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Individually, and on behalf of others similarly situated and
aggrieved employees pursuant to the California
Private Attorneys General Act

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

ELIZABETH CHAVEZ; LEONARD MOORE,
individually and on behalf of others similarly
situated and aggrieved employees pursuant to the
California Private Attorneys General Act,

Plaintiff,

vs.

TRUEPILL, INC., a Delaware corporation; and
DOES 1 through 25, inclusive,

Defendants.

Case No. 23CV047001

Honorable Patrick McKinney
Department 18

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

Reservation ID: 635941558494
Date: December 10, 2025
Time: 1:30 p.m.
Dept.: 18

Complaint Filed: October 10, 2023
FAC Filed: October 20, 2025
Trial Date: Not Set

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE THAT on December 10, 2025 at 1:30 p.m.** in Department 18 of the
3 above-captioned Court located at the Rene C. Davidson Courthouse, 1225 Fallon Street, Oakland
4 California 94612, pursuant to California Code of Civil Procedure section 382 and Rule 3.769 of the
5 California Rules of Court, Plaintiff Leonard Moore (“Plaintiff”) will and hereby does move the Court for
6 an Order granting preliminary approval of the proposed class action and PAGA settlement between
7 Plaintiff and Defendant Truepill, Inc. (“Defendant”).

8 Plaintiff requests that the Court enter an Order:

9 1. Preliminarily approving the Joint Stipulation of Class Action and PAGA Settlement and
10 Release (“Settlement” or “Settlement Agreement”) attached as Exhibit 5 to the Declaration of Alexandra
11 Rose in Support of Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement
12 (“Rose Decl.”);

13 2. Certifying the Class for Settlement purposes;

14 3. Appointing Plaintiff Leonard Moore as the Class Representative for Settlement purposes;

15 4. Appointing Jonathan M. Genish, Miriam L. Schimmel, Joana Fang, Alexandra Rose, and
16 Jared C. Osborne of Blackstone Law, APC as Class Counsel for Settlement purposes;

17 5. Approving the proposed Court Approved Notice of Class Action Settlement and Hearing
18 Date for Final Court Approval (“Class Notice”), attached as Exhibit A to the Settlement Agreement, to
19 be mailed to the Class;

20 6. Approving the opt-out and objection procedures provided in the Settlement Agreement
21 and set forth in the Class Notice;

22 7. For each Class Member, directing Defendant to furnish their full name, last-known
23 mailing address, last known telephone number, Social Security number, and number of Workweeks and
24 PAGA Pay Periods to the Administrator no later than fourteen (14) calendar days after entry of the order
25 granting preliminary approval of the Settlement;

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

27 9. Setting a Final Approval Hearing.

28 ///

1 Pursuant to California Labor Code section 2699(1)(2), on November 14, 2025, a copy of the
2 Settlement was submitted to the California Labor and Workforce Development Agency (“LWDA”) via
3 online submission through the LWDA’s website. (Rose Decl., ¶ 56 and Exh. 6).

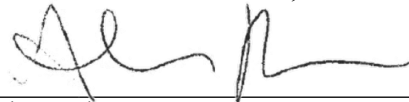
4 This Motion is based upon this Notice, the attached Memorandum of Points and Authorities, the
5 Declaration of Alexandra Rose, the Declaration of Plaintiff Leonard Moore, the Declaration of the
6 Administrator (Lisa Mullins of ILYM Group, Inc.), the pleadings and other records on file with the Court
7 in this matter, and any other further evidence or argument that the Court may properly receive at or before
8 the hearing.

9 Respectfully submitted,

10 Dated: November 14, 2025

BLACKSTONE LAW, APC

11
12 By:



Alexandra Rose
Attorneys for Plaintiff Leonard Moore

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Leonard Moore (“Plaintiff”) seeks preliminary approval of the Joint Stipulation of Class
4 Action and PAGA Settlement and Release (“Settlement” or “Settlement Agreement”) entered into
5 between Plaintiff and Defendant Truepill, Inc. (“Defendant”) (together, with Plaintiff, the “Parties”).
6 (Declaration of Alexandra Rose in Support of Plaintiff’s Motion for Preliminary Approval of Class
7 Action and PAGA Settlement [“Rose Decl.”], Exh. 5). The Settlement terms are outlined as follows:

- 8 • Class Size: Approximately 873 individuals.
- 9 • Gross Settlement Amount: One Million Four Hundred Thousand Dollars and Zero Cents
10 (\$1,400,000.00).
- 11 • Class Counsel Fees Payment: One-third (1/3) of the Gross Settlement Amount (\$466,666.67
12 if the Gross Settlement Amount is \$1,400,000.00), to be paid from the Gross Settlement
13 Amount.
- 14 • Class Counsel Litigation Expenses Payment: Actual litigation costs and expenses not to
15 exceed Thirty Thousand Dollars and Zero Cents (\$30,000.00), to be paid from the Gross
16 Settlement Amount
- 17 • Class Representative Service Payment: Seven Thousand Five Hundred Dollars and Zero
18 Cents (\$7,500.00), to be paid from the Gross Settlement Amount.
- 19 • Administration Expenses Payment: Not to exceed Fifteen Thousand Dollars and Zero Cents
20 (\$15,000.00), to be paid from the Gross Settlement Amount.
- 21 • PAGA Penalties: One Hundred Thousand Dollars and Zero Cents (\$100,000.00) from the
22 Gross Settlement Amount, 75% of which will be paid to the Labor and Workforce
23 Development Agency (“LWDA”) and the remaining 25% to be paid to the Aggrieved
24 Employees.
- 25 • Estimated Net Settlement Amount: Seven Hundred Eighty Thousand Eight Hundred Thirty-
26 Three Dollars and Thirty-Three Cents (\$780,833.33) to be distributed to Participating Class
27 Members.

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1 As set forth herein, the Settlement is the product of informed discovery and arms-length
2 negotiations, and provides a fair, adequate, and reasonable recovery for the Class. Plaintiff therefore
3 respectfully requests that the Court grant preliminarily approval of the Settlement, conditionally certify
4 the Class, approve the proposed Court Approved Notice of Class Action Settlement and Hearing Date for
5 Final Court Approval (“Class Notice”), and set a hearing date for final settlement approval, among other
6 requested relief.

7 **II. FACTUAL AND PROCEDURAL BACKGROUND**

8 Defendant operates a nationwide network of mail order and specialty pharmacies. Plaintiff was
9 employed by Defendant as an hourly-paid, non-exempt Technician from approximately January 2022 to
10 approximately January 2023. (Declaration of Plaintiff Leonard Moore in Support of Motion for
11 Preliminary Approval of Class Action and PAGA Settlement [“Moore Decl.”], ¶ 2).

12 On September 8, 2023, former plaintiff Elizabeth Chavez (“Former Plaintiff”) provided written
13 notice to the LWDA by online submission and to Defendant by U.S. Certified Mail, pursuant to California
14 Labor Code Section 2699.3, of the specified provisions of the California Labor Code alleged to have
15 been violated by Defendant. (Rose Decl., ¶ 9 and Exh. 2).

16 On October 10, 2023, Former Plaintiff filed a Class Action Complaint for Damages against
17 Defendant and former defendant Beacon Hill Staffing Group LLC in the action entitled *Elizabeth Chavez*
18 *v. Beacon Hill Staffing Group LLC, et al.*, Alameda County Superior Court, Case No. 23CV047001
19 (“Action”). (*Id.*, ¶ 10).

20 On November 14, 2023, Former Plaintiff filed a Complaint for Enforcement Action Under the
21 Private Attorneys General Act, Cal. Labor Code 2698 *Et Seq.* against Defendant and former defendant
22 Beacon Hill Staffing Group LLC in the action entitled *Elizabeth Chavez s. Beacon Hill Staffing Group*
23 *LLC, et al.*, Alameda County Superior Court, Case No. 23CV051247 (“Chavez PAGA Action”) alleging
24 one cause of action under the California Labor Code Private Attorney General Act of 2004 (“PAGA”).
25 (*Id.*, ¶ 11).

26 On December 18, 2023, former defendant Beacon Hill Staffing Group LLC propounded written
27 formal discovery onto Former Plaintiff (specifically, Special Interrogatories (Set One) and Request for
28 Production of Documents (Set One)) in the Action. (*Id.*, ¶ 12).

1 On January 25, 2024, Plaintiff provided written notice to the LWDA by online submission and to
2 Defendant by U.S. Certified Mail, pursuant to California Labor Code Section 2699.3, of the specific
3 provisions of the California Labor Code alleged to have been violated by Defendant. (Rose Decl., ¶ 13
4 and Exh. 3).

5 On January 30, 2024, former defendant Beacon Hill Staffing Group LLC propounded written
6 formal discovery onto Former Plaintiff (specifically, Special Interrogatories (Set One) and Request for
7 Production of Documents (Set One)) in the Chavez PAGA Action. (*Id.*, ¶ 14).

8 On March 12, 2024, pursuant to the request of Former Plaintiff, former defendant Beacon Hill
9 Staffing Group LLC was dismissed from the Chavez PAGA Action without prejudice. (*Id.*, ¶ 15).

10 On March 20, 2024, pursuant to the request of Former Plaintiff, former defendant Beacon Hill
11 Staffing Group LLC was dismissed from the Action without prejudice. (*Id.*, ¶ 16).

12 On April 3, 2024, Plaintiff filed a Complaint for Enforcement Action Under the Private Attorneys
13 General Act, Cal. Labor Code §§ 2698 *Et Seq.* against Defendant in the action entitled *Leonard Moore*
14 *v. Truepill, Inc.*, Alameda County Superior Court, Case No. 24CV070208 (“Moore PAGA Action”)
15 alleging one cause of action under PAGA. (*Id.*, ¶ 17).

16 On November 11, 2024, the Parties participated in a formal mediation conducted by Steven J.
17 Rottman, Esq. (“Mediator”), a neutral and respected mediator with extensive experience in complex wage
18 and hour matters, and with the assistance of the Mediator’s evaluations, the Parties were able to reach an
19 agreement to resolve the Action, Chavez PAGA Action, and Moore PAGA Action on a class and
20 representative basis. (*Id.*, ¶ 18). The Parties then worked diligently to negotiate and memorialize the
21 terms in a long form settlement agreement. (*Ibid.*).

22 On September 30, 2025, Plaintiff provided an amended written notice to the LWDA by online
23 submission and to Defendant by U.S. Certified Mail, pursuant to California Labor Code Section 2699.3,
24 of the specific provisions of the California Labor Code alleged to have been violated by Defendant. (*Id.*,
25 ¶ 19 and Exh. 4).

26 On October 20, 2025, Plaintiff filed a First Amended Class and Representative Action Complaint
27 (“Operative Complaint”) in the Action, which substituted Plaintiff as the named plaintiff in place of
28 Former Plaintiff, and added a cause of action under PAGA with the applicable period dating back to

Former Plaintiff's PAGA claims. (*Id.*, ¶ 20). The Operative Complaint alleges ten (10) causes of action for violations of the California Labor Code for failure to pay minimum wages, failure to pay overtime wages, failure to provide compliant meal periods and premium payments in lieu thereof, failure to provide compliant rest periods and premiums payments in lieu thereof, failure to timely pay wages during employment, failure to provide accurate wage statements, failure to timely pay wages upon termination, and failure to reimburse necessary business expenses, for violations of California Business & Professions Code Section 17200, *et seq.* based on the aforementioned California Labor Code violations, and for civil penalties under PAGA based on the aforementioned California Labor Code violations. (*Ibid.*).

On October 21, 2025, pursuant to the request of Former Plaintiff, the Chavez PAGA Action was dismissed without prejudice. (*Id.*, ¶ 21).

On October 21, 2025, pursuant to the request of Plaintiff, the Moore PAGA Action was dismissed without prejudice. (*Id.*, ¶ 22).

On October 22, 2025, pursuant to the request of Former Plaintiff, Former Plaintiff's individual claims were dismissed from the Action without prejudice. (*Id.*, ¶ 23).

On November 10, 2025, the Parties executed the Settlement Agreement. (*Id.*, ¶ 24 and Exh. 5).

III. THE SETTLEMENT TERMS

A. Class Definition

For purposes of settlement only, the Parties have agreed that the Class shall be defined as "all non-exempt, hourly-paid employees who worked for Defendant in California during the Class Period" ("Class" or Class Member(s)). (Rose Decl., ¶ 25; Settlement Agreement, ¶ 1.6). The Class Period is defined as the period from October 10, 2019 through March 1, 2025. (Rose Decl., ¶ 25; Settlement Agreement, ¶ 1.12). Based on information provided by Defendant, it is estimated that there are a total of approximately eight hundred and seventy-three (873) Class Members. (Rose Decl., ¶ 25).

B. Amount of Settlement

The Parties have agreed to settle the class and PAGA claims at issue in the Operative Complaint for a non-reversionary Gross Settlement Amount of One Million Four Hundred Thousand Dollars and Zero Cents (\$1,400,000.00), exclusive of employer-side payroll taxes. (Rose Decl., ¶ 26; Settlement Agreement, ¶ 1.21).

1 **C. Allocation and Funding of the Gross Settlement Amount**

2 The Gross Settlement Amount is a common fund and therefore includes all requested costs, fees,
3 and other allocations. (Rose Decl., ¶ 26; Settlement Agreement, ¶ 1.21). The Gross Settlement Amount
4 includes: (1) Class Counsel’s fees in the amount of one-third (1/3) of the Gross Settlement Amount (i.e.,
5 \$466,666.67 if the Gross Settlement Amount is \$1,400,000.00); (2) Class Counsel’s actual litigation costs
6 and expenses, not to exceed Thirty Thousand Dollars and Zero Cents (\$30,000.00); (3) Administration
7 Expenses Payment, not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00); (4) Class
8 Representative Service Payment in the amount of Seven Thousand Five Hundred Dollars and Zero Cents
9 (\$7,500.00); and (5) PAGA Penalties in the amount of One Hundred Thousand Dollars and Zero Cents
10 (\$100,000.00). (Rose Decl., ¶ 26; Settlement Agreement, ¶¶ 1.21, 3.1, 3.2.1–3.2.3, and 3.2.4.3). After
11 the above-estimated amounts are deducted from the Gross Settlement Amount, the Net Settlement
12 Amount that will be available for Class Members is currently estimated to be Seven Hundred Eighty
13 Thousand Eight Hundred Thirty-Three Dollars and Thirty-Three Cents (\$780,833.33). (Rose Decl., ¶
14 26). Additionally, 25% of the PAGA Penalties, which is \$25,000.00 out of \$100,000.00, will be fully
15 distributed to “all non-exempt, hourly-paid employees who worked for Defendant in California during
16 the PAGA Period” (“Aggrieved Employee(s)”). (Rose Decl., ¶ 26; Settlement Agreement, ¶¶ 1.5 and
17 3.2.4.3). The “PAGA Period” is defined as the period from September 8, 2022 through March 1, 2025.
18 (Rose Decl., ¶ 26; Settlement Agreement, ¶ 1.29).

19 The Net Settlement Amount will be distributed and paid to all Class Members who do not submit
20 a valid and timely Request for Exclusion (“Participating Class Member(s)”) on a *pro rata* basis based on
21 the number of weeks during which a Class Member performed work for Defendant for at least one shift
22 during the Class Period (“Workweeks”). (Rose Decl., ¶ 27; Settlement Agreement, ¶¶ 1.33 and 1.42).
23 Each Class Member’s *pro rata* share of the Net Settlement Amount (“Individual Class Payment”) will be
24 calculated by the Administrator, in accordance with the Settlement Agreement. (Rose Decl., ¶ 27;
25 Settlement Agreement, ¶¶ 1.22 and 3.2.4).

26 Twenty-five percent (25%) of the PAGA Penalties will be distributed and paid to all Aggrieved
27 Employees on a *pro rata* basis based the number of pay periods during which an Aggrieved Employee
28 performed work for Defendant for at least one shift during the PAGA Period (“PAGA Pay Periods”).

(Rose Decl., ¶ 28; Settlement Agreement, ¶¶ 1.28 and 3.2.4.4). Each Aggrieved Employee's *pro rata* share of twenty-five percent (25%) of the PAGA Penalties ("Individual PAGA Payment") will be calculated by the Administrator, in accordance with the Settlement Agreement. (Rose Decl., ¶ 28; Settlement Agreement, ¶¶ 1.23 and 3.2.4.4).

Each Individual Class Payment will be allocated as ten percent (10%) wages (the "Wage Portion(s)") and ninety percent (90%) interest and penalties (the "Non-Wage Portion(s)"). (Rose Decl., ¶ 29; Settlement Agreement, ¶ 3.2.4.1). The Wage Portions will be reported on an IRS Form W-2 and the Non-Wage Portions will be reported on an IRS Form 1099 (if applicable) by the Administrator. (Rose Decl., ¶ 29; Settlement Agreement, ¶ 3.2.4.1). 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 net payment of their Individual Class Payment. (Rose Decl., ¶ 29; Settlement Agreement, ¶¶ 3.2.4.1). The employer's share of taxes and contributions in connection with the Wage Portion of Individual Class Payments will be paid by Defendant separately and in addition to the Gross Settlement Amount. (Rose Decl., ¶ 29; Settlement Agreement, ¶ 3.1). Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties and will be reported on an IRS Form 1099 (if applicable) by the Administrator. (Rose Decl., ¶ 29; Settlement Agreement, ¶¶ 3.2.4.4 and 3.2.4.5).

The Settlement Agreement is a non-reversionary and non-claims made settlement. (Rose Decl., ¶ 30; Settlement Agreement, ¶ 3.1). The Net Settlement Amount will be fully distributed to Participating Class Members and the PAGA Penalties will be fully distributed to the LWDA and Aggrieved Employees, in accordance with the Settlement Agreement. (Rose Decl., ¶ 30; Settlement Agreement, ¶¶ 3.2.4 and 3.2.4.3). No money will revert to Defendant. (Rose Decl., ¶ 30; Settlement Agreement, ¶ 3.1).

Each Individual Class Payment and Individual PAGA Payment check will be valid and negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and thereafter, shall be canceled. (Rose Decl., ¶ 31; Settlement Agreement, ¶ 4.4.1). Any funds associated with such canceled checks will be distributed by the Administrator to East Bay Community Law Center consistent with Code of Civil Procedure section 384, subdivision (b). (Rose Decl., ¶ 31; Settlement Agreement, ¶ 4.4.3). The Parties and their counsel each represent that they have no interest or relationship, financial or otherwise,

1 with the intended *cy pres*. (Rose Decl., ¶ 31; Settlement Agreement, ¶ 4.4.3).

2 **D. Released Claims**

3 As of the full funding of the Gross Settlement Amount and Effective Date, Participating Class
4 Members, on behalf of themselves and their respective former and present representatives, agents,
5 attorneys, heirs, administrators, successors, and assigns, release the Released Parties from all claims that
6 were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint,
7 arising during the Class Period, including any and all claims that Defendant failed to pay all wages due,
8 including minimum wages and overtime, including, but not limited to, at the regular rate or wages owed
9 from rounding; failed to provide meal and rest periods; failed to pay meal and rest period premiums,
10 including at the regular rate of pay; failed to furnish accurate itemized wage statements; failed to timely
11 pay all wages due during employment and upon termination; and failed to reimburse necessary business
12 expenses (collectively, “Released Class Claims”). (Settlement Agreement, ¶¶ 5.1 and 5.2). The Released
13 Class Claims include claims for statutory penalties, attorneys’ fees and costs, statutory interest, or other
14 relief in connection therewith brought under California Labor Code sections 201, 202, 203, 204, 210,
15 226(a), 226.7, 246, 510, 512, 1194, 1197, 1197.1, 1198, 2800, and 2802, California Business and
16 Professions Code sections 17200, *et seq.*, and the applicable Industrial Welfare Commission Wage
17 Orders. (*Id.*, ¶ 5.2). Except for the Released PAGA Claims, Participating Class Members do not release
18 any other claims, including claims for vested benefits, wrongful termination, violation of the Fair and
19 Employment and Housing Act, unemployment insurance, disability, social security, workers’
20 compensation, or claims based on facts occurring outside the Class Period. (*Ibid*).

21 As of the full funding of the Gross Settlement Amount and Effective Date, the State of California
22 with respect to the Aggrieved Employees is deemed to release the Released Parties from all claims for
23 PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the
24 PAGA Notice, arising during the PAGA Period, including any and all claims that Defendant failed to pay
25 all wages due, including minimum wages and overtime, including, but not limited to, at the regular rate
26 or wages owed from rounding; failed to provide meal and rest periods; failed to pay meal and rest period
27 premiums, including at the regular rate of pay; failed to furnish accurate itemized wage statements; failed
28 to keep accurate records; failed to timely pay all wages due during employment and upon termination;

1 and failed to reimburse necessary business expenses. (*Id.*, ¶ 5.3). The Released PAGA Claims include
2 claims for civil penalties under PAGA for violations of California Labor Code sections 201, 202, 203,
3 204, 210, 226(a), 226.7, 246, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2698 *et seq.*, 2800, and
4 2802, and the applicable Industrial Welfare Commission Wage Orders. (*Ibid.*).

5 “Released Parties” means Defendant and each of its and their former and present directors,
6 officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns, parents,
7 subsidiaries, affiliated companies or entities, and their exempt employees, partners, and agents. (*Id.*, ¶
8 1.39).

9 IV. STANDARD OF REVIEW FOR PRELIMINARY APPROVAL

10 The settlement of a class action requires court approval. (*See Dunk v. Ford Motor Co.*, 48 Cal.
11 App. 4th 1794 (1996)). “In general, questions whether a settlement was fair and reasonable, whether
12 notice to the class was adequate, whether certification of the class was proper, and whether the attorney
13 fee award was proper are matters addressed to the trial court’s broad discretion.” (*Wershba v. Apple*
14 *Computer, Inc.*, 91 Cal.App.4th 224, 234-35 (2001) (disapproved on other grounds)).

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

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

1 *Cases*, 135 Cal. App. 4th 706, 723 (2006)).

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

9 **V. THE SETTLEMENT IS PRESUMED FAIR**

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

11 California courts recognize that “a presumption of fairness exists where . . . [a] settlement is
12 reached through arm's-length bargaining.” (*Wershba*, 91 Cal.App.4th at 245; *see also Clark v. Am.*
13 *Residential Servs. LLC*, 175 Cal.App.4th 785, 799 (2009)). Here, the Parties' settlement negotiations
14 were at all times made at arm's-length and were adversarial. (Rose Decl., ¶ 32). The Settlement was
15 reached following a full day of mediation with a highly respected mediator with substantial experience
16 mediating wage and hour cases. (*Ibid*). At all times, Plaintiff was willing and prepared to litigate this
17 matter through class certification and trial if the Parties had been unable to reach a favorable resolution.
18 (*Id.*, ¶ 53).

19 **B. Sufficient Investigation and Discovery by Experienced Class Counsel**

20 Courts typically assess the status of discovery in determining whether a class action settlement
21 agreement is fair, reasonable, and adequate. (*Dunk*, 48 Cal.App.4th at 1801). Prior to mediation,
22 Defendant produced a random sampling of putative class members' pay records and time data as well as
23 Defendant's relevant wage and hour policies, and information regarding the total number of putative class
24 members, the number of current versus former employees, the total workweeks worked by the putative
25 class members, and the average rate of pay for the putative class members. (Rose Decl., ¶ 33).

26 This allowed Class Counsel to conduct an informed assessment and analysis of the strengths and
27 weaknesses of the claims and the potential class-wide damages. (*Id.*, ¶ 34). Based on information
28 exchanged, the Parties extensively briefed issues regarding class certification and liability and provided

1 their analyses to the Mediator who helped the Parties debate the strengths and weakness of their respective
2 positions. (*Id.*, ¶ 35). Additionally, settlement negotiations were conducted by highly capable and
3 experienced counsel. (Rose Decl., ¶¶ 1-8). Accordingly, Class Counsel had sufficient information and
4 experience to act intelligently in negotiating the Settlement.

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

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

15 Here, the reasonableness of the Settlement is underscored by the fact that Defendant has legal and
16 factual grounds for defending the Action. Based upon Class Counsel’s experience litigating similar
17 complex matters, Plaintiff reasonably expected a vigorous and lengthy defense to both class certification
18 and the merits of the Action absent a settlement.

19 **1. Class Counsel’s Analysis of the Maximum Available Liability and Damages**

20 Class Counsel analyzed all available data and estimated Defendant’s maximum potential exposure
21 to be approximately \$14,908,522, assuming the litigation was successful at trial on all claims at issue and
22 every employee had a violation for each claim on every shift worked. (Rose Decl., ¶ 36). This maximum
23 potential analysis was then reduced based on the challenges facing the likelihood of obtaining class
24 certification, prevailing at trial, and other attendant risks. (*Ibid*). This estimate is based off an estimated
25 maximum liability for all claims at issue and the total aggregate workweeks during the relevant time
26 period, less interest, and based on the analysis of the data which was extrapolated out for all class
27 members across the entire putative class period, which included: \$318,561 for meal period violations
28 (less meal period premiums paid); \$7,177,436 for rest period violations at a 100% violation rate;

1 \$1,673,402 for unpaid off-the-clock work for 1 hour per workweek of off-the-clock work; \$3,600 for
2 unpaid overtime wages at the required regular rate of pay; \$6,181 for unpaid meal break premiums and
3 sick pay at the required regular rate of pay; \$458,730 for unreimbursed business expenses; \$3,970,612
4 for waiting time penalties; and \$1,300,000 for wage statement penalties. (Ibid). Plaintiff further
5 estimated that Defendant faced an additional exposure of \$1,945,900 in potential, non-stacked (i.e., one
6 penalty, per employee, per pay period during the PAGA statutory period) PAGA penalties. (Ibid).
7 Together with the PAGA penalties, Defendant's maximum potential exposure totaled \$16,854,422 in
8 damages. (Ibid).

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

10 While Plaintiff believes that Defendant faced significant exposure, substantial barriers to a
11 recovery existed. Defendant contended that Plaintiff's claims are not suitable for class certification
12 because individual issues and affirmative defenses would predominate should this case go to trial. (Rose
13 Decl., ¶ 39; *See Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012); *Duran v. U.S. Bank*
14 *Nat. Assn.*, 59 Cal.4th 1, 35-36 (2014); *Wal-Mart Stores, Inc. v. Dukes*, 131 S.Ct. 2541, 2551 (2011)).
15 While Plaintiff and Class Counsel disagree with Defendant's predictions, they also recognize that there
16 is a significant risk that the Court may deny class certification. (Rose Decl., ¶ 39; *see also, Findings of*
17 *the Study of California Class Action Litigation*, 2000-2006, available at
18 <http://www.courts.ca.gov/documents/class-action-lit-study.pdf> (finding that only 21.4% of all class
19 actions were certified either as part of a settlement or as part of a contested certification motion)).

20 For example, Plaintiff's meal period claims, which were based on Defendant's alleged failure to
21 provide lawful meal periods, have been increasingly difficult to certify in recent years. (Rose Decl., ¶
22 40; *See Brinker*, 53 Cal. 4th at 1034-35). Plaintiff's theory of liability for meal period violations was
23 based on allegations that Defendant had failed to implement its policies and that its practices failed to
24 allow Class Members to take meal breaks in the manner required under California law. (Rose Decl., ¶
25 40; *See Bradley v. Networkers Int'l, LLC*, 211 Cal.App.4th 1129, 1150 (2012) (holding that "the lack of
26 a meal/rest break policy and the uniform failure to authorize such breaks are matters of common proof.")).
27 Defendant contended that its policies and practices at all times during the Class Period were lawful. (Rose
28 Decl., ¶ 40). Defendant also contended that many of its employees who frequently worked shifts that did

1 not exceed six hours in length had signed lawful meal period waivers, thereby reducing the alleged
2 violation rate. (Ibid). Indeed, Plaintiff's analysis revealed only a 0.4% violation rate for purported unique
3 meal period violations after offsetting meal period premiums paid and taking into consideration valid and
4 enforceable meal break waivers. (Ibid). Defendant further argued that the rate of purported meal period
5 violations reflected in the data would require individualized inquiry and that such inquiry would prohibit
6 a class from being certified. (Ibid). Class Counsel also had to consider the risk that the Court would find
7 validity in an individualized proof defense to certification of Plaintiff's meal period claim. (Ibid).

8 Additionally, a large portion of Defendant's overall liability lies in Plaintiff's rest period
9 allegations. (*Id.*, ¶ 41). As with the meal period allegations, Defendant contended that it had a lawful
10 written rest period policy, provided compliant rest breaks, and relieved Class Members of all duties as
11 required under California law. (Ibid). Additionally, this claim was even more uncertain given the
12 difficulties associated with proving the alleged rest period violations, as Defendant was not required to
13 record these breaks. (Ibid). Given the lack of records demonstrating rest period violations, there were
14 legitimate concerns Plaintiff would not be able to certify these claims or prove substantial damages with
15 requisite certainty, which made the estimated value of this claim subject to much challenge. (Ibid).

16 Plaintiff also faced challenges certifying and proving liability for his minimum wage and overtime
17 claims. (*Id.*, ¶ 42). These claims were largely based on Defendant's unrecorded, off-the-clock work
18 performed by the Class Members both before and after their shifts and during purported meal periods.
19 (Ibid). However, the individualized nature of why this work was performed and the individualized nature
20 of damages presented substantial concerns regarding the manageability of the case and the risk the Court
21 could find these issues prevented certification, and the estimated damages for this claim were based on
22 an assumption that all Class Members worked off the clock for at least one hour per week. (Ibid).
23 Plaintiff's unpaid wage claim was also based on Defendant having failed to factor all forms of non-
24 discretionary compensation into the regular rate of pay for the purpose of paying overtime compensation,
25 meal period premiums, and sick pay. (Ibid). However, Defendant contended that it correctly factored in
26 all forms of non-discretionary compensation into the regular rate of pay. (Ibid).

27 ///

28 ///

1 Plaintiff also contended that Defendant failed to reimburse Plaintiff and the other Class Members
2 for necessary business-related expenses, such as the usage of personal cell phones for work-related
3 purposes. (*Id.*, ¶ 43). Defendant contended that it had a policy and practice of reimbursing employees
4 for necessary business-related expenses. (*Ibid*). Defendant further contended that, with respect to the
5 alleged expenses for which Plaintiff and the other Class Members never requested reimbursement from
6 Defendant, it did not know and had no reason to know that alleged business-related expenses had been
7 incurred. (*Ibid*). Defendant further contended that the reason for why a Class Member undertook certain
8 expenses, while not others, and failed to receive reimbursement for certain expenses while not others,
9 would raise individual issues that could not be certified. (*Ibid*).

10 There are also substantial risks associated with Plaintiff's waiting time penalties and wage
11 statement claims. (*Id.*, ¶ 44). First, these claims were derivative of Plaintiff's claims for unpaid meal
12 period premiums, unpaid rest period premiums, unpaid minimum wages, and unpaid overtime wages,
13 and if certification was denied on those underlying claims, these derivative claims for penalties would
14 also likely fail. (*Ibid*). Further, even if Plaintiff prevailed on his underlying claims, he would still be
15 required to demonstrate that Defendant's violations of California Labor Code section 203 were *willful*
16 violations. (Rose Decl., ¶ 44; *See, e.g., Choate v. Celite Corp.*, 215 Cal App. 4th 1460, 1468 (2013)
17 (holding that "an employer's reasonable, good faith belief that wages are not owed may negate a finding
18 of willfulness")). Wage statement claims have also seen varying treatment at the appellate level because
19 such claims have an element of discretion attached to them rather than a pure calculation of damages after
20 liability is proven. (Rose Decl. ¶ 44; *Jaimez v. DAIOHS USA, Inc.*, 181 Cal.App.4th 1286 (2010) *with*
21 *Price v. Starbucks Corp.*, 192 Cal.App.4th 1136 (2011)). Accordingly, these derivative claims, which
22 comprised a substantial portion of Defendant's estimated liability, were therefore uncertain. (Rose Decl.,
23 ¶ 44).

24 Class Counsel also recognized that, even if Plaintiff prevailed at class certification, proving the
25 amount of wages due to Class Members would be an expensive, time-consuming, and uncertain
26 proposition. (*Id.*, ¶ 45). In order to prove liability and damages, Class Counsel will need to request and
27 analyze thousands of pages of documents, obtain the Class Members' contact information, contact them,
28 and obtain their declarations at great expense. (*Ibid*). Obtaining the cooperation of current employees

1 would also be difficult, given the likely reluctance to aid prosecution of a lawsuit against a current
2 employer. (Ibid). On the other hand, Defendant would likely be able to obtain the cooperation of its
3 employees. (Ibid). Moreover, even if Plaintiff prevailed at class certification and trial, possible appeals
4 would substantially delay any recovery by the Class. (Ibid).

5 Therefore, taking into account how each of the above risks potentially effected Plaintiff's ability
6 to first obtain class certification, and then prove the underlying violations, plus the cost and delay in
7 recovering the alleged potential damages, Class Counsel discounted Defendant's estimated liability based
8 on the challenges facing his ability to succeed on class certification by 70% to \$5,056,327. (*Id.*, ¶ 46).
9 The merits-based risk factors further reduced Defendant's estimated liability by an additional 70%.
10 (Ibid). This resulted in an adjusted estimated liability of \$1,516,898. (Ibid). In light thereof, the
11 settlement amount of \$1,400,000 is a significant settlement. (Ibid).

12 Class Counsel also contemplated the risks of proceeding with the PAGA claims and potential
13 liability Defendant could face from these claims as part of the global resolution. (*Id.*, ¶ 47). Existing
14 case law makes PAGA claims subject to the same defenses and risks as Plaintiff's underlying wage
15 claims. (Rose Decl., ¶ 47; see, *Elliot v. Spherion Pac. Work, LLC*, 572 F.Supp.2d 1169, 1181-82 (C.D.
16 Cal. 2008) ("Plaintiff's claim under [PAGA] is wholly dependent upon her other claims. Because all of
17 Plaintiff's other claims fail as a matter of law, so does her PAGA claim")). Class Counsel also anticipated
18 that even if successful on the merits at trial, the imposition of cumulative civil penalties based on the
19 alleged wage and hour violations could be considered unjust, arbitrary and oppressive, or confiscatory,
20 and that Defendant would argue that it made a good faith attempt to comply with its legal obligations
21 warranting a reduction in penalties. (Rose Decl., ¶ 47).¹ Class Counsel also anticipated Defendant would
22 argue that the violations per pay period were low, warranting an additional reduction in civil penalties.

23
24 ¹ See, e.g., *Thurman v. Bayshore Transit Management, Inc.*, 203 Cal.App.4th 1112, 1131 (2012) (imposition of both statutory
25 and civil penalties for same conduct is impermissible double recovery) (disapproved on other grounds); *Aguirre v. Genesis*
26 *Logistics*, 2013 WL 10936035, at *3 (C.D. Cal. 2013) ("duplicative effect" of penalties is a factor in favor of "reducing ...the
27 PAGA penalty"); *Smith v. Lux Retail North America, Inc.*, 2013 WL 2932243, at *3 (N.D. Cal. June 13, 2013) (declining to
28 stack penalties based on the same conduct); *Castillo v. ADT, LLC*, 2017 WL 363108, at *4 (E.D. Cal. Jan. 25, 2017); *Sanchez*
v. McDonalds Restaurants of California, Inc., 2017 WL 4620746 (LA Super. Ct. July 6, 2017) (declining to stack penalties
arising out of the same conduct); *Fleming v. Covidien, Inc.*, 2011 WL 756304718, at *4 (C.D. Cal. Aug. 12, 2011) (reducing
PAGA penalties by 80%); *Cotter v. Lyft, Inc.*, 193 F.Supp.3d 1030 (N.D. Cal. 2016) (indicating that a substantial reduction is
warranted where good faith dispute exists in legal obligations); *Carrington v. Starbucks Corp.*, 30 Cal.App.5th 504, 529 (2018)
(approving reduction in penalties from \$50 per pay period to \$5 per pay period based on good faith attempts to comply with
obligations and minimal violations).

(Ibid). Finally, Class Counsel was also mindful of the fact that PAGA is fundamentally not intended to be compensatory in nature but is instead intended to facilitate enforcement of California's labor laws by financing state activities and educating and deterring non-compliance. (Ibid).

Therefore, after considering this multitude of factors, Plaintiff and Class Counsel concluded that it was in the best interest of the State of California and the Aggrieved Employees to enter into the Settlement, and to allocate One Hundred Thousand Dollars and Zero Cents (\$100,000.00) of the Gross Settlement Amount towards the PAGA claims, which represents approximately 7.14% of the Gross Settlement Amount. (*Id.*, ¶ 48). This percentage of the settlement is well within the range of wage and hour settlements regularly approved in both state and federal court for cases that include both a class and PAGA action. (Ibid). Typically, such hybrid cases allocate only 1% of the gross settlement value to resolve PAGA claims, and, indeed, settlements allocations as little as 0.22% of the gross settlement amount have been approved as reasonable by courts. (Ibid). Moreover, the overall relief obtained by the Settlement is significant, not only from a monetary perspective, but also because it fulfills the public policy objectives of PAGA—to promote enforcement of California's labor laws, provide funds to the state, and deter future non-compliance by the employer. (Ibid).

The Settlement is in the best interest of the Class Members, the Aggrieved Employees, and the State of California and is within the accepted range of recoveries for this type of litigation given the inherent risk of litigation, the risk of obtaining and maintaining class certification, and the costs of further litigation. (*Id.*, ¶ 49).

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). Plaintiff contends that the Action, which is based upon Defendant's wage and hour policies and practices, satisfies the class certification requirements under California Code of Civil Procedure section 382. Defendant denies Plaintiff's allegations, but for purposes of the Settlement only, Defendant has stipulated to certification of the Class.

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

3 Whether an ascertainable class exists turns on three factors: (1) the class definition, (2) the size of
4 the class, and (3) the means of identifying the class members. (*See Miller v. Woods*, 148 Cal.App.3d 862,
5 873 (1983)). In this case, all three considerations strongly favor class certification. Here, the Class is
6 defined as “all non-exempt, hourly-paid employees who worked for Defendant in California during the
7 Class Period.” (Rose Decl., ¶ 25; Settlement Agreement, ¶ 1.6). This provides a clear and definite scope
8 for the proposed class.

9 Next, the Class is sufficiently numerous. There is no magic number that satisfies the numerosity
10 requirement. Courts have certified classes with as few as ten or twenty-eight class members. (*Rose v.*
11 *City of Hayward*, 126 Cal.App.3d 926, 934 (1981); *Bowles v. Superior Court*, 44 Cal. 2d 574 (1995);
12 *Hebbard v. Colgrove*, 28 Cal.App.3d 1017, 1030 (1972)). Here, the estimated Class size of
13 approximately eight hundred and seventy-three (873) individuals meets the numerosity requirement.

14 Finally, the question of whether class members are easily identifiable turns on whether a plaintiff
15 can establish “the existence of an ascertainable class.” (*Daar v. Yellow Cab Co.*, 67 Cal.2d 695 at 706
16 (1967)). The existence of an ascertainable class in this case can be established through Defendant’s
17 payroll records, and the Class definition is sufficiently specific to enable the Parties, Class Members, and
18 the Court to determine the parameters of the Class. (*See Clothesrigger, Inc. v. GTE Corp.*, 191
19 Cal.App.3d 605, 617 (1987)).

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

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

25 The commonality criterion requires the existence of common question of law or fact and is
26 generally established with the issues of predominance and typicality. (*See Daar*, 67 Cal.2d 695, 706).
27 What is required is that a common question of fact or law exists which predominates over issues unique
28 to individual plaintiffs. The existence of individual issues or facts—generally present in any case arising

1 from employment—is not a bar to class certification as long as they do not render class litigation
2 unmanageable or predominate over the common issues. (*See B.W.I. Custom Kitchen v. Owens-Illinois,*
3 *Inc.*, 191 Cal.App.3d 1341, 1354 (1987)).

4 Here, Plaintiff’s claims present common issues of law and fact that predominate and warrant class
5 certification. Plaintiff alleges that Defendant denied compliant meal and rest periods to employees,
6 required employees to perform work off-the-clock, and failed to fully compensate employees for all time
7 actually worked. These policies and practices meant that Defendant allegedly failed to pay minimum and
8 overtime wages, and other related claims. Plaintiff alleges that Defendant’s policies and practices were
9 uniform as to all Class Members. Thus, class treatment is appropriate.

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

17 Here, Plaintiff alleges that his claims are similar to that of the other Class Members and that
18 Plaintiff’s claims arise out of the same alleged course of conduct giving rise to the claims of the other
19 Class Members. Because Plaintiff’s claims are based upon the same alleged conduct and business
20 practices as those of Class Members, the typicality requirement has been satisfied.

21 Finally, the question of adequacy of representation “depends on whether the plaintiff’s attorney
22 is qualified to conduct the proposed litigation and the plaintiff’s interests are not antagonistic to the
23 interests of the class.” (*McGee v. Bank of America*, 60 Cal.App.3d 442, 450 (1976)). Here, these
24 considerations are satisfied. Class Counsel is well-regarded and is qualified and experienced in
25 employment-related, class-action litigation. (Rose Decl., ¶¶ 1-8). Plaintiff will vigorously, adequately,
26 and fairly represent the interests of the Class. Plaintiff has, at all times, throughout the course of the
27 litigation considered the interests of the Class and understood that he must take steps to adequately
28 represent the Class and their interests. (Moore Decl., ¶ 10). Because Plaintiff’s claims are typical of

1 other Class Members and are not based on unique circumstances, there is no antagonism between the
2 interests of Plaintiff and the Class.

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

4 Under the circumstances, proceeding as a class action is a superior means of resolving this dispute,
5 as the Class Members and the Court will derive substantial benefits. Class certification would serve as
6 the only means to deter and redress the alleged violations. (*See Linder v. Thrifty Oil Co.*, 23 Cal.4th 429,
7 434 (2000) (relevant considerations include the probability that each class member will come forward to
8 prove his or her separate claim and whether the class approach would actually serve to deter and redress
9 the alleged wrongdoing)). Further, individual actions arising out of the same operative facts would
10 unduly burden the courts and could result in inconsistent results. Therefore, class action proceedings are
11 superior to individual litigation.

12 **VII. THE REQUESTED CLASS REPRESENTATIVE SERVICE PAYMENT IS** 13 **REASONABLE**

14 Plaintiffs in class action lawsuits are eligible for reasonable incentive payments as compensation
15 “for the expense or risk they have incurred in conferring a benefit on other members of the class.” (*Munoz*
16 *v. BCI Coca-Cola Bottling Co.*, 186 Cal.App.4th 399, 412 (2010)). Courts routinely grant approval of
17 class action settlement agreements containing enhancements for the class representative, which are
18 necessary to provide incentive to represent the class and are appropriate given the benefit the class
19 representatives help to bring about for the class. (*See In re Online DVD Rental*, 779 F.3d 934, 947-948
20 (9th Cir. 2014) (approving incentive award 417 times larger than individual payments where incentive
21 award made up a mere .17% of the settlement); *Gaudin v. Saxon Mortgage Servs., Inc.*, 2015 WL
22 7454183, at *10 (N.D. Cal. Nov. 23, 2015) (finding service award of \$15,000 to be “fair and
23 reasonable”)).

24 Plaintiff substituted into this litigation to pursue the Action on behalf of his former co-workers
25 who will now be entitled to receive payment from the Settlement. Plaintiff invested substantial time and
26 effort into litigation, including his own research, reviewing documents, and extensive discussions with
27 Class Counsel. (Moore Decl., ¶¶ 3-5). Further, the requested amount for Plaintiff is also reasonable
28 given the average award and the benefit gained by other Class Members. For these reasons, Plaintiff

requests that a Class Representative Service Payment of Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) to Plaintiff be preliminarily approved by the Court. (Rose Decl., ¶ 50; Moore Decl., ¶ 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 one-third (1/3) of the Gross Settlement Amount (i.e., \$466,666.67 if the Gross Settlement Amount is \$1,400,000.00) is disclosed to Class Members in the proposed Class Notice. (Settlement Agreement, Exh. A). The requested fee was freely negotiated, is common in the legal marketplace, and is not opposed by Defendant. The Motion for Final Approval will elaborate on the nature of the legal services provided and will also support Class Counsel’s request for the reimbursement of litigation costs and expenses not to exceed Thirty Thousand Dollars and Zero Cents (\$30,000.00). (Rose Decl., ¶¶ 51 and 53). The attorneys’ fees and costs that are not ultimately approved by the Court shall instead be included in the Net Settlement Amount to be distributed to Participating Class Members. (Settlement Agreement, ¶ 3.2.2).

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

The Parties have jointly drafted the Class Notice, which will be mailed to the Class Members. (*Id.*, Exh. A). The Class Notice will include information regarding the nature of the Action, a summary of the terms of the Settlement, the Class definition, information on how to object to and/or opt-out of the Class Settlement and to dispute Workweeks and/or PAGA Pay Periods, and the date of the Final Approval Hearing. (*Ibid.*). The Class Notice will list each Class Member’s total Workweeks and their estimated Individual Class Payment and each Aggrieved Employee’s total PAGA Pay Periods and their estimated Individual PAGA Payment. (*Ibid.*).

1 Not later than fourteen (14) calendar days after entry of the preliminary approval order, Defendant
2 will provide a list in a formatted readable Microsoft Office Excel spreadsheet to the Administrator
3 containing the following information for each Class Member: full name, last-known mailing address, last
4 known telephone number, Social Security number, and number of Workweeks and PAGA Pay Periods
5 (collectively referred to as the “Class Data”). (*Id.*, ¶¶ 1.9 and 4.2). The Parties have agreed to use ILYM
6 Group, Inc. as the Administrator. (Rose Decl., ¶ 54; Settlement Agreement, ¶ 7.1).

7 In determining whether to approve a settlement of a class action, a trial court has virtually
8 complete discretion as to the manner of giving notice to class members, and review on appeal is governed
9 by the abuse of discretion standard. (*See In re Cellphone Fee Termination Cases*, 186 Cal.App.4th 1380
10 (2010)). Here, Class Counsel is not aware of an alternative method of providing notice to the Class which
11 would result in a higher likelihood of actual notice. (Rose Decl., ¶ 55). The original source of the mailing
12 addresses is from Class Members, who provided the information to Defendant. (*Ibid*).

13 Class Members will have sixty (60) calendar days from the initial mailing of the Class Notice by
14 the Administrator to submit a Request for Exclusion, written objection, and/or challenge to Workweeks
15 and/or PAGA Pay Periods (“Response Deadline”). (Settlement Agreement, ¶ 1.41).

16 Not later than three (3) business days after the Administrator’s receipt of any Class Notice
17 returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any
18 forwarding address provided by the USPS. (*Id.*, ¶ 7.4.3). If the USPS does not provide a forwarding
19 address, the Administrator shall conduct a Class Member address search, and re-mail the Class Notice to
20 the most current address obtained. (*Ibid*). In the event that a Class Notice is re-mailed to a Class Member,
21 the Response Deadline for that Class Member shall be extended fourteen (14) calendar days from the
22 original Response Deadline. (*Id.*, ¶ 7.4.4).

23 Class Members will have an opportunity to dispute the number of Workweeks and/or PAGA Pay
24 Periods to which they have been credited, as reflected in their respective Class Notices, by submitting a
25 challenge to the Administrator, by mail, postmarked on or before the Response Deadline. (*Id.*, ¶ 7.6).

26 Any Class Member wishing to be excluded from the Class Settlement must submit a written
27 request (“Request for Exclusion”) to the Administrator, by mail, postmarked on or before the Response
28 Deadline. (*Id.*, ¶¶ 1.40 and 7.5). A Request for Exclusion is a letter from a Class Member or his/her/their

1 representative that reasonably communicates the Class Member's election to be excluded from the Class
2 Settlement and includes the Class Member's full name, mailing address, and email address or telephone
3 number. (*Id.*, ¶ 7.5.1). Notwithstanding the above, the State of California with respect to the Aggrieved
4 Employees will be deemed to release the Released PAGA Claims and the Aggrieved Employees will be
5 issued their Individual PAGA Payment, irrespective of whether any Aggrieved Employees submit a
6 Request for Exclusion. (*Id.*, ¶ 7.5.4).

7 To object to the Class Settlement, Participating Class Members must submit a timely and
8 complete written objection to the Administrator, by mail, postmarked on or before the Response Deadline.
9 (*Id.*, ¶ 7.7.2). Participating Class Members, individually or through counsel, may also present their
10 objection orally at the Final Approval Hearing, regardless of whether they have submitted a written
11 objection. (*Ibid.*).

12 **X. CONCLUSION**

13 For all of the foregoing reasons, Plaintiff respectfully requests that this Court grant Plaintiff's
14 Motion for Preliminary Approval of Class Action and PAGA Settlement and the relief requested herein.

15 Respectfully submitted,

16 Dated: November 14, 2025

BLACKSTONE LAW, APC

17
18 By:



Alexandra Rose
Attorneys for Plaintiff Leonard Moore