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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET**

FRANCISCO ONTIVERO, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

GOLDEN STATE SEA FOOD, INC., a
California corporation; and DOES 1 through
10, inclusive,

Defendants

Case No.: 24STCV11843

CLASS AND REPRESENTATIVE ACTION

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

*[Filed with the Declaration of Kane Moon,
the Declaration of Walter L. Haines, the
Declaration of Peggy Reali, the Declaration
of Plaintiff, the Declaration of Robert J.
Prata, the Declaration of Sean Hartranft
Regarding Settlement Administration, and
[Proposed] Preliminary Approval Order]*

PRELIMINARY APPROVAL HEARING:

Date: March 13, 2026

Time: 9:00 a.m.

Dept.: SSC Dept. 6

Judge: Elihu M. Berle

Action filed: May 10, 2024

Trial date: Not set

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Attorneys for Plaintiff Francisco Ontivero

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

2 PLEASE TAKE NOTICE that on March 13, 2026 at 9:00 a.m. in Department 6 of this Court
3 located at the Spring Street Courthouse at 312 North Spring Street, Los Angeles, California, 90012
4 pursuant to Code of Civil Procedure section 382 and California Rules of Court, rule 3.769 *et seq.*,
5 Plaintiff Francisco Ontivero ("Plaintiff") will, and hereby does, move the Court for an order granting
6 preliminary approval of the proposed class action settlement between Plaintiff and Defendant Golden
7 State Sea Food, Inc. Specifically, Plaintiff moves the Court for an order:

- 8 1. Granting preliminary approval of the Class and PAGA Action Settlement Agreement;
- 9 2. Certifying a Class, for settlement purposes only;
- 10 3. Approving the Class Notice and plan for its distribution;
- 11 4. Appointing Plaintiff as the Class Representative, for settlement purposes only;
- 12 5. Appointing Kane Moon, Allen Feghali, and Charlotte Mikat-Stevens of Moon Law
13 Group, PC and Walter L. Haines and Peggy Reali of United Employees Law Group as
14 Class Counsel, for settlement purposes only;
- 15 6. Appointing Apex Class Action Administration as the Administrator; and
- 16 7. Scheduling a Final Approval Hearing no earlier than 120 days from the date of
17 preliminary approval.

18 The motion will be based upon this notice, the attached memorandum of points and
19 authorities, the supporting declarations and attachments thereto, the record and files in this action,
20 and any other further evidence or argument that the Court may properly receive at or before the
21 hearing.

22 Respectfully submitted,

23 Dated: January 22, 2026

MOON LAW GROUP, PC

24 By: _____
25 Kane Moon
26 Allen Feghali
27 Charlotte Mikat-Stevens
28

UNITED EMPLOYEES LAW GROUP

By: /s/ Peggy Reali
Walter L. Haines
Peggy Reali
Attorneys for Plaintiff

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I. INTRODUCTION

II. SUMMARY OF THE LITIGATION AND SETTLEMENT

Defendant is a California seafood processor and distributor. (*Id.*) Defendant employed Plaintiff and other non-exempt, hourly-paid employees during the Class Period. (*Id.*) Plaintiff worked for Defendant from approximately January 8, 2024 to January 25, 2024, in a non-exempt,

1 hourly-paid position. (Declaration of Plaintiff Francisco Ontivero. in Support of Class Action and
2 PAGA Action Settlement [“Plaintiff Decl.”], ¶ 2.) Plaintiff contends he and his coworkers were
3 subjected to the same unlawful labor practices, including failure to pay wages for all hours worked.
4 (*Id.* at ¶ 6; Moon Decl., ¶ 3.)

5 Plaintiff’s claim for unpaid minimum and overtime wages stem from allegations that
6 Defendant failed to compensate Plaintiff and others for off-the-clock work and failed to incorporate
7 non-discretionary bonuses into employees’ regular rate of pay for purposes of paying overtime or sick
8 pay. (Moon Decl., ¶ 4.) Plaintiff’s meal and rest period claims are based on allegations that due to
9 the nature of their work, Class Members’ breaks were often short, late, interrupted, and sometimes
10 missed altogether, and that Defendant did not pay all premium wages for non-compliant breaks.
11 (*Id.*) Plaintiff further brings a claim for unreimbursed necessary business expenses based on
12 allegations that Class Members were required to use their personal cell phone for work purposes
13 without reimbursement from Defendant. (*Id.*) Finally, Plaintiff also brings derivative claims for
14 waiting time penalties, wage statement violations, unfair business practices, and civil penalties
15 under PAGA. (*Id.*)

16 Because of the foregoing alleged violations of various provisions of the Labor Code,
17 Plaintiff filed a class action on May 10, 2024, which alleges Defendant systematically: (1) failed
18 to pay minimum wages, (2) failed to pay overtime compensation, (3) failed to provide meal
19 periods, (4) failed to authorize and permit rest periods, (5) failed to indemnify necessary business
20 expenses, (6) failed to timely pay final wages at termination, (7) failed to provide accurate
21 itemized wage statements, and (8) engaged in unfair business practices. (*Id.* at ¶ 5.)

22 Pursuant to PAGA, on May 5, 2024, Plaintiff gave written notice to the California Labor
23 and Workforce Development Agency (the “LWDA”) of the alleged Labor Code violations, with
24 certified mail service on Defendant, and paid the required filing fee. (*Id.* at ¶ 6, Ex. 2.) On July 9,
25 2024, Plaintiff timely filed a First Amended Class and Representative Action Complaint to add a
26 ninth cause of action for civil penalties under PAGA (the “Operative Complaint”). (*Id.* at ¶ 6.) In
27 compliance with Labor Code section 2699(s)(1), Plaintiff subsequently submitted to the LWDA a
28 file-stamped copy of the Operative Complaint containing the Court-assigned case number. (*Id.*) To

1 date, the LWDA has not indicated its intent to investigate the alleged violations or intervene in
2 this Action. (*Id.*)

3 Defendant ardently opposes the merits of this case and denies Plaintiff's factual allegations.
4 (*Id.* at ¶ 7.) Defendant asserts it complied with all its compensation obligations, including
5 compensating Class Members for any and all off-the-clock work and overtime work, and therefore,
6 Plaintiff and other Class Members were paid all wages owed. (*Id.*) Defendant argues it did not fail
7 to incorporate any non-discretionary bonuses, shift differentials, or commissions into the regular
8 rate of pay for purposes of paying overtime or sick pay, and that all bonuses were discretionary.
9 (*Id.*) Defendant maintains compliance with all its meal and rest period obligations. (*Id.*) Defendant
10 asserts it complied with all its reimbursement obligations, and that Plaintiff and other employees
11 were compensated for any and all business expenses necessarily incurred. (*Id.*) To the extent
12 employees received wage statements that were allegedly inaccurate, Defendant asserts employees
13 suffered no actual damage or harm as a result. (*Id.*; *see, e.g., Angeles v. U.S. Airways, Inc.* (N.D.
14 Cal. Feb. 19, 2013, No. C 12–05860 CRB) 2013 WL 622032, at *10 [“A plaintiff must adequately
15 plead an injury arising from an employer’s failure to provide full and accurate wage statements,
16 and the omission of the required information alone is not sufficient.”].) With respect to Plaintiff’s
17 claim for waiting time penalties, Defendant alleges its good-faith belief that it paid all wages
18 precludes the imposition of waiting time penalties since Plaintiff cannot prove Defendant’s alleged
19 failure to pay all final wages at the time of separation was “willful.” (Moon Decl., ¶ 7; *see, e.g.,*
20 *Pedroza v. PetSmart, Inc.* (C.D. Cal. June 14, 2012, No. ED CV 11–298 GHK (DTBx)) 2012 WL
21 9506073, *5.) For these reasons, among others, Defendant denies all of Plaintiff’s claims and
22 allegations, and further claims it did not engage in any unfair business practices and denies liability
23 under PAGA. (Moon Decl., ¶ 7.) Defendant also maintains the claims are improper for class
24 treatment, in part, due to the individualized and testimony-intensive nature of the wage claims that
25 could bar class certification or significantly reduce Defendant’s overall liability and the fact that
26 Defendant obtained signed claims releases from a large portion of Class Members through *Pick-*
27 *Up-Stix* agreements. (*Id.*)

1 **B. Discovery and Investigation**

2 The Parties agreed to mediate this action with Lonnie Giamela, Esq., an experienced class and
3 PAGA action mediator. (*Id.* at ¶ 8.) In preparation for mediation, the Parties agreed to a protocol for
4 an informal production of documents and information before mediation. (*Id.*) Prior to mediation,
5 Plaintiff obtained from Defendant, through informal discovery, documents and data that were
6 necessary and helpful to evaluate the claims asserted in this action. (*Id.*) Defendant produced a
7 statistically sound sample of time and pay records for the putative Class (30% based on total number
8 of estimated pay periods from 2020 to 2025), Plaintiff’s personnel file and time and pay records, and
9 Defendant’s written employment policies in effect during the Class Period. (*Id.*) Defendant also
10 provided information regarding the estimated number of current and formerly employed Class
11 Members, Aggrieved Employees, and PAGA Pay Periods. (*Id.*)

12 In preparation for mediation, Plaintiff’s Counsel reviewed and analyzed all the information
13 Defendant provided, including the sample records and documents regarding Defendant’s wage-and-
14 hour policies. (*Id.* at ¶ 9.) Plaintiff’s Counsel retained a statistics expert to analyze the sample records
15 and prepare a damage analysis prior to the mediation. (*Id.*) The sample time and pay records analyzed
16 contained 11,939 actual shifts worked (representing roughly 15% of total shifts worked in the Class
17 Period), which allowed Plaintiff’s expert to prepare an analysis with a reasonable degree of certainty.
18 (*Id.*) In conjunction with their extensive factual investigation, Plaintiff’s Counsel also investigated
19 the applicable law regarding the claims and defenses asserted in the litigation. (*Id.*) Accordingly,
20 Plaintiff’s Counsel was able to evaluate the probability of class certification, success on the merits,
21 and Defendant’s maximum and realistic monetary exposure for all claims. (*Id.*) Thus, Plaintiff’s and
22 his Counsel’s familiarity with the facts of the case and the legal issues raised by the pleadings allowed
23 them to act intelligently in negotiating the Settlement. (*Id.*)

24 **C. Settlement Negotiations and Notice of Settlement to the LWDA**

25 On September 16, 2025, the Parties participated in a full day of private mediation with
26 Lonnie Giamela, Esq. (*Id.* at ¶ 10.) The negotiations were at arm’s length and, although conducted
27 in a professional manner, were adversarial. (*Id.*) The Parties went into the mediation willing to
28 explore the potential for a settlement of the dispute, but each side was also prepared to litigate

1 their position through trial and appeal if a settlement had not been reached. (*Id.*) After a full
2 discussion regarding the strengths and weaknesses of Plaintiff’s claims and Defendant’s defenses
3 and with the assistance of the mediator, the Parties reached a resolution, the material terms of
4 which are set out in the Settlement. (*Id.* at ¶¶ 2, 10, Ex. 1.)

5 In compliance with Labor Code section 2699(s)(2), notice of settlement and a copy of the
6 proposed Settlement has been submitted to the LWDA along with a copy of Plaintiff’s preliminary
7 approval motion and the hearing date. (*Id.* at ¶ 11.) To date, the LWDA has not indicated any
8 objection to the Settlement. (*Id.*)

9 **D. Key Terms of the Proposed Settlement**

10 Under the Settlement, Defendant will pay a non-reversionary, all-inclusive amount of *no*
11 *less than \$282,750.00* (“GSA”) to resolve this action. (Settlement, ¶ 3.1.) Other key terms of the
12 Settlement are outlined in the counsel declaration submitted concurrently herewith. (Moon Decl.,
13 ¶¶ 12–28.) The proposed Settlement Administrator—Apex Class Action Administration—was
14 jointly selected by the Parties following a competitive bidding process. (*Id.* at ¶ 16; Settlement, ¶
15 1.3.)¹

16 The Settlement allocates \$10,000.00 from the GSA for settlement of the Released PAGA
17 Claims, which will be distributed 75% (\$7,500.00) to the LWDA and 25% (\$2,500.00) to
18 Aggrieved Employees pursuant to PAGA law governing Plaintiff’s claims.² (Settlement, ¶ 1.32.)
19 Each Aggrieved Employee will be entitled to a pro rata share of the 25% share of the PAGA
20 Penalties directly proportional to their number of PAGA Pay Periods. (*Id.* at ¶ 3.2.5.1.) This results
21 in an average Individual PAGA Payment of roughly **\$20.00** for each of the estimated 125
22 Aggrieved Employees (\$2,500 / 125), and a PAGA Pay Period value of roughly **\$0.40** for each of
23

24
25 ¹ Bids were requested from four competent administration entities, and Apex Class Action
Administration provided the lowest bid at \$5,990.00. (Moon Decl., ¶ 16, Ex. 4.)

26 ² On July 1, 2024, new legislation was enacted to amend PAGA in several respects, including as to
27 the recovery split for civil penalties. (Stats. 2024, ch. 44 (Assem. Bill No. 2288), § 1, eff. Jul. 1, 2024.)
28 As amended, PAGA now provides for a 65%-LWDA/45%-aggrieved employee split. (Lab. Code §
2699(m).) However, PAGA reform only applies to PAGA actions initiated on or after June 19, 2024.
(*Id.* at § 2699(v)(1).)

1 the 6,279 estimated Pay Periods in the PAGA Period (\$2,500 / 6,279). (Moon Decl., ¶ 17.)

2 After deducting the Class Representative Enhancement Award, the Class Counsel
3 Attorneys' Fees and Litigation Costs Payments, the PAGA Penalties allocation, and the
4 Administration Expenses Payment from the GSA, in the amounts specifically approved by the
5 Court, any difference in the amounts requested and the amounts awarded will be allocated to the
6 Net Settlement Amount for distribution to Participating Class Members. (Settlement, ¶ 3.2.)
7 Accordingly, the Net Settlement Amount will be *no less than* **\$145,000** for an estimated Class of
8 **143 individuals**.³ (Moon Decl., ¶ 18.) Each Class Member who does not opt-out will be entitled
9 to a pro rata share of the Net Settlement Amount that is directly proportional to the number of
10 Workweeks worked during the Class Period. (Settlement, ¶ 3.2.4.) Additionally, any payment that
11 a Participating Class Member previously received from Defendant through a *Pick-Up-Stix*
12 agreement will be deducted from such Participating Class Member's Individual Class Payment. The total
13 amount of *Pick-Up-Stix* payments (\$37,977.00) will then be divided by the total number of
14 Participating Class Members who did not previously receive such a payment, and paid to such
15 Participating Class Members with their Individual Class Payment. (*Id.*) Not including the *Pick-Up-*
16 *Stix* payments, the estimated **\$145,000** Net Settlement Amount results in an average Individual Class
17 Payment of roughly **\$1,013.99** for each of the estimated 143 Class Members (\$145,000 / 143),⁴ and a
18 Class Workweek value of roughly **\$10.00** for each of the 14,500 estimated Workweeks in the Class Period
19 (\$145,000 / 14,500). (Moon Decl., ¶ 20.)

20 To the best of Plaintiff's knowledge, there is no other pending litigation involving similar
21 claims against Defendant that may be impacted by approval of the Settlement at issue, nor has
22 Defendant pointed to any. (Moon Decl., ¶ 29.)

23 _____
24 ³ The Net Settlement Amount was calculated by deducting the following from the \$282,750 GSA:
25 \$7,500.00 for the Class Representative Enhancement Award, up to \$6,000.00 for the Administration
26 Expenses Payment, \$10,000.00 for the PAGA Penalties to the LWDA and Aggrieved Employees,
\$94,250.00 for the Class Counsel Fees Payment, and up to \$20,000.00 for the Class Counsel
Litigation Costs Payment. (Settlement, ¶¶ 3.1–3.2.5.)

27 ⁴ At this time, the actual amounts to Class Members and/or Aggrieved Employees is unknown
28 and will be calculated by the Administrator following preliminary approval and receipt and processing
of the Class Data. (Settlement, ¶ 7.4.2.) The high and low range of payments will be provided to the
Court in a motion for final approval. (Moon Decl., ¶ 20, n.4.)

1 **III. THE COURT SHOULD GRANT PRELIMINARY APPROVAL**

2 The law favors the settlement of lawsuits, particularly in class actions and other complex
3 cases. (*See, e.g., Neary v. Regents of Univ. of Cal.* (1992) 3 Cal.4th 272, 277–81.) To prevent fraud,
4 collusion, or unfairness to the class, the settlement of a class action requires court approval. (*Dunk v.*
5 *Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800–01 [citing authority omitted].) To approve a
6 settlement, the Court must find “the settlement is fair, adequate, and reasonable.” (*Id.*) This Court
7 has wide discretion in making this determination. (*Mallick v. Super. Ct.* (1979) 89 Cal.App.3d 434,
8 438.) Fairness, adequacy, and reasonableness are presumed, as here, when: “(1) the settlement is
9 reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow
10 counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the
11 percentage of objectors is small.” (*Dunk*, 48 Cal.App.4th at p. 1802 [citing Newberg, Newberg on
12 Class Actions (3rd ed. 1992) § 11.41].)

13 In evaluating a settlement, the trial court considers the following factors: (1) the strength of
14 plaintiff’s case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk
15 of maintaining class action status through trial; (4) the settlement amount offered; (5) the extent of
16 discovery completed and the stage of the proceedings; (6) counsel’s experience and views; (7) the
17 presence of a governmental participant; and (8) the class members’ reaction to the proposed
18 settlement. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128.) To approve a class
19 action settlement, “the court must satisfy itself that the class settlement is within the ‘ballpark’ of
20 reasonableness.” (*Id.* at p. 133.) The record need not contain an explicit statement of the maximum
21 theoretical recovery. (*Munoz v. BCI Coca-Cola Bottling Co. of L.A.* (2010) 186 Cal.App.4th 399,
22 408–09 [holding that *Kullar* does not require “an explicit statement of the maximum amount the
23 plaintiff class could recover if it prevailed on all its claims,” but instead, only an “understanding
24 of the amount that is in controversy and the realistic range of outcomes of the litigation”].)

25 As discussed below, Plaintiff’s Counsel have provided materials and information exceeding
26 the threshold required for this Court to conclude the Settlement is fair, reasonable, and adequate.

27 ///

28 ///

1 **A. The Settlement Is Fair, Reasonable, Adequate, and the Product of Investigation,**
2 **Litigation, and Negotiation**

3 **1. The Settlement Is the Product of Discovery, Investigation, Informed and Non-**
4 **Collusive Arm’s-Length Negotiations, and Realistic Claims Analysis**

5 Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless
6 evidence to the contrary is offered. (Newberg, Newberg on Class Actions (3rd ed. 1992) § 11.51.)
7 Settlement is favored, and settlement agreements are realistically assessed. (*Stamburgh v. Super. Ct.*
8 (1976) 62 Cal.App.3d 231, 236; *Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447 [“The fact that
9 the plaintiff might have received more if the case had been fully litigated is no reason not to approve
10 the settlement.”].) Thus, there is a presumption here that negotiations were conducted in good faith.

11 Here, Plaintiff’s Counsel have conducted a thorough investigation into the facts of this case.
12 (Moon Decl., ¶ 30.) As previously noted, the Settlement at issue was reached through arms’-length
13 negotiations, private mediation, and the assistance of a statistics expert. (*Id.*) Based on Defendant’s
14 informal class-wide discovery production, on Plaintiff’s Counsel independent investigation and
15 evaluation, and on counsel’s extensive experience in wage-and-hour litigation, Plaintiff’s Counsel are
16 of the opinion that the proposed Settlement is fair, reasonable, and adequate. (*Id.*)

17 Based on Plaintiff’s Counsel’s review of the time, payroll, and additional data provided by
18 Defendant, on Plaintiff’s expert’s analysis of the sample records provided by Defendant, and on
19 information from Plaintiff, Plaintiff’s Counsel evaluated the estimated maximum and risk-adjusted
20 exposure that Defendant faced. (*Id.* at ¶ 31.) Specifically, based on the information provided for
21 mediation, the total estimated **realistic recovery** (adjusted for risks at certification and proof on the
22 merits) for the alleged claims, including penalties, is estimated to be **\$549,599.40**. (Moon Decl., ¶
23 31.) This amount was calculated as follows: **\$18,117.15** (90% discount) for the off-the-clock work
24 claim; **\$3,205.25** (75% discount) for the regular rate claim; **\$372,193.36** (75% discount) for the meal
25 period claim; **\$77,126.54** (90% discount) for the rest period claim; **\$10,875.00** (90% discount) for
26 the unreimbursed business expenses claim; **\$11,687.10** (95% discount) for the waiting time penalties
27 claim; **\$25,000.00** (95% discount) for the wage statement claim; and **\$31,395.00** (95% discount) for
28

1 the PAGA penalties claim. (*Id.* at ¶¶ 31–37.) The foregoing discounts were based on the evidence
2 presented for mediation and arguments made during arm’s-length settlement negotiations. (*Id.*)

3 **The \$282,750.00 gross settlement figure represents roughly 51% of the total realistic**
4 **recovery.** (*Id.* at ¶ 38.) This is an excellent result for the Class, particularly because, under the
5 Settlement, Class Members will receive timely and guaranteed relief, avoiding the risk of not being
6 able to recover anything. (*Id.*)

7 **2. The Class Settlement Is Fair Considering the Parties’ Respective Positions**
8 **and Significant Risks to Certification and Proof on the Merits**

9 A settlement is not judged against what a plaintiff might recover had he prevailed at trial, nor
10 does the settlement have to provide 100% of the damages sought to be fair and reasonable. (*Wershba*
11 *v. Apple Comp., Inc.* (2001) 91 Cal.App.4th 224, 246, 250 [“Compromise is inherent and necessary
12 in the settlement process . . . even if ‘the relief afforded by the proposed settlement is substantially
13 narrower than it would be if the suits were to be successfully litigated,’ this is no bar to a class
14 settlement because ‘the public interest may indeed be served by a voluntary settlement in which each
15 side gives ground in the interest of avoiding litigation.’”] [quoting *Air Line Stewards v. Am. Airlines,*
16 *Inc.* (7th Cir. 1972) 455 F.2d 101, 109].)

17 Here, considering all known facts and circumstances, the risk of significant delay, trial risk,
18 appellate risk, and the defenses Defendant may assert both to certification and on the merits, the
19 Settlement is in the best interest of the Class and LWDA. (Moon Decl., ¶ 30.) While Plaintiff is
20 confident in the merits of his claims, a legitimate controversy exists as to each cause of action. (*Id.*
21 at ¶ 41.) Plaintiff also recognizes that proving the amount owed to each Class Member would be an
22 expensive, time-consuming, and uncertain proposition. (*Id.*)

23 The Settlement obviates the significant risk that this Court may deny certification of all or
24 some of Plaintiff’s claims. (*Id.* at ¶ 42.) Plaintiff’s Counsel took into account the risk of not prevailing
25 at trial due to low or no participation by Class Members. (*Id.*) Indeed, the individualized and testimony-
26 intensive nature of the claims could bar manageability of the representative claims or otherwise
27 significantly reduce any recovery whatsoever. (*Id.*) For example, the rest period and unreimbursed
28 expense claims are testimony-driven claims and assume a 100% violation rate, which would not

likely be demonstrated at trial, as it assumes either the participation of all employees (which would be difficult given the reality that many, if not all, employees would be unwilling to participate due to fear of retaliation), or alternatively, the use of surveys or statistical data as a surrogate (which would still require the participation of a majority of employees to establish a sound representation of all non-exempts). (*Id.*) Even assuming employees would be willing to participate, obtaining declarations would potentially reveal that each individual employee had a different experience. (*Id.*)

Furthermore, even if Plaintiff was able to pursue his claims on a class-wide basis and obtain certification of all or some of the claims, continued litigation would be expensive, involving a trial and possible appeals, and would substantially delay and reduce any recovery by the Class. (*Id.* at ¶ 43.) Although the Parties have engaged in a significant amount of investigation, informal discovery, and class-wide data analysis, they have not conducted depositions. (*Id.*) Moreover, preparation for class certification and a trial would remain for the Parties as well as the prospect of appeals in the wake of a disputed class certification ruling for Plaintiff and/or any summary judgment ruling. (*Id.*) As a result, the Parties would incur considerably more attorneys' fees and costs through trial. (*Id.*) In sum, this Settlement avoids the risks, burdens, and the accompanying expense of further litigation. (*Id.*)

The proposed \$282,750.00 Settlement therefore represents a substantial recovery when compared to the reasonably forecasted recovery for the Class. (*Id.* at ¶ 44.) When considering the risks of litigation, the uncertainties involved in continued litigation, the burdens of proof necessary to establish liability, and the probability of appeal, it is clear the Settlement amount is within the "ballpark" of reasonableness, and that preliminary settlement approval is appropriate. (*Id.*; (*Kullar, supra*, 168 Cal.App.4th at p. 133; *see Munoz, supra*, 186 Cal.App.4th at pp. 408–09.)

3. The PAGA Settlement is Fair Considering the Parties' Respective Positions and Significant Risks

With regards to the PAGA claims, the Settlement is a fair and reasonable resolution that satisfies PAGA's dual statutory purposes of deterrence and punishment, on the one hand, and providing Aggrieved Employees with genuine and meaningful relief, on the other. (Moon Decl., ¶ 40; Lab. Code §§ 2698, *et seq.*) As a result of this litigation, Defendant has had to hire legal counsel, engage

1 in informal class-wide discovery, and participate in mediation. (Moon Decl., ¶ 39.) Defendant will also
2 have to pay civil penalties to the LWDA under the Settlement, assuming final settlement approval is
3 granted. (*Id.*) Not including its own attorneys’ fees and costs as well as the employer’s share of payroll
4 taxes, Defendant will pay no less than \$282,750.00 to resolve this matter—of which \$10,000.00 is
5 allocated toward the PAGA claims and will be distributed, in compliance with PAGA law governing
6 the claims in this action, as 75% (\$7,500.00) to the LWDA and 25% (\$2,500.00) to Aggrieved
7 Employees—and the release obtained under the Settlement does not preclude Aggrieved Employees
8 from pursuing any individual claims they may have against Defendant or the other Released Parties.
9 (*Id.*)

10 Moreover, Plaintiff’s Counsel are of the opinion that because the issues here are fairly
11 contested, there is a possibility of the Court not awarding the PAGA penalties even if Plaintiff
12 prevailed on the merits due to the largely discretionary nature of awarding PAGA penalties. (*Id.*)
13 Indeed, under PAGA, a Court can reduce penalties “if, based on the facts and circumstances of the
14 particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or
15 confiscatory.” (Lab. Code § 2699(e)(2).) In other words, were this matter to go to trial, any award
16 granted would be at the discretion of the Court and subject to a substantial reduction. (Moon Decl., ¶
17 39.) Further, Plaintiff’s Counsel took into account the risk of not being able to proceed on a representative
18 basis due to the potential manageability issues and that even if Plaintiff prevailed at trial, penalties would
19 likely be limited due to the largely discretionary nature of awarding PAGA penalties and in light of other
20 defenses available to Defendant. (*Id.* at ¶ 40.) Thus, it is entirely possible that even if Plaintiff would be
21 successful at trial, assuming he is first able to certify the claims and defeat the manageability issues
22 presented at litigation, Plaintiff could be awarded substantially less than what was obtained through the
23 Settlement. (*Id.*)

24 In sum, the \$10,000 PAGA Penalties allocation under the Settlement constitutes “genuine and
25 meaningful” that is “consistent with the underlying purpose of the statute to benefit the public.” (*See*
26 *O’Connor v. Uber Tech., Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1133–35 [denying settlement
27 approval where allocation for PAGA claims was 0.1% of the estimated full worth].)

1 **4. Plaintiff’s Counsel Have Extensive Experience in Class and PAGA Action**
2 **Litigation, Which Was Integral to Negotiating the Settlement**

3 The Settlement negotiations were conducted by highly capable counsel with considerable
4 experience and demonstrated competence with litigating wage-and-hour class actions. (Moon Decl.,
5 ¶¶ 49–65; Declaration of Peggy J. Reali in Support of Motion for Preliminary Approval of Class
6 Action and PAGA Settlement [“Reali Decl.”], ¶¶ 3-4; Declaration of Walter L. Haines in Support of
7 Motion for Preliminary Approval of Class Action and PAGA Settlement [“Haines Decl.”]. ¶¶ 3-4.)
8 Plaintiff’s Counsel have a strong record of vigorous and effective advocacy for their clients and are
9 experienced in handling complex wage-and-hour class action litigation. (Moon Decl., ¶¶ 49-65; Reali
10 Decl., ¶¶ 3-4; Haines Decl., ¶¶ 3-4.) Their experience was helpful in assessing the reasonableness of
11 the Settlement at issue here, and from this experience they concluded that this litigation could not
12 have been settled on better terms than provided under the Settlement. (Moon Decl., ¶ 66.) Although
13 Plaintiff and his counsel were prepared to try the claims alleged in the litigation, they support the
14 proposed Settlement as being in the best interest of the Class based on objective evidence that has
15 been considered and weighed against the risks, expenses, and time consumption to both sides of
16 continued litigation. (*Id.* at ¶¶ 10, 30.)

17 **B. The Proposed Attorneys’ Fees and Costs Are Reasonable**

18 Subject to the Court’s approval, the Settlement provides a fee application of one-third of the
19 GSA for Class Counsel’s attorneys’ fees, plus reimbursement for out-of-pocket litigation costs not to
20 exceed \$20,000.00.⁵ (Settlement, ¶ 3.2.2.) These amounts are disclosed to Class Members in the
21 proposed Class Notice and are reasonable. (*Id.* at Ex. A.)

22 **1. Counsel Request a Fees Award Based On the “Common Fund” Method**

23 California courts have long awarded attorneys’ fees as a percentage of the benefit created by
24 counsel in pursuing claims on behalf of a class. (*See, e.g., Serrano v. Priest* (1977) 20 Cal.3d 25.)
25 The California Supreme Court has held, “when a number of persons are entitled in common to a
26 _____

27 ⁵ Plaintiff’s Counsel’s current litigation costs are \$18,009.87, with \$17,206.27 incurred by Moon
28 Law Group, P.C. and \$803.60 incurred by United Employees Law Group, PC, and they anticipate
incurring additional costs up to final approval. (Moon Decl., ¶ 74, Ex. 8; Reali Decl., ¶ 9, Ex. 1.)

1 specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the
2 creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney’s fees out
3 of the fund.” (*Id.* at p. 34.)

4 Plaintiff’s Counsel seek an award of attorneys’ fees on the “percentage of recovery/common
5 fund” theory. (Moon Decl., ¶ 68.) The purpose of this approach is to “spread litigation costs
6 proportionately among all the beneficiaries so that the active beneficiary does not bear the entire
7 burden alone.” (*Vincent v. Hughes Air W., Inc.* (9th Cir. 1977) 557 F.2d 759, 769.) In *Quinn v. State*
8 *of California* (1975) 15 Cal.3d 162, the California Supreme Court stated, “one who expends
9 attorneys’ fees in winning a suit which creates a fund from which others derive benefits, may require
10 those passive beneficiaries to bear a fair share of the litigation costs.” (*Id.* at p. 167.) Similarly, in
11 *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court
12 recognized that the common fund doctrine has been applied “consistently in California when an
13 action brought by one party creates a fund in which other persons[] are entitled to share.” (*Id.* at pp.
14 110–11 [pincite omitted].)

15 The California Supreme Court affirmed in *Laffitte v. Robert Half International Inc.* (2016) 1
16 Cal.5th 480 that, “when class action litigation establishes a monetary fund for the benefit of the class
17 members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the
18 court may determine the amount of a reasonable fee by choosing an appropriate percentage of the
19 fund created.” (*Id.* at p. 503.) The court explained: “The recognized advantages of the percentage
20 method—including relative ease of calculation, alignment of incentives between counsel and the
21 class, a better approximation of market conditions in a contingency case, and the encouragement it
22 provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation[]—
23 convince us the percentage method is a valuable tool that should not be denied our trial courts.” (*Id.*
24 [internal citations omitted].) This line of legal authority supports a request for attorneys’ fees based
25 on the percentage of recovery/common fund method.

26 **2. The Requested Fee Award Is in Line with Typical Cases**

27 According to a leading treatise on class actions: “No general rule can be articulated on what
28 is a reasonable percentage of a common fund. Usually 50% of the fund is the upper limit on a

1 reasonable fee award from a common fund in order to assure that the fees do not consume a
2 disproportionate part of the recovery obtained for the class, although somewhat larger percentages
3 are not unprecedented.” (Newberg, Newberg on Class Actions (3rd ed. 1992) § 14.03.) Attorneys’
4 fees that are fifty percent of the fund are typically considered the upper limit, with thirty to forty
5 percent commonly awarded in cases where the settlement is relatively small. (*Id.*; *see also Van*
6 *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 297 [stating that most cases
7 where 30–50% was awarded involved “smaller” settlement funds of under \$10 million].)

8 Here, Plaintiff’s Counsel’s fees request for one-third of the GSA is in line with the prevailing
9 guidelines established in California case law and academic literature and is consistent with awards in
10 California. (*Compare* Settlement, ¶ 3.2.2, with *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66,
11 n.11 [“Empirical studies show that, regardless whether the percentage method or the lodestar method
12 is used, fee awards in class actions average around one-third of the recovery.”].) Accordingly,
13 Plaintiff requests the Court preliminarily approve the attorneys’ fees as negotiated by the Parties.

14 **3. This Matter Involves a “Fee-Shifting” Provision of the Labor Code**

15 Labor Code sections 218.5, 226, 1194, 2699, and 2802 provide for the recovery of reasonable
16 fees and costs of suit, for the claims made in this action. (Lab. Code §§ 218.5, 226, 1194, 2699(k)(1),
17 2802(d).) Under these sections, Plaintiff would be permitted to recover his actual attorneys’ fees,
18 even if those fees were larger than the total class recovery at the conclusion of this case. (*Id.*) This
19 Settlement is beneficial in that it limits the risk of continued expenses and consumption of time,
20 energy, and resources facing Defendant while at the same time rewarding Plaintiff’s Counsel for their
21 decision to assume risk by taking on this matter on a contingent basis with no guarantee of recovery.
22 (Moon Decl., ¶¶ 70–75; Reali Decl., ¶ 6; Haines Decl., ¶ 4.) In fact, prosecution of this action
23 involved significant financial risk for Plaintiff’s Counsel. (Moon Decl., ¶¶ 70–75; Reali Decl., ¶ 6;
24 Haines Decl., ¶ 4.) Once Plaintiff’s Counsel undertook this litigation, they committed to pursue it to
25 its conclusion, placing their fiduciary duty to the Class ahead of all other concerns. (Moon Decl., ¶
26 72.)

1 **4. Counsel’s Experience, Reputation, and Ability Support the Fees Request**

2 As demonstrated by their past experience in pursuing class actions on behalf of consumers
3 and employees, Plaintiff’s Counsel possess considerable expertise in litigating class actions. (*Id.* at
4 ¶¶ 49–65; Reali Decl., ¶¶ 3-4; Haines Decl., ¶¶ 3-4.) Plaintiff’s Counsel have been involved as lead
5 counsel or co-counsel in numerous class actions that resulted in millions in recovery. (Moon Decl.,
6 ¶¶ 49–65; Reali Decl., ¶¶ 3-4; Haines Decl., ¶¶ 3-4.) As noted above, their experience in wage-and-
7 hour litigation was integral in evaluating the strengths and weaknesses of the case against Defendant
8 and the reasonableness of the Settlement. (Moon Decl., ¶ 66.) Practice in the narrow field of wage-
9 and-hour litigation requires skill and knowledge concerning the rapidly evolving substantive law
10 (state and federal) as well as the procedural law of class action litigation. (*Id.* at ¶ 64.) Based on these
11 and other factors, Plaintiff’s Counsel have frequently received fee awards of this percentage from the
12 gross recovery for the class. (*See id.* at ¶¶ 53, 58, 63; Haines Decl., ¶ 3; Reali Decl., ¶ 4.) Because it
13 is reasonable to compensate counsel commensurate with their skill, reputation, and experience, the
14 requested fee award is supported here.

15 **C. The Enhancement Award to Plaintiff Is Reasonable**

16 Named plaintiffs in class action lawsuits “are eligible for reasonable incentive payments to
17 compensate them for the expense or risk they have incurred in conferring a benefit on other members
18 of the class.” (*Munoz, supra*, 186 Cal.App.4th at p. 412.) Courts routinely grant approval of class
19 action settlement agreements containing enhancements for the class representatives, which are
20 necessary to provide incentive to represent the class and are appropriate given the benefit the class
21 representatives help to bring about for the class. (*See Rodriguez v. W. Publ’g Corp.* (9th Cir. 2009)
22 563 F.3d 948, 958–59.) Service awards are particularly important to plaintiffs in wage-and-hour cases
23 because they promote the important public policies underlying the wage-and-hour laws. This strong
24 policy is codified in California Labor Code section 90.5, which provides, “[i]t is the policy of this
25 state to vigorously enforce minimum labor standards in order to ensure employees are not required
26 or permitted to work under substandard unlawful conditions . . .” (Lab. Code § 90.5.) Nonetheless,
27 the California Supreme Court has noted that “retaliation against employees for asserting statutory
28 rights under the Labor Code is widespread,” despite anti-retaliation statutes designed to protect

employees. (*Gentry v. Super. Ct.* (2007) 42 Cal.4th 443, 460–61.) In this context, class representatives should be rewarded for assuming the risk of retaliation for the sake of class members. (*See Frank v. Eastman Kodak Co.* (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

Under the Settlement here, subject to the Court’s approval, a Class Representative Enhancement Award of \$7,500.00 will go to Plaintiff, in addition to his amount as a Class Member. (Settlement, ¶ 3.2.1.) This award is for having initiated and provided services in support of the Action and in recognition of the risks attendant to the role as the named Plaintiff and Class Representative. (*Id.* at ¶ 1.14.) Plaintiff has devoted a great deal of time and work assisting counsel in the case and communicated with counsel frequently for litigation and to prepare for mediation. (Moon Decl., ¶¶ 46–49; Plaintiff Decl., ¶¶ 20–23.) The requested award is fair and reasonable, particularly considering the substantial benefits Plaintiff generated for all Class Members. (Moon Decl., ¶ 44.)

When compared with the amounts awarded in typical class action cases, the amount requested here is particularly reasonable. A 2006 study examining the average incentive award given to class action plaintiffs from 1993 to 2002 found that the “average award per class representative was \$15,992 and the median award per class representative was \$4357.” (Eisenberg & Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study* (2006) 53 UCLA L. Rev. 1303, 1307–08.) The same study found that named plaintiffs in employment discrimination class actions received an average award of \$69,850 and a median award of \$31,081, while named plaintiffs in other employment class actions received an average award of \$12,121 and a median award of \$13,059. (*Id.* at p. 1333.) The authors of the study found that higher awards in employment cases reflected the “courts’ wish to make representative plaintiffs whole by compensating them for the high costs of their service to the class, including risks of stigmatization or retaliation on the job.” (*Id.* at p. 1308.)

IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED

A. Legal Standard

The proposed Settlement Class is well suited for class certification. The claims all derive from a core set of alleged violations of California’s wage and hour laws and regulations. (Moon Decl., ¶¶ 3–4.) For the reasons set forth more fully below, the Class, for purposes of Settlement, satisfies the prerequisites for certification under Code of Civil Procedure section 382. (Code Civ. Proc. § 382.)

1 Section 382 provides that “when the question is one of a common or general interest, of many
2 persons, or when the parties are numerous, and it is impracticable to bring them all before the court,
3 one or more may sue or defend for the benefit of all.” (*Id.*) There are two requirements to section
4 382: “(1) there must be an ascertainable class[]; and (2) there must be a well defined community of
5 interest in the questions of law and fact involved affecting the parties to be represented.” (*Daar v.*
6 *Yellow Cab Co.* (1967) 67 Cal. 2d 695, 704 [internal citations omitted].) To clarify these
7 requirements, the California Supreme Court has looked to Federal Rule of Civil Procedure 23 to
8 explain that the community-of-interest requirement itself embodies three factors: “(1) predominant
9 common questions of law or fact; (2) class representatives with claims or defenses typical of the
10 class; and (3) class representatives who can adequately represent the class.” (*Richmond v. Dart*
11 *Indus., Inc.* (1981) 29 Cal. 3d 462, 470.)

12 California law and policy favor the fullest and most flexible use of the class action device.
13 (*Id.* at pp. 469–73.) Indeed, “Courts long have acknowledged the importance of class actions as a
14 means to prevent a failure of justice in our judicial system” particularly where the rights of consumers
15 are at issue. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal. 4th 429, 434.) Any doubt as to the
16 appropriateness of class treatment should be resolved in favor of certification. (*Richmond, supra*, 29
17 Cal.3d at pp. 473–75.)

18 **B. The Criteria for Class Certification Are Satisfied**

19 **1. The Class Is Ascertainable and Numerous**

20 When determining whether a class is ascertainable, California courts focus on the following
21 three factors: “(1) the class definition, (2) the size of the class and (3) the means of identifying class
22 members.” (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 873.) Here, Plaintiff maintains there is an
23 easily ascertainable Class, defined by objective and precise criteria. (Settlement, ¶¶ 1.5, 1.12.) The
24 proposed Class that Plaintiff seeks to represent is ascertainable because (1) the Class definition is
25 sufficiently precise, (2) the Class consists of about 143 individuals, and (3) Class Members can be
26 readily identified by Defendant’s records. (*Id.* at ¶¶ 1.5, 1.8, 1.12, 4.1.) Because Class Members are
27 identified using specific criteria in the regular business records of Defendant—their employment by
28 Defendant in California, non-exempt classification, hourly wage, and actual work during the Class

1 Period—the Class is ascertainable. (*See Wilner v. Sunset Life Ins. Co.* (2000) 78 Cal.App.4th 952,
2 959–60 [class membership defined by ownership of product that is the subject of the lawsuit is
3 sufficient to make the class ascertainable].) “The requirement of Code of Civil Procedure section 382
4 that there be ‘many’ parties to a class action suit is indefinite and has been construed liberally.” (*Rose*
5 *v. City of Hayward* (1981) 126 Cal.App.3d 926, 934.) “Where a question is of common interest to
6 ‘many’ persons, an action may be maintained as a class action even where the parties are numerous
7 and it is in fact practicable to join them all.” (*Id.*) “No set number is required as a matter of law for
8 the maintenance of a class action.” (*Id.*) “Thus, our Supreme Court has upheld a class representing
9 the 10 beneficiaries of a trust in an action for removal of the trustees.” (*Id.* [citing *Bowles v. Super.*
10 *Ct.* (1955) 44 Cal.2d 574]; *see also Collins v. Rocha* (1972) 7 Cal.3d 232 [upholding a class of 9
11 plaintiffs and 35 members].) Therefore, numerosity is plainly satisfied.

12 **2. There Are Many Common Issues of Law and Fact Which Predominate**

13 To satisfy the community of interest requirement, a proponent must show (1) common
14 questions of law and fact that predominate over individual issues, (2) class representatives have
15 claims or defenses typical of the class, and (3) class representatives adequately represent the class.
16 (*Dunk, supra*, 48 Cal.App.4th at p. 1806.) This inquiry tests whether proposed classes are sufficiently
17 cohesive to rationally warrant adjudication by representation. (*See, e.g., Clothesrigger, Inc. v. GTE*
18 *Corp.* (1987) 191 Cal.App.3d 605, 611–12.)

19 Here, Plaintiff’s claims satisfy all three requirements. The employment practices at issue
20 include whether Defendant: paid employees all minimum, overtime, double time, and sick pay wages
21 owed; reimbursed employees for necessary business expenses; provided employees with and
22 authorize meal and rest periods or paid premiums for non-compliant breaks; paid all final wages to
23 employees at the time of termination; intentionally failed to pay all final wages; provided inaccurate
24 itemized wage statements and whether Class Members were harmed; engaged in unfair business
25 practices; and violated civil penalty provisions under PAGA. (Moon Decl., ¶¶ 3–4.) Plaintiff contends
26 the factual and legal issues are the same for all Class Members, and further that all Class Members
27 suffered from and seek redress for the same alleged injuries. (Plaintiff Decl., ¶¶ 3–6.) Considering
28 Class Members would need to prove the same issues of law and fact to prevail, and their legal

remedies are identical, it would be preferable to resolve all claims through a settlement than to force each Class Member to litigate their own individual claims. Thus, the Court should grant conditional class certification for settlement purposes because common questions of law and fact predominate over any individual questions within the Class.

3. Plaintiff's Claims Are Typical of the Claims of the Class

The typicality requirement does not focus on the individual characteristics or circumstances of the representative plaintiff compared to those of the remainder of the class, but rather, upon the typicality of the proposed representative's claims as they relate to the defendant's conduct and activities. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 47 ["The only requirements a re [sic] that common questions of law and fact *predominate* and that the class representative be *similarly* situated" vis-à-vis the class.] [emphasis in original].) A representative plaintiff's claims are typical of the class if they arise from the same event, practice, or course of conduct, and if the claims rest on the same legal theories. (*Id.*) That is precisely the case here. Plaintiff is a former employee of Defendant and alleges he was subject to the same policies and practices as other similarly situated employees. (Plaintiff Decl., ¶¶ 2–7.)

4. Plaintiff and His Counsel Meet the Adequacy Requirement

The adequacy of representation requirements is met by fulfilling two conditions: (1) a named plaintiff must be represented by counsel qualified to conduct the pending litigation, and (2) a named plaintiff's interests cannot be antagonistic to those of the class. (*McGhee v. Bank of Am.* (1976) 60 Cal.App.3d 442, 450.)

Here, all requirements are met. Plaintiff retained counsel with extensive experience in prosecuting complex class actions, including similar class actions that previously settled. (Moon Decl., ¶¶ 50–66.; Reali Decl., ¶¶ 3–4; Haines Decl., ¶¶ 3–4.) Based on their experience, Plaintiff's Counsel unquestionably are "qualified, experienced and generally able to conduct the proposed litigation." (*Miller, supra*, 148 Cal.App.3d at p. 874.) Plaintiff has, with counsel, litigated this case and diligently reviewed the settlement terms, showing dedication, and with full knowledge and acceptance of duties, he has committed to his role as Class Representative. (Plaintiff Decl., ¶¶ 12–23.) In addition, Plaintiff and his Counsel have no conflicts with one another, other Class Members,

1 the proposed *Cy Pres* Recipient Homeboy Industries, or the proposed Administrator. (*Id.* at ¶¶ 8–10;
2 Moon Decl., ¶ 67; Haines Decl., ¶ 5; RealI Decl., ¶ 5.)

3 **5. A Class Action Is Superior to a Multiplicity of Litigation**

4 Finally, in making its class certification decision, the Court must determine that a class action
5 would be superior to alternative means for the fair and efficient adjudication of the litigation. (*See*
6 *Leyva v. Medline Indus. Inc.* (9th Cir. 2013) 716 F.3d 510, 514–15.) By consolidating many potential
7 individual actions into a single proceeding, this Court’s use of the class action device enables it to
8 manage this litigation in a manner that serves the economics of time, effort, and expense for the
9 litigants and the judicial system. (*Id.*) Absent class treatment, similarly situated employees with
10 small, but nevertheless meritorious, claims for damages would, as a practical matter, have no means
11 of redress because of the time, effort, and expense required to prosecute individual actions. (*Id.* at p.
12 515; *Gentry, supra*, 42 Cal.4th at pp. 457–62.) Moreover, in the context of settlement, the superiority
13 concerns are essentially non-existent. (*See generally, e.g., Stamburgh, supra*, 62 Cal.App.3d.)

14 **V. THE PROPOSED CLASS NOTICE IS CONSTITUTIONALLY SOUND AND** 15 **SATISFIES RULES OF COURT**

16 Class Notice requirements are set forth in the California Rules of Court. (Cal. Rules of Court,
17 rule 3.766(e)–(f), rule 3.769(f).) Here, the proposed Class Notice, in the form attached to the
18 Settlement as **Exhibit A**, meets all the requirements of California Rules of Court. The Notice
19 summarizes the proceedings to date and the terms and conditions of the proposed Settlement in an
20 informative and coherent manner. (Settlement, ¶ 7.1, Ex. A.) It also states that the final approval
21 decision has yet to be made, and provides the date, time, and location of the Final Approval Hearing.
22 (*Id.*) It explains the right and procedures to opt-out or submit any written objections and/or arrange
23 to appear at the Final Approval Hearing and verbally state any objections. (*Id.*) It makes clear the
24 Settlement does not constitute an admission of liability by Defendant, who denies all liability, and it
25 recognizes that this Court has not ruled on the merits of the action. (*Id.*) Thus, the proposed Notice
26 meets all the requirements of California Rule of Court 3.769(f). (Cal. Rules of Court, rule 3.769(f).)

27 The Class Notice also fulfills the requirement of neutrality in class notices. (Newberg,
28 Newberg on Class Actions (3rd ed. 1992) § 8.39.) Accordingly, the Class Notice complies with the

standards of fairness, completeness, and neutrality required of a combined settlement-certification class notice.

California law vests the Court with broad discretion in fashioning an appropriate notice program. (*Cartt v. Super. Ct.* (1975) 50 Cal.App.3d 960, 970, 973–74.) There is no statutory or due process requirement that all class members receive actual notice, but in this matter, Class Members will receive direct mailed notice, which is the best possible form of notice under the circumstances. (Settlement, ¶ 7.4.2.) As the Court of Appeals has explained, “[t]he notice given should have a reasonable chance of reaching a substantial percentage of the Class Members . . .” (*Cartt*, 50 Cal.App.3d at p. 974.)

VI. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests the Court grant this motion, enter the proposed order submitted herewith regarding preliminary approval, and set a final approval hearing no earlier than 120 days from the preliminary approval order.

Respectfully submitted,

Dated: January 22, 2026

MOON LAW GROUP, PC

By: _____

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By: */s/ Peggy Reali* _____

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