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9 and Proposed Class Counsel

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF IMPERIAL**

12 CONNIE ESPARZA, on behalf of herself
13 and all others similarly situated,

14 Plaintiff,

15 v.

16 RITZ FMS, INC., a California corporation,
17 and DOES 1 through 10, inclusive,

18 Defendants.

CASE NO: ECU004828

Assigned to Hon. L. Brooks Anderholt, Dept. 9

**NOTICE OF UNOPPOSED MOTION AND
UNOPPOSED MOTION FOR PRELIMINARY
APPROVAL OF CLASS AND
REPRESENTATIVE ACTION SETTLEMENT**

Date: October 29, 2026

Time: 8:30 a.m.

Dept.: 9

Complaint Filed: July 8, 2026

1 **PLEASE TAKE NOTICE THAT** on October 29, 2026 at 8:30 a.m., or as soon thereafter
2 as the matter may be heard, in Department 9 of the above-entitled Court, located at 939 W. Main
3 St, El Centro, CA 92243, Plaintiff Connie Esparza will and hereby does move unopposed for an
4 Order (1) preliminarily finding that the settlement between the parties falls within the range of
5 reasonableness and preliminarily approving the proposed class action settlement in the above-
6 captioned case, (2) conditionally certifying, for settlement purposes only, a settlement class, (3)
7 provisionally approving the appointment of Plaintiff Connie Esparza as Class Representative, (4)
8 provisionally approving the appointment of Gaines Law Corporation as Class Counsel,
9 (5) provisionally approving the appointment of Phoenix Class Action Administration Solutions as
10 settlement administrator, (6) approving as to content and form the notice to the settlement class,
11 and directing it be disseminated by the Settlement Administrator; and (7) setting a final fairness
12 and approval hearing.

13 This unopposed Motion is made pursuant to Rule 3.769 of the California Rules of Court,
14 which provides for court approval of the settlement of a purported class action and allows the Court
15 to preliminarily certify a class for settlement purposes only.

16 The basis for this unopposed Motion is that the proposed settlement is fair, adequate, and
17 reasonable and in the best interests of the settlement class as a whole, and that the procedures
18 proposed by the Parties are adequate to ensure the opportunity of class members to participate in,
19 opt out of, or object to the settlement.

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1 This Motion will be based on the Memorandum of Points and Authorities set forth herein,
2 the Settlement Agreement and Release of Claims, the Declarations of Evan S. Gaines, Jarrod
3 Salinas of Phoenix Class Action Administration Solutions and Connie Esparza, such evidence or
4 oral argument as may be presented at the hearing, and on the complete record and file herein.

5 Dated: September 29, 2026

Respectfully submitted,

6
7 GAINES LAW CORPORATION

8 By:  _____
9 EVAN S. GAINES

10 Attorney for Plaintiff Connie Esparza and
11 Proposed Class Counsel
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 The Parties have reached a resolution of this class action and hereby submit their Settlement
4 Agreement and Release of Claims (“Settlement”) for the Court’s approval. The Settlement is made
5 and entered into by and between Plaintiff Connie Esparza (“Plaintiff” or “Esparza”), individually
6 and on behalf of all others similarly situated, and Defendant Ritz FMS, Inc. (“Defendant”).

7 The Settlement occurred as a result of extensive arm’s-length negotiations by experienced
8 counsel with the assistance of a respected mediator with experience in the area of employment class
9 actions. Most importantly, the Settlement will result in significant financial benefit to the
10 participating claimants, on terms that are by any measure fair, reasonable and adequate. *See*
11 *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801-02. The proposed Settlement provides
12 for a non-reversionary class settlement in the gross amount of \$330,000 to a settlement class of
13 approximately 332 Settlement Class Members, yielding a gross recovery of approximately **\$994**
14 each. As detailed below, the Settlement is in the best interests of the class in light of all of the facts
15 and circumstances and the risks and delays of further litigation.

16 For the foregoing reasons, the Parties respectfully request that the Court: (a) grant
17 preliminary approval of the Settlement and preliminarily find that the Settlement falls within the
18 range of reasonableness; (b) conditionally grant certification of the proposed Settlement Class, for
19 settlement purposes only; (c) provisionally approve the appointment of Plaintiff Connie Esparza as
20 Class Representative; (d) provisionally approve the appointment of Gaines Law Corporation as
21 Class Counsel; (e) provisionally approve appointment of Phoenix Class Action Administration
22 Solutions as the Settlement Administrator; (f) authorize the mailing of the proposed class action
23 notice packet; and (g) schedule a final fairness and approval hearing.

24 **II. BACKGROUND AND PROCEDURAL HISTORY**

25 On January 30, 2026, Plaintiff exhausted the pre-filing requirements of the Labor Code
26 Private Attorneys General Act of 2004 (“PAGA”). The Parties thereafter agreed to toll the statute
27 of limitations on all of Plaintiff’s claims. Declaration of Evan S. Gaines (“Gaines Decl.”) at ¶ 6.

28 On July 8, 2026, Plaintiff initiated her Action in the Imperial County Superior Court by

1 filing a Class and Representative Action Complaint, pursuant to PAGA, on behalf of herself, all
2 others similarly situated, the general public, and all “aggrieved employees.” Gaines Decl. at ¶ 7.

3 The Complaint asserts claims against Defendant for (1) Failure To Reimburse All Business-
4 Related Expenses (Labor Code § 2802); (2) Failure To Provide Meal Periods Or Compensation In
5 Lieu Thereof (Labor Code §§ 226.7, 512, 1174, and 1174.5; IWC Wage Order 5-2001); (3) Failure
6 To Provide Rest Periods Or Compensation In Lieu Thereof (Labor Code § 226.7; IWC Wage Order
7 5-2001); (4) Failure To Comply With Itemized Employee Wage Statement Provisions (Labor Code
8 § 226(a), (e), (h)); (5) Failure To Timely Pay Wages Due At Separation Of Employment (Labor
9 Code §§ 201-203); (6) Violation Of Business And Professions Code § 17200 *et seq.*; and (7)
10 Penalties Pursuant To Labor Code § 2699(f) For Violations Of Labor Code §§ 201, 202, 204,
11 226(a), 226.7, 512, 1174, 1174.5, and 2802 and Pursuant To Labor Code § 2699(a) For Violations
12 Of Labor Code §§ 210, 226.3, and 558. Gaines Decl. at ¶ 8.

13 Defendant denies any liability or wrongdoing of any kind whatsoever in connection with
14 the claims in the Action and further denies that, for any purpose other than settling this Action, this
15 Action is appropriate for class action or representative treatment. Gaines Decl. at ¶ 9.

16 The Class Representative contends that Defendant violated the California Labor Code and
17 Industrial Welfare Commission Wage Order(s), and that this case is appropriate for class
18 certification. Gaines Decl. at ¶ 10.

19 **III. INVESTIGATION AND SETTLEMENT DISCUSSIONS**

20 Class Counsel conducted a thorough investigation into the facts and law during the
21 prosecution of this class action case, including the exchange of limited informal discovery,
22 including but not limited to documents regarding Defendant’s employment/workplace policies in
23 place during the applicable period and a sample of records relating to the wage statement contents
24 and wages paid to Defendant’s non-exempt employees during the relevant time periods, and the
25 review and verification of other facts and information provided by Defendant. Class Counsel also
26 represents that he has investigated the applicable law as applied to the facts discovered regarding
27 the alleged claims of Plaintiff and potential defenses thereto, and the damages and other losses
28 claimed by Plaintiff. Gaines Decl. at ¶ 11.

1 On June 25, 2026, the Parties participated in a full-day mediation with Jeremy Naftel, Esq.,
2 wherein the Parties reached a settlement of Plaintiff's class and representative wage and hour
3 claims, and separately resolved Plaintiff's individual claims. Gaines Decl. at ¶ 12.

4 Based on his own independent investigation and evaluation, Class Counsel is of the opinion
5 that settlement for the consideration and on the terms set forth in the Settlement Agreement is fair,
6 reasonable, and adequate and is in the best interest of the Settlement Class in light of all known
7 facts and circumstances, including the risk of significant delay, the risk the Settlement Class will
8 not be certified by the Court, and the defenses asserted by Defendant. Gaines Decl. at ¶ 13.

9 The Parties agree that the Settlement Class described herein may be certified for settlement
10 purposes only and that any motion for approval seeking, *inter alia*, certification of the Settlement
11 Class is for purposes of the settlement only. If for any reason the Settlement is not approved, the
12 certification will have no force or effect and will immediately be revoked. The Parties further agree
13 that certification for purposes of the settlement is in no way an admission that class certification is
14 proper under the more stringent standard applied for litigation and that evidence of the Settlement
15 Agreement is for settlement purposes only and will not be admissible for any purpose in this or any
16 other proceeding. Gaines Decl. at ¶ 14.

17 **IV. LEGAL ANALYSIS**

18 **A. The Proposed Settlement Terms**

19 **1. The Settlement Class**

20 1.1 The Parties have agreed to a settlement class composed of "all non-exempt
21 employees of Defendant Ritz FMS, Inc., in California at any time between April 6, 2022 and June
22 25, 2026." Settlement at A.4.

23 **2. Allocations to be Paid from the Gross Settlement Amount**

24 The Parties agree to settle the Action for a Gross Settlement Amount of \$330,000 (the
25 "Gross Settlement Amount").¹ The Gross Settlement Amount includes: (a) payments to

26 _____
27 ¹ The Gross Settlement Amount was calculated with, and is premised on, the understanding that the
28 Class Members and Aggrieved Employees worked approximately 12,802 workweeks during the
Class Period. The Parties agree that if the total number of workweeks during the Class Period

1 Settlement Class Members (excluding any appropriate and lawfully required employer-side
2 payroll taxes owed by Defendant on such payments, which Defendant shall separately be
3 responsible for apart from the Gross Settlement Amount); (b) the PAGA Payment; (c) the
4 Settlement Administrator's fees and costs; and (d) Class Counsel's approved attorneys' fees and
5 costs/expenses. In no circumstance shall Defendant be required to pay any additional monies
6 beyond the Gross Settlement Amount plus the employer-side payroll taxes. Settlement at C.1.

7 From the Gross Settlement Amount, Defendant will not oppose Plaintiff's counsel's
8 application to the Court for up to 35% of the Gross Settlement Amount for attorneys' fees (projected
9 to be \$115,500). Settlement at C.1.f.

10 From the Gross Settlement Amount, Defendant will not oppose Plaintiff's counsel's
11 application to the Court for up to \$10,000 in reimbursement of litigation costs and expenses.
12 Settlement at C.1.g.

13 From the Gross Settlement Amount, settlement administration fees paid to Phoenix Class
14 Action Administration Solutions will be no more than \$10,000. Settlement at C.1.h.

15 From the Gross Settlement Amount, the portion to be allocated for settlement of any and all
16 claims for penalties under the PAGA is \$30,000 ("PAGA Payment"), of which 65% (\$19,500) shall
17 be paid directly to the LWDA and 35% (\$10,500) shall be distributed to the Aggrieved Employees
18 as PAGA Employee Payments. Settlement at C.1.e.

19 The Gross Settlement Amount shall encompass the following: (1) Class Counsel's fees,
20 costs, and expenses; (2) the Settlement Administrator's fees and costs; (3) the PAGA Payment; and
21 (4) the Net Settlement Proceeds (the "NSP"). After the deduction of the amounts approved for the
22 PAGA Payment, the Settlement Administrator's fees and costs, and Class Counsel's fees, costs,
23 and expenses from the Gross Settlement Amount, the remainder shall be referred to as the Net
24 Settlement Proceeds. Settlement at C.1.b, C.1.c, C.1.e.

25
26
27 exceeds One Hundred Ten Percent (110%) of the estimated 12,802 workweeks (*i.e.*, exceeds 14,082
28 workweeks), the Gross Settlement Amount will increase pro rata per additional workweek above
the 14,082. Settlement at H.17.

1 3. **Settlement of Claims Pursuant to Labor Code § 2699 et seq. (PAGA)**

2 Pursuant to PAGA, the Parties have agreed that \$30,000 of the Gross Settlement Amount
3 will be allocated to settle the claims brought under Labor Code § 2699 et seq. Pursuant to Labor
4 Code § 2699(m), “civil penalties recovered by aggrieved employees shall be distributed as follows:
5 65 percent to the Labor and Workforce Development Agency . . . and 35 percent to the aggrieved
6 employees.” As such, 65% of the apportioned PAGA settlement amount – or \$19,500 – shall be
7 paid directly to the LWDA, and 35%, i.e., \$10,500, shall be distributed to the Aggrieved Employees
8 as PAGA Employee Payments. Settlement at C.1.e.

9 **B. Two-Step Approval Process**

10 Any settlement of class litigation must be reviewed and approved by the Court. Cal. R. Ct.
11 3.769; Fed. R. Civ. P. 23(e).² This is done in two steps: (1) an early (preliminary) review by the
12 trial court, and (2) a final review after notice has been distributed to the Class Members informing
13 them of the terms of the settlement and allowing them to exclude themselves from, participate in
14 and/or object to the settlement. The Manual for Complex Litigation (Third) § 30.41 states:

15 Approval of class action settlements involves a two-step process.
16 First, counsel submit the proposed terms of settlement and the court
17 makes a preliminary fairness evaluation. If the preliminary
18 evaluation of the proposed settlement does not disclose grounds to
19 doubt its fairness or other obvious deficiencies, such as unduly
20 preferential treatment of class representatives or of segments of the
21 class, or excessive compensation for attorneys, and appears to fall
22 within the range of possible approval, the court should direct that
23 notice . . . be given to the class members of a formal fairness hearing,
24 at which arguments and evidence may be presented in support of and
25 in opposition to the settlement.

26 Thus, the preliminary approval by the trial court is simply a conditional finding that the
27 settlement appears to be within the range of acceptable settlements. *See Wershba v. Apple*
28 *Computer* (2001) 91 Cal.App.4th 224, 234-35. “The strength of the findings made by a judge at a
preliminary hearing or conference concerning a tentative settlement proposal may vary. The court
may find that the settlement proposal contains some merit, is within the range of reasonableness

² The California Supreme Court has authorized California’s trial courts to use Federal Rule 23 and cases applying it for guidance in considering class issues. *See Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821; *Green v. Obledo* (1981) 29 Cal.3d 126, 145-146. Where appropriate, therefore, Plaintiff cites Federal Rule 23 and federal case law in addition to California law.

1 required for a settlement offer, or is presumptively valid subject only to any objections that may be
2 raised at a final hearing.” 4 Alba Conte & Herbert B. Newberg, *Newberg on Class Actions*, § 11.26
3 (4th ed. 2002).

4 The procedures for the Parties’ submission of a proposed settlement for preliminary
5 approval by the Court also are discussed in 4 *Newberg on Class Actions*:

6 When the parties to an action reach a monetary settlement, they will
7 usually prepare and execute a joint stipulation of settlement, which
8 is submitted to the court for preliminary approval. The stipulation
9 should set forth the essential terms of the agreement, including but
not limited to, the amount of settlement, form of payment, manner of
determining the effective date of settlement and any recapture clause.

10 *Id.* at § 11.24.

11 Here, the Parties have reached such an agreement and have submitted the Settlement
12 herewith. *See* Gaines Decl., **Exhibit B**; Gaines Decl. ¶ 15.

13 **C. Procedures for Settlement Before Class Certification.**

14 Pursuant to California Rules of Court, Rule 3.769(d), parties also may, at the preliminary
15 approval stage, request that the court provisionally approve certification of the class – conditioned
16 upon final approval of the settlement. “[P]re-certification settlements are routinely approved if
17 found to be fair and reasonable.” *Wershba, supra*, 91 Cal.App.4th at 240. *Accord Dunk, supra*, 48
18 Cal.App.4th at 1803 (although the settlement was reached before any “adversary certification,” the
19 court was satisfied that it was “fair, adequate and reasonable.”). *See also In re Baldwin-United*
20 *Corp.* (S.D.N.Y. 1984) 105 F.R.D. 475, 478³ (“many courts have employed this practice in the
21 name of judicial efficiency in order to facilitate apparently beneficial settlement proposals.”)

22 The strength of the findings made by a judge at a preliminary hearing
23 or conference concerning a tentative settlement proposal . . . may be
24 set out in conditional orders granting tentative approval to the various
25 items submitted to the court. Three basic rulings are often
conditionally entered at this preliminary hearing. These conditional
rulings may approve a temporary settlement class, the proposed
settlement, and the class counsel’s application for fees and expenses.

26 4 *Newberg on Class Actions*, at § 11.26.

27 As required by Labor Code § 2699(s)(2), concurrent with Plaintiff’s submission of the

28 ³ In determining the fairness and reasonableness of a proposed settlement, California courts may
look to federal cases for guidance. *See Wershba, supra*, 91 Cal.App.4th at 239-40.

Settlement to the Court, her counsel is transmitting it, together with this Motion, to the LWDA. Gaines Decl. at ¶ 28.

1. **The Settlement Class Should Be Certified for Settlement Purposes**

It is well established that trial courts should use a lower standard for determining the propriety of certifying a settlement class, as opposed to a litigation class. *Dunk, supra*, 48 Cal.App.4th at 1807, n. 19. The reason for this is that no trial is anticipated in a settlement class, so the case management issues inherent in determining if the class should be certified need not be confronted. *Amchem Products, Inc. v. Windsor* (1997) 521 U.S. 591, 620. The proposed Settlement Class meets all requirements for certification, as discussed below.

a. **The Settlement Class is Ascertainable**

The proposed Settlement Class is ascertainable. The class definition, the size of the Class, and the means for identifying the members of the class determine whether the class is ascertainable. *Reyes v. Board of Supervisors* (1987) 196 Cal.App.3d 1263, 1274. In this case, the Class Members are identifiable from Defendant's employment and payroll records. Further, the Settlement Class is sufficiently numerous to warrant certification. According to Defendant's records, the Class comprises approximately 332 members. Gaines Decl. ¶ 24.

b. **Questions of Law or Fact Common to Members of the Settlement Class Predominate**

The Class Members' claims all stem from a common source: members of the Settlement Class allege that Defendant violated the same Labor Code provisions in connection with their employment in non-exempt positions. All members of the Class seek the same relief under the same California laws (related to failure to pay all wages due, provide meal and rest periods, issue accurate and complete wage statements, timely pay wages due upon separation, and derivative claims). Under these circumstances, the commonality requirement is satisfied for purposes of certifying the Settlement Class for settlement purposes. Gaines Decl. ¶ 25.

c. **The Proposed Class Representative's Claims Are Typical of the Class Members' Claims**

A class representative's claims are typical when they arise from the same event or course

1 of conduct that gives rise to the claims of the class, and are based on the same legal theory.
2 *Classen v. Weller* (1983) 145 Cal.App.3d 27, 46-47. In this case, named Plaintiff and proposed
3 Class Representative Connie Esparza is a former non-exempt employee who worked for Defendant
4 in the State of California during the Class Period. She contends that Defendant failed to timely pay
5 all wages due during employment, failed to provide meal and rest periods, failed to comply with
6 itemized employee wage statement provisions, and failed to timely pay wages at the separation of
7 employment, in violation of Labor Code §§ 201, 202, 203, 204, 210, 226(a), 226.7, 512, 1174,
8 1174.5, 2698, and 2699, among other Labor Code provisions. She has the same claims as those
9 that the members of the Settlement Class would reasonably be expected to bring based on the course
10 of conduct alleged herein. Gaines Decl. ¶ 26.

11 Plaintiff has demonstrated that she will aggressively and competently assert the interests of
12 the proposed Settlement Class; she has taken an active role in the litigation and has no apparent
13 conflicts with other class members. Gaines Decl. ¶ 27; Declaration of Connie Esparza (“Esparza
14 Decl.”). Plaintiff has also separately resolved her individual, non-PAGA claims, including her
15 termination-related claims, through a confidential agreement with Defendant. Gaines Decl. ¶ 27;
16 Settlement at H.1. That agreement is funded separately from, and does not reduce, the Gross
17 Settlement Amount, and it compensates Plaintiff only for a release of individual claims that Class
18 Members are not asked to give. *Id.* The class terms were agreed upon before Plaintiff’s individual
19 claims were negotiated, and Plaintiff seeks no service award. *Id.* The individual agreement therefore
20 creates no conflict between Plaintiff and the Settlement Class, and Class Counsel will lodge it for
21 in camera review should the Court wish to examine it. Furthermore, Plaintiff has retained competent
22 counsel, experienced in litigating class action claims in the employment context. *See* Gaines Decl.
23 ¶¶ 2-5.

24 **D. The Settlement Is Fair and Reasonable and Not the Result of Fraud or**
25 **Collusion**

26 Courts presume the absence of fraud or collusion in the negotiation of a settlement unless
27 evidence to the contrary is offered. *Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447; *Mars*
28 *Steel Corp. v. Continental Illinois Nat’l Bank & Trust Co.* (7th Cir. 1987) 834 F.2d 677, 682; *In re*

1 *Chicken Antitrust Litig.* (N.D. Ga. 1980) 560 F. Supp. 957, 962. Courts do not substitute their
2 judgment for that of the proponents, particularly where, as here, settlement has been reached with
3 the participation of experienced counsel familiar with the litigation. *Nat'l Rural Telecomms.*
4 *Coop. v. DIRECTV, Inc.* (C.D. Cal. 2004) 221 F.R.D. 523, 528; *Hammon v. Barry* (D.D.C. 1990)
5 752 F. Supp. 1087, 1093; *Steinberg v. Carey* (S.D.N.Y. 1979) 470 F. Supp. 471, 478; *In re Armored*
6 *Car Antitrust Litig.* (N.D. Ga. 1979) 472 F. Supp. 1357, 1368; *Sommers v. Abraham Lincoln*
7 *Federal Sav. & Loan Ass'n* (E.D. Pa. 1978) 79 F.R.D. 571, 580.

8 While the recommendations of counsel proposing the settlement are not conclusive, the
9 Court can properly take them into account, particularly where, as here, such counsel have been
10 involved in informal discovery and negotiations for some period of time, appear to be competent,
11 have experience with this type of litigation, and have exchanged substantial evidence with the
12 opposing party. *See Newberg on Class Actions, supra*, § 11.47; *In re Paine Webber Ltd. P'ships*
13 *Litig.* (S.D.N.Y. 1997) 171 F.R.D. 104, 125 (“[s]o long as the integrity of the arm’s-length
14 negotiation process is preserved, however, a strong initial presumption of fairness attaches to the
15 proposed settlement . . . [citations] and ‘great weight’ is accorded to the recommendations of
16 counsel, who are most closely acquainted with the facts of the underlying litigation”); *see Gaines*
17 *Decl.* ¶¶ 2-5, 11-23.

18 Here, the Parties’ counsel have a great deal of experience in class action litigation and
19 specialize in employment wage and hour matters. Moreover, counsel for both Parties conducted
20 an extensive investigation of the factual allegations involved in this case. The Parties have engaged
21 in a broad exchange of documents, data, records and other information. Each side has apprised the
22 other, informally and at a formal mediation, of their respective factual contentions, legal theories
23 and defenses, resulting in extensive arm’s-length negotiations taking place among the Parties. *See*
24 *Gaines Decl.* ¶¶ 2-5, 11-23.

25 1. **The Settlement Falls Within The “Ballpark” of Reasonableness**

26 The Court must make an “independent assessment of the reasonableness of the terms of the
27 settlement” prior to granting preliminary and final approval. *Clark v. American Residential*
28 *Services LLC* (2009) 175 Cal.App.4th 785, 799; *Kullar v. Foot Locker Retail, Inc.* (2008) 168

1 Cal.App.4th 116, 127-28, 130, 133. To do so requires the Parties to submit “basic information
2 about the nature and magnitude of the claims in question and the basis for concluding that the
3 consideration being paid for the release of those claims represents a reasonable compromise.”
4 *Clark, supra*, 175 Cal.App.4th at 800. However, the Court should *not* “attempt to decide the merits
5 of the case or to substitute its evaluation of the most appropriate settlement for that of the attorneys.”
6 *Kullar, supra*, 168 Cal.App.4th at 133.

7 Plaintiff asserts that Defendant failed to pay Plaintiff and Class Members premium wages
8 for missed, denied and unauthorized rest periods in violation of Labor Code § 226.7 and IWC Wage
9 Order 5-2001. Plaintiff and other Class Members contend that they were denied, and therefore
10 unable to take, 10-minute on-the-clock rest periods for every four hours of work or major fraction
11 thereof, but were not paid premium wages of one hour’s pay for each missed, denied and
12 unauthorized rest period. Plaintiff and Class Members were frequently too busy to take a rest
13 period. When they were able to take a rest period, they were oftentimes late, cut short, or on-duty.
14 However, Defendant also maintained defenses to this claim. Defendant contends that Class
15 Members were allowed uninterrupted rest breaks for every four hours worked or major fraction
16 thereof. Based on a 20% violation rate based on Plaintiff’s experience, she calculates the damage
17 liability for this claim at up to \$256,040 and PAGA civil penalty liability totaling up to \$212,400.
18 Gaines Decl. ¶ 16.

19 Plaintiff further alleges that Defendant failed to permit or authorize Plaintiff and Class
20 Members to take timely 30-minute meal periods for shifts greater than 5 hours in length. When they
21 were able to take a meal period, they were oftentimes late, cut short, or on-duty. Furthermore,
22 Defendant also failed to maintain adequate meal period records that show the start and stop time
23 for meal periods. This violates Labor Code §§ 226.7, 512, 1174, and 1174.5 and IWC Wage Order
24 5-2001. However, Defendant also maintained defenses to this claim. Defendant contends Class
25 Members working more than 5 hours received 30-minute, unpaid, uninterrupted meal breaks, or
26 Class Members worked less than 5 hours, or Class Members worked more than 5 hours (but less
27 than 6 hours) with a Meal Waiver, or Class Members received on-duty meal breaks (with pay).
28 Based on a 20% violation rate based on Plaintiff’s experience, she calculates the damage liability

1 for this claim at up to \$256,040 and PAGA civil penalty liability totaling up to \$212,400. Gaines
2 Decl. ¶ 17.

3 Plaintiff also contends that Defendant also failed to timely pay all wages due to Plaintiff
4 and other Aggrieved Employees during their employment, in violation of Labor Code §§ 204 and
5 210. Defendant paid Plaintiff and other Aggrieved Employees on a semi-monthly basis, but failed
6 to issue them all their wages within ten calendar days of the conclusion of the payroll period, as
7 required by Labor Code § 204(a). This subjects Defendant to penalties as authorized by Labor
8 Code § 210. However, Defendant also maintained defenses to this claim. Defendant contends Class
9 Members were timely paid. Wage payment data provided by Defendant demonstrated a maximum
10 PAGA civil liability for this claim at \$748,600. Gaines Decl. ¶ 18.

11 Plaintiff also argues that Defendant failed to issue Plaintiff and Class Members accurate
12 itemized wage statements. As detailed above, Plaintiff and Class Members contend that they were
13 not paid all wages due. As a result, the wage statements issued by Defendant to Plaintiff and Class
14 Members would fail to accurately state all gross wages earned, in violation of Labor Code §
15 226(a)(1); total hours worked, in violation of Labor Code § 226(a)(2); net wages earned, in
16 violation of Labor Code § 226(a)(5); and all applicable hourly rates in effect during the pay period
17 and the corresponding number of hours worked, in violation of Labor Code § 226(a)(9). This is a
18 wholly derivative claim. Plaintiff calculates the statutory penalty liability for this claim at up to
19 \$180,860 and PAGA civil penalty liability for this claim at \$212,400. Gaines Decl. ¶ 19.

20 Defendant also allegedly failed to pay Plaintiff and 54 formerly employed Class Members
21 all wages due timely upon separation of employment, in violation of Labor Code §§ 201-203. This
22 is a derivative claim for which Plaintiff calculates the statutory penalty liability at \$379,200 and
23 PAGA civil penalty liability at \$7,900. Gaines Decl. ¶ 20.

24 Finally, Plaintiff also argues that Defendant failed to reimburse Plaintiff and Class Members
25 for all business expenses incurred (cellular phone usage), in violation of Labor Code § 2802;
26 however, Plaintiff was unable to calculate the actual unreimbursed expenses owed due to the
27 individual nature of the claims. Gaines Decl. ¶ 21.

28 The compromise reached here is fair and reasonable considering the factual and legal

1 disputes among the Parties, the defenses raised by Defendant as to class certification and the merits
2 of Plaintiff's claims, and the risk the Court would reduce or eliminate any award of penalties.
3 Defendant strongly contends that its policies and practices do not violate any laws. It contends that
4 it properly paid all wages due upon separation of employment and that the wage statements it
5 provided to its employees were fully compliant with California law. Gaines Decl. ¶ 22.

6 When the costs and risks of non-certification and loss on the merits are considered,
7 Plaintiff's counsel are of the opinion that the Settlement reached is clearly a favorable one. Gaines
8 Decl. ¶¶ 13-22.

9 The settlement for each Class Member is fair, reasonable and adequate, given the inherent
10 risk of litigation, the risk relative to class certification and the costs of pursuing such litigation. The
11 settlement shall finally resolve all claims of the Class Members as alleged in the Action. Gaines
12 Decl. ¶ 23.

13 2. **Despite the Asserted Fairness of the Settlement Terms, Class Members**
14 **May Request Exclusion From, Or Object To, The Settlement**

15 Despite the asserted fairness of the settlement terms, any potential Class Member who
16 objects to the terms of the settlement set forth in the Settlement has the right to submit a request for
17 exclusion (*i.e.*, opt out) from the settlement, pursuant to which the Class Member would otherwise
18 retain any claim he or she may have against Defendant.

19 Moreover, Class Members who do not opt out may, upon providing proper notice to the
20 Parties and the Court, attend the final fairness and approval hearing for the purpose of objecting to
21 one or more of the settlement terms set forth in the Settlement.

22 **V. CONCLUSION**

23 Based on the foregoing, as part of its preliminary approval of the settlement, the Parties
24 request that the Court enter an order:

- 25 1. Preliminarily finding that the settlement falls within the range of reasonableness and
26 approving the proposed settlement;
- 27 2. Conditionally certifying, for settlement purposes only, the Settlement Class;
- 28 3. Provisionally appointing Plaintiff Connie Esparza as the Class Representative;

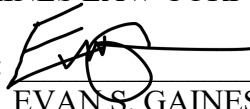
4. Provisionally appointing Gaines Law Corporation as Class Counsel;
5. Provisionally approving Phoenix Class Action Administration Solutions as Settlement Administrator;
6. Approving as to content and form the notice to the Settlement Class, and directing it to be disseminated by the Settlement Administrator; and
7. Setting the following schedule of settlement proceedings:

<u>EVENT</u>	<u>TIMING</u>
Last day for Defendant to provide to the Settlement Administrator a list of all Class Members, including the full name, telephone number, last known address and full social security number of all Class Members; the information necessary to determine the estimated settlement allocation to each Class Member, including: (i) the total number of workweeks of each Class Member in California in an hourly-paid or non-exempt position within the Class Period; and (ii) the total number of pay periods of each Aggrieved Employee in California in an hourly-paid or non-exempt position within the PAGA Period ("Settlement Class Information")	10 calendar days after entry of Court's Order granting preliminary approval of Settlement
Last day for Settlement Administrator to mail Notice of Proposed Settlement ("Notice") to Class Members	20 calendar days after Settlement Administrator's receipt of the Class Member List
Last day for exclusion requests by Class Members to be postmarked to Settlement Administrator	45 calendar days after the initial mailing of the Notice to Class Members
Last day for objections to the Settlement by Class Members to be postmarked to Settlement Administrator	45 calendar days after the initial mailing of the Notice to Class Members
Last day for Class Counsel to file and serve moving papers in support of final settlement approval and request for attorneys' fees and costs	16 court days before the final settlement approval hearing date
Last day for Class Counsel to file with the Court and serve declaration by Settlement Administrator specifying the due diligence undertaken with regard to the mailing of the Notice	16 court days before the final settlement approval hearing date
Final settlement approval hearing	_____, 2027, at _____ (approximately 100 days after entry of this Order)

1 Dated: September 29, 2026

Respectfully submitted,
GAINES LAW CORPORATION

2
3 By:



EVAN S. GAINES

Attorney for Plaintiff Connie Esparza and
Proposed Class Counsel