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on behalf of all others similarly situated

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES – STANLEY MOSK COURTHOUSE**
10 **(UNLIMITED JURISDICTION)**

11 GIUSEPPE LOSAVIO,

12 Plaintiff,

13 vs.

14 362NCD BEVERLY HILLS LLC; and DOES
15 1 to 25, inclusive,

16 Defendants.
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Case No.: 24STCV30619

*[Assigned for all purposes to Honorable
Doreen B. Boxer, Judge]*

**NOTICE OF MOTION AND
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFF’S UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

[Filed Concurrently with Declaration of
Harout Messrelian, Declaration of Giuseppe
Losavio, Proposed Order]

Hearing Date: August 24, 2026

Time: 8:30 a.m.

Department: 311

Reservation ID: 208968099457

Complaint Filed: November 20, 2024

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

2 PLEASE TAKE NOTICE that on August 24, 2026 at 8:30 a.m., or as soon thereafter as
3 the matter may be heard, in Department 311 of the above-entitled court, located at 111 N Hill St,
4 Los Angeles, CA 90012, Plaintiff Giuseppe Losavio (“Plaintiff”) will and hereby does move this
5 Court for an order: (1) provisionally certify the below-defined class for settlement purposes only
6 under Code of Civil Procedure section 382; (2) preliminarily approve the signed Settlement
7 Agreement of Class Action and Representative Action Claims (the “Settlement”)¹; (3)
8 preliminarily appoint Plaintiff as class representative; (4) appoint Harout Messrelian of
9 Messrelian Law Inc. as Settlement Class Counsel; (5) approve the proposed notice procedures
10 and related forms; and (6) schedule a final approval hearing.

11 The “Settlement Class Members” are all current and former non-exempt California
12 employees of Defendant during the Settlement Class Period. “Settlement Class Period” means
13 the time period from December 25, 2023, through the date of preliminary approval, or an earlier
14 date pursuant to the Escalator Election. The “PAGA Employees” are all the Settlement Class
15 Members who worked at any time in California during the PAGA Period. “PAGA Period” means
16 the time period from December 25, 2023, to the date of preliminary approval, or an earlier date
17 pursuant to Escalator Election.

18 This Motion is made on the following grounds: (1) for settlement purposes, the
19 Settlement Class Members meet the requirements for class certification under Code of Civil
20 Procedure section 382; (2) the Settlement warrants preliminary approval based on all indicia for
21 fairness, reasonableness, and adequacy; (3) for settlement purposes, Plaintiff is adequate to serve
22 as class representative; (4) Plaintiff’s attorneys are adequate to serve as Settlement Class
23 Counsel; (5) the proposed notice procedures, and related forms, fully comport with due process
24 and adequately apprise Settlement Class Members of their rights; and (6) a final approval hearing
25 must be scheduled to allow Settlement Class Members an opportunity to be heard regarding the
26 Settlement and to give it finality.

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¹ The Settlement is attached as Exhibit (“Ex.”) 1 to the Declaration of Harout Messrelian, which is submitted
herewith under a separate cover.

1 The Motion is based on this Notice of Motion and Motion, the attached Memorandum
2 of Points and Authorities, and the Declarations of Harout Messrelian and Giuseppe Losavio,
3 the exhibits, all papers and pleadings on file with the Court in this action, all matters judicially
4 noticeable, and on such oral and documentary evidence as may be presented in connection with
5 the hearing on the Motion.

6
7 DATED: July 21, 2026

MESSRELIAN LAW INC.

8
9 *By/s/Harout Messrelian*

10 Harout Messrelian, Esq.
11 Attorney for Plaintiff
Giuseppe Losavio

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	FACTUAL AND PROCEDURAL BACKGROUND	2
A.	PLAINTIFF’S CLAIMS AND PROCEDURAL HISTORY	2
B.	MEDIATION EFFORTS	4
III.	OVERVIEW OF SETTLEMENT.....	4
A.	SETTLEMENT CLASS DEFINITION	4
B.	MONETARY TERMS	5
C.	RELEASE OF CLAIMS.....	9
D.	CLASS NOTICE AND SETTLEMENT ADMINISTRATION	11
1.	Procedures for Settlement Class Member Disputes.....	13
2.	Procedures for Objecting to the Settlement	13
3.	Procedures for Opting Out.....	14
E.	UNCASHED CHECKS.....	16
IV.	CERTIFICATION OF THE PROPOSED CLASS IS APPROPRIATE	16
A.	THE SETTLEMENT CLASS IS OBJECTIVELY ASCERTAINABLE	16
B.	MEMBERSHIP OF THE SETTLEMENT CLASS IS SUFFICIENTLY NUMEROUS	17
C.	SETTLEMENT CLASS MEMBERS SHARE A WELL-DEFINED COMMUNITY OF INTEREST	17
D.	PLAINTIFF IS TYPICAL OF THE SETTLEMENT CLASS	18
E.	PLAINTIFF WILL ADEQUATELY REPRESENT THE SETTLEMENT CLASS	19
F.	CLASS ACTION TREATMENT IS THE SUPERIOR MEANS FOR RESOLVING THE CLAIMS OF THE SETTLEMENT CLASS MEMBERS	20
V.	THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE, AND THE COURT SHOULD GRANT PRELIMINARY APPROVAL	20
A.	LEGAL STANDARD	20
B.	THE SETTLEMENT IS PRESUMPTIVELY FAIR	21
C.	THE SETTLEMENT SATISFIES THE <i>KULLAR</i> FACTORS FOR APPROVAL.....	21
1.	Evaluation of Plaintiff’s Case	22
2.	Allocation of the PAGA Payment	32

1	3.	Presence of Governmental Participant.....	33
2	4.	Reaction of Settlement Class Members to Proposed Settlement.....	33
3	VI.	THE SETTLEMENT FAIRLY, REASONABLY, AND ADEQUATELY	
4		COMPENSATES SETTLEMENT CLASS MEMBERS BECAUSE EACH	
5		QUALIFIED CLASS MEMBER WILL BE PAID BASED ON RESPECTIVE	
6		POTENTIAL INJURY COMPARED TO OTHER QUALIFIED CLASS MEMBERS	34
7	VII.	ALLOCATION FOR SETTLEMENT CLASS COUNSEL’S ATTORNEYS’ FEES	
8		AND COSTS IS APPROPRIATE	34
9	VIII.	THE SERVICE AWARD TO PLAINTIFF IS FAIR, ADEQUATE, AND	
10		REASONABLE AND SHOULD BE PRELIMINARILY APPROVED.....	36
11	IX.	THE PROPOSED SETTLEMENT ADMINISTRATION COSTS ARE FAIR AND	
12		REASONABLE AND SHOULD BE PRELIMINARILY APPROVED.....	36
13	X.	THE PROPOSED NOTICE AND SETTLEMENT ADMINISTRATION PLAN	
14		SHOULD BE APPROVED BECAUSE IT IS REASONABLY CALCULATED TO	
15		GIVE ACTUAL NOTICE TO SETTLEMENT CLASS MEMBERS AND	
16		SUFFICIENT TIME TO EXERCISE THEIR RIGHTS.....	37
17	XI.	CONCLUSION.....	38

TABLE OF AUTHORITIES

CASES

<i>Arenas v. El Torito Rests., Inc.</i> 183 Cal. App. 4th 723 (2010)	17
<i>Bell v. Farmers Ins. Exchange</i> 115 Cal. App. 4th 715 (2004)	36
<i>Bowles v. Superior Court</i> 44 Cal. 2d 574 (1955)	17
<i>Brinker Restaurant Corp. v. Superior Court</i> 53 Cal. 4th 1004 (2012)	24
<i>Capitol People First v. Dept. of Developmental Servs.</i> 155 Cal. App. 4th 676 (2007)	17
<i>Carrington v. Starbucks Corp.</i> 30 Cal. App. 5th 504 (2018)	33
<i>Cartt v. Superior Court</i> 50 Cal. App. 3d 960 (1975)	37
<i>Chu v. Wells Fargo Invs., LLC</i> No. C-05-4526-MHP, 2011 WL 672645 (N.D. Cal. Feb. 16, 2011)	33
<i>Classen v. Weller</i> 145 Cal. App. 3d 27 (1983)	18
<i>Daar v. Yellow Cab Co.</i> 67 Cal. 2d 695 (1976)	17
<i>Dunk v. Ford Motor Co.</i> 48 Cal. App. 4th 1794 (1996)	16, 21
<i>Hebbard v. Colgrove</i> 28 Cal. App. 3d 1017 (1972)	17
<i>Hopson v. Hanesbrands Inc.</i> No. CV-08-0844 EDL, 2009 WL 928133 (N.D. Cal. Apr. 3, 2009)	33
<i>Hopson v. Hanesbrands, Inc.</i> 2008 WL 3385452 (N.D. Cal. Aug. 8, 2008)	33
<i>Hypolite v. Carlson</i> 52 Cal. App. 3d 566 (1975)	16
<i>In re Activision</i> 723 F. Supp. 1373 (N.D. Cal. 1989)	35
<i>In re Ampicillin Antitrust Litig.</i> 526 F. Supp. 494 (D.D.C. 1981)	35

1	<i>In re Cendant Corp., Derivative Action Litig.</i>	
2	232 F. Supp. 2d 327 (D.N.J. 2002)	32
3	<i>In re Pacific Enterprises</i>	
4	47 F. 3d 373 (9th Cir. 1995).....	35
5	<i>Ketchum v. Moses</i>	
6	24 Cal. 4th 1122 (2001)	35
7	<i>Kullar v. Foot Locker Retail, Inc.</i>	
8	168 Cal. App. 4th 116 (2008)	21, 22
9	<i>Laffitte v. Robert Half Intl, Inc.</i>	
10	1 Cal. 5th 480 (2016)	35
11	<i>Laguna v. Coverall N. Am., Inc.</i>	
12	753 F.3d 918 (9th Cir. 2014).....	32
13	<i>Lazarin v. Pro Unlimited, Inc.</i>	
14	2013 WL 3541217 (N.D. Cal., July 11, 2013).....	33
15	<i>Lealao v. Beneficial Cal., Inc.</i>	
16	82 Cal. App. 4th 19 (2000)	35
17	<i>McGhee v. Bank of America</i>	
18	60 Cal. App. 3d 442 (1976)	19
19	<i>Naranjo v. Spectrum Sec. Servs., Inc.</i>	
20	40 Cal. App. 5th 444 (2019)	29
21	<i>Nordstrom Com. Cases</i>	
22	186 Cal. App. 4th 576 (2010)	33
23	<i>Richmond v. Dart Industries, Inc.</i>	
24	29 Cal. 3d 462 (1981)	16
25	<i>Rose v. City of Hayward</i>	
26	126 Cal. App. 3d 926 (1981)	16
27	<i>Sav-On Drug Stores, Inc. v. Superior Court</i>	
28	34 Cal. 4th 319 (2004)	17
	<i>Thurman v. Bayshore Transit Management, Inc.</i>	
	203 Cal. App. 4th 1112 (2012).....	31
	<i>Trotsky v. Los Angeles Fed. Sav. & Loan Assn.</i>	
	48 Cal. App. 3d 134 (1975)	37, 38
	<i>Van Vranken v. Atlantic Richfield Co.</i>	
	901 F. Supp. 294 (N.D. Cal. 1995)	36
	<i>Washington Mut. Bank, FA v. Superior Court</i>	
	248 Cal. 4th 906 (2001)	17
	<i>Washington v. Joe's Crab Shack</i>	
	271 F.R.D. 629 (N.D. Cal. 2010).....	24

1	STATUTES	
2	Cal. Civ. Proc. Code § 382.....	16, 20
3	Lab. Code § 218.5.....	36
4	Lab. Code § 218.6.....	36
5	Lab. Code § 2699(e)(2).....	31
6	Lab. Code § 2699(l)(2)	33
7	RULES	
8	Cal. Rules of Court, rule 3.766(d)	38
9	Cal. Rules of Court, rule 3.769	21
10	Cal. Rules of Court, rule 3.769(f)	38
11	TREATISES	
12	Alba Conte & Herbert B. Newberg, <i>Newberg on Class Actions</i> § 3.29 (4th ed. 2002).....	19
13		
14		
15		
16		
17		
18		
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 On or around December 11, 2025, Plaintiff GIUSEPPE LOSAVIO, on behalf of himself
4 all others similarly situated (“Plaintiff” or “Named Plaintiff”), and Defendant 362NCD
5 BEVERLY HILLS LLC (“Defendant”) signed a Settlement Agreement of Class Action and
6 Representative Action Claims; which was amended and re-executed on May 15, 2026 (the
7 “Settlement”). The Settlement provides for a Gross Settlement Amount (“GSA”) of \$175,000.00
8 in compromise of all disputed claims on behalf of all current and former non-exempt, hourly
9 paid employees who worked for Defendant in California at any time during the Settlement Class
10 Period from December 25, 2023, through the date of preliminary approval, or an earlier date
11 pursuant to or an earlier date pursuant to the Escalator Election (which shall be defined below in
12 Section III.A).

13 Plaintiff respectfully requests for this Court to (1) provisionally certify the below-defined
14 Class for settlement purposes only under Code of Civil Procedure section 382; (2) preliminarily
15 approve the Settlement; (3) preliminarily appoint Plaintiff as class representative; (4) appoint
16 Harout Messrelian of Messrelian Law Inc. as Settlement Class Counsel; (5) approve the
17 proposed notice procedures and related forms; and (6) schedule a final approval hearing.

18 This Court should grant Plaintiff’s motion because: (1) for settlement purposes, the
19 Settlement Class Members meet the requirements for class certification under Code of Civil
20 Procedure section 382; (2) the Settlement warrants preliminary approval based on all indicia for
21 fairness, reasonableness, and adequacy; (3) for settlement purposes, Plaintiff is adequate to serve
22 as class representative; (4) Plaintiff’s attorneys are adequate to serve as Settlement Class
23 Counsel; (5) the proposed notice procedures, and related forms, fully comport with due process
24 and adequately apprise Settlement Class Members of their rights; and (6) a final approval hearing
25 must be scheduled to allow Settlement Class Members an opportunity to be heard regarding the
26 Settlement and to give it finality.

27 Accordingly, for the reasons detailed below, this Court should grant Plaintiff’s Motion in
28 its entirety and preliminarily approve the Settlement.

1 **II. FACTUAL AND PROCEDURAL BACKGROUND**

2 Defendant first employed Plaintiff on or around January 2024 as a waiter at its restaurant
3 known as Cipriani’s Beverly Hills. (Declaration of Harout Messrelian [“Messrelian Decl.”] ¶ 4).
4 Plaintiff’s employment with Defendant ended on or around April 2024. *Id.* Throughout his
5 employment, Plaintiff was classified as an hourly, non-exempt employee. *Id.*

6 **A. Plaintiff’s Claims and Procedural History**

7 Plaintiff alleges that, during the relevant time period, Defendant engaged in common and
8 uniform policies and practices that resulted in wage-and-hour violations affecting Plaintiff and
9 other similarly situated employees. (Messrelian Decl. ¶ 5). Specifically, Plaintiff alleges that
10 Defendant failed to pay Plaintiff and other hourly, non-exempt employees for all hours worked,
11 including the statutory minimum wage for all hours worked, “off the clock” work, and overtime
12 compensation, in violation of Labor Code sections 1194, 1194.2, 1197, 1197.1, and 510. *Id.*

13 Plaintiff further alleges that Defendant failed to properly compensate employees for
14 overtime worked, including by failing to account for off-the-clock work and by failing to include
15 bonuses and incentive payments in the calculation of employees’ regular rates of pay for
16 overtime and premium pay purposes, as required under California law. (Messrelian Decl. ¶ 6).
17 In addition to these unpaid wage violations, Plaintiff alleges Defendant failed to provide legally
18 compliant meal and rest periods in violation of Labor Code sections 226.7 and 512 as well as
19 Wage Order No. 5-2001 and applicable Industrial Welfare Commission provisions. *Id.* According
20 to Plaintiff, Defendant did not consistently relieve employees of all duties during rest and meal
21 periods, and staffing practices and workplace culture made it difficult or impossible for
22 employees to take timely, uninterrupted breaks. *Id.*

23 Moreover, Plaintiff alleges Defendant failed to provide accurate and complete itemized
24 wage statements in violation of Labor Code section 226(a), including failing to accurately list
25 hours worked, applicable rates of pay, overtime compensation, premium wages, gross and net
26 wages, employer information, and other required information. (Messrelian Decl. ¶ 7). Plaintiff
27 also alleges Defendant failed to timely pay all wages during employment and upon separate in
28 violation of Labor Code section 204 and 203 and keep accurate and complete payroll records in

1 violation of Labor Code section 1174(d). *Id.* In addition, Plaintiff alleges Defendant failed to
2 reimburse employees for necessary business expenses, including cell phone usage, mileage,
3 uniforms, tools, safety equipment, medical examinations, deposits, and other work-related costs,
4 in violation of Labor Code sections 2800 and 2802. *Id.*

5 Finally, Plaintiff alleges Defendant failed to provide proper sick leave and sick pay in
6 violation of Labor Code sections 233 and 246. (Messrelian Decl. ¶ 8). Plaintiff also alleges
7 Defendant engaged in unfair competition in violation of Business and Professions Code section
8 17200. *Id.*

9 With letters dated April 4, 2024, and amended on January 8, 2026, Plaintiff notified
10 Defendant and the California Labor and Workforce Development Agency (“LWDA”), pursuant
11 to the California Private Attorneys General Act of 2004, California Labor Code sections 2698,
12 et seq. (“PAGA”), of alleged Labor Code violations committed by Defendant. (Messrelian Decl.
13 ¶ 9, Exhibit “C” to the Settlement Agreement). On November 20, 2024, Plaintiff filed a PAGA
14 Complaint in the Los Angeles Superior Court, Case No. 24STCV30619. (Messrelian Decl. ¶ 9).
15 Defendant filed its Answer to the Complaint on May 8, 2025. *Id.* Then, on February 4, 2026, and
16 pursuant to a settlement, Plaintiff amended the Complaint to add class claims on behalf of
17 himself and others similarly situated alleging Defendant’s failures to pay all wages earned for all
18 hours worked at the correct rates of pay, provide rest breaks, provide meal periods, indemnify,
19 pay wages when employment ends, and pay wages owed every pay period, in addition to
20 violation of Labor Code section 227.3, civil penalties under the California Private Attorneys
21 General Act of 2004 (“PAGA”), and unfair competition under Business and Professions Code
22 section 17200, *et seq.* (“Operative Complaint”). (Messrelian Decl. ¶ 9, Exhibit “B” to the
23 Settlement Agreement).

24 Defendant denies the allegations in the Operative Complaint and Amended PAGA
25 Notice, denies any failure to comply with the laws identified in the Operative Complaint and
26 Amended PAGA Notice, and denies any and all liability for the causes of action alleged therein..
27
28

1 **B. Mediation Efforts**

2 After the commencement of the action, the Parties met and conferred and agreed that it
3 may be in their mutual interests to explore resolution of Plaintiff’s claims without engaging in
4 prolonged and costly litigation. The Parties participated in informal discovery and exchanged
5 information relevant to the claims and defenses in the action, including written policies,
6 timekeeping and payroll records, and other employment-related documents. (Messrelian Decl. ¶
7 10).

8 On May 21, 2025, the Parties participated in a private mediation with Honorable Ann
9 Jones, a neutral and experienced mediator. *Id.* The mediation was conducted at arm’s length and
10 in good faith. *Id.* Following negotiations facilitated by the mediator, the Parties reached
11 agreement on the material terms of a proposed class and PAGA settlement. *Id.* Defendant
12 continues to deny any liability or wrongdoing of any kind. *Id.*

13 After further negotiations, the Parties finalized a written settlement agreement. Plaintiff
14 now submits the proposed Settlement to the Court for preliminary approval. *Id.* The Parties seek
15 to fully and finally resolve all claims asserted or that could have been asserted in the Action,
16 subject to Court approval. *Id.*

17 **III. OVERVIEW OF SETTLEMENT**

18 **A. Settlement Class Definition**

19 The “Settlement Class Members” are all current and former non-exempt California
20 employees of Defendant during the Settlement Class Period. (*see* Settlement, ¶ 24). “Settlement
21 Class Period” means the time period from December 25, 2023, through the date of preliminary
22 approval, or an earlier date pursuant to the Escalator Election². (*see* Settlement, ¶ 25). The
23 “PAGA Employees” are the Settlement Class Members who worked at any time in California
24 during the PAGA Period. (*see* Settlement, ¶ 15). Per the Escalator Election, Defendant elected to
25 end the date of the Settlement Class Period and PAGA Period on July 27, 2025, wherein the total

26 ² “Escalator Election” means the amount Defendant will pay in addition to the Gross Settlement Amount if the total
27 number of Workweeks exceeds 8,312 Workweeks by 10% or more (e.g., the Workweek count is greater than 9,143
28 Workweeks) and if Defendant elects to (1) increase the Gross Settlement Amount proportionately for each additional
Workweek over 9,143 Workweeks rather than (2) select an end date for the Settlement Class Period and PAGA
Period wherein the total number of Workweeks is less than or equal to 9,143 Workweeks (“Escalator Amount”).
(*see* Settlement, ¶¶ 5 and 27).

number of workweeks is less than or equal to 9,143 workweeks. “PAGA Period” means the time period from December 25, 2023, to the date of preliminary approval, or an earlier date pursuant to Escalator Election. (*see* Settlement, ¶ 19). The “Qualified Class Members” are all Settlement Class Members who did not opt out of the Settlement Agreement and who will receive a share of the Net Settlement Amount. (*see* Settlement, ¶ 20).

B. Monetary Terms

In consideration for settlement of the Class Action, Defendant agrees to pay the Gross Settlement Amount (“GSA”) total of One Hundred and Seventy-Five Thousand Dollars and Zero Cents (\$175,000.00). The GSA will be all-inclusive and includes:

- an Enhancement Award to Plaintiff for up to \$10,000.00;
- Settlement Class Counsel’s Attorney’s Fees of not more than One-Third (1/3) of the GSA, including the Escalator Amount, if any, and for litigation costs not to exceed \$12,500.00;
- \$10,000.00 for the PAGA Payment under Labor Code sections 2699, *et seq.* (Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), representing 75% of the PAGA Payment, shall be paid to the LWDA. Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00), representing 25% of the penalties paid pursuant to PAGA, shall be distributed to the PAGA Employees as PAGA Employee Payments);
- Settlement Administration costs of not more than \$6,490.00; and
- all payments to Qualified Class Members and PAGA Employees.

Defendant shall not be required to pay any additional monies beyond the amount of the Gross Settlement Amount other than the employer-side payroll taxes and the Escalator Amount, if any. Further, no portion of the Gross Settlement Amount and the Escalator Election, if any, shall revert to Defendant, and any amount of the Gross Settlement Amount and the Escalator Election, if any, not required for paying the above-referenced amounts shall be paid to the Qualified Class Members on a pro rata basis according to the formula contained herein. (*see* Settlement, ¶ 39). The Parties agree that the Gross Settlement Amount, including the Escalator

Amount, if any, will qualify as a settlement fund pursuant to the requirements of section 468(B)(g) of the Internal Revenue Code of 1986, as amended, and section 1.468B-1 et seq. of the income tax regulations. Furthermore, the Settlement Administrator is hereby designated as the “Administrator” of the qualified settlement funds for purposes of section 1.46B-2(k) of the income tax regulations. As such, all taxes imposed on the gross income of the Gross Settlement Amount, including the Escalator Amount, if any, and any tax-related expenses arising from any income tax return or other reporting document that may be required by the Internal Revenue Service, or any state or local taxing body will be paid from the Gross Settlement Amount. (*see* Settlement, ¶ 40).

Individual Payment Calculations: After the deduction of the amounts approved for the Enhancement Award to the Named Plaintiff, the PAGA Payment, the Settlement Administrator’s costs, Settlement Class Counsel’s fees and expenses from the Gross Settlement Amount, including the Escalator Amount, if any, the remainder shall be referred to as the Net Settlement Amount (“NSA”):

Payments from the Net Settlement Amount:

- The Net Settlement Amount shall be divided among the Qualified Class Members on a pro-rata basis, based upon the following: (i) Each Qualified Class Member’s workweek count, which shall be the sum of the total number of Workweeks the Qualified Class Member worked during the Settlement Class Period; (ii) Divided by the combined sum of all Qualified Class Members’ workweek counts; and (iii) Multiplied by the value of the Net Settlement Amount.

(*see* Settlement, ¶ 42).

Subject to the Court’s Approval, up to a maximum of Ten Thousand Dollars and Zero Cents (\$10,000.00) shall be allocated from the Gross Settlement Amount as the PAGA Payment. Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), representing 75% of the PAGA Payment, shall be paid to the LWDA. Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00), representing 25% of the penalties paid pursuant to PAGA, shall be distributed to the PAGA Employees as PAGA Employee Payments:

Payments from the PAGA Payment:

- To arrive at the PAGA Employee Payments, the portion of the PAGA Payment allocated to the PAGA Employees shall be divided among the PAGA Employees

on a pro-rata basis, based upon the following: (i) Each PAGA Employee's pay period count, which shall be the sum of the total number of pay periods the PAGA Employee worked during the PAGA Periods; (ii) Divided by the combined sum of all PAGA Employees' pay period counts; and (iii) Multiplied by the value of the portion of the PAGA Payment allocated to the PAGA Employees.

(see Settlement, ¶ 43).

The Net Settlement Amount distributed to each Qualified Class Member will be allocated as follows: twenty percent (20%) as alleged unpaid wages and eighty percent (80%) as alleged penalties and unpaid interest. The Settlement Administrator will issue an IRS W-2 to each Qualified Class Member for the portion of each Individual Settlement Payment allocated as alleged unpaid wages and subject to applicable tax withholdings. The Settlement Administrator shall issue an IRS Form 1099-MISC to each Qualified Class Member for the portion of each Individual Settlement Payment allocated as alleged unpaid non-wage penalties and interest and not subject to payroll tax withholdings. The Parties further agree that the PAGA Payment distributed to each PAGA Employee will be treated entirely as civil penalties and will be reported as such to each PAGA Employee on an IRS Form 1099-MISC, if applicable. (see Settlement, ¶ 42d).

The Settlement embodied in this Stipulation of Settlement shall become effective when all of the following events have occurred ("Effective Date"):

- 1) this Stipulation of Settlement has been executed by Named Plaintiff, Defendant, Settlement Class Counsel, and Defendant's Counsel;
- 2) the Court has given preliminary approval to the Settlement;
- 3) the Notice³ has been sent to the Settlement Class Members, providing them the opportunity to object to the Settlement, and the opportunity to opt out of the Settlement;
- 4) the Notice has been sent to the LWDA;
- 5) the Court has held a formal fairness hearing and entered the Court's Final Order and

³ "Notice" means the Notice of Pendency of Class Action in substantially the form attached to the Settlement as Exhibit "A", and as approved by the Court. (see Settlement, ¶ 14).

Judgment⁴, and notice of entry of judgment is filed; and

6) the later of the following events: five (5) calendar days after the period for filing any appeal, writ, or other appellate proceeding opposing the Final Order and Judgment has elapsed without any appeal, writ, or other appellate proceeding having been filed, *i.e.*, 65 days from the date the Court grants final approval and enters judgment, and notice of entry of judgment is served; or, if any appeal, writ, or other appellate proceeding opposing final approval has been filed within that timeframe; five (5) business days after any appeal, writ, or other appellate proceedings opposing the Settlement has finally and conclusively dismissed with no right to pursue further remedies or relief.

(*see* Settlement, ¶ 38).

Within thirty (30) calendar days of the Effective Date, Defendant shall transfer to the Settlement Administrator an amount equal to the Gross Settlement Amount and the Escalator Amount, if any, plus the employer's share of payroll taxes. The delivery of these sums and the employer's share of payroll taxes to the Settlement Administrator shall constitute full and complete discharge of the entire obligation of Defendant under this Settlement. Once Defendant has made such payments, it will be deemed to have satisfied all terms and conditions under this Settlement, shall be entitled to all protections afforded to Defendant under this Settlement, and shall have no further obligations under the terms of the Settlement regardless of what occurs with respect to those sums. (*see* Settlement, ¶ 41).

Within ten (10) calendar days of the transfer of the Gross Settlement Amount, including the Escalator Amount, if any, to the Settlement Administrator, and only upon the Effective Date being met, the Settlement Administrator shall disburse: (1) the Net Settlement Amount to be paid to Qualified Class Members; (2) the Attorney Fee Award and Cost Award to Settlement Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Enhancement Award paid to the Named Plaintiff, as approved by the Court; (4) Administrative Costs, as approved by the

⁴ "Final Order and Judgment" means the Final Order Approving Class Action and PAGA Settlement and Judgment in a form to be agreed upon by the Parties and approved by the Court. (*see* Settlement, ¶ 8).

1 Court; and (5) the PAGA Payment to the LWDA and PAGA Employees, as approved by the
2 Court. (*see* Settlement, ¶ 42e).

3 **C. Release of Claims**

4 Qualified Class Members' Released Claims: Upon the date the Settlement is funded, the
5 Qualified Class Members will release and discharge Defendant and the Released Parties from
6 the claims asserted in the Operative Complaint and Named Plaintiff's Amended PAGA Notice
7 predicated on the factual allegations of the Operative Complaint during the Settlement Class
8 Period and PAGA Period. (*see* Settlement, ¶ 63).

9 Upon final approval by the Court, the claims released by the Qualified Class Members
10 will include:

11 The claims alleged in the Operative Complaint, including, but not limited to: (1)
12 failure to pay overtime wages; (2) failure to pay all wages and minimum wages;
13 (3) failure to provide meal periods; (4) failure to provide rest periods; (5) failure
14 to pay any and all meal and/or rest premiums; (6) failure to timely furnish
15 accurate itemized wage statements; (7) failure to timely pay wages during
16 employment; (8) failure to pay unused vested paid vacation time; (9) waiting time
17 penalties; (10) failure to maintain accurate and complete payroll records; (11)
18 unlawful deductions from tips; (12) failure to provide proper and accurate sick
19 pay; (13) failure to provide suitable seating and rest break facilities; (14) failure
20 to reimburse business expenses; (15) failure to provide cooldown periods; (16)
21 violation of Business and Professions Code § 17200, *et seq.*; and (17) violation
22 of the California Private Attorneys General Act of 2004 (Labor Code §§ 2698, *et*
23 *seq.*); and any claims that could have been pled under federal law, including the
24 FLSA (including but not limited to alleged violations of 29 U.S.C. § 207, 211 &
25 29 C.F.R. § 516.2(b)) (pursuant to *Villacres v. ABM Indus. Inc.*, 189 Cal. App. 4th
26 562, 586-590 (2010); *Rangel v. PLS Check Cashers of CA*, 899 F.3d 1106, 1112
27 (9th Cir. 2018), which confirm an opt-in process is not required to obtain a release
28 of FLSA claims in a state court class action settlement), California common law,
including under and the California Business and Professions Code concerning the
Plaintiff or the putative class, and claims for interest, penalties (including but not
limited to waiting time penalties), as well as any claims under the California
Labor Code for violations of Labor Code sections 96, 98.6, 200, 201, 201.3,
201.5, 201.7, 202, 203, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206.5,
210, 212, 221, 222, 222.5, 223, 226, 226.2, 226.3, 226.7, 226.8, 227.3, 231, 232,
232.5, 233, 234, 245, 246, 351, 353, 404, 432, 432.3, 432.5, 432.7, 432.8, 450,
510, 511, 512, 551, 552, 558, 558.1, 1101, 1102.5, 1174, 1174.5, 1182.12, 1194,
1194.2, 1195.5, 1197, 1197.1, 1197.5, 1198, 1198.5, 1199, 1290, 1292, 1293,
1294.1, 1301, 1391, 1475, 1527, 1695.55, 1696.5, 1700.31, 1771, 1774, 1775,
1776, 1811, 1815, 2673, 2698 *et seq.*, 2699, 2699.3, 2699.5, 2800, 2802, 2810.5,
3366, 3395, 3457, 8397.4, applicable IWC Wage Orders; and California Code of
Regulations, Title 8, sections 11000 *et seq.* and 3395, including claims for
injunctive relief, declaratory relief, restitution, as well as those claims predicated

on the same or similar facts and/or claims alleged in the Lawsuit or PAGA Notice. (see Settlement, ¶ 62a).

In addition, to the extent required by law, the cashing of the settlement check by the Qualified Class Member shall be deemed to be an opt-in for purposes of releasing Released Parties from any claims predicated under the FLSA as outlined in the Operative Complaint. The Administrator shall include a legend on the settlement check stating, “By cashing this check, I am opting into the settlement in *Giuseppe Losavio v. 362NCD Beverly Hills LLC*, Los Angeles County Superior Court, Case No. 24STCV30619, under the federal Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b), and releasing the Released Claims described in the Settlement Agreement.” (see Settlement, ¶ 62b).

PAGA Employees’ Released Claims: Upon the date the Settlement is funded, Named Plaintiff and the PAGA Employees hereby do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all of the Released Parties of and from any and all claims for violation of the California Private Attorneys General Act of 2004 (Labor Code § 2698 et seq.), (“PAGA claims”) as alleged in the Operative Complaint. (see Settlement, ¶ 63).

The released claims include those alleged in the Amended PAGA Notice sent to the LWDA by Named Plaintiff that arose at any time during the PAGA Period, but not limited to:

(1) failure to pay overtime wages; (2) failure to pay all wages and minimum wages; (3) failure to provide meal periods; (4) failure to provide rest periods; (5) failure to timely furnish accurate itemized wage statements; (6) failure to timely pay wages during employment; (7) failure to pay unused vested paid vacation time; (8) waiting time penalties; (9) failure to maintain accurate and complete payroll records; (10) unlawful deductions from tips; (11) failure to provide proper and accurate sick pay; (12) failure to provide suitable seating and rest break facilities; (13) failure to reimburse business expenses; (14) failure to provide cooldown periods; any claims under the California Labor Code for violations of Labor Code sections 96, 98.6, 200, 201, 201.3, 201.5, 201.7, 202, 203, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206.5, 210, 212, 221, 222, 222.5, 223, 226, 226.2, 226.3, 226.7, 226.8, 227.3, 231, 232, 232.5, 233, 234, 245, 246, 351, 353, 404, 432, 432.3, 432.5, 432.7, 432.8, 450, 510, 511, 512, 551, 552, 558, 558.1, 1101, 1102.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1195.5, 1197, 1197.1, 1197.5, 1198, 1198.5, 1199, 1290, 1292, 1293, 1294.1, 1301, 1391, 1475, 1527, 1695.55, 1696.5, 1700.31, 1771, 1774, 1775, 1776, 1811, 1815, 2673, 2698 et seq., 2699, 2699.3, 2699.5 2800, 2802, 2810.5, 3366, 3395, 3457, 8397.4, applicable IWC Wage Orders; and California Code of Regulations, Title 8, sections 11000 et seq. and 3395, as well as those claims predicated on the same or similar facts and/or claims alleged in the Lawsuit or PAGA Notice The PAGA Employees will be issued a check for their share of the PAGA Payment and will not have the opportunity to opt out of, or object to, the PAGA Payment and release of the PAGA Claims set forth in this Paragraph. The PAGA Employees are bound

by the release of the PAGA Claims regardless of whether they cash or deposit their PAGA Employee Payment. (*see* Settlement, ¶ 63).

D. Class Notice and Settlement Administration

Within forty-five (45) calendar days of preliminary approval of this Settlement by the Court, Defendant shall provide to the Settlement Administrator a database containing the following information (“Class Member List”): (a) The full name, last known address, last known telephone number, and full social security number of all Settlement Class Members; and (b) The information necessary to determine the estimated settlement allocation to each Settlement Class Member and PAGA Employee, including without limitation, the total number of workweeks worked by each Settlement Class Member, and the total number of pay periods worked by each PAGA Employee within the Settlement Periods. (*see* Settlement, ¶ 50).

The Settlement Administrator (along with any of its agents) shall represent and warrant that it will: (1) provide reasonable and appropriate administrative, physical and technical safeguards, including a reasonable security protocol, for any personally identifiable information (“PII”), which it receives from Defendant’s Counsel and/or Settlement Class Counsel; (2) not disclose the PII to third parties, including agents or subcontractors, without Defendant’s consent; (3) not disclose or otherwise use the PII other than to carry out its duties as set forth herein; and (4) promptly provide Defendant with notice if PII is subject to unauthorized access, use, disclosure, modification, or destruction. The Settlement Administrator may provide notice to all Parties if the PII is subject to unauthorized access, use, disclosure, modification or destruction; however, all additional communications from the Settlement Administrator regarding the scope, circumstances, and substance shall be communicated solely to Defendant. (*see* Settlement, ¶ 51).

The Settlement Administrator shall send a Notice to each Settlement Class Member by first-class mail within fourteen (14) calendar days of receipt of the Class Member List. Prior to mailing the Notice, the Settlement Administrator shall update the addresses of the Settlement Class Members by reference to the National Change of Address Database maintained by the United States Postal Service. If a Notice is returned as nondeliverable but with a forwarding address, the Settlement Administrator shall resend the Notice to the forwarding address. If a Notice is returned as nondeliverable with no forwarding address, the Settlement Administrator

1 shall conduct an advanced skip trace to locate the most current address of the person to whom
2 the Notice was addressed, and shall resend the Notice to any updated address within five (5)
3 calendar days. Upon completion of these steps, the Parties shall be deemed to have satisfied their
4 obligations to provide the Notice to the affected Settlement Class Members. (*see* Settlement, ¶
5 52).

6 The Settlement Administrator shall provide to the Court, concurrently with Named
7 Plaintiff's Motion for Final Approval, a declaration of due diligence and proof of mailing with
8 regard to the mailing of the Notices. (*see* Settlement, ¶ 53).

9 The Settlement Administrator shall also be responsible for:

- 10 1. Mailing the Notice as directed by the Court;
- 11 2. Consulting with counsel for the Parties concerning any relevant issue, including
12 (without limitation) the estimated amounts of approximate Individual Settlement
13 Payments, PAGA Employee Payments, and the acceptance of any late or deficient
14 disputes;
- 15 3. Keeping track of timely and proper requests for exclusion;
- 16 4. Calculation of the Individual Settlement Payments, PAGA Employee Payments, and
17 the PAGA Payment to the LWDA;
- 18 5. Providing weekly status reports to counsel for the Parties, including: (a) the number
19 of Notices mailed (including information regarding undeliverable and/or emailed
20 Notices); (b) the number of disputes received (and sending copies of said disputes);
21 (c) the number of objections received; and (d) the number of requests for exclusion
22 received;
- 23 6. Notifying Defendant's Counsel of the wiring instructions to fund the Gross
24 Settlement Amount, including the Escalator Election, if any, as approved by the
25 Court;
- 26 7. Preparing the checks containing the Individual Settlement Payments;
- 27 8. Distributing and paying the Enhancement Award, Individual Settlement Payments,
28 PAGA Employee Payments, the PAGA Payment to the LWDA, and fees and costs

awarded to Settlement Class Counsel;

9. Issuing tax forms and addressing employer and employee-side payroll taxes; and

10. Such other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform, including responding to questions from Settlement Class Members.

(see Settlement, ¶ 54).

1. Procedures for Settlement Class Member Disputes

The Parties agree that if any Qualified Class Member disputes the basis for determining their share of the Settlement, Defendant's records shall presumptively control unless the Qualified Class Member can produce documentation evidence of other workweeks worked during the relevant time period. The Parties further agree that any dispute that cannot be resolved by Settlement Class Counsel and Defendant's Counsel may be brought before the Court before final approval of the Class Settlement. (see Settlement, ¶ 42b).

2. Procedures for Objecting to the Settlement

Each Settlement Class Member shall have forty-five (45) calendar days from the mailing of the Notice, or such number of days as the Court shall specify, within which to postmark an objection, for return to the Settlement Administrator. Settlement Class Members whose Notices are returned as undeliverable and who are sent a re-mailed Settlement Notice shall be given an extension of fifteen (15) days from their original deadline to object to postmark an objection. Any Settlement Class Member, who does not affirmatively opt-out of the Settlement by submitting a valid and timely request for exclusion, may object to the approval of class action settlement ("Objecting Class Member"). Any Settlement Class Member who makes a timely request for exclusion has waived their right to object. The Objecting Class Member shall inform the Settlement Administrator in writing and (1) state the Objecting Class Member's name, address, telephone number, and social security number or employee identification number; (2) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (3) list identifying witness(es) the objector may call to testify at the Final Approval Hearing; (4) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final

1 Approval Hearing; (5) state whether the objection applies only to the objector, to a specific subset
2 of the Class, or to the entire Class; (6) be addressed to the Settlement Administrator; (7) be signed
3 by the Objecting Class Member or their or his or her lawful representative; and (8) be postmarked
4 no later than forty-five (45) calendar days from the mailing of the Notice (or the fifteen (15) day
5 extension referenced above for eligible Settlement Class Members). Regardless of whether a
6 Settlement Class Member timely submitted a written objection, a Settlement Class Member who
7 wishes to appear at the Final Approval Hearing and be heard orally in support of, or in opposition
8 to the class action settlement, may do so. Settlement Class Members shall have no right to object
9 to the PAGA release or PAGA Payment. (*see* Settlement, ¶ 58).

10 Any Settlement Class Member who fails to timely submit an objection shall be foreclosed
11 from making any objection to this Settlement or from filing an appeal of the Court's Final Order
12 and Judgment unless otherwise ordered by the Court. (*see* Settlement, ¶ 59).

13 Counsel for the Parties shall file any response to the objections submitted by Objecting
14 Class Members, if any, at least seven (7) calendar days before the date of the Final Approval
15 Hearing. (*see* Settlement, ¶ 60).

16 At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage
17 Settlement Class Members to submit written objections to the Settlement or to appeal from the
18 Court's Final Order and Judgment. Settlement Class Counsel shall not represent any Settlement
19 Class Members with respect to any such objections to this Settlement. (*see* Settlement, ¶ 61).

20 **3. Procedures for Opting Out**

21 Each Settlement Class Member shall have forty-five (45) calendar days from the mailing
22 of the Notice within which to complete and postmark a written request for exclusion, for return
23 to the Settlement Administrator. The written request for exclusion must: (1) state the Settlement
24 Class Member's name, address, telephone number, and social security number or employee
25 identification number; (2) state the Settlement Class Member's intention to exclude themselves
26 from or opt-out of the Settlement (e.g. "I want to exclude myself from this settlement. I also
27 understand that I retain all rights to sue Defendant for the claims asserted in this lawsuit."); (3)
28 be addressed to the Settlement Administrator; (4) be signed by the Settlement Class Member or

1 their or his or her lawful representative; and (5) be postmarked no later than forty-five (45)
2 calendar days from the mailing of the Notice (or the fifteen (15) day extension referenced below
3 for eligible Settlement Class Members). No requests for exclusion shall be accepted if
4 postmarked after the forty-five (45) calendar day period for the filing of exclusions. Settlement
5 Class Members whose Notices are returned as undeliverable and who are sent a re-mailed
6 Settlement Notice shall be given an extension of fifteen (15) calendar days from their original
7 deadline to postmark a request for exclusion. Settlement Class Members are responsible for
8 maintaining a photocopy of their request for exclusion, reflecting that it was submitted in a timely
9 manner. Any disputes regarding the timeliness of a request for exclusion or whether a written
10 communication constitutes a valid request that cannot be resolved between the Parties shall be
11 determined by the Court, whose determination shall be final. (*see* Settlement, ¶ 55).

12 Any Settlement Class Member who validly excludes himself/herself/themselves from
13 this Settlement shall not be bound by this Settlement Agreement, except as to the PAGA
14 Employees who shall release their PAGA claims in their entirety and may not opt out of or object
15 to the PAGA release, and any Settlement Class Member who validly excludes
16 himself/herself/themselves shall not be entitled to any portion of the Net Settlement Amount.
17 (*see* Settlement, ¶ 56).

18 If 10% of Settlement Class Members timely opt out of the Settlement by submitting valid
19 and timely requests for exclusion, Defendant shall have the sole and absolute discretion to
20 rescind/void the Settlement Agreement within fifteen (15) calendar days after receiving from the
21 Settlement Administrator the final list of requests for exclusion. Defendant agrees to meet and
22 confer in good faith with Settlement Class Counsel before rescinding or voiding the Settlement
23 Agreement. In the event that Defendant elects to rescind/void the Settlement Agreement,
24 Defendant shall provide written notice of such rescission to Settlement Class Counsel. Such
25 rescission shall have the same effect as a termination of the Settlement Agreement for failure to
26 satisfy a condition of settlement, and the Settlement Agreement shall become null and void and
27 have no further force or effect. The Parties specifically agree not to solicit optouts, directly or
28 indirectly, through any means. In the event Defendant rescinds the settlement, Defendant shall

1 be solely responsible for any fees and costs incurred by the Settlement Administrator. (*see*
2 Settlement, ¶ 57).

3 **E. Uncashed Checks**

4 If any checks remain uncashed or not deposited by the expiration of the ninety (90) day
5 period after mailing the reminder notice, the Settlement Administrator will, within two hundred
6 (200) calendar days after the checks are mailed, cancel the checks. All funds associated with the
7 Individual Settlement Payment checks and PAGA Employee Payment checks returned as
8 undeliverable and funds associated with those Individual Settlement Payment checks and PAGA
9 Employee Payment checks remaining uncashed, shall be delivered to the State of California's
10 State Controller Unclaimed Property Fund with an identification of the amount of unclaimed
11 funds attributable to each Qualified Class Member and PAGA Employee. (Messrelian Decl. ¶
12 38; *see* Settlement, ¶ 42f).

13 **IV. CERTIFICATION OF THE PROPOSED CLASS IS APPROPRIATE**

14 Under Code of Civil Procedure section 382, a class may be certified if: (1) it is
15 ascertainable and its members are too numerous for joinder to be practical; (2) the representative
16 and absent class members share a community of interest and questions of law and fact common
17 to the class predominate over questions unique to individual class members; (3) the
18 representative's claims are typical of the class's claims; and (4) the representative will fairly and
19 adequately represent the class's interests. Cal. Civ. Proc. Code § 382; *see, e.g., Richmond v. Dart*
20 *Industries, Inc.*, 29 Cal. 3d 462, 470 (1981). Moreover, in the settlement context, the Court can
21 use a lesser standard to determine the appropriateness of a settlement class as opposed to a
22 litigated class certification. *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1807 (1996). As
23 explained below, all of these requirements are met in this case.

24 **A. The Settlement Class is Objectively Ascertainable**

25 A class is ascertainable when it may be readily identified without unreasonable expense
26 or time by reference to official records. *Rose v. City of Hayward*, 126 Cal. App. 3d 926, 932
27 (1981) (citing *Hypolite v. Carlson*, 52 Cal. App. 3d 566, 579 (1975)). Plaintiff maintains that the
28 above-defined Class is ascertainable because its members may be identified by reference to

1 Defendant's records and Defendant has agreed to share the relevant information from its records
2 to facilitate the settlement process. (Messrelian Decl. ¶ 11). Therefore, the Settlement Class is
3 ascertainable. *Id.*

4 **B. Membership of the Settlement Class is Sufficiently Numerous**

5 The Settlement Class has sufficiently numerous members to render joinder impractical.
6 No set number is required as a matter of law to maintain a class action. *Hebbard v. Colgrove*, 28
7 Cal. App. 3d 1017, 1030 (1972). Defendant estimates that it employed approximately 240
8 employees for the period of December 25, 2023, through July 27, 2025. (Messrelian Decl. ¶ 12).
9 Plaintiff maintains that it would be impractical and economically inefficient to require each
10 Settlement Class Member to separately maintain an individual action or be joined as a named
11 plaintiff in this action. *Id.* The California Supreme Court has upheld a class of as few as ten (10)
12 individuals. *see Bowles v. Superior Court*, 44 Cal. 2d 574 (1955). In light of these considerations,
13 the Settlement Class's membership is sufficiently numerous. (Messrelian Decl. ¶ 12). *see Daar*
14 *v. Yellow Cab Co.*, 67 Cal. 2d 695 (1976).

15 **C. Settlement Class Members Share a Well-Defined Community of Interest**

16 The community of interest requirement “embodies three factors: (1) predominant
17 common questions of law or fact; (2) class representatives with claims or defenses typical of the
18 class; and (3) class representatives who can adequately represent the class.” *Sav-On Drug Stores,*
19 *Inc. v. Superior Court*, 34 Cal. 4th 319, 326 (2004). It “does not mandate that class members
20 have uniform or identical claims.” *Capitol People First v. Dept. of Developmental Servs.*, 155
21 Cal. App. 4th 676, 692 (2007). Rather, courts focus on the defendant's internal policies and
22 “pattern and practice . . . in order to assess whether that common behavior toward similarly
23 situated plaintiffs renders class certification appropriate.” *Sav-On*, 34 Cal. 4th at 333.

24 To justify certification, the class proponent ““must show ... that questions of law or fact
25 common to the class predominate over the questions affecting the individual members”” *see*
26 *Arenas v. El Torito Rests., Inc.*, 183 Cal. App. 4th 723, 732 (2010) (*citing Washington Mut. Bank,*
27 *FA v. Superior Court*, 248 Cal. 4th 906, 913 (2001)). In light of the more lenient standard for
28 certification of a settlement class, the Parties agree that for the purposes of the Settlement only,

1 the claims of the Settlement Class Members all stem from the same sources. (Messrelian Decl.
2 ¶ 13).

3 Here, Plaintiff asserts that all Settlement Class Members were subject to the same or
4 similar operations and employment policies, practices, and procedures. *Id.* The claims arise from
5 Defendant's alleged uniform policy of failing to: provide all off-duty meal periods, authorize and
6 permit rest periods, pay one hour's pay for each missed meal and rest period, pay all wages, pay
7 accrued vacation pay, indemnify for necessary business expenditures, provide accurate and
8 complete wage statements, and pay all earned and unpaid wages at the end of employment. *Id.*
9 Plaintiff asserts that common questions include, but are not limited to: (1) Whether Defendant
10 failed to pay all wages earned to Settlement Class Members for all hours worked, including off-
11 the-clock work and at the correct rates of pay, including minimum, regular, overtime, double-
12 time, meal period premium and rest period premium wages; (2) Whether Defendant failed to
13 provide the Settlement Class Members with all meal periods in compliance with California law;
14 (3) Whether Defendant failed to authorize and permit the Settlement Class Members to take all
15 rest periods in compliance with California law; (4) Whether Defendant failed to indemnify the
16 Settlement Class Members for the reasonable expenses they incurred during the course of
17 performing their duties; (5) Whether Defendant knowingly and intentionally failed to provide
18 the Settlement Class Members with accurate and complete itemized wage statements; (6)
19 Whether Defendant willfully failed to provide the Settlement Class Members with timely wages
20 during and upon termination of employment; (7) Whether Defendant failed to provide Settlement
21 Class Members with paid sick leave; (8) Whether Defendant engaged in unfair competition
22 within the meaning of Business and Professions Code sections 17200, et seq., with respect to the
23 Settlement Class Members; and (9) Whether Settlement Class Members are entitled to restitution
24 of money or property that Defendant may have acquired from them through alleged Labor Code
25 violations. *Id.* Therefore, common questions predominate.

26 **D. Plaintiff is Typical of the Settlement Class**

27 The class representative must be similarly situated to the rest of the purported class. *see*
28 *Classen v. Weller*, 145 Cal. App. 3d 27, 46 (1983) (stating "it has never been the law in California

1 that the class representative must have identical interests with the class members. The only
2 requirements are ... that the class representative be *similarly* situated”) (emphasis in original);
3 *see also Newberg*, section 3:29 (typicality “focuses on whether there exists a relationship
4 between the Plaintiffs claims and the claims alleged on behalf of the class”). Plaintiff contends
5 that his claims are typical for the purposes of certifying the Settlement Class. (Messrelian Decl.
6 ¶ 14). Plaintiff asserts that he, like other Settlement Class Members, was subject to the same
7 relevant policies and procedures governing his compensation, hours of work, and meal and rest
8 periods. *Id.* Because Plaintiff contends that he was subject to the same general course of conduct
9 as absent Settlement Class Members, resolving the common questions as they apply to Plaintiff
10 will determine Defendant’s *prima facie* liability to all Settlement Class Members. *Id.* Moreover,
11 Plaintiff’s claims could potentially be subject to the same primary affirmative defenses as those
12 of absent Settlement Class Members. Accordingly, Plaintiff’s claims are typical of the class. *Id.*

13 **E. Plaintiff Will Adequately Represent the Settlement Class**

14 The adequacy requirement is met where the plaintiff is represented by counsel qualified
15 to conduct the litigation and the plaintiff’s interest in the litigation is not antagonistic to the
16 class’s interests. *McGhee v. Bank of America*, 60 Cal. App. 3d 442, 451 (1976). In other words,
17 where the plaintiff has adequate counsel, the plaintiff may represent the entire class absent any
18 disabling conflicts of interest that might hinder the plaintiff’s ability to represent the class.
19 (Messrelian Decl. ¶ 15).

20 First, Plaintiff’s Counsel has supplied the Court with declarations to show that they are
21 adequate to represent the Settlement Class and that they have significant experience in
22 employment litigation generally, and wage and hour and employment-related class action
23 litigation specifically. (*see* Messrelian Decl. ¶ 17-21). Thus, Plaintiff’s Counsel is adequate to
24 serve as Settlement Class Counsel.

25 Second, Plaintiff contends that he is an adequate class representative. (Messrelian Decl.
26 ¶ 16). Plaintiff and the Settlement Class Members have strong and co-extensive interests in this
27 litigation because they all worked for Defendant during the relevant time period, allegedly
28 suffered the same alleged injuries from the same alleged course of conduct, and there is no

evidence of any conflict of interest between Plaintiff and the Settlement Class Members. *Id.* Moreover, Plaintiff has demonstrated his commitment to the Settlement Class by, among other things, retaining experienced counsel, providing counsel with documents and extensively speaking with them to assist in identifying the claims asserted in this case, and exposing himself to the risk of attorneys' fees and costs awards against him if this lawsuit had been unsuccessful. (Messrelian Decl. ¶ 16; *see generally* Declaration of Giuseppe Losavio submitted herewith under a separate cover). Thus, Plaintiff is adequate to serve as class representative. Accordingly, this Court should find that Plaintiff and his counsel are adequate to represent the Settlement Class as required under Code of Civil Procedure section 382. Cal. Civ. Proc. Code § 382.

F. Class Action Treatment is the Superior Means for Resolving the Claims of the Settlement Class Members

Plaintiff further contends that a class action is also superior to other means of adjudicating the issues in this action. (Messrelian Decl. ¶ 22). The predominance of common legal and factual questions shows that this Court could fairly adjudicate the claims of Settlement Class Members through a single class action. *Id.* In view of the *theoretical* alternatives that the proposed Settlement Class Members could potentially utilize—representative PAGA action (where there is less relief available), individual civil lawsuits or wage claims through the Division of Labor Standards Enforcement (where there would be relatively little money at stake, but the claims would be time-consuming to litigate)—a class action is plainly superior to all of them. *Id.* Thus, this consideration supports conditional class action treatment for purposes of this Settlement only. *Id.*

V. THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE, AND THE COURT SHOULD GRANT PRELIMINARY APPROVAL

A. Legal Standard

- 1) A class action settlement requires court approval. California Rules of Court (“CRC”), Rule 3.769 provides three steps for approval: Preliminary approval after submission of a written motion for preliminary approval, the proposed class settlement, and the proposed class notice;
- 2) Issuance of notice of settlement to class members; and

- 1 3) A final settlement approval hearing where class members may be heard
2 regarding the settlement, and at which evidence and argument concerning the
3 fairness, adequacy, and reasonableness of the settlement is presented.

4 Cal. Rules of Court, rule 3.769.

5 The decision to approve or reject a class settlement is committed to the Court’s broad
6 discretion. *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 128 (2008). The decision
7 to approve class settlement may be reversed only upon a showing of “clear abuse of discretion.”
8 *Id.*

9 **B. The Settlement is Presumptively Fair**

10 In assessing preliminary approval, a court evaluates if the settlement process has certain
11 indicia of fairness. A “presumption of fairness exists where (1) the settlement is reached through
12 arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the
13 court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage
14 of objectors is small.” *Kullar*, 168 Cal. App. 4th at 128, quoting *Dunk v. Ford Motor Co.*, 48 Cal.
15 App. 4th at 1794.

16 The class settlement here satisfies all of these factors. (Messrelian Decl. ¶ 23). The
17 Settlement resulted from thorough, arm’s-length negotiations between experienced counsel with
18 the assistance of a respected mediator after sufficient discovery was exchanged to assess the
19 relative strengths and weaknesses of their respective cases and Defendant’s estimated exposure.
20 *Id.* Both Defense counsel and Plaintiff’s Counsel are particularly experienced in employment
21 law and wage and hour class/PAGA actions. *Id.* They are also experienced and qualified to
22 evaluate the class and PAGA claims, the viability of the defenses, and the risks and benefits of
23 settlement versus trial on a fully informed basis. *Id.* Counsel on both sides share the view that
24 the Settlement is a fair and reasonable settlement in light of the complexities of the case and
25 uncertainties of class certification and litigation, and a fair result for the Settlement Class
26 Members. *Id.*

27 **C. The Settlement Satisfies the *Kullar* Factors for Approval**

28 The *Kullar* case sets forth several factors a court should consider in determining whether
to approve a class settlement. These factors include: (1) the strength of plaintiff’s case; (2) the

1 risk, expense, complexity and likely duration of further litigation; (3) the risk of maintaining
2 class action status through trial; (4) the amount offered in settlement; (5) the extent of discovery
3 completed and stage of the proceedings; (6) the experience and views of counsel; (7) the presence
4 of a governmental participant; and (8) the reaction of the class members to the proposed
5 settlement. *Kullar*, 168 Cal. App. 4th at 128. As demonstrated herein, the Settlement satisfies
6 each of these factors.

7 **1. Evaluation of Plaintiff’s Case**

8 The Parties reached the Settlement through arm’s-length bargaining with the aid of a
9 respected mediator. (Messrelian Decl. ¶ 24). The Parties conducted sufficient investigation and
10 discovery to allow Counsel and the Court to act intelligently. *Id.* Plaintiff considered various
11 sources of information in the lead-up to, during, and beyond the private mediation of May 21,
12 2025, that enabled Plaintiff to achieve the Settlement at issue. *Id.*

- 13 • Defendant produced and Plaintiff’s Counsel reviewed Plaintiff’s payroll records.
- 14 • Plaintiff’s Counsel requested that Defendant produce any and all policies on “off-the-
15 clock” work, meal and rest periods, and reimbursement of expenses in effect during
16 the relevant time period. Defendant produced policies as part of its employee
17 handbook.
- 18 • Plaintiff’s Counsel requested that Defendant provide the total number of employees,
19 paychecks, and the pay cycles during the relevant period. Defendant provided the
20 answers to each of these questions.
- 21 • Plaintiff’s Counsel analyzed the state of caselaw on meal and rest break claims,
22 claims for off-the-clock work, and claims for unreimbursed expenses.
- 23 • Plaintiff’s Counsel requested sample time and payroll records for the relevant time
24 period. Defendant produced time and pay records for all of its employees from
25 December 25, 2023, to July 27, 2025.
- 26 • Plaintiff’s Counsel then retained a professional data analyst, James Toney, to examine
27 the records and determine if there was any pay discrepancy in timesheet hours versus
28 paid hours, meal and rest break violations, and if there was any rounding/time shaving
issues. Plaintiff is prepared to provide the Court with the data analysis for *in camera*
inspection upon its request.

24 *Id.*

25 Defendant disclosed that there were approximately 9,082 workweeks during the
26 Settlement Class Period. Based on this information and with the aid of the data analyst, Plaintiff’s
27 Counsel prepared “damages” estimates to determine Defendant’s maximum exposure in
28 connection with the settlement negotiations. (Messrelian Decl. ¶ 25). Plaintiff’s Counsel

1 calculated the maximum potential damages for meal period violations and rest period violations
2 to be approximately \$829,534.14 (exclusive of penalties and interest) and maximum damages
3 for derivative claims of \$676,147.20 for waiting time penalties and \$353,000.00 for wage
4 statement penalties. *Id.* The estimates do not factor in any of the risks involved in litigating this
5 Action and are not in line with reality, especially as it relates to the “Off the Clock” work and
6 reimbursement and business expenses, and especially when considering Defendant’s policies
7 and its position on the issues. *Id.* (see also Evaluation of Plaintiff’s Case in Messrelian Decl. ¶
8 25).

9 Plaintiff also estimated a maximum possible exposure of approximately \$1,009,100.00
10 in potential civil penalties under PAGA. (see *PAGA Amounts Table* at Messrelian Decl. ¶ 25).
11 This figure is calculated by stacking each of the maximum recoverable civil penalty estimates
12 for the PAGA claims. (Messrelian Decl. ¶ 25). This estimate represents a “homerun” scenario
13 and does not reflect the practical realities of this case. *Id.* It also fails to account for the risks
14 discussed below and assumes a violation occurred in every single pay period. *Id.*

15 The Settlement obviates the significant risk that this Court may deny certification of some
16 or all of Plaintiff’s claims. (Messrelian Decl. ¶ 26). Even if Plaintiff obtained certification of
17 some or all of the claims, continued litigation would be expensive, involving a trial and possible
18 appeals, and would substantially delay and reduce any recovery by the Settlement Class
19 Members. *Id.* While Plaintiff is confident in the merits of his case, a legitimate controversy exists
20 as to each cause of action. *Id.* To illustrate this consideration, below is brief summary of some
21 of Defendant’s arguments and some of the issues Plaintiff’s counsel discovered while analyzing
22 the class data and expert findings, all of which Plaintiff disputes, but nevertheless acknowledges
23 as potential threats to the Settlement Class’s claims. *Id.*

- 24 • Defendant contends that as of April 2024, forward, all of Defendant’s employees
25 physically signed binding arbitration agreements with class and representative
26 action waivers. Defendant therefore contends, the true number of individuals of
27 whom Plaintiff could represent is reduced by approximately 70%.
- 28 • Defendant contends Plaintiff’s meal break claims fails because auto premiums

1 are paid for all short, late, or missed meals. Plaintiff alleged he worked off the
2 clock during his meal and rest periods. Defendant contends this theory is
3 unsupported by the written policies and timekeeping practices, including
4 Defendant's practice of automatically paying meal period premiums for all meals
5 that are late, missed, or interrupted irrespective of the cause. Defendant contends
6 it affirmatively enforces its meal period and rest break policies. Defendant first
7 paid a meal premium penalty in January 2024, and continues to pay premiums.
8 Defendant's automatic premium payment results in overpayment of meal
9 premium penalties, especially because Defendant has valid meal period waivers
10 in place for almost all of its employees, yet auto pays premiums without
11 considering those waivers. As of October 29, 2024, Defendant began offering
12 "family meals" for staff two times per shift, from approximately 10:30-11:30 and
13 4:30-5:30 each day. Defendant encourages its employees to schedule their breaks
14 to overlap with at least part of this time, so that each employee may take a 30-
15 minute meal period and receive free food on-site, rather than having to leave the
16 premise and spend additional money. After accounting for the premiums paid
17 during the relevant period, the data reveals Defendant has a 96.5% compliance
18 rate for non-waivable meal periods. Defendant also contends that, to establish a
19 violation for missed meal periods, a plaintiff must do more than show that a meal
20 break was not taken. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th
21 1004 (2012). So long as an employer provides employees with a "reasonable
22 opportunity" to take a duty-free meal period, it has no further duty to "police meal
23 breaks and ensure no work thereafter is performed." *Id.* at 1040-41. Instead, a
24 plaintiff must show the employer impeded, discouraged, or prohibited the
25 employee from taking a proper break, or otherwise failed to release the employee
26 of all control. *Id.* "Thus, the crucial issue with regard to the meal break claim is
27 the reason that a particular employee may have failed to take a meal break."
28 *Washington v. Joe's Crab Shack*, 271 F.R.D. 629, 641 (N.D. Cal. 2010).

1 Defendant contends that individualized proof will be needed to establish liability
2 on Plaintiff's meal period claims. Defendant argues that Settlement Class
3 Members will testify that they were clearly advised by Defendant and fully
4 understood—that they were authorized to take meal periods within each five-hour
5 work period and were required to take those breaks before the end of the fifth
6 hour. As it relates to rest breaks, Defendant contends Plaintiff's rest break claims
7 fails because Defendant uses an attestation system to track non-compliant rest
8 periods. At the end of every shift, Defendant's timekeeping software requires
9 employees attest to whether they took their rest periods – if an employee attests
10 that they did not receive a rest period, a rest period premium is paid out
11 automatically, without further questioning of the employee. This attestation
12 system was in place as of April 22, 2024, meaning there is no liability for missed
13 rest periods at least as of April 22, 2024. Though employees are required to
14 inform their manager(s) when they would like to take a meal or rest period, this
15 is simply to ensure adequate coverage – managers do not refuse to allow
16 employees to take breaks. From April 29, 2024, to March 16, 2025, Defendant
17 paid 131 rest period premiums in response to the attestation system. Furthermore,
18 there is no documentary proof that rest period violations occurred, which is also
19 the reason that Plaintiff's counsel used the alleged meal period violation rate and
20 extrapolated it for rest period violations in the class exposure calculation.
21 Defendant also contends that individualized proof will be needed to establish
22 liability on Plaintiff's rest period claims.

- 23 • Defendant contends Plaintiff's off-the-clock, unpaid overtime, and unpaid wage
24 claims fail because Defendant required that all employees accurately report their
25 time – which they did. Defendant's employees clock in and out of work from
26 tablets located around the restaurant. While Defendant provides its employees
27 with a voluntarily downloadable cell-phone application to use to record time
28 entries, given the multiple time tablets around the restaurant, no employee is

1 required to use this application. Defendant's employees are instructed to clock in
2 upon entering the restaurant, and clock out upon completing their duties. This
3 practice is followed at the beginning and the end of each shift as well as for meal
4 periods. There is little reason for Defendant's employees to work off-the-clock
5 before or after their shift. Furthermore, the data demonstrates that overtime was
6 readily paid: Defendant paid 7,230 hours of overtime during the statutory period.
7 To the extent an employee disobeys Defendant's requirements and does not
8 record their work time, there is no means for Defendant to know of or have reason
9 to know of the off-the-clock work. At a minimum, for the rank-and-file employee
10 it is a highly individualized issue as to whether the employee worked off-the-
11 clock in the first instance and whether management would have known or have
12 reason to know of the work. Defendant further contends that there is no common
13 proof for Plaintiff's claim that he was required to work off-the clock ("OTC") and
14 that some of that OTC work, if properly accounted for, would have resulted in
15 work to be compensated at overtime rates. Defendant argues, time records do not
16 provide common proof because, by definition, they do not show such time.
17 Defendant argues that one would have to examine, and cross-examine for
18 credibility, each individual's separate claims of supposed OTC work. Further,
19 Defendant argues, each Settlement Class Member would need to overcome this
20 credibility hurdle in the face of his/her own time records, which show no OTC
21 work and further would have to prove that his/her individual manager knowingly
22 suffered or permitted the work. Additionally, as a matter of company policy,
23 Defendant required supervisors to meet with employees to review their "punch
24 cards" for accuracy, including verification of hours worked and confirmation of
25 whether employees performed any OTC work. The stated purpose of this policy
26 was to ensure that Defendant compensated for any OTC work if an employee
27 reported having performed such work during the pay period. Moreover, Plaintiff's
28 data expert noted that there was no rounding of work hours and that work hours

were out to the second decimal point.

- Defendant contends that any theory of off-the-clock, unpaid overtime, and unpaid wages due to rounding fails because Defendant never rounded any of its employees' reported time and paid for all hours reported. As such, Defendant contends that to the extent Plaintiff's off-the-clock claim is premised on rounding, it is meritless.
- Defendant contends that Plaintiff's failure to pay reporting time pay and split shifts fails because any instance was due to employee choice. Defendant does not regularly schedule employees such that this is an issue. To the extent there may be gaps in time worked during a shift, such instances do not account for employee choices, such as doctor visits, long lunches, or going home early—which likely accounts for the majority, if not all, of the occurrences. Therefore, Defendant contends there is no systemic issue that can be adjudicated on a representative basis.
- Defendant contends Plaintiff's claim for unlawful deduction of tips also fails because Defendant maintains a compliant tip-distribution policy and managers do not share in tips. At all relevant times, Defendant's lawful tip sharing policy specifically excludes management. In practice, managers do not receive distributions from tips left at the table at the end of a meal, or from the general tip pool at the end of the night. Since at least June 2024, all tips, including credit-card tips, are meticulously recorded by Defendant. Defendant contends that to the extent Plaintiff believes that managers may have received tips directly from customers, such tips are not unlawful. Defendant contends California law does not prohibit a manager from keeping tips provided directly to the manager for services the manager renders to the customer. For example, managers sometimes greet customers and are responsible for locating an open table. Given the restaurant's clientele of wealthy individuals with strong dining preferences, it is not uncommon for a customer to give management and non-management

1 employees handshake tips in an effort to secure a “better” table. To the extent
2 Plaintiff claims he did not receive credit card tips, Plaintiff, and the other
3 allegedly aggrieved employees (who share in the tip pool), receive their credit
4 card tips on the next regular payday. Taken together, even if Plaintiff contends,
5 he witnessed a manager unlawfully receive tips, it was in violation of Defendant’s
6 policy, and was an isolated event, not due to Defendant’s actions. As such,
7 Defendant contends such instances are far too remote and sporadic to allow for
8 Plaintiff to continue on a representative basis.

- 9 • Defendant’s practice of tip pooling negates common claimed causes of missed
10 meal or rest breaks. Taking meal and/or rest breaks during a shift has no negative
11 impact on Defendant’s employees because employees pool tips. Thus, employees
12 can hand off tasks at break time to another employee, and because tips are pooled,
13 there is no pressure of lost tips while on breaks. Further, Defendant’s employees
14 are required to take their breaks away from the guest eating areas of the restaurant
15 to ensure that there is no way their breaks are interrupted. Moreover, at any given
16 time, there are multiple individuals performing the same or similar job duties,
17 meaning that if an employee needs to take a break, there is typically someone to
18 fill in immediately. In sum, Defendant contends there is no reason for employees
19 to be interrupted during breaks, much less for Defendant to know that they are
20 interrupted
- 21 • Defendant contends Plaintiff’s sick pay claim is limited to a couple of months,
22 and even then, Defendant remedied the issues. While Defendant and its payroll
23 processing company admittedly incorrectly calculated sick time accrual for a
24 brief period of time, the issue was remedied in March 2024, with retroactive
25 payments and reclassification of time off as protected sick time being done across
26 all employees. As such, Defendant claims the claim is meritless
- 27 • Defendant contends that Plaintiff cannot recover waiting time or wage statement
28 penalties based upon the failure to pay Labor Code section 226.7 premium wages

1 for meal and rest period violations. *see Naranjo v. Spectrum Sec. Servs., Inc.*, 40
2 Cal. App. 5th 444 (2019) (review granted Jan. 20, 2020) (actions for violations of
3 Labor Code’s meal break provisions do not entitle employees to pursue derivative
4 waiting time and itemized wage statement penalties). Defendant contends
5 Plaintiff’s waiting time penalties claim fails because Defendant acted in good
6 faith. Where there is a “good faith dispute” as to whether wages are owed or
7 where the non-payment was not “knowing and intentional,” no waiting time
8 penalties will be assessed. Defendant contends it always acted in good faith.
9 Defendant also contends Plaintiff’s wage statement claim fails because Defendant
10 provided accurate wage statements, acted in good faith and Plaintiff did not suffer
11 any harm. First, Defendant provided Plaintiff and the allegedly aggrieved
12 employees with wage statements in compliance with Labor Code section 226.
13 Second, where there is a “good faith” effort to comply with California law on
14 wage statements, penalties will not be assessed. Defendant contends it always
15 acted in good faith. Finally, Defendant contends Plaintiff cannot show that he, or
16 other allegedly aggrieved employees suffered any harm from allegedly inaccurate
17 wage statements.

- 18 • As it relates to any potential regular rate issues, Plaintiff’s data expert did not
19 observe any bonuses, commission payments, etc. in the sample provided by
20 Defendant. As such, the regular rate claims alleged by Plaintiff are not at issue.
- 21 • Defendant contends Plaintiff’s expense reimbursement claim also fails. All
22 employees are reimbursed for any personal expenses that they incur on behalf of
23 their work. Specifically, Defendant only requires that front of house workers wear
24 a tuxedo. All parts of the tuxedo are provided to employees free of charge (some
25 employees receive more than one tuxedo), and Defendant contracts with a dry-
26 cleaning service located less than two miles away from the restaurant, which
27 provides dry-cleaning to Defendant’s employees free of charge. Employees
28 receive reimbursement for costs incurred in connection with their uniforms.

Moreover, Defendant provides uniforms and dry cleaning, at no charge. Schedules are accessible in-person, and Defendant provides ample tablets for individuals to clock in and out. Therefore, if there were any instance of employees not being reimbursed, it was in violation of Defendant's policy and wholly due to their own failure to request a reimbursement, and not due to any policy at Defendant. As such, Defendant contends this theory of liability is too individualized to proceed on a representative basis. There is a risk that the Court may consider Plaintiff's claims as to Defendant's alleged failure to indemnify for business expenses to be individual in nature and unfit for class wide resolution. Additionally, Defendant did not require any specific uniforms to be worn for work purposes, therefore there is no evidence that uniforms would need to be reimbursed.

- Defendant contends Plaintiff's suitable seating claim fails because of the nature of the work does not allow for Defendant to provide every employee a seat at all times, and Defendant did provide suitable seating. First, all Defendant's hourly positions require employees to be constantly moving from one task to another. By way of example, even a dishwasher or a cook is constantly moving from one location of the kitchen to another; for a server, the necessity of moving around is abundantly clear. Regardless, from its opening until October 29, 2024, Defendant provided employees with a tented area behind the restaurant with folding chairs and tables in the event an employee needed to sit, or to take breaks. As of October 29, 2024, employees have a dedicated space, completely furnished, in which to take breaks, including when an employee needs to sit for a minute or two.
- There is also a risk in proving Defendant's failure to pay unused vested paid vacation time in violation of Labor Code sections 221, 222, 223, and 227.3 because there is no evidence that Defendant did not pay.

Id.

As noted above, Defendant contests liability, as well as the propriety of certification, and

1 is prepared to vigorously oppose certification and to defend against all of Plaintiff's claims if the
2 Action is not settled. (Messrelian Decl. ¶ 27). Given the potential damages, as well as the
3 substantial risks to recovery discussed herein, including the uncertainties in achieving class
4 certification, Plaintiff's Counsel had to discount the value of the claims during settlement
5 negotiations. *Id.*

6 For the Class claims, Plaintiff's Counsel estimates a 60 percent likelihood of obtaining
7 and maintaining certification, which reduces the value of these claims from approximately
8 \$1,858,681.34 to approximately \$1,115,208.80. *Id.* Defendant, however, asserts that there are
9 significantly lower prospects of certification. *Id.* Plaintiff's Counsel further estimates that there
10 is a 60 percent chance that Plaintiff will prevail at trial on his Class claims, further reducing the
11 value of the claims to approximately \$669,125.28. *Id.*

12 For the PAGA claims, Plaintiff's Counsel understands that the chances of recovering
13 penalties are low, especially for waiting time penalties and paystub violations. *Id.* Moreover,
14 Plaintiff's Counsel is unaware of any California State court decision awarding a plaintiff and the
15 other Aggrieved Employees he represents received multiple civil penalties (i.e. stacking
16 penalties) for the same pay period under different Labor Code provisions. *Id.* As such, one of the
17 risks Plaintiff faces is that the Court would refuse to "stack" civil penalties arising under the
18 various Labor Code statutes. *Id.* Additionally, PAGA states a court has discretion to award a
19 lesser amount than the maximum penalty. Lab. Code § 2699(e)(2); *Thurman v. Bayshore Transit*
20 *Management, Inc.*, 203 Cal. App. 4th 1112, 1135 (2012) (reducing PAGA award). In addition to
21 stacking potential penalties, this calculated maximum exposure also presumes that the Court will
22 not reduce the penalty award as unjust, arbitrary, oppressive, or confiscatory. *Id.* Given this,
23 Plaintiff's Counsel concluded it was appropriate to substantially discount the value of these
24 claims in the settlement negotiations for this and a variety of other reasons. *Id.* At best, Plaintiff
25 could only reasonably hope to recover one penalty for each pay period (regardless of the different
26 Labor Code violations that potentially occurred for the same employee, during the same pay
27 periods). *Id.* Accordingly, Plaintiff estimated Defendant's maximum realistic potential penalty
28 exposure to be approximately \$475,000, based on approximately 4,750 PAGA Pay Periods and

1 the statutory \$100 per-pay-period penalty for any alleged violation. *Id.* All in all, considering all
2 of the risks detailed above, as well as potential manageability issues, the risk of not prevailing at
3 trial, the risk that, even if Plaintiff prevailed, the damages would be limited due to the largely
4 discretionary nature of the damages, and taking into account Defendant's defenses, Plaintiff
5 applied a 60 percent discount to the maximum realistic potential PAGA exposure of \$475,000,
6 leaving 60 percent of that amount, or \$285,000, as the risk-discounted realistic potential
7 exposure. *Id.*

8 Therefore, if this case advanced to trial and Class Counsel succeeded on all of Plaintiff's
9 claims, attorney's fees and costs may have significantly reduced the recovery awarded to the
10 Class. *Id.* Furthermore, there is always a risk that a trial of this magnitude can become
11 unmanageable. *Id.* Defendant's maximum exposure on Plaintiff's Class and PAGA claims total
12 approximately \$2,333,681.34 and potential recovery totals approximately \$954,125.28. *Id.* Thus,
13 a settlement of \$175,000.00 (approximately 7.5% of the maximum exposure and 18.34% of the
14 potential recovery) is a great result and a proportion sanctioned by existing case law. *Id.*, see *In*
15 *re Cendant Corp., Derivative Action Litig.*, 232 F. Supp. 2d 327 (D.N.J. 2002) (approving
16 settlement that only provided a 2% recovery based on the estimated liability exposure).

17 While Plaintiff believes the evidence gathered through Plaintiff's discovery supports the
18 merits of the claims asserted in this lawsuit, Plaintiff recognizes that continued litigation presents
19 significant risks that support a downward departure from Defendant's estimated liability
20 exposure. (Messrelian Decl. ¶ 28). In view of the risks, the Settlement reflects Class Counsel's
21 estimate of the total amount of damages, monetary penalties or other relief that the class could
22 reasonably expect to be awarded at trial, taking into account the likelihood of prevailing and
23 other attendant risks. *Id.* It also represents a fair, adequate, and reasonable compromise amount
24 for these claims and warrants preliminary approval. *Id.* see *Laguna v. Coverall N. Am., Inc.*, 753
25 F.3d 918 (9th Cir.), *vacated*, 772 F.3d 608 (9th Cir. 2014).

26 **2. Allocation of the PAGA Payment**

27 The settlement of PAGA penalties in the sum of \$10,000, of which 75% (\$7,500) will be
28 paid to the LWDA and 25% (\$2,500) will be distributed to the PAGA Employees as PAGA

Employee Payments, is reasonable and appropriate under the circumstances. (Messrelian Decl. ¶ 29). The Parties negotiated a good faith amount for PAGA penalties to be paid to the LWDA and to the PAGA Employees. *Id.* The portion to be paid to the LWDA was not the result of self-interest at the expense of other PAGA Employees. *Id.*

Where settlements “negotiate[] a good faith amount” for PAGA penalties and “there is no indication that this amount was the result of self-interest at the expense of other Class Members,” such amounts are generally considered reasonable. *Hopson v. Hanesbrands Inc.*, No. CV-08-0844 EDL, 2009 WL 928133, at *9 (N.D. Cal. Apr. 3, 2009). Likewise, where the employer did not act willfully, and made good faith attempts to comply with wage and hour laws, a reduction or lesser penalty is warranted because imposing maximum PAGA penalty for each violation would have been unjust, arbitrary, and oppressive. *Id. Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 528-529 (2018) (affirming trial court’s award of only 10% of maximum PAGA penalty for meal break violations). *Id.* The amount to be paid to the LWDA comports with PAGA settlement amounts approved by other courts. *see, e.g., Chu v. Wells Fargo Invs., LLC*, No. C-05-4526-MHP, 2011 WL 672645, at 81 (N.D. Cal. Feb. 16, 2011) (approving PAGA payment of \$7,500 to LWDA out of \$6.9 million common fund); *Lazarin v. Pro Unlimited, Inc.*, 2013 WL 3541217 (N.D. Cal., July 11, 2013) (approving PAGA payment of \$7,500 to LWDA out of \$1.25 million common fund settlement); *Hopson v. Hanesbrands, Inc.*, 2008 WL 3385452, at 1 (N.D. Cal. Aug. 8, 2008) (approving PAGA settlement of 0.3% or \$1,500); *see Nordstrom Com. Cases*, 186 Cal. App. 4th 576, 589 (2010) (approving PAGA settlement and release that allocated \$0 to PAGA claim). Here, the \$10,000 PAGA Payment is well within the range approved by California courts and therefore should be approved.

3. Presence of Governmental Participant

As required under Labor Code section 2699(1)(2), Plaintiff will provide notice of this settlement to the LWDA. (Messrelian Decl. ¶ 39, **Exhibit 3**).

4. Reaction of Settlement Class Members to Proposed Settlement

If the settlement is preliminarily approved, Settlement Class Members will be provided with the Class Notice (attached as Ex. A to the Settlement Agreement) and an opportunity to

object. (*see* Messrelian Decl. ¶ 35). The Parties’ proposed notice fully complies with California Rules of Court 3.766(d) and 3.769(f) and will allow Settlement Class Members to make informed responses to the proposed settlement. *Id.*

VI. THE SETTLEMENT FAIRLY, REASONABLY, AND ADEQUATELY COMPENSATES SETTLEMENT CLASS MEMBERS BECAUSE EACH QUALIFIED CLASS MEMBER WILL BE PAID BASED ON RESPECTIVE POTENTIAL INJURY COMPARED TO OTHER QUALIFIED CLASS MEMBERS

After the deduction of the amounts approved for the Enhancement Award to the Named Plaintiff, the PAGA Payment, the Settlement Administrator’s costs, Settlement Class Counsel’s fees and expenses from the Gross Settlement Amount, including the Escalator Amount, if any, the remainder shall be referred to as the Net Settlement Amount. (Messrelian Decl. ¶ 34; *see* Settlement, ¶ 42). The Net Settlement Amount shall be divided among the Qualified Class Members on a pro-rata basis based on each Qualified Class Member’s workweek count, which shall be the sum of the total number of Workweeks the Qualified Class Member worked during the Settlement Class Period, divided by the combined sum of all Qualified Class Members’ workweek counts, and multiplied by the value of the Net Settlement Amount. (Messrelian Decl. ¶ 34). Since this method compensates Qualified Class Members based on the extent of their potential injuries, in that Qualified Class Members who worked for Defendant longer would have been subject to more alleged violations, it is fair, adequate, and reasonable. *Id.*

VII. ALLOCATION FOR SETTLEMENT CLASS COUNSEL’S ATTORNEYS’ FEES AND COSTS IS APPROPRIATE

The Settlement states Class Counsel may seek attorneys’ fees which collectively shall not exceed One-Third (1/3) of the Gross Settlement Amount, including the Escalator Amount, if any, plus reasonable costs/expenses not to exceed Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00), subject to approval by the Court. (Messrelian Decl. ¶¶ 30); (*See* Settlement, ¶ 46). These amounts are reasonable, given the facts and circumstances of the case. (Messrelian Decl. ¶¶ 30).

1 Trial courts have “wide latitude” in assessing the value of attorneys’ fees and their
2 decisions will “not be disturbed on appeal absent a manifest abuse of discretion.” *Lealao v.*
3 *Beneficial Cal., Inc.*, 82 Cal. App. 4th 19, 41 (2000). Indeed, it is long settled that the
4 “experienced trial judge is the best judge of the value of professional services rendered in his
5 court.” *Ketchum v. Moses*, 24 Cal. 4th 1122, 1132 (2001). California law provides that attorney
6 fee awards should be equivalent to fees paid in the legal marketplace to compensate for the result
7 achieved and risk incurred. *Laffitte v. Robert Half Intl, Inc.*, 1 Cal. 5th 480, 503 (2016) (citing
8 *Lealao*, 82 Cal. App. 4th at p. 48-49). The Supreme Court has recently approved fees equal to
9 one-third (1/3) of the common fund. *Laffitte*, 1 Cal. 5th 480. Many courts have similarly
10 approved fee awards equal to or greater than the percentage requested here. *see, e.g., In re Pacific*
11 *Enterprises*, 47 F. 3d 373, 379 (9th Cir. 1995) (award of 33% of the common fund); *In re*
12 *Activision*, 723 F. Supp. 1373, 1375 (N.D. Cal. 1989) (32.8% of the common fund); *In re*
13 *Ampicillin Antitrust Litig.*, 526 F. Supp. 494, 498 (D.D.C. 1981) (45% of settlement fund).

14 The amount of fees and costs requested are commensurate with (1) the risk Settlement
15 Class Counsel took in bringing the case, (2) the extensive time, effort and expense dedicated to
16 the case, (3) the skill and determination Settlement Class Counsel has shown, (4) the results
17 Settlement Class Counsel achieved, (5) the value of the Settlement the Settlement Class Counsel
18 achieved for the class, and (6) the other cases Settlement Class Counsel turned down to devote
19 time to this matter. (Messrelian Decl. ¶ 31). Class Counsel met and conferred with Defendant’s
20 counsel on numerous occasions, reviewed and analyzed hundreds of pages of data and
21 documents provided by Defendant, researched applicable law, provided estimates of “damages”
22 for purposes of settlement discussions, and engaged in a full day of mediation, among other
23 tasks. *Id.*

24 Class Counsel have borne all the risks and costs of litigation and will receive no
25 compensation until recovery is obtained. (Messrelian Decl. ¶ 32). Class Counsel is well-
26 experienced in wage-and-hour class action and PAGA litigation and used that experience to
27 obtain a fair result for the Class. *Id.* Considering the amount of the attorney fees requested, the
28

work performed, and the risks incurred, the requested fees and costs are reasonable and should be awarded. *Id.*

VIII. THE SERVICE AWARD TO PLAINTIFF IS FAIR, ADEQUATE, AND REASONABLE AND SHOULD BE PRELIMINARILY APPROVED

Courts routinely approve enhancement awards to compensate named plaintiffs for the services they provide and the risks they incur during class action litigation, often in much higher amounts than that sought here. *see, e.g., Bell v. Farmers Ins. Exchange*, 115 Cal. App. 4th 715, 726 (2004) (upholding “service payments” to named plaintiffs for their efforts in bringing the case); *Van Vranken v. Atlantic Richfield Co.*, 901 F. Supp. 294 (N.D. Cal. 1995) (approving \$50,000 enhancement award).

The Settlement provides that Plaintiff may seek an Enhancement Award of \$10,000.00. (Messrelian Decl. ¶ 33). This amount is entirely reasonable given Plaintiff’s efforts in this action and the risks he undertook on behalf of Qualified Class Members. *Id.* Plaintiff has devoted many hours advancing the interests of the Qualified Class Members. *Id.* Plaintiff has done this by, among other things, retaining experienced counsel, providing them with information about his work history with Defendant and its policies and practices with respect to the wage and hour claims at issue, and being actively involved in the settlement process to ensure a fair result for the Qualified Class Members as a whole. *Id.* In doing this, Plaintiff has been exposed to significant risks, including the risk of an order to pay Defendant’s attorneys’ fees and costs if this action had been unsuccessful (*see* Labor Code sections 218.5-218.6). *Id.* The efforts and risks that Plaintiff undertook on behalf of the Qualified Class Members show that the proposed Enhancement Award is fair, adequate, and reasonable, and thus warrants preliminary approval. (Messrelian Decl. ¶ 33; *see generally* Declaration of Guiseppe Losavio).

IX. THE PROPOSED SETTLEMENT ADMINISTRATION COSTS ARE FAIR AND REASONABLE AND SHOULD BE PRELIMINARILY APPROVED

Here, the Settlement Administration cost is reasonable. Before agreeing to APEX Class Action Administration’s \$4,490.00 proposal, the Parties sought and reviewed bids from other reputable third-party administrators and compared the bids. (Messrelian Decl. ¶ 37). First, the

Parties obtained an estimate from Phoenix Class Action Administration Solutions, totaling \$6,591.45, then another estimate from ILYM Group, Inc., totaling \$6,250.00. (Messrelian Decl. ¶ 37, **Exhibit 2**). The bid provided by APEX Class Action Administration was the lowest, so the Parties agreed to proceed with APEX Class Action Administration. *Id.* Since receiving the initial bid from APEX, the number of Settlement Class Members increased, which consequently increased APEX’s bid to \$6,490.00. *Id.* Thus, settlement administration costs provision should be given preliminary approval.

X. THE PROPOSED NOTICE AND SETTLEMENT ADMINISTRATION PLAN SHOULD BE APPROVED BECAUSE IT IS REASONABLY CALCULATED TO GIVE ACTUAL NOTICE TO SETTLEMENT CLASS MEMBERS AND SUFFICIENT TIME TO EXERCISE THEIR RIGHTS

This Court should approve the proposed plans for giving notice to the Settlement Class Members and administering the Settlement. The standard for determining the adequacy of notice is whether the notice has “a reasonable chance of reaching a substantial percentage of the class members.” *Cartt v. Superior Court*, 50 Cal. App. 3d 960, 974 (1975). The notice process includes multiple measures to ensure that, as many Settlement Class Members as practicable, receive actual notice of the Settlement and have enough time to exercise their rights. The Settlement provides that the Settlement Administrator shall be responsible for preparing, printing, mailing, and emailing the Settlement Notice to all Settlement Class Members. (Messrelian Decl. ¶ 35; *see* Settlement, ¶¶ 50-54). The Settlement Administrator will also create a website for the Settlement, which will allow Settlement Class Members to view the Class Notice (in generic form), this Settlement Agreement, and all papers filed by Settlement Class Counsel to obtain preliminary and final approval of the Settlement Agreement. *Id.* Additionally, the Settlement website will provide contact information for Settlement Class Counsel and the Settlement Administrator. *Id.*

With respect to its content, “[The] notice given to the class must fairly apprise the class members of the terms of the proposed compromise and of the options open to dissenting class members.” *Trotsky v. Los Angeles Fed. Sav. & Loan Assn.*, 48 Cal. App. 3d 134, 151-152 (1975). The purpose of the notice in the class settlement context is to give class members sufficient

1 information to decide whether they should accept the benefits offered, opt out and pursue their
2 own remedies, or object to the settlement. *Id.*

3 The Class Notice (attached as Exhibit “A” to the Settlement Agreement) provides
4 Settlement Class Members with all pertinent information that they need to fully evaluate their
5 options and exercise their rights under the Settlement. (Messrelian Decl. ¶ 35). Specifically, it
6 clearly and concisely explains, among other things: (1) what the Settlement is about; (2) who is
7 a Settlement Class Member; (3) how Class Counsel will be paid; (4) how to submit an exclusion
8 request not to be bound by the Settlement; (5) how to object to the Settlement; (6) how the
9 Settlement will be allocated; (7) how payments to Settlement Class Members will be calculated;
10 (8) how the disputes will be resolved; and (9) the estimated Individual Settlement Payment for
11 each Settlement Class Member. *Id.* Additionally, the Notice will include the number of
12 Workweeks a Settlement Class Member had during the Class Period and the number of PAGA
13 Periods an Aggrieved Employee had during the PAGA Period. *Id.* Accordingly, the Class Notice
14 should be approved because it describes the Settlement with sufficient clarity and specificity to
15 explain to Settlement Class Members what this action is about, their rights under the Settlement,
16 and how to exercise those rights. *Id.* As such, the parties’ proposed Class Notice fully complies
17 with California Rules of Court 3.766(d) and 3.769(f) and will allow Settlement Class Members
18 to make informed responses to the proposed settlement. *Id.*

19 **XI. CONCLUSION**

20 For the reasons stated above, this Court should grant Plaintiff’s Motion in its entirety and
21 adopt the proposed order submitted concurrently herewith.

22
23 DATED: July 21, 2026

MESSRELIAN LAW INC.

24
25 By /s/Harout Messrelian

26 Harout Messrelian, Esq.
27 Attorney for Plaintiff
28 Giuseppe Losavio

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I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 101 N. Brand Blvd, Suite 1450, Glendale, CA 91203.

Jyoti Mittal, Esq.
jmittal@littler.com
LITTLER MENDELSON P.C.

(BY MAIL) I caused such envelope to be deposited in the mail at Glendale, California. The envelope was mailed with postage thereon fully paid. As follows: I am “readily familiar” with the firm’s practice of collection and processing correspondence from mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Glendale, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

 X (BY ELECTRONIC TRANSMISSION) I caused such document to be delivered via electronic transmission to the addressee(s) listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

/s/ Yervand Boyajyan
Yervand Boyajyan, Esq.



Court Reservation Receipt

Reservation

Reservation ID: 208968099457	Status: RESERVED
Reservation Type: Motion re: (Preliminary Approval of Class Action and PAGA Settlement)	Number of Motions: 1
Case Number: 24STCV30619	Case Title: GIUSEPPE LOSAVIO vs 362NCD BEVERLY HILLS LLC.
Filing Party: GIUSEPPE LOSAVIO (Plaintiff)	Location: Stanley Mosk Courthouse - Department 311
Date/Time: August 24th 2026, 8:30AM	Confirmation Code: CR-RECWSDR3DM3AWVUIP

Fees

Description	Fee	Qty	Amount
Motion re: (name extension)	0.00	1	0.00
TOTAL			\$0.00

Payment

Amount: \$0.00	Type: NOFEE
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[◀ Back to Main](#) [Print Page](#)