus to employees meets the
19 criteria necessary for a non-discretionary payment, and whether there was actually any
20 underpayment of sick pay on any given week due to the bonus. *Id.* Each of these steps would
21 result in an unmanageable series of mini-trials. *Id.* Additionally, even if sick wages were
22 underpaid, Defendant argues that Labor Code § 246(l)(1) does not include a standalone cause of
23 action. *Id.*

24 For Plaintiff’s derivative claims for wage statement, waiting time, and PAGA penalties,
25 Defendant argues that these claims fail if the underlying claims fail. Rowbotham Decl., ¶ 19; see
26 *Price v. Starbucks Corp.* (2011) 192 Cal.App.4th 1136, 1147 (“Because the underlying causes of
27 action fail, the derivative UCL and PAGA claims also fail.”). Defendant also asserts that Plaintiff
28 cannot establish that the alleged wage statement violations were “knowing and intentional”, or

1 that employees “suffered injury”, as required for wage statement penalties. Rowbotham Decl.,
2 ¶ 19; *see* Labor Code § 226(e)(1). Additionally, Defendant contends that its good faith defenses
3 to Plaintiff’s claims preclude waiting time penalties, which require a “willful” failure to pay
4 wages, and that the Court would likely exercise its discretion to substantially reduce any PAGA
5 penalties awarded. Rowbotham Decl., ¶ 19; *see* 8 Cal. Code Regs. § 13520 (“[A] good faith
6 dispute that any wages are due will preclude imposition of waiting time penalties under Section
7 203.”); Labor Code § 2699(e)(2); *Naranjo v. Spectrum Sec. Servs., Inc.* (2023) 88 Cal.App.5th
8 937; *Thurman v. Bayshore Transit Mgmt., Inc.* (2012) 203 Cal.App.4th 1112, 1135; *Carrington*
9 *v. Starbucks Corp.* (2018) 30 Cal.App.5th 504 (affirming reduction of PAGA penalties to 10% of
10 exposure).

11 These considerations heavily influenced the Settlement negotiations and confirm that the
12 Settlement is fair, adequate, and reasonable given the risks of continued litigation. As detailed in
13 Plaintiff’s Motion for Preliminary Approval, Plaintiff and Class Counsel conducted a detailed
14 analysis of Defendant’s data to determine the calculated damages figures. Only after this
15 comprehensive analysis did the Parties participate in mediation and ultimately accept the
16 mediator’s proposal for the Settlement now before the Court. Thus, while these risks are not
17 exhaustive, they demonstrate that the Settlement is fair, adequate, and reasonable.

18 **2. Settlement Compensation Is Fair, Adequate, and Proportional**

19 Apex will calculate and distribute Individual Settlement Payments based on each
20 participating Class Member’s pro rata share of the Net Settlement Amount, determined by the
21 number of workweeks they worked during the Class Period. *See* Settlement Agreement § III.F.1.
22 The value of each workweek will be calculated by dividing the Net Settlement Amount by the
23 total number of workweeks worked by all Class Members. *Id.* Each Class Member’s payment will
24 then be determined by multiplying this value by the number of workweeks they personally
25 worked. *Id.*

26 In addition, 25% of the \$100,000.00 in PAGA penalties (i.e., \$25,000.00) will be
27 distributed to all 1,776 Aggrieved Employees, regardless of whether they opted out of the class
28 settlement. *See* Settlement Agreement § III.L.5. The per-pay-period value will be calculated by

1 dividing the \$25,000.00 PAGA Employee Fund by the total number of pay periods worked by all
2 Aggrieved Employees. *Id.*, § III.F.3. Each Aggrieved Employee’s individual PAGA Settlement
3 Share will then be calculated by multiplying that per-pay-period value by the number of pay
4 periods they worked during the PAGA Period. *Id.*

5 This distribution methodology fairly compensates Settlement Class Members and
6 Aggrieved Employees in proportion to the extent of their alleged exposure to wage and hour
7 violations, with higher payments allocated to those who worked more weeks or pay periods. The
8 formula is directly tied to the damages and penalties that employees could have recovered at trial
9 and is therefore fair, adequate, and reasonable.

10 **3. The 100% Participation Rate Supports Final Approval**

11 The Settlement Class Members' response is a relevant factor in determining whether the
12 Settlement merits final approval. *Dunk, supra*, 48 Cal.App.4th at 1801. Moreover, the absence of
13 objections and requests for exclusion supports a presumption of fairness. *See 7-Eleven Owners*
14 *for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1152-53 (finding that 9
15 objections and 80 opt-outs from a class of 5,454 demonstrated a “particularly impressive”
16 favorable response).

17 Here, no Class Members objected and no individuals opted out, resulting in a 100%
18 participation rate. Nava Decl., ¶ 14. This overwhelmingly positive response further confirms that
19 the Settlement is fair, adequate, and reasonable.

20 **C. The Requested Fee Award Is Reasonable Under the Percentage Method**

21 Plaintiff and the Settlement Class are entitled to recover attorneys’ fees and costs for their
22 wage claims. *See* Labor Code §§ 226(e), 1194, and 2699(g). A fee award is justified when legal
23 action produces benefits through a voluntary settlement. *See, e.g., Maria P. v. Riles* (1987) 43
24 Cal.3d 1281, 1290-91; *Westside Community for Independent Living, Inc. v. Obledo* (1983) 33
25 Cal.3d 348, 352-53; *Serrano v. Priest* (1977) 20 Cal.3d 25, 34 (finding that when a plaintiff
26 secures a common fund for a group, attorneys’ fees may be awarded from that fund).

27 California state and federal courts routinely award one-third of the settlement fund in class
28 actions. *See Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, fn. 11; *Wershba v. Apple*

1 *Computer, Inc.* (2001) 91 Cal.App.4th 224, 254 (recognizing the “percentage of recovery”
2 method); *In re Pacific Enterprises Securities Litig.*, 47 F.3d 373, 379 (9th Cir. 1995) (affirming
3 33% fee award). The California Supreme Court has also endorsed the “percentage of fund”
4 method. *See Laffitte v. Robert Half Int’l, Inc.* (2016) 1 Cal.5th 480, 506 (holding that the
5 percentage method is a valuable tool and aligns attorney incentives with class interests).

6 The *Laffitte* Court reasoned:

7 The recognized advantages of the percentage method—including relative ease of
8 calculation, alignment of incentives between counsel and the class, a better
9 approximation of market conditions in a contingency case, and the encouragement
10 it provides counsel to seek an early settlement and avoid unnecessarily prolonging
the litigation—convince us the percentage method is a valuable tool that should not
be denied our trial courts.

11 *Id.* at 503 (internal citation omitted); *see also Rawlings v. Prudential-Bache Properties, Inc.*, 9
12 F.3d 513, 516 (6th Cir. 1993) (holding that the percentage of fund method better reflects results
13 achieved than the lodestar method and encourages early settlement); *In re Rite Aid Corp.*
14 *Securities Litig.*, 396 F.3d 294, 300 (3d Cir. 2005) (favoring percentage-of-recovery in common
15 fund cases as it rewards success and penalizes failure). This is consistent with Class Counsel’s
16 experience in similar wage-and-hour class action matters. Rowbotham Decl., ¶ 20.

17 Here, Class Counsel seeks \$933,333.33, representing one-third of the MSA, consistent
18 with *Laffitte* and prevailing class action practices. Rowbotham Decl., ¶ 20. As discussed above,
19 this case presented significant risks to both class certification and merits considerations.
20 Accordingly, it is fair and reasonable to account for these risks in compensating Class Counsel.
21 Class Counsel should also be compensated for the risks involved in undertaking this litigation and
22 for expending considerable effort, all while working on a pure contingency basis. Class Counsel’s
23 efforts include conducting a pre-filing investigation, retaining an expert and analyzing Plaintiff’s
24 claims, conducting legal research and analysis, reviewing documents and data produced by
25 Defendant, building a comprehensive damages model, preparing for and attending mediation,
26 negotiating and preparing the Memorandum of Understanding, long-form Settlement Agreement,
27 and Class Notice documents, preparing the Motions for Preliminary and Final Approval,
28 overseeing the Notice process, and otherwise litigating the case. Rowbotham Decl., ¶ 20. Class

1 Counsel will also expend future attorney time attending the hearing on this Motion, overseeing
2 the disbursement process, and reviewing and filing the Settlement Administrator's final
3 accounting declaration with the Court, among other tasks. *Id.* Given the considerable potential for
4 adverse outcomes in this case, including, but not limited to, losing on class certification, the
5 contingent risk borne by Class Counsel was great. The quality of Class Counsel's work, and the
6 efficacy and dedication with which it was performed, should be equivalently compensated.

7 Class Counsel are highly experienced in both plaintiff and defense-side wage and hour
8 class action litigation and collectively bring decades of experience in class and representative
9 employment matters. *See* Rowbotham Decl., ¶¶ 2-8; *see also* Declaration of Fletcher W. Schmidt.
10 They have been appointed class counsel in numerous certified class actions in both state and
11 federal courts. *Id.* This experience was instrumental in assessing the strengths and weaknesses of
12 Plaintiff's claims, evaluating the risks of continued litigation, and negotiating a fair and adequate
13 resolution. Practice in the narrow field of wage and hour litigation requires skill and knowledge
14 concerning the rapidly evolving substantive state and federal law, as well as the procedural law
15 of class action litigation. In light of Class Counsel's skill, reputation, and substantial experience,
16 the requested fee award of one-third of the Maximum Settlement Amount is fair and reasonable
17 and should be approved.

18 **D. The Requested Cost Reimbursement Warrants Final Approval**

19 Class Counsel incurred and respectfully requests reimbursement of \$46,704.29 in actual
20 litigation costs, which is significantly less than the \$60,000.00 amount preliminarily approved by
21 the Court in the Settlement Agreement. *See* Rowbotham Decl., ¶ 21, Exhibits 1-2, 4³; *see*
22 Settlement, § III.B. The unclaimed portion of litigation costs will be distributed to Settlement
23 Class Members as part of the NSA. *Id.*

24 Class Counsel's request is fair, adequate, and reasonable, as all costs are documented and
25

26
27 ³ Class Counsel retained Dr. J. Michael DuMond, Ph.D., of Berkeley Research Group, to perform
28 expert analyses in support of Plaintiff's claims, including the evaluation of class-wide damages
exposure. Copies of Dr. DuMond's invoices are submitted herewith in support of Plaintiff's
request for reimbursement of litigation costs. Rowbotham Decl., ¶ 21, Exhibit 4 (Expert Invoices).

1 reasonably incurred. Rowbotham Decl., Exhibit 2. Courts routinely approve reimbursement for
2 these types of litigation expenses. *See, e.g., Harris v. Marhoefer* (9th Cir. 1994) 24 F.3d 16, 19
3 (counsel may recover “those out-of-pocket expenses that would normally be charged to a fee-
4 paying client”); *Ashker v. Sayre*, No. 05-03759 CW, 2011 WL 825713, at *3 (N.D. Cal.
5 2011) (“costs of reproducing pleadings, motions, and exhibits are typically billed by attorneys to
6 their fee-paying clients” and are reimbursable); *Trustees of Const. Industry & Laborers Health &*
7 *Welfare Trust v. Redland Ins. Co.* (9th Cir. 2006) 460 F.3d 1253, 1258-59 (legal research costs
8 are reimbursable); *In re Immune Response Securities Litig.* (S.D. Cal. 2007) 497 F.Supp.2d 1166,
9 1177-78 (mediation expenses, legal research, copies, postage, filing fees, messenger, and
10 overnight delivery costs are reimbursable).

11 Notably, no Settlement Class Member objected to the Settlement, including Class
12 Counsel’s request for up to \$60,000.00 in litigation cost reimbursement. Nava Decl., ¶ 12.
13 Because the requested expenses were reasonably incurred, and no objections were raised, the
14 Court should grant Class Counsel’s request for \$46,704.29 in actual litigation cost reimbursement.

15 **E. The Court Should Finally Approve the Settlement Administration Costs**

16 Plaintiff also requests that the Court approve \$16,990.00 in administration costs to Apex
17 Class Action, LLC, the Court-appointed Settlement Administrator. Rowbotham Decl., ¶ 22; Nava
18 Decl., ¶ 19, Exhibit B (Apex Bid). As detailed in the Declaration of Madely Nava, Apex
19 performed all essential duties required to administer the Settlement and implement the Court-
20 approved Notice process. Specifically, Apex verified and updated mailing addresses based on the
21 class data provided by Defendant, formatted and mailed Notice Packets to all 1,792 Class
22 Members, calculated each Individual Settlement Payment, and provided the Parties with regular
23 status updates throughout the notice period. Apex also performed additional administrative tasks
24 necessary to effectuate the Settlement, including handling skip tracing, exclusion tracking, and
25 dispute resolution procedures. *See generally* Nava Decl. Accordingly, the requested
26 administration costs are fair, reasonable, and consistent with the scope of work required under the
27 Settlement Agreement and should be granted final approval.
28

1 **F. The Court Should Approve the Requested Service Award**

2 Courts routinely approve service payments to compensate named plaintiffs for their efforts
3 and the risks they assume in class action litigation. *See, e.g., Bell v. Farmers Ins. Exchange*
4 (2004) 115 Cal.App.4th 715, 726 (upholding service payments for efforts in bringing the case);
5 *Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294 (approving a \$50,000.00
6 service payment).

7 Here, Plaintiff seeks a Class Representative Service Award of \$7,500.00, which is
8 reasonable given his substantial efforts in this case, the risks he undertook on behalf of the
9 Settlement Class, and his agreement to a general release of claims, including a waiver of
10 California Civil Code § 1542. Rowbotham Decl., ¶ 23; Figueroa Decl., ¶ 6-7; Settlement
11 Agreement §§ III.D.1, III.I.2. This amount is well within the range of service awards regularly
12 approved by California courts. *See, e.g., Fidelina Rangel v. Forest River, Inc.*, Case No.
13 CIVD1706616, San Bernardino County Superior Court, Hon. David Cohn, presiding (awarding
14 \$10,000 enhancement to the named plaintiff); *Anthony Controulis, et al. v. Anheuser-Busch, LLC*,
15 Case No. BC518518, Los Angeles County Superior Court (awarding \$10,000 enhancement to
16 each of two named plaintiffs); *Damontae Levinston, et al. v. Commerce Distribution Company*
17 *LLC, et al.*, Case No. 22STCV05730, Los Angeles County Superior Court (awarding \$10,000
18 enhancement to each of four named plaintiffs); *Torres Dawson, et al. v. Wonderful Pistachios*
19 *and Almonds, LLC*, Kern County Superior Court, Case No. BCV-17-100848 (same); *Koreisz v.*
20 *On Q Financial Inc.*, Ventura County Superior Court, Case No. 56-2018-00517126-CU-OE-VTA
21 (same).

22 Plaintiff's contributions to this case were extensive. Specifically, Plaintiff provided
23 factual information and documents to his attorneys, identified potential witnesses, participated in
24 multiple meetings with his attorneys to discuss the claims and theories at issue in the litigation,
25 spent a significant amount of time communicating with Defendant's employees both before and
26 after the mediation, and made himself available the entire day of mediation to help resolve factual
27 disputes. Rowbotham Decl., ¶ 23; Figueroa Decl., ¶¶ 6-7. Additionally, Plaintiff undertook
28 significant risks by agreeing to serve as the named plaintiff in this case (as potential employers

1 can now search his name and determine he has previously sued an employer), and he agreed to a
2 general release of all claims subject to a waiver of California Civil Code § 1542, which is a
3 broader general release than what other Class Members provided. Rowbotham Decl., ¶ 23.

4 Plaintiff spent at least 25 hours performing these duties for the Settlement Class. Figueroa
5 Decl., ¶ 7. Plaintiff's participation directly benefited the Settlement Class, as they would not be
6 receiving compensation absent his decision to pursue these claims. Rowbotham Decl., ¶ 23.
7 Moreover, after receiving notice of the proposed Service Award, no Settlement Class Member
8 objected. Nava Decl., ¶ 12. Accordingly, Plaintiff's request for a \$7,500.00 Service Award is fair,
9 reasonable, and justified and should be finally approved.

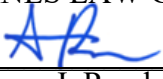
10 **V. CONCLUSION**

11 For the foregoing reasons, Plaintiff respectfully requests that the Court grant this Motion
12 in its entirety and enter the [Proposed] Judgment and Order Granting Final Approval of Class
13 Action Settlement, Attorneys' Fees and Costs, and Class Representative Service Award,
14 submitted herewith.

15 Dated: May 7, 2025

Respectfully submitted,
HAINES LAW GROUP, APC

16 By:



Andrew J. Rowbotham
Attorneys for Plaintiff