LIDMAN LAW, APC
Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
Tiara Gose-Hardy (SBN 323823)
tgose@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
MARIA RODRIGUEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF VENTURA

MARIA RODRIGUEZ, as an individual and on behalf of all others similarly situated, Plaintiff, vs. CLINICAS DEL CAMINO REAL, INC., a California nonprofit corporation; and DOES 1 through 100, inclusive, Defendants. ——— MARIA RODRIGUEZ, as an individual and on behalf of all others similarly situated, Plaintiff, vs. CLINICAS DEL CAMINO REAL, INC., a California nonprofit corporation; and DOES 1 through 100, inclusive, Defendants.	Case No.: 2024CUOE020097 (Consolidated with Case No.: 2024CUOE023496) *[Assigned for all purposes to the Hon. Charmaine Buehner, Dept. J4]* **PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** Date: October 29, 2025 Time: 8:30 a.m. Dept.: J4

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that pursuant to Rule 3.769 of the California Rules of Court, on October 29, 2025, at 8:30 a.m. in Department J4 of the above-entitled Court, located at 4353 E. Vineyard Avenue, Oxnard, California 93036, Plaintiff Maria Rodriguez ("Plaintiff") individually and on behalf of a class of similarly situated individuals, will and hereby does move this Court for:

1. Preliminary approval of the proposed class settlement of this lawsuit;
2. Pursuant to section 382 of the California Code of Civil Procedure, provisional certification of the following Settlement Class defined as follows:

> All current and former non-exempt, hourly employees of Defendant Clinicas Del Camino Real, Inc. who worked at any time in California during the Class Period.
>
> The Class Period is the time period of June 29, 2022 through the date of preliminary approval by the Court of the Settlement.

3. Preliminary appointment of Plaintiff Maria Rodriguez as Class Representative;
4. Preliminary appointment of Milan Moore, Scott M. Lidman, and Tiara Gose-Hardy of Lidman Law, APC and Paul K. Haines of Haines Law Group, APC, as Class Counsel;
5. The scheduling of a hearing to consider whether the Settlement should be finally approved and to permit a service award to Plaintiff, Settlement Administration costs, civil penalties payable to the California Labor Workforce Development Agency and PAGA Employees, and attorneys' fees and costs to Class Counsel;
6. Appointment of Phoenix Settlement Administrators as the third-party Settlement Administrator for mailing notices; and
7. Approval of the proposed Notice of Pendency of Class Action and Proposed Settlement and Notice of Individual Settlement Award (collectively, the "Notice Packet") and an order that it be disseminated to the proposed Settlement Class Members as provided in the Settlement Agreement.

This Motion is based on this notice of motion, the memorandum of points and authorities, the declarations of Milan Moore, Scott M. Lidman, Tiara Gose-Hardy, Paul K. Haines, Plaintiff Maria Rodriguez, and Jodey Lawrence of Phoenix Settlement Administrators, and the exhibits attached thereto, the pleadings and other papers filed in this action, and on any further oral or documentary evidence or argument presented at the time of hearing.

Dated: September 12, 2025

Respectfully submitted,
LIDMAN LAW, APC

By: Milan Moore

Milan Moore

Attorneys for Plaintiff
MARIA RODRIGUEZ

TABLE OF CONTENTS

TABLES OF AUTHORITIES

Federal Cases

State Cases

State Statutes and Rules

Regulations

Unpublished Cases

Other

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Maria Rodriguez ("Plaintiff") brought this class and representative action against Defendant Clinicas Del Camino Real, Inc. ("Defendant") alleging various wage and hour violations. Plaintiff's primary allegations are that Defendant failed to: (1) pay all overtime wages owed; (2) pay all minimum wages owed; (3) provide meal periods; (4) authorize and permit rest periods; (5) reimburse necessary business expenses; (6) provide accurate and itemized wage statements; (7) pay all wages upon termination; and (8) engaged in unfair competition. Plaintiff also alleges Defendant is liable for civil penalties under the Private Attorneys General Act, Labor Code § 2698 *et seq*. ("PAGA").

Plaintiff now respectfully requests that this Court preliminarily approve this non-reversionary, class action settlement,[1] in which Defendant has agreed to pay $700,000.00 to the following Settlement Class:

> All current and former non-exempt, hourly employees of Defendant Clinicas Del Camino Real, Inc. who worked at any time in California during the Class Period.
>
> The Class Period is the time period of June 29, 2022 through the date of preliminary approval by the Court of the Settlement.

Settlement Class members do not need to file a claim to participate and will automatically receive a payment unless they affirmatively opt-out. After deducting administration costs, Plaintiff's service award, attorneys' fees and costs, and PAGA civil penalties, the remaining Net Settlement Amount ("NSA") of approximately $350,166.67 will be distributed to all Settlement Class members who do not opt-out. With approximately 1,143 Settlement Class members, the average payment to each Settlement Class member is currently expected to be approximately **$306.35**, which does not include the $15,000.00 in PAGA civil penalties to the PAGA Employees.

This proposed Settlement is well-within the range of possible approval in light of the significant legal and factual obstacles that Plaintiff faced, the risks and costs of further litigation, and the tangible

[1] The Stipulation of Settlement ("Settlement") is attached to the Declaration of Milan Moore as Exhibit 2. The proposed Notice Packet (which consists of the Notice of Pendency of Class Action and Proposed Settlement and Notice of Individual Settlement Award) is attached to the Settlement as Exhibit B. All defined terms in this motion have the same definitions as used in the Settlement.

monetary benefits to be received by the Settlement Class. For the reasons discussed herein, Plaintiff respectfully requests that the Court grant preliminary approval of the Settlement.

II. SUMMARY OF THE LITIGATION

A. THE PARTIES, PROCEDURAL HISTORY, DISCOVERY, AND ARMS-LENGTH NEGOTIATIONS

1. The Parties

Clinicas Del Camino Real, Inc. provides healthcare services throughout Ventura County. *See* Declaration of Milan Moore ("Moore Decl."), ¶ 7. Plaintiff was employed by Defendant as a non-exempt Licensed Vocational Nurse from approximately January 2006 until approximately December 13, 2023. *See* Declaration of Plaintiff Maria Rodriguez ("Rodriguez Decl."), ¶ 2.

2. Procedural History

On January 31, 2024, Plaintiff filed a class action complaint in Ventura County Superior Court, alleging several wage and hour violations ("Class Action"). Moore Decl., ¶ 7. Plaintiff alleged causes of action for: (1) failure to pay all overtime wages owed; (2) failure to pay all minimum wages owed; (3) failure to provide meal periods; (4) failure to authorize and permit all rest periods; (5) failure to reimburse necessary business expenses; (6) failure to provide accurate, itemized wage statements; (7) failure to pay all wages owed upon termination; and (8) unfair competition in violation of California Business & Professions Code § 17200 et seq. *Id.* On January 30, 2024, Plaintiff sent a PAGA notice letter to the Labor and Workforce Development Agency ("LWDA") and Defendant advising of her intention of filing a PAGA claim based on the Labor Code violations alleged in her operative complaint. *Id.*; Exhibit 1.

On April 11, 2024, Plaintiff filed a separate representative action complaint alleging a single cause of action for civil penalties under the PAGA ("PAGA Action") based on the Labor Code violations alleged in the Class Action complaint (Ventura County Superior Court, 2024CUOE023496). Moore Decl., ¶ 7.

On August 15, 2025, the Parties stipulated to consolidate the Class Action and PAGA Action, and on August 25, 2025 the Court entered an order consolidating the cases. Moore Decl., ¶ 7.

3. Discovery

After agreeing to participate in private mediation, Defendant informally produced time records and payroll data for a 15 percent sampling of the putative class. Moore Decl., ¶ 8. After a review and analysis of the data produced by Defendant, Class Counsel drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiff's case. *Id.* The informal discovery allowed the parties to assess the merits and value of Plaintiff's claims and Defendant's defenses thereto, if a settlement could not be reached. *Id*.

4. Arms-Length Negotiations

On June 2, 2025, after extensive research and analysis, including a detailed analysis of Defendant's potential exposure by Plaintiff, a full-day mediation was held with Michael Ludwig, Esq., a well-respected wage and hour class action mediator. Moore Decl., ¶ 9. During mediation, the parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiff's claims, and the legal basis for the claims and defenses. *Id*. Ultimately, through a mediator's proposal, the parties agreed on a class-wide resolution in principle. *Id*. In the weeks that followed, the parties finalized the terms of settlement and executed the Stipulation of Settlement ("Settlement"). *Id*.

III. ARGUMENT

A. CLASS CERTIFICATION FOR SETTLEMENT PURPOSES

California Rule of Court 3.769 conditions settlement of a class action on court approval, which is generally evaluated under the federal standards applicable under Rule 23 of the Federal Rules of Civil Procedure. *See Reed v. United Teachers Los Angeles* (2012) 208 Cal.App.4th 322 (requires trial court to determine "that the settlement is fair, reasonable and adequate to all concerned"); *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1026 (requires the trial court to determine "whether a proposed settlement is fundamentally fair, adequate, and reasonable").

As explained below, the Settlement Class satisfies the criteria for certification of a settlement class under California law because: (1) the Settlement Class is so numerous that joinder would be impractical; (2) common questions of law and fact predominate over individual questions such that class certification is the most efficient and desirable way to maintain this litigation; (3) Plaintiff's claims are typical of the claims of absent Settlement Class Members; and (4) Plaintiff and her counsel will fairly and adequately represent Settlement Class Members' interest. *See* Cal. Civ. Proc. § 382.

1. Numerosity is Satisfied.

Here, there are approximately 1,143 Settlement Class Members. Moore Decl., ¶ 13. Therefore, numerosity is satisfied. *See* Moore Decl., ¶ 14; *See, e.g., Bowles v. Sup. Ct.* (1955) 44 Cal.2d 574 (holding a class representing 10 beneficiaries of a trust sufficiently numerous).

Further, a class is "ascertainable" where the members "may be readily identified without unreasonable expense or time by reference to official [or business] records." *See Sevidal v. Target Corp.* (2010) 189 Cal.App.4th 905, 916 (alterations in original). Here, the proposed Settlement Class is defined as "All current and former non-exempt, hourly employees of Defendant Clinicas Del Camino Real, Inc. who worked at any time in California during the Class Period." Moore Decl., ¶ 13. Members of the Class can be easily identified by looking to Defendant's business records. *Id*.

In addition, PAGA Employee is defined as: "All current and former non-exempt, hourly employees of Defendant Clinicas Del Camino Real, Inc. who worked at any time in California during the PAGA Period." Moore Decl., ¶ 15. PAGA Employees are also readily identifiable by referencing Defendant's business records. *Id*.

2. <u>Commonality is Satisfied.</u>

The focus in a certification dispute is not the merits, but rather on what types of questions, "common or individual," are likely to arise in the action. *See Sav-On Drug Store, Inc. v. Superior Court (Rocher)* (2004) 34 Cal.4th 319, 327. Here, Settlement Class Members' claims arise from Defendant's common, uniform policies and practices that applied to Plaintiff and Settlement Class Members during the class period. Moore Decl., ¶ 16. As a result of the common and uniform policies and practices that applied to all Settlement Class Members, their claims involve common questions of law and fact, including, but not limited to:

1. Whether Defendant properly paid all minimum wages and/or overtime wages;
2. Whether Defendant provided all legally compliant meal periods;
3. Whether Defendant authorized and permitted all legally compliant rest periods;
4. Whether Defendant furnished legally compliant wage statements;
5. Whether Defendant paid all wages owed to its terminated/separated employees at the time of said termination/separation;
6. Whether Defendant reimbursed its non-exempt employees for all necessary business expenses; and

7. Whether Defendant engaged in unlawful, unfair, illegal, and/or deceptive business practices by and through its wage and hour policies and practices, and whether as a result Defendant owes its non-exempt employees restitution.

These alleged practices result in common questions as to the affected Settlement Class Members. *See e.g.*, *Benton v. Telecom Network Specialists, Inc.* (2013) 220 Cal.App.4th 701, 726.

3. Typicality is Satisfied.

The typicality requirement is satisfied where class representatives have claims that are typical of those of the rest of the class. *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1347 (finding typicality satisfied where named plaintiff purchased the same goods as the putative class in a consumer class action).

Here, Plaintiff's claims are typical of those held by the Settlement Class. First, Plaintiff was employed by Defendant during the Class Period as a non-exempt employee and was subject to Defendant's wage and hour policies and practices at issue in this case. *See* Rodriguez Decl., ¶ 2. Second, Plaintiff was injured by the same challenged policies and practices that injured the Settlement Class as a whole. For example, Plaintiff asserts that she, like the Settlement Class, was not paid all legally required minimum wages and overtime wages, was not provided with all required meal periods, was not authorized and permitted to take all required rest periods, did not receive meal and rest period premium wages when she was not provided compliant meal or rest periods, was not provided accurate itemized wage statements, was not reimbursed for business expenses, and was not paid all wages owed upon the separation of employment. Rodriguez Decl., ¶¶ 2-6. Given that Defendant's policies and practices applied to all non-exempt employees, Settlement Class Members possess a similar interest and have suffered similar alleged injuries as Plaintiff. Accordingly, because Plaintiff's claims and those of the Settlement Class all arise from the same conduct, typicality is satisfied.

4. Adequacy is Satisfied.

The adequacy requirement examines conflicts of interest between named parties and the class(es) they seek to represent. *Capital People First v. State Dept. of Developmental Services* 155 (2007) Cal.App.4th 676, 697.

Here, there are no apparent conflicts of interest between Plaintiff and the Settlement Class she seeks to represent. Moore Decl., ¶ 35; Rodriguez Decl., ¶ 12. Indeed, Plaintiff's interests are aligned with those of the Settlement Class Members, as they all seek monetary relief under the same facts and legal theories. *Id*. Additionally, Class Counsel does not have any conflict of interest with the Settlement Class. Moore Decl., ¶ 35; see *McGhee v. Bank of America* (1976) 60 Cal.App.3d 442, 450-51 (adequacy satisfied where there was no indication that Class Counsel were not qualified and the named plaintiff had no interests antagonistic to those of the proposed class).

Further, Class Counsel also have extensive experience in wage and hour class action litigation and have vigorously litigated this case. *See* Moore Decl., ¶¶ 2-32; Declaration of Scott M. Lidman ("Lidman Decl."), ¶¶ 2-8; Declaration of Tiara Gose-Hardy ("Gose-Hardy Decl."), ¶ 2-4; and Declaration of Paul K. Haines ("Haines Decl."), ¶¶ 2-8.

B. THE PROPOSED CLASS ACTION SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE

Settlement is the preferred means of dispute resolution, particularly in complex class action litigation. *See In re Syncor ERISA Litig.* (9th Cir. 2008) 516 F.3d 1095, 1101. The Court's role in evaluating a proposed settlement is limited to ensuring that the agreement taken as a whole is fair. *See e.g.*, *Hanlon*, *supra*, 150 F.3d at 1027. There is an initial presumption of fairness where, as here, the Settlement agreement was negotiated at arm's-length by class counsel and with the assistance of an experienced wage and hour class action mediator. *See e.g. Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130.

1. The Preliminary Approval Standard is Met

To make a fairness determination, the Court should consider several factors, including: "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, [and] the experience and views of counsel." *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801. "The list of factors is not exclusive and the court is free to engage in a balancing and weighing of the factors depending on the circumstances of each case." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 230, 245. Here, the Settlement is fair, adequate, and reasonable in light of the overall balance of factors in this case for the following reasons.

a. **The Strength of Plaintiff's Case**

Although Plaintiff maintains that her claims are meritorious, she acknowledges there were substantial risks and uncertainty in proceeding with litigation. As described below, Defendant presented multiple defenses to Plaintiff's claims, both on the merits and class certification. Thus, while Plaintiff was prepared to litigate these claims through certification and trial, success was not certain.

b. **Risk, Expenses, Complexity, and Duration of Further Litigation**

Although the Parties engaged in informal discovery prior to mediation, the Parties still had significant formal discovery to complete in litigation had the matter not settled. Moore Decl., ¶ 36. Moreover, Plaintiff still had to file for class certification and faced the prospect of appeals in the wake of a disputed class certification ruling for Plaintiff and/or an adverse summary judgment ruling. *Id*. Even if the classes sought to be certified by Plaintiff were in fact certified, the Parties would incur considerably more attorneys' fees and costs through a possible decertification motion, trial, and possible appeal. *Id*. This Settlement avoids those risks and the accompanying expense. Thus, this factor supports preliminary approval.

c. **Risk of Maintaining Class Action Status**

Plaintiff has not yet filed her motion for class certification and as such, the extent to which Plaintiff's proposed classes were certifiable is somewhat speculative. Absent settlement, there was a risk that there would not be a certified class at the time of trial.

d. **Overview of the Settlement Agreement**

If the Court approves this Settlement, Defendant will pay a Gross Settlement Amount ("GSA") of $700,000.00.[2] Moore Decl., ¶ 10, Exh. 2 (Settlement, ¶ 5). Significantly, this Settlement is **non-reversionary**, and no Settlement Class member will have to submit a claim form to receive a Settlement Award. *Id.* (Settlement*,* ¶ 5.D.). Each Settlement Class member will automatically receive a Settlement Award unless he or she affirmatively opts out of the Settlement. The monetary terms of the Settlement are summarized below:

/ /

[2] Defendant represents that there are an estimated 1,143 Class Members who worked an estimated total of 103,300 Workweeks during the Class Period. If the number of Workweeks actually worked during the Class Period is more than 10% greater than this figure (i.e., if there are 113,630 or more Workweeks worked during the Class Period), Defendant agrees to either (1) increase the Gross Settlement Amount by $6.78 per workweek for each additional workweek in excess of 113,630 or (2) cut off the Class Period before the total number of workweeks increases above 113,630. *See* Settlement ¶ 5.F.

Gross Settlement Amount (“GSA”):	**$700,000.00**
Minus Court-approved attorneys’ fees (1/3 of GSA):	$233,333.33
Minus Court-approved, verified costs (up to):	$25,000.00
Minus Court-approved Class Representative Service Award:	$10,000.00
Minus Settlement Administration Costs:	$21,500.00
Minus PAGA civil penalties:	$60,000.00
Net Settlement Amount (“NSA”):	**$350,166.67**

The Gross Settlement Amount shall be deposited by Defendant into a qualified settlement fund arranged for by the Settlement Administrator for the benefit of participating Settlement Class members and PAGA Employees. Moore Decl., ¶ 11, Exh. 2 (Settlement ¶ 5.B). Defendant agrees to deposit the Gross Settlement Amount and the required employer-side taxes with the Settlement Administrator within thirty (30) days after the Effective Date. *Id.* The Effective Date is the latter of: (a) the Court’s final approval of the settlement if no objections by or on behalf of Class Members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; or (c) the final resolution of any appeal that has been filed. Moore Decl., ¶ 11, Exh. 2 (Settlement ¶ 5.C).

After deducting amounts for the Court-approved attorneys’ fees and verified costs, Service Award to Plaintiff, Settlement Administrator costs, and the PAGA civil penalties, the Settlement requires Defendant to pay a Net Settlement Amount (“NSA”) of at least **$350,166.67** to all Settlement Class Members who do not timely opt out. Moore Decl., ¶ 12. This amount does not include the $15,000.00 PAGA Amount to be paid to the PAGA Employees. *Id.*; Exh. 2 (Settlement ¶ 5.D.(5)).

According to Defendant, there are approximately 1,143 total Settlement Class Members. Moore Decl., ¶ 13. Thus, the average Individual Settlement Award (assuming there are no opt-outs) is projected to be approximately <u>**$306.35, exclusive of any PAGA civil penalties**</u>. Moore Decl., ¶ 14.

Settlement Class Members will have sixty (60) calendar days from the mailing of the Class Notice to opt-out or object to the Settlement, thereby providing ample time to review the Class Notice without unduly delaying the Settlement. *See* Settlement, ¶ 11.C. Those Settlement Class Members who do not opt-out of the Settlement will be bound by its terms and will release all claims against Defendant included within the Settlement, for the period of June 29, 2022 through the date of preliminary approval by the Court of the Settlement. *See* Settlement, ¶ 4.B. Settlement Class Members who opt-out of Settlement will still receive a portion of the PAGA Amount if they were a PAGA Employee during the PAGA Period. *See* Settlement, ¶ 11.C.ii.

As this is a non-reversionary Settlement, 100% of the NSA shall be consumed in that if a Settlement Class Member opts-out of the Settlement, the portion allocated to the individual who opts-out shall be added to the NSA and redistributed and allocated to the Settlement Class Members who did not opt-out. *See* Settlement, ¶ 5.D.

e. The Parties Engaged in Fair and Honest Negotiations.

This Settlement was a result of serious, informed, non-collusive negotiations with the assistance of a mediator. After the detailed review of the data produced by Defendant, Class Counsel drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiff's case. Moore Decl., ¶ 8. The informal discovery allowed the parties to assess the merits and value of Plaintiff's claims and Defendant's defenses thereto, if a settlement could not be reached. *Id*.

On June 2, 2025, the parties participated in mediation with Michael Ludwig, Esq. Moore Decl., ¶ 9. During mediation, the parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiff's claims, and the legal basis for the claims and defenses. *Id*. Ultimately, through a mediator's proposal, the Parties agreed on a class-wide resolution. *Id*. In the weeks that followed, the parties finalized the terms of the Settlement. *Id*.

As such, the proposed Settlement is entitled to an initial presumption of fairness as it is the result of factual investigation and data analysis; the exchange of substantial class data, including timekeeping and payroll records; arm's length negotiations by counsel; and mediation before an experienced wage and hour class action mediator. *See* Moore Decl., ¶¶ 8-9; *See Kullar*, *supra*, 168 Cal.App.4th at 130. Thus, these factors support preliminary approval.

Further, there are no deficiencies in the Settlement. The Settlement does not grant preferential treatment to the class representative or segments of the class, and is within the range of possible approval, as discussed in detail below. The Settlement will provide monetary relief to Settlement Class Members. The amounts proposed for Class Counsel's attorneys' fees and costs, and Service Award are all reasonable and appropriate based on the facts of this case. Because the Settlement is devoid of obvious deficiencies, this factor supports preliminary approval.

f. Amount Offered in Settlement Given Realistic Value of Claims

Before agreeing to a settlement, Plaintiff and Defendant made and considered the following arguments regarding the merit and value of Plaintiff's claims and Defendant's defenses.

Off-The-Clock Work/Paid to Schedule: Plaintiff alleges that Defendant failed to compensate its non-exempt employees for all time worked. Moore Decl., ¶ 17. Specifically, Plaintiff alleges that Defendant required Plaintiff to communicate and coordinate with other non-exempt employees regarding staff shortages and shift coverages, but Plaintiff and the other employees were not permitted to record the time as time worked. *Id*. Additionally, Plaintiff and other non-exempt employees were required to submit to temperature checks prior to clocking in for shifts. *Id*. As a result, Plaintiff contends that Defendant failed to pay her and other non-exempt employees all minimum and overtime wages owed. *Id*. Accordingly, based on 10 minutes of unpaid time each shift, Plaintiff estimates Defendant's exposure at a total of $2,572,170. *Id*.

Defendant contends that it compensated Settlement Class Members for all of their time worked. Moore Decl., ¶ 18. Defendant also contends that its timekeeping practices were lawful, and any unpaid time was *de minimis* and therefore non-compensable. *Id*. Defendant further asserts that Plaintiff would be unable to certify an unpaid wages class given the individualized inquiries that would be required. *Id*. In light of these defenses, Plaintiff discounted the maximum exposure by 55% for the risk of non-certification, and an additional 35% to account for Defendant's defenses on the merits to arrive at an estimated exposure of approximately $752,359.73. *Id*.

Meal Period Violations: Plaintiff alleges that she and Settlement Class Members were not provided with all legally-required meal periods in compliance with California law due to Defendant's unlawful meal period policies/practices. Moore Decl., ¶ 19. Due to work demands, Plaintiff was often prevented from taking meal periods that commenced before the end of the fifth (5^{th}) hour of work. *Id*. Based on Plaintiff's review of the time data produced in connection with mediation, Defendant's violation rate for first meal periods was approximately two percent. *Id*. As such, Plaintiff calculated Defendant's maximum exposure for the alleged meal period violations at $309,900 (103,300 workweeks x 5 days per workweek x .02 violation rate x $30 average hourly rate). *Id*.

Defendant counters that it has always provided non-exempt employees with an opportunity to take legally compliant meal periods, and any non-compliant meal periods reflected in employee timekeeping records were solely the result of employee choice, rather than any policy or practice of Defendant. Moore Decl., ¶ 20. Further, as a result of an earlier wage and hour class action lawsuit against Defendant resolving in June 2022, Defendant took further action to ensure that its employees were provided either compliant meal periods or meal period premiums for any non-compliant meal periods. *Id*. Defendant also points out that under *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, it is only required to "provide" the opportunity to take meal periods, not "ensure" meal periods are taken, and that they have always done so. *Id*.; *Brinker*, *supra*, 53 Cal.4th at 1038 (rejecting "ensure" standard). Finally, Defendant contends Plaintiff's meal period claim is not suited for class certification because individual inquiries would be required to assess which employees took non-compliant meal periods, how many meal periods were non-compliant or missed, and the reasons why a particular employee took a non-compliant meal period or missed a meal period during a particular shift. *Id*. Accordingly, Plaintiff discounted the maximum exposure by 60% for the risk of non-certification, and an additional 55% to account for Defendant's defenses on the merits to arrive at an estimated exposure of $55,782.00. *Id*.

<u>Rest Period Violations</u>: Plaintiff alleges that she and other Settlement Class Members were not authorized and permitted to take all required rest periods due to Defendant's rest period practices which fail to authorize and permit all rest periods for every four hours worked, *or major fraction thereof*. Moore Decl., ¶ 21. Based on a 100 percent violation rate, Plaintiff calculated Defendant's exposure on rest period violations at $15,495,000 (103,300 workweeks x 5 shifts per workweek x $30.00 average hourly rate). *Id.*

Defendant contends it has always maintained and enforced lawful rest period policies and practices, and that Settlement Class Members were authorized and permitted to take all off-duty rest periods in compliance with California law. Moore Decl., ¶ 22. Defendant further contends that as a result of an earlier wage and hour class action lawsuit against Defendant resolving in June 2022, Defendant took further action to ensure that its employees were provided either compliant rest periods or rest period premiums for any non-compliant rest periods. *Id*. Defendant argues that Plaintiff's rest period claims are inherently unsuited for class treatment as it requires an individualized inquiry into whether each Settlement Class member was in fact authorized and permitted to take a compliant rest period, which would devolve into an unmanageable series of mini-trials. *Id*. Accordingly, Plaintiff discounted the maximum exposure by 85% for the risk of non-certification, and an additional 70% to account for Defendant's defenses on the merits to arrive at an estimated exposure of $697,275. *Id*.

Unreimbursed Business Expenses: Plaintiff alleges that Defendant required her and the other Settlement Class Members to use their personal cellular phone for business purposes. Moore Decl., ¶ 23. Despite knowing that putative class members had incurred necessary business expenses, Defendant failed to reimburse putative class members in violation of Section 2802 and *Cochran. Id*.; See *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal. App. 4th 1137, 1144. Plaintiff estimates employees should have been reimbursed approximately $25.00 per month, or about $6.25 per workweek for reasonable cellular phone related expenses. *Id*. Therefore, Plaintiff calculated Defendant's maximum exposure at $645,625 (103,300 workweeks x $6.25 per workweek). *Id*.

Defendant asserts that, given the wide array of cellular phone plans, any expenses would be *de minimis*. Moore Decl., ¶ 24. Accordingly, Plaintiff discounted the maximum exposure by 80% for the risk of non-certification, and an additional 45% to account for Defendant's defenses on the merits to arrive at an estimated exposure of approximately $71,018.75. *Id*.

Wage Statement Violations: Plaintiff further alleges that Defendant issued inaccurate wage statements in violation of Labor Code § 226. Moore Decl., ¶ 25. Specifically, Plaintiff contends that this conduct violated Labor Code § 226(a) because the wage statements issued to Settlement Class Members did not include all hours worked and thus did not accurately show gross wages earned, total hours worked by the employee, net wages earned, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. *Id*. Therefore, Plaintiff calculated Defendant's maximum exposure for wage statement violations at $4,123,350 (based on the 41,600 wage statements issued during the relevant time period and applying $50 for the first violation and $100 for each subsequent violation). *Id.*

Defendant argues that its alleged wage statement violations could not be shown to be "knowing and intentional," and that Plaintiff cannot show that she or any other employee "suffer[ed] injury" as a result of the alleged wage statement violations, as required by Lab. Code § 226(e) for imposition of penalties. Moore Decl., ¶ 26. As such, Plaintiff discounted the calculated exposure by 25% for a risk of non-certification and an additional 45% for a risk of being unsuccessful on the merits to arrive at an estimated total of $1,700,881.88. *Id*.

<u>Waiting Time Penalties</u>: Plaintiff alleges that Defendant is also liable for waiting time penalties under Labor Code section 203 as a result of its failure to pay all wages and meal and rest period premiums at the end of employment. Moore Decl., ¶ 27. Based on the data provided by Defendant, there were approximately 410 Settlement Class members who have separated their employment with Defendant during the relevant time period who should be entitled to waiting time penalties. *Id*. Therefore, Plaintiff calculated Defendant's maximum exposure for waiting time penalties at approximately $2,952,000 ($30.00 average hourly rate x 8 hours x 30 days x 410 former employees). *Id*.

Defendant asserts it has strong defenses to the waiting time claim because there exist good-faith disputes as to Plaintiff's underlying claims, precluding imposition of penalties. Moore Decl., ¶ 28*; See also* 8 Cal. Code Regs. § 13520 (a "good faith dispute that any wages are due will preclude imposition of waiting time penalties"); *Kao v. Joy Holiday*, 12 Cal.App.5th 947, 963 (2017) (holding that "good faith dispute" over whether employee was exempt precluded imposition of waiting time penalties over contested wages owed). Accordingly, Plaintiff discounted the maximum exposure by 45% for the risk of non-certification, and an additional 40% to account for Defendant's defenses on the merits, to arrive at an estimated exposure of $974,160.00. *Id*.

<u>PAGA Civil Penalties</u>: Plaintiff also seeks civil penalties under the PAGA as a result of the foregoing alleged Labor Code violations. Moore Decl., ¶ 29. Plaintiff calculated Defendant's exposure at the initial rate of $100 per violation for a total of $4,160,000. *Id*.; *see Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1207 (finding "initial" violation rate applies until employer is notified that it is violating a Labor Code provision).

Defendant argues that Plaintiff's PAGA claim will fail for the same reasons that her underlying claims will fail. Moore Decl., ¶ 30; *see Price v. Starbucks Corp*. (2011) 192 Cal.App.4th 1136, 1147 ("Because the underlying causes of action fail, the derivative UCL and PAGA claims also fail.").

Defendant also maintains that, given its good faith defenses and efforts to comply with the law, this Court would exercise its discretion to substantially reduce any PAGA penalties if it were to find Defendant liable for any of Plaintiff's claims. *See* Lab. Code § 2699(e)(2); *Thurman v. Bayshore Transit Mgmt., Inc*. (2012) 203 Cal.App.4th 1112, 1135 (affirming reduction of PAGA penalties); *Fleming v. Covidien Inc*. (C.D. Cal. 2011) Case No. ED CV10-01487 RGK (OPx), 2011 WL 7563047, at *4 (reducing PAGA penalties from $2.8 million to $500,000). Therefore, Plaintiff discounted the maximum exposure figure by 45% for a risk of being unsuccessful on the merits, and an additional 75% to account for the possibility of this Court reducing penalties, to arrive at an estimated exposure of approximately $572,000.00. *Id*.

g. <u>The Settlement Is Within the Range of Possible Approval</u>

Using these estimated figures for each of the claims described above, Plaintiff predicted the realistic total recovery for the Settlement Class would be approximately $4,823,477.35. Moore Decl., ¶ 31. The proposed settlement of $700,000.00 therefore represents approximately 14.5% of the reasonably forecasted recovery for the Settlement Class. *Id*. Preliminary approval is appropriate as the settlement will provide tangible monetary relief to Settlement Class Members.

The proposed settlement reflects approximately 14.5% of the estimated recovery the Settlement Class could reasonably expect in light of the significant litigation risks and will provide tangible monetary compensation for disputed claims. Moore Decl., ¶ 31. Indeed, the percentage of the liability exposure recovered in this case is within percentages routinely approved by courts. *See, e.g., Dunleavy v. Nadler* (9th Cir. 2000) 213 F.3d 454, 459 (approving settlement representing about one-sixth of potential recovery); *Nat'l Rural Telecomm. Coop. v. DirecTV, Inc.* (C.D. Cal. 2004) 221 F.R.D. 523, 527 ("it is well-settled law that a proposed settlement may be acceptable even though it amounts to only a fraction of the potential recovery that might be available to the Settlement Class members at trial"). Thus, Plaintiff submits the settlement is within the range of possible approval, such that notice should be provided to the Settlement Class so that they can consider the Settlement. The Court will have the opportunity to again assess the reasonableness of the Settlement after the Settlement Class has had the opportunity to opt-out or object.

/ /

/ /

h. **The Experience and Views of Counsel**

"Parties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation." *In re Pacific Enterprises Securities Litigation* (9th Cir. 1995) 47 F.3d 373, 378. Here, Plaintiff is represented by competent, experienced counsel who possess extensive experience prosecuting and defending wage-and-hour class actions, and who have been appointed as class counsel in numerous cases alleging similar claims. *See* Moore Decl., ¶¶ 2-5; Lidman Decl., ¶¶ 2-8; Gose-Hardy Decl., ¶¶ 2-4; Haines Decl., ¶¶ 2-8. Class Counsel conducted an in-depth review of Defendant's timekeeping and payroll records and drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiff's case. *See* Moore Decl., ¶ 8. The Settlement was also reached with the assistance of an experienced and respected wage and hour class action mediator. Moore Decl., ¶ 9. This factor strongly supports preliminary approval of the Settlement. *See Kullar*, *supra*, 168 Cal.App.4th at 130.

i. **Attorneys' Fees and Costs**

California courts recognize an appropriate method for awarding attorneys' fees in class actions is to award a percentage of the "common fund" created as a result of a settlement. *See e.g., Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 506 (holding "the percentage of fund method survives in California class action cases"). Class Counsel's request for fees of one-third of the GSA is well within the range of reasonableness, and indeed is considered the typical rate for common fund settlements. Historically, courts have awarded percentage fees in the range of 20% to 50%, depending on the circumstances of the case. *See* 4 Newberg on Class Actions § 14.6 (4th Ed. 2013).

Here, Class Counsel will apply for an attorneys' fees award of one-third of the GSA, which is currently estimated to be $233,333.33, and up to $25,000.00 in verified costs reimbursement. Moore Decl., ¶ 32; *See* Settlement, ¶ 5.D.(4). Plaintiff submits the requested fee is fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent fee basis. Moore Decl., ¶ 32. Further, Plaintiff has provided written approval of the split of attorneys' fees in this action. Moore Decl., ¶ 33. Class Counsel has incurred substantial attorney fees conducting pre-filing investigation, analyzing Plaintiff's claims, conducting legal research, analyzing Settlement Class Members' timekeeping data and payroll records, drafting a mediation brief, preparing for and attending mediation, negotiating and revising the long-form Settlement, preparing this Motion, and otherwise litigating the case. Moore Decl., ¶ 32. Class Counsel expect to expend additional attorney time in attending the hearing on this Motion, overseeing the Notice process and fielding questions from Settlement Class Members, preparing the final approval papers, and attending the Final Approval hearing. *Id*.

Class Counsel submits that the request for attorneys' fees is reasonable when viewed as an overall percentage of the settlement in light of the substantial risks, significant work undertaken, the extremely positive results obtained for the class, and the efficiency with which the Parties conducted the litigation. Should the Court grant preliminary approval, Class Counsel will seek an award of attorneys' fees and verified litigation costs at the time of seeking final approval of the Settlement, which will include a lodestar analysis.

j. Administration Costs

Phoenix Settlement Administrator's fees and expenses are estimated not to exceed $21,500.00. *See* Declaration of Jodey Lawrence in support of Plaintiff's Motion for Preliminary Approval filed concurrently herewith ("Lawrence Decl."). This request is reasonable in light of the proposed class size of approximately 1,143 Settlement Class Members, the costs and expenses associated with administering the notices, and distributing the awards.

k. Class Representative Service Award

"[I]ncentive awards are fairly typical in class action cases . . . and are intended to compensate class representatives for work done on behalf of the class [and] to make up for financial or reputational risk undertaken in bringing the action." *In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1393-94. Here, as part of the Settlement, Plaintiff will apply for a service award at the time of seeking final approval of the proposed class action settlement in the amount of $10,000.00 for her services to the Settlement Class. Moore Decl., ¶ 34; Settlement, ¶ 5.D.(3); Rodriguez Decl., ¶¶ 7-12. As will be fully briefed at the time of final approval, Plaintiff's requested service award is intended to recognize the time and effort Plaintiff expended on behalf of the Settlement Class, including providing substantial factual information and documents to Class Counsel, attending multiple meetings with Class Counsel to discuss the claims and theories at issue in the litigation, participating in the mediation, as well as the significant risks Plaintiff undertook by agreeing to serve as the named plaintiff in this case, and the fact that Plaintiff has agreed to a general release of all claims subject to a waiver of Civil Code § 1542. *See* Moore Decl., ¶ 34; Rodriguez Decl., ¶¶ 7-12; Settlement ¶ 5.D.(3).

l. PAGA Civil Penalties

The parties have agreed to a PAGA award of $60,000.00 and in accordance with California Labor Code section 2699(i). *See* Settlement ¶ 5.D.(5). This $60,000.00 represents roughly 8.5% of the $700,000.00 Gross Settlement Amount and is well above the typical zero to two percent range for PAGA claims approved by Courts. *See, e.g.*, *In re M.L. Stern Overtime Litig.*, No. CV 07-0118 BTM (JMAx), 2009 WL 995864, at *1 (S.D. Cal. Apr. 13, 2009) (approving PAGA settlement of 2 percent, or $20,000); *Hopson v. Hanesbrands, Inc.*, No. CV 08-0844 EDL, 2008 WL 3385452, at *1 (S.D. Cal. Apr. 13, 2009) (approving a PAGA settlement of 0.3 percent, or $1,500); *Nordstrom Comm'n Cases*, 186 Cal. App. 4th 576, 589 (2010) (approving settlement of wage and hour class action claims and PAGA claims under which no money was allocated to the PAGA claims). The LWDA will receive 75% of the amount attributable to PAGA penalties – or $45,000.00, while PAGA Employees will receive the remaining 25% – or $15,000, averaging $14.49 per PAGA Employee. Settlement ¶ 5.D.(5).

m. Tax Treatment of Settlement Awards

For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows: eighty percent (80%) as penalties and interest, and twenty percent (20%) as wages. Settlement ¶ 6.D. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 and 1099 for the amounts allocated as wages, penalties, and interest. *Id*. Each Settlement Class member who receives a Settlement Award will be responsible for correctly characterizing the payment for tax purposes and for payment of any taxes owing on said amount. *Id*.

n. Uncashed Funds

The Settlement provides Settlement Class Members with 180 days from the date the Settlement Administrator mails the checks to cash any and all checks. Settlement ¶ 6.E. Any funds remaining after 180 days will be transferred to the California Secretary of State-Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class member. *Id*. As all settlement funds will be distributed to the Settlement Class Members, there will be no residue and it is unnecessary to designate *cy pres* recipients. Settlement ¶ 5.D.

C. SETTLEMENT IS DEVOID OF OBVIOUS DEFICIENCIES

Preliminary approval of the Settlement is also warranted because there are no obvious deficiencies. The Settlement will provide monetary relief to participating Settlement Class Members. The amounts proposed for Class Counsel's attorneys' fees and costs, and the service award are all reasonable and appropriate based on the facts of this case. Because the Settlement is devoid of obvious deficiencies, this factor supports preliminary approval.

D. THE COURT SHOULD ORDER DISTRIBUTION OF THE PROPOSED NOTICE TO SETTLEMENT CLASS MEMBERS

Before the final approval hearing, the Court requires adequate notice of the settlement be given to all class members. This Court should order distribution to the Settlement Class of the proposed Notice Packet (which is comprised of the Notice of Pendency of Class Action and Proposed Settlement and Notice of Individual Settlement Award) by first-class regular U.S. Mail, postage prepaid, using last known mailing address information provided by Defendant. *See* Settlement, ¶ 11.B, Exh. B.

This manner of giving notice is the "best notice practicable" under the circumstances because it provides "individual notice to all members who can be identified through reasonable effort." *See Eisen v. Carlisle & Jacquelin* (1974) 417 U.S. 156, 173. Here, Plaintiff proposes that the Settlement be administered by Phoenix, an experienced class action settlement administrator. *See generally* Lawrence Decl. and attached exhibits. Class Data will be ascertainable through Defendant's personnel and payroll records, which Defendant will provide to Phoenix within 10 business days of preliminary approval of the Settlement. *See* Settlement ¶ 11.A. Within 10 business days of receipt of the Settlement Class Members' addresses, Phoenix will run the names of all Settlement Class Members through the United States Postal Service Notice of Change of Address database (which provides updated addresses for any individual who has moved in the previous four years and has notified the U.S. Postal Service of a forwarding address), calculate the estimated Settlement Award for each Settlement Class member, and mail the Notice Packet to Settlement Class Members. *See* Settlement ¶ 11.B. To the extent that any notices are returned, Phoenix will perform a "skip trace" to track any Class Member's current mailing address. *See* Settlement ¶ 11.F.

The content of the proposed Notice Packet satisfies California Rule of Court 3.766(d) because it advises Settlement Class Members of the nature of the claims, basic contentions and denials of the parties, and the key terms of the Settlement, the 60-day deadline to opt-out or object to the Settlement and the procedures by which to do so, explains the recovery formula and expected recovery amount for each Settlement Class member, provides them the opportunity to contest their total workweeks and PAGA Pay Periods included in the notice, and advises them that they will be bound by the terms of the Settlement if they do not opt-out. *See* Moore Decl., Exh. 2 (Settlement, Exh. B). The proposed Notice Packet will also notify Settlement Class Members of the final approval hearing date, provide Settlement Class Members the contact information for Class Counsel, and advise Settlement Class Members that they may enter an appearance through counsel if they wish to.

Additionally, as stated in the proposed Notice Packet, any changes to the Final Approval hearing date, time, or location will be posted on the Settlement Administrator's website. *See* Moore Decl., Exh. 2 (Settlement, Exh. B). Furthermore, the Settlement Administrator will post the notice of final judgment on its website. *Id*. This manner of giving notice satisfies California Rule of Court 3.766(e) as the most reliable and cost-effective method of reaching Settlement Class Members.

E. THE COURT SHOULD SET A FINAL APPROVAL HEARING

Finally, this Court should set a hearing for final approval of the Settlement on a date appropriately scheduled to follow the deadline by which Settlement Class Members must file objections to the Settlement or opt-out. *See* California Rule of Court 3.769.

IV. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court preliminarily approve the proposed Settlement, provisionally certify the Settlement Class, and enter the Proposed Order Granting Preliminary Approval of Class Action Settlement submitted concurrently herewith.

Dated: September 12, 2025

Respectfully submitted,
LIDMAN LAW, APC

By: Milan Moore
Milan Moore

Attorneys for Plaintiff
MARIA RODRIGUEZ