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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

BRIAN ESTEVEZ, LUIS AGUILAR, individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act;

Plaintiffs,

vs.

ULTIMATE REMOVAL, INC., a California corporation; and DOES 1 through 100, inclusive,

Defendants.

Lead Case No.: 23STCV30090
[Consolidated with Case No.: 23PSCCV03670]

Honorable Elaine Lu
Department 9

CLASS ACTION

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

[Declaration of Proposed Class Counsel (Brian J. St. John); Declarations of Proposed Class Representatives (Brian Estevez and Luis Aguilar); and [Proposed] Order filed concurrently herewith]

Date:	January 15, 2026
Time:	10:00 a.m.
Department:	9
Complaint Filed:	December 8, 2023
FAC Filed:	July 17, 2025
Trial Date:	None Set

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

PLEASE TAKE NOTICE that on January 15, 2026, at 10:00 a.m. or as soon thereafter as the matter may be heard before the Honorable Elaine Lu in Department 9 of the Superior Court of California for the County of Los Angeles, located at 312 North Spring Street, Los Angeles, California 90012, Plaintiffs Brian Estevez and Luis Aguilar (together, "Plaintiffs" or "Class Representatives") will, and hereby do, move for an order:

- Granting preliminary approval of the proposed class action settlement described herein and as set forth in the Class Action and PAGA Settlement Agreement ("Settlement," "Agreement," or "Settlement Agreement"), attached as "**EXHIBIT 3**" to the Declaration of Brian J. St. John in Support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement;
- Certifying the proposed Class for settlement purposes;
- Appointing Plaintiffs Brian Estevez and Luis Aguilar as Class Representatives;
- Appointing Arby Aiwazian, Joanna Ghosh, Brian J. St. John, and Maria Halwadjian of Lawyers *for* Justice, PC as Class Counsel;
- Approving the proposed Court Approved Notice of Class Action Settlement Approval ("Class Notice"), attached as "**EXHIBIT A**" to the [Proposed] Order Granting Preliminary Approval of Class Action and PAGA Settlement, and directing the mailing thereof in accordance with the Settlement Agreement;
- Approving Phoenix Settlement Administrators as the Administrator; and
- Scheduling a hearing to consider final approval of the Settlement.

This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which require approval by the Court of the settlement of a putative class action, and Rule 3.1113(e), which allows the Court to preliminarily certify a class for settlement purposes, and permits the Court to extend the page limit for memoranda.

This motion is based upon the following memorandum of points and authorities, the Settlement Agreement, the Declaration of Proposed Class Counsel (Brian J. St. John) and

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Proposed Class Representatives (Brian Estevez and Luis Aguilar) in support thereof, as well as the pleadings and other records on file with the Court in this matter, and such evidence and oral argument as may be presented at the hearing on this motion.

Dated: September 3, 2025

LAWYERS *for* JUSTICE, PC

By: Maria Halwadjian

Brian J. St. John
Maria Halwadjian
Attorneys for Plaintiffs Brian Estevez and Luis Aguilar

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LAWYERS *for* JUSTICE, PC
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Glendale, California 91203

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

Statutes

Other Authorities

Rules

MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiffs Brian Estevez ("Plaintiff Estevez") and Luis Aguilar ("Plaintiff Aguilar") (together, "Plaintiffs" or "Class Representatives") seek preliminary approval of the Class Action and PAGA Settlement Agreement ("Settlement," "Agreement," or "Settlement Agreement") entered into by and between Plaintiffs, individually and on behalf of all others similarly situated and other aggrieved employees, on the one hand, and Defendant Ultimate Removal, Inc. ("Defendant"), on the other hand. Subject to approval by the Court, Plaintiffs and Defendant (collectively, the "Parties") have agreed to settle the lawsuits for a Gross Settlement Amount of $1,250,000.00.[1]

Plaintiffs also seek to provisionally certify the following Class for settlement purposes, which Defendant does not oppose:

> All current and former non-exempt, hourly-paid employees who worked for Defendant Ultimate Removal, Inc. in California at any time during the Class Period ("Class").[2]

Class Members who do not submit a timely and valid Request for Exclusion from the Class Settlement ("Participating Class Member") will receive a *pro rata* share of the Net Settlement Amount ("Individual Class Payment") based on the number of Workweeks worked for Defendant within the State of California as a non-exempt, hourly paid employee during the Class Period ("Workweeks").[3]

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[1] Settlement Agreement, attached as "**EXHIBIT 3**" to Declaration of Brian J. St. John ("St. John Decl."), ¶ 1.23. If the actual number of Workweeks for Class is greater than 110% of 23,350 (i.e., the Workweeks exceed 25,685), then Defendant has the option to either: (1) agree to increase the Gross Settlement Amount on a proportional basis above the 110% threshold (i.e., if there is an 11% increase in the number of Workweeks during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 1%); or (2) elect to end the Class Period and PAGA Period on earlier date at the Defendant's discretion in order to limit the covered workweeks to no more than 10% more than the estimate provided (i.e., to the last date on which the Workweeks do not exceed 22,685) in lieu of paying an increase to the Gross Settlement Amount ("Alternate End Date"). *See id.*, ¶ 8.

[2] *Id.*, ¶ 1.5. "Class Period" is defined as the period from December 8, 2019 to either March 25, 2025, or the Alternate End Date. *See id.*, ¶ 1.13.

[3] *Id.*, ¶¶ 1.25, 1.39, and 1.49.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

The Settlement, upon final approval by the Court and funding of the Gross Settlement Amount, will operate to resolve the Released Class Claims of Plaintiffs and Participating Class Members and the Released PAGA Claims of the State of California.[4]

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant is a demolition contractor specializing in tenant improvement portion of commercial construction. Plaintiffs are former employees of Defendant.

On September 15, 2023, Plaintiff Estevez provided written notice by certified mail to the California Labor & Workforce Development Agency ("LWDA") and Defendant of the specific provisions of the California Labor Code that were alleged to be violated.[5]

On October 3, 2023, Plaintiff Aguilar provided written notice by certified mail to the LWDA and Defendant of the specific provisions of the California Labor Code that were alleged to be violated.[6]

On November 27, 2023, Plaintiff Estevez filed a Complaint for Enforcement Under the Private Attorneys General Act ("PAGA"), Cal. Lab. Code § 2698, *Et Seq*. in the Superior Court of California for the County of Los Angeles, Case No. 23PSCV03670 ("PAGA Action").[7]

On December 8, 2023, Plaintiffs filed a First Amended Complaint for Enforcement Under the Private Attorneys General Act, Cal. Lab. Code § 2698, *Et Seq*. in the PAGA Action, adding Plaintiff Aguilar as an additional named plaintiff.[8]

On December 8, 2023, Plaintiffs filed the Class Action Complaint for Damages in the Superior Court for the County of Los Angeles, thereby commencing the above-captioned lawsuit ("Class Action") (together with the PAGA Action, "Actions").[9]

On January 19, 2024, the Court, on its own motion, consolidated the Actions, and designated the Class Action as lead.[10]

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[4] Settlement Agreement, ¶¶ 5.2 and 5.3. See *id*. at ¶ 5.2 for the full scope of the "Released Class Claims" *id*. at ¶ 5.3 for the full scope of the "Released PAGA Claims," and *id.* at ¶ 1.45 for the definition of the "Released Parties."
[5] St. John Decl. ¶ 2, Exh. 1.
[6] *Id*., ¶ 3.
[7] *Id*., ¶ 4.
[8] *Id*., ¶ 5.
[9] *Id*., ¶ 6.
[10] *Id*., ¶ 7.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

On July 1, 2025, Plaintiffs sought leave to file a First Amended Complaint for Damages and Enforcement Under the Private Attorneys General Act, Cal. Lab. Code § 2698, *Et Seq*. ("Operative Complaint"), adding a PAGA cause of action to the Class Action. The Court granted Plaintiff leave to file the Operative Complaint on July 7, 2025, and Plaintiffs filed the Operative Complaint on July 17, 2025.[11]

On July 28, 2025, Defendant filed its Answer to Plaintiffs' First Amended Complaint for Damages and Enforcement Under the Private Attorneys General Act, Cal. Lab. Code § 2698, *Et Seq.*[12]

Plaintiffs' core allegations are that Defendant has violated California wage and hour law, including but not limited to laws set forth in the California Labor Code, by engaging in a uniform practice and procedure, with respect to Plaintiff, Class Members, and Aggrieved Employees of, *inter alia*, failing to pay all overtime and minimum wages, at all or at the correct rate of pay, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business expenses, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, *et seq*., and conduct giving rise to civil penalties recoverable under the Private Attorneys General Act of 2004 (California Labor Code sections 2698, *et seq*.). Plaintiffs contend that they, and the Class Members, are entitled to, *inter alia*, unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA), and attorneys' fees and costs.[13]

The Parties have actively litigated the Actions since the PAGA Action was commenced on November 27, 2023 and the Class Action was commenced on December 8, 2023. On January 15, 2025, the Parties participated in arm's-length and informed negotiations with Mediator Lynn Frank, Esq. ("Mediator"), a respected mediator of complex wage and hour actions.[14] With the aid

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[11] St. John Decl., ¶ 8.
[12] *Id*., ¶ 9.
[13] *Id*., ¶ 30.
[14] *Id*., ¶ 25.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

of the mediator, the Parties reached the Settlement described herein to resolve the Actions in its entirety.[15]

III. SUMMARY OF THE SETTLEMENT TERMS

Under the terms of the Settlement, Defendant will pay a Gross Settlement Amount of $1,250,000.00 to resolve the Actions.[16] Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Gross Settlement Amount: (1) attorneys' fees in an amount not to exceed one third (1/3) of the Gross Settlement Amount (i.e., $416,666.67 if the Gross Settlement Amount remains $1,250,000.00) ("Class Counsel Fees Payment")[17] and litigation costs and expenses in an amount not to exceed $50,000.00 ("Class Counsel Litigation Expenses Payment") to Class Counsel; (2) Administration Expenses Payment, which are currently estimated not to exceed $10,000.00 to the Administrator ("Administration Expenses Payment"); (3) PAGA Penalties of $150,000.00 ("PAGA Penalties"), of which seventy-five percent (75%) (i.e., $112,500.00) will be distributed to the LWDA ("LWDA PAGA Payment"), and twenty-five percent (25%) (i.e., $37,500.00) will be distributed to all current and former non-exempt, hourly employees who worked for Defendant in California at any time during the PAGA Period ("Aggrieved Employees"); and (4) payments in the amount of up to $7,500.00 each to Plaintiffs ($15,000.00 total) ("Class Representative Service Payments").[18] The Parties have agreed to retain Phoenix Settlement Administrators ("Administrator") to handle the notice and settlement administration process.[19]

The Parties have agreed that the Administrator will determine each Participating Class Member's share of the available Net Settlement Amount ("Individual Class Payment"), in accordance with the Settlement Agreement on a *pro rata* per Workweeks basis, which will be adjusted after Final Approval to reflect the total Workweeks worked by Participating Class

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[15] St. John Decl., ¶ 25.
[16] Settlement Agreement, ¶¶ 1.23 and 3.1.
[17] *Id*., ¶ 3.2.2; although the Settlement Agreement provides for Attorneys' Fees up to 35% of the Total Settlement Amount, Class Counsel only seeks fees equal to one-third of the Total Settlement Amount.
[18] Settlement Agreement, ¶¶ 1.29, 3.2.1, 3.2.2, 3.2.3, and 3.2.5.
[19] *Id*., ¶ 1.2.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

Members.[20] The Parties have agreed that the Administrator will determine each Aggrieved Employee's *pro rata* share of the twenty-five percent (25%) share of the PAGA Penalties ("Individual PAGA Payment"), in accordance with the Settlement Agreement on a *pro rata* per PAGA Pay Periods basis.[21]

The Parties agree, for purposes of this Settlement, that Individual Class Payments will be allocated twenty percent (20%) to settlement of wage claims ("the Wage Portion"),which is subject to withholdings, and eighty percent (80%) to settlement of claims for interest and penalties (the "Non-Wage Portion").[22] The Administrator will withhold the employee's share of taxes and withholdings with respect to the Wage Portion of the Individual Class Payments, and issue checks to Participating Class Members for their Individual Class Payments. Each Individual PAGA Payment will be allocated as 100% penalties and will not be subjected to withholdings.[23] Defendant will provide the funds for any employer-side taxes related to the Individual Class Payments.[24]

Individual Class Payment and Individual PAGA Payment checks will be negotiable for 180 calendar days from the date of their issuance, and thereafter, shall be cancelled.[25] Thereafter, funds from uncashed Individual Class Payment and/or Individual PAGA Payment checks shall be transmitted to the California Controller's Unclaimed Property Fund in the name of each Class Member and/or Aggrieved Employee to whom the checks were issued.[26]

Any Class Member may request to be excluded from the Class Settlement by sending a written request to the Administrator, by email or mail, a Request for Exclusion postmarked on or before the date that is sixty (60) calendar days from the date of the initial mailing of the Class Notice by the Administrator ("Response Deadline"), plus an additional fifteen (15) calendar days for Class Members whose Class Notice was re-mailed.[27] Aggrieved Employees shall be bound

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[20] Settlement Agreement, ¶ 3.2.4.
[21] *Id.*, ¶ 3.2.5.1.
[22] *Id.*, ¶ 3.2.4.1.
[23] *Id.*, ¶ 3.2.5.2.
[24] *Id.*, ¶ 3.1.
[25] *Id.*, ¶ 4.3.1.
[26] *Id.*, ¶ 4.3.3.
[27] *Id.*, ¶¶ 1.46 & 1.47.

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450 North Brand Blvd., Suite 900
Glendale, California 91203

to the PAGA Settlement irrespective of whether they exercise their option to opt out of the Class Settlement.[28]

Only Class Members who have not submitted a Request for Exclusion (i.e., Participating Class Members) may object to the Class Settlement by submitting a signed, written Objection to the Administrator, by mail or email, prior to the Response Deadline (plus an additional fifteen (15) calendar days for Class Members whose Class Notice was re-mailed), or by presenting their Objection orally at the Final Approval hearing, regardless of whether they submitted a written Objection.[29]

In order to dispute the number of Workweeks and/or PAGA Pay Periods attributable to an individual Class Member and/or Aggrieved Employee, that Class Member and/or Aggrieved Employee must submit a written letter to the Administrator, by mail or email, and include copies of any supporting evidence they may have.[30]

IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENTS

The settlement of a class action requires approval by the court. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800; Cal. Code Civ. Proc. § 1781(f). Courts review class action settlements in a two-step process: (1) an earlier conditional review by the court; and (2) a later detailed review after the period during which notice is distributed to class members for their comments or objections. Conte & Newberg, *Newberg on Class Actions* § 11.24 (4th Ed. 2002). Preliminary approval of a settlement 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. Cal. R. Ct. 3.769(g).

In considering a potential class settlement, a 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 *City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495

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[28] Settlement Agreement, ¶ 5.3.
[29] *Id.*, ¶ 1.31, 7.7.1, & 7.7.2.
[30] *Id.*, ¶ 7.6.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

F.2d 448, 456; *Officers for Justice v. Civil Service Commission of City and County of San Francisco* (9th Cir. 1982) 688 F.2d 615, 625. Neither formal notice nor a hearing is required for the trial court to grant provisional class certification and preliminary approval; the court may grant such relief upon an informal application by the settling parties and may conduct any necessary hearing in court or in chambers, at the court's discretion. *Newberg*, § 11.25.

V. THE COURT SHOULD PRELIMINARY APPROVE THE SETTLEMENT

The trial court has broad discretion to determine whether a proposed settlement is fair under the circumstances of the case. *Dunk*, 48 Cal.App.4th at 1800. To make this fairness determination, courts must consider several relevant factors, including "the strength of the 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 view of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement." *Dunk*, 48 Cal.App.4th at 1801. "The list of factors is not exclusive and the court is free to engage in a balancing and weighing of the factors depending on the circumstances of each case." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245. Furthermore, courts give "proper deference to the private consensual decision of the parties." *Hanlon*, 150 F.3d at 1027 (citation omitted).

The proponent of the settlement has the burden to show that it is fair and reasonable. *Wershba*, 91 Cal.App.4th at 245. "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." *Id.*; *Dunk*, 48 Cal.App.4th at 1802; *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1151.

A. The Settlement Resulted from Arm's-Length Negotiations Based Upon Extensive Investigation and Discovery.

The Parties have actively litigated the above-captioned action since it commenced on December 8, 2023. Both sides investigated the veracity, strength, and scope of the claims

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

throughout the cases, and Class Counsel was actively preparing the matter for class certification and trial.[31]

Class Counsel conducted significant investigation and formal and informal discovery regarding the facts of the cases, including and not limited to, the exchange, review, and analysis of thousands of pages of documents and data from Plaintiffs, Defendant, and other sources.[32] The volume of data and documents that Class Counsel reviewed and analyzed included and was not limited to: Plaintiffs' employment records, a detailed sampling of Plaintiffs' and other Class Members' time data and pay records, Defendant's Employee Handbook, internal memoranda, new hire checklists, job descriptions, company policy acknowledgements (including but not limited to Uniform Acknowledgement Receipt, Code of Safe Practices, and Confirmation of Receipt of Handbook), forms (including but not limited to Offer Letter, and Employment Application, Separation Form), and procedures (including but not limited to Call-In Requirements for On-Call Employees, and New Employee Training Session), among other information and documents.[33] Class Counsel had the opportunity to interview Plaintiffs and others to gather facts and to identify potential witnesses.[34] In addition, Class Counsel has extensive experience in California wage-and-hour class actions.[35]

The Parties engaged in extensive settlement negotiations and participated in a full-day mediation conducted by Lynn Frank, Esq., a well-respected mediator experienced in mediating complex labor and employment matters.[36] Prior to and during the mediation and settlement negotiations, the Parties exchanged extensive information and engaged in discussions regarding their evaluations of the cases and various aspects of the cases, including but not limited to, the risks and delays of further litigation, including the risks of proceeding with class certification and/or representative adjudication, the law relating to off-the-clock theory, regular rate, improper rounding, non-complaint wage statements, waiting time penalties, meal and rest periods, PAGA

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[31] St. John Decl., ¶¶ 25-29.
[32] *Id.*, ¶ 26.
[33] Ibid.
[34] Ibid.
[35] *Id.*, ¶¶ 20-23.
[36] *Id.*, ¶ 25.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

representative claims, and wage-and-hour enforcement; the evidence produced and analyzed; and the possibility of appeals.[37] During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.[38] Arriving at a settlement that was acceptable to both Parties was not easy. Both sides felt strongly about their ability to prevail at certification and at trial.[39] After conducting investigations, formal and informal discovery, extensive settlement negotiations, and with the aid of the mediator's evaluation, the Parties have agreed that the matter is well-suited for settlement given the legal issues relating to Plaintiffs' principal claims, as well as the costs and risks to both sides that would attend further litigation.[40]

B. The Settlement Is Fair, Reasonable, and Adequate.

The Settlement represents a fair, adequate, and reasonable resolution of the matter.[41] The Settlement was calculated using the information and data uncovered during litigation, case investigation, and the formal and informal exchange of information.[42] The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in the matter at issue.[43] Moreover, considering all of the facts and circumstances of the lawsuit, the Settlement represents a fair, reasonable, and adequate recovery for the Class.[44]

Assuming that the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, PAGA Penalties, and Administration Expenses Payment are approved by the Court and paid in the full amounts provided for by the Settlement, the Settlement provides for a Net Settlement Amount that is currently estimated to be $608,333.33.[45] Additionally, twenty-five percent (25%) of the PAGA Penalties (i.e., Individual PAGA Payments), which is $37,500.00 out of $150,000.00, will be distributed to the Aggrieved

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[37] St. John Decl., ¶ 25.
[38] Ibid.
[39] Ibid.
[40] Ibid.
[41] *Id.*, ¶¶ 25 & 27.
[42] *Id.*, ¶ 25.
[43] *Id.*, ¶¶ 25, & 34.
[44] *Id.*, ¶¶ 25 & 27.
[45] *Id.*, ¶ 11.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

Employees. The entire Net Settlement Amount will be fully paid out to the Participating Class Members, in accordance with the Settlement Agreement.

The amount of each Participating Class Member's Individual Class Payment and each Aggrieved Employee's Individual PAGA Payment will be calculated based on their Workweeks and/or PAGA Pay Periods during the Class Period and PAGA Period, respectively.[46] "An allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30. Here, the allocation is reasonably related to the number of Workweeks and/or PAGA Pay Periods actually worked for Defendant during the relevant period and should be approved.

In light of the foregoing considerations, Class Counsel believes that the Settlement as a whole is fair, reasonable, and adequate, and is in the best interest of the Class Members, Aggrieved Employees, and the State of California.[47] Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appear to be competent, and have experience with this type of litigation, and investigation have been completed, as is the case here. *Newberg*, §11.47. Accordingly, the Court should grant preliminary approval of the Settlement.

C. <u>The Settlement Is of Significant Value.</u>

Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties conducted extensive formal and informal discovery and exchanged thousands of pages of documents, data, and information prior to mediation.[48] The information that Class Counsel obtained from Plaintiffs, Defendant, and other sources allowed Class Counsel to develop valuation models in order to evaluate the potential value and merit of the claims, and perform a complete evaluation of Defendant's defenses thereto.[49] As outlined in the Declaration of Brian J.

[46] Settlement Agreement, ¶¶ 1.24 & 1.25.
[47] St. John Decl., ¶¶ 25, 27 & 36.
[48] *Id.*, ¶ 26.
[49] *Id.*, ¶ 29.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

St. John, Class Counsel performed an extensive analysis of each and every claim pursuant to *Kullar* prior to entering into the Settlement.[50]

VI. CERTIFICATION OF THE CLASS IS APPROPRIATE

The requisites for establishing class certification are met, and the Parties have stipulated to conditional certification of the Class for settlement purposes only.[51] California Code of Civil Procedure Section 382 "authorizes class actions when the question is one of a common or general interest, of many persons, or when the Parties are numerous, and it is impracticable to bring them all before the court." *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326. California courts certify class actions where the Plaintiff identifies "both [1] an ascertainable class and [2] a well-defined community of interest among class members." *Id.*

A. The Class Is Ascertainable and Sufficiently Numerous.

"Ascertainability is required in order to give notice to putative class members as to whom the judgment in the action will be *res judicata*." *Hicks v. Kaufman & Broad Home Corp.* (2001) 89 Cal.App.4th 908, 914. "A class is ascertainable if it identifies a group of unnamed Plaintiffs by describing a set of common characteristics sufficient to allow a member of that group to identify himself or herself as having a right to recover based on the description." *Bartold v. Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 828. The proposed Class must also be sufficiently numerous. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435; *see also Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 934-35 (indicating that a class of 30 to 40 individuals satisfies the numerosity requirement as joinder is not practical at that point). The Class here is estimated to be approximately 487 individuals, which is sufficiently numerous.[52] Further, all Class Members can and will be identified by Defendant to the Administrator through a review of Defendant's employment records regarding non-exempt, hourly-paid employees who worked for Defendant Ultimate Removal, Inc. in California at any time during the Class Period. As such, the Class is ascertainable and sufficiently numerous.

[50] St. John Decl., ¶¶ 30-34.
[51] Settlement Agreement, ¶ 12.1.
[52] St. John Decl., ¶ 17.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

LAWYERS for JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

B. The Share a Well-Defined Community of Interest.

The community of interest requirement "embodies three factors: (1) predominant common questions of law or fact; (2) Class Representative with claims or defenses typical of the class; and (3) Class Representative who can adequately represent the class." *Sav-On*, *supra*, 34 Cal.4th at 326. "[T]he community of interest requirement for certification *does not mandate that class members have uniform or identical claims*." *Capitol People First v. Dep't of Developmental Services* (2007) 155 Cal.App.4th 676, 692 (emphasis in original). Rather, courts focus on the Defendant's internal policies and "pattern and practice . . . in order to assess whether that common behavior toward similarly situated Plaintiff renders class certification appropriate." *Id.* (citing *Sav-On*, 34 Cal.4th at 333).

Here, common issues of law and fact predominate as to each of the claims alleged and asserted in the Actions. Based on the documents and information obtained through formal and informal discovery and exchange of information in the cases, Plaintiffs contend that Class Members performed similar job duties and were subject to uniform operations and employment policies, practices, and procedures during the Class Period, including payroll and recordkeeping practices.[53] As a result, Plaintiffs claim that all of the Class Members were uniformly not paid all compensation due to them from Defendant during the time period at issue. Plaintiffs maintain that the outcome of this litigation would be determined by Defendants' alleged uniform operations and employment policies and procedures that applied across its non-exempt, hourly-paid employees who worked for Defendant Ultimate Removal, Inc. in California at any time during the Class Period.

As members of the Class who were subject to these same policies, practices, and procedures, Plaintiffs' claims are typical of the Class. Moreover, Plaintiffs have no interests adverse to the Class. Plaintiffs have taken steps to initiate and maintain this action and to ensure that it comes to a fair and reasonable resolution.[54] Importantly, Plaintiffs have retained a law firm

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[53] St. John Decl., ¶ 18.

[54] Declaration of Brian Estevez in Support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement ("Estevez Decl."), ¶¶ 3-6; Declaration of Luis Aguilar in Support of Plaintiffs' Motion of Preliminary Approval of Class Action and PAGA Settlement ("Aguilar Decl."), ¶¶ 3- 6.

well-versed in wage and hour class actions, which has at all times represented the best interests of Plaintiffs and the Class.[55]

Accordingly, the proposed Class shares a community of interest, and the Court should certify the Class for settlement purposes only.

VII. APPOINTMENT OF CLASS COUNSEL AND ALLOCATION FOR CLASS COUNSEL FEES PAYMENT AND CLASS COUNSEL LITIGATION EXPENSES PAYMENT

Class Counsel has litigated the matter for over two (2) years and was actively preparing the matter for class certification and trial.[56] The ongoing work has been extensive, demanding, and ultimately successful in achieving a substantial settlement resolution. Class Counsel reviewed thousands of pages of documents and data[57] and also interviewed and obtained information from Plaintiffs and other percipient witnesses, researched applicable law, undertook damages/valuation calculations, and met and conferred with Defendant's counsel regarding the pleadings and the production of documents and data prior to mediation.[58] Counsel for the Parties also undertook extensive settlement discussions, which included participating in mediation.[59]

Class Counsel is well-experienced in wage-and-hour class action litigation and used that experience to obtain a great result for the Class.[60]

The Settlement establishes a Gross Settlement Amount of $1,250,000.00, and provides for Class Counsel to apply to the Court consisting of attorneys' fees in an amount not to exceed one-third (1/3) of the Gross Settlement Amount (i.e., $416,666.67 if the Gross Settlement Amount remains $1,250,000.00) and reimbursement of actual costs and expenses in an amount up to $50,000.00.[61] The attorneys' fees provided for by the Settlement are commensurate with: (1) the risk that Class Counsel took in bringing and litigating the cases, (2) the extensive time,

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[55] St. John Decl., ¶¶ 20-24.
[56] *Id.*, ¶ 25.
[57] *Id.*, ¶ 26.
[58] Ibid.
[59] *Id.*, ¶¶ 25-28.
[60] *Id.*, ¶¶ 20-25; Exh. 1.
[61] Settlement Agreement, ¶¶ 3.1 & 3.2.2; see n.17.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

effort and expense that Class Counsel dedicated to the cases, (3) the skill and determination that Class Counsel has shown, (4) the results that Class Counsel has achieved throughout the litigation, (5) the value of the Settlement that Class Counsel has achieved for the Class Members, Aggrieved Employees, and the State of California, and (6) the other cases that Class Counsel had to turn down in order to devote its time and efforts to this matter. The proposed Class Notice provides Class Members that an award of the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment will be sought, and the amount allocated toward the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment by the Settlement.[62]

Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41. Indeed, it is long settled that the "experienced trial judge is the best judge of the value of professional services rendered in his court." *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132. 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. *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 503 (citing *Lealao*, 82 Cal.App.4th at 48-49). In *Lealao*, the court held that when an action leads to a recovery that can be "monetized" with a reasonable degree of certainty, the trial court should "ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace in comparable litigation." *Id.* at 50.

The California Supreme Court has confirmed the propriety of calculating and awarding attorneys' fees as a percentage of a settlement that has, by litigation, been preserved or recovered for the benefit of others. *Laffitte, supra*, 1 Cal.5th 480 at 486 & 506. The Court has taken the position that while "[t]rial courts have discretion to conduct a lodestar cross-check on a percentage fee," "they also retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee[,]" and "[t]he percentage of fund method survives in California." *Id.* (internal quotation marks omitted).

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[62] *Id.*, Exh. A.

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450 North Brand Blvd., Suite 900
Glendale, California 91203

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. *Newberg,* § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys' fees in the amount of 45% of the $7.3 million settlement); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys' fees). California courts routinely approve class action attorneys' fee awards "averag[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent range of contingency fee in marketplace was appropriate in class actions); see also *Estrada v. Dr. Pepper/Seven-Up*, Los Angeles County Superior Court Case No. BC262247 (May 2005) (wage and hour); *Moore v. IKEA*, Los Angeles County Superior Court Case No. BC263646 (Sept. 2006) (wage and hour).

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.[63]

Class Counsel will provide extensive evidence as to the time worked, litigation efforts, and further argument at the time of filing Plaintiffs' Motion for Final Approval of the Settlement and application for the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment at the Final Approval Hearing. Considering the work performed and the risks incurred, the attorneys' fees provided for by the Settlement are well within the range of reasonableness for preliminary approval.

VIII. <u>THE PROPOSED CLASS NOTICE IS ADEQUATE</u>

California statutory authority and case law vests the Court with broad discretion in fashioning appropriate class notice. See Cal. Code Civ. Proc. § 1781; *Cartt v. Superior Court* (1975) 50 Cal.App.3d 960, 973-74. A class notice is adequate if it "present[s] a fair recital of the subject matter and proposed terms" of the Settlement. *Mendoza v. United States* (9th Cir. 1980) 623 F.2d 1338, 1351 (quoting *Marshall v. Holiday Magic* (9th Cir. 1977) 550 F.2d 1173, 1177).

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[63] St. John Decl., ¶ 12.

"Sufficient information about the case should be provided to enable class members to make an informed decision about their participation." *Manual for Complex Litigation* § 21.311 at 413 (4th ed. 2004). The proposed Class Notice describes the Settlement, the deadlines and procedures to submit an Objection to the Class Settlement, submit a Request for Exclusion from the Class Settlement, and/or dispute regarding Workweeks and/or PAGA Pay Periods, and the date and time set for the Final Approval Hearing.[64] The proposed Class Notice summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner.[65] The proposed Class Notice recognizes that the Court has not yet granted final approval of the settlement.[66] The proposed Class Notice also apprises the Class Members and Aggrieved Employees of, *inter alia*, how their Individual Class Payment and if applicable, their Individual PAGA Payment is calculated and the number of Workweeks and/or PAGA Pay Periods credited to them.[67] The proposed Class Notice fulfills the requirement of neutrality in notice procedure. *Newberg*, at § 8.39.

Thus, the proposed Class Notice satisfies all due process requirements and complies with the standards of fairness, completeness, and neutrality. Fed. R. Civ. P. 23(c)(2) and 23(e); *Newberg*, §§ 8.21, 8.39; *Manual*, §§ 21.311, 21.312; see also *Cartt*, *supra*, 50 Cal.App.3d at 960. Accordingly, the Court should approve the proposed Class Notice.

IX. <u>APPOINTMENT OF THE ADMINISTRATOR</u>

The Parties have selected Phoenix Settlement Administrators as the Administrator. Within fourteen (14) calendar days of receipt of the Class Data, the Administrator will perform an NCOA check and will mail the Class Notice to each Class Member and Aggrieved Employee.[68] The Administrator will skip-trace returned Class Notice and re-mail the Class Notice to the new addresses within three (3) business days.[69] In the case of a re-mailed Class Notice, the Response Deadline will be the later of sixty (60) calendar days after initial mailing or

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[64] Settlement Agreement, Exh. A.
[65] Ibid.
[66] Ibid.
[67] Ibid.
[68] *Id.*, ¶ 7.4.2.
[69] *Id.*, ¶ 7.4.3.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

fifteen (15) calendar days from re-mailing.[70] The Administrator will receive and process Request for Exclusion, Objections, and any challenges to Workweeks and/or PAGA Pay Periods.[71] In addition, the Administrator will be responsible for printing, distributing, and tracking Class Notices and other documents for the Settlement; calculating and distributing payments due under the Settlement; issuing of 1099 and W-2 IRS Forms and all required tax reporting, filings, withholdings, and remittances; providing necessary reports and declarations; and other duties and responsibilities to process the Settlement and as requested by the Parties.[72] The Administration Expenses Payment is currently estimated to be $10,000.00 and will be paid out of the Gross Settlement Amount, subject to approval by the Court.[73] Accordingly, Plaintiffs respectfully request that the Court appoint Phoenix Settlement Administrators as the Administrator and direct the mailing of the Class Notice to the Class Members and Aggrieved Employee in the manner outlined and based on the proposed deadlines as described herein and set forth in the Settlement Agreement.

XI. CLASS REPRESENTATIVE SERVICE PAYMENTS

Plaintiffs respectfully request that the Court appoint them as the Class Representatives and preliminarily approve the Class Representative Service Payment in an amount up to $7,500.00 to each plaintiff ($15,000.00).[74] It is within the Court's discretion to award payment to a Class Representative for their efforts and work. *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299. The factors that courts may consider in determining whether to make a Class Representative Service Payment include: (1) the risk to the Class Representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the Class Representative; (3) the amount of time and effort spent by the Class Representative; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the Class Representative as a result of the litigation. *Id*.

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[70] Settlement Agreement, ¶ 7.4.4.
[71] *Id.*, ¶¶ 7.5.1, 7.6, 7.7.2, 7.8.2, & 7.8.4.
[72] *Id.*, ¶ 67.
[73] *Id.*, ¶ 3.2.3.
[74] *Id.*, ¶ 3.2.1.

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450 North Brand Blvd., Suite 900
Glendale, California 91203

The Class Representative Service Payments are fair and appropriate. Plaintiffs spent a substantial amount of time and effort in producing relevant documents and past employment records and providing the facts and evidence necessary to attempt to prove the allegations.[75] Plaintiffs were available whenever Class Counsel needed them and actively tried to obtain and provide information that would facilitate the pursuit of the class and PAGA claims.[76] Accordingly, it is appropriate and just for Plaintiffs each to receive $7,500.00 ($15,000.00 total) for their services on behalf of the Class, Aggrieved Employees, and the State of California, in addition to their Individual Class Payment.

XII. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant Preliminary Approval of the Settlement; conditionally certify the Class for settlement purposes; preliminary appoint and designate Lawyers *for* Justice, PC as Class Counsel; appoint Plaintiffs Brian Estevez and Luis Aguilar as Class Representatives; appoint Phoenix Settlement Administrators as Administrator; preliminarily approve the allocations for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, PAGA Penalties, and Administration Expenses Payment; approve the proposed Class Notice; direct the Administrator to undertake the notice and settlement administration process in conformity with the deadlines and procedures provided by the Settlement Agreement; and to schedule a Final Approval Hearing to take place in approximately six (6) months.

Dated: September 3, 2025

LAWYERS *for* JUSTICE, PC

By: Maria Halwadjian

Brian J. St. John
Maria Halwadjian
Attorneys for Plaintiffs Brian Estevez and Luis Aguilar

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[75] St. John Decl., ¶ 13; Declaration of Brian Estevez in Support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement ("Estevez Decl.") , ¶¶ 3-4 ; & Declaration of Luis Aguilar in Support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement (" Aguilar Decl."), ¶¶ 3-4.

[76] St. John Decl., ¶ 13; Estevez Decl., ¶¶ 3-6; Aguilar Decl., ¶¶ 3-6.

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