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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

ARMANDO DE LA CRUZ, individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act;

Plaintiff,

vs.

ROYAL PLYWOOD COMPANY, LLC, a Delaware limited liability company; and DOES 1 through 100, inclusive,

Defendants.

Case No.: 24STCV09460
(*Related Case No*. 24NWCV02386)

Honorable Timothy Patrick Dillon
Department 15

<u>CLASS ACTION</u>

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

[Declaration of Proposed Class Counsel (Brian J. St. John); Declaration of Proposed Class Representatives (Armando De La Cruz); and [Proposed] Order filed concurrently herewith]

Date:	January 13, 2026
Time:	10:00 a.m.
Department:	15
Complaint Filed:	April 15, 2024
FAC Filed:	October 1, 2025
Trial Date:	None Set

TO THE HONORABLE COURT AND TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on January 13, 2026, at 10:00 a.m. or as soon thereafter as the matter may be heard before the Honorable Timothy Patrick Dillon in Department 15 of the Superior Court of California for the County of Los Angeles, located at 312 North Spring Street, Los Angeles, California 90012, Plaintiff Armando De La Cruz ("Plaintiff" or "Class Representative") will, and hereby does, move for an order:

- Granting preliminary approval of the proposed class action settlement described herein and as set forth in the Class Action and PAGA Settlement Agreement ("Settlement," "Agreement," or "Settlement Agreement"), attached as "**EXHIBIT 1**" to the Declaration of Brian J. St. John in Support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement;
- Certifying the proposed Class for settlement purposes;
- Appointing Plaintiff Armando De La Cruz as Class Representative;
- Appointing Joanna Ghosh, Brian St. John, and Erica Stepanian of Lawyers *for* Justice, PC as Class Counsel;
- Approving the proposed Notice of Class Action Settlement and Hearing Date for Final Court Approval ("Class Notice"), attached as "**EXHIBIT A**" to the [Proposed] Order Granting Preliminary Approval of Class Action and PAGA Settlement, and directing the mailing thereof in accordance with the Settlement Agreement;
- Approving Phoenix Class Action Administration Solutions as the Administrator; and
- Scheduling a hearing to consider final approval of the Settlement.

This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which require approval by the Court of the settlement of a putative class action, and Rule 3.1113(e), which allows the Court to preliminarily certify a class for settlement purposes, and permits the Court to extend the page limit for memoranda.

This motion is based upon the following memorandum of points and authorities, the Settlement Agreement, the Declaration of Proposed Class Counsel (Brian J. St. John) and

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Proposed Class Representative (Armando De La Cruz) in support thereof, as well as the pleadings and other records on file with the Court in this matter, and such evidence and oral argument as may be presented at the hearing on this motion.

Dated: November 14, 2025

LAWYERS *for* JUSTICE, PC

By: ______________________

Brian J. St. John
Erica Stepanian
Attorneys for Plaintiff

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TABLE OF CONTENTS

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

TABLE OF AUTHORITIES

Cases

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

Statutes

Other Authorities

Rules

LAWYERS *for* JUSTICE, PC
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Glendale, California 91203

MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

Plaintiff Armando De La Cruz ("Plaintiff" or "Class Representative") seeks preliminary approval of the Class Action and PAGA Settlement Agreement ("Settlement," "Agreement," or "Settlement Agreement") entered into by and between Plaintiff, individually and on behalf of all others similarly situated and other aggrieved employees, on the one hand, and Defendant Royal Plywood Company, LLC ("Defendant"), on the other hand. Subject to approval by the Court, Plaintiff and Defendant (collectively, the "Parties") have agreed to settle the lawsuits for a Gross Settlement Amount of $1,250,000.00.[1]

Plaintiff also seeks to provisionally certify the following Class for settlement purposes, which Defendant does not oppose:

> All current and former hourly-paid or non-exempt employees of Defendant in California during the Class Period ("Class" or "Class Members").[2]

Class Members who do not submit a timely and valid Request for Exclusion from the Class Settlement ("Participating Class Member") will receive a *pro rata* share of the Net Settlement Amount ("Individual Class Share"). The net payment of each Settlement Class Member's Individual Settlement Share ("Individual Class Payment") will be distributed to Settlement Class Members on a *pro rata* basis based upon any week during which a Class Member worked for Defendant for at least one day, during the Class Period ("Workweeks").[3]

The Settlement, upon final approval by the Court and funding of the Gross Settlement Amount, will operate to resolve the Released Class Claims of Plaintiff and Participating Class Members and the Released PAGA Claims of the State of California.[4]

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[1] Settlement Agreement, attached as "**EXHIBIT 1**" to Declaration of Brian J. St. John ("St. John Decl."), ¶ 1.23. Based on its records, Defendant represents that there are approximately 26,940 Workweeks during the period from April 15, 2020 through April 30, 2025. If the number of Workweeks during the Class Period exceeds 26,940 by more than 10% (i.e., exceeds 29,634 Workweeks), Defendant shall have the option to increase the Gross Settlement Amount *pro rata* per additional Workweek for each Workweek over 29,634 Workweeks or to cap the Class Period at the last point in time in which the number of Workweeks does not exceed 29,634 (and such date shall be referred to as the "Alternate End Date"). *See id.*, ¶ 9.

[2] *Id.*, ¶ 1.5. "Class Period" is defined as the time period from April 15, 2020 through the sooner of (a) date of the Court's preliminary approval of class settlement, (b) December 17, 2025, or if applicable, (c) the Alternate End Date. *See id.*, ¶ 1.13.

[3] Settlement Agreement, ¶¶ 1.24, 1.26, 1.37, and 1.47.

[4] *Id.*, at ¶¶ 5.2 and 5.3. See *id.* at ¶ 5.2 for the full scope of the "Released Class Claims" *id.* at ¶ 5.3 for the full scope

LAWYERS *for* JUSTICE, PC
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Glendale, California 91203

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Defendant is a wholesale distributor of hardwood, softwood lumber, and an array of specialty products such as high pressure laminates, high gloss, melamine, solid surfaces, siding, decking and other building materials. Plaintiff is a former employee of Defendant.

1. On February 7, 2024, Plaintiff provided written notice by certified mail to the California Labor and Workforce Development Agency ("LWDA") and the employer of the specific provisions of the California Labor Code that were alleged to be violated, including the facts and theories to support the alleged violations (the "Original PAGA Notice"). On April 15, 2024, Plaintiff provided an amended written notice to the LWDA (the "Amended PAGA Notice"). Aside from confirmation of receipt of the PAGA Notices, the LWDA did not respond to the PAGA Notices.[5]

On April 15, 2024, Plaintiff commenced the above-caption lawsuit by filing the Class Action Complaint for Damages in the Superior Court for the County of Los Angeles (the "Class Action").[6]

On August 1, 2024, Plaintiff filed a separate Complaint for Enforcement Under the Private Attorneys General Act, Cal. Lab. Code § 2698, *Et Seq*. in the Superior Court for the County of Los Angeles, Case No. 24NWCV02386 (the "PAGA Action") (together with the Class Action, the "Actions").[7]

On October 11, 2024, Defendant Royal Plywood Company, LLC ("Defendant") filed its Answer to both Plaintiff's Class Action Complaint for Damages in the Class Action and Complaint for Enforcement Under the Private Attorneys General Act, Cal. Lab. Code § 2698, *Et Seq*. in the PAGA Action.[8]

On November 14, 2024, the Court deemed the Actions related, designated the Class Action as the lead case, and reassigned the PAGA Action to Department 15 of the above-titled

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of the "Released PAGA Claims," and *id.* at ¶ 1.43 for the definition of the "Released Parties."

[5] St. John Decl., ¶ 2, Exhs. 2-3.

[6] *Id.*, ¶ 3.

[7] *Id.*, ¶ 4.

[8] *Id.*, ¶ 5.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

Court for all further proceedings.[9]

On October 1, 2025, Plaintiff filed the First Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et Seq.,* ("Operative Complaint"), thereby adding, *inter alia*, Plaintiff's PAGA claim to the Class Action.[10]

Plaintiff's core allegations are that Defendant has violated California wage and hour law, including but not limited to laws set forth in the California Labor Code, by engaging in a uniform practice and procedure, with respect to Plaintiff, Class Members, and Aggrieved Employees of, *inter alia*, failing to pay all overtime and minimum wages, at all or at the correct rate of pay, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages during employment and upon termination of employment, failing to provide compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse necessary business expenses, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, *et seq*., and conduct giving rise to civil penalties recoverable under the Private Attorneys General Act of 2004 (California Labor Code sections 2698, *et seq*.). Plaintiff contends that he, and the Class Members, are entitled to, *inter alia*, unpaid wages, penalties (including and not limited to, penalties pursuant to PAGA), and attorneys' fees and costs.[11]

The Parties have actively litigated the Actions since the Class Action commenced on April 15, 2024. On April 30, 2025, the Parties participated in arm's-length and informed negotiations with Mediator Hon. Daniel J. Buckley (Ret.) ("Mediator"), a respected mediator of complex wage and hour actions.[12] With the aid of the mediator, the Parties reached the Settlement described herein to resolve the Actions in its entirety.[13]

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[9] St. John Decl., ¶ 6.
[10] Ibid.
[11] *Id*., ¶ 31.
[12] *Id*., ¶ 24
[13] St. John Decl., ¶ 24.

III. SUMMARY OF THE SETTLEMENT TERMS

Under the terms of the Settlement, Defendant will pay a Gross Settlement Amount of $1,250,000.00 to resolve the Actions.[14] Subject to approval by the Court, the Net Settlement Amount will be calculated by deducting the following amounts from the Gross Settlement Amount: (1) attorneys' fees in an amount not to exceed 1/3 of the Gross Settlement Amount (i.e., $412,500.00 if the Gross Settlement Amount remains $1,250,000.00) and litigation costs and expenses in an amount not to exceed $25,000.00 ("Class Counsel Fees Payment" and "Class Counsel Litigation Expenses Payment") to Class Counsel; (2) Administration Expenses Payment, which are currently estimated not to exceed $10,000.00 to the Administrator ("Administration Expenses Payment"); (3) PAGA Penalties of $70,000.00 ("PAGA Penalties"); and (4) payments in the amount of up to $7,500.00 to Plaintiff ("Class Representative Service Payment").[15] The Parties have agreed to retain Phoenix Class Action Administration Solutions ("Phoenix" or "Administrator") to handle the notice and settlement administration process.[16]

The Parties have agreed that the Administrator will determine each Participating Class Member's share of the available Net Settlement Amount ("Individual Class Share"), in accordance with the Settlement Agreement on a *pro rata* per Workweeks basis, which will be adjusted after Final Approval to reflect the total Workweeks worked by Participating Class Member.[17] The Parties have agreed that the Administrator will determine each Aggrieved Employee's *pro rata* share of the 25% share of the PAGA Penalties, in accordance with the Settlement Agreement on a *pro rata* per Pay Periods basis.[18]

The Parties agree, for purposes of this Settlement, that Individual Class Shares will be allocated 20% to wages subject to withholdings and 80% to interest, penalties, and non-wage damages.[19] The Administrator will withhold the employee's share of taxes and withholdings with respect to the wages portion of the Individual Class Share, and issue checks to Participating

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[14] Settlement Agreement, ¶¶ 1.23 and 3.1.
[15] *Id.*, ¶¶ 1.35, 3.2.1, 3.2.2, and 3.2.3.
[16] *Id.*, ¶ 1.2.
[17] *Id.*, ¶ 3.2.4.
[18] *Id.*, ¶ 3.2.5.1.
[19] Settlement Agreement, ¶ 3.2.4.1.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

Class Members for their Individual Class Payments. Each Individual PAGA Payment will be allocated as 100% penalties and will not be subjected to withholdings.[20] The Administrator shall also remit the employer taxes to the appropriate taxing authorities.[21]

The face of each Individual Class Payment and Individual PAGA Payment shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided.[22] For any leftover funds represented by canceled Individual Class Payment and Individual PAGA Payment checks, the Administrator shall transmit the funds to the California Controller's Unclaimed Property Fund in the name of the Participating Class Member and/or Aggrieved Employee thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd.(b).[23]

Class Members who wish to exclude themselves (opt-out of) from the Class Settlement must send the Administrator, by email or mail, a signed written Request for Exclusion no later than the sixty (60) after the Administrator mails the Class Notice to Class Members and Aggrieved Employees ("Response Deadline") (plus an additional 14 days for Class Members whose Class Notice is re-mailed).[24] All Aggrieved Employees are bound to the PAGA Settlement and will still be issued an Individual PAGA Payment, regardless of whether they seek exclusion from the Class Settlement.[25]

Only Participating Class Members may object to the Class Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.[26] Class Members may not object to the PAGA Settlement.[27] Participating Class Members may also appear in Court (or hire an attorney to appear in Court) to

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[20] *Id.*, ¶ 3.2.5.2.
[21] *Id.*, ¶ 3.2.4.1.
[22] *Id.*, ¶ 4.4.1.
[23] *Id.*, ¶ 4.4.3.
[24] *Id.*, ¶§ 1.45 and 7.4.1.
[25] *Id.*, ¶ 7.4.4.
[26] *Id.*, ¶ 7.6.
[27] Settlement Agreement, ¶ 7.6.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

present verbal objections at the Final Approval Hearing, regardless of whether they have submitted a written Notice of Objection.[28]

Each Class Member shall have until the Response Deadline (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed) to challenge the number of Workweeks and/or Pay Periods (if any) allocated to the Class Member in the Class Notice.[29]

IV. LEGAL STANDARD FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENTS

The settlement of a class action requires approval by the court. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800; Cal. Code Civ. Proc. § 1781(f). Courts review class action settlements in a two-step process: (1) an earlier conditional review by the court; and (2) a later detailed review after the period during which notice is distributed to class members for their comments or objections. Conte & Newberg, *Newberg on Class Actions* § 11.24 (4th Ed. 2002). Preliminary approval of a settlement does not require a court to make a final determination that the settlement is fair, reasonable, and adequate. Rather, that decision is made only at the final approval stage. Cal. R. Ct. 3.769(g).

In considering a potential class settlement, a court need not reach any ultimate conclusions on the issues of fact and law which underlie the merits of the dispute and need not engage in a trial on the merits. See *City of Detroit v. Grinnell Corporation* (2d Cir. 1974) 495 F.2d 448, 456; *Officers for Justice v. Civil Service Commission of City and County of San Francisco* (9th Cir. 1982) 688 F.2d 615, 625. Neither formal notice nor a hearing is required for the trial court to grant provisional class certification and preliminary approval; the court may grant such relief upon an informal application by the settling parties and may conduct any necessary hearing in court or in chambers, at the court's discretion. *Newberg,* § 11.25.

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V. THE COURT SHOULD PRELIMINARY APPROVE THE SETTLEMENT

The trial court has broad discretion to determine whether a proposed settlement is fair

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[28] *Id.*, ¶ 7.6.1.
[29] *Id.*, ¶ 7.5.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

under the circumstances of the case. *Dunk,* 48 Cal.App.4th at 1800. To make this fairness determination, courts must consider several relevant factors, including "the strength of the Plaintiff's case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and view of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement." *Dunk*, 48 Cal.App.4th at 1801. "The list of factors is not exclusive and the court is free to engage in a balancing and weighing of the factors depending on the circumstances of each case." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245. Furthermore, courts give "proper deference to the private consensual decision of the parties." *Hanlon*, 150 F.3d at 1027 (citation omitted).

The proponent of the settlement has the burden to show that it is fair and reasonable. *Wershba*, 91 Cal.App.4th at 245. "A presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small." *Id.*; *Dunk*, 48 Cal.App.4th at 1802; *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1151.

A. <u>The Settlement Resulted from Arm's-Length Negotiations Based Upon Extensive Investigation and Discovery.</u>

The Parties have actively litigated the Actions since the Class Action commenced on April 15, 2024. Both sides investigated the veracity, strength, and scope of the claims throughout the cases, and Class Counsel was actively preparing the matter for class certification and trial.[30]

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Class Counsel conducted significant investigation and formal and informal discovery regarding the facts of the cases, including and not limited to, the exchange, review, and analysis

[30] St. John Decl., ¶¶ 23-26.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

of a large volume of documents and data from Plaintiff, Defendant, and other sources.[31] The volume of data and documents that Class Counsel reviewed and analyzed included and was not limited to: Plaintiff's and other Class Members' employment records, a detailed sampling of Class Members' time and pay data, Defendant's Employee Handbook, company policy acknowledgements (including but not limited to Employee Safety Handbook Acknowledgment Form, 401(k) Profit Sharing Plan Enrollment Acknowledgment, For Your Benefit: California Programs for the Unemployed Pamphlet, Acknowledgement of Receipt of COVID-19 Safety Plan, Job Description Acknowledgement), earning statements, internal memoranda, job descriptions, new hire packet/orientation checklist, Defendant's operations and employment practices, forms (including but not limited to Agreement to Authorize Timecard Entries, Agreement to Waive Second Meal Period), procedures, and policies (including but not limited to Use of Personal Cellular Telephone Policy, Mobile Device Policy, Rights of Victims of Domestic Violence, Sexual Assault and Stalking, Harassment, Discrimination, Retaliation Prevention Policy), among other information and documents.[32] Class Counsel had the opportunity to interview Plaintiff and others to gather facts and to identify potential witnesses.[33] In addition, Class Counsel has extensive experience in California wage-and-hour class actions.[34]

The Parties engaged in extensive settlement negotiations and participated in a full-day mediation conducted by Hon. Daniel J. Buckley (Ret.), a well-respected mediator experienced in mediating complex labor and employment matters.[35] Prior to and during the mediation and settlement negotiations, the Parties exchanged extensive information and engaged in discussions regarding their evaluations of the cases and various aspects of the cases, including but not limited to, the risks and delays of further litigation, including the risks of proceeding with class certification and/or representative adjudication, the law relating to off-the-clock theory, meal and rest periods, PAGA representative claims, and wage-and-hour enforcement; the evidence

[31] St. John Decl., ¶ 24
[32] Ibid.
[33] Ibid.
[34] *Id.,* ¶ 17-22.
[35] *Id.*, ¶ 24.

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Glendale, California 91203

produced and analyzed; and the possibility of appeals.[36] During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position.[37] Arriving at a settlement that was acceptable to both Parties was not easy. Both sides felt strongly about their ability to prevail at certification and at trial.[38] After conducting investigations, formal and informal discovery, extensive settlement negotiations, and with the aid of the mediator's evaluation, the Parties have agreed that the matter is well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and risks to both sides that would attend further litigation.[39]

B. <u>The Settlement Is Fair, Reasonable, and Adequate.</u>

The Settlement represents a fair, adequate, and reasonable resolution of the matter.[40] The Settlement was calculated using the information and data uncovered during litigation, case investigation, and the formal and informal exchange of information.[41] The Settlement takes into account the potential risks and rewards inherent in any case and, in particular, in the matter at issue.[42] Moreover, considering all of the facts and circumstances of the lawsuit, the Settlement represents a fair, reasonable, and adequate recovery for the Class.[43]

Assuming that the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, PAGA Penalties, and Administration Expenses Payment are approved by the Court and paid in the full amounts provided for by the Settlement, the Settlement provides for a Net Settlement Amount that is currently estimated to be $725,000.00.[44] Additionally, 25% of the PAGA Penalties, which is $17,500.00 out of $70,000.00, will be distributed to the Aggrieved Employees. The entire Net Settlement Amount

[36] St. John Decl., ¶ 24.
[37] Ibid.
[38] Ibid.
[39] Ibid.
[40] *Id.*, ¶¶ 23, 25, 27, and 34.
[41] *Id.*, ¶¶ 23-25.
[42] *Id.*, ¶¶ 26-28.
[43] *Id.,* ¶¶ 23, 25, and 33.
[44] *Id.,* ¶ 9.

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Glendale, California 91203

will be fully paid out to the Participating Class Member, in accordance with the Settlement Agreement.

The amount of each Participating Class Member's Individual Class Share and each Aggrieved Employee's Individual PAGA Payment will be calculated based on their Workweeks and/or Pay Periods during the Class Period and PAGA Period, respectively.[45] "An allocation formula need only have a reasonable, rational basis [to warrant approval], particularly if recommended by experienced and competent class counsel." *In re American Bank Note Holographics, Inc., Securities Litigation* (S.D.N.Y. 2001) 127 F.Supp.2d 418, 429-30. Here, the allocation is reasonably related to the number of Workweeks and/or Pay Periods actually worked for Defendant during the relevant period and should be approved.

In light of the foregoing considerations, Class Counsel believes that the Settlement as a whole is fair, reasonable, and adequate, and is in the best interest of the Class Members, Aggrieved Employees, and the State of California.[46] Although the recommendations of Class Counsel are not conclusive, the Court can properly take the recommendations into account, particularly if Class Counsel appear to be competent, and have experience with this type of litigation, and investigation have been completed, as is the case here. *Newberg,* §11.47. Accordingly, the Court should grant preliminary approval of the Settlement.

C. <u>The Settlement Is of Significant Value.</u>

Pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, the Parties conducted extensive formal and informal discovery and exchanged a large volume of documents, data, and information prior to mediation.[47] The information that Class Counsel obtained from Plaintiff, Defendant, and other sources allowed Class Counsel to develop valuation models in order to evaluate the potential value and merit of the claims, and perform a complete evaluation of Defendant's defenses thereto.[48] As outlined in the Declaration of Brian J. St. John, Class

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[45] Settlement Agreement, ¶¶ 3.2.4 & 3.2.5.1
[46] St. John Decl., ¶¶ 24, 25, & 35.
[47] *Id.*, ¶¶ 23 & 32.
[48] *Id.*, ¶ 33.

Counsel performed an extensive analysis of each and every claim pursuant to *Kullar* prior to entering into the Settlement.[49]

VI. CERTIFICATION OF THE CLASS IS APPROPRIATE

The requisites for establishing class certification are met, and the Parties have stipulated to conditional certification of the Class for settlement purposes only.[50] California Code of Civil Procedure Section 382 "authorizes class actions when the question is one of a common or general interest, of many persons, or when the Parties are numerous, and it is impracticable to bring them all before the court." *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326. California courts certify class actions where the Plaintiff identifies "both [1] an ascertainable class and [2] a well-defined community of interest among class members." *Id.*

A. The Class Is Ascertainable and Sufficiently Numerous.

"Ascertainability is required in order to give notice to putative class members as to whom the judgment in the action will be *res judicata*." *Hicks v. Kaufman & Broad Home Corp.* (2001) 89 Cal.App.4th 908, 914. "A class is ascertainable if it identifies a group of unnamed Plaintiffs by describing a set of common characteristics sufficient to allow a member of that group to identify himself or herself as having a right to recover based on the description." *Bartold v. Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 828. The proposed Class must also be sufficiently numerous. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435; *see also Rose v. City of Hayward* (1981) 126 Cal.App.3d 926, 934-35 (indicating that a class of 30 to 40 individuals satisfies the numerosity requirement as joinder is not practical at that point). The Class here is estimated to be approximately 253 individuals, which is sufficiently numerous.[51] Further, all Class Members can and will be identified by Defendant to the Administrator through a review of Defendant's employment records regarding hourly-paid or non-exempt employees in California during the Class Period. As such, the Class is ascertainable and sufficiently numerous.

[49] St. John Decl., ¶¶ 29-34.
[50] Settlement Agreement, ¶ 11.1.
[51] St. John Decl., ¶ 15.

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450 North Brand Blvd., Suite 900
Glendale, California 91203

B. They Share a Well-Defined Community of Interest.

The community of interest requirement "embodies three factors: (1) predominant common questions of law or fact; (2) Class Representative with claims or defenses typical of the class; and (3) Class Representative who can adequately represent the class." *Sav-On*, *supra*, 34 Cal.4th at 326. "[T]he community of interest requirement for certification *does not mandate that class members have uniform or identical claims*." *Capitol People First v. Dep't of Developmental Services* (2007) 155 Cal.App.4th 676, 692 (emphasis in original). Rather, courts focus on the Defendant's internal policies and "pattern and practice . . . in order to assess whether that common behavior toward similarly situated Plaintiff renders class certification appropriate." *Id.* (citing *Sav-On*, 34 Cal.4th at 333).

Here, common issues of law and fact predominate as to each of the claims alleged and asserted in the Actions. Based on the documents and information obtained through formal and informal discovery and exchange of information in the case, Plaintiff contends that Class Members performed similar job duties and were subject to uniform operations and employment policies, practices, and procedures during the Class Period, including payroll and recordkeeping practices.[52] As a result, Plaintiff claims that all of the Class Members were uniformly not paid all compensation due to them from Defendant during the time period at issue. Plaintiff maintains that the outcome of this litigation would be determined by Defendant's alleged uniform operations and employment policies and procedures that applied across its hourly-paid or non-exempt employees who worked in California during the Class Period.

As a member of the Class who were subject to these same policies, practices, and procedures, Plaintiff's claims are typical of the Class. Moreover, Plaintiff has no interests adverse to the Class. Plaintiff has taken steps to initiate and maintain actions and to ensure that it comes to a fair and reasonable resolution.[53] Importantly, Plaintiff has retained a law firm well-

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[52] St. John Decl., ¶ 16.

[53] Declaration of Armando De La Cruz in Support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement ("De La Cruz Decl."), ¶¶ 2-4.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

versed in wage and hour class actions, which has at all times represented the best interests of Plaintiff and the Class.[54]

Accordingly, the proposed Class shares a community of interest, and the Court should certify the Class for settlement purposes only.

VII. APPOINTMENT OF CLASS COUNSEL AND ALLOCATION FOR CLASS COUNSEL FEES PAYMENT AND CLASS COUNSEL LITIGATION EXPENSES PAYMENT

Class Counsel has litigated the matters for over one year and was actively preparing the matter for class certification and trial.[55] The ongoing work has been extensive, demanding, and ultimately successful in achieving a substantial settlement resolution. Class Counsel reviewed a large volume of documents and data[56] and also interviewed and obtained information from Plaintiff and other percipient witnesses, researched applicable law, undertook damages/valuation calculations, and met and conferred with Defendant's counsel regarding the pleadings and the production of documents and data prior to mediation.[57] Counsel for the Parties also undertook extensive settlement discussions, which included participating in mediation.[58]

Class Counsel is well-experienced in wage-and-hour class action litigation and used that experience to obtain a great result for the Class.[59]

The Settlement establishes a Gross Settlement Amount of $1,250,000.00, and provides for Class Counsel to apply to the Court consisting of attorneys' fees in an amount not to exceed 1/3 of the Gross Settlement Amount (i.e., $412,500.00 if the Gross Settlement Amount remains $1,250,000.00) and reimbursement of actual costs and expenses in an amount up to $25,000.00.[60] The attorneys' fees provided for by the Settlement are commensurate with: (1) the risk that Class Counsel took in bringing and litigating the cases, (2) the extensive time, effort and expense that

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[54] St. John Decl., ¶¶ 18-22.
[55] *Id.*, ¶¶ 23-25.
[56] *Id.*, ¶ 25 & 28.
[57] *Id.*, ¶¶ 24-25.
[58] *Id.*, ¶ 24.
[59] *Id.*, ¶¶ 18-22.
[60] Settlement Agreement, ¶¶ 3.1 & 3.2.2.

LAWYERS for JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

Class Counsel dedicated to the cases, (3) the skill and determination that Class Counsel has shown, (4) the results that Class Counsel has achieved throughout the litigation, (5) the value of the Settlement that Class Counsel has achieved for the Class Members, Aggrieved Employees, and the State of California, and (6) the other cases that Class Counsel had to turn down in order to devote its time and efforts to the matters. The proposed Class Notice provides Class Members that an award of the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment will be sought, and the amount allocated toward the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment by the Settlement.[61]

Trial courts have "wide latitude" in assessing the value of attorneys' fees and their decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41. Indeed, it is long settled that the "experienced trial judge is the best judge of the value of professional services rendered in his court." *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132. 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. *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 503 (citing *Lealao*, 82 Cal.App.4th at 48-49). In *Lealao*, the court held that when an action leads to a recovery that can be "monetized" with a reasonable degree of certainty, the trial court should "ensure that the fee awarded is within the range of fees freely negotiated in the legal marketplace in comparable litigation." *Id.* at 50.

The California Supreme Court has confirmed the propriety of calculating and awarding attorneys' fees as a percentage of a settlement that has, by litigation, been preserved or recovered for the benefit of others. *Laffitte*, *supra*, 1 Cal.5th 480 at 486 & 506. The Court has taken the position that while "[t]rial courts have discretion to conduct a lodestar cross-check on a percentage fee," "they also retain the discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of a requested percentage fee[,]" and "[t]he percentage of fund method survives in California." *Id*. (internal quotation marks omitted).

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[61] Settlement Agreement, Exh. A.

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450 North Brand Blvd., Suite 900
Glendale, California 91203

Historically, courts have awarded fees as high as fifty percent (50%) of the settlement, depending on the circumstances of the case. *Newberg,* § 14.03; *see also In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys' fees in the amount of 45% of the $7.3 million settlement); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys' fees). California courts routinely approve class action attorneys' fee awards "averag[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found 20 to 40 percent range of contingency fee in marketplace was appropriate in class actions); see also *Estrada v. Dr. Pepper/Seven-Up*, Los Angeles County Superior Court Case No. BC262247 (May 2005) (wage and hour); *Moore v. IKEA*, Los Angeles County Superior Court Case No. BC263646 (Sept. 2006) (wage and hour).

Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.[62]

Class Counsel will provide extensive evidence as to the time worked, litigation efforts, and further argument at the time of filing Plaintiff's Motion for Final Approval of the Settlement and application for the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment at the Final Approval Hearing. Considering the work performed and the risks incurred, the attorneys' fees provided for by the Settlement are well within the range of reasonableness for preliminary approval.

VIII. <u>THE PROPOSED CLASS NOTICE IS ADEQUATE</u>

California statutory authority and case law vests the Court with broad discretion in fashioning appropriate class notice. See Cal. Code Civ. Proc. § 1781; *Cartt v. Superior Court* (1975) 50 Cal.App.3d 960, 973-74. A class notice is adequate if it "present[s] a fair recital of the subject matter and proposed terms" of the Settlement. *Mendoza v. United States* (9th Cir. 1980) 623 F.2d 1338, 1351 (quoting *Marshall v. Holiday Magic* (9th Cir. 1977) 550 F.2d 1173, 1177).

"Sufficient information about the case should be provided to enable class members to

[62] St. John Decl., ¶ 10.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

make an informed decision about their participation." *Manual for Complex Litigation* § 21.311 at 413 (4th ed. 2004). The proposed Class Notice describes the Settlement, the deadlines and procedures to submit a Objection to the Class Settlement, submit a Request for Exclusion from the Class Settlement, and/or dispute regarding Workweeks and/or Pay Periods, and the date and time set for the Final Approval Hearing.[63] The proposed Class Notice summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner.[64] The proposed Class Notice recognizes that the Court has not yet granted final approval of the settlement.[65] The proposed Class Notice also apprises the Class Members and Aggrieved Employees of, *inter alia*, how their Individual Class Share and if applicable, their Individual PAGA Payment is calculated and the number of Workweeks and/or Pay Periods credited to them.[66] The proposed Class Notice fulfills the requirement of neutrality in notice procedure. *Newberg,* at § 8.39.

Thus, the proposed Class Notice satisfies all due process requirements and complies with the standards of fairness, completeness, and neutrality. Fed. R. Civ. P. 23(c)(2) and 23(e); *Newberg*, §§ 8.21, 8.39; *Manual*, §§ 21.311, 21.312; see also *Cartt*, *supra*, 50 Cal.App.3d at 960. Accordingly, the Court should approve the proposed Class Notice.

IX. APPOINTMENT OF THE SETTLEMENT ADMINISTRATOR

The Parties have selected Phoenix Class Action Administration Solutions as the Administrator. In no event later than fourteen (14) days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service mail.[67] No later than three (3) business days after the Administrator's receipt of any Class Notice returned, on or before the Response Deadline, by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS.[68] If the USPS does not provide a forwarding address, the Administrator

[63] Settlement Agreement, Exh. A.
[64] Ibid.
[65] Ibid.
[66] Ibid.
[67] *Id.*, ¶ 7.3.2.
[68] *Id.*, ¶ 7.3.3.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained.[69] The Administrator will receive and process Request for Exclusion, Objection, and any challenges to Workweeks and/or Pay Periods.[70] In addition, the Settlement Administrator will be responsible for printing, distributing, and tracking the Class Notice and other documents for the Settlement, calculating and distributing payments due under the Settlement, issuing 1099 and W-2 IRS Forms and undertaking all required tax reporting, filings, withholdings, and remittances, providing necessary reports and declarations, and other duties and responsibilities set forth here to process the Settlement.[71] The Administration Expenses Payment is currently estimated to be $10,000.00 and will be paid out of the Gross Settlement Amount, subject to approval by the Court.[72] Accordingly, Plaintiff respectfully requests that the Court appoint Phoenix Class Action Administration Solutions as the Administrator and direct the mailing of the Class Notice to the Class Members and Aggrieved Employee in the manner outlined and based on the proposed deadlines as described herein and set forth in the Settlement Agreement.

XI. CLASS REPRESENTATIVE SERVICE PAYMENT

Plaintiff respectfully requests that the Court appoint him as the Class Representative and preliminarily approve the Class Representative Service Payment in an amount up to $7,500.00.[73] It is within the Court's discretion to award payment to a Class Representative for their efforts and work. *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 299. The factors that courts may consider in determining whether to make a Class Representative Service Payment include: (1) the risk to the Class Representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the Class Representative; (3) the amount of time and effort spent by the Class Representative; (4) the duration of the litigation;

[69] Settlement Agreement, ¶ 7.3.3.
[70] *Id.*, ¶¶ 7.4.1, 7.5, and 7.6.
[71] *Id.,* ¶ 3.2.3.
[72] Ibid.
[73] *Id.*, § 3.2.1.

LAWYERS *for* JUSTICE, PC
450 North Brand Blvd., Suite 900
Glendale, California 91203

and (5) the personal benefit (or lack thereof) enjoyed by the Class Representative as a result of the litigation. *Id*.

The Class Representative Service Payment is fair and appropriate. Plaintiff spent a substantial amount of time and effort in producing relevant documents and past employment records and providing the facts and evidence necessary to attempt to prove the allegations.[74] Plaintiff was available whenever Class Counsel needed him and actively tried to obtain and provide information that would facilitate the pursuit of the class and PAGA claims.[75] Accordingly, it is appropriate and just for Plaintiff to receive $7,500.00 for his services on behalf of the Class, Aggrieved Employees, and the State of California, in addition to his Individual Class Payment.

XII. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant Preliminary Approval of the Settlement; conditionally certify the Class for settlement purposes; preliminary appoint and designate Lawyers *for* Justice, PC as Class Counsel; appoint Plaintiff Armando De La Cruz as Class Representative; appoint Phoenix Class Action Administration Solutions as Administrator; preliminarily approve the allocations for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, PAGA Penalties, and Administration Expenses Payment; approve the proposed Class Notice; direct the Administrator to undertake the notice and settlement administration process in conformity with the deadlines and procedures provided by the Settlement Agreement; and to schedule a Final Approval Hearing to take place in approximately six (6) months.

Dated: November 14, 2025

LAWYERS *for* JUSTICE, PC

By: ______________________________

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[74] St. John Decl., ¶ 11; & De La Cruz ¶¶ 3-4.
[75] St. John Decl., ¶ 10; De La Cruz Decl., ¶¶ 3-5.

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