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

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

JOSHUA HAZELWOOD, individually, and on
behalf of other similarly situated employees and
aggrieved employees pursuant to the California
Private Attorneys General Act,

Plaintiff,

vs.

OPTIMIST BOYS' HOME AND RANCH dba
OPTIMIST YOUTH HOMES & FAMILY
SERVICES; and DOES 1 through 25, inclusive,

Defendants.

Case No. 24STCV09797

Honorable Samantha P. Jessner
Department 7

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

Date: December 3, 2026
Time: 10:00 a.m.
Dept.: 7

Complaint Filed: April 18, 2024
FAC Filed: June 12, 2026
Trial Date: Not Set

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

2 **PLEASE TAKE NOTICE THAT** on December 3, 2026 at 10:00 a.m. in Department 7 of the
3 above-captioned Court located at Spring Street Courthouse, 312 North Spring Street, Los Angeles,
4 California 90012, pursuant to California Code of Civil Procedure section 382 and Rule 3.769 of the
5 California Rules of Court, Plaintiff Joshua Hazelwood (“Plaintiff”) will and hereby does move the Court
6 for an Order granting preliminary approval of the proposed class action and PAGA settlement between
7 Plaintiff and Defendant Optimist Boys’ Home and Ranch dba Optimist Youth Homes & Family Services
8 (“Defendant”).

9 Plaintiff requests that the Court enter an Order:

10 1. Preliminarily approving the Joint Stipulation of Class Action and PAGA Settlement
11 (“Settlement” or “Settlement Agreement”) attached as Exhibit 3 to the Declaration of Lizeth Marin in
12 Support of Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement (“Marin
13 Decl.”);

14 2. Certifying the Class for Settlement purposes;

15 3. Appointing Plaintiff Joshua Hazelwood as the Class Representative for Settlement
16 purposes;

17 4. Appointing Jonathan M. Genish, Miriam L. Schimmel, Jared C. Osborne, Alexandra
18 Rose, and Lizeth Marin of Blackstone Law, APC as Class Counsel for Settlement purposes;

19 5. Approving the proposed Notice of Class Action Settlement (“Class Notice”), attached as
20 Exhibit A to the Settlement Agreement, to be mailed to the Class;

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

23 7. For each Class Member, directing Defendant to furnish their full name, last known mailing
24 address, Social Security number, dates worked for Defendant during the Class Period, and such other
25 information as is necessary for the Settlement Administrator to calculate Workweeks and Pay Periods to
26 the Settlement Administrator within fourteen (14) calendar days after entry of the order granting
27 preliminary approval of the Settlement;

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

1 9. Setting a Final Approval Hearing.

2 Pursuant to California Labor Code section 2699(s)(2), on August 25, 2026, a copy of the
3 Settlement was submitted to the California Labor and Workforce Development Agency (“LWDA”) via
4 online submission through the LWDA’s website. (Marin Decl., ¶ 48 and Exh. 4).

5 This Motion is based upon this Notice, the attached Memorandum of Points and Authorities, the
6 Declaration of Lizeth Marin, the Declaration of Plaintiff Joshua Hazelwood, the Declaration of the
7 Settlement Administrator (Jodey Lawrence of Phoenix Class Action Administration Solutions), the
8 pleadings and other records on file with the Court in this matter, and any other further evidence or
9 argument that the Court may properly receive at or before the hearing.

10 Respectfully submitted,

11 Dated: August 26, 2026

BLACKSTONE LAW, APC

12 By: *Lizeth Marin*
13 Lizeth Marin
14 Attorney for Plaintiff Joshua Hazelwood

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Joshua Hazelwood ("Plaintiff") seeks preliminary approval of the Joint Stipulation of
4 Class Action and PAGA Settlement ("Settlement" or "Settlement Agreement") entered into between
5 Plaintiff and Defendant Optimist Boys' Home and Ranch dba Optimist Youth Homes & Family Services
6 ("Defendant") (together, with Plaintiff, the "Parties"). (Declaration of Lizeth Marin in Support of
7 Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement ["Marin Decl."], Exh.

8 3). The Settlement terms are outlined as follows:

- 9
- Class Size: Approximately three hundred ninety-three (393) individuals.
 - Gross Settlement Amount: One Million Dollars and Zero Cents (\$1,000,000.00).
 - Attorneys' Fees and Costs: Attorneys' fees of thirty-five percent (35%) of the Gross Settlement Amount (\$350,000.00 if the Gross Settlement Amount is \$1,000,000.00) plus actual litigation costs and expenses not to exceed Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00) to be paid from the Gross Settlement Amount.
 - Enhancement Payment: Ten Thousand Dollars and Zero Cents (\$10,000.00), to be paid from the Gross Settlement Amount.
 - Settlement Administration Costs: Not to exceed Eight Thousand Dollars and Zero Cents (\$8,000.00), to be paid from the Gross Settlement Amount.
 - PAGA Amount: Fifty Thousand Dollars and Zero Cents (\$50,000.00) from the Gross Settlement Amount, 65% of which will be paid to the Labor and Workforce Development Agency ("LWDA") and the remaining 35% to be paid to the PAGA Employees.
 - Estimated Net Settlement Amount: Five Hundred Forty-Seven Thousand Dollars and Zero Cents (\$547,000.00) to be distributed to Settlement Class Members.

23 As set forth herein, the Settlement is the product of informed discovery and arms-length
24 negotiations, and provides a fair, adequate, and reasonable recovery for the Class. Plaintiff therefore
25 respectfully requests that the Court grant preliminarily approval of the Settlement, conditionally certify
26 the Class, approve the proposed Notice of Class Action Settlement ("Class Notice"), and set a hearing
27 date for final settlement approval, among other requested relief.

28 ///

II. FACTUAL AND PROCEDURAL BACKGROUND

Defendant is a California non-profit organization whose mission is to provide a comprehensive continuum of care and services to children, young adults, and families who are in or at risk of foster care. Plaintiff was employed by Defendant as an hourly-paid, non-exempt Youth Care Counselor from approximately December 2021 through August 2022. (Declaration of Plaintiff Joshua Hazelwood in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement [“Hazelwood Decl.”], ¶ 2).

On April 18, 2024, Plaintiff filed a Class Action Complaint in the action entitled *Joshua Hazelwood v. Optimist Boys’ Home and Ranch dba Optimist Youth Homes & Family Services*, Los Angeles County Superior Court Case No. 24STCV09797 (“Action”), thereby commencing a putative class action against Defendant. (Marin Decl., ¶ 9).

On October 11, 2024, Plaintiff propounded written formal discovery onto Defendant (specifically, Form Interrogatories – General (Set One), Form Interrogatories – Employment Law (Set One), Special Interrogatories (Set One), Requests for Admission (Set One), and Requests for Production of Documents (Set One)), noticed the deposition of Defendant’s Person Most Knowledgeable, and served a proposed Belaire-West notice. (*Id.*, ¶ 10).

On December 16, 2024, Defendant served responses to Plaintiff’s discovery requests (specifically, Form Interrogatories – General (Set One), Form Interrogatories – Employment Law (Set One), Special Interrogatories (Set One), Requests for Admission (Set One), and Requests for Production of Documents (Set One)). (*Id.*, ¶ 11).

On November 24, 2025, the Parties participated in a formal mediation conducted by Kelly Knight, Esq. (“Mediator”), a neutral and respected mediator with extensive experience in complex wage and hour matters, and with the assistance of the Mediator’s evaluations, the Parties were able to reach an agreement to resolve this dispute on a class and representative basis. (*Id.*, ¶ 12). The Parties then worked diligently to negotiate and memorialize the terms in a long form settlement agreement. (*Ibid.*).

On April 6, 2026, Plaintiff provided written notice to the LWDA by online submission and to Defendant by U.S. Certified Mail, pursuant to California Labor Code Section 2699.3, of the specified provisions of the California Labor Code alleged to have been violated by Defendant (“PAGA Letter”).

(Marin Decl., ¶ 13 and Exh. 2).

On June 12, 2026, Plaintiff filed a First Amended Class Action and Representative Complaint (“Operative Complaint”) in the Action. (*Id.*, ¶ 14). The Operative Complaint alleges twelve (12) 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, violation of Fair Credit Reporting Act 15 U.S.C. §§ 1681(b)(2)(A), violation of the Investigative Consumer Reporting Agencies Act California Civil Code § 1786, *et seq.*, and for civil penalties under PAGA based on the aforementioned California Labor Code violations. (*Ibid*).

On August 21, 2026, the Parties executed the Settlement Agreement. (*Id.*, ¶ 15 and Exh. 3).

III. THE SETTLEMENT TERMS

A. Class Definition

For purposes of settlement only, the Parties have agreed that the Class shall be defined as “all current and former hourly-paid and/or non-exempt employees who worked for Defendant in the State of California at any time during the Class Period” (“Class” or Class Member(s)). (Marin Decl., ¶ 16; Settlement Agreement, ¶ 9.b). The Class Period is defined as the period from April 18, 2020 through May 31, 2026. (Marin Decl., ¶ 16; Settlement Agreement, ¶ 9.f). Based on information provided by Defendant, it is estimated that there are a total of three hundred ninety-three (393) Class Members. (Marin Decl., ¶ 16).

Defendant has represented that the Class Members worked a total of 29,700 workweeks during the period April 18, 2020 through November 24, 2025. If it is determined by the Settlement Administrator that the total number of Workweeks worked by the Class Members during the Class Period actually exceeds 29,700 by more than 10% (i.e., if the Workweeks exceed 32,670), then the Gross Settlement Amount will be increased on a pro rata basis equal to the percentage increase in the number of Workweeks worked by the Class Members above 10%. For example, if the number of Workweeks increases by 11%

1 to 32,967 Workweeks, then the Gross Settlement Amount will increase by 1%. (Settlement Agreement,
2 ¶ 16).

3 **B. Amount of Settlement**

4 The Parties have agreed to settle the class and PAGA claims at issue in the Operative Complaint
5 for a non-reversionary Gross Settlement Amount of One Million Dollars and Zero Cents (\$1,000,000.00),
6 exclusive of employer-side payroll taxes. (Marin Decl., ¶ 17; Settlement Agreement, ¶ 9.q). Defendant
7 has represented that the Class Members worked a total of 29,700 workweeks during the period April 18,
8 2020 through November 24, 2025. If it is determined by the Settlement Administrator that the total
9 number of Workweeks worked by the Class Members during the Class Period actually exceeds 29,700 by
10 more than 10% (i.e., if the Workweeks exceed 32,670), then the Gross Settlement Amount will be
11 increased on a pro rata basis equal to the percentage increase in the number of Workweeks worked by the
12 Class Members above 10%. For example, if the number of Workweeks increases by 11% to 32,967
13 Workweeks, then the Gross Settlement Amount will increase by 1%. (Marin Decl., ¶ 17; Settlement
14 Agreement, ¶ 16).

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

16 The Gross Settlement Amount is a common fund and therefore includes all requested costs, fees,
17 and other allocations. (Marin Decl., ¶ 17; Settlement Agreement, ¶ 9.q). The Gross Settlement Amount
18 includes: (1) Class Counsel's fees in the amount of thirty-five percent (35%) of the Gross Settlement
19 Amount (i.e., \$350,000.00 if the Gross Settlement Amount is \$1,000,000.00); (2) Class Counsel's actual
20 litigation costs and expenses, not to exceed Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00);
21 (3) Settlement Administration Costs, not to exceed Eight Thousand Dollars and Zero Cents (\$8,000.00);
22 (4) Enhancement Payment in the amount of Ten Thousand Dollars and Zero Cents (\$10,000.00); and (5)
23 PAGA Amount in the amount of Fifty Thousand Dollars and Zero Cents (\$50,000.00). (Marin Decl., ¶
24 17; Settlement Agreement, ¶¶ 9.q, 12, 13, 14, and 15). After the above-estimated amounts are deducted
25 from the Gross Settlement Amount, the Net Settlement Amount that will be available for Class Members
26 is currently estimated to be Five Hundred Forty-Seven Thousand Dollars and Zero Cents (\$547,000.00).
27 (Marin Decl., ¶ 17). Additionally, 35% of the PAGA Amount ("PAGA Employee Amount"), which is
28 \$17,500.00 out of \$50,000.00, will be fully distributed to "all current and former hourly-paid and/or non-

1 exempt employees who worked for Defendant in the State of California at any time during the PAGA
2 Period” (“PAGA Employee(s)”). (Marin Decl., ¶ 17; Settlement Agreement, ¶¶ 9.q, 9.x, 9.y, and 14).
3 The “PAGA Period” is defined as the period from April 6, 2025 through May 31, 2026. (Marin Decl., ¶
4 17; Settlement Agreement, ¶ 9.aa).

5 The Net Settlement Amount will be distributed and paid to all Class Members who do not submit
6 a timely and valid Request for Exclusion (“Settlement Class Member(s)”) on a *pro rata* basis based on
7 the number of weeks each Class Member worked for Defendant as an hourly-paid and/or non-exempt
8 employee in California during the Class Period (“Workweeks”). (Marin Decl., ¶ 18; Settlement
9 Agreement, ¶¶ 9.mm and 9.nn). The *pro rata* share of the Net Settlement Amount that a Class Member
10 may be eligible to receive under the Class Settlement (“Individual Settlement Share”) will be calculated
11 by the Settlement Administrator, in accordance with the Settlement Agreement. (Marin Decl., ¶ 18;
12 Settlement Agreement, ¶¶ 9.t and 17).

13 The PAGA Employee Amount will be distributed and paid to all PAGA Employees on a *pro rata*
14 basis based on the number of pay periods each PAGA Employee worked for Defendant as an hourly-paid
15 and/or non-exempt employee in California during the PAGA Period (“Pay Periods”). (Marin Decl., ¶ 19;
16 Settlement Agreement, ¶¶ 9.aa and 18). The *pro rata* share of the PAGA Employee Amount that a PAGA
17 Employee may be eligible to receive under the PAGA Settlement (“Individual PAGA Payment”) will be
18 calculated by the Settlement Administrator, in accordance with the Settlement Agreement. (Marin Decl.,
19 ¶ 19; Settlement Agreement, ¶¶ 9.r and 18).

20 Each Individual Settlement Share will be allocated as twenty percent (20%) wages and eighty
21 percent (80%) penalties, interest, and non-wage damages. (Marin Decl., ¶ 20; Settlement Agreement, ¶
22 19). The portion allocated to wages will be reported on an IRS Form W-2 and the portions allocated to
23 penalties, interest, and non-wage damages will be reported on an IRS Form 1099 (if applicable) by the
24 Settlement Administrator. (Marin Decl., ¶ 20; Settlement Agreement, ¶ 19). The Settlement
25 Administrator will withhold the employee’s share of taxes and withholdings with respect to the wages
26 portion of the Individual Settlement Shares, and issue checks to Settlement Class Members for their net
27 payment of their Individual Settlement Share (“Individual Settlement Payment”). (Marin Decl., ¶ 20;
28 Settlement Agreement, ¶¶ 9.r and 18). The employer’s share of taxes and contributions in connection

1 with the wages portion of Individual Settlement Shares will be paid by Defendant separately and in
2 addition to the Gross Settlement Amount. (Marin Decl., ¶ 20; Settlement Agreement, ¶¶ 9.q and 19).
3 Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties and will be
4 reported on an IRS Form 1099 (if applicable) by the Settlement Administrator. (Marin Decl., ¶ 20;
5 Settlement Agreement, ¶ 19).

6 The Settlement Agreement is a non-reversionary and non-claims made settlement. (Marin Decl.,
7 ¶ 21; Settlement Agreement, ¶¶ 9.q and 37). The Net Settlement Amount will be fully distributed to
8 Settlement Class Members and the PAGA Amount will be fully distributed to the LWDA and PAGA
9 Employees, in accordance with the Settlement Agreement. (Marin Decl., ¶ 21; Settlement Agreement,
10 ¶¶ 17 and 18). No money will revert to Defendant. (Marin Decl., ¶ 21; Settlement Agreement, ¶ 9.q).

11 Each Individual Settlement Payment and Individual PAGA Payment check will be valid and
12 negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and
13 thereafter, shall be canceled. (Marin Decl., ¶ 22; Settlement Agreement, ¶ 37). Any funds associated
14 with such canceled checks will be distributed by the Settlement Administrator to the State of California's
15 Unclaimed Property Division in the name of the Settlement Class Member and/or PAGA Employee.
16 (Marin Decl., ¶ 22; Settlement Agreement, ¶ 37).

17 **D. Released Claims**

18 Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff and all
19 Settlement Class Members will be deemed to have fully, finally, and forever released, settled,
20 compromised, relinquished, and discharged the Released Parties of all Released Class Claims.
21 (Settlement Agreement, ¶ 38).

22 Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff, the State of
23 California with respect to all PAGA Employees, and all PAGA Employees will be deemed to have fully,
24 finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of
25 all Released PAGA Claims. (*Id.*, ¶ 39).

26 "Released Class Claims" means any and all claims which were alleged or which could have been
27 reasonably alleged based on the factual allegations in the Operative Complaint, arising during the Class
28 Period, which shall specifically include claims for Defendant's alleged failure to pay overtime and

1 minimum wages, provide compliant meal and rest periods and associated premium payments, timely pay
2 wages during employment and upon termination, provide accurate wage statements, and reimburse
3 necessary business-related expenses in violation of California Labor Code Sections 201, 202, 203, 204,
4 210, 226(a), 226.7, 510, 512(a), 1194, 1197, 1197.1, 1198, 2800, and 2802, the applicable Industrial
5 Welfare Commission Wage Order, California Business and Professions Code sections 17200, *et seq.*,
6 Investigative Consumer Report Agencies Act California Civil Code § 1786 *et seq.*, and Fair Credit
7 Reporting Act 15 U.S.C §§ 1681. (*Id.*, ¶ 9.ff).

8 “Released PAGA Claims” means any and all claims arising from any of the factual allegations
9 in the PAGA Letter and the Operative Complaint, arising during the PAGA Period, for civil penalties
10 under the Private Attorneys General Act of 2004, California Labor Code Sections 2698 *et seq.*, which
11 shall specifically include claims for Defendant’s alleged failure to pay overtime and minimum wages,
12 provide compliant meal and rest periods and associated premium payments, timely pay wages during
13 employment and upon termination, provide compliant wage statements, and reimburse necessary
14 business-related expenses in violation of California Labor Code Sections 201, 202, 203, 204, 210, 226(a),
15 226.7, 510, 512(a), 1194, 1197, 1197.1, 1198, 2800, and 2802, and the applicable Industrial Welfare
16 Commission Wage Order. (*Id.*, ¶ 9.gg).

17 “Released Parties” means Defendant and its current and former officers, directors, members,
18 insurers, shareholders, subsidiaries, affiliates, predecessors, successors, and assigns. (*Id.*, ¶ 9.hh).

19 **IV. STANDARD OF REVIEW FOR PRELIMINARY APPROVAL**

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

25 The review and approval of a proposed class action settlement involves a two-step process. (*See*
26 *Cal. Rules of Court, Rule 3.769(c)*). First, counsel submit the proposed terms of the settlement and the
27 Court makes a preliminary assessment of whether the settlement appears to be sufficiently within the
28 range of a fair settlement to justify providing notice of the proposed settlement to class members. After

notice is provided to the class, the Court must conduct a second inquiry into whether the proposed settlement is fair, reasonable, and adequate. (Ibid).

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

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

V. THE SETTLEMENT IS PRESUMED FAIR

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

California courts recognize that “a presumption of fairness exists where . . . [a] settlement is reached through arm’s-length bargaining.” (*Wershba*, 91 Cal.App.4th at 245; *see also Clark v. Am. Residential Servs. LLC*, 175 Cal.App.4th 785, 799 (2009)). Here, the Parties’ settlement negotiations were at all times made at arm’s-length and were adversarial. (Marin Decl., ¶ 23). The Settlement was reached following a full day of mediation with a highly respected mediator with substantial experience mediating wage and hour cases. (Ibid).

B. Sufficient Investigation and Discovery by Experienced Class Counsel

Courts typically assess the status of discovery in determining whether a class action settlement

1 agreement is fair, reasonable, and adequate. (*Dunk*, 48 Cal.App.4th at 1801). Prior to mediation,
2 Defendant produced a random twenty percent (20%) percent sampling of putative class members' time
3 data and pay records as well as Defendant's relevant wage and hour policies, and information regarding
4 the total number of putative class members, the number of current versus former employees, the total
5 workweeks worked by the putative class members, and the average rate of pay for the putative class
6 members. (Marin Decl., ¶ 24).

7 This allowed Class Counsel to conduct an informed assessment and analysis of the strengths and
8 weaknesses of the claims and the potential class-wide damages. (*Id.*, ¶ 25). Based on information
9 exchanged, the Parties extensively briefed issues regarding class certification and liability and provided
10 their analyses to the Mediator who helped the Parties debate the strengths and weakness of their respective
11 positions. (*Id.*, ¶ 26). At all times, Plaintiff was willing and prepared to litigate this matter through class
12 certification and trial if the Parties had been unable to reach a favorable resolution. (*Ibid.*). Additionally,
13 settlement negotiations were conducted by highly capable and experienced counsel. (Marin Decl., ¶¶ 2-
14 8). Accordingly, Class Counsel had sufficient information and experience to act intelligently in
15 negotiating the Settlement.

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

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

26 Here, the reasonableness of the Settlement is underscored by the fact that Defendant has legal and
27 factual grounds for defending the Action. Based upon Class Counsel's experience litigating similar
28 complex matters, Plaintiff reasonably expected a vigorous and lengthy defense to both class certification

1 and the merits of the Action absent a settlement.

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

3 Class Counsel analyzed all available data and estimated Defendant's maximum potential exposure
4 for the class claims to be approximately \$7,466,593, assuming the litigation was successful at trial on all
5 claims at issue and every employee had a violation for each claim on every shift worked. (Marin Decl.,
6 ¶ 27). This maximum potential analysis was then reduced based on the challenges facing the likelihood
7 of obtaining class certification, prevailing at trial, and other attendant risks. (Ibid). This estimate is based
8 off an estimated maximum liability for all claims at issue and the total aggregate workweeks during the
9 relevant time period, less interest, and based on the analysis of the data which was extrapolated out for
10 all class members across the entire putative class period, which included: \$1,741,513 for meal period
11 violations (less meal period premiums paid); \$2,718,032 for rest period violations at a 100% violation
12 rate; \$647,583 for unpaid off-the-clock work for 1 hour per workweek of off-the-clock work; \$14,201 for
13 unpaid overtime wages at the required regular rate of pay; \$228,330 for unreimbursed business expenses;
14 \$1,590,884 for waiting time penalties; and \$526,050 for wage statement penalties. (Ibid). Plaintiff
15 further estimated that Defendant faced an additional exposure of \$538,000 in potential, non-stacked (i.e.,
16 one penalty, per employee, per pay period during the PAGA statutory period) PAGA penalties. (Ibid).
17 Together with the PAGA penalties, Defendant's maximum potential exposure totaled \$8,004,593 in
18 damages. (Ibid).

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

20 While Plaintiff believes that Defendant faced significant exposure, substantial barriers to a
21 recovery existed. Defendant contended that Plaintiff's claims are not suitable for class certification
22 because individual issues and affirmative defenses would predominate should this case go to trial. (Marin
23 Decl., ¶ 30; *See Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012); *Duran v. U.S. Bank*
24 *Nat. Assn.*, 59 Cal.4th 1, 35-36 (2014); *Wal-Mart Stores, Inc. v. Dukes*, 131 S.Ct. 2541, 2551 (2011)).
25 While Plaintiff and Class Counsel disagree with Defendant's predictions, they also recognize that there
26 is a significant risk that the Court may deny class certification. (Marin Decl., ¶ 30; *see also, Findings of*
27 *the Study of California Class Action Litigation*, 2000-2006, available at
28 <http://www.courts.ca.gov/documents/class-action-lit-study.pdf> (finding that only 21.4% of all class

actions were certified either as part of a settlement or as part of a contested certification motion)).

For example, Plaintiff's meal period claims, which were based on Defendant's alleged failure to provide lawful meal periods, have been increasingly difficult to certify in recent years. (Marin Decl., ¶ 31; *See Brinker*, 53 Cal. 4th at 1034-35). Plaintiff's theory of liability for meal period violations was based on allegations that Defendant had failed to implement its policies and that its practices failed to allow Class Members to take meal breaks in the manner required under California law. (Marin Decl., ¶ 31; *See Bradley v. Networkers Int'l, LLC*, 211 Cal.App.4th 1129, 1150 (2012) (holding that "the lack of a meal/rest break policy and the uniform failure to authorize such breaks are matters of common proof.")). Defendant contended that its policies and practices at all times during the Class Period were lawful. (Marin Decl., ¶ 31). Although the meal-period violation rate initially appeared high, Defendant contended that most putative class members were subject to Wage Order 5, which permits on-duty meal periods without penalty, and that Defendant staffed these employees in compliance with regulatory standards. (Ibid). However, the Parties disputed this issue. (Ibid). Ultimately, after offsetting for meal-period premiums paid, the violation rate for employees not subject to Wage Order 5 was only 15.9%. (Ibid). Defendant further argued that the rate of purported meal period violations reflected in the data would require individualized inquiry and that such inquiry would prohibit a class from being certified. (Ibid). Class Counsel also had to consider the risk that the Court would find validity in an individualized proof defense to certification of Plaintiff's meal period claim. (Ibid).

Additionally, a large portion of Defendant's overall liability lies in Plaintiff's rest period allegations. (*Id.*, ¶ 32). As with the meal period allegations, Defendant contended that it had a lawful written rest period policy, provided compliant rest breaks, and relieved Class Members of all duties as required under California law. (Ibid). As noted above, Defendant also contended that most putative class members were subject to Wage Order 5, which permits an employer, without penalty, to require an employee who is in sole charge of residents to remain on the premises and maintain general supervision during rest periods. (Ibid). The Parties disputed this issue. (Ibid). Additionally, this claim was even more uncertain given the difficulties associated with proving the alleged rest period violations, as Defendant was not required to record these breaks. (Ibid). Given the lack of records demonstrating rest period violations, there were legitimate concerns Plaintiff would not be able to certify these claims or

1 prove substantial damages with requisite certainty, which made the estimated value of this claim subject
2 to much challenge. (Ibid).

3 Plaintiff also faced challenges certifying and proving liability for his minimum wage and overtime
4 claims. (*Id.*, ¶ 33). These claims were largely based on Defendant's unrecorded, off-the-clock work
5 performed by the Class Members and during purported meal periods and rest periods. (Ibid). For
6 example, it was reported that Plaintiff and the other Class Members routinely had to respond to the needs
7 of the residents during their meal and rest periods, including responding to conflicts between youth,
8 redirecting escalating behavior, implementing discipline and limit-setting, and providing trauma-focused
9 interventions – all of which required them to immediately abandon any attempt at taking a meal and/or
10 rest break. (Ibid). However, as noted above, Defendant argued that Wage Order 5 applied to many
11 putative class members and permitted on-duty meal periods, as well as requiring employees to remain on
12 the premises and maintain general supervision during rest breaks without triggering penalties. (Ibid).
13 Additionally, the individualized nature of why this work was performed and the individualized nature of
14 damages presented substantial concerns regarding the manageability of the case and the risk the Court
15 could find these issues prevented certification, and the estimated damages for this claim were based on
16 an assumption that all Class Members worked off the clock for at least one hour per week. (Ibid).

17 Plaintiff also contended that Defendant failed to reimburse Plaintiff and the other Class Members
18 for necessary business-related expenses, such as the usage of personal cell phones for work purposes.
19 (*Id.*, ¶ 34). Defendant contended that it had a policy and practice of reimbursing employees for necessary
20 business-related expenses. (Ibid). Defendant further contended that, with respect to the alleged expenses
21 for which Plaintiff and the other Class Members never requested reimbursement from Defendant, it did
22 not know and had no reason to know that alleged business-related expenses had been incurred. (Ibid).
23 Defendant further contended that the reason for why a Class Member undertook certain expenses, while
24 not others, and failed to receive reimbursement for certain expenses while not others, would raise
25 individual issues that could not be certified. (Ibid).

26 There are also substantial risks associated with Plaintiff's waiting time penalties and wage
27 statement claims. (*Id.*, ¶ 35). First, these claims were derivative of Plaintiff's claims for unpaid meal
28 period premiums, unpaid rest period premiums, unpaid minimum wages, and unpaid overtime wages,

1 and if certification was denied on those underlying claims, these derivative claims for penalties would
2 also likely fail. (Ibid). Further, even if Plaintiff prevailed on his underlying claims, he would still be
3 required to demonstrate that Defendant's violations of California Labor Code section 203 were *willful*
4 violations. (Marin Decl., ¶ 35; *See, e.g., Choate v. Celite Corp.*, 215 Cal App. 4th 1460, 1468 (2013)
5 (holding that "an employer's reasonable, good faith belief that wages are not owed may negate a finding
6 of willfulness")). Wage statement claims have also seen varying treatment at the appellate level because
7 such claims have an element of discretion attached to them rather than a pure calculation of damages after
8 liability is proven. (Marin Decl., ¶ 35; *Jaimez v. DAIOHS USA, Inc.*, 181 Cal.App.4th 1286 (2010) *with*
9 *Price v. Starbucks Corp.*, 192 Cal.App.4th 1136 (2011)). Accordingly, these derivative claims, which
10 comprised a substantial portion of Defendant's estimated liability, were therefore uncertain. (Marin
11 Decl., ¶ 35).

12 Plaintiff further alleged that Defendant failed to provide legally compliant disclosures and
13 authorizations in connection with obtaining background checks and/or investigative consumer reports for
14 employment purposes. (*Id.*, ¶ 36). Plaintiff also alleged that the challenged forms contained extraneous
15 language and did not satisfy the standalone disclosure requirements applicable to such reports. (Ibid).
16 Based on these alleged violations, Plaintiff contended that putative class members were entitled to
17 statutory damages, penalties, and other relief. (Ibid). However, Defendant denied liability and
18 maintained that its background check practices complied with applicable law. (Ibid). Defendant
19 contended that any disclosures and authorizations provided to applicants and employees were sufficient,
20 that any alleged violations were not willful, and that Plaintiff and the putative class could not establish
21 entitlement to the maximum statutory penalties sought. (Ibid). Defendant also disputed class-wide
22 liability and damages, including whether all putative class members received the same or materially
23 similar forms, whether the challenged language was actionable, and whether any alleged technical
24 violation caused compensable harm. (Ibid). Furthermore, in order to calculate certain damages for these
25 claims, Plaintiff would need to demonstrate that Defendant's violations were willful violations. (Ibid).
26 Accordingly, Defendant's estimated liability on these claims was uncertain. (Ibid).

27 Class Counsel also recognized that, even if Plaintiff prevailed at class certification, proving the
28 amount of wages due to Class Members would be an expensive, time-consuming, and uncertain

1 proposition. (*Id.*, ¶ 37). In order to prove liability and damages, Class Counsel will need to request and
2 analyze thousands of pages of documents, obtain the Class Members' contact information, contact them,
3 and obtain their declarations at great expense. (*Ibid*). Obtaining the cooperation of current employees
4 would also be difficult, given the likely reluctance to aid prosecution of a lawsuit against a current
5 employer. (*Ibid*). On the other hand, Defendant would likely be able to obtain the cooperation of its
6 employees. (*Ibid*). Moreover, even if Plaintiff prevailed at class certification and trial, possible appeals
7 would substantially delay any recovery by the Class. (*Ibid*).

8 Class Counsel also contemplated the risks of proceeding with the PAGA claims and potential
9 liability Defendant could face from these claims as part of the global resolution. (*Id.*, ¶ 38). Existing
10 case law makes PAGA claims subject to the same defenses and risks as Plaintiff's underlying wage
11 claims. (Marin Decl., ¶ 36; see, *Elliot v. Spherion Pac. Work, LLC*, 572 F.Supp.2d 1169, 1181-82 (C.D.
12 Cal. 2008) ("Plaintiff's claim under [PAGA] is wholly dependent upon her other claims. Because all of
13 Plaintiff's other claims fail as a matter of law, so does her PAGA claim")). Class Counsel also anticipated
14 that even if successful on the merits at trial, the imposition of cumulative civil penalties based on the
15 alleged wage and hour violations could be considered unjust, arbitrary and oppressive, or confiscatory,
16 and that Defendant would argue that it made a good faith attempt to comply with its legal obligations
17 warranting a reduction in penalties. (Marin Decl., ¶ 38).¹ Class Counsel also anticipated Defendant
18 would argue that the violations per pay period were low, warranting an additional reduction in civil
19 penalties. (*Ibid*). Finally, Class Counsel was also mindful of the fact that PAGA is fundamentally not
20 intended to be compensatory in nature but is instead intended to facilitate enforcement of California's
21 labor laws by financing state activities and educating and deterring non-compliance. (*Ibid*).

22
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).

1 Accordingly, after considering this multitude of factors, Plaintiff and Class Counsel concluded
2 that it was in the best interest of the State of California and the PAGA Employees to enter into the
3 Settlement, and to allocate Fifty Thousand Dollars and Zero Cents (\$50,000.00) of the Gross Settlement
4 Amount towards the PAGA claims, which represents approximately 5% of the Gross Settlement Amount.
5 (*Id.*, ¶ 39). This percentage of the settlement is well within the range of wage and hour settlements
6 regularly approved in both state and federal court for cases that include both a class and PAGA action.
7 (*Ibid.*) Typically, such hybrid cases allocate only 1% of the gross settlement value to resolve PAGA
8 claims, and, indeed, settlements allocations as little as 0.22% of the gross settlement amount have been
9 approved as reasonable by courts. (*Ibid.*) Moreover, the overall relief obtained by the Settlement is
10 significant, not only from a monetary perspective, but also because it fulfills the public policy objectives
11 of PAGA—to promote enforcement of California’s labor laws, provide funds to the state, and deter future
12 non-compliance by the employer. (*Ibid.*)

13 Therefore, taking into account how each of the above risks potentially effected Plaintiff’s ability
14 to first obtain class certification, and then prove the underlying violations, the Court’s broad discretion
15 in civil penalties, plus the cost and delay in recovering the alleged potential damages, Class Counsel
16 discounted Defendant’s estimated liability based on the challenges facing his ability to succeed on class
17 certification by 60% to \$3,201,837. (*Id.*, ¶ 40). The merits-based risk factors further reduced Defendant’s
18 estimated liability by an additional 60% to \$1,280,735. (*Ibid.*) In light thereof, the settlement amount
19 of \$1,000,000 is a significant settlement. (*Ibid.*)

20 Class Counsel therefore submits that the Settlement is in the best interest of the Class Members,
21 the PAGA Employees, and the State of California and is within the accepted range of recoveries for this
22 type of litigation given the inherent risk of litigation, the risk of obtaining and maintaining class
23 certification, and the costs of further litigation. (*Id.*, ¶ 41).

24 VI. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED

25 Code of Civil Procedure Section 382 provides that three basic requirements must be met in order
26 to sustain any class action: (1) there must be an ascertainable class; (2) there must be a well-defined
27 community of interest in the question of law or fact affecting the parties to be represented; and (3)
28 certification will provide substantial benefits to litigants and the courts, i.e., proceeding as a class action

1 is superior to other methods. (*See Dunk*, 48 Cal.App.4th at 1806). Plaintiff contends that the Action,
2 which is based upon Defendant's wage and hour policies and practices, satisfies the class certification
3 requirements under California Code of Civil Procedure section 382. Defendant denies Plaintiff's
4 allegations, but for purposes of the Settlement only, Defendant has stipulated to certification of the Class.

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

7 Whether an ascertainable class exists turns on three factors: (1) the class definition, (2) the size of
8 the class, and (3) the means of identifying the class members. (*See Miller v. Woods*, 148 Cal.App.3d 862,
9 873 (1983)). In this case, all three considerations strongly favor class certification. Here, the Class is
10 defined as "all current and former hourly-paid and/or non-exempt employees who worked for Defendant
11 in the State of California at any time during the Class Period." (Marin Decl., ¶ 16; Settlement Agreement,
12 ¶ 9.b). This provides a clear and definite scope for the proposed class.

13 Next, the Class is sufficiently numerous. There is no magic number that satisfies the numerosity
14 requirement. Courts have certified classes with as few as ten or twenty-eight class members. (*Rose v.*
15 *City of Hayward*, 126 Cal.App.3d 926, 934 (1981); *Bowles v. Superior Court*, 44 Cal. 2d 574 (1995);
16 *Hebbard v. Colgrove*, 28 Cal.App.3d 1017, 1030 (1972)). Here, the estimated Class size of Three
17 Hundred Ninety-Three (393) individuals meets the numerosity requirement.

18 Finally, the question of whether class members are easily identifiable turns on whether a plaintiff
19 can establish "the existence of an ascertainable class." (*Daar v. Yellow Cab Co.*, 67 Cal.2d 695 at 706
20 (1967)). The existence of an ascertainable class in this case can be established through Defendant's
21 payroll records, and the Class definition is sufficiently specific to enable the Parties, Class Members, and
22 the Court to determine the parameters of the Class. (*See Clothesrigger, Inc. v. GTE Corp.*, 191
23 Cal.App.3d 605, 617 (1987)).

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

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

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

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

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

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

25 Finally, the question of adequacy of representation “depends on whether the plaintiff’s attorney
26 is qualified to conduct the proposed litigation and the plaintiff’s interests are not antagonistic to the
27 interests of the class.” (*McGee v. Bank of America*, 60 Cal.App.3d 442, 450 (1976)). Here, these
28 considerations are satisfied. Class Counsel is well-regarded and is qualified and experienced in

1 employment-related, class-action litigation. (Marin Decl., ¶¶ 2-8). Plaintiff will vigorously, adequately,
2 and fairly represent the interests of the Class. Plaintiff has, at all times, throughout the course of the
3 litigation considered the interests of the Class and understood that he must take steps to adequately
4 represent the Class and their interests. (Hazelwood Decl., ¶ 10). Because Plaintiff's claims are typical
5 of other Class Members and are not based on unique circumstances, there is no antagonism between the
6 interests of Plaintiff and the Class.

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

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

16 **VII. THE REQUESTED ENHANCEMENT PAYMENT IS REASONABLE**

17 Plaintiffs in class action lawsuits are eligible for reasonable incentive payments as compensation
18 "for the expense or risk they have incurred in conferring a benefit on other members of the class." (*Munoz*
19 *v. BCI Coca-Cola Bottling Co.*, 186 Cal.App.4th 399, 412 (2010)). Courts routinely grant approval of
20 class action settlement agreements containing enhancements for the class representative, which are
21 necessary to provide incentive to represent the class and are appropriate given the benefit the class
22 representatives help to bring about for the class. (*See In re Online DVD Rental*, 779 F.3d 934, 947-948
23 (9th Cir. 2014) (approving incentive award 417 times larger than individual payments where incentive
24 award made up a mere .17% of the settlement); *Gaudin v. Saxon Mortgage Servs., Inc.*, 2015 WL
25 7454183, at *10 (N.D. Cal. Nov. 23, 2015) (finding service award of \$15,000 to be "fair and
26 reasonable"))).

27 Plaintiff initiated this litigation on behalf of his former co-workers who will now be entitled to
28 receive payment from the Settlement. Plaintiff invested substantial time and effort into litigation,

1 including his own research, reviewing documents, and extensive discussions with Class Counsel.
2 (Hazelwood Decl., ¶¶ 3-5). Further, the requested amount for Plaintiff is also reasonable given the
3 average award and the benefit gained by other Class Members. For these reasons, Plaintiff requests that
4 an Enhancement Payment of Ten Thousand Dollars and Zero Cents (\$10,000.00) be preliminarily
5 approved by the Court. (Marin Decl., ¶ 42; Hazelwood Decl., ¶ 12).

6 **VIII. THE REQUESTED ATTORNEYS' FEES AND COSTS ARE REASONABLE**

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

13 Here, the requested attorneys’ fees of thirty-five percent (35%) of the Gross Settlement Amount
14 (i.e., \$350,000.00 if the Gross Settlement Amount is 1,000,000.00) is disclosed to Class Members in the
15 proposed Class Notice. (Settlement Agreement, Exh. A). The requested fee was freely negotiated, is
16 common in the legal marketplace, and is not opposed by Defendant. The Motion for Final Approval will
17 elaborate on the nature of the legal services provided and will also support Class Counsel’s request for
18 the reimbursement of litigation costs and expenses not to exceed Thirty-Five Thousand Dollars and Zero
19 Cents (\$35,000.00). (Marin Decl., ¶ 43). The Attorneys’ Fees and Costs that are not ultimately approved
20 by the Court shall instead be included in the Net Settlement Amount to be distributed to Settlement Class
21 Members. (Settlement Agreement, ¶ 12).

22 **IX. THE CLASS NOTICE AND THE OPT-OUT AND OBJECTION PROCESS** 23 **MEETS DUE PROCESS REQUIREMENTS**

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

1 Individual Settlement Share and each PAGA Employee's total Pay Periods and their estimated Individual
2 PAGA Payment. (Ibid).

3 Within fourteen (14) calendar days after entry of the preliminary approval order, Defendant will
4 provide a list in a formatted readable Microsoft Office Excel spreadsheet to the Settlement Administrator
5 containing the following information for each Class Member: full name; last known mailing address;
6 Social Security number; dates worked for Defendant during the Class Period; and such other information
7 as is necessary for the Settlement Administrator to calculate Workweeks and Pay Periods (collectively
8 referred to as the "Class List"). (*Id.*, ¶¶ 9.d and 26). Within ten (10) business days after receiving the
9 Class List from Defendant, the Settlement Administrator will perform a search based on the National
10 Change of Address Database or other similar services available, such as provided by Experian, for
11 information to update and correct for any known or identifiable address changes, and will mail a Class
12 Notice to all Class Members via First-Class U.S. Mail, using the most current, known mailing addresses
13 identified by the Settlement Administrator. (*Id.*, ¶ 27.a). The Parties have agreed to use Phoenix Class
14 Action Administration Solutions as the Settlement Administrator. (Marin Decl., ¶ 46; Settlement
15 Agreement, ¶ 9.kk).

16 In determining whether to approve a settlement of a class action, a trial court has virtually
17 complete discretion as to the manner of giving notice to class members, and review on appeal is governed
18 by the abuse of discretion standard. (*See In re Cellphone Fee Termination Cases*, 186 Cal.App.4th 1380
19 (2010)). Here, Class Counsel is not aware of an alternative method of providing notice to the Class which
20 would result in a higher likelihood of actual notice. (Marin Decl., ¶ 47). The original source of the
21 mailing addresses is from Class Members, who provided the information to Defendant. (Ibid).

22 Class Members will have forty-five (45) calendar days from the initial mailing of the Class Notice
23 by the Settlement Administrator to submit a Request for Exclusion, Notice of Objection, and/or Dispute
24 ("Response Deadline"). (Settlement Agreement, ¶ 9.jj).

25 Any Class Notice returned to the Settlement Administrator as undeliverable on or before the
26 Response Deadline will be sent promptly via First-Class U.S. Mail to the forwarding address affixed
27 thereto and the Settlement Administrator will indicate the date of such re-mailing on the Class Notice.
28 (*Id.*, ¶ 27.b). If no forwarding address is provided, the Settlement Administrator will promptly attempt

1 to determine a correct address using a skip-trace or other search, using the name, address, and/or Social
2 Security number of the Class Member, and perform a single re-mailing within five (5) calendar days.
3 (Ibid). In the event that a Class Notice is re-mailed to a Class Member, the Response Deadline for that
4 Class Member shall be extended fifteen (15) calendar days from the original Response Deadline. (*Id.*, ¶
5 9.jj).

6 Class Members will have an opportunity to dispute the number of Workweeks and/or Pay Periods
7 to which they have been credited, as reflected in their respective Class Notices, by submitting a timely
8 and valid letter (“Dispute”) to the Settlement Administrator, by mail, postmarked on or before the
9 Response Deadline. (*Id.*, ¶¶ 9.j and 28). A Dispute must: (a) contain the case name and number of the
10 Action; (b) contain the Class Member’s full name, signature, address, telephone number, and the last four
11 (4) digits of the Class Member’s Social Security number; (c) clearly state that the Class Member disputes
12 the number of Workweeks and/or Pay Periods credited to that Class Member and what the Class Member
13 contends is the correct number; and (d) be returned by mail to the Settlement Administrator at the
14 specified address, postmarked on or before the Response Deadline. (*Id.*, ¶ 9.j).

15 Any Class Member wishing to be excluded from the Class Settlement must submit a timely and
16 valid letter (“Request for Exclusion”) to the Settlement Administrator, by mail, postmarked on or before
17 the Response Deadline. (*Id.*, ¶¶ 9.ii and 29). A Request for Exclusion must: (a) contain the case name
18 and number of the Action; (b) contain the Class Member’s full name, signature, address, telephone
19 number, and last four (4) digits of the Class Member’s Social Security number; (c) clearly state that the
20 Class Member does not wish to be included in the Class Settlement; and (d) be returned by mail to the
21 Settlement Administrator at the specified address, postmarked on or before the Response Deadline. (*Id.*,
22 ¶ 9.ii). Notwithstanding the above, all PAGA Employees will be bound by the PAGA Settlement and
23 will be issued their Individual PAGA Payment, irrespective of whether they submit a Request for
24 Exclusion. (*Id.*, ¶ 29).

25 To object to the Class Settlement, Settlement Class Members must submit a timely and complete
26 written objection (“Notice of Objection”) to the Settlement Administrator, by mail, postmarked on or
27 before the Response Deadline. (*Id.*, ¶¶ 9.w and 30). A Notice of Objection must: (a) contain the case
28 name and number of the Action; (b) contain the objector’s full name, signature, address, telephone

1 number, and the last four (4) digits of the objector's Social Security number; (c) contain a written
2 statement of all grounds for the objection accompanied by any legal support for such objection; (d)
3 contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be
4 returned by mail to the Settlement Administrator at the specified address, postmarked on or before the
5 Response Deadline. (*Id.*, ¶ 9.w). Settlement Class Members, individually or through counsel, may also
6 present their objection orally at the Final Approval Hearing, regardless of whether they have submitted a
7 Notice of Objection. (*Id.*, ¶ 30).

8 **X. CONCLUSION**

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

11 Respectfully submitted,

12 Dated: August 26, 2026

BLACKSTONE LAW, APC

13 By: Lizeth Marin
14 Lizeth Marin
15 Attorney for Plaintiff Joshua Hazelwood
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