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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF RIVERSIDE

LUKE LEON, individually and on behalf of
others similarly situated,

Plaintiff,

vs.

BIGHORN GOLF CLUB dba BIGHORN
CLUBHOUSE, a California Nonprofit
Corporation; BIGHORN
HOMEOWNERS ASSOCIATION, INC.
dba BIGHORN HOMEOWNERS
ASSOCIATION, a California Nonprofit
Corporation; BIGHORN GOLF CLUB
CHARITIES, a California Nonprofit Corporation;
BIGHORN PROPERTIES, LLC, a California
Limited Liability Company; BIGHORN
PROPERTIES,
INC., a California Corporation; BIGHORN
PENTHOUSE CONDOMINIUM OWNERS
ASSOCIATION, a California Nonprofit
Corporation; and DOES
1 through 25, inclusive,

Defendants.

Case No. CVRI2400375

Assigned to the Hon. Harold W. Hopp, Dept. 1

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

Date: March 2, 2026
Time: 8:30 AM
Dept.: 1

Complaint Filed: January 22, 2024
Trial Date: Not Set

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

2 **PLEASE TAKE NOTICE THAT** on March 2, 2026 at 8:30 a.m. in Department 1 of the above-
3 captioned Court located at 4050 Main Street, Riverside, California 92501, pursuant to California Code
4 of Civil Procedure section 382 and Rule 3.769 of the California Rules of Court, Plaintiff Luke Leon
5 (“Plaintiff”) will and hereby does move the Court for an Order granting preliminary approval of the
6 proposed class action and PAGA settlement between Plaintiff and Defendants BIGHORN GOLF CLUB
7 dba BIGHORN CLUBHOUSE, BIGHORN HOMEOWNERS ASSOCIATION, INC. dba BIGHORN
8 HOMEOWNERS ASSOCIATION, and BIGHORN PROPERTIES, INC. (collectively “BIGHORN” or
9 “Defendants”)

10 Plaintiff requests that the Court enter an Order:

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

14 2. Certifying the Class for Settlement purposes;

15 3. Appointing Plaintiff Luke Leon as the Class Representative for Settlement purposes;

16 4. Appointing Jonathan M. Genish, Barbara DuVan-Clarke, P.J. Van Ert, and and Annabel
17 Blanchard of Blackstone Law, APC as Class Counsel for Settlement purposes;

18 5. Approving the proposed Notice of Proposed Class Action Settlement and Final Approval
19 Hearing (“Class Notice”), Notice of Estimated Settlement Share (“Notice of Settlement Share”),
20 Objection to Settlement Form (“Objection Form”), and Request for Exclusion Form (“Exclusion Form”)
21 attached to the Settlement Agreement as Exhibit A, Exhibit B, Exhibit C, and Exhibit D, respectively, to
22 be mailed to the Class;

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

25 7. For each Class Member, directing BIGHORN to furnish their name, last known mailing
26 address, last known telephone number, Social Security number, number of Covered Workweeks and
27 Covered Pay Periods (“Class Member Information”), within thirty (30) calendar days after entry of the
28 order granting preliminary approval of the Settlement;

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

9. Setting a Final Approval Hearing.

Pursuant to California Labor Code section 2699(1)(2), on December 19, 2025, 2025, a copy of the proposed Settlement was submitted to the California Labor and Workforce Development Agency (“LWDA”) via online submission through the LWDA’s website. (Blanchard Decl., ¶ 48 and Exh. 4).

This Motion is based upon this Notice, the attached Memorandum of Points and Authorities, the Declaration of Annabel Blanchard, the Declaration of Plaintiff Luke Leon, the Declaration of the Settlement Administrator (Apex Class Action), the pleadings and other records on file with the Court in this matter, and any other further evidence or argument that the Court may properly receive at or before the hearing.

Respectfully submitted,

Dated: December 19, 2025

BLACKSTONE LAW, APC

By: A. Blanchard
Annabel Blanchard
Attorneys for Plaintiff Luke Leon

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Luke Leon (“Plaintiff”) seeks preliminary approval of the Settlement Agreement
4 (“Settlement”) entered into between Plaintiff and Defendants BIGHORN GOLF CLUB dba BIGHORN
5 CLUBHOUSE, BIGHORN HOMEOWNERS ASSOCIATION, INC. dba BIGHORN HOMEOWNERS
6 ASSOCIATION, and BIGHORN PROPERTIES, INC. (collectively “BIGHORN” or “Defendants”)
7 (together, with Plaintiff, the “Parties”). (Declaration of Annabel Blanchard in Support of Plaintiff’s
8 Motion for Preliminary Approval of Class Action and PAGA Settlement [“Blanchard Decl.”], Exh. 3).
9 The Settlement terms related to the distributions are as follows:

- 10 • Class Size: Approximately 640 individuals.
- 11 • Total Settlement Amount: One Million One Hundred and Eighty-Eight Thousand Dollars
- 12 (\$1,188,000).
- 13 • Class Counsel Fees and Expenses: Attorneys’ fees of thirty-five percent (35%) of the Total
- 14 Settlement Amount (\$415,800 if the Total Settlement Amount is \$1,188,000) plus actual
- 15 litigation costs and expenses not to exceed Forty Thousand Dollars (\$40,000), to be paid
- 16 from the Total Settlement Amount.
- 17 • Class Representative Payment: Ten Thousand Dollars (\$10,000), to be paid from the Total
- 18 Settlement Amount.
- 19 • Settlement Administrator’s Fees: Not to exceed Twelve Thousand Dollars
- 20 (\$12,000), to be paid from the Total Settlement Amount.
- 21 • PAGA Penalties: Sixty Thousand Dollars (\$60,000) from the Total Settlement Amount, 75%
- 22 of which (\$45,000) will be paid to the Labor and Workforce Development Agency
- 23 (“LWDA”) and the remaining 25% (\$15,000) to be paid to the PAGA Group Members.
- 24 • Estimated Net Settlement Amount (before reduction for taxes): Approximately Six Hundred
- 25 Fifty Thousand Two Hundred Dollars (\$650,200) to be distributed to Class Members.
- 26 • Employer’s payroll taxes will be calculated on the Wage Portions of the Settlement Shares.

27 As set forth herein, the Settlement is the product of informed discovery and arms-length
28 negotiations, and provides a fair, adequate, and reasonable recovery for the Class. Plaintiff therefore
respectfully requests that the Court grant preliminary approval of the Settlement, conditionally certify the

1 Class, approve the proposed Notice of Proposed Class Action Settlement and Final Approval Hearing
2 (“Class Notice”), Notice of Estimated Settlement Share (“Notice of Settlement Share”), Objection to
3 Settlement Form (“Objection Form”), and Request for Exclusion Form (“Exclusion Form”) attached to
4 the Settlement Agreement as Exhibit A, Exhibit B, Exhibit C, and Exhibit D, respectively, and set a
5 hearing date for final settlement approval, among other requested relief.

6 **II. FACTUAL AND PROCEDURAL BACKGROUND**

7 Defendants operate a golf club and residential community that provides golf course facilities,
8 homeowner association services, and property management services in Palm Desert, California. Plaintiff
9 was employed by Defendants as an hourly-paid, non-exempt privacy officer from approximately October
10 2018 to approximately January 2023. (Declaration of Plaintiff Luke Leon in Support of Motion for
11 Preliminary Approval of Class Action and PAGA Settlement [“Leon Decl.”]).

12 On January 17, 2024, Plaintiff provided written notice, and on January 24, 2024, amended written
13 notice to the LWDA by online submission and to Defendants by U.S. Certified Mail, pursuant to
14 California Labor Code Section 2699.3, of the specified provisions of the California Labor Code alleged
15 to have been violated by Defendants. The amended written notice shall be referred to as the “PAGA
16 Letter”. (Blanchard Decl., ¶ 9 and Exh. 2).

17 On January 22, 2024, Plaintiff filed a Class Action Complaint for Damages in the action entitled
18 *LUKE LEON vs. BIGHORN GOLF CLUB dba BIGHORN CLUBHOUSE, a California Nonprofit*
19 *Corporation, et al.*, Riverside County Superior Court Case No. CVRI2400375 (“Action”), thereby
20 commencing a putative class action against Defendants. (Blanchard Decl., ¶ 10).

21 On March 25, 2024, Plaintiff filed a Complaint for Enforcement Action Under the Private
22 Attorneys’ General Act, Cal. Labor Code §§ 2698, et seq. in the action entitled *LUKE LEON vs.*
23 *BIGHORN GOLF CLUB dba BIGHORN CLUBHOUSE, a California Nonprofit Corporation, et al.*,
24 Riverside County Superior Court Case No. CVPS2401926 (“PAGA Action”). On April 16, 2024 Plaintiff
25 filed a First Amended Complaint for Enforcement Action Under the Private Attorneys’ General Act, Cal.
26 Labor Code §§ 2698, et seq. in the PAGA Action, alleging various Labor Code violations premised on
27 the same facts and allegations detailed in the Class Action Complaint. (Blanchard Decl., ¶ 11).

28 On February 4, 2025 and April 24, 2025, the Parties participated in formal mediations conducted

1 by Eve Wagner of Signature Resolution (“Mediator”), a neutral and respected mediator with extensive
2 experience in complex wage and hour matters, and with the assistance of the Mediator’s evaluations, the
3 Parties were able to reach an agreement to resolve this dispute on a class and representative basis.
4 (Blanchard Decl., ¶ 12). The Parties then worked diligently to negotiate and memorialize the terms in a
5 long form settlement agreement. (Ibid).

6 On October 6, 2025, the Parties executed the Settlement Agreement. (Blanchard Decl., ¶ 13 and
7 Exh. 3).

8 On October 8, 2025, the Parties filed a Joint Stipulation to Amend Complaint, attaching Plaintiff’s
9 First Amended Class Action Complaint (“Operative Complaint”) in the Action. The Operative Complaint
10 alleges ten (10) causes of action for violations of the California Labor Code for failure to pay minimum
11 wages, failure to pay overtime wages, failure to provide compliant meal periods and premium payments
12 in lieu thereof, failure to provide compliant rest periods and premiums payments in lieu thereof, failure
13 to timely pay wages during employment, failure to provide accurate wage statements, failure to timely
14 pay wages upon termination, and failure to reimburse necessary business expenses, for violations of
15 California Business & Professions Code Section 17200, *et seq.* based on the aforementioned California
16 Labor Code violations, and for civil penalties under PAGA based on the aforementioned California Labor
17 Code violations. (Blanchard Decl., ¶ 14).

18 **III. THE SETTLEMENT TERMS**

19 **A. Class Definition**

20 For purposes of settlement only, the Parties have agreed that the Class shall be defined as “all
21 current and former employees who worked for BIGHORN in a nonexempt position in California at any
22 time during the Class Period” (“Class” or “Class Member(s)”) (Blanchard Decl., ¶ 15; Settlement
23 Agreement, ¶ II.C.). The Class Period is defined as the period from January 22, 2020 through the date on
24 which the Court grants preliminary approval of the Settlement¹ (Blanchard Decl., ¶ 15; Settlement
25 Agreement, ¶ II.I.). Based on information provided by BIGHORN, it is estimated that there are a total of
26 six hundred forty (640) Class Members (Blanchard Decl., ¶ 15).

27
28 ¹ Pursuant to Section III.I of the Settlement Agreement, Defendants may exercise an option to end the Class Period (and the release period) on the date upon which the Covered Workweeks count reaches 79,200.

1 **B. Amount of Settlement**

2 The Parties have agreed to settle the class and PAGA claims at issue in the Operative Complaint
3 for a non-reversionary Total Settlement Amount of One Million One Hundred and Eighty-Eight Thousand
4 Dollars (\$1,188,000), inclusive of employer-side payroll taxes. (Blanchard Decl., ¶ 16; Settlement
5 Agreement, ¶ III.A.).

6 **C. Allocation and Funding of the Total Settlement Amount**

7 The Total Settlement Amount is a common fund and therefore includes all requested costs, fees,
8 and other allocations. (Blanchard Decl., ¶ 16; Settlement Agreement, ¶ III.A.). The Total Settlement
9 Amount includes: (1) Class Counsel’s fees in the amount of thirty-five percent (35%) of the Total
10 Settlement Amount (i.e., \$415,800 if the Total Settlement Amount is \$1,188,000); (2) Class Counsel’s
11 actual litigation costs and expenses, not to exceed Forty Thousand Dollars (\$40,000); (3) Settlement
12 Administrator’s Fees, not to exceed Twelve Thousand Dollars (\$12,000); (4) Class Representative
13 Payment in the amount of Ten Thousand Dollars (\$10,000); (5) PAGA Penalties in the amount of Sixty
14 Thousand Dollars (\$60,000) and (6) employer payroll taxes calculated on the Wage Portions of the
15 Settlement Shares. (Blanchard Decl., ¶ 16; Settlement Agreement, ¶¶ III.A., III.C.1., III.C.2., and II.R.).
16 After the amounts estimated for items (1) – (5) above are deducted from the Total Settlement Amount,
17 the Net Settlement Amount that will be available for Class Members (before reduction for employer side
18 payroll taxes) is currently estimated to be approximately Six Hundred Fifty Thousand Two Hundred
19 Dollars (\$650,200). (Blanchard Decl., ¶ 16). Additionally, 25% of the PAGA Civil Penalties (“PAGA
20 Group Payment”), which is \$15,000 out of \$60,000, will be fully distributed to “all current and former
21 employees who worked for BIGHORN in a nonexempt position in California at any time during the
22 PAGA Period” (“PAGA Group Members”). (Blanchard Decl., ¶ 17; Settlement Agreement, ¶¶ II.R., II.T.,
23 II.U., and II.V.). The “PAGA Period” is defined as the period from January 17, 2023, through the date
24 on which the Court grants preliminary approval of the Settlement². (Blanchard Decl., ¶ 17; Settlement
25 Agreement, ¶ II.V.).

26 The Net Settlement Amount will be distributed and paid to all Class Members who do not submit
27

28

² Pursuant to Section III.I of the Settlement Agreement, Defendants may exercise an option to end the PAGA Period (and the release period) on the date upon which the Covered Workweeks count reaches 79,200.

1 a timely and valid Request for Exclusion (“Participating Class Members”) on a *pro rata* basis based on
2 the number of workweeks each Class Member worked for BIGHORN in a nonexempt position in
3 California during the Class Period (“Covered Workweeks”). The *pro rata* share of the Net Settlement
4 Amount that a Class Member may be eligible to receive under the Settlement (“Class Member Payment”) will be calculated by the Settlement Administrator, in accordance with the Settlement Agreement.
5 (Blanchard Decl., ¶ 18; Settlement Agreement, ¶ III.B.1.b.)

7 The PAGA Group Payment will be distributed and paid to all PAGA Group Members on a *pro*
8 *rata* basis based on the number of pay periods each PAGA Group Member worked for BIGHORN in a
9 nonexempt position in California during the PAGA Period (“Covered Pay Periods”). The *pro rata* share
10 of the PAGA Group Payment that a PAGA Group Member may be eligible to receive under the
11 Settlement (“PAGA Settlement Share”) will be calculated by the Settlement Administrator, in accordance
12 with the Settlement Agreement. (Blanchard Decl., ¶ 19; Settlement Agreement, ¶ III.B.1.a.).

13 Each Class Member Payment will be allocated as one-third (1/3) wages (the “Wage Portion”) and
14 the remaining two-thirds (2/3) will be allocated as penalties and interest (the “Non-Wage Portion”).
15 (Blanchard Decl., ¶ 21; Settlement Agreement, ¶ III.B.3.a. and III.B.3.b.). The Wage Portion will be
16 reported on an IRS Form W-2 and the Non-Wage Portion will be reported on an IRS Form 1099 (if
17 applicable) by the Settlement Administrator. (Blanchard Decl., ¶ 21; Settlement Agreement, ¶ III.B.3.a.
18 and III.B.3.b.). The Settlement Administrator will withhold the employee’s and employer’s share of taxes
19 and withholdings with respect to the Wage Portion of the Class Member Payments, and issue checks to
20 Class Members for their net payment of their Class Member Payment. (Blanchard Decl., ¶ 21; Settlement
21 Agreement, ¶ III.B.3.a.). Each PAGA Settlement Share will be allocated as one hundred percent (100%)
22 penalties and will be reported on an IRS Form 1099 (if applicable) by the Settlement Administrator.
23 (Blanchard Decl., ¶ 21; Settlement Agreement, ¶ III.B.3.c.).

24 The Settlement Agreement is a non-reversionary settlement. The Net Settlement Amount will be
25 fully distributed to Class Members and the PAGA Group Payment will be fully distributed to the LWDA
26 and PAGA Group Members, in accordance with the Settlement Agreement. No money will revert to
27 BIGHORN. (Blanchard Decl., ¶ 22; Settlement Agreement, ¶¶ II.O. and III.E.11.). The Net Settlement
28 Amount will be fully distributed to Class Members and the PAGA Group Payment will be fully

distributed to the LWDA and PAGA Group Members, in accordance with the Settlement Agreement. (Blanchard Decl., ¶ 22; Settlement Agreement, ¶¶ II.O., II.N., and II.U.). No money will revert to BIGHORN. (Blanchard Decl., ¶ 22; Settlement Agreement, ¶ II.O.).

Each Class Member Payment and PAGA Settlement Share check will be valid and negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and thereafter, shall be canceled. Any funds associated with such canceled checks will be distributed by the Settlement Administrator to the California State Controller's Office, Unclaimed Property Division, in the name of the Class Member and/or PAGA Group Member. (Blanchard Decl., ¶ 23; Settlement Agreement, ¶ III.E.11.)).

D. Released Claims

Upon the Settlement becoming Final as defined in the Settlement Agreement and being fully funded as set forth in the Settlement Agreement, Plaintiff and all Participating Class Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims (Settlement Agreement, ¶ III.F.1.).

Upon the Settlement becoming Final as defined in the Settlement Agreement and being fully funded as set forth in the Settlement Agreement, Plaintiff and the State of California with respect to all PAGA Group Members will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims (*Id.*, ¶ III.F.2.).

“Released Class Claims” means any and all known and unknown claims against the Released Parties that are asserted in the Complaint or First Amended Complaint (“FAC” or “Operative Complaint”) in the Action or arise out of or reasonably relate to the facts alleged in the Complaint or FAC that, during the Class Period, BIGHORN failed to pay all wages due at the correct rates of pay, including minimum wages, straight-time wages, overtime wages, and paid sick leave, including by failing to record all hours worked and failing to include all required compensation for purposes of calculating the regular rate of pay; provide meal and rest periods; pay meal and rest period premiums at the regular rate of pay; maintain accurate records; furnish accurate itemized wage statements; reimburse necessary business expenses; timely pay all wages due during employment; and timely pay all wages due upon separation of employment. The Released Class Claims include but are not limited to claims arising under California

1 Labor Code sections 201-204, 210, 218.5, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174, 1174.5,
2 1194, 1194.2, 1197, 1197.1, 1198, 2800, and 2802, California Business and Professions Code section
3 17200 *et seq.*, and the Industrial Welfare Commission Wage Order (*Id.*, ¶ III.F.1.).

4 “Released PAGA Claims” means any and all claims under PAGA for civil penalties against the
5 Released Parties that are described in the notice(s) submitted by Plaintiff to the LWDA pursuant to PAGA
6 that, during the PAGA Period, BIGHORN failed to pay all wages due at the correct rates of pay, including
7 minimum wages, straight-time wages, overtime wages, and paid sick leave, including by failing to record
8 all hours worked and failing to include all required compensation for purposes of calculating the regular
9 rate of pay; provide meal and rest periods; pay meal and rest period premiums at the regular rate of pay;
10 maintain accurate records; furnish accurate itemized wage statements; reimburse necessary business
11 expenses; timely pay all wages due during employment; and timely pay all wages due upon separation of
12 employment. The Released PAGA Claims include but are not limited to claims arising under California
13 Labor Code sections 201-204, 210, 218.5, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174, 1174.5,
14 1194, 1197, 1197.1, 1198, 2698 *et seq.*, 2800, and 2802, the Industrial Welfare Commission Wage Order,
15 and any resulting claim for attorneys' fees and costs (*Id.*, ¶ III.F.2.).

16 “Released Parties” means, collectively, BIGHORN GOLF CLUB dba BIGHORN
17 CLUBHOUSE; BIGHORN HOMEOWNERS ASSOCIATION, INC. dba BIGHORN HOMEOWNERS
18 ASSOCIATION; BIGHORN PROPERTIES, INC.; BIGHORN GOLF CLUB CHARITIES; BIGHORN
19 PROPERTIES, LLC; BIGHORN GP, INC.; and BIGHORN PENTHOUSE CONDOMINIUM
20 OWNERS ASSOCIATION. (*Id.*, ¶ II.X.).

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

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

27 The review and approval of a proposed class action settlement involves a two-step process. (*See*
28 Cal. Rules of Court, Rule 3.769(c)). First, the counsel submit the proposed terms of the settlement and

1 the Court makes a preliminary assessment of whether the settlement appears to be sufficiently within the
2 range of a fair settlement to justify providing notice of the proposed settlement to class members. After
3 notice is provided to the class, the Court must conduct a second inquiry into whether the proposed
4 settlement is fair, reasonable, and adequate. (Ibid).

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

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

21 **V. THE SETTLEMENT IS PRESUMPTIVELY FAIR**

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

23 California courts recognize that “a presumption of fairness exists where . . . [a] settlement is
24 reached through arm’s-length bargaining.” (*Wershba*, 91 Cal.App.4th at 245; *see also Clark v. Am.*
25 *Residential Servs. LLC*, 175 Cal.App.4th 785, 799 (2009)). Here, the Parties’ settlement negotiations
26 were at all times made at arm’s-length and were adversarial. (Blanchard Decl., ¶ 24). The Settlement
27 was reached following a full day of mediation followed by another half day of mediation with a highly
28 respected mediator with substantial experience mediating wage and hour cases. (Ibid). At all times,

1 Plaintiff was willing and prepared to litigate this matter through class certification and trial if the Parties
2 had been unable to reach a favorable resolution. (*Id.*, ¶ 45).

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

4 Courts typically assess the status of discovery in determining whether a class action settlement
5 agreement is fair, reasonable, and adequate. (*Dunk*, 48 Cal.App.4th at 1801). Prior to mediation,
6 Defendants produced Plaintiff's personnel records, a random sampling of putative class members' time
7 punch and payroll records as well as Defendants' relevant wage and hour policies and documents
8 (including, but not limited to Defendants' meal period waiver, arbitration agreement, dispute resolution
9 agreement, meal and rest policy, overtime policy, and multiple iterations of Defendants' handbook), and
10 information regarding the total number of putative class members, the number of current versus former
11 employees, the total workweeks worked by the putative class members, and the average rate of pay for
12 the putative class members. (Blanchard Decl., ¶ 25).

13 This allowed Class Counsel to conduct an informed assessment and analysis of the strengths and
14 weaknesses of the claims and the potential class-wide damages. (*Id.*, ¶ 26). Based on information
15 exchanged, the Parties extensively briefed issues regarding class certification and liability and provided
16 their analyses to the Mediator who helped the Parties debate the strengths and weakness of their respective
17 positions. (*Id.*, ¶ 27). Additionally, settlement negotiations were conducted by highly capable and
18 experienced counsel. (Blanchard Decl., ¶¶ 1-8). Accordingly, Class Counsel had sufficient information
19 and experience to act intelligently in negotiating the Settlement.

20 **C. The Settlement is Fair and Reasonable in Light of the Parties' Respective Legal Positions** 21 **and Recovery Risks**

22 A settlement is not judged against what might have been recovered had a plaintiff prevailed at
23 trial, nor does the settlement have to obtain 100% of the damages sought to be fair and reasonable.
24 (*Wershba*, 91 Cal.App.4th at 246, 250). In evaluating the reasonableness of a settlement, a trial court
25 must consider "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further
26 litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the
27 extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the
28

1 presence of a governmental participant, and the reaction of the class members to the proposed settlement.”
2 (*Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008)).

3 Here, the reasonableness of the Settlement is underscored by Defendants’ legal and factual
4 grounds for defending the Action. Based upon Class Counsel’s experience litigating similar complex
5 matters, Plaintiff reasonably expected a vigorous and lengthy defense to both class certification and the
6 merits of the Action absent a settlement.

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

8 Class Counsel analyzed all available data and estimated Defendants’ maximum potential exposure
9 to be approximately \$13,918,142, assuming the litigation was successful at trial on all claims at issue and
10 every employee had a violation for each claim on every shift worked. (Blanchard Decl., ¶ 28). This
11 maximum potential analysis was then reduced based on the challenges facing the likelihood of obtaining
12 class certification, prevailing at trial, and other attendant risks. (Ibid). This estimate is based off an
13 estimated maximum liability for all claims at issue and the total aggregate workweeks during the relevant
14 time period, less interest, and based on the analysis of the data which was extrapolated out for all class
15 members across the entire putative class period, which included: \$2,560,805 for meal period violations
16 (less meal period premiums paid); \$6,752,561 for rest period violations; \$1,165,412 for unpaid off-the-
17 clock work for 1 hour per workweek of off-the-clock work;; \$464,070 for unreimbursed business
18 expenses; \$1,145,001 for waiting time penalties; and \$1,756,000 for wage statement penalties. (Ibid).
19 Plaintiff further estimated that Defendants faced an additional exposure of \$2,301,400 in potential, non-
20 stacked (i.e., one penalty, per employee, per pay period during the PAGA statutory period) PAGA
21 penalties. (Ibid). Together with the PAGA penalties, Defendants’ maximum potential exposure totaled
22 \$16,219,542 in damages. (Ibid).

23 **2. Class Counsel’s Risk-Based Analysis and Risk-Based Adjustments**

24 While Plaintiff believes that Defendants faced significant exposure, substantial barriers to a
25 recovery existed. Defendants contended that Plaintiff’s claims were not suitable for class certification
26 because individual issues and affirmative defenses would predominate should this case go to trial.
27 (Blanchard Decl., ¶ 31; *See Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012); *Duran*
28 *v. U.S. Bank Nat. Assn.*, 59 Cal.4th 1, 35-36 (2014); *Wal-Mart Stores, Inc. v. Dukes*, 131 S.Ct. 2541, 2551

1 (2011)). While Plaintiff and Class Counsel disagree with Defendants' predictions, they also recognize
2 that there is a significant risk that the Court may deny class certification. (Blanchard Decl., ¶ 31; *see*
3 *also, Findings of the Study of California Class Action Litigation*, 2000-2006, available at
4 <http://www.courts.ca.gov/documents/class-action-lit-study.pdf> (finding that only 21.4% of all class
5 actions were certified either as part of a settlement or as part of a contested certification motion)).

6 For example, Plaintiff's meal period claims, which were based on Defendants' alleged failure to
7 provide lawful meal periods, have been increasingly difficult to certify in recent years. (Blanchard Decl.,
8 ¶ 32; *See Brinker*, 53 Cal. 4th at 1034-35). Plaintiff's theory of liability for meal period violations was
9 based on allegations that Defendants had failed to implement their policies and that their practices failed
10 to allow Class Members to take meal breaks in the manner required under California law. (Blanchard
11 Decl., ¶ 32; *See Bradley v. Networkers Int'l, LLC*, 211 Cal.App.4th 1129, 1150 (2012) (holding that "the
12 lack of a meal/rest break policy and the uniform failure to authorize such breaks are matters of common
13 proof.")). Defendants contended that their meal period policies and practices at all times during the Class
14 Period were lawful (Blanchard Decl., ¶ 32). Defendants asserted that their meal period policies were in
15 fact more generous than required by law because they provided for 50-minute meal periods. Defendants
16 also interviewed and obtained declarations from numerous current and former employees who confirmed
17 their understanding of the meal period policies and practices and attested to receiving compliant meal
18 periods. Defendants also contended that they had, if anything, *overpaid* meal period premiums, by
19 programming the timekeeping system to automatically pay a premium for short, late, and missed meal
20 periods reflected in employees' time records, even if employees voluntarily skipped, shortened, or
21 delayed the meal period. Defendants further argued that they had implemented meal waivers which
22 would significantly reduce their liability, and that the rate of purported meal period violations reflected
23 in the data would require individualized inquiry, and that such inquiry would prohibit a class from being
24 certified. (Ibid). Class Counsel also had to consider the risk that the Court would find the meal waivers
25 valid, or would find validity in an individualized proof defense to certification of Plaintiff's meal period
26 claim. (Ibid). Accordingly, a discount of 75% was applied to the maximum potential value of this claim,
27 in order to account for the risks associated with obtaining class certification, proving the underlying
28 violations, and reducing them by the premiums Defendants were shown to have paid, as well as the cost

1 and delay in recovering the alleged potential damages. This process brought the value of this claim closer
2 to \$640,201.25, after which a further discount of 70% was applied to account for the risks associated with
3 the meal period waivers, the likelihood of success on the merits and establishing liability, bringing the
4 value of this claim closer to \$192,060.38. (Blanchard Decl., ¶ 32).

5 Additionally, a large portion of Defendants' overall liability lies in Plaintiff's rest period
6 allegations. (*Id.*, ¶ 33). As with the meal period allegations, Defendants contended that they had a lawful
7 written rest period policy, provided compliant rest breaks, and relieved Class Members of all duties as
8 required under California law. (*Ibid.*). Defendants interviewed and obtained declarations from numerous
9 current and former employees who confirmed their understanding of the rest period policies and practices
10 and attested to receiving compliant rest periods. Additionally, the rest period claim was even more
11 uncertain given the difficulties associated with proving the alleged rest period violations, as Defendants
12 were not required to record these breaks. (*Ibid.*). There were legitimate concerns Plaintiff would not be
13 able to certify these claims or prove substantial damages with requisite certainty, which made the
14 estimated value of this claim subject to much challenge. (*Ibid.*). Defendants maintained that individualized
15 inquiries would prohibit any class from being certified. Accordingly, for the reasons stated above, a
16 discount of 65% was applied to the maximum potential value of this claim, in order to account for the
17 risks associated with obtaining class certification, proving the underlying violations, as well as the cost
18 and delay in recovering the alleged potential damages. This process brought the value of this claim closer
19 to \$2,363,396.35, after which a further discount of 65% was applied to account for the risks associated
20 with the likelihood of success on the merits and establishing liability, bringing the value of this claim
21 closer to \$827,188.72. (*Ibid.*).

22 Plaintiff also faced challenges certifying and proving liability for his minimum wage and overtime
23 claims. (*Id.*, ¶ 34). These claims were largely based on alleged unrecorded, off-the-clock work performed
24 by the Class Members both before and after their shifts and during purported meal periods. (*Ibid.*).
25 Plaintiff and class members alleged there was an expectation that employees would be available to
26 customers at all times, regardless of their shift times, or meal and break schedule. This policy allegedly
27 resulted in substantial off-the-clock work and so the estimated damages for this claim were based on an
28 assumption that all Class Members worked off the clock for at least one hour per week. (*Ibid.*). Defendants

1 contended that their timekeeping policies and practices at all times during the Class Period were lawful,
2 and interviewed and obtained declarations from numerous current and former employees who confirmed
3 their understanding that they were not permitted to perform any work without recording it, and that they
4 had never performed off-the-clock work (or, in the case of just one employee, had done so rarely and
5 without his supervisor's knowledge). Further, the individualized nature of why this work was performed
6 and the individualized nature of damages presented substantial concerns regarding the manageability of
7 the case and the risk the Court could find these issues prevented certification. (Blanchard Decl., ¶ 34).
8 Accordingly, a discount of 65% was applied to account for the risks associated with obtaining class
9 certification, proving the underlying violations, as well as the cost and delay in recovering the alleged
10 potential damages. This process brought the value of this claim closer to \$407,894.20, after which a
11 further discount of 65% was applied to account for the risks associated with the likelihood of success on
12 the merits and establishing liability, bringing the value of this claim closer to \$142,762.97. (Ibid).

13 Plaintiff also contended that Defendants failed to reimburse Plaintiff and the other Class Members
14 for necessary business-related expenses, such as the usage of personal cell phones for work-related
15 purposes. (*Id.*, ¶ 35). Defendants contended that they had a policy and practice of reimbursing employees
16 for necessary business-related expenses (Ibid). Defendants claimed they provided employees with all
17 tools and equipment needed for their jobs, including iPads, computers, phones, and timeclocks.
18 Defendants also interviewed and obtained declarations from employees who confirmed that they had
19 never been required to purchase any tools or equipment in order to perform their jobs and, to the extent
20 they used their personal cell phones for timekeeping purposes, they did so as a matter of personal
21 preference. Defendants further contended that, with respect to the alleged expenses for which Plaintiff
22 and the other Class Members never requested reimbursement from Defendants, they did not know and
23 had no reason to know that alleged business-related expenses had been incurred. (Ibid). Defendants
24 further contended that the reason why a Class Member undertook certain expenses, while not others, and
25 failed to receive reimbursement for certain expenses while not others, would raise individual issues that
26 could not be certified. (Ibid). Accordingly, a discount of 70% was applied to account for the risks
27 associated with obtaining class certification, proving the underlying violations, as well as the cost and
28 delay in recovering the alleged potential damages. This process brought the value of this claim closer to

1 \$139,221.00, after which a further discount of 65% was applied to account for the risks associated with
2 the likelihood of success on the merits and establishing liability, bringing the value of this claim closer
3 to \$48,727.35.

4 There are also substantial risks associated with Plaintiff's waiting time penalties and wage
5 statement claims. (Blanchard Decl., ¶ 36). First, these claims were derivative of Plaintiff's claims for
6 unpaid meal period premiums, unpaid rest period premiums, unpaid minimum wages, and unpaid
7 overtime wages, and if certification was denied on those underlying claims, these derivative claims for
8 penalties would also likely fail. (Ibid). Further, even if Plaintiff prevailed on his underlying claims, he
9 would still be required to demonstrate that Defendants' violations of California Labor Code section 203
10 were *willful* violations. (Blanchard Decl., ¶ 36; *See, e.g., Choate v. Celite Corp.*, 215 Cal App. 4th 1460,
11 1468 (2013) (holding that "an employer's reasonable, good faith belief that wages are not owed may
12 negate a finding of willfulness")). Wage statement claims also require proof of a "knowing and
13 intentional" violation. (*Naranjo v. Spectrum Security Svcs, Inc.*, 13 Cal. 5th 93, 118 (2022)), and have
14 also seen varying treatment at the appellate level because such claims have an element of discretion
15 attached to them rather than a pure calculation of damages after liability is proven (Blanchard Decl. ¶ 36;
16 *Jaimez v. DAIOHS USA, Inc.*, 181 Cal.App.4th 1286 (2010) *with Price v. Starbucks Corp.*, 192
17 Cal.App.4th 1136 (2011)). Accordingly, these derivative claims, which comprised a substantial portion
18 of Defendants' estimated liability, were therefore uncertain. (Blanchard Decl., ¶ 36). Regarding the
19 waiting time penalties, a discount of 75% was applied to account for the risks associated with obtaining
20 class certification, proving the underlying violations, as well as the cost and delay in recovering the
21 alleged potential damages. This process brought the value of this claim closer to \$286,250.25, after which
22 a further discount of 75% was applied to account for the risks associated with the likelihood of success
23 on the merits, bringing the value of this claim closer to \$71,562.56. Regarding the wage statement claim,
24 a discount of 75% was applied to account for the risks associated with obtaining class certification,
25 proving the underlying violations, as well as the cost and delay in recovering the alleged potential
26 damages. This process brought the value of this claim closer to \$439,000, after which a further discount
27 of 75% was applied to account for the risks associated with the likelihood of success on the merits, and
28 establishing liability and *willfulness*, bringing the value of this claim closer to \$109,750. (Ibid).

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

10 Class Counsel also contemplated the risks of proceeding with the PAGA claims and potential
11 liability Defendants could face from these claims as part of the global resolution. (*Id.*, ¶ 38). Existing
12 case law makes PAGA claims subject to the same defenses and risks as Plaintiff's underlying wage
13 claims. (Blanchard Decl., ¶ 38; see, *Elliot v. Spherion Pac. Work, LLC*, 572 F.Supp.2d 1169, 1181-82
14 (C.D. Cal. 2008) ("Plaintiff's claim under [PAGA] is wholly dependent upon her other claims. Because
15 all of Plaintiff's other claims fail as a matter of law, so does her PAGA claim")). Class Counsel also
16 anticipated that even if successful on the merits at trial, the imposition of cumulative civil penalties based
17 on the alleged wage and hour violations could be considered unjust, arbitrary and oppressive, or
18 confiscatory, and that Defendants would argue that they made a good faith attempt to comply with their
19 legal obligations warranting a significant reduction in penalties. (Blanchard Decl., ¶ 38).³ Class Counsel
20 also anticipated Defendants would argue that the violations per pay period were low, warranting an
21 additional reduction in civil penalties. (*Ibid.*). Finally, Class Counsel was also mindful that PAGA is
22 fundamentally not intended to be compensatory in nature but is instead intended to facilitate enforcement
23

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

1 of California's labor laws by financing state activities and educating and deterring non-compliance.
2 (Blanchard Decl., ¶ 38).

3 Therefore, after considering this multitude of factors, Plaintiff and Class Counsel concluded that
4 it was in the best interest of the State of California and the PAGA Employees to enter into the Settlement,
5 and to allocate Sixty Thousand Dollars (\$60,000) of the Total Settlement Amount towards the PAGA
6 claims, which represents approximately 5.37% of the Total Settlement Amount. (*Id.*, ¶ 39). This
7 percentage of the settlement is well within the range of wage and hour settlements regularly approved in
8 both state and federal court for cases that include both a class and PAGA action. (*Ibid.*). Typically, such
9 hybrid cases allocate only 1% of the gross settlement value to resolve PAGA claims, and, indeed,
10 settlements allocations as little as 0.22% of the gross settlement amount have been approved as reasonable
11 by courts. (*Ibid.*). Moreover, the overall relief obtained by the Settlement is significant, not only from a
12 monetary perspective, but also because it fulfills the public policy objectives of PAGA—to promote
13 enforcement of California's labor laws, provide funds to the state, and deter future non-compliance by
14 the employer. (*Ibid.*). Accordingly, when reviewing the total maximum PAGA exposure, an 85%
15 discount was applied to account for the risks associated with proving the underlying violations and the
16 cost and delay in recovering the alleged potential penalties, bringing the value of the PAGA claims closer
17 to \$345,210. A further discount of 75% was applied to account for the risks associated with succeeding
18 on the merits, establishing liability, and the court's ability to apply a discretionary discount to PAGA
19 claims, bringing the value of the PAGA claim closer to \$86,302.50. (*Ibid.*).

20 Therefore, the total value that could reasonably be expected to be awarded at trial, after taking
21 into account the risks faced in prevailing on certification and substantively thereafter is \$1,486,155.25.
22 Seen in this light, the Gross Settlement Amount of \$1,118,000 represents 75.23% of the risk-adjusted
23 value of the claims. (*Id.*, at ¶40).

24 The Settlement is in the best interest of the Class Members, the PAGA Employees, and the State
25 of California and is within the accepted range of recoveries for this type of litigation given the inherent
26 risk of litigation, the risk of obtaining and maintaining class certification, and the costs of further
27 litigation. (*Id.*, ¶ 41).

1 **VI. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED**

2 Code of Civil Procedure Section 382 provides that three basic requirements must be met in order
3 to sustain any class action: (1) there must be an ascertainable class; (2) there must be a well-defined
4 community of interest in the question of law or fact affecting the parties to be represented; and (3)
5 certification will provide substantial benefits to litigants and the courts, i.e., proceeding as a class action
6 is superior to other methods. (*See Dunk*, 48 Cal.App.4th at 1806). Plaintiff contends that the Action,
7 which is based upon Defendants' wage and hour policies and practices, satisfies the class certification
8 requirements under California Code of Civil Procedure section 382. Defendants deny Plaintiff's
9 allegations and maintains Plaintiff's claims require individualized inquiries that would render group-
10 wide adjudication inappropriate, but for purposes of the Settlement only, Defendants have stipulated to
11 certification of the Class.

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

14 Whether an ascertainable class exists turns on three factors: (1) the class definition, (2) the size of
15 the class, and (3) the means of identifying the class members. (*See Miller v. Woods*, 148 Cal.App.3d 862,
16 873 (1983)). In this case, all three considerations strongly favor class certification. Here, the Class is
17 defined as "all current and former employees who worked for BIGHORN in a nonexempt position in
18 California at any time during the Class Period." (Blanchard Decl., ¶ 15; Settlement Agreement, ¶ II.C).
19 This provides a clear and definite scope for the proposed class.

20 Next, the Class is sufficiently numerous. There is no magic number that satisfies the numerosity
21 requirement. Courts have certified classes with as few as ten or twenty-eight class members. (*Blanchard*
22 *v. City of Hayward*, 126 Cal.App.3d 926, 934 (1981); *Bowles v. Superior Court*, 44 Cal. 2d 574 (1995);
23 *Hebbard v. Colgrove*, 28 Cal.App.3d 1017, 1030 (1972)). Here, the estimated Class size of six hundred
24 forty (640) individuals meets the numerosity requirement.

25 Finally, the question of whether class members are easily identifiable turns on whether a plaintiff
26 can establish "the existence of an ascertainable class." (*Daar v. Yellow Cab Co.*, 67 Cal.2d 695 at 706
27 (1967)). The existence of an ascertainable class in this case can be established through Defendants'
28 payroll records, and the Class definition is sufficiently specific to enable the Parties, Class Members, and

the Court to determine the parameters of the Class. (*See Clothesrigger, Inc. v. GTE Corp.*, 191 Cal.App.3d 605, 617 (1987)).

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

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

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

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

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

Here, Plaintiff alleges that his claims are similar to those of the other Class Members and that

1 Plaintiff's claims arise out of the same alleged course of conduct giving rise to the claims of the other
2 Class Members. Because Plaintiff's claims are based upon the same alleged conduct and business
3 practices as those of Class Members, the typicality requirement has been satisfied.

4 Finally, the question of adequacy of representation "depends on whether the plaintiff's attorney
5 is qualified to conduct the proposed litigation and the plaintiff's interests are not antagonistic to the
6 interests of the class." (*McGee v. Bank of America*, 60 Cal.App.3d 442, 450 (1976)). Here, these
7 considerations are satisfied. Class Counsel is well-regarded and is qualified and experienced in
8 employment-related, class-action litigation. (Blanchard Decl., ¶¶ 1-8). Plaintiff will vigorously,
9 adequately, and fairly represent the interests of the Class. Plaintiff has, at all times, throughout the course
10 of the litigation considered the interests of the Class and understood that he must take steps to adequately
11 represent the Class and their interests. (Leon Decl., ¶ 10). Because Plaintiff's claims are typical of other
12 Class Members and are not based on unique circumstances, there is no antagonism between the interests
13 of Plaintiff and the Class.

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

15 Under the circumstances, proceeding as a class action is a superior means of resolving this dispute,
16 as the Class Members and the Court will derive substantial benefits. Class certification would serve as
17 the only means to deter and redress the alleged violations. (*See Linder v. Thrifty Oil Co.*, 23 Cal.4th 429,
18 434 (2000) (relevant considerations include the probability that each class member will come forward to
19 prove his or her separate claim and whether the class approach would actually serve to deter and redress
20 the alleged wrongdoing)). Further, individual actions arising out of the same operative facts would
21 unduly burden the courts and could result in inconsistent results. Therefore, class action proceedings are
22 superior to individual litigation.

23 **VII. THE REQUESTED CLASS REPRESENTATIVE PAYMENT IS REASONABLE**

24 Plaintiffs in class action lawsuits are eligible for reasonable incentive payments as compensation
25 "for the expense or risk they have incurred in conferring a benefit on other members of the class." (*Munoz*
26 *v. BCI Coca-Cola Bottling Co.*, 186 Cal.App.4th 399, 412 (2010)). Courts routinely grant approval of
27 class action settlement agreements containing enhancements for the class representative, which are
28 necessary to provide incentive to represent the class and are appropriate given the benefit the class

representatives help to bring about for the class. (*See In re Online DVD Rental*, 779 F.3d 934, 947-948 (9th Cir. 2014) (approving incentive award 417 times larger than individual payments where incentive award made up a mere .17% of the settlement); *Gaudin v. Saxon Mortgage Servs., Inc.*, 2015 WL 7454183, at *10 (N.D. Cal. Nov. 23, 2015) (finding service award of \$15,000 to be “fair and reasonable”)).

Plaintiff initiated this litigation on behalf of his former co-workers who will now be entitled to receive payment from the Settlement. Plaintiff invested substantial time and effort into litigation, including his own research, reviewing documents, and extensive discussions with Class Counsel. (*see generally*, Leon Decl.). Further, the requested amount for Plaintiff is also reasonable given the average award and the benefit gained by other Class Members. For these reasons, Plaintiff requests that a Class Representative Payment of Ten Thousand Dollars (\$10,000) be preliminarily approved by the Court. (Blanchard Decl., ¶ 42; Leon Decl., ¶ 12)

VIII. THE REQUESTED CLASS COUNSEL’S FEES AND EXPENSES PAYMENT ARE REASONABLE

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

Here, the requested class counsels’ fees of thirty-five percent (35%) of the Total Settlement Amount (i.e., \$415,800 if the Total Settlement Amount is \$1,188,000) is disclosed to Class Members in the proposed Class Notice. The requested fee was freely negotiated, is common in the legal marketplace, and is not opposed by Defendants. The Motion for Final Approval will elaborate on the nature of the legal services provided and will also support Class Counsel’s request for the reimbursement of litigation costs and expenses not to exceed Forty Thousand Dollars (\$40,000). (Blanchard Decl., ¶¶ 43-45). The Class Counsel Fees and Expenses Payment that is not ultimately approved by the Court shall instead be retained in the Net Settlement Amount to be distributed to Class Members. (Settlement Agreement, ¶

1 III.B.2.).

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

4 The Parties have jointly drafted the Notice Packet, which will be mailed to the Class Members.
5 (*Id.*, Exhs. A, B, C & D). The Class Notice will include information regarding the nature of the Action, a
6 summary of the terms of the Settlement, the Class definition, information on how to object to and/or opt-
7 out of the Settlement and to dispute Covered Workweeks and/or Covered Pay Periods, and the date of
8 the Final Approval Hearing (*Id.*, Exhibit A). The Notice of Estimated Settlement Share enclosed with the
9 Class Notice will list each Class Member's total Covered Workweeks and estimated Class Member
10 Payment and each PAGA Group Member's total Covered Pay Periods and estimated PAGA Settlement
11 Share (*Id.*, Exhibit B).

12 Within thirty (30) calendar days after entry of the preliminary approval order, BIGHORN will
13 provide an electronic database to the Settlement Administrator containing the following information for
14 each Class Member: full name; last known mailing address; last known telephone number; Social
15 Security number; and his or her number of Covered Workweeks and Covered Pay Periods (collectively
16 referred to as the "Class Member Information") (Settlement Agreement, ¶ III.E.2.a.). Within fifteen (15)
17 days after receiving the Class Member Information from BIGHORN, the Settlement Administrator will
18 perform a search for updated addresses for all Class Members using the National Change of Address
19 ("NCOA") database, update any Class Member addresses found through the NCOA search, calculate
20 each Class Member's estimated Settlement Share, send to counsel for the Parties its payment calculations
21 for Class Members and obtain approval from counsel of the payment calculations, and send a Class Notice
22 Packet to each Class Member via First-Class U.S. Mail, using the most current, known mailing addresses
23 identified by the Settlement Administrator. (*Id.*, III.E.2.b.). The Parties have agreed to use Apex Class
24 Action as the Settlement Administrator. (Blanchard Decl., ¶ 46; Settlement Agreement, ¶ III.D.)

25 In determining whether to approve a settlement of a class action, a trial court has virtually
26 complete discretion as to the manner of giving notice to class members, and review on appeal is governed
27 by the abuse of discretion standard. (*See In re Cellphone Fee Termination Cases*, 186 Cal.App.4th 1380
28 (2010)). Here, Class Counsel is not aware of an alternative method of providing notice to the Class which

would result in a higher likelihood of actual notice. (Blanchard Decl., ¶ 47). The original source of the mailing addresses is from Class Members, who provided the information to BIGHORN. (Ibid).

Class Members will have forty-five (45) calendar days from the initial mailing of the Class Notice Packet by the Settlement Administrator to submit a Request for Exclusion Form, Objection to Settlement Form, and/or dispute regarding Class Member Information (“Response Deadline”). (Settlement Agreement, ¶ III.E.3.a.)

Any Class Notice Packet returned to the Settlement Administrator as undeliverable on or before the Response Deadline will be sent promptly via First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Class Notice. (*Id.*, ¶ III.D). Any Class Notice Packet returned to the Settlement Administrator as undeliverable on or before the Response Deadline will be handled promptly by the Settlement Administrator, who will make reasonable efforts to locate Class Members and re-send the notices. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine a correct address using a skip-trace or other search, using the name, address, and/or Social Security number of the Class Member, and perform a single re-mailing within five (5) calendar days. In the event that a Class Notice Packet is re-mailed to a Class Member, the Response Deadline for that Class Member shall be extended fifteen (15) calendar days from the original Response Deadline. (*Ibid*).

Class Members will have an opportunity to dispute the information shown on their respective Notice of Estimated Settlement Share regarding their number of Covered Workweeks and/or Covered Pay Periods by submitting documentation to support their contention to the Settlement Administrator, postmarked no later than the Response Deadline (*Id.*, ¶¶ III.E.2.a).

Any Class Member wishing to be excluded from the Settlement must submit a timely and valid Request for Exclusion Form to the Settlement Administrator, postmarked no later than the Response Deadline (*Id.*, ¶¶ II. H.). Notwithstanding the above, all PAGA Group Members will be bound by the release of PAGA claims described in the Settlement and will be issued their PAGA Settlement Share, irrespective of whether they submit a Request for Exclusion Form (*Id.*, ¶ III.F.2.).

To object to the Settlement, Class Members must submit a timely and complete Objection to Settlement Form to the Settlement Administrator, postmarked no later than the Response Deadline (*Id.*,

¶¶ II. H). Class Members, individually or through counsel, may also present their objection orally at the Final Approval Hearing, regardless of whether they have submitted an Objection to Settlement Form. (Ibid).

X. CONCLUSION

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

Respectfully submitted,

Dated: December 19, 2025

BLACKSTONE LAW, APC

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