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

JAMES RAY WILEY, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

TIMELIST GROUP, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants

Case No.: 24STCV02066

CLASS AND REPRESENTATIVE ACTION

[Assigned to Hon. Laura A. Seigle, Dept. 17]

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

*[Filed with the Declarations of Kane Moon,
Plaintiff James Ray Wiley, and Jodey
Lawrence on Behalf of Phoenix Settlement
Administrators, and [Proposed] Order]*

PRELIMINARY APPROVAL HEARING:

Date: January 22, 2026

Time: 9:00 a.m.

Dept.: 17

Action Filed: January 25, 2024

Trial Date: Not set

1 **TO THE COURT, AND TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 PLEASE TAKE NOTICE that on December 2, 2025, at 8:30 a.m. in Department 17 of this
3 Court located at the Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012,
4 pursuant to Code of Civil Procedure section 382 and California Rules of Court, rule 3.769 *et seq.*,
5 Plaintiff James Ray Wiley (“Plaintiff”) will, and hereby does, move the Court for an order granting
6 preliminary approval of the proposed class action settlement between Plaintiff and Defendant
7 Timelist Group, Inc.

8 Plaintiff will further move the Court for an order:

- 9 1. Granting preliminary approval of the Class Action and PAGA Settlement Agreement
10 and Class Notice;
11 2. Certifying a Class, for settlement purposes only;
12 3. Approving the Class Notice and plan for its distribution;
13 4. Appointing Plaintiff as the Class Representative, for settlement purposes only;
14 5. Appointing Moon Law Group, PC as Class Counsel, for settlement purposes only;
15 6. Appointing Phoenix Settlement Administrators as the Settlement Administrator; and
16 7. Setting a Final Approval Hearing no earlier than 140 days from preliminary approval.

17 The motion will be based upon this notice, the attached memorandum of points and
18 authorities, the supporting Declarations of Kane Moon (and exhibits attached thereto) and Plaintiff,
19 the records and files in this action, and any other further evidence or argument that the Court may
20 properly receive at or before the hearing.

21 Respectfully submitted,

22 Dated: November 10, 2025

MOON LAW GROUP, PC

23 By: 
24 _____

25 Kane Moon
26 Allen Feghali
27 Julie S. Oh
28 Jamie C. Osganian
Attorneys for Plaintiff

TABLE OF CONTENTS

1		
2	NOTICE OF MOTION	i
3	TABLE OF CONTENTS	ii
4	TABLE OF AUTHORITIES.....	iv
5	I. INTRODUCTION.....	1
6	II. SUMMARY OF THE LITIGATION AND SETTLEMENT.....	1
7	A. Plaintiff’s Claims	1
8	B. Discovery and Investigation.....	3
9	C. Settlement Negotiations	4
10	D. Key Terms of the Proposed Settlement.....	5
11	III. THE COURT SHOULD GRANT PRELIMINARY APPROVAL	11
12	A. The Settlement Is Fair, Reasonable, Adequate, and the Product of Investigation,	
13	Litigation, and Negotiation	13
14	1. The Settlement Is the Product of Discovery, Investigation, and Informed and	
15	Non-Collusive Arm’s-Length Negotiations.....	13
16	2. The Settlement Is Fair and Reasonable Considering the Parties’ Respective	
17	Legal Positions.....	14
18	3. Plaintiff’s Counsel Have Extensive Experience in Class Action Litigation	17
19	4. The PAGA Portion of the Settlement Is Fair, Reasonable, and Adequate in	
20	View of PAGA's Purposes and Policies.....	17
21	B. The Proposed Class Notice of Settlement Should Be Approved	18
22	C. The Proposed Attorneys’ Fees and Costs Are Reasonable	20
23	1. Counsel Will Request a Fees Award Based On the “Common Fund” Method .	20
24	2. The Requested Fee Award Is in Line with Typical Cases	21
25	3. This Matter Involves a “Fee-Shifting” Provision of the Labor Code	22
26	4. Counsel’s Experience, Reputation, and Ability Support the Requested Fees....	22
27	D. The Service Payment to Named Plaintiff Is Reasonable	22
28	IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED	23

1	A. Legal Standard	23
2	B. Plaintiff Maintains that the Criteria for Class Certification Are Satisfied	24
3	1. The Class Is Ascertainable and Numerous.....	24
4	2. There Are Many Common Issues of Law and Fact Which Predominate	25
5	3. Plaintiff’s Claims Are Typical of the Claims of the Class.....	25
6	4. Plaintiff and Her Counsel Meet the Adequacy Requirement.....	26
7	5. A Class Action Is Superior to a Multiplicity of Litigation.....	26
8	V. THE PROPOSED NOTICE IS CONSTITUTIONALLY SOUND.....	27
9	A. The Proposed Notice Plan Satisfies Due Process	27
10	B. The Notice Is Accurate and Informative.....	27
11	VI. CONCLUSION	28

TABLE OF AUTHORITIES

FEDERAL CASES

Angeles v. United States Airways, Inc. (N.D. Cal. Feb. 19, 2013)

No. C 12-05860 CRB, 2013 WL 622032 4

Frank v. Eastman Kodak Co. (W.D.N.Y. 2005) 228 F.R.D. 174 22

Leyva v. Medline Industries Inc. (9th Cir. 2013) 716 F.3d 510 26

Pedroza v. PetSmart, Inc. (C.D. Cal. June 14, 2012)

No. ED CV 11–298 GHK (DTBx), 2012 WL 9506073.....4

Priddy v. Edelman (6th Cir. 1989) 883 F.2d 438 13

Rodriguez v. West Publishing Corp. (9th Cir. 2009) 563 F.3d. 948 22

Van Vranken v. Atlantic Richfield Co. (N.D. Cal. 1995) 901 F.Supp. 294 20

Vincent v. Hughes Air West, Inc. (9th Cir. 1977) 557 F.2d 759 19

OTHER AUTHORITIES

Eisenberg & Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study*

(2006) 53 UCLA L. Rev. 1303 22

COURT RULES

California Rules of Court, rule 3.766(e).....27

California Rules of Court, rule 3.766(f) 27

California Rules of Court, rule 3.769(f) 18

TREATISES

Newberg, Newberg on Class Actions (3rd ed. 1992) § 8.39 27

Newberg, Newberg on Class Actions (3rd ed. 1992) § 11.51.....13

Newberg, Newberg on Class Actions (3rd ed. 1992) § 14.03.....20

STATE CASES

Cartt v. Superior Court (1975) 50 Cal.App.3d 960.....27

Chavez v. Netflix, Inc. (2008) 162 Cal.App.4th 43.....20

City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105.....19

Classen v. Weller (1983) 145 Cal.App.3d 27 iv.....25

1	<i>Clothesrigger, Inc. v. GTE Corp.</i> (1987) 191 Cal.App.3d 605.....	25
2	<i>Collins v. Rocha</i> (1972) 7 Cal.3d 232	24
3	<i>Daar v. Yellow Cab Co.</i> (1967) 67 Cal. 2d 695.....	23
4	<i>Dunk v. Ford Motor Co.</i> (1996) 48 Cal.App.4th 1794	5, 12, 14
5	<i>Gentry v. Superior Court</i> (2007) 42 Cal.4th 443.....	22
6	<i>Kullar v. Foot Locker Retail, Inc.</i> (2008) 168 Cal.App.4th 116.....	12
7	<i>Laffitte v. Robert Half International Inc.</i> (2016) 1 Cal.5th 480.....	19
8	<i>Linder v. Thrifty Oil Co.</i> (2000) 23 Cal.4th 429.....	23
9	<i>Mallick v. Superior Court</i> (1979) 89 Cal.App.3d 434	12
10	<i>McGhee v. Bank of America</i> (1976) 60 Cal.App.3d 442	26
11	<i>Miller v. Woods</i> (1983) 148 Cal.App.3d 862	24
12	<i>Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles</i> (2010) 186 Cal.App.4th 399	12
13	<i>Neary v. Regents of University of California</i> (1992) 3 Cal.4th 272.....	11
14	<i>Quinn v. State of California</i> (1975) 15 Cal.3d 162.....	19
15	<i>Richmond v. Dart Industries, Inc.</i> (1981) 29 Cal. 3d 462.....	23
16	<i>Rose v. City of Hayward</i> (1981) 126 Cal.App.3d 926	24
17	<i>Serrano v. Priest</i> (1977) 20 Cal.3d 25.....	19
18	<i>Stamburgh v. Superior Court</i> (1976) 62 Cal.App.3d 231	13
19	<i>Wershba v. Apple Computer, Inc.</i> (2001) 91 Cal.App.4th 224	15
20	<i>Wilner v. Sunset Life Insurance Co.</i> (2000) 78 Cal.App.4th 952.....	24
21	STATE STATUTES	
22	California Code of Civil Procedure § 382.....	23
23	California Labor Code § 90.5.....	22
24	California Labor Code § 218.5.....	20
25	California Labor Code § 226.....	20
26	California Labor Code § 1194.....	20
27	California Labor Code § 2699(e)(2).....	16
28	California Labor Code § 2699(g)(1)	20

California Labor Code § 2802(d).....	20
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff James Ray Wiley (“Plaintiff”) seeks preliminary approval of a proposed
4 \$175,000.00 non-reversionary, wage and hour class action settlement (the “Settlement”) with
5 Defendant Timelist Group, INC (“Defendant”, together with Plaintiff, the “Parties”). The
6 Settlement will provide substantial monetary payments to roughly 47 class members who
7 collectively worked an estimated total of 6,275 workweeks during the statutory period. As set forth
8 more fully below, the proposed Settlement satisfies all the criteria for settlement approval under
9 California law. The Settlement was reached after extensive investigation, informal discovery, and
10 negotiations between the Parties. The negotiations were at arm’s-length and were facilitated
11 through a mediation session by experienced, neutral, class action mediator Hon. Carl J. West (Ret.).
12 Accordingly, Plaintiff requests the Court preliminarily approve the proposed Settlement, certify
13 the proposed Settlement Class, approve the proposed Notice to Class Members, and set a final
14 approval hearing no earlier than 140 days from the date of preliminary approval.

15 **II. SUMMARY OF THE LITIGATION AND SETTLEMENT**

16 **A. Plaintiff’s Claims**

17 This is a wage and hour class action and representative action for alleged Labor Code
18 violations and claims for civil penalties pursuant to the California Private Attorneys General Act,
19 Labor Code sections 2698, *et seq.* (“PAGA”). (Declaration of Kane Moon in Support of Plaintiff’s
20 Motion for Preliminary Approval of Class Action and PAGA Settlement [“Moon Decl.”], ¶ 2.)
21 Plaintiff seeks to represent a class of all current and former non-exempt employees of Defendant
22 who worked for Defendant in the State of California from January 25, 2020, through September 3,
23 2025 (“Class” or “Class Members”). (*Id.*) Defendant Timelist Group, Inc., is a non-profit
24 organization with its principal place of business in Los Angeles, California. (*Id.*)

25 Plaintiff’s claims for unpaid minimum wages arise from Defendant’s alleged failure to
26 compensate employees for all hours worked, including both minimum and overtime wages. (Moon
27 Decl., ¶ 3.) Moreover, Plaintiff’s meal and rest period claims are based on allegations that
28 Defendant failed to provide timely, full and uninterrupted meal and rest periods. (*Id.*) Finally,

1 Plaintiff brings claims for unreimbursed necessary business expenses, and derivative claims for
2 waiting time penalties, wage statement violations, unfair business practices, and civil penalties
3 under PAGA. (*Id.*)

4 Because of the foregoing alleged violations of various provisions of the Labor Code,
5 Plaintiff commenced a class action on January 25, 2024, by filing a complaint alleging the
6 following causes of action against Defendant: (1) Failure to Pay Minimum Wages [Cal. Lab. Code
7 §§ 204, 1194, 1194.2, and 1197]; (2) Failure to Pay Overtime Compensation [Cal. Lab. Code §§
8 1194 and 1198]; (3) Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512]; (4) Failure
9 to Authorize and Permit Rest Breaks [Cal. Lab. Code § 226.7]; (5) Failure to Indemnify Necessary
10 Business Expenses [Cal. Lab. Code § 2802]; (6) Failure to Timely Pay Final Wages at Termination
11 [Cal. Lab. Code §§ 201-203]; (7) Failure to Provide Accurate Itemized Wage Statements [Cal.
12 Lab. Code § 226]; and (8) Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.].
13 On April 5, 2024, Plaintiff filed a first amended complaint, alleging an additional cause of action
14 for Civil Penalties Under PAGA [Cal. Lab. Code § 2699, et seq.]. (Moon Decl., ¶ 4.) Prior to
15 bringing a PAGA claim, Plaintiff sent to Defendant and the California Labor and Workforce
16 Development Agency (the “LWDA”) a PAGA notice of alleged Labor Code violations. (*Id.* at ¶ 9,
17 Exh. 2.) Plaintiff’s administrative exhaustion period under PAGA expired without the LWDA
18 indicating its intent to investigate the alleged violations. (*Id.*) Pursuant to Labor Code section
19 2699, subdivision (l)(1), counsel for Plaintiff (“Plaintiff’s Counsel” or “Class Counsel”) submitted
20 a file-stamped copy of Plaintiff’s first amended complaint that contained the Court-assigned case
21 number to the LWDA. (*Id.*)

22 Defendant ardently opposes the merits of this case and denies Plaintiff’s factual allegations.
23 (Moon Decl., ¶ 5.) Defendant argues the putative Class was paid all minimum and overtime wages
24 owed. Defendant maintains compliance with all its meal and rest period obligations (*Id.*) As for the
25 unreimbursed business expenses, Defendant maintains it reimbursed Class Members for all
26 necessary business expenses incurred. (*Id.*) To the extent Class Members received wage statements
27 that were allegedly inaccurate, Defendant asserts they suffered no actual damage or harm as a
28 result. (See, e.g., *Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013) No. C 12–05860 CRB,

2013 WL 622032, at *10 [“A plaintiff must adequately plead an injury arising from an employer’s failure to provide full and accurate wage statements, and the omission of the required information alone is not sufficient.”].) (Moon Decl., ¶ 5.) With respect to Plaintiff’s claim for waiting time penalties, Defendant alleges its good-faith belief that they paid all wages precludes the imposition of waiting time penalties since Plaintiff cannot prove Defendant’s alleged failure to pay all final wages at the time of separation was “willful.” (See, e.g., *Pedroza v. PetSmart, Inc.* (C.D. Cal. June 14, 2012) No. ED CV 11–298 GHK (DTBx), 2012 WL 9506073, *5.) (Moon Decl., ¶ 5.) For these reasons, Defendant claims it did not engage in any unfair business practices and denies liability under PAGA. (Moon Decl., ¶ 5.).

B. Discovery and Investigation

After this action was initiated, the Parties met and conferred and agreed to participate in mediation. (Moon Decl., ¶ 6.) On August 4, 2025, the Parties participated in a full-day mediation before Hon. Carl J. West (Ret.), an experienced class and PAGA action mediator. (*Id.*) In preparation for mediation, the Parties agreed to a protocol for an informal exchange of documents and information before the mediation. (*Id.*) Prior to mediation, Plaintiff obtained, through informal discovery, the approximate number of Class Members and total workweeks, sample payroll data, Defendant’s Employee Handbook and other policy documents, and Plaintiff’s personnel file. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”) (*Id.*)

In preparation for mediation, Plaintiff’s Counsel reviewed and analyzed all the information provided, including documents provided by Plaintiff, Defendant’s Employee Handbook, financial records, Plaintiff’s and Class Members’ payroll records. (Moon Decl., ¶ 7.) Based on Defendant’s reasonable estimates, the putative class is comprised of 47 Class Members, who worked for 6,275 workweeks in aggregate during the relevant time period. (*Id.*) Defendant produced the payroll totals for the entire Class and sample paystubs. (*Id.*) Class Counsel also retained a statistics expert to analyze the sample data and prepare a damage analysis prior to mediation. (*Id.*) In conjunction with their extensive factual investigation, Class Counsel also investigated the applicable law regarding the claims

1 and defenses asserted in the litigation. (*Id.*) Accordingly, Plaintiff’s Counsel were able to evaluate the
2 probability of class certification, success on the merits, and Defendant’s maximum and realistic
3 monetary exposure for all claims. (*Id.*) Thus, Plaintiff’s and Class Counsel’s familiarity with the facts
4 of the case and the legal issues raised by the pleadings allowed them to act intelligently in negotiating
5 the Settlement. Accordingly, Plaintiff’s investigation and discovery are sufficient to satisfy the criteria
6 for court approval set forth in *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802, as modified
7 Sept. 30, 1996 (holding that in evaluating a class action settlement, “a presumption of fairness exists
8 where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery
9 are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar
10 litigation; and (4) the percentage of objectors is small.”).

11 **C. Settlement Negotiations**

12 On August 4, 2025, the Parties participated in mediation with Hon. Carl J. West (Ret.), a
13 professional and neutral class and PAGA action mediator. (Moon Decl., ¶ 8.) The settlement
14 negotiations were at arm’s length and, although conducted in a professional manner, were
15 adversarial. (*Id.*) The Parties went into the mediation willing to explore the potential for a
16 settlement of the dispute, but each side was also prepared to litigate their position through trial
17 and appeal if a settlement had not been reached. (*Id.*) After extensive negotiations and discussions
18 regarding the strengths and weaknesses of Plaintiff’s claims and Defendant’s defenses, the Parties
19 reached a settlement, the material terms of which are encompassed within the Class Action and
20 PAGA Settlement Agreement and Class Notice. (*Id.*, Exh. 1 [the “Settlement Agreement” or
21 “Settlement”].) Class Counsel represent they are not aware of any related case that would be
22 extinguished or adversely affected by approval of this Settlement. (*Id.* at ¶ 10.) On November 10,
23 2025, Plaintiff’s Counsel submitted the proposed Settlement Agreement to the LWDA. (*Id.* at ¶
24 11, Exh. 3.) To date, the LWDA has not indicated any objection to the proposed Settlement. (*Id.*)

25 Class Counsel has conducted a thorough investigation into the facts of this case. (Moon
26 Decl., ¶ 18.) Based on the foregoing document and information exchange and on their own
27 independent investigation and evaluation, Class Counsel is of the opinion that the proposed
28 Settlement is fair, reasonable, and adequate. (*Id.*) Furthermore, considering all known facts and

1 circumstances, the risk of significant delay, trial risk, appellate risk, and the defenses that
2 Defendant may assert both to certification and on the merits, the Settlement is in the best interests
3 of the Class. (*Id.* at ¶¶ 18–32.) **Indeed, the \$175,000.00 gross settlement figure represents**
4 **roughly 82% of the realistic (*risk-adjusted*) recovery estimated to be \$212,889.00.** (*Id.* at ¶ 26.)

5 **D. Key Terms of the Proposed Settlement**

6 Under the Settlement, Defendant will pay a non-reversionary, all-inclusive amount of
7 \$175,000.00 to resolve this litigation, subject to an escalator clause. (Settlement, ¶ 1.19.)
8 Defendant’s portion of the payroll taxes are not part of the Gross Settlement Amount and shall be
9 paid by Defendant separately. (*Id.* at ¶ 3.1.) The Settlement’s key terms include:

10 1. **“Class” or “Class Member”** means are all current and former non-exempt
11 employees of Defendant who worked for Defendant in California during the Class Period. (*Id.* at
12 ¶ 1.5.)

13 2. **“Participating Class Member”** means a Class Member who does not submit a valid
14 and timely Request for Exclusion from the Settlement. (*Id.* at ¶ 1.5.)

15 3. **“Class Period”** means the period from January 25, 2020, through September 3, 2025.
16 (*Id.* at ¶ 1.11.).

17 4. **“Aggrieved Employee”** means a person employed by Defendant in California and
18 classified as a non-exempt hourly paid employee who worked for Defendant during the PAGA
19 Period. (*Id.* at ¶ 1.4.)

20 5. **“PAGA Period”** means January 25, 2023, through September 3, 2025. (*Id.* at ¶ 1.28.)

21 6. **“Gross Settlement Amount”** means the total amount Defendant agrees to pay under
22 the Settlement Agreement, subject to a potential increase under the escalator clause. (*Id.* at ¶¶
23 1.19 and 8.) This amount is \$175,000.00 and excludes Defendant’s share of payroll taxes. (*Id.*)
24 No portion of the Gross Settlement Amount will revert to Defendant. (*Id.* at ¶ 3.1)

25 7. **Escalator Clause.** The Gross Settlement Amount covers 6,275 Workweeks during
26 the Class Period, plus a 10% escalator. (*Id.* at ¶ 8.) In the event that the total Workweeks included
27 in the Class Period increases by more than 10% of the original estimate (i.e., there are 6,903 or
28 more Workweeks in the Class Period), then the Gross Settlement Amount shall increase

1 proportionately over the 10% threshold (i.e., if the total number of Workweeks increase by 11%,
2 the Gross Settlement Amount will increase by 1%). (*Id.*)

3 8. **“Class Representative Service Payment”** means the payment of \$7,500.00 to
4 Plaintiff, to be paid from the Gross Settlement Amount, for initiating the Action and providing
5 services in support of the Action. (*Id.* at ¶¶ 1.13 and 3.2.1.)

6 9. **“Class Counsel Fees Payment”** and **“Class Counsel Litigation Expenses**
7 **Payment”** mean the amounts allocated to Class Counsel for reimbursement of reasonable
8 attorneys’ fees and expenses, respectively, incurred to prosecute the Action. (*Id.* at ¶ 1.7.) The
9 Settlement Agreement provides for Class Counsel Fees Payment of not more than 33 1/3% of the
10 Gross Settlement Amount, which is currently estimated to be \$58,333.33, and a Class Counsel
11 Litigation Expenses Payment of not more than \$20,000.00. (*Id.* at ¶ 3.2.2.) If the Court approves
12 a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the
13 amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount.
14 (*Id.*) Plaintiff’s Counsel’s litigation costs are currently \$12,907.47. (Moon Decl., ¶ 14, Exh 4.)

15 10. **“Administrator”** means Phoenix Settlement Administrators (“Phoenix”), the neutral
16 entity the Parties have agreed to appoint to administer the Settlement. (Settlement, ¶ 1.2.) Phoenix
17 is qualified and experienced in administering class action settlements and has procedures in place
18 to protect the security of class data, including insurance for errors and omissions and cyber
19 insurance. (Declaration of Jodey Lawrence on Behalf of Phoenix Class Action Administration
20 Solutions [“Admin. Decl.”], ¶¶ 6-11.)

21 11. **“Administration Expenses Payment”** means the payment to the Administrator from
22 the Gross Settlement Amount, in an amount up to \$6,000.00, for its reasonable fees and expenses
23 in administering the Settlement. (Settlement, ¶¶ 1.3 and 3.2.3.) Phoenix has submitted a not-to-
24 exceed bid for \$6,000.00. (Moon Decl., ¶ 16, Exh. 5; Admin. Decl., ¶ 16.) Given the size of the
25 Class, the experience and qualifications of Phoenix, and the administration costs of other
26 comparable third-party administrators, Phoenix’s bid is fair and reasonable. (*Id.*) To the extent
27 the Administration Expenses Payment is less or the Court approves payment less than \$6,000.00,
28 the Administrator will retain the remainder in the Net Settlement Amount. (Settlement, ¶¶ 1.3 and

3.2.3.)

12. **“PAGA Penalties”** means the total amount of PAGA civil penalties (\$10,000.00) to be paid from the Gross Settlement Amount, allocated 25% to Aggrieved Employees (\$2,500.00) and 75% to the LWDA (\$7,500.00) (“LWDA PAGA Payment”) in settlement of PAGA claims. (*Id.* at ¶ 1.31.)

13. **“Net Settlement Amount”** means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. (*Id.* at ¶ 1.25.) The remainder, or the Net Settlement Amount, is to be paid to Participating Class Members as Individual Class Payments. (*Id.*)

14. **“Individual Class Payment”** means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period. (*Id.* at ¶ 1.20.)

15. **“Individual PAGA Payment”** means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period. (*Id.* at ¶ 1.21.)

16. **“Workweek”** means any week during which a Class Member worked for Defendant for at least one day, during the Class Period. (*Id.* at ¶ 1.41.)

17. **“Pay Periods” or “PAGA Pay Periods”** means any pay period during which a PAGA Member worked for Defendant for at least one day during the PAGA Period. (*Id.* at ¶ 1.27.)

18. **“Class Notice”** means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English, with a Spanish translation, in the form, without material variation, attached as “Exhibit A” and incorporated by reference into the Settlement Agreement. (*Id.*, ¶¶ 1.10 and 7.4, Exh. A.) The Class Notice sets forth, in plain terms, a statement of the case, the terms of the Settlement, the scope of the release, the approximate amounts of attorneys’ fees, costs, and service award to Plaintiff being sought, an explanation of how the individual payments

1 are calculated, the procedures for submitting objections, requests for exclusion, and workweek
2 disputes, and information regarding the hearing on the motion for final approval of the Settlement
3 (“Final Approval Hearing”). (*Id.*) No claim form is required to receive the settlement payment,
4 and the Class Notice provides that the Class Members do not have to do anything to participate
5 in the proposed Settlement and be eligible for their Individual Class Payment and/or Individual
6 PAGA Payment. (Settlement, Exh. A.)

7 **19. Tax Allocation of Individual Class Payments.** 15% of each Participating Class
8 Member’s Individual Class Payment will be allocated to settlement of wage claims (the “Wage
9 Portion”). (*Id.* at ¶ 3.2.4.1.) The Wage Portions are subject to tax withholding and will be reported
10 on an IRS W-2 Form. (*Id.*) The remaining 85% of each Participating Class Member’s Individual
11 Class Payment will be allocated to settlement of claims for interest and penalties (the “Non-Wage
12 Portion”). (*Id.*) The Non-Wage Portions are not subject to wage withholdings and will be reported
13 on IRS 1099 Forms. (*Id.*) The Individual PAGA Payments are counted as penalties rather than
14 wages for tax purposes and therefore will be reported on IRS 1099 Forms. (*Id.* at ¶ 3.2.4.1.)
15 Participating Class Members and PAGA Members assume full responsibility and liability for any
16 taxes owed on their Individual Class Payment. (*Id.*)

17 **20. “Released Parties”** means Defendant and each of its former and present directors,
18 officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns,
19 and affiliates. (*Id.* at ¶ 1.37.)

20 **21. “Released Class Claims”** means the claims released by Participating Class Members
21 under the Settlement. (*Id.* at ¶¶ 1.35 and 5.2.) The Released Class Claims include all claims that
22 were alleged, or reasonably could have been alleged, based on the facts stated in the Operative
23 Complaint. (*Id.* at ¶ 5.2.).

24 **22. “Released PAGA Claims”** means the claims released by PAGA Members under the
25 Settlement. (*Id.* at ¶¶ 1.36 and 5.3.) The Released PAGA Claims include all claims for civil
26 penalties under PAGA that were alleged, or reasonably could have been alleged, based on the
27 PAGA Period facts stated in the Operative Complaint and/or Plaintiff’s PAGA Notice. (*Id.* at ¶
28 5.3).

1 23. **“Class Data”** means Class Member identifying information in Defendant’s possession
2 including the Class Member’s name, last-known mailing address, Social Security number, and
3 number of Class Period Workweeks and PAGA Pay Periods. (*Id.* at ¶ 1.8.) Not later than fifteen
4 (15) days after the Court grants Preliminary Approval of the Settlement, Defendant will
5 simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel
6 spreadsheet. (*Id.* at ¶ 4.1.).

7 24. **Mailing of Notice.** Using best efforts to perform as soon as possible, and in no event
8 later than fourteen (14) days after receiving the Class Data, the Administrator will send to all
9 Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”).
10 (*Id.* at ¶ 7.4.2.) Before mailing Class Notices, the Administrator shall update Class Member
11 addresses using the National Change of Address database. (*Id.*) Not later than three (3) business
12 days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered,
13 the Administrator shall re-mail the Class Notice using any forwarding address provided by the
14 USP (*Id.* at ¶ 7.4.3.) If the USPS does not provide a forwarding address, the Administrator shall
15 conduct a Class Member Address Search, and re-mail the Class Notice to the most current address
16 obtained. (*Id.*)

17 25. **Settlement Website and Final Approval and Judgment.** The Administrator will
18 establish, maintain, and use an internet website (“Settlement Website”) to post information of
19 interest to Class Members including the date, time, and location for the Final Approval Hearing
20 and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary
21 Approval Order, the Class Notice, the Motion for Final Approval, the Final Approval Order, and
22 the Judgment. (*Id.* at ¶ 7.8.1.). The Administrator will also maintain and monitor an email address
23 and a toll-free telephone number to receive Class Member calls, faxes and emails. (*Id.*) The Class
24 Notice provides that the Final Approval Hearing may be rescheduled, and that Class Members
25 can check on the Settlement Website or contact Class Counsel for any change with respect to the
26 Final Approval Hearing. (Settlement, Exh. A.) The judgment entered by the Court upon its order
27 granting final approval of the Settlement (“Judgment”) will be posted on the Settlement Website.
28 (*Id.* at ¶ 7.8.1.) Class Members will be given notice of Judgment through the Class Notice which

1 provides that the Judgment can be viewed on the Settlement Website. (Settlement, Exh. A.)

2 **26. Uncashed Settlement Checks.** All checks for Individual Class Payments and
3 Individual PAGA Payments will be valid for 180 calendar days after the date of mailing. (*Id.* at ¶
4 4.3.1.) For any Class Member whose Individual Class Payment check or Individual PAGA
5 Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the
6 funds represented by such checks to the California Controller's Unclaimed Property Fund in the
7 name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of
8 California Code of Civil Procedure Section 384 subd. (b). (*Id.* at ¶ 4.3.3.)

9 **27. "Response Deadline"** means 60 days after the Administrator mails the Class Notice
10 to Class Members, and shall be the last date on which Class Members may: (a) fax, email or mail
11 Requests for Exclusion from the Settlement, (b) fax, email or mail a written objection to the
12 Settlement, or (c) fax, email, or mail a Workweek and/or Pay Period dispute. Class Members to
13 whom Notice Packets are remailed after having been returned undeliverable to the Administrator
14 shall have an additional 14 calendar days beyond the Response Deadline has expired. (*Id.* at ¶
15 1.39.)

16 **28. "Request for Exclusion"** means a Class Member's written request to be excluded
17 from the class action components of the Settlement. (*Id.* at ¶ 1.38.) Class Members may opt out
18 of the Settlement by sending a Request for Exclusion to the Administrator, by fax, email, or mail
19 within the Response Deadline (plus an additional 14 days for Class Members whose Class Notice
20 is re-mailed). (*Id.* at ¶ 7.5.1.) Class Members are instructed to include their name, signature,
21 contact information, and a statement electing to opt out of the Settlement. (*Id.* at ¶ 7.5.1 and Exh.
22 A, Class Notice.) However, Administrator may not reject a Request for Exclusion as invalid
23 because it fails to contain all the information specified in the Class Notice as long as the
24 Administrator can reasonably ascertain the identity of the person as a Class Member and the Class
25 Member's desire to be excluded. (*Id.* at ¶ 7.5.2.)

26 **29. Objections to Settlement.** Participating Class Members may object to the class
27 action components of the Settlement by sending written objections to the Administrator, by fax,
28 email, or mail, within the Response Deadline (plus an additional 14 days for Class Members

1 whose Class Notice is re-mailed). (*Id.* at ¶¶ 7.7 and Exh. A, Class Notice.) In the alternative,
2 Participating Class Members may appear in Court (or hire an attorney to appear in Court) to
3 present verbal objections at the Final Approval Hearing. (*Id.*) Only Participating Class Members
4 have the right to object to the Settlement. (*Id.*)

5 **30. Workweek and/or Pay Period Disputes.** Class Members who wish to dispute the
6 number of Workweeks and/or PAGA Pay Periods allocated to the Class Member in the Class
7 Notice may do so by communicating with the Administrator via fax, email, or mail, within the
8 Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-
9 mailed). (*Id.* at ¶¶ 7.6. and Exh. A, Class Notice.) In the absence of any documentation submitted
10 by Class Member to support his or her challenge, the Administrator is entitled to presume that the
11 Workweeks contained in the Class Notice are correct so long as they are consistent with the Class
12 Data. (*Id.*)

13 **31. Settlement Funding.** Defendant shall fully fund the Gross Settlement Amount and
14 also fund the amounts necessary to fully pay Defendant’s share of payroll taxes by transmitting
15 the funds to the Administrator in two equal installments: the first payment shall be due within 60
16 days of the Court’s Final Approval, and the second payment shall be due within 180 days from
17 the date of the first payment (*Id.* at ¶ 4.2.) “Final Approval” means the Court’s order granting
18 final approval of the Settlement. (*Id.* at ¶ 1.17.)

19 **III. THE COURT SHOULD GRANT PRELIMINARY APPROVAL**

20 The law favors the settlement of lawsuits, particularly in class actions and other complex
21 cases. (*See, e.g., Neary v. Regents of Univ. of Cal.* (1992) 3 Cal.4th 272, 277–81.) To prevent fraud,
22 collusion, or unfairness to the class, the settlement of a class action requires court approval. (*Dunk v.*
23 *Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800–01 [citing authority omitted].) To approve a
24 settlement, the Court must find “the settlement is fair, adequate, and reasonable.” (*Id.*) This Court
25 has wide discretion in making this determination. (*Mallick v. Super. Ct.* (1979) 89 Cal.App.3d 434,
26 438.) Fairness, adequacy, and reasonableness are presumed, as here, when: “(1) the settlement is
27 reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow
28 counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the

percentage of objectors is small.” (*Dunk*, 48 Cal.App.4th at p. 1802 [citing Newberg, Newberg on Class Actions (3rd ed. 1992) § 11.41].)

In evaluating a class action settlement, the trial court considers the following factors: (1) the strength of plaintiff’s case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk of maintaining class action status through trial; (4) the settlement amount offered; (5) the extent of discovery completed and the stage of the proceedings; (6) counsel’s experience and views; (7) the presence of a governmental participant; and (8) the class members’ reaction to the proposed settlement. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128.) In order to approve a class action settlement, “the court must satisfy itself that the class settlement is within the ‘ballpark’ of reasonableness.” (*Id.* at p. 133.) The record need not contain an explicit statement of the maximum theoretical recovery. (*Munoz v. BCI Coca-Cola Bottling Co. of L.A.* (2010) 186 Cal.App.4th 399, 408–09 [holding that *Kullar* does not require “an explicit statement of the maximum amount the plaintiff class could recover if it prevailed on all its claims,” but instead, only an “understanding of the amount that is in controversy and the realistic range of outcomes of the litigation”].)

If the class action settlement includes a settlement of PAGA claims, the courts also review the PAGA portion of the settlement to ensure that “any negotiated resolution is fair to those affected.” (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 76, quoting *Williams v. Superior Court* (2017) 3 Cal.5th 531, 549.) The factors used to evaluate class action settlements “including the strength of the plaintiff’s case, the risk, the stage of the proceeding, the complexity and likely duration of further litigation” can be used to evaluate the fairness of a PAGA settlement. (*Id.* at p. 77.) However, when reviewing a PAGA settlement, a trial court’s inquiry is whether it is “fair in view of PAGA’s purposes and policies,” which are “to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws.” (*Id.*; see also *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 542–543 [noting that the “civil penalties recovered on the state’s behalf are intended to ‘remediate present violations and deter future ones,’ not to redress employees’ injuries” in reviewing PAGA portion of class action settlement to determine its fairness].)

1 As discussed below, Class Counsel have provided information exceeding the threshold
2 required to provide this Court with materials and information necessary to determine that the
3 proposed Settlement is fair, adequate, and reasonable.

4 **A. The Settlement Is Fair, Reasonable, Adequate, and the Product of**
5 **Investigation, Litigation, and Negotiation**

6 **1. The Settlement Is the Product of Discovery, Investigation, and**
7 **Informed and Non-Collusive Arm's-Length Negotiations**

8 Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless
9 evidence to the contrary is offered; thus, there is a presumption here that the negotiations were
10 conducted in good faith. (Newberg, Newberg on Class Actions (3rd ed. 1992) § 11.51.) Settlement
11 is favored, and settlement agreements are realistically assessed. (*Stamburgh v. Super. Ct.* (1976) 62
12 Cal.App.3d 231, 236; *Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447 [“The fact that the
13 plaintiff might have received more if the case had been fully litigated is no reason not to approve the
14 settlement.”].)

15 The proposed Settlement at issue here was reached following extensive negotiations and
16 discussions regarding the strengths and weaknesses of Plaintiff’s claims and Defendant’s defenses
17 with an experienced, professional and neutral mediator, Hon. Carl J. West (Ret.). (Moon Decl., ¶ 8.)
18 The settlement negotiations were at arm’s length and, although conducted in a professional manner,
19 were adversarial. (*Id.*) The Parties went into the mediation willing to explore the potential for a
20 settlement of the dispute, but each side was also prepared to litigate their position through trial and
21 appeal if a settlement had not been reached. (*Id.*) After extensive negotiations and discussions
22 regarding the strengths and weaknesses of Plaintiff’s claims and Defendant’s defenses, the Parties
23 reached a settlement. (*Id.*)

24 Prior to mediation, Plaintiff’s Counsel obtained from Defendant information regarding the
25 class and the PAGA group, including approximate number of Class Members and total workweeks,
26 sample payroll data, Defendant’s Employee Handbook and other policy documents, and Plaintiff’s
27 personnel file.. (Moon Decl., ¶ 6.) In preparation for mediation, Plaintiff’s Counsel reviewed and
28 analyzed all the information provided, including documents provided by Plaintiff, Defendant’s

1 Employee Handbook, financial records, Plaintiff's and Class Members' payroll records. (*Id.* at ¶ 7.)
2 Based on information provided by Defendant, the putative class is comprised of approximately 47
3 Class Members, who worked for 6,275 workweeks in aggregate during the relevant time period. (*Id.*)
4 In conjunction with their extensive factual investigation, Class Counsel also investigated the
5 applicable law regarding the claims and defenses asserted in the litigation. (*Id.*) Accordingly, Class
6 Counsel was able to evaluate the probability of class certification, success on the merits, and
7 Defendant's maximum and realistic monetary exposure for all claims. (*Id.*) Thus, Plaintiff's and Class
8 Counsel's familiarity with the facts of the case and the legal issues raised by the pleadings allowed
9 them to act intelligently in negotiating the Settlement. (*Id.*) Accordingly, Plaintiff's investigation and
10 discovery are sufficient to satisfy the criteria for court approval set forth in *Dunk v. Ford Motor Co.*,
11 48 Cal.App.4th at p. 1802. (*Id.*)

12 Furthermore, Class Counsel have considerable experience and demonstrated competence with
13 litigating wage and hour class actions. (Moon Decl., ¶¶ 37–54.) The experience of Class Counsel was
14 helpful in assessing the reasonableness of the Settlement at issue here, and from this experience Class
15 Counsel concluded that this litigation could not have been settled on better terms than provided under
16 the proposed Settlement. (*Id.* at ¶ 54.) Again, this supports the conclusion that the terms of the
17 Settlement are based on objective evidence that has been considered and weighed against the risks,
18 expenses, and time consumption to both sides of continued litigation of this action.

19 **2. The Settlement Is Fair and Reasonable Considering the Parties'**
20 **Respective Legal Positions**

21 A settlement is not judged against what a plaintiff might recover had he prevailed at trial, nor
22 does the settlement have to provide 100% of the damages sought to be fair and reasonable. (*Wershba*
23 *v. Apple Comp., Inc.* (2001) 91 Cal.App.4th 224, 246, 250 ["Compromise is inherent and necessary
24 in the settlement process . . . even if 'the relief afforded by the proposed settlement is substantially
25 narrower than it would be if the suits were to be successfully litigated,' this is no bar to a class
26 settlement because 'the public interest may indeed be served by a voluntary settlement in which each
27 side gives ground in the interest of avoiding litigation.'"]) [quoting *Air Line Stewards v. Am. Airlines,*
28 *Inc.* (7th Cir. 1972) 455 F.2d 101, 109].)

1 Here, the Settlement obviates the significant risk that this Court may deny certification of all
2 or some of Plaintiff's claims. (Moon Decl., ¶ 29.) Furthermore, even if Plaintiff was able to pursue
3 his claims on a class-wide basis and obtain certification of all or some of the claims, continued
4 litigation would be expensive, involving a trial and possible appeals, and would substantially delay
5 and reduce any recovery by the Class. (*Id.*) While Plaintiff is confident in the merits of his claims, a
6 legitimate controversy exists as to each cause of action. (*Id.* at ¶ 27.) Plaintiff also recognizes that
7 proving the amounts of wages owed to each Class Member would be an expensive, time-consuming,
8 and uncertain proposition. (*Id.*) Class Counsel are also of the opinion that because the issues here are
9 fairly contested, there is a possibility of the Court not awarding the PAGA penalties even if Plaintiff
10 prevailed on the merits due to the largely discretionary nature of awarding PAGA penalties. (*Id.* at
11 ¶ 28.) In other words, were this matter to go to trial, any award granted would be at the discretion of
12 the Court and subject to a substantial reduction. (*Id.*)

13 Because of the proposed Settlement, Class Members will receive timely, guaranteed relief
14 and will avoid the risk of not being able to recover anything. (Moon Decl., ¶ 26.) This Settlement
15 avoids the risks, burdens, and the accompanying expense of further litigation. (*Id.* at ¶ 30.) Although
16 the Parties have engaged in a significant amount of investigation, informal discovery, and analysis,
17 they have not conducted formal, written discovery, expert discovery, or taken depositions. (*Id.* at ¶
18 30.) Moreover, preparation for class certification and a trial would remain for the Parties as well as
19 the prospect of appeals in the wake of a disputed class certification ruling for Plaintiff and/or any
20 summary judgment ruling. (*Id.*) As a result, the Parties would incur considerably more attorneys'
21 fees and costs through trial. (*Id.*)

22 The proposed settlement of \$175,000.00 therefore represents a substantial recovery when
23 compared to the reasonably forecasted recovery of the Class. (Moon Decl., ¶ 32.) When considering
24 the risks of litigation, the uncertainties involved in continued litigation, the burdens of proof
25 necessary to establish liability, and the probability of appeal, it is clear the Settlement amount of
26 \$175,000.00 is within the "ballpark" of reasonableness, and that preliminary settlement approval is
27 appropriate. (*Id.*)
28

1 Indeed, the Net Settlement Amount available for settlement payments is *no less* than
2 **\$73,166.67**¹ for an estimated Class size of 47 individuals². (Moon Decl., at ¶ 31.) As a result, it is
3 estimated each Participating Class Member is eligible to receive an average benefit of approximately
4 **\$1,556.74** prior to tax withholdings on the wage portion of payments. (*Id.*) In addition, the Settlement
5 provides PAGA Penalties in the amount of \$10,000.00, 75% (\$7,500.00) of which will be allocated
6 to the LWDA and 25% (\$2,500.00) to Aggrieved Employees for settlement of PAGA claims. (*Id.*)
7 As a result, it is estimated that each Aggrieved Employee will receive an average Individual PAGA
8 Payment of **\$53.19** (\$2,500.00 / 47 Aggrieved Employees). (*Id.*)

9 This amount allocated for settlement of PAGA claims is fair to Aggrieved Employees because
10 here, *all* Aggrieved Employees will receive settlement payments for *both* the class portion and the
11 PAGA portion of the Settlement. (*Id.*) Moreover, the standard for evaluating a PAGA settlement is
12 “whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor
13 law violations, deter future ones, and to maximize enforcement of state labor laws.” (*Moniz v. Adecco*
14 *USA, Inc.*, 72 Cal.App.5th at p. 77.) In light of the strengths and weaknesses of Plaintiff’s claims and
15 the risks involved in further litigation, the amount allocated for PAGA Penalties is fair, adequate,
16 and reasonable to both the Aggrieved Employees and the LWDA, as it remediates present labor law
17 violations, which otherwise may have gone unremedied, promotes the enforcement of California
18 labor laws, and deter future violations. (Moon Decl. ¶ 32.) The actual amounts to Participating Class
19 Members and Aggrieved Employees will vary based on each individual’s duration of work during
20 the Class Period or PAGA Period, respectively; thus, those who worked longer for Defendant during
21 the relevant period will receive a benefit greater than the average estimated amount. (*Id.*) The high
22 and low range of payments to Class Members will be calculated by the Administrator following

24
25 ¹ The Net Settlement Amount is at least \$175,000.00 less the following: \$7,500.00 for the
26 Class Representative Service Payment, \$6,000.00 for Administration Expenses Payment, \$10,000.00
27 for the PAGA Penalties payments to the LWDA and to Aggrieved Employees, \$58,333.33, for Class
28 Counsel Fees Payment, and up to \$20,000.00 for Class Counsel Litigation Expenses Payment.
(Settlement Agreement, ¶¶ 1.25 and 3.1-3.2.4.2.)

1 preliminary approval and receipt and processing of the Class Data and will be provided to the Court
2 in a motion for final approval. (*Id.*)

3 **3. Class Counsel Have Extensive Experience in Class Action Litigation**

4 The Settlement negotiations were conducted by highly capable and experienced counsel.
5 (Moon Decl., ¶¶ 37–53.) Class Counsel have a strong record of vigorous and effective advocacy for
6 their clients and are experienced in handling complex wage and hour class action litigation. (*Id.*) The
7 experience of Class Counsel was helpful in assessing the reasonableness of the Settlement at issue
8 here, and from this experience they concluded that this litigation could not have been settled on better
9 terms than provided under the Settlement. (*Id.* at ¶ 54.) Although Plaintiff and his counsel were
10 prepared to try the claims alleged in the litigation, they support the proposed Settlement as being in
11 the best interest of the Class based on objective evidence that has been considered and weighed
12 against the risks, expenses, and time consumption to both sides of continued litigation. (*Id.* at ¶¶ 18-
13 30.)

14 **4. The PAGA Portion of the Settlement Is Fair, Reasonable, and** 15 **Adequate in View of PAGA’s Purposes and Policies**

16 The Settlement allocates \$10,000.00 as PAGA civil penalties, 75% (\$7,500.00) of which will
17 be allocated to the LWDA and 25% (\$2,500.00) to Aggrieved Employees for settlement of PAGA
18 claims. (Settlement, ¶ 3.2.5.) This amount allocated for settlement of PAGA claims is fair to
19 Aggrieved Employees because the 25% share of PAGA Penalties will be shared by all Aggrieved
20 Employees. (*Id.* at ¶ 3.2.5.1.) Moreover, here, *all* Aggrieved Employees will receive settlement
21 payments for *both* the class portion and the PAGA portion of the Settlement. (Moon Decl., ¶ 31.)
22 Both the Individual Class Payments and Individual PAGA Payments are calculated proportionately
23 based on each Class Member’s and Aggrieved Employee’s duration of work during the Class/PAGA
24 Period. (*Id.*)

25 More importantly, PAGA civil penalties recovered on the state’s behalf are intended to
26 “remediate present violations and deter future ones, not to redress employees’ injuries.” (*Amaro v.*
27 *Anaheim Arena Management, LLC*, 69 Cal.App.5th at p. 542.) Thus, the standard for evaluating a
28 PAGA settlement is not whether the employees are fully compensated for their injuries, but “whether

1 it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law
2 violations, deter future ones, and to maximize enforcement of state labor laws.” (*Moniz v. Adecco*
3 *USA, Inc.*, 72 Cal.App.5th at p. 77.) Thus, the PAGA Penalties amount allocated to the LWDA under
4 the Settlement is also fair, reasonable, and adequate in view of the PAGA’s purposes and policies, as
5 it furthers enforcement of California labor laws and thereby deterring future violations. (Moon Decl.,
6 ¶ 31.) As a result of the Settlement, Plaintiff has maximized the enforcement of state labor laws and
7 Defendant has to pay \$7,500.00 as civil penalties owed to the state. (*Id.*) Moreover, the PAGA
8 Penalties under the Settlement remediate labor law violations that otherwise may have gone
9 unremedied due to Defendant’s vigorous defenses. (*Id.*)

10 In light of the PAGA’s purposes and considering the strengths and weaknesses of Plaintiff’s
11 claims and the risks involved in further litigation, the amount allocated for PAGA penalties is fair,
12 adequate, and reasonable to both the PAGA Members and the LWDA, as it remediates present labor
13 law violations, which otherwise may have gone unremedied, promotes the enforcement of California
14 labor laws, and deter future violations, while providing a genuine and meaning relief to PAGA
15 Members. (Moon Decl., ¶¶ 25, 31.) Thus, the amount allocated as PAGA penalties is fair, reasonable,
16 and adequate to the PAGA Members and the LWDA, consistent with the statutory purpose of PAGA.

17 **B. The Proposed Class Notice Should Be Approved**

18 The proposed Class Notice, in the form attached to the Settlement as Exhibit A, should be
19 approved for dissemination to the Class. The Class Notice informs the Class of the terms of the
20 Settlement, including the claims being released, each Class Member’s anticipated individual
21 settlement payment amount, how that amount was calculated, the amount of fees and expenses
22 requested by Class Counsel, the amount requested for the class representative incentive award, and
23 of Class Members’ rights to be excluded from or object to the Settlement as well as the procedures
24 for requesting exclusion or making objections. (Settlement, Exh. A.) The Class Notice will also
25 provide the date and place for the Final Approval Hearing. (*Id.*) Accordingly, the proposed Class
26 Notice meets all the requirements of Rule 3.769(f) of the California Rules of Court. (Cal. Rules of
27 Court, rule 3.769(f).)

1 **C. The Proposed Attorneys’ Fees and Costs Are Reasonable**

2 The Settlement Agreement provides for attorneys’ fees payable to Class Counsel in an amount
3 up to 33 1/3% of the Gross Settlement Amount, which unless increased pursuant to the Escalator
4 Clause, is currently estimated to be \$58,333.33, subject to Court approval, plus reimbursement for
5 out-of-pocket litigation costs not to exceed \$20,000.00. (Settlement, ¶ 3.2.2.) These amounts are
6 disclosed to Class Members in the proposed Class Notice and are reasonable. (*Id.* at Exh. A.)

7 **1. Counsel Will Request a Fees Award Based On the “Common Fund” Method**

8 California courts have long awarded attorneys’ fees as a percentage of the benefit created by
9 counsel in pursuing claims on behalf of a class. (See, e.g., *Serrano v. Priest* (1977) 20 Cal.3d 25.)
10 The California Supreme Court has held, “when a number of persons are entitled in common to a
11 specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the
12 creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney’s fees out
13 of the fund.” (*Id.* at p. 34.)

14 Plaintiff’s Counsel will seek an award of attorneys’ fees on the “percentage of
15 recovery/common fund” theory. (Moon Decl., ¶ 57.) The purpose of this approach is to “spread
16 litigation costs proportionately among all the beneficiaries so that the active beneficiary does not bear
17 the entire burden alone.” (*Vincent v. Hughes Air W., Inc.* (9th Cir. 1977) 557 F.2d 759, 769.) In *Quinn*
18 *v. State of California* (1975) 15 Cal.3d 162, the California Supreme Court stated, “one who expends
19 attorneys’ fees in winning a suit which creates a fund from which others derive benefits, may require
20 those passive beneficiaries to bear a fair share of the litigation costs.” (*Id.* at p. 167.) Similarly, in
21 *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court
22 recognized that the common fund doctrine has been applied “consistently in California when an
23 action brought by one party creates a fund in which other persons[] are entitled to share.” (*Id.* at pp.
24 110–11 [pincite omitted].)

25 The California Supreme Court recently affirmed in *Laffitte v. Robert Half International Inc.*
26 (2016) 1 Cal.5th 480 that, “when class action litigation establishes a monetary fund for the benefit of
27 the class members, and the trial court in its equitable powers awards class counsel a fee out of that
28 fund, the court may determine the amount of a reasonable fee by choosing an appropriate percentage

1 of the fund created.” (*Id.* at p. 503.) The court explained: “The recognized advantages of the
2 percentage method—including relative ease of calculation, alignment of incentives between counsel
3 and the class, a better approximation of market conditions in a contingency case, and the
4 encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging
5 the litigation[]—convince us the percentage method is a valuable tool that should not be denied our
6 trial courts.” (*Id.* [internal citations omitted].) This line of legal authority supports a request for
7 attorneys’ fees based on the percentage of recovery/common fund method.

8 **2. The Requested Fee Award Is in Line with Typical Cases**

9 According to a leading treatise on class actions: “No general rule can be articulated on what
10 is a reasonable percentage of a common fund. Usually 50% of the fund is the upper limit on a
11 reasonable fee award from a common fund in order to assure that the fees do not consume a
12 disproportionate part of the recovery obtained for the class, although somewhat larger percentages
13 are not unprecedented.” (Newberg, *Newberg on Class Actions* (3rd ed. 1992) § 14.03.) Attorneys’
14 fees that are fifty percent of the fund are typically considered the upper limit, with thirty to forty
15 percent commonly awarded in cases where the settlement is relatively small. (*Id.*; *see also Van*
16 *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 297 [stating that most cases
17 where 30–50% was awarded involved “smaller” settlement funds of under \$10 million].)

18 Here, Class Counsel will request fees equal to 33 1/3% of the Gross Settlement Amount,
19 which is in line with the prevailing guidelines established in California case law and academic
20 literature and is consistent with awards in California. (*Compare* Settlement Agreement, ¶ 3.2.2, *with*
21 *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11 [“Empirical studies show that, regardless
22 whether the percentage method or the lodestar method is used, fee awards in class actions average
23 around one-third of the recovery.”].) Accordingly, Plaintiff requests that the Court preliminarily
24 approve his counsel’s ability to request attorneys’ fees as negotiated by the Parties.

25 **3. This Matter Involves a “Fee-Shifting” Provision of the Labor Code**

26 Labor Code sections 218.5, 226, 1194, 2699, and 2802 provide for the recovery of reasonable
27 fees and costs of suit, for the claims made in this action. (Lab. Code §§ 218.5, 226, 1194, 2699(g)(1),
28 2802(d).) Under these sections, Plaintiff would be permitted to recover his actual attorneys’ fees,

1 even if those fees were larger than the total class recovery at the conclusion of this case. (*Id.*) This
2 Settlement is beneficial in that it limits the risk of continued expenses and consumption of time,
3 energy, and resources facing Defendant while at the same time rewarding Class Counsel for their
4 decision to assume risk by taking on this matter. (See Moon Decl., ¶¶ 30 and 57-60.) In fact,
5 prosecution of this action involved significant financial risk for Class Counsel. (*Id.* at ¶¶ 57-62.)
6 Class Counsel undertook this matter solely on a contingent basis, with no guarantee of recovery. (*Id.*)
7 Once Class Counsel undertook this litigation on behalf of the Class, they committed to pursue it to
8 its conclusion, placing their fiduciary duty to the Class ahead of all other concerns. (*Id.* at ¶ 62.)

9 **4. Counsel’s Experience, Reputation, and Ability Support the Requested Fees**

10 As demonstrated by their past experience in pursuing class actions on behalf of consumers
11 and employees, Class Counsel possess considerable expertise in litigating class actions. (Moon Decl.,
12 ¶¶ 37–54.) Class Counsel have been involved as lead counsel or co-counsel in numerous class actions
13 that resulted in millions in recovery. (*Id.*) Because it is reasonable to compensate Class Counsel
14 commensurate with their skill, reputation, and experience, the requested fee award is supported here.

15 Class Counsel’s experience in wage and hour class actions was integral in evaluating the
16 strengths and weaknesses of the case against Defendant and the reasonableness of the settlement. (*Id.*
17 at ¶ 54.) Practice in the narrow field of wage and hour litigation requires skill and knowledge
18 concerning the rapidly evolving substantive law (state and federal), as well as the procedural law of
19 class action litigation. (*Id.* at ¶ 52.) Based on these and other factors, Class Counsel have frequently
20 received fee awards of this percentage from the gross recovery for the class. (See *id.* at ¶¶ 40, 44,
21 48.) Therefore, the requested fee award is fair, reasonable, and adequate.

22 **D. The Enhancement Award to Named Plaintiff Is Reasonable**

23 Named plaintiffs in class action lawsuits “are eligible for reasonable incentive payments to
24 compensate them for the expense or risk they have incurred in conferring a benefit on other members
25 of the class.” (*Munoz, supra*, 186 Cal.App.4th at p. 412.) Courts routinely grant approval of class
26 action settlement agreements containing enhancements for the class representatives, which are
27 necessary to provide incentive to represent the class and are appropriate given the benefit the class
28

1 representatives help to bring about for the class. (See *Rodriguez v. W. Publ'g Corp.* (9th Cir. 2009)
2 563 F.3d 948, 958–59.)

3 Service awards are particularly important to plaintiffs in wage and hour cases because they
4 promote the important public policies underlying the wage and hour laws. This strong policy is
5 codified in California Labor Code section 90.5, which provides, “[i]t is the policy of this state to
6 vigorously enforce minimum labor standards in order to ensure employees are not required or
7 permitted to work under substandard unlawful conditions . . .” (Lab. Code § 90.5.) Nonetheless, the
8 California Supreme Court has noted that “retaliation against employees for asserting statutory rights
9 under the Labor Code is widespread,” despite anti-retaliation statutes designed to protect employees.
10 (*Gentry v. Super. Ct.* (2007) 42 Cal.4th 443, 460–61.) In this context, class representatives should be
11 rewarded for assuming the risk of retaliation for the sake of class members. (See *Frank v. Eastman*
12 *Kodak Co.* (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

13 Under the Settlement Agreement here, subject to the Court’s approval, Defendant agrees to
14 pay a Class Representative Service Payment to Plaintiff in the amount of \$7,500.00. (Settlement, ¶
15 3.2.1.) This award is in recognition of Plaintiff’s effort and work in prosecuting the Action on behalf
16 of the Class Members and State of California with respect to Aggrieved Employees. (*Id.* at ¶ 1.13.)
17 Plaintiff has devoted a great deal of time and work assisting counsel in the case and communicated
18 with counsel frequently for litigation and to prepare for the mediation session, while risking his future
19 employment. (Moon Decl., ¶¶ 33–36; Declaration of Plaintiff Miguel A. Flores in Support of
20 Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement [“Plaintiff
21 Decl.”], ¶¶ 14, 18–21.) The requested award is fair and reasonable, particularly considering the
22 substantial benefits Plaintiff generated for all Class Members. (Moon Decl., ¶ 36.)

23 When compared with the amounts awarded in typical class action cases, the amount requested
24 here is particularly reasonable. A 2006 study examining the average incentive award given to class
25 action plaintiffs from 1993 to 2002 found that the “average award per class representative was
26 \$15,992 and the median award per class representative was \$4357.” (Eisenberg & Miller, *Incentive*
27 *Awards to Class Action Plaintiffs: An Empirical Study* (2006) 53 UCLA L. Rev. 1303, 1307–08.)
28 The same study found that named plaintiffs in employment discrimination class actions received an

1 average award of \$69,850 and a median award of \$31,081, while named plaintiffs in other
2 employment class actions received an average award of \$12,121 and a median award of \$13,059. (*Id.*
3 at p. 1333.) The authors of the study found that higher awards in employment cases reflected the
4 “courts’ wish to make representative plaintiffs whole by compensating them for the high costs of
5 their service to the class, including risks of stigmatization or retaliation on the job.” (*Id.* at p. 1308.)

6 **IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED**

7 **A. Legal Standard**

8 The proposed Settlement Class is well suited for class certification. All of the claims derive
9 from a core set of alleged violations of California’s wage and hour laws and regulations. (Moon
10 Decl., ¶¶ 3–4.) For the reasons set forth more fully below, the Class, for purposes of Settlement,
11 satisfies the prerequisites for certification under Code of Civil Procedure section 382. (Code Civ.
12 Proc. § 382.) Section 382 provides that “when the question is one of a common or general interest,
13 of many persons, or when the parties are numerous, and it is impracticable to bring them all before
14 the court, one or more may sue or defend for the benefit of all.” (*Id.*) There are two requirements to
15 section 382: “(1) there must be an ascertainable class[]; and (2) there must be a well defined
16 community of interest in the questions of law and fact involved affecting the parties to be
17 represented.” (*Daar v. Yellow Cab Co.* (1967) 67 Cal. 2d 695, 704 [internal citations omitted].) To
18 clarify these requirements, the California Supreme Court has looked to Federal Rule of Civil
19 Procedure 23 to explain that the community-of-interest requirement itself embodies three factors:
20 “(1) predominant common questions of law or fact; (2) class representatives with claims or defenses
21 typical of the class; and (3) class representatives who can adequately represent the class.” (*Richmond*
22 *v. Dart Indus., Inc.* (1981) 29 Cal. 3d 462, 470.)

23 California law and policy favor the fullest and most flexible use of the class action device.
24 (*Id.* at pp. 469–73.) Indeed, “Courts long have acknowledged the importance of class actions as a
25 means to prevent a failure of justice in our judicial system” particularly where the rights of consumers
26 are at issue. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal. 4th 429, 434.) Any doubt as to the
27 appropriateness of class treatment should be resolved in favor of certification. (*Richmond, supra*, 29
28 Cal.3d at pp. 473–75.)

1 **B. Plaintiff Maintains that the Criteria for Class Certification Are Satisfied**

2 **1. The Class Is Ascertainable and Numerous**

3 When determining whether a class is ascertainable, California courts focus on the following
4 three factors: “(1) the class definition, (2) the size of the class and (3) the means of identifying class
5 members.” (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 873.) Here, the proposed Class that Plaintiff
6 seeks to represent is ascertainable because (1) the Class definition is sufficiently precise, (2) the Class
7 consists of about 47 individuals, and (3) Class Members can be readily identified by looking at
8 Defendant’s records. (Settlement, ¶ 1.5.)

9 Because Class Members are identified using specific criteria in the regular business records
10 of Defendant—their employment by Defendant in California, non-exempt classification, and actual
11 work during the Class Period—the Class is ascertainable. (*See Wilner v. Sunset Life Ins. Co.* (2000)
12 78 Cal.App.4th 952, 959–60 [class membership defined by ownership of product that is the subject
13 of the lawsuit is sufficient to make the class ascertainable].)

14 “The requirement of Code of Civil Procedure section 382 that there be ‘many’ parties to a
15 class action suit is indefinite and has been construed liberally.” (*Rose v. City of Hayward* (1981) 126
16 Cal.App.3d 926, 934.) “Where a question is of common interest to ‘many’ persons, an action may be
17 maintained as a class action even where the parties are numerous and it is in fact practicable to join
18 them all.” (*Id.*) “No set number is required as a matter of law for the maintenance of a class action.”
19 (*Id.*) “Thus, our Supreme Court has upheld a class representing the 10 beneficiaries of a trust in an
20 action for removal of the trustees.” (*Id.* [citing *Bowles v. Super. Ct.* (1955) 44 Cal.2d 574]; *see also*
21 *Collins v. Rocha* (1972) 7 Cal.3d 232 [upholding a class of 9 plaintiffs and 35 members].) Therefore,
22 numerosity is plainly satisfied.

23 **2. There Are Many Common Issues of Law and Fact Which Predominate**

24 To satisfy the community of interest requirement, Parties must show (1) common questions
25 of law and fact that predominate over individual issues, (2) class representatives have claims or
26 defenses typical of the class, and (3) class representatives adequately represent the class. (*Dunk,*
27 *supra*, 48 Cal.App.4th at p. 1806.) This inquiry tests whether proposed classes are sufficiently
28

1 cohesive to rationally warrant adjudication by representation. (See, e.g., *Clothesrigger, Inc. v. GTE*
2 *Corp.* (1987) 191 Cal.App.3d 605, 611–612.)

3 Here, Plaintiff’s claims satisfy all three requirements. The employment practices at issue
4 include whether Defendant: had legally compliant policies and practices to pay employees all
5 minimum and overtime wages owed; had legally compliant policies and practices to provide
6 employees with and authorize meal and rest periods; had legally compliant policies to reimburse
7 employees for all necessary expenditures or losses incurred by employees in direct consequence of
8 the discharge of their duties; paid all final wages to employees at the time of termination; intentionally
9 failed to pay all final wages; provided inaccurate itemized wage statements; engaged in unfair
10 business practices; and violated civil penalty provisions recoverable under PAGA. (Moon Decl., ¶¶
11 3–4.) Plaintiff contends the factual and legal issues are the same for all Class Members, including
12 Plaintiff, and further, that all Class Members suffered from and seek redress for the same alleged
13 injuries. (Plaintiff Decl., ¶¶ 3–6.) Considering Class Members would need to prove the same issues
14 of law and fact to prevail, and their legal remedies are identical, it would be preferable to resolve all
15 claims through a settlement agreement than to force each Class Member to litigate their own
16 individual claims. Thus, the Court should grant conditional class certification for settlement purposes
17 because common questions of law and fact predominate over any individual questions within the
18 Class.

19 3. Plaintiff’s Claims Are Typical of the Claims of the Class

20 The typicality requirement does not focus on the individual characteristics or circumstances
21 of the representative plaintiff compared to those of the remainder of the class, but rather, upon the
22 typicality of the proposed representative’s claims as they relate to the defendant’s conduct and
23 activities. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 47 [“The only requirements a re [sic] that
24 common questions of law and fact *predominate* and that the class representative be *similarly* situated”
25 vis-à-vis the class.] [emphasis in original].) A representative plaintiff’s claims are typical of the class
26 if they arise from the same event, practice, or course of conduct, and if the claims rest on the same
27 legal theories. (*Id.*) That is precisely the case here. Plaintiff is a former employee of Defendant; as
28

1 such, he alleges he was subject to the same policies and practices as other similarly situated
2 employees. (Plaintiff Decl., ¶ 6.)

3 **4. Plaintiff and His Counsel Meet the Adequacy Requirement**

4 The adequacy of representation requirements is met by fulfilling two conditions: (1) a named
5 plaintiff must be represented by counsel qualified to conduct the pending litigation, and (2) a named
6 plaintiff's interests cannot be antagonistic to those of the class. (*McGhee v. Bank of Am.* (1976) 60
7 Cal.App.3d 442, 450.)

8 Here, all requirements are met. Plaintiff retained counsel with extensive experience in
9 prosecuting complex class actions, including similar class actions that previously settled. (Moon
10 Decl., ¶¶ 37–53.) With their experience, Class Counsel unquestionably are “qualified, experienced
11 and generally able to conduct the proposed litigation.” (*Miller, supra*, 148 Cal.App.3d at p. 874.)
12 Class Counsel also does not have any conflicts of interest with Plaintiff, the Class, or the
13 Administrator. (*Id.* at ¶ 55.) In addition, Plaintiff has no conflicts, and Plaintiff has, with counsel,
14 litigated this case and diligently reviewed the settlement terms, showing dedication. (Plaintiff Decl.,
15 ¶¶ 8-11.) Plaintiff's willingness to serve as the representative demonstrates his serious commitment
16 to bringing about the best results possible for the Class. (*Id.* at ¶¶ 12-16.)

17 **5. A Class Action Is Superior to a Multiplicity of Litigation**

18 Finally, in making its class certification decision, the Court must determine that a class action
19 would be superior to alternative means for the fair and efficient adjudication of the litigation. (See
20 *Leyva v. Medline Indus. Inc.* (9th Cir. 2013) 716 F.3d 510, 514–15.) By consolidating many potential
21 individual actions into a single proceeding, this Court's use of the class action device enables it to
22 manage this litigation in a manner that serves the economics of time, effort, and expense for the
23 litigants and the judicial system. (*Id.*) Absent class treatment, similarly situated employees with
24 small, but nevertheless meritorious, claims for damages would, as a practical matter, have no means
25 of redress because of the time, effort, and expense required to prosecute individual actions. (*Id.* at p.
26 515; *Gentry, supra*, 42 Cal.4th at pp. 457–62.) Moreover, in the context of settlement, the superiority
27 concerns are essentially non-existent. (See generally, *Stamburgh, supra*, 62 Cal.App.3d.)

1 **V. THE PROPOSED NOTICE IS CONSTITUTIONALLY SOUND**

2 **A. The Proposed Notice Plan Satisfies Due Process**

3 Class Notice requirements are set forth in the California Rules of Court. (Cal. Rules of Court,
4 rule 3.766(e)–(f).) California law vests the Court with broad discretion in fashioning an appropriate
5 notice program. (*Cartt v. Super. Ct.* (1975) 50 Cal.App.3d 960, 970, 973–74.) There is no statutory
6 or due process requirement that all class members receive actual notice, but in this matter, the Class
7 Members will receive direct mailed notice. (Settlement, ¶ 7.4.2.) As the Court of Appeals has
8 explained, “[t]he notice given should have a reasonable chance of reaching a substantial percentage
9 of the Class Members . . .” (*Cartt*, 50 Cal.App.3d at p. 974.) In this case, notice of the proposed
10 Settlement will be provided in both English and Spanish, and by direct mailing, the best possible
11 form of notice under the circumstances. (Settlement, ¶ 7.4.2.)

12 **B. The Notice Is Accurate and Informative**

13 The proposed Class Notice should be approved. As discussed above, it informs the Class of
14 the terms of the Settlement, including the claims being released, each Class Member’s anticipated
15 individual settlement payment amount, how that amount was calculated, the amount of fees and
16 expenses requested by Class Counsel, the amount requested for the enhancement award to Plaintiff,
17 and of Class Members’ rights to be excluded from or object to the Settlement as well as the procedures
18 for requesting exclusion or making objections. (Settlement, Exh. A.) Specifically, the Class Notice
19 provides that if there are Class Members who wish to object to the proposed Settlement, they will
20 have the opportunity to submit written objections and/or be heard at the Final Approval Hearing. (*Id.*)

21 The Class Notice also fulfills the requirement of neutrality in class notices. (Newberg,
22 Newberg on Class Actions (3rd ed. 1992) § 8.39.) It summarizes the proceedings to date and the
23 terms and conditions of the Settlement in an informative and coherent manner. (Settlement, Exh.
24 A.) It makes clear the Settlement does not constitute an admission of liability by Defendant, who
25 denies all liability, and it recognizes that this Court has not ruled on the merits of the action. (*Id.*)
26 It also states that the final approval decision has yet to be made, and provides the date, time, and
27 location of the Final Approval Hearing. (*Id.*) Accordingly, the Class Notice complies with the
28 standards of fairness, completeness, and neutrality required of a combined settlement-certification

1 class notice.

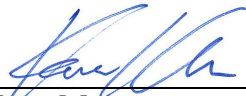
2 **VI. CONCLUSION**

3 For the foregoing reasons, Plaintiff respectfully requests the Court grant this motion, enter the
4 proposed order submitted herewith regarding preliminary approval, and set a final approval hearing
5 no earlier than 140 days from the preliminary approval order.

6
7 Respectfully submitted,

8 Dated: November 10, 2025

MOON LAW GROUP, PC

9
10 By:  _____

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