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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

ROBERT YOUNGBLOOD, JR., individually,
and on behalf of all others similarly situated,

Plaintiff,

vs.

USS MIDWAY MUSEUM, a California
corporation; and DOES 1 through 10, inclusive,

Defendants

Case No.: 37-2024-00012925-CU-OE-CTL

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 Plaintiff, Declaration of
Lisa Mullins Regarding Settlement
Administration, and [Proposed] Preliminary
Approval Order]*

PRELIMINARY APPROVAL HEARING:

Date: May 22, 2026

Time: 9:00 a.m.

Dept.: C-69

Judge: Evan P. Kirvin

Action Filed: May 10, 2024

FAC Filed: July 9, 2024

Trial Date: Not set

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

2 PLEASE TAKE NOTICE that on May 22, 2026 at 9:00 a.m. in Department C-69 of this Court
3 located at 330 West Broadway, 5th Floor, San Diego, California, 92101 pursuant to Code of Civil
4 Procedure section 382 and California Rules of Court, rule 3.769 *et seq.*, Plaintiff Robert Youngblood,
5 Jr. ("Plaintiff") will, and hereby does, move the Court for an order granting preliminary approval of
6 the proposed class action settlement between Plaintiff and Defendant USS Midway Museum.
7 Specifically, Plaintiff moves the Court for an order:

- 8 1. Granting preliminary approval of the Class and PAGA Representative Action Settlement
9 Agreement;
- 10 2. Certifying a Class, for settlement purposes only;
- 11 3. Approving the Class Notice and plan for its distribution;
- 12 4. Appointing Plaintiff as the Class Representative, for settlement purposes only;
- 13 5. Appointing Kane Moon, Allen Feghali, and Charlotte Mikat-Stevens of Moon Law
14 Group, PC as Class Counsel, for settlement purposes only;
- 15 6. Appointing ILYM Group, Inc. 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: April 10, 2026

MOON LAW GROUP, PC

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

Attorneys for Plaintiff

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1	B. The Criteria for Class Certification Are Satisfied	17
2	1. The Class Is Ascertainable and Numerous	17
3	2. There Are Many Common Issues of Law and Fact Which Predominate	17
4	3. Plaintiff’s Claims Are Typical of the Claims of the Class	18
5	4. Plaintiff and His Counsel Meet the Adequacy Requirement.....	19
6	5. A Class Action Is Superior to a Multiplicity of Litigation	19
7	V. THE PROPOSED CLASS NOTICE IS CONSTITUTIONALLY SOUND AND	
8	SATISFIES RULES OF COURT.....	20
9	VI. CONCLUSION	21

TABLE OF AUTHORITIES

FEDERAL CASES

Angeles v. United States Airways, Inc. (N.D. Cal. Feb. 19, 2013,
No. C 12-05860 CRB) 2013 WL 622032..... 3

Frank v. Eastman Kodak Co. (W.D.N.Y. 2005) 228 F.R.D. 174 15

Leyva v. Medline Industries Inc. (9th Cir. 2013) 716 F.3d 510..... 19

Pedroza v. PetSmart, Inc. (C.D. Cal. June 14, 2012,
No. ED CV 11–298 GHK (DTBx)) 2012 WL 9506073 3

Priddy v. Edelman (6th Cir. 1989) 883 F.2d 438 8

Rodriguez v. West Publishing Corp. (9th Cir. 2009) 563 F.3d 948..... 15

Van Vranken v. Atlantic Richfield Co. (N.D. Cal. 1995) 901 F.Supp. 294..... 13

Vincent v. Hughes Air West, Inc. (9th Cir. 1977) 557 F.2d 759 12

OTHER AUTHORITIES

Eisenberg & Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study*
(2006) 53 UCLA L. Rev. 1303..... 15

COURT RULES

California Rules of Court, rule 3.766(e), (f)..... 20

California Rules of Court, rule 3.769(f)..... 20

TREATISES

Newberg, Newberg on Class Actions (3rd ed. 1992) § 8.39 20

Newberg, Newberg on Class Actions (3rd ed. 1992) § 11.51 7

Newberg, Newberg on Class Actions (3rd ed. 1992) § 14.03 13

STATE CASES

Cartt v. Superior Court (1975) 50 Cal.App.3d 960..... 20, 21

Chavez v. Netflix, Inc. (2008) 162 Cal.App.4th 43..... 13

City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105..... 12

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Clothesrigger, Inc. v. GTE Corp. (1987) 191 Cal.App.3d 605 18

1 California Labor Code § 2802(d) 14

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Robert Youngblood, Jr. (“Plaintiff”) seeks preliminary approval of a proposed \$1,421,910.00 non-reversionary, wage-and-hour class action settlement (the “Settlement”) with Defendant USS Midway Museum (“Defendant”) (together with Plaintiff, the “Parties”). The Settlement will provide substantial monetary payments to an estimated 519 Class Members who worked an estimated aggregate of 47,397 Workweeks, of which roughly 303 are Aggrieved Employees who worked an estimated aggregate of 12,476 PAGA Pay Periods. As set forth more fully below, the proposed Settlement satisfies all the criteria for settlement approval under California law. The Settlement was reached after extensive investigation, informal discovery, and negotiations between the Parties. The negotiations were at arm’s-length and were facilitated through private mediation by an experienced and neutral class action mediator, Lynn Frank, Esq. Accordingly, Plaintiff requests the Court preliminarily approve the Settlement, certify the proposed Class, approve the proposed Class Notice to Class Members, and set a final approval hearing no earlier than 120 days from the date of preliminary approval.

II. SUMMARY OF THE LITIGATION AND SETTLEMENT

A. Plaintiff’s Claims and Procedural History

This is a wage-and-hour class action and representative action for alleged Labor Code violations and claims for civil penalties pursuant to the California Private Attorneys General Act, Labor Code sections 2698, *et seq.* (“PAGA”). (Declaration of Kane Moon in Support of Plaintiff’s Motion for Preliminary Approval of Class and PAGA Representative Action Settlement [“Moon Decl.”], ¶ 2.) Plaintiff seeks to represent a class of all current and former non-exempt, hourly-paid employees who were employed by Defendant and worked for Defendant in California at any time during the Class Period, as set forth in the Class and PAGA Representative Action Settlement Agreement (the “Settlement”). (*Id.*)

Defendant is a historical naval aircraft museum located in San Diego, California. (*Id.*) Defendant employed Plaintiff and other non-exempt, hourly-paid employees during the Class Period. (*Id.*) Plaintiff worked for Defendant from approximately May 17, 2021 through April 20,

2023, in a non-exempt, hourly-paid position. (Declaration of Plaintiff Robert Youngblood, Jr. in Support of Class Action and PAGA Settlement [“Plaintiff Decl.”], ¶ 2.) Plaintiff contends he and his coworkers were subjected to the same unlawful labor practices, including failure to pay wages for all hours worked. (*Id.* at ¶ 6; Moon Decl., ¶ 3.)

Plaintiff’s claim for unpaid minimum and overtime wages stem from allegations that Defendant failed to compensate Plaintiff and others for off-the-clock work, failed to incorporate all remuneration into employees’ regular rate of pay for purposes of paying overtime or sick pay, and that Defendant rounded employees’ time to their detriment. (Moon Decl., ¶ 4.) Plaintiff’s meal and rest period claims are based on allegations that due to the nature of their work, Class Members’ breaks were often short, late, interrupted, and sometimes missed altogether, and that Defendant did not pay all premium wages for non-compliant breaks. (*Id.*) Plaintiff further brings a claim for unreimbursed necessary business expenses based on allegations that Class Members were required to maintain their uniforms and purchase tools, uniforms, and personal protective equipment (“PPE”) without reimbursement from Defendant. (*Id.*) Finally, Plaintiff also brings derivative claims for waiting time penalties, wage statement violations, unfair business practices, and civil penalties under PAGA. (*Id.*)

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

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

1 file-stamped copy of the Operative Complaint containing the Court-assigned case number. (*Id.*) To
2 date, the LWDA has not indicated its intent to investigate the alleged violations or intervene in
3 this Action. (*Id.*)

4 Defendant ardently opposes the merits of this case and denies Plaintiff’s factual allegations.
5 (*Id.* at ¶ 7.) Defendant asserts it complied with all its compensation obligations, including
6 compensating Class Members for any and all off-the-clock work and overtime work, and therefore,
7 Plaintiff and other Class Members were paid all wages owed. (*Id.*) Defendant argues it did not fail
8 to incorporate any non-discretionary bonuses, shift differentials, or commissions into the regular
9 rate of pay for purposes of paying overtime or sick pay, and that all bonuses were discretionary.
10 (*Id.*) Defendant argues its time-rounding practice is neutral on its face and in compliance with
11 California law, and that time rounding stopped in February 2024. (*Id.*) Defendant maintains
12 compliance with all its meal and rest period obligations. (*Id.*) Defendant asserts it complied with
13 all its reimbursement obligations, and that Plaintiff and other employees were compensated for
14 any and all business expenses necessarily incurred. (*Id.*) To the extent employees received wage
15 statements that were allegedly inaccurate, Defendant asserts employees suffered no actual damage
16 or harm as a result. (*Id.*; *see, e.g., Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013, No. C
17 12–05860 CRB) 2013 WL 622032, at *10 [“A plaintiff must adequately plead an injury arising
18 from an employer’s failure to provide full and accurate wage statements, and the omission of the
19 required information alone is not sufficient.”].) With respect to Plaintiff’s claim for waiting time
20 penalties, Defendant alleges its good-faith belief that it paid all wages precludes the imposition of
21 waiting time penalties since Plaintiff cannot prove Defendant’s alleged failure to pay all final
22 wages at the time of separation was “willful.” (Moon Decl., ¶ 7; *see, e.g., Pedroza v. PetSmart,*
23 *Inc.* (C.D. Cal. June 14, 2012, No. ED CV 11–298 GHK (DTBx)) 2012 WL 9506073, *5.) For
24 these reasons, among others, Defendant denies all of Plaintiff’s claims and allegations, and further
25 claims it did not engage in any unfair business practices and denies liability under PAGA. (Moon
26 Decl., ¶ 7.) Defendant also maintains the claims are improper for class treatment, in part, due to
27 the individualized and testimony-intensive nature of the wage claims that could bar class
28 certification or significantly reduce Defendant’s overall liability. (*Id.*)

1 **B. Discovery and Investigation**

2 The Parties agreed to mediate this action with Lynn Frank, 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 (20% 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 31,053 actual shifts worked (representing roughly 18% 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 August 7, 2025, the Parties participated in a full day of private mediation with Lynn
26 Frank, Esq. (*Id.* at ¶ 10.) The negotiations were at arm's length and, although conducted in a
27 professional manner, were adversarial. (*Id.*) The Parties went into the mediation willing to explore
28 the potential for a settlement of the dispute, but each side was also prepared to litigate their

1 position through trial and appeal if a settlement had not been reached. (*Id.*) After a full discussion
2 regarding the strengths and weaknesses of Plaintiff’s claims and Defendant’s defenses and with
3 the assistance of the mediator, the Parties reached a resolution. (*Id.*) The material terms of the
4 settlement 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 \$1,421,910.00* (“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 ¶¶ 12–29.) The proposed Settlement Administrator—ILYM Group, Inc.—was jointly selected by
14 the Parties following a competitive bidding process. (*Id.* at ¶ 16; Settlement, ¶ 1.3.)¹

15 The Settlement allocates \$150,000.00 from the GSA for settlement of the Released PAGA
16 Claims, which will be distributed 75% (\$112,500.00) to the LWDA and 25% (\$37,500.00) to
17 Aggrieved Employees pursuant to PAGA law governing Plaintiff’s claims.² (Settlement, ¶ 1.32.)
18 Each Aggrieved Employee will be entitled to a pro rata share of the 25% share of the PAGA
19 Penalties directly proportional to their number of PAGA Pay Periods. (*Id.* at ¶ 3.2.5.1.) This results
20 in an average Individual PAGA Payment of roughly **\$123.76** for each of the estimated 303
21 Aggrieved Employees (\$37,500 / 303), and a PAGA Pay Period value of roughly **\$3.01** for each
22 of the 12,476 estimated Pay Periods in the PAGA Period (\$37,500 / 12,476). (Moon Decl., ¶ 17.)

24
25 ¹ Bids were requested from four competent administration entities, and ILYM provided the lowest
bid at \$7,550. (Moon Decl., ¶ 16, Ex. 5.)

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/35%-aggrieved employee split. (Lab. Code §
2699(m).) However, PAGA reform only applies to PAGA actions initiated on or after June 19, 2024.
(*Id.* at § 2699(v)(1).)

1 After deducting the Class Representative Enhancement Award, the Class Counsel
2 Attorneys' Fees and Litigation Costs Payments, the PAGA Penalties allocation, and the
3 Administration Expenses Payment from the GSA, in the amounts specifically approved by the
4 Court, any difference in the amounts requested and the amounts awarded will be allocated to the
5 Net Settlement Amount for distribution to Participating Class Members. (Settlement, ¶ 3.2.) The
6 Net Settlement Amount will be paid to Participating Class Members on a *pro rata* basis through
7 Individual Class Payments. (*Id.* at ¶ 1.28.) Accordingly, the Net Settlement Amount will be *no*
8 *less than \$760,440* for an estimated Class of **519 individuals**.³ (Moon Decl., ¶ 18.) Each Class
9 Member who does not opt-out will be entitled to a pro rata share of the Net Settlement Amount
10 that is directly proportional to the number of Workweeks worked during the Class Period.
11 (Settlement, ¶ 3.2.4.) The estimated **\$760,440** Net Settlement Amount results in an average Individual
12 Class Payment of roughly **\$1,465.20** for each of the estimated 519 Class Members ($\$760,440 / 519$),⁴
13 and a Class Workweek value of roughly **\$16.04** for each of the 47,397 estimated Workweeks in the Class
14 Period ($\$760,440 / 47,397$). (Moon Decl., ¶ 20.)

15 To the best of Plaintiff's knowledge, there is no other pending litigation involving similar
16 claims against Defendant that may be impacted by approval of the Settlement at issue, nor has
17 Defendant pointed to any. (Moon Decl., ¶ 30.)

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

19 The law favors the settlement of lawsuits, particularly in class actions and other complex
20 cases. (*See, e.g., Neary v. Regents of Univ. of Cal.* (1992) 3 Cal.4th 272, 277–81.) To prevent fraud,
21 collusion, or unfairness to the class, the settlement of a class action requires court approval. (*Dunk v.*
22 *Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800–01 [citing authority omitted].) To approve a

23
24 ³ The Net Settlement Amount was calculated by deducting the following from the \$1,421,910
25 GSA: \$7,500.00 for the Class Representative Enhancement Award, up to \$8,000.00 for the
26 Administration Expenses Payment, \$150,000.00 for the PAGA Penalties to the LWDA and Aggrieved
Employees, \$473,970.00 for the Class Counsel Fees Payment, and up to \$22,000.00 for the Class
Counsel Litigation Costs Payment. (Moon Decl., ¶ 18, n.2; Settlement, ¶¶ 3.1–3.2.5.)

27 ⁴ At this time, the actual amounts to Class Members and/or Aggrieved Employees is unknown and
28 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.3.)

1 settlement, the Court must find “the settlement is fair, adequate, and reasonable.” (*Id.*) This Court
2 has wide discretion in making this determination. (*Mallick v. Super. Ct.* (1979) 89 Cal.App.3d 434,
3 438.) Fairness, adequacy, and reasonableness are presumed, as here, when: “(1) the settlement is
4 reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow
5 counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the
6 percentage of objectors is small.” (*Dunk*, 48 Cal.App.4th at p. 1802 [citing Newberg, Newberg on
7 Class Actions (3rd ed. 1992) § 11.41].)

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

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

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

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

26 Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless
27 evidence to the contrary is offered. (Newberg, Newberg on Class Actions (3rd ed. 1992) § 11.51.)
28 Settlement is favored, and settlement agreements are realistically assessed. (*Stamburgh v. Super. Ct.*

1 (1976) 62 Cal.App.3d 231, 236; *Priddy v. Edelman* (6th Cir. 1989) 883 F.2d 438, 447 [“The fact that
2 the plaintiff might have received more if the case had been fully litigated is no reason not to approve
3 the settlement.”].) Thus, there is a presumption here that negotiations were conducted in good faith.

4 Here, Plaintiff’s Counsel have conducted a thorough investigation into the facts of this case.
5 (Moon Decl., ¶ 31.) As previously noted, the Settlement at issue was reached through arms’-length
6 negotiations, private mediation, and the assistance of a statistics expert. (*Id.*) Based on Defendant’s
7 informal class-wide discovery production, on Plaintiff’s Counsel independent investigation and
8 evaluation, and on counsel’s extensive experience in wage-and-hour litigation, Plaintiff’s Counsel are
9 of the opinion that the proposed Settlement is fair, reasonable, and adequate. (*Id.*)

10 Based on Plaintiff’s Counsel’s review of the time, payroll, and additional data provided by
11 Defendant, on Plaintiff’s expert’s analysis of the sample records provided by Defendant, and on
12 information from Plaintiff, Plaintiff’s Counsel evaluated the estimated maximum and risk-adjusted
13 exposure that Defendant faced. (*Id.* at ¶ 32.) Specifically, based on the information provided for
14 mediation, the total estimated **realistic recovery** (adjusted for risks at certification and proof on the
15 merits) for the alleged claims, including penalties, is estimated to be **\$2,927,246.29**. (Moon Decl., ¶
16 32.) This amount was calculated as follows: **\$11,049.00** (25% discount) for the rounding claim;
17 **\$395,682.83** (75% discount) for the off-the-clock work claim; **\$806.50** (50% discount) for the regular
18 rate claim; **\$1,291,199.63** (25% discount) for the meal period claim; **\$901,208.03** (75% discount) for
19 the rest period claim; **\$12,975.00** (75% discount) for the unreimbursed business expenses claim;
20 **\$68,765.30** (90% discount) for the waiting time penalties claim; **\$120,800.00** (90% discount) for the
21 wage statement claim; and **\$124,760.00** (90% discount) for the PAGA penalties claim. (*Id.* at ¶¶ 32–
22 39.) The foregoing discounts were based on the evidence presented for mediation and arguments
23 made during arm’s-length settlement negotiations. (*Id.*)

24 **The \$1,421,910.00 gross settlement figure represents roughly 49% of the total realistic**
25 **recovery.** (*Id.* at ¶ 40.) This is an excellent result for the Class, particularly because, under the
26 Settlement, Class Members will receive timely and guaranteed relief, avoiding the risk of not being
27 able to recover anything. (*Id.*)

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

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

11 Here, considering all known facts and circumstances, the risk of significant delay, trial risk,
12 appellate risk, and the defenses Defendant may assert both to certification and on the merits, the
13 Settlement is in the best interest of the Class and LWDA. (Moon Decl., ¶ 31.) While Plaintiff is
14 confident in the merits of his claims, a legitimate controversy exists as to each cause of action. (*Id.*
15 at ¶ 43.) Plaintiff also recognizes that proving the amount owed to each Class Member would be an
16 expensive, time-consuming, and uncertain proposition. (*Id.*)

17 The Settlement obviates the significant risk that this Court may deny certification of all or
18 some of Plaintiff’s claims. (*Id.* at ¶ 44.) Plaintiff’s Counsel took into account the risk of not prevailing
19 at trial due to low or no participation by Class Members. (*Id.*) Indeed, the individualized and testimony-
20 intensive nature of the claims could bar manageability of the representative claims or otherwise
21 significantly reduce any recovery whatsoever. (*Id.*) For example, the rest period and unreimbursed
22 expense claims are testimony-driven claims and assume a 100% violation rate, which would not
23 likely be demonstrated at trial, as it assumes either the participation of all employees (which would
24 be difficult given the reality that many, if not all, employees would be unwilling to participate due to
25 fear of retaliation), or alternatively, the use of surveys or statistical data as a surrogate (which would
26 still require the participation of a majority of employees to establish a sound representation of all
27 non-exempts). (*Id.*) Even assuming employees would be willing to participate, obtaining declarations
28 would potentially reveal that each individual employee had a different experience. (*Id.*)

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

11 The proposed \$1,421,910.00 Settlement therefore represents a substantial recovery when
12 compared to the reasonably forecasted recovery for the Class. (*Id.* at ¶ 46.) When considering the
13 risks of litigation, the uncertainties involved in continued litigation, the burdens of proof necessary
14 to establish liability, and the probability of appeal, it is clear the Settlement amount is within the
15 “ballpark” of reasonableness, and that preliminary settlement approval is appropriate. (*Id.*; (*Kullar*,
16 *supra*, 168 Cal.App.4th at p. 133; *see Munoz, supra*, 186 Cal.App.4th at pp. 408–09.)

17 **3. The PAGA Settlement is Fair Considering the Parties’ Respective Positions**
18 **and Significant Risks**

19 With regards to the PAGA claims, the Settlement is a fair and reasonable resolution that
20 satisfies PAGA’s dual statutory purposes of deterrence and punishment, on the one hand, and
21 providing Aggrieved Employees with genuine and meaningful relief, on the other. (Moon Decl., ¶ 41;
22 Lab. Code §§ 2698, *et seq.*) As a result of this litigation, Defendant has had to hire legal counsel, engage
23 in informal class-wide discovery, and participate in mediation. (Moon Decl., ¶ 41.) Defendant will also
24 have to pay civil penalties to the LWDA under the Settlement, assuming final settlement approval is
25 granted. (*Id.*) Not including its own attorneys’ fees and costs as well as the employer’s share of payroll
26 taxes, Defendant will pay no less than \$1,421,910.00 to resolve this matter—of which \$150,000.00 is
27 allocated toward the PAGA claims and will be distributed, in compliance with PAGA law governing
28 the claims in this action, as 75% (\$112,500.00) to the LWDA and 25% (\$37,500.00) to Aggrieved

1 Employees—and the release obtained under the Settlement does not preclude Aggrieved Employees
2 from pursuing any individual claims they may have against Defendant or the other Released Parties.
3 (*Id.*)

4 Moreover, Plaintiff’s Counsel are of the opinion that because the issues here are fairly
5 contested, there is a possibility of the Court not awarding the PAGA penalties even if Plaintiff
6 prevailed on the merits due to the largely discretionary nature of awarding PAGA penalties. (*Id.*)
7 Indeed, under PAGA, a Court can reduce penalties “if, based on the facts and circumstances of the
8 particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or
9 confiscatory.” (Lab. Code § 2699(e)(2).) In other words, were this matter to go to trial, any award
10 granted would be at the discretion of the Court and subject to a substantial reduction. (Moon Decl., ¶
11 41.) Further, Plaintiff’s Counsel took into account the risk of not being able to proceed on a representative
12 basis due to the potential manageability issues and that even if Plaintiff prevailed at trial, penalties would
13 likely be limited due to the largely discretionary nature of awarding PAGA penalties and in light of other
14 defenses available to Defendant. (*Id.* at ¶ 42.) Thus, it is entirely possible that even if Plaintiff would be
15 successful at trial, assuming he is first able to certify the claims and defeat the manageability issues
16 presented at litigation, Plaintiff could be awarded substantially less than what was obtained through the
17 Settlement. (*Id.*)

18 In sum, the \$150,000 PAGA Penalties allocation under the Settlement constitutes “genuine and
19 meaningful” that is “consistent with the underlying purpose of the statute to benefit the public.” (*See*
20 *O’Connor v. Uber Tech., Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1133–35 [denying settlement
21 approval where allocation for PAGA claims was 0.1% of the estimated full worth].)

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

24 The Settlement negotiations were conducted by highly capable counsel with considerable
25 experience and demonstrated competence with litigating wage-and-hour class actions. (Moon Decl.,
26 ¶¶ 51–67.) Plaintiff’s Counsel have a strong record of vigorous and effective advocacy for their
27 clients and are experienced in handling complex wage-and-hour class action litigation. (*Id.*) Their
28 experience was helpful in assessing the reasonableness of the Settlement at issue here, and from this

1 experience they concluded that this litigation could not have been settled on better terms than
2 provided under the Settlement. (*Id.* at ¶ 68.) Although Plaintiff and his counsel were prepared to try
3 the claims alleged in the litigation, they support the proposed Settlement as being in the best interest
4 of the Class based on objective evidence that has been considered and weighed against the risks,
5 expenses, and time consumption to both sides of continued litigation. (*Id.* at ¶¶ 10, 31.)

6 **B. The Proposed Attorneys' Fees and Costs Are Reasonable**

7 Subject to the Court's approval, the Settlement provides a fee application of one-third of the
8 GSA for Class Counsel's attorneys' fees, plus reimbursement for out-of-pocket litigation costs not to
9 exceed \$22,000.00.⁵ (Settlement, ¶ 3.2.2.) These amounts are disclosed to Class Members in the
10 proposed Class Notice and are reasonable. (*Id.* at Ex. A.)

11 **1. Counsel Request a Fees Award Based On the "Common Fund" Method**

12 California courts have long awarded attorneys' fees as a percentage of the benefit created by
13 counsel in pursuing claims on behalf of a class. (*See, e.g., Serrano v. Priest* (1977) 20 Cal.3d 25.)
14 The California Supreme Court has held, "when a number of persons are entitled in common to a
15 specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the
16 creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney's fees out
17 of the fund." (*Id.* at p. 34.)

18 Plaintiff's Counsel seek an award of attorneys' fees on the "percentage of recovery/common
19 fund" theory. (Moon Decl., ¶ 70.) The purpose of this approach is to "spread litigation costs
20 proportionately among all the beneficiaries so that the active beneficiary does not bear the entire
21 burden alone." (*Vincent v. Hughes Air W., Inc.* (9th Cir. 1977) 557 F.2d 759, 769.) In *Quinn v. State*
22 *of California* (1975) 15 Cal.3d 162, the California Supreme Court stated, "one who expends
23 attorneys' fees in winning a suit which creates a fund from which others derive benefits, may require
24 those passive beneficiaries to bear a fair share of the litigation costs." (*Id.* at p. 167.) Similarly, in
25 *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court

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27
28 ⁵ Plaintiff's Counsel's current litigation costs are \$19,753.24, and they anticipate incurring
additional costs up to final approval. (Moon Decl., ¶ 75, Ex. 4.)

1 recognized that the common fund doctrine has been applied “consistently in California when an
2 action brought by one party creates a fund in which other persons[] are entitled to share.” (*Id.* at pp.
3 110–11 [pincite omitted].)

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

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

16 According to a leading treatise on class actions: “No general rule can be articulated on what
17 is a reasonable percentage of a common fund. Usually 50% of the fund is the upper limit on a
18 reasonable fee award from a common fund in order to assure that the fees do not consume a
19 disproportionate part of the recovery obtained for the class, although somewhat larger percentages
20 are not unprecedented.” (Newberg, *Newberg on Class Actions* (3rd ed. 1992) § 14.03.) Attorneys’
21 fees that are fifty percent of the fund are typically considered the upper limit, with thirty to forty
22 percent commonly awarded in cases where the settlement is relatively small. (*Id.*; *see also Van*
23 *Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F.Supp. 294, 297 [stating that most cases
24 where 30–50% was awarded involved “smaller” settlement funds of under \$10 million].)

25 Here, Plaintiff’s Counsel’s fees request for one-third of the GSA is in line with the prevailing
26 guidelines established in California case law and academic literature and is consistent with awards in
27 California. (*Compare Settlement*, ¶ 3.2.2, with *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66,
28 n.11 [“Empirical studies show that, regardless whether the percentage method or the lodestar method

1 is used, fee awards in class actions average around one-third of the recovery.”].) Accordingly,
2 Plaintiff requests the Court preliminarily approve the attorneys’ fees as negotiated by the Parties.

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

4 Labor Code sections 218.5, 226, 1194, 2699, and 2802 provide for the recovery of reasonable
5 fees and costs of suit, for the claims made in this action. (Lab. Code §§ 218.5, 226, 1194, 2699(k)(1),
6 2802(d).) Under these sections, Plaintiff would be permitted to recover his actual attorneys’ fees,
7 even if those fees were larger than the total class recovery at the conclusion of this case. (*Id.*) This
8 Settlement is beneficial in that it limits the risk of continued expenses and consumption of time,
9 energy, and resources facing Defendant while at the same time rewarding Plaintiff’s Counsel for their
10 decision to assume risk by taking on this matter on a contingent basis with no guarantee of recovery.
11 (Moon Decl., ¶¶ 71–76.) In fact, prosecution of this action involved significant financial risk for
12 Plaintiff’s Counsel. (*Id.*) Once Plaintiff’s Counsel undertook this litigation, they committed to pursue
13 it to its conclusion, placing their fiduciary duty to the Class ahead of all other concerns. (*Id.* at ¶ 73.)

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

15 As demonstrated by their past experience in pursuing class actions on behalf of consumers
16 and employees, Plaintiff’s Counsel possess considerable expertise in litigating class actions. (*Id.* at
17 ¶¶ 51–67.) Plaintiff’s Counsel have been involved as lead counsel or co-counsel in numerous class
18 actions that resulted in millions in recovery. (*Id.*) As noted above, their experience in wage-and-hour
19 litigation was integral in evaluating the strengths and weaknesses of the case against Defendant and
20 the reasonableness of the Settlement. (*Id.* at ¶ 68.) Practice in the narrow field of wage-and-hour
21 litigation requires skill and knowledge concerning the rapidly evolving substantive law (state and
22 federal) as well as the procedural law of class action litigation. (*Id.* at ¶ 66.) Based on these and other
23 factors, Plaintiff’s Counsel have frequently received fee awards of this percentage from the gross
24 recovery for the class. (*See id.* at ¶¶ 55, 60, 65.) Because it is reasonable to compensate counsel
25 commensurate with their skill, reputation, and experience, the requested fee award is supported here.

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

27 Named plaintiffs in class action lawsuits “are eligible for reasonable incentive payments to
28 compensate them for the expense or risk they have incurred in conferring a benefit on other members

1 of the class.” (*Munoz, supra*, 186 Cal.App.4th at p. 412.) Courts routinely grant approval of class
2 action settlement agreements containing enhancements for the class representatives, which are
3 necessary to provide incentive to represent the class and are appropriate given the benefit the class
4 representatives help to bring about for the class. (*See Rodriguez v. W. Publ’g Corp.* (9th Cir. 2009)
5 563 F.3d 948, 958–59.) Service awards are particularly important to plaintiffs in wage-and-hour cases
6 because they promote the important public policies underlying the wage-and-hour laws. This strong
7 policy is codified in California Labor Code section 90.5, which provides, “[i]t is the policy of this
8 state to vigorously enforce minimum labor standards in order to ensure employees are not required
9 or permitted to work under substandard unlawful conditions . . .” (Lab. Code § 90.5.) Nonetheless,
10 the California Supreme Court has noted that “retaliation against employees for asserting statutory
11 rights under the Labor Code is widespread,” despite anti-retaliation statutes designed to protect
12 employees. (*Gentry v. Super. Ct.* (2007) 42 Cal.4th 443, 460–61.) In this context, class
13 representatives should be rewarded for assuming the risk of retaliation for the sake of class members.
14 (*See Frank v. Eastman Kodak Co.* (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

15 Under the Settlement here, subject to the Court’s approval, a Class Representative
16 Enhancement Award of \$7,500.00 will go to Plaintiff, in addition to his amount as a Class Member.
17 (Settlement, ¶ 3.2.1.) This award is for having initiated and provided services in support of the Action
18 and in recognition of the risks attendant to the role as the named Plaintiff and Class Representative.
19 (*Id.* at ¶ 1.14.) Plaintiff has devoted a great deal of time and work assisting counsel in the case and
20 communicated with counsel frequently for litigation and to prepare for mediation. (Moon Decl., ¶¶
21 47–50; Plaintiff Decl., ¶¶ 19–22.) The requested award is fair and reasonable, particularly considering
22 the substantial benefits Plaintiff generated for all Class Members. (Moon Decl., ¶ 50.)

23 When compared with the amounts awarded in typical class action cases, the amount requested
24 here is particularly reasonable. A 2006 study examining the average incentive award given to class
25 action plaintiffs from 1993 to 2002 found that the “average award per class representative was
26 \$15,992 and the median award per class representative was \$4357.” (Eisenberg & Miller, *Incentive*
27 *Awards to Class Action Plaintiffs: An Empirical Study* (2006) 53 UCLA L. Rev. 1303, 1307–08.)
28 The same study found that named plaintiffs in employment discrimination class actions received an

1 average award of \$69,850 and a median award of \$31,081, while named plaintiffs in other
2 employment class actions received an average award of \$12,121 and a median award of \$13,059. (*Id.*
3 at p. 1333.) The authors of the study found that higher awards in employment cases reflected the
4 “courts’ wish to make representative plaintiffs whole by compensating them for the high costs of
5 their service to the class, including risks of stigmatization or retaliation on the job.” (*Id.* at p. 1308.)

6 **IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED**

7 **A. Legal Standard**

8 The proposed Settlement Class is well suited for class certification. The claims all derive from
9 a core set of alleged violations of California’s wage and hour laws and regulations. (Moon Decl., ¶¶
10 3–4.) For the reasons set forth more fully below, the Class, for purposes of Settlement, satisfies the
11 prerequisites for certification under Code of Civil Procedure section 382. (Code Civ. Proc. § 382.)
12 Section 382 provides that “when the question is one of a common or general interest, of many
13 persons, or when the parties are numerous, and it is impracticable to bring them all before the court,
14 one or more may sue or defend for the benefit of all.” (*Id.*) There are two requirements to section
15 382: “(1) there must be an ascertainable class[]; and (2) there must be a well defined community of
16 interest in the questions of law and fact involved affecting the parties to be represented.” (*Daar v.*
17 *Yellow Cab Co.* (1967) 67 Cal. 2d 695, 704 [internal citations omitted].) To clarify these
18 requirements, the California Supreme Court has looked to Federal Rule of Civil Procedure 23 to
19 explain that the community-of-interest requirement itself embodies three factors: “(1) predominant
20 common questions of law or fact; (2) class representatives with claims or defenses typical of the
21 class; and (3) class representatives who can adequately represent the class.” (*Richmond v. Dart*
22 *Indus., Inc.* (1981) 29 Cal. 3d 462, 470.)

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

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

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

3 When determining whether a class is ascertainable, California courts focus on the following
4 three factors: “(1) the class definition, (2) the size of the class and (3) the means of identifying class
5 members.” (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 873.) Here, Plaintiff maintains there is an
6 easily ascertainable Class, defined by objective and precise criteria. (Settlement, ¶¶ 1.5, 1.12.) The
7 proposed Class that Plaintiff seeks to represent is ascertainable because (1) the Class definition is
8 sufficiently precise, (2) the Class consists of about 519 individuals, and (3) Class Members can be
9 readily identified by Defendant’s records. (*Id.* at ¶¶ 1.5, 1.8, 1.12, 4.1.) Because Class Members are
10 identified using specific criteria in the regular business records of Defendant—their employment by
11 Defendant in California, non-exempt classification, hourly wage, and actual work during the Class
12 Period—the Class is ascertainable. (*See Wilner v. Sunset Life Ins. Co.* (2000) 78 Cal.App.4th 952,
13 959–60 [class membership defined by ownership of product that is the subject of the lawsuit is
14 sufficient to make the class ascertainable].) “The requirement of Code of Civil Procedure section 382
15 that there be ‘many’ parties to a class action suit is indefinite and has been construed liberally.” (*Rose*
16 *v. City of Hayward* (1981) 126 Cal.App.3d 926, 934.) “Where a question is of common interest to
17 ‘many’ persons, an action may be maintained as a class action even where the parties are numerous
18 and it is in fact practicable to join them all.” (*Id.*) “No set number is required as a matter of law for
19 the maintenance of a class action.” (*Id.*) “Thus, our Supreme Court has upheld a class representing
20 the 10 beneficiaries of a trust in an action for removal of the trustees.” (*Id.* [citing *Bowles v. Super.*
21 *Ct.* (1955) 44 Cal.2d 574]; *see also Collins v. Rocha* (1972) 7 Cal.3d 232 [upholding a class of 9
22 plaintiffs and 35 members].) Therefore, numerosity is plainly satisfied.

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

24 To satisfy the community of interest requirement, a proponent must show (1) common
25 questions of law and fact that predominate over individual issues, (2) class representatives have
26 claims or defenses typical of the class, and (3) class representatives adequately represent the class.
27 (*Dunk, supra*, 48 Cal.App.4th at p. 1806.) This inquiry tests whether proposed classes are sufficiently
28

1 cohesive to rationally warrant adjudication by representation. (*See, e.g., Clothesrigger, Inc. v. GTE*
2 *Corp.* (1987) 191 Cal.App.3d 605, 611–12.)

3 Here, Plaintiff’s claims satisfy all three requirements. The employment practices at issue
4 include whether Defendant: paid employees all minimum, overtime, double time, and sick pay wages
5 owed; reimbursed employees for necessary business expenses; provided employees with and
6 authorize meal and rest periods or paid premiums for non-compliant breaks; paid all final wages to
7 employees at the time of termination; intentionally failed to pay all final wages; provided inaccurate
8 itemized wage statements and whether Class Members were harmed; engaged in unfair business
9 practices; and violated civil penalty provisions under PAGA. (Moon Decl., ¶¶ 3–4.) Plaintiff contends
10 the factual and legal issues are the same for all Class Members, and further that all Class Members
11 suffered from and seek redress for the same alleged injuries. (Plaintiff Decl., ¶¶ 3–6.) Considering
12 Class Members would need to prove the same issues of law and fact to prevail, and their legal
13 remedies are identical, it would be preferable to resolve all claims through a settlement than to force
14 each Class Member to litigate their own individual claims. Thus, the Court should grant conditional
15 class certification for settlement purposes because common questions of law and fact predominate
16 over any individual questions within the Class.

17 **3. Plaintiff’s Claims Are Typical of the Claims of the Class**

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

1 **4. Plaintiff and His Counsel Meet the Adequacy Requirement**

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

6 Here, all requirements are met. Plaintiff retained counsel with extensive experience in
7 prosecuting complex class actions, including similar class actions that previously settled. (Moon
8 Decl., ¶¶ 51–67.) Based on their experience, Plaintiff's Counsel unquestionably are "qualified,
9 experienced and generally able to conduct the proposed litigation." (*Miller, supra*, 148 Cal.App.3d
10 at p. 874.) Plaintiff has, with counsel, litigated this case and diligently reviewed the settlement terms,
11 showing dedication, and with full knowledge and acceptance of duties, he has committed to his role
12 as Class Representative. (Plaintiff Decl., ¶¶ 11–22.) In addition, Plaintiff and his Counsel have no
13 conflicts with one another, other Class Members, or the proposed Administrator. (*Id.* at ¶¶ 8–10;
14 Moon Decl., ¶ 69.)

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

16 Finally, in making its class certification decision, the Court must determine that a class action
17 would be superior to alternative means for the fair and efficient adjudication of the litigation. (*See*
18 *Leyva v. Medline Indus. Inc.* (9th Cir. 2013) 716 F.3d 510, 514–15.) By consolidating many potential
19 individual actions into a single proceeding, this Court's use of the class action device enables it to
20 manage this litigation in a manner that serves the economics of time, effort, and expense for the
21 litigants and the judicial system. (*Id.*) Absent class treatment, similarly situated employees with
22 small, but nevertheless meritorious, claims for damages would, as a practical matter, have no means
23 of redress because of the time, effort, and expense required to prosecute individual actions. (*Id.* at p.
24 515; *Gentry, supra*, 42 Cal.4th at pp. 457–62.) Moreover, in the context of settlement, the superiority
25 concerns are essentially non-existent. (*See generally, e.g., Stamburgh, supra*, 62 Cal.App.3d.)

1 **V. THE PROPOSED CLASS NOTICE IS CONSTITUTIONALLY SOUND AND**
2 **SATISFIES RULES OF COURT**

3 Class Notice requirements are set forth in the California Rules of Court. (Cal. Rules of Court,
4 rule 3.766(e)–(f), rule 3.769(f).) Here, the proposed Class Notice, in the form attached to the
5 Settlement as **Exhibit A**, meets all the requirements of California Rules of Court. The Notice
6 summarizes the proceedings to date and the terms and conditions of the proposed Settlement in an
7 informative and coherent manner. (Settlement, ¶ 7.4.-7.7.3, Ex. A.) It also states that the final
8 approval decision has yet to be made, and provides the date, time, and location of the Final Approval
9 Hearing. (*Id.*) It explains the right and procedures to opt-out or submit any written objections and/or
10 arrange to appear at the Final Approval Hearing and verbally state any objections. (*Id.*) It makes clear
11 the Settlement does not constitute an admission of liability by Defendant, who denies all liability,
12 and it recognizes that this Court has not ruled on the merits of the action. (*Id.*) Thus, the proposed
13 Notice meets all the requirements of California Rule of Court 3.769(f). (Cal. Rules of Court, rule
14 3.769(f).)

15 The Class Notice also fulfills the requirement of neutrality in class notices. (Newberg,
16 Newberg on Class Actions (3rd ed. 1992) § 8.39.) Accordingly, the Notice complies with the
17 standards of fairness, completeness, and neutrality required of a combined settlement-certification
18 class notice.⁶

19 California law vests the Court with broad discretion in fashioning an appropriate notice
20 program. (*Cartt v. Super. Ct.* (1975) 50 Cal.App.3d 960, 970, 973–74.) There is no statutory or due
21 process requirement that all class members receive actual notice, but in this matter, Class Members
22 will receive direct mailed notice, which is the best possible form of notice under the circumstances.
23 (Settlement, ¶ 7.4.2.) As the Court of Appeals has explained, “[t]he notice given should have a
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25

26
27 ⁶ Based on Defendant’s representations, a Spanish translation of the Class Notice is unnecessary
28 as its employees are required to have a proficiency in written English as a condition of employment.
Moreover, Spanish notices would increase estimated administration costs by roughly \$1,400. (Moon
Decl., ¶ 28, n.4.)

1 reasonable chance of reaching a substantial percentage of the Class Members . . .” (*Cartt*, 50
2 Cal.App.3d at p. 974.)

3 **VI. CONCLUSION**

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

7 Respectfully submitted,

8 Dated: April 10, 2026

MOON LAW GROUP, PC

9
10 By: _____

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