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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DARREN CAIN, as an individual and on behalf of all others similarly situated,

Plaintiff,

vs.

BELLHOPS MOVING, LLC, a Delaware limited liability company; and DOES 1 through 100,

Defendants.

Case No. 24STCV09965

[*Assigned for all purposes to the Hon. Theresa M. Traber, Dept. 1*]

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT

Date: January 30, 2026
Time: 10:30 a.m.
Dept.: 1

Action Filed: April 19, 2024
Trial Date: None Set

PLEASE TAKE NOTICE that, pursuant to Rule 3.769 of the California Rules of Court, on January 30, 2026 at 10:30 a.m., or as soon thereafter as the matter may be heard, in Department 1 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012, Plaintiff Darren Cain ("Plaintiff"), individually and on behalf of a class of similarly situated individuals, will and hereby does move this Court for:

1. Preliminary approval of the proposed Stipulation of Settlement ("Settlement Agreement") in this lawsuit;
2. Pursuant to Section 382 of the California Code of Civil Procedure, and for settlement purposes only, provisional certification of the Settlement Class, defined as follows:

   > All current and former non-exempt employees who worked for Defendant Bellhops Moving, LLC in California between April 19, 2020 and May 3, 2025.

3. Preliminary appointment of Plaintiff Darren Cain as the Class Representative;
4. Preliminary appointment of Paul K. Haines, Fletcher W. Schmidt, and Matthew K. Moen of Haines Law Group, APC as Class Counsel;
5. The scheduling of a hearing to consider whether the Settlement Agreement should be finally approved and to award amounts for the Class Representative Enhancement Payment, settlement administration costs, payment to the Labor and Workforce Development Agency for its share of civil penalties under the Private Attorneys General Act, Labor Code section 2698 *et seq.*, and Class Counsel's attorneys' fees and costs;
6. Appointment of Phoenix Class Action Administration Solutions as the third-party settlement administrator ("Settlement Administrator"); and
7. Approval of the proposed Notice of Class and PAGA Action Settlement and Notice of Individual Settlement Payment (collectively, the "Notice Packet"), and entry of the proposed Order instructing the Notice Packet to be disseminated to the proposed Settlement Class in English, as provided in the Settlement Agreement.

This motion is based on this notice of motion, the attached memorandum of points and authorities, the declarations of Paul K. Haines, Fletcher W. Schmidt, Matthew K. Moen, Aden M.

Khachadoorian, Plaintiff Darren Cain, and Jodey Lawrence of Phoenix Class Action Administration Solutions, and the exhibits attached thereto, the pleadings and other papers filed in this action, and on any further oral or documentary evidence or argument presented at the time of hearing.

Given the multiplicity of issues addressed herein, Plaintiff's memorandum of points and authorities necessitates exceeding the 20-page limit set forth in California Rule of Court 3.764(c)(2). As this Motion is unopposed, Plaintiff respectfully requests that the Court consider the entire Motion, which is 22 pages in length.

Dated: August 19, 2025

Respectfully Submitted,
HAINES LAW GROUP, APC

By: Matthew K. Moen
Matthew K. Moen
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Darren Cain ("Plaintiff"), individually and on behalf of the proposed Settlement Class, respectfully requests that this Court preliminarily approve the proposed Stipulation of Settlement ("Settlement Agreement" or "Settlement"),[1] entered into by Plaintiff and Defendant Bellhops Moving, LLC ("Defendant") (Plaintiff and Defendant are referred to collectively herein as the "Parties"). The operative First Amended Complaint ("FAC") alleges Defendant failed to: (i) pay all overtime wages; (ii) pay all minimum wages; (iii) provide all lawful meal periods; (iv) authorize and permit all lawful rest periods; (v) reimburse necessary business expenses; (vi) issue accurate and itemized wage statements; (vii) timely pay all final wages upon separation; (viii) comply with California's Unfair Competition laws; and (ix) is liable for civil penalties under the Private Attorneys General Act, Labor Code § 2698 *et seq*. ("PAGA").

Plaintiff respectfully requests that this Court preliminarily approve this non-reversionary, $115,000.00 class action settlement on behalf of the following Settlement Class:

> All current and former non-exempt employees who worked for Defendant in California between April 19, 2020 and May 3, 2025 (the "Class Period").

Based upon the data provided by Defendant, there were approximately 109 potential Settlement Class members subject to the Settlement as of the date of mediation. Moen Decl., ¶ 11. After Court-approved deductions for Plaintiff's Class Representative Enhancement Payment, settlement administrator costs, the PAGA Amount and PAGA penalties payable to the Labor & Workforce Development Agency ("LWDA"), and attorneys' fees and costs to Class Counsel, the remaining Net Settlement Amount ("NSA") is estimated to be no less than $43,666.67. *Id*. This results in average Individual Settlement Payments of approximately $400.61, with the lowest possible estimated Individual Settlement Payment of approximately $32.73 (in the event a Settlement Class member worked only one workweek during the Class Period) and the highest possible estimated Individual Settlement Payment of approximately $8,608.94 (in the event a

[1] The Settlement Agreement is attached as Exhibit 1 to the Declaration of Matthew K. Moen ("Moen Decl."), filed herewith, and the Notice of Class and PAGA Action Settlement and Notice of Individual Settlement Payment (collectively, the "Notice Packet") are attached to the Moen Decl. as Exhibit 2.

Settlement Class member performed work in every workweek throughout the Class Period). *Id*. Further, an additional $2,500 will be paid to all current and former non-exempt employees who worked for Defendant in California between April 19, 2023 and May 3, 2025 (the "PAGA Period") (the "PAGA Aggrieved Employees") for the release of claims under PAGA. Settlement, ¶¶ 1, 3.C.5. This results in average PAGA payments of $147.05, with the lowest possible PAGA share of $13.81 and the highest possible PAGA share of $1,464.08. Moen Decl., ¶ 11.

Significantly, Settlement Class members do not need to file a claim form in order to receive an Individual Settlement Payment, and all Settlement Class members who do not opt-out will automatically receive their share of the Settlement. This represents a fair and reasonable result for the Settlement Class members, who will be agreeing to a release of only those claims that were actually asserted, or which could have been asserted based on the facts alleged in the operative FAC in the lawsuit. Further, given the tenet that aggrieved employees do not have the ability to opt-out of a representative PAGA claim, all PAGA Aggrieved Employees, regardless of whether they elect to opt out from participating in the class action settlement or not, shall receive a portion of the settlement monies designated as the PAGA Amount payable to the PAGA Aggrieved Employees, and shall release their claims for civil penalties under PAGA based on the Labor Code violations that were pled in the operative FAC in the action or could have been alleged based on the factual allegations in Plaintiff's April 19, 2024 PAGA Notice letter to the LWDA, that arose during the PAGA Period. *See Robinson v. Southern Counties Oil Company* (2020) 53 Cal.App.5th 476, 482 (holding that there is no opt–out mechanism for PAGA claims); *see also* Moen Decl., Exhibit 3 (Plaintiff's PAGA Notice Letter and LWDA Confirmation of Receipt).

This proposed Settlement is well within the range of possible approval for the reasons discussed herein, and Plaintiff respectfully requests that the Court grant preliminary approval.

II. SUMMARY OF THE LITIGATION

A. Factual And Procedural Background

Defendant operates a residential and corporate moving service throughout California. Moen Decl., ¶ 13. Plaintiff was employed by Defendant as a non-exempt employee in the position of "Lead Mover" from approximately April 2021 to September 16, 2023. *Id*.;

Declaration of Darren Cain ("Cain Decl."), ¶ 2. Like all Settlement Class members, Plaintiff was subject to Defendant's wage and hour policies and practices. Moen Decl., ¶ 13; Cain Decl., ¶ 3.

On April 19, 2024, Plaintiff filed the initial class action complaint in this action. Moen Decl., ¶ 14. On June 24, 2024, after exhausting his administrative remedies with the LWDA, Plaintiff filed the operative FAC to add a ninth cause of action for civil penalties under PAGA, premised on the same underlying Labor Code violations. *Id*.

B. <u>Plaintiff's Claims and Defendant's Defenses</u>

1. <u>Off-The-Clock Wage Violations</u>

Plaintiff alleges that Defendant's timekeeping policies and/or practices resulted in Plaintiff and other non-exempt employees not being compensated for all hours actually worked and/or subject to Defendant's control. Moen Decl., ¶ 15. Specifically, Plaintiff and other non-exempt employees are required to travel to their initial jobsites each work day, which varied each day, without being paid for their travel time. *Id.* Further, Defendant required Plaintiff and other non-exempt employees to use their personal cell phones for work-related tasks while off-the-clock without additional compensation, including to contact customers on the night prior to performing work for the client, to view any available work shifts and to reserve or request being assigned to specific work assignments, and to coordinate with each other regarding joint work assignments through a GroupMe group chat. *Id.*; s*ee also Ribot v. Farmers Insurance Group*, Case No. CV 11-02404 DDP (FMOx), 2013 WL 3778784 (C.D. Cal. July 17, 2013) (certifying claim for failing to compensate for pre-shift work); Labor Code §§ 1197 and 1182.12.

Defendant asserts that its timekeeping policies/practices complied with California law and that it properly compensates Settlement Class members for all hours worked during the Class Period. Moen Decl., ¶ 16. Defendant further contends that Settlement Class members did not work off-the-clock and that its policies disavow such off-the-clock work. *Id*. Defendant further argues that Plaintiff's claim is not appropriate for class treatment, as it requires individualized inquiries into whether each employee actually performed any work while off-the-clock, and if so, how much, resulting in an unmanageable series of mini-trials. *Id*.; *see Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1052 (2012) (affirming denial of off-the-clock subclass).

2. **Meal Period Violations**

Plaintiff further asserts that Defendant failed to provide the Settlement Class members with all timely duty-free, uninterrupted 30-minute meal periods to which they were entitled. Moen Decl., ¶ 17; *see* Labor Code § 512(a); *Brinker v. Superior Court* (2012) 53 Cal.4th 1004, 1041 ("We conclude that, absent waiver, section 512 requires a first meal period no later than the end of an employee's fifth hour of work…"); *Benton v. Telecom Network Specialists, Inc.* (2013) 220 Cal.App.4th 701, 728-29 ("[The wage order] imposes an affirmative obligation on every employer to authorize and provide legally required meal and rest breaks; if it fails to do so, it has violated the law and is liable."). Specifically, due to Defendant's work demands, Plaintiff and other non-exempt employees were regularly not provided with meal periods. Moen Decl., ¶ 17.

In response, Defendant contends it maintained lawful meal period policies/practices throughout the Class Period. Moen Decl., ¶ 18. Specifically, Defendant asserts that Settlement Class members waived their meal periods through Defendant's timekeeping system, and therefore, if Settlement Class members did not take meal periods it was due to waiver. *Id*. Further, Defendant asserts that it paid meal period premium payments in every instance in which a lawful meal period was not provided, and pointed to its payroll records evidencing over 1,000 meal period premium payments had been made to Settlement Class members during the Class Period as proof. *Id*. Finally, Defendant contends that Plaintiff's meal period claim is not suited for class certification as individual inquiries would be required to assess whether an employee chose to not take an otherwise provided meal period, whether was an employee ever validly waived a meal period, and whether a premium was paid on each shift in which a meal period was truly not provided, resulting in an unmanageable series of mini-trials. *Id*.

3. **Rest Period Violations**

Plaintiff further alleges that Defendant failed to authorize and permit the Settlement Class members to take all lawful rest periods to which they were entitled. Moen Decl., ¶ 19. Plaintiff asserts that Defendant failed to maintain any written rest period policies whatsoever, and he and the Settlement Class members were never authorized or provided to take *any* duty-free rest periods throughout the Class Period. *Id*.; *see Benton, supra*, 220 Cal.App.4th at 728-29; *Bufil v.*

Dollar Financial Group, Inc. (2008) 162 Cal.App.4th 1193, 1199 ("The onus is on the employer to clearly communicate the authorization and permission to its employees."). Plaintiff also alleges that Defendant failed to pay *any* rest period premiums for rest period violations during the relevant time period. Moen Decl., ¶ 19; Labor Code § 226.7; *Safeway, Inc. v. Superior Court* (2015) 238 Cal.App.4th 1138, 1159 (certifying UCL claim based on employer's failure to pay premium wages under Labor Code section 226.7).

Defendant maintains it authorizes and permits the Settlement Class members to take all lawful rest periods to which they are entitled. Moen Decl., ¶ 20. Further, Defendant asserts that this claim is unmanageable and not suited for class certification, as it requires individualized inquiries into whether each employee was authorized and permitted to take a lawful rest period and on which days, which Defendant argues Plaintiff will be unable to substantiate with any common, documentary evidence, as rest periods are not required to be recorded, resulting in an unmanageable series of mini-trials. *Id*.

4. <u>Failure to Reimburse Violations</u>

Plaintiff further alleges that Defendant failed to reimburse the Settlement Class members for all necessary business expenses incurred, in violation of Labor Code § 2802. Moen Decl., ¶ 21; *see* Labor Code § 2802. Specifically, Plaintiff asserts that Defendant required Plaintiff and other non-exempt employees to use their personal vehicles, tools, and cellular phones to perform essential job duties, including to drive to and from their respective work sites and communicate daily with supervisors and clients regarding work-related issues, but did not reimburse Plaintiff and other non-exempt employees for these expenses. Moen Decl., ¶ 21; *see also Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137, 1144 ("If an employee is required to make work-related calls on a personal cell phone, then he or she is incurring an expense.").

In response, Defendant argues it maintained a policy to reimburse business expenditures and that, to the extent that any expenses were not reimbursed, it was because the employees failed to submit expense reimbursement requests. Moen Decl., ¶ 22. Defendant further provided Plaintiff with a copy of its mileage reimbursement policy, and produced payroll evidence that it had paid mileage reimbursements during the Class Period. *Id*. Further, Defendant contends that the majority of employees used company provided moving vans to complete their job duties, which came equipped with all necessary tools. *Id*. Defendant also maintains that this claim is not suited for class certification, as it would require a series of mini-trials to determine which employees incurred expenses, if any, whether those expenses were reasonable and necessary, and why the employee had not previously submitted an expense reimbursement request. *Id*.

5. Wage Statement, Waiting Time, and PAGA Penalties

As a result of Defendant's alleged failure to pay all overtime wages, minimum wages, meal period and rest period premiums, Plaintiff asserts that Defendant also failed to issue accurate and itemized wage statements and failed to timely pay all final wages at the time of separation. Moen Decl., ¶ 23; *see also* Labor Code §§ 203(a) and 226(a). As a result of these alleged Labor Code violations, Plaintiff also seeks PAGA civil penalties on behalf of all aggrieved employees. Moen Decl., ¶ 23; *see also Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1213 ("As we have explained, they [civil penalties under PAGA] are mandatory, not discretionary.").

In response, Defendant argues that Plaintiff's underlying claims will fail and, as a result, the derivative wage statement, waiting time, and PAGA claims will also fail. Moen Decl., ¶ 24; *see Price v. Starbucks Corp*. (2011) 192 Cal.App.4th 1136, 1147 ("Because the underlying causes of action fail, the derivative UCL and PAGA claims also fail."). Defendant also maintains that Plaintiff cannot show that the wage statement violations were "knowing and intentional," or that the putative class members "suffer[ed] injury" as a result of the alleged violations, as required by Labor Code § 226(e) for the imposition of wage statement penalties. Moen Decl., ¶ 24; *see* Labor Code § 226(e)(1). Moreover, Defendant maintains that its good faith defenses to Plaintiff's underlying claims would preclude the recovery of waiting time penalties, which are only available for the "willful" failure to pay wages, and that this Court would exercise its discretion to substantially reduce any PAGA penalties awarded. Moen Decl., ¶ 24; *see also* 8 Cal. Code Regs. § 13520 ("[A] good faith dispute that any wages are due will preclude imposition of waiting time penalties under Section 203."); Labor Code § 2699(e)(2); *Naranjo v. Spectrum Sec. Servs., Inc.*, 88 Cal.App.5th 937 (2023); *Carrington v. Starbucks Corporation* (2018) 30 Cal.App.5th 504 (affirming reduction of PAGA penalties to 10% of exposure).

Finally, Defendant also argued that as a relatively small business, it simply does not have the financial resources to satisfy a sizable judgment or settlement and is constrained by cash-flow issues. Moen Decl., ¶ 25. Defendant produced its financial statements to Plaintiff and the mediator for review on a confidential basis to support their position. *Id*. Plaintiff's counsel's review of the financial records ultimately supported their conclusion that it would be an uphill battle to collect a judgment that was significantly in excess of the amount offered in settlement, and necessitated the installment payment nature of the proposed Settlement. *Id*.; *see* Settlement, ¶ 3.B.

C. Discovery And Mediation

In connection with mediation, Defendant provided Plaintiff with timekeeping and payroll records for the entire putative class spanning the putative class period, as well as key policy documents. Moen Decl., ¶ 26. Plaintiff then analyzed the produced data and created a class-wide exposure model for the claims at issue. *Id*. On January 23, 2025, the Parties participated in a mediation session with Kevin Barnes, Esq., during which the Parties exchanged divergent views on Defendant's liability and exposure valuations, their legal positions, and the likelihood of certification of Plaintiff's claims. *Id*. Despite their efforts, the mediation adjourned without the parties reaching a resolution, but the Parties continued their settlement discussions with the mediator's assistance thereafter. *Id*. After weeks of additional negotiations, Mr. Barnes made a mediator's proposal for a class-wide resolution of all claims at issue that the Parties ultimately accepted. *Id*. Over the following months, the Parties finalized the terms of the proposed Settlement now before the Court for preliminary approval. *Id*.

III. THE PROPOSED SETTLEMENT

A. Essential Terms of The Settlement

If the Court preliminarily approves this settlement, Defendant will pay a Maximum Settlement Amount ("MSA") of $115,000.00. Moen Decl., ¶ 11; Settlement, ¶ 3. This Settlement is non-reversionary, and Settlement Class members will automatically receive their Individual Settlement Payments unless they affirmatively opt-out. Settlement, ¶¶ 3.C; 4. The monetary terms of the Settlement are as follows:

Maximum Settlement Amount:	**$115,000.00**
Minus Court-approved attorneys' fees (1/3):	$38,333.33

Minus Court-approved attorneys' costs (up to):	$15,000.00
Minus Court-approved Enhancement Payment:	$5,000.00
Minus settlement administrator costs (up to):	$3,000.00
Minus PAGA penalties:	$10,000.00
Net Settlement Amount:	**$43,666.67**

1. The Settlement Provides for Reasonable Monetary Payments

After deducting amounts for Court-approved attorneys' fees and costs, Plaintiff's Class Representative Enhancement Payment, settlement administration costs, and PAGA penalties, the Settlement provides for an estimated NSA of no less than $43,666.67. *See* Settlement, ¶¶ 3.C, 4.A. Individual Settlement Payments will be calculated based on the proportionate number of workweeks worked by each participating Settlement Class member during the Class Period, as well as membership in various subclasses. *Id.*, ¶ 4.B.ii-iv. Further, the 25% portion of the PAGA civil penalties allocated as the PAGA Amount will be paid to all PAGA Aggrieved Employees, regardless of their election to opt-out from participating in the Settlement, based on the proportionate number of workweeks worked by the PAGA Aggrieved Employees during the PAGA Period, divided by the total number of workweeks worked by all PAGA Aggrieved Employees during the PAGA Period. *Id.*, ¶ 4.B.i. For tax purposes, each Individual Settlement Payment will be allocated as 20% wages (subject to applicable withholdings), and 80% interest and penalties (not subject to withholdings). *Id.*, ¶ 4.D. The PAGA Amount payable to the PAGA Aggrieved Employees shall be allocated as 100% penalties. *Id.* Further, Defendant will pay the employer's share of payroll taxes separate and apart from, and in addition to, the MSA. *Id.*, ¶ 3.E.

Based on the estimated NSA, average Individual Settlement Payments are approximately $400.61. Moen Decl., ¶ 11. Settlement Class members will have 60 calendar days from the date of the initial mailing of the Notice Packet to opt-out or object to the Settlement, thereby providing ample time to review the Class Notice without unduly delaying the Settlement. *See* Settlement, ¶¶ 9.D-E. Settlement Class members who do not opt-out of the Settlement will be bound by its terms and will release all claims against Defendant as detailed in the Settlement. *Id.*, ¶¶ 2.A; 9.D.

As discussed in Section II.B.5, *supra*, Defendant has limited financial resources and are constrained by cash-flow issues such that it was unable to commit to funding the settlement in a single lump-sum payment. As part of the negotiations at and following mediation, the Parties ultimately agreed to an installment plan that would allow Defendant to remain in business while funding the Settlement over a period of approximately five months. *See* Settlement, ¶ 3.B. Defendant will fund the MSA as follows: two-thirds (2/3) of the MSA (i.e., Seventy-Six Thousand Six Hundred Sixty-Six Dollars and Sixty-Eight Cents ($76,666.68)) shall be paid within thirty (30) calendar days after the date upon which the Court signs an Order granting final settlement approval, and thereafter four (4) equal monthly installment payments of Nine Thousand Five Hundred Eighty-Three Dollars and Thirty-Three Cents ($9,583.33) each shall be paid each 30 days after the first payment. *See id*. Within ten (10) business days following the full funding of the MSA, the Settlement Administrator will calculate and mail the Individual Settlement Payments to the participating Settlement Class members. *Id*., ¶ 4.C. Settlement Class members will have 180 days from the date the Individual Settlement Payments are mailed to cash their checks. *Id*., ¶ 4.E. In the event that there are any uncashed checks remaining after 180 days, any remaining funds shall be transferred to the California State Controller's Office to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq*., in the name of the Settlement Class member to whom the check was issued, until such time that they claim their property. *Id*. This distribution method ensures that no portion of the MSA will be "unpaid…unclaimed or abandoned," as required for C.C.P. § 384 to apply, and the Court may approve the proposed distribution method without running afoul of C.C.P. § 384.

2. <u>Attorneys' Fees, Costs, and Plaintiff's Enhancement Payment</u>

At the time of seeking final settlement approval, Plaintiff will apply for a Class Representative Enhancement Payment in the amount of $5,000 for his service to the Settlement Class and his general release of all claims. Moen Decl., ¶ 27; *see* Settlement ¶¶ 2.C; 3.C.3; 6. Plaintiff's requested class representative Enhancement Payment is intended to recognize the significant time and effort that he expended on behalf of the Settlement Class, including searching for relevant documents for use in the lawsuit, providing factual information and relevant documents to his attorneys, holding various phone calls with his attorneys to discuss the claims in the lawsuit and Defendant's practices, discussing the status of the case and general case strategy with his attorneys on multiple occasions, providing valuable input to assist his attorneys in preparing for mediation, making himself available during the mediation, reviewing and providing input regarding the Settlement in his case, and otherwise assisting his attorneys in moving the case towards resolution, the significant risks Plaintiff undertook by serving as the named plaintiff, and the fact that he agreed to a general release of all claims subject to a waiver of Civil Code § 1542. Moen Decl., ¶ 27; Cain Decl., ¶¶ 4-5; Settlement, ¶ 2.C.

Class Counsel will also apply for an attorneys' fee award of up to one third of the MSA (currently estimated at $38,333.33), and up to $15,000 in reimbursement for actual litigation costs. Moen Decl., ¶ 28; *see* Settlement, ¶ 3.C.4. Plaintiff submits that the requested fee is fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent fee basis. Moen Decl., ¶ 28. Class Counsel has incurred substantial attorneys' fees conducting pre-filing investigation, analyzing Plaintiff's claims, conducting legal research and analysis, reviewing class documents and data produced by Defendant, extensively reviewing and evaluating the produced timekeeping and payroll records to build a comprehensive damages model, preparing for and attending mediation, negotiating and drafting the long-form Settlement Agreement, and Notice Packet documents, preparing this motion for preliminary approval, and otherwise litigating the case. *Id*. Class Counsel will also expend future attorney time attending the hearing on this Motion, overseeing the Notice process, drafting the Final Approval Motion and supporting documents, attending the Final Approval hearing, and completing other tasks, such as fielding questions from Settlement Class members. *Id*. Should the Court grant preliminary approval, Class Counsel will seek an award of attorneys' fees and verified litigation costs at the time of seeking final approval of the Settlement. *See Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 506 ("the percentage of fund method survives in California class action cases…"); *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 254.

IV. ARGUMENT

A. Preliminary Approval Is Warranted

California Rule of Court 3.769 conditions the settlement of a class action on court approval, which is generally evaluated under the federal standards applicable under Rule 23 of the Federal Rules of Civil Procedure. *See Reed v. United Teachers Los Angeles* (2012) 208

Cal.App.4th 322, 337 (stating that Rule 3.769 requires the trial court to determine "that the settlement is fair, reasonable and adequate to all concerned"); *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1026 (stating that Rule 23(e) requires the trial court to determine "whether a proposed settlement is fundamentally fair, adequate, and reasonable"). Settlement is the preferred means of dispute resolution, particularly in complex class action litigation. *In re Syncor ERISA Litigation* (9th Cir. 2008) 516 F.3d 1095, 1101. The Court's role in evaluating a proposed settlement is limited to ensuring that the agreement taken as a whole is fair and is not the product of fraud or collusion between the negotiating parties. *See e.g.*, *Hanlon*, *supra*, 150 F.3d at 1027. There is an initial presumption of fairness when the settlement agreement was negotiated at arm's length by class counsel. *See Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130.

1. <u>Standard for Preliminary Approval</u>

The Court should consider the following factors when making a fairness determination: "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, [and] the experience and views of counsel." *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801. "[T]he court is free to engage in a balancing and weighing of factors depending on the circumstances of each case." *Wershba*, *supra*, 91 Cal.App.4th at 245. As discussed below, the proposed Settlement is fair, adequate, and reasonable in light of the overall balance of factors.

a. <u>The Strength of Plaintiff's Case</u>

Class Counsel carefully vetted the claims at issue, reviewed Settlement Class member data spanning the entire Class Period and all relevant policy documents, and created a comprehensive damages model for Defendant's liability. Moen Decl., ¶ 29. Although Plaintiff steadfastly maintains that his claims are meritorious, Plaintiff acknowledges that there were substantial risks and uncertainty in proceeding with class certification and trial. As explained in detail in Section II.B., *supra*, Defendant presented numerous defenses to Plaintiff's claims, both on the merits and with respect to class certification. Although he was prepared to litigate these claims through class certification and ultimately through trial, it was far from certain that Plaintiff would be able to recover a greater amount should this matter proceed through trial. Thus, this factor supports preliminary approval.

b. <u>Risk, Expense, Complexity, and Duration of Further Litigation</u>

Although the Parties engaged in substantial informal discovery and information exchange prior to mediation, the Parties had agreed to refrain from engaging in formal written and deposition discovery until after exhausting their settlement efforts at mediation. Moen Decl., ¶ 29. Absent settlement, the Parties will be required to expend substantial time and resources conducting extensive formal written and deposition discovery. *Id*. Moreover, Plaintiff has not yet filed for class certification, and thus, absent settlement, the Parties would face the prospect of appeals in the wake of a disputed class certification ruling and/or an adverse summary judgment ruling. *Id*. Even if Plaintiff succeeded in certifying one or more classes, the Parties would incur considerably more attorneys' fees and costs through a possible decertification motion, trial, and possible appeal. *Id*. This Settlement avoids these considerable costs, risks, and the accompanying burden of continued litigation on the Court. Thus, this factor supports preliminary approval.

c. <u>Risk of Maintaining Class Action Status</u>

At the time of the proposed Settlement, Plaintiff had not filed his motion for class certification. Moen Decl., ¶ 30. Had the Court certified any claims, Plaintiff anticipated that Defendant would seek decertification. *Id*. There was also a risk that Defendant would engage in a *Pick-up-Stix* campaign that could either affect Plaintiff's ability to maintain the numerosity required to proceed as a class action, or significantly reduce the size of the putative class for a fraction of what Settlement Class members are receiving through this Settlement. *Id*.; *see Chindarah v. Pick Up Stix, Inc.* (2009) 171 Cal.App.4th 796. Therefore, absent the Settlement, there was a serious risk that Plaintiff would be unable to move forward on a class-wide basis. *Id*. Thus, this factor supports preliminary approval.

d. <u>Amount Offered in Settlement Given Realistic Value of Claims</u>

This proposed Settlement provides a fair and reasonable recovery for the Settlement Class in the face of disputed claims. After analyzing Defendant's produced data, Class Counsel conducted a class-wide exposure analysis, forecasting the total expected recovery as follows:

Off-the-Clock Violations: **$6,800**

Plaintiff estimates that Plaintiff and Settlement Class members spent approximately thirty minutes on average each workweek performing off-the-clock work. Moen Decl., ¶ 31. Plaintiff's data analysis determined that Settlement Class members worked an aggregate total of 1,334 workweeks during the Class Period. *Id*. Accordingly, Plaintiff calculated Defendant's maximum potential exposure for off-the-clock violations at approximately $19,022 (30 minutes per shift * 1,334 aggregate work shifts * $14.26 weighted minimum wage * 2 (liquidated damages)). *Id*.

As noted above, Defendant argues that it has always properly compensated Settlement Class members for all hours worked and that Plaintiff's off-the-clock claim is not appropriate for class treatment. Moen Decl., ¶ 31. Based on these defenses, Plaintiff discounted the maximum potential exposure by 45% for risk of non-certification, and by an additional 35% for the risk of losing on the merits, to arrive at an estimated exposure of $6,800.

Meal Period Violations: **$5,802**

Plaintiff's data analysis determined that Settlement Class members worked an aggregate total of 569 shifts during the Class Period that contained a facially unlawful meal period for which no premiums were paid. Moen Decl., ¶ 32. Accordingly, Plaintiff calculated Defendant's liability on this claim at $11,158 (569 meal period violations * $19.61 average premium). *Id*.

Defendant asserts that it maintained a lawful meal period practice throughout the Class Period and that any failure by an employee to take a lawful meal period was the result of employee choice rather than company policy, requiring individual inquiries into why each non-compliant meal period was untimely or missed on any given day. Moen Decl., ¶ 32. Given these defenses, Plaintiff discounted the maximum exposure by 20% for the risk of non-certification, and by an additional 35% for risk of losing on the merits, to arrive at an estimated exposure of $5,802. *Id*.

Rest Period Violations: **$13,986**

Plaintiff's data analysis revealed that non-exempt employees worked an aggregate total of 1,995 shifts in excess of 3.5 hours during the Class Period. Moen Decl., ¶ 33. Plaintiff asserts a rest period violation occurred on every work shift in excess of 3.5 hours. *Id*. Accordingly, Plaintiff calculated Defendant's maximum potential exposure on this claim at $39,121 (1,995 rest period violations * $19.61 average premium). *Id*. But as noted above, Defendant argues it has always authorized and permitted duty-free rest periods in accordance with California law and that this claim is not amenable to class certification given the individual inquiries required to determine whether and why each employee missed a rest period on any given shift. *Id*. Therefore, Plaintiff discounted the maximum exposure by 45% for the risk of non-certification, and by an additional 35% for risk of losing on the merits, to arrive at an estimated exposure of $13,986. *Id*.

Failure to Reimburse Violations: **$36,401**

Based on Plaintiff's data analysis, Settlement Class members worked a total of approximately 333 aggregate work-months during the Class Period. Moen Decl., ¶ 34. Plaintiff's research determined that $15 per month for reimbursement of work-related use of personal cellular phones is a reasonable percentage of Plaintiff's and the Settlement Class members' monthly cell phone expense. *Id*. Therefore, Plaintiff calculates Defendant's maximum exposure for unreimbursed cell phone expenses at approximately $4,995 ($15.00/month * 333 months). *Id.* Additionally, Plaintiff's data analysis determined that Defendant is liable for an additional $53,240 in underpaid mileage expense reimbursement and $11,100 in unpaid tool reimbursements. *Id.* As a result, Plaintiff calculates Defendant's maximum exposure for Defendant's failure to reimburse expenses at approximately $69,335 ($4,995 cell phone expenses + $11,100 tool expenses + $53,240 mileage underpayment). *Id.*

Defendant maintains that Settlement Class members were not required to use their personal cellular phones as part of their job, that Defendant paid a mileage reimbursement throughout the Class Period as confirmed by its payroll records, that Defendant provided all tools, and that this claim would require individual inquiries into whether Settlement Class members actually used their personal cellular phones or tools for work purposes. Moen Decl., ¶ 35. Therefore, Plaintiff discounted the maximum amount by 25% for risk of non-certification, and by an additional 30% to account for risk of losing on the merits or failure to recover the maximal amount sought, to arrive at an estimated exposure of approximately $36,401. *Id*.

Wage Statement Penalties: **$3,019**

According to the key data points provided by Defendant, approximately 17 Settlement

Class members are eligible for wage statement penalties, and a total of 181 wage statements were issued during the relevant period. Moen Decl., ¶ 36. Plaintiff calculated Defendant's maximum possible wage statement exposure as approximately $17,250 ((17 initial violations * $50 per pay period) + (164 subsequent pay periods * $100 per pay period)). *Id*. However, Defendant raised numerous defenses, including that the alleged violations, if any, were not "knowing and intentional," and that Plaintiff could not show that the Settlement Class members "suffer[ed] injury" as a result of any alleged violations. *Id*.; *see also Naranjo v. Spectrum Security Services, Inc.* (2024) 15 Cal.5th 1056, 1065 (holding that a reasonable, good faith belief that employer was in compliance with wage and hour laws precludes imposition of wage statement penalties). Defendant further argued that Plaintiff's underlying claims would fail, and, therefore, his wholly derivative wage statement claim would also fail. *Id*. Therefore, Plaintiff discounted the maximum exposure by 30% for the risk of non-certification of the underlying claims and 75% for a risk of being unsuccessful on the merits, including failing to establish willfulness under the "good faith" standard of *Naranjo*, for an estimated recovery of $3,019. *Id*.

<u>Waiting Time Penalties</u>: **$59,531**

Based on data provided by Defendant, approximately 92 Settlement Class members separated their employment during the relevant period applicable to this claim. Moen Decl., ¶ 37. As a result of Defendant's unlawful off-the-clock, meal period, and rest period practices, Plaintiff asserts that each of these employees are entitled to waiting time penalties. *Id*. Plaintiff therefore calculated Defendant's maximum exposure for this claim at approximately $432,952 (92 former employees * avg. penalty of $4,706 ($19.61 average hourly rate * 8 hours * 30 days)). *Id*. Defendant maintains that waiting time penalties are not appropriate because Plaintiff's claims fail on the merits, and given its good-faith defenses, Plaintiff cannot show that any failure to pay all final wages was willful. *Id*.; *see also Naranjo, supra*, 15 Cal.5th at 1065 (recognizing that good faith dispute over whether any wages are due will preclude imposition of waiting time penalties). Plaintiff discounted this claim by 45% for the risk of non-certification and by an additional 75% for risk of being unsuccessful on the merits, failing to establish willfulness, or that the Court would find a reasonable, good faith dispute over whether any wages are due precluding the imposition of waiting time penalties, for an estimated recovery of $59,531. *Id*.

<u>PAGA Penalties</u>: **$8,824**

Plaintiff alleges that PAGA civil penalties would be recoverable for each pay period in which he could prove an underlying Labor Code violation. Moen Decl., ¶ 38. According to Plaintiff's data analysis, the Settlement Class members worked a combined total of 181 pay periods during the PAGA liability period in which at least one of Plaintiff's alleged Labor Code violations occurred. *Id*. Plaintiff therefore calculates Defendant's maximum PAGA exposure at $18,100 (181 pay periods * $100 per violation). *Id*.; *see also Amaral, supra*, 163 Cal.App.4th at 1207 (finding "initial" violation rate applies until employer is notified that it is violating a Labor Code provision). However, these penalties are exclusively derivative of the underlying violations that Defendant vigorously disputes, both as to certification and the merits. Moen Decl., ¶ 38; *see also Green v. Lawrence Service Co.*, 2013 WL 3907506, *5, fn. 5 (C.D. Cal. 2013) (explaining that a PAGA claim's success was determined by the merits of its underlying claims). Plaintiff also recognizes that the Court has discretion to substantially reduce any award of PAGA penalties. Moen Decl., ¶ 38; *see also* Labor Code § 2699(e)(2); *Carrington, supra*, 30 Cal.App.5th at 529 (affirming reduction of PAGA penalties to $5 per initial violation); *Fleming v. Covidien Inc.*, Case No. ED CV 10-01487 RGK (OPx), 2011 WL 7563047, *4 (C.D. Cal. Aug. 12, 2011) (reducing PAGA penalties from $2.8 million to $500,000). Therefore, Plaintiff discounted the maximum figure by 25% for the risk that he would not prevail on the underlying claims, and by an additional 35% to account for the likelihood of the Court reducing PAGA penalties, to arrive at an estimated exposure of $8,824. Moen Decl., ¶ 38.

Using these estimated figures, Plaintiff estimated that the potential reasonable recovery for the Settlement Class would be approximately $134,363. Moen Decl., ¶ 39. Thus, the mediator's proposal of $115,000.00 represents approximately 85.59% of Plaintiff's reasonably forecasted class-wide recovery, which is well within the range approved by courts as being fair, reasonable and adequate, while also avoiding further expense and risk of proceeding towards class certification and trial. *Id*.; *see, e.g.*, *Altamirano v. Shaw Industries, Inc*, 2015 WL 4512372, *9 (N.D. Cal. 2015) ("Although 15% represents a modest fraction of the hypothetical maximum recovery estimated by Plaintiff, that figure is sufficient for the Court to grant preliminary approval..."); *Dunleavy v. Nadler* (9th Cir. 2000) 213 F.3d 454, 459 (approving settlement of "roughly one-sixth of the potential recovery"); *Linney v. Cellular Alaska Partnership* (9th Cir. 1998) 151 F.3d 1234, 1242 ("The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.") (internal quotations omitted). The decision to settle this matter was also informed by Plaintiff's review of Defendant's confidential financial records which suggested that even if Plaintiff was to prevail at trial and obtain a significant judgment, he would face significant difficulties in collecting on the judgment. Moen Decl., ¶ 39. Preliminary approval is appropriate since the Settlement provides tangible monetary relief to the Settlement Class members without the uncertainty, delay, and additional expense of further litigation.

e. <u>The Experience and Views of Counsel</u>

"Parties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation." *In re Pacific Enterprises Securities Litigation* (9th Cir. 1995) 47 F.3d 373, 378. Here, Plaintiff is represented by competent and experienced counsel who possesses extensive experience litigating wage and hour class actions from both the plaintiff and defense side, and who have been appointed as class counsel in numerous cases alleging similar claims. Moen Decl., ¶¶ 2-7; Declaration of Paul K. Haines ("Haines Decl."), ¶¶ 2-14; Declaration of Fletcher W. Schmidt ("Schmidt Decl."), ¶¶ 2-9; Declaration of Aden M. Khachadoorian ("Khachadoorian Decl."), ¶¶ 2-6. Class Counsel conducted an extensive review and analysis of Defendant's produced timekeeping and payroll records and drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiff's case. Moen Decl., ¶¶ 26, 29, 31-38. It was only after the completion of this work that the Parties attended mediation and ultimately accepted a mediator's proposal for a class-wide settlement of all claims at issue. *Id*. Thus, this factor supports preliminary approval.

2. <u>The Preliminary Approval Standard is Met</u>

At this stage, the Court can grant preliminary approval of the Settlement and direct that the Class Notice be given if the proposed Settlement: (1) falls within the range of possible approval; (2) appears to be the product of serious, informed, and non-collusive negotiations; and (3) has no obvious deficiencies. *See* Manual for Complex Litigation § 30.41 (3rd Ed. 1995); 4 Newberg on Class Actions § 11:24-25 (4th Ed. 2013).

a. The Settlement is Within the Range of Possible Approval

The Settlement reflects a fair and reasonable recovery for the Settlement Class members in light of the significant risks of litigation. The proposed Settlement provides compensation for contested claims, while only releasing the claims actually at issue in this litigation. Further, the average payment of $400.61 exceeds the average payments achieved in other wage and hour class action settlements that have been approved.[2] Thus, the proposed Settlement is within the range of possible approval such that notice should be provided to the Settlement Class members to consider the Settlement. The Court will have the opportunity to again assess the reasonableness of the Settlement after the Settlement Class members have had the opportunity to opt-out or object.

b. The Settlement Resulted from Informed and Non-Collusive Negotiations

This proposed Settlement is entitled to an initial presumption of fairness as it is the result of the exchange of pertinent information, including all relevant policies, employee timekeeping and payroll records, and key data points which were analyzed by Plaintiff and his counsel; arm's-length negotiations by counsel; mediation before an experienced wage and hour class action mediator who made a mediator's proposal; and additional negotiations until the terms of the long-form Settlement were agreed upon and finalized. Moen Decl., ¶ 26; *see also Kullar*, *supra*, 168 Cal.App.4th at 130. Thus, this factor supports preliminary approval.

c. The Settlement is Devoid of Obvious Deficiencies

The Settlement will provide tangible monetary relief to the Settlement Class members. Moreover, the amounts proposed for Plaintiff's class representative Enhancement Payment,

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[2] *See e.g.*, *Bercea v. AE Retail West*, Case No. 34-2012-00123947 (Sacramento County Super. Ct. May 9, 2012) (average net recovery of approximately $105); *Ressler v. Federated Department Stores, Inc.*, Case No. BC335018 (L.A. County Super. Ct. Jan. 2, 2009) (average net recovery of approximately $90); and *Schiller v. David's Bridal, Inc.*, Case No. 1:10-cv-00616-AWI-SKO, 2012 WL 2117001, at *17 (E.D. Cal. June 11, 2012) ("Class Members will receive an average of approximately 198.70 . . . [T]his is a substantial recovery where Defendants asserted compelling defenses to liability; Plaintiff also notes several similar actions where the gross recoveries per class member were less than $90 . . . [T]he Court finds that the results achieved are good").

settlement administration costs, attorneys' fees and costs to Class Counsel, and the LWDA's portion of PAGA civil penalties are all reasonable and appropriate. Because the Settlement is devoid of obvious deficiencies, this final factor supports preliminary approval.

B. <u>The Court Should Certify The Settlement Class for Settlement Purposes</u>

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

1. <u>The Proposed Class is Ascertainable and Numerous</u>

A class is "ascertainable" where the members "may be readily identified without unreasonable expense or time by reference to official [or business] records." *See Sevidal v. Target Corp.* (2010) 189 Cal.App.4th 905, 919 (alterations in original). Here, the proposed Settlement Class is defined as all current and former non-exempt employees who worked for Defendant in California at any time during the Class Period. *See* Settlement, ¶ 1. Settlement Class members can be easily identified using Defendant's employment and payroll records. Moen Decl., ¶ 11. Defendant represents that the Settlement Class consists of approximately 109 individuals, rendering it impracticable to bring all Settlement Class members before the Court. *Id*. Thus, the proposed Settlement Class satisfies numerosity. *See Collins v. Rocha* (1972) 7 Cal.3d 232, 234.

2. <u>Common Issues of Law and Fact Predominate</u>

The focus in a certification dispute is not on the merits of the case, but rather on what types of questions, "common or individual," are likely to arise in the action. *See Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 327. Here, Plaintiff's claims are predicated on Defendant's alleged failures to pay all minimum and overtime wages and meal and rest period premiums, reimburse all necessary business expenses, furnish accurate itemized wage statements, and pay all final wages owed upon separation of employment. These types of claims are commonly held to be proper for class certification. *See, e.g., Brinker, supra,* 53 Cal.4th at 1032-34 ("The theory of liability—that Brinker has a uniform policy, and that that policy…allegedly violates the law—is by its nature a common question eminently suited for class treatment.").

3. <u>The Claims of the Named Plaintiff are Typical</u>

The typicality requirement is satisfied where class representatives have claims that are typical of those of the rest of the class. *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1347. Here, like other Settlement Class members, Plaintiff was employed by Defendant as a non-exempt employee in California and was subject to Defendant's allegedly unlawful wage and hour policies/practices during the Class Period. Cain Decl., ¶¶ 2-3. Plaintiff was therefore impacted by the same challenged policies that allegedly injured the Settlement Class as a whole and was subject to the same defenses forwarded by Defendant as to the Settlement Class, and is therefore typical.

4. <u>Plaintiff and Class Counsel are Adequate to Represent the Class</u>

The adequacy of representation requirement examines conflicts of interest between named parties and the class(es) they seek to represent. *See Capitol People First v. Department of Developmental Services* (2007) 155 Cal.App.4th 676, 697. Here, Plaintiff and Class Counsel will adequately represent the Settlement Class members as there are no conflicts between the named Plaintiff and the Settlement Class members he seeks to represent, and Plaintiff possesses claims that are in line with those of the Settlement Class members. *See McGhee v. Bank of America* (1976) 60 Cal.App.3d 442, 450 (finding adequacy satisfied where there was no indication that the plaintiff's counsel were not qualified and the plaintiff had no interests antagonistic to those of the class). Class Counsel also has extensive experience in wage and hour class action litigation. *See* Moen Decl., ¶¶ 2-7; Haines Decl., ¶¶ 2-14; Schmidt Decl., ¶¶ 2-9; Khachadoorian Decl., ¶¶ 2-6.

C. <u>The Court Should Order Distribution Of The Proposed Class Notice</u>

This Court should order distribution of the proposed Class Notice to the Settlement Class members by first class mail, postage prepaid, using the last known mailing address information provided by Defendant. This manner of giving notice is the "best notice practicable" under the circumstances because it provides "individual notice to all members who can be identified through reasonable effort." *See Eisen v. Carlisle and Jacquelin* (1974) 417 U.S. 156, 173. The Parties propose that the settlement be administered by Phoenix Class Action Administration Solutions ("Phoenix"), an experienced class action settlement administrator. *See* Declaration of Jodey Lawrence. Settlement Class members' addresses will be ascertainable through Defendant's personnel records, and Defendant will provide all Settlement Class members' names, last known mailing addresses, phone numbers, social security numbers, and workweek data to Phoenix within ten (10) business days after of the Court signs an order preliminarily approving the Settlement. *See* Settlement, ¶ 9.A. Phoenix will run the Settlement Class members' addresses through the National Change of Address database and/or conduct skip traces to obtain current address information. *Id*., ¶¶ 9.B-C.

The content of the proposed Notice Packet satisfies California Rule of Court 3.766(d) because it advises the Settlement Class members' of the nature of the claims, basic contentions and denials of the Parties, the key terms of the Settlement, the uniform 60-day deadline to opt-out or object to the Settlement and the procedures by which to do so, explains the recovery formula and expected recovery amount for each Settlement Class member, and advises them that they will be bound by the terms of the Settlement if they do not request exclusion. *See* Moen Decl., Exhibit 2. The proposed Class Notice will also notify the Settlement Class of the Final Approval Hearing date, provide Class Counsel's contact information, and advise Settlement Class members that they may enter an appearance through counsel if they so wish. *Id.* This manner of giving notice satisfies California Rule of Court 3.766(e) as the most reliable and cost-effective method of reaching Settlement Class members. Additionally, because the proposed Settlement includes settlement of Plaintiff's representative PAGA claim, notice of the Settlement has been submitted to the LWDA. *See id.*, ¶ 12, Exhibit 4 (LWDA Settlement Submission); Proof of Service.

D. <u>The Court Should Set A Final Approval Hearing</u>

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

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V. **CONCLUSION**

For the foregoing reasons, Plaintiff respectfully requests that the Court preliminarily approve the proposed Settlement, provisionally certify the Settlement Class for settlement purposes, and enter the [Proposed] Order submitted concurrently herewith.

Dated: August 19, 2025

Respectfully submitted,
HAINES LAW GROUP, APC

By: ______________________
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