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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN**

MELANIE J. HALL, individually, and on behalf of
all others similarly situated,

Plaintiff,

vs.

UNIVERSITY OF THE PACIFIC, a California
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: STK-CV-UOE-2023-0005888

**CLASS AND REPRESENTATIVE
ACTION**

[Hon. Esmeralda Zendejas, Dept. 11A]

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

*[Filed with the Declarations of Kane Moon,
Plaintiff Melanie Hall, and Lisa Mullins,
and [Proposed] Order]*

PRELIMINARY APPROVAL HEARING:

Date: _____, 2025

Time: 9:00 a.m.

Dept.: 11A

Action Filed: June 8, 2023

Trial Date: Not set

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

2 PLEASE TAKE NOTICE that on _____, 2025 at 9:00 a.m. in Department 11A of this
3 Court located at San Joaquin County Superior Court, 180 E Weber Ave., Stockton, California 95202,
4 pursuant to Code of Civil Procedure section 382 and California Rules of Court, rule 3.769 *et seq.*,
5 Plaintiff Melanie Hall (“Plaintiff”) will, and hereby does, move the Court for an order granting
6 preliminary approval of the proposed class action settlement between Plaintiff and University of the
7 Pacific (“Defendant,” and together with Plaintiff, the “Parties”).

8 Plaintiff will further move the Court for an order:

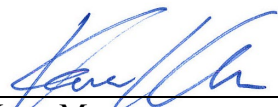
- 9 1. Granting preliminary approval of the Class and PAGA Action Settlement Agreement;
10 2. Certifying a Class, for settlement purposes only;
11 3. Approving the Class Notice and plan for its distribution;
12 4. Appointing Plaintiff as the Class Representative, for settlement purposes only;
13 5. Appointing Moon Law Group, PC as Class Counsel, for settlement purposes only;
14 6. Appointing ILYM Group, Inc. Settlement Administrators as the Administrator; and
15 7. Setting a Final Approval Hearing no earlier than 150 days from preliminary approval.

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

20 Respectfully submitted,

21 Dated: October 14, 2025

MOON LAW GROUP, PC

22
23 By: 

Kane Moon

Allen Feghali

Julie S. Oh

Jamie C. Osganian

Attorneys for Plaintiff Melanie Hall

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Melanie Hall (“Plaintiff”) seeks preliminary approval of a proposed \$2,060,000.00
4 non-reversionary, wage and hour class action settlement (the “Settlement”) with Defendant
5 University of the Pacific (“Defendant”) (together with Plaintiff, the “Parties”). The Settlement
6 will provide substantial monetary payments to roughly 2,884 Class Members, who are also
7 Aggrieved Employees and who collectively worked an estimated total of 191,000 Workweeks. As
8 set forth more fully below, the proposed Settlement satisfies all the criteria for settlement approval
9 under California law. The Settlement was reached after extensive investigation, informal
10 discovery, and negotiations between the Parties. The negotiations were at arm’s length and were
11 facilitated through a mediation session by experienced, neutral, class and PAGA action mediator
12 Steve Serratore, Esq. Accordingly, Plaintiff requests that the Court preliminarily approve the
13 proposed Settlement, certify the proposed Class, approve the proposed Class Notice, and set a
14 hearing on the motion for final approval of the Settlement (“Final Approval Hearing”) no earlier
15 than 150 days from the date of preliminary approval.

16 **II. SUMMARY OF THE LITIGATION AND SETTLEMENT**

17 **A. Plaintiff’s Claims**

18 This is a wage and hour class action and representative action for alleged Labor Code
19 violations and claims for civil penalties pursuant to the California Private Attorneys General Act,
20 Labor Code sections 2698, *et seq.* (“PAGA”). Plaintiff seeks to represent a class of all current and
21 former non-exempt employees who worked for Defendant in the State of California from June
22 June 8, 2019 to December 17, 2024. Defendant is a private non-profit university with three
23 locations in Northern California, providing undergraduate and graduate degree programs. (Moon
24 Decl., ¶ 2.) Plaintiff worked for Defendant in California as a front desk lead receptionist from
25 approximately January 2015 to June 2022. (*Id.*) During her employment with Defendant, Plaintiff
26 was classified as non-exempt and paid on an hourly basis. (*Id.*) Plaintiff contends that both she
27 and her coworkers were subjected to the same unlawful labor practices by Defendant. (*Id.*)

28 Plaintiff’s claims for unpaid minimum and overtime wages stem from the allegation that

1 (1) Defendant failed to compensate Plaintiff and the Class for all hours worked by requiring them
2 to work off the clock, (2) Defendant failed to incorporate all remuneration into the employee's
3 regular rate of pay for purposes of calculating the correct rate for overtime, meal premiums, and
4 sick pay, leading to underpayment, and (3) Defendant failed to compensate Plaintiff and the Class
5 for overtime work. (Moon Decl., at ¶ 3.) Moreover, Plaintiff's meal and rest period claims are
6 based on allegations that Defendant failed to authorize and permit Plaintiff to take timely,
7 continuous, uninterrupted and duty-free breaks. (*Id.*) In addition, Plaintiff brings claims for
8 unreimbursed necessary business expenses, based on the allegation that Defendant failed to
9 reimburse Plaintiff and the Class for the expenses they necessarily incurred in performing their
10 job duties, such as expenses for cell phone usage. (*Id.*) Plaintiff also brings claims for waiting time
11 penalties, wage statement violations, unfair business practices, and civil penalties under PAGA.
12 (*Id.*)

13 Because of the foregoing alleged violations of various provisions of the Labor Code,
14 Plaintiff commenced a class action (the "Action") on June 8, 2023, by filing a complaint alleging
15 the following causes of action against Defendant: (1) Failure to Pay Minimum Wages [Cal. Lab.
16 Code §§ 204, 1194, 1194.2, and 1197]; (2) Failure to Pay Overtime Compensation [Cal. Lab. Code
17 §§ 1194 and 1198]; (3) Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512]; (4) Failure
18 to Authorize and Permit Rest Breaks [Cal. Lab. Code § 226.7]; (5) Failure to Indemnify Necessary
19 Business Expenses [Cal. Lab. Code § 2802]; (6) Failure to Timely Pay Final Wages at Termination
20 [Cal. Lab. Code §§ 201-203]; (7) Failure to Provide Accurate Itemized Wage Statements [Cal.
21 Lab. Code § 226]; and (8) Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.].
22 On May 6, 2024, Plaintiff filed a first amended complaint, alleging an additional cause of action
23 for Civil Penalties Under PAGA [Cal. Lab. Code § 2699, et seq.] ("First Amended Complaint" or
24 "Operative Complaint"). (Moon Decl., at ¶ 4.) A file-stamped copy of Plaintiff's First Amended
25 Complaint containing the Court-assigned case number was submitted to the California Labor and
26 Workforce Development Agency (the "LWDA") on April 14, 2025. (*Id.* at ¶ 9.) Prior to bringing a
27 PAGA claim, on June 7, 2023, Plaintiff sent to Defendant and the LWDA a PAGA notice of
28 alleged Labor Code violations, and Plaintiff's PAGA administrative exhaustion period expired

1 without the LWDA indicating its intent to investigate the alleged violations. (*Id.*, Exh. 2.)

2 Defendant ardently opposes the merits of this case and denies Plaintiff’s factual allegations.
3 (Moon Decl., at ¶ 5.) Defendant argues the putative Class was paid all minimum and overtime
4 wages owed. (*Id.*) Defendant maintains its compliance with all its meal and rest period obligations.
5 (*Id.*) As for the unreimbursed business expenses, Defendant maintains it reimbursed Class
6 Members for all necessary business expenses incurred. (*Id.*) To the extent Class Members received
7 wage statements that were allegedly inaccurate, Defendant asserts they suffered no actual damage
8 or harm as a result. (See, e.g., *Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013) No. C 12–
9 05860 CRB, 2013 WL 622032, at *10 [“A plaintiff must adequately plead an injury arising from
10 an employer’s failure to provide full and accurate wage statements, and the omission of the
11 required information alone is not sufficient.”].) (Moon Decl., ¶ 5.) With respect to Plaintiff’s claim
12 for waiting time penalties, Defendant alleges its good-faith belief that they paid all wages
13 precludes the imposition of waiting time penalties since Plaintiff cannot prove Defendant’s alleged
14 failure to pay all final wages at the time of separation was “willful.” (See, e.g., *Pedroza v.*
15 *PetSmart, Inc.* (C.D. Cal. June 14, 2012) No. ED CV 11–298 GHK (DTBx), 2012 WL 9506073,
16 *5.) (Moon Decl., ¶ 5.) For these reasons, Defendant claims it did not engage in any unfair
17 business practices and denies liability under PAGA. (Moon Decl., ¶ 5.)

18 **B. Discovery and Investigation**

19 Following the filing of the complaint, the Parties met and conferred and agreed to participate
20 in mediation. (Moon Decl., ¶ 6.) On September 18, 2024, the Parties mediated the instant action with
21 Steve Serratore, Esq., an experienced class and PAGA action mediator. (*Id.*) In preparation for
22 mediation, the Parties agreed to a protocol for an informal exchange of documents and information
23 before the mediation. (*Id.*) Prior to mediation, Plaintiff obtained from Defendant, through informal
24 but extensive discovery, information sufficient to meaningfully evaluate the claims at issue in the
25 Action, including an employee handbook, Plaintiff’s personnel file, and a sample of time and payroll
26 records. (*Id.*)

27 In preparation for mediation, Class Counsel reviewed and analyzed all the information
28 Defendant provided, including the sample of time and payroll records and Plaintiff’s personnel

1 records. (Moon Decl., ¶ 7.) Class Counsel retained a statistics expert to analyze the sample records
2 and prepare a damage analysis prior to mediation. (*Id.*) The sample time and pay records analyzed
3 contained 2,293 Class Members' (which represents 79.5% of the Class) time and corresponding
4 payroll records, which allowed Plaintiff's expert to prepare an analysis with a high degree of
5 certainty. (*Id.*) In conjunction with their extensive factual investigation, Class Counsel also
6 investigated the applicable law regarding the claims and defenses asserted in the litigation. (*Id.*)
7 Accordingly, Class Counsel was able to evaluate the probability of class certification, success on the
8 merits, and Defendant's maximum and realistic monetary exposure for all claims. (*Id.*) Thus,
9 Plaintiff's and Class Counsel's familiarity with the facts of the case and the legal issues raised by the
10 pleadings allowed them to act intelligently in negotiating the Settlement. (*Id.*) Accordingly,
11 Plaintiff's investigation and discovery are sufficient to satisfy the criteria for court approval set forth
12 in *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802.

13 C. Settlement Negotiations

14 On September 18, 2024, the Parties participated in a full day of private mediation before
15 Steve Serratore, Esq., a professional and neutral class and PAGA action mediator. (Moon Decl., ¶
16 8.) The settlement negotiations were at arm's length and, although conducted in a professional
17 manner, were adversarial. (*Id.*) The Parties went into the mediation willing to explore the potential
18 for a settlement of the dispute, but each side was also prepared to litigate their position through
19 trial and appeal if a settlement had not been reached. (*Id.*) After extensive negotiations and
20 discussions regarding the strengths and weaknesses of Plaintiff's claims and Defendant's defenses,
21 the Parties reached a settlement, the material terms of which are encompassed within the Class
22 and PAGA Action Settlement Agreement. (*Id.*, Exh. 1 [the "Settlement"].) Class Counsel represent
23 they are not aware of any related case that would be extinguished or adversely affected by approval
24 of this Settlement. (*Id.* at ¶ 10.) On October 14, 2025, Class Counsel submitted the proposed
25 Settlement to the LWDA. (*Id.* at ¶ 11, Exh. 3.) To date, the LWDA has not indicated any objection
26 to the proposed Settlement. (*Id.*)

27 Class Counsel has conducted a thorough investigation into the facts of this case. (Moon
28 Decl., ¶ 17.) Based on the foregoing document and information exchange and on their own

1 independent investigation and evaluation, Class Counsel is of the opinion that the proposed
2 Settlement is fair, reasonable, and adequate. (*Id.*) Furthermore, considering all known facts and
3 circumstances, the risk of significant delay, trial risk, appellate risk, and the defenses that
4 Defendant may assert both to certification and on the merits, the Settlement is in the best interests
5 of the Class. (*Id.*; *see also id.* at ¶¶ 17–32.) **Indeed, the \$2,060,000.00 gross settlement figure**
6 **represents roughly 87% of the realistic (*risk-adjusted*) maximum recovery estimated to be**
7 **\$2,365,193.41.** (*Id.* at ¶ 25.)

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

9 Under the Settlement, Defendant will pay a non-reversionary amount of \$2,060,000.00 to
10 resolve this litigation, subject to an Escalator Clause. (Settlement, ¶ 8.) Defendant’s portion of the
11 payroll taxes are not part of the Gross Settlement Amount and shall be paid by Defendant
12 separately. (*Id.* at ¶ 3.1.) The Settlement’s key terms include:

13 1. **“Class”** means all non-exempt employees of Defendant who worked for Defendant in
14 California during the Class Period. (Settlement, ¶ 1.5.)

15 2. **“Class Member”** means a member of the Class. (*Id.*, ¶ 1.10.)

16 3. **“Class Period”** means the period from June 8, 2019 to December 17, 2024. (*Id.*, ¶ 1.13.)

17 4. **“Participating Class Member”** means a Class Member who does not submit a valid and
18 timely Request for Exclusion. (*Id.* at ¶ 1.34.)

19 5. **“Aggrieved Employee” or “PAGA Member”** means a non-exempt employee of
20 Defendant who worked for Defendant in California during the PAGA Period. (*Id.* at ¶ 1.4.)

21 6. **“PAGA Period”** means the period from June 8, 2022 to December 17, 2024. (*Id.* at ¶
22 1.31.)

23 7. **“Gross Settlement Amount”** means the total amount Defendant will be required to pay
24 under the Settlement, subject to a potential increase under the Escalator Clause. *Id.* at ¶ 1.23.) This
25 amount is \$2,060,000.00 and excludes Defendant’s share of payroll taxes. (*Id.* at ¶ 3.1.) No portion
26 of the Gross Settlement Amount will revert to Defendant. (*Id.*)

27 8. **Escalator Clause.** The Gross Settlement Amount covers 191,000 Workweeks during the
28 Class Period, plus a 15% escalator. (*Id.* at ¶ 8.) In the event that the total Workweeks included in the

1 settlement of this Action increases by more than 15% (i.e. more than 28,650 additional Workweeks)
2 then the Gross Settlement Amount will increase proportionally by the number of additional
3 Workweeks in excess of 28,650 multiplied by the Workweek value (the Parties agree that the
4 Workweek value is \$10.79). (*Id.*)

5 9. **“Net Settlement Amount”** means the Gross Settlement Amount less the following
6 payments, in the amounts approved by the Court: the Individual PAGA Payments, LWDA PAGA
7 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
8 Litigation Expenses Payment, and Administration Expenses Payment. (*Id.* at ¶ 1.27.) The Net
9 Settlement Amount is to be paid to Settlement Class Members as Individual Class Payments. (*Id.*)

10 10. **“Individual Class Payment”** means the Participating Class Member’s pro rata share of
11 the Net Settlement Amount calculated according to the number of Workweeks worked during the
12 Class Period. (*Id.* at ¶ 1.24)

13 11. **“Individual PAGA Payment”** means the Aggrieved Employee’s pro rata share of
14 twenty-five percent of the PAGA Penalties calculated according to the number of Workweeks worked
15 during the PAGA Period. (*Id.* at ¶ 1.25)

16 12. **“PAGA Penalties”** means \$100,000.00, the total amount of PAGA civil penalties to be
17 paid from the Gross Settlement Amount, and which shall be allocated 75% to the LWDA
18 (\$75,000.00) and 25% to the Aggrieved Employees (\$25,000.00), in settlement of the Released
19 PAGA Claims. (*Id.* at ¶ 1.33.)

20 13. **“Workweek”** means any week during which a Class Member worked for Defendant for
21 at least one day during the Class Period. (*Id.* at ¶ 1.43.)

22 14. **“PAGA Pay Period”** means any pay period during which an Aggrieved Employee
23 worked for Defendant for at least one day during the PAGA Period. (*Id.* at ¶ 1.32.)

24 15. **“Class Notice”** means the Court-approved notice of class action settlement and hearing
25 date for final court approval, to be mailed to Class Members in English and Spanish, substantially in
26 the form attached as Exhibit A to the Settlement, which sets forth, in plain terms, a statement of the
27 case, the terms of the Settlement, the scope of the release, the approximate amounts of attorneys’
28 fees, costs, and service award being sought, an explanation of how the individual payments are

1 calculated, and the Final Approval Hearing information. (Settlement, ¶¶ 1.12, 7.4.2, Exh. A.) The
2 Administrator will undertake its best efforts to ensure the Class Notice is provided to the current
3 address of Class Members, including re-mailing the notice to updated addresses. (*Id.* at ¶¶ 7.4.2,
4 7.4.3.)

5 **16. Tax Allocation of Individual Class Payments.** Fifteen percent of each Participating
6 Class Member’s Individual Class Payment will be allocated to settlement of wage claims (the “Wage
7 Portion”). (*Id.* at ¶ 3.2.4.1.) The Wage Portion is subject to tax withholding and will be reported on
8 an IRS W-2 Form. (*Id.*) Eighty-five percent of each Participating Class Member’s Individual Class
9 Payment will be allocated to settlement of claims for interest and penalties (the “Non-Wage Portion”).
10 (*Id.*) The Non-Wage Portion is not subject to wage withholdings and will be reported on IRS 1099
11 Forms. (*Id.*) Participating Class Members assume full responsibility and liability for any employee
12 taxes owed on their Individual Class Payment. (*Id.*)

13 **17. “Released Parties”** means Defendant and each of its past, present, and future: (i) direct
14 and indirect parents, subsidiaries, and affiliates of any of the foregoing; (ii) shareholders, directors,
15 officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents,
16 consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors,
17 successors and assigns of any of the foregoing; and (iii) any individual or entity which could be
18 jointly liable with any of the foregoing. (*Id.* at ¶ 1.39.)

19 **18. “Released Class Claims”** means all claims that were alleged, or could have been
20 asserted based on the facts and allegations made in the Action, including those in the Operative
21 Complaint, PAGA Notice, and those made during mediation including unlawful rounding including,
22 but not limited to, claims asserted under California Labor Code sections 201, 202, 203, 204, 218.5,
23 218.6, 226, 226.7, 510, 512, 1174, 1194, 1194.2, 1197, 1198, and 2802, Code of Civil Procedure
24 section 1021.5, California Business & Professions Code sections 17200 et seq., and applicable
25 sections of the Wage Orders during the Class Period. (*Id.* at ¶ 5.2.)

26 **19. “Released PAGA Claims”** means all claims for PAGA penalties that were alleged, or
27 reasonably could have been alleged, based on the PAGA Period facts stated in the Operative
28 Complaint and/or the PAGA Notice, including claims asserted under California Labor Code sections

201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2699 *et seq.*, and 2802, and applicable sections of the Wage Orders. (*Id.* at ¶ 5.3.)

20. **Uncashed Payment Checks.** 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 Section 384, subdivision (b). (*Id.* at ¶ 4.4.3.)

21. **"Class Representative Service Payment"** means the payment of not more than \$5,000.00 to Plaintiff for initiating and providing services in support of the Action and for their general releases. (*Id.* at ¶¶ 1.15, 3.2.1.)

22. **"Class Counsel Fees Payment" and "Class Counsel Litigation Expenses Payment"** The Settlement provides for attorneys' fees of up to one-third (1/3) of the Gross Settlement Amount, which unless increased pursuant to Escalator Clause, currently estimated at \$693,333.33 (*Id.* at ¶ 3.2.2.) In addition, Defendant will also not oppose Plaintiff's application to the Court for reimbursement of Class Counsel Litigation Expenses Payment in an amount up to \$25,000.00. (*Id.*) Any portion of the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment not awarded to Class Counsel will be allocated to the Net Settlement Amount. (*Id.*) Class Counsel's litigation costs are currently \$21,612.00. (Moon Decl., ¶ 13, Exh 4.)

23. **"Administrator"** means ILYM Group, Inc. ("ILYM Group"), the neutral entity the Parties have agreed to appoint to administer the Settlement. (Settlement, ¶ 1.2.) ILYM Group is qualified and experienced in administering class action settlements and has procedures in place to protect the security of class data. (Declaration of Lisa Mullins on Behalf of ILYM Group, Inc. in Support of Motion for Class and PAGA Action Settlement, ¶ 2.) The Administrator will be paid from the Gross Settlement Amount in an amount up to \$25,000.00, for its fees and expenses in administering this Settlement. (Settlement, ¶ 3.2.3.) To the extent the Administration Expenses Payment is less or the Court approves payment less than \$25,000.00, the Administrator will retain

1 the remainder in the Net Settlement Amount. (*Id.*) ILYM Group, Inc. has submitted a not-to-exceed
2 bid for \$19,950.00 as costs. (Moon Decl., ¶ 15, Exh. 5.) Given the size of the Class, the experience
3 and qualifications of ILYM Group, Inc. Administrators, and the administration costs of other
4 comparable third-party administrators, ILYM Group, Inc. Administrator's bid is fair and reasonable.
5 (*Id.*)

6 **24. Class Data and Mailing of Notice.** Not later than fourteen (14) days after the Court
7 grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data
8 to the Administrator. (Settlement, ¶ 4.2.) Class Members to whom Notice Packets are resent after
9 having been returned undeliverable to the Administrator shall have an additional fourteen (14)
10 calendar days beyond the Response Deadline. (*Id.* at ¶ 1.41.)

11 **25. "Response Deadline"** means sixty (60) calendar days after the Administrator mails the
12 Class Notice to the Class Members and Aggrieved Employees and the last date on which Class
13 Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email,
14 or mail Objections to the Settlement. (*Id.*)

15 **26. Objections to Settlement.** Participating Class Members who wish to object to any term
16 of the Settlement may object by sending written objections to the Administrator, by fax, email, or
17 mail. (*Id.* at ¶ 7.7.2.) In the alternative, Participating Class Members may appear in Court (or hire an
18 attorney to appear in Court) to present verbal objections at the Final Approval Hearing. (*Id.*)

19 **27. "Request for Exclusion"** means the submission of a written request by a Class Member
20 to be excluded from the Settlement, signed by the Class Member. (*Id.* at ¶ 1.40.) Every Class Member
21 who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class
22 Member, entitled to all benefits and bound by all terms and conditions of the Settlement, regardless
23 of whether the Participating Class Member actually receives the Class Notice or objects to the
24 Settlement. (*Id.* at ¶ 7.5.3.)

25 **28. Challenges to Calculation of Workweeks.** Each Class Member shall have 60 days after
26 the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class
27 Notice is re-mailed) to challenge the number of Class Period Workweeks and PAGA Period Pay
28 Periods (if any) allocated to the Class Member in the Class Notice. (Settlement, ¶ 7.6.)

1 29. **Funding of the Gross Settlement Amount.** Defendant shall fully fund the Gross
2 Settlement Amount, and also fund the amounts necessary to fully pay Defendant’s share of payroll
3 taxes by transmitting the funds to the Administrator no later than twenty-eight (28) days after the
4 Effective Date. (*Id.* at ¶ 4.3.)

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

6 The law favors the settlement of lawsuits, particularly in class actions and other complex
7 cases. (*See, e.g., Neary v. Regents of Univ. of Cal.* (1992) 3 Cal.4th 272, 277–81.) To prevent fraud,
8 collusion, or unfairness to the class, the settlement of a class action requires court approval. (*Dunk v.*
9 *Ford Motor Co.*, 48 Cal.App.4th at pp. 1800–1801 [citing authority omitted].) To approve a
10 settlement, the Court must find “the settlement is fair, adequate, and reasonable.” (*Id.*) This Court
11 has wide discretion in making this determination. (*Mallick v. Super. Ct.* (1979) 89 Cal.App.3d 434,
12 438.) Fairness, adequacy, and reasonableness are presumed, as here, when: “(1) the settlement is
13 reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow
14 counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the
15 percentage of objectors is small.” (*Dunk, supra*, at p. 1802 [citing Newberg, Newberg on Class
16 Actions (3rd ed. 1992) § 11.41].)

17 In evaluating a class action settlement, the trial court considers the following factors: (1) the
18 strength of plaintiff’s case; (2) the risk, expense, complexity, and likely duration of further litigation;
19 (3) the risk of maintaining class action status through trial; (4) the settlement amount offered; (5) the
20 extent of discovery completed and the stage of the proceedings; (6) counsel’s experience and views;
21 (7) the presence of a governmental participant; and (8) the class members’ reaction to the proposed
22 settlement. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128.) In order to approve
23 a class action settlement, “the court must satisfy itself that the class settlement is within the
24 ‘ballpark’ of reasonableness.” (*Id.* at p. 133.) The record need not contain an explicit statement of
25 the maximum theoretical recovery. (*Munoz v. BCI Coca-Cola Bottling Co. of L.A.* (2010) 186
26 Cal.App.4th 399, 408–09 [holding that *Kullar* does not require “an explicit statement of the
27 maximum amount the plaintiff class could recover if it prevailed on all its claims,” but instead,
28

1 only an “understanding of the amount that is in controversy and the realistic range of outcomes of
2 the litigation”].)

3 If the class action settlement includes a settlement of PAGA claims, the courts also review
4 the PAGA portion of the settlement to ensure that “any negotiated resolution is fair to those
5 affected.” (*Moniz v. Adecco USA, Inc.* (“*Moniz*”) (2021) 72 Cal.App.5th 56, 76, quoting *Williams*
6 *v. Superior Court* (2017) 3 Cal.5th 531, 549.) The factors used to evaluate class action settlements
7 “including the strength of the plaintiff’s case, the risk, the stage of the proceeding, the complexity
8 and likely duration of further litigation” can be used to evaluate the fairness of a PAGA settlement.
9 (*Id.* at p. 77.) However, when reviewing a PAGA settlement, a trial court’s inquiry is whether it
10 is “fair in view of PAGA’s purposes and policies,” which are “to remediate present labor law
11 violations, deter future ones, and to maximize enforcement of state labor laws.” (*Id.*; see also
12 *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 542–543 [noting that the
13 “civil penalties recovered on the state’s behalf are intended to ‘remediate present violations and
14 deter future ones,’ not to redress employees’ injuries” in reviewing PAGA portion of class action
15 settlement to determine its fairness].)

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

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

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

23 Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless
24 evidence to the contrary is offered; thus, there is a presumption here that the negotiations were
25 conducted in good faith. (Newberg, *Newberg on Class Actions* (3rd ed. 1992) § 11.51.) Settlement
26 is favored, and settlement agreements are realistically assessed. (*Stamburgh v. Super. Ct.* (1976) 62
27 Cal.App.3d 231, 236; *Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447 [“The fact that the
28

1 plaintiff might have received more if the case had been fully litigated is no reason not to approve the
2 settlement.”].)

3 The proposed Settlement at issue here was reached following extensive negotiations and
4 discussions regarding the strengths and weaknesses of Plaintiff’s claims and Defendant’s defenses
5 with an experienced, professional and neutral mediator, Steve Serratore, Esq. (Moon Decl., ¶ 8.) The
6 settlement negotiations were at arm’s length and, although conducted in a professional manner, were
7 adversarial. (*Id.*) The Parties went into the mediation willing to explore the potential for a settlement
8 of the dispute, but each side was also prepared to litigate their position through trial and appeal if a
9 settlement had not been reached. (*Id.*) After extensive negotiations and discussions regarding the
10 strengths and weaknesses of Plaintiff’s claims and Defendant’s defenses, the Parties reached a
11 settlement. (*Id.*)

12 Prior to mediation, Plaintiff obtained from Defendant, through informal but extensive
13 discovery, information sufficient to meaningfully evaluate the claims at issue in the Action, including
14 an employee handbook, Plaintiff’s personnel file, and a sample of Class Members’ time and payroll
15 records. (Moon Decl., ¶ 6.) In preparation for mediation, Class Counsel reviewed and analyzed all
16 the information Defendant provided, including the sample of Class Members’ time and payroll
17 records and Plaintiff’s personnel records. (*Id.* at ¶ 7.) Class Counsel retained a statistics expert to
18 analyze the sample records and prepare a damage analysis prior to mediation. (*Id.*) The sample time
19 and pay records analyzed contained 2,293 Class Members’ (which represents 79.5% of the Class)
20 time and corresponding payroll records, which allowed Plaintiff’s expert to prepare an analysis with
21 a high degree of certainty. (*Id.*) In conjunction with their extensive factual investigation, Class
22 Counsel also investigated the applicable law regarding the claims and defenses asserted in the
23 litigation. (*Id.*) Accordingly, Class Counsel was able to evaluate the probability of class certification,
24 success on the merits, and Defendant’s maximum and realistic monetary exposure for all claims. (*Id.*)
25 Thus, Plaintiff’s and Class Counsel’s familiarity with the facts of the case and the legal issues raised
26 by the pleadings allowed them to act intelligently in negotiating the Settlement. (*Id.*) Accordingly,
27 Plaintiff’s investigation and discovery are sufficient to satisfy the criteria for court approval set forth
28 in *Dunk v. Ford Motor Co.*, *supra*, 48 Cal.App.4th at p. 1802. (*Id.*)

1 Furthermore, Class Counsel has considerable experience and demonstrated competence with
2 litigating wage and hour class actions. (Moon Decl., ¶¶ 36–56.) The experience of Class Counsel was
3 helpful in assessing the reasonableness of the Settlement at issue here, and from this experience Class
4 Counsel concluded that this litigation could not have been settled on better terms than provided under
5 the proposed Settlement. (Moon Decl., ¶ 59.) Again, this supports the conclusion that the terms of
6 the Settlement are based on objective evidence that has been considered and weighed against the
7 risks, expenses, and time consumption to both sides of continued litigation of this action.

8 **2. The Settlement Is Fair and Reasonable Considering the Parties’**
9 **Respective Legal Positions**

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

18 Here, the Settlement obviates the significant risk that this Court may deny certification of all
19 or some of Plaintiff’s claims. (Moon Decl., ¶ 28.) Furthermore, even if Plaintiff was able to pursue
20 her claims on a class-wide basis and obtain certification of all or some of the claims, continued
21 litigation would be expensive, involving a trial and possible appeals, and would substantially delay
22 and reduce any recovery by the Class. (*Id.*) While Plaintiff is confident in the merits of her claims,
23 a legitimate controversy exists as to each cause of action. (*Id.* at ¶ 27.) Plaintiff also recognizes that
24 proving the amounts of wages owed to each Class Member would be an expensive, time-consuming,
25 and uncertain proposition. (*Id.*) Class Counsel are also of the opinion that because the issues here are
26 fairly contested, there is a possibility of the Court not awarding the PAGA Penalties even if Plaintiff
27 prevailed on the merits due to the largely discretionary nature of awarding PAGA penalties. (*Id.* at
28

¶ 26.) In other words, were this matter to go to trial, any award granted would be at the discretion of the Court and subject to a substantial reduction. (*Id.*)

Because of the proposed Settlement, Class Members will receive timely, guaranteed relief and will avoid the risk of not being able to recover anything. (Moon Decl., ¶ 25.) Further, this Settlement avoids the risks, burdens, and the accompanying expense of further litigation. (*Id.* at ¶ 30.) Although the Parties have engaged in a significant amount of investigation, informal discovery, and class-wide data analysis, they have not conducted expert discovery or taken depositions. (*Id.* at ¶ 29.) Moreover, preparation for class certification and a trial would remain for the Parties as well as the prospect of appeals in the wake of a disputed class certification ruling for Plaintiff and/or any summary judgment ruling. (*Id.*) As a result, the Parties would incur considerably more attorneys' fees and costs through trial. (*Id.*)

The proposed settlement of \$2,060,000.00 therefore represents a substantial recovery when compared to the reasonably forecasted recovery of the Class. (Moon Decl., ¶ 31.) Furthermore, the Settlement includes an escalator clause whereby should the actual number of Workweeks exceed 191,000 by more than 15% (i.e., by more than 28,650 additional Workweeks), then the Gross Settlement Amount will increase proportionally by the number of additional Workweeks in excess of 28,650 multiplied by the Workweek value (the Parties agree that the Workweek value is \$10.79). (Settlement, ¶ 8.) 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 the Settlement amount of \$2,060,000.00 is within the "ballpark" of reasonableness, and that preliminary settlement approval is appropriate. (Moon Decl., ¶ 31.)

Indeed, the Net Settlement Amount available for settlement payments is no less than **\$1,223,383.33** for an estimated Class size of 2,884 individuals. (Moon Decl., ¶ 30.) As a result, it is estimated each Participating Class Member is eligible to receive an average benefit of approximately **\$424.20** prior to tax withholdings on the wage portion of payments. (*Id.*) In addition, Aggrieved Employees will receive their share of the 25% allocation (\$2,500.00) of PAGA Penalties. (*Id.*) As a result, it is estimated that each Aggrieved Employee will receive an average Individual PAGA Payment of \$14.01. (*Id.*) The actual amounts to Participating Class Members and Aggrieved

1 Employees will vary based on each individual’s duration of work during the Class Period or PAGA
2 Period, respectively; thus, those who worked longer for Defendant during the relevant period will
3 receive a benefit greater than the average estimated amount. (*Id.*) The high and low range of payments
4 to Class Members will be calculated by the Administrator following preliminary approval and receipt
5 and processing of the Class Data and will be provided to the Court in a motion for final approval.
6 (*Id.*)

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

8 The Settlement negotiations were conducted by highly capable and experienced counsel.
9 (Moon Decl., ¶¶ 36–56.) Class Counsel has a strong record of vigorous and effective advocacy for
10 their clients and are experienced in handling complex wage and hour class action litigation. (*Id.*) The
11 experience of Class Counsel was helpful in assessing the reasonableness of the Settlement at issue
12 here, and from this experience they concluded that this litigation could not have been settled on better
13 terms than provided under the Settlement. (*Id.* at ¶ 59.) Although Plaintiff and her counsel were
14 prepared to try the claims alleged in the litigation, they support the proposed Settlement as being in
15 the best interest of the Class based on objective evidence that has been considered and weighed
16 against the risks, expenses, and time consumption to both sides of continued litigation. (*Id.* at ¶ 17.)

17 **4. The PAGA Portion of the Settlement Is Fair, Reasonable, and** 18 **Adequate in View of PAGA’s Purposes and Policies**

19 The Settlement allocates \$100,000.00 as PAGA Penalties, 75% (\$75,000.00) of which will be
20 allocated to the LWDA and 25% (\$25,000.00) to Aggrieved Employees in settlement of the Released
21 PAGA Claims. (Settlement, ¶ 1.33.) This amount allocated for settlement of PAGA claims is fair to
22 Aggrieved Employees because here, *all* Aggrieved Employees will receive settlement payments for
23 *both* the class portion and the PAGA portion of the Settlement. (Moon Decl., ¶ 30.) Moreover, the
24 standard for evaluating a PAGA settlement is “whether it is fair, reasonable, and adequate in view of
25 PAGA’s purposes to remediate present labor law violations, deter future ones, and to maximize
26 enforcement of state labor laws.” (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77; see also
27 *Amaro v. Anaheim Arena Management, LLC*, 69 Cal.App.5th at p. 542 [PAGA civil penalties
28 recovered on the state’s behalf are intended to “remediate present violations and deter future ones,

1 not to redress employees’ injuries”].) In light of the PAGA’s purposes and considering the strengths
2 and weaknesses of Plaintiff’s claims and the risks involved in further litigation, the amount allocated
3 for PAGA penalties is fair, adequate, and reasonable to both the Aggrieved Employees and the
4 LWDA, as it remediates present labor law violations, which otherwise may have gone unremedied,
5 promotes the enforcement of California labor laws, and deter future violations. (Moon Decl., ¶ 30.)
6 Thus, the amount allocated as PAGA Penalties is fair, reasonable, and adequate to the Aggrieved
7 Employees and the LWDA, consistent with the statutory purpose of PAGA.

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

9 The proposed Class Notice, in the form attached to the Settlement as Exhibit A, should be
10 approved for dissemination to the Class. The Class Notice informs the Class of the terms of the
11 Settlement, including the claims being released, each Class Member’s anticipated individual
12 settlement payment amount, the amount of fees and expenses requested by Class Counsel, the amount
13 requested for the class representative incentive award, and of Class Members’ rights to be excluded
14 from or object to the Settlement as well as the procedures for requesting exclusion or making
15 objections. (Settlement, Exh. A.) The Class Notice will also provide the date and place for the Final
16 Approval Hearing. (*Id.*) Accordingly, the proposed Class Notice meets all the requirements of Rule
17 3.769(f) of the California Rules of Court. (Cal. Rules of Court, rule 3.769(f).)

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

19 The Settlement provides for attorneys’ fees payable to Class Counsel in an amount up to one-
20 third of the Gross Settlement Amount (currently estimated to be \$686,666.67), subject to Court
21 approval, plus reimbursement for out-of-pocket litigation costs not to exceed \$25,000.00.
22 (Settlement, ¶ 3.2.2.) These amounts are disclosed to Class Members in the proposed Class Notice
23 and are reasonable. (*Id.* at Exh. A.)

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

25 California courts have long awarded attorneys’ fees as a percentage of the benefit created by
26 counsel in pursuing claims on behalf of a class. (See, e.g., *Serrano v. Priest* (1977) 20 Cal.3d 25.)
27 The California Supreme Court has held, “when a number of persons are entitled in common to a
28 specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the

1 creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney’s fees out
2 of the fund.” (*Id.* at p. 34.)

3 Class Counsel will seek an award of attorneys’ fees on the “percentage/common fund” theory.
4 (Moon Decl., ¶ 61.) The purpose of this approach is to “spread litigation costs proportionately among
5 all the beneficiaries so that the active beneficiary does not bear the entire burden alone.” (*Vincent v.*
6 *Hughes Air W., Inc.* (9th Cir. 1977) 557 F.2d 759, 769.) In *Quinn v. State of California* (1975) 15
7 Cal.3d 162, the California Supreme Court stated, “one who expends attorneys’ fees in winning a suit
8 which creates a fund from which others derive benefits, may require those passive beneficiaries to
9 bear a fair share of the litigation costs.” (*Id.* at p. 167.) Similarly, in *City and County of San Francisco*
10 *v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court recognized that the common fund
11 doctrine has been applied “consistently in California when an action brought by one party creates a
12 fund in which other persons[] are entitled to share.” (*Id.* at pp. 110–11 [pincite omitted].)

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

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

25 According to a leading treatise on class actions: “No general rule can be articulated on what
26 is a reasonable percentage of a common fund. Usually 50% of the fund is the upper limit on a
27 reasonable fee award from a common fund in order to assure that the fees do not consume a
28 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, Class Counsel will request fees equal to 33 1/3% of the Gross Settlement Amount, which is in line with the prevailing guidelines established in California case law and academic literature and is consistent with awards in California. (*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 that 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 Class Counsel for their decision to assume risk by taking on this matter. (See Moon Decl., ¶ 64.) In fact, prosecution of this action involved significant financial risk for Class Counsel. (*Id.* at ¶¶ 64–67.) Class Counsel undertook this matter solely on a contingent basis, with no guarantee of recovery. (*Id.* ¶ at 65.) 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.* at ¶ 64.)

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

As demonstrated by their past experience in pursuing class actions on behalf of consumers and employees, Class Counsel possesses considerable expertise in litigating class actions. (*Id.* at ¶¶ 36–56.) Class Counsel has been involved as lead counsel or co-counsel in numerous class actions

1 that resulted in millions in recovery. (*Id.*) Because it is reasonable to compensate Class Counsel
2 commensurate with their skill, reputation, and experience, the requested fee award is supported here.

3 Class Counsel’s experience in wage and hour class actions was integral in evaluating the
4 strengths and weaknesses of the case against Defendant and the reasonableness of the settlement. (*Id.*
5 at ¶ 59.) Practice in the narrow field of wage and hour litigation requires skill and knowledge
6 concerning the rapidly evolving substantive law (state and federal), as well as the procedural law of
7 class action litigation. (*Id.* at ¶ 57.) Based on these and other factors, Class Counsel has frequently
8 received fee awards of this percentage from the gross recovery for the class. (*See id.* at ¶¶ 40, 44, 49,
9 53.) Therefore, the requested fee award is fair, reasonable, and adequate.

10 **D. The Enhancement Award to Named Plaintiff Is Reasonable**

11 Named plaintiffs in class action lawsuits “are eligible for reasonable incentive payments to
12 compensate them for the expense or risk they have incurred in conferring a benefit on other members
13 of the class.” (*Munoz, supra*, 186 Cal.App.4th at p. 412.) Courts routinely grant approval of class
14 action settlement agreements containing enhancements for the class representatives, which are
15 necessary to provide incentive to represent the class and are appropriate given the benefit the class
16 representatives help to bring about for the class. (*See Rodriguez v. W. Publ’g Corp.* (9th Cir. 2009)
17 563 F.3d 948, 958–959.)

18 Service awards are particularly important to plaintiffs in wage and hour cases because they
19 promote the important public policies underlying the wage and hour laws. This strong policy is
20 codified in California Labor Code section 90.5, which provides, “[i]t is the policy of this state to
21 vigorously enforce minimum labor standards in order to ensure employees are not required or
22 permitted to work under substandard unlawful conditions . . .” (Lab. Code § 90.5.) Nonetheless, the
23 California Supreme Court has noted that “retaliation against employees for asserting statutory rights
24 under the Labor Code is widespread,” despite anti-retaliation statutes designed to protect employees.
25 (*Gentry v. Super. Ct.* (2007) 42 Cal.4th 443, 460–461.) In this context, class representatives should
26 be rewarded for assuming the risk of retaliation for the sake of class members. (*See Frank v. Eastman*
27 *Kodak Co.* (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

1 Under the Settlement here, subject to the Court’s approval, Defendant agrees to pay a Class
2 Representative Service Payment to Plaintiff in the amount of \$5,000.00. (Settlement, ¶ 3.2.1.) This
3 award is in recognition of Plaintiff’s time and effort in bringing and presenting the Action, and for
4 her general release of claims. (*Id.* at ¶ 1.15.) Plaintiff has devoted a great deal of time and work
5 assisting counsel in the case and communicated with counsel frequently for litigation and to prepare
6 for the mediation session. (Moon Decl., ¶¶ 33–36; Plaintiff Decl., ¶¶ 11–20.) The requested award is
7 fair and reasonable, particularly considering the substantial benefits Plaintiff generated for all Class
8 Members. (Moon Decl., ¶¶ 25–36.)

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

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

21 **A. Legal Standard**

22 The proposed Class is well suited for class certification. All of the claims derive from a core
23 set of alleged violations of California’s wage and hour laws and regulations. (Moon Decl., ¶¶ 3–4.)
24 For the reasons set forth more fully below, the Class, for purposes of Settlement, satisfies the
25 prerequisites for certification under Code of Civil Procedure section 382. (Code Civ. Proc. § 382.)
26 Section 382 provides that “when the question is one of a common or general interest, of many
27 persons, or when the parties are numerous, and it is impracticable to bring them all before the court,
28 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, the proposed Class that Plaintiff seeks to represent is ascertainable because (1) the Class definition is sufficiently precise, (2) the Class consists of about 2,884 individuals, and (3) Class Members can be readily identified by looking at Defendant’s records. (Settlement, ¶¶ 1.9, 4.1.)

Because Class Members are identified using specific criteria in the regular business records of Defendant—their employment by Defendant 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].)

1 “The requirement of Code of Civil Procedure section 382 that there be ‘many’ parties to a
2 class action suit is indefinite and has been construed liberally.” (*Rose v. City of Hayward* (1981) 126
3 Cal.App.3d 926, 934.) “Where a question is of common interest to ‘many’ persons, an action may be
4 maintained as a class action even where the parties are numerous and it is in fact practicable to join
5 them all.” (*Id.*) “No set number is required as a matter of law for the maintenance of a class action.”
6 (*Id.*) “Thus, our Supreme Court has upheld a class representing the 10 beneficiaries of a trust in an
7 action for removal of the trustees.” (*Id.* [citing *Bowles v. Super. Ct.* (1955) 44 Cal.2d 574]; *see also*
8 *Collins v. Rocha* (1972) 7 Cal.3d 232 [upholding a class of 9 plaintiffs and 35 members].) Therefore,
9 numerosity is plainly satisfied.

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

11 To satisfy the community of interest requirement, Parties must show (1) common questions
12 of law and fact that predominate over individual issues, (2) class representatives have claims or
13 defenses typical of the class, and (3) class representatives adequately represent the class. (*Dunk,*
14 *supra*, 48 Cal.App.4th at p. 1806.) This inquiry tests whether proposed classes are sufficiently
15 cohesive to rationally warrant adjudication by representation. (See, e.g., *Clothesrigger, Inc. v. GTE*
16 *Corp.* (1987) 191 Cal.App.3d 605, 611–612.)

17 Here, Plaintiff’s claims satisfy all three requirements. The employment practices at issue
18 include whether Defendant: had legally compliant policies and practices to pay employees all wages
19 owed; had legally compliant policies and practices to provide employees with and authorize meal
20 and rest periods; had legally compliant policies to reimburse employees for all necessary business
21 expenditures incurred by employees; paid all final wages to employees at the time of termination;
22 provided inaccurate itemized wage statements; engaged in unfair business practices; and violated
23 civil penalty provisions recoverable under PAGA. (Moon Decl., ¶¶ 3–4.) Plaintiff contends the
24 factual and legal issues are the same for all Class Members, including Plaintiff, and further, that all
25 Class Members suffered from and seek redress for the same alleged injuries. (Plaintiff Decl., ¶¶ 3–
26 5.) Considering Class Members would need to prove the same issues of law and fact to prevail, and
27 their legal remedies are identical, it would be preferable to resolve all claims through a settlement
28 agreement than to force each Class Member to litigate their own individual claims. Thus, the Court

1 should grant conditional class certification for settlement purposes because common questions of law
2 and fact predominate over any individual questions within the Class.

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

4 The typicality requirement does not focus on the individual characteristics or circumstances
5 of the representative plaintiff compared to those of the remainder of the class, but rather, upon the
6 typicality of the proposed representative’s claims as they relate to the defendant’s conduct and
7 activities. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 47 [“The only requirements are [sic] that
8 common questions of law and fact *predominate* and that the class representative be *similarly* situated”
9 vis-à-vis the class.] [emphasis in original].) A representative plaintiff’s claims are typical of the class
10 if they arise from the same event, practice, or course of conduct, and if the claims rest on the same
11 legal theories. (*Id.*) That is precisely the case here. Plaintiff is a former employee of Defendant; as
12 such, she alleges she was subject to the same policies and practices as other similarly situated
13 employees. (Plaintiff Decl., ¶ 2.)

14 **4. Plaintiff and Her Counsel Meet the Adequacy Requirement**

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

19 Here, all requirements are met. Plaintiff retained counsel with extensive experience in
20 prosecuting complex class actions, including similar class actions that previously settled. (Moon
21 Decl., ¶¶ 36–59.) With their experience, Class Counsel unquestionably are “qualified, experienced
22 and generally able to conduct the proposed litigation.” (*Miller, supra*, 148 Cal.App.3d at p. 874.) In
23 addition, Plaintiff has no conflicts with the Class, and Plaintiff has, with counsel, litigated this case
24 and diligently reviewed the settlement terms, showing dedication. (Plaintiff Decl., ¶¶ 8–20.)
25 Plaintiff’s willingness to serve as the representative demonstrates her serious commitment to bringing
26 about the best results possible for the Class. (*Id.*)

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

2 Finally, in making its class certification decision, the Court must determine that a class action
3 would be superior to alternative means for the fair and efficient adjudication of the litigation. (*See*
4 *Leyva v. Medline Indus. Inc.* (9th Cir. 2013) 716 F.3d 510, 514–515.) By consolidating many
5 potential individual actions into a single proceeding, this Court’s use of the class action device
6 enables it to manage this litigation in a manner that serves the economics of time, effort, and expense
7 for the litigants and the judicial system. (*Id.*) Absent class treatment, similarly situated employees
8 with small, but nevertheless meritorious, claims for damages would, as a practical matter, have no
9 means of redress because of the time, effort, and expense required to prosecute individual actions.
10 (*Id.* at p. 515; *Gentry, supra*, 42 Cal.4th at pp. 457–462.) Moreover, in the context of settlement, the
11 superiority concerns are essentially non-existent. (See generally, e.g., *Stamburgh v. Super. Ct., supra*,
12 62 Cal.App.3d.)

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

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

15 Class Notice requirements are set forth in the California Rules of Court. (Cal. Rules of Court,
16 rule 3.766(e)–(f).) California law vests the Court with broad discretion in fashioning an appropriate
17 notice program. (*Cartt v. Super. Ct.* (1975) 50 Cal.App.3d 960, 970, 973–974.) There is no statutory
18 or due process requirement that all class members receive actual notice, but in this matter, the Class
19 Members will receive mailed notice. (Settlement, ¶ 1.12, Exh. A.) As the Court of Appeals has
20 explained, “[t]he notice given should have a reasonable chance of reaching a substantial percentage
21 of the Class Members . . .” (*Cartt, supra*, at p. 974.) In this case, notice of the proposed Settlement
22 will be provided in both English and Spanish, and by mailing, the best possible form of notice under
23 the circumstances. (Settlement, ¶ 1.12.)

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

25 The proposed Class Notice should be approved. As discussed above, it informs the Class
26 Members of the terms of the Settlement, including the claims being released, and their right to be
27 excluded from the Settlement. (Settlement, Exh. A.) The proposed Class Notice further provides that
28

1 if there are Class Members who wish to object to the proposed Settlement, they will have the
2 opportunity to submit written objections and/or be heard at the Final Approval Hearing. (*Id.*)

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

12 **VI. CONCLUSION**

13 For the foregoing reasons, Plaintiff respectfully requests the Court grant this motion, enter the
14 proposed order submitted herewith regarding preliminary approval, and set a Final Approval Hearing
15 no earlier than 150 days from the date of the preliminary approval order.

16
17 Respectfully submitted,

18 Dated: October 14, 2025

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