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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

TAMMY HALLORAN and KENNETH ATIENZA, individually, and on behalf of other similarly situated employees,

Plaintiffs,

vs.

GENOMIC HEALTH, INC.; EXACT SCIENCES CORPORATION; and DOES 1 through 25, inclusive,

Defendants.

Case No. 26-CIV-03130

Assigned for all purposes to the Honorable Mark A. McCannon, Dept. 2

NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Date:	June 17, 2027
Time:	2:00 p.m.
Dept.:	2
Complaint Filed:	April 22, 2026
Trial Date:	Not Set

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on **June 17, 2027 at 2:00 p.m.** in Department 2, Courtroom K, of the above-captioned Court located at 1050 Mission Road, South San Francisco, California 94080, pursuant to California Code of Civil Procedure section 382 and Rule 3.769 of the California Rules of Court, Plaintiffs Tammy Halloran and Kenneth Atienza ("Plaintiffs") will and hereby do move the Court for an Order granting preliminary approval of the proposed class action and PAGA settlement between Plaintiffs and Defendants Genomic Health, Inc. and Exact Sciences Corporation ("Defendants").

Plaintiff requests that the Court enter an Order:

1. Preliminarily approving the Stipulation of Class and PAGA Representative Action Settlement ("Settlement" or "Settlement Agreement") attached as Exhibit 3 to the Declaration of Annabel Blanchard in Support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement ("Blanchard Decl.");

2. Certifying the Class for Settlement purposes;

3. Appointing Plaintiffs Tammy Halloran and Kenneth Atienza as Class Representatives for settlement purposes;

4. Appointing Jonathan M. Genish, Sage S. Stone, Zach T. Gershman, Annabel Blanchard and Alexandra Rose of Blackstone Law, APC as Class Counsel for Settlement purposes;

5. Approving the proposed Notice of Settlement ("Class Notice"), attached as Exhibit 1 to the Settlement Agreement, to be mailed to the Settlement Class;

6. Approving the opt-out, objection, and Eligible Workweek and Eligible Pay Period dispute procedures provided in the Settlement Agreement and set forth in the Class Notice;

7. For each Settlement Class Member, directing Defendants to furnish the Settlement Administrator with the Class Data, including each Settlement Class Member's name, last known mailing address, Social Security number, and number of Eligible Workweeks and Eligible Pay Periods, or data sufficient for the Settlement Administrator to determine Eligible Workweeks and Eligible Pay Periods, within fourteen (14) calendar days after Plaintiffs serve Defendants with a signed order granting preliminary approval of the Settlement;

8. Approving the proposed deadlines for the settlement administration process; and

9. Setting a Final Approval Hearing.

Pursuant to California Labor Code section 2699(s)(2), on November 12, 2026, a copy of the Settlement was submitted to the California Labor and Workforce Development Agency ("LWDA") via online submission through the LWDA's website. (Blanchard Decl., ¶ 47 and Exh. 4).

This Motion is based upon this Notice, the attached Memorandum of Points and Authorities, the Declaration of Annabel Blanchard, the Declarations of Plaintiffs Tammy Halloran and Kenneth Atienza, the Declaration of the Settlement Administrator (Apex Class Action LLC), the pleadings and other records on file with the Court in this matter, and any further evidence or argument that the Court may properly receive at or before the hearing.

Respectfully submitted,

Dated: November 13, 2026

BLACKSTONE LAW, APC

By: A. Blanchard
Annabel Blanchard
Attorney for Plaintiffs Tammy Halloran and Kenneth Atienza

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Tammy Halloran and Kenneth Atienza ("Plaintiffs") seek preliminary approval of the Stipulation of Class and PAGA Representative Action Settlement ("Settlement" or "Settlement Agreement") entered into between Plaintiffs and Defendants Genomic Health, Inc. and Exact Sciences Corporation ("Defendants") (together with Plaintiffs, the "Parties"). (Declaration of Annabel Blanchard in Support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement ["Blanchard Decl."], Exh. 3.) The Settlement terms are outlined as follows:

- Class Size: Approximately six hundred (600) individuals, based on information provided by Defendants .
- Gross Settlement Amount: Two Million One Hundred Ninety Thousand Dollars and Zero Cents ($2,190,000.00).
- Attorneys' Fees and Costs: Attorneys' fees of up to thirty-five percent (35%) of the Gross Settlement Amount, i.e., Seven Hundred Sixty-Six Thousand Five Hundred Dollars and Zero Cents ($766,500.00) if the Gross Settlement Amount is $2,190,000.00, plus actual litigation costs and expenses not to exceed Forty-Five Thousand Dollars and Zero Cents ($45,000.00), to be paid from the Gross Settlement Amount.
- Enhancement Awards: Up to Ten Thousand Dollars and Zero Cents ($10,000.00) to each Class Representative, for a total of Twenty Thousand Dollars and Zero Cents ($20,000.00), to be paid from the Gross Settlement Amount.
- Settlement Administration Costs: Estimated not to exceed Nine Thousand Five Hundred Dollars and Zero Cents ($9,500.00), to be paid from the Gross Settlement Amount.
- PAGA Payment: One Hundred Ten Thousand Dollars and Zero Cents ($110,000.00) from the Gross Settlement Amount, sixty-five percent (65%) of which, or Seventy-One Thousand Five Hundred Dollars and Zero Cents ($71,500.00), will be paid to the Labor and Workforce Development Agency ("LWDA"), and the remaining thirty-five percent (35%), or Thirty-Eight Thousand Five Hundred Dollars and Zero Cents ($38,500.00), will be paid to the PAGA Members.

- Estimated Net Settlement Amount: One Million Two Hundred Thirty-Nine Thousand Dollars and Zero Cents ($1,239,000.00), to be distributed to Participating Class Members.

As set forth herein, the Settlement is the product of informed investigation, discovery, and arm's-length negotiations, and provides a fair, adequate, and reasonable recovery for the Settlement Class and PAGA Members. Plaintiffs therefore respectfully request that the Court grant preliminary approval of the Settlement, conditionally certify the Settlement Class for settlement purposes only, approve the proposed Notice of Settlement ("Class Notice"), set a hearing date for final settlement approval, and grant the other relief requested in the Motion.

II. FACTUAL AND PROCEDURAL BACKGROUND

Defendant Genomic Health, Inc. is a company focused on genetic research into cancer detection, and Exact Sciences Corporation acquired Genomic Health, Inc. in or around 2019, after which Genomic Health continued to operate as a subsidiary of Exact Sciences Corporation. Plaintiff Kenneth Atienza was employed by Defendants as an hourly-paid, non-exempt Material Handler from approximately May 2021 through approximately October 2021. (Declaration of Plaintiff Kenneth Atienza in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement ["Atienza Decl."], ¶ 2). Plaintiff Tammy Halloran was employed by Defendants as an hourly-paid, non-exempt Administrative Assistant and Guest Experience Partner from approximately August 2021 through November 2025. (Declaration of Plaintiff Tammy Halloran in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement ["Halloran Decl."], ¶ 2).

On May 14, 2025, Plaintiff Kenneth Atienza filed a Class Action Complaint in San Mateo County Superior Court (the "Atienza Action") against Defendant Genomic Health, Inc., thereby commencing the putative class action entitled *Atienza v. Genomic Health, Inc.*, San Mateo Superior Court Case No. 25-CIV-03760, alleging claims for failure to pay minimum wages, failure to pay overtime wages, failure to provide compliant meal and rest periods or premium compensation in lieu thereof, failure to timely pay wages during employment, failure to provide accurate itemized wage statements, failure to timely pay wages upon termination, failure to reimburse necessary business expenses, unlawful post-employment agreements, unfair business practices, FCRA violations, and ICRAA violations. (Blanchard Decl., ¶ 9 and Exh. 2).

On January 9 and February 17, 2026, Defendants produced information and data sufficient for Class Counsel to evaluate the claims, including timekeeping and payroll data, wage-and-hour policies, and class-size information regarding the number of current and former putative class members, the total workweeks at issue, PAGA pay periods, and average rates of pay. (*Id*., ¶ 10).

On June 20, 2025, Defendant Genomic Health removed the "Atienza Action" to the United States District Court for the Northern District of California (case no. 3:25-cv-05222-AMO). (*Id*., ¶ 11).

On June 27, 2025, Defendant Genomic Health filed a Partial Motion to Dismiss, seeking dismissal of the causes of action for or failure to pay minimum wages, failure to pay overtime wages, failure to provide compliant meal and rest periods or premium compensation in lieu thereof, failure to timely pay wages during employment, failure to provide accurate itemized wage statements, failure to timely pay wages upon termination, failure to reimburse necessary business expenses, and unlawful post-employment agreements. (*Id*., ¶ 12).

On July 11, 2025, Plaintiff Atienza filed a First Amended Class Action Complaint in the Atienza Action, adding Exact Sciences Corporation as a Defendant, and removing several causes of action which were alleged in the original complaint, asserting only three causes of action for: (1) unfair business practices, (2) FCRA violations, and (3) ICRAA violations against Defendants. (*Id*., ¶ 13).

On August 22, 2025, Defendants filed a Motion to Dismiss Plaintiff's First Amended Class Action Complaint. (*Id*., ¶ 14).

On September 12, 2025, the Parties filed a Joint Stipulation for Plaintiff to File a Second Amended Complaint and Defendants to Withdraw the Motion to Dismiss as Moot. A Modified Order Granting the Parties' Joint Stipulation was entered on September 15, 2025. (*Id*., ¶ 15).

On September 29, 2025, Plaintiff Atienza filed a Second Amended Class Action Complaint in the Atienza Action, asserting the same three (3) causes of action as were brought in the First Amended Class Action Complaint, but asserting the causes of action for FCRA violations and ICRAA violations only against Defendant Genomic Health, Inc. (*Id*., ¶ 16).

On January 29, 2026, Plaintiff Tammy Halloran provided written notice to the California Labor and Workforce Development Agency ("LWDA") by online submission and to Defendant Exact Sciences Corporation by U.S. Certified Mail, pursuant to California Labor Code section 2699.3, of the specific

provisions of the California Labor Code alleged to have been violated by Defendants ("PAGA Letter"). (*Id*., ¶ 17, Exh. 2).

On February 20, 2026, the Parties participated in a formal mediation conducted by Monique Ngo-Bonnici, Esq. of Signature Resolution, a neutral mediator with experience in wage-and-hour matters. With the assistance of the mediator, the Parties reached a settlement in principle to resolve the dispute on a class and representative basis. (*Id*., ¶ 15).

On April 22, 2026, Plaintiffs Tammy Halloran and Kenneth Atienza filed a Class Action Complaint (the "Operative Complaint") in *Halloran et al. v. Genomic Health, Inc., et al.*, San Mateo County Superior Court Case No. 26-CIV-03130 (the "Action"). The complaint alleges causes of action for failure to pay minimum wages, failure to pay overtime wages, failure to provide compliant meal periods or premium compensation in lieu thereof, failure to provide compliant rest periods or premium compensation in lieu thereof, failure to timely pay wages during employment, failure to provide accurate itemized wage statements, failure to timely pay wages upon termination, failure to reimburse necessary business expenses, failure to pay sick leave, failure to pay vested vacation time at termination, unlawful post-employment agreements, unfair business practices, FCRA violations, ICRAA violations, and civil penalties under PAGA. (*Id*., ¶ 19).

On October 20, 2026, the Parties executed the Settlement Agreement. (*Id*., ¶ 20 and Exh. 3).

III. THE SETTLEMENT TERMS

A. Class Definition

For purposes of settlement only, the Parties have agreed that the Settlement Class shall be defined as "all current and former hourly-paid and/or non-exempt employees who worked for either of the Defendants in the State of California during the Class Settlement Period" ("Settlement Class" or "Settlement Class Members"). (Blanchard Decl., ¶ 21; Settlement Agreement, ¶ 1.35.) The Class Settlement Period is defined as the period from May 14, 2021, through April 20, 2026. (Blanchard Decl., ¶ 21; Settlement Agreement, § 1.4). Based on information provided by Defendants, it is estimated that there are approximately six hundred (600) Settlement Class Members. (Blanchard Decl., ¶ 21).

B. Amount of Settlement

The Parties have agreed to settle the claims that were alleged, or reasonably could have been

alleged, in the Operative Complaint for a non-reversionary Gross Settlement Amount of Two Million One Hundred Ninety Thousand Dollars and Zero Cents ($2,190,000.00), exclusive of employer-side payroll taxes. (Blanchard Decl., ¶ 22; Settlement Agreement, ¶ 3.2.1).

C. Allocation and Funding of the Gross Settlement Amount

The Gross Settlement Amount is a common fund and therefore includes all requested costs, fees, and other allocations. (Blanchard Decl., ¶ 22; Settlement Agreement, ¶¶ 1.15, 3.2.1). The Gross Settlement Amount includes: (1) Class Counsel's fees in the amount of thirty-five percent (35%) of the Gross Settlement Amount (i.e., $766,500.00 if the Gross Settlement Amount is $2,190,000.00); (2) Class Counsel's actual litigation costs and expenses, not to exceed Forty-Five Thousand Dollars and Zero Cents ($45,000.00); (3) Settlement Administration Costs, estimated not to exceed Nine Thousand Five Hundred Dollars and Zero Cents ($9,500.00); (4) Enhancement Payments in the amount of Ten Thousand Dollars and Zero Cents ($10,000.00) to each Class Representative, for a total of Twenty Thousand Dollars and Zero Cents ($20,000.00); and (5) a PAGA Amount of One Hundred Ten Thousand Dollars and Zero Cents ($110,000.00). (Blanchard Decl., ¶ 22; Settlement Agreement, ¶¶ 1.15, 3.2.1, 3.3). After the above-estimated amounts are deducted from the Gross Settlement Amount, the Net Settlement Amount that will be available for Participating Class Members is currently estimated to be One Million Two Hundred Thirty-Nine Thousand Dollars and Zero Cents ($1,239,000.00). (Blanchard Decl., ¶ 22). Additionally, thirty-five percent (35%) of the PAGA Amount ("PAGA Employee Amount"), which is Thirty-Eight Thousand Five Hundred Dollars and Zero Cents ($38,500.00) out of $110,000.00, will be fully distributed to PAGA Members. (Blanchard Decl., ¶ 22; Settlement Agreement, ¶¶ 1.23, 1.24). The PAGA Settlement Period is defined as the period from January 29, 2025, through April 20, 2026. (Blanchard Decl., ¶ 22; Settlement Agreement, ¶ 1.25).

The Net Settlement Amount will be distributed and paid to all Settlement Class Members who do not submit a timely and valid request for exclusion ("Participating Class Members") on a pro rata basis based on the number of Eligible Workweeks each Participating Class Member worked for Defendants as a non-exempt employee in California during the Class Settlement Period. (Blanchard Decl., ¶ 23; Settlement Agreement, ¶¶ 1.10, 1.26, 3.3.4). The pro rata share of the Net Settlement Amount that a Participating Class Member may be eligible to receive under the class settlement ("Individual Settlement

Payment") will be calculated by the Settlement Administrator in accordance with the Settlement Agreement. (Blanchard Decl., ¶ 23; Settlement Agreement, ¶¶ 1.17, 3.3.4). No claim form is required for a Settlement Class Member to become a Participating Class Member or to receive an Individual Settlement Payment. (Blanchard Decl., ¶ 23; Settlement Agreement, ¶¶ 1.26, 3.3.4).

The PAGA Employee Amount will be distributed and paid to all PAGA Members on a pro rata basis based on the number of Eligible Pay Periods each PAGA Member worked for Defendants as a non-exempt employee in California during the PAGA Settlement Period. (Blanchard Decl., ¶ 24; Settlement Agreement, ¶¶ 1.11, 1.23, 1.24). The pro rata share of the PAGA Employee Amount that a PAGA Member may be eligible to receive under the PAGA settlement ("Individual PAGA Payment") will be calculated by the Settlement Administrator in accordance with the Settlement Agreement. (Blanchard Decl., ¶ 24; Settlement Agreement, ¶¶ 1.16, 1.24). PAGA Members will receive their Individual PAGA Payments regardless of whether they request exclusion from the class settlement, and they may not opt out of the PAGA portion of the Settlement. (Blanchard Decl., ¶ 24; Settlement Agreement, ¶¶ 1.23, 3.6.3).

Each Individual Settlement Payment will be allocated as thirty-three percent (33%) wages and sixty-seven percent (67%) reimbursement of expenses, penalties, and interest. (Blanchard Decl., ¶ 25; Settlement Agreement, ¶ 3.4). The portion allocated to wages will be reported on an IRS Form W-2, and the portion allocated to reimbursement of expenses, penalties, and interest will be reported on an IRS Form 1099, if required by law, by the Settlement Administrator. (Blanchard Decl., ¶ 25; Settlement Agreement, ¶ 3.4). The Settlement Administrator will withhold the employee's share of applicable taxes and withholdings from the wage portion of each Individual Settlement Payment. (Blanchard Decl., ¶ 25; Settlement Agreement, ¶ 3.4). Defendants will pay the employer's share of payroll taxes on the wage portion of the Individual Settlement Payments separately from and in addition to the Gross Settlement Amount. (Blanchard Decl., ¶ 25; Settlement Agreement, ¶¶ 1.15, 3.2.1, 3.4). Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties and will be reported on an IRS Form 1099, if required by law, by the Settlement Administrator. (Blanchard Decl., ¶ 25; Settlement Agreement, ¶ 3.4).

The Settlement Agreement is a non-reversionary and non-claims-made settlement. (Blanchard Decl., ¶ 26; Settlement Agreement, ¶¶ 3.2.1, 3.3.4). The Net Settlement Amount will be distributed to

Participating Class Members, and the PAGA Payment will be distributed to the LWDA and PAGA Members, in accordance with the Settlement Agreement. (Blanchard Decl., ¶ 26; Settlement Agreement, ¶¶ 1.20, 1.24, 3.3.4). No portion of the Gross Settlement Amount will revert to Defendants. (Blanchard Decl., ¶ 26; Settlement Agreement, ¶¶ 3.2.1, 3.3.4).

Each Individual Settlement Payment and Individual PAGA Payment check will be valid and negotiable for one hundred eighty (180) calendar days from the date the checks are issued and thereafter shall be void. (Blanchard Decl., ¶ 27; Settlement Agreement, ¶ 4.8). Any funds associated with voided checks will be transmitted by the Settlement Administrator to the State of California, to be held and disposed of by the State Controller in accordance with California's Unclaimed Property Law for the benefit of the Participating Class Members and/or PAGA Members who did not cash their settlement checks. (Blanchard Decl., ¶ 27; Settlement Agreement, ¶ 4.8).

D. Released Claims

Upon the Effective Date and full funding of the Gross Settlement Amount, all Participating Class Members will fully and finally release the Released Parties from the Released Class Claims that arose during the Class Settlement Period. (Settlement Agreement, ¶ 3.6.2).

Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff Halloran, as representative of the State of California and on behalf of the LWDA, and as representative of the PAGA Members, will fully and finally release the Released Parties from the Released PAGA Claims for the PAGA Settlement Period. (Id., ¶ 3.6.3).

"Released Class Claims" means all federal, state and local law claims, rights, demands, liabilities, and causes of action that were alleged, or reasonably could have been alleged based on the factual allegations contained in the Operative Complaint in the Action and ascertained in the course of the Action, that arose or accrued during the Class Settlement Period, including causes of action for: (1) failure to pay minimum wage; (2) failure to pay overtime wage; (3) meal period violations and failure to pay meal period premiums; (4) rest break violations and failure to pay rest break premiums; (5) failure to timely pay wages during employment; (6) failure to provide accurate wage statements; (7) waiting time penalties; (8) failure to pay accrued vacation pay at termination; (9) violations of the California sick leave statute; (10) failure to indemnify reasonable and necessary business expenses; (11) violation of the

California Business and Professions Code regarding non-compete agreements; (12) violation of the California unfair competition law ("UCL") based on the Labor Code violations alleged; (13) failure to provide disclosures as required by the Fair Credit Reporting Act ("FCRA"); (14) failure to obtain lawful authorization for a background check as required by the FCRA; (15) failure to provide adequate disclosures as required by the California Investigative Consumer Reporting Agencies Act ("ICRAA"); and all claims for interest, penalties, attorneys' fees, costs, and any other monetary relief based upon the claims described above. (Id., ¶ 1.29).

"Released PAGA Claims" means all claims for PAGA penalties that were alleged, or reasonably could have been alleged based on the factual allegations contained in Plaintiff Halloran's LWDA letter, and any amendments thereto, and ascertained in the course of the Action, and all claims raised during the Parties' mediation, that arose or accrued during the PAGA Settlement Period, including but not limited to claims for violations of the California Labor Code for: (1) failure to pay minimum wage; (2) failure to pay overtime wage; (3) meal period violations; (4) rest break violations; (5) failure to indemnify reasonable and necessary business expenses; (6) failure to provide accurate wage statements; (7) waiting time penalties; (8) sick leave violations; (9) failure to pay accrued vacation pay at termination; and (10) violations of or claims for civil penalties under California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 245, 246, 510, 512, 558, 925, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1199, 2800, 2802, and 2699 et seq. (Id., ¶ 1.30).

"Released Parties" means Defendants and all past and present parents (Abbott Laboratories), subsidiaries, affiliated or related entities and divisions, including any companies, corporations, partnerships, alter egos, joint venturers, and actual or alleged joint employers, and each of their respective past, present and future agents, employees, servants, officers, directors, partners, members, trustees, fiduciaries, representatives, investors, shareholders, stockholders, attorneys, insurers, consultants, benefit plans and plan administrators and equity sponsors (defined as a company/corporation and/or partnership that is, directly or indirectly, under common control with a Defendant or any of its parents and/or affiliates) and all of their respective assigns, predecessors, and successors. (Id., ¶ 1.31).

IV. STANDARD OF REVIEW FOR PRELIMINARY APPROVAL

The settlement of a class action requires court approval. (*See Dunk v. Ford Motor Co.*, 48 Cal.

App. 4th 1794 (1996)). "In general, questions whether a settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court's broad discretion." (*Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 234-35 (2001) (disapproved on other grounds)).

The review and approval of a proposed class action settlement involves a two-step process. (*See* Cal. Rules of Court, Rule 3.769(c)). First, counsel submit the proposed terms of the settlement and the Court makes a preliminary assessment of whether the settlement appears to be sufficiently within the range of a fair settlement to justify providing notice of the proposed settlement to class members. After notice is provided to the class, the Court must conduct a second inquiry into whether the proposed settlement is fair, reasonable, and adequate. (Ibid).

The initial evaluation of the settlement at the preliminary approval step "is not a fairness hearing." (*Armstrong v. Board of School Directors of City of Milwaukee*, 616 F.2d 305, 314 (7th Cir. 1980)). Rather, the limited purpose of this initial inquiry is to determine, at a threshold level, only whether the proposed settlement is within the range of possible approval and, as a result, "whether there is any reason to notify the class members of the proposed settlement and to proceed with a fairness hearing." A presumption of fairness exists where: (1) the settlement is reached through arm's length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. (*See In re Microsoft I-V Cases*, 135 Cal. App. 4th 706, 723 (2006)).

Preliminary approval does not require a court to make a final determination that the settlement is fair, reasonable, and adequate. Rather, that decision is made only at the final approval stage, after notice of the settlement has been given to the class members and they have had an opportunity to object or exclude themselves from the settlement. (*See* Cal. Rules of Court, Rule 3.769(g)). In considering a potential class settlement, the court need not reach any ultimate conclusions on the issues of fact and law which underlie the merits of the dispute and need not engage in a trial on the merits. (*See Officers for Justice v. Civil Service Commission*, 688 F.2d 615, 625 (9th Cir. 1982)).

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V. THE SETTLEMENT IS PRESUMED FAIR

A. The Settlement Was Reached as a Result of Arm's-Length Bargaining

California courts recognize that "a presumption of fairness exists where . . . [a] settlement is reached through arm's-length bargaining." (*Wershba*, 91 Cal.App.4th at 245; *see also Clark v. Am. Residential Servs. LLC*, 175 Cal.App.4th 785, 799 (2009)). Here, the Parties' settlement negotiations were at all times made at arm's length and were adversarial. (Blanchard Decl., ¶ 28.) The Settlement was reached following a full day of mediation with a highly respected mediator with substantial experience mediating wage-and-hour cases, and the Parties engaged in additional negotiations to finalize the long-form agreement before the Court. (Ibid).

B. Sufficient Investigation and Discovery by Experienced Class Counsel

Courts typically assess the status of discovery in determining whether a class action settlement agreement is fair, reasonable, and adequate. (Dunk, 48 Cal.App.4th at 1801). Before mediation, Defendants produced information and data sufficient for Class Counsel to evaluate the claims, including timekeeping and payroll data, wage-and-hour policies, and class-size information regarding the number of current and former putative class members, the total workweeks at issue, PAGA pay periods, and average rates of pay. (Blanchard Decl., ¶¶ 10, 29).

This information allowed Class Counsel to conduct an informed assessment of the strengths and weaknesses of the claims, the risks of continued litigation, and the potential class-wide and PAGA exposure before agreeing to the Settlement. (*Id*., ¶ 30). Based on the information exchanged, the Parties extensively evaluated the issues relating to class certification, manageability, liability, damages, penalties, and Defendants' asserted defenses, and provided their analyses to the mediator, who assisted the Parties in assessing the strengths and weaknesses of their respective positions. (*Id*., ¶ 31). At all times, Plaintiffs were willing and prepared to continue litigating this matter through class certification, PAGA manageability proceedings, summary judgment, trial, and any necessary appeals if the Parties had been unable to reach a favorable resolution. (Ibid). Additionally, settlement negotiations were conducted by capable and experienced counsel. (Blanchard Decl., ¶¶ 1-8). Accordingly, Class Counsel had sufficient information and experience to act intelligently in negotiating the Settlement.

C. The Settlement is Fair and Reasonable in Light of the Parties' Respective Legal Positions and Recovery Risks

A settlement is not judged against what might have been recovered had a plaintiff prevailed at trial, nor does the settlement have to obtain 100% of the damages sought to be fair and reasonable. (*Wershba*, 91 Cal.App.4th at 246, 250). In evaluating the reasonableness of a settlement, a trial court must consider "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement." (*Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008)).

Here, the reasonableness of the Settlement is underscored by the fact that Defendants have legal and factual grounds for defending the Action. Based upon Class Counsel's experience litigating similar complex matters, Plaintiffs reasonably expected a vigorous and lengthy defense to both class certification and the merits of the Action, absent a settlement.

1. Class Counsel's Analysis of the Maximum Available Liability and Damages

Class Counsel analyzed all available data and estimated Defendants' maximum potential exposure to be approximately Twelve Million Three Hundred Five Thousand Five Hundred Two Dollars and Twenty-Five Cents ($12,305,502.25), assuming the litigation was successful at trial on all class claims at issue and subject to the assumptions used in Plaintiffs' damages model. (Blanchard Decl., ¶ 32). This maximum potential analysis was then reduced based on the challenges facing the likelihood of obtaining class certification, prevailing at trial, proving damages on a class-wide basis, obtaining and sustaining PAGA penalties, and other attendant risks. (Ibid). This estimate was based on an analysis of the data produced by Defendants and extrapolated across the putative class period and putative class members, which included: $1,264,783.00 for meal period violations, net of meal period premiums paid; $3,727,491.25 for rest period violations at a 25% violation rate; $2,788,089.00 for unpaid off-the-clock work based on one hour per workweek; $462,000.00 for unreimbursed business expenses; $436,000 for exposure pursuant to FCRA and ICRAA; $2,438,639.00 for waiting time penalties; and $1,188,500.00 for wage statement penalties. (Ibid). Plaintiffs further estimated that Defendants faced an additional

$722,700.00 in potential PAGA penalties. (Ibid). Together with interest and PAGA penalties, Defendants' maximum potential exposure totaled approximately $13,028,202.25. (Ibid).

2. Class Counsel's Risk-Based Analysis and Risk-Based Adjustments

While Plaintiffs believe that Defendants faced significant exposure, substantial barriers to recovery existed. Defendants deny and continue to deny any liability or wrongdoing of any kind associated with the claims alleged in the Action, and further deny that class or representative treatment is appropriate for any purpose other than settlement. (Blanchard Decl., ¶ 35). Defendants contended that they complied with applicable law and that they would ultimately prevail in the Action. (Ibid). Defendants also asserted defenses to both certification and the merits of Plaintiffs' claims, including that Plaintiffs' claims are not suitable for class certification because individualized issues would predominate if the case proceeded to trial. (Ibid.; see Brinker Restaurant Corp. v. Superior Court, 53 Cal.4th 1004 (2012); Duran v. U.S. Bank Nat. Assn., 59 Cal.4th 1, 35-36 (2014); Wal-Mart Stores, Inc. v. Dukes, 131 S.Ct. 2541, 2551 (2011).) As with all wage-and-hour class actions, this case presents complex management and proof issues, creating a risk that the Court could deny class certification or materially narrow the claims or class certified. (Blanchard Decl., ¶ 35).

For example, Plaintiffs' meal period claims were based on allegations that Defendants failed to provide lawful, duty-free meal periods and failed to pay all required meal period premiums. (Blanchard Decl., ¶ 36). Plaintiffs' theory of liability was based on Defendants' alleged failure to implement lawful policies and practices in a manner that allowed Settlement Class Members to take meal periods as required under California law. (Ibid.; see Brinker, 53 Cal.4th at 1034-35; Bradley v. Networkers Int'l, LLC, 211 Cal.App.4th 1129, 1150 (2012).) Defendants contended that their policies and practices were lawful at all relevant times and that any alleged meal period issues would require individualized inquiries into whether particular employees were provided compliant meal periods, whether any meal periods were voluntarily waived, whether work prevented or interrupted meal periods, and whether premium payments were owed. (Blanchard Decl., ¶ 36). Plaintiffs' analysis reflected a 9.6% unique meal period violation rate, creating a risk that the Court could find the meal period claim too individualized for class treatment or less valuable than Plaintiffs' maximum exposure model assumed. (Ibid). This risk was considered in evaluating the reasonableness of the Settlement. (Ibid).

Additionally, a large portion of Defendants' overall potential exposure lies in Plaintiffs' rest period allegations. (Id., ¶ 37). As with the meal period allegations, Defendants contended that they maintained lawful written rest period policies, provided compliant rest breaks, and relieved Settlement Class Members of all duties as required under California law. (Blanchard Decl., ¶ 37). This claim was uncertain because rest periods were not recorded in the same manner as time worked or meal periods, making proof of class-wide violations and damages more challenging. (Ibid). Given the lack of records directly demonstrating rest period violations, there were legitimate concerns that Plaintiffs may not be able to certify these claims or prove substantial damages with the requisite certainty, which made the estimated value of this claim subject to significant challenge. (Ibid)

Plaintiffs also faced challenges certifying and proving liability for their minimum wage and overtime claims. (Id., ¶ 38). These claims were based in substantial part on alleged unrecorded, off-the-clock work performed by Settlement Class Members before and after their shifts and during purported meal periods. (Ibid). For example, Plaintiffs contended that employees were required to arrive before clocking in to complete COVID screening, don personal protective equipment, boot up computers, assist other facilities, and respond to work-related calls or text messages outside recorded work time. (Ibid). Plaintiffs also contended that some employees manually entered time and self-rounded their time entries because overtime required prior approval and was scrutinized. (Ibid). However, the individualized nature of why this work was performed, whether Defendants knew or should have known about it, and the amount of any alleged off-the-clock time presented substantial concerns regarding manageability and the risk that the Court could find these issues prevented certification. (Ibid). The estimated damages for this claim were also based on the assumption that all Settlement Class Members worked off the clock for at least one hour per workweek, which Defendants disputed and which created additional litigation risk. (Ibid).

Plaintiffs also contended that Defendants failed to reimburse Plaintiffs and other Settlement Class Members for necessary business-related expenses, including personal cell phone expenses and safety equipment such as steel-toed boots allegedly required for work in Defendants' warehouses. (Blanchard Decl., ¶ 39). Defendants contended that they maintained lawful reimbursement policies and practices and that, to the extent any employee allegedly incurred expenses without requesting reimbursement,

Defendants did not know and had no reason to know that reimbursable business expenses had been incurred. (Ibid). Defendants further contended that individualized inquiries would be required to determine whether a particular employee incurred an expense, whether the expense was necessary and work-related, whether the employee requested reimbursement, whether reimbursement was provided, and why some employees incurred certain expenses while others did not. (Ibid). These individualized issues created risk as to certification, liability, and damages. (Ibid).

There are also substantial risks associated with Plaintiffs' waiting time penalty and wage statement claims. (Blanchard Decl., ¶ 40). These claims were derivative of Plaintiffs' underlying claims for unpaid meal period premiums, unpaid rest period premiums, unpaid minimum wages, unpaid overtime wages, unpaid sick pay, unreimbursed business expenses, and other alleged Labor Code violations. (Ibid). If certification were denied on the underlying claims, or if Plaintiffs failed to prove the underlying violations, these derivative penalty claims would likely be substantially reduced or fail. (Ibid.) Further, even if Plaintiffs prevailed on one or more underlying claims, Plaintiffs would still be required to establish the elements necessary to recover waiting time penalties, including willfulness. (Ibid). Plaintiffs also recognized litigation risk regarding the wage statement claims, including disputes over whether the alleged wage statement violations were knowing and intentional, whether Settlement Class Members suffered the type of injury required to recover penalties, and whether damages could be established on a class-wide basis. (Ibid). Accordingly, these derivative claims, which comprised a substantial portion of Defendants' estimated exposure, were uncertain. (Ibid).

In addition to the wage-and-hour and PAGA exposure described above, Class Counsel separately valued the Settlement Class's claims for failure to provide compliant background-check disclosures under the Fair Credit Reporting Act ("FCRA") and the California Investigative Consumer Reporting Agencies Act ("ICRAA"). (Blanchard Decl., ¶ 41). Assuming willful violations, Defendants faced exposure of up to $1,000 per employee hired in the class period, conservatively estimated to be approximately 85% of the entire class of employees, resulting in $436,000 in unique exposure. (Ibid.) Class Counsel recognized, however, that this figure was subject to significant discounting. (Ibid.) First, statutory and punitive damages under FCRA are available only if a defendant's noncompliance is willful. Second, Defendants argued that only those plaintiffs who have been concretely harmed by a defendant's statutory violation

may sue that private defendant over that violation in federal court, and that bare allegations of invasion of privacy and statutory rights are insufficient. (Ibid.) Third, ICRAA's $10,000 statutory award is unavailable in class actions. Additionally, certification posed a real risk because disclosure practices may have varied between Defendants and over time. That could defeat commonality or reduce the number of Class Members with viable claims. (Blanchard Decl., ¶ 41).

Class Counsel also recognized that, even if Plaintiffs prevailed at class certification, proving liability and the amount allegedly owed to each Settlement Class Member would be expensive, time-consuming, and uncertain. (Blanchard Decl., ¶ 37). To prove liability and damages, Class Counsel would need to obtain and analyze substantial additional documents and data, obtain Settlement Class Members' contact information, contact putative class members, and attempt to obtain supporting declarations or testimony at significant expense. (Ibid). Obtaining the cooperation of current employees could also be difficult given their potential reluctance to participate in litigation against a current employer, while Defendants may be better positioned to obtain the cooperation of their current employees. (Ibid). Moreover, even if Plaintiffs prevailed at certification and trial, post-trial motions and possible appeals could substantially delay any recovery to the Settlement Class. (Ibid).

Class Counsel also separately considered the risks of proceeding with the PAGA claims and the potential exposure Defendants could face from those claims as part of the global resolution. (Blanchard Decl., ¶ 43). The PAGA claims were based on many of the same alleged Labor Code violations underlying Plaintiffs' class claims and were therefore subject to similar proof, liability, and damages risks. (Ibid). Class Counsel also anticipated that, even if Plaintiffs were successful on the merits, Defendants would argue that any cumulative civil penalties should be reduced because the imposition of maximum penalties would be unjust, arbitrary and oppressive, confiscatory, or disproportionate under the circumstances. (Ibid). Class Counsel further anticipated that Defendants would argue they acted in good faith and attempted to comply with their legal obligations, and that the alleged violations per pay period were limited, warranting a reduction in civil penalties. (Ibid). Class Counsel also considered that PAGA is primarily an enforcement mechanism rather than a compensatory remedy, which further informed the settlement evaluation and the allocation of the PAGA Payment. (Ibid).

Accordingly, after considering these factors, Plaintiffs and Class Counsel concluded that it was in the best interest of the State of California and the PAGA Members to enter into the Settlement and to allocate One Hundred Ten Thousand Dollars and Zero Cents ($110,000.00) of the Gross Settlement Amount to the PAGA claims, which represents approximately 5.02% of the $2,190,000.00 Gross Settlement Amount. (Blanchard Decl., ¶ 44). This allocation is reasonable in light of the risks associated with proving the alleged PAGA violations, Defendants' anticipated arguments for reducing civil penalties, and the Court's broad discretion in determining any PAGA penalty award. (Ibid). Moreover, the overall relief obtained by the Settlement is significant, not only from a monetary perspective, but also because it advances PAGA's public policy objectives by promoting enforcement of California's labor laws, providing funds to the State of California through the LWDA, and encouraging future compliance. (Ibid).

Therefore, taking into account the risks discussed above, including Plaintiffs' ability to obtain class certification, prove the underlying violations, establish damages on a class-wide basis, overcome Defendants' defenses, and obtain and sustain PAGA penalties, as well as the cost and delay associated with continued litigation, Class Counsel discounted Defendants' estimated maximum exposure of $13,028,202.25 by 60% for certification and manageability risks, resulting in an adjusted exposure of approximately $5,211,280.90. (Blanchard Decl., ¶ 45). Class Counsel then further discounted that amount by an additional 60% for merits, damages, trial, and appellate risks, resulting in an adjusted estimated exposure of approximately $2,084,512.36. (Ibid). In light of these substantial risks, the $2,190,000.00 Gross Settlement Amount represents a meaningful recovery for the Settlement Class, the PAGA Members, and the State of California. (Ibid).

Class Counsel therefore submits that the Settlement is fair, reasonable, and adequate. The Settlement is in the best interest of the Settlement Class, the Participating Class Members, the PAGA Members, and the State of California, and falls within the range of reasonable recoveries for this type of wage-and-hour class and representative action given the risks of continued litigation, the risk of obtaining and maintaining class certification, the risks associated with proving liability and damages, the discretionary nature of PAGA penalties, and the costs and delay of further proceedings. (*Id*., ¶ 46).

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VI. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED

Code of Civil Procedure Section 382 provides that three basic requirements must be met in order to sustain any class action: (1) there must be an ascertainable class; (2) there must be a well-defined community of interest in the question of law or fact affecting the parties to be represented; and (3) certification will provide substantial benefits to litigants and the courts, i.e., proceeding as a class action is superior to other methods. (*See Dunk*, 48 Cal.App.4th at 1806). Plaintiffs contend that the Action, which is based upon Defendants' wage and hour policies and practices, satisfies the class certification requirements under California Code of Civil Procedure section 382. Defendants denied Plaintiffs' allegations, but for purposes of the Settlement only, Defendants have stipulated to certification of the Class.

A. An Ascertainable Class Exists Which is So Numerous That Joinder of All Members is Impracticable

Whether an ascertainable class exists turns on three factors: (1) the class definition, (2) the size of the class, and (3) the means of identifying the class members. (See Miller v. Woods, 148 Cal.App.3d 862, 873 (1983)). In this case, Plaintiffs contend that all three considerations strongly favor certification for settlement purposes. Here, the Settlement Class is defined as "all current and former hourly-paid and/or non-exempt employees who worked for either of the Defendants in the State of California during the Class Settlement Period." (Blanchard Decl., ¶ 21; Settlement Agreement, ¶ 1.35). This provides a clear and definite scope for the proposed Settlement Class.

Next, the Settlement Class is sufficiently numerous. There is no magic number that satisfies the numerosity requirement, and courts have certified classes with as few as ten or twenty-eight class members. (Rose v. City of Hayward, 126 Cal.App.3d 926, 934 (1981); Bowles v. Superior Court, 44 Cal.2d 574 (1995); Hebbard v. Colgrove, 28 Cal.App.3d 1017, 1030 (1972)). Here, the estimated Settlement Class size of approximately six hundred (600) individuals meets the numerosity requirement.

Finally, the question of whether class members are easily identifiable turns on whether a plaintiff can establish "the existence of an ascertainable class." (Daar v. Yellow Cab Co., 67 Cal.2d 695, 706 (1967)). The existence of an ascertainable Settlement Class can be established through Defendants' personnel and payroll records, and the Settlement Class definition is sufficiently specific to enable the

Parties, Settlement Class Members, and the Court to determine the parameters of the Settlement Class. (Settlement Agreement, ¶¶ 1.3, 1.35; see Clothesrigger, Inc. v. GTE Corp., 191 Cal.App.3d 605, 617 (1987)).

B. The Class Shares a Well-Defined Community of Interest

The community of interest requirement embodies three factors: (1) predominant questions of law and fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class. (*Dunk*, 48 Cal.App.4th at 1806). Here, Plaintiffs assert that all three requirements are easily satisfied.

The commonality criterion requires the existence of common question of law or fact and is generally established with the issues of predominance and typicality. (*See Daar*, 67 Cal.2d 695, 706). What is required is that a common question of fact or law exists which predominates over issues unique to individual plaintiffs. The existence of individual issues or facts—generally present in any case arising from employment—is not a bar to class certification as long as they do not render class litigation unmanageable or predominate over the common issues. (*See B.W.I. Custom Kitchen v. Owens-Illinois, Inc.*, 191 Cal.App.3d 1341, 1354 (1987)).

Here, Plaintiffs contend that their claims present common issues of law and fact that predominate and warrant class certification. Plaintiffs allege that Defendants denied compliant meal and rest periods to employees, required employees to perform work off-the-clock, and failed to fully compensate employees for all time actually worked. These policies and practices meant that Defendants allegedly failed to pay minimum and overtime wages, and other related claims. Plaintiffs allege that Defendants' policies and practices were uniform as to all Class Members. Thus, class treatment is appropriate.

To satisfy the typicality requirement, California law does not require that plaintiffs' claims be identical to the other class members. Rather, the test of typicality for a class representative is whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiff, and whether other class members have been injured by the same course of conduct. (*See Seastrom v. Neways, Inc.*, 149 Cal.App.4th 1496, 1502 (2007)). The typicality requirement for a class representative refers to the nature of the claim or defense of the representative, and not to the specific facts from which it arose or the relief sought. (*See* Ibid).

Here, Plaintiffs allege that their claims are similar to those of the other Class Members and that Plaintiffs' claims arise out of the same alleged course of conduct giving rise to the claims of the other Class Members. Because Plaintiffs' claims are based upon the same alleged conduct and business practices as those of Class Members, the typicality requirement has been satisfied.

Finally, the question of adequacy of representation "depends on whether the plaintiff's attorney is qualified to conduct the proposed litigation and the plaintiff's interests are not antagonistic to the interests of the class." (*McGee v. Bank of America*, 60 Cal.App.3d 442, 450 (1976)). Here, these considerations are satisfied. Class Counsel is qualified and experienced in employment-related class action and PAGA litigation. (Blanchard Decl., ¶¶ 1-8). Plaintiffs will vigorously, adequately, and fairly represent the interests of the Settlement Class. Plaintiffs have at all times throughout the course of this litigation, considered the interests of the Settlement Class and understood that any class-wide resolution must be designed in the best interest of the Settlement Class as a whole. (Halloran Decl., ¶ 10; Atienza Decl., ¶ 10). Because Plaintiffs' claims are typical of other Settlement Class Members and are not based on unique circumstances, there is no antagonism between the interests of Plaintiffs and the Settlement Class

C. A Class Action is Superior to a Multiplicity of Litigation

Under the circumstances, Plaintiffs believe that proceeding as a class action is a superior means of resolving this dispute, as the Class Members and the Court will derive substantial benefits. Class certification would serve as the only means to deter and redress the alleged violations. (*See Linder v. Thrifty Oil Co.*, 23 Cal.4th 429, 434 (2000) (relevant considerations include the probability that each class member will come forward to prove his or her separate claim and whether the class approach would actually serve to deter and redress the alleged wrongdoing)). Further, individual actions arising out of the same operative facts would unduly burden the courts and could result in inconsistent results. Therefore, class action proceedings are superior to individual litigation.

VII. THE REQUESTED ENHANCEMENT AWARDS IS REASONABLE

Plaintiffs in class action lawsuits are eligible for reasonable incentive payments as compensation "for the expense or risk they have incurred in conferring a benefit on other members of the class." (*Munoz v. BCI Coca-Cola Bottling Co.*, 186 Cal.App.4th 399, 412 (2010)). Courts routinely grant approval of

class action settlement agreements containing enhancements for the class representative, which are necessary to provide incentive to represent the class and are appropriate given the benefit the class representatives help to bring about for the class. (*See In re Online DVD Rental*, 779 F.3d 934, 947-948 (9th Cir. 2014) (approving incentive award 417 times larger than individual payments where incentive award made up a mere .17% of the settlement); *Gaudin v. Saxon Mortgage Servs., Inc.*, 2015 WL 7454183, at *10 (N.D. Cal. Nov. 23, 2015) (finding service award of $15,000 to be "fair and reasonable")).

Plaintiffs initiated and pursued this litigation on behalf of their former co-workers and other Settlement Class Members, who will now be entitled to receive payment from the Settlement. Plaintiffs invested substantial time and effort into the litigation, including conducting their own research, reviewing documents, providing information regarding Defendants' practices and the duties of other hourly-paid and/or non-exempt employees, and engaging in extensive discussions with Class Counsel. (Halloran Decl., ¶¶ 3-5; Atienza Decl., ¶¶ 3-5). Further, the requested amounts for Plaintiffs are reasonable given their active participation, the risks they undertook by serving as Class Representatives, their broader general releases under the Settlement, and the benefit gained by the Settlement Class and PAGA Members. For these reasons, Plaintiffs request that Enhancement Payments of Ten Thousand Dollars and Zero Cents ($10,000.00) each to Plaintiffs Tammy Halloran and Kenneth Atienza be preliminarily approved by the Court. (Blanchard Decl., ¶ 47; Halloran Decl., ¶¶ 9, 12; Atienza Decl., ¶¶ 9, 12).

VIII. THE REQUESTED ATTORNEYS' FEES AND COSTS ARE REASONABLE

Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions are "not to be disturbed on appeal absent a manifest abuse of discretion." (*Lealao v. Beneficial Cal, Inc.*, 82 Cal.App.4th 19, 41 (2000)). California law provides that attorney fee awards should be equivalent to fees paid in the legal marketplace to compensate for the result achieved and risk incurred. (*Id*. at 47). In cases where class members present claims against a common fund and the defendant agrees to a percentage of the fund as part of the settlement, use of the percentage method is appropriate. (*Id.* at 32).

Here, the requested attorneys' fees of thirty-five percent (35%) of the Gross Settlement Amount, i.e., Seven Hundred Sixty-Six Thousand Five Hundred Dollars and Zero Cents ($766,500.00) if the Gross Settlement Amount is $2,190,000.00, is disclosed to Settlement Class Members in the proposed Class

Notice. (Blanchard Decl., ¶ 45; Settlement Agreement, ¶ 3.3.2, Exh. 1). The requested fee was freely negotiated, is common in the legal marketplace, and is not opposed by Defendants. The Motion for Final Approval will further address the nature of the legal services provided, the time incurred in performing those services, Class Counsel's hourly rates, and the basis for the requested fee award. (Blanchard Decl., ¶ 45). The Motion for Final Approval will also support Class Counsel's request for reimbursement of actual litigation costs and expenses in an amount not to exceed Forty-Five Thousand Dollars and Zero Cents ($45,000.00). (Blanchard Decl., ¶¶ 48, 51; Settlement Agreement, ¶ 3.3.2). Any attorneys' fees or costs not awarded by the Court shall be added to the Net Settlement Amount to be distributed to Participating Class Members. (Settlement Agreement, § 3.3.2).

IX. THE CLASS NOTICE AND THE OPT-OUT AND OBJECTION PROCESS MEETS DUE PROCESS REQUIREMENTS

The Parties have jointly drafted the Notice of Settlement, which will be mailed to the Settlement Class Members. (Settlement Agreement, Exh. 1). The Notice of Settlement will include information regarding the nature of the Action, a summary of the terms of the Settlement, the Settlement Class definition, Settlement Class Members' options to object to or opt out of the class settlement, procedures to dispute Eligible Workweeks and/or Eligible Pay Periods, and the date of the Final Approval Hearing. (Settlement Agreement, ¶ ¶ 4.1.3, 4.3, 4.4, 4.5, Exh. 1). The Notice of Settlement will list each Settlement Class Member's Eligible Workweeks and estimated Individual Settlement Payment, and each PAGA Member's Eligible Pay Periods and estimated Individual PAGA Payment. (Settlement Agreement, ¶ 3.3.4, Exh. 1).

No later than fourteen (14) calendar days after Plaintiffs serve Defendants with a signed Preliminary Approval order, Defendants will provide the Class Data to the Settlement Administrator. (Settlement Agreement, ¶ 4.2.1). The Class Data will include, for each Settlement Class Member, their name, last known address, Social Security number, and number of Eligible Workweeks and Eligible Pay Periods or data sufficient for the Settlement Administrator to determine Eligible Workweeks and Eligible Pay Periods. (Settlement Agreement, ¶ 1.3). Upon receipt of the Class Data, the Settlement Administrator will check the U.S. Postal Service National Change of Address Database and update any addresses for the Settlement Class Members. (Settlement Agreement, ¶ 4.2.1). Within fourteen (14) calendar days after

receiving the Class Data, the Settlement Administrator will send the Notice of Settlement in English to Settlement Class Members by United States first-class mail, after performing a search based on the National Change of Address Database or any other similar services available, such as Experian, to update and correct any known or identifiable address changes. (Settlement Agreement, ¶ 4.2.2.) The Parties have agreed to use Apex Class Action LLC as the Settlement Administrator. (Blanchard Decl., ¶ 51; Settlement Agreement, ¶ 1.34).

In determining whether to approve a settlement of a class action, a trial court has virtually complete discretion as to the manner of giving notice to class members, and review on appeal is governed by the abuse of discretion standard. (See In re Cellphone Fee Termination Cases, 186 Cal.App.4th 1380 (2010)). Here, Class Counsel is not aware of an alternative method of providing notice to the Settlement Class that would result in a higher likelihood of actual notice. (Blanchard Decl., ¶ 52). Defendants will provide mailing addresses based on their personnel and payroll records, and the Settlement Administrator will update addresses through the U.S. Postal Service National Change of Address Database before mailing notice. (Ibid).

Settlement Class Members will have forty-five (45) calendar days after the Settlement Administrator mails the Notice of Settlement to postmark any Opt-Out Request, written objection, or Eligible Workweek or Eligible Pay Period dispute. (Settlement Agreement, ¶ 1.32).

If any Notice of Settlement is returned to the Settlement Administrator as undeliverable, the Settlement Administrator will run a skip trace using that Settlement Class Member's Social Security number within three (3) court days of receiving the undeliverable notice in an effort to ascertain the Settlement Class Member's current address. (Settlement Agreement, ¶ 4.2.2). If a new address is located, the Settlement Administrator will re-mail the Notice of Settlement within three (3) court days of obtaining the skip-trace results. (Blanchard Decl., ¶ 52; Settlement Agreement, ¶ 4.2.2). If alternative addresses are obtained for a Settlement Class Member, the Settlement Administrator will send the Notice of Settlement to up to two (2) alternative addresses. (Settlement Agreement, ¶ 4.2.2). The Response Deadline for Settlement Class Members to whom the Notice of Settlement is remailed after being returned as undeliverable will be extended by fourteen (14) calendar days. (Settlement Agreement, ¶ 1.32).

Settlement Class Members and PAGA Members will have an opportunity to dispute the number

of Eligible Workweeks and/or Eligible Pay Periods credited to them, as reflected in their respective Notices of Settlement, by submitting information to the Settlement Administrator in writing no later than the Response Deadline. (Settlement Agreement, ¶ 4.5). The Settlement Administrator will work jointly with Class Counsel and Defendants' Counsel to resolve the dispute in good faith. (Ibid). If the Parties cannot agree on the Eligible Workweeks or Eligible Pay Periods to be credited to that Participating Class Member or PAGA Member, the Court will make the final decision based on the information presented by the Settlement Class Member or PAGA Member and the Parties. (Ibid).

Any Settlement Class Member wishing to be excluded from the class portion of the Settlement must submit a timely and valid written request to be excluded from the class portion of the Settlement to the Settlement Administrator, postmarked on or before the Response Deadline. (Settlement Agreement, ¶ 4.3.1). The Opt-Out Request must include the case name and number, the Settlement Class Member's name, address, and last four digits of their Social Security number, must be signed by the Settlement Class Member, and must reasonably communicate the Settlement Class Member's election to be excluded from the class settlement. (Ibid). Settlement Class Members who timely submit a valid Opt-Out Request will not be bound by the Participating Class Member Release and will not receive an Individual Settlement Payment. (Settlement Agreement, ¶ 4.3.2). However, exercising this option has no effect on the PAGA portion of the Settlement. (Settlement Agreement, ¶ 4.3.1). PAGA Members will be mailed an Individual PAGA Payment and will be bound by the release of the Released PAGA Claims regardless of whether they opt out of the class settlement. (Ibid).

To object to the Settlement, Participating Class Members, except for the Class Representatives, may object in person or remotely at the Final Approval Hearing and/or in writing. (Settlement Agreement, ¶ 4.4). Participating Class Members, except for the Class Representatives, will have until the Response Deadline to mail a written objection to the Settlement Administrator. (Ibid). Only Settlement Class Members who have not filed an Opt-Out Request, i.e., Participating Class Members, may object to the Settlement. (Ibid). The written objection should be mailed to the Settlement Administrator, include the case number and name of this case, state the Participating Class Member's name and address, describe the reason(s) why the Participating Class Member objects to the Settlement, and attach any documents upon which the objection is based. (Ibid). The Parties and their counsel agree that they will not solicit,

encourage, counsel or advise any individual to object to the Settlement. (Ibid).

X. CONCLUSION

For all of the foregoing reasons, Plaintiffs respectfully request that this Court grant Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement and the relief requested herein.

Respectfully submitted,

Dated: November 13, 2026

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