

Benjamin H. Haber (SBN 315664)
benjamin.haber@wilshirelawfirm.com

Daniel J. Kramer (SBN 314625)
daniel.kramer@wilshirelawfirm.com

Alan Wilcox (SBN 287476)
alan.wilcox@wilshirelawfirm.com

Bradford Smith (SBN 345879)
bradford.smith@wilshirelawfirm.com

WILSHIRE LAW FIRM, PLC
660 S. Figueroa Street, Sky Lobby
Los Angeles, CA 90017
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS**

JAVIER ALVARADO, individually, on behalf
of all others similarly situated,

Plaintiff,

v.

NORTHSTAR CHEMICAL, INC., an unknown
entity; PACIFIC STAR CHEMICAL, LLC, an
unknown entity; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: CV-23-001538

CLASS & REPRESENTATIVE ACTION

[Assigned for all purposes to: Hon. Sonny S.
Sandhu, Dept. 24]

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

PRELIMINARY APPROVAL HEARING

Date: October 28, 2025

Time: 8:30 a.m.

Dept: 24

Complaint filed: March 27, 2023

Trial date: Not Set

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

2 PLEASE TAKE NOTICE that on October 28, 2025 at 8:30 a.m., in Department 24 of the
3 Stanislaus County Superior Court, located at 801 10th Street, Modesto, CA 94612, pursuant to
4 Code of Civil Procedure § 382 and California Rules of Court 3.769, *et seq.*, Plaintiff Javier
5 Alvarado (“Plaintiff”) will move the Court for an Order granting preliminary approval of the
6 proposed class action settlement between Plaintiff and Defendant Pacific Star Chemical, LLC dba
7 Northstar Chemical, Inc. (“Defendant”). Plaintiff further moves the Court for an Order:

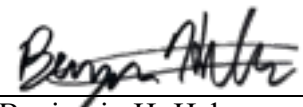
- 8 1. Granting preliminary approval of the Class Action and PAGA Settlement Agreement;
9 2. Certifying a Class for settlement purposes;
10 3. Approving the Notice and the plan for distribution of the Notice;
11 4. Appointing Plaintiff Javier Alvarado as Class Representatives for settlement purposes;
12 5. Appointing Plaintiff’s Counsel, Benjamin H. Haber and Daniel J. Kramer of Wilshire
13 Law Firm, PLC, as Class Counsel for settlement purposes;
14 6. Appointing Apex Class Action Administration as the Settlement Administrator; and
15 7. Scheduling a final approval hearing.

16 The motion will be based upon this notice, the attached memorandum of points and
17 authorities, the Declaration of Benjamin H. Haber, filed concurrently herewith, the records and
18 files in this action, and any other further evidence or argument that the Court may properly receive
19 at or before the hearing.

20 Respectfully submitted,

21 Dated: August 11, 2025

WILSHIRE LAW FIRM

22 By: 
23 Benjamin H. Haber
24 Daniel J. Kramer

Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Javier Alvarado (“Plaintiff”) seeks preliminary approval of a proposed \$190,000.00 non-reversionary, wage and hour class action settlement with Defendant Pacific Star Chemical, LLC dba Northstar Chemical, Inc. (“Defendant,” and together with Plaintiff, the “Parties”). The Class Action and PAGA Settlement Agreement (“Settlement” or “Settlement Agreement”) will provide substantial monetary payments to approximately 50 class members. And, as set forth more fully below, the proposed Settlement satisfies all the criteria for settlement approval under California law. The Settlement was reached after extensive investigation, discovery, and negotiations. The negotiations were at arms-length and were facilitated by an experienced class action mediator, Jason Marsili, Esq., over the course of a full day of mediation that was conducted via Zoom. After extensive negotiations and discussions regarding the strengths and weaknesses of Plaintiff’s claims and Defendant’s defenses, the Parties reached a fully executed settlement on July 15, 2025. Accordingly, Plaintiff request that the Court preliminarily approve the proposed Settlement, certify the proposed settlement class, approve the proposed notice, and set a final approval hearing.

II. SUMMARY OF THE LITIGATION AND SETTLEMENT

A. Plaintiff’s Claims

This is a wage and hour class and Private Attorneys General Act (“PAGA”) (Cal. Lab. Code §§ 2699, *et seq.*) representative action. Plaintiff and the putative class members worked in California as hourly-paid or non-exempt employees for Defendant during the class period. Defendant specializes in the distribution of corrosive chemicals and water treatment services. (Declaration of Benjamin H. Haber in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement [“Haber Decl.”], ¶ 2.)

Plaintiff alleges that Defendant’s payroll, timekeeping, and wage and hour practices resulted in Labor Code violations. Plaintiff alleges that Defendant failed to pay for all hours worked. Plaintiff further alleges that Defendant failed to: pay all sick time; provide employees with legally compliant meal and rest periods; and Defendant failed to reimburse business expenses. Based on these allegations, Plaintiff asserts related claims for failure to pay wages

1 during employment, failure to pay all final wages at termination, failure to provide accurate
2 wage statements, failure to keep requisite payroll records, unfair business practices, and civil
3 penalties under PAGA. (Haber Decl., ¶ 3.)

4 On March 27, 2023, Plaintiff filed a putative wage and hour class action complaint
5 against Defendant for: (1) failure to pay minimum and straight time wages (Labor Code §§ 204,
6 1194, 1194.2, and 1197); (2) failure to pay overtime wages (Labor Code §§ 1194 and 1198); (3)
7 failure to provide meal periods (Labor Code §§ 226.7 and 512); (4) failure to authorize and
8 permit rest periods (Labor Code § 226.7); (5) failure to timely pay final wages at termination
9 (Labor Code §§ 201-203); (6) failure to provide accurate itemized wage statements (Labor Code
10 § 226); (7) failure to indemnify employees for expenditures (Labor Code § 2802); and (8) unfair
11 business practices (Business and Professions Code §§ 17200, *et seq.*). (Haber Decl., ¶ 4.)
12 Plaintiff sent a notice to Defendant and the California Labor & Workforce Development Agency
13 (“LWDA”) alleging similar wage and hour violations pursuant to the PAGA on April 13, 2023.
14 (*Id.*) On [date], Plaintiff filed a First Amended Class and Representative Action Complaint
15 adding the PAGA cause of action to this matter. (*Id.*)

16 **B. Discovery and Investigation**

17 Following the filing of the initial complaint, the Parties exchanged documents and
18 information before mediating this action. Defendant produced a sample of time and pay records
19 for class members. Defendant also provided documents of its wage and hour policies and
20 practices during the class period, and information regarding the total number of current and
21 former employees in its informal discovery responses. (Haber Decl., ¶ 5.)

22 After reviewing documents regarding Defendant’s wage and hour policies and practices
23 and analyzing Defendant’s timekeeping and payroll records, Class Counsel was able to evaluate
24 the probability of class certification, success on the merits, and Defendant’s maximum monetary
25 exposure for all claims. (Haber Decl., at ¶ 6.) Class Counsel also investigated the applicable
26 law regarding the claims and defenses asserted in the litigation. (*Id.*) Class Counsel reviewed
27 these records and prepared a damage analysis prior to mediation. (*Id.*) This extensive
28 investigation and discovery allowed Class Counsel to act intelligently and effectively in

negotiating the Settlement.

C. Settlement Negotiations

On July 24, 2024, the Parties participated in private mediation with experienced class action mediator Jason Marsili, Esq. (Haber Decl., ¶ 7.) The mediation was conducted via Zoom. The settlement negotiations were at arm's length and, although conducted in a professional manner, were adversarial. The Parties went into the mediation willing to explore the potential for a settlement of the dispute, but each side was also prepared to litigate their position through trial and appeal if a settlement had not been reached. (*Id.*) After extensive negotiations and discussions regarding the strengths and weaknesses of Plaintiff's claims and Defendant's defenses, the Parties reached a fully executed settlement on July 15, 2025, the material terms of which are encompassed within the Settlement Agreement. (*Id.* at ¶ 8, Ex. 1, Settlement Agreement.)

Class Counsel has conducted a thorough investigation into the facts of this case. Based on the foregoing discovery and their own independent investigation and evaluation, Class Counsel is of the opinion that the Settlement is fair, reasonable, and adequate and is in the best interests of the Settlement Class Members in light of all known facts and circumstances, the risk of significant delay, the defenses that could be asserted by Defendant both to certification and on the merits, trial risk, and appellate risk. (Haber Decl., at ¶ 14.)

Indeed, the \$190,000.00 Settlement represents approximately **68%** of the **realistic maximum recovery** of \$281,340.39. (Haber Decl., at ¶ 23.) Although Class Counsel estimated that Defendant's maximum potential liability for all claims was approximately \$1.4 million, when the risk of prevailing at certification and trial are factored into the equation, Class Counsel believes that Defendant's realistic exposure was \$281,340.39, meaning the Settlement achieves a significant recovery. (*Id.* at ¶¶ 14-27.) Considering the risk and uncertainty of prevailing at class certification and at trial, this is an excellent result for the Class. (*Id.* at ¶ 25.) Indeed, because of the proposed Settlement, class members will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment.

///

1 **D. Key Terms of the Proposed Settlement**

2 The Settlement’s key terms include:

3 1. Class Definition: For settlement purposes only, the Parties agree to the certification of
4 a class pursuant to California Code of Civil Procedure § 382 defined as: “all current and former
5 hourly-paid or non-exempt employee who worked for Defendant at any time from March 27, 2019,
6 through September 1, 2024, (“the Class Period”).” (Settlement, § 1.5.)

7 2. Class Period: “means the period from March 27, 2019 to September 1, 2024.”
8 (Settlement, § 1.12.)

9 3. Participating Class Members: “means a Class Member who does not submit a valid and
10 timely Request for Exclusion from the Settlement.” (Settlement, § 1.35.)

11 4. Aggrieved Employees: “means all current and former hourly-paid or non-exempt
12 employee who worked for Defendant at any time from April 13, 2022, through September 1, 2024
13 (the “PAGA Period”).” (Settlement, § 1.4.)

14 5. PAGA Period: “means the period from April 13, 2022 to September 1, 2024.”
15 (Settlement, § 1.31.)

16 6. Gross Settlement Amount: “means One Hundred Ninety Thousand Dollars and Zero
17 Cents (\$190,000.00) which is the total amount Defendant agrees to pay under the Settlement except
18 as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual
19 Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees,
20 Class Counsel Expenses, Class Representative Service Payment and the Administrator’s
21 Expenses.” (Settlement, § 1.22.)

22 7. Uncashed Checks: “For any Class Member whose Individual Class Payment check or
23 Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator
24 shall transmit the funds represented by such checks to a Court-approved nonprofit organization or
25 foundation consistent with Code of Civil Procedure Section 384, subd. (b) (“Cy Pres Recipient”),
26 Legal Aid at Work. The Parties, Class Counsel and Defense Counsel represent that they have no
27 interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.” (Settlement,
28 § 4.4.3.)

1 8. Release by Participating Class Members: “All Participating Class Members, on behalf
2 of themselves and their respective former and present representatives, agents, attorneys, heirs,
3 administrators, successors, and assigns, release Released Parties from all claims charges,
4 complaints, liens, demands, causes of action, obligations, damages and liabilities, that each
5 participating class member had, now has, or may hereafter claim to have that occurred during the
6 Class Period against Defendant Pacific Star Chemical, LLC, its agents, officers, employees,
7 directors, owners, subsidiaries, insurers, DBA’s, including Northstar Chemical, Inc., affiliates and
8 predecessors, successors, and parent companies, (“Released Parties”) and that were asserted in this
9 Action, or that arise from or could have reasonably been asserted based on any of the facts alleged
10 in Plaintiff’s Complaint, regardless of whether such claims arise under federal, state and/or local
11 law, statute, ordinance, regulation, common law, or other source of law (the “Released Claims”).
12 The Released Claims specifically include, but are not limited to Labor Code §§ 201, 202, 203, 204,
13 210, 246, 226, 226.7, 510, 512, 1174, 1182.12, 1194, 1194.2, 1197, and 2802, and the related IWC
14 Wage Orders and Business & Professions Code §§ 17200, et seq. claims based on alleged violation
15 of these Labor Code and Wage Order provisions, and all other claims, such as those under the
16 California Labor Code, Wage Orders, regulations, and/or provisions of law, that could have been
17 pleaded based on the facts asserted in the Action, including (1) Unfair Competition arising from
18 the alleged labor code violations, (2) Unpaid Minimum Wage; (3) Unpaid Overtime; (4) Failure to
19 Provide Meal Periods; (5) Failure to Provide Rest Breaks; (6) Inaccurate Wage Statements; (7)
20 Late Payment of Wages; (8) Unreimbursed Business Expenses; (9) Failure to Pay All Wages Upon
21 Separation; and (10) all interest, fees, and costs (“Released Claims”). The Released Claims
22 expressly exclude claims for PAGA penalties, which are separately released herein below. The
23 enumeration of these specific statutes, shall neither enlarge nor narrow the scope of res judicata
24 based on the facts alleged in any Complaint on file in the Action. Except as set forth in Section
25 5.3 of this Agreement, Participating Class Members do not release any other claims, including
26 claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing
27 Act, unemployment insurance, disability, social security, workers’ compensation, or claims based
28 on facts occurring outside the Class Period.” (Settlement, § 5.2.) This Release will be deemed

effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments. (Settlement, § 5.)

9. Release by Aggrieved Employees: “All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice, including any and all claims involving any alleged failure to pay minimum wages or overtime, failure to provide meal and rest periods, failure to provide accurate wage statements, failure to pay all wages due at separation, and failure to reimburse business expenses, including Labor Code sections 201, 202, 203, 204, 210, 216, 223, 225.5, 226, 226.3, 226.7, 245-248.5, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197.1, 1198, 1199, 2699, 2699.3, 2802, 2810.5 during the PAGA Period. Aggrieved Employees only release these claims for the duration of the PAGA Period.” (Settlement, § 5.3.)

10. No Reversion: “None of the Gross Settlement Amount will revert to Defendant.” (Settlement, § 3.1.)

11. PAGA Allocation: “PAGA Penalties in the amount of Twenty Thousand Dollars (\$20,000.00) to be paid from the Gross Settlement Amount, with 75% (\$15,000.00) allocated to the LWDA PAGA Payment and 25% (\$5,000.00) allocated to the Individual PAGA Payments.” (Settlement, § 3.2.5.) Class Counsel submitted the proposed settlement to the LWDA before filing this Motion for Preliminary Approval. (Haber Decl., ¶ 9.)

12. Net Settlement Amount: “means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.” (Settlement, § 1.28.)

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1 13. Distribution Formula: “An Individual Class Payment calculated by (a) dividing the
2 Net Settlement Amount by the total number of Workweeks worked by all Participating Class
3 Members during the Class Period and (b) multiplying the result by each Participating Class
4 Member’s Workweeks.” (Settlement, § 3.2.4.) As to PAGA: “The Administrator will calculate
5 each Individual PAGA Payment by (a) dividing the amount of Aggrieved Employees’ 25% share
6 of PAGA Penalties (\$5,000.00) by the total number of PAGA Period Pay Periods worked by all
7 Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved
8 Employees’ PAGA Period Pay Periods.” (Settlement, § 3.2.5.1.)

9 14. Tax Allocation: “10% of each Participating Class Member’s Individual Class
10 Payment will be allocated to settlement of wage claims (the “Wage Portion”). The Wage Portions
11 are subject to tax withholding and will be reported on an IRS W-2 Form. The remaining 90% of
12 each Participating Class Member’s Individual Class Payment will be allocated to settlement of
13 claims for interests and penalties (the “Non-Wage Portion”). The Non-Wage Portions are not
14 subject to wage withholdings and will be reported on IRS 1099 Forms.” (Settlement, § 3.2.4.1.)

15 15. Class Representative Service Awards: “Class Representative Service Payment to
16 the Class Representative of not more than Ten Thousand Dollars (\$10,000.00) (in addition to any
17 Individual Class Payment and Individual PAGA Payment the Class Representative is entitled to
18 receive as a Participating Class Member).” (Settlement, § 3.2.1.)

19 16. Attorneys’ Fees and Costs: “A Class Counsel Fees Payment of not more than 33 and
20 1/3%, which is currently estimated to be Sixty-Three Thousand Three Hundred Thirty-Three
21 Dollars and Thirty-Three Cents (\$63,333.33) and a Class Counsel Litigation Expenses Payment of
22 not more than Twenty Thousand Dollars (\$20,000.00). Defendant will not oppose requests for
23 these payments provided that do not exceed these amounts.” (Settlement, § 3.2.2.)

24 17. Notice of Proposed Class Action Settlement: The Notice sets forth in plain terms, a
25 statement of the case, the terms of the Settlement Agreement, the approximate amount of attorneys’
26 fees, costs, and service awards being sought, and an explanation of how the settlement allocations
27 are calculated. (Settlement, Ex. A, Class Notice.) Class Members will be notified by first-class
28 mail of the settlement. (Settlement, § 4.4.1.) Apex Class Action Administration, the proposed

1 Settlement Administrator, will undertake its best efforts to ensure that the notice is provided to the
2 current addresses of class members, including conducting a national change of address search and
3 re-mailing the notice to updated addresses. (*Id.*; Haber Decl., ¶ 10, Ex. 2 [Settlement Administrator
4 Bid].)

5 **III. DISCUSSION**

6 To prevent fraud, collusion, or unfairness to the class, the settlement of a class action
7 requires court approval. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800-01.) This
8 Court has wide discretion to determine whether the proposed settlement is fair. (*Mallick v. Super.*
9 *Ct.* (1979) 89 Cal.App.3d 434, 438.) Fairness is presumed when: (1) the settlement is reached
10 through arm's-length bargaining; (2) investigation is sufficient to allow counsel and the court to
11 act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors
12 is small. (*Dunk*, 48 Cal.App.4th at p. 1800.)

13 In considering whether a settlement is reasonable, the trial court should consider relevant
14 factors, which may include the strength of plaintiff's case, the risk, expense, complexity and likely
15 duration of further litigation, the risk of maintaining class action status through trial, the amount
16 offered in settlement, the extent of discovery completed and the stage of the proceedings, the
17 experience and views of counsel, the presence of a governmental participant, and the reaction of
18 the class members to the proposed settlement. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168
19 Cal.App.4th 116, 128.) In order to approve a class action settlement, the court must satisfy itself
20 that the class settlement is within the "ballpark" of reasonableness. (*Id.* at p. 133.) The record
21 need not contain an explicit statement of the maximum theoretical recovery. (*Munoz v. BCI Coca-*
22 *Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 408-9 [holding that *Kullar* does not
23 require "an explicit statement of the maximum amount the plaintiff class could recover if it
24 prevailed on all its claims", but instead, only an "understanding of the amount that is in controversy
25 and the realistic range of outcomes of the litigation."].)

26 As discussed below, Class Counsel has provided information exceeding the threshold
27 required to provide this Court with materials and information necessary to determine that the
28 proposed settlement is fair, adequate, and reasonable.

1 **A. The Settlement Is Fair, Reasonable, Adequate, and the Product of**
2 **Investigation, Litigation, and Negotiation**

3 **1. The Settlement Is the Product of Discovery, Investigation, and Informed**
4 **and Non-Collusive Arm’s-Length Negotiations**

5 Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless
6 evidence to the contrary is offered; thus, there is a presumption here that the negotiations were
7 conducted in good faith. (Conte & Newberg, *Newberg on Class Actions* (3rd Ed.) § 11.51.)
8 Settlement is favored, and settlement agreements are realistically assessed. (*Stamburgh v. Super.*
9 *Ct.* (1976) 62 Cal.App.3d 231, 236; *Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447 [“The
10 fact that a plaintiff might have received more if the case had been fully litigated is no reason not
11 to approve the settlement.”].)

12 The Settlement was reached following extensive negotiations following one day of
13 mediation with experienced employment mediator, Jason Marsili, Esq. (Haber Decl., ¶ 7.) The
14 settlement negotiations were at arm’s length and, although conducted in a professional manner,
15 were adversarial. (*Id.*) The Parties went into the mediation willing to explore the potential for a
16 settlement of the dispute, but each side was also prepared to litigate their or its position through
17 trial and appeal if a settlement had not been reached. (*Id.*) After extensive negotiations and
18 discussions regarding the strengths and weaknesses of Plaintiff’s claims and Defendant’s defenses,
19 the Parties reached an agreement. (Haber Decl., ¶ 8.)

20 Prior to reaching this settlement, Class Counsel conducted informal discovery concerning
21 the claims set forth in the litigation, such as a sample of class member timekeeping and payroll
22 records, Defendant’s policies and procedures concerning the payment of wages, the provision of
23 meal and rest breaks, issuance of wage statements, and providing all wages at separation, as well
24 as information regarding the number of putative class members and the mix of current versus
25 former employees, the wage rates in effect, and the amount of meal and rest period premium wages
26 paid to class members. (*Id.* at ¶¶ 5-6.) In conjunction with their extensive factual investigation,
27 Class Counsel investigated the applicable law regarding the claims and defenses asserted in the
28 litigation. (*Id.*) Thus, Plaintiff and her counsel were able to act intelligently and effectively in

1 negotiating the proposed Settlement. (*Id.*)

2 Class Counsel also has considerable experience and has demonstrated competence with
3 litigating wage and hour class actions. (*Id.* at ¶¶ 38-47.) Again, this supports the position that the
4 terms of the Settlement are premised on objective evidence that has been considered and weighed
5 in light of the risks, expenses, and time consumption to both sides of continued litigation of this
6 action.

7 **2. The Settlement Is Fair and Reasonable in Light of the Parties’**
8 **Respective Legal Positions**

9 A settlement is not judged against what might plaintiff recover had he prevailed at trial, nor
10 does the settlement have to provide 100% of the damages sought to be fair and reasonable.
11 (*Wershba v. Apple Computers, Inc.* (2001) 91 Cal.App.4th 224, 246, 250 [“Compromise is inherent
12 and necessary in the settlement process . . . even if the relief afforded by the proposed settlement
13 is substantially narrower than it would be if the suits were to be successfully litigated, this is no
14 bar to a class settlement because the public interest may indeed be served by a voluntary settlement
15 in which each side gives ground in the interest of avoiding litigation.”].)

16 This settlement avoids the risks and the accompanying expense of further litigation. (Haber
17 Decl., ¶ 25.) While Plaintiff is confident in the merits of his claims, a legitimate controversy exists
18 as to each cause of action. (*Id.* at ¶ 24.) Plaintiff also recognizes that proving the amount of wages
19 due to each class member would be an expensive, time-consuming, and uncertain proposition. (*Id.*)

20 The proposed settlement of \$190,000.00 therefore represents a substantial recovery when
21 compared to Plaintiff’s reasonably forecasted recovery. (*Id.* at ¶¶ 14-27.) Because of the proposed
22 Settlement, class members will receive timely, guaranteed relief and will avoid the risk of an
23 unfavorable judgment. When considering the risks of litigation, the uncertainties involved in
24 achieving class certification, the burdens of proof necessary to establish liability, the probability
25 of appeal of a favorable judgment, it is clear that the settlement amount of \$190,000.00 is within
26 the “ballpark” of reasonableness, and preliminary settlement approval is appropriate. (*Id.*) ***Indeed,***
27 ***each Settlement Class Member is eligible to receive an average net benefit of approximately***
28 ***\$1,333.33.*** (*Id.* at ¶ 26.)

1 **3. Class Counsel Has Extensive Experience in Class Action Litigation**

2 The settlement negotiations were conducted by highly capable and experienced counsel.
3 Class Counsel have a strong record of vigorous and effective advocacy for their clients and are
4 experienced in handling complex wage and hour class action litigation. (Haber Decl., ¶¶ 38-47.)
5 Although Plaintiff and his counsel were prepared to litigate the claims alleged in the litigation,
6 they support the proposed Settlement as being in the best interests of the class.

7 **B. The Proposed Class Notice of Settlement Should Be Approved**

8 The proposed Notice, in the form attached to the Settlement Agreement, should be approved
9 for dissemination to the class. The Notice informs the class of the terms of the settlement and of
10 their rights to be excluded from the settlement. And if there are class members who wish to object
11 to this proposed class action settlement, they will have the opportunity to file their objections and
12 be heard at the Final Approval Hearing. Accordingly, the proposed Notice meets all the
13 requirements of Rule 3.769(f) of the California Rules of Court.

14 **C. The Proposed Attorneys' Fees and Costs Are Reasonable**

15 Under the Settlement, subject to the Court's approval, Defendant agrees to pay Class
16 Counsel reasonable attorneys' fees in amount of \$63,333.33, which is 1/3 of the Gross Settlement
17 Amount, and up to \$20,000.00 in costs. These amounts are disclosed to all class members in the
18 proposed Notice and are reasonable.

19 **1. Class Counsel Request an Award of Fees Based on the "Common Fund"**
20 **Method**

21 California courts have long awarded attorneys' fees as a percentage of the benefit created
22 by counsel in creating a common fund. The California Supreme Court held that "when a number
23 of persons is entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs
24 for the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs
25 may be awarded attorneys' fees out of the fund." (*Serrano v. Priest* (1977) 20 Cal.3d 25, 34,
26 quoting *D'Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1.)

27 Class Counsel seeks an award of attorneys' fees on the "percentage of recovery/common
28 fund" theory. The purpose of this approach is to "spread litigation costs proportionally among all

1 the beneficiaries so that the active beneficiary does not bear the entire burden alone.” (*Vincent v.*
2 *Hughes Air West, Inc.* (9th Cir. 1977) 557 F.2d 759, 769.) In *Quinn v. State of California* (1995)
3 15 Cal.3d 162, the California Supreme Court stated: “[O]ne who expends attorneys’ fees in
4 winning a suit which creates a fund from which others derive benefits may require those passive
5 beneficiaries to bear a fair share of the litigation costs.” (*Id.* at p. 167.) Similarly, in *City and*
6 *County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court recognized
7 that the common fund doctrine has been applied “consistently in California when an action brought
8 by one party creates a fund in which other persons are entitled to share.” (*Id.* at p. 110.)

9 The California Supreme Court affirmed in *Laffitte v. Robert Half Int’l Inc.* (2016) 1 Cal.5th
10 480 that, “when class action litigation establishes a monetary fund for the benefit of the class
11 members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the
12 court may determine the amount of a reasonable fee by choosing an appropriate percentage of the
13 fund created.” (*Id.* at p. 503.) The court explained: “The recognized advantages of the percentage
14 method—including relative ease of calculation, alignment of incentives between counsel and the
15 class, a better approximation of market conditions in a contingency case, and the encouragement
16 it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation—
17 convince us the percentage method is a valuable tool that should not be denied our trial courts.”
18 (*Id.* [internal citations omitted].)

19 **2. The Requested Fee Award Is in Line with Typical Cases**

20 According to a leading treatise on class actions, “[n]o general rule can be articulated on
21 what is a reasonable percentage of a common fund. Usually 50% of the fund is the upper limit on
22 a reasonable fee award from a common fund in order to assure that the fees do not consume a
23 disproportionate part of the recovery obtained for the class, although somewhat larger percentages
24 are not unprecedented.” (*See* Conte & Newberg, *Newberg on Class Actions* (3rd Ed.) § 14.03.)
25 Attorneys’ fees that are fifty percent of the fund are typically considered the upper limit, with thirty
26 to forty percent commonly awarded in cases where the settlement is relatively small. (*Id.*; *see also*
27 *Van Vranken v. Atlantic Richfield Company* (N.D. Cal. 1995) 901 F. Supp. 294 [stating that most
28 cases where 30-50 percent was awarded involved “smaller” settlement funds of under \$10

million].)

Here, Plaintiff requests attorneys' fees equal to 1/3 of the Gross Settlement Amount, which is in line with the prevailing guidelines established in California case law and academic literature and is consistent with awards in California. (*See Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11 ["Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery."].) Accordingly, Plaintiff respectfully requests that the Court approve the attorneys' fees as negotiated by the Parties and requested herein.

3. This Matter Involves A "Fee-Shifting" Provision of the Labor Code

Labor Code § 1194 (a) provides for the recovery of "minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit." Under this section, Plaintiff would be permitted to recover their actual attorneys' fees, even if those fees were larger than the total class recovery at the conclusion of this case. This settlement is beneficial in that it limits the risk of continued expenses and consumption of time, energy, and resources facing Defendant while at the same time rewarding Class Counsel for their decision to assume risk by taking on this matter. In fact, prosecution of this action involved significant financial risk for Class Counsel. (Haber Decl., ¶¶ 36-37.) Class Counsel undertook this matter solely on a contingent basis, with no guarantee of recovery. (*Id.*) Once counsel undertook this litigation on behalf of the Class, Class Counsel committed to pursue it to its conclusion, placing its fiduciary duty to the Class ahead of all other concerns.

4. The Experience, Reputation and Ability of Class Counsel Support the Requested Fee Award

As demonstrated by their past experience in pursuing class actions on behalf of consumers and employees, Class Counsel possess considerable expertise in litigating class actions. (Haber Decl., ¶¶ 38-47.) Class Counsel has been involved as lead counsel or co-counsel in several class actions that resulted in millions in recovery. (*Id.*) Because it is reasonable to compensate class counsel commensurate with their skill, reputation and experience, Class Counsel's requested fee award is supported here.

1 Class Counsel's experience in wage and hour class actions was integral in evaluating the
2 strengths and weaknesses of the case against Defendant and the reasonableness of the settlement.
3 Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning
4 the rapidly evolving substantive law (state and federal), as well as the procedural law of class
5 action litigation. Based on these and other factors, Class Counsel has frequently received fee
6 awards of this percentage from the gross recovery for the class. Therefore, the requested fee award
7 is reasonable and fair.

8 **D. The PAGA Allocation is Reasonable**

9 Where settlements negotiate a good faith amount for PAGA penalties and "there is no
10 indication that this amount was the result of self-interest at the expense of other" class members,
11 such amounts are generally considered reasonable. (*Hopson v. Hanesbrands Inc.* (N.D. Cal. Apr.
12 3, 2009) No. CV-08-0844 EDL, 2009 WL 928133 at *1, 9.) Courts have approved amounts for
13 PAGA penalties in the range of zero to two percent of the total maximum amount of the Settlement.
14 (*Id.* [approving a PAGA payment of 0.3%, or \$1,500]; *see also Jack v. Hartford Fire Ins. Co.* (S.D.
15 Cal. Oct. 13, 2011) 2011 WL 4899942 at *6 [approving a PAGA payment of 0.25%]; *McKenzie v.*
16 *Fed. Express Corp.* (C.D. Cal. Jan. 23, 2012) 2012 WL 12882124 at *5 [acknowledging that courts
17 approve PAGA claim settlements in the range of zero to two percent of the total settlement].) Here,
18 the amount to be paid to the LWDA is larger than many other PAGA settlement amounts approved
19 by the courts where seemingly nominal amounts were allocated for such claims. (*See, e.g., Zubia*
20 *v. Shamrock Foods Co.* (C.D. Cal. Dec. 21, 2017) No. CV1603128ABAGRX, 2017 WL 10541431,
21 at *14 [approving a PAGA settlement of 0.1%]; *Hopson, supra*, 2008 WL 3385452, at *1
22 [approving a PAGA settlement of 0.3% or \$1,500]; *Garcia v. Gordon Trucking, Inc.* (E.D. Cal.
23 Oct. 31, 2012) No. 1:10-CV-0324 AWI SKO, 2012 WL 5364575, at *3 [approving a PAGA
24 settlement of 0.27%].) Here, the Parties negotiated a good faith amount of \$20,000.00, 75%
25 percent of which (\$15,000.00) will be paid to the LWDA and 25% (\$5,000.00) to be distributed to
26 the Aggrieved Employees. (Settlement, § 3.2.5.) The \$20,000.00 settlement amount equates to
27 approximately 10.5% of the Gross Settlement Amount, which far exceeds amounts that are
28 routinely approved. The Parties negotiated to allocate 10.5% of the Settlement to PAGA penalties

1 in good faith and this amount is reasonable considering that the maximum PAGA penalties were
2 estimated at \$110,500.00 (which assumed \$100 per pay period). (Haber Decl., ¶ 22.)

3 **E. The Service Awards to Named Plaintiff Is Reasonable**

4 Named plaintiffs in class action lawsuits “are eligible for reasonable incentive payments to
5 compensate them for the expense or risk they have incurred in conferring a benefit on other
6 members of the class.” (*Munoz, supra*, 86 Cal.App.4th at p. 412.) Courts routinely grant approval
7 of class action settlement agreements containing enhancements for the class representatives, which
8 are necessary to provide incentive to represent the class, and are appropriate given the benefit the
9 class representatives help to bring about for the class. (*See Rodriguez v. W. Publ'g Corp.* (9th Cir.
10 2009) 563 F.3d 948, 958-59.)

11 Service awards are particularly important to plaintiffs in wage and hour cases because they
12 promote the important public policies underlying the wage and hour laws. This strong policy is
13 codified in California Labor Code § 90.5, which provides, “it is the policy of this state to vigorously
14 enforce minimum labor standards in order to ensure employees are not required or permitted to
15 work under substandard unlawful conditions” Nonetheless, the California Supreme Court has
16 noted that “retaliation against employees for asserting statutory rights under the Labor Code is
17 widespread,” despite anti-retaliation statutes designed to protect employees. (*Gentry v. Super. Ct.*
18 (2007) 42 Cal.4th 443, 460-61.) In this context, class representatives should be rewarded for
19 assuming the risk of retaliation for the sake of class members. (*See Frank v. Eastman Kodak Co.*
20 (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

21 Under the settlement agreement, subject to the Court’s approval, Defendant agreed to pay
22 Service Awards in the amount of \$10,000.00 to named Plaintiff Javier Alvarado. This amount is
23 also in exchange for Plaintiff’s general release of all claims against Defendant. Courts routinely
24 approve enhancement awards in excess of \$10,000.00 for plaintiffs represented by Class
25 Counsel. (*See, e.g., Moreno v. Pretium Packaging, L.L.C.* (C.D. Cal. Aug. 6, 2021) 2021 WL
26 3673845, *3 [“The Court concludes a \$10,000 incentive award is appropriate.”]; *Suarez v. Bank of*
27 *America, National Association* (N.D. Cal., Jan. 11, 2024, No. 18-CV-01202-LB) 2024 WL 150721,
28 at *4 [“The court approves awards of \$10,000 for each class representative.”].) Class Counsel

1 represent that Plaintiff devoted a great deal of time and work assisting counsel in the case,
2 communicated with counsel very frequently for litigation and to prepare for mediation, and was
3 frequently in contact with Class Counsel during the mediation. (*See generally* Plaintiff’s
4 declaration; Haber Decl., ¶¶ 28-32.) This amount is reasonable particularly in light of the
5 substantial benefits Plaintiff generated for all class members. (*Id.*)

6 When compared with the amounts awarded in typical class action cases, the amount
7 requested here is particularly reasonable. Indeed, a **2006** study examining the average incentive
8 award given to class action plaintiffs from **1993 to 2002** found that the “average award per class
9 representative was \$15,992 and the median award per class representative was \$4,357.” (Eisenberg
10 & Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study* (2006) 53 UCLA L.Rev.
11 1303, 1308.) That same study found that named plaintiffs in employment discrimination class
12 actions received an average award of \$69,850 and a median award of \$31,081, while named
13 plaintiffs in other employment class actions received an average award of \$12,121 and a median
14 award of \$13,059. (*Id.* at p. 1334.) The authors of the study found that higher awards in
15 employment cases reflected the “courts’ wish to make representative plaintiffs whole by
16 compensating them for the high costs of their service to the class, including risks of stigmatization
17 or retaliation on the job.” (*Id.* at p. 1308.)

18 **IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED**

19 **A. Legal Standard**

20 The proposed Settlement Class is well suited for class certification. All of the claims derive
21 from a core set of alleged violations of California’s wage and hour laws and regulations. For the
22 reasons set forth more fully below, for purposes of settlement only, the Class satisfies the
23 prerequisites for certification under Code of Civil Procedure § 382. Section 382 provides: “when
24 the question is one of a common or general interest, of many persons, or when the parties are
25 numerous, and it is impracticable to bring them all before the court, one or more may sue or defend
26 for the benefit of all.” (Code Civ. Proc., § 382.) There are two requirements to section 382: “(1)
27 [t]here must be an ascertainable class; and (2) there must be a well-defined community of interest
28 in the questions of law and fact involved affecting the parties to be represented.” (*Daar v. Yellow*

1 *Cab Co.* (1967) 67 Cal. 2d 695, 704 [citations omitted].) To clarify these requirements, the
2 California Supreme Court has looked to Federal Rule of Civil Procedure 23 to explain that the
3 community-of-interest requirement itself embodies three factors: “(1) predominant questions of
4 law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class
5 representatives who can adequately represent the class.” (*Richmond v. Dart Indus., Inc.* (1981) 29
6 Cal. 3d 462, 470.)

7 California law and policy favor the fullest and most flexible use of the class action device.
8 (*Id.* at pp. 469-73.) Indeed, “Courts long have acknowledged the importance of class actions as a
9 means to prevent a failure of justice in our judicial system” particularly where the rights of
10 consumers are at issue. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal. 4th 429, 434.) Any doubt as to
11 the appropriateness of class treatment should be resolved in favor of certification. (*Richmond*,
12 *supra*, 29 Cal.3d at pp. 473-75.)

13 **B. Plaintiff Maintains That the Criteria for Class Certification Are Satisfied for**
14 **Settlement Purposes.**

15 **1. The Class is Ascertainable and Numerous**

16 The proposed class that Plaintiff seeks to represent is easily ascertainable and includes
17 approximately 50 employees of Defendant.

18 Plaintiff maintains that there is an easily ascertainable class, defined by objective and
19 precise criteria. Because class members are identified using specific criteria in the regular business
20 records of Defendant, i.e., job position, the class is ascertainable. (*Wilner v. Sunset Life Ins. Co.*
21 (2000) 78 Cal.App.4th 952, 959-60 [class membership defined by ownership of product that is the
22 subject of the lawsuit is sufficient to make the class ascertainable].)

23 “The requirement of Code of Civil Procedure section 382 that there be ‘many’ parties to a
24 class action suit is indefinite and has been construed liberally.” (*Rose v. City of Hayward* (1981)
25 126 Cal.App.3d 926, 934.) “Where a question is of common interest to ‘many’ persons, an action
26 may be maintained as a class action even where the parties are numerous and it is in fact practicable
27 to join them all.” (*Id.*) “No set number is required as a matter of law for the maintenance of a
28 class action.” (*Id.*) “Thus, our Supreme Court has upheld a class representing the 10 beneficiaries

1 of a trust in an action for removal of the trustees.” (*Id.*, citing *Bowles v. Super. Ct.* (1955) 44 Cal.2d
2 574; *see also Collins v. Rocha* (1972) 7 Cal.3d 232 [upholding a 35 member class.]) Therefore,
3 Plaintiff contends that numerosity is plainly satisfied.

4 **2. There are Many Common Issues of Law and Fact Which Predominate**

5 The Court should grant conditional class certification for settlement purposes here on the
6 grounds that questions of law and fact common to all class and subclass predominate over any
7 individual questions. This inquiry tests whether proposed classes are sufficiently cohesive to
8 warrant adjudication by representation. (*See, e.g., Clothesrigger, Inc. v. GTE Corp.* (1987) 191
9 Cal.App.3d 605.)

10 Here, the employment practices at issue are: whether Defendant had legally compliant
11 policies and practices for all hours worked, including overtime wages; whether Defendant had
12 legally compliant policies and practices to provide employees with meal periods; whether
13 Defendant had legally compliant policies and practices authorizing and permitting its employees
14 to take rest periods; whether Defendant reimbursed employees for business expenses; whether
15 payment of wages during employed was timely; whether final payment of wages was untimely and
16 excluded unpaid wages, including meal and rest period premium wages; whether wage statements
17 were consequently non-compliant; and whether Defendant failed to keep requisite payroll records.
18 Plaintiff contends that the factual and legal issues are the same for all of the identified class
19 members, including Plaintiff. Further, all class members suffered from, and seek redress for, the
20 same alleged injuries.

21 **3. Plaintiff’s Claims Are Typical of the Claims of the Class**

22 The typicality requirement does not focus on the individual characteristics or circumstances
23 of the representative plaintiff compared to those of the remainder of the class, but rather upon the
24 typicality of the proposed representative’s claims as they relate to the defendant’s conduct and
25 activities. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 47 [“[t]he only requirements are that
26 common questions of law and fact predominate and that the class representative be similarly
27 situated” vis-à-vis the class.]) A representative plaintiff’s claims are typical of the class if they
28 arise from the same event, practice or course of conduct, and if the claims rest on the same legal

1 theories. (*Id.*) That is precisely the case here. Plaintiff is a former employee of Defendant; as
2 such, he alleges that he was subject to the same policies and practices as other similarly situated
3 employees.

4 **4. Plaintiff and His Counsel Meet the Adequacy Requirement**

5 The adequacy of representation requirements is met by fulfilling two conditions: first, a
6 named plaintiff must be represented by counsel qualified to conduct the pending litigation; second,
7 a named plaintiff's interests cannot be antagonistic to those of the class. (*McGhee v. Bank of*
8 *America* (1976) 60 Cal.App.3d 442, 451.)

9 All of these requirements are met here for settlement purposes. Plaintiff retained counsel
10 with extensive experience in prosecuting complex class actions, including similar class actions that
11 previously settled. (Haber Decl., ¶¶ 38-47.) Class Counsel unquestionably is "qualified,
12 experienced and generally able to conduct the proposed litigation." (*Miller v. Woods* (1983) 148
13 Cal.App.3d 862, 875.) In addition, Plaintiff has no conflicts, and Plaintiff has, with counsel,
14 litigated this case and diligently reviewed the settlement terms, showing his dedication. Plaintiff's
15 willingness to serve as a representative demonstrates his serious commitment to bringing about the
16 best results possible for the class. (*McGhee, supra*, 60 Cal.App.3d at p. 451.)

17 **5. A Class Action is Superior to a Multiplicity of Litigation**

18 Finally, in making its class certification decision, the Court must determine that a class
19 action would be superior to alternative means for the fair and efficient adjudication of the litigation.
20 By consolidating many potential individual actions into a single proceeding, this Court's use of the
21 class action device enables it to manage this litigation in a manner that serves the economics of
22 time, effort and expense for the litigants and the judicial system. Absent class treatment, similarly-
23 situated employees with small but nevertheless meritorious claims for damages would, as a
24 practical matter, have no means of redress because of the time, effort and expense required to
25 prosecute individual actions. (*Gentry, supra*, 42 Cal.4th at pp. 457-62; *Leyva v. Medline Ind.* (9th
26 Cir. 2013) 716 F.3d 510, 515.) Moreover, in the context of settlement, the superiority concerns
27 are essentially non-existent.

28 ///

1 **V. THE PROPOSED NOTICE IS CONSTITUTIONALLY SOUND**

2 **A. The Proposed Notice Plan Satisfies Due Process**

3 Notice requirements are set forth in the California Rules of Court. (Cal. Rules of Court,
4 Rule 3.766 (e), (f).) California law vests the Court with broad discretion in fashioning an
5 appropriate notice program. (*Cartt v. Super Ct.* (1975) 50 Cal.App.3d 960, 973-74.) There is no
6 statutory or due process requirement that all class members receive actual notice, but in this matter,
7 the class members will receive direct mailed notice. As the Court of Appeals has explained, “[t]he
8 notice given should have a reasonable chance of reaching a substantial percentage of the Class
9 Members” (*Id.* at p. 974.) In this case, notice of the proposed settlement will be provided
10 by direct mailing, the best possible form of notice.

11 **B. The Notice is Accurate and Informative**

12 The proposed Notice should be approved. It will be disseminated through direct U.S. first
13 class mail to the last known address for each Class Member. It informs the Class Members of the
14 terms of the settlement and their right to be excluded from the Settlement. And if there are Class
15 Members who wish to object to this proposed class action settlement, they will have the
16 opportunity to file their objections and be heard at the Final Approval Hearing.

17 The Notice also fulfills the requirement of neutrality in class notices. (Conte & Newberg,
18 *Newberg on Class Actions* (3rd Ed.) § 8.39.) It summarizes the proceedings to date and the
19 terms and conditions of the settlement agreement, in an informative and coherent manner. It
20 makes clear that the settlement agreement does not constitute an admission of liability by the
21 Defendant, who denies all liability, and it recognizes that this Court has not ruled on the merits
22 of the action. It also states that the final settlement approval decision has yet to be made. The
23 Notice thus complies with the standards of fairness, completeness, and neutrality required of a
24 combined settlement-certification class notice.

25 **VI. CONCLUSION**

26 For the foregoing reasons, Plaintiff respectfully requests that the Court grant preliminary
27 approval of the proposed settlement and set a Final Approval Hearing.

28 ///

1
2 Dated: August 11, 2025

Respectfully submitted,

WILSHIRE LAW FIRM

3
4 By: 
Benjamin H. Haber
Daniel J. Kramer

Attorneys for Plaintiff

Alvarado v. Northstar Chemical, Inc., et al.
CV-23-001538

I, Rebecca Padilla, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 660 S. Figueroa St, Sky Lobby, Los Angeles, California 90017. My electronic service address is rebecca.padilla@wilshirelawfirm.com.

Mollie Burks (SBN 222112)
mburks@grsm.com
 Sat Sang S. Khalsa (SBN 256130)
skhalsa@grsm.com
 Nikayla Johnson (SBN 347157)
mburks@grsm.com
 Marisol Franco
mfranco@grsm.com
 Eileen Spiers
espiers@grsm.com
GORDON REES SCULLY MANSUKHANI
 1111 Broadway, Suite 1700
 Oakland, CA 94607
 Telephone: (510) 463-8600
 Facsimile: (510) 984-1721

(X) **BY UPLOAD:** I hereby certify that the documents were uploaded by my office to the State of California Labor and Workforce Development Agency Online Filing Site.

(X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

Executed on August 11, 2025, at Los Angeles, California.


Rebecca Padilla