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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

ANTHONY MANOS, as an individual and on behalf of all others similarly situated,

Plaintiff,

v.

ACRISURE OF CALIFORNIA PARTNER GROUP, LLC, a Limited Liability Company; and DOES 1 through 50, inclusive,

Defendants.

Case No.: 24CV011682

Assigned to Hon. Jill H. Talley in Department 23

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

Date:	October 10, 2025
Time:	9:00 a.m.
Dept.:	23
Action Filed:	June 12, 2024

Reservation #: *See* August 1, 2025 Minute Order

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on October 10, 2025, at 9:00 a.m., or as soon thereafter as the matter may be heard, before the Honorable Jill H. Talley, judge presiding, in Department 23 of the above referenced Court located at 720 9th Street, Sacramento, CA 92415, Plaintiff Anthony Manos ("Plaintiff") will seek an Order: (1) preliminarily approving the Joint Stipulation of Class Action and PAGA Settlement and Release ("Settlement Agreement" or "Settlement"); (2) conditionally certifying the following Class for settlement purposes only: all current and former non-exempt employees of Defendant Acrisure of California Partner Group, LLC who were employed in the State of California, paid overtime wages and whose wage statements failed to identify overtime rates at any time during the class period of time of June 12, 2023 through September 1, 2024 ("Class Period"); (3) appointing Plaintiff as the Class Representative and Larry W. Lee of Diversity Law Group, P.C., Edward W. Choi of the Law Offices of Choi & Associates, William L. Marder of Polaris Law Group, and Dennis Hyun of Hyun Legal, APC, as Class Counsel; (4) preliminarily approving the Settlement Agreement and the Gross Settlement Amount of $275,000.00; (5) finding on a preliminary basis that the Settlement Agreement appears to be within the range of reasonableness of a settlement, including the amount of the Class Representative's Enhancement Payment, Class Counsel's fees and costs, the settlement administration fees, and the allocation of payments to Class Members, that could ultimately be given final approval by this Court; (6) approving the Notice of Pendency of Class Action and Representative Settlement ("Class Notice") to be sent to Class Members, which is attached as Exhibit A to the Settlement Agreement; (7) approving the distribution of the Class Notice to Class Members substantially in the manner and form set forth in the Settlement Agreement; (8) appointing Phoenix Settlement Administrators as the Settlement Administrator; and (9) setting the matter for a Final Fairness and Final Approval hearing.

This Motion is made pursuant to Rule 3.769 of the California Rules of Court, which provides for court approval of the settlement of a purported class action and allows the Court to preliminarily certify a class for settlement purposes.

The basis for this Motion, filed without any opposition from Defendant, is that the proposed settlement is fair, adequate, and reasonable and the procedures proposed by the Parties are adequate to ensure the opportunity of class members to participate in, opt-out of, or object to the settlement.

Pursuant to Local Rule 1.06 (A), the court will make a tentative ruling on the merits of this matter by 2:00 p.m., the court day before the hearing. The complete text of the tentative rulings for the department may be downloaded off the court's website. If the party does not have online access, they may call the dedicated phone number for the department as referenced in the local telephone directory between the hours of 2:00 p.m. and 4:00 p.m. on the court day before the hearing and receive the tentative ruling. If you do not call the court and the opposing party by 4:00 p.m. the court day before the hearing, no hearing will be held.

This Motion will be based on the attached Memorandum of Points and Authorities, the Settlement Agreement, the proposed Class Notice, and the supporting Declarations of Edward W. Choi, Larry W. Lee, Dennis Hyun, William Marder and Plaintiff Anthony Manos, and upon the oral arguments of counsel (should there be any) and on the complete records and file herein.

DATED: September 12, 2025

LAW OFFICES OF CHOI AND ASSOCIATES

By: Edward W. Choi

Edward W. Choi
Attorneys for Plaintiff and the Class

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On June 12, 2024, Plaintiff Anthony Manos ("Manos") submitted a notice pursuant to the Private Attorneys General Act (the "PAGA"), to the Labor Workplace Development Agency ("LWDA") alleging that Defendant Acrisure of California Partner Group, LLC ("Defendant") violated Labor Code § 226. (Declaration of Edward W. Choi ("Choi Decl.") ¶ 2).

On June 12, 2024, Manos filed a putative class action complaint in Sacramento County Superior Court against Defendant, Case No. 24CV011682. (*Id.* at ¶3). Manos' Complaint asserted a single cause of action for failure to provide accurate wage statements. (*Id.*) On December 5, 2024, Manos filed a First Amended Complaint adding a cause of action for violation of the Private Attorneys General Act (the "PAGA"), Labor Code § 2698, *et seq*. (*Id.*)

Since the filing of the case, the Parties engaged in formal and informal discovery resulting in the production of data necessary for Plaintiff to calculate the potential exposure for this matter, *i.e.*, the number of allegedly violative wage statements at issue. (*Id.* at ¶ 4). Thereafter, the Parties' counsel engaged in arms' length settlement discussions. (*Id.)* After months of negotiations, the Parties were able to reach a class and representative PAGA settlement. (*Id.*) The terms of the settlement provide that Defendant shall pay the Gross Settlement Amount of Two Hundred and Seventy-Five Thousand Dollars and No Cents ($275,000.00) which will be distributed to the class on a **non-reversionary** basis without the need to submit claim forms. (Joint Stipulation of Class Action and PAGA Settlement and Release ("Settlement Agreement" or "Settlement") ¶¶ B.15, C.2). Thus, the entire settlement amount will be distributed and no remaining amounts, *i.e.*, unclaimed funds, will revert back to Defendant. (*Id.* ¶ C.2).

Plaintiff respectfully submits that this amount is fair, adequate, and reasonable, especially given the substantial risks and uncertainty of class certification and liability on the merits. Although Plaintiff and his counsel have always believed that they can prevail on class certification, as well as on the merits, they recognize the inherent risk in further drawn-out litigation and the specific risks that a class might not be certified and/or that Plaintiff could fail to establish liability. Based on their own independent investigation and evaluation, Plaintiff and his counsel are of the opinion that settlement for the consideration and on the terms set forth in the Settlement Agreement is fair, reasonable, and adequate and is in the best interests of the Settlement Class in light of all known facts and circumstances and the expenses and risks inherent in litigation.

Therefore, Plaintiff respectfully requests that the Court grant this Motion for Preliminary Approval of Class Action Settlement.

II. DISCUSSION

Any settlement of a class action lawsuit must be reviewed and approved by the Court. This is done in two steps: (1) an early (preliminary) review by the trial court, and (2) a final review after notice has been distributed to the class members for their comment or objections. The Manual for Complex Litigation (Third) § 30.41 states:

> Approval of class action settlements involves a two-step process. First, counsel submits the proposed terms of settlement and the court makes a preliminary fairness evaluation. If the preliminary evaluation of the proposed settlement does not disclose grounds to doubt its fairness or other obvious deficiencies, such as unduly preferential treatment of class representatives or of segments of the class, or excessive compensation for attorneys, and appears to fall within the range of possible approval, the court should direct that notice … be given to the class members of a formal fairness hearing, at which arguments and evidence may be presented in support of and in opposition to the settlement.

Thus, the preliminary approval by the trial court is simply a conditional finding that the settlement appears to be within the range of acceptable settlements. As Professor Newberg comments, "[t]he strength of the findings made by a judge at a preliminary hearing or conference concerning a tentative settlement proposal may vary. The court may find that the settlement proposal contains some merit, is within the range of reasonableness required for a settlement offer, or is presumptively valid subject only to any objections that may be raised at a final hearing." 4 Alba Conte & Herbert B. Newberg, *Newberg on Class Actions*, § 11.26 (4th ed. 2002).

The procedures for the parties' submission of a proposed settlement for preliminary approval by the court also are discussed in 4 *Newberg on Class Actions*:

> When the parties to an action reach a monetary settlement, they will usually prepare and execute a joint stipulation of settlement, which is submitted to the court for preliminary approval. The stipulation should set forth the central terms of the agreement, including but not limited to, the amount of settlement, form of payment, manner of determining the effective date of settlement and any recapture clause.

Id. at § 11.24.

Here, the Parties have reached such an agreement and Plaintiff is concurrently filing a copy of the Settlement Agreement with this Motion, fully setting forth the agreement reached among the Parties. The Settlement Agreement sets forth all terms of the agreement reached by the Parties, which include, among other things, the method for calculating the Class Members' Individual Settlement Payments.

The parties also may, at the preliminary approval stage, request that the court provisionally approve certification of the class – conditional upon final approval of the settlement. "[P]re-certification settlements are routinely approved if found to be fair and reasonable." *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 240 (2001). *Accord Dunk v. Ford Motor Co*., 48 Cal. App. 4th 1794, 1803 (1996) (although the settlement was reached before any "adversary certification," the court was satisfied that it was "fair, adequate and reasonable"); *In re Baldwin-United Corp*., 105 F.R.D. 475, 478 (S.D.N.Y. 1984) ("many courts have employed this practice in the name of judicial efficiency in order to facilitate apparently beneficial settlement proposals"). As further explained by Professor Newberg:

> The strength of the findings made by a judge at a preliminary hearing or conference concerning a tentative settlement proposal. . . . may be set out in conditional orders granting tentative approval to the various items submitted to the court. Three basic rulings are often conditionally entered at this preliminary hearing. These conditional rulings may approve a temporary settlement class, the proposed settlement, and the class counsel's application for fees and expenses.

4 Newberg on Class Actions, at §11.26

In addition to such terms as class identification, settlement amount and payment procedures, the Settlement Agreement reached among the Parties contains a provision pursuant to which the Parties stipulate to the Court's provisional certification of the Class, but do so for the purposes of this settlement only. (Agreement at ¶ F.1). The Settlement Agreement further provides that if, for any reason, the Settlement is not approved, the stipulation to certification will be void and Defendant has reserved all rights to challenge certification. (*Id.*)

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A. PROPOSED CLASS DEFINITION

The current settlement is being settled on behalf of the following Class:

> All current and former non-exempt employees of Defendant Acrisure of California Partner Group, LLC ("Defendant") who were employed in the State of California, paid overtime wages and whose wage statements failed to identify overtime rates at any time during the Class Period (June 12, 2023 through September 1, 2024)

(Settlement Agreement ¶¶ B.2 & B.7).

B. NUMEROSITY

Courts generally find that numerosity is satisfied if the class includes forty or more members. (*See Villalpando v. Excel Direct Inc*. (N.D. Cal. 2014) 303 F.R.D. 588, 605-606; *see also Jordan v. L.A. County* (9th Cir. 1982) 669 F.2d 1311, 1320 (noting, in dicta, that the court "would be inclined to find the numerosity requirement…satisfied solely on the basis of [39] ascertained class members"), *vacated on other grounds*, 459 U.S. 810 (1982); *Ark. Educ. Ass'n v. Bd. of Educ. of the Portland* (8th Cir. 1971) 446 F.2d 763, 765-66 (approving class of 20 members).) In this case, there are approximately a total of approximately 385 class members and, therefore, numerosity is satisfied. (Choi Decl. ¶ 8).

C. ASCERTAINABILITY

Class members are ascertainable where they may be "readily identified without unreasonable expense or time by reference to official records." (*Lee v. Dynamex, Inc.* (2008) 166 Cal. App. 4th 1325, 1334; *see also Faulkinbury v. Boyd & Assocs., Inc*. (2013) 216 Cal. App. 4th 220, 240.) Here, for settlement purposes, the identity of class members is clearly ascertainable from Defendant's employment and payroll records and have already been identified during the informal discovery and settlement process.

D. TYPICALITY AND ADEQUACY OF REPRESENTATION

1. Class Representative's Claims are Typical of the Class

The commonality requirement is met when there are questions of law and fact common to the class. *See Hanlon v. Chrysler Corp*., 150 F.3d 1011, 1019 (1998) ("The existence of shared legal issues with divergent legal factual predicates is sufficient, as is a common core of salient facts couple with disparate legal remedies within the class"). Commonality requires only that some common legal or factual questions exist; the Plaintiff need not show that all issues in the litigation are identical. *See Richmond v. Dart Industries, Inc*., 29 Cal. 3d 462, 473 (1981). Defendant's conduct is central to the commonality inquiry. *See City of San Jose v. Superior Court*, 12 Ca1. 3d 447, 460 (1974); *Vasquez v. Superior Court*, 4 Cal. 3d 800, 812-13 (1971). Where the employer's conduct is uniformly directed at a class of employees, as it is here, the class wide impact of the Defendant's policies satisfies the commonality requirement. *See Stephens v. Montgomery Ward & Co*., 193 Cal. App. 3d 411, 421 (1987).

Plaintiff alleges that Defendant failed to provide accurate wage statements as required by law as to Plaintiff and Class Members. (Declaration of Anthony Manos ("Manos Decl.") ¶ 3). Thus, Plaintiff asserts that he was subjected to the same practices as class members. Plaintiff does not have any interests adverse to the Class, nor has any such issues been raised or presented. (Manos Decl. ¶¶ 4-5). Plaintiff has taken all necessary steps to represent the interests of the Class, by providing information and documents. (Manos Decl. ¶¶ 5-7). For such reasons, Plaintiff has adequately represented the Class Members and will continue to do so.

2. Class Counsel Have Adequately Represented the Class and Has Experience with Wage and Hour Class Actions

From the inception of the case, Class Counsel have solely represented the interest of the Class. Plaintiff engaged in formal and informal discovery regarding Defendant's policies and practices as to Plaintiff and the Class. (Choi Decl. ¶ 4). Class counsel also exchanged numerous emails with opposing counsel, obtained the Class data and declaration of Defendant's Director of HR Operations, that included the total number of wage statements that were issued to the 385 class members prior settlement negotiations. (*Id.* ¶8) The settlement was also obtained for the benefit of the Class, as opposed to the individual Plaintiff. Finally, Class counsel have been approved as class counsel on a number of prior cases and are competent to represent the class. (Choi Decl. at ¶ 11; Declaration of Larry W. Lee ("Lee Decl.") at ¶¶ 4-6; Declaration of Dennis S. Hyun ("Hyun Decl.") at ¶¶ 3-6; Declaration of William Marder ("Marder Decl.") ¶¶ at 4-10).

E. SUPERIORITY

Class treatment is clearly superior to any other method of resolving Plaintiff's claims. (*Sav-*

on Drug Stores, Inc., *supra*, 34 Cal. 4th 319 at p. 326) In employment actions, class actions are in fact encouraged. (*Jaimez v. DAIOHS USA, Inc.* (2010) 181 Cal. App. 4th 1286, 1308 ("In light of the numerous common issues of fact and law that predominate in this lawsuit, we conclude that proceeding by way of class action is the superior method of adjudication. Doing so would further judicial economy by avoiding repetitious suits, would unify what would otherwise be a series of small claims so as to enhance the class members' access to redress…").)

Here, Plaintiff's claims are based on the alleged class-wide policies, procedures, and practices that apply to all Class Members and can be most efficiently litigated on a class-wide basis. The alternative would be the unrealistic filing of numerous individual claims. Since the putative class members are employees with relatively modest individual claims and limited resources, there is a strong likelihood that individual claims would never be brought. (*See Local Joint Exec. Bd. of Culinary/Bartender Trust Fund* (9th Cir. 2001) 244 F.3d 1152, 1163 (superiority requirement met where class members would recover, at most, about $1,330); *see also Gentry v. Sup. Ct.* (2007) 42 Cal. 4th 443, 462.)

F. SUMMARY OF THE CASE, INVESTIGATION AND DISCOVERY, AND REASONABLE ESTIMATE OF THE NATURE AND AMOUNT OF RECOVERY

As discussed above, Plaintiff has filed a complaint asserting that Defendant failed to provide compliant wage statements. (Choi Decl. ¶ 3).

Defendant denies liability and is prepared to continue to defend the action vigorously through denial of class certification, summary judgment, trial, and appeals (if necessary). (*Id.*)

Plaintiff served written discovery and obtained the putative class members' pay data. (*Id.* at ¶ 4). Thereafter, obtained the Class data and declaration of Defendant's Director of HR Operations, that included the total number of wage statements that were issued to the 385 class members prior settlement negotiations. (*Id.* at ¶8). Ultimately, after months of negotiation, the Parties reached a settlement. (*Id.)*

Based on their own independent investigations and evaluations, the Parties and their respective counsel are of the opinion that settlement for the consideration and on the terms set forth in the Settlement Agreement is fair, reasonable, and adequate and is in the best interests of the Class and Defendant in light of all known facts and circumstances and the expenses and risks inherent in litigation, and is designed so that the Parties may buy their peace and avoid continuing litigation and costs. (Choi Decl. ¶¶ 5-7).

As explained by the Court of Appeal in *Kullar v. Foot Locker Retail, Inc*., 168 Cal. App. 4th 116, 130, 133 (2008), a class action settlement should be approved when the plaintiff has conducted sufficient discovery and the settlement is reasonable in light of the strengths of the plaintiff's claims. As discussed herein, Plaintiff' counsel has conducted discovery and investigation and, in light of the strength and weaknesses of Plaintiff' claims, Plaintiff' attorneys submit that this settlement is fair pursuant to *Kullar*.

Prior to engaging in settlement discussions, Defendant provided Plaintiff with a declaration of its Director of HR Operations, that included the total number of wage statements that were issued to the 385 class members. (Choi Decl. ¶ 8). Specifically, based on a review of payroll documents, Defendant declared that 373 non-exempt employees between March 8, 2024 and July 5, 2024, received 2,754 wage statements that displayed the overtime rate as "0." (*Id.*) Further, there were a total of 12 non-exempt employees between June 12, 2024 through September 1, 2024 that received a total of 12 wage statements that displayed the overtime rate as "0." (*Id.*) Thus, there are a total of 385 non-exempt employees that received a total of 2,766 wage statements which Plaintiff alleges violated Labor Code § 226(a) by not displaying the hourly overtime rate. (*Id.*) Based on the foregoing, the total amount of Labor Code §226 penalties amount to $257,350 (2,766 wage statements X $100 – (385 X $50)). (*Id.*) Plaintiff's counsel estimated that the maximum PAGA penalties that could be awarded is $276,600 (2,766 wage statements X $100). (*Id.*)

The $275,000.00 settlement represents approximately 52% of the total exposure, which is consistent with other settlements approved by courts. *See*, *e.g.*, *In re Mego Fin. Corp. Secs. Litig.*, 213 F.3d 454, 459 (9th Cir.2000) (holding that class action settlement recovering 16% of potential exposure was fair and reasonable; "[i]t is well-settled law that a cash settlement amounting to only a fraction of the potential recovery does not per se render the settlement inadequate or unfair. Rather, the fairness and the adequacy of the settlement should be assessed relative to risks of pursuing the litigation to judgment"; noting that whether the settlement is fair and adequate depends on the "the difficulties in proving the case"); *Bellinghausen v. Tractor Supply Co*., No. 13-CV-02377-JSC, 2015 WL 1289342, at *6 (N.D. Cal. Mar. 20, 2015) (holding that class action settlement recovering between 8.5% and 25% of the defendant's potential exposure was fair); *Van Ba Ma v. Covidien Holding Inc*., U.S. Dist. Ct. Case No. 8:12-cv-02161 (C.D. Cal. 2014) (court granted preliminary approval of wage and hour class settlement which obtained ***only 9.1%*** of projected damages, given the risks of continued litigation) *Villegas v. J.P. Morgan Chase & Co*., No. CV 09-00261 SBA EMC, 2012 WL 5878390, at *6 (N.D. Cal. Nov. 21, 2012) (holding that gross class action settlement of approximately 15% of the potential recovery was fair and reasonable); *Greko v. Diesel U.S.A., Inc*., No. 10–cv–02576 NC, 2013 WL 1789602, at *5 (N.D. Cal. Apr. 26, 2013) (24 percent was reasonable).

G. SETTLEMENT WAS NEGOTIATED AT ARMS-LENGTH AND IS NOT COLLUSIVE

Courts presume the absence of fraud or collusion in the negotiation of settlement unless evidence to the contrary is offered. *Priddy v. Edelman*, 883 F.2d 438, 447 (6th Cir. 1989); *Mars Steel Corp. v. Continental Illinois Nat'l Bank & Trust Co*., 834 F.2d 677, 682 (7th Cir. 1987); *In re Chicken Antitrust Litig*., 560 F. Supp. 957, 962 (N.D. Ga. 1980). Courts do not substitute their judgment for that of the proponents, particularly where, as here, settlement has been reached with the participation of experienced counsel familiar with the litigation. *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc*., 221 F.R.D. 523, 528 (C.D. Cal. 2004); *Hammon v. Barry*, 752 F. Supp. 1087 (D.D.C. 1990); *Steinberg v. Carey*, 470 F. Supp. 471 (S.D.N.Y. 1979); *In re Armored Car Antitrust Litig*., 472 F. Supp. 1357 (N.D. Ga. 1979); *Sommers v. Abraham Lincoln Federal Sav. & Loan Ass'n*, 79 F.R.D. 571 (E.D. Pa. 1978).

While the recommendations of counsel proposing the settlement are not conclusive, the Court can properly take them into account, particularly where, as here, they have been involved in formal and informal discovery and negotiations for some period of time, appear to be competent, have experience with this type of litigation, and have exchanged substantial evidence from the opposing party. *See Newberg on Class Actions*, *supra*, at § 11.47; *Nat'l Rural Telecomms. Coop*., 221 F.R.D. at 528 (quoting *In re Paine Webber Ltd. P'ships Litig*., 171 F.R.D. 104, 125 (S.D.N.Y. 1997) ("[s]o long as the integrity of the arm's length negotiation process is preserved, however, a strong initial presumption of fairness attaches to the proposed settlement . . . [citations] and 'great weight' is accorded to the recommendations of counsel, who are most closely acquainted with the facts of the underlying litigation")).

Here, both Plaintiff and Defendant's counsel have a great deal of experience in wage and hour class action litigation. Plaintiff's counsel have been approved as class counsel in a number of wage and hour class actions and have extensive litigation experience. (Choi Decl. at ¶ 11; Lee Decl. at ¶¶ 4-6; Hyun Decl. ¶¶ 3-6; Marder Decl. ¶¶ 4-10). Moreover, as discussed above, Plaintiff's counsel conducted a very extensive investigation of the allegations involved in this case since the inception. Each side has apprised the other of their respective factual contentions, legal theories and defenses, resulting in extensive arms' length negotiations taking place among the Parties.

The settlement for each participating Class Member is fair, reasonable and adequate, given the inherent risks of litigation, including the substantial risks relative to class certification, and the costs of pursuing such litigation. The settlement is the result of extensive arms' length negotiations between the Parties and their counsel, which was achieved after a full day of mediation before a highly regarded mediator.

Although Plaintiff believes that a class can be certified, Plaintiff also believes in the fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiff in not prevailing on one or more of the causes of action or theories alleged in the Operative Complaint, the possibility of non-certification, adverse disposition, and potential for appeals by one or both sides. (Choi Decl. at ¶¶ 5-7). Despite the asserted fairness of the settlement terms, as set forth in the *Class Notice*, should any Class Member wish to pursue his or her own case for the claims being released herein, each Class Member has the right to submit a request for exclusion (*i.e*., Opt-Out) from the settlement. Moreover, as set forth in the *Class Notice*, Class Members are advised of their right to attend the final approval hearing and object to any of the terms contained in the proposed Settlement Agreement, provided that they give proper notice to the Parties and the Court.

H. SETTLEMENT TERMS AND EVALUATION

1. Proposed Terms of the Settlement

This is a non-reversionary settlement wherein Class Members will be automatically paid out of the settlement if he/she does not opt-out of the settlement. The key terms of the settlement are as follows.

The Settlement Agreement provides for a Gross Settlement Amount of Two Hundred and Seventy-Five Thousand Dollars ($275,000.00). (Settlement Agreement ¶ B.15). Attorney's fees of up to 33 1/3% or $91,666.67 will be paid to Class Counsel, along with costs of up to $10,000.00. (Settlement Agreement ¶ C.4). Plaintiff will seek a Class Representative Enhancement Payment of $10,000.00. (Settlement Agreement ¶ C.5). The Settlement Administrator will be paid $9,000.00 for costs of administering this settlement. (Settlement Agreement ¶ C.6; Choi Decl. ¶13). After deduction of the foregoing, the remainder will be distributed to Class Members who do not opt-out of the Settlement Agreement based on the number of wage statements that failed to identify overtime rates each Class Member received during the Class Period. (Settlement Agreement ¶¶ C.9). Further, 25% of the PAGA amount ($5,000.00) will be dispersed pro rata to all Aggrieved Employees regardless of whether they submit timely, valid requests for exclusion, based on the same formula during the PAGA period. (Settlement Agreement ¶¶ C.8).

2. Nature of Any Injunctive Relief

The Settlement Agreement does not provide for any injunctive relief.

3. Amount and Manner of Distribution of the Compensation to be Provided to Class Members Including the Amount, or an Estimate, of What Each Class Member Will Receive

The Net Settlement Amount (calculated after deduction of attorneys' fees, costs, class representative service payment, the PAGA portion of the settlement payable to the State and Aggrieved Employees and claims administration costs) shall be paid to all Class Members who do not opt out of the settlement. (Settlement Agreement ¶¶ C.9-10). The amount allocated to each Class Member will be based on wage statements that failed to identify overtime rates each Class Member received during the Class Period. (Settlement Agreement ¶ C.9). The reason for such allocation is so that the Class Members who suffered higher damages will be allocated greater recovery. Class Members may opt-out of the Settlement if they so choose. (Settlement Agreement ¶ C.18). Based on the Net Settlement Amount, on a pure raw average, each class member will receive approximately $343.72. (Choi Decl. ¶ 9). The amount to be received by class members per pay period is approximately $47.84. (*Id.*). The actual amount that each class member will receive will depend on the number of wage statements with overtime wages received by each Class Member.

4. Whether, and Under What Circumstances, Amounts May Revert to Defendant, Disposition of Any Un-cashed Checks

This is a non-reversionary settlement as the entirety of the settlement amount will be fully paid out. Settlement checks will remain valid for a period of 180 calendar days after they are issued. Any check not cashed within 180 calendar days will be void and the Settlement Administrator shall transfer the funds to the California State Controller's Unclaimed Property Fund in the name of the Settlement Class Member, so that the Settlement Class Member can attempt to collect the funds at a later date. (Settlement Agreement ¶ C.24).

5. Scope of the Release of Class Members and Aggrieved Employees' Claims

The scope of the release, as listed below, is identified in the Settlement Agreement Section D, as well as in each of the Notices that will be sent to Class Members/Aggrieved Employees:

> <u>Release of Claims by Participating Class Members</u>. Upon the payment of the Gross Settlement Amount, Plaintiff and all Participating Class Members, hereby do and shall be deemed to have fully, finally and forever released, settled, compromised, relinquished and discharged, to the fullest extent possible, any and all of the Released Parties of and from any and all Released Claims.
>
> Released Class Claims means all claims, causes of action, demands, damages, or liabilities arising at any time during the Class Period that were pled or which could have been pled based on the factual allegations contained in the operative Complaints in the Actions or any amendments thereto, including but not limited to claims for violation of Cal. Labor Code § 226(a), which are premised on the violations described above. The Released Class Claims extend to all theories of relief, whether under California law, federal law, state law, or common law (including, without limitation, as alleged violations of the California Labor Code, the IWC Wage Orders, or applicable regulations. The Released Claims include all types of relief available for the Released Claims, including

> without limitation any claims for damages, losses, penalties, fines, attorneys' fees, costs, expenses, interest, injunctive relief, declaratory relief, or liquidated damages.

(Settlement Agreement ¶¶ B.28, D.2.)

> Release of Claims by PAGA Members. Upon the payment of the Gross Settlement Amount, Plaintiff and all PAGA Members, hereby do and shall be deemed to have fully, finally and forever released, settled, compromised, relinquished and discharged, to the fullest extent possible, any and all of the Released Parties of and from any and all PAGA Released Claims.
>
> "PAGA Released Claims" means all claims, causes of action, demands, damages, or liabilities arising at any time during the PAGA Period that were pled or which could have been pled based on the factual allegations contained in the operative Complaint in the Action or any amendments thereto, for civil penalties under the PAGA premised on alleged violations of Labor Code §§ 226 and 2698, *et seq.*

(Settlement Agreement ¶¶ B.25, D.3.).

As shown, the scope of the release is narrow and is limited by the claims asserted in the Operative Complaint. Further, the Scope of the Release does not waive Civil Code §1542 for Class Members, it does so only for and with regard to the named Class Representative.

6. Tax Treatment of Settlement Amounts

One Hundred Percent (100%) of the Individual Settlement Payments and PAGA Individual Settlement Payments will be distributed and designated as civil penalties and interest and therefore reported on an IRS Form 1099 by the Settlement Administrator. (Settlement Agreement ¶ C.26-27).

7. Affirmative Obligations to be Undertaken by Class Members or Class Counsel and the Reasons for Any Such Obligations

As stated above, Class Members do not need to do anything should they wish to receive their share of the settlement funds. Thus, this substantially decreases the amount of burden each Class Member must bear in order to receive their settlement share. If a Class Member does not wish to take part in this settlement and be bound by the release, he/she must submit an exclusion request. Such obligations are thoroughly identified in each class member's Class Notices. (Settlement Agreement ¶ C.18, Exh. A).

I. SUBMISSION OF CLAIMS/EXCLUSIONS/OBJECTIONS

Class Members will not be required to submit a claim form to receive compensation.

Instead, this is a non-reversionary Settlement Agreement. Class Members will be provided 45 days to opt out or object to the settlement. (Settlement Agreement ¶ B.31.). Any Class Member who does not opt-out of the settlement will be automatically issued his/her share of the settlement proceeds. Given that this is a non-reversionary settlement, the parties believe that 45 days is sufficient time for class members to object or opt-out of the settlement. Further, Class Members will be notified of the Fairness/Final Approval hearing and will have an opportunity to appear at the Fairness hearing.

J. CY PRES DISTRIBUTION

Individual Settlement Payments checks remaining un-cashed for more than 180 days after issuance will be transferred to California State Controller's Unclaimed Property Fund (Settlement Agreement ¶ C.24).

K. NOTICE TO CLASS MEMBERS

Within fifteen (15) business days of preliminary approval of this settlement, Defendant will provide the Class List to the Settlement Administrator. (Settlement Agreement ¶ C.13). The Settlement Administrator will mail a Class Notice to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List. (*Id*. at ¶ C.14). Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. (*Id*. ¶ C.15). If a Notice is returned as non-deliverable but with a forwarding address, the Settlement Administrator shall resend the Notice to the forwarding address. (*Id*. ¶ C.17). If a Notice is returned as non-deliverable with no forwarding address, the Settlement Administrator shall conduct a skip trace to locate the most current address of the person to whom the Notice was addressed and shall resend the Notice to any updated address. (*Id*.) Each Class Notice will provide: (1) information regarding the nature of the Action; (2) a summary of the Settlement's principal terms; (3) the Class definition; (4) each Class Member's estimated Individual Settlement Payment and the formula for calculating Individual Settlement Payments, if they do not request to be excluded; (5) each Class Member's estimated Individual PAGA Payment and the formula for calculating Individual PAGA Payments; (6) the dates that comprise the Class Period and PAGA

Period; (7) instructions on how to submit a valid Request for Exclusion or Notice of Objection; (8) the deadline by which the Class Member must submit a Request for Exclusion or Notice of Objection; (9) the date for the final approval hearing; and (10) the claims to be released. (*Id.* ¶C.16) The Class Notice will also inform Class Members that, in order to receive the Individual Settlement Payment and Individual PAGA Payment, they do not need to do anything except keep the Settlement Administrator apprised of their current mailing addresses. The Class Notice shall also inform PAGA Members that they cannot opt out of the PAGA Released Claims and their receipt of their Individual PAGA Payment. (*Id*. ¶ C.16, Ex. A). The Class Notice will be provided in English because Defendant has confirmed that a translation is not necessary. (Choi Decl. ¶13).

Based on the foregoing, the notice procedures fully comply with California Rules of Court Rule 3.766 (d) & (e).

L. COSTS AND FEES

1. Attorneys' Fees and Costs

California state and federal courts have recognized that an appropriate method for determining award of attorneys' fees is based on a percentage of the total value of benefits to Class Members by the settlement. *Wershba v. Apple Computer, Inc*., 91 Cal.App.4th 224, 254 (2001); *Serrano v. Priest*, 20 Cal. 3d 25, 34 (1977) ("*Serrano III*"); *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *Vincent v. Hughes Air West, Inc*., 557 F. 2d 759, 769 (9th Cir. 1997). The purpose of this equitable doctrine is to avoid unjust enrichment of counsel and to "spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire burden alone." *Vincent*, 557 F. 2d at 769.

Under California law, the award of attorneys' fees in common fund wage and hour class action settlements should start with the percentage method. *See Laffitte v. Robert Half Int'l*, 1 Cal. 5th 480, 503 (Aug. 11, 2016) ("We join the overwhelming majority of federal and state courts in holding that when class action litigation establishes a monetary fund for the benefit of the class members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the court may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created."). Under the percentage of the fund method, the Court's objective remains to "mimic the market" in fixing a reasonable fee. *See Gaskill v. Gordon*, 160 F.3d 361, 363 (7th Cir. 1998) (J. Posner) ("When a fee is set by a court rather than by contract, the object is to set it at a level that will approximate what the market will set... The judge, in other words, is trying to mimic the market in legal services.").

The California Supreme Court in *Laffitte* affirmed a fee award representing 33 1/3 percent of the fund. *Laffitte*, 1 Cal. 5th at 506. And this was based on a lodestar amount that required a multiplier of 2.13. Id. at 487. As the Court held, only when the multiplier is "extraordinarily high or low [should] the trial court [] consider whether the percentage method should be adjusted so as to bring the imputed multiplier within a justifiable range." *Id*. at 505.

Moreover, in the *Laffitte* intermediate court decision, the court observed that "35 percent of the common fund is consistent with, and in the range of, awards in other class action lawsuits." *Laffitte v. Robert Half Int'l*, 231 Cal. App. 4th 860, 871 (2014). Here, the fee award representing 35% of the fund clearly falls within that range, and is consistent with other comprehensive surveys of class action settlements and fee awards. See Fitzpatrick, *An Empirical Study of Class Action Settlements and Their Fee Award*, 7 J. Empirical Leg. Stud. 811, 833 (2010) (analyzing 444 cases between 2006-2007 and concluding that "[m]ost fee awards were between 25 percent and 35 percent, with almost no awards more than 35 percent."); Eisenberg & Miller, *Attorney Fees in Class Action Settlements: An Empirical Study: 1993-2008*, 7 J. of Empirical Leg. Stud. 248, 262, fn.16 (2010) (independent studies of class action litigation nationwide conclude that fees representing one-third of the total recovery is consistent with market rates).

The results delivered by Plaintiff's Counsel also support the requested percentage of the fund. Here, the Parties have agreed to a payment of a maximum of 33 1/3% of the settlement ($91,666.67) for payment to Class Counsel as attorneys' fees. (Settlement Agreement ¶ C.4). Further, the parties have agreed to reimbursement of class counsel's reasonable and actual litigation costs incurred of up to $10,000.00. (*Id.*) Class counsel have, at their own risk, expended costs, for example, to file this instant action, service of process, and other litigation related costs and will be submitting detailed cost sheets for the respective costs incurred prior to the Motion for Final

Approval. Based on the foregoing, the court should preliminarily approve the attorney's fees and costs being requested by the parties.

2. Proposed Payment to Class Representative

Plaintiff requests a Class Representative Incentive Payment of $10,000.00. (Settlement Agreement ¶ C.5). Plaintiff conferred with Class Counsel about the case, provided documents and information to Class Counsel, and reviewed and signed the Settlement Agreement. (Manos Decl. ¶¶ 6-7). Moreover, as part of Plaintiff's duties as the representative, Plaintiff provided invaluable information, evidence, and documents that resulted in this settlement. (*Id.*)

Given that future employers are much less likely to hire individuals who have filed suit against their prior employer, particularly cases of this nature, Plaintiff may face prejudice in the future from other potential employers. Plaintiff assumed these risks from which the whole class benefited. Class members did not have to file individual lawsuits and bear the risks of payment of fees and costs if they did not prevail, nor did they have to face the potential for retaliation and not getting future employment had they filed a public lawsuit.

Notably, courts have routinely granted approval of representative enhancements for far greater amounts than the $10,000.00 sought by Plaintiffs in this case. *See*, *e.g.*, *Van Vranken v. Atlantic Richfield Co.*, 901 F. Supp. 294, 299-300 (N.D. Cal. 1995) (incentive award of $50,000); *In re Dun & Bradstreet Credit Servs. Customer Litig.*, 130 F.R.D. 366, 374 (S.D. Ohio 1990) (two incentive awards of $ 55,000, and three incentive awards of $ 35,000); *Brotherton v. Cleveland*, 141 F. Supp. 2d 907, 913-14 (S.D. Ohio 2001) (granting a $50,000 incentive award); *Enter. Energy Corp. v. Columbia Gas Transmission Corp.*, 137 F.R.D. 240, 251-52 (S.D. Ohio 1991) ($50,000 awarded to each class representative); *Glass v. UBS Fin. Servs.*, No. C-06-4068, 2007 U.S. Dist. LEXIS 8476, at *51-52 (N.D. Cal. Jan. 27, 2007) (awarding $25,000 incentive award in FLSA overtime wages class action); *Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998) (affirming $25,000 Incentive award to class representative in ERISA case). Here, Plaintiff requests an enhancement of $10,00.00, which is "presumptively reasonable" and consistent with case law.

3. Class Administration Fees

The Settlement Administration Costs are currently estimated to Nine Thousand Dollars

($9,000). (Settlement Agreement ¶ C.6). The Parties have agreed to Phoenix Settlement Administrators, for administering this Settlement, including, but not limited to, printing, distributing, and tracking documents for this Settlement, tax reporting, distributing the Maximum Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. (*Id.*). Phoenix is a well-recognized class action Settlement Administrator. The Parties believe that the administration fee is reasonable and should be approved.

III. LWDA HAS BEEN PROVIDED WITH NOTICE OF THIS MOTION

Plaintiff uploaded a copy of this Motion, Settlement Agreement and Proposed Order to the LWDA. (Choi Decl. ¶15, Ex. B).

IV. CONCLUSION AND ACTION REQUESTED AS PART OF THE MOTION FOR PRELIMINARY APPROVAL

Here, the proposed settlement is fair, adequate, and reasonable. It will result in both substantial monetary benefits to class members; it is non-collusive; and it was achieved as the result of informed, extensive, and arms' length negotiations conducted by counsel for respective parties who are experienced in wage and hour class action litigation. For the foregoing reasons, Plaintiffs respectfully request that the Court grant preliminary approval of the proposed settlement, sign the proposed Order, approve and authorize mailing of the proposed Class Notice, and set a date for a final approval hearing on or after February 20, 2026, or a later date that is convenient for the Court.

Dated: September 12, 2025

LAW OFFICES OF CHOI AND ASSOCIATES

By: ______________________
Edward W. Choi
Attorneys for Plaintiff and the Class