

Kane Moon (SBN 249834)
E-mail: kmoon@moonlawgroup.com
Allen Feghali (SBN 301080)
E-mail: afeghali@moonlawgroup.com
MOON LAW GROUP, PC
725 S. Figueroa St., 31st Floor
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

Attorneys for Plaintiff Fernando Regalado

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

FERNANDO REGALADO, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

NEIGHBORHOOD STEEL, LLC, a limited
liability company; and DOES 1 through 10,
inclusive,

Defendants

Case No.: CIVSB2427089

**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 Jodey Lawrence, and [Proposed]
Preliminary Approval Order]*

PRELIMINARY APPROVAL HEARING:

Date: August 27, 2026

Time: 9:00 a.m.

Dept.: S36

Judge: Hon. Joseph B. Widman

Action Filed: September 4, 2024

Trial Date: Not Set

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

2 PLEASE TAKE NOTICE that on August 27, 2026, at 9:00 a.m. in Department S36 of this
3 Court located at the San Bernardino Justice Center at 247 West Third Street, San Bernardino,
4 California 90415, pursuant to Code of Civil Procedure section 382 and California Rules of Court,
5 rule 3.769 *et seq.*, Plaintiff Fernando Regalado (“Plaintiff”) will, and hereby does, move the Court
6 for an order granting preliminary approval of the proposed class action settlement between Plaintiff
7 and Defendant Neighborhood Steel, LLC.

8 Specifically, Plaintiff moves the Court for an order:

- 9 1. Granting preliminary approval of the Joint Stipulation of Class and Representative
10 Action 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 Plaintiff as the Class Representative, for settlement purposes only;
14 5. Appointing Plaintiff’s Counsel Moon Law Group, PC as Class Counsel, for settlement
15 purposes only;
16 6. Appointing Phoenix Class Action Administration Solutions as the Administrator; and
17 7. Setting a final approval hearing no earlier than 120 days from preliminary approval.

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

22 As this Motion is unopposed, the Parties respectfully request relief from the page limit
23 requirement set by California Rules of Court, Rule 3.1113(d).

24 Respectfully submitted,

25 Dated: May 28, 2026

MOON LAW GROUP, PC

26 By: _____

27 Kane Moon
28 Allen Feghali
Attorneys for Plaintiff

TABLE OF CONTENTS

1		
2	TABLE OF CONTENTS	ii
3	TABLE OF AUTHORITIES.....	iv
4	I. INTRODUCTION.....	1
5	II. SUMMARY OF THE LITIGATION AND SETTLEMENT	1
6	A. Plaintiff’s Claims	1
7	B. Discovery and Investigation	3
8	C. Settlement Negotiations.....	4
9	D. Key Terms of the Proposed Settlement	5
10	III. THE COURT SHOULD GRANT PRELIMINARY APPROVAL.....	10
11	A. The Settlement Is Fair, Reasonable, Adequate, and the Product of Investigation,	
12	Litigation, and Negotiation.....	11
13	1. The Settlement Is the Product of Discovery, Investigation, and Informed and	
14	Non-Collusive Arm’s-Length Negotiations	11
15	2. The Settlement Is Fair and Reasonable Considering the Parties’ Respective	
16	Legal Positions	13
17	3. Plaintiff’s Counsel Have Extensive Experience in Class Action and PAGA	
18	Litigation	15
19	B. The Proposed Class Notice of Settlement Should Be Approved.....	15
20	C. The Proposed Attorneys’ Fees and Costs Are Reasonable.....	15
21	1. Counsel Will Request a Fees Award Based On the “Common Fund” Method..	15
22	2. The Requested Fee Award Is in Line with Typical Cases.....	16
23	3. This Matter Involves a “Fee-Shifting” Provision of the Labor Code	17
24	4. Counsel’s Experience, Reputation, and Ability Support the Requested Fees	17
25	D. The Service Payment to Named Plaintiff Is Reasonable	18
26	IV. CERTIFICATION FOR SETTLEMENT PURPOSES IS WARRANTED	19
27	A. Legal Standard	19
28	B. Plaintiff Maintains that the Criteria for Class Certification Are Satisfied.....	20

1	1. The Class Is Ascertainable and Numerous	20
2	2. There Are Many Common Issues of Law and Fact Which Predominate	21
3	3. Plaintiff’s Claims Are Typical of the Claims of the Class	22
4	4. Plaintiff and His Counsel Meet the Adequacy Requirement.....	22
5	5. A Class Action Is Superior to a Multiplicity of Litigation	23
6	V. THE PROPOSED CLASS NOTICE IS CONSTITUTIONALLY SOUND	23
7	A. The Proposed Class Notice Plan Satisfies Due Process	23
8	B. The Class Notice Is Accurate and Informative.....	23
9	VI. CONCLUSION	24

TABLE OF AUTHORITIES

FEDERAL CASES

Angeles v. United States Airways, Inc. (N.D. Cal. Feb. 19, 2013)

No. C 12-05860 CRB, 2013 WL 622032 3

Frank v. Eastman Kodak Co. (W.D.N.Y. 2005) 228 F.R.D. 174 19

Leyva v. Medline Industries Inc. (9th Cir. 2013) 716 F.3d 510..... 23

Pedroza v. PetSmart, Inc. (C.D. Cal. June 14, 2012)

No. ED CV 11–298 GHK (DTBx), 2012 WL 9506073 3

Priddy v. Edelman (6th Cir. 1989) 883 F.2d 438 11

Rodriguez v. West Publishing Corp. (9th Cir. 2009) 563 F.3d 948..... 18

Van Vranken v. Atlantic Richfield Co. (N.D. Cal. 1995) 901 F.Supp. 294..... 17

Vincent v. Hughes Air West, Inc. (9th Cir. 1977) 557 F.2d 759 16

STATE CASES

Cartt v. Superior Court (1975) 50 Cal.App.3d 960..... 23

Chavez v. Netflix, Inc. (2008) 162 Cal.App.4th 43..... 17

City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105..... 16

Classen v. Weller (1983) 145 Cal.App.3d 27 22

Clothesrigger, Inc. v. GTE Corp. (1987) 191 Cal.App.3d 605 21

Collins v. Rocha (1972) 7 Cal.3d 232 21

Daar v. Yellow Cab Co. (1967) 67 Cal. 2d 695..... 20

Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794 10, 21

Gentry v. Superior Court (2007) 42 Cal.4th 443..... 18, 23

Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116..... 11

Laffitte v. Robert Half International Inc. (2016) 1 Cal.5th 480 16

Linder v. Thrifty Oil Co. (2000) 23 Cal.4th 429..... 20

Mallick v. Superior Court (1979) 89 Cal.App.3d 434..... 10

McGhee v. Bank of America (1976) 60 Cal.App.3d 442 22

Miller v. Woods (1983) 148 Cal.App.3d 862 20, 22

1	<i>Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles</i> (2010) 186 Cal.App.4th 399	11, 18
2	<i>Neary v. Regents of University of California</i> (1992) 3 Cal.4th 272	10
3	<i>Quinn v. State of California</i> (1975) 15 Cal.3d 162	16
4	<i>Richmond v. Dart Industries, Inc.</i> (1981) 29 Cal. 3d 462	20
5	<i>Rose v. City of Hayward</i> (1981) 126 Cal.App.3d 926	21
6	<i>Serrano v. Priest</i> (1977) 20 Cal.3d 25.....	15
7	<i>Stamburgh v. Superior Court</i> (1976) 62 Cal.App.3d 231.....	11, 23
8	<i>Wershba v. Apple Computer, Inc.</i> (2001) 91 Cal.App.4th 224.....	13
9	<i>Wilner v. Sunset Life Insurance Co.</i> (2000) 78 Cal.App.4th 952	21
10	STATE STATUTES	
11	California Code of Civil Procedure § 382.....	19, 20
12	California Private Attorneys General Act, Labor Code §§ 2698, <i>et seq.</i>	1
13	California Labor Code § 90.5.....	18
14	California Labor Code § 218.5.....	17
15	California Labor Code § 226.....	17
16	California Labor Code § 1194.....	17
17	California Labor Code § 2699(e)(2).....	13
18	California Labor Code § 2699(k)(1)	17
19	California Labor Code § 2802(d).....	17
20	OTHER AUTHORITIES	
21	Eisenberg & Miller, <i>Incentive Awards to Class Action Plaintiffs: An Empirical Study</i>	
22	(2006) 53 UCLA L. Rev. 1303.....	19
23	COURT RULES	
24	California Rules of Court, rule 3.766(e), (f).....	23
25	California Rules of Court, rule 3.769(f).....	15
26	TREATISES	
27	Newberg, Newberg on Class Actions (3rd ed. 1992) § 8.39	23
28	Newberg, Newberg on Class Actions (3rd ed. 1992) § 11.51	11

1	Newberg, Newberg on Class Actions (3rd ed. 1992) § 14.03	17
---	--	----

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Fernando Regalado (“Plaintiff”) seeks preliminary approval of a proposed
4 \$436,000.00, non-reversionary, class action settlement (the “Settlement”) with Defendant
5 Neighborhood Steel, LLC (“Defendant”) (together with Plaintiff, the “Parties”). The Settlement
6 will provide substantial monetary payments to roughly 145 current and former employees who
7 worked an estimated aggregate of 14,548 Workweeks during the Class Period. As set forth more
8 fully below, the proposed Settlement satisfies all the criteria for settlement approval under
9 California law. The Settlement was reached after extensive investigation, informal discovery, and
10 negotiations between the Parties. The negotiations were at arm’s-length and were facilitated
11 during mediation by experienced, neutral, class action mediator Hon. Carl J. West (ret.).
12 Accordingly, Plaintiff requests the Court preliminarily approve the proposed Settlement, certify
13 the proposed Settlement Class, approve the proposed Class Notice to Class Members, and set a
14 final approval hearing no earlier than 120 days from the date of preliminary approval.

15 **II. SUMMARY OF THE LITIGATION AND SETTLEMENT**

16 **A. Plaintiff’s Claims**

17 This is a wage and hour class action and representative action for alleged Labor Code
18 violations and claims for civil penalties pursuant to the California Private Attorneys General Act,
19 Labor Code sections 2698, *et seq.* (“PAGA”). (Declaration of Kane Moon in Support of Plaintiff’s
20 Motion for Preliminary Approval of Class Action and PAGA Settlement [“Moon Decl.”], ¶ 2.)
21 Plaintiff seeks to represent a class of all current and former non-exempt employees paid on an
22 hourly basis who worked for Defendant Neighborhood Steel, LLC (“Defendant”) (together with
23 Plaintiff, the “Parties”) in California at any time during the period from September 4, 2020,
24 through the earlier of sixty days from the date of mediation or the date of preliminary approval,
25 as set forth in the Joint Stipulation of Class and Representative Action Settlement Agreement (the
26 “Settlement”). (*Id.*, Ex. 1.)

27 Defendant is a steel center engaged in the distribution and processing of steel products for
28 commercial customers. (*Id.* at ¶ 3.) Defendant has employed Plaintiff and other putative Class

1 Members in California during the putative Class Period. (*Id.*) Plaintiff worked for Defendant from
2 approximately October 17, 2022 to June 5, 2025. (Declaration of Plaintiff Fernando Regalado in
3 Support of Approval of Class Action and PAGA Action Settlement [“Plaintiff Decl.”], ¶ 2.)
4 Throughout his employment, Plaintiff was employed in a non-exempt position. (*Id.* at ¶ 7.) Plaintiff
5 contends he and his coworkers were subjected to the same unlawful labor practices, including
6 failure to pay wages for all hours worked. (*Id.*)

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

18 Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to
19 Defendant and the LWDA by sending the PAGA Notice on August 31, 2024. (*Id.* at ¶ 5, Exh. 2.)

20 On September 4, 2024, Plaintiff filed a wage and hour class action complaint, alleging
21 causes of action against Defendant for (1) failure to pay minimum wages; (2) failure to pay
22 overtime compensation; (3) failure to provide meal periods; (4) failure to authorize and permit
23 rest breaks; (5) failure to indemnify necessary business expenses; (6) failure to timely pay final
24 wages at termination; (7) failure to provide accurate itemized wage statements; and (8) unfair
25 business practices. (*Id.* at ¶ 6.)

26 On March 25, 2025, Plaintiff filed a First Amended Class and Representative Action Complaint
27 against Defendant to add a ninth cause of action for civil penalties under PAGA (the “Operative
28 Complaint”). (*Id.* at ¶ 7.) A file-stamped copy of the Operative Complaint containing the Court-

1 assigned case number was submitted to the LWDA. (*Id.*) To date, the LWDA has not given its intention
2 to investigate and intervene on the matter. (*Id.*)

3 Defendant ardently opposes the merits of this case and denies Plaintiff's factual allegations.
4 (*Id.* at ¶ 8.) Defendant argues the putative Class was paid all overtime wages and sick pay owed
5 and that Defendant did not allow its employees to work off-the-clock. (*Id.*) Defendant maintains
6 compliance with all its meal and rest period obligations. (*Id.*) As for the unreimbursed business
7 expenses, Defendant maintains it reimbursed Class Members for all necessary business expenses
8 incurred, and that cellphone use was not required for work purposes. (*Id.*) To the extent Class
9 Members received wage statements that were allegedly inaccurate, Defendant asserts Class
10 Members suffered no actual damage or harm as a result, and that there was no knowing or
11 intentional violation. (*Id.*; *see, e.g., Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013) No. C
12 12-05860 CRB, 2013 WL 622032, at *10 ["A plaintiff must adequately plead an injury arising
13 from an employer's failure to provide full and accurate wage statements, and the omission of the
14 required information alone is not sufficient."].) With respect to Plaintiff's claim for waiting time
15 penalties, Defendant alleges its good-faith belief that they paid all wages precludes the imposition
16 of waiting time penalties since Plaintiff cannot prove Defendant's alleged failure to pay all final
17 wages at the time of separation was "willful." (Moon Decl., ¶ 8; *see, e.g., Pedroza v. PetSmart,*
18 *Inc.* (C.D. Cal. June 14, 2012) No. ED CV 11-298 GHK (DTBx), 2012 WL 9506073, *5.) For
19 these reasons, Defendant claims it did not engage in any unfair business practices and denies
20 liability under PAGA. (Moon Decl., ¶ 8.) Defendant also maintains the claims are improper for
21 class treatment, in part, due to the individualized and testimony-intensive nature of the wage claims
22 and the existence of enforceable arbitration agreements with Plaintiff and other Class Members
23 that could bar class certification or significantly reduce Defendant's overall liability. (*Id.*)

24 **B. Discovery and Investigation**

25 The Parties agreed to mediate with Hon. Carl J. West (Ret.), an experienced class and PAGA
26 action mediator. (*Id.* at ¶ 9.) In preparation for mediation, the Parties agreed to a protocol for an
27 informal exchange of documents and information before the mediation. (*Id.*) Prior to mediation,
28 Plaintiff obtained from Defendant, through informal but extensive discovery, information sufficient

1 to meaningfully evaluate the claims at issue in the action, including applicable written policies, the
2 employee handbook in effect during the Class Period, Plaintiff's complete personnel file, an
3 approximate 25% sample of time and corresponding payroll records for employees, and information
4 regarding the estimated number of current and former employees, Workweeks, PAGA Pay Periods,
5 and average hourly pay. (*Id.*)

6 In preparation for mediation, Plaintiff's Counsel reviewed and analyzed all the information
7 Defendant provided, including the sample time/pay records and documents regarding Defendant's
8 wage and hour policies. (*Id.* at ¶ 10.) Plaintiff's Counsel retained a statistics expert to analyze the
9 sample records and prepare a damage analysis prior to mediation. (*Id.*) The sample time and pay
10 records analyzed contained 15,078 shifts that employees worked (representing approximately 18.7%
11 of total shifts), which allowed Plaintiff's expert to prepare an analysis with a high degree of certainty.
12 (*Id.*) In conjunction with their extensive factual investigation, Plaintiff's Counsel also investigated
13 the applicable law regarding the claims and defenses asserted in the litigation. (*Id.*) Accordingly,
14 Plaintiff's Counsel were able to evaluate the probability of class certification, success on the merits,
15 and Defendant's maximum and realistic monetary exposure for all claims. (*Id.*) Thus, Plaintiff's and
16 his Counsel's familiarity with the facts of the case and the legal issues raised by the pleadings allowed
17 them to act intelligently in negotiating the Settlement. (*Id.*)

18 C. Settlement Negotiations

19 Mediation occurred on March 18, 2026. (*Id.* at ¶ 11.) The settlement negotiations were at
20 arm's length and, although conducted in a professional manner, were adversarial. (*Id.*) The Parties
21 went into the mediation willing to explore the potential for a settlement of the dispute, but each
22 side was also prepared to litigate their position through trial and appeal if a settlement had not
23 been reached. (*Id.*) After extensive negotiations and discussions regarding the strengths and
24 weaknesses of Plaintiff's claims and Defendant's defenses, the Parties reached a settlement, the
25 material terms of which are encompassed within the Settlement. (*Id.*)

26 Plaintiff's Counsel represent they are not aware of any related case that would be
27 extinguished or adversely affected by approval of this Settlement Agreement. (*Id.* at ¶ 12.)

28 Plaintiff's Counsel have conducted a thorough investigation into the facts of this case. (*Id.*)

at ¶ 16.) Based on the foregoing document and information exchange and on their own independent investigation and evaluation, Plaintiff's Counsel are of the opinion that the proposed Settlement is fair, reasonable, and adequate. (*Id.*) Furthermore, considering all known facts and circumstances, the risk of significant delay, trial risk, appellate risk, and the defenses that Defendant may assert both to certification and on the merits, the Settlement is in the best interests of the Class. (*Id.*; *see also id.* at ¶¶ 18–28.) **Indeed, the \$436,000.00 gross settlement figure represents roughly 89% of the realistic (*risk-adjusted*) recovery estimated to be \$488,701.78.** (*Id.* at ¶ 24.)

D. Key Terms of the Proposed Settlement

Under the Settlement Agreement, Defendant will pay a non-reversionary amount of \$436,000.00 to resolve this litigation, subject to an escalator clause. (Settlement, ¶ 3.0.) The Settlement's key terms include¹:

1. Class Members or Settlement Class: The proposed Class for purposes of the Settlement contains approximately 145 members who worked approximately 14,548 Workweeks and is defined as: all current and former non-exempt employees paid on an hourly basis who worked for Defendant in California at any time during the Class Period. (*Id.* at ¶¶ 1.4, 7.) The Class will exclude any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion ("Non-Participating Class Members"). (*Id.* at ¶ 1.27.)

2. Class Period: means the period from September 4, 2020, through the earlier of sixty days from the date of mediation or the date of preliminary approval. (*Id.* at ¶ 1.11.)

3. Participating Class Members: means a Class Member who does not submit a valid and timely Request for Exclusion. (*Id.* at ¶ 1.35.)

4. Aggrieved Employee: There are approximately 103 Aggrieved Employees who worked approximately 3,908 PAGA Pay Periods, defined as: all current and former non-exempt employees

¹ A table listing the key financial terms of the Settlement, including the Gross Settlement Amount, each deduction from the gross amount (attorneys' fee, litigation costs, settlement administrator costs, service payment, and the PAGA Penalties), whether exact or in a "not to exceed" amount, and the estimated Net Settlement Amount, and the estimated average of individual settlement payments is provided in the accompanying Moon Decl., ¶ 14.

1 paid on an hourly or piece-rate basis who worked for Defendant in California at any time during the
2 PAGA Period. (*Id.* at ¶ 1.3; Moon Decl., ¶ 17.)

3 5. PAGA Period: means the period from August 31, 2023, through the date the Class Period
4 ends. (Settlement, ¶ 1.31.)

5 6. Gross Settlement Amount: This amount is \$436,000.00, subject to a potential increase
6 under the Escalator Clause. (*Id.* at ¶ 3.0.) Defendant agrees to separately pay any and all employer
7 payroll taxes owed on the Wage Portions of the Individual Class Payments. (*Id.*) The Administrator
8 will disburse the entire Gross Settlement Amount without asking or requiring Participating Class
9 Members or Aggrieved Employees to submit any claim as a condition of payment. (*Id.*) None of the
10 Gross Settlement Amount will revert to Defendant. (*Id.*)

11 7. Escalator Clause: The Gross Settlement Amount is based on a review of Defendant's
12 records that there are an estimated 145 Class Members and 14,548 aggregate Workweeks during the
13 Class Period. (*Id.* at ¶ 7.0.) If the actual number of workweeks is more than 10% of the estimated
14 count (i.e., if the actual number of workweeks is more than 16,002.8), then Defendant at its exclusive
15 discretion shall either (1) end the Class Period and the PAGA Period on the date on which the total
16 number of workweeks is no more than 16,002.8, or (2) agrees to make a proportional increase to the
17 GSA by the percentage increase for each additional workweek above 16,002.8. (*Id.*) Under the first
18 option, no additional payment is necessary. (*Id.*) Defendant Agrees to make this determination within
19 seventy (70) calendar days of mediation (i.e., by May 27, 2026).

20 8. Net Settlement Amount: means the Gross Settlement Amount, less the following court-
21 approved payments: Individual PAGA Payments, LWDA PAGA Payment, Class Counsel Fees
22 Payment, Class Counsel Expenses Payment, Class Representative Service Payment, and
23 Administration Expenses Payment. (*Id.* at ¶ 1.26.) The remainder is to be paid to Participating Class
24 Members as Individual Class Payments. (*Id.*)

25 9. Individual Class Payments: means the Participating Class Member's pro rata share of the
26 Net Settlement Amount, calculated according to the number of Workweeks he or she worked during
27 the Class Period. (*Id.* at ¶ 1.2.) "Workweek" means any calendar week during the Class Period in
28 which a Class Member worked at least one day for Defendant. (*Id.* at ¶ 1.43.)

1 10. Individual PAGA Payment: means the Aggrieved Employee's pro rata share of 35% of
2 the PAGA Penalties allocated pursuant to California Labor Code ("Labor Code") section 2699(m)
3 and calculated according to the number of PAGA Pay Periods he or she worked during the PAGA
4 Period. (*Id.* at ¶ 1.23.) "PAGA Pay Period" means any Pay Period during which an Aggrieved
5 Employee worked for Defendant for at least one day during the PAGA Period. (*Id.* at ¶ 1.30.)

6 11. Tax Treatment: Twenty percent (20%) of each Participating Class Member's Individual
7 Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). (*Id.* at ¶ 3.1.3.2.)
8 Eighty percent (80%) of each Participating Class Member's Individual Class Payment will be
9 allocated to settlement of claims for penalties and interest (the "Non-Wage Portion"). (*Id.*) Aggrieved
10 Employees assume full responsibility and liability for any taxes owed on their Individual PAGA
11 Payment. (*Id.*)

12 12. Released Parties: means Defendant and each of its former and present directors, officers,
13 shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries,
14 and affiliates. (*Id.* at ¶ 1.40.)

15 13. Released Class Claims: All Class Members who do not timely opt out of the Settlement
16 will release the Released Parties from all claims that were alleged in Plaintiff's operative First
17 Amended Class Action and Representative Action Complaint or that reasonably could have been
18 alleged based on the facts stated therein ("Released Class Claims"). (*Id.* at ¶ 5.1.) The Released Class
19 Claims exclude any claims for vested benefits, unemployment benefits, disability benefits, social
20 security benefits or workers' compensation benefits that arose at any time, any claims that are not
21 releasable as a matter of law or public policy, and any claims arising outside the Class Period
22 (collectively, the "Released Class Claims"). (*Id.*)

23 14. Released PAGA Claims: Plaintiff will release, on behalf of himself, the LWDA and all
24 other Aggrieved Employees, all claims against the Released Parties for civil penalties pursuant to the
25 California Private Attorney's General Act of 2004, Lab. Code §§ 2698, et seq., which were alleged
26 in Plaintiff's PAGA Notice to the LWDA dated August 31, 2024, or on the same primary rights as
27 alleged in the LWDA notice and in Plaintiff's operative First Amended Class Action and
28 Representative Action Complaint ("Released PAGA Claims"). (*Id.* at ¶ 5.2) The Released PAGA

1 Claims include only claims for penalties under PAGA and excludes any claims arising outside the
2 PAGA Period (collectively, the "Released PAGA Claims"). (*Id.*)

3 15. Uncashed Settlement Checks: Settlement checks to Class Members will be valid for 180
4 days after issuance by the Administrator; any checks that remain uncashed after 180 days will be
5 voided and transmitted to the California Controller's Unclaimed Property Fund in the name of each
6 Class Member who failed to cash their check prior to the void date. (*Id.* at ¶¶ 4.1.1, 4.1.3.)

7 16. PAGA Penalties: means the total amount of PAGA civil penalties (i.e., \$40,000.00) to
8 be paid from the Gross Settlement Amount, allocated 35% to the Aggrieved Employees (i.e.,
9 \$14,000.00) and the 65% to LWDA (i.e., \$26,000.00) in settlement of PAGA claims. (*Id.* at ¶¶ 1.34,
10 3.1.4.) Plaintiff sent to Defendant and the LWDA PAGA notices of their alleged Labor Code
11 violations, and Plaintiff's respective PAGA administrative exhaustion period expired without the
12 LWDA indicating any intent to investigate the alleged violations. (Moon Decl., ¶¶ 5, 13, Ex. 2.) A
13 file-stamped copy of Plaintiff's complaints containing the Court-assigned case number was submitted
14 to the LWDA. (*Id.* at ¶ 5.) The LWDA has not sought to intervene. (*Id.* at ¶ 13.) Further, the proposed
15 Settlement Agreement was submitted to the LWDA, and to date, the LWDA has not indicated any
16 objection thereto. (*Id.* at ¶ 13, Ex. 3.)

17 17. Class Representative Service Payment: means the payment of not more than \$10,000.00
18 to the Class Representative for his services in support of the action and general release. (*Id.* at ¶¶
19 1.13, 3.1.1.) If the Court approves Class Representative Service Payments less than the amount
20 requested, the Administrator will allocate the remainder to the Net Settlement Amount. (*Id.* at ¶
21 3.1.1.)

22 18. Class Counsel Fees and Expenses Payments: The Settlement provides for a Class
23 Counsel Fees Payment of up to one-third of the Gross Settlement Amount (currently estimated to be
24 \$145,333.33) for Plaintiff's Counsel's attorneys' fees, plus reimbursement for out-of-pocket
25 litigation costs not to exceed \$25,000.00. (*Id.* at ¶ 3.1.2.) If the Court approves a Class Counsel Fees
26 Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the
27 Administrator will allocate the remainder to the Net Settlement Amount. (*Id.*) To date, Plaintiff's
28

Counsel has incurred \$21,020.50 in litigation costs. (Moon Decl., ¶ 14(c), Ex. 4.) Plaintiff’s Counsel base the proposed award of fees on the “common fund” method. (Moon Decl., ¶ 54.)

19. Administration Expenses Payment: The Parties jointly appoint Phoenix Class Action Administration Solutions (“Phoenix”) as the neutral entity to administer this Settlement. (Settlement, ¶ 1.1.) The Administrator will be paid from the Gross Settlement Amount in an amount up to \$10,000.00, for its fees and expenses in administering this Settlement, including, but not limited to, to receive the Class Data and mail the Class Notice, receive and process any objections or opt-outs, and establish and maintain a website to post information of interest to Class Members, such as a copy of a final approval order and judgment. (*Id.* at ¶¶ 3.1.3, 6.8.) In the event the amount of actual and/or approved costs is less, the difference will revert to Participating Class Members. (*Id.* at ¶ 3.1.3.) Phoenix has submitted a flat-fee bid for \$7,500.00 as costs. (Moon Decl., ¶ 14(d), Ex. 5.)

20. Class Data and Notice: Within twenty-one (21) calendar days from preliminary approval, Defendant will deliver the Class Data to the Administrator, who will thereafter have fourteen (14) calendar days to mail the Class Notice to all Class Members. (Settlement, ¶¶ 6.1, 6.3.) The proposed Class Notice has been approved by the Parties and sets forth, in plain terms, a statement of case, the terms of the Settlement Agreement, the approximate amounts of attorneys’ fees, costs, PAGA Penalties, and service awards being sought, an explanation of how the individual payments are calculated, and a Final Approval Hearing date. (*Id.* at Ex. A.) Class Members will be notified of the proposed Settlement by first-class mail of the Class Notice in English and Spanish. (*Id.* at ¶ 6.3.) The Administrator will undertake its best efforts to ensure the Class Notice is provided to the current addresses of Class Members, including conducting a national change of address search and re-mailing the notice to updated addresses. (*Id.*) If a Class Notice is “undeliverable” and no forwarding address is provided, the Administrator shall employ standard skip-tracing to obtain updated address information and then shall re-mail the Notice to those Class Members. (*Id.* at ¶¶ 1.9, 6.4.)

21. Response Deadline and Procedure for Disputing Workweeks and/or Pay Periods, Opting Out, or Objecting: Class Members will have forty-five (45) calendar days after the Administrator mails the Class Notice to postmark any (a) Requests for Exclusion from the Settlement, (b) mail an Objection to the Settlement. (*Id.* at ¶ 1.42.) The Class Notice explains the procedure under which a

1 Class Member and/or Aggrieved Employee can dispute the number of his or her individual Workweeks
2 and/or PAGA Pay Periods stated in their Class Notice. (*See id.* at ¶ 6.3, Ex. A.) Additionally, the Class
3 Notice explains how Class Members may, should they choose to do so, request exclusion, or
4 otherwise submit a written objection or state an oral objection at the Final Approval Hearing. (*See*
5 *id.* at ¶ 6.3., Ex. A.) Class Members need not file or serve, or state in any written objection, a notice
6 of intention to appear at the Final Approval Hearing. (*See id.* at ¶ 6.12.3, Ex. A.)

7 22. Funding of the Gross Settlement Amount: Defendant shall fully fund the Gross
8 Settlement Amount of \$436,000.00 and the amounts necessary to fully pay Defendant’s share of
9 payroll taxes by transmitting the funds to the Administrator no later than fourteen (14) days following
10 the Effective Date. (*Id.* at ¶ 4.0.) “Effective Date” means the date on which the judgment entered by
11 the Court upon granting final approval of the Class Settlement (the “Judgment”) becomes final. (*Id.*
12 at ¶ 1.17.) The Judgment is final as of the latest of the following occurrences: (a) if no Class Member
13 objects to the Settlement, the day the Court enters Judgment; (b) if one or more Class Members
14 objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment;
15 or (c) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the
16 Judgment and issues a remittitur. (*Id.*)

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

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

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

14 As discussed below, Plaintiff's Counsel have provided information exceeding the threshold
15 required to provide this Court with materials and information necessary to determine that the
16 proposed Settlement is fair, adequate, and reasonable.

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

19 **1. The Settlement Is the Product of Discovery, Investigation, and**
20 **Informed and Non-Collusive Arm's-Length Negotiations**

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

1 Mediation occurred on March 18, 2026. (Moon Decl., ¶ 11.) The settlement negotiations were
2 at arm's length and, although conducted in a professional manner, were adversarial. (*Id.*) The Parties
3 went into the mediation willing to explore the potential for a settlement of the dispute, but each side
4 was also prepared to litigate their position through trial and appeal if a settlement had not been
5 reached. (*Id.*) After extensive negotiations and discussions regarding the strengths and weaknesses
6 of Plaintiff's claims and Defendant's defenses, the Parties reached a settlement, the material terms of
7 which are encompassed within the Settlement. (*Id.*)

8 Prior to mediation, Plaintiff obtained from Defendant, through informal but extensive
9 discovery, information sufficient to meaningfully evaluation the claims at issue in the action,
10 including applicable written policies, the employee handbook in effect during the Class Period,
11 Plaintiff's complete personnel file, an approximate 25% sample of time and corresponding payroll
12 records for employees, and information regarding the estimated number of current and former
13 employees, Workweeks, PAGA Pay Periods, and average hourly pay. (*Id.* at ¶ 9.) All of this
14 information was reviewed and analyzed in preparation for mediation. (*Id.* at ¶ 10.) With the assistance
15 of a statistics expert who reviewed the sampling records, Plaintiff's Counsel prepared a damage
16 analysis for mediation. (*Id.*) Based on the foregoing and their investigation of the applicable law
17 regarding the claims and defenses at issue, Plaintiff's Counsel were able to evaluate the probability
18 of class certification, success on the merits, and Defendant's maximum and realistic monetary
19 exposure for all claims. (*Id.*) Accordingly, Plaintiff and his Counsel acted intelligently in negotiating
20 the Settlement. (*Id.*)

21 Furthermore, Plaintiff's Counsel have considerable experience and demonstrated competence
22 with litigating wage and hour class actions. (*Id.* at ¶¶ 35–49.) The experience of Plaintiff's Counsel
23 was helpful in assessing the reasonableness of the Settlement at issue here, and from this experience
24 Plaintiff's Counsel concluded that this litigation could not have been settled on better terms than
25 provided under the proposed Settlement. (Moon Decl., ¶ 50.) Again, this supports the conclusion that
26 the terms of the Settlement are based on objective evidence that has been considered and weighed
27 against the risks, expenses, and time consumption to both sides of continued litigation of this action.
28

1 **2. The Settlement Is Fair and Reasonable Considering the Parties’**
2 **Respective Legal Positions**

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

11 Here, the Settlement obviates the significant risk that this Court may deny certification of all
12 or some of Plaintiff’s claims, particularly considering the arbitration agreement signed by Plaintiff
13 containing a class action waiver. (Moon Decl., ¶ 27.) Furthermore, even if Plaintiff was able to pursue
14 his claims on a class-wide basis and obtain certification of all or some of the claims, continued
15 litigation would be expensive, involving a trial and possible appeals, and would substantially delay
16 and reduce any recovery by the Class. (*Id.*) While Plaintiff is confident in the merits of his claims, a
17 legitimate controversy exists as to each cause of action. (*Id.* at ¶ 25.) Plaintiff also recognizes that
18 proving the amounts of wages owed to each Class Member would be an expensive, time-consuming,
19 and uncertain proposition. (*Id.*)

20 Plaintiff’s Counsel are also of the opinion that because the issues here are fairly contested,
21 there is a possibility of the Court not awarding the PAGA penalties even if Plaintiff prevailed on the
22 merits due to the largely discretionary nature of awarding PAGA penalties. (*Id.* at ¶ 26.) Indeed,
23 under Labor Code section 2699, subdivision (e)(2), a Court can reduce PAGA penalties “if, based on
24 the facts and circumstances of the particular case, to do otherwise would result in an award that is
25 unjust, arbitrary and oppressive, or confiscatory.” (Lab. Code § 2699(e)(2).) In other words, were
26 this matter to go to trial, any award granted would be at the discretion of the Court and subject to a
27 substantial reduction. (Moon Decl., ¶ 26.)

1 Because of the proposed Settlement, Class Members will receive timely, guaranteed relief
2 and will avoid the risk of not being able to recover anything. (*Id.* at ¶ 24.) This Settlement avoids the
3 risks, burdens, and the accompanying expense of further litigation. (Moon Decl., ¶ 28.) Although the
4 Parties have engaged in a significant amount of investigation, informal discovery, and class-wide
5 data analysis, they have not conducted extensive formal discovery. (*Id.*) Moreover, preparation for
6 class certification and a trial would remain for the Parties as well as the prospect of appeals in the
7 wake of a disputed class certification ruling for Plaintiff and/or any summary judgment ruling. (*Id.*)
8 As a result, the Parties would incur considerably more attorneys' fees and costs through trial. (*Id.*)

9 The proposed settlement of \$436,000.00 therefore represents a substantial recovery when
10 compared to the reasonably forecasted recovery of the Class. (*Id.* at ¶ 30.) When considering the risks
11 of litigation, the uncertainties involved in continued litigation, the burdens of proof necessary to
12 establish liability, and the probability of appeal, it is clear the Settlement amount of \$436,000.00 is
13 within the "ballpark" of reasonableness, and that preliminary settlement approval is appropriate. (*Id.*)

14 Indeed, the Net Settlement Amount available for settlement payments is no less than
15 **\$205,666.67** for an estimated Class size of **145 individuals**.² (*Id.* at ¶ 29.) As a result, it is estimated
16 each Participating Class Member is eligible to receive an average benefit of approximately **\$1,418.39**
17 prior to tax withholdings on the wage portion of payments. (*Id.*) Considering Class Members' average
18 hourly rate is \$21.76, the average benefit is approximately **65.18 hours of work**. (*Id.*) Additionally,
19 it is estimated there are **103 Aggrieved Employees** who are each receive an estimated average of
20 **\$135.92** from the total Individual PAGA Payments of \$14,000.00, which results in an estimated
21 **PAGA Pay Period value of \$3.58** based on the estimated **3,908 PAGA Pay Periods** during the
22 PAGA Period. (*Id.*) The actual amounts to Participating Class Members and Aggrieved Employees
23 will vary based on each individual's duration of work during the Class Period or PAGA Period,
24 respectively; thus, those who worked longer for Defendant during the relevant period will receive a

25
26 ² The Net Settlement Amount is at least \$436,000.00 less the following: \$10,000.00 for the
27 Class Representative Service Payment, \$10,000.00 for the Administration Expenses Payment,
28 \$40,000.00 for the PAGA Penalties to the LWDA and to Aggrieved Employees, \$145,333.33 for
Class Counsel's attorneys' fees, and up to \$25,000.00 for Class Counsel's litigation costs.
(Settlement, ¶¶ 1.20, 3.0.)

benefit greater than the average estimated amount. (*Id.*) The high and low range of payments to Class Members will be calculated by the Administrator following preliminary approval and receipt and processing of the Class Data and will be provided to the Court in a motion for final approval. (*Id.*)

3. Plaintiff's Counsel Have Extensive Experience in Class Action and PAGA Litigation

The Settlement negotiations were conducted by highly capable and experienced counsel. (*Id.* at ¶¶ 35–49.) Plaintiff's Counsel have a strong record of vigorous and effective advocacy for their clients and are experienced in handling complex wage and hour class action litigation. (*Id.* at ¶¶ 35–49.) Although Plaintiff and his counsel were prepared to try the claims alleged in the litigation, they support the proposed Settlement as being in the best interest of the Class. (*Id.* at ¶¶ 11, 16.)

B. The Proposed Class Notice of Settlement Should Be Approved

The proposed Class Notice, in the form attached to the Settlement as Exhibit A, should be approved for dissemination to the Class. The Class Notice informs the Class of the terms of the Settlement and of their rights to be excluded from or object to the Settlement. (Settlement, Ex. A.) Accordingly, the proposed Class Notice meets all the requirements of rule 3.769(f) of the California Rules of Court. (Cal. Rules of Court, rule 3.769(f).)

C. The Proposed Attorneys' Fees and Costs Are Reasonable

Subject to Court approval, the Settlement Agreement provides for attorneys' fees payable to Class Counsel in an amount up to one-third of the Gross Settlement Amount (currently estimated to be \$145,333.33) for Plaintiff's Counsel's attorneys' fees, plus reimbursement for out-of-pocket litigation costs not to exceed \$25,000.00. (Settlement, ¶ 3.1.2.) These amounts are disclosed to Class Members in the proposed Class Notice and are reasonable. (*Id.* at Ex. A.)

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

California courts have long awarded attorneys' fees as a percentage of the benefit created by counsel in pursuing claims on behalf of a class. (*See, e.g., Serrano v. Priest* (1977) 20 Cal.3d 25.) The California Supreme Court has held, "when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the

1 creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney’s fees out
2 of the fund.” (*Id.* at p. 34.)

3 Plaintiff’s Counsel will seek an award of attorneys’ fees on the “percentage of
4 recovery/common fund” theory. (Moon Decl., ¶ 54.) The purpose of this approach is to “spread
5 litigation costs proportionately among all the beneficiaries so that the active beneficiary does not bear
6 the entire burden alone.” (*Vincent v. Hughes Air W., Inc.* (9th Cir. 1977) 557 F.2d 759, 769.) In *Quinn*
7 *v. State of California* (1975) 15 Cal.3d 162, the California Supreme Court stated, “one who expends
8 attorneys’ fees in winning a suit which creates a fund from which others derive benefits, may require
9 those passive beneficiaries to bear a fair share of the litigation costs.” (*Id.* at p. 167.) Similarly, in
10 *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court
11 recognized that the common fund doctrine has been applied “consistently in California when an
12 action brought by one party creates a fund in which other persons[] are entitled to share.” (*Id.* at pp.
13 110–11 [pincite omitted].)

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

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

26 According to a leading treatise on class actions: “No general rule can be articulated on what
27 is a reasonable percentage of a common fund. Usually 50% of the fund is the upper limit on a
28 reasonable fee award from a common fund in order to assure that the fees do not consume a

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

7 Here, Plaintiff’s Counsel request fees equal to one-third of the Gross Settlement Amount,
8 which is in line with the prevailing guidelines established in California case law and academic
9 literature and is consistent with awards in California. (*Compare* Settlement, ¶ 3.1.2, *with Chavez v.*
10 *Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11 [“Empirical studies show that, regardless whether
11 the percentage method or the lodestar method is used, fee awards in class actions average around
12 one-third of the recovery.”].) Accordingly, Plaintiff requests the Court preliminarily approve their
13 counsel’s ability to request attorneys’ fees as negotiated by the Parties.

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

15 Labor Code sections 218.5, 226, 1194, 2699, and 2802 provide for the recovery of reasonable
16 fees and costs of suit, for the claims made in this action. (Lab. Code §§ 218.5, 226, 1194, 2699(k)(1),
17 2802(d).) Under these sections, Plaintiff would be permitted to recover his actual attorneys’ fees,
18 even if those fees were larger than the total class recovery at the conclusion of this case. (*Id.*) This
19 Settlement is beneficial in that it limits the risk of continued expenses and consumption of time,
20 energy, and resources facing Defendant while at the same time rewarding Plaintiff’s Counsel for their
21 decision to assume risk by taking on this matter. (*See* Moon Decl., ¶ 28.) In fact, prosecution of this
22 action involved significant financial risk for Plaintiff’s Counsel as they undertook this matter solely
23 on a contingent basis, with no guarantee of recovery. (*Id.* at ¶¶ 54–59.) Once Counsel undertook this
24 litigation on behalf of the Class, they committed to pursue it to its conclusion, placing their fiduciary
25 duty to the Class ahead of all other concerns. (*Id.* at ¶ 56.)

26 **4. Counsel’s Experience, Reputation, and Ability Support the Requested Fees**

27 As demonstrated by their past experience in pursuing class actions on behalf of consumers
28 and employees, Plaintiff’s Counsel possess considerable expertise in litigating class actions. (*Id.* at

¶¶ 35–49.) Plaintiff’s Counsel have been involved as lead counsel or co-counsel in numerous class actions that resulted in millions in recovery. (Moon Decl., ¶¶ 35-49.) Because it is reasonable to compensate Plaintiff’s Counsel commensurate with their skill, reputation, and experience, the requested fee award is supported here.

Plaintiff’s Counsel’s experience in wage and hour class actions was integral in evaluating the strengths and weaknesses of the case against Defendant and the reasonableness of the settlement. (Moon Decl., ¶ 50.) Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning the rapidly evolving substantive law (state and federal), as well as the procedural law of class action litigation. (*Id.* at ¶ 50.) Based on these and other factors, Plaintiff’s Counsel have frequently received fee awards of this percentage from the gross recovery for the class. (*See id.* at ¶¶ 39, 44, 49.) Therefore, the requested fee award is fair, reasonable, and adequate.

D. The Service Payment to Named Plaintiff Is Reasonable

Named plaintiffs in class action lawsuits “are eligible for reasonable incentive payments to compensate them for the expense or risk they have incurred in conferring a benefit on other members of the class.” (*Munoz, supra*, 186 Cal.App.4th at p. 412.) Courts routinely grant approval of class action settlement agreements containing enhancements for the class representatives, which are necessary to provide incentive to represent the class and are appropriate given the benefit the class representatives help to bring about for the class. (*See Rodriguez v. W. Publ’g Corp.* (9th Cir. 2009) 563 F.3d 948, 958–59.)

Service awards are particularly important to plaintiffs in wage and hour cases because they promote the important public policies underlying the wage and hour laws. This strong policy is codified in California Labor Code section 90.5, which provides, “[i]t is the policy of this state to vigorously enforce minimum labor standards in order to ensure employees are not required or permitted to work under substandard unlawful conditions . . .” (Lab. Code § 90.5.) Nonetheless, the California Supreme Court has noted that “retaliation against employees for asserting statutory rights under the Labor Code is widespread,” despite anti-retaliation statutes designed to protect employees. (*Gentry v. Super. Ct.* (2007) 42 Cal.4th 443, 460–61.) In this context, class representatives should be

1 rewarded for assuming the risk of retaliation for the sake of class members. (*See Frank v. Eastman*
2 *Kodak Co.* (W.D.N.Y. 2005) 228 F.R.D. 174, 187.)

3 Under the Settlement here, subject to the Court’s approval, a Class Representative Service
4 Payment will be paid to Plaintiff in an amount up to \$10,000.00. (Settlement, ¶ 3.1.1.) This award is
5 in recognition of Plaintiff his services in support of the action and general release. (*Id.* at ¶ 1.7.)
6 Plaintiff is also providing a general release of claims against Defendant, including a waiver of
7 Plaintiff’s rights under California Civil Code section 1542. (*Id.* at ¶ 5.0.) Plaintiff has devoted a great
8 deal of time and work assisting counsel in the case and communicated with counsel frequently for
9 litigation and to prepare for the mediation session. (Moon Decl., ¶¶ 31–34; Plaintiff Decl., ¶¶ 12–
10 22.) The requested award is fair and reasonable, particularly considering the substantial benefits
11 Plaintiff generated for all Class Members. (Moon Decl., ¶¶ 24–34.)

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

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

24 **A. Legal Standard**

25 The proposed Settlement Class is well suited for class certification. All of the claims derive
26 from a core set of alleged violations of California’s wage and hour laws and regulations. (Moon
27 Decl., ¶¶ 5-6.) For the reasons set forth more fully below, the Class, for purposes of Settlement,
28 satisfies the prerequisites for certification under Code of Civil Procedure section 382. (Code Civ.

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

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

B. Plaintiff Maintains that the Criteria for Class Certification Are Satisfied

1. The Class Is Ascertainable and Numerous

When determining whether a class is ascertainable, California courts focus on the following three factors: “(1) the class definition, (2) the size of the class and (3) the means of identifying class members.” (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 873.) Here, the proposed Class that Plaintiff seeks to represent is ascertainable because (1) the Class definition is sufficiently precise, (2) the Class consists of approximately 145 individuals, and (3) Class Members can be readily identified by looking at Defendant’s records. (Settlement, ¶¶ 1.2, 1.8.) Plaintiff maintains there is an easily ascertainable Class, defined by objective and precise criteria. (*Id.*) Because Class Members are identified using specific criteria in the regular business records of Defendant—their employment by Defendant in California, non-exempt classification, and actual work during the Class Period—the

1 Class is ascertainable. (*See Wilner v. Sunset Life Ins. Co.* (2000) 78 Cal.App.4th 952, 959–60 [class
2 membership defined by ownership of product that is the subject of the lawsuit is sufficient to make
3 the class ascertainable].)

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

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

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

20 Here, Plaintiff’s claims satisfy all three requirements. The employment practices at issue
21 include whether Defendant: had legally compliant policies and practices to pay employees all
22 minimum and overtime wages owed; had legally compliant policies and practices to provide
23 employees with and authorize meal and rest periods; had legally compliant policies to reimburse
24 employees for all necessary expenditures or losses incurred by employees in direct consequence of
25 the discharge of their duties; paid all wages to employees during employment and at the time of
26 termination; intentionally failed to pay all final wages; provided inaccurate itemized wage statements;
27 engaged in unfair business practices; and violated civil penalty provisions recoverable under PAGA.
28 (Moon Decl., ¶¶ 5-6.) Plaintiff contends the factual and legal issues are the same for all Class

Members, including Plaintiff, and further, that all Class Members suffered from and seek redress for the same alleged injuries. (Plaintiff Decl., ¶¶ 3–8.) Considering Class Members would need to prove the same issues of law and fact to prevail, and their legal remedies are identical, it would be preferable to resolve all claims through a settlement agreement than to force each Class Member to litigate their own individual claims. Thus, the Court should grant conditional class certification for settlement purposes because common questions of law and fact predominate over any individual questions within the Class.

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

The typicality requirement does not focus on the individual characteristics or circumstances of the representative plaintiff compared to those of the remainder of the class, but rather, upon the typicality of the proposed representative’s claims as they relate to the defendant’s conduct and activities. (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 47 [“The only requirements a re [sic] that common questions of law and fact *predominate* and that the class representative be *similarly* situated” vis-à-vis the class.] [emphasis in original].) A representative plaintiff’s claims are typical of the class if they arise from the same event, practice, or course of conduct, and if the claims rest on the same legal theories. (*Id.*) That is precisely the case here. Plaintiff is a former employee of Defendant; as such, he alleges he was subject to the same policies and practices as other similarly situated employees. (Plaintiff Decl., ¶¶ 2, 5.)

4. Plaintiff and His Counsel Meet the Adequacy Requirement

The adequacy of representation requirements is met by fulfilling two conditions: (1) a named plaintiff must be represented by counsel qualified to conduct the pending litigation, and (2) a named plaintiff’s interests cannot be antagonistic to those of the class. (*McGhee v. Bank of Am.* (1976) 60 Cal.App.3d 442, 450.) Here, all requirements are met. Plaintiff retained counsel with extensive experience in prosecuting complex class actions, including similar class actions that previously settled. (Moon Decl., ¶¶ 35–49.) With their experience, Plaintiff’s Counsel unquestionably are “qualified, experienced and generally able to conduct the proposed litigation.” (*Miller, supra*, 148 Cal.App.3d at p. 874.) In addition, Plaintiff has no known conflicts, and Plaintiff has, with counsel, litigated this case and diligently reviewed the settlement terms, showing dedication. (Plaintiff Decl.,

¶¶ 9–22.) Plaintiff’s willingness to serve as the representative demonstrates his serious commitment to bringing about the best results possible for the Class. (*Id.* at ¶¶ 12–22.)

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

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

V. THE PROPOSED CLASS NOTICE IS CONSTITUTIONALLY SOUND

A. The Proposed Class Notice Plan Satisfies Due Process

Class Notice requirements are set forth in the California Rules of Court. (Cal. Rules of Court, rule 3.766(e)–(f).) California law vests the Court with broad discretion in fashioning an appropriate notice program. (*Cartt v. Super. Ct.* (1975) 50 Cal.App.3d 960, 970, 973–74.) There is no statutory or due process requirement that all class members receive actual notice, but in this matter, the Class Members will receive direct mailed notice. (Settlement, ¶ 6.3.) As the Court of Appeals has explained, “[t]he notice given should have a reasonable chance of reaching a substantial percentage of the Class Members . . .” (*Cartt*, 50 Cal.App.3d at p. 974.) In this case, notice of the proposed Settlement will be provided by direct mailing, the best possible form of notice under the circumstances. (*See* Settlement, ¶ 6.3.)

B. The Class Notice Is Accurate and Informative

The proposed Class Notice should be approved. It will be disseminated through direct U.S. first-class mail in English and Spanish to the current address for each Class Member. (*Id.* at ¶ 6.3.) It informs the Class Members of the terms of the Settlement and their right to be excluded from the

1 Settlement. (*Id.* at ¶¶ 6.5–6.7, Ex. A.) And if there are Class Members who wish to object to the
2 proposed Settlement, they will have the opportunity to submit written objections and/or be heard at
3 the Final Approval Hearing. (*Id.* at ¶ 6.7.)

4 The Class Notice also fulfills the requirement of neutrality in class notices. (Newberg,
5 Newberg on Class Actions (3rd ed. 1992) § 8.39.) It summarizes the proceedings to date and the
6 terms and conditions of the Settlement in an informative and coherent manner. (Settlement, Ex.
7 A.) It makes clear the Settlement does not constitute an admission of liability by Defendant, who
8 denies all liability, and it recognizes that this Court has not ruled on the merits of the action. (*Id.*)
9 It also states that the final approval decision has yet to be made, and provides the date, time, and
10 location of the Final Approval Hearing. (*Id.*) Accordingly, the Class Notice complies with the
11 standards of fairness, completeness, and neutrality required of a combined settlement-certification
12 class notice.

13 **VI. CONCLUSION**

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

17
18 Respectfully submitted,

19 Dated: May 28, 2026

MOON LAW GROUP, PC

20
21 By: _____

22 Kane Moon
23 Allen Feghali

24 *Attorneys for Plaintiff*
25
26
27
28