Kane Moon (SBN 249834)
H. Scott Leviant (SBN 200834)
Sandy Pham (SBN 352753)
MOON LAW GROUP, PC
725 S. Figueroa St., 31st Floor
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
E-mail: kmoon@moonlawgroup.com
E-mail: hsleviant@moonlawgroup.com
E-mail: spham@moonlawgroup.com

Attorneys for Plaintiff Maria Duenas

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET

MARIA DUENAS individually, and on behalf of all others similarly situated,

Plaintiff,

vs.

INLAND MEDICAL ENTERPRISES, INC., a California corporation; and DOES 1 through 10, inclusive,

Defendants.

NADINE M. ZAMORA, individually, on behalf of all others similarly situated, the State of California, and other aggrieved employees,

Plaintiff,

vs.

INLAND MEDICAL ENTERPRISES, INC., a California corporation; ALCOTT REHABILITATION HOSPITAL, an unknown entity; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 24STCV06684 ("*Duenas Action*")
Case No.: 24STCV05102 ("*Zamora Action*")

CLASS AND REPRESENTATIVE ACTION

DECLARATION OF KANE MOON IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

[*Filed with Plaintiffs' Notice of Motion and Memorandum of Points and Authorities, the Declaration of Conor J.D. Gomez, the Declaration of Maria Duenas, Declaration of Nadine M. Zamora, the Declaration of Jodey Lawrence, and [Proposed] Preliminary Approval Order*]

PRELIMINARY APPROVAL HEARING:
Date: July 29, 2026
Time: 9:00 a.m.
Dept.: 17
Judge: Hon. Laura A. Seigle

Duenas Action Filed: March 18, 2024
Zamora Action Filed: February 27, 2024
Trial Date: Not set

WILSHIRE LAW FIRM, PLC
Benjamin H. Haber (SBN 315664)
benjamin.haber@wilshirelawfirm.com
Talar DerOhannessian (SBN 311687)
talar.derohannessian@wilshirelawfirm.com
Samantha Costa (SBN 346526)
samantha.costa@wilshirelawfirm.com
Alan A. Wilcox (SBN 287476)
alan.wilcox@wilshirelawfirm.com
Conor J.D. Gomez, Esq. (SBN 337395)
conor.gomez@wilshirelawfirm.com
660 S. Figueroa Street, Sky Lobby
Los Angeles, CA 90017
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

Attorneys for Plaintiff Nadine Zamora

DECLARATION OF KANE MOON

I, KANE MOON, declare as follows:

1. I am an attorney at law duly licensed to practice as such before all Courts of the State of California and am one of the attorneys of record for Plaintiff Maria Duenas ("Plaintiff Duenas") and the putative Class. I have personal knowledge of the matters set forth herein and if called as a witness, I could and would testify competently to the facts described herein.

CASE BACKGROUND AND PROCEDURAL HISTORY

2. This is a wage-and-hour class and representative action for alleged Labor Code violations and claims for civil penalties pursuant to the California Private Attorneys General Act, Labor Code sections 2698, *et seq.* ("PAGA"). Plaintiff Duenas and Plaintiff Nadine M. Zamora ("Plaintiff Zamora," together with Plaintiff Duenas "Plaintiffs") seek to represent a class of all persons employed by Defendant Inland Medical Enterprises, Inc. ("Defendant") as hourly-paid or non-exempt employees in the State of California during the Class Period, February 27, 2020, to October 26, 2025, as set forth in the Class Action and PAGA Settlement Agreement and Class Notice (the "Settlement"). A true and correct copy of the Settlement is attached to the instant Declaration as **Exhibit 1**. The proposed Class Notice is attached to the Settlement as **Exhibit A**.

3. Defendant operates a skilled nursing facility that provides rehabilitation and social services to its clients in the greater Los Angeles area. Defendant employed Plaintiffs and other non-exempt, hourly-paid employees during the Class Period. Plaintiffs contend they and their coworkers were subjected to the same unlawful labor practices, including failure to pay wages for all hours worked.

4. Plaintiffs' claim for unpaid minimum and overtime wages stem from allegations that Defendant failed to compensate Plaintiffs and others for off-the-clock work and failed to incorporate all remuneration into employees' regular rate of pay for purposes of paying overtime, meal premium, or sick pay. Plaintiffs' meal and rest period claims are based on allegations that due to the nature of their work, Class Members' breaks were often short, late, interrupted, and sometimes missed altogether, and that Defendant did not pay all premium wages for non-compliant breaks. Plaintiffs further bring a claim for unreimbursed necessary business expenses based on allegations that Class Members were required to purchase scrubs, non-slip shoes, and face masks, and use their personal cellphone for work purposes without

reimbursement from Defendant. Finally, Plaintiffs also bring derivative claims for waiting time penalties, wage statement violations, unfair business practices, and civil penalties under PAGA.

5. Plaintiffs commenced the Actions by filing separate Complaints alleging causes of action against Defendant for (1) Failure to Pay Minimum Wages (Cal. Lab. Code §§ 204,1194, 1194.2, and 1197); (2) Failure to Pay Overtime Compensation (Cal. Lab. Code §§ 1194 and 1198); (3) Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7, 512); (4) Failure to Authorize and Permit Rest Breaks (Cal. Lab. Code §§ 226.7); (5) Failure to Indemnify Necessary Business Expenses (Cal. Lab. Code §2802); (6) Failure to Timely Pay Final Wages at Termination (Cal. Lab. Code §§ 201-203); (7) Failure to Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226); and (8) Unfair Business Practices (Cal. Bus. & Prof. Code § 17200, *et. seq*.). Plaintiff Zamora filed the Complaint against Defendant on February 27, 2024. Plaintiff Duenas filed the Complaint against Defendant on March 18, 2024. Plaintiffs filed a First Amended Complaint alleging causes of action against Defendant for civil penalties under the Private Attorneys General Act ("PAGA"). Plaintiff Zamora filed the First Amended Complaint on July 9, 2024. Plaintiff Duenas filed the First Amended Complaint on May 24, 2024. The First Amended Complaints are the operative complaints in the Actions (the "Operative Complaint").

6. Pursuant to PAGA, Plaintiffs gave written notice to the California Labor and Workforce Development Agency (the "LWDA") of the alleged Labor Code violations, with certified mail service on Defendant, and paid the required filing fee. A true and correct copy of Plaintiffs' PAGA Notice is attached hereto as **Exhibit 2**. In compliance with Labor Code section 2699(s)(1), Plaintiffs subsequently submitted to the LWDA a file-stamped copy of the complaints containing the Court-assigned case number. To date, the LWDA has not indicated its intent to investigate the alleged violations or intervene in this Action.

7. Defendant ardently opposes the merits of this case and denies Plaintiffs' factual allegations. Defendant asserts it complied with all its compensation obligations, including compensating Class Members for any and all off-the-clock work and overtime work, and therefore, Plaintiffs and other Class Members were paid all wages owed. Defendant argues it did not fail to incorporate any non-discretionary bonuses into the regular rate of pay for purposes of paying overtime, meal premium, or sick pay, and that all bonuses were discretionary. Defendant maintains compliance with all its meal and rest period obligations. Defendant

asserts it complied with all its reimbursement obligations, and that Plaintiffs and other employees were compensated for any and all business expenses necessarily incurred. To the extent employees received wage statements that were allegedly inaccurate, Defendant asserts employees suffered no actual damage or harm as a result. (*See, e.g.*, *Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013, No. C 12–05860 CRB) 2013 WL 622032, at *10 ["A plaintiff must adequately plead an injury arising from an employer's failure to provide full and accurate wage statements, and the omission of the required information alone is not sufficient."].) With respect to Plaintiffs' claim for waiting time penalties, Defendant allege its good-faith belief that it paid all wages precludes the imposition of waiting time penalties since Plaintiffs cannot prove Defendant's alleged failure to pay all final wages at the time of separation was "willful." (*See, e.g.*, *Pedroza v. PetSmart, Inc.* (C.D. Cal. June 14, 2012, No. ED CV 11–298 GHK (DTBx)) 2012 WL 9506073, *5.) For these reasons, among others, Defendant denies all of Plaintiffs' claims and allegations, and further claims it did not engage in any unfair business practices and denies liability under PAGA. Defendant also maintains the claims are improper for class treatment, in part, due to the individualized and testimony-intensive nature of the wage claims that could bar class certification or significantly reduce Defendant's overall liability.

DISCOVERY AND INVESTIGATION

8. The Parties agreed to mediate this action with David Phillips, Esq., an experienced class and PAGA action mediator. In preparation for mediation, the Parties agreed to a protocol for an informal production of documents and information before mediation. Prior to mediation, Plaintiffs obtained from Defendant, through informal discovery, documents and data that were necessary and helpful to evaluate the claims asserted in this action. Defendant produced a statistically sound sample of time and pay records for the putative Class, Plaintiffs' personnel file and time and pay records, and Defendant's written employment policies in effect during the Class Period. Defendant also provided information regarding the estimated number of current and formerly employed Class Members, Aggrieved Employees, Workweeks, and PAGA Pay Periods.

9. In preparation for mediation, Plaintiffs' Counsel reviewed and analyzed all the information Defendant provided, including the sample records and documents regarding Defendant's wage-and-hour policies. Plaintiffs' Counsel retained a third-party statistics consultant to analyze the sample records and

prepare a damage analysis prior to the mediation. The sample time and pay records analyzed contained 55,862 actual shifts worked (representing roughly 53.5% of total shifts worked in the Class Period), which allowed Plaintiffs' consultant to prepare an analysis with a reasonable degree of certainty. In conjunction with their extensive factual investigation, Plaintiffs' Counsel also investigated the applicable law regarding the claims and defenses asserted in the litigation. Accordingly, Plaintiffs' Counsel were able to evaluate the probability of class certification, success on the merits, and Defendant's maximum and realistic monetary exposure for all claims. Thus, Plaintiffs' and their Counsel's familiarity with the facts of the case and the legal issues raised by the pleadings allowed them to act intelligently in negotiating the Settlement.

SETTLEMENT NEGOTIATIONS AND NOTICE TO THE LWDA

10. On July 28, 2025, the Parties participated in a full day of private mediation with David Phillips, Esq. The negotiations were at arm's length and, although conducted in a professional manner, were adversarial. The Parties went into the mediation willing to explore the potential for a settlement of the dispute, but each side was also prepared to litigate their position through trial and appeal if a settlement had not been reached. After a full discussion regarding the strengths and weaknesses of Plaintiffs' claims and Defendant's defenses and with the assistance of the mediator, the Parties reached a resolution, the material terms of which are set out in the Settlement.

11. In compliance with Labor Code section 2699(s)(2), notice of settlement and a copy of the proposed Settlement has been submitted to the LWDA along with a copy of Plaintiffs' preliminary approval motion and the hearing date. A true and correct copy of the LWDA's email confirming receipt thereof is attached hereto as **Exhibit 3**. To date, the LWDA has not indicated any objection to the Settlement.

KEY TERMS OF SETTLEMENT

12. GSA and Funding: The Gross Settlement Amount ("GSA") is $700,000.00, subject to potential increase under an Escalator Clause, and is non-reversionary. (Settlement, ¶ 3.1.) Defendant will separately pay its employer-side payroll taxes owed on the Wage Portion of Individual Class Payments. (*Id.*) Defendant shall fully fund the GSA and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than six (6) months after the Effective Date. (*Id.* at ¶ 4.1.)

13. Escalator Clause: The Settlement provides an escalator clause under which should the number of Workweeks increases by more than 10% of the original estimate of 25,500 (i.e., the total number of workweeks exceed 28,050), then the Class Period shall be adjusted to end on the last date that the total Workweeks equaled or did not exceed 28,050 total Workweeks. (*Id.* at ¶ 8.) Defense Counsel shall notify Plaintiffs' Counsel if the Class Period end date is adjusted to an earlier date prior to the Preliminary Approval Hearing, so that the Court is informed of the correct Class Period and the Class Notice is distributed to the correct individuals.

14. Class Representative Service Payment: The Settlement includes a payment of not more than $15,000.00 to Plaintiffs as the Class Representatives, allocated as $7,500.00 payable from the GSA to Plaintiff Duenas and $7,500.00 to Plaintiff Zamora, subject to the Court's approval, in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as Participating Class Members and Aggrieved Employees, as approved by the Court. (*Id.* at ¶¶ 1.14, 3.2.1.) This award is for initiating the Actions and providing services in support of the Actions. (*Id.* at ¶ 1.14.) In the event the award finally approved is less, the Administrator will retain the remainder in the Net Settlement Amount. (*Id.* at ¶ 3.2.1.)

15. Class Counsel Fees and Expenses Payments: The Settlement permits a fee application of not more than one-third of the GSA (currently estimated to be $228,333.33), for reasonable attorneys' fees, plus reimbursement for actual litigation costs not to exceed $30,000.00, payable to Class Counsel from the GSA. (*Id.* at ¶ 3.2.2.) In the event the amounts finally approved are less, the difference will revert to Participating Class Members. (*Id.*) To date, my firm has incurred $2,708.53 in actual litigation costs, and a true and correct copy of a report showing current costs is attached hereto as **Exhibit 4**.

16. Administration Costs Payment: The Settlement provides an Administration Expenses Payment to the Administrator, payable from the GSA, in an amount not to exceed $15,000.00, except for a showing of good cause and as approved by the Court. (*Id.* at ¶ 3.2.3.) In the event the amount of actual administration costs is less and/or the amount approved by the Court is less than requested, the Administrator will retain the remainder in the Net Settlement Amount. (*Id.*) The Parties jointly selected Phoenix Class Action

Administration Solutions ("Phoenix") as the neutral entity to administer this Settlement. (*Id.* at ¶¶ 1.2, 7.1.) A true and correct copy of Phoenix's bid of $8,500.00 is attached hereto as **Exhibit 5**.

17. Aggrieved Employees; PAGA Period: Aggrieved Employees is defined as all persons employed by Defendant as hourly-paid or non-exempt employees in the State of California during the PAGA Period. (*Id.* at ¶ 1.4.) For purposes of Settlement, the "PAGA Period" is March 17, 2023, to October 26, 2025.[1] (Settlement, ¶ 1.30.)

18. PAGA Penalties; Individual PAGA Payments: The Settlement allocates $60,000.00 from the GSA for settlement of the Released PAGA Claims, which will be distributed 75% ($45,000.00) to the LWDA and 25% ($15,000.00) to Aggrieved Employees pursuant to PAGA law governing Plaintiffs' claims.[2] (*Id.* at ¶¶ 1.33, 3.2.5.) Each Aggrieved Employee will be entitled to a pro rata share of the 25% share of the PAGA Penalties directly proportional to their number of PAGA Pay Periods. (*Id.* at ¶ 3.2.5.1.) This results in an average Individual PAGA Payment of roughly **$42.86** for each of the estimated 350 Aggrieved Employees ($15,000.00 / 350), and a PAGA Pay Period value of roughly **$1.71** for each of the 8,750 estimated Pay Periods in the PAGA Period ($15,000.00 / 8,750).

19. Net Settlement Amount: After deducting the Class Representative Service Payment, the Class Counsel Fees and Expenses Payments, the PAGA Penalties allocation, and the Administration Expenses Payment from the GSA, in the amounts specifically approved by the Court, any difference in the amounts requested and the amounts awarded will be allocated to the Net Settlement Amount for distribution to Participating Class Members. (*Id.* at ¶¶ 1.27, 3.2.) Accordingly, the Net Settlement Amount will be *no less than* **$351,666.67** for an estimated Class of **350 individuals**.[3]

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[1] Paragraph 1.30 of the Settlement provides that the PAGA Period is from March 17, 2023 to the date of preliminary approval of the Settlement or ninety (90) calendar days after July 28, 2025 (which is October 26, 2025), whichever is earlier. Since preliminary approval of the Settlement has not yet been granted, October 26, 2025 is earlier.

[2] On July 1, 2024, new legislation was enacted to amend PAGA in several respects, including as to the recovery split for civil penalties. (Stats. 2024, ch. 44 (Assem. Bill No. 2288), § 1, eff. Jul. 1, 2024.) As amended, PAGA now provides for a 65%-LWDA/35%-aggrieved employee split. (Lab. Code § 2699(m).) However, PAGA reform only applies to PAGA actions initiated on or after June 19, 2024. (*Id.* at § 2699(v)(1).)

[3] The Net Settlement Amount was calculated by deducting the following from the $700,000.00 GSA: $15,000.00 for the Class Representative Service Payments, up to $15,000.00 for the Administration Expenses

20. Class Members/Period: The Settlement Class is defined as all persons employed by Defendant as hourly-paid or non-exempt employees in the State of California during the Class Period. (*Id.* at ¶ 1.5.) For purposes of Settlement, the "Class Period" is February 27, 2020, to October 26, 2025.[4] (Settlement, ¶ 1.12.)

21. Individual Class Payments: Each Class Member who does not opt-out will be entitled to a pro rata share of the Net Settlement Amount that is directly proportional to the number of Workweeks worked during the Class Period. (*Id.* at ¶¶ 1.22, 3.2.4.1.) The estimated **$351,666.67** Net Settlement Amount results in an average Individual Class Payment of roughly **$1,004.76** for each of the estimated 350 Class Members ($351,666.67 / 350),[5] and a Workweek value of roughly **$13.79** for each of the 25,500 estimated Workweeks in the Class Period ($351,666.67 / 25,500).

22. Tax Allocations: Individual Class Payments will be allocated as 20% as wages and 80% as penalties and interest for tax purposes. (*Id.* at ¶ 3.2.4.1.) Individual PAGA Payments will be allocated as 100% penalties for tax purposes. (*Id.* at ¶ 3.2.4.2.)

23. Disbursement and Uncashed Funds: Disbursement will occur within five (5) calendar days after Defendant funds the Gross Settlement Amount. (*Id.* at ¶ 4.1.) Class Members will not need to submit any claim form as a condition of receiving individual settlement payments. (*Id.* at ¶ 3.1.) Any funds remaining uncashed after 180 days from issuance will be transmitted to the California Controller's Unclaimed Property Fund in the name of each individual who failed to timely cash his or her check. (*Id.* at ¶¶ 4.2.1, 4.2.3.)

24. Released Class Claims by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or (ii)

Payment, $60,000.00 for the PAGA Penalties to the LWDA and Aggrieved Employees, $228,333.33 for the Class Counsel Fees Payment, and up to $30,000.00 for the Class Counsel Expenses Payment. (Settlement, ¶¶ 3.2–3.2.5)

[4] Paragraph 1.12 of the Settlement provides that the Class Period is from February 27, 2020 to the date of preliminary approval of the Settlement or ninety (90) calendar days after July 28, 2025 (which is October 26, 2025), whichever is earlier. Since preliminary approval of the Settlement has not yet been granted, October 26, 2025 is earlier.

[5] At this time, the actual amounts to Class Members and/or Aggrieved Employees are unknown and will be calculated by the Administrator following preliminary approval and receipt and processing of the Class Data. (Settlement, ¶ 6.1.) The high and low range of payments will be provided to the Court in a motion for final approval.

reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint. (*Id.* at ¶ 5.2) Excluded from this portion of the release are claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the PAGA Notices. (*Id.*) Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period. (*Id*.)

25. <u>Released PAGA Claims by PAGA Members and LWDA</u>: Plaintiffs, on their own behalf and on behalf of the State of California, are deemed to release, on behalf of themselves and their respective past and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for civil penalties under PAGA, based on the facts and Labor Code sections that were alleged or reasonably could have been alleged in Plaintiffs' PAGA notices of violations and/or amended PAGA notices of violations. (*Id.* at ¶ 5.3.)

26. <u>Plaintiffs' Section 1542 Release</u>: Under the Settlement, Plaintiffs have agreed to a general release of any and all claims related to their employment, including all claims alleged in the Action, and release of rights pursuant to California Civil Code section 1542. (*Id.* at ¶ 5.1.2.)

27. <u>Effective date of claims releases</u>: Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties. (*Id.* at ¶ 5.)

28. <u>Released Parties</u>: Defendant and any predecessor, successor, subsidiary, parent, or affiliate as defined by Corporations Code § 150, and each of its supervisory/managerial employees, members, managing agents, shareholders, directors, and/or officers. (*Id.* at ¶ 1.40.)

29. <u>Class Notice; Disputes, Requests for Exclusion, Objections</u>: The Class Notice will be mailed via first-class U.S. mail in English and Spanish to the current address of each Class Member. (*Id.* at ¶ 7.5.2.) The proposed Class Notice sets forth, in plain terms, a statement of case, the terms of the Settlement, the approximate amounts of attorneys' fees, costs, PAGA Penalties, and service award being sought, an explanation of how the individual payments are calculated, the Final Approval Hearing information, the

procedure for disputing the number of Workweeks and/or Pay Periods credited to each Class Members, and how Class Members may, should they choose, opt-out or otherwise object to the Settlement. (*Id.* at ¶¶ 7.5–7.8, Ex. A.)

30. No Related Actions: To the best of my knowledge, there is no other pending litigation involving similar claims against Defendant that may be impacted by approval of the Settlement at issue, nor has Defendant pointed to any.

THE PROPOSED SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

31. Plaintiffs' Counsel have conducted a thorough investigation into the facts of this case. As previously noted, the Settlement at issue was reached through arms'-length negotiations, private mediation, and the assistance of a third-party statistics consultant. Based on Defendant's informal class-wide discovery production, on Plaintiffs' Counsel independent investigation and evaluation, and on their extensive experience in wage-and-hour litigation, Plaintiffs' Counsel are of the opinion that the proposed Settlement is fair, reasonable, and adequate. Furthermore, considering all known facts and circumstances, the risk of significant delay, trial risk, appellate risk, and the defenses Defendant may assert both to certification and on the merits, the Settlement is in the best interest of the Class and LWDA.

32. Based on Plaintiffs' Counsel's review of the time, payroll, and additional data provided by Defendant, on Plaintiffs' consultant's analysis of the sample records provided by Defendant, and on information from Plaintiffs, Plaintiffs' Counsel evaluated the estimated maximum and risk-adjusted exposure that Defendant faced. Based on a review of Defendant's records, it is estimated that there are approximately 350 Class Members who collectively worked 25,500 Workweeks during the Class Period, and 350 Aggrieved Employees who collectively worked 8,750 PAGA Pay Periods during the PAGA Period. (*Id.* at ¶ 8.) Additionally, there are an estimated 124 former employees falling within the three-year statute of limitations ("SOL") period for waiting time penalties, that Class Members' average hourly rate was $25.20, and that the average regular hourly rate was $25.39.

Accordingly, we calculated Defendant's potential exposure as follows:

Claim	**Relevant Time Period**	**Rate**	**Number of Violations**	**Realistic Recovery**

Unpaid Wages (Regular Rate)	25,500 Workweeks	$25.39 average regular rate	Based on Consultant Analysis of Records	**$3,919.25***
Unpaid Wages (Off the Clock)	25,500 Workweeks	$25.20 average hourly rate	25,500 net unpaid hours (assuming 60 minutes per workweek) (66.4% overtime)	**$128,391.48****
Meal Period Violations	25,500 Workweeks	$25.20 average hourly rate	4,055 unique meal break violations	**$25,546.50***
Rest Period Violations	25,500 Workweeks	$25.20 average hourly rate	103,639 rest break violations (assuming 100% break violations for shifts of at least 3.5 hours)	**$391,755.42****
Unreimbursed Business Expenses Violations	25,500 Workweeks	$10.00 per Workweek	Based on information from Plaintiffs	**$38,250.00****
Labor Code § 203	Based on approx. 124 terminated employees within the 3-year SOL	$25.20 average hourly rate / 30-day max.	Assumes 8.4 hours / day	**$80,165.80*****
Labor Code § 226	Based on approx. 350 employees within the 1-year SOL	$50 per initial pay period / $100 per subsequent pay periods / $4,000 employee max.	Based on 8,750 pay periods within the 1-year SOL	**$85,750.00*****
PAGA	Based on 8,750 pay periods within the 1-year SOL	$100.00 per pay period	Based on 8,750 pay periods within the 1-year SOL	**$87,500.00*****
Total				**$841,278.45**

* These figures are discounted based on a 25% probability of prevailing at class certification and on the merits.
** These figures are discounted based on a 15% probability of prevailing at class certification and on the merits.
*** These figures are discounted based on a 10% probability of prevailing at class certification and on the merits.[6]

33. Plaintiffs' unpaid wages claim is also due to allegations that Defendant failed to incorporate all remuneration, including bonuses, into Class Members' regular rate of pay for purposes of paying overtime, meal premium, and sick pay. Specifically, Plaintiffs' consultant reviewed the sample records Defendant produced and found 240 additional payments that were made yet not factored into the regular rate of pay, affecting 35% of Class Members for overtime pay, 12.3% of Class Members for sick pay, and 16.7% of Class Members for meal break premium pay, thereby resulting in a maximum exposure of $15,677.00. However, Defendant argues bonuses were discretionary, and therefore Defendant was not required to incorporate those payments into the regular rate. Additionally, Defendant argues that to the extent it failed to incorporate any of the additional payments into the regular rate of pay, only 3.6% of pay periods were affected for overtime pay, 0.7% of pay periods were affected for sick pay, and 1.7% of pay periods were affected for meal break premium pay. Due to the lack of written policies regarding criteria for bonus payments and Defendant's *de minimis* exposure, I acknowledge the foregoing presents significant risk with certifying this claim and proof on the merits. Therefore, I applied a 75% discount to the maximum exposure figure; accordingly, I arrived at **a realistic damage estimate of $3,919.25 for the regular rate claim**.

34. Plaintiffs' unpaid wages claim is based on allegations that Defendant failed to pay all minimum and overtime wages due to off-the-clock work performed before and after shifts. Plaintiffs allege that hourly employees were expected to respond to patient needs regardless of whether they were clocked in, including while walking through patient areas to access the time clock. Plaintiffs further allege that employees were required to complete temperature screenings before clocking in during part of the Class Period, wait in line to clock in, arrive early to gather supplies, complete paperwork after clocking out, and respond to weekly work-related scheduling calls on their personal cellphones. Plaintiffs contend that these practices resulted in uncompensated pre shift, post shift, and off-site work. Therefore, Plaintiffs' Counsel estimated Class

Members spent an average 60 minutes off the clock per Workweek. Accordingly, Plaintiffs' Counsel and their data consultant estimated Defendant failed to pay Class Members for approximately 25,500 hours, 66.4% of which should have been paid at the overtime rate. From this, and in light of the average rates of the Class Members, Defendant's estimated maximum potential liability is $855,943.20. Defendant contends that all time worked was compensated, that the time spent waiting to clock in and out of work was *de minimis*, that Class Members were not permitted to work off-the-clock, and that this claim is highly individualized and not susceptible to class-wide treatment. I acknowledge that "off-the-clock" claims are difficult to be tried on a class wide basis because there is no apparatus that can be used to prove this claim—there are no records to be used as evidence. In light of these defenses, and for purposes of settlement, I discounted the maximum potential liability by 85%. **Plaintiffs' realistic recovery estimate for the unpaid wages claim due to off-the-clock work is therefore $128,391.48.**

35. Plaintiffs' meal period claim is based on allegations that Defendant did not provide or maintain sufficient meal period practices, such that Class Members were not always permitted or able to take meal periods and/or were sometimes subjected to late, short and/or interrupted meal periods without compensation in lieu thereof. The sample of time and corresponding payroll records for the putative Class indicated that Defendant either failed to provide a meal period or provided a short and/or untimely meal period 4,055 times throughout the Class Period, resulting in a 4% violation rate. Plaintiffs' Counsel and its data consultant then calculated that, in light of these violations and the average hourly rate of the putative Class, that Defendant had a potential liability of $102,186.00 (4,055 unique violations x $25.20 avg. hourly rate). Defendant nonetheless contends that many meal breaks were taken and, where a violation appears, it was a result of the Class Member voluntarily choosing to forego a meal period, to take it after the end of the fifth hour, or to stop his or her break early to return to work. Moreover, certification and proof of this claim would require declarations from Class Members and obtaining such declarations potentially would reveal that each Class Member had a different experience with respect to meal periods. In light of these defenses, and for purposes of settlement, Plaintiffs' Counsel believe it reasonable to apply a 75% discount to the potential liability. **Plaintiffs' realistic recovery estimate for the meal period claim is therefore $25,546.50.**

36. The rest break claim is based on the allegation that Defendant did not provide or maintain

sufficient rest break practices, such that Class Members were regularly required to work in excess of four consecutive hours a day, or a major fraction thereof, without authorization or permission to take a ten-minute, continuous and uninterrupted rest period or without compensation in lieu thereof. The precise number of rest break violations could not be calculated since Defendant neither documented, nor is required to document, when Class Members took their required rest breaks. Therefore, in preparation for mediation, Plaintiffs' Counsel assumed a 100% violation rate for shifts of at least to 3.5 hours in length and, based on the average hourly rate of the putative Class, calculated Defendant's potential liability to be $2,611,702.80 (103,639 unique rest break violations x $25.20 per hour). Defendant nonetheless contends rest periods do not have to be recorded, that Class Members voluntarily chose to forego some rest breaks and, significant for purposes of class certification, that this claim is individualized in nature and therefore would require declarations indicating the majority of Class Members experienced issues as to rest breaks. In light of these defenses, and for purposes of settlement, I discounted Defendant's potential liability by 85%. **Plaintiffs' realistic recovery estimate for the rest break claim is therefore $391,755.42.**

37. The unreimbursed business expenses claim is based on allegations that Defendant did not reimburse Class Members for expenses incurred in the discharge of their duties, including for the purchase of required scrubs, non-slip shoes, face masks, and the use of their personal cellphones for work purposes. Plaintiffs allege that employees were required to use the GroupMe application to communicate with coworkers and supervisors and to purchase their own face masks, including during the COVID-19 pandemic. The precise value of all necessary business expenses incurred by Class Members could not be calculated. Therefore, in preparation for mediation, Plaintiffs' Counsel estimated Defendant owed approximately $10.00 per Workweek to each Class Member in the statutory period and that Defendant's potential liability is $255,000.00. Defendant contends it complied with all its reimbursement obligations, that it provided Class Members with necessary tools, that cellphone use was not required for work, and further, that the reimbursement claim would be difficult to certify, given the individualistic nature of this claim. In light of these defenses, and for purposes of settlement, I discounted Defendant's potential liability by 85%. **Plaintiffs' realistic recovery estimate for the unreimbursed expenses claim is therefore $38,250.00.**

38. With respect to Plaintiffs' derivative claims for statutory and civil penalties, Plaintiffs estimate Defendant's maximum potential recovery, prior to risk-adjustment, is $2,534,158.00, which breaks down as follows: **$801,658.00** for waiting time penalties for approximately 124 terminated Class Members in the 3-year SOL; a **$857,500.00** penalty for inaccurate wage statements based on approximately 350 Class Members in the 1-year SOL; and **$875,000.00** for PAGA penalties based on 8,750 Pay Periods and the Court assessing a $100.00 penalty for each pay period containing a violation. However, I believe it would be unrealistic to expect the Court to award the full exposure amount given the discretionary nature of awarding penalties and given Defendant's defenses, including without limitation, that any failure to pay all final wages at the time of separation was not willful or intentional and that to the extent Plaintiffs received wage statements that were allegedly inaccurate, Plaintiffs suffered no actual resulting damage or harm. Moreover, I understand the individualized and testimony-intensive nature of the wage claims could bar class certification or otherwise significantly reduce Defendant's overall liability for statutory and civil penalties. Furthermore, considering the underlying wage claims are realistically estimated to be $587,862.65, awarding such a disproportional amount in penalties would also raise Due Process concerns. Weighing these factors, I applied a 90% discount to each penalty (resulting in **$80,165.80** for waiting time penalties, **$85,750.00** for inaccurate wage statement penalties, and **$87,500.00** for PAGA penalties) and accordingly arrived at **a realistic recovery estimate of $253,415.80 for statutory and civil penalties**.

39. Using these estimated figures, Plaintiffs predicted **the realistic (risk-adjusted) recovery for all claims, including penalties, is $841,278.45**. This means **the $700,000.00 gross settlement figure represents roughly 83% of the total realistic recovery**. This is an excellent result for the Class, particularly because, under the Settlement, Class Members will receive timely and guaranteed relief, avoiding the risk of not being able to recover anything.

40. With regards to the PAGA claims, the Settlement is a fair and reasonable resolution that satisfies PAGA's dual statutory purposes of deterrence and punishment, on the one hand, and providing Aggrieved Employees with genuine and meaningful relief, on the other. As a result of this litigation, Defendant has had to hire legal counsel, engage in informal class-wide discovery, and participate in mediation. Defendant will also have to pay civil penalties to the LWDA under the Settlement, assuming final

settlement approval is granted. (Settlement, ¶ 3.2.4.) Not including its own attorneys' fees and costs as well as the employer's share of payroll taxes, Defendant will pay no less than $700,000.00 to resolve this matter—of which $60,000.00 is allocated toward the PAGA claims and will be distributed, in compliance with Labor Code section 2699 as 75% ($45,000.00) to the LWDA and 25% ($15,000.00) to Aggrieved Employees—and the release obtained under the Settlement does not preclude Aggrieved Employees from pursuing any individual claims they may have against Defendant or the other Released Parties. Moreover, Plaintiffs' Counsel are of the opinion that because the issues here are fairly contested, there is a possibility of the Court not awarding the PAGA penalties even if Plaintiffs prevailed on the merits due to the largely discretionary nature of awarding PAGA penalties. In other words, were this matter to go to trial, any award granted would be at the discretion of the Court and subject to a substantial reduction.

41. Further, Plaintiffs' Counsel took into account the risk of not being able to proceed on a representative basis due to the potential manageability issues and that even if Plaintiffs prevailed at trial, penalties would likely be limited due to the largely discretionary nature of awarding PAGA penalties and in light of other defenses available to Defendant. Thus, it is entirely possible that even if Plaintiffs would be successful at trial, assuming he is first able to certify the claims and defeat the manageability issues presented at litigation, Plaintiffs could be awarded substantially less than what was obtained through the Settlement. In sum, the $60,000.00 PAGA Penalties allocation under the Settlement constitutes genuine and meaningful relief.

42. Here, the Settlement represents a substantial recovery when considered against the risk and uncertainties involved in continued litigation, the burdens of proof necessary to certify the claims and establish liability, and the probability of appeal. While Plaintiffs are confident in the merits of their claims, a legitimate controversy exists as to each cause of action. Plaintiffs also recognize that proving the amount owed to each Class Member would be an expensive, time-consuming, and uncertain proposition.

43. The Settlement obviates the significant risk that this Court may deny certification of all or some of Plaintiffs' claims. Plaintiffs' Counsel took into account the risk of not prevailing at trial due to low or no participation by Class Members. Indeed, the individualized and testimony-intensive nature of the claims could bar manageability of the representative claims or otherwise significantly reduce any recovery

whatsoever. For example, the rest period and unreimbursed expense claims are testimony-driven claims and assume a 100% violation rate, which would not likely be demonstrated at trial, as it assumes either the participation of a majority or all employees (which would be difficult given the reality that many, if not all, employees would be unwilling to participate due to fear of retaliation), or alternatively, the use of surveys or statistical data as a surrogate (which would still require the participation of a majority of employees to establish a sound representation of all non-exempts). Even assuming employees would be willing to participate, obtaining declarations would potentially reveal that each individual employee had a different experience.

44. Furthermore, even if Plaintiffs were able to pursue their claims on a class-wide basis and obtain certification of all or some of the claims, continued litigation would be expensive, involving a trial and possible appeals, and would substantially delay and reduce any recovery by the Class. Although the Parties have engaged in a significant amount of investigation, informal discovery, and class-wide data analysis, they have not conducted extensive formal discovery. Moreover, preparation for class certification and a trial would remain for the Parties as well as the prospect of appeals in the wake of a disputed class certification ruling for Plaintiffs and/or any summary judgment ruling. As a result, the Parties would incur considerably more attorneys' fees and costs through trial. In sum, this Settlement avoids the risks, burdens, and the accompanying expense of further litigation.

45. The proposed $700,000.00 Settlement represents a substantial recovery when compared to the reasonably forecasted recovery for the Class. When considering the risks of litigation, the uncertainties involved in continued litigation, the burdens of proof necessary to establish liability, and the probability of appeal, it is clear the Settlement amount is within the "ballpark" of reasonableness, and that preliminary settlement approval is appropriate. (*Kullar v. Foot Locker Retail, Inc*. (2008) 168 Cal.App.4th 116, 133; *see Munoz v. BCI Coca-Cola Bottling Co. of L.A.* (2010) 186 Cal.App.4th 399, 408–09 [holding that *Kullar* does not require "an explicit statement of the maximum amount the plaintiff class could recover if it prevailed on all its claims," but instead, only an "understanding of the amount that is in controversy and the realistic range of outcomes of the litigation"].)

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THE REPRESENTATIVE PAYMENTS TO PLAINTIFFS ARE REASONABLE

46. Throughout this litigation, Plaintiffs, who were former employees of Defendant, have cooperated immensely with my office and have taken many actions to protect the interests of the Class. Plaintiffs provided valuable information regarding their hours worked, and what duties were performed during those hours. Plaintiffs also provided information regarding meal periods taken and missed by Plaintiffs and other Class Members. Plaintiffs participated in decisions concerning this action, assisted in preparation for the mediation, and provided my office and the office of co-counsel with the names and contact information of potential witnesses in this action. Before we filed this case, Plaintiffs worked with my office and co-counsel to determine the viability of their claims. Plaintiffs also provided information and documents relating to their employment by Defendant. The information and documentation provided by Plaintiffs was instrumental in establishing the wage-and-hour violations alleged in this action, and the recovery provided for in the Settlement would have been impossible to obtain without their participation.

47. At the same time, Plaintiffs faced many risks in adding themselves as the named Plaintiffs in this matter. Plaintiffs faced actual risks with their future employment, as putting themselves on public record in an employment lawsuit could also very well affect their likelihood for future employment. For example, a search of Plaintiffs' name will reveal this action, and as a result, many employers may likely forego hiring Plaintiffs in learning they sued a former employer.

48. In turn, Class Members can now participate in a settlement, reimbursing them for wage violations they may have never known about or been willing to pursue on their own. If each Class Member would have tried to pursue legal remedies on their own, that would have resulted in each having to expend a significant amount of their own monetary resources and time, not to mention limited judicial resources, which were obviated by Plaintiffs putting themselves on the line on behalf of the Class.

49. This class action would not have been possible without the aid of Plaintiffs, who put their own time and effort into this litigation and placed himself at risk for the sake of the Class. The requested enhancement award to Plaintiffs for their service as the Class Representatives is a relatively small amount of money considering the time and effort put into the litigation and compared to enhancements granted in other class actions. The requested enhancement award is therefore reasonable to compensate Plaintiffs for their

active participation in this lawsuit, in addition to their general release of claims, both known and unknown, and waiver of section 1542 rights.

MY EXPERIENCE AND QUALIFICATIONS

50. I received a B.A. in History in 1998 from UCLA, and my J.D. from Loyola Marymount Law School in 2006. I became an Active Member of the State Bar of California in June 2007 and have been an Active Member in good standing continuously since then. I have been selected to Super Lawyers each year from 2019 to 2025.

51. I co-founded Moon & Yang, APC—now Moon Law Group, PC—in March 2010. My practice is focused exclusively on advocating for the rights of employees in wage-and-hour litigation, almost entirely in class and/or representative actions.

52. For the past decade, I have built my practice to have an emphasis on employment and related civil litigation cases and have both prosecuted and defended employment-related litigation cases. I have been heavily, successfully, and continuously involved in active litigation and trial work, and have conducted bench and jury trials on behalf of both employees and employers in wage-and-hour cases.

53. My current billing rate is $950.00 per hour, which is my usual hourly rate in wage-and-hour litigations. A $950.00 per hour rate is reasonable considering my years of experience practicing in the highly specialized area of employment and labor law and my Laffey Matrix rate (The Laffey Matrix, http://www.laffeymatrix.com/see.html [last visited March 25, 2026].) The Laffey Matrix is a "well-established objective source for rates that vary by experience" used by the District of Columbia. (In re HPL Tech., Inc. Sec. Litig. (N.D. Cal. 2005) 366 F. Supp 2d 912, 921.) A true and correct copy of the Laffey Matrix is attached hereto as **Exhibit 6**. California Courts have adjusted the Laffey Matrix rate upwards based on "locality pay differentials" and the location of counsel's office in California to determine whether counsel's rates are reasonable. (See, e.g., id. [applying a 9% upward adjustment to the Laffey Matrix rate based on an approximate difference of 9% between the locality pay differential of the District of Columbia and San Francisco, California, where counsel's office was located].) To determine the locality pay differential, the Court in In re HPL Technologies, Inc. utilized the locality pay differentials within the federal courts. (Id. at pp. 921–22.) Using the same method here and based on my firm's location in Los

Angeles, California, the locality pay differential of the Los Angeles-Long Beach area is 36.47% and the locality pay differential of the Washington-Baltimore-Arlington area is 33.94%, which results in a difference of approximately 2.53%. (Compare Judiciary Salary Plan of Los Angeles-Long Beach, CA, Effective January 12, 2026, with Judiciary Salary Plan of Washington-Baltimore-Arlington, Effective January 12, 2026.) True and correct copies of the Los Angeles-Long Beach, CA and Washington-Baltimore-Arlington salary plans are attached hereto as **Exhibit 7** and **Exhibit 8**, respectively. Based on my 19+ years of experience out of law school, my Laffey Matrix rate with a 2.53% adjustment is $1,044.78 per hour ($1,019 Laffey Matrix rate + (2.53% x $1,019)). Accordingly, my current billing rate of $950.00 per hour is reasonable.

54. I am experienced in prosecuting and defending employment matters, particularly class actions and PAGA representative actions. My firm has focused a substantial percentage of its practice on wage, hour, and working conditions violations. In addition to the present case, I am also class counsel for other wage-and-hour class action lawsuits pending in various California counties, including in state and federal courts. The following is a list of some of our recent class action settlements that have received preliminary and final approval: *Aparicio v. Lineage Logistics, LLC* (LASC No. BC722764) (class size approx. 155; lead counsel); *Black v. Mission Healthcare Servs., Inc*. (LASC No. 19STCV04602) (class size approx. 1,000; lead counsel); *Campa v. Bloomingdeals, Inc*. (LASC No. BC700366) (class size approx. 1,500; lead counsel); *Garcia v. Comfy U.S.A. Apparel, Inc.* (LASC No. BC709630) (class size approx. 210; lead counsel); *Gomez v. H Mart Cos., Inc.* (LASC No. BC671525) (class size approx. 2,500; co-counsel); *Jones v. Citiguard, Inc.* (LASC No. BC664890) (class size approx. 587; lead counsel); *Jones v. Fitness Alliance, LLC* (Riverside No. PSC1404079) (class size approx. 1,000; lead counsel); *Lagos v. ThyssenKrupp Elevator Corp.* (LASC No. BC682972) ($750,000 for 79 class members; lead counsel); *Mark Brulee et al. v. DAL Global Servs., LLC* (C.D. Cal. Dec. 20, 2018, No. CV 17-6433 JVS(JCGx)) 2018 WL 6616659, at *10 (class size approx. 2,650; lead counsel) (in approving my hourly rate in that case, the Court found: "Class Counsel's declarations show that the attorneys are experienced and successful litigators. Other courts have approved the attorneys' current rates for the Moon & Yang, APC attorneys"); *Martinez v. Bail Hotline Bail Bonds, Inc.* (LASC No. BC700131) (class size approx. 173; lead counsel); *Montoya v. Golden 1 Credit Union* (Sacramento No. 34-

2018-00228252) (class size approx. 1,900; lead counsel); *Onofre v. Caitac Garment Processing, Inc*. (LASC No. BC702283) (class size approx. 750; lead counsel); *Rodriguez v. Rossmoyne, Inc.* (LASC No. BC699137) (class size approx. 220; lead counsel); *Sison v. Cha Hollywood Med. Ctr., L.P.* (LASC No. BC6441 29) (class size approx. 2,100; co-counsel); *Slaughter v. ACA Sec. Stems, LP* (LASC No. BC699137) (class size approx. 300; lead counsel); *Taylor v. Sherman's Delicatessen & Bakery, LLC* (LASC No. BC722765) (class size approx. 515; lead counsel); *Vargas v. AMS Paving, Inc*. (LASC No. BC722767) (case size approx. 260; lead counsel); *Vertti v. Bagcraft Papercon III, LLC* (LASC No. 19STCV12729) (class size approx. 260; lead counsel); and *Wallick v. Campbell Soup Supply Co., LLC* (San Joaquin No. STK-CV-UOE-2021-0000865) (class size 435; lead counsel).

<u>H. SCOTT LEVIANT'S EXPERIENCE AND QUALIFICATIONS</u>

55. H. Scott Leviant received his undergraduate degree from Occidental College. Graduating *cum laude*, he majored in economics and received a "minor" emphasis in mathematics. Along with my study of economics and mathematics, he also had an emphasis in physics. This combination of scientific and economic education has been of assistance during his litigation of complex civil actions. He received his Juris Doctor degree from the University of Southern California Law Center.

56. Mr. Leviant's experience relevant to class action litigation includes the following:

(a) He has been involved in the litigation of class actions since 1997, working as a law clerk on a number of class action matters. Since 1999, he has participated as an attorney in the litigation of hundreds of class actions, in California Superior Courts and in federal courts in California, Illinois, and Louisiana. He emphasized litigation of wage and hour class actions beginning in 2005, but he has focused on complex litigation of different types at all times since 1999.

(b) Dating back to 1999, some of the earliest cases in which he contributed to his then-firm's efforts as co-lead/liaison counsel include:

(i) *In re Paradise Memorial Park Litigation*, Los Angeles Superior Court Lead Case No. BC130375; and,

(ii) *In re Lincoln Memorial Park Litigation*, Los Angeles Superior Court Lead Case

No. BC133643

(c) He has litigated contested class certification motions multiple times, prevailing on many. Examples include the following.

(i) In 2025, Mr. Leviant certified multiple wage and hour claims against Sun Valley Group, in the matter of *Duran v. Sun Valley Group*.

(ii) In 2023, Mr. Leviant certified a rest break claim against SMS Transportation, in the matter of *Beard v. SMS Transportation*. Rest break claims are notably difficult to certify.

(iii) In 2023, Mr. Leviant certified a regular rate claim against Downtown Women's Center, in the matter of *Evans v. Downtown Women's Center*.

(iv) In 2018, Mr. Leviant certified wage and hour claims against Home Depot, in the matter of *Utne v. Home Depot*, in the United States District Court, Northern District of California. The contested certification resulted in a certified class of roughly 140,000 individuals.

(v) In 2019, Mr. Leviant certified a Fair Credit Reporting Act claim related to employment background checks against Wal-Mart Stores, Inc., in the matter of *Pitre v. Wal-Mart Stores, Inc.,* in the United States District Court, Central District of California. The contested certification resulted in a certified class of over 5,000,000 individuals.

(vi) In 2018, Mr. Leviant fully briefed a contested class certification motion in the matter of *Harelson v. U.S. Aviation*, in the Unites Stated District Court, Northern District of California. After certification was fully briefed, the matter successfully settled.

(vii) In 2013, Mr. Leviant certified an investment fraud suit, in the matter of *Larsen v. Coldwell Banker*, in the United States District Court, Central District of California.

(viii) In 2012, Mr. Leviant fully briefed a contested class certification motion, in the wage and hour matter of *Gillings v. Time Warner*, in the United States District Court, Central District of California. In that matter, summary judgment was granted against my clients, and the certification motion was deemed moot. Mr. Leviant appealed to the Ninth Circuit and obtained a reversal of the District Court's decision. Upon remand, the matter settled.

(ix) In approximately 2011, Mr. Leviant fully briefed a contested class certification motion, in the wage and hour matter of *Gomez v. Lincare, Inc.*, in the Superior Court of California, County of Orange. Certification was denied. The result was appealed, and a partial reversal was obtained.

(x) In approximately 2008, Mr. Leviant fully briefed a contested class certification motion, in the wage and hour matter of *Ghazaryan v. Diva Limousine, LTD.*, Superior Court of California, County of Los Angeles. Certification was denied. He appealed, handling all briefing, and, in *Ghazaryan v. Diva Limousine, LTD.*, 169 Cal.App.4th 1524 (2009), pet. for rev. denied, he obtained a decision directing the trial court to certify the class. Ghazaryan is now widely cited, including by the California Supreme Court, as a comprehensive source for the standards applied to certification motions in California.

(xi) In approximately 2006, he fully briefed a contested class certification motion, in the wage and hour matter of *Laliberte v. Pacific Mercantile Bank*, Superior Court of California, County of Orange. Certification was denied. I appealed, handling all briefing. The published opinion of *Laliberte v. Pacific Mercantile Bank*, 147 Cal.App.4th 1 (2007), rev. denied, pet. for cert. den. resulted, and I petitioned for a Writ of Certiorari related to certification due process issues.

(xii) In approximately 2008, I assisted with briefing of a contested class certification motion, in the wage and hour matter, against the Automobile Club of Southern California (AAA). A class was certified and the matter tried

(d) Mr. Leviant prosecuted appeals in more than 20 class action matters alone, arguing before the United States Court of Appeals for the Ninth Circuit Court and several of California's Courts of Appeal. I have taken several appeals through to Petitions for Writs of Certiorari to the United States Supreme Court. In connection with the appeals I have handled, I have participated in appeals resulting in decisions concerning or relating to class actions or wage and hour issues. Among others, those include:

(i) *Camp v. Home Depot, U.S.A., Inc.*, 84 Cal. App. 5th 638 (October 24, 2022), rev. granted (February 1, 2023);

(ii) *Donohue v. AMN Services, Inc.*, (February 25, 2021) (amicus counsel)

(iii) *Gilberg v. California Check Cashing Stores, LLC*, 913 F.3d 1169 (9th Cir. Jan. 29, 2019), pet. for rehearing and pet. for *en banc* rehearing den.;

(iv) *Troester v. Starbucks Corporation*, 5 Cal. 5th 829 (2018), *as modified on denial of reh'g* (Aug. 29, 2018);

(v) *Gillings v. Time Warner Cable LLC*, 583 Fed.Appx. 712 (9th Cir. 2014);

(vi) *Ghazaryan v. Diva Limousine, LTD.*, 169 Cal. App. 4th 1524 (2009), pet. for rev. denied;

(vii) *Laliberte v. Pacific Mercantile Bank*, 147 Cal. App. 4th 1 (2007), rev. denied, pet. for cert. denied;

(viii) *Alvarez v. May Dept. Stores Co.*, 143 Cal. App. 4th 1223 (2006), rev. denied, pet. for cert. denied;

(ix) *Johnson v. Glaxosmithkline, Inc.*, 166 Cal. App. 4th 1497 (2008), rev. denied;

(x) *Howard, et al. v. America Online, Inc.*, 208 F.3d 741 (9th Cir. 2000), pet. for cert. denied;

(xi) *Brown v. Ralphs Grocery Company*, 197 Cal. App. 4th 489 (2011) (amicus counsel);

(xii) *D. R. Horton, Inc. and Michael Cuda*, Case 12-CA-25764, 357 NLRB No. 184 (January 3, 2012) (amicus counsel). This NLRB matter is of particular note, as it is at the center of a dispute regarding the interplay between the Federal Arbitration Act (FAA) and two labor relations laws, the National Labor Relations Act (NLRA) and Norris-LaGuardia Act. Cases highlighting that issue have been accepted by the United States Supreme Court.

(e) Mr. Leviant was the lead appellate author in a matter before the California Supreme Court that generated substantial interest in the field of wage and hour litigation. That matter, *Troester v. Starbucks Corporation*, resolved a significant issue of whether, under California law, a *de minimis* defense exists to the employer's obligation to pay all wages for all compensable time worked by an employee.

(f) Mr. Leviant was the lead appellate counsel in a matter before the California Court of Appeal (Sixth Appellate District) that generated substantial interest in the field of wage and hour litigation. That matter, *Camp v. Home Depot, U.S.A., Inc.*, held that prior jurisprudence erroneously concluded that, under California law, underpayment of wages as a result of rounding of time clock punches is lawful so long as the rounding was neutral on its face and as applied. *Camp* is now pending before the California Supreme Court but remains citable as authority pursuant to an Order of the California Supreme Court.

(g) In addition to my work on complex litigation matters and class actions, I have authored published articles and columns on issues related to class actions and other litigation issues, including:

(i) H. Scott Leviant, *Unintended Consequences*, 6 U.C. Davis Bus. L.J. 18 (2006), at http://blj.ucdavis.edu/article.asp?id=636 (May 1, 2006);

(ii) H. Scott Leviant and Lilit Ter-Astvatsatryan, *Where Troester Stops Not Even Troester Knows*, DAILY JOURNAL (Los Angeles), July 2, 2019;

(iii) H. Scott Leviant and Lilit Ter-Astvatsatryan, *Unaccounted Time: Reading the Tea Leaves of Troester*, DAILY JOURNAL (Los Angeles), September 12, 2018;

(iv) Dennis F. Moss and H. Scott Leviant, *Class Actions: One step forward after two steps back*, DAILY JOURNAL (Los Angeles), January 11, 2012;

(v) H. Scott Leviant, *Arbitration: A Look Back, a Look Ahead*, DAILY JOURNAL (Los Angeles), December 28, 2010;

(vi) H. Scott Leviant, *Witnesses Cannot Hide*, Daily Journal (Los Angeles), April 21, 2010;

(vii) H. Scott Leviant, *Divide and Conquer: The New Paradigm of Class Action Defense?*, FORUM, January/February 2009

(viii) H. Scott Leviant, *Class Action Appellate Report*, FORUM, 2009-2010 (Ongoing series);

(ix) H. Scott Leviant & Linh Hua, *Legislature Using Purse Strings to Bind Judiciary*, Daily Journal (San Francisco), March 15, 2010;

(x) H. Scott Leviant, *Wrongfully Recused?*, DAILY JOURNAL (Los Angeles), December 2, 2009;

(xi) H. Scott Leviant, *Cutting Class*, DAILY JOURNAL (Los Angeles), April 15, 2008;

(xii) H. Scott Leviant, *Leveling The Playing Field*, DAILY JOURNAL (Los Angeles), May 4, 2007;

(xiii) H. Scott Leviant, *A Bad Meal Deal: 'Brinker' Gets the Incentive Question Wrong*, DAILY JOURNAL (Los Angeles), August 6, 2008;

(xiv) H. Scott Leviant & Jason E. Barsanti, *Maximize Recovery in Unpaid Wage Cases*, FORUM, January/February 2008;

(xv) H. Scott Leviant, et al., *Electronic Evidence: No Longer an Optional Element in a Comprehensive Litigation Plan*, ADVOCATE, April 2006;

(xvi) H. Scott Leviant, *Improving Rule 12(b)(6) survival odds: Some considerations for effective RICO pleading*, CIVIL RICO REPORT, Volume 15, Number 22, April 26, 2000 (LRP Publications).

(h) In addition to publications in industry newspapers, periodicals and journals, Mr. Leviant the Supervising Editor, primary author and founder of the legal blog The Complex Litigator (http://www.thecomplexlitigator.com). The Complex Litigator reports and comments on news and topics relevant to class action and complex litigation practice, with a primary emphasis on wage and hour litigation issues. Through my blog, he has also, on occasion, published podcasts of round table discussions with preeminent members of the wage and hour practice bar on both the plaintiff and defense sides. His blog has been cited to the California Supreme Court in at least one Petition for Review. The Complex Litigator has been in existence since 2008, having outlasted many other legal blogs, and it has a unique readership that numbers in the tens of thousands.

(i) Mr. Leviant has also lectured on issues related to class actions and complex litigation, including the following educational seminars:

(i) *Strategies for Settlement of Individual and Wage & Hour Class Actions*, Bridgeport's Eighth Annual Wage & Hour Litigation Conference (December 16, 2011)

(ii) *The Year in Review - Staying Abreast of Current Cases*, Consumer Attorneys of San Diego Class Action Symposium (October 14, 2011)

(iii) *Concepcion v. AT&T and Derivative Wage & Hour Claims*, Bridgeport's Mid Year Wage & Hour Litigation Conference (June 3, 2011)

(iv) *Advanced Principles: UCL Remedies and Defenses*, 20th Annual Golden State Antitrust and Unfair Competition Law Institute (October 21, 2010)

(v) *Refining Your Wage and Hour Practice*, 2010 CELA Annual Conference (October 2, 2010)

(vi) *Word v. WordPerfect Software, Tips, Tools and Tricks*: Legal Technology for Plaintiffs Employment Lawyers (September 30, 2010)

(vii) *California's 17200 -- Its Use and Abuse*, Federalist Society (May 19, 2010)

(viii) *20 Tips for Successful Navigation of e-Discovery Requirements*, Los Angeles County Bar Association's Thirtieth Annual Labor and Employment Law Symposium (March 31, 2010)

(ix) *Social Networking for Lawyers*: A Roadmap to Success, Los Angeles County Bar Association's 2nd Annual two-day 2009 Small Firm and Solo Practitioners Conference: MISSION POSSIBLE (June 25, 2009)

(x) *A Seminar Overview of the Current State of Employment Law*, The Westchester/LAX/Marina Del Rey Chamber of Commerce (February 23, 2006)

(j) Mr. Leviant served three consecutive years as an elected member of the Board of Governors of the Consumer Attorneys of California. In that capacity, he worked to preserve the right of California's consumers and employees to bring proposed class actions. For example, he provided assistance to CAOC in its successful effort to defeat AB 298, which would have substantially impaired the ability of plaintiffs to prosecute class actions in California. More recently, on behalf of CAOC, he co-authored several requests for publication of unpublished class action decisions, including one such request in *Jaimez v. Daiohs USA, Inc.*, 181 Cal. App. 4th 1286 (2010), and authored amicus briefs for CAOC in the Eighth Circuit matter entitled *Avritt v. Reliastar Life. Ins. Co.*, Case No. 09-2843, the California Supreme Court matter entitled *Californians for Disability Rights v. Mervyn's, LLC*, 39 Cal. 4th 223 (2006), and the California Court of Appeal matter entitled *Brown v. Ralphs Grocery Company*, 197 Cal. App. 4th 489 (2011).

57. Mr. Leviant's current contingent billing rate is consistent with his practice area, legal market and accepted hourly rates:

(a) In the December 8, 2008 article "Billable Hours Aren't the Only Game in Town Anymore," *NATIONAL LAW JOURNAL*, the following hourly billing rates were reported by Sheppard Mullin Richter & Hampton, a leading firm in the defense of wage-and-hour class actions that I have frequently opposed when litigating wage-and-hour class actions: Partners: $475-$795; Associates: 1st Year - $275, 2nd Year - $310, 3rd Year - $335, 4th Year - $365, 5th Year - $390, 6th Year - $415, 7th Year - $435, 8th Year - $455.

(b) In 2009 he was retained as appellate counsel in the appeal of a denial of class certification. For the specialized work on that appeal, he charged an hourly rate of $650.00 per hour, a rate the hiring co-counsel accepted.

(c) Mr. Leviant has been selected to Super Lawyers from 2012-2025, achieving that professional recognition for more than a decade. he was selected for the Rising Stars edition of Super Lawyers in 2009.

(d) Based upon his practice area, geographic market, experience, including all of the above information, reputation, and generally accepted hourly rates, Mr. Leviant's current, regular hourly billing rate is now $975.00, which is well below the presumptively appropriate hourly rate of $1,227 for attorneys with 20 or more years of experience.

SANDY PHAM'S EXPERIENCE AND QUALIFICATIONS

58. Sandy Pham is an associate at Moon Law Group, PC. Ms. Pham's practice is focused on labor and employment class action lawsuits involving various violations of California and federal labor laws. Ms. Pham's current hourly billing rate is $550 per hour, which is her usual hourly rate in wage and hour litigations. Ms. Pham received her law degree from the Southwestern School of Law. Ms. Pham was admitted to the California bar in December 2023. Based on Ms. Pham's nearly 3 years of experience out of law school, her Laffey Matrix rate with a 2.53% adjustment is $520.85 per hour (508 Laffey Matrix rate + (2.53% x $508)). Based on her experience and the Laffey Matrix rate, Ms. Pham's hourly rate is reasonable.

CLASS COUNSEL'S EXPERIENCE AND QUALIFICATIONS

59. As demonstrated by the foregoing, my office is qualified to handle this litigation because we are experienced in litigating Labor Code and Wage Order violations in individual, class, and representative

actions. The attorneys at my office have been appointed as lead or co-lead counsel in numerous wage-and-hour class and/or PAGA actions in state and federal courts by way of motion for settlement approval. Including myself, Moon Law Group, PC is comprised of approximately 35 attorneys, all of whom are actively and continuously practicing employment litigation, representing almost entirely employee-plaintiffs, in both individual and class and/or PAGA actions, in this Superior Court and other Superior Courts throughout the State, in the Courts of Appeal, and in various federal courts. The attorneys at my firm have a high level of skill and knowledge in wage-and-hour class actions, PAGA representative actions, and labor and employment law generally, the substantiative (state and federal) and procedural law of which is frequently evolving.

60. Moon Law Group, PC has been engaged in the practice of employment and labor law for over a decade and presently focuses exclusively on plaintiffs' employment law. The firm and its lawyers have tried both bench and jury trials (representing both plaintiffs and defendants) relating to employment matters. As noted above, Moon Law Group, PC has been appointed lead or co-lead class counsel in federal and state courts in California. Also, the firm and its lawyers have successfully settled hundreds of cases during that time, including wage-and-hour class and/or PAGA actions.

61. The foregoing experience of myself and other attorneys of Moon Law Group, PC is helpful in assessing the reasonableness of settlements, such as the one at issue here, and from this experience we concluded that this litigation could not have been settled on better terms than provided under the Settlement.

62. I respectfully submit that the attorneys of Moon Law Group, PC, me included, are well suited to act as Class Counsel in this action, and we have, and will continue to, vigorously represent the interests of the Class. To my knowledge, we do not have any conflicts of interest with Plaintiffs, other Class Members, or the proposed Administrator, and we are not related to Plaintiffs. We respectfully request to be appointed as Class Counsel, for settlement purposes.

<u>THE REQUEST FOR ATTORNEYS' FEES AND COSTS IS REASONABLE</u>

63. The Settlement provides for attorneys' fees payable to Class Counsel in an amount up to one-third of the Gross Settlement Amount (i.e., no less than $228,333.33), and litigation costs up to $30,000.00. (Settlement, ¶ 3.2.2.) The proposed award of attorneys' fees can be justified under either the lodestar method

or the percentage/common-fund recovery method. However, we base the proposed fees award on the percentage method, as many of the entries in the time records will have to be redacted to preserve attorney-client and attorney work product privileges.

64. Pursuant to a Joint Prosecution and Attorney Fee Split between the two Class Counsel law firms, and as consented to in a signed writing by Plaintiffs (the "JPA"), the firms will split the award for attorneys' fees with 50% going to my office, and 50% of the fee to Wilshire Law Firm, PLC, regardless of the amount awarded or whether the award is based on a common fund or lodestar analysis. As to costs, the JPA states that Class Counsel firms will be reimbursed in full to the extent possible for their respective costs actually incurred.

65. I am informed and believe that the fees and costs provision in the Settlement is reasonable. The fee percentage requested is less than that charged by my office for most employment cases. Moreover, my office invested significant time and resources into the case, with payment deferred to the end of the case, and then, of course, contingent on the outcome.

66. It is further estimated that my office will need to expend at least another 50 to 100 hours to monitor the administration process leading up to the final approval, prepare for final approval, and oversee distribution to the Class following final approval. My office also bears the risk of taking whatever actions are necessary should Defendant fail to pay.

67. The risk to my office has been very significant, particularly if we would not be successful in pursuing this class action. In such instance, we would have been left with no compensation for all the time taken in litigating this case due to the contingency fee arrangement. Indeed, I have taken on a number of class action cases that have resulted in thousands of attorney hours being expended and ultimately having the defendant company going bankrupt during litigation. The contingent risk in these types of cases is very real and occurs regularly. Furthermore, we were precluded from focusing on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain.

68. Because most individuals cannot afford to pay for representation in litigation on an hourly basis, Moon Law Group, PC represents virtually all its employment law clients on a contingency fee basis, including Plaintiffs in this matter. Pursuant to this arrangement, we are not compensated for our time unless

we prevail at trial or successfully settle our clients' cases. Because Moon Law Group, PC is taking the risk that we will not be reimbursed for our time unless our client settles or wins his or her case, we cannot afford to represent an individual employee on a contingency basis if, at the end of our representation, all we are to receive is our regular hourly rate for services. It is essential that we recover more than our regular hourly rate when we win if we are to remain in practice so as to be able to continue representing other individuals in civil rights employment disputes.

69. As of the drafting of this motion, my office has incurred $2,708.53 in expenses litigating this action, and we anticipate accruing additional costs up to final approval. These expenses were reasonably necessary to the litigation and were actually incurred by my office. Moreover, because total litigation costs are expected to be below the maximum amount allowed under the Settlement, the difference will revert to Participating Class Members. (*Id.* at ¶ 3.2.2.) Therefore, our costs should be reimbursed in full.

70. My office invested significant time and resources into the case, with payment deferred to the end of the case, and then, of course, contingent on the outcome. My office's efforts have included, and will include following preliminary and final approval, without limitation, the following:

(a) Numerous interviews with Plaintiffs and review of documents provided by them;

(b) Legal research and investigation regarding Defendant's business and employment practices at numerous points in the litigation;

(c) Preparation and submission of Plaintiffs' PAGA notice;

(d) Preparation, finalization, and filing of multiple drafts of the original class action complaint and subsequent first amended complaint;

(e) Extensive "meet and confer" correspondence and discussions with Defense Counsel regarding mediation and to obtain relevant documents and information through informal discovery;

(f) Research and preparation of Plaintiffs' mediation brief;

(g) Analysis of the discovery production and preparation of a damages model with the aid of a statistics expert;

(h) Attendance and active participation at a full day of mediation;

(i) Drafting, negotiating, and reviewing multiple drafts of the Settlement and Class Notice;

(j) Preparation of the motion for preliminary approval and the accompanying filings;

(k) Anticipated preparation for and attendance at the preliminary approval hearing;

(l) Anticipated conferring with Defense Counsel and the Administrator regarding the Class Notice mailing, Class responses, and preliminary and final calculations;

(m) Anticipated preparation, finalization, filing, and service of a motion for final approval and accompanying filings;

(n) Anticipated preparation for and anticipated attendance at the final approval hearing, and then monitoring of the distribution of funds following final approval; and

(o) Anticipated responding to Class Member inquiries and communicating with Plaintiffs regarding the case.

71. Through the efforts of my office, the office of co-counsel, and Plaintiffs in this case, a fair and reasonable joint resolution has been reached that includes a gross, non-reversionary payment by Defendant of *no less than* $700,000.00 to compensate Class Members for the alleged unlawful wage-and-hour practices. I am informed and believe that, without the efforts of my office, the office of co-counsel, or Plaintiffs, the Labor Code and Wage Order violations alleged in the Operative Complaint would have gone completely unremedied.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct. Executed on May 28, 2026, at Los Angeles, California.

____

Kane Moon