Kane Moon (Cal. SBN 249834)
kmoon@moonlawgroup.com
Daniel J. Park (Cal. SBN 274973)
dpark@moonlawgroup.com
MOON LAW GROUP, PC
725 South Figueroa Street, 31st Floor
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

Attorneys for Plaintiff Ricardo F. Flores

(Additional Plaintiffs' counsel on next page)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

RICARDO F. FLORES, individually, and on behalf of all others similarly situated, Plaintiff, vs. PASADENA HOSPITAL ASSOCIATION, LTD., a California corporation; and DOES 1 through 10, inclusive, Defendants SANDRA YVETTE LAGUNAS, STEPHANIE ESTELA CERTEZA, individually and on behalf of all others similarly situated, Plaintiff(s), v. PASADENA HOSPITAL ASSOCIATION, LTD; a California nonprofit corporation and DOES 1 through 100, Defendants.	Flores Case No.: 23STCV27387 Lagunas Case No. 23AHCV02007 [Assigned for all purposes to The Honorable Hon. Elihu M. Berle, Dept. 6] **COMPLEX ACTION** **NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT** [*Filed with Declarations of Kane Moon, Janelle Carney and Manny Starr, Declarations of Plaintiffs, Declaration of Settlement Administrator, and [Proposed] Order Granting Plaintiff's Motion to Preliminarily Approve Settlement*] PRELIMINARY APPROVAL HEARING Date: December 3, 2025 Time: 9:00am Dept.: 6

Janelle Carney (#201570)
JANELLE CARNEY- ATTORNEY AT LAW, APC
14758 Pipeline Avenue, Suite E
Chino Hills, CA 91709
Telephone: (909) 521-9609 / Facsimile: (909) 393-0471
E-mail: Janelle@JanelleCarneyLaw.com

Manny Starr (319778)
manny@frontierlawcenter.com
FRONTIER LAW CENTER
6200 Canoga Avenue, Suite 470
Woodland Hills CA 91367
Telephone: (818) 914-3433/ Facsimile: (818) 914-3433

Attorneys for Plaintiffs Sandra Yvette Lagunas and Stephanie Estela Certeza

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

PLEASE TAKE NOTICE that on December 3, 2025, in Department 6 of this Court located at 312 North Spring Street, Los Angeles, CA 90012, pursuant to Code of Civil Procedure section 382 and California Rules of Court, rule 3.769 *et seq*., Plaintiffs Ricardo Flores, Sandra Yvette Lagunas, and Stephanie Estela Certeza ("Plaintiffs") will move the Court for an Order granting preliminary approval of the proposed class action settlement between Plaintiff and Defendant Pasadena Hospital Association, Ltd, and Does 1 through 10 (collectively referred to as "Defendants"). Plaintiffs further move the Court for an Order:

1. Granting preliminary approval of the Class Action and PAGA Settlement;
2. Certifying a Class for settlement purposes;
3. Approving the Class Notice and the plan for distribution of the Class Notice;
4. Appointing Plaintiffs as Class Representative for settlement purposes;
5. Appointing Moon Law Group, PC, Janelle Carney – Attorney at Law, APC, and Frontier Law Center as Class Counsel for settlement purposes;
6. Appointing Rust Consulting, Inc. as the Settlement Administrator; and
7. Scheduling a Final Approval Hearing.

The motion will be based upon this notice, the attached memorandum of points and authorities, the Declarations of Kane Moon (and exhibits attached thereto), Janelle Carney, and Manny Starr on behalf of proposed Class Counsel, Declarations of Plaintiff Ricardo Flores, Sandra Yvette Lagunas, and Stephanie Estela Certeza, Declaration of Eric Bishop on behalf of the proposed settlement administrator, the records and files in this action, and any other further evidence or argument that the Court may properly receive at or before the hearing.

Respectfully submitted,

Dated: October 22, 2025 MOON LAW GROUP, PC

By: Daniel J. Park

Kane Moon
Daniel Park
Attorneys for Plaintiff

TABLE OF CONTENTS

TABLE OF AUTHORITIES iv

I. INTRODUCTION 1

II. SUMMARY OF THE LITIGATION AND SETTLEMENT 1

A. Plaintiff's Claims 1

B. Discovery and Investigation 3

C. Settlement Negotiations 4

D. Key Terms of the Proposed Settlement 5

III. THE COURT SHOULD GRANT PRELIMINARY APPROVAL 8

A. The Settlement Is Fair, Reasonable, Adequate, and the Product of Investigation, Litigation, and Negotiation 9

1. The Settlement Is the Product of Discovery, Investigation, and Informed and Non-Collusive Arm's-Length Negotiations 9

2. The Settlement Is Fair and Reasonable in Light of the Parties' Respective Legal Positions 10

3. Class Counsel Have Extensive Experience in Class Action Litigation 11

B. The Proposed Class Notice of Settlement Should Be Approved 11

C. The Proposed Attorneys' Fees and Costs Are Reasonable 12

1. Class Counsel Will Request an Award of Fees Based On the "Common Fund" Method 12

2. The Requested Fee Award Is in Line with Typical Cases 13

3. This Matter Involves a "Fee-Shifting" Provision of the Labor Code 13

4. The Experience, Reputation, and Ability of Class Counsel Support the Requested Fee Award 14

D. The Class Representative Service Payment to Named Plaintiff Is Reasonable 14

IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED 16

A. Legal Standard 16

B. Plaintiff Maintains that the Criteria for Class Certification Are Satisfied 17

1. The Class Is Ascertainable and Numerous 17
2. There Are Many Common Issues of Law and Fact Which Predominate 18
3. Plaintiff's Claims Are Typical of the Claims of the Class 19
4. Plaintiff and His Counsel Meet the Adequacy Requirement 19
5. A Class Action Is Superior to a Multiplicity of Litigation 19
V. THE PROPOSED NOTICE IS CONSTITUTIONALLY SOUND 20
A. The Proposed Notice Plan Satisfies Due Process 20
B. The Notice Is Accurate and Informative 20
VI. CONCLUSION 21

TABLE OF AUTHORITIES

CASES

Angeles v. U.S. Airways, Inc. (N.D. Cal. Feb. 19, 2013) No. C 12-05860 CRB, 2013 WL 622032 3

Frank v. Eastman Kodak Co. (W.D.N.Y. 2005) 228 F.R.D. 174 15

Pedroza v. PetSmart, Inc. (C.D. Cal. June 14, 2012) No. ED CV 11–298 GHK (DTBx), 2012 WL 9506073 3

Priddy v. Edelman (6th Cir. 1989) 883 F.2d 438 9

Van Vranken v. Atlantic Richfield Company (N.D. Cal. 1995) 901 F.Supp. 294....13

Vincent v. Hughes Air West, Inc. (1977) 557 F.2d 759 12

OTHER AUTHORITIES

Theodore Eisenberg & Jeffrey P. Miller, "Incentive Awards to Class Action Plaintiffs: An Empirical Study", 53 UCLA L. Rev. 1303 (2006) 15

RULES

California Rules of Court, Rule 3.766....19

California Rules of Court, Rule 3.769(f)....11

TREATISES

Conte & Newberg, Newberg on Class Actions (3rd Ed.) § 11.51 9

Conte & Newberg, Newberg on Class Actions (3rd Ed.) § 14.03 13

Conte & Newberg, Newberg on Class Actions (3rd Ed.) § 8.39 20

STATE CASES

Bowles v. Super. Ct. (1955) 44 Cal.2d 574 17

Cartt v. Super Ct. (1975) 50 Cal.App.3d 960....19, 20

Chavez v. Netflix, Inc. (2008) 162 Cal.App.4th 43....13

City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105....12

Classen v. Weller (1983) 145 Cal.App.3d 27....18

Clothesrigger, Inc. v. GTE Corp. (1987) 191 Cal.App.3d 605....17

Collins v. Rocha (1972) 7 Cal.3d 232 17

D'Amico v. Bd. of Medical Examiners (1974) 11 Cal.3d 1 12
Daar v. Yellow Cab Co. (1967) 67 Cal. 2d 695..16
Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794 8
Gentry v. Super. Ct. (2007) 42 Cal.4th 443..15
Laffitte v. Robert Half Int'l Inc. (2016) 1 Cal.5th 480...12, 13
Linder v. Thrifty Oil Co. (2000) 23 Cal.4th 429...16
Mallick v. Super. Ct. (1979) 89 Cal.App.3d 434 8
McGhee v. Bank of America (1976) 60 Cal.App.3d 442 19
Miller v. Woods (1983) 148 Cal. App. 3d 862 19
Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles (2010) 186 Cal.App.4th 399 ....8, 14
Quinn v. State of California (1995) 15 Cal.3d 162..12
Richmond v. Dart Indus., Inc. (1981) 29 Cal. 3d 462..16
Rodriguez v. W. Publ'g Corp. (9th Cir. 2009) 563 F.3d 948...14
Rose v. City of Hayward (1981) 126 Cal.App.3d 926 17
Serrano v. Priest (1977) 20 Cal.3d 25..12
Stamburgh v. Super. Ct. (1976) 62 Cal.App.3d 231 9
Wershba v. Apple Computers, Inc. (2001) 91 Cal.App.4th 224..10
Wilner v. Sunset Life Ins. Co. (2000) 78 Cal.App.4th 952 17

STATE STATUTES

Califorinia Code of Civil Procedure § 382...16, 17
California Labor Code § 90.5..15
California Labor Code § 218.5..13
California Labor Code § 226...13
California Labor Code § 1194..13
California Labor Code § 2699(g)(1) 13
California Labor Code § 2802(d)...13

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Ricardo Flores ("Plaintiff Flores" or "Flores"), Plaintiff Sandra Yvette Lagunas ("Plaintiff Lagunas" or "Lagunas"), Plaintiff Stephanie Estela Certeza ("Plaintiff Certeza" or "Certeza")(collectively, the "Plaintiffs") seek preliminary approval of a proposed $1,875,000.00 non-reversionary, wage-and-hour class action settlement ("Settlement") with Defendant Pasadena Hospital Association, Ltd. and Does 1 through 10 (collectively referred to as "Defendants," and together with Plaintiffs, the "Parties"). The Settlement will provide substantial monetary payments to approximately 5,737 Class Members who collectively worked an estimated total of 552,366 workweeks, and 5,453 Aggrieved Employees under the California Private Attorneys General Act of 2004 ("PAGA") who worked an estimated total of 256,414 pay periods. 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, informal discovery, and negotiations between the Parties. The negotiations were at arm's-length and were facilitated through mediation by experienced neutral mediator Tripper Ortman, Esq. Accordingly, Plaintiffs 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. Plaintiffs' Claims

Defendant operates Huntington Hospital in Pasadena, CA. (Declaration of Kane Moon in Support of Plaintiff's Motion for Preliminary Approval of Class and PAGA Representative Action Settlement ["Moon Decl."], ¶ 5.) Defendants employed Plaintiffs and other putative Class Members in California during the relevant period. (*Id.*) Plaintiff Flores was employed by Defendants during the period as a Patient Care Assistant during the entirety of his employment. Plaintiffs Lagunas and Certeza was employed by Defendant in admissions during the relevant time period. Each Plaintiff was classified as non-exempt (*Id.*) Plaintiffs contend that Defendants subjected them and their coworkers to the same unlawful labor practices, including failure to pay all wages, among others. (*Id.*)

Plaintiffs' claim for unpaid wages stems from allegations that Defendant: (1) required Plaintiffs to work off-the-clock and uncompensated due to corporate policy regarding staffing levels and the nature of the job; (2) paid additional remunerations that were not incorporated into the regular rate of pay for purposes of paying overtime, meal premiums, or sick pay; (3) and through June, 2022, subjected Plaintiffs and the Class to a systematic and automatic rounding practice. (*Id.* at ¶6.) Moreover, Plaintiffs also allege Defendant wrongfully failed to provide legally compliant meal and rest periods by failing to inform Plaintiffs and the Class of their right to take meal and rest periods, failing to keep adequate records or policies to verify that Plaintiffs and the Class were taking their meal and rest periods, by failing to have adequate policies and practices for authorizing and timing meal and rest periods, and by conducting. Further, Plaintiffs also bring derivative claims for waiting time penalties, wage statement violations, unfair business practices, and civil penalties under PAGA. (*Id.* at ¶ 7.)

Because of Defendants' clear violations of various provisions of the Labor Code, Plaintiff Flores filed this class and representative action on November 7, 2023 which, in its consolidated and amended form, alleges that Defendants systematically: (1) failed to pay minimum and regular rate wages, (2) failed to pay overtime compensation, (3) failed to provide meal periods, (4) failed to authorize and permit rest breaks, (5) failed to indemnify necessary business expenses, (6) failure to timely pay wages during employment, (7) failed to timely pay wages at termination, (8) failed to provide accurate itemized wage statements and maintain payroll, (9) engaged in unfair business practices, and (10) violated civil penalty provisions recoverable as PAGA penalties pursuant to Labor Code section 2699 *et seq*. (*Id.* at ¶ 8.)

On August 31, 2023, Plaintiffs Lagunas and Certeza filed their Class Action and PAGA representative action on August 31, 2023, entitled *Lagunas v. Pasadena Hospital Association, LTD*, Los Angeles Superior Court Case No. 23AHCV02007 ("Lagunas Action"). The instant action and Lagunas Action were deemed related on May 6, 2025. At the time the court vacated the dates in Lagunas and transferred the matter to this court, the parties were in preparation for trial. The prior court bifurcated the trial into two phases, the individual wage claims for a jury trial and a subsequent phase for the PAGA trial. Phase 1 of the trial was set to start on January 13, 2026. Plaintiffs filed a Consolidated Complaint on October 13, 2025 (*Id*.)

Defendants ardently oppose the merits of this case and denies Plaintiffs' factual allegations. (*Id.* at ¶ 10.) Defendants maintain its compliance with all meal and rest period obligations, and that putative Class Members were provided with the opportunity to take all meal and rest periods to which they were entitled or otherwise voluntarily waived their break rights. (*Id.*) Defendants also argue that it paid employees all wages owed. (*Id.*) To the extent that Plaintiffs received wage statements that were allegedly inaccurate, Defendants assert that Plaintiffs suffered no actual damage or harm as a result. (*See, e.g.*, *Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013, No. C 12–05860 CRB) 2013 WL 622032, at *10 ["A plaintiff must adequately plead an injury arising from an employer's failure to provide full and accurate wage statements, and the omission of the required information alone is not sufficient."].). (*Id.*) With respect to Plaintiffs' claim for waiting time penalties, Defendants allege that its good-faith belief that they paid all wages precludes the imposition of waiting time penalties since Plaintiffs cannot prove that Defendants' alleged failure to pay all final wages at the time of separation was "willful." (*See, e.g.*, *Pedroza v. PetSmart, Inc.* (C.D. Cal. June 14, 2012, No. ED CV 11–298 GHK (DTBx)) 2012 WL 9506073, *5.) (*Id.*) For these reasons, Defendants claim that it did not engage in any unfair business practices and deny liability under PAGA. (*Id.*) Defendants also maintains that Plaintiffs' claims are improper for class treatment. (*Id.*)

B. Discovery and Investigation

In light of the upcoming trial in the Laguans action, the Parties met and conferred regarding an agreement to mediate the action. (*Id.* at ¶ 12.) The Parties agreed to mediate on July 25, 2025, and further agreed to a protocol for an informal exchange of documents and information before the mediation. (*Id.*) The Parties in the Lagunas Action and instant action had conducted formal discovery but further agreed to a protocol for an informal exchange of documents and information before the mediation. Prior to mediation, Plaintiffs obtained from Defendant, through both formal and informal discovery, voluminous documents and data that was necessary and helpful to evaluate the claims asserted in this action. Defendant produced written policies regarding Defendant's employment of Class Members as well as a sample of time and payroll records for Class Members, as well as information regarding the total number of current and former employees for the relevant time period which were reviewed, investigated, and analyzed by Class Counsel. (*Id.*)

In preparation for mediation, Class Counsel reviewed and analyzed the information and documents that Defendants had produced, including documents regarding Defendants' wage-and-hour policies and practices as well as the sample time and pay records. (*Id.* at ¶ 19.) Class Counsel retained a statistics expert to analyze the records produced and prepare a damage analysis for trial and prior to mediation. (*Id.)* The sample size of time and pay records allowed the expert to prepare an analysis with a high degree of certainty. (*Id.*) In conjunction with their extensive factual investigation, Class Counsel also investigated the applicable law regarding the claims and defenses asserted in the litigation. (*Id.*) Accordingly, Class Counsel were able to evaluate the probability of class certification, success on the merits, and Defendants' maximum monetary exposure for all claims. (*Id.*) Thus, Plaintiff's and Class Counsel's familiarity with the facts of the case and the legal issues raised by the pleadings allowed them to act intelligently in negotiating the Settlement. (*Id.*)

C. <u>Settlement Negotiations</u>

On July 29, 2025, the Parties participated in private mediation with experienced mediator Tripper Ortman, Esq. (*Id.* at ¶ 14.) The negotiations were at arm's length and, although conducted in a professional manner, were adversarial. (*Id.*) 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 Defendants' defenses, the Parties were able to reach a settlement, the material terms of which are encompassed within the Class Action and PAGA Settlement ("Settlement Agreement"). (*Id.*, Ex. 1 ["Settlement Agreement"].)

Class Counsel have conducted a thorough investigation into the facts of this case. (*Id.* at ¶¶ 13,19-20.) Based on the foregoing document and information exchange and on their own independent investigation and evaluation, Class Counsel are of the opinion that the proposed Settlement is fair, reasonable, and adequate. (*Id.*) Furthermore, in light of all known facts and circumstances, the risk of significant delay, trial risk, appellate risk, and the defenses that Defendants may assert both to certification and on the merits, the Settlement is in the best interests of Class Members. (*Id.* ¶¶ 21–32.) **Indeed, the $1,875,000.00 Gross Settlement Amount represents an estimate of approximately 20.36% of Defendants' realistic maximum liability for all claims, including penalties, of $9,210,049.23.** (*Id.* at ¶ 27.)

D. Key Terms of the Proposed Settlement

Under the Settlement, Defendants will pay $1,875,000.00 to resolve this litigation. (Settlement Agreement, ¶ 3.1.) This amount is all-inclusive. The Settlement's key terms include:

1. Class: "Class" means all means all non-exempt employees working for Defendant during the Class Period defined as January 1, 2022, through February 1, 2026, or Preliminary approval whichever comes first. (*Id.* at ¶ 1.5.) Despite the filing dates of the respective actions, the class period was limited to the January 1, 2022 date given the prior settlement in the *Cannon v. Pasadena Hospital Association, Ltd.,* Los Angeles County Superior Court Case No. 19STCV14554 matter which defined the class period as September 30, 2016 to December 31, 2021.

2. Class Period: "Class Period" means the period from January 1, 2022 to February 1, 2026, or preliminary approval, whichever comes first. (*Id.* at ¶ 1.12.)

3. Participating Class Member: Participating Class Member is one who does not submit a valid and timely Request for Exclusion from the Settlement. (*Id.* at ¶ 1.36.)

4. No Reversion: This Settlement is non-reversionary requiring Defendants to make payments to Settlement Class Members, which shall be issued by a Settlement Administrator according to a specific formula based on Eligible Workweeks or Pay Periods, and which under no circumstance will any of the funds be reverted to Defendants. (*Id.* at ¶ 3.1.)

5. Gross Settlement Amount: This amount is $1,875,000.00 and excludes Defendants' employer's taxes, which shall be paid separate and in addition to the gross amount. (*Id.*)

6. Release: The named Plaintiffs Lagunas, Certeza, and Flores, and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from any and all claims, known and unknown, under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law, including but not limited to claims arising from or related to their employment with Defendant and their compensation while an employee of Defendant. (*Id.* at ¶ 6.1.) For purposes of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of Section 1542 of the California Civil Code. (*Id.* at ¶ 6.1.1.)

7. PAGA Penalties: "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees ($46,875.00) and the 75% to LWDA ($140,625.00) in settlement of PAGA. (*Id.* at ¶ 1.33.)

8. 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 Service Payments, Class Counsel Fees Payment. (Settlement Agreement, ¶ 1.29.) The remainder is to be paid to Participating Class Members as "Individual Class Payments." (*Id.*)

9. Individual Class Payments (Excludes PAGA Payments): Each Participating Class Member will be entitled to receive an Individual Settlement Payment, which will be paid out of the Net Settlement Amount. (*Id., Id.* at ¶ 1.24.) The amount of each Individual Settlement Payment will be calculated on a pro rata basis, based on the Workweeks each Participating Class Member worked during the Class Settlement Period. (*Id.*)

10. Individual PAGA Payments: "Individual PAGA Payment" means the individual amounts paid from the PAGA Payment to the individual PAGA Members for settlement of claims for civil penalties under PAGA. (*Id.* at ¶ 1.25.)

11. PAGA Period: "PAGA Period" means the period from June 12, 2022, to February 1, 2026, or preliminary approval, whichever occurs first. (*Id*. at ¶ 1.32.)

12. Allocation of Individual Settlement Class Payments: All Individual Settlement Payments to Participating Class Members shall be allocated as follows for tax purposes: 20% of

each Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). (*Id.* at ¶ 3.2.4.1.) 80% of each Individual Class Payment will be allocated to settlement of claims for interest and penalties] (the "Non-Wage Portion".) (*Id.*)

13. Class Representative Service Payment: "Class Representative Service Payment" means the payment to the Class Representatives for initiating the Action and providing services in support of the Action (*Id.* at ¶ 1.14.) Plaintiffs request for the Class Representative Service Payment of not more than ten thousand dollars and zero cents ($10,000.00) in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member. (*Id.* at ¶ 3.2.1.) This amount is for Plaintiffs' time and effort, as well as their exposure to substantial risk, in bringing and presenting the action. (Moon Decl., ¶¶ 17, 33–36; Declaration of Janelle Carney in Support of Plaintiffs' Motion for Class Action and PAGA Settlement ("Carney Decl.") ¶ 11; Declaration of Manny Starr in Support of Plaintiffs' Motion for Class Action and PAGA Settlement ("Starr Decl.") ¶ 10.).

14. Attorneys' Fees and Costs: The Settlement provides that Defendants will not oppose a fee application of up to one-third ($625,000.00) of the Gross Settlement Amount, plus out-of-pocket costs not to exceed $40,000.00. (Settlement Agreement, ¶ 3.2.2.) At this time, Moon Law Group, PC's costs are $15,351.79. (Moon Decl., ¶¶ 16, 18, 52, Ex. 4.) JCAL's costs are $11,173.79 (See Carney Decl Exh 2) Frontier Law Center's costs are estimated to be $9,767.00 and final costs will be submitted at the time of Final Approval.

15. Administrator Expense Payment: The Administrator Expense Payment will be paid from the Gross Settlement Amount to be reimbursed its reasonable fees and expenses as a result of the procedures and processes expressly required by the Settlement Agreement, not to exceed $27,000.00. (Settlement Agreement, ¶ 3.2.3.) Settlement Administration costs are currently estimated to be $28,312. However, Rust Consulting, Inc. (Carney Decl., ¶13, Ex. 1, Declaration of Eric Bishop ["Administrator Decl."] ¶ 17.)

16. Notice of Proposed Settlement: The Notice of Settlement shall advise Settlement Class Members of their options, which include filing an Opt-Out Request to the class settlement; filing an objection to the Settlement and receiving an Individual Settlement Payment and an Individual

PAGA Payment (if applicable); or taking no action and receiving an Individual Settlement Payment and an Individual PAGA Payment (if applicable). (Settlement Agreement. ¶ 8.4, Ex. A.) Class Members will be notified by first-class mail of the Settlement. (*Id.* at ¶ 4.4.1.) If any Notice of Settlement is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall run a skip-trace using that Settlement Class Member's social security number in an effort to attempt to ascertain the current address of the Settlement Class Member. (*Id.* at ¶ 4.4.2.)

III. <u>THE COURT SHOULD GRANT PRELIMINARY APPROVAL</u>

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

In evaluating a settlement, the trial court considers the following factors: (1) the strength of plaintiff's case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk of maintaining class action status through trial; (4) the settlement amount offered; (5) the extent of discovery completed and the stage of the proceedings; (6) counsel's experience and views; (7) the presence of a governmental participant; and (8) the class members' reaction to the proposed settlement. (*Kullar v. Foot Locker Retail, Inc*. (2008) 168 Cal.App.4th 116, 128.) In order to approve a class action settlement, "the court must satisfy itself that the class settlement is within the 'ballpark' of reasonableness." (*Id*. at p. 133.) The record need not contain an explicit statement of the maximum theoretical recovery. (*Munoz v. BCI Coca-Cola Bottling Co. of L.A.*

(2010) 186 Cal.App.4th 399, 408–09 [holding that *Kullar* does not require "an explicit statement of the maximum amount the plaintiff class could recover if it prevailed on all its claims," but instead, only an "understanding of the amount that is in controversy and the realistic range of outcomes of the litigation"].)

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

A. <u>The Settlement Is Fair, Reasonable, Adequate, and the Product of Investigation, Litigation, and Negotiation</u>

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

Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless evidence to the contrary is offered; thus, there is a presumption here that the negotiations were conducted in good faith. (Newberg, Newberg on Class Actions (3rd ed. 1992) § 11.51.) Settlement is favored, and settlement agreements are realistically assessed. (*Stamburgh v. Super. Ct.* (1976) 62 Cal.App.3d 231, 236; *Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447 ["The fact that the plaintiff might have received more if the case had been fully litigated is no reason not to approve the settlement."].)

This proposed Settlement was reached following extensive negotiations with experienced mediator Tripper Ortman, Esq. (Moon Decl., ¶ 14.) The negotiations were at arm's length and, although conducted in a professional manner, were adversarial. (*Id.*) 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.*)

Prior to reaching the Settlement, Class Counsel conducted formal and informal discovery and investigation into the claims alleged by Plaintiffs, including, among other things, reviewing and analyzing internal policy manuals regarding Defendants' wage-and-hour policies and practices as well as a sample of Defendants' time and pay records for putative Class Members, and preparing a damage analysis. (*Id.* at ¶¶ 12-13.) In conjunction with their extensive factual investigation, Class Counsel also investigated the applicable law regarding the claims and defenses asserted in the litigation. (*Id.*) Accordingly, Class Counsel were able to evaluate the probability of class certification, success on the merits, and Defendants' maximum monetary exposure for all claims. (*Id.*) Thus, Plaintiffs' and Class Counsel's familiarity with the facts of the case and the legal issues raised by the pleadings allowed them to act intelligently in negotiating the Settlement. (*Id.*)

Class Counsel also have considerable experience and have demonstrated competence with litigating wage-and-hour class actions. (*Id.* at ¶¶ 37–45; Carney Decl. ¶¶ 3-4; Starr Decl. ¶¶ 13-15.) Again, this supports the conclusion that the terms of the Settlement are based on objective evidence that has been considered and weighed against the risks, expenses, and time consumption to both sides of continued litigation of this action.

2. The Settlement Is Fair and Reasonable in Light of the Parties' Respective Legal 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, the Settlement obviates the significant risk that this Court may deny certification of all or some of Plaintiffs' claims. (Moon Decl., ¶ 29.) While Plaintiffs are confident in the merits of his claims, a legitimate controversy exists as to each cause of action. (*Id.* at ¶ 27.) Plaintiffs also recognizes that proving the amount of wages owed to each Class Member would be an expensive, time-consuming, and uncertain proposition. (*Id.*) Furthermore, even if Plaintiff were able to pursue their claims on a class-wide basis and thus obtain certification of all or some of the claims, continued litigation would be expensive, involving a trial and possible appeals, and would substantially delay and reduce any recovery by the Class. (*Id.* at ¶ 30.)

The proposed settlement of $1,875,000.00 therefore represents a substantial recovery when compared to Plaintiffs' reasonably forecasted recovery. (*Id.* at ¶ 26.) Because of the proposed Settlement, Class Members will receive timely, guaranteed relief and will avoid the significant risk of not recovering any damages or penalties. (*Id.* at ¶ 26.) When considering the risks of litigation, the uncertainties involved in continued litigation, the burdens of proof necessary to establish liability, and the probability of appeal, it is clear that the Settlement amount of $350,000.00 is within the "ballpark" of reasonableness, and that preliminary settlement approval is appropriate. (*Id.* at ¶ 32.) **Indeed, it is currently estimated that each Participating Settlement Class Member is eligible to receive an average benefit of approximately $175.25. Considering that Class Members' average regular hourly rate is $44.16, the average benefit is approximately 3.96 hours of work.**

3. Class Counsel Have Extensive Experience in Class Action Litigation

The Settlement negotiations were conducted by highly capable and experienced counsel. (*Id.* at ¶¶ 37-45; Carney Decl. ¶¶ 3-4; Starr Decl. ¶¶ 13-15.) Class Counsel have a strong record of vigorous and effective advocacy for their clients and are experienced in handling complex wage-and-hour class-action litigation. (*Id.*) Although Plaintiffs and their counsel were prepared to try the claims alleged in the litigation, they support the proposed Settlement as being in the best interest of the Class. (*Id.* at ¶¶ 14, 27-30; Carney Decl. ¶¶ 9-10; Starr Decl. ¶¶ 7-9.)

B. <u>The Proposed Class Notice of Settlement Should Be Approved</u>

The proposed Class Notice, in the form attached to the Settlement Agreement as Exhibit A, should be approved for dissemination to the Class. The Notice informs the Class of the terms of the Settlement and of their rights to be excluded from the Settlement. (Settlement Agreement, Ex. A.) If there are Class Members who wish to object to this proposed class action Settlement, they will have the opportunity to file their objections and be heard at the Final Approval Hearing. (*Id.*) Accordingly, the proposed Notice meets all the requirements of Rule 3.769(f) of the California Rules of Court. (Cal. Rules of Court, rule 3.769(f).)

C. <u>The Proposed Attorneys' Fees and Costs Are Reasonable</u>

Under the Settlement, subject to the Court's approval, Defendants agrees to pay Class Counsel's reasonable attorneys' fees in an amount not to exceed $625,000.00, which is one-third of the Gross Settlement Amount, and up to $40,000.00 in litigation costs. (Settlement Agreement, ¶ 3.2.2.) These amounts are disclosed to all Class Members in the proposed Class Notice and are reasonable. (Settlement Agreement, Ex. A.)

1. Class Counsel Will Request an Award of Fees Based On the "Common Fund" Method

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

Class Counsel seek an award of attorneys' fees on the "percentage of recovery/common fund" theory. (Moon Decl., ¶ 47.) The purpose of this approach is to "spread litigation costs proportionately among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." (*Vincent v. Hughes Air W., Inc.* (9th Cir. 1977) 557 F.2d 759, 769.) In *Quinn v. State of California* (1975) 15 Cal.3d 162, the California Supreme Court stated, "one who expends attorneys' fees in winning a suit which creates a fund from which others derive benefits, may require those passive beneficiaries to bear a fair share of the litigation costs." (*Id.* at p. 167.) Similarly, in *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court recognized that the common fund doctrine has been applied "consistently in California when an action brought by one party creates a fund in which other persons[ ] are entitled to share." (*Id.* at pp. 110–11 [pincite omitted].)

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

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, Plaintiffs request attorneys' 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 Agreement, ¶ 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 respectfully requests that the Court preliminarily 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 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 his 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 Defendants while at the same time rewarding Class Counsel for their decision to assume risk by taking on this matter. (Moon Decl., ¶¶ 48-51.) In fact, prosecution of this action involved significant financial risk for Class Counsel. (*Id.*) Class Counsel undertook this matter solely on a contingent basis, with no guarantee of recovery. (*Id.* at *Id.*) Once Class Counsel undertook this litigation on behalf of the Class, they committed to pursue it to its conclusion, placing their fiduciary duty to the Class ahead of all other concerns. (*Id.*)

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. (*Id.* at ¶¶ 44–56.) Class Counsel have been involved as lead counsel or co-counsel in numerous class actions that resulted in millions in recovery. (*Id.* at ¶¶ 37-45; Carney Decl. ¶¶ 3-4; Starr Decl. ¶¶ 13-15.) Because it is reasonable to compensate Class Counsel commensurate with their skill, reputation, and experience, Class Counsel's requested fee award is supported here.

Class Counsel's experience in wage-and-hour class actions was integral in evaluating the strengths and weaknesses of the case against Defendants and the reasonableness of the settlement. (*Id.* at ¶ 45.) Practice in the narrow field of wage-and-hour litigation requires skill and knowledge concerning the rapidly evolving substantive law (state and federal), as well as the procedural law of class action litigation. Based on these and other factors, Class Counsel have frequently received fee awards of this percentage from the gross recovery for the class. (*See id.* at ¶¶ 37-45; Carney Decl. ¶¶ 3-4; Starr Decl. ¶¶ 13-15) Therefore, the requested fee award is reasonable and fair.

D. <u>The Class Representative Service Payment to Each Named Plaintiff Is Reasonable</u>

Named plaintiffs in class action lawsuits "are eligible for reasonable incentive payments to compensate them for the expense or risk they have incurred in conferring a benefit on other members of the class." (*Munoz*, *supra*, 186 Cal.App.4th at p. 412.) Courts routinely grant approval of class action settlement agreements containing enhancements for the class representatives, which are necessary to provide incentive to represent the class and are appropriate given the benefit the class representatives help to bring about for the class. (*See Rodriguez v. W. Publ'g Corp*. (9th Cir. 2009) 563 F.3d 948, 958–59.)

Enhancement awards are particularly important to plaintiffs in wage-and-hour cases because they promote the important public policies underlying wage-and-hour laws. This strong policy is codified in California Labor Code section 90.5, which provides, "[i]t is the policy of this state to vigorously enforce minimum labor standards in order to ensure employees are not required or permitted to work under substandard unlawful conditions . . ." (Lab. Code § 90.5.) Nonetheless, 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 Agreement here, subject to the Court's approval, Defendants agree to pay a Service Payment in the amount of $10,000.00 to each Plaintiff. (Settlement Agreement, ¶ 3.2.1.) Class Counsel represent that each Plaintiff devoted a great deal of time and work assisting counsel in the case and communicated with counsel very frequently for litigation and to prepare for mediation. (Moon Decl., ¶¶ 17, 33–36; Carney Decl. ¶ 11; Starr Decl. ¶ 10.) This amount is reasonable, particularly in light of the substantial benefits Plaintiff generated for the Class. (*Id.*)

Indeed, 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.)

The enhancement takes into consideration the risks, time, effort, and expenses incurred by the named Plaintiffs in coming forward to litigate this matter on behalf of all Class Members. It is also intended to compensate Plaintiffs for these efforts in protecting the class members' rights and being prepared to attend trial on behalf of all class members. (See **Declarations of Flores, Lagunas and Certeza** filed concurrently herewith.)

IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED

A. Legal Standard

The proposed Settlement Class is well suited for class certification. All of the claims derive from a core set of alleged violations of California's wage-and-hour laws and regulations. (Moon Decl., ¶¶ 6-7.) 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. <u>Plaintiffs Maintain that the Criteria for Class Certification Are Satisfied</u>

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, the proposed Class that Plaintiff seeks to represent is ascertainable because (1) the Class definition is sufficiently precise, (2) the Class consists of about 5,737 Class Members, and (3) Class Members can be readily identified by looking at Defendants' records. (Settlement Agreement, ¶ 1.5, Moon Decl., ¶ 20.)

Plaintiffs maintain that there is an easily ascertainable Class, defined by objective and precise criteria. (*Id.*) Because Class Members are identified using specific criteria in the regular business records of Defendants—their employment by Defendants in California, non-exempt classification, and actual work during the Class Period—the Class is ascertainable. (*See Wilner v. Sunset Life Ins. Co*. (2000) 78 Cal.App.4th 952, 959–60 [class membership defined by ownership of product that is the subject of the lawsuit is sufficient to make the class ascertainable].)

"The requirement of Code of Civil Procedure section 382 that there be 'many' parties to a class action suit is indefinite and has been construed liberally." (*Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 934.) "Where a question is of common interest to 'many' persons, an action may be maintained as a class action even where the parties are numerous and it is in fact practicable to join them all." (*Id.*) "No set number is required as a matter of law for the maintenance of a class action." (*Id.*) "Thus, our Supreme Court has upheld a class representing the 10 beneficiaries of a trust in an action for removal of the trustees." (*Id.* [citing *Bowles v. Super. Ct.* (1955) 44 Cal.2d

574]; *see also Collins v. Rocha* (1972) 7 Cal.3d 232 [upholding a class of 9 plaintiffs and 35 members].) Therefore, Plaintiff contends that numerosity is plainly satisfied.

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

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

In this case, the employment practices at issue are as follows: whether Defendants had legally compliant policies and practices to pay employees all wages owed; whether Defendants had legally compliant policies and practices to provide employees with meal and rest periods; whether Defendants had legally compliant policies to reimburse employees for all necessary expenditures or losses incurred by employees in direct consequence of the discharge of their duties; whether final payment of wages was untimely and excluded unpaid wages, including meal period premiums and rest period premiums; whether all wages were paid to employees at the time of termination of the employment relationship; whether the wage statements were consequently non-compliant; and whether Defendants' failure to pay all final wages was intentional. (Moon Decl., ¶ 6–8.) Plaintiffs contend that the factual and legal issues are the same for all identified Class Members, including Plaintiff. (*Id.* at ¶ 5.) Further, Plaintiffs contend that all Class Members suffered from and therefore seek redress for the same alleged injuries. (*Id.* at ¶¶ 3–8.) Considering that Settlement 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 agreement 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. Plaintiffs' 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. Plaintiffs are former employees of Defendants; as such, they allege that they were subject to the same policies and practices as other similarly situated employees. (Moon Decl., ¶ 3.)(see also Lagunas and Certeza Decls ¶¶4-8)

4. Plaintiffs and Their 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.)

Here, all requirements are met. Plaintiff retained counsel with extensive experience in prosecuting complex class actions, including similar class actions that previously settled. (Moon Decl. at ¶¶ 37-45; Carney Decl. ¶¶ 3-4; Starr Decl. ¶¶ 13-15.) With their combined experience, Class Counsel unquestionably are "qualified, experienced and generally able to conduct the proposed litigation." (*Miller*, *supra*, 148 Cal.App.3d at p. 874.) In addition, Plaintiffs have no conflicts, and Plaintiffs have, with counsel, litigated this case and diligently reviewed the settlement terms, showing their dedication. (Moon Decl., ¶¶ 17, 33–36; Carney Decl. ¶ 11; Starr Decl. ¶ 10) Plaintiffs' willingness to serve as a representative demonstrates his serious commitment to bringing about the best results possible for the Class. (*Id.*)

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

Finally, in making its class certification decision, the Court must determine that a class action would be superior to alternative means for the fair and efficient adjudication of the litigation.

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

V. <u>THE PROPOSED NOTICE IS CONSTITUTIONALLY SOUND</u>

A. <u>The Proposed Notice Plan Satisfies Due Process</u>

Class Notice requirements are set forth in the California Rules of Court. (Cal. Rules of Court, rule 3.766(e)–(f).) California law vests the Court with broad discretion in fashioning an appropriate notice program. (*Cartt v. Super. Ct.* (1975) 50 Cal.App.3d 960, 970, 973–74.) There is no statutory or due process requirement that all class members receive actual notice, but in this matter, the Class Members will receive direct mailed notice. (Settlement Agreement, ¶ 8.4 *et seq*.) As the Court of Appeals has explained, "[t]he notice given should have a reasonable chance of reaching a substantial percentage of the Class Members . . ." (*Cartt*, 50 Cal.App.3d at p. 974.) In this case, notice of the proposed Settlement will be provided by direct mailing, the best possible form of notice under the circumstances. (Settlement Agreement, ¶ 8.4 *et seq*.)

B. <u>The Notice Is Accurate and Informative</u>

The proposed Notice should be approved. It will be disseminated through direct U.S. first-class mail to the last known address for each Class Member. (Settlement Agreement, ¶ 8.4.2.) It informs the Class Members of the terms of the Settlement and their right to be excluded from the Settlement. (*Id.* at Ex. A.) And if there are Class Members who wish to object to the proposed class action Settlement, they will have the opportunity to file their objections and be heard at the Final Approval Hearing. (*Id.* at ¶ 8.7.2, Ex. A.)

The Notice also fulfills the requirement of neutrality in class notices. (Newberg, Newberg on Class Actions (3rd ed. 1992) § 8.39.) It summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner. (Settlement Agreement, Ex. A.) It makes clear that the Settlement does not constitute an admission of liability by the Defendants, who deny all liability, and it recognizes that this Court has not ruled on the merits of the action. (*Id.*) It also states that the final settlement approval decision has yet to be made. (*Id.*) Accordingly, the Notice complies with the standards of fairness, completeness, and neutrality required of a combined settlement-certification class notice.CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant preliminary approval of the proposed Settlement and set a Final Approval Hearing.

Respectfully submitted,

Dated: October 22, 2025

MOON LAW GROUP, PC

By: ______________________

Kane Moon
Daniel Park

Attorneys for Plaintiff