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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

DANEL LAMAR, individually, and on behalf of
all others similarly situated,

Plaintiff,

vs.

CARGILL INCORPORATED; and DOES 1
through 10, inclusive,

Defendants

Case No.: 24STCV16202

CLASS AND REPRESENTATIVE ACTION

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

*[Filed with the Declaration of Kane Moon,
the Declaration of Plaintiff, the Declaration
of James R. Hawkins, the Declaration of
Plaintiff Lamar, the Declaration of Plaintiff
Aaron, the Declaration of Sean Hartranft
Regarding Settlement Administration, and
[Proposed] Preliminary Approval Order]*

PRELIMINARY APPROVAL HEARING:

Date: October 1, 2026

Time: 10:00 a.m.

Dept.: 11

Judge: David S. Cunningham III

Action Filed: June 27, 2024

Trial Date: Not set

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

2 PLEASE TAKE NOTICE that on October 1, 2026 at 10:00 a.m. in Department 11 of this
3 Court located at Spring Street Courthouse, 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 Danel Lamar (“Plaintiff Lamar”) will, and hereby does, move the Court for an order granting
6 preliminary approval of the proposed class action settlement between Plaintiff Lamar, Plaintiff
7 Keenan Aaron (“Plaintiff Aaron”) (together, “Plaintiffs”) and Defendant Cargill Incorporated.
8 Specifically, Plaintiff Lamar moves the Court for an order:

- 9 1. Granting preliminary approval of the Joint Stipulation of Class and Representative Action
10 Settlement Agreement;
- 11 2. Certifying a Class, for settlement purposes only;
- 12 3. Approving the Class Notice and plan for its distribution;
- 13 4. Appointing Plaintiffs as the Class Representatives, for settlement purposes only;
- 14 5. Appointing Kane Moon and S. Philip Song of Moon Law Group, P.C., and James R.
15 Hawkins and Christina M. Lucio of James Hawkins APLC as Class Counsel, for
16 settlement purposes only;
- 17 6. Appointing APEX Class Action Administration as the Administrator; and
- 18 7. Scheduling a Final Approval Hearing no earlier than 120 days from the date of
19 preliminary approval.

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

24 Respectfully submitted,

25 Dated: March 13, 2026

MOON LAW GROUP, PC

26 By: _____

27 Kane Moon
28 S. Philip Song
Morgan W. Simpson

1 Dated: March 13, 2026

MOON LAW GROUP, PC

2 By: _____

3 James Hawkins
4 Christina M. Lucio
5 Samantha A. Jones

6 *Attorneys for Plaintiffs*
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Danel Lamar (“Plaintiff Lamar”) seeks preliminary approval of a proposed \$2,500,000.00 non-reversionary, class action and representative settlement (the “Settlement”) with Plaintiff Keenan Aaron (“Plaintiff Aaron”) (together with Plaintiff Lamar, “Plaintiffs”) and Defendant Cargill Incorporated (“Defendant”) (together with Plaintiffs, the “Parties”). The Settlement will provide substantial monetary payments to an estimated 624 Class Members who worked an estimated aggregate of 74,953 Workweeks, of which roughly 394 are Aggrieved Employees who worked an estimated aggregate of 31,779 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, Mark Rudy, Esq. Accordingly, Plaintiffs request that 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. Plaintiffs’ Claims and Procedural History

This is a wage-and-hour class and representative action for alleged Labor Code violations, Fair Credit Reporting Act (“FCRA”) violations, Investigative Consumer Reporting Agencies Act (“ICRAA”) violations, California Consumer Creditor Reporting Agencies Action (“CCRAA”) 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 Joint Stipulation of Class and Representative Action Settlement [“Moon Decl.”], ¶ 2.) Plaintiffs seek to represent a class of all individuals who are or who were employed by Defendant in California as non-exempt employees during the Class Period, as set forth in the Joint Stipulation of Class and Representative Action Settlement Agreement (the “Settlement”). (*Id.*)

1 Defendant is a global food and agriculture corporation that operates across the entire supply
2 chain, including manufacturing, processing, and distributing food products and ingredients out of
3 numerous facilities located in the State of California. (*Id.*) Defendant employed Plaintiffs and
4 other non-exempt, hourly-paid employees during the Class Period. (*Id.*) Plaintiff Lamar worked
5 in a non-exempt, hourly-paid position from approximately September 2023 to April 2024 as a
6 warehouse operator. (Declaration of Plaintiff Danel Lamar in Support of Joint Stipulation of Class
7 and Representative Action Settlement [“Plaintiff Lamar Decl.”], ¶ 2.) Plaintiff Aaron worked for
8 Defendant as an hourly, non-exempt employee at its warehouse in Stockton, California from
9 October 2022 through February 2023. [Declaration of Plaintiff Keenan Aaron in Support of Joint
10 Stipulation of Class and PAGA Action Settlement [“Plaintiff Aaron Decl.”], ¶ 2). Plaintiffs
11 contend they and their coworkers were subjected to the same unlawful labor practices, including
12 failure to pay wages for all hours worked. (Moon Decl., ¶ 3, Plaintiff Lamar Decl., ¶ 6, Plaintiff
13 Aaron Dec., ¶ 5.)

14 Plaintiffs’ claim for unpaid minimum and overtime wages stem from allegations that
15 Defendant failed to compensate Plaintiffs and others for off-the-clock work, failed to incorporate
16 all remuneration into employees’ regular rate of pay for purposes of paying overtime and sick pay,
17 and that Defendant rounded employees’ time to their detriment. (Moon Decl., ¶ 4.) Plaintiffs’ meal
18 and rest period claims are based on allegations that due to the nature of their work, Class Members’
19 breaks were often short, late, interrupted, and sometimes missed altogether, and that Defendant
20 did not pay all premium wages for non-compliant breaks. (*Id.*) Plaintiffs further bring a claim for
21 unreimbursed necessary business expenses based on allegations that Class Members were required
22 to use their personal cellphones to receive work instructions from their supervisors and purchase
23 their own boots without reimbursement from Defendant. (*Id.*) Plaintiffs also bring claims for
24 damages based on allegations that Defendant failed to provide proper disclosures and obtain
25 proper consent for the background checks and consumer reports obtained from Plaintiff and other
26 Class Members in violation of the FCRA, ICRAA, and CCRAA. (*Id.*) Finally, Plaintiffs also bring
27 derivative claims for waiting time penalties, wage statement violations, unfair business practices,
28 and civil penalties under PAGA. (*Id.*)

1 Because of the foregoing alleged violations of various provisions of the Labor Code, and
2 pursuant to PAGA, on February 14, 2024, Plaintiff Aaron gave written notice to the California
3 Labor and Workforce Development Agency (the “LWDA”) of the alleged Labor Code violations,
4 with certified mail service on Defendant, and paid the required filing fee. (*Id.* at ¶ 5, Ex. 2.)

5 Plaintiff Aaron filed a class action on April 23, 2024. (*Id.* at ¶ 6.) In compliance with Labor
6 Code section 2699(s)(1), Plaintiff Aaron subsequently submitted to the LWDA a file-stamped
7 copy of the complaint containing the Court-assigned case number. (*Id.*) To date, the LWDA has
8 not indicated its intent to investigate the alleged violations or intervene in this Action. (*Id.*)

9 Pursuant to PAGA, on June 22, 2024, Plaintiff Lamar gave written notice to the LWDA of
10 the alleged Labor Code violations, with certified mail service on Defendant, and paid the required
11 filing fee. (*Id.* at ¶ 7, Ex. 3.)

12 Plaintiff Lamar filed a class action on June 27, 2024 (the “*Lamar Action*”). (*Id.* at ¶ 8.) In
13 compliance with Labor Code section 2699(s)(1), Plaintiff Lamar subsequently submitted to the
14 LWDA a file-stamped copy of the complaint containing the Court-assigned case number. (*Id.*) To
15 date, the LWDA has not indicated its intent to investigate the alleged violations or intervene in
16 this Action. (*Id.*)

17 On February 6, 2026, Plaintiffs filed a Second Amended Complaint (the “Operative
18 Complaint”) in the *Lamar Action* to add Plaintiff Aaron as an additional Class Representative and
19 amend the complaint to include the claims covered in the Released Claims: 1) Failure to Pay
20 Minimum Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197]; 2) Failure to Pay Overtime
21 Compensation [Cal. Lab. Code §§ 1194 and 1198]; 3) Failure to Provide Meal Periods [Cal. Lab.
22 Code §§ 226.7, 512]; 4) Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7];
23 5) Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code § 2802]; 6) Failure to
24 Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203]; 7) Failure to Provide
25 Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; 8) Unfair Business Practices [Cal.
26 Bus. & Prof. Code §§ 17200, et seq.]; 9) Violation of the FCRA to Make Proper Disclosures [15
27 U.S.C. § 1681b(b)(2)(A)(i)]; 10) Violation of the FCRA for Failure to Obtain Proper Authorization
28 [15 U.S.C. § 1681b(b)(2)(A)(ii)]; 11) Failure to Make Proper Disclosure [California Civil Code § 1786

1 et seq., ICRA]; 12) Failure to Make Proper Disclosure [California Civil Code § 1785.1 et seq., ICRA];
2 13) Failure to Pay Sick Pay [Cal. Lab. Code §§ 246]; and 14) Civil Penalties Under PAGA [Cal.
3 Lab. Code § 2699, et seq.]. (*Id.* at ¶ 9.)

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

claims are improper for class treatment, in part, due to the individualized and testimony-intensive nature of the wage claims that could bar class certification or significantly reduce Defendant's overall liability. (*Id.*)

B. Discovery and Investigation

The Parties agreed to mediate this action with Mark Rudy, Esq., an experienced class and PAGA action mediator. (*Id.* at ¶ 11.) In preparation for mediation, the Parties agreed to a protocol for an informal production of documents and information before mediation. (*Id.*) Prior to mediation, Plaintiffs obtained from Defendant, through informal discovery, documents and data that were necessary and helpful to evaluate the claims asserted in this action. (*Id.*) Defendant produced a statistically sound sample of time and pay records for approximately 26% of the putative Class, Plaintiffs' personnel file and time and pay records, and Defendant's written employment policies in effect during the Class Period. (*Id.*) Defendant also provided information regarding the estimated number of current and formerly employed Class Members, Aggrieved Employees, Workweeks, and PAGA Pay Periods. (*Id.*)

In preparation for mediation, Class Counsel reviewed and analyzed all the information Defendant provided, including the sample records and documents regarding Defendant's wage-and-hour policies. (*Id.* at ¶ 12.) Class Counsel retained a statistics expert to analyze the sample records and prepare a damage analysis prior to the mediation. (*Id.*) The sample time and pay records analyzed contained 38,899 actual shifts worked (representing roughly 12% of total shifts worked in the Class Period), which allowed Plaintiffs' expert to prepare an analysis with a reasonable degree of certainty. (*Id.*) In conjunction with their extensive factual investigation, Class Counsel also investigated the applicable law regarding the claims and defenses asserted in the litigation. (*Id.*) Accordingly, Class Counsel was able to evaluate the probability of class certification, success on the merits, and Defendant's maximum and realistic monetary exposure for all claims. (*Id.*) Thus, Plaintiffs' and their Counsel's familiarity with the facts of the case and the legal issues raised by the pleadings allowed them to act intelligently in negotiating the Settlement. (*Id.*)

C. Settlement Negotiations and Notice of Settlement to the LWDA

On November 25, 2025, the Parties participated in a full day of private mediation with

1 Mark Rudy, Esq. (*Id.* at ¶ 13.) The negotiations were at arm’s length and, although conducted in
2 a professional manner, were adversarial. (*Id.*) The Parties went into the mediation willing to
3 explore the potential for a settlement of the dispute, but each side was also prepared to litigate
4 their position through trial and appeal if a settlement had not been reached. (*Id.*) After a full
5 discussion regarding the strengths and weaknesses of Plaintiffs’ claims and Defendant’s defenses
6 and with the assistance of the mediator, the Parties reached a resolution. (*Id.*) The material terms
7 of the settlement are set out in the Settlement. (*Id.* at ¶¶ 2, 13, Ex. 1.)

8 In compliance with Labor Code section 2699(s)(2), notice of settlement and a copy of the
9 proposed Settlement has been submitted to the LWDA along with a copy of Plaintiffs’ preliminary
10 approval motion and the hearing date. (*Id.* at ¶ 14, Ex. 4.) To date, the LWDA has not indicated
11 any objection to the Settlement. (*Id.*)

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

13 Under the Settlement, Defendant will pay a non-reversionary, all-inclusive amount of *no*
14 *less than \$2,500,000.00* (“GSA”) to resolve this action. (Settlement, ¶ 3.0.) Other key terms of the
15 Settlement are outlined in the counsel declaration submitted concurrently herewith. (Moon Decl.,
16 ¶¶ 15–33.) The proposed Settlement Administrator—APEX Class Action Administration—was
17 jointly selected by the Parties based on its bid of \$10,750.00. (*Id.* at ¶ 19, Ex. 6; Settlement, ¶ 1.1.)

18 The Class is defined as all individuals who are or were employed by Defendant as non-
19 exempt employees in California during the Class Period. (Settlement, ¶ 1.4.) “Class Period” means
20 the period from April 23, 2020, through (i) February 25, 2026; or (ii) the date on which Defendant
21 notifies Plaintiffs that it elects to end the Class Period, which shall be no sooner than February 25,
22 2026. (*Id.* at ¶ 1.6.) “Aggrieved Employees” is defined as all individuals who are or were employed
23 by Defendant as non-exempt employees in California during the PAGA Period. (*Id.* at ¶ 1.3.) The
24 “PAGA Period” means the period from February 14, 2023, through (i) February 25, 2026; or (ii)
25 the date on which Defendant notifies Plaintiffs that it elects to end the PAGA Period, which shall
26 be no sooner than February 25, 2026. (*Id.* at ¶ 1.26.) The Settlement allocates \$100,000.00 from
27 the GSA for settlement of the Released PAGA Claims, which will be distributed 75% (\$75,000.00)
28 to the LWDA and 25% (\$25,000.00) to Aggrieved Employees pursuant to PAGA law governing

1 Plaintiffs' claims.¹ (Settlement, ¶ 1.29.) Each Aggrieved Employee will be entitled to a pro rata
2 share of the 25% share of the PAGA Penalties directly proportional to their number of PAGA Pay
3 Periods. (*Id.* at ¶ 3.1.4.1.) This results in an average Individual PAGA Payment of roughly **\$63.45**
4 for each of the estimated 394 Aggrieved Employees (\$25,000.00 / 394), and a PAGA Pay Period
5 value of roughly **\$0.79** for each of the 31,779 estimated Pay Periods in the PAGA Period
6 (\$25,000.00 / 31,779). (Moon Decl., ¶ 21.)

7 After deducting the Class Representative Service Payments, the Class Counsel Fees and
8 Expenses Payments, the PAGA Penalties allocation, and the Administration Expenses Payment
9 from the GSA, in the amounts specifically approved by the Court, any difference in the amounts
10 requested and the amounts awarded will be allocated to the Net Settlement Amount for distribution
11 to Participating Class Members. (Settlement, ¶¶ 1.21, 3.1.) Accordingly, the Net Settlement
12 Amount will be *no less than* **\$1,460,916.67** for an estimated Class of **624 individuals**.² (Moon
13 Decl., ¶ 22.) Each Class Member who does not opt-out will be entitled to a pro rata share of the
14 Net Settlement Amount that is directly proportional to the number of Workweeks worked during
15 the Class Period. (Settlement, ¶ 3.1.3.1.) The estimated **\$1,460,916.67** Net Settlement Amount
16 results in an average Individual Class Payment of roughly **\$2,341.21** for each of the estimated 624 Class
17 Members (\$1,460,916.67 / 624),³ and a Workweek value of roughly **\$19.49** for each of the 74,953
18

19
20 ¹ On July 1, 2024, new legislation was enacted to amend PAGA in several respects, including as to
21 the recovery split for civil penalties. (Stats. 2024, ch. 44 (Assem. Bill No. 2288), § 1, eff. Jul. 1, 2024.)
22 As amended, PAGA now provides for a 65%-LWDA/45%-aggrieved employee split. (Lab. Code §
23 2699(m).) However, PAGA reform only applies to PAGA actions initiated on or after June 19, 2024.
(*Id.* at § 2699(v)(1).) Plaintiff Aaron initiated his action prior to June 19, 2024, as such the PAGA
Penalties are distributed with 75% to the LWDA and 25% to Aggrieved Employees. (Moon Decl., ¶
21, n.1.)

24 ² The Net Settlement Amount was calculated by deducting the following from the \$2,500,000.00
25 GSA: \$20,000.00 for the Class Representative Service Payments, up to \$10,750.00 for the
26 Administration Expenses Payment, \$100,000.00 for the PAGA Penalties to the LWDA and Aggrieved
Employees, \$833,333.33 for the Class Counsel Fees Payment, and up to \$75,000.00 for the Class
Counsel Expenses Payment. (Moon Decl., ¶ 22, n.2; Settlement, ¶¶ 3.1–3.2.5.)

27 ³ At this time, the actual amounts to Class Members and/or Aggrieved Employees are unknown
28 and will be calculated by the Administrator following preliminary approval and receipt and processing
of the Class Data. (Settlement, ¶ 6.4.2.) The high and low range of payments will be provided to the
Court in a motion for final approval. (Moon Decl., ¶ 24, n.3.)

1 estimated Workweeks in the Class Period (\$1,460,916.67 / 74,953). (Moon Decl., ¶ 24.)

2 To the best of Plaintiff's knowledge, there is no other pending litigation involving similar
3 claims against Defendant that may be impacted by approval of the Settlement at issue, nor has
4 Defendant pointed to any. (Moon Decl., ¶ 33.)

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

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

17 In evaluating a settlement, the trial court considers the following factors: (1) the strength of
18 plaintiff's case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk
19 of maintaining class action status through trial; (4) the settlement amount offered; (5) the extent of
20 discovery completed and the stage of the proceedings; (6) counsel's experience and views; (7) the
21 presence of a governmental participant; and (8) the class members' reaction to the proposed
22 settlement. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128.) To approve a class
23 action settlement, “the court must satisfy itself that the class settlement is within the ‘ballpark’ of
24 reasonableness.” (*Id.* at p. 133.) The record need not contain an explicit statement of the maximum
25 theoretical recovery. (*Munoz v. BCI Coca-Cola Bottling Co. of L.A.* (2010) 186 Cal.App.4th 399,
26 408–09 [holding that *Kullar* does not require “an explicit statement of the maximum amount the
27 plaintiff class could recover if it prevailed on all its claims,” but instead, only an “understanding
28 of the amount that is in controversy and the realistic range of outcomes of the litigation”].)

1 As discussed below, Class Counsel have provided materials and information exceeding the
2 threshold required for this Court to conclude the Settlement is fair, reasonable, and adequate.

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

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

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

13 Here, Class Counsel have conducted a thorough investigation into the facts of this case.
14 (Moon Decl., ¶ 34.) As previously noted, the Settlement at issue was reached through arms'-length
15 negotiations, private mediation, and the assistance of a statistics expert. (*Id.*) Based on Defendant's
16 informal class-wide discovery production, on Class Counsel independent investigation and
17 evaluation, and on counsel's extensive experience in wage-and-hour litigation, Class Counsel are of the
18 opinion that the proposed Settlement is fair, reasonable, and adequate. (*Id.*)

19 Based on Class Counsel's review of the time, payroll, and additional data provided by
20 Defendant, on Plaintiffs' expert's analysis of the sample records provided by Defendant, and on
21 information from Plaintiffs, Class Counsel evaluated the estimated maximum and risk-adjusted
22 exposure that Defendant faced. (*Id.* at ¶ 35.) Specifically, based on the information provided for
23 mediation, the total estimated **realistic recovery** (adjusted for risks at certification and proof on the
24 merits) for the alleged claims, including penalties, is estimated to be **\$4,813,856.52**. (*Id.*) This amount
25 was calculated as follows: **\$47,768.08** (75% discount) for the rounding claim; **\$116,606.25** (75%
26 discount) for the regular rate claim; **\$156,260.80** (90% discount) for the off-the-clock work claim;
27 **\$713,544.00** (75% discount) for the invalid AWS claim; **\$1,547,047.84** (75% discount) for the meal
28 period claim; **\$927,308.80** (90% discount) for the rest period claim; **\$37,984.00** (90% discount) for

1 the unreimbursed business expenses claim; **\$124,800.00** (90% discount) for FRCA claims;
2 **\$624,000.00** (90% discount) for ICRAA claims; **\$156,000.00** (95% discount) for CCRAA claims;
3 **\$126,441.75** (95% discount) for the waiting time penalties claim; **\$77,200.00** (95% discount) for the
4 wage statement claim; and **\$158,895.00** (95% discount) for the PAGA penalties claim. (*Id.* at ¶¶ 36–
5 46.) The foregoing discounts were based on the evidence presented for mediation and arguments
6 made during arm’s-length settlement negotiations. (*Id.*)

7 **The \$2,500,000.00 gross settlement figure represents roughly 51.9% of the total realistic**
8 **recovery.** (*Id.* at ¶ 47.) This is an excellent result for the Class, particularly because, under the
9 Settlement, Class Members will receive timely and guaranteed relief, avoiding the risk of not being
10 able to recover anything. (*Id.*)

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

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

21 Here, considering all known facts and circumstances, the risk of significant delay, trial risk,
22 appellate risk, and the defenses Defendant may assert both to certification and on the merits, the
23 Settlement is in the best interest of the Class and LWDA. (Moon Decl., ¶ 34.) While Plaintiffs are
24 confident in the merits of their claims, a legitimate controversy exists as to each cause of action. (*Id.*
25 at ¶ 50.) Plaintiffs also recognize that proving the amount owed to each Class Member would be an
26 expensive, time-consuming, and uncertain proposition. (*Id.*)

27 The Settlement obviates the significant risk that this Court may deny certification of all or
28 some of Plaintiffs’ claims. (*Id.* at ¶ 51.) Class Counsel took into account the risk of not prevailing at

1 trial due to low or no participation by Class Members. (*Id.*) Indeed, the individualized and testimony-
2 intensive nature of the claims could bar manageability of the representative claims or otherwise
3 significantly reduce any recovery whatsoever. (*Id.*) For example, the rest period and unreimbursed
4 expense claims are testimony-driven claims and assume a 100% violation rate, which would not
5 likely be demonstrated at trial, as it assumes either the participation of all employees (which would
6 be difficult given the reality that many, if not all, employees would be unwilling to participate due to
7 fear of retaliation), or alternatively, the use of surveys or statistical data as a surrogate (which would
8 still require the participation of a majority of employees to establish a sound representation of all
9 non-exempts). (*Id.*) Even assuming employees would be willing to participate, obtaining declarations
10 would potentially reveal that each individual employee had a different experience. (*Id.*)

11 Furthermore, even if Plaintiffs were able to pursue their claims on a class-wide basis and
12 obtain certification of all or some of the claims, continued litigation would be expensive, involving
13 a trial and possible appeals, and would substantially delay and reduce any recovery by the Class. (*Id.*
14 at ¶ 52.) Although the Parties have engaged in a significant amount of investigation, informal
15 discovery, and class-wide data analysis, they have not conducted extensive formal discovery. (*Id.*)
16 Moreover, preparation for class certification and a trial would remain for the Parties as well as the
17 prospect of appeals in the wake of a disputed class certification ruling for Plaintiffs and/or any
18 summary judgment ruling. (*Id.*) As a result, the Parties would incur considerably more attorneys'
19 fees and costs through trial. (*Id.*) In sum, this Settlement avoids the risks, burdens, and the
20 accompanying expense of further litigation. (*Id.*)

21 The proposed \$2,500,000.00 Settlement therefore represents a substantial recovery when
22 compared to the reasonably forecasted recovery for the Class. (*Id.* at ¶ 53) When considering the
23 risks of litigation, the uncertainties involved in continued litigation, the burdens of proof necessary
24 to establish liability, and the probability of appeal, it is clear the Settlement amount is within the
25 “ballpark” of reasonableness, and that preliminary settlement approval is appropriate. (*Id.*; (*Kullar*,
26 *supra*, 168 Cal.App.4th at p. 133; *see Munoz, supra*, 186 Cal.App.4th at pp. 408–09.)

1 **3. The PAGA Settlement Is Fair Considering the Parties’ Respective Positions**
2 **and Significant Risks**

3 With regards to the PAGA claims, the Settlement is a fair and reasonable resolution that
4 satisfies PAGA’s dual statutory purposes of deterrence and punishment, on the one hand, and
5 providing Aggrieved Employees with genuine and meaningful relief, on the other. (Moon Decl., ¶ 48;
6 Lab. Code §§ 2698, *et seq.*) As a result of this litigation, Defendant has had to hire legal counsel, engage
7 in informal class-wide discovery, and participate in mediation. (Moon Decl., ¶ 48.) Defendant will also
8 have to pay civil penalties to the LWDA under the Settlement, assuming final settlement approval is
9 granted. (*Id.*) Not including its own attorneys’ fees and costs as well as the employer’s share of payroll
10 taxes, Defendant will pay no less than \$2,500,000.00 to resolve this matter—of which \$100,000.00 is
11 allocated toward the PAGA claims and will be distributed, in compliance with PAGA law governing
12 the claims in this action, as 75% (\$75,000.00) to the LWDA and 25% (\$25,000.00) to Aggrieved
13 Employees—and the release obtained under the Settlement does not preclude Aggrieved Employees
14 from pursuing any individual claims they may have against Defendant or the other Released Parties.
15 (*Id.*)

16 Moreover, Class Counsel are of the opinion that because the issues here are fairly contested,
17 there is a possibility of the Court not awarding the PAGA penalties even if Plaintiffs prevailed on the
18 merits due to the largely discretionary nature of awarding PAGA penalties. (*Id.*) Indeed, under PAGA,
19 a Court can reduce penalties “if, based on the facts and circumstances of the particular case, to do
20 otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” (Lab.
21 Code § 2699(e)(2).) In other words, were this matter to go to trial, any award granted would be at the
22 discretion of the Court and subject to a substantial reduction. (Moon Decl., ¶ 48.) Further, Class
23 Counsel took into account the risk of not being able to proceed on a representative basis due to the potential
24 manageability issues and that even if Plaintiffs prevailed at trial, penalties would likely be limited due to
25 the largely discretionary nature of awarding PAGA penalties and in light of other defenses available to
26 Defendant. (*Id.* at ¶ 49.) Thus, it is entirely possible that even if Plaintiffs would be successful at trial,
27 assuming they are first able to certify the claims and defeat the manageability issues presented at
28

1 litigation, Plaintiffs could be awarded substantially less than what was obtained through the Settlement.
2 (*Id.*)

3 In sum, the \$100,000.00 PAGA Penalties allocation under the Settlement constitutes “genuine
4 and meaningful” that is “consistent with the underlying purpose of the statute to benefit the public.”
5 (*See O’Connor v. Uber Tech., Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1133–35 [denying settlement
6 approval where allocation for PAGA claims was 0.1% of the estimated full worth].)

7 **4. Class Counsel Have Extensive Experience in Class and PAGA Action**
8 **Litigation, Which Was Integral to Negotiating the Settlement**

9 The Settlement negotiations were conducted by highly capable counsel with considerable
10 experience and demonstrated competence with litigating wage-and-hour class actions. (Moon Decl.,
11 ¶¶ 58–64; Declaration of James R. Hawkins in Support of Plaintiff’s Motion for Preliminary
12 Approval of Plaintiff’s Motion for Preliminary Approval of Class and PAGA Action Settlement
13 [“Hawkins Decl.”], ¶¶ 7-15.) Class Counsel have a strong record of vigorous and effective advocacy
14 for their clients and are experienced in handling complex wage-and-hour class action litigation.
15 (Moon Decl., ¶¶ 58–64; Hawkins Decl., ¶¶ 7-15.) Their experience was helpful in assessing the
16 reasonableness of the Settlement at issue here, and from this experience they concluded that this
17 litigation could not have been settled on better terms than provided under the Settlement. (Moon
18 Decl., ¶ 65.) Although Plaintiffs and their counsel were prepared to try the claims alleged in the
19 litigation, they support the proposed Settlement as being in the best interest of the Class based on
20 objective evidence that has been considered and weighed against the risks, expenses, and time
21 consumption to both sides of continued litigation. (*Id.* at ¶¶ 13, 49.)

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

23 Subject to the Court’s approval, the Settlement provides a fee application of one-third of the
24 GSA for Class Counsel’s attorneys’ fees, plus reimbursement for out-of-pocket litigation costs not to
25 exceed \$75,000.00.⁴ (Settlement, ¶ 3.1.2.) These amounts are disclosed to Class Members in the
26

27 ⁴ Plaintiff’s Counsel’s current litigation costs total \$58,857.13, with \$36,498.41 incurred by MLG,
28 and \$22,358.72 incurred by JH, and they anticipate incurring additional costs up to final approval.
(Moon Decl., ¶ 74, Ex. 5; Hawkins Decl., ¶ 3.)

1 proposed Class Notice and are reasonable. (*Id.* at Ex. A.) Pursuant to a Joint Prosecution and Fee-
2 Sharing Agreement between Moon Law Group, PC (“MLG”) and James Hawkins APLC (“JH”), and
3 as consented to in a signed writing by Plaintiffs, 40% of the attorneys’ fees will be provided to MLG
4 and 60% will be provided to JH. (Moon Decl., ¶ 18.)

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

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

12 Class Counsel seek an award of attorneys’ fees on the “percentage of recovery/common fund”
13 theory. (Moon Decl., ¶ 69.) The purpose of this approach is to “spread litigation costs proportionately
14 among all the beneficiaries so that the active beneficiary does not bear the entire burden alone.”
15 (*Vincent v. Hughes Air W., Inc.* (9th Cir. 1977) 557 F.2d 759, 769.) In *Quinn v. State of California*
16 (1975) 15 Cal.3d 162, the California Supreme Court stated, “one who expends attorneys’ fees in
17 winning a suit which creates a fund from which others derive benefits, may require those passive
18 beneficiaries to bear a fair share of the litigation costs.” (*Id.* at p. 167.) Similarly, in *City and County*
19 *of San Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court recognized that the
20 common fund doctrine has been applied “consistently in California when an action brought by one
21 party creates a fund in which other persons[] are entitled to share.” (*Id.* at pp. 110–11 [pincite
22 omitted].)

23 The California Supreme Court affirmed in *Laffitte v. Robert Half International Inc.* (2016) 1
24 Cal.5th 480 that, “when class action litigation establishes a monetary fund for the benefit of the class
25 members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the
26 court may determine the amount of a reasonable fee by choosing an appropriate percentage of the
27 fund created.” (*Id.* at p. 503.) The court explained: “The recognized advantages of the percentage
28 method—including relative ease of calculation, alignment of incentives between counsel and the

1 class, a better approximation of market conditions in a contingency case, and the encouragement it
2 provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation[]—
3 convince us the percentage method is a valuable tool that should not be denied our trial courts.” (*Id.*
4 [internal citations omitted].) This line of legal authority supports a request for attorneys’ fees based
5 on the percentage of recovery/common fund method.

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

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

16 Here, Class Counsel’s fees request for one-third of the GSA is in line with the prevailing
17 guidelines established in California case law and academic literature and is consistent with awards in
18 California. (*Compare* Settlement, ¶ 3.1.2, *with Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66,
19 n.11 [“Empirical studies show that, regardless whether the percentage method or the lodestar method
20 is used, fee awards in class actions average around one-third of the recovery.”].) Accordingly,
21 Plaintiffs request the Court preliminarily approve the attorneys’ fees as negotiated by the Parties.

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

23 Labor Code sections 218.5, 226, 1194, 2699, and 2802 provide for the recovery of reasonable
24 fees and costs of suit, for the claims made in this action. (Lab. Code §§ 218.5, 226, 1194, 2699(k)(1),
25 2802(d).) Under these sections, plaintiff would be permitted to recover his actual attorneys’ fees,
26 even if those fees were larger than the total class recovery at the conclusion of this case. (*Id.*) This
27 Settlement is beneficial in that it limits the risk of continued expenses and consumption of time,
28 energy, and resources facing Defendant while at the same time rewarding Class Counsel for their

1 decision to assume risk by taking on this matter on a contingent basis with no guarantee of recovery.
2 (*See* Moon Decl., ¶ 70.) In fact, prosecution of this action involved significant financial risk for Class
3 Counsel. (*Id.*) Once Class Counsel undertook this litigation, they committed to pursue it to its
4 conclusion, placing their fiduciary duty to the Class ahead of all other concerns. (*Id.* at ¶ 72.)

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

6 As demonstrated by their past experience in pursuing class actions on behalf of consumers
7 and employees, Class Counsel possess considerable expertise in litigating class actions. (*Id.* at ¶¶ 58-
8 64; Hawkins Decl., ¶¶ 7-15.) Class Counsel have been involved as lead counsel or co-counsel in
9 numerous class actions that resulted in millions in recovery. (Moon Decl., ¶¶ 58-64; Hawkins Decl.,
10 ¶¶ 7-15.) As noted above, their experience in wage-and-hour litigation was integral in evaluating the
11 strengths and weaknesses of the case against Defendant and the reasonableness of the Settlement.
12 (Moon Decl., ¶ 67.) Practice in the narrow field of wage-and-hour litigation requires skill and
13 knowledge concerning the rapidly evolving substantive law (state and federal) as well as the
14 procedural law of class action litigation. (*Id.* at ¶ 65.) Based on these and other factors, Class Counsel
15 have frequently received fee awards of this percentage from the gross recovery for the class. (*See*
16 Moon Decl., ¶¶ 62-64; Hawkins Decl., ¶ 11.) Because it is reasonable to compensate counsel
17 commensurate with their skill, reputation, and experience, the requested fee award is supported here.

18 **C. The Service Payments to Plaintiffs Are Reasonable**

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

1 or permitted to work under substandard unlawful conditions . . .” (Lab. Code § 90.5.) Nonetheless,
2 the California Supreme Court has noted that “retaliation against employees for asserting statutory
3 rights under the Labor Code is widespread,” despite anti-retaliation statutes designed to protect
4 employees. (*Gentry v. Super. Ct.* (2007) 42 Cal.4th 443, 460–61.) In this context, class
5 representatives should be rewarded for assuming the risk of retaliation for the sake of class members.
6 (*See Frank v. Eastman Kodak Co.* (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

7 Under the Settlement here, subject to the Court’s approval, a Class Representative Service
8 Payment of \$10,000.00 each will go to Plaintiffs, in addition to their amount as Participating Class
9 Members. (Settlement, ¶ 3.1.1.) This award is for their services in support of the Action and General
10 Release. (*Id.* at ¶ 1.8.) Plaintiffs have devoted a great deal of time and work assisting counsel in the
11 case and communicated with counsel frequently for litigation and to prepare for mediation. (Moon
12 Decl., ¶¶ 54–57; Plaintiff Lamar Decl., ¶¶ 19–23; Plaintiff Aaron Decl., ¶¶ 6-8.) The requested award
13 is fair and reasonable, particularly considering the substantial benefits Plaintiffs generated for all
14 Class Members. (Moon Decl., ¶ 57.)

15 When compared with the amounts awarded in typical class action cases, the amount requested
16 here is particularly reasonable. A 2006 study examining the average incentive award given to class
17 action plaintiffs from 1993 to 2002 found that the “average award per class representative was
18 \$15,992 and the median award per class representative was \$4357.” (Eisenberg & Miller, *Incentive*
19 *Awards to Class Action Plaintiffs: An Empirical Study* (2006) 53 UCLA L. Rev. 1303, 1307–08.)
20 The same study found that named plaintiffs in employment discrimination class actions received an
21 average award of \$69,850 and a median award of \$31,081, while named plaintiffs in other
22 employment class actions received an average award of \$12,121 and a median award of \$13,059. (*Id.*
23 at p. 1333.) The authors of the study found that higher awards in employment cases reflected the
24 “courts’ wish to make representative plaintiffs whole by compensating them for the high costs of
25 their service to the class, including risks of stigmatization or retaliation on the job.” (*Id.* at p. 1308.)

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

2 **A. Legal Standard**

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

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

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

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

26 When determining whether a class is ascertainable, California courts focus on the following
27 three factors: “(1) the class definition, (2) the size of the class and (3) the means of identifying class
28 members.” (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 873.) Here, Plaintiffs maintain there is an

1 easily ascertainable Class, defined by objective and precise criteria. (Settlement, ¶¶ 1.4, 1.6.) The
2 proposed Class that Plaintiffs seek to represent is ascertainable because (1) the Class definition is
3 sufficiently precise, (2) the Class consists of about 624 individuals, and (3) Class Members can be
4 readily identified by Defendant’s records. (*Id.* at ¶¶ 1.2, 1.3 1.4, 6.1.) Because Class Members are
5 identified using specific criteria in the regular business records of Defendant—their employment by
6 Defendant in California, non-exempt classification, hourly wage, and actual work during the Class
7 Period—the Class is ascertainable. (*See Wilner v. Sunset Life Ins. Co.* (2000) 78 Cal.App.4th 952,
8 959–60 [class membership defined by ownership of product that is the subject of the lawsuit is
9 sufficient to make the class ascertainable].) “The requirement of Code of Civil Procedure section 382
10 that there be ‘many’ parties to a class action suit is indefinite and has been construed liberally.” (*Rose*
11 *v. City of Hayward* (1981) 126 Cal.App.3d 926, 934.) “Where a question is of common interest to
12 ‘many’ persons, an action may be maintained as a class action even where the parties are numerous
13 and it is in fact practicable to join them all.” (*Id.*) “No set number is required as a matter of law for
14 the maintenance of a class action.” (*Id.*) “Thus, our Supreme Court has upheld a class representing
15 the 10 beneficiaries of a trust in an action for removal of the trustees.” (*Id.* [citing *Bowles v. Super.*
16 *Ct.* (1955) 44 Cal.2d 574]; *see also Collins v. Rocha* (1972) 7 Cal.3d 232 [upholding a class of 9
17 plaintiffs and 35 members].) Therefore, numerosity is plainly satisfied.

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

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

25 Here, Plaintiffs’ claims satisfy all three requirements. The practices at issue include whether
26 Defendant: paid employees all minimum, overtime, double time, and sick pay wages owed;
27 reimbursed employees for necessary business expenses; provided employees with and authorize meal
28 and rest periods or paid premiums for non-compliant breaks; provided adequate disclosures in its

1 background checks; obtained proper consent for procuring background checks; paid all final wages
2 to employees at the time of termination; intentionally failed to pay all final wages; provided
3 inaccurate itemized wage statements and whether Class Members were harmed; engaged in unfair
4 business practices; and violated civil penalty provisions under PAGA. (Moon Decl., ¶ 4.) Plaintiffs
5 contend the factual and legal issues are the same for all Class Members, and further that all Class
6 Members suffered from and seek redress for the same alleged injuries. (Plaintiff Lamar Decl., ¶¶ 3–
7 6; Plaintiff Aaron Decl., ¶¶ 5-7.) Considering Class Members would need to prove the same issues
8 of law and fact to prevail, and their legal remedies are identical, it would be preferable to resolve all
9 claims through a settlement than to force each Class Member to litigate their own individual claims.
10 Thus, the Court should grant conditional class certification for settlement purposes because common
11 questions of law and fact predominate over any individual questions within the Class.

12 **3. Plaintiffs’ Claims Are Typical of the Claims of the Class**

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

23 **4. Plaintiffs and Their Counsel Meet the Adequacy Requirement**

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

1 Here, all requirements are met. Plaintiffs retained counsel with extensive experience in
2 prosecuting complex class actions, including similar class actions that previously settled. (Moon
3 Decl., ¶¶ 58–68; Hawkins Decl., ¶¶ 7-11.) Based on their experience, Class Counsel unquestionably
4 are “qualified, experienced and generally able to conduct the proposed litigation.” (*Miller, supra*, 148
5 Cal.App.3d at p. 874.) Plaintiffs have, with counsel, litigated this case and diligently reviewed the
6 settlement terms, showing dedication, and with full knowledge and acceptance of duties, they have
7 committed to their role as Class Representatives. (Plaintiff Lamar Decl., ¶¶ 11–23; Plaintiff Aaron
8 Decl., ¶¶ 8-9.) In addition, Plaintiffs and their Counsel have no conflicts with one another, other Class
9 Members, or the proposed Administrator. (Plaintiff Lamar Decl., ¶¶ 8–10; Moon Decl., ¶ 68.)

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

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

21 **V. THE PROPOSED CLASS NOTICE IS CONSTITUTIONALLY SOUND AND** 22 **SATISFIES RULES OF COURT**

23 Class Notice requirements are set forth in the California Rules of Court. (Cal. Rules of Court,
24 rule 3.766(e)–(f), rule 3.769(f).) Here, the proposed Class Notice, in the form attached to the
25 Settlement as **Exhibit A**, meets all the requirements of California Rules of Court. The Notice
26 summarizes the proceedings to date and the terms and conditions of the proposed Settlement in an
27 informative and coherent manner. (Settlement, ¶ 6.3, Ex. A.) It also states that the final approval
28 decision has yet to be made, and provides the date, time, and location of the Final Approval Hearing.

1 (*Id.*) It explains the right and procedures to opt-out or submit any written objections and/or arrange
2 to appear at the Final Approval Hearing and verbally state any objections. (*Id.*) It makes clear the
3 Settlement does not constitute an admission of liability by Defendant, who denies all liability, and it
4 recognizes that this Court has not ruled on the merits of the action. (*Id.*) Thus, the proposed Notice
5 meets all the requirements of California Rule of Court 3.769(f). (Cal. Rules of Court, rule 3.769(f).)

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

10 California law vests the Court with broad discretion in fashioning an appropriate notice
11 program. (*Cartt v. Super. Ct.* (1975) 50 Cal.App.3d 960, 970, 973–74.) There is no statutory or due
12 process requirement that all class members receive actual notice, but in this matter, Class Members
13 will receive direct mailed notice, which is the best possible form of notice under the circumstances.
14 (Settlement, ¶ 6.4.2.) As the Court of Appeals has explained, “[t]he notice given should have a
15 reasonable chance of reaching a substantial percentage of the Class Members . . .” (*Cartt*, 50
16 Cal.App.3d at p. 974.)

17 **VI. CONCLUSION**

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

21 Respectfully submitted,

22 Dated: March 13, 2026

MOON LAW GROUP, PC

23
24 By: _____

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