

Kane Moon (SBN 249834)
E-mail: kmoon@moonlawgroup.com
Lilit Ter-Astvatsatryan (SBN 320389)
E-mail: lilit@moonlawgroup.com
Nichelle Christopherson (SBN 349221)
E-mail: nchristopherson@moonlawgroup.com
MOON LAW GROUP, PC
725 S. Figueroa St., 31st Floor
Los Angeles, CA 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

Attorneys for Plaintiff ALEXIS T. BROWN

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

ALEXIS T. BROWN, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

PARATRANSIT, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants

Case No.: 23CV003960

CLASS AND REPRESENTATIVE ACTION

*[Assigned for All Purposes to the Honorable Jil
Talley, Department 2322]*

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

*[Filed with the Declaration of Kane Moon,
the Declaration of Plaintiff Alexis T. Brown,
and [Proposed] Preliminary Approval Order]*

PRELIMINARY APPROVAL HEARING:

Date: July 18, 2025

Time: 9:00 a.m.

Dept.: 23

Reservation #: A-03960-002

Complaint Filed: June 29, 2023

FAC Filed: September 19, 2023

Trial Date: Not Set

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

2 PLEASE TAKE NOTICE that on July 18, 2025 at 9:00 a.m. in Department 23 of the Gordon
3 D. Schaber Sacramento County Courthouse located at 720 9th Street, California 95814, pursuant to
4 Code of Civil Procedure section 382 and California Rules of Court, rule 3.769 *et seq.*, Plaintiff Alexis
5 T. Brown (“Plaintiff”) will move the Court for an order granting preliminary approval of the proposed
6 class action settlement between Plaintiff and Defendant Paratransit, Inc.

7 Plaintiff will further move 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 only;
- 10 3. Approving the Class Notice and plan for its distribution;
- 11 4. Appointing Plaintiff as the Class Representative, for settlement purposes only;
- 12 5. Appointing Moon Law Group, PC as Class Counsel, for settlement purposes only;
- 13 6. Appointing ILYM, Inc. as the Administrator; and
- 14 7. Scheduling a Final Approval Hearing no earlier than 140 days from the date of
15 preliminary approval.

16 The motion will be based upon this notice, the attached memorandum of points and
17 authorities, the supporting declarations and attachments thereto, the records and files in this action,
18 and any other further evidence or argument that the Court may properly receive at or before the
19 hearing.

20 Pursuant to Local Rule 1.06 (A), the court will make a tentative ruling on the merits of this
21 matter by 2:00 p.m., the court day before the hearing. The complete text of the tentative ruling may
22 be downloaded off the court’s website. If the party does not have online access, they may call the
23 dedicated phone number for the department as referenced in the local telephone directory between
24 the hours of 2:00 p.m. and 4:00 p.m. on the court day before the hearing and receive the tentative
25 ruling. If you do not call the court and the opposing party by 4:00 p.m. the court day before the
26 hearing, no hearing will be held.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: June 11, 2025

Respectfully submitted,

MOON LAW GROUP, PC

By: _____

Kane Moon
Lilit Ter-Astvatsatryan
Nichelle Christopherson

Attorneys for Plaintiff

TABLE OF CONTENTS

1	TABLE OF CONTENTS	iii
2	TABLE OF AUTHORITIES.....	v
3	I. INTRODUCTION	1
4	II. SUMMARY OF THE LITIGATION AND SETTLEMENT	1
5	A. Plaintiff’s Claims and Procedural History	1
6	B. Discovery and Investigation	3
7	C. Settlement Negotiations	4
8	D. Key Terms of the Proposed Settlement	5
9	III. THE COURT SHOULD GRANT PRELIMINARY APPROVAL.....	10
10	A. The Settlement Is Fair, Reasonable, Adequate, and the Product of Investigation,	
11	Litigation, and Negotiation.....	11
12	1. The Settlement Is the Product of Discovery, Investigation, and Informed and	
13	Non-Collusive Arm’s-Length Negotiations	11
14	2. The Settlement Is Fair Considering the Parties’ Respective Positions	12
15	3. Plaintiff’s Counsel Have Extensive Experience in Class and PAGA Action	
16	Litigation, Which Was Integral to Negotiating the Settlement	15
17	B. The Proposed Notice of Class and PAGA Settlement Should Be Approved	15
18	C. The Proposed Attorneys’ Fees and Costs Are Reasonable.....	15
19	1. Counsel Will Request a Fees Award Based On the “Common Fund” Method..	16
20	2. The Requested Fee Award Is in Line with Typical Cases	17
21	3. This Matter Involves a “Fee-Shifting” Provision of the Labor Code	17
22	4. Counsel’s Experience, Reputation, and Ability Support the Requested Fees	18
23	D. The Service Award to Plaintiff Is Reasonable.....	18
24	IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED	19
25	A. Legal Standard	19
26	B. Plaintiff Maintains that the Criteria for Class Certification Are Satisfied.....	20
27	1. The Class Is Ascertainable and Numerous	20
28		

2.	There Are Many Common Issues of Law and Fact Which Predominate	21
3.	Plaintiff’s Claims Are Typical of the Claims of the Class	22
4.	Plaintiff and Her Counsel Meet the Adequacy Requirement	22
5.	A Class Action Is Superior to a Multiplicity of Litigation	23
V.	THE PROPOSED NOTICE IS CONSTITUTIONALLY SOUND	23
A.	The Proposed Notice Plan Satisfies Due Process	23
B.	The Notice Is Accurate and Informative.....	24
VI.	CONCLUSION	24

TABLE OF AUTHORITIES

FEDERAL CASES

<i>Angeles v. United States Airways, Inc.</i> (N.D. Cal. Feb. 19, 2013, No. C 12-05860 CRB) 2013 WL 622032.....	3
<i>Frank v. Eastman Kodak Co.</i> (W.D.N.Y. 2005) 228 F.R.D. 174	19
<i>Leyva v. Medline Industries Inc.</i> (9th Cir. 2013) 716 F.3d 510.....	23
<i>Pedroza v. PetSmart, Inc.</i> (C.D. Cal. June 14, 2012, No. ED CV 11–298 GHK (DTBx)) 2012 WL 9506073	3
<i>Priddy v. Edelman</i> (6th Cir. 1989) 883 F.2d 438	11
<i>Rodriguez v. West Publishing Corp.</i> (9th Cir. 2009) 563 F.3d 948.....	18
<i>Van Vranken v. Atlantic Richfield Co.</i> (N.D. Cal. 1995) 901 F.Supp. 294.....	17
<i>Vincent v. Hughes Air West, Inc.</i> (9th Cir. 1977) 557 F.2d 759	16

OTHER AUTHORITIES

Eisenberg & Miller, <i>Incentive Awards to Class Action Plaintiffs: An Empirical Study</i> (2006) 53 UCLA L. Rev. 1303.....	19
--	----

COURT RULES

California Rules of Court, rule 3.766(e), (f).....	23
California Rules of Court, rule 3.769(f).....	15

TREATISES

Newberg, Newberg on Class Actions (3rd ed. 1992) § 8.39	24
Newberg, Newberg on Class Actions (3rd ed. 1992) § 11.51	11
Newberg, Newberg on Class Actions (3rd ed. 1992) § 14.03	17

STATE CASES

<i>Cartt v. Superior Court</i> (1975) 50 Cal.App.3d 960.....	23, 24
<i>Chavez v. Netflix, Inc.</i> (2008) 162 Cal.App.4th 43.....	17
<i>City and County of San Francisco v. Sweet</i> (1995) 12 Cal.4th 105.....	16
<i>Classen v. Weller</i> (1983) 145 Cal.App.3d 27	22
<i>Clothesrigger, Inc. v. GTE Corp.</i> (1987) 191 Cal.App.3d 605	21

1	<i>Collins v. Rocha</i> (1972) 7 Cal.3d 232	21
2	<i>Daar v. Yellow Cab Co.</i> (1967) 67 Cal. 2d 695.....	20
3	<i>Dunk v. Ford Motor Co.</i> (1996) 48 Cal.App.4th 1794	10, 21
4	<i>Gentry v. Superior Court</i> (2007) 42 Cal.4th 443.....	19, 23
5	<i>Kullar v. Foot Locker Retail, Inc.</i> (2008) 168 Cal.App.4th 116.....	10
6	<i>Laffitte v. Robert Half International Inc.</i> (2016) 1 Cal.5th 480	16
7	<i>Linder v. Thrifty Oil Co.</i> (2000) 23 Cal.4th 429.....	20
8	<i>Mallick v. Superior Court</i> (1979) 89 Cal.App.3d 434.....	10
9	<i>McGhee v. Bank of America</i> (1976) 60 Cal.App.3d 442	22
10	<i>Miller v. Woods</i> (1983) 148 Cal.App.3d 862	20, 23
11	<i>Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles</i> (2010) 186 Cal.App.4th 399	10, 18
12	<i>Neary v. Regents of University of California</i> (1992) 3 Cal.4th 272	10
13	<i>Quinn v. State of California</i> (1975) 15 Cal.3d 162	16
14	<i>Richmond v. Dart Industries, Inc.</i> (1981) 29 Cal. 3d 462	20
15	<i>Rose v. City of Hayward</i> (1981) 126 Cal.App.3d 926	21
16	<i>Serrano v. Priest</i> (1977) 20 Cal.3d 25.....	16
17	<i>Stamburgh v. Superior Court</i> (1976) 62 Cal.App.3d 231.....	11, 23
18	<i>Wershba v. Apple Computer, Inc.</i> (2001) 91 Cal.App.4th 224.....	12
19	<i>Wilner v. Sunset Life Insurance Co.</i> (2000) 78 Cal.App.4th 952	21
20	STATE STATUTES	
21	California Code of Civil Procedure § 382.....	20
22	California Labor Code § 90.5.....	18
23	California Labor Code § 218.5.....	17
24	California Labor Code § 226.....	17
25	California Labor Code § 1194.....	17
26	California Labor Code §§ 2698, <i>et seq.</i>	13
27	California Labor Code § 2699(e)(2).....	13
28	California Labor Code § 2699(g)(1)	17

1	California Labor Code § 2802(d)	17
---	---------------------------------------	----

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I. INTRODUCTION

II. SUMMARY OF THE LITIGATION AND SETTLEMENT

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

1 Plaintiff's claim for unpaid wages stems from Defendant's alleged failure to compensate
2 employees for off-the-clock work and Defendant's failure to incorporate all non-discretionary
3 bonuses into its regular rate of pay when calculating the correct overtime rate of pay and sick day
4 rate of pay. (*Id.* at ¶ 4.) Moreover, Plaintiff brings claims against Defendant for meal and rest
5 period violations, unreimbursed business expenses, and derivative claims for waiting time
6 penalties, wage statement violations, unfair business practices, and civil penalties under PAGA.
7 (*Id.*)

8 Because of the foregoing alleged violations of various provisions of the Labor Code,
9 Plaintiff filed a class action on June 29, 2023, which alleges Defendant systematically: (1) failed
10 to pay minimum wages, (2) failed to pay overtime compensation, (3) failed to provide meal
11 periods, (4) failed to authorize and permit rest periods, (5) failed to indemnify necessary business
12 expenses, (6) failed to pay final wages at termination, (7) failed to provide accurate itemized wage
13 statements, and (8) engaged in unfair business practices. (*Id.* at ¶ 5.) On September 19, 2023
14 Plaintiff filed the operative First Amended Class and Representative Action Complaint, adding a
15 single cause of action for Civil Penalties under PAGA. (*Id.*)

16 The Parties thereafter commenced formal discovery, propounding and responding to
17 requests from one another. (*Id.* at ¶ 6.) Defendant took Plaintiff's deposition on December 14,
18 2023. (*Id.*)

19 On June 6, 2024, Defendant filed a Motion for Summary Adjudication as to Plaintiff's
20 third, fourth, and fifth causes of action for failure to provide meal periods, failure to authorize and
21 permit rest periods, and failure to indemnify necessary business expenses. (*Id.* at ¶ 7.) On August
22 23, 2024, the Court granted summary adjudication of Plaintiff's meal period claim and
23 reimbursement of necessary business expenses claim but denied summary adjudication of
24 Plaintiff's rest break claim. (*Id.*)

25 Defendant ardently opposes the merits of this case and denies Plaintiff's factual allegations.
26 (*Id.* at ¶ 8.) Defendant asserts it complied with all of its compensation obligations, including
27 compensating Class Members for all off-the-clock work, and therefore, Plaintiff and other Class
28 Members were paid all wages owed. (*Id.*) Defendant also argues that Defendant did not fail to

1 incorporate any bonuses into Plaintiff's and Class Member's regular rate for purposes of overtime
2 and sick pay as such bonuses were discretionary. (*Id.*) Defendant maintains compliance with all
3 its rest period obligations. (*Id.*) To the extent Class Members received wage statements that were
4 allegedly inaccurate, Defendant asserts employees suffered no actual damage or harm as a result.
5 (*Id.*; *see, e.g., Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013, No. C 12–05860 CRB) 2013
6 WL 622032, at *10 [“A plaintiff must adequately plead an injury arising from an employer's
7 failure to provide full and accurate wage statements, and the omission of the required information
8 alone is not sufficient.”].) With respect to Plaintiff's claim for waiting time penalties, Defendant
9 alleges its good-faith belief that it paid all wages precludes the imposition of waiting time penalties
10 since Plaintiff cannot prove Defendant's alleged failure to pay all final wages at the time of
11 separation was “willful.” (Moon Decl., ¶ 8; *see, e.g., Pedroza v. PetSmart, Inc.* (C.D. Cal. June
12 14, 2012, No. ED CV 11–298 GHK (DTBx)) 2012 WL 9506073, *5.) For these reasons, among
13 others, Defendant denies all of Plaintiff's claims and allegations, and further claims it did not
14 engage in any unfair business practices and denies liability under PAGA. (Moon Decl., ¶ 8.)
15 Defendant also maintains the claims are improper for class treatment, in part, due to the
16 individualized and testimony-intensive nature of the wage claims that could bar class certification
17 or significantly reduce Defendants' overall liability. (*Id.*)

18 **B. Discovery and Investigation**

19 The Parties agreed to mediate the instant action, and participated in private mediation with
20 Brandon McKelvey, Esq., an experienced class and PAGA action mediator. (*Id.* at ¶ 9.) In preparation
21 for mediation, the Parties agreed to a protocol for an informal exchange of documents and
22 information before mediation. (*Id.*) Prior to mediation, Plaintiff obtained from Defendant, through
23 formal and informal discovery, documents and data that was necessary and helpful to evaluate the
24 claims asserted in this action. (*Id.*) Defendant produced a statistically significant sample of time and
25 pay records for the putative Class, Plaintiff's personnel file, and Defendant's written policies. (*Id.*)
26 Defendant also provided information regarding the estimated number of current and formerly
27 employed Class Members, Aggrieved Employees, and PAGA Pay Periods. (*Id.*)

1 In preparation for mediation, Plaintiff's Counsel reviewed and analyzed all the information
2 Defendant provided, including the sample records and documents regarding Defendants' wage and
3 hour policies. (*Id.* at ¶ 10.) Plaintiff's Counsel retained a statistics expert to analyze the sample
4 records and prepare a damage analysis prior to the mediation. (*Id.*) The sample time and pay records
5 analyzed represented approximately 99% of the Class, which allowed Plaintiff's expert to prepare an
6 analysis with certainty. (*Id.*) In conjunction with their extensive factual investigation, Plaintiff's
7 Counsel also investigated the applicable law regarding the claims and defenses asserted in the
8 litigation. (*Id.*) Accordingly, Plaintiff's Counsel were able to evaluate the probability of class
9 certification, success on the merits, and Defendant's maximum and realistic monetary exposure for
10 all claims. (*Id.*) Thus, Plaintiff's and her Counsel's familiarity with the facts of the case and the legal
11 issues raised by the pleadings allowed them to act intelligently in negotiating the Settlement. (*Id.*)

12 **C. Settlement Negotiations**

13 9. On March 19, 2025, the Parties participated in a full day of private mediation
14 before Brandon McKelvey, Esq. (*Id.* at ¶ 11.) The negotiations were at arm's length and, although
15 conducted in a professional manner, were adversarial. (*Id.*) The Parties went into the mediation
16 willing to explore the potential for a settlement of the dispute, but each side was also prepared to
17 litigate their position through trial and appeal if a settlement had not been reached. (*Id.*) After
18 extensive negotiations and discussions regarding the strengths and weaknesses of Plaintiff's
19 claims and Defendants' defenses, a settlement was reached by the Parties. (*Id.*) The material terms
20 of the Settlement are encompassed within the Class Action and PAGA Settlement Agreement (*Id.*,
21 Exh. 1 [the "Settlement"].)

22 Plaintiff's Counsel have conducted a thorough investigation into the facts of this case. (*Id.*
23 at ¶ 28.) Based on the foregoing document and information exchange and on their own independent
24 investigation and evaluation, Plaintiff's Counsel are of the opinion that the proposed Settlement
25 is fair, reasonable, and adequate. (*Id.*) Furthermore, considering all known facts and
26 circumstances, the risk of significant delay, trial risk, appellate risk, and the defenses that
27 Defendant may assert both to certification and on the merits, the Settlement is in the best interests
28

of the Class. (*Id.*; *see also Id.* at ¶¶ 29–40.) **Indeed, the \$264,999.00 gross settlement figure represents roughly 89% of the realistic recovery estimated to be \$297,689.86.** (*Id.* at ¶ 34.)

D. Key Terms of the Proposed Settlement

Under the Settlement, Defendant will pay a non-reversionary, all-inclusive amount of *no less than* \$264,999.00 to resolve this action. (Settlement, ¶ 3.1.) The key terms include:

1. Non-reversionary Gross Settlement Amount: This amount is \$264,999.00, subject to a potential increase under the escalator clause and excludes Defendant’s employer’s share of payroll taxes. (Settlement, ¶ 3.1.) No portion will revert to Defendants. (*Id.*)

2. Escalator Clause: Based on a review of its records, Defendant represents that there are approximately 10,000 workweeks during the period from October 10, 2021 to May 18, 2025. (*Id.* at ¶ 8.) Should the total workweeks be greater than 10% of 10,000 during the Class Period (i.e., more than 11,000), Defendant may opt to narrow the Class Period so that it is 11,000 workweeks or less, or the GSA is to be increased proportionally by the workweeks worked in excess of 11,000 workweeks multiplied by the per workweek value. (*Id.*) If this provision is triggered, the Parties agree that the portion of the GSA allocated to attorneys’ fees will increase proportionally such that the total amount of attorneys’ fees remains one-third of the GSA after the upward adjustment required by this provision is implemented. (*Id.*)

3. Net Settlement Amount: The “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 Enhancement Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. (*Id.* at ¶ 1.26.) The remainder is to be paid to Participating Class Members as Individual Class Payments. (*Id.*) The Net Settlement is estimated to be \$109,166.00. (Moon Decl., ¶ 39.)

4. Tax Treatment: The Individual Class Payments will be allocated as 10% to taxable wages and 90% to non-taxable penalties and interest. (*Id.* at ¶ 3.2.4.1.) The Individual PAGA Payments to Aggrieved Employees will be entirely allocated to penalties. (*Id.* at ¶ 3.2.5.2.)

5. No Claim Form: Class Members will not need to submit any claim form as a condition of payment. (*Id.* at ¶ 3.1.) Each Class Member who does not opt-out will be entitled to a pro rata

1 share of the Net Settlement Amount that is directly proportional to the number of Workweeks worked
2 during the Class Period. (*Id.* at ¶ 3.2.4.) “Workweek” means any week during which a Class Member
3 worked for Defendant at least one day, during the Class Period. (*Id.* at ¶ 1.43.) Likewise, each
4 Aggrieved Employee will be entitled to a pro rata share of the 25% share of the PAGA Penalties
5 directly proportional to the number of PAGA Pay Periods. (*Id.* at ¶ 3.2.5.1.) “PAGA Pay Period”
6 means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one
7 day during the PAGA Period. (*Id.* at ¶ 1.28.)

8 6. Class Members and Class Period: The “Class” is defined as “all persons who worked for
9 Defendant as non-exempt employees in the State of California at any time during the Class Period.”
10 (*Id.* at ¶ 1.5.) “Class Period” means the period from October 10, 2021 to May 18, 2025. (*Id.* at ¶ 1.12.)
11 Based on a review of its records to date, Defendant estimates there are 210 Class Members who
12 collectively worked a total of 10,400 Workweeks during the Class Period. (*Id.* at ¶ 4.1.) Class
13 certification prerequisites have been met as discussed *infra* at Section IV.

14 7. Aggrieved Employees and PAGA Period: The Class contains an estimated 194
15 Aggrieved Employees, defined as all persons who worked for Defendant as non-exempt employees
16 in the State of California at any time during the PAGA Period. (*Id.* at ¶¶ 1.4, 4.1.) “PAGA Period”
17 means the period from June 24, 2022 to May 18, 2025. (*Id.* at ¶ 1.29)

18 8. Released Parties: “Released Parties” means Defendant Paratransit, Inc., as well as
19 Defendant’s present and former owners, officers, shareholders, directors, agents, members,
20 managers, employees, attorneys, insurers, parent companies, successors, affiliates or subsidiaries,
21 and assigns. (*Id.* at ¶ 1.39.)

22 9. Release by Participating Class Members: The claims released by Class Members, other
23 than those who submit requests for exclusion (the “Released Class Claims”) are all claims that
24 were alleged, or reasonably could have been alleged, based on the facts stated in the Operative
25 Complaint in the Lawsuit during the Class Period. The Released Parties shall include Defendant,
26 as well as Defendant’s present and former owners, officers, shareholders, directors, agents,
27 members, managers, employees, attorneys, insurers, parent companies, successors, affiliates or
28 subsidiaries, and assigns. (*Id.* at ¶ 5.2.)

1 10. Release by Class Members Who Are Aggrieved Employees: Plaintiff and Aggrieved
2 Employees release the PAGA claims asserted pled in the Operative Complaint and the PAGA Notice,
3 or that could have been reasonably pled based on the factual allegations pled in the Operative
4 Complaint and the PAGA Notice, on behalf of all hourly non-exempt persons employed by Defendant
5 in California for the PAGA Period. (*Id.* at ¶ 5.3.)

6 11. PAGA Penalties: The Settlement provides for PAGA Penalties of \$20,000.00. (*Id.* at ¶
7 3.2.5.) Pursuant to PAGA, 75% or \$15,000.00 is allocated to the Labor and Workforce Development
8 Agency (the “LWDA”) and 25% of \$5,000.00 is allocated to Aggrieved Employees. (*Id.*) On June
9 24, 2023, Plaintiff gave written notice to the LWDA of the alleged Labor Code violations, with
10 certified mail service on Defendant, and paid the required filing fee. (Moon Decl., ¶ 19, Exh. 2.) To
11 date, the LWDA has not indicated its intent to investigate the alleged violations or intervene in this
12 Action. (*Id.* at ¶ 19.) In compliance with Labor Code section 2699, subdivision (1)(2), Plaintiff’s
13 Counsel submitted to the LWDA a notice of settlement and a copy of the proposed Settlement. (*Id.*
14 at ¶ 20.)

15 12. Funding: Defendant shall fund the Gross Settlement Amount in three equal installments:
16 the first payment of \$88,333.00 shall be made by March 15, 2026, or 30 days after the Court’s Order
17 finally approving the Settlement, whichever date is later; the second payment of \$88,333.00 shall be
18 made by September 15, 2026, or six months following the date of the first installment payment,
19 whichever date is later; and, the third and final payment of \$88,333.00 shall be made by March 15,
20 2027, or one year following the date of the first installment payment, whichever date is later.¹
21 (Settlement, ¶ 4.3.) The Parties agree that the Settlement Administrator shall begin distributing
22 settlement payments on a rolling basis as each installment payment is received from Defendant. (*Id.*)
23 The Administrator is authorized to issue partial distributions in accordance with the proportionate

24
25
26 ¹ The funding schedule was a critical component in settling the Action to ensure Defendant
27 could fund the Gross Settlement Amount within its financial constraints. (Moon Decl., ¶ 21, n.1.)
28 As part of the Parties’ settlement negotiations, Defendant provided Plaintiff’s Counsel with
comprehensive financial documents from the years 2019 through 2025. (*Id.*) After a review of
Defendant’s financials, the Parties determined that the funding schedule is fair as it allows
Defendant to make timely payments to the Class while remaining in business. (*Id.*)

share of the Gross Settlement Amount received, and shall continue to make subsequent distributions as additional funds are received, until the entire Gross Settlement Amount has been distributed. (*Id.*)

13. Individual Payments: Defendant estimates there are 210 Class Members who collectively worked a total of 10,400 Workweeks during the Class Period, and approximately 194 Aggrieved Employees who worked a total of 4,820 PAGA Pay Periods during the PAGA Period. (*Id.* at ¶ 4.1.) Class Members are estimated to receive an average of \$519.84, with an average Workweek value of \$10.50. (Moon Decl., ¶ 39.) Aggrieved Employees are estimated to receive an average of \$25.77, with an average Pay Period value of \$1.04. (*Id.*)

14. Uncashed Settlement Checks: The Settlement does not provide for a *cy pres* distribution. (Moon Decl., ¶ 23.) For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure § 384(b). (Settlement, ¶ 4.4.5.)

15. Administrator and Costs: The Parties jointly appointed ILYM, Inc. as the neutral entity to administer this Settlement. (*Id.* at ¶ 1.2.) The Settlement provides for an Administration Expenses Payment not to exceed \$15,000.00 (*Id.* at ¶ 3.2.3.) At this time, the Administrator estimates costs will be \$7,250.00. (Moon Decl., ¶ 24, Exh 4.)

16. Class Notice: The proposed Class Notice sets forth, in plain terms, a statement of case, the terms of the Settlement, the approximate amounts of attorneys' fees, costs, PAGA Penalties, and service award being sought, an explanation of how the individual payments are calculated, and the Final Approval Hearing information. (Settlement, ¶ Exh. A.) The Administrator will mail the Notice to Class Members in English by First Class United States mail using data provided by Defendant and after running a check of the data from Defendant against those on file with the U.S. Postal Services' National Change of Address List (*Id.* at ¶ 7.4.2.) The Parties agree that the Class Notice in English will be sufficient to inform Class Members of the Settlement. (Moon Decl., ¶ 24.) Defendant will provide the Class Data to the Administrator within 21 calendar days from the date of preliminary

1 approval, and the Administrator will mail the Notices within 14 calendar days following receipt of
2 the Class Database. (*Id.* at ¶¶ 4.2, 7.4.2.)

3 17. Procedure for Disputing Pay Periods, Opting Out, or Objecting: The Notice explains the
4 procedure under which a Class Member can dispute the number of individual Workweeks and/or
5 PAGA Pay Periods credited to them. (*Id.* at ¶ 7.6, Exh. A.) Additionally, the Notice explains how
6 Class Members may, should they choose to do so, opt-out or otherwise object to the Settlement. (*Id.*
7 at ¶ 7.7, Exh. A.) Class Members need not file or serve, or state in any written objection, a notice of
8 intention to appear at the Final Approval Hearing. (*Id.* at ¶ 7.7.2, Exh. A.) Class Members will have
9 60 days after the Administrator initially mails the Notice to submit a Request for Exclusion or a
10 written Objection to the Settlement. (*Id.* at ¶ 1.41.) In the case of a re-mailed Notice, Class Members
11 will have an additional 14 calendar days from re-mailing. (*Id.*) Requests for Exclusion and objections
12 will be mailed to and handled by the Settlement Administrator. (*See id.* at ¶ 7.)

13 18. Class Counsel Fees Payment and Litigation Expenses Payment: The Settlement provides
14 a fee application of not more than one-third of the Gross Settlement Amount for reasonable attorneys'
15 fees (currently estimated to be \$88,333.00), plus reimbursement for actual litigation costs not to
16 exceed \$25,000.00, payable from the Gross Settlement Amount, subject to Court Approval. (*Id.* at ¶
17 3.2.2.) At this time, Plaintiff's Counsel has incurred \$23,420.29 in litigation costs. (Moon Decl., ¶
18 25., Exh. 5.). Plaintiff's Counsel expects to incur approximately \$1,000.00 or less in additional costs
19 from preliminary approval to final approval for filing and service fees. (*Id.* at ¶ 25.)

20 19. Class Representative Enhancement Payment: The Settlement includes a Class
21 Representative Enhancement Payment up to \$7,500.00 payable from the Gross Settlement Amount,
22 subject to the Court's approval, to Plaintiff as the Class Representative, in addition to the amount she
23 is eligible to receive as a Class Member. (*Id.* at ¶ 3.2.1.) This award is for Plaintiff initiating the
24 Action and providing services in support of the Action. (*Id.* at ¶ 1.14.) In the event the award finally
25 approved is less, the difference will be allocated to the Net Settlement Amount. (*Id.* at ¶ 3.2.1.)

26 20. No Impact on Pending Litigation: Plaintiff's Counsel represent they are not aware of any
27 related case that would be extinguished or adversely affected by approval of this Settlement. (*Id.* at ¶
28 27.)

1 **III. THE COURT SHOULD GRANT PRELIMINARY APPROVAL**

2 The law favors the settlement of lawsuits, particularly in class actions and other complex
3 cases. (*See, e.g., Neary v. Regents of Univ. of Cal.* (1992) 3 Cal.4th 272, 277–81.) To prevent fraud,
4 collusion, or unfairness to the class, the settlement of a class action requires court approval. (*Dunk v.*
5 *Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800–01 [citing authority omitted].) To approve a
6 settlement, the Court must find “the settlement is fair, adequate, and reasonable.” (*Id.*) This Court
7 has wide discretion in making this determination. (*Mallick v. Super. Ct.* (1979) 89 Cal.App.3d 434,
8 438.) Fairness, adequacy, and reasonableness are presumed, as here, when: “(1) the settlement is
9 reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow
10 counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the
11 percentage of objectors is small.” (*Dunk*, 48 Cal.App.4th at p. 1802 [citing Newberg, Newberg on
12 Class Actions (3rd ed. 1992) § 11.41].)

13 In evaluating a settlement, the trial court considers the following factors: (1) the strength of
14 plaintiff’s case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk
15 of maintaining class action status through trial; (4) the settlement amount offered; (5) the extent of
16 discovery completed and the stage of the proceedings; (6) counsel’s experience and views; (7) the
17 presence of a governmental participant; and (8) the class members’ reaction to the proposed
18 settlement. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128.) To approve a class
19 action settlement, “the court must satisfy itself that the class settlement is within the ‘ballpark’ of
20 reasonableness.” (*Id.* at p. 133.) The record need not contain an explicit statement of the maximum
21 theoretical recovery. (*Munoz v. BCI Coca-Cola Bottling Co. of L.A.* (2010) 186 Cal.App.4th 399,
22 408–09 [holding that *Kullar* does not require “an explicit statement of the maximum amount the
23 plaintiff class could recover if it prevailed on all its claims,” but instead, only an “understanding
24 of the amount that is in controversy and the realistic range of outcomes of the litigation”].)

25 As discussed below, Plaintiff’s Counsel have provided materials and information exceeding
26 the threshold required for this Court to conclude the Settlement is fair, reasonable, and adequate.

27 ///

28 ///

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**
4 **Informed 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. (Newberg, Newberg on Class Actions (3rd ed. 1992) § 11.51.)
7 Settlement is favored, and settlement agreements are realistically assessed. (*Stamburgh v. Super. Ct.*
8 (1976) 62 Cal.App.3d 231, 236; *Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447 [“The fact that
9 the plaintiff might have received more if the case had been fully litigated is no reason not to approve
10 the settlement.”].) Thus, there is a presumption here that negotiations were conducted in good faith.

11 The proposed Settlement at issue was reached following extensive negotiations and
12 discussions regarding the strengths and weaknesses of Plaintiff’s claims and Defendant’s defenses
13 with an experienced and neutral class action mediator. (Moon Decl., ¶ 11.) Plaintiff’s Counsel
14 performed an extensive investigation into the facts, claims, and defenses at issue, including by
15 reviewing the governing law, analyzing’ Defendant’s written policies and sampling time/pay data,
16 and retaining a statistics expert to prepare a damage analysis regarding Defendants’ potential liability.
17 (*Id.* at ¶¶ 9–10.) Prior to mediation, Plaintiff obtained from Defendant, through formal and informal
18 discovery, documents and data that were necessary and helpful to evaluate the claims asserted in this
19 action, including a statistically significant sample of time and pay records for the putative Class as
20 well as demographic data. (*Id.*) Based on a review of its records to date, Defendant estimates there
21 are 210 Class Members who collectively worked a total of 10,400 Workweeks during the Class
22 Period, and approximately 194 Aggrieved Employees who worked a total of 4,820 PAGA Pay
23 Periods during the PAGA Period. (Settlement, ¶ 4.1.) Additionally, the estimated average hourly rate
24 for Class Members was \$21.49 and there are approximately 271 former employees falling within the
25 three-year statute of limitations. (Moon Decl., ¶ 29.) Based on Plaintiff’s Counsel’s review of the
26 time, payroll, and additional data provided by Defendant, on Plaintiff’s expert’s analysis of the
27 sampling records provided by Defendants, and on information from Plaintiff, Plaintiff’s Counsel
28 evaluated the estimated maximum and risk-adjusted exposure that Defendant faced. (*Id.*)

2. The Settlement Is Fair Considering the Parties' Respective Positions

A settlement is not judged against what a plaintiff might recover had he prevailed at trial, nor does the settlement have to provide 100% of the damages sought to be fair and reasonable. (*Wershba v. Apple Comp., Inc.* (2001) 91 Cal.App.4th 224, 246, 250 [“Compromise is inherent and necessary in the settlement process . . . even if ‘the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated,’ this is no bar to a class settlement because ‘the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation.’”] [quoting *Air Line Stewards v. Am. Airlines, Inc.* (7th Cir. 1972) 455 F.2d 101, 109].)

Here, based on the information provided at mediation, Defendant’s **realistic exposure** (adjusted for risks at certification and proof on the merits) for the alleged claims,² including penalties, is estimated to be **297,689.86**. (Moon Decl., ¶¶ 29, 34.) This amount was calculated as follows: **\$60,230.02** (90% discount) for the off-the-clock work claim; **\$1,140.00** (50% discount) for the regular rate claim; **\$118,719.26** (90% discount) for the rest period claim; **\$69,885.48** (95% discount) for the waiting time penalties claim; **\$23,615.00** (95% discount) for the wage statement claim; and **\$24,100.00** (95% discount) for the PAGA penalties claim. (*Id.* at ¶¶ 29-33.) The foregoing discounts were based on the evidence presented and arguments made during arm’s-length settlement negotiations. (*Id.* at ¶¶ 11, 29–33.) **The \$264,999.00 gross settlement figure represents roughly 89% of the total realistic recovery.** (*Id.* at ¶ 34.) This is an excellent result for the Class, particularly because, under the Settlement, Class Members will receive timely and guaranteed relief, avoiding the risk of not being able to recover anything. (*Id.*)

With regards to the PAGA claims, Plaintiff and her Counsel believe the Settlement is a fair and reasonable resolution that satisfies PAGA’s dual statutory purposes of deterrence and punishment, on the one hand, and providing Aggrieved Employees with genuine and meaningful

² Given the Court granted summary adjudication of Plaintiff’s meal period claim and reimbursement of necessary business expenses claim, Defendant’s potential exposure excludes an analysis of those claims. (Moon Decl., ¶ 29, n.2.)

1 relief, on the other. (Lab. Code §§ 2698, *et seq.*) As a result of this litigation, Defendant has had to
2 hire legal counsel, engage in formal discovery, and participate in mediation. (Moon Decl., ¶ 35.)
3 Defendant is also now having to pay civil penalties to the LWDA under the Settlement, assuming final
4 settlement approval is granted. (Settlement, ¶ 3.2.5.) Not including its own attorneys’ fees and costs as
5 well as the employer’s share of payroll taxes, Defendant will pay no less than \$264,999.00 to resolve
6 this matter—of which \$20,000.00 is allocated toward the PAGA claims and will be distributed, in
7 compliance with Labor Code section 2699 as 75% (\$15,000.00) to the LWDA and 25% (\$5,000.00) to
8 Aggrieved Employees—and the release obtained under the Settlement does not preclude Aggrieved
9 Employees from seeking remedies based on any underlying individual claims they may have against
10 Defendant or the other Released Parties. (Lab. Code § 2699(i).) The PAGA Penalties represents
11 approximately 83% of the realistic damage estimate for PAGA civil penalties (\$20,000 / \$24,100).
12 (Moon Decl., ¶ 35.) Moreover, Plaintiff’s Counsel are of the opinion that because the issues here are
13 fairly contested, there is a possibility of the Court not awarding the PAGA penalties even if Plaintiff
14 prevailed on the merits due to the largely discretionary nature of awarding PAGA penalties. (*Id.*)
15 Indeed, under Labor Code section 2699, subdivision (e)(2), a Court can reduce PAGA penalties “if,
16 based on the facts and circumstances of the particular case, to do otherwise would result in an award
17 that is unjust, arbitrary and oppressive, or confiscatory.” (Lab. Code § 2699(e)(2).) In other words,
18 were this matter to go to trial, any award granted would be at the discretion of the Court and subject
19 to a substantial reduction. (Moon Decl., ¶ 35.)

20 While Plaintiff is confident in the merits of her claims, a legitimate controversy exists as to
21 each cause of action. (*Id.* at ¶ 36.) Plaintiff also recognizes that proving the amounts of wages owed
22 to each Class Member would be an expensive, time-consuming, and uncertain proposition. (*Id.*) The
23 Settlement obviates the significant risk that this Court may deny certification of all or some of
24 Plaintiff’s claims. (*Id.* at ¶ 37.) Furthermore, even if Plaintiff was able to pursue her claims on a class-
25 wide basis and obtain certification of all or some of the claims, continued litigation would be
26 expensive, involving a trial and possible appeals, and would substantially delay and reduce any
27 recovery by the Class. (*Id.*) This Settlement avoids the risks, burdens, and the accompanying expense
28 of further litigation. (*Id.* at ¶ 38.) Although the Parties have engaged in a significant amount of

1 investigation, formal discovery, and class-wide data analysis, preparation for class certification and
2 a trial would remain for the Parties as well as the prospect of appeals in the wake of a disputed class
3 certification ruling for Plaintiff. As a result, the Parties would incur considerably more attorneys'
4 fees and costs through trial. (*Id.*)

5 30. The Net Settlement Amount available for settlement payments is estimated to be *no*
6 *less than \$109,166.00* for an estimated Class of **210 individuals**.³ (*Id.* at ¶ 39.) As a result, it is
7 estimated each Participating Class Member will receive an average gross benefit of at least **\$519.84**
8 prior to tax withholdings on the wage portion of payments. (*Id.*) Considering Class Members' average
9 hourly rate is \$21.49, the average benefit is roughly **26.2 hours of work**. This amounts to **an**
10 **estimated Workweek value of roughly \$10.50** for the currently estimated **10,400 Workweeks**. (*Id.*)
11 Additionally, it is currently estimated there are **194 Aggrieved Employees** who will receive an
12 estimated average of approximately **\$25.77** from their \$5,000.00 total share of the PAGA Penalties,
13 which results in an estimated per **Pay Period value of \$1.04** based on the currently estimated **4,820**
14 **Pay Periods**. (*Id.*) The actual amounts to Participating Class Members and Aggrieved Employees
15 will vary based on each individual's duration of work during the Class Period or PAGA Period,
16 respectively; thus, those who worked longer will receive a gross benefit greater than the average
17 estimated amount. (*Id.*) At this time, the high and low range of payments to Class Members is
18 unknown. (*Id.*) These ranges will be calculated by the Administrator following preliminary approval
19 and receipt and processing of the Class Data and will be provided to the Court in a motion for final
20 approval. (*Id.*)

21 The proposed Settlement of \$264,999.00 therefore represents a substantial recovery when
22 compared to Plaintiff's reasonably forecasted recovery. (*Id.* at 40.) When considering the risks of
23 litigation, the uncertainties involved in continued litigation, the burdens of proof necessary to
24

25
26
27 ³ The Net Settlement Amount is at least \$264,999.00 less the following: \$7,500.00 for the
28 Class Representative Enhancement Payment, \$15,000.00 for the maximum Administration Expenses
Payment, \$20,000.00 for the PAGA Penalties, \$88,333.00 for the Class Counsel Fees Payment, and
up to \$25,000.00 for the maximum Class Counsel Litigation Expenses Payment. (Settlement, ¶ 3.2.)

1 establish liability, and the probability of appeal, it is clear the Gross Settlement Amount is within the
2 “ballpark” of reasonableness, and that preliminary settlement approval is appropriate. (*Id.*)

3 **3. Plaintiff’s Counsel Have Extensive Experience in Class and PAGA**
4 **Action Litigation, Which Was Integral to Negotiating the Settlement**

5 The Settlement negotiations were conducted by highly capable counsel with considerable
6 experience and demonstrated competence with litigating wage and hour class actions. (*Id.* at ¶¶ 45–
7 61.) Plaintiff’s Counsel have a strong record of vigorous and effective advocacy for their clients and
8 are experienced in handling complex wage and hour class action litigation. (*Id.* at ¶¶ 45–61.) The
9 experience of Plaintiff’s Counsel was helpful in assessing the reasonableness of the Settlement at
10 issue here, and from this experience they concluded that this litigation could not have been settled on
11 better terms than provided under the Settlement. (*Id.* at ¶ 62.) Although Plaintiff and her counsel were
12 prepared to try the claims alleged in the litigation, they support the proposed Settlement as being in
13 the best interest of the Class based on objective evidence that has been considered and weighed
14 against the risks, expenses, and time consumption to both sides of continued litigation. (*Id.* at ¶¶ 11,
15 28, 36–38.)

16 **B. The Proposed Notice of Class and PAGA Settlement Should Be Approved**

17 The proposed Notice, in the form attached to the Settlement as **Exhibit A**, should be approved
18 for dissemination to the Class. The Notice informs the Class of the terms of the Settlement and of
19 their rights to be excluded from or object to the Settlement. (Settlement, Exh. A.) Accordingly, the
20 proposed Notice meets all the requirements of Rule 3.769(f) of the California Rules of Court. (Cal.
21 Rules of Court, rule 3.769(f).)

22 **C. The Proposed Attorneys’ Fees and Costs Are Reasonable**

23 Subject to the Court’s approval, the Settlement provides a fee application of up to one-third
24 for Class Counsel’s attorneys’ fees, plus reimbursement for out-of-pocket litigation costs not to
25 exceed \$25,000.00. (Settlement, ¶ 3.2.2.) These amounts are disclosed to Class Members in the
26 proposed Notice and are reasonable. (*Id.* at Exh. A.)

1 **1. Counsel Will Request a Fees Award Based On the “Common Fund” Method**

2 California courts have long awarded attorneys’ fees as a percentage of the benefit created by
3 counsel in pursuing claims on behalf of a class. (*See, e.g., Serrano v. Priest* (1977) 20 Cal.3d 25.)
4 The California Supreme Court has held, “when a number of persons are entitled in common to a
5 specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the
6 creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney’s fees out
7 of the fund.” (*Id.* at p. 34.)

8 Plaintiff’s Counsel will seek an award of attorneys’ fees on the “percentage of
9 recovery/common fund” theory. (Moon Decl., ¶ 64.) The purpose of this approach is to “spread
10 litigation costs proportionately among all the beneficiaries so that the active beneficiary does not bear
11 the entire burden alone.” (*Vincent v. Hughes Air W., Inc.* (9th Cir. 1977) 557 F.2d 759, 769.) In *Quinn*
12 *v. State of California* (1975) 15 Cal.3d 162, the California Supreme Court stated, “one who expends
13 attorneys’ fees in winning a suit which creates a fund from which others derive benefits, may require
14 those passive beneficiaries to bear a fair share of the litigation costs.” (*Id.* at p. 167.) Similarly, in
15 *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court
16 recognized that the common fund doctrine has been applied “consistently in California when an
17 action brought by one party creates a fund in which other persons[] are entitled to share.” (*Id.* at pp.
18 110–11 [pincite omitted].)

19 The California Supreme Court recently affirmed in *Laffitte v. Robert Half International Inc.*
20 (2016) 1 Cal.5th 480 that, “when class action litigation establishes a monetary fund for the benefit of
21 the class members, and the trial court in its equitable powers awards class counsel a fee out of that
22 fund, the court may determine the amount of a reasonable fee by choosing an appropriate percentage
23 of the fund created.” (*Id.* at p. 503.) The court explained: “The recognized advantages of the
24 percentage method—including relative ease of calculation, alignment of incentives between counsel
25 and the class, a better approximation of market conditions in a contingency case, and the
26 encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging
27 the litigation[]—convince us the percentage method is a valuable tool that should not be denied our
28

trial courts.” (*Id.* [internal citations omitted].) This line of legal authority supports a request for attorneys’ fees based on the percentage of recovery/common fund method.

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

According to a leading treatise on class actions: “No general rule can be articulated on what is a reasonable percentage of a common fund. Usually 50% of the fund is the upper limit on a reasonable fee award from a common fund in order to assure that the fees do not consume a disproportionate part of the recovery obtained for the class, although somewhat larger percentages are not unprecedented.” (Newberg, *Newberg on Class Actions* (3rd ed. 1992) § 14.03.) Attorneys’ fees that are fifty percent of the fund are typically considered the upper limit, with thirty to forty percent commonly awarded in cases where the settlement is relatively small. (*Id.*; *see also Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 297 [stating that most cases where 30–50% was awarded involved “smaller” settlement funds of under \$10 million].)

Here, Plaintiff’s Counsel will request fees equal to one-third 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. (*Compare* Settlement, ¶ 3.2.2, *with 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 requests the Court preliminarily approve her counsel’s ability to request attorneys’ fees as negotiated by the Parties.

3. This Matter Involves a “Fee-Shifting” Provision of the Labor Code

Labor Code sections 218.5, 226, 1194, 2699, and 2802 provide for the recovery of reasonable fees and costs of suit, for the claims made in this action. (Lab. Code §§ 218.5, 226, 1194, 2699(g)(1), 2802(d).) Under these sections, Plaintiff would be permitted to recover her actual attorneys’ fees, even if those fees were larger than the total class recovery at the conclusion of this case. (*Id.*) 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 Plaintiff’s Counsel for their decision to assume risk by taking on this matter. (*See* Moon Decl., ¶¶ 37-38.) In fact, prosecution of this action involved significant financial risk for Plaintiff’s Counsel. (*Id.* at ¶¶ 66–68.) Her Counsel

1 undertook this matter solely on a contingent basis, with no guarantee of recovery. (*Id.* at ¶¶ 66–69.)
2 Once Plaintiff’s Counsel undertook this litigation on behalf of the Class, they committed to pursue it
3 to its conclusion, placing their fiduciary duty to the Class ahead of all other concerns. (*Id.* at ¶ 67.)

4 **4. Counsel’s Experience, Reputation, and Ability Support the Requested Fees**

5 As demonstrated by their past experience in pursuing class actions on behalf of consumers
6 and employees, Plaintiff’s Counsel possess considerable expertise in litigating class actions. (*Id.* at
7 ¶¶ 45-61.) Plaintiff’s Counsel have been involved as lead counsel or co-counsel in numerous class
8 actions that resulted in millions in recovery. (*Id.* at ¶¶ 45-61.) Plaintiff’s Counsel’s experience in
9 wage and hour litigation was integral in evaluating the strengths and weaknesses of the case against
10 Defendant and the reasonableness of the settlement. (*Id.* at ¶ 62.) Practice in the narrow field of wage
11 and hour litigation requires skill and knowledge concerning the rapidly evolving substantive law
12 (state and federal) as well as the procedural law of class action litigation. (*Id.* at ¶ 60.) Based on these
13 and other factors, Plaintiff’s Counsel have frequently received fee awards of this percentage from the
14 gross recovery for the class. (*See id.* at ¶¶ 49, 55.) Because it is reasonable to compensate counsel
15 commensurate with their skill, reputation, and experience, the requested fee award is supported here.

16 **D. The Service Award to Plaintiff Is Reasonable**

17 Named plaintiffs in class action lawsuits “are eligible for reasonable incentive payments to
18 compensate them for the expense or risk they have incurred in conferring a benefit on other members
19 of the class.” (*Munoz, supra*, 186 Cal.App.4th at p. 412.) Courts routinely grant approval of class
20 action settlement agreements containing enhancements for the class representatives, which are
21 necessary to provide incentive to represent the class and are appropriate given the benefit the class
22 representatives help to bring about for the class. (*See Rodriguez v. W. Publ’g Corp.* (9th Cir. 2009)
23 563 F.3d 948, 958–59.) Service awards are particularly important to plaintiffs in wage and hour cases
24 because they promote the important public policies underlying the wage and hour laws. This strong
25 policy is codified in California Labor Code section 90.5, which provides, “[i]t is the policy of this
26 state to vigorously enforce minimum labor standards in order to ensure employees are not required
27 or permitted to work under substandard unlawful conditions . . .” (Lab. Code § 90.5.) Nonetheless,
28 the California Supreme Court has noted that “retaliation against employees for asserting statutory

rights under the Labor Code is widespread,” despite anti-retaliation statutes designed to protect employees. (*Gentry v. Super. Ct.* (2007) 42 Cal.4th 443, 460–61.) In this context, class representatives should be rewarded for assuming the risk of retaliation for the sake of class members. (*See Frank v. Eastman Kodak Co.* (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

Under the Settlement here, subject to the Court’s approval, Defendant agrees to pay a Class Representative Enhancement Payment of \$7,500.00 to Plaintiff, which will be in addition to her amount as a Class Member. (Settlement, ¶ 3.2.1.) This award is for Plaintiff’s service as the Class Representative and in exchange for a general release. (*Id.*) Plaintiff has devoted a great deal of time and work assisting counsel in the case and communicated with counsel frequently for litigation and to prepare for the mediation session. (Moon Decl., ¶¶ 41–44; Declaration of Plaintiff Alexis T. Brown in Support of Approval of Class Action and PAGA Settlement [“Plaintiff Decl.”], ¶¶ 16-26.) The requested award is fair and reasonable, particularly considering the substantial benefits Plaintiff generated for all Class Members. (*See* Moon Decl., ¶¶ 34–44.)

When compared with the amounts awarded in typical class action cases, the amount requested here is particularly reasonable. A 2006 study examining the average incentive award given to class action plaintiffs from 1993 to 2002 found that the “average award per class representative was \$15,992 and the median award per class representative was \$4357.” (Eisenberg & Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study* (2006) 53 UCLA L. Rev. 1303, 1307–08.) The same study found that named plaintiffs in employment discrimination class actions received an average award of \$69,850 and a median award of \$31,081, while named plaintiffs in other employment class actions received an average award of \$12,121 and a median award of \$13,059. (*Id.* at p. 1333.) The authors of the study found that higher awards in employment cases reflected the “courts’ wish to make representative plaintiffs whole by compensating them for the high costs of their service to the class, including risks of stigmatization or retaliation on the job.” (*Id.* at p. 1308.)

IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED

A. Legal Standard

The proposed Settlement Class is well suited for class certification. The claims all derive from a core set of alleged violations of California’s wage and hour laws and regulations. (Moon Decl., ¶¶

4–5.) For the reasons set forth more fully below, the Class, for purposes of Settlement, satisfies the prerequisites for certification under Code of Civil Procedure section 382. (Code Civ. Proc. § 382.) Section 382 provides that “when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all.” (*Id.*) There are two requirements to section 382: “(1) there must be an ascertainable class[]; and (2) there must be a well defined community of interest in the questions of law and fact involved affecting the parties to be represented.” (*Daar v. Yellow Cab Co.* (1967) 67 Cal. 2d 695, 704 [internal citations omitted].) To clarify these requirements, the California Supreme Court has looked to Federal Rule of Civil Procedure 23 to explain that the community-of-interest requirement itself embodies three factors: “(1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class.” (*Richmond v. Dart Indus., Inc.* (1981) 29 Cal. 3d 462, 470.)

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

B. Plaintiff Maintains that the Criteria for Class Certification Are Satisfied

1. The Class Is Ascertainable and Numerous

When determining whether a class is ascertainable, California courts focus on the following three factors: “(1) the class definition, (2) the size of the class and (3) the means of identifying class members.” (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 873.) Here, Plaintiff maintains there is an easily ascertainable Class, defined by objective and precise criteria. (Settlement, ¶¶ 1.5, 1.12.) The proposed Class that Plaintiff seeks to represent is ascertainable because (1) the Class definition is sufficiently precise, (2) the Class consists of about 210 individuals, and (3) Class Members can be readily identified by looking at Defendant’s records. (*Id.* at ¶¶ 4.1–.2.) Because Class Members are

1 identified using specific criteria in the regular business records of Defendant—their employment by
2 Defendant in California, non-exempt classification, and actual work during the Class Period—the
3 Class is ascertainable. (*See Wilner v. Sunset Life Ins. Co.* (2000) 78 Cal.App.4th 952, 959–60 [class
4 membership defined by ownership of product that is the subject of the lawsuit is sufficient to make
5 the class ascertainable].) “The requirement of Code of Civil Procedure section 382 that there be
6 ‘many’ parties to a class action suit is indefinite and has been construed liberally.” (*Rose v. City of*
7 *Hayward* (1981) 126 Cal.App.3d 926, 934.) “Where a question is of common interest to ‘many’
8 persons, an action may be maintained as a class action even where the parties are numerous and it is
9 in fact practicable to join them all.” (*Id.*) “No set number is required as a matter of law for the
10 maintenance of a class action.” (*Id.*) “Thus, our Supreme Court has upheld a class representing the
11 10 beneficiaries of a trust in an action for removal of the trustees.” (*Id.* [citing *Bowles v. Super. Ct.*
12 (1955) 44 Cal.2d 574]; *see also Collins v. Rocha* (1972) 7 Cal.3d 232 [upholding a class of 9 plaintiffs
13 and 35 members].) Therefore, numerosity is plainly satisfied.

14 **2. There Are Many Common Issues of Law and Fact Which Predominate**

15 To satisfy the community of interest requirement, Parties must show (1) common questions
16 of law and fact that predominate over individual issues, (2) class representatives have claims or
17 defenses typical of the class, and (3) class representatives adequately represent the class. (*Dunk,*
18 *supra*, 48 Cal.App.4th at p. 1806.) This inquiry tests whether proposed classes are sufficiently
19 cohesive to rationally warrant adjudication by representation. (*See, e.g., Clothesrigger, Inc. v. GTE*
20 *Corp.* (1987) 191 Cal.App.3d 605, 611–12.)

21 Here, Plaintiff’s claims satisfy all three requirements. The employment practices at issue
22 include whether or not Defendant paid proper wages to the Class; whether or not Defendant provided
23 meal periods to the Class; whether or not Defendant provided rest periods to the Class; whether or
24 not Defendant paid proper meal or rest period pay to the Class; whether or not Defendant reimbursed
25 any and all business expenses incurred by the Class; whether or not Defendant paid proper
26 compensation timely upon separation of employment to Class Members; whether or not Defendant
27 timely paid proper compensation throughout Class Members’ employment; whether or not Defendant
28 provided accurate and complete itemized wage statements to the Class; whether or not waiting-time

penalties are available to Class Members who are no longer employed by Defendant for violation of *Labor Code* § 203; whether or not Defendant maintained adequate and requisite records; and whether or not Defendant engaged in unlawful or unfair business practices affecting the Class in violation of *Business and Professions Code* §§ 17200-17208. (Moon Decl., ¶ 4–5; Settlement, ¶ 2.1.) Plaintiff contends the factual and legal issues are the same for all Class Members, and further that all Class Members suffered from and seek redress for the same alleged injuries. (Plaintiff Decl., ¶¶ 4–5.) Considering Class Members would need to prove the same issues of law and fact to prevail, and their legal remedies are identical, it would be preferable to resolve all claims through a settlement than to force each Class Member to litigate their own individual claims. Thus, the Court should grant conditional class certification for settlement purposes because common questions of law and fact predominate over any individual questions within the Class.

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

The typicality requirement does not focus on the individual characteristics or circumstances of the representative plaintiff compared to those of the remainder of the class, but rather, upon the typicality of the proposed representative’s claims as they relate to the defendant’s conduct and activities. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 47 [“The only requirements a re [sic] that common questions of law and fact *predominate* and that the class representative be *similarly* situated” vis-à-vis the class.] [emphasis in original].) A representative plaintiff’s claims are typical of the class if they arise from the same event, practice, or course of conduct, and if the claims rest on the same legal theories. (*Id.*) That is precisely the case here. Plaintiff is a former employee of Defendant; as such, she alleges she was subject to the same policies and practices as other similarly situated employees. (Plaintiff Decl., ¶ 6.)

4. Plaintiff and Her Counsel Meet the Adequacy Requirement

The adequacy of representation requirements is met by fulfilling two conditions: (1) a named plaintiff must be represented by counsel qualified to conduct the pending litigation, and (2) a named plaintiff’s interests cannot be antagonistic to those of the class. (*McGhee v. Bank of Am.* (1976) 60 Cal.App.3d 442, 450.)

1 Here, all requirements are met. Plaintiff retained counsel with extensive experience in
2 prosecuting complex class actions, including similar class actions that previously settled. (Moon
3 Decl., ¶¶ 45–59.) With their experience, Plaintiff’s Counsel unquestionably are “qualified,
4 experienced and generally able to conduct the proposed litigation.” (*Miller, supra*, 148 Cal.App.3d
5 at p. 874.) In addition, Plaintiff and her Counsel have no conflicts with one another, other Class
6 Members, the proposed Administrator. (Plaintiff Decl., ¶¶ 7–8; Moon Decl., ¶ 63.) Further, Plaintiff
7 has, with counsel, litigated this case and diligently reviewed the settlement terms, showing
8 dedication, and with full knowledge and acceptance of duties, she has committed to her role as Class
9 Representative. (Plaintiff Decl., ¶¶ 16–26.)

10 **5. A Class Action Is Superior to a Multiplicity of Litigation**

11 Finally, in making its class certification decision, the Court must determine that a class action
12 would be superior to alternative means for the fair and efficient adjudication of the litigation. (*See*
13 *Leyva v. Medline Indus. Inc.* (9th Cir. 2013) 716 F.3d 510, 514–15.) By consolidating many potential
14 individual actions into a single proceeding, this Court’s use of the class action device enables it to
15 manage this litigation in a manner that serves the economics of time, effort, and expense for the
16 litigants and the judicial system. (*Id.*) Absent class treatment, similarly situated employees with
17 small, but nevertheless meritorious, claims for damages would, as a practical matter, have no means
18 of redress because of the time, effort, and expense required to prosecute individual actions. (*Id.* at p.
19 515; *Gentry, supra*, 42 Cal.4th at pp. 457–62.) Moreover, in the context of settlement, the superiority
20 concerns are essentially non-existent. (*See generally, e.g., Stamburgh, supra*, 62 Cal.App.3d.)

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

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

23 Class Notice requirements are set forth in the California Rules of Court. (Cal. Rules of Court,
24 rule 3.766(e)–(f).) California law vests the Court with broad discretion in fashioning an appropriate
25 notice program. (*Cartt v. Super. Ct.* (1975) 50 Cal.App.3d 960, 970, 973–74.) There is no statutory
26 or due process requirement that all class members receive actual notice, but in this matter, the Class
27 Members will receive direct mailed notice. (Settlement, ¶ 7.4.2.) As the Court of Appeals has
28 explained, “[t]he notice given should have a reasonable chance of reaching a substantial percentage

1 of the Class Members . . .” (*Cartt*, 50 Cal.App.3d at p. 974.) In this case, notice of the proposed
2 Settlement will be provided by direct mailing, the best possible form of notice under the
3 circumstances. (Settlement, ¶ 33.)

4 **B. The Notice Is Accurate and Informative**

5 The proposed Notice should be approved. It will be disseminated through direct U.S. first-
6 class mail to the current address for each Class Member. (*Id.* at ¶ 7.4.2.) It informs the Class of the
7 terms of the Settlement and the right to be excluded. (*Id.* at ¶ 7.5, Exh. A.) And if there are Class
8 Members who wish to object to the proposed Settlement, they are informed of their right to submit
9 written objections and/or be heard at the Final Approval Hearing. (*Id.* at ¶ 7.7, Exh. A.)

10 The Notice also fulfills the requirement of neutrality in class notices. (Newberg, Newberg
11 on Class Actions (3rd ed. 1992) § 8.39.) It summarizes the proceedings to date and the terms and
12 conditions of the Settlement in an informative and coherent manner. (Settlement, Exh. A.) It makes
13 clear the Settlement does not constitute an admission of liability by Defendant, who denies all
14 liability, and it recognizes that this Court has not ruled on the merits of the action. (*Id.*) It also
15 states that the final approval decision has yet to be made, and provides the date, time, and location
16 of the Final Approval Hearing. (*Id.*) Accordingly, the Notice complies with the standards of
17 fairness, completeness, and neutrality required of a combined settlement-certification class notice.

18 **VI. CONCLUSION**

19 For the foregoing reasons, Plaintiff respectfully requests the Court grant this motion, enter the
20 proposed order submitted herewith regarding preliminary approval, and set a final approval hearing
21 no earlier than 140 days from the preliminary approval order.

22 Respectfully submitted,

23 Dated: June 11, 2025

MOON LAW GROUP, PC

24
25 By: _____

Kane Moon
Lilit Ter-Astvatsatryan
Nichelle Christopherson

26
27 *Attorneys for Plaintiff*
28