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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

BADER AQIL, an individual, on behalf of himself and all others similarly situated Plaintiff, vs. TOWNE PARK, LLC, a Delaware limited liability company; and DOES 1 through 50, inclusive, Defendants.	Case No. 23STCV19863 CLASS ACTION Assigned for all purposes to: Hon. Bruce G. Iwasaki Department: 11, Spring Street **PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT** Date: December 17, 2026 Time: 11:00 a.m. Dept.: 11 Original Complaint filed: August 18, 2023 First Amended Complaint: December 21, 2023 Second Amended Complaint: March 25, 2026 Trial: None set

TO THE HONORABLE COURT, ALL INTERESTED PARTIES, AND THEIR RESPECTIVE COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT on December 17, 2026, at 11:00 a.m. or as soon thereafter as the matter may be heard, in Department 11 of the Los Angeles County Superior Court, located at 111 North Hill Street, Los Angeles, CA, 90012, Plaintiffs Bader Aqil, Carlos Nieto, and Clarence Johnson will move the Court for an order to:

1. Conditionally certify, for settlement purposes only, a Class consisting of all individuals who are or previously were employed by Defendant Towne Park, LLC ("Defendant") who were not subject to arbitration agreements and were employed as non-exempt employees in the State of California from March 4, 2021, through preliminary approval or 85,000 workweeks, whichever is less (the "Class Period");
2. Appoint Alvin B. Lindsay, Esq., Enoch J. Kim Esq., Marta Manus Esq., and the other attorneys of D.Law, Inc., and Zorik Mooradian and Nanor C. Kamberian of Mooradian Law, APC as Class Counsel;
3. Appoint Plaintiffs Bader Aqil, Carlos Nieto, and Clarence Johnson as the Class Representatives;
4. Order preliminary approval of the proposed Settlement on a class-wide basis, order directing that the Class Notice to be given to the Class, and set a hearing for final review of the proposed Settlement;
5. Approve Apex Class Action Administration as the Administrator to handle the Class Notice and claims administration procedures as set forth in its proposal; and
6. Approve the PAGA portion of the Settlement.

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The Motion will be based on this Notice of Motion, the Memorandum of Points and Authorities, the Declaration of Plaintiffs' Counsel and exhibits thereto, Declaration of Bader Aqil, Declaration of Carlos Nieto, Declaration of Clarence Johnson and exhibits thereto, and on such oral and documentary evidence as may be presented at the hearing of the Motion.

Dated: May 20, 2026

D.LAW, INC.,

By: ______________________

Enoch J. Kim, Esq.
Marta Manus, Esq.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page

CASES

TABLE OF AUTHORITIES, Continued

Page

CASES, continued

STATUTES AND REGULATIONS

OTHER AUTHORITIES

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs Bader Aqil, Carlos Nieto, and Clarence Johnson respectfully requests that this Court conditionally certify the below-defined class for settlement purposes only, under Code of Civil Procedure section 382; confirm Class Counsel[1] and Plaintiffs as Class Representatives; preliminarily approve the class action settlement; direct that the Class Notice be disseminated to the Class; and schedule a hearing for final review and approval of the Settlement.

The Settlement provides for a non-reversionary settlement fund of $1,299,000.00 for approximately 2,575 Class Members in compromise of disputed claims for unpaid wages and penalties.

Plaintiffs further request that the Court approve the Private Attorney General Act (PAGA) portion of the settlement, which allocates $300,000.00 to penalties under PAGA.

This Court should grant this Motion for the following reasons: (1) the Class meets the requirements for conditional class certification for settlement purposes only under of Code of Civil Procedure section 382; (2) the Settlement warrants preliminary approval based on all indicia for fairness, reasonableness, and adequacy; (3) Plaintiffs are well-suited to serve as an adequate Class Representatives; (4) Plaintiffs' attorneys are experienced and well-qualified to serve as Class Counsel; (5) the proposed Class Notice procedures fully comport with due process and adequately apprise Class Members of their rights; (6) a final fairness hearing must be scheduled to allow Class Members an opportunity to be heard regarding the Settlement and to give it finality; and (7) the benefit provided by the proposed PAGA settlement is substantial and easily falls within the range of reasonableness. Accordingly, for the reasons detailed below,

Plaintiffs respectfully requests that the Court grant this Motion in its entirety and preliminarily approve the Settlement.

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[1] All capitalized words are defined in the Class Action and PAGA Settlement Agreement ("Settlement" or "Settlement Agreement") (Exhibit 1 to the Declaration of Marta Manus, filed herewith), and those definitions are incorporated by reference herein.

II. RELEVANT BACKGROUND

A. Procedural History

On August 18, 2023, Plaintiff Bader Aqil commenced this Action by filing a Complaint alleging causes of action against Defendant for (1) Failure to Pay Minimum Wages; (2) Failure to Pay Wages and Overtime Under Labor Code § 510; (3) Meal Period Liability Under Labor Code § 226.7; (4) Rest-Break Liability Under Labor Code § 226.7; (5) Violation of Labor Code § 226(a); (6) Violation of Labor Code § 221; (7) Violation of Labor Code § 204; (9) Violation of Labor Code § 203; (9) Failure to Maintain Records Required Under Labor Code §§1174, 1774.5 (10) Failure to Produce Requested Employment Records under Labor Code §§ 226, 1198.5; (11) Failure to Reimburse Necessary Business Expenses under Labor Code § 2802, and (12) Violation of Business & Professions Code § 17200 *et seq*. On the same day, August 18, 2023, Plaintiff Bader Aqil gave timely notice to the LWDA and Defendant that Plaintiff Bader Aqil intended to proceed with a representative action under PAGA (LWDA-CM-976337-23) pursuant to Labor Code § 2699.3, subd. (a). On December 21, 2023, Plaintiff Bader Aqil filed a First Amended Complaint, which added claims for Civil Penalties under Labor Code § 2698, *et seq*. (Declaration of Marta Manus ("Manus Decl."), ¶ 2.)

On September 29, 2023, Plaintiff Carlos Nieto submitted a Notice of PAGA violations with LWDA on behalf of Mr. Neito and other aggrieved employees. On September 29, 2023, Plaintiff Carlos Nieto filed an individual and representative action under the PAGA entitled *Carlos Nieto v. Towne Park, LLC* in Los Angeles County Superior Court (Case No. 23SMCV04635) and alleged most of the same wage and hour violations as plead by Mr. Aqil. Plaintiffs Carlos Nieto and Clarence Johnson (who was added to the Nieto action per stipulation and order of the Court) filed their operative Second Amended Complaint ("SAC") on April 3, 2025, alleging in addition the following wage and hour claims: Release of Claims for Wage Violations (Ninth Cause of Action), and Reporting Time Violations (Tenth Cause of Action). (Manus Decl., ¶ 3.)

On May 14, 2024, Plaintiffs and their counsel executed a Joint Prosecution and Fee Cost Sharing Agreement ("JPA") to collectively represent the Plaintiffs in the prosecution and litigation. All Parties subsequently agreed to mediate the Plaintiffs' Class and PAGA claims. (Manus Decl., ¶ 4.)

On March 25, 2026, per stipulation of the Parties, and as part of the terms of the Settlement, Plaintiff Aqil filed a Second Amended Class Action Consolidated Complaint ("SAC") in this action to add all claims alleged in the Nieto Action, and Plaintiffs Carlos Nieto and Clarence Johnson as named Plaintiffs. Thereafter, the Nieto Action will be dismissed. The SAC is the operative complaint in the Action (the "Operative Complaint"), and includes the following causes of action: 1) failure to pay minimum wages for all hours worked; 2) failure to pay wages and overtime under Labor Code § 510; 3) meal period liability under Labor Code § 226.7; 4) rest break liability under Labor Code § 226.7; 5) violation of Labor § 226(a); 6) violation of Labor Code § 221; 7) violation of Labor Code § 204; 8) violation of Labor Code § 203; 9) failure to maintain records required under Labor Code §§ 1174, 1174.5; 10) failure to produce requested employment records under Labor Code §§ 226, 1198.5; 11) failure to reimburse necessary business expenses under Labor Code § 2802; 12) violation of Business & Professions Code § 17200, *et seq*.; 13) failure to pay vested vacation benefits labor code § 227.3; 14) failure to provide/permit accrued sick time & covid benefits, Labor Code § 204; 15) Reporting time violations; 16) failure to provide heat recovery periods; 17) unlawful release of claims; and 18) penalties under PAGA, Labor Code § 2698, *et seq*. (*Id*. at ¶ 5.)

Plaintiffs contend in this Action that Defendant violated California's wage and hour laws by failing to pay all wages due, failing to pay all overtime wages, failing to provide all meal periods and rest periods, failing to pay reporting time pay, failing to pay all vested vacation benefits, failing to provide/permit sick pay, failing to reimburse all business expenses, failing to maintain accurate records, failing to provide compliant and accurate itemized wage statements, failing to timely pay all wages due during and upon separation of employment, and thereby also violating California Business & Professions Code sections 17200, *et seq*., and incurring penalties under PAGA. (*Id*. at ¶ 6.)

Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint, and denies any and all liability for the causes of action alleged. (*Id*. at ¶ 7.)

B. Mediations

On June 12, 2024, the Parties participated in a mediation presided over by respected wage and hour mediator, Mike Young, Esq. Although the Parties did not reach a settlement on the day of mediation, the Parties continued ongoing settlement negotiations and engaged in further informal discovery. On January 13, 2025, the Parties participated in a second mediation with mediator Mike Young, Esq. The parties again did not reach a settlement on the day of mediation. However, the parties engaged in additional informal discovery and information sharing following the second mediation. As a result of extensive discussions facilitated by the mediator after the second mediation, the Parties were able to reach a mutually agreeable resolution of the Action. (Manus Decl., ¶ 8.)

To settle the Action and Released Claims, Defendant agrees to pay the Gross Settlement Amount of $1,299,000.00, exclusive of the employer's portion of payroll taxes and fees. It shall be an opt-out class, there is no claim form requirement, and no residual will revert to Defendant. The Settlement represents a fair and reasonable recovery as set forth in the Declaration of Marta Manus. (*Id*. at ¶ 9.)

C. The Settlement Agreement and Accompanying Documents

The Settlement Agreement proposes the following Class: all individuals who are or previously were employed by Defendant Towne Park, LLC ("Defendant") who were not subject to arbitration agreements and were employed as non-exempt employees in the State of California from March 4, 2021, through preliminary approval or 85,000 workweeks, whichever is less (the "Class Period"). (Manus Decl., Ex. 1, p. 1.)

There are estimated 84,984 workweeks in the Class Period, resulting in a recovery of an estimated $5.48 per workweek. Each Class Member will receive an average Individual Settlement Award of approximately $180.97 (Net Settlement Amount of $466,000.00 divided by 2,575 Class Members). (*Id*. at ¶ 10.)

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Additional proposed disbursements are as follows:

Class Counsel Fees Payment	$433,000.00 (1/3 of Gross Settlement Amount), subject to Court approval
Class Counsel Litigation Expenses Payment for actual expenses incurred in litigation the Action	Estimated not to exceed $30,000.00, and to be verified by Class Counsel and approved by the Court
Administration Expenses Payment	Not to exceed $40,000.00
Class Representatives Service Payments	$10,000.00 per each Plaintiff (i.e. $30,000.00 total)
PAGA Penalties	$300,000.00 ($225,000.00 to LWDA; $75,000.00 to Aggrieved Employees)

(Manus Decl., ¶ 10.)

The Parties have agreed on Apex Class Action Administration ("Apex") as the Administrator and respectfully request that this Court appoint Apex to handle the Class Notice and claims administration procedures, including posting the Judgment on its website. (Manus Decl., ¶ 11; Exhibit 2 to the Manus Decl. [Declaration of Michael Sutherland on behalf of Apex, ¶ 6.].)

D. The Proposed Class Notice Provides Adequate Notice to the Class Members

To be deemed proper, a notice must provide the Class Members with sufficient information to make an informed decision as to whether to accept or object to the settlement. *Mullane v. Central Hanover Bank & Trust Co.* (1950) 339 U.S. 306, 314. The notice must apprise the Class Members of the pendency of the action, reasonably convey information regarding the settlement and the Class Members' rights, entitlements, and obligations, and afford Class Members the opportunity to present their objections. *Id.*

The proposed Class Notice provides all the information a reasonable person would need to make a fully informed decision about the settlement. It will notify all Class Members of the terms of the settlement, of its effect on their rights, of their options as Class Members (i.e., participate, object, opt-out, and dispute work weeks), and procedures for exercising those options. (Manus Decl., ¶ 38; *see also* Class Notice, Exhibit A to Exhibit 1 thereto).

The standard for determining the adequacy of notice is whether it has "a reasonable chance of reaching a substantial percentage of the class members." *Cartt v. Superior Court* (1975) 50 Cal.App.3d 960, 974. Here, the Class Notice will be sent via first-class mail to all Class Members at their addresses from Defendant's records. (Manus Decl., ¶ 38, Ex. 1, p. 14). If any Class Notices are returned undeliverable without a forwarding address, the Administrator will use the national change of address database and perform a skip trace to locate the Class Member and mail a new Notice to the correct address. (*Id*.).

The Parties respectfully request that this Court approve the Class Notice to be disseminated to the Class consistent with the manner and timing as set forth in this Memorandum and the Parties' Settlement Agreement. (Manus Decl., ¶ 11.) The Class Notice should be approved as the best and most practicable way to ensure the greatest possible number of Class Members will receive notice.

III. CONDITIONAL CERTIFICATION OF THE CLASS

The proposed Settlement seeks conditional certification of a Class. The certification of the Class is essential to the Settlement. California public policy favors the use of the class action device. (*Richmond v. Dart Industries* (1981) 29 Cal.3d 462, 469.) California Code of Civil Procedure section 382 authorizes class suits in California when "the questions is one of the common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the courts, one or more may sue or defend for the benefit of all." To obtain certification, a party must establish the existence of both an ascertainable class and a well-defined community of interest among class members. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal. 4th 429, 435.) The "community of interest" requirement depends on three factors: (1) whether common issues of law or fact predominate; (2) whether the Class Representative has claims that are typical of the class; and (3) whether the Class Representative will adequately represent the class. (*Richmond*, *supra*, 29 Cal.3d at p. 470.)

Because the policy of favoring use of class actions is so strong, any doubts as to the appropriateness of class treatment must be resolved in favor of certification, subject to later modification. (*Richmond*, *supra*, 29 Cal.3d at pp. 473-475.) Except in extraordinary circumstances, which are not present here, the trial court does not weigh the merits of the claims in ruling on a motion for class certification. (*Linder*, *supra*, 23 Cal.4th at p. 443.)

Courts should apply a lesser standard of scrutiny when reviewing certification of a class for settlement than when determining the propriety of class certification for litigation. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1807, n.19.) This reduced standard reflects the fact that a class settlement foregoes further litigation and thus does not require that Plaintiff prove that the class-wide prosecution of the case would be manageable at trial. (*Ibid.*)

A. The Proposed Class is Ascertainable and Numerous.

For a class to exist, the class description must be sufficiently definite so that it is administratively feasible for the court to determine whether a particular individual is a member of the proposed class by reference to objective criteria. (*Clothesrigger, Inc. V. GTE Corp.* (1987) 191 Cal.App.3d 605, 617.) Further, the class must contain enough members that joinder of all individuals is impractical. (Code Civ. Proc. § 382; see, e.g., *Hebbard v. Colgrove* (1972) 28 Cal.App.3d 1017, 1030 [class of 28 members held sufficient number to maintain a class action].)

Here, the Class definition is sufficiently specific to enable potential Class Members and the Court to identify the Class Members, all of whom have indeed been identified by Defendant's employment and payroll records. There are approximately 2,575 Class Members, which is sufficient to satisfy numerosity requirements. (Manus Decl., ¶ 16.)

B. Common Issues of Law or Fact Predominate

In assessing whether common issues predominate over individual issues, it is not necessary that the class members' claims, or their circumstances be identical. Rather, the test of predominance is whether the common issues would be "the principal issues in any individual action, both in terms of time to be expended in their proof and of their importance, [so] that if a class suit were not permitted, a multiplicity of legal actions dealing with identical basic issues would be required in order to permit recovery by each [absent class member]." (*Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 810; see, e.g., *Los Angeles Fire & Police Protective League v. City of Los Angeles* (1972) 23 Cal.App.3d 67, 74 [in an overtime action, the fact that there were 19 different subgroups of employees did not preclude finding that common issues predominated].)

Common questions of law and fact predominate here, as Plaintiffs contend that the main issues involve the legality of Defendant's employment policies regarding Plaintiffs' claims for failure to pay all wages, failure to pay all reporting time, failure to pay vacation benefits, failure to pay sick pay, failure to provide all meal and rest periods, failure to reimburse business expenses, failure to timely furnish accurate itemized wage statements, failure to maintain accurate records, failure to timely pay wages at termination or during employment, and alleged violations of California Business & Professions Code sections 17200, *et seq*. Whether each Class Member might be required to ultimately justify an individual claim does not preclude maintenance of a class action. (*Collins v. Rocha* (1972) 7 Cal.3d 232, 238.)

Plaintiffs assert that these are all policy questions that are uniform and can be proven by common objective evidence. Plaintiffs contend that the evidence to support these claims on a classwide basis consists of Defendant's policies, payroll records, time records and the forms of wage statements given to Defendant's non-exempt employees. (Manus Decl., ¶¶ 16-17.)

C. Plaintiffs' Claims Are Typical of the Class Claims

Plaintiffs submit that the typicality requirement of CCP § 382 is readily satisfied in this action. Section 382 authorizes class treatment where "the question is one of a common or general interest" and the representative's claims are sufficiently similar to those of the absent class members. California courts consistently hold that typicality does not require identical claims or damages; it requires only that the representative be similarly situated and that the claims arise from the same course of conduct and are based on the same legal theory. Typicality means the class representative's claims must be similar to those of the putative class members. The class representative's interests need not be identical to those of other class members; they must simply be similarly situated. (*B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1347; *Classen v. Weller* (1983) 145 Cal.App.3d 27, 46.) That standard is met here.

Here, the Plaintiffs (i.e. the proposed Class Representatives) worked for Defendant as non-exempt employees under Defendant's uniform employment policies applicable to all non-exempt employees during the Class Period, defined as the period from August 26, 2022, until March 24, 2025. (Declaration of Bader Aqil ("Aqil Decl.") ¶ 2; Declaration of Carlos Nieto

("Nieto Decl.") ¶ 2; Declaration of Clarence Johnson ("Johnson Decl."), ¶ 2, filed herewith.) Plaintiffs were subject to the same policies as other Class Members. (Manus Decl. ¶¶ 15-16; Aqil Decl. ¶ 3.)

Typicality exists when the representative and class members share a common injury resulting from the defendant's alleged misconduct. Minor factual variations – such as the difference in the amount of damages or job titles – do not defeat typicality where liability turns on proof of the same wrongful practice. Here, Plaintiffs contend that liability would be established, if at all, by common proof of Defendant's standardized policies appliable to the members of the Class, including Plaintiffs. Plaintiffs' evidence would be state-wide policy documents, deposition testimony, and class member declarations. Plaintiffs believe all the same evidence would be used to prove the claims of the entire Class. This alignment of proof strongly supports typicality. The typicality requirement is meant to ensure that the class representative is able to adequately represent the class and focus on common issues. (*Fireside Bank v. Superior Court* (2009) 40 Cal.4th 1069, 1091.)

Plaintiffs contend that Plaintiffs' claims arise from the same uniform policies and practices that apply to every member of the putative class, as alleged in the Operative Complaint. Specifically, the Defendants' compensation policies and meal/rest period policies, which applied to all non-exempt employees. Plaintiffs challenge Defendant's standardized policies and conduct – both of which were allegedly not unique to the Plaintiff, but imposed systemically on all members of the Class, regardless of job title or role. In this case, the proposed Class is defined as "all individuals who are or previously were employed by Defendant as non-exempt employees in the State of California during the period of March 4, 2021, through preliminary approval or 85,000 workweeks, whichever is less (the "Class Period"). Plaintiffs, like all members of the Class, was a non-exempt employee. Plaintiff contends that the alleged harm flows from Defendant's common scheme, not from any individualized violation unique to Plaintiffs. Because the same operative facts and legal theories underlie each class member's claim, Plaintiffs' claims are necessarily typical of those of the other Class Members. (*Id.*)

D. Adequacy of Representation

The requirement that a plaintiff adequately represent the class is met by fulfilling two conditions: (1) the named plaintiff must be represented by counsel qualified to conduct the pending litigation; and (2) there are no disabling conflicts of interest between the class representative and the class. (*McGhee v. Bank of America* (1976) 60 Cal. App. 3d 442, 450.)

Here, the firm representing the Class Representatives has a great deal of experience in wage and hour class action litigation and has been approved as Class Counsel in numerous other wage and hour class actions. (See Manus Decl., ¶¶ 41-46; Declaration of Zorik Mooradian ("Mooradian Dec.") ¶¶ 3, filed herewith.)

The Class Representatives have agreed to act as such and understand their responsibilities. The Class Representatives have no claims or other interests that are antagonistic to the Class. (Manus Decl. ¶ 17; Aqil Decl. ¶ 9; Nieto Decl. ¶ 6; Johnson Decl. ¶ 5.)

IV. PRELIMINARY APPROVAL OF SETTLEMENT

Any settlement of class litigation must be reviewed and approved by the court. (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 93.) When a class action is provisionally settled prior to class certification, certification and settlement approval occur simultaneously. (*Ibid*.)

This is done in two steps: (1) a preliminary review by the trial court; and (2) a final review after notice has been distributed to the class members for their comment or objections. (Cal. Rules of Court, rule 3.769.) First, a party to the settlement moves for "preliminary approval of the settlement." (*Id.* at subd. (c).) The court then approves or denies "certification of a provisional settlement class." (*Id.* at subd. (d).) If preliminary approval is granted, the court sets a final approval hearing and provides for notice to be given to the class. (*Id*. at subd. (e).)

At the final approval hearing, "the court must conduct an inquiry into the fairness of the proposed settlement." (*Id*. at subd. (g).) The court enters judgment thereon if it finds the settlement agreement to be fair. (*Id*. at subd. (h).)

In determining whether to preliminarily approve a settlement, the court should consider "the strength of Plaintiff's 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." (*Ibid*.) The court must also take into consideration "the most important factor [which] is the strength of the case for the Plaintiff on the merits, balanced against the amount offered in settlement." (*Kullar v. Footlocker Retail Inc.* (2008) 168 Cal.App.4th 116, 118)

The Settlement for each participating Class Member is fair, reasonable, and adequate given the inherent risk of litigation, the risk relative to trial, and the costs of litigation. (Manus Decl., ¶ 18.) The Settlement represents a fair and reasonable value of all claims. (*Id*.) There is no claim form required so all Class Members will be paid unless they opt out, and there is no reversion to Defendant. (*Id*.) Finally, the only governmental involvement in this case is the existence of a PAGA claim, and Plaintiff has notified the LWDA of this Settlement. (*Id*.) The Settlement Amount balanced against the merits of Plaintiff's case is reasonable. (*Id*).

A. The Presumption of Fairness

"[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." (*Dunk, supra,* 48 Cal.App.4th at 1801.) Courts presume the absence of fraud or collusion in the negotiation of a settlement unless evidence to the contrary is offered. In other words, there is a presumption that the negotiations were conducted in good faith. (*Id.* at 1802.)

Here, the Settlement was reached through arm's-length negotiation with an experienced, highly regarded neutral mediator, Mike Young, Esq., after two mediations and extensive information sharing. Before, between, and after the two mediations, the Parties engaged in informal discovery. To prepare for the first and second mediations, Defendant provided Plaintiffs samplings of time and payroll data for Class Members and the necessary policy documents applicable to the Class Members, through informal discovery to properly evaluate the strength and weaknesses of the claims to engage in a meaningful mediation. Plaintiffs hired an expert, Berger Consulting Group – Economic Data Analysts, to prepare damage calculations and an exposure analysis for the mediation. (Manus Decl., **Exhibit 4** [Declaration of Jarrett Gorlick of

Berger Consulting Group at ¶ 6].). The Parties agreed on the proposed settlement subsequent to the second mediation after Defendant shared specific payroll and other information related to specific claims, and after further negotiations conducted through the mediator. (Manus Decl., ¶ 19.)

The Settlement here provides pro rata distribution to Class Members based upon their number of Workweeks. Accordingly, the Settlement treats the Class Members equitably, and the proposed distribution plan supports preliminary approval. (Manus Decl., ¶ 20.)

The firm representing the Class has a great deal of experience in wage and hour class action litigation and has been approved as class counsel in numerous other wage and hour class actions. (Manus Decl., ¶¶ 41-46; Mooradian Dec. ¶¶ 2-3.) Based on that experience, the information produced by Defendant, and the expert's calculations, Counsel was able to negotiate a sizable recovery for the Class Members.

B. Reasonable Based on Objective Evidence

The Settlement that has been reached, subject to this Court's approval, is the product of tremendous effort and a great deal of expense by the Parties and their Counsel. Class Counsel are knowledgeable about and have done extensive research with respect to the applicable law and potential defenses to the claims of the Class Members. Such investigation included the exchange of information and documents through informal and formal discovery. Among other things, Class Counsel reviewed all relevant policy documents, interviewed numerous Class Members, and obtained all pay and time data for a sample of the Class Members. The Parties' investigation also included preparing for and attending a full day of mediation with well-known and highly experienced mediator. The Parties investigated relevant law as applied to the facts of the case, potential defenses, and damages claimed by Plaintiffs on behalf of themselves, the Class, and the Aggrieved Employees. (Manus Decl., ¶ 21.)

Based on the documents and information provided by Defendant and their own independent investigation and evaluation, Class Counsel and Plaintiffs are of the opinion that the settlement with Defendant for the consideration and on the terms set forth in this Settlement is fair, reasonable, and adequate, and is in the best interest of the Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, various defenses asserted by Defendant, and numerous potential appellate issues. (*Id*. at ¶¶ 21-22.)

The Settlement amount is, of course, a compromise figure. Plaintiffs considered the risks that the Class would not be certified, the risks related to proof of Plaintiffs' claims, and the strengths and weaknesses of Defendant's other defenses. Defendant denied the allegations, asserted that its policies were compliant, and that any alleged deviations from the compliant policies would have been individualized and therefore precluded class certification. Plaintiffs also considered the possibility that if a settlement were reached after additional years of litigation, the great expenses and attorneys' fees of litigation would reduce the amount of funds available to Class Members for settlement. Furthermore, Plaintiffs took into consideration the time delay and financial repercussions of liability trials, numerous damages trials, and the possibility of an appeal by Defendant. (*Id*. at ¶ 23.)

For the Class claims, the Parties in this matter have agreed to the amount of $1,299,000,[2] exclusive of the employer's portion of payroll taxes and fees, on a class-wide basis, with no claim form requirement and no residual to revert to the Defendant. (Manus Decl., ¶ 8.) Based on Plaintiffs' expert's analysis for mediation, the case had a reasonable, realistic potential value of approximately $5,164,743.20 for the underlying Labor Code claims and $1,379,630.00 for the PAGA penalties for a total case value of $6,544,373.20. The Gross Settlement Amount of $1,299,000.00 represents approximately **25%** of the maximum potential value of the underlying Labor Code claims (valued at $5,164,743.20) and approximately **20%** of the overall value including PAGA penalties, demonstrating the reasonableness of the Settlement in light of the claims in this case. (Manus Decl., ¶¶ 9, 24-36.)

C. Limited Standing to Object to Proposed Settlement

Non-settling parties or third parties sometimes attempt to object to settlements, but the

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[2] $300,000 of the $1,299,000 Gross Settlement Amount is apportioned to the PAGA claim. (Manus Decl., ¶ 10, Ex. 1, p. 8.)

right of non-settling parties to object even at the final settlement approval hearing, let alone the preliminary approval hearing, is quite limited. Generally, only class members have standing to object to a proposed settlement. "Beginning from the unassailable premise that settlements are to be encouraged, it follows that to routinely allow non-Class Members to inject their concerns via objection at the settlement stage would tend to frustrate this goal." (*Gould v. Alleco, Inc.* (4th Cir. 1989) 883 F.2d 281, 284.) Accordingly, any non-parties are not allowed to object to this proposed Settlement.

V. THE PAGA PORTION IS FAIR AND REASONABLE

The settlement of a PAGA claim requires court approval. (Labor Code § 2699, subd. (l)(2) ["The superior court shall review and approve any settlement of any civil action pursuant to this part"].) However, a PAGA claim is not considered a class action but a law enforcement action, and, accordingly, the settlement thereof does not have to meet the requirements of a class action. (*See Arias v. Superior Court* (2009) 46 Cal.4th 969, 980-988 [affirming lower court's holding that "plaintiff need not satisfy class action requirements" to assert a PAGA claim]; *Gutilla v. Aerotek, Inc.* (E.D. Cal. Mar. 22, 2017) No. 115CV00191DADBAM, 2017 WL 2729864, at *3*; Pedroza v. PetSmart, Inc*. (C.D. Cal. Jan. 28, 2013) 2013 WL 1490667, at *15.) A court reviewing a PAGA settlement need only "ensur[e] that a negotiated resolution is fair to those affected." (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 549.)

Here, the Parties allocate $300,000.00 for resolution of Plaintiffs' PAGA claims. Of this amount, 25%, or $75,000.00, will be distributed to PAGA Aggrieved Employees. (Manus Decl., ¶¶ 34, Ex. 1, p. 8.) There are currently approximately 175,000 aggregate Pay Periods during the PAGA Period. At the time of mediation, there were an estimated 137,963 aggregate Pay Periods during the PAGA Period, which was used by Plaintiffs to calculate potential PAGA penalties. (Manus Decl., ¶¶ 34, Ex. 1, p. 9.)

The release is limited to those claims specifically alleged or reasonably could have been alleged based on the facts stated in the Operative Complaint for the relevant PAGA Period (August 18, 2022, through preliminary approval). The amount of PAGA Penalties allocated here provides a comparable, and at times, larger allocation to the LWDA than those approved in other settlements. (*See, e.g.*, *Viceral v. Mistras Grp. Inc*. (N.D. Cal. Oct. 11, 2016, No. 15-CV-02198-EMC) 2016 WL 5907869, at *8 [approving an allocation of $20,000 of a $6,000,000 settlement to the PAGA civil penalties]); *In re Uber FCRA Litig*. (N.D. Cal. June 29, 2017, No. 14-CV-05200) 2017 WL 2806698, at *2 [approving an allocation of $7,500 of a $7,500,000 settlement to the PAGA civil penalties].)

The proposed PAGA Penalties portion of the Settlement is both just and in the public's interest. The Parties believe and agree that the settlement provides for a fair, adequate, and reasonable resolution of the representative PAGA claim. The Parties also believe that the proposed Settlement is to the advantage of the State of California and the Aggrieved Employees when considering the time and expense necessary to complete protracted litigation which, regardless of the verdict, would undoubtedly be subject to further significant delay and expense pending possible appeals. Moreover, the Settlement provides a substantial sum to the State. It also provides a reasonable sum to each Aggrieved Employee on a pro-rata basis based on the number of Pay Periods they worked during the PAGA Period. (Manus Decl., ¶ 35.) Furthermore, public policy strongly favors the settlement of litigation. (*Consumer Advoc. Grp., Inc. v. Kintetsu Enterprises of Am.* (2006) 141 Cal.App.4th 46, 63.)

The benefit provided by the proposed PAGA Penalties portion of the Settlement is substantial and easily falls within the range of reasonableness. The Settlement fulfills the purposes of the PAGA, and, by any measure, is fair, adequate, and reasonable.

VI. THE CLASS REPRESENTATIVES' SERVICE AWARDS ARE REASONABLE

"At the conclusion of a class action, the class representatives are eligible for a special payment in recognition of their service to the class." 5 Newberg on Class Actions § 17:1 (5th ed.). Plaintiffs request reasonable Class Representative Service Payments for their efforts and initiative in bringing and helping to prosecute this class action.

As an initial matter, Plaintiffs' courage in proceeding with his class-wide claims should not be underestimated. By suing Defendant, Plaintiffs increased their risk of retaliation by prospective employers, who must choose between an applicant who has never sued a prior employer and one who has.

Plaintiffs devoted a substantial amount of time to helping Class Counsel effectively develop and prosecute this action at every stage of the litigation. Both before and after filing, Plaintiffs conferred with Class Counsel to discuss every aspect of this case. Plaintiffs have invested significant time in this action thus far. (Aqil Decl. ¶ 11; Nieto Decl. ¶ 9; Johnson Decl. ¶ 7.) Plaintiffs have provided Class Counsel with information about Defendant, reviewed documents, consulted Class Counsel throughout the litigation, participated in the mediation process, and reviewed and signed the settlement agreement. (*Id*.).

Plaintiffs each spent a significant amount of time with Class Counsel detailing their knowledge of Defendant's practices. Plaintiffs have diligently, adequately, and fairly represented the Class Members, and has not placed their interests above any member of the putative Class. This sort of payment to a Class representative has been a common feature of settlements negotiated by Class Counsel and routinely approved by courts. The Class Representatives Service Payments of $10,000.00 to each Plaintiff (total of $30,000.00) are fair and reasonable. (Manus Decl., ¶ 47).

VII. THE STIPULATED AWARD OF ATTORNEYS' FEES AND COSTS IS REASONABLE AND SHOULD BE APPROVED

Class Counsel respectfully requests, without opposition from Defendant, an award of attorneys' fees of no more than $433,000.00 (one-third of the Gross Settlement Amount) and reasonable litigation costs, estimated not to exceed $40,00.00, subject to approval by the Court. (Manus Decl. ¶¶ 10, 48, Ex. 1 p. 1).

Class Counsel submits it has the requisite experience, knowledge, and resources to serve as Class Counsel and to zealously represent the Class. (Manus Decl., ¶¶ 40-45; Mooradian Decl. ¶¶ 2-3.) Class Counsel has incurred substantial hours in prosecuting this action on a contingency basis and will not receive any compensation for their efforts until recovery is obtained for the Class. In addition, Class Counsel's efforts in reaching the Settlement on behalf of the Class will confer a significant benefit to the Class. As such, the requested award of attorneys' fees and costs is reasonable.

VIII. REQUESTED RELIEF

Plaintiffs respectfully request that the Court, as part of the preliminary approval process, do the following:

1. Conditionally certify, for settlement purposes only, a Class consisting of all individuals who are or previously were employed by Defendant Towne Park, LLC ("Defendant") who were not subject to arbitration agreements and were employed as non-exempt employees in the State of California from March 4, 2021, through preliminary approval or 85,000 workweeks, whichever is less (the "Class Period").
2. Appoint Alvin B. Lindsay, Esq., Enoch J. Kim, Esq., Marta Manus, Esq., and the other attorneys of D.Law, Inc. and Zorik Mooradian and Nanor C. Kamberian of Mooradian Law, APC as Class Counsel;
3. Appoint Plaintiffs Bader Aqil, Carlos Nieto, and Clarence Johnson as the Class Representatives;
4. Order preliminary approval of the proposed Settlement on a class-wide basis, order directing the Class Notice to be given to the Class, and set a hearing for final approval of the proposed Settlement;
5. Appoint Apex Clas Action Administration as the Administrator to handle the notice and claims procedures as set forth in its proposal; and
6. Approve the PAGA Penalties portion of the Settlement.

IV. CONCLUSION

Based upon the foregoing, Plaintiffs respectfully requests that the Court grant this motion for Preliminary Approval of Class Action and PAGA Settlement and enter the proposed Order.

Respectfully Submitted,

Dated:

D.LAW, INC.

By: ______________________

Enoch J. Kim, Esq.
Marta Manus, Esq.
Attorneys for Plaintiffs